

INDIAN GOVERNMENT AND POLITICS

**School of Social Sciences
Indira Gandhi National Open University
Maidan Garhi, New Delhi**

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COURSE INTRODUCTION

Purpose of this course is to introduce students to some basic features of government and politics in India. The course has fifteen units which have been grouped into six blocks based on thematic unity. The course starts with first block which has units on approaches to understand politics in India. Block 2 has units on basic features of Indian Constitution, Fundamental Rights, Directive Principles of State Policy and Fundamental Duties. Block 3 has units on separation of powers – on legislature, executive and judiciary. Units in Block 4 discuss relationships among identities, classes and politics. Block 5 has units which explain relationships between religion and politics. Block 6 is about parties and party system in India.

The unit-wise description in each block is like this. Block 1 consists of three units: Units 1, 2 and 3 on Liberal, Marxist and Gandhian approaches respectively to study Indian politics. Three units in block 2 are about Indian Constitution: unit 4 Basic Features, unit 5 Fundamental Rights, and unit 6 Directive Principles of State Policy and Fundamental Duties. The Units in block 3 are on the institutions of separation of power in India: unit 7 Legislature, unit 8 Executive and unit 9 Judiciary. Three units in Block 4 discuss some aspects of relationships of State and Society: unit 10 Caste, Class and tribe; unit 11 Gender, and unit 12 Workers and Farmers. Two units in block 5 deal with two different kinds of relationship between religion and politics: unit 13 Secularism and unit 14 Communalism. Block 6 has only one unit: unit 15 Parties and Party Systems.

Each unit has inbuilt *Check Your Progress Exercises*. After having read the units, you can try to answer the questions given in these exercises. At the end of each unit, there are answers to the questions mentioned in the *Check Your Progress Exercises*. You can match your answers with the answers given in the unit. But be careful to write answers in your own words. The course ends with a list of *references*. You are advised to go through them.

BLOCK 1
APPROACHES TO STUDY INDIAN POLITICS



BLOCK 1 INTRODUCTION

Indian politics is a vast subject. It is difficult to understand it without some ways or methods. Such ways are known as approaches or frameworks. There are various approaches. This block deals with three of such approaches. Unit 1 Liberal approach explains how different components of a political system seek to build consensus, and how its scope changed over the time. Unit 2 Marxist approach explains how principle of dialectical materialism has been used to explain some features of Indian politics such as class formations, class mobilization and nature of Indian state. Unit 3 Gandhian approach discusses application of Gandhian principles such as *satyagrah*, *ahinsa* and ethics to understand Indian politics.



UNIT 1 LIBERAL*

Structure

- 1.0 Objectives
- 1.1 Introduction
- 1.2 Core Elements of Liberal Approach
 - 1.2.1 Institutions: Political System, Not the State
 - 1.2.2 Processes
 - 1.2.3 Values
- 1.3 Liberal Approach to Study Politics
- 1.4 Changing Scope of Liberal Approach
 - 1.4.1 Civil Society
 - 1.4.2 Multiculturalism
 - 1.4.3 Social Capital
- 1.5 Convergence of Approaches
- 1.6 Let Us Sum Up
- 1.7 References
- 1.8 Answers to Check Your Progress Exercises

1.0 OBJECTIVES

After reading this unit, you will be able to:

- Define core elements of liberal approach to study Indian politics;
- Understand liberal approach to study Indian Political system;
- And define different perspectives of liberal approach

1.1 INTRODUCTION

Politics is about political institutions, processes and issues concerning sections of society. Indeed, politics involves relationships among people with themselves, state and non-state groups or organisations. Such relationships consist of competition, conflict and cooperation among people or their organisations and response of the state and institutions to different sections of society and their concerns. Scholars have explained politics in different ways. These ways are known as approaches or perspectives. There are different approaches to study Indian politics: liberal, Marxist and Gandhian. In this unit you will read about liberal approach; in unit 2 and unit 3, you will read about Marxist and Gandhian approaches respectively. As you will read in unit 2, the Marxist approach views politics in terms of class relations and the state as a representative of different class interests; in unit 2 you will read that Gandhian perspective which views politics in ethical and moral terms. In liberal perspective, which is discussed in

