

M.A. (Political Science)

FIRST YEAR

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DYNAMICS OF INDIAN POLITICS

DYNAMICS OF INDIAN POLITICS

MA [Political Science]

First Year

MAPOLS - 403

RAJIV GANDHI UNIVERSITY
Arunachal Pradesh, INDIA - 791 112

SYLLABI-BOOK MAPPING TABLE

Dynamics of Indian Politics

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INTRODUCTION

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The book, *Dynamics of Indian Politics* deals with the nuances of Indian administration. It traces the historical perspective of the framing of the Indian Constitution; the working of the government through separate Executive, Judiciary, and Legislative activities. It broadly observes the basis of the Indian Constitution from its historical perspective and describes the study of constitutional progress and the role played by ideologies in the making of our Constitution. The book outlines the working of the government by the principle of separation of powers between Executive, Legislative and Judiciary. The working of the bureaucracy has also been discussed in detail. The Constitution of India lays down the framework defining fundamental political principles, establishes the structure, procedures, powers and duties, of the government and spells out the Fundamental Rights, Directive Principles and Duties of citizens. The Parliamentary form of Government was established by the Constitution in 1950 and the working of the Government is divided into Executive, Legislative and Judiciary.

The book highlights the institutional arrangements of urban and local self-governments for the discharge of basic responsibilities of public service. In India, the concept of urban governance is intricately linked with the constitutional and legislative provisions under which the urban local bodies are to function as institutions of self-government. Indian federalism and the relationship between the Union and the States have been discussed from a comparative perspective. Furthermore, the idiosyncrasies and limitations of the federal arrangement of India, and the emergence of autonomy movement in India as a repercussion have also been dealt with. Finally, the book concludes with a discussion on the nature and pattern of coalition politics in India.

This book – *Dynamics of Indian Politics* - has been designed keeping in mind the self-instruction mode (SIM) format and follows a simple pattern, wherein each unit of the book begins with the **Introduction** followed by the **Unit Objectives** for the topic. The content is then presented in a simple and easy-to-understand manner, and is interspersed with **Check Your Progress** questions to reinforce the student's understanding of the topic. A list of **Questions and Exercises** is also provided at the end of each unit. The **Summary**, **Key Terms** and **Activity** further act as useful tools for students and are meant for effective recapitulation of the text.

This book is divided into ten units:

Unit 1: Describes the evolution of the Indian political system from 1858—1950.

Unit 2: Discusses framing of the Indian Constitution along with the Fundamental Rights and Duties and Directive Principles of State Policy.

Unit 3: Covers the working of Indian federalism, thus dealing with Centre—state relations and Inter-State Council.

Unit 4: Discusses the position of the executives conforming to the Centre and states.

Unit 5: Introduces you to electoral reforms and functioning of the Election Commission.

Unit 6: Explores the cleavages of the Indian political system in terms of casteism, communalism and regionalism.

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Unit 7: Familiarizes you with the threats and challenges associated with the Indian political system, thus discussing corruption and criminalization in detail.

Unit 8: Discusses the Judicial process in India from the perspectives of judicial review and judicial activism.

Unit 9: Describes the emergence of regional political parties and their role and importance in Indian politics.

Unit 10: Covers the concept of coalition politics along with its advantages and disadvantages.

UNIT 1 EVOLUTION OF THE INDIAN POLITICAL SYSTEM: FROM 1858 TO 1950

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1.0 INTRODUCTION

Political system is an institution that deals with the governance of a state and its relationship with people. The political system of a country denotes the structure of institutions that constitute the State and its government. It develops through a long evolutionary process and seeks to address the myriad socio-political, economic and cultural expectations and challenges of that period. Thus, dynamism is a key feature of the political system and India is no exception to this. The present political system of India, which makes it a sovereign, socialist, democratic, republic, with a representative parliamentary system of government, is based on the Constitution which came into force on 26th January 1950. However, the Constitution of India, as opted by the Constituent Assembly on 26th November 1949, was not something absolutely new. In fact, it was influenced by a variety of the factors– thousand years of old traditions, customs, cultural ethos, socio-economic diversity, and so on. Moreover, many of the constitutional provisions were picked from the Acts passed by the colonial government. Therefore, it is essential to understand the evolution of the political system in the pre-independence period.

In this unit, you will learn about the evolution of the Indian political system during 1858-1950.

1.1 UNIT OBJECTIVES

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

- Discuss the constitutional developments that occurred during the British rule in India
- Discuss the role of the Indian National Congress in constitutional development
- Examine the emergence of political organizations, pressure groups and interest groups in India during the British rule

1.2 CONSTITUTIONAL DEVELOPMENTS IN THE COLONIAL PERIOD

The Constitution is a legally sanctified document consisting of the basic governing principles of the states. It establishes the framework and the primary objectives of the organs of the government of a state. The Constitution of a country ideates the basic structure of the political system that governs people.

The concept of constitutionalism has created various means for establishing a governmental structure that exercises power, while, at the same time, ensures individual freedom and liberty. Further, it recommends a method for the reconciliation of the power of the state coupled with individual liberty, by advising on the principles of state organization. Besides, the Constitution is also responsible for defining the powers of the main elements of the states, segregating their responsibilities as well as regulating their relationships amongst each other and with the people. In a nutshell, the Constitution serves as the 'Fundamental Law' of a country; any other laws made must be in conformity with it, in order to be legally endorsed.

The constitutions of a majority of countries were a result of a deliberate decision on the necessity to have relevant documents, as states above. Similarly, the Constitution of the Indian republic is the result of the research and deliberations of a body of eminent representatives of the people who sought to improve upon the existing system of administration.

The structure of Indian administration majorly bequests the British rule. Several functional aspects including education system, public services, political set-up, training, recruitment, official procedure, police system, district administration, revenue administration, budgeting, auditing, etc have existed since the times of the British rule. The British rule in India can be categorized into two phases - the Company Rule until 1858 and the Crown Rule during the period 1858 – 1947. The latter period saw the gradual rise of the Indian constitutional structure in different phases which can be elaborated as follows:

1.2.1 Government of India Act, 1858

The Government of India Act, 1858 transferred the governance of the country directly to the British Crown, ending the Company's rule. The Company's rule was thus terminated and the administration was taken over to be carried out in the name of the Crown through the Secretary of the state who assumed the powers of the company's board of directors and the board of control. The Secretary of State accountable to the British Parliament, needed to be supported by a Council of India, consisting of 15 members. The Crown was required to appoint eight out of these members, while the Board of Directors was to elect the remaining seven. The principal features of this Act were:

- It made the administration of the country unitary as well as rigidly centralized. Though the territory was divided into provinces with a Governor or Lieutenant Governor headed by his executive council at the head of each of them, the provincial governments were mere agents of the Government of India. They had to function under the superintendence, direction and control of the Governor-General in all matters relating to the government of the province.
- It made no provision for separation of functions. The entire authority for the governance of India – civil and military, executive and legislative was handed over to the Governor-General in the Council, responsible to the Secretary of the State.
- There was an absolute control over the Indian administration by the Secretary of State.
- The entire machinery of administration was made bureaucratic.

The Act initiated in 1858 towards the Better Government of India introduced many significant changes in the Home Government, but which were not related with the administrative set–up of India. It was strongly felt that there were extensive changes into the Constitution of India after the severe crisis of 1857 – 1858. Besides these, there have been many other reasons that instigated changes into the Constitution of India. All legislative procedures have been centralized by the Charter Act of 1833. The sole authority for legislating and passing decrees while implementing them for the economy rested with the Legislative Council (Centre). Though the functioning of the Legislative Council was set up by the Charter Acts of 1833, they were not abided by properly. The Council resulted into a debating society or a Parliament on a smaller scale, claiming all privileges and functions of the representative body. While acting as an independent legislature, the Council did not function well with the Home Government. As a result, the first Council Act was passed in 1861 after discussions between the Home Government and the Government of India.

1.2.2 Indian Council Act, 1861

The Indian Council Act, 1861 introduced a representative institution in India for the first time, providing that the Executive Council of the Governor-General should comprise some Indians as the non-official members for transactions of legislative business. It initiated the process of decentralisation by restoring the legislative powers to the Bombay and the Madras Presidencies. Another feature of the Act was its statutory recognition to the portfolio system.

If we see in-depth, the Indian Council Act was a part of legislation that was passed by the Parliament of Great Britain in 1861, which further converted the Executive Council of the Viceroy of India into a Cabinet on the portfolio system. This cabinet constituted six ordinary members, each of whom was in charge of an independent department in the Calcutta's government comprising home, government, revenue, law and finance, and post 1874, the public works. The Military Commander in Chief worked with the Council as a special member. Under the Act's provisions, the Viceroy was allowed to overrule the Council in matters, wherever it deemed necessary, for instance in the 1879 case during the tenure of Lord Lytton.

The Act offered many advantages to the members of the legislative council, who could discuss legislation and give their inputs/suggestions. On the other hand, the drawbacks of the Act were that the members of the council were not allowed to implement any legislation of their own. At that time, Sir Charles Wood was the Secretary of State for India, who was firm on the importance of the Act, and stated, 'The Act is a great experiment. That everything is changing in India is obvious enough and that the old autocratic government cannot stand unmodified is indisputable.' The legislative power that was taken away by the Charter of 1833 was restored through this Act. Power was granted for enacting laws for good government and peace to the Legislative Council of the Calcutta, Bombay and Madras Presidency.

As a matter of fact, the Act added to the executive council of the Viceroy as the fifth member, assumed to be a gentleman of legal professional service and a jurist in place of a technical lawyer. The Act further gave powers to the Governor-General to enact rules for convenient business transactions in the Council. Lord Canning used the power to pioneer the portfolio system in the Government of India. Until then, the Government's rules administered the executive council as a whole, due to which all official documents were made to brought the notice of the council members. As per the provisions of the Act, Canning divided the government amongst the council members, and thus, the foundations of the Cabinet government were formed in India. The Act further declared that each administrative branch would have its own spokesman and Head in the Government, who would be responsible for the entire administration and defence. The new system witnessed the daily administrative matters to be positioned by the member-in-charge. In important cases, the concerned member used to present the matters before the Governor-General and consult with him before deciding on anything. The decentralization of business brought in efficiency, but which could not be accomplished thoroughly.

The Indian Council Act of 1861 also brought in legislative reforms in the country. The Viceroy's executive council was extended by members, wherein it was declared that additional members should be six to the minimum and twelve to the maximum. These were directly nominated by the Governor-General, holding their tenure of two years. Not less than 50 per cent of the members were to be non-official members. The Act also did not make any statutory provisions for admitting Indians. In reality, however, a few non-official seats were offered to the natives of high rank. The council's functions were strictly confined only with the legislative affairs. It did not have any control over the administration, finance and the right of interpellation.

The Act reinstated the legislative powers of implementing and amending laws to the provinces of Madras and Bombay. Nevertheless, the provincial councils could not pass any laws until they had the consent of the Governor-General. Besides, in a few matters, the prior approval was made obligatory of the Governor-General. After the Act declared the provisions, the legislative councils were formed in Bengal, Punjab and the north-western provinces during the years 1862, 1886, 1889, and so forth. The Governor-General was also authorized under the Acts of 1861, to make issuance without having any consent of the Legislative Council that was not to remain in force for over six months.

The Act significantly laid down the eventual construction and consolidation of the mechanical set–up of the government. There were three independent presidencies formed into a common system. The legislative and the administrative authority of the Governor-General-in-Council was affirmed over different provinces and extended to

all inhabitants. The Act adhered to the local requirements and the growth of the local knowledge. Further, the Act also pronounced legislative authority in the governments of Bombay and Madras. It laid many provisions for creating identical legislative councils in other provinces as well. Due to which, legislative devolution was founded that culminated in autonomy grants to the provinces under the Government of India Act, 1935. However, under the Council Act of 1861, there were no attempts made to distinguish the jurisdiction of the Central Legislature from the Local Legislature in the federal constitution. Furthermore, the main functions of the Legislative Councils as established under the Act were never fulfilled properly. Even the Councils could not perform like a legislature should, either function-wise or composition-wise. The Act also could not establish representative government in India on the basis of the England government. It, however, declared that the colonial representative assemblies would largely discuss financial matters and taxation. In this respect, Sir Charles Wood clarified in unequivocal terms that Her Majesty's Government never intended to form a representative law-making body. However, the Act did pave the way for widespread agitation and public alienation.

1.2.3 Indian Council Act, 1892

The Indian Constitution was incepted after the Act of 1861, the growth of the former then led to political hostility and agitation bringing changes to the Council reforms. These approved reforms were always found inappropriate that caused stimulated public disaffection and hence, demand for more reforms.

The legislative reforms created under the Acts of 1861 failed miserably in meeting the demands and aspirations of the people of India. The small element of non-officials never appeased the people, which mainly comprised big *Zamindars*, Indian princesses or retired officials. These aristocrats were entirely unaware of the problems of the common man.

The late 19th century observed the nationalist spirit beginning to emerge. Many universities in the presidencies were established leading to the educational development. Many educated Indians started speaking English gradually. The gulf between British and Indians in Civil Services field intrigued the Indians. Further, the Acts enacted by Lord Rippon, the Vernacular Press Act and the Indian Arms Act of 1878 also infuriated Indians to a much greater extent. The controversy between the two governments over the banishment of 5 per cent cotton duties acquainted the Indians with the injustice of the British government. The futility and the deceit of the British government were made known to the Indians, which gave rise to the formation of the Indian National Congress in 1885. The Congress's main aim was to organize public opinions in India, make the grievances public and demand reforms known to the constitution.

Initially though the attitude of the British government towards the Indian National Congress was pleasant, but it later changed when Lord Dufferin attacked the Congress from the front. He tried belittling the significance of the representative Congress leaders, ignoring the importance of the movement launched by the Congress. He secretly sent proposals to England to liberalize the councils, whilst appointing a committee thereon for planning for the enlargement of the provincial councils, their status enhancement, development of their functions, inception of elective principals, and the liberalization of their general character as political institutions. The Committee report was sent to the Home authorities in England, to further changes in the Councils' composition and

functions. The report aimed at giving Indians wider share in the administration. The Conservative Ministry introduced a bill in the House of Lords in England in 1890, based on these proposals. But the measures adopted therein were led very slowly, two years hence the Indian Council Act of 1892. The Indian Council Act of 1892 was known to have dealt entirely with the powers, functions and compositions of the legislative councils in India. In respect of the Central Legislature, the Act ensured that the number of additional members should only be between six and twelve. An increase in the members was regarded worthless. But Curzon supported it stating that the efficiency of the body has no relation with the numerical strength of its members. The Council Act of 1892 affirmed that 2/5th of the total members in the Council should be non-officials, who would be partly nominated and elected. The election principle was compromised to some extent. The Act added to the members of the legislatures, who were given equal rights to express themselves on the financial statements. All financial affairs statements were decided to be prepared on the legislature. But the members thereon were not allowed to either move resolutions or divide the houses as per financial concerns, but only put questions limited to the governmental matters of interest on a six days' notice.

With regard to the provincial legislature, the Indian Council Act of 1892 while addressing the number of members for Bengal fixed it at twenty, for north-western province and Oudh, it was fixed at fifteen. These members had many functions to perform; the chief one being the security of the interpellation of the executive in general public matters of concern. They could discuss government policies and ask questions, which may not be allowed by the Central Government until a solid reason is assigned.

The Indian Council Act of 1892 also brought in many new rules and regulations. However, the only significant feature of the Act was the election procedure it introduced, and the term 'election' was carefully used in it. In addition to the elected official members, the Act pronounced that there should be non-official members as well who should be five in number and should be elected by each of the official members of the four provincial legislatures of Bombay, Madras, Calcutta and the north-western province, and one by the Calcutta Chamber of Commerce. The Governor-General himself nominated the five non-official members. The bodies were allowed to elect the members of District Boards, Municipalities, Universities and the Chamber of Commerce. The election methods, however, were not clearly mentioned. The elected members were officially regarded as 'nominated' despite having taken the recommendations of each legislative body into consideration, which met in a number of sessions for preparing recommendations to the Governor-General or Head of the Provincial Government. Often the person favoured by majority was not considered 'elected', but directly recommended for nomination.

The Indian Council Act of 1892 was simply an extension to the Act of 1861, in that the former broadened the functions of the legislature, whereby the members could make queries and obtain details from the executive. The Act also confirmed the obligation of the financial accounts of the existing year and the budget for the next year to be presented in the legislature. Members were also allowed to make observations on the budget and give their suggestions on how revenue can be increased and expenditure can be reduced.

Besides, the principle of election as introduced by the Acts of 1892 was used as a measure of constitutional significance. Nevertheless, there were numerous faults and drawbacks in the Acts of 1892 because of which the Act could not satisfy the dire needs of the Indian nationalists. It was criticized at various sessions of the Indian National Congress. The critics opined the election procedure as roundabout junction, whereby though the procedure was followed: the local bodies were the nominated members in actuality. Even the functions of the legislative councils were rigorously confined. Thus we see that despite the Act of 1892 lacked demands as made by the Indian National Congress, it undoubtedly made a great advancement on the existing matters.

However, the most notable feature of this Act can be regarded as the inception of the principle of elections though in an indirect manner. Besides, it enlarged the functions of the legislative councils and provided them with the power of discussing the budget and addressing questions to the executive.

1.2.4 Indian Council Act, 1909

This Act changed the name of the Central Legislative Council to the Imperial Legislative Council. The size of the Councils of provinces was enlarged by including non-officials members so that the official majority has gone. The deliberative functions of the legislative councils were also increased by this Act. However, a positive voice of the Act was separate representation of the Muslim community.

Lord Morley, the Secretary of State for Indian Affairs, announced that his government wished to create new reforms for India, wherein the locals would be granted more powers in legislative affairs, during his speech in the British Parliament in 1906. Effectuating this, a series of exchange of views took place between him and Lord Minto, the Governor-General of India at that time. The two believed that terrorism in Bengal needs to be countered but did not find it necessary to restore stability onto the British Raj post-Lord Curzon's partitioning of Bengal. The Indian government appointed a committee to propose a scheme of reforms. The committee submitted the report, and after Lord Minto and Lord Morley gave their consent to it, the Act of 1909 was passed by the British Parliament, also commonly referred to as the Minto-Morley Reforms. They also agreed on the fact that a step needs to be taken to put heart and soul into loyal ingredients of the Indian upper classes and the emerging Westernized section of the populace. Their Morley-Minto reforms though did not do many efforts in meeting the demands of the Indian National Congress for 'system of government obtaining in Self-Governing British Colonies'.

Apart from the above, the Act of 1909 was also significant on account of the following reasons:

- It facilitated elections of Indians towards different legislative councils in India, effectively for the first time. Prior to this, some Indians were appointed at legislative councils, majority of which remained under the appointments of the British government. Also, the electorate was restricted to certain classes of Indian nationals;
- The electoral principle introduced under the Act laid down the framework for a parliamentary system, though being contrary to Morley's intentions.

As rightly put by Burke and Quraishi:

> 'To Lord Curzon's apprehension that the new Councils could become 'parliamentary bodies in miniature', Morley vehemently replied that, 'if it could be said that this chapter of reforms led directly or indirectly to the establishment

of a parliamentary system in India, I for one would have nothing at all to do with it'. But he had already confessed in a letter to Minto in June 1906 that while it was inconceivable to adapt English political institutions to the 'nations who inhabit India...the spirit of English institutions is a different thing and it is a thing that we cannot escape, even if we wished...because the British constituencies are the masters, and they will assuredly insist...all parties alike...on the spirit of their own political system being applied to India.' He never got down to explaining how the spirit of the British system of government could be achieved without its body.'

- Muslims had expressed serious concern that a 'first past the post' British type of electoral system would leave them permanently subject to Hindu majority rule. The Act of 1909 as demanded by the Muslim leadership stipulated:
  - o that Indian Muslims be allotted reserved seats in the Municipal and District Boards, in the Provincial Councils and in the Imperial Legislature;
  - o that the number of reserved seats be in excess of their relative population (25 per cent of the Indian population); and
  - o that only Muslims should vote for candidates for Muslim seats ('separate electorates').

Following were the salient features of the Act of 1909:

- The Legislative Council at the Centre had the number of members increased from sixteen to sixty.
- The number of members of the Provincial Legislatives was also widened, as fifty in the provinces of Bengal, Bombay and Madras, and for the rest, it was thirty.
- There ought to be four categories of members of the Legislative Councils both at the Centre and within the provinces, comprising ex-officio members (Governor-General and the members of their Executive Councils), nominated government official members by the Governor-General, nominated non-governmental, non-official members by the Governor-General and members elected by different categories of Indians.
- Muslims were granted with the right to a separate electorate.
- Official members were needed to be in majority, but in provinces, non-official members would be in majority.
- The Legislative Council members were allowed to discuss budgets, recommend for amendments and vote on them, exclusive of items included as non-voted items. The members were also entitled to seek supplementary answers to their concerns during the legislative proceedings.
- India's Secretary of State was empowered to increase the number of executive councils from two to four in Madras and Bombay.
- There were two Indians nominated for Indian Affairs to the Council of the Secretary of State.
- The power for nominating one Indian member to his executive council vested with the Governor-General.

The provision for concessions under the Act was a constant source of strife between the Hindu and Muslim population since 1909-47. British statesmen generally considered reserved seats as regrettable in that they encouraged communal extremism as Muslim candidates did not have to appeal for Hindu votes and vice versa. As further power was shifted from the British to Indian politicians in 1919, 1935 and after, Muslims were ever more determined to hold on to, and if possible expand, reserved seats and their weightage. However, Hindu politicians repeatedly tried to eliminate reserved seats as they considered them to be undemocratic and to hinder the development of a shared Hindu–Muslim Indian national feeling.

1.2.5 Government of India Act, 1919

The Government of India Act, 1919 was an Act of the Parliament of the United Kingdom. It was passed to expand participation of the natives in the government of India. The Act embodied the reforms recommended in the joint report of the Secretary of State for India, Sir Edwin Montagu, and the Viceroy, Lord Chelmsford. The Act covered ten years, from 1919 to 1929. This retraction of British imperialism was a result of India's enthusiastic participation in World War I.

The Act broadly ideated a dual form of government, called diarchy, for the major provinces. It basically comprised a complex set of instructions. A good example would be that of a provincial legislative council of each major province which was directed towards monitoring of activities of provincial ministers. The Act also affirmed that a High Commissioner residing in London would represent India in Great Britain.

The Government of India Act was enacted for ten long years between 1919 and 1929. The reform was conceptualized by Sir Edwin Montagu and Lord Chelmsford. Towards the Act, the imperial and provincial councils were widened, while a new system of diarchy government was introduced. According to the Act, the Viceroy was responsible for controlling areas of defence, communications and foreign affairs, and the Government controlled health and education for the provincial council. Besides there was a bicameral legislature located at the Centre, comprising legislative assembly with 144 members, out of which forty-one got nominated. The Council of States constituted thirty-four elected members and twenty-six nominated members. The Princely States were responsible for keeping a control over political parties. The Indian National Congress was never satisfied with this law, and regarded it as 'disappointing'. There was a special session held in Bombay under Hasan Imama, wherein reforms were degenerated. Nevertheless, leaders such as Surendranath Banerjee appreciated these reforms and left Congress to formulate Indian Liberal Federation playing a minor role in eventual Indian political affairs.

This Act introduced important changes in the Home Government, at the Centre, as well as at the Provinces. The changes introduced by the Act were as follows:

1. **System of diarchy in the provinces**: According to this system of the dual government, the subjects of administration were to be divided into two categories- central and provincial. The central subjects were those which exclusively kept under the control of the central government. On the other hand, the provincial subjects were sub-divided into 'transferred' and 'reserved' subjects.
2. **Central control over the provinces was relaxed**: Under this provision; subjects of all India importance were brought under the category 'central', while matters primarily relating to the administration of the provinces were classified as 'provincial'. This meant a relaxation of the previous central control over the provinces not only in administrative but also in legislative and financial matters. The provincial budgets were removed off by the government of India

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and the provincial legislatures were empowered to present their own budgets and levy their own taxes relating to the provincial sources of revenue.

3. **Indian legislature was made more representative**: The Indian legislature was made bicameral. It was to consists of the upper house, named the Council of States, composed of 60 members of whom 34 were elected and the lower house named the Legislative Assembly composed of about 144 members of which 104 were elected. Nevertheless, the Centre did not introduce any responsibility. and the Governor-General in Council remained accountable to the British Parliament by the Secretary of State of India. The Governor-General's overriding powers in respect of central legislation were retained in many forms.

The British Government in 1927 appointed a Statutory Commission as envisaged by the Government of Act of 1919 to make an enquiry onto the report on the functioning of the Act and to announce that domination status was the goal of Indian political developments. Sir John Simon was the Chairman of the Commission which gave its final report in 1930. This report was given consideration at a Round Table Conference that created a White Paper. The Paper was examined by Joint Select Committee of the British Parliament and the Government of India Bill was drafted which came to be known as the Government of India Act of 1935.

1.2.6 Government of India Act, 1935

When the Third Round Table Conference did not succeed, the British government assigned the task of forming the new Act for India to the Joint Select Committee, consisting of sixteen members, each representing the House Commons and the House of Lords, twenty members representing British India, and seven from the princely states. Lord Linlithgow was appointed the President of the Joint Select Committee. After much deliberations stretching to about one and a half years. the Committee finally brought in a Draft Bill on 5 February 1935. The Bill was discussed for forty-three days in the House of Commons and for thirteen days in the House of Lords. After the signatures of the King, the Bill was enforced in July 1935 as the Government of India Act, 1935.

The main features of the system introduced by the Government of India Act of 1935 were as follows:

Federal features with provincial autonomy: The Act established an all India Federation comprising the provinces and princely states as the units. It segregated powers between the Centre and the units into three lists, viz. the Federal List, the Provincial List and the Concurrent List. Though the Act advocated the use of the provinces and the Indian states as units in a federation, it was optional for the Indian states to join the federation. No Indian state accepted this provision and hence the federation envisaged by the Act was not operational. However, the part related to provincial autonomy was initiated from April 1937. Within its defined sphere the provinces were no longer delegates of the central government, but were autonomous units of the administration. The executive authority of a province was to be exercised by a Governor on behalf of the Crown and not as a subordinate of the Governor-General. The Governor acted in consultation with the ministers who were accountable to the legislature. However, the Governor was given some additional powers which can be exercised by him in his 'discretion' or in the exercise of his 'individual judgement' in certain matters without ministerial advice.

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System of Diarchy at the centre: The Act abolished the Diarchy in the provinces and provided for the adduction of Diarchy at the centre. According to this system the administration of defence, external affairs, ecclesiastical affairs, and of tribal areas, was to be made by the Governor-General in his discretion with the help of 'counsellors' appointed by him who were not responsible to the legislature. With regard to matters other than the above reserved subjects, the Governor-General was to act on the advice of a Council of Ministers who was responsible to the legislature. However, with regard to the Governor-General's 'special responsibilities', he may act contrary to the advice given by the ministers.

Bicameral legislature: The Central Legislature was made bicameral which consisted of the federal assembly and council of states. It also introduced bicameralism in six out of eleven provinces, such as Assam, Bombay, Bengal, Madras, Bihar, and the United Province. However, the legislative powers towards the central and provincial legislatures had various limitations attached to them, and neither of them held the features of what a sovereign legislature should have.

Federal Legislature needed to comprise two houses: The Council of State (Upper House) and the Federal Assembly (Lower House). The Council of State was required to have 260 members, out of which 156 needed to be elected from the British India and 104 to be nominated through the rulers of princely states. The Federal Assembly was required to include 375 members, out of which 250 members required to be elected by the Legislative Assemblies of the British Indian provinces and 125 to be nominated by the rulers of princely states.

Division of powers between centre and provinces: Through this Act, the legislative powers were divided between the provinces and the Centre into three lists - the Federal, List, the Provincial List, and the Concurrent List. There was provision for Residuary Subjects also. The Federal List for the Centre consisted of fifty-nine items such as External Affairs; Currency and Coinage; Naval, Military and Air forces; and Census. The Provincial List consisted of fifty-four items dealt with subjects such as Police, Provincial Public Services, Education, etc. The Concurrent List comprised thirty-six items dealing with subjects of Criminal Law and Procedure, Civil Procedure, Marriage and Divorces, Abortion etc. The Residuary Powers were vested with the Governor-General. He was empowered to authorize the Federal or the Provincial Legislature to ratify a law for any matter if not listed in any of the Legislative Lists. The provinces were however given autonomy with respect to subjects delegated to them.

Other salient features of the Government of India Act, 1935 were:

- The Central Legislature was empowered to pass any bill, which though required the Governor-General's approval before it became Law. The Governor-General too had the power to mount ordinances.
- The Indian Council was eradicated, and in place, few advisors were nominated to assist the Secretary of State of India.
- The Secretary of State was not allowed to interfere in governmental matters through Indian Ministers.
- Sind and Orissa were created as two new provinces.
- Reforms were introduced in N.W.F.P., as in the case of other provinces.
- There were separate electorates in place.

- One-third of the members could represent the Muslim community in the Central Legislature.
- There were autonomous provincial governments set up in eleven provinces, under ministries accountable to legislatures.
- India was separated from Burma and Aden.
- The Federal Court was established in the Center.
- The Reserve Bank of India was established.

The Indian National Congress as well as the Muslim League were strictly against the Act, but did participate in the provincial elections of winter 1936 - 37, which were held under stipulations of the Act. At the time of independence, the two dominions of India and Pakistan accepted the Act of 1935, with few amendments, as their provisional constitution.

1.2.7 Government of India Act, 1947

The Indian Independence Act, 1947 was the legislation passed and enacted by the British Parliament that officially announced the Independence of India and the partition of India. The legislation of the Indian Independence Act was designed by the Prime Minister Clement Attlee as Indian Political Parties, the Indian National Congress, the Muslim League, and the Sikh community came to an agreement on the transfer of power from the British Government to the independent Indian Government and the Partition of India. The Agreement was made with Lord Mountbatten, which was known as the 3 June Plan or Mountbatten Plan.

The Indian Independence Act, 1947 can be regarded as the statute ratified by the Parliament of the United Kingdom propagating the separation of India along with the independence of the dominions of Pakistan and India. The Act was assented on 18 July 1947.

Pretext of the Indian Independence Act and 3rd June Plan

On 3 June 1947, a plan was proposed by the British government that outlined the following principles:

- The Principle of Partition of India was agreed upon by the British Government
- The successive governments would be allotted dominion status
- The British Commonwealth was seceded from the implicit rights

Attlee's announcement

On 20 February 1947, the Prime Minister of the UK, Clement Attlee announced:

(i) Latest by June 1948, the British Government would endow absolute self-government to British India;

(ii) After deciding on the final transfer date, the future of Princely States would be decided; and

(iii) The Indian Independence Act, 1947 came into inception from the 3 June Plan.

Structure of the Act

- 20 sections
- 3 schedules

The Indian Independence Bill was formally introduced in the British Parliament on 4 July 1947 and received the royal assent on the 18th of the same month. It removed all limitations upon the responsible government (or the elected legislature) of the natives, and until they developed their own constitutions, their respective Governor-Generals and Provincial Governors were to enjoy the same powers as their counterparts in other dominions of the Commonwealth. This technical jargon, interpreted in common language, meant that India and Pakistan were to become independent from 15 August 1947.

The Act

An Act to make provision for the setting up in India of two Independent Dominions, to substitute other provisions for certain provisions of the Government of India Act, 1935, which applied outside those Dominions, and to provide for other matters consequential on or connected with the setting up of those Dominions (18 July 1947).

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Section 1

(i) Since 15 August 1947, two independent Dominions shall be set up in India, to be known respectively as India and Pakistan.

(ii) The said Dominions are hereafter in this Act referred to as 'the new Dominions', and the said fifteenth day of August is hereafter in this Act referred to as 'the appointed day'.

Section 2

(i) Subject to the provisions of subsections (iii) and (iv) of this section, the territories of India shall be the territories under the sovereignty of His Majesty which, immediately before the appointed day, were included in British India except the territories which, under subsection (ii) of this section, are to be the territories of Pakistan.

(ii) Subject to the provisions of subsections (iii) and (iv) of this section, the territories of Pakistan shall be:
   a. the territories which, on the appointed day, are included in the Provinces of East Bengal and Punjab, as constituted under the two following sections;
   b. the territories which, at the date of the passing of this Act, are included in the Province of Sind and the Chief Commissioner's Province of British Baluchistan; and
   c. if, whether before or after the passing of this Act but before the appointed day, the Governor-General declares that the majority of the valid votes cast in the referendum which, at the date of the passing of this Act, is being or has recently been held on that behalf under his authority in the North-West Frontier Province are in favour of representatives of that Province taking part in the Constituent Assembly of Pakistan, the territories which, at the date of the passing of this Act, are included in that Province.

(iii) Nothing in this section shall prevent any area being at any time included in or excluded from either of the new Dominions, so, however, that:

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a. no area not forming part of the territories specified in subsection (i) or, as the case may be, subsection (ii), of this section shall be included in either Dominions without the consent of that Dominions; and

b. no area forming part of the territories specified in the said subsection (i) or, as the case may be, the said subsection (ii), or which has after the appointed day been included in either Dominion, shall be excluded from that Dominion without the consent of that Dominion.

(iv) Without prejudice to the generality of the provisions of subsection (iii) of this section, nothing in this section shall be construed as preventing the accession of Indian States to either of the new Dominions.

Section 3

(i) As from the appointed day:

a. the Province of Bengal, as constituted under the Government of India Act, 1935, shall cease to exist; and

b. there shall be constituted in lieu thereof two new Provinces, to be known respectively as East Bengal and West Bengal.

(ii) If, whether before or after the passing of this Act, but before the appointed day, the Governor-General declares that the majority of the valid votes cast in the referendum which, at the date of the passing of this Act, is being or has recently been held in that behalf under his authority in the District of Sylhet are in favour of that District forming part of the new Province of East Bengal, then, as from that day, a part of the Province of Assam shall, in accordance with the provisions of subsection (iii) of this section, form part of the new Province of East Bengal.

(iii) The boundaries of the new Provinces aforesaid and, in the event mentioned in subsection (ii) of this section, the boundaries after the appointed day of the Province of Assam, shall be such as may be determined, whether before or after the appointed day, by the award of a boundary commission appointed or to be appointed by the Governor-General in that behalf, but until the boundaries are so determined:

(a) the Bengal Districts specified in the First Schedule to this Act, together with, in the event mentioned in subsection (ii) of this section, the Assam District of Sylhet, shall be treated as the territories, which are to be comprised in the new Province of East Bengal;

(b) the remainder of the territories comprised at the date of the passing of this Act in the Province of Bengal shall be treated as the territories, which are to be comprised in the new Province of West Bengal; and

(c) in the event mentioned in subsection (ii) of this section, the District of Sylhet shall be excluded from the Province of Assam.

(iv) In this section, the expression 'award' means, in relation to a boundary commission, the decisions of the chairman of that commission contained in his report to the Governor-General at the conclusion of the commission's proceedings.

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Section 4

(i) As from the appointed day:

(a) the Province of the Punjab, as constituted under the Government of India Act, 1935, shall cease to exist; and

(b) there shall be constituted two new Provinces, to be known respectively as West Punjab and East Punjab.

(ii) The boundaries of the said new Provinces shall be as may be determined, whether before or after the appointed day, by the award of a boundary commission appointed or to be appointed by the Governor-General in that behalf, but until the boundaries are so determined:

a. the Districts specified in the Second Schedule to this Act shall be treated as the territories to be comprised in the new Province of Punjab; and

b. the remainder of the territories comprised at the date of the passing of this Act in the Province of the Punjab shall be treated as the territories which are to be comprised in the new Province of East Punjab.

(iii) In this section, the expression 'award' means in relation to a boundary commission, the decision of the chairman of that commission contained in his report to the Governor-General at the conclusion of the commission's proceedings.

Section 5

(i) For each of the new Dominions, there shall be a Governor-General who shall be appointed by His Majesty and shall represent His Majesty for the purpose of the government of the Dominion:

a. Provided that, unless and until provision to the contrary is made by a law of the Legislature of either of the new Dominions, the same person may be Governor-General of both the new Dominions.

Section 6

(i) The Legislature of each of the new Dominions shall have full power to make laws for that Dominion, including laws having extra-territorial operation.

(ii) No law and no provision of any law made by the Legislature of either of the new Dominions shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of this or any existing or future Act of Parliament of the United Kingdom, or to any order, rule or regulation made under any such Act, and the powers of the Legislature of each Dominion include the power to repeal or amend any such Act, order, rule or regulation in so far as it is part of the law of the Dominion.

(iii) The Governor-General of each of the new Dominions shall have full power to assent in His Majesty's name to any law of the Legislature of that Dominion and so much of any Act as relates to the disallowance of laws by His Majesty or the reservation of laws for the signification of His Majesty's pleasure thereon or the suspension of the operation of laws until the signification of His Majesty's pleasure thereon shall not apply to the laws of the Legislature of either of the new Dominions.

Words 'In His Majesty's name' from the above paragraph was omitted by Constitution (Amendment) Act, 1950, Section 2.

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(iv) No Act of Parliament of the United Kingdom passed on or after the appointed day shall extend, or be deemed to extend, to either of the new Dominions as part of the law of that Dominion unless it is extended thereto by a law of the Legislature of the Dominion.

(v) No Order in Council made on or after the appointed day under any Act passed before the appointed day, and no order, rule or other instrument made on or after the appointed day under any such Act by any United Kingdom Minister or other authority, shall extend, or be deemed to extend, to either of the new Dominions as part of the law of that Dominion.

(vi) The power referred to in subsection (i) of this section extends to the making of laws limiting for the future the powers of the Legislature of the Dominion.

Section 7

(i) As from the appointed day:

(a) His Majesty's Government in the United Kingdom have no responsibility in respect of the government of any of the territories which, immediately before that day, were included in British India.

(b) The suzerainty of His Majesty over the Indian States lapses, and with it all treaties and agreements in force at the date of the passing of this Act between His Majesty and the rulers of Indian States, all functions exercisable by His Majesty at that date with respect to Indian States, all obligations of His Majesty existing at that date towards Indian States or the rulers thereof, and all powers, rights, authority or jurisdiction exercisable by His Majesty at that date in or in relation to Indian States by treaty, grant, usage, sufferance or otherwise; and

(c) There lapse also any treaties or agreements in force at the date of the passing of this Act between His Majesty and any persons having authority in the tribal areas, any obligations of His Majesty existing on that date to any such persons or with respect to the tribal areas, and all powers, rights, authority or jurisdiction exercisable at that date by His Majesty in or in relation to the tribal areas by treaty, grant, usage, sufferance or otherwise:

Provided that, notwithstanding anything in paragraph (b) or paragraph (c) of this subsection, effect shall, as nearly as may be, continue to be given to the provisions of any such agreement as is therein referred to which relate to customs, transit and communications, posts and telegraphs, or other like matters, until the provisions in question are denounced by the Ruler of the Indian State or person having authority in the tribal areas on the one hand, or by the Dominion or Province or other part thereof concerned on the other hand, or are superseded by subsequent agreements.

(ii) The assent of the Parliament of the United Kingdom is hereby given to the omission from the Royal Style and Titles of the words 'Indiae Imperator' and the words 'Emperor of India' and to the issue by His Majesty for that purpose of His Royal Proclamation under the Great Seal of the Realm.

Section 8

(i) In case of each of the new Dominions, the powers of the Legislature of the Dominion shall, for the purpose of making provision as to the constitution of the Dominion, be exercisable in the first instance by the Constituent Assembly of that Dominion, and references in this Act to the Legislature of the Dominion shall be construed accordingly.

[Constitution (Amendment) Act, 1954, Section 23 inserted at this point:]

In Section 8 of the Indian Independence Act, 1947, after subsection (i), the following shall be inserted:

'Notwithstanding anything contained in this subsection or in the Government of India Act, 1935, the powers of the Constituent Assembly of Pakistan shall include and shall be deemed always to have included power to make constitutional provisions for the whole of the Federation of Pakistan, as defined in Section 5 of the Government of India Act, 1935, or for any part thereof; and notwithstanding anything contained in section 204 or in any other provision of the Government of India Act, 1935, or of any other law, the power of the Constituent Assembly exercised under this subsection shall not be called in question in any court of law.'

(ii) Except in so far as other provision is made by or in accordance with a law made by the Constituent Assembly of the Dominion under subsection (i) of this section, each of the new Dominions and all Provinces and other parts thereof shall be governed as nearly as may be in accordance with the Government of India Act, 1935; and the provisions of that Act, and of the Orders in Council, rules and other instruments made there under, shall, so far as applicable, and subject to any express provisions of this Act, and with such omissions, additions, adaptations and modifications as may be specified in orders of the Governor-General under the next succeeding section, have effect accordingly:

Provided that:

(a) the said provisions shall apply separately in relation to each of the new Dominions and nothing in this subsection shall be construed as continuing on or after the appointed day any Central Government or Legislature common to both the new Dominions;

(b) nothing in this subsection shall be construed as continuing in force on or after the appointed day any form of control by His Majesty's Government in the United Kingdom over the affairs of the new Dominions or of any Province or other part thereof;

(c) so much of the said provisions as requires the Governor-General or any Governor to act in his discretion or exercise his individual judgment as respects any matter shall cease to have effect as from the appointed day;

(d) as from the appointed day, no Provincial Bill shall be reserved under the Government of India Act, 1935, for the signification of His Majesty's pleasure, and no Provincial Act shall be disallowed by His Majesty there under; and

(e) the powers of the Federal Legislature or Indian Legislature under that Act, as in force in relation to each Dominion, shall, in the first instance, be exercisable by the Constituent Assembly of the Dominion in addition to the powers exercisable by that Assembly under subsection (i) of this section.

(iii) Any provision of the Government of India Act, 1935, which, as applied to either of the new Dominions by subsection (ii) of this section and the orders

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therein referred to, operates to limit the power of the legislature of that Dominion shall, unless and until other provision is made by or in accordance with a law made by the Constituent Assembly of the Dominion in accordance with the provisions of subsection (i) of this section, have the like effect as a law of the Legislature of the Dominion limiting for the future, the powers of that Legislature.

Section 9 Surpass

(i) The Governor-General shall by order make such provision as appears to him to be necessary or expedient:

(a) for bringing the provisions of this Act into effective operation;

(b) for dividing between the new Dominions and the new Provinces to be constituted under this Act, the powers, rights, property, duties and liabilities of the Governor-General in Council or, as the case may be, of the relevant Provinces which, under this Act, are to cease to exist;

(c) for making omissions from, additions to, and adaptations and modifications of, the Government of India Act, 1935, and the Orders in Council, rules and other instruments made there under, in their application to the separate new Dominions;

(d) or removing difficulties arising in connection with the transition to the provisions of this Act;

(e) for authorizing the carrying on of the business of the Governor-General in Council between the passing of this Act and the appointed day otherwise than in accordance with the provisions in that behalf of the Ninth Schedule to the Government of India Act, 1935;

(f) for enabling agreements to be entered into, and other acts done, on behalf of either of the new Dominions before the appointed day;

(g) for authorizing the continued carrying on for the time being on behalf of the new Dominions, or on behalf of any two or more of the said new Provinces, of services and activities previously carried on behalf of British India as a whole or on behalf of the former Provinces which those new Provinces represent;

(h) for regulating the monetary system and any matters pertaining to the Reserve Bank of India; and

(i) so far as it appears necessary or expedient in connection with any of the matters aforesaid, for varying the constitution, powers or jurisdiction of any legislature, court or other authority in the new Dominions and creating new legislatures, courts or other authorities therein.

(ii) The powers conferred by this section on the Governor-General shall, in relation to their respective Provinces, be exercisable also by the Governors of the Provinces which, under this Act, are to cease to exist; and those powers shall, for the purposes of the Government of India Act, 1935, be deemed to be matters as respects which the Governors are, under that Act, to exercise their individual judgment.

(iii) This section shall be deemed to have had effect as from the 3 June 1947, and any order of the Governor-General or any Governor made on or after that date as to any matter shall have effect accordingly, and any order made under this section may be made so as to be retrospective to any date earlier than the said third day of June:

Provided that no person shall be deemed to be guilty of an offence by reason of so much of any such order as makes any provision thereof retrospective to any date before the making thereof.

(iv) Any orders made under this section, whether before or after the appointed day, shall have effect - up to the appointed day, (i) in British India; (ii) on and after the appointed day, in the new Dominion or Dominions concerned; and (iii) outside British India, or, as the case may be, outside the new Dominion or Dominions concerned, to such extent, whether before, on or after the appointed day, as a law of the Legislature of the Dominion or Dominions concerned would have on or after the appointed day, but shall, in the case of each of the Dominions, be subject to the same powers of repeal and amendment as laws of the Legislature of that Dominion.

(v) No order shall be made under this section, by the Governor of any Province, after the appointed day, or, by the Governor-General, after 31 March 1949, or such earlier date as may be determined, in the case of either Dominion, by any law of the Legislature of that Dominion.

(vi) If it appears that a part of the Province of Assam is, on the appointed day, to become part of the new Province of East Bengal, the preceding provisions of this section shall have effect as if, under this Act, the Province Assam was to cease to exist on the appointed day and be reconstituted on that day as a new Province.

Section 10

(i) The provisions of this Act keeping in force provisions of the Government of India Act, 1935, shall not continue in force with the provisions of that Act relating to appointments to the civil services of, and civil posts under, the Crown in India by the Secretary of State, or the provisions of that Act relating to the reservation of posts.

(ii) Every person who:

(a) having been appointed by the Secretary of State, or Secretary of State in Council, to a civil service of the Crown in India continues on and after the appointed day to serve under the Government of either of the new Dominions or of any Province or part thereof; or

(b) having been appointed by His Majesty before the appointed day to be a judge of the Federal Court or of any court which is a High Court within the meaning of the Government of India Act, 1935, continues on and after the appointed day to serve as a judge in either of the new Dominions;

(c) shall be entitled to receive from the Governments of the Dominions and Provinces or parts which he is from time to time serving or, as the case may be, which are served by the courts in which he is from time to time a judge, the same conditions of service as respects remuneration, leave and pension, and the same rights as respects disciplinary matters or, as

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the case may be, as respect the tenure of his office, or rights as similar thereto as changed circumstances may permit, as that person was entitled to immediately before the appointed day.

(iii) Nothing in this Act shall be construed as enabling the rights and liabilities of any person with respect to the family pension funds vested in Commissioners under Section 273 of the Government of India Act, 1935, to be governed otherwise than by Orders in Council made (whether before or after the passing of this Act or the appointed day) by His Majesty in Council and rules made (whether before or after the passing of this Act or the appointed day) by the Secretary of State or such other minister of the Crown as may be designated in that behalf by Order in Council under the Ministers of the Crown (Transfer of Functions) Act, 1946.

Section 10 A

This section was inserted by Constitution (Amendment) Act, 1951, Section 93, which stated:

After Section 10 of the Indian Independence Act, 1947, the following new section shall be inserted, namely:

> 'For the removal of doubts it is hereby declared that, subject to the other provisions of this Act and the Government of India Act, 1935, the power to alter any order, rule, regulation or other instrument passed or made by the Secretary of State or the Secretary of State in Council and existing immediately before the fifteenth day of August 1947 and continuing on and after that day as part of the law of Pakistan in virtue of section 18 of this Act is vested in the Governor-General and may be exercised by him by order.'

Section 11

(i) The orders to be made by the Governor-General under the preceding provisions of this Act shall make provision for the division of the Indian armed forces of His Majesty between the new Dominions, and for the command and governance of those forces until the division is completed.

(ii) As from the appointed day, while any member of His Majesty's forces, other than His Majesty's Indian forces, is attached to or serving with any of His Majesty's Indian forces - (i) he shall, subject to any provision to the contrary made by a law of the Legislature of the Dominion or Dominions concerned or by any order of the Governor-General under the preceding provisions of this Act, have, in relation to the Indian forces in question, the powers of command and punishment appropriate to his rank and functions; but (ii) nothing in any enactment in force at the date of the passing of this Act shall render him subject in any way to the law governing the Indian forces in question.

Section 12

(i) Nothing in this Act affects the jurisdiction or authority of His Majesty's Government in the United Kingdom, or of the Admiralty, the Army Council, or the Air Council or of any other United Kingdom authority, in relation to any of His Majesty's forces which may, on or after the appointed day, be in either of the new Dominions or elsewhere in the territories which, before the appointed day, were included in India, not being Indian forces.

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(ii) In its application in relation to His Majesty's military forces, other than Indian forces, the Army Act shall have effect on or after the appointed day:

(a) as if His Majesty's Indian forces were not included in the expressions 'the forces', 'His Majesty's forces' and 'the regular forces'; and

(b) subject to the further modifications specified in Parts I and II of the Third Schedule to this Act.

(iii) Subject to the provisions of subsection (ii) of this section, and to any provisions of any law of the Legislature of the Dominion concerned, all civil authorities in the new Dominions, and, subject as aforesaid and subject also to the provisions of the last preceding section, all service authorities in the new Dominions, shall, in those Dominions and in the other territories which were included in India before the appointed day, perform in relation to His Majesty's military forces not being Indian forces, the same functions as were, before the appointed day, performed by them, or by the authorities corresponding to them, whether by virtue of the Army Act or otherwise, and the matters for which provision is to be made by orders of the Governor-General under the preceding provisions of this Act shall include the facilitating of the withdrawal from the new Dominions and other territories aforesaid of His Majesty's military forces, not being Indian forces.

(iv) The Provisions of subsections (ii) and (iii) of this section shall apply in relation to the air forces of His Majesty, not being Indian air forces, as they apply in relation to His Majesty's military forces, subject, however, to the neccssary adaptations, and, in particular, as if:

(a) for the references to the Army Act there were substituted references to the Air Force Act; and

(b) for the reference to Part II of the Third Schedule to this Act there were substituted a reference to Part III of that Schedule.

Section 13

(i) In the application of the Naval Discipline Act to His Majesty's naval forces, other than Indian naval forces, references to His Majesty's navy and His Majesty's ships shall not, as from the appointed day, include references to His Majesty's Indian navy or the ships thereof.

(ii) In the application of the Naval Discipline Act by virtue of any law made in India before the appointed day to Indian naval forces, references to His Majesty's navy and His Majesty's ships shall, as from the appointed day, be deemed to be, and to be only, references to His Majesty's Indian navy and the ships thereof.

(iii) In section 90 B of the Naval Discipline Act (which, in certain cases, subjects officers and men of the Royal Navy and Royal Marines to the law and customs of the ships and naval forces of other parts of His Majesty's dominions) the words 'or of India' shall be repealed as from the appointed day, wherever those words occur.

Section 14

(i) A Secretary of State, or such other Minister of the Crown as may be designated in that behalf by Order in Council under the Ministers of the Crown (Transfer of Functions) Act, 1946, is hereby authorized to continue the performance for

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the time being, on behalf of whatever government or governments may be concerned, of functions as to the making of payments and other matters similar to the functions which, up to the appointed day, the Secretary of State was performing on behalf of governments constituted or continued under the Government of India Act, 1935.

(ii) The functions referred to in subsection (i) of this section are with respect to the management of, and the making of payments in respect of government debt, and any enactments relating to such debt shall have effect accordingly:

Provided that nothing in this subsection shall be construed as continuing in force so much of any enactment as empowers the Secretary of State to contract sterling loans on behalf of any such Government as aforesaid or as applying to the Government of either of the new Dominions, the prohibition imposed on the Governor-General in Council by section 315 of the Government of India Act, 1935, as respects the contracting of sterling loans.

(iii) As from the appointed day, there shall not be any such advisers of the Secretary of State as are provided for by section two hundred and seventy-eight of the Government of India Act, 1935, and that section, and any provisions of that Act which require the Secretary of State to obtain the concurrence of his advisers, are hereby repealed as from that day.

(iv) The Auditor of Indian Home Accounts is hereby authorised to continue for the time being to exercise his functions as respects the accounts of the Secretary of State or any such other Minister of the Crown as is mentioned in subsection (i) of this section, both in respect of activities before, and in respect of activities after, the appointed day, in the same manner as nearly as may be as he would have done if this Act had not passed.

Section 15

(i) Notwithstanding anything in this Act, and, in particular, notwithstanding any of the provisions of the last preceding section, any provision of any enactment which, but for the passing of this Act, would authorize legal proceedings to be taken, in India or elsewhere, by or against the Secretary of State in respect of any right or liability of India or any part of India shall cease to have effect on the appointed day, and any legal proceedings pending by virtue of any such provision on the appointed day shall, by virtue of this Act, abate on the appointed day, so far as the Secretary of State is concerned.

(ii) Subject to the provisions of this subsection, any legal proceedings which, but for the passing of this Act, could have been brought by or against the Secretary of State in respect of any right or liability of India, or any part of India, shall instead be brought:

(a) in case of proceedings in the United Kingdom, by or against the High Commissioner;

(b) in case of proceedings, by or against such person as may be designated by order of the Governor-General under the preceding provisions of this Act or otherwise by the law of the new Dominion concerned, and any legal proceedings by or against the Secretary of State in respect of any such right or liability as aforesaid which are pending immediately before the appointed day shall be continued by or against the High Commissioner, or as the case may be, the person designated as aforesaid:

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Provided that, at any time after the appointed day, the right conferred by this subsection to bring or continue proceedings may, whether the proceedings are by, or are against, the High Commissioner or person designated as aforesaid be withdrawn by a law of the Legislature of either of the new Dominions so far as that Dominion is concerned, and any such law may operate as respects proceedings pending at the date of the passing of the law.

(iii) In this section, the expression 'the High Commissioner' means, in relation to each of the new Dominions any such officer as may for the time being be authorized to perform in the United Kingdom, in relation to that Dominion, functions similar to those performed before the appointed day, in relation to the Governor-General in Council, by the High Commissioner referred to in section 302 of the Government of India Act, 1935; and any legal proceedings which, immediately before the appointed day, are the subject of an appeal to His Majesty in Council, or of a petition for special leave to appeal to His Majesty in Council, shall be treated for the purposes of this section as legal proceedings pending in the United Kingdom.

Section 16

(i) Subsections (ii) to (iii) of section 288 of the Government of India Act, 1935 (which confer on His Majesty power to make by Order in Council provision for the Government of Aden) shall cease to have effect and the British Settlements Acts, 1887 and 1945 (which authorize His Majesty to make laws and establish institutions for British Settlements as defined in those Acts) shall apply in relation to Aden as if it were a British Settlement as so defined.

(ii) Notwithstanding the repeal of the said subsections (ii) to (iv), the Orders in Council in force there under at the date of the passing of this Act shall continue in force, but then said Orders in Council, any other Orders in Council made under the Government of India Act, 1935, in so far as they apply to Aden, and any enactments applied to Aden or amended in relation to Aden by any such Orders in Council as aforesaid, may be repealed, revoked or amended under the powers of the British Settlements Acts, 1887 and 1945.

(iii) Unless and until provision to the contrary is made as respects Aden under the powers of the British Settlements Acts, 1887 and 1945, or, as respects the new Dominion in question, by a law of the Legislature of that Dominion, the provisions of the said Orders in Council and enactments relating to appeals from any courts in Aden to any courts which will, after the appointed day, be in either of the new Dominions, shall continue in force in their application both to Aden and to the Dominion in question, and the last mentioned courts shall exercise their jurisdiction accordingly.

Section 17

(i) No court in either of the new Dominions shall, by virtue of the Indian and Colonial Divorce Jurisdiction Acts, 1926 and 1940, have jurisdiction in or in relation to any proceedings for a decree for the dissolution of a marriage, unless those proceedings were instituted before the appointed day, but, save as aforesaid and subject to any provision to the contrary which may hereafter be made by any Act of the Parliament of the United Kingdom or by any law of the Legislature

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of the new Dominion concerned, all courts in the new Dominions shall have the same jurisdiction under the said Acts as they would have had if this Act had not been passed.

(ii) Any rules made on or after the appointed day under subsection (iv) of section one of the Indian and Colonial Divorce Jurisdiction Act, 1926, for a court in either of the new Dominions shall, instead of being made by the Secretary of State with the concurrence of the Lord Chancellor, be made by such authority as may be determined by the law of the Dominion concerned, and so much of the said subsection and of any rules in force there under immediately before the appointed day as require the approval of the Lord Chancellor to the nomination for any purpose of any judges of any such court shall cease to have effect.

(iii) The reference in subsection (i) of this section to proceedings for a decree for the dissolution of a marriage include references to proceedings for such a decree of presumption of death and dissolution of a marriage as is authorized by section eight of the Matrimonial Causes Act, 1937.

(iv) Nothing in this section affects any court outside the new Dominions, and the power conferred by section two of the Indian and Colonial Divorce Jurisdiction Act, 1926, to apply certain provisions of that Act to other parts of His Majesty's dominions as they apply to India shall be deemed to be power to apply those provisions as they would have applied to India if this Act had not passed.

Section 18

(i) In so far as any Act of Parliament, the Orders in Council, rule, regulation or other instrument passed or made before the appointed day operates otherwise than as part of the law of British India or the new Dominions, references therein to India or British India, however worded and whether by name or not, shall, in so far as the context permits and except so far as Parliament may hereafter otherwise provide, be construed as, or as including, references to the new Dominions, taken together, or taken separately, according as the circumstances and subject matter may require:

Provided that nothing in this subsection shall be construed as continuing in operation any provision in so far as the continuance thereof as adapted by this subsection is inconsistent with any of the provisions of this Act other than this section.

(ii) Subject to the provisions of subsection (i) of this section and to any other express provision of this Act, the Orders in Council made under subsection (v) of section 311 of the Government of India Act, 1935, for adapting and modifying Acts of Parliament shall, except so far as Parliament may hereafter otherwise provide, continue in force in relation to all Acts in so far as they operate otherwise than as part of the law of British India or the new Dominions.

(iii) Save as otherwise expressly provided in this Act, the law of British India and of the several parts thereof existing immediately before the appointed day shall, as far as applicable and with the necessary adaptations, continue as the law of each of the new Dominions and the several parts thereof until other provision is made by laws of the Legislature of the Dominion in question or by any other Legislature or other authority having power in that behalf.

(iv) It is hereby declared that the Instruments of Instructions issued before the passing of this Act by his Majesty to the Governor-General and the Governors of Provinces lapse as from the appointed day, and nothing in this Act shall be construed as continuing in force any provision of the Government of India Act, 1935, relating to such Instruments of Instructions.

(v) As from the appointed day, so much of any enactment as requires the approval of His Majesty in Council to any rules of court shall not apply to any court in either of the new Dominions.

Section 19

(i) References in this Act to the Governor-General shall, in relation to any order to be made or other act done on or after the appointed day, be construed:
   (a) where the order or other act concerns one only of the new Dominions, as references to the Governor-General of that Dominion;
   (b) where the order or other act concerns both of the new Dominions and the same person is the Governor-General of both those Dominions, as references to that person; and
   (c) in any other case, as references to the Governor-General of the new Dominions, acting jointly.

(ii) References in this Act to the Governor-General shall, in relation to any order to be made or other act done before the appointed day, be construed as references to the Governor-General of India within the meaning of the Government of India Act, 1935, and so much of that or any other Act as required references to the Governor-General to be construed as references to the Governor-General in Council shall not apply to references to the Governor-General in this Act.

(iii) References in this Act to the Constituent Assembly of a Dominion shall be construed as references:
   a. in relation to India, to the Constituent Assembly, the first sitting whereof was held on the ninth day of December, nineteen hundred and forty-six, modified:
      i. by the exclusion of the members representing Bengal, the Punjab, Sind and British Baluchistan; and
      ii. should it appear that the North-West Frontier Province will form part of Pakistan, by the exclusion of the members representing that Province; and
      iii. by the inclusion of members representing West Bengal and East Punjab; and
      iv. should it appear that, on the appointed day, a part of the Province of Assam is to form part of the new Province of East Bengal, by the exclusion of the members theretofore representing the Province of Assam and the inclusion of members chosen to represent the remainder of that Province;
   b. in relation to Pakistan, to the Assembly set up or about to be set up at the date of the passing of this Act under the authority of the Governor-General as the Constituent Assembly for Pakistan:
   'Provided that nothing in this subsection shall be construed as affecting the extent to which representatives of the Indian states take part in either of the

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said Assemblies, or as preventing the filling of casual vacancies in the said Assemblies, or as preventing the participation in either of the said Assemblies, in accordance with such arrangements as may be made in that behalf, of representatives of the tribal areas on the borders of the Dominion for which that Assembly sits, and the powers of the said Assemblies shall extend and be deemed always to have extended to the making of provision for the matters specified in this proviso.'

(iv) In this Act, except so far as the context otherwise requires, references to the Government of India Act, 1935, include references to any enactments amending or supplementing that Act, and, in particular, references to the India (Central Government and Legislature) Act, 1946;

'India', where the reference is to a state of affairs existing before the appointed day or which would have existed but for the passing of this Act, has the meaning assigned to it by section three hundred and eleven of the Government of India Act, 1935;

'Indian forces' include all His Majesty's Indian forces existing before the appointed day and also any forces of either of the new Dominions;

'pension' means, in relation to any person, a pension whether contributory or not, of any kind whatsoever payable to or in respect of that person, and includes retired pay so payable, a gratuity so payable and any sum or sums so payable by way of the return, with or without interest thereon or other additions thereto, of subscriptions to a provident fund;

'Province' means a Governor's Province;

'Remuneration' includes leave pay, allowances and the cost of any privileges or facilities provided in kind.

(v) Any power conferred by this Act to make any order includes power to revoke or vary an order previously made in the exercise of that power.

Section 20

This Act may be cited as the Indian Independence Act, 1947.

Schedules

First Schedule

Section 3

- Bengal Districts provisionally included in the New Province of East Bengal.
- In the Chittagong Division, the districts of Chittagong, Noakhali and Tippera.
- In the Dacca Division, the districts of Bakarganj, Dacca, Faridpur and Mymensingh.
- In the Presidency Division, the districts of Jessore, Murshidabad and Nadia.
- In the Rajshahi Division, the districts of Bogra, Dinajpur, Malda, Pabna, Rajshahi and Rangpur.

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Second Schedule

Section 4

- Districts provisionally included in the new province of West Punjab.
- In the Lahore Division, the districts of Gujranwala, Gurdaspur, Lahore, Sheikhupura and Sialkot.
- In the Rawalpindi Division, the districts of Attock, Gujrat, Jhelum, Mianwali, Rawalpindi and Shahpur.
- In the Multan Division, the districts of Dera Ghazi Khan, Jhang, Lyallpur, Montgomery, Multan and Muzaffargarh.

Third Schedule

Section 12

Modifications of Army Act and Air Force Act in relation to British Forces

Part 1: Modifications of Army Act applicable also to Air Force Act

a. The proviso to section 41 (which limits the jurisdiction of courts martial) shall not apply to offences committed in either of the new Dominions or in any of the other territories, which were included in India before the appointed day.

b. In section 43 (which relates to complaints), the words 'with the approval of the Governor-General of India in Council' shall be omitted.

c. In subsections (viii) and (ix) of section 54 (which, amongst other things, require certain sentences to be confirmed by the Governor-General in Council), the words 'India' or the words 'by the Governor-General, or, as the case may be' and the words 'in India, by the Governor-General, or, if he has been tried' shall be omitted.

d. In subsection (iii) of section 73 (which provides for the nomination of officers with power to dispense with courts martial for desertion and fraudulent enlistment) the words 'with the approval of the Governor-General' shall be omitted.

e. The powers conferred by subsection (v) of section 130 (which provides for the removal of insane persons) shall not be exercised except with the consent of the officer commanding the forces in the new Dominions.

f. In subsection (ii) of section 132 (which relates to rules regulating service prisons and detention barracks) the words 'and in India for the Governor-General' and the words 'the Governor-General' shall be omitted except as respects rules made before the appointed day.

g. In the cases specified in subsection (i) of section 134 inquests shall be held in all cases in accordance with the provisions of subsection (iii) of that section.

h. In section 136 (which relates to deductions from pay), in subsection (i) the words 'India or' and the words 'being in the case of India a law of the Indian legislature', and the whole of subsection (ii), shall be omitted.

i. In paragraph 4 of section 137 (which relates to penal stoppages from the ordinary pay of officers), the words 'or in the case of officers serving in India the Governor-General' the words 'India or' and the words 'for India or, as the case may be' shall be omitted.

j. In paragraph 12 of section 175 and paragraph 11 of section one hundred and seventy-six (which apply the Act to certain members of His Majesty's Indian Forces and to certain other persons) the word 'India' shall be omitted wherever it occurs.

k. In subsection (i) of section one hundred and eighty (which provides for the punishment of misconduct by civilians in relation to courts martial) the words 'India or' shall be omitted wherever they occur.

l. In the provisions of section 183 relating to the reduction in rank of non-commissioned officers, the words 'with the approval of the Governor-General' shall be omitted in both places where they occur.

Part 2: Modifications of Army Act

Section 184 B (which regulates relations with the Indian Air Force) shall be omitted.

Part 3: Modifications of Air Force Act

a. In section 179D (which relates to the attachment of officers and airmen to Indian and Burma Air Forces), the words 'by the Air Council and the Governor-General of India or, as the case may be', and the words 'India or', wherever those words occur, shall be omitted.

b. In section 184B (which regulates relations with Indian and Burma Air Forces), the words 'India or' and the words 'by the Air Council and the Governor-General of India or, as the case may', shall be omitted.

c. Sub-paragraph (e) of paragraph 4 of section 190 (which provides that officers of His Majesty's Indian Air Force are to be officers within the meaning of the Act) shall be omitted.

Nevertheless, the Government of India functioned under the provisos of 1919 Act until 1947. On the other hand, the provisos under the 1935 Act related to federation and diarchy were never executed. Following features were adopted under the Indian Independence Act, 1947:

- By this Act, India ceased to be a dependency and suzerainty of the British Crown over the Indian states and the treaty relations with Tribal Areas also lapsed from the date. The office of the Secretary of the State for India was abolished. India was thereafter declared an independent and sovereign state.
- The 1947 Act formed governments at the Centre as well as the Provinces.
- The Governor-General of India and the Provincial Governors were designated as the Constitutional Nominal Heads.
- The Act assigned dual functions to the Constituent Assembly, namely, Constituency and Legislative, and declared it as a sovereign body.
- The Act also contains temporary provision for the government of the dominions by giving to the two Constituent Assemblies the status of parliament with full powers of Dominion Legislature.
- It prescribed the conditions and terms of the Secretary of State's Services and the Indian Armed forces, the continuance of the jurisdiction or authority of His Majesty's Government over the British army air force and navy.

Check Your Progress

1. Which Act transferred the governance of India directly to the British Crown?
2. What was the significance of the Indian Council Act, 1861?
3. Which Act changed the name of the Central Legislative Council to the Imperial Legislative Council?
4. What do you understand by the system of diarchy introduced by the Indian Council Act, 1919?
5. Which Act officially announced the Independence of India and the partition of India?

1.3 EMERGENCE OF POLITICAL ORGANIZATIONS, PRESSURE GROUPS AND INTEREST GROUPS IN INDIA DURING THE BRITISH RULE

The latter half of the nineteenth century was an era of socio-political awakening in India. In this period, we see a number of social reform movements and growing 'political concessions'. Thus, we see the emergence of various political parties, pressure groups and interest groups in the period of 1858-1950. Detailed analysis of those is not in the purview of our study, however, without a brief discussion on these aspects our study would not be complete. Let us obtain a basic understanding on the emergence of political parties, pressure groups and interest groups in the stated period.

The Indian National Congress formed in 1885 and became synonymous to the Indian national movement. In fact on the eve of independence, the Congress was the only party which had a country-wide network and a social reach which cut across classes, regions and religions. But what had also grown in the shadow of the Congress led anti-colonial struggle was a political space where political parties could come into existence and a political culture which institutionalized the democratic system. Parties like the All India Muslim League, the Akhil Bharatiya Hindu Mahasabha and the Akali Dal which attempted to build an all-India base on the communal line. Communist Party of India had an all-India make–up. However, because of the interests it represented – the working class – it remained restricted to urban industrial spaces. Parties like the Khudai Khidmatgars of NWFP, the Unionist Party of Punjab, the Justice Party of Madras, the Independent Labour Party of Bombay, etc represented social groups – the Pathans, the Muslims of Punjab and the non-Brahmin castes, the Depressed Classes, respectively – within specific regions.

Peasant movement in India arose during the in the early twentieth century. The Kisan Sabha movement started in Bihar under the leadership of Swami Sahajanand Saraswati who had formed in 1929 the Bihar Provincial Kisan Sabha (BPKS) in order to mobilize peasant grievances against the zamindari attacks on their occupancy rights. Gradually the peasant movement intensified and spread across the rest of India. All these radical developments on the peasant front culminated in the formation of the All India Kisan Sabha (AIKS) at the Lucknow session of the Indian National Congress in April 1936 with Swami Sahajanand Saraswati elected as its first President. The modern Indian working class arose in consequence to the development and growth of factory industries in India from the second half of the nineteenth century. By the second decade of twentieth century the unorganized movement of the workers took an organized form; trade unions were formed on modern lines and manifested in the form of All India Trade Union Congress (AITUC) in 1920. Similarly, various organizations representing particular interest groups such as Federation of Indian Chamber of Commerce and Industries (FICCI), All India Women Conference and so on emerged during this period.

1.4 ROLE OF INDIAN NATIONAL CONGRESS IN CONSTITUTIONAL DEVELOPMENT

The nationalist approach emerged out of the nationalist movement and was responsible for strengthening the spirit of nationalism. Its main supporters were as follows:

Check Your Progress

6. When was the Indian National Congress formed?
7. Name the political organizations/ groups other than the INC which were active in the Indian National Movement.

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- Surendranath Banerjee
- Bal Gangadhar Tilak
- Bipin Chandra Pal
- Lala Lajpat Rai
- Swami Dayanand
- Aurobindo Ghosh
- R.C. Majumdar
- Tara Chand

The nationalist approach basically highlighted the aggressive and the exploitative character of the British colonial rule that subordinated Indian economy to the British economy. The nationalist approach believed in a free India, and held its culture and heritage in great respect. For them, the Indian national movement represented the collective will of the people. They believed that the Indian National Congress (INC) covered under its umbrella all the sections of the Indian people. However, the nationalists were criticized for ignoring the existing class-cleavages rampant in the Indian society.

Political nationalism in India was the outcome of the conflicting British and Indian interests, although Indian nationalism as an organized movement developed only during the last decade of the 19th century. Political nationalism generated with the objective of an increasing share in political power followed by dominion status, home rule and complete independence finally. The revolt of 1857 was the result of an accumulated discontent among the various strata of the old Indian society. The British policy of the Doctrine of Lapse is the annexationist policy of the British and there was also the large-scale ruination of millions of Indian artisans. These factors led to the first major political jolt to the imperialist empire. The revolt of 1857 however cannot be regarded as national in nature, though it was anti-British in sentiment. A new stage in the relationship between India and Britain emerged following the end of the mutiny. The policy of Britain underwent a metamorphosis after 1857. What is also remarkable to note here is the fact that though the revolt of 1857 did not project any conception of the national unification of the Indian people, but it did display, for the first time in the Indian history, that a large-scale alliance between the Hindus and the Muslims against the British rule was possible.

