INDIAN GOVERNMENT AND POLITICS

SAGE TEXTS

Bidyut Chakrabarty
Rajendra Kumar Pandey

Indian Government and Politics

Indian Government and Politics

Bidyut Chakrabarty
Rajendra Kumar Pandey

SAGE Los Angeles • London • New Delhi • Singapore
www.sagepublications.com

First published in 2008 by

SAGE Publications India Pvt Ltd
B 1/I-1 Mohan Cooperative Industrial Area
Mathura Road, New Delhi 110 044, India
www.sagepub.in

SAGE Publications Inc
2455 Teller Road
Thousand Oaks, California 91320, USA

SAGE Publications Ltd
1 Oliver's Yard, 55 City Road
London EC1Y 1SP, United Kingdom

SAGE Publications Asia-Pacific Pte Ltd
33 Pekin Street
#02-01 Far East Square
Singapore 048763

Published by Vivek Mehra for SAGE Publications India Pvt Ltd, typeset in 10/12 pt Palatino by Star Compugraphics Private Limited, Delhi and printed at Chaman Enterprises, New Delhi.

Library of Congress Cataloging-in-Publication Data

Chakrabarty, Bidyut, 1958–
Indian government and politics/Bidyut Chakrabarty, Rajendra Kumar Pandey.
p. cm.
Includes bibliographical references and index.
1. India—Politics and governement. 2. Constitutional history—India. 3. Public administration—India. I. Pandey, Rajedra Kumar. II. Title

JQ231.C42 320.454—dc22 2008 2008031601

ISBN: 978-81-7829-881-8 (PB)

The SAGE Team: Anjana Saproo, Anupam Choudhury, Sanjeev Kumar Sharma, and Trinankur Banerjee

Dedicated

To our grandparents for the values they inculcated in us.

Contents

Preface

This book is unique because it has brought out the complexities of the political processes that impinge on the functioning of the constitutionally-guaranteed institutions (besides political institutions, like political parties and pressure groups formed out of civil society initiatives) by drawing on the new theoretical approaches in the field of social sciences. The approach is certainly multidisciplinary because one simply cannot comprehend the nature of Indian politics without understanding 'the social churning' that has radically altered its conventional articulation. This is, therefore, a textbook of a different kind in the sense that not only has it dealt with the institutions of Indian politics, it has also identified new areas of research by raising pertinent questions on the nature of Indian politics. Underlining the distinct structural characteristics of Indian politics, this book is also a meaningful intervention in unearthing significant socio-political and economic processes which are critical to the political articulation of governance in India. In view of the acceptance of economic reforms and the growing importance of coalition politics, the book seeks to provide an explanation by referring to those factors which are not easy to articulate given the fluidity of circumstances in which they are enmeshed. What is thus striking about the book is its attempt to draw out the theoretical implications of India's peculiar socio-economic and political processes on the basis of a rigorous empirical investigation of the reality in which 'political' is visioned and fashioned.

We are happy to be associated with the SAGE Text Book project. We are thankful to the SAGE management for having introduced the series with our book on Indian politics. Without the personal interest of Sugata Ghosh, Vice President, Commissioning, the project would not have taken off. By her regular e-mails, Ms Anjana Saproo acted as an efficient editor who knows how to get the work done by

her authors. We are thankful to both of them. The manuscript would not have reached the press without their initiative and personal care. We are also grateful to Dr Kavita A. Sharma, Principal, and members of the department of Political Science of Hindu College for extending moral support to us from time to time. We gratefully acknowledge the support extended by Dr D.N. Gupta of Hindu College while preparing the manuscript. We also express our gratitude to the staff at the Hindu college library, especially Mr Sanjeev Dutt Sharma, who always remained helpful.

We are thankful to the anonymous readers of the manuscript. Their suggestions were very useful while revising the content of the volume. We are indebted to our students for their critical role in making this work seem worthwhile. Finally, we fondly acknowledge the significant contribution of our families without which it would not have been possible for us to concentrate on our academic pursuits.

Introduction

I

India is a unique socio-economic and political mosaic for a variety of complex reasons. One of the important reasons is certainly colonialism that radically altered the region to fulfil its obvious goals in accordance with its basic exploitative character. There is no doubt that colonialism engendered a specific kind of social, economic and political engineering to pursue an objective that ran counter to that of the ruled. Given the definite impact of alien governance of over more than two centuries, it is difficult to gloss over the inevitable consequences that halted the natural growth of this geographical space by various means—means that never took into account the people, for whom colonialism was nothing but naked exploitation. What is interesting to note is the perpetual influence of colonialism even after it became history. Colonialism was not merely an administrative device; it was also a way of life that continued to shape, if not determine, South Asia's socio-economic and political characteristics. This is, however, not to suggest that colonialism by itself became decisive. What we propose to state is that the role of colonialism was decisive in redefining some of the major socio-economic concerns of independent India. Colonialism cannot be undermined. Its influence is visible in all walks of life. Furthermore, one should also stress that some of the specific socio-economic and political characteristics that the region has acquired are also attributed to the fact that the Age of Enlightenment that had an effect on Britain, was a critical influence in India's growth as a nation-state in the aftermath of decolonization. Hence the evolution of India—for that matter, the whole of South Asia—follows a specific route, drawing upon the typical British 'philosophical' traditions. Distinct by its focus and

thrust, the British 'enlightenment' remained a constant reference point for those involved in struggles against the continued British political hegemony. Not only was the anti-colonial campaign articulated largely in typical 'liberal' terms, but the constitutional machinery that struck roots in independent India also had its roots in the Westminster model of democracy. There is, however, a significant sense in saying that the nature of the political and economic institutions that the British had bequeathed has radically changed in the period after decolonization. Nonetheless, the basic point remains that the post-colonial nation-states are rooted in processes in which the importance of British colonialism cannot simply be wished away.

How do we grasp such a complex evolution of an equally complex socio-political entity called India? One has to grapple with this question in a wider perspective keeping in mind the intricate social, economic and political processes that are difficult to disentangle, especially when they are largely enmeshed in reality. As a region, India is a mosaic, drawn on social, political, economic, and cultural diversities. Colonialism further complicates the evolution by bringing in the 'alien' influences, both in terms of ideas as well as institutions. For a meaningful understanding of the region and an appropriate conceptualization of the process, one has to grasp its journey from relatively simple pre-colonial to colonial days and finally to the post-colonial era—an era that is not at all, for obvious reasons, identical with the past but a continuity (at least in the immediate aftermath of decolonization) in terms of major governmental institutions and dominant political values informing them.

India is a complex social, economic, political, and cultural formation following a peculiar capitalist development. Imperialism caused significant distortions in India's growth as an economy. Capitalism evolved, not organically but as a midwife of imperialism. Yet, it led to processes of a specific kind of economic development in India in which both class and regional inequality had intensified anger against modernist elite that sought to corner benefits and privileges in the name of democracy. Interestingly, the continuity of democratic governances is also a significant factor that leads to growing participation of the peripheral groups in the construction of the political. Democracy thus encourages new idioms of politics that thrive on the 'majority' that remained socially marginalized, economically deprived and politically peripheral due to

a peculiar evolution of India in its post-colonial phase. As a result, one can safely infer that contemporary Indian politics is governed by 'majority syndrome': majority Hindus as against the Muslims, majority Other Backward Castes (OBCs) as against caste Hindus, and economically deprived majority as against those endorsing the post-1991 economic reforms. Democracy seems to have legitimized the process in two different ways: on the one hand, by creating space for ventilation of grievances, democracy provides a political template for activities which may not have been articulated otherwise—by encouraging the aggrieved (or perhaps disgruntled) groups to utilize this space for their betterment, even notionally; on occasions, it also becomes, on the other hand, a 'safety valve' for the system that survives presumably because of its ability to absorb as well as defuse shocks that may appear devastating on occasions.

II

There is no doubt that India was an inherited polity due to a peculiar historical legacy connected with the long duration of colonialism. It was difficult to entirely dismantle the institutional foundation of the colonial state in the immediate aftermath of Independence for practical reasons. Hence, there were attempts to sociologically redefine India by resorting to what was characterized in contemporary newspapers as 'Indianization' or 'Nationalization' of names of places. The purpose was, perhaps, to create 'a constructed cultural identity' for the incipient nation in the backdrop of the traumatic partition. As a recently published work[1] authenticates, the newly elected members of the United Provinces' Legislative Assembly felt that 'what was vital to the preservation of our cultural integrity and national honour [was to correctly spell and pronounce] the proper names of India's towns, rivers etc.' Hence 'Muttra' should be 'Mathura' and 'Ganges', 'Ganga'. Similarly, attempts at renaming United Provinces as 'Aryavarta' were scuttled, perhaps due to its clearly Hindu overtone, by the central leadership of the Indian National Congress. The renaming of United Provinces as Uttar Pradesh was the outcome of a consensus arrived at in a meeting of the Congress members of the Constituent Assembly from this province. In the light of recent spurt of renaming names of cities in contemporary India ('Calcutta' replaced by 'Kolkata' or renaming

'Madras' as 'Chennai'), there seems to be a continuity since the exercise is driven by the same concern, namely, seeking to provide a culturally constructed identity in a physical space.

Nonetheless, the fact remains that most of the major political institutions that held India together were rooted in the colonial rule. Yet, Indian democracy evolved into a unique system of governance that never corresponded with its colonial counterpart for a variety of complex social, economic, and political reasons. Here we must address two questions: (*a*) what is an institution? (*b*) what political institutions does a large-scale democracy require? Institutions are patterns of recurring acts structured in a manner conditioning the behaviour of members within the institutions, shaping a particular value or set of values, and projecting the values in social systems in terms of attitudes or acts. Institutions that are relevant to political systems are those that share in any measure in the formation or use of public power. In regard to the second question, Robert Dahl informs that a large-scale democracy requires six political institutions, which are (*a*) elected political executive; (*b*) free, fair, and frequent elections; (*c*) freedom of expression; (*d*) alternative sources of information; (*e*) associational autonomy; and (*f*) inclusive citizenship.[2] Drawn on Alexis de Tocqueville's *Democracy in America*,[3] Dahl thus argues that democracy became organic to the American society simply because 'the institutions [which are fundamental to democracy] are deeply planted and pervasive'.[4]

Conceptually, Dahl's model is meaningful in the sense that these political institutions are critical to any democratic system. What is important to remember is, however, the fact that they hardly remain static because their evolution is linked with the socio-economic milieu in which they are located. Here, the Indian experiment is a significant input to our theorization on democracy as part of the complex political process. It is true that the colonial rule created some of the major political institutions for democracy in a society that was still governed by non-liberal values. So, the task that the nationalist leadership undertook immediately after Independence was a difficult one because it involved blending of tradition with modernity, customs with laws, to bring reason to prevail over superstitions, and reconcile issues of faith with demands of modern administration and governance. The most daunting issue that new

rulers had to address concerned the age-old social, economic, and political exclusion of a significant segment of India's population.

A careful look at the evolution of institutions in India clearly shows that they evolved creatively to adjust to the changing circumstances. The Westminster model of parliamentary democracy that India adopted was not a clone but one that took into account the situation-specific ethos and the existent socio-cultural milieu. Furthermore, the changing socio-economic profile of the legislative assemblies and the national Parliament is also indicative of a trend towards a genuinely inclusive democracy. With the growing politicization of the peripheral sections of society, the elite-centric governance is fading away with the consolidation of people-centric governance. Acceptance of polls as the only device to change political authority is an eloquent testimony to the depth of the democratic processes, which are articulated in various forms other than periodic elections.

III

The making of the Indian Constitution is an interesting chapter in independent India's political history for a variety of reasons. Not only was the Constitution an outcome of deliberations on the floor of the Constituent Assembly, it also acquired a clear centralized bias reflective of the trauma of the 1947 partition. Furthermore, while the Constitution is a continuity (at least in structural and procedural terms), there is a clear break from the past since the Constitution seeks to articulate the political in decolonized India. There can be no greater evidence of the spirit of accommodation and reconciliation, and commitment to constitutionalism and rule of law on the part of the founding fathers than the Constitution that they framed despite serious difficulties in the wake of transfer of population following the vivisection of the subcontinent. The commitment to liberal democratic values, as the Constituent Assembly proceedings suggest, remained paramount in the making of the Constitution.

The Constituent Assembly was set up as a result of negotiations between the nationalist leaders and the members of the Cabinet Mission over the possible constitutional arrangement in the post-war India. The Assembly was elected by the members of the provincial legislative assemblies. The Congress secured an

overwhelming majority in the general seats while the Muslim League had a clear sweep in almost all the reserved seats. There also were members from the Scheduled Caste Federation, Communist Party of India, and the Unionist Party (located in Punjab). The Muslim League boycotted the Assembly when it began, and following the partition, a large chunk of the League members, elected from the Muslim-majority provinces, left for Pakistan. Only twenty-eight members of the Muslim League joined the Assembly. As a result, the Assembly ceased to become 'Indian', presumably because of the overrepresentation of the Congress, which constituted almost 82 per cent of its total members. The Assembly thus became 'a one-party body in an essentially one-party country'. Was it possible to make the Assembly more democratic in those circumstances? The answer is invariably 'no' for two reasons: first, the Congress was the only political party that had a widespread network across the country due to its historical role in the nationalist struggle; and second, the electoral process could not have produced a representative body because the franchise that followed the Sixth Schedule of the 1935 Government of India Act, was highly restricted. Furthermore, the Congress was not a party in the narrow sense of the term; it became an umbrella organization representing the country as a whole as 'the Congress has', argued Nehru, 'within its fold many groups, widely differing in their viewpoints and ideologies [which made the Congress] the mirror of the nation'.[5]

Indian Constitution was born, notes Paul Brass,[6] 'more in fear and trepidation than in hope and inspiration'. There is hardly a strong argument to dispute this proposition presumably because of the context in which the Assembly began and concluded its proceedings. It began its deliberations on 9 December 1946 and concluded the same with the passage of the Constitution on 24 January 1950. This period, slightly over three years, was one in which the joy of freedom was severely marred by national trauma associated with the partition and violence that resulted in the killing of the Mahatma, besides the butchering of innocent people in the wake of the transfer of population in the immediate aftermath of the declaration of freedom. The Constitution was thus a pragmatic response to the reality that the Assembly confronted while drawing the roadmap for free India. The founding fathers practised 'the art of the possible and never allowed [their ideological cause] to blind them to reality'.[7]

Despite being appreciative of India's pluralistic social texture, there was a near unanimity among the Assembly members for a strong state. Even those who were critical of the Emergency provisions had defended a centralized state to contain tendencies threatening the integrity of the country. Emergency provisions in the Constitution were justified because 'disorder' or 'misgovernance' endangers India's existence as 'a territorial state'. Such concerns could only have reflected, argues Paul Brass,[8] 'another kind of continuity' between the new governing elite and the former British rulers, namely 'an attitude of distrust' of the ordinary politicians of the country and 'a lack of faith' in the ability of the newly-franchised population to check 'the misdeeds' of their elected rulers. Nonetheless, the fear of 'disorder' was probably the most critical factor in favour of the arguments for a centralized state despite its clear incompatibility with the cherished ideal of the nationalist leaders for a federal state. B.R. Ambedkar's contradictory stances on federalism, for instance, thus may appear whimsical, independent of the circumstances. In 1939, Ambedkar was clearly in favour of a federal form of government for its political viability in socio-culturally diverse India. By 1946, he provided a radically different view by saying, 'I like a strong united Centre, much stronger than the Centre we had created under the Government of India Act of 1935'.[9] While presenting the final report of the Union Powers Committee, he unequivocally declared:

> We are unanimously of the view that it would be injurious to the interest of the country to provide for a weak central authority which would be incapable of ensuring peace, of coordinating vital matters of common concern and of speaking effectively for the whole country in the international sphere.[10]

As evident, federalism did not appear to be an appropriate structural form of governance in the light of the perceived threats to the existence of the young Indian nation. Hence, the Constitution-makers recommended a strong Centre because the constitutional design of a country is meant to serve the normative-functional requirements of governance. The Constitution was to reflect an ideology of governance regardless of whether or not it articulates the highly cherished ideals of the freedom struggle that a majority of the Assembly members nurtured while participating in the freedom struggle. As G.L. Mehta believed: 'We have to build up the

system on the conditions of our country [and] not on any abstract theories'.[11] In the same tune, A.K. Ayyar argued, 'Our constitutional design is relative to the peculiar conditions obtaining here, according to the peculiar exigencies of our country [and] not according to a prior or theoretical considerations'.[12] In the making of the Constitution for governance, they were guided more by their views on statecraft which would surely have been different without the traumatic experience preceding the inauguration of the Constitution in 1950. Hence, one can safely suggest that 'hard-headed pragmatism and not abstract governmental theories' was what guided 'the architects of our Constitution'.

The Constituent Assembly debates are a useful guide to understand the processes that finally culminated in the making of the 1950 Constitution. Yet, it was not the entire Assembly that wrote the document. It was clearly the hard work 'of the government wing of the Congress, and not the mass party' and the brunt of the task fell upon 'the Canning Lane Group [because] they lived while attending Assembly sessions on Canning Lane'.[13] There is another dimension of the functioning of the Assembly that is also instructive. According to Granville Austin, Indian's constitutional structure is perhaps 'a good example' of decision-making by consensus and accommodation, which he defends by examining the debates on various provisions of the Constitution. Scholars, however, differ because given the Congress hegemony in the Assembly, views held by the non-Congress members were usually bulldozed. As S.K. Chaube argued that at least on two major issues—political minorities and language—both these principles were conveniently sacrificed. As regards political minority, there was no consensus and the solution to the language was, as Austin himself admits 'a half-hearted compromise'.[14] By dubbing the Assembly as 'a packed house', the shrunk Muslim League expressed the feeling of being alienated from the house. Even Ambedkar underlined the reduced importance of the Assembly since on a number of occasions, as he admitted, 'they had to go to another place to obtain a decision and come to the Assembly'.

Decision by consensus may not be an apt description of the processes of deliberation. But, as the proceedings show, there was near unanimity on most occasions, and divisions of opinion among the Congress party members, who constituted a majority, were sorted out politically. As Shiva Rao informs, on a number of controversial

issues, efforts were made to eliminate, or, at least, to minimize differences through informal meetings of the Congress party's representatives in the Constituent Assembly. If the informal discussion failed to resolve the differences 'the Assembly leadership … exercised its authority formally by the Party Whip'.[15]

Two important points emerge out of the preceding discussions: first, the making of the Indian Constitution was a difficult exercise, not only because of the historical context but also due to the peculiar social texture of the Indian reality that had to be translated in the Constitution. The collective mind in the Assembly was defensive as a consequence of rising tide of violence taking innocent lives immediately after partition. Second, the founding fathers seem to have been obsessed with their 'own notion of integrated national life'. The aim of the Constitution was to provide 'an appropriate ordering framework' for India. As Rajendra Prasad unequivocally declared on the floor of the Assembly, 'Personally I do not attach any importance to the label which may be attached to it—whether you call it a Federal Constitution or a Unitary Constitution or by any other name. It makes no difference so long as the Constitution serves our purpose'.[16] On the whole, a unitary mind produced 'an essentially unitary constitution doused with a sprinkling of permissive power for a highly supervised level of constituent units'.[17]

IV

The changed socio-economic reality is reflected in the composition of the Indian Parliament, just like the state legislative assemblies. It is obvious because parliaments are essentially political institutions with organic roots in the constantly changing social milieu. The role of the political parties is also immensely important in articulating changes on issues and goals. With the growing consolidation of coalition politics, parties seem to have learnt the art of reconciling 'divergent and incompatible interests in such a manner as not to ruin the coalition'. The party system has also been transformed as a result of a social revolution that has brought more castes and classes into the political arena, some with their own political parties. It is most revealing with the rise of the backward castes, which, for instance, now account for approximately 25 per cent of the Lok Sabha in contrast to a mere 5 per cent of the seats in 1950.

This is largely the outcome of the political mobilization of these caste groups through the 1990s by parties that could be loosely described as 'offspring of the Janata Dal of yesteryears, including Samajwadi Party in Uttar Pradesh (UP) and Rashtriya Janata Dal in Bihar'.[18] No longer is it characterized by a dominant party embodying a centrist consensus with rightist and leftist parties on the margins. It was possible for the Congress to continue presumably because it drew on what is defined as 'consensual political culture' that consisted in developing a definitely plural style of living endorsing 'bouquet approach' in contrast with 'the extreme melting pot model'. The one party dominance that we often talk of was, in fact, the result of the Congress itself evolving as a coalition. Throughout the period of its dominance, the real strength of the Congress party was 'not its ideological or programmatic orientation or its performance in providing good governance, [but its] coalitional and consensual character which made it an alliance of different castes, communities and minorities'.[19] Not only is the share of votes and parliamentary seats of the Congress on decline, it is also suffering terribly due a leadership vacuum. It is 'no longer the party that binds state and society by providing the framework within which a heterogeneous mass of ideologies and interests can be reconciled and arbitrated into consensus'.[20] There is now a highly regionalized and fragmented multi-party system, with only a brief interlude of a tendency towards a two-party system during the 1977–80 when the two major contenders, the Janata party and the Congress, shared more than 70 per cent of the votes between themselves. This is attributed to the 'extreme social and regional diversity in India and the federal component of the government' under a hybrid system of parliamentary federalism. These features remained peripheral under the hegemonic Congress system largely due to the past momentum of the freedom struggle and the hegemonic influence of the Nehru-Gandhi dynasty. In recent years, especially since the 1977 national poll, the growing importance of regionalism and ethnic ascendancy have redefined the emerging contour of India's federalism by emphasizing 'legislative federalism'. National parties have tended to fragment, regional parties have tended to mushroom, and smaller parties have acquired political salience due to the fragile nature of the coalitions in which they gain importance disproportionate to their size presumably because of their role in providing adequate numerical support to the shaky coalitions. Despite all these

weaknesses, the National Democratic Alliance (NDA) coalition survived a full term and dissolved the Parliament according to its priority.

V

Today, there is a growing realization that coalition politics reinforces the federal texture of Indian polity. With the rising importance of regional political parties, the state-centric issues have gained remarkable salience presumably because of the compulsion of coalition politics. So, the emergence of regional parties as serious stakeholders of the system has translated political pluralism in its true spirit. In this sense, increasing salience of the parties with roots and support in the region contributes to a process of what we call 'regionalization of national politics' and 'nationalization of regional politics'.

A new phase of political articulation has begun that is indicative of regionalization of national politics. In the context of the coalition political culture, three changes are immediately evident: (*a*) the regionalization of politics; (*b*) growth of new social constituencies; and (*c*) the changing terms of political discourse. All three have contributed to important structural changes in the political realm. In south and north-east India, these changes are articulated in regional terms—in West Bengal and Kerala, they are sometimes represented in explicit class terms; in North India, particularly in the Hindi heartland (UP and Bihar), new social constituencies find expression along caste lines. The conspicuous factor in all these is a desire for greater voice of the socially peripheral but demographically preponderant groups in public policy and political processes—processes that excluded aspiring groups from the centralized power structure fashioned by the Congress since the early 1970s. The propensity towards such a politics is linked to the retreat of the state and its failure to engender radical changes in the conditions of social existence.

Regional parties are now crucial in the continuity of the ruling party in power at the Centre. The prominent role that many regional parties played in the formation of the NDA and in jockeying for power in the aftermath of the elections 'created an impression of regionalization of the national political arenas'.[21] For decades,

small and regional parties were decried by all parties especially the Congress as 'parochial'. They were accused of 'deepening social and regional divisions'. In the political culture of single-party dominance, they were dubbed as 'destabilizing forces'. The national politics that pitted the 'nation' against the 'regions' has accorded a legitimate space to the regional and vernacular elite, and they cannot be ignored in the new dispensation of political power in India. In other words, with voters' preference for local issues, the political system is forced to structure the process of governance around a coalition of small and regional parties, which, incidentally, happens to be a coalition mostly composed of middle and lower castes in the social hierarchy. This necessity forced the acceptance of a more federal system of governance (in regional and social terms) than was ever achieved by the proponents of states' rights earlier. The occasional hiccups in the ruling coalition following the reported threat of the All India Anna Dravida Munnetra Kazhagam (AIADMK) in 2001 demonstrate the extent to which the constituents of the coalition are significant. The erstwhile NDA coalition led by the Bharatiya Janata Party (BJP) has survived despite fluid and highly volatile political scenario. The net result of the last national poll in 2004 is however that the Indian variety of coalition provides a rather 'moderate' form of government in which large national parties have been forced to accept the need for alliances and accommodations with a variety of new and old parties, including the regional parties. Brushing aside the so-called ideological purity, what brings the partners together and largely sustains the coalition is 'the exigency of the situation'. Despite the short duration of the two earlier successive coalition governments at the Centre, the continuity of the NDA and United Progressive Alliance (UPA) governments for almost full term is indicative of a significant change in India's political texture by making coalition inevitable. The presence of the region on the national scene is illustrative of a process of empowerment of various communities, hitherto peripheral. One of the reasons for the growing importance of regional parties is certainly their success in articulating the interests of the assertive backward castes and Dalits. These parties remain 'regional' in terms of geographic location but are national in terms of issues that they raise, which are relevant to the country as a whole. The growing importance of regional parties in the national coalition is also indicative of a more competitive and polarized party system.

Democracy is indeed moving closer to the people. The NDA and its successor UPA are therefore powerful experiments in federalism and coalition politics in India. What it suggests is not merely the decline of one party and rise of the regional and smaller parties but a crisis of majoritarian political culture which is based on the dominance of a single party led by a charismatic leader.

VI

A perusal of the 2004 Lok Sabha poll results underlines an interesting trend supporting the formation of coalition. Four national parties—the Congress, the BJP, the Communist Party of India (CPI) and the Communist Party of India (Marxist) CPI (M)—have captured 336 (62 per cent) of the 543 seats in Lok Sabha with 56 per cent of the votes polled. The three major alliances—the Congress-led UPA, the NDA, and the Left Front—succeeded in 479 (88 per cent) constituencies with 80 per cent of the votes polled. So, votes are not as fragmented as they are made to be. What is identified as a fractured mandate is indicative of the failure of the parties or alliances to consolidate the mandate. A carefully planned seat arrangement in a pre-poll structured or loose alliance avoiding division of votes has not only led to consolidation of votes but also helped the parties to gain dividends. It means that different permutations and combinations of parties will ensure the magic number in Parliament in which state-based and regional parties will play crucial roles, given the gradual decline of the pan-Indian parties. The process seems to have been accelerated with the growing importance of the socially marginalized sections in the formation and functioning of the government. India's socio-cultural diversities, earlier represented in the social coalition that the Congress put together for more than four decades in the aftermath of Independence, may gradually be reflected in 'a changing collage of political coalition'.

Building upon the politicization of social cleavages and the diminishing appeal of the Congress, the formation of non-Congress governments in UP, Bihar, Rajasthan, Maharashtra, Karnataka, and Andhra Pradesh after the 1993–95 State Assembly elections brought to an end the Congress system which had dominated Indian politics during the first three decades after Independence. The decline of the highly centralized Congress party has resulted in decentring of politics and has shifted its centre of gravity from New Delhi to

the states. This has generated considerable interest in post-Congress politics in the states and in the larger social and economic conditions and political processes that have made for these transitions. Thus India is now increasingly approximating the continental Europe where coalition governments are a recurring feature.

Besides a comprehensive introduction, *Indian Government and Politics* has twelve thematically organized chapters focusing on both the structure and processes of governance in India. The unique contribution that this book makes is in understanding how the Indian government is articulated politically by involving stakeholders at different levels. Hence, the chapters do not merely describe the constitutional structures of power; they also analyse and elaborate these structures with reference to the constantly changing socio-economic and political milieu. By highlighting the landmark features of the constitutional arrangement, the book also seeks to draw readers to a Constitution that is being regularly reinvented to take care of new socio-political demands. For instance, chapter 7 (*Planning and Economic Development*) and chapter 11 (*Panchayati Governance in India*) deal with centralized planning and the gradual rise of decentralized governance respectively, by taking into account the changing nature of planning and Panchayati Raj institutions in the context of globalization. Similarly, the last chapter on major issues in Indian politics seeks to provoke a debate among students on issues that are critical in grasping contemporary India. Suggesting that these issues are not sacrosanct but contextually-drawn because of their overwhelming importance in shaping Indian government and politics in recent years, the aim is also to sustain the debate by adding new inputs out of the lived experiences of those who are instrumental in relocating its 'centre of gravity'.

The book stands out not only as a piece of literature but also as a student-friendly exercise. Hence, each chapter begins with 'Learning Objectives' and comes with 'Model Questions'. The aim here is: first, to introduce the readers to the text of the chapter by highlighting the major points, and second, to confirm the extent to which they have internalized what they have learnt through their responses to the model questions. In this sense, this exercise is 'a class by itself', because it provides, on the one hand, an analytical narrative of Indian government and politics, and on the other, prepares the students for further research by raising pertinent questions on the principal theme.

NOTES

1. See Kudaisya 2006: 351–59.
2. See Dahl 2005: 188.
3. See Tocqueville 1966.
4. Ibid.: 190.
5. See Nehru 1948: 139.
6. See Brass 2000: 60.
7. See Austin 1999: 21.
8. See Brass 2002: 2132.
9. See Constituent Assembly 1946: 102.
10. See Constituent Assembly 1947a: 79.
11. Ibid.
12. See Constituent Assembly 1947b: 839.
13. See Austin 1999: 317.
14. Ibid.: 264–307.
15. Ibid.: 315.
16. Rajendra Prasad's statement, made after the Constitution was inaugurated on 26 January 1950. See *The Times of India* 1950.
17. See Bhattacharya 1992: 103.
18. See Jayal 2006: 187.
19. See Kashyap 1999.
20. See Mehta 1997: 57.
21. See Behera 1999.

REFERENCES

Austin, Granville. 1999. *The Indian Constitution: Cornerstone of a Nation*. New Delhi: Oxford University Press.

Behera, Ashok Kumar. 1999. 'Regions Become Equal Partners', *The Statesman*, Kolkata, 15 October.

Bhattacharya, Mohit. 1992. 'The Mind of the Founding Fathers', in Nirmal Mukarji and Balveer Arora (eds), *Federalism in India: Origins and Development*. New Delhi: Vikas Publishing House.

Brass, Paul. 2000. 'The Strong State and the Fear of Disorder', in Francine R. Frankel, Zoya Hasan, Rajeev Bhargava and Balveer Arora (eds), *Transforming India: Social and Political Dynamics of Democracy*. New Delhi: Oxford University Press.

Brass, Paul. 2002. 'India, Myron Weiner and the Political Science of Development', *Economic and Political Weekly*, 20 July.

Constituent Assembly. 1946. *Constituent Assembly Debates*, *Volume I*. New Delhi: Government of India.

———. 1947a. *Constituent Assembly Debates*, *Volume V*. New Delhi: Government of India.

———. 1947b. *Constituent Assembly Debates*, *Volume XI*. New Delhi: Government of India.

Dahl, Robert. 2005. 'What Political Institutions Does Large-Scale Democracy Require?' *Political Science Quarterly*, 120 (2, Summer).

Jayal, Niraja Gopal. 2006. *Representing India: Ethnic Diversity and the Governance of Public Institution.* London: Palgrave.

Kashyap, Subhash C. 1999. 'Coalition Constraints: Benefits of NDA's Inclusive Strategy', *The Times of India*, 11 December.

Kudaisya, Gyanesh. 2006. *Region, Nation, 'Heartland': Uttar Pradesh in India's Body Politics.* New Delhi: Sage Publications.

Mehta, Pratap B. 1997. 'India: Fragmentation Amid Consensus', *Journal of Democracy*, 8(1), January.

Nehru, Jawaharlal. 1948. *Unity of India*. London: Lindsay Drummond.

The Times of India. 1950. 29 January.

Tocqueville, Alexis de. 1966. *Democracy in America.* London and Glasgow: Fontana.

1 Salient Features of the Indian Constitution

LEARNING OBJECTIVES

- To understand the salient features of the Indian Constitution with emphasis on the Preamble.
- To describe the nature and value of the postulates like the Fundamental Rights, Fundamental Duties, and the Directive Principles of State Policy.
- To explain the imperatives for the adoption of Parliamentary Democracy in India.
- To evaluate the amendment procedure stipulated in the Constitution.

It is truly a tribute to the everlasting visionary provisions of the Indian Constitution that, in a survey[1] on the eve of the sixtieth Independence day of the country, an overwhelming majority of the Indians voted for democracy, both a cause and effect of the Constitution, to be the greatest pride of India. In fact, the experimentation of the constitutional democratic government in most of the post-colonial societies was taken to be a litmus test by the rest of the world to see whether these newly independent Afro-Asian nations would be able to secure and preserve those values of humanity and governance for which they had waged such long and stupendous national movements. Though majority of the countries in these continents appear to have failed on the core issue of sustaining a constitutional democratic government, India stands out to be one of the few fortunate nations to rival the classical democratic societies in the world and be branded as the biggest democracy on the globe.

The deep-rooting of the ethos and functional vibrancy of democratic life in India may arguably be taken to be the fruition of the

long cherished endeavour of the fathers of the Constitution who not only envisioned India to be a modern nation based on the norms of rule of law, secular character of the society, democratic nature of the polity and, ordinarily, primacy of the people's fundamental rights over other imperatives of the state; but also made comprehensive and mostly, precise provisions in the Constitution to facilitate the march of the nation in the desired direction. The chapter attempts to figure out the salient features of the Indian Constitution encompassing the whole spectrum of vital issues ranging from the spirit of the Constitution as expressed in the provision on the Preamble, the Fundamental Rights and Duties, and the Directive Principles of State Policy, to the broader functional arena of political system like the federalism, the Parliamentary System, and the amending procedures of the Constitution.

FOUNDING FETTERS OF THE CONSTITUTION

For several reasons, the framing of an acceptable-to-all Constitution for free India was an extremely arduous task, which the Constituent Assembly shouldered efficiently to produce the longest democratic Constitution in the world. First, the partition of the country and the subsequent mayhem in Punjab and Bengal led to a shocking state of nervousness among the leaders who immediately set on to devise ways and means to instil in the people the confidence in the governability of the country. Moreover, the onerous task of ensuring the integration of over 500 princely states in the Indian Union appeared quite challenging in view of the ambivalent, if not totally defiant, positions taken by the rulers of the states like Junagadh, Hyderabad, and Jammu and Kashmir.

Second, the carving out of Pakistan did not mean the conversion of India into a homogenous country as more than 10 per cent of the total Muslim population of the country was left in India whose religious and cultural identities needed to be protected. At the same time, India itself was home to numerous communities speaking different languages, professing different faiths, practicing different customs, following different traditions, and emphasizing different cultures. In the face of such a diverse cultural base of the people, it was really a stupendous task to provide for sufficient constitutional provisions to protect the distinct religious-cultural

identities of the citizens, without compromising the unity and integrity of the country.

Third, the tone and tenor of the national movement had aroused a high level of expectation among the common people in general and the hitherto marginalized sections of the society, like the Scheduled Castes, Scheduled Tribes, and the other backward people in particular, to experience a new dawn with the inauguration of the Constitution of independent India.

Last, the spirit of liberal democratic traditions were so strong among the majority of national leaders, particularly Nehru, that independent India was bound to usher in a full blown democracy, irrespective of its preparedness to experience the mass scale of democracy based on universal adult franchise on the one hand, and the lurking dangers to the unity and integrity of the nascent nation from the dynamics of electoral politics on the other. Combined together, these riddles of constitution-making in independent India acted both as challenges as well as opportunities for the Constitution-makers to show their fullest constitutional acumen and innovativeness.

Faced with the complex conundrum of meeting scores of seemingly mutually competing and sometimes contradictory claims on the Constitution of independent India, the Constitution-makers had to adopt a policy of drafting a lengthy and all-encompassing document that contained not only the classical tenets of a constitution—like the provisions defining the powers and functions of the various organs of government at both the Union and the state levels, the fundamental rights guaranteed to the people, and so on—but also a number of unconventional provisions like the Directive Principles of State Policy to make the Constitution an instrument of socio-economic change in the country. The Constitution-makers, therefore, had to draw on all the available constitutions and other legislative documents to provide for the building blocks to erect the edifice called the Constitution of India. To be precise, the framers banked heavily upon the colonial construction, that is, the Government of India Act, 1935, to get the foundational base of the Constitution of India, which is an ironic epitome of the fact that the framers could not move much away from the system of governance devised by the British for India.

Thus, keeping the core drawn from the Act of 1935, the framers looked upon other constitutions, like the American and the Irish

Constitutions, to provide for the operational dynamics of not only the democratic system of government in the country through the provisions of fundamental rights but also that of the visions of new India, marching on the path of rapid socio-economic transformation through the guiding force of the Directive Principles of State Policy. However, the physical structure of the Constitution of India, as drawn from the earlier mentioned sources, would have remained hollow and infertile, had the breathing spirit to it not been provided by the Objective Resolution,[2] drafted by Nehru himself, and approved by the Constituent Assembly on 22 January 1947. Finding its manifestation through the Preamble of the Constitution—which declared the pious goals of the Constitution to secure to all its citizens: justice, social, economic, and political; liberty of thought, expression, belief, faith, and worship; equality of status and of opportunity; and to promote among them all fraternity, assuring the dignity of the individual—this resolution put into black and white the very *raison d'être* for which the Constitution of India is supposed to come into existence.

With the broad structure and essence of the future polity of the country being obvious, the Constituent Assembly arrived at seven basic decisions pertaining to the nature of the new state, namely, written constitution, federal structure of the polity, republic form of state, parliamentary democracy, membership of the Commonwealth of Nations, secular nature of state, and welfare character of the state.[3] These decisions were, in fact, the cherished dreams of the leadership of the national movement whose fulfilment was sought to be attained through the mechanism of the new Constitution. The various provisions of the Constitution of India appear, in a way, nothing more than the bricks and mortars to facilitate the construction of the structure of a constitutional polity in the country.

Analyzing the inherent philosophical moorings of the Indian Constitution, Austin discerns a 'seamless web', consisting of three strands namely, protecting and enhancing national unity and integrity, establishing the institutions and spirit of democracy, and fostering a social revolution to better the lot of the mass of Indians.[4] Bestowing equal weightage and significance to all the three strands in time and space, Austin asserted the mutual dependence and inextricable intertwinedness of these strands and warns that undue strain on, and slackness in any one strand would distort the web and risk its destruction, and with it, the destruction of the nation.[5]

However, despite the mutual dependence and inextricable intertwinedness of the three strands, as stressed by Austin, it may be argued that there appears a certain degree of prioritization among the three strands and the framers seemed to be fairly clear on the first things first in the Indian Constitution. Framed with much painstaking perseverance and imbued with the long cherished dreams of the national leaders, the Constitution of India reflected the wisdom of the framers in not only meeting out the challenges at hand, like preserving the unity and integrity of the nation threatened by the communal violence but also a prophetic vision of heralding in an era of what Gandhi called '*Ram Rajya*'.

To put it differently, the first and foremost priority of the framers at the time of Independence, and probably afterwards, appeared to be jealously guarding the unity and integrity of the country, for which they were willing to afford so much of unfettered powers to the Central Government even at the risk of rendering the federal set-up of the polity meaningless. Apparently, it appears paradoxical that though very few mentions have been made in the Constitution with regard to the unity and integrity of the country, such sweeping powers and unwritten discretion have been provided [in addition to the retention of the colonial constructions like the All India Services—the Indian Administrative Service (formerly Indian Civil Service) and Indian Police Service (formerly Indian Police, and so on)] to the Central Government that it would not be impertinent to argue that the preservation of the unity and integrity of country is the running consideration pervading from the first to the last word of the Constitution.

Having been reassured of the indestructibility of India as a nation, the framers set on to infuse the ethos and spirit of democratic governance in the country, within the broad spectrum of the parliamentary system, based on the sanctitude of universal adult franchise. Banking heavily, if not exclusively, on the periodic elections conducted by an independent constitutional body, the framers' trump card, with regard to democracy, turned out to be the classical negative rights of Western mould. This ensured for the common people the basic minimum constitutional guarantees through which they could feel as being the citizens of an independent country and enjoy the freedom of not only choosing their rulers but also live a life of their volition, notwithstanding the traditional character of Indian society and the socio-economic backwardness of the mass of the people. Thus, unlike the absolute

value of unity and integrity, democracy did not become an absolute value for the framers who, nonetheless, wished it to underpin the Indian polity and evolve in the course of time.

The value of social revolution, as referred to by Austin, appears only at the last stage of contemplation by the framers, after ingraining fully the other two values of unity and integrity as well as democracy in the Constitution. Though fully aware of the indispensability and unavoidability of a subtle social revolution in the country in order to make democracy meaningful and sustainable, the framers seem to be convinced of the primacy and pivotal position of the other two values, which were bound to become the substructure over which the superstructure of social revolution could be erected.

In sum, undoubtedly, the Indian Constitution appears to be a seamless web characterized by the three strands of the unity and integrity of the country, institutions and spirit of democracy, and social revolutionary fervour, yet, the shape of the web does not appear to be circular where it is not possible to figure out the sequence and placing of the particular value. Rather, it may be argued that the shape of the web would probably be pyramidal in which the three values are arranged in the ascending order with the base position occupied by the value of unity and integrity of the nation, the next position accorded to the value of the democracy, and finally comes the value of social revolution, in order of their indispensability from top to bottom. In other words, it demonstrates the Venn diagrammatic nature of the Indian Constitution wherein by one value resides in the hard shell of the other, paving the way for the realization of the other value only once assured of its own durable existence.

Now, we turn to analyze the salient features of the Indian Constitution.

THE PREAMBLE

The Preamble is often referred to as the soul of the Indian Constitution, affording a key to its letter and spirit. Delineating the core concerns of the polity in independent India, the Preamble seeks to express a solemn resolve that becomes the guiding light for the posterity in the country. Though the framers of the Constitution

were sagacious enough to ingrain all the vital values underpinning the Indian polity in the Preamble, the government of Indira Gandhi, for obvious political considerations, effected an unnecessary amendment in the original Preamble to the Constitution by inserting the words 'Socialist' and 'Secular' along with the original 'Sovereign, Democratic, Republic' as well as 'Integrity' along with the original 'unity of the nation', through the Forty-second Amendment on 18 December 1976.

Arguably, the insertion of these words appears unnecessary and unwarranted due to the futility of the purposes they were supposed to serve. Undoubtedly, the dominant faction of the leadership during the national movement, led by Jawaharlal Nehru, was overwhelmingly intoxicated by the mesmerizing characteristics of socialism and would have in all probability gone for steering India on the socialist path of development. If there were any doubts on this count, the matter was finally settled at the Avadi Session of Congress in 1954 by professing India to follow the socialistic pattern of society. Above all, the policy of centralized planned economic development through successive Five Year Plans, initiated by the government of Nehru, as well as the unbridled nationalization of the financial institutions by Indira Gandhi, left not even an iota of doubt that India is totally on the socialistic path of economic development.

Similarly, the idea of secularism was probably as deep rooted in the mindset of the Indian leadership as well as the masses as the idea of democracy. Significantly, as the Indians fought the colonial rulers for Independence, they also became well-versed with certain values which though appeared Western, became synonymous with the value system of the Indians—two such values being that of democracy and secularism. At the same time, vehemently opposed to the two-nation theory of Muslim League and wary of the creation of a theocratic state of Pakistan in their neighbourhood, the framers of the Constitution were probably so dead sure of secularism being an indestructible characteristic of the Indian socio-political life that they found it absurd to ingrain it in an formalistic sense in the Preamble to the Constitution.

As regards the insertion of the word integrity in the Preamble, it seems obvious that the original phrase—unity of the nation—would have been taken as all-inclusive, encompassing the term integrity in its ambit. Alternatively, after passing through the horrifying

reality of the partition of the country, the framers appeared to be sufficiently assured that whatever remained of India would, for the times to come, remain integral part of the country, provided it remains united. Yet, in view of the centrifugal tendencies which emerged in the country after a few years of Independence, it would not seem impertinent, if not undesirable, to insert the word 'Integrity' in the Preamble to the Constitution. Crucially, the only point of dispute appears to be that the motive behind these insertions was more political, than idealistic or constitutional.

As amended in 1976, the Preamble, unambiguously exemplifies the broad contours of the Indian political life and serves a number of useful purposes, for, the expressions used in it connote certain fundamental aspects of the polity from which there is no escape for the various stakeholders in the political life of the nation. First, though the use of the phrase, 'We, the people of India', may appear customary, its implications are far reaching for a nascent and fragile nation like India, marching on the unchartered path of democratic governance with competing hopes and aspirations from diverse quarters of the society.

Thus, by establishing the sovereignty of the people, the Preamble reduces all other units of governance in the country to a secondary position, robbing from them any possibility of usurping the powers of other units as well as organs of government. At the same time, it also implies that the powers which are given to the government in India, are sourced not from the states or any section of society or the former rulers of the Indian states but from the people at large, as a result of which no section of the people can challenge its authority and contend that it is not bound by the authority of the state because it has not accorded its consent to it. More importantly, since the states of the Union were not parties to the creation of the Union, which was created by the people of India, they cannot claim a right of secession from the Union. Therefore, the Preamble not only affords a stable democratic polity for the nation but also solidifies the unity and integrity of the nation.

Second, the Preamble puts in black and white the nature of polity in the country which must conform to the hard-earned ideals of sovereign, socialist, secular, democratic republic. Needless to say, the nature of the Indian polity would not have been different from what it is today, had the words socialist and secular not been added to the original Preamble. While sovereignty affords a respectful place of pride to India in the comity of nations, the ideal

of democratic republic manifests the basic outline of the nature of polity, guaranteeing the people the fundamental right of choosing their representatives to foster democratic governance in the country. Unavoidably, the mention of India becoming a republic becomes a compulsive requirement in view of the previous incarnation of India as a British Dominion whose Head of State would have been the British monarch. Hence, by making India a republic, the framers of the Constitution carried out a crucial, if not total, break from the British suzerainty, even if nominal in practical terms.

Interestingly, despite the urge to make India a socialist country, the subtle and somewhat irreversible departure of the policies of the government from socialism, beginning in early 1990s with the adoption of Structural Adjustment Programmes (SAPs) under the dictates of the international financial institutions, has become most profound today, whereas the ideal of secularism has been so deeply ingrained in the ethos and mindset of the one and all that it is now professed both formally as well as informally that the demise of secularism in the country may prove to be the demise of India as a nation as well. Thus, it appears to be a story in contrast for the two equally plausible notions of socialism and secularism, inserted into the Preamble with equal vigour, whereby, while socialism, appearing as an alien transplant in the Indian constitutional framework, fell in disfavour with the rulers of the day, without any rescue efforts by the other organs of the government, the notion of secularism, a long enduring value of Indian socio-cultural life, not only found commanding heights through the judicial pronouncements but also by delving deep into the psyche of the people as well as the government alike.

Third, the Preamble presents a wish list outlining the aspirations of the people which they expect the Government of India to secure for them. Spelt out in terms of justice, equality, and fraternity, these ideals act as the benchmark to guide the policies and programmes of the government in future to cast India into the mould of a welfare state. Leaving no room for ambiguity on the dimensions of justice, the Preamble demarcates that justice needs to be in terms of social, economic, and political, to be construed in the broadest sense of the term so that the nature of state in India does not become lopsided.

The framers were quick enough to supplement the ideal of justice with that of the ideal of equality of status and opportunity to provide for the holistic framework of an egalitarian society in India.

In the meanwhile, the Preamble does emphasize the promotion of fraternity amongst the citizens by assuring the dignity of the individual in society. Aware of the propensity of certain sections of society to advocate the subordination of individual dignity to the cause of farcical societal interests, the framers did not mince words to clarify that societal good could be ascertained only by ensuring the individual good in the society. Thus, the framers wished to create a social democracy in India, which, as Ambedkar elaborates:

> [Social democracy] means a way of life which recognizes liberty, equality and fraternity which are not to be treated as separate items in a trinity. They form a union of trinity in the sense that to divorce one from the other is to defeat the very purpose of democracy. Liberty cannot be divorced from equality; equality cannot be divorced from liberty. Nor can liberty and equality be divorced from fraternity.[6]

Fourth, the Preamble makes it amply clear that the unity and integrity of the country is a precondition for the other cherished ideals to become reality in the scheme of things in an independent India. Discounting any scope for tampering with the unity and integrity of the nation, the essence of the letter and spirit of the Preamble conclusively bars all the stakeholders in the nation, be it the individuals, group of people, the state or any other entity, from casting aspersions on the unity and integrity of the country, in case of which the people of India and/or the Government of India are enjoined to safeguard the unity and integrity of the nation.

Last, the utility of the Preamble is discerned in its serving as a beacon light to the higher courts in the country that are called upon to discharge the grand duty of interpreting the Constitution. At the times of interpreting a controversial law or constitutional provisions, where the meaning of the law in point is not clear or ambiguity or uncertainty prevails in the minds of the constitutional lawyers or the judges, the only reference point left to the court is the language of the Preamble through which they persevere to mark out real intention of the framers of the Constitution. It is argued that the Preamble is the repository of the spirit of the Constitution and hence, the only reference point for those engaged in interpreting the constitutional provisions should be the ideals embodied in it.

Looking at the vitality of the Preamble in the Constitution of India, it would be pertinent to analyze the position and sustenance of the Preamble. On the question whether the Preamble forms the part of the Constitution or not, the incontrovertible position of the Supreme Court, since the Keshvanand Bharti case, has been that the Preamble is very much a part and parcel of the Constitution.[7] Further as the former Chief Justice of India, M. Hidayatullah points out:

> Preamble resembles the Declaration of Independence of the United States of America, but is more than a declaration. It is the soul of our Constitution which lays down the pattern of our political society which it states is sovereign, democratic republic. It contains a solemn resolve which nothing but a revolution can alter.[8]

FUNDAMENTAL RIGHTS

The inclusion of a detailed scheme of fundamental rights in the Constitution marks the culmination of a long and sustained desire of the Indians to be bestowed with the basic liberties of free and happy life. Indeed, the formation of the Indian National Congress in 1885 was, among other things, aimed at ensuring the same rights and privileges for Indians that the British enjoyed in their own country.[9] But the first systematic demand for fundamental rights came in the form of the Constitution of India Bill, 1895.[10] Thereafter, numerous resolutions were passed and committees were appointed to put forth the perspectives of Indians on the nature and scope of the fundamental rights, aspired by the people of India.[11] 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 it Part III of the Constitution.

Originally, the Constitution contained seven fundamental rights. But the right to property was repealed in 1978 by the Forty-fourth Constitutional Amendment during the rule of the Janata government, reducing these rights to six only, which are Right to Equality (Articles 14–18), Right to Freedom (Articles 19–22), Right against Exploitation (Articles 23 and 24), Right to Freedom of Religion (Articles 25–28), Cultural and Educational Rights

(Articles 29 and 30), and the Right to Constitutional Remedies (Article 32). These rights have been protected against undue infringement by the state excepting certain specific circumstances provided under the Constitution though their amendability has been upheld by the Supreme Court under Article 368 of the Constitution in the Keshvanand Bharti case.

Described by Austin, along with the Directive Principles of State Policy, as the conscience of the Constitution, the fundamental rights arguably constitute the soul of the Constitution. However, in material terms, as pointed out by N.A. Palkhiwala, they constitute the anchor of the Constitution and provide it with the dimension of permanence. The Constitution envisages the fundamental rights as the common platform on which divergent political ideologies and practices may meet. They provide the iron framework within which experiments in social and economic changes may be tried out.[12]

These rights, therefore, have been given a very esteemed position in the constitutional law of the country, for, all laws in force in the territory of India immediately before 26 January 1950, and all legislations enacted thereafter, have to conform to the provisions of Part III of the Constitution.

Moreover, the scope of the fundamental rights are wide enough to encompass practically all those rights which human ingenuity has found to be essential for the development and growth of the personalities of the citizens of the country. Significantly, the focus of attention of the framers in this regard was on the citizens mainly, if not exclusively, as many of these rights are not guaranteed to the aliens. For instance, the rights contained in Article 15 (prohibition of discrimination on the basis of religion, race, caste, sex, place of birth, or any of them), Article 16 (equality of opportunity in the matters of public employment), Article 19 (right to freedom), and Article 29 (cultural and educational rights) are available to the citizens only. Nevertheless, the best part of the provisions on fundamental rights is the fine-tuned machinery to guarantee these rights in practice: under Article 32, the Supreme Court is given the original jurisdiction to entertain the petition of a person whose fundamental right has been infringed, and is empowered with various writs which can be issued to secure the enjoyment of these rights.

Despite being taken as the bedrock of democratic life in the country, the fundamental rights have not been made absolute since

several reasonable restrictions have been placed on their enjoyment. Set to secure the public good on the one hand and the unity and integrity of the nation on the other, the reasonable restrictions can be imposed specifically in the interests of the sovereignty and integrity of India, security of the state, friendly relations with foreign states, public order, decency, morality, health, and so on, and for the protection of the interests of any Scheduled Tribes. Though these restrictions, no doubt, appear to be an attempt on the part of the framers to strike a balance between individual liberty and the social good, in the course of the functioning of the Constitution, it was rightly apprehended that the state might, under the garb of reasonable restrictions, put undue infringement on the enjoyment of these rights. Consequently, the endeavour of the courts in the country has been to do a rigorous check on the reasonableness of the restriction, as and when they are imposed to curtail the rights of the people. Proclamation of a state of emergency provides another circumstance when the enjoyment of fundamental freedoms guaranteed under Article 19 may be suspended. Similarly, Article 33 empowers the Parliament not to grant some of the fundamental rights to the persons employed in the armed forces.

Reasonable restrictions notwithstanding, the fundamental rights appear to be big restrictions on the legislative, executive, and to some extent, judicial powers of the state. In making a law, the legislatures must see to it that such a law does not, in any way, infringe any of the fundamental rights guaranteed to the people, for, if such a law as a whole or any part of it is found inconsistent with any of the fundamental rights, it would be declared null and void by the competent court. More precarious is the position of the executive authorities who bear the brunt of the court when they are found to be acting in an unconstitutional manner. The recent case of the Soharabuddin fake encounter case of Gujarat has proved to be the undoing of several senior Indian Police Service (IPS) officers of the state. The same canon of constitutional propriety applies to the judiciary also, as no decision which is in contravention of the provisions of fundamental rights can be pronounced by any court in the country, for, if such a decision is delivered, it is bound to be set aside by the higher courts. More importantly, the restrictions on the fundamental rights do not apply only on the state agencies but also on private individuals and organizations. For instance, Article 17 stands for the abolition untouchability, Article 15(2) prohibits the disability of

any citizen in the use of shops, restaurants, wells, roads and other public places on account of his religion, race, sex, or of birth, and Article 23 bars the practice of begging or forced labour in any form. Thus, the state, in addition to obeying the Constitution's negative injunctions to not interfere with certain of citizen's liberties, must fulfil its positive obligation to protect the citizen's rights from encroachment by society.[13]

FUNDAMENTAL DUTIES

Impregnating the high sounding and zealously guarded domain of fundamental rights with a moderate dose of ethical citizenship responsibilities, the fundamental duties were inserted in the Constitution in 1976 through the Constitution's Forty-second Amendment. Drawn from the Constitution of former Soviet Union and placed in Part IV-A of the Constitution under Article 51-A, the set of ten fundamental duties is supposed to be only moral exhortation to the citizens of the country to inculcate a sense of patriotic and sensible citizenship, without any legal justiciability.

Though not justiciable and therefore, with little consequence in practical terms, the provision of fundamental duties was opposed by many people who also brought out several inconsistencies in these duties. For instance, one of the fundamental duties asks every citizen of the country to develop a scientific temper and spirit of enquiry. But with bulk of the people still illiterate, how is it possible to imbibe the habit of thinking with clarity and precision if they are unable to get the basic inputs of such a thinking. Nevertheless, the fundamental duties have become a part of the Constitution and despite their non-justiciability, they continue to exercise some sort of social and collective restriction on those who are fond of enjoying unfettered rights without discharging even an iota of duty to the society and the nation.

DIRECTIVE PRINCIPLES OF STATE POLICY

The provision of the Directive Principles of State Policy in the Constitution was the culmination of the humanitarian and socialist ideas nurtured by a majority of the leaders of the national

movement who aspired for not only a political democracy for India but also a socio-economic democracy. Crystallizing in the 1931 Karachi resolution of the Indian National Congress, the leaders made a constitutional declaration of social and economic policy in the recognition of the vision of a welfare state in place of a regulatory state in the colonial mould. Ideally, the Karachi resolution must have led to the incorporation of the declaration of social and economic policy in the form of justiciable fundamental rights, but the stark reality of insufficiency of economic resources and overbearing prevalence of conservatism in the society at the time of framing the Constitution appeared to have dissuaded the framers from making the social and economic ideals the justiciable fundamental rights. The way out, therefore, seemed to place the social and economic ideals in the form of directive principles, which though non-justiciable, would remain fundamental in guiding the state policy. Borrowed from and patterned on the Irish Directive Principles of Social Policy, these directive principles also sounded attractive to the framers due to their long-standing proximity with the Irish nationalist movement. Later on, when it came to fine-tuning the various directive principles, other shades of cherished ideals like the Hindu mythological beliefs and the Gandhian ideas of social and economic reconstruction along with secular socialist perspectives on Indian society also found adequate reflection in the final list of the directive principles.

Placed in Part IV of the Constitution (Articles 35–51), the directive principles signify the positive obligations of the state towards its citizens, for, as Article 37 envisages that though not enforceable by the courts, they are nevertheless fundamental in the governance of the country and it shall be the duty of the state to apply these principles in making the laws. Thus, the two fundamental issues arising on the nature of the directive principles relate to their legal status in the Constitution as well their position vis-à-vis the fundamental rights. As regards the legal status of these principles, the vision of the framers was crystal clear that these principles would not be justiciable in the sense that the fundamental rights are, at the same time they would not be mere proclamation or the pious wish list only. As K.C. Markandan argues:

> Far from being a proclamation or promulgation of principles, the directive principles constitute a pledge by the framers of the Constitution to the people of India and a failure to implement them

> would constitute not only a breach of faith with the people but would also render a vital [feature] of the Constitution practically a dead letter.[14]

However, the real test of the vitality of the directive principles in the Constitution came through their recurring clash with the fundamental rights, in which the Supreme Court tried to clear the air in various landmark judgements. The root cause of the conflict between the directive principles and the fundamental rights lies mainly, if not exclusively, in the provisions contained in Clause 2 of Article 13 which envisaged that the state shall not make any law which takes away or abridges the rights conferred by Part III of the Constitution and any law made in contravention of this clause shall, to the extent of contravention, be void. Accordingly, the first case of clash between the two arose in the case of *Champakam Dorairajan vs State of Madras* in which the Supreme Court held that the directive principles cannot override the fundamental rights though it did accept that the fundamental rights can be amended under the provisions of Article 368, relying on the doctrine of harmonious construction of various provisions of the Constitution. Thereafter, the accepted position was that though ordinarily the directives principles could not override the fundamental rights, certain reasonable restrictions could be put on the fundamental rights in order to implement the directive principles by way of due amendment in the Constitution.

A climb down on the part of the Supreme Court appeared in 1967 in the case of *Golak Nath vs State of Punjab*, when the Court denigrating the value of the doctrine of harmonious construction held, *inter alia*, that Parliament has no power to amend any of the provisions of Part III of the Constitution so as to take away or abridge the fundamental rights enumerated therein, making the fundamental rights unamendable in any situation. Finding itself in a piquant situation, the government got the Twenty-fourth and Twenty-fifth Amendments made in the Constitution, which came for the scrutiny of the Supreme Court in the case of *Keshvanand Bharti vs State of Kerala*. Falling back again on the doctrine of harmonious construction, the Court, propounding the doctrine of basic structure of the Constitution, held the primacy of the directive principles over the fundamental rights in respect of certain articles but rejected the rights of legislature and the executive

to make laws or issue orders amounting to amending the 'basic structure' of the Constitution. Later, in the case of *Minerva Mills Ltd. vs Government of India*, the Supreme Court stuck to the position that the primacy of the directive principles over fundamental rights cannot be claimed to be unqualified and any amendment to the Constitution that alters its basics structure is bound to be void.

Notwithstanding the long-drawn controversy on the constitutional status of the directive principles, a perusal of various principles reveal interesting features regarding the scope and diversity of the directive principles. As pointed out earlier, provision of directive principles afforded various shades of perspectives an opportunity to provide their ideals a place in the Constitution, which are three in the main. First, the substantive numbers of directive principles are aimed at the establishment of a welfare state by bringing about a subtle socio-economic transformation in the country. For instance, Article 38, broadly defining the core content of the directive principles, envisages that the state shall strive to promote the welfare of the people by effectively ensuring a social order in which justice—social, economic, and political—shall pervade all the national institutions in the country.

The other directive principles of this sort pertains to the equitable distribution of material resources in society, welfare of women and children, equal pay for equal work, improving conditions of work, and free and compulsory education for children up to the age of fourteen, and so on.

Second, a large number of directive principles aspire to implement the Gandhian principles of social life, such as, the establishment of village panchayats and cottage industries, upliftment of the conditions of the Scheduled Castes and Scheduled Tribes, prohibition, improvement in the breeds of cattle, and stopping the slaughter of cows and calves, and so on.

Last, certain directive principles deal with the streamlining of governance in the country and promotion of international peace. Thus, while the directive principle on the separation of judiciary from the executive is aimed at streamlining the governance in the country, the directive principles relating to the securing of international peace and security, maintaining good and honourable relations with nations, fostering respect for international law and

treaty obligations, and settlement of international disputes by arbitration and other peaceful means are meant for global peace and tranquility.

The efforts at operationalizing the lofty ideals, enshrined in the Constitution in the form of directive principles portray a picture of belied promises. Though reduced to a secondary position by the framers themselves by not making them justiciable, albeit with stipulations of time and resources, the directive principles were supposed to be the fundamental guiding spirit behind the programmes and policies of the government. However, the governments at various points of time were more keen to look for alibis to neutralize the execution of the directive principles than to pool economic resources, secure social sanction, and muster political will to put them into practice. Hence, in the early years of independence, the argument of judicial impediments was advanced to explain the negligible progress in the implementation of the directive principles. When the judicial impediments were ultimately warded off, the bogie of the insufficiency of resources was raised. In the aftermath of liberalization, the successive governments seemed to have paid scanty attention to the Directive Principles of State Policy while devising policies. Even those directive principles which have been implemented, like the one relating to the panchayats and free and compulsory education to the children up to the age of fourteen, appear to have been implemented more to score a point over the opposition than with the true spirit of bringing about a socio-economic transformation in the country. In such scenario, the only plausible way out to get the directive principles implemented in letter and spirit is through the waging of a mass movement, pioneered by the concerned people of society.

FEDERALISM

Quite evidently, it seems that a number of the basic formulations pertaining to the Constitution of India would be preordained by the circumstantial imperatives of the country. Hence, federalism as the defining concept of the body politic of the country became some sort of *fait accompli* for independent India as no other prevalent system of organizing the various units of a nation would have served

the purpose for the nascent nation. However, the peculiarities of the Indian situation were so varied that an existing ready-made political arrangement, such as federalism, itself would not have fulfilled the diverse requirements of the country. Therefore, despite accepting federalism as the basic idea in the body politic of the country, the framers were sure in their minds that necessary modifications needed to be made in the classical form of federalism so as to make it comprehensively suitable to the dynamic political realities of the country at various times.

Thus, the federal structure as obtained by the fathers of the Constitution for the country happens to be a uniquely creative construct. Despite essentially being federal in soul, it also combines a number of provisions that may facilitate its conversion into a patently unitary structure in accordance with the needs of the time without causing any permanent dent to the original federal system when it is reverted to the federal one. The uniqueness of the Indian federal system is reflected in the distinct nomenclatures invented by eminent scholars in the field to label it. Finding the simple term 'federalism' inadequate to articulate the distinguished features of the Indian federal system, various distinct labels like 'quasi-federal', 'federal state with subsidiary unitary features', 'paramountcy federation', and so on, are used to discern the basic underlying features of the Indian federal system. The fundamental reason behind such descriptions of the Indian federal system is the fact that the ingraining of several unitary provisions in the Constitution robs it of its rigidity in remaining federal irrespective of the exigencies arising at particular times.

The distinctive characteristics of the Indian federal system in terms of having both the federal as well as the unitary features are eloquently exhibited in the provisions governing the Centre-state relations in the country. Constitutionally, the Centre-state relations in India are governed by the provisions of the Seventh Schedule of the Constitution wherein the operational domains of the two have been defined by way of the three lists—Union, State, and Concurrent, with ninety-seven, sixty-six, and forty-seven items respectively to begin with. Despite being vested with the residuary powers also, the Central Government over the years brought about numerous amendments in the Seventh Schedule in order to transfer the subjects from the State List to either the

Union List or the Concurrent List. Thus, the concentration of powers in the hands of the Central Government was not only provided for in the Constitution but also the successive Central governments appear to have gone a step ahead in centralizing powers in their own hands. Moreover, a number of overt provisions have been made in the Constitution to strengthen the hands of the Central Government in the legislative domain by giving overriding powers to it. For instance, under Article 249, if the Rajya Sabha resolves by two-third majority that it would be prudent for the Parliament to legislate on a subject of the State List in national interest, the Parliament is authorized to legislate on the said subject. In such a situation, 'national interest' becomes the catch-phrase to cover any subject having a bearing on the country as a whole to empower the Parliament to legislate on such subjects.[15] Thus, the Centre-state legislative relations are ordained in such a way in the Constitution that the functional domain of the state governments seems to depend on the sweet will of the Central Government.

The administrative relations between the Central and state governments also present an apparently disbalanced picture in which the former enjoys overwhelming leverage over the latter. Patterned essentially on the basis of the legislative relations between the two, the two levels of governments are empowered to exercise their administrative powers on the subjects allotted to them for legislative purposes. However, under the provisions of Article 256 of the Constitution, a general commandment has been issued to the states that their administrative powers need to be exercised in such a way as to ensure compliance with the laws made by the Parliament and the existing laws. Moreover, in this regard also, the Central Government has been given exceptional powers to lord over the state governments in both normal as well as extraordinary circumstances. For instance, according to Article 257, it has been provided that the executive power of the Central Government also extends to the giving of such directions to the states as they may appear to the Government of India to be necessary for the purpose. In view of the sweeping powers given to the Central Government in the administrative domain accompanied with the apparently partisan governors occupying the Raj Bhawans in the state capitals, it becomes really difficult for the not-so-friendly state governments to carry on with their

normal activities of governance in a fearless and autonomous manner.

The lopsidedness of the federal system in India is most pinching to the state governments in no other sector than the Centre-state financial relations. While the Constitution provides for the exhaustive and mutually exclusive powers of taxation to both the Central as well as the state governments as per the items included in the Union and the State Lists, the value and amount of resources generated by the given provisions go overwhelmingly in favour of the Central Government. Interestingly, the paradox of the Centre-state financial relations is that while the states have been bestowed with the responsibility of carrying out developmental functions having huge expenses, the most extensive resources of revenues are vested with the Central Government.[16] Moreover, under the garb of the plan outlays, the Central Government has been seen to be allocating exorbitant resources to the politically-friendly states and just pay the bare minimum to the states not in its good books. It is in such circumstances that voices of protest have been raised by various state governments from time to time, the height of which was reached in the demand of the Gujarat Chief Minister Narendra Modi that for some time the Central Government stopped collecting taxes from his state and Gujarat stopped taking any financial assistance from the Central Government.[17]

If the Centre-state relations in India are abjectly in disfavour of the state governments in the normal times as described previously, the condition of things during the times of emergency can be imagined. Of the three types of emergency provided for in the Constitution, what concerns the states most is Article 356, which lays down that if the President is satisfied, on the basis of the report of the Governor or otherwise, that a situation has arisen in which the government of a state cannot be carried out in accordance with the provisions of the Constitution, he/she may, by proclamation, impose a state of emergency resulting in the imposition of President's rule in that state. Though this provision has been placed in the Constitution to act only as a safety valve, it turned out to be one of such provisions in the Constitution that has been grossly misused for the maximum number of times till 1994. A brake of sorts was placed on the misuse of this Article in 1994 by the judgement of the Supreme Court in the case of *S.R. Bommai vs Union of India,* when the Court held that the majority by a state

government must be tested on the floor of the House, on the one hand, and the decision of the President regarding the imposition of President's rule in a state is open to scrutiny by the Court, on the other.

The constitutionally ordained structure of the Centre-state relations in India, as shown previously, no doubt gives preeminence to the position of the Central Government. But in the post-1967 times, a number of state governments came out openly against the preponderant position of the Central Government and sought some sort of course correction on certain issues they found most thorny in the Centre-state relations in the country. For instance, the issues of the role of Governor, the misuse of the provisions under Article 356, reservation of bills by the Governor for the consideration of the President, equitable sharing of the finances between the Centre and states, and so on,[18] are some of the issues raised by the opposition state governments seeking suitable remedial measures regarding them. However, most of the review committees and commissions on the issue of Centre-state relations have advocated the retention of such provisions though minor operational corrective measures have been suggested in order to check the misuse of these provisions.

PARLIAMENTARY SYSTEM

The system of parliamentary democracy, which informs all the institutions of governance in the country, did not become the crowning glory of the Constitution all of sudden or without serious debate and discussion in the Constituent Assembly. Indeed, the roots of the demand for a parliamentary system of governance in the country may, arguably, be traced back to the early twentieth century when the Indians persistently demanded the establishment of parliamentary institutions on the pattern of British polity to afford an opportunity to them to associate themselves with the governmental activities in the country. Though the colonial rulers had consistently refused to accede to the wishes of the natives on the ground of the unsuitability of the Indians to run such kinds of institutions on the one hand, and undesirability of parliamentary institutions, as such, for India, on the other, the resolve of the enlightened Indians for some sort of parliamentary

system to be established in the country became progressively hardened with every refusal of the British India Government for the same. Afterwards, in most, if not all of the documents, proposing the model of political set-up for independent India, like the Nehru Committee Report, the Sapru Report, the Draft Constitution of Free India published by the Socialist Party and the Hindu Mahasabha, as well as by individuals like M.N. Roy, the argument for a parliamentary system of government figured prominently as the ideal model of governance for India after Independence.

However, when the Constituent Assembly set on to decide the kind of political institution for the governance of the country, more than the lust, if not infatuation, with the parliamentary system, the urge to devise a mechanism which would foster a rapid socio-economic revolution weighed on the minds of the framers more dominantly. Having decided in favour of a rapid evolution, as against violent revolution, as K. Santhanam put it, the obvious question before the framers, as Austin reveals, was: what form of political institutions would foster or at least permit a social revolution? As Austin informs further, two competing systems of political institutions were available to the framers to opt for: first, looking back into the nation's rich heritage and finding indigenous institutions capable of meeting the country's needs, the framers would base the Constitution on the village and its panchayats and erect upon them a superstructure of indirect, decentralized government in the Gandhian manner; and second, opting for the Euro-American constitutional traditions, reflected in the form of parliamentary system, though, it meant continuing in the direction the country had taken during the colonial period.[19] Reminiscent of the old liking of the Indians for the parliamentary institutions, the Constituent Assembly's decision in favour of the latter option was arrived at with overwhelming majority, with only one member raising a voice in favour of the village panchayats, though the broad contours of his scheme of things also appeared to be in the mould of representative democratic governance.

Explaining the rationale behind the choice for the parliamentary system, Jawaharlal Nehru, speaking in Lok Sabha on 28 March 1957, said:

> We chose this system of parliamentary democracy deliberately; we chose it not only because, to some extent, we had always thought on those lines previously, but because we thought it in keeping

> with our own old traditions, not the old traditions as they were, but adjusted to the new conditions and new surroundings. We chose it—let us give credit where the credit is due—because we approved of it's functioning in other countries, more especially in the United Kingdom.[20]

Further, providing a more deep-seated account for the adoption of parliamentary system by the Constituent Assembly, Austin points out four compelling reasons.[21] First, the alternative of panchayat based system of governance, rooted in the Gandhian frame of analysis, did not find favour with the framers as 'the Congress had never been Gandhian' on the one hand, and near universal acceptance of the parliamentary system as the *fait accompli* for the country by all sections of Indian society on the other.

Second, the commitment of many members of the Constituent Assembly to 'Socialism' also emboldened the pursuits to go for a parliamentary system, for, socialism and democratic government were taken as supplementary to each other. Holding that democratic constitution could not survive without a subtle move to secure social and economic equality, majority of the Indians, with the probable exception of the Communists, held the view that 'there could be no socialism without democracy', which could be ordained only by the parliamentary system of governance.

Third, the immediate challenges, posed to the well-being of the people on the one hand, and the unity and integrity of the country, on the other, also tilted the balance in favour of the parliamentary system. At the time of the inauguration of the Interim Government in September 1946, the livelihood of the people was threatened due to famine-like conditions in many parts of the country, rising food prices, precarious grain reserves, and a clash of interests between the surplus and scarcity provinces. Similarly, the threat to the unity of the nascent nation came from rising communal passions in the wake of Direct Action Day call by Jinnah, the reluctance of a few princely states to join the Indian Union, and the Communist rebellion in the regions like Telangana. The cure to these ills was considered to be lying in the parliamentary system, as only it could afford a fair degree of centralization of powers in the hands of the Central Government without compromising with the structure and functioning of democracy in the country.

Last, the unflinching faith of the members of Assembly in the need for universal adult franchise as the basic factor to herald

the social revolution in the country also weighed decisively in favour of parliamentary democracy, as the Parliament so elected was construed to represent the people as a whole, ensuring representation to all sections of society and fostering the socio-economic revolution to usher in a true democratic governance in the country.

The somewhat, if not absolute, successful functioning of the parliamentary democracy for the last five decades of post-Independence period in India has fulfilled the dreams of the framers to have a system of governance capable of meeting all sorts of challenges to the welfare of both the people, as well as the nation, without compromising the democratic ethos and spirit of institutions of governance. Embedded with the virtues of both responsibility and responsiveness, it has ensured a daily as well as periodic assessment of the functioning of government. Significantly, the parliamentary system has facilitated the successful meeting of challenges to the social, economic, and political life of the nation expeditiously due to the absence of working at cross-purposes between the executive and legislative branches of the government. Above all, the parliamentary system has afforded the people from all parts of the country, following various socio-cultural customs and traditions and following distinct political ideologies, to find a voice in the governance of the country through their representation in the Parliament. This goes a long way in strengthening the national spirit and belongingness in them.

Despite the institutional soundness and having sustained the unity and integrity of the country and securing mental and material well-being of the people, the functional dynamics of parliamentary system in India have not been without their share of responsibilities for the ills plaguing the country today. Indian polity has undergone significant changes since it became politically free in 1947. The Nehruvian democratic government seemed to have received a serious jolt with the promulgation of the 1975 Emergency under the Indira Gandhi-led Congress government. The rise of coalition government is also equally dramatic. While the BJP-led National Democratic Alliance (NDA) was a majority coalition, the present United Progressive Alliance (UPA) under the leadership of the Congress party is a minority coalition. Hence its capacity to manoeuvre is highly restricted since the UPA government lacks a majority and without the support of the Left and other parties

on the floor of the Parliament the government will collapse in the face of a no-confidence motion. The role of emotive issues in garnering votes during the election has also been critical in India's parliamentary elections. For instance, Indira Gandhi's 'Garibi Hatao' (remove poverty) or V.P. Singh's Mandal gamble, and the Bharatiya Janata Party's *Ram Mandir* became very powerful issues in the national elections in 1971, 1989, and 1999, respectively. The contemporary phase of coalitional politics, accompanied with the formation of unstable, if not defying the formation of any government at all, governments at both the Centre and the states also appear to be the obvious consequence of an intense socio-economic and political churning taking place in the country, due to the dynamics of parliamentary system. Yet, these undesirable, if not pernicious, trends in the democratic politics of the country, may be taken as the transitional hiccups in the evolutionary phase of a nation from being a traditional, backward, divided, and politically inactive society to a progressive, developed, diversified, and mass democratized nation, to facilitate which the framers banked upon the parliamentary system of governance for the country.

AMENDING PROCEDURES

The issue of amending procedures of the Constitution happened to be one of the least debated and controversial issues dealt with by the Constituent Assembly due, probably, to the less importance attached to it by the members on the one hand, and the lack of adequate knowledge and 'immediate experience' amongst the average members of the Assembly, on the other. Barring a few customary references in the reports, like Nehru's and Sapru's, as well as in the draft Constitutions of K.M. Munshi, K.T. Shah, and K.M. Panikkar, and so on, a well thought-out scheme of amending procedures was not available to the framers till mid of 1947, when B.N. Rau presented his framework of amending procedure, providing for a two-fold procedures for amending the Constitution. First, the amendments should first be passed by a two-thirds majority in both Houses of Parliament and then ratified by a similar majority of provincial legislatures. Second, the transitional provisions may be amended by a simple majority in Parliament. However, the main dilemma before the framers was,

presumably, to reconcile between the competing allurements of amending the Constitution by simple majority to keep the Constitution dynamic, living, serving the needs of the society with the changing times and circumstances on the one hand, and making its amending procedure rigid enough to thwart any frivolous attempt to alter the basic framework of the federal polity of the country on the other. After due deliberations on the practices followed in the American, the Australian, and the Irish Constitutions, the Constituent Assembly agreed to provide for a three-fold methods of amending the Constitution under the provisions of Article 368, drawing appreciation from the experts like K.C. Wheare who complimented the framers for striking a balance by protecting the rights of the states while leaving the rest of the Constitution to be amended easily.[22]

Labelled as 'one of the most ably conceived aspects of the Constitution',[23] the provisions under Article 368 appear to be able to meet the aspirations of the framers to make the Constitution a living document while making it extremely difficult to rob it off its basic characteristics. Of the three methods of amending the Constitution, two have been specifically provided for in Article 368, whereas the third has been provided for in about twenty-two other articles. Thus, first, the Constitution can be amended by introducing an amending Bill in either House of Parliament, which needs to be passed by a majority in each house with two-thirds of the members present and voting, after which it is sent for the presidential assent, at the receipt of which it becomes an amendment.

The second method relates to the Articles enumerated under the proviso to Article 368 items from (a) to (e), dealing with the subjects of the method of election of the President of India; distribution of legislative powers between the Union and the states; extent of the executive power of the Union and the states; representation of the states in Parliament; provisions relating to the Supreme Court and the high courts; and the amendment of the Constitution itself. To amend any of these Articles, the amending Bill is not only to be passed by a majority of total membership in each house and majority of not less than two-thirds of the members present and voting in each House but also ratification by at least one-half of the state legislatures.