this unit, politics is viewed in terms of political structures and political processes or political system. Its prime concern is to study consensus or conflict management within a political system. Unlike the Marxist perspective which you will read in unit 2, liberal perspective does not focus on class relations. Nor does it use the concept of state. Rather, the liberal perspective prefers to use political system in place of the state, and prefers to focus on consensus building rather than class relations or class conflict within a political system; it prefers to use the term political system and to explain how a system maintains itself by management of conflict or reaching consensus. In fact, liberal perspective to study politics is a non-Marxist perspective. It should not be confused with liberalism. Liberal perspective to Indian politics is a variant of structural-functional or systemic approach. When we use the term liberal according to liberalism, it mainly denotes to freedom whether it is freedom of individual, community or group. Liberalism is based on a commitment to individual freedom, tolerance and consent. The liberalism came into existence as an outcome of protest against the hierarchical and privileged authority and monarchy in England and Europe. The main purpose of this protest was to achieve liberty of the individual and to challenge the authority of the state.

1.2 CORE ELEMENTS OF LIBERAL APPROACH

As liberal approach to Indian politics is a variant of the non-Marxist structural-function or systematic approach. Its core elements are borrowed from the latter. Following are these core elements:

1.2.1 Institutions: Political System, Not the State

Until Theda Skocpol underlined the need for “bringing the state back in” in the mid-1980s, under the influence of liberal approach as a variant of structural-functional approach the liberal approach preferred to use the term political system rather than the state for polity of a country. The system consists of certain institutions or structures such as political parties, interests-groups or civil society organizations. They interact with social structures such as caste, language, religion, region, tribe, etc. While interacting with each other, they perform certain functions. Or due to their interaction certain processes occur where different components of an organization conflict and cooperate and reach a consensus. Consequently, a system or institution maintains itself. Political institutions generally include political parties, pressure group legislature and executive. Indeed, this approach dominated the study of Indian politics for around four decades from the 1950s.

1.2.2 Processes

Among the processes which this approach studies are the functions which are performed by different institutions and organizations. These are conceptualised as political mobilization, interest articulation and interest aggregation. With reference to progress of democracy, the processes are also referred to as democratization, deepening and consolidation of democracy. The liberal approach views politicization of people as democratization through electoral mobilization and political participation. By the late 1960s, the process of democratization had begun to affect the lower social orders and has been continuing since then. Consequently, India’s traditional and semi-feudal society moved toward liberty

and equality. Furthermore, different social and political movements of 1970s and 1980s, emergence of institutions of civil society and multiculturalism have promoted democratization of country and different institutions in India.

1.2.3 Values

The third core element of liberal approach includes values i.e. liberty, human rights and equalities. It is more about individual or community rights. It is the duty of state to provide protection to the vulnerable sections, ethnic groups, scheduled tribes and minorities. However, liberal approach advocates individual rights and freedom, but it also advocates protection of communities, especially their language, culture and script. Democratic rights cannot be saved without safeguarding these values in a nation like India.

1.3 LIBERAL APPROACH TO STUDY POLITICS

As mentioned earlier, liberal approach to study Indian politics is a variant of systemic or structural functional approach. Thus, liberal approach when applied to study Indian politics can also be called Systemic approach. System approach emerged out of a broad movement in social sciences known as behavioural movement. It was introduced by David Easton and James S. Colman to study political systems in the developing countries in the 1950s-1960s. This framework also came to be known as modernization or development framework. Its main purpose was to study development of modern political institutions in developing societies. The notion of development according to this perspective was different from economist's notion of development. According to the economists development generally means growth rate or development of infrastructure; for political scientist influenced by behavioural movement it meant development of modern political institutions. Its main focus has been to see political institutions or organizations development, maintain themselves by reaching consensus within the factions of organization.

In this approach, the political system comprises of political institutions, structures and processes and these three attributes keep interacting, conflicting and adjusting with each other, balancing and counter balancing to themselves. In such a situation the political system maintains, it does not break down. During the initial period of Independence, many political scientists have followed this approach to study Indian politics. Rajni Kothari's *Politics in India* is one of the most important examples to study politics at India level. He advocates that the political system is resilient, and it survives and his book was mainly followed structural functional approach. Using this approach, Rajni Kothari categorised Congress party of the 1950s-1960s as Congress System. And the 1950s-1960s was called as the era of Congress dominance. C.B. Bhambhri (1974) critiqued Rajni Kothari's approach to study Indian politics in a review of Kothari's book *Politics in India*. According to Bhambhri, Kothari's framework prohibits raising basic questions in Indian politics such as the class character of the state, location and distribution of political power, and the role of imperialism. In this framework economic aspects are also missing: Indian politics has been studied without the reference of role of trade unions, big industrial houses, lobbies of the rich farmers and landless peasants. He further adds that Kothari's model of Indian democracy is similar to that of Dahl which says society is plural and democratic government operates like a market and this market is subject to all sorts of pulls and pressures. Bhambhri

2) Briefly explain how liberal approach is related to structural -functional, Systemic or Development perspective to study politics.