The first formal political expression of Indian nationalism became coherently visible with the rise of the Indian National Congress, founded in 1885 by the liberal Indian intelligentsia with support of some sections of the commercial bourgeoisie. The period between 1857 and 1885 displayed innumerable instances of the widening gulf between the British and the Indians, and the political and economic discontent of the Indian people had almost threatened to reach an explosive point by 1883. The arising popular discontent was seemingly bracketed by the so-called 'safety valve' of A.O. Hume, a British officer, who helped in founding the Indian National Congress. The first session of INC was held in Bombay in 1885 dominated by the liberals like Surendra Nath Banerjee, R.C. Dutt, Badruddin Tayabji, Ferozshah Mehta, Gopal Krishan Gokhale, etc. This liberal intelligentsia dominated the Congress from 1885 to 1905 passing resolutions that were modest in nature and were restricted to the administrative reforms and the introduction of the elective principles in the legislature. These Indian liberals had unlimited faith in British capacity for democracy and development, and they thereby looked towards Britain for guiding the Indian people to overcome their cultural and social backwardness. Surprisingly, these liberals did not consider the British and Indian interests as antagonistic. However, the liberals did recognize that the Congress was yet not the representative of the masses but only an interpreter for their grievances. To aid the British, they also rejected all revolutionary and sudden changes. Though the liberals seemed to play a progressive role, the critics believed that they exhibited numerous political misconceptions as they could not comprehend the real nature of the British rule. They believed only in prayer and petition at which the British mocked.

As most of the demands of the liberals went unnoticed and unfulfilled, the liberals of late 19th century were soon disillusioned. Their faith in the British Government started faltering. At the same time most of the other Indians were following competing ideologies, and contrasting views and visions. With the spread of political disillusionment among the liberals, a new group of militant nationalists began to evolve among the ranks of the Congress. Extremists, as they were popularly known, found expressions in a new nationalism as expounded by Bal Gangadhar Tilak, Bipin Chandra Pal and Lala Lajpat Rai. The trio came to be known as 'Lal-Bal-Pal'. The militant nationalist infused nationalist sentiments among the Indian people by invoking the historic Indian past, national pride and self respect. They believed in the principles of *swadeshi* and boycott of foreign goods and institutions. They wanted to make India a self-respecting, self-reliant and self-supporting nation. They even criticized the liberals for looking to Britain for their political salvation. For the extremists, the interests of Britain and of India were antagonistic and not allied. They believed that only self-government could accomplish the goal of social, economic and cultural progress. Needless to say, they wanted to end and not mend the system.

The moderates and the extremists added different colours to the Indian National Movement. It may be considered political awakening in general and nationalism in particular. However, on close observation, one can easily assess that this kind of political activity was either limited to the elites or largely regionalized. It was not until the beginning of the Gandhian phase that one could see mass political mobilization of the Indian people that could finally defeat imperialism. The period after 1919 was marked by a phenomenal growth of the mass movements where various sections of the people—workers, peasants, capitalists, students, lawyers, and above all women—could actively participate. Indian nationalism gained a multi-class character unmatched in any freedom struggle. Beginning with Champaran, Gandhi followed the path of truth and non-violence to attain freedom for India. Whether it was the Non-cooperation Movement, Civil Disobedience or the Quit India Movement, Gandhi generated a new nationalistic fervour in the hearts of Indian people. Indian nationalism found its highest expression in Gandhi. Notable is the fact that Gandhi also took Hindu–Muslim unity to new and greater heights. His impeccable secular credentials consistently strived for this unity till the moment of his assassination.

The following timeline shows the role of the Indian National Congress in constitutional development:

- 1905: Demand for self government
  - o Reaction to the Curzon Regime
  - o Confrontation between the Moderates in the Congress seeking change through constitutional means and peaceful agitation and the Extremist younger elements seeking change through violence if necessary

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- 1906: Demand for Swaraj
- 1909: Minto-Morley Reforms creating the Indian Councils gave representatio but also gave impetus to the virus of Communalism by providing for separat electorates
- 1917: Proposal for a Congress Flag (later to become the National Tricolour)
- 1919: Gandhiji organizes countrywide Satyagraha against the Rowlatt Act
- 1919: Jallianwala Bagh Massacre
- 1920: Khilafat Movement
- 1920: Gandhiji tours the country to organize the Non-Cooperation Movemen
- 1920: The Congress becomes a mass movement
- 1926: Announcement of Simon Commission for proposing constitutiona reforms for India
- 1927: Resolution boycotting the Simon Commission
- 1928: Successful All India Hartal on arrival of Simon Commission
- 1928: All Party Committee appointed under Pt Motilal Nehru to draft Constitution for Independent India
- 1929: Irwin-Gandhi talks
- 1929: Resolution demanding complete independence
- 1930: Adoption of 26th January as 'Purna Swaraj Day'
- 1930: Call for Civil Disobedience
- 1930: Salt Satyagraha - Dandi March
- 1930: Congress opposition to Round Table Conference
- 1931: Fundamental Rights defined
- 1931: Gandhi authorized to negotiate on behalf of the Congress at the Round Table conference
- 1931: Gandhi - Irwin Pact
- 1932: Poona Agreement guaranteeing reserved seats for the Scheduled Castes and Tribes
- 1934: Congress Constitution amended to make non-violence and khadi its fundamental creeds
- 1935: The Government of India Act
- 1935: Congress condemns the new Constitution but decides to contest Elections
- 1937: Congress wins elections in 5 out of 9 provinces
- 1939: Resignation of Congress Ministries and withdrawal from the Legislative Process
- 1939: Demand for a Constituent assembly to be elected by Universal Franchise
- 9th August 1942 Quit India Resolution
- 1943-44: Allied victories in the war leading to intransigent British position
- 1943-44: Gandhiji and Congress leaders released from prison but British refuse to negotiate

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- 1943-44: Jinnah adamant on Partition
- 1945: Simla Conference fails
- 1946: Cabinet Mission to decide fate of India
- 1946: Congress wins an overwhelming majority in Elections to the Constitutional Assembly
- 1946: Muslim League decides to withdraw and Press for the creation of Pakistan 16th August chosen as Direct Action Day
- 1946: Congress and Muslim League join Interim Government
- 1946: Jinnah still adamant
- 1947: India gets independence

ACTIVITY

Read the book *The Discovery of India* and write a short story on the growth of the Indian nation from the days of the Indus Valley Civilization till the British Raj.

DID YOU KNOW

Nehru Jacket

The ubiquitous Nehru Jacket is named after Jawaharlal Nehru who took to wearing this attire after shunning his Western wardrobe. Barring the distinctive stand-up collar, the Nehru Jacket is similar to the waistcoats or suit jackets. It is the preferred formal wear for many Indian politicians.

1.5 SUMMARY

In this unit, you have learned that:

- The concept of constitutionalism has created various means for establishing a governmental structure that exercises power, while, at the same time, ensures individual freedom and liberty. It recommends a method for the reconciliation of the power of the state coupled with individual liberty, by advising on the principles of state organization.
- The Government of India Act, 1858 made the administration of the country unitary as well as rigidly centralized. Though the territory was divided into provinces with a Governor or Lieutenant Governor headed by his executive council at the head of each of them, the provincial governments were mere agents of the Government of India.
- The Indian Council Act, 1861 initiated the process of decentralization by restoring the legislative powers to the Bombay and the Madras Presidencies. Another feature of the Act was its statutory recognition to the portfolio system.
- The Indian Council Act of 1861 also brought in legislative reforms in the country. The Viceroy's executive council was extended by members, wherein it was

Check Your Progress

8. What was the nationalists' approach to Indian national movement?
9. When and where was the first session of the INC held?
10. Which party won an overwhelming majority in elections to the Constitutional Assembly in 1946?

declared that additional members should be six to the minimum and twelve to the maximum.

- The Indian Council Act of 1892 was simply an extension to the Act of 1861, in that the former broadened the functions of the legislature, whereby the members could make queries and obtain details from the executive.
- The Indian Council Act, 1909 facilitated elections of Indians towards different legislative councils in India, effectively for the first time. Prior to this, some Indians were appointed at legislative councils, majority of which remained under the appointments of the British government.
- The Government of India Act, 1919 embodied the reforms recommended in the joint report of the Secretary of State for India, Sir Edwin Montagu, and the Viceroy, Lord Chelmsford.
- The British Government in 1927 appointed a Statutory Commission as envisaged by the Government of Act of 1919 to make an enquiry onto the report on the functioning of the Act and to announce that domination status was the goal of Indian political developments. Sir John Simon was the Chairman of the Commission which gave its final report in 1930.
- The Government of India Act, 1935 established an all India Federation comprising the provinces and princely states as the units. It segregated powers between the Centre and the units into three lists, viz. the Federal List, the Provincial List and the Concurrent List.
- The Government of India Act, 1935 abolished the Diarchy in the provinces and provided for the adduction of Diarchy at the centre. According to this system the administration of defence, external affairs, ecclesiastical affairs, and of tribal areas, was to be made by the Governor-General in his discretion with the help of 'counsellors' appointed by him who were not responsible to the legislature. With regard to matters other than the above reserved subjects, the Governor-General was to act on the advice of a Council of Ministers who was responsible to the legislature.
- The legislation of the Indian Independence Act was designed by the Prime Minister Clement Attlee as Indian Political Parties, the Indian National Congress, the Muslim League, and the Sikh community came to an agreement on the transfer of power from the British Government to the independent Indian Government and the Partition of India. The Agreement was made with Lord Mountbatten, which was known as the 3 June Plan or Mountbatten Plan.
- The Indian Independence Bill was formally introduced in the British Parliament on 4 July 1947 and received the royal assent on the 18th of the same month. It removed all limitations upon the responsible government (or the elected legislature) of the natives, and until they developed their own constitutions, their respective Governor-Generals and Provincial Governors were to enjoy the same powers as their counterparts in other dominions of the Commonwealth.
- The latter half of the nineteenth century was an era of socio-political awakening in India. In this period, we see a number of social reform movements and growing 'political concessions'.
- The nationalist approach basically highlighted the aggressive and the exploitative character of the British colonial rule that subordinated Indian economy to the British economy.

- The first formal political expression of Indian nationalism became coherently visible with the rise of the Indian National Congress, founded in 1885 by the liberal Indian intelligentsia with support of some sections of the commercial bourgeoisie.

1.6 KEY TERMS

- **Bicameral Legislature:** A parliament with two houses–upper house and lower house.
- **Cabinet Mission:** A parliamentary delegation sent by the British Government in 1946 to get first hand information on political situation in India.
- **Colonialism:** Colonialism is a practice of domination, which involves the subjugation of one people to another.
- **Communal Electorate:** A system of representation in which constituencies are divided on communal basis.
- **Concurrent List:** A list containing a matters on which both the federal and the provincial governments could make rules.
- **Diarchy:** Diarchy is a dual set of governments–accountable and non-accountable. This system was first introduced by the Government of India Act, 1919 in the provincial governments. The Government of India Act, 1935 abolished it in the provinces but introduced it at the federal level.

1.7 ANSWERS TO 'CHECK YOUR PROGRESS'

1. The Government of India Act, 1858 transferred the governance of India directly to the British Crown, ending the Company's rule.
2. The Indian Council Act, 1861 introduced a representative institution in India for the first time, providing that the Executive Council of the Governor-General should comprise some Indians as the non-official members for transactions of legislative business. It initiated the process of decentralization by restoring the legislative powers to the Bombay and the Madras Presidencies. Another feature of the Act was its statutory recognition to the portfolio system.
3. The Indian Council Act, 1909 changed the name of the Central Legislative Council to the Imperial Legislative Council.
4. According the system of diarchy, the subjects of administration were to be divided into two categories- central and provincial. The central subjects were those which exclusively kept under the control of the central government. On the other hand, the provincial subjects were sub-divided into 'transferred' and 'reserved' subjects.
5. The Indian Independence Act, 1947 was the legislation passed and enacted by the British Parliament that officially announced the Independence of India and the partition of India.
6. The Indian National Congress formed in 1885.
7. Besides the INC, other political organizations/groups active in the Indian National Movement included the All India Muslim League, the Akhil Bharatiya

Hindu Mahasabha, the Akali Dal , the Khudai Khidmatgars, the Unionist Party, the Justice Party and the Independent Labour Party .

8. The nationalist approach basically highlighted the aggressive and the exploitative character of the British colonial rule that subordinated Indian economy to the British economy. The nationalist approach believed in a free India, and held its culture and heritage in great respect. For them, the Indian national movement represented the collective will of the people.
9. The first session of INC was held in Bombay in 1885.
10. The INC won an overwhelming majority in elections to the Constitutional Assembly in 1946.

1.8 QUESTIONS AND EXERCISES

Short-Answer Questions

1. Why is the Indian Council Act, 1909 considered as an attempt of 'divide and rule'?
2. Write a short note on 'diarchy'.
3. Briefly discuss the composition of bicameral legislature as proposed in the Government of India Act, 1935.

Long-Answer Questions

1. Write an essay on the constitutional development of India in the colonial period.
2. Describe the salient features of the Government of India Act, 1919.
3. Examine the evolution of political parties, pressure group and interest groups in the colonial period.
4. Enlist the main provisions of the Indian Independence Act, 1947.

1.9 FURTHER READING

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UNIT 2 FRAMING OF THE INDIAN CONSTITUTION

Structure

2.0 Introduction
2.1 Unit Objectives
2.2 Making of the Constitution: Constituent Assembly
  2.2.1 Constituent Assembly
2.3 Philosophy and Values Embodied in Indian Constitution
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  2.4.1 Fundamental Rights
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2.5 Summary
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2.7 Answers to 'Check Your Progress'
2.8 Questions and Exercises
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2.0 INTRODUCTION

This unit discusses the developments that led to the framing of the Indian Constitution. Our nationalist leaders had long cherished aspirations and dreams during the arduous course of freedom struggle. To realize them, they were thus passionate about making a fresh start in the form and system of our government, which would be substantially different from that of our colonial rulers. Therefore, the arrival of political freedom in 1947 gave impetus to the drafting of our Constitution. The Constituent Assembly of India, which was first set up by the Cabinet Mission plan in 1946; and later restructured following a split in accordance with the Mountbatten Declaration of 3 June 1947, became a sovereign body to frame the Constitution of India. In the process, our Constitution emerged from that great hall of the Constituent Assembly. As a result, 26 November 1949 and 26 January 1950 became two most important dates in Indian history in connection with the Constitution of India. The former marks the day of adoption of the draft Constitution, and the latter stands for the date on which the Constitution of India came into force and thereby,making India a truly sovereign country and a republic as well.

Besides describing the philosophy our Constitution is based on, the unit examines the changing notions of Fundamental Rights, Fundamental Duties and Directive Principles of State Policy.

Part III of the Constitution of India contains the Fundamental Rights, which are defined as basic human freedoms which every Indian citizen has the right to enjoy for a proper and harmonious development of personality. Fundamental Rights universally apply to all citizens, irrespective of race, place of birth, religion, caste, creed, colour or gender. You, as a citizen of India, can go to courts for their enforcement, subject to certain restrictions.

Fundamental Duties, included in the constitution by the 42nd amendment in 1976, are the obligations of the citizens towards their state. While enjoying our rights most of

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us forget that we also have some duties towards our society and the state. Every right has a corresponding duty. For example, while enjoying your right to freedom of religion, you need to ensure that others have been allowed the same freedom.

The Directive Principles of State Policy refer to guidelines to the central and state governments of India to be kept in mind while framing laws and policies. You cannot go to a court for the enforcement these principles or provisions. These provisions are considered fundamental in the governance of the country. They make it the duty of the State to apply these principles so that a just society is made in the country. The Directive Principles relate to social justice, economic welfare, foreign policy, and legal and administrative matters.

2.1 UNIT OBJECTIVES

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

- Discuss the philosophy underlying the Indian Constitution
- Describe the changing notions of Fundamental Rights and Duties
- Examine the changing notions of the Directive Principles of State Policy

2.2 MAKING OF THE CONSTITUTION: CONSTITUENT ASSEMBLY

The idea of making the constitution cannot only be attributed to the Constituent Assembly but it has also to be seen in the evolutionary perspective. The adoption of the famous Motilal Nehru resolution in 1924 and 1925 on the national demand was a historic event in as much as the Central Legislature had for the first time lent its support to the growing demand of the future Constitution of India should be framed by Indians themselves. In November 1927, when the Simon Commission was appointed without any Indians represented in it, and all party meetings held at Allahabad asserted the demand of the right to participate in the determination of the Constitution of their own country.

Earlier on 17 May 1927, at the Bombay session of the Congress, Motilal Nehru had moved a resolution calling upon the Congress Working Committee to frame a Constitution for India in consultation with the elected members of the central and provincial legislatures and leaders of political parties. Adopted by an overwhelming majority with amendments, it was this resolution on the Swaraj Constitution, which was later amplified and reiterated by Jawaharlal Nehru in a resolution passed by the Madras Session of the Congress on 28 December 1927. In all party conferences in Bombay, on 19 May 1929 a committee was appointed, under the Chairmanship of Motilal Nehru to establish the principles of the Constitution of India. The Report of the Committee which was submitted on 10 August 1928 was later to become famous as the Nehru Report. It was significant for the fact that, it was the first attempt by Indians to frame a full-fledged constitution for their country. The Report symbolized the perception of the modern nationalists as well as an outline of a draft constitution for India. The latter was based on the principles of dominion status with full responsible government on the parliamentary pattern. The Report asserted the principle that sovereignty belongs to Indians and laid down a set of Fundamental Rights and provided for a federal system with maximum autonomy granted to units but residuary powers were vested in the central government and joint electorates for elections to the federal lower house and the provincial legislatures with reservation of seats for minorities in certain cases for a limited period.

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The report can be seen as the broad parliamentary system with the government responsible to the parliament, a chapter of justifiable fundamental rights and rights of minorities envisaged in the Nehru Report in 1928 very largely embodied in the constitution on the independent India adopted 21 years later, on 26 November 1949.

The Third Round Table Conference issued a White Paper outlining the British Government's proposal for constitutional reforms in India. However, the joint parliamentary committees, which examined this proposal, observed that 'a specific grant of constituent power to authorities in India is not at the moment a practicable proposition'. In its response, the Congress Working Committee in June 1934 declared that the only satisfactory alternative to the White Paper was a constitution drawn out by a Constituent Assembly elected on the basis of adult suffrage. Significantly, this was the first time that a definite demand for a Constituent Assembly was formally put forward.

While the Simon Commission and the Round Table conference did not succeed fully, it gave rise to the ratification of the Government of India Act, 1935 adhering to the Indian ambitions and further widened the demand for a Constituent Assembly of the people of India. The Congress in its Lucknow Session in April 1936 adopted a resolution in which it declared that no constitution imposed by an outside authority shall be acceptable to India. The resolution asserted that it has to be single-handedly framed by an Indian Constituent Assembly elected by the people of India on adult franchise. On 18 March 1937, Congress adopted another resolution in Delhi asserting the electorate approval of the demand for a Constituent Assembly. It desired to frame a constitution based on national independence through a medium of a Constituent Assembly elected by adult franchise.

After the outbreak of the Second World War in 1939, the demand for a Constituent Assembly was reiterated in a long statement issued by the Congress Working Committee on 14 September 1939. Gandhi wrote an article entitled 'the only way' in the *Harijan* on 19 November 1939, in which he expressed the view that the Constituent Assembly alone can produce a constitution indigenous to the country, truly and fully representing the will of the people. It declared that the only way out to arrive at the just solution of communal and other problem was a Constituent Assembly. The demand for a Constituent Assembly was for the first time authoritatively considered by the British Government, though in an indirect way and with important reservations, in what is known as the 'August Offer of 1940'.

In March 1942, the British Government sent Cripps Mission to India with a draft declaration on the proposals of the British Government, which needed to be implemented at the end of the Second World War, provided for two prime political parties, the Congress and Muslim League, to come to an agreement to accept them. The main proposal of the Mission's were (i) the Constitution of India was to be framed by an elected Constituent Assembly of the Indian people; (ii) the Constitution should give India dominion status – equal partnership of the British Commonwealth of Nations; (iii) there should be an Indian union, comprising all the provinces and Indian states; and (iv) any province or Indian state, which was not prepared to accept the Constitution would be free to retain its constitutional position existing at that time and with such non-exceeding provinces, the British government could enter into separate constitutional arrangements.

However, the Cripps Mission was a failure and no steps were taken for the solution of the Indian constitutional problem until the World War in Europe came to an end in May 1945. In July, when the new labour government came to power in England, Lord Wavell affirmed that His Majesty's government intention to convene a constitutional making body as soon as possible.

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In 1946, the British Cabinet sent off three members, including Cripps to make another serious attempt to solve the Indian problem. The proposals of the Cabinet delegation sought to affect a compromise between a union of India and its division. But the Cabinet delegation rejected the claim for a separate Constituent Assembly and a separate state for the Muslims and forwarded the following proposals:

(i) There would be a union of India, comprising both British India and states, and having jurisdiction over the subjects of foreign affairs, defence and communications. All residuary powers would belong to the provinces and the states.

(ii) The union should comprise an executive and a legislature having representatives from the provinces and states.

To explain the actual meaning of the grouping clauses of the proposals of the Cabinet Mission, on 6 December 1946, the British Government published the following statement: 'Should a constitution come to be framed by the constituent assembly in which large section of the Indian population had not been represented?'

His Majesty's government would not consider imposing such a constitution upon any restrictive part of the country. The British Government for the first time pondered over the likelihood of forming two constituent assembles and two states. As a result, on 9 December 1946, when the Constituent Assembly met the Muslim League members, it began to perform with the non-Muslim League members.

The Cabinet Mission recommended a basic framework for the Constitution and Election for the 296 seats assigned to the British Indian provinces were completed by July-August 1946. The Congress won 208 seats including all the General seats except for nine, and the Muslim League 73 seats i.e. all but five of the seats allotted to Muslims.

With the partition and independence of the country, on 14–15 August 1947, the Constituent Assembly of India could be set to have become free from the fetters of the Cabinet Mission Plan. It became a full sovereign body and the successor to the British Parliament plenary authority and power in the country. Moreover, following the acceptance of the plan of 3 June, the members of the Muslim League from the Indian dominion also took their seats in the Assembly. The representatives of some of the Indian states had already entered the Assembly on 28 April 1947. By 15 August 1947 most of the states were represented in the Assembly and the remaining states also sent their representatives in due course. The Constituent Assembly thus became a body, it was believed, fully representative of the states and provinces in India and full sovereign of all external authority. It could change any law made by the British parliament while applying to India comprising the Indian Independence Act itself.

Historically, the objective resolution was transferred to the Constituent Assembly by Nehru on 13 December 1946, after it had been in session for some days. The objective resolution which inspired the shaping up the constitution through all the subsequent stages declares, 'its form and solemn resolve to proclaim India as an independent sovereign republic and draw up for her future governance a constitution where in the territories that now comprise British India, the territory that now form the Indian states and such other parts of India as are outside British India and the states as well as such other territories are willing to be constituted into the independent sovereign India, shall be a union of them all. It also declared that the said territories with their present boundaries or with such others as may be determined by the Constituent Assembly and thereafter according to the low of the Constitution shall posses and retain the status of autonomous units together with residuary powers and exercise all powers and functions of government and administration except the powers of the union. All powers and authority of the

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sovereign independent Indian, its constituent parts and organs of government are derived from the people. It shall be guaranteed and secured to all people of India justice, social, economic and political, equality of status and of opportunities, equality before the law, freedom of thought, expression, belief, faith, worship, vocation, association and action, subject to law and public morality. Adequate safeguard shall be provided for minorities, backward and tribal areas and depressed and other backward classes. The integrity of the territory of the republic and its sovereign rights on land, sea and air according to justice and the law of civilized nation shall be maintained. The ancient land would attain its rightful and honoured place in the world and make it full and will contribute in the promotion of world peace and the welfare of the mankind.'

In the words of Pandit Nehru, the aforesaid resolution was something more than a resolution. It is a declaration, affirm resolve, a pledge, an undertaking and for all of us, a dedication. The resolution is a great document and considered as the foundation of the Constitution of independent India. Thus, the Constitution of India is not a product of a particular point of time and a process of accumulation over a long period of time. The credit goes to the Constituent Assembly to give concrete shape to all the heterogeneous constitutional developments by adopting it to the peculiarities of contemporary India.

2.2.1 Constituent Assembly

The Indian Constituent Assembly was elected to form the Constitution of India. It served as an independent nation to its first Parliament. There were negotiations in between the Indian leaders and the British Cabinet Mission members that led to the setting up of the Constituent Assembly, which was elected indirectly by the Provincial Legislative Assembly members. The Congress maintained a good majority in the general seats of 69 per cent, whereas the Muslim League could manage to sweep almost a majority of seats for Muslims. Also, there were members from the Scheduled Caste Federation, the Unionist Party and the Communist Party of India.

The Constituent Assembly was first held on 9 December 1946, and included provinces comprising Pakistan and Bangladesh today, and represented the princely states of India as well. Further, the delegations from provinces of Sind, East Bengal, West Punjab, Baluchistan and the North West Frontier Province in June 1947 formed the Constituent Assembly of Pakistan in Karachi.

It had 207 representatives, including fifteen women. Twenty-eight of the representatives of the Muslim League could only join the Indian Assembly then. Eventually, ninety-three members got nominated from India's princely states. Thereafter, the Congress secured a majority of 82 per cent. On 2 September 1946, the interim Government of India was formed from the newly elected Constituent Assembly. On 15 August 1947, India became independent and the Constituent Assembly became the Parliament of India.

The enormous task of drafting free India's Constitution was taken up by the Constituent Assembly. The Assembly brought into being by the will of the Indian people with the help of the British people, drafted a constitution of India from December 1946 to December 1949. It had been elected for on divided India and held its first setting on 9 December 1946 reassembled on 14 August 1947, at the Constituent Assembly for the dominion of India.

According to the Cabinet Mission Plan of 1946, the Constituent Assembly was established. During its entire sitting, it had 11 sessions and 165 days of actual work. After deliberation spread over three years, the historic document – free India's Constitution adopted by the Assembly on 26 November 1949, came into force on 26 January 1950.

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Thus, a draft constitution had 315 Articles and thirteen Schedules. The final form of the Constitution, as it was original passed in 1949, had 395 Articles and eight Schedules. This shows that the original draft had undergone considerable change. In fact, there were notices for over 7000 amendments to the Draft Constitution. Of these, 2473 were actually moved, debated and disposed of. This alone should show the manner in which the Assembly conducted its business. It was indeed a great democratic exercise; discussion, debates and deliberation were encouraged enormously. There was also great tolerance of criticism and no impatience with long drawn-out debates and no endeavour to imposition. It was truly a full-fledged democratic procedure which deserves utmost admiration.

Meaning

There are divergent opinions on the meaning of Constituent Assembly. According to Dood, 'it is a representative body chosen for the purpose of considering and either adopting or proposing a new constitution and changes in the existing constitution.' Abbe Siezes has defined it as 'an assembly of extraordinary representatives to which the nation shall have entrusted the authority to make a constitution or at any point to define its content.' In simple words, a Constituent Assembly can be defined as a democratic device for formulating and adopting a new constitution or bringing about some fundamental changes in an existing constitution by free people. It implies the right of the people to determine their own future and decide the nature and type of the polity under which they would like to live. The rights of people to give to themselves a constitution of their choice, requires a representative Constituent Assembly as an attribute of national freedom. The making of the constitution by people representing themselves in the Constituent Assembly reflects the sovereign will of the people.

The founding fathers of the Indian Constitution conceived of a Constituent Assembly as something dynamic, not merely a representative but a nation on the move. The principal job of the Constituent Assembly was not only to produce a constitution of the country but to throw away the spell of its past political and possibly social structure and fashioning for itself a new government its own making. According to Sir Ivor Jennings, a constituent assembly comes into being specially in three situations – when there is a great social revolution, when a nation through up it foreign yoke, and when a nation is created by the fusion of smaller political units. Whatever the circumstances, Jennings points on 'the need is felt and some person is set to draft a constitution'. According to this view, the Indian Constituent Assembly falls into the second category. Its task was mainly to put an end to British rule in India and to establish an independent Republic of India. But it was not devoid of revolutionary concept and Pundit Nehru termed it as the psychological revolution that the idea of the Constituent Assembly created in the minds of the Indian people. It was both in the slogan and a creed to concretize the fundamental issue in a struggle for freedom and a method and procedure for the framing of a constitution for an independent India.

Composition

When it comes to the composition of the Constituent Assembly, it should be noted that it was indirectly elected by the Provincial Legislative Assembly members (Lower House only), as per the scheme in recommendation with the Cabinet Delegations. The prime features of the scheme were:

- Every Indian state or group of states and the province were allotted a specific number of seats relative to their populations, respectively, in the ratio of one to a million approximately. Due to which the provinces were needed to elect 292 members and the Indian states were assigned a minimum number of 93 seats.
- Each provincial seat was distributed amongst three major communities – Muslim, Sikh and General proportional to their respective populations.
- Within the Provincial Legislative Assembly, each community member elected his own representatives through proportional reorientation with single transferable vote.
- The selection method for Indian representatives had to be determined through consultation.

In all, the Constituent Assembly was to have 389 members but, when Muslim League boycotted the Assembly, therefore out of 296 members only 211 attended its first meeting on 9 December 1946. Apart from that, the Partition Plan of June 3 1947 gave rise to setting up a separate Constituent Assembly for Pakistan. The representatives of Bengal, Punjab, Sind, North western Frontier Province, Baluchistan, and the Sylhet district of Assam which had to join Pakistan by a referendum ceased to be member of the Constituent Assembly of India, and there was a fresh election in the new Provinces of West Bengal and East Punjab. Due to which, on 31 October 1947, when the Constituent Assembly reassembled, the House membership was lessened to 299. Out of these, 284 were actually present on 26 November 1949, and attached their signatures to the Constitution to regard it as finally passed.

Committees to draft a Constitution

The salient principles of the proposed Constitution had been outlined by various committees of the Assembly. There were twenty-two major committees formed by the Constituent Assembly to handle different tasks of the making of the Constitution. Out of these, ten focused on procedural affairs and twelve on substantive affairs. The reports of these committees created the bases for the first draft of the Constitution.

Committees on Procedural Affairs

(i) The Steering Committee (Chairman Dr K.M. Munshi)
(ii) The Rules of Procedure Committee (Chairman Dr Rajendra Prasad)
(iii) The House Committee
(iv) The Hindi-translation Committee
(v) The Urdu-translation Committee
(vi) The Finance and Staff Committee
(vii) Press Gallery Committee
(viii) The Committee based on the Indian Independence Act of 1947
(ix) The Order of Business Committee
(x) The Credential Committee

Committees on Substantial Affairs

(i) The Drafting Committee (Chairman B.R. Ambedkar)
(ii) The Committee for negotiating with States (Chairman Dr Rajendra Prasad)
(iii) The Union Constitution Committee (Chairman Jawaharlal Nehru)

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(iv) The Provincial Constitution Committee (Chairman Sardar Patel)

(v) A Special Committee to examine the Draft Constitution (Chairman Sir Alladi Krishnaswami Iyer)

(vi) The Union Powers Committee (Chairman Pandit Jawaharlal Nehru)

(vii) The Committee on Fundamental Rights and Minorities (Chairman Sardar Patel)

(viii) The Committee on Chief Commissioners Provinces

(ix) The Commission of Linguistic Provinces

(x) An Expert Committee on Financial Provisions

(xi) Ad-hoc Committee on National Flag

(xii) Ad-hoc Committee on the Supreme Court

Personalities in the Constituent Assembly

After general discussions that took place on the reports of the aforesaid Committees, the Constituent Assembly fixed a Drafting Committee on 29 August 1947. There were six members of the Drafting Committee other than Chairman. They were Sir Krishnaswami Iyengar, N. Gopalswami Iyengar, K.M. Munshi, Saiyed Mohammed Sadulla, Sir B.L. Mittar and D.P. Kaitan. After the first meeting, Sir B.L. Mittar ceased to be a member and in his place, N. Madhava Rao was nominated by the President on 5 December 1947. D.P. Kaitan died in 1948 and was replaced by T.T. Krishnamachari. Under Dr Ambedkar's chairmanship, the Drafting Committee symbolized the Assembly decision with alternative yet additional proposals in the form of a 'Draft Constitution of India' published in February 1948. The Drafting Committee took less than six months to prepare its draft. In all, it sat only for 141 days.

The members of the Constituent Assembly were not selected purely on a party basis but were drawn from all walks of life and represented almost every section of the Indian people. They included some of the leading personalities of Indian public life. The moving spirit of the Assembly was Jawaharlal Nehru, the first Prime Minister of India. Rajendra Prasad who became the President of independent India was the President of the Constituent Assembly. Ballavbhai Patel was one of the most important among the leading lights. While these leaders had contributed more than all others for the formulation of basic principles of the Constitution, it was the drafting Committee headed by Dr B.R. Ambedkar who was in charge of its drafting. He chaired the Drafting Committee and steered the document through nearly a year of debate over its various provisions. Ambedkar was ably assisted in the task of Constitution making by the other members of the Drafting Committee, which included eminent people like Alladi Krishnaswami Aiyer, N. Gopalaswami Ayanger, K.M. Munshi, N.T.T. Krishnamachari. Other notable members of the Constituent Assembly were Maulana Azad, Khan Abdul Gaffar Khan, H.N. Kunzru, H.S. Gour, K.V. Shah, Masani, Acharya Kripalini, Dr Radhakrishnan, Dr Jayakar, Liyakat Ali Khan, Khwaja Nazimuddin, Sir Feroz Khan Noor, Suhrawardy, Sir Zafurullah Khan and Dr Sachidananda Sinha.

In the words of Dr Subhash Kashyap, 'nevertheless while others fashioned its structure and shape, most significantly, Nehru gave to the constitution of Indian its spirit and its soul, its philosophy and its vision'. At the very outset he laid down its general outline and continued to influence what the Constituent Assembly did. Here, the Constitution was his handy work. He was the Assembly's philosopher and its prime constitutional thinker.

Working of the Constituent Assembly

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On 9 December 1946, the Constituent Assembly met for the first time in the Constitution Hall, known as the Central Hall of Parliament House today. The Chamber was well decorated for the occasion, with bright lamps hanging in from high ceilings of the Hall, and from the wall brackets. Delighted and besieged as they were, the Hon'ble members took their seats in semi-circular rows with the Presidential dais on their front. The desks that could be electrically warmed were positioned on sloping green-carpeted terraces. On the front row were seated Pandit Jawaharlal Nehru, Maulana Abdul Kalam Azad, Sardar Vallabhbhai Patel, Acharya J.B. Kripalani, Dr Rajendra Prasad, Smt Sarojini Naidu, Shri Hare-Krishna Mahatab, Pandit Govind Ballabh Pant, Dr B.R. Ambedkar, Shri Sarat Chandra Bose, Shri C. Rajagopalachari, and Shri M. Asaf Ali. There were 207 representatives, including nine women present inside the Hall.

Sharp at 11 a.m., the inaugural session began introducing Dr Sachchidananda Sinha, the temporary Chairman of the Assembly, by Acharya Kripalani, who said: 'As we begin every work with Divine blessings, we request Dr Sinha to invoke his blessings so that our work may proceed smoothly. Now, I once more, on your behalf, call upon Dr Sinha to take the Chair.'

After occupying the Chair with much commendation, Dr Sinha read out the goodwill messages received from various countries. The members were requested to submit their credentials soon after the inaugural address of the Chairman and the nomination of a Deputy Chairman. The proceedings came to an end after the credentials were submitted by the members and they signed the Register.

The Press representatives and other visitors were seated at some thirty feet above the floor of the Chamber in the galleries. The All India Radio (A.I.R.), Delhi broadcasted an ideal sound picture of the entire proceedings.

As earlier stated, the Constituent Assembly was duly opened on the ninth day of December 1946. It was truly a unique occasion in India's long history; for the first time the representatives of the people were meeting to determine the future Constitution of India. During its first four sittings on 9, 10, 11 and 12 December, the Assembly was involved with matters like the presentation of credential and signing of the registers electing the permanent Chairman, constituting a committee for rules and procedures on the fifth day of the first session of the Constituent Assembly. On 13 December 1946, Nehru moved the historic of objectives Resolution. It gave to the Assembly its guiding principles and the philosophy that was to permeate its task of constitution making.

Objectives Resolution

1. This Constituent Assembly declares its firm and solemn resolve to proclaim India as an Independent Sovereign Republic and to draw up for her future governance a Constitution;
2. WHEREIN the territories that now comprise British India, the territories that now form the Indian States, and such other parts of India as are outside British India and the States as well as such other territories as are willing to be constituted into the Independent Sovereign India, shall be a Union of them all; and
3. WHEREIN the said territories, whether with their present boundaries or with such others as may be determined by the Constituent Assembly and thereafter according to the law of the Constitution, shall possess and retain the status of autonomous Units, together with residuary powers and exercise all powers and

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Link Language - The selection of the national link language was a difficult job for the Constituent Assembly because of differences of opinion among the leaders. However finally, the formula providing for replacement of English with Hindi in fifteen years was embodied in the Constitution.

Fundamental Rights – Nehru was against making the rights justifiable in opposition to Patel's view. However, Patel finally won because he had the backing of a distinguished lawyer and of the overwhelming majority of the members of the Constituent Assembly.

Secular State – There was demand from some quarters to make India a Hindu state. But there was predominantly a Congress section in the Assembly which firmly believed that India should be a secular state.

Socialism – Nehru was in support of greater socialism. However, because of the Patel's contention, he omitted the word 'socialism' from the objective resolution.

Village Panchayat – Rajendra Prasad believed that the necessary articles could be redrafted, making the Village Panchayats the electoral college for electing representatives to the provinces and the Centre. But Rao rejected this suggestion saying that the Assembly had already decided on direct election of lower houses both at the Centre and the provinces and that he was doubtful if vote could be reversed – a remark that indicated the general popularity of a parliamentary constitution.

Criticism

The working procedure, composition and the status of the Constituent Assembly has been criticized on the following grounds:

- **Congress Domination** – It is criticized that the Constituent Assembly was a one-party body. The Assembly was the Congress and the Congress was India.
- **Doubtful Sovereign Status** – The critiques questioned over the sovereign status of the Constituent Assembly. They argued that the Constituent Assembly was meeting with the permission of the British Government and hence cannot be called a sovereign body.
- **Hindu Dominated Constituent Assembly** – Some critiques dubbed it as the non-representative of the Constituent Assembly ever created in any democratic country of the world. British leaders like Churchill and Lord Simon named it as a Hindu body representing the interest of the Hindus alone.
- **An Unrepresentative Body** – Critiques also alleged that the Constituent Assembly was not directly elected by the people on the basis of Universal Adult Franchise. As such, it did not reflect the aspiration of the masses and hence, was unrepresentative in character.
- **Dominated by Lawyers and Politicians** – Some argued that the Constituent Assembly was dominated only by the politicians and lawyers. It did not give much representation to other sections of Indian society.

However, the facts remain that the Constituent Assembly was guided and directed by top leaders of the Congress. Eminent personalities like Nehru, Patel, Prasad, Azad and Munshi dominated the scene. Although indirectly elected and therefore not responsible to the mass of India, the Constituent Assembly was a highly representative body.

The Constituent Assembly was able to conclude its labour within a period of less than three years that was two years, eleven months and seventeen days to be exact. As elsewhere stated on the 26 November 1949, it could proudly declare on behalf of the people of India that 'we do hereby adopt, enact and give to ourselves the Constitution.' Finally on 24 January 1950, the Constitution was signed by the Constituent Assembly members, and it was the last day of the Assembly. The Constitution started w.e.f. 26 January 1950. It embodied all the objectives of democracy, secularism and economic and social justice. In the sense, the Indian Constituent Assembly occupied a peculiar position. It was created by an agreement with the British Government, it was also an embodiment of the revolutionary spirit of India. Though it did not fully represent the people, yet it represented all important parties and communities in India. It was not, in the beginning, legally sovereign, yet it enjoyed the sovereignty for all practical purposes.

2.3 PHILOSOPHY AND VALUES EMBODIED IN INDIAN CONSTITUTION

Our Constitution is not just a mere set of fundamental laws that form the basis of governance of our country but it embodies and reflects certain basic values, philosophy and objectives that were held very dear to our founding fathers. These values do find expression in various articles and provisions of our Constitution and mostly, the Preamble to our Constitution embodies the fundamental values and the philosophy on which the Constitution is based.

The preamble provides a key to unlock and explore the spirit of our Constitution. Without it, a proper appreciation of the objectives and values that find place in our Constitution seems a remote possibility. Therefore, it is essential to turn to the various expressions contained in the Preamble for a better understanding and interpretation of the Indian Constitution. Recognizing its importance, the Preamble was amended in 1976 by the 42nd Constitution Amendment Act. According to an eminent Constitutional expert, Subhash C. Kashyap, the text of the Preamble stands for the fundamental constitutional values in which the founding fathers believed , which they wanted to foster among the people of the Republic and which, they hoped, would guide all those who, from generation to generation, were called upon to work. The values expressed in the Preamble are sovereignty, socialism, secularism, democracy, republican character, justice, liberty, equality, fraternity, human dignity and the unity and integrity of the Nation (all these points are discussed ahead in detail).

In addition to them, our Constitution promotes respect for diversity and minority rights, accommodates regional and political assertions through federalism and fosters international peace and cooperation.

Before going to discuss the values that our Constitution upholds, and the objectives it has set to achieve, it is of relevance to discuss their correlation. Value in a layman's understanding is that which is very essential or worth having for its existence as an entity. In that sense, there are some core values and secondary values of each state. Security of one's territory is definitely a basic or mainstay value of every state; whereas 'promotion of cultural relations with other states' could be a lesser value. Objective means what we want to have or we wish to achieve. Here the same values could be the objectives. Thus, objectives and values appear similar since there is a very thin line of difference between the two. For example, social justice or a just society could be both an objective and a value. An objective, usually, is guided by a value. In other words, the objectives set, are directly or indirectly linked with or are drawn from values. There is

Check Your Progress

1. What were the main proposals of the Cripps Mission?
2. When was the Interim Government of India formed?
3. List the issues that were taken up for discussion by the Constituent Assembly.

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an integral relationship between them. However, value deals with 'what' of the same thing whereas the objective is concerned with the 'how' of that. It means that translation of values is the concern of objectives. Sometimes a value may not be an immediate objective but that still exists. Promotion of international peace may belong to that category.

And finally, one finds a correlation between and among all the values; no value stands alone and so also the objectives. Each contributes to the other. Let us now discuss some of basic values and objectives that provide basis and direction to governmental policy decisions.

1. Sovereignty

By declaring us as a sovereign entity, Preamble emphasizes complete political freedom. It implies that our state is internally powerful and externally free. She is free to determine for herself without any external interference. There is none within her to challenge her authority. Only this attribute of sovereignty has made her a member in the comity of nations. Without sovereignty she has no essence. If a state cannot freely determine what it wants and how to achieve it, it loses the rationale to exist. Further, sovereignty gives the state the dignity of existence. It would not receive respect from within as well from outside if it does not possess the sovereign status. This suggests that sovereignty is one of the most important values of a state. Therefore, the government is duty bound to defend its sovereignty by preventing any kind of threat to it coming from any entity and direction.

Though our Constitution does not specify where the sovereign authority lies but by mentioning the source of our Constitution as 'We the people of India' it announces to the world that the ultimate sovereignty rests with the people of India as a whole. Political sovereignty is the hinge of our polity. Accordingly, it is implied that the Constitutional authorities and organs of government derive their power only from the people. Therefore, our political system should ensure the support and approval of people to it.

Article-51A(c), on the other hand, says that it shall be the duty of every citizen to uphold and protect the sovereignty, unity and integrity of India.

2. Socialism

The word 'socialist' was added to the Preamble by the 42nd amendment act of 1976. However, several articles of our Constitution were already there giving credence to the ideal. The fathers of our Constitution had a wider vision of social transformation. Despite all social, economic and political inequality present and inherent in Indian traditional society, our Constitution started a crusade against that order. The Constitution has deliberately imposed on us the ideal of socialist pattern of society, a kind of Indian model of socialism to suit to our needs and temperament. It stands to end all forms of exploitation in all spheres of our existence. Our Constitution directs the state to ensure a planned and coordinated social advance in all fields while preventing concentration of wealth and power in few hands.

Our Constitution supports land reforms, promotes the well-being of working class and advocates for social control of all important natural resources and means of production for the well-being of all sections. To ensure a basic minimum to all has been the crux of many of our public policies today. The Government of India has adopted mixed economy, introduced five year plans and has framed many such laws to achieve the value of socialism in a democratic set up. To achieve the objective of socialism Part-IV of our Constitution has outlined the principles to be followed.

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3. Secularism

India is a home to almost all major religions in the world. To keep the followers of all these religions together, secularism has been found to be a convenient formula. The ideal of secularism in Indian context implies that our country is not guided by any religion or any religious considerations. However, our polity is not against religions. It allows all its citizens to profess, preach and practice any religion of their liking. Articles from 25 to 28 ensure freedom of religion to all its citizens. Constitution strictly prohibits any discrimination on the ground of religion. All minority communities are granted the right to conserve their distinctive culture and the right to administer their educational institutions. The Supreme Court in S.R Bommai v. Union of India held that secularism was an integral part of the basic structure of the Constitution. Secularism thus is a value in the sense that it supports to our plural society. It aims at promoting cohesion among different communities living in India. Despite the constitutional provisions and safeguards it is unfortunate that we still remain insufficiently secular. That has resulted in communal riots. Therefore, to achieve true secularism has remained a challenging objective.

4. Democracy

India is a democracy. We have adopted parliamentary democracy to ensure a responsible and stable government. As a form of government it derives its authority from the will of the people. The people elect the rulers of the country and the latter remain accountable to the people. The people of India elect their governments at all levels (Union, State and local) by a system of universal adult franchise; popularly known as 'one man one vote'. Elections are held periodically to ensure the approval of the people to the governments at different levels. All the citizens without any discrimination on the basis of caste, creed, colour, sex, religion or education are allowed freedom of speech, thought and expression and also association. Democracy contributes to stability in the society and it secures peaceful change of rulers. It allows dissent and encourages tolerance. It rules by persuasion, not by coercion. It stands for a constitutional government, rule of law, inalienable rights of citizens, independence of judiciary, free and fair elections and freedom of press etc. Therefore, to develop a democratic political culture has been an important objective.

5. Republic

As opposed to a monarchy, our Constitution prefers to remain a republic. The office of the head of the state is elective. This idea strengthens and substantiates democracy that every citizen of India (barring some who are constitutionally disqualified) after attaining a particular age is equally eligible to become the head of the state if he is elected as such. Political equality is its chief message. Any sort of hereditary rule is thus regarded as a disvalue in India.

6. Justice

Justice is called a total value. The fathers of our Constitution knew that political freedom would not automatically solve the socio-economic problems which have been deep rooted. Therefore, they stressed that the positive constructive aspect of political freedom has to be instrumental in the creation of a new social order, based on the doctrine of socio-economic justice. The message of socio-economic justice mentioned in the preamble to our Constitution has been translated into several articles enshrined in part-III and part-IV of the Constitution. A number of practical measures have been taken over the years

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to create more favourable social conditions for the millions of downtrodden. These include several developmental policies to provide safeguard to minorities, backward, depressed and tribal people. Our constitution abolishes untouchability; prohibits exploitation of the women, children and the weak and advocates for reservation to raise the standard of the people over ages. Whenever our government undertakes any developmental project it always adds a human face to it. Therefore, this ideal of a just and egalitarian society remains as one of the foremost objectives.

7. Liberty

The blessings of freedom have been preserved and ensured to our citizens through a set of Fundamental Rights. It was well understood by the fathers of our Constitution that the ideal of democracy was unattainable without the presence of certain minimal rights which are essential for a free and civilized existence. Therefore, the Preamble mentions these essential individual rights such as freedom of thought, expression, belief, faith and worship which are assured to every member of the community against all the authorities of States by Part-III of the Constitution. There are however less number of success stories. Unless all dissenting voice is heard and tolerated and their problems are addressed liberty will be a distant dream.

8. Equality

Every citizen of India is entitled to equality before law and equal protection of law. As a human being everybody has a dignified self. To ensure its full enjoyment inequality in all forms present in our social structure has been prohibited. Our Constitution assures equality of status and opportunity to every citizen for the development of the best in him. Political equality though given in terms of vote but it is not found in all spheres of politics and power. Equality before law, in order to be effective, requires some economic and education base or grounding. Equality substantiates democracy and justice. It is therefore held as an important value.

9. Fraternity

Fraternity stands for the spirit of common brotherhood. In the absence of that, a plural society like India stands divided. Therefore, to give meaning to all the ideals like justice, liberty and equality our Constitution gives ample stress on fraternity. Democracy has been given the responsibility to generate this spirit of brotherhood amongst all sections of people. This has been a foremost objective to achieve in a country composed of so many races, religions, languages and cultures. Article-51A(e) therefore, declares it as a duty of every citizen of India to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities. Article 51A(f) further asks each citizen to value and preserve the rich heritage of our composite culture. However, Justice D.D. Basu believes that, 'Fraternity will be achieved not only by abolishing untouchability amongst the different sects of the same community, but by abolishing all communal or sectional or even local or provincial anti-social feelings which stand in the way of unity of India.'

10. Dignity of the individual

Fraternity and dignity of the individuals have a close link. Fraternity is only achievable when the dignity of the individual will be secured and promoted. Therefore, the founding fathers of our Constitution attached supreme importance to it. Our Constitution therefore directs the state through the Directives enshrined in the Part-IV of our Constitution to

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ensure the development of the quality of life to all sections of people. Our Constitution acknowledges that all citizens, men and women equally, have the right to an adequate means of livelihood (Art.-39 a) and just and humane conditions of work (Art.-42). Article-17 has abolished the practice of untouchability by declaring it as a punishable offence. Our Constitution too directs the state to take steps to put an end to exploitation and poverty.

11. Unity and integrity of the Nation

To maintain the independence of the country intact and enduring, unity and integrity of the nation is very essential. Therefore, the stress has been given on the ideal of fraternity which would foster unity amongst the inhabitants. Without a spirit of brotherhood amongst the people, the ideals of unity and integration of people and nation seem unattainable. Our Constitution expects from all the citizens of India to uphold and protect the unity and integrity of India as a matter of duty.

12. International peace and a just international order

Indian Constitution directs the state to make endeavour to promote international peace and security; maintain just and honourable relations between nations; and foster respect for international law and treaty obligations in the dealings of organized people with one another; and encourage settlement of international disputes by arbitration. Thus India too cherishes the ideal of universal brotherhood beyond our national border. These provisions enshrined in Article 51 of the Indian Constitution have been a beacon light that provides a ray of hope for saving the world from the impending nuclear and environmental catastrophe. To fulfill these objectives India had provided leadership during the heydays of colonialism and also during Cold War. In a changed world scenario characterized by globalization, proliferation of the weapons of mass destruction, climate change and international terrorism, India has been making a constant bid for a permanent seat in the Security Council of the United Nations to provide direction to these world issues.

13. Fundamental Duties

Our Constitution too prescribes some duties to be performed by the citizens. All these duties though not enforceable in nature but reflect some basic values too. It highlights the values like patriotism, nationalism, humanism, environmentalism, discipline, harmonious living, feminism, scientific temper and inquiry and individual and collective excellence. Article 51A provides a long list of these duties to be observed by all the citizens (discussed ahead in the unit in detail).

The above account shows how our Constitution is a value loaded document.

2.4 CHANGING NOTIONS OF FUNDAMENTAL RIGHTS, DUTIES AND DIRECTIVE PRINCIPLES OF STATE POLICY

The Constitution is the basis of all governments worldwide. In simple terms, constitutional provision is a specific benefit offered and protected by law. Constitutional provisions assist in formulating and establishing laws and therefore create a balance between the state and Centre. Laski had rightly remarked that every state is known by the rights that

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4. What does the Preamble emphasize by declaring us as a sovereign entity?
5. What does the ideal of secularism imply in Indian context?
6. What does fraternity stand for?

it maintains. The Constitution of India, assuring the dignity of the individual, provided for the deepest meaning and essence and for the greatest motivation to incorporate 'Fundamental Rights.' As Granville Austin observed:

> The Fundamental Rights, therefore, were to foster the social revolution by creating a society egalitarian to the extent that all citizens were to be equally free from coercion or restriction by the state or by society privately. Liberty was no longer to be a privilege of the few.

2.4.1 Fundamental Rights

The inclusion of a chapter on Fundamental Rights in the Constitution was symbolic of the great aspirations of the Indian people. In fact, it is these rights that offer the main justification for the existence of a state. The demand for a Charter of Rights in the Indian Constitution had its deep-seated roots in the Indian National Movement. The inclusion of rights in the Constitution vested on three major reasons:

(a) to keep a check on the arbitrary action of the executive

(b) to reach to the desired goal of socio-economic justice

(c) to ensure security to minority groups in India

The final shape to the Fundamental Rights was given by the Advisory Committee for reporting on minorities, fundamental rights and on the tribal and excluded areas, under the Chairmanship of Sardar Patel, which the Constituent Assembly accepted and adopted to make Part III of the Constitution.

The pertinent question that arises here is as to why the rights in Part III alone are considered fundamental. There are other rights as well that are important and even justifiable, for example, the right to vote under Article 325. The justification goes that the rights in Part III are:

(a) more in consonance with the natural rights

(b) gifts of the state

(c) gifts of the Constituent Assembly

The Constitution of India contained seven fundamental rights originally. But the Right to Property was repealed in 1978 by the Forty-Fourth Constitutional Amendment bill during the rule of the Janata Government. These Fundamental Rights constitute the soul of the Constitution and thereby provide it a dimension of permanence. These rights enjoy an esteemed position as all legislations have to conform to the provisions of Part III of the Constitution. Not only this, its remarkable feature is that these rights encompass all those rights which human ingenuity has found to be essential for the development and growth of human beings.

The Constitution classifies fundamental rights into six categories:

- Right to Equality (Articles 14–18)
- Right to Freedom (Articles 19–22)
- Right against Exploitation (Articles 25–28)
- Right to Freedom of Religion (Articles 25–28)
- Cultural and Educational Rights (Articles 29–30)
- Right to Constitutional Remedies (Article 32)

Right to Equality (Article 14)

Article 14 declares that the State shall not deny any person the equality before the law or the equal protection of laws within the territory of India. As interpreted by the courts, it means that though the state shall not deny to any person equality before law or the equal protection of law, it shall have the right to classify citizens, provided that such a classification is rational and is related to the object sought to be achieved by the law.

Equality before law: Equality before law does not mean an absolute equality of men which is a physical impossibility. It means the absence of special privileges on grounds of birth, creed or the like in favour of any individual. It also states that individuals are equally subjected to the ordinary laws of the land.

Equal protection of laws: This clause has been taken verbatim from the XIV amendment to American constitution. Equal protection means the right to equal treatment in similar circumstances both with regard to the legal privileges and liabilities. In other words, there should be no discrimination between one person and another, if their position is the same with regard to the subject matter of legislation. The principle of equal protection does not mean that every law must have a universal application for all persons, who are not by nature, circumstance or attainments (knowledge, virtue or money) in the same position as others. Varying needs of different classes or persons require separate treatment and a law enacted with this object in view is not considered to be violative of equal protection. The Constitution, however, does not stand for absolute equality. The State may classify persons for the purpose of legislation. But this classification should be on reasonable grounds. Equal protection has reference to the persons who have same nature, attainments, qualifications or circumstances. It means that the State is debarred from discriminating between or amongst the same class of persons in so far as special protection, privileges or liabilities are concerned. Thus, equal protection does not require that every law must be all-embracing, all-inclusive and universally applicable.

Prohibition of discrimination (Article 15)

Article 15(1) prohibits discrimination on certain grounds. It declares, 'The state shall not discriminate against any citizen on ground only of religion, race, caste, sex, place of birth or any of them.' This discrimination is prohibited with regard to '(a) access to shops, public restaurants, hotels and places of public entertainment; or (b) the use of wells, tanks, bathing *ghats*, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public'. Article 15 has, however, to notable exceptions in its application. The first of these permits the State to make special provision for the benefit of women and children. The second allows the State to make any special provision for the advancement of any socially and educationally backward class of citizens or for scheduled castes and scheduled tribes. The special treatment meted out to women and children is in the larger and long-term interest of the community itself. The second exception was not in the original Constitution, but was later on added to it as a result of the First Amendment of the Constitution in 1951. While freedom contained in Article 14 is available to all persons, that in Article15 is available only to the citizens and, therefore, it cannot be invoked by non-citizens.

Article 15(2) proclaims that no citizen shall, on grounds only of religion, race, casts, sex and place of birth be subject to any disability, liability, restriction or condition with regard to:

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- Access to shops, public restaurants, hotels and places of public entertainment
- The use of wells, tanks, bathing-ghats, roads and places of public resort, maintained wholly or partly out of State funds or dedicated to the use of the general public

The prohibition in this clause is levelled not only against the State but also against private persons.

Article 15(3) provides that the State shall be free to make any special provision for women and children. This sub-article is in the nature of an exception in favour of women and children. Thus, the provision of free education for children up to a certain age or the provision of special maternity leave for women workers is not discrimination. However, discrimination in favour of women in respect of political rights is not justified, as women are not regarded as a backward class in comparison to men for special political representation.

Article 15(4) allows the State to make special provision for the advancement of any socially and educationally backward classes of citizens, including the scheduled castes and the scheduled tribes. The State is, therefore, free to reserve seats for them in the legislature and the services. This Article only allows the State to make special provisions for these classes. Inserted under Ninety-Third Constitutional Amendment Act, this clause conferred on the State the power to make any special provision by law for the advancement of any socially and educationally backward class or for the scheduled castes or the scheduled tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions.

Equality of opportunity (Article 16)

Article 16(1) reads: 'There shall be equality of opportunity for all citizens in matters relating to employment to any office under the State.' It confers on every citizen, a right to equality of economic opportunity, and subsequently provides that no citizen shall be discriminated against in this respect on grounds only of religion, race, caste, descent, place of birth or any of them. However, an equality of opportunity is only between equals, i.e. between persons who are either seeking the same employment or have obtained the same employment. In other words, equality means equality between members of the same class or employees, and not between members of different classes.

Article 16 (2) reads: 'No citizen shall, on grounds only of religion, race, caste, sex, descent, place or birth, residence or any one of them be ineligible for or discriminated against in respect of any employment or office under the State.'

Article 16 (3) says that the President is competent to allow states to make residency as a necessary qualification in certain services for ensuring efficiently of work.

Article 16 (4) allows the State to reserve appointments in favour of a backward class of citizens which in its opinion is not adequately represented in the services under the State. The Supreme Court had held that such reservation should generally be less then 50 per cent of the total number of seats in a particular service. Over and above the minimum number of reserved seats member of backward classes are free to compete with others and be appointed to non-reserved seats, if otherwise, they are eligible on merit.

Article 16 (5) allows the State to provide that in case of appointment to religious offices, or offices in religious institutions, the candidates shall possess such additional

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qualifications or be members of that religious institution. This is an exception to the general rule that the State shall not discriminate on ground of religion in providing equal economic opportunities to the citizens.

Although Article 16 guarantees equality of opportunity in matters of public employment, for all citizens and is expected to provide a bulwark against considerations of caste, community and religion, the result so far has been far from satisfactory.

Social equality by abolition of untouchability (Article 17)

Complete abolition of untouchability was one of the items in Mahatma Gandhi's programme for social reform. The present Article adopts the Gandhian ideal without any qualification in abolishing untouchability and in forbidding its practice. It also declares that the enforcement of any disability arising out of untouchability shall be an offence punishable in accordance with law.

The practice of untouchability is a denial of human equality in an acute form. In pursuance of Article 17, the Parliament has enacted the Untouchability Offences Act, 1955, which was later amended in 1976. It prescribes punishment for the practice of untouchability, in any form, up to a fine of ` 500 or an imprisonment of 6 months or both, depending upon the seriousness of the crime.

Social equality by abolition of titles (Article 18)

Article 18 is a radical application of the principle of equality it seeks to prevent the power of the State to confer titles from being abused or misused for corrupting the public life, by creating unnecessary class divisions in the society. The object of the Article is to prevent the growth of any nobility in India. Creation of privileged classes is contrary to the equality of Status promised to all citizens by the Preamble to the Constitution.

Article 18(1) declares: 'No title, not being a military or academic distinction shall be conferred by the State'. It means that not authority in India is competent to confer any title on any person, excepting the academic title, or military titles of general, Major or Captain. Article 18(2) prohibits the citizens of India from receiving any title from any foreign State. This is an absolute bar. One the other hand, Article 18(3) prohibits the citizens from accepting any title from any foreign State without the consent of the President of India, if and so long they are holding any office of profit or trust under the State. And, Article 18(4) prohibits both the citizens and aliens, who are holding any office of profit or trust under the State from accepting any present, emolument or office of any kind, from or under any foreign State.

Article 18, however, does not prohibit the institutions other than the State from conferring titles of honours by way of honouring their leaders or men of merit.

Right to Freedom (Articles 19, 20, 21 and 22)

Article 19 of the Constitution guarantees seven civil freedoms to the citizens as a matter of their right. Included in Clause 1 of Article 19, these freedoms are:

- Freedom of speech and expression
- Right to assemble peacefully and without arms
- Right to form associations or unions
- Right to move freely throughout the territory of India

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- Right to reside and settle in any part of the territory of India
- Right to practice any profession, or to carry on any occupation, trade or business

Freedom of speech and expression

The safeguarding of the freedom of speech and expression is essential to allow men to speak as they think on matters vital to them, and also to expose falsehood. Freedoms of speech and expression lie at the foundation of all democratic organizations, for without political discussion, no political education is possible.

Freedom of expression in this clause means right to express one's convictions and opinions freely by word of mouth, writing, printing, picture or any other manner addressed to the eyes or ears. It, thus, includes not only the freedom of press but also the expression of one's ideas in any other form.

Freedom of speech and expression also includes the freedom not to speak. Thus, the freedom to remain silent is included in this freedom. However, an individual is not free from the obligation of giving evidence in the judicial proceedings subject to constitutional and statutory provisions.

As amended by the First and the Sixteenth Amendment Acts, Clause 2 of Article 19(1)(a) entitles the State to impose restrictions on any one or more of the following grounds:

- Sovereignty and integrity of India
- Security of the state
- Friendly relations with foreign states
- Public order
- Decency or morality
- Contempt of court
- Defamation
- Incitement to an offence

Right of peaceful unarmed assembly

Article 19 (1)(b) guarantees to every citizen the right to assemble peaceably and without arms. This right is subject to the following limitations:

- Assembly must be peaceful
- Assembly must be unarmed
- It must not be in violation of public order

Freedom of association and unions [Articles 19 (1) and (4)]

Article 19(1)(c) guarantees to all citizens the right to form associations and unions, the formation of which is vital to democracy. If free discussion is essential to democracy, no less essential is the freedom to form political parties to discuss questions of public importance. They are essential as much as they present to the government alternative solutions to political problems. Freedom of association is necessary not only for political purpose but also for the maintenance and enjoyment of the other rights conferred by the Constitution.

In short, the freedom of association includes the right to form an association for any lawful purpose. It also includes the right to form trade union with the object of negotiating better conditions of service for the employees.

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Clause 4 of the Article 19 empowers the State to make reasonable restrictions upon this right on grounds only of:

- Sovereignty and integrity of India
- Public order
- Morality

Freedom of movement and residence

Articles 19(1)(D) and (E) guarantee to all citizens the right to move freely throughout the territory of India and to reside and settle in any part of the territory of India. These freedoms are aimed at the removal of all hindrances in the enjoyment of these rights.

The freedom of movement of a citizen has three aspects

- Freedom to move from any part of his country to any other part
- Freedom to move out of his country
- Freedom to return to his country from abroad

The second of these provisions is not guaranteed by our Constitution as a fundamental right and has been left to be determined by Parliament by law.

Freedom of movement and residence is subject to restrictions only on the following grounds:

- In the interest of any scheduled tribes
- In the interest of the general public, i.e. public order morality and health

Freedom of profession

Article 19(1)(f) guarantees to all citizens right to practice any profession or to carry on any occupation, trade or business. The freedom of profession, trade or business means that every citizen has the right to choose his own employment, or take up any trade, subject only to the limitations mentioned in Clause (6)

The right is subject to reasonable restrictions, which may be imposed by the State in the interest of general public. The State may prescribe professional or technical qualifications necessary for carrying on any business, trade or occupation. It also has the right itself, or through a corporation, to carry on any occupation, trade or business to the complete or partial exclusion or private citizens.

Protection in criminal convictions (Article 20)

Article 20 (1) declares that 'a person cannot be convicted for an offence that was not a violation of law in force at the time of the commission of the act., nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.' Clause 2 declares: 'No person shall be prosecuted and punished for the same offence more than once.' And, Clause 3 says that 'no person accused of any offence shall be compelled to be a witness against himself,'

Right to life and personal liberty (Article 21)

Article 21 says that no person shall be deprived of his life or personal liberty, except according to procedure established by law. The object of this Article is to serve as a restraint upon the executive, so that it may not proceed against the life or personal liberty of the individual, except under the authority of some law and in conformity with the

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procedure laid down therein. This Article can be invoked only if a person is detained by or under the authority of the State. Violation of the right to personal liberty is not enforceable when it is violated by a private individual violates this right, and then the remedy lies in the constitutional law.

Furthermore, the Supreme Court on various occasions ruled that the expression 'life' in Article 21 does not connote merely physical or animal existence, but includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life.

Right to Information

As interpreted by the Supreme Court, the right to information flows from Article 19(1)(a) of the Constitution. Concerned Bill, however, was introduced in the Parliament as Freedom on Information Bill, 2002 which along with certain restrictions made it mandatory for the government to provide information pertaining to public sphere. This right of information was further illustrated by the Supreme Court, which held that 'a voter has a fundamental right to know the antecedents of a candidate'. Accordingly, Supreme Court struck down some parts of Representation of People (Amendment) Act, 2002 by making a clear distinction between the constitutional right of a voter and his rights under general laws. The Court declared that voter's fundamental right to know the antecedents of a candidate is independent of statutory right under election law.

Right to Education (Article 21(a))

Under Eighty-Sixth Amendment Act 2002, right to education was provided. For the purpose a new Article in Part III was inserted and two Articles in Part IV were amended. The newly inserted Article 21(a) declared that 'The State shall provide free compulsory education to all children of the age of 6–14 years in such manner as the State may, by law, determine.'

Protection against arrest and detention (Article 22)

Article 22 has two parts: Part I consists of Clauses 1 and 2, and deals with the rights of persons arrested under the ordinary criminal law. Part II consists of Clauses 3–7 and deals with the right of persons who are detained under the law of preventive detention.

Clauses 1 and 2 of this Article recognize the following rights of the persons arrested under ordinary criminal law:

- The arrested person shall, as soon as possible, be informed of the grounds of his arrest. The arrested person will be in a position to make an application to the appropriate court for bail, or move the high court, for the grant of the writ of habeas corpus.
- The second protection granted by Clause 1 is that the arrested person shall be given the opportunity of consulting and of being defended by the legal practitioner of his choice. This clause confers only right to engage a lawyer. It does not guarantee the right to be supplied with a lawyer, free of charge, nor does it guarantee the right to engage a lawyer who has been disqualified to practice under the law.
- Clause 2 declares that the arrested person shall be produced before the nearest magistrate within 24 hours of his arrest, excluding the time necessary for journey from the place of arrest to the court of the magistrate.

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Preventive detention

Clause 3 of Article 22 constitutes an exception to Clauses 1 and 2. The result is that enemy-aliens (i.e. foreigners belonging to the courtiers which are the enemies of the state) and other persons who are detained under the law of preventive detention have neither the right to consult nor to be defended by a legal practitioner.

Clause 4 requires that a person may be detained under the Preventive Detention Act for 3 months. If a person is to be detained for more than 3 months, it can be only in the following cases:

- Where the opinion of an Advisory Board, constituted for the purpose has been obtained within 10 weeks from the date of detention; and
- Where the person is detained under law made by the Parliament for this Clause 5 considers two things, namely:
  (a) That the detainee should be supplied with the grounds of the order of detention; and
  (b) That he should be provided with the opportunity of making representation against that order to the detaining authority for the consideration of the Advisory Board.

Clause 6 declares that the detainee cannot insist for the supply of all the facts, which means evidence and which the Government may not consider in public interest. In this context, the Supreme Court has held that an order of detention is malafide, if it is made for a purpose other than what has been permitted by the legislature.

Clause 7 of this Article gives exclusive power to the Parliament to:

- Prescribe the circumstances under which and the cases in which a person may be detained for more than 3 months without obtaining the opinion of the an Advisory Board
- The period of such detention (which it has determined to be not more than twelve months); and
- The procedure to be followed by an Advisory Board

The Preventive Detention Act, 1950 was passed by the Parliament, which initially constituted the law of Preventive Detention in India. The Act was amended 7 times, each for a period of 3 years. The revival of anarchist forces obliged Parliament to enact a new Act, named The Maintenance of Internal Security Act (MISA) in 1971, having provision broadly similar to those of Preventive Detention Act of 1950. In 1974, Parliament passed the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (COFEPSA) as an economic adjunct of the MISA. MISA was repealed in 1978, but COFEPOSA still remains in force. Further, in 1980, National Security Act (NSA) was enacted. According to the NSA the Maximum period for which a person may be detained shall be 6 months from the date of detention. Next in the series was Essential Services Maintenance Act (ESMA), 1980, and also the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 which empowered the government to ban strikes, lockouts and lay-offs and gave powers to dismiss strikers and erring employees, arrest them without warrant, try them summarily, impose fine and imprison them. An upsurge in terrorist activities, further, compelled the Government to enact The Terrorist and Disruptive Activities (Prevention) Act (TADA), 1985, which, in fact, empowered the executive for suppression of all kind of dissent and was widely criticized for being undemocratic. In wake of intensified terrorist activities in

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many parts of the country, Vajpayee government was compelled with yet another enactment in 2002, named as Prevention of Terrorism Act (POTA), which has been criticized for its probable misuse.

Right against Exploitation (Articles 23 and 24)

Clause 1 of Article 23 prohibits traffic of human beings, *begar*s and other similar forms of forced labour, and makes the contravention of this prohibition an offence punishable in accordance with law. In this context, 'traffic in human beings,' includes the institutions of slavery and prostitution. 'Begar' means involuntary or forced work without payment, e.g. tenants being required to render certain free services to their landlords.

