

# Framework for Studying the Politics, Government and Constitution in India

## CHAPTER OBJECTIVES

How far is it true that politics is an undesirable field of activity, comprising false promises and misuse of power? From another point of view, is it a process of participation in public life, policy-making and redistribution of public resources for all citizens? Does politics cover only particular aspects of citizen's lives or does it encompass all of society? Should politics interfere in the economic, religious and cultural life of citizens or should it be subject to their demands? For that matter, is politics a 'class weapon' in the hands of those who have economic power, used to justify and maintain their dominance? Or is politics a means of resolving the conflicting interests of various groups in society? The answers to these queries would depend on the perspective from which we approach the notion of politics.

## CHAPTER MAP

- [Introduction](#)
- [Society, State and Government](#)
- [Approaches to Politics](#)
- [What Is a Constitution?](#)
- [Where Does Sovereignty Reside?](#)
- [What Do We Mean by Government?](#)
- [How Have the Constitution, Government and Politics Been Understood?](#)
- [Indian Political Culture](#)

## INTRODUCTION

We do not hesitate to use the word **politics** to describe the statements, behaviour and promises of colleagues, co-workers, neighbours and even close relatives and family members, when we observe that they are being selfish or calculated in their various relationships. As a result, we tend to disapprove of them or follow the same strategy, *by acting politically*. This common

notion of politics as an unwanted activity of tactics, false promises and misuse of power is also identified with the statements, behaviour and promises of those who are members of political parties, members of legislatures, ministers and anyone who holds a public office.<sup>1</sup>

But this common negative notion of 'politics' is not only misplaced, it is also fundamentally dangerous. It is misplaced because politics is more related to decision- and policy-making in the public arena rather than individual-level tactics, strategies and rivalries. It is dangerous because such a misplaced notion of politics creates an unnecessary distance between citizens and the political process.<sup>2</sup> At the very least, this distance can be a *careless and harmless non-involvement* in the political process, where one merely regards politics as immoral and undesirable. At a higher level, distance between the political process and citizens may get wider in the form of **political apathy**. This arises when a citizen not only does not participate in the political process, but also believes that his or her participation/non-participation in the political process does not make any difference. It is possible that the low voters' turnout that we witness in our elections is due to the citizens' political apathy. It is to beat this negative political orientation that political parties, public personalities and the Election Commission of India have appealed to citizens to exercise their power to vote. The intensity of negative political orientation may also result in **political alienation**, where one forms negative views of politics and political institutions to the extent that one feels that **constitutional** and institutional means are inadequate to redress one's grievances. In short, misplaced notions of politics create doubt and mistrust about the formal structures and institutions that have been created by the Constitution of India, doubts about the usefulness of the political process, elections and representative **democracy**, and thereby, about the constitution itself.

The word 'politics' has its origin in the Greek word *poleis* or *polis*. Poleis or polis means city-state.<sup>3</sup> The Greek city-state of Athens was a self-sufficient<sup>4</sup> organization, which provided not only the security of physical needs of citizens but also the fullest opportunity for individuals to realize their capacity.

Participation in the public affairs of the city-state was essential for all citizens. It was so essential that Aristotle could not conceive of man as anything other than a 'political animal', for whom life without participation in the public affairs of the polis was meaningless. Politics for the Greeks was 'the highest expression of human sociability and human virtue'. The Greeks would call a person '*idiotes*'<sup>5</sup> (from which the modern word *idiot* has been derived), if he were uninterested in the affairs of the *polis*. For an ancient Greek, the Polis was everything: there was nothing beyond it or above it, and politics was a man's destiny.<sup>6</sup>

In his book *The Republic*, Plato advocated the rule of a philosopher king, an enlightened and experienced individual. His observations were primarily the result of what he observed in the contemporary Greek society. Rival factions within a city-state would align with similar factions of other city-states, thereby making any one city-state politically unstable. He found that no city-state, not even the democratic Athens, could be an example of absolute stability and realization of human virtues.

While Plato favoured the rule of wise and enlightened philosophers as the solution for factionalism ('stasis') and instability, Aristotle advocated a political system that is based on reconciliation of conflicting interests. For Aristotle, reconciliation was possible only when a middle class ('middle' in the sense of not rich or poor) participated and ruled in the public interest and under the constraints of law. Aristotle calls this 'a polity'. In this way, neither a few economically powerful rich nor a large number of economically deprived poor would be able to use power to further only their respective interests. For Aristotle, the former amounts to oligarchy and the latter democracy, and both are forms of perverted constitutions. Thus, polity appeared to be the best practical form of rule based, on the participation of the economic-based middle-class majority. Such a rule would be balanced and stable, as it would avoid extremes of economic class difference. This fundamental proposition by Aristotle treats politics as a *process that aims at the resolution of conflicts arising out of the different interests of various groups in society*.

## **SOCIETY, STATE AND GOVERNMENT**

A study of politics and the constitution must start with a definition of **society** and the **State**. This is because society is considered to be the primary basis of human association, and all of us are in some form of social relationship. Some relations are through kinship. Others are created and recognized by communities, castes and laws of a country. If we are to believe that human beings are instinctively social, i.e., they tend to live in communities and have connections with other people,<sup>2</sup> then it would mean that society is the product of the primary and natural association of human beings. As such, the term 'society' encompasses all aspects of the familial, religious and cultural, economic and political realms.

### How Is Society Different from the State?

A society needs to be able to maintain social order, and to regulate the **rights** and obligations of its members. These requirements lead to the formation and structure of the State. The nature of the State's relationship with the society is characterized by the following facts:

1. The State is a product of society, while society has existed prior to the State.
2. The State usually encompasses a smaller realm of individual life than society, as it is usually allowed but minimum interference.
3. The State is primarily a political and legal entity as opposed to a society, which is also a product of emotional, psychological, religious, cultural and other factors.
4. As per the social contract theory, the State emerges from society as a repository of the power to regulate the various activities of individuals and groups and protect their interest. As such, the state becomes a powerful organ of society, wielding exclusive power to regulate individuals and groups.

The laws of the State have primacy over all other rules and regulations in society, and maintain social order through the use or threat of force and/or punishment. While a society consolidates its power in the form of the State, the terms and conditions of the

exercise of power are regulated through a formal document called a **constitution**. A constitution defines the scope and limits of power, and the rights and obligations of the individuals, associations, and the **government**. 'Government' is the collective term for the organs for legislation, execution and adjudication that draw their power from the sovereign authority. It is through these organs that the State's power is exercised in day-to-day life.

## **APPROACHES TO POLITICS**

### The Liberal Approach

In modern times, Aristotle's view of politics as a process of reconciliation of various interests and resolution of conflicts is championed by a school of supporters known as the *liberal school*. According to the liberal approach, the State is the supreme power instituted by the State as the representative of the collective power of the entire society in order to regulate social order and adjust the interests and relationships of different individuals and associations in society. When we accept the elder male or female in our family as the head of the family, we expect that he or she will decide on all vital matters concerning family members. In turn, we also expect that the elder will be impartial and fair in dealing with all family members, in the same way that you would expect your class representative or a students' union president to be. The State, as a representative of society, plays or should play the same role. If the State has to be acceptable as the general power of all its members, it needs to represent the reconciled interest of all its members. This reconciliation is possible only when it allows all the different interests and groups in society to express their views, by debating issues and conflicts in society, and arriving at a consensus. This is what the *liberal approach* assigns to politics.

The various shades of the liberal school view society either as an ensemble of various **interest groups**, representing religious, cultural, economic, ethnic and professional interests, or as self-interested individuals. It believes that the interests of these

groups and individuals, though various and sometimes conflicting, are reconcilable. Politics is viewed as a process to reconcile these conflicting interests by allowing these groups to express their interests, put pressure on political parties and institutions of government, and influence public policy-making. However, unlike the Greek view of politics, which encompassed all of social life, the modern view of politics holds that it should reconcile differing interests with as little interference as possible in the individual and social life of the people.

There are various sources of political conflicts in society, such as economic disagreements between the rich and poor, employers and employees, workers and industrialists, land owners and landless wage-earners; and cultural and social differences between religious, ethnic, linguistic and caste groups. If no common opinion is built on any issue, no public policy is possible. Politics is considered to be a means to achieve the objective of conflict resolution. Society is composed of citizens with defined rights and obligations. However, they are also members of diverse groups representing different cultural, religious, economic and social interests. Politics as a process involves public discussion and debate on issues raised by different pressure and interest groups, political parties and associations; as well as the reconciliation of different interests, resolution of their conflicts and the building of consensus to formulate public policy.

How do we decide which rights should be given priority? Which are the policies that should be followed by the government? Why should certain cultural, social and religious rights be recognized when we are all equal citizens? Why should there be **positive discrimination** for certain groups and classes of citizens? Why should certain groups of citizens be taxed on their income while certain others are exempted? Should India be a religious State or a secular State? Should money be spent on defence preparedness or food security and welfare schemes? Should the government interfere in the cultural and religious affairs of minority groups? Should smoking and alcohol consumption be banned in the interest of public health or should they be treated as part of a lifestyle? Should an entertainment channel be treated as inimical to public morality or should it be allowed freedom of expression?

These are issues that cannot be answered readily by constitutional provisions alone. They require public debate, discussion, opinion building, negotiations, bargaining, contestations, resolution of conflict and reconciliation before they can be translated into policies and laws.

Politics is a process through which various political parties and social groups communicate with members of society, campaign amongst them, impart different political views, and train them politically (this is called **political socialization**). Through pressure and interest groups, different and differing interests are raised and debated in the public arena (this is known as **political articulation**), and conflicting opinions and views are either reconciled or championed by political parties as prospective policy issues (this is known as **political aggregation**). In short, politics is a process of political communication, political socialization, **interest articulation, interest aggregation**, conflict resolution and policy formulation. Individual rights require adjustment against each other and against obligations to authority. The rights of one group require adjustment with those of another.

Why are debates, discussions and reconciliation required? First, they ensure that any policy which affects the social, cultural and religious life of people would not be arbitrary, or imposing the view of the majority alone, and second, if a policy involves allocations or redistribution of public resources<sup>8</sup> by the government, redistribution must be legitimate and generally acceptable. As such, they require reconciliation of the varied interests represented by different groups, otherwise government policies and decisions tend to be regarded as biased towards certain groups or communities or castes. Policy-making, resource allocation and redistribution of public resources require the reconciliation of various interests in society.

Further, a democratically instituted election process also involves reconciliation of political conflict and its resolution. Based on their past performances and their manifestos for the future, political parties seek a mandate from voters. According to the principle of the majority, the winning party forms the

government.<sup>9</sup> The grand political conflict of occupying the seat of power is thus resolved in a (relatively) peaceful manner.

In a democracy, the resolution of political conflict is largely influenced by the way social groups are mobilized, how they participate in the political arena, and how they get their interests represented in policy-making. For example, when citizens seek to elect their representatives with a particular political view or orientation, they are trying to influence policy-making through these representatives. The nature of the political process will depend on the way citizens vote, whether for policy-related issues, economic factors, caste loyalty or religious affiliations. A political process will be considered parochial or communal when religion, caste or other such considerations are given primacy. A greater emphasis on economic and policy-related issues would tend to make the political process more broad-based and acceptable. On the other hand, emphasis on parochial and traditional idioms (caste, religion, etc.) necessarily means dominance of such majorities alone in politics, to the exclusion of the minorities. *Politics as a process allows a space for raising and ventilating conflicting interests, permits discussions and debates for consensus-building, allows political parties to filter issues and demands, and reconciles conflicting interests for policy-making.*

## The Marxian Approach

In the preceding paragraphs, we have described 'politics' in terms of the liberal framework. The Marxian framework would necessarily disagree with this view. The Marxian approach does not view the State as a 'neutral arbiter', but as the instrument of the dominant class, or the class that possesses the greatest amount of economic power, and wants to maintain order in society so that the inequality in the economic relationship is maintained. According to the Marxian framework, all forms of conflict in society are due to economic differences. Economic conflict, and by extension, other forms of conflicts in society, can be resolved only through revolutionary change in the way economic relations are organized. The Marxian framework views 'politics' as only the means by which those who have economic

power maintain their dominance, ensuring stability and order only so that they do not lose their economic dominance. *Politics is a means of domination and perpetuation of the exploitative capitalist system.*

Ralph Miliband compares the liberal and Marxist<sup>10</sup> views of politics in his book *Marxism and Politics*. He suggests that in the liberal view of politics, 'conflict exists in terms of problems that need to be solved'. As such, the problem is not so deep that it cannot be resolved, if there is 'readiness to compromise and agree'. Thus, politics becomes a 'constant process of bargaining and accommodation'. On the other hand, the Marxian approach to conflict does not view it as a 'problem' to be 'solved', but as 'a state of domination and subjection to be ended by total transformation of the conditions which give rise to it'.<sup>11</sup> As such, instead of politics, revolutionary change is advocated.

## Introduction

One of the most ancient spheres of intellectual enquiry, politics was originally seen as an arm of philosophy, history and law. Its central purpose was to uncover the principles upon which human society should be based. From the late nineteenth century onwards, however, this philosophical emphasis was gradually displaced by an attempt to turn politics into a scientific discipline. The high point of this development was reached in the 1950s and 1960s, with an open rejection of the earlier tradition as meaningless metaphysics. Since then, however, enthusiasm for a strict science of politics has waned, and there has been a renewed recognition of the enduring importance of political values and normative theories.<sup>1</sup>

## Approaches to Politics

### Historical Approach

Before the advent of the 20th century, the study of politics was largely dominated by history, ethics, philosophy and law. A great number of political thinkers, from Plato to Edmund Burke, have

used the premises of history, philosophy and law to lay down principles of political theory. In the field of comparative politics as well, the historical approach exerted influence during the late 18th century and the 20th century. In the study of political institutions, in this phase, 'interest came to be centred primarily among first principles, upon the coming of history, upon the construction of audacious developmental theories, unilinear in form, based on single determining principles'. Best examples of such an approach would be found in the works of Hegel, with his belief in the unfolding of Reason and Freedom and in those of Marx, with his belief in the unfolding of freedom through class conflict.<sup>2</sup>

Although historicism has since long been discredited, the field of Comparative Politics owes a great deal to this phase in Western social thought. Many of its concepts such as 'class' are still used fruitfully. However, on the flip side, 'their broad-scale theorizing was mainly a matter of abstract and formal speculation upon the broadest conceivable questions. For the canons of accurate observation, they had a monumental disregard. Their data, almost in every case, were invoked merely to illustrate, not to test their theories, so that one searches in vain in their works for a methodologically valid bridge between theory and data.'<sup>3</sup>

## Philosophical Tradition

The origins of political analysis date back to Ancient Greece, and a tradition usually referred to as political philosophy. This involved a preoccupation with essentially ethical, prescriptive or normative questions, reflecting a concern with what 'should', 'ought to' or 'must' be brought about, rather than what 'is.' Plato and Aristotle are usually identified as the founding fathers of this tradition which involves the analytical study of ideas, and doctrines that have been central to political thought, as expressed or codified in a collection of 'major thinkers' or in 'classic' texts. This approach has the character of literary analysis- it is primarily interested in examining what major thinkers said, how they developed or justified their views, and the intellectual context within which they worked. Although such analysis may be carried out critically, and scrupulously, it cannot be objective in any scientific sense, as it

deals with normative questions such as 'why should I obey the state? or 'how should rewards be distributed?'<sup>4</sup>

## Legal-institutional Approach

The state-centred approach is at once the most traditional and the most fashionable approach to comparative politics. In the early part of the twentieth century, scholars focused their attention on the formal institutions of government.-legislature, executive and judiciary- and the constitutions which governed the relationships between these institutions. The style of these early studies was extremely descriptive. Constitutions and formal organizations of government were examined in legal and historical terms, reflecting the origins of political science in these two disciplines. Informal relationships between political actors went unstudied. Little attention was given to less 'official' organizations' such as pressure groups or the mass media. The wider social context within which government operates was ignored. The approach was also strongly culture bound, confined largely to the study of governments in the United States and Europe. Finally, the style was very uncritical. 'Perhaps, Webbs' study of Soviet government in the 1930s represented the 'summit' of this approach. This described the formal organization of the Soviet state in minute detail, in the apparent conviction that everything worked as Stalin's propagandists alleged.'<sup>5</sup>

After 1945, the state-centred or institutional approach became unfashionable. The focus shifted from the state to society. In the 1980s, however, attention returned to the state. 'Bringing the state back in' became a rallying-cry in comparative politics (Evans et al.1985).

Partly, this reflected a belated recognition that the baby had been thrown out with the bathwater. After all, the state is the single central concern of political science. Furthermore, the spread of constitutional governments to parts of the second and third world in the 1980s and 1990s meant that constitutions and institutions had become a better guide to the realities of power. However, despite the renewal of interest in the state, today's focus is not so much on institutional detail but on the state as an

active agent, shaping and reshaping society. The state is seen as using its administrative capacity, and monopoly of legitimate force to bring about important changes in society. For example, Skocpol showed how successful revolutionaries such as the Russian Bolsheviks, and Iranian Mullahs used their control of the state to produce total transformations of society. Even in the Western world, the large-scale role of the state has enabled it to lead social and economic change. The state has facilitated industrialization, led the development of mass education and helped in creating modern welfare states.<sup>6</sup>

## Systems Approach

The demand for a science of politics peaked in the 1950s and 1960s with the emergence of a form of political analysis heavily influenced by behaviouralism. As the name indicates, behaviouralism studies only the observable and measurable behavior of human beings. This led political analysts such as David Easton to believe that political science could adopt the methodology of the natural sciences. Consequently, there was a proliferation of studies in area like voting behaviour where systematic and quantifiable data were readily available.

Symptomatic of this effort to make study of politics value-free was the switch in the 1960s and 1970s of the focus of comparative politics to examining politics in its social context. The Second World War had stimulated new developments in social science techniques (e.g. attitude surveys) which younger scholars were keen to apply to politics. So, attention shifted away from government institutions to the political system. The political system refers to all the factors which influence collective decisions, even if those factors are not formally parts of the government. Thus, parties, voters and social movements all form part of the system of politics, even though they are rarely mentioned in constitutions and other formal documents. The systematic approach to politics was pioneered by David Easton. According to Easton (1957, 1965a, 1965b), the political system consists of all those institutions and processes which are involved in the 'authoritative allocation of values' for society. The political system stakes inputs from society. These consist of (a) demands

for particular policies and (b) expressions of support. Supports include compliance with laws and payment of taxes and diffuse support for the regime. The political system converts these inputs into outputs—authoritative policies and decisions. These outputs then feed back to society so as to affect the next cycle of inputs. However, inputs are regulated by gatekeepers such as parties and interest groups, which bias the system in favour of certain demands and against others.

Easton's model helped to move political science away from an exclusive concern with government institutions. However, he achieved this by reducing the state to nothing more than a 'black box' in an abstract diagram. Critics also alleged that Easton's model was too static, paying little attention to how political systems change.<sup>7</sup>

## Structural-functional Approach

The structural-functional approach to comparative politics provided another important justification for the switch in emphasis from government to political system. This approach raised the question, 'even if political systems vary greatly in their institutional arrangements, are there certain functions which any political system must perform if it is to survive and operate effectively'. Almond and Powell (1978, 1988) provided the most important analysis of the functions of political systems. The first three functions—recruitment, socialization and communication—concern the maintenance of the system, while the last four—interest articulation, interest aggregation, policy-making and policy-implementation—relate to the process by which collective decisions are made and implemented. Functionalists argued that a check-list of this kind provided an objective, standardized and culture-free approach to comparative politics. For instance, political recruitment is an essential function in all political systems; however, it is performed by different institutions in different countries. In the first world, elections are a major recruiting agent. In communist states, the ruling party was the key vehicle in recruitment. Once the party had approved a nomination for office, election became a mere formality. In some

third world states, personal connections are more significant in recruitment.<sup>8</sup>

## Rational Choice Theory

Among recent theoretical approaches to politics are formal political theory, variously known as 'political economy,' 'public-choice theory' and 'rational choice theory.' This approach draws heavily upon the example of economic theory in building up models based upon procedural rules, usually about the rationally self-interested behaviour of the individuals involved. It provides at least a useful analytical device which may provide insights into the actions of voters, lobbyists, bureaucrats and politicians as well as into the behaviour of states within the international system. Such techniques have been used by writers such as Anthony Downs, Mancur Olson and William Niskanen, in fields such as party competition and interest group behaviour and the policy influence of bureaucrats.

By no means, however, has the rational-choice approach to political analysis been universally accepted.<sup>9</sup> While its supporters claim that it introduces greater rigour into the discussion of political phenomena, critics have questioned its basic assumptions. It may, for instance overestimate human rationality in that it ignores the fact that people seldom possess a clear set of preferred goals, and rarely make decisions in the light of full and accurate knowledge.<sup>10</sup>

Thus the variety of approaches that have come to be adopted for the study of politics as an academic discipline has made political analysis richer and more diverse. To the established normative, institutional and behavioural approaches have been added not only rational-choice theory, but also, more recently, feminism (a struggle for the recognition of the rights of women, for equality between the sexes and for redefinitions of womanhood) and critical theory (refers to the work of the Frankfurt School established in 1923 that was repelled by Stalinism and criticized the deterministic and scientific tendencies in orthodox Marxism, and disillusioned by the failure of Marx's predictions about the inevitable collapse of capitalism.)<sup>11</sup>

## Nature of the Indian State

An interesting historical poser that has engaged the curiosity of political scientists is how much of the structure of the Indian state after independence was inherited from late colonial times? Partha Chatterjee in his article 'The State,' in Niraja Gopal Jayal and Pratap Bhanu Mehta's edited book *The Oxford Companion to Politics in India*, writes that while it is true that the partition of the country into India and Pakistan and the integration of the princely states within India meant a significant reconfiguration of the territorial boundaries drawn in the period of British India, that did not significantly alter the colonial administrative apparatus. The inauguration of the constitutional republic in 1950 did introduce some radically new features into the state structure. First, there was a sovereign legislature elected by direct universal suffrage without communal representation, but with reservations for SCs and STs. Second, there was a constitutionally guaranteed set of fundamental rights of all citizens. The Constitution provided for a parliamentary system of government of the British type with an executive responsible to Parliament, but with an indirectly elected head of state. It also provided for an independent judiciary with certain powers pertaining to the judicial review of laws made by Parliament. The constitution was also federal, with state governments responsible to directly elected state legislatures, but with a distribution of powers between the Union and the states that was heavily inclined towards the Union.<sup>12</sup>

However, writes Chatterjee, '...other than these institutional changes, the basic apparatus of governmental administration in independent India was inherited from the colonial period, despite the huge increase in size. The Indian members of the Indian Civil Service (ICS), the much acclaimed steel frame of the British Raj, were retained after independence, but a new Indian Administrative service (IAS), modelled on the ICS, was constituted as its successor. The basic structure and administration of civil and criminal law was also inherited from the colonial period.'

The major difference was of course the creation of a Supreme Court and its position within the new constitutional system. However, the working of the high courts and district courts

maintained an unbroken history from colonial times, continuing the same practices of legal tradition and precedence. The Indian armed forces too maintained a continuing history from the colonial period. The British tradition of a professional army strictly under the control of the political leadership was successfully maintained in the period after independence and unlike most other countries, there was not even a joint command of the army, navy and air forces except in the office of the political head of government.<sup>13</sup>

## Liberal Interpretation of the Indian State

The basic principle of modern liberalism is the view that politics is artificial. Government is necessary, but not natural as liberty is the natural human condition. The legitimate ends of government are limited to securing the conditions of all ways of life, and therefore consist largely of the secular goals of peace and prosperity. Hence the modern liberal state is a constitutional one, characterized by the rule of law and toleration for diversity. Both Liberal and Marxist scholars have analysed the nature of the Indian state, from their respective ideological vantage points. The liberal account of the Indian state will be taken up first, followed by the Marxist understanding.

Conspicuous by its absence is the category of 'state' in the early liberal discourse on Indian politics. 'Government' was rather the preferred category. This may have been in keeping with the traditions of Political science followed in Anglo American countries that focused on the study of government. Contrariwise, Continental European traditions of law and politics, however prefer the term 'state', to 'government'.

However, the late 1970s have seen a conceptual/paradigm shift in Anglo-American Political Science favouring the state. This had a resonance in the recent literature on the liberal perspectives of the Indian state, with an elaborate treatment of the state, and its structure is seen in the works of Rajni Kothari, Llyod and Susanne Rudolph and M.P. Singh.<sup>14</sup>

## Liberal Institutional

Atul Kohli's chief concern is to explain the paradox of the growth of centralization and simultaneous powerlessness at the centre. He writes, 'Political turmoil not only threatens the prospect for establishing legitimate and coherent authority, but also undermines the government's ability to facilitate socio-economic development.'<sup>15</sup>

Kohli defines the crisis of governability in India as '1. the absence of enduring coalitions, 2. policy ineffectiveness and 3. an incapacity to accommodate political conflict without violence.' He adds, 'A government whose power rests on fluctuating coalitions and whose leaders repeatedly fail to fulfill their stated goals and to control politically directed violence will be deemed to be a government with low capacity to govern.' He refers to the growing disjuncture between centralization and development in the post Nehru era. Centralization might temporarily aggrandize the personal powers of leaders but seriously erodes the legitimacy of the state and its development power.