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1.4 CHANGING SCOPE OF LIBERAL APPROACH

Since the 1950s the liberal approach has changed in the following ways: there has been a convergence between its elements of the 1950s-1960s and some elements of Marxian approach it is no longer averse to using the concept of state; and it studies the activities which aim to achieve social change or are concerned with basic democratic values, people’s mobilization through civil society organisations, multiculturalism, social capital or in electoral politics.

1.4.1 Civil Society

The core element of the liberal approach is individual freedom, but when we talk about a nation or state, it also includes community, ethnic group, marginalized sections and protection of their rights. In a democratic country like India, we have Fundamental Rights that safeguard the basic rights and provide protection to the citizen and community. However, there are many cases where states have failed to provide or protect their citizens or institutions. The liberal approach views the role of civil society organizations in relation to democratic rights of individuals. Civil society organizations are different from civil society. As Neera Chandhoke (1995) explains, civil society is a space that exists between the family and the state. In this space civil society organizations operate. The liberal approach can help to explain the role of these organizations in democratization of the society or protection of the rights of individuals and groups in the society: rights of free expression, freedom to form associations, freedom to dissent, freedom to generate and disseminate public opinion. It helps us to explain the relationship between state and society.

1.4.2 Multiculturalism

Liberal approach recognises the rights of not only individuals but also groups. In a diverse society, recognition of rights of diverse groups – right to representation and distributive justice, is indicative of multiculturalism. As Parekh (2006) explains no multicultural society can or should ignore the demands of diversity. Multiculturalism goes beyond the abstracted liberal individualism and assumes that human beings are culturally embedded. It means that they grow up and live within a culturally structured world. They organize their lives and social relations in terms of a culturally derived system of meaning and significance. These cultural communities generally demand various kinds of rights to maintain their collective identity. Such rights called group, collective or communal rights. Mahajan (2002) states that multiculturalism is concerned with the issue of equality. It is concerned with the question if different communities are living peacefully together as equals in the public arena. She states that multiculturalism is different from pluralism or

diversity. While pluralism or diversity denotes just coexistence of different groups in the society, but not whether they related to democratic pursuits or not. Multiculturalism is necessarily associated with democracy. It either guarantees or attempts to provide cultural rights of religious and linguistic minority communities to preserve their culture, language, and script, and other rights

1.4.3 Social Capital

Since the 1990s, the concept of social capital has been used to explain nature of relations among communities. It is indicative of the existence of civil society and democracy. The concept is taken from the Tocquevillian notion of associations, and Italian political scientist Robert Putnam used this in his book *Making Democracy Work: Civic Traditions in Modern Italy*. Social capital denotes existence of networking among people in a group or community, who share common values and trust each other. The rise of new social movements, civil societies and realisation of the importance of study substantive democracy has added to the significance to this perspective. Ashutosh Varshney's book *Ethnic Conflict and Civic Life: Hindus and Muslims in India*, in the study of ethnic riots in six cities of India has been influenced by Tocqvevillian tradition.

1.5 CONVERGENCE OF APPROACHES

Study of politics in India in post Independent India has been basically studied by two opposite approaches: non-Marxist and Marxist. You have read above about the features of liberal approach. You will read about the Marxist approach in unit 2. These two approaches have traditionally been exclusive to each other. However, both these frameworks are not as rigid since the 1980s as they were earlier. There is convergence between them in terms: they use terms such as state, political system or state interchangeably, and address similar kinds of issues. Since the 1980s, there has been a convergence of liberal and Marxist approach. Such convergence is visible in the writings of scholars such as Francine Frankel, Lloyd Rudolph and Sussane Rudolph and Pranab Bardhan. Francine Frankel looks at the historical contradictions between the transformative goals of development planning and the conservative forces of institutional democratic politics. She makes a distinction between political and social issues. Bardhan, a neo-Marxist scholar, contends that in India state is an autonomous actor, which plays an important role in shaping and moulding power relations among classes. According to Lloyd and Susanne Rudolph, Indian state is a centerist state, and Indian politics is devoid of class politics. It functions as a third actor between capital and labour. The Indian state functions between 'demand polity' and 'command polity'. In the 'demand politics', the state has to deal with the pressure of various demand groups such as students and farmers.