Third, the Constitution can be amended by a simple majority vote in the two Houses of Parliament, followed by the assent of

the President. The basic percepts, with which this provision deals with, like formation of new states, alteration of state boundaries, changing name of states, delimitation of constituencies, qualifications for citizenship, quorum in Parliament, and so on, to name a few, are to remain in force until the Parliament brings about changes in them. Though a formal amendment in all such cases is not effected, yet they have the effect of making changes in the constitutional law.

In view of the overt provisions made in Article 368 for the methods of amending the Constitution, a subtle debate emerged amongst the scholars regarding the scope and nature of Parliament's power to amend the Constitution. One school of thought, rooted in legal positivism, contended that owing to the elaborate provisions made in the Constitution, the Parliament must confine itself to what is provided for in this regard, without any attempt to derive implied powers of amendment. Responding, in a way, to the provisions of Article 13(2) which bars the state from making any law which takes away or abridges the fundamental rights, the other school of thought holds that the amendment of the Constitution should be viewed in the context of the requirements of socio-economic needs of the country instead of the strict legal provisions provided for in this regard. These two contrasting, if not conflicting, views on the amendability of the Constitution have found their reflection in the ongoing game of one-upmanship between the Parliament and the Supreme Court even today.

Though the questions on the limits of amending power of Parliament were raised very soon after the inauguration of the Constitution in 1951 in the case of *Sankari Prasad vs Union of India*, the Supreme Court took the position till 1967 that the Parliament has unfettered powers to amend the Constitution. This position was dramatically reversed by the Supreme Court in the case of *Golak Nath vs State of Punjab* in 1967, ruling that the Parliament has no power to amend the provisions on fundamental rights, leading to serious resentment in the political circles that started groping to find a way out of this all imposing judgement. Responding by way of the Twenty-fourth and Twenty-fifth Amendments, the government sought to turn the table on the Supreme Court by not only nullifying what the Court had provided for in the Golak Nath case but also by extending the whip to the office of the President by providing that when a constitutional amendment is presented to him for his assent, he shall give his assent and that he would not

have any discretion in this regard. Creating again an opportunity for a stand-off between the government and the Supreme Court, the Twenty-fourth and Twenty-fifth Amendments were challenged in the Supreme Court in the case of *Keshvanand Bharti vs State of Kerala* in 1973.

The historic judgement in the Keshvanand Bharti case tried to restore the precarious balance between the government and the judiciary on the issue of amendability of the Constitution by over-ruling Golak Nath, upholding the Twenty-fourth and Twenty-fifth Amendments and striking down the 'escape clause' in the Twenty-fifth Amendment's Article 31(C).The essence of the statement of the nine judges was that Article 368 did not enable Parliament to alter the basic structure or framework of the Constitution.[24] The court, thus, through the doctrine of implied limitations and doctrine of basic structure, tried to ensure the permanence of the basic constituent aspects of the Constitution, on the one hand, and give the maximum possible leverage to Parliament to amend the socio-economic provisions to usher in an era of welfare state in the country on the other.

The core of the decision in Keshvanand Bharti case was reiterated by the Supreme Court in the case of *Minerva Mills Ltd. vs Union of India*, thereby asserting the irreversibility of the doctrine of basic structure in relation to the amendability of the Constitution. However, an aberration, in the form of the Ninth Schedule of the Constitution, existing since 1951, which made certain laws and amendments immune from judicial review after they are placed in the said schedule by Parliament, created an anomalous situation in which Parliament was accorded an indirect escape route to amend the basic structure of the Constitution and shield it from the scrutiny of the Court. Removing this anomaly, the Supreme Court, in the case of *I.R. Coelho vs State of Tamil Nadu* held that the Ninth Schedule was created for a specific purpose and not to be used as a shield to keep certain laws and amendments out of the purview of judicial review,[25] which may even have the propensity of subverting the basic structure of the Constitution.

In the contemporary times, the issues regarding the amending procedure and ancillary questions appear to be settled in favour of a dominating position of the Supreme Court, which has progressively attained the position of commanding heights in the constitutional framework of governance in the country, partly due to the

pernicious acts of commission on the part of the government, on the one hand, and deplorable acts of omission by the government, on the other; in both cases the people have to move the Court to get the wrongful undone and the rightful done through the judicial pronouncements. This unsavoury predicament of the constitutional framework needs to be cleared in favour of the reasoned balance in the jurisdictions of various organs of government. Taking the doctrine of basic structure of Constitution as the reference point for amendments, both the Parliament as well as the Supreme Court should try to work the Constitution, insofar as amendments are concerned, rather than subverting it.

CONCLUDING OBSERVATIONS

Drafted to be the embodiment of numerous ideals cherished by the prominent leaders of the national movement regarding the shape of social, economic, political, cultural, and religious systems and parameters of life of a modern and forward-looking people, the Constitution of India represents the crux of what came out to be fairly acceptable scheme of things amongst the competing perspectives on the contours of future Indian polity. As pointed out earlier, the major problems before the framers of the Constitution seemingly arose at two levels: macro and micro. At the first level, the core concern of the framers related to the adoption of the macro-level institutions to manifest the foundational mechanism of the polity in terms of the parliamentary system of democracy, the federal nature of the polity, and so on. Though there existed a good deal of pointers on what needed to be the macro model of the polity in independent India, there, indeed, were certain alternative models which some members of the Constituent Assembly advocated for adoption by the Assembly. For instance, a few members of the Assembly argued for the superiority of the Swiss system of government in comparison to the British, ostensibly for the sake of better representation and protection of the interests of minorities and other sectional groups.

More deep-rooted issues came to the fore once the puzzle at the macro level was sorted out. As India was a mammoth country with innumerable diversities, broken political customs and conventions, wide social cleavages and widespread religious and cultural variations, the issue of fine-tuning the political system of

the country was not over just by adopting the parliamentary system, which was born and operationalized in a Western country whose circumstances and socio-economic milieu was drastically different from those of India. Hence, retaining the spirit of the parliamentary system of democracy, the fathers of the Constitution had to bring about suitable alterations in the classical parliamentary system, such as, having an elected Head of State in place of a monarchical system and providing for a powerful and independent judiciary in place of a subservient judiciary to the parliamentary supremacy in order to make it propitious to provide for a long-lasting system of governance for the country. Similarly, looking at the huge geographical size with multitudinal diversities, in addition to the political aspirations of the people at regional and local levels, the preference for a federal set-up for the country was obvious. The real issues, however, arose when the classical form of federalism was juxtaposed with the dear issue of safeguarding zealously the unity and integrity of the nation; as a result of which a number of modifications were introduced in the federal system of the country, prompting several scholars to call Indian federalism as a sub-federal order rather than a true federal one. Yet the sole concern of the framers of the Constitution appears exclusively with devising the most suitable form of political system for the country, rather than placing India into one or the other straight-jacket political systems prevailing in different countries of the world, irrespective of the academic evaluation and critique of the Indian system on the basis its departure from the norms of the classical form of the system.

The ingenuity of the fathers of the Constitution lies not only in providing for some sort of arrangement by innovating a fool-proof system of governance moulded in the parliamentary system of Britain and federal set-up of America but also in going miles ahead of these Western countries by ensuring to their people what these countries could not dream of. In other words, the claim to fame of these classical Western democracies have been the guaranteeing of certain political and civil fundamental rights to their people in the name of ensuring an equal and free life for them. But as has been argued by the Socialist thinkers, the political and civil rights turn out to be a farce in a society where the common person is not able to secure an adequate social and economic well-being for himself or herself. On this count, the framers of the Indian Constitution appeared to have scored over both the Western capitalist societies as well as the communist ones, by

affording the people not only the political and civil fundamental rights but also aspiring to ensure for them a reasonable level of equitable and satisfying social and economic life for the people through the provisions of the Directive Principles of State Policy, in due course of time, with the availability of resources in the country. Thus, the provisions on the fundamental rights and the Directive Principles of State Policy ensure the pith and substance to the skeleton of parliamentary democratic system ordained for the country. Combined together, the combination of political and civil rights ensured through the provisions of Part III and the social and economic rights enshrined in Part IV of the Constitution, places the Indian Constitution at such a high pedestal where neither the capitalist constitutions nor the socialist ones are able to graduate, thereby making the Indian Constitution as the model to be emulated by the newly democratizing countries of the world rather than looking for hitherto predominant Western constitutions.

In final analysis, the Constitution of India appears to be a unique construct bearing testimony to the pious vision and infallible wisdom of its framers. By way of the Preamble, the fathers have been able to put in black and white the purposes for which the Constitution exists. Though the enormous complexities of the Indian life compelled the framers to formulate the lengthiest Constitution in the world, its dynamism and resilience are brought to the fore by the fact that it has been amended more than 110 times in a life span of just fifty-seven years. Over the years, however, the soul of the Constitution came to be defined in terms of the basic structure whose inviolability has been declared by the Supreme Court time and again. Thus, by now, the Constitution seems to have braved all sorts of challenges coming either in the form of Forty-second Amendment or the review of its working by the NDA government, with the doctrine of basic structure acting as the impregnable shield against any attempt at subverting its very essence while leaving other parts of it amendable by the Parliament in order to make it propitious for the changing circumstances in the country.

NOTES

1. See *The Hindu* 2007.
2. For details on Objective Resolution, see Constituent Assembly 1947: 59.
3. See Kapur and Mishra 2001: 62.

4. See Austin 1999: 6.
5. Ibid.
6. Quoted in Agrawal 1998: 15.
7. See *Keshvnand Bharti vs State of Kerala*, (1973) 4 SCC, 225, paras 94–98, p. 324.
8. See Hidayatullah 1982: 51.
9. See Austin 1966: 52–53.
10. For details, see Rao 1965.
11. For a historical perspective on the evolution of the demands for fundamental rights in India, see Austin 1966: 52–75.
12. Cited in Mahajan 1984: 70.
13. See Austin 1966: 51.
14. See Markandan 1966: 147–48.
15. See Khan 2000.
16. See Thummala 1992.
17. See *The Statesman* 2008.
18. For an eloquent and informed analysis of the tension areas in the Centre-state relations in India, see Ray 1988.
19. See Austin 1966: 27–28.
20. This was Jawaharlal Nehru's statement in the Lok Sabha on 28 March 1957. See *The Statesman* 1957.
21. See Austin 1966: 39–49.
22. See Wheare 1988: 143.
23. Quoted in Austin 1999: 264.
24. See *The Statesman* 2007.
25. See *The Statesman* 2007.

REFERENCES

Agrawal, R.C. 1998. *Constitutional Development and National Movement of India.* New Delhi: S. Chand and Company.

Austin, Granville. 1966. *The Indian Constitution: Cornerstone of a Nation.* Delhi: Oxford University Press.

———. 1999. *Working a Democratic Constitution: The Indian Experience.* New Delhi: Oxford University Press.

Centre-State Relations Enquiry Committee. 1971. *Report of the Centre-State Relations Enquiry Committee*. Report submitted to Government of Tamil Nadu, Madras.

Constituent Assembly. 1947. *Constituent Assembly Debates, Volume I.* New Delhi: Government of India.

Hidayatullah, M. 1982. *Democracy in India and the Judicial Process.* Delhi: Metropolitan.

Kapur, A.C. and K.K. Mishra. 2001. *Select Constitutions.* New Delhi: S. Chand and Company.

Khan, Arshi. 2000. 'Centre-State Relations: Issues and Reforms', *Indian Journal of Federal Studies*, 1(1): 117.

Mahajan, V.D. 1984. *Select Modern Constitutions*. New Delhi: S. Chand and Company.

Markandan, K.C. 1966. *Directive Principles in the Indian Constitution.* Bombay: Allied Publishers.

Rao, B. Shiva (ed.). 1965. *The Framing of India's Constitution: Select Documents*, Vol. I. New Delhi: Indian Institute of Public Administration.
Ray, Amal. 1988. *Tension Areas in India's Federal System*. Calcutta: World Press.
The Hindu. 2007. New Delhi, 12 August.
The Statesman. 1957. New Delhi, 29 March.
———. 2007. '9th Schedule Laws Open to Scrutiny', *The Statesman*, New Delhi, 12 January.
———. 2008. New Delhi, 18 June.
Thummala, Krishna K. 1992. 'India's Federalism under Strees', *Asian Survey*, xxxii(6): 539.
Wheare, K.C. 1988. *Modern Constitutions.* New Delhi: S. Chand and Company.

2 Federalism

LEARNING OBJECTIVES

- To explore the basic issues involved in the evolution and functioning of the Indian federal system.
- To represent a clear picture of the complex and peculiar nature of the Indian polity in which federalism is located.
- To elucidate the factors which conditioned the thinking of Constitution-makers.
- To provide an analysis of the working of the Indian federal system.

The aim of this chapter is to dwell on the evolution of a peculiar form of constitutional arrangement in India that is both parliamentary and federal at the same time. How did the founding fathers justify 'parliamentary-federalism' despite the apparent contradiction between the two? While the parliamentary system is conceptually unitary, federalism is just otherwise. This is a puzzle that needs to be understood in a specific historical context. The British parliamentary model remained a major reference point for the Indian Constitution-makers. Federalism seemed to have provided an institutional arrangement to accommodate India's pluralist socio-political character. Despite being conceptually incompatible, the founding fathers were favourably inclined towards parliamentary-federalism as perhaps the most appropriate institutional set-up for governance in India. Parliamentary federalism is thus a creative institutional response to democratic governance suitable for India's peculiar socio-political milieu. Its resilience can be attributed to a series of adjustment to contextual requirements

which built up and also strengthened its capacity to survive in adverse circumstances.

DEMYSTIFYING INDIAN POLITY

India has a hybrid system of government. The hybrid system combines two classical models: the British traditions, drawn upon parliamentary sovereignty and conventions, and American principles upholding the supremacy of a written constitution, the separation of powers, and judicial review. The two models are contradictory since parliamentary sovereignty and constitutional supremacy are incompatible. India has distinct imprints in her Constitution of both the British and the American principles. In other words, following the adoption of the 1950 Constitution, India has evolved a completely different politico-constitutional arrangement with characteristics from both the British and the American constitutional practices. The peculiarity lies in the fact that despite being parliamentary, Indian political arrangement does not wholly correspond with the British system simply because it has adopted the federal principles as well; it can never be completely American since Parliament in India continues to remain sovereign. As a hybrid political system, India has contributed to a completely different politico-constitutional arrangement, described as 'parliamentary-federalism', with no parallel in the history of the growth of constitutions.[1] Based on both parliamentary practices and federal principles, political system in India is therefore a conceptual riddle underlining the hitherto unexplored dimensions of socio-political history of nation-states imbibing the British traditions and American principles. At the time of the framing of the Constitution, political institutions were chosen with utmost care. In their zeal to create a 'modern' India, the founding fathers seem to have neglected traditions, entirely taking the typical Enlightenment view of treating those values and practices as 'erroneous'. They also wrongly held the view that 'to rescue people from tradition, their intellectual and practical habitats, all that was needed was simply to present a modern option; people's inherent rationality would do the rest'.[2] As the actual political experience in India demonstrates, this was not the case and traditions reappear in various different forms in political articulation of democracy. Thus, instead of disappearing with the

introduction of elections based on universal suffrage, both caste and religion, for instance, continue to cement the bond among the voters, both during the poll and in its aftermath. The principal argument, the chapter seeks to articulate, is concerned with the complexity of the processes that finally led to the formation of a hybrid political system, influenced heavily by both the British tradition and the American principles. In trying to understand the current complexities and future prospects of Indian political system, looking towards European and American precedents is not therefore enough. Instead, it is necessary to understand the historical logic internal to this process. Given the ingrained constitutional peculiarities and their evolution, the chapter further underlines the importance of historical circumstances and socio-economic and cultural distinctiveness in shaping India's political system following the transfer of power in 1947.

Due to peculiar historical circumstances, the consensus that emerged in the Constituent Assembly was in favour of a union with a strong Centre. Arguments were marshalled for a parliamentary form of government and the colonial experience was a constant reference point. In devising the Union-State relations, the founding fathers were influenced by the principles underlying the Constitutions of Canada and Australia, which had parliamentary federalism, and the United States, which had a presidential system. The 1935 Government of India Act seems to have influenced the Assembly to a large extent though the 1950 Constitution was substantially different in spirit and ideology. As it finally emerged, the Constitution has important 'federal' features but cannot be characterized as federal in its classical sense. What it envisages is a unique document, which is, as Ambedkar had articulated, 'unitary in extra-ordinary circumstances such as war and other calamities and federal under normal circumstances'.[3] Hence, India is described as 'a union of states' where the union is 'indestructible' but not the constituent states because their contour and identity can be 'altered' or even 'obliterated'. There emerged a consensus and the Assembly rejected a motion seeking to characterize India as 'a federation of states'. While challenging the motion, Ambedkar sought to expose the logical weaknesses and practical difficulties of imitating the classical federation like the US by saying that:

> …though India was to be a federation, the federation was not the result of an agreement by the States to join in a federation, and that

> the federation not being the result of an agreement, no State has the right to secede from it. The Federation is a Union because it is indestructible. Though the country and the people may be divided into different States for convenience of administration, the country is one integral whole, its people a single people living under a single *imperium* derived from a single source. The Americans had to wage a civil war to establish that the States have no right of secession and that their federation was indestructible. The Drafting Committee thought that it was better to make it clear at the outset rather than to leave it to speculation or to disputes.[4]

So, federalism as a constitutional principle was articulated differently presumably because of the historical context in which the Constitution was made. The Constituent Assembly, Jawaharlal Nehru and Vallabhbhai Patel in particular, 'worried that a more potent federalism in India would weaken feelings of national unity in the country and would make it harder for governments in the Centre to push ahead with the "social revolution" that was needed to secure economic development'.[5] As evident in the discussion in the Constituent Assembly, the framers referred mainly to two traditions: the British and the American. But in the background there was always a third stream—understandably downplayed by Ambedkar and other members—the ideas of Ian Coupland and K.C. Wheare who appeared to have provided the foundational basis of the constitutional experiments in the British Dominions. It is, after all, to the 1935 Government of India Act that owes not only the federal structure and the legislative Acts but also the continuance of the unified legal and financial systems, and such distinctive features as group rights, machinery for resolution of inter-state water disputes, state governors, and Article 356. There had of course been strong opposition to the 'federal' provisions of the 1935 Act that envisaged the future accession of the princes, including the right of secession that figured unambiguously in the 1942 Cripps Mission proposals. The 1946 Cabinet Mission also endorsed the plan for a Central Government with very limited powers and relatively strong provinces having considerable degree of autonomy with all the residuary powers. Despite inputs supporting a weak Centre, the 1950 Constitution provided a scheme of distribution of power that was heavily tilted in favour of a strong Centre. The decision to go for a strong Centre even at the cost of regional autonomy was perhaps conditioned by pragmatic considerations of maintaining

national integrity that received a severe jolt with the acceptance of partition. Ambedkar echoed this feeling in his final report of the Union Powers Committee of the Constituent Assembly by saying, 'it would be injurious to the interests of the country to provide for a weak central authority which could be incapable of ensuring peace [and also] of coordinating vital matters of common concern'.[6] Hence he was in favour of a strong Centre, 'much stronger than the Centre we had created under the Government of India Act of 1935'.[7] What determined the choice of the founding fathers was their concern for unity and integrity of India. As Lokananth Mishra argued, 'It has been our desire and it has been the soul of the birth of freedom and our resurgence that we must go towards unity in spite of all the diversity that has divided us'. The word 'federal' was therefore deliberately omitted in the final draft of the Constitution and India was defined as 'a union of states'. Nonetheless, the Constitution endorsed the federal principle in 'recognition' to the multi-dimensional socio-political and geographical Indian reality by clearly demarcating the constitutional domain of the constituent states within the Union. It is clear that the framers of the Constitution were in favour of a federation with a strong Centre. To avoid friction between the Centre and the constituent states in future, the Constitution incorporated an elaborate distribution of governmental powers—legislative, administrative, and financial—between the Union and provincial governments. Despite a detailed distribution of power between the two levels of government, the Union government is constitutionally stronger simply because the framers wanted so.

FEDERALISM IN INDIA

The classical federations, such as the USA, Australia, and Canada are the outcome of 'the coming together' syndrome because the existing sovereign polities voluntarily enter into an agreement to pool their sovereignty in a federation, while most of the contemporary federations are illustrative of 'holding together' federations due to circumstances in which the Centre agreed to 'devolve' power for holding the federal units together. India is a good example of this category because the Constituent Assembly, despite having defended a strong Centre to contain lawlessness immediately after

Independence, was clearly in favour of decentralization of political authority as a clear guarantee for 'holding' India together. As B.R. Ambedkar argued, '…the chief mark of federalism lies in the partition of the legislative and executive authority [and] between the centre and units of the constitution…'[8] though the Constitution can be federal or unitary according to the requirements of time and circumstances. Yet the Centre 'cannot, by its own will, alter the boundary of that partition. Nor can the judiciary … [because it] cannot assign to one authority powers explicitly granted to another'. Generally speaking, whether a political system is federal is determined by these five criteria which are as follows:

1. Dual or two sets of government—one at the Centre, national or federal and the other at state or provincial levels.
2. Written Constitution—list of distribution of powers though the residuary powers generally rest with the federal government.
3. Supremacy of the Constitution.
4. Rigidity of the Constitution—the Constitution can be amended by a special majority followed by ratification by at least half of the states, barring 'the basic structure' of the Constitution.
5. The authority of the courts as regards the interpretation of the constitutional provisions.

In the light of the above criteria, there was no doubt that the founding fathers preferred federalism in its true spirit and yet what emerged after the deliberations in the Constituent Assembly was a unique form, adapted to the Indian context. As Ambedkar argued, the draft constitution contained provisions that provide for both federal and unitary forms of government. 'In normal times, it is framed to work as a federal system,' stated Ambedkar. But in times of war:

> …it is so designed as to make it work as though it was a unitary system. Once the President issues a Proclamation which he [*sic*] is authorized to do under the Provisions of Article 275, the whole scene can become transformed and the State becomes a unitary state.

Ambedkar showed extreme caution while defending provisions for federalism. There was no doubt in his mind that Indian federalism was to be adapted to 'the local needs and local circumstances'. But this very diversity, 'when it goes beyond a certain point, is capable

of producing chaos'. Hence '[T]he Draft Constitution has,' argued Ambedkar, 'sought to forge means and methods whereby India will have Federation and at the same time will have uniformity in all the basic matters which are essential to maintain the unity of the country'.[9] Three important means capable of holding the country together were thus identified: (*a*) a single judiciary; (*b*) uniformity in fundamental laws, civil and criminal; and (*c*) a common All India Civil Service to man important posts.

There is no doubt that the founding fathers took ample care in creating a constitutional arrangement which is 'federal' in a very specific sense. The system that emerged in India was hardly comparable with any of the prevalent federations. What was critical in their vision was perhaps the fact that federalism is not merely a structural arrangement for distribution and sharing of power between the federal partners, it is also a culture sustaining its very spirit. Its emergence and later consolidation in India is slightly paradoxical since it is the product of two conflicting cultures: one representing the national leaders' 'normative' concern for India's multicultural personality, shaped by its unique history and geography, and the other underlining their concern for unity, security, and administrative efficiency. While the former led to the articulation of federalism, as laid down in the 1950 Constitution, the latter resulted in the retention of the very state machinery which consolidated the colonial rule in India. The net result was the articulation of a semi-hegemonic federal structure that drew largely upon the 1935 Government of India Act. Nonetheless, the federal system that supported unwarranted centralization of power appeared to be the most suitable alternative for nation building in India. However, the situation radically changed following the articulation of new demands by hitherto peripheral socio-political groups. The aim here is to grasp the processes that contributed to this significant metamorphosis of India's federal system in the context of constantly changing domestic and global situation.

THE FEDERAL ARRANGEMENT: ITS EVOLUTION

The British colonial rule introduced federalism in phases, partly in response to the nationalist demand for decentralization of power and partly to implement the liberal principle of 'self-rule' in colonies. Despite its organic roots in colonialism, federalism was

also an outcome of the growing democratization in India, which the Gandhi-led nationalist movement facilitated. In short, the legacy of colonialism, partition, and the vision of nation building—all contrived to create a centralized federation that hardly corresponds with its classical form. Two major constitutional inputs from the colonial past seem to be critical in the evolution of federalism in India. First, the 1918 Montague-Chelmsford Report on constitutional reforms and later the 1929 Simon Commission Report strongly argued for decentralization of authorities among the constituent provinces as perhaps the best administrative device in 'politically-fragmented and strife-ridden India'.[10] In its report, the Simon Commission made a strong plea for a federal constitution by stating that 'the ultimate Constitution of India must be federal, for it is only in a federal constitution that units differing so widely … can be brought together while retaining internal autonomy'. The second serious intervention happened to be the Government of India Act, 1935 that provided for the distribution of legislative jurisdictions with the three-fold division of powers into federal, provincial, and concurrent Lists. The Act also led to the establishment of a federal court to adjudicate the disputes among units of the federation and also the appellate court to decide on the constitutional questions. On the fiscal front, the Act provided a detailed scheme of sharing of revenue that, in fact, laid the foundation of fiscal federalism in independent India.

While for the colonial ruler federalism was politically expedient, for the nationalist it emerged as possibly the best constitutional arrangement for the country which was socio-politically so disparate. The Congress developed its own federal scheme, being organized on linguistic lines. As early as 1928, the Indian National Congress unanimously thus decided for regrouping of provinces 'on a linguistic basis [since] language as a rule corresponds with a special variety of culture of traditions and literature. In a linguistic area all these factors will help in the general progress of the province'. The second equally important consideration:

> …is the wishes of the majority of the people [because] people living in a particular area feel that they are a unit and desire to develop their culture … even though there may be no sufficient historical or cultural justification for their demand…. [A third consideration], though not of the same importance, is administrative convenience, which would include the geographical position, the economic

> resources and the financial stability of the area concerned. But the administrative convenience is often a matter of arrangement and *must as a rule bow to the wishes of the people* (emphasis added).[11]

What is striking in this 1928 Report is the fact that the pluralist character of the Indian polity was a significant determinant in devising a constitutional arrangement for the country. The Congress leadership seemed to be appreciative of this principle and thus endorsed regional grouping on the basis of distinct cultural traits, including language.

With the above perspective in mind, let us dwell on the actual federal structure of governance as it evolved immediately after the transfer of power. For B.R. Ambedkar, the choice was categorical since:

> …the draft constitution is a Federal Constitution in as much as it establishes … Dual Polity [with] the Union at the centre and the States at the periphery, each being assigned with sovereign powers to be exercised in the field assigned to them respectively by the Constitution. The States in our Constitution are in no way dependent upon the Centre for their legislative and executive authority. [T]he Centre and the States are co-equal in this matter. [I]t is therefore wrong to say that the States have been placed under the Centre.[12]

Ambedkar's clear preference for a specific type of federal polity did not match with the provisions of the 1950 Constitution which heavily tilted in favour of the 1935 Government of India Act. What probably conditioned the choice of those who presided over free India's destiny was a pragmatic consideration of transforming India into 'a Union out of the patch work quilt of [British Indian] Provinces and Princely States'.[13] Given the large number of princely states that enjoyed paramountcy during the colonial rule, the task of bringing them under the Union was difficult. Moreover, the decision of the Muslim majority provinces of British India to constitute themselves into Pakistan aroused the apprehension in the minds of the nationalist leadership in India that they might have to face further attempts at secession from a future Indian union. However, the very apprehensions that produced a desire for stronger central authority also led to a counter-tendency in the form of demands from several states for greater autonomy. There were also members drawing inspiration from 'the Gandhian tradition for greater decentralization of institutions, down to the district and village level'[14]

who pressed hard for greater autonomy of the states as a precaution to the growth of an authoritarian Centre.

There is another distinctive feature that clearly separates Indian federation from its counterparts elsewhere. Indian federalism is a distinct case of 'asymmetrical' federalism that characterizes a federation in which some of the units are accorded weightage under imperative of compelling historical or cultural factors necessitating 'special constitutional recognition'. One comes across four kinds of asymmetries in Indian federation: first, there is universal asymmetry with regard to the constituent provinces because they are represented in Rajya Sabha on the basis of their demographic strength unlike the American system where each state has two members in the Senate regardless of the strength of population. Second, there are specific asymmetries as regards administration of tribal areas, intra-state regional disparities, law and order situation and fixing the number of seats, as per Article 371 of the Constitution, in states like Maharashtra, Gujarat, Manipur, Assam, Andhra Pradesh, Arunachal Pradesh, Sikkim, and Goa. Third, the areas identified as union territories, altogether seven in 2006, enjoy special constitutional status. Last, there is a stark asymmetry vis-à-vis Jammu and Kashmir, Nagaland, and Mizoram. While Article 370 accords 'special status' to Jammu and Kashmir, Article 371 guarantees special privileges to Nagaland and Mizoram.

As the discussion shows, Indian federalism, or for that matter any constitutional arrangement, is contextual and is thus relative to the polity in which it has evolved over a period of time. T.T. Krishnamachari, a member of the Constituent Assembly thus argued that federalism 'is not a definite concept; it has not got any stable meaning. It is a concept the definition of which has been changing from time to time'. Hence it is theoretically misleading and empirically wrong to characterize Indian federalism in a simple straightjacketed formula. As a constitutional format, federalism is constantly reinvented and the governing principles are thus regularly redefined. In recent times, the federalization process has been augmented by the more active role of the new incumbents of federal institutions—the President, the Election Commission, and the Supreme Court of India. The President and the Election Commission have become more watchful to ensure that the rules of the game in their restrictive constitutional jurisdiction are respected by the political and administrative authorities.

While deliberating to decide on the shape of the independent India, the framers of the Constitution seemed to be in a somewhat dilemmatic situation, not owing to differences amongst themselves, but due to the incongruity in their past experiences, present set-up and the future prospective scenario of the country. Historically, owing to the vast diversity in the spatial character of the country, coupled with the localized structure of society and economy, as well as the dispersed structure of political authority, both people and local governments have had enjoyed considerable degree of autonomy for a very long period of time till the establishment of British rule in the country. Adept at running a unitary government at home, the British rulers, in an urge to tighten their grip over whole of the country, ruptured the existing order to replace it with a highly centralized colonial administration. Caught in this paradoxical past and the present, the framers were called upon to devise a system for the country that would serve the future polity on a satisfying and durable basis.

Apart from the previous experiences, the state of things at the time of Independence, particularly concerning the unity and integrity of the nation, also weighed heavily in the minds of the framers while settling down on the shape of things for independent India. Though there was no doubt that the country would be accorded a decentralized system of governance, there existed certain discordant notes on the extent of the decentralization. For instance, while agreeing that the Union Government should collect the revenues and then distribute it among the states, the members vehemently urged for an increased share of revenue for the state governments. Thus, as Austin reveals, the most singular aspect of the drafting of the federal provisions was the relative absence of conflict between the 'centralizers' and the 'provincialists', for, the framers had embraced the doctrine of 'cooperative federalism' as the guiding spirit of the Indian federal set-up.[15]

Ultimately, the final shape of the provisions on federalism emerged to be typically Indian with no parallel in any of the Constitution in the world. Structurally, the Constitution definitely created a federal polity in the country but the provisions were also made to create such a strong Central Government that the labelling of such a system as a federation would have appeared improper. The Constitution, therefore, branded India as a 'Union of States',

instead of a federation, the technicality of which was explained by Ambedkar as such:

> The Drafting Committee wanted to make it clear that though India was to be federation, the federation was not the result of an agreement by the states to join in a federation, and that the federation not being the result of an agreement, no state has the right to secede from it. The federation is a Union because it is indestructible.

Moreover, operationally, as he explained:

> [It would be] a federal Constitution inasmuch as it establishes what may be called a Dual Polity (which) …will consist of the Union at the Centre and the States at the periphery, each endowed with sovereign powers to be exercised in the field assigned to them respectively by the Constitution.[16]

Still, the Constitution avoided the 'tight mold of federalism' in which the American Constitution was cast so that it could become 'both unitary as well as federal according to the requirements of time and circumstances.[17]

Thus, though the framers of the Constitution were clear in their perceptions of the nature of federal polity in India, as expressed in the famous description of Rajendra Prasad, 'Whether you call it a federal Constitution or a unitary Constitution, or by any other name… it makes no difference so long as the Constitution serves our purpose', legal luminaries could not resist the temptation of unearthing the strong unitary features inherent in the Constitution and give a distinct nomenclature to it as per their own understanding of the Indian federation. The descriptions like 'quasi-federal' (K.C. Wheare), 'federal state with subsidiary unitary features' (Ivor Jennings), and 'paramountcy federation' (K. Santhanam) were provided apparently to negate the federalizing characteristics of the Indian Constitution rather than to put them in right perspective. In sum, therefore, it appears that the fathers of the Constitution in India devised an altogether new notion of federalism, which as Livingstone has pointed, though in some other context, should be known by its functional dynamics rather than its institutional orientation.[18]

A look at the functioning of federalism in India during the last almost five decades reveals a picture of ups and downs in honest

operationalization of the constitutional provisions in letter and spirit, based on the political exigencies of the times. During the reign of Jawaharlal Nehru, in the formative years of the constitutional government in India, the Centre-state relations progressed fairly, if not absolutely, well seemingly due to the existence of the Congress-led governments at both the Centre and the states, though marked tendencies towards centralization were apparent in many areas of governmental functioning. Institutionalizing centralization, as Austin charges Nehru with, notwithstanding the underlining characteristics of Nehru's regime were the harmonious co-existence with the state governments on the one hand, and the apparently centralizing moves justified by the circumstantial compulsions of the times, on the other.

Indira Gandhi's arrival at the helm of affairs of the Central Government added a new phase in the structure and functioning of democratic institutions in general and federal relations in particular, in India. Faced with a number of problems and pursuing a vision of her own for the country, she tried to change the constitutional character of the federal relations in the country through the Twenty-fourth and Twenty-fifth Amendments evoking sharp, if not subversive, reactions from the non-Congress state governments, the staunchest of which came in the form of the Tamil Nadu government appointed Rajamannar Committee.[19] Subsequently, the opposition chief ministers raised a banner of 'constitutional revolt' during early 1980s in protest against the subtle moves to turn the country into a unitary system, putting Indira Gandhi in a tight position, to which she responded by appointing Sarkaria Commission on Centre-State Relations in 1983 in order to have comprehensive review of the Centre-state relations in the country. It came out in 1987 with the most reasoned arguments, diagnosing the ills of the structure and functioning of the Centre-state relations and suggesting plausible remedial measures for the same.

The contemporary phase of the working of federal system in the country, which is said to have begun in late 1980s, with the onset of the era of coalition and relatively weaker governments at the Centre, has been marked by a reversal of roles of sorts for the major players of the game. To put it differently, if during the times of Jawaharlal Nehru and Indira Gandhi, the Central Government, by hook or by crook, tried to bully the state governments and over-centralize

the already centralized constitutional framework of the Centre-state relations in the country, in the present phase of Centre-state relations, the over-bearing coalition partners with their roots and political vision predominantly, if not totally, confined to particular states, so much guide and sometimes dictate the policies and actions of the Central Government that India appears to be a classic case of a federation where the states are autonomous, with the Central Government functioning in accordance with their sweet wishes. What is remarkable, however, in this context, is the fact that even the parties which were staunch supporters of the demand for state autonomy like the National Conference and Dravida Munnettra Kazhagam (DMK), did not press for any serious effort at recasting the basic parameters of the Centre-state relations in the Constitution, when they were, as in the case of the former or are, as in the case of the latter, in a position to dictate their terms to the Central Government. Rather, the move of the NDA government, for obvious political reasons, to appoint a National Commission to review the working of the Constitution under the chairmanship of Justice M.N. Venkatachelliah, proved to be a whimper as the Commission in its report stood by the broader recommendations of the Sarkaria Commission and failed to cast any aspersion on the structural and functional viability of the Constitution of India. Crucially, thus, the constitutional provisions on Centre-state relations have proved to be all-weather, if not infallible, ones capable of meeting out the requirements presented by the changing governments adhering to different ideologies and headed by leaders of variegated leadership styles, without undergoing any permanent dent leading to the subversion of the Constitution.

Federalism is thus no longer a constitutional format of distribution of power, but a process that is being constantly reinvented in view of the rapidly changing socio-economic and political circumstances in which it is rooted. The growing assertiveness of major political institutions holding the federal balance, such as the Supreme Court, the President, and the Election Commission have radically altered the centre of gravity. In the famous 1994 Bommai judgement, the Supreme Court quashed the decision of the Union government to impose president's rule in Karnataka under Article 356 by underlining that:

> [D]emocracy and federalism are essential features of the Constitution and are part of its basic structure.… States have an independent

> existence and they have as important role to play in the political, social, educational and cultural life of the people as the Union. They are neither satellites nor agents of the Centre.

The unanimous judgement by the nine-judge constitutional bench held that any proclamation under Article 356 is subject to judicial review. The judgement further endorsed that Article 74(2) does not bar the court from summoning the material that guides the cabinet in deciding in favour of imposition of president's rule in a state. This path-breaking ruling radically altered the Centre-state relations by 'the federal compact of a new institutional force'.[20]

There is one final point concerning the gradually changing nature of the structure of governance, as it has emerged in India retaining the 'basic' structure of the 1950 Constitution. As a hybrid political system, India is neither fully parliamentary nor federal. The 1950 Constitution has devised an elaborate system of distribution of powers. So, it is federal following the principles enshrined in the American Constitution. It is not federal because the Constitution has failed to acknowledge the need to make the central institutions of government fully federal through bicameralism. Instead, the Constitution is clearly in favour of 'an obsolescent' Westminster model of parliamentary government that is clearly 'unitary'. Yet the script of Indian federalism is being constantly rewritten given the changing nature of its context. For instance, the radical departure from the established federal arrangement happens to be the recent local government amendments of 1992, which require the states to devolve power and resources permanently to the control of three-tier local panchayats from grassroots to district levels. Furthermore, the political processes however have led to the gradual but steady importance of inter-governmental agencies like the National Development Council (NDC) and Inter-State Council (ISC). Identified as 'federal' agencies, these structures are clearly those with potentials for radically altering the governance format.[21] However, at present these institutions do not appear to be effective in the context of economic liberalization when there is a clear shift from 'inter-governmental cooperation' to 'inter-jurisdictional competition'. While there are institutions like the NDC or ISC to tackle the former, there is no formally constituted agency except the ad hoc conferences of chief ministers and the inter-state Water Commission to grapple with the emerging tensions arising out of Centre-state relations. In the light of the increasingly competitive patterns of

federal relations, this absence creates 'a problem for the horizontal integration of the states in India'.[22]

CONCLUDING OBSERVATIONS

There is no doubt that India's politico-constitutional structure has undergone tremendous changes to adapt to changing circumstances. Parliament continues to remain supreme, at least constitutionally, though it has considerably lost its authority probably due to the decline of the single-party rule and the critical importance of the regional parties in governance in contemporary India that itself is, argues Granville Austin, 'symptomatic of increased national unity, not of integrity threatened'.[23] Under the changed circumstances, what is evident is a clear shift of emphasis from the Westminster to federal traditions, more so, in the era of coalition politics when no single political party has an absolute majority in Parliament. For practical purposes, the scheme the framers had adopted to bring together diverse Indian states within a single authority was what is known as 'executive federalism'—a structure of division of powers between different layers of governmental authorities following clearly defined guidelines in the form of 'Union', 'State' and 'Concurrent' lists in the Seventh Schedule of the Constitution of India. Due to compulsions of circumstances arising out of coalition politics, the constituent states do not remain mere instruments of the Union; their importance is increasingly being felt in what was earlier known as 'the exclusive' domain of the Centre. Although India has an executive-dominated parliamentary system, backed by a powerful all-India service dominating the over-centralized governance, a process seems to have begun towards 'legislative federalism' in which the upper chamber representing the units of the federal government is as powerful as the lower chamber. Drawn upon the American federalism where the Senate that holds substantial power in conjunction with the House of Representatives, legislative federalism is an arrangement, based on an equal and effective representation of the regions. The decisions, taken at the union level, appear to be both democratic and representative given the role of both the chambers in their articulation. In other words, legislative federalism in its proper manifestation guarantees the importance of both the chambers in the decision-making process

that no longer remains the 'exclusive' territory of the Lower House for its definite representative character. Not only will the upper chamber be an effective forum for the regions, its role in the legislative process will also be significant and substantial. If properly constituted, it could be an institution that represented the regions as such, counterbalancing the principle of representation by population on which the Lower House is based. It will also be a real break with the past since India's politico-constitutional structure draws upon the Westminster model with a strong Centre associated with unitary government.

Parliamentary federalism is a unique hybrid system of governance in which the apparently contradictory tendencies are sought to be managed. What has emerged in India during the course of more than half a century does not correspond with any of the classical models of government. Indian political structure is neither strictly unitary nor purely federal; it is a form in which the elements of both are traced and are evident.[24] Distinct from the classical types for obvious reasons, Indian political system offers a unique model drawing upon both the British tradition of parliamentary sovereignty and the American federal legacy in which regions seem to be prior to the centre. This is essentially a hybrid system of governance that has emerged due to a peculiar unfolding of socio-political processes in the aftermath of India's rise as a nation-state. Parliamentary federalism is therefore not merely a structural device for distribution of powers between different layers of government it is also an articulation of a basic philosophy accommodating diverse regional interests in the name of a nation.

NOTES

1. Canada is another hybrid system that combines the British tradition with the American principles.
2. See Kaviraj 2000: 155.
3. See Constituent Assembly 1948: 34–35.
4. Ibid.: 43.
5. See Corbridge and Harriss 2005: 29.
6. See Rao and Singh 2005: 47.
7. See Constituent Assembly 1948: 892.
8. See Constituent Assembly 1950: 976.
9. See Constituent Assembly 1948: 36–37.
10. See Rao and Singh 2005: 44.

11. See All Parties Conference 1928: 62–63.
12. See Constituent Assembly 1949: 976.
13. See Ved 1998.
14. Ravinder Kumar elaborated this point in his 'Securing Stability: No Cause for Constitutional Reforms', *The Times of India*, New Delhi, 15 September 1998.
15. See Austin 1999: 186–87.
16. See Constituent Assembly 1948: 33–34.
17. Ibid.
18. See Livingston 1956: 6–7.
19. See Centre-State Relations Enquiry Committee 1971.
20. The Bommai judgement is quoted from Sezhiyan 2006.
21. The forums and agencies that constitute the lifeline of the process of federalization in India are (*a*) inter-governmental agencies, namely, National Development Council, Inter-State Council, and ministerial and secretarial level meetings; (*b*) federal agencies having implications for states as well. For instance, the Finance Commission, the Planning Commission, a number of independent regulatory authorities in sectors such as electricity, telecommunications, Central Vigilance Commission, Central Bureau of Investigation, Central Reserve Police Force, and so on; and (*c*) inter-state conferences of chief ministers, either all of them or those from one particular ideology or political persuasion. Apart from these agencies, the National Integration Council, created by Jawaharlal Nehru in the wake of the 1962 war with China, is another inter-governmental device involving important personalities from all walks of life apart from those associated with the functioning of the government machinery, both at the central and state levels.
22. See Saez 2002: 158.
23. See Austin 2002: 342.
24. The fate of federalism in India is quite mixed. Federalism was eroded in the 1970s and 1980s, and the imperatives of party politics seem to have strengthened it during the 1990s. Even during the heyday of the Congress rule during the single-party dominance phase (1947–66), no state has ever been held responsible for 'fiscal' indiscipline. Indeed the constitutional provision for declaring financial emergencies in states has never been used since Independence despite appalling financial conditions in some states. What it means is that even during the heyday of 'centralization', the Centre was not able to exercise leverage over the states as much as we seem to think; though the Centre intervened to change chief ministers and dismiss governments, which is certainly a significant dimension of centralization.

REFERENCES

All Parties Conference. 1928. *Report of the Committee Appointed by the Conference to Determine the Principles of the Constitution of India*. Report submitted to All India Congress Committee, Allahabad.

Austin, Granville. 1999. *The Indian Constitution: Cornerstone of a Nation.* New Delhi: Oxford University Press.

Austin, Granville. 2002. 'The Expected and the Unintended in Working a Democratic Constitution', in Zoya Hasan, E. Sridharan and R. Sudarshan (eds), *India's Living Constitution: Ideas, Practices, Controversies.* New Delhi: Permanent Black.

Centre-State Relations Enquiry Committee. 1971. *Report of the Centre-State Relations Enquiry Committee*. Report submitted to Government of Tamil Nadu, Madras.

Constituent Assembly. 1948. *Constituent Assembly Debates, Volume VII*. New Delhi: Government of India.

———. 1949. *Constituent Assembly Debates, Volume XI*. New Delhi: Government of India.

———. 1950. *Constituent Assembly Debates, Volume XII*. New Delhi: Government of India.

Corbridge, Stuart and John Harriss. 2005. *Reinventing India: Liberalization, Hindu Nationalism and Popular Democracy*. New Delhi: Oxford University Press.

Kaviraj, Sudipta. 2000. 'Modernity and Politics in India', *Daedalus*, Winter, 129.

Kumar, Ravinder. 1998. 'Securing Stability: No Cause for Constitutional Reforms', *The Times of India*, 15 September.

Livingston, W.S. 1956. *Federalism and Constitutional Change*. London: Frazer.

Rao, M. Govinda and Nirvikar Singh. 2005. *Political Economy of Federalism in India.* New Delhi: Oxford University Press.

Saez, Lawrence. 2002. *Federalism Without a Centre: The Impact of Political and Economic Reform in India's Federal System.* New Delhi: Sage Publications.

Sezhiyan, Era. 2006. 'Council of States Or Council of Nominees', *The Hindu*, New Delhi, 3 February.

Ved, Mahendra. 1998. 'Honouring Sardar Patel: Bismarck of India', *The Times of India*, New Delhi, 22 August.

3 The Executive System in Theory and Practice

LEARNING OBJECTIVES

- To provide an explanation of the factors influencing the adoption of the particular executive system in the country.
- To illustrate the various institutions and functionaries constituting the executive system like the President, Prime Minister, and the Council of Ministers.
- To assess the role of civil services as a part of executive, their problems, and prospects of reforming them.

As for many other things, the Constitution of India by providing for a distinct system of executive in Indian political system may, arguably, be taken to have made an innovation of sorts, for, despite being designed on the pattern of British parliamentary system, a number of marked modifications have been made to make it suitable for the Indian requirements. Ordained to fit into the mosaic of socio-economic and politico-strategic peculiarities called India, the executive system is enriched by several features drawn from the constitutions, other than the British, as the major, if not whole, set of operational circumstances for the executive in India is different from that of Britain. For instance, the homogeneous and unitary characteristics of the British society and polity, respectively, are markedly different from the heterogeneous and federal features of Indian society and polity, requiring a different set of operational parameters for the executives in the two countries. Thus, though rooted in the broad spectrum of the British parliamentary democracy, the Indian executive system departs from that of the British in terms of an elected Head of State in the form of President in place of

a hereditary monarch; supremacy of the Constitution instead of the supremacy of Parliament; and the overbearing authority of the Supreme Court to test the constitutionality of the executive orders and parliamentary enactments as against the final authority of Parliament in all matters of constitutional disputes. The Indian executive system, in later years, turned out to be the model for a majority, if not all, of the developing countries who were looking for a suitable system of governance, different from the straight-jackets of the Western countries, for them after getting independence. In this chapter, an analysis of the theory and practice of the Indian executive is presented with reference to the institutions of the President, the Prime Minister, the Council of Ministers, and the bureaucracy.

ADOPTING THE EXECUTIVE SYSTEM

Despite the omnipresent sound bytes for the adoption of a democratic system of governance for the country, the fathers of the Constitution were not hundred per cent sure of the nature and type of the executive system, to begin with. The conditions of a direct and responsible government were fulfilled by most of the existing executive systems of Europe and America from where the Constituent Assembly was trying to transplant a model in India. Of the three existing major types of executive: the British cabinet system, the Swiss elected executive, and the American presidential system the two that attracted the attention of the framers were the British and the American systems. Though the majority of the members of the Assembly were fascinated by the parliamentary executive, a few members, interested in providing for a foolproof protection to the rights of the Muslim minorities amidst the fear of a Hindu majority government in independent India, were vying for the system of government obtained in America. Finally, the Assembly agreed upon the desirability of having a parliamentary executive in which the executive and the legislative branches of government would work in supplementing the efficacy and effectiveness of each other rather than working at cross purposes. As A.K. Ayyar reasoned out, 'An infant democracy cannot afford, under modern conditions, to take the risk of a perpetual cleavage, feud

or conflict or threatened conflict between the legislature and the executive.'[1]

Once the broad decision to opt for the parliamentary executive was taken, the task at hand now was to fine-tune the niceties of the system to make it adept to the Indian situation. Initially, in the scheme of things proposed from various quarters, there were suggestions of direct election of the President and vesting him/her with specified special responsibilities in the exercise of his functions. The provision for an Instrument of Instructions was also suggested to guide the President in the exercise of his functions and to check him from turning into an overreaching Head of State. However, the incongruity of such provisions with the spirit of the parliamentary executive was obvious, and therefore, under the persuasions of many members, notably Nehru, the Drafting Committee set all such suggestions on the office of President aside. Finally, in keeping with the letter and spirit of the British parliamentary system, it was provided that the executive power of the Union would vest with the President who must exercise such powers in accordance with the aid and advice of the Council of Ministers, with the Prime Minister at the head, and the advice so tendered would be binding on the President. Thus, as Jawaharlal Nehru pointed out in the Assembly, 'We want to emphasize the ministerial character of the Government, that power really resided in the ministry and in the legislature and not in the President as such.'[2]

Functionally, the constitutional scheme of parliamentary executive, as devised by the Constituent Assembly, is supposed to work in accordance with the written provisions of the Indian Constitution as well as the tacit conventions of the cabinet government, as practised in Britain though all such conventions would not have been incorporated in the Constitution as written provisions. Moreover, the subtle motive of the framers, as understood by Austin, in opting for the parliamentary executive, was to provide 'strength with democracy'[3] to the political system of the country, for, as noted by K.M. Munshi, 'the parliamentary system produces a stronger government, for (*a*) members of the Executive and Legislature are overlapping, and (*b*) the heads of government control the Legislature,'[4] though, at the same time, it ensures that the people get the chance to elect their representatives to form the House of People (Lok Sabha), from which the body of the Council of Ministers, including the Prime Minister is drawn, primarily.

THE PRESIDENT[5]

Under the Constitution, the office of the President has been made analogous to that of the British monarch in keeping with the spirit of the parliamentary executive, which the country has drawn from the latter, albeit with certain modifications in the form, not the substance of the cabinet government. Moulded in the frame of the ceremonial Head of State, though the office of the President is an exalted one, with enormous prestige, authority, grace, dignity, respect, and adoration, its utmost utility lies in remaining as the constitutional head without even an iota of activism in real-politik. The repositing of all the executive powers of the Union in this office (Article 53) has been based on the assumption of the President remaining a rubber stamp of the government to authenticate the decisions taken by the Council of Ministers, barring an extremely few cases ordained by the circumstances. In fact, in the Constituent Assembly, at one point of time, when there was the talk of affording the President with some discretionary powers, the major concern of the members was not with the extent of those powers but with the provision of formidable checks to deter him from usurping the powers and functions of other functionaries of the government.[6] All attempts by different presidents to adorn an activist role, therefore, met with strong denouncement not only by the Council of Ministers but also by the constitutional luminaries of the country.

Keeping in view the position of the President in theory and practice, various conditions of his office have been provided for in the Constitution. Thus, though any Indian with thirty-five years of age and eligible to be elected to 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 entered the august office. Similarly, the mode of election for the office of President is indirect through an electoral college consisting of the elected members of both Houses of Parliament and the elected members of the State Legislative Assemblies—where the vote is calculated according to a formula devised by N.G. Ayyangar[7] to give just weight to the provincial population. Elected for a term of five years, with an entitlement for re-election, no President, except Dr Rajendra Prasad, has been re-elected to office, thereby setting a convention of sorts

that the President should not be re-elected to the office.[8] Finally, the President may be removed from the office by the process of impeachment on the charges of violation of the Constitution. Thus, though the various aspects of the office of President have been so designed as to contribute to his figurehead and ceremonial position, by providing for a cumbersome process of his removal from office, the Constitution has 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.

Powers and Functions of the President

Calling him the Chief Executive of the Union (Article 52), the Constitution vests the executive powers of the Central Government in the President, to be exercised by him either directly or through officers subordinate to him, in accordance with the Constitution (Article 53). In this capacity, the President has been accorded such a central position in the governance of the country that each and every significant institution and functionary stated in the Constitution is directly or indirectly attached to him. Though the various organs of the government have been given distinct status and functional space by the Constitution, an organic link amongst them has been sought to be established through the office of the President. The powers and functions of the President, therefore, underpin each and every vital activity of the state in India.

The executive powers of the President primarily means the execution of the laws enacted by the legislature, and the power of carrying on the business of government as well as the administration of the affairs of the state.[9] The core of the executive functions of the President appears to be the appointment, in accordance with the prescribed procedure, of high dignitaries of the state including the Prime Minister, other ministers of the Union, the Attorney General, the Comptroller and Auditor General (CAG), and Judges of the Supreme Court and the high courts, Governors and other civil, military, and diplomatic officials of the Union, though, he has also been designed to be the Supreme Commander of the armed forces and diplomatic business of the country is conducted in his name.

Amongst his integrative functions, legislative and judicial functions stand out. Made an inalienable part of the Parliament, he is

vested with the power to summon the sessions of each House of Parliament, prorogue the houses, and dissolve the Lok Sabha. More importantly, he can address both the houses at certain occasions and send messages to either House of Parliament, apart from nominating twelve members to Rajya Sabha and two members to Lok Sabha. The criticality of the President's legislative powers lies in his giving assent to the bills passed by the Parliament to give them the status of law and prior recommendation to the money bills. Similarly, the power to issue ordinances when the Parliament is not in session allows the President to don the mantle of a legislature in certain cases. Judicially, the President is vested with the power to grant pardon, reprieve, respite or remission of punishment, and suspend or commute a sentence of a person. Significantly, he can also refer any matter of constitutional law to the Supreme Court for advice, which, otherwise, is not binding on him.

Exceptionally, the President is conferred with enormous emergency powers, to be exercised in (*a*) a situation arising out of war, external aggression or armed rebellion (Article 352); (*b*) failure of constitutional machinery in a state (Article 356); and (*c*) financial emergency (Article 360). Though envisaged precisely to defend the security and unity of the country, the provision under Article 352 was on certain occasions put to flagrant misuse as in 1975. Similarly, the provisions under Article 356 have been made to meet out a typical situation in a state, which, unfortunately, have also been remorselessly misused by successive governments at the Centre, resulting into the demand for the scrapping of this Article. The financial emergency, luckily, has not been imposed till date, signifying the soundness of the financial structures and processes in the country.

Actual Position of the President

A glimpse at the powers and functions of the President with a non-holistic perspective of the constitutional vision may lead a novice to draw misplaced conclusions about him. What, therefore, becomes indispensable is that the actual position of the President must be clarified immediately after elaborating his constitutional powers and functions. Hence, as Ambedkar succinctly pointed out in the Constituent Assembly:

> Under the Constitution, the President occupies the same position as the king under the English Constitution. He is the head of the state but not of the executive. He represents the nation but does not rule the nation. He is the symbol of the nation. His place in the administration is that of a ceremonial device on a seal by which the nation's decisions are made known.[10]

Echoing this, Article 74(1) envisages that there shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President who shall, in the exercise of his functions, act in accordance with such advice, to settle full and final the position that the President can never think of acting without the aid and advise of the Council of Ministers.

However, a few presidents, beginning with Dr Rajendra Prasad, who not for 'entirely personal' reasons but with a view 'to enable the Presidency to assume authority and continuity, should the nation, or more particularly the Union Government, ever undergo political upheaval',[11] sought to attribute vastly greater powers to the office of President than ordained by the Constitution and act in slightly independent manner. Unexpectedly, Prasad's spar with Nehru 'strengthened the Constitution by establishing the firm precedent that within the Executive the cabinet is all powerful,[12] as both A.K. Ayyar and Attorney General M.C. Setalvad reasoned out against the contention of Prasad. After almost forty years, in 1987, President Giani Zail Singh, presumably, for more personal than constitutional reasons, for the first time since the inauguration of the Constitution, used the unknown tool of pocket veto to withhold his assent to the Indian Post Office (Amendment) Bill passed by Parliament. He, however, restrained himself from taking any more untoward step, thereby avoiding any sort of constitutional crisis in the country. Barring these two aberrant situations, the constitutional position in the country seems to have been conclusively dovetailed by transplanting the British Constitution into the Indian constitutional matrix.

Does Indian President Have Any Discretionary Power?

In spite of the finality of the issue that the President in India is merely a figurehead without any real powers, circumstantial dynamics

may probably afford him few, if not many, occasions to use his discretion in taking decisions. Three such circumstances are:

First, when after a fresh general elections, 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. Last, due to the lack of time frame within which the President must assent to a Bill, he may, in his discretion, use the pocket veto to kill a Bill.

Apart from the earlier mentioned scenarios, several other issues have also been raised to fix, as much as possible, the position of the President in India. Thus, crucially, to what extent can the President use his conventional power 'to advice, to encourage and to warn'[13] to secure more authority and influence for him? What remedy does the President possess if the Prime Minister fails to discharge his constitutional duty to keep him informed of the activities and decisions of the Government, under Article 78 of the Constitution? 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 sixty 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. Despite a division of opinions amongst the experts on such issues many of which, if not all, defy constitutional straightjacketing, it appears that the problems, in practice, have been made a mountain out of a molehill, more due to the lack of cordiality in the relationship between the two constitutional authorities than the importance of the constitutional issues involved in the disputes. The solution, therefore, lies probably 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 wisely, the President can function effectively only if he has the confidence

of the Prime Minister and not vice versa[14] as 'the President is by convention reduced to a mere figurehead while the Ministry is the real executive.'[15]

THE PRIME MINISTER

In contrast to the ceremonial position of the President, the Prime Minister happens to be the real executive in the parliamentary governance of the country. Indeed, amongst the constitutional offices, which have attained immense power and authority in the Indian political system, the office of the Prime Minister figures out prominently. True to the spirit of parliamentary system, the Constitution accords the prime position to the Council of Ministers in the executive framework of the country under the headship of the Prime Minister, to ward off the probability of the executive system turning into one man show of the Prime Minister and emphasizes the collective nature of responsibility of the government. Still, functionally, the system metamorphosed into ensuring a leading position to the Prime Minister and the collective responsibility of the Cabinet.[16] Presently, from being the first among equals, the Prime Minister has become the pivot or the lynchpin of the whole system of government, which crumbles with the crumbling of the Prime Minister; though too much depends upon the political hold of the Prime Minister on his party, and his political and administrative acumen in perceiving and responding to the situations way ahead of others.[17]

Although the appointment of the Prime Minister, under Article 75 of the Constitution, is ordained in the hands of the President, conventionally, the leader of the majority party in Lok Sabha is undisputedly appointed as the Prime Minister sans any discretion of the President. The situation, however, differs 'when the party system fails to throw up an obvious choice in the leader of a majority party'[18] affording discretion to the President to a certain extent. After being appointed to office, the Prime Minister is assumed to have a prerogative in selection of his ministers and their departments, as the ministers are appointed on his advice. But the imperatives of running a coalition government appear to have divested the Prime Minister of this exalted and deserving prerogative.[19] Following the British convention that only a member of the House of Commons can be appointed as the Prime Minister, a convention has also been

developing in India that the Prime Minister needs to be the member of the Lok Sabha only though an exception was made in the UPA government when Manmohan Singh, a member of the Rajya Sabha, was elected as the Prime Minister. Further, the continuation of the Prime Minister 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, but the pleasure of the President is in fact the pleasure of the majority support of 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 into the ouster of the government.

Role of the Prime Minister

The role of the Prime Minister in the Indian political system appears to be much more widespread and penetrating than is constitutionally defined though the fathers of the Constitution were aware of the propensity of the post to concentrate most, if not all, of the executive powers of the Union in its hands. For instance, K.T. Shah, apprehending the concentration of powers in the Prime Minister, argued that such concentration may very likely militate against the working of the real responsible and democratic government.[20] In fact, the apprehension of framers like Shah was not misplaced owing to the scheme of things provided for in the Constitution, for, the President, vested with all the executive powers of the Union, is supposed to act in accordance with the aid and advice of the Council of Ministers headed by the Prime Minister, which in reality means the dominant, if not absolute, advice of the Prime Minister. Moreover, the persons with strong and assertive personalities like Indira Gandhi, and to some extent her father Pandit Nehru, assume so much power and authority that the system gets transformed into the prime ministerial one, as the only formidable check on the authority of the Prime Minister seems to be the majority support of the Lok Sabha; and when the House is completely in the grip of the Prime Minister, there is no looking back for her/him.

The Prime Minister's overbearing role spans through a number of channels embracing both constitutional and political spheres of the polity. Being the keystone of the arch of the Council of Ministers, he happens to be the absolute craftsman of his ministry, determining its shape, size, and constituents, with unfettered rights to shuffle

and reshuffle his stock as per his likings, provided he commands unhindered majority support of the Lok Sabha. Further, as chief of the government, he steers the formulation and execution of the policies, supervising and coordinating the visions of various ministries into the grand vision of the government as a whole. By virtue of his leadership of the Lok Sabha, he is looked upon to guide the proceedings of the House and make all major announcements of policies of the government on the floor of the House.[21] On the major issues concerning the departments of defence, finance, home, and foreign affairs, the Prime Minister's pronouncements are taken to be the final word of the government. Constitutionally, under Article 78 of the Constitution, the Prime Minister is also designated as the channel of communication with the President on all matters of importance in governmental functioning and decision-making. Above all, the Prime Minister functions as the mascot of the party in order to signify the achievements of the government as the achievements of the party, for, in the general elections it is the party which goes to the people seeking vote for its candidates. The Prime Minister, thus, dons the role of the captain of the ship of government to steer it on its journey of governance safely and with the hope that the ship remains in a position to renew its license for embarking upon more journeys in future.

Prime Ministers in Action

The saga of the prime ministers in action in India is probably the saga of ups and downs in the prestige and authority of the august office under the influence of the changing fortunes of the political party in office. From the times of Jawaharlal Nehru to that of Indira Gandhi and to that of Manmohan Singh, the functioning of the prime ministers has experienced the distinct phases of leadership styles and authority systems based on the stature and grip of the leader on the party organization. Nehru's tenure as Prime Minister seemed to be of dignified authority, for 'he enjoyed power, used it to pursue his vision of the national good and could play rough to vanquish political opponents',[22] to ensure that the role of the Prime Minister is not reduced to that of a 'mere figure head'[23] but never allowed himself to bulldoze others in government as well as party. Equally, if not more, democrat and believer in consensual

functioning, Lal Bahadur Shastri, in the true spirit of cabinet government, allowed his cabinet to work 'as a team of near equals out of whom consensus had patiently to be constructed.'[24]

Indira Gandhi's prime ministership was arguably a class apart due to uncharacteristic leadership style in taking most, if not all, vital decisions of the government and party single-handedly. If her father's attitude towards power was ambivalent, her attitude was deterministic and possessive. Barring circumstantial limitations, as evident in her early years, she was never willing to accept the modalities of the cabinet government. Interestingly, in his initial years as the Prime Minister, Rajiv Gandhi tried to emulate the tone and tenor of his mother, partly due to his mammoth majority in the Lok Sabha, by allowing his friends and cronies to assume critical positions in decision-making of the government—a move whose implications he failed to manage, resulting in the tarnishing of his image and costing him dearly in subsequent elections.

In the era of coalition governments, the actions of the prime ministers are constrained, to a great extent, by the perspectives of the supporting or participating parties of the government. The major, if not the utmost, concern of the Prime Minister is to ensure the sustenance of the government by avoiding any tough and formidable traits of either his personality or his decisions unless he is ready to sacrifice his government.[25] Needless to say, in such circumstances the governance of the country takes a backseat with the Prime Minister just passing off time without any creditable acts of omission or commission.[26] The functioning of the present government of Prime Minister Manmohan Singh appears to be conditioned by the dynamics of the coalition politics in the country showing signs of subtle weaknesses at certain times.

The Road Ahead

Undoubtedly, the functioning of the office of Prime Minister in the Indian political system appears to have come full circle with various types of leadership styles and effectiveness of the leader evident at different times. Despite the constitutional provisions ensuring a crucial and central position in accordance with the sound principle of parliamentary system, the functional character of each and every holder of the office has been distinct, owing to numerous factors.

Yet what needs to be emphasized is the point that there exists a well-defined scale of personal and political stature as well as domain of effective and independent leadership up to the level of which each and every Prime Minister must, more or less, measure up.

Contextualized in the framework of coalitional politics where the numerous regional parties become indispensable in the cobbling up of a government at the Centre, the functioning of the cabinet would remain a problematic proposition, but the way out will have to be found out by the Prime Minister. Once the common minimum programme is finalized and the broad contours of the governmental functioning is fine-tuned, the Prime Minister must be in a position to assert his prerogative in the formation and the operationalization of the cabinet, so that the government bears a distinct mark of the personality of the Prime Minister. If this minimum operational autonomy is not afforded to the Prime Minister by his party as well as the coalition partners, the office of the Prime Minister is bound to undergo a decline in both stature and effectiveness, which would ultimately compromise not only the quality of governance for the time being but also lead to a subtle shift in the constitutional framework of parliamentary government in the country. When the Prime Minister is unable to effectively act as the buckle to fasten the various strings of the government and ensure a prime position for himself in both party and the Lok Sabha, the governance of the country would be the first casualty and the prime minister's onerous achievement would be the mere survival of the government at the cost of the well-being of the people and the nation.

THE 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 Prime Minister and its collective responsibility to the Parliament. In marked distinction from the presidential form of government in which the entire executive powers and functions are embodied in the singular personality of the President, the Council of Ministers reflects the core of the parliamentary form of government in which it is the collective, in contradistinction with the individualistic, nature of governance that permeates the top echelons of the government. Therefore, though the Prime Minister is

ordained at the head of the Council of Ministers to provide unified and corporate character to it, the constitutional reckoning is always in terms of the Council of Ministers.

Basic Characteristics

As the whole edifice of the parliamentary system of government in India is based on the constitutional provisions and conventions of the British political system, the fathers of the Constitution did not face much trouble in framing the basic provisions to envisage a cabinet form of government[27] for the country. Accordingly, Article 74(1) of the Constitution categorically states, 'There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President in the exercise of his functions.' By this general yet well-meant statement, the fathers put into perspective the positions of various players in the executive system of the country. Thus, providing for the classical feature of the parliamentary form of government, the Constitution ordains both the nominal as well as the real executives with the precondition that the former shall act only on the aid and advice of the latter.

The formation of the Council of Ministers is crucial to the successful functioning of the parliamentary government because two fundamental principles governing its formation characterize the essentials of the cabinet government. First, though the provision, as provided under Article 75(1) of the Constitution: 'the Prime Minister shall be appointed by the President and other ministers shall be appointed by the President on the advice of the Prime Minister', outlines the theoretical position of the composition of the Council of Ministers, in practice, the advice of the Prime Minister is guided by a number of factors, the most important of which appears to be his party's position in the Lok Sabha as well as his own position in the party. For instance, the prime ministers like Indira Gandhi and Rajiv Gandhi, whose party commanded absolute majority in the Lok Sabha and who were the unquestioned leaders of their party; the formation of the Council of Ministers was the matter of personal discretion for them. But for prime ministers like Atal Behari Vajpayee and Manmohan Singh, running coalition governments, the composition of the Council of Ministers was well beyond their control and dictated by the bosses of the participating parties of

the coalition. Moreover, such dictated Council of Ministers, quite often than not, becomes a non-homogeneous body, militating against the doctrine of the homogeneity of the same, and does not accept the preeminent position of the Prime Minister in the cabinet as the members of the cabinet do not owe their position to the Prime Minister.[28]

Second, in Britain the convention has evolved which the Indian Constitution has adopted, providing that the ministers must be the member of the either House of Parliament, to firmly establish the trademark of the parliamentary government that the executive is drawn from the legislature and is collectively responsible to it. Thus, while Article 75(2) lays down that the ministers shall hold office during the pleasure of the President, Article 75(3) qualifies it by envisaging the collective responsibility of the Council of Ministers to the Lok Sabha, which, in final analysis, means that the ministers can hold office during the pleasure of the Prime Minister who himself remains in power as long as his majority remains intact in the Lok Sabha. The loss of majority in Lok Sabha was not an issue in Indian polity till the onset of non-Congress ministries at the Centre and became endemic in the times of coalition and minority governments since 1989.

Another characteristic of the system of Council of Ministers seems to be the trend of creation of smaller bodies to handle the complicated responsibilities of the government in an efficient and quick manner. In fact, owing to its unwieldy size and diffused nature of composition, the Council of Ministers has over the years given way to the evolution of, what is known as the cabinet, in order to give speed and expertise in the performance of the governmental functions. Initially, an informal body consisting of the key members of the Council of Ministers, the cabinet has gradually acquired a formal position, conventionally, bestowed with the responsibility of taking all important decisions on behalf of the Council of Ministers. Presently, in India, the Council of Ministers consists of three types of ministers: the Cabinet Ministers, the Ministers of State, and the Deputy Ministers, of which the ministers holding the rank of the Cabinet Ministers form the cabinet. But sometimes, when a Prime Minister readies to act in a more concise manner or creates a coterie of three or four ministers to replace the cabinet, a new phenomenon called 'Inner Cabinet' or 'Kitchen Cabinet' comes into being.[29] Presently, in the wake of coalition government when the prime ministers are not in a position to form an inner cabinet but finds

the cabinet large and amateur enough to cater to the specialized needs of the government, a number of cabinet committees and groups of ministers are created to smoothen the functioning of the government. However, the delegation of functions does not mean the delegation of responsibility and the Council of Ministers remains collectively responsible to the Lok Sabha for all the acts and decisions of its subsidiary bodies.

Functions of the Council of Ministers

In the maze of the existence of various components forming the gamut of executive in the parliamentary system of government, the precise denouement of the powers and functions, whether notional or real, of various institutions and functionaries required serious consideration. Typicality of such an exercise seems more pertinent in the case of the Council of Ministers, for, despite being the constitutional embodiment of the real executive authority, it has remained overshadowed by the office of the Prime Minister and almost eclipsed by the cabinet. Consequently, the powers and functions of the Council of Ministers have been described in terms of the powers and functions of the cabinet. Thus, drawing on the most authoritative description about the functions of the cabinet in Britain made in the Report of the Machinery of Government Committee (1918), the basic functions of the cabinet in India consist, broadly, in (*a*) the final determination of policy to be submitted to Parliament, (*b*) the implementation of policy determined by Parliament, and (*c*) the continuous coordination of the activities of the several departments of the government.[30]

Being the primary function of the cabinet, the task of final determination of policy served two useful purposes in the nascent parliamentary democracies like India. First, reaching at a decision after due deliberations in the cabinet ensures that the policy becomes the policy of the government rather than the policy of a minister with which all other ministers agree, facilitating a smooth implementation of the policy. Second, the submission of the final policy to the Parliament for its approval by the cabinet binds the entire cabinet by the doctrine of collective responsibility so that the adequacy of the parliamentary control over the cabinet could not be diluted in the name of the responsibility of an individual minister.

After getting the policy approved by the Parliament, the onus of the execution of the policy rests on the cabinet which delegates the niceties of such execution to the individual ministers. However, sometimes, keeping in view the importance of the matter, special cells may also be set up in the Cabinet Secretariat or the Prime Minister's Office to oversee the implementation of the policy. Still, the responsibility for the fallout of the execution of the policy remains with the cabinet on the floor of the Parliament.

An operational function of the cabinet relates to the continuous coordination of various ministries and departments of the government, engaged in the task of similar nature. Even if the issue of difference of opinion between or among two or more departments is set aside, the coordination assumes greater significance in view of economy and efficiency in implementation of the policies, for which a coordination cell is established in the Cabinet Secretariat, in addition to the Committee of the Secretaries of the concerned ministries under the Cabinet Secretary to advise the cabinet on the problems of inter-ministerial consultation and coordination.

Crucially, the control over finances and appointments permeate the functions of the cabinet to even the lower echelons of the government as substantial decisions pertaining to those issues cannot be taken without the approval of the cabinet or a competent authority on behalf of the cabinet. Though the day-to-day functions of monitoring the expenditure and incomes of the government rests with the Finance Minister, the broad policy guidelines suggesting the canons of financial management in the country emanate from the cabinet only.

Council of Ministers Over the Years

The action part of the Council of Ministers over the years in India has been marked by two discernible features, rooted in the personality of the prime ministers and the political circumstances accompanying them. First, despite being the fundamental unit signifying the idea of government, the Council of Ministers, experiencing a role reversal, has increasingly become a reflection of the Prime Minister rather than the other way round. Second, the Prime Minister's own equations of influence with the Council of Ministers have been varying on account of the circumstantial

political strengths and weaknesses of the person as a result of which at times, the Council of Ministers was reduced to a position of insignificance in the face of the Prime Minister's clout over it whereas at other times the latter stood in a state of helplessness in front of the former.

A product, not entirely of his own volition but the legacy of the national movement, Nehru's Council of Ministers, in its early years, consisted of heavyweights, few of whom were equally, if not more, influential and capable like Nehru, defying any undue bulldozing by the Prime Minister. Though Nehru himself was a believer in democratic functioning, that he 'had to negotiate policies with talented and strong-minded colleagues',[31] even after the death of Patel confirms the relative autonomous functioning of the Council of Ministers in his times, a trend that continued during the reign of Shastri also.

Acting in total contrast with style and circumstances of her father, Indira Gandhi effected a progressive 'migration of power'[32] from the Council of Ministers to her kitchen cabinet and then to the Prime Minister's Office, eventually falling in the hands of her younger son Sanjay Gandhi as an unfettered extra-constitutional power centre. Individualistic monopolization of power, in place of the collegiate system of the cabinet, was so alarming that even the sympathizers of the government also suggested 'a self-conscious effort'[33] to be made by the prime ministers to ward off further moves aimed at concentration of powers in individual hands.

In the later years, with the installation of either minority or coalition governments barring that of Rajiv Gandhi, the belittlement of the Council of Ministers at the hands of the prime ministers could not become discourteous and prejudicial to the spirit of parliamentary government. Rather, as the regional and smaller parties became the crucial sustaining partners of the governments at the Centre, the position of the Prime Minister started turning out to be precarious with resultant autonomy and indispensability of the individual ministers as well as the Council of Ministers becoming formidable.

BUREAUCRACY

Bureaucracy constitutes, what is called the 'Permanent Government'[34] of the Indian State along with its political counterparts like

the President, the Prime Minister, and the Council of Ministers in the complex web of the Indian executive. Going by the canons of the British parliamentary system of government, the conceptual framework of the Indian government was bound to be on lines of the British system where there exists a marked distinction between the political and the permanent branches of the government. However, in practice, when it came to designing the operational shape of the different wings of the executive, the framers faced the daunting task of arriving at a consensus on the type of bureaucratic model suitable for independent India. Though the problems faced by the country at the time of Independence were enormous yet varying in terms of maintaining law and order amidst the chaotic post-partition circumstances on the one hand and fostering a rapid socio-economic development on the other, the system of bureaucracy capable of meeting all kinds of challenges was not visible to the framers at the outset.

The existence of an efficient, though imperialist, Indian Civil Service (ICS) in the closing years of the British rule provided an alternative for the framers to fall back upon. But there existed an equally formidable opposition to it, seen as an instrument in the hands of the colonial rulers, having the virtues of neither Indian, nor civil nor service.[35] However fascinated by its steel frame endured ability to run the administration of the country in all thick and thin, Sardar Patel, in a planned way, emerged as the chief advocate of the ICS to ensure its acceptance across the board by the Constituent Assembly without any fetters on or dilution of its authority in the governance of the country. To be rechristened as the Indian Administrative Service, its preeminence in the Indian administration was ensured through the numerous constitutional provisions guaranteeing certain privileges and immunities to it, in an effort to insulate the officers from the vagaries of the political leaders. Thus, the bureaucracy, in post-Independent India, remained:

> [T]he continuation of the old one with the difference that it was to function in a parliamentary system of government, accepting the undoubted primacy of the political executive which in turn was responsible to the people through their elected representatives in the legislature.[36]

The net result of the continuation of the steel frame, in the long run, turned out to be partial: though the country was pulled out of the chaotic situations and law and order was maintained along with

the unity and integrity of the nation, the onerous responsibility of meeting satisfactorily the 'raised expectations' of the people by bringing about a rapid socio-economic development could not be shouldered by the bureaucracy presumably due to lack of skill and expertise to handle the developmental goals.

The basic characteristics of Indian bureaucracy, in terms of its structure, role, behaviour, and attitude have a deep lineage from the socio-economic and political milieu of the pre-Independence India, rooted in the vision of British imperialism and bereft of the realities and aspirations of the Indians at large. The apparent modifications brought in it were more in form than substance, leaving a wide gap between the requirement of a forward-looking, development-oriented, dynamic, and innovative bureaucracy, and the provision of a restrictive, status quoist, regulatory, backward-looking, and static one. The immediate concern of the political leaders in the post-Independence period was probably bringing back of law and order in the country and ensuring the unity and integrity of the nation in the long run. With abject betrayal of the cause of socio-economic development, the steel frame sounded to be the best suited to them, the consequences of which are faced by the people even today—in the sense that even after almost sixty years of Independence, the country still suffers from the scourges of poverty, illiteracy, imbalanced regional development, and so on, on one hand, and the lack of basic necessities of life like *bijli* (power), *sadak* (roads), and *pani* (water), on the other.

Structurally, the Indian bureaucracy continues to be defined by the broad parameters prescribed by the Macaulay Committee Report in 1854 patterned more or less on the broad characteristics of the Weberian model. Hence, while recruitment is made through an open competitive examination based on academic achievement, there exists an elaborate training arrangement. Moreover, the characteristics like permanence of tenure; generalist nature of the service; a graduated and regular scale of pay, pension, and other benefits; and a system of promotion and transfers endow the bureaucracy with the necessary resilience to be an all-weather institution. The role of bureaucracy has undergone a vast transformation both in terms of nature and scope: in addition to the maintenance of law and order it was required to be the harbinger of socio-economic change in view of the planned method of development overstretching its reach to all aspects of citizens' life.[37] The behaviour of the civil services, despite sincere and repeated efforts to make it propitious

to the requirements of a modern democratic developing state, appears to have remained embedded in the colonial outlook of ruling over people albeit with a certain degree of benevolence in the face of delivering some goods and services to the people. Thus, while the colonial civil servants had a paternalistic attitude towards the people and ruled largely by negative discretionary powers,[38] their successors, noting the vast unmet development needs of the people, substituted positive discretionary powers of patronage and subsidies, reinforcing the colonial syndrome of dependency on the *mai-baap* state.[39] The cumulative impact of these characteristics have been so debilitating on the cent per cent role performance of the bureaucracy that it is now almost conclusively proved that it is best in what it was doing in the colonial times, that is, the maintenance of law and order, and the onus of steering the country into the comity of developed and prosperous nations needs to be shifted on the shoulders of the specialists working in various fields of life instead of the generalist bureaucrats. The ensuing recommendations of the Second Administrative Reforms Commission (Moily Commission) is expected to formalize the long-standing feelings, in the minds of the people, of withdrawing the bureaucracy from the domain of socio-economic development of the country.