In his work, '*Rethinking Democracy*,' Rajni Kothari also rues the decline of the Indian State, which 'far from being useful to the masses, has led to their further exclusion in a period of economic stagnation and political instability.' 'With this erosion in the role of the state,' writes Kothari, 'not only the poor but even middle class professional, economic and political strata seem unable to wield authority in a meaningful way. At best, they are pawns in the hands of forces beyond their control.... The decline of the state has led to a sharp decline in the rule of law, a parallel decline in the authority of the elected governing elite and a gradual erosion even in the power of hitherto dominant individuals and social groups such as the upper castes. Alongside, we are witnessing the rise of new fundamentalisms of religious sects and with that the growth in power of organizations like the RSS, VHP and the Jamaate-Islami. The basic result has been growing communalism within secular politics and, as a direct consequence of that, a decline in the politics of socio-economic transformation. These factors have caused changes in the character of the state, making it less democratic, less secular, less institutionalized and based less on concern for the people.'<sup>16</sup>

## 3

# Indian Constitution: Provisions and Institutional Functioning

## Philosophy of the Constitution

A Constitution is a body of fundamental rules which determines how a nation would be governed. These rules provide the framework to which ordinary laws of the country must conform to. The absence of a Constitution will leave governance to the whims of the rulers. The Constitution of India is the lengthiest written Constitution in the world. It was adopted by the constituent assembly on 26 November 1949; and it came into force on 26 January 1950.

The basic philosophy of the Constitution, its moving spirit, is to be found in the Preamble. The Preamble is the basic structure of the Constitution. The Preamble says that people are the ultimate authority, and the Constitution emerges from them. In fact the Preamble contains with the declaration that 'to secure to all citizens justice, expression, belief, faith and worship-equality of status and of opportunity'. The Preamble emphasizes the unity of the nation, and it proceeds further to define the objectives of the Indian Republic. It is the soul of the Constitution, and as such is the precious part of the Constitution.

The Constitution of India clearly defines the responsibilities of Indian citizen, their fundamental rights and duties. Part II of the Indian Constitution covers the clauses on citizenship. Fundamental rights which are covered in Part III of the

Constitution are basic rights guaranteed to the individual. Articles 14 to 32 deal with six classes of fundamental rights as follows: a) right to equality; b) right to freedom; c) right against exploitation; d) right to freedom of religion; e) cultural and educational rights; f) right to constitutional remedies.

Education became a fundamental right of every child in the age of 6 and 14 years through the 86<sup>th</sup> amendment by inserting a clause in the Constitution in 2002. Parliament passed the enabling law. The right of children to Free and Compulsory Education Act has come into effect from 1st April 2010. The act makes it a right of every child to get education; and it is obligatory for the appropriate governments to ensure that every child gets free elementary education.

The fundamental rights conferred by the Constitution of India are enforceable through writs under Article 32. They are protected against unnecessary interventions of the Executive as well as the Legislature, and also any individual. The writs as means of constitutional remedies are available to the individual as a legal personality, and the Judiciary may enforce these against arbitrary and unconstitutional actions of private individuals, sections of society, and the State. The importance of Article 32 with respect to the enforcement of the fundamental rights led Dr Ambedkar to consider it as the 'most important' of the Articles of the Constitution. He called it, 'the very soul of the Constitution and the very heart of it'.<sup>1</sup>

Certain changes have been affected in the nature of liberal rights. The first Constitution Amendment Act, 1951, inserted Article 31(A), which gave enormous power to the State with respect to the acquisition of estates or taking over of management of any property or corporation in public interest. It sought to exclude such acquisitions or taking over from the purview of judicial review under Articles 14 and 19. Article 31(B), which was also inserted by the first Constitutional Amendment Act, 1951, provided that the Acts and Regulations specified in the Ninth Schedule of the Constitution have been saved against the challenge on the ground of inconsistency with the Fundamental Rights. Article 31(C), which was inserted by the 25<sup>th</sup> Constitutional

Amendment Act, 1971, and as amended by the 76<sup>th</sup> Constitutional Amendment Act, 1976, provides that any law giving effect to any of the Directive Principles would not be challenged on the basis of being inconsistent with Articles 14 and 19. Though the Supreme Court has held that judicial review, as a basic structure, cannot be taken away, Articles 31(A), 31(B) and 31(C) saved land reform legislations and curtailed individual liberty to secure the implementation of the Directive Principles, land reforms and the socialist goal. They gave power to the State to limit the power of the individual for balancing with social goals.

Part IV provides Directive Principles of State Policy, a set of guidelines for the Central or State Government. Articles 36 to 51 deal with the Directive Principles of State Policy. DPSP laid down by the constitution puts forth that the state shall strive to promote the welfare of the people by promoting a social order in which social, economic and political justice is informed in all institutions of life. The state shall provide free legal aid in order to ensure equal opportunities for securing justice. The state shall endeavour to provide the right to work, to education, and to public assistance in cases of unemployment, old age, sickness and disablement, within the limits of economic capacity. According to the principles the state aims for securing right to an adequate means of livelihood for all citizens to men and women and offer equal pay for equal work for both men and women.

Although the Directive Principles are asserted to be fundamental in the governance of the country, they are not legally enforceable. However, the Constitution assigns priority to fundamental rights, given their enforceable nature. In case of any conflict between the rights given in part III and those in part IV, the former prevails. In the State of Madras v. Champakam (1951), the Supreme Court also upheld this position. Judicial intervention and judicial review provide the guarantee of privacy of the Rights over the Directives.

The fundamental rights are mostly provided in defence of the individual against the State. They are negative prescriptions barring the State from restricting individuals in their rights to perform some activity. The directive principles on the other hand, are in the nature of encouragement to the State to achieve

certain humanitarian, social, liberal-constitutional, and Gandhian goals. The fundamental rights constitute limitations on the State but the directives are appeals from the constitution to the State to take initiatives to achieve certain goals.

Though these Directives are not enforceable by courts, and if the government of the day fails to carry out these objects, no court can make the government ensure them, yet these principles have been declared to be 'fundamental in the governance of the country, and it shall be the duty of the state to apply these principles in making laws' (Art.37).

The sanction behind them is, in fact, political. As Dr Ambedkar observed in the constituent assembly, 'if any government ignores them they will certainly have to answer for them before the electorate at the election time'.<sup>2</sup> Article 355 says 'it shall be the duty of the Union... to ensure that the governance of every state is carried on in accordance with the provisions of this Constitution.' If so, it should be the duty of the Union to see that every state takes steps for implementing the Directives, as far as possible. In case of refusal to comply with such directions issued by the Union, it may apply Art.365 against such recalcitrant state.

Part IV A, Article 51, Fundamental Duties, was inserted by the 42nd Constitution Amendment Act, 1976. This enjoins upon each citizen to bear certain responsibilities. The duties of citizens have been duly provided to enhance and promote the Rights and Directives. The Fundamental Duties are consistent with the expectations in part III, part IV and the values in the Preamble.

The Preamble, the Fundamental Rights and the Directive Principles read together make it clear that the Constitution aimed at creating conditions for the building of an egalitarian society in which individual freedoms were secure. It did not visualize abandonment of one ideal for the preservation of the other principle. At the same time, the relationship between individual liberty and social change was rightly envisaged as dynamic.

There is a broad separation of power under the Constitution, and each organ of the state—the legislature, the executive and the

judiciary must have respect for the others, and must not encroach into each other's domain. The principle behind the separation of powers is that all powers of Government should not rest in one hand, as this will lead to arbitrary or authoritarian rule, and hence the curtailment of an individual's liberty.<sup>3</sup>

Another attempt at reconciliation of seemingly contradictory principles of Govt. made by the Constitution of India is the combination of Westminster tradition of Parliamentary Govt. with the federal principle, first invented in modern times by the United States Constitution. The combination of parliamentary system with federal system in the Indian Constitution entails the resultant division of powers between the Union Parliament and State Legislature.

## Structure of Government at Union Level

In the Indian parliamentary system, the office of the President is like a 'pivot' that joins the two wheels, namely the Legislature and the Executive. The office of the President is a constitutional conjunction where the legislature and the executive organs meet. At the Head of the Union Executive stands the President of India. Article 53 proclaims that the executive power is vested in the President, and shall be exercised by him either directly or through officers-subordinate to him in accordance with the Constitution. Article 74(1) provides that there shall be a Council of Ministers with the Prime Minister at the head to aid and advice the President, who shall, in the exercise of his functions, act in accordance with such advice. The President, thus, cannot ever rule the country unaided by council of ministers. As Jawaharlal Nehru pointed out in the Constituent 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'.<sup>4</sup> Moreover, the subtle motive of the framers, as understood by Austin, in opting for the parliamentary executive, was to provide 'strength with democracy'<sup>5</sup> 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,'<sup>6</sup> though, at the same time, it ensures that the people get the chance to elect their representatives to form the House of the People (Lok Sabha), from which the body of the Council of Ministers, including the Prime Minister is drawn, primarily.

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 or a seal by which the nation's decisions are made known'.<sup>7</sup>

However, a few Presidents, beginning with Dr Rajendra Prasad, the first President 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'<sup>8</sup>, sought to attribute vastly greater powers to the office of President than ordained by the Constitution by establishing the firm precedent that within the Executive the cabinet is all powerful,<sup>9</sup> as both A. K. Ayyar and the first Attorney General of India, M. C. Setalvad reasoned out against the contention of Prasad.

The Constitution vests large powers in the President, but requires them to exercise these powers according to the aid and advice of the Council of Ministers. The Office of the President carries nominal powers; the Prime Minister, with the Council of Ministers, exercises real power. In other words, the Indian President reigns, but does not rule. Paul R. Brass suggests wisely, the President can function effectively only if he has the confidence of the Prime Minister and not vice-versa<sup>10</sup> as 'the President is by convention reduced to a mere figurehead while the Ministry is the real executive'.<sup>11</sup>

The first Union Cabinet was virtually a diarchy between Prime Minister Nehru and Deputy Prime Minister and Home Minister, Vallabhbhai Patel. The two stalwarts exchanged notes on their

divergent views about the role of the Prime Minister and the cabinet system through Gandhi. Gandhi's assassination reunited Nehru and Patel. Their reconciliation not only saved Congress and India's Central Government from collapse, but it also kept Nehru in power. Without Sardar's strength and support Nehru might have broken down or would have been forced out of the high office. Vallabhbhai ran India's administration for the next two years while Nehru indulged mostly in foreign affairs and high Himalayan adventures.<sup>12</sup> After Patel's death in December, 1950, Nehru exercised unchallenged power in the cabinet.

The controversy between first President, Dr Prasad and first Prime Minister, Pandit Nehru highlighted significant Constitutional and Political aspects of executive relationship. Since the Constitution was not categorical in making the advice of the Council of Ministers with the Prime Minister as the head binding on the President, their relationship brought forward the need for setting a tradition of supremacy of the Political Executive in the Parliamentary system. It underlined the limit of the President's power. The controversy also initiated the tradition of tolerating disapproval by the President of the Governments policies and proposals, if the disapproval was not intended to be a political challenge to the Prime Minister. It also demonstrated that the President even though a nominee of the political party in government is not an assurance of their continued acquiescence to the government's proposals. Even though the two had uneasy relationship still there was co-operation between the two and by and large, Dr Prasad followed the advice of Nehru and his Council of Ministers.

The next President, Dr S. Radhakrishnan, went by the spirit of the provisions of the Constitution. His handling of the succession issue after the death of Nehru in 1964, and again after the death of Shastri in 1966, showed his adherence to the Constitutional practices and norms. The senior most member of the Council of Ministers, Lal Bahadur Shastri and Gulzari Lal Nanda respectively, were called upon by the President to assume the role of Prime Minister. However, Dr Radhakrishnan continued the tradition set by the President Prasad of publicly criticizing the government. In the 18<sup>th</sup> Republic Day speech, Dr Radhakrishnan is said to have

expressed his concern on the charges of corruption frequently made against all levels of government, Central and State. He desired immediate disposal of these charges, with disposal of all allegations and admission and rectification of those that had some basis. He felt that such admissions would enhance the prestige of the government. Both Dr Prasad and Dr Radhakrishnan despite having been elected as nominated candidates of the Congress Party were not seen as partisan.<sup>13</sup>

During the tenure of Indira Gandhi, things changed and the Presidents were accused of being less independent and of playing a partisan role. After Dr Radhakrishnan, Dr Zakir Hussain was elected as the President. He held the office from May 1967 to May 1969. During his tenure, there was little controversy between the President and the Prime Minister. However, this period became important for non-congress governments, in seven states, where non-congress Samyukta Vidhayak Dal (SVD) governments were formed. The political climate at the Center and the State was becoming uncertain and, on 13th November 1969, the Congress Parliamentary party split into two: Congress (Organization) or Congress (O), and Indira Congress or Congress (I).

Fresh questions cropped up during the presidencies of Zail Singh and his successor R Venkataraman. Zail Singh complained of denial of power and opportunities to be briefed by Prime Minister Rajiv Gandhi in person as well as to be provided with the Thakkar Commission Report on Indira Gandhi's assassination that he requisitioned. Singh contended that he was entitled to these courtesies/rights under Article 78 which enjoins upon the Prime Minister to keep the President informed about the affairs of the state.<sup>14</sup>

Later, when the Bofors Arms deal scandal involving the Rajiv Gandhi govt. surfaced, Singh and his successor Venkataraman were consecutively approached to dismiss or sanction prosecution against the PM on corruption charges.<sup>15</sup> Neither actually took this drastic step which to our mind was correct. For going by strictly legal and constitutional norms, the President should in such cases neither short-circuit judicial procedure nor circumvent a parliamentary majority. However, writing about his dealing with

this question, Venkataraman in his memoirs records that the Attorney General veered to the position, but the Supreme Court's ruling in Kurunanidhi's case would suggest that the Chief Minister (and therefore a Prime Minister) might be deemed to be a public servant under the Anti-Corruption Act, 1986, and the Governor (and therefore a Prime Minister) for proven charges of corruption.<sup>16</sup> Besides, he also argued that in term of the R. S. Naik case, the President or the Governor should decide independently of the Council of Ministers in sanctioning such prosecution. However, both the President and the Attorney General thought that both 'these positions could be assailed in appropriate proceedings'.<sup>17</sup>

The period of unstable and coalition government continued until 1999. The President K. R. Narayanan had to deal with the unstable United Front government of Prime Minister I. K. Gujral (April 1997 to November 1997) and the post-election government formation in March 1998. After the withdrawal of Congress support from I. K. Gujral's government in November 1997, the President acted on the advice of the I. K. Gujral's Council of Ministers, which had resigned, and dissolved the House. Fresh elections took place in March 1998. The BJP emerged as the main claimant, with 179 seats and the support of 73 members. However, the President asked A.B. Vajpayee, 'let me know whether you are able and willing to form a stable government which can secure the confidence of the house.' The President also asked Vajpayee to submit documents in support of his claims.<sup>18</sup> The President Narayanan's approach of seeking documentary evidence of majority support was a clear departure from the earlier practice of inviting the single largest party.

The President Narayanan is also known for his bold action of requesting reconsideration of the recommendation of the Council of Ministers, under the United Front government of I. K. Gujral for dismissing Kalyan Singh's government in Uttar Pradesh and imposing the President's Rule there in October 1997. Later, in 1998, the President Narayanan once again requested reconsideration of the recommendation of the National Democratic Alliance government to dismiss the Rabri Devi government in Bihar and impose the President's Rule on the

grounds of breakdown of law and order in the state. The President Narayanan was praised for upholding constitutional propriety. The President A. P. J. Abdul Kalam continued the tradition of the presidential discretionary power of advising caution and reconsideration. The President Kalam asked Parliament to reconsider the Prevention of Disqualification Amendment Bill of 2006.

Pratibha Patil, assumed office in July 2007, her tenure has not seen much debate so far. In its second success as the leader of the United Progressive Alliance (UPA), the Congress won a strong support base in the elections. After the general elections in 2009, post constitution of Lok Sabha, the President, however, in her address to Parliament, envisaged that the schemes and programs implemented by the government should fulfill the requirements of equity and inclusion, innovation, and transparency.

With the transformation of the party system and the advent of coalition Governments, the presidential power has acquired a new dimension. As James Manor hypothetically explores:

‘The President has become more important since 1989 because he is the referee in the game of Government formation, and he decides whether to grant a Prime Minister's request for dissolution of Parliament, the former task has become more complex and difficult, and the latter is a potential problem. This makes it much more likely that the presidency will be engulfed in heated disputes which may occur even if the Presidents seek to avoid controversy—as they usually do.’<sup>19</sup>

## Power of the President

Article 53 of the Constitution of India vests all the executive power of the Indian Union in the President of 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.<sup>20</sup> The powers of the executive can be classified as legislative, administrative, diplomatic, military and judicial

powers. The Constitution of India also provides for emergency powers.

### *Legislative Powers*

The Indian President is an integral part of Parliament, which includes the President of India and the two houses of Parliament: the Lok Sabha (the House of the People) and the Rajya Sabha (the Council of States) (Article 79). This arrangement makes the President the head of the legislative process, as without his assent to a bill, it cannot become an act.

*Sessions of Parliament, prorogation and dissolution:* The President shall from time to time summon each House of Parliament to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session. The President may, from time to time, prorogue the Houses or either House; dissolve the House of the People.

*Right of the President to address and send messages to Houses:* The President has the right to address either House of Parliament or both Houses assembled together. The President can send messages to either House of Parliament with respect to a pending bill or otherwise, and the concerned House shall consider any matter required by the message (Article 86). The Constitution is silent about the subject matter of the address by the President. The opening address by the President after each General Election and each year provides an outlook on general policy and administration of the government.

*Prior Sanction/Recommendation for Introducing a Bill:* The Constitution required previous sanction or recommendation of the President for initiating a bill in Parliament on certain matters. In any case, assent to any bill is required for the enactment of legislation. Under Article 3, the Constitution requires that, for the formation of new states and alteration of areas, boundaries, or names of existing states, a bill can be introduced in either House of Parliament on the prior recommendation of the President. The Government presents estimates of expenditure for the coming

year in the budget to Parliament. Article 113(3) requires that no demand for a grant be made except on the recommendation of the President.

Article 117(1) requires that a Money Bill - on subjects mentioned under Article 110-or amendment thereto shall not be introduced or moved except on the recommendation of the President. Further, a Bill that if brought into effect, would involve expenditure from the Consolidated Fund of India shall be considered by either House of Parliament only if the President has recommended it for consideration. As such the prior recommendation of the President is required in case of the introduction of the Money Bill or any bill that involves expenditure from the Consolidated Fund of India. As per Article 110, a Money Bill may include subjects such as imposition, abolition, or changes in tax, borrowing, guarantee, or obligation by the Government, payment of money to and withdrawal of money from the Consolidated Fund or Contingency Fund of India, appropriation of money from the Consolidated Fund of India, expenditure declared as charged upon the Consolidated Fund of India, receipt of money on account of Consolidated Fund of India or public account of India or the custody of such money or the audit of the accounts of the Union or of a state.

*Assent to Bills:* No bill passed by Parliament can become Act unless it receives the assent of the President. Article 111 provides that when both Houses of Parliament pass a bill it should be presented to the President for assent. According to the Constitution the President can either declare assent to, or withhold assent to a bill. Further, he can also return a bill to the Houses for reconsideration. If the President withholds assent from a bill, it cannot become a Law, and he is said to have exercised the *absolute veto* power. One instance where the President used absolute veto power relates to the salary, allowance, and pension of the Members of Parliament (Amendment) Bill, 1991. The bill was passed by both Houses of Parliament on the last day of its sitting, however as required by Article 110 and 117(1) no recommendation could be obtained from the President. When the bill was presented to the President Venkataraman, he withheld his assent.

In case of a bill other than money bill, the Constitution states that the President can return the bill to the Houses for reconsideration as soon as possible after the presentation of the bill to them. This allows the President to keep the bill in abeyance, and can thus exercise the *pocket veto* without declaring either assent to or withholding of assent. One example of the use of pocket veto was when the President Zail Singh held the Indian Post Office (Amendment) Bill, 1986, in abeyance, which proposed to put in place an intrusive law which would have enabled intercepting letters, communications and phone calls, and curtailing freedom of the press. It was only in December 1989, when a new Government took over, that the President R. Venkataraman returned the bill for the consideration of the Houses. The two examples suggest that an executive check, in the form of the assent of the President to a bill, is required to obviate any possibility of the passage of a hasty or ill-considered bill by the Legislature.

However, there may be certain situations in which the President, acting on the advice of the Council of Ministers, may have to return bill for consideration of the Houses or withhold assent there from, even after a bill has been passed by both the Houses. One such situation may arise when the Houses have passed a private members bill, even if it lacks the support of the Council of Ministers. It is possible that some members of the ruling party may have voted in favour of the bill, which the Government discovers only after the bill has been passed. It is also possible that after the bill has been passed by the Houses and presented to the President, an event or situation may have taken place that requires reconsideration or scrapping of the bill. Finally, there may be a situation in which, after passage of a bill by the Houses and its presentation to the President, the Council of Ministers quit and a new Council of Ministers assumes office. If the new Council of Ministers, having a majority in the House, advises the President to either return the bill for the reconsideration of the Houses or to withhold assent there from, it would be Constitutional on the part of the President to use the veto power.<sup>21</sup>

*Power of the President to Promulgate Ordinances:* Under chapter III, article 123, the Constitution specifically provides for the

Legislative powers of the President. It gives power to the President 'to promulgate ordinances during recess of Parliament'. The President can promulgate ordinance: when either or both Houses of Parliament are not in session; when satisfied that the prevailing circumstances require them to take immediate action. The President can make laws through ordinances on all the subjects on which the Indian Parliament can. Under Article 13 the Constitution considers ordinances as laws.

There may be circumstances that may render the promulgation of an ordinance to the apprehension of being *mala fide*. For e.g. the Council of Ministers may advise the President to prorogue a House of Parliament with the intent to by-pass the legislature and get an ordinance promulgated. This can be used as a tool to legislate on controversial matters or on politically motivated issues. A. G. Noorani, in his book *Constitutional Questions in India* mentions various proposals of controversial ordinances. The President Sanjeeva Reddy refused to sign ordinances proposed by the government of Charan Singh in the late 1970s on matters such as 'financial help for candidates seeking elections', 'reservation of jobs for backward classes' and 'long term contracts of commercial nature with foreign party'. Similarly, the President Shankar Dayal Sharma, refused to sign ordinances on two controversial issues proposed by the government of Narasimha Rao. In 1996, the Government proposed ordinances on 'shortening the period of poll campaigns from three weeks to two' and 'extending reservation to Dalit Christians'. The President refused to promulgate ordinances on the subjects.<sup>22</sup>

### *Administrative Powers*

Article 77 states that, 'All executive action of the Government of India shall be expressed to be taken in the name of the President'. As such, all the administrative powers exercised by the political and bureaucratic executive are in the name of the President. The Constitution of India, under Article 75, provides that the Prime Minister shall be appointed by the President and the other ministers shall be appointed by the President on the advice of the Prime Minister.

## *Diplomatic Powers*

The diplomatic power of the Union, which is taken in the name of the President, includes the conduct of foreign affairs and foreign relations. The President represents India in international affairs.

## *Military Powers*

The Constitution of India, under Article 53(2), vests the 'supreme command of the Defence Forces of the Union' in the President. The President is the head of the defence forces in India, which includes the army, the air force and the navy.

## *Judicial Powers*

The President of India appoints the judges of the Supreme Court and the High Courts and, on the address of Parliament, may dismiss them. The Constitution of India, under Article 72, gives the President the power to grant pardons, reprieves, or remissions of the punishments, or to suspend, remit, or commute the sentence of any person convicted of any offence. These powers of reprieve provided by Article 72 are discretionary powers of the President and are in the nature of the prerogative of mercy.

## *Emergency Powers*

The Constitution speaks of three different kinds of Emergency.

1. *National Emergency*: Article 352 provides that the President can declare an Emergency if the security of India or any part of its territory is threatened by war, external aggression or armed rebellion. So far, the President has invoked this article thrice: on 26th October 1962 (National Emergency due to external aggression by the Chinese); on 3rd December 1971 (National Emergency due to external aggression caused by the India-Pakistan war); and on 25th June 1975 (National Emergency against internal disturbance).
2. *Failure of the Constitutional Machinery in the State (the President's Rule)*: If the President is convinced that the government of the state cannot be carried on in accordance with the provisions of the

Constitution, it will amount to failure of the constitutional machinery in the States (Article 356).

If the President, by proclamation, declares the failure of constitutional machinery in a state, the following changes take place, i) the President can assume to himself all or any of the functions of the State Government; ii) the President can assume to himself all or any of the powers vested in or exercisable by the Governor or anybody or authority in the state other than the Legislature of the State; iii) the President may by proclamation declare that the powers of the Legislature of the state shall be exercisable by or under the authority of Parliament.