Check Your Progress Exercise 2

Note: i) Use the space below for your answers.

ii) Check your answers with the model answer given at the end of this unit.

1) Briefly describe the changes in the scope of liberal approach.

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2) Briefly explain the convergence of liberal and Marxist approach to study Indian politics.

1.6 LET US SUM UP

Politics in India or the state politics in India has been broadly studied in two frameworks: Marxist and Non-Marxist (mainly liberal-institutional). The liberal approach about which You have read in this unit was dominant approach to study Indian politics between the 1950s-1960s. Its focus was to study how institutions maintained themselves by maintaining consensus among their constituent units. It had preferred to use political system rather than the state to designate a polity. In the post-colonial period, it was a product of behavioural movement in social sciences. It was also known as systemic, modernization or development framework. It ran as an alternative to the Marxist approach. From the 1980s, the liberal approach had undergone changes. It has become flexible in using certain concepts such as the state or political economy. Its scope has expanded to include study of civil society, social capital and multiculturalism. The broad concern of the liberal approach has been to address issues concerning democracy.

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1.8 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress Exercise 1

- 1) Institutions, structure and values are the core elements of liberal approach.
- 2) Liberal approach basically focuses on the individual's democratic rights and political institutions and democratic processes. It was influenced by the behavioural movement in the 1950s-1960s, during the post-colonial period in most parts of the world. Behavioural movement in social sciences, especially in Political Science underlined the need to study political system or structural-functional approach. Liberal approach, actually, is a variant of system, structural-functional or development approach to study politics.

Check Your Progress Exercise 2

- 1) Since the 1980s, the scope liberal approach has widened. Unlike in the 1950s-1960s, now it is not averse to using the concept of state or political economy in place of political system. It also includes the study of social change, not only consensus within an institution. Liberal approach's expanded scope includes study of civil society, civil society movements and community relations.
- 2) The dilution of rigidity to use concepts and priority of analysis in both approaches – the liberal and the Marxist has resulted in convergence between them. Both use concepts of state, political economy, institutions, political processes and change interchangeably.

Structure

- 2.0 Objectives
- 2.1 Introduction
- 2.2 Meaning and Scope of Marxist Approach
- 2.3 Marxist Approach and Political Science in India
- 2.4 Class Relations
 - 2.4.1 Marxist Perspectives and Classes in Rural Areas
- 2.5 Movements
 - 2.5.1 Peasants' and Farmers' Movements
 - 2.5.2 Working Class Movements
- 2.6 The Indian State
- 2.7 Let Us Sum Up
- 2.8 References
- 2.9 Check Your Progress Exercises

2.0 OBJECTIVES

After reading this unit, you will be able:

- To explain the Marxist perspective to interpret Indian political processes;
- To underline the differences between classical and Neo-Marxist approach;
- To identify the issues which have been focus of study in Marxist approach; and
- To explain the differences between liberal approach which have read in unit 1 and the Marxist approach.

2.1 INTRODUCTION

Marxist approach is a way of studying society. It is influenced by Marxism. Generally, after the disintegration of Soviet Union in the 1980s, and after the rise of non-communist parties in different parts of the world, the question is often asked whether Marxism is relevant now. This question can be addressed in two ways: One, Marxism as philosophy to change the world, and Marxism as a perspective to explain the change in society or evolution of history. Nothing can be definitely said about the change in society or revolution as envisaged by Marxism. But Marxism as a tool or perspective to explain politics or changes in society is being used by several scholars. This is known as Marxist or Marxian approach or perspective. This unit will discuss how Marxist approach has been used to explain politics in India.

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2.2 MEANING AND SCOPE OF MARXIST APPROACH