Issues in Reforms of Bureaucracy

An assessment of the role of bureaucracy since Independence in India provides an ambivalent perspective. While it would look like an exaggeration of facts to take its role as essentially progressive and markedly successful, it would be naïve to call it an outright failure. In fact, proving true to the expectations of its post-Independence protagonists, the bureaucracy has been able to excel in the performance of the role for which it was specifically eulogized, like bringing back order in the immediate aftermath of the partition, keeping the unity and integrity of the nation intact, liaising between provinces and the Central Government, ensuring a successful working of the Constitution, and so on. As the performance of such functions did not require capabilities and attitudes different from the colonial times, the bureaucracy's track record in such areas has been exemplary, though in contemporary times, the upsurge in violent and subversive activities born out of societal tensions have again

put question mark on the efficacy of the civil services in governing the country in an efficient manner.

Interestingly, much of the brickbats aimed at bureaucracy appear to be for the failure in discharging those responsibilities for which it was not initially marked out. As explained earlier, Patel's primary argument for the retention of the colonial structure of bureaucracy in independent India was for the purposes other than developmental. Apparently, the major challenge for the bureaucracy to tread on an unchartered path came in the wake of the planning which visualized a state-led path of socio-economic development putting bureaucracy in the driver's seat to usher in an era of development administration imbued with the traits of professionalism, flexibility, dynamism, and selfless commitment to the development of the masses. All of a sudden, enormous amount of resources and discretion to design the policies and implement them in order to ameliorate the conditions of the masses was handed over to those who neither had vision nor professional abilities to carry out the task at hand. Astonished at the faith reposed in it to be the kingpin of developmental efforts at all levels in the country, the bureaucracy, in sheer blissfulness, found it mired in the banes of corruption, politicization of services, and unimaginative expansion of the cadres[40] to the gross, if not total, neglect of the noble cause at hand. What, however, emerges from this is that more than the failure of the bureaucracy, it appears to be the fault of the leaders of independent India who, despite embarking on the path of planned development in the country, did not persevere to create a new cadre of development administrators bestowed with the responsibilities of formulating and implementing the plans of socio-economic development. By sticking to the pre-existing regulation-minded system of bureaucracy to enter into the domain of a new and innovative activity, the leaders, in a way, ensured the failure of the grand enterprise called socio-economic development of the country even before the actual assessment of the task by the bureaucracy could take place. Hence, the partial success of the bureaucracy in the performance of the developmental tasks might be attributed to the lack of wisdom and imagination in the leaders, alongside the failure of the bureaucracy in this regard.

Almost forty-five years of miserable performance by the bureaucracy in carrying out the socio-economic development of the country inspired the leaders to look for an alternative course of

development resulting into the wave of liberalization-driven reforms at the cost of the bureaucratic authority and discretion. Echoing the mood of the times, Prime Minister Rajiv Gandhi succinctly pointed out:

> The paternalistic model of our administration is not suitable for a society where the main thrust of administration is on development. It was agreed that the regulatory functions of administration should not be seen as an end in themselves, as they tended to be in colonial times, but as a means of reinforcing and sustaining the processes of broad-based development.'[41]

Thus, the stage was set for the inauguration of a series of reforms in the Indian bureaucracy guided by both internal as well as external persuasions.

Coming out with a blueprint for the civil service reforms, the recommendations of the Fifth Pay Commission struck at the roots of the problems plaguing the bureaucracy in the country. Thus, its recommendations focused mainly on downsizing the government through corporatization of many of its activities, ensuring transparency, openness, and economy in its operations, provision for contractual appointments in selected areas of activities, and the repeal of the archaic laws like the Official Secrets Act, and so on.[42] Placing special emphasis on an efficient machinery for the redressal of the citizen's grievances, the Commission advocated the introduction of the novel concepts of Citizen's Charter and Right to Information to ensure greater participation of people in the activities of the government.

CONCLUDING OBSERVATIONS

The theory and practice of the executive system in India presents a picture of continuity and change. Owing to the experiences of the country with some sort of parliamentary system of government during the latter part of the British rule in India, the choice in the Constituent Assembly was obvious with the majority favouring the adoption of the system with suitable modifications keeping in view the peculiar conditions of the country, and conventions and traits of governance in the history of the country. Hence, while the British system of parliamentary democracy was adopted by the

fathers of the Constitution in letter and spirit, they did not fail to bring about a number of overbearing modifications of the polity of the country in order to provide a semblance of uniqueness of the Indian political system on the one hand, and make the system balanced and vibrant on the other. For instance, by discarding the fundamental trait of the British political system, that is, the supremacy of the Parliament in the affairs of the country, the framers of the Constitution in India opted for the supremacy of the written Constitution as the supreme law of the land and made all other organs of government, including the Parliament, subservient to the provisions of the Constitution. Such modifications in the model of the British political system before its transplantation in India seemed desirable ostensibly due to the fact that India has a different set of political mindset, and there could not have been a certainty that the Parliament would, for all times to come, remain a body of rational and impartial people. Hence, in order to nip in the bud any move on the part of the Parliament to alter the basic contours of the polity in the country, the fathers of the Constitution put obvious fetters on the span of functioning of the Parliament.

Despite having a clear-cut demarcation of the executive authority, the political system of India has been witness to various styles of functioning of prime ministers having variable styles of their own in such a way that while some have proved their timeless mettle to wriggle out of all sorts of situations, many others have proved themselves to be the hostage of circumstances and in testing times of their tenure they either gave up or responded in such a way that it did more harm to the country than doing any good, either to the leader or to the society. Though circumstantial variations were quite important in shaping the calibre and competence of a Prime Minister, his/her personal formidability and visionary outlook made the most significant contribution in the success and failures of the prime ministers. However, in the era of coalition governments, the element of poise and understanding of the Prime Minister would gain even a greater significance in determining the effectiveness of the government in not only ensuring the survival of the democratic polity in the country but also the tackling of the simmering problems of the nation.

Finally, the most pressing requirement for shedding its original tone and acquiring a new character has been presented before

the bureaucratic set-up of the country in the post-Independence times. As in its colonial incarnation, the bureaucracy had to don a different sort of mantle. With the focus of administration remaining confined to the law and order functions of the state instead of having any sort of positive outlook regarding the well-being of the common masses, such an attitude and behaviour on the part of the administrative set-up of the country was found unacceptable. Hence, the bureaucracy in the post-Independence times was hard-pressed to transform its role from that of the traditional bureaucracy to that of a modern development-oriented bureaucracy whose major concern now became the bringing about of rapid socio-economic transformations in the lives of the people, apart from performing the minimum task of maintaining the law and order in the society. Thus, though the structures of executive system in the post-Independence times are trying to change themselves, the nature and pace of such transformations leave much to be desired in the times to come.

NOTES

1. See Constituent Assembly 1948: 985–86.
2. Ibid.: 734.
3. See Austin 1966: 116.
4. Ibid.
5. In the Constitution, the President of India is addressed by the pronoun 'He', though the present incumbent happens to be Mrs Pratibha Devisingh Patil.
6. Ibid.: 118–32.
7. See Austin 1966: 122.
8. This convention, if we call it so, has taken root in the country more due to political reasons than any sound constitutional logic, as political parties do not like a nominee of the previous government to get re-elected. For instance, the opposition of the Left parties to the re-election of Dr Abdul Kalam is couched in the logic that there is no convention for the re-election of the President since Dr Prasad, and that the NDA, too, had opposed the re-election of K.R. Narayanan on the basis of the said convention. See, *The Statesman*, New Delhi, 9 May 2007.
9. See Basu 1989: 163.
10. See Constituent Assembly 1948: 974.
11. See Austin 1966: 141–43.
12. Ibid.: 143.
13. See Bagehot 1968: 69.
14. See Brass 1992: 47.

15. See Alexandrowicz 1957: 127.
16. See Pylee 1965: 345.
17. The point can be borne out by comparing the prime ministerships of Indira Gandhi and Manmohan Singh. Despite the common constitutional sanction, there exists a drastic difference between the two in terms of their authority over the whole system of government on account of their differing political hold over the party. For a general review of the personal and political dynamics of the Prime Minister in the functioning of the government, a useful though dated work is: R.J. Venkateswaran, 1967. *Cabinet Government in India*. London: George Allen and Unwin.
18. See Singh 1995: 187.
19. A case in point, in this regard, is the appointment of Radhika Selvi as the Minister of State for Home on 18 May 2007. Coming in the wake of the forced resignation of Dayanidhi Maran, the date, time, venue, and department of Mrs Selvi were announced in a press note by DMK in Chennai, quoting a Prime Minister's Office missive, snatching the prerogative of the Prime Minister to select his ministers and to decide about their responsibilities in the Council of Ministers. See *The Hindu*, Delhi, 19 May 2007.
20. See Constituent Assembly 1949: 146.
21. This preposition holds good even if the Prime Minister is not a member and therefore leader of the Lok Sabha.
22. See Austin 1999: 28.
23. See Frankel 1978: 75.
24. See Morris-Jones 1971: 145.
25. One such instance included the pre-emptive dismissal of the Deputy Prime Minister Devi Lal by Prime Minister V.P. Singh who sensed the design of the former to topple his government, thereby showing the signs of a tough and formidable Prime Minister.
26. For an insightful analysis of the dynamics of coalition politics in the country, see Chakrabarty 2005; and for a discussion on the aspects of the Prime Minister's functioning in an era of coalition politics, see Mehra 1998.
27. An informal construct, to begin with, the concept of cabinet has evolved in Britain to denote the small body of key ministers, drawn from the Council of Ministers, under the headship of the Prime Minister to become the *de facto* government, due to which the parliamentary form of government is also, sometimes, called as the cabinet form of government. See Keith 1970.
28. See Mehra 1998: 302.
29. See Panandikar and Mehra 1996: 1.
30. See Venkateswaran 1967: 40–42.
31. See Austin 1999: 27.
32. Ibid.: 190.
33. See Dhar 1989: 59.
34. See Rudolph and Rudolph 1987: 236.
35. *Jawaharlal Nehru, An Autobiography: With Musings on Recent Events on India*, cited in Chakrabarty and Bhattacharya (eds) 2003: 32.
36. See Alexander 1998: 62.
37. For a succinct study of the role of bureaucracy in both pre- and post-Independence times, see Potter 1996.

38. See Chakrabarty and Bhattacharya 2003: 33.
39. See Sudarshan 1999: 111, cited in Chakrabarty and Bhattacharya 2003.
40. See Trivedi 2002: 157.
41. Cited in Chakrabarty and Bhattacharya 2003: 38.
42. For details, see *Report of the Fifth Pay Commission* 1997. Volume 1.

REFERENCES

Alexander, P.C. 1998. 'Civil Service: Continuity and Change', in Hiranmay Karlekar (ed.), *Independent India: The First Fifty Years.* New Delhi: Oxford University Press.

Alexandrowicz, Charles H. 1957. *Constitutional Developments in India.* Bombay: Oxford University Press.

Austin, Granville. 1966. *The Indian Constitution: Cornerstone of a Nation.* Delhi: Oxford University Press.

———. 1999. *Working a Democratic Constitution: The Indian Experience.* New Delhi: Oxford University Press.

Bagehot, Walter. 1968. *The British Constitution*. London: The World Classics.

Basu, D.D. 1989. *An Introduction to the Constitution of India.* New Delhi: Prentice Hall of India.

Brass, Paul R. 1992. *The Politics of India Since Independence.* Cambridge: Cambridge University Press.

Chakrabarty, Bidyut. 2005. *Forging Power: Coalition Politics in India.* New Delhi: Oxford University Press.

Chakrabarty, Bidyut and Mohit Bhattacharya. 2003. 'Public Administration: Theory and Practice', in Bidyut Chakrabarty and Mohit Bhattacharya (eds), *Public Administration*: *A Reader*. New Delhi: Oxford University Press.

Constituent Assembly. 1948. *Constituent Assembly Debates, Volume VII.* New Delhi: Government of India.

———. 1949. *Constituent Assembly Debates*, *Volume VIII.* New Delhi: Government of India.

Dhar, P.N. 1989. 'The Prime Minister's Office', in Bidyut Sarkar (ed.), *P.N. Haksar: Our Times and the Man.* New Delhi: Allied Publishers.

Fifth Pay Commission. 1997. *The Report of the Fifth Pay Commission* Volume 1. New Delhi: Government of India Press.

Frankel, Francine R. 1978. *India's Political Economy.* Delhi: Oxford University Press.

Keith, A.B. 1970. *The British Cabinet System.* London: Longmans.

Mehra, Ajay K. 1998. 'Functioning of Coalition Cabinet: Pressures, Constraints and Compulsions', in M.P. Singh and Rekha Saxena (eds), *Ideologies and Institutions in Indian Politics*, New Delhi: Deep and Deep Publications.

Morris-Jones, W.H. 1971. *The Government and Politics of India.* London: Hutchison and Co.

Nehru, Jawaharlal. 1936. *An Autobiography: With Musings on Recent Events on India*. London: John Lane.

Pai Panandikar, V.A. and Ajay K. Mehra. 1996. *The Indian Cabinet: A Study in Governance.* New Delhi: Konark Publishers.

Potter, David C. 1996. *India's Political Administrators: From ICS to IAS*. New Delhi: Oxford University Press.

Pylee, M.V. 1965. *Constitutional Government in India.* New York: Asia Publishing House.

Rudolph, L.I. and S.H. Rudolph. 1987. *In Pursuit of Lakshmi: The Political Economy of the Indian State.* Chicago: University of Chicago Press.

Singh, M.P. 1995. 'The Union Executive', in M.P. Singh and Himanshu Roy (eds), *Indian Political System: Structures, Policies and Development*. New Delhi: Jnanda Prakashan.

Sudarshan, R. 1999. 'Governance of Multicultural Polities: Limits of the Rule of Law', in Rajeev Bhargava, Amiya Kumar Bagchi and R. Sudarshan (eds), *Multiculturalism, Liberalism and Democracy.* New Delhi: Oxford University Press.

The Hindu, 2007. Delhi, 19 May.

The Statesman, 2007. New Delhi, 9 May.

Trivedi, R.K. 2002. 'Indian Administrative Service', in IIPA (ed.), *Public Policy in India: Some Emerging Concerns.* New Delhi: Kanishka Publishers.

Venkateswaran, R.J. 1967. *Cabinet Government in India.* London: George Allen and Unwin.

4 Parliament

LEARNING OBJECTIVES

- To describe the composition and functions of the two Houses of the Parliament, namely, Lok Sabha and Rajya Sabha.
- To illustrate the changing profile of the Parliament due to the rapid socio-economic churning taking place in the country.
- To elucidate and assess the role and effectiveness of the Parliamentary Committees in the working of the Indian parliamentary system.

Constituting the cardinal precept of parliamentary democracy, the Parliament stands at the core of the institutional arrangement envisaged by the Constitution of India to ensure a democratic polity in the country. Modelled on the pattern of the British Parliament, with substantive modifications, the Indian Parliament is placed in such a way in the polity of the country that no institution or function of the government stands in a position of non-attachment with it. In fact, representing the will of the people through their representatives, the Parliament is destined to govern the basic norms of functioning of various other institutions, in addition to exercising the control over the executive to ensure its accountability. Hence, it becomes important to analyze the basic issues involved in the structure and functioning of the Parliament in India which forms the basic thrust of the present chapter.

A THOUGHTFUL CHOICE

The motivations for the choice of a parliamentary system of governance over the presidential one were embedded not only in the

oft-repeated argument of the previous experience of the Indians in running the governmental system based on parliamentary model but also in the interest of the imperatives of future Indian polity which were to be met by the institution of the Parliament. To put it differently, the adoption of the parliamentary system of governance by the Constituent Assembly was more in keeping with the advantages expected to accrue from the institution of the Parliament in future than the familiarity of Indians with the functioning of representative bodies in the country in the past. Thus, once it was determined firmly that the future Indian polity would be based on democratic principles of governance, thanks to the legacy of the national movement against the authoritarian colonial rulers, the option of parliamentary system would have seemed obvious but there lay deep understanding of the niceties involved in the working of the Parliament and their positive implications for the successful working of the democratic system in the country.

First, as Austin pointed out, the framers sought to achieve the objective of unity in the country through the mechanism of popular government by 'uniting Indians into one mass electorate having universal adult suffrage, and by providing for the direct representation of the voters in genuinely popular assemblies,'[1] the culmination of which are to be found in the Parliament. Overturning the argument of Penderel Moon that 'the root of the trouble lay in the decision to introduce parliamentary democracy into a society which was far from homogenous and riven with a deep Hindu-Muslim cleavage,'[2] Austin maintained that the problem did not lay in adopting the parliamentary democracy but in the fragmentation of the franchise based on the considerations of property, education, and other qualifications resulting in the split of the electorate into not less than thirteen communal and functional compartments.[3] Thus, by one stroke of pen of the framers, the biggest issue troubling their minds was resolved with the provision of the Parliament as the supreme representative body of all the Indians irrespective of any discrimination or biases to foster a feeling of unity among all alike.

Second, the parliamentary system appeared to be the thing that could have accommodated all sorts of imperatives bothering the Constitution-makers on the eve of Independence. Quite evidently, democratic system of governance was a predetermined thing which was sought to be contextualized in the parliamentary system. At the

same time, federal nature of polity also became an indispensable norm with the supremacy of the Constitution holding key to the successful functioning of the other institutions. Establishing an independent judiciary, the framers' major concern, however, remained with obtaining such a flexible system which could come up with plausible solutions to all sorts of expected or unexpected problems likely to be encountered by the nascent independent state of India, with specific challenges to her unity, democracy, and constitutional framework of governance. For instance, going in for a presidential model for the sake of a strong executive to ensure the unity and integrity of the nation, would have been fraught with the real dangers of the President turning into a despot, as happened in many other newly-independent countries including her neighbours, eclipsing the whole notion of democratic governance in the country. Hence, keeping the Parliament in the central position, the framers devised such a hybrid system of governance which included those valuable virtues of all the existing systems of governance that were found propitious to fit into the bill of India as a sovereign, democratic, federal, republic, embarking on the path of socio-economic and political reconstruction of the country.

Last, the institution of Parliament was probably the only operational guarantee which the framers could think of, to ensure the unscathed functioning of federalism in the country by bringing about a harmonious co-existence of the Centre as well as the states under the overall rubric of the Union of India. Although the Supreme Court was also tasked with the responsibility of adjudicating the disputes arising between the Centre and the state or states and/or between two states themselves, such mechanisms were assumed to be the mechanism of last recourse and that too, only to sort out the specific cases of dispute. The well-thought out mechanism of ensuring the sanctity of federal nature of the polity and formulating the broad guidelines regulating the relations between the Centre and the states was obtained in the form of the Parliament. Like the arrangements existing in other federations like the United States, the second chamber of the Parliament—Rajya Sabha—was accorded special powers and functions in relation to the working of the Centre-state relations. Owing to the complexity of India's political divisions into a number of administrative units divided into British ruled provinces and princely states on the eve of Independence, though an equal representation of the states in the Rajya Sabha

was ruled out, specific provisions have been made to make the Rajya Sabha the custodian of the rights of the states. For instance, the provision that a new All India Service can be created only if the Rajya Sabha passes a resolution to this effect by two-third majority, has acted as a useful check on the temptations of the Central Government to constitute more such services as they have, over the years, become the bane of the state's functional autonomy by acting more as the agent of the Central Government than the faithful servants of the state governments.

LIMITATIONS/FEATURES OF INDIAN PARLIAMENT

Since the Indian political system, as envisaged by the Constituent Assembly, happened to be an amalgam of the desirable features of several constitutions existing at the time in different countries of the world, the institutions in India did not become the identical clone of the institutions of the countries from which they have been drawn. This fact is not truer in the case of any other institution than the Indian Parliament. Designed broadly on the pattern of the British Parliament to play the pivotal role in the democratic governance of the country, the position of Parliament in India, is however, so much adjusted to bring it in conformity with the constitutional requirements of other institutions that it underwent substantive transformations, giving way to the emergence of certain peculiar features of the Parliament.

In marked distinction with the British Parliament, the Parliament in India has not been made the supreme insofar as the governance of the country is concerned. Set to function within the bounds of a written Constitution, considered to be the lengthiest in the world, the functional domain of the Parliament is circumscribed by the federal nature of the polity as well as the existence of an independent Supreme Court to act as the guardian and protector of the Constitution. In fact, constitutionally, the sovereignty of the nation lay in the people who, by adopting a written Constitution for them, have permanently obtained the guiding principles of the government which can be altered only by the people themselves through mechanisms like referendum, and so on, not by the representative bodies like the Parliament. Thus, divesting the Parliament of the supremacy, the framers made the Constitution as the supreme law of the land.

Significantly, by demarcating the law-making powers of the Parliament in India into two branches of constitutional and statutory laws, the framers have again tried to restrict the legislative discretion of the Parliament. Consequently, the amendment procedures of the Constitution have been so formulated that special procedure have to be followed in order to carry out an amendment in the constitutional law. Further, in the later years, deducing from the intentions of the framers, the judicial pronouncements have raised a sort of 'holy cow' in the form of the 'basic structure of the Constitution' to bar the Parliament from amending such provisions of the Constitution.

The powers and position of the Parliament were further compromised with the provision of an independent judiciary vested with the responsibility of, among other things, protecting and safeguarding the sanctity of the Constitution. Exercising its power of judicial review to test the constitutionality of the laws made by the legislatures and the orders issued by the executive, the Supreme Court has, from the Keshvanand Bharti case of 1973 onwards, emerged to be the biggest challenge to the unfettered powers and positions of the Parliament. Initially, acting under Article 13(2) of the Constitution, which prohibits, subject to specified restrictions, the State from passing any law that would take away or abridge any of the fundamental rights, to nullify numerous enactments of the Parliament, the Court evolved the doctrine of the 'basic structure' of the Constitution to put permanent fetters on the amending powers of the Parliament.

To situate the things in perspective, the apparent fetters put on the powers and functions of Parliament need not be construed in the sense that the framers visualized the adoption of the American doctrine of separation of powers in its strict sense. Rather intending to provide functional vitality to other institutions of the polity also, the framers just infused, in a faint degree, the principle of checks and balances to ensure that the legislature, executive, and judiciary functioned within their allotted sphere. Had they thought of putting the Parliament in a relatively subservient position, they would have gone for the American formulation of 'due process of law' under which parliamentary sovereignty could have been interfered with on the basis of the considerations not expressly provided for in the Constitution. In contrast, what appears to have made the difference to the overall polity in general and the position of the

Parliament in particular, is the adoption of a written Constitution which, by laying down the sacrosanct principles of governance of the country, has marginally taken away the right of the Parliament to formulate the basic premises of governance of the country. Consequently, the Supreme Court has also been given only that much of power to test the constitutionality of the laws made by the Parliament which relates to the alleged destruction of the basic structure of the Constitution. The contemporary phase of seemingly strained relations between the Parliament and the Supreme Court is more due to the inability of Parliament to legislate adequately for the complexities of rapidly changing life of the people and the tendency of the people to get the space vacated by the Parliament to be occupied by the Supreme Court. Otherwise, the constitutional provisions regarding the delineation of the powers and functions of different institutions of the political system have proved to be perfect. The need, therefore, is to realize the axiomatic veracity of the 'fundamental assumption of the success of any political system or of any form of governance that the persons manning its institutions should have the necessary sagacity, erudition and sensitivity so as to ensure that all the institutions comprising the total system of governance function in an orchestrated manner.'[4]

COMPOSITION OF THE PARLIAMENT

Conventionally, like the other parliamentary systems in the world, the composition of the Indian Parliament is also visualized in terms of the President of India and the two Houses, namely, the Rajya Sabha (Council of States) and the Lok Sabha (House of the People). Interestingly, though the nucleus of the Parliament lies in the Lok Sabha, the inclusion of the President, and the Rajya Sabha as the inalienable components of the Parliament is guided both by convention as well as sound principles of democratic parliamentary governance. Based on the British system evolving over a long period of time but moulded in the republican frame, the office of the President of India has been visualized to act as the Head of State in which capacity it has been accorded certain specified functions in relation to all other institutions of the Indian state. To put it differently, assumed to be the only office to hyphenate the various institutions of the state, the President happens to have a

role, in varying degrees, in the structure and functions of all the institutions including the Parliament. Moreover, his position as the chief of the executive whose functional domain is coterminus with the legislature makes it incumbent upon the President to be an integral part of the Parliament[5] though he does not sit in either of the two Houses except for delivering his opening address.[6]

Devoid of any capacity to unduly influence or deflate the powers and position of the Parliament, the presidential role in the parliamentary arena appears to be primarily, if not totally, ceremonial. For instance, his functions like summoning the session of the two Houses, proroguing the sessions, addressing both the Houses at certain occasions, appointment of pro tem speaker of the Lok Sabha, causing the laying of budget in the Parliament, and presentations of the reports of various other constitutional functionaries and bodies like the Comptroller and Auditor General (CAG) and the Finance Commission, and so on, are purely routine matters requiring no application of mind by the President. However, in certain cases like the dissolution of the Lok Sabha, the seemingly routine functions of the President may assume real overtones with the propensity of turning the tide in the polity even by remaining within the bounds of the constitutional provisions. As explained elsewhere in this volume, this particular power of the President affords him the rare opportunity where he may be in a position to use his discretion. In other cases, though substantive ones like the promulgation of ordinances when both the Houses of the Parliament are not in session, assenting to the bills passed by the Parliament, and the nomination of the members in both Houses, the letter and spirit of the constitutional provisions envisage the President to act in accordance with the aid and advice tendered by the Council of Ministers, divesting him of any activist role vis-à-vis the Parliament.

Rajya Sabha

Notwithstanding the bicameral shape of the Parliament, which the Rajya Sabha has ensured, the issue of the utility of the second chamber for the Indian political system cropped up in the Constituent Assembly also though not much controversy was generated on the matter. Unlike the British perspective on the shape of the Indian polity, the various reports authored by Indians like

Motilal Nehru and Tej Bahadur Sapru invariably argued for the second chamber, rejecting, though, the American formula of giving equal representation to the states in the House.

Two theoretical propositions were advanced to hammer out the usefulness of the second chamber. First, the provision of a second chamber in practically all the federations of the world inspired the framers to go for the second chamber on the assumption of it to become the custodian of interests of the units of the federation and maintain the sanctity of the federal system. Second, as N. Gopalaswamy Ayyanger argued:

> [The second chamber was expected] to hold dignified debates on important issues and to delay legislation which might be the outcome of passions of the moment until passions have subsided and calm consideration could be bestowed on the measures which will be before the Legislature … and give an opportunity, perhaps to seasoned people who may not be in the thickness of the political fray but who might be willing to participate in the debate with an amount of learning and importance which we do not ordinarily associate with House of the People.[7]

Ultimately, in the final product, the structure and functions of the Rajya Sabha appear to have backed out on the promise of being a fulcrum of the federal nature of Indian polity but has outstandingly fulfilled the aspirations of the framers on affording an opportunity for reconsideration of legislation in a 'somewhat cooler atmosphere.'[8] Thus, as Morris-Jones bears it out, the justification of the Council of States has always been in terms of 'second thought' rather than 'State rights'.[9]

Accordingly, known as the Upper House with the aim of assuring a superior quality of debate and discussion, structurally, the Rajya Sabha is made a smaller House in comparison with the Lok Sabha, with only 250 members, including twelve members nominated by the President for their distinguished achievements in the field of literature, science, art, and social service. Among other qualifications to become a member of the House, the bar of maximum age appears to have been raised to thirty in order to secure the maturity of the members in the House.[10] True to the status of the House as Rajya Sabha, its members are elected indirectly by the elected members of the legislative assemblies of the states and certain union territories in accordance with the system of

proportional representation by means of single transferable vote for a term of six years. Thus, immune from the apprehension of premature dissolution, the House functions on a permanent basis with one-third of its members retiring every two years. Importantly, securing a suitable and dignified functional position for the Vice President, the Constitution envisages him to be the Chairperson of the Rajya Sabha to be assisted by a Deputy Chairman elected by the members from amongst themselves.

Paradoxically, the powers and functions of the Rajya Sabha represent the irony of its position in the Indian political system. While in the name of ushering into a true era of democracy, its position has been compromised in comparison with the Lok Sabha, in the name of making it the custodian of federal features of the polity, certain exclusive powers have also been granted to it. Thus, though made inferior to the Lower House in the matters of money bills, securing the responsibility of the executive to the legislature and the passage of a piece of legislation through the mechanism of the joint session of the two Houses, it is exclusively authorized to adopt a resolution to empower the Parliament to legislate on one or more matters contained in the State List; and pass a resolution for the creation of one or more All India Services, which the Parliament will subsequently create by law.

Carrying forward its ironical position, the structure and functions of the Rajya Sabha have been subjected to critique for both its faulty structure making it weak, and excessive clout in the functioning of legislative system in India. While the provision of nomination of members is criticized as undemocratic and reactionary elements in a democratic polity, the inequality of membership from various states, depending on their population, is considered to undermine the logic of the second chamber as the protector of state interests as the smaller ones are not able to safeguard their interests like the bigger states. Thus, a question mark is placed on the progressive, democratic, and federal credentials of the House. Similarly, on its powers, critics lament that elected indirectly over a period of six years without reflecting the opinion of the people at any point of time, the Rajya Sabha is capable of blocking the passage of any non-money bill despite the all out efforts by the Lok Sabha, with the provision of joint sitting of the Houses being absurd due to the inability of the government to muster adequate numerical strength in the Lok Sabha.

Despite several aspersions being cast on its existence and functional vitality, the Rajya Sabha appears to have established its roots in the political system of the country so much so that it may now be considered to be a part of the basic structure of the Constitution, ruling out any tempering with its standing. Significantly, its usefulness is gaining deeper ground with the transformations in the nature of the polity. For instance, it has been argued that the changes in party positions in Parliament during the 1980s have invested the Rajya Sabha with greater potentiality as a federal second chamber which is likely to increase further with the escalating regionalization and federalization of the political system.[11] Similarly, the role of the Rajya Sabha as the chamber to illuminate the visions of the members of the other House and provide a scale to the level of discussions taking place in the Parliament has not only been performed well by its members but its tradition of dignified and responsive debates was excelled by its illustrious chairpersons like S. Radhakrishnan, Zakir Hussain, and so on, who had 'given an aura of dignity to the atmosphere of the House by conducting the proceedings with judicious combination of firmness and flexibility.'[12] In addition to these conventional utilities, the Rajya Sabha has served three more useful purposes, as pointed out by Morris-Jones.[13] First, it creates additional political positions which are in growing demand by the political elites of the country; second, it ensures some additional debating opportunities, which occasionally becomes quite urgent; and finally, it helps in doling out the solutions to the legislative timetable problems. Thus, the utility of the institution of Rajya Sabha has proved to be axiomatic in the parliamentary system of India.

Lok Sabha

Envisaged to be the popular House in contrast to the Rajya Sabha, the Lok Sabha is the representative chamber of the Indian Parliament with its members elected directly by the people from the territorial constituencies of the states and the union territories distributed all over the country. Constitutionally confined at the membership not exceeding 552, including the two nominated members to represent the Anglo-Indian community, it presently

consists of 545 members whose membership is distributed among the states in such manner that the ratio between the number of seats allotted to each state and the population of the state is, in so far as possible, the same for all states[14] with suitable reservations of seats for the Scheduled Castes and the Scheduled Tribes. Chosen for a term of five years to begin with, the Lok Sabha can be dissolved by the President under certain exigencies. Also, in the time of the proclamation of an emergency in the country, the term of the Lok Sabha can be extended by Parliament for a period of one year at a time and the elections need to take place for the same within six months of the withdrawal of the proclamation of emergency. Further, the Lok Sabha is presided over by the Speaker, who by virtue of his position, assumes greater responsibilities in the functioning of the parliamentary system in the country apart from the routine functions of chairing the sittings of the House and conducting its proceedings.[15] In discharging his functions, the Speaker is ordinarily assisted by a Deputy Speaker who performs the duties of the Speaker when the former is absent or while the office of the Speaker is vacant.

By virtue of its position as the lower House with truly representative character, the Lok Sabha, like the British House of Commons, has been placed at a superior pedestal than the Upper House in respect of those spheres of activities which underpin the notion of parliamentary democracy. The most significant of such spheres relates to provisions on the money bill with respect to which the role of the Lower House is of monopolistic nature whereas the role of the Upper House is constricted to the extent of it being subservient, if not irrelevant. For instance, beginning with the certification whether a bill is a money bill till its final passage by the Parliament, the powers of the Lok Sabha are exclusive as a money bill can be introduced in the Lok Sabha only with the relevant certification by the Speaker. The Rajya Sabha's position has been so miserable in this regard that not only is it forbidden from voting on Demand for Grants but also if it fails to return the bill to the Lok Sabha within a period of fourteen days, the bill shall be construed to have been passed. Another equally important prerogative of the Lok Sahba is its power to hold the executive accountable by passing a vote of no confidence in the Council of Ministers. Thus, the governments which may be interested only in perpetuating their existence in power without minding much about the governance

of the country, as happens in the case of coalition or minority governments, the functional sphere of the Parliament might be reduced to the domain of Lok Sabha only with no concern for the views of the Rajya Sabha.

In practical terms, however, the exclusivity of domains of both the Rajya Sabha and the Lok Sabha does not imply a judgemental view of the respective positions of the two Houses. The concept of Parliament is complete only with each House supplementing the role performance of the other. Visualized to exist in a position of reasonable balance through an indirect check on each other, the two Houses have, nonetheless, been accorded coterminus responsibilities on all non-money bill matters. Consequently, the crucial functions like the amendment of the Constitution, impeachment of the high dignitaries including the President, and so on, need to be performed by each of the two Houses separately. Above all, the two Houses must function like the two wheels of the institution of Parliament in order to guarantee its successful functioning, for, an unnecessary dispute on the issue of their domains would serve no purpose than to 'lower Parliament as a whole in public esteem.'[16]

CHANGING SOCIO-ECONOMIC PROFILE

Obtaining the parliamentary form of government in the new democratic set-up of the country, the framers' major concern was to ensure that the Parliament should represent all sorts of socio-economic interests of the society. The members elected to the Parliament needed to reflect the broad contours of the social and economic structure of the country so as to infuse a sense of satisfaction amongst the people that their voice would be heard in the Parliament through their representatives. To be a microcosm of India, the Parliament was thus constituted to secure, as far as possible, the presence of all sorts of differentiations found amongst the people in every nook and corner of the country, even by way of reservations for certain sections of the people.

Socially, the profile of the Parliament has undergone a substantive transformation over the years beginning with the inauguration of the Parliament in 1952. With the gradual disappearance of the leaders of the national movement belonging to the upper social

strata and affluent economic background from the scene, the membership of the Parliament has expanded deeper to the grassroot of society. For instance, the overwhelming majority of public school and Western-educated parliamentarians has given way to a vast array of membership ranging from government school and indigenous college educated to even those who are semi-literates and illiterates representing their particular caste or regional interests. In terms of the caste composition of the Parliament, the constitutional arrangement for the reservation of seats for the Scheduled Castes and the Scheduled Tribes, initially for a period of ten years but continuing till date, have no doubt assured a minimum stipulated percentage of representation to these communities but its overall ameliorating impact on the society appears to be limited as the same set of people has continued to corner the leverages of the membership of the Parliament. Rather defying the clutches of reservation which seems to have 'degenerated into a political mobilization gimmickry with scant regard for social equity and merit',[17] people belonging to the other backward communities have evidenced a marked improvement in their standing in the Parliament, snatching the leadership of their communities from the people of the forward castes, since the decade of 1990s.

Moreover, bearing out the expansion in the educational base of the country, the literary profile of the members of the Parliament have also shown a sharp rise over the years, with more than 50 per cent of the members of the fourteenth Lok Sabha having a graduate degree.

The diffusion of the social configuration of the parliamentarians to the lower strata of society, however, does not mean the sourcing of the members of Parliament from the common populace as even within the so-called backward castes also a distinct class of social elites has come to monopolize their share in the membership of the Parliament, with the common people of these castes sharing the common feeling of deprivation with the commoners of the other castes.

The representation of women in the Parliament has remained, by and large, marginal, demonstrating the male-dominant nature of the Indian electoral politics. Betraying the absence of a clearly defined policy on the issue of increasing the representation of women in the higher elected bodies, the political parties have obliged the women with tickets more on the basis of favouritism

and nepotism than on the basis of their objective contribution to the community or in recognition of their stature or calibre in any field of social life. Ultimately, the women were compelled to demand the crutches of reservation to improve their presence in the elected bodies to a dignified level. However, the beguiling response of the male-dominated political leadership of the country to the demand for 33 per cent reservation for the women in the elected bodies was evident when it was accepted at the level of the Panchayati Raj Institutions only, denying a chance to the mass of women to land themselves into the higher bodies of decision-making capacities in the political system.

The economic description of the parliamentarians, like their social profile, also depicts a subtle transformation owing to the dynamics of electoral politics in the era of populism. Upsetting the stage when the Parliament was overwhelmed by professionals, with major chunk belonging to the legal profession, the Parliament, over the years, became the bastion of people engaged in the occupations rooted in agriculture and cooperatives spread all over the country. For instance, the percentage of lawyers fell from 35.6 in the first Lok Sabha to 24.5 in the third Lok Sabha and further to 12.24 in the eleventh Lok Sabha; commensurately, the percentage of the agriculturists rose from 22 in the first Lok Sabha to 38.4 in the eleventh Lok Sabha. Interestingly, even amongst the agriculturists, the clout of the big zamindars and landlords was reduced considerably with the centre stage being taken by the small landowners and cultivators, with the estimation by the experts that in the coming times, the substantial number of people may be drawn from the landless labourers, small farmers, and other deprived sections.[18] Similar trends are also visible in the representation of the traders and industrialists as their share of percentage came down drastically from 12 per cent in the first Lok Sabha to just 2.63 per cent in the tenth Lok Sabha. Thus, the economic profile of the Parliament no more remains dominated by the rural landed gentry and the urban middle classes as the newly well-to-do classes from both the rural as well as the urban areas are cornering the lion's share of seats in the Parliament.

Unfortunately, the implications of the changing socio-economic profile of the Parliament has apparently not been able to add substance and depth in the standard of parliamentary proceedings and the quality of legislative output, despite broadening the

representational base of the Parliament. Over the years, the performance of the members of Parliament does not appear to be in consonance with the loftier norms of the parliamentary system as a number of dysfunctionalities have come to the surface. Above all, the fear of party whip on the one hand and the dynamics of populist vote bank politics on the other, appear to have weighed so heavily on the vision and perspectives of the members of the Parliament that they quite often than not forgo their rationality and national interest to side with such divisive proposals which have far-reaching negative implications for the cohesiveness of the society, vibrancy of the democratic polity, sound health of the economy, and impeccability of the unity and integrity of the country.

PARLIAMENTARY COMMITTEES

As one of the most crucial innovations to streamline the working of the Parliament in an increasingly complex politico-administrative and almost unmanageably expanding public expenditure system, the parliamentary committees have become the alter-ego of the Parliament in the specified areas of their functioning. Born in the British parliamentary traditions in quite early years of the formation of the British Parliament, these committees were expected to infuse the virtues of efficiency, effectiveness, expeditiousness, and expertise in the performance of the functions by the Parliament. The utility, if not indispensability, of these committees is born out by the fact that today most of the serious business of the Parliament is transacted through these committees as a result of which the number of the committees has increased manifold in various forms and for numerous purposes.

In India, the history of the committee system may be traced back to 1854 when the first legislature was established in the form of the Legislative Council which, in turn, appointed its own committee to consider what should be its standing orders. In post-Independence period, primarily, 'the review of administrative action and the examination of numerous and complicated legislative proposals and subordinate legislation require an expertise and close scrutiny that are not possible in Lok Sabha consisting as it does of 545 members,'[19] necessitating the creation of the parliamentary committees. In addition to acting as the eyes and ears of the Parliament, the

committees are also useful in offsetting the bulk of load of the Parliament, securing an in-depth and expert analysis of legislative proposals, ensuring a harmonious working between the two Houses of the Parliament, and affording a platform to the common people to participate in the decision-making of the Parliament by giving written memoranda or oral depositions, as may be required, to the committees as and when asked for.

Devoid of any direct constitutional reference, ostensibly due to their evolution out of sheer parliamentary discretion without any pre-designed scheme of things or constitutional mandate, the parliamentary committees did not find a mention in the proceedings of the Constituent Assembly, for, the fathers took them 'for granted and left it to the House to make provisions for them under their rules of procedure.'[20] Accordingly, the Parliament has created numerous ad hoc and standing committees, the prominent of the former type includes the select committees and joint committees. Of the standing committees, More[21] gives a five-fold categorization: (*a*) committees to inquire like the Committee on Petitions and the Committee on Privileges, (*b*) committees to scrutinize like the Committee on Government Assurances and the Committee on Subordinate Legislation, (*c*) committee of an administrative character relating to the business of the House like the Committee on the Absence of Members, (*d*) committees dealing with the provisions of facilities to members like the General Purpose Committee and the House Committee, and (*e*) the financial committees, such as, the Estimates Committee, the Public Accounts Committee, and the Committee on Public Undertakings. Of all the parliamentary committees, the ones meriting detailed exposition include the three financial committees.

Estimates Committee

A fine example to assert the monopoly of the Lower House on the financial matters of the government, the Estimates Committee was created in 1950 by the Lok Sabha to provide for an adequate control over the grants made to the government and the actual appropriation thereof. Replacing the then Standing Finance Committee and consisting of the members drawn exclusively from the Lok Sabha, it is called 'the House in miniature as it represents

the parties and groups in the Lok Sabha more or less in proportion to their representation in the House.'[22] Framed to achieve the twin tasks of scrutinizing the estimates and suggesting the measures to introduce economy in the government expenditure, the terms of reference of the Committee relate to the suggestions on economies in the expenditure including suggestion of alternative policies in this regard, finding out whether the money has been rightly laid out within the confines of the underlying policy and indicate the form in which the estimates may be presented to the Parliament. Adopting a selective approach in choosing a few ministries, and even from them also, a few subjects to look at the estimates, the Committee usually desists from making ideologically judgemental comments on the policy underlying the estimates; even the alternative policies may be suggested only with the aim of more efficiency and economy in administration. Conventionally, though the reports of the Committee are not discussed in the House; its recommendations are regarded as directions to the government which ordinarily accepts them, signifying the position of the Committee as a powerful force not to be ignored.[23]

The functioning of the Estimates Committee, over the years, bears a testimony of the vital role it plays in ensuring the effectiveness of the Parliament. Echoing a positive note, Asok Chanda succinctly sums up the nature of the role of the Committee:

> While the Committee refrains even now from openly criticizing the policy implicit in the estimates, its examination does often indirectly reflect on the manner in which a particular policy has been evolved or is being implemented. There has also been considerable improvement in the organization of the Committee and in its technique, which has better equipped it to fulfill its responsibilities. Even though it works within the limitations inherent in a democratic form of government, its contributions are tending to become more and more effective in economizing national expenditure.[24]

In their endeavour to fulfil the aspirations of the House, the Committee members invite official, as well as non-official experts, if a technical matter comes up for discussion and the members find themselves in a helpless situation.[25] However, sometimes, the Committee is criticized for not being able to see the wood for the trees. As Morris-Jones notes, the members of the Committee:

> [A]re supposed to look for possible economies but they have in fact been happy to rule out the faint line between economy and efficiency. Further, they have not hesitated to recommend in the name of efficiency, large administrative reforms and even reorientation of policy. Their audacity occasioned strong comment….[26]

Such criticisms may, however, be taken as an aberration in the outstanding role performed by the Committee as the permanent economy Committee in the Indian parliamentary system.

Public Accounts Committee

Described as the 'twin sister' of the Estimates Committee, the Public Accounts Committee acts in tandem with the former in the following sense:

> While the Estimates Committee deals with the estimates of public, the Public Accounts Committee examines mainly the accounts showing the appropriation of sums granted by the House for the expenditure of the Government of India in order to ascertain whether the money has been spent as authorized by Parliament and for the purpose for which it was granted.[27]

Though initiated in 1923 itself, the Committee became truly parliamentary committee in the post-Independence period when two substantial changes took place in its structure and function: first, increasing its membership to twenty-two, seven members of the Rajya Sabha are also made the members of the Committee, and second, the CAG is made an adjunct of the Committee to facilitate the streamlining of its functioning. Affording added credibility and prestige to its status, a convention grew to appoint a member of the Opposition as the chairperson of the Committee. In discharging its function of scrutinizing the Appropriation Accounts of the government based on the audit reports furnished by the CAG, the Committee is guided by the principles of economy and public morality, and functions under the limitations of not being concerned with the question of policy and its findings being *ex post facto* in nature.

The Public Accounts Committee, over the years, has established its sound credentials as the watchdog of the public finances through

an efficient and impeccable track record of inducing a sense of responsibility and precision in the officials in spending the public money. Prone to detect any case of moral turpitude in managing government finances, the Committee's impression in the minds of the officials, far from being ephemeral, remains ingrained for many years to come, reminding them of their responsibilities towards the people of the country, whose money they are supposed to utilize with due care and diligence. Though the Committee is criticized for looking 'to the future by looking into the past,'[28] Morris-Jones clarifies:

> The fact that their scrutiny is ex post facto is less important than that the government has continuously to act in the knowledge that the scrutiny of any item may take place and that waste and impropriety may be widely exposed in the House and the Press. The fact that the Government replies to the Public Accounts Committee are often vague and cool, is less important than that behind the reply, there has often been embarrassment and some resolve not to let it happen again.[29]

Thus, the very fact of the existence of such a Committee introduces the element of deterrence in the minds of the officials to desist from probable wastage and wrong appropriation of the precious public resources. Moreover, the method of functioning of the Committee brings the officials into contact with the parliamentarians, which serves the purpose of informing of the milieu of parliamentary control within which they have to work. At the same time, as Morris-Jones informs insightfully, 'the work of the Committee serves to bring the officials and politicians together and to train both—the former in responsiveness to public opinion, the latter in the task of constructive criticism,'[30] in order to achieve the twin purposes of ensuring efficiency and economy in the spending of the public money without hampering the nation's march on the path of socio-economic development.

Committee on Public Undertakings

A by-product of the massive increase in the governmental involvement in the economic activities of the country under the rubric of planned economic development resulting in the creation of a

large number of economic and financial bodies under government ownership with huge amount of public money for investment at their disposal, the Committee on Public Undertaking is the extended specialized arm of the Parliament to take account of the role and functions of these bodies. Constituted in 1964 at the initial initiative of Lanka Sundaram, an independent member of the Lok Sabha, the Committee consists of twenty-two members drawn from the two Houses in the ratio of fifteen and seven for the duration of one year. Drafted with utmost care not to compromise with the operational autonomy of the public undertakings, the functional domain of the Committee is confined to examining the report and accounts of specified public undertakings; the reports, if any, of the CAG on these undertakings; and to see whether the affairs of these undertakings are being managed with the sound business principles and prudent commercial practices, within the limitations of the autonomy and efficiency of these undertakings. Equally important, however, is the bar put on the Committee in terms of restraining it from looking into the matters of major government policy as distinct from business or commercial functions, matters of day-to-day administration, and matters for consideration of which machinery has been established, in order to ensure that the Committee does not turn out to be a monster out to defeat the purposes for which such undertakings have been set up, under the garb of parliamentary control over these undertakings.

Of the three financial committees of Parliament, the Committee on Public Undertakings appears to be most wanting in the discharge of its responsibilities in an efficient manner. Marred by the overwhelming amount of work in hand and lack of proper vision on the nature, scope, and value of its role performance, the Committee has been subjected to scathing criticism by both the practicing parliamentarians, as well as by the experts. For instance, lamenting the futility of the recommendations of the Committee, Indrajeet Gupta, a veteran member of the Lok Sabha has remarked that 'barring some minor issues, most of the recommendations of the Committee on Public Undertakings remain unimplemented. This strengthens the hands of those erring/inefficient public sector managers who know nothing would happen to them except temporary criticism in Parliament.'[31] Further, the tone and content of the reports of the Committee have also been criticized for either being too harsh or being inconsequential. Nevertheless, the utility

of the Committee in ensuring a sustained parliamentary control over the public undertakings has proved beyond doubt as it has been able to promote a greater understanding between the members of Parliament and the management of the Central undertakings, thereby making the pubic accountability of government enterprises more effective.[32] The hiccups of the initial years no more become a hindrance in the effective role performance of the Committee with the growing experience and developing of traditions out of more than fifty years of its functioning.

Standing Subject Committees

With the growing complexity and volume of the work involved in the functioning of the executive in recent years, a feeling of relative deprivation had cropped up in the quarters of the Parliament on account of the inadequacy of the existing parliamentary committees to exercise the desired amount of scrutiny, supervision, and control over the financial and administrative matters of all the departments of the Government of India. The idea, therefore, germinated in 1989 to constitute subject-based or departmentally-related standing committees to secure an effective oversight over the entire spectrum of the concerned department.[33] Initially, established for three highly specialized and technical subjects, namely, agriculture, environment and forests, and science and technology, the range of these standing committees was enlarged in 1993 to encompass the whole gamut of executive functioning by setting up seventeen such committees consisting of forty-five members each, drawn in the ratio of thirty from the Lok Sabha and fifteen from the Rajya Sabha. Bestowed with the responsibility of toning up the accountability of the executive to the Parliament, the Committees' modus operandi include the screening of legislation, assessment of the policy statements, and verification of the claims made by the departments in their annual reports, apart from the most crucial function of scrutinizing the demand for grants presented by the various ministries and departments.

The Constitution of the Standing Subject Committees, in fact, carries forward the tradition of borrowing useful provisions from other constitutions as they represent a synthesis of the British and the American legislative systems.[34] Emerging as an adequate, if not

an all-out, solution to the problem of guillotine, the functioning of these committees has, more or less, revolutionized the way parliamentary control was exercised on the executive in the country. Without indulging into undue interference in the day-to-day functioning of the departments and ministries, the existence of the Standing Committees inspire the executive to become quite accurate, balanced, fine-tuned, and progressive in formulating the policy and presenting the demand for grants to the Lok Sabha because they know that any shortcoming on their part would not go unnoticed, unlike the previous probable situations. Positively, though the reports of the Committees have only persuasive value, they serve the greater purpose of illuminating the executive, instead of admonishing it, to adopt a more informed and correct perspective of the case in point. Similarly:

> [U]nlike the parliamentary financial committees, the subject committees would not do a mere postmortem examination of subjects. On the contrary, they may constantly, continuously and concurrently monitor the working of all the concerned Ministries/Departments in their subject areas and take up for fuller examination specific subjects of topical interest as they arise.[35]

Moreover, the ambit of the functioning of these Committees, by embracing all the ministries and departments including hitherto spared units like the atomic energy, space, and so on, has provided for comprehensive and coordinated view of the operational dynamics of the interrelated departments in order to look for any overlapping or duplication of work amongst various departments.

CONCLUDING OBSERVATIONS

In the framework of the parliamentary democracy in India, the Parliament becomes the central institution of governance on whose successful functioning depends the whole structure of the government. Therefore, much pain was taken by the Constituent Assembly to demarcate the structural and functional dynamics of the Parliament with a view to provide some sort of a permanent shape to the institution of Parliament so that the basic features of the polity remain intact forever. In other words, since the Parliament was made the custodian of making laws for the country, keeping

executive accountable to the people through their representatives in the Lok Sabha, and in times of need, amend the Constitution, the onus of responsibility fell on the Parliament to see that these functions are performed in such a way that the visions of the fathers of the Constitution are not diluted in any eventuality.

However, over the years, the functioning of the Parliament has left much to be desired. Instead of acting as the agency to keep the executive branch of the government on its toes through its inquisitive questioning of the policies and programmes of the government from time to time, and provide some sort of encouragement to the government by extending desired approval to the proper policies, the Parliament appeared to have allowed itself to be carried away by the executive. In such a scenario, while the situation did not take an ugly turn in view of the presence of persons of democratic vision and restrained functioning in the seat of power like Jawaharlal Nehru despite commanding a huge majority in the Lok Sabha, the state of things definitely took a perverse turn in times of the prime ministers like Indira Gandhi when she decided to keep aside the democratic institutions of governance and took upon herself to rule the country with the help of a caucus, without any accountability to either Parliament or any other organ of the government. In such circumstances, the role of scrutinizing the executive decisions and checking it from usurping the powers of other organs of government came down to the Supreme Court and the high courts, putting the judiciary on a collision course with the executive from time to time, though situations never seemed to go out of control.

Among other things, the increasing politicking in Parliament led to the conversion of the august body into a ring for the politicians to fight with each other not only with words but sometimes with blows also. Consequently, the basic purpose of the existence of Parliament as the examiner of the executive policy formulations and budgetary allocations started suffering. Hence, to tide over the situation, the committee system was introduced in Parliament so that certain specific committees are able to scrutinize the executive proposals and keep tab on the functioning of the government. The establishment of the standing subject committees has been taken as a sort of innovation in the parliamentary system of the country as a result of which a greater degree of transparency and accountability have been ensured in the functioning of the executive agencies.

NOTES

1. See Austin 1966: 144.
2. See Moon 1961: 61, cited in Austin 1966: 144
3. See Austin 1966: 144.
4. See Chatterjee 2007.
5. See Basu 1998: 198.
6. See Pylee 1995: 171.
7. See Constituent Assembly 1947: 644.
8. See Nehru 1928: 94.
9. See Morris-Jones 1971: 193.
10. See Trikha 1984: 94.
11. See Singh 1995: 124.
12. See Banerjee 1967: 314.
13. See Morris-Jones 1971: 232.
14. See Kashyap 1992: 22–23.
15. For a detailed discussion on the powers and function of the Speaker as well as his position in the Indian parliamentary system, a useful, though dated volume is Kaul and Shakdhar 1972.
16. See Morris-Jones 1957: 262.
17. See Kashyap 1990b: 182.
18. See Singh and Saxena 1999: 143.
19. See Kashyap 1992: 137.
20. Ibid.: 139.
21. See More 2001: 219–20.
22. See Sinha 1967: 399.
23. See Morris-Jones 1957: 307.
24. See Chanda 1961: 186.
25. See Jena 1966: 164.
26. See Morris-Jones 1957: 196.
27. See Kashyap 1992: 146.
28. See Mallay 1972: 69.
29. See Morris-Jones 1971: 195.
30. See Morris-Jones 1957: 295.
31. Cited in Mathur 1993: 70.
32. See Mathur 1993: 68.
33. See Kashyap 1990a: 3247.
34. See Arora and Goyal 1996: 527.
35. See Kashyap 1992: 149.

REFERENCES

Arora, Ramesh K. and Rajni Goyal. 1996. *Indian Public Administration*. New Delhi: Wishwa Prakashan.

Austin, Granville. 1966. *The Indian Constitution: Cornerstone of a Nation*. Delhi: Oxford University Press.

Banerjee, B.N. 1967. 'Rajya Sabha at Work', in S.L. Shakdhar (ed.), *The Constitution and Parliament in India*. New Delhi: National Publishing House.

Basu, D.D. 1998. *An Introduction to the Constitution of India*. New Delhi: Prentice Hall of India.

Chanda, Asok. 1961. *Indian Administration*. London: George Allen and Unwin.

Chatterjee, Abhijit. 2007. 'Powers and Functions: Mutual Self-Respect should Form the Bedrock', *The Statesman*, 11 May.

Constituent Assembly. 1947. *Constituent Assembly Debates, Volume IV*. New Delhi: Government of India.

Jena, B.B. 1966. *Parliamentary Committee in India*. Calcutta: Scientific Book.

Kashyap, Subhash C. 1990a. 'A New Parliamentary Initiative-Subject based Standing Committees of Parliament', *Economic and Political Weekly*, 6 October.

———. 1990b. *The Political System and Institution Building under Jawaharlal Nehru*. New Delhi: National Publishing House.

———. 1992. *Our Parliament*. New Delhi: National Book Trust.

Kaul, M.N. and S.L. Shakdhar. 1972. *Practice and Procedure of Parliament*. New Delhi: National Publishing House.

Mallay, N.N. 1972. 'The Role of Financial Committees in Parliamentary Surveillance and Administration', in L.M. Singhavi (ed.), *Parliament and Administration in India*. Delhi: Metropolitan.

Mathur, B.P. 1993. *Public Enterprises Management*. New Delhi: Macmillan.

Moon, Penderel. 1961. *Divide and Quit*. London: Chatto and Windus.

More, S.S. 2001. *Practice and Procedure of Indian Parliament* cited in A.C. Kapur and K.K. Mishra, *Select Constitutions*. New Delhi: S. Chand and Company.

Morris-Jones, W.H. 1957. *Parliament in India*. London: Longmans Green.

———. 1971. *The Government and Politics in India*. London: Hutchison and Co.

Nehru, Motilal. 1928. *Nehru Report*. Allahabad: All India Congress Committee.

Pylee, M.V. 1995. *An Introduction to the Constitution of India*. New Delhi: Vikas Publishing House.

Singh, M.P. 1995. 'Parliament', in M.P. Singh and Himanshu Roy (eds), *Indian Political System*. New Delhi: Jnanda Prakashan.

Singh, M.P. and Rekha Saxena. 1999. 'India Independent: The First Half-Century of Political Development and Decay', *Indian Historical Review*, XXVI.

Sinha, R.K. 1967. 'The Estimates Committee', in S.L. Shakdhar (ed.), *The Constitution and Parliament in India*. New Delhi: National Publishing House.

Trikha, N.K. 1984. *Second Chamber of Indian Parliament*. New Delhi: Allied Publishers.

5 State Executive

LEARNING OBJECTIVES

- To analyze critically the institutions and processes of state executive.
- To define the constitutional inputs of the State executive.
- To explain the office of Governor with the focus on his discretionary powers.
- To describes the powers and position of the Chief Minister and Council of Ministers.

The creation of a whole set of institutions and processes of governance at the level of states fulfils an important prerequisite for India to become a federation, at least theoretically. In spite of the dominant position of the Centre, as envisaged under the Constitution, the adoption of federalism as the underlying feature of Indian polity by the fathers of the Constitution introduced the element of decentralized governance in the country, probably bearing testimony to the vast social, economic, cultural, and geographical diversities prevailing in India since ancient times. Interestingly, such diversities have reinforced both centrifugal and centripetal tendencies in the Indian polity in response to which the provision for an overbearing Centre has been made on the one hand and federalized governance in the states have been introduced on the other, obtaining a unique system in India which defies a strict categorization under the rubric of both classical federalism as well as classical unitary forms of government. Hence, the broad contours of the state-level governance have been crafted by the framers presumably with the objective of meeting the typical challenges of seemingly mutually contradictory phenomena of ensuring

unity and integrity of the country, and guaranteeing the right of self-governance to the people. The chapter attempts an analysis of the structure and functioning of the executive at the state level in India.

FEATURES OF THE STATE EXECUTIVE

The most distinct feature of the state-level governance in India may arguably be a relatively subservient position vis-à-vis the Centre in both constitutional arrangement and practical functioning of the executive. Right from the constitutional provisions regarding the indestructibility of boundary, nomenclature, and even existence of a state, to the actual continuation of a Chief Minister as an individual in office in a state, despite his party continuing to enjoy the majority support in the Legislative Assembly, depend, more or less, on the powers-that-be at the Centre. In other words, constitutionally, both directly (like the provision that the executive power of the Union shall extend to the giving of such directions to the states as they may appear to the Government of India to ensure the exercise of the state executive powers in compliance with the laws made by the Parliament [Article 257]), or indirectly (as in the case of the provision that the Parliament is authorized to pick up for legislation by itself any matter placed in the State List if the Rajya Sabha resolves by two-third majority that such a legislation is necessary or expedient in the national interest [Article 249]), the Central Government has been afforded extensive powers to lord over the functioning of the state governments in normal times, and usurp the powers of the states in full measure in times of Emergency. Similarly, as if to operationalize the constitutional spirit, in practice, both in the times of the Congress dominance as well as in the reigns of the parties like Bharatiya Janata Party, the chief ministers of the states are chosen in New Delhi at the instance of the Party High Command in total violation of the constitutional spirit that the Chief Minister would be elected by the Members of the Legislative Assembly (MLAs) of the majority party. Thus, in crux, irrespective of the constitutional guarantee for the structure of the state government, its successful and satisfactory functioning depends, to a great extent, on the cordial relations and goodwill it carries with the Central Government.

Unlike the trends prevalent in the federations like the United States where the states of the Union have not only been given a high degree of functional autonomy but also a number of sound ingredients of statutory separate identity like separate constitutions, separate citizenships, and so on, the states in India, excepting, to some extent, the state of Jammu and Kashmir, are totally bereft of any such statutory traits of separate existence. Construed as the parts of an organic whole, on all counts, the structure and methods of governance for all the states have been elaborately provided for in Part VI of the Constitution, supposedly, in order to provide for a uniform system of governance patterned on the parliamentary mould as existing at the Centre. Though aware of the subtle peculiarities in the socio-economic and cultural dynamics of various states, the framers of the Constitution seem to have reposed their faith in the ability of the parliamentary system of governance to guarantee enough political space to all the concerned players to keep them satisfied and make the system work successfully.

Generally, it looks as if the system of governance based on the parliamentary pattern is obtained at both central as well as state levels in an identical form. But on a deeper analysis, it becomes clear that such identicality is more in form than in functional substance of the system at both levels. For instance, the nature and the method of usage of the powers and functions envisaged for the President and the Governor demonstrate a drastic difference in their real positions, though both of them may be required to act only in the ceremonial capacities as the nominal heads of the government. Though such differentiations exist in other spheres of activities relating to the bills passed by the legislatures, the control over the bureaucracy, and so on, they do not appear to offend the spirit of the parliamentary system of governance as they emerged out of a deliberate design on the part of the Constitution-makers in order to fix the suitability of the parliamentary system to the requirements of the typical situations prevailing in the country.

A discussion of the governmental structure at the state level, ordinarily, boils down to the analysis of the structure and processes of the legislature and executive only to the exclusion of the judiciary. As the judicial system of the country is cast in the mould of a unified integrated judiciary encompassing both Central and state levels in terms of the Supreme Court and the high courts, and governed

by the special provisions made in the Constitution to ensure an independent position for them by insulating them from the vagaries of the executives, the judicial system at the state level falls outside the purview of the discussion on state apparatus. Hence, the major segment which accounts for much of what is called as the state government is the executive branch of the government, though the Legislative Assembly also occupies a place of prestige and reckoning in the governmental system of the state. Above all, even the executive system of the state revolves around the key constitutional functionaries like the Governor and the Chief Minister, with the Council of Ministers and the bureaucracy playing a second fiddle to them. The broad theme of the chapter, therefore, concentrates on the office of the Governor and the Chief Minister, with special reference to both the constitutional provisions as well as the political trends in position and functioning of the two authorities.

OFFICE OF THE GOVERNOR

Converted into one of the 'acutely controversial',[1] offices envisaged in the Constitution of India by the unsavoury and pernicious acts of omissions and commissions of a few zealous and constitutionally unsound occupants of the august post, the office of Governor happens to be the starting point in the discussion on the state executive due to its foundational position. Amongst the crucial constitutional positions on whose prudent and dignified functioning depends the success of the Constitution, the position of the Governor stands out clearly, for, the successful functioning of the whole structure of the state government, having a greater implications for the successful standing of the federalism, in turn, depends on the restrained behaviour of the occupant of the office. In fact, due to the lack of a corresponding position in the British political system (which provides the operational spirit to the functioning of various constitutional authorities in India), made the country devoid of any convention or norm governing the functioning of the governors. As a result, they conveniently found themselves in a position to take certain morally, and sometimes even constitutionally, revolting decisions, which go a long way, not only in demeaning the provisions of the Constitution in spirit, if not in letter, immediately but also become a precedent for certain other

artful and scheming governors to take undue advantage of the flux circumstances arising in the state.

At the time of framing the provisions of the office of the Governor, the members of Constituent Assembly looked to be groping in dark due to lack of clarity on the exact nature of the office. For instance, in the original plan of the draft Constitution, the Governor was to be directly elected by the people but very soon, fearing a friction between the elected Governor and the popular ministry, the Drafting Committee evolved the alternative[2] which was found equally illogical and given up ultimately in favour of having a nominated Governor. Significantly, when the idea was doing the rounds that the Governor's appointment should emanate from the side of the people or the government of the state, the thinking of the framers might arguably have been shaped by the proposition of taking him primarily as the head of the state rather than the agent of the Centre, in true spirit of the parliamentary system of government. But, bowing before the dominant undercurrent of the Constituent Assembly in terms of the unity of the country, the framers arrived at the consensus to have the Governor nominated by the Centre to ensure that he, among other things, would supposedly keep the Centre in touch with the states, thereby uprooting a cause of probable 'separatist tendencies'.[3]

Still, the strong desire to keep the parliamentary and federal spirit intact in the constitutional framework in the states, members of Assembly reiterated their disclaimer that, by providing for nomination by the President, they want the Governor to be the agent of the Centre, as such idea would not be propitious for the scheme of things envisaged for the future.[4] Thus, struck into the challenge of amalgamating two diagonally opposite interests of securing the unity of the country and keeping the spirit of the parliamentary system intact in the state in the office of the Governor, the framers appear to have conceptualized the office in such a sense that it normally functions as the constitutional head of the state but in abnormal situations, also supplements as the extended arm of the Central Government to help it tide over the situations.

Powers and Functions of the Governor

Cast in the mould of an office whose functional dynamics depends on the exigencies in most, if not all, cases, there is not one consistent

way of exercising the powers and functions of the Governor, as in the case of the President at the Central level. Practically, the responsibilities of the Governor are discharged sometimes on the aid and advice of the Council of Ministers under the headship of the Chief Minister, and at the discretion of the Governor himself, at others. Though constitutional sanctions have been provided for the discretionary exercise of the powers and functions by the Governor in certain specific cases, the assumption of the fathers of the Constitution appears to be that such discretion is to be neither arbitrary nor capricious, and in no case dictated by the extraneous forces having a vested interest in the matter.

The powers and functions of the Governors' to be exercised on the aid and advice of the Council of Ministers headed by the Chief Minister, relate usually to the normal executive, legislative, and judicial domains, as enumerated in the State List of the Seventh Schedule of the Constitution. Vested with the executive powers of the state (Article 154), the Governor makes important appointments to the vital positions of the state administration and discharges other functions through the officers subordinate to him in accordance with the provisions of the Constitution. Amongst his legislative powers, the one to stand out is the power of issuing ordinances on the advice of the President or the Chief Minister and his ministers. In judicial field, the powers of the Governor is limited only to grant pardons, reprieves, respites 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. However, the Governor cannot pardon in the case of sentence being a sentence of death and the sentences awarded by the Court Martial.

Discretionary Powers of the Governor

The reach of the discretionary powers of the Governor has become wide-ranging due to both the overt constitutional mandate on the one hand, and the circumstantial assumption of such powers by the governors, on the other. Thus, Article 163 of the Constitution, while providing for the Council of Ministers to aid and advice the Governor in the exercise of his functions, also specifically envisages that in certain matters he may act in his discretion. In case a

question arises whether any matter is or is not a matter in respect of which the Governor is by or under this Constitution required to act in his discretion, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in his discretion. Additionally, the circumstantial exigencies would also afford the Governor the situations in which he might find himself compelled to take a decision in his discretion.

Appointment of the Chief Minister happens to be one of the cases when despite the established norms of the parliamentary democracy and overt constitutional mandate, the Governor may find himself in a position to exercise his discretion in response to the fluidity of the situation. In cases, when the elections to the Legislative Assembly of a state fail to throw up a clear-cut majority for a party or pre-poll alliance of parties, the appointment of a Chief Minister becomes a discretion of the Governor. He has to assess the competing claims of the various parties to command a majority in the House and provide a stable government to the people of the state, and then he has to convince himself of the soundness of such claims. In such circumstances, the Governor is placed in a very tricky situation out of which he can wriggle out only with prudent and pragmatic assessment of situation of the times rather than going by any standard constitutional precept or legal opinion. For instance, though he might be expected to give the first chance to the leader of the single largest party to form the government, he might go for the other party if he is convinced that the leader of the single largest party would not be in a position to provide a stable government. At the same time, it is also pointed out by the constitutional experts that:

> [W]hichever minority party or group of parties was called upon to form a government, stood the chance of converting itself into a majority by securing the support of defectors from other parties by promising ministerial office to the leaders of the defectors.[5]

Thus, though the responsibility of the Governor is really daunting, his conduct becomes mired in controversy when he is seen as taking side of a particular party, ordinarily at the instance of the Central Government, in stark disregard to what publicly appears to be the right course of action on his part. Lying beyond the scope

of foolproof constitutional arrangement, thus, the issue of the appointment of the Chief Minister may be handled by the Governor to the satisfaction of all only if he goes by the dynamics of the unfolding situations, without carving out an activist role for himself, which may result in the installation of a stable and democratic government in the state.

More ticklish than the appointment of the Chief Minister seems to be the issue of the dismissal of the Chief Minister and his Council of Ministers in midway of the five-year term of the Legislative Assembly, due to the ministry losing its majority in the House. Constitutionally, though the Chief Minister and his ministers hold office during the pleasure of the Governor, the norms of the parliamentary system has reduced this pleasure to the enjoyment of the majority support in the Legislative Assembly. Consequently, the loss of majority support in the House may be a valid ground for the Governor to dismiss the Chief Minister if he fails to resign by himself. However, the question arises on the point of the veracity of the loss of the majority. While the legislators who might have deserted the Chief Minister may claim that the ministry has been reduced in minority, the Chief Minister may advance counterclaim that he still enjoys the majority support of the house. For more than forty years of the working of the Constitution, the governors used to have a discretion in this regard. But after the landmark judgement of the Supreme Court in the Bommai case (*S.R. Bommai and Others vs Union of India*) in 1994, the position obtains that any dispute on the loss of majority of a ministry in the Legislative Assembly would be resolved on the floor of the House only, thereby negating any possibility of the Governor exercising discretion in assuming about the loss of majority support of incumbent ministry in the Legislative Assembly.

Despite the evolution of a norm on the issue of dismissal of a Chief Minister on the basis of his loss of majority in the House after the Bommai judgement, the question of the fate of a Chief Minister who is charged with corruption, maladministration or any other immoral act, irrespective of his enjoyment of majority support in the State Legislature, remains controversial. Though the broad canons of the parliamentary system ordains that the Chief Minister should not be removed from office if he continues to enjoy the majority support in the Assembly, the constitutional experts opine that a Chief Minister or a minister can be dismissed if he undermines

the unity of the nation and establishes an independent state or enters into secret negotiations with a foreign power with a view to breaking away from the federal union.[6] However, in normal circumstances, in removing a minister from the post, the Governor is obliged to have the advice of the Chief Minister in this regard.

In relation to the functioning of the Legislative Assembly, though the role of the Governor is assumed to be a formalistic one with the Chief Minister taking the lead in deciding the functional dynamics of it, any undue role play on the part of the Chief Minister may compel the Governor to act in his discretion in summoning, proroguing, and even dissolving the Legislative Assembly. For instance, in summoning the session of the legislature, the Governor is to go by the advice of the Chief Minister, with the only condition that six months should not elapse between the two sessions. However, the situations may arise when the Chief Minister, fearing a loss of majority in the House, does not advice the Governor to summon the session of the Assembly. In such situations, the Governor appears to be duty-bound to summon the session of the Assembly even if it means acting in his discretion. In fact, it needs to be pointed out that this task of the Governor happens to be so urgent and unavoidable that his discretion in this regard would be well taken. Rather, if he fails to use his discretion in summoning the session of the House within the stipulated time of six months, he might be liable to be charged with the violation of the provisions of the Constitution, providing a suitable ground for his own dismissal from the office.

Similarly, in case of proroguing the Assembly, the Governor is placed in a situation to exercise his discretion if he smells some foul play on the part of the Chief Minister. To illustrate, if in the middle of the session of the Assembly, the Chief Minister advises the Governor to prorogue the session fearing a loss of majority in it, or if a no-confidence motion is pending against the ministry, the Governor is justified in refusing to accede to the advice of the Chief Minister and continuing with the session of the Assembly. The same logic applies to the dissolution of the Assembly also. In other words, the Chief Minister is well within his rights to seek the dissolution of the Assembly and the Governor is obliged to do so if the former continues to enjoy the majority support in the Assembly. But the situation turns in favour of dovetailing discretion to the Governor if the Chief Minister loses the majority support in the Assembly

and seeks the dissolution of the Assembly to escape the defeat of his government on the floor of the House. The Governor, in such a situation, may refuse to accept the advice of the Chief Minister to dissolve the Assembly and explore the avenues of forming a new government which can provide a stable government in the state without throwing the people in the vortex of fresh elections.

Another subtle discretion to the Governor seems to be available through the provisions of Article 175(1) of the Constitution, which envisages that the Governor can address either Houses of the State Legislature separately or together, in addition to delivering special addresses at the commencement of the first session of a newly constituted Assembly after fresh elections and the inaugural address in the budget session. Conventionally, since the address of the Governor is drafted by the Council of Ministers headed by the Chief Minister it is probable that such addresses may contain certain objectionable matters which may be both politically unsavoury and constitutionally improper. Hence, the question arises whether the Governor can refuse to read such address prepared by the Council of Ministers. The opinion of the jurists in this regard converge on the point that though the Governor cannot outrightly refuse to read the address but he may be well within his rights to avoid mouthing such parts of the speech which he finds objectionable and against the norms of political prudence and constitutional propriety.

Reservation of a bill for the consideration by the President is another instance where the Governor is not obliged to abide by the advice tendered by the Council of Ministers. Article 200 of the Constitution provides for the Governor to reserve a bill duly passed by the Legislative Assembly of the state for the assent of the President if the subject matter of the bill pertains to such significant issues like the larger interest of the country, endangers the position of the High Court, and touches upon the issues of grave national significance. This right is an absolute discretion of the Governor as the Constitution professedly lays down the power of the Governor.

The Governor also has discretion in seeking the information from the government on any aspect of the governance in the state. Though the Chief Minister is duty-bound to keep the Governor informed of all the activities relating to the governance of the state, the Governor still can seek any clarification or information if he finds any issue not clearly spelt out to him in the information

provided by the Chief Minister. Moreover, the Governor may ask the Chief Minister to place before the Council of Ministers for consideration any matter over which the decision has been taken by the minister without the consideration of the issue by the Council of Ministers.

Finally, the discretion of the Governor extends to the field of sending his report to the Centre on his own judgement regarding the breakdown of the constitutional machinery in the state, and recommending the imposition of the president's rule in the state. Though the president's rule in a state can be imposed even without the report of the Governor, ordinarily, the Governor's report becomes the basis for the Union government to act on the matter.

CHIEF MINISTER

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. As the head of the Council of Ministers of the state, the Chief Minister happens to be the chief advisor to the Governor in the discharge of his functions as head of 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 rather than ensuring to each state a fair degree of functional autonomy in true spirit of the federal structure of the Indian polity. Consequently, the position of the Chief Minister, rather than being that of a democratic ruler with wide-ranging powers and functions, appears to be that of a local ruler with many fetters put on his functional autonomy—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.

In the appointment of the Chief Minister, the Constitution follows the standard pattern that he shall be appointed by the Governor, leaving rest of the things to be shaped by the emerging conventions in the country. Hence, as per the norm of the parliamentary system, the Governor is bound to invite the leader of the majority party in the State Legislative Assembly to take the oath of office and secrecy

as the Chief Minister. However, in practice, three discernible trends have emerged in the appointment of the Chief Minister over the years in the country. First, even when a national party secures a majority in a State Assembly, the election of the leader of the legislature party, though theoretically done by the legislators, becomes a stage-managed affairs in effect as the person to be such leader is invariably nominated by the High Command of the Party, sometimes, even in utter disregard to the wishes of the majority of the legislators of the State Assembly. Moreover, the nomination of the person to become the Chief Minister becomes such a farce on the parliamentary system that quite often he who is not even the member of the Legislative Assembly or holds some office in the Central Government is sent to the state to lord over the elected representatives of the people as the leader of the legislature party. Thus, in theory what appears to be the inalienable right of the elected members of the Legislative Assembly, has got transformed into the lordship of the Party High Command in case of the national parties like the Congress and the Bharatiya Janata Party.

Second, with the inception of the era of coalition governments in the states, the role of Governor has become quite significant in the appointment of the Chief Minister. What is, however, astonishing is that in such circumstances, the Governors have been found to be ashamedly either siding with the candidates having affiliation to the ruling dispensation at the Centre, or acting at the instance of the Central Government without any kind of inhibitions. A recent example in this regard happens to be the role of the Governor of Jharkhand in propping up the government of Madhu Koda, who is an independent.

Third, the erosion in the preeminent position of the national parties in a number of states resulting into the emergence of one or the other regional parties as the ruling formation in the states like Tamil Nadu, Uttar Pradesh, Bihar, and so on, has been able to ensure certain degree of observance of the norms of the parliamentary system in the state. For instance, right from the formation of the electoral alliances and declaration of the candidates for the election, till the taking of the oath of office and secrecy by the Chief Minister, the location of the High Command of the Party in the state capital does not allow for the remote control of the activities of the state politics from the Centre. The most important function of the election of the leader of the legislature party takes place in the democratic manner in which the leader of the party who steered

the party to the victory in the Legislative Assembly is chosen by the members of the Legislative Assembly to be the Chief Minister of the state without any dictation from outside the legislature party.

In sum, the appointment of the Chief Minister 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 (more so in the states where any party fails to secure a majority support in the Legislative Assembly), than the simple constitutional proposition that the Chief Minister shall be appointed by the Governor. Scheming designs of the Centre-tuned Governor have, more often than not, led to the formation of such ministries in the states, which would have never been the case had there been the unfolding of events in the normal course of events. The precarious majorities of the state governments 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 health of the state government can remain immune from the infectious moves of the Centre only if its majority in the Assembly is absolute and the Government remains untouched by the viruses of defections and realignment of the political forces in the state.