Under Clause 2 of this Article, the State has been allowed to require compulsory service for public purposes, viz. national defiance, removal of illiteracy or the smooth running of public utility services like water, electricity, postage, rail and air services. In matters like this, the interests of the community are directly and vitally concerned and if the government did not have this power, the entire life would come to a standstill. In making any service compulsory for public purposes, the state has, however, been debarred from making discrimination on grounds only of religion, race, caste, class or any of them.

Article 24 provides that no child below the age of 14 years shall be employed to work in any factory or mine, or engaged in any other hazardous employment. Our Constitution goes in advance of the American Constitution in laying down a constitutional prohibition against employment of children below the age of 14 in factories, mines or other difficult employments, e.g. railways or transport services. Our Parliament has passed necessary legislation and made it a punishable offence.

Right to Freedom of Religion (Articles 25–28)

In pursuance of the goal of liberty of belief, faith and worship enshrined in the Preamble to the Constitution, Articles 25–28 underline the secular aspects of the Indian State.

Article 25(1) grants to all persons the freedom of conscience, and the right to freely profess, practice and propagate religion. This Article secures to every person, a freedom not only to subscribe to the religion of his choice, but also to execute his belief in such outwards acts as he thinks proper. He is also free to propagate his ideas to others.

Clause 2 of this Article allows the State to make law for the purpose of regulating economic, financial or other activities of the religious institutions. At the same time, it allows the State to provide from, and carry on social welfare programmes, especially by throwing open the Hindu religious institutions of a public character to all classes and sections of Hindus, including the Sikhs, the Jains and the Buddhists.

The Parliament enacted the Untouchability Offences Act, 1955, which prescribes punishment for enforcing religious disabilities on any Hindu simply because he belongs to a low caste. The purpose of this reform is to overcome the evils of Hindu religion.

Explanation 1 to Article 25 declares that the warring or carrying of *kirpan* (sword) by the Sikhs shall be deemed to be included in the profession of Sigh religion. Basu points out that this right is granted subject to the condition that no Sikh will carry more than one sword without obtaining licence.

Article 26 guarantees to every religious denomination the following rights:

- To establish and maintain institutions for religious and charitable purpose
- To mange its own affairs in matters of religion

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- To own and acquire movable and immovable property; and
- To administer such property in accordance with law

While rights guaranteed by Article 25 are available only to the individuals and not to their groups, those under Article 26 are conferred on religious institutions and not on individuals. In this Article, religious denomination means a religious sect or body having a common faith and organization and designated by a distinctive name. This was the definition accepted by the Supreme Court. This Article grants to a religious denomination complete autonomy in deciding what rites and ceremonies were essential according to the tenets of a religion. No outside authority has any jurisdiction to interfere in its decisions in such matters.

Article 27 declares that 'No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination'.

This Article secures that the public funds raised by taxes shall not be utilized for the benefit of any particular religion or religious denomination. Thus, a local authority which raises taxes from persons of all communities who reside within its jurisdiction would not be entitled to give aid to those educational institutions which provide instructions relating to any particular religion. In other words, an educational institution, which provides compulsory instructions relating to a particular religion is not entitled to any financial aid from the State.

Article 28 is confined to educational institutions, maintained, aided or recognized by the State. Clause 1 of this Article relates to educational institutions wholly maintained out of the State funds. It completely bans imparting of religious instructions in such institutions. Clause 2 relates to educational institutions which are administered by the State under some endowment or trust, like the Banaras Hindu University. In such institutions religious instructions may be given.

Cultural and Educational Rights (Articles 29–30)

The object of Article 29 is given protection to the religious and linguistic minorities. Clause 1 of Article 29 declares that any section of the Indian citizens, having a distinct language, script or culture of its own, shall have the right to conserve the same. The right to conserve or protect a language includes the right to agitate for the protection of that language. It also means that every minority group shall have the right to impart instructions to the children of their own community in their own languages.

Clause 2 of Article 29 is a counterpart of Article 15. It says that there should be no discrimination against children on grounds only of religions, race, caste or language, in the matters of admission into any educational institution maintained or aided by the State. Thus, this clause gives to an aggrieved minority of citizens the protection in matters of admission to educational institutions against discrimination on any of these grounds. The persons belonging to Scheduled Castes or Tribes are in any case to be given special protection in matters of admission to educational institutions.

The Supreme Court observed that preference in admission given by institutions, established and administered by minority community, to candidates belonging to their own community in their institutions on grounds of religion alone is violation of Article 29(2). Minorities are not entitled to establish and administer educational institutions for their exclusive benefit.

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Clause 1 of Article 30 is a counterpart of Article 26, and guarantees the right to all linguistic or religious minorities to establish and administer educational institutions of their choice. It entitles the minority community to impart instructions to the children of their community in their own language.

The right to establish educational institutions of their choice amounts to the establishment of the institutions which will serve the needs of the minority community, whether linguistic or religious. When such institutions are established and seek aid from the State, it cannot be denied to them simply on the ground that they are under the management of a linguistic or religious minority.

Right to Constitutional Remedies (Articles 32, 33, 34 and 35)

A declaration of fundamental rights is meaningless unless there are effective judicial remedies for their enforcement. The Constitution accords a concurrent jurisdiction for this purpose on the Supreme Court under Article 32, and on the state High Courts under Article 226. An individual who complaints the violation of his fundamental rights can move the Supreme Court or the state High Court for the restoration of his fundamental rights.

Article 32(1) declares that the right to move the Supreme Court by appropriate proceedings for the enforcement of the Fundamental Rights included in Part III of the Constitution is guaranteed. Clause 1, thus, guarantees the right to move the Supreme Court for the enforcement of Fundamental Rights. In other words, the right to move the Supreme Court for the violation of fundamental rights is itself a fundamental right.

Article 32(2) empowers the Supreme Court to issue directions, orders or writs including writs in the nature of habeas corpus, mandamus, prohibition, quo-warranto or certiorari, whichever may be appropriate for the enforcement of any of the fundamental rights.

Habeas corpus: The writ of habeas corpus literally means 'have the body'. It is a writ or order to an executive authority to produce the body of a person, who has been detained in prison and to state the reasons for his detention. Thus, habeas corpus is the citizen's guarantee against arbitrary arrest or detention. By virtue of this writ, the Supreme Court or the high court can have any detained person produced before it for examining whether he has been lawfully detained or not, and for dealing with the case in accordance with the Constitution and the laws in force at that time.

Mandamus: The writ of mandamus means 'we command'. It is an order directing person, or body, to do his legal duty. It lies against a person, holding a public office or a corporation or an inferior court, for it is to ask them to perform their legal duties. They are under legal obligation not to act contrary to law, without the authority of law, or in excess of authority conferred by law. As such, mandamus is available in the following cases:

- To compel the performance of obligatory duties imposed by law; and
- To restrain action which is taken without the authority of law, contrary to law, in excess of law

Certiorari: The writ of certiorari means 'to be more fully informed of'. It is issued by a superior court to an inferior court requesting the latter to submit the record of a case pending before it. It lies not only against the inferior courts but also to any person, body or authority, having the duty to act judicially. It may be issued to the Union government,

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the state governments, municipalities or other local bodies, universities, statutory bodies, the individual ministers, public officials and departments of the state. It is not available against private persons for the enforcement of fundamental rights, because these rights are available only against the State.

Prohibition: The writ of prohibition is issued by a superior court to an inferior court preventing it from dealing with a matter over which it has no jurisdiction. It is generally issued to transfer a case from a lower to a higher court. When an inferior court takes up for hearing a matter over which it has no jurisdiction, the person against whom proceedings have been taken can move the superior court for the writ of prohibition. If the request is guaranteed by the superior court, the interior court is stopped from continuing the proceedings in that case, and the case is transferred to another court to secure justice.

Quo warranto: The writ of quo warranto is issued to stop the irregular and unlawful assumption of any public position by any person. Through this writ, the courts may grant an injunction to restrain a person from acting in any office to which he is not entitled, and may also declare the office vacant.

Article 32(3) provides that, without prejudice to the powers conferred on the Supreme Court by Articles 32(1) and (2), the Parliament may by law empower any court to issue these writs for the purpose of the enforcement of the fundamental rights.

Article 32(4) provides that fundamental rights guaranteed by Article 32(1) shall not be suspended except as otherwise provided by this Constitution.

Political dynamics

Fundamental Rights incorporated in Part III and the directive principles in Part IV form an organic unit.

Article 13 provides that any law passed in violation of Part III of the Constitution dealing with Fundamental Rights is void to the extent of such violation. Initially the Supreme Court, however, adopted a legal attitude by declaring that the directive principles cannot abridge, curtail or stand in the way of the Fundamental Rights. The court, thus, held that the former are subordinated to the latter. But later on the judiciary has substantially modified its attitude towards to directive principles. It started taking note of directive principles in determining the scope of fundamental rights. The directives now command more respect from the judiciary than they initially did.

Article 37 makes the directive principles of the state policy non-justifiable. In case of the state of Madras vs Champakam Dorairajan, 1951, the Court laid down the following principles in describing the relationship of the directive principles with fundamental rights:

- The 'Directive Principles of State Policy' cannot override fundamental rights, because the former are unenforceable under Article 37 while the latter are enforceable under Article 32.
- Directive principles cannot abridge, curtail or stand in the way of fundamental rights, because they are sacrosanct and supreme;
- Directive principles have to conform to, and run as subsidiary to fundamental rights.
- The state action under directive principles is subject to legislative and executive powers, i.e. a directive principle can be implemented only by the agency which is authorized to make law on that subject; and

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- If the power of the State with respect to the subject relating to directive principles is limited by the Constitution, the state cannot exceed it.

Later the Court accepted that fundamental rights could be amended by the prescribed procedure and thereby directive principles can be implemented. In this period, the court evolves 'the Principles of Harmonious construction'. This meant that ordinarily the directive principles were subordinate to the fundamental rights and the state could not infringe on fundamental rights of any individual even on the plea of protecting the weaker sections of society as mentioned in the chapter on directive principles. The state, however, could put restrictions on fundamental rights in order to implement directive principles or otherwise by making amendments in the Constitution. This attitude was reflected through Sajjan Singh vs State of Rajasthan, 1967, when the court held that directive principles are also fundamental in the government of the country and provisions of Part III must be interpreted harmoniously with these principles.

Judicial Interpretations and Socio-Political Realities

The basic structure doctrine is the judge-made principle that certain features of the Constitution of India are beyond the limit of the powers of amendment of the Indian Parliament. The doctrine, which was first expressed by the Indian Supreme Court in *Kesavananda Bharati vs State of Kerala* (1973), reflects judicial concern at the perceived threat to the liberal constitutional order posed by the Indian National Congress' majority in central and state legislatures, in particular under Indira Gandhi.

The basic structure doctrine applies only to the constitutionality of amendments and not to ordinary Acts of Parliament, which must conform to the entirety of the Constitution and not just to its basic structure.

The nine judges' Bench presided by Justice Y.K. Sabharwal, CJI delivered a unanimous verdict on 11 January 2007 in I.R. Coelho (dead) by L.Rs. vs State of Tamil Nadu and others, upholding the *Basic Structure Doctrine*, and the authority of the judiciary to review any such laws, which destroy or damage the basic structure as indicated in Article 21 read with Article 14, Article 19 and the principles underlying thereunder, even if they have been put in 9th Schedule after 14th April, 1973 (the date of the judgment in Kesavananda Bharti's case). The judgment upholds the right of judicial review and the supremacy of judiciary in interpreting the laws, which have been constantly under threat. The judgment reiterates and defines the exclusive right of the judiciary to interpret laws, in an ongoing struggle of supremacy between legislative and judiciary since 26 November 1949, when the Constitution was dedicated to the people of India.

2.4.2 Fundamental Duties

The Constitution of India laid disproportionate emphasis on the rights of citizens as against their duties. With the result, the Constitution of India did not incorporate any chapter of Fundamental Duties. It was during the 'Internal Emergency', declared in 1975, that the need and necessity of fundamental duties was felt and accordingly a Committee under the Chairmanship of Sardar Swaran Singh was appointed to make recommendations about fundamental duties. The Committee suggested for inclusion of a chapter of fundamental duties, provision for imposition of appropriate penalty or punishment for non-compliance with or refusal to observe any of the duties and also recommended that payment of taxes should be considered as one of the

Fundamental Duties. But these recommendations were not accepted by the Congress government.

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However, under the Forty-Second Amendment, carried out in 1976, a set of fundamental duties of Indian citizens was incorporated in a separate part added to Chapter IV under Article 51(a). Under this Article, this shall be the duty of every citizen of India:

- To abide by the Constitution and respect the national flag and national anthem
- To cherish and follow the noble ideas, which inspired our national freedom struggle
- To protect the sovereignty, unity and integrity of India
- To defend the country
- To promote the spirit of common brotherhood amongst the people of India transcending religious, linguistic, regional or sectional diversities and laws to renounce practices derogatory to women
- To preserve the rich heritage of our composite culture
- To protect and improve the natural environment
- To develop the scientific temper and spirit of enquiry
- To safeguard public policy
- To strive towards excellence in all spheres of individual and collective activity
- As a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of 6 and 14 years (this clause was inserted through Eighty-Sixth Amendment Act 2002)

Insertion of these Fundamental Duties along with Directive Principles of State Policy suggests that these are not justifiable. In fact, the Constitution does not define how these will be implemented. No punishment or compulsive provisions have been mentioned on their violation. According to D.D. Basu, the legal utility of these duties is similar to that of the Directives as they stood in 1949, while the Directives were addressed to the State without any sanction, so are the duties addressed to the citizens without any legal sanction for their violation.

Also the duties enumerated are quite vague and can be interpreted in more than one ways. It is, therefore, very difficult to have their universally acceptable definitions. One of the duties of the citizens is to follow the noble ideals that inspired our freedom struggle, while each section, which participated in freedom struggle, had its own ideals. The term 'noble ideal', therefore, becomes ineffable and vague. Another duty expects every citizen of India to value and preserve the rich heritage of composite culture. A question that can be asked as to which is India's composite culture. Similarly, it is difficult to define scientific temper, humanism or spirit of enquiry.

Notwithstanding these criticisms, the fundamental duties have been the accepted part of the Constitution. These duties may act as a social check on reckless activities indulged in by irresponsible citizens and as a reminder to citizens that while exercising or claiming the right they have also to be conscious of these duties they owe to the nation and to their fellow citizens. In brief, the incorporation of Fundamental Duties in the Constitution was, no doubt, an attempt to balance the individual's civic 'freedoms' with his civic 'obligations' and, thus, to fill a gap in the Constitution.

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2.4.3 Directive Principles of State Policy

After the end of the Great War (1914–18) the Indian National Congress launched, under the leadership of Mahatma Gandhi, a struggle for the political independence of India from the British rule. The Congress did so not because it valued political freedom just for the sake of it (freedom) but because it realized that without political freedom social and economic uplift of many millions in the country would not be possible and large inequalities that had increased in society during the past few decades, would not be reduced. Under Gandhi's influence the Congress, at its Karachi session in December 1931, resolved that '...in order to end the exploitation of the masses political freedom must include real economic freedom. The Congress at the same session went on record in favour of a fixed ceiling on individual incomes, to be lowered by stages to twenty times the national minimum. At the Round Table Conference in London in 1931, Gandhiji stressed that the Congress stood for the 'dumb 7,00,000 villages,' and that the untouchables, the women and the desperately poor needed to be lifted out of their age-old sufferings and exploitation. Jawaharlal Nehru and other Congress leaders said, time and again, during the days of freedom struggle that political independence for the country would have no meaning if the starvation and exploitation of the millions were not ended. The ideology of egalitarianism, thus, began to grow, and the. Congress made it a definite part of its faith in 'swaraj.' Year after year, more explicit resolutions were adopted committing an independent India to the socio-economic uplift of the masses.

When 'swaraj' came to the country and the task of framing a Constitution was taken up the ideal of 'egalitarianism' was incorporated in its Preamble and in Part IV entitled 'Directive Principles of State Policy.' The Preamble promised to secure to all citizens of India, JUSTICE, social, economic and political; LIBERTY of thought, expression, belief, faith and worship; and EQUALITY of status and of opportunity.

The Directive Principles of State Policy were incorporated in Articles from 39 to 51 of the Constitution. Article 39 laid down certain principles of policy to be followed by the State with the object of securing – (a) that the citizens, men and women, equally, have the right to an adequate means of livelihood; (b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good; (c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment; (d) that there is equal pay for equal work for both men and women; (e) that the health and strength of workers, men and women, and the tender age of children are not abused, and that citizens are not' forced by economic necessity to enter avocations unsuited to their age or strength; and (f) that childhood and youth are protected against exploitation and against moral and material abandonment. In order that the fruits of political freedom might reach the grass-root level, Article 40 laid down that the State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government. Under Article 41, the State was directed, within the limits of its economic capacity and development, to make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want. Article 42 laid down that the State shall make provision for securing just and humane conditions of work and for maternity relief. In order to uplift, the poor, Article 43 stated that the State shall endeavour to secure, by suitable legislation or economic organization or in any other way, to all workers (agricultural, industrial:' or otherwise) work, a living wage, conditions of work ensuring a decent standard of life

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and full enjoyment of leisure and social and cultural opportunities. To the same end, the State was directed to promote cottage industries on an individual or cooperative basis in rural areas.

Article 44 of the Constitution stated that the State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India. Realizing that no programme of socio-economic transformation of the people would be possible without mass literacy the framers of the Constitution laid down, in Article 45, that the State shall endeavour to provide within a period often years from the commencement of the Constitution, for free and compulsory education for all children until they complete the age of 14 years. Special care was required to be taken for the educational and economic interests of the weaker sections of the people, and the Scheduled Castes and Scheduled Tribes in particular were to be protected from social injustice and all forms of exploitation. Under Article 47, the State was entrusted the responsibility of raising the level of nutrition of the people and the improvement of their health, and to this end, it was to bring about prohibition of the consumption of intoxicating drinks and drugs. In view of the fact that 80 per cent of the Indian people lived in villages the State was directed, under Article 48, to organize agriculture and animal husbandry on modem and scientific lines.

In order to preserve the cultural heritage of the country, the founding-fathers of the Indian Republic directed the State to protect every monument or place or object of artistic or historic interest, declared by Parliament to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export as the case may be. The judiciary was to be separated from the executive. Realizing that the attainment of all these objectives would not be possible if there were no peace and stability in the outside world the architects of a new India directed the State, under Article 51, to endeavour to (a) promote international peace and security; (b) maintain just and honourable relations between nations; (c) foster respect for international law and treaty obligations in the dealings of organized peoples with one another; and (d) encourage settlement of international disputes by arbitration.

Reaffirmation of Ideology of Egalitarianism

Put together, the Preamble to the Constitution and the Directive Principles of State Policy comprised the ideology of egalitarianism, that is, the rulers of independent India committed themselves to bring about political, economic and social equality and bring to an end the age-old sufferings of the people. The State (that is the governments at the Centre and in the states) was required to follow these principles in the determination of its policies and executive actions. It was, however, worth noting that the Directive Principles could not be enforced in the way the Fundamental Rights could be enforced by the Supreme Court and the High Courts. The reason for this was that even though the framers of the Constitution were sincere and enthusiastic about egalitarianism they were fully conscious of the limitations of the future rulers of the country, particularly the limitations of scant financial resources, widespread illiteracy and fast-increasing population. Had they made the Directive Principles enforceable by the courts, the State would have become involved in endless litigation. Devotion to the egalitarian credo was, nevertheless, affirmed time and again in the successive Five Year Plans, that spelt out goals for development, the egalitarian ideology was prominent. At its 1955 session at Avadi (January 21–23) the Congress Party adopted a resolution on economic policy, and realised what became known as 'socialist pattern of society.' At the Government's initiative the Lok Sabha adopted, in 1956, a resolution recommending that 'appropriate measures be taken in order to reduce the disparity in income within society.' The Avadi resolution on economic policy was reiterated at the Bhubaneshwar session in January 1964.

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After the assumption of Prime Ministerial office by Mrs Indira Gandhi on 24 January 1966, the concept of socio-economic justice and equality was stressed every now and then. On the eve of the mid-term poll for the Lok Sabha, held in March 1971, Mrs Gandhi coined a new slogan *garibi hatao,* and on the occasion of fifth General Election to state Assemblies, in March 1972, she came out with another, *'annyaya hatao'* (remove injustice). All political parties and their leaders reiterated time and again their commitment to the gospel of egalitarianism, and the implementation of the equalization ideal became an instrument of both policy and faith for them.

Specific measures to implement directive principles almost from the very inauguration of the Indian Republic (on 26 January 1950), the Government authorities at the Centre and in the states took steps to implement the Directive Principles. On 28 February, the then Union Finance Minister, Dr John Matthai, announced that the Government had decided to set up a Planning Commission so that the development of the country could be taken up in a planned manner. The central objective of planning was declared to be the raising of the standard of living and opening to the people new opportunities for a richer and more varied life. The aim of the first-Five Year Plan was to use more effectively the available human and material, resources. so as to obtain from them a larger output of goods and services and to reduce inequalities of wealth, income and opportunity. The Plan envisaged a substantial increase in the volume of employment through the expansion of irrigation, power, basic industries, transport and other resources. The objectives of the successive Plans were laid down almost on the same lines, that is, in the direction of socio-economic justice and equality.

In order to implement Article 39, a series of Acts were passed from time to time. Some of these were: Employees State Insurance Act, Minimum Wages Act, Workmen's Compensation Act, Wealth Tax Act, Gift Tax Act, and Estate Duty Act. In order to reduce disparities in income the Fundamental Right to property was amended several times. A number of industrial products and specialized services, that were considered vital to economic development, were brought under public sector. In 1969, fourteen top commercial banks of the country were nationalized. In 1956, the life insurance, and in 1971 the general insurance companies were nationalized. The same year Privy Purses and Special Privileges of the Princes were abolished. These and a few other measures were taken so that the financial resources could be utilized for promoting common good.

The responsibility for land reforms and their implementation was, under the Constitution, primarily the responsibility of the states, and in the discharge of this responsibility the legislatures of almost all the states and Union Territories passed Acts for the abolition of intermediaries like *zamindars,* jagirs and *inams.* Laws were also passed to fix ceiling on land holdings, and the surplus land acquired from land-owners was distributed among the landless. More than three crores of farmers became the owners of land. Huge areas of cultivable wastelands were distributed among landless labourers and were brought under cultivation. In many states, tenants were made secure over the lands they cultivated and they could not be ejected before a fixed period. Consolidation of land holdings was taken up and completed in several states such as Uttar Pradesh, Gujarat, Madhya Pradesh, Maharashtra, Rajasthan, Delhi, Mysore and Himachal Pradesh. The National Cooperative Farming Advisory Board prepared several plans and promoted the programme of cooperative farming. In order to bring about the integrated development of rural India, covering social, cultural and economic aspects, Community Development Programmes were launched on 2 October 1952 in 55 selected projects each project covering an area of about 1,300 sq kms, about 300 villages and a population of about 2 lakhs. By 1969, the entire country was covered by 5,265

Community Development blocks. A Consultative Council on Community Development was constituted under the chairmanship of the Union Minister of Food and Agriculture to establish coordination between the Union Government and state Ministers, in charge of Community Development.

In January 1985, the National Development Council recommended that in order to bring about the development of rural areas there should be devolution of power and decentralization of machinery for the exercise of such power, and that such a machinery should be controlled and directed by popular representatives of the local area. In pursuance of this recommendation panchayat raj was established with a three-tier structure of local self-governing bodies at the village, block and district, levels. Specific powers and functions were assigned to these institutions in the field of development and local administration. Almost the entire country was covered by the panchayat raj.

In order to organize agriculture on modern and scientific lines, as enjoined in Article 48 of the Constitution, a number of projects were launched with the purpose of better utilization of river waters for irrigation, for generating electricity and power and for flood control. Some of these were Nagarjunasagar Project (Andhra Pradesh), Tungabhadra Project (Andhra Pradesh and Mysore), Gandak Project (Bihar and Uttar Pradesh), Kosi Project (Bihar), Chafnbal Project (Madhya Pradesh and Rajasthan), Hirakud Dam Project (Orissa), Bhakra Nangal Project (Punjab, Haryana and Rajasthan), Farakka Project (West Bengal) and Damodar Valley Corporation (West Bengal and Bihar). Several factories were set up for the manufacture of chemical fertilisers. In 1969, the Seeds Act was passed, and the National Seeds Corporation supplied seeds of high yielding variety of different crops, including vegetables, to the farmers throughout the country. Plant protection and locust control programmes were undertaken. The Indian Council of Agricultural Research and several agricultural universities were set up in the country for promoting research and training in new methods of farming and animal husbandry. The Market Research and Survey Wing of the Directorate of Marketing and Inspection carried out surveys for important agricultural, horticultural and livestock commodities. Intensive cattle development projects and poultry farming were developed on a commercial scale. Programmes of sheep and fisheries development were undertaken.

Although health programmes were primarily the responsibility of the states, the Union Government, in order to implement the principles laid down in Article 47, sponsored and supported major schemes for improving the standard of health of the nation. During the period of the four Five Year Plans, 1,050 crores of rupees were spent, on promoting medical education and research, establishing primary health centres, controlling communicable diseases, promoting indigenous systems of medicine and on setting up hospitals and dispensaries. Special programmes were launched for eradicating malaria, filaria, tuberculosis, leprosy, venereal diseases, small pox and cancer.

In 1960, Parliament passed the Children's Act, and juvenile courts, child welfare boards, remand observation homes and special schools were set up to look after the neglected and delinquent children.

Under the Child Marriage Restraint Act of 1929, no marriage to which a male under 18 years of age or a female under 12 years of age was a party could be solemnised. The Special Marriage Act of 1954 permitted marriage of people from different religious faiths without changing their religions and laid down the minimum age of marriage as 18 years for girls and 21 years for boys.

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In order to implement the Directive Principles, the States take steps to protect the Scheduled Castes and the Scheduled Tribes from social injustice and all forms of exploitation Parliament passed, in May 1955, the Untouchability (Offences) Act. This Act provided penalties for preventing a person, on grounds of untouchability, from entering a place of public worship or taking water from a sacred tank, well or spring. Penalties were provided for enforcing all kinds of social disabilities, such as denying access to any shop, restaurant, public hospital or educational institution, hotel, the use of any road, river, water tap, bathing *ghat,* cremation ground or *dharamshala* or utensils kept in such institutions and hotels and restaurants. The Act also prescribed penalties for enforcing occupational, professional or trade disabilities or disabilities in the construction or occupation of any residential premises in any locality or the observance of any social or religious usage or ceremony. The Act laid down penalties for refusing to sell goods or render services to a Harijan. In 1976, Parliament passed the Protection of Civil Right Act, and it provided for more severe punishment.

In order to promote international peace, as enjoined in Article 51 of the Constitution, the Union Government followed a policy of non-alignment and *Panchsheel.*

ACTIVITY

Write a news report on any instance of recent violation of Fundamental Rights in India.

Check Your Progress

7. What are the six Fundamental Rights mentioned in the Constitution of India?
8. State any two Fundamental Duties of Indian citizens.
9. What does the Preamble promise to secure all its citizens?
10. What is the meaning of egalitarianism?

DID YOU KNOW

Court justifies judicial activism

Often criticized for alleged judicial overreach, the Supreme Court on Thursday justified its order cancelling 122 licenses for 2G-spectrum, saying it was duty-bound to strike down policies that violate constitutional principles or were contrary to public interest.

An apex court bench said this was needed to 'ensure that the institutional integrity is not compromised by those in whom the people have reposed trust and who have taken oath to discharge duties in accordance with the Constitution and the law without fear or favour, affection or ill will and who, as any other citizen, enjoy fundamental rights but is bound to perform duties.' It said, 'There cannot be any quarrel with the proposition that the court cannot substitute its opinion for the one formed by the experts in the particular field and due respect should be given to the wisdom of those who are entrusted with the task of framing the policies.'

'However, when it is clearly demonstrated before the court that the policy framed by the State or its agency/instrumentality and/or its implementation is contrary to public interest or is violative of the constitutional principles, it is the duty of the court to exercise its jurisdiction in larger public interest and reject the stock plea of the State that the scope of judicial review should not be exceeded beyond the recognized parameters,' the bench added.

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Referring to the PILs filed by the Centre for Public Interest Litigation and Janata Party chief Subramanian Swamy, it said: 'When matters like these are brought before the judicial constituent of the State by public spirited citizens, it becomes the duty of the Court to exercise its power in larger public interest…'

While admitting that TRAI was an expert body assigned with important functions under the 1997 Trai Act, the bench said, the Trai in making recommendations cannot overlook the basic constitutional principles and recommend which should deny majority of people from participating in the distribution of state property.

Source: http://www.hindustantimes.com/India-news/NewDelhi/Court-justifies-judicial-activism/Article1-805945.aspx

Accessed on 6 February 2012

2.5 SUMMARY

In this unit, you have learnt that:

- On 17 May 1927, at the Bombay session of the Congress, Motilal Nehru had moved a resolution calling upon the Congress Working Committee to frame a Constitution for India in consultation with the elected members of the central and provincial legislatures and leaders of political parties.
- In March 1942, the British Government sent Cripps Mission to India with a draft declaration on the proposals of the British Government, which needed to be implemented at the end of the Second World War, provided for two prime political parties, the Congress and Muslim League, to come to an agreement to accept them.
- The Indian Constituent Assembly was elected to form the Constitution of India. It served as an independent nation to its first Parliament.
- According to the Cabinet Mission Plan of 1946, the Constituent Assembly was established. During its entire sitting, it had 11 sessions and 165 days of actual work. After deliberation spread over three years, the historic document - free India's Constitution adopted by the Assembly on 26 November 1949 and came into force on 26 January 1950.
- The founding fathers of the Indian Constitution conceived of a Constituent Assembly as something dynamic, not merely a representative but a nation on the move.
- The salient principles of the proposed Constitution had been outlined by various committees of the Assembly. There were twenty-two major committees formed by the Constituent Assembly to handle different tasks of the making of the Constitution.
- The members of the Constituent Assembly were not selected purely on a party basis but were drawn from all walks of life and represented almost every section of the Indian people.

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- The Constituent Assembly declares its firm and solemn resolve to proclaim India as an Independent Sovereign Republic and to draw up for her future governance a Constitution.
- In the words of Granville Austin, the members of the Constituent Assembly drafted a constitution that expressed the aspiration of the nation. They skilfully selected and modified the provision that they borrowed, helped by experts among their members and the advice given by ministries of the Union and Provincial governments.
- The values expressed in the Preamble are sovereignty, socialism, secularism, democracy, republican character, justice, liberty, equality, fraternity, human dignity and the unity and integrity of the nation.
- The word 'socialist' was added to the Preamble by the 42nd amendment act of 1976.
- Articles from 25 to 28 ensure freedom of religion to all its citizens.
- Every citizen of India is entitled to equality before law and equal protection of law. As a human being everybody has a dignified self. To ensure its full enjoyment inequality in all forms present in our social structure has been prohibited.
- To maintain the independence of the country intact and enduring, unity and integrity of the nation is very essential. Therefore, the stress has been given on the ideal of fraternity which would foster unity amongst the inhabitants.
- The inclusion of a chapter on fundamental rights in the Constitution was symbolic of the great aspirations of the Indian people. In fact, it is these rights that offer the main justification for the existence of a state.
- Fundamental Rights in the Indian Constitution guarantee that all Indian citizens have individual rights common to most liberal democracies, such as equality before the law, freedom of speech and expression, freedom of association and peaceful assembly, freedom of religion and the right to constitutional remedies for the protection of civil rights.
- The Constitution of India prescribes the following six fundamental rights:
  (i) Right to Equality
  (ii) Right to Particular Freedom
  (iii) Cultural and Educational Rights
  (iv) Right to Freedom of Religion
  (v) Right against Exploitation and
  (vi) Right to Constitutional Remedies
- The Right to Property constituted a Fundamental Right under Article 32 before it was revoked by the Forty-fourth Amendment Act of 1978.
- The Fundamental Rights embodied in Part III of the Indian Constitution guarantee civil liberties common to liberal democracies. Article 19(1) (a) provides freedom of speech and expression.
- The Constitution of India laid disproportionate emphasis on the rights of citizens as against their duties. With the result, the Constitution of India did not incorporate any chapter of fundamental duties.

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- It was during the 'Internal Emergency', declared in 1975, that the need and necessity of fundamental duties was felt and accordingly a Committee under the Chairmanship of Sardar Swaran Singh was appointed to make recommendations about fundamental duties. The Committee suggested for inclusion of a chapter of fundamental duties, provision for imposition of appropriate penalty or punishment for non-compliance with or refusal to observe any of the duties and also recommended that payment of taxes should be considered as one of the fundamental duties.
- The Directive Principles of State Policy of the Constitution of India, constitute directions given to the Central and state governments for the establishment of a just society.
- The Directive Principles commit the State to raise the standard of living and improve public health, and organize agriculture and animal husbandry on modern and scientific lines.

2.6 KEY TERMS

- **Constitution:** A body of fundamental principles or established precedents according to which a state or other organization is acknowledged to be governed.
- **Fundamental Duties:** The moral obligations of all citizens to help promote a spirit of patriotism and to uphold the unity of India.
- **Fundamental Rights**: A generally regarded set of entitlements in the context of a legal system.
- **Preamble:** The introductory part of a statute or deed, stating its purpose, aims, and justification.
- **Habeas corpus**: It is a writ or legal action that requires a person under arrest to be brought before a judge or into court.
- **Mandamus:** It is a writ or order that is issued from a court of superior jurisdiction that commands an inferior tribunal, corporation, municipal corporation or individual to perform, or refrain from performing, a particular act, the performance or omission of which is required by law as an obligation.
- **Quo warranto:** It is a prerogative writ requiring the people to whom it is directed to show what authority they have for exercising some right or power they claim to hold.
- **Certiorari:** It is a writ from a higher court to a lower one, requesting a transcript of the proceedings of a case for review.

2.7 ANSWERS TO 'CHECK YOUR PROGRESS'

1. The main proposal of the Mission's were (i) the Constitution of India was to be framed by an elected Constituent Assembly of the Indian people; (ii) the Constitution should give India dominion status – equal partnership of the British Commonwealth of Nations; (iii) there should be an Indian union, comprising all the provinces and Indian states; and (iv) any province or Indian state, which was not prepared to accept the Constitution would be free to retain its constitutional position existing

at that time and with such non-exceeding provinces, the British government could enter into separate constitutional arrangements.

2. The Interim Government of India formed on 2 September 1946.
3. The issues that were taken up for discussion by the Constituent Assembly included the following:
   - Adult franchise
   - Jammu and Kashmir
   - Reservation for minorities
   - Link language
   - Fundamental rights
   - Secular state
   - Socialism
   - Village panchayat
4. By declaring us as a sovereign entity, Preamble emphasizes complete political freedom. It implies that our state is internally powerful and externally free. She is free to determine for herself without any external interference. There is none within her to challenge her authority.
5. The ideal of secularism in Indian context implies that our country is not guided by any religion or any religious considerations. However, our polity is not against religions. It allows all its citizens to profess, preach and practice any religion of their liking.
6. Fraternity stands for the spirit of common brotherhood. In the absence of that, a plural society like India stands divided. Therefore, to give meaning to all the ideals like justice, liberty and equality our Constitution gives ample stress on fraternity.
7. Right to Equality, Right to Particular Freedom, Cultural and Educational Rights, Right to Freedom of Religion, Right against Exploitation, Right to Constitutional Remedies.
8. To support and guard the independence, harmony and integrity of India; To assess and conserve the rich heritage of our multifaceted culture.
9. Justice, Liberty, Equality
10. Put together, the Preamble to the Constitution and the Directive Principles of State Policy comprised the ideology of egalitarianism, that is, the rulers of Independent India Committee themselves to bring about political, economic and social equality and bring to an end the age-old sufferings of the people.

2.8 QUESTIONS AND EXERCISES

Short-Answer Questions

1. State any three salient features of the Constituent Assembly.
2. List the values embodied in the Constitution of India.
3. Write a note on the Cultural and Educational Rights provided by the Constitution of India.
4. Discuss briefly the Right to Constitutional Remedies available to Indian citizens.

Long-Answer Questions

1. What is the philosophy underlying the Indian Constitution?
2. Explain in detail any three Fundamental Rights specified in the Indian Constitution.
3. Examine the significance of Fundamental Duties.
4. Analyse the implementation of Directive Principles of State Policy in India.

2.9 FURTHER READING

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UNIT 3 WORKING OF INDIAN FEDERALISM

NOTES

Structure

3.0 Introduction
3.1 Unit Objectives
3.2 Centre–State Relations
3.3 Inter-State Council
3.4 Summary
3.5 Key Terms
3.6 Answers to 'Check Your Progress'
3.7 Questions and Exercises
3.8 Further Reading

3.0 INTRODUCTION

In this unit, you will learn how federalism works in India. Federalism stands for a union or association of states resulting in the formation of a composite state with a separate and distinct government at the Centre. The government at the Centre and the governments in the states share, on an agreed basis, the totality of governmental power. There is, however, no rigid formula for such sharing of power. Hence, the federal form of government is an elastic form of government depending on the manner in which power is shared between the Centre and the states. The basic objective of federalism, unity in diversity, devolution in authority and decentralization in administration, is clearly evident in every one of them.

As you have learned in the first unit, the Government of India Act, 1935, was the first legal document which envisaged the system of federal states under the 'Crown' uniting both the British India and the Indian states. But the proposal was never implemented. The Union Powers Committee formed by the Constituent Assembly under the Chairmanship of Pandit Jawaharlal Nehru, recommended a weak Centre since it had to function under the limitations of the Cabinet Mission Plan, though Pandit Nehru himself had always advocated for a great deal of unitary control in federal India. With the passing of the Indian Independence Act and the actual partition of the country, the complexion of the Constituent Assembly changed and the earlier compulsions that called for a federal India with a high degree of autonomy to the states no longer existed. There emerged, particularly in the wake of the events preceding the partition, then, a unanimous demand in the Constituent Assembly for a strong Centre.

The Constitution of India seeks and defines India to be 'Union of States' with a federal structure. Although the term 'federal' does not appear in the Constitution, it often arose in Constituent Assembly debates. The founding fathers based their logic on pragmatic considerations and wanted the Constitution to be federal if necessary but not necessarily federal. Indian federation, according to experts, approaches most closely to what has been called 'co-operative federalism'. The Indian Constitution reflects a very complicated idea of a powerful federal union. It vests exclusive powers in terms of legislative initiative and executive controls in the Central Government. Exercising these can transform the polity. However, these powers are subject to

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different extents of federal agreement, with a constitutional device of checks and balances, and parliamentary accountability. Indian federalism gains prominence in terms of 'differential loadings' and wide-ranging arrangements of distribution of power. The Seventh Schedule to the Constitution categorizes and distributes competence. However, the States are treated on an egalitarian basis. Articles 370, 371, 371A-G further modify this generality in order to provide for special arrangements of power distribution between the Central Government and a particular category of States.

Article 263 of the Constitution of India provides for the establishment of an Inter-State Council. The genesis of the article can be traced directly to Section 135 of the Government of India Act, 1935 which provided for establishment of Inter-Provincial Council with duties identical with those of the Inter-State Council. As Article 263 makes it clear, the Inter-State Council is not a permanent constitutional body for coordination between the States of the Union. It can be established 'at any time' if it appears to the President that the public interests would be served by the establishment of such a Council. If any matter is sought up before the Council by the Central Government or by the Government of any State or Union territory, a formal reference shall be made to the Council, addressed to the Secretary of the Council, with a self-contained note setting out - the issue or issues involved and the reasons for making the reference, together with supporting documents, if any; and the constitutional and legal implications of the said issue or issues.

3.1 UNIT OBJECTIVES

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

- Discuss the various aspects of the Centre–State relations
- Describe the constitution and functions of the Inter-State Council

3.2 CENTRE–STATE RELATIONS

Though India is a federation, the word 'federal' does not appear in its Constitution. The Indian Constitution describes India to be a 'Union of States'. According to Birch, 'A federal system of government is one in which there is a division of powers between one general and several regional authorities, each of which, in its own sphere, is to coordinate with the others, and each of which acts directly on the people through its own administrative agencies'.

Thus, going by the definition of federalism, India has two sets of government: Central government and state governments. The Indian Constitution also provides for division of power between the Centre and the states. The Constitution also provides for an independent judiciary in the form of the Supreme Court of India to reinforce the division of powers as and when it stands violated.

Centre–State Relations in India

A study of the Centre–State relations in the Indian Constitution shows that the Constitution-makers gave more powers to the Centre as compared to the state. The logic behind this was that a more potent federalism (i.e., more powerful states) would have weakened the feelings of national unity. The trauma of partition, the problem of integration of princely states and the need for planned economic development for removing backwardness, poverty and food shortage prompted the Constitution-makers to establish a strong centre.

The nature of Centre–State relations emerges from the starting point where formally, and in the wording of the Constitution, India does not designate itself as a federal state, rather a 'Union of States'. The reason is the Indian federation was not the result of an agreement, and therefore, no state in India had the right to secede. The Constitution of India conceived of the division of the country into states for the administrative convenience. It sought to achieve a smooth working relationship between the two levels of the Union and the states by tilting heavily in favour of the Union in all fields of legislative, administrative and fiscal relations.

Legislative Relations

Articles 245–254 deal with the distribution of legislative powers between the Union and the states. Articles 245–246 provide that the Union Parliament shall have exclusive jurisdiction to make laws for the whole or any part of the territory of India, with regard to all matters included in the Union List. The subjects in the Union List are of national importance and include among its ninety-seven items—defence, foreign affairs, currency.

The states have been empowered to make laws on all matters included in the State List. The State List in its sixty-six entries includes law and order, local government, public health, education and agriculture.

A third list, i.e., a Concurrent List has also been provided in the Constitution. The forty-seven entries in the Concurrent List include the legal system, trade and industry and economic and social planning. Both the Centre and the state governments can legislate on the subjects of the concurrent List but in case of conflict between the Union and the state governments, the Union law prevails.

The Constitution also enumerates certain conditions in which the Union Parliament is authorized to make laws on a subject mentioned in the State List. These conditions are as follows:

(i) Under Article 249, if the Rajya Sabha passes a resolution, supported by at least two-thirds of its members, present and voting, declares a particular subject to be of 'national interest' the Parliament becomes competent to make law on the specified state subject, for a period of not more than one year at a time.

(ii) Under Article 250, the Parliament has the power to make laws on state subjects for the whole or any part of the territory of India during the 'operation of a proclamation of Emergency'.

(iii) Under Article 251, the law passed by the Parliament under Articles 249 and 250 prevails in case of its inconsistency or repugnancy with the law made by a state legislature.

(iv) Under Article 252, two or more states may request the Parliament to make laws for them with respect to any state matter. But such law(s) will be applicable to only those states who so desire. Subsequently, other states may also adopt that law by passing resolutions in their legislatures. Such an act can be amended or repealed by the Parliament only and not by the state legislature.

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The provisions of this Article have been used by the states to surrender their powers in favour of the Union, e.g., by the states of Andhra, Maharashtra, Orissa and Uttar Pradesh, authorizing the Parliament to enact laws for the control and regulation of prices.

(v) Under Article 253, the Parliament is competent to make laws for the whole or any part of the territory of India to implement India's international treaties, agreements or conventions with any other country or countries. The Parliament is competent to make law for this purpose on any subject, including the state subjects.

(vi) Any bill passed by the State Legislature can be reserved by the Governor of that state for the consent of the President. The President may veto such a law without giving any reason. Thus, in such case, the President's power of veto is absolute. Besides, there are certain matters within the State List and the Concurrent List of which the states must take the previous sanction of the President before making laws on them.

(vii) The states comprising in the Union of India have been named in the First Schedule, yet the Constitution empowers the Parliament to admit new states to the Union or establish a new state. The Parliament can increase or decrease the areas of a state, change its name, alter its boundaries, or cause a state to completely disappear by merger or integration with adjoining states.

Administrative Relations

In the field of administration, the Centre has still more powers than it possesses in the field of legislation. Normally, the administrative powers of the Centre correspond to the matters over which it has power to make law. This is provided for under the Articles 73 and 162. The Union Government can administer over states:

(i) According to Article 256, the executive power of every state is to be exercised in such a way as to ensure compliance with the laws made by Parliament.

(ii) Under Article 257, the Union Executive is empowered to give such directions to a state as may appear to the Government of India to be necessary for the purpose. Not satisfied with the general power of the Union to give directions to the states, the Constitution goes a step further and calls upon every state not to impede or prejudice the executive power of the Union in the State. The Union's powers of giving directions include certain specific matters such as: (a) the construction and maintenance of means of communication which are of national or military importance, and (b) the protection of railways within the states.

(iii) Article 258 empowers the Union government to entrust to the state, conditionally or unconditionally, any additional functions relating to any matter to which the executive power of the Union extends. In other words, the states can be asked to exercise the executive powers of the Union. In such a case, the Union shall pay the states officials extra costs which they incur in exercising these additional functions.

(iv) The presence of all-India services like the Indian Administrative Service and the Indian Police Service, further makes the authority of the Central Government dominant over the states. The members of these all-India services are appointed by the President of India on the basis of a competitive examination held by the Union Public Service Commission. These services serve both the Centre and the states. The creation of these services is not strictly federal, for the states have no say in this matter.

(v) Articles 352–360 contain the emergency provisions which empower the President in effect to suspend the Constitution and to take over the administration of a state or states of the Indian Union if he is satisfied that there is a threat to the security of the nation, or a breakdown in the constitutional machinery of a state, or a financial emergency.

(vi) Governors to the states are appointed by the President on the recommendations of the Central Government.

(vii) Article 339(2) expressly extends the executive power of the Union to give directions to a state with regard to the drawing up and execution of schemes specified in the direction, to be essential for the welfare of the scheduled tribes in the state.

Machinery for Inter-State Relations

The emphasis in the Constitution is on administrative cooperation and hence provisions are made for it.

- The Constitution has an important provision embodied in Article 262 dealing with the waters of inter-state rivers and river valleys. Thus, under this Article, Parliament may establish an inter-state agency to adjudicate disputes and complaints with regard to the use, distribution or control of waters of inter-state rivers or river-valleys. An inter-state council has been established by the President on a permanent basis.
- Article 263 provides for the establishment of another inter-state Council to enquire into, and to advise upon the disputes between the Centre and the states, or amongst the states themselves.
- Besides, there is a framework of voluntary cooperation at administrative level for resolving problems that may arise between the Centre and the state. The Constitution provides for inter-state delegation of functions, which makes operation of Indian federalism adequately flexible. Thus, where it is inconvenient for one government to carry out its administrative functions directly, it may have those functions executed through the other state governments.
- The States Reorganization Act of 1956 grouped the states into five zonal Councils. They do not constitute a layer of Government between the Centre and the states; they are advisory bodies. The zonal Council consists of the Union Home Minister, who is the Chairman and the Chief Ministers in the Zone. The idea was to provide a forum where the states could discuss and resolve inter-state disputes.

Financial Relations

The financial relations between the Centre and the States are regulated according to the provisions of Part XII of the Constitution. The Union and the State Lists also refer to the financial jurisdiction of the Centre and the state. The financial relations are, however, not a matter of concurrent jurisdiction.

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1. Taxing powers of the Centre and the states

By and large, taxes that have an inter-state base are levied by the Centre and those with a local base by the states.

Articles 269–272 and entries 83–88 of the Union List deal with the taxes levied and collected by the Union. These taxes fall under five categories:

(a) Taxes levied by the Union but collected and appropriated by the State, e.g. stamp duties, duties of excise on medicinal and toilet preparations, etc.

(b) Taxes levied and collected by the Centre and compulsorily distributed between the Union and the State, e.g., taxes on income other than the agriculture.

(c) Taxes levied and collected by the Centre but assigned to the state, e.g., taxes on railway fares and freight, estate duties, etc.

(d) Taxes levied and collected by the Centre may be distributed between the Union and the states, if Parliament by law so provides, e.g., Union excise duties, etc.

(e) Taxes levied and collected and retained by the Centre, e.g., customs, corporation tax, surcharge on income-tax, etc.

The State List contains nineteen items, e.g. land revenue, liquor and opium excise, stamps, taxes on land and buildings, and taxes on vehicles. Every state is entitled to levy, collect and appropriate these taxes.

2. Grants-in-aid

A remarkable feature of the Constitution is the provision of three types of grants-in-aid by the Centre to the states:

(i) Article 275 makes specific provisions for grants-in-aid given to the states which are in need of assistance, particularly for the implementation of their development schemes;

(ii) Grants-in-aid under Article 282 may be made for any public purpose;

(iii) Grants under Article 273 are given to the States of Assam, Bihar, Orissa and West Bengal in lieu of the export of jute and jute products.

3. Consolidated fund

Under Article 266, a Consolidated Fund for the Central Government and a separate Consolidated Fund for each of the states have been created. These funds include revenue receipts, loans raised and money received in repayment of loans made by the government.

The purpose of creating these funds was to ensure that no appropriation can be made from these funds without the authority of the law so that the salaries and other allowances of the President, the Union ministers, judges of the Supreme Court and high courts could regularly be paid without being a votable item of the budget.

4. Contingency fund

Article 267 provides for the establishment of a Contingency fund of India, and similar contingency fund for each of the states, so that the advances may be made to the

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Centre and the state respectively for meeting unforeseen expenditure, pending the legislative authorization.

5. Finance Commission of India

Article 264 provides for the creation of a Finance Commission of India, and Articles 280 and 281 deal with its composition, powers and functions. The members of the Finance Commission shall be appointed by the President. The Commission makes recommendations on the distribution of shared and shareable taxes and other assignments between the Centre and the states, or among the states themselves.

6. Planning Commission

The Planning Commission was established in 1949 by a resolution of the Cabinet with a purpose to suggest measures for augmenting the resources of the country, their effective and balanced utilization, determining the priorities, stages, progress and machinery of planning in the country. It is an extra-constitutional agency, which fulfill the role of an advisory technical body in the field of planning. It is responsible for formulating Five-Year Plans for national development. The plans finalized by the commission are discussed and finally approved by the National Development Council.

7. National Development Council (NDC)

The NDC was constituted in August 1952. It is the highest reviewing and advisory body in the field of planning. The members of the Council are the Prime Minister, Chief Ministers of all the states, the members of the Planning Commission and since 1967, all the Union cabinet ministers. The NDC is a forum where the Central government interacts with the state governments. Its purpose is to bring about cooperation between the Central, state and the local governments in the huge task of development. The Five-Year plans become operational only after they have been approved by it.

Areas of Centre–State Friction

Even though it is well known that there is a division of power between the Centre and the states, the states are dissatisfied because they feel that the balance of power is heavily in favour of the Centre. They also feel that the Centre has used its power in such a way that there is no autonomy left to them even in matters mentioned in the State List.

The Union–State relations in India took a new turn after the Fourth General Elections (1967). Till 1967, the Congress party dominated the Centre and the state governments. During this phase, the Union–State conflicts were internal problems of the Congress party and resolved at that level only. The post-1967 political scenario saw the emergence of non-Congress governments in the states as well as in the Centre. Now, the internal mechanism of the Congress Party could not resolve the conflicts and they not only came to the surface, but also became increasingly intensive.

The major conflict areas between the Union and the states can be broadly classified into three categories of issues, though no rigid compartmentalization is possible, viz.

1. Political dimension
2. Administrative dimension
3. Economic and financial dimension

1. Political dimension

There is a tendency in our country to view politics through the constitutional legal mechanism and to suggest constitutional amendments for resolving political problems. The constitutional framework is stable while the political context of the relations changes. The four aspects of political dimensions of Centre–state relations are as follows:

(i) ***Dynamics of political parties:*** As long as the same political party held sway over both the Central and the state levels of the system, only intra-party factors were important in determining the Centre–state relations. But in an emerging multi-party system, where at least a few of the state governments are under parties different from the one in power at the Centre, inter-party factors determine the Centre–state relations and tend to make them more complex. From the viewpoint of the Central government, on the basis of inter-party relations, the state governments can be divided into three types:

(a) Identical, i.e., of the same party

(b) Congenial, i.e., where ideological and/or interest gap is low.

(c) Hostile, i.e., where the party in power at the state level is radically different in its ideological and political orientation, e.g., Congress and BJP.

Obviously, the Centre's relations with the 'hostile' state governments are more difficult and compromises are not easily reached on a wide variety of issues.

(ii) ***Politics of coalition:*** The Indian party system now has had considerable experience of coalition governments. If party ruling at the state level and central level is same, the relations between state and central governments are congenial. The central government may even tolerate extra-constitutional actions of the state government. e.g., the NDA government did not make any move to impose President's Rule in Gujarat at the time of Gujarat riots, when the Modi government showed total lack of interest in curbing the riots.

On the other hand, if a state—level coalition is different party from the one that is at the Centre, the state government may be considered hostile. In this situation, the state leadership of the opposition party (belonging to the party dominant at the Centre) would usually like the central leadership to use the governmental power to undermine the state government, e.g., the BJP-led coalition (NDA) government dismissed Rashtriya Janta Dal (RJD) government in Bihar led by Rabri Devi in 1999 in the wake of the caste–class violence but did not do any such thing during the Godhra riots.

(iii) ***President's Rule (Article 356):*** One of the most conspicuous and widely used instruments of Central power over the States is the provision for President's Rule under Article 356. This was meant as a 'safety valve' in the political system to prevent an authority vacuum in case of a breakdown of constitutional machinery in a particular state. However, in practice, this article has been so frequently used for purely partisan interests that it has become a poison for our political system.

President's rule can be imposed either on the recommendations of Governor or even without, that is, on the satisfaction of President (in other words, the Prime Minister) himself. During the period 1950–89, there were 79 presidential/ Central interventions in the State. The bulk of these emergencies were declared during the Congress rule under Indira Gandhi (48) and during the reign of the Janata Party (16). The dissolution of nine State Assemblies and proclamation of President's rule in 1977 as well as in 1980 was a political move and a blow to the federal democratic structure of the country.

The use of Article 356 perceptibly declined in the 1990s after the end of the one party dominance. It was in 1997 that for the first time, the President openly asked the Prime Minister and his cabinet to reconsider the proposal for the dismissal of UP State government before signing the proclamation.

(iv) ***Integrity of the states:*** One of the first tests of a federal system is that the federating units have distinct territorial identity and their integrity is maintained. In this respect, the States in the Indian political system are severely handicapped because the Constitution does not protect their identity and integrity.

Thus, there have been persistent demands for statehood by Union Territories and sub-regional groups, e.g., Telangana, Vidarbha, Bodoland. Since the Centre alone has the power to create new States, it imposes a considerable strain on the Centre–state relations, if the Centre refuses to comply with the state demand.

2. Administrative dimensions

Whereas relations between the Centre and the states are essentially political, the operational aspects of the political system can be regarded as the administrative dimension of these relations.

(i) ***Partisan role of the governor:*** The governor of a state is appointed by the president on the advice of the Central government for a five–year term, but holds his office till the pleasure of the president (Article 156).

The role of the governor has become one of highly contentious issues in the Centre–state relations. The main issues of contention relate to the appointment of the governor by the Centre and his partisan role in the formation and dismissal of a State government at the behest of the Centre. The Governorship is now treated as a reward for political loyalists who could not be accommodated in the cabinet and pliable bureaucrats prospecting for post-retirement employment. This has reduced the Governor to a mere rubber-stamp or agent of the Centre.

On many occasions, governors have dismissed Chief Ministers when the matter should have been decided by the State Legislature. The dismissal of the Janata Dal government in Karnataka (April, 1989) and Kalyan Singh government in UP (1998), Rabri Devi government in Bihar (1999) are some of the instances of violations of constitutional propriety by the Governors of the States.

Apart from this, the governors have also been interfering in the states' daily affairs in the name of discretionary powers. Such interference by Governors in State Government's affairs and abuse of their powers for partisan reasons has been giving rise to a feeling of insecurity among the states.

(ii) ***Bureaucracy:*** Bureaucracy is another area of friction between the Central Government and the State. The points of issue are neutrality of services and formation of new all-India services. The states criticize the Centre for its discriminatory use of all-India services. The state governments do not have adequate control over these services as far as their developmental responsibilities are concerned. Bureaucrats posted at the State level look to the Centre for protection to the detriment of State's political authority. It is being alleged by

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many state governments that the bureaucrats, appointed by the Centre, do not show loyalty towards the implementation of state government's policies, if the political party at the Centre and the state are hostile to each other.

Another issue is the question of the formation of all-India services and the opposition to such formation on part of the states. There are three main reasons for the states' opposition. First, the creation of the all-India services cuts at effective spread of state services, thus reducing employment opportunities for the sons of the soil. Second, the all-India services encroach upon state autonomy and thirdly, they also involve larger expenditure because of high salary scales.

(iii) ***Misuse of mass-media by the Centre:*** The misuse of mass-media for political purposes has also been an area of tension between the Centre and the states. It has been alleged that the media is the 'mouth piece' of the Union government. However, with the establishment of the Prasar Bharti and the establishment of numerous satellite channels, the scenario has changed to a great extent.

(iv) ***Law and order problem in the states and the role of the Centre:*** Maintenance of law and order is primarily a state subject and to achieve this goal they have their own agencies and organizations. Besides all this, there are agencies of the Central government to ensure law and order such as CRPF, BSF, and CISF. The maintenance of 'parallel' agencies by the Central government is a very 'unusual' feature of the Indian federal system. The states argue that since public order is a state subject, the setting up of central police forces is an encroachment on their jurisdiction.

In recent years, in view of increase in militant movements in various parts, states themselves have become increasingly dependent on central forces as they cannot deal with the problems solely with their own resources. Now, the issue of contention is deployment of fewer central forces than required by the State.

However, the issue of deployment of armed forces and the repeal of Armed Forces Special Powers Act became the core of confrontation between the state of Manipur and the Centre in August 2004. It was followed by mass agitation and shifting of Assam rifles from the state.

(v) **Inter-state disputes:** In India, there are two types of inter-state disputes, viz., inter-state water disputes and inter-state boundary disputes. Examples of inter-state water dispute are Cauvery water dispute between Karnataka, Kerala and Tamil Nadu; Narmada water dispute between Gujarat, Madhya Pradesh, Maharashtra and Rajasthan.

Inter-state boundary disputes represent the unsettled issues of reorganization of states. Still existing disputes are between Karnataka and Maharashtra, Punjab and Haryana, Assam and Nagaland.

The Centre's involvement in such disputes is more as an arbitrator and less as an interested party and it thus gets caught in inter-state crossfires. The disputes manifest themselves not in a movement away from the Centre but in a concentration of conflicting demands on it, which cut across party lines.

3. Economic and financial dimensions

The financial weakness of the states has been a major area of tension between the Centre and the states. From the state's point of view, the allocation of financial resources between the Centre and the states is faulty. The state's resources in raising the finances are meager whereas they have been assigned a wide range of responsibilities of social welfare, education, and rural development. However, with the advent of the process of globalization in India, the states are now able to attract MNCs and private investors and are now able to generate funds for themselves. Earlier, on their own, the state could not take up any major project. Also, the Centre used to adopt discriminatory attitude based on political reasons in the autonomy allocation of grants-in-aid to the states.

The role of Planning Commission is also another controversial matter. The Planning Commission has been accused of political considerations in allocating developmental projects to the state.The poorer states like Bihar have always complained that they were not being given enough funds.

Demand for State Autonomy

From the above analysis, it becomes clear that consensus and cooperation, which are prerequisites for the smooth functioning of the Union–State relations, have been, time and again, eroded and replaced by a growing politics of confrontation. The states have been developing a feeling of deprivation on the ground that the Centre has denied them the due autonomy. From time to time, a number of Commissions have been appointed to look into Centre–State relations and to suggest reforms like the Administrative Reforms Commission (1967), Sarkaria Commission which submitted its report in 1988. However, the suggestions by these Commissions have not been implemented by the successive governments at the Centre. Therefore, the demand for more autonomy from the Centre has taken different forms like demand of the people of certain areas for secession from the Indian Union (Kashmir), demand of people of certain States for autonomy or more powers, demand of people of certain areas for separate statehood (Bodoland, Vidarbha, etc.), and demand of people of certain union territories for full-fledged statehood.

In conclusion, one can deduce that the tensions in the Centre–State relations are politically motivated. The best way to avoid Centre–State conflict is for the Centre to show imagination, understanding and a spirit of accommodation, and it should grant the states adequate finance without discrimination.

3.3 INTER-STATE COUNCIL

Article 263 of the Constitution of India provides for the establishment of an Inter-State Council. This is the only article of the sub-chapter 'Co-ordination between States' of Chapter II -Administrative Relations of Part XI of the Constitution - Relations between the Union and the States. The text of the article reads as follows:

'263. Provisions with respect to an inter-State Council - *If at any time it appears to the President that the public interest would be served by the establishment of a Council charged with the duty of -*

(a) inquiring into and advising upon disputes which may have arisen between States;

(b) investigating and discussing subjects in which some or all of the States, or the Union and one or more of the States, have a common interest; or

(c) making recommendations upon any such subject and in particular, recommendations for the better co-ordination of policy and action with respect

Check Your Progress

1. The Indian Constitution provides for an independent judiciary in the form of the _____ to reinforce the division of powers as and when it stands violated.
2. Taxes having an inter-state base are levied by the _____ and those with a local base are levied by the _____.
3. What is a Consolidated Fund?

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to that subject, it shall be lawful for the President by order to establish such a Council, and to define the nature of the duties to be performed by it and its organization and procedure.'

The genesis of the article can be traced directly to Section 135 of the Govt. of India Act, 1935 provided for establishment of Inter-Provincial Council with duties identical with those of the Inter-State Council. At the time of framing of section 135 of the Government of India Act, 1935, it was felt that 'if departments or institutions of coordination and research are to be maintained at the Centre in such matters as Agriculture, Forestry, Irrigation, Education and Public Health and if such institutions are to be able to rely on appropriations of public funds sufficient to enable them to carry on their work, the joint interest of Provincial Governments in them must be expressed in some regular and recognized machinery of Inter-Governmental consultations.' It was also intended that the said Council should be set up as soon as the Provincial autonomy provisions of Government of India Act, 1935 came into operation.

In the Constituent Assembly debate held on 13 June 1949, the article on Inter-State Council was adopted without any debate.

Formations

As Article 263 makes it clear, the Inter-State Council is not a permanent constitutional body for coordination between the States of the Union. It can be established 'at any time' if it appears to the president that the public interests would be served by the establishment of such a Council.

The provision of Article 263 of the Constitution was invoked for the first time on 9 August 1952 when President by a notification established the Central Council of Health under the Chairmanship of the Union Minister of Health and Family Planning 'to consider and recommend broad lines of policy in regard to matters concerning health in all aspects'.

By similar notifications the President established the Central Council for Local Government and Urban Development on 6 September 1954 and four Regional Councils for Sales Tax and State Excise Duties on 1 February 1968.

However, the National Development Council was set up on 6 August 1952 by an executive order on the recommendation of the Planning Commission, as the Planning Commission itself was set up by an executive order of the government. Similarly, the National Integration Council was set up in 1962 without any course to Article 263 of the Constitution. The annual conferences of Chief Ministers, Finance Ministers, Labour Ministers, and Food Ministers have been taking place to discuss important issues of coordination between the Centre and the states. In fact, the issues of inter-state and Centre–state coordination and cooperation were being discussed in a multitude of meetings on specific themes and sectors in an ad hoc and fragmented manner.

The Administrative Reforms Commission (1969) felt the 'need for a single' standing body to which all issues of national importance can be referred and which can advise on them authoritatively after taking all aspects of the problem into account'. The Commission recommended the setting up of Inter-State Council under Article 263 (b) and (c) of the Constitution and felt that saddling the proposed Council with functions on inquiring and advising on disputes between States under article 263 (a) would prevent it from giving full attention to the various problems of national concern.

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This view was endorsed by the Commission on Centre–State Relations (1988) which recommended that 'the Council should be charged with duties in broad terms embracing the entire gamut of clauses (b) and (c) of article 263'.

Government accepted the recommendation of the Sarkaria Commission and notified the establishment of the Inter-State Council on 28 May 1990.

Notification

The Inter-State Council was established under Article 263 of the Constitution of India through a Presidential Order dated 28 May 1990.

The Council is a recommendatory body with the following duties: -

(a) Investigating and discussing such subjects, in which some or all of the States or the Union and one or more of the States have a common interest, as may be brought up before it;

(b) Making recommendations upon any such subject and in particular recommendations for the better coordination of policy and action with respect to that subject; and

(c) Deliberating upon such other matters of general interest to the States as may be referred by the Chairman to the Council.

The Council shall consist of:

(a) Prime Minister – Chairman

(b) Chief Ministers of all States – Member

(c) Chief Ministers of Union Territories having a Legislative Assembly and Administrators of UTs not having a Legislative Assembly – Member

(d) Six Ministers of Cabinet rank in the Union Council of Ministers to be nominated by the Prime Minister – Member

The Presidential Order of 1990 has been amended twice vide Orders dated 19 July 1990 and 24 December 1996 providing for Governor of a State under President's rule to attend the meeting of the Council and nomination by the Chairman of permanent invitees from amongst the other Union Ministers, respectively.

Procedure

In terms of clause 2(d) of the Inter-State Council Order of 28 May 1990, the Council has laid down, with the approval of the Central Government, the procedure to be observed by it in the conduct of its business. The Council has further adopted the guidelines to be followed for identifying and selecting issues to be brought up before it.

If any matter is sought up before the Council by the Central Government or by the Government of any State or Union territory, a formal reference shall be made to the Council, addressed to the Secretary of the Council, with a self-contained note setting out – the issue or issues involved and the reasons for making the reference, together with supporting documents, if any; and the constitutional and legal implications of the said issue or issues.

On receipt of the reference, the Secretariat of the Council shall examine it in all its aspects, inter-alia, with reference to the guidelines adopted by the Council and other relevant material. After reference has been examined, the Secretary of the Council

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shall submit the case to the Chairman with his recommendation for obtaining the orders of the Chairman as to whether the issue or issues raised therein should be included in the Agenda for the meeting of the Council.

It shall be open to the Secretariat to take up any proposal relating to a matter of general interest and submit the same to the Chairman, for his orders as to its inclusion in the agenda.

The meetings of the Council shall be held in Delhi or any other convenient place determined by the Chairman. Ten members including the Chairman shall form the quorum for a meeting of the Council.

The Secretary shall evolve a system of monitoring the action taken on the recommendations of the Council by the Central Government, the Government of any State or the Union territory concerned. He shall, at appropriate stages, cause information in this regard to be made available to the Council.

The meetings of the Council are held in camera. Therefore, the details of the agenda items and proceedings of the meetings cannot be shared in the public domain.

Meetings

The Inter-State Council has met for only ten times. The meetings of the Council are held in camera and therefore the details of the agenda items and the proceedings of the meetings cannot be shared in the public domain.

The **First Meeting** of the Inter-State Council was held in October 1990 to discuss the following agenda items:

1. Report of the Sarkaria Commission on Centre–State Relations
2. Levy of tax on inter-state consignment of goods
3. Transfer of additional excise duties from man-made fabrics to the textile fibres/ yarn stage
4. Setting up of special courts for speedy trial of economic offences and offences under the Narcotic Drugs and Psychotropic Substances Act.

The **Second Meeting** of the Council held on 15th October, 1996 discussed the following agenda items:

1. Consideration of 179 recommendations of Sarkaria Commission on which there was a consensus in the Sub-committee of the Inter-State Council.
2. Methodology for examination of 44 recommendations of Sarkaria Commission on Centre–State financial relations, 11 recommendations on which there was no consensus in the Sub-committee and one recommendation relating to Centre–State relations in the sphere of education.
3. Methodology for examination of the recommendations of Sarkaria Commission relating to emergency provisions including Article 356.
4. Appointment of High-Level Committee.

The **Third Meeting** of the Council held on 17th July, 1997 discussed the following agenda items:

1. Action taken on recommendations adopted at the Second meeting of the Inter-State Council held on 15.10.96.
2. Alternative Scheme of Devolution of Share in Central Taxes to States
3. Amendments to Article 356
4. Chapter X of Sarkaria Commission on Centre-State Financial Relations

The **Fourth Meeting** of the Inter-State Council held on 28th November, 1997 discussed the following agenda items:

1. Chapter X of Sarkaria Commission Report on 'Centre-State Financial Relations'
2. Chapter IV of Sarkaria Commission Report on 'Role of Governor'
3. Chapter XVII of Sarkaria Commission Report on 'Inter-State River Water Disputes'
4. Chapter XI of Sarkaria Commission Report on 'Economic & Social Planning'
5. Chapter XV of Sarkaria Commission Report on 'Forests'
6. Action taken on decisions taken in the Third meeting of the Inter-State Council held on 17th July, 1997.

The **Fifth Meeting** of the Inter-State Council held on 22nd January 1999 discussed the following agenda items:

1. Emergency Provisions (Articles 355 and 356 of the Constitution of India
2. Guidelines for Conduct of Business of the Inter-State Council
3. Economic & Social Planning
4. Implementation Report on the recommendations endorsed by the Inter-State Council

The **Sixth Meeting** of the Inter-State Council held on 20th May, 2000 discussed the following agenda items:

1. Chapter III of Sarkaria Commission Report on 'Administrative Relations'
2. Chapter V of Sarkaria Commission Report on 'Reservation of Bills'
3. Chapter X of Sarkaria Commission Report on 'Financial Relations'
4. Chapter XII of Sarkaria Commission Report on 'Industries'
5. Chapter XIV of Sarkaria Commission Report on 'Agriculture'
6. Chapter XVI of Sarkaria Commission Report on 'Food and Civil Supplies'
7. Chapter XVIII of Sarkaria Commission Report on 'Trade, Commerce and Intercourse within the Territory of India'
8. Action Taken Report on the issues decided and raised/discussed in the Fifth meeting of the Inter-State Council held on the 22nd January, 1999
9. Implementation Report on the decisions taken by Inter-State Council on the recommendations of the Sarkaria Commission
10. Removal of Restrictions on Movement of Essential Commodities
11. Post-retirement benefits to Governors

The **Seventh Meeting** of the Inter-State Council held on 16th November, 2001 discussed the following agenda items:

1. Chapter II of Sarkaria Commission Report on 'Legislative Relations'
2. Chapter IV of Sarkaria Commission Report on 'Role of the Governor'

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3. Chapter VIII of Sarkaria Commission Report on 'All India Services'
4. Chapter IX of Sarkaria Commission Report on 'Inter Governmental Council'
5. Chapter XIII of Sarkaria Commission Report on 'Mines & Minerals'
6. Chapter XIX of Sarkaria Commission Report on 'Mass Media'
7. Chapter XX of Sarkaria Commission Report on 'Miscellaneous matters' Language, UTs and High Court Judges'
8. Implementation Report on the decisions taken by Inter-State Council in its earlier meetings

The **Eighth Meeting** of the Inter-State Council held on 27th and 28th August, 2003 discussed the following agenda items:

1. Administrative Relations
2. Emergency Provisions
3. Deployment of Union Armed Forces
4. Contract Labour and Contract Appointments
5. Implementation Report on the decisions taken by Inter-State Council on the recommendations of Sarkaria Commission
6. Good Governance - An Action Plan

The **Ninth Meeting** of the Inter-State Council held on 28th June, 2005 discussed the following agenda items:

1. Blue Print of Action Plan on Good Governance
2. Disaster Management - Preparedness of States to Cope With Disaster
3. Implementation Report on the decisions taken by Inter-State Council on the recommendations of Sarkaria Commission

The **Tenth Meeting** of the Inter-State Council held on 9th December, 2006 discussed the following agenda items:

1. Atrocities on Scheduled Castes and Scheduled Tribes and status of implementation of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act, 1989.