Marxist approach to Indian politics is guided by basic tenets of Marxism. These tenets attempt to interpret society in such a way that it helps to change the society. To put it differently Marxist approach implies application of principle of dialectical materialism or historical materialism and explain the nature of class struggle and suggest ways to end class exploitation. According to dialectical materialism, there are classes in a society. The relations between classes can be viewed in terms of social relations of production and forces of production. The social relations of production and forces of production together are known as mode of production. Forces of production include the classes and resources and instruments or means which are involved in production of goods. Social relations of production denote patterns of ownership of means of production – land, industries or any other unit of production, and patterns of working or labour relations. Change in means of production or in the forces of production lead to transformation of society from one stage of development to the next. The Marxist perspective underlines the relationship between class and other aspects of society – the state, politics, culture, religion, etc. Class is known as base and the other aspects – the state, culture, religion, etc, are known as superstructure. The core of Marxist approach is to explain the relationship between base and superstructure. There are broadly two groups of Marxist approach. One, suggests that base or class determines the superstructure. The other, contends that class does not determine the non-class aspects, or the base does not determine the superstructure: the superstructure enjoys its relative autonomy. The former is known as classical or mechanical Marxist approach, and the latter is known as neo-Marxist approach. Neo-Marxist approach has been influenced by Gramsci, Frankfurt School (consisting thinkers such as Kolakowski, Althusser, Paulantzas) and Ralph Miliband. The Marxist approach views internal politics of country in relation to international politics. It seeks to analyse the relationship between national politics and imperialism or in relation to the role of international financial organisations such as World Bank and International Monetary Fund.

2.3 MARXIST APPROACH AND POLITICAL SCIENCE IN INDIA

Both types of Marxist approaches – classical and neo-Marxist have been applied by to study Indian politics. The Marxist approach to explain Indian politics has been used by professional academics as well as by the Marxist political activists, politician or political parties. In unit 1, you have read about liberal approach. In comparison to Marxist approach, the liberal approach has been applied more to study Indian politics. Since the principal concern of the Marxist approach is to explain class relations and role of the state, principal issues addressed in this approach include changing class relations, movements of peasants and working classes, role and nature of the state including the relationship between the state and various classes. It is important to note that Marxist approach is used to address similar issues by academicians across disciplines in social sciences.

Since the 1980s, a new strand of Neo-Marxist approach was added by historian Ranajit Guha, influenced by Gramsci through series of books known as Subaltern Studies. The scholars influenced by Subaltern approach argue that the subalterns,

i.e. ordinary people develop their consciousness. They take decisions according to their consciousness without being affected by external forces. Marxist scholars, who follow classical Marxist approach have criticised Subaltern approach as non-Marxist.

Check Your Progress Exercise 1

Note: i) Use the space below for your answers.

ii) Check your answers with the model answer given at the end of this unit.

1) What is the meaning of Marxist approach?

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2) What is the difference between classical Marxist and neo-Marxist approaches?

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3) What is the difference between liberal and Marxist approaches?

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2.4 CLASS RELATIONS

Class relations is the most important aspect of study in Marxist perspective. As mentioned above, class relations are social relations of production. They indicate the patterns of means of production, patterns of doing work to produce something, their distribution: the means include land, natural resources, technology and inputs used for producing something; working relations means process of producing something by doing labour; distribution of produce means distribution of wages. In an economy, three broad sectors can be identified: agriculture associated with land and natural resources such as forest and natural resources, industry, service sector, and informal or footloose economy. On the basis of the extent of ownership of means of production and distribution of produce, different classes can be

identified in different fields of economy. Marxist approach in India, has most prominently been used to analyse the class formation and class relations in agriculture and industry. However, some attempts have also been made to view the class formation in a transition economy (Jan Breman 1996; Carol Upadhyya 2016). But these are not exclusively done in typical classical Marxist approach: they give space the non-economic aspects also.

2.4.1 Marxist Perspectives and Classes in Rural Areas

According to Marxist approach, the classes in agriculture in India have been identified in the following ways: who owns the land and other resources such as tools and instruments to cultivate land, who works in the land, and what is the nature of relationship among those who work in land, land and other resources, wage distribution. Using such perspective, Utsa Patnaik in *Peasant Class Differentiation* (1986) identifies following classes in agrarian sector in Haryana in India: The rural rich – landlords, rich peasants and middle peasants; and rural poor – small and poor peasants and landless proletariat. The rural rich own land and other resources, they generally do not work in the land but get the work done by wage labourers. However, the family members of the middle peasants work on land but like the landlords and rich peasants they do not work on anybody else's land. The rural poor either own no land or own land and other resources which are insufficient to meet family needs. They have to work in others' land or at any other places. Patnaik applies Marxist approach to identify classes in agriculture which has seen green revolution, or which have seen development of capitalism to a significant extent. But where elements of capitalism have not developed, the Marxist approach broadly identifies following classes: feudal landlords who get the land cultivated by tenants through share cropping, and whose position is impacted by economic exploitation and non-economic dominance. In such areas the technology of development is traditional in comparison to the areas which have seen development of capitalism or where class formation is more crystallised. The Marxist perspective generally undermines the role of caste in identifying classes. Moving away from this trend, a Marxist scholar, Gail Omvedt (ed.) in *Land, Caste and Politics in Indian States*, observed that class divisions in rural society are intertwined in castes hierarchies. This is true in both areas where capitalism in agriculture has developed such as Punjab, Haryana, western Uttar Pradesh, Maharashtra and Gujarat and as well as in "feudal" and "backward" states such as Bihar.