One case of the imposition of the President's Rule that came under national debate and judicial scrutiny deserves special mention. On 21st April 1989, the President R. Venkataraman had issued a declaration imposing the President's Rule in Karnataka. Following the declaration, the elected government of Chief Minister, S. R. Bommai was dismissed. In 1994, a nine-member bench of the Supreme Court considered the scope and application of Article 356. Justice Jeevan Reddy and Justice S. C. Aggarwal held the action to be 'malafide and unconstitutional'. In the famous S. R. Bommai Vs. Union of India (11th March 1994) case, the Supreme Court pronounced that:<sup>23</sup> i) the presidential proclamation dissolving a State Assembly is subject to judicial review; and ii) till the proclamation is approved by both Houses of Parliament, the Legislative Assembly of the State should not be dissolved, i.e. it can be kept in 'suspended animation'.

3. *Financial Emergency:* The Constitution provides for extraordinary powers to the President in cases of financial emergency. The provisions for an Emergency on the grounds of threat to 'the financial stability or credit of India or of any part of the territory there of', i.e. 'financial emergency', is made in Article 360. If the President is satisfied that a situation has arisen where the financial stability or credit of India or any part of India is threatened, he may declare a financial emergency in the whole or part of India. So far, the President has not invoked the power of declaring a financial emergency.

## Parliament

Parliament is representative of the democratic set up of the country. The apex legislative body in India is the Parliament of the country. A bicameral parliamentary system is followed in the country. There are two houses in the Indian Parliament, namely the Lok Sabha and the Rajya Sabha. The President is the Head of the State and can summon or dissolve either of the Houses of the Parliament. The Parliament of the country also runs on the principles set by the Indian Constitution, which came into force on 26th January, 1950.

### *Rajya Sabha*

Also known as the Upper House of the Indian Parliament, Rajya Sabha has maximum of 250 members. The election procedures for the members of the Rajya Sabha are entirely different from that of the Lok Sabha. The Legislative Assemblies of the various Indian States play an important role in the elections of Rajya Sabha. The general people of the country do not directly elect the members of Rajya Sabha. There are 12 members in the Rajya Sabha, who are appointed directly by the President of the country. These 12 people are eminent personalities and have made a distinct mark in fields of art, science, literature and many more.

There are certain criteria that have to be fulfilled for becoming a member of the Rajya Sabha. The members have to be at least 30 years of age, while contesting the elections. From every state, certain numbers of members are selected. As in Lok Sabha, there is no chance of the Rajya Sabha to be dissolved. After every two years, one-third of its members retire and new people occupy the posts.

The Vice-President of the country is the ex-officio Chairman of the Rajya Sabha. An Electoral College is formed for electing the Vice-President in India. The Electoral College has participation from both the Houses of the Parliament. The Deputy Chairman is also selected from the Rajya Sabha.

### *Lok Sabha*

The Lok Sabha is the House in the Parliament that is representative of the people of the country. The people of India directly elect the members of the Lok Sabha by using their voting powers. Any Indian citizen, who has attained the age of 18 years, can participate in the procedure of formation of the Government in India. Unlike Rajya Sabha, the minimum age that is required to become a member of the Lok Sabha is 25 years. There are total 545 members in this House of the Parliament, and the members are elected from the various states and union territories of India. There can be a maximum of 552 members in the Lok Sabha.

The Speaker is the Presiding Officer of the Lok Sabha in the Parliament House. One of the members from the Lok Sabha is elected as the Speaker of the House. The Speaker takes care of the proceedings of the House, when the session of Lok Sabha is held. There are summer, monsoon and winter sessions that are held in Lok Sabha every year. The Speaker has the power of adjourning or stopping the proceedings of a session.

### *Functions of the Parliament (Lok Sabha and Rajya Sabha)*

Both the Lok Sabha and the Rajya Sabha are endowed with certain responsibilities and duties. Passing of bills and making of laws is the primary concern of both the houses of the Parliament. Before a bill becomes a law, it has to be passed by both the houses of the Parliament. An objection from any of the houses can stop a bill from becoming a law. After both the houses pass a bill, it needs the assent of the President of India before being formulated into a law.

The major concerns that are dealt with in the Parliament are topics mentioned in the Union List. The topics covered by the Union List are transport and communications, banking, railways, foreign affairs, defence, customs, excise duties and others. There is a State List where matters related directly to the State Government are enlisted. The Parliament has no role to play in that list. However there is a Concurrent List, on which both the State and the Central Government can take decisions. In case of any dispute, the stand of the Union Government is taken into consideration.

Apart from passing of laws, there are many other issues that are dealt with in the Indian Parliament. The Parliament decides on issues related to price control, social safety and security, insurance, social and economic planning and many more. There is a Question Hour, which is usually the first hour in the Parliament, when the members of Parliament are free to ask questions regarding the various Governmental and administrative activities. Questions are also raised on national and international issues and India's stand on those issues. The Question Hour is an important part in the proceedings of the Parliament.

The Budget Session in the Parliament is one of the most important sessions. The session is held to decide on the fiscal financial management policies of the country. The yearly expenditure is brought into account and monetary policies of the country are made clear during this Budget Session. There are open discussions held in the Lok Sabha regarding the various issues related to the budgets of the country. In the initial four or five days, a sketch of the policies and principles is given to the members of the Parliament. After the initial stages, detailed discussion on the budget is carried out in the Parliament, where consent from each segment is sought before the final budget is formulated.

### *Parliamentary Committees*

Parliamentary committees play a vital role in the Parliamentary System. They are a vibrant link between the Parliament, the Executive and the general public. The need for Committees arises out of two factors, the first one being the need for vigilance on the part of the Legislature over the actions of the Executive, while the second one is that the modern Legislature. These days, it is over-burdened with heavy volume of work with limited time at its disposal. It thus becomes impossible that every matter should be thoroughly and systematically scrutinized and considered on the floor of the House. If the work is to be done with reasonable care, naturally some Parliamentary responsibility has to be entrusted to an agency in which the whole House has confidence. Entrusting certain functions of the House to the Committees has, therefore, become a normal practice. This has become all the more

necessary as a Committee provides the expertise on a matter which is referred to it.

In a Committee, the matter is deliberated at length, views are expressed freely, and the matter is considered in depth, in a business-like manner and in a calmer atmosphere. In most of the Committees, public is directly or indirectly associated when memoranda containing suggestions are received, on-the-spot studies are conducted and oral evidence is taken which helps the Committees in arriving at the conclusions.

Parliamentary Committees are of two kinds: Ad hoc Committees and the Standing Committees most powerful of all is public accounts committee which is headed by the leader of the opposition.

### *Standing Committees*

Each House of Parliament has standing committees like the Business Advisory Committee, the Committee on Petitions, the Committee of Privileges and the Rules Committee, etc. Standing committees are permanent and regular committees which are constituted from time to time in pursuance of the provisions of an Act of Parliament or Rules of Procedure and Conduct of Business in Parliament. The work of these Committees is of continuous nature. The Public Accounts Committee, the Committee on Estimates, and the Committee on Public Undertakings are most important committees. There is another set of standing committees, known as the Department Related Standing Committees (DRSCs). They were created in 1989, and then expanded in 1993. DRSCs and other parliamentary committees are very significant spots from where the legislature can exercise structural constraints on the executives.

### *Ad hoc Committees*

Ad hoc committees are appointed for a specific purpose and they cease to exist when they finish the task assigned to them and submit a report. The principal ad hoc committees are the Select and Joint Committees on Bills. Others like the Railway Convention

Committee, the Committees on the Draft Five Year Plans, and the Hindi Equivalents Committee were appointed for specific purposes. Joint Committee on Food Management in Parliament House Complex etc. also comes under the category of ad hoc committees.

### *Decline of the Indian Parliament*

Despite the fact that the Indian Parliament plays a crucial role as a deliberative and representative assembly, its image and influence has suffered a serious setback in recent years. The quality of debates and deliberation, as 'one nation with one interest' as Burke would have said, has declined and there is less time spent on substantial matters concerning the nation and more on filibustering. There are allegations of monetarily induced lobbying; many Parliamentarians were allegedly shown by the media using spy cameras accepting money for taking up issues in Parliament or for lobbying. Parliament and state legislature often witness protest and violent scenes and there are cases of absenteeism. Most importantly there is intervention in the form of judicial legislation by the judiciary that reminds the legislature of its duties.

Complex and convoluted governmental process and big governments have resulted in the increasing role of the bureaucracy and the summoning of professional expertise. The Indian Constitution envisages a social welfare state and public-sector-led economic growth. The task of designing complex social and welfare legislation and policy formulation is getting increasingly difficult and is not always feasible, even in the hands of best of legislatures. For this, they require expert support and professional inputs, resulting in the growth of executive powers.

Over the years, the number of days on which the Houses sit to transact legislative and other business has come down very significantly. Even the relatively fewer days on which the Houses meet are often marked by unseemly incidents, including use of force to intimidate opponents, shouting and shutting out of debate and discussion resulting in frequent adjournments. There is increasing concern about the decline of Parliament, falling

standards of debate, erosion of the moral authority and prestige of the supreme tribunal of the people. Corrective steps are urgently needed to strengthen Parliament's role as the authentic voice of the people as they struggle and suffer to realize the inspiring vision of a free and just society enshrined in the Constitution. Also, it is of the utmost importance for survival of democracy that Parliament continues to occupy a position of the highest esteem in the minds and hearts of the people.<sup>24</sup>

However, this does not mean that the Legislatures in India are ineffective. The Parliament has amended the Constitution on more than 100 occasions, has legislated on a variety of social and civil rights issues, such as Civil Rights Act, the Right to Information Act, and fiscal control measures such as Fiscal Responsibility and Budget Management Act. Efforts have been made to make the Executive responsible and accountable both administratively and financially. For example, the two Acts (FRBM, 2003 and RTI, 2005) are meant to make the Executive more accountable and transparent both in financial and administrative matters. FRBM Act forces Executive to achieve fixed fiscal and budgetary targets. RTI enables citizens of this country to have access to official government records and evaluate the performance of government agencies in delivering goods and services. To ensure discipline in the Legislature, one of the important steps was the Anti-Defection Act, 1985. Legislative significance was reflected in one of the significant constitutional changes that have been affected by Parliament by the introduction of local-self government (Panchayats and Municipalities) in 1992 as the third tier of governance in the Constitution.

The decline of the Parliament has further continued due to corruption and criminalization of electoral and party political processes on an unprecedented scale. An alarming increase in political and bureaucratic corruption, social and political fragmentation and the weakening of the party system, crass commercialism, and tendency towards market fundamentalism, etc. have caused a comprehensive crisis of political institutions. An institutional response to this crisis has come forward in the increasing reliance of the political system on judicial power of interpretation and review of laws and the Constitution, going to

the extent of judicial activism. The political system has often appeared to be judiciary driven,<sup>25</sup> improvising for the degeneration and a trophy of the democratic political process. But this compensatory functional response, if fraught with the dangers of continued dysfunctionalities of parliamentary and executive organs of the federal state and politicization and corruption of the judiciary. What is really needed is a balanced Constitution and allround growth of political institutionalization.

### *Prime Minister and Coalition Politics*

The connecting link between the cabinet and the President as well as between the cabinet and the parliament is the Prime Minister. The Prime Minister's role continues to be, as Nehru used to describe it, 'the linchpin of Government'. Nevertheless, the coalition nature of contemporary Indian Politics requires much more consultation with other parties, sometimes leading to the open articulation of defiance against the authority of the Prime Minister, a situation that would have been unthinkable during the days of Nehru. Together with the ministers, the Prime Minister controls and coordinates the departments of government and determines policy through the submission of a programme for parliamentary action. When the Prime Minister commands the majority in the Lok Sabha, his government is secure. If he is defeated on any major issue, or if a no-confidence motion is passed, he must, by the conventions of cabinet government resign. In recent times this has already happened on several occasions. In 1998, the NDA government led by Prime Minister Vajpayee fell when a no-confidence motion came up for discussion in the Parliament. More recently, the UPA government of Prime Minister Manmohan Singh escaped a similar fate. The government survived the 'trust vote', when a section of the opposition voted for it, making up for the votes of the communist members who withdrew their support on account of their opposition to the Indo-US nuclear deal, championed by the UPA government.

India entered into the age of Coalition Politics in the 1990s. Although Coalition Governments were in existence once or twice during the era of Late Shrimati Indira Gandhi; during 1996-1999,

there were 4 Coalition Governments. When Shri Atal Bihari Vajpayee couldn't sustain the Government in 1996 due to lack of majority (i.e. 272+ seats) in the Indian Parliament after being just 13 days old, the Third Front (a group of regional parties and Non-Congress and Non-BJP combine also referred to as the United Front) formed the Government headed by Mr H. D. Deve Gowda who was in office from 1 June 1996 to 21 April 1997. The Congress Party and other smaller parties including the left provided outside support to him in order to provide a stable Government and prevent snap-polls.<sup>26</sup>

But due to rising discontent between the UF and Congress the latter withdrew support and in order to avoid elections, a compromise was reached. The Congress party agreed to support another United Front government under new leader. The United Front elected Shri Inder Kumar Gujral, and he was sworn in as Prime Minister on 21 April 1997. But unfortunately, due to some internal problems in the Government, Congress again withdrew support and mid-term elections were called after Third Front governments failed twice. This time, a cohesive bloc of political parties lined up with it to form the National Democratic Alliance headed by the BJP, and Shri A. B. Vajpayee was sworn in as the Prime Minister. Towards the end of 1998, however, the AIADMK withdrew its support from the 13-month old government. The government lost the ensuing vote of confidence motion by a single vote. As the Opposition was unable to come up with the numbers to form the new government, the country returned to elections with Vajpayee remaining the 'care-taker prime minister'. After 4 failed Coalition Governments and 2 mid-term elections, on 13 October 1999, Shri Atal Bihari Vajpayee took oath as Prime Minister of India for the third time. The BJP-led NDA had won 303 seats in the 543 seat Lok Sabha, thereby securing a comfortable and stable majority. The Coalition Government that was formed lasted its full term of 5 years-the only non-Congress government to do so.<sup>27</sup>

The National Democratic Alliance was widely expected to retain power after the 2004 general election. However, the Indian National Congress, led by Mrs. Sonia Gandhi became the single largest party and, along with many minor parties, formed the

United Progressive Alliance. With the conditional support of the leftist parties from the outside, the UPA formed a government under Dr Manmohan Singh. The alliance completed a full term and remained in power after the 15th General Elections in May 2009. Although the left no longer supports the UPA but with new allies it has been able to extend its lead in the Lok Sabha.

Since 1996, Indian Politics has been dominated with Coalition Governments which by far have been stable after a shaky start. The incumbent Prime Minister of India Dr Manmohan Singh is heading a coalition Government of 15 parties called the United Progressive Alliance (UPA) with Mrs. Sonia Gandhi, widow of Late Shri Rajiv Gandhi being its Chairperson which has now just now been elected for a second term in Office. India now looks forward to a stable future of Coalition Governments as single-party majority seem to be a thing of the past now.

## Judiciary

The judiciary in India has emerged as one of the most crucial institutions of governance with immense moral and legal responsibilities to administer constitutional justice. Justice is the basic human law for any civilized society to function. Upholding the law is in fact the first essential, the first guidepost. No Nation or no State can survive unless it provides an efficient justice delivery system that can alleviate the concern of the people within reasonable time frame.<sup>28</sup>

Under our Constitution there is a single integrated system of Courts for the Union as well as the States which administers both Union and State Laws, and at the head of the entire system stands the Supreme Court of India. Below the Supreme Court stands the High Court of the different States, and under each High Court there is a hierarchy of other courts which are referred to in the Constitution as 'subordinate courts'. The Supreme Court was idealized by the Constituent Assembly because the Court was seen as an extension of the rights; it was an arm of the social revolution; and as the guardian of the Constitution, it could be the expression of the new law created by Indians for Indian.<sup>29</sup> In other

words, the Supreme Court is envisaged with widespread function as an apex court in judicial hierarchy and at the same time interprets the constitution. It is a guardian of Fundamental Rights (Article 32), adjudicates upon the controversies between the States and Centre- State/s (Article 131), and is the ultimate court of appeal having Constitutional (Article 132), Civil (Article 133), and Criminal jurisdictions (Article 134). It has the power to supervise the working of the entire judicial system, and it maintains uniformity of Law ensuring high standards set by the framers of the Constitution.

The Union Executive appoints the judges of the Supreme Court and of the High Courts<sup>30</sup> in the States as the President may deem necessary for the purpose. It is also provided by the Constitution that in appointment of a judge, 'the Chief Justice of India shall always be consulted' (Article 124, Clause 1). In *S.P. Gupta v. Union of India* (1982)<sup>31</sup> the Supreme Court ruled that this 'consultation' does not imply 'concurrence' though there must be exchange of views as to the merits of the appointees. Subsequently, however, the Supreme Court reversed this view in the *Supreme Court Advocates on Record Association vs. Union of India*.<sup>32</sup> Now the advice of the collegium of judges routed through the cabinet has become binding on the President of India. Since the SCAORA decision, the higher judiciary has virtually become self-appointing, contrary to the original design of the Constitution.

The National Commission for Review of the Working of the Constitution (NCRWC) appointed by the Union Government in 2000 in its report submitted in 2002 has recommended, 'the appointment of a National Judicial Commission consisting of the Chief Justice of India (CJI) as the chairman and two senior most judges of the Supreme Court, the Union Minister of Law and Justice' one eminent person nominated by the President of India after consulting' the CJI as members.<sup>33</sup>

### *Judicial Review*

The doctrine of Judicial Review is firmly rooted in India. There are several specific provisions in the Indian Constitution establishing the principle of Judicial Review. For instance, Article 13 of the

Constitution says that any law made in contravention of the Fundamental Rights shall be void. Judicial Review refers to the power of the court to decide whether a law or an executive act is, or is not, consistent with the Constitution and the law of the land. In the event of a repugnancy between the two, the judge must uphold the Constitution or the law and must void the impugned law or the executive action. The doctrine of judicial review is a contribution of American Constitutional System. This was acquired by the American Supreme Court in Marbury v. Madison case of 1803 when Chief Justice Marshall announcing the verdict remarked that any law violating the constitutional provisions is null and void. K.C Wheare wrote that 'In some countries although the Constitution is silent upon the question whether the courts are entitled to interpret it or not, it appears to be the accepted doctrine that courts should seldom or never embark upon the decision of such questions'.<sup>34</sup>

### *Judicial Activism*

The Supreme Court has acquired enormous public acclaim for expanding the ambit of human right, and protecting individual and collective freedom in the midst of growing political corruption and criminality in public life. The court has relaxed the strict legal rules of *locus standi* (allowing a third party to petition in public interest litigation), to reach the poor and disadvantaged sections of society and to enable individuals or groups to raise common concerns arising from inefficient or dishonest governance.<sup>35</sup> The expanded role of the Judiciary has been given the title of 'Judicial Activism' by those who are critical of this expanded role. The main thrust of the criticism is that Judiciary by its directive to the administration is usurping the functions of the legislatures and of the executives and is running the country, and according to some even ruining it. Although the number of public interest petitions has increased over time, Dr Anand sensitized the courts about the need for judicial restraint, when he added: 'Care has to be taken to see that PIL essentially remains Public Interest Litigation, and does not become either Political Interest Litigation or Personal Interest Litigation or Publicity Interest Litigation or used for Persecution. If that happens, it would be unfortunate.'<sup>36</sup>

In the first PIL on prisoners' rights, *Hussainara Khatoon vs State of Bihar (I to VI)*, the attention of the Court was drawn to the incredible situation of Bihar undertrials who had been detained pending trial for periods far in excess of the maximum sentence for the offences they were charged with. The Court not only proceeded to make the right to speedy trial the central issue of the case, but passed an order of general release of undertrials that had undergone detention beyond such maximum period.

In *Asiad Workers Case* of 1982, the Supreme Court said that when a person provides labour or service to another for remuneration which is less than the minimum wage, the labour or service provided by him/her clearly falls within the scope and ambit of the words 'forced labour' under Article 23 of the Constitution of India.

In *Bandhua Mukti Morcha vs Union of India (1984 3 SCC 161)*, the Supreme Court held that whenever the labourer is made to provide forced labour, the court would raise a presumption that he is required to do so in consideration of an advance or other economic consideration received by him and he is, therefore, a bonded labour.

The activism of the Supreme Court in the last decade is most evident in environmental cases, particularly cases involving the urban environment or deforestation. Thus, the court has taken sweeping and bold steps to move polluting industries out of Delhi, to improve the air quality of Delhi by forcing commercial vehicles to convert to CNG, and to stop deforestation across the country.

Pointing to orders passed on subjects like identifying buildings to be demolished, legality of constructions in Delhi, nursery admissions, number of free beds in hospitals on government land and several other decisions, it held that courts have apparently if not clearly, strayed into the executive domain or in matters of policy. In our opinion, these were matters pertaining exclusively to the executive or legislative domain. If there is a law, judges can certainly enforce it but judges cannot create a law and seek to enforce it, said a bench comprising Justices A. K. Mathur and Markandeya Katju. The judges should only act as an alarm bell, it

should ensure that the executive has become alive to perform its duties. The bench said adding that it was unwilling to accept the justification given for judicial encroachment that the other two organs are not doing their jobs properly. Even assuming if this is so, the same allegation can be made against the judiciary too because there are cases pending in courts for half a century. The remedy is not in the judiciary taking over the legislative or executive functions, because that will only violate the delicate balance of power enshrined in the Constitution, but also the judiciary has neither the expertise nor the resources to perform these functions. If the legislature or the executive is not functioning properly it is for the people to correct the defects by exercising their franchise properly in the next elections and voting for candidates who will fulfill their expectations.<sup>37</sup>

Addressing a conference of Chief Justices of India in New Delhi in 2007, Prime Minister Dr Manmohan Singh said that the judiciary should not overstep its limits. He said the dividing line between the judicial activism and judicial overreach is a thin one. A takeover of the functions of another organ may at times become a case of overreach. He cautioned the judiciary against substituting its power of mandamus with the takeover of the functions of other organs.<sup>38</sup> If the judiciary does not exercise restraint and overstretches its limits there is bound to be a reaction from politicians and others. The politicians will then step in, and curtail the powers or even the independence of the judiciary. Therefore, it should confine itself to its proper sphere realizing that in a democracy, many matters and controversies are best resolved in non-judicial setting.<sup>39</sup>

### *Judicial Corruption*

Corruption in the judiciary is hardly a new phenomenon, though it has certainly increased over the years. Having enjoyed enormous powers, including the power of contempt without any accountability; the higher judiciary has, over the years, tread on the toes of many persons and institutions.

11 May 1993 will be remembered as a black day for the Parliament and for the judiciary in this country. For on that day,

205 Lok Sabha members belonging to the Congress(I) and its allies sabotaged the impeachment motion against Justice V. Ramaswami of the Supreme Court, held guilty of willful and gross misuses of office, by abdicating their constitutional duty of voting for or against, and thus, defeating the motion by ensuring that it did not receive the support of an absolute majority of the total membership of the House.

Vineet Narain, got several Union Cabinet Ministers, Leader of Opposition, Chief Ministers, Governors and senior bureaucrats charge sheeted in the Jain Hawala Case in 1996. Despite their reluctance, he forced CBI, the Taxation and FERA depts. to take action against these influential people. In July 1997, he compelled the Chief Justice of India to comment on Hawala case. The Jain-Hawala-Militancy scam hovered around the fact that the Hawala channels through which terrorist outfits in Kashmir like Hiybul-Mujahideen used to get funds, the same channels used to grease the palms of over 115 top bureaucrats and politicians of the country. CBI, RAW and every other investigative agencies of the country tried to suppress the entire case when Vineet Narain courageously exposed the entire case.

Former CJI, Justice Y.K. Sabharwal in 2006, set in motion the process of sealing of properties in designated residential areas of Delhi which were being used for commercial purposes. This sealing went on relentlessly under the continuous supervision of Chief Justice Sabharwal's bench, monitored and directed by a Court appointed monitoring committee. When the government came up with a new master plan of Delhi 2021 which allowed mixed use and commercial activity in many of the areas and which were designated as residential, Justice Sabharwal's orders on the sealing continued.

A Rajya Sabha panel found Calcutta High Court Judge Soumitra Sen guilty of misappropriating large sums of public funds that clears the way for impeachment proceedings to begin against him in November, 2010. The report of the three-member committee, said it was of the opinion that Justice Soumitra Sen was 'guilty of 'misbehaviour' under Article 124(4) read with provision (b) to Article 217(1) of the Constitution of India'. The Committee,

headed by Supreme Court Judge B Sudershan Reddy, said the charges of 'misappropriation of large sums of money' which Sen received in his capacity as receiver appointed by the High Court of Calcutta and misrepresenting facts with regard to it were 'duly proved'. His impeachment resolution was passed by Rajya Sabha by 187 votes in favour and 17 against on 18 August 2011. The impeachment motion was to be taken up in Lok Sabha on 5 Sept, 2011 but it was dropped as Justice Soumitra Sen had resigned as a Judge of Calcutta High Court on 1 Sept 2011.

Justice P. D. Dinakaran is the second judge after Justice Soumitra Sen of the Calcutta High Court against whose impeachment proceedings have gained momentum in recent times. Constitutional experts have welcomed the move even as there is a mix of doubt and optimism over the final result. Doubt, as the present procedure for removal of judges has never been successful. The optimism is hinged on the charge sheet, which is based on 'extensive investigations'. The charges include possession of wealth disproportionate to his known sources of income, encroachment on public property and land belonging to Dalits and other weaker sections, irregular and dishonest administrative actions by fixing rosters of judges to facilitate dishonest judicial decisions when he headed the Karnataka High Court.