What holds good in the appointment of the Chief Minister also holds true in regard to his removal from the office. To put it differently, though 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. This provision, thus, effectively neutralizes any activist role for the Governor to plot the ouster of the Chief Minister from the office as long as the latter continues to enjoy the majority support in the Legislative Assembly. Moreover:

> [W]hat happens in practice is that the removal of the Chief Minister is rarely the decision of the Governor. The latter only acts as an agent of the Union Government and, therefore, it is the Union Government which usually removes a Chief Minister from office.[7]

Consequently, Article 356 of the Constitution, 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.

Position of the Chief Minister

Within the constraints of the constitutional circumspection and the gubernatorial scheming moves, 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, after securing a majority in the State Legislative Assembly and his anointment as the Chief Minister of the state, he attains a relatively free hand in deciding the shape and size of his government. A variation in the position of the chief ministers belonging either to a national party or heading a coalition government, and a Chief Minister, heading a regional party having an absolute majority in the State Legislative Assembly, becomes distinct owing to the degree of functional space available to them in these circumstances. For instance, in case of the Chief Minister belonging to a national party or heading a coalition, his hands become tied even in using his prerogative of selecting his own ministers and allocating portfolios to them as they have 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. Such extraneous considerations are, however, not dominant in case of the chief ministers having a regional base and comfortable majority in the State Legislature. Still, all the chief ministers, whether functioning independently or under the tutelage of the Party High Command or coalition partners, have to be guided by the considerations like imperative of ensuring representation of all social segments of the society and regionally-balanced distribution of the ministries, in addition to having capable people manning the vital departments like Home, Finance, and so on. Previously, in the absence of a ceiling on the size of the ministry, 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, limiting the size of the ministries to only 15 per cent of the total membership of the State Legislative Assembly, a remarkable improvement has been brought about in regard to the frivolous elements finding a place in the Council of Ministers.

The pivotal position of the Chief Minister in the sphere of the state government is also magnified with his unhindered prerogative of reshuffling his Council of Ministers and recommending the dismissal or seeking the resignation of a minister. In fact, being a natural corollary of the chief ministers' power to have a Council of Minister of his own choice, the issue of reshuffling the Council of Ministers has, over the years, become a convenient tool in the hands of the Chief Minister to carry out a surgical operation in the body of his ministry to either cut to size some ministers who become too big for their boots, or to strengthen the position of certain ministers assumed closer to the Chief Minister through whom he consolidates his own position in the Council of Ministers. In this regard, much, however, depends on the political clout of the Chief Minister in his party, for, the reshuffle of the ministries are taken to be a process in the game of political one-upmanship without any significant part being played by any other actor, and the chief ministers' grip over the party and his colleagues become apparent after such reshuffles.

The relationship of the Chief Minister with the MLAs determines not only the degree of the elevation in his position in the state government but also his sustenance in the office itself in the final run. In fact, the dealings of the Chief Minister with the MLAs operate at two levels: the standing of the Chief Minister in front of the MLAs and the attitude of the former towards the latter. For instance, under the circumstances when the Chief Minister does not command a comfortable majority in the Assembly on his own and has to depend on the support of other parties or the independents, his position becomes quite precarious in front of the MLAs and he is found to be in a vulnerable position. In the reverse case, the Chief Minister stands in a commanding position vis-à-vis the MLAs and it is the latter who are at the receiving end of the former rather than the case being vice versa. Next, the attitude of the Chief Minister towards the MLAs' sensibilities and aspirations also conditions his prestige in the state government since the spontaneous deference of the latter towards the former ascertains the continued support of the Assembly which is the *sine qua non* for the sustenance of the ministry in office. 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.

The Chief Minister stands in an unenviable position in the state government insofar as the liaising with the Central Government is concerned. Though the formal constitutional provision has been that any information sought by the President or the Vice-President is being provided through the reports of the Governor, in large measure, such reporting is only formalistic without putting the situations of the state in right perspective. Hence, on a visit of the Central dignitaries to the state or the visit of the Chief Minister to New Delhi, a meeting between the two results in a free and frank exchange of views on the issues relating to the state. Moreover, 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 the Central governments. The tradition of Jawaharlal Nehru to write letters to the chief ministers regularly exemplifies the significance of contact between the two and shows the concern of the Prime Minister regarding the affairs of the country in general and the states in particular. Above all, the Chief Minister has to interact with a number of central ministries, dealing primarily with the socio-economic developmental aspects of the people, like education, agriculture, rural development, health, and so on, in order to secure the support of these ministries in alleviating the conditions of the masses in the state with active support of the Central Government. In sum, barring the exceptional circumstances when the Governor has to send the report to the Central Government on the situations prevailing in the state, the Chief Minister seems to be well placed to keep a lively and regular contact with the Central Government to secure the interest of the state.

The planning process in the country has also added to the power and position of the chief ministers, both at the state level as well as the level of the Central Government. The fundamental source of the chief ministers' 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 the country. Strictly, 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. For instance, after the drafting of the Approach Paper for the Eleventh Plan by the Planning Commission, a meeting of the NDC was called to discuss the Approach Paper and elicit the views of the chief ministers on it in order to make the Plan foolproof and well-accepted. After the adoption of the Five Year Plans by the NDC and the Parliament, it is operationalized through the component of Annual Plans, to be decided every year. Hence, the chief ministers of all the states visit New Delhi every year in order to have an audience with the Deputy Chairman of the Planning Commission in which the demand for the requirements of the state is placed before the Commission. Meanwhile, the Chief Minister also remains in touch with the Planning Commission in order to ensure the smooth flow of funds for the implementation of several Centrally Sponsored Developmental Schemes in the state. Down the line, the Chief Minister happens to be the Chairperson of the State Planning Board through which the developmental plans are formulated and implemented in the state in accordance with the broad guidelines of the Planning Commission and the NDC.

Finally, the exalted position of the Chief Minister in the state government gets reflection in his being the head of the administrative machinery of the state. In this regard, three distinct but common patterns prevail in almost all the states pertaining to the administrative role of the Chief Minister. First, being head of the Council of Ministers, the Chief Minister is ordained with the onerous responsibility of providing a unity of command in the administration of the state by ensuring that all the departments of the state government act in tandem within the broad administrative philosophy underpinning the governance of the state. In other words, the state administration should not work like a disjoined lot working at cross purposes without any sense of collective functioning and respect for the norms of the parliamentary system of governance. Second, the chief ministers in most of the states are found to retain the vital ministries relating to the services and the economic development in the state like the Department of General Administration and Personnel, dealing with the appointment and transfers of the senior officers of the state, and the Department of Planning. The main reason for such retention may presumably be to keep the officers of the state immune from the vagaries of the individual ministers on the one hand, and to assert his hold over the administrative machinery of the state on the other.

Third, the position of the Chief Minister has progressively become that of a residue storehouse where lies all those departments dumped which have not been allocated to any individual minister. Moreover, when a minister leaves the Council of Ministers for certain reasons, his department also gets automatically transferred to the Chief Minister, until it is reallocated to any other minister. What is significant here to note is that this does not appear to be a healthy practice for the Chief Minister to keep a host of departments under his command as he/she would in no case be able to devote as much attention to the departmental interests as an individual minister would be able to devote, thus hampering the efficient and effective functioning of the department. The need, therefore, seems for the Chief Minister to become the pilot of the plane, leaving other services for the other staff to handle, under his overall charge.

THE 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. Significantly, over the years, in most of the parliamentary systems of governance, the place of pride ordained for the collective executive in the form of the Council of Ministers, has been usurped by the individual personality of the Prime Minister or the Chief Minister, as the case may be. Not remaining immune to this worldwide phenomenon, the Council of Ministers in the states have also lost much of their sheen, if not vitality, in face of the growing personality-based clout of the Chief Minister. However, it needs to be pointed out that despite the dipping fortunes of the Council of Ministers, it has not lost its complete standing in the state government, and clamours back to an imposing position whenever the position of the Chief Minister becomes precarious due to either his razor-thin majority in the Legislative Assembly or the indomitable personalities of the ministers forming part of the Council of Ministers.

The provision of the Council of Ministers in the state has been made, in fact, in order to abide by one of the cardinal principles of the parliamentary government, that is, the collective responsibility to the legislature. Since the individualized governance is ruled out under the rubric of system of governance adopted by India,

the creation of the Council of Ministers becomes a mandatory provision. Hence, under the headship of the Chief Minister, the Council of Ministers takes the shape having being drawn from the members of the legislature. However, the Council of Ministers must act as a joint entity without any discordant voice being raised in public. Indeed, the doctrine of collective responsibility requires all the members of the Council of Ministers to develop a sense of collective working because despite their being in charge of different ministries and departments, they function under the broad unity of command rooted in the wisdom of the collective decision-making in the Council of Ministers. In other words, though the individual ministers are entitled to the independence of judgement while implementing the decisions taken by the Council of Ministers, they are susceptible to all sorts of advices and suggestions from their cabinet colleagues in the meetings of the Council of Ministers. But once the final decision has been arrived at any issue in the Council of Ministers, all the ministers, including those who might have had some differences on the issue in the cabinet deliberations would have to abide by the decision for the sake of collective responsibility of the Council of Ministers. If the difference of opinion of any minister becomes too overbearing to be kept in silence, he would have to give up his ministerial responsibility before airing his difference of opinion in public. The same canon of collective responsibility extends to the position of the ministers in the Legislative Assembly also where any decision of the Council of Ministers becomes the decision of all of them, and they are duty bound to not only stand by such decision but also defend it on the floor of the House. After all, the failure of a minister on any issue on the floor of the House would be assumed to be the failure of the entire government which might result into the unceremonious removal of the government from the office, in accordance with the doctrine of the collective responsibility to the house.

In countries like India having vast socio-economic, cultural, and geographical variations amongst the people, the Council of Ministers, indeed, becomes a tool of bringing about some degree of uniformity in ensuring the fruits of governance to all sections of the people. So much so that the formation of the Council of Ministers gets mired into the subjective assessment of the pros and cons of including or excluding certain sections of the people to ensure the stability of the government in the short run, and to eye the benefits to be reaped in the long run in terms of the electoral

gains. Severely restricting the prerogative of the Chief Minister in choosing his own team of ministers to run the government in an efficient and professional manner, the objective of guaranteeing sufficient representation to the people of all castes, religion, region, sex, and professional background necessitates the inclusion of even such unprofessional and burdensome ministers in the Council of Ministers who would have never proved to be an asset to any organization. This may be taken to be a healthy sign in the matured democracies in the world to provide adequate representation to all sections of the people in the process of governance. But an exorbitant reliance on the primordial affinities of the people to determine their share in the system of governance, quite often than not, proves to be counterproductive, whose obvious consequence lies in a substandard and thoroughly non-professional attitude in the government and administration of the state.

The functional dynamics of the Council of Ministers betrays a saga of the constitutional mandate turned into the dominant usurpation by the personality of the Chief Minister. Explicitly, Article 163(1) of the Constitution provides that there shall be a Council of Ministers with the Chief Minister at its head to aid and advice the Governor in the exercise of his functions, except insofar as he is by or under the Constitution required to act in his discretion. Thus, the constitutional mandate overtly expresses itself in favour of the Council of Ministers acting as the mover of the government in the state, albeit under the headship of the Chief Minister. But the actual practice tells a story in reverse mode whereby the Chief Minister becomes the whole sole of the government of the state and the Council of Ministers acting just as the adjunct to the Chief Minister. In fact, the imprint of the chief ministers' domination on the Council of Ministers manifests so clearly that right from drafting of the agenda of the meeting of the Council of Ministers till the arrival of the final decision by it, most of the things would have been assumed beforehand which turn out to be true after the conclusion of the meeting of the Council of Ministers. Any difference of opinion is either not allowed to be aired in the meeting of the Council of Ministers, or if allowed to be aired, bulldozed by the Chief Minister to bring the individual ministers around the preordained decision. Thus, in reality, the Council of Ministers has become more or less a sort of rubber stamp to endorse the decisions taken by the Chief Minister either in his own discretion or in consultation with some of his trusted ministerial colleagues.

CONCLUDING OBSERVATIONS

In the discussions on the Indian political system, the subject of the state-level system of governance is ordinarily taken to be a topic of insignificance and, therefore, left out in the cold without any elaborate discussion. The obvious reasons for such apathy of the scholars towards the state-level system of governance appear to be the fact that since the pattern of governance at the state level is nothing but a replication of the system of governance existing at the Union level with only minor modifications, it is assumed in the academic circles that by analyzing the structure and functioning of the Union Government, the perspectives on the structure and functions of the state-level system of governance also become clear. However, such misconceptions have remained important in negating the holistic analysis of the structure and functions of the executive in a state.

Though the basic structural postulates of the state executive are patterned on the system prevailing at the Union level, there appears to be marked distinctions at least in the powers and functions of the head of the state executive, that is, the Governor of the state. In fact, the office of the Governor has been one of the most hotly debated subjects in the discourses on the Indian politics as its implications are not only grave for the proper functioning of the state executive but they also throw a spanner in the works of Centre-state relations in the country. As the occupants of the office of the Governor have brought much disregard, if not disgrace to the office, the perspectives of various people on this office range between the demand for its abolition and the introduction of a number of reform measures in terms of the appointment of the Governor and the limits of his/her discretionary powers. Hence the indispensability of this office brings in sharp focus the issue of moderating the influence of the Governor on the overall functioning of the state executive in the country.

NOTES

1. See Austin 2003: 574.
2. The alternative was that the State Legislature would suggest a panel of four names, including the names of the people who might not necessarily be a resident of the state, and the President would appoint one of them as the Governor of the state. See Constituent Assembly 1948: 8.

3. See Constituent Assembly 1949: 454–56.
4. See Constituent Assembly 1949: 459.
5. See Seervai 1984: 1723.
6. See Pylee 1968: 521.
7. See Arora and Goyal 1995: 206.

REFERENCES

Arora, Ramesh K. and Rajni Goyal. 1995. *Indian Public Administration*. New Delhi: Vishwa Prakashan.

Austin, Granville. 2003. *Working of a Democratic Constitution: A History of the Indian Experience.* New Delhi: Oxford University Press.

Constituent Assembly. 1948. *Draft Constitution of India*. New Delhi: Government of India.

———. 1949. *Constituent Assembly Debates, Volume VIII*. New Delhi: Government of India.

Pylee, M.V. 1968. *Constitutional Government in India*. Bombay: Asia Publishing House.

Seervai, H.M. 1984. *Constitutional Law of India, Volume II, 3rd Edition.* Bombay: N.M. Tripathi Pvt. Ltd.

6 The Judiciary

LEARNING OBJECTIVES

- To explain the composition, functioning, and jurisdictions of the Supreme Court and the high courts.
- To analyze critically the concept, purposes, functioning, and prospects of the notions of judicial review and judicial activism in India.
- To explain the structure and functioning of other supervisory institutions of Indian democracy.

Unlike her South Asian neighbours, political institutions have developed organic roots in India. There has however, been, a clear deterioration of Indian Parliament in its role performance in view of the decline of 'the moral credibility' of the elected representatives. Not only has the quality of the debate on policy issues gone down, the parliamentarians also tend to lose their dignity even on the floor of Parliament once they are challenged by their colleagues. The parliamentary decline is seen to be matched by the ascendancy of other political institutions of the Indian democracy. For instance, the President, Supreme Court, and the Election Commission have, among others, shown a remarkable resilience in upholding some of the intrinsic liberal values ingrained in the Indian political system.

Like several other institutions under the Constitution, the judicial system of independent India appears to be a compromise between the two distinct perspectives of judiciary under the parliamentary and federal systems of government. Since, for obvious reasons, India could not have become a unitary system of polity, the colonial rulers tried to introduce some semblance of a federal

structure, including a federal court to stand at the apex of the judicial system within the country. However, the adoption of the parliamentary system of government based on its functional dynamics in Britain, conditioned the extent to which the federal institutions in the country could have been afforded strength and operational autonomy. In other words, under the classical notion of the federal systems like America, the Supreme Court should have been accorded some sort of supremacy amongst the three organs of the government owing to its position as the protector of the Constitution and the people's rights. On the other hand, the imperatives of the parliamentary system as in Britain require the highest court to be in a subservient position to the Parliament since the latter is construed to be the sovereign authority in the political system of the country. Now, since the Indian political system was designed to be a halfway mark of both the federal as well as the parliamentary systems, the judicial system of India was bound to be an amalgam of certain features prevalent in both the countries. But, how far the judiciary might be permitted to imbibe the characteristics of the two systems to suit the requirements of the Indian polity was the million-dollar question bothering the minds of the members of the Constituent Assembly. The present chapter, therefore, presents an analysis of the perspectives of the fathers of the Constitution on the Judiciary and working of the judicial system in the country, with all its pros and cons, in view of the increasing efforts of the judiciary to act as the cleaning house for all the mess that the country has been put into. Besides, a brief discussion on the independent commissions, which have been designed to serve as the operational support system for the machinery of governance in the country, has also been provided.

PERSPECTIVES OF THE CONSTITUENT ASSEMBLY

Placed, thus, in a piquant situation, the members of the Constituent Assembly aspired to idealize the courts for the two plausible reasons of giving force to the fundamental rights and acting as guardians of the Constitution itself.[1] This idealism guided the framers to design for an independent judiciary in the realm of which 'the powers of the Supreme Court and judicial review'[2] emerged as the key issues that loomed large in their minds. The tone and tenor of the judicial system of the country was decided to be in the mould

of the one found in the federal political systems with a strong and independent Supreme Court vested with the responsibility of not only maintaining the sanctity of the federal nature of the polity by keeping the constitutional provisions intact in this regard, but also protecting the fundamental rights of the people as the beacon of the modern democratic life. The only concession presumably given to the ethos of the parliamentary system in the country was in terms of the fetters put on the court's power of judicial review where the rights to property and personal liberty were concerned. Rooted in the desire to facilitate the onset of a social revolution on the one hand, and reiterate the recurrent theme of unity in the Constituent Assembly on the other, the marginal circumspection of the powers of Supreme Court seemed to be an effort to make the judicial provision of the Constitution congruent with the broad contours of the parliamentary democracy in the country, lest the supremacy of the judiciary becomes absolute, attaining alarming proportions in the absence of a well-placed system of checks and balances as are found in the presidential system of government.

The issue of the independence of the judiciary was so paramount in the minds of the framers that, as Austin complains, they showed disproportionate concern with the administrative aspects of the judicial system, with the tenure, salaries, allowances, and retirement age of judges, with the question of how detailed the judicial provisions of the Constitution should be, and more pertinently, with the mechanism for choosing judges; though with the pious desire to insulate the courts from attempted coercion by forces within or outside the government.[3] Following the blueprint envisaged by the Sapru Committee and the recommendations of it own ad hoc committee, the Constituent Assembly broadly agreed to devise such provisions as are prudent in the circumstances peculiar to India, irrespective of their prevalence in Britain or America, to secure the independence of the judiciary. For instance, rejecting the British method of appointment of the lord chancellor as too unsupervised, and the American system of confirmation of judicial appointments by Senate as open to politics, the Assembly provided for the appointment of the judges by the President after due consultations with the stipulated judicial officers. The questions of the tenure, salaries, and future employability of the judges were also answered on similar lines.

A remarkable point that arose in the context of the durability of the constitutional provisions safeguarding the independence of

judiciary was their amendability by the Parliament in later years as part of some political manoeuvring. The Assembly addressed this issue by entrenching the provisions on judiciary amongst those provisions of the Constitution whose amendability was made the toughest, by providing that, among other things, the amendment of such articles would require the approval of not less than one-half of the legislatures of the states, in addition to the passage by both the houses of Parliament by a two-third majority in each case. Later on, in the judicial pronouncements, the independence of the judiciary was included as part of the basic structure of the Constitution, making it almost an unamendable part of the Constitution.

Anticipating the demerits of dogmatizing the independence of judiciary in ascertaining a cordial and interdependent functioning of the three organs of government, the general mood in the Constituent Assembly was in favour of putting things in perspective, if not to undermine it. Echoing the popular sentiment of the members of the Assembly, Alladi Krishnaswamy Ayyar pointed out:

> While there can be no two opinions on the need for the maintenance of judicial independence, both for the safeguarding of individual liberty and the proper working of the Constitution, it is also necessary to keep in view one important principle. The doctrine of independence is not to be raised to the level of a dogma so as to enable the judiciary to function as a kind of super-legislature or super-executive.[4]

Couched, therefore, in the guise of social revolution, the powers of the Supreme Court, specially its power of review in cases of right to property and personal liberty were not only circumscribed, but also made to obliterate in the times of Emergency when the Court's power of issuing writs get curtailed to a great extent and the executive's functional domain gets widened enough to suspend the enjoyment of the fundamental rights by the people.

SUPREME COURT

Within the framework of a unified integrated judicial system, the Constitution provides for the establishment of the courts at the Central, states, and the district levels, with the Supreme Court standing at the head of the system. A successor of the Federal Court of

the pre-Independence times, the Supreme Court was inaugurated in 1950 with Chief Justice H.J. Kania and seven other judges. Afterwards, owing to the increasing workload of the Court, the Parliament has from time to time increased the number of judges of the Supreme Court, which presently stands at twenty-five, apart from the Chief Justice. Interestingly, there exists no stipulation on the minimum number of judges in the Constitution, except for the provision in Article 145 relating to Rules of Court, Clause (3) of which provides that the minimum number of judges who are to sit for the purpose of deciding any case involving a substantial question of law and to the interpretation of the Constitution or for the purpose of hearing any reference under Article 143 as advisory jurisdiction of the Court, shall be five.[5]

The judges of the Supreme Court are appointed by the President in consultation with such other judges of the Supreme Court and of the high courts in the states as he may deem fit. Holding office till the attainment of the age of sixty-five years, a judge cannot be removed from office except for proved misbehaviour or incapacity, the motion for which needs to be endorsed by both the Houses of the Parliament by a two-third majority. Proving the cumbersomeness of the process of impeachment of the judges, in the sixty years of the constitutional history of independent India, only one judge of the Supreme Court, Justice V. Ramaswami, was brought forth for impeachment by the Parliament in March 1991 for misbehaviour in terms of the alleged financial improprieties while remaining the Chief Justice of the Punjab and Haryana High Court. Despite the committee of enquiry finding Justice Ramaswami guilty of the charges levelled against him, the motion of impeachment fell due to political manoeuvring in the Parliament, leading to the absolvement of Justice Ramaswami.

More than the appointment of the judges, what has created lot of controversy in the country has been the appointment of the Chief Justice of the Supreme Court, beginning in 1973. Left to the emergence of certain conventions and the good sense of the people that be, the method of the appointment of the Chief Justice has not been provided for in the Constitution. Yet under the idealistic perspective of the national movement and in honour of the set precedents available in many countries of the world, the convention emerged in the country to appoint the senior-most judge of the Supreme Court as the Chief Justice of India. However, the convention was

broken for a while in 1973 when in supersession of three senior-most judges of the Court, Justice A.N. Ray was appointed the Chief Justice, in protest against which the three judges resigned at once.[6]

With the defeat of Indira Gandhi's government in 1977, and the inauguration of the Janata Party government, the wrongs of the past years were corrected in the appointment of Justice Y.V. Chandrachud as the Chief Justice to succeed Justice M.H. Beg in 1978. Since then, the seniority principle has been scrupulously followed in appointing the senior-most judge of the Supreme Court as the Chief Justice of India, even in the cases in which the tenure of the appointee would be as less as just two weeks, as in the case of Justice K.N. Singh. Crucially, in the wake of relatively weak and coalitional government assuming charge at the Centre, and the growing respect amongst the masses for the judicial independence, the chances of the well-conceived convention of appointing the senior-most judge of the Supreme Court as the Chief Justice of India being broken appears to be bleak, bolstering the prospects of a bright future for the judiciary in the country.

Jurisdiction of the Supreme Court

Manifesting the powers and functions of the Supreme Court, its jurisdiction has been extended to both the original and the appellate domains by the Constitution. As the apex court in the country, however, the original jurisdiction of the Supreme Court extends only to the broader issues of protecting the fundamental rights of the people, running concurrently with the jurisdictions of the high courts, as well as adjudicating the issues relating to the federal structure of the Constitution, which happens to be its exclusive jurisdiction. In other cases, the jurisdiction of the Court is mainly appellate.

The original jurisdiction of the Supreme Court has been delineated under the various provisions of the Constitution. Primarily, under Article 131, the Supreme Court has been vested with the original jurisdiction in any dispute (*a*) between the Government of India and one or more states; (*b*) between the Union government and any state on one side and one or more states on the other; and (*c*) between two or more states, if the disputes relates to any question of law or

fact on which the existence or extent of a legal right depends. Such jurisdiction, however, does not extend to disputes relating to water of interstate rivers or river valleys referred to a special statutory tribunal provided for under Article 262; matters referred to the Finance Commission (Article 280); adjustment of certain finances between the Union and the states (Article 290), and so on.

As part of its original jurisdiction, the Supreme Court is also vested with special responsibility in the matter of the enforcement of the fundamental rights of the citizens. Running concurrently with the jurisdiction of the high courts under Article 226, the Supreme Court, under Article 32 of the Constitution, is empowered to issue directions, orders or writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto*, and *certiorari*. Finally, after certain moves and countermoves by way of constitutional amendments, the jurisdiction of the Supreme Court, on matters relating to the election of the President or the Vice-President, has remained intact under the provisions of Article 71(1) of the Constitution.

Placed at the apex of the judicial hierarchy in the country, the appellate jurisdiction of the Supreme Court is so extensive that it practically involves all the cases in the nature of constitutional matters, civil and criminal cases, and the cases where a special leave is granted by the Court against any judgement of a Court or tribunal in India. Thus, an appeal lies with the Supreme Court from any judgement or order of a High Court in all cases irrespective of being civil, criminal or other proceedings, if, under a certificate of the Court, it is established that a substantial question of law or the interpretation of the Constitution is involved in the case, under Article 132 of the Constitution. However, as per the provisions under Article 133, the appeal to the Supreme Court against the order of the High Court in civil cases can lie with the Supreme Court only if the amount involved in the dispute is not less than Rs 20,000, as per the certificate issued by the High Court. In criminal cases, Article 134 of the Constitution provides for two types of appeal. First, an appeal, as of right, would lie in the Supreme Court against the order of the High Court in cases where either the High Court on appeal has reversed an order of acquittal of an accused person passed by the lower court and sentenced him to death, or where the High Court has withdrawn for trial before itself any case from a subordinate court to its domain, and after such trial, has convicted

the accused to death. Second, an appeal would also lie with the Supreme Court in a criminal case, provided the High Court certified that the case is fit for an appeal to the Supreme Court either on its own volition or on an oral application presented by the convict.

The last category of the appellate jurisdiction of the Supreme Court relates to the appeal by special leave under Article 136 of the Constitution. Usually in the nature of discretionary power conferring quite wide reach to the Supreme Court, this power of the Supreme Court has often been used in cases where the Court finds flaw with the arbitrary acts and unjust decisions of the courts or the administrative tribunals in matters relating to the domain of welfare of the marginalized sections of the society or the cleansing of the political or administrative system of the country. Laying down the broad principles in the application of the provisions under Article 136, the Supreme Court, in the case of *Dhakeswari Cotton Mills Ltd. vs Commissioner of Income Tax*, pointed out that:

> [I]t being an exceptional and overriding power, naturally, it has to be exercised sparingly and with caution and only in special and excep-tional situations. Beyond that it is not possible to fetter the exercise of this power by a set of formula or rule.[7]

In addition to the above jurisdictions, the advisory jurisdiction of the Supreme Court entails a special responsibility on it as per the provisions of Article 143 of the Constitution. Accordingly, a reference may be made to the Supreme Court by the President for its consideration and opinion on any question of law or fact that appears to be of such a nature and of such public importance that it becomes expedient to obtain the opinion of the Court. Such references need not be on a question that has actually arisen; they can also be made on the issues that appear apparent to the President to arise in all likelihood. The noteworthy fact in this regard, however, is that neither the Supreme Court is bound to give its opinion on any reference, nor the President is bound to accept the opinion of the Court as it is not in the nature of a judicial pronouncement amounting to be an order of the Court.

In the end, the Supreme Court, under Article 137 of the Constitution, has been afforded the power to review its own decisions in the interests of the community and justice. Normally, to press for the review of the decision of the Court, an application needs to be filed before the Registrar of the Court within thirty days after

the judgement has been delivered. Such applications, before being looked into by a larger bench than the one that had delivered the judgement, should be accompanied by a certificate by the counsel that it stands on sound grounds. Such reviews, carried out in good spirit, may yield a new decision that may go a long way in helping the Court to correct any decision that may have been erroneous. Thus, justice stands to be vindicated in the final analysis, despite certain short-term upheavals experienced by the parties aggrieved by the error of judgement by the Court.

HIGH COURTS

Within the framework of a single integrated judicial system in the country, the existence of a High Court in each of the states of the Union provide a sense of completion in the structure of the government at the level of states. The Constitution, therefore, under Article 125, makes provision for the creation of a High Court in each state. Originally, in 1950, the Constitution provided for a High Court only in part A and part B states, leaving it on the Parliament to decide about the creation of new high courts or to extend the jurisdiction of a neighbouring High Court to the other areas. Thereafter, the provision for a High Court in all the major states have been made, which in recent years have also been extended to the smaller states like Uttaranchal, Chhattisgarh, and Jharkhand in addition to the National Capital Territory of Delhi, taking the total number of high courts in the country to twenty-one.

Though existing within the federal system of the country, the position of the high courts in India differ from the position of the high courts or the state courts as existing in other federations of the world, particularly that of the United States. For instance, in the American system, the state courts, being constituted under the provisions of the state constitutions, are totally unrelated to the federal judicial system, and the structural features of the courts like the method of the appointment of the judges, their salary structure, and service conditions as well as their jurisdiction differ from state to state. On the contrary, in India, all the high courts are constituted either under the authority of the Constitution or by the Parliament, with the state governments having no substantive say in the creation of a High Court. Being part of an integrated and

unified judicial system, the high courts stand in the hierarchical order below the Supreme Court with an organic relationship existing between the two. The appointment, salary, and service conditions of the judges are governed by the laws made by the Parliament with the provision for the transfer of the judges from one High Court to another High Court all over the country.

Consisting of a Chief Justice and such other judges, as the President may, from time to time, determine, a High Court stands at the apex of the judicial system of a state. The method of the appointment of the Chief Justice and other judges of the High Court was a matter of sufficient controversy in the Constituent Assembly as the suggestion of the Constitutional Advisor was that the Governor appoints these judges with the approval of two-thirds of the members of the State Council. However, for the sake of keeping the judiciary above the suspicion of party influence, the present method of appointment by the President was approved.[8] Thus, the Chief Justice of a High Court is appointed by the President by warrant under his hand and seal, after due consultation with the Chief Justice of India and the Governor of the state. However, in appointing the other judges of the High Court, the President is required to consult, in addition to the Chief Justice of India, and the Governor of the state, the Chief Justice of the High Court where the appointment of the judges is to be made. The practice has also been evolved to appoint at least one-third of the judges of a High Court from outside the state in order to maintain impartiality in the functioning of the High Court.[9]

A typical issue that dogs the independence of the high courts and impacts on the minds of the judges in recent years has been the transfer of many judges from one High Court to another, with the policy being adopted not to have the Chief Justice from the same state. Beginning in the decade of the early 1980s, the policy of transferring the judges had both its opponents as well as the supporters. While the former took the stand that the transfer of judges policy 'aimed at creating fear and a sense of instability' in the minds of the judges, the latter favoured it 'in the interests of sound judicial administration and also the independence of the judiciary'.[10] The bulk transfer of the judges later in the year was challenged in the Supreme Court where though the Court decided in favour of the government's right to transfer the judges from one High Court to another, it ruled that such transfer could not be

arbitrary and with malafide intentions prima facie. Consequently, a Peer Committee was constituted by the Chief Justice of India in 1994, consisting of two High Court Chief Justices and three senior Supreme Court judges to look into the matter.

Jurisdiction of the High Courts

Since the high courts had been functioning in the country with a fairly satisfactory level of independence and impartiality for many years by the time India became independent, the fathers of the Constitution did not think it fit to detail the jurisdiction of the high courts. It was provided that the high courts would continue to function with the well-defined jurisdiction as they had been functioning before in the capacity of the apex court in the state, subject to the provisions of the Constitution and the laws made by the Parliament from time to time. However, with the change in the nature of governance in the country, the high courts, besides the usual jurisdiction in the original and the appellate nature, would be enjoined to four additional powers:

1. The power to issue writs or orders for the enforcement of the fundamental rights or for certain other purpose.
2. The power of superintendence over the subordinate courts.
3. The power to transfer cases to themselves pending in the subordinate courts involving interpretation of the Constitution.
4. The power to appoint officers.[11]

Though originally endowed with wide-ranging original and appellate jurisdiction, the Constitution's Forty-second Amendment robbed the high courts of much of their original jurisdiction. For instance, while they continue to issue prerogative writs like the *habeas corpus*, *mandamus*, prohibition, *quo warranto*, and *certiorari* for the enforcement of the fundamental rights, they were restrained from exercising any jurisdiction in cases of the violation of a legal right. The phrase 'for any other purpose', which had wide-ranging connotations, was replaced with a restricted provision limiting it to cases where (*a*) there happened to be a contravention of a statutory provision causing substantial injury, and (*b*) there was an illegality resulting in substantial failure of justice.

However, the position was restored by the Forty-forth Amendment of the Constitution. Presently, the original jurisdiction of the high courts have been confined only in the matters of admiralty, probate, matrimonials, contempt of Court, enforcement of the fundamental rights, and cases ordered to be transferred from a lower court involving the interpretation of the Constitution to their own file. The high courts, therefore, have become primarily the courts of appeal.[12]

Substantially, the major power of the high courts relates to the issue of the prerogative writs under the Article 226 of the Constitution for the enforcement of the fundamental rights, running concurrently with the power of the Supreme Court. Equally, if not more, important power of the high courts is to superintend the functioning of all other subordinate courts and tribunals within the territories over the jurisdiction of the Court reaches. Placed in the nature of both administrative as well as judicial, the power of superintendence of the high courts is unfettered by any constitutional or statutory provision and the courts are free to monitor the functioning of the lower judicial authorities in order to ensure that the judicial institutions function properly and discharge their duties of delivering justice in accordance with the provisions of law.

The high courts are made the only authority at the level of state to interpret the Constitution and decide the constitutional issues involved in a case. In order to discharge this function, the high courts have been given the power to transfer the cases to their file if they are satisfied that the case pending in the subordinate court involves a substantial question of law regarding the interpretation of the Constitution. On such transfer, the Court may decide the whole case on its own or it may sort out the constitutional issue involved in the case and hand down the case to the lower court to decide the rest of the case in its own wisdom. The transfer of the cases to the High Court may be on a reference of the lower court if it finds the involvement of constitutional issue in it, or may also be ordered by the High Court to be transferred to it on an application of a party in the case. Once the cases involving constitutional issues are decided, the high courts act as the court of record in such cases. Accordingly, such decisions of the Court can be quoted as evidence without questioning before any other Court in the state, and the contempt of such decisions may be taken as the contempt of the Court,

for which the High Court can award exemplary punishment. Finally, the administrative powers of the High Court are vested in the Chief Justice under Article 229 of the Constitution, which requires him to appoint the officers and servants of the Court for the efficient functioning of the Court, in addition to the control of the finances of Court, which are charged on the Consolidated Fund of the state.

JUDICIAL REVIEW

In the era of constitutional government bestowed with only limited powers in view of the Constitution acting as the supreme law of the land, the notion of judicial review has been invented by the courts in various parts of world to test the constitutionality of the laws made by the legislature and the orders issued by the executive, so that the supremacy of the Constitution may be kept intact. To put it differently, the written Constitution as the fundamental law of the land, lays down the basic rules of governance by delineating the functional domain of all the organs of the government, under the broad philosophy of political system of a country. Hence, in order to see that the constitutional scheme of things does not get disturbed and no organ of the government acts in contravention to the provisions of the Constitution, the provisions for a Supreme Court with the power of judicial review have been made in almost all the federal political systems including India.

Conceptually, the notion of judicial review refers to the power of the Court to examine the constitutional validity of the laws made by the legislature and the orders issued by the executive, after which if it finds them contrary to the provisions of the Constitution, may declare them as null and void. Thus, designed in the frame of facilitating the Court to act as the guardian and protector of the Constitution, the concept of judicial review has become the hallmark of the federal political systems where the written constitution lays in black and white the powers of the different departments of government so that neither any organ of government usurps the powers of others nor the spirit of the political philosophy underpinning the polity gets violated. In the situation of the occurrence of any such impropriety amounting to the violation of the Constitution, the Court can step in to set the

things in order by declaring such violations as unconstitutional and void.

Owing to certain obvious reasons, the power of judicial review of the courts has never been explicitly mentioned in the Constitution either in the United States or in India. It is by way of implication in either discharging certain functions or interpreting certain provisions of the Constitution that the power of judicial review has been acquired by the courts. For instance, in the United States, it was in the famous case of *Marbury vs Madison* that the Chief Justice Marshall declared that the Supreme Court determined the constitutionality or otherwise of laws, federal or state, and this power with the Court was a necessary consequence of the Constitution, otherwise declaration of the supremacy of the Constitution had no meaning.[13] Similarly, in the case of Indian Constitution also, the fathers avoided the mention of the power of the judicial review of the Court but designed certain provisions of the Constitution in such a way that their implementation would necessarily dovetail on the courts the power of judicial review to ward off the violations of such provisions.

However, the scope of the power of judicial review is not as extensive as it is in United States, ostensibly, due to the position of the Parliament as the body expressing the will of the people whose excessive negation would not bear well for the health of the parliamentary system in the country. Hence, instead of following the American pattern of rooting the doctrine of judicial review in the notion of 'due process of law', the framers of the Indian Constitution chose to root it in the lenient doctrine of 'procedure established by law'. Consequently, putting fetters on the overreach of the courts, the Indian Constitution wished the Parliament to define the limits within which the power of judicial review of the courts would be exercised. Moreover, in drafting certain provisions of the Constitution, like the one on fundamental rights, for instance, the fathers manifestly circumscribed the areas where the courts would be well within their rights to exercise the powers of judicial review. Hence, the provisions of the Constitution, like the laws inconsistent with, or in derogation of, the fundamental rights (Article 13), remedies for enforcement of the fundamental rights (Article 32), jurisdiction of the Supreme Court (Articles 131–136), power of high courts to issue certain writs (Article 226), extent and the subject matter of laws made by the

Parliament and the legislatures of the states (Article 245–246), and so on, retain the scope for the exercise of the power of judicial review by the courts. The question of constitutional soundness of the laws and executive orders arises when they are challenged in the competent courts on the grounds of incompetence of the legislature to pass such a law, repugnancy to the provisions of the Constitution, and the infringement of the fundamental rights.

With the theoretical aspects of the power and procedure of the judicial review being laid down in the Constitution, the stage was set now for the practical manifestations of the concept as understood by the courts in the country. The first case in this context happened to be that of *Shankari Prasad vs Union of India* in 1951 in which the petitioner challenged the First Amendment of the Constitution on the ground that it infringed the fundamental right to property, which remained unamendable under Article 13(2) of the Constitution. Taking a firm stand rooted in the wisdom of respecting the Parliament's position as representing the will of the people, the Court rejected the contention of the petitioner and held that Parliament is competent to amend any part of the Constitution including that of the fundamental rights. Continuing its confinist approach, the Supreme Court reiterated the same position in the case of *Sajjan Singh vs State of Rajasthan* in which the validity of the Seventeenth Amendment of the Constitution was challenged on the plea that it violated the fundamental rights under Article 31A. Imbued with the idealism enshrined in the perspective of the Constituent Assembly, the Court probably mistakenly noted that had the fathers of the Constitution intended to subject any further amendment to the provisions on fundamental rights to the provisions under Article 13(2), such provision would have been made explicitly in the Constitution by the fathers themselves in the Constitution.

Significantly, the turning point in the course of the judicial review of the constitutional amendments came in 1967 when neither the political leadership of the country remained restrained in its approach towards other institutions of government nor the Supreme Court sought to avoid a confrontationist attitude towards the legislative and the executive branches of the government. Taking a highly conservative position on the amending power of the Parliament, in the case of *Golak Nath vs State of Punjab*, the Supreme Court, with a majority of 6 to 5 held that the Parliament

did not have any power to amend any of the provisions of Part III of the Constitution so as to take away or abridge the fundamental rights enshrined therein. Putting a blanket ban on the amendability of the fundamental rights created a piquant situation for the government of Indira Gandhi who was bent upon to consolidate her position by taking recourse to populist policies guised in the name of socialism. Hence, after her astounding electoral victory in 1971, she got the Twenty-fourth and Twenty-fifth Amendments passed, restoring the amending power of the Parliament in respect of all the provisions of the Constitution.

The constitutional validity of these amendments was challenged in the landmark case of *Keshvanand Bharti vs State of Kerala*, in which the approach of the Supreme Court appears to be finding a middle ground in its dealings with the Parliament keeping in view the stubborn attitude of the government in browbeating the independence of judiciary in the country. The Court, therefore, devised the innovative doctrine of 'basic structure' of the Constitution to lay down the far-reaching formulation that there exists a basic structure of the Constitution, which lies beyond the amending power of the Parliament. Yielding sufficient space for the Parliament to amend the Constitution in order to make it in tune with the changing times, the Court created a sort of fortress in the name of the basic structure to avail an unenviable position in the political system from where it can become the custodian of the Constitution. Interestingly, the Court deliberately avoided defining as to what constitutes the basic structure presumably in order not to frighten the government with the enumeration of the domains which would permanently lie out of bounds for it, in the short run, and to keep its options open as to include any provision of the Constitution in the fortress of basic structure to make it immune from amendment. Thus, the Keshvanand Bharti case proved to be win-win situation for the Supreme Court in so far as its power of judicial review is concerned.

Refusing to give up easily, the government started looking up for a way to wriggle out of the uneasy situation created by the Keshvanand Bharti case and finding the answer in the form of the Forty-second Amendment to the Constitution, which not only enlarged the powers of the Parliament but also put a number of fetters on the power of judicial review of the courts. Though much of the unsavoury provisions inserted by the Forty-second Amendment had been undone by the Constitution's Forty-fourth Amendment,

the remaining portion was challenged in the case of *Minerva Mills Ltd. vs Union of India* in 1980. Consecrating the doctrine of basic structure of the Constitution finally for all times to come, the Supreme Court reiterated that the Parliament has only limited power to amend the Constitution and in no case, the basic structure of the Constitution can be destroyed by way of constitutional amendment enacted by the Parliament.

The final hurdle in the unfettered power of judicial review of the Court was cleared by the Supreme Court in 2005 when the constitutional validity of the Ninth Schedule of the Constitution was questioned on the ground that it violates the basic structure of the Constitution by snatching certain laws from the scrutiny of the court after they are placed in the said Schedule. Taking a bold position, the Supreme Court, exhibiting the middle approach adopted in the case of Keshvanand Bharti in 1973, though did not hold the Ninth Schedule to be null and void, declared that the said Schedule cannot become a shield to hide certain laws passed by the legislatures from the purview of the judicial review by the Court. Thus, even the last bastion of the legislature to escape the searchlight of the judicial scrutiny was demolished by the Supreme Court, taking the power of judicial review to an unprecedented height in the constitutional jurisprudence of the country.

The expanded horizons of the judicial review, which for the time being have overcome all probable stumbling blocks, have raised the heckles of both the political leaders as well as the legal luminaries in the country. Anticipating a highly activist role of the judiciary to the extent of substituting its view for the views of the legislature and the executive, the critics call for the formulation of certain norms to act as the guidelines for the courts to decide the issues of constitutionality involved in the laws. Poised to bear the burden of acting responsibly on their own, the courts need to be guided by the following maxims in weighing the constitutional validity of the laws:

1. There is a presumption in favour of constitutionality, and a law will not be declared unconstitutional unless the case is so clear as to be free from doubt, and to doubt the constitutionality of a law is to resolve it in favour of its validity.
2. Where the validity of a statute is questioned and there are two interpretations, one of which would make the law valid

and the other void, the former must be preferred and the validity of the law upheld.
3. The Court will not decide constitutional questions if a case is capable of being decided on other grounds.
4. The Court will not decide a larger constitutional question than is required by the case before it.
5. The Court will not hear an objection as to the constitutionality of a law by a person whose rights are not affected by it.
6. Ordinarily, the courts should not pronounce on the validity of an Act or part of an Act which has not been brought into force because till then the question of validity would be merely academic.[14]

PUBLIC INTEREST LITIGATION

With the growth of the welfarist perspective of state, accompanied by increasing number of civil society organizations and individuals, the new technique of seeking the redressal of grievances through judicial intervention has gained ground in the country. Called as the Public Interest Litigation (PIL), it has emerged as the means of standing for the cause of others because the petitions can be filed by a third party on behalf of the aggrieved or deprived people who are not in a position to seek the intervention of judiciary to right the wrongs done to them. While accepting such petitions, the courts usually forgo the observance of the prescribed judicial procedures, mainly the notion of *locus standi* of the party, and even a postcard addressed to the Court can be taken cognizance of. Quite often, the PILs are filed to get the judicial prodding for the executive or the legislature to take certain steps, which they have failed to take, causing a harm or deprivation to the people. Termed also as social action litigation,[15] the PIL is characterized by relaxation of the rule of *locus standi*, flexibility in normal judicial procedure, innovative and proactive interpretation of legal and fundamental rights of the people, and remedial flexibility marked by ongoing judicial participation and supervision.[16]

Originating in early 1980s as a means of ensuring participative public justice, the idea of PIL secured the backing and recognition of the Supreme Court in the case of S.*P. Gupta vs Union of India*, when the Court allowed the petition despite the petitioner not

being an aggrieved party on the ground that it seeks to redress the grievances of those people who are not in position to come to the Court to seek justice. At the same time, the Court also noted that the PIL could also be filed in the cases where the interests of the mass of people are at stake, without any discrimination. Since then, PIL is brought before the Court, not for the purpose of enforcing the right of one individual against another (as happens in the case of ordinary litigation), but is intended to promote and vindicate public interest that demands that violations of constitutional and legal rights of a large number of people who are poor, ignorant or in a socially or economically disadvantaged position should not go unnoticed or unredressed.[17] Thus, the numerous PILs filed by the legendary lawyer M.C. Mehta and institutions like the Centre for Science and Environment (CSE) have thoroughly transformed the way people used to live in Delhi's fast deteriorating environment with depleting natural resources.

The idea of PIL has been criticized by some people on the counts like interfering in the domains of the executive and the legislature, setting back the pace of development, and burdening the courts with superfluous matters so much that their core and conventional functions are likely to suffer. However, it needs to be pointed in this regard that such criticisms appear to be more in the nature of diagnosing the ills rather than curing them. Unfortunately, the PIL syndrome erupted in the country owing to the failure of the executive and the legislature to deliver the goods to the people. Ironically, while some people charge the courts with hampering the progress of developmental projects, others accuse the courts of blindly clearing the completion of the mega developmental projects like the Narmada Valley Project. Finally, the existence of the courts becomes meaningful only when they act as institutions to redress the grievances of the people, as the grave issues of constitutional and theoretical nature become absurd for them. The quantum of the PILs cannot be reduced by making laws to restrict or outlaw them, but only by improving the functioning of the executive and legislature in the country.

JUDICIAL ACTIVISM

Being a natural corollary of the wave of PILs filed frequently by the public-spirited people, the idea of judicial activism refers to the

practical manifestation of the outcome of the adjudication on the PILs. To put it differently, the courts in India have been ordained a defined functional domain, called jurisdiction, to supplement other organs of the government in the smooth working of the democratic polity in the country. But when, owing to certain obvious reasons, the courts step out of their conventional jurisdiction or domain to seemingly act, if not interfere, in the domains of the other organs of the government, it is construed to be an activist role of the judiciary, known as judicial activism. Although judicial activism remains within the constitutional limits, it militates against the spirit of cordial and coordinated functioning of various organs of government, without any intrusion of one into the domain of the others.

The judicial activism has also led to a number of innovations being made by the courts to equip themselves to meet the unconventional challenges placed before them through the PILs. In fact, without well-structured investigative machinery at their disposal, the courts had to enter into new forays like appointing commissioners to investigate, forming committees to deliberate remedies, nominating *amicus curiae* to assist the courts, and directing the national scientific institutions to report on scientific matters. Based on these, the courts proceeded to pass wide-ranging orders and directions that are to be obeyed as if they were decrees of the courts. In the process, the judiciary has intervened in matters perceived to be within the domain of the executive, including policy decisions. Courts have, for example, passed orders regarding the criteria for nursery admissions, facilities to be provided by hospitals, conditions of roads, and other municipal facilities. However, while recognizing the tremendous efforts made by the judiciary in acting in public interest and without, in any way, detracting from the results achieved, there are also a few concerns that need to be addressed.[18]

The core concern in this regard is whether the judicial orders are allowed to replace what should normally be conducted by the administrative authorities. Indeed, the move to support that one wing of the state may step in to rectify the deficiencies of another is fraught with serious jurisprudential problems. Similarly, there appears to be a real danger that the activism of the courts may aggravate the inactivism of the administrative authorities. For instance, by leaving the inconvenient decisions to be taken by the

courts, the executive branch of the government seems to be running away from shouldering its responsibilities. Moreover, extensive use of judicial powers in the administrative domain may well, in the long run, blunt the judicial powers themselves, which would probably be the saddest day for the health of the democratic and constitutional polity in the country.

JUDICIAL REFORMS

In the wear and tear of the Indian democracy during the last sixty years, most of the institutions and organizations seem to have experienced varying degrees of degenerations in their structures and processes due to the factors both inherent and extraneous to them. Hence, while legislative and executive organs of the government have utterly failed to stand up to the expectations of the people, the judiciary has also not remained immune from a number of flaws, though it is still held in high esteem by the people, in comparison to the position of the other two organs. As a noted legal luminary points out succinctly:

> In its performance the judiciary suffers less from the pathological infirmities of the other two wings. Indeed, the nation holds the judicature high in its esteem since some luminous members on the Bench are as good as the best in the Commonwealth or the US. Even so, while a critical examination of the judicial process reveals a remarkable level of creativity and humanity, it is at times marred and mangled by grave and goofy theatricality, blatant deviance and daring delinquencies. The fundamental values of the Constitution and the autonomy implicit in parliamentary jurisprudence and cabinet initiatives are often ignored. These are instances that spoil the majesty of law. The country has a non-negotiable and none-too-late obligation to scotch lazy litigative locomotion, judicial somnolescence and administrative pachydermy.[19]

In a nutshell, the broad limitations of the judiciary as experienced over the years relate to:

1. The slowness and inaccessibility (due to the heavy cost of legal services and ignorance of the general public about their rights and obligations, and their enforceability) of the judicial process.

2. The antiquated nature of court procedures and management practices.
3. Flaws in procedural laws, lack of effective control of court proceedings, and availability of multiple remedies at different rungs of the judicial ladder that enables dishonest and recalcitrant suitors to abuse the judicial process.
4. The lowered standards of conduct, character, and competence of the legal profession and judges.[20]

In view of the growing uneasiness of the people with the tardy pace of functioning of judiciary, the urgency of reforms in the judicial system has been felt for quite some time.

The judicial reforms suggested from various quarters usually fall into two categories: (*a*) creation of an alternative system of delivering justice in those cases that do not require an interpretation of law or defining certain constitutional issues involved in the case, and (*b*) reforms in the structures and functioning of the mainstream judicial system of the country. In the first category, the reforms have generally boiled down to the creation of Lok Adalats, in the main, to deal with the issues arising out of disputes on the subjects pertaining to day-to-day activities of life, in addition to the other mechanisms like the Consumer Disputes Redressal Forums, Central Administrative Tribunal, and so on. These alternative methods of adjudication have, no doubt, been able to lessen the burden of the judiciary proper, yet the trend which seems to have rendered the efforts of these mechanisms futile is the tendency on the part of losing party to appeal in the higher court against the verdict of these tribunals which brings the whole problem back to square one.

At the level of the judiciary proper, the essence of reforms lies in an effort on the part of the presiding officers to narrow down the disputes by means of a preliminary hearing and suggesting reasonable settlements to avoid prolixity of evidence and procrastination of arguments. Such an effort of the judicial officers need to be supplemented by the legislature and executive to simplify the judicial procedures by substantially amending the Civil Procedure Code, the Criminal Procedure Code, and the Evidence Act that still remain archaic and arcane in the age of technology. Another substantive in-house reform of judicial process can come in the form of the judges, who while disposing of cases should try to sort out the real issue involved in the matter. That would not

only discount the possibility of a rebirth of the case but also act as the law of land for similar cases at other times.

UNION PUBLIC SERVICE COMMISSION

In consonance with the dynamics of parliamentary democracy in India, the permanent civil services of both the Centre and the states needed to be immune from the vagaries of political upheavals inherent in the parliamentary system of governance in order to ensure consistency and permanence in the governance of the country. However, the idea of such a neutral and anonymous civil service could be ordained only when the recruitment of the members of the civil services are made on the basis of merit by an independent public service commission irrespective of any pull or pressure from the government of the time. Thus, though the idea of a public service commission originated with the famous Macaulay Committee report of 1854,[21] the present-day structure of the Union Public Service Commission (UPSC) as an impartial and non-political independent organization entrusted with the task of recruiting a merit-based bureaucracy has its roots in the Constitution of India of 1950,[22] in which elaborate provisions have been made regarding the structures, functions, independence of status, sanctity of its recommendations, and so on, along with the provisions for the protection of the officers of the All India Services from undue interference from the governments concerned.

The provision for the constitution of a Public Service Commission for the Union has been made in Article 315 of the Constitution which is taken as a mandatory obligation on the part of the Central Government to establish the UPSC.[23] Accordingly, the President of India is authorized to appoint the chairman and the members of the UPSC under the provisions of Article 316. He is also empowered to determine the number of members of the Commission, its staff, and their conditions of service as per Article 318 of the Constitution, provided, as nearly as can be, one-half of the members of the Commission must be persons who have held office for at least ten years under the Government of India. The members of the UPSC hold office for a term of six years from the date of their assumption of office or until they attain the age of sixty-five years, whichever is earlier, without eligibility for reappointment to the same office.

The fathers of the Constitution wished the UPSC to be an independent body immune from the vagaries of changing political dynamics in the country. This has been ensured by providing for, among other things, the removal of members of the Commission only by the President on the grounds specified in the Constitution. Thus, Article 317 lays down the grounds on which a member of the UPSC can be removed, the most significant of which appears to be the ground of misbehaviour. The Constitution provides that if a member of the Commission is to be removed on grounds of misbehaviour, the President would be required to refer the matter to the Supreme Court for enquiry that is to be conducted in accordance with the provisions of Article 145. The findings of such an enquiry are binding on the President and he has to go as per the recommendations of the Court. However, so far no chairman or members of the Commission have ever been removed by the President on the grounds of misbehaviour.

The functions of the UPSC have been laid down under the provisions of Article 320 of the Constitution which provides that the primary duties of the Commission would consist of:[24]

1. Conducting the examinations for appointment to the services of the Union.
2. Assisting, if requested by any two or more states, the states in framing and operating schemes of joint recruitment for any services for which candidates possessing special qualifications are required.
3. The Commission is also consulted:
    - on all matters relating to methods of recruitment to civil services and for civil posts, which means the posts not connected with the armed forces but outside the regular civil services;[25]
    - on the principles to be followed in making appointments to civil services and posts, in making promotions and transfers from one service to another, and on the suitability of candidates for such appointments, promotions, and transfers;
    - on all disciplinary matters affecting a person serving under the Government of India in a civil capacity, including memorials or petitions relating to such matters;

- on any claim by, or in respect of a person who is serving or has served under the Government of India in a civil capacity that, any costs incurred by him in defending legal proceedings instituted against him in respect of acts done or purported to have been done in the exercise of his duty, should be paid out of the Consolidated Fund of India; and
- on any claim for the award of a pension in respect of injuries sustained by a person while serving under the Government of India in a civil capacity and any question as to the amount of any such award.

In addition to the aforementioned functions, the UPSC can also be conferred with additional functions under the provisions of Article 321 of the Constitution which says that such conferment needs to be by Parliament by legislation in respect of the services of the Union and the personnel system of any local authority, corporate body or public institution, within the jurisdiction of the Commission. The Commission can also be conferred with additional functions by rules and orders of the executive as well by conventions.

An important function of the Commission relates to its advisory role. Under the constitutional provisions, the Commission can advice the Union on a number of matters, without any obligation on the part of the Government to compulsorily abide by such advices. Rather, the Union Government is also bestowed with the power of framing rules from time to time to regulate the scope of the advisory functions of the Commission.

The working of the UPSC over the years has revealed a number of deficiencies in its role and functional effectiveness. First, the UPSC appear to be the victim of the tendency on the part of government to abuse the Union Public Service Commission (Exemption from Consultation) Regulation, 1958. Taking undue advantage of the said regulation, the government has gone to exclude a number of higher positions, temporary, and ad hoc appointments from the purview of the Commission. Second, an anomalous situation exists in the case of expansion or contraction in the functional scope of the Commission. While any extension in the functions of the Commission can only be done by an act of Parliament, the executive is competent to exclude certain matters

from the purview of the Commission. Such an anomaly needs to be rectified in the interest of the independence and proper functioning of the Commission. Third, the tendency has also emerged on the part of the government to delay or defer appointments despite the receipt of recommendations of the Commission. Such a tendency would amount to the rejection of the recommendations of the Commissions, which needs to be checked immediately. Last, the UPSC is charged with the observance of excessive and unreasonable secrecy in its operations. In the era of the Right to Information Act, such a level of secrecy may not be possible to be maintained by the Commission. Hence, the Commission needs to evolve ways and means to make its functioning more transparent and accessible to the people.

ELECTION COMMISSION

The existence of a competent machinery to conduct free and fair elections happens to be the *sine qua non* of the democratic polity in India. Accordingly, the fathers of the Constitution made it a point to provide for foolproof machinery for conducting free and fair elections in the form of Election Commission of India under the provisions of Article 324 of the Constitution. Proviso 2 of Article 324 provides:

> The Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may from time to time fix and the appointment of the Chief Election Commissioner and other Election Commissioners shall, subject to the provisions of any law made in that behalf by Parliament, be made by the President.

Initially, the Election Commission consisted of only the Chief Election Commissioner (CEC), with the issue of appointment of other Election Commissioners (ECs) not finding favour with either the government of day or the incumbent CEC though a number of committees, including the Joint Select Committee of Lok Sabha, on the electoral reforms in the country had recommended the expansion of the Election Commission.[26]

Presently, the Election Commission consists of the CEC and two ECs, who are appointed by the President. Strangely enough,

the Constitution neither lays down any specific qualifications or eligibility conditions for appointment to the post of either CEC or the ECs nor stipulates any set procedure of their appointments. Though most of the persons appointed to the offices of CEC and ECs belong to the cadres of elite Indian Administrative Service (IAS), few people have indeed been appointed from outside the cadres of government service. In such a scenario, despite the possibility of these ex-government officials still remaining beholden to the government, the constitutional expectation from the Election Commission is that it functions in an independent manner without any fear or favour. In order to fortify the independent status and autonomous functioning of the Election Commission, the Constitution, as in the case of various other constitutional authorities, has laid down under Article 324(5) that the CEC shall not be removed from his office except in like manner and on the like grounds as a judge of the Supreme Court, and the conditions of service to the CEC shall not be varied to his disadvantage during his tenure. As regards the removal from office of other ECs, though the constitutional provisions provide for their removal on the recommendations of the CEC, there still exists certain degree of uncertainty over the procedure of such removal as the niceties of the issue are being argued in the Supreme Court in the case of the Election Commissioner Navin Chawla. Further, the independence of the Election Commission is also made immune from the vagaries of the laws enacted either by the Parliament or the state legislatures as the enactment of such laws are made subject to the provisions contained in Article 324, as emphasized by the Supreme Court in the case of *Sadiq Ali vs Election Commission* (AIR, 1972 SC 187).

The functions of the Election Commission have been provided for under Article 324(1) which includes 'the superintendence, direction and control of the preparation of the 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.' Such indicative functions of the Election Commission boil down to include whole gamut of the electoral process including:

> Preparation, maintenance and revision of electoral rolls, the notifications, scrutiny, withdrawals and polling, registration of and recognition to political parties, allotment of election symbols, the

> appointment of a Chief Electoral Officer (a State government official) for each state, and Electoral Registration Officers and Returning Officers and Assistant Officers for each Assembly and parliamentary constituency, and the receiving of election petitions and the appointment of Election Tribunals to consider such petitions.[27]

To ensure the smooth discharge of functions by the Election Commission, it has been authorized to exercise a number of powers with regard to the preparation for and conduct of elections, of which two stand out clearly. First, the Commission is empowered to send the requisition for the number and category of government functionaries including the personnel of the security forces, required for the preparation and actual conduct of the elections bestowed on the Commission. The governments at the level of both the Centre and the states are categorically directed to ensure that the requirements of the Election Commission, both in terms of men and materials are readily available on priority basis as any dereliction of duty in this regard would construed to be the violation of the provisions of the Constitution. Second, the Commission is also bestowed with the power of initiating disciplinary action against the delinquent officials for a dereliction of duty if it finds any deficiency on the part of these officials at the time of conducting the elections. In other words, while on election duty, the corpus of the officials would be construed to be on deputation to the Election Commission and in such a scenario, these officials would remain responsible to the Commission for all the acts of omission and commission on their part, which in turn would be empowered to take any disciplinary actions against the errant officials.

The successful functioning of the Election Commission since its inception with the inauguration of the Constitution of India in 1950 has been one of the marvelous treats of the democratic system of governance in India. If the conduct of free and fair elections at periodic intervals is assumed to be the essence of the vibrancy of a successful democracy, the successful functioning of the electoral machinery must be construed to lie at the heart of the system. On such counts, the Election Commission of India has come out with flying colours. The significance of the free and fair elections to be conducted by an independent authority can be gauged from the experiences of those totalitarian or authoritarian countries which also claim to hold periodic elections to their legislative and

executive bodies; but the farcical nature of such elections are for everybody to see in the world. Thus, the difference between a true democracy and a farcical democracy lies in the sanctity of free and fair elections in the system, and in this regard, the credit needs to be given to the Election Commission of India for ensuring that the country remains the leading light amongst the prime and successful democratic systems in the world.

COMPTROLLER AND AUDITOR GENERAL

The institution of the Comptroller and Auditor General (CAG) constitutes one of the pillars upon which the proper and efficient functioning of the government machinery depends in India. Drawn from the system of financial accountability prevalent during British times, the office of CAG is meant to introduce the rigour and uniformity of government accounts on the one hand and to carry out the responsibility of conducting independent audit on the other. Owing its lineage to the Indian Audit and Accounts Department, created for the first time as early as 1753,[28] the institution of CAG was accorded a place of prominence in the Constitution of independent India due to its criticality in ensuring the sanctity, efficiency, and effectiveness of the government accounts in the country.

Under the provisions of Article 148 of the Constitution, the CAG is appointed by the President by warrant under his hand and seal for a period of six years or up to the age of sixty-five years, whichever is earlier. His removal from office is envisaged in like manner and on like grounds as in the case of a judge of the Supreme Court. Moreover, the appointee to the post of CAG is duty-bound to take an oath before the President or any other person appointed by him, according to the form set out for this purpose in the Third Schedule of the Constitution before assuming the duties of his office. Though put on the same footing as the judge of the Supreme Court in terms of his appointment, oath, removal, and so on, his service conditions remain equivalent to that of a secretary to the Government of India in other matters. However, his conditions of service cannot be varied to his disadvantage during the term of his service, and he would not be eligible for further appointment to any office under the Government of India or under the government of any state after his superannuation from the office of the CAG.

Owing to the nature and significance of the functions of the institution of CAG, the independence and functional autonomy of the office become the conditions precedent. Hence, elaborate provisions have been made in the Constitution to ensure the independence of the CAG. The first and foremost provision in this regard pertains to the fixture of his tenure and cumbersome procedure of his removal from office. Thus, the CAG, on being appointed to the office, remains in the service for a term of six years from the date he assumes his office or until attaining the age of sixty-five years, whichever is earlier. His removal from office is possible only by an order of the President passed in the aftermath of an address by each House of Parliament supported by a majority of the total membership of the House and by a majority of not less than two-thirds of the members of the House present and voting on the ground of proved misbehaviour or incapacity. Further, the conditions of his service as well his salary and other pensionary benefits cannot be varied to his disadvantage after his appointment to the office. Moreover, to save him from any allurement or enticement from the executive which may induce him to compromise with the performance of his duties, he is debarred from holding any office under the Government of India or any state government after his retirement. It is some sort of reassurance of the growing maturity of the Indian democratic system of governance that so far no overt or covert attempt has been made by the government to either question or fetter the independence and functional autonomy of the office, even at such times when the report of the CAG on the Bofors issue was proving fatal for the government of the day, which was in command of overwhelming majority in both the Houses of the Parliament and could have successfully gone for initiating the process of removing the CAG from the office.

The main functions of the CAG, over the years, mainly relate to the procedure and form of keeping of accounts and auditing of such accounts. Hence, the CAG has to prescribe, with the approval of the President, the form in which the accounts of the Union and of the states are to be kept, in addition to performing such other duties and exercising such powers in relation to the accounts of the Union and the states, and of any other bodies or authority, as may be prescribed by the law passed by the Parliament, and report to the President or to the governors of the states on the accounts of the Union and the states, respectively. He has also to discharge the constitutional

responsibility under Article 279(1) of ascertaining and certifying the net proceeds of any tax or duty mentioned in Chapter I of Part XII of the Constitution. Significantly, a major transformation was effected in the functional domain of the CAG in 1976 when the accounting function of the office was hived off and handed over to the various departments themselves. Consequently, the CAG is vested with the primary duty of conducting the audit of accounts only as kept by different departments and present its report to the President.

It is important to note, by way of evaluating the role of CAG in the Indian political system, the objections raised by noted American scholar Paul Appleby. Branding Indian audit as a highly pedestrian function with a narrow perspective and very limited utility, he held the CAG accountable for a much prevalent and crippling reluctance on the part of the government officials to take decisions and act decisively. However, the scathing criticism of Appleby, with regard to the whole notion of audit in India and the office of CAG, was not accepted by the Indian scholars who steadfastly held the view that:

> In all recognized democracies, audit is not just tolerated as a necessary evil but is also looked upon as a valued ally which brings to notice procedural and technical irregularities and lapses on the part of individuals, whether they be errors of judgment, negligence or acts and intents of dishonesty. The complementary roles of audit and administration are accepted as axiomatic being essential for toning up the machinery of government.[29]

Thus, braving the attack mounted by the people like Appleby, the system of audit as well as the office of CAG has remained one of the most useful functions performed for the purpose of seeing that the expenses voted by the Parliament are utilized for the same purpose and with full care for efficiency, economy, and effectiveness. Still, the tendencies exist in the government circles to run away from audit as a consequence of which, in certain cases, full facts are not supplied to audit in the beginning but later are given in defence of their cases before the Public Accounts Committee.[30] Such a tendency amongst the functionaries of the government needs to be given up, for, in the Indian democracy, the public money cannot be allowed to be frittered away by unscrupulous and careless officials. Hence, the function of keeping a tab on the objectives and methods of utilization of the public exchequer has been bestowed upon the

CAG whose duty is still valued to be of critical significance for the proper fixation of accountability of the government officials.

FINANCE COMMISSION

The Finance Commission has been referred to as an institutional 'innovation'[31] of far reaching importance in the working of the Indian federal system. A quasi-arbitral body whose function is to do justice between the Centre and the states,[32] the Finance Commission happens to be the most important body to regulate, coordinate, and integrate the finances of the Government of India and the state governments.[33] The establishment of this rather unique institution may, indeed, be aptly described as India's original contribution to the theory and practice of federalism since nothing quite like this was to be found in any other federation. Still, it bears some resemblance to the Commonwealth Grants Commission of Australia, which was, in fact, the precursor of the Finance Commission in India, for it came up as a sequel to the report of a study[34] undertaken by B.K. Nehru and B.P. Adarkar on deputation of the Government of India to Australia in 1946 to study its federal fiscal system and to recommend its relevance to India. However, the two commissions are significantly different from each other, both in terms of their stature and scope of their competence.[35]

Despite the elaborate and fine-tuned provisions for the division of financial resources between the Union and the states as laid down in the Constitution of India, the framers of the Constitution realized that no distribution, no matter how carefully made, can be satisfactory for all the times and under all circumstances and that the adjustment of federal–state financial relations is a recurring problem. The allocation to the units of a federation the sources of revenue commensurating with their functions is always a difficult problem and it becomes all the more difficult in a developing economy like India, particularly in view of the fact that the development of social services is primarily the responsibility of the states. The Constitution-makers, accordingly, took into account the possibility of the states lacking adequate finances to cope effectively with their responsibilities and laid down provisions for the devolution of revenues through the transfer of a part of the proceeds of certain Union taxes to the states and through Union grants-in-aid of the

revenues to the states. The Constitution provides for obligatory as well as permissive sharing of the Union revenues by the states. In order to ensure that this form of Union assistance to the states does not lead to the erosion of the state's autonomy, the Constitution provides that the revenues and grants-in-aids (with the exception of grants made under Article 282 of the Constitution, which are of a discretionary nature and are made by the Union Government in consultation with the Planning Commission) shall be made on the basis of the recommendations of an independent agency, which is to be the Finance Commission.

Thus, the Constitution of India provides for a Finance Commission under Article 280 to recommend mainly the financial transfers from the Union Government to the states with a view to reduce the vertical as well as horizontal federal fiscal imbalances.[36] It is pertinent, however, to note here that although the name and the Constitution of the Finance Commission originated and evolved in post-Independence times, its features, such as, an expert body to enquire into the budgetary position of the Union and the states, to render expert advice (prior to the implementation of federal fiscal arrangements) on the approach and principles to be formed for distribution of the divisible pool of revenue between the Union and the states, and amongst the states, to suggest the specific period during which they are to be in force, 'owe their origin to the Indian Financial Enquiry Committee of 1936 headed by Sir Otto Niemeyer and to the approach and methodology he adopted then.'[37] In the present times, this contention, however, does not hold good as from the Ninth Commission onwards the Finance Commission has started adopting a normative approach, instead of the outdated gap-filling approach as had been evolved by Sir Otto Niemeyer, in assessing the receipts and expenditures of the revenue account of the states and the Centre.

The Finance Commission is an advisory body and as a matter of strict law, the President is not bound to act in accordance with its recommendations. It was, however, recognized by the framers of the Constitution that the creation of such a body in a federal set-up would have little meaning if its recommendations were not to be accepted by the President, except, of course, where considerations of overriding importance justified deviation therefrom. Thus, H.N. Kunzru, a member of the Constituent Assembly, expressed the hope 'that a convention will grow up that the government should

normally, that is except in emergencies, accept the recommendations of the Commission.'[38] The functioning of the Finance Commissions so far show that this hope has been fulfilled to a large extent.

The Finance Commission is a regular ad hoc body, though the Expert Committee on Financial Provisions of the Union Constitution wanted it to be a permanent body, to be appointed every five years or even earlier, consisting of a chairman and four other members. Its terms of reference, ordinarily, relate to:

1. The distribution between the Union and the states of the net proceeds of taxes which are to be divided between them under the chapter of financial provisions and the allocation between the states of the respective shares of each of such proceeds.
2. The principles that should govern the grants-in-aid of the revenues of the states out of the Consolidated Fund of India.
3. Any other matter referred to the Commission by the President in the interests of sound finance.

So far, twelve Finance Commissions have presented their reports to the President, apparently more in order to meet a constitutional obligation on the part of the government than to break new ground in the direction of ensuring the cordial functioning of the federal set-up in India. Therefore, the appointment of the Finance Commission and the submission of its report have ceased to evoke much public attention in this country. This is not due to the public's benign indifference to the unintelligible financial matters deliberated upon by the Finance Commissions, but mainly because of the known conservatism of all the past Finance Commissions. In spite of the superficial innovation in the methodology of some of the Commissions, the substantial part of their reports does not show any distinct departure from the methods of the past Finance Commissions.

CONCLUDING OBSERVATIONS

In a way, for the transitional societies like India which had embarked on an ambitious path of practising the democratic system of

governance even in the face of a number of hindrances emanating from the socio-economic and politico-cultural milieu of the country, the existence of the seemingly independent institutions like the judiciary and other constitutional commissions have truly proved to be the blessings in disguise as they not only kept the sanctity of the system but also brought it back on the track whenever it appeared to be drifting towards the undesirable path. The credit must be given to the wisdom and the farsightedness of the fathers of the Constitution in this regard, for despite adopting the parliamentary system of governance of the British mould in its letter and spirit, to the maximum extent possible, they remained alive to the peculiarities of the Indian political system. Moreover, apparently going against the conventions of the British parliamentary system, they not only provided for an independent and formidable judicial system but also ensured that the fine web of the parliamentary government does not get broken by ensuring adequate checks and balances for all the three organs of government.

During the early years of the functioning of the judicial system, the judicial process, attuned to the principles of natural justice, adopted the well-established adversarial system of adjudication. The pattern of the court, in its ascending order, followed the hierarchical structure and was accessible, under the Constitution, to every citizen of the country. The courts on rare occasions defaulted, delayed, and deviated from the desirable path. But such instances have been rectified later by the larger benches or criticized by jurists or set right by means of the constitutional amendments. Thus, despite all odds, the Indian judicial system stayed put, by and large, within the broad jurisdictional domains set out by the Constitution. In recent times, owing to the lack of functional vibrancy on the part of other two organs of the government, the judiciary has been called upon by the people by way of PILs to perform such functions which would have, in proper scheme of things, remained within the scope of activities of the executive or the legislature. The prudence of the judiciary, however, lies in not getting too much into such extra-jurisdictional domains and transfer back the issues to the nodal agencies for the discharge of such functions, for the strength of the judiciary also lies only when the other organs of government remain vibrant and supplementary to the role of each other.

NOTES

1. See Austin 1966: 164.
2. Ibid.
3. Ibid.: 176.
4. See Constituent Assembly 1949b: 837.
5. See Kapur and Mishra 2001: 237.
6. See Austin 2003: 243.
7. See *Dhakeswari Cotton Mills Ltd. vs Commissioner of Income Tax*, AIR, 1955, SC, p. 65.
8. See Constituent Assembly 1947: 710.
9. See Krishna 1994.
10. Cited in Austin 2003: 516–17.
11. See Kapur and Mishra 2001: 329.
12. Ibid.
13. Op. cit., p. 249.
14. See Seervai 1991: 260–62.
15. See Chand 2005: 76.
16. See Pal 1999: 226.
17. See Sathe 2001: 204.
18. See Gupta 2007.
19. See Iyer 2007.
20. See P.D. Desai, 'Reforms in Administration of Justice', cited in Thakur 1995: 65–66.
21. See Maheshwari 1970: 30.
22. Though dated, an eloquent articulation of the constitutional provisions on the structure and functions of the Union Public Service Commission may be found in M.A. Muttalib, *The Union Public Service Commission*, IIPA, New Delhi, 1967.
23. See Roy 1960: 290.
24. See Article 320, *Constitution of India*.
25. See Seeravai 1984: 2558.
26. See Bhalla 1972: 36.
27. See Yadav 1998: 511.
28. See Arora and Goyal 1995: 532.
29. See Chanda 1966: 251.
30. See Premchand 1966: 324.
31. See Bombwall 1986: 87.
32. See Rao 1960: 384–85.
33. See Mishra 1958: 90.
34. For details see, *Report on the Australian System of Federal Finances and its Applicability to Indian Constitution*, Government of India, 1947.
35. A succinct study of the two commissions may be found in Thimmaih 1976.
36. An important study on these aspects of the federal finances is G. Thimmaih, *Studies in Federal Finances*, Padma Prakashan, Bangalore, 1973, Ch. II.
37. See Rao 1992: 24.
38. See Constituent Assembly 1949a: 268.

REFERENCES

Arora, Ramesh K. and Rajni Goyal. 1995. *Indian Public Administration: Institutions and Issues*. New Delhi: Wishwa Prakashan.

Austin, Granville. 1966. *The Indian Constitution: Cornerstone of a Nation*. Delhi: Oxford University Press.

———. 2003. *Working a Democratic Constitution: A History of the Indian Experience.* New Delhi: Oxford University Press.

Bhalla, R.P. 1972. 'Electoral Mechanism in India (1951–71)', *Indian Journal of Political Science*, 33 (January–March).

Bombwall, K.R. 1986. 'The Finance Commission and the Union–State Relations in India' in T.N. Chaturvedi (ed.), *Financial Administration.* New Delhi: IIPA.

Chand, Prakash. 2005. 'Environmental Protection and People's Rights: A Study of the Judicial Decisions Relocating Polluting Industries in Delhi' (Unpublished Ph.D. Dissertation), University of Delhi.

Chanda, Ashok. 1966. *Indian Administration*. London: George Allen and Unwin.

Constituent Assembly. 1947. *Constituent Assembly Debates, Volume IV*. New Delhi: Government of India.

———. 1949a. *Constituent Assembly Debates, Volume IX*. New Delhi: Government of India.

———. 1949b. *Constituent Assembly Debates, Volume XI*. New Delhi: Government of India.

Dhakeswari Cotton Mills Ltd. vs Commissioner of Income Tax, AIR SC 1955.

Government of India. 1947. *Report on the Australian System of Federal Finances and its Applicability to Indian Constitution*. New Delhi: Government of India.

Gupta, Dipankar P. 2007. 'Hanging in the balance', *The Hindustan Times*, 15 June.

Iyer, V.R. Krishna. 2007. 'The Patchy Indian Judicial Record', *The Hindu*, 6 September.

Kapur, A.C. and K.K. Mishra. 2001. *Select Constitutions*. New Delhi: S. Chand and Co.

Krishna, Bal. 1994. 'Putting an End to "Kin Syndrome"', *The Hindustan Times*, 15 April.

Kumaramangalam, Mohan. 1973. *Judicial Appointments*. Delhi: Oxford and IBH Publishing Co.

Maheshwari, S.R. 1970. *The Evolution of Indian Administration*. Agra: Lakshmi Narain Agrawal.

Mishra, B.R. 1958. *Economic Aspects of the Indian Constitution*. Calcutta: Orient Longman.

Pal, Chandra. 1999. *Environmental Protection and Development: Environmental Law, Policy and Role of Judiciary*. New Delhi: Mittal Publications.

Premchand, A. 1966. *Control of Public Expenditure in India*. Calcutta: Allied Publishers.

Rao, B.N. 1960. *Indian Constitution in the Making*. Madras: Orient Longman.

Rao, G.A. 1992. *Finance Commissions in India*. New Delhi: Deep and Deep.

Roy, N.C. 1960. *The Civil Service in India*. Calcutta: Firma K.L. Mukhopadhyaya.