The Council-Secretariat closely monitors the implementation of the recommendations of the Council with the concerned. In the ten meetings of the Inter-State Council held so far, the Council has taken final view on all the 247 recommendations made by Sarkaria Commission on center-state relations. Out of these 247 recommendations, 65 recommendations have not been accepted by the Council, 179 recommendations have been implemented and 3 recommendations are at various stages of implementation.

Check Your Progress

4. Article 263 of the Constitution of India provides for the establishment of an _____.
5. The Inter-State Council is a permanent constitutional body for coordination between the States of the Union. (True/False)

ACTIVITY

Collect newspaper clippings of events, that you feel, have threatened the national integration of India.

DID YOU KNOW

India's model of Centre–State relations is asymmetric. Different states have different relationships with the Constitution and the Centre. But asymmetric federalism works. So overall it is a positive model. The problem is it leads to policy paralysis, which can only be handled by effective linkage mechanisms. What needs to be done:

- Centre should allocate more revenue to the states.
- Innovations at the state level should be shared among others to aid development.
- Centre-state institutions like National Development Council should be given more enforcement powers.

3.4 SUMMARY

In this unit, you have learnt that:

- Though India is a federation, the word 'federal' does not appear in its Constitution. The Indian Constitution describes India to be a 'Union of States'. According to Birch, 'A federal system of government is one in which there is a division of powers between one general and several regional authorities, each of which, in its own sphere, is to coordinate with the others, and each of which acts directly on the people through its own administrative agencies'.
- A study of the Centre–state relations in the Indian Constitution shows that the Constitution-makers gave more powers to the Centre as compared to the state. The logic behind this was that a more potent federalism (i.e., more powerful states) would have weakened the feelings of national unity.
- Articles 245–254 deal with the distribution of legislative powers between the Union and the states. Articles 245–246 provide that the Union Parliament shall have exclusive jurisdiction to make laws for the whole or any part of the territory of India, with regard to all matters included in the Union List. The subjects in the Union List are of national importance and include among its ninety-seven items—defence, foreign affairs, currency.
- In the field of administration, the Centre has still more powers than it possesses in the field of legislation. Normally, the administrative powers of the Centre correspond to the matters over which it has power to make law. This is provided for under the Articles 73 and 162.
- The emphasis in the Constitution is on administrative cooperation and hence provisions are made for it.
- The financial relations between the Centre and the states are regulated according to the provisions of Part XII of the Constitution. The Union and the State Lists also refer to the financial jurisdiction of the Centre and the state.The financial relations are, however, not a matter of concurrent jurisdiction.

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- The major conflict areas between the Union and the states can be broadly classified into three categories of issues, though no rigid compartmentalization is possible, viz. 1. Political dimension 2. Administrative dimension 3. Economic and financial dimension
- Article 263 of the Constitution of India provides for the establishment of an Inter-State Council. This is the only article of the sub-chapter 'Co-ordination between States' of Chapter II -Administrative Relations of Part XI of the Constitution - Relations between the Union and the States.

3.5 KEY TERMS

- **Autonomy:** The right or condition of self-government.
- **Bureaucracy:** A system of government in which most of the important decisions are made by state officials rather than by elected representatives.
- **Dispute:** A disagreement.

3.6 ANSWERS TO 'CHECK YOUR PROGRESS'

1. Supreme Court of India
2. Centre, states
3. A Consolidated Fund contains all revenue receipts, loans raised and money received in repayment of loans made by the government.
4. Inter-State Council
5. False

3.7 QUESTIONS AND EXERCISES

Short-Answer Questions

1. What are the political dimensions of the Centre–state frictions?
2. Write a short note on the financial relations between the Centre and the states.
3. What is the National Development Council (NDC) associated with?
4. Write a note on Article 263 of the Indian Constitution.

Long-Answer Questions

1. Discuss the Centre-state relations from the legislative perspective.
2. Examine the administrative relations between the Centre and state governments.
3. Draw a distinction between the financial powers of the Centre and states.
4. Describe the composition and functions of the Inter-State Council.
5. Explain the procedure to be observed by the Inter-State Council to conduct its business.

3.8 FURTHER READING

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UNIT 4 POSITION OF THE EXECUTIVES

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Structure

4.0 Introduction
4.1 Unit Objectives
4.2 Union Executive
4.3 State Executive
4.4 Summary
4.5 Key Terms
4.6 Answers to 'Check Your Progress'
4.7 Questions and Exercises
4.8 Further Reading

4.0 INTRODUCTION

In this unit, you will learn about the position of the executive branch of the Government of India, which comprises the Union executive and the state executive. The Union executive consists of the President, the Vice-President, and the Council of Ministers with the Prime Minister as the head to aid and advice the President. The President is elected by members of an electoral college consisting of elected members of both Houses of Parliament and Legislative Assemblies of the states in accordance with the system of proportional representation, by means of single transferable vote. Executive power of the Union is vested in the President, and is exercised by him either directly or through officers subordinate to him in accordance with the Constitution. The Vice-President is elected by members of an electoral college consisting of members of both Houses of Parliament in accordance with the system of proportional representation by means of single transferable vote. There is a Council of Ministers headed by the Prime Minister to aid and advise the President in exercise of his functions. The Prime Minister is appointed by the President, who also appoints other ministers on the advice of Prime Minister. The Council is collectively responsible to the Lok Sabha. It is the duty of the Prime Minister to communicate to the President all decisions of Council of Ministers relating to administration of affairs of the Union and proposals for legislation and information relating to them.

In India, every State has a government to run its own administration. The States have their own executive. The state executive consists of the Governor and the Council of Ministers headed by the Chief Minister. The Constitution provides for the post of the Governor as the Head of a State in India. He is appointed by the President of India. He is both the constitutional Head of a State and an agent of the Central Government in a State. The Governor is appointed for a term of five years. But before the expiry of his full term, the President can dismiss him from office. The Governor may also resign on his own. His term of office may be extended and he may be transferred to another to another State. However, the State Government cannot remove the Governor from his post. To be the Governor, a person must be a citizen of India and should complete 35 years of age. And he cannot be a member of the Parliament or the State legislature. He should not hold any office of profit. The Governor appoints the State Council of Ministers. He appoints the leader of the majority party in the Legislative Assembly as the Chief Minister. On the advice of the Chief Minister, he appoints the other Ministers of the Council of Ministers.

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4.1 UNIT OBJECTIVES

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

- Discuss the powers and functions of the Union Executive
- Describe the powers and functions of the State Executive

4.2 UNION EXECUTIVE

Under the Constitution of India, the office of the President of India is virtually analogous to that of the British monarchy in keeping with the spirit of the parliamentary executive. Being the ceremonial head of state, the office of the President is an exalted one, with enormous prestige, authority, grace, dignity, respect and adoration, but very less activism. The executive power of the union is based on the assumption of the President being a rubber stamp of the government in order to authenticate the decisions made by the council of ministers, barring a few cases ordained by circumstances. The President and the Vice-President are the formal executive heads of the Union, while the actual executive is the Union Council of Ministers, with Prime Minister as its Chairman.

The Constitution of India provides for various conditions of his office. However, any Indian with thirty-five years of age, eligible to be elected to the Lok Sabha, is entitled to contest for the office of the President; in reality, only persons with either exceptional qualities and stature or having the blessings of the leader of majority party in parliament have been elected to the President's office. The elections to the office of the President are indirectly held through an electoral college consisting of the elected members of both the houses of parliament and the elected members of the state legislature assemblies. The President is elected for a term of five years with an entitlement for re-election. However, with the exception of Dr Rajendra Prasad, no President has been re-elected to office. The President may be removed from office by the process of impeachment, which is a cumbersome one, on the charges of violation of the constitution. Though the various aspects of the office of the President have contributed to his figurehead and ceremonial position, the constitution has also ensured him a stable tenure so that he can function without fear or favour in the exceptional cases when he may be required to take a position that is unpleasant to the party in power.

Executive Powers

Being the chief executive of the Indian union, the executive powers of the central government have been vested in the President, to be exercised by him either directly or through officers subordinate to him, in accordance with the Constitution (Article 53). His position is such that every significant institution and functionary is either directly or indirectly connected to him.

The Executive powers of the President are explained as follows:

- The President is invested with powers of making and unmaking executive appointments. In the first place, he appoints the Prime Minister and on the latter's advice, the other members of the Union Council of Ministers, to aid and advise him in the exercise of his functions. The President is also authorized to receive and accept their resignations and also to dismiss then individually or collectively as they all hold office during his pleasure.
- He/she further appoints the Attorney-General of India. He can appoint any person as the Attorney-General who is qualified to be appointed as a judge of the Supreme Court.
- He/she has the authority to appoint the Comptroller and Auditor-General of India, provided the candidate to be appointed is qualified to be a judge of the Supreme Court.
- She/he appoints the Governors of states. These appointments are done in consultation with the Prime Minister.
- She/he alone can receive the Governor's resignation or dismiss him, as the latter holds his office during the pleasure of the President.
- The President also appoints the administrators of Union Territories and determines the designations to be held by them. They are variously known as Lt. Governors, chief-commissioners or administrators.
- She/he is competent to appoint an inter-state council to exercise the following functions: (a) advising upon the disputes between the states; (b) investigate and discuss matters of common interest between the Union and the state or amongst the states themselves.
- The President appoints chairmen and members of the Union Public Service Commission and the Joint Public Service Commissions.
- He nominates the Chief Election Commissioner and the Deputy Chief Election Commissioners.
- He chooses the commissioner to report to him on the administration of the 'scheduled areas' and the welfare of scheduled tribes. He also appoints another commissioner to investigate the conditions of the backward classes in the states.
- He decides on an Official Language Commission to recommend to him the ways through which Hindi can be progressively used in place of English for the official purposes of the Union. He also appoints a special officer for all matters relating to the safeguards provided for linguistic minorities under the Constitution.
- The President has also been empowered to entrust to the states, or to its officer with the exercise of executive power of the Union, provided that the state or the officers concerned, consent to do so.
- He/she has the power to administer Union Territories either directly or through officers or administrators of his choice. The executive power or the Union with respect to the Union Territories extends to all subjects.
- The President has the power to receive reports of the Comptroller and Auditor-General of India, Union Public Service Commission, Election Commissioners, the Official Language Commission, commissioners for scheduled areas and backward classes, and the special officers for scheduled castes and tribes, and for the linguistic minorities.

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Legislative Powers

The legislative powers of the President are discussed as follows:

- The President is an integral part of the parliament in as much as the Union Parliament, which consists of the President and two Houses known respectively as the Rajya Sabha and the Lok Sabha. So, a bill before becoming an Act must not only be approved by the two houses of Parliament but must also be assented to by the President.
- The President has the power to nominate a maximum of twelve members to the Rajya Sabha on ground that they possess special knowledge or practical experience in the fields of art, science, literature and social service. Article 331 empowers him to nominate not more than two members belonging to the Anglo-Indian community to Lok Sabha. The President appoints the acting Speaker of the Lok Sabha in case both, the Speaker and Deputy Speaker are not available. Similarly, he appoints the acting-Chairman of the Rajya Sabha in case both the Chairman and Deputy Chairman are not available.
- The President administers the oath of office to the members of both the houses of Parliament.
- He/she decides the final authority, after consultations with the Election Commission, as to whether any Member of Parliament (MP) has become ineligible to hold his office as an MP.
- The President has the power to specify the period within which a person who has been elected a member both to parliament and to a state legislature must resign from either of his seats.
- He or she has the power to summon, from time to time, each House of the Parliament in such a manner that six months do not intervene in between the sessions. He or she has the power to prorogue either or both the houses. He is also empowered to summon the joint sitting of the two Houses of parliament in case of deadlocks over non-money bills passed by one House and either rejected or delayed for more than 6 months by the other.
- The President inaugurates the first session of parliament after each general election to the Lok Sabha, and delivers his inaugural address to the two Houses sitting together in a joint session.
- Article 123 authorizes the President to promulgate ordinances during the recess of parliament.
- All bills passed by the Parliament are sent to him for his consideration. He may assent to the bill. And only upon his assent, the bill becomes a law. If, however, he wants the Parliament to modify or amend the bill, he is free to return it for their reconsideration, with or without his recommendations.
- He also has the power to recommend to the parliament to formulate laws to form new states or to alter areas, boundaries, or names of the existing states.
- The President has been authorized by Article 370 to extend the various provisions of the Constitution to the states of Jammu and Kashmir, with the concurrence of its government.
- He/she has also been authorized to consider and approve state laws and ordinances which under various provisions of this Constitution are reserved by state Governors for his assent. Finally, he has the power to make regulations for the peace, progress, and good government of all the Union Territories, except for Chandigarh and Delhi.

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Judicial Powers

Following are the judicial powers of the president:

- The President appoints the Chief Justice and other judges of the Supreme Court of India in consultation with the former. He or she may dismiss the judges if and only if the two Houses of Parliament pass resolutions to that effect by two-thirds majority of the members present.
- He appoints the judges of the state high courts, in consultation with the Chief Justice of India and the Governor of the concerned state.
- The President can transfer judges from one high court to another in consultation with the Chief Justice of India.
- Article 143 empowers the President to consult the Supreme Court.
- The President also exercises the power of pardon. He may grant pardon, suspend or commute the sentence of any person.
- The President has the right to be represented and appear at the investigation of charges against him by either house of Parliament on a resolution of impeachment. The President is, however, not answerable to any court for the exercise or performance of powers and duties of office or for any act done by him in the exercise of his official duties. Neither can any criminal proceedings be instituted against him in any court, nor can any court order his arrest or imprisonment during his term of office. Civil suits can be instituted against him by giving him a written notice of at least two months.

Financial Powers

Following are the financial powers of the President of India:

- The President has control over the finance of the nation. It is President who causes the national budget to be laid before each House of Parliament.
- He or she has been authorized by Article 280 to appoint a Finance Commission consisting of a chairman and other members every fifth year, or earlier if necessary.
- The President has also been given control over the Contingency Fund of India. He can advance money from this fund to the Government of India for meeting unexpected expenditures.
- Certain money bills (Article 110) and bills affecting the taxation in which states are interested (Article 274) are to be reserved by the state Governors for the approval by the President.

Military Powers

The major military powers of the President are:

- Article 53 makes the President the Supreme Commander of the defence forces of the Union. The exercise of the military power by him is not discretionary. It

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is regulated according to the law passed by Parliament. In the exercise of his military powers, the President nominates and appoints the Chiefs of the Staff of Army, Navy and Air Force. He is the Chairman of the Defence Council which, besides him, consists of the Prime Minister, the Defence Minister, and the three Chiefs of Staff.

- With the concurrence of the Parliament, the President can declare war and conclude treaties of peace with foreign states.

Diplomatic Powers

The President is invested with the following diplomatic powers.

- The President represents India in international affairs. He appoints and recalls India's Ambassadors, High Commissioners and other diplomatic envoys to the foreign states, the United Nations and its specialist agencies. He receives the credentials of the Ambassadors, High Commissioners, and other diplomatic envoys accredited to India by the United Nations and the foreign States.
- All international treatise and agreements to which India is a party are concluded on his behalf and are finally signed by him.

Emergency Powers

The emergency powers of the President include the following:

- Part XVIII of the Constitution is entitled 'Emergency Provisions'. It deals with the circumstances in which a state of emergency can be proclaimed by the President and the steps he may take to cope with it. The purpose is to restore the normal functions of the government at the earliest opportunity. The framers of the Constitution have provided for three types of emergencies, namely:
  (a) Emergency caused by war, external aggression or internal revolt;
  (b) Emergency caused by the breakdown of the Constitutional machinery in the states; and
  (c) Emergency caused by the threat to financial stability or credit of India, or of any part of the territory thereof.

Position of the President

The President of India is vested with the role 'to advise, to encourage and to warn', which lends the office of the President much authority and influence. In spite of the finality of the issue that he or she is merely a figurehead without any real powers, circumstantial dynamics may probably afford him few, if not many occasions to use his discretion in making decisions. Three such circumstances are:

- First, when after a fresh general election, no party is able to command a majority in the Lok Sabha; the President is inadvertently put in a situation to apply his wisdom, without any aid and advice from a Council of Ministers.
- Second, if an incumbent government loses its majority in the Lok Sabha and the Council of Ministers recommends the dissolution of the House, the President might be in a position to use his mind to find out whether a reasonably stable government can be formed and the country saved from another general election, thereby acquiring a discretionary power to accept or reject the recommendation of the Council of Ministers.

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- Last, due to the lack of time-frame, the President must assent to a bill, he may, in his discretion, use the pocket veto to kill a bill.

Does the President have a power to dismiss the Prime Minister on the charges of corruption? These issues have arisen out of the functioning of the Indian Constitution during the last 60 years in the circumstances which either the fathers of the Constitution could not visualize or ignored to provide for the evolution of suitable conventions on the issue. The solution lies not only in evolving healthy conventions on many of the contentions but also in impressing upon the incumbents of the two August constitutional offices, through the people in general and the legal fraternity in particular, to develop and sustain cordial ties between them, for, as Paul R. Brass suggests, the President can wisely function effectively only if he has the confidence of the Prime Minister and not vice versa as the President is by convention reduced to a mere figurehead while the ministry is the real executive.

Vice President of India

The Constitution of India specifies that there shall be a Vice President who shall also be the Ex-officio Chairman of the Council of State and that he shall not hold any other office of profit. However, the Constitution also states that whenever there occurs any vacancy in the office of the President by reason of his death, resignation, removal or otherwise, the Vice President shall act as President until a new President is elected. The Vice President may also be called upon to discharge the functions of the President when he, owing to absence, illness or any other cause, is unable to perform the functions of his office. The Vice President, when he acts as President or discharges his functions, shall be entitled to such emoluments, allowances and privileges as may be determined by law. But during any period when the Vice President acts as President or discharges the function of the President he shall not perform the duties of the office of the Chairman of the Council of States, nor shall he be entitled to any salary or allowance payable to the Chairman of the Council of States.

The method of the election of the Vice President is different from that of the President. He is elected by the members of both the Houses of Parliament, assembled at a joint meeting. The election is done by the method of proportional representation with single transferable vote. The normal tenure of office of the Vice President is five years from the date he enters upon his office. He may, however, resign before the expiry of the term by writing to the President. He may also be removed from the office by a resolution of the House and agreed to, by the House of the People. There is no provision for the impeachment of the Vice President. The Vice President continues to hold office even though his term has expired until his successor enters upon his office.

Constitutional Provisions and Framework: Prime Minister and the Council of Ministers

The Constitution declares that there should be the Prime Minister and a council of ministers to assist the President in carrying out the business of running the country. Let us discuss these offices.

Prime Minister

In the parliamentary system of the Government in India, the Prime Minister (PM) is the real executive in contrast to the ceremonial position of the President of India. The

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office of the PM is a prominent one as it has attained immense power and authority in the Indian political system. But the executive system is not a one-man show. Emphasizing the collective nature of responsibility, true to the essence of a parliamentary democracy, the Constitution of India has also accorded a position of prime importance to the Council of Ministers under the leadership of the PM. The Indian system is symbolic in ensuring a leading position to the PM with the collective responsibility of the cabinet. The PM is the pivot, the guiding star that perceives and responds to the situation much ahead of others. Under Article 75 of the Indian Constitution, the appointment of the PM is ordained by the President who conventionally invites the leader of the majority party in the Lok Sabha to form the government. However, the President may afford his discretion if the multi-party system fails to throw an obvious choice.

After assuming office at the prestigious South Block, the ministers are appointed on his choice. It must be noted here that the PM has a prerogative to be twisted at times to suit to the compulsions of running a coalition government.

A convention has always been followed in India that the PM needs to be a member of the Lok Sabha. However, Dr Manmohan Singh remains an exception, when as a member of the Rajya Sabha, he was elected as the Prime Minister in the United Progressive Alliance (UPA) government. Noteworthy is the fact that the President is free to appoint any person as PM if he is of the opinion that the person to be appointed is likely to enjoy the confidence of the Lok Sabha. He may appoint the PM from amongst the members of either House of the Parliament or even from amongst the outsiders. In case an outsider is appointed as the PM or as a minister, he must become a member of either House of Parliament within six months of his appointment. The continuation of the PM in office depends upon his majority support in the Lok Sabha, though the Constitution provides that the Ministers hold office during the pleasure of the President. However, the pleasure of the President is, in fact, the pleasure of the majority support of the Lok Sabha, to whom the government is collectively responsible and whose vote of no-confidence leads to the withdrawal of the pleasure of the President, resulting in the ouster of the government.

Role, Power and Functions of the Prime Minister

The Constitution of India vests executive powers of the Union in the hands of the Prime Minister and his team. But the propensity of the post and the role of the PM in the Indian polity is much more widespread and demanding, than what has been defined in the Constitution. The group is, at least, dominant, if not absolute. Not only this, assertive personalities at times have added more power to the position. Recall the days of the regime of Indian Gandhi and even her father Jawaharlal Nehru.

The PM's role spans many diverse areas. These include:

- The power to advise the President about the appointment of other ministers to constitute the Union Council of Ministers. He has a free choice in selecting his colleagues. The only thing which he has to keep in mind, while preparing the list of ministers, is that he has given representation to various groups in his party and that ministers are drawn from different states.
- The political life and death of ministers also depend upon the PM. He assigns to them various ministries and departments. He may change their portfolios or may even advise the President to dismiss them.

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- The PM influences to a great extent every other appointment made by the President. The President appoints Chief Justices and Judges of the Supreme Court and the High Courts, Comptroller and Auditor-General, Attorney General, Election Commissioners, Chiefs of Staff of Army, Navy and Air Force, State Governors, Ambassadors and High Commissioners and many other State officers. All these appointments are essentially the choice of the PM.
- The Parliament is summoned and prorogued by the President on the advice of the PM. The PM also advises the President about the dissolution of the Lok Sabha.
- The Prime Minister is the channel of communication between the President and the Council of Ministers.
- As Chairman of the Union Council of Ministers, the Prime Minister summons meetings of the Council of Ministers and presides over them.
- The Prime Minister, being the Chairman of the Council of Ministers, not only supervises the departments under his personal charge but also coordinates and supervises the work of all other departments and ministers.
- The Council of Ministers is collectively responsible to the Lok Sabha. This they can do only if their leader shields and defends them and their actions both in and out of Parliament. They must speak with one voice.
- Important policy matters are initiated by the PM in both the Houses of Parliament. It is he who gives his opening speech on important policy matters and informs the Houses of the purpose the government wants to achieve.
- It has been the prerogative of the PM to take a direct and keen interest in India's international relations.
- The PM, being the leader of the majority party, has to take the whole party into confidence, so that he continues to command the confidence and support of his party.

The office of the PM in the Indian political system has exhibited varied leadership styles and performances due to various factors whether personal or circumstantial. From Nehru to Manmohan Singh, there have been distinct modes of perceptions and achievement orientations. However, in the era of coalition governments, the role and outlook of the PMs have become more cautions, cooperative, controlled but constrained in order to fix support of the participating parties of the government. The cabinet, at times, may also become problematic that would compel the PM to take a back seat. Thereby, the question of PM's autonomy becomes really crucial in such situations. For the PM it is not just an issue of the survival of his party, but also of the people and the nation.

Council of Ministers

The essence of the parliamentary form of government lies in having a collective body of executive in the form of the Council of Ministers, headed by the PM and bearing their collective responsibility to the Parliament. In fact, these small islands of power handle the complex responsibilities of the government efficiently and effectively. The speed and expertise that they offer to the PM are commendable. In India, the Council of Ministers consists of three types of ministers:

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- Cabinet ministers
- Ministers of states
- Deputy ministers

The ministers who hold the rank of the Cabinet ministers form the Cabinet. The Cabinet has gradually come to acquire a very powerful position with the responsibility of taking all important decisions. But with coalitions, the PM may create a coterie of three or four ministers to replace the cabinet; a new phenomenon called 'Inner Cabinet' or 'Kitchen Cabinet' comes into force. Sometimes, even cabinet committees and groups are created to smoothen the functioning of the government.

Functions

- The most important function of the Council of Ministers is the formulation of the executive policy in terms of which the administration of the country is to be carried out.
- The Council of Ministers, coordinates the policies, programmes and activities of various ministries and departments. It also supervises the work of various ministries through the Cabinet Secretariat.
- The Council of Ministers is called to make or approve nominations for various political, ambassadorial or judicial appointments.
- It approves the national awards, which the President confers for meritorious service in different fields of social activity.
- It examines the reports of various ministries and departments, commissions and committees before they are presented to the Parliament for consideration and approval.
- The Council of Ministers also determines legislative and financial policies.
- In the field of international relations also, the Council of Ministers plays an important role. It considers and approves the drafts of India's international treaties and agreements, the questions of ambassadorial appointments and those of the recognition of foreign states and foreign governments.

Council of Ministers and Parliament

The Constitution of India makes the Council of Ministers collectively responsible to the Lok Sabha. Accordingly, the Council of Ministers can remain in office till it has the confidence of Lok Sabha, or else it can be voted out, by a vote of no-confidence rejection of budgetary demands or defeat on any major matter. Clear majority of one political party and discipline ensures that the government shall always be able to exercise control over the Parliament. Thus, the Council of Ministers consisting of the top leadership of the party and assured support of the majority in the Parliament becomes the seat of authority and source of all decisions. The Cabinet has to work within the framework of public opinion, pressure of interest groups, limitations of party programme and promises, media coverage, pressures of opposition, nursing of majority in the House, and also the commitment to its own deeds, misdeeds, errors or omissions. As Subhash C. Kashyap points out that the Indian political system represents a real fusion of the highest executive and legislative authorities. The relationship between the Executive and the Parliament is the most intimate and ideally does not admit any antagonism or dichotomy. The two are not visualized as competing centres of power, but as inseparable partners or co-partners in the business of government and the service of people. Still there is a clear distinction between the functions of the Executive and the functions of the Parliament. The latter's duty is to legislate, advice, criticize and ventilate public grievances, whereas the former governs on behalf of the Parliament.

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Political Trends

Presidents have made a number of interferences in government and law-making processes, which have instituted and challenged some conventions concerning Presidential intervention. Some of the more notable are as follows:

1. In 1979, Prime Minister Charan Singh did not have a Parliamentary majority. He reacted to this by not advising the President to call the Parliament. Ever since, Presidents have been more hard-working in directing incoming Prime Ministers to summon the Parliament and prove their majority within deadlines (2–3 weeks). In the provisional period, the Prime Ministers are normally restrained from making policy resolutions.
2. The Constitution offers the President the power to return a bill unsigned; However, it limits the power to mail it back only once for review. If the Parliament mails back the bill with or without alterations, the President is duty bound to sign it. Ever since the nineties, Parliamentary elections have usually not led to a single party or group of parties having a distinctive majority. In such cases, Presidents have employed their judgment and directed Prime Ministerial candidates to ascertain their credentials before being invited to make the government. Characteristically, the candidates have been asked to produce letters from different party leaders, with the signatures of all the MPs who are pledging support to their entry to make the government. This is an addition to the condition that a Prime Minister proves that he or she has the support of the Lok Sabha (by a vote on the floor of the House) within weeks of being sworn in to office.
3. Since the Constitution does not specify any time limit in which the President is to proclaim his or her assent or refusal, the President could work out this veto by not taking any action for an indistinct time; but if the ministry has a powerful backing in Parliament, it would not be achievable for him or her to do so even though it can be done. President Giani Zail Singh used Pocket Veto in 1986 for the Postal Bill.
4. In the late nineties, President K. R. Narayanan came up with the siginificant practice of explaining to the nation (by means of Rashtrapati Bhavan communiqués) the thought that resulted in a variety of decisions he took while exercising his discretionary powers; this has resulted in honesty and transparency in the working of the President.
5. In mid-2006, President A.P.J. Abdul Kalam returned a contentious bill regarding enlarging the range of the offices of profit, which banned a person from being a Member of Parliament. The opposition comprising the National Democratic Alliance (NDA) supported the move. The United Progressive Alliance (UPA) decided to send the bill back to the President without any alterations, and after thirty days President Kalam gave the assent.

Check Your Progress

1. The _____ and _____ are formal executive heads of the union and the _____ is its chairman.
2. Mention one financial power of the President of India.
3. How are the Council of Ministers classified?

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4.3 STATE EXECUTIVE

In accordance with the federal characteristics, the Constitution of India envisages two tiers of government–one at the level of the Union and the other at the level of the states. Part IV of the Constitution of India lays down the structure of the state governments and stipulates a parliamentary form of government like that of the Centre.

In accordance with the parliamentary framework, like the Union government, the state governments also have two forms of Executive—the constitutional head and the real executive. The Governor is the constitutional head of the state and the Chief Minister is the real executive of the state.

The ambiguity about the dual role of the Governor, his powers and functions has provoked sharp debates and controversies both in terms of nature of the federation and Union–State relations.

Meaning of constitutional head and real executive

The Governor acts as the nominal head, whereas the real power lies in the hand of the Chief Ministers of the states and the Chief Minister's Council of Ministers. Though the Constitution has given many legislative, executive and judicial powers to the Governor of a state, the latter cannot exercise these powers independently; he/she always has to act on the advice of the Chief Minister's Council of Ministers. This is why the Governor is merely the constitutional head and the Council of Ministers headed by the Chief Minister is the real executive.

Office of the Governor

Appointment: According to Article 153 of the Constitution, each state in India has a Governor and the executive power of the state is vested in him. He is appointed by the President of India for a term of five years and holds office during the pleasure of the President (Article 156). This means that a Governor can be removed by the President at any time even before expiry of the term.

Regarding the appointment of the Governor, there have been two conventions in India:

(i) The Governor is appointed from outside the state concerned. This convention is there to ensure impartiality of the Governor in state politics. However, there have been instances when this convention was not followed.

(ii) The states are consulted by the Centre in the appointment of the Governor. However, this practice is also not always followed in every appointment.

A study of the persons appointed as Governors clearly reveals that a considerable number of retired politicians have been appointed as Governors. Besides, retired bureaucrats, judges and retired army officials have also been appointed as Governors. Thus, frequently, the Governors have been accused of playing in favour of the party-in-power at the Centre.

Qualification: The Constitution prescribes the following qualifications for a person to become a Governor:

(a) He must be a citizen of India

(b) He must have completed the age of thirty-five

(c) He should not be a Member of Parliament or State Legislature

(d) He shall not hold any office of profit

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Powers and Functions of the Governor

The powers and functions of the Governor can be categorized as follows:

(a) **Executive powers:** The Governor appoints the Chief Minister and his council of ministers. However, following the Parliamentary form of government norms, they are responsible to the State Assembly and remain in power till they enjoy the confidence of the State Assembly. The Governor also appoints the Advocate General and the members of the State Police Service Commission.

All the executive actions of the state are carried out in the name of the Governor. It is the duty of the Chief Minister to communicate to the Governor all the decisions of the council of ministers relating to the administration of the state and proposals for legislation.

(b) **Legislative powers:** The State Legislature consists of the Governor and the State Legislative Assembly. Thus, the Governor is an integral part of the legislature and enjoys a variety of powers. Governor may summon, address, prorogue and dissolve the legislature. When a bill is passed by the legislature, it has to be presented to the Governor and the Governor shall declare either that he assents to the bill or that he withholds assent or that he reserves the bill for the consideration of the President. Article 213 empowers the Governor to promulgate ordinances during the recess of the legislature. He also has the power of causing to be laid before the state legislature the annual financial statement and recommending money bills.

(c) **Judicial powers:** The Governor of a state has the power to grant pardon, reprieve, respite or remission of punishment or to suspend, remit or commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power of the state extends.

(d) **Discretionary powers:** Apart from the normal functions which the Governor exercises as a constitutional head, he exercises certain discretionary powers. Some of them have been expresedly conferred on him, while some others flow by necessary implication.

Article 163 (1) states the Governor should act according to the advice of the Cabinet except when he is required by the Constitution to act in his discretion. Article 163 (2) confers the Governor with the blanket discretion to decide when he is required to act in their discretion. The Governor's satisfaction, as well as certain responsibilities, therefore, becomes vulnerable to the discretionary power.

With regard to the discretionary power by implication, they are significant in two matters. One is with regard to the appointment of Chief Minister when neither a single party nor a combination of parties emerges from the election with a clear majority. Related to this is also the question of dismissal on the loss of majority support. The second matter is with regard to making a report to the President under Article 356 about his satisfaction that a situation has arisen in which the government of state cannot be carried on in accordance with the provisions of the Constitution, thereby recommending the imposition of the President's rule.

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The abovementioned powers were meant by the Constitution-makers to be used for extraordinary and emergency situations. But in practice, not only these but also some normal powers, like that of reservation of bills for the consideration of President, have been used in quite controversial manners which suggests partisan motives, thereby creating tensions between Union–state relations.

Position and Role of the Governor

From the above description, some very significant characteristics come into view about the office of the Governor, which have important bearings on state politics. To begin with, the Constitution intended that the Governor should be the instrument to maintain the fundamental equilibrium between the government and the people of the state, and to ensure that the mandates of the Constitution are respected in the State. That is, with regard to the office of the Governor, Article 159 says that the Governor shall, to the best of his ability, 'preserve, protect and defend the Constitution and the law' and will devote himself 'to the service and well-being of the people' of the state.

Thus, the Constitution of India envisages a dual role for the Governor of a state:

(i) As the Constitutional head of the state

(ii) As the agent of the Centre

Governor as the Head of the State

The Governor as the head of the state works under the parameters of parliamentary democracy. Thus, he acts as a nominal head and exercises his functions strictly according to the 'aid and advise' of the council of ministers. Though the administration is carried out in the name of the Governor, the real authority is exercised by the Chief Minister and his council of ministers, who are collectively responsible to the Legislative Assembly. After the fourth General Elections in 1967, the monopoly of political power by the Congress party was broken and the non-Congress governments were formed in seven states. This phenomenon continues even today where no one party is capable of forming governments in both the Union and in many of the States. This changed scenario redrafted and redefined the position and role of the Governor in state politics. The Governors became actively involved in state politics and invariably acted in the interests of the party-in-power at the Centre. They also used their discretionary powers for their party purposes, and thus made the office of the Governor highly controversial, with the result that there was a demand to abolish the office of the Governor.

Governor as an Agent of the Centre

According to K.M. Munshi, 'Governor is the watch-dog of Constitutional propriety and the link which binds the State to the Centre, thus securing the Constitutional unity of India'. The Governor performs the following functions as the agent of the Centre in the states:

(a) The Union government is responsible for good governance in all the states. In case of the constitutional breakdown of state machinery, the Governor may recommend President's rule or emergency in the state under Article 356.

(b) The Governor sends his report regarding the affairs of the state to the President, periodically.

(c) The Centre has the power to issue directives to the states and it is the duty of the Governor to see that such directives are followed by the state government.

(d) The Governor of a state can reserve a bill passed by the State Legislature for the consideration of the President. Moreover, certain types of bills must be reserved by the Governor for the President's consideration.

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Constitutional Provisions: Chief Minister and the Council of Ministers

Taking the analogy of the parliamentary system of governance at the state level, the Constitution provides for the office of the Chief Minister to be the real executive of the state. He symbolizes ruling power structure and wields more authority than anybody else in the state.

However, the philosophy underlying the creation of a democratic set-up in the state under the Indian Constitution appears to be guided by the compulsions of the unity and consistency in the governance of the country as a whole. It does not ensure to each state a fair degree of functional autonomy in the true spirit of the federal structure of the Indian polity. Consequently, the position of the Chief Minister is not of a democratic ruler with wide-ranging powers and functions. Rather, it appears to be that of a local ruler with many fetters put on his functional autonomy. These fetters are in the form of the vast discretionary powers afforded to the centrally nominated Governor, by using which he can impair the effectiveness of the Chief Minister as the real ruler of the state elected by the people.

Appointment of the Chief Minister

The Chief Minister is appointed by the Governor, the executive head of the state, who invites the leader of the majority party in the Legislative Assembly to form the government.

However, in practice, the appointment of the Chief Ministers in the states has become more of a game to be played by the Central government through the office of the Governor and other political manoeuvring than the simple constitutional proposition that the Chief Minister shall be appointed by state governments. This is more prominent in the states where none of the parties are able to secure a majority support in the Legislative Assembly. Such situations are exploited by the Centre in order to either keep the functioning of the state government in accordance with its needs and aspirations, or to destabilize the government to install a new puppet government in the state.

The Constitution mentions nothing about the qualification of the Chief Minister. Under the Constitution, all that is required is that such a person is a citizen of India and possesses such qualifications, as are required for becoming a member of the Legislative Assembly (MLA). Such a person could be a member of either house of the legislature or even an outsider. Although constitutionally, a non-legislator does not stand barred from becoming a minister or a Chief Minister, he must, however, become a member of the legislature within six months, failing which he is liable to forfeit his office.

What holds good in the appointment of the Chief Minister also holds true in regard to his removal from office. The Constitution provides that the Chief Minister holds office during the pleasure of the Governor. In practice, the pleasure of the Governor becomes the majority support in the Legislative Assembly under Article 164 (2) of the Constitution. However, what happens in practice is that the removal of the Chief Minister is rarely the decision of the Governor. Acting as an agent of the Centre, the Governor 'removes' the Chief Minister at the behest of the Central government.

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Consequently, Article 356 of the Constitution (President's rule in the states), the instrumentality through which the duly elected governments in the states are generally ousted, has become one of the most abhorred articles of the Constitution by the protagonists of the state autonomy in the country.

Powers and Functions of the Chief Minister

The Chief Minister, being the real executive head of the state, enjoys several powers and functions. They are:

1. He is the working head of the state government, and as such, he advises the Governor in matters relating to the selection of his ministers, change in their portfolios and their removal from his government.
2. He presides over the meetings of his council of ministers and sees to it that the principle of collective responsibility is maintained. He may, thus, advice a minister to resign from his post or may advice the Governor to dismiss a minister, in case he differs from the policy of the Cabinet.
3. He communicates to the Governor such information relating to the administration of the state of affairs and proposals of legislation as he may call for.
4. He furnishes to the Governor such information relating to the administration of the state.
5. He places a matter for the consideration of the council of ministers where the Governor requires him to have the decision of the government. He, thus, acts as the sole channel of communication between his ministers and the Governor.
6. Likewise, the Chief Minister is the sole channel of communication between his ministers and the legislature. All bills and resolutions that are moved in the legislature must have his prior approval. Criticism of his government is answered by him.
7. He may resign any time and then advise the Governor to summon such and such person for the installation of another ministry or to dissolve the House, and thereby place the state under President's rule.
8. Though in theory, all appointments are made by the Governor, in practice, the power of patronage vests with the Chief Minister. He is consulted about the appointment of judges of the state high court. No posting and transfer can take place in the state without his approval. He is consulted in the appointment of State Advocate General and the members of State Public Service Commission.

The Chief Minister and the Legislature

In a parliamentary form of government, the executive headed by Chief Minister, and the legislature are supposed to work in close cooperation with one another. He defines government policies and programmes in the House and faces the opposition. For all practical purposes, the agenda of the House is decided by him. But with respect to the legislature, his most important power is that of the dissolution of the House. At any time, the Chief Minister can advise the Governor that the Vidhan Sabha be dissolved, though the latter is not bound by that. But usually, such an advice is accepted.

The Chief Minister and the Governor

The founding fathers of the Constitution had laid great stress on the need for a harmonious relationship between the Governor and his council of ministers headed

by the Chief Minister. This was the idea behind abandoning the proposal for elected Governors and providing for their nomination by the President.

Thus, the Chief Minister has the obligation to facilitate the exercise of the Governor's right to be consulted for necessary information about the affairs of the administration of the state. The Governor cannot effectively discharge his multi-faceted role as a friend, philosopher and guide to the Council of ministers, as a sentinel of the Constitution and as a live link with the Union.

However, there have been times when the Governor and the Chief Minister had tensions between them. A few years ago, when Digvijay Singh was the Chief Minister of Madhya Pradesh, Bhai Mahavir was the Governor of the State. The state witnessed cold war between the Governor and the Chief Minister. The Governor used to directly summon senior government officials to the Raj Bhawan and issued verbal orders. Digvijay Singh viewed this as an affront to his authority and believed that requests from the Governor should be routed through the state government.

Position of the Chief Minister

The position of a Chief Minister in the state is akin to that of the Prime Minister at the central level, at least in terms of the broad scheme of parliamentary system of governance if not in terms of the substantive holding of the power in ultimate analysis.

To begin with, the Chief Minister has a relatively free hand in deciding the shape and size of his government. However, if the Chief Minister belongs to a national party or heads a coalition, his hands become tied even in using his prerogative of selecting his own ministers and allocating portfolios to them as he has to either consult the party high command or take the prior approval of the coalition partners before announcing the names and ministries of various ministers. Chief ministers having a regional base and comfortable majority in the State Legislatures are in a better and safer position. Still all chief ministers have to ensure that all social segments of society are represented in the ministries; also, there has to be regionally balanced distribution of the ministries, in addition to having capable people running the vital departments like Home, Finance, Education and Defense.

The position of the Chief Minister is pivotal as he has unhindered power to reshuffle his council of ministers.

The relationship of the Chief Minister with the MLAs of the Legislative Assembly depends on two factors: the standing of the Chief Minister in front of the MLAs and the attitude of the former towards the latter. If the Chief Minister does not command a comfortable majority in the Assembly, his position becomes quite precarious in front of the MLAs and he is in a vulnerable position. In substance, a democratic rather than an authoritarian attitude of the Chief Minister towards the MLAs and the legislature itself needs to be the norm of the effective and all-embracing functioning of the Chief Minister.

Since the Prime Minister is the real custodian of the executive power of the Central Government, a regular and harmonious contact between him and the Chief Minister goes a long way in ensuring the trouble-free conduct of relations between the state and Central governments.

The fundamental source of the Chief Minister's prime position in the planning process emanates from his association with the Planning Commission and the National Development Council (NDC), the apex bodies of the planning system in India. Strictly,

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though the Chief Ministers are not a part of the Planning Commission, their participation in the formulation of the Five Year Plans is ensured through the mechanism of the NDC. The NDC consists of the Prime Minister, some key Union ministers and chief ministers of all states, and executive heads of the Union Territories. The chief ministers also remain in touch with the Planning Commission in order to ensure smooth flow of funds for the implementation of several centrally sponsored developmental schemes in the state.

From the above discussion, it is clear that the Chief Minister of a state is vested with many powers, but his real position depends on his personality, political experience, administrative capability, position in the party organization at the state level, backing and equation with the Central leadership, and when he enjoys the support of a single majority party or of a coalition government.

Council of Ministers

Following the model of the parliamentary government, the real government of the state consists of the council of ministers headed by the Chief Minister. In theory, the council of ministers and the Chief Minister exist to aid and advise the Governor. However, in practice, the Governor has to act on the advice of the council of ministers.

The council of ministers is the chief executive body. The quality of the state administration is largely conditioned by the leadership and the direction is provided by the ministers. In short, extraordinary political power is vested in this small group of persons.

Organization

The Governor appoints the Chief Minister and on the advice of the Chief Minister, he appoints the other ministers. However, as mentioned previously, the Chief Minister is not as free to select his team as the convention would have us believe.

The size of the state council of ministers was not previously specified in the Constitution. Thus, the chief ministers were prone to have an unwieldy council of ministers in order to satisfy all the factions contending for power in the state government. But with the passage of the Ninety-First Constitution Amendment Act, 2003, the size of the ministries is limited to only 15 per cent of the total membership of the State Legislative Assembly. Remarkable improvement has been brought about with regard to the frivolous elements finding place among the council of ministers.

Working of the Council of Ministers

The council of ministers is collectively responsible to the Legislative Assembly. This means that every member of the council of ministers accepts responsibility for every decision of the Cabinet. If a minister is unable to accept responsibility, the only alternative left for him is to resign, as there is collective responsibility.

The minister is the political head of the department, whose administrative head is a secretary, who is a career civil servant. Ordinarily, matters pertaining to a department are dealt with by the minister-in-charge. But all important cases are required to be brought before the Cabinet for direct discussion.

Political Trends

Since 1967, the deterioration in political standards and practices in the wake of multi-party ministries, inter-party rivalries and political defections has made the Governor 'a political head' rather than a 'Constitutional Guardian'.

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One of the reasons for the attack or the criticism of the Governor's role in state politics is the way the Governors have been appointed in the past. In January 1990, eighteen Governors were asked to resign by the President to facilitate a reshuffle by the Union government led by V.P. Singh, which in turn, made the office of the Governor at the mercy of the Centre. As mentioned earlier, the Centre has generally followed the policy of appointing people as Governors who have either failed to win any seat in the elections, or they are ex-bureaucrats or ex-judges (as a reward to their loyalty). Thus, such Governors owe their loyalty more towards the Centre and less towards the state. Moreover, during their appointment, the Centre sometimes does not consult the Chief Minister and his council of ministers. Thus, the state chief ministers complain that the selection of the Governors is imposed on them.

The Governor's role has been controversial in various respects:

(i) **Appointing a Chief Minister in case no party gets a clear majority:** Though the appointment of the Chief Minister, in general, is decided by the party in majority in the Assembly, in certain cases it had become controversial. In March 1982, Haryana Governor, G.D. Tapase, asked Devi Lal, leader of the BJP-Lok Dal, to present before him all the legislators who stood for the alliance. However, the Governor invited Bhajan Lal, leader of the Congress (I) Legislature Party, to form the government. Although Bhajan Lal was sworn in as the Chief Minister of Haryana, he did not claim a majority support in the House at the time of swearing-in, and was therefore given a month's time to prove majority in the assembly, which he did prove. Appointments of Jayalalitha as the Chief Minister of Tamil Nadu by Fatima Bibi in 2001 (despite the former's involvement in various corruption cases) and Nitish Kumar as the Chief Minister of Bihar by Sunder Singh Bhandari in 2000 are some such examples.

In the Assembly election held in Bihar in February 2000, the Rashtriya Janata Dal (RJD), headed by former Chief Minister Laloo Prasad Yadav, emerged as the single largest party, with 123 seats. However, the elections led to a hung Assembly. Being the largest party, it was widely expected that RJD would be invited first to form the government. Curiously, and without proffering any reasons for his decision, the Governor, Sunder Singh Bhandari, invited Nitish Kumar, who represented NDA, to form a government and prove majority in the assembly within ten days. The Governor's action came in for strident criticism because it was very clear that the alliance did not have the required numbers in the Assembly. It was only at the behest of NDA (which was in power at the Centre), the Governor acted as the agent of the Centre.

(ii) **Deciding the fate of Chief Minister in case of intra-party defections:** On many occasions, governors have dismissed chief ministers when the State Legislature should have decided the matter. Many a times, the state governments were dismissed when several intra-party defections had taken place and the ruling party was prepared to prove its majority on the floor of the House. But before it could do so, the Governor had given the orders for the dissolution of the State Legislature.

In 1997, Romesh Bhandari, the Governor of Uttar Pradesh, dismissed the Kalyan Singh led BJP (Bharatiya Janata Party) government when the

Uttar Pradesh Loktantrik Congress (UPLC) withdrew support to the government. Immediately after the dismissal, Bhandari, instead of leaving the fate of the government to the Legislature, swore UPLC leader, Jagadambika Pal, as the new Chief Minister of the state. The Allahabad High Court held the Governor's actions as wrong, as Kalyan Singh should have been given the chance to prove his majority on the floor of the House and not accepted UPLC's claim at face value.

(iii) **Advising the President for proclamation of emergency under Article 356:** The Governor can advise the President to impose emergency (under Article 356) in case there is a breakdown of the state constitutional machinery in the state. In the past, the Governors of different states dismissed the state governments and imposed emergency due to partisan reasons. This discretionary role of the Governor in dismissing the governments and that of imposition of President's rule became very controversial. The Supreme Court, which till 1993 considered it purely a political matter, in its verdict in March 1994, held the dismissal of governments and imposition of President's rule in Nagaland (1988), Karnataka (1989) and Meghalaya (1991) as unconstitutional. In S.A. Bommai and others vs. the Union of India, the Supreme Court tried to give some guidelines so that the Governor's discretionary power of imposing emergency under Article 356 is not misused.

However, in 2005, the use of Article 356 became a centre of debate. During February 2005 elections, no party could get majority in the Bihar Assembly. In such a situation, Governor Buta Singh recommended President's rule to the Central government. His recommendation was accepted by the UPA (United Progressive Alliance) government and was further approved by the President. However, instead of being dissolved, the Assembly was kept under suspended animation, obviously hoping that some leader could be in a position to stake claim to form a government. Thus, the possibility of change in the loyalties of members was accepted as legitimate. Later, when challenged, the Supreme Court invalidated the imposition of President's rule and ordered for fresh elections that were held in October–November 2005.

(iv) **Using discretionary powers in day-to-day affairs:** Apart from appointing, toppling or dismissing ministries, the Governor has also been interfering in the state government's affairs in the name of discretionary powers.

(v) **Sending reports to the Central government:** Even the role of the Governors while sending reports to the Central government had also, sometimes, invoked controversy. Governor B.N. Nehru's transfer from Jammu and Kashmir to Gujarat and S.S. Barnala's transfer from Tamil Nadu to Bihar, because of refusal to cooperate with the Centre to topple Farooq Abdullah's government and Karunanidhi's government, respectively, were examples of such controversies.

(vi) **Reserving a bill for the President's assent:** The power of the Governor to reserve a bill, passed by the State Legislature and against the advice of the state ministry, for the President's assent is yet another issue of contention between the Centre and the states. The Sarkaria Commission found that during the period from 1977 to November 1985, 1130 state

bills were reserved for the consideration of the President. Out of these, the President had given assent to 1039 bills. Opposition–ruled states have raised their complaints against the misuse of Articles 200 and 201, which empowers the Governor to reserve the bill for Presidential assent. As part of their reactions in front of the Sarkaria Commission, states like West Bengal had even asked for these articles to be deleted from the Constitution.

Thus, the Governors, while working as agents of the Centre, no doubt tarnish the image of the federal principle and convert the office into that of a party functionary to destroy not only the federal structure but also the constitutional intent. Unfortunately, this trend continues and consequently remains a major irritant in the Union–State relations.

ACTIVITY

Prepare a list of Prime Ministers who have held position till date in India.

Did You Know

Intra-party differences a bugbear for Sadananda

The Hindu, 5 February 2012

Karnataka Chief Minister D.V. Sadananda Gowda has completed six months in office. He was sworn-in as the head of the government on 4 August 2011, and by all accounts, intra-party differences in the state unit of the Bharatiya Janata Party have prevented him from sitting firmly in the saddle.

The national leadership of the BJP is clear that there will be no change of leadership at the present juncture, thus hinting that Mr Sadananda Gowda will continue as Chief Minister for another sixteen months—the end of term of the 13th Legislative Assembly. This assurance has, however, not really helped the incumbent Chief Minister, given the nature of the divisions within the national leadership of the party and rival camps here making the best use of it. Having a firm control over party legislators is also another important matter for a Chief Minister, and it has not been easy for Mr Sadananda Gowda to master this technique.

Yeddyurappa camp

It was in the simmering heat of politics in the state in August 2011 that Mr Sadananda Gowda won an election within the BJP legislature party, amply supported by then outgoing Chief Minister B.S. Yeddyurappa. Ironically, it is this camp which is now stated to be breathing down his neck. He was the dark horse to take charge of the all-important position in the state, and despite the passage of six months, his problems are far from over.

On the contrary, it is expected to aggravate, with the Yeddyurappa camp keen on striking a bargain for the all-important position for its leader.

Interestingly, Governor H.R. Bhardwaj, who was firm that Mr Yeddyurappa should go (ample evidence for the same are his recommendations to the

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Union Government in October 2010 and mid-2011) has been appreciative of the efforts of Mr Sadananda Gowda to restore a semblance of an administration in the State, notwithstanding the differences over the appointment of a new Lokayukta.

Both the Governor and the Chief Minister have stood their ground over the appointment of the ombudsman, with the Karnataka Lokayukta Act of 1984 coming into play on the powers of the Government and that of the Governor.

Fighting a nexus

Mr Sadananda Gowda has been spending long hours in galvanizing the administration, but without much success given the nexus between the bureaucrats and the ruling political leaders of the day. Akin to their political masters, bureaucrats too are divided, with one section reportedly working to the detriment of the interests of the state. It is a known fact that only a strong political head of a government can have a commanding control over the administration.

Little changes noticed

Incidentally, Mr Sadananda Gowda has been more assertive over the last two months particularly after his election to the Legislative Council, as envisaged under Article 164 of the Constitution, since he was not a member of either House of the state legislature when he was sworn-in as Chief Minister.

Eyes on budget

All eyes are now on the presentation of the state budget. The contents of the financial document will indicate the manner in which the government will move ahead in the Legislative Assembly elections.

Source: Adapted from http://www.thehindu.com/news/states/karnataka/article2862658.ece

(Accessed on 07 February 2012)

4.4 SUMMARY

In this unit, you have learnt that:

- Under the Constitution of India, the office of the President of India is virtually analogous to that of the British monarchy in keeping with the spirit of the parliamentary executive. Being the ceremonial head of state, the office of the President is an exalted one, with enormous prestige, authority, grace, dignity, respect and adoration, but very less activism.
- The executive power of the union is based on the assumption of the President being a rubber stamp of the government in order to authenticate the decisions made by the council of ministers, barring a few cases ordained by circumstances. The President and the Vice President are the formal executive heads of the Union, while the actual executive is the Union Council of Ministers, with Prime Minister as its Chairman.

Check Your Progress

4. What are the two tiers of government in India?
5. What are the two forms of executives of the state governments?
6. Who is the nominal head of state governments?

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- Being the chief executive of the Indian union, the executive powers of the central government have been vested in the President, to be exercised by him either directly or through officers subordinate to him, in accordance with the Constitution (Article 53). His position is such that every significant institution and functionary is either directly or indirectly connected to him.
- The President is an integral part of the parliament in as much as the Union Parliament, which consists of the President and two Houses known respectively as the Rajya Sabha and the Lok Sabha. So, a bill before becoming an Act must not only be approved by the two houses of Parliament but must also be assented to by the President.
- The President appoints the Chief Justice and other judges of the Supreme Court of India in consultation with the former. He or she may dismiss the judges if and only if the two Houses of Parliament pass resolutions to that effect by two-thirds majority of the members present.
- The President has control over the finance of the nation. It is the President who causes the national budget to be laid before each House of Parliament.
- The Constitution of India specifies that there shall be a Vice President, who shall also be the Ex-officio Chairman of the Council of State and that he shall not hold any other office of profit. However, the Constitution also states that whenever there occurs any vacancy in the office of the President by reason of his death, resignation, removal or otherwise, the Vice President shall act as President until a new President is elected.
- In the parliamentary system of the Government in India, the Prime Minister (PM) is the real executive in contrast to the ceremonial position of the President of India. The office of the PM is a prominent one as it has attained immense power and authority in the Indian political system.
- In accordance with the federal characteristics, the Constitution of India envisages two tiers of government–one at the level of the Union and the other at the level of the states. Part IV of the Constitution of India lays down the structure of the state governments and stipulates a parliamentary form of government like that of the Centre.
- According to Article 153 of the Constitution, each state in India has a Governor and the executive power of the state is vested in him. He is appointed by the President of India for a term of five years and holds office during the pleasure of the President (Article 156). This means that a Governor can be removed by the President at any time even before the expiry of the term.
- The Chief Minister is appointed by the Governor, the executive head of the state, who invites the leader of the majority party in the Legislative Assembly to form the government.

4.5 KEY TERMS

- **Diplomatic:** Of or concerning the profession, activity, or skill of managing international relations.
- **Executive:** Having the power to put plans, actions, or laws into effect.

- **Parliamentary:** Relating to, enacted by, or suitable for a parliament.
- **Union government:** Central government also known as a national government.

4.6 ANSWERS TO 'CHECK YOUR PROGRESS'

1. President, Vice-President, Prime Minister
2. The President causes the national budget to be laid before each House Of Parliament.
3. Cabinet ministers, Ministers of State, Deputy ministers
4. Union government, State government
5. Constitutional Head and Real Executive
6. Governor

4.7 QUESTIONS AND EXERCISES

Short-Answer Questions

1. Write a note on the legislative powers of the President.
2. What are the emergency powers of the President?
3. Discuss briefly how the Vice President of India is elected.
4. What are the judicial powers of the Governor?
5. State the executive functions of the Chief Minister of a state.

Long-Answer Questions

1. Discuss in detail the executive powers of the President.
2. Explain the judicial functions of the Indian President.
3. Discuss the role, power and functions of the Prime Minister.
4. Examine the 'powers and functions of the Governor'.
5. Critically evaluate the powers and functions of the Chief Minister.

4.8 FURTHER READING

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UNIT 5 ELECTION COMMISSION AND ELECTORAL REFORMS

Structure

5.0 Introduction
5.1 Unit Objectives
5.2 Electoral Reforms
5.3 Election Commission of India
5.4 Summary
5.5 Key Terms
5.6 Answers to 'Check Your Progress'
5.7 Questions and Exercises
5.8 Further Reading

5.0 INTRODUCTION

In this unit, you will learn about the Election Commission (EC) of India and electoral reforms in the country. Election at regular intervals is a striking aspect of a democratic polity. Elections form the main ingredient of democracy. People's attitudes, values and beliefs towards their political environment gain recognition as a result. People elect representatives of a government that is empowered with the constitutional right to govern its subjects. Elections are the central democratic procedure through which leaders are selected. People receive the opportunity to express their belief in the political system or government over time and change when required.

The Election Commission of India is an independent constitutional body created by the Constitution of India under Article 324. Clause (I) of Article 324 has vested the superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice-President of India in the Election Commission. Under Clause (2) of Article 324, the Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may from to time fix and the appointment of the Chief Election Commissioner and Election Commissioners shall, subject to the provisions of any law made in that behalf by Parliament, be made by the President.

India's electoral system is constrained by a number of factors, thus encouraging anti-social elements to creep into the electoral conflict. The anomalies in the operations of the electoral system came up, for the first time, in the fifth general elections (1971) followed by successive elections, especially during the 1980s onwards. Often, the Election Commission has expressed its zeal to eliminate obstacles to ensure free and fair polls, thus doing away with corruption. Its recommendations continuously nudged the government about the essentiality of altering the existing laws to control and do away with malpractices that come in the way of the electoral procedure. Electoral reforms have been engaging the attention of the Parliament, the Government, the press and also the EC for a long time.

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5.1 UNIT OBJECTIVES

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

- Examine the various electoral reforms that have taken in India
- Discuss the appointment, role and significance of the Election Commission of India

5.2 ELECTORAL REFORMS

In Indian democracy, the Parliament has made a law to ensure free and fair elections and a very comprehensive system of elections. The experience of last fourteen general elections has shown the merits and demerits of the system to the people. Minor changes have since been made in the system. But still our electoral process is beset with many evils and some of them can be easily identified. These are:

- The high expenditure in elections, incurred both by the government on organizing them and, more particularly, by the parties and the candidates on fighting them. Barring a few rich individuals, nobody can finance an election from his own resources. Because of this, the political parties and their candidates have increasingly relied on business sources. The business contributions are mostly in cash and from unaccounted money.
- Even more than the money power factor which vitiates the elections, is the mussel power acting in-aid of the candidates belonging to dominant castes and communities in constituencies. With the aggravation of caste and communal conflict, the eclipse of idealism and ideology in public life, the evil of booth capturing and rigging has virtually made a mockery of free and fair election. The evil practice which started in Bihar has gradually spread to other parts of the country.
- It has also been observed that due to a large number of candidates, the winning candidate very often wins by minority votes. The percentage of votes polled by political parties also does not correspond to their percentage of seats. The majority party generally wins with minority votes.
- The dependency of the Election Commission on the Central and State governments for the conduct of the polls is another defect in the existing electoral system. It has been noticed that many presiding officers at the polling booth have been caught stamping the ballet paper illegally.
- Candidates with criminal records are also contesting elections and get elected by using arms. For example, around 100 MPs in the 14th Lok Sabha have criminal charges against them.

Indeed, the battles of ballots have been turned into the battles of bullets. On the election days booths are captured, polling agents are attacked and bombs are thrown to prevent weaker sections from casting their votes.

In the last few years, the following Electoral Reforms have been introduced in India:

- Lowering of voting age from 21 to 18 years under 61st Amendment Act 1988 (Article 326).
- Under the Representation of People's Act which was amended in 1988, a new Section 13 CC was inserted, which provides that officers and staff engaged in

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preparation, revision and of electoral roles for elections shall be deemed to be on deputation of Election Commission.

- Number of electors who are required to sign as proposers in nomination papers for elections to Council of States and State Legislative Councils has been increased to 10 per cent of the electors of the constituencies.
- The representation of the People's Act 1951 was amended to facilitate the use of electronic voting machines in elections.
- Section 58 A has been inserted in the Representation of People's Act, 1951 by Act I of 1989 providing for adjournment of poll or counter mending of elections because of booth capturing.
- Any conviction under Section 2 or Section 3 of the prevention of insult to National Honour Act, 1971 shall hereafter entail disqualifications for contesting elections to Parliament and State Legislature for a period of six years from the date of such conviction.
- The amount of security deposit which a candidate at an election to the House of the People or a State Legislative Assembly has to make has been enhanced as a measure to check the multiplicity of non-serious candidates. A candidate is not eligible to contest elections for more than two Parliamentary and Assembly constituencies at a General election or at the by-elections which are held simultaneously.
- The names of the candidates listed for the elections in the ballot paper will now appear separately in the following order:
  - o Candidates of recognized political parties
  - o Candidates of registered-unrecognized political parties
  - o Other independent candidates
- No elections will be countermanded on the death of the contesting candidate. If the candidate was from recognized national or State party, the party will be given an option to nominate another candidate within seven days of the issue of a notice to that effect to the party concerned by the Election Commission.
- There is prohibition of going armed to or near a polling station under the Arms Act, 1959. It is a cognizable offence punishable with imprisonment up to two years or with fine or with both.
- All registered electors who are employed in any business, trade, industrial undertaking, or any other establishment shall be entitled to a paid holiday on the day of poll.
- No liquor and other intoxicants can be sold, given or distributed at any shop, eating place, hotel or any other palace, whether public or private, within a polling area during the period of 48 hours ending with the hour fixed for the conclusion of the poll.
- The Commission took a historic decision for compulsory identification of voters with reference to some documentary evidence and directed that voters should produce their electoral photo identity card at the polling station. This was introduced in the general election of Haryana Legislative Assembly in February 2000.

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- Section 29 A of the People's Act 1951 provides for registration of political parties by the Election Commission. A party registered with the Election Commission may be granted recognition as a National or State party on the fulfilment of certain criteria based on its poll performance.
- An agreement was done between the Election Commission and the Union of India regarding enforcement of Model Code of Conduct on the following issues:

  that the Model Code of Conduct may come into force from the date of announcement of election and not from the date of notification thereof;

  that the announcement of elections would be made ordinarily not more than three weeks prior to the date of notification.
- Facility to opt to vote through proxy was adopted under the Election Law Act 2003. According to this Act, those service voters belonging to the armed forces and members belonging to a force to which provisions of the Army Act applies have been provided the facility to opt to vote through proxy.
- The Parliament on 1 January 2004 enacted the Delimitation Act 2003 whereby Section 4 of the Principal Act was amended to provide that the Delimitation will be held on the basis of the 2001 census figures.
- The Parliament on 28 August 2003 enacted the Representation of the People's Act, 2003 whereby an open ballot system was introduced during elections to the Council of State.

Other Suggested Reforms

- The official tours by the ministers should be suspended in the period between the announcement of elections and the declaration of results.
- Transfer and posting of officials on the large scale on the eve of the elections should be avoided.
- The electoral roles should be prepared and published fairly in advance, to help scrutinize the names of the voters, and for suggesting addition or deletion.
- Voters should be issued identity cards, with photographs and address to ensure genuine identity.
- Revision of poll petition rules to overcome existing loopholes regarding corrupt practices.
- Candidates, political parties and groups, seeking votes on the basis of religion, caste, tribe or local feelings, or those using money and muscle power to entice intimidate voters should be disqualified and debarred from contesting election for a term of two.
- All parties and candidates contesting elections should affirm their adherence to the principles, values and goals inscribed in the Preamble to the Constitution, as basic credo of the Indian political system, which they are called upon to uphold and to defend.

5.3 ELECTION COMMISSION OF INDIA

India is a Socialist, Secular, Democratic Republic and the largest democracy in the World. The modern Indian nation state came into existence on 15th of August 1947.

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Since then free and fair elections have been held at regular intervals as per the principles enshrined in the Constitution, Electoral Laws and System.

The Constitution of India has vested in the Election Commission of India the superintendence, direction and control of the entire process for conduct of elections to Parliament and Legislature of every State and to the offices of President and Vice-President of India.

Election Commission of India is a permanent Constitutional Body. The Election Commission was established in accordance with the Constitution on 25th January 1950. The Commission celebrated its Golden Jubilee in 2001.

Originally the commission had only a Chief Election Commissioner. It currently consists of Chief Election Commissioner and two Election Commissioners.

For the first time two additional Commissioners were appointed on 16th October 1989 but they had a very short tenure till 1st January 1990. Later, on 1st October 1993 two additional Election Commissioners were appointed. The concept of multi-member Commission has been in operation since then, with decision making power by majority vote.

Appointment and Tenure of Commissioners

The President appoints Chief Election Commissioner and Election Commissioners. They have tenure of six years, or up to the age of 65 years, whichever is earlier. They enjoy the same status and receive salary and perks as available to Judges of the Supreme Court of India. The Chief Election Commissioner can be removed from office only through impeachment by Parliament.

Transaction of Business

The Commission transacts its business by holding regular meetings and also by circulation of papers. All Election Commissioners have equal say in the decision making of the Commission. The Commission, from time to time, delegates some of its executive functions to its officers in its Secretariat.

The Setup

The Commission has a separate Secretariat at New Delhi, consisting of about 300 officials, in a hierarchical set up.

Two or three Deputy Election Commissioners and Director Generals who are the senior most officers in the Secretariat assist the Commission. They are generally appointed from the national civil service of the country and are selected and appointed by the Commission with tenure. Directors, Principal Secretaries, and Secretaries, Under Secretaries and Deputy Directors support the Deputy Election Commissioners and Director Generals in turn. There is functional and territorial distribution of work in the Commission. The work is organised in Divisions, Branches and sections; each of the last mentioned units is in charge of a Section Officer. The main functional divisions are Planning, Judicial, Administration, Systematic Voters' Education and Electoral Participation, SVEEP, Information Systems, Media and Secretariat Co-ordination. The territorial work is distributed among separate units responsible for different Zones into which the 35 constituent States and Union Territories of the country are grouped for convenience of management.

At the state level, the election work is supervised, subject to overall superintendence, direction and control of the Commission, by the Chief Electoral Officer of the State, who is appointed by the Commission from amongst senior civil servants proposed by the concerned state government. He is, in most of the States, a full time officer and has a small team of supporting staff.

At the district and constituency levels, the District Election Officers, Electoral Registration Officers and Returning Officers, who are assisted by a large number of junior functionaries, perform election work. They all perform their functions relating to elections in addition to their other responsibilities. During election time, however, they are available to the Commission, more or less, on a full time basis.

The gigantic task force for conducting a countrywide general election consists of nearly five million polling personnel and civil police forces. This huge election machinery is deemed to be on deputation to the Election Commission and is subject to its control, superintendence and discipline during the election period, extending over a period of one and half to two months.

Budget and Expenditure

The Secretariat of the Commission has an independent budget, which is finalised directly in consultation between the Commission and the Finance Ministry of the Union Government. The latter generally accepts the recommendations of the Commission for its budgets. The major expenditure on actual conduct of elections is, however, reflected in the budgets of the concerned constituent units of the Union - States and Union Territories. If elections are being held only for the Parliament, the expenditure is borne entirely by the Union Government while for the elections being held only for the State Legislature, the expenditure is borne entirely by the concerned State. In case of simultaneous elections to the Parliament and State Legislature, the expenditure is shared equally between the Union and the State Governments. For Capital equipment, expenditure related to preparation for electoral rolls and the scheme for Electors' Identity Cards too, the expenditure is shared equally.

Executive Interference Barred

In the performance of its functions, Election Commission is insulated from executive interference. It is the Commission which decides the election schedules for the conduct of elections, whether general elections or bye-elections. Again, it is the Commission which decides on the location polling stations, assignment of voters to the polling stations, location of counting centres, arrangements to be made in and around polling stations and counting centres and all allied matters.

Political Parties and the Commission

Political parties are registered with the Election Commission under the law. The Commission ensures inner party democracy in their functioning by insisting upon them to hold their organizational elections at periodic intervals. Political Parties so registered with it are granted recognition at the State and National levels by the Election Commission on the basis of their poll performance at general elections according to criteria prescribed by it. The Commission, as a part of its quasi-judicial jurisdiction, also settles disputes between the splinter groups of such recognised parties.

Election Commission ensures a level playing field for the political parties in election fray, through strict observance by them of a Model Code of Conduct evolved with the consensus of political parties.

The Commission holds periodical consultations with the political parties on matters connected with the conduct of elections; compliance of Model Code of Conduct and new measures proposed to be introduced by the Commission on election related matters.

Advisory Jurisdiction and Quasi-Judicial Functions

Under the Constitution, the Commission also has advisory jurisdiction in the matter of post election disqualification of sitting members of Parliament and State Legislatures. Further, the cases of persons found guilty of corrupt practices at elections which come before the Supreme Court and High Courts are also referred to the Commission for its opinion on the question as to whether such person shall be disqualified and, if so, for what period. The opinion of the Commission in all such matters is binding on the President or, as the case may be, the Governor to whom such opinion is tendered.

The Commission has the power to disqualify a candidate who has failed to lodge an account of his election expenses within the time and in the manner prescribed by law. The Commission has also the power for removing or reducing the period of such disqualification as also other disqualification under the law.

Judicial Review

The decisions of the Commission can be challenged in the High Court and the Supreme Court of the India by appropriate petitions. By long standing convention and several judicial pronouncements, once the actual process of elections has started, the judiciary does not intervene in the actual conduct of the polls. Once the polls are completed and result declared, the Commission cannot review any result on its own. This can only be reviewed through the process of an election petition, which can be filed before the High Court, in respect of elections to the Parliament and State Legislatures. In respect of elections for the offices of the President and Vice President, such petitions can only be filed before the Supreme Court.