Amid serious concern over corruption in the judiciary, Chief Justice of India S. H. Kapadia asked politicians not to protect corrupt judges. Advising self-restraint, Kapadia said: 'A judge must choose to be a little aloof and isolated from the community at large. We need a clean man in black robe to uphold the independence and integrity of the judiciary'.<sup>40</sup>

### *Judicial Accountability*

Accountability is the *sine qua non* of democracy. Transparency facilitates accountability. The judiciary, an essential wing of the State, is also accountable. Judicial accountability lies in scrutiny of judgments by the appellate courts. Judgments can also be subject to critical analysis and constructive and informed criticism by the legal profession, academics, the media and members of the

public including parliamentarians. Another facet of judicial accountability is that, judges, if they misconduct themselves, are subject to strict discipline by the mechanisms provided under the Constitution and the law. The mechanisms should be transparent and effective whose primary aim should be to enforce accountability without impairing judicial independence.<sup>41</sup>

The Judicial Standards and Accountability Bill providing for a mechanism to deal with complaints against judges of High Courts and the Supreme Court was tabled in the Lok Sabha on 1 December 2010 by Law Minister Veerappa Moily. At present, there is no legal mechanism for dealing with complaints against judges, who are currently governed by 'Restatement of Values of Judicial Life,' adopted by the judiciary as a code of conduct without any statutory sanction. The bill sets judicial standards and makes judges accountable for their lapses, and mandates judges of the High Courts and the Supreme Court to declare their assets and liabilities, including those of their spouses and dependents and to file an annual return in this regard. This will be displayed on the website of the Supreme Court and the High Courts concerned.<sup>42</sup>

## Structure of Government at State Level

Each state in India has a Governor in whom, as per Article 154 of the Constitution, all the executive powers of the state are vested. This power is to be exercised by him in the same fashion as the President in case of the executive powers of the Union 'either directly or through the officers-subordinate to him in accordance with this constitution'. The pattern of government in the states in the Indian Union is of the parliamentary type. The executive head designated as the governor is a constitutional ruler and acts on the advice of the ministers who are responsible to the lower house of the state legislature. M. V. Pylee observes: 'As in the union, the government in the states is also organized on the Parliamentary model. The head of the states is called the Governor; chief of the state govt. is called the Chief Minister, who is counterpart in the State of the Prime Minister of India.'<sup>43</sup> His office is not subordinate or subservient to the government of India, nor is he accountable to them for the manner in which he

carries out his functions and duties. His is an independent constitutional office which is not subject to the control of the Government of India.<sup>44</sup>

Article 155 provides, 'the Governor of a state' shall be appointed by the President by warrant under his hand and seal. He is removable by the same authority. But in actual practice, he is appointed by the central government which means by party in power at the centre. The centrally appointed Governor, who in normal circumstances, would be bound by the advice of the Chief Minister and his cabinet collectively enjoying the confidence of the majority party or coalition in the state assembly. Only during constitutional contemplated emergencies, the pleasure of the Governor is not bound by the confidence of the nonexistence House, which, during an emergency, may be either dissolved or kept in suspended animation. In such an eventuality, the Governor becomes directly answerable to the Union Govt. It is in this way that the Governor is supposed to serve both as the agent of the Centre and the agent of the State Government.

It may be said that, in general, the relation between the Governor and his ministers is similar to that between the President and his ministers, with this important difference that while the Constitution does not empower the President to exercise any function in his discretion, it authorizes the Governor to exercise some functions on his discretion. In this respect, the principle of cabinet responsibility in the states differs from that in the Union. The apex court said. 'if the Governor cannot act in his own discretion, there would be a complete breakdown of the rule of law as much as it would be open for governments to refuse sanction in spite of overwhelming material showing that prima facie a case was made out'<sup>45</sup>.

Article 356 empowers the Governor to send a report to the President that the constitutional machinery in a state has broken down or that the state cannot function in accordance with the provisions of the constitution. On receipt of the report, the President may assume to himself all or any of the functions of the government of the state (President's Rule). Article 356 has been used more than hundred times to impose the President's Rule in

different states.<sup>46</sup> Except on two famous occasions, when the President K. R. Narayanan imposed President's Rule in U.P. (1997) and Bihar (1998), and asked the Council of Ministers to reconsider its decisions, Presidents have generally acquiesced with the recommendations of the Council of Ministers at the Centre. Reports of Governors that became easy facilitators for invoking Article 356 have been controversial. In two famous cases, namely, the removal of E. M. S. Namboodiripad's Government in Kerala in 1959 and that of S.R. Bomai's Government in Karnataka in 1989, the role of Governor has been biased as the State Governments were removed despite having the confidence of the State Legislatures. The President may keep himself informed of the affairs in the state through the reports of the Governor, which may even lead to the removal of the Ministry, under Article. 356.

The Supreme Court has held that the Court can call for the records, on the basis of which the Council of Ministers can advise the President to impose Article 356. This makes the Governor's report open to scrutiny by the Court. Further, even if the Governor has recommended dissolution of the House, this dissolution should not be affected prior to Parliamentary ratification. This makes the Governors report open to Parliaments scrutiny. Even if Parliament has approved the proclamation of the President's Rule, the Court can order the revival of Assembly and restoration of Government if it finds the proclamation unconstitutional. The Court can also grant interim relief to prevent elections to the Assembly.<sup>47</sup>

A sharp controversy has of late arisen upon the question whether a Governor has the power to dismiss a Council of Ministers, headed by the Chief Minister, on the assumption that the Chief Minister and his cabinet had lost their majority in the popular House of the Legislature. The controversy has been particularly intriguing in as much as two Governors acted in contrary directions under similar circumstances. In West Bengal, in 1967, Governor Dharma Vira, being of the view that the United Front Ministry, led by Ajay Mukherjee, had lost majority in the Legislative Assembly at a short notice, and, on the latter's refusal to do so, dismissed the Chief Minister with his ministry. On the other hand, in Uttar Pradesh in 1970, Governor Gopala Reddy

dismissed Chief Minister Charan Singh, on a similar assumption, without even waiting for the verdict of the Assembly, which was scheduled to meet only a few days later. Quite a novel thing happened in Uttar Pradesh in 1998 when the Governor Romesh Bhandari, was of the view that the Chief Minister Kalyan Singh Ministry had lost majority in the Assembly, dismissed him without affording him opportunity to prove his majority on the floor of the House and appointed Shri Jagdambika Pal as the Chief Minister which was challenged by Shri Kalyan Singh before the High Court which by an interim order put Shri Kalyan Singh again in position as the Chief Minister. This order was challenged by Shri Jagdambika Pal before the Supreme Court, which directed a 'composite floor test' to be held between the contending parties which resulted in Shri Kalyan Singh securing majority. Accordingly, the impugned interim order of the High Court was made absolute.<sup>48</sup>

The above view has been upheld by the Supreme Court in *S. R. Bomai Vs. Union of India*,<sup>49</sup> (a 9 judge bench) by observing that wherever a doubt arises whether a Ministry has lost the confidence of the House, the only way of testing it is on the floor of the House.<sup>50</sup> The assessment of strength of Ministry is not a matter of private opinion of any individual be the the Governor or the President.<sup>51</sup>

The era of coalition politics in States expanded the scope of discretionary powers of the Governors with regard to several matters. In June 1997, the focus of the Conference of Governors and political leaders convened by the President was mainly on the theme-'The role of Constitutional Head when following an election, no party or combination of parties appears to have secured a majority'. The issue has relevance both at the Centre and in the States in the present era of coalition governments.<sup>52</sup>

In a more recent controversy, two Bangalore advocates, in December, 2010, had written to Governor, seeking permission to start criminal proceedings against Karnataka Chief Minister, B. S. Yeddyurappa over his corruption charges following revelation that Yeddyurappa had favoured his kin with prime land in and around Bangalore. Karnataka Governor H. R. Bhardwaj allowed filing of

criminal cases against Yeddyurappa over corruption charges. Yeddyurappa termed the decision as 'broad daylight murder of democracy and justice' and unfortunate that the governor has taken the decision, even before any preliminary enquiry or any opportunity to him in this case on a private individual's complaint.

It is argued that the role of Governor in securing a stable Government in the State is more critical than that of the President at the Centre. This is because political instability, frequency of appointment of Council of Ministers in the State either due to changes in majority or due to intermittent periods of the President's Rule in the State, arises not only due to a divided political verdict in the elections or changes in party loyalties and splits in parties, but also due to the imposition of the President's Rule. In both cases, the role of Governor is critical.

Some Constitutional and Political experts have argued that the position of the Governor as an appointee of the Centre interferes with the very principal of the governor's Constitutional duty to act upon the aid and advice of the State's Council of Ministers. Under Article 263, the Constitution provides for a Council of Ministers at the State with the Chief Minister as the Head to aid and advice the Governor in the exercise of their functions, except in their discretionary powers provided by the Constitution. G. S. Pathak, a constitutional lawyer stated that, 'in the sphere in which the governor is bound by the advice of the Council of Ministers, for obvious reasons, he must be independent of the Centre'.<sup>53</sup>

The Sarkaria Commission submitted its report to the Union Government on 27th October 1987. It focused upon the role of the Governor, and gave recommendations regarding the Governor. Article 155 of the Constitution should be suitably amended to ensure effective consultation with the Chief Minister of a State while appointing a Governor in that State. Article 163 (1) reads: there shall be a Council of Ministers with the Chief Minister as the head to aid and advise the Governor in the exercise of his functions, except in so far as he is by or under this Constitution required to exercise his functions or any of them in his discretion. And Article 163 (2) reads as: if any question arises whether any matter is or is not a matter as respect 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.

Therefore we see that this Article provides the Governor with wide-ranging powers. Since the Governor decides everything, sometime he plays a dictatorial role to fulfill partisan interests. As a result, some of the States demanded the deletion of the discretionary powers of the Governor, but the Commission rejected it. Instead, it suggested that Article 163 should be left untouched. Hence, it proposed the continuance of this power but it also said that it should be used only as a last resort. It made clear that the Governor can still misuse the discretionary powers for partisan interests, and Sarkaria Commission at least succeeded in putting a check upon them.

In the year 2004, some interesting developments took place in respect of the role of the Governor. The UPA government of Dr Manmohan Singh dismissed the four state governors for their RSS links namely Kedarnath Sahani (Goa), Vishnukant Shastri (U.P), Bhai Paramanand (Haryana) and Kailashpati Mishra (Gujarat). Shivraj Patil replying to a short duration discussion in Lok Sabha on removal of Governors denied that the Governments actions were politically motivated, and that it had not consulted the State Governments while appointing the new governors. 'The four Governors who were removed' he said, 'were taking orders from political party, and had loudly proclaimed their affiliations to RSS. If some Governors are not prepared to follow the ideals of secularism and socialism as enshrined in Constitution, and choose to take their orders from the political parties or organizations that they belong to rather than from the government, what are we expected to do', he asked. The centre has said before the Supreme Court that the President has unfettered powers to order the removal of Governors, and it cannot be questioned in any court.<sup>54</sup>

## The State Legislature

While the legislature of every state should include the Governor and, in some of the states, it shall consist of two Houses, namely, the Legislative Assembly and the Legislative Council, while in the rest, there shall be only one House i.e. the Legislative Assembly (Article 168).

Owing to changes introduced since the inauguration of the Constitution, in accordance with the procedure laid down in Art. 169, the States having two Houses, in 2000, are Bihar, Maharashtra, Karnataka and Uttar Pradesh (Art. 168). To these must be added, Jammu and Kashmir which has adopted a bi-cameral legislature, by her own State Constitution. It follows that in the remaining States, the Legislature is uni-cameral.

The term of the Legislative Assembly shall be five years, unless dissolved earlier. The Council shall be a continuing House not subject to dissolution but one-third of its members shall retire every two years (Article 197). The sessions of the State Legislatures are summoned, prorogued and dissolved by the Governor on the advice of the Speaker and/or the Chief Minister, except during Constitutional emergencies when the Governor can exercise his own discretion, usually on the directive of the Union Government. One important Constitutional requirement is: there must not be a gap of six months or more between one session of the State Legislature and another during its five year term, unless it is dissolved earlier.<sup>55</sup>

The Governor may address the legislative assembly or, in the case of the state having a legislative council, either house of the legislature of the state or both houses assembled together, and may, for that purpose, require the attendance of its members. The Governor may send messages to the house or houses of the legislature of the State, whether with respect to a bill then pending in the legislature or otherwise, and a house to which any message is so sent shall with all convenient dispatch consider any matter required by the message to be taken into consideration.<sup>56</sup>

In the State Legislature, a Bill, as regards to which the Council does not agree with the assembly, shall have two journeys from the Assembly to the Council. In the first journey, the Council shall

not have the power to withhold the Bill for more than three months, and in the second journey, not more than one month, and at the end of this period, the Bill shall be deemed to have been passed by both the Houses, even though the Council remains altogether inert.

When a bill is presented before the Governor after its passage by the Houses of Legislature, it will be open to the Governor to take any of the following steps: a) he may declare his assent to the Bills in which case, it would become law at once or; b) he may declare that he withholds his assent to the Bill, in which case the Bill fails to become a Law or; c) he may, in the case of a bill other than a Money Bill, return the Bill with a message; d) the Governor may reserve a Bill for the consideration of the President. In one case reservation is compulsory, viz. where the law in question would derogate from the powers of the High Court under the Constitution. A Bill which is reserved for the consideration of the President shall have no legal effect until the President declares his assent to it. But no time limit is imposed by the Constitution.

## Local Government: The Third Tier of the Federal Structure

The third tier of the federal structure is the local self governing institution in urban and rural areas. Local Government is under the jurisdiction of State Governments, which legislate them into existence. Though the tradition of local and urban bodies has been present before, and after independence, the 73rd and 74th Constitution Amendment Acts, 1992, formally made them parts of the constitution. The 73rd and 74th Constitution Amendments to the Indian constitution are the indicators of real devolution. They have ushered in a new era in Indian Politics, Administration and Government. Like all conventional federations, the Indian Constitution has a provision for two tiers of Government, i.e. the Union or Central Government and the State (Unit) Governments. But the provisions of 73rd and 74th amendments, under Article 243 and 11th and 12th Schedules of the Indian constitutions enshrine certain rights and powers to local bodies, which indicates that the Central Government is inclined to establish 'Local Governments' at the local level. The new additions to the

Constitution shows that the government at the local level be formed; and rights related to framing of the policies and taking of decisions about matters of local importance development and public welfare be transferred to the newly constituted local government.

There is generally a three-tier structure of local government in rural areas at the village, intermediate and district level. In urban areas, there are Municipalities in forms of Municipal Corporations in cities. These local bodies are directly elected. In rural areas, Panchayats at village level are directly elected whereas Mandal Panchayat and Zila Parishads are composed of the Heads of the Panchayati Raj bodies at the next lower level. The structure of the local government reflects population diversity in practice. Reserved representation is available for schedule castes and schedule tribes proportionate to their population. and for women to the extent of +33% by the 73rd and 74th Constitution Amendment Act, 1992 for urban and rural local councils. Bihar and some other states have raised this reservation representation to women in local bodies to 50%. The 11th Finance Commission for the first time devoted a full chapter on the finances of the local self governing institutions.<sup>57</sup>

After independence, the PRIs were established throughout the country but a major thrust to the PR system was given after the Balwantrai Mehta committee recommended in 1957, the formation of a hierarchic three-tier system of rural local government in rural areas at the Village, Intermediate and District Levels. Rajasthan was the first state to establish Panchayati Raj Institutions. The principal thrust of the Balwantrai Mehta report was towards the decentralization of democratic institutions in an effort to shift decision making centres closer to the people, encourage their participation, and put the bureaucracy under local popular control. But these ideas did not pick up, and were not in operation, as the PRIs, accept in some states, were stagnating or declining, after the initial enthusiasm for their development. Therefore, several high-level committees were set up from time to time to study the ways in which they could be made more viable. These were the Balwantrai Mehta Committee 1957, Ashok Mehta Committee 1978, G. V. K Rao Committee

1985, L.M. Singhvi Committee 1987, and Thungon Committee 1988.

The Ashok Mehta Committee report recommended a two-tier system removing the blocklevel bodies. The committee considered inadequacy of resources, mainly responsible for failure of PRIs and, therefore, recommended *inter alia*, measures for strengthening the financial resources of PRIs. It also recommended direct party-based elections to these bodies. In the light of the recommendations of the committee, PRIs were gradually setup in almost all the states, and were contemplated to be developed as instruments of development. There was a general agreement regarding the need for increased decentralization; however a difference of opinion regarding structural pattern was also there. Many State governments, however, rejected these proposals. Subsequently, two other committees were set up to make further recommendations. These were the Rao and Singhvi Committees. The Thungon Committee, for the first time, recommended the need for constitutional recognition for strengthening the PRI system. Accordingly, the 64th Amendment bill was drafted, placed before Parliament in 1989. The bill was passed in the Lok Sabha, but could not be passed in the Rajya Sabha.

The draft of 64th Amendment opened the subject for countrywide deliberations and discussions. There was an imperative need to ensure the basic features of Panchayati Raj Institutions in the Constitution itself and to provide them certainty, continuity and strength. On the basis of the overall consensus arrived from these discussions, the Constitution (73rd Amendment) Act 1992 came into force with effect from 24 April 1993. It lays the foundation of a strong and vibrant Panchayati Raj Institutions in the country.

The state government should transfer the responsibility of policy making and its execution regarding subjects of local development and welfare to these local bodies. Attempt has been made to confer the status of 'Autonomous Government' to Panchayati Raj and Municipal Bodies by giving them subjects of local importance in the 11 and 12 Schedules of the Constitution. The subjects

offered to the local bodies under the 11th and 12th Schedule, however, do not form a part of the subjects falling under the Central control.

The statutory Panchayat Raj Institutions set up by various state governments were a far cry from Gandhi's dream of 'Gram Swaraj' and JP's plea for Swaraj for the people. Even the 73rd and 74th Constitutional Amendments that have put the local self governing institutions on the constitutional footing have not substantially lifted them to a stage of functioning to justify such sentiments that extol the Panchayati Raj having graduated 'from Legislation to Movement'.<sup>58</sup> These dreams and sentiments would materialize only after India's full transition to a bourgeois democratic revolution. However, the 73rd and 74th Amendments to the constitution have raised fresh and high hopes that now the state governments, sooner or later, will have to give due rights and powers to Panchayati Raj and other local bodies as provided in these amendments. The dream of former President Abdul Kalam of making India a developed country by 2020 can come true if the local institutions are supported by the Government and bureaucracy and rural people become aware of their rights.

## Conclusion

India has a Constitutional Government, and its Constitution that commenced on 26th January 1950 is one of those rare Constitutions of the Afro-Asian World that has continued uninterrupted for over six decades except for a brief interlude of the emergency in 1975-77. We may conclude this chapter with the brief discussion on the process of amending this Constitution and the theory of the basic structure of the Constitution propounded by the Supreme Court of India.

The Indian Constitution has provided a combination of flexible and rigid amending procedure. Article 368 deals with the amendment of the Constitution and lays down the following procedure. Firstly, amendments with respect to certain subjects required approval by the majority of the total members in each House of the Parliament separately and by a majority of not less

than the two-thirds of the members present and voting, plus ratification of not less than one-half of the State Legislatures. These matters include: i) Election of the President, ii) executive powers of the Unions and State, iii) High-Courts for Union Territories, iv) powers of the Supreme Court and High-Court, v) legislative relationship between the Union and the State, vi) list in the Seventh Schedule, vii) representation of the States in Parliament and viii) provisions of Article 368. Secondly, amendments with respect to other subjects require approval by a majority of the total members of each House of the Parliament separately and by a majority of not less than two-thirds of the members present and voting. Thirdly, many issues require only simple majority in each House for effecting changes, such subjects include passing law by the Parliament with respect to the formation of new State and alteration of areas, boundaries, or names of existing States.

In case of disagreement over legislation between the two Houses, the Constitution provides for a joint sitting of the two Houses to break the deadlock by a majority decision. However, in case of amendments, the Constitution is silent about joint session. Therefore, if the two Houses disagree, an amendment bill is practically killed. Thus, each House enjoys a veto power over an amendment.

The scope of the amending power of Parliament—whether this power is absolute and unlimited, or subject to certain limitations—has been a matter of debate. In the famous case of *Keshvananda Bharati v. State of Kerala* (1973), the Supreme Court held that the Parliament could change any provision of the Constitution but the ‘basic structure’ of the Constitution could not be altered. In the *Keshvananda Bharati* case (1973), the court held the following as the basic features of the constitution: a) supremacy of the Constitution; b) republican and democratic form of the government; c) secular character of the Constitution; d) separation of powers; e) federal character of the Constitution; f) sovereignty and unity of India and individual freedom. In the *Indira Gandhi v. Raj Narain* case (1975), the following features were further added: a) equality of status and opportunity; b) secularism and freedom of conscience; c) rule of law; d) the

character of the nation as a sovereign democratic republic. In the *Minerva Mills* case (1980), the court further added the following features as unalterable: a) amending powers of the Parliament; b) judicial review; c) balance between fundamental rights and directive principles.

Strengthening the 'Basic Structure Doctrine', the Supreme Court in *S. R. Bomai v. Union of India*, AIR 1994 SC 1918 held that secularism is one of the basic features of the Constitution. That concept was very much embedded in our constitutional philosophy, and what was implicit earlier has been made explicit by the Constitution 42nd Amendment in 1976. In this case, the decision of the President under Article 356 was also held to be reviewable. These trends set by the Court establish well that the judiciary in India has wide powers that go even to the extent of reviewing Constitutional amendments, not only legislative and executive acts.

### *Important Amendments in the Indian Constitution*

<b>Constitutional Amendment Act</b>	<b>Objectives</b>
First - 1951	A new constitutional device, called Schedule IX was introduced to protect laws that are contrary to the Constitutionally guaranteed fundamental rights. These laws encroach upon property rights, freedom of speech and equality before law.
Seventh - 1956	The Seventh Amendment brought about the most comprehensive changes in the Constitution. This amendment was designed to implement the State Reorganization Act. The Second and Seventh schedules were substantially amended for the purpose of the States Reorganization Act.
Twenty Fourth - 1971	It amends Article 13 and 368 with a view to removing all possible doubts regarding the power of the Parliament to amend the Constitution and procedure thereof. It gets over the Golak Nath ruling and asserts the power of the Parliament, denied to in the Golak Nath, to amend fundamental rights.
Thirty Eighth - 1975	Provided that the President can make a declaration of emergency, and the promulgation of ordinances by the President, Governors and the Administrative Heads of UTs would be final and could not be challenged

<b>Constitutional Amendment Act</b>	<b>Objectives</b>
	in any court. It also authorized the President to declare different kinds of emergencies.
Forty Second - 1976	Provided supremacy of Parliament and gave primacy to Directive Principles over Fundamental Rights. It also added 10 Fundamental Duties. New words-Socialist, Secular and Unity and Integrity of the Nation, were added in the preamble.
Forty Fourth -1978	The Right to Property was deleted from Part III. Article 352 was amended to provide 'Armed Rebellion' as one of the circumstances for declaration of emergency.
Sixty First - 1988	This Amendment reduces the voting age from 21 years to 18 years for the Lok Sabha and Assembly election.
Seventy Third - 1992	(Panchayati Raj Bill) Provided among other things Gram Sabha in Villages, constitution of panchayats at the village and other levels, direct elections to all seats in panchayats and reservation of seats for the SC and ST and fixing of tenure of 5 years for panchayats.
Seventy Fourth - 1992	(Nagarpalika Bill) Provides for, among other things, constitution of three types of municipalities, reservation of seats in every municipality for the SC and ST, women and the backward classes.
Eighty Sixth - 2002	Makes education a fundamental right for children in the age group of 6–14 years.
Ninety First - 2003	Amended the Anti-Defection Law, and also made a provision that the number of ministers in the Central & State Governments cannot be more than 15% of the strength of Lok Sabha & respective Vidhan Sabhas.
Ninety Third - 2005	To enable provision of reservation for other backward classes (OBC) in government as well as private educational institutions.

# Strategies of Development in India Since Independence

India, in August 1947 emerged as an independent nation to abide by its 'tryst with destiny'. The two major tasks before the government were:

1. Nation-building.
2. Socio-economic progress.

Esman describes nation-building as 'the deliberate fashioning of an integrated political community within the fixed geographic boundaries in which the nation state is the dominant political institution'.<sup>1</sup> The related objective of social and economic progress has been defined by Esman as 'the sustained and widely diffused improvement in material and social welfare'.<sup>2</sup>

The immensity of the development problems and the urgency of their solution have, in fact, thrust the principal burden of accomplishing development goals upon the state. In the early euphoria of nationalism, the people expect the government to work miracles. The state is expected to bring rapid socio-economic development in almost all sectors within the shortest possible time span, an accomplishment that was gradually achieved in developed countries of the west through private and local initiative over generations. Government sought to achieve growth with social justice, through a system of planned development.