Sathe, S.P. 2001. *Judicial Activism in India*. New Delhi: Oxford University Press.

Seervai, H.M. 1984. *Constitutional Law of India*. Bombay: N.M. Tripathi.

———. 1991. *Constitutional Law of India*. Fourth Edition, Volume 1. Bombay: N.M. Tripathi.

Thakur, Ramesh. 1995. *The Government and Politics of India*. London: Macmillan.

The Constitution of India. Article 320.

Thimmaih, G. 1976. *Federal Fiscal System of Australia and India: A Study in Comparative Relevance*. New Delhi: Associate.

Yadav, Sushma. 1998. 'Election Commission and Electoral Process', in M.P. Singh and Himanshu Roy (eds), *Indian Political System.* New Delhi: Jnanda Prakashan.

7 Planning and Economic Development

LEARNING OBJECTIVES

- To describe the genesis and development of planning in India.
- To illustrate the structure and functions of the Planning Commission and the National Development Council.
- To elucidate the role of the Planning Commission in the economic development of the country in the era of liberalization.

Outside the erstwhile Communist bloc of nations, India happens to be one of the most important countries to go for centralized planning as the mainstay of the strategy adopted for the economic development of the nation. It seems to be rooted in the basic premise that a faster and sustained socio-economic development of the people could be brought about only through a conscious planning aimed at eradicating the conditions that accentuate poverty, illiteracy, deprivation, and inequality of opportunities through the promotion of assured availability of basic necessities of life like food, education, employment, and other avenues of growth. At the same time, the practical utility of the state planning was also evident in the resource-starved countries like India where the state control of the economy was needed to regulate the economic behaviour of the people like squeezing and twisting consumption in order to accelerate capital formation and productive investment; checking unnecessary imports; investing in social and economic overheads; and core sectors of economy; curbing speculative and monopolistic practices; arranging loans from the governmental and private organizations of other countries; and ensuring that the drive for private profit does not

produce gross inequalities amongst the different sections of the population.[1] The present chapter strives to unravel the basic issues involved in the planned economic development of the country, beginning with the First Five Year Plan in 1951. Besides looking at the genesis of planning in India and factors for its adoption as the dominant strategy of development, it also seeks to put into perspective the structure and functioning of planning machinery, with special focus of the overbearing Planning Commission as the central arch of the whole edifice of planning. The contemporary relevance of planning in the era of liberalization and an analysis of the political dimensions of economic reforms in recent years would form the other core contents of the chapter.

CONCEPT OF PLANNED DEVELOPMENT

Stated in simple terms, conceptually, planning means deciding what should be done in a given situation, after careful consideration of alternatives and thereafter working out the details of how it could be done as quickly and economically as possible.[2] In other words, owing to the constraints of resources and urgency of time to achieve certain minimum level of economic development, the developing countries all over the world have found it expedient to adopt the method of planned economic development in order to have a quick and balanced socio-economic development with the strategy of making the best possible use of available resources without any wastage and overrun of time. Thus, through planning, the underdeveloped and developing countries have been able to guide the priorities, direction, and pace of their socio-economic development instead of leaving them on the vagaries of market forces whose universal objective remains the maximization of profit for the private entrepreneurs without any concern for the fulfilment of the basic needs of the people.

GENESIS AND DEVELOPMENT OF PLANNING IN INDIA

Despite remaining in one form or the other as an inevitable part and parcel of human activity, the planning as a formidable and

fascinating strategy of rapid and sustained economic development started taking roots and drawing attention of the curious people from all parts of the world after its astoundingly successful experimentation in former Soviet Union in late 1920s. As a number of Indian leaders, including Nehru, were quite influenced, if not infatuated, with the ideological soundness of Communism and became admirer of the economic, though not political, system of planned economic development as practised in Soviet Union, the arguments eulogizing the infallibility of planning as the best strategy of economic development started doing the rounds in the country since the later 1920s.[3] Subsequently, in 1937, a National Planning Committee, with Jawaharlal Nehru as the head, was appointed by the Congress to look into the modalities of operationalizing the notion of planned economic development in the country. It emerged as one of the dear demands of the Congress in its parleys with the Cabinet Mission, though without result, ultimately sneaking into the proceedings of the Constituent Assembly, where it was decided to place 'Economic and Social Planning' as one of the subjects in the Concurrent List of the Constitution.

Interestingly, the prevalent perception of planning as an inherently Marxist formulation aimed at monopolizing the ownership of economic resources in the hands of the government in the minds of the capitalists in Western countries did not deter the renowned capitalists in India to pitch for adoption of a strategy of planned economic development of the country. In their booklet, *A Plan of Economic Development for India*, they, among other things, provided for a blueprint, called Bombay Plan, seeking the creation of very comprehensive plans by a national planning committee and their execution by a supreme economic council working alongside the national planning committee under the authority of the Central Government.[4] Echoing somewhat similar aspirations on the desirability of planning for the economic development of the country, a Gandhian Plan, prepared by a die-hard follower of Mahatma Gandhi, Shriman Narayan, also presented a strategy of formulating the socio-economic developmental policies of the nation through the mechanism of a planning body, rooted, albeit, in the Gandhian perspectives on the social and economic reconstruction in India. The final endorsement for the planning in India came in the form of 'People's Plan' drafted by one of the most intellectual innovators

of the country, M.N. Roy, on behalf of the Indian Federation of Labour, in the hope of presenting the viewpoints of the working class in the ongoing debate on planning in the country. The cumulative impact of all these efforts in making the planning as the *fait accompli* of the strategy of economic development, thus, strengthened the hands of the people like Nehru who were bent upon planned economic development brushing aside the reservations of the people like Sardar Patel and other right-minded leaders of the Congress party.

Though rooted in the early socialist orientations of Jawaharlal Nehru,[5] the idea of national planning, in the later years, got transformed from an alternative to the market system to a method of coordinating and guiding the various components and imperatives of economic development in independent India. The support, in one form or the other, which started pouring for some sort of national planning for faster economic development, was based on this understanding of the notion of planning in which all the players in the national economy would find a space for themselves to remain in game, in spite of a predominant role assigned for the state. Significantly, in order to drive home this point, Nehru, apparently, as an illustration, in his presentation of the Resolution on Industrial Policy before the Constituent Assembly in April 1948, indirectly, declared the adoption of the policy of mixed economy under which, among other things, a sizeable role was visualized for the private sector to play in the economic development of the country. The basic operational milieu to the course of mixed economy was supposed to be provided by the inputs like political democracy, governmental planning, regulation and control of the economy, vibrant public sector, and a system of tax reliefs and state financial aids to the private sector.[6]

Conclusively, thus, as Amiya Bagchi, writes, planning emerged as a more or less unanimous choice amongst three prominent streams of forces at work on the prospective strategy of development for India: (*a*) the nationalist conservative trend which wanted the state to supplement the efforts of the private enterprises in areas where they lacked resources or initiative; (*b*) the official technocratic stream which regarded planning as an effective administrative tool for poverty alleviation; and (*c*) those for whom planning was part of

a socialist ideology, whose central objective was the establishment of a just society.[7] Being an outcome of a whole host of ideological and pragmatic imperatives, planning, in final analysis, turned out to be 'an amalgam of objectives and strategies often lacking internal coherence and consistency. What Nehru and the planners finally settled for was a satisfactory rather than a maximum rate of growth with the acceptance of a certain level of inequality.'[8]

ROLE OF THE PLANNING COMMISSION

The endorsements of the concept of national planning from different quarters and probable institutional mechanisms suggested in the various plans could not provide a final idea as to the nature and functions of the institutional machinery to be created for planning in the country. Partly, due to the apprehensions of the rightist faction in the party, the Congress failed to arrive at a smooth decision to set up a Planning Commission as the key organization to be in charge of the affairs of formulation and implementation of the Five Year Plans. In the subsequent tug of war leading to some angry and bitter debates in the meeting of the Congress Working Committee on 25 January 1950, an agreement was reached on a cabinet resolution to provide for the creation of the Planning Commission.

Structured in the mould of a staff agency, the prime role of the Planning Commission has been designed to assess and augment the material, capital, and human resources of the country; to formulate a plan for their balanced use; to define the stages of implementing the plan, to indicate the requisites of plan execution, and to determine the machinery for effective execution of the plan. Accordingly, the structure of the Commission was visualized to be a judicious mix of both political leadership at the top level and general staffing of the Commission by experts at other levels. The leadership of the Prime Minister, no doubt, was eminently needed for a body without constitutional or statutory basis like the Planning Commission to add to its prestige and efficient functioning in the initial years but in subsequent years, it has been found to be undesirable, if not counterproductive, for a balanced and

consistent role play of the Commission. The first Administrative Reforms Commission (ARC) had noted that taking advantage of the chairmanship of the Prime Minister, the Planning Commission has 'steadily added to its functions and personnel and has stepped into the area of the executive authority of the centre and the state governments.'[9] But in later years, the Planning Commission fell to the neglect of the prime ministers like Rajiv Gandhi, who, instead of making use of the experience and expertise of the Commission in the effective execution of the planning process, arrogated the power to the Prime Minister's Office to carry out the vital functions of the Commission like formulation of the plans. Thus, as an insider, pointing out the impact of vagaries of the attitude of the Prime Minister towards the Commission, noted, 'If the Prime Minister wants to use the Planning Commission as the pivot of economic planning and development, it will acquire a lot of importance. If he does not want to use it, the Commission becomes useless.'[10] The ARC, therefore, recommended to discontinue with the practice of the prime minister's formal and mandatory association with the Planning Commission, though acceding to the view that he should be invariably kept informed of the important decisions taken by the Commission and when he deems fit, may also attend the meetings of the Commission and chair it.

Quite often than not, the overcrowding of the Planning Commission with the central cabinet ministers has also militated against the expert nature and functional autonomy of the Commission. Indeed, the objective of the creation of the Planning Commission was to have a body, outside the normal hierarchy of the government, consisting of professionals to objectively assess and augment the resources of the country in order to formulate a feasible plan within the broad policy guidelines of the government. Over the years, the Commission appears to have turned out to be no less than a government department with the usual bureaucratic structure and functions, engrossed in routine matters, instead of acting as a staff agency to suggest innovative and feasible policy alternatives to the government. The need, therefore, is to restore the professional autonomy of the Commission by fine-tuning its structure through a reduction in the overbearing political component in order to keep its relevance intact even in the era of liberalization and privatization.

The functioning of the Planning Commission, in normal course, needn't have evoked any adverse comments and reactions from the people both inside and outside of the organization. The near-unanimous acceptance of planning as the *fait accompli* of the strategy of economic development in India had afforded a very propitious pedestal for the Planning Commission to set on to guide and regulate the ways and means of securing a fast and sustainable development in the socio-economic conditions of the people. However, the functional dynamics of the Planning Commission have produced more critics than supporters of the Commission, fetching not only a bad name for the idea of planning as the plausible course of action for the economic development of the country, but also providing the seemingly sound logic to drastically curtail, if not totally wind up, the scope of the functioning of the Planning Commission.

The most strident criticism of the functioning of the Planning Commission during its existence for more than fifty years has been that its vision has become blurred owing to a disproportionate increase in its position and functional domain, as a result of which it distracted from its core function of formulating the plan after due assessment and augmentation of the available resources to become an executive department of the government engrossed in the performance of certain secondary functions of executive nature. In utter disregard to the aspirations of its founding fathers and the other proponents of planned economic development of India, the Planning Commission, instead of confining itself to the formulation of the perspective, Five Year and Annual Plans, bothered itself more with execution and evaluation of the plans, which need to have been the responsibility of the development administration of the country. As Jawaharlal Nehru pointed out so succinctly, 'The Commission, which was a small body of serious thinkers, had turned into a government department complete with a crowd of secretaries, directors and, of course, a big building.'[11]

In a nutshell, the concentration of the power of allocating plan grants in the hands of the Planning Commission mandarins without any corresponding responsibility to the Parliament or other elected bodies has perverted their vision so much that they have emerged as one of the most formidable irritants in cordial Centre-state relations in the country. Though, conceptually, experts have opined against the consideration of the central grants to be a subversion of

the federal system,[12] what has gone against the spirit of smooth Centre-state relations is the tendency on the part of the Planning Commission to examine in details not only the total size of the state plan but even the sectoral plans, including individual schemes. Moreover, the concept of tied grants, disbursed at the instance of the Planning Commission's earmarking of resources, compromise with the autonomy of the states and flexibility in using these resources as per the priorities of individual states.[13] Though there may be some degree of exaggeration in articulating the complaints of the states with regard to the functioning of the Planning Commission, the fact cannot be ignored that the Commission has, more or less, allowed itself to be an instrument of political vindictiveness in the hands of the certain narrow-minded governments at Centre to settle score with the non-conformist governments of various states. Moreover, in its enthusiasm to plan for the whole country, the Commission betrayed an utter ignorance of the immense diversities prevailing in the country and went ahead to work on the basis that nationally there should be practical uniformity. Naturally, hence, the planning for economic development practically superseded the federal Constitution with the result that it was functioning almost like a unitary system in many respects.[14]

Nature and scope of the functioning of the Planning Commission has also impacted adversely on the scale and context of the functioning of certain constitutional bodies like the Finance Commission, which have been designed to act as the fulcrum of the efficient and cordial Centre-state financial relations in the country. Itself bereft of a constitutional status, bulldozing of the constitutional bodies such as the Finance Commission by the extra-constitutional body like the Planning Commission would probably never augur well for the establishment of a responsible government institutions as per the visions of the Constitution-makers of the country. Indeed, it appears to be a fraud on the Constitution to allow the executive-decreed bodies like the Planning Commission to take charge of the vital subjects of the governance in the country, more so, by subordinating the constitutional bodies which are created for the purpose because such a state of affairs does not appear to have the direct or indirect sanction of the fathers of the Constitution, for, had they wanted this, they must have made explicit provisions in the Constitution in this regard, keeping in view their propensity to provide even for minor issues of the polity, unmindful of its ramification for the length of the Constitution.

Though the apprehensions on the potentiality of the Planning Commission to 'become some sort of super body over the cabinet'[15] did not prove to be true in toto, its overbearing impact on the national economic policy making could not escape the attention of the scholars who found the cabinet to be 'relegated to the fringe'[16] by the Commission in this regard. Going a step ahead in exposing the leviathan called Planning Commission, Asok Chanda pointed out that the Commission's undefined position and wide terms of reference had catapulted it into the position of 'the Economic Cabinet, not merely for the Union but also for the states.'[17] Consequently, most of the studies on the working of the Planning Commission, including the ones sponsored by the Central Government did not mince words in suggesting to restrict the scope of the functioning of the Commission to the formulation of the plans and the ancillary activities, with the transfer of decision-making over plan programmes from the Centre to the states, and strict absence of the Commission from getting involved with the implementation of the plans.[18]

In view of these critical observations on the structure and functioning of the Planning Commission, it appears to have been robbed off much of its sheen, if not credibility and prestige, like most of the institutions, cumulatively called public sector, designed to intrude the bureaucrats into business, in accordance with the perspectives of classical Nehruvian socialism on the economic development of the country. Still, the old glory of the Commission remained untouched due ostensibly to the absence of better alternatives to replace the existing ones. It is in this context that the wave of liberalization, setting on in early 1990s, has swept the whole planning process, including the institutions involved in it, off the feet and the need for a new raison d'être to keep these seemingly anachronistic institutions and processes in sync with the rapid transformations being experienced in the economic sphere of the most of the developing countries in the world.

PLANNING IN THE ERA OF LIBERALIZATION

The inauguration of the decade of 1990s, in a way, proved unfortunate for the governments and policies rooted in the ideology of socialism. In the wake of their opening up and subsequent exposure

to the forces rooted in the market-model of life and development exploded the accumulated resentment against the communist governments leading to the demise of hitherto impregnable leftist bloc of countries. In developing countries, particularly India, the occurrence of a severe and unprecedented crisis in the economy, contemporaneously presented as basically an external payment crisis, reflected in the form of a loss of international investor-financier confidence in India. The putting of India on credit watch by several audit rating agencies, led to serious questioning, if not total crumbling of the prevailing system of macro-level management of the economy. It was officially recognized that this crisis was not, however, due simply to a deterioration in the trade account; it was accompanied by other adverse developments on the capital account reflecting the loss of confidence in the government's ability to manage the situation.[19]

Arguments were also advanced to attribute the causes of poverty and economic stagnation in the state's tendency to undermine the operation of market forces in the name of planned economic development of the country. As a way out of the situation, the need for structural adjustment and stabilization policies in tandem with the reduction in the role of the state in economic development was portrayed as indispensable. As a result, a concerted package of reforms, branded as the Structural Adjustment Programmes (SAPs) and initiated under the tutelage of the World Bank and the International Monetary Fund (IMF), was thrust upon the country in the name of the panacea for the economic crisis. Stressing the inevitability of sound macroeconomic and financial policies, trade and financial liberalization, privatization and deregulation of domestic markets, the strategy of SAPs promoted a minimal state that desists from economic intervention and focuses on sound monetary policy by unleashing the market forces aimed at privatization, budget rationalization, and integration of the domestic market in the international economic system.

In such a scenario, free markets became all the rage, but did that mean that the central planning would be gasping for breath, being smothered out of existence by the devil called laissez-faire? Setting the stage for a reorientation, if not a total recast of the planning system, the process of liberalization necessitated for the mandarins of the Yojana Bhawan to don new clothes lest their days of political and bureaucratic preeminence would soon be over.

A whole new set of orientations, philosophies, institutions, methods of functioning, and above all, realization of being a think tank instead of an executive body, must inform all the peoples and the institutions involved in running the planning process in India in order to retain their position as the pivot of fast and sustainable economic development of the country.

Despite all the talks and policies of liberalization, the inevitability of planning to coexist with the market forces, in the form of a guide and facilitator, would probably remain a distinct feature of the country's economic system in view of the state of economic development and the pressing need for the government not to dilute its responsibilities in the social sector. The model, available for the emulation of the country, appears to be the French concept of 'Indicative Planning' whose crux lies in just indicating the broad directions of the economic development instead of dictating it persuasively or coercively. In fact, conceptually, under the indicative planning, the role of the state gets narrowed down to only acting as an advisor and persuader, using the moderate technique of moral persuasion from the high pedestal of being the people's representative, without recourse to any coercive or controlling methods.[20] In such a system, since a substantial part of the economy is owned and managed by the private sector, the government planning is afforded to act only as a facilitator, promoter, and partner, instead of a regulator, allocator, and director. By way of planning, the major responsibility of the planning machinery is to provide for the long-term perspective of the economic development in the country. Contextualizing, thus, the role of the planning system in India in the framework of the one existing in the developed countries like France, it needs to be emphasized that public sector would remain a major player in the economic activities of the country, owing to its strategic significance, both for the safety and security of the nation, and the socio-economic upliftment of the common masses. To that extent, the planning may be allocative and regulative but insofar as the planning for the whole economy having a major bearing on the functioning of the private sector is concerned, it is focused only on a few sectors, leaving the minor operational dynamics to be decided by the private players themselves. Indeed, sometimes, the things may be other way round, when the private entrepreneurs may put forward their own perspective on the economic development of the country, and

request the government to come forward to extend a sympathetic consideration to their points of view and become a partner in their pursuits of planning and executing the plans of balanced economic development in various sectors of the economy.

Hence, acting as the 'mutually complementary forces' in facilitating rapid economic development of the country, the private sector and the state planning need to coexist, albeit with the planning continuing to be a significant variable in stipulating the strategies for pubic investment and affording guidelines for routing the private sector investment in the desired sectors. Significantly, by providing the minimum threshold level of investment in non-core sectors like telecommunications, transport, aviation, and so on, the planning machinery has facilitated the private sector to make new forays in these sectors and establish a large number of ancillary industries hovering around major public sector undertakings. As the Planning Commission itself noted, 'Central planning and investment has provided the base over which the superstructure of further development can occur smoothly with planning playing an integrative role.'[21]

It is, however, important to assess the transformed role of the planning process in the country in a detached form without the previous sentimental attachment with the bodies like Planning Commission which had become the sacred cows of the Government of India. In fact, electoral rhetoric and bankruptcy of thinking at the Commission has created misconceptions in the sense that planning used to arouse emotions of the people and the planning was assumed to be an end in itself. But, with the market financing now open to the public sector, the role of the Commission as an allocator has diminished, though, with its vast infrastructure and information gathering experience, it can and has to be allowed to work as a watchdog. Moreover, to be politically effective, the Commission has to show its superior economic expertise in suggesting guidelines for the private investment.

One of the grudge against the process of planning is that it had largely taken 'expenditure' as an index for efficient use of funds by the public sector agencies. However, as a World Bank study[22] suggested, such an approach needed to be replaced by one which improved profitability, productivity, and savings-investments deficit. This kind of apparently forward thinking would help save the Public Sector Undertakings (PSUs), while offering incentives

for the private sector to invest in the areas where traditionally the public sector has not achieved astounding success. Politically, having handled the role of mediating between the state and the Centre for the purpose of allocation of finances, and as a part of the National Development Council, the Planning Commission remains certainly an ideal forum to at least debate issues like policy of Special Economic Zones (SEZs) and the taxation reforms. Business may be wary, but it is felt that as far as infrastructure is concerned, there should be a balance of ideologies between what the Commission prescribes and that industry wants to get. Although the economics of the market place certainly play a role in the provision and use of infrastructure, government does need to provide the blueprint. In other words, once the government is clear about the policy on toll, industry would take over with a transparent auction process.

However, the radical ideas which should be the domain of the perspective planning division have yet to find any takers in the Planning Commission. Ideally, the Commission should make available various alternatives to tide over a particular situation. Otherwise, there is a danger of politicians getting carried away by their own compulsions and rhetoric. There, thus, exists an enormous potential for interaction between the national planners and the corporate planners, and the process can be strengthened through the informal consultative mechanisms, as in Japan, or the Malaysian system of RETREAT, where the Prime Minister brainstorms along with key ministers and the industry leaders. In crux, that the Commission has to turn regulator and guide is obvious, but that does not rule out its assertive role in steering resources towards the social sector.

CONCLUDING OBSERVATIONS

Coming in the form of the doctrinal intoxication of the leaders of national movement by the success of centralized planning in the former Soviet Union, planning has become the synonym for the strategy of socio-economic development in the country. Under the able leadership of Jawaharlal Nehru and the perspectives provided by experts like P.C. Mahalnobis, the Planning Commission, though a non-statutory body, emerged to be the custodian of the planning

and financing of the developmental projects through the mechanism of the Five Year Plans. Though critics fumed at the commanding position taken over by the Planning Commission in deciding the strategy of socio-economic development in the country, the utility of the idea of planning and the machinery of the Planning Commission was widely acknowledged due to the scarcity of resources at the disposal of the government and the mammoth problems facing the economic development of the people.

However, the inauguration of the policies of liberalization, privatization, and globalization since early 1990s has drastically transformed the scenario and the outlook in which the whole planning process and the mechanism of the Planning Commission were placed to work in the previous times. Not only did the scale of government spending by way of starting new economic ventures got reduced substantially, the previous pattern of compulsory planning was also almost discarded in favour of indicative planning, whereby the task of the Planning Commission only remained to indicate or point out the broad directions of economic development in the country. However, one thing remains very clear in the minds of the planners that notwithstanding the onset of the trend for indicative planning, the utility of traditional sectoral planning would remain intact as long as the social sector remains a priority area for the government.

NOTES

1. See Myrdal 1968: 715–22.
2. See Sarup and Brahme 1990: 9.
3. See Austin 1966: 235.
4. Ibid.: 236.
5. See for details, Chakrabarty 1992.
6. See Panthem 1982: 221.
7. See Bagchi 1995: 47.
8. Ibid.: 86.
9. See Government of India 1968: 36.
10. See Sethi 1992: 23.
11. Cited in Basu 1992: 308.
12. See, for instance the views of Basu 1992.
13. For a detailed exposition on the planning as an irritant in the Centre-state relations, see Hegde 1988.

14. See Santhanam 1960: 56.
15. Quoted in Austin 2003: 618.
16. Ibid.
17. Cited by Jha 1984: 7.
18. Two illustrative studies, representing the governmental as well as independent perspectives may be, Government of India 1968: 96–97; and Frankel 1978: 310–11.
19. See Government of India 1991: 6.
20. For instance, bearing out the rooting of indicating planning in the country, the recent advice of the Prime Minister to have some sort of ceiling on the absurdly exorbitant salaries and perks of the Chief Executive Officers of certain big Indian multinational companies (MNCs) was in the nature of a moral advice without any sanction of the force of law. Not finding propitious to the health of their companies, the industry syndicates ignored such advice, without any further action on the part of the government. See *The Hindu*, 7 June 2007.
21. See Planning Commission, *Annual Report, 1993–94*, p. 8.
22. See World Bank 1995: 49.

REFERENCES

Austin, Granville. 1966. *The Indian Constitution: Cornerstone of a Nation*. Delhi: Oxford University Press.

———. 2003. *Working a Democratic Constitution: A History of the Indian Experience.* New Delhi: Oxford University Press.

Bagchi, Amiya. 1995. 'Dialectics of Indian Planning: From Compromise to Democratic Decentralization', in T.V. Sathyamurthi (ed.), *Industry and Agriculture in India since Independence*. New Delhi: Oxford University Press.

Basu, D.D. 1992. *Introduction to the Constitution of India*. New Delhi: Prentice Hall of India.

Chakrabarty, Bidyut. 1992. 'Jawaharlal Nehru and Planning 1938–41: India at the Crossroads', *Modern Asian Studies*: 26(2): 37–52.

Frankel, Francine R. 1978. *India's Political Economy, 1947–77: The Gradual Revolution*. Princeton. NJ: Princeton University Press.

Government of India. 1968. *Report of the Study Team: Centre-state Relationships (Administrative Reforms Commission)*, New Delhi: Manager of Publications, Government of India.

———. 1991. *Economic Survey*. 1991–92. New Delhi: Ministry of Finance.

Hegde, Ram Krishna. 1988. *Planning and the State Rights*. Bangalore: Government of Karnataka.

Jha, A.N. 1984. 'Planning, the Federal Principle and the Parliamentary Democracy', in Abhijit Dutta (ed.), *Union–state Relations: Selected Article*. New Delhi: Indian Institute of Public Administration.

Myrdal, Gunnar. 1968. *Asian Drama*. Volume II. London: The Penguin Press.

Panthem, Thomas. 1982. 'Elites, Classes and the Distortion of Economic Transition in India', in N.R. Inamdar et al. (eds), *Contemporary India.* Poona: Continental.

Planning Commission. 1994. *Annual Report, 1993–94*. New Delhi: Planning Commission.

Santhanam, K. 1960. *Union-State Relations in India*. London: Indian Institute of Public Administration/Asia Publishing House.

Sarup, Anand and Sulabha Brahme. 1990. *Planning for the Millions*. New Delhi: Wiley Eastern Limited.

Sethi, J.D. 1992. 'Autonomy of the Planning Commission', *Mainstream*, 14 March.

The Hindu. 2007. 7 June. New Delhi.

World Bank. 1995. *Bureaucrats in Business: The Economics and Politics of Government Ownership*. London: Oxford University Press.

8 Statutory Institutions and Commissions

LEARNING OBJECTIVES

- To analyze the structure and functions of the four illustrative statutory institutions and commissions.
- To examine the issues playing critical role in the efficient and effective functioning of the National Commission for Backward Classes, National Commission for Women, National Human Rights Commission, and the National Commission for Minorities.

Over the years, the functioning of the constitutional democracy in India has produced numerous paradoxical propositions, one of which is exemplified by the creation of various statutory institutions and commissions in the country. With the deepening of the democratic ethos and development of a conciliatory and participatory culture in India, the vast social cleavages prevalent for centuries in the Indian society would have been assumed to have disappeared, paving way for evolution of an all-inclusive and respectful social structure and processes. Instead of demanding a separate mechanism for the protection and promotion of their rights and privileges, the various sections of society needed to have come out against the tendency on the part of the government to play the game of populist politics and succumb to the pressure of the unscrupulous elements demanding certain special benefits for them. Such communitarian thinking is however, found to be shockingly absent in the minds of the people resulting into an increasing demand for the creation of structures and procedures aimed at providing specialized and exclusive services to the particular sections of the society. Such paradox

can probably be explained only by the argument that the Indian society is passing through a transitional phase in which such sorts of paradoxes are commonplace before the arrival of a stage in social evolution when everybody lives for others and inclusive social life becomes the norm of society.

The creation of an ever increasing number of statutory institutions and commissions raises the eyebrows of the concerned citizens of the country also because of the perspective of Indian Constitution on the issue. At the time of framing of the Constitution, all sorts of opinions were expressed in the Constituent Assembly regarding the creation of special and exclusive mechanisms for the protection and promotion of the interests of particular sections of the society. But the vision of the fathers of the Constitution appeared to be very clear on the issue as they arguably took the position that the creation of such parochial commissions would do more harm than benefit to the social fabric of India, and hence they desisted from creating sectarian bodies in the Constitution.

Still, with the passage of time, the country has seen the creation of innumerable statutory institutions and commissions ostensibly for the purpose of protection and promotion of certain sections of society whose interests were not found to be adequately safeguarded within the framework of available machinery and laws in the country. The reason for the acceptance of such demands would probably lay in the changing norms of social behaviour in which certain sections of society became more vulnerable than others to the forces of oppression and victimization, and hence the protection and promotion of their interest necessitated the creation of certain special purpose bodies with statutory powers and functions in order to effectively discharge their responsibilities. How far these bodies have been able to protect and promote the interests of the people who are at the receiving end of the oppressive socio-economic and political order is a matter for serious investigation. The present chapter, therefore, besides dwelling on the structures and functions of a few illustrative statutory institutions and commissions, tries to assess their effectiveness in meeting out challenges posed to the concerned people.

NATIONAL COMMISSION FOR BACKWARD CLASSES

Appearing as one of the statutory commissions set up at a quite later stage of India's endeavour to provide a dedicated mechanism

for the advancement of the interests of backward classes, the National Commission for Backward Classes (NCBC) came into existence in 1993 in the wake of the decks ultimately being cleared for the implementation of 27 per cent reservation for the people belonging to the Other Backward Classes (OBC) in the services of the Central Government. Interestingly, however, a cursory look at the circumstances leading to the formation of the NCBC provides the irony of things moving in the Indian politics only as part of the politicians playing the game of one-upmanship vis-à-vis their opponents. Hence, despite the constitutional mandate and the reports of various other commissions on the socio-educational backwardness of certain sections of the society like the Kaka Kalelkar Commission, the successive governments did not mind having a look at the contents and the implementational prospects of such reports. Similarly, the report of the Mandal Commission was also biting dust when on one fine morning, faced with the formidable challenge of its Deputy Prime Minister, the National Front government of V.P. Singh used the Mandal Commission report as a countermove to unsuccessfully stem the tide of revolt raised by the former.

Quite evidently, thus, what would have been a highly welcome move in the direction of bringing about positive transformations in the conditions of the socially and educationally backward classes of people, met with a stiff resistance even with those people who were otherwise inclined to support such a move to create a more egalitarian social web in India, precisely due to the reason of misusing a noble cause for the sake of selfish and sinister design of the few unscrupulous politicians. In other words, the hasty and thoughtless decision of the V.P. Singh government to implement the recommendations of the Mandal Commission providing for the reservation to the OBCs in the Central Government services turned out to be a classic case of grossly misusing a well-conceived idea for the sheer personal interests to divide the society, and reminded us of the infamous and communal MacDonald Award of 1932 through which the British tried to divide the Indian society for pernicious objective of weakening the cohesion of Indian national movement and introduce a permanent cleavage in the society under the garb of providing affirmative discrimination to the people belonging to the Scheduled Castes in the Indian society. Nonetheless, the mess created by the decision to implement the Mandal Commission recommendations was, more or less, cleared by the reasoned

judgement of the Supreme Court in the case of *Indira Sawhney and Others vs Union of India*, in which among other things, the Court ruled in favour of the establishment of the NCBC as a statutory body.

Structure

In spite of the impression that the emergence of the NCBC was ordained by the judgement of the Supreme Court, the fact of the matter remains that the idea of such a body was explicitly provided for in the Constitution under Article 340(1), which, inter alia, directs that:

> The President may by order appoint a Commission consisting of such persons as he thinks fit to investigate the conditions of socially and educationally backward classes within the territory of India and the difficulties under which they labour and to make recommendations as to the steps that should be taken by the Union or any State to remove such difficulties and to improve their conditions and as to the grants that should be made for the purpose by the Union or any State and the conditions subject to which such grants should be made, and the order appointing such Commission shall define the procedure to be followed by the Commission.[1]

Further, laying down the broad functional domain of such Commission, Article 340(2) bestows the Commission with the responsibility of investigating the matters referred to it and report on the factual state of things pertaining to the conditions of these people, and making such recommendations as it deem fit to better the lot of the people. The constitutional mandate enshrined in Article 340, however, was so misconceived by the leaders of the country since Independence that, instead of it becoming a tool of ameliorating the lot of the people belonging to backward classes it became an instrument of political expediency, as a result of which while the earlier governments did not find it appropriate to take action upon it, the government which set on to implement it made a mockery of the whole issue creating a social turmoil of sorts and the issue landing up in the Supreme Court for finding a middle path on the issues pertaining to affirmative action in the country.

While sorting out finer points involved in the matter of affording reservation to the people belonging to the socially and educationally backward classes in the services under the Central Government,

the Supreme Court directed the Government to constitute a National Commission for Backward Classes in accordance with the provisions of Article 340, leading to the enactment of the National Commission for Backward Classes Act, 1993, envisaging the setting up of the NCBC as a permanent body at the Central level. Consisting of a chairman, two other members and a member secretary, the NCBC is designed to be a quasi-judicial expert body to act as the feeding agency to the Central Government on the issue of pruning and consolidating the list of castes to be categorized as the OBCs for the purposes of availing benefits earmarked for them. To ensure the independence and functional expediency of the Commission, its chairmanship is ordained on either a retired Chief Justice of a High Court or a retired judge of the Supreme Court while its member secretary is invariably a senior member of the Indian Administrative Service with some knowledge of, and perspective on, the matters concerning the problems of the OBCs in the country. The other two members of the Commission are supposed to be the social scientists having sufficient theoretical and conceptual knowledge of the Indian social system and the problems and prospects of bringing about the people belonging to the OBCs into the social mainstream of the country. Thus, the first batch of the office bearers of the NCBC at the time of its inception in 1993, namely, Justice (Retd.) R.N. Prasad as the Chairman, P.S. Krishnan as the Member Secretary and Dhirubhai Seth and Dinesh Yadav as the expert members, appeared to be in consonance with the idea with which the Commission was set up.

Functions

The functions of the NCBC, as provided for in the NCBC Act, 1993, are mainly in the nature of advisory one with regard to the modifications to be made in the Central list of OBCs. Importantly, in view of the constitutional spirit and the overtones of the Supreme Court judgement in the Mandal Commission case, it became obvious that no castes or class of people could claim a permanent social and educational backwardness for the sake of a preferential treatment in the matters of appointment in the Central Government services as in due course of time with the accrual of the benefits of preferential treatment, the lot of the community must be improving resulting into the upward movement of the community into the

socially and educationally forward class of people. Similarly, those classes of people who would not have found a place in the Central list of OBCs for certain reasons could have been included in the list at the time of periodic review of the lists. Hence, it was provided under the NCBC Act of 1993 that the Central Government:

> At any time and shall at the expiry of ten years from coming into force of this Act, and every succeeding period of ten years, thereafter, undertake revision of the lists with a view to excluding from such lists those classes who have ceased to be backward classes or for including in such lists new backward classes.

Thus, the basic objective of achieving an egalitarian nature of Indian society in a dynamic manner was sought to be attained not by providing a preferential treatment to certain sections of the people on a permanent basis, putting others in a state of perpetual disadvantage, but by ensuring that seemingly discriminatory idea of preferential treatment should be progressively minimized with the hitherto marginalized sections of the society joining the mainstream of the society. This fundamental logic provides the perspective in which the functional domain of the NCBC was designed by the NCBC Act.

According to Section 9(1) of the Act, the primary function of the Commission is twofold. First, it is entrusted with the responsibility of considering the requests for inclusion of any class of citizens as a backward class in the Central list of backward classes from time to time. The performance of this function necessitates the Commission to work on a permanent basis as the requests for inclusion of any class of citizens as the backward class in the Central list of backward classes may pour in at any point of time. Second, the Commission is also to act as the complaint authority to hear the petitions complaining of over-inclusion or under-inclusion of any backward class in the list of backward classes. This seems to be an important function of the Commission as in the mad rush for cornering as much of benefits from the various types of reservation available for the backward classes as possible, many classes of people clamour for inclusion of their castes into the list of backward classes even though they may not qualify for inclusion in the list. A reverse situation may arise for certain classes of people who qualify to be included in the Central list of backward classes but have not been included in the same for certain reasons. In such cases, the

NCBC is empowered to act as the sole arbiter and after considering the merits of the complaints in this regard may tender advice to the Central Government as it deems appropriate. In sum, thus, the NCBC has been evolved to act as the exclusive agency at the Central level to sort out the issues arising on the question of determining the claim of a particular class of people to be granted the status of backward classes to be included in the Central list of backward classes on the one hand, and adjudicate the disputes emerging on the claim or counter claim on over-inclusion or under-inclusion of any backward class in the Central list of backward classes on the other. Though the recommendations of the Commission in this regard are ordinarily binding upon the Central Government, the latter retains the final right of asking for modifications in the recommendations of the Commission, and in the extreme cases, even rejecting some recommendations also.

NATIONAL COMMISSION FOR WOMEN

The creation of the National Commission for Women (NCW) in 1992 marked a landmark in the movement towards securing a more just and equitable existence and status for women in society by putting in place certain institutional mechanisms to protect and promote the exclusive rights of women on continuing basis. Starting even in the pre-Independence days, the women's movement in its early days concentrated on unfettering the women from the numerous fetters imposed on them, by virtue of confining their existence within the four walls of the household, primarily by the method of imparting education to them.[2] However, the real breakthrough came in the post-Independence period with the Constitution of India making significant provisions for the improvement in the lot of women in order not only to ensure a respectable place for them in the Indian society but also to make them an equal partner in the socio-economic and political developments in the country. While the general perspective on securing an equal and just status for women is provided for in the provision like the Preamble and the Fundamental Rights, the specific provisions have been made in the Directive Principles of State Policy to provide for the betterment in the conditions of women. Hence, securing equality between men and women in terms of adequate means of livelihood

[Article 39(a)] and equal pay for equal work for both men and women [Article 39(d)], specific provision has been made to guarantee just and humane conditions of work and maternity relief (Article 42), so that the women are not left to suffer from miseries in times of their pregnancy. Moreover, a constitutional duty has also been imposed on the citizens by Article 51(a) to renounce practices derogatory to the dignity of women which appears to have a revolutionary outlook keeping in mind the prevalence of numerous inhuman and cruel practices in the Indian society impacting on the health and social status of women.

The cumulative impact of these constitutional provisions has been to provide for a legal-constitutional framework within which the efforts for ameliorating the socio-economic and political conditions of women may be contextualized. However, working of the legal constitutional provisions to safeguard the interests of women did not yield the desired result ostensibly due to the absence of an institutional mechanism to oversee the implementation of these provisions and take remedial actions in case of aberrations in this regard. Consequently, the NCW was set up as a statutory body to be a nodal monitoring agency to minimize the gap between constitutional and legal stipulations for women and their actual implementation on the ground.[3] The Commission is entrusted with:

> [A] wide mandate over issues affecting women's development. It seeks to improve women's socio-economic state by addressing issues like female foeticide/infanticide, women's trafficking; plight of women from marginalized sections, widows and victims of domestic violence; economic empowerment by vocational training, wage equality, and transfer of technology; political empowerment by seat reservation from grassroots to national legislature level; repeal of anachronistic anti-women laws, sensitization of police and judiciary on the special treatment women need, and enactment of progressive laws for women's development.[4]

Structure and Functions of the Commission

Established under the National Commission for Women Act, 1990 which was enacted under the persuasions of the covenants and protocols of the United Nations dealing with the elimination of all forms of discrimination against women, the NCW consists of a chairperson and five other members nominated by the Central

Government, in addition to a member secretary. The functions of the Commission mainly fall into four categories.

First, the NCW has primarily been established as the watchdog body to keep an eye on the functioning of the numerous provisions made in the Constitution and other laws enacted by the Parliament regarding safety and security of the women on the one hand and protection and promotion of their rights, on the other. In fact, there exists a subtle difference between the nature and scope of the powers and functions of the two prominent institutional dispensations existing to deal with the issues pertaining to the cause of the welfare of women, that is, the Department of Women and Child Welfare and the National Commission for Women. While the former concerns itself with the formulation and execution of various welfare and protective measures for women in the nature of positive policy formulations, the latter is endowed with the responsibility of acting as the watchdog to see whether the safeguards provided for women in the Constitution and other laws of the land are working efficiently or not. Thus the monitoring of functional dynamics of the measures initiated for the protection and promotion of the welfare of women rests with the NCW whereas the normal governmental affairs pertaining to the issues of women are dealt with by the ministry.

Acting as the supervisory body on the proper functioning of the safeguards provided for women under the Constitution and other enactments of the Parliament, the NCW, at the outset, busies itself with an analysis of the factors and issues which go to make or mar the effective functioning of the safeguards enshrined in various legal documents of the country. After being fully aware of the functional dynamics of the safeguards, including the efficacy and effectiveness of such safeguards, the Commission presents a report to the Central government, making out a case for its findings on the working of these safeguards for the protection and promotion of the interest of the women. However, in case the Commission is not satisfied with the state of affairs regarding the working of such safeguards, it may go into the causes for such malfunctioning and suggest remedial measures which may plug the loopholes in the structure and functioning of these safeguards, and make their implementation effective in both letter and spirit.[5]

Second, in its capacity as the monitoring body to look into the issues of effective implementation of the safeguards provided for women, the NCW not only keeps an eye on the violations of

such safeguards but also effectively takes corrective measures to undo the wrongs done to the women. Two broad strategies are ordinarily followed by the NCW while embarking on the mission to get any wrongs done to the women undone: raising the issue of such wrongs or violations of the safeguards for women in front of the appropriate authorities with a request to take suitable remedial measures so that the wrong is made right as soon as possible; and in case of the failure of the authorities petitioned to right the wrong to do the needful, the Commission retains the right to move the Court seeking a direction to the concerned authorities to perform their duties so that the constitutional safeguards are put into practice and the women are saved from undue disadvantages. It is, however, important to note that while the Commission is prompt to take up the cases of violation of the provisions of the Constitution and other laws relating to the women with the competent authorities, it is found to be hesitant in taking recourse to the second strategy, that is, moving to the Court, unless the case in point happens to be of supreme importance for the cause of women welfare or affects the lives and dignity of quite a large number of women. Owing to a fairly good amount of cases being taken up by the Commission before different agencies resulting into positive outcome for the aggrieved women, the tendency seems to have been growing amongst the women to move the NCW even in case of the slightest infringement of their rights or minor violation of the safeguards provided for them.

Third, the NCW is also empowered to look for prospective measures to protect and promote the welfare of women which may arise from the research and investigation studies conducted by the Commission. In other words, while monitoring the implementation of existing provisions to protect and promote the interest of the women, the NCW may also commission studies and research to find out the state of affairs prevailing in the country regarding the various indicators of women's development on the one hand, and functional dynamics of the existing provisions on the other, so that suitable modifications may be suggested in order to make them more effective. The performance of this function by the Commission brings it closer to the functional domain of the Ministry of Women and Child Welfare, as it also becomes the harbinger of innovations and new initiatives in the field of women's development in the country. Yet the efforts of the Commission in this regard remain

only pious recommendations unless the ministry accepts such recommendations and incorporates them into the existing legal framework on the welfare of women. Nonetheless, the findings of the NCW, born out of the research and studies sponsored by it, usually turn out to be the pioneering initiatives owing to the moral weight they carry with the common people as well as the new ground they are destined to break in the field of the welfare of women. Even if the government demonstrates initial inhibitions on such findings, they remain intact as some sort of ideal to be achieved in the times to come in order to maximize the developmental strides of the women. Hence, eventually, one or the other government sheds the inhibitions and put into practice such recommendations of the Commission at some point of time.

Last, the NCW acts as the repository as well as the nodal agency to deal with all the issues concerning not only the effective implementation of the safeguards provided in the Constitution, and other legal enactments for the safety and security of women but also the issues relating to welfare of even individual women. Hence, as an expert in the field points out, the functions of the Commission include:

> Looking into complaints relating to the deprivation of women's rights; non-implementation of laws enacted to provide protection to women and also to achieve the objectives of equality and development; and non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships and ensuring the welfare of and providing relief to women.[6]

Such miscellaneous nature of the functions of the Commission has been illustrated by two recent instances of the Commission coming to the rescue of women facing hardships in their life which apparently did not seem to violate any specific safeguard provided for the women in the Constitution or any other law of the country, yet applying the canons of civilized life, looked to be the hardships needing the attention of the Commission. In the first case,[7] three sisters, after the demise of their parents were forced to live a wretched life as they could neither find suitable jobs for themselves, nor was there any relative or other acquaintance who could come to their rescue. Living, probably without food and water for quite some times, one of the sisters died due to starvation. When the

incident was reported in the newspapers, the NCW, taking *suo moto* cognizance of the matter took upon itself the responsibility of saving the lives of the other sisters and rehabilitate them so that they can live a dignified and happy life. In the other case, a former model, named Gitanjali Nagpal, was disowned both by her husband and in-laws as well as her parents, and was found begging on the streets of Delhi in a very exasperated position. Taking a *suo moto* notice of the incident after it was reported in the media, the NCW swung into action to provide psychological assistance to the lady.[8]

In addition to providing assistance to the needy and distressed women even by taking a *suo moto* notice of their problems, the NCW has also made a number of efforts to alleviate the miserable conditions of those women who are found to be working in certain disadvantaged and vulnerable spheres of life. For instance, the NCW is reported to be in the process of finalizing a set of recommendations pertaining to the working conditions of the domestic women workers. Stipulated to afford an honourable and healthy work environment to these domestic helps, the recommendations of the NCW range from limiting the working hours of such helps to eight hours to guaranteeing at least one weekly off to them.[9] Thus, the NCW appears to have transcended its conventional domain of acting as the monitoring body to ensure that the safeguards enshrined in the Constitution and other legal instruments of the country for the protection and promotion of the interests of the women are implemented, and has started functioning as the precursor and initiator of numerous sets of reforms in those areas involving women which either still remain outside the purview of laws and regulations stipulated by the government, or the effective implementation of rules and regulations in these areas seems to be improbable owing to the lack of definite and well-equipped machinery for the purpose.

NATIONAL HUMAN RIGHTS COMMISSION

The concern for the protection and promotion of the human rights in India is a relatively new phenomenon, though India has been one of the early signatories to the Universal Declaration of Human Rights (UDHR) and the Constitution of India containing one of

the finest provisions guaranteeing the people a wide range of fundamental rights. Ironically, the genesis of the idea of having some sort of institutional mechanism for the protection and promotion of human rights in India is attributed to the policy of the Western countries, notably the United States, to link the economic and financial assistance to the developing nations with the condition of human rights protection in these countries.[10] Though India opposed such move on the part of the donor countries, the compulsions of availing the grants and concessional loans from the developed countries left no way out for the country than to provide for an institutional arrangement to safeguard the human rights of the people. Moreover, the growing awareness amongst the people regarding their democratic and civil rights, coupled with the mounting pressures from the human rights organizations in the country to have a law and institutional mechanism for the protection of human rights compelled the government to go for the enactment of a law laying down the broad provisions of a human rights commission in the country.

Owing to the lack of self-visualization on the issue of human rights commission amongst the government circles, the first effort in the direction of providing for such a commission met with discomfiture as the Human Rights Commission Bill introduced in Parliament in May 1993 was withdrawn in view of scathing criticisms it received from all quarters and persons involved in the propagation and promotion of human rights in the country. Subsequently, pouring its mind into the objections raised on the Human Rights Commission Bill for three months, the government came out with a Presidential ordinance in the name of Protection of Human Rights, providing for the constitution of a Human Rights Commission. Ultimately, the Protection of Human Rights Act, 1993 was enacted by the Parliament under the provisions of which the National Human Rights Commission (NHRC) was constituted.

Structure

Structurally, the NHRC consists of a chairperson and four other members with definite qualifications stipulated for each of them. Hence, while its chairperson needs to be a former Chief Justice of

India, two of its members again need to be of judicial background—one a sitting or former judge of the Supreme Court and the other a sitting or former Chief Justice of a High Court. As per the Act, the other two full-time members of the Commission should be persons having knowledge of, or practical experience in, matters relating to human rights. Additionally, the NHRC is to have the chairpersons of three other national commissions, namely, the National Commission for Minorities, the National Commission for Women, and the National Commission for Scheduled Castes and Scheduled Tribes, as its ex-officio members in order to provide for a focused perspective in the functioning of the NHRC in matters relating to the minorities, women, and the SCs and STs. Apart from the membership of the Commission, the Act also made provisions for two statutory administrative offices in the Commission, namely, the secretary general and the director general (investigations) to afford an adequate administrative support, so that the functions of the Commission are carried out in an impartial and efficient manner.[11]

A look at the structure of the Commission demonstrates a number of typical features peculiar to the NHRC as compared to other such commissions existing in the country. First, as out of five full-time members of the Commission, three positions, including that of the chairperson, have been reserved for the members of the higher judiciary, the structural orientation of the Commission appears to have become somewhat legalistic whereby the problems of the violations of human rights would tend to be seen from the jurisprudential perspective rather than in context of the prevailing socio-economic and cultural circumstances in the country. In other words, the cases of the human rights violations should supposedly be taken up by the Commission not just with the objective of handing down a definite verdict holding somebody guilty of the crime but also with the purpose of going down deep into the probable reasons for the commitment of such crimes, so that subtle and permanent remedial measures could be suggested in order to check the recurrence of such cases. However, such a possibility seems to be remote with a body consisting predominantly of the people in the habit of delivering the final verdict rather than looking at the causes and circumstances of the particular case.

Second, the provision that sitting judges may be appointed to the NHRC with the consent of the Chief Justice of India does not

seem to go well, either in theory or practice, with both the health of the Commission and the independence of the judiciary. The appointment of a sitting judge to the Commission might, in all probability, lead to a kind of friction amongst the members of the Commission as the sitting judge may supposedly carry more weight in comparison to the other members which may not prove good for the health of the Commission. Similarly, the appointment of such a judge to the Commission might cast aspersions on the independence of the judiciary as the provision may be used both as carrot as well as stick by the government in the course of time. Thankfully, therefore, the government has desisted from appointing any sitting judge as the member of the Commission, making the provision redundant so that it may die a natural death.

Third, in contrast to the two negative features of the structure of the Commission, a welcome provision appears to be the methodology of the selection of the chairman and the members of the Commission. As laid down in the Act, the appointments to the Commission would be made by a committee headed by the Prime Minister and consisting of the Union Home Minister, Speaker of the Lok Sabha, Deputy Chairperson of the Rajya Sabha, and the leaders of Opposition in both the Houses of the Parliament. Such a seemingly impartial method of the constitution of the Commission is particularly praiseworthy due to the fact that India being a plural country with high degree of political discord and lack of unanimity amongst the political leaders as to what constitutes the violation of human rights, needs to have the participation of the opposition leaders so that the appointments to crucial body like the NHRC, which is bestowed with investigating and suggesting remedial steps in the cases of the violations of human rights, should be made in such a manner that it remains above board in the political discourse of the country, and discharges its functions as impartially as possible, irrespective of the claims and counterclaims of various sections of the people.

Last, again as a positive sign of its structure, the provisions for the offices of the Secretary General as well as the Director General (investigations) as the statutory adjunct of the Commission appear to be the fulfilment of a prerequisite for effective functioning of the Commission. While the former officer has been made the administrative head of the machinery of the Commission, the latter is made responsible for the performance of the most critical

task in the functioning of the Commission, that is, the investigation of the complaint of human rights violations. Had these tasks of running the administration of the Commission and conducting the investigations into the complaints been outsourced to the governmental agencies lying outside the domain of the Commission, the effective discharge of such responsibilities would have been in doubt, which in final analysis would have gone in tarnishing the image and effectiveness of the Commission.

Independence of the Commission

Apparently, statutory commissions, including the NHRC are looked upon as the institutions of governance with a strong governmental influence affecting the proper discharge of their functions and responsibilities. However, keeping in mind the vitality of the Commission in the proper functioning of democratic system of governance in the country, the Protection of Human Rights Act, 1993 made a number of subtle provisions to ensure that the Commission functions as an independent body, without any undue interference or influence on the part of the government, of which three are quite substantive:[12]

1. As already stated, the chairperson and the members of the Commission are appointed by the President on the recommendations of a Committee consisting of the Prime Minister as the Chair, and the Speaker of the Lok Sabha, Deputy Chairman of the Rajya Sabha, the Union Minister of Home Affairs, and the leaders of Opposition in both the Houses of the Parliament. The recommendations of such a committee would probably go a long way to ensure that the Commission retains a high degree of neutrality and impartiality, and remains the bastion of justice in the eyes of the people whose human rights have been violated.
2. The appointment of the Commission's members for a fixed term of five years also ensures that they function during this period without any fear or favour as their appointment is final, and their service conditions cannot be varied during their tenure of office nor can they be subjected to any other sort of undue stress or disadvantage during this period of time.

3. The independence of the Commission has also sought to be protected by making the process of removal of it's members from office quite cumbersome. Generally, a member of the Commission may be removed from office only by an order of the President on the grounds of proved misbehaviour or incapacity after a duly constituted and thorough inquiry to be conducted by the Supreme Court. As such cases of inquiry by the Supreme Court are very fair and impartial, there exists no reason for an honest and fearless member of the Commission to buckle under the pressure of the government for the apprehension of being removed from office in an arbitrary and partisan manner.

Functions of the Commission

The idea of the creation of NHRC has enjoined upon the government to dovetail all the functions pertaining to the protection and promotion of the human rights upon the Commission, which has found its reflection in the Protection of the Human Rights Act, 1993.[13] As per Section 12 of the Act, the main functions of the Commission include the following:

1. Inquiring *suo moto* or on petition presented to it by a victim or any other person on behalf of the victims, into complaints against the public servants regarding the violation of human rights, or abetment thereof, or negligence in the prevention of such violations.
2. Having an interjection in a Court of law, with the approval of the Court, where any issue of human rights violations are involved in the proceedings of a pending case.
3. Conducting inspections to study the conditions of life of the inmates, and presenting its recommendations thereof, confined in any jail or any other institution meant for cure, reforms or protection of such people under the control of a state government with the prior information to the concerned state government.
4. Reviewing the provisions in the Indian Constitution or any other law or provisions under such law regarding the protection of human rights and making recommendations for

effective implementation of such laws and provisions of the Constitution.

5. Examining the factors that curtail or circumscribe the enjoyment of human rights, including the acts such as terrorism and suggesting suitable remedial measures for them.
6. Studying international treaties and other related covenants or documents pertaining to human rights and making suggestions for their effective implementation.
7. Undertaking research in the field of human rights in order to promote human rights in India.
8. Promoting awareness regarding the human rights in different sections of the society and disseminating awakening on the measures for the protection and promotion of human rights through the methods of publications, media, seminars, and other available mediums.
9. Encouraging the endeavours of the non-governmental organizations and other such organizations which are involved in the field of human rights protection and promotion.
10. Performing such other functions as are deemed necessary for the promotion of the human rights.

Achievements of the Commission

At the time of the inception of the NHRC, sceptics were quite vociferous in voicing their concern over the structural and functional weaknesses of the Commission. However, over the fourteen years of its existence, the NHRC has come out with flying colours insofar as the inculcation of a culture of respect for human rights is concerned in most of the circles of government as well as in the minds of common people in the country. In fact, the Commission has turned out to be the true custodian of the protection and promotion of human rights in India with its sincere and spontaneous efforts to not only redress the grievances of the victims on a petition but quite often, it has also taken *suo moto* cognizance of any incident of violation of human rights and promptly took remedial steps in order to provide relief to the aggrieved persons. Consequently, the Commission has not only been able to command a high degree of respectability and moral ground amongst the people but also amongst the government functionaries whose positive outcome

has been in the form of the recommendations of the Commission getting due respect by the concerned departments.

A major invention of the Commission, which is also in tune with the time, appears to be its tendency of involving the civil society organizations, in addition to the educational and public-oriented organizations, in its endeavours for protection and promotion of the human rights of those people who either suffer from some sort of social stigma or they are faced with the vested interest bent upon sabotaging the efforts of the Commission for the same. Hence, the problems pertaining to child prostitution, prison reforms, rehabilitation of the persons displaced by the ongoing mega projects, child labour, bonded labour, iron deficiency among pregnant women, and problems of the mentally disabled, and so on, have been able to attract the attention of the Commission, whose efforts would supposedly have gone in vain had it not received the insightful input and active support of the non-governmental organizations.

An astounding success story of the Commission happens to be its fruitful efforts in spreading the human rights literacy and awareness amongst the different sections of society in accordance with one of its statutory obligations.[14] Indeed, the informed public opinion in the country on the issues pertaining to the human rights of various sections of the people is a tribute to the efforts of the Commission as almost every section of people are quick to seek a redressal of their problems if they feel aggrieved by any act of omission or commission by both the governmental or non-governmental sectors, whose reflection has been found in the ever increasing number of complaints received by the Commission on the issues pertaining to the violations of human rights. Moreover, by succeeding to make the lessons of human rights as part of the school curriculum for educating the young minds the value of protecting and promoting human rights, the Commission seems to be sowing the seeds of a vibrant society marked by unflinching devotion to the cause of human rights rooted in the ancient Indian dictum of live and let live.

Last, since its inception, the Commission has been able to formulate guidelines and issue directions to the concerned agencies on a number of issues including the misuse of police powers, especially arbitrary arrests, setting up of human rights cells in state and city police headquarters, prison reforms, elimination of

child labour, compulsory education, caste and communal violence, rights of persons with disability, human rights of mentally ill, abolition of manual scavenging, quality assurance in hospitals, review of certain laws and statutes affecting human rights of citizens, implementation of international treaties and instruments of human rights, protection of human rights and dignity of AIDS affected patients and sex workers, and institutional changes in the legal system, and so on. The cumulative effect of all such measures has been that the concern for human rights informs almost all the spheres of human activity in the Indian society due to efforts of the NHRC.

Limitations of the Commission

As is the case with various other statutory commissions and institutions, the NHRC is also handicapped by a number of structural and functional shortcomings which come in the way of efficient and effective performance of the functions by the Commission. Structurally, despite the best efforts of the NHRC, the creation of a State Human Rights Commission has not been able to become a reality in all the states and union territories of the country. The obvious consequence of such a state of thing is that the complaints of the violation of human rights emanating within the territories of a particular state also get directed towards the NHRC, as there is no state level mechanism to take care of such cases. In such a situation, the time and energy of the Commission get absorbed in redressing such grievances, and the Commission is not able to spare its time to pay its attention to either streamline the system of governance from the human rights perspective or evolve innovative measures to make respect for human rights a way of life in the country.

The apathy of the state governments towards the cause of human rights is further deepened with the reluctance of majority of the states to set up the human rights courts at the district level under the provisions of the Protection of Human Rights Act, 1993. As has been experienced in the cases of effective and speedy functioning of special courts being set up to deal with the issues of particular nature or significance, such as the courts to deal with the terrorist activities, crime against women, trafficking in drugs and narcotics, and so on, the setting up of special human rights courts at the

district level in all the districts of each state would have heralded a new era of dispensing justice in the cases of the violation of human rights. But in the absence of such courts, the cases pertaining to the violation of human rights go to the ordinary courts of law whose procedures and speed of delivering justice is well-known resulting in the exorbitant procrastination in such cases leading to the loss of faith of the common people in the deliverance of justice by the courts.

Amongst the functional limitations of the Commission, two are noteworthy. First, the Commission is handicapped by its jurisdictional limitation of not being able to investigate the cases of the violation of human rights by the armed forces. Such a scenario appears to be quite disheartening owing to the growing tendency with the government to use the armed forces in counter-insurgency operations in many parts of the country, more notably in Jammu and Kashmir as well as in the states of the North-east. Moreover, with the reports pouring in on the cases of violation of human rights by the armed forces, the time may be ripe to bring about the suitable changes in the law in order to bring the armed forces also within the ambit of investigations of the NHRC though certain safeguards may be provided, so that the operational efficiency of the armed forces is not hindered in taking on the anti-national forces in these states.

Second, the function of the NHRC as a mere advisory or recommendatory body adversely affects its functional effectiveness as a recalcitrant department or official may not have the courtesy to honour the recommendations of the Commission in which case the watchdog body is left with no option than to swallow a bitter pill of insignificance. What is more alarming is the tendency amongst most of the departments and agencies of the government to outrightly ignore the recommendations of the Commission on the issues concerning the departmental inquiry or criminal actions against the errant functionaries.

In final analysis, the creation of the NHRC heralded a new era in the field of protection and promotion of human rights in India as the Commission took upon itself the responsibility of ingraining the virtue of respecting and furthering the cause of human rights more as a moral virtue than as a legal precept to be executed only under the orders of the court of law. Before the establishment of the Commission, though India was a signatory to the Universal

Declaration of Human Rights as adopted by the United Nations, and the Constitution of India contained one of the finest provisions guaranteeing the citizens of India wide-ranging fundamental rights, the concern for the protection and promotion of human rights was more in the nature of customary ritual than in the form of a practical trait of life informing all sets of human activities. However, with the inception of the NHRC, the whole paradigm of governance in India was set for a change with the concern for human rights permeating all institutions and procedures of governance at all levels and people getting conscious of their inherent rights as human beings which needed to be respected in all circumstances.[15] Over the years, though the functioning of the Commission has been marred by a number of handicaps, it still remains the best hope for the people of the country to seek an unfettered protection and promotion of their fundamental rights in the face of numerous threats to them from forces both within and outside the domain of the government.

NATIONAL COMMISSION FOR MINORITIES

The idea of a statutory commission to look into the affairs of the minorities, interestingly, germinated in the state of Uttar Pradesh when a one-man 'Minorities Commission' was established at Lucknow in 1960. The Central Government, for almost three decades of Independence, remained reluctant to the idea of creating a Minorities Commission at the national level in order to provide for a mechanism to protect and promote the interests of the minorities—both religious and linguistic. However, with the change of guard at the Central level in 1977 and the inauguration of the Janata Government headed by Morarji Desai, the moves were afoot to put into place a body with the exclusive jurisdiction of looking after the affairs of the minorities.

Accordingly, the Ministry of Home Affairs under Choudhary Charan Singh notified the government resolution providing the rationale for setting up of the Minorities Commission. The resolution said:

> Despite safeguards provided in the Constitution and the laws in force, there persists among the minorities a feeling of inequality and discrimination. In order to preserve the secular traditions

> and to promote national integration, the government attaches the highest importance to the enforcement of the safeguards provided for the minorities and is of the firm view that effective institutional arrangements are urgently required for the enforcement and implementation of all the safeguards provided for the minorities in the Constitution, in the central and the state laws and in government policies and administrative schemes enunciated from time to time. The government of India has, therefore, resolved to set up a Minorities Commission to safeguard the interests of the minorities whether based on religion or language.[16]

Initially, the Commission consisted of a chairperson and two members to be appointed from amongst the minorities' communities. After remaining in existence for fourteen years as a non-statutory body, the Minorities Commission was accorded the statutory status with the enactment of the National Commission for Minorities Act, 1992. The present structure, powers, functions, and position of the Commission are defined by the Act of 1992 as amended in 1995 by the National Commission for Minorities (Amendment) Act.

Structure and Functions of the Commission

The National Commission for Minorities (NCM) consists of a chairperson, a vice-chairperson, and five other members who should have been persons of eminence, ability, and integrity and are to be drawn from the minority communities and would hold office for a term of three years. The chairperson of the Commission is also made the ex-officio member of the NHRC for the purposes of performance of majority of the functions of NHRC.

The NCM is entrusted with a variety of functions in the field of promoting and protecting the interests of the minority communities in all parts of the country. The important functions of the Commission include:[17]

1. Evaluating the progress of the development of minorities at the levels of the Centre and the states.
2. Examining the working of the various safeguards provided in the Constitution for the protection of minorities, and in the laws passed by the Union and the state governments.

3. Recommending effective implementation of the safeguards for the protection of the interest of the minorities by the Central Government or the state government.
4. Undertaking a review of the implementation of the policies pursued by the Union and the state governments with respect to the minorities.
5. Looking into the specific complaints regarding the deprivation of rights and safeguards for the minorities.
6. Conducting studies, researches, and analyses on the question of avoidance of discrimination against minorities.
7. Suggesting appropriate legal and welfare measures in the respect of any minority.
8. Presenting periodic reports to the Central Government on the difficulties faced by the minorities.

In order to enable the Commission to carry out its functions and responsibilities effectively, a number of powers have also been conferred upon the Commission.[18] Moulded in the form of powers of the civil court of law, the Commission is empowered to issue summons to any person in India to secure his presence before the Commission and examine him under oath. The Commission may also require the presentation of any record or document if it finds that relevant for the performance of its duties.

Limitations of the Commission

A study of the structure and functions of the NCM reveals a number of shortcomings which have quite often come in the way of proper discharge of functions by the Commission. Thus, as pointed out by an expert on the subject, while for the membership of other such commissions like the NHRC, NCW, NCBC, and so on, special knowledge or experience in the matters pertaining to the subject matter of these commissions are mandatory, there is no such requirement for being a member of the NCM as being a member of a minority community and being a person of 'eminence, ability and integrity' would suffice.

> The result is that all sorts of persons, most of them having no knowledge of even the basic law on Minorities, and quite often

> disgruntled politicians, are appointed to the Minorities Commission. It is generally done to accord political favour to individuals seeking post retirement settlement or just a comfortable place in Delhi, rather than as an exercise in the interest of the Minorities.[19]

The Minorities Commission also finds itself in a somewhat disadvantaged position in comparison with other such statutory commissions insofar as the question of according proper place to the Commission with regard to its consultative status in the matters of formulation of governmental policies and programmes for the welfare of minorities are concerned. For instance, while the other statutory commissions need to be consulted by the government while formulating the major policy matters affecting the particular sections of the people falling within the jurisdiction of the particular Commission, namely, the NCW on the matters affecting the women, the NCBC on matters pertaining to the issues of categorization of the backward classes, and so on, no such corresponding provision exists in the law relating to the NCM, which has greatly compromised with the position of the Commission to put its perspective on the issues and matters relating to the development and welfare of the minorities, as the consultation with the Commission would take place only at the sweet will of the government of the day.[20]

The NCM has also not been given a supportive institutional mechanism at the level of states and districts on the pattern of the support available to the NHRC. Though such a provision has not even proved very effective, primarily due to the reluctance of the state governments to have so many autonomous institutions lying outside their strict administrative jurisdiction, such a provision in the NCM Act would have been a pointer to those state governments which have a substantial number of people belonging to the minority communities and would have found it politically expedient to set up a State Minority Commission. With the growing menace of attacks and atrocities on the members of the minority communities, it becomes imperative to have a counterpart of the NCM at the state level compulsorily for all states so that an effective and dedicated mechanism is available to the vulnerable people to file their complaints for quick and speedy redressal.

Last, the functional limitations of the Commission become most glaring when it comes to see the implementation of the recommendations of the Commission. Statutorily, since the Commission

has only been made a recommendatory or advisory body to present its views on the issues concerning the protection and promotion of the interests of the members of the minority community, it is not incumbent on the government to accept the recommendations of the Commission in toto. However, such a legal position must not be taken in such a spirit as to defeat the very purpose of the Commission. Indeed, the very rationale behind the status of such commissions being recommendatory only is to save the government from the compulsive acceptance of all—pleasant or unpleasant—recommendations of the Commission so that in the dynamics of governance, a partition or privileged treatment to certain specific sections of society may be avoided. But in most cases, the recommendations of the commissions are accepted as they are born out of a perspective and deep-rooted concern for the welfare of the members of the community. Hence, it would be better if the recommendations of the NCM are ordinarily accepted by the government and in the pressing cases when the government is unable to accept some of its recommendations, plausible explanations need to be provided, so that the Commission is convinced of the governmental position and does not lose its morale in acting as the custodian of the welfare and interest of the members of the minority communities.

In sum, the constitution of the Minorities Commission, no doubt, augur well for the protection and promotion of the interest of members of the minority communities, yet the structural and functional dynamics of the Commission did not allow it to become the true champion of the interests of its clients. Moreover, the changing political contours of the government at the Centre have also not allowed the Commission to get some sort of uniform level of functioning in all times. Rather, when a favourable government gets into the helm of affairs at the Central level, the status and functional vibrancy of the NCM get new heights and it not only becomes the prime mover behind all the policies and programmes initiated for the welfare of the minorities but its reports on the issues of infringement of the rights of the members of the minority communities carry weight with the government with quick action forthcoming on its findings. However, it would apparently become prejudicial for the health of the Commission if it becomes a pawn in the hands of the Central Government in order to seek effectiveness in its functioning. Instead, it needs to seek a principled support from the government in terms of suitable modifications in its structure

and more teeth for its functional vibrancy, so that it becomes some sort of an all-weather commission and the members of the minority communities feel reassured that their interests are safe and secure in the hands of the Commission.

CONCLUDING OBSERVATIONS

The whole idea of the creation of numerous statutory commissions and institutions over the years in India seems to suffer from perennial dilemma of the political leaders in the context of the populist politics they are into and the reluctance on their part to part away with some degree of power and authority over which they are elected to lord over. In other words, they defy the aspirations of the fathers of the Constitution that the creation of new statutory commissions would apparently be an exception rather than rule in the process of governance of the country as they inevitably have the tendency to develop a partisan and parochial outlook amongst the particular section of people, since they do get the false assumption that the ordinary structures and procedures of governance in the country are meant for others and not for themselves. In their blind pursuit of playing to the gallery in the political arena, the political leaders are never in a position to resist the demands of the unscrupulous elements for the setting up of a particular statutory commission for the safeguard of their interests and become a willing partner in falling prey to the Parkinson's Law in expanding the structure of governance. However, the real trick appears when it comes to accord the real structural soundness and functional vibrancy to these commissions that the true colours of the politicians are out in black and white. They not only retain the exclusive power in their hands on the matters of the constitution of the commissions but also are unwilling to share any of the executive powers with the commissions. As a result, most of the statutory commissions and institutions remain on the mercy of the government for getting some sort of respectability by way of getting their recommendations implemented by the government. In case the government wills to cut any statutory institution to size, it retains a number of instrumentalities to reduce the existence of the particular institution to a naught very much within the framework of the law providing for such an institution.

No doubt, thus, most of the statutory commissions have been able to function only with a limited effectiveness and that too only to the extent allowed by the government. The only consolation for such institutions is that something is better than nothing since their existence provide a platform for the people of the particular category to go to these commissions with their grievances in the hope that the commission would come out with some feasible solution to their problems. Though in certain cases the statutory commissions go too far in their search for guaranteeing heaven to their clients, in normal times, their endeavours remain confined to recommending to the government viable solutions to the problems plaguing the people of the particular community.

NOTES

1. Article 340, *The Constitution of India.*
2. See Everett 1979: 49.
3. For details on the theory and practice of legal perspective on women's development, see Kapur and Cossman 1996.
4. See National Commission for Women 1997: 13.
5. See Mathew 2006b: 6.
6. See Kaarthikeyan 2005: 172–73.
7. See *The Hindu* 2007.
8. See *The Hindustan Times* 2007.
9. See *The Times of India* 2007.
10. See Mathew 2006a: 7.
11. See Gopalaswamy 2000: 13.
12. See Kaarthikeyan 2005: 170–71.
13. See Malimath 2000: 215.
14. See Guha Roy 2003: 394.
15. See Bhargava 1999: 112.
16. Cited in Mahmood 2001: 25.
17. See Kaarthikeyan 2005: 173.
18. See Mathew 2005: 34.
19. See Mahmood 2001: 198.
20. See *The Pioneer* 1997.

REFERENCES

Bhargava, G.S. 1999. 'National Human Rights Commission: An Assessment of its Functioning,' in K.P. Saxena (ed.), *Human Rights: Fifty Years of India's Independence*. New Delhi: Gyan Publishing House.

Everett, Jana M. 1979. *Women and Social Change in India*. Delhi: Heritage Publications.
Gopalaswamy, N. 2000. 'National Human Rights Commission: A Profile', in S. Mehartaj Begum (ed.), *Human Rights in India: Issues and Perspectives*. New Delhi: APH Publishing Corporation.
Guha Roy, Jaytilak. 2003. 'Human Rights Dimensions of Public Administration in India', in Bidyut Chakrabarty and Mohit Bhattacharya (eds), *Public Administration: A Reader*. New Delhi: Oxford University Press.
Kapur, Ratna and Brenda Cossman. 1996. *Subversive Sites: Feminist Engagements with Law in India*. New Delhi: Sage Publications.
Kaarthikeyan, D.R. 2005. *Human Rights: Problems and Solutions*. New Delhi: Gyan Publishing House.
Mahmood, Tahir. 2001. *Minorities Commission: Minor Role in Major Affairs*. New Delhi: Pharos.
Malimath, V.S. 2000. 'Report on the National Human Rights Commission of India,' in Kamal Hossain, Leonard F.M. Besselink, Haile Selassie, Gebre Selassie, and Edmond Volker (eds), *Human Rights Commissions and Ombudsman Offices: National Experiences throughout the World*. The Hague: Kluwer Law International.
Mathew, P.D. 2005. *National Commission and State Commission for Minorities*, Legal Literacy Series No. 56. New Delhi: Indian Social Institute.
———. 2006a. *Law for the Protection of Human Rights in India*, Legal Literacy Series No. 38. New Delhi: Indian Social Institute.
———. 2006b. *National Commission for Women*. New Delhi: Indian Social Institute.
National Commission for Women. 1997. *Annual Report*. New Delhi: National Commission for Women.
The Constitution of India. Article 340.
The Hindu. 2007. 3 September.
The Hindustan Times. 2007. 7 September.
The Pioneer. 1997. 8 October.
The Times of India. 2007. 12 September.

9 The Indian Party System

LEARNING OBJECTIVES

- To describe the genesis and evolution of the Indian party system.
- To elucidate the contemporary phase of the coalition governments at both the Centre as well as the states.
- To evaluate the role of pressure groups and elites in India politics.

Of the two formidable roles conceptualized for the political parties in modern times, that is, the articulation of the demands and aspirations of the common people on the one hand, and the constant efforts to capture political power through legitimate means, on the other, the political parties in India have always been found to be hyperactive since the early twentieth century. Since, in the pre-Independence days, the scope for struggle to capture the seat of power was minimum, the focus of attention of most of the parties remained to highlight the utter frustration of the common people with the exploitative character of the British rule in India, and to get rid of which the only course of action found plausible was the demand for complete independence for the country. Hence, in their initial incarnations as the political parties of sorts for most of the organizations in the times of pre-Independence, the major role of these parties consisted of fighting for the independence of the country. Yet with the introduction of political reforms through the successive Government of India Acts by the British, the Indian political parties started donning the mantle of power seekers at various levels of government. Thus, the roots of the party system in India may be traced back to

the pre-Independence days with the presence of various political parties started being felt dominantly by the first decade of the twentieth century.

In post-Independence times, with the adoption of a parliamentary democratic system of governance for the country, the political parties came to be recognized as the primary instrumentality through which democracy could be operationalized in letter and spirit. Owing to the mammoth goodwill earned for winning the independence for the country, in addition to the presence of stalwarts of the national movement like Jawaharlal Nehru, Sardar Patel, Maulana Azad, and so on, on the scene though the Congress was able to monopolize the electoral gains in the first three general elections, prompting the scholars to call the phase as the phase of the 'Congress System';[1] it began to lose its grip over the pulse of the electorate resulting into a huge decline in the fortunes of the Congress so much so that it not only lost power in several states but also its majority in Parliament was reduced to just marginal. The legacy of the monolith Indian National Congress, somewhat disappeared with the split in the party in 1969 leading to the formation of two factions, that is, the Congress (O) and the Congress (I).[2] With the split in the Congress, the days of the monopolization of power by the party was more or less over as many more contenders for power emerged on the scene, leading to a fresh wave of churning in the Indian party system which remains inconclusive even till date. The chapter provides an exploration in various aspects of the Indian party system, beginning with the evolution to the contemporary trends of multi-party system with the coalition ruling the roost at the Centre as well as in many of the states.

EVOLUTION OF THE INDIAN PARTY SYSTEM

Drawing its lineage from the pre-Independence times, the Indian party system attained a definite shape with the inauguration of the parliamentary democracy in the country within the framework of the Constitution of India. Ideologically, even before India gained independence, the party system of the country was marked by the presence of the Congress as the umbrella organization representing, though predominantly the upper and middle classes yet

having wide-spread support of the masses as well, somewhat monopolistically the mainstream of the Indian populace by accommodating as varied interests as that of capitalists like G.D. Birla alongside the interests of the other marginalized and underprivileged sections of the society, primarily in the name of waging the national struggle to win freedom for the country. The only other political formation rivalling with the Congress in claiming the support of the people on diverse issues, distinct from the independence of the country was that of the communists who decrying the intimacy of the Congress with the cause of the bourgeoisie classes stayed away from the umbrella organization to provide a feeble alternative to the Congress. However, due to obvious reasons, the communist alternative could not entice the masses away from the Congress even after Independence and under the leadership of Jawaharlal Nehru the Congress became the epicentre of the party system in the country.

Dominating the scene in the years following Independence, the Congress turned the party system of the country into such a stage where one dominant party gains close to 50 per cent of the popular votes and a lot more seats in the Parliament with the opposition fragmented in three or more parties.[3] The astounding success of the Congress in the first two general elections and the inability of the Communist party to provide a viable alternative to it prompted several prominent political workers to found the Swatantra party in 1959 in order to advance a non-leftist alternative to the Congress. Despite these forays in search for a formidable alternative to the Congress, it continued to dominate the party system largely due to a homogeneous elite in roles of authority and decision-making.[4] Besides, the electoral successes of the Congress in the first three general elections was also attributed to what is called as the locality-oriented pluralist model of electoral mobilization characterized by the existence of numerous complex factional and semi-political structures which was articulated at the grass-roots level on the caste and community lines but appropriated at the higher levels by fairly autonomous group of party elites in various parts of the country.[5] Thus, till the fourth general elections, the party system in the country remained closeted to the Congress party with the other parties grappling with the challenge of unearthing the contradictions of the Congress to expose it before the masses

without which it would not have been possible for them to emerge as the viable alternative to the dominant party in the country.