Media Policy

The Commission has a comprehensive policy for the media. It holds regular briefings for the mass media-print and electronic, on a regular basis, at close intervals during the election period and on specific occasions as necessary on other occasions. The representatives of the media are also provided facilities to report on actual conduct of poll and counting. They are allowed entry into polling stations and counting centres on the basis of authority letters issued by the Commission. They include members of both international and national media. The Commission also publishes statistical reports and other documents which are available in the public domain. The library of the Commission is available for research and study to members of the academic fraternity; media representatives and anybody else interested.

The Commission has, in co-operation with the state owned media - Doordarshan and All India Radio, taken up a major campaign for awareness of voters. The Prasar Bharti Corporation which manages the national Radio and Television networks, has brought out several innovative and effective short clips for this purpose.

Voter Education

Voters' Participation in the democratic and electoral processes is integral to the successful running of any democracy and the very basis of wholesome democratic elections. Recognising this, Election Commission of India, in 2009, formally adopted Voter Education and Electoral participation as an integral part of its election management.

International Co-operation

India is a founding member of the International Institute for Democracy and Electoral Assistance (IDEA), Stockholm, Sweden. In the recent past, the Commission has expanded international contacts by way of sharing of experience and expertise in the areas of Electoral Management and Administration, Electoral Laws and Reforms. Election Officials from the national electoral bodies and other delegates from the several countries - Russia, Sri Lanka, Nepal, Indonesia, South Africa, Bangladesh, Thailand, Nigeria, Namibia, Bhutan, Australia, the United States and Afghanistan etc. have visited the Commission for a better understanding of the Indian Electoral Process. The Commission has also provided experts and observers for elections to other countries in co-operation with the United Nations and the Commonwealth Secretariat.

New Initiatives

The Commission has taken several new initiatives in the recent past. Notable among these are, a scheme for use of State owned Electronic Media for broadcast/telecast by Political parties, checking criminalisation of politics, computerisation of electoral rolls, providing electors with Identity Cards, simplifying the procedure for maintenance of accounts and filling of the same by candidates and a variety of measures for strict compliance of Model Code of Conduct, for providing a level playing field to contestants during the elections.

Check Your Progress

1. Mention one evil existing in the electoral process.
2. Mention one electoral reform that has been introduced in India in the last few years.
3. In India, the elections are conducted by an independent constitutional organ called the _____.
4. The establishment of the Election Commission has been provided for in _____ of the Constitution of India.

ACTIVITY

What electoral reforms would you suggest as a citizen of India? Prepare a report.

DID YOU KNOW

- 'Ballot' and 'bullet' are both derived from words for 'balls'. The Greeks dropped a white ball when they favoured a candidate, and a black when they were against. The term 'blackballed' comes from this too!
- Ever heard of 1033 candidates for a single seat? Believe it or not, it did happened for the Modaurichi assembly constituency in Tamil Nadu in 1996. The ballot paper was in the form of a booklet!
- Designed by Electronics Corporation of India Ltd. and Bharat Electronics Ltd, Electronic Voting Machines (EVMs) were first used in Kerala. The highest number of candidates that an electronic voting machine can support is 64. If the number exceeds this, then manual ballot is used!

5.4 SUMMARY

In this unit, you have learnt that:

- In Indian democracy, the Parliament has made a law to ensure free and fair elections and a very comprehensive system of elections. The experience of last fourteen general elections has shown the merits and demerits of the system to the people. Minor changes have since been made in the system. But still our electoral process is beset with many evils and some of them can be easily identified.
- The Parliament on 1 January 2004 enacted the Delimitation Act 2003 whereby Section 4 of the Principal Act was amended to provide that the Delimitation will be held on the basis of the 2001 census figures.
- The Parliament on 28 August 2003 enacted the Representation of the People's Act, 2003 whereby an open ballot system was introduced during elections to the Council of State.
- Candidates, political parties and groups, seeking votes on the basis of religion, caste, tribe or local feelings, or those using money and muscle power to entice intimidate voters should be disqualified and debarred from contesting election for a term of two.
- All parties and candidates contesting elections should affirm their adherence to the principles, values and goals inscribed in the Preamble to the Constitution, as basic credo of the Indian political system, which they are called upon to uphold and to defend.
- In India, the elections are conducted by an independent constitutional organ called the Election Commission. The establishment of the Election Commission has been clearly provided for in Article 324 of the Constitution of India. The Commission consists of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may, from time to time, fix.
- The Chief Election Commissioner is assisted by two Election Commissioners.
- The President may also appoint, after consultation with the Election Commission, such regional commissioners as he may consider necessary to assist the Election Commission in the performance of the functions conferred on the Commission by Article 324 of the Constitution.

5.5 KEY TERMS

- **Commission:** The authority to perform a task or certain duties.
- **Election:** A formal and organized process of electing or being elected, esp. of members of a political body.
- **Reform:** Make changes in (something, typically a social, political, or economic institution or practice) in order to improve it.

5.6 ANSWERS TO 'CHECK YOUR PROGRESS'

1. Candidates with criminal records are contesting elections and getting elected by using arms.
2. Lowering of the voting age from 21 years to 18 years under the 61st Amendment Act 1988 (Article 326).
3. Election Commission
4. Article 324

5.7 QUESTIONS AND EXERCISES

Short-Answer Questions

1. List the evils in the electoral process in India.
2. Explain how the names of candidates for the election appear on the ballot paper.
3. List the reforms that have been made in the election process in India.
4. Identify the reforms suggested in the election process of India.

Long-Answer Questions

1. Discuss in detail election reforms in the context of the negative features of the electoral process in India.
2. Describe the constitution, powers and functions of the Election Commission of India.

5.8 FURTHER READING

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UNIT 6 CLEAVAGES OF THE POLITICAL SYSTEM

Structure

6.0 Introduction
6.1 Unit Objectives
6.2 Casteism
6.3 Communalism
6.4 Regionalism
  6.4.1 Linguistic Regionalism: Assam and Dravidian Movement (Telengana Movement)
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6.6 Key Terms
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6.0 INTRODUCTION

In this unit, you will learn about the Indian political systems major cleavages or divisive forces, such as casteism, communalism and regionalism. Caste is an imported part of our social fabric. It developed in ancient time on the basis of division of labour in the society. However, today casteism has disintegrated our political and social systems. In a caste ridden society like ours, unity and integrity has become a dream. The feeling of socially neglected scheduled castes under the suppression of upper caste has weakened the sense of brotherhood and unity. It has proved to be a great obstacle in achieving national integration.

India was born in the aftermath of a communal massacre that claimed the lives of thousands of Hindus and Muslims. Even though secularism is one of the most cherished goals of our Constitution, the Indian history has been marked with several incidents of communal wars and violence. We can no longer afford to be either naïve or staunch about issues such as communalism and cases of ethnic cleansing, religious fundamentalism and religious hatred. Philosophical approaches towards this social problem have remained ineffective and we need to adopt a more sociological approach towards the same. This is so because philosophical approaches reinforce the dominant aspects of majority religious groups. We all know that communal feelings and prejudices are wrong, but does that stop us from nurturing them?

Regionalism is another big problem of India. Our country is divided into several regions, each having its unique traditions, food habits, dress and languages. Regions differ from one another in one or other ways, leading to disintegration of the country. People of one region try to compete with those of other regions, which often leads to regional conflicts and riots.

6.1 UNIT OBJECTIVES

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

- Discuss the issue of casteism in Indian society
- Explain the meaning and effects of communalism
- Describe the various aspects of regionalism in India

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6.2 CASTEISM

The caste system in India has a complex nature. Many scholars, namely Ghurye, Hutton and Ketkar, have pointed out the characteristics of caste. Ketkar describes two characteristics of caste, namely, (i) that membership is confined to those who are born of members and includes all persons so born, (ii) the membership is forbidden by an inexorable social law to men outside the group. From this, it can be said that if a man should be banned from his caste for some reason, he would be without any group, since no other group, lower or higher could accept him into its membership. Moreover, it also limits the choice of marriage partners. G.S. Ghurye, in his book *Caste and Race in India*, has identified six characteristics of the caste system.

(a) Segmental division of society

The caste system exhibits a segmental division which shows that the groups are divided into various groups called castes. Each caste is a well-defined social group, where membership is assured at birth, making transferring from one caste to another unfeasible. Each caste has its individual social position, professions, traditions, rules and regulations. Every group has their own its own ruling body called the caste or *jati panchayat* which ensures that the rules of that particular caste are being adhered to. Such panchayats make decisions not only about matters pertaining to castes but other offences as well, offences that legitimately fall within the judicial process. These include matters like eating, drinking, matters related to marriage, non-payment of debts, breach of customs peculiar to a caste, and petty assaults. Caste was thus a group as Ghurye rightly points out, 'with a separate arrangement for meting out justice to its members apart from that of the community as a whole, within which caste was included as only one of the groups. Hence the members of a caste ceased to be members of a community as a whole, as far as that part of their morals which is regulated by law'. In other words, it can be said that 'each caste is its own ruler'. The citizens owe their moral allegiance to the caste first, rather than to the community as a whole.

(b) Hierarchy

Each caste is positioned hierarchically in society. The divisions of caste can be noted by watching the actions of higher castes. Castes are never equal in status and one caste has either higher or lower in status compared to another. Ghurye pointed out that 'there are as many as two hundred castes which can be grouped in classes whose gradation is largely acknowledged by all. But order of social precedence among the individual castes of any class, cannot be made definite, because not only is there no ungrudging acceptance of such ranks but also the ideas of the people on this point are very nebulous and uncertain'. For instance, rank of certain castes can be determined by finding out from whom a designated caste takes water. One may take water from his equals or superiors, but not from his inferiors unless it is served in a brass pot.

(c) Restrictions on commensality and social intercourse

Every caste imposes restrictions on its members with regard to food, drink and social intercourse. Food is another rank indicator. Indian food is placed into two groups, *pakka khana* and *kachcha khana*. *Pakka khana* is made with clarified butter from flour, sugar and sweetmeats, while *kuchcha khana* is cooked with water or salt. *Pakka khana* is taken from most inferiors, but *kachcha khana* is taken with discrimination. Roughly, a man will take *kachcha khana* from the same people from whom he will take water (Zinkin, 1962). In practice most castes seem to have no objection on taking *kachcha* food from the hands of a Brahmin. A Brahmin, on the other hand, does not accept *kachcha* food from the hands of any other caste. As far as *pakka* food or *pakka khana* is concerned, a Brahmin can take from the hands of a few castes only. According to Ghurye, thirty-six out of seventy-six UP castes take *kachcha* food from their own members only.

Besides food, there are widespread beliefs of pollution by touch which require the members of different castes to maintain social distances from one another. Theoretically, the touch of a member of any caste lower than one's own defiles a person of a higher caste. The rigidity of this rule however varies from caste to caste and place to place; e.g., it is prevalent in U.P. and Gujarat. As per the classification given by Ghurye, the Shannar, a toddy-tapper of Tamil Nadu, contaminates a Brahmin if he approaches the latter within twenty-four paces. In Kerala, a Nayyar would approach a Namboodri Brahmin but may not touch him. In fact so much rigidity was attached to pollution that a Brahmin would not even perform his ablution within the precincts of a Shudra's habitation.

(d) Endogamy

The caste system aiso imposes restrictions on marriage. Castes are divided into sub-castes and each sub-caste is an endogamous group. The principle of endogamy was so prominent that Westermark, an eminent sociologist, said, 'It is the essence of caste system.' Every caste or sub-caste insists that members should marry within the group. Any breach of this rule is viewed as a serious offence, the punishment for which often amounts to being ostracized from one's own community or caste. However there are few exceptions to this rule in the form of hypergamy (marriage of a man of a higher caste with a woman from a lower caste). Except in cases of hypergamy, each caste had to adhere strictly to the rules with regard to matrimonial alliances. For instance, the younger son of a Namboodri Brahmin of Kerala can only marry a Nayyar woman.

(e) Lack of unrestricted choice of occupation

In caste-based society, there are restrictions on choosing one's own vocation. Each caste group is traditionally associated with a caste occupation which is hereditary. Abandoning one's hereditary occupation was looked down upon, so people strictly followed their caste occupation even if it was not lucrative. Thus, a Brahmin would consider it his rightful duty to become a priest while a shoemaker would consider it his duty to make shoes. No caste would allow its members to take on any profession which was either degrading or impure. There are however occupations like trading, agriculture, military service and working in the fields, which were considered as being open to all.

(f) Civil and religious disabilities

Social segregation is another aspect of caste differentiation. Ghurye remarked, 'Segregation of individual castes or of groups of castes in a village is the most obvious mark of civil privileges and disabilities and it has prevailed in a more or less definte form all over India.' In a village or a town various castes were segregated on the basis of residence. Segregation has been more severe in South than in North India. In the South, as referred to by Ghurye, parts of the town or village are inaccessible to certain castes. The agitation by the impure castes to gain free access to streets in Vaikam in

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Travancore brought into clear relief some of the disabilities of these castes. 'All over India,' Ghurye points out, 'the impure castes are debarred from drawing water from the village well, which is used by members of other castes.' A Mahar in Maharashtra, for example, was forbidden from spitting on the road lest a pure caste gets polluted if his foot happens to touch it. Besides these, there were restrictions on Shudras to enter temples and participating in the performance of certain rituals. They were prohibited from reciting Vedic Mantras and performing Vedic rituals. They had to satisfy themselves with Puranic rituals. A Brahmin was not expected to bow to anyone while members of other castes were required to bow to him.

Recent Changes in the Caste System

The Indian caste system has undergone tremendous transformation in modern times. The caste system has undergone and is still undergoing adaptive changes. M.N. Srinivas quite aptly referred to the changes brought about in independent India as the erecting of constitutional defences for the protection of the backward sections of the population, especially the scheduled castes and tribes. This has provided a new lease of life to the people. Many factors are responsible for the transformation in caste system.

Srinivas draws a distinction between the traditional and modern caste system which roughly coincides with the distinction between pre-British and post-British period. It was indeed a matter of great significance to learn about the nature of rendering political power to Indians by the British. This was an important step in the various castes assuming political functions. There were territorial boundaries in the pre-British period which separated the castes by limiting their mobility. However, later on, the interdependence of castes upon each other for economic and other functions somehow became instrumental in liberating castes from territorial filiations.

Srinivas also refers to the building of roads all over India, and how the introduction of postage, telegraph, cheap paper and printing, especially in regional languages, enabled castes to organize themselves as they had never done before (Srinivas, 1962). However, Prof. G.S. Ghurye has also reflected upon the impact of British rule on the Indian caste system. The civil and penal codes introduced by the British over the subcontinent of India took away much of the power previously exercised by caste panchayats (Srinivas, 1962). However, the process of Sanskritization has also been instrumental in bringing about social mobility leading to fluidity in the caste structure.

Other factors like Western education, urbanization, industrialization and the new legal system also contributed a lot in bringing about changes in the caste system. The growth of industries and the service sectors have also led to the expansion of occupational opportunities for many castes. So, in spite of the ascribed status assigned to castes, people focused on achieved status. Such occupational spaces have led to the abandonment of the principles of pollution and purity. Moreover, democratic decentralization of power right down to the grassroots level has led to an increased participation in the political process and besides economic success, access to political power has become another means of status enhancement.

Some of the prominent changes identified in the caste system are as follows:

1. There has been a decline in the supremacy of Brahmins. The Brahmins who used to occupy the topmost position in the stratification system of India are no longer considered most superior. Modern occupations and urbanization have led to increased occupational mobility among other castes, which has enhanced the status of castes lower than the Brahmins in the hierarchy. In the present-day context, the Weberian notion of one's class position gains ascendancy over one's caste position.
2. The *jajmani* system has also weakened .The economic context of inter-caste relations which is termed as the *jajmani* system has lost its significance. The monetization of economy and expansion of the market system in rural areas had severe impact on the economic functions of castes.
3. The second important change is that the position of castes came about due to processes like Sanskritization. Initially, it was observed that the caste system had a rigid structure which strictly prohibited social mobility. But with occupational interdependence and opening of greater avenues for employment, the lower castes had an opportunity to pursue an occupation according to their choice. This led to fluidity in the caste structure and considerable positional changes were observed.
4. The Protective Discrimination Policy of the Government further led to the enhancement of status of many of the subjugated castes. Such policies also led to the improvement in the socio-economic conditions of various castes.
5. The enforcement of the Special Marriage Act of 1954 further brought about many changes in improving the marital alliances among the castes. Initially endogamy was strictly observed as an attribute of caste and people violating it were ostracized from the village. But the Special Marriage Act legalized inter-caste marriages, which is a significant change in the entire system.
6. The notion of pollution and purity and restrictions on feeding and intercourse are no longer valid. The enactment of the Untouchability Offences Act, 1956 was an important milestone in this direction. Untouchability was made a punishable offence and a person found practising it is severely punished either in terms of being fined or sentenced to imprisonment.
7. With industrialization, new occupational structures have developed in urban areas. These new occupations are not dependent on the caste of a person. Recruitments to these occupations are solely based upon technical skills which can be acquired through modern education. Thus, the traditional concept of caste occupation has lost its significance.
8. Contemporary society is undergoing massive transformation due to technological breakthroughs and is witnessing many cultural changes. A new class of lower caste urban youth, whom some scholars have termed as the 'breakthrough generation', are playing a significant role in bringing about a sea-change by breaking the boundaries that had kept the Shudras in conditions of extreme poverty. This new generation of educated Shudras are positioning themselves for modern urban jobs.

Thus, the caste system has undergone many changes in recent years. It is, however, difficult to predict the complete disappearance of such a system. It can be said that though there has been enough fluidity in the system due to various forces, the system still persists in India. The practice of politics through caste (casteism), the entire reservation issue and the recent debate about calculation of caste census further stirred the caste sentiments.

Check Your Progress

1. Castes are divided into sub-castes and each sub-caste is an _____ group.
2. Identify one prominent change in the caste system.

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6.3 COMMUNALISM

The term 'communalism' has its roots in the word 'community'. Communalism refers to the politics of conflict between the members of different communities. It is a derogatory perception of communities other than one's own and in it one community is instigated against the other in the name of religion. This evil restricts one's sympathy to the community of one's birth. It is opposed to secularism as it has a pattern of socio-cultural coexistence and of political integration. Communalism has a two-fold negative effect, which is as follows:

- In it, individuals consider their own religion to be superior to that of others
- It promotes hatred and intolerance against people of other communities

India is a land of diverse regions and cultures and our strength lies in the acceptance and understanding of cultures and religions, other than our own. It is believed that our unity lies in our diversity. Therefore, communalism leads to ill feelings within the members of a nation and is a threat to national unity.

Exceptions to Communalism

The following features do not come under the category of communalism:

- Adherence to religion and religious system
- Personal attachment to a religious community
- Affiliation to any social, cultural and service section of a religious community
- Attachment to ritualism, superstition, obscurantism, magic charm and occult practices like astrology

Commitment to conservative values in social life and conservative orientation in politics is not communalism. This can be called social backwardness and political reaction. However, it should be recognized that all these aspects can work as inputs for the development of communal consciousness and indeed communalists in various permutations and combinations have utilized most of these aspects in order to build their communally political base. But communalism, as a specific phenomenon in the Indian polity is something different and more specific.

Communal Ideology

Communalism is an ideology based on the belief that the Indian society is divided into various religious communities with diverse economic, political, social and cultural interests. They are even hostile to one another due to their religious differences. Communalism is a belief system through which a society, economy and polity are viewed and explained and around which an effort is made to organize politics.

According to communal ideology, people who follow the same religion usually have common secular interests, i.e., people who belong to the same religion not only have common religious beliefs or interests but they also have common political, economic, social and cultural interests. This rule is the first bedrock of communal ideology. From this arises the notion of a religious community, functioning as a community for secular purposes. Any person who discusses about Hindu community or Sikh community or about the interests of the Sikh or the Muslim or the Hindu community is already taking the initial step towards communalism whether he knows

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it or not and however secular he might be feeling privately or genuinely at heart, unless the concept of community is used for religious purposes only.

Communalism is opposed to the rational civic basis of party formations and minorities, segments and division within a polity and political system. Communalism perceives majorities and minorities, segments and divisions within the polity and the nation. These are based essentially on religious communities and not even on other inscriptive bases (like that of family, clan, tribe, *jati*, language region or domicile) and certainly not on the basis of political, ideological, party, class, interests or strata considerations, which are the hallmarks of a modern political system. Communalism is the single largest subversive ideology in contemporary India.

Pakistan and Communal Ideology

The ideology of Pakistan took shape through an evolutionary process. Historical experience provided the base; Allama Iqbal gave it a philosophical explanation; Quaid-i-Azam (Muhammad Ali Jinnah) translated it into a political reality; and the Constituent Assembly of Pakistan, by passing Objectives Resolution in March 1949, gave it legal sanction. It was due to the realization of the Muslims of South Asia that they are different from the Hindus that they demanded separate electorates. However when they realized that their future in a 'Democratic India' dominated by Hindu majority was not safe, they changed their demand to a separate state. The ideology of Pakistan stemmed from the instinct of the Muslim community of South Asia to maintain their individuality in Hindu society. The Muslims believed that Islam and Hinduism are not only two religions, but are two social orders that produced two distinct cultures. There is no compatibility between the two.

Communal Violence and Communal Politics

Communal violence (or communal riots) is a particular approach to politics, which is practised at a sustained level. Communal violence involves incidents of violence between two religious communities. It can be sporadic in nature and mainly forms a law and order issue to be handled on the spot for restoring peace and calm. Though communal politics does not need immediate police intervention, it has much more damaging implications in future. It breeds feelings of suspicion between religious communities and also gives rise to frequencies of violence, which in turn sustain communal politics.

Communal Politics

Communal politics is a South-Asian expression for ethnic or sectarian politics. Such politics is based on a belief that religion forms the basis of a common identity; that members of a particular religious community have the same economic, political and social interests. In the other words, communal politics works on the belief that each religious community is distinct from the others in its religious and cultural practices, lifestyles and value systems, which become the basis of differences in the socioeconomic interests of these communities. In the absence of shared interests, it is only distrust and suspicion that tends to define the relationship between different communities. Communal politics generates mutual distrust between religious communities. This feeling of distrust often leads to violence, which is a very important factor in communal politics. Communal politics deepens mutual suspicion and hatred, which fuels violence in the first place. Communal violence leads to communal polarization of the society and hence helps in the expansion of communal politics.

Communal politics in this sense is primarily a form of politics, which mobilizes a particular religious community for political power. It is the exploitation of religious differences for political gains. Communal politics may also take the form of highlighting the communitarian interests of a religious group, without necessarily generating hatred towards any other community. Most importantly, communal politics is not driven by any religious or spiritual issue, but by secular interests, which can range from bargaining for jobs, educational concessions, political patronage, separate representation or control over institutions of governance.

Source of Communal Conflict

The sources that lead to communal conflict are as follows:

- Struggle for property
- Sexual offences
- Urge for economic domination among the elite Hindus and the elite of other communities
- Political interests and communal behaviour to capture political power
- Scramble for jobs, clashes of economic interests and personal animosities
- Cow-slaughter and religious processions of one community passing through the areas of majority of the other

Secularism

Pt. Nehru's definition of secularism consisted of the following four points:

1. Separation of religion from political, economic, social and cultural aspects of life
2. Dissociation of the state from religion
3. Full freedom to all religions and tolerance of all religions
4. Equal opportunities for followers of all religions and no discrimination and partiality on grounds of religion

Secularism refers to firm opposition against communalism. Pt. Nehru saw secularism as a gift of freedom struggle and heritage of India's ancient and medieval past. Secularism basically means separation of religion from the state and politics and it is treated as a private and personal affair. It also requires that the state should not discriminate against a citizen on grounds of his or her religion or caste.

6.4 REGIONALISM

Regionalism refers to the idea or practice of dividing a country into small units for political, economic, social and cultural purposes. Politically, regionalism is connected with decentralized or federalist governments. Regionalism is both cultural and political, as its political success is associated with the development of a regional culture.

Regionalism has negative as well as positive connotations:

- From the negative perspective, it means being obsessed with the place where one hails from.
- From the positive aspect, it is a political characteristic associated with people's love for their region, culture, language and other aspects where the objective lies in maintaining an independent identity.

Check Your Progress

3. What is 'communalism'?
4. State one exception to Communalism.
5. _____ is a South-Asian expression for ethnic or sectarian politics.

While positive regionalism is encourages a sense of brotherhood and fraternal feeling evoked by common language, religion or historical background, regionalism in the negative sense acts as a menace as it hampers the integrity and solidarity binding the people of a country.

The feeling of regionalism might be triggered either by continuous negligence of a particular area or region by the ruling authorities, or because of rising political consciousness of people considered backward people and have faced discrimination. Generally, there are political leaders who encourage the feeling of regionalism to control a particular area or cluster of people.

Regionalism in India exists in various forms, some of which are as follows:

- **Demand for state autonomy**: Regionalism has demanded greater independence from the Centre. The Centre's increasing intervention in the matters concerning respective states has yielded regional sentiments. Regions within few states of the Indian federation have also claimed autonomy.
- **Secession from the union:** The states' demand for autonomy and independence from the Centre can be a hazardous affair.

For instance, disputes among states with regard to the sharing of river water, and importance associated with the language to be used in a state as per majority have led to regionalism. Immigrants from a backward state have often been victims to hostility by the people of the places where they have migrated for job opportunities, for example, in Andhra Pradesh, Karnataka, and Maharashtra that are developed states in terms of infrastructure and industrial advancement.

Regionalism has existed since a very long time in the Indian political system. Prior to India's independence, the British imperialists promoted regionalism and on purpose they supported people belonging to different regions to be concerned only about their regions instead of the entire nation, so as to sustain their control over India during the national movement. After independence, the leaders tried cultivating a feeling of national solidarity in the people. The framers of the Constitution aimed at achieving this through the introduction of the concept of single citizenship for everyone. Keeping the objective the same, a unified judiciary, all Indian services and a strong Central government were established. However, soon, on account of the enormity of the country and cultural diversity, regionalism came to be highlighted in India.

The linguistics aspect was responsible for the initial manifestation of regionalism for reorganization of states, but the conquest of the DMK against Congress in Tamil Nadu in the 1960s was the most efficient play of regionalism. Initially, the central leadership felt that regionalism was a marginal political factor confined to Tamil Nadu and so did not pose any threat towards national unity. However, this was an ill-founded assessment. Soon after that, the Akali movement in Punjab gained impetus, whereas in Jammu and Kashmir Sheikh Abdullah invigorated the National Conference. During these years, all Indian political parties continued to maintain strong relations with these regional forces.

In India, several factors have contributed to the growth of regionalism. These are as follows:

- Regionalism acted as a reaction in opposition to the efforts of the National Government for imposing a particular ideology, language or cultural pattern on all people and groups. So the southern states have resisted the imposition of Hindi as an official language due to the fear of being dominated by the North.

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Similarly, an anti-foreign movement was launched by the Assamese for preservation of the uniqueness of their culture.

- The Indian federal system is sub-divided into various units that desire greater autonomy to sustain their respective cultures.
- Constant avoidance of an area or region by the ruling parties and concentration of administrative and political have led to a demand for decentralization of the authority and bifurcation of unilingual states.
- The desire of regional elites to become powerful also triggered regionalism. In order to become vested with power, political parties such as DMK, AIADMK, Akali Dal, Telugu Desam and Asom Gana Parishad have been in favour of regionalism.
- The interplay between the forces of modernization and mass participation has also been a major contributory factor in the growth of regionalism in India. India is still far from realizing its objective of being a nation state, since various groups have only emphasized on their own interests rather than national interest.
- The increasing awareness of discrimination faced by people of backward classes has also enhanced the feeling of regionalism, which local political leaders have completely exploited and tried infusing the idea that the Central Government was deliberately trying to uphold regional disparities by avoiding social and economic development of certain places.

Violence

As the performance of the political systems is falling short of expectations, the Third World countries are witnessing more and more violence in their politics. Over the last two decades, it has become increasingly difficult for India to simultaneously accommodate conflicting interests and to promote social and economic development. Governments elected with large majorities have repeatedly failed to translate popular support into effective policies and the role of violence in politics has been growing in the land of Gandhi.

The Indian democratic system started with high hopes in 1950. It was believed that the native government would end all the evils generated by colonial rulers. However, economic development and the consequent prosperity have not been able to match the expectations of the masses. In fact, some scholars feel that the economic disparities have widened in India after independence. Decisions taken at the seat of the power and enforced by its agents have come *fait accompli* to the people. With accumulating grievances, a psychological case is slowly built up in the minds of the people who are affected by such decisions. The normal channels provided for removing the accumulated grievances prove to be ineffective when there is a serious disagreement. Thus, the stage gets set for direct action. While the direct action may be nonviolent, it can also be violent.

Violence and its Patterns in India

Although the phenomenon of violence has been with us for a long time, the last two decades have been quite dismal. The incidents of collective violence included not only three major arenas of violence namely, inter-caste, inter-communal and inter-linguistic violence, but also many other forms of violence. These other forms of violence were those associated with demands for separate states, reorganization of states,

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industrial strikes leading to violence against rich landlords in the rural areas, student agitations leading to violence, tribal revolts and terrorist activities in North-East, Punjab and Jammu and Kashmir. Widespread civil disobedience resulting in violence organized for and against certain political parties is also a form of violence in Indian political system.

The different kinds of problems, which are expressions of violence in Indian politics are as follows:

1. Agrarian violence

In rural India, where the majority of Indian population lives, agrarian relations are marked by widespread economic disparities and poverty. The aggrieved frequently resort to violence. When the country became independent in 1947, the Tebhaga movement in West Bengal was continuing under the leadership of Communist Party of India (CPI) whose ideology sanctions violence in order to attain the objective. Later on, Naxalbari movement developed, which led to many killings of zamindars, peasants, political workers and innocent people. The Naxali movement is still strong in West Bengal, Bihar, Madhya Pradesh and Andhra Pradesh and violence has now become a part of life in these states.

2. Caste violence

Caste-based violence has been growing in Indian politics. The oppressed classes, the Dalits have been discriminated against by the high-caste Hindus from time immemorial. Due to the spread of education, impact of media and increasing politicization of the lower castes, the last two decades have witnessed upsurge of the dalits. They have started asserting their rights and as a result thereof, the traditional social order is under attack which is not liked by the higher communities. Thus, there is violence between upper castes and lower castes, especially in Uttar Pradesh, Bihar and Maharashtra. This type of violence gets full support from political parties like Shiv Sena, Hindu Mahasabha, and Bajrang Dal, which have a Hindu-elite base.

3. Left-extremist violence

The overall incidents of Left-extremist violence in the country have registered a slight increase, as compared to the previous years. The various Left-extremist groups have been responsible for terror in many states like Bihar, Andhra Pradesh, West Bengal and Madhya Pradesh. In 1977, Tripura witnessed large-scale incidents of violence and arson by the All Tripura Tiger Force (ATTF) and the National Liberation Front of Tripura (NLFT). Some of the notable Left-extremist groups are: the Naxalites, who have formed different groups like Maoist Communist Centre (MCC), Communist Party of India (Marxist-Leninist), Indian People Front, and Bhartiya Jan Morcha. These Naxal outfits believe in violent class struggle and forcible occupation of land to be distributed among the dalits. Their main targets have been the upper-caste landlords.

4. Violence between different linguistic communities

After independence, linguistic reorganization of states became a major problematic issue for political leaders. Also, many states of India refused to accept Hindi as the national language. The Union Government had to submit to the agitation which was fast turning into a violent movement in the South, as a result of which Andhra Pradesh was created. The creation of Andhra Pradesh opened the gates to linguistic movements.

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Thus, the State of Bombay was bifurcated into two states—Maharashtra and Gujarat in 1960. Punjab was divided into two separate states of Punjab and Haryana in 1966. A few years back, after much agitation, three new states were carved out of the existing states—Jharkhand out of Bihar, Uttarakhand out of Uttar Pradesh and Chhattisgarh out of Madhya Pradesh.

Recently in West Bengal, the Gorkhaland National Liberation (GNLF) has demanded, occasionally by violent means, a separate state of Gorkhaland in the Darjeeling district of West Bengal. Violent demands for separate statehoods have also been made in the North-East states of India, like the demand of Bodoland.

Another aspect of linguistic violence is the 'son of the soil theory' advocated by political parties like Shiv Sena in Maharashtra. Advocates of this theory attack and terrorize people who speak languages other than the local language and try to force them to leave the state. South Indians and North Indians in Bombay, Marwaris in West Bengal, Bengalis in Assam and Tamils in Karnataka have been subjected to such violent activities. Unfortunately, such violence gets direct or indirect support from regional political parties.

5. Communal violence

India has experienced the problem of communalism since its pre-independence days. Communal riots and violence are caused by a multiplicity of factors. Ancient and recent hatred blend together when religion becomes a big factor in the dynamics of electoral politics. Since the late 1980s and through the 1990s, the emergence of pro-Hindutva inclinations as a political wave has aggravated the communal factor. The combined toll in Ayodhya in December 1992 and in Bombay in January 1993 surpassed the casualties and property losses of any of the previous clashes. In 2002, large–scale communal violence took place in Gujarat. In all these riots, some political parties helped in instigating the public fury but they always remained behind the scenes.

6. Violence by political parties

Killing of political persons for the achievement of certain goals also constitutes political violence. Such political violence is committed for specific political objectives, by organized gangs or by ad hoc groups. Their purpose is to influence governmental decisions, to punish political opponents, to ventilate deep-seated grievances, or to intimidate a locality or an electoral constituency. The assassinations of Indira Gandhi in 1984, Rajiv Gandhi in 1991 and Beant Singh, the Chief Minister of Punjab in 1995 are some examples of violence in political circles, which have far-reaching political consequences.

7. Poll violence

Poll violence in India has grown with the passing of every general election. Violence related to elections can be broadly divided into the following three categories: pre-election violence, violence on the election-day and post-election violence. Violence in the form of booth capturing, snatching of ballot boxes, attacks on poll officials and clashes between the supporters of political parties have become common sights during the elections. However, the Lok Sabha elections of 2009 were conducted, by and large, peacefully.

In conclusion, one can say that unfortunately, violence has become the part and parcel of the Indian political life and it constitutes danger not only to democratic institutions, which stand for a peaceful solution to every problem, but also to the national unity of the country. Government and citizens of the nation should find ways to resolve root causes lead to violence.

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6.4.1 Linguistic Regionalism: Assam and Dravidian Movement (Telengana Movement)

A more serious manifestation of regionalism appeared in Assam, a state of the north-east region. The Assamese organized the *Lachit Sena* on the pattern of *Shiv Sena* of Maharashtra, and in the summer of 1967, that Sena launched an agitation against the immigrants from other states of the Indian Union, particularly against the Rajasthanis who owned much of the industry in the state. First, the agitation took the form of posters and leaflets asking the non-Assamese to leave the state. Then, the *Lachit Sena* worked up the sentiments of students and on the Republic Day, 26 January 1968, they called for the boycott of the celebrations as a protest against the Centre's unwillingness to concede their demands and they attacked the shops and industrial establishments of the non-Assamese. Justice K.C. Sen, who had been appointed by the Central Government to inquire into the situation, reported that the Assam Government was absolutely 'indifferent' to the agitation against the non-Assamese, and that the anti-social elements had been encouraged by that indifference. On instructions from New Delhi the Assam Government took stern action against the *Lachit Sena* volunteers, and the situation came under control.

In the later months of 1979, an agitation against the inclusion of 'foreigners' in the electoral rolls developed in Assam under the leadership of two organizations called the *All-Assam Gana Sangram Porishad* and the All-Assam Students Union. Between 1964 and 1971, about 1,000,000 people had entered into Assam from what then was East Pakistan prior to the creation of Bangladesh, and about 2,00,000 of them had been, allegedly, registered as voters. The Central Government declared these 'refugees' as entitled to Indian citizenship. The above two organizations demanded the detection, disenfranchisement and deportation of these 'aliens'. The tripartite talks carried on between the AASU and the AAGSP on the one side and the Central Government and Opposition parties on the other proved abortive. In February 1983, elections were held for the Legislative Assembly of Assam, but these were opposed and boycotted by the nationalist and student groups who considered them as 'illegal'. Only 10 per cent voters cast their votes, and the violence that occurred during the voting resulted in the massacre of several thousand people. The Congress (1) got 90 of the 108 seats that were filled and its leader, Hiteswar Saika, was sworn in as the Chief Minister on 17 February. On the same day, President's rule was formally revoked. The AASU and the AAGSP decided to topple the 'illegally' elected Ministry of Saika, because the electoral rolls —contained the names of 'a large number of foreigners'.

Although the Assam agitation was initially launched on the 'foreigners' issue, the extremist groups took advantage and started intimidating the non-Assamese–speaking people on the one side and accusing the Centre of neglecting Assam on the other. Towards the end of December 1979, posters exhorting the people of the north-east to unite and recreate a 'golden Assam' appeared in the Sibsagar district of Upper Assam. These posters urged the people to disrupt transport links with the rest of the country, so that tea and oil were not supplied to areas outside the region. One pamphlet said: 'Bye bye India', and it alleged that the Centre was adopting a 'colonial policy' towards Assam. The posters spoke of 'United States of Asom'. Since the Bengalis living in Assam were subjected to intimidation a counter agitation against Assam was

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launched in West Bengal by the Youth Congress (I) and the *Chhatra Parishad,* the party's students organization, to make the Assam students realize the 'folly' of their ways and to 'restore good sense' to them.'The agitation in Bengal also became increasingly violent, and for a moment the two states appeared to be on a war path. In the summer of 1985, Assam became involved in a border dispute with Nagaland and this led to the exchange of fire, the displacement of some 31,000 persons in Assam and the stoppage of traffic on the Assam–Nagaland border. An accord was, however, soon reached on the intervention of the Central authorities.

The States Reorganization Commission had recommended in its report in 1955 that, the multi-lingual state of Hyderabad should be broken up, and the Kannada-speaking areas thereof should be merged with the state of Mysore and the Marathi-speaking areas with the state of Bombay. The Commission had also recognized that there were strong arguments in favour of the union of the Telugu-speaking area of Hyderabad state (known as Telengana) with Andhra in a single Telugu-speaking state, but it did not suggest that step immediately because of the existence of a feeling among the people of Telengana that they might be 'swamped and exploited' by the highly educated people of Andhra. The Commission, therefore, had recommended, that Telengana should be a separate state, but that a provision should be made for its union with Andhra affter the third General Election 'if a two-thirds majority of the legislature of Telengana expressed itself in favour.' But the Union Government decided to unite Telengana with Andhra, on grounds that the resultant uncertainty would retard Telegana's economic development. As a condition for union the Congress Party leaders of Andhra and Telengana concluded in 1956 the following accord: (i) all members of the state Assembly from Telengana region would form a Regional Committee to deal with matters relating to that region; (ii) the entire revenue from Telengana would be spent on the development of that region, of course after meeting its proportionate share of common expenditure of the state of Andhra Pradesh; (iii) the recruitment to government posts in the Telengana region carrying a salary of up to ₹ 500 a month would be made for five years only from among the persons who had lived in Telengana for at least fifteen years; and (iv) when the Chief Minister of the state came from Andhra the deputy Chief Minister would be drawn from Telengana and *vice versa.*

On the basis of this agreement, the state of Andhra Pradesh was reformed on 1 November 1956.

But the agreement did not work well, and the people of Telengana began to express their dissatisfaction and resentment. Voices were raised throughout the 1960s that they should be separated from Andhra Pradesh, and a separate state of Telengana should be created. The students of Osmania University coming from the Telengana region developed an apprehension that they would not be able to complete successfully with Andhra students, and that their future employment opportunities would be jeopardized. In early January 1969, they launched an agitation demanding that the agreement of 1956 should be implemented 'fully and sincerely.' At first, the agitation was generally peaceful, but later on it became violent. The then Chief Minister, Brahmanand Reddy and 44 MLAs announced that all Andhras appointed to posts reserved for the people of Telengana would be immediately transferred to Andhra region, and all the vacancies thereby occurring would be filled by qualified candidates from Telengana, and that the revenue surplus from Telengana would be utilized only for the development of that region. Following this announcement, the agitation for a separate state of Telengana was called off.

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When the families of Andhra civil servants returned from Telengana the students of Andhra launched a counter agitation. With this, the Telengana agitation also revived. The Telengana leaders formed a *Praja Samiti* to press their demand for a separate state. The situation became so tense and menacing that troops had to be called in to maintain peace and order. An announcement by the Prime Minister, on 26 March 1969, that steps would soon be taken to redress the grievances of the Telengana people, had no effect, and the movement for the bifurcation of Andhra Pradesh became violent, leading to the destruction of government property, firing by the police on unruly mobs and the arrest of hundreds of people including the *Telengana Praja Samiti* (TPS) Chairman, Madan Mohan. A number of prominent Congressmen announced their support for the separatist movement. On 11 April, the Prime Minister announced an eight-point programme to assure that the pace of development and expansion of employment opportunities would be accelerated, but this had no effect, and the TPS leader, Mrs T.N. Sadalakshmi, declared that the agitation for a separate state would continue. On 26 May, the TPS launched a non-violent civil disobedience campaign. The Congressmen of Telengani held a convention on 1 June, supported separation from the Andhra, seceded from the Andhra Pradesh Congress Committee, and formed an independent Telengana Pradesh Congress Committee (TPCC), with Konda Lakshman Bapuji as its President Mr M. Chenna Reddy assumed the chairmanship of the TPS. The *Bhartiya Kranti Dal* and the *Swatantra Party* extended moral support to the demand for a separate state of Telengana and the local units of the SSP, PSP and the Republican Party took active part in the agitation. The Communist Party of India and the CPM opposed the demand. Some university professors, retired civil servants, a former Chief Justice of the Hyderabad High Court and some businessmen 'submitted,' to the Governor a memorandum protesting against 'the repressive measure of the state Government to crush the Telengana movement' and emphasizing that 'neither separation nor a united Andhra Pradesh', should be imposed on an unwilling people. They demanded that President's rule should be promulgated in Andhra Pradesh and thereafter, the peoples' wish — whether they wanted separation from or unity with Andhra — should be ascertained.

Eight Ministers in Brahmanand Reddy's Government, who came from the Telengana region, resigned, and said that they would work among the people 'in order to create a psychological climate conducive to achieving full integration of the two regions of Andhra Pradesh.' The Chief Minister also placed his resignation in the hands of the Congress Parliamentary Board, so that the whole issue could be examined dispassionately and freely. In the meantime, the agitation — closure of business, demonstrations, strike, destruction of property and police firing continued unabated.

On 6 August 1969, Home Minister Chavan reiterated the Government's intention not to split Andhra Pradesh to create a separate stale of Telengana. Shortly after this, Brahmanand Reddy withdrew his resignation from the Chief Ministership.

These two developments cast gloom in the TPCC circles, and it directed its thirty-five MLAs and twelve MLCs to withdraw their support from Reddy's Government. Union Defence Minister, M.R. Krishna, Parliament member Akbar Ali Khan, and a labour leader, G. Sanjiva Reddy, sought to bring about a rapprochement between the TPCC/TPS and Andhra Pradesh Government leaders, but both sides stuck to their positions.

In mid-November 1970, a TPS candidate, Madan Mohan, defeated a Congress Party candidate, V.P Rejeshwar Rao, in the Siddipet by election. The candidate of the

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Communist Party of India that stood for a united Andhra Pradesh gave a very poor account. In the wake of this victory, TPS leader M. Chenna Reddy urged the Union and state Government leaders 'to read the writing on the wall and to concede the demand for a separate state of Telengana.'

In late December 1970, President Giri dissolved the Lok Sabha and ordered fresh elections. Apprehending that the indignant TPS might tilt the balance in favour of the opposition parties Indira Gandhi offered new proposals to it, and invited Brahmanand Reddy and TPS leader Mr M. Chenna Reddy for talks on the basis of her proposals. While TPS leader insisted on a firm assurance on the future status of Telengana and demanded that Congress should nominate all the 14 Lok Sabha candidates from Telengana. On the advice of the TPS, the Chief Minister told the Prime Minister that the 'separatists' should be given no quarter, and that the Congress should fight them in the election. The talks ended in fiasco. The TPS contested the election on the basis of a separatist programme and won ten seats.

Thereafter followed tortuous negotiations between Mrs Gandhi and TPS leader Chenna Reddy, and eventually a 'six-point' agreement was reached. The TPS agreed to merge itself with the Congress. The Prime Minister was authorized to review the situation after three years and to decide conclusively whether there should be a separate Telengana. The other provisions of the agreement provided that the Telengana Regional Committee would be accorded statutory status that the constitutional validity of the 'Mulki Rules' on employment opportunities for the Telengana people would not be challenged, that separate five-year plans for the Telengana region would be drawn up, and that a person from Telengana would become the Chief Minister. According to this agreement, Brahmanand Reddy resigned from Chief Ministership and P.V. Narasimha Rao occupied this office.

Many in the Telengana region apprehended in the wake of this agreement that TPS led by Chenna Reddy might sabotage their fight for a separate state of Telengana. On 10 January 1971, they formed a rival TPS with Satyanarayan Reddy of the Samyukta Socialist Party as their leader. While the former TPS came to terms with the reality of the post-election situation, the latter TPS continued its fight, though on a low key. It was lent support by the Organizational Congress, the SSP, the Swatantra Party. On the eve of the fifth General Election to state Assemblies in March 1972, the rival TPS passed a resolution stating that nothing short of separate statehood for Telengana would satisfy the people there.

When in 1956, Telengana region of Hyderabad was united with Andhra to form Andra Pradesh the 'Mulki Rules' were retained, though in a modified form, to ensure that the higher educational standards prevailing in Andhra did not place Telenganas at disadvantage in competing for employment These 'Rules' had been introduced in 1919 by the Nizam of Hyderabad, and government posts and admission to educational institutions were reserved exclusively for persons who had been born in the state or who had lived there for 15 years.

Although 85 per cent population of the state of Hyderabad was Hindu, all important posts were held by the Muslims. The original purpose of the 'Mulki Rules' was to discourage Muslims of other areas from moving into Hyderabad state to take advantage of that situation.

Violating the 'six-point' agreement, some people from the Andhra region challenged the 'constitutional validity of the 'Mulki Rules', and the Andhra Pradesh

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High Court held' that the 'Mulki Rules' were unconstitutional, as they violated Article 16(2) of the Constitution which stated that no *citizen* shall be ineligible for any public employment on grounds of, *inter alia,* residence. On appeal, the Supreme Court held, on 3 October 1972, that the 'Mulki Rules' were covered by Article 35(b) (which laid down that any law in force immediately before the commencement of the Constitution relating to, inter alia, any requirement as a residence within a state as a condition for employment by that state continued in force until altered, replaced or amended by Parliament) and, therefore, demanded valid even after the formation of Andhra Pradesh.

As Hyderabad city, the capital of Andhra Pradesh, was in Telengana the Supreme Court ruling implied that all the posts in the state secretariat, including those of Judges, might be held only by people born in Telengana or who had lived, there for 15 years.

In November 1972, an agitation for the abolition of 'Mulki Rules' commenced in Andhra, and the students took the leading part. They demanded that Andhra should be made a separate state. The situation became very grave and the army had to be called in to assist the civil authorities in maintaining order.

On 27 November, Mrs Gandhi put forward a compromise plan whereby—(a) the 'Mulki Rules' would apply only to non-gazetted and junior posts; (b) in the secretariat and the office of heads of department of the state Government the Rules would apply for filling the second vacancy in every unit of three vacancies in non-gazetted posts; and (c) they (Rules) would cease to operate in Hyderabad after 1977, and in the rest of Telengana, after 1980. The 'Mulki Rules' Bill, incorporating these provisions received President's assent on 30 December 1982.

This Act evoked strong opposition in both Andhra and Telengana, the people in Andhra demanding the abolition of 'Mulki Rules' and those in Telengana insisting on their enforcement. Seventy three of the 141 Congress MLAs from Andhra demanded the separation of Andhra from Telengana, and they, as well as 11 Congress MPs from Andhra, called on the people to paralyse the government by refusing to pay taxes. .They launched a violent agitation, and the state administration virtually collapsed.

In view of this situation Chief Minister Narasimha Rao submitted, on 17 January 1973, the resignation of his Ministry on the advice of the Central leaders. On the following day, President's rule was promulgated in the state in a bid to prevent bifurcation of the state and to restore law and order. The Assembly was suspended and not dissolved. This was done in the hope that agitation and violence would end, and it would become possible to revive the popular rule. Rao's exit did not stem the agitation. On 21 January, Congress leaders of Andhra decided to resign from the party, and declared that if by 5 February, a separate Andhra state was not formed 'a revolution unprecedented in history' would take place. On the same day, the Congress leaders of Telengana formed the *Congress Forum for Separate Telengana* to work for immediate separation from Andhra. The agitation in both the regions became widespread and violent.

In order to suppress these activities the Union Government deployed a battalion of Central Reserve Police, and according to the – allegation of G. Larchanna, Chairman of the Praja Parishad and a member of the Central Action Council which was spearheading the separate Andhra agitation, about 300 persons were shot dead.

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Although violence subsided the separatist movement continued. On 1 February 1973, Larchanna warned the Centre that if a separate state of Andhra was not formed 'the mass upsurge would snowball into a larger movement in Andhra seeking separation from the Indian Union.' He also declared that the issue of separation was 'not negotiable.'

Apprehending lest the situation should deteriorate beyond control the Central Government began to work for a negotiated settlement. After protracted talks spreading over a period of six months a six–point formula was devised. This was as under: (1) 'Mulki Rules' and Telengana Regional Committee will go (2) Local candidates will be given preference for direct recruitment to non-gazetted posts, and the same course will be followed for the posts of *tehsildars* junior, engineers and civil assistant surgeons and jobs under the local bodies. (3) A high-powered tribunal will be constituted to deal with services' grievances. (4) A state-level planning board with sub-committees for different backward areas will be constituted. (5) A new Central university will be established in Hyderabad to augment existing educational facilities, and preference will be given to local candidates for admission to educational institutions. (6) The Constitution will be amended to the extent necessary for implementing the above points.

Both sides did not change their basic stand, namely the bifurcation of Andhra Pradesh, but they considered the formula as the best 'under the circumstance.' Leaders from both sides endorsed the formula and a climate for the restoration of popular rule was created. Since Narasimha Rao was not able to end violence and the state had to be brought under President's rule it was thought necessary to replace him by another more widely acceptable Chief Minister. But the Congress Legislature Party was not able to agree upon the issue of leadership. On 1 December 1973, it adopted a resolution, unanimously authorising the Prime Minister to select a leader. Her choice fell upon J.Vengal. Rao who had been the Home Minister in the Brahmanand Reddy's Cabinet and Industries Minister in the Government of Narasimha Rao. On 10 December 1973, he and a 15-member Council of Ministers were sworn in, and the 11-month old President's rule in Andhra Pradesh ended.

Shortly thereafter, the Union Government introduced in Parliament the Constitution (Thirty-third) Amendment Bill to give constitutional authority to the six-point formula. It was passed by the Lok Sabha on 18 December. The House also passed the Bill to provide for the repeal of the 'Mulki Rules.' The problem appeared to have been resolved. But the six-point formula did not work to the satisfaction of the separatists in Telengana. They formed the Telengana Rights Protection Committee for the purpose of restarting a campaign for the creation of a separate state of Telengana. This Committee was held on 21 July 1974, a one-day convention which adopted a number of resolutions. The main resolution said that the convention believed that the future of Telengana lay in the realization of its demand for a separate identity. It also said that while the government and politicians might 'indulge in unscrupulous political games' the public would continue to strive for a separate state. It warned the Central Government that if early steps were not taken to fulfil the aspirations of the Telengana people they would be 'constrained and forced to take steps to usher in Telengana' state' and the Centre would be responsible for the consequences. Although no such steps were initiated the separatists in Andhra Pradesh continued to give vent to their feelings of unhappiness and dissatisfaction.

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Separate Statehood Demands in Other Parts of India

A new form of regionalism which came to the fore in the 1970s was the demand for separate statehood in several states of the Indian Union. The Assam Plains Tribals demanded a separate Union Territory for themselves. The told the Prime Minister, on 20 December 1973, that the Assam state Government was persistently oppressing the tribals, and that it was impossible for them to live under the Assamese. The people of the former princely state of Mysore demanded separation from the Karnataka districts. The hilly region of Kumaon and Tehri-Garhwal in Uttar Pradesh aspired for a state of their own. 'BKU-leaders Charan Singh and the Jan Singh leaders demanded, from time to time, the bifurcation of UP in three states. Such a step alone, they said, would lead to the development of the people inhabiting the largest state in the country. On the eve of General Election for the Legislative Assembly of UP in February 1974, eight hill districts Uttar Kashi, Tehri-Garhwal, Chamoli, Pithoragar, Almora, Nainital and Dehradun—in a communication to the chairman, Delimitation Committee, demanded more seats. It was argued that the UP hill people had suffered from chronic maladies due to inadequate representation in law-making bodies.

The ascension of Janata Party into power in March 1977 revived the demand of these districts for Uttarakhand, on grounds that the development of their region had been neglected. The 'westerners' wanted an 'Agra' or a 'Meerut' state, with claims to Dehradun or a 'Braj' state with parts of Rajasthan; the mid-westemers clamoured for Rohilakhand; the south westerners said they must have a Bundelkhand with some districts of Madhya Pradesh; the south-easterners demanded a trans-Vindhya state; and finally the easterners agitated for a 'Bhojpur' state consisting of parts of Uttar Pradesh and western Bihar, with Varanasi as its capital.

Insurgencies in the North-East: Assam (ULFA, Bodo, Karbi and Dimasa Outfits)

ULFA

ULFA (United Liberation Front of Assam) was established on 7 April 1979 by Bhimakanta Buragohain, Rajiv Rajkonwar alias Arabinda Rajkhowa, Golap Baruah alias Anup Chetia, Samiran Gogoi alias Pradip Gogoi, Bhadreshwar Gohain and Paresh Baruah at the Rang Ghar in Sibsagar. The aim of ULFA was to convert Assam into a sovereign socialist state through violent aggression. ULFA was formed as a separatist group from Assam, in addition to several other similar groups in North-East India. The Indian government imposed a total ban on the organization, under the Unlawful Activities (Prevention) Act, in 1990 and classified it as a terrorist organization. On the other hand, the US State Department has listed it in the category of 'other groups of concern'.

It began a large number of violent operations in 1990. The Indian army also initiated military operations against it in 1990, which still continue. Since the last two decades around 18,000 people have been killed in clashes between the rebels and Government of India. On 5 December 2009, the Indian authorities captured the Chairman and deputy commander-in-chief of ULFA.

Lately, there has been a concentrated onslaught on ULFA in Bangladesh, which has been of significant assistance to the Indian government in bringing ULFA leaders

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across the negotiation table. In January 2010, ULFA adopted a moderate stance and abandoned its demand for an independent state, as a precondition for talks with the Indian government.

Bodo

Demand for Bodoland

An All India Union of Students and the Bodoland People's Union demanded the creation of a separate state of Bodoland. At times the agitation became violent and aggressive, but neither the Government of India nor that of Assam was willing to concede their demand. On 20 February 1993, the three sides signed an agreement (the Tripartite Agreement) and it provided for the creation of an autonomous council within the boundaries of Assam. This council was to comprise 2,000 villages of and 38 vital departments of the state government.

Bodoland Liberation Tiger Force (BLTF)

Formation

The BLT (also known as the Bodo Liberation Tiger Force or BLTF) was established on 18 June 1996, under the leadership of Prem Singh Brahma. The main objectives were to fulfil economic, educational and linguistic aspirations, socio-cultural and ethnic identity of the Bodos. The group is active in six districts of Assam, namely Kokrajhar, Dhubri, Bongaigaon, Barpeta, Nalbari and Darrang.

Objectives

- To create a new state—Bodoland in the north bank of the Brahmaputra
- To create an autonomous district council in the south bank of the Brahmaputra
- To implement the inclusion of the Bodos of Karbi Anglong district in the Sixth Schedule of the Indian Constitution

Present status

On December 6, 2003, 2641 cadres of the Bodo Liberation Tigers (BLT) renounced violence and surrendered along with arms and ammunition at Kokrajhar, marking an end to seven years of insurgency. On the following day, an interim 12-member executive council of the Bodoland Territorial Council (BTC) was formed in Kokrajhar.

A Memorandum of Settlement (MoS) for the creation of the BTC was agreed upon at a tripartite meeting held in New Delhi on 10 February 2003, between the representatives of Union Government, Assam Government and a delegation of BLT. The BTC would comprise 3,082 villages in four districts—Kokrajhar, Chirang, Udalguri and Baska. The BTC would have 40 elected representatives and the Assam Government would nominate six more. Of the elected representatives, 30 seats would be reserved for tribals, five for non-tribals and the remaining five would be open for general contest.

National Democratic Front of Bodoland (NDFB)

Formation

The National Democratic Front of Bodoland (NDFB) was formed on 3 October 1986 with the objective of creating an independent Bodoland. The outfit was originally established as the Bodo Security Force (BSF) and from 25 November 1994, it is known as the NDFB. The majority of their operations were targeted in areas in the north and north-west of the river Brahmaputra.

Members of the outfit targeted seven districts in Assam—Bongaigaon, Kokrajhar, Darrang, Barpeta, Dhubri, Nalbari and Sonitpur districts.

The NDFB acts in collaboration with the ULFA and have access to sophisticated arms and ammunition such as the AK Series rifles, light machine guns, M-16 rifles and rocket propelled grenades. Other outfits are also associated with the NDFB. Some of these are the Kamatapur Liberation Organization (**KLO**), the Achik National Volunteers Council (ANVC) and the National Socialist Council of Nagaland-Khaplang (NSCN-K). They also source arms and ammunition from Bhutan.

Objectives

Following are the objectives of the outfit:

- To create a new Bodoland and thereby liberate it from the Indian mainland
- To free the Bodo nation from the colonialist exploitation, oppression and domination
- To promote liberty, equality and fraternity by establishing a Democratic socialist party
- To uphold the integrity and sovereignty of Bodoland
- To introduce the Roman script in the Bodo language rather than the Devnagri script

Present status

Following the tripartite agreement in May 2005, the NDFB cadres are located within the three designated camps set up in Assam. Most members of the outfit prefer to live in their native villages as there are inadequate facilities within the camps. The six-month unilateral ceasefire announced by it on 8 October 2004 was ignored by the Union government. Following the ceasefire period, several rounds of talks were held between members of the outfit and representatives from both the state and Union government resulting in the signing of a tripartite ceasefire agreement on 25 May 2005, at New Delhi. Since then, the ceasefire agreement has been periodically extended, although formal peace talks are yet to begin.

Karbi

Karbi are tribes which primarily dominate the Karbi Anglong district of Assam. A few of these tribes are also scattered in North Cachar Hills, Nagaon, Golaghat, Kamrup, Jorhat, Sonipur and Lakhimpur districts of Assam and in bordering states of Nagaland and Meghalaya. Karbi tribes have a rich traditional heritage and a different style of living. They have a unique beliefs, ethnicity, language, individuality and environmental status. Their lifestyle is very simple. Individual members of the tribe often address themselves as *Arleng* which literally means 'a man' in Karbi language.

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United People's Democratic Society (UPDS)

Formation

In March 1999, members of two terrorist outfits—Karbi People's Front (KPF) and the Karbi National Volunteers (**KNV**) came together to form what is called the United People's Democratic Solidarity (UPDS). Members of UPDS carry out their activities mainly in Karbi Anglong district of Assam and sometimes in North Cachar district also. Arms and ammunition for their operations are sourced mainly from Bangladesh and Bhutan. The outfit also owes their growth and proliferation to the active assistance provided by the National Socialist Council of Nagaland-Isak-Muivah (**NSCN-IM**). It also shares a 'working relationship' with the National Democratic Front of Bodoland (**NDFB**) and the United Liberation Front of Asom (**ULFA**).

The outfit signed a ceasefire agreement for one year with the Union Government on 23 May 23 2002, resulting in the break-up of the outfit into two factions—the pro-tasks and the anti-tasks. Since 16 May 2004 the anti-tasks faction is known under the name of the Karbi Longri North Cachar Hills Liberation Front (**KLNLF**) and its armed wing as the Karbi Longri North Cachar Hills Resistance Force (KNPR).

Present status

Since 2002, six rounds of peace talks were held between members of the outfits and representatives from both the state and Union governments. After the talks held on 26 July 2006 the outfit ceased to cooperate with the government officials citing differences on the part of the government in fulfilling its demands.

On 5 May 2010, the Centre extended the SoO agreement (Statement of Objectives) with the UPDS for a period of six months. The UPDS released a statement that through a mutual agreement with the Government of India and Government of Assam the SoO agreement was extended.

Dimasa

People of the Dimasa tribe (also known as Dima-basa and Dimasa-Kachari) belong to Assam, in north-eastern India. Most of the people of Dimasa tribes reside in the Jatinga Valley, North Cachar Hills of Assam.

Dima Halim Daogah (DHD)

Formation

Dima Halim Daogah (DHD) was formed in 1995 as an offshoot of the erstwhile Dimasa National Security Force (DNSF), which had surrendered en masse. The members of the outfit carry out their activities mainly in the following four areas Cachar, North Cachar Hills, Karbi Anglong and Nagaon districts of Assam. It also has a strong presence in the Dimasa dominated Dhansiri area of Karbi Anglong district.

The DHD has reportedly forged links with the Inter Services Intelligence (ISI), Pakistan's external intelligence agency. The DHD is also reported to have linkages with the National Socialist Council of Nagaland-Isak-Muivah (**NSCN-IM**) and the national Democratic Front of Bodoland (**NDFB**).

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Objectives

The following are the objectives declared by the outfit:

To form a separate state 'Dimaraji' for the Dimasa tribe populating the areas of North Cachar Hills, Karbi Anglong as well as parts if Dimapur district in Nagaland

Present status:

The outfit is currently observing 'ceasefire' with the government.

On 1 January 2003, leaders of the DHD and representatives of the Union Government consented for a ceasefire, which was later extended till 31 December 2004. On 23 September 2004, members of the outfit presented a memorandum to the Union Home Minister demanding a separate homeland for the people belonging to Dimasa tribes. The outcome of the meeting was not in favour of the outfit and they termed it as 'intentional procrastination' by the Union government.

On 3 July 2011, the Central Government formally announced an extension of ceasefire with DHD for a period of six months. The Suspension of Operation would continue up to 31 December and tripartite talks on the demands of DHD are continuing.

Naga and Mizo Insurgencies

Another area of the country where secessionist movements were launched was the north-east region comprising Assam, Mizoram, Nagaland, Tripura, Meghalaya Manipur and Arunachal Pradesh, jointly known as the 'seven sisters.' Let us first take up Mizoram. The people of the Mizo Hill district of Assam with an area of 8,200 square miles and population of about 200,000 demanded secession not only from Assam but from the Indian Union itself. They demanded the formation of an 'independent Mizo state' comprising also the Mizos of the contiguous areas of East Pakistan and Burma. They formed the Mizo National Front (MNF) to press their demand. The Union Government, naturally turned down their demand, and took to repression. The Mizos organized armed agitation and commenced guerrilla warfare. In the wake of the Chinese aggression in October 1962, the MNF was banned, and all its operations were declared illegal under the Defence of India Rules. But their activities continued and spread to the Cachar Hills of Assam and the then Union Territory of Tripura. Civil administration in the Mizo Hill broke down almost completely.

On 2 May 1968, the Union Government alleged that the Mizos were in league with the Nagas and the Chinese who were arming and training them. It also alleged that Pakistan was assisting the rebel Mizos — an allegation described by Rawalpindi as 'totally false'. The Union Government detained hundreds of Mizos under the Preventive Detention Act. When on 31 December 1969, that Act expired, the Government of Assam issued an ordinance providing for preventive detention, and the Mizos continued to be held. Their operations, however, continued. In January 1971, a three-member delegation of the MNF led by its President, Criunga, met the Prime Minister and other Union Government leaders in New Delhi, and submitted a memorandum that stating the Mizos were frustrated because of the injustice done to them by dividing their homeland during British rule, the political instability brought about by the Assam Government, and the economic instability and hardships as a result of mismanagement by the Assam Government.

Instead of talking about secession from India and forming an 'independent Mizo state, they demanded in 1971 a referendum over the question of statehood for

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the Mizos. In order to satisfy their political aspirations, the Union Government made the Mizo Hills a Union Territory on 21 January 1972. It was named Mizoram. The Union Government spent crores of rupees to bring the people into the mainstream of India, but the success achieved was only limited. Many extremists who would be content only with an independent state outside the Indian Union continued their violent and terrorist activities under the leadership of Laldenga. Quite a few of them sneaked to China to obtain arms and training in guerrilla tactics of warfare so as to face the Indian Border Security Force.

In February 1973, and again in February 1974, the Government authorities held informal discussions with some of the underground leaders, but there was no result. The hard core among them took, as the then Union Home Minister, Uma Shanker Dixit, put it, a 'very unreasonable attitude.' The situation deteriorated considerably. On 1 December 1974, the 'Mizo National Army' issued notice to the effect that 'all Indian nationals now in Mizoram are hereby ordered to leave Mizoram before 1 January 1975. The responsibility for violation of this order shall lie upon the defaulters.' The ultimatum having expired, the MNF whipped up its terrorist activities. On 13 January, two gunmen, wearing uniforms of sub-inspectors of police, walked into the conference room of the Inspector General of Police at Aizawl and shot him dead along with the Deputy Inspector General and the Superintendent of Police. This ghastly crime caused serious uneasiness in New Delhi, and the authorities launched Army operations in a big way to suppress the rebels. They also decided to hold no talks with the underground Mizo leaders unless they ended their violence.

It was pointed out by the Development Minister of Mizoram, R. Thagliana, on 26 April 1975, that the atrocities being inflicted upon the youth of the Union Territory by the security forces were sending more and more of them into the ranks of the underground secessionists. It was, of course, a widely known fact that Communist China was helping the Mizo hostiles with money and arms with the ultimate objective of creating lawlessness and anarchy in the north-east region of India. The Pakistani collusion with the Chinese authorities was another factor behind the activities of the Mizo rebels. In order to deal with the grave situation the Union Government authorities devised more stringent measures, one of them being a move, in early May 1975, to make the provisions of the Maintenance of Internal Security Act (MISA) more rigorous. But these too had limited effect. On 3 June, Chief Minister Chunga said that the rebel elements 'are very active' and the situation 'is not under control yet.' However, about a year later, the MNF decided to give up arms and secessionist plea and acknowledged that all problems between the rebel Mizos and the Union Government would be resolved within the framework of the Constitution. After long deliberations and secret discussions a peace accord was signed at New Delhi on 11 July 1976 between him and the authorities of the Central Government. Laldenga acknowledged Mizoram to be an integral part of India, agreed to find a solution of all problems peaceably, undertook to abjure violence and to suspend all activities and finally to bring into camps all his followers and to deposit their weapons.

The ink on the Delhi accord had hardly dried up that Laldenga himself incited his followers to scuttle its implementation. The MNF launched, in March–April 1977, a massive drive for enrolling fresh volunteers to its depleted ranks and arranging their training in guerrilla warfare in China.

On 9 May 1977, the Congress Ministry of Mizoram headed by Chhunga resigned, following the expiry of the five-year term of the Assembly, and two days later the Union Territory was placed under President's rule. The 30-member Assembly

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was dissolved. The Union authorities took to suppression of rebels again. Hundreds of them surrendered, but the secessionists were not wholly wiped out.

For about one year there was neither war nor peace in Mizoram. There was no war because after 12-year-old warfare there was lull in war-like operations on the part of Mizo insurgents, and there was no peace, became thousands of them were getting training in the use of more sophisticated arms across the border in Bangladesh and Burma. On 2 July 1979 the MNF insurgents struck again and attacked with automatic weapons at the transmission centre of All India Radio, Aizawl and the Mizoram police complex. Towards the end of that month, a plot came to light that the outlawed MNF had planned to carry out a blitzkrieg on Aizawl and liquidate some VIPs, including the Lt. Governor, the Chief Minister and senior civil and police officers. It had also planned to blow up the AIR transmitter, cut off water supply to the capital and to disrupt all communications between Mizoram and the rest of the country. Military operations were launched with full force, and the Janata Party Government took the position that unless the MNF abjured violence and the path of confrontation, there could be no talks. Its leader, Laldenga, was told that the Centre would grant the status of statehood to Mizoram, but the rebels would have, first, to lay down arms.

On 9 November 1979, Laldenga spelt out the terms on which his followers would lay down arms and negotiate for a political solution of the Mizoram problem. He said that Mizoram should be accorded a protected constitutional status similar to Kashmir and Nagaland, that an interim government headed by an 'underground' man should be constituted to enable the underground elements to be 'psychologically and materially rehabilitated,' and that the charge of treason — 'and-offence punishable by hanging' — against him must be withdrawn before the 'quit Mizoram' movement (that was launched by other leaders of the MNF when he was under detention in New Delhi) could be terminated. The Union Government authorities refused to consider Laldenga's offer, and took the position that it would give no quarter to insurgency as a means of sorting out political differences, and that a policy that gave the impression that 'insurgency pays' would be strictly avoided.

The underground members of the MNF took to violence again and posed a serious threat to law and order in the Union Territory. Joining hands with others in the North-Eastern region, they raised the demand that the non-Mizos should quit Mizoram. A notice to this effect was served upon them in June 1979. From then on, the outlawed MNF sought to discredit the People's Conference Ministry headed by Brigadier Sailo in order to capture power. When Mrs Gandhi again came into power at the Centre in, January 1980, the Mizo leadership opened negotiations with her Government in order to bring peace to the Union territory after 14 years of insurgency. In the third week of July, Laldenga discussed with the Prime Minister a 'plan of action' for finding out a permanent political solution to the Mizo insurgency, and the parleys resulted in a 'cease-fire' agreement between the two leaders. This' provided that with effect from the midnight of 31 July, the Mizo insurgents would stop all rebel activities, including fresh recruitment and collection of taxes and the revocation of the 'quit Mizoram' notice to non-Mizos, and the Government, on its part, would suspend all operations by its security forces against hostile activities. With the enforcement of the 'cease-fire', the two sides, it was agreed, would confer about how to solve the Mizo problem within the framework of the Constitution. The cease-fire accordingly came into force, and the Mizos were jubiliant that peace had returned to their strife-torn homeland.