## Historical Perspective: A Unique Model of a 'Mixed' Economy

Around 1951, when independent India launched on its process of economic planning there were stimulating debates on alternative approaches to development strategies. These included the famous Bombay Plan prepared by prominent industrialists. But the most conspicuous were three streams of thought permeating the Independence movement. One of the streams was that the state will have the most decisive, perhaps a full, say in all

economic matters, much in the same mould as the planning experience of the erstwhile Soviet Union during the 20s and 30s. The second approach was to provide support to small and village industries without disturbing the institutional set up in order to achieve village *smaraj*, on the lines of a typical Gandhian prescription. Finally, there were many who favoured the idea that private enterprises should flourish, since modern industries were established and sustained during the days of the British Raj by Indian industrialists of rare vision and patriotism. If one could have combination of these approaches; clearly, there were more than three choices for independent India to make.<sup>3</sup>

However, the ultimate framework of planning was based essentially on the famous blueprint prepared by Mahalanobis, which influenced India's path to development for the next four decades. It focused on the need to achieve self-sufficiency in the production of capital goods as the first priority with a view to enhancing the output of consumer goods at a later stage. In the original paper, Mahalanobis presented a two and a four sector model with technical coefficients and a growth path. Questions of resource availability, inflation and employment were neglected.<sup>4</sup>

The conceptual frame of a mixed economy, based on the co-existence of public and private sectors, side by side has several elements:

1. Agriculture was left in the private sector, but it would be strengthened by public investment support in key areas, such as irrigation, research and extension.
2. Investment planning, aimed at coordinating large-scale investments in the so-called key sectors of the economy, was adopted.
3. A leading role was assigned to investment instruments, aimed initially at conserving foreign exchange; in course of time, they were extended to prevent the growth of the so-called monopoly houses.
4. A conscious policy of fostering small and medium industries to help diffuse ownership was incorporated
5. The authority of the State was used to regulate-but mostly to discourage-the inflow of private foreign capital while relying on the flow of official development assistance to cover the foreign exchange gap as well as, in part, budgetary deficits.
6. A regime of administered prices was adopted in core sectors to regulate both the instabilities and the presumed inequities of the

market system. The policy frame aimed at transfer of the commanding heights of the economy to the domain of the State while allowing initiative to the private industrial sector in specified, albeit limited, spheres, and permitted big business to develop if it helped in acquiring technological capacity.<sup>5</sup>

It is imperative to understand the reasons why India came to embrace its unique concept of mixed economy:

1. The experience of the colonial regime, which made economic consolidation and resurgence the topmost priority.
2. The immensity of the social responsibilities of the state to deal with problems of poverty, unemployment, population, illiteracy, regional imbalances and so on.
3. The inadequacy of existing physical infrastructure (power, roads, railways, ports, telecommunications) for building a modern economy.
4. A sense of uncertainty about the efficacy of the free enterprise system in delivering the goods.
5. The international economic and political situation which created 'cruel dilemmas about aligning with any dominant ideologically oriented system, be it capitalist or communist.

## Planning Process in India

In India, the Planning Commission is at the core of the planning mechanism, formulate, and it supervises the planning mechanism. The Commission is helped and guided by several other organizations involved in policy making, programming and evaluating at the centre and state levels. Basically, Indian plans have a perspective outlook. In the first instance, the Planning Commission formulates basic goals for a period of 20 years. The Commission sets these targets after studying the social, economic and technical conditions and future potential. After attaining approval from the government, broad five-year targets are framed to cover the first stage of the perspective plan. These five-year targets are placed before different working groups of economists, administrators and technical experts. The groups examine the implications of the proposed targets in their respective spheres. They make recommendations, if necessary, to revise the long-term as well as short-term targets. They also specify the

programmes and policies to be implemented to realize these targets. On the basis of these recommendations, the Planning Commission prepares a short memorandum on the Five Year Plan and submits it before the Union Cabinet and the National Development Council for approval. After approval, the commission prepares and publishes a Draft Plan, which sets out the objectives of the plan, estimates on resources, and targets to be realized.

The Draft Plan is subject to discussion in both Houses of Parliament. Then, the Planning Commission sends the tentative targets to the central ministries and the states. When the consultations with central ministries are over, the state governments are invited for discussion with the Commission. The final plan is formulated on the basis of proposals by the central and the state governments. The Commission examines the programmes and project for technical and economic consistency. After necessary modifications the final plan is formulated and presented to the Union Cabinet, the National Development Council and the Parliament for final approval. The plan approved by the Parliament is forwarded to different departments for execution.

## Planning in India

Soon after Independence, India started its development efforts with the motto 'Growth with Social Justice'. India stepped into the era of economic planning in 1951, by launching its first Five Year Plan and has completed fifty eight years of economic plan. The planning process has had its occasional inception. After the completion of the Third Plan in 1966, India faced severe hostilities and the Fourth Plan was postponed. From 1966 to 1969, there were three annual plans. With the Sixth Plan, there were two versions, that is, the draft plan 1978-83 by the then Janta Party government and the other by the successor Congress government for the second 1980-85. There was also a two-year break (1990-1992) between the Seventh and Eighth Plans. But, the rapidly evolving political situation forced two annual plans for this period. The time of Indian plans is shown in Table 1.

**Table - 1** The time of Indian plans

<b>Plan</b>	<b>Plan Period</b>
Ist plan	April 1, 1951 to March 31, 1956
IInd Plan	April 1, 1956 to March 31, 1961
IIIrd Plan	April 1, 1961 to March 31, 1966
Annual Plan	April 1, 1966 to March 31, 1967
Annual Plan	April 1, 1967 to March 31, 1968
Annual Plan	April 1, 1968 to March 31, 1969
IVth Plan	April 1, 1969 to March 31, 1974
Vth Plan	April 1, 1974 to March 31, 1978
Annual Plan	April 1, 1978 to March 31, 1979
Annual Plan	April 1, 1979 to March 31, 1980
VIth Plan	April 1, 1980 to March 31, 1985
VII Plan	April 1, 1985 to March 31, 1990
Annual Plan	April 1, 1990 to March 31, 1991
Annual Plan	April 1, 1991 to March 31, 1992
VIIIth Plan	April 1, 1992 to March 31, 1997
IXth Plan	April 1, 1997 to March 31, 2002
Xth Plan	April 1, 2002 to March 31, 2007
XIth Plan	April 1, 2007 to March 31, 2012

*Sources:*

1. Government of India Planning Commission, various Five Year Plans.
2. Government of India Economic Survey (2006-07)

### *The First Five Year Plan (1951-56)*

While launching the First Plan in 1951, India was beset with problems of influx of refugees as a result of the 1947 partition, severe food shortage and mounting inflation. The plan accorded the highest priority to agriculture and community development. It was a moderate attempt with an expenditure of Rs. 2069 crore. The overall results of the plan were encouraging. National income, over the plan period, increased by about 18 per cent. Food-grains production rose by 20 per cent, and over 16 million acres of land was brought under irrigation. The index of industrial production also went up by 22 per cent. There was considerable improvement in power generation. Though the plan emphasized agriculture, irrigation, power and transport, it also aimed at creating base for more rapid economic and industrial expansion in future years. The plan also laid the foundation for social and institutional reform to accelerate the development process.

### *The Second Five Year Plan (1956-61)*

The Second Plan was formulated and implemented in an atmosphere of economic stability, and confidence brought about by the First Plan. The plan aimed at giving a 'Big push' to the economy. Prof. P.C. Mahalanobis, the real architect of the Second plan, was responsible for introducing a clear strategy of development. This strategy emphasized investment in heavy industry to achieve industrialization which was assumed to be the basic condition for rapid economic development. For Jawaharlal Nehru, the Prime Minister of India, the development of heavy industry was synonymous with industrialization. This strategy was carried in such a way that the Plan was to create larger employment opportunities, build a strong capital base and increase productive and technical capacity. The Mahalanobis strategy laid excessive emphasis on heavy industry, and the neglect of the consumer industries and of agriculture, promoted capital intensive rather than labour-intensive investments. Plan also highlighted the key role of the public sector in the development process and the need for a socialistic pattern of society. The plan had a total development outlay of Rs. 4,800 crore. The overall results of the Second Plan were also

satisfactory. The plan had a target of 4.5 per cent increase in national income, and was able to realize 4.1 per cent increase.

### *The Third Five Year Plan (1961–66)*

The Third Plan aimed at intensive development leading to a self-reliant and self-generating economy. As a result of the progress achieved during the First and Second Plans, the Indian economy had become much larger in size, and the range of its operations became more dynamic and complex. The plan set the target of an increase in national income of over 5.6 per cent per annum and to sustain this rate of growth in future. It emphasized agriculture development programmes to achieve self-sufficiency in food-grains and to meet industrial and export requirements. The plan had the objective of expanding basic industries to make India self-reliant in future industrial efforts. In the scheme of development during the Third Plan, the first priority necessarily was given to agriculture. The plan had a total outlay of 4600 crore. Of this, 20 per cent was for agriculture and irrigation; and 24 per cent for industry and mining. Social services got a share of 18 per cent. The plan had a targeted growth rate of 5.6 per cent, but was able to realize only 2.5 per cent, that is less than half of the targeted rate.

### *Annual Plans (1966–69)*

In the late 1960's, India came under severe shocks such as hostilities with Pakistan (1965), drought for two successive years (1965 to 1967), devaluation of the Rupee (1966) and severe inflationary pressures. Consequently, the draft outline of the Fourth Plan prepared in 1966 had to be abandoned. Instead, three annual plans (1966–67, 1967–68, 1968–69) were prepared and implemented within the framework of the draft outline of the Fourth Plan. The planning process was resumed when the Fourth Five Year Plan (1969–74) became operational in 1969. The agricultural glut in two consecutive year (1965–1966) and (1966–1967), decline in the rate of growth of industrial production and the inflationary pressure, eroded the resources available for the annual plans. Non-Plan expenditure became high, and at the same time, the government was not in a position to mobilize enough revenue resources. Forced by these circumstances, the

government resorted to deficit financing which reached a level of Rs. 676 crore during the period of annual Plans.

The annual plans gave the highest priority to agricultural production and productivity, particularly to schemes that were quick-yielding and could augment production in the shortest possible time. It was during the annual plans that India underwent the 'Green Revolution', which actually revolutionized the farm sector and helped it march toward further progress. The plan also gave priority to family planning programmes, and sectors such as industry and mining, transport and communication, and social services.

### *The Fourth Five Year Plan (1969-74)*

The Fourth Plan placed greater emphasis on rapid growth and quick-yielding projects. Policy has shifted from import substitution to export promotion, based on price incentives. The Plan was also plagued by uncertainties of aid. Most of India's foreign aid receipts during 1968-74 went straight back to the donors to defray previous loans with interest. The first two years of the Fourth Plan were quite promising, with record food-grains and industrial production. But, the next three years of the Plan were full of disappointments, with lower production, power shortages, transport bottlenecks and, above all, high inflation. The country had to cope with a huge influx of refugees from Bangladesh and the Indo-Pakistan war of 1971. One policy innovation introduced during this Plan was introduction of rural poverty alleviation programmes. The plan envisaged an outlay of Rs. 24,882 crore. Out of this, Rs 15,902 crore was earmarked for public sector programmes and Rs. 8,980 crore for the private sector. The plan aimed at a growth rate of 5.7 per cent in national income, but could realize only 3.3 per cent.

### *The Fifth Five Year Plan (1974-78)*

The Fifth Plan was drafted when India was reeling under severe inflation caused by an unprecedented increase in international oil prices in the wake of the 1973 Gulf crisis. The sharp increase in the prices of food, fertilizers and oil seriously upset the assumption on which the draft plan was framed. The most important objectives of the plan were the removal of poverty and

achievement of self-reliance. The strategies related to growth in three leading sectors: agriculture, energy and critical intermediates, and the generation of additional employment opportunities. The plan had a total public sector outlay of Rs. 39,320 crore, earmarking 22 per cent for agriculture and irrigation, 26 per cent for industry and mining, 20 per cent for transport and communication. The plan initially set a target of 5.5 per cent increase in national income. But, the plan could not complete its five years. It was terminated at the end of the fourth year (March 1978) by the newly elected Janata Party government. The initial plan of the Janata government was to introduce the 'Rolling Plan', a type of plan that was well executed in China. However, they were satisfied with two annual plans, 1978-79 and 1979-80. The Fifth Plan brought about a five per cent increase in national income.

### *The Sixth Five Year Plan (1980-85)*

The plan was launched with the prime objective of removing poverty, rural development and a balanced regional development. A substantial increase was provided in the plan outlay for the 'Special Area Programmes', in keeping with the objective of reducing regional disparities. The plan was formulated against the background of a long-term perspective covering a period of 15 years from 1980-81 to 1994-95. This development perspective aimed at accelerated progress towards the removal of poverty, generation of gainful employment and technological and economic self-reliance. The plan also aimed at speedy development of indigenous sources of energy with emphasis on conservation and efficiency in energy use and development and protection of ecological and environmental assets.

The Sixth Plan envisaged an outlay of Rs. 97, 500 crore, However, the actual expenditure stood at Rs. 109,291.7 crore at current prices. Of the total outlay, 24 per cent was for agriculture and irrigation and 27.8 per cent for industry and mining. The plan achieved an annual growth rate of 5.4 per cent, which was in excess of the targeted rate of 5.2 per cent. Industrial output went up by 5.5 per cent per annum, but was less than the targeted rate of seven per cent. Poverty ratio came down from 48 per cent in 1977-78 to 37 per cent in 1984-85. The aggregate growth target

for the plan was achieved mainly because of good agricultural performance and rapid growth in the services sector. The successful implementation of the plan also enhanced India's ability to deal with chronic problems of poverty and under-development.

### *Seventh Five Year Plan (1985-90)*

The Seventh Plan sought to emphasize policies aimed at acceleration of food-grains production, increase in employment opportunities and raise in productivity. The Plan strategy was geared to a direct attack on the problems of poverty, unemployment and regional imbalances. It stressed the need to accelerate the tempo of growth, and it sought to push the process of economic and technological modernization of the economy further ahead. The plan presented a comprehensive strategy for agricultural development, and it set a targeted growth rate of four per cent per year in agricultural production. The plan had an actual expenditure of Rs. 26,295 crore for the development of industries and minerals, and it realized an annual growth rate of 8.5 per cent in the sector. In order to facilitate the growth process, the plan also placed increased emphasis on investment in infrastructure. Nearly 31 per cent of the public sector outlay was meant for energy. The generation of power was expected to grow at an average annual rate of 12.2 per cent over the plan period. The plan, registered an annual average growth rate of 5.8 per cent as against the targeted five per cent. The Seventh Plan also experienced some difficulties. It was faced with increasing strain on balance of payments, budgetary deficits, and price levels. The level of deficit financing was two-and-a-half times greater than expected. Thus, though the Seventh Plan gained growth targets, it generated various stresses and strains on the economy.

### *The Eighth Five Year Plan (1992-97)*

The Eighth Plan was to commence in 1990-91, but could not because of political changes. The newly elected government decided to implement the Eighth plan from April 1, 1992 (there were annual plans for 1990-91 and 1991-92) with a thrust on maximization of employment and social transformation. During that time, the economy was facing severe challenges. First, there

were fiscal problems, which posed a severe constraint on the availability of resources. Secondly, India had to roll back public sector investment from those sectors of the economy where the private sector could move in, and also to step up its investments in the social sector. Thirdly, it was to be ensured that the growth process should benefit the poor, and the changed pattern should not stand against them.

Thus, the Eighth Plan had special features that distinguished it from earlier plans. They were:

1. The plan was indicative in nature rather than directional.
2. It recognized human development as the core of development efforts.
3. It attempted to correct the fiscal imbalances from which the Sixth and Seventh Plans suffered.
4. It was an integrative plan and so proposed to bring together various department and agencies dealing in rural development such as energy and transport under one roof for coordinated policy formulation and implementation.
5. It recognized the importance of people's participation in the process of development by changing the attitude of passive observance and total dependence on the government for development activities.
6. The plan was performance oriented.
7. The plan paid special attention to employment in rural areas to check migration to urban centres.

The Eighth plan was introduced within the frame work of structural reforms of the 1990s, whereby India made revolutionary changes in its economy. The Plan ended up with an average growth rate of 6.8 per cent per annum, that is, 1.2 per cent higher than the targeted growth rate of 5.6 per cent. The average growth rate during the last three years of the plan was 7 per cent, which placed India among the top ten performers of the world. Plan suffered from some weaknesses. The development achieved in the agriculture sector was less than satisfactory. Agricultural investment and credit availability remained stagnant. The plan failed to achieve the target set for infrastructure facilities like power, transport and communication. The import and export trends were less promising, and so the balance of payment

position remained unstable. The plan also experienced an average inflation rate of 8.8 per cent.

### *The Ninth Five Year Plan (1997-02)*

The Ninth Plan was launched in the 50th year of India's Independence. The people of India had demonstrated their ability to forge a united nation despite its diversity and of their commitment to pursue development within the framework of a vibrant and dynamic democracy. Against such a background the Ninth Plan was formulated with the objective of 'Growth Social Justice'. The Ninth Plan proposed an investment of Rs. 2,171,000 crore at 1996-97 price. Of the investment, 92.6 per cent was to be met from domestic sources. Investment in the public sector was only 33 per cent.

The growth rate of the economy during the plan years was less than the targeted rate of 6.5 per cent per annum. In 1997-98 the economy experienced a record growth of 6.8 per cent mainly because of the increase in agricultural production. The manufacturing sector, however, continued to perform badly and grew at a marginally below four per cent. The service sector continued to perform well. Four sectors like construction, communication, public administration and other services had performed far better than expected. The growth in other services was mainly because of the development in the software sector. The average annual growth rates were 5 per cent, 6.8 per cent, 5.9 per cent, 6.45 per cent and finally 5.2 per cent as against the average annual growth target of 6.5 per cent. In the agricultural sector, the plan had the target of 234 million tones of food grains but could achieve only 209 million tones. The economy also experienced inflationary trends. But, the overall macro indicators showed an upswing and the ability of the Indian economy to wed up global competition.

### *The Tenth Five Year Plan (2002-07)*

GDP growth in the post-reform period improved from an average of about 5.7 per cent in the 1980s to an average of about 6.5 per cent in the Eighth and Ninth Plan periods, making India one of the fastest growing developing economies with decelerating population growth and literacy, fast-growing knowledge and

economy' all that added silver lining in India's development path. But, even in the midst of these silver linings there is a galaxy of other Indian facts, which pave the way for larger concerns. There are several aspects of development where progress is clearly disappointing.

The incidence of unemployment on Current Daily Status basis is relatively high, at above seven per cent. More than half the children in the age group of 1-5 years age in rural areas are under-nourished. Infant mortality rate has stagnated at 72 per 1,000 for the last several years. As much as 60 per cent of rural households and about 20 per cent of urban households have no taps in their houses. Deterioration in urban environment, increase in slum population and overall alarming population has affected the quality of life of the urban poor. The decline in the juvenile sex ratio over the last decade, visible in the data from Census 2001, is an indication that the constitutional assurance of freedom and equality for women is still far from being fulfilled.

In this background, the tenth plan provides an opportunity at the start of the new millennium to build upon the gains of the past, and also to address the weaknesses that have emerged. The Tenth Plan had targeted an average annual GDP growth rate of 8.1 per cent. This was expected to lay the basis of a growth rate of above 9 per cent during the eleventh plan period. The growth target of the first two years was about seven per cent on an average. The actual performance has been 4.6 per cent in 2002-03 and 8.3 per cent in 2004-05, and an average 6.5 per cent in the first three years, which is below the tenth plan target of 8.1 per cent.

### *Approach to the Eleventh Five Year Plan (2007-12)*

The National Development Council (NDC), the country's highest policymaking body, endorsed the Eleventh Plan document on December 19, 2007. It envisages an average nine per cent GDP growth in the first four years to end the five year period with a growth of 10 per cent during the terminal year 2011-2012.

With an overall investment of 36,000 crore, Gross Budgetary Support has been fixed nearly 115 per cent higher at Rs 10 lakh crore to help states in ushering in inclusive growth through the development of social infrastructure such as health, education

and eradication of poverty by generating more jobs. Twenty-seven targets have been proposed at the national level and 13 at the state level with regards to poverty eradication, education, health, status of women and children, infrastructure and environment. The incidence of poverty is to be reduced by 10 percentage point by generating seven crore new jobs, while electricity connection is to be ensured to all villages.

The Eleventh Plan provides an opportunity to restructure policies to achieve a new vision based on faster, more broad-based and inclusive growth. It is designed to reduce poverty and focus on bridging various divides that continue to fragment society. The Eleventh Plan aims at putting the economy on a sustainable growth trajectory with a growth rate of 10 per cent by the end of the plan period. It will create productive employment at a faster pace than before, and target robust agriculture growth at four per cent per year.

With population growing at 1.5 per cent per year, nine per cent growth in GDP would double the real per capita income in 10 years. This must be combined with policies that will ensure that per capita income growth is broad-based, benefiting all sections of the population, especially those who have thus far remained deprived. A key element of the strategy for inclusive growth must be an all out effort to provide the masses access to basic facilities such as health, education, and clean drinking water.

### *Monitorable Social-economic Targets of the Eleventh Plan*

#### **Income and Poverty**

1. Accelerate growth rate of GDP from eight per cent to 10 per cent, and then maintain at least 10 per cent in the Twelfth Plan to double per capita income by 2016-17.
2. Increase agricultural GDP growth rate to four per cent per year to ensure a broader spread of benefits.

**Table - 2** Eleventh Plan (2007-2012) Outlay by Heads of Development: Centre, State: Centre, states and Union Territories, 2007-2008, 2008-2009

*Source:* Planning Commission

BE Budget Estimates

RE Revised Estimates

**Table - 3** Macro-economic Indicators of the Eleventh Five Year Plan

1. \*GDP growth rate is actual, up to 2005-06; saving rate, investment rate and CAB are actual up to 2004-5
2. Government fiscal balance and revenue balance are based on actual (three years for centre and two years for states) and for remaining years RE/BE/projected.

*Source:* Approach paper Eleventh Plan, Planning Commission

3. Create 70 million new work opportunities.
4. Reduce educated unemployment to below five per cent.
5. Raise real wage rate of unskilled workers by 20 per cent.
6. Reduce the head count ratio of consumption poverty by 10 percentage points.

#### **Education**

7. Reduce dropout rates of children in elementary school from 52.2 cent in 2003-04 to 20 per cent by 2011-12.
8. Develop minimum standards of educational attainment in elementary school and, by regular testing, monitor effectiveness of education to ensure quality.

9. Increase literacy rate for persons aged seven years or more to 85 per cent.
10. Lower gender gap in literacy to 10 percentage points.
11. Increase the percentage of persons going to higher education from the present 10 per cent to 15 per cent by the end of the plan.

#### **Health**

12. Reduce Infant Mortality Rate (IMR) to 28 and Maternal Mortality Ratio (MMR) to 1 per 1,000 live births.
13. Reduce total fertility rate to 2.1.
14. Provide clean drinking water for all by 2009 and ensure that there are no slip backs by the end of the plan.
15. Reduce malnutrition among children of age group 0-3 to half its present level.
16. Reduce anemia among women and girls by 50 per cent by the end of the plan.

#### **Women and Children**

17. Raise the sex ratio for age group 0-6 to 935 by 2011-12 and to 950 by 2006-17.
18. Ensure that at least 33 per cent of the direct and indirect beneficiaries of government schemes are women and girl children.
19. Ensure that all children enjoy a safe childhood, without compulsion to work.

#### **Infrastructure**

20. Ensure electricity connections to all villages and BPL households by 2009 and round-the-clock power by the end of the plan.
21. Ensure all-weather road connections to all habitations with population of 1,000 and above (500 in hilly and tribal areas) by 2009, and ensure coverage of all significant habitation by 2015.
22. Provide broadband connectivity to all villages by 2012.
23. Provide homestead sites to all by 2012 and step up the pace of house construction for rural poor to cover all the poor by 2016-17

#### **Environment**

24. Increase forest and tree cover by five percentage points.
25. Attain WHO standards of air quality in major cities by 2011-12.

26. Convert urban wastewater by 2011-12 to clean river waters.
27. Increase energy efficiency by 20 percentage points by 2016-17.

The Indian economy has emerged with remarkable rapidity from the slowdown caused by the global financial crisis of 2007-09. With growth in 2009-10 now estimated at 8.0 per cent by the Quick Estimates released on 31 January 2011 and 8.6 per cent in 2010-11 as per the Advanced Estimates of the Central Statistics Office released on 7 February 2011, the turnaround has been fast and strong. Growth is strong in 2010-11 with a rebound in agriculture and continued momentum in manufacturing, though there was a deceleration in community, social, and personal services, reflecting the base effect of fiscal stimulus in the previous two years. It was composed of growth of 5.4 per cent in agriculture, growth of 8.1 per cent in industry and a decelerated growth of 9.6 per cent in services as against 10.1 per cent in 2009-10 (Table 4) On the demand side, the GDP at constant prices (2004-05) at market price is estimated to grow by 9.7 per cent.

**Table - 4** Growth in GDP at factor cost at 2004-2005 prices (per cent)

Source: CSO

### *Economic Crisis of 1990-91 and Reforms*

The economic development in India over the period of four decades (1950-1990) has been summarized by Jagdish Bhagwati in following words:

We had started out in the 1950s with:

- high growth rates.
- openness to trade and investment.
- a promotional state.
- social expenditure awareness.
- confidence that poverty would be seriously dented by growth.
- macro stability.
- optimism; and hence.
- The admiration of the world.