2.5 MOVEMENTS

Since Marxism is sympathetic to lower classes – agricultural, labourers, working classes or peasantry, it aims to end class exploitation. Marxist approach emphasises in studying material conditions of classes, their social relations and attempt by them to improve their conditions. Their attempts include collective action or movements of different classes. Although Marxist perspective has been used to study movements of several sections of society in India, it has been used most prominently to study peasants' and farmers' movements, agricultural labourers' and workers' movements. The movements which have been studied include both which happened in colonial and post-colonial periods. Here are some examples of how Marxist approach is used to study these examples.

2.5.1 Peasants' and Farmers' Movements

Although generally peasants and farmers are generally used interchangeably, there is a difference between them. Peasant is a generic category; farmer is used for agriculturists who use modern technology and are more resourceful than the peasants. The prime focus in peasant studies has been to identify classes in agriculture, process of class formation, social and economic relations in terms of rent collection, indebtedness, nature of social oppression and economic exploitation; to study the resistance of peasants to the exploitation – the demands and patterns of mobilisation; and to study the response of the exploiting classes and the state. In the studies of peasant movements during the colonial period in India, the Marxist approach identified broadly following classes: peasants working as tenants on the lands owned by landlords, landlords, moneylenders and officials of the colonial government. It also explained the ways tenants were exploited – eviction from land for being unable to pay rent and debt, physical coercion and caste-based humiliation, and how the exploiting classes – the landlords, moneylenders, colonial authorities allied with each other. In the post-Independence period, the focus of Marxist approach shifted to study the politics of land reforms, movements for implementation of land reforms and impact of land reforms. In studying land reforms, it attempted to analyse the impact of land reforms in terms of granting ownership of land to tenants, abolition of landlordism and consolidation of land holdings. It also sought to assess the extent of success of land reforms. The examples of using Marxist approach to study peasant movements include: Dhanagre, Sunil Sen Majid Siddiqui, Girish Mishra for the colonial period; *Tom Brass's Peasants' Populism and Postmodernism* for the post-colonial period. In *Elementary Aspects of Peasant Insurgency in Colonial India*, using Subaltern variant of Marxist approach, Ranajit Guha argues that during the colonial period, the peasants did not rebel against the landlords and the British oppressors blindly. They did so with consciousness. Using “history from below” perspective, which also focuses the underprivileged classes, Kapil Kumar in *Peasants in Revolt* studied peasant movement during the colonial period in Oudh region of Uttar Pradesh. He situated the peasant movement in context of class relations and social and economic conditions of peasants in the Oudh region.

During the 1980s, different regions in India witnessed a spate of farmers movements, which have been different from the peasant movements. Unlike the peasants, they did not demand land reforms or end of oppression by landlords. In fact, these have been beneficiaries of land reforms and other state policies such as subsidies and debt abolition. Their movements emerged in those regions which have witnessed green revolution – Punjab, Haryana, western UP, Maharashtra, Gujarat, Karnataka and Kerala. Their demands are generally related to capitalist economy, i.e. subsidised inputs, better remunerative price of agricultural produce, increase in time of availability of electricity, problem of getting labourers to work on their field, etc. Scholars using Marxist approach have attempted to study class character of these movements and link them with political economy of capitalism in agriculture: for them, they are movements of the rural rich who have are embedded in agrarian capitalism.

2.5.2 Working Class Movements

For studying working class or trade union movements Marxist perspectives addresses the following issues: growth of working class; their social and economic conditions; fulfilment of their basic needs – food, housing, education, health,

etc.; payment of wages, bonus; right to organise and set up their organisations; facilities for creches of workers children; the factors that lead to workers movements; influence of ideological and political movements on workers organisations; response of the state and owners of the firms where striking workers are engaged. Ranajit Das Gupta (1996) points out that Marxist writings of working class have not dealt with some relevant aspects such as labour and labour forms, control over and subordination of labour, class formation, leadership patterns, relationship between workplace and community life outside the workplace. He also underlines that the Marxist scholars have neglected issues of culture and gender. Studies of Jan Breman show that a huge working class is engaged in any kind of work available has grown in India, which he terms as “footloose labour”. This class has also not been adequately addressed by Marxist approach in India.