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But the calm that prevailed in the Union Territory proved to be deceptive. Laldenga adopted a contradictory posture. On the one side he sought to convince his erstwhile colleagues that Mizoram's future lay with India, and he told the Government of India that he was sincerely trying to find a solution to the vexed problem within the framework of the Indian Constitution. And, on the other hand, he directed the commanders of the Mizo National Army, the armed wing of the MNF, to keep their powder dry. Accordingly, those commanders took full advantage of the suspension of military operations to regroup their forces, to restore their communication links, to re-establish their ideological cells in remote hamlets, to raise funds, to collect rations, to build up stocks of medicines, to establish fresh arms and ammunition dumps and to take refresher course in guerrilla warfare for their men. Thus, while there was talk of peace the MNF and the Mizo National Army prepared for war.

In early March 1981, Laldenga put before Mrs Gandhi a five-point plan to solve the Mizo problem, and the Prime Minister allowed him to visit the MNF headquarters in the Arakan Hills in Burma to discuss the situation with other leaders of the MNF. On his return from there, he stated on 5 April that the MNF wanted a greater Mizoram state which should include large parts of Tripura, Manipur and Assam. He also said his followers wanted 'some sort of autonomy' for Mizoram guarded by a constitutional amendment. He stressed that the Mizos were, different, that they were ethnically and culturally Mongolian and Christian by religion, and that the majority of others were Indo-Aryan, governed by Hindu ethics and philosophy. The hawks within the MNF leadership, thus, sought to continue to struggle rather than agree to a solution within the Indian Union.

The MNF carried on secessionist activities and the Mizo National Army continued to attack the security forces, civilian and government employees and the citizens. Laldenga demanded the dismissal of the Mizoram Chief Minister Brig. T. Sailo and his own appointment in his place as a precondition to resume the talks. The Government of India did not accept it and on 20 January 1982, imposed a ban on the MNF under the Unlawful Activities (Prevention) Act, 1967 for carrying on secessionist activities.

The outlawed MNF then demanded that the Mizoram administration be carried on by the Lt. Governor with the help of a council of advisers headed by itself. This proposal too was turned down by the Central authorities, and Laldenga who had been staying on in New Delhi as the guest of the Government of India to carry on the talks was told that he was free to leave the country. Thereafter, the MNF volunteers took to guerrilla activities and served upon the non-Mizos a notice to leave the Union Territory by 21 June 1982.

The Central authorities continued to send 'peace feelers' to the underground headquarters to resume the negotiations, but the MNF took the position that it would not talk without Laldenga who lived in the United Kingdom and was reluctant to come to New Delhi for this purpose. For about two years the issue remained frozen, though the insurgent activities continued.

In April 1984, Mrs Gandhi said, in the course of a visit to Aizawl, that the Union Government would be prepared to hold talks with the MNF provided the rebels renounced violence and agreed to settling the dispute within the framework of the Constitution. The Mizos were losing zeal for a state of continuous insurgency and had begun to yearn for peace and normal democratic politics. The successful general election in Mizoram testified to this. The Church leaders made renewed efforts to get the rebels and the Government talk again. In view of these developments, Laldenga

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made a conciliatory statement in London in May, and in July he wrote to the Prime Minister that as solution of the Mizo problem within the framework of the Constitution would be acceptable to the MNF, provided special protection was accorded to the Mizos in the matter of trade and commerce and also provided Mizoram was made the seat of High Court. The Union Government authorities considered these demands as unconstitutional. The talks between them and MNF chief Laldenga, however, continued, and on 30 October 1985 a breakthrough was reached. Accord was reached on modalities for laying down arms by the rebels and in the wake of this a coalition government was formed by the MNF and Congress (I) with Laldenga as the Chief Minister. In the third week of February 1987, general election for the 40-member Assembly was held, and the MNF got 25 seats, whereas Congress (I) could secure only 12. On 20 February, a new Ministry with Laldenga as the Chief Minister, was sworn in, and on the same day Mizoram was made the 23rd state of the Indian Union. Prime Minister Rajiv Gandhi assured full support to the MNF Government), and Laldenga assured full cooperation to the Centre.

Nagaland

Another area of the North-East region where secessionist movement and an agitation for an independent sovereign state took place was the Nagaland. Numbering about 400,000 divided into over twenty tribes differing widely in language and customs, the Nagas lived in the Naga Hill districts and in the Tuengsang division on the Indo-Burmese frontier. There was a Naga minority in northern Manipur and about 100,000 in the adjoining areas of Burma, but neither of these two groups gave active support to the separatist movement. The Nagas of the Naga Hill district were more advanced, and they were in the forefront of the movement. Zapo Phizo was their leader, and they had formed the Naga National Council to, carry on the agitation. In February 1950, Phizo held a plebiscite on the issue of Naga independence, and 99 per cent of the Nagas were proclaimed to be in favour of a sovereign independent state. In 1952, he organized a boycott of the first General Election and this was 'a great success.' In April of the same year, he said that the Naga's case would be submitted to the United Nations if difficulties arose. In the spring of 1955, the Naga National Council organized serious disorders and violence, and the Army had to be called in to suppress their onslaughts. Nearly 300 Nagas were killed, and the area in which they operated was declared a 'disturbed area.'

Six Naga leaders repudiated Phizo's violent methods and separatist movement. In September 1956, they met Prime Minister Nehru, and put forward proposals for the unification of all Naga areas under a single administration. Nehru assured them that as soon as peace was restored the Government would consider any change in the present set-up and consult with the Naga people 'subject to the unity, integrity and security of the Indian Union.' The Assam Government announced a reward of ₹ 5,000 for the arrest of Phizo and 37 of his accomplices and charged them of a number of crimes punishable with death. It convened, on 22–26 August 1957, a convention of loyal Naga leaders in Kohima. This convention adopted, unanimously, a resolution demanding the integration of the Naga areas as a single administrative unit under the Indian External Affairs Ministry to be administered by the Government of Assam on behalf of the President of India.

This proposal meant the abandonment of the demand for an independent Naga state and was envisaged as an 'interim arrangement,' pending a permanent political

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settlement within the Indian Union. Another resolution of the convention appealed to the Naga rebels still in arms to 'give up the cult of violence' and to 'cooperate for the good of our land and the free development of our people according to our traditions.' The Government of India welcomed both the resolutions, and in July 1960, an agreement was reached between the Indian Union and the Naga Peoples` Convention.

On 24 January 1961, President S. Radhakrishnan promulgated the Nagaland (Transitional Provisions) Regulations which made the following provisions for the administration of Nagaland during the transitional period before the attainment of full statehood: (i) an Interim Body of 45 elected representatives of the Naga tribes would act for three years as an advisory council to the Governor who, in its recommendation, would appoint not more than five of its members to serve as an Executive Council; (ii) the Interim Body would be empowered to discuss and recommend on matters of administration involving general policy and development schemes, etc; and (iii) the Executive Council would assist and advise the Governor in the exercise of his functions. The Interim Body was sworn in on 18 February 1961 in the presence of General S.M. Srinagesh, Governor of Assam, who acted concurrently as Governor of Nagaland. Imakongliba Ao was elected Speaker of the Interim Body, and Dr Shilu Ao as Chairman of the Executive Council.

On 21 August 1962, Nehru introduced in the Lok Sabha the state of Nagaland Bill and the Thirteenth Constitution (Amendment) Bill, and after easy passage, both the Bills received the President's assent. On 4 September 1962, Nagaland became the sixteenth state of the Indian Union. It comprised the Naga Hill districts and the Tuengsang Tribal Area. The new state was inaugurated by the President on 1 December 1963. The first General Election for the Interim Body (Assembly) was held on 10–16 January 1964, and Naga Nationalist Party leader, Dr Shilu Ao, was sworn in as Chief Minister.

Although the Indian Army broke up large rebel concentrations and destroyed their hide-outs, the rebel Nagas numbering about 1,500 regrouped themselves and adopted 'hit and run' tactics in small groups. The hard core of hostile leadership in the Naga Hills with a fairly large following and stocks of arms and ammunition remained intact. Most of them operated in the Burmese frontier area. After the formation of the state of Nagaland these rebels became desperate and resorted to more severe violence and acts of arson. They assassinated, the Chief Minister, Shilu Ao, and formed the 'Naga Revolutionary Government.' Phizo fled to London to canvass support for an independent state of Nagaland from the Western countries. He and his London host, Rev. Michael Scott, went to New York to table the Naga case in the United Nations, but they could not enlist much support there. Then, Phizo turned towards Communist China and Pakistan — the two grievous enemies of India — and obtained large quantities of arms and ammunition. These countries also provided political support and facilities for training the Nagas in the art and technique of guerrilla warfare. Equipped with these, the followers of Phizo whipped up their drive for more terror, ambushes and assassinations. Hundreds of their political opponents were done to death. One 7 August 1972, even the Chief Minister of Nagaland, Hokishe Sema, was made the object of attack, though he escaped death. The guerrilla activities of the Naga hostiles reached an all time' high in the first half of 1973.

The Union Government adopted a stem attitude, announced that greater autonomy for Nagaland was out of question, and declared 'the 'Naga National Council,' the 'Naga Revolutionary Government,' and the 'Naga Revolutionary Army` as illegal bodies. The

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Army operations, suspended eight years earlier, were resumed, and the Unlawful Activities (Prevention) Act 1967 was rigorously enforced. As a result, most of the hostile Nagas gave up violence and came out into the open. The 'Prime Minister' of the Naga Revolutionary Government, Scato Wsu, and former 'General' Zuharto surrendered, and they offered to cooperate with the rest of the country. On the occasion of the tenth anniversary of the state of Nagaland (1 December 1973), Mrs Gandhi visited Kohima and exhorted the Nagas to join the task of building the state as a prosperous unit of the Indian Union. She served a warning upon Phaizo and a few of his accomplices that no talks would be held with them for any settlement outside the, constitutional provisions. On 2 September 1974, the underground Naga National Council and its allied organizations were banned. The ban also applied to the so-called Federal Government of Nagaland, Naga Army, Kimhao (upper house), Tarar Hoho (assembly of representatives) and the Federal Supreme Court.

All these measures of repression and suppression failed to wipe out the Naga insurgency. News continued to appear in the Indian newspapers in the early months of 1975 that the Nagas were sneaking into China and Burma to obtain arms and training there with the object of making yet another effort to secede from the Indian Union and form an independent sovereign state of their own.

On 11 November 1975, the Governor of Nagaland, L.P. Singh, entered, on behalf of the Government of India, into an agreement with the 'known real representatives' of the underground Naga organizations at Shillong. On their part, the rebel Nagas accepted the Constitution 'unconditionally,' abjured violence and agreed to surrender all arms and ammunition and to give up the demand for independent Nagaland. The Union Government agreed to suspend the operation of the MISA, to release gradually the 200 Nagas in detention and to condone the acts of violence and other offences committed by the underground Nagas during the period of insurgency. This agreement was welcomed by the NNO General Secretary, J.B. Jasokie, who thought, it would bring 'permanent peace' in the state.

But some hard liners among the rebel Nagas made frantic efforts to scuttle the 'Shillong Peace Accord,' as it came to be known. They recruited fresh volunteers, established contact with the rebel gangs across the border in Burma and resumed China traffic for training and arms.

During his visit to London in the second week of June 1977 to attend the conference of Commonwealth Prime Ministers, Morarji Desai conferred with Phizo to explore the possibility of permanent ease and harmony between the Centre and the Nagas, but nothing tangible emerged out of their deliberations. Phizo showed his unwillingness to accept that Nagaland was one of the 22 states of the Indian Union. A few months later, a Janata Party leader, S.M. Joshi, talked to Phizo to discuss ways of ending the secessionist insurgency in Nagaland, but nothing came out of these, talks either. Several erstwhile rebel leaders met, as emissaries of Phizo, Charan Singh and Y.B. Chavan, Prime Minister and Home Minister respectively of the caretaker government, to reopen the dialogue with the Centre to arrive at a solution, but these parleys also produced no result.

In the third week of May 1980, the Nagaland Peace Council, an organization of those who wanted to resolve the Nagaland problems within the framework of the Constitution, convened in Kohima the All-Naga People's Conference, and about 500 representatives of the 14 major tribes of Nagaland participated. A consensus was reached that the 'Shillong accord' was a fait accompli and had to be the basis for sorting out the

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remaining problems confronting Nagaland. None of the top underground leaders of the secessionist movement took part in the conference, and in July, two of them, T.H. Muivah and Isak Chihi Swu, called upon their followers to get ready for a protracted war for 'the liberation of Nagaland'. A manifesto circulated among the people said: 'We rule out the illusion of saving Nagaland through peaceful means. It is arms and arms again that will save our nation and ensure freedom to the people'. This manifesto was circulated by the National Socialist Council of Nagaland led by Muivah and Swu, operating in close league with the Chinese.

In the meantime, the United Democratic Party led by Vizol and the Naga National Party led by J.B. Jasokie sought to run the Nagaland politics through parliamentary means. Both of these parties merged into one and created the Nagaland National Democratic Party (NNDP). This party came into power in November 1980, with Jasokie as the leader. The Congress (I) endeavoured to entrench itself into Nagaland politics. It contested the election for the state Assembly in November 1982, and in a House of 60 members secured 24 seats, the same number as won by the NNDP. The Congress (I) Central leaders descended on Kohima with carrots in hand and won over eight independents into their fold. S.C. Jamir, the Congress (I) leader, was sworn in as Chief Minister, and Mrs Gandhis party, thus, emerged as the dominant political culture in the north-east. The process of normalisation and constitutionalism, it appeared, began to take roots in the state, though the secessionist elements had not been wholly wiped off. State Assembly elections were held in February 1993 and Congress emerged as the largest single party. Its government was formed on 25 February 1993.

ACTIVITY

Write a report on two major instances of communal violence in India.

DID YOU KNOW

Linguistic Conflict in Communalism

The conflict over Hindi and Urdu was not a legitimation of any popular language but a struggle with regard to vocabulary and script. It was a symbol of intra-class rivalry–among rural and urban gentry.

Check Your Progress

6. _____ refers to the idea or practice of dividing a country into small units for political, economic, social and cultural purposes.
7. Mention two expressions of violence in India.

6.5 SUMMARY

In this unit, you have learnt that:

- The caste system in India has a complex nature. Many scholars, *namely* Ghurye, Hutton and Ketkar, have pointed out the characteristics of *caste*. Ketkar describes two characteristics of caste, namely, (i) that membership *is* confined to those who are born of members and includes all persons so *born*,

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(ii) the membership is forbidden by an inexorable social law to men outside the group. From this, it can be said that if a man should be banned from his caste for some reason, he would be without any group, since no other group, lower or higher could accept him into its membership. Moreover it also limits the choice of marriage partners.

- The term 'communalism' has its roots in the word 'community'. Communalism refers to the politics of conflict between the members of different communities. It is a derogatory perception of communities other than one's own and in it one community is instigated against the other in the name of religion. This evil restricts one's sympathy to the community of one's birth. It is opposed to secularism as it has a pattern of socio-cultural coexistence and of political integration.
- Communalism is an ideology based on the belief that Indian society is divided into various religious communities with diverse economic, political, social and cultural interests. They are even hostile to one another due to their religious differences. Communalism is a belief system through which a society, economy and polity are viewed and explained and around which an effort is made to organize politics.
- Communal violence (or communal riots) is a particular approach to politics, which is practised at a sustained level. Communal violence involves incidents of violence between two religious communities. It can be sporadic in nature and mainly forms a law and order issue to be handled on the spot for restoring peace and calm.
- Communal politics is a South Asian expression for ethnic or sectarian politics. Such politics is based on a belief that religion forms the basis of a common identity; that members of a particular religious community have the same economic, political and social interests.
- Regionalism refers to the idea or practice of dividing a country into small units for political, economic, social and cultural purposes. Politically, regionalism is connected with decentralized or federalist governments. Regionalism is both cultural and political, as its political success is associated with the development of a regional culture.
- Although the phenomenon of violence has been with us for a long time, the last two decades have been quite dismal. The incidents of collective violence included not only three major arenas of violence namely, inter-caste, inter-communal and inter-linguistic violence, but also many other forms of violence. These other forms of violence were those associated with demands for separate states, reorganization of states, industrial strikes leading to violence against rich landlords in the rural areas, student agitations leading to violence, tribal revolts and terrorist activities in North East, Punjab and Jammu and Kashmir. Widespread civil disobedience resulting in violence organized for and against certain political parties is also a form of violence in the Indian political system.

6.6 KEY TERMS

- **Casteism:** Prejudice or antagonism directed against a person of a different caste.
- **Communalism:** The principle or practice of living together and sharing possessions and responsibilities.
- **Regionalism:** The theory or practice of regional rather than central systems of administration or economic, cultural, or political affiliation.
- **Violence:** Behaviour involving physical force intended to hurt, damage, or kill someone or something.

6.7 ANSWERS TO 'CHECK YOUR PROGRESS'

1. Endogamous
2. There has been a decline in the supremacy of Brahmins.
3. Communalism refers to the politics of conflict between the members of different communities.
4. Adherence to religion and religious system.
5. Communal politics
6. Regionalism
7. Agrarian violence, communal violence

6.8 QUESTIONS AND EXERCISES

Short-Answer Questions

1. How does Ketkar describe the characteristics of caste?
2. What are the features of endogamy?
3. State the two-fold negative effects of communalism.
4. What are the various sources of communal conflict?
5. What are the positive and negative connotations of regionalism?
6. What is the pattern of violence in India?

Long-Answer Questions

1. Discuss the various characteristics of the caste system.
2. Explain the recent changes that have taken place in the caste system.
3. Write a note on Communal ideology. How is this ideology affecting Indian polity?
4. Identify and explain the forms in which regionalism has assumed itself in India.
5. Describe in detail the forms of violence associated with Indian politics.

6.9 FURTHER READING

Gowda, M.V. Rajeev and Sridharan, E.; *Parties and the Party System, 1947–2006*, (ed.) *States of India's Democracy,* John Hopkins University Press: Maryland, 2007, p.7.

Limaye, M.; *Contemporary Indian Politics*, Radient Publisher, New Delhi, 1988, p.194.

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UNIT 7 THREATS AND CHALLENGES TO THE INDIAN POLITICAL SYSTEM

Structure

7.0 Introduction
7.1 Unit Objectives
7.2 Corruption and Criminalization
7.3 Environmental Movements (Chipko and Narmada Bachao Andolan)
7.4 Summary
7.5 Key Terms
7.6 Answers to 'Check Your Progress'
7.7 Questions and Exercises
7.8 Further Reading

7.0 INTRODUCTION

In this unit, you will learn about corruption and criminalization, which are amongst the major threats and challenges to the Indian political system. The prevalence of corruption in civic life is a universal experience, but recently, it has assumed alarming proportions in India. It has spread to each part of the governmental bodies, and a more speedy growth of corruption has been observed among the politicians, the political workers at all stages and even in the uppermost ranks of political leadership, both at the levels of the state and the Centre. There persists a massive public skepticism towards corruption, and there is a general feeling of acceptance of corruption in civic life by people. It is felt that people indicted of political corruption always go guiltless, and thus, accumulate more power, status and wealth. All this has resulted in a state of affairs, where even the most resolute efforts to fight the evil of corruption have failed dejectedly. It seems that the government is already aware of its existence, and also knows the likely manner in which it can be controlled, but is lacking the will required to implement such measures successfully. One of the most distinctive features of corruption is that it is immune to all measures that are undertaken to contain it, especially because it prevails at all levels of our administration and society. In December 2012, Transparency International ranked India 94th out of 176 countries in the Corruption Perception Index ratings. Anna Hazare's crusade against corruption has failed to live up to its hype, and the political conditions of our country seem to be going nowhere.

The process of politicization and criminalization of politics adds to the political corruption in the country. Democracy is threatened due to the politicization of the police. Politicians use most pernicious methods such as the use of the services of the anti-social elements during elections. There is a close nexus between criminal elements and mafia leaders and the politicians. Practices such as booth-capturing, violence, threats and victimization of voters in the electoral process are quite prevalent. These practices ruin the weaker sections of our electorate. Today, it is extremely hard to affect the conviction of culprits, who are guilty of crimes such as murder, grievous hurt, intimidation and rape.

This unit will also introduce you to the features of environmental movements in India. The environmental movement, a term that includes conservation and green politics, is a diverse scientific, social, and political movement for addressing environmental issues. Environmentalists advocate the sustainable management of resources and stewardship of the environment through changes in public policy and individual behaviour. In its recognition of humanity as a participant in (not enemy of) ecosystems, the movement is centered on ecology, health, and human rights. Chipko Movement and Narmada Bachao Andolan are two popular environmental movements in India.

7.1 UNIT OBJECTIVES

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

- Discuss corruption and criminalization in the Indian political system
- Describe environmental movements in India such as the Chipko Movement and Narmada Bachao Andolan

7.2 CORRUPTION AND CRIMINALIZATION

Criminalization

In the present political scenario, criminalization of politics has become a very common occurrence in almost every country of the world. The concept of politics has in its offering, techniques and rules of governing a state and a nation. Its fundamental approach is to provide good governance.

People who are part of the discipline of politics are known as politicians. Ideally, they are supposed to be individuals who have all the qualities that are needed for good governance. However, the present scenario has completely changed. In the current scenario, most of the people who are into politics appear to be criminals.

They have a number of criminal cases against them. In spite of this, they are ruling states and the country. They are being elected as public representatives for Assembly and Parliament. No one can be sure whether they secure victory in elections by fair means or by foul ways. As it appears now, politics has become synonym for crime.

Criminalization is a term that has originated from the word 'crime'. This appears to be very unpleasant and has been devouring politics in the guise of an art of governance. While on one hand, crime is an unlawful act of handling anything, politics is the legal way of tackling or dealing with anything socially.

Thus, these two terms are in contract to each other, but in the present scenario they appear to be synonymous to each other, particularly in India.

Criminalization of politics means moulding politics to a criminal shape. This trend has been growing fast since a few decades in our country. Our Constitution provides that the representatives elected by the citizens of our country will govern it.

The representatives should be ideal and they should have the qualities of a social servant. They must think and work for the welfare of the people at large, in the interest of the nation. Our constitution ensures a socialist, secular state and equality, fraternity among its citizens. Our country has a democratic setup, which is by the people, for the people and of the people. It means that the peoples' representatives should always be conscious of good governance so that the ideals of the Constitution must be achieved.

For a few decades there have been many changes in our politics. Good governance is not the prime concern of the governing people. They are guided by their own interests and whims. Persons belonging to criminal background are becoming our representatives. A new trend of giving tickets to confirmed criminals, or even to persons behind bars has grown very rapidly. More than that, the situation appears to be more alarming when we find such people being elected for the State Assembly or Parliament. Elections are won not by right, but by might.

Though democracy implies 'rule of law' and the holding of free election to ascertain the will of the people but it has been much vitiated. Criminalization of Indian politics and consequent cult of the gun have created a great threat to the life of the common people. Some great leaders of all political parties and intellectuals deliver eloquent speeches expressing their abhorrence at the infiltration of criminals into the electoral area. Stress is laid on eliminating the use of muscle power in the electoral process. Yet, majority of the parties limit themselves only to expressing such pious sentiments. No one is seriously concerned to check this process of criminalization. The House of State Assemblies and the Parliament always witness abuses and quarrels among its members.

This criminalization has damaged all the ideals of democracy. No one can predict the end of this alarming situation. It becomes the duty of genuine minds, in this critical situation, to make efforts to save our democracy from this menace. If criminals continue to flourish in this way, nothing will remain intact. No one will be spared, even the creators of this situation. Hence, this situation must be taken seriously.

Corruption

Recently, the cases of corruption and public grievances have been on the rise in the departments of civil servants. In this section, we discuss these important topics.

Governmental Corruption

Governmental corruption is a complex phenomenon, which is prevalent in all forms of government and for which various sociological, economic, administrative factors are responsible. Simple avarice may appear to be generally the motive; but it is by no means the only motive. Poverty, power, wealth and status are all involved in these transactions and there is not always a clear dividing line between them.

This is the general picture and it would not be wrong to say that in the developing countries of Asia and Africa, public administration is seething with bribery and corruption. This situation may be compared to bushes and weeds that are flourishing luxuriantly, taking the good elements from the soil and suffocating those plants which have been carefully and expensively tended.

The following causes appear to have largely contributed to the prevailing widespread bribery and corruption, in public administration in India:

1. Legacy from the past
2. Wartime scarcities and controls

Before the advent of the Second World War, corruption did exist to some extent amongst lower-grade officials, particularly of revenue–earning departments like income tax, customs and central excise, railways, and forests. It also spread to departments like the public works department, police, health, etc. However, the higher ranks were comparatively free from this evil. The lack of fluid resources resulting from the 'great depression' which afflicted the nation after the First World War and also the limited compass of state activities afforded fewer opportunities and limited capacity to corrupt and be corrupted. This situation, however, changed during the course of the Second World War. The immense war efforts involving expenditure of thousands of crores of rupees over various kinds of war supplies and contracts created unprecedented opportunities for amassing wealth by dubious means and methods. Later, wartime scarcities and controls provided opportunities for bribery, corruption and favouritism, as governments subordinated all other considerations to that of making the war effort a success. Propriety of means was never considered, if it hampered the war effort. It was during this period that corruption reached the high watermark in India.

2G Spectrum Scam: An Example of Governmental Corruption

We have had a number of scams in India; but none bigger than the 2G spectrum scam involving the process of allocating unified access service licenses. The scandal involved officials in the government of India illegally undercharging mobile telephony companies for frequency allocation licenses, which they would use to create 2G subscriptions for cell phones. The shortfall between the money collected and the money which the law mandated to be collected is estimated to be ₹176,645 crore as valued by Comptroller and Auditor General of India based on 3G and broadband wireless access (BWA) auction prices which was held in 2010. The issuing of licenses occurred in 2008, but the scam came to public notice when the Indian Income Tax Department was investigating political lobbyist Nira Radia. A. Raja, an Indian politician from the Dravida Munnetra Kazhagam (DMK) political party and former Telecom minister at the Centre, is the main accused in the 2G scam case. It has been observed by the Supreme Court that Mr Raja 'wanted to favour some companies at the cost of the public exchequer' and 'virtually gifted away important national asset'.

Post-War Inflation

The climate for integrity which had been rendered unhealthy by wartime controls and scarcities was further aggravated by the post-war flush of money and the consequent inflation.

Post-Independence Atmosphere and Problems

The administrative machinery inherited by independent India had been considerably weakened by (i) wartime neglect and (ii) the sudden departure of a large number of British and Muslim officers, which necessitated rapid promotions including those of some unproven men and recruitment of a large number of officers in various grades. This inevitably caused a dilution of experience and ability. These officers could not gain familiarity with the traditions of service.

Conflict of Values in Our Expanding Economy

Earlier, a moral code prescribing simple living and high thinking profoundly influenced the mechanism of social control and social responses. But in the emerging society, with its emphasis on purposively initiated process of urbanization and industrialization, there has come about a steady weakening of the old system of values without it being replaced by an effective system of new values. Corruption thrives in such a conflict of values simply because there is no agreement on the definition of corruption. Consequently, honesty and integrity have become extremely scarce and malpractices have come to be regarded as something inevitable and inescapable in administration, business, politics, trade unions, and education. These have spread to, in fact, practically every sphere of public activity in India. Following are the common examples of corruption:

- The warden of a hostel, using the hostel peons for running his domestic errands
- An officer making the department's peon drive his car for personal use
- A doctor issuing false medical certificates
- A official using the staff car for his personal purposes
- An official undertaking needless travels at official expenses

What is striking is that these activities are considered legitimate. Some minor examples of modes of corruption, which are very much prevalent in the government and quasi-government offices are, the use of government vehicles for private purposes and taking of government stationery, by government servants for their personal use.

Acute Poverty

The coexistence of acute poverty and confounding prosperity has also eroded the integrity of the people. The Railway Corruption Enquiry Committee (1953–1955), which was presided over by Acharya J. B. Kripalani, observed:

> While in most modern countries the difference between highest and lowest incomes is about ten times or even less, in India it is much more. This is out of all proportion to the difference in educational qualifications and ability. High salaries generally lead to luxurious living. The standard of living of high paid officials becomes the norm to be aspired to. Every subordinate tries to emulate his superior. If his salary does not warrant it, he gets money through dubious means. True, these high incomes are the privilege of the few, yet their demoralizing effect is out of all proportion to their number. We believe that, so far as the disparity in emoluments of the lowest and the highest paid government employees is conceded, it should be narrowed down. It is argued that as long as the disparity between the lowest and highest paid employees in trade and industry remains high, the Government, if it tried to reduce high emoluments of its executive, will not get the requisite talent for public service. This has not happened in other democratic countries, because of the power, prestige, fixity of service and other advantages enjoyed by government servants. All these advantages exist in India to a greater degree than in other countries where democratic traditions have been established for centuries. We believe that if the Government takes the initiative in reducing disparity of emoluments of its high paid and low paid employees, it will progressively reduce as we march towards socialism, which has been declared to be the goal of government policy.

Lack of Strong Public Opinion against the Evil of Corruption

Corruption is a consequence of the way of life of our acquisitive society, where people are judged by what they have rather than by what they are. The possession of material goods seems to have become the *sine qua non* of life. Thus, materialism, importance of status resulting from the possession of money and economic power, group loyalties

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and parochial affinities seem to be on the rise. This is because of the general apathy or inability of all sections of the society to appreciate in full, the need of strict observance of a high standard of behaviour. This has resulted in the emergence and growth of white-collared and economic crimes and rendered the enforcement of laws themselves, not sufficiently deterrent, but even more difficult.

As a result of lack of a strong public opinion in India, there are many instances of bribes being paid in the country for ration cards, passports, building permits, and for doing even normal business. Street vendors and rickshaw pullers are forced to pay bribes for exercising their fundamental rights. Villagers across the country are forced to pay bribes for getting their wages under the Mahatma Gandhi National Rural Employment Guarantee Act (NREGA) or for any other entitlements in other schemes. A government-sponsored recent study on the efficacy of the National Rural Employment Guarantee Act (NREGA) found corruption in program implementation where workers worked for one day and were paid wages for one day; however, records showed them as having worked for 33 days, with the wages for the remaining 32 days being misappropriated. On closer study, job cards, which all workers are issued under the programme, were found to have counterfeit entries, and often in the possession of the local *panchayat* members. According to the study, workers were threatened not to complain about the fake entries lest they lose even the few days of work and wages that trickled down to them.

Economic Necessity

Inadequate remuneration or salary scales and rising cost of living is probably one of the important causes of corruption. In recent years, the ever-rising cost of living has brought down the real income of various sections of the community, particularly, that of the salaried classes. It is, therefore, inevitable that government servants are the worst hit and have had to face an appreciable fall in the standard of living. Though this cannot be placed in extenuation of the fall in the standard of integrity, the fact remains that the economics necessity has encouraged those who had the opportunities to succumb to temptations.

The Structure or System of Government Induces Corruption to Influence Peddlers

The assumption of new responsibilities by the Government has resulted in highly complicated administrative procedures. Administrative powers and discretions are vested at different levels of the executive, all members of which are not endowed with the same level of understanding and strength of character. Where there is power and discretion, there is always the possibility of abuse and the administrative authority may act outside the strict scope of law and propriety without the injured citizen being in a position to obtain effective redressal, in the absence of the machinery for appeals. This has given rise to the impression of arbitrariness on the part of the executive. Consequently, there has been phenomenal growth of influence, peddlers operating for various individuals or groups of commercial organizations. They are ostensibly designated as liaison officers, public relations officers, officers on special duty, or alternatively work independently as 'contact men', on a commission basis. They are generally influential people who are either related, or otherwise closely connected with ministers and senior bureaucrats, or retired high government officers who are in a position to influence or bring pressure upon the concerned officers. These concerned officers are likely to be their erstwhile colleagues or subordinates.

Complicated and Cumbersome Working of Government Offices

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It is alleged that the working of certain government departments, e.g., the customs and central excise, imports and exports, railways supplies and disposals, etc., is complicated, cumbersome and dilatory. This has encouraged the growth of dishonest practices like the system of 'speed money'. In these cases, the bribe giver generally does not wish to get anything done unlawfully but only wants to expedite the process of movement of files and communications, relating to decisions. Apart from being the most objectionable corrupt practice, this custom of 'speed money' has become one of the most serious causes of delay and inefficiency.

Collusion of Commercial and Industrial Magnates to Serve their Individual Interests

It is not always a government servant who initiates corruption. Corruption can exist only if there is someone willing to corrupt and is capable of corrupting. Both willingness and capacity to corrupt are found in ample measure in the industrial and commercial classes. The speculators and war-period adventures further swell their ranks. For them, corruption is an easy way to secure large unearned profits by various devices, also the necessary means to enable them to pursue their vocations or retain their position among their own competitors. It is these people, who have control over large funds and are in a position to spend considerable sums of money on entertainment. It is they, who maintain an army of 'liaison men and contact men'. Further, there is another class of dishonest merchants, 'suppliers and contractors', who have perfected the art of getting government businesses and contracts by undercutting and making good their loss by supplying inferior goods, by sharing a portion of their ill-earned profit with the government servants who would be prepared to oblige them in their nefarious activities.

Non-cooperation of Trade Associations and Chamber of Commerce

Unscrupulous and dishonest members of industrial and commercial classes are major impediments in the purification of public life. It is as important to fight these unscrupulous agents of corruption to eliminate corruption in public services. In fact, they go together. The Trade Association, the State Chambers of Commerce and the Federation of Indian Chambers of Commerce could lend powerful support to the fight against corruption. However, unfortunately, they generally do not cooperate.

Protection Given to the Public Services in India

As the law exists at present, the giver as well as the receiver of bribes are held guilty. The result, therefore, is that evidence against the offenders is very difficult to procure, for not only there is collusion in the commission of crime, but also collusion in the suppression of evidence. The heads of departments are unable to do anything against a subordinate official, even though they are aware that the subordinate is corrupt, because of the difficulties in obtaining formal proofs for conviction. The heads of departments are even unwilling to make adverse entries in the confidential rolls unless they are in a position to justify such entries with proof, when challenged by the subordinates concerned. Article 311 of the Constitution, as interpreted by our courts, made it very difficult to deal effectively with corrupt public servants. Reluctance of higher officials to exercise the disciplinary powers they possess may sometimes be due to their own incompetence, indifference or even downright collusion in corruption

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with the subordinates concerned. Indeed, many heads of organizations are themselves corrupt and a corrupt officer will never combat corruption in his organization for fear of exposure by his subordinates.

There is too much security of tenure accorded to the bureaucracy by requiring that no public servant shall be dismissed or removed by an authority, subordinate to that by which he was appointed and further no such person shall be dismissed, or removed, or reduced in rank until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him. The fifteenth amendment of the Constitution (October 1963) softens some of the rigidities by expediting the conduct of disciplinary proceedings against public servants. The effect of the amendment is that an accused government servant gets two chances to defend himself. His first chance to defend himself is at the time when charges are framed against him and his second chance is when penalties are proposed to be imposed. This is based on the evidence already adduced during enquiry of the charges against him, without bringing in any fresh evidence or other extraneous matters. The intention is to expedite the conduct of disciplinary proceedings.

7.3 ENVIRONMENTAL MOVEMENTS (CHIPKO AND NARMADA BACHAO ANDOLAN)

The United Nations Conference on Human Environment, Stockholm, 1972 paved the way for a number of studies and reports on the condition of the environment and its effect on the present and future generations. It expressed concern to protect and improve the environment for present and future generations. The development of 'green politics' or 'eco-greens' or the 'green movement' in Germany and North America in the early 1980s boosted the formation of the 'green network' and the 'green movement' throughout the world, including India.

A number of action groups, research institutes, documentation centres have been established to study and mobilize public opinion on environmental issues. By now, the material on the environmental situation in general and in certain sectors such as air, land, forest, water, and marine resources have proliferated in different forms from popular literature to 'scientific' studies. The reports on India's environment published by the Centre for Science and Environment provide valuable material not only on various aspects of the environment but also people's resistance and struggles. The media also frequently reports on struggles of the people at the local level on the issues of land, water, marine resources, and forest products. However, systematic analytical research-based monographs on environmental movements are few and far between.

More often than not, the struggles of the people on the issues of their livelihood and access to forest and other natural resources are coined as 'environmental movements'. Historical studies on peasant movements mainly focus on the agrarian relationship between different classes of landowners. Studies on the struggles over forest resources are treated as tribal movements. Guha and Gadgil rightly observe, 'The agrarian history of British India has focused almost exclusively on social relations around land and conflicts over distribution of its produce, to the neglect of the ecological context of agriculture for example, fishing, forests, grazing land and irrigation and of state intervention in these spheres'.

Check Your Progress

1. What is criminalization of politics?
2. Give an example of a common form of corruption.

NOTES

Among the few important studies focusing on one of the important themes of the movements are those on the Chipko movement by Ramachandra Guha and Narmada Bachao Andolan (NBA) by Amita Baviskar. Both the authors, however, do not want their studies to be treated as mainly on environmental movements. Guha calls his study on peasant resistance focusing on the ecological dimension. It is a study on the ecological history of the region linking 'environmental changes with changing and competing human perceptions of the "uses" of nature'. The study is focused on the structures of dominance and the idioms of social protest. He analyses ecological changes and peasant resistance in the Himalayas in the wider comparative framework. Baviskar studied the tribals of Madhya Pradesh, focusing on their relationship with nature and their conflicts over state-sponsored 'development'. She interrogated the theoretical positions of the environmental movements which assert that the 'development' paradigm of the dominant elite, followed by the Indian state, is environmentally destructive. These movements claim that their critique 'is writ large in the actions of those marginalized by development-indigenous people who have, in the past, lived in harmony with nature, combining reverence for nature with sustainable management of resources. Because of their cultural ties with nature, indigenous people are exemplary stewards of the land'. She analysed the socio-cultural life of the tribals and their resistance to 'development'. She also probed into the question: Given the problematic nature of tribal resource use, how accurately are the lives of tribal people represented by intellectuals in the environmental movement who speak on their behalf?

Guha and Gadgil provide a very valuable overview delineating conflict over forest produce, forest land and pasture land in different parts of colonial India. They discuss the resistance of hunt-gatherers and shifting or *jhum* cultivators to the state intervention in settled cultivation. Forest dwellers launched *satyagrahas* during the 1930s against the forest departments on the issue of encroachment of land. Similar confrontations increased during the post-independence period. Shiva and Bandopadhyaya inform us that about three centuries back the Vishnois of Khejri village in Rajasthan sacrificed more than 200 lives in a passive resistance to the felling of green trees by the royal forces from Jodhpur. There were similar instances in which farmers and forest-dwelling communities resisted the destruction of forest resources. These evidences show a wide range of conflict between the authorities, particularly the forest department and the communities residing in the forests. Shiva and Bandopadhyaya argue that 'these conflicts may not always take the form of people's ecology movements that hold the possibility of resolving these conflicts in just manner. They may also get distorted to take the form of other social conflicts like communal politics, which may not hold the possibility of resolution of the material conflicts'.

Forest struggles may be divided into two: those that were a reprise to direct commercial exploitation and those that were a response to commercial exploitation legitimized as 'scientific forestry'. The dominant strata use scientific forestry as a political weapon to legitimize overexploitation of resources for profit. There is conflict between the profitability and survival imperatives. The latter is being challenged by the action groups supporting the poor by reinterpreting science for public interest.

Baviskar analyses the development policy and performance of the Indian state. She finds that poor people's ability to control and gainfully use natural resources has declined in the last five decades of the development policies. She argues that the model of development, established since independence, has fundamentally altered the way in which different social groups use and have access to natural resources. The changes wrought by the independent state have created conflicts over competing

claims to the environment. These conflicts range from the incessant battle between the forest department and local communities, to the war, raging between mechanized trawls and traditional fishing boats in India's coastal waters, to the controversy over the Dunkel Draft and rights to genetic resources. These claims are not merely for a greater share of the goods, but involve different ways of valuing and using nature for profit or survival, or some combination of the two. They also involve different world views one driven by the desire to dominate and exploit nature and humanity, the other moved by empathy, and respect, sometimes reverence, for the two.

Broadly speaking, the theme of the man–nature relationship is central to environmental movements. Guha and Gadgil define the environmental movement 'as organized social activity consciously directed towards promoting sustainable use of natural resources, halting environmental degradation or bringing about environmental restoration'. In the west, environmental movements focus on consumption, productive use of natural resources and conservation or protection of natural resources. In India, the movements are based on use and alternative use of, as well as control over natural resources. Jayanta Bandopadhyaya and Vandana Shiva observe that ecology movements in independent India have increased against 'predatory exploitation of natural resources to feed the process development' which is dominated by market forces.

Such a process has threatened the survival of the poor and powerless. They argue that 'the ecology movements in India are the expression of protests against the destruction of the two vital economics of natural processes and survival from the anarchy of development based on market economy. These movements have unfolded the contradictions between India and its three economies: those revolving around the market, the household, and nature'.

Harsh Sethi classifies the struggles into three categories broadly and their ideological approach to the issue of environment. One, the struggles which operate in the domain of political economy, raises the issue of rights and distribution of resources. Second, the movements confined to a response to environmental problems and seeking solutions within existing socio-economic frameworks and technological innovations. They seek legal and policy-based shifts in the pattern of resource use. Third, some environmental movements reject the dominant development paradigm and 'seek to alter the very classification of both man and nature relationship'.

Guha and Gadgil classify movements on the basis of the participants. According to them there are three categories of members: 'omnivores, ecosystem people and ecological refugees'. In this multiplicity of movements, one may discern seven major strands. Two of these are exclusively focused on nature conservation, one on aesthetic/recreational/scientific grounds and the others on the basis of cultural or religious traditions.

A third strand confines itself to the technological perspective focusing on the efficiency of resource use. According to them the question of equity is the dominant concern of the environmental movements in present -day India. They are concerned with 'environmentalism' related to the poor. In terms of their ideology there are four strands within these movements. They are: 'crusading Gandhians, ecological Marxists, appropriate technologists, scientific conservation and wilderness enthusiasts'. According to the crusading Gandhians, eastern society, unlike the west, is primarily non-materialist. They are against industrial growth brought by the colonial rule. They frequently cite Hindu scriptures as exemplifying a 'traditional' reverence for nature and life forms.

Harsh Sethi divides the environmental struggles into five categories:

1. **Rest-based:** forest policy and use of forest resources.
2. **Land use:** industrialization and loss of agriculture land, indiscriminate popularization chemical inputs resulting in degradation of land and water logging, exploitation of mineral resources;
   (i) Against big dams involving the problem of involuntary displacement of tribals and non-tribals, residing in the upstream of the river, environmental degradation, including destruction of forests;
   (ii) Against pollution created by industries and
   (iii) Against overexploitation of marine resources.

Andharia and Sengupta divide the contemporary environmental movements into five categories. They identify the issues around which these movements are launched. They also give a few examples of the groups involved in the struggles. According to them, environmental issues are related with the nature of development. And the development agenda in India is closely related to international political economy. Therefore, both cannot be studied separately. Environmental movements raise a variety of issues both in rural and urban areas related to forest, agriculture, industrial pollution, nuclear tests, and tourism. There are a number of non-government organizations (NGOs) who protest against environmental degradation and hazards. Besides pressurizing the political authorities and dominant groups such as industrialists and planners, they also campaign for creating awareness among people on the issues of environment. Organizations like the Kerala People's Science Movement (KPSM) try to demystify the science created by a dominant group of scientists. It advocates sustainable development. The KPSM organizes *padyatras* to develop consciousness for a people-oriented environment. Several other groups also follow the same strategy. They disseminate literature related to pollution, land degradation and loss of natural resources. Occasionally, some groups resort to public interest litigation in the courts to stop certain government and private projects which adversely affect not only the health and other aspects of the people but also the livelihood of the marginalized groups.

In struggles around the issues of forest resources and their use, the main participants have been the tribals and other peasant communities depending on forest resources for their survival. They resist state intervention which impinges on their rights and control over resources. The forms of resistance and occasional confrontations vary from out migration to evasion of responsibilities, robberies to murders. According to Guha, in the traditional system considered that it was the responsibility of the rulers to protect the customary rights and interests of his subjects. When the ruler fails to do so or impinges on the rights of the people, the resistance and revolt are 'traditionally sanctioned by custom'. In Tehri Garhwal, the mechanism of social protest 'drew heavily on the indigenous tradition of resistance known as *dhandak*. Yet, for all its distinctiveness, the *dhandak* is a representative of a type of rebellion that was widely prevalent in pre-industrial and pre-capitalist monarchies'. When the traditional custom of resistance does not remain effective with the changed reality, people resort to confrontation.

Popular Movements in India

Some of the popular movements in India are:

- **Chipko Movement**

This has been discussed in detail, in this unit.

- **Save Silent Valley**

Save Silent Valley was a social movement the purpose of which was to safeguard the Silent valley, an evergreen, hot and humid forest in the Palakkad district of Kerala. This movement began in 1973 with the purpose of protecting the Silent Valley Reserve Forest from being destroyed by a hydroelectric project. This valley was officially named as Silent Valley National Park in 1985.

- **Narmada Bachao Andolan**

This has been discussed in detail, in this unit.

- **Koel Karo**

South Koel River flows across the states of Jharkhand and Odisha, in India. It has its source on the Ranchi plateau, a few miles east of Ranchi and is adjacent to the Belsiangar and Singbum Rivers. The Koel is gets its water from three streams in Jharkhand, namely the North Karo, South Karo and Koina. The South Koel enters Odisha and merges with the Sankh River at Vedavyas near Rourkela. Here it is called Brahmani.

- **Chhattisgarh Mukti Morcha**

Chhattisgarh Mukti Morcha (Chhattisgarh Liberation Front) is a political party in the state of Chhattisgarh. On the 3 March 1977, the Chhattisgarh Mines Shramik Sangh (Chhattisgarh Mines Workers' Union) was established by Shankar Guha Niyogi. In 1982, CMSS formed CMM as their political front. CMM was created to struggle for establishing the cultural identity of the province and for supporting workers and farmers. CMM called for social campaigns, for instance, in protest of excessive use of alcohol and organized social missions, such as a workers' sponsored hospital.

- **Jhola Andolan (Fighting Polythene)**

This is a movement that was started to protect the nature, save water, create greenery, reduce the use of polythene and promote eco-friendly products.

- **Appiko Movement**

The Appiko movement was an activist movement that was aimed at environmental conservation in India. The Chipko movement (Hug-the-Trees Movement) in Uttarakhand, in the Himalayas, was an inspiration for the villagers of the Uttara Kannada district of Karnataka state in southern India. This motivated them to begin a similar movement to conserve their forests. In September 1983, Panduranga Hegde headed a movement comprising men, women and children of Salkani who embraced the trees of the Kalase forest. The regional expression for 'hugging' in Kannada is *appiko*. Appiko movement brought about a new consciousness throughout southern India.

- **Lok Satta Movement**

Lok Satta is an impartial movement for self-governing transformations in India. This movement was headed by Dr. Jayaprakash Narayan, an ex I. A. S. officer and a distinguished campaigner from Andhra Pradesh. The movement began in 1996 with the setting up of Lok Satta, a non-governmental association. In 2006, the movement changed into Lok Satta Party.

- **Swadhyay Movement**

This was a movement that was started singlehandedly by Pandurang Shastri Athavle, a young scholar in his early twenties. This movement aimed at spreading a silent revolution that was focused on transforming mankind as well as culturally socially.

- **Karnataka Rajya Rayot Sangha**

Karnataka Rajya Rayot Sangha, also referred to as KRRS or the Karnataka Rajya Raitha Sangha, is a peasant's movement. M. D. Nanjundaswamy was the president of the movement. This movement hit the headlines for its resistance against KFC outlets in Bangalore, in the 1990s. They are the vanguards in the fight against multinational companies that try to sell seeds, for instance, Monsanto Company.

These movements, for the most part, dissociated themselves from political parties, or tried to blend with the philosophies of political parties. Still, a large number of them embedded or got inspired by the principles of Mahatma Gandhi, a range of shades of environmentalism or gender politics, or socialism.

The latest of social movements is 'Campaign against corruption', April 2011, headed by a group of social activists—Anna Hazare, Arvind Kejriwal, Swami Agnivesh, Kiran Bedi and Baba Ramdev. Some days ago, Anna Hazare, a Gandhian began a fast till death at Jantar Mantar, the heart of New Delhi. He demanded endorsement and implementation of the long awaited Jan Lokpal Bill. This movement was supported by the common people and media. This created a buzz when political leaders were not allowed to share the platform with social activists. This movement is a milestone in the history of the Constitution of independent India. It has forced the government to take in five non-official members in the Jan Lokpal Bill design committee. Generally, only ministers are given the membership of any legislation design committee. Even as passing of the law and its activation by Lokpals and **Lokayuktas** (ombudsmen) will take some more time to be actually functional, this movement has definitely highlighted corruption as a key social issue in India.

Few of the leaders who have gained popularity in these types of movements are Sunderlal Bahuguna, Medha Patkar, Baba Amte, Vandana Shiva, and Vijaypal Baghel.

Chipko Movement

In many ways, the Chipko movement has and will sustain the iconic status that it had acquired for mainly two reasons. First was its grassroots approach and second, the links that it was able to establish between the local environmental concerns of the villagers with the larger environmental discourse.

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Chipko, although referred to as a movement, is actually a collective of several smaller movements that took place in the early 1970s against commercial forestry. Chipko did not begin as a conservation movement but primarily as an economic

struggle, the roots of which lay in rural and peasant protests against commercial forestry during the British Raj. Post Independence, a network of roads snaked into the hill areas of Uttarakhand, in the name of 'development'. These roads, armies of labourers, forest officials and contractors from outside are those whose work led to the methodical denudation of the region's forest.

The unusually heavy rains of 1970 had precipitated one of the most devastating floods in the country. In the Alakananda valley, water flooded nearly 100 square kilometres of land, washed away 6 metal bridges, 10 kilometres of motor roads, 24 buses and several other vehicles. Apart from this, houses collapsed, paddy crops were destroyed. The huge loss of life and property in this flood marked a turning point in the understanding of ecology in the region. The relationship between deforestation, landslides and floods were being explored in the region. It was observed that some of the villages most affected by the floods were directly below forests where felling operations had taken place. This cause was subsequently taken up by the Dashauli Gram Swarajya Sangh, a cooperative Sangh set up in Chamoli District and Chandi Prasad Bhatt, a prominent local activist. On 27 March 1973, Bhatt vowed to 'hug the trees' to stop the felling, which was followed by a huge protest gathering in April the same year at Mandal, forcing the Symonds Company contractor to beat a hasty retreat. In 1974, the State forest movement marked trees for felling at Peng-Murrenda forest, near Reni Village in Joshimath. In a singular display of courage and determination, hundreds of women in Reni, led by 50-year-old Gauri Devi, drove out the labourers of the contractor.

Chipko was largely a series of protests in the region by different groups and villages. Its significance lay in the fact that it was the case of poor and deprived villagers fighting the might of industry as well as the government through non-violent means. The movement received good media coverage, though erratic and stereotype. In fact, the media's coverage of the andolan is a sore point with the people in the region.

In one of the articles on Chipko in the environmental magazine, *Down to Earth*, Shamsher Singh Bhisht, a Chipko activist is quoted as saying that the main reason for the failure of the movement is the role that the media played. Most of the reports on Chipko missed out on the real concerns and demands of the local people. The media resorted to artificial dramatization of Chipko's image. The locals were trying to point out that their lives were so intertwined with the forests that they alone should have the right to manage the forest resources and products. Bhatt's idea of hugging trees to protect them was a powerful concept and it translated into an easily identifiable icon of protest to save the earth. The actual act of hugging came to be a media-propagated myth through media-primed shots of women embracing trees. The concept and the icon were lapped up by the media, especially the international media. Globally, the concern for and the understanding of the environment was growing around the time Chipko happened. The global concern and understanding was mostly related to the idea of conservation than rights of communities. It influenced the transformation of Chipko from a struggle to control local resource use to a national movement with a conservationist and economic bearing.

Concurrently, the national and international media too gave greater emphasis on to the conservationist element in Chipko and the local reality receded to the background. Further, the national media gave more importance to the conservationist strand in the movement by focusing on the conservationist, Sunderlal Bahuguna and

gave him a legendary status, than on the movement as such. There were though a few journalists, like Anil Agarwal, then a science correspondent with the Indian Express, who went beyond the concept and icon and focused on the appalling tales of these villages and astutely introduced all the larger issues Chipko stood for economics of environment and the nature of development in India's hilly regions.

Narmada Bachao Andolan

The Narmada Bachao Andolan (NBA) is a grass-root level movement that celebrated 21 years of existence in November 2006. It was formed to fight against the environmental, social and cultural damage that the Narmada Valley Developmental Project (NVDP) has caused. The NVDP proposal consists of 30 large dams, 135 medium dams, 3,000 small dams on the river Narmada and its over four tributaries and threatens the life and livelihood of the 22 million inhabitants of the Narmada basin. The Sardar Sarovar Project (SSP), the largest dam, alone will submerge 245 villages,19 in Gujarat, 33 in Maharashtra and 193 in Madhya Pradesh. According to NBA, 250,000 people will be affected by the SSP.



Fig. 7.1 Narmada Bachao Andolan

The government sources claim that the SSP would irrigate more than 1.8 million hectares of land and solve the water crisis in the drought-prone areas of Kutch and Saurashtra. The NBA responds by saying that these are exaggerated and the actual benefits are much less than what is projected. The NBA also argued that in the whole process of the NVDP, the riparian rights of the people who live in the valley, including the tribals and peasants were not taken into consideration. In addition to this are the woes of those who have been displaced by the dam construction that has been resumed by the court order in the year 2000. The projected figure of 15,000 affected families in Maharashtra, though promised rehabilitation, is yet to materialize.

The NBA has taken up a lot of issues related to the riparian rights of the people. NBA implies a complex articulation of land rights, environmental degradation, economies of large dams and also the effects of these on the local communities. The fact that the process of development right from its origin, plan and management of resources is seen as a prerogative of the state is the basic point of opposition for the movement. The movement emphasizes that the people have the right to control their own forest, land, water and other natural resources. The movement thus is a deep-rooted critique of the development paradigm. NBA is committed to non-violent means of protest and believes that non-violence is the only path for social movement.

NBA has relied heavily on the media to popularize their struggles and issues and the mainstream national media has been an important part of their campaigns. Leaders and activists of the movement often write in various newspapers and publications. NBA also communicates through frequent press releases giving the status of the struggle from time to time. The media is also informed about the several mass agitations and other programmes and activities.

For communicating with the people of the valley, the NBA depends on other forms of media like songs, leaflets, posters, and audio cassettes. Though the NBA and the NVDP have been discussed quite widely in national and regional newspapers and the visual media, many of the issues discussed earlier with environmental reporting are relevant here too. The media's interest in events rather than processes has seriously affected the NBA reporting in various ways. A movement like NBA, with its issues of displacement and the development paradigm that caused this, are equally important. But the media generally does not sustain its focus on long-term processes and gives space only when there are mass actions such as rallies or a Dharna in the national capital. Of the 435 stories on the Sardar Sarovar Project in 2006, including those in English dailies, TV, periodicals and Internet news sites, more than 75 per cent of the stories are when devastating events like floods happen. The rest happen to be around mass actions like rallies and Dharnas. The handful of well-researched writings is either specialist columns in newspapers or Internet news sites.

The media often links issues and movements to the leaders and activists who are involved in them. One reason could be that these leaders are the ones who become the most visible while bringing to the notice of the world the needs and problems affecting the struggle. The media finds a face for the movement in Medha Patkar, making the NBA look like a single-handed task, whereas in reality, it is a multi-tiered movement, consisting of adivasis, Dalits, Hindu peasants and also various middle-class activists and supporters. The movement is influenced by both community and activists. The decision-making body has two main groups: the full-time activists as well as community representatives from every village. In terms of projecting the leaders, the media often makes movements seem like individual struggles. On the flip side, often protests and rallies that do not include the respective leaders are not given adequate coverage. For instance, on 17 December 2005, the police *lathicharged* hundreds of protestors in Badhwani, Madhya Pradesh outside the collector's office. This got little coverage, none in the mainstream national media. During the satyagraha staged by NBA in April 2006, the event got covered extensively when film actor Aamir Khan visited the pandal to express his solidarity with the displaced people of the valley.

In the 1980s, voices were raised by the Narmada Bachao Andolan activists against the Sardar Sarovar dam construction on the Narmada River. This led to large-scale displacement of adivasis who were neither relocated to a proper area nor granted proper compensation. Besides, the dam was causing serious environmental hazards. In the 1980s itself, we saw women from various strata of society raising their voices against violence perpetrated against them.

Democracy is largely understood as popular sovereignty where people have control over the decisions made by the State. Since it is not practically possible for the people in the modern democratic societies to participate in the decision-making process

of the State directly, they do so through representatives. This representation gets its institutional form in political parties and it is through political parties that the people wish to articulate and represent their demands. But when political parties become ineffective in representing the interests of the people, we see the emergence of social movements (SMS).

ACTIVITY

Research on the internet and find a case study associated with criminalization of politics in the Indian scenario. Give your views on it as well.

EXHIBIT

Indian corruption and theft are the main winners of British aid

Cornwall, Wednesday, 8 February 2012

By the end of this year our Government will have shelled out £1.5 billion since 2009 to pay for solar energy and other grand schemes to combat climate change in foreign countries, including India.

The huge sum, spent at a time when our economy is in the doldrums, is bound to raise eyebrows.

And now we know that in India, at least, the aid money given by Britain for climate change initiatives (and a lot more besides) isn't welcomed anyway.

I was told exactly the same dispiriting thing when I visited India last year to investigate our aid spending. Barun Mitra, director of a New Delhi-based political think-tank, the Liberty Institute, explained: 'The truth is that the government of India no longer wants or needs your aid. I am really surprised that your aid officials endeavour so hard to continue their presence in India. Is it really to help Indians, or is it to justify their own existence?'

It is a pertinent question for a country racing up the league of rich nations. By 2022, India's soaring economy will have outstripped that of the UK. According to financial advisers Merrill Lynch, India already has 153,000 dollar-millionaires – a 20 per cent rise in the past year alone. Indians have hidden away more money in Swiss bank accounts (a total of £900 billion since independence from Britain in 1947) than the rest of the world combined.

And when Indians were asked by their government to exchange for paper money the gold bars and jewellery they had stashed in their homes (to pump cash into the national economy) a hoard worth £160 billion was offered up. India is so wealthy that it now gives out more foreign aid than it receives. In recent years it has handed over £3.5 billion to impoverished African nations.

Meanwhile, it is investing in ambitious projects: a £2 billion space programme will put the first Indian astronauts into orbit by 2016, and the annual defence budget tops £32 billion. A third aircraft carrier is now being constructed for their navy. Further evidence of the garish spending in newly

Check Your Progress

3. Name three popular movements in India.
4. _____ is an impartial movement for self-governing transformations in India.

rich India is provided by the £18 million now being asked (and met) for two-bedroom flats in the poshest parts of Mumbai. There, a £2 billion, 27-storey skyscraper dominates the skyline. It has been built by a local industrialist as a home for his wife and three children and is the most expensive house to be built anywhere in the world. No wonder there is controversy over aid to India. But what happens to the money when it gets there?

Corruption, as the Indian prime minister said last year, is as much a national sport as cricket. Rajiv Gandhi, India's former prime minister, estimated a few years ago that only 15 per cent of aid reaches the poor it is meant to help. In India I saw how the money is squandered. The very first primary school I visited – opened last summer in Bhopal, the capital of Madhya Pradesh state, with the help of British aid – was half empty because parents say the conditions are not good enough for their children. It had not one desk or chair because they were stolen on the way from the factory. The children sat on a floor riddled with holes because the builders had diluted the concrete mix with sand – so they could sell the spare cement.

Indian officials admit that £70 million of the £388 million given by Britain to fund an education programme offering free classes for every child from the age of six to 14 in Indian's poorest states, has disappeared through corruption and theft. So why don't we do what the Indians (and many Britons) plainly want and pull the plug on overseas aid? Indian politicians suspect that the money they get from their former colonial masters is an attempt to influence events in their country, particularly trade deals. If it is, it doesn't seem to be working terribly well given that Britain last week appeared to have lost out to the French on a multi-billion-pound order for jet fighters.

But is there another reason for the huge handout, which is so unpopular both here in Britain and in India itself? A London-based expert on global wealth and the impact of overseas aid in India put it like this to me. 'Government aid-giving is an industry, a self-serving lobby of Westerners jetting from one country to another, enjoying relatively high salaries and numerous perks', he said.

'Unlike every other area of Government or business, these people are judged on how much money they spend and not on what they achieve.' And that is a recipe for disaster. Certainly, at the air-conditioned offices of DFID's India headquarters in a well-heeled part of New Delhi there is no indication that British economic woes are being felt. There are already 90 staff. And only last month our government advertised for more experts to work for DFID in India – to help avert climate change.

Source: Adapted from http://www.thisiscornwall.co.uk/Indian-corruption-theft-main-winners-British-aid/story-15166551-detail/story.html

(Accessed on 8 February 2012)

7.4 SUMMARY

In this unit, you have learnt that:

- Criminalization is a term which has originated from the word 'crime'. This appears to be very unpleasant and has been devouring politics in the guise of an art of governance. While on one hand, crime is an unlawful act of handling anything, politics is the legal way of tackling or dealing with anything socially.
- Though democracy implies 'rule of law' and the holding of free election to ascertain the will of the people but it has been much vitiated. Criminalization of Indian politics and consequent cult of the gun have caused great threat to the life of the common people.
- Governmental corruption is a complex phenomenon, which is prevalent in all forms of government and for which various sociological, economic, administrative factors are responsible. Simple avarice may appear to be generally the motive; but it is by no means the only motive. Poverty, power, wealth and status are all involved in these transactions and there is not always a clear dividing line between them.
- The following causes appear to have largely contributed to the prevailing widespread bribery and corruption, in public administration in India:
  - Legacy from the past
  - Wartime scarcities and controls
- The climate for integrity which had been rendered unhealthy by wartime controls and scarcities was further aggravated by the post-war flush of money and the consequent inflation.
- The United Nations Conference on Human Environment, Stockholm, 1972 paved the way for a number of studies and reports on the condition of the environment and its effect on the present and future generations. It expressed concern to protect and improve the environment for present and future generations.
- The development of 'green politics' or 'eco-greens' or the 'green movement' in Germany and North America in the early 1980s boosted the formation of the 'green network' and the 'green movement' throughout the world, including India.
- The Narmada Bachao Andolan (NBA) is a grassroot level movement that celebrated 21 years of existence in November 2006. It was formed to fight against the environmental, social and cultural damage that the Narmada Valley Developmental Project (NVDP) has caused.
- The NVDP proposal consists of 30 large dams, 135 medium dams, 3,000 small dams on the river Narmada and its over four tributaries and threatens the life and livelihood of the 22 million inhabitants of the Narmada basin. The Sardar Sarovar Project (SSP), the largest dam, alone will submerge 245 villages,19 in Gujarat, 33 in Maharashtra and 193 in Madhya Pradesh. According to NBA, 250,000 people will be affected by the SSP.

7.5 KEY TERMS

- **Corruption:** Dishonest or fraudulent conduct by those in power, typically involving bribery.
- **Criminal:** A person who has committed a crime.
- **Inflation:** A general increase in prices and fall in the purchasing value of money.
- **Magnate:** A wealthy and influential person, especially in business.

7.6 ANSWERS TO 'CHECK YOUR PROGRESS'

1. Criminalization of politics means moulding politics to a criminal shape.
2. A doctor issuing false medical certificates.
3. Chipko movement, Save Silent Valley, Narmada Bachao Andolan.
4. Lok Satta Movement.

7.7 QUESTIONS AND EXERCISES

Short-Answer Questions

1. What are the causes behind governmental corruption in India?
2. What was the 2G Spectrum Scam?
3. How does economic necessity give rise to corruption?
4. What is the 'Chhattisgarh Mukti Morcha'? What are its objectives?
5. What is the 'Lok Satta' Movement? What are its objectives?

Long-Answer Questions

1. Explain the impact of criminalization and corruption on Indian polity.
2. Critically evaluate the evolution and achievements of the Chipko Movement.
3. Examine the nature and scope of the 'Narmada Bachao Andolan'.

7.8 FURTHER READING

Gowda, M.V. Rajeev and Sridharan, E.; *Parties and the Party System, 1947–2006*, (ed.) *States of India's Democracy*, John Hopkins University Press: Maryland, 2007, p.7.

Limaye, M.; *Contemporary Indian Politics*, Radient Publisher, New Delhi, 1988, p.194.

Fadia, B.L.; *Indian Government and Politics*, Satya Bhawan Publications, Agra, 2009, p.633.

UNIT 8 JUDICIAL PROCESSES IN INDIA

Structure

8.0 Introduction
8.1 Unit Objectives
8.2 Judicial Review
8.3 Judicial Activism
8.4 Summary
8.5 Key Terms
8.6 Answers to 'Check Your Progress'
8.7 Questions and Exercises
8.8 Further Reading

8.0 INTRODUCTION

In this unit, you will learn about judicial processes, such as judicial review and judicial activism, in India. Judicial review is the doctrine under which legislative and executive actions are subject to review (and possible invalidation) by the judiciary. In post-independence India, the inclusion of explicit provisions for 'judicial review' was necessary in order to give effect to the individual and group rights guaranteed in the text of the Constitution. Dr. B.R. Ambedkar, who chaired the drafting committee of our Constituent Assembly, had described the provision related to the same as the 'heart of the Constitution'. Article 13(2) of the Constitution of India prescribes that the Union or the States shall not make any law that takes away or abridges any of the Fundamental Rights, and any law made in contravention of the aforementioned mandate shall, to the extent of the contravention, be void. The Supreme Court of India and the various High Courts have been given the power to rule on the constitutionality of legislative as well as administrative actions. In most cases, the power of judicial review is exercised to protect and enforce the Fundamental Rights guaranteed in Part III of the Constitution. The scope of judicial review before Indian courts has evolved in three dimensions – firstly, to ensure fairness in administrative action; secondly, to protect the constitutionally guaranteed Fundamental Rights of citizens; and thirdly, to rule on questions of legislative competence between the centre and the states.

The judicial activism is use of judicial power to articulate and enforce what is beneficial for the society in general and people at large. Judicial activism describes judicial rulings suspected of being based on personal or political considerations rather than on existing law. The question of judicial activism is closely related to constitutional interpretation, statutory construction, and separation of powers.

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8.1 UNIT OBJECTIVES

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

- Discuss the meaning and scope of judicial review
- Explain the meaning and scope of judicial activism

8.2 JUDICIAL REVIEW

Judicial review means review by courts to investigate the constitutional validity of the legislative enactments or executive actions. The power of judicial review in India stands between the American and British practices.

The Constitution of India, in this respect, is more akin to the American Constitution than to British or any other Constitution. Being the guardian of Fundamental Rights and the arbitrator of constitutional conflicts between the Union and the States with respect to the division of powers between them, the Supreme Court holds a unique position. According to this position, it is competent to exercise the power of reviewing the legislative enactments of both the Parliament and the state legislatures. The Supreme Court in India, however, can interpret laws and invalidate them, if they are in contrast to the letter of the Constitution, but not if they are in constrast to its 'spirit'. Accordingly, our courts have to interpret law as it is written and cannot declare a law as invalid on grounds that it is unjust. Similarly, the Indian Constitution distributes the legislative powers between the Union and the states so precisely, with residuary powers vesting in the Union, that disputes over legislative jurisdiction do not pose any serious problem. As our Constitution is not as rigid as the American Constitution, it is possible to override adverse judicial decisions by suitable amendments to the Constitution.

There are several specific provisions in the Indian Constitution, which imbibe the power of judicial review:

- Article 13(2) specifically declares that every law in force at the commencement of this Constitution, and every subsequent law, which is inconsistent with the Fundamental Rights shall be void.
- Article 32 empowers the Supreme Court to invalidate all such laws which violate Fundamental Rights.
- Under Articles 131–136, the basic function of the courts is to adjudicate disputes between individuals, between individuals and states, between states and the Union and while so adjudicating, the courts may be required to interpret the provisions of the Constitution and the laws. The interpretation given by the Supreme Court becomes the law honoured by all courts of the land.
- Article 226 constitutes high courts as protectors and guarantors of Fundamental Rights.
- Article 245 provides powers to both, the Parliament and the state legislatures, subject to the provision of the Constitution. Article 246 (3) expressly provides that in the state list, the state legislatures have exclusive powers. In context of Concurrent List or of those entries in the State List, for which one or more states would have requested the Parliament to make laws; Articles 251 and 254 declare that in case of inconsistency between Union and state laws, the state law shall be void. The constitutional validity of a law can be challenged in India on the ground that the subject matter of the legislation: (a) is not within the competence of the Legislature, which has passed it; (b) is repugnant to the provisions of the Constitution; or (c) it infringes one of the Fundamental Rights.
- In view of Article 372 (1), no pre-constitutional law, which is inconsistent with it, can continue to be valid after commencement of the Constitution.

The power of judicial review, in general, flows from the powers of the courts to interpret the Constitution. Since the Judiciary is the final interpreter of the Constitution and the Constitution regulates the exercise of political power, which, in general is considered to be the main domain of the Legislature and the Executive. Moreover, the judicial process determines the jurisdictional frontiers of the other branches of government. As a result of this, it constantly interacts with the Legislature, the Executive and other institutions of government, which are vested with political power.

8.3 JUDICIAL ACTIVISM

The term 'judicial activism' is explained in *Black's Law Dictionary*, Sixtieth Edition, [Centennial Edition (1891–1991)]. Therefore, judicial philosophy motivates judges to be flexible about judicial precedent and accommodate progressive and new social policies, which are not always in consistency with the control appellate judges are expected to show. It includes decisions calling for social engineering, which sometimes are representative of intrusion in to matters concerning the Legislative and the Executive.

The Judiciary is undisputedly required to play a significant role in interpreting and enforcing human rights as per the fundamental law of the country. Thus, the Judiciary's approach with regard to constitutional interpretation ought to be considered. An approach needs to be creative and ought to have a purpose in interpreting various rights mentioned in the Constitution, with the objective of advancing human rights jurisprudence and social justice.

Honourable Chief Justice. Dr A.S. Anand, while delivering the Justice Krishna Rao memorial lecture at the National Law School at Bangalore has said, 'The courts must not shy away from discharging their constitutional obligations to protect and enforce human rights'. He further added, 'While acting within the limits of law, they must always rise to occasions as guardians of the Constitution, notwithstanding the criticism of judicial activism '.

Judicial activism has emerged as the thematic thread running through the diverse areas of law that are represented in this comprehensive review of the Indian Supreme Court's jurisprudence. Subjects (to name just a few) ranging across areas as distinctive as Fundamental Rights, matrimonial adjudication, mercantile law, environmental justice, agrarian reforms, industrial jurisprudence and election laws, are all viewed through the approving lens of 'proactive adjudication'.