But we ended in the 1980s with:<sup>6</sup>

- low growth rates.
- closure to trade and investment.
- a license-obsessed, restrictive state.
- inability to sustain social expenditures.
- loss of confidence in the efficacy of growth in reducing poverty.
- macro instability, indeed crisis.
- pessimism; and therefore.
- marginalization of India in world affairs.

Excessive State intervention through an elaborate system of controls and circuitous procedures have caused serious economic distortions and inhibited the growth impulses. The industrial policy of the government is said to have degenerated into 'overprotection'. The high protection walls both in terms of tariffs and direct controls through an elaborate physical import control regime and tight controls on allocation of foreign exchange have sapped the competitive potential of Indian industry, and led to creation of a high cost economy. The enlargement of controls over the industrial sector had the effect of distorting the market signals and contributing to several micro-economic inefficiencies.<sup>7</sup> Bhagwati and Srinivasan have described vividly how these micro-economic inefficiencies have caused

macro-economic inefficiencies resulting in an unsustainable fast growth of budget deficits.<sup>8</sup> A case-by-case discretionary system of bureaucratic controls and periodic exemptions through notifications have added to the transaction costs, turning the industry less competitive. Controls have also helped to open the flood gates for corruption, generating black money and the scams of the hawala market.<sup>9</sup>

The crisis had been simmering since the mid-1980s, with government relying heavily on domestic and foreign borrowings. The aftermath of the conflict in the Middle East (the Iraqi invasion of Kuwait) and the resultant steep rise in oil prices, dealt a major blow to macroeconomic management. All these events culminated in a crisis of high fiscal deficit, escalating inflation and setback to balance of payments, leading to a rapid depletion of foreign exchange reserves.

The political and administrative control of the public sector has become financially unviable. Total public sector borrowing increased to nine per cent of the GDP by 1990. Thus, the public sector which was supposed to generate resources for the growth of the rest of the economy gradually became a net drain on the society as a whole.<sup>10</sup>

Thus, the ratio of the central government's fiscal deficit to GDP reached an all-time high of 8.3 per cent in 1990-91; the rate of inflation touched a peak of 17 per cent in August 1991; and forex reserves dropped to a meager one billion dollars by March 1991, sufficient to meet only about two weeks of imports. India was at the edge of a precipice; it could have even become a defaulter in meeting its international financial commitments.

In the wake of the acute economic crisis of 1991, the Government of India moved swiftly to evolve economic reform measures, based on liberalization. The wide-ranging reform package included consistent and coordinated measures to reduce protection and improve the competitive potential of both public and private sector industries. The reforms were aimed at macro-economic stabilization and Structural Adjustments in various sectors of the economy. The objective of the reforms was to evolve an industrial and trade policy framework which would promote efficiency in the economy and increase its international competitiveness. The clear objectives are; to deregulate the

economy, to reduce the role of the public sector, to unleash private initiative and enterprise, to accelerate economic growth, to meet the challenges of global competitiveness and of course to ensure social equity and justice. It marked a paradigmatic shift from the Nehruvian model of development pursued since independence.

### **Industrial Reforms**

- Abolition of industrial licensing except in nine industries.
- Exclusive public sector reservation limited to four industries against seventeen previously.
- Drastic dilution of legislation such as the Monopolies and Restrictive Trade Practices (MRTP) Act and the Foreign Exchange Regulation Act (FERA).
- Automatic approval for foreign direct investment (FDI) up to 51 per cent equity in fifty-one, and up to 74 per cent in nine specified industries.
- Foreign Investment Promotion Board specially constituted to promote FDI in areas of strategic importance and requiring large investments.
- Substantial opening up of infrastructure to domestic private sector and foreign direct investment.

### **Fiscal Reforms**

- Rupee devaluation of 20 per cent in early July 1991, and a gradual changeover to market-determined exchange rate.
- Full current account convertibility of the rupee in August 1994.
- Progressive deregulation of deposit and lending rates of banks.
- Sharp reductions in the Statutory Liquidity Ratio (SLR) and the Cash Reserve Ratio (CRR) allowing banks greater freedom into deployment of lendable resources.
- Promoting integration of the money and foreign exchange markets.
- Strengthening the banking system through (a) capital adequacy; (b) prudential norms of accounting; and (c) greater autonomy and freedom to banks.
- Allowing the setting up of private sector banks and foreign banks.
- Major capital market reforms including: (a) free pricing of equity; (b) allowing for-foreign institutional investors (FIIs) entry to portfolio investment; (c) allowing the corporate sector to access Global

Depository Receipts (GDRs)/External Commercial Borrowings (ECBs), etc.

- Establishment of SEBI (Security and Exchange Board of India).

### *Rationalization and Simplification of the Tax System*

- *Personal income tax*: top rate reduced from 56 per cent in 1990-91 to 30 per cent.
- *Corporate tax*: (a) domestic companies from 51.75 per cent to 35 per cent; and (b) foreign companies from 74.75 per cent to 48 per cent.
- *Excise Duty*: Fewer product classification/fewer rates: range 8 per cent to 18 per cent; in a few cases going up to 30 per cent.
- Across-the boards extension of Modified Value-Added Tax (MODVAT).
- Gradual shift towards VAT.
- *Customs Duty*: Sharp rationalisation and remarkable reduction in customs tariff.
- Long-term Export-Import (EXIM) policy; phasing out of (a) quantitative restrictions; (b) discretionary controls; and (c) canalized items of trade, etc.
- Maximum rate reduced from 300 per cent to 40 per cent. Most rates now range from 10 per cent to 25 per cent.
- Trade weighted rate 27 per cent.

### *Infrastructure Reforms*

Major reforms were implemented in infrastructure such as telecommunication, telecom equipment manufacturing industry, road transport, highway development and shipping. The reforms implemented in telecommunications included value added services like cellular mobile phones, radio paging, electronic mail etc. which were opened up to the private sector. Foreign equity participation was permitted to provide basic telecom services and the Telecom Regulatory Authority of India (TRAI) was set up. The telecom equipment manufacturing industry was deregulated in 1991 with automatic approval of foreign equity up to 51 per cent of total equity. Insurance sector was also opened up allowing foreign equity participation. Insurance Regulatory Authority of India (IRAI) was set up to regulate insurance sector. The road sector was declared an industry to facilitate borrowing on easy

terms and permit floating of bonds. The government announced a policy to encourage private sector participation, levying user fee, and construction of BoT basis for highway development.

## Impact of Economic Reforms

### *Growth and Structural Change*

The trends in growth rate of the pre-reform decade (1980s) and post-reform period, is provided in Table 5. During the 1980s and the 1990s, the annual average growth was about 5.8 per cent. But the pattern of growth was different in the two decades. In the 1980s, the annual growth rate was below five per cent in three years and below four per cent in two years. But during the 1990s, except for two years, the rate of growth was more than five per cent. This indicates that the economy achieved a more steady and sustained growth rate during the post-reform period compared to the earlier period. During the present decade, the economy achieved a high rate of growth of 8.5 per cent in 2003-04 and 7.5 per cent in 2004-05.

#### **Table - 5** Annual Growth Rates of GDP

P-Provisional Estimate

*Source: Economic Survey 2004-05 and 2006-07*

A sector-wise growth rate of the decades 1980s and 1990s give us an idea about the changes that have taken place in different sectors of the economy. Table 6 gives a sectorwise growth rate of the Indian economy since 1980-81.

**Table - 6** Sector wise Growth Rate (per cent)

*Source : Economic Survey 2004-05 and 2006-07.*

Agriculture and allied sectors provide more than half of the total employment and nearly one fourth of the national income (GDP). Trends in annual growth rate of agriculture during the 1980s show that the sector registered a marginal or negative growth rate only in three years. On the other hand, during the 1990s, the sector witnessed negative or marginal rate of growth in four years. The index of agricultural production shows that the performance of agriculture was better during the pre-reform decade compared to the post-reform decade (1990s) ([Table 6](#)).

Trends in the growth rate of the secondary sector comprising manufacturing, construction, electricity, gas and water supply show that the sector achieved an annual average growth rate of 6.64 during the 1980s and 5.91 in the 1990s ([Table 6](#)). The sector achieved a steady growth rate during the 1980s compared to the 1990s. However, the secondary sector registered a higher growth rate during the first half of the present decade. The rate of industrial production was lower in the 1990s compared to the earlier period. However, the rate of industrial production witnessed a rise since 2002-03. During the post-reform period, the industrial sector underwent rapid structural and technological changes with the introduction of a number of new products. The tertiary sector comprising trade, hotels, transport and communication, financing, insurance, real estate, and other services witnessed the highest growth rate in the post-reform period compared to pre-reform period ([Table 6](#)).

Economic growth resulted in structural changes of the economy. The broad change in the composition of sectoral shares of the Indian economy since 1980-81 is given in [Table 7](#). During the 1980s, the major change was a decline in the share of the primary sector on the one hand and an increase in the share of the secondary and the tertiary sector on the other. During the 1990s, there was a rise in the share of tertiary sector, the share of the secondary sector remained constant. During the first half of this decade, the only sector that witnessed an increased in the share was the tertiary sector. The share of the tertiary sector increased to 54 per cent of the GDP. Thus, the broad structural change was

a steady fall in the primary sector share, a rise and subsequent stagnation of the secondary sector share and a steady rise in the tertiary sector share.

**Table - 7** Changes in Sectoral Share of GDP at Constant Prices (Per cent)

*Source: Economic Survey 2004-05 and 2006-07.*

### *Saving and Investment*

The basic determinants of the growth of an economy are the rate of saving and investment. The domestic savings in India comprises of household sector, private corporate sector and public sector. Compared to the 1980s, the rate of domestic savings and capital formation were higher during the 1990s and the first half of the present decade. In the case of domestic savings, the household sector and the private corporate sector registered a rise. The only sector that registered a fall in savings was the public sector. Thus, the achievement of a fairly good rate of growth of the economy during the post-reform period may be attributed to better domestic savings and capital formation.

### *Per Capita Income and Employment*

The trends in per capita income at constant prices showed that the rate of growth of per capita income during the 1990s was higher than the 1980s. During the first half of this decade, the per capita income at constant prices increased by 22 per cent. The overall increase in per capita income at constant prices suggests

that the rate of growth was higher during the post-reform period compared to the earlier period (Table 8).

**Table - 8** Per Capita Income

Year	Per capita income (Rs.) at current prices	Per capita income (Rs.) at constant prices
1979-80	1,485	5,092
1984-85	2,690	5,956
1989-90	4,693	7,087
1994-95	8,857	8,070
1999-2000	15,625	10,071
1999-2000	15,839	15,839
2000-01	16,648	16,133
2001-02	17,800	16,762
2002-03	18,899	17,075
2003-04	20,936	18,263
2004-05 (P)	22,946	19,297

Source: Economic Survey 2004-05 and 2006-07.

According to NSSO surveys (National Sample Survey Organisation), the total employment increased from 239.57 million (person year) in 1983 to 315.84 million in 1993-94 and 336.75 million in 1999-2000. Between 1983 and 1987-88, the annual growth of employment was in the range of 2.73 per cent. The agriculture sector witnessed a growth of 1.64 per cent, the secondary sector 5.56 per cent and the tertiary sector 3.91 per cent during this period. The trends in the growth rate continued

during 1987-88 to 1993-94. During this period, while the agriculture sector registered a higher growth, there was a fall in the growth rate of the secondary sector. The trend in the growth of employment continued without much change in the tertiary sector (Table 8).

During the post-reform period, especially between 1993-94 and 1999-2000; there was a fall in the growth rate of employment. The annual growth rate of employment declined to 1.1 per cent. The agriculture sector remained stagnant with zero growth of employment during the period. The secondary sector registered a growth of 3.05 per cent. On the other hand, there was an increase in all the sub-sectors of the tertiary sector with the only exception being community, social and personal services. Thus, the trends in the growth of employment during the 1980s and the 1990s showed that the rate of growth was lower in the post-reform period.

Thus economic reforms have accelerated a process of structural change indicating a fall in the share of agricultural employment and a rise in secondary and tertiary employment.

### *Poverty*

The expert group of the Planning Commission (1993) had fixed a monthly per capita total expenditure of Rs. 89.45 (rural) and Rs. 117.64 (urban) for 1983 as the poverty line, which was the official poverty line of India for 1983. At this level of per capita total expenditure, it is expected that a person will get the required per capita daily intake of 2,400 calories in rural areas and 2,100 calories in urban areas, According to this norm, the people below the poverty line in rural areas were 45.7 per cent and urban areas 40.8 per cent (Table 9). There was a continuous decline in poverty during the 1980s and 1990s based on the official poverty line. But a notable development was that the poverty declined at a higher rate during the 1990s. This suggested that the reforms have initiated widespread changes in employment and income generation resulting in a larger reduction of poverty in 1990s. According to the estimate of 1999-2000, the percentage of people below the poverty line in rural and urban areas was 27.1 per cent and 23.6 per cent respectively. The poverty line in 1999-2000 was based on a monthly per capita total expenditure of Rs. 327.65

(rural area) and Rs. 454.11 (urban areas). The poverty line has a number of limitation and it does not capture ill health, low educational attainments geographic isolation, ineffective access to law, caste and gender-based disadvantages, low income, dependence of debt, and ignores structural inequalities and other factors that generate, sustain and reproduce poverty.

**Table - 9** Multidimensional Poverty Index

*Note:* Not all indicators were available for all countries: Caution should thus be used in cross-country comparisons.

\*\* Data refer to the most recent year available during the period specified. Figures in parentheses in Column 2 give ranking among 169 countries

*Source:* HDR 2010.

The multidimensional poverty index (MPI) indicates the share of the population that is multi-dimensionally poor adjusted by the intensity of deprivation in terms of living standards, health, and education. According to this parameter, India with a poverty index

of 0.296 and poverty ratio of 41.6 per cent (in terms of PPP) and 28.6 per cent (national poverty line) is not favourably placed with countries like China and Srilanka.

### *Retrospect & Prospects*

The main objective of state-centered economic policy during the plan period was economic growth, and the economic policies were geared to fostering this objective. Agriculture was consistently neglected and the rural sector, based on peasant agriculture, was deprived of development fund in favour of industrial development in the urban areas. The paramount importance of agriculture to the socio-economic development of the country can hardly be overemphasized. Agriculture offers employment to over 52 per cent of the working population; and contributes about 18 per cent of the GDP. Development has been equated with industrialization, imported consumption patterns and life-styles, and provision of educational, health and other public services with an urban bias at the cost of the real needs and potentialities of the neglected and impoverished rural majority.

Plans have failed because of defective and half-hearted implementation efforts, lack of cohesion with social factors and the impediments imposed by political and economic factors. Development plan targets and investment possibilities in the country have been too ambitious and unrealistic. It is further complicated by the centralized character of Indian planning which ignores the fact that each area has its own individuality, potentiality and needs. Besides the towering personality of Nehru and the ruling Congress party's long dominance in the country, a high propensity for centralization in the public domain was reinforced by a bureaucratic tradition which relied upon uniformity, cohesion, decision-making through a string of committees, and an inward looking mind-set. L.K. Jha, the then Secretary to the Prime Minister, observed,

'Centralization has been of the failings of the Indian administrative system. Despite the tremendous increase in the size of the government... the number of point at which effective and critical decisions are taken are extremely limited. The worst victim of the centralization psychosis, which affects many government departments, is the public sector.'<sup>11</sup>

National development plans failed not only in achieving a large number of important planned targets, but also promoted an undesirable style of development. The style of development pursued since independence has led to lopsided growth in almost every economic and social sectors resulting in unequal distribution of its benefits among the various sections of the society. Despite more than six decades of planned economic development, a large part of the population, particularly segments like landless agricultural labourers, marginal farmers, SCs, STs, and OBCs, suffers social and financial exclusion.

The structural change that occurred during the post-reform period has been a decline of the primary sector and the emergence of the tertiary sector as the dominant sector. Steady increase in gross domestic savings and capital formation has accelerated the investment process of the economy. The most significant achievement of reform has been the steady and sustained improvement in the balance of payment position and accumulation of foreign exchange reserves.

However, the reforms have not achieved the desired results on some fronts like reduction of unemployment and poverty, rural development, improvement in the condition of the rural and urban poor, expansion of public services, infrastructure development, etc. The growth in speculative investments in stocks, real estate, gold and other assets created unhealthy and undesirable social effects. Some of the policies pursued in agriculture had adversely affected the interests of small and marginal farmers and resulted in the suicides of a large number of farmers in different parts of the country. The reforms have also marginalized the poor sections of society like landless agricultural labourers, marginal farmers, tribal people, workers in informal sectors, and workers solely dependent on agriculture and allied activities. Likewise, the policies have failed to improve public education, health services, public utilities, and in strengthening the network for the public distribution system.

**Table - 10** India's Global Positioning Human Development 2010

*Note:* Refers to an earlier year than specified.

Figures in parentheses in Column 2 give ranking among 169 countries.

*Source:* HDR 2010.

In terms of gender equality index (GEI), India with an index value of 0.748 ranks 122 out of a total of 168 countries in 2008. The GEI captures the loss in achievement due to gender disparities in the areas of reproductive health, empowerment, and labour force participation with values ranging from 0(perfect value) to 1 (total inequality). The GEI index value of 0.748 indicates a higher degree of gender discrimination in India compared to countries like China (0.405) and Srilanka (0.5999). According to Human Development Report 2010, the HDI for India was 0.519 in 2010 with an overall global ranking of 119 (out of 169 countries) compared to 134 (out of 182 countries) in 2007.

The concepts like economic fundamentals, economic reforms, and globalization need to be defined in different ways for the

different countries situated at various levels of development and in varied socio-economic settings. The fundamentals for the Indian economy should be considered in terms of the facilities for education, health service, infrastructure, empowerment of women, population control, and such other social aspects of development. The absence of favourable initial conditions in terms of education, health and other characteristics would adversely affect the ability to take advantage of the emerging trend of globalization and liberalization. The policy system should attend to these fundamentals which are germane to the Indian system rather than considering only the fundamentals universally defined by the foreign institutions and scholars.

Although national development planning has failed to achieve its basic objectives, but there is no reason to be pessimistic. India remains well-endowed in both natural and human resources and it is believed that adoption of the unified approach to development analysis and planning will go a long way in solving some of the basic socio-economic problems the country is facing today.

Planning needs to be accommodated into federal democracy. If it fails to take into account the legitimate role of states in the economy, future plans are likely to encounter obstacles and be embroiled in political controversies. Broad Planning decisions will, henceforward, no longer be the decisions of the Central government alone. They will emerge from bargaining between the Union and State Government. There is a growing recognition that the relative roles of the Central and state governments in the economy should also be redefined. The Centre should confine its role to macro-economic management, creation of a legal framework and the movement of goods, services and people, leaving implementation to the states. With the introduction of economic reforms, there will probably be wider and more intensive consultations between government and the private sector. The gap in the available resources could possibly be met by a tailor-made Public-Private Partnership (PPP) mode of funding without diluting the regulatory oversight of the government. Private sector participation in social sectors, such as health and education, sometimes referred to as public-social-private partnership (PSPP), could be one of the possible alternatives for supplementing the ongoing efforts of the government.

Attempts should be made in term of taking a realistic account of available resources, avoiding the attitude of 'overplanning', more as a political move of raising false expectations among the masses, concerted efforts toward reforming of procedure to achieve responsive action and initiative at each point of implementation, better co-ordination with numerous public and private agencies, and finally, creating a sense of confidence among people for whole planning system, and its acceptance by them through eliciting public cooperation and support at every level of plan formulation and implementation. Plan should focus exclusively on expansion of primary education, health programmes, drinking water availability and infrastructure facilities, as these hold out the best hope for avoiding the fritting away of scarce resources, which has long remained the bane of planning in India.

India is a country in transition. It has yet to complete its democratic experiment as the internal pressures from powerful socio-economic forces continually seek to dislodge it from its democratic path. The colonial legacy, social diversity, poverty and illiteracy coupled with the peculiarity of the political process stand in the way of universalization of the benefit of governance. India is a *soft state*.<sup>12</sup> Far from divesting or downsizing, the first and foremost task before India is to create a proper functioning democratic administrative state.

On 19 April 1996, United Nations General Assembly session on Public Administration and Development adopted GA Resolution 50/225, which:<sup>13</sup>

1. Reaffirmed that democracy and transparent and accountable governance and administration in all sectors of society were indispensable foundation for social and people-centered sustainable development.
2. Recognized that there was a need for public administration systems to be sound, efficient and equipped with the appropriate capacities and capabilities.
3. Reaffirmed that governments in all countries should promote and protect all human rights and fundamental freedoms, including the right to development.

The new economic reforms have redefined the relative roles of the market and the government. While the reform programme envisages huge inflow of direct foreign capital into many sectors, there is no getting away from the state still having to assume the major responsibility for a quick amelioration of poverty and expansion of basic facilities. There could, therefore, be no conflict between objective laid down for economic reforms programme and those for social welfare, which still remains as the exclusive domain of state. Only a strong active state can promote social justice, ensure universal access to quality services, and safeguard the rule of law and respect for human rights in the terms of Resolution 50/225.

Hence, the key to development is 'good governance'. Reforms in government should not just be confined to the public or civil service, but should include all other branches of government, and should be matched also by like reforms in all social sectors and development instrumentalities. The World Bank also stressed the need to establish a better system of governance for Third World, especially 'sub-Saharan Africa.'<sup>14</sup> States in the Third World should promote the rule of law, political pluralism and administrative accountability.<sup>15</sup>

It is unfortunately true that government had lost a great deal of its credibility. The most vital task is to restore it, and this requires an efficient, honest transparent and democratic governance. The programme of poverty alleviation, removal of inequality, illiteracy and ignorance, family planning, management of scarce resources, meeting challenges of, ecological imbalance and problems of pollution, social cost of liberalization, privatization and globalization have been identified as the challenges to be met to promote speedy development. The accumulating and overall impact of all these new phenomena on the broad spectrum of society have led to emergence of problems such as innumerable forms of crimes, deviance, terrorism and violence endangering the unity and integrity of the nation. The crisis of confidence, faith and values, and threats of internal violence and external pressures have to be tackled by the administration as India's tryst with destiny continues even today.

## 10

# Social Movements in India

There are various definitions of the term, 'social movement'. The term, 'movement' has been used with different connotations by social activists, political leaders and academicians in their writings. Some scholars use the term, 'movement' interchangeably with organization or union. Some use it to mean a historical trend or tendency such as renaissance, 'analytical movement', 'empirical movement', etc. it is fashionable for political leaders and social reformers to call their activities, which are essentially confined to lobbying or advocacy, as 'movements' even though their activities are restricted to forming organizations with less than a dozen members. Some claim to launch movements by issuing press statements on public issues.<sup>1</sup>

The term, 'social movement' was first popularized in the early nineteenth century in European languages. The political leaders and academicians were concerned with the emancipation of the exploited classes and the creation of a new society by changing the property relationship. However, since the early 1950s various scholars have defined the term social movement. Many scholars such as Rudolf Heberle, Neil Smelser, John Wilson and others have tried to define the concept 'social movement', but the definition given by Paul Wilkinson has been accepted widely.<sup>2</sup>

According to him social movements are, thus, clearly different historical movements, tendencies or trends. It is important to note, however, that such tendencies and trends, and the influence of the unconscious or irrational factors in human behaviour, may be of crucial importance in illuminating the problems of interpreting and explaining social movement.

A social movement must evince a minimal degree of organization, though this may range from a loose, informal or partial level of organization to the highly institutionalised and bureaucratized movement and the corporate group. Indeed, it will be shown that much of the literature of social movements has been concerned with natural histories, models or theories of movement development. Such models have attempted to simulate changes in movement structure and organization ranging from states of initial social unrest and excitement and the emergence of charismatic leadership, to a revolutionary movement's seizure of power.

A social movement's commitment to change and the *raison d'être* of its organization are founded upon the conscious volition, normative commitment to the movement's aims or beliefs, and active participation on the part of the followers or members. This particular characterisation of social movement in terms of volition and normative commitment is endorsed by something approaching a consensus among leading scholars in this field. Heberle, for example, conceives of these belief-systems as an expression of the collective that it is the element of volition of individuals acting collectively that brings about the embodiment of ideologies in social movements.<sup>3</sup>

There are various components of social movements such as objectives, leadership, organization, ideology and programmes. All these are interdependent, and they influence each other from time to time. The objectives of the movement change from narrow issues to broad aims of social transformation. Sometimes, a movement which begins with broad objectives may, in the process, get bogged down to one or two issues. Ideology also undergoes a change. It provides direction for evolving strategies and programmes and also keeps the participants together by

developing feeling of 'we-ness'. Various strategies and programmes are evolved to mobilise the people. They sustain the movement for a long duration. Leadership which emerges or initiates in the course of growth of the movement plays a crucial role in articulating ideology and objectives, evolving strategies and programmes and maintaining the spirit of the participants.