2.6 THE INDIAN STATE

State is a sovereign political institution in a country. You have read in unit 1, liberal approach influenced by the behavioural movement in social sciences, has preferred to use political system for sovereign political body over the state. But in Marxist approach, the state is a crucial institution to study politics of country. The Marxists view the state as an “executive of the bourgeoisie” or of the propertied classes. It is different from the way the political system, as the term is used for the state, is seen in the liberal approach. The liberal approach views the political system in which consensus between differences is reached, and political system remains resilient and maintains itself. Unlike the liberal approach, Marxist approach analyses the state by using following parameters: (i) It views state as representative of class interests and seeks to find the how different classes are related to the state in terms of controlling it and influencing the state policies; (ii) It attempts to see how state formulates its policies about the propertied and poor classes; (iii) It seeks to trace the development of the state; (iv) to see the ideological influences or orientation of the state; (v) and it attempts to link the policies of a state with international political economy, especially financial institutions such as World Bank and International Monetary Fund (IMF). On the basis of these parameters, the Marxist perspective is used to explain what Marxists call, the nature state of a country or nature of Indian state with reference to India. Marxist perspective has been used by Marxist political parties and by professional academics. There are broadly three kinds of communist parties following Marxian ideology, the Communist Party of India (CPI), the Communist Party of India, Marxist CPI(M), and several Naxalite parties, who define Indian state according to Marxist approach. Though there are differences among them, the common feature of their approach is to analyse Indian state by seeking to establish relationship of state classes within the country as well with the foreign capital or imperialism which are generally represented by international financial institutions. According to CPI(M), the Indian state is bourgeoisie- landlord (capitalists and the landlords) which collaborates with the foreign capital; according to the CPI, it is a national bourgeoisie (capitalists which represent national interests) state which collaborates with the foreign capital. Different kinds of Naxalites generally view the state as representatives of comprador bourgeoisie or the propertied classes which represent the interests of the foreign capital. Using Marxist perspective, political scientist C.P. Bhambhri (1989) analyses the Indian state in relation to development capitalism in India, class contradictions and conflicts in the society. During the conflict situation, Indian state shows authoritarian

tendencies. The state shows weakness in dealing with contradictory pressures from different classes in society. This weakness of the state makes it liable to the pressure of imperialist forces. The imperialist forces have supporters within the state. The Indian state faces challenge of traditionally social structure such as caste and religious groups. Vivek Chibber in his book *Locked in Place: State-Building and Late Industrialization in India* discusses the attitude of Indian industrialists about industrial policies of Indian state during Nehruvian period. Contrary to a prominent argument that they favoured state-led development, Chibber argues that Indian capitalists were not in favour of state-led development: they wanted the private sector, capitalists or market to lead development. The prominence of class politics as envisaged by Marxist perspectives and its influence on the nature of state has been discounted by the non-Marist scholars. For instance, Rudolph and Rudolph, in the book *In Pursuit of Lakshmi: The Political Economy of Indian State*, argue that India lacks class politics because the organised labour forms a small fragment of India economy. The state in India works as “third actor”, the other two being private capital and organised labour. The state plays a centrist role in India. You can notice, it is just contrary to the view of Marxist approach – Indian state is an ally of the propertied classes.

Check Your Progress Exercise 2

Note: i) Use the space below for your answers.

ii) Check your answers with the model answer given at the end of this unit.

1) How do you study class relations according to Marxist approach?

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2) How can you analyse the nature of Indian state?

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3) How do you analyse class movements according to Marxist approach?

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2.7 LET US SUM UP

Marxist approach is a way to analyse society, which includes politics also. This approach is based on Marxism. It uses principle of dialectical materialism to explain various issues in society. According to this principle, change in social relations of production, distribution of produce and resources leads to transformation of society. There are two types of Marxist approaches – classical Marxist approach and neo-Marxist approach. Subaltern approach is one of the neo-Marxist approaches. The classical Marxist approach gives priority to class over non-class issues or to the base over superstructure. The neo-Marxist approach gives enough space to the role of non-class factors – such as culture, caste, language, religion, etc. along with class factors: the non-economic factors are considered relatively autonomous of class. The themes which are studied according to Marxist approach cut across disciplinary boundaries. The most common themes which have been studied in India according to this approach are: class formation and class collaboration; movements of peasants, farmers, workers and nature of Indian state.