During the last five decades, the Judiciary has emerged as the most powerful institution of the State. It has assumed the power to strike down amendments to the Constitution on the basis of the innovative theory of basic structure. The area of judicial

Check Your Progress

1. What is judicial review?
2. The Constitution of India is more akin to the _____ Constitution.
3. The Indian Constitution divides the legislative powers between the Union and states. (True/False)

intervention has been steadily expanding through the device of Public Interest Litigation (PIL) and enforcement of human rights. Problems relating to environment pollution and natural resources of the nation, which ought to have been tackled on priority by the Executive and the Legislature are brought up through PIL, to be handled by the Supreme Court and the high courts. Lack of proper governance, non-governance and misgovernance are, probably, more responsible for increasing judicial activism. Speaking at Dr Zakir Hussain Memorial Lecture in 1997, A.M. Ahmedi (former Chief Justice) asserted that judicial activism might be seen as a transient phase responding to peculiar needs of the nation. Shedding its pro-status quo approach, the Judiciary has taken upon itself the duty to enforce the basic rights of poor and vulnerable sections of the society. Apart from its traditional limited role of administration of justice, it has also vowed to actively participate in the socio-economic reconstruction of society, by progressive interpretation and affirmative action.

Public Interest Litigation

A Public Interest Litigation (PIL) is a claim that can be lodged in any high court or directly in the Supreme Court. It is not mandatory for the petitioner to suffer an injury or have a personal grievance for filing the litigation. PIL can be referred to as the right that every socially aware member or public-supportive NGO has, to support a public cause by seeking judicial redressal of a public grievance. Such a grievance may arise as an outcome of a breach of public duty or due to some provision of the Constitution that has been violated. Public Interest Litigation is the mechanism by which public participation in judicial review of administrative action can be assured. It works to increase the democracy of the judicial process. Public Interest Litigation cannot be referred to as any statute or act. Judges have interpreted it for considering the overall objective of the public. Therefore, public interest is the prime and sole focus of such litigation.

Provision of Legal Aid

Several substantial assurances have been made for defending human rights in Section 39 of the Indian Constitution. In spite of this, there are a large number of challenges faced by India, pertaining to the implementation of domestic laws for the protection of due process rights like piling of cases which are likely to go on for decades, in addition to 70 per cent of prisoners who have been detained without trials. Nevertheless, law has been a tradition in India since ages and even judicial activism in Asia, was born in India. It has the required legal infrastructure. In the domain of legal aid and legal services, establishments have been set up at the national, state and district levels. This endorses sound capability to provide quality criminal defense to every accused citizen, more importantly belonging to the underprivileged groups. It is the need of the moment to provide quality and prompt legal aid to every citizen of India. This will protect all their due process rights beginning from the time they are arrested by the police for an alleged crime.

Amicus Curiae

Amicus Curiae or *Amicus Curiæ* (plural *Amici Curiae*) is a legal phrase in Latin. It is literally translated as 'friend of the court'. Friend of the court means any person who is not a participant in a case, but offers to provide information on a legal aspect or any other aspect, to help a court in ruling over a matter before it.

The mode of information may be a legal opinion in the form of a brief, a testimony that none of the parties have solicited, or a learned treatise on any aspect of the case that has a bearing on it. It is for the court to judge if the information can be considered.

The term *Amicus Curiae* should not be confused with someone who is involved in a case just because his direct interest lies in the result. Salmon L J (also addressed as Lord Salmon) defines *Amicus Curiae* as follows: 'I had always understood that the role of an *Amicus Curiae* was to help the court by expounding the law impartially, or if one of the parties were unrepresented, by advancing the legal argument on his behalf.'

The courts in India have repeatedly advocated the concept of allowing *Amicus Curiae* to connect themselves with trials that usually involve public interest. In the process, a court is directed not only by the intellectual viewpoint required in a particular case, but it also gets to understand which viewpoint would allow it to deliver total justice. Those who are allowed by the courts to function as *Amicus Curiae* are ones who represent the impartial will and belief of society.

In a large number of cases in India, the courts have provided for, or, on their own activity, have summoned several people to play the role of *Amicus Curiae* in their proceedings. An ideal instance of this is the well-known, or rather notorious *BMW* case. This case has again featured in the news recently due to the fact that the Delhi High Court has suspended both the defense and the prosecution lawyers. The charge was that they were instrumental in turning the witnesses hostile. In the corresponding case, the Delhi High Court had appointed Advocate Arvind Nigam to act as *Amicus Curiae*. His role was critical in securing justice.

Hence, in India, thus, if a petition comes from jail or is related to any other criminal matter where there is no one to represent the accused, the corresponding court appoints a lawyer as *Amicus Curiae*. He defends the accused and fights his case. Even in civil matters, the process followed by the court is the same. The court also has the discretion to assign *Amicus Curiae* in any matter pertaining to general public importance or where the interest of the public is involved.

Judicial Reforms

Judicial reforms should take place on an integrated basis. The police, prosecution, lawyers and courts, must act in solidarity. Judicial reform has recently become a very important issue because of the public's loss of faith in the political system. Judicial accountability is linked to the larger area of judicial reform. The infinite delay in the clearance of cases is a matter of serious concern. Judicial reforms first ought to deal with this backlog. We have seen many Law Commission Reports and various suggestions, one of which is the formation of tribunals to take away some of the workload of High Courts, but still, High Courts are burdened with a large number of cases. The strength of the judiciary in terms of manpower is urgent. Scientific data pertaining to cases that clog the dockets can resolve the problems faced by the judiciary.

Pendency

Pendency is a normal feature of any system but assumes significant proportions in courts. It necessitates courts to stipulate time-limits for all cases. For this, cases need to be identified, classified and prioritized according to their kind and thus the time for

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especially in frontier areas of knowledge, like bio-genetics, IPR and cyber laws, needs attention. The constitutional promise of securing justice for all citizens, social, economic and political, as promised in the Preamble of the Constitution, cannot be realized, unless the three organs of the State i.e., Legislature, Executive and Judiciary, join together to find ways and means for providing the poor people of India, equal access to the justice system.

> **Example:** A Gram Nyayalaya (village court), aiming to provide legal assistance to the rural folks at the doorstep, was inaugurated at Puri in Orissa on Gandhi Jayanti in October 2009. With it, Puri acquired the distinction of having the first Gram Nyayalaya in the state. Soon such village courts would come up in different blocks of various districts across the state. The village court would deal with both civil and criminal cases of people living in Puri Sadar block. The Gram Nyayalaya Act, 2008, provides for First Class Judicial Magistrate dispensing justice in a village court. Judicial Magistrate First Class (JMFC) will be posted at the rural court and will be called Nyaya Adhikari. The court will sit at the district headquarters. The judge will go to villages and dispose of the cases. The Nyaya Adhikari would handle both civil and criminal cases but not those cases where pronouncement of punishment would exceed over two years

Miscellaneous Reforms

However, unless advocates work according to the responsibility entrusted to them by the Constitution, no change can take place. Every lawyer has the responsibility to promote the rule of law and dominance of the Constitution. Thus, economic development and law need not necessarily be complementary to each other. Economic progress cannot be conceived unless appropriate law supports the changing needs of society. We need:

- Speedy justice
- Reduction in costs of litigation
- Systematic running of the courts
- Faith in the judicial system

A sound system of checks and balances under articles 124(2) and 217(1) is provided in the Indian Constitution for the appointment of Judges of the Supreme Court and high courts, where the executive as well as the judiciary are assigned a balanced role. This delicate balance has been upset by the 2nd Judges' case (*Supreme Court Advocates-on-Record Association v. Union of India*), according to the opinion of the Supreme Court in the Presidential Reference (*Special Reference No.1 of 1998*)3. The original balance of power needs to be restored. As a result, the Law Commission has given recommendations in its 214th report (2008). The recommendation for the need for an urgent and immediate review of the present procedure for appointment of judges is further fortified by the forthright views expressed by Shri Justice J. S. Verma, a former Chief Justice of India, who had written the *Lead Judgment in the 2nd Judges' Case*. The views of the Parliamentary Standing Committee on law and justice, which has recommended scrapping of the present procedure for appointments and transfers of Supreme Court and high court judges, are of great relevance in this context.

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Recommendations

Honourable Shri Justice Asok Kumar Ganguly, a Supreme Court Judge, in his article titled 'Judicial Reforms', published in Halsbury's Law Monthly of November 2008 has suggested a few norms, which the judges and lawyers must agree to follow very rigorously, in order to liquidate the huge backlog. The suggestions are as follows:

1. There must be full utilization of the courts' working hours. The judges must be punctual and lawyers must not ask for adjournments, unless it is absolutely necessary.

   Grant of adjournment must be guided strictly by the provisions of Order 17 of the Civil Procedure Code.
2. Many cases are filed on similar points and one judgment can decide a large number of cases. Such cases should be clubbed with the help of technology and used to dispose other similar cases, on a priority basis. This will substantially reduce arrears. Similarly, many of the old cases, which can be separated and listed for hearing can be disposed quickly. The same is true for many interlocutory applications filed even after the main cases are disposed off. Such cases can be traced with the use of technology and disposed very quickly.
3. Judges must deliver judgments within a reasonable time and in that matter, guidelines given by the apex court in the case of Anil Rai vs the State of Bihar, (2001) 7 SCC 318 must be scrupulously observed, both in civil and criminal cases.
4. Considering the staggering arrears, vacations in the higher judiciary must be curtailed by at least 10 to 15 days and the courts' working hours should be extended by at least half an hour.
5. Lawyers must curtail prolix and repetitive arguments and should supplement it by written notes. The length of the oral argument in any case should not exceed one hour and thirty minutes, unless the case involves complicated questions of law or interpretation of the Constitution.
6. Judgments must be clear and decisive and free from ambiguity and should not generate further litigation. We must remember Lord Macaulay's statement made about 150 years ago:

   Our principle is simply this –

   Uniformity when you can have it,

   Diversity when you must have it,

   In all cases, Certainty
7. Lawyers must not resort to strike under any circumstances and must follow the decision of the Constitution Bench of the Supreme Court.

ACTIVITY

Prepare a news report on a criminal case that has recently taken place in India and stirred the nation.

Check Your Progress

4. What is PIL?
5. What does *Amicus Curiae* mean?
6. What is understood by 'pendency'?

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EXHIBIT

Strengthening the judiciary is essential for establishing constitutional democracy

Tehelka, 6 February 2012

After the pronouncement of the landmark 2G verdict, newly-retired Justice A.K. Ganguly talks to Abhishek Bhalla about playing his 'innings' with a straight bat.

Justice Asok Kumar Ganguly had a busy day in office on 2 February. That was the last time he was wearing his robes and holding court. That was also the day when he, along with Justice G S Singhvi, delivered a historic judgment. The two Supreme Court judges cancelled 122 licenses for 2G spectrum granted by former telecom minister A Raja. It was only when the two judges pulled up Central Bureau of Investigation (CBI) for inaction in the 2G probe did Raja and others face criminal charges.

In October 2010, a Public Interest Litigation (PIL) that was thrown out by Delhi High Court came up for hearing before the bench of Justice Singhvi and Justice Ganguly. Their court, number 11 got a new name—the 2G bench as they took it upon themselves to monitor the investigation closely. As the two judges issued notices to A Raja and the Central government, it marked the beginning of a landmark judicial intervention in India's political history.

Known for his bold views, Justice Ganguly never shied away from making strong observations— be it calling "the Prevention of Corruption Act turning into Preservation of Corruption Act," at a book launch last year, or making an observation in open court while hearing a case on Noida land acquisition by the UP government that— "the Land Acquisition Act has become a tool to grab land by the state."

Justice Ganguly, who started his career as a teacher in the same school he was once a student at, served the judiciary for 18 years. He has also served as a judge of the Calcutta High. Today, he has retired a content man. An ardent cricket fan, Justice Ganguly in his farewell speech in a function held at the Supreme Court lawns last week said: "It is the end of my innings as a judge. I don't know how I played my innings but I always tried to play with a straight bat. It is for you to judge how I have played it," referring to former English captain David Crompton's book End of An Innings. In an exclusive interview to Tehelka, Justice Ganguly spoke to Abhishek Bhalla about his judgments, their ramifications, the role of judiciary and his life. Ironically, even after the pronouncement of the 2G verdict where the apex court took on the government, Justice Ganguly feels there is more scope for strengthening the judiciary.

The Supreme Court judgment in the 2G case cancelling 122 licences has huge economic and political ramifications. Was this the most challenging case in your career as a judge?

Every case is challenging for a judge. I wouldn't call this the most challenging. In every case a judge has to do justice and that is what we have tried to do in this case as well. A judge is also on trial while discharging his duties. Everything he does is under scrutiny. There is immense pressure of work on a judge of the Supreme Court and one has to put in long hours of work to cope with it.

The 2G judgment questions the first-come first-serve policy. Do you think this judgment will lead to more litigation not only in the telecom sector but also other sectors where the policy is being followed for a very long time now?

I don't want to get into these details. We have decided on whatever was brought before us. I don't want to comment on the judgment and embarrass the institution. Whatever had to be said is there in the judgment.

The judgment has no mention of Attorney General Ghoolam Vahanavati the then Solicitor General who gave a favourable legal opinion to A Raja on the issue of first-come first-served policy and advancement of cut off date arbitrarily. Would you like to comment?

No.

The verdict has also appreciated vigilant citizens who pursued the matter. Do you think this judgment will encourage common citizens to approach courts even in matters relating to government policy?

Vigilance is the requirement of democracy and it can certainly be achieved through vigilant citizens. Eternal vigilance is the price of liberty. Judiciary is playing an important role in our society today. People have renewed interest in the judiciary. People are now more conscious of their rights and they are asserting it. In the process if there is any resistance by any individual or authority for resolving these disputes, citizens would come to court.

Prior to the 2G judgment you had given another landmark judgment setting a deadline for prosecution sanctions from the government in graft cases where public servants are involved by amending the Prevention of Corruption Act. This was also part of the guidelines in an earlier Supreme Court judgment in the Vineet Narain case, but that has still not been put into practice even after 14 years. Is there a political will to follow this?

I cannot comment on the political will. We can give recommendations to the government to follow the guidelines and that is what my judgment does. There is nothing personal about it. I cannot ensure whether it will be followed or not. That is not my job.

In another landmark judgement while quashing land acquisition by UP government you made an observation that the land acquisition act has become a tool to grab land by the State. Do you think the law for acquiring land has been misused?

Well, in that particular case the facts and circumstances certainly pointed that it was used as a tool to grab land. But I don't want to comment any further because I believe the land acquisition act is being re-looked into. This is what I read in newspapers.

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With more executive decisions being challenged in courts and the Supreme Court having stepped in during the last few years, is there a danger of a face off between the judiciary and the executive?

The government is making laws that are affecting lives of common man in an extensive way. Here also disputes arise between common people. It is only a court that can decide such disputes. Under article 13 (2), chapter III of our Constitution—the chapter on Fundamental Rights there is a mandate that says the State cannot make any law that violates fundamental rights. If the State does so then the law can be declared void. It is only the judiciary that can declare a law void. Executive has no such power nor can the legislature declare void the law enacted by it. Judicial review is inherent in our Constitution, which is a unique feature.

However, not all is well with the judiciary. There are cases of corruption and the collegium system of appointment of judges is said to be opaque. What is the way out?

I cannot comment on the collegium system. It's being followed according to a Supreme Court judgment. The corruption in judiciary is still marginal but whatever is there, it should be dealt with. But judiciary, as an institution, has to be protected by ensuring its independence. It's not that it is lacking in independence but I think judiciary must be strengthened in our country in several ways. This will enable the establishment of constitutional democracy in the real sense of the term.

Now that you have retired, what are your plans?

I have not decided anything till now. I will go back to Kolkata, my hometown, and relax. I will be with my family, which I have missed all these years. Retirement is a part of life and one has to accept it. On my last day, I had mixed feelings. Soon I will realize that life does not come to an end with retirement. Life has many facets, many opportunities, which I think will be open to me with retirement.

Source: Adapted from http://www.tehelka.com/story_main51.asp?filename=Ws060212Interview.asp

(Accessed on 7 February 2012)

8.4 SUMMARY

In this unit, you have learnt that:

- Judicial review means review by the courts to investigate the constitutional validity of the legislative enactments or executive actions. The power of judicial review in India stands between the American and British practices.
- The term judicial activism is explained in *Black's Law Dictionary*, Sixtieth Edition, [Centennial Edition (1891–1991)]. Thus, judicial philosophy motives judges to depart from strict adherence to judicial precedent in favour of progressive and new social policies, which are not always consistent with the restraint expected of appellate judges.

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- Judicial activism has emerged as the thematic thread running through the diverse areas of law that are represented in this comprehensive review of the Indian Supreme Court's jurisprudence. Subjects (to name just a few) ranging across areas as distinctive as fundamental rights, matrimonial adjudication, mercantile law, environmental justice, agrarian reforms, industrial jurisprudence and election laws, are all viewed through the approving lens of 'proactive adjudication'.
- During the last five decades, the Judiciary has emerged as the most powerful institution of the State. It has assumed the power to strike down amendments to the Constitution on the basis of the innovative theory of basic structure. The area of judicial intervention has been steadily expanding through the device of Public Interest Litigation (PIL) and enforcement of human rights.
- A Public Interest Litigation (PIL) is a claim that can be lodged in any high court or directly in the Supreme Court. It is not mandatory for the petitioner to suffer an injury or have a personal grievance for filing the litigation.
- Several substantial assurances have been made for defending human rights in Section 39 of the Indian Constitution. In spite of this, there are a large number of challenges faced by India, pertaining to the implementation of domestic laws for the protection of due process rights like piling of cases which are likely to go on for decades, in addition to 70 per cent of prisoners who have been detained without trials.
- *Amicus Curiae* or *Amicus Curiæ* (plural *Amici Curiae*) is a legal phrase in Latin language. It is literally translated as 'friend of the court'. Friend of the court means any person who is not a participant in a case, but offers to provide information on a legal aspect or any other aspect, to help a court in ruling over a matter before it.
- Judicial reforms need to take place in an integrated manner. The police, prosecution, lawyers and courts, must be thought of as being cohesive.
- Pendency is a normal feature of any system but it assumes significant proportions in courts. This will necessitate courts to prescribe time-limits for all cases.
- The government has already taken several initiatives for judicial reforms. Fast-track courts have been set up, which have disposed more than 18 lakh cases transferred to them.

8.5 KEY TERMS

- **Accountability:** Responsibility to someone or for some activity.
- **Activism:** The policy or action of using vigorous campaigning to bring about political or social change.
- **Adjudication:** The final judgment in a legal proceeding; the act of pronouncing judgment based on the evidence presented.
- **Litigation:** A legal proceeding in a court; a judicial contest to determine and enforce legal rights.
- **Review:** A formal assessment or examination of something.

8.6 ANSWERS TO 'CHECK YOUR PROGRESS'

1. Judicial review means review by courts to investigate the constitutional validity of the legislative enactments or executive actions.
2. American
3. True
4. Public Interest Litigation (PIL) is a claim that can be lodged in any high court or directly in the Supreme Court.
5. 'Friend of the court'
6. Pendency is a feature that necessitates courts to prescribe time-limits for all cases.

8.7 QUESTIONS AND EXERCISES

Short-Answer Questions

1. List the provisions in the Indian Constitution that imbibe the power of judicial review.
2. What do you understand by judicial activism?
3. What are the features of fast tract courts?
4. Write a note on computerization of lower courts in India.

Long-Answer Questions

1. Examine the scope of judicial review in India.
2. Explain how legal aid is provided in India.
3. Explain the phrase *Amicus Curiae*. How do judicial reforms take place?
4. 'Judiciary in India is very unaccountable'. Explain.

8.8 FURTHER READING

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UNIT 9 REGIONAL POLITICAL PARTIES

Structure

9.0 Introduction
9.1 Unit Objectives
9.2 Role and Importance of Political Parties
9.3 Regional Political Parties
  9.3.1 Asom Gana Parishad
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9.0 INTRODUCTION

India is a multi-party democracy. Political parties are such organizations which intermediate between citizens of a nation and the state. They are organized groups, whose members share common policy preferences and programmes. Political parties constitute an integral part of the Indian political system which is marked by the functioning of a variety of political parties. Regional political parties are parties whose main holds are in one certain state and mostly they participate in the elections only within that state. Most regional parties have agenda fitting certain culture dominant within that state. Some regional parties also participate in neighbouring states, which have constituencies with culture similar to the first state. Different state parties were established at different periods because of different reasons. All India Anna Dravida Munnetra Kazagham (AIADMK) and Dravida Munnetra Kazagham (DMK), Shiromani Akali Dal and Asom Gana Parishad are the important regional political parties in India.

AIADMK and DMK are the political parties of Tamil Nadu. Of these two parties, the DMK is the veteran party. The origins of these parties are prior to India's independence. The main ideology of this party is Tamil national pride. The Shiromani Akali Dal has its main hold in Punjab. This party is considered a state party, but actually it is a religion-oriented party whose followers are the Sikhs. This party also has its origin prior to India's independence. Before independence this party demanded from the British a separate entity for the Sikhs in Punjab. Asom Gana Parishad is a state political party in Assam. The AGP was formed after the historic Assam Accord of 1985 when Prafulla Kumar Mahanta was elected as the youngest chief minister of the country.

9.1 UNIT OBJECTIVES

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

- Discuss the role and importance of political parties
- Describe the nature and ideologies of different regional political parties

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9.2 ROLE AND IMPORTANCE OF POLITICAL PARTIES

In the post-Independence era, the political parties came to be recognized as instruments of prime importance through which democracy could be operationalized, as India adopted a parliamentary democratic system of governance. Ideologically, in the pre-Independence era, the colonial state was marked by the presence of the Indian National Congress (INC) as a safety valve-cum-umbrella organization. The INC represented predominantly the voices of the upper and middle classes, and primarily waging the freedom struggle for achieving political independence in the country. The insistence was more on agitation politics and not on institutional politics.

After Independence, the role and importance of political parties have grown substantially and rather proportionately in accordance with the growing franchise. As political suffrage gradually became universal, parties became the means through which politicians are seeking to acquire mass electoral support. Political parties can be defined as organizational groups that seek control of the personnel and policies of the government. They mobilize and compete for popular support. In doing so, they tend to represent products of historical roots, civic traditions, cultural orientations and economy.

Evolution of the Indian Party System in the Pre-Independence Period

The origin of the Indian party system can be traced to the formation of the INC in 1885. Various other parties emerged later. Party formation during the period 1885–1947 occurred in the context of British Raj, and its policy of divide and rule, pursued by encouraging separate electorates, led to the formation of the Muslim League, the Akali Dal and the Hindu Mahasabha. As a multi-class organization, Congress was able to draw the support of peasants, land-owners, businessmen and workers. At the time of Independence, Mahatma Gandhi asserted that Congress must transform itself into a Sewa Dal (a forum of public-workers), but instead, Congress changed into a distinct political party and remained the dominant ruling party for three decades.

Fundamental Features

To understand the Indian party system, it is essential to first understand the fundamental features that appear vital in determining the nature of the Indian party system. These are as follows:

(i) The struggle for freedom and framework of parliamentary government along with politics of national reconstruction, modernization, integration and development has collectively contributed to the evolution of the Indian party system.

(ii) The national heritage of national movement formed the dimensions of national interest, national unity, political integration and national defence.

(iii) The ideological orientation with coexistence of radical 'left' to traditional 'right' during the national movement laid down a practice of toleration and accommodation of different points of view.

(iv) Moreover, the continental size of the country, comprising well-defined and distinct socio-cultural regions; with linguistic, ethnic and religious diversities; and specific patterns of castes, communities and tribes provided conditions for the rise of regional parties and groups.

(v) The task to ensure social equality to remove the inequalities perpetuated by centuries of caste oppression gave birth to political parties and groups who strove to use these castes as perpetual vote-banks.

(vi) On economic fronts, it was a mixture of feudal but emerging developed agricultural and developing industrial economy. Economic development for raising standards of living in an under-developed and poverty-ridden society followed by the problems of Centre-state relations, allocation of resources and resulted imbalances paved the way for the emergence of such parties and groups whose approach was regional instead of national.

(vii) Lack of politically conscious middle class along with regional, sectarian and personal imbalances played a vital role in the evolution of the party system in India.

Evolution of the Party System in India in the Post-Independence Era

The evolution of Indian party system has been from 'one-party dominance' to 'multi-party coalition system'. For the purposes of better understanding, it calls for analysis of various stages of growth.

Phase I (1947–1967): The Era of One-Party Dominance

India had a party system characterized by dominance of the Congress and the existence of smaller opposition parties, which could not provide an alternative either at the Central or state level. In other words, opposition parties had little hope of obtaining sizeable majorities in the legislatures, despite the fact that on most occasions, the Congress did not gain a majority of the valid votes cast. The Congress votes varied from 49.17 per cent to 40.7 per cent. The socialists and the communists, during this period, were able to score around 10 per cent votes each. During this period, groups within the Congress in conjunction with opposition parties, assumed the role of opposition often reflecting the ideologies and interests of the other parties.

An important feature of this era was that the Congress occupied not only the broad centre of the political spectrum, but also dominated the 'left' and 'right' tendencies.

Phase II (1967–1971): The Period of Transition to a Multi-Party System

The second phase extended from 1967 to the fifth general elections. In the 1967 Assembly elections, Congress lost majority in eight states and was reduced to 54 per cent of Lok Sabha seats. This brought a number of opposition parties to the forefront, which intensified inter-party conflict. Competition and conflict increased as opposition parties formed coalition governments in several states.

The 1967 elections had created a situation in which the dominance of the Congress was strikingly reduced. Parties to the 'right' and 'left' of the Congress, the Jana Sangh (now called the Bhartiya Janata Party) and the Communist Party of India (Marxist), popularly known as CPI (M), grew stronger. The possibility that opposition parties might assume power quite substantially made the Centre–state relations an important feature of inter-party competition. The 1967 elections created conditions which led to serious Centre–state conflicts.

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Phase III (1971–1975): The Period of Consensus vs. Inter-party Conflict

The fifth Lok Sabha elections marked the beginning of yet another stage in the evolution of the Indian party system, and the trend continued till the imposition of the Internal Emergency in 1975. The Congress controlled by Indira Gandhi faced a large united opposition party in the General Elections of 1971. Despite the strong opposition, Congress won with a thumping majority. It won 346 out of 510 seats with 43.5 per cent of the popular vote. A significant aspect of the election was the elimination of Congress (O) and the defeat of other political parties. The mid-term polls, thus, pre-empted the development of a multi-party system. It also prevented the politics of coalition building at the national level. It was followed by a strategy to establish hegemony of the Congress at the Centre backed on populist and plebiscitary elections.

The major reason for victory was the de-linking of the Lok Sabha elections from the state assembly elections. The Parliamentary election campaign was de-linked from state-level politics and the state leaders could not exercise the same influence as they had done in the past. Indira Gandhi's campaign injected a powerful element of ideology by raising the slogan of social change and by calling upon the electorate to support her endeavour to initiate new government policies for the benefit of the poor, resulting in a new consensus in political arena. The dominant party model had given way to the differentiated structure of party competition. The process gained momentum as parties aligned to form coalition governments. For its part, the Congress accepted a confrontationist posture, both towards the opposition parties at the national and the opposition-controlled governments at the state level.

Indira Gandhi's conflict with state leadership of the Congress party as well as that of the opposition parties created a style of politics, which laid great stress on centralization in decision making. The new system entailed the abandonment of intra-party democracy. Positions in the Congress organization at all levels were invariably filled by nomination rather than election. Above all, institutional decline accompanied by decline of the state-based leaders and the replacements of regional structure of support by the central leadership adversely affected the federal scheme of Indian politics. After the 1969 split, the Congress followed a broad-based strategy consisting of re-distributive policies, such as nationalization of banks, abolition of privy purses and *Garibi Hatao*, all geared towards widening its support.

Phase IV (1975–1977): The Emergency Period

The imposition of an authoritarian Emergency in 1975 signalled the erosion of the popular support of the Congress party, the institutional decline and the weakening of the party system by suspending civil liberties, particularly freedom of the press and representative government. Opposition leaders and activists faced imprisonment, while concentration of power in the party, the government and in the office of the Prime Minister was the striking feature of the party system during this phase. Strict discipline was imposed on the Congress party. No criticism of the government was tolerated. Any attack on the Prime Minister's authority was considered to be an attack on the party's as well as the nation's unity.

The 1971–75 period, thus, marked the decline of the party system, making parties rely more on make-shift electoral arrangements, populist symbols and rhetoric for gaining support. Personality, charisma and image have acquired greater salience than party identification and party loyalties. But this trend withered away in the post-1977 period.

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Phase V (1977-1980): The Janata Phase of Coalition Politics

The next phase in the evolution of India's party system may be considered from the defeat of the Congress in 1977 elections to the restoration of its rule in 1980. The 1977 elections provided a major step towards party institutionalization and possibilities of the emergence of a two-party system. By and large, independent candidates were rejected and 75.8 per cent votes were cast in favour of only two parties, viz., the Janata party and the Congress.

The defeat of the Congress and the victory of the Janata Party, made up of a coalition of parties, is a significant change in the Indian politics. The Janata Party government attempted to redirect emphasis away from the industrially oriented strategy associated with the Congress rule to rural development and small-scale industries. In general, it made attempts to decentralize the state and the economy. The government invested in programmes that created employment and generated income by relying on labour-intensive technology and distribution of productive assets. Though the Janata government's ideology and programmes were not entirely new, it had taken certain ideological and programmatic themes of rural development from the Congress' broad-based strategy and made it more pronounced.

However, the Janata Party could not achieve its goals. Rural development did not benefit the rural poor because the policy was not specifically directed to this end. Most of the policies benefited the rural rich. Moreover, the Janata Government disintegrated in mid-1979, and many of the constituents that had formed it broke away from the party. Meanwhile, the Congress split for the second time in 1978. The result was an array of fragmented parties. In this context, the Indira Gandhi-led Congress, i.e., Congress (I), appeared to be the only coherent party. This image helped the party to take advantage of the strong popular reaction against frictions and disunity of the Janata government and win 1980 General Elections.

Phase VI (1980–1989): Era of Conflict between Congress and the Regional Parties

The 1980 Lok Sabha election was a verdict on the Janata Party's failure to consolidate the electoral alignments. Thus, in 1980s, the success of Congress (I) was mainly due to the failure of national-level non-Congress parties. The Communist parties and the Jana Sangh retained the support of important groups. They also possessed effective organizations and ideologies. Bhartiya Lok Dal had displayed its presence in the Hindi-speaking states. The 1980 elections reflected these trends. The Congress won 353 seats with almost 43 per cent of the popular vote. Janata Party was the second largest party in nine states. Lok Dal was second largest party in Haryana, UP and Orissa; CPI (M) was the largest party in West Bengal, Tripura and the second largest party in Kerala. Though support for the Congress (I) was still widespread as compared to other parties, class, community and region-wise support was on its decline. The Congress had begun to lose its base in the Hindi heartland, which makes 42 per cent of the Parliamentary seats, and its support in the Muslim-dominated constituencies was also reduced. These trends indicated an erosion of Congress' regional and minority support base.

The assassination of Indira Gandhi in 1984 and the landslide victory of the Congress (I) due to the resultant sympathy wave made opposition in Lok Sabha irrelevant in 1984 elections. During Rajiv Gandhi's regime from 1984 to 1989, there

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was complete absence of dialectical interaction between the government and the opposition. The new political situation that emerged from 1984 election was the one in which the Congress was dominant at the Centre, but not in most of the states.

Phase VII (1989–2004): Multi-Party System and Decline of the Congress Party

The 1989 elections transformed the scene at the Centre by establishing a non-Congress coalition government with a true multi-party character. People displayed a greater inclination to their caste-based parties which represented their interests. These elections recorded the decline of the Congress vote share, and the rise of BJP and the 'third front' of marginalized social group. The United Front, the Rashtriya Janata Dal (RJD), the BSP and the Samajwadi Party (SP) became key players.

The 1996 elections marked a decline in the position of national parties and growth of regional parties, which started playing significant role in the Central politics. This era marked increasing political awareness of people living in remote areas; assessment of national policies in terms of their local impact; mass preference for local politicians and greater demand for state autonomy within the limits of the existing federal structure. In social terms, the election results suggested a greater and more polarized role of caste in politics. Success of BSP among Dalits, consolidation of other backward classes (OBCs) in Bihar and UP, post-mandalization resulting in politics of reservation on caste basis and mushroom growth of various types of caste associations mostly in North India, indicated a positive correlation with election outcome.

Phase VIII (2004 onwards): Coalition System and Revival of the Congress

End of single-party coalition dominance was the message of 2004 elections. The elections rejected all the claims of the ruling NDA coalition and provided an opportunity to all non-NDA political parties led by Congress, named as UPA (United Progressive Alliance), to evolve an alternative political coalition. These elections also reflected significant increase in the weight of Left parties in national politics, with sixty seats in their favour.

Signifying the role of regional political parties, the outcome at the national level, to a great extent, became the sum total of the state-level verdicts. It appeared that any party wishing to win a national mandate has to weave its way through the different states and secure a verdict in each of these. The Congress' key alliances that clicked in the election were with regional parties of Tamil Nadu, Andhra Pradesh, Bihar, Jharkhand and Maharashtra.

This, however, gave yet another message that the Congress party is not dead and if it could successfully lead the country and meticulously manage 'the rainbow coalition' in the coming years, it could well return to power circles. Comprehensive common agendas (Minimum Common Programme in case of UPA and National Agenda in case of NDA) became the guidelines of these alliances. The experiment was repeated in 2009.

Coalition Government at the Centre and States

In India, the subject of coalition governments has acquired great relevance in the context of current political trends and developments. The days of politics as a grand narrative dominated by a single party seems to be over in India. The General Elections in 2009 confirmed this trend that first became visible on the Indian political scene in 1989. The old system which was earlier called the 'Congress System' by Rajni Kothari, and 'a one-party dominant system' by W.H. Morris Jones is no longer in existence. The intensification of competitive politics has changed the party system from being a rivalry between national parties into the one between alliances and coalitions of national and state parties.

Meaning of Coalition

1. The term 'coalition' has been derived from the Latin word *coalition* which is the verbal substantive of *coalescere* - '*Co*', which means together and '*alescere*', which means to go or to grow together. According to the dictionary meaning, coalition means an act of coalescing, or uniting into one body, union of persons, states or an alliance. It is a combination of a body or parts into one whole. In the strict political sense, the term coalition stands for an alliance or temporary union for joint action of various distinct political parties at the state or the Union level to form a single government by members of distinct parties.

Prof. Ogg defines coalition in the *Encyclopaedia of Social Sciences*, as 'a cooperative arrangement under which distinct political parties, or at all events, members of such parties unite to form a government or a ministry'. Thus, coalitions signify a parliamentary or political grouping of different parties, interest groups or factions formed for making or influencing policy decisions or securing power.

The system of coalition has certain characteristics. First, coalitions are formed for the sake of some reward, material or psychic. Second, the underlying principle of a coalition system is temporary conjunction of specific interest. Third, coalition politics is not a static but a dynamic affair as coalition players and groups dissolve, and form new one. The parties to the coalition do not lose their identity and can withdraw from the coalition as and when they find it difficult to continue as partners. As a result of such a withdrawal, the coalition may break up or some other group may join the coalition or lend support to another party, it then ceases to be a coalition. Fourth, the keynote of coalition politics is compromise and a rigid dogma has no place in it. While entering into coalition, the partners are expected to give up their rigid stand and make compromises in the spirit of give and take. Fifth, a coalition government works on the basis of a minimum programme, which may not be ideal for each partner of the coalition. Sixth, pragmatism and not ideology is the hallmark of coalition politics. In making political adjustments, principles may have to be set aside and in this process ideology is the first casualty. Seventh, the purpose of a coalition adjustment is to seize power; it may seek to stake its claim for the formation of a ministry or for pulling a ministry down.

In a vast and diverse country like India, coalitions may be a necessary stage in the evolution of democracy. A vast country like India, with people of various levels of culture and social traditions, is naturally inclined to be pluralistic and to be under a multiparty system. Generally speaking, coalition and alliances in government are an essential feature of a multi-party system where there is absence of a majority or potential majority party and where no single opposition party is regarded as an alternative government. Thus, it can be inferred that coalition government is the effect of which multi-partyism is the cause.

In multi-party countries, coalition governments often serve as stop-gaps. Sometimes, such arrangements take place between parties owing allegiance to similar

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ideologies. However, if parties follow different ideologies, there may be political compromises and mutual concessions. Although these do not conduce to stability, such arrangements have been observed to 'tend to curb radicalism and likewise to liberalize conservatism'.

Types of Coalition

Coalitions have been categorized in different ways. For instance,

1. **Executive coalition:** They are definitionally coterminus with the parties formally joining the cabinet, and with their members becoming ministers at various levels of the Council of Ministers.
2. **Legislative coalition:** They are wider than cabinet coalitions, including parties that extend support to the government from the parliamentary floor without formally joining the cabinet.
3. **Federal coalition:** They are defined as a group of parties that are part of the cabinet or legislative coalitions at the centre as well as in some states.

The Indian Experience

By now there is growing realization that coalition governments are perhaps an inevitable outcome in a multi-cultural and federal polity like India, where the homogenizing effects of political institution may often be insufficient to organize social pluralities into two major parties in electoral and legislative arenas like those in Anglo-American democracies and Australia (except for Canada since 1993).

Coalition Politics at the Centre

In its initial years, with an exception or two, India has enjoyed a single-party government at the centre. The Ninth Lok Sabha elections (1989) proved to be a decisive turning point, thus initiating an era of coalition and minority governments in New Delhi.

1. National Front/United Front Coalition Experiment

The National Front experiment, which was a federation of national and regional parties formed under the leadership of the Janata Party in 1988, provides the best example of the fragmentation and re-alignment within the party system along regional lines. Even though the Congress emerged as the largest single party, it did not have a clear majority in the Parliament. As a result, the National Front was invited to form the government with the Leftist Parties and BJP agreeing to support the government from outside. The National Front consisted of the Janata Dal (JD), Telegu Desam Party (TDP), DMK, Asom Gana Parishad (AGP) and other small groupings. The objective of keeping the Congress at bay brought two diametrically opposite political forces: the BJP and the Left under a broad coalition. The National Front (NF) government lasted barely 11 months in power, from December 1989 to November 1990. Weak coordination and fragmented collective responsibility of the Cabinet marked the end of the National Front Coalition.

The Chandra Shekhar government which succeeded National Front Government was virtually a government of splinter groups of Janata Party, which remained in office with the support of Congress (I) for barely four months. Chandra Shekhar belonged to Janata Dal (Secular), a splinter group of Janata Dal.

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The mid-term elections of 1991 once again saw a hung Parliament. The Congress was invited to form a minority government. The government depended for its existence on the support of BJP and Leftist Parties. P.V. Narsimha Rao became the Prime Minister of India. This minority government of Congress (I) was converted into a majority government in December when Ajit Singh with ten members of Janata Dal (A) merged with the Congress.

Meanwhile, from September 1995 onwards, efforts were made to revive the National Front by the TDP, Janata Dal and the ruling Left Front in West Bengal, encouraged by the poor performance of the Congress party in the 1994–95 State Assembly elections. By including many regional groups, an idea of a 'Third Front' was mooted.

The Lok Sabha elections of 1996 produced a hung parliament again, with none of the political party or political groups able to secure majority. As the leader of the largest single party in the Lok Sabha, Atal Bihari Vajpayee was invited to form the government. But after 13 days, the Vajpayee government fell as it could not garner enough support.

Thereafter, the 'Third Front' got the opportunity to form the government. On 1 June 1996, H.D. Deve Gowda, leader of the United Front, in coalition of thirteen parties, was sworn in as the Prime Minister. Congress and CPI (M), two bitter rivals, agreed to support the United Front from outside. The coalition government which thus came to power at the Centre was not the result of an alliance forged before the elections but the result of compromises and bargains entered into after the elections to capture power and keep BJP out of power. The other important features of this coalition were preponderance of the regional political parties and the entry of CPI for the first time in a coalition at the centre.

This experiment of coalition government at the centre suffered a setback following the withdrawal of support by the Congress. Thereafter, United Front elected I.K. Gujral as its new leader. He was sworn in as the Prime Minister of India on 21 April 1997. The Congress supported this government from outside. However, the Gujral government also proved short-lived because on 28 November 1997 the Congress (I) withdrew its support. The basic constraint of the United Front was its dependence on the Congress support to remain in power. It had to look over its shoulders all the time to ensure that this support was not withdrawn. Ultimately, it collapsed because of the withdrawal of Congress support.

Despite its eclipse as a substantial political force in Parliament, especially after the 1997 national elections, the Third Front as a model continues to remain viable simply because the political space structured around the opposition to the BJP and the Congress exists. Despite its short tenure at the national level, its achievement cannot be undermined. In fact, it was the acceptance of the Mandal Commission's suggestions under the V.P. Singh-led National Front government that brought about radical changes in India's social fabric.

2. BJP and the National Democratic Alliance (NDA)

In 1999, elections were held for the Lok Sabha. NDA led by BJP, formed before the elections, secured a comfortable majority. The Alliance, comprising twenty-four parties, elected Atal Bihari Vajpayee as its leader who became the Prime Minister on 19 March 1998. NDA government remained in power for five years.

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3. United Progressive Alliance (UPA)

The NDA's 'India Shining' Campaign did not go down too well with the masses and the NDA got defeated in both 2004 and 2009 Lok Sabha elections. The UPA led by Congress (I) and consisting of Lok Jantantrik Party, and RJD defeated NDA. Both times, Manmohan Singh became the Prime Minister of India.

Also, now the Congress seems to have finally jettisoned its dearly held belief that it could defeat the BJP-led alliance on its own. This is evident from the game-plan that features topmost in its election strategy, which is 'to dislodge the NDA at all costs even if the party's interest has to take a back seat in the coalition politics in various states'.

Coalition Politics in States

Here, we are taking the example of the state of Bihar. Bihar is one of the States in India, which has experienced coalition politics for some time. In Bihar, the coalition politics made its beginning after the fourth General Election. Till 1972, the state of Bihar saw the coming and going of a number of coalition governments. In 1972, the Congress won a clear-cut majority and formed the government.

After having majority governments for a few years, Bihar again witnessed an era of coalition governments. In February 1990, no single party was able to get clear majority. The Rashtriya Janata Party (RJD), which emerged as the largest party in the Assembly, formed the government with the support of its allies, particularly the Leftist parties, under Laloo Prasad Yadav.

In the Assembly elections of February 2000, the Rashtriya Janata Dal (RJD) leader Laloo Prasad Yadav could manage to capture only 124 of the 324 seats. He tried to form the government in Bihar by securing support of the Congress and other groups but could not muster the necessary majority. On the other hand, Nitish Kumar, of Janata Dal (U), with the support of BJP and Samata Party, staked his claim to form the government. He was sworn in as the Chief Minister on 3 March, 2000. However, he could not prove his majority and therefore he resigned. Thereupon, Rabri Devi was sworn in as the Chief Minister of Bihar for the third time. Later on, Congress decided to join the government and all its members were sworn in as ministers in Bihar. At present, Nitish Kumar is the Chief Minister of Bihar and is representing the NDA at the state level.

Politics of Coalition (post-1989): An Overview

In a rather short span of over a decade, India has witnessed coalition governments of four major types:

(a) The centrist Congress minority government of P.V. Narsimha Rao initiated new-liberal economic reforms in 1991

(b) Three Left-supported governments formed by the Janata Dal-led National/ United Front

(c) Two right-led coalition governments formed by the BJP-led NDA under Vajpayee, a votary of secular version of Hindu nationalism

(d) Centrist Congress again coming to power in the form of UPA

With the decline of Congress as a dominant party, the national party system seems more fragmented and mushrooming of regional level parties which have the appearance of chequered chessboard of rival and allied parties. The past and the present

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trends of coalition governments in New Delhi suggest three possible models of power-sharing:

(a) Coalition of more or less equal partners, e.g., the National front and the United Front

(b) Coalition of relatively smaller parties led by a major party, e.g., NDA

(c) Coalition of relatively smaller parties facilitated but not necessarily led by a Prime Minister from the major party, e.g. the coalition of parties formed in 2004 and 2009 around the Congress avowing secular Indian nationalism

It is important to note that in the era of coalition, governance at the centre is not possible without the active participation of important regional parties. The main thrust of the argument is that a faceless and shapeless conglomerate of disparate coalitional partners is not able to provide leadership in a federal system and the political capacity of the Central government to arbitrate in inter-state disputes has gradually weakened. For example, the central government's Ministry of Food and Civil Supplies made a proposal that the power of the centre to procure food should be 'transferred' to the state governments, but this suggestion for 'decentralization' was not accepted by the chief ministers of the states that were producing surplus food grains. The critics of centralization such as Akali Dal and Indian National Lok Dal of Haryana (INLD) vetoed the attempt of the Central government (NDA government). Incidentally, both these parties were partners in the coalition government of Vajpayee.

If the centralized federal system of the Congress party dominance phase was criticized for 'pushing policies' on unwilling states, extremely weak coalition governments at the Centre have not been able to even 'persuade' state governments to amend out-of-date and obsolete public policies. Further, many a times, regional parties as partners of the Central coalitional government have 'particularistic interests'. Inter-water disputes have also not been dealt with properly.

Thus, coalition governments in India at the centre do not have the ability to provide leadership to the whole country in dealing with federal constitutional and political issues because coalitions at the Centre are themselves dependent on the fragile and shifting support of the regional parties and leaders. The Centre should have a pre-eminent position in the Centre–state relations, otherwise it cannot act as a referee or an umpire between Centre–state disputes.

Problems of coalition politics in India

Apart from lack of cohesiveness and stability of the coalition governments and the inability of Centre to take decision on time, a number of other problems beset the coalition politics in India.

1. Collective responsibility requires that ministers should be able to express their views frankly in the expectation that they can argue freely in private while maintaining a united front when decisions have been reached. This, in turn, requires that the privacy of opinions expressed in Cabinet and ministerial committees should be maintained. It is precisely this frank expression of views and free private argument which are often not obtainable in coalition settings.
2. Ideally, the confluence of interests for coalitions must be dictated by coherent and principled political beliefs and not opportunism alone. However, the purpose of coalition governments in India so far has merely represented a translation of anti-Congressism or anti-BJP–ism into a tactic for power sharing.

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3. The experience of coordination committees has also not been very impressive. The culture of coalitions is in its essence the culture of compromise. It is based, to a large extent, on the sharing of elective and non-elective offices. A coalition government, in a system like ours, cannot be effectively managed by the cabinet alone. To keep the coalition united, the Prime Minister and his colleagues must learn to promote reconciliation of conflicting policies and ambitions in two forums, one outside Parliament and the other inside.

Given the multi-layered nature of Indian coalitions, with some parties joining the cabinet while others extending support only from the parliamentary floor, the Parliamentary Committees may be used as additional foci of sharing power. The Coordination Committee also needs to be strengthened by imparting greater seriousness and regularity as a sounding board for policies in broad terms to be worked out in detail by the cabinet. This will avoid the embarrassment of the rolling back of the cabinet/ministerial decisions, notorious for its frequency during the BJP-led coalition government.

Prospects of Coalition Politics in India

Coalition governments in India, in spite of problems, have been successful in retaining democratic legitimacy and national unity. Major policy shifts like liberalization, economic reforms, grassroots decentralization, federal decentralization, in theory or practice can be largely attributed to the onset of coalition governance. Coalition governments in states and at the Centre are compelled to depart from the rigid Congress-centred and the Hindu-right orientations and accommodate people with other orientations. This led to the integration of the party system as well as the nation. The national parties which once rejected the idea of coalition politics, have today accepted coalition politics as an indispensable exercise.

To conclude, coalition politics in India is now inevitable. It is unavoidable because the social, economic and political order in the country has changed beyond recognition since Independence. Coalitions will remain because the Indian polity does not hesitate any more to exercise its franchise. Coalitions will thrive because India now knows that extracting good governance is important for the self-interest of all sections of its society.

Pressure Groups in Indian Politics

Pressure groups operate actively especially in a representative government committed to the realization of the ideal of social service state. The state also makes itself increasingly dependent on them while handling its sphere of planning and social service. However, the number of groups and the intensity with which they are able to pursue their objectives depend upon the social legitimization of group activity and the prospects of fulfilling group demands in a given political system.

The genesis of the pressure groups may be traced back to the pre-independence days when a large number of pressure groups existed to put forth their reasoning and argument before the British government in order to pressurize it and to seek concessions and privileges for the members of the pressure groups. In fact, the Indian National Congress in 1885 was more like a pressure group to plead for reforms and to articulate the interests of the educated middle class. As the Congress donned the mantle of a political party gradually, various pressure groups began to mushroom to safeguard the interests of other sections. Most remarkable was the formation of the All India Trade Union Congress in 1920 and the All India Kisan Sabha in 1936 that opened new chapters in the book of pressure groups.

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In the post-independence scenario, the processes of democracy and development provided a fertile ground for a huge number of pressure groups to come into existence. Various sections of society began to create their own interest groups to make their voices heard in policy formulation and the ever-increasing state activities. In the wake of planned economic development, even the polity inspires the creation of pressure groups for their contribution to developmental activities. Moreover, the consolidation of the party system has also contributed to the expansion in the base and scope of activities of pressure groups in certain defined sectors of economy, society and polity. For example, with an eye on inculcating the voters for their parties on a long-term basis, almost all major political parties in the country have floated various frontal organizations in the areas of trade union activities, farmers' fronts, women morchas and students' wings. There also exist politically neutral pressure groups like the Federation of Indian Chambers of Commerce (FICCI) and the Confederation of Indian Industry (CII). All these pressure groups ensure safeguards from adverse policy initiatives of the government.

9.3 REGIONAL POLITICAL PARTIES

9.3.1 Asom Gana Parishad (AGP)

Asom Gana Parishad (Assam Peoples Association) is a political party in Assam, India that came into existence after the historic Assam Accord of 1985 when Prafulla Kumar Mahanta was elected as the youngest chief minister in the country. The AGP formed government twice from 1985 to 1989 and from 1996 to 2001. The party came apart, with former Chief Minister, Prafulla Kumar Mahanta, forming the Asom Gana Parishad (Progressive) but regrouped on 14th October 2008 at Golaghat.

The party comprises two MPs in the Lok Sabha and two MPs in the Rajya Sabha. AGP came into being after the six-year-long Assam Agitation against Illegal Infiltration of Foreigners from Bangladesh into Assam, led by All Assam Students Union (AASU). For a long time, the Assamese have been complaining against infiltration of illegal migrants from Bangladesh. They feared that it is changing the demographic, social and economic constitution of the state.

In 1979, AASU began peaceful democratic movement that demanded that all illegal migrants in the state should be identified, followed by removing their names from the country's electoral rolls and deporting them on grounds of illegal occupation of land. This movement lasted for long, amidst which the Assembly Election was held in 1983, which the people protested again. AASU then constituted the All Assam Gana Sangram Parishad (AAGSP) comprising representatives of different organizations including the Asom Sahitya Sabha, two regional political parties – Asom Jatiyabadi Dal and Purbanchaliya Loka Parishad, the Sadau Asom Karmachari Parishad, Asom Jatiyabadi Yuva-Chatra Parishad, Asom Yuvak Samaj, All Assam Central and semi-Central Employees' Association and others.

Successive discussions with consecutive governments in New Delhi resulted in signing of the Assam Accord on August 15, 1985 between the AASU and the government, with Prime Minister Rajiv Gandhi being a witness. The movement, referred to as Assam Agitation, is remembered as the one of the longest peaceful movements that the world

Check Your Progress

1. The Indian National Congress primarily represented the voices of the upper and middle classes in the country. (True/False)
2. Mention any one fundamental feature of the Indian party system.

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had seen following the freedom movement of India. Thereafter, the State Assembly was dissolved and the Congress government headed by Hiteswar Saikia, which gained power in February 1983, was dismissed.

According to a national convention of the people of Assam, organized at Golaghat on October 13-14, 1985 a regional political party under the name and style of Asom Gana Parishad (AGP) was to be established, and the Asom Gana Parishad was eventually launched at Golaghat on October 14, 1985. By then, the earlier central executive committee of the All Assam Students' Union (AASU) was dissolved at a convention in Lakhimpur in September, and Prafulla Kumar Mahanta, the president of the AASU during the period of the peaceful democratic movement, was elected the president of the presidium of the new political party. Asom Jatiyabadi Dal and the Purbanchaliya Loka Parishad amalgamated with AGP as well. Members from other organizations also joined. The AGP contested the State Assembly elections held in December 1985 and swept the polls by winning 67 of the 126 seats apart from capturing seven of the 14 Lok Sabha (Parliament) seats, and formed the Government of Assam.

9.3.2 Shiromani Akali Dal

Party Policy

At the national level, while remaining in the forefront of national mainstream, the Shiromani Akali Dal has consistently maintained its commitment to a grand privilege for Punjabis in general and particularly the Sikhs, constantly striving to protect their political, economic, social and cultural rights. The Shiromani Akali Dal party is committed to the highest ideals of peace, communal harmony, universal brotherhood and welfare of humanity (Sarbat Da Bhala).

Federal Structure

The need for cooperative federalism based on political and fiscal autonomy was for the first time advocated by Shiromani Akali Dal, a concept that was opposed initially but later accepted and adopted by almost every regional and national political party. According to SAD, setting up a real federal structure is the only way to strengthen the objectives of national unity and prosperity. Obstacles in the path of such a national system by the Congress party caused considerable harm to the interests of development and prosperity in the States and deferred India's emergence as a global leader for more than six decades.

Opposes Unitarian Mindset

The Shiromani Akali Dal is strongly against the unitarian mindset. The latest indicator of the Congress' anti-federal mindset is provided by a statement by the present Prime Minister Dr. Manmohan Singh in which he has described regional parties as an obstacle in the way of national development. This mindset is causes political rage in a country which holds pride in giving predominance to the will of the people, and is also insulting to the combined wisdom of the people who have on a repeated basis expressed complete confidence in the ability of regional parties to manage affairs at the national level.

Chandigarh and the Punjabi-Speaking Areas

The Shiromani Akali Dal has battled for including Chandigarh and other Punjabi-Speaking areas in Punjab. However, unfortunately, Congress governments, one after the other, at the Centre have always tried ignoring this demand. However, the peaceful and democratic

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struggle of Shiromani Akali Dal will continue in order to fulfil Punjab's genuine claim for making Chandigarh and other Punjabi-speaking areas a part of Punjab.

River Waters Issue

As far as the river waters issue is concerned, the SAD has always demanded implementation of the Riparian Principle, nationally and internationally accepted by the Supreme Court and applied by it in every river water dispute, such as the Narmada River Water Dispute. The Constitution holds that river water is a state subject and non-Riparian states cannot be a part of any dispute arising out of sharing of the river waters.

Besides the question of the constitutional authority of Punjab's demand, Punjab's river waters must be protected because the state is already gripped by severe crisis and could be reduced to a desert in a few more years on account of the shocking decline in the level of sub-soil water due to substantial diminution by means of tube well irrigation. Unfortunately, consecutive Congress governments at the Centre and in the states have violated the Riparian Principle.

Minorities Issue

The Shiromani Akali Dal has always respected and looked up to India's rich linguistic, cultural and religious miscellany. The Congress has, however, steadily functioned in undermining the interests of the minorities in the country. It advocates cultural and political consistency, as opposed to emotional and cultural amalgamation.

The Shiromani Akali Dal aims at protecting and promoting the interests of the minorities in the country so as to enable them to play a significantly constructive role in the progress of the people of our country. The party symbolizes a powerful India that is capable of being a global leader. The party also believes that intensifying its constituents ascertains achieving its objective. The blend of strong, prosperous and confident minorities on the one hand and politically and economically strong states on the contrary ensures a prosperous future for India.

Vision

Our goal: Changing the way the world conceives of Punjab and the way Punjabis consider themselves. The aim lies in ensuring self-esteem and self-respect of every Punjabi whether urban or rural. We are completely aware of the large expectations that people have of us and consider it our obligation to fulfil these expectations.

Other components of our vision include:

- Bridging the gap between the people and their government through extensive reforms concerned with governance by transforming the approach to administration.
- Improving education and health, with more teachers and more doctors, supported by state-of-the-art amenities in schools and hospitals. Also completely changing higher education by establishing centres of excellence, such as world-class university and ISB.
- Increasing agricultural and industrial growth by developing world class infrastructure, road network and air connectivity apart from making Punjab a power-surplus state and ensuring 24-hour power supply to the commercial, industrial and farm sectors as well as to the domestic consumers.

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Political Mission

The political mission of the party lies in strengthening Shiromani Akali Dal at the grass root level and result in complete internal democracy within the party, so that the party is able to sustain the confidence of the people of the state on a long-term basis and make sure that the tasks initiated reach their hilt.

The party has its objective in establishing a link between the youth force with the Taksali cadre within the party. The youth would provide the necessary enthusiasm, whereas the Taksali Akalis would carry on providing guidance and ideological strength and transparency to the party. The SAD gains inspiration from the righteous ideals put forward by our great Gurus, saints and seers which focuses on respecting every religion, human brotherhood and Sarbat da Bhala are the means to our approach to life. The party's commitment lies in maintaining peace and communal harmony.

With our political ally Bhartiya Janata Party (BJP), we are on a mission for the overall welfare and development of the state. As a part of this mission Punjab, the SAD-BJP government has already emerged as a pioneer in the country by launching reforms in governance.

9.3.3 Dravida Munnetra Kazhagam

Conjeevaram Natarajan Annadurai was popularly called *anna* or elder brother. He was also known as Arignar Anna meaning Anna, the scholar. He rose to fame for his literary and cultural achievements and successfully introduced Tamil Cinema for Political propaganda. Annadurai's journalistic past helped him to establish his political acumen and later to become the Chief Minister of Tamil Nadu. His untimely death after two years in power brought an end to an illustrious career. He was a member of the Dravidar Kazhagam and also editor of several political journals. He rose to prominence in the party under the guidance of Periyar.

Annadurai's Childhood

Annadurai was born to Natarajan and Bangaru Ammal of the dominant Sengunta Mudaliar caste in Kancheepuram on 15 September 1909. His sister Rajamani Ammal raised him. Rani became his wife while he was still a student at the age of 21. As they did not have children of their own, they later adopted and raised Rajamani's grandchildren. Anna studied in Pachaiyappa's High School, but left school to work as a clerk in the town's municipal office to assist with the family finances.

He completed his graduation and post-graduation from Pachaiyappa's college in Chennai. He worked for a short while as an English teacher in Pachaiyappa High School. He began involving himself in journalism and politics after leaving his teaching job.

Annadurai's Hindu faith made him affirm his belief in 'Onrae Kulam, Oruvane Thevan' or, one God and one humanity. Those who followed used his slogan, 'One race, One god'. He was against superstitions and oppressive practices of religion, but never did he disregard the spiritual values of society and religion.

Beginning of Annadurai's Political Journey

As he was interested in politics, Annadurai joined the Justice Party in 1935. The Justice Party originated when non-Brahmins organized a work group that later transformed into a political party under the guidance of Dr T. M. Nair and Sir Pitti Theagaroya Chetty. The official name of the Party was South Indian Liberal Federation; however, it was generally known as the Justice Party. Periyar was the President of the Party when Annadurai became a member of the Party. Due to his literary prowess, he was promoted to the position of an editor of the magazine *Vidhuthalai* and the Justice Party. He later became a part of the editorial in *Kudi Arasu*. Periyar renamed the Party in 1944 as Dravidar Kazhagam and decided not to contest political elections anymore.

Birth of DMK

The Indian National Congress was dominated by Brahmin members though it had an agenda of fighting the British for Indian independence. Periyar decided not to celebrate 15 August 1947 as the Independence Day as he felt that this independence would bring the non-Brahmins under Brahmin domination throughout the country. Annadurai disagreed with Periyar as he felt that the Indian independence was too precious to be mourned. He saw this as the sole victory not only for the Congress, but also for all people throughout the country. He was also disgruntled with Periyar when he married Maniammai.

Annadurai opposed the idea of Periyar to stay away from politics.

He strongly believed that political power certainly helps to bring about change in the society and it is only when leaders are armed with political power that they can introduce and implement policies of social reforms as it gives them a legal edge. As a reaction to Periyar's move to remain apolitical he moved out. Periyar believed strongly that through education and canvassing the masses, social reformation can be achieved better and outside politics, rather than staying within the government.

After becoming disgruntled with Periyar, Annadurai decided to launch his own party. He teamed with E.V.K. Sampath (Periyar's nephew and until then considered his political heir) and took those who too wanted to drift. The newly formed party was named Dravida Munnetra Kazhagam. Though Annadurai belonged to the upper Mudaliar caste, he fought for social justice for the lower castes and thus rapidly gained popular support. As a member of Dravidar Kazhagam, Annadurai had supported Periyar when he had called for a separate Tamil land. However, once the DMK was formed, Sampath started feeling that the demand for a separate land for the Tamils was not justified. He left DMK and formed the Tamil Nationalist Party in 1961.

In 1962, Annadurai advocated the right of self-determination by the Dravidians in the Rajya Sabha. He also asserted that Dravidians should have a right to establish their own state. However, when states were formed based on the linguistic preference of the people, wherein Telugu, Kannada and Malayalam-speaking areas were removed from the Madras Presidency, DMK realized that the call for Dravida Nadu needs to be changed to a call for Tamil Nadu, land of the Tamils.

The Indian Constitution was amended due to the Chinese aggression in 1953. The Anti-Secessionist Amendment Act or the 16th Amendment Act banned parties with sectarian interests from participating in elections. Annadurai tried to stop this Bill in the Parliament as an MP. However, he had to drop his demands for a separate state for the Dravidians once the Bill became an Act. The Party later aimed at better cooperation between the southern states.

In 1953, Annadurai called for three protests. The first was against Jawaharlal Nehru who had used derogatory language against the leaders of the South. The second

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was directed against the Chief Minister of Madras, C. Rajagopalachari, opposing the introduction of vocational education. The third protest challenged renaming Kallakkudi as Dalmiyapuram as the latter symbolized domination of North India. These protests ended with Annadurai being imprisoned for three months.

Annadurai's Role in anti-Hindi Agitations

In 1928, Motilal Nehru proposed that Hindi be used as the official language of the nation. However, Tamil leaders felt that this would always make non-Hindi–speaking population second-grade citizens. They thus started anti-Hindi agitations. Since the state government in Tamil Nadu was headed by the Congress, C. Rajagopalachari, the then Chief Minister accepted Motilal's proposal. These further intensified the protests. Annadurai took the help of some famous poets like Bharathidasan in protesting against the Chief Minister on this account. In 1938, he participated in the first Anti-Hindi conference held in Kanchipuram. The government withdrew Hindi as the official language in 1940 after a few years of intense protests by Tamil intelligentsia and the resultant self-immolation by young students.

Hindi was provided a special status by the Constitution and gained undue importance in 1965 where it was again declared as an official language throughout the country. Annadurai strongly opposed this move as Hindi was not the language spoken by majority of people in south India. In 1960, the DMK held an open-air conference against this move in Madras. Annadurai presided over this meeting and distributed black flags to other leaders to be shown to the President of India during his visit to the state. However, sensing an unpleasant scenario, Nehru mentioned in the Parliament that English would remain the official language till the time the southern states accepted the new proposition. DMK thus gave up its plan to show the President its black flags. The Party also appealed to the Centre to bring about a constitutional amendment in this regard. However, the Central government did not really undertake any constitutional amendment in favour of English. On the other hand, it actually went ahead and declared Hindi as the official language. When the state saw massive riots, the state government blamed the DMK of instigating people. However, modern political researchers are of the opinion that these riots were not masterminded by the DMK. They portrayed the genuine frustrations and disgust of the common man over such shameless act. Annadurai requested all students to cease protests of any kinds with immediate effect and was arrested on charges of anti-state activities. In 1967, Annadurai became the Chief Minister of the state.

As a Statesman

When Nedunchezhian was elected as the general Secretary of DMK, Annadurai stepped down from the post at the Tiruchirappalli conference in May 1956. In this conference the Party also decided to contest the next election to be held in 1957. DMK became the opposition party after winning fifteen Assembly and two parliamentary seats. In 1962, DMK emerged as a major political party, next only to the Congress by winning fifty Assembly seats though Annadurai had lost the election. He was nominated as a Member of Parliament this year.

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Chief Minister Annadurai

The elections of 1967 saw the Congress emerge as a winner in Madras. They had lost the election in nine other states. For the first time in India's political history, the non-Congress parties formed a coalition to form the opposition. Though Annadurai served as the Chief Minister of Madras for a short tenure of 1967–1969, he was the change that people wished to see. He introduced a number of welfare schemes for the uplift of the poor and the needy. He renamed Madras state as Tamil Nadu, the abode of the Tamils. He gained more power from the Centre and championed the cause of autonomy for states.

Death and Legacy

Annadurai passed away on 3 February 1969 from cancer. His funeral saw the highest number of people gathering to get a glimpse of their leader. About 15 million people gathered to attend his last rites held on the northern end of the Marina beach in Madras which has since been named Anna Square. Annadurai's government was the first non-Congress government to have achieved power of the state since independence. When MGR named his new party once DMK split, he used the named Anna DMK (ADMK) as a mark of respect for the political leader who emerged as a great social reformer and a friend of the poor and needy.

Anti-Hindi Agitation

The term 'Anti-Hindi Agitation' is used in short for 'Anti-Hindi Imposition Agitation'. Tamil Nadu did not have anything against the Hindi language. However, popular sentiment in the state has been against this forcible imposition right from the beginning and perhaps it still lurks beneath the calm in many pockets of Tamil Nadu. Tamils feel that Hindi is alien to them as they cannot identify with it and most importantly Hindi carries the burden of being pro-Brahmin and pro-Sanskrit which the Dravidians vociferously opposed.

The anti-Hindi agitation leaders maintained:

> ...let that language live and flourish where it belongs; in Hindi lands and wherever else people want it as official language or link language or national language or lingua franca. People of Tamil Nadu do not want it that way and are opposed to its imposition on them. Forcing Indian Government employees from Tamil Nadu to learn and work in Hindi (in non-Hindi areas) is Hindi imposition...

According to prominent historians, the reasons for the south to have resisted the acceptance of Hindi as a compulsory language at the school level and as the official language for the state administration are many. Ethnic communities like the Tamils have preserved their traditions and heredity for ages. Language had been a vital part of this tradition and accepting Hindi would defeat the preservation of traditions. In fact, all aspects of their socio-cultural life, like literature, religion, archaeology and were all language dependent. In case Hindi was accepted as a major language by the region, it would prove to be catastrophic for these aspects of their socio-political life.

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Anti-Hindi Agitation in the Pre-Independence Period (1938–1947)

Anti-Hindi agitations started even before the British rule ended in India. In 1937, the Congress Party won the general elections in the Madras Presidency and C. Rajagopalachari became the Chief Minister. He was the first to introduce Hindi as a compulsory language in schools and colleges. Tamil inhabitants of the Madras Presidency immediately started protesting against the imposition. Protestors gathered outside Rajaji's house as the news of making Hindi compulsory started spreading. About a thousand people including seventy-three women were arrested during these protests. The first Anti-Hindi Conference was held at Kanchipuram under the leadership of Periyar, and Annadurai.

However, despite these protests, Hindi was made a compulsory language in schools in 1938. An Anti-Hindi Command was formed by Tamil patriots and Viswanatham was elected the Secretary while Somasundara was made the President of the society. Periyar joined the group and turned it into a political agenda of the Self-Respect Movement. Due to mass protests that would often turn violent and the cognizable frustration of common people, the state government decided to remove Hindi from being a compulsory language.

However, when Hindi was made compulsory in 1942 and 1946, again the anti-Hindi movement gained momentum. Periyar made this his primary agenda again and entrusted Annadurai, his top lieutenant, to carry on the protests.

Anti-Hindi Agitations in the Post-Independence Period

After gaining independence, the Congress Party came to power at the Centre as well as in the Madras Presidency in 1947. It immediately introduced Hindi as the national language and as a compulsory language at the school level. On 17 July, 1947, Periyar convened an anti-Hindi conference in Madras with Adigalar as the President. Anti-Hindi demonstrations were carried out by dravidar Kazhagam where thousands courted arrest.

Dravidar Kazhagam (DK) organized many anti-Hindi demonstrations in front of schools and thousand of demonstrators were arrested and jailed. All these acts were however not sporadic, but didn't have the strength to sustain and Hindi was still taught as a compulsory subject in schools. When the Indian Constitution came into effect in 1950, Hindi was made the official language of India despite intense protests from the southern states. After thirteen long years of anti-Hindi struggle, Annadurai expressed his concern with the following words: 'Making a language (Hindi) that is the mother tongue of a region of India the official language for all the people of India is tyranny. We believe that it will give benefits and superiority to one region (the Hindi-speaking region). If Hindi were to become the official language of India, Hindi-speaking people will govern us. We will be treated like third rate citizens. Hindi would become the sole official language on January 26, 1965. English would also be used as an official language during the interim 15 year period.'

The Madras government made Hindi compulsory for sixth to eleventh grades. The Dravidar Kazhagam and the newly formed Dravida Munnetra Kazhagam protested against this order and gathered common people for demonstrations and meetings. The government was once again forced to remove the order.

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Students' Involvement in Anti-Hindi Agitations

Tamil Nadu's students organized an Anti-Hindi conference in Thiruchirapalli (Thiruchi or Trichy). Such a gathering happened for the first time where students were to play a major role. DMK too organized Anti-Hindi Protest Conference that was held On 13 October 1963 in Madras, where the students were asked to burn the 17th Part of the Indian Constitution as a mark of protest. Later, DMK leaders and cadres burnt the Constitution all over Tamil Nadu as a mark of protest, and were arrested and jailed.

People volunteered to burn themselves as a mark of ultimate sacrifice. It was a situation straight out of any emotional drama but it was real. People actually poured gasoline and lit their bodies for the cause of Tamil identity and their language. Self-immolation anywhere as a mark of protest in the world had never been seen other than in Vietnam that winessed similar immolation bids by Buddhist monks as protests against the dictatorial rule. Veerappan, Chinnaswami, Muthu, Sivalingam, Sarangapani are the names people take with reverence, because they laid down their lives for the cause of Tamil language. Students from University of Madras went on a one-day strike on 25 January, because 26 January was a holiday. It was a mark of protest. During these protests, schools, colleges, shops and stores were kept closed with the help of university students. There was a tremendous change in mass psyche—from complacency to active support. The scale of the protests was unprecedented and massive. In India nothing of this intensity had happened in the post-independence period. More than 50,000 people participated in the protest marches that were organized in most towns and cities in Tamil Nadu. The protestors included students and common man who joined the march. People initially protested peacefully with colourful placards and banners consisting of anti-Hindi slogans. In some cities, students were seen beating drums and playing bugles while they marched in protests. Pall bearers in Coimbatore carried the dead body of the Hindi demon as they marched down the main streets of the city. It was a symbolic gesture but sent out a clear message for the state authorities that Hindi cannot be forced.