None of these components are static and a priori. They evolve and keep changing according to the context or situation. Ranjit Guha has pointed out that though these components are found in all types of movements or insurgencies, including the so-called 'spontaneous' rebellions, their forms vary—from very unstructured to well organized. He challenges the contention of some historians, who opine that the peasant insurgencies were spontaneous and they lacked political consciousness and organization. Such insurgencies lacked 'neither in leadership nor in aim nor even in some rudiments of a programme, although none of these attributes could compare in maturity or sophistication with those of the historically more advanced movements of the twentieth century'.<sup>4</sup>

According to M. S. A. Rao, a social movement undoubtedly involves collective action as distinct from individual action. However, only when the collective action is somewhat sustained, as distinct from a sporadic occurrence, does it take the form of a movement. This collective action, however, need not be formally organized but should be able to create an interest and awakening in a sufficiently large number of people. Hence, a social movement essentially involves sustained collective mobilization through either informal or formal organization.<sup>5</sup>

Secondly, a social movement is generally oriented towards bringing about change, either partial or total, in the existing system of relationships, value and norms, although there are efforts which are oriented towards resisting change and maintaining the status quo.

More often than not, political scientists and sociologists do not make a distinction between 'social' and 'political' movements. Sociologists assume that social movements also include those

movements which have a clear objective of bringing about political change. Rudolf Heberle (1951) argues that movements of all kinds have political implications, even if, their members do not strive for political power. Political scientists too, are not inhibited in using the term, 'social movement'.<sup>6</sup>

In the contemporary social science literature, the term, 'new social movements' is in vogue. It is largely West-European-centric, deprived from some of the social movements there. Though, there is no precise definition of the new social movements, generally such issues are related to the 'post-modern' society. They are not raising economic issues and not concerned with the state power. These movements are primarily concerned with protecting and enlarging the autonomy of civil society. These movements are not class based. These movements raise the issues of humanity cutting across the interests of all the classes. In that sense, the new social movements are social and not political.<sup>7</sup>

The immediate response of the state to all movements, pressuring or challenging its authority, is negative. The state assumes the responsibility of holding sovereign power which is the repository of wisdom for common good and manages the public sphere. It has, therefore, the tendency to resist any collective action, which by nature either exerts pressure on the authority for certain policy and action/or protest against the decision and action of the state. The state looks at the social movements as a challenge to its legitimate governance. Neither the capitalist state overtly representing the propertied classes, nor the communist state, claiming to be the state of the working classes, prefer to face the movements of the classes it supposedly represents.

After the initial response, the state uses different measures to deal with the movement. The measures vary from soft-paddling and leniency involving dialogue and negotiations to brutal repressions: torturing and killing the activists and creating fear among the participants. Simultaneously, the state also uses the tactics of appease and co-opts the participants. The state is softer with those movements, which have reformist demands within the institutional framework than those movements which aim at

overthrowing and replacing the state. However, when the state realises that mere brutal force would not work and lead to counter-productive results, the state changes the strategies; which includes the co-option of leaders, infiltration in the movement, evolving counter ideology and use of all kinds of gimmicks to pacify and divert the attention of the participants and the movement's supporters.<sup>8</sup>

Some scholars assert that mass movement or protests are redundant in the Indian culture and civilisation due to its multi-linear character and all-pervasive hierarchy. Because of the Brahminical ideology and hierarchical social structure, the oppressed classes have become docile, obedient and fatalist. Such assertions are refuted by other scholars who point to a number of struggles by the oppressed classes in the pre-independence India. Some are of the view that protests and agitations in post-independent India are the result of the conflicts between tradition and modernity. According to them, the parliamentary democracy has been transplanted in India, where there is no tradition of voluntary effort. People have developed an ambivalent attitude towards authority, they take the advantage offered by the political authority, but at the same time do not legitimize it.<sup>9</sup>

The scholars who adhere to the theory of political development consider that the rising aspiration of the people is not adequately met by the existing political institutions which are rigid or incompetent. As the gap widens between the two, political instability and disorder, leading to mass upsurge increase.

Social theorists such as Rudolf Bahro sought to incorporate the new surge of movements within a reworked framework of socialist politics, others such as Jurgen Habermas and Alain Touraine argue that the 'new social movements' demonstrated that class had become redundant as an organising form of social identity and action. New social movements were the products of the post-industrial social formation where the welfare state had made classic forms of exploitation and deprivation obsolete, but where modern society created new forms of alienation. These movements reflected and responded to the dis-content, they were

communitarian in that they sought to reclaim a 'lifeworld' disenchanted by modernity, and universalistic in their politics exceeded class struggle and the problem of distribution, and addressed the very grammar of forms of life.<sup>10</sup> This meta-critique demanded a new conceptual apparatus.<sup>11</sup>

### *Farmer's Movement*

India being primarily an agricultural society has witnessed a wide variety of movements related to land. The farmers' movements form part of a wide variety of social movements witnessed in the post-independence India. However, unlike the women's movement or the environment movements, which also address civil society, farmers' movements have been directed at the state. The centrality of state in a developing country characterised by agricultural backwardness means the farmers' movements are largely a response to change in agricultural policy. A second determining factor has been a growing capitalist tendency and class differentiation in the agrarian sector, which has helped shape agrarian mobilization. These features have determined the trajectory that farmers' movements have taken in the country.<sup>12</sup>

The agrarian mobilization in India may be divided into two types. First is of the poor agricultural labourers and marginal farmers; and secondly, of the more prosperous and independent owner-cultivators, who produce a considerable marketed surplus. The very rich capitalist farmers are generally with the richer farmers, and are looked upon as exploiters by the agricultural labours, who work on their fields-either as wage labourers or as share-croppers. In other words, modernisation and such changes that have taken place in its wake in rural India are because of the effects of the urban world. The urban world exists, as does the national economy, but its effect on rural India is not simply a consequence of proximity but rather of the nexus which embraces both town and country.<sup>13</sup>

Sudha Pai has based the agrarian movement on five criteria:

1. The pattern of land ownership, which determines the mode of production, class structure, and the prevailing agrarian relations.

2. State policies, as major shifts in the agrarian economy have occurred due to the introduction of new policies. Also, most of the movements are either against particular state policies or make demands, that the state cannot ignore.
3. Technology-based change, which is powerful and independent force, although researches show that there is no automatic connection between improved technology and political consciousness and action. The impact varies over time, by region, crop, and the organization of the productive process.
4. The pattern of mobilization which is based on class, and at times caste.
5. Leadership, together with strategies, issues and demands.

Based on these criteria, agrarian movements in post-independence India fall into three categories:-

1. Anti-feudal movements against exploitation by landlords or against the state, demanding redistribution of land, higher wages for the labour, lower rent to small peasants, and an end to other exploitative practices. In the immediate post-independence period, discontent arising out of the failure of the state to fulfil its promises of land reforms resulted in a number of 'land grab' movements led by peasant leaders, who in many cases belonged to Socialist and Communist parties/organizations. While agitations against landlords continue in form of 'Naxalite' movement, the issue of land redistribution lost importance with the shift from an institutional to a technological agrarian policy in the mid-1960s.
2. Movements by rich peasants / capitalists farmers following the 'Green Revolution' in the 1960s, and the resulting commercialization of agriculture and the class differentiation. Led by rich farmers, these movements acted as pressure groups upon the state, and demanded policies beneficial to them. A section of the bigger farmers, who benefited from the Green Revolution became the new power holders in the countryside. The state, and not the landlord, was viewed as the 'enemy', and larger issues such as urban versus rural interests and terms of trade with industry have been central to these movements. Based primarily upon economic interest, some employed a caste-class strategy, reflecting the specificities of the Indian context.
3. Since the early 1990s, due to a general crisis in Indian agriculture that resulted in a slow down in the rate of agricultural growth, and

the structural adjustment programme (SAP) leading to the globalisation of the Indian economy and the resultant changes in the policy regime, farmers' movements have entered a new phase. There have been few large, organized rich farmers' movements in the 1980s rather, movements are smaller, largely against the state governments that have introduced market-oriented policies, and no longer attract the small/marginal farmer as issues have undergone considerable changes. However, in recent months, with the deepening of economic reforms, movements attracting smaller farmers have emerged against the acquisition of agricultural land by the state governments for the industrial / mining projects of private national and international companies.<sup>14</sup>

During the colonial period, the peasant uprisings were against the zamindari, mahalwari, ryotwari, and jagirdari systems, which charged higher land revenues from the peasants. There were various other reasons for the peasants to revolt against the existing policies such as cultivation of a particular type of crop, exploitation of money lenders, to get the revenue waiver in cases of crop failure. Some of the important peasant uprisings in this period are as follows-Santhal movement (1855-56), Pabna uprising (1872-75), Mopilla Rebellion (1836-1920), Deccan riots (1875), Punjab Agrarian riots (1907), peasant movement in Oudh (1918-1922), movement against Indigo cultivation in Bihar (1860, 1907-09, 1917-18), Kheda (1918) and Bardoli movements (1918), Telengana rebellion (1946-51), etc.<sup>15</sup>

The formation of Congress ministries in a majority of the provinces in the early 1937 marked the beginning of a new phase in the growth of the peasant movement. These different ministries also introduced varying kinds of agrarian legislations such as for debt relief; restoration of land lost during the Depression, for security of tenure tenants, and this provided an impetus for the mobilization of the peasantry either in support of proposed legislation or for asking for changes in its content.<sup>16</sup>

In the decade preceding the advent of independence, three significant peasant movements took place: Tebhaga movement in Bengal, Telengana outbreak in Hyderabad and Varlis revolt in western India. The Tebhaga movement was a protracted peasant

struggle involving lower stratum of tenants such as bargadars i.e. the share-croppers, adhiars and poor peasants, against not only the zamindars, but also a section of the rich peasants i.e. jotedars, against the money-lenders, traders and the British bureaucracy. The Bargadari Bill introduced by Suhrawardy's government provided some relief to the rent-paying tenants. The insurrection in the Telengana during 1946-51 was launched in the territory of Nizam's state of Hyderabad against intense exploitation and oppression of landlords, money-lenders, traders and the Nizam's officials. The movement was linked to the States people movement under the leadership of the Praja Mandal and had the sympathy of the Congress, Arya Samaj and the linguistic demand for a Vishal Andhra state. Later on, this movement was led by the Communist party, and it was withdrawn in October 1951 with the change in the tactics by the Communists in India. The revolt of the Varlis, tribal people near Bombay, was a struggle against exploitation of forest contractors, money-lenders, rich farmers and landlords on the tacit support of the British bureaucracy. The Kisan Sabha took up their cause and launched a struggle in May, 1945. The police oppression failed to terrorize the Varlis. The Varlis, later on, came under the influence of the Communist Party.<sup>17</sup>

On the eve of independence, India inherited an antiquated agrarian system, which called for drastic structural changes and a dynamic tiller-oriented infrastructure for agricultural development. The peasant movements in the post-independence era can be studied with the help of three approaches, namely, Marxist, Nationalist and Subaltern. A. R. Desai and Dhanagare broadly employing the Marxist approach questioned the notion of the Indian peasant in the works of Barrington Moore and Theodore Shahin as 'passive' and the non-existent within a subsistence economy. Such an approach failed to take into consideration the fact that in the former colonies, commercialization of agriculture had started a process of differentiation, which created landlords, rich, middle and poor peasants, and led to agrarian struggles. Dhanagare argued that the peasant movements in India needed to be studied along two axes: the class character of the actors involved, and the historical factors which contribute to the

progressive development of the political consciousness of the peasantry.<sup>18</sup>

The Naxal movement of the late 1960s demonstrated that the poor and landless could be as assertive as the rich peasantry, and redirected attention towards peasant insurgency in the colonial period. It promoted the Subaltern approach to write a history from below of the poorer peasantry, the reproduction of the small peasant economy, and the sources of revolt. It challenged attempts to explain all peasant resistance in terms of essential class interests or moral economy. The Naxal movement had started in March, 1967 in a small village called Naxalbari in West Bengal to reclaim their land from the landlords. The revolutionary leaders formed the All India Coordination Committee of Communist Revolutionaries (AICCR) in May 1968. It worked on two main principles, namely, to wage armed struggle and secondly, boycott of elections. Under the leadership of Charu Majumdar the movement spread throughout India. In the late 1970s, the movement split, mainly led by N. Prasad in Bihar and Kondapalli Seetharamaiah led in Andhra Pradesh who formed the People's War Group in 1980, which worked on the principle of building mass organizations.

During the 1980s and 1990s, the movement split many times, but at the same time various leaders tried to bring unity amongst its leaders and branches. There was an increase in the violent incidents also. The India governments at the centre and at the state levels did not form uniform policies to deal with the Naxal movement which led to the spread of this movement.

The Green Hunt operation against the Naxals began in 2009 in Chhatisgarh, which later on spread to Jharkhand, Maharashtra, and Andhra Pradesh to fight against the naxals. About 70000 paramilitary people were involved in the operation. The forces had achieved some success, but the Naxals also retaliated and counter attacked the police and police informers. The operation Green Hunt wanted to secure the roadways and other highways as they had been attacked frequently by the Naxals. This operation may not be successful as the informers of the police are being attacked by the Naxals, on the other side the tribals, who

become friendly to the Naxals are being tortured, and questioned by the armed forces. Therefore, it's a precarious situation for the tribals inhabiting the Red Corridor.

Chatterjee held that in India, peasants have conceptualised the relationships of power and the ensuing conflicts in terms of the idea of community,<sup>19</sup> or as a collective form of consciousness arising out of the existing bonds of caste and community. Some underlined the role of peasant consciousness in revolts in the colonial period.<sup>20</sup> While others, argued that the assertive rich peasant as a class, mobilising the poorer peasantry, was a creation of the post-independence technological shift in agriculture.<sup>21</sup>

The Nationalist approach, like in many countries emerged from colonialism, focused on the land reforms. At the same time, agrarian upheavals in many parts of the country led by the Communists, such as the Telengana revolt on the eve of transfer of power, made land reforms an issue of urgent action by the government.

The failure of the land reforms created considerable discontent among the poorer peasantry and landless labour, and according to some, turned the vast majority of the peasantry into an agrarian proletariat.<sup>22</sup> The anti-feudal movements were described as providing a model of agrarian transformation for India that relied not on a single revolutionary leap, but on the dynamic interdependence of parliamentary and extra-parliamentary action following each other in quick succession. The latter created possibilities for further legislative action, and the limitations of the former could release forces for further extra-parliamentary action. However, by the late 1970s, issues of land distribution and equity were overshadowed by capitalist developments in the agricultural sector.<sup>23</sup>

During the 1960s farmers' movements were led by rich peasants and the capitalist, with the implementation of new agricultural policy known as the Green Revolution. This was a change of strategy / policy by the government from land based reforms to technology based reforms to meet the ever growing

demand of agrarian products. In contrast to the Nehruvian policy of transferring food at cheap prices to urban areas through state trading, in mid-1960s the Congress party decided to follow a different path to industrialisation: make agriculture productive, through investment in technology, but transfer resources through taxation or terms of trade.<sup>24</sup>

However, since the Green Revolution accompanied with capitalists agriculture, penetration of market economy and globalisation, the peasant struggles have undergone change. Farmers' organizations such as the Shetkari Sangathan in Maharashtra, Bhartiya Kisan Union in Uttar Pradesh, Khedut Samaj in Gujrat, Tamil Nadu and Punjab have come into existence with political clout. They demand remunerative prices of their produce, concessions and subsidies in the prices of agricultural inputs, electricity charges, irrigation charges and betterment levies, etc.<sup>25</sup> They have raised the slogan "Bharat against India" which was coined by Sharad Joshi. Bharat is the indigenous name for India representing the peasant community, and India is the westernised name, representing the urban centres with industrial production. They assert for a change in the development paradigm from industrial development to agricultural development.<sup>26</sup> However, the benefits of the Green revolution were not evenly distributed, and at the same time, it increased the existing class and regional inequalities.

The increasing class differentiation made bigger land owners conscious of their interests, leading to rich farmers' movement. The leadership was provided by rich farmers' organizations such as the Bharatiya Kisan Union (BKU) in western UP, Punjab, and Haryana; the Karnataka Rajya Ryot Sangh (KRRS) in Karnataka; and the Shetkari Sangathan (SS) in Maharashtra. Unlike the earlier movements, they were directed against the state and not against the landlords. These big farmers' organizations preferred to remain non-political and were described as a form of rural unionism, which brought supra-local politics to the countryside, or as agrarian lobbies or pressure groups to voice their demands. Some scholars described them as 'new social movements' part of the new social movements of the 1980s, as they had distinct characteristics.<sup>27</sup>

Along with the spread of the Green revolution, a specific caste-class combination and clan-based leadership also contributed to the successful mobilization of the small and medium peasantry in parts of north India, particularly in UP. Charan Singh mobilised a substantial section of the cultivating middle/backward castes-Jats, Gujjars, Tyagis and so on-both as kisans and backward castes.<sup>28</sup> In the late 1980s, attempts were made by farmers' organizations to form an apex organization, the BKU, and enter into electoral politics, but both proved unsuccessful.<sup>29</sup>

With the adoption of liberalization policy in 1991, the agricultural policies also underwent major changes such as removal of subsidies and price support, a move towards market forces, freeing of controls and the opening of the economy, leading to the freer import and export of agricultural commodities,<sup>30</sup> and in external arena, the establishment of a multilateral trading system in agriculture, following the Dunkel text.<sup>31</sup> While no new agricultural policy was announced in 1991, these changes were reflected in the National Agricultural Policy announced by the National Democratic Alliance led by the Bharatiya Janata Party on 28 July 2000, the main goal of that was to make agriculture an industry. Secondly, there has been an increase in the fragmentation of land holdings. Thirdly, agricultural sector has experienced several unfavourable trends such as decline in agricultural growth rate; widening disparity between the agricultural and non-agricultural sectors; steep worsening of the economic status of the farmers. All these have led to farmers' suicides which has been a worrying trend for the farmers. The farmers are driven to the extreme steps not only because of the borrowings at high rates of interests, leading to debt trap, but also due to the expectations of the high yielding crops and good prices after high investments, and because it widens the gap between aspirations and achievements.<sup>32</sup>

There was a serious issue of farmers' suicide in two states namely Maharashtra (Vidharba region) and Andhra Pradesh. In the Vidharba region, over one thousand farmers committed suicide in the years 2006, 2007, 2008 and 966 in 2009 due to crop failure. The crop failure occurred due to incessant rains. They could not repay the loans from money-lenders and the banks. This problem

still continues in this region. The government had taken some steps to provide relief to the farmers through loan waiver schemes, but they were not sufficient.

In Andhra Pradesh the farmers have been committing suicide due to drought, which has led to crop failure. The reasons are the same, that is, heavy borrowings from the private money lenders which they are not able to repay due to crop failure.

In the recent years, the rich/better off farmers are also opposing the government's policies of SEZs (Special Economic Zones) and also protesting to increase the support prices of the crops and to reduce tariffs on water and electricity. The farmers are unhappy with the government (state/ central) as they have withdrawn their responsibility to protect the interests of the rural farmers, land reforms and market forces. The poor peasants are suffering the most with decline in their yield and they are not even able to organise themselves also. The movements of the peasant would intensify in the future, if the government does not respond in positive manner to their problems.

The government has to implement policies, which would help the small farmers. The government has to protect the indigenous farmers from the onslaught of multinational corporations, which use hybrid seeds, which require more usage of fertilizers. This led to the increasing of the cost of production as well as less output causing burden on the small farmers. This leads the farmers to fall in the trap of perpetual indebtedness.

The government should implement policies whereby the small farmers can benefit by borrowing from the banks. As the Indian farmers are dependent on the Monsoon, the dependence on Monsoon should be reduced, and at the same time, monsoon water should be stored for the future usage. Therefore, people should learn about the proper management of water. The farmers should be encouraged to use technology for better yields. The small farmers should also look to supplement their income through alternate means and the government should help them by providing training to enhance and supplement their income by

other means. The farmers should also look at the possibilities of merging their farm lands as the larger farmlands yields are higher.

### *Women's Movement*

The women's movement in India, like most social movements is made up of strands that differ on the relative primacy of issues, strategies of mobilization, and forms of collective actions. While specific issues have taken precedence at different historical moments, more often than not, there has been a broad consensus within the movement over what constitutes 'transformatory' change for women.<sup>33</sup> Among the contemporary movements, a lot has been written, researched from different perspectives and the various strategies adopted by the women's movement have been analysed.

Different scholars classify women's movements according to their theoretical perspectives. According to Neera Desai, the women's movement is the organized effort to achieve a common goal of equality and liberation of women, and it presupposes sensitivities to crucial issues affecting the life of women. On the basis of ideological paradigm, Gail Omvedt classifies women's movement into two types; firstly, women's equality movements; and secondly, women's liberation movements. The former may not directly challenge the existing economic or political or family structure, but rather aim at attaining an equal place for women in it, and at abolishing the most open remnants of the feudal patriarchy; whereas the women's liberation movements directly challenge the sexual division of labour itself.<sup>34</sup> Jana Everett classifies women's movements on the basis of two different ideologies of feminism. They are: firstly, Corporate Feminism claiming a larger role in politics for women on the grounds that they have a special contribution to make as a women; and secondly, Liberal Feminism, claiming that the right of men should be extended to women on the ground that women are equal to men, and thus, should have the same rights.<sup>35</sup> Kalpana Shah divides the women's movements into three categories on the basis of their approach toward explaining women's unequal positions in the contemporary society and ways to liberate them from subjugation. They are: firstly, Moderate or Women's Rights

Position; secondly, Radical Feminism; and lastly Socialist Feminism.<sup>36</sup> Sangari and Vaid have divided the women's movements into two theoretical categories: firstly, modernising of patriarchal modes of regulating women; and secondly, democratising of gender relations both at home and the work place. According to them, movements by working class and peasant women have a greater potential for democratising patriarchal power relations than the modernising movements.<sup>37</sup> Women's movements in India are also divided into periods or waves.<sup>38</sup> They are: (1) social reform movements during the freedom movement; (2) the movements from 1947-75; and (3) the movements emerging during and after the International Women's Decade.<sup>39</sup>

The position/status of women in the Indian society has been changing from time to time. During the Vedic period, girls or women were desired, and they were provided proper education. Some of the women even wrote hymns. The position of women deteriorated during the Smiriti period. During the colonial period, women were encouraged to participate in the freedom struggle movement. The various social reformers such as Rammohan Roy, Vivekanand, Ramkrishna, Gokhale, Naoraji, Lajpat Rai, Aurobindo, Gandhi, Ambedkar, etc. voiced their concerns about the plight of women in the Indian society, and championed some of the reforms like raising the marriageable age, abolition of Sati, promotion of widow remarriages, women's education, etc.

The national Council for Women in India (NCWI) was formed in 1926, which was first all India Women's Organization. The NCWI tries to secure women's rights through social reforms and women's and children's welfare. The All India Women's Conference (AIWC) was established in 1927 with members from the upper and upper-middle classes, princely families, women members of the Indian National Congress party (INC), the Communist Party, and professional women like, educationists, doctors and social workers. The AIWC took up the cause of education, and the result was the establishment of the Lady Irwin College in Delhi in 1932. It also organized many literary schools and handicraft centres which helped women to become

economically independent. Most of the women's movement during this period campaigned against child marriages.

After independence, the Constitution of India provides legal parity and respect for women in general in the society. There are various provisions in the Indian Constitution, which protects the rights of women such as Article 14 ensures that the state shall not deny to any person equality before the law of equal protection of the laws, Article 15 prohibits discrimination on grounds of religion, race, sex, caste, or place of birth, Article 15(3) gives power to the states to make special provisions for women and children, Article 16 provides for equality of opportunity in matters relating to public appointment, Article 23 prohibits traffic in human beings, which includes prohibition of prostitution or immoral traffic in women and girls and also the system of devadasis.

The directive principles of the Indian Constitution provides directives to the state to ensure that:

- Men and women equally have the right to an adequate means to livelihood (Article 39a).
- Constitution provides for equal pay for equal work for both men and women (Article 39d).
- The health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter a vocation unsuited to their age or strength (Article 39e).
- The state has also been directed to provide for just and humane conditions of work and maternity relief (Article 42).
- The 42nd constitutional Amendment Act, of part-IV-A declares that it shall be the duty of every citizen 'to renounce practices derogatory to the dignity of women' (Article 51A-E).
- Under Article 325 of the constitution, every citizen irrespective of sex, has been provided the right to vote and get elected to public office.

The sexual difference inherent in welfare measures envisioned for women did not dismantle structural inequalities and sexual hierarchies within public institutions and society. This period, saw the emergence of the National Federation of Indian Women (NFIW). It was founded in 1954 as the women's wing of the

Communist Party of India, with Aruna Asaf Ali as its prominent leaders.