By the time of the fourth general elections, the diminishing fortunes of the Congress party became apparent with the power in several states slipping out of the hand of the party and at the Central level, the party was able to barely scrap through to form the government under Indira Gandhi. Indeed, the process of the weakening of the party appeared to have begun with the disastrous defeat of the country in the Indo–China war in 1962; and with the demise of Jawaharlal Nehru in 1964, the last vestiges of the aura of national movement, which arguably seemed to be the greatest asset of the party during the times of Nehru, disappeared leaving the party on the same footing on which the other political parties in the country were standing. The split in the party in 1969 presented a formidable challenge before Indira Gandhi to meet which she went on to reject the principle of consensus in favour of the majoritarian principle.[6] Moreover, in order to reassert her predominance in the party, she took recourse to numerous populist measures resulting into an increasing public support for her in her fight with the so-called conservative elements in the opposition parties. Thus, the process of de-institutionalization of the Congress party culminated with the replacement of the loyalists and favourites at state and constituency level for party officials and candidates with local knowledge and support.[7] Yet unable to sustain the government in New Delhi on her own, Indira Gandhi banked on the outside support of the communists who opportunistically shedding their long-standing anti-Congress stance offered an unconditional support to her on the plea of accelerating the radical economic measures in the country. The virtual shape of the nature of the Indian party system during the phase of 1967–71 appeared to be that of a coalitional construct where the preeminence of the dominant party was seemingly sustained by the hitherto sworn enemies, though with partial success. Eventually, this phase stood witness to the decline of the Congress party dominance in the Indian polity and the country appeared to be developing her own chaotic form of multi-party politics.[8]

With the astounding victory of the Congress (I) party in the 1971 general elections, the Indian party system appeared to have moved full circle. While various opposition parties were apparently decimated to some sort of nonentity in the Parliament, the Congress

of Indira Gandhi came to the centre stage of the politics in the country, reminiscing the days of Jawaharlal Nehru when he used to hold sway over both the party and the government without any significant opposition to the government and the party. However, as pointed by Rajni Kothari, there existed a great deal of difference between dominance of the Congress under Nehru and the dominance of the party under Indira Gandhi. As he argues:

> In course of time, however, (while Nehru was still alive), the Congress party ceased to be a movement and became a party and government. Under Indira Gandhi gradually its role as a broad based party disappeared and all that it remained was the government. Still later, under the emergency, even the government disappeared and what remained was a caucus.[9]

The nature of the party system after the fifth general elections underwent a dramatic transformation with shifting of the goal posts very swiftly. The emergence of the Congress led by Indira Gandhi as victorious settled the question, once and for all, which Congress is the real Congress in the minds of the people. Against the personality of Indira Gandhi, all other stalwarts of the Nehruvian times were forced to go into oblivion in the aftermath of the dismal performance of their party in the elections. Many opposition leaders were so mesmerized with the personality of Mrs Gandhi that they somewhat forgot to play the role of a formidable opposition to her government. Whosoever remained critical of her policies and personality could not raise their voice loud and clear in the face of the fresh mammoth electoral victories of Indira Gandhi.

Ominous portents in the party system of the country started emerging from 1973 onwards with the public perception of the Congress party turning negative affording numerous issues to the opposition leaders to start mass movements against the party and government of Indira Gandhi. While the mass movements in Gujarat and Bihar prepared the background for the total disenchantment of the people from the Congress party, the decision of the Allahabad High Court came as a personal loss to Indira Gandhi who was driven to the brink of getting removed from office unceremoniously. In sheer desperation, the only effective remedial course of action conceptualized by her was the declaration of a state of Emergency in the country on 26 June 1975 in order to shut down the business of politics and suspend all sorts of political activities

all over the country. The repression that followed the imposition of Emergency led to the total recall of the public goodwill in the Congress party making sure the realignment of political forces in the country as and when the political activities are allowed to take place. Now all other differences and cleavages amongst the various shades of opposition parties gave way to the necessity of fighting a joint battle against the atrocities committed by the Congress government with the ultimate objective of overthrowing the government at the first available opportunity.

COALITION GOVERNMENTS AT THE CENTRE AND THE STATES

In the wake of the declaration of the general elections in 1977, an altogether fresh realignment of political parties was set in motion with most of the opposition leaders deciding to form a formidable party to take on the Congress in the ensuing elections. Consequently, in January 1977, the leaders of the Congress (O), Jana Sangh, Bhartiya Lok Dal, and the Socialist Party decided to merge their respective formations to evolve what came to be called as the Janata Party. Not only a host of important leaders of the Congress party deserted the party on the eve of the elections, the other opposition parties which did not merge with the Janata Party, agreed to work in tandem with it in order to give a straight fight to the Congress party. Left with allies like the CPI and the AIADMK only, the Congress suffered a humiliating defeat in the elections paving the way for the inauguration of the first non-Congress government at the Centre. Heralding the onset of a non-Congress coalition government at the Centre, the Janata experiment marked a watershed in the Indian party system as the realignment of the political forces in the country was now more on the basis of the certain common agenda rather than on strict ideological commitments of the parties. As an expert argues, 'The Janata government was a continuity in the sense that not only did it draw upon the anti-Congress sentiments, but it also brought into its fold parties with diverse ideological beliefs on the basis of certain common socio-economic and political goals.'[10]

Looking at the electoral outcome of the 1977 general elections and subsequent elections in several North Indian states, it appeared

as if the Indian party system has entered the phase of the two party system as now only two parties—the Janata Party and the Congress—together accounted for over half of the total percentage of votes and seats during the period of 1977–79. The party system of the country also experienced a shift from the hitherto one person dominance on both the party and the government, as in the times of Congress rule right through the stints of Nehru and Indira Gandhi, to the one marked by collective leadership of the party as well as the government, which, in the long run became the nemesis of the ruling coalition, though. Even before the government had been stabilized and some exemplary decisions taken and policies initiated by the government to prove its worth as a better replacement of the authoritarian Congress party, the internal contradictions of the Janata Party started coming to the fore, centred around the personality related clashes amongst the important leaders of the coalition. Unable to contain their over-ambitiousness for the sake of running the first ever coalition government at the Centre, the Janata experiment appeared to have become an opportunity for various leaders to don the mantle of prime ministership as if such opportunity might not arise again. Ultimately, on the issue of the dual membership of the erstwhile members of the Jana Sangh with that of their parent organization, the Rashtriya Swayamsevak Sangh (RSS), the simmering discontent of the coalition came out in the open with the fall of the government becoming imminent. The experiment in non-Congressism shaped so painstakingly by the leaders like Jayaprakash Narayan came to an end in the most inauspicious manner.

The fall of the Janata government in 1979 demonstrated a number of pointers on the state of things vis-à-vis the Indian party system. First, the impression of the emergence of the two-party systems faded from the minds of the people sooner than the imprint had got some sort of footing in the Indian political system. Bereft of any ideological fulcrum to bank upon for a long sustaining political formation, the Janata experiment exposed the vices of the coalition of parties formed merely in order to address certain immediate concerns and governed by the idea of mutual convenience without any long-term perspective on the socio-economic and political concerns of the country. Second, though the imposition of emergency provided a conceptual frame to the leaders of the opposition to forge an alliance of seemingly incongruent parties,

the prime motive of the leaders appeared to be their opposition to Indira Gandhi as a person. Hence, after her defeat in the elections, she was subjected to severe humiliation and admonishment, presumably more in order to satisfy the ego of the leaders of the governing agglomerate than to make her pay for the excesses committed during the Emergency. Once she was totally subdued and no more found worthy of remaining a viable target of these leaders, they lost the *raison d'être* to stay together for longer times and became a quarrelling lot among themselves. Consequently, not only did the Janata Party cease to remain a vibrant alternative to the Congress, one of its prominent leaders took the support of the same Congress to form a minority government at the Centre.

Third, a subtle point was raised to argue that in the Indian party system the Congress party may grow weak, become unpopular and be a party to undermining the constitutional framework of the polity in the country yet in the absence of a viable alternative to it, the party remains the best bet for the people, may be after a minor punishment meted out to it for its acts of omissions and commissions. The Janata experiment and its subsequent fall, leading to the return of the Congress party with Indira Gandhi as the Prime Minister, is the glaring example to substantiate the argument that the Congress may be down for some time in the Indian polity but can never be out from the reckoning at any point of time. Last, amidst the ideological fragmentation of various parties into left and right, it is indeed remarkable that the Indian majority opinion, by and large, remains closeted to the centrist space in the polity, at least at the Centre, denying the ideologically straightjacketed parties an opportunity to come to power at the Centre. Even the arrival of the NDA at the helm of affairs at the Centre was more due to its shedding its core rightist concerns and becoming more and more centrist rather than any other reasons. Since the centrist space in the Indian polity has remained the bastion of the Congress from the days of even the nationalist movement, it is quite obvious that the party occupies the pivotal position in the political system of the country without any formidable challenge to its exalted position. It would therefore not be an exaggeration of the fact that the Congress would remain the nucleus of the party system in the country, either on its own or in coalition with other like-minded parties as in the case of the UPA government.

In the post-1989 scenario, the coalition governments at the Centre appear to have become the *fait accompli* of the Indian party system. The 1989 general elections taking place in the backdrop of the Bofors revelations and the high plank of the anti-corruption campaign saw a newly formed party, the Janata Dal, leading the formation of the government at the Centre with support from the regional parties like Dravida Munnetra Khazagam (DMK), Telugu Desam Party (TDP), Asom Gana Parishad (AGP) and Congress (S), and so on. However, this government could not survive for long and in the mid-term polls of 1991, another coalition government under the leadership of the Congress with P.V. Narasimha Rao as the Prime Minister was formed, lasting its full term till 1996. Afterwards, in the next general elections, another non-Congress, non-BJP coalition of parties known as the United Front managed to form government at the Centre just to last for a less than two years.

The last leg of the evolution of the party system in India starts with the 1998 mid-term elections in which the political scenario of the country began to crystallize around the two parties—the Congress and the BJP. Though the Third Front remained in the reckoning, it did not reach any where near to the mark of the BJP-led alliance or the Congress-led conglomerate. In such circumstances, on the basis of its numerical superiority in the Lok Sabha, the BJP-led coalition was able to form the government at the Centre with much painstaking efforts of the coalition partners. Still, the government was always kept on tenterhooks by a number of its allies who sought undue favour from the Central Government for their parochial gains in their respective states. Unable to sustain the pressure of ever-demanding allies, the government fell in 1999 leading to the mid-term polls in which the NDA emerged even stronger pushing its Congress-led rival coalition quite farther and inflicting big damage to the Third Front. Bearing testimony to his political acumen in managing the coalition partners, the Atal Behari Vajpayee-led NDA government completed the full term in office in 2004, after which the next general elections resulted in the formation of the government headed by the Congress-led coalition called the United Progressive Alliance (UPA).

In contemporary times, the party system in India appears to have entered the phase of full blown coalition governments whereby two diametrically opposed political formations in the name NDA and UPA have come to occupy the substantial political space in

the country. The so-called Third Front, the United National Progressive Alliance (UNPA), formed in the wake of the July 2007 presidential elections, appears to be an intervention by the non-NDA and non-UPA parties in the Indian political system. However, discounting the presence of UNPA, it becomes obvious that the Indian party system has decisively reached the phase of coalitional party politics in which no single party would be able to form the government at the Centre on its own.

PRESSURE GROUPS IN INDIAN POLITICS

Constituting an important component of the overall political processes in democratic societies, the pressure groups rival with the political parties in articulating the interest of the particular sections of the society irrespective of the shades of political party in power at a certain period of time. Distinguished from the political parties on the basis of their desistence from either seeking direct political power or putting forward a programme covering the whole range of governmental activities,[11] the pressure groups appear to be the most remarkable non-political formations to safeguard and secure the interest of their members by putting pressure on the government to adopt or desist from adopting certain set of policies or programmes which have been found to be prejudicial to the interests of their members. Pressure groups also happen to be an indicator of the level of political maturity and accommodation in a political system, for, only in a truly democratized country, would the pressure groups be allowed to have a say on the policy formulations of the government as against the norms of the authoritarian societies where the government is considered to be the sole giver of policy and programmes to the people who are bound to accept them without any murmur or pressure on the government to modify the same.

The role of pressure groups in India is marked by a number of remarkable features distinct to the Indian political system.[12] Despite having their roots in the pre-Independence political processes, the pressure groups in India are still not able to secure the full-fledged legitimacy in the opinion of the political elites as a result of which their functional autonomy and vibrancy get adversely affected. Instead of being recognized as sincere and genuine partners in the

policy-making of the country, as in the case of developed countries like Britain and America, the pressure groups in India are viewed as some sort of extra-constitutional entities which may not be afforded any space in the political system of the country. The situation is further complicated by the foundation of various traditional pressure groups, not on the basis of occupational and secular bases like labour, business, peasants, and professionals and functional orientations of the people, but on the basis of the ascriptive affiliations like caste, language, and religious loyalties of the people. This leads to them being looked down upon by the rest of the populace as being restrictive and parochial in their outlook, out to compromise, if not destroy, the cosmopolitan character of the Indian society and the inclusive nature of the Indian politics.

Providing for their own discomfiture, several seemingly self-sufficient pressure groups in India have not been able to carve out their rational relationship with the political parties in the country. In fact, most, if not all, of the pressure groups in India have unfortunately allowed themselves to be controlled by one or the other political parties without any plausible explanations as a result of which they become a pawn in the hands of the political parties to serve their electoral and other interests without gaining anything in return for the safeguard of the interests of their members. A remarkable exception in this regard appears to be the pressure groups like the Bharatiya Mazadoor Sangh, Bharatiya Kisan Sangh, Swadeshi Jagaran Manch, and so on, who, owing their allegiance to the RSS rather than to the BJP, have, time and again, defied the dictates of the party and did not desist from opposing their own government and mounting ardent attack on their ministers when the BJP-led NDA was in power.[13] The net result of the subservient attitude of various pressure groups towards their like-minded political parties has been their inability to exercise any substantial influence over the public policy in the country. Rather, quite often, one or the other pressure groups appeared to place their services at the disposal of the political parties to use them for advocating the policy decisions taken by the government.

The most significant consequence of the failure of the pressure groups to integrate them with the overall policy process of the country has been to leave the activity of interest articulation to some other illegitimate and extra-constitutional players of the politics whose pet passion appears to be articulation of the interests

through the political tactics of the street. Instead of putting forth their argument at the time of the formulation of the policy and reasoning out for an alternative course of action, the aberrant social and political formations tend to indulge into agitational politics such as marches, demonstrations, strikes, fasts, *gherao*s, bandhs, and other confrontational techniques which are bound to backfire and result into violence in society.

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 seek concessions and privileges for the members of the pressure groups. In fact, the foundation of the Indian National Congress in 1885 was laid more in the mould of acting as a pressure group to plead before the British for some sort of reforms in the Indian administration and institutions of local governance than to act as the harbinger of democracy and independence in the country. While the Congress appeared to articulate the interest of the educated middle-class Indians, a number of other organizations also existed to safeguard the interests of the *zamindar*s, big landlords, princes, and other propertied vested interests during the British rule. Gradually, with the Congress donning the mantle of a political party interested more in the issues pertaining to the struggle against the British colonialism, the interests of other sections of society started remaining neglected, and resulting into the formation of various pressure groups to safeguard the interests of the workers and the farmers, among others. For instance, the formation of the All India Trade Union Congress (AITUC) in 1920 and the All India Kisan Sabha in 1936 marked the watershed in the development of pressure groups in the country. Even within the Congress party, as and when it grew stronger, a number of pressure groups were formed to keep the party embedded in the interests and ideologies represented by various groups, the most prominent of which was the Congress Socialist Party (CSP).

In the post-Independence times, the processes and the context of democracy and development in the country provided a fertile ground for a huge number of pressure groups to come into existence. While democratic process afforded the various sections of the society to evolve their own distinct interest groups in order to make voices heard in the formulation of the policy

by the government, the ever expanding scope of state activities, particularly in the development field in the wake of the strategy of planned development of economy, inspired the consolidation and sometimes creation of pressure groups by the stakeholders in the developmental activities. This was in order to express their aspirations on the issue and for the acceptance of their claims in evolving the policies of development by the government. Moreover, the consolidation of the party system in the country has also contributed to the expansion in the base and scope of activities of pressure groups in certain defined sectors of the economy, society, and politics. For instance, 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 front, women *morcha*s, and students wing. Still, there exist certain politically neutral pressure groups in the areas of business, like Federation of Indian Chambers of Commerce and Industry (FICCI), Confederation of Indian Industry (CII), and so on and farmers cause, like the Bharatiya Kisan Union and Ryots Sanghs in various states. The basic purpose of existence for such pressure groups has been to safeguard the interests of their members in face of any ensuing adverse policy initiative from the side of the government. The effectiveness of these pressure groups can be gauged from the fact that organizations like FICCI are not only said to have a say in the selection of the finance minister of the country, but in recent times, have also been able to ward off the vigorous demand from the vested interests for the introduction of compulsory reservation in jobs for the various segments of the society in the private sector enterprises through a law passed by the Parliament.

Role and Strategies of Pressure Groups

The role of the pressure groups has been conceptualized in India to act as the involved party in articulating the interest of their members even when other channels of communication with the government are seemingly shut owing to the political dynamics of the country. Providing the scope for widening public participation and institutionalizing their existence in the Indian political system, the pressure groups are taken to be a crucial element in the growth

of a responsive political set-up as they are found to act as the barometers of the political climate by which the decision-makers can and assess a policy.[14] By way of putting forth demands on the system to safeguard the interest of their members, the pressure groups also play a useful role in arousing the political consciousness of the people, which ultimately gets translated into the increased participation of the masses in the political process of the country. These groups also provide a kind of safety valve to ventilate the grievances of the people against the governmental policies and actions thereby deflecting any probability of untoward events in the political sphere of the country. Though on occasions, the pressure groups also resort to some sort of populist demands before the government, such demands are usually taken to their logical conclusion because of the reluctance of the groups to allow their grievances being hijacked by the political parties to convert their members into prized vote banks for the parties.

The strategy of the pressure groups in India ordinarily ranges from the legitimate and constitutional methods to those of stringent and sometimes violent activities in order to make the government listen to their demands. Hence, while the sophisticated pressure groups like the business and trading organizations as well as the associations of the professional and organized people take recourse to the methods like presenting memorandum to the select committees of the Parliament and giving oral depositions before them, the groups with less access to the legal constitutional means or unaware of the effectiveness of the legitimate means in getting their grievances addressed, tend to resort to more radical methods of struggle like demonstrations, *dharana*s, picketing or blocking traffic on the highways and main streets of the cities. The recent agitation by the Gurjars to demand their inclusion in the list of Scheduled Tribes in Rajasthan took such a violent turn that not only a number of casualties took place but also huge loss to public property was reported from various towns of the state. Another significant aspect of the pressure groups politics relates to the fact that quite often, the common people are neither awares of nor prepared to fight the government at the time of the formulation of a particular policy presumably due to lack of the realization of the implications of the policy for their socio-economic life. But the real battle begins when the policy is put to practical shape and the affected people, often in association with the enlightened groups

of the citizens, rise against the policy and its implementation creating a piquant situation for the government as it has already committed itself to the policy and quite big deal of efforts have been made towards the operationalization of the policy. Two such unsavoury situations seemed to have arisen in West Bengal on the issue of Special Economic Zones (SEZs) in Singur and Nandigram, and the utilization of the catchment of the river Yamuna in Delhi for the purposes of constructing the Games Villages for the Commonwealth Games of 2010.

ELITES IN INDIAN PARTY SYSTEM

A study of the social base of different political parties in India present a picture of commonality in paradox as almost all the parties tend to portray their organization as based upon the mass participation of the common people but, in reality, the commanding position in the parties lie in the hands of the elite sections of the society. In fact, the positioning of the elites in various political parties takes place at either of the two levels. First, in those parties which claim to be inclusive of all sections of the Indian society and operate above the level of class or caste considerations in conducting their political business, such as the Congress and the BJP, the dominance of the elites reflect the obvious contours of the Indian society as these parties are overwhelmed by the educated, urban, high castes, aristocratic, professional politicians whose sway over the party lies either in their being custodians of the party affairs for generations or they are so professionally qualified to conduct the business of the politics that the electoral successes of the party depends to a large extent on the political management of the elections and ensuring the seat of power to the party. Second, those parties which draw their support from a particular section of the society like the Bahujan Samaj Party (BSP) drawing support primarily from the Dalits, the Samajwadi Party (SP), and the Rashtriya Janata Dal (RJD), based on the primary support of the Yadavs, or the Indian Union Muslim League (IUML) drawing support mainly from the Muslims in the coastal regions of Kerala, the assertion of the elite dominance takes place in an altogether different context. The core support base of these parties may not be elite in the overall socio-economic circumstances of the country but within their own social formations,

these parties are dominated by the elites of the relatively plebeian sections of the society. Yet the fact of the matter remains apparent in the sense that, though drawn from different socio-economic milieus, the political parties in India, and for that matter, in almost all the countries of the world, the elites remain positioned in the commanding positions of the parties and gaining the support of the masses, form the caucus which alternatively rules over the nation.

Amongst the national political parties in India, the Congress has always remained as the predominantly elitist party. Beginning as the platform for the miniscule Western-educated anglicized middle classes during the pre-Independence days, there remained the bastion of the dominant land owing castes, in alliance with the middle-class urban intelligentsia, businessmen, and the merchants[15] even during its mass-based mobilization and leading mammoth movements in the country. Even after Independence, it acted as the nucleus to keep the Indian politics remained built 'on a sort of consensus based primarily on elite accommodation.'[16] However, in the backdrop of the goodwill of the national movement, the party was able to forge a formidable alliance of distinct religious, regional, classes, and castes in order to monopolize the political space of the country till 1967. Gradually, the disenchantment of the various sections of the society started in different parts of the country set on the process leading to loss of power for the party in many states. The turnaround in the social base of the Congress began with the JP movement of 1975 when the process of the desertion of many intermediary castes and classes from the party started to be completed only by the 1990s with the total disaffection of the backward castes, Dalits, and the Muslims resulting in the reduction of the party to a party of forward castes and traditional elites drawn from different social groups in western, southern, and eastern parts of the country.

Of the other political parties, BJP may arguably be said to be the party with domination of the elites even in its rank and file, besides the top leadership of the party. However, in comparison to the Congress, the prevalence of the elite elements in the BJP appears to be less owing ostensibly to the support base of the party being drawn from the cadres of the RSS. Since, banking heavily on the ideology of the *Hindutva* propounded and promoted tirelessly by its parent organization, the social base of the party has not been

able to go beyond the confines of the support base of the RSS. In other words, the traditional support for the BJP is forthcoming unflinchingly from the upper castes, the small and medium traders, professionals in the urban areas, and the relatively younger generations indoctrinated in the ideology of the RSS. The party's efforts to expand its social base proved futile, as it could not attract the other formidable sections of the society like the Dalits, other backward castes (OBCs) and the Muslims in most parts of the country. In contemporary times, as in the case of the Congress, the support base of the BJP has also been oscillating between staunch supports to the party to the relative passiveness in times of elections giving an upper hand to the Congress. With the accommodation of younger professionals in its fold, the elite face of the BJP is getting more apparent, though traditional royal lineage to these new entrants to the party cannot be attributed as they are the first-timers in the rank and file of the party.

The regional parties in the country present even a sorrier picture insofar as the social base and the elite representation in the parties are concerned. Not only most of these parties are centred on the families and personalities of an individual but their concern for expanding their social base turns out to be an exercise in futility as the coterie around the leader does not allow other significant people rise in the echelons of the party hierarchy. Based either on the appeal to a particular caste, as in the case of the parties in Uttar Pradesh (UP) and Bihar, or religion, like the parties in Punjab and Maharashtra, or the personalities of the individuals such as that of Karunanidhi and Jayalalitha in Tamil Nadu, most of the regional parties remain tightly in the grip of a very miniscule elite group of people who appeared to have garnered the patronage of the leader. Only at the secondary level of the functioning in party and the government that some sort of widening the elitist base of the party is allowed. Even in that case also, the doors are open for the people belonging to certain specific castes or religion, barring a few prominent faces from other sections of the society more to look as the public face of social inclusiveness of the party rather than by way of providing representation to these sections in real sense of the term.

The case of the Communist parties are also no exception as the ruling elites in these parties also continue to draw on their ascriptive social and economic backgrounds, though their commitment to the ideology of the party and tireless efforts in promoting the

cause of the party also become the determining factor in securing a place of prominence in the hierarchy of the party. However, the communist parties, owing to their overt commitment for the cause of equality and egalitarianism in society, fare marginally better than the other parties in country in accommodating a larger segment of the society along with the elites in the key positions of the party and the government.

CONTEMPORARY TRENDS IN INDIAN PARTY SYSTEM

Concluding a monograph on Indian politics, an expert so aptly describes the contemporary trends in the Indian party system: 'Indian politics is both coalitional and regionalized.'[17] Beginning with the mid-term polls of 1998, the face of the Indian party system seems to have changed beyond recognition for an observer who stood witness to the nature of the party system in the country during the times of Jawaharlal Nehru and Indira Gandhi. The churning in the party system of the country which may be said to have begun in 1977 appears to have reached its culmination with not only the Congress party losing much of its political space and preeminence in the Indian politics but also with the emergence of the BJP as the formidable rival of the erstwhile dominant party at both the levels of forming government at the Centre as well as upsetting the Congress game plan in most of the states of the north and western India. With the exception of a few states like Tamil Nadu, West Bengal, and Kerala, and so on, the party system in India looks like a two-coalitional party system whereby the power at Centre as well as in different states is being shared by the Congress-led coalition of UPA and the BJP-led coalition of NDA. The other exceptional parties, based mainly in a particular state, seem to be in competition with either of the two coalitions to corner the seat of power in the state without any overt aspirations to play a decisive role in the national politics.

The current phase of the Indian party system is probably the product of the inability of the pan Indian parties like the Congress and the BJP to expand their electoral base to all nook and corner of the country in such a manner that either of the two are able to secure at least a workable majority in the Lok Sabha to form the

government at the Centre. The basic reason behind their inability happens to be the irreversible social and economic churning taking place in the country since early 1990s leading to a number of desirable and undesirable consequences for the polity of the nation. Not only the caste awakening in the different sections of the society has become very acute, the assertion of such caste consciousness has given birth to new trends in the politics of the country whereby the previous caste affiliations with different political parties are getting broken down and new caste equations are emerging to replace the old ones. Similarly, the economic reforms introduced in the country since early 1990s have brought about drastic structural transformations in the Indian economy, exposing hitherto untouched masses to the changing economic realities of the country in both pleasant and unpleasant manner. While in the urban and semi-urban areas the educated people seem to be reaping the riches of the economic reforms, in the remote and backward areas, the incidents of the farmers committing suicide for the fear of not being able to repay their debt to the moneylender presents an altogether different story of the economic reforms. The cumulative effects of these transitional socio-economic processes on the polity of the country are coming in the form of people getting disaffected with the hitherto ruling formations and become prone to be drawn towards the localized and sometimes parochial political outfits who appear to them to be capable of remedying the ills plaguing their socio-economic life. The decline of the fortunes of the national parties and the emergence of the regional parties as the custodian of the interests of such distressed people come out to be the obvious consequence of the socio-economic churning in almost all states of the country.

Placed in a piquant situation, both the national as well as the regional parties, thus, become the partners in convenience as none of them stand a long-standing chance of remaining in the fray without the support of the other. However while choosing their partners, the different political parties initially look to ideology to seek a long-standing alliance with the other parties but in the long run, most of the regional parties are found to be motivated by their concern to remain in the right camp at the time of government formations without any special love for the ideology. For example, at the time of the formation of the NDA, the important regional parties joining hands with the BJP included the National

Conference, Akali Dal (Badal), Indian National Lok Dal, Trinamool Congress, Samata Party, Lok Janashakti Party, Biju Janata Dal, Janata Dal (United), Shiv Sena, and the DMK. At a latter stage, the Telugu Desam Party (TDP), the Asom Gana Parishad (AGP), and many other smaller political parties also became an ally of the BJP. However, with the collapse of the government of the NDA after the 2004 general elections, the party configuration of the country changed dramatically with a number of allies of the BJP leaving the sinking ship to join the upcoming UPA. The prominent deserters of the NDA in the eleventh hour included the National Conference, Indian National Lok Dal, DMK, Lok Janashakti Party, TDP, and the AGP, who no longer found NDA a worthwhile formation to stay with. Thus, barring a few ideologically congruent partners like the Shiv Sena and the Akali Dal (Badal), and successful winners of consecutive elections, like the Biju Janata Dal, most of the allies of the coalition are bound to change sides with the swinging fortunes of the coalition.

In addition to the two clearly-defined coalitions of the NDA and the UPA, the reincarnation of the so-called Third Front came into being in July 2007 with the new nomenclature of United National Progressive Alliance (UNPA) just on the eve of the presidential elections. Interestingly, most of the partners of the UNPA at one point or the other had been an ally of the BJP who deserted the party when they found it more of a liability than an asset keeping in mind the electoral calculations in their respective states. However, their staunch anti-Congress stand did not allow these regional parties to join the fold of Congress-led coalition of UPA, as it would have been suicidal for them in their home states. Still, the fragility of the UNPA became clear just in the presidential elections itself when despite a call for the abstentions in the elections, the electors belonging to the AIADMK participated in the elections, albeit on the pretext that they did so without the knowledge of the party leader. But in substance, this formation of the ousted chief ministers might not be able to acquire any substantial space in the polity of the country.

If any political formation is feeling most suffocated in the contemporary times of the Indian party system, it would arguably be the Left parties. Being able to secure the most spectacular electoral success in the Lok Sabha elections in 2004, these parties would have

been poised to perform the functions of a formidable opposition in the Parliament in the wake of the fast-changing economic situations in the country. But faced with the two plausible opponents in the form of the BJP and Congress, the Left parties were compelled to shed the broader outlook of their scheme of things and supported Congress just to confine their attention to ward off the BJP-led NDA from forming the government at the Centre. As a result, the Left parties, for the last three years, have found themselves in a love-hate relationship with the government of a person who they allege to be the harbinger of the economic reforms in the country. Not only have they to support the UPA government from outside even by swallowing bitterly certain very unpleasant decisions of the government (including the recently-concluded Indo–US Civil Nuclear Deal, also called the 123 Agreement), but they have also lost many of the long-time allies like the SP of Mulayam Singh who could not digest the stance of the Left parties in going with the Congress party on all substantive matters of governance. How far the Left parties and the Congress are able to adjust their relationship in the next general elections as well as the elections to the assemblies of the states like West Bengal, Tripura, and Kerala would be interesting to see.

CONCLUDING OBSERVATIONS

The Indian party system is passing through a phase of transition which looks to be full of contradictions and paradoxes. Old enemies are becoming friends as in the case of Congress and SP, and old friends are turning hostile to their ex-allies as in the case of Congress and the Left on the issue of Indo–US nuclear deal in July 2008. While at the state levels, two parties are sworn enemies, at the Centre, they supplement the efforts of each other to form and sustain the government even at the cost of compromising on the issues that had remained very dear till quite some time. For public consumption, the decisions and policies of the government may be criticized stridently but when it comes to vote in the Parliament, the escape route is found to hold the discussion under such a section that does not provide for voting on the issue. The ruling coalition appears to be a marriage of convenience when finding no other way out, the parties joined hands to form the government even with those people who were criticized and ditched on account of

their being 'persons of foreign origin'. Despite the regional allies having the controlling powers of the government in their hands, the dominant partner in the coalition appears to be willing to walk to any length and compromise on the constitutional propriety and norms of political conduct in order to save the government. And the height of the matter reaches when one finds that how the government is being run by people sitting outside the formal hierarchy of the system and still holding the remote control in their hands to enjoy the benefits of governance without any accountability to the Parliament and to the people.

If the ruling combine seems to be an abject opportunist formation to enjoy the fruits of power, the opposition also does not present a rosy picture of the prospects of the party system in India. Remaining a divided lot as ever, the opposition parties are not able to even expose the hypocrisies of the government, what to think of their offering themselves as a viable alternative to the ruling combine in the coming general elections. While the main opposition coalition finds itself incompetent to bring the government to book, the splinter groups are seemingly groping in the dark to find a respectable political space for them both at the national as well for the level of their states. In such a scenario, the party system in India appears to be poised for some degree of stagnations for the time being, for the realignment of political forces in the country would take place only at the time of the declaration of the general elections in 2009. In the mad rush for securing the seat of power at any cost, the party system in the country is arguably losing much of its ideological sharpness and commitment to certain programmes and policies.

NOTES

1. See Kothari 1964: 1161–73.
2. For a succinct account of the split in the Congress Party, see Singh 1981.
3. See Dahl 1971: 123.
4. See Chakrabarty 2006: 29.
5. See Singh 1989: 3.
6. See Chatterjee 1988: 847.
7. See Rudolph and Rudolph 1987: 138.
8. See Hanson and Douglas 1972: 87.
9. See Kothari 1977: 15.

10. See Chakrabarty 2006: 93.
11. See Robertson 1985: 274.
12. Cited in Thakur 1995: 253–54.
13. For a lucid account of the activities of various pressure groups affiliated to the RSS during the reigns of the BJP-led NDA government, especially on the issues of economic policies of the government, see Sinha 2007.
14. See Hardgrave Jr. 1975: 112.
15. Cited in Frankel 1978: 18.
16. See Chakrabarty 2006: 31.
17. Ibid.: 234.

REFERENCES

Chakrabarty, Bidyut. 2006. *Forging Power: Coalition Politics in India.* New Delhi: Oxford University Press.

Chatterjee, Rakhahari. 1988. 'Democracy and Opposition in India', *Economic and Political Weekly*, 17, 23 April.

Dahl, Robert. 1971. *Polyarchy: Participation and Opposition.* New Haven: Yale University Press.

Frankel, Francine R.1978. *India's Political Economy*. Delhi: Oxford University Press.

Hanson, A.H. and Janet Douglas. 1972. *India's Democracy.* New Delhi: Vikas Publishing House.

Hardgrave Jr., Robert L. 1975. *India: Government and Politics in a Developing Nations.* Fort Worth, Texas: Harcourt Brace Jovanovich.

Kothari, Rajni. 1964. 'The Congress System in India', *Asian Survey*, 2(2): 1161–1173.

———. 1977. 'Design for an Alternative', *Seminar*, 216, August.

Robertson, David. 1985. *Dictionary of Politics.* London: Penguin Books.

Rudolph, L.I. and S.H. Rudolph. 1987. *In Pursuit of Lakshmi: The Political Economy of the Indian State.* Hyderabad: Orient Longman.

Singh, M.P. 1981. *Split in a Predominant Party: The Indian National Congress in 1969*. New Delhi: Abhinav Publications.

———. 1989. 'Three Models of Electoral Politics and Landmarks of Premiership and Party System Evolution in India', *Indian Journal of Political Science*, 1(2:3).

Sinha, Yashwant. 2007. *Confessions of a Swadeshi Reformer: My Years as Finance Minister.* New Delhi: Penguin.

Thakur, Ramesh. 1995. *The Government and Politics of India.* London: Macmillan.

10 The Evolution of Indian Administration

LEARNING OBJECTIVES

- To illustrate the genesis and evolution of the Indian administration.
- To analyze the continuity and changes in the Indian administration during the Mughal period.
- To signify the contributions of the British in the evolution of the Indian administration with special reference to the All India Services.

Amongst the developing countries of the world, India's distinction as the country with a well-developed system of administration and governance places her at par with many of the developed countries of the West, despite the country having a traditional society and a developing economy. Even at the time of Independence of the country in 1947, the horror of partition and its concomitant upheavals were minimized to the extent possible due to the existence of an efficient system of administration well-versed in the performance of the law and order functions of the state. The existence of such a fairly developed and efficient system of administration, even at such a time when most of the colonies in the world were just learning the art of self-governance and management of the law and order on their own, is considered to be one of the rare positive contributions of long span of British colonial rule in India. Evolved over the years in the mould of the British parliamentary system of governance, the administrative system of colonial India was no doubt, first and foremost, an instrument of keeping the colonial rule in the prime colony of the British empire intact and assisting the rulers in economic exploitation of

the country. Still, the structures created and the norms developed for smooth conduct of the affairs of the state turned into the basic building blocks upon which the modern-day administrative system in India is constructed. The chapter provides an evolutionary perspective on the Indian administration by tracing its roots in the ancient times as articulated by Kautilya. Taking a bird's-eye view of the features drawn from the Mughal administration, the chapter charters the history of Indian administration by dwelling on an elaborate analysis of the British endeavours in giving shape to the various aspects of the administration in the country.

GENESIS OF ADMINISTRATION IN INDIA

Of the available literature on the genesis and development of the administrative system in ancient times, the *Arthashastra*[1] of Kautilya is assumed to provide a somewhat authentic narration of the administrative system of his times by way of its correlation to the administration of the Mauryan empire. Though sometimes reflective of the imaginary perspectives of Kautilya, the *Arthashastra's* description of state and its administrative apparatus is understood to be a relatively fair articulation of the state of affairs as prevailed in ancient times.

According to Kautilya, the system of governance prevailing in ancient times was monarchy in which the king, called Swami, was the epitome of the state and its administrative system. The state consisted of seven *prakriti*s or organs like the Swami (the king), the *Amatya* (the minister), the *Janapada* (the territory with the settlements of the people), the *Durga* (the fortified capital), the *Kosha* (the treasury), the *Danda* (the army), and the *Mitra* (the ally or the friend). These seven organs, in fact, reflect the conception of state and administration being taken as an inseparable entity which fostered the existence of the state itself.

Quite evidently, the seven elements appear to be the precursor of the modern traits of administrative system with minor aberrations. Being the fountain of the state and administration, though the king stands at the top of the system, the rest of the administrative machinery seems to be revolving around the personality of the *amatya*s who were the precursor of the modern-day ministers. Below the *amatya*s existed an elaborate structure of administrative machinery

with various officers entrusted with the task of managing different activities of the state. The nomenclature of a number of officers functioning at the time of Mauryan empire still continues to be used for the officers performing, more or less, the same type of activities in present times also. For instance, the nomenclature of the officer called the *Samahartr*, who was in charge of preparation of the annual budget and keeping of the accounts in the Mauryan empire, continues to be used for officer-in-charge of the assessment and collection of the revenues for the organization like the Municipal Corporation of Delhi.

After several millennia of upheavals and resultant modifications, and sometimes total recast of the administrative system by different rulers, the original shape and contours of the Mauryan empire may not find substantive reflection in the modern-day administrative system of the country, yet there is no denying the fact that even before the arrival of foreign rulers in country at various stages of history, India did have a fairly developed system of administration whose remnants may still be found in some or the other structures and the processes of the present-day administrative system.

ASPECTS OF THE MUGHAL ADMINISTRATION

The Mauryan system of administration probably remained in prevalence, with minor modifications from time to time for almost the entire period of history till the arrival of the Muslim rulers in India who brought with them a distinct system of governance and administration moulded in the frame of Turk-Persian traditions. But the most distinguished shape of the administrative structure of the Muslim rulers became apparent with the consolidation of the Mughal rule in the country. Coming from Central Asia with their own set of administrative set-up, though presumably not much different from the set-up established by the previous Muslim rulers in the country, the Mughal rulers, mainly Akbar, brought about an amalgamation of the administrative system prevalent in the country with his own perspectives and innovations in the field in order to evolve a unique administrative system in the country which was typically Mughal. This administrative structure, called the Perso-Arabic system in the Indian setting,[2] was rooted in the

personality of the king and based on the strength of the military to draw its operational vibrancy.

Like the system prevailing in the Mauryan empire, the foundational figure in the Mughal administrative system was the king in whose personality resided the sovereignty of the kingdom and from whom flowed all the powers and functions of the state. Exercising his sovereign administrative powers mainly, if not exclusively, through the medium of appointment and removal of the topmost civil and military officials of the empire, the king's principal mode of conveying his decisions was the declaration of *farman*s issued under his seal. Though bestowed with the despotic powers, the king used to carry out his administrative responsibilities in a somewhat decentralized manner through his trusted lieutenants called *Wazir*s and *Diwan*s.

Without having any resemblance with the modern-day concept of the Council of Ministers, the Mughal king did have a number of able advisors who were appointed on the exclusive discretion of the king. These officials were more in the nature of personal advisors to the king rather than holding any formal seat of authority in the administrative set-up and therefore, their advices to the king were only optional, to be accepted only in case of the concurrence of the king. Hence, scholars called them as 'secretaries rather than ministers'[3] with little or no influence upon the policy decisions of the king except for feeble prodding and a very mild precautionary advice. The supremacy of the king in the empire, though ruled out any sort of accountability of the emperor for any of his administrative lapses, he remained cautious to avoid any sort of unnecessary strain on the masses due to the *faux pas* of his administration. In case of the advisors, their accountability was strictly confined to the wishes of the king whereas in case of the subordinate officials, the accountability was towards the head of the respective departments though the final authority to punish for any administrative lapses rested with the king. Thus, the shape of the administrative set-up during the Mughal period was top down with the king acting as some sort of almighty with the assistance of a whole set of advisors and departmental heads to execute the decisions of the king in all length and breadth of the empire.

The basic aspects of the administrative system functioning during the Mughal period were divided into departments under the headship of certain high officials of the empire. However, the appointment

of various officials as the head of different departments was not in conformity with some sound principles of personnel administration but on the basis of the sweet will of the king and on the basis of the *mansab* held by an officer. *Mansab* was a typical notion of the Mughal administration, drawn from the military vocabulary and denoting the official designation of rank and profit of an officer who, in case of necessity, was required to supply a specified number of troops in the service of the king. Thus, the elite corpse of officers of the Mughal administration consisted of the *mansabdar*s of different ranks and may be called to be precursor of the modern-day gazetted civil services. The appointment of these *mansabdar*s was exclusively in the hands of the king who held the post only during their lifetime without any hereditary claim on the *mansab*. Though merit was a consideration in granting the *mansab*s from time to time, it was in most cases the patronage that the king used to bestow only upon those people who had proved their loyalty and efficiency in the eyes of the king. Without any formal training in the task of administration, the *mansabdar*s were mostly the officials who learnt the art of administration by actual performance of the task over a period of time. The *mansabdari* system started fading away with the decline in the quality of the Mughal administration though the British tried to emulate the same system during the colonial rule by according various titles like Zamindars, *Rai Bahadur*, and *Khan Bahadur*, and so on. However, with the adoption of a democratic and egalitarian socio-political order in country after Independence of the country, the whole concept of according a privileged position to a few individuals on the basis of their personalized services to the government was done away with.

Unlike the personnel administration of the Mughal empire, which, owing to its obvious elitist and discriminatory character did not find much favour even with the British, and was totally abolished in independent India, the characteristics of the provincial administration of the Mughal rulers continued to exist in one form or the other in many parts of the country. On the pattern of the Mughal provinces called *subah*, the country was divided into various presidencies during the British time which were converted into the modern-day states and the union territories of India. Each *subah* was an independent unit of governance during the Mughal period under the overall inchargeship of an official called the *subedar* entrusted with the task of what may be called as the law

and order functions of the province. Existing parallel to the *subedar*, was the officer known as provincial *diwan*, who was assigned with the specific task of revenue collection besides looking after the appointment of other officials of the province and maintenance of the provincial fort. Thus, we find a clear demarcation of the functional domain of the two officials with independent charge of the law and order, and the revenue departments, respectively though placing both the officers on equal footing seemingly violated the principle of the unity of command and was fraught with the dangers of the clash of personalities between the two high dignitaries. The two officers were also authorized to make a number of appointments at the lower levels of the administration of the province in order to carry out their functions smoothly. Hence, while on the side of the *subedar*, his main assistant was the officer called *fauzdar*, the *diwan* was assisted by the officers called *amin*s, *krori*s, and *tahsildar*s.

Amongst the administrative units which bear huge resemblance with the system prevailing in the times of the Mughal empire, the local or the district administration stands out prominently. Like the modern times when each state is divided into various districts as the main unit of administration, the Mughal period saw the division of a *subah* into various administrative units called *sarkar*s which were further divided down the line into different *pargana*s (sub-division level), *mawdah*s (host of villages), and *naglah*s (small hamlet). These administrative units still exist in a number of states of the country, like Uttar Pradesh. Like the modern-day practice, the administration of the *sarkar* was divided into two broad heads: law and order, and the revenue collection. While *fauzdar* was in charge of the law and order of the *sarkar*, the revenue collection was the responsibility of the officer called *amin* who was further assisted by the official called *khazandar* in collecting money from the cultivators. At the *pargana* level, *shigar* used to be the officer-in-charge, whose counterpart in the modern times is known as the *parganadhikari.* His chief assistants in the field were (and still are) known as *qanungo*, dealing with the survey, assessment, and collection of revenue. *Patwari*s were, and are, the lowest ranking revenue officials entrusted with the task of conducting the real ground-level activities in a village and listening to the grievances of the villagers on issues relating to the collection of revenue. During the Mughal period when the king used to remain confined to

his palace, it was these officials from the level of *shigar* to that of *patwari*s who remained the reflection of the king in the minds of the common people. In present times with the arrival of democratic decentralization, though people's representatives have become an important link between the government and the people, the officials with almost the same nomenclature have remained the backbone of the revenue administration of the government.

The law and order administration of the Mughal empire also became the precursor of the modern day police system though substantial changes were made in the system by the British during the long span of their rule in India. Since the king himself was in charge of the safety and security of the kingdom from the external aggression and internal disturbances, hence at the Central level, there was no official specifically assigned with the task of looking after the law and order problems of the empire. In certain cases, his prime minister called *vakil* used to assist the king, mainly in advisory capacities on the issues concerning the domestic affairs of the kingdom. However, from the provincial level and below, the subject of law and order was vested with the most important official of the province, the *fauzdar*. Though he was tasked with a few more functions, yet his most significant responsibility pertained to the maintenance of law and order in the province the breach of which was considered to be a serious lapse on the part of the *fauzdar*. An important lacuna with regard to the law and order administration of the Mughal rulers was the omission of the vast rural areas in a *sarkar* from the point of view of appointing a specific official responsible for the matter. Rather taking the urbanized areas as the unit of administration, a *kotwal* was appointed by the *fauzdar* for the maintenance of the law and order in the *sarkar*. Leaving the vast mass of the rural areas to fend for themselves on the issue of law and order, the onerous responsibility was vested with the *chaukidar* who was paid and maintained by the village community out of their own resources. Thus, the subject of the maintenance of law and order appears to be one of the most neglected aspects of the civil administration of the Mughal rulers.

Contrasted with the pathetic condition of the administration of law and order, the revenue administration of the Mughal empire was a highly-developed and a well-knit one. In fact, right from the king till the lowest rung official of the kingdom, the concern for revenue administration was apparent in the nature of responsibilities

bestowed upon them. Under the overall supervision of the king, the *diwan* or *wazir* used to be the chief revenue official of the state. Assisted by a number of subordinate officials, the *wazir* advised the king on the basic policy perspectives of the kingdom and took care of the day-to-day affairs of the revenue or finance department. Down the line, the provincial *diwan*s were appointed by the king but functioned under the subordination of the *wazir* with regard to their day-to-day activities. However, the real functionary charged with the responsibility of augmenting the revenues of the kingdom was the official known as *krori* or the collector of the revenue of one crore *dam*. It was the office of *krori* which, after numerous combinations and permutations, appear to have become the office of collector in the modern times. Two assistants of *krori* in the discharge of his revenue functions used to be the *amin*—officer-in-charge of the assessment of the revenue and the *fotahdar*—the officer who was to be paid the revenues by the villagers in real sense of the term. Further down the line, the *qanungo* was entrusted with the responsibility of conducting a survey of all the landed property, keeping a record of the tax payers and being well-versed with the revenue-related rules and regulations whereas the *patwari* was in charge of taking the revenue department down till the common tax payers by being in touch with them and providing them with any information or messages regarding the matters of revenue. The elaborate system of revenue collection, in contrast to the neglect of the law and order functions, proves that the Mughal administration was mainly a revenue collection administration rather than providing a holistic picture of the civil administration during the medieval times.

In the final analysis, the Mughal administration really provided the British with the base to build up an anglicized system of administration which was suitable to carry out the functions of the colonial state. Contextualized in the perspective of the minimalist role of the state, the Mughal administration appeared to be interested in the performance of only those functions without which the existence of the state itself would be in jeopardy. Not surprising, therefore, is to find that the most important preoccupation of administration during Mughal period was the collection of revenue, for the proper conduct of which there existed a very elaborate and fine-tuned administrative set-up. Besides that, the only other department getting the direct attention of the ruler seemed to be the administration of law and order, without which the shape of the

state itself would not have remained intact. Still, the administration of the maintenance of law and order stood only in subordination to the administration of the land revenue though in normal course of times, the two looked to be coterminus. Though the Mughal administrative set-up was marred by a number of shortcomings in terms of its structure, staffing pattern, and the functional dynamics, the credit needs to be given to the vision and endeavour of rulers of the time for at least conceptualizing and putting in place a system of administration which was able to hold the vastly expanded boundaries of the empire and provided a semblance of civilized life to the people by discounting any possibility of chaos and disorder in the society.

LEGACIES OF THE BRITISH RULE

A discussion on the evolution of administration in India in modern times is in fact the discussion of the legacies left by the British as an inalienable part of their long span of rule in their prized colony. Though the main motive of the arrival, establishment, and perpetuation of the British rule in India was unmistakably for exploitation of the country in order to maximize the profits of the British, in the course of their stay in India, they were able to bring about a number of marked innovations in the prevailing system of administration in the country and mould the administrative machinery of India in the frame of the administrative system prevalent in their own country. Thus, it needs to be kept in mind that the British contributions in the growth and development of administration in India are in the nature of the residues left out of a conscious effort aimed at serving some other purpose. In other words, the British endeavours in bringing about certain refinements in the existing system of administration and creating a number of other structures and institutions to supplement the prevailing machinery of governance was not for the purpose of evolving a modern, rational system of administration in India which would go a long way in catapulting the country into the comity of countries having a well-developed administrative structure, but for sheer purpose of initially streamlining the activity of revenue collection, and afterwards, for ensuring the retention of their colonial rule in the country.

The long stint of British rule in India is usually divided into two distinct phases for the purpose of analysis: the phase of the rule of the East India Company and the phase of the rule of the British government.

DEVELOPMENTS DURING THE RULE OF THE COMPANY

Established in AD 1600 as a conglomerate of ambitious merchants of Britain to trade with the eastern part of the world, the East India Company was the monopolistic trading company interested primarily in the purchase of Indian goods and their sale in European countries.[4] Having gained the trading permit from the mighty Mughal rulers, they remained a trading partner with India for more than 150 years, without showing any sign or inclination for territorial control over the country. Rather, they occasionally took sides with one or the other Indian native rulers in their fight with each other in order to gain a more favourable terms of trade with the victorious rulers. The first major military foray of the Company into the territorial skirmishes of India came in 1757 in the battle of Plassey in which it was able to defeat the Nawab of Bengal and was in a position to establish its direct rule over the territories of the Nawab of Bengal. But owing to their overbearing concern only for revenue rather than any direct rule over India, the Company took away only the revenue of these territories and left the governance in the hands of another Nawab.[5] The turning point in the fortunes of the Company came in 1764 when in the battle of Buxar it was able to defeat the Emperor of India and, shedding its inhibitions for territorial control, indirectly took over the reigns of the country for the first time. Thus, endowed with the responsibility of handling the revenue matters of the country on its own, with special focus on the maximization of the land revenue, the Company set on to introduce certain innovations in the existing administrative set-up of the country.

The British innovations in the administrative system of India apparently came in response to the felt needs of the time. Thus, the assumption of the land revenue function by the Company necessitated the creation of a professional cadre of civil servants entrusted with the task of serving the Company in a professional

manner without fear or favour. This led to the creation, for the first time in India, a professional band of civil servants, in 1765.[6] Classified in the categories of covenanted and uncovenanted civil services, the category of civil servants entering 'into a covenant to serve the Company faithfully and gave security for doing so'[7] was called the covenanted civil service and the rest of the body of the Company's employees was called the uncovenanted civil service. While the cadres of the covenanted civil service were appointed to handle the vital revenue, judicial, political, and mercantile functions, the members of the uncovenanted civil service were appointed to do other non-significant activities like housekeeping and record-keeping functions. Staffed mainly by the non-English employees, there existed no uniformity in the recruitment, training, and posting and transfer systems of the uncovenanted civil service.

With the expansion in the activities of the Company, the British Parliament enacted the Regulating Act of 1773 in order to streamline the functioning of the Company in India. Providing for the appointment of a Governor-General and a council of advisors to assist him, the Regulating Act affected a break with the past by replacing the system of hereditary rulers in India by that of officer appointed for the purpose from time to time. Consequently, Warren Hastings was appointed as the first Governor-General of India who is remembered for carrying out a number of administrative, revenue, judicial, and commercial reforms in India. For instance, not only the system of the fixation of land revenue was transformed but changes were also made in the machinery of collection in 1781.[8] The outstanding contribution of Warren Hastings, thus, came in transforming the character of the civil service as his reforms changed them from being a band of commercial adventurers and fortune hunters to a public service in the modern sense of the word.[9]

As the dynamics of the governance in India kept on changing, every Governor-General was adept at introducing some or the other set of reforms in the machinery of the government. The tenure of Lord Cornwallis turned out to be a breakthrough in this regard, for, he brought about at least three important changes in the existing system of administration. First, he endeavoured to mould the civil service of the Company into the frame of the modern Western one by not only freeing the officials from the compulsion

of augmenting their earnings to have a dignified life by improving the system of remuneration for them, but also by expecting from them an honest and principled performance of their duties without any extraneous considerations. Second, in order to put in black and white the system of various governmental activities, he introduced a number of codes, called the Cornwallis Code, which defined and set bounds to authority created a procedure by a regular system of appeal, guarded against miscarriage of justice, and founded the civil service of India as it exists till date.[10] Last, he is credited with starting the trend of separation of various departments of the government which were merged into one at that time, thereby fine-tuning the structure of the government in such a way that precise responsibilities could be dovetailed on the specific department with a sense of accountability for their proper discharge. For instance, he hived off the subject of customs from the revenue department so that two distinct sources of revenue could be developed into independent domains so that the earnings of the government might be augmented in the long run.

Amidst the raging zeal amongst the governor-generals for erecting a body of civil services and streamlining the structures and functions of the administration, one aspect that remained unattended was that of the proper education and training of the young and amateur civil servants entering into the service of the Company to deliver. Realizing this lacuna of the civil services of the Company, Governor-General Lord Wellesley initiated the moves for setting up of a training college in India. Unable to bear the procrastination on the part of the Court of Directors of the Company on the issue, he established the Fort William College in Calcutta in 1800 to impart training to the civil servants for a period of three years in the subjects like Oriental and European studies, besides teaching the local languages to the trainees. The overzeal of Lord Wellesley, however, brought him in the line of fire of the Company's Court of Directors leading to the closure of the college in 1802. It was replaced after a gap of three years by the East India College set-up in England and finding its permanent placing at Haileybury in 1809. It continued to function till 1853, when it was wound up since the responsibility of training the civil servants was given to the universities in wake of the recommendations of the Macaulay Committee Report.

The ever expanding scope and growing complexity of the government functioning and the inability of the administration to cope up with situation efficiently provided the context in which the Charter Act of 1833 was enacted having a number of portents for the shape of administrative changes and innovations in the Indian administration in the times to come. With a view to consolidate the grip of the key functionaries of the British government over the entire administration and to introduce the element of the unity of command in it, the Act provided for the grouping of the most important departments into two hubs: one consisting of the general, foreign, and finance departments, and the other comprising the secret, political, revenue, and judicial departments. Another reform envisaged by the Act was the introduction of an element of competition in the recruitment of the civil servants though the idea did not find favour with the Court of Directors of the Company. Yet the most astounding stipulation of the Act was that the natives should not be prohibited from the superior services of the Company. As most of the provisions of the Act appeared to be quite revolutionary in relation to that particular period of time, they met with stiff resistance from both the stakeholders in the Company as well as the functionaries of the Company in India, resulting into the non-implementation of these stipulations for the time being.

Despite the failure of the ideas mooted in the Charter Act of 1833 to take practical shape, they, nonetheless, had aroused intense debate and contemplation in the minds of the British on the pros and cons of these normative considerations. Hence, the Charter Act of 1853 picked up the thread from where it was left unattended by the preceding Act. Brushing aside the objections of the vested interests in the Court of Directors, the Act wound up the long-standing practice of patronage and revolutionized the system of recruitment of the civil servants by introducing the system of open competition for the purpose. Set to overhaul the British administrative system in India, the Charter Act of 1853 received the most forceful backing in the form of the Macaulay Committee Report of 1854, which contained the seeds of a whole new set of administrative reforms in India. The cumulative impact of the wave of innovations heralded by these two documents was most prominent in the field of the system of recruitment which was set for a thorough recast with immediate effect. Consequently, a

Civil Service Commission was created in 1854 to hold the first open competitive examination in London for the recruitment of the civil servants within a framework of norms relating to age, qualification, syllabus of examination, and so on.

An overview of the growth and development of the administrative system in India during the period of 1773 and 1857 offers a number of interesting conclusions. First, as against the practice of introducing reforms and innovations in administration at the instance of the government after a well-thought-out course of action is finalized, the impetus for introducing reforms and innovating new structures and techniques in order to transform the existing traditional system of administration into a modern administrative system came primarily from the individual governor-generals and other officials as a result of their own experiences and inventions holding the high positions in the Indian administration. Second, despite being the harbingers of reforms and innovations in the Indian administration, the perspectives of the colonial reformers were very clear on the motive for such interventions. Totally oblivious of, if not opposed to, any motivation for introducing reforms and innovations for the sake of either improving the quality of governance in the country or making any good to the common people, the reformers' prime concern in carrying out such improvements was solely confined to the augmentation of the earnings of the Company by streamlining the system of revenue assessment and collection, on the one hand, and weeding out the entrenched deformities and ill conventions from the administrative structures and processes, on the other.

Third, owing to the difference of perceptions by working in the field and remaining placed in ivory towers, quite often than not, the initiatives of reforms and innovations started by the governor-generals met with stiff resistance on the part of the Court of Directors of the Company, with the result that many of the highly-commendable measures for reforms could not be implemented immediately though the idea of such reforms provided an insight to the prospective reformers to develop it into a wholesome concept of administrative reforms. Fourth, the forays of the British government in reforming the administrative system of India seem to have graduated at snail's pace, picking up speed only at the fag end of the rule of the Company. Taking the affairs of India as the exclusive domain of the Company, the government kept

itself totally out of the picture of administrative reforms except for the various Charter Acts passed from time to time. Last, notwithstanding the resistance faced by the reforms measures or the difficulties in implementing them, the move towards reforming and evolving a modern system of administration in India provided the base over which the future plans of the administrative reforms were firmly grounded.

DEVELOPMENTS IN INDIAN ADMINISTRATION SINCE 1857

Altering the perspectives of the British government towards the affairs of India, the first war of Independence of 1857 brought into open the simmering discontent of the people of India towards the Company's handling of affairs in India. Stunned by such a mammoth revolt against the rule of the Company, the British Parliament passed the Act of 1858, bringing about a whole new set of structures, officials, and procedures in the governance of the country. Abolishing the rule of Company over India, the Act created a new post of the Additional Principal Secretary of India to look after the affairs of India with a focused attention. However, the Act of 1858 failed to make any substantive changes in the administrative set-up of the country as prevailing on the ground. Barring the declaration of the intention of the British government to allow Indians also a fair degree of participation in the process of governance of the country, the Act appeared more in the nature of assuaging the hurt feelings of the Indians for the time being in order to bring them back on the track of paying habitual obeisance to the British rule in India. Still, one positive development taking place through the instrumentality of the Act of 1858 was that it created the background for the initiation of a series of reform measures, many of them substantive in nature, by way of numerous legislations and appointment of several committees and commissions in the years to come.

With the move for a reorganization of the system of government in India, in the wake of the Act of 1858, a number of initiatives were taken to transform the system of administration by reforming the nature and content of the machinery of government. The lead in this regard came from Lord Canning who, in order to bring about

some sort of decentralization and reasonable division of functions amongst the various functionaries of the government, introduced the portfolio system in Indian administration in 1859. Dividing the work of government into different branches with fair delimitation of the scope of activities of these branches, various members of the governor-general's council were made in-charges of these branches.

The Act of 1858 was not qualitatively different from the earlier Acts in the sense that it made no spectacular changes in the colonial administration except that it vested the entire revenue of the country in the Governor-General-in-Council. The provincial governments became totally subsidiary to the Council. Another paramount Act that introduced non-official members in the administration was the 1861 Indian Councils Act. The function of the Council was limited to legislation and had no authority to control the executive though it empowered the provincial governments to legislate on provincial matters. The Executive Council was expanded to include the Advocate General of the provinces, in addition to four non-official members who were invariably Indians.

The Indian Councils Act was a remarkable piece of legislation for two important reasons: first, it was certainly an important step towards decentralization of power and in that sense it was a break with the past. For the first time, steps were taken to provide an alternative to centralized British administration. Second, it also introduced Indians in the administration by recommending the inclusion of non-official members. It was a deliberate political design to accommodate the elite Indians in public administration—a fact that had an enormous impact especially in the aftermath of the 1857 uprising. Although those who were nominated were either Indian princes or big land owners, it was undoubtedly a significant beginning towards involving Indians in public administration.

In the early part of the Crown administration, two processes seem to have worked. On the one hand, attempts were made to strengthen the Governor-General-in-Council and there were steps, on the other hand, towards devolution, especially of financial power. In this connection, the 1870 Mayo Resolution is most remarkable which stated:

> Local interest, supervision and care are necessary to success in the management of funds devoted to education, sanitation, medical charity and local public works. The operation of the resolution

> in its full meaning and integrity will afford opportunities for the development of local self-government, for strengthening municipal institutions and for association of the natives and Europeans to a greater extent than before in the administration of affairs.

Several Acts were enacted to constitute municipalities in Bombay, Calcutta, and Madras. The most eventful development in this regard was undoubtedly the 1882 Ripon Resolution that defended the introduction of the local self-government by underlining that it was introduced not primarily with a view to improvement in administration. It is chiefly desirable as an element of political and popular education. In pursuance of this goal, the 1885 Bengal Local Self-Government Act was adopted, which led to the formation of district local boards in Bengal.

The trajectory of the British rule in its initial phase suggests the phased decentralization of administration and also the growing involvement of the Indians in administration. Two substantial events changed the course of colonialism: (*a*) The founding of the universities of Calcutta, Madras, and Bombay helped develop an articulate opinion of the educated Indians on the British rule. It captured the growing discontent among the Indians who always remained, for obvious reasons, peripheral in administration. (*b*) The inauguration of the Indian National Congress in 1885 created a new platform to ventilate the grievances of the ruled. This also became a forum for the Indians to articulate demands for better rule the outcome of which was the 1892 Indian Councils Act. As the Act underlines, its aim was:

> To widen and expand the functions of the Government of India, and to give further opportunities to the non-official and native elements in Indian society to take part in the work of the Government, and in that way, to lend official recognition to that remarkable development both of political interest and political capacity that had been visible among the higher classes of Indian society since the Government of India was taken over by the Crown in 1858.

The Act provided for the enhanced membership of the Councils. It was mandatory for the government to consult the representative bodies and institutions, approved by the government, before selecting nominees for the Councils. Besides legislative powers, the Councils were also empowered to pull the executive on financial matters though it had no power to either revise or reject decisions

on this matter. However, the growing weightage of the councils is indicative of a sea change in colonial rule. As Morley, the Secretary of State, articulated:

> There are two rival schools of thought, one of which believes that better government of India depends on efficiency, and that efficiency is, in fact, the end of British rule in India. The other school, while not neglecting efficiency, looks also to what is called political concessions.

This declaration laid the foundational principles of the British administration in India. As a first step, a Royal Commission was appointed in 1907 to look into the administration that seemed to have lost its viability in the context of growing discontent among the ruled. The aim of the Commission was to provide an administration which was adapted to the changed social, economic, and political realities of India. While recommending the corrective measures, the Commission was guided by the following factors:

1. The difficulties of ruling the vast subcontinent from a single headquarter, and the inevitable failure of the statesmanship and efficiency in administration.
2. The difficulties of applying uniform schemes of development for the provinces which are socio-culturally diverse.
3. To instil a sense of responsibility among those engaged in provincial and local administration.
4. To strengthen the colonial rule by educating people in the values of strong administration.

On the basis of the recommendation of the Commission, a Bill was introduced in 1908 which became the 1909 Morley-Minto Reforms. As a political scheme seeking to strengthen colonial rule in India, the Government of India Act, 1909 introduced a profound change with long-term effects in representation of communities in Councils. Once the Muslim League was founded in 1906 there were demands for 'separate electorate' for the Muslims. In his plea to the Governor-General, the Muslim League chief Aga Khan defended separate electorate for the Muslims on the basis of their numerical strength, political importance, and contribution which they made to the defence of the Empire. Endorsing the argument, Minto assured Aga Khan of Muslims' political rights. So the 1909

Act is remarkable in the history of representation in India. Muslims were recognized as a separate community and their electoral rights were also guaranteed accordingly. The British policy of 'divide and rule' was thus formally articulated. Public administration continued to remain partisan for obvious reasons. Meanwhile, the nationalist movement gained momentum and the political atmosphere in India changed. The 1909 Morley-Minto Reforms failed to address the genuine grievances of the ruled. Various other Acts were enacted to reinforce the repressive system of governance that was articulated by the 1909 Reforms scheme.

With the outbreak of the First World War, a change in the attitude of the British government was visible, which was largely a strategy to solicit the support of the Indians in its war effort. The result was the adoption of the 1919 Montague-Chelmsford Reform scheme which was guided by the committed goal of the government to increase association of the Indians in every branch of the administration and the gradual development of self-governing institutions in India. On the surface, the Reform scheme appears to be novel and drew on the commitment to make public administration India-friendly, as the three major principles that formed the core of the scheme, suggest:

1. There should be, as far as possible, complete popular control in local bodies and the largest possible independence for them from outside control.
2. The provinces are the domain in which the earlier steps towards the progressive realization of responsible government should be taken. Some measures of responsibility should be given at once, and the aim of the British government is to provide complete responsibility to the Indians in their governance to the extent possible under the present circumstances.
3. The Government of India must remain wholly responsible to the Parliament and saving such responsibility, its authority in essential matters must remain indisputable pending experience of the effect of changes now to be introduced in the provinces. Meanwhile, the Indian legislative council should be enlarged and made more representative, and its influence in the processes of policy making needs to be enhanced.

There is no denying that the 1919 Act was politically appropriate strategy in a context when the nationalist movement was growing in importance especially after the arrival of Gandhi on the scene. Although the administration was guided by the colonial spirit, by involving the loyalist Indians in governance, the British rulers provided a new design of public administration in India. In the new dispensation, structural changes in administration were made. The most remarkable step was the adoption of dyarchy. The dyarchy was an administrative device that demarcated functions between those which were to be given to popular control and those which must continue to remain with the British rulers: the former were called 'transferred subjects' and the latter 'reserved subjects'. The Governor-General-in-Council was in charge of the reserved subjects while governors, acting with the ministers in the provinces, remained supreme insofar as the transferred subjects were concerned.

Despite being unique, the dyarchy was doomed to fail simply because of its ideological roots in colonialism. Even the Alexander Muddieman-led committee which was constituted to examine the functioning of dyarchy concluded that it crumbled because of its inherent weaknesses and dissensions due to the following factors: (*a*) the demarcation of authorities between reserved and transferred was meaningless since the de facto power always rested with the former; (*b*) as a result, there was hardly any effective dialogue between the provincial ministers and the governors or the Governor-General; (*c*) the Indian ministers were further handicapped since Indian Civil Service officers hardly cooperated with them; and (*d*) the excessive control by the finance department of the Government of India over the transferred subjects.

As evident, public administration was constantly being restructured to placate the Indians in governance. Although the actual power rested with the British authority, dyarchy was a critical step towards administrative devolution that radically altered the complexion of the British power in India that largely revolved around Governor-General-in-Council. Dyarchy empowered the governors who exercised independence in regard to transferred subjects in the provinces. Furthermore, the involvement of the Indian ministers had introduced changes, though cosmetic in character, in public administration. Apart from gaining experience in administration, the Indian ministers acquired a first-hand

knowledge of how the administration functioned in most partisan manner. This helped them articulate a nationalist agenda which was now readily acceptable to the people at large since it was experience-based. So, dyarchy was very critical to conceptualizing the changing nature of public administration in British India at least in the first two decades of the twentieth century.

The 1935 Government of India Act

Colonialism and centralization of power seem to go hand-in-hand though public administration in British India underwent changes at least in its content. A change is visible if one follows the evolution of public administration since the adoption of the 1772 Regulating Act. Perhaps the most (and last) significant constitutional measure in India during the British rule was the 1935 Government of India Act, which drew on the inputs from the Indian Statutory Commission, the All Parties Conference, the Round Table Conferences, and the Joint Parliamentary Committee of the British Parliament. Seeking to establish a federal form of government in which the constituent provinces had autonomous legislative and executive powers, the Act paved the way for a parliamentary form of government in which the executive was made accountable within certain bounds to the legislature. This had radically altered public administration in India, including the civil services in the country. Although the well-espoused federation never came into being, the Act was nonetheless a powerful comment against the integrated administrative system of the colonial variety. A perusal of the Act draws our attention to the following features:

- Provincial autonomy was recognized by giving the provinces a separate legal identity and liberating them from Central control except for certain specific purposes.
- A federation of India was established demarcating domains between the provincial governments and the federal Central government.
- Dyarchy, discontinued in the provinces, was introduced at the Centre. Subjects of foreign affairs and defence were 'reserved' to the control of the Governor-General; the other Central subjects were transferred to ministers subject to 'safeguards' in the provinces.

- The federal principle was recognized in the formation of the Lower House of the central legislature though the de facto ruler remained the Governor-General.
- Separate electorate was retained following the distribution of seats among the minority communities, as devised by the 1932 Communal or MacDonald Award.

The Act redefined 'public' in public administration. Introduction of provincial autonomy enabled the Indian ministers to be directly involved in administration though they had to function under the overall restriction of colonialism. Hence it was characterized as 'a gigantic constitutional façade without anything substantial within it'.[11] The Act was also a sign of the determination of the British government to warp the Indian question towards electoral politics. By involving Indians in administration, the Act had brought more players in the arena of public administration. There is no doubt that the Act introduced the Indian politicians to the world of parliamentary politics and as a result of the new arrangement, stipulated by the Act, politics now percolated down to the localities which largely remained peripheral so far. The available evidence also suggests that the Act was the price the British paid for the continuity of the empire. What thus appears to be a calculated generous gesture was very much a politically expedient step. In fact, the surrender of power, though at the regional levels, caused consternation among the votaries of the British power in India who saw an eclipse of British authority in this endeavour.

An uncritical look at these selective, but major, landmark constitutional initiatives during the colonial rule may lead one to conclude that these were initiated by the British for the Indians. Hence the spirit of nationalism is underrated. If one goes beyond the surface, what is evident is that public administration underwent changes largely because of the British effort to defuse popular discontent. Hence the argument that every constitutional drive was initiated by the Raj is totally unfounded. History reveals that there were situations which forced the British authority to adopt measures to control agitation. For instance, the Congress campaign in the 1880s contributed a lot to the introduction of the 1893 reforms. Behind the 1909 Morley-Minto Reforms lay the *Swadeshi* Movement and revolutionary terrorism. Similarly, the 1919 Mont-Ford Reforms were attempts at resolving crises that began with

the Home Rule League and climaxed with the 1919 Rowlatt Satyagraha and the Non Cooperation Movement of 1910–21. To a large extent, the Gandhian Civil Disobedience Movement (1930–32) accounted for the introduction of constitutional measures seeking to involve Indian politicians in public administration.

Furthermore, the interpretation of these constitutional designs remains partial unless linked with the broader socio-economic and political processes in which they were conceptualized. An attempt to analyze the structure and dynamics of constitutional politics without reference to the broader social matrix and economic nexus is futile because the politic-constitutional structure reflects economic and social networks, religio-cultural beliefs and even the nationalist ideology which impinged on the organized world of administrative and constitutional structure. So an urgent and unavoidable task for an analyst is not to completely ignore the broader socio-economic context but to ascertain its relative importance in shaping a particular constitutional initiative. For instance, the 1932 Communal Award was believed to have been initiated by the British to expand political activity among the Muslims in Bengal and Punjab. But, as studies have shown, it was also a concession the British was forced to grant in order to make the maintenance of the empire easier. The sharing of power with the native elites was thus prompted by considerations other than merely British initiatives.

All India Civil Services and Public Administration

All India Civil Services (ICS) in India—their structure, role, behaviour, and interrelationships—had evolved over a long period in history since the designing of the system about the middle of the nineteenth century.[12] The Macaulay Committee Report, 1854 is a watershed in the growth of bureaucracy in India. By recommending a civil service based on the merit system, the Committee sought to replace the age-old patronage system of the East India Company.[13] Defending the idea of a generalist administrator—'all rounder'—the Fulton Committee 'portrayed the ideal administrator as a gifted layman who, moved from job to job irrespective of its subject matter, on the basis of his knowledge and experience in the government'.[14] The efficiency of the members of the ICS as

administrators may have been exemplary, but there is no doubt that they were motivated primarily by imperial interests and hence 'the interests of the country were too often postponed to the interests of the [Crown]'.[15] Furthermore, there was a Weberian aspect to the ICS. Drawn from the well-off sections of the society, the civil servants were trained in some of the best universities and were chosen on the basis of a competitive examination. Those within the ICS were therefore segregated from the rest given their exclusive class, caste, and educational backgrounds. In other words, they had the special status within the society that Weber felt was essential to a true bureaucracy. Given their peculiar characteristics the British officials in India formed a most unusual kind of society with no organic links with the society they were to serve.[16] The Indian Civil Service held a pivotal position in the system of administration that flourished during the colonial rule. The Government of India Act, 1919 introduced administrative decentralization by transferring certain powers to the Indian ministers in the provinces. The dyarchy gave further impetus to the demand for Indianization of civil services. In 1921, only about 13 per cent of the officers were Indians. This challenged the spirit of the Reform scheme. As against the demand for Indianization of the superior services, the serving European officers sought to scuttle the move by submitting a memorandum to the British Prime Minister, Lloyd George. In his response, Lloyd George made his celebrated 'steel frame' speech. As he emphatically argued, he could foresee no period when 'they (those in service) can dispense with the guidance and assistance of a small nucleus of British civil servants'. He further elaborated:

> I do not care what you build on it. If you take the steel frame out, the fabric will collapse. There is one institution we will not interfere with, there is one institution we will not deprive of its functions or of its privileges, and that is that institution which built up the British Raj—the British Civil Service in India.[17]

The issue of retention of All India Services (AIS) was always controversial, as the nationalist leaders considered the retention of these services as 'anachronistic' and 'incompatible' with provincial self-government. The nationalist members of the Reforms Inquiry Committee of 1924 and the members of the Indian

Central Committee of 1928–29, which was constituted to liaise with the Indian Statutory Commission, sharply argued for the abolition of central services and underlined the significance of 'provincialization' of civil service. The Joint Committee on Indian Constitutional Reform did not, however, endorse this point of view and the AIS remained integral to the Raj.

The question of retention of AIS had again figured prominently in the discussion in the Constituent Assembly in independent India. Although there were some dissenting voices, the nationalist leaders, including Jawaharlal Nehru and Sardar Vallabhbhai Patel, were keen to continue with the steel frame. The stock argument ranged around the highest standard of efficiency, progressive and wide outlook, freshness and vigour in administration, and efficiency at different levels (Centre, province, and district) that could be maintained if the AIS was retained. As Patel argued in defending the continuity of the services:

> As a man of experience, I tell you, do not quarrel with the instruments with which you want to work. It is a bad workman who quarrels with his instruments. Take work from them. Everyman wants some sort of encouragement. Nobody wants to put in work when everyday he is criticized and ridiculed in public.

In independent India, the Indian Administrative Service (IAS) succeeded the ICS.[18] Despite its imperial roots, the Indian political leaders chose to sustain the structure of the ICS presumably because of its efficient role in conducting Indian administration in accordance with prescribed rules and regulations supporting a particular regime. However, during the discussion in the Constituent Assembly, the House was not unanimous as regards the fate of ICS. The argument opposing its continuity was based on its role as an ally of imperialism. 'The Civil Service as the Steel Frame … enslaved us [and] they have been guilty of stabbing nation during our freedom struggle. [W]e should not, therefore,' as the argument goes, 'perpetuate what we have criticized so far'.[19] Vallabhbhai Patel was probably most vocal in defending the ICS and its steel frame. Since they were 'patriotic, loyal, sincere [and] able,' Patel was not in favour of tampering with bureaucracy especially when the country was reeling under chaos towards the

close of the British rule. As early as 1946, he convened the provincial Premier's Conference to evolve a consensus on the future of what was then AIS. In view of their long association with public administration, officers belonging to the AIS 'are most well-equipped to deal with new and complex tasks'. Not only 'are they useful instruments, they will also serve as a liaison between the Provinces and the Government of India and introduce certain amount of brashness and vigour in the administration both of the Centre and the Provinces'.[20] Later while speaking in the Constituent Assembly, he categorically stated that, '[y]ou will not have a united India if you do not have a good all India service' which had the independence to speak out its mind and enjoyed a sense of security. He also attributed the success of the Constitution to the existence of an AIS by saying that, 'If you do not adopt this course, then do not follow this Constitution.… This Constitution is meant to be worked by a ring of service which will keep the country intact'. If you remove them,' Patel thus apprehended, 'I see nothing but a picture of chaos all over the country'[21] because he believed that:

> …an efficient, disciplined and contented civil service assured of its prospect as a result of diligent and honest work is the hallmark of a sound administration under a democratic regime even more than under authoritarian rule. The civil service must be above party, and we should ensure that political considerations either in its recruitment or in its discipline and control are reduced to the minimum if not eliminated altogether.