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2.9 CHECK YOUR PROGRESS EXERCISES

Check Your Progress Exercise 1

- 1) Marxist approach means a way to explain the processes in society by looking at the changes in social relations of production among classes, control on means of production or resources and distribution of the produce.
- 2) The classical Marxist approach gives priority to class over non-class issues such as culture, caste, religion, politics, etc. Neo-Marxist approach considers both the class and non-class issues. It underlines that like class, caste, religion, culture also play important role, some time relatively autonomous of class.
- 3) Liberal approach prefers to use political system for sovereign political institution. It argues that different factions in a system interact, conflict and adjust in order to reach consensus. Marxist approach prefers to use state instead of political system. According to it, the state is an ally of propertied classes. It takes a partisan role in managing class contradictions.

Check Your Progress Exercise 2

- 1) By using Marxist approach class relations are studied by addressing the following questions: what the pattern of ownership of resources is – which classes own them, and which is deprived of them; who works in the production process; and how the produce or wages and profits are distributed. It also explains how new classes emerge and old classes change or disappear.
- 2) Nature of Indian state according to Marxist perspective is analysed by looking at the relationship between classes, Indian state and international capital. In view of these relationships, different communist parties or Marxist scholar describe nature of Indian state as bourgeoisie-landlord, national -bourgeoisies or comprador state, which collaborates with the foreign financial capital.
- 3) Marxist perspective analyses class movements by linking the issues of class with unequal social relations of production, impact of state policies, pressures which the propertied classes exert on the state, by viewing the role of economic factors on mobilisation of classes, and by explaining to which extent non-class factors impact class movements.

Structure

- 3.0 Objectives
- 3.1 Introduction
- 3.2 Meaning and Scope of Gandhian Approach
- 3.3 In Search of Human Face
- 3.4 Gandhian Approach and Political Science in India
 - 3.4.1 Social and Communal Harmony
 - 3.4.2 Social Movements
 - 3.4.3 Party System
 - 3.4.4 Impact of Gandhian Philosophy on Public Policies
- 3.5 Gandhian Perspective and Postmodernism
- 3.6 Let Us Sum Up
- 3.7 References
- 3.8 Check Your Progress Exercises

3.0 OBJECTIVES

After reading this unit, you will be able:

- To explain basic tenets of Gandhian approach;
- To use Gandhian approach to interpret Indian politics;
- To identify the issues which have been focus of study by Gandhian approach in India; and
- To compare Gandhian approach with liberal and Marxist approach to explain Indian politics.

3.1 INTRODUCTION

In units 1 and 2 you have read about liberal and Marxist approaches to study politics in India. Gandhian approach is different from the liberal approach in the following way: liberal approach, especially its variant system approach does not emphasises change, it underlines the resilience of the system and consensus building in it. But it has some similarities and differences with the Marxist approach. Its similarities with the Marxist approach are that both approaches are used as ways to interpret change the society, and as vision for social change. Gandhian approach like the Marxist approach has been used both by politicians, political activists/Gandhian reformers, politicians and intellectual like Charan Singh, Ram Manohar Lohia and scholars: to critique the existing development model and to provide an alternative. There are some basic differences between Gandhian and Marxist approaches: Gandhian approach underlines significance of non-violence, ethics and principles of trusteeship, the Marxist approach seeks to explain nature of class struggles. Gandhism suggests that there should be trust

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among the workers and the propertied classes. The latter should establish trusteeship and share their wealth. It will reduce the gap between rich and the poor.

3.2 MEANING AND SCOPE OF GANDHIAN APPROACH

Gandhian approach denotes using Gandhian tenets or Gandhism to explain the social reality or truth and suggest ways to build new society. These tenets are truth, non-violence, Satyagrah, Swaraj, Sarvodaya, justification of means to achieve goals, ethics/morality, Ram Rajya. Non-violence is more than just avoidance of violence and harming others: it is to harm oneself. To harm oneself through activities such as fasting is to exercise moral authority on those who possess power. Without disobedience a political action cannot be organized; democracy must be structured in a way that every citizen can question law and institutions (Ramin Jahanbegloo, 2018, *The Disobedient Indian: Towards a Gandhian Philosophy of Dissent*, Speaking Tiger, New Delhi). To use non-violent and moral or ethical tool to achieve goals means to follow a method/strategy which is known as Satyagrah according to