However, when the pro-government trade unionists beat up students and protestors in Madurai between 27 January and 3 February, the protestors also retaliated with violence. The protestors were arrested by the state police that angered anti-Hindi demonstrators all over the state. This resulted in massive rallies on 27 January in different parts of Tamil Nadu. These rallies were laced with a sentiment of fight for right to freedom. The public supported the students and as a mark of support many stores remained closed. When students were marching through the streets, people stood in silence and supported them. Indefinite strike was announced by Tamil Nadu Students Anti-Hindi Agitation Committee.

The unprecedented extent of public support to the students in the Anti-Hindi Imposition Protests sent a message of alert to the Indian Parliament and Indian Government. Congress leaders like Prime Minister Lal Bahadur Shastri, Home Minister Gulzarilal Nanda and the Tamil Nadu Chief Minister Bhaktavatsalam decided to stop the anti-Hindi protests with brute force but that badly hurt sentiments and the hatred created by the use of force widened the gulf.

With government orders, Indian Army soldiers, Central Reserve Police and out-of-state police were moved into Tamil Nadu to put down the protest. The result was indiscriminate firing into crowds, manhandling of protestors who were beaten and even

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maimed and killed. But the spirit was too high to be put under duress. However, even brute force could not stop the demonstrators. Central minister Subramaniam promised that the Parliament would impose laws so that imposition of Hindi could be prevented. The students called off their strike when assured with such a promise and called off the agitations on 12 February. On 1 August 1968, a Language Act was passed which failed to meet the expectations of the Tamils.

General Elections 1967

The 1967 general lections saw defeat for the Congress Party, which may be directly linked with the imposition of Hindi due to protests by Tamil people. The Party President, the Chief Minister and every minister lost the election. As people identified the DMK with anti-Hindi agitations, they emerged the winners. However, despite a landslide victory, the DMK at the state level could not stop the Centre from imposition of Hindi by the Centre. In 1968, Tamil students agitated for a day against the imposition of Hindi. However, this protest could not be compared in scale and nature with the previous protests that the state underwent in 1965.

Now, public enthusiasm even though not very strong in Tamil Nadu, but that should not be construed as Tamil people have accepted Hindi. It was not a possible way of keeping the issue afloat through demonstrations and protests, but the discontentment certainly continues. When one talks to the Tamil people, one will learn their resentment against Hindi. The government officials detested it when they had to take Hindi classes and clear examinations in order to retain their government jobs.

The resentment of Tamil people continued and a seething grudge against Hindi imposition in their hearts and minds had been maintained in a subtle form. Whether it will one day burst or will die down, no one knows, but certainly an indication of its presence in certain groups who do not agree to accept domination is marked. Several occasions witness people rise with secessionist demands. In 1968, representatives of the Tamil Nadu Students Anti-Hindi Agitation Committee met the then Prime Minister Indira Gandhi at the Madras airport and handed her a letter that said, 'if Hindi imposition continued, they would have to fight for independence (freedom) for Tamil Nadu'. In Coimbatore, in the same year, students hoisted the 'Independent Tamil Nadu Flag' maintaining that the only way to end Hindi imposition was to gain independence from India. The 1980s saw the rise of the Tamil Nadu Liberation Army which brought as its agenda, an armed struggle for a free Tamil land. The founders cited the imposition of Hindi and economic discrimination as the two basic reasons for launching the Party. Though the common man might not have supported the Party in achieving its aims, they are still fighting for a free Tamil land.

Annadurai as Chief Minister

Annadurai's inherent interest in politics attracted him towards the Justice Party which he joined in 1935. He because the editor of *Vidhuthalai*. The Justice Party was formed by elite non-Brahmins. The Party grew into a political party of repute under leaders like Sir Pitti Theagaroya Chatty and Dr T.M. Nair. Periyar was the President of the Party when Anna had joined. Periyar renamed the Justice party to Dravidar Kazhagam in 1944. Annadurai had already proved his mettle and had become a leader to reckon

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with under the able guidance of EVR Naicker. Annadurai's proactive role in organizing anti-Hindi protests gave him fame and he had become popular among the mass but it was also caused by his being a person of literature, culture, and cinema. Annadurai served as the Chief Minister briefly from 1967–69. He was a visionary leader who wished to bring about holistic change in the lives of the underprivileged. He brought regional parties like the DMK to limelight, removing all traces of the Congress government at the state level. He even legalized self-respect weddings in Madras with the youngest cabinet in the country. These marriages denounced the presence of Brahmin priests for performing the rites. Periyar had instituted these marriages to free non-Brahmins from the rituals of dowry and Brahministic dominance. Self-respect weddings encouraged youngsters from different castes to marry. Annadurai also subsidized the price of rice for winning the election; he promised that rice will be made available at ₹ 1 per measure. He also introduced a two-language policy instead of the usual three-language formula was also cited by historians as a winning policy. Under his encouragement, the Second World Tamil Conference was conducted with élam on 3 January, 1968. He also ordered the removal of all photographs of gods and religious symbols from government offices. This, however, was not completely appreciated by all. Annadurai remains the only leader of the time who had not participated in the Indian struggle for Independence. He rose through the ranks only due to his sheer charisma and his empathy for the underprivileged.

Chief Minister M. Karunanidhi

Muthuvel Karunanidhi had been an eminent political figure in Tamil politics for about five decades. He was born to Muthuvelar and Anjugam Ammaiyar in Thirukkuvalai. Inspired by a speech by Alagiriswamii of the Justice Party, he entered politics at the tender age of fourteen. He participated in anti-Hindi agitations wholeheartedly. He started a handwritten newspaper named *Manavar Nesan* along with some local youth. He was the founder of a student organization named Tamil Nadu Tamil Manavar Mandram. It was the first student body within Dravidan Movement. Karunanidhi's own involvement and his efforts to involve the student community in social work helped in his popularity. *Murasoli* that became DMK party's official newspaper was his brainchild. Karunanidhi's active participation in the anti-Hindi protest helped him in gaining ground in Tamil politics. The main event was at Kallakudi an industrial town which was named Dalmiapuram after the name of a North Indian businessman. Karunanidhi along with protestors erased the Hindi name, blocked railway tracks and was arrested. Karunanidhi had close connections with the Tamil film industry like Annadurai and MGR. He started his career there as a scriptwriter and primarily wrote for the stage and later for films. Some of his screenplays include *Manthiri Kumari* with MGR as the hero and *Parasakthi* with Sivaji Ganesan in the lead.

His journey started as a scriptwriter, first for the stage and later for films. Some of Karunanidhi's important screenplays include Parasakthi (starring Sivaji Ganeshan) and Manthiri Kumari (starring MGR). He has to his credit over 70 screenplays.

Both Annadurai as well as Karunanidhi were responsible for the rise of DMK as a national party. When Annadurai left the Davidar Kazhagam, Karunanidhi joined Annadurai. As he was proficient in handling media, he was asked to take responsibility for the propaganda of the party. He won the 1957 elections from the Kulithalai constituency. When Annadurai became the Chief Minister, he made Karunanidhi the minister for

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Public Works in 1967. He became the Chief Minister of Tamil Nadu on 10 February 1969 after Annadurai's untimely death. He remained in power till 4 January 1971. He became Chief Minister for a second term in 1971 when DMK won the elections. He remained in office till 1976. In 1974, MGR and Karunanidhi parted ways with MGR forming the ADMK. In the same year, MGR told the *New York Times* that the top leaders of DMK, 'have corrupted a party that was once incorruptible.'

Karunanidhi's popularity as a leader declined when MGR rose with the ADMK. In 1977, ADMK won the Legislative Assembly elections and MGR became the Chief Minister. MGR's personality held the Tamil population in absolute awe. So, till the time of MGR's death, Karunanidhi had to remain satisfied with heading the opposition. Karunanidhi came back as the Chief Minister in 1987 after MGR's death. In 1991, he lost the elections to Jayalalitha, MGR's protégé. Though the rise of Jayalalitha in the Tamil political scenario spelled doom for Karunanidhi, he came back again as the Chief Minister in 1996. This was primarily possible as the people were skeptical of jayalalitha. However, she did manage to come back to power in 2001.

In 2006, Karunanidhi managed to come back to power for the fifth time as the Chief Minister of Tamil Nadu by defeating AIADMK in a landslide victory. In order to win people over, he had promised to provide rice at ₹ 2/kg and distribute free colour television to all households.

However, he had reached the zenith of his political career in 1971 when he had allied with Indira Gandhi's rebel Congress Party and won 184 seats against Kamaraj led traditional Congress Party that managed to win only thirteen seats. After his entry as the most bankable politician, he crossed swords with MGR which ultimately brought about his political demise. It was difficult, at one point, for the Tamils to choose between Jayalalitha and Karunanidhi, as both had been in power almost alternately and had spent their time consolidating their positions with the common people rather than implement developmental programmes for the masses.

ACTIVITY

Prepare a chart containing the constituent members of any six regional political parties at present in India.

EXHIBIT 9.1

The Indian party system is facing a crisis

By CP Bhambhri

The larger issue here is where the Indian party system is headed. A few recent important political happenings have revealed that the party system, which is the mainstay of any parliamentary competitive electoral democracy, is facing a serious internal crisis and that the style of management of inner party challenges has given the impression of either adhocism or crude party bossism.

There is merit in the argument that Indians should be concerned about the deterioration of the health of political parties.

Check Your Progress

3. What is AGP?
4. _____ was the first to advocate the need for co-operative federalism based on political and fiscal autonomy.
5. Who renamed Madras as Tamil Nadu?

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Look at the way parties often discard dissenting members. A party system in a democracy based on a written constitution should have a constitutional and institutional mechanism of admitting and kicking out its dissenting members.

Every 'regional party' whether religion-based or culture-based or caste-based are all based on the principle of a leadership which is authoritarian because all regional parties are personality-based outfits. It is the writ of the leader which runs in the party.

What is the need for a party constitution or inner institutional arrangement for managing a party when it is a private affair of a leader?

Supreme leader-based party system has shown its utter incapacity to take important public decisions and the result is that party pronouncements and announcements have lost any public credibility.

The Congress party and the TDP have completely split in Andhra Pradesh on the Telangana issue. The vertical split within the major political players in Andhra Pradesh makes people believe that these parties are floating many balloons and party leaders are themselves encouraging their own MPs and MLAs to speak in multiple ways on the Telangana issue.

Parties do not seem to have any institutional mechanism of creating a consensus through debate and discussion. Then who decides? Second, every political party is led by a leader who is surrounded by a coterie of favourites.

India is ruled by authoritarian party bosses and coteries of political favourites. Indian democracy is threatened because the completely undemocratic party system cannot be expected to practice democracy in governance.

Source: http://articles.economictimes.indiatimes.com/2009-12-18/news/27649074_1_regional-parties-party-system-telangana-issue

Accessed on 8 February 2012

EXHIBIT 9.2

Central water policy is need of the hour: Experts

Considering that laws dealing with water conflicts do not have a holistic approach but a sectoral one, river boards exist on paper and do not work effectively on the ground and traditional practices of dealing with conflicts are not acknowledged, said experts at the World Water Summit. They called for a conflict resolution committee that would deal with all water-related conflicts.

"Water is different from other natural resources," said KJ Joy, executive director, Soppecom. "Its conflicts and the very nature of water is multi-faceted and one-size-fits-all solution will not work," he added.

Explaining challenges such as increased migration to urban areas and urbanisation of the rural areas, clamour for larger water infrastructure, water quality and environmental issues, reforms, and continued focus on storage rather than equity distribution, he said: "Water cannot be treated as a classical private property."

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There isn't a centralised policy nor a framework law or a set of principles that can govern issues with regard to water, he said. S Janakarajan, professor, Madras Institute of Development Studies, too, echoed this thought.

He said: "There are 24 unresolved inter-state disputes despite having a strong water dispute law. The Cauvery issue alone has taken over 21 years of the tribunal."

Source: http://www.dnaindia.com/bangalore/report_central-water-policy-is-need-of-the-hour-experts_1644961-all

Accessed on 8 February 2012

9.4 SUMMARY

In this unit, you have learnt that:

- In the post-independence era, the political parties came to be recognized as instruments of prime importance through which democracy could be operationalized, as India adopted a parliamentary democratic system of governance. Ideologically, in the pre-independence era, the colonial state was marked by the presence of the INC as a safety valve-cum-umbrella organization.
- The evolution of Indian party system has been from 'one-party dominance' to 'multi-party coalition system'.
- In India, the subject of coalition governments has acquired great relevance in the context of current political trends and developments. The days of politics as a grand narrative dominated by a single party seem to be over in India. The General Elections in 2009 confirmed this trend that first became visible on the Indian political scene in 1989.
- The term 'coalition' has been derived from the Latin word *coalition* which is the verbal substantive of *coalescere* - '*Co*', which means together and '*alescere*', which means to go or to grow together. According to the dictionary meaning, coalition means an act of coalescing, or uniting into one body, union of persons, states or an alliance. It is a combination of a body or parts into one whole. In the strict political sense, the term coalition stands for an alliance or temporary union for joint action of various distinct political parties at the state or the Union level to form a single government by members of distinct parties.
- In its initial years, with an exception or two, India has enjoyed a single-party government at the centre. The Ninth Lok Sabha elections (1989) proved to be a decisive turning point, thus initiating an era of coalition and minority governments in New Delhi.
- Asom Gana Parishad (Assam Peoples Association) is a political party in Assam, India. The AGP was formed after the historic Assam Accord of 1985 when Prafulla Kumar Mahanta was elected as the youngest chief minister of the country.
- At the national level, while remaining in the vanguard of national mainstream, the Shiromani Akali Dal has always remained committed to a dignified dispensation for Punjabis in general and the Sikhs in particular, always fighting to safeguard their political, economic, social and cultural rights. The Shiromani Akali Dal party is committed to the highest ideals of peace, communal harmony, universal brotherhood and the welfare of humanity (Sarbat Da Bhala).
- The Indian National Congress was dominated by Brahmin members though it had an agenda of fighting the British for Indian independence. Periyar decided not to celebrate 15 August 1947 as the Independence Day as he felt that this independence would bring the non-Brahmins under Brahmin domination throughout the country. Annadurai disagreed with Periyar as he felt that the Indian independence was too precious to be mourned. He saw this not only as the sole victory for the Congress, but for all people throughout the country.

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9.5 KEY TERMS

- **Coalition:** An alliance for combined action, especially a temporary alliance of political parties forming a government or of states.
- **Political party:** An organization to gain political power.
- **Propaganda:** The dissemination of information as a political strategy.

9.6 ANSWERS TO 'CHECK YOUR PROGRESS'

1. True
2. The struggle for freedom and framework of parliamentary government along with politics of national reconstruction, modernization, integration and development has collectively contributed to the evolution of the Indian party system.
3. Asom Gana Parishad
4. Shiromani Akali Dal
5. Annadurai

9.7 QUESTIONS AND EXERCISES

Short-Answer Questions

1. Identify the problems associated with coalition politics in India.
2. Write a note the federal structure of Shiromani Akali Dal.
3. What is the political mission of the Shiromani Akali Dal?
4. Explain briefly the anti-Hindi agitation in relation to DMK.

Long-Answer Questions

1. Evaluate the role and importance of political parties.
2. Explain the meaning of coalition politics and the types associated with it.
3. Discuss with the help of suitable examples the coalition politics at the Centre.
4. Examine the evolution of the Asom Gana Parishad (AGP) and its role in the politics of Assam.
5. Discuss the evolution of DMK and its role in national politics.

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9.8 FURTHER READING

Gowda, M.V. Rajeev and Sridharan, E.; *Parties and the Party System, 1947-2006*, (ed.) *States of India's Democracy*, John Hopkins University Press, Maryland, 2007, p.7.

Limaye, M.; *Contemporary Indian Politics*, Radient Publisher, New Delhi, 1988, p.194.

Fadia, B.L.; *Indian Government and Politics*, Satya Bhawan Publications, Agra, 2009, p.633.

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UNIT 10 COALITION POLITICS

Structure

10.0 Introduction
10.1 Unit Objectives
10.2 Coalition Politics—Meaning, Advantages and Disadvantages
  10.2.1 Advantages of Coalition Politics
  10.2.2 Disadvantages of Coalition Politics
10.3 Recent Trend–Politics of Defection
10.4 Summary
10.5 Key Terms
10.6 Answers to 'Check Your Progress'
10.7 Questions and Exercises
10.8 Further Reading

10.0 INTRODUCTION

In this unit, you will learn about coalition politics in India, which has become a political reality in the country. The term 'coalition' means temporary combination of groups or individuals formed to pursue specific objectives through joint action. The term coalition is most often used in connection with political parties. Coalition governments, which are frequently found in multiparty countries like India, France, Italy, and many other countries of the world, are formed when no single party is strong enough to obtain an electoral majority. The resulting government usually distributes political posts to representatives of all coalition members.

Coalitions come into existence because they are a political necessity, but different partners may have mutually conflicting interests. There are clear divergences between the interests of smaller and larger parties. The BJP would aspire to a position of dominance much like that enjoyed by the dominant party in the mixed ministries of Kerala, whether by Congress or the CPI (M). Smaller political parties like the Telugu Desam would prefer a United Front type arrangement in which the smaller parties hold the key to power and can command more influence than their numbers might indicate. But there is a further divide at the heart of the party system. Both the Congress and the BJP are more comfortable with a stronger Centre. The former was its chief architect and the latter is its prime ideologue today. Yet this looks a line very difficult to hold in the coming years.

10.1 UNIT OBJECTIVES

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

- Explain the meaning, advantages and disadvantages of coalition politics
- Analyse the recent trends in the politics of defection

10.2 COALITION POLITICS—MEANING, ADVANTAGES AND DISADVANTAGES

The Indian polity has been through more than fifty coalition governments at the State level between 1966–67 and 2010–2011. Before analysing the nature, patterns and

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specifications of coalitional regimes, it would be imperative to have a brief focus on theoretical aspects of coalition regimes. Theories of political coalition are a rather recent development in political science. There are broadly three kinds of coalition theories. First, there are utility maximization theories that postulate the size principle predicting the minimum winning coalition. Proceeding from the axiom of the rationality of political actors, these theories deduce the theorem that in any formal coalition situation with the majority decision rule, the coalition formation would hover around the minimum winning size, typically around fifty percentage points. The smaller the coalition, the larger the quantum of power and patronage that needs to be shared among the winners. Second, there are **ideological and policy compatibility theories**. Proceeding from the assumption that the maximization of utility must contend with ideological concordance among parties, these theories predict a minimum winning coalition among parties whose policy preferences are least discordant. Third, there are theories that treat coalitions as sequential episodes that offer opportunities for redistribution of political resources, determining the relative political influence of coalition partners. The gains and losses in the present round and their implications for the ensuing ones primarily guide the competitive demands and concessions made by parties to each other.

Janata Government (1977)

With its combination of national and State parties the Indian federation has been transformed in the past few decades. Perhaps no single year since 1947 has been so momentous in the political annals of India as 1977. It has been momentous for the unexpected but epoch-making political change that occurred with the fall of Mrs. Indira Gandhi's emergency regime through the ballot box. It has also been momentous for promised qualitative change in the style of politics in the country and the performance of the ruling elite. Finally, the year has been momentous for the disenchantment with which it seemed to end: it appears as if the promise of even the new political dawn (let alone the new socio-economic dawn which was perhaps not even conjured up except by way of political rhetoric) has already turned out to be a mirage. While the withdrawal of the internal emergency promulgated on 25 June 1975, was one of the last acts of the Indira Gandhi government after its defeat at the polls, it was the Janata government which freed the country of the yoke of the external emergency which was declared on 3 December, 1971.

The sixth general election has hardly any parallel in history for the overwhelming surprise that it offered to political analysts both in India and abroad, and to the two main political parties in the field—Janata and the Congress. The election has been variously described and yet it has perhaps eluded proper characterization, perhaps because its political meaning has not yet been stabilized; the meaning has, in fact, shown a tendency to change, shrink and expand with changes in the political scenario of the country. Still one may offer one more characterization for whatever it is worth: the election was a people's poll, retributive in the North and affirmatory in the South. Once Indira Gandhi announced that elections would be held in March 1977, the ball was in the people's court and their determination to play it their own way, particularly to avenge the wrongs done to them during the months of emergency, was never so strong and unwavering as in the wake of the elections. What distinguished the 1977 poll from earlier elections was not merely its pronounced issue-orientation but the congruence in the perception of the issues involved among the urban and rural electorate

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on the one hand and the elite and the masses on the other. The 1977 election will go down in history as the most issue-oriented of all the elections held so far. The key issue posed by the opposition political parties and the ruling Congress was dictatorship vs democracy and stability vs. chaos, respectively. What makes the election different from earlier polls is not merely its issue-orientation but also the ascendency of liberal democratic values in the great debate surrounding these issues. The 1977 election remains, primarily, a political battle over issues to which all other considerations of personality, candidate-orientation, caste, creed, and even vote banks seem to have been sub-ordinated, though certainly not eliminated, particularly as inputs into election politics at micro-levels. The failure of the election eve munificence to waver the voter from the self-charted path of driving Indira's Congress out of power in the North is another instance which buttresses the issue-orientation thesis.

The 1977 election struck the final blow to the dominant Congress system, which was already disintegrating under the weight of its internal contradictions. The three major bases of its support – the rural electorate, the Muslims and the Harijans—had become alienated from it in good measure in the wake of emergency excesses in general and the family planning programme in particular. The election left the country poised for significant political change, marking some hope for a transition from a one-party dominant system to a competitive alternative party system. The exact import of the change in qualitative terms would depend on what the change leads to in terms of realignment of political forces and the re-ordering of socio-economic relationships, and how the change is managed. The election results in the ten states and three Union territories were a case of continuity with the parliamentary poll, though with a difference. The Janata party's convincing victories in eight states and the Union territory of Delhi and its miserable performances in Tamil Nadu and West Bengal were a replica of the parliamentary poll verdict.

A mixed sense of relief and apprehension marked the Indian political scene in early 1977 when the continuity of three decades of Congress rule was broken by a stunning electoral verdict. It was a unity of resentment, obviously stronger in intensity and wider in extension in northern India, which transformed disparate opposition parties into a working coalition eager to offer an alternative to the emergency regime of the preceding two years. The primary object of public resentment was the repressive regime, its architects and defenders, represented by the ruling group which controlled the National Congress organization, the government, and the private network of manipulation and control fed by public funds. The central level of the federal polity was based on foundations of variable strength. Since the major issue of the 1977 elections was concerned with how to reverse the authoritarian usurpation of democratic power, the mandate of restoration of the Constitutional regime served as the strongest foundation of support for the Janata coalition was, of course, expected to offer a better programme of government. Political groups that had supported the opposition movements during and before the emergency rule were highly critical of the developmental policies of the Congress Party. The election manifesto of the Janata Party and its allies conveyed the impression that the arrival of national power of a non-Congress coalition would make a difference in the sphere of developmental policies and programmes.

Non-Congressism was especially strong after Indira Gandhi's declaration of Emergency Rule. The left conveniently rationalized this comprehensive non-Congress

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combination as being democratic and secular forces. The merger of the BJS in the Janata Party in 1977 heralded the secularization of this main Hindu communal party. The merger of the communist elements within Nehru's and Indira's Congress Party was construed as the political liberalization of Marxists. Despite the largest contingent of MPs from the BJS constituent in the Janata Party in 1977, they contented themselves with under-representation in Morarji Desai's government because they regarded the Janata Party as the means by which they could join the mainstream of Indian politics. As Rajni Kothari observed: 'The real challenge before Janata was to bring the Jana Sangh within the democratic framework, just as the Communists had been under Nehru.' However, when the Janata Party government fell prematurely in 1979, the key precipitating factor, among other background reasons, was the question of double membership of Janata leaders in the party as well as in the Hindu communal organization, the Rashtriya Swayamsevak Sangh (RSS). The BJS constituents in the Janata Party split off and formed the BJP. In turn, a communal Sikh party, the Shiromani Akali Dal, was also catholically accepted as a part of the non-Congress front by its protagonists; it was indeed a coalition partner of the Janata Party government from 1977–1979.

The Janata Party once saw itself as the historic focal point of a non-Congress coalitional alternative at the centre since 1977. At that time, the Congress (Organization), the BJP, the Bharatiya Lok Dal (BLD), the Socialist Party and the Congress for Democracy merged under the shadow of the Emergency Rule. This alliance was able to unseat Indira Gandhi. The Janata Party coalition government started out well and completed nearly half of its five-year term. It dismantled the authoritarian amendments to the Constitution by the Emergency regime. Its economic performance was not unimpressive. However, this regime was marred by the onset of atrocities against Scheduled Caste (SC) agricultural workers by dominant peasant castes in the countryside. The leaders of the Janata Party coalition constantly kept quarrelling among themselves.

These quarrels were typified by the bitter personality clashes between the Prime Minister and the Deputy Prime Minister, Morarji Desai and Chaudhary Charan Singh, respectively. Both leaders were former members of the Congress Party. Desai represented the Congress (O) and was supposed to be close to the big business lobby and Singh led the BLD, primarily a party of Jat and other middle-caste peasant proprietors. The BJS, controlling the largest number of parliamentary seats and Janata Party State governments, played the role of mediator but failed to keep peace among the coalition partners at the centre. The Janata Party coalition government ultimately fell victimized to factional feuds in July 1979. As was mentioned earlier, the BLD faction of the coalition raised the issue of double membership of the BJS faction with the RSS. A less domineering personality than Desai probably may have provided a more conciliatory setting for a coalition government. However, after the fall of the Janata coalition government, some Janata Party defectors led by Charan Singh of the BLD faction formed a minority government with the legislative support of the Congress Party led by Indira Gandhi. Within three weeks, the Congress Party withdrew support from Singh just before the first vote of confidence in Parliament. The strategy by the Congress Party resulted in Singh's unceremonious resignation. The Janata Party subsequently fell apart and all its major constituents (with the exception of the Congress (O) and the SP) split off to revive themselves.

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A rapid reversal of the emergency regime, 'the reinstitution of the rule of law', and the swift dismantling of the structures of authoritarian control established by the Congress Party were probably the most impressive accomplishments of the Janata Party and its allies. Common cause on this front helped create a working system of cooperation internally among the Janata legislators and those of other parties aligned against the emergency regime. In the course of the passage of the 43rd Amendment Bill and the working of the Shah, Reddy, and Gupta Commissions, it became apparent that most political groups and parties were determined to work together to assure themselves and the public that a recurrence of the emergency pattern would be more difficult in the future. The Janata Phase of Indian politics offers an interesting period of exploration of innovative directions within the context of social structural continuity.

Janata party commanded 55.31 per cent of the Lok Sabha seats. In an unprecedented step just before the 1977 election, four national parties, The Indian National Congress (Organization), Bharatiya Lok Dal, Bharatiya Jana Sangh and the Socialist Party, merged informally to form the Janata party. These parties also had an electoral understanding with the Communist party of India (Marxist). This meant that for the first time, the opposition to the Congress party was almost wholly united except for the Communist Party of India which supported the Congress.

National Front Government (1989-90)

The Indian electorate in November 1989 parliamentary elections did something very different. It elected a Parliament in which no single party had a majority. No party even came close to the 263 seats required for a majority, raising the prospect of a formal coalition for the first time. The so-called popular 'waves' triggered by emotive national issues, which characterized national elections since 1971, were not apparent this time. There was no clear mandate for a person or a party. The fragmentation of the vote aroused speculation about the viability of a coalition arrangement in a country accustomed to governing parties with strong majorities and recently to a ruling party with a weak organizational structure.

The National Front emerged with a disappointing 142 seats, only slightly more than half the votes required for a parliamentary majority. In fact, the Front was effectively the Janata Dal, the regional allies winning only three contests. The Janata Dal is essentially a party of the Hindi belt where it picked up two-thirds of its victories (106 of 139); it won only one seat in the four southern States, and in the east, all sixteen of its seats were from the State of Orissa. It also had some support from the Western States of Gujarat (eleven) and Maharashtra (five).

The onset of coalition and minority governments in New Delhi is an important aspect of the paradigmatic shifts in the Indian political system in terms of political federalization and economic liberalization in the 1990s. A political system that had previously functioned as a predominantly parliamentary regime is becoming more federal, and a public (State) sector-dominated planned economy is opening up to market forces both domestically and globally.

The immediate political context of coalition politics is the decline of the once-dominant Congress Party and the continuing failure of any party from the centre, right, or left of the party system to win a working majority of its own to govern India. The recent trends of the metaphors of mandal (affirmative action reservations) and mandir (in essence, communalism) and the issue of State autonomy triggered different strategies of mobilization that significantly transformed the social and psychological

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bases of politics in India. Besides, a new pattern of social movements centred on single and region-specific issues relating to quality of life (e.g., ecology, gender, utilities, and services), in addition to the older, comprehensive concerns of economic production and distribution have appeared on the scene. In view of the fact that India in the 1990s seems to have got stuck with the compulsions of coalition and minority-governments, it would appear that the long spell of Congress dominance until 1989 with only occasional or partial breaches in 1967 and 1977, merely served to conceal the essentially fragmented and coalitional nature of the Indian society and culture.

Although coalition governments at the Centre formally began in 1989 and have continued since, the Janata Party government in New Delhi also was a de facto coalition. In the five general elections spanning the decade since 1989, no single party has won a majority of the seats in the Lok Sabha. In these classic coalition contexts, recourse to a coalition or minority government, often both became a necessity. The decade (1989–99) featured a series of unstable coalition and minority governments following each other like a game of musical chairs. Among these governments, the national front government headed by V.P. Singh of Janata Dal was the first coalition government followed by the short-lived Congress-backed Samajwadi Janata party (SJP) and the minority government led by Chandrasekhar. The National Front's cabinet coalition was based on 30.94 per cent of parliamentary support, while its larger legislative coalition enhanced its tally to 55.06 per cent. The Janata Party, de facto coalition government was based on non-Congressional ideological unity. This was also largely true of the National Front government. Both these coalitions were left-of-centre in ideological terms, and were aimed at keeping the Congress Party out of power.

The Janata Dal-led National Front government, which included the Janata Dal, the Congress Party (Socialist), the Telugu Desam Party (TDP), the DMK, and the Asom Gana Parishad (AGP), was just as fractious as the Janata Party coalition government and even less durable. It lasted barely eleven months in power, from December 1989 to November 1990. Weak coordination and fragmented collective responsibility of the cabinet marked the National Front coalition government. Neither the Prime Minister nor the Coordination Committee of constituent parties of the coalition chaired by N.T. Rama Rao could bridge the tendencies of empire-building by major factions, or divided ministerial responsibilities while overseeing of the State governments. The feud between Prime Minister V.P. Singh, a Congress Party dissenter who resigned from Rajiv Gandhi's cabinet in 1987 and Deputy Prime Minister Devi Lal sealed the fate of the National Front coalition government. It was this factional feud that propelled V.P. Singh to suddenly implement the Mandal Commission's recommendation calling for the reservation quota of 27 per cent of Central Government jobs for Other Backward Classes (OBCs) in addition to the existing reservations for SCs and Scheduled Tribes (STs). Singh gave his support for the Mandal Commission without making a direct reference to the Coordination Committee or the Cabinet (even though the matter was part of the National Front election manifesto). This triggered a veritable caste war in many North Indian cities and towns. During this period, the immediate reason for the demise of the National Front coalition turned out to be the failure of a legislative coalition between the Leftist parties and the BJP. The Communist parties and BJP were supporting the National Front government from the parliamentary floor without joining the coalition. Eventually, both organized bandhs (closures or strikes) and mass mobilizations turned against the National Front coalition government. The BJP's *rathayatra* from

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Somanath to Ayodhya was finally stopped with the arrest of the BJP's president, L.K. Advani. The arrest caused the withdrawal of BJP's parliamentary support. The National Front also suffered from internal divisions within the Janata Dal. Even though the Janata Dal had the largest number of parliamentary seats, it was sharply divided. V.P. Singh was the party's parliamentary leader, but Chandrashekhar, a senior Janata Dal leader opposed his selection as Prime Minister. Chandrashekhar once belonged to the Janata Dal after he had the courage to oppose Indira Gandhi's Emergency from within the ranks of the Congress Party. He was jailed for his opposition. On the other hand, Singh was a loyalist of Indira's son Sanjay during the Emergency. Singh eventually capitalized on the crest of public euphoria that followed the wake of his resignation from Rajiv Gandhi's government. After the fall of the National Front coalition government, the Janata Dal splintered into the SJP led by Chandrashekhar and Devi Lal (the regional leader in the State in Haryana) and SP led by Mulayam Singh Yadav in Uttar Pradesh. The Congress Party once again pretended to support Chandrashekhar's SJP minority government. Chandrashekhar demonstrated a more earthy common sense and earnestness than his predecessor. But the Congress Party only extended parliamentary support to Chandrashekhar for four months, withdrawing its support in protest over the surveillance of Congress President Rajiv Gandhi's residence by two Haryana constables. A more sizable SJP representation in the Parliament probably would have helped develop a more balanced relationship between the party in government and its legislative ally. A joint governmental responsibility undertaken by both would have been even a better recipe for stability. But the imperatives of electoral mobilization overrode those of governance.

The National Front is theoretically a coalition of parties. even though there are only three non-Janata Dal MPs. In selecting his cabinet, Prime Minister Singh chose ministers from these allied parties: Law Minister Dinesh Goswami from the Asom Gana Parishad; Urban Development Minister Murasoli Maran from the DMK; the Minister of Transport K. P. Unnikrishnan from the Congress(S); and the Minister of (both) Information & Broadcasting and Parliamentary Affairs P. Upendra from the Telugu Desam. The minuscule number of National Front MPs from the regional parties forced the prime minister to look for potential cabinet representatives in the Rajya Sabha (the Upper House of Parliament), and three of the four appointed were from that body. The Janata Dal is itself a coalition of factions and the prime minister carefully balanced the various groups in choosing the sixteen Janata Dal members of his original cabinet – fifteen from the popularly elected Lok Sabha.

United Front (1996–98)

The United Front's cabinet coalition comprised 32.06 per cent of Lok Sabha Members of Parliament (MPs) and its larger legislative coalition together managed to register 57.9 per cent of parliamentary support in the Lok Sabha. The United Front was founded on the basis of non-BJP unity. By 1998, the BJP had become the single largest party superseding the Congress Party. The United Front also sought to block the way to a Congress-led coalition. Lacking coalition partners to make a serious bid for power, even the Congress Party lent outside support to the United Front coalition in order to keep the BJP out of power. Like the National Front, the United Front was also a left-of-centre coalition.

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The Janata Dal-led UF government was formed following the 1996 Lok Sabha elections. Being the third party in the Lok Sabha after the BJP and Congress, the Janata Dal got its chance to form a government after the BJP failed to muster a majority in the hung parliament and the President of India declined to invite Congress to try forming a government. None of the coalition formation among the three major party clusters or groupings was mandated to power by the electorate in the election. The result shows the growing regionalization of India's party system. One visible trend was the shrinking of the nationwide spread of the Congress Party. The other visible trend was that the national pretensions of BJP were contradicted by its continued failure to outgrow its base of support, having its strongest electoral showing in Hindi-speaking states plus the states of Maharashtra, Gujarat, and Karnataka.

H.D. Deve Gowda and I.K. Gujral headed the two United Front governments in the 11th Lok Sabha, respectively. Both prime ministers were from the Janata Dal but with a common Congress past. The UF was essentially an exercise in governance by the third force in Indian politics between the Congress Party and the BJP. The two polar forces represented the two variants of the emergent Right-wing in Indian politics, the Hindu nationalist BJP and the Congress Party moving away from Indian variants of Nehruvian socialism and Indira Gandhi's populism to neo-classical economic liberalization and globalization. As a result of communal or corruption charges, these two largest single parties were hamstrung on the margin. The third force parties managed to put together a heterogeneous coalition composed of the Janata Dal, left wing, and regional parties. All the three categories of parties also happened to be the ruling political forces in some States: the Janata Dal in Bihar and Karnataka, the communists in West Bengal and Kerala, and TDP, AGP, and DMK in Andhra Pradesh, Assam and Tamil Nadu, respectively.

Beyond this assortment of parties in the cabinet coalition, the UF also roped in the support of Congress from the parliamentary floor. Congress Party could tactically help the UF governments cross the threshold of a majority in the Lok Sabha with a veto on government formation and maintenance. Using this veto, the Congress Party forced the UF to change its prime minister from Deve Gowda to Gujral in April 1997. The Congress Party finally doomed the UF government in November the same year when it abandoned supporting the coalition.

The fall of the UF governments was due more to the role of the Congress Party rather than from the parties internal to them. Despite their differences, the UF parties managed to reconcile their heterogeneity with a fair degree of success. This must be considered a remarkable achievement, especially in view of the fact that the coalition included three distinct groupings of parties from the Centrist, Leftist, and regional sectors of India's party system. Moreover, the government had to steer its way through the new terrains that were fast changing in areas of the growing economic liberalization and political federalization of the system of governance. Internal policy and personality differences of the coalition were more or less publicly resolved by a coordination committee of parties in the government.

NDA (1998–1999), (1999–2004)

For the first time in more than fifty years since independence, India was to be led by a Right-wing party with an ideology rooted in Hindu nationalism. When the greatest need of the hour was for a clear electoral result, India was again saddled with a fragmented political verdict, fractured political elite, a deeply divided Parliament, and a hydra-headed government. India's watershed 12th general election was held over thirteen days in four stages, starting on 16 February, 1998.

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The election produced three groups in the Lok Sabha (House of the people): the Bharatiya Janata Party (BJP) and allies with 250 seats, the Congress and allies with 148, the United Front (UF) with 97 seats, and 44 others 1. On 11 March 1998, President R.K. Narayanan asked Atal Behari Vajpayee, BJP parliamentary leader, to prove that he was able and willing to form the government. On 15 March, the President asked Vajpayee to form the government, with the swearing-in ceremony held on 19 March.

President Narayanan invited Vajpayee to form the government. The whole episode marked an exceptionally inauspicious start to the 12th Lok Sabha, even by the standards of coalition government in India. The BJP begins government with just 264 seats; the Telugu Desam decision to abstain on confidence votes (and later to supporting of the government), which could earn it expulsion from the United Front, just helps the BJP to attain a majority.

On 18th March, Prime Minister Vajpayee released the National Agenda for Governance negotiated between the BJP and its allies. The three core Hindutva elements — the temple issue, a uniform civil code for all religions, and special status for Kashmir, have been diluted. Neither Article 370 of the Constitution, relating to Kashmir, nor the temple issues is mentioned at all. The paragraph on 'genuine secularism' commits the government towards 'equal respect for all faiths' but is silent on the favourite BJP charge of 'appeasement of minorities'.

In 1998, India continued to present a paradoxical combination of democratic resilience and ideological centrism on the one hand, and political fragmentation and weak governance on the other. The political scene can be summed up in the story of two important elections held during the year. India's twelfth general elections, conducted in February and March, resulted in a hung Parliament. The Bharatiya Janata Party (BJP) emerged as the single largest party with 171 seats while Congress's tally remained near its historic low of 141. The fragmentation of the political system was symbolized by the presence of the United Front, a loose coalition of 10 parties that managed 98 seats. Most of these were regional parties that had gained significant voice in the coalition politics that governs the Centre.

This was a landmark election for the BJP. The party had long held pariah status in Indian politics and prior to 1998 had been unable to attract the allies it needed to form an enduring government at the Centre. In 1998, in addition to its hitherto allies, the Akali Dal and the Samata Party, it managed to convince such regional parties as the AIADMK (All India Anna Dravida Munnetra Kazagham) and BJD (Biju Janata Dal) to join it in forming the government. It also persuaded other regional parties like the Trinamool Congress and Telugu Desam to offer support from the outside. These alliances were made possible in part by the fact that there appeared to be no other party in the position to form a government. Also, the BJP managed to portray itself more credibly as a moderate party of the right that eschewed for the time being at any rate, aspects of its Hindu nationalist agenda that had contributed to its pariah status. It fought the election on the promise of good governance and kept the zealots within the party conspicuously out of sight. It had neither the mandate nor the will to pursue the more controversial planks of its agenda, such as reconsideration of Article 370 of the Constitution dealing with Kashmir or the abolition of Muslim personal law. In office, the BJP made faltering attempts to give the education system a 'Hindu nationalist' hue but was rebuffed by both its allies and the opposition. The resulting government was a somewhat unwieldy alliance of thirteen parties under the banner of NDA (National Democratic Alliance).

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The vacillations were most apparent in the Government's handling of the economy, and the political cost was immense. The Indian electorate historically has been sensitive to inflation. The BJP's perceived failure to check a spectacular rise in the price of onions only seemed to symbolize its broader failures. The only sphere where the government appeared to display a sense of decisiveness was nuclear policy, although this did not result in any electoral gains. For the outside world, 1998's most significant event in India was the series of five nuclear tests conducted on 7 and 9 May. While only the BJP had openly declared its intentions to conduct these tests, these were, with the exception of the Left parties, widely supported across the political spectrum and in many ways, keeping in with India's longstanding desire to develop an autonomous foreign policy adequate to its security concerns vis-à-vis China and Pakistan.

On the surface, India's growth rate in 1998 was impressive. At around 5 per cent, it was more than double the global average and second only to China among the larger economies. However, this performance masked two disquieting trends. First, most underlying measures of India's economy continued their decline leading the central bank to conclude that the macroeconomic situation—fiscal inflation, money supply, trade deficit, and growth, was a matter of 'serious concern'.

By the year end, virtually none of the reform initiatives were passed in the Parliament and remained in some cases as ordinances. Severe divisions within the ruling party's own ranks and a vacillating Congress torn between supporting issues that were very much part of its agenda and denying the BJP credit for any major initiative, coupled with dismal legislative management in the Parliament by the ruling party, meant that even the stumbling steps had been effectively stalled. While both sets of 1998 elections underscored the resiliency of the Indian electoral system, especially its capacity to capture voter dissatisfaction, they also underscored the absence of a political configuration adequate to the challenge of governing India.

UPA (2004)

The outstanding event of 2004 in India was the national election. Its unexpected results made for the ouster of the BJP-led government despite the excellent performance of the economy and its replacement by a coalition headed by the Congress Party, oriented towards greater State activism in economic affairs. Political upheaval marked in 2004 in India in the shape of an unexpected electoral defeat in mid-May of the National Democratic Alliance (NDA) government at the hands of the Congress-led United Progressive Alliance (UPA). The result of the largely violence-free 14th general elections came as a shock to the Bharatiya Janata Party (BJP) and its allies, leaving them dazed and disoriented. It was a surprise as well for the Congress Party, which had not counted on returning to power until the next elections in 2009, and for almost all analysts and pollsters, who had expected the BJP-led alliance to win. The ensuing peaceful transfer of power from one political coalition to another no doubt represented the consolidation of democracy in India over more than a half-century, but subsequent events revealed some less attractive aspects of India's reputed vibrant democracy, arousing concern over the polity's direction.

The Congress party won only 145 seats out of 541, just seven more than the defeated BJP's 138. Meanwhile, the Congress's percentage of the total vote fell from 28.30 per cent in 1999 to 26.21 per cent, as against the BJP's decline from 23.75 per cent to 21.48 per cent. The victorious alliance had won 219 seats, as against the defeated alliance's 185, but its vote share, at 34.51 per cent, was marginally lower than

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the latter's 34.83 per cent. Certainly, the BJP and its allies stood defeated, but the electorate as such gave no party or alliance any mandate. In truth, India is a vast continental polity with diverse regions that are only weakly integrated in terms of social structure. What are seemingly national election results are often no more than a mere summation of regional results, rather than the manifestation of a nationwide trend.

Manmohan Singh was chosen as the Prime Minister of UPA government. Sonia Gandhi was given Cabinet status as Chairperson of the National Advisory Council, established to oversee the government's performance. In addition, she headed the UPA-left Coordination Committee. The selection of the cabinet was less a prerogative of the PM than of the leaders of the coalition partners, each with its quota based on voting strength and with portfolios determined through hard bargaining. As a result, some half-dozen ministers turned out to be of questionable integrity, with criminal cases pending in the courts, and were thus regarded as 'tainted'. Their presence was testimony to the criminalization of politics, increasingly evident over the years with the entry into politics of strongmen with criminal records. National parties, such as the Congress, BJP and CPM may be less prone to the trend, but small regional parties manifest it abundantly.

The Left declined to join the government, principally in view of the prospective electoral competition with the Congress in the states of West Bengal and Kerala, but extended support to it from the outside, thus exercising power without the accompanying responsibility. After considerable bargaining, the coalition partners and the Left also developed an omnibus National Common Minimum Programme (NCMP) focused on investment in agriculture and rural employment, as part of 'economic reforms with a human face'. As a bible for governance by the coalition, the NCMP became an instrument for the Left to bend the government to its preferences. The 2004 elections in India made for a dramatic change in the coalition holding power at the Centre, with far greater impact domestically than in foreign affairs.

The 2004 general elections saw, for the first time, a contest at the national level between two serious coalitions, the National Democratic Alliance (NDA) and the United Progressive Alliance (UPA), though the latter was named only after the elections. The Congress Party for the first time put together a broad pre-election coalition covering several major states to take on the NDA coalition.

On the whole, coalitions (or merger in Himachal Pradesh) were critical for Congress victory in Tamil Nadu, Andhra Pradesh, Bihar, Jharkhand, Himachal Pradesh, and Jammu and Kashmir. They were critical for Congress reduction of the margin of defeat/improvement of position compared to 1999 in Maharashtra and Goa. The lack of a coalition of opposing forces was critical for the magnitude of the Congress victory and BJP defeat in Assam, Haryana and Jharkhand (where an NDA coalition of not only the BJP and JD (U), but also potentially the JMM, was a possibility). Compared to 1999, the Congress lost only one seat in Assam though its 35.1 per cent vote share is far less than the 50.8 per cent combined vote share of the BJP and the AGP, taken together. In Haryana, the Congress won nine seats compared to none in 1999 with a vote share of 42.1 per cent compared to a combined vote share of the separately contesting BJP and INLD of 39.6 per cent. In Jharkhand, the BJP dropped from 14 to only one seat despite a vote share of 33 per cent compared to a Congress vote share of 21.4 per cent because the Congress-JMM-RJD-CPI alliance had a combined vote share

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of 44.5 per cent. Conversely, the lack of a coalition with the JD (S), ironically a post-poll government partner, was critical for Congress defeat in Karnataka. Coalitions were critical for NDA victories in Orissa and Punjab. As for the Left, coalitions were vital in West Bengal, Kerala and Tripura, and in West Bengal a divided opposition greatly helped. For the Congress and Congress-led coalition, four large states in which coalitions were vital for victory (Tamil Nadu, Andhra Pradesh, Bihar, Jharkhand) contributed 114 out of 219 seats (52 per cent) for the UPA (excluding the Left although the CPM, CPI or both were coalition partners at the State level in some of these States), or forty-eight out of 145 (33 per cent) for the Congress alone. Major states in which coalitions reduced defeat margins/improved positions since 1999 (Maharashtra, Gujarat), contributed thirty-five out of 219 seats (16 per cent) for the Congress-led alliance or seventeen seats more than in 1999 (the Congress-led alliance in 1999 was different: it did not include the NCP). States with allied cooperation through non-contestation (Haryana, Delhi) contributed fifteen seats or fifteen seats more than in 1999. Another way of looking at it is to view the situation in reverse. States in which victory was owed to lack of an opposing coalition due to the BJP deciding to go it alone (Haryana, Assam, Jharkhand) contributed thirty seats, or seventeen seats more than in 1999, to the Congress-led alliance (again different in 1999 in Jharkhand).

Coalitions have played a vital role in the unexpected Congress victory in 2004 in the ways outlined earlier, including in a negative sense, i.e. the lack of coalitions in the BJP's defeat in Haryana, Assam and Jharkhand. Coalitions have also played a vital role for the BJP in states like Orissa, Punjab and Maharashtra, and for the Left in its three traditional strongholds. To what extent have the expectations derived from theory been met, i.e. to what extent has the Election 2004 coalition story been theory-confirming. The coalition experience of Election 2004 has been theory-confirming in the following ways:

(i) Coalitions have been largely opportunistic or office seeking, formed primarily to aggregate votes regardless of programmatic differences, following the imperatives of the SMSP electoral system. The best examples are that of the TRS, which differs on Telangana Statehood, the NCP, which shelved its foreign origin reservations about Sonia Gandhi, the Left parties in various State-level alliances despite historic differences with the Congress primarily on economic policy, and parties like the DMK and its smaller allies, and the JMM, which earlier had alliances with the BJP. Except for the Left parties, none of these would have been averse to doing a deal with the BJP. The BJP/NDA was either not interested or its offer was too niggardly. The last-minute character of most of these alliances reinforces this point.

(ii) At the State level, our prediction that the Congress is 'coalitionable' only when it is either a third or fourth party, or where a third or fourth party emerges where the Congress is locked in competition with a BJP/NDA rival party or alliance, has been borne out. Each State-level Congress coalition in 2004 has been in one or the other of these situations.

In 2009, the INC fared much better in election and came back into power, much to its own surprise. However, even this improved performance was not enough to get a clear majority, and a coalition was formed with various parties. A number of parties agreed to support the government from outside, without expecting any returns informed of cabinet berths, etc. Being free from the leftist yoke, the government has worked quite freely till now.

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Both experts and political parties agree that the era of coalition politics has just begun and it's here to stay. Sharad Pawar, Union Agriculture Minister and President of the Nationalist Congress Party says, "At the time when regional political parties are assuming significance and the days of single party rule are over, there is no escape from coalition politics."

Experts say that Coalition Politics is a result of rise of regional parties on agendas of National Importance. One of the reasons for the growing importance of regional parties has been their success in articulating the interests of the assertive backward castes and Dalits or 'untouchables'. These parties remain 'regional' in terms of geographic locations, but are national in terms of issues relevant to the country as a whole. Their role within the national coalition is also indicative of a more competitive and polarised party system.

10.2.1 Advantages of Coalition Politics

Coalition governments in India, in spite of problems, have been successful in retaining democratic legitimacy and national unity. Major policy shifts like liberalization, economic reforms, grassroots decentralization, federal decentralization, in theory or practice can be largely attributed to the onset of coalition governance. Coalition governments in states and at the centre are compelled to depart from the rigid Congress-centred and the Hindu-right orientations and accommodate people with other orientations. This led to the integration of the party system as well as the nation. The national parties which once rejected the idea of coalition politics, have today accepted coalition politics as indespensable exercise.

To conclude, According to the experts, the coalition politics in India is now inevitable. Coalitions in Indian politics are unavoidable, because the social, economic and political order in the country has changed beyond recognition in the past 63 years. Coalitions will remain because the Indian polity does not hesitate any more to exercise its franchise. Coalitions will thrive because India now knows that extracting good governance is important for the self-interest of all sections of its society.

10.2.2 Disadvantages of Coalition Politics

Apart from lack of cohesiveness and stability of the coalition governments and the inability of Centre to take decision on time, a number of other problems beset the coalition politics in India.

1. Collective responsibility requires that ministers should be able to express their views frankly in the expectation that they can argue freely in private while maintaining a united front when decisions have been reached. This, in turn, requires that the privacy of opinions expressed in Cabinet and ministerial committees should be maintained. It is precisely this frank expression of views and free private argument which are often not obtainable in coalition settings.
2. Ideally, the confluence of interests for coalitions must be dictated by coherent and principled political beliefs and not opportunism alone. However, the purpose of coalition governments in India so far has merely represented a translation of anti-Congressism or anti-BJPism into a tactic for power-sharing.
3. The experience of coordination committees has also not been very impressive. The culture of coalitions is in its essence the culture of compromise. It is based, to

Check Your Progress

1. Mention any one theory of coalition politics.
2. On what basis was the United Front founded?
3. What is the full form of NDA?
4. Mention some policy shifts that have occurred as a result of coalition politics.
5. Coalition governments in India have hampered democratic legitimacy and national unity. (True/False)

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a large extent, on the sharing of elective and non-elective offices. A coalition government, in a system like ours, cannot be effectively managed by the cabinet alone. To keep the coalition united, the Prime Minister and his colleagues must learn to promote reconciliation of conflicting policies and ambitions in two forums, one outside Parliament and the other inside. These are the all-party Parliamentary Committees on the floors of the Parliamentary chambers and the multi-party coordination committees of the governing coalition and

Given the multi-layered nature of Indian coalitions, with some parties joining the cabinet while others extending support only from the parliamentary floor, the Parliamentary Committees may be used as additional foci of sharing power. The Coordination Committee also needs to be strengthened by imparting greater seriousness and regularity as a sounding board for policies in broad terms to be worked out in detail by the cabinet. This will avoid the embarrassment of the rolling back of the cabinet/ministerial decisions, notorious for its frequency during the BJP-led coalition govt.

10.3 RECENT TREND—POLITICS OF DEFECTION

One of the most significant developments in the post-1967 period has been the formation of numerous coalition governments of widely heterogeneous elements and the continuous process of changing party affiliation by legislators in large numbers. This has affected the fate of ministries and the course of state politics. During 1967–73, about sixteen state governments were toppled in quick succession with as many as over 2700 cases of defection by legislators.

Despite the substantial cleansing of the Indian electoral system over the last three decades, corruption continues to be a major problem in Indian politics. Consequently, the scourge of defections continues to periodically recur, notwithstanding the passage of a sweeping legislation against party-hopping politicians unanimously adopted by Parliament during the very first year of Rajiv Gandhi's reign.

What is Political Defection?

The word 'defection' generally denotes 'abandonment', 'desertion' or running away from duty. However, in politics, its ramifications include many situations like crossing or changing of floors, the politics of opportunism, change of party or group, shifting of loyalty or allegiance from one party or group to another, repudiation of the label under which a legislator successfully contests his election, cross of floor inside the legislative chamber, leaving a party and then coming back to its fold, etc. Broadly speaking, it means leaving one's party or leader, under whose symbol or leadership one has found a berth in legislature, not on grounds of principles or due to split in the party but in quest for individual power or personal disillusionment or disgust.

An act of political defection may be said to signify leaving a party and joining another one; leaving a party joining another, and then returning to the original party; leaving a party to become a non-party man; leaving a party but continuing to support the same as a liberal politician; leaving a party to form another party or group; leaving a party, forming another and then merging it with the original party; and leaving a party, forming another and then merging it with some other party or group.

Check Your Progress

6. Mention one disadvantage of coalition politics.
7. A coalition government in a system like ours cannot be managed by the _____ alone.

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Causes of Defections

Defections have become, more or less, a regular feature of state politics. One important cause responsible for defections is aliurement for high offices. Some legislators defect when they are offered some high jobs as a price for joining a new party and leaving their own. Another factor is the big difference between the emoluments, status and benefits attached to the office of a minister and that of an ordinary MLA. If and when an MLA is offered, or promised ministership, he does not, generally, hesitate to leave the party on whose ticket and symbol he was elected.

There is also almost complete indifference of the electorate to the acts of defection by their representatives, particularly in Uttar Pradesh, Haryana and Bihar. Time and again the defectors in these states have been re-elected by the public. The personality cult in India is another cause of defection. When individuals so prominently dominate the political scene, their followers defect as soon as their leaders, due to personality clashes, decide to leave the party. Political bosses in India are another reason for defection. Some of the political leaders try to dominate their legislators. They are not prepared to listen to any criticism against themselves and are not even prepared to patiently listen to the other's viewpoint. The result is dissatisfaction amongst those who are not listened to and consequently they leave the party. In some cases, ideological differences also become responsible for defection. Defections also take place when there is no dynamic leadership. Powerful lobbies and pressure groups also play a big role in defection politics. In some cases, business or caste or religion might feel interested to lodge their people in authority. They start lobbying and put pressure on those who are near to them to defect from their party and to associate themselves with those in whom they are interested, so that their group can come to power.

Another cause of defection is the long rule of the Congress Party, both at the Centre and in the states. Even during the heyday of its power and prestige, it did not hesitate in roping in many eminent leaders of various opposition parties and groups to defect and thereby swell its ranks. Men like T. Prakasam, P.T. Pillai and Asoka Mehta of the PSP defected to join the ruling party and thereby gained major 'rewards' in a way tempting many others to follow suit.

Undoubtedly, unenlightened self-interest appears to be the most potent incentive that enthuses the legislators to commit the political sin of defection, re-defection and counter-defection.

Defections in India

Prior to 1967, there was no serious problem of political defections. Defections were at their rampant worst in the aftermath of the shock defeat of the Congress (despite the hopeless disunity in opposition ranks), in most states of north India in 1967. Indira Gandhi systematically destabilized the shaky non-Congress coalitions that emerged in the States after the 1967 poll with Machiavellian precision, taking recourse to open bribery of MLAs of these shaky alignments. The opposition, always adept at picking up amoral cues from the Congress, fast emerged as an equally made a mockery of the people's mandate and reduced legislatures to noisy auction houses. Rules were brazenly flouted and newer loopholes discovered by ambitious and acquisitive politicians to ascend ministerial office and accumulate personal wealth.

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Following the promulgation of the Anti-Defection Act in 1985, Governments have been relatively more stable, but in less than a decade, politicians had discovered sufficient loopholes to circumvent the law's stringent provisions. In August 1988, President's rule was imposed in Nagaland because thirteen MLAs, complying strictly with the term of the Constitution, obtained the Speaker's certification to form a new party to stake a claim to form the government. On 30 July 1988, the Speaker accepted that there had been a legitimate split to create a new party. Thus, the next day, Mr Vamuzo claimed the right to form a government backed by thirty-two (out of possible zero) signatures. However, the then Governor of Nagaland, Gen. Krishna Rao, refused to accept this claim and proceeded to declare President's rule in the State.

Fresh elections in 1989 resulted in swearing in the Jamir Ministry, but in May 1990, the Jamir Government fell. The reason was that twelve of the thirty-six Congress (I) legislators supporting the Jamir government had broken away and formed their own party fulfilling the provisions of the anti-defection law that strength of one-third of the membership was needed to justify a split.

In another instance, at the Centre, V.P. Singh became the Prime Minister of India on 2 December 1989. He represented Janata Dal and his government got outside support from the BJP. However, when BJP announced its withdrawal of support to the V.P. Singh government (due to Mandal Report), the Congress (I) began to call the shots immediately. When the congress announced that it was willing to extend its support to the Janata Dal minus V.P. Singh, it was a direct signal to Chandra Shekhar to try and split the Janata Dal.

The magic grouping that was required was sixty. This together with the grouping of 211 consisting of the Congress (I) and its allies would provide not only a total of 271 to constitute a majority in Parliament but would also add up to one-third of the original party's strength. This is the minimum strength required to split a party and escape the punitive sanctions of the Anti-Defection Act.

Thus, in November 1990, there was split in the Janata Dal; 25 members broke away from the V.P. Singh-led party, formed a new political party-Janata Dal (Secular) and elected Chandra Shekhar as their leader. The number later swelled to 38 and after a few days of persistent persuasions (presumably with the lure of office and power) to 62. Chandra Shekhar was invited by the President to form the government. The country, thus, witnessed the curious phenomenon, for the first time in its history, of a small minority of 62 forming the government, with support from outside of the largest 195 strong Congress (I) party.

Critics have pointed out that the ineffectual implementation of the Anti-Defection Act is partly the outcome of the fact that presiding officers (Speakers) of Indian legislatures have never been squeamish about revealing their political partisanship. They look upon the speaker's job as a temporary assignment to be used to further their own interests within their party. Since it is a speaker's prerogative to recognize a split, parties vie with one another to get their man installed to this post. A classic tussle took place in this connection in Uttar Pradesh in 1997 over the post of presiding officer between BSP and BJP. When the BJP entered into an unprecedented rotational power sharing arrangement with the Bahujan Samaj Party in March 1997, it had been agreed that the BJP would be entitled to nominate the Speaker. BJP nominate its party member-Kesari Nath Tripathi as the Speaker of UP Legislative Assembly. BSP was given the first stint of six months and thus, Mayawati became the Chief Minister of U.P. As the day approached for the BSP to relinquish office in the BJP's favour, incumbent Chief

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Minister Mayawati developed cold feet, realizing the fragility of the party she headed. Accordingly, the BSP made loud noises about extending the rotational arrangement to include the Speaker's post too. The BJP refused to relent and finally carried the day, successfully retaining its nominee, Kesari Nath Tripathi as speaker and Kalyan Singh becoming the Chief Minister of U.P.

Within weeks seething Mayawati-led BSP, withdrew support from the Kalyan Singh-led BJP Government, thereby reducing the coalition to a minority. Kalyan Singh, who had anticipated this all along, was fully prepared and quickly effected a split in the congress rump. Twenty-two of whose thirty-eight MLAs effortlessly crossed over to the BJP camp. But this still did not give Kalyan Singh the required number of three defectors. Amid wanton violence inside the Assembly, twelve BSP MLAs rose to announce their decision to join BJP. The Speaker K.N. Tripathi promptly recognised this as a split in the BSP and Kalyan Singh convincingly won the vote of confidence. The twelve BSP MLAs who defected to BJP were given ministerial berths in the Kalyan Singh Government.

Implications of Defections

Defections have led to political instability and delays in the decision-making process at state level. Moreover, in case of defections, there is no continuity in policies because each government which came to power follow its own policies, many a times undoing the work of the previous ones. The coalitions which were least viable were formed in Bihar and Uttar Pradesh. In both the coalitions, discipline, so essential for running a government, was at low ebb. The Chief Ministers were neither feared nor respected. They were incapable of taking any vital decision on their own. In all, the office of the chief ministership was devalued. The politics of defection, in a way, made bureaucracy very strong and powerful.

To summarize, defections have led to (i) political instability; (ii) the emergence of unstable coalitions in the states; (iii) de-valuation of the office of the Chief Minister; (iv) increasing power of the bureaucracy; (v) increasing strength of the state cabinets; (vi) the formation of minority governments in the states; (vii) fragmentation of political parties; and (viii) increase in political corruption and devaluation of moral values.

Anti-Defection Law (Fifty-Second Amendment, 1985)

In 1985, the Rajiv Gandhi Government passed the Anti-Defection Law, which is also known as the Fifty-Second Constitutional Amendment Act, 1985

This Act has added a new Tenth Schedule to the Constitution. This Schedule provides that the seat of a member of Parliament/State Legislatures shall fall vacant:

(a) if he voluntarily gives up his membership of such political party; or

(b) if he votes or abstains from voting in such House contrary to which he belongs without obtaining prior permission of such party, and such act has been condoned by the concerned political party within 15days from the date of such voting; or

(c) If an independent member, after his election joins any political party; or

(d) If a nominated member joins any political party after the expiry of six months from the date he took oath as a member of the House.

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The above-mentioned provisions, however, do not apply in the following three cases:

(i) **Party splits:** The disqualification on the ground of defection does not apply when there is a split in the concerned political party. The new faction arising out of such split should consist of not less than one-third members of the party.

(ii) **Party merger:** These provisions also do not apply where two or more political parties decide to merge by a two-thirds majority of the total strength of the party in the legislature.

(iii) **Resignation of speaker/Deputy speaker, Chairman/Deputy Chairman from party membership:** The above-mentioned provisions will not apply when a member of the Lok Sabha/ Vidhan Sabha immediately before his election as a Speaker/Deputy speaker or a member of the Rajya Sabha immediately before his election as a Deputy Chairman or a member of Vidhan Parishad immediately before his election as a Chairman or a Deputy Chairman resigns from the membership of his party to become a non-party man. These provisions will also not apply to them when they rejoin such or any other political party after ceasing to hold such offices.

Decision of disqualification: Any question regarding disqualification arising out of defection is to be decided by the Chairman or the Speaker of the House, as the case may be, and his decision shall be final. The courts do not have a jurisdiction in such a matter.

The underlying idea is that if an MP or an MLA seeks to quit the party on whose ticket he was elected, then he will have to resign his seat and recontest. Thus, there will be an effective curb on the propensity of members to change parties with a view to get some immediate political gains.

Criticism

1. The Act did not ban defections arising out of the lust for power. It banned only retail defections, and legalized wholesale defections. Thus, it allows bulk defections while declaring individual defection as illegal.
2. Another abjection able part of the Act is suppression of dissent. Any person defying party whip would be thrown out. Thus, it made the MPs slaves of the dominant leadership. To some critics, this constitutes a mockery of the freedom of dissent.
3. The Act has raised the price of the legislators of dubious fidelity. The Act has proved to be effective only when parties command very substantial strength in a House.
4. The Act has also given rise to the peculiar situation wherein rebel legislators are often merely suspended by the parent party which means they have to vote in accordance with the party whip despite their merry resort to the use of invectives against the leadership in public.

Anti-Defection Act and the Supreme Court Judgement

In 1991, the Supreme Court, by its decisions, removed the finality attached to the Speaker's order under the Tenth Schedule. The Court held that the Speaker, while acting under the Tenth Schedule, is a tribunal whose decision is subject to Judicia Review. Thus, the implication of the judgment (The case of Kihota Hollohon vs. Zachilhn & others) is that the decisions of the presiding officer can be scrutinized by the Courts.

To conclude, periodic attempts at reforming the existing Anti-Defection Act have come to naught on account of the indifference of parties who all seem to benefit from its existence in the current form. None is eager to rigorously implement the clause which enjoins disqualification of defecting legislators, without which the Act will always be liable to being circumvented. Flouting of its provisions has received a fillip in recent years owing to fractured verdicts by the electorate in many states and even at the Centre.

ACTIVITY

Prepare a news item with a hypothetical case of adverse effects caused by coalition politics.

DID YOU KNOW

Coalitions can come in two forms. The first is produced by two or more parties joining forces after fighting elections separately to form a majority government. However, some coalitions (or alliances) are already decided before elections to give the parties the best chance of immediate government after the election.

10.4 SUMMARY

In this unit, you have learnt that:

- There are broadly three kinds of coalition theories.

First, there are utility maximization theories that postulate the size principle predicting the minimum winning coalition. Proceeding from the axiom of the rationality of political actors, these theories deduce the theorem that in any formal coalition situation with the majority decision rule, the coalition formation would hover around the minimum winning size, typically around fifty percentage points. The smaller the coalition, the larger the quantum of power and patronage that needs to be shared among the winners.

Second, there are **ideological and policy compatibility theories**. Proceeding from the assumption that the maximization of utility must contend with ideological concordance among parties, these theories predict a minimum winning coalition among parties whose policy preferences are least discordant.

Third, there are theories that treat coalitions as sequential episodes that offer opportunities for redistribution of political resources, determining the relative political influence of coalition partners. The gains and losses in the present round and their implications for the ensuing ones primarily guide the competitive demands and concessions made by parties to each other.

Check Your Progress

8. State one cause of political defection.
9. In 1985, the Rajiv Gandhi Government passed the _____, which is also known as the Fifty-Second Constitutional Amendment Act, 1985.
10. Mention one criticism of the Anti-Defection Law.

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- With its combination of national and State parties the Indian federation has been transformed in the past few decades. Perhaps no single year since 1947 has been so momentous in the political annals of India as 1977.
- The Janata Party once saw itself as the historic focal point of a non-Congress coalitional alternative at the centre since 1977. At that time, the Congress (Organization), the BJP, the Bharatiya Lok Dal (BLD), the Socialist Party and the Congress for Democracy merged under the shadow of the Emergency Rule. This alliance was able to unseat Indira Gandhi. The Janata Party coalition government started out well and completed nearly half of its five-year term.
- The Janata Dal-led National Front government [which included the Janata Dal, the [Congress Party (Socialist), the Telugu Desam Party (TDP), the DMK, and the Asom Gana Parishad (AGP)], was just as fractious as the Janata Party coalition government and even less durable.
- The National Front is theoretically a coalition of parties, even though there are only three non-Janata Dal MPs. In selecting his cabinet, Prime Minister Singh chose ministers from these allied parties: Law Minister Dinesh Goswami from the Asom Gana Parishad; Urban Development Minister Murasoli Maran from the DMK; the Minister of Transport K. P. Unnikrishnan from the Congress(S); and the Minister of (both) Information & Broadcasting and Parliamentary Affairs P. Upendra from the Telugu Desam.
- The United Front was founded on the basis of non-BJP unity. By 1998, the BJP had become the single largest party superseding the Congress Party. The United Front also sought to block the way to a Congress-led coalition.
- The word 'defection' generally denotes 'abandonment', 'desertion' or running away from duty. However, in politics, its ramifications include many situations like crossing or changing of floors, the politics of opportunism, change of party or group, shifting of loyalty or allegiance from one party or group to another, repudiation of the label under which a legislator successfully contests his election, cross of floor inside the legislative chamber, leaving a party and then coming back to its fold, etc.
- Defections have led to (i) political instability; (ii) the emergence of unstable coalitions in the states; (iii) de-valuation of the office of the Chief Minister; (iv) increasing power of the bureaucracy; (v) increasing strength of the state cabinets; (vi) the formation of minority governments in the states; (vii) fragmentation of political parties; and (viii) increase in political corruption and devaluation of moral values.

10.5 KEY TERMS

- **Alliance:** A union or association formed for mutual benefit, esp. between countries or organizations.
- **Coalition:** An alliance for combined action, especially a temporary alliance of political parties forming a government or of states.
- **Defection:** Withdrawing support or help despite allegiance or responsibility.
- **Democratic:** Favouring or characterized by social equality; egalitarian.

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10.6 ANSWERS TO 'CHECK YOUR PROGRESS'

1. There are utility maximization theories that postulate the size principle predicting the minimum winning coalition.
2. The United Front was founded on the basis of non-BJP unity.
3. National Democratic Alliance
4. Major policy shifts like liberalization, economic reforms, grassroots decentralization, federal decentralization, in theory or practice can be largely attributed to the onset of coalition governance.
5. False
6. Ideally, the confluence of interests for coalitions must be dictated by coherent and principled political beliefs and not opportunism alone. However, the purpose of coalition governments in India so far has merely represented a translation of anti-Congressism or anti-BJPism into a tactic for power-sharing.
7. Cabinet
8. One important cause responsible for defections is allurement for high offices.
9. Anti-Defection Law
10. The Act did not ban defections arising out of the lust for power. It banned only retail defections, and legalized wholesale defections. Thus, it allows bulk defections while declaring individual defection as illegal.

10.7 QUESTIONS AND EXERCISES

Short-Answer Questions

1. What are the various theories of political coalition?
2. State the advantages of coalition politics.
3. State the disadvantages of coalition politics.
4. What have been the results of political defection?
5. What are the provisions of the Anti-Defection Law?

Long-Answer Questions

1. Explain the characteristics of coalition politics in the context of India.
2. Explain in detail the 'recent trends in the politics of defection'.

10.8 FURTHER READING

Gowda, M.V. Rajeev and Sridharan, E.; *Parties and the Party System, 1947-2006*, (ed.) *States of India's Democracy*, John Hopkins University Press, Maryland, 2007, p.7.

Limaye, M.; *Contemporary Indian Politics*, Radient Publisher, New Delhi, 1988, p.194.

Fadia, B.L.; *Indian Government and Politics*, Satya Bhawan Publications, Agra, 2009, p.633.