Even Jawaharlal Nehru who was very critical of the ICS for its role in sustaining the imperial rule in India,[22] seemed persuaded and supported its continuity for 'the security and stability of India, …including coping with the slaughter and its aftermath in Punjab, crushing opposition in Hyderabad, and containing it in Kashmir'.[23] Patel's views were translated in Article 311 of the Constitution of India that stated that no civil servant shall be dismissed or removed or reduced in rank except after an enquiry in which he has been informed of the charges and given a reasonable opportunity of being heard in respect of those charges.[24]

So, an instrument that consolidated the imperial rule in India 'with so slight use of force'[25] survived in completely different

political circumstances[26] primarily because there was continuing support for it, first from the British government and then the Congress government. Furthermore, its continuity did not pose any threat to the dominant classes that reigned supreme following the 1947 transfer of power in India. The new civil service for all practical purposes was, as a former bureaucrat comments, therefore:

> The continuation of the old one with the difference that it was to function in a parliamentary system of government, accepting the undoubted primacy of the political executive which in turn was responsible to the people through their elected representatives in the legislature.[27]

Besides its structure, which is more or less an expansion of the steel frame, the continuity is at a deeper level. While the colonial civil servants had paternalistic attitude towards the people, and ruled largely by negative discretionary powers, '[t]heir successors, noting the vast unmet development needs of the people, substituted positive discretionary powers of patronage and subsidies, reinforcing the colonial syndrome of dependency on the *mai-baap* state'.[28]

Apart from its functional utility, the steel frame was retained more or less intact due to fact that, as B.P.R. Vithal, himself an IAS officer, argued, 'The Congress leaders who took office … shared the social background of the senior civil servants whom they inherited from the colonial state'.[29] Thus, for example, Nehru felt at ease while working with senior civil servants. Similarly, Rajagopalachari felt more at home with the ICS officers who were placed with him when he was the Prime Minister of Madras (1937–39) than with certain elements in the Congress party. The political processes subsequent to Independence gave rise to changes in the class composition of the political executive that was farreaching and rapid than changes in the social composition of the civil services. While the political executives, trained in vernacular education, came largely from rural and semi-urban areas, those in the steel frame were generally urban-area-based and English-educated. The growing disparity between the class background of the political executive and the civil servants led to frequent frictions between the administrators and politicians in the Westminster parliamentary system of governance when the latter had assumed a leading role in building a new nation.

Following Independence, government functions have also expanded in scope and content. With the introduction of the parliamentary form of government and the setting up of people's institutions right down to the village level, there has been an inevitable rise in the level of expectations and performance has widened. People's institutions were set up with the objective of creating self-governing institutions at the village level. The objective remains distant for ever. Similarly, Independence and Five Year Plans were perceived by people as synonymous with economic and social equity and well-being, and freedom from want and oppression. In the early days of the planning era, people did not crib much about the shortage which they confronted with fortitude because the future held hope and promise for them. With the passage of time, they felt their hopes were 'belied' and they were nowhere near the promised land of honesty, plenty, and happiness. The ethos of self-governance, decentralization, and community development were flagged in with considerable élan and fanfare. For example, the three tiers Panchayati Raj system and the urban local bodies were conceived of as a properly meshed network of institutions to accelerate the development process.[30] The recent Seventy-third and Seventy-fourth Amendments (1992) to the Constitution seek to advance the concept of 'self-governance' by providing for (*a*) regular elections, (*b*) minimal suppression of Panchayati Raj bodies through an administrative fiat, and (*c*) regular finances through statutory distribution by state finance commissions. The aim, argues Kuldeep Mathur, 'is to reduce the margin of political and administrative discretion and to allow the decentralised institutions to gather strength on the basis of people's involvement'.[31] But, due to various reasons, the political process became what may be termed as 'reversed', and highly centralized and personalized systems of government developed both at the Central and state levels. There has been a massive erosion of institutions, whether they are the Parliament and parliamentary institutions, or the party system and democratic procedures in the running of parties, or the judiciary, or indeed the press. Describing the crisis and erosion of institutions as 'the natural and expected consequences of a political process that has undermined both the role and authority of basic institutions',[32] Rajni Kothari has sought to grapple with a peculiar reality in which public administration appears to be largely

delinked with the basic institutions of democratic system that has flourished in India following Independence.[33]

CONCLUDING OBSERVATIONS

Taken together, the pre-Independence and post-Independence career of Indian bureaucracy—particularly the higher echelons at the Central and state levels—makes interesting reading, both socio-historically and managerially. Indian historical experience, both during the British period and its immediate aftermath, has led to the emergence of a public administration that was ill-suited to needs and aspiration of the people. The reasons are not difficult to seek as studies have shown that the bureaucrats who have been brought up and trained in the colonial administrative culture are wedded to the Weberian characteristics of hierarchy, status, and rigidity of rules and regulations, and concerned mainly with the enforcement of law and order and collection of revenues. For the colonial regime, this structure was perhaps most appropriate while its utility seems undermined and its ability to discharge the functions in the changed environment stands questioned. As the Government becomes the key institution for development in the democratic set-up of India after Independence, the role of the officials has undergone transformations. Their prime objective was to 'emphasize results, rather than procedures, teamwork rather than hierarchy and status, [and] flexibility and decentralization rather than control and authority'.[34] Seen as 'the development administrator', the bureaucrat is therefore characterized by 'tact, pragmatism, dynamism, flexibility, adaptability to any situation and willingness to take rapid, ad hoc decisions without worrying too much about procedures and protocol'.[35]

Conceptually, public administration in independent India draws on Weberian theoretical model. What is critical in governance is bureaucracy which is both an instrument and an institution, rationally articulating its behaviour. The 1950 Constitution of India seems to have been influenced by the latter because Article 311 provides 'immunity' to those recruited under the AIS. Although Weberian both in structure and spirit, public administration in India is dramatically metamorphosed, for obvious

reasons, following the 1947 transfer of power when its 'purpose' was no longer guided by colonial interests. A developmental state emerged drawing on 'the state-directed development' paradigm. As an instrument that adapted to the changed socio-political milieu, public administration seemed to have fulfilled its role, at least immediately after Independence, in translating the ideological goal of those who presided over India's destiny. This is one part of the story suggesting changes while the other part articulates continuity because the centralized AIS sustained the unitary bias of the Indian state that left no stone unturned when there was a threat to its existence. In fact, this is a powerful legacy of the colonial past when the British bureaucracy was an impediment to provincial autonomy despite its endorsement by both the British Parliament and the Crown. What it suggests is that public administration is both a continuity and break with the past. So, it would be wrong to characterize public administration as 'stationary' or 'static' given the adaptability to the changed social, economic, and political circumstances. Instead, it is constantly being 'reinvented', redefining its ideological contour and functional manifestation.

NOTES

1. This is drawn on Kangle 1972.
2. See Sarkar 1953: 4.
3. Ibid.: 17.
4. See Wool Cott 1986: 6.
5. See Grover and Grover 1994: 73.
6. See Alexander 2003: 280.
7. See Mishra 1970: 201.
8. See Moon 1994: 101.
9. See Dwarkadas 1958: 8.
10. Ibid.
11. See Chakrabarty 1989: 523.
12. For a detailed account of the civil service in India during the British rule, see Mason 1997.
13. As the Report underlined, '…henceforth, an appointment to the civil service of the Company will not be matter of favour but matter of right. He who obtains such an appointment will owe it solely to his own abilities and industry'. The Macaulay Committee Report (1854) in *The Fulton Committee Report, Volume 1*, HMSO, London, 1975, p. 125.
14. Quoted in *The Fulton Committee Report*, p. 125.

15. See Trevelyan, 1907: 6–7; quoted in Cohn 1990: 545. Given their stake in the British administration, it is but natural that whatever they did, they were simply acting in the imperial interests, and in the process preserving or enhancing their superior positions. However there is a school of thought defending that the imperial logic never appeared crucial in administration since '…the ICS [was] Jeremy Bentham's prototype of the benevolent social guardian committed to achieving the common good'. For details, see Stokes 1959: 159.
16. While explaining the nature of the British civil servants Bernard S. Cohn developed this argument further by drawing upon their post-recruitment training first at the Haileybury School and later in Oxbridge colleges that hardly took into account the rapid socio-structural shifts in India during the colonial rule. See Cohn 1990: 500–53.
17. Lloyd George was quoted in Mason 1997: xv. Dufferin was probably more categorical in appreciating the role of the Indian civil service. According to him:

    …there is no service like it in the world. If the Indian civil service was not [as they are], how could the government of the country go on so smoothly? We have 250 million subjects in India and less than 1,000 British civilians for the conduct of the entire administration.

    Dufferin's statement was quoted by Jagmohan in his 'Riveting the steel frame of the ICS', *Hindustan Times*, 1 November 1998.
18. For a succinct account of the evolution of the Civil Service in India both during the British rule and its aftermath, see Rao (ed.) 1968: 708–23.
19. Shibban Lal Saksena's statement during the Constituent Assembly debates on 10 October 1949. See Constituent Assembly 1949: 46. Prominent among those who criticized the decision to retain the ICS was M. Ananthasaynam Ayyangar who failed to understand the logic of providing '…guarantee to those persons who have played into the hands of others [and] cared only for money and the salaries they got'. See Ayyangar's statement in the debate in Constituent Assembly 1949: 42.
20. Quoted in Maheshwari: 1984: 211.
21. Vallabhbhai Patel's speech in the Constituent Assembly, see Constituent Assembly 1949: 48–52. Seeking to persuade his colleagues in the Constituent Assembly, he further argued:

    If these service people are giving you full value of their Services and more, then try to learn to appreciate them. Forget the past. We fought the Britishers for so many years. I was their bitterest enemy and they regarded me as such.… What did Gandhiji teach us? You are talking of Gandhian ideology and Gandhian philosophy and Gandhian way of administration. Very good. But you come out of jail and then say, 'These men put me in jail. Let me take revenge'. That is not Gandhian way. It is going far away from that. Ibid.: p. 52.

22. As late as 1934, Nehru characterized the Indian Civil Service as '…neither Indian nor civil nor service [and] it is thus essential that the ICS and similar services disappear completely'. See Nehru 1941: 445.
23. Jawaharlal Nehru's speech in the Constituent Assembly. See Constituent Assembly 1947: 793–95.

24. For a detailed discussion in the Constituent Assembly during the preparation and finally acceptance of Article 311, see Shiva Rao 1968: 713–23.
25. While explaining the continuity of the steel frame for almost two hundred years, Philip Mason stated that the administration in India:

    …had the immense advantage over those in the later African territories that it was possible to set-up the framework of government before the invention of the electric telegraph and close control of England. Use was made of Akbar's machinery and whatever local institutions could be adapted. The whole was controlled by a cadre of district officers, rigorously picked, but trained almost wholly by doing what in fact they were learning to do. Because they were so few they had let their subordinates do their own work. Confidence that they would be backed up from above was hallmark of their profession and they acquired a confidence in themselves and a confidence that they would be obeyed, which meant that they were obeyed. Few administration can have ruled so many with so slight use of force. Everything was done through Indians and by Indians to whom power was delegated. See Mason 1997: 345–46.

26. P.C. Alexander, himself an IAS, thus argues, '…the new civil service for all practical purposes was the continuation of the old one with the difference that it was now to function in a parliamentary system of government accepting the undoubted primacy of the political executive'. See Alexander 1998: 62.
27. Ibid.
28. See Sudarshan 1999: 111.
29. See Vithal 1997: 224.
30. For an interesting, though slightly dated account of the panchayati system in West Bengal, Uttar Pradesh and Karnataka, see Kohli 1987; and for studies of urban government of Delhi, see Mehra 1991.
31. See Mathur 1999: 22. According to Mathur:

    …the success of the Seventy-third and Seventy-fourth Amendments making decentralised structures part of the Constitution has yet to be seen—not only because they were only instituted in 1993, but also because the states have shown little evidence of implementing the requirement through their own statutes.

32. See Kothari 1988: 287.
33. The process, known as 'deinstitutionalization' invariably leads to a non-policy government that '…operates by means of spoils and preferments that take into account the particular situations of persons and communities'. Very common in the sub-Saharan Africa:

    …such government tends to be 'private government' both in the sense that government offices are treated as private property and in the sense that spoils, unlike policies, must be managed in a discreet and even clandestine fashion. They cannot be advertised, nor can they be publicly debated. See Hyden 1997: 252.

34. See Bhatt 1979: 259.
35. Ibid.: 281.

REFERENCES

Alexander, P.C. 1998. 'Civil Service: Continuity and Change', in Hiranmay Karlekar (ed.), *Independent India: The First Fifty Years*. New Delhi: Oxford University Press.

———. 2003. 'Civil Service: Continuity and Change', in Bidyut Chakrabarty and Mohit Bhattacharya (eds), *Public Administration: A Reader*. New Delhi: Oxford University Press.

Bhatt, Anil. 1979. 'Colonial Bureaucratic Culture and Development Administration: Portrait of an Old-Fashioned Indian Bureaucrat', *Journal of Commonwealth and Comparative Politics*, 17(3): 259.

Chakrabarty, Bidyut. 1989. 'The Communal Award of 1932 and Its Implications in Bengal', *Modern Asian Studies*, 23(3): 523.

Cohn, Bernard S. 1990. *An Anthropologist among the Historians and Other Essay*. New Delhi: Oxford University Press.

Constituent Assembly. 1947. *Constituent Assembly Debates, Volume 1*. New Delhi: Government of India.

———. 1949. *Constituent Assembly Debates, Volume X*. New Delhi: Government of India.

Dwarkadas, R. 1958. *Role of Higher Civil Service in India*. Bombay: Popular Book Depot.

Fulton Committee. 1975. *The Fulton Committee Report*, *Volume 1*. London: Her Majesty's Stationary Office.

Grover, B.L. and S. Grover. 1994. *A New Look At Modern Indian History*. New Delhi: S. Chand & Co.

Hyden, Goran. 1997. 'Democratization and Administration', in Axel Hadenius (ed.), *Democracy's Victory and Crisis*, Nobel symposium no. 93. Cambridge: Cambridge University Press.

Jagmohan. 1998. 'Riveting the Steel Frame of the ICS', *The Hindustan Times*, 1 November.

Kangle R.P. 1972. *The Kautilyan Arthasastra*. New Delhi: Motilal Banarsidas.

Kohli, Atul. 1987. *The State and Poverty in India: The Politics of Reform*. Cambridge: Cambridge University Press.

Kothari, Rajni. 1988. *State Against Democracy: In Search of Human Governance*. Delhi: Ajanta.

Maheshwari, S.R. 1984. *Indian Administration*. New Delhi: Orient Longman.

Mason, Philip. 1997. *The Men Who Ruled India*. Calcutta: Rupa & Co.

Mathur, Kuldeep. 1999. 'Strengthening Bureaucracy: State and Development in India', *Indian Social Science Review*, 1 (January–June): 22.

Mehra, Ajoy K. 1991. *The Politics of Urban Development: A Study of Old Delhi*. New Delhi: Sage Publications.

Mishra, B.B. 1970. *The Administrative History of India*. Delhi: Oxford University Press.

Moon, Penderel. 1994. 'Warren Hastings and the British Rule in India', in B.L. Grover and S. Grover (eds), *A New Look at Modern Indian History*. New Delhi: S. Chand & Co.

Nehru, Jawaharlal. 1941. *An Autobiography: With Musings in Recent Events in India*. London: John Lane and The Bodley Head.

Sarkar J.N. 1953. *Mughal Administration.* Calcutta: M.C. Sarkar.
Shiva Rao, B. (ed.). 1968. *The Framing of India's Constitution, Select Documents, Volume V*. New Delhi: IIPA.
Stokes, Eric. 1959. *The English Utilitarians of India.* Oxford: Oxford University Press.
Sudarshan, R. 1999. 'Governance of Multicultural Polities: Limits of the Rule of Law', in Rajeev Bhargava, Amiya Kumar Bagchi and R. Sudarshan (eds), *Multiculturalism, Liberalism and Democracy.* New Delhi: Oxford University Press.
Trevalyan, George. 1907. *The Competition Wallah*. London: Clarendon Press.
Vithal, B.P.R. 1997. 'Evolving Trends in the Bureaucracy', in Partha Chatterjee (ed.), *State and Politics in India.* New Delhi: Oxford University Press.
Wool Cott, J.E. 1986. *British Rule in India.* Delhi: Anmol Prakashan.

11 Panchayati Governance in India

LEARNING OBJECTIVES

- To critically analyze the structure and functions of the panchayats.
- To interpret the role of women and other marginalized sections of the society in the panchayats.
- To evaluate the role of panchayats and the bureaucracy as the agents of rural development.
- To delineate the issues affecting the working of the panchayats in the country.

The Panchayati Raj has been one of the most original and ancient system of local self-governance in rural India guaranteeing to people the feel of the direct democracy in modern times.[1] Drawn on the vision of Mahatma Gandhi to give the historic experiment in direct self-governance to the rural masses, the system of Panchayati Raj finds an explicit reference in Part IV of the Constitution under Article 40 which enjoins upon the government to ensure the organization of Panchayati Raj in the country in order to take governance down to the level of the masses. The constitutional reference acted as the stimulus to make efforts for the operationalization of the Panchayati Raj in country right from the decades after Independence. Though the prevalence of various misconceptions regarding the Panchayati Raj turning out to be some sort of attack on the functional autonomy and effectiveness of the MPs and MLAs in their constituencies, has been able to hold back any sincere effort for the implementation of the Panchayati Raj in letter and spirit, one or the other types of efforts were always afoot to streamline the functioning of the system. Beginning with the Balwantrai Mehta Committee through the Ashok Mehta Committee

and afterwards, all the efforts at putting viability and vibrancy in the Panchayati Raj failed to yield any remarkable result till the passage of the Seventy-third Constitutional Amendment Act in 1993 in order to not only accord the constitutional backing to these institutions but also to define the operational space, and other concomitant powers and resources to make them the real institutions of self-governance for the people.

Braving the neglect for almost four decades and without any taker for them in the established political hierarchy of the country, the Panchayati Raj has come a long way by now. Thanks to the provisions of the Seventy-third Constitutional Amendment, most of the primary hiccups in the proper and effective functioning of the Panchayati Raj institutions appear to have been removed. With regular elections, in which provisions for 33 per cent reservation has been made for the women and adequate reservation has also been made for other marginalized sections of the society, the Panchayati Raj institutions are emerging as the most formidable instrument of providing for political training of the mass of the people in the governance of their village, block, and district. They are in fact turning out to be the fine examples of democratic governance in the country with the common people finding a say in the management of their resources in order to secure a reasonable level of contended life for their people. The provisions for adequate finances for the successful discharge of their functions have made the Panchayati Raj institutions an effective instrument of implementing the plans and programmes devised by the local bodies for the betterment of life at the grassroots level. Hence, besides dwelling on the structure, power, and functions of the Panchayati Raj institutions in the post Seventy-third Constitutional Amendment scenario, the chapter looks into the issues marring or making the effectiveness of these institutions, in addition to focusing on the role of women in the panchayats, political realities coming in the way of the functioning of these institutions and provide an assessment of the role of panchayats as an instrument of development vis-à-vis the hitherto bureaucracy-steered development at the local level.

LOCAL SELF-GOVERNMENT IN INDIA

Having a chequered history in evolution and development of the local self-government institutions, India stands out as one of the

pioneers in taking the reigns of democracy to the very common people at the grassroots levels who are considered to be the catchments of democracy in any developing country.[2] Rooted in the governmental constructs of federalism and republicanism as existing in ancient times,[3] the notion of direct democracy in *Janapada*s and *Mahajanapada*s, having prospective seeds of modern-day local self-government in rural areas, is said to the precursor of Panchayati Raj institutions in post-Independence India. However, with the dawn of city dwellings, the idea of local self-government was also extended to the urban areas, thereby making the notion of local self-government two dimensional: rural local self-government and urban local self-government. While the idea of rural local self-government, popularly called the Panchayati Raj system seems to be *sui generis* for India owing to its existence in ancient times, the roots of urban local self-government are traced back to the British rule in 1687, 'when a Municipal Corporation was set up at Madras with a view to transfer the financial burden of local administration to the local city council.'[4] Notwithstanding the genesis of urban local self-government during the British rule, the colonial rulers proved to be the bane of the local self-government, particularly the Panchayati Raj, as these institutions fell into utter disregard in the face of the prime concern of the rulers of the day to centralize all the powers in their hands in order to maximize their exploitative gains in India without any hindrance.

In the post-Independence times, despite the zeal and fervour for democratization of the polity in the members of the Constituent Assembly, the Gandhian plea for a village-based system of political formation fostered by a stateless, classless society was initially rejected by the Congress Constitution Committee, 'believing that the Congress could neither forgo its political role or become so utterly decentralized.'[5] However, Gandhi's stubbornness with the idea of Panchayati Raj finding a place in the constitutional framework of the country persuaded the framers to provide a place of relative insignificance to the dream of Panchayati Raj by placing it in Part IV of the Constitution without any mandatory sanction for the governments to operationalize the Panchayati Raj with the inauguration of the Constitution on 26 January 1950. Consequently, for almost a decade after the inauguration of the Constitution, no efforts were made to put into practice the mandate suggested by Article 40 of the Constitution. Ironically, the establishment of the Panchayati Raj

in the country did not come out of a conscious thinking on the part of the government and the policy makers of the Yojana Bhawan to take the institutions and the processes of democracy straight down to the grassroots level in order to give the common people a feel of self-rule and participation in the socio-economic development of the country. Rather, the move towards reenergizing the Panchayati Raj came in compulsion and as second thoughts. As a matter of fact, groping in the dark to find out the reasons for the utter failure of the seemingly alien idea of community development programme to yield desired, if not any, result, the Balwantrai Mehta Committee, set up to study the Community Development Projects and the National Extension Service, diagnosed the fundamental ill to be the absence of people's participation in these programmes and services, and the absence of a suitable machinery to ensure the direct involvement of the people in the initiatives taken by the government for rural reconstruction in the country.

Listening to the alarm bells rung by the Balwantrai Mehta Committee report, the government initiated a half-hearted move to set up a three-tier system of Panchayati Raj in the country with the states of Rajasthan and Andhra Pradesh taking the lead in this direction. However, the move was so ill-designed and bereft of categorical political will that it could not cut much ice with the abject reluctance of the common people to be the partners in the programmes and policies initiated by the government. Foisted more in the nature of ceremonial institutions to provide a political space to the petty rural elite drawn from hitherto dominant castes and classes, this novel experiment in the modern-day Panchayati Raj turned out to be a classic case of defeating the attainment of same pious goals for which it was precisely created. Amidst the growing feeling about the panchayats as being the god that failed,[6] a move was initiated in 1977 to infuse life in these bodies by appointing a committee headed by Ashok Mehta to find out the lacunae of the working of these institutions and suggest remedial measures to reinvigorate them. Coming out with recommendations which appeared to be more cosmetic than substantive, having far-reaching implications for the efficient functioning of these institutions, the report of the Ashok Mehta Committee introduced more elements of confusion regarding the structure and functioning of the Panchayati Raj than clearing them. Thus, playing up with probably one of the

most revolutionary democratic institutions in the country continued by the successive governments till 1993 when the political will of the leaders of the day propelled them to design and get enacted the Seventy-third and the Seventy-fourth Constitutional Amendments Acts to lay down some of the landmark provisions regarding the structure, power, and functions of the local self-government at both the rural as well as the urban levels, respectively, the results of which are there to see for all of us in the present times.

In the present times, the Seventy-third and the Seventy-fourth Constitutional Amendment Acts have become some sort of the saviour of the local self-government in the country. While the Seventy-third Amendment Act provides for the basic framework of the structure and functional dynamics of the Panchayati Raj institutions, the Seventy-fourth Amendment Act pertains to the municipal government laying down the broad contours of the issues like their structure, composition, reservation of seats, elections, powers and functions, finances, and so on. The most fundamental contribution of these two pieces of legislation does not lie only in that they afforded the much-sought-after constitutional status to the institutions of local self-government but also in identifying the core issues coming in the way of mere survival of these institutions, what to say of their effective functioning. For instance, three most crucial issues having obliterating effect on the structure and functioning of these institutions had been lack of regular elections for these bodies, undefined sphere of powers and functions of these bodies at various levels, and the lack of finances to execute the decisions taken by them. Striking at the root cause of the problem, the two legislations created two separate parts in the Constitution, known as Part IX and Part IX-A dealing with the Panchayati Raj and urban local self-government respectively, in addition to two new schedules, called Schedule Eleventh and Schedule Twelfth, respectively, where the functions of the rural as well as the urban local bodies have been enumerated to ward off any move on the part of the state governments at questioning the functional domain of these institutions. In a nutshell, the two legislations marked out the functional space of the local self-government institutions in black and white, so that they can become the viable units of government in the country.

STRUCTURE OF THE PANCHAYATI RAJ INSTITUTIONS

Owing to the lack of a proper vision and marred by the politicization of the whole concept of the Panchayati Raj, the structure of the Panchayati Raj institutions has always remained a bone of contention not just with the policy makers at the Central level but also with the practitioners of the local self-government at the levels of different states. Another reason for the differences on the structural pattern of the Panchayati Raj institutions was presumably due to misconception in the minds of the policy makers that the efforts at effective operationalization of these bodies are not bearing fruit due to the defect in their structures, while the fact of the matter seemed to be the tendency on the part of the state governments not to devolve substantive functions and commensurate administrative, and financial powers to these institutions which had reduced them into an eyewash in the name of local self-government at the grassroots level.

To begin with, the structure of Panchayati Raj suggested by the Balwantrai Mehta Committee included a three-tier system consisting of the panchayats at the village, block, and the district level. While the village panchayats were assumed to provide the substructure of the system, the block- and the district-level panchayats were to be the organically linked bodies providing functional viability to the whole structure of the Panchayati Raj. However, the basic lacuna which plagued the structure of Panchayati Raj suggested by the Balwantrai Mehta Committee appeared to be the ensuing mismatch between the Panchayati Raj structure and the normal administrative structure existing at the sub-district level in most of the states. In other words, while in the scheme of things of the Mehta Committee, the village level was assumed to be the basic unit of local self-government, the governmental administrative structure could not conjoin with the idea of taking the administration to that level in order to become the mainstay of support for the village panchayats to evolve and implement the policies and programmes concerning their day-to-day life and having a bearing on the development of their areas. Thus, when the system of Panchayati Raj recommended by the Mehta Committee started betraying the hopes and aspirations of both the common people as well as the policy makers of the government circles, the motives for such

failure started to be attributed on the structure of the Panchayati Raj rather than looking at the governmental inertia and unhelpful attitude in ensuring an untimely demise of the hope for a viable local self-government in the rural areas. Hence, when the Ashok Mehta Committee began its explorations into the causes and remedies of the failure of the Panchayati Raj system, its main focus of attention seemed to centre on the structure of the Panchayati Raj in place of finding out the operational problems and substantive solutions on those lines. The Committee, therefore, suggested the scrapping of the core of the Panchayati Raj system, that is, village panchayats and restructuring of the whole system into two levels only: the *zila* panchayat at the apex of the system and the *mandal* panchayat to act as the lower level body consisting of a number of villages having a population of 15,000 to 20,000. In conjunction with the other recommendations of the Ashok Mehta Committee report, the whole exercise in reinvigoration of the Panchayati Raj system by the Janata government turned out to be an exercise in futility as nobody seemed to be in agreement with the idea of dispensing with the village panchayat which was supposed to constitute the basic unit of the whole system.

In the face of the previous seemingly thoughtless exercises in restructuring of the Panchayati Raj bodies, the perspectives of the Seventy-third Amendment Act were very clear in providing for a uniform three-tier structure of the Panchayati Raj consisting of the village, block, and the district levels. Doing away with the system of making the MPs and the MLAs essential components of the Panchayati Raj bodies at different levels, the Act laid down rules for a *gram sabha* in each village endowed with such powers and functions to be performed at the village level as the legislature of a state may provide by law. The elections in respect of all the members to panchayats at all the levels would be direct, with the elections in respect of the post of the chairman at the block and the district level remaining indirect. What is remarkable in this structural pattern of the Panchayati Raj is the provision of the constitutional status for the *gram sabha*s on the one hand, and the uniform application of the Act in all those states which have a population of more than 2,000,000, on the other.

Having a break with the past practices, which in many cases had started becoming some sort of a tradition, the Act took away the discretion of the state governments to hold the elections for

the panchayats as and when they felt relieved to do so, the most obvious result of which was in the disappearance of the Panchayati Raj system as such from a number of states like Bihar where the elections for these bodies could not take place for more than twenty years. Taken as the nemesis of the whole concept of rural local self-government, the Seventy-third Amendment Act laid down for the compulsory and periodic elections to the Panchayati Raj bodies. It fixed a uniform term of five years for all the Panchayati Raj bodies, and in the case of supersession for any reasons, whatsoever, elections were made mandatory to constitute the superseded bodies before the expiry of a time of six months from the date of the supersession.

The most significant provision made by the Seventy-third Amendment Act regarding the structure of the Panchayati Raj bodies appears to be the creation of a State Election Commission in each state to conduct free and fair elections for these bodies from time to time. Neglected by most of the committees and commissions dealing with the structure and functioning of the Panchayati Raj till the passage of the landmark Act in 1993, the absence of an autonomous body to hold elections for the Panchayati Raj institutions on the pattern of the Election Commission of India to hold elections for the Parliament as well as the state Legislative Assemblies, the Panchayati Raj bodies remained exclusively dependent on the sweet will of the state government to hold elections for them which ordinarily would not be held due to the lack of the political will in the powers that be and the vested interest of the bureaucracy in the state to avoid the creation of more representative bodies having a check on their unaccounted functioning. However, with the creation of a state election commission in each of the states, the state governments' monopoly over holding or not holding elections for these bodies got eliminated, and the elections to these bodies, either with the completion of full term of office or in case of their supersession due to some or the other reasons, became as regular affairs as the elections for the higher legislative bodies at the state or the national level, within the stipulated period of six months time. Proving to be the lifeline of the panchayats, the regularity of elections after the enactment of the Seventy-third Amendment Act has come to be the most fundamental change in the scenario of Panchayati Raj bodies in the country.

POWERS AND FUNCTIONS OF THE PANCHAYATS

If the lack of the provisions for mandatory regular elections spelled doom for the Panchayati Raj bodies, the absence of a uniform and clear demarcation of the functions and the concomitant powers to these bodies in most of the states led to the utter failure of the Panchayati Raj to become a formidable instrument of translating the developmental aspirations of the public in to reality in most cases. Quite evidently, such state of things remain dominant for a fairly long period of time in the history of Panchayati Raj in the country presumably due to the fact that the political leaders did not visualize the panchayats to be the instrument of real self-government for the people at the grassroots levels. The fact was blissfully glossed over that the panchayats can be an effective tool of making astounding contributions in:

> (1) Developing healthy democratic traditions in the country, (2) inculcating leadership qualities among the rural folk, (3) making planning for development more realistic, (4) encouraging participation of the people in planning and programming for goal-oriented change, (5) reviving in the local people a spirit of responsible citizenship and self-confidence, (6) bringing the local people in the mainstream of national life economically, politically and psychologically, (7) ensuring more effective implementation of development plans, (8) relieving the administrative burden of the state and the Central Governments, and (9) increasing the legitimacy of the system of governance.[7]

With these perspectives in view, the panchayats have been afforded a clearly demarcated sphere of functions and commensurate powers by the Seventy-third Constitution Amendment Act.

Providing an indicative list of the activities which may be transferred to the Panchayati Raj bodies by the state governments, in the form of the Eleventh Schedule of the Constitution, the central Act desisted from mandating straightjacket powers and functions to the various levels of the Panchayati Raj institutions. Yet, the guiding principle behind endowing the various levels of panchayats with specific functions has been the area of activity as well as the kind of administrative and financial support needed in order to carry out such functions. Thus, for instance, the basic unit of the Panchayati Raj, that is, the *gram* panchayat has been ordinarily ordained with such functions whose performance does not require much of

the expert administrative acumen and huge financial resources. Consequently, in most of the states, in the post Seventy-third Amendment scenario, the *gram* panchayats are bestowed with the functions of constructing public utilities, supplying of potable drinking water, maintaining street lights and their electrification, popularizing the improvement of the farming skills including distribution of improved seeds, managing public places including markets and play grounds, helping in census operations, and collection of authentic statistics including records of births and deaths, promoting cooperatives, cottage industries, social education, and so on. The performance of these activities involves the local people in the governmental activities in such a way that without costing anything extra, people are made to feel their participation in the processes of governance and are inspired to come forward in a more frank manner in shouldering the responsibilities which concern them the most.

While the functions of the *gram* panchayats are of very primary nature concerning the basic aspects of the rural life confined to the geographical areas of village, the scope of the functions of the block-level panchayat body gets broadened to include those functions whose catchment area extends beyond the limits of one or two villages. Constituted for a host of villages representing the population of about 15,000 to 20,000, the block panchayat, called panchayat *samiti* in many states of northern India, consists of a chief, called *block pramukh*, and around fifteen to twenty members, in addition to a number of ex-officio members. Acting through the Block Development Officer (BDO), who also functions as its chief executive officer, the panchayat *samiti* is entrusted with such functions which not only require some degree of expertise and financial resources, but also involves the employment of a host of government employees, thereby introducing the element of interface between the people's representative and the government functionaries in a structured and intimate manner. Initially, the panchayat *samiti*s were entrusted with routine auxiliary kind of functions like drainage, construction of kutcha and semi-pucca roads, establishment of primary health centres both for the human beings as well as the animals, and establishment of the primary schools and other organizations aimed at promoting socio-cultural activities. But with the transfer of the developmental functions to the Panchayati Raj bodies, the panchayat *samiti*s are asked to plan and execute most of the developmental

activities pertaining to the betterment of rural life including the improvement measures to augment the agricultural production, improvement in the health of the cattle including the adequate provisions for fodder, promotion of cottage and small-scale industries, and the establishment and management of the cooperative societies with active participation of the beneficiaries in these activities. The panchayat *samiti*s are normally provided with adequate administrative and financial support in order to carry out these functions efficiently.

Standing at the apex of the pyramidal structure of the Panchayati Raj bodies, the *zila parishad* exists in the form of a guide and a monitor of the lower bodies to ensure that not only their plans and programmes for developing their particular regions are integrated with the overall development plans of the district and the state but they also discharge their responsibilities in accordance with the broad administrative and financial perspectives of the state government. Consisting of members directly elected by the people and headed by a member from amongst themselves elected for the purpose and known as the *zila pramukh*, the *zila parishad* is assisted in the performance of its functions by a senior government functionary, ordinarily drawn from the IAS cadre, and called the Chief Development Officer. Amongst the functions of the *zila parishad*, the salient ones include:

> Examine and approve the budget of *panchayat samiti*s, issue directions to *panchayat samiti*s for efficient performance of their duties, coordinate the developmental plans prepared by the *panchayat samiti*s, advise the state government on all matters relating to development activities in the district, distribute funds allocated by the state to various *panchayat samiti*s, inform the Divisional Commissioner and the District Collector about irregularities in the panchayati raj institutions, and advise the state government on the allocation of work to be made among the panchayati raj institutions.[8]

In the context of the proper functioning of the bodies of local self-government, an innovative idea provided for by the Seventy-fourth Constitution Amendment Act by inserting Article 243-ZD in Part IX-A of the Constitution, has been that of the District Planning Committee (DPC) in order to ensure a coordinated bottom-up planning in every district of the country. Predominantly an elected body, consisting of the members elected from amongst the members of

the panchayats at the district level and of the municipalities in the district in proportion to the ratio between the urban and the rural populations in the district, the DPC has been entrusted with the task of preparing a consolidated development plan for the all-round development of the district keeping in view the factors like matters of common interest between the panchayats and the municipalities including spatial planning; sharing of water, and other physical and natural resources; guaranteeing an integrated development of infrastructure and environmental conservation; and consideration for the extent and type of available resources, including financial or otherwise. The successful functioning of the DPCs would not only minimize the wastage of resources due to overlapping of functions and activities of rural and urban bodies in the district but also provide a holistic view of the developmental imperatives of the district which, in the long run, would find a place in the developmental plan of state as the Draft Development Plan prepared by the DPC is sent to the state government for consolidation in the state plan.

Another notable feature having a bearing on the effective functioning of the Panchayati Raj institutions has been the availability of adequate financial resources to carry out the developmental functions since the enactment of the Seventy-third Amendment Act. Ordinarily, the panchayat bodies manage their resources from government grants and loans, proceeds from taxes levied by the way of fees and miscellaneous charges, in addition to the public contributions and income from property and certain investments. However, in post-1993 scenario, the financial viability of these bodies appear to have been streamlined with the constitution of a Finance Commission in every state once in five years to review the financial position of the panchayats and to make suitable recommendations to the state on the distribution of funds between the state and the local bodies out of the specified proceeds accruing to the Consolidated Fund of the state. Moreover, the Central Finance Commission is also required, on specific reference, to suggest appropriate measures necessary to augment the accrual of finances in the Consolidated Fund of the state, so that the flow of funds to the panchayats in the form of grants-in-aid from the state may be optimized. Such provisions have come as blessings in disguise for the Panchayati Raj bodies precisely for two reasons. First, the financial assistance to be provided by the state government to

the panchayats no longer remained a discretionary power of the state as the stipulated amount of money would need to be transferred to the panchayats in accordance with the recommendations of the state finance commission. Second, since the transfer of resources to the panchayats became a mandatory exercise for the state government, it may be persuaded not only to augment its resources so that the flow of funds to the panchayats are not hindered, but may also take steps to allow the Panchayati Raj bodies to levy, collect, and appropriate suitable local taxes which has not been hitherto forthcoming owing to the inhibitions of the state government in making these bodies vibrant and active for fear of political repercussions on the superior representatives of the people in some adverse way.

ROLE OF WOMEN AND OTHER MARGINALIZED SECTIONS OF THE SOCIETY

A path-breaking provision was made in the Seventy-third Amendment Act for the mandatory reservation of seats for the women, Scheduled Castes, and the Scheduled Tribes in not only the membership of the Panchayati Raj institutions at all levels but also in respect of the offices of chairpersons by rotation while the provision of reservation of seats for the members of other backward castes has been left on the volition of the state legislature. The basic rationale behind the idea of reservation in the bodies of local self-government appear to be the urge to ensure the participation of all sections of the society in the decision-making processes of these bodies, so that they can function truly as the body representing all sections of the society. In the previous experiments of the Panchayati Raj, expected level of functional vibrancy could not be achieved partly on account of the monopolization of the whole structure and decision making of these bodies by the hitherto dominant people of the society who ordinarily not only belonged to the upper castes but also to the masculine gender. Consequently, the Panchayati Raj bodies could not arouse the feelings of the common people including women as they were considered to be the perpetuation of the traditional model of paternalistic system of governance in which no place of functional autonomy could be afforded to the marginalized people.

To break this logjam, the provision for reservation of seats came to be recognized as the most plausible solution. In this regard, the

most revolutionary step happened to be the reservation of seats for women in the ratio of not less than one-third of the total seats to be filled by direct election in every panchayat in rotation. The figure of one-third seats included the number of seats reserved for SCs and STs against which only the women belonging to these communities could be elected and extended to the offices of the chairpersons in the panchayats at all levels. Compulsory membership for women in such a large amount has definitely altered the scenario in rural local self-governance as it would not only result in political empowerment of the women, but also remove their isolation in the grassroots political system, and consequently change the quality of leadership in the panchayat bodies. Moreover, it would ensure transformation in the political system at the grassroots level, change the familial and social perceptions of the role of women and develop a grassroots leadership among women. At the *gram sabha* and the other panchayat levels, a new leadership would emerge which is expected to administer the financial resources better and would provide constructive thinking in the rural administration and its development.[9] Such euphoric expectations from the participation of women in the Panchayati Raj bodies did not seem to be getting fulfilled in the initial stages of the inauguration of the new generation panchayats as the women, despite getting assured election to these bodies, remained in the seemingly safe hands of their husbands. But with the experience catching up with their hesitation and amateur perspectives on these bodies, these women seemed to have come of age in providing able leadership and effecting far-reaching transformations in the rural landscape of the country. The provision for women reservation, therefore, appeared to have brought miracles to the rural life owing to the awakening of the women to become the equal partners in their self-development initiatives.

RURAL DEVELOPMENT: PANCHAYATS AND THE BUREAUCRACY

Of the complex issues confronting the policy makers regarding the structures and processes of evolving and executing the policies and programmes for the rural development, the respective roles of the Panchayati Raj bodies and the bureaucracy have always

remained on the forefront. Indeed, the issue dates back to the years following Independence when under the garb of planned economic development of the economy, the government set on to bestow the bureaucracy with almost exclusive powers in planning and executing the projects for development including rural development. The scheme of rural development launched immediately after Independence in the name of Community Development Programmes (CDP) could not bring about the desired level of socio-economic transformations in the rural areas prompting the government to look into the causes for the failures of the programme. Since the lack of people's active participation in the whole exercise of the CDP was diagnosed to be the biggest ill leading to the failure of the programme, the solution was presented in the form of the Panchayati Raj institutions by the Balwantrai Mehta Committee. Pointing out that democratic decentralization in respect of the rural development programmes was the most urgent need of the hour, the Committee offered the blueprint of reenergizing the Panchayati Raj institutions in order to bring about a people-centric development model for rural development in the country in place of the bureaucracy-driven model based on the colonial mindset of the government.

With the inauguration of the Panchayati Raj bodies in 1959 in many parts of the country, the entire concept of rural development was set for a major transformation with the institutions of local self-government dovetailed with acting as equal partners in executing the plans and programmes of development in rural areas. Taking the active participation of people in the developmental activities as an affront to their privileged domain, the bureaucracy started looking down upon the Panchayati Raj bodies as their rival rather than partners in managing the responsibility of rural transformations. The colonial mindset of the bureaucracy was undoubtedly able to defeat the entire notion of institutions of local self-government as the medium of ensuring people's participation in managing the programmes of rural development for a long period of time, but nature and extent of this malady were getting clearer in the minds of the policy makers with the passage of time. Hence, the move towards minimizing the role of district collector in carrying out the developmental activities in the district was set into motion finding its culmination in the passage of the Seventy-third Amendment Act in 1993 when the Panchayati Raj bodies were taken to be the exclusive instrument of running the activities of rural development.

Despite the explicit constitutional provision on the issue, the matter has still not been resolved, ostensibly due to the efforts on the part of the bureaucracy to scuttle the endeavours of the Panchayati Raj institutions to effectively plan and execute the development plans in the rural areas. The bureaucratic apathy towards the panchayat bodies is not only getting reflected in various types of hindrances being placed in the way of panchayats in the field of developmental activities but also in a number of indirect moves to throttle these bodies through various methods ranging from implicating audit objections in their functioning to their outright dissolution in certain cases on flimsy grounds.

ISSUES IN EFFECTIVE FUNCTIONING OF THE PANCHAYATS

The long years of functioning of the Panchayati Raj institutions in India have brought to the fore the nature and extent of various problems which go to debilitate these fundamental institutions of rural self-government in a democratic country. Marred by lack of proper perspective and positive outlook at both the political as well as the bureaucratic levels, these bodies have come to face a series of problems in the nature of structural, functional, and those relating to resources. After a gap of some years, when move is initiated to plug the loopholes in the system, the result is in the form of solution to some problems but genesis of fresh batch of glitches in the functioning of these bodies at the same time. Hence, most of the efforts in reinvigorating the Panchayati Raj institutions like the Balwantrai Mehta Committee Report, the Ashok Mehta Committee Report, and the Seventy-third Amendment Act, despite being well-intentioned and sweeping in their formulations have not been able to bring about a turnaround in the structures of rural local self-government in such a way that they truly attain the place of pride in the democratic dispensation of the polity. In sum, the issues in the effective functioning of the Panchayati Raj bodies are not only drawn from the fault in the legislation on the subject but also from the suicidal lapses on the part of the people running these bodies on the one hand, and from those vested interests like the politicians and the bureaucrats who mistakenly look at the Panchayati Raj as a potential threat to their well-entrenched interests in the system, on the other.

Structurally, after the enactment of the Seventy-third Amendment Act, most of the obvious deformities existing in the structures of the Panchayati Raj bodies stand rectified. However that does not seem to be the attainment of an ideal structure for the bodies of local self-governance as certain subtle issues have been raised by the experts regarding the structural dynamics of the panchayats. Casting aspersions on the veracity of the Seventy-third Amendment Act itself, Nirmal Mukharji raised doubts on the suitability of introducing a uniform system of Panchayati Raj in the entire country in utter disregard to the history, traditions, and consequent structures of local self-government in different states.[10] However, this criticism does not seem to hold strong ground due to the fact that in previous experiments when the states were allowed to have their own structures of Panchayati Raj institutions, there existed a large diversity on the issue which was unscrupulously exploited by certain state governments to rob the panchayats of their functional vibrancy. Hence, by providing for some sort of a standard formulation on the structures of the panchayat bodies at different levels, the central legislation has minimized the scope for manipulations on the part of the state governments to render these bodies ineffective.

In the current phase of the structure of the panchayats, though the provisions of reservation for the Scheduled Castes, Scheduled Tribes, Backward Castes, and women have no doubt come as a revolutionary step in the right direction, the lack of motivation, training, and guidance of the representatives belonging to these categories have been proving to be a hurdle in the effective functioning of these bodies. For instance, owing to the absence of an enlightened perspective amongst the majority of compulsory elected representatives of the panchayats, they are not able to form an independent opinion of the issues placed before these bodies as a result of which they either do not feel encouraged to participate in the deliberations of these institutions or allow themselves to become innocent pawns in the hands of the manipulators out to use the institutions as their private organizations.

The representation of the MPs and MLAs, in addition to the officers like the District Collector in the panchayat bodies has also been found to be an unhealthy feature of the structure of the Panchayati Raj institutions. Though sitting in the capacity of the ex-officio members and even without the right to vote, their mere

presence in these bodies acts as a kind debilitating factor on the people's representatives' abilities to express categorical opinions on the issues placed before these bodies as they become afraid of antagonizing these big shots if their opinions are found to be contrary to the position taken by these ex-officio members. Justified in the name of providing a coordinated outlook and organic linkages amongst the various actors in the field of rural local self-governance, the cumulative effect of this structural trait of panchayat bodies has been that the poor and marginalized people lose the independence of their say in the functioning of these bodies.

The lack of cordial relations between the district level bureaucracy and the elected representatives of the Panchayati Raj bodies has also sometimes become the bane of the institutions of rural self-government. As pointed out earlier, the major bone of contention between the government functionaries and the members of the panchayats emerge in the context of the planning, execution, and the monitoring of the rural development programmes in the district. Since in the previous times, it was the exclusive domain of the bureaucracy to plan and execute such programmes without any monitoring mechanism from outside, the creation of the Panchayati Raj institutions for such purposes has been taken as an anathema by the bureaucracy in their domain of functioning. However, over the years, as and as the developmental powers and functions have been devolved to the elected rural institutions of self-governance, the bureaucracy seems to have developed a kind of sadistic attitude towards these bodies and has always been looking for some alibi to defeat the initiatives of the panchayats. The situation becomes more complicated in cases where a clear demarcation of the functional domain of two important players in the field of rural development has been carried out, the obvious consequence of which has not been found to be not only a great degree of overlapping in the discharge of responsibilities by these agencies but also sometimes working at cross-purposes. As an expert points out:

> This has been one of the important reasons for the failure of the Panchayati Raj. Unfortunately, the present amendment to the constitution has also left this problem untouched and has authorized the state legislatures to make suitable provisions. Since the state level bureaucracy is more dominant and plays an important role in formulating any policy and legislation, it is still doubtful whether the

> problem of relationship between local level bureaucracy and elected representatives of Panchayati Raj will be properly attended to by the state legislatures.[11]

In such a scenario, it would seem to be very difficult for the Panchayati Raj bodies to be able to successfully carry out their responsibilities of rural development and ensuring to the rural masses a means of participating in governing processes of the district unless some way out is found to liberate the elected bodies from the undue duress of the bureaucracy in conjunction with other vested interests acting against these bodies.

A perennial issue in the effective functioning of the panchayats has been the lack of adequate financial resources available with these bodies to provide some degree of financial autonomy to them. Though a landmark achievement in this regard has come in the form of the provision for the state finance commission in each state to review the financial position of the Panchayati Raj institutions including the principles which should govern the distribution of revenue between the state and the panchayats, and the determination of the revenue to be appropriated by the panchayats, the core issue of ensuring some independent sources for these bodies still remained in the doldrums, leaving them solely dependent on the state government for their financial resources. In view of the politics taking the centre stage in determining most of the relations between various levels of government, the relationship of the state government with the Panchayati Raj institutions would also not remain immune from the political considerations in this regard. Evidently, in such cases, the panchayats which would have been dominated by the representatives' not owing allegiance to the ruling party in the state would likely to find them in a disadvantageous position as the generous grants-in-aid from the state government might not be forthcoming for such bodies. Hence, in addition to the augmentation of the resources of the panchayats by way of the recommendations of the state finance commission, innovative and bold measures also need to be taken to maximize the resources of these bodies in order to secure the financial autonomy for them and enable them to become the real bodies of self-governance for the rural people.

Owing to several factors, thus, the Panchayati Raj institutions could not deliver what was expected from them.

> Traditional leadership entrenched in caste and land ownership is still in dominance. Functional leadership has not emerged. Vested interests…, corruption, inefficiency, groupism, unhealthy rivalry, misuse of powers, and motivated decisions and actions have adversely affected the functioning and limited utility of Panchayati Raj to an average villager.[12]

Notwithstanding the bleak picture existing in the pre-1993 times, things have started to brighten up after the enactment of the Seventy-third Amendment Act as the most obvious lacunae of the structures and functions of the Panchayati Raj bodies have sought to be eradicated. Right from the guarantee of the survival of these bodies through mandatory elections to be conducted by the autonomous state election commission, to provision of assured financial resources to these bodies have gone a long way in putting the once derailed notion of Panchayati Raj in the country back on the track. The most outstanding difference has, however, been made by the provision for one-third reservation of seats and the offices of the chairpersons of the panchayat bodies for the women as it has energized the sleeping mass of half of the Indians in such a way that they now are becoming the pioneers of the rural socio-economic reconstruction and transformation in the Indian society. They have not only become the active agents for bringing about a holistic transformation in the outlook of the village folks towards the initiatives of the government in carrying out the policies of rural development as they no longer remain passive recipient to the doles given by the authorities, but has also succeeded in chartering a new course in honesty and efficiency by evolving unique monitoring system for the pioneering rural development schemes like the National Rural Employment Guarantee Scheme and check corruption in their implementation due to their upright character and sincere efforts in ensuring the fruits of schemes to the real benefactors.[13]

ROLE OF PANCHAYATI RAJ IN THE ERA OF LIBERALIZATION

Contemporary public administration is not just about efficiency, it also upholds democratic participation, accountability, and empowerment. There is, therefore, a constant tension between (*a*) how to

make government efficient and (*b*) how to keep it accountable. There is also a corresponding tension between 'the conception of people as consumers in the context of relations between state and market', and the conception of 'people as citizens in the context of relations between state and society'. What it suggests is the increasing importance of citizen participation in public affairs. So, institutional reforms are but a significant step of 'strengthening [people's] voice in general—and the voice of the poor in particular'. This strategy, as the 2000 World Bank report endorses, emphasizes that:

> The institutional reform is not simply a matter of changing the ways in which public hierarchies are arranged. Its focus is on the broad array of 'rules of the game' that shape the incentives and actions of public actors—including the 'voice' mechanisms that promote the rule of law and the accountability of government to its citizens.[14]

What this perspective underlines is the need for a citizen-centric government. Several steps have been taken to restructure the administration in response to the impetus, both from domestic and external sources. Of these steps, the adoption of the Seventy-third and Seventy-fourth Amendment Acts of 1993 and the implementation of the Fifth Pay Commission Report appear to be significant because of the felt impact on the prevalent governance. Arising from the perspectives outlined above, these are those momentous steps which are potentially path-breaking and contain seeds for radical transformation in both the content and style of governance. Interestingly, these two measures—the Amendment Acts and the Pay Commission recommendations—coincide not only with the liberalization impetus of the Central Government, but also with the World Bank's marked emphasis on 'good governance' and decentralization. As the fundamental impulse of policy making moves away from centralized state institutions to the markets, these amendments, in principle, should facilitate the creation of structures that devolve power to the localized bodies. The underlying principle of Panchayati Raj is the use of local knowledge, popular experience, and participation in the making of decisions that affect local people. There is no doubt that the reformed Panchayati Raj institutions are supposed to reconstitute the decision processes on the basis of local participation on a continuous basis and thus, in principle, represent an institutionalized shift in power towards lower, hitherto 'disempowered' sections of rural population. The only

flaw in this argument is that the village-based institutions continue to reflect unequal social and economic structures, and higher castes and economically powerful groups within the village continue to be the *de facto* leaders in panchayats; while the women, despite the reservation, remain 'proxies' to male counterparts who participate in panchayat affairs and decisions. Notwithstanding the obvious structural constraints, the Panchayati Raj institutions provide a form of governance that is based on community resources. At the grassroots level, community is the organic unit of cultural, social, economic, and political organization. In view of the growing popularity of the Panchayati Raj institutions, there is no doubt that a better administration can easily be achieved by building on the community resources rather than trying to import 'managerialization' of public services.

Notwithstanding the shortcomings of the prevalent system of local governance which are linked with the existing social and economic bases of power, these amendments, especially the Seventy-third Amendment Act, provide an alternative to the state-led and redistributive developmental models. The renewed movement towards democratic decentralization and citizen-centric government has eroded the bureaucratic monopoly over the development processes and has shifted the locus of power to those who matter at the grassroots level. This has been a reality due to variety of factors. With constitutional recognition to rural and urban local bodies, state-level election commissions as also finance commissions and granting of mandatory status to the *gram sabha*s, the bureaucrats are seen as mere facilitators and promoters of development, and not regulators and directors. Within the theoretical format of democratic decentralization, bureaucracy is a catalyst for change rather than agent of change. So, it is a significant step in eroding the overwhelming paternalistic authority hitherto enjoyed by bureaucracy.

Having crafted a qualitatively different role for the Panchayati Raj institutions, the Seventy-third Amendment Act has substantially circumscribed the bureaucratic power especially in the developmental plans at the grassroots level. In states like Maharashtra, Gujarat, and West Bengal, the district collectors/magistrates are, for instance, totally kept out of the *zila parishad*s while in Uttar Pradesh and Bihar, they are allowed to attend meetings of the Panchayat *Samiti* and its standing committees without any right to vote. Furthermore,

the statutory recognition of *gram sabha*s as the locus of the local governance has radically altered the power structure at the grassroots level. Now, these *gram sabha*s are authorized to discuss and suggest policies for development, identify beneficiaries for various development programmes, discuss panchayat budget, and review and monitor the implementation of various developmental programmes. Moreover, the government decision to implement various development programmes including Jawahar Rozgar Yojna from the Eighth Five Year Plan onwards through the panchayats has legitimized its role further. Involved in both the planning and execution of the programmes, relevant to the local needs, the *gram sabha*s have become instruments diluting the bureaucratic monopoly in the localities. The growing involvement of the people in the Panchayati Raj institutions has made the concept of 'peoples' audit' meaningful, that serves as a powerful check on the aberrations in bureaucratic functioning in the development sphere; be it the misappropriation of funds, false reporting or wrongful identification of beneficiaries.

CONCLUDING OBSERVATIONS

The plight of the Panchayati Raj institutions in India is reflective of the tendency on part of the political leaders in power, right from the days of the national movement till date, to disallow any experiment in betterment in the conditions of the people if it has a propensity to undermining the vested interests of the leaders. As the Panchayati Raj happens to be one of the most effective instruments of ensuring the involvement of common people in the processes of governance by guaranteeing them a role in the formulation and execution of policies and programmes of rural development, it has never been a favourite idea of the leaders for fear of losing their grip over the socio-economic and political aspects of rural life having a bearing on their electoral fortunes. Hence, despite being a novel idea of democratic decentralization with potential of deepening the ethos of democracy and spirit of participatory governance, the operationalization of Panchayati Raj appears more to be a formalistic ritual rather than a true experience in rural self-governance.

After the passage of the Seventy-third Constitutional Amendment Act, though the structural shortcomings of the Panchayati Raj institutions have seemingly been removed to a great extent, the real challenge in the successful functioning of these bodies lie in changing the outlook of the power brokers in government towards these institutions. If, for instance, the provision for time-bound compulsory elections to these institutions have assured a continued existence for them, there still exist a number of dubious instrumentalities in the hands of both the politicians as well as bureaucrats to cripple the efficient functioning of these bodies. The need, therefore, appears for a concerted and sustained effort on the part of the stakeholders in the successful functioning of the Panchayati Raj institutions to remain ever vigilant against any move to dilute the efficiency of these bodies on the one hand, and start a campaign for further strengthening of the Panchayati Raj system in the country, on the other.

NOTES

1. Panchayati Raj being a distinct contribution of India in democratic decentralization has been acknowledged by a number of experts in the subject. See, for example, Hanson and Douglas 1972: 184.
2. See Palmer 1978: 104.
3. See Thapar 1984: 69.
4. See Arora and Goyal 1995: 259.
5. See Austin 1966: 29.
6. See Mishra 1993: 2.
7. See Arora and Goyal 1995: 287.
8. Ibid.: 296.
9. See Panda 1995: 103.
10. See Mukharji 1991: 6.
11. See Mishra 1998: 241.
12. See Mishra 1989: 40.
13. See *The Hindu* 2007.
14. See Public Sector Group, World Bank, November 2000: 2. Since the World Bank believes that 'neither good policies nor good investments are likely to emerge and be sustainable in an environment with dysfunctional institutions and poor governance', the Public Sector Group further suggests the following measures as integral to any effort at administrative reform:
    i. More efficient use of public resources for development through improved public expenditure analysis and management.
    ii. Increase public resources and reduce market distortions through improved revenue policy and administration.

iii. More efficient use of public resources and more effective government action through improvements in the civil service.
iv. More accountable, efficient, and effective government through decentralization of decision-making and service delivery.
v. Growth, security, and accountability through better access to timely, affordable and just dispute resolution services.
vi. Improve accountability through other institutions (for example, Public Audit, Ombudsman, and so on).
vii. Improve service delivery and more efficient resources use through privatization and restructuring of public enterprises.
viii. Improve service delivery through sectoral institutional building (for example, sector service delivery, regulatory institutions or effective participation by citizens and commoners).

REFERENCES

Arora, Ramesh K. and Rajni Goyal. 1995. *Indian Public Administration*. New Delhi: Wishwa Prakashan.

Austin, Granville. 1966. *The Indian Constitution: Cornerstone of a Nation*. Delhi: Oxford University Press.

Hanson, A.H. and Janet Douglas. 1972. *India's Democracy*. Delhi: Vikas Publishing House.

Mishra, N.L. 1989. *Responsive Administration*. Jaipur: Amar Jyoti Prakashan.

Mishra, S.N. 1993. 'Panchayati Raj Institutions: 73rd Amendment and After', *Employment News*, New Delhi, 14–20 August.

———. 1998. 'Panchayati Raj', in M.P. Singh and Himanshu Roy (eds), *Indian Political System*. New Delhi: Jnanada Prakashan.

Mukharji, Nirmal. 1991. *The Panchayats*. Delhi: Institute of Social Sciences.

Palmer, Norman D. 1978. *The Indian Political System.* Boston: Houghton Mifflin.

Panda, Snehalata. 1995. 'Women in Rural Local Government', *Kurukshetra*, April 1995.

Public Sector Group, Poverty Reduction and Economic Management Network, World Bank. 2000. *Reforming Public Institutions and Strengthening Governance: A World Bank Strategy*. Washington, DC: World Bank Publications.

Thapar, Romila. 1984. *From Lineage to State: Social Formation in the First Millennium B.C. in the Ganga Valley*. Bombay: Oxford University Press.

The Hindu. 2007. 'Woman Pradhan Writes a Success Story', *The Hindu*, New Delhi, 18 August.

12 Major Issues in Indian Politics

LEARNING OBJECTIVES

- To analyze caste as a determining factor in the Indian politics.
- To interpret the impact of religion on the working of the Indian politics.
- To evaluate the growth and consolidation of coalition politics in the country.
- To assess the role of gender and environment in the politics in India.

Due to peculiar and also complex socio-economic and politico-cultural texture, it is difficult to capture Indian politics in a single axis. Thus, one has to be careful in identifying the major issues in Indian politics for two inter-related reasons: (*a*) comparable to other political systems, issues keep changing presumably because of the context of Indian politics that hardly remains stationary and (*b*) given India's multi-cultural character, issues differ from one place to another suggesting that issues which are meaningful in one region of India may not always be relevant in another part. For example, caste may not be as significant in West Bengal as it is in the BIMARU (Bihar, Madhya Pradesh, Rajasthan, and Uttar Pradesh) states. Similarly, the November 2007 controversy over Special Economic Zone (SEZ) was hardly a critical issue in any Indian states other than West Bengal. Although the discussion cannot, for obvious reasons, be conclusive, we will, in this chapter, delineate some of the major issues that have gained salience in contemporary India.

One of the significant issues in Indian politics is certainly caste that, besides being a social marker, also provides a readymade form of organization which is critical for political mobilization in

electoral politics. 'Caste is,' as Nicholas B. Dirks informs, 'in fact not some unchanged survival of ancient India, not some single system that reflects a core civilizational value, not a basic expression of Indian tradition.' It is, he further adds, 'A modern phenomenon, that it is, specifically the product of a historical encounter between India and Western colonial rule.'[1] Colonialism was, for instance, instrumental in 'politicizing caste' for its own 'divide and rule strategy' that was articulated through a well-calculated reservation scheme. The nationalists' insistence on caste-based reservation had given 'the legitimacy' which the colonial state needed to justify the scheme as beneficial to the peripheral majority who remained marginalized in the Hindu social hierarchy due to their birth in so-called 'lower castes'.[2] In post-colonial India, caste continues to remain significant though the members of the Constituent Assembly firmly believed that with democracy and modernization, it would lose its importance. Far from losing importance, caste however continues to exert determining influence in Indian society. Not only is the caste most conspicuous marker of social privilege in India, political parties in modern India prefer to consolidate their support by aligning with one caste group or another. Caste has therefore become a significant criterion of electoral politics in contemporary India.

The rise of the backward castes—those groups intermediate between the Scheduled Castes at the bottom and the Brahmins and Rajputs at the top—has radically altered India's political texture in recent times. In legal terms, these groups are known as Other Backward Castes or Classes (OBCs) to distinguish them from the Scheduled Castes and Scheduled Tribes. It was these OBCs who formed the social basis and provided the leadership of those parties which pushed the Congress party out of power in 1967 in a large number of Indian states. In the 1977 national election, these OBCs were critical in sustaining the opposition to the Congress party. In fact, the coalition survived so long as the OBC-led Lok Dal and Socialist Party held the balance among the disparate conglomeration of parties, known as the Janata party.

The OBCs became a formidable group because of economic power which they got through land reforms and the Green revolution; given their numerical strength, they also gained political power. What they lacked was administrative power. Hence the Janata government appointed the Mandal Commission in 1978

which identified caste as the main denominator of backwardness. On the basis of state surveys, the Commission recognized that there were 3,743 specific castes which still remained backward. Though they constituted more than half of India's population, these castes were poorly represented in the administration, especially at the higher levels. Hence, to redress this imbalance, the Commission recommended that 27 per cent of the Central Government jobs be reserved for these castes. While defending its decision, the Commission thus argues, that:

> We must recognize that an essential part of the battle against social backwardness is to be fought in the minds of the backward people. In India, Government service has always been looked upon as a symbol of prestige and power. By increasing the representation of OBCs in Government services, we give them an immediate feeling of participation in governance of this country. When a backward caste candidate becomes a Collector or Superintendent of Police, the material benefits accruing from his position are limited to the members of his family only. But the psychological spin-off of this phenomenon is tremendous; the entire community of that backward class candidate feels elevated. Even when no tangible benefits flow to the community at large, the feeling that now it has its own man in the corridors of power acts as a morale booster.[3]

In what is euphorically described as 'deepening of democracy', the Mandal recommendations remained the most critical input in grasping Indian politics in recent years. Recommending 'quota' for the OBCs, the report is broadly a scheme for 'affirmative action' for socially underprivileged sections of society. By deciding to implement the Mandal Commission Report, submitted to the Government of India in 1980, the V.P. Singh government championed, as it were, the cause of 52 per cent of the population belonging to the OBCs. Although the recommendations were accepted by the government in 1990, attempts were made in the past to accord reservation to what was defined as the OBCs. To fulfil a constitutional obligation, as Article 340 suggests, the government of India appointed the First Backward Classes Commission, popularly known as Kaka Kalelkar Commission after its chairman, in 1953. The Commission submitted its report in 1955, listing about 32 per cent of population as backward on the basis of caste identity. The Commission also identified 2,399 castes as backward. However, Kalelkar himself rejected the report when he placed the report

for presidential assent saying that it would have been preferable to determine backwardness on 'principles' rather than 'caste'. Although the reservation scheme was shelved at the national level, nearly all the states constituted their Backward Commission and legalized reservation in public services and educational institutions under state control. The Second Backward Classes Commission, known as the Mandal Commission, appointed in 1978, revived interests in formulating a national policy for OBCs. The Commission suggested that OBCs forming 52 per cent of country's population required special concession to correct the social imbalance. But the Supreme Court ruled that reservations cannot exceed 50 per cent of the jobs. So the Commission reluctantly agreed to accept 27 per cent jobs for the OBCs though they constituted more than half of India's population. There was also a rider because the Commission also categorically stated that candidates belonging to OBCs recruited on the basis of merit in an open competition should not be adjusted against their reservation quota of 27 per cent. By implication what it means is the fact that if the commission's recommendations are respected, half of the posts in the public sector and universities will be filled by people who could not get in on merit, provided they belong to 'the right castes'. As evident, the Mandal formula rests on two premises: (*a*) the OBCs comprise a very large segment of India's population and (*b*) their representation (only 5 per cent) in the public sector is abysmally poor. Hence the recommendations ensuring 27 per cent reservations in Central jobs and education for the OBCs appear most appropriate. In contrast with the Kalelkar Commission, which took into account economic variables, among other criteria, the Mandal Commission Report changed the original philosophy of reservations by clearly identifying caste as the sole criterion for backwardness.

Whatever the advantages the Mandal formula may have, reservation for the backward castes and for the religious minorities are directed towards maintaining a balance of power in the caste-divided India's social structure. As a scheme striving to strike a balance between the privileged upper castes and the hitherto neglected OBCs, the Mandal recommendation deserves appreciation. In reality, however, the better-off sections of the OBCs would reap the benefit at the cost of the more deserving sections within these castes. To substantiate the argument, let us draw our attention to the caste dynamics in North India. Till the 1950s, domination was

enjoyed in the rural areas by the AJGAR (Ahirs, Jats, Gurjars, and Rajputs) group. They gained remarkably in material terms after the Green Revolution and all of them moved well and truly into modern sector. The intermediate castes, like Kurmis, Koeris, Lodhas, and others also benefited but not uniformly, and therefore there is considerable social and economic heterogeneity in each of these castes. Hence, the Mandal definition of 'backwardness' does not appear plausible in view of its obvious limitation of having ignored social and economic heterogeneity among OBCs. As a result, the benefits, meant for the backwards of the OBCs, are likely to be monopolized by the better-off and influential in these castes. In other words, 'the rhetoric of reservation is addressed to the mass of underprivileged, but their rewards are reserved for the affluent upper castes of the OBCs'. M.N. Srinivas thus argues:

> When a certain caste has political clout it should be excluded from the backward class list; otherwise, the richer members of the higher groups among the backward classes … will hog the benefits which should have gone to the genuinely deserving backward classes.[4]

The political imperatives behind reservations are thus apparent. What prompted the ruling parties to accept the Mandal recommendations is probably a well-calculated design aiming at mobilizing the support of the OBC elite. By virtue of its unique status in the OBC society, its wealth, its relatively high educational level, and its hegemony in a majority of caste councils, the OBC upper crust is viewed as the most significant power brokers in the Hindi heartland. So, the Mandal formula, designed to ensure social justice, is virtually a scheme for creating and sustaining a secure vote bank for the V.P. Singh-led National Front government. And, since number counts in franchise today, parties irrespective of ideology strive hard to win the support of caste groups for electoral gains by promises whipping up caste sentiments. So, if caste has acquired a new lease of life in independent India, this is almost entirely because of the increasing use made of it in politics. The decision to implement the Mandal Commission report is just another effort to effectively draw on caste sentiments for victory in elections. The Commission is thus described as a 'caste commission' which is seen 'as a passport to power'. Whatever the future of the reservation plan, the Mandal formula has polarized the contemporary political forces more sharply than before. So, a mere acceptance of modern

secular political idioms does not ensure their sustenance in a society which draws on feudal sentiments and primordial loyalties. It is not therefore strange that elections are conducted on caste calculations, the candidates are nominated on caste ratio, and as a consequence, patronage is likely to be distributed on caste basis and public policies are also to be tilted in favour of the caste support base.

Despite sharp criticism and violent student fury directed against the Mandal Commission Report, the formula deserves serious attention as it strives to correct the injustice of centuries inflicted on the downtrodden in the name of the discriminatory *varna* system. Due to peculiar socio-economic transformation in India which had a long colonial past, the benefits, meant for the genuine backwards, are likely to go to the relatively better-off sections within the OBC. So, the Commission's aim of ensuring a greater equality for the OBCs as such is sure to be defeated under the present circumstances. Unless it becomes a part of a comprehensive plan for development, the Mandal formula, despite B.P. Mandal's sincerity and devotion to the OBC cause, hardly makes sense in a situation in which the reservation plan is being utilized primarily for electoral gains. Yet, none of the political parties can be critical of the reservation scheme perhaps due to adverse political consequences and also the political costs of opposing the scheme.

MANDAL II: RESERVATION FOR SOCIAL JUSTICE OR APPROPRIATION BY THE CREAMY LAYER?

Reservation in educational institutions is referred to as Mandal II. In August, 2005, the Supreme Court abolished all caste-based reservations in unaided private colleges. On 21 December 2005, the Lok Sabha passed the Ninety-third Constitutional Amendment Act, 2005 rolling back the Supreme Court judgement by introducing a new clause into Article 15 to allow for reservations for SCs and STs as well as other backward classes in private unaided educational institutions other than minority institutions. In 2006, the United Progressive Alliance (UPA) government agreed to introduce 27 per cent reservations for OBCs in Central Government-funded higher education institutions like Indian Institute of Management, Indian Institute of Technology, All India Institute of Medical Sciences and Central Universities.

In other words, the proposed design is meant to introduce 27 per cent 'quota' to all institutions of higher learning. This blanket guarantee for reservations stands in contradiction with the 1992 Supreme Court judgement in the case of *Indira Sawhney vs Union of India* delivered on 16 November 1992, which upheld 27 per cent reservations subject to the exclusion of socially-advanced persons/sections (creamy layer) from amongst the OBCs. The Court also directed the government to evolve criteria for identification of this creamy layer. In response to the Court directives, the government appointed a committee which suggested that rules of exclusion applies to children of persons holding different constitutional positions, class I officers, and defence personnel who hold the rank of colonel and above. Children of persons with annual income greater than Rs 100,000 were also to be excluded. The limit was later revised to Rs 250,000 in 2004. The recommendations were accepted and circulated among all ministries/departments of Union and state governments in September 1993, allowing reservations to come into force. In a landmark judgement in April 2008, in the case of *Ashoka Kumar Thakur vs Union of India* validating the Ninety-third Amendment Act, the Supreme Court endorsed the demand for reservation for the demographically preponderant OBCs in higher education institutions by excluding 'the creamy layer'. Reiterating its views on the *Indira Sawhney vs Union of India* (1992) the Court denied reservation to those who have already attained economic well-being or educational advancement as 'it would be unreasonable, discriminatory or arbitrary resulting in reverse discrimination'. With the approval by the highest court of justice, the Ninety-third Amendment to the Constitution (2005) seems to be a culmination of a process that began with the acceptance of the Mandal recommendations by the V.P. Singh-led National Front Government in 1990 amidst serious social dislocations due largely to massive opposition by caste groups other than OBCs.

Viewed in a long-term perspective, Mandal II is a logical corollary of Mandal I. It takes forward the process of transfer of social and political power to majority communities. In the context of Mandal II, V.P. Singh thus characterized Mandal as 'a macro-process that has acquired its own dynamics. [Hence] no matter which party forms a government, it has to take the process further'.[5] It would not be an exaggeration if one thus argues that the centre of gravity in Indian

politics is now defined by 'quota politics'. Whatever the implications, reservation through quota translates 'protective discrimination' into reality. In contrast with 'affirmative action' that is practiced in the US, it is the combination of quotas and lower eligibility criteria that defines protective discrimination in India.

The Mandal II Arguments

There are thus strong arguments in favour of reservation in a multicultural country like India. But difficulty arises the moment groups or communities that deserve reservation are identified on the basis of ascribed identity, namely caste. Besides the 1931 census of India, caste was never a criterion in classifying Indian population. So if caste is a defining category, the 1931 index remains critical. This is hardly persuasive because the 1931 census was guided by imperial priorities and may not have reflected India's actual demographic profile. Furthermore, since the criterion of 'backwardness' is historically-conditioned, it is doubtful whether it remains valid even in the twenty-first century.

Similarly, reservation in higher education seems to be an empty slogan in the light of the fact that seats for SCs and STs remain vacant in colleges and universities for lack of applicants. Even after more than half a century of reservation for these communities, the number of beneficiaries is abysmally low. However reservation in higher education makes no sense so long as drop-out rates in schools are alarmingly high. In order to translate the scheme into practice, what is thus required is to pursue 'the literacy mission' seriously especially among the downtrodden by creating conditions in which benefits for going to school outweighs the forced alternative of working in the field for mere survival. Otherwise, the benefits of reservation continue to be 'uneven' among those who can avail them. The well-placed group of the backward section would be better off with such reservation. It would help only the creamy layer to grab the advantages. Thus the social justice agenda will always remain a distant goal.

It is difficult to suggest a convincing scheme to get out of the imbroglio relating to the reservation issue. In order to arrive at a solution one may begin by taking into account most seriously the creamy layer judgement of the Supreme Court. Unless one reviews

whether it is appropriate to extend reservation to the creamy layer generations after generations. It makes no sense if the children of the IAS (Indian Administrative Services) officers, for instance, enjoy reservation simply because of their ascribed social status, even though they, despite their caste identity, are socio-economically better placed than their upper caste counterparts. This does not seem justified if the law allows the undeserving to benefit from reservation. This is to deny protection to those who deserve to be protected. So, is the cause of social justice served well if reservation is confined to first generation learners or further? A conclusive answer to this question will probably resolve the debate. The Supreme Court of India has given a clear direction in the famous Indira Sawhney case of 1992 though India's ruling authority is restrained to implement the judicial verdict presumably because of the adverse political consequences.

Despite having stirred the sensibilities of both the socially advantaged and the disadvantaged sections of society, the Mandal initiative is a powerful input that has brought about radical changes in Indian polity and society. The grammar of entitlement has become an integral part of the language of politics in contemporary India. There can be a debate on how to execute the decision, but all political parties are unanimous in accepting the logic and reality of the Ninety-third Amendment Act (2005) confirming reservation in all institutions of higher learning. Nonetheless, the Mandal debate marks an important shift in the public justification of reservations. After Mandal, caste as a basis of collective struggle for gaining equality in positions and social status became a respectable term among the marginalized. It is now being seen as an empowering device to enhance one's meagre entitlements in society. While the first phase of reservation under the Mandal Commission represented the politics of caste assertion or the politics of identity, the second phase is one in which castes are asserting their right to power. The Mandal II is a well-argued statement demanding 'retooling of the normative subjectivity of formal democracy that involves critical reformations of the institutions of public and private life and requires altogether new frameworks for the accountability of the government to the people'.[6] So, the Mandal Commission was not merely a meaningful political statement, it also redefined the nationalist goal of a more equal and just society by empowering the disadvantaged and recognizing the socially denigrated groups in addition to reduction of socio-economic disparities.

RELIGION AND INDIAN POLITICS

Like caste that has gained salience in contemporary India, religion continues to remain critical in Indian politics. Both the Mandal formula and the Mandir agenda espousing the socio-religious demand of the so-called majority for the Ram temple in Ayodhya in Uttar Pradesh seem to be most critical in re-conceptualizing Indian politics. There is no doubt however that the Mandal recommendations created conditions for the demand for temple to strike roots in Indian society. As Nicholas B. Dirks explains, once caste began to be used for denying rather than conferring social privileges, Hindu nationalists captured ground 'by calling for a notion of religious community to replace one of caste'.[7] Political parties holding 'the life wire' of representative liberal democracy can hardly be indifferent to these ideological issues.

There is no doubt that *Hindutva*, as an ideology, created a support base for the Bharatiya Janata Party (BJP) by appreciating that cultural heritage of the country should not be ignored or dismissed simply because it does not measure up to modern criteria. The Mandir slogan paid massive electoral dividends to the BJP. In the aftermath of the controversial *Rath Yatra* in 1990, the BJP, for instance, almost doubled its popular vote from 11 per cent in 1989 to 21 per cent in 1991, winning 119 Lok Sabha seats. That was perhaps the upper limit of what a typical *Hindutva* slogan could achieve in terms of seats in the Parliament. Its increased tally of 182 seats in 1999 national poll was linked to a large extent with the failure of other parties to emerge as effective alternatives to the BJP.

Instead of being xenophobic, *Hindutva* also defends cultural ethos by seemingly integrating the best in our past with what it needs to learn from others. Nonetheless, its success is limited presumably because of *Hindutva*'s homogenizing design. In fact, what is most negative in the entire conceptualization is the tendency to homogenize the Indian civilization and the texture of Indian identity. *Hindutva* does not seem to be designed to create a social coalition of diverse groups, but rather an aspiration to homogenize and construct a unity by submerging diversity. Indian civilization has drawn on various sources, including Hinduism. It is an outcome of long-drawn interactions among civilizational values, making it not a homogeneous whole, but a loose federation of different systems of thoughts and practices. Hence any attempt to homogenize it

necessarily distorts and does grave injustice to it because *Hindutva* cannot, argues Bhikhu Parekh:

> Unite all Indians because of its antipathy to minorities. It cannot even unite all Hindus because it stresses only one version of Hindu history and culture. Indeed it creates a deep division among them by classifying some as 'good' or 'true' and the rest as 'pseudo' or 'confused' Hindus.[8]

Hindutva can therefore never strike a chord with the people at large presumably because of the sociological constraint, connected with the inherently pluralist character of Hinduism. Conceptually, Hindus cannot be nationalists, if the latter is understood as an ideological device seeking to 'homogenize' a set of people on the basis of well-defined criteria. This is perhaps 'the gravest impediment to at least the more extreme items on its agenda'.[9] Yet it would be wrong to conclude that the Hindu nationalist influence is on the wane because it is located in much broader space than that represented by the BJP. Because they overlap and blend with other key discourses on Indian society, culture, and identity, 'these are ideas which are manifested in a wide range of political actions and articulations'. Hence the political impact of *Hindutva* needs to be measured, argues John Zavos 'in terms of its continuing activism [in large parts of India involving the marginalized sections of society] where politics is manifested not in terms of formal state institutions, but as a contest for power in a network of localized institutions and practices'.[10] Simultaneously with the expansion of influence of Hindu nationalism, there is also the ascendancy of caste groups and caste-based parties especially in the 'Hindi heartland' which have gained enormous electoral clout in recent years.