The report of the Committee on the Status of Women in India set up in 1971 titled as 'Towards Equality' to study the impact of development and nation-building on women, drew attention to the hierarchical and unequal status of women after three decades of planned development. Women's activism in the 1970s and 1980s was one among several democratic rights struggles in the period, all of which stressed the need to redefine development. The emergence of the Self-Employed Women's Association (SEWA) is often cited as an important development of the decade. Women also participated actively in the peasant struggles in Bihar and Chipko movement, which challenged developmental policies.<sup>40</sup>

The drive towards autonomy became a central motif of the women's movement in the 1970s and 1980s, giving it the label of the 'autonomous women's movement'. The label manifested the desire to disengage the women's question from the dominant theoretical framework of the left and democratic rights movements, which focussed solely on class and the repressive states, respectively. It expressed the concerns of the women's movement woven mainly around women's interests, gender-centred issues, and the control of female sexuality, all of which were critical aspects of institutionalised male domination, as understood within the conceptual framework of patriarchy. With the 1980s, however, both mass-based and affiliated women's organizations as well as the autonomous women's group invigorated the struggle for women's rights. Delhi became the headquarters of most of the national-level women's organizations, including the AIWC, YMCA (Young Women's Christian Association), AIDWA (All Indian Democratic Women's Association), NFIW, MDS (Mahila Dakshita Samiti). Bombay became the centre for protest against rape and violence with the setting up of the Forum Against Rape, in 1981, which later emerged as a sustained network of autonomous women's group in the form of Forum Against Oppression of Women (FAOW).<sup>41</sup>

The late 1990s, and the period thereafter, saw rallying of forces among women's groups on the issue of reservation for women in

the elected bodies. The struggle to enhance women's representation in the elected bodies had emerged first in the 1920s and 1930s. The National Perspective Plan for Women, issued by the government in 1988 under pressure from the women's movement, recommended 30 percent reservation of seats for women at the Zila Parishad levels. In 1993, the Seventy-third and Seventy-fourth Constitutional Amendment Acts provided constitutional recognition and status to locally elected bodies in villages (the Panchayats) and cities (the municipalities), respectively.

Women empowerment basically means that women have the power to regulate their lives in the political, social and economic sphere. The government of India had declared the year 2001 as the 'Women's Empowerment Year' whereby declaring that women are equal partners like the men. This was done because of the policy changes the government was trying to bring about regarding the women and also due to the mobilization of women themselves regarding the policies, which affect them. Women empowerment means that women are not exploited by any means: household work, agricultural labour, providing education, providing healthcare facilities, equal wages and rights, better educated, have the decision making power, etc.

The women have become politically active, in terms of political participation and decision making, but they need to be represented equally in the political institutions as well. The Women's political reservation policy bill has been tabled in the Parliament, but due to the apathy of the male-dominated political parties has not been passed yet. In principle all the political parties agree for the reservation of seats for women in the Parliament, but in practice they do not follow it. However, they have been provided with reserve seats in the Panchayati Raj Institutions through the Seventy-Third and Seventy-Fourth Constitutional Amendment Acts, 1993.

The Women's reservation Bill was passed by the Rajya Sabha on 9 March 2010, and is now pending in the Lok Sabha. There are many leaders who are opposing the passage of this bill such as Lalu Prasad Yadav and Mulayam Singh on the ground that Muslim

and the lower caste women would not get adequately represented. The male politicians are also not in favour, because their seats will get reduced and there are no clear cut position on the seats to be reserved would be permanent or on rotation basis.

The National Commission for Women (NCW) was set up as a statutory body in January 1992 under the National Commission for Women Act 1990 to look into the following issues:-

- Review the Constitutional and Legal safeguards for women.
- Recommend remedial legislative measures.
- Facilitate redressal of grievances.
- Advice the government on all policy matters affecting women.

In keeping with its mandate, the commission has initiated various steps to improve the status of women through out the country and working to improve their economic empowerment. The commission has visited almost every state and union territory except Lakshwadeep to know about the status of women. The NCW has taken up various issues such as Child marriage, sponsored legal awareness programmes, Parivarik Mahial Lok Adaalats, and reviewed laws such as Dowry Prohibition Act 1961, PNDT Act, 1994, Indian Penal Code, 1860, the National Women Commission Act, 1990, to make them more effective and stringent. The NCW conducts workshops/seminars to make women aware about their rights and against the social evils prevalent in the society.

1. The commission shall perform all or any of the following functions, namely :-
  1. Investigate and examine all matters relating to the safeguards provided for women under the Constitution and other laws.
  2. Present to the Central Government, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguard.
  3. Make in such reports recommendations for the effective implementation of those safeguards for the

improving the conditions of women by the Union or any state.

4. Review, from time to time, the existing provisions of the Constitution and other laws affecting women and recommend amendments so as to suggest remedial legislative measures to meet any lacunae, inadequacies or shortcomings in such legislations.
5. Take up cases of violation of the provisions of the Constitution and of other laws relating to women with the appropriate authorities.
6. Look into complaints and take *suo moto* notice of matters relating to:-
  1. Deprivation of women's rights.
  2. Non-implementation of laws enacted to provide protection to women and also to achieve the objective of equality and development.
  3. Non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships and ensuring welfare and providing relief to women, and take up the issues arising out of such matters with appropriate authorities.
2. Call for special studies or investigations into specific problems or situations arising out of discrimination and atrocities against women and identify the constraints so as to recommend strategies for their removal.
3. Undertake promotional and educational research so as to suggest ways of ensuring due representation of women in all spheres and identify factors responsible for impeding their advancement such as lack of access to housing and basic services, inadequate support services and technologies for reducing drudgery and occupational health hazards and for increasing their productivity.
4. Participate and advice on the planning process of socio-economic development of women.

5. Evaluate the progress of the development of women under the Union and any State.
  6. Inspect or cause to be inspected a jail, remand home, women's institution or other place of custody, where women are kept as prisoners or otherwise and take up with the concerned authorities for remedial action, if found necessary.
  7. Fund litigation involving issues affecting a large body of women.
  8. Make periodical reports to the Government on any matter pertaining to women, and in particular various difficulties under which women toil.
  9. Any other matter which may be referred to it by Central Government.<sup>42</sup>
- . The Central Government shall cause all the reports referred to in clause (b) of subsection (1) to be laid before each House of the Parliament along with memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any such recommendations.
  - . Where any such report or any part thereof relates to any matter with which any State Government is concerned, the Commission shall forward a copy of such report or part to such State Government who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any such recommendations.
  - . The Commission shall, while investigating any matter referred to in clause (a) or sub-clause (i) of clause (f) of sub-section (1), have all the powers of a civil court trying a suit and, in particular in respect of the following matters, namely:-
    1. Summoning and enforcing the attendance of any person from any part of India and examining him on oath.
    2. Requiring the discovery and production of any document.
    3. Receiving evidence on affidavits.
    4. Requisitioning any public record or copy thereof from any court or office.

5. Issuing commissions for the examination of witnesses and documents.
6. Any other matter which may be prescribed.

The Khap Panchayats have been instrumental in regulating the behaviour of young people in the rural areas of Haryana, Rajasthan and Uttar Pradesh, especially amongst the Jats. Love marriages are considered to be a taboo in the Khap Panchayat areas. They govern the social behaviour of the males and females. The Khap Panchayats do not allow marrying in the same gotra and even in the same village. The Khap Panchayats impose its will on the people through social boycott and even by imposing fines and sometimes asking the convicts to leave the village and sometimes honour killing the couple; the couple is, sometimes, forced to commit suicide. The government at the centre and the states have not done enough to control the power and misdeeds of these Khap Panchayats; in fact, they have become more powerful after the seventy-third Constitutional Amendment relating to the Panchayati Raj Institutions.

While violence was the rallying issue for women's movement, the marginalisation and impoverishment of a large majority of women within the existing development framework, and limitations in the theories, concepts and research methods had spurred academics, especially the women academics into the movement. The growth of women's studies and its induction into the university system runs parallel to the growth of the movement. Unequal distribution of social resources other than economic resources and forms, locations, agency and sources of exploitation and oppression, had been unveiled through the women's movement and research in women's studies.<sup>43</sup>

The major issues of women's movement have been varied in India such as campaigns and protests for amendments in the existing laws and redrafting new laws related to sati, rape, dowry murders, proper acts related to punishment for sex detection and sex preselection tests, protests against the harmful contraceptives and test trials, and the population policies in the last thirty odd years. The other issues on which the women's movement have been mobilised are the demand for just laws i.e.

the Uniform Civil Code, the right to matrimonial homes, the right to quality health care, sustenance, survival and livelihood, the elimination of domestic, communal and social violence against the women, the access to education, employment and natural resources.

Over the years, women's movement in India has grappled with the issues that have required the delineation of a unified feminist political subject and feminist politics, while simultaneously taking into account the different and layered lived experiences of women. The women's movement, exhibit both ideological diversity and a continual effort to build radical alliances within and outside the movement in a concerted struggle for liberatory change.<sup>44</sup>

### *Environment Movement*

Classical Indian literature and myths depict environment as an integral part of the human kind. The environment movements in India are not necessarily for 'green' or 'clean' earth or for saving mankind's heritage and endangered species as in the West, but for the very survival of the poor local people.<sup>45</sup> The United Nations Conference on Human Environment, Stockholm, in 1972 paved the way for a number of studies and reports on the condition of environment and its effect on the present and future generations. It expressed concern to protect and improve the environment for present and future generations.<sup>46</sup>

The development of 'green movement' in Germany and North America in the early 1980s boosted the formation of the 'green network' and the 'green movement' throughout the world, including India. A number of action groups, research institutes, documentation centres have been established to study and mobilise public opinion on environmental situation in general and in certain sectors such as air, land, forest, water, marine resources, etc. has proliferated in different forms from popular literature to 'scientific' studies.

The Bhopal Gas tragedy in December 1984 served as an alarm signal to bring to the notice of mass awareness. The media,

NGOs, and agitations against big dams and deforestation have been ahead of the government and the industry in bringing the issue of ecological protection to the forefront of the public consciousness.<sup>47</sup> The Indian government set up the Department of Environment in 1980, which later in 1985 was expanded into a new Ministry of Environment and Forests. Under the Environment Protection Act of 1986, the Ministry of Environment and Forest has the responsibility for administering and enforcing environmental laws and policies.

India Development Report of 1997 had warned that the environmental problems have become serious in many parts of the country. The main environment problem in India relates to air and water pollution, particularly in the metropolitan and industrial zones, degradation of common property resources which affect the poor adversely due to a degeneration of their life support system, threat to biodiversity and inadequate system of solid waste disposal and sanitation with consequent adverse impact on health, infant mortality and birth rate.<sup>48</sup>

The reports on India's environment, published by the Centre for Science and Environment, has provided valuable material not only on various aspects of the environment, but also on various aspects of people's resistance and struggles. The media also frequently report on the struggles of people at the local level on the issues of land, water, marine resources, forest products, etc.<sup>49</sup> The environmental movements in India is constituted by several movements discussed below.

*Chipko Movement:* The continuation by the government of independent India of forestry practices inimical to local needs generated a certain amount of discontent. In 1958, a committee was formed to 'investigate the grievance of the people' of Uttarakhand concerning forest management. It deplored the situation in the hill tracts where, even after the attainment of independence, 'not only great discontent against the forest department prevails at several places, but it is also looked upon with extreme suspicion and distrust'. While recognising the need to locally develop the resources of the hills, the committee considered as inevitable the continuance of restrictions viewed by

the people as a 'forfeiture of their hereditary natural rights'. The committee gave priorities to the preservation, development and extension of the forests and to meet the genuine needs of the local people. It also asked the government to respect village rights over forests and that, along with forest preservation; it would provide every opportunity for the economic progress of the people.<sup>50</sup>

The undercurrent of protests against forest management was combined with opposition to other facets of commercialization and the continuing underdevelopment of the hills. In April 1981, Sunderlal Bahuguna went on an indefinite hunger strike against the felling of green trees in the Himalayas above the height of 1000 meters. The government constituted an eight-member committee. The government agreed to ban felling of trees for commercial purposes for a period of 15 years. By successfully bringing commercial forestry to a standstill, the Chipko movement marked an end of an epoch for the people and the landscape of the Indian Himalayas.

With the increase in the resource exploitation of the Himalayas in Uttarakhand, the Chipko movement has mobilised and made the peasants more aware and conscious of importance of this area. The movement against creation of big dams, sale of illicit liquor and unregulated mining has been widely protested by the Chipko movement supporters and well wishers.

Bahuguna had held the policy of commercial forestry and the close links that existed between the contractors and the forest officials were responsible for the deteriorating Himalayan environment. Sunderlal Bahuguna's group was active in the Bhagirathi valley and the group headed by Chandi Prasad Bhatt was active in the Alaknanda valley.

Both the leaders affirm alternative systems of environmental activism. Bahuguna believed and worked by writing articles, delivering lectures and organising protest marches, which helped him to make the people aware and conscious of the environmental issues in the region. Bhatt worked by organising afforestation camps, by establishing bio-gas plants and other low-

cost energy-saving techniques. There is a third group, Uttarakhand Sangharsh Vahini, is active in the Kumaon region of the Himalayas. This group follows the Marxist ideology. This group believes that social and economic redistribution is logically prior to the ecological harmony. This group does not associate with the state-sponsored developmental programmes.

All the three groups have questioned the feasibility and technological modernisation in the Himalayan region. The Chipko movement has helped the government to protect the forests and save the environment through its policies and programmes.

*Narmada Bachao Andolan:* The movement against the Narmada River Valley Project had been the most popular movement in the environment history of India. The Sardar Sarovar dam is the largest amongst the 30 dams to be constructed on the river Narmada. The people under the leadership of Medha Patkar have been protesting for more than last three decades, through a series of dharnas, and satyagraha. The people have been protesting as this project would displace nearly 3.5 lakhs people and also affect their livelihood. The people have been raising questions related to rehabilitation and resettlement of the displaced people, the environmental problems, and the huge cost of the project as well as the benefits it would accrue. Though the movement had started in the late 1970s as the project got clearance, but it gained momentum only in the late 1980s. In the initial stages, the movement was only concerned with the human rights violations. It was only due to the improper rehabilitation of the displaced people that the human rights activists raised voice against the construction of the dams on the river Narmada.

The movement gained momentum once prominent social leaders like Medha Patkar, Sunderlal Bahuguna and others joined the movement. It also got a wide coverage in the world media as the people of three states were going to be affected. Under the pressure of the world media the World Bank also withdrew its funding to this project.

*The Tehri Dam Project:* The longest movement against anti-big dam projects has been the opposition to the Tehri Dam Project on

the river Bhagirathi in Uttarakhand. Veerendra Datta Saklani, a freedom fighter, founded Tehri Baandh Virodhi Sanghrash Samiti, against this project. They have been opposing this project for various reasons, such as the submergence of forest areas along with the Tehri town, seismic sensitivity of the region, etc. The movement has not been able to gain popular support at the local, national and international level and the government is committed to complete this project. In 2003, the Supreme Court directed the government to remove all obstacles in completing this project along with proper rehabilitation and resettlement of the displaced people.

*The POSCO Controversy:* POSCO signed an MoU in June 2005 with the Orissa government to set up steel plant in Orissa. POSCO agreed to invest in Orissa to set up an integrated plant to manufacture steel, mine iron ore and other ores, as well as develop infrastructure necessary for its operations in Orissa. Due to controversies, it could not get environmental clearance from the Ministry of Environment and Forests, Government of India due to the passage of a new law known as the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forests Rights) Act, 2006, which is also commonly known as the Forests Rights Act. Orissa files a case in the Supreme Court of India against this law and the court ruled in favour of the state of Orissa, considering the economic development requirement of the state. The court also directed the Ministry of Environment and Forests to reconsider the law and if appropriate to allow POSCO to establish its plant in Orissa. The Ministry of Environment and Forests gave clearance in January 2011 to POSCO with a directive to look for another site to establish the steel plant.

In June 2010, POSCO signed a MoU with the Karnataka government to establish a steel plant in the state, but with caution that it has not made its plan yet to invest till the state provides the land. The state of Karnataka had announced in July 2011 that it is trying to acquire land for POSCO-INDIA Project.

The main reason for the suspension of the POSCO steel plant was due to the displacement of tribal population at site of this steel plant and disturbance of their livelihood. In 2010, a

Committee was formed to relook at the establishment of the plant and it was found that not many local population would be displaced, and thus, permission was granted to establish the plant for sustainable development in the area.

*Jaitapur Nuclear Power Project Controversy:* An agreement was signed between the Nuclear Power Corporation of India and the French company Areva to establish nuclear fuel generation project in the state of Maharashtra. Once this project starts, it would provide electricity at a cheap rate.

This project is controversial in terms of the Civil Liability for Nuclear Damage Bill 2010 passed by the Indian Parliament in August 2010 about which the French firm is not clear. The Bill says that in case of nuclear accidents, only the operator i.e. the Nuclear Power Corporation of India Limited can sue the manufacturers and the suppliers and the victims will not be able to sue anyone.

The project has been opposed by the environmentalist because the proposed site is in the earthquake prone zone, damages caused to the project by Tsunami occurrence, not clear about the disposal of nuclear waste from this project, the fishery may suffer in the area and the environmental damages that it will cause have not been discussed and analysed in detail. The very important issue is the land acquisition policy. The villagers are not happy with the compensation rates, and they have been refusing to accept the money, which the government is paying to them. The local people, environmentalists and activists have been protesting regularly and some times the protests have turned violent which has led to deaths of protesters.

The awareness about the environment has not spread to the general public. The focus on the environmental concerns has been limited to specific issues rather than taking a holistic view.

### *The Workers' Movement*

During the British period, the Indian working class suffered from all forms of exploitation including low wages, long working hours

and unhygienic conditions in the factories, employment of child labour and absence of all amenities. The Indian working class has to face two basic antagonistic forces, namely an imperialist political rule, and secondly, economic exploitation at the hands of both the foreign and native capitalist classes. The first ever demand for the regulation of conditions of workers in the factories in India came from the Lancashire textile capitalist lobby: apprehending the emergence of a competitive rival in the Indian textile industry under conditions of cheap and unorganized labour, they demanded the appointment of a commission for investigating into the conditions. The first factory commission was appointed in 1875, and the First Factory Act was passed in 1881. Under similar pressure from the British textile interests, the Factory Act of 1891 was passed which limited the working day to 11 hours with an interval of one and half hour for women labour.<sup>51</sup>

The first decade of the 20th century witnessed the first ever demonstration of the emerging political consciousness among the Indian working class: the Bombay workers went on a political six-day strike on the issue of conviction and imprisonment of Lokmanya Tilak in 1908. The initiative in organising a Trade Union was taken by the nationalist leaders which resulted in the formation of All-India Trade Union Congress (AITUC) on 31 October 1920 under the Presidentship of Lala Lajpat Rai.

The Trade Union Act, 1926 recognised trade unions as legal associations, laid down conditions for registration and regulation of trade union activities, secured their immunity, both civil and criminal, from prosecution for legitimate activities, but also put some restrictions on their political activities. The Trade Union Act, 1929 provided for compulsory appointment of Courts of Enquiry and Conciliation Boards for settling industrial disputes, made strikes illegal in public utilities like, Postal Services, Railways, Water and Electricity Departments, unless each individual worker planning to go on strike gave an advance notice of one month to the administration and forbade trade union activities of coercive or purely political nature and even sympathetic strikes.<sup>52</sup>

The granting of provincial autonomy and formation of popular ministries during 1937-39 by the British also helped in mobilizing

the workers in this period. The Communists had also rejoined the All India Trade Union Congress in 1935. One of the principal factors which gave a fillip to the trade union movement in this period was the increased civil liberties under the Congress Governments and the pro-labour attitude of many of the Congress ministries. The majority of strikes in this period ended successfully, with full or partial victory of the workers.<sup>53</sup>

The post-independent trade union movement did not stand up to the expectations of leading a revolution on behalf of the workers. The movement revolved around the economic demands of the workers and their demands were met by the independent welfare state. The state tried its best to mediate between the trade unions and the capitalist class so that the industrial output is not hampered in the post-independent India, as it was very crucial for the development of the country. The state also promoted trade unions, and almost all the national parties had their affiliation to one or the other trade union in the country. The Left Party dominated almost all the trade unions.

Today, there are four central All-India Trade Union Organizations i.e. the Indian National Trade Union Congress (INTUC), the All India Trade Union Congress (AITUC), the Hind Mazdoor Sabha (HMS), and the United Trade Union Congress (UTUC). The objectives of all the four organizations are same that is to promote the economic, political, social and cultural interests of workers, but they have certain principles based differences according to their political affiliations. The trade union organizations are also now-a-days trying to be a part of the unorganized sectors. The trade unions have been organized and led by the middle class, having affiliation to the national political parties.

The major issues that the trade unions have been working on are the problems of Child Labour, rights of the trade unions, discrimination and forced labour. The Indian constitution has provisions which safeguard the interests of the trade unions and child labour, such as Article 24 of the constitution prohibits the employment of children below the age of 14 years in any factory or mine. The Child Labour (Prohibition & Regulation) Act, 1986, abolishes the employment of children in certain industries while

regulating in others. The National Policy on Child Labour—1987, provided for rehabilitation of children who had been withdrawn from the prohibited employment. Article 19 of the constitution guarantees freedom to form unions, which is a Fundamental Right in the country. The Trade Union Act, 1926, also provides for the formation of trade unions by the workers for the redressal of their grievances. Article 16 provides that no citizen will be discriminated on the grounds of religion, race, caste, sex, etc. for employment. All the people will be paid equal salary for the same kind of work done irrespective of the sex, religion, race, or caste under the Minimum Wages Act. Article 23 forbids forced labour of any kind. However, various studies show that the practice of force labour and child labour is still prevalent in the country.

Most time, the trade union movements in the country have gained momentum for the revision of wages and salaries. In July 1960, the central government employees went on a strike under the banner of Joint Council of Action. Their demands included payment of dearness allowance on the basis of the recommendations of the First Pay Commission, grant of a national minimum wages. The strike was declared illegal under the provisions of the Essential Services Maintenance Ordinance of 1960, and thousands of employees were arrested. Despite all the state oppressive measures, the strike lasted for five days. Another significant strike was of the Railway Workers, in May 1974. Their demands included, increase in wages and salaries, increase in dearness allowance, payment of annual bonus, etc. Some of the demands of the striking employees were agreed upon. The Bombay Mill Workers strike under the leadership of Samant in 1981 was not able to get any concessions due to the division within the supporting trade unions, which led to the collapse of the movement.

In the phase of liberalization of the Indian economy in the 1990s, the focus of trade unions shifted to the security of the industrial workers. There were repeated strikes in the Public Sector Undertakings, banks and insurance sector. The move of privatization proved detrimental to the trade union movement.

The State Employees in Tamil Nadu went on a strike in 2003. The state government dismissed almost all the striking employees under the ESMA without giving the employees the right to be heard. The Supreme Court directed the state government to reinstate the employees, but at the same time asked the employees to apologise in writing to the state government, and also state that they will not go for strike in the future.

In 2006, the casual workers of Hero Honda at the Gurgaon plant went on a strike in April 2006 against the anti-workers stand of the management. Their main demands have been increase in wages, granting of casual leaves, providing medical facilities, job regularization, etc. Most of their demands were agreed upon by the management in a three party negotiations, which included the Haryana government labour commissioner, Hero Honda management and the representatives of the striking labours. They again went on strike in October 2011, and their demands have been the same to regularise the casual labourers, provide medical facilities etc.

With liberalization of an economy, government control over various sectors of the economy is minimized; hence, it is felt that it may affect the vulnerable sector adversely. Some conclusion can be made by observing trends in labour market because that is mainly composed of the poor people and most vulnerable section after unemployed people. So, let's us examine favourable and unfavourable impact which liberalization had on labour.

Although the labour market was not deregulated then and is not even now, most writers feared that the short-run impact of stabilization and liberalization of trade, industry and capital market would be both harmful and unjust. It would be harmful because stabilization would reduce the rate of growth, and unjust because the cost of adjustment would fall disproportionately on the poor.<sup>54</sup> These predictions implied a fall in either real wages or employment, possibly both, and an increase in unemployment and inequality in the labour market.

Demand for labour did increase after liberalization, but the work on offer was intermittent, more casual and part-time than regular.

In villages, the rate of unemployment for men and women was lower after liberalization than it was before. In cities, men experienced a tighter and women a looser labour market after liberalization than before. The fact that the female participation rate and unemployment rate should both be higher needs an explanation. Women enter the labour market and withdraw from it for various reasons. Their entry often depends on the state of the labour market. According to the encouraged worker hypothesis, women enter when they find that work is available readily. Not all entrants can be absorbed into employment instantaneously. Work participation and unemployment could both be high. On the whole, the data do show an improvement in availability of work for both rural and urban men and women, more for the former than for the latter.

Labour laws and unions restrict the freedom of the employer to hire and fire, to deploy labour as she/he likes and pay it what she/he deems fit. She/he is likely to look for ways and means to bypass and, if need be, to break the laws. Casualization, feminization, job and labour contracting are some of the many practices used by employers to achieve the flexibility they desire.<sup>55</sup> It is alleged that employers have started resorting to these practices to a greater extent after liberalization, though the labour market is not formally deregulated.

In a liberalized economy employers would tend to substitute the cheaper, non-unionizable regular women workers for regular men workers and casual for regular workers irrespective of gender. Increase in demand for labour caused by liberalization is likely to be reflected in increase in casual employment defined by the weekly status rather than by the usual status. In short, it is liberalization that explains the casualization in the urban market consistently and as is expected.

As pointed out earlier, liberalization in south-east Asian economies led to a substantial increase in female participation. The relentless pressure of international competition in domestic and export markets prompted employers to substitute women for men workers in existing employment and prefer them to men in new employment. Increase in female participation prompted by

employers' search for flexibility has been noted in developed and developing countries. Hence, there is expectation that Indian employers would follow the same strategies on liberalization.<sup>56</sup> In the Indian context, the government needs to bring in labour reforms, so that the interests of workers are protected.