Decline of the Majoritarian Ideology

In view of the rising importance of social compact, based on caste and not religion, the *Hindutva* brigade championing 'the majoritarian' claim thus seems to have lost 'its cutting edge', as the outcome of the 2004 national poll demonstrates. Even for sustaining the national coalition government that came into being in 1999, the BJP which drew on the Hindu nationalist agenda had to considerably dilute its specific ideological fascination to cement a

bond among the ideologically incompatible coalition partners. So the growing importance of coalition politics seems to have struck at the very foundation of Hindu nationalism and also reaffirmed the strong roots of an indigenous variety of secularism in Indian. Both the Nehruvian *Dharma Nirapekshta'*(state to maintain equidistance from all religion) and Gandhian *Sarv Dharm Sambhava* (peaceful coexistence of all religion) remain the governing principles for secularism. Indian variety of secularism is thus a mixed bag in the sense that it hardly corresponds to the conventional wisdom on the phenomenon. It was creatively articulated underlining the complexities of typical non-Western contexts. Secularism was thus not an ideology for Jawaharlal Nehru. For him, it was nothing but civilized behaviour, practised by all but a few contemporary states in the modern world.[11] The Constitution adopted the secularism and its Preamble confirms by declaring India as 'a secular republic', besides the guarantee in Part III of 'religious freedom' (Articles 25–30). Notwithstanding the constitutional validity, the role of the judiciary is also decisive in reinterpreting the idea of secularism in accordance with the transforming socio-political milieu. As an integral part of 'the basic structure' of the Constitution, secularism seems to be 'an inalienable' to the constitutional foundation of Indian democracy. Nonetheless, Indian secularism is a story of both success and failure. Despite constitutional guarantee and certainly powerful voice for secularism in the polity, the occasional outbreak of religious riots (as the 1984 Delhi anti-Sikh riot and 2002 anti-Muslim riot in Gujarat) is powerful statement of how fragile the secular fabric is in the face of majoritarian 'backlash' on people of different faith.

There is however no doubt that given the well-entrenched socio-political plurality in India, it is almost impossible for any political party with extreme views to capture power independent of partners. The National Democratic Alliance (NDA) was perhaps a powerful public statement on 'the non-threatening image of Hindutva' that was largely 'cultural' and less 'political' as the ruling conglomeration puts the controversial partisan agenda of Mandir, abrogation of special privileges to Jammu and Kashmir under Article 370, and imposition of uniform civil code under the carpet. Once in governance, the BJP, for instance, found it politically expedient to continue with the Haj subsidy presumably to redefine its image as an organization with clear anti-Muslim bias. Similarly, the critical

importance of the regional parties in the NDA accounted for appreciation for federalism as perhaps the most appropriate system of governance that, argues Katherine Adney, took the constituent states as 'equal partners'.[12]

COMPLEX POLITICAL TEXTURE

The noticeable changes in Indian politics seemed to have begun with the breakdown of what Rajni Kothari characterized as 'the Congress system'[13] that contributed to the growth of other parties with regional roots. The process became very prominent especially in the 1990s when the electoral trend is towards fractured mandate, as the results of succeeding national polls show. It is thus perfectly possible to conceive of circumstances when a particular social group/or class is represented by various political parties. Hence the argument drawn on 'a stable social base' for a party or a group of parties may not always be tenable. And also conversely, it is perfectly logical to challenge the notion of 'traditional vote banks' when several parties are vying for the same vote bank championing more or less similar issues despite 'the ideological differences' among themselves. What is striking is the fact that not all of the parties jostling for social constituencies succeed uniformly and this is where lies the explanation as to why a party 'shines' and other do not under specific circumstances. Coalition is perhaps the best possible theoretical construct to articulate 'this moment' in Indian politics when political processes do not appear to be 'unidirectional' at all. Regional parties and parties with contradictory social bases are critical to the formation of the government, certainly at the national level. The thirteenth Lok Sabha is illustrative of the stupendous achievement of the NDA in sustaining a spirit of consensus among as many as twenty-four heterogeneous parties which were united only in their basic opposition to the Congress. The process that began in the 1967 State Assembly elections seems to have struck roots in the Indian soil in view of the success of the NDA government in completing a full term of five years in power despite occasional hiccups. The fourteenth Lok Sabha poll in 2004 confirms the trend with the formation of another coalition government, led by the UPA.

Growth and Consolidation of Coalition Politics

As evident, the growing importance of coalition in government formation suggests the failure of the parties to cobble up a majority on their own and hence coalition is the only available option; it also shows a tenacity of 'community identities, in the form of caste and religion, as groups struggle to construct majorities that rule at the Centre'. That these identities have suddenly become significant in political alignment in the late twentieth century also underlines that they are products of modern politics and not 'residues of the past'. Indian parties thus represent, argues Paul R. Brass, 'a unique blending of Western and modern forms of bureaucratic organization and participatory politics with indigenous practices and institutions'.[14] Thus it is not surprising, as Rudolphs have shown, that a caste group which is relatively homogeneous and cohesive, but politically not well-represented tends 'to form a partisan attachment to a particular party [or even] to form and operate a political party of its own'.[15] This is one side of the story. The other side relates to the emergence of various outfits (that later may become independent parties) as the caste group becomes differentiated by class interests, and by differences in education, income, occupation, and cultural characteristics.

The trajectory of Indian politics confirms the trend. In the first election in independent India in 1952, for example, the all-pervasive Congress party was opposed at the pan-Indian level by four ethnic parties, namely, the Ram Rajya Parishad, the Hindu Mahasabha and Bharatiya Jana Sangh—jostling for support of the Hindu 'majority', and the All India Scheduled Caste Federation seeking to draw on the support of those constitutionally recognized as SCs. In view of their failure to garner adequate electoral support, three of these four parties disappeared. The Bharatiya Jana Sangh failed to emerge as an alternative to the Congress presumably because it was confined to North India and never succeeded in acquiring an all-India image. The decline of the Congress party created space for the rise of the ethnic parties. Seeking to seemingly capture the support of the Hindu 'majority' against the Muslims, the Bharatiya Janata Party was formed in 1984 by those who formed the core of the Bharatiya Jana Sangh. Later, the Bahujan Samaj Party and Janata Dal, among other, came into being to consolidate the backward castes and Muslims against the upper caste Hindus.

In course of time, however, most of these parties diluted their support base by being politically moderate and accommodative of the other groups that so far remained anathema for valid ideological reasons. The most striking example happens to be the BJP which put all the contentious pro-Hindu and anti-Muslim agenda under the carpet for political expediency.

The scene is not different in the states where the ethnic parties have grown in importance over decades. As Kanchan Chandra has shown,[16] first the Dravida Munnettra Kazhagam (DMK) and later its offshoot, All India Anna Dravida Munnetra Kazhagam (AIADMK) drew on ethnic solidarity to capture power in opposition to other contending parties. In Punjab, at the initial stage of its career, the Akali Dal survived and drew its electoral strength from Sikh ethnic identity. Similarly, the Shiv Sena in Maharashtra captured power in 1995 on Hindu cards by adopting a very strong anti-Muslim rhetoric though it has underplayed its anti-Muslim stance to a large extent now presumably because of the realization that it would alienate even the moderate Hindus from the party. There is another dimension which is peculiar to Maharashtra, namely two dominant castes of Maratha and Kunbi constitute a critical mass in elections. Hence the contending parties always vie for their support. The party that succeeds in drawing these ethnic blocs in its favour stands out in election. As the succeeding elections show, the Maratha-Kunbi combination always remains critical to any party seeking to form government. What is therefore paramount for the parties is not the ideology, but the articulation of the ideology in such a form as to draw maximum support from these ethnic groups that gets translated in votes.

As evident, the appeal to caste-based ethnic identity continues to remain critical in electoral politics in India. Even the Congress party that carried the legacy of the nationalist struggle does not seem to be different. In most of the states, except perhaps the Left-ruled Tripura, West Bengal, and Kerala, every major party seeks to gain by appealing to the electorate on the basis of ascriptive categories. However the politics of caste varies with context. In the 1960s, as Rudolphs have shown, the continuity of the upper castes in positions of power was possible because of a *quid pro quo* arrangement between them and the numerically strong lower castes: upper castes needed the numerical strength that lower castes' support supplied and lower castes gained access to the resources

and opportunities that support for upper caste leadership could yield. Although with the introduction of secret ballot in elections, the capacity of the upper caste to mobilize lower castes significantly declined, the former nonetheless held the key to political power presumably because there was hardly a threat from the latter. The situation is however dramatically changed in the 1990s with the growing consolidation of parties representing the numerically lower castes. As the evolution of the Bahujan Samaj Party (BSP) in Uttar Pradesh shows, the rise of Mayawati is largely attributed to her ability to couch her appeal to the voters in clear ethnic terms.

The 2007 Assembly election (Table 12.1) in the state of Uttar Pradesh is a watershed in India's recent electoral history for two reasons: first, the prediction that the election would result in a hung Assembly was proved wrong, and the electorate voted against the incumbent government and accepted the Mayawati-led BSP. This is a testimony of an effective social engineering drawn on a very effective political strategy upholding the interests of both the upper castes and Dalits. Second, it is clear that the Congress party no longer remains a catchall party capable of sustaining the rainbow coalition, drawn on the conceptual category of 'traditional vote banks'. It makes no sense to suggest that the middle castes and Muslims are favourably inclined towards Congress. Furthermore, their support for reservation for the OBCs has surely rattled the upper caste voters who are already disillusioned with the BJP in Uttar Pradesh. Likewise, the Muslim vote bank of the Congress is now highly fractured and the Dalits are hardly with the Congress since they have found the messiah in Mayawati. The near decimation of the Congress in the 2007

Table 12.1 Poll Outcome of the UP Assembly Elections in 2007 and 2002

Party	*Seats in 2007 election (per cent)*	*Seats in 2002 election (per cent)*
BSP	206 (30.46)	98 (23.06)
Samajwadi Party	97 (25.45)	143 (25.37)
BJP	50 (16.93)	88 (20.08)
Congress	22 (8.56)	25 (8.96)
Independent & Others	27 (18.60)	49 (22.53)

Source: *The Hindu*, 13 May 2007.

Assembly election is indicative of new electoral equations in the state.

In explaining the poll verdict, two broad arguments have been put forward: first, the triumph of the BSP is largely attributed to Mayawati's social engineering project—an euphemism suggestive of an alliance among the Dalits, Brahmins, and to a lesser extent, the Banias (merchants). In other words, Mayawati's success can be attributed to 'a rainbow coalition', reminiscent of the Congress system that survived till 1967 in India, in spite of her inability to win the support of both the Muslims and OBCs to the extent the BSP supremo had expected. The second argument revolves around the popular inclination for a single party majority government since coalition governments failed to govern irrespective of caste, class or religion. Whether the poll verdict corresponds with an anti-coalition trend is difficult to say. But there is no doubt that an anti-incumbency factor played a critical role in BSP's favour. Given the genuine grievances of the common Uttar Pradesh voter, with a per capita income less than half the all-India average, the discontent was but natural. The electoral appeal of intermeshing the pro-Dalit ideology of Ambedkar with the anti-Mandal stance of the BSP, cemented a bond between castes which invariably became a deciding factor in the election. In this sense, the BSP victory is symptomatic of a paradigm shift in Indian politics. Mayawati has succeeded in building a social coalition that inverts the pyramid of caste/class hierarchy by building a rainbow alliance of social groups, now dominated by that greatest underclass of all, namely, Dalits. The BSP victory is not merely a change of guard in UP—it is also indicative of a new social coalition that is likely to be stronger in the days to come. By providing a unique formula bringing both the upper castes and so-called untouchables together, the BSP created a formidable social compact which while heterogeneous by caste, is politically united. Neither the BJP nor the Congress has succeeded in creating constituencies beyond its so-called traditional base. The new government in India's largest state (which sends the maximum number of parliamentarians to the national legislature) is also an articulation of a process highlighting a clear shift in the centre of gravity in Indian politics: power has been shifting lower and lower down the caste order. This is perhaps the process of a silent revolution that has taken place which neither the pollsters nor the strategists of the major political parties envisaged.

ECONOMIC REFORMS AND INDIAN POLITICS

With the onset of macroeconomic reforms in the 1990s, the state-led developmental plans seem to have lost its significance in a situation where the non-state actors became critical in redefining the state agenda. India has adopted reforms in perhaps a very guarded manner. One probably cannot simply wish away the theoretical justification of state intervention in a transitional economy. Reasons are plenty. Socialist principles may have been forgotten, but the importance of the state in social sector cannot be minimized unless a meaningful alternative is mooted.

Economic liberalization in India ushered in reforms 'by stealth'[17] as it was more or less accepted as a *fait accompli* to avoid the massive balance of payment crisis in 1991. Apart from the domestic compulsion, internationally two major events undermined 'the basic premises of the earlier social consensus regarding the development strategy'.[18] The first was the collapse of the former Soviet Union and their East European satellite states that moved towards 'a market-oriented economic system' eschewing altogether the model of planned economic development. Second, the spectacular success of 'the socialist market economy' of China with the opening of the economy since 1978 and its concomitant favourable economic outcomes cast serious doubts on India's development strategy, based on economic nationalism.

Nonetheless, the importance of the prevalent 'politico-institutional context' cannot be undermined while conceptualizing the impact of economic reform in India. In a significant way, the institutional legacy of 'a well-entrenched state' affected the post–reform possibilities in India. As a commentator argues:

> India's bureaucratized regime—the license-quota-permit raj—has had major, unintended consequences on post-transition patterns: all [state] governments and central regimes continue to rely on state-led strategies of reform; there is no 'Washington Consensus' or 'neo-liberal' route to reforms in India.[19]

There is no doubt that economic reforms brought about radical changes in India's political economy. Yet the old regulatory regime of the bygone era remained critical in the path and processes of liberalization in a very decisive way. What thus proliferates across India is 'state-guided routes to liberalization rather than market

fundamentalism'.[20] This is reflected in the obvious distortions in India's economy. Two economies—one affluent and the other predominantly agricultural economy—are emerging and this division can be seen across the social and regional landscape of India. The technology-based export-oriented city-centred economy is flourishing in the new economic environment while the agricultural economy remains backward and those associated with this 'have little expectation of a better future [and] remain preoccupied with the daily struggle to secure a livelihood'.[21]

Seeking to articulate the typical Indian response to liberalization, the 1991 Industrial Policy Resolution thus suggested several steps to unshackle the Indian industrial economy from the cobwebs of unnecessary bureaucratic control though within the overall control of the state. Four specific steps were recommended: first, the government decided to abolish industrial licensing policy except for a short list of industries related to security and strategic concerns, social reasons, hazardous chemicals, and overriding environmental reasons. Second, the government also endorsed direct foreign investment up to 51 per cent foreign equity in high priority industries. To avoid bottlenecks, an amendment to the 1973 Foreign Exchange Regulation Act was suggested. Third, it was also decided to withdraw protection of 'the sick public sector units' and there would be a greater thrust on performance improvement to ensure accountability of those involved in these state-sponsored enterprises. Last, the 1991 Policy sought to remove the threshold limits of assets in respect of those companies functioning under the MRTP (Monopolies and Restrictive Trade Practices) Act. By seeking to amend this Act, the 1991 Policy suggested elimination of the requirement of prior approval of the Union Government for establishment of new undertakings, expansion of undertakings, merger, amalgamation and take-over, and appointments of Directors under certain circumstances. The Indian response to economic liberalization is most creative, if judged contextually. The Nehruvian socialist pattern of society cannot be so easily dispensed with for historical reasons while globalization may not be an appropriate strategy for economic development in a poor country like India because in its present form, argues Joseph Stiglitz, it seems like 'a pact with the devil'. A few people may have become wealthier, but for most of the people, closer integration into the global economy, 'has brought greater volatility and insecurity, and

more inequality'.[22] Economic liberalization is thus a double-edged device which while improving the lives of some Indian has also left millions more untouched. Hence it has been rightly pointed out that the essence of economic liberalization in India can be captured by a Buddhist proverb suggesting that 'the key to the gate of heaven is also the key that could open the gate to hell'. Indeed, the danger and opportunity are so intricately intermingled in economic reforms that 'the journey to the promised land of [economic prosperity] could easily turn into a hellish nightmare of poverty and widening inequality for the majority'.[23]

DEEPENING OF DEMOCRACY

Sustained participation of the people in the democratic processes has unleashed a process that has gone beyond mere voting by empowering people in a manner which radically changed the contour of Indian politics. The process is getting translated as rage and revolt making India 'a country of a million little mutinies'.[24] But these mutinies created tangible space for the democratic aspiration to flourish. And also, they make the state available for those who hitherto remain peripheral for any political transactions. The process is significant for another related reasons, namely, democratic empowerment of the lower strata of society and formerly excluded groups led to articulation of voices that always remained 'feeble' in the past. Since these groups interpreted 'their disadvantage and dignity in caste terms, social antagonism and competition for state benefits expressed themselves increasingly in the form of intense caste rivalries'.[25] So the growing importance of caste in contemporary Indian politics is essentially a modern phenomenon and not 'a throwback traditional behiviour'. This is theoretically puzzling since caste action in India, articulated in modern political vocabulary, cannot be comprehended within the available liberal democratic parameters unless one is drawn to the empirical context that radically differs from the typical liberal society in the West.

Politicization and democratization seem to be dialectically interlinked. As a result, the outcome of this intermingling may not be predictable. In a typical Western liberal context, deepening of democracy invariably leads to consolidation of 'liberal values'.

In the Indian context, democratization is translated into greater involvement of people not as 'individuals' which is a staple to liberal discourse, but as communities or groups. Individuals are getting involved in the public sphere not as 'atomized' individuals but as members of primordial communities drawn on religious, caste or *jati* (sect within a caste) identity. Similarly, a large section of women is being drawn to the political processes not as 'women' or individuals, but as members of a community holding a sectoral identity. Community-identity seems to be the governing force. It is not therefore surprising that the so-called peripheral groups continue to maintain their identities with reference to the social groups (caste, religion or sect) to which they belong while getting involved in the political processes despite the fact that their political goals remain more or less identical. Nonetheless, the processes of steady democratization have contributed to the articulation of a political voice, hitherto unheard of, which is reflective of radical changes in the texture of the political. By helping to articulate the political voice of the marginalized, democracy in India has led to 'a loosening of social strictures' and empowered the peripherals to be confident of their ability to improve the socio-economic conditions in which they are placed.[26] This is a significant political process that had led to a silent revolution through a meaningful transfer of power from the upper caste elites to various subaltern groups within the democratic framework of public governance.

The steady growth of Maoist movements in the so-called 'Red Corridor' is also illustrative of a tension between 'the overpowering state' and the people who are suffering despite the ever flowing FDI (Foreign Direct Investment) and the rising Sensex (the index of the Bombay Stock Exchange) in the era of liberalization and globalization. The Maoist expansion in the past few years has been phenomenal—from fifty-five districts in nine states in 2003 to 170 districts in fifteen states in 2006. Explanations may vary. But what is critical is the failure of governance over the years and gradual rollback of the state from key social sectors (primary health, elementary education, among others) that adversely affected the poor in both urban and rural India. The failure of the state to reach out to the poor, and also its mal-governance (due to inefficiency, corruption, exploitation, and state-engendered violence) leading to 'retreat of governance', have resulted in creating 'a power vacuum' as well as a space for the Maoist to strike roots and gain legitimacy among 'the impoverished'.

The Maoist experiment is an example of a situation where the state is unable to comprehend the articulation of the political in a way which is, for obvious reasons, not appreciated by the state. But the movement has raised significant questions on development and also a paradox simply because while the state is keen to extend preferential policies to the OBCs to effectively address the age-old social imbalances, it has no design whatsoever to challenge the vested interests in the Red Corridor (the area where Maoism is a strong competing ideology) presumably because of the consolidation of radically different textures of the political, which will not serve vote bank politics.

Like the Red Corridor that poses difficult questions for Indian democracy, the insurgency-prone North-east India also identifies the policy-failure of the political leadership in critically engaging with the issues of democratic fervour. Instead of addressing the genuine difficulties of the people in this region that could have been resolved within the democratic framework, the politics of 'containment' and 'concealment' has led to 'garrison mentality' that invariably avoids 'dialogue' and draws on 'brute force' to set things right. What is probably most appropriate is to understand the regional articulation of the political as reflective of popular democratic zeal that would involve:

> Reinventing the current dynamics of legislatures, judiciaries and elected governments in the north-east. [It would also mean] ironing out the amorphous norms of citizenship that pass off either as protective discrimination or political appeasement of ethno-nationalist political aspirations.[27]

Like the Maoists, insurgency in the North-east also suggests a clear failure of governance in this region because the issues that inform 'the militants' are all linked with the demands for amenities for basic human existence. The difficult issues need to be tackled within the democratic framework and neither 'granting of special economic packages' (as every Indian Prime Minister does once he/she assumes power in New Delhi) nor increasing the army personnel will defuse the crisis. No one seems to recognize that unless governance and politics in the region move away from their militaristic mindset and are tempered with the notions of transparency and justice, violence would remain a ubiquitous presence in the transformation of the North-east India.

GENDER

The perspective of gender is relatively a new phenomenon in Indian politics. The long-drawn subservience of the women in Indian society, apparently due to the unfavourable circumstances owing to the changing patterns of government in India in the course of history, could not be unshackled totally even in the wake of Independence for obvious reasons. Given the euphoria accompanying the attainment of independence and concomitant socio-economic reconstruction of the country, the other significant issues like that of ensuring an adequate and dignified representation to women in the processes and institutions of politics, and governance in the country could not gain that degree of salience which might have been due to them. More importantly, the absence of a concerted and assertive women's movement, focusing precisely at the ascertainment of equitable political representation of women in all segments of the political life in the country, proved congenial for the custodians of Indian politics, immediately after Independence, to gloss over the gender perspective of the government and politics in the country without being held accountable for this act of omission. Nevertheless, the dawn of Independence, along with the suitable constitutional provisions for the safeguarding of the interests of women in various walks of life, heralded the move towards democratic and electoral politics, one of whose meaningful repercussions appears to be the rethinking on the gender perspective in Indian politics.

The saga of gender perspective in Indian politics betrays the perpetuation of the paradox between the professed ideals as reflected in the provisions of the Constitution on the one hand, and the stark realities faced by the mass of the women folk in the country, on the other. Imbued with the idealism underpinning the national movement mainly during the Gandhian era, the members of the Constituent Assembly were in no doubt that most extensive provisions must be made in the various parts of the Constitution to secure for women the maximum possible congenial circumstances in which they can become the equal partners in the democratic processes in the country. Accordingly, starting with the Preamble of the Constitution which sets the background by assuring to ensure justice—social, economic, and political—and equality of status and opportunity for all, including women, a number of provisions

exist in the chapters on the Fundamental Rights and the Directive Principles of State Policy, along with others, that have direct bearing on the role and status of women in the Indian political system. While, the constitutional provisions, undoubtedly, reflect the enlightened vision of the women in the Indian political landscape, their utility as the springboard of women's all-round development in general and enhancing political participation in particular seems to be limited for at least two reasons. First, the tone and substance of the constitutional provisions apparently remain confined to only those aspects of the women's development which would have probably been dovetailed to them in the course of increased awakening amongst the people. Second, the constitutional provisions happen to be of foundational nature acting as the signpost for the politicians and the policy makers to evolve suitable and innovative measures to ensure greater role and representation of the women in the decision-making institutions and processes in the country. However, the long years of enjoyment of domination over the women by men is probably dissuading the dominant section of the society to desist from enacting any revolutionary law or taking any path-breaking decision sanctioned by the Constitution to catapult the women in the mainstream of the Indian politics. Thus, as an analyst argues, 'The democratic, welfarist, and liberal values that the state displays provide spaces for negotiating rights and privileges … it also demonstrates strong shades of patriarchal, bourgeois and capitalist domination and subordination.'[28]

In the context of growing democratization, issues such as women empowerment and gender rights have gained massive importance in contemporary political discourse though the founding fathers devoted a great deal of attention even while evolving consensus on the gender issues in the Constituent Assembly and also framing laws on these in independent India. Two contemporary issues, namely uniform civil code and reservation of seats for women in national Parliament and State Legislatures, have redefined the contours of feminist politics in India. The controversy over the uniform civil code began with the 1985 Supreme Court judgement granting financial support to Shah Bano (who once divorced, demanded alimony from her husband) under a provision in secular criminal law. This verdict provoked the Muslims who characterized this intervention by the Supreme Court as having fiddled with their personal law. The resolution of the controversy

through a legal intervention amicably settled the uncertainty. But the issue of gender equality was hardly addressed. Laws could be an aid, perhaps powerful, once the decision is negotiated at the political level. Otherwise, a mere intervention of the Court is too weak to bypass the hegemonic patriarchal social framework. Similar to the uniform civil code debate, the arguments over the reservation of seats for women in the legislature focus on issues of political equality of women. The introduction of the Eighty-first Amendment Bill in 1996 by the United Front government brought back the gender issue to the centre stage of Indian politics. Women need to be empowered and reservation through a legal enactment is perhaps the most effective device to bypass the patriarchy.

The debates over the uniform civil code and reservation of seats for women clearly indicate the difficulty of conceptualizing feminism in India in a straitjacketed manner. The drive towards uniform civil code continues to remain a vacuous slogan unless it is debated at the grassroots level; otherwise, the legal intervention from the top will always run the risk of being dubbed as engineered by motivated forces. Similarly, the reservation bill cannot ensure political equality for all, it merely seeks to expand the number of women in the political decision-making. Nonetheless, these debates are symptomatic of a new politics underlining the critical importance of gender in conceptualizing the political. In other words, the feminist dialogue is as significant as the rise of the OBCs and Dalits in redefining 'democracy', 'equality', and 'representation' in contemporary India. Women therefore no longer remain 'just a voice', but a critical voice challenging the conventional outlook on social, economic, and political issues while providing creative inputs to conceptualizing political afresh.

With the United Nations also stipulating the decade of the 1970s as the International Decade for Women, the stage appeared set for both the governmental as well as the non-governmental organizations to take up the issues of women's development on priority basis. While the governmental pursuits were confined to the formulation of policies and programmes of women's development in the straightjacket of conventional Five Year Plans, in addition to the creation of certain specific institutional mechanism to implement such policies and programmes, the major contentious issues found their articulation in the autonomous women's movement started in various parts of the country.

The focus of these movements such as the anti-price rise movement of 1970s, the Chipko women's movement in the hills of Uttar Pradesh, the Self Employed Women's Association (SEWA) initiative in Gujarat, the Vasai-Virar Women's struggles in Thane district of Maharashtra for water, and so on, have had, unmistakably been on the issues of survival and managing the basic objects of life like food, fodder, water, self-employment, easy and affordable availability of essential supplies of life, and so on. Thus, instead of clamouring for an enhanced and effective role in the institutions and processes of political decision-making in the country, these women's movements confined their operational domain only to essentially non-political issues pertaining to the basic livelihood issues, thereby giving the impression that they might not have contributed to the crystallization and articulation of political self of the women's movement but the participation of thousands of women in such movements definitely contributed to the anti-patriarchal sentiments and ideas to take shape in the country.[29]

ENVIRONMENT

The nature of the environmental issues in the domain of political discourses may be conceptualized at two levels. First, at the macro level, the rapid pace of extensive environmental degradation was anticipated and attributed to the affluent and extravagant pattern of life amongst the Western countries, characterized by the materialist and consumerist orientation towards life and nature. Hence, conceptualized in this frame, the global environmental movements appear not only to have exposed the self-damaging lifestyle of such people but also the increasing burden for such exorbitant loss of natural flora and fauna being dovetailed on the developing countries. In such a scenario, the politics of environmental degradation becomes the medium of clash of interest between the developing and the developed countries. Second, at the micro level, the environmental issues become the bone of contention between the state and the citizens owing to the moves on the part of the state to exploit the nature in various forms for the economic development of the country. Thus, the felling of the trees for the sake of economic development of the region through the medium of commercial forestry evoked sharp reaction from the

natives of the hill areas getting consolidated in the famous 'Chipko Movement' in Uttaranchal during the 1970s. In this and other such environmental movements in the country the core issue, therefore, happens to be the obvious conflict between the monopolizing rights of the state over the environmental resources to foster the economic development in the way deemed fit by it on the one hand, and the increasing urge amongst the people to assert their rights over the access to and use of natural resources, in addition to keeping the natural ecosystem immune from any irreparable loss owing to the commercial activities, on the other. In this section, the focus will remain on the micro level environmental movements as experienced in India over the years.

The roots of the environmental conflicts in India lie in the adoption of a particular model of development in the country after Independence. Between the two available somewhat, if not complete, indigenous models of development, namely the Gandhian and the Nehruvian models, the political leadership of the country unhesitatingly went for the latter in utter disregard for the former. Conceptually, the Gandhian model of economic development was very much eco-friendly owing to its emphasis on small-scale industries, village and cottage industries, local production and consumption of the things utilizing the locally available resources, and decentralized economy and polity, with complete rejection of the idea of heavy industrialization and commercial exploitation of resources for the sake of profit and amassing of wealth by few people. As against this, the Nehruvian model of development, drawing its ideological inspiration and practical implementation from the system prevailing in the Soviet Union, was rooted in the mode of centrally-planned economic development of the economy with stress on heavy industrialization in the state sector, adoption of capital intensive in place of labour intensive technologies of development, and creation of mega developmental projects in various parts of the country irrespective of the environmental and human costs involved in the execution of such projects. Hence, in the early decades of India's Independence, the construction of the modern temples of independent India went unopposed presumably due to the ignorance of the people regarding the environmental cost involved in such projects on the one hand, and the lack of concerted and formidable movements to fight for the cause of environmental issues in the country on the other.

The Nehruvian model of development led to the lopsided growth of the economy causing, among others, severe damage to the environment largely due the excessive commercial exploitation of the natural resources to the detriment of the fragile ecosystem. Given the obvious importance of environment in human existence, the environmental movements turned out to the new pedestals of waging people's struggle against the oppressive and anti-people policies of the governments. There are three types of environmental movements that gained preeminence since 1970s. First, the inception of the environmental movements in India may be reckoned to be the agitation of the people to assert their rights over the access to and use of forest products as against the state-sponsored move of allowing the commercial exploitation of forests by the private interests. Championed by the illiterate and politically novice female dominant sections of the people, the high point in such movements happen to be the Chipko Movement of the Uttaranchal during the first half of 1970s. Taking clue and inspiration from the Chipko Movement, a number of other forest movements were also started in various parts of the country like the Appiko Movement in Karnataka, Bharat Jana Andolan in Bastar, and so on, which succeeded in highlighting the centrality of the forest resources in the life of the native peoples, and inculcated the spirit of struggle in the people to fight for their cherished possessions. Second, the conflicts over the marine and hydraulic resources have also gained momentum during the 1980s and 1990s on the issue of over-exploitation of marine resources for commercial purposes. The Chilika Bachao Andolan of Orissa is the classic example when the people of the region, consisting mainly of the local fishermen, struggled against the proposed harmful and commercial ventures like the mechanized fishing, deep-sea fishing, and related marine farming. Later on, such struggles extended to the protection of the riverbeds from the encroachment by the government agencies in the name of various types of developmental activities, a fine example of which happens to be the ongoing campaign in the name of Save Yamuna Campaign to protest against the construction of the games village for the 2010 Commonwealth Games in Delhi on the riverbed of the Yamuna. Third, the environmental movements have also taken up the cudgels against the big dams and the large multi-purpose river valley projects in recent times. Starting with the Silent River Valley Project of Kerala during the 1970s, the struggles

against the big dams gained currency during the struggle against the Tehri Dam in Uttaranchal and the Narmada Valley Project in Gujarat in the present times.

The above classification is purely analytical based on the aims of these movements. Above all, what brought people together are those environment-related issues which are critical to human existence. In this sense, environmental issues seem to be universal in character. Furthermore, reflective of alternative paradigms for development keeping intact the ecological balance, these movements were driven by the rural masses for whom 'the access to the gift of nature was linked to their very survival'.[30] Environmentalism in India is therefore a uniquely constructed ideology upholding the rights of the communities over natural resources and their equitable distribution and sustainable use. Not only have these movements sensitized the political authority in India, they have also made people aware of the critical importance of ecology in development. Besides challenging the top-down and hegemonic power relations and decision-making processes, these people-centric movements are serious endeavours at articulating decentralization in its true meaning by being sensitive to what is euphemistically defined as 'grassroots issues'.

CONCLUDING OBSERVATIONS

The above survey of major issues in Indian politics clearly suggests that three changes are immediately evident: (*a*) the regionalization of politics, (*b*) growth of new social constituencies, and (*c*) the changing terms of political discourse. All three have contributed to important structural changes in the political realm. In south and north-east India, these changes are articulated in regional terms; in West Bengal and Kerala, they are sometimes represented in explicit class terms. In North India, particularly in the Hindi heartland (UP and Bihar), new social constituencies find expression along caste lines. The conspicuous factor in all these is a desire for greater voice of the socially peripheral but demographically preponderant groups in public policy and political processes—processes that excluded aspiring groups from the centralized power structure fashioned by the Congress since the early 1970s. The propensity towards such a politics is linked to the retreat of

the state and its failure to engender radical changes in the conditions of social existence.

Building upon the politicization of social cleavages and the diminishing appeal of the Congress, the formation of non-Congress governments in UP, Bihar, Rajasthan, Maharashtra, Karnataka, and AP after the 1993–95 State Assembly elections brought to an end the Congress system which had dominated Indian politics during the first three decades after Independence. The decline of the highly centralized Congress party has resulted in decentring of politics and has shifted its centre of gravity from New Delhi to the states. This has generated considerable interest in post-Congress politics in the states and in the larger social and economic conditions, and political processes that have made for these transitions.

The thirteenth Lok Sabha poll clearly registered the electoral success of the NDA (302 seats) and a blow to the Congress that secured only 114 seats in a House of 543 members. The Congress party lost miserably in its bastion while the BJP, though its share in UP was not impressive, had extended its reach in areas where it was entirely non-existent, through seat adjustment with regional parties. The fourteenth national election is not different in terms of the outcome in the sense that none of the pan-Indian parties has succeeded in gaining a majority on its own. The BJP-led NDA lost and was replaced by the Congress-led UPA. While the NDA had a majority in Parliament, the UPA, before the Left parties withdrew support in July 2008, was a minority government and had a majority with the support of the Left Front (61 seats) and Samajwadi Party (36 seats). What is most striking of these two elections is the growing importance of the regional parties and decline of the pan-Indian BJP and Congress. Without numerical support of the regional and state-based parties, neither the Congress nor the BJP was capable of forming the government at the Centre. The poll outcomes also suggest a fundamental restructuring of electoral politics in India in the wake of the consolidation of regional forces and assertion of the OBCs, Dalits, and minorities. This is an important development since in India the building blocks of competitive politics draw sustenance not from ideology but from caste-based communities. In this context, the rise of the OBCs and the Dalits as more distinct and self-conscious political constituencies through organized efforts by various political parties, redefined the political discourse in India. What was significant in this process was the so-called Mandalization of the political scene after V.P. Singh's

decision to implement the recommendations of the Mandal Commission in 1990. Apart from fracturing the political fabric by clearly subverting the upper-caste hegemony in the political process, Mandalization was also articulations of 'self-consciously plebian identities [by] challenging the conventional modalities of paternalistic and clientelistic mobilization of the masses by elite groups'.[31] Historically, the first casualty of this process was the Congress, which completely failed to grasp the importance of such a social upheaval. The outcome was the decline of the Congress in Tamil Nadu in the 1960s, Andhra Pradesh and Karnataka in the 1980s, and in most of the Hindi heartland in the late 1980s onwards. The scene remains unchanged except in Andhra Pradesh where the Congress has staged a comeback in the fourteenth Lok Sabha poll largely due to an effective alliance with the Telengana Rashtriya Samiti. In North India, these new constituencies were represented interchangeably by the Janata Party, Samajwadi Party, and other regional parties appealing to the newly-emerged social groups, including the OBCs and other politically peripheral social groups. So, social churning at the grassroots led, on the one hand, to the decline of the Congress for its failure to re-conceptualize its role in the changed environment, and on the other, it made the regional parties most conspicuous actors in the entire process simply because of their obvious locational advantages in articulating the aspirations of the socially-peripheral and politically-marginal groups. Unlike the 1991 Lok Sabha poll when the election was a mostly triangular competition involving the Congress, the BJP, and the regional parties, the fourteenth general elections are different because both the major pan-Indian parties had pre-poll alliances with the regional parties, which meant that no party hoped to win power at the Centre on its own. So, 'the map of party competition has to be read not at the national level but at the state level' though the nature of competition, players, and alliances varied from state to state.[32]

Coalition is possibly the best political arrangement in which both the values of unity and diversity are equally legitimized and respected and linked within the political layout of the country. The consensual political culture that upholds coalition was a legacy of the freedom struggle which tried to base the concept of Indian unity on a confederal approach to cultures. By providing a political template which turned India's enormous diversity into a main source of strength for the future nation, the nationalist movement,

especially during its Gandhian phase, became pan-Indian and mass-based. One of the reasons for successful political mobilization in a multicultural context lies probably in Gandhi's conscious effort to both sustain and strengthen the distinctively pluralist character of Indian nation. Following Independence in 1947, it was this ethos of pluralistic compositeness which was translated into the founding institutions of the Indian state with several parallel and mutually reinforcing principles of pluralism. What probably strengthened the multidimensional constitutional structure in India is also the texture of Indian nationhood which, for obvious historical reasons, never corresponded with the conventional notion of nation as it evolved in Europe and other homogenized societies. The collective identity of a plural state is differently constituted from that of the culturally homogeneous nation-state. It is complex and nuanced, and necessarily multi-stranded and multi-layered. One therefore naturally cultivates in oneself the art of being both a Punjabi or a Bengali, and an Indian. In other words, Indianness is a complex and multi-layered identity absorbing other such identities without cancelling them. So it is conceptually wrong to characterize India as a nation which is not united in terms of religion, language, race, ways of life, common historical memories of oppression, and struggle, or any other factors, identified as the basic features of a nation. Furthermore, Jinnah's drive to carve out a separate nation on the basis of 'two nation theory' clearly articulated the devastating impact of the nationalist language in a multicultural nation like India. The nationalist leaders and those who presided over India's destiny after the 1947 transfer of power therefore instinctively knew that the language of nationalism was bound to have disastrous consequences and they thus 'preferred the relaxed, even chaotic, plurality of the traditional Indian life to the rigidity and homogeneity of the European variety'.[33]

NOTES

1. See Dirks 2001: 5.
2. For a detailed discussion on the debates between BR Ambedkar and Gandhi, see Chakrabarty 2006: 103–12.
3. See Report of Backward Classes Commission 1980 (1: 57).
4. See Srinivas 1990.
5. See Singh 2006.

6. See Tharu et al. 2007: 45.
7. See Dirks 2001: 7.
8. See Parekh 2006: 452.
9. See Ganguly 2003: 23.
10. See Zavos 2005: 53.
11. See Jawaharlal Nehru's statement in the Constituent Assembly (*Constituent Assembly* 1949: 401).
12. See Adney and Saez 2005: 97–115.
13. Rajni Kothari described the Congress system as a huge, hierarchically structured party, broadly rooted throughout the countryside, apparently providing a mechanism whereby a plurality of elites, sub-elites, and groups could both voice their claims and attempt to realize them. At the same time, the Congress could adequately mediate and settle these multiple, and often, conflicting claims. Broadly speaking, on account of its organizational strength, its ideological flexibility and its umbrella character as a broad social coalition, the Congress party remained perhaps the most formidable electoral force that reduced the elections to a process of confirming its popularity till at least 1967. See Kothari 1964: 1161–73.
14. See Brass 1990: 64.
15. See Rudolph and Rudolph 1967: 27.
16. See Chandra 2004.
17. See Jenkins 1999: 172–207. Since economic reforms were not 'strategy-based' but 'crisis-driven', India hardly had a choice and was thus more or less forced to accept 'the conditionalities', imposed by the donor agencies.
18. See Tendulkar and Bhavani 2007: 85.
19. See Sinha 2004: 51.
20. See Desai 2005: 193.
21. See Frankel 2005: 625.
22. See Stiglitz 2006: 292. This argument was forcefully made by Margit Bussmann. See Bussmann 2007: 79–97.
23. See Bhaduri and Nayyar 1996: 159.
24. See Naipaul 1991: 106. According to Naipaul, every protest movement strengthens the state 'defining it as the source of law and civility and reasonableness'. The institutionalization of power in the form of democratic state gives:

    …people a second chance, calling them back from the excesses with which, in another century, or in other circumstances (as neighbouring countries showed), they might have had to live: the destructive chauvinism of the Shiv Sena, the tyranny of many kinds of religious fundamentalism … the film-star corruption and the racial politics of the South, the pious Marxist idleness and nullity of Bengal.

25. See Kaviraj: 2000: 156–57.
26. See Alam 2004: 22. According to Alam, 'Democracy in India is an assertion of the urge for more self-respect and the ability to better oneself.'
27. See Barbora 2006: 3811.
28. See Lingam 2002: 316.
29. See Kumar 1993: 104.

30. See Guha: 2007: 543.
31. See Hansen and Jaffrelot 1998: 9.
32. See Palshikar 2004: 1477.
33. See Parekh 1995: 39.

REFERENCES

Adney, Katherine and Lawrence Saez. 2005. *Coalition Politics and Hindu Nationalism*. London: Routledge.

Alam, Javeed. 2004. *Who Wants democracy?* New Delhi: Orient Longman.

Backward Classes Commission. 1980. *Report of Backward Classes Commission Volume 1*. Delhi: Controller of Publications, Government of India.

Barbora, Sanjay. 2006. 'Rethinking India's Counter-Insurgency Campaign in North-East', *Economic and Political Weekly*, XLII(38).

Bhaduri, Amit and Deepak Nayyar. 1996. *The Intelligent Person's Guide to Liberalization*. New Delhi: Penguin.

Brass, Paul R. 1990. *The Politics of India Since Independence*. Cambridge: Cambridge University Press.

Bussmann, Margit. 2007. 'When Globalization Discontent Turns Violent: Foreign Economic Liberalization and Internal War', *International Studies Quarterly* 51(1): 79–97.

Chakrabarty, Bidyut. 2006. *Social and Political Thought of Mahatma Gandhi*. London: Routledge.

Chandra, Kanchan. 2004. *Why Ethnic Parties Succeed: Patronage and Ethnic Headcounts in India*. Cambridge: Cambridge University Press.

Constituent Assembly. 1949. *Constituent Assembly Debates, Volume IX*. New Delhi: Government of India.

Desai, Meghnad. 2005. *Development and Nationhood: Essays in the Political Economy of South Asia*. New Delhi: Oxford University Press.

Dirks, Nicholas B. 2001. *Castes of Mind: Colonialism and the Making of Modern India*. Princeton: Princeton University Press.

Frankel, Francine R. 2005. *India's Political Economy, 1947–2004*. New Delhi: Oxford University Press.

Ganguly, Sumit. 2003. 'The Crisis of Indian Secularism', *Journal of Democracy*, 14(4).

Guha, Ramchandra. 2007. *India After Gandhi: The History of the World's Largest Democracy*. New Delhi: Picador.

Hansen, Thomas Blom and Christophe Jaffrelot (eds). 1998. *The BJP and the Compulsions of Politics in India*. New Delhi: Oxford University Press.

Jenkins, Rob. 1999. *Democratic Politics and Economic Reform in India*. Cambridge: Cambridge University Press.

Kaviraj, Sudipta. 2000. 'Modernity and Politics in India', *Daedalus*, Winter 2000: 156–57.

Kothari, Rajni. 1964. 'The Congress System in India', *Asian Survey*, 12(12): 1161–73.

Kumar, Radha. 1993. *The History of Doing: An Illustrated Account of Movements for Women's Rights and Feminism in India 1800–1990*. New Delhi: Kali for Women.

Lingam, Lakshmi. 2002. 'Taking Stock', in Ghanshyam Shah (ed.), *Social Movements and the State*. New Delhi: Sage Publications.

Naipaul, V.S. 1991. *India: A Million Mutinies Now*. London: William Heinemann.

Palshikar, Suhas. 2004. 'Revisiting State Level Parties', *Economic and Political Weekly*, 39(14 and 15).

Parekh, Bhikhu. 1995. 'Ethnocentricity of the Nationalist Discourse', *Nations and Nationalisms*, 1(1).

———. 2006. 'Limits of the Indian Political Imagination', in V.R. Mehta and Thomas Pantham (eds), *Political Ideas in Modern India*. New Delhi: Sage Publications.

Rudolph, L.I. and S.H. Rudolph. 1967. *The Modernity of Tradition: Political Development in India*. Chicago: The University of Chicago Press.

Sinha, Aseema. 2004. 'The Changing Political Economy of Federalism in India: A Historical Institutional Approach', *India Review* 3(1): 51.

Singh, V.P. 2006. Interview. *The Hindu*, 14 June.

Srinivas, M.N. 1990. 'End of an Egalitarian Dream', *The Sunday Observer*, New Delhi, 12 August.

Stiglitz, Joseph. 2006. *Making Globalization Work: The Next Steps to Global Justice*. London: Allen Lane.

Tendulkar, Suresh D. and T.A. Bhavani. 2007. *Understanding Reforms: Post 1991 India*. New Delhi: Oxford University Press.

Tharu, Susie, M. Madhava Prasad, Rekha Pappu and K. Satyanarayana. 2007. 'Reservation and Return to Politics', *Economic and Political Weekly*, XLII(48).

Zavos, John. 2005. 'The Shapes of Hindu Nationalism', in Katherine Adney and Lawrence Saez (eds), *Coalition Politics and Hindu Nationalism*, New Delhi: Routledge.

Conclusion

The primary aim of this book is to lay out the broad contours of Indian politics, which are constantly changing for obvious reasons. Most of the political institutions have their roots in colonialism and yet they are radically transformed in course of time as they have evolved organically with Indian political system. Indian Constitution is, for instance, a document that hardly bears any similarity, at least in spirit, with the 1935 Government of India Act, which provided the basic institutional foundation to the 1950 Constitution of independent India. 'Our defiantly democratic constitution', thus argues Amartya Sen, unfolds 'in defiance of the standard understanding in the world of what is or is not feasible in a country with such overwhelming poverty and massive illiteracy'.[1] As a living document, the constitutional provisions are being regularly revisited by the judiciary in response to the changing socio-economic milieu without disturbing its 'basic structure' that has never been articulated in clear terms. Presumably because of the obvious difficulty in exactly spelling out the basic structure of the Constitution, which is relative to the socio-economic circumstances, the judiciary seems to have avoided doing so. Nonetheless, in its various judgements, the Supreme Court of India elaborated the concept keeping in view the contingent circumstances responsible for judicial intervention.

Defined as 'the bedrock of constitutional interpretation in India',[2] the basic structure debate that began with the 1973 Keshvanand Bharati case redefined the constitutional discourse in India. In this oft-quoted case, the Supreme Court of India restricted the parliamentary domain with the argument that any constitutional amendment, even if enacted under procedures laid down under Article 368 of the Constitution, could be declared invalid if it violated 'the basic structure of the Constitution'. Through its judgement,

the Supreme Court 'constructed a dyke', argues Arun Shourie, 'to shield the country and the citizen from the political class'.[3] This is a significant judgement in two respects: first, it reiterates the caution of the founding fathers that the Parliament in India is not as supreme as it is in the Westminster system of governance, except during emergency. Second, the critical principles that hold the Constitution in its true spirit can never be sacrificed under any circumstances. Parliamentary supremacy is appreciated within the political format of parliamentary democracy which upholds 'federalism' as 'a life wire' of Indian polity. One can tinker with these foundational values of the Constitution only at the cost of its basic structure.

There is a serious problem of interpretation of what constitutes the basic structure because the Supreme Court itself stressed that 'the claim of any particular feature of the Constitution to be a basic feature would be determined by the Court in each case that comes before it'.[4] So these basic features are not 'finite' although the Court identifies a number of features—the supremacy of the Constitution, parliamentary democracy, the principle of separation of powers, the independence of judiciary, and the limited amending powers of Parliament—as basic features. What the doctrine therefore amounts to is that there are some features in the Constitution that are more 'basic' or 'fundamental' than others. While the Constitution can be amended by following the stipulated procedures, these features which are basic to the Constitution can never be altered presumably because amendment to these radically alter the nature of the Constitution.

Two important points that emerge out of the discussion on the basic structure need to be addressed. First, the debate seeks to strike a balance between judiciary and Parliament by redefining parliamentary supremacy as 'relative' to the circumstances. Under no circumstances, the Parliament is empowered to challenge the foundational values since they are so integral to the evolution of India as a parliamentary democracy. Second, by seeking to provide a contextual interpretation of the basic structure, the apex court draws our attention to the organic nature of the Constitution that evolves in conjunction with the rapidly changing socio-economic and political circumstances. Conceptually, the idea of basic structure is not sacrosanct, but is not amenable to change if circumstances so require. An example will suffice here. The federalism that the

founding fathers preferred was articulated as a scheme of distribution of power between two layers of government—one at the Union level and other at the provincial levels. The Seventy-third and Seventy-fourth Amendment Acts, in fact, altered the basic structure of the Constitution by introducing 'a third tier' besides the Union and states and was therefore 'violative' of the basic structure. The introduction of a third tier is a striking distortion in the prevalent two-tier structure of governance because this change is in the direction of greater federalism than what exists. However, these amendments were appreciated for having translated the notion of 'democratic decentralization' into practice and are thus reflective of the organic nature of the Constitution. Similarly, the introduction of the terms, like 'socialism' and 'secularism' (though the former considerably lost its salience with the adoption of the 1991 New Economic Policy) did not disrupt the basic structure simply because these changes evidently commanded 'general assent'. What is thus critical is the fact that the values of the constitutional structure that are considered 'basic' or 'fundamental' are not entirely sacrosanct, but are amenable to change if it is absolutely necessary to keep pace with the social, political, and economic milieu.[5] Although the basic structure doctrine creates a contentious space, it nonetheless has struck 'a balance, if an uneasy one, …between the responsibilities of Parliament and the Supreme Court for protection of integrity of the seamless web [of constitutional democracy in India]'.[6] Nonetheless, supporters and detractors of the basic structure doctrine are clearly divided: critics see it as judicial usurpation of democratic sovereignty and thus an assault on parliamentary supremacy; while the supporters welcome the doctrine as 'a necessary check on parliamentary majorities bent on jeopardizing democratic freedoms and as a legitimate pressure on the state [to adopt] ameliorating policies for the vulnerable sections of society [conforming to] the Directive Principles of the Part IV of the Constitution'.[7]

Illustrative here is parliamentary-federalism which is not merely a constitutional structure, but also provides an ideological foundation to cement a bond among Indian constituent states which are diverse on various counts. In this sense, it is basic to the politico-constitutional structure that evolved in India since the Constitution was adopted in 1950. Especially in the coalition era, parliamentary democracy in India is redefined with the growing federalization that began with the decimation of Congress rule in

various states in the 1967 State Assembly election. The scene was completely different during the heydays of the 'Congress system' when the Congress party controlled all the state governments as well as the Union. What was symptomatic in 1967 seems to be a well-entrenched pattern now with the clear political ascendance of the constituent provinces, governed mainly by parties with regional roots. The leading members of either of the major coalitions at the pan-Indian level can afford to ignore them only at their political peril. In the changed political texture of India, parliamentary-federalism seems to be a creative politico-constitutional response to a situation that is hardly comparable. Because of its historical roots, parliamentary-federalism also provides perhaps the only mechanism that reconciles the seemingly contradictory tendencies between parliamentary and federal forms of government.

India's social landscape has also undergone radical changes. With the growing participation of peripheral social groups in the political decision-making, the nature of politics has naturally undergone dramatic changes. In the context of second democratic resurgence, one needs to redefine the contour of India's democracy and its articulation by those involved in this process. What facilitate the increasing role of the socially marginalized sections of society are certainly regular elections that act as a leveller by according equal importance to those historically disadvantaged groups. The higher levels of participation of these groups account for political fragmentation in India that is also reflective of social conflicts at the grassroots. The outcome is two-fold: first, this resulted in the decline of the Congress party and also 'the Congress system'. It was increasingly felt that the Congress no longer represented the cross-sections of social, economic, and political interests especially after the formation of the non-Congress governments in various states following the 1967 polls. The other significant outcome is the growing importance of 'coalition' on the basis of common minimum programmes. There is no doubt that the strength of coalition governments is rooted in whether they are built around stable social coalitions. Because they are constituted by parties representing diverse social interests, these coalition governments can ignore them only at their peril. Hence, the presence of the regional and state-based parties accords a wider basis to the governmental policies by providing inputs from the areas and regions

to which they belong. In view of the indispensable role of these smaller parties, coalition governments are also an institutional device for participation of the hitherto marginalized sections in the policy process. Unlike the European states which are more or less uniform ethno-linguistically and thus culturally, the Indian version of coalition is a significant contribution to democracy by locating the experiment in an essentially multicultural society. So coalition is complementary to democratic processes, articulated not only in the ritualistic participation of the people in elections, but also in their day-to-day participation in the governmental activities. In this fundamental sense, coalitions are unavoidable, and cannot be wished away as mere ripples. The five-year tenure of the erstwhile government-led by the NDA, and the assumption of power by the UPA in New Delhi, are illustrative of a trend that is not purely coincidental.

Similar to society, Indian economy is no longer the same as it was under the Nehruvian state-directed model of development. With the onset of macroeconomic reforms in the 1990s, the state-led developmental plans seem to have lost significance in a situation where the non-state actors grew in importance in redefining the state agenda. India has adopted reforms in perhaps a very guarded manner. One probably cannot simply wish away the theoretical justification of state intervention in a transitional economy. Reasons are plenty. Socialist principles may not have been forgotten, but the importance of the state in social sector cannot be minimized unless a meaningful alternative is mooted. This is reflected in the obvious distortions in India's economy. On the basis of an empirical study of Andhra Pradesh and other supporting data, Francine R. Frankel thus argues that 'two economies—one affluent and the other predominantly agricultural economy—are emerging … and this division can be seen across the social and regional landscape of India'.[8] The technology-based export-oriented and city-centric economy is flourishing in the new economic environment while the agricultural economy remains backward, and those associated with this have little expectation of a better future and remain preoccupied with the daily struggle to secure a livelihood.

It is evident that Indian politics cannot be conceptualized, let alone comprehended, in a straitjacketed formula because of the well-entrenched peculiarities due to an equally peculiar evolution

of her socio-economic and political circumstances. There is no doubt that the political system that India inherited after decolonization was largely drawn on the Westminster model. Yet it underwent significant changes that hardly had resemblance with the British system of governance. Here lies the importance of the socio-economic processes that shaped the evolution of the political which was clearly distinct in terms of both manifestation and articulation. It was not therefore surprising that 'three different languages of politics, namely, modern, traditional, and saintly'[9] seem relevant in politics. The Congress remained the meeting points of these languages. As Jawaharlal Nehru mentioned, 'The Congress has within its fold many groups, widely differing in their viewpoints and ideologies. This is natural and inevitable if the Congress is to be the mirror of the nation.'[10] In the post-1967 period, the scene changed radically with the gradual weakening of the Congress in sustaining the base that it had consolidated immediately after Independence. Coalition governments at the Centre and various provinces in India are undoubtedly the immediate offshoot of the disappearance of a single-party rule. One also traces the root of coalition governments in the fractured mandates in both the 1999 and 2004 national polls. This suggests, inter alia, the changing social constituencies of the parties. It is thus perfectly possible to conceive of circumstances when a particular social group/or class is represented by various political parties. Hence the argument drawn on 'a stable social base' for a party or a group of parties may not always be tenable. And also conversely, it is perfectly logical to challenge the notion of 'traditional vote banks' when several parties are vying for the same vote bank championing more or less similar issues despite 'the ideological differences' among themselves. What is striking is the fact that not all of the parties jostling for social constituencies succeed uniformly, and this is where lies the explanation as to why a party 'shines' and other do not under specific circumstances. Coalition is perhaps the best possible theoretical construct to articulate 'this moment' in Indian politics when political processes do not appear to be 'unidirectional' at all. This is a moment that not only captures the trends towards redefining Indian politics but also identifies its determinants in the changed domestic and global, and social and economic milieu. Indian politics is both coalitional and regionalized. As the successive poll results show, gone are the days

of a single-party rule. The thirteenth Lok Sabha is illustrative of the stupendous achievement of the NDA in sustaining a spirit of consensus among as many as twenty-four heterogeneous parties which were united only in their basic opposition to the Congress. The process that began in the 1967 State Assembly elections seems to have struck roots in the Indian soil in view of the success of the NDA government in completing a full term of five years in power despite occasional hiccups. The fourteenth Lok Sabha poll in 2006 confirms the trend with the formation of another coalition government, led by the UPA.

The change is reflected in India's political economy. With the acceptance of the socialistic pattern of society as the espoused goal of the political elites that took over power immediately after Independence, the Soviet model of state-directed economic development was preferred. And, the centralized planning was uncritically accepted by the leadership as perhaps the only device to bring about an all-round economic development in India that however remained a distant dream. The Indian Planning Commission, the sole institution in allocating funds to the constituent provinces, continued to be guided by ethos and values that became irrelevant in the changed socio-economic and political milieu. As a result, 'the Planning Commission, that body of experts capable of interpreting and implementing the interests of the nation outside the domain of politics, had been reduced to a mere advisory committee'.[11] The interventionist state failed to attain the aspired goal and yet the state-centric model of development has not been altogether done away with presumably because of a powerful political opinion seeking to redefine India's political economy in a creative manner. Despite its complete success in regulating Indian public governance, the neo-liberal economic reform has undoubtedly unleashed a process which is revolutionary in so far as the domain of state is concerned. Hence the economic liberalization in India is not simply about the renegotiation of India's relationships with the global capital, nor does it confine to the relationships of private capital with the Indian state in the formal economy; economic liberalization is also about 'the reworking of the state itself and of the state's capacity to work on behalf of those who stand outside the (expanding) Indian social and economic elites'.[12]

NOTES

1. See Sen 2007.
2. For details of the 1973 Keshvanand Bharati case, see Austin 1999: 258–77.
3. See Shourie 2007: 194.
4. See Somnath Chatterjee's foreword in Chopra 2006: 13.
5. This discussion is drawn on Iyer 2006: 2066–68.
6. See Austin 1999: 652.
7. See Mehta 2002: 180.
8. See Frankel 2005: 625.
9. W.H. Morris-Jones elaborates these three languages in Indian politics at length in his *The Government and Politics of India.* See Morris-Jones 1974: 52–64.
10. See Nehru 1948: 139.
11. See Corbridge and Harriss 2001: 67.
12. Ibid.: 169.

REFERENCES

Austin, Granville. 1999. *Working a Democratic Constitution: A History of the Indian Experience.* New Delhi: Oxford University Press.

Chatterjee, Somnath. 2006. 'Foreword', in Pran Chopra (ed.), *The Supreme Court Versus the Constitution: A Challenge to Federalism.* New Delhi: Sage Publications.

Corbridge, Stuart and John Harriss. 2001. *Reinventing India: Liberalization, Hindu Nationalism and Popular Democracy.* New Delhi: Oxford University Press.

Frankel, Francine R. 2005. *India's Political Economy, 1947–2004.* New Delhi: Oxford University Press.

Iyer, Ramaswamy R. 2006. 'Some Constitutional Dilemmas', *Economic and Political Weekly*, XLI(21): 2066–68.

Mehta, Pratap Bhanu. 2002. 'The Inner Conflict of Constitutionalism: Judicial Review and the "Basic Structure"', in Zoya Hasan, E. Sridharan and R. Sudarshan (eds), *India's Living Constitution: Ideas, Practices and Controversies.* New Delhi: Permanent Black.

Morris-Jones, W.H. 1974. *The Government and Politics of India.* New Delhi: B.I. Publications.

Nehru, Jawaharlal. 1948. *The Unity of India.* London: Lindsay Drummond.

Sen, Amartya. 2007. 'India in the World', *The Hindu*, 15 August.

Shourie, Arun. 2007. *The Parliamentary System: What We Have Made of It, What We Can Make of It.* New Delhi: Rupa.

MODEL QUESTIONS

CHAPTER 1: SALIENT FEATURES OF THE INDIAN CONSTITUTION

1.1. Discuss the role of the Indian Constitution as an instrument of socio-economic progress.

1.2. Examine the various philosophies which influenced the Constitution-makers in framing the Indian Constitution.

1.3. 'The Constitution is more "political" and less "legal"'. Do you agree? Give reasons for your answer.

1.4. How do you characterize the Indian Constitution? Elaborate your answer.

1.5. 'The amending procedures, crafted thoughtfully by the fathers of the Indian Constitution, provide one of the best methods to make the Constitution long-lasting by making it both sufficiently flexible and rigid.' Comment.

1.6. 'An analysis of the salient features of the Indian Constitution amply makes it clear that it draws on all those features of various constitutions which suit the requirements of India.' Explain.

1.7. 'The Preamble to the Indian Constitution holds the key to its decoding and interpretation.' Explain and illustrate.

1.8. Write a critical essay on the salient features of the Indian Constitution.

1.9. 'The successful functioning of the Indian Constitution for over fifty years has proved the soundness of the basic tenets of the document.' Comment.

1.10. 'The Indian Parliamentary system, though patterned on the British model, consists of its own unique features, drawn mainly from the non-British sources.' Critically examine the statement giving the departures of the Indian parliamentary system from the British parliamentary system.

1.11. Examine the important fundamental rights given in the Indian Constitution with special reference to the Right to Freedom.

1.12. 'The Constitution of India gives Fundamental Rights with one hand and takes them away with another.' Do you agree with the above statement? Give reasons for your answer.

1.13. Discuss the importance of Directive Principles of State Policy in India. How far have we been able to implement them?

1.14. Examine the dominant ideology that emerges from the chapters on the Fundamental Rights and Directive Principles of State Policy in the Indian Constitution.

1.15. Do you agree with the view that Fundamental Rights and Directive Principles of State Policy constitute the 'core and conscience' of the Indian Constitution? Comment on the emerging trends in their interrelationship between the two.

1.16. 'In the early years of the functioning of Indian Constitution, Fundamental Rights and the Directives Principles of State Policy were construed in such a way that they emerged as the stick to beat one another.' Discuss with reference to the stand of the judiciary on the issue.

1.17. In what respects, the Right to Freedom of Religion is a guarantee for secularism in India? Elaborate your answer with reference to the constitutional provisions in this regard.

1.18. 'The provisions of Article 32 of the Constitution may be said to constitute the Rights as in the absence of this, the Fundamental Rights would have not been more than pious wishes.' In the light of the above statement, explain and analyze the significance of the provisions contained in Article 32 of the Constitution.

1.19. Define Fundamental Duties with reference to the Part IV-A of the Constitution. Do you think that a mere incorporation of this part in the Constitution will fulfil the constitutional obligation? Elaborate your answer.

1.20. Discuss the emerging trends in the Indian democratic system from the point of view of the rights of the people.

CHAPTER 2: FEDERALISM

2.1. 'India is a quasi-federal system.' Comment.

2.2. Analyze the stresses and strains in the Centre-state relations with special reference to financial relations and planning.

2.3. Evaluate the major trends and issues emerging out of the working of the federal structure of India in the context of territorial integrity and economic development.

2.4. Write a critical essay on the functioning of federalism in India.

2.5. What is asymmetrical federalism? Why is Indian federalism called an asymmetrical federalism. Elaborate.

2.6. What is executive federalism? What is legislative federalism? How do you characterize Indian federalism? Elaborate your response.

2.7. 'The typical feature of the Indian federalism in having overwhelming unitary features is the best possible decentralized polity the Constitution makers could think of.' In the light of the statement, provide plausible justifications for the present state of things in the Indian federal polity.

2.8. 'Though the legislative and administrative division of functions between Centre and states are far more comprehensive in nature and scope, the major complaints of the states relate to the financial relations between the two.' Explain and illustrate.

2.9. What are the typical features of the Indian federalism? How far do they deviate from the classical features of the federal system? Elaborate.

2.10. 'The dawn of the era of coalitional politics in India has led to the correction, in practice if not in theory, of many of the aberrations in the functioning of federal system in India'. Discuss.

CHAPTER 3: THE EXECUTIVE SYSTEM IN THEORY AND PRACTICE

3.1. Discuss under what conditions the President of India can take a decision without the advice of the Council of Ministers.

3.2. Examine the powers and functions of the President of India as the head of the state.

3.3. 'Had there not been the fundamental provision under Article 74 of the Constitution, the Indian President would have become the greatest dictator in the world.' In the light of the statement, examine the centrality of Article 74 in determining the proper position of the President in India.

3.4. 'The cabinet form of government has transformed into the prime ministerial form of government in India.' Comment.

3.5. Assess the powers and functions of Prime Minister in India under the Indian Constitution.

3.6. 'Despite there being well-defined canons guiding the relationship between the President and the Prime Minister, there has been occasions when the relationship between the two has not been so cordial.' Examine and illustrate the statement.

3.7. Discuss the nature of administration in India and assess its role in developmental process.

3.8. Examine the relationship between the President and the Prime Minister in India.

3.9. 'Over the years, the functional maneuverability of the Prime Ministers in India has experienced a decline, though the constitutional power and position remains the same.' Analyze.

3.10. 'In the era of coalition governments, the position of the Prime Minister has no longer remained commanding in the Indian polity.' Examine the position of the prime ministers since the dawn of the coalition governments at the Centre.

CHAPTER 4: PARLIAMENT

4.1. Discuss the powers and functions of the Rajya Sabha. Is it truly a secondary chamber? Elaborate.

4.2. Discuss the role of Rajya Sabha in the federal and parliamentary set-up of India.

4.3. Discuss the relationship between the Rajya Sabha and the Lok Sabha in the parliamentary system of India.

4.4. Discuss the powers and functions of Lok Sabha with special reference to its financial functions.

4.5. 'Under the framework of the Parliamentary democracy in India, it is, in fact, the Lok Sabha than the Rajya Sabha, which epitomizes the Parliament in India.' Assess the veracity of the statement in context of the Parliament's responsibility to ensure the accountability of the government to the Parliament.

4.6. 'Notwithstanding the emergence of the Parliamentary Standing Committees, the traditional Parliamentary Committees like the Public Accounts Committee, the Estimates Committee and the Committee on Public Undertakings have been very effective in ensuring the financial accountability of the government.' Comment.

4.7. Write a critical essay on the changing socio-economic profile of Parliament in India.

4.8. 'Though Rajya Sabha and Lok Sabha are to act in tandem to ensure the smooth functioning of Parliament, there may arise occasions when the two Houses may disagree.' Examine and illustrate the statement, and elaborate the methods available to sort out the difference of opinion between the two Houses.

4.9. Do you agree with the view that the position of the Parliament has declined in India? Give arguments in support of your answer.

4.10. 'The efficacy and effectiveness of the Parliament have improved considerably with the increasing role and function of the parliamentary standing committees.' Comment.

CHAPTER 5: STATE EXECUTIVE

5.1. Discuss the powers and functions of the Governor as the head of a state.

5.2. Discuss the perspectives of the fathers of the Constitution on the position of the Governor as the head of the state.

5.3. 'The position of the Governor of a state needs ordinarily to be that of the head of the state but the occupants of the office feel happy in acting as the representative of the Centre in the state.' Comment.

5.4. Why and how the office of Governor has emerged as one of the biggest irritants in the Centre–state relations in India? What measures would you suggest to obviate the aspersions cast on the office? Elaborate.

5.5. How far do you agree with the demand of a number of states that the office of Governor should be abolished altogether? Give reasons in support of your answer.

5.6. Discuss briefly the views of various Committees and Commissions set up to examine Centre-state relations in India on the desirability or otherwise of retaining the office of the Governor.

5.7. Discuss the impact of the dawn of coalitional politics at the Centre in India on the functional, if not constitutional, dynamics of the office of Governor in various states.

5.8. Examine the discretionary powers of a Governor in comparison to the discretionary powers, if any, of the President of India.

5.9. Discuss the powers and functions of Chief Minister of a state as the head of the government.

5.10. 'The office of the Chief Minister in a state is a replica of the office of the Prime Minister at Centre, barring certain obvious differentiations.' Analyze and illustrate the statement.

CHAPTER 6: THE JUDICIARY

6.1. Examine the structure and functions of the Supreme Court in India, with special reference to its original jurisdictions.

6.2. 'The provision of an independent judiciary within the stipulations of a parliamentary system of government may be said to be one of the innovations made by the fathers of the Constitution in the realm of the constitutional law in the world.' In the light of the above statement, explain the rationale and provisions for ensuring the independence of judiciary in the country.

6.3. 'There has been a long drawn battle between the executive and the judiciary over the issue of amendability of the Constitution till the issue was somewhat resolved with the evolution of the "doctrine of basic structure" of the Constitution.' Explain and illustrate.

6.4. What is judicial review? What are the bases on which the theory and practice of judicial review operate in India? Elaborate.

6.5. Critically examine the role of the Supreme Court with special reference to its function of judicial review.

6.6. 'The concept of Public Interest Litigation lies at the root of judicial activism in India.' Elaborate with suitable examples.

6.7. Examine the views of the proponents and opponents of the increased activist roles the judiciary has been playing during the recent times in India.

6.8. Write a critical essay on the structure and functions of the Union Public Service Commission in India.

6.9. How far has the Election Commission been able to ensure free and fair elections in India? Answer with suitable examples.

6.10. Examine the role of the Comptroller and Auditor General (CAG) in India as the custodian of public money in the country.

CHAPTER 7: PLANNING AND ECONOMIC DEVELOPMENT

7.1. What has been the rationale for the adoption of a planned economic development in India after Independence? Discuss.

7.2. 'Even before the country gained Independence, efforts have been mounted from various quarters to have planning as the backbone of the strategy of development in India.' In the light of the statement examine the perspectives of the leaders during national movement on the planning in the country.

7.3. Critically examine the statutory standing and structure of the Planning Commission in context of its role as the pivot of the economic development in the country.

7.4. Analyze the functions and role of the Planning Commission as the allocator of resources for economic development of the country.

7.5. 'From a highly centralized planning system, India has moves towards indicative planning under which long-term strategic vision of the future in built and nation's priorities are decided.' In the light of the statement, analyze planning in the era of liberalization.

7.6. Write a critical essay on the political dimensions of reforms in India.

7.7. Analyze the stresses and strains in the Centre-state relations with special reference to financial relations and planning.

7.8. 'The National Development Council, not the Planning Commission, is the appropriate instrument to ensure linkages between the district, the state and the regional levels of the national planning process.' Do you agree? Give reasons in support of your answer.

7.9. 'The National Development Council has virtually become a super-cabinet and tries to arrogate itself the functions of the Parliament.' In the light of statement, examine the functioning of the NDC over the years in the country.

7.10. 'Much, if not all, of the problems relating to the flaws in the economic development in the country can be attributed to the faulty process of planning.' Comment with suitable examples.

CHAPTER 8: STATUTORY INSTITUTIONS AND COMMISSIONS

8.1. Discuss the rationale and utility of having various statutory institutions and commissions in India.

8.2. Examine the structure and functions of the National Commission for Backward Classes.

8.3. 'The functioning of the National Commission for Backward Commissions over the years leaves much to be desired.' Comment.

8.4. What were the motivations for the setting up of the National Commission of Women? How far has the plight of women changed for the better in India with the constitution of the Commission? Elaborate.

8.5. Examine the structure and functions of the National Commission for Women as the nodal agency to alleviate the difficulties faced by women in the country.

8.6. 'The role played by the National Human Rights Commission (NHRC) in maintaining and preserving dignity of India's citizens has been satisfactory and up to the expectations.' Comment.

8.7. 'The NHRC has not been able to play its role effectively due to various hindrances.' In the light of the statement, examine the bottlenecks impacting adversely on the functioning of the NHRC.

8.8. 'The National Commission for Minorities is a commission with a major role.' Elucidate.

8.9. 'The constitution of the National Commission for Minorities has not brought about substantive improvements in the conditions of the minorities in the country due to obvious reasons.' Explain and illustrate.

8.10. Examine the inadequacies of machinery for planning to ensure democratic but depoliticized planning process in India. How does the National Development Council accentuate or inhibit this process? Elaborate.

CHAPTER 9: THE INDIAN PARTY SYSTEM

9.1. 'India has parties but no party system.' Comment.

9.2. 'The evolution of the Indian party system has been conditioned by the legacies of the pre-Independence days.' Elucidate.

9.3. 'The advent of the coalitional governments at the Centre and the states has thoroughly transformed the landscape of the Indian party system.' Examine.

9.4. Critically examine the impact and role of the pressure groups in the Indian political system.

9.5. Write a critical essay on elites in the Indian party system.
9.6. 'The Indian polity inherently lacks the propitious conditions for the evolution of a two party system in the country.' In the light of the statement explain the arguments against the rise of a two-party system in the country.
9.7. Give a synoptic view of rise and growth of Indian party system since Independence.
9.8. Critically examine the contemporary trends in Indian party system.
9.9. 'Ideologically, despite the existence of both Left-wing and Right-wing parties in the arena, the ruling combination in the Indian party system has always been centrist in substance.' Examine in the light of the statement, the ruling combinations that the country has experienced so far.
9.10. 'Indian party system has entered in such a polarized phase, where though the national contest would remain more or less confined between the National Democratic Alliance (NDA) and the United Progressive Alliance (UPA), the Left parties would retain their hold in selected pockets of the country.' In the light of the statement, outline the prospects of the party system in India.

CHAPTER 10: THE EVOLUTION OF INDIAN ADMINISTRATION

10.1. Discuss the genesis and evolution of the administrative system in the ancient India.
10.2. Highlight the significant aspects of the Mughal administration in India.
10.3. Narrate the early efforts of the various governor-generals to streamline the administrative system of the country.
10.4. Trace the evolution of the system of the Public Administration in India from 1858 to 1919, highlighting the major landmarks of this period of administrative history.
10.5. 'The main features of the British governmental and administrative system continue to influence the present administrative system in India.' Elucidate.
10.6. 'The Mughal Administrative System was a military rule by nature and was centralized despotism.' Comment.

10.7. 'After the Independence, despite the changes in the socio-economic and political milieu, the basic features of colonial impact on administration continue to exist in our administrative system.' Analyze and illustrate.

10.8. 'The period of British rule generated most of the structural and behavioural values of Indian administration not by imitation but through interaction.' Discuss.

10.9. 'In giving final shape to the Indian administrative system, the framers of the Constitution banked upon the Government of India Act 1935 more than on any other document.' Critically examine the statement.

10.10. What were the arguments of the national leaders to retain the much criticized All Indian Services even after Independence? Discuss.

CHAPTER 11: PANCHAYATI GOVERNANCE IN INDIA

11.1. Assess the basic motivations for the adoption of the Panchayati Raj system in the post-Independence era.

11.2. 'Before the Seventy-third Constitutional Amendment, the structures and functions of the Panchayati Raj institutions were modeled on the outline suggested by the two Mehtas.' Comment.

11.3. Discuss the structure and functions of the Panchayati Raj institutions in Indian in post-1993 era.

11.4. 'The real problem with the Panchayati Raj institutions is to promote efficiency in the implementation of the rural development programmes and to ensure social and economic justice to the poor in the countryside.' In the light of the statement, examine the past experience of the working of the Panchayati Raj institutions.

11.5. Bring out the political realities facing the functioning of the Panchayati Raj bodies in the various states of the country.

11.6. Discuss some of the state models of Panchayati Raj in uniform constitutional framework of Seventy-third Constitutional Amendment with special reference to panchayati polls, grassroot justice, local finances, and bureaucratic interactions.

11.7. Examine the provisions of the Seventy-third and Seventy-fourth Constitutional Amendments from the view point of autonomy of the local bodies.

11.8. Analyze the problems that have restricted the successes of Panchayati Raj system in India? How far has the Seventy-third Constitutional Amendment been successful in countering these problems?

11.9. Write a critical essay on the working of Panchayati Raj institutions in India.

11.10. Assess the prospects of the Panchayati Raj institutions becoming the main vehicle of the empowerment of the marginalized sections of society and bringing about positive transformations in the rural society.

CHAPTER 12: MAJOR ISSUES IN INDIAN POLITICS

12.1. In what respects caste is a modern phenomenon? Elaborate your response.

12.2. Critically assess the impact of caste on Indian politics.

12.3. Analyze the factors leading to the rise of communal politics in India.

12.4. '*Mandal* and *Mandir* are two sides of the same coin'. Do you agree? Give reasons for your answer.

12.5. '*Hindutva* and Hinduism are not identical'. Do you agree? Give reasons for your response.

12.6. What is silent revolution? Is silent revolution linked with deepening of democracy in India? Elaborate your response.

12.7. What is empowerment? Evaluate the importance of the Seventy-third Amendment Act in women empowerment in India.

12.8. What is economic liberalization? Assess critically the impact of economic liberalization on Indian politics.

12.9. Critically assess the role of regional parties in coalition politics in contemporary India.

12.10. What is secularism? Examine the important issues in the debate on secularism in India.

Index

About the Authors

Bidyut Chakrabarty is a Professor in the Department of Political Science, University of Delhi. Dr Chakrabarty has over 20 years of teaching experience in the field of Political Science in India and abroad. After completing his doctoral research at the London School of Economics, he began his academic career in India as a Reader in the Department of Political Science, Rabindra Bharati University, Kolkata. After a long stint abroad he became a Reader in the Department of Political Science, University of Delhi. He held visiting professorship in Europe, USA, and Australia during his long academic career. He also occupied the prestigious India Chair at the Asian-Africa Institute, Hamburg University, Hamburg, Germany.

He has a wide range of solo authored and co-authored publications in the field of Political Science. Some of his recent co-publications include: *Forging Power: Coalition Politics in India*, 2006; *Social and Political Thought of Mahatma Gandhi*, 2006; *Reinventing Public Administration: The Indian Experience*, 2007 and *Indian Politics and Society since Independence*, 2008. He has also published a biography of Mahatma Gandhi entitled *Gandhi: A Historical Biography* in 2007.

Rajendra Kumar Pandey is a Lecturer at the Hindu College, University of Delhi. He has also taught at the Delhi College of Arts and Commerce, University of Delhi. Dr Pandey has been teaching for over ten years in Delhi University. He is a specialist in micro-politics. His M. Phil was on the topic 'Governing the Indian Capital: A Study of the New Politico-Administrative Set-up of Delhi'. Under the supervision of Professor Bidyut Chakrabarty he completed a doctoral dissertation, 'Disaster Management in India: A Case Study of Flood Control in Delhi' in 2001. The thesis was highly acclaimed by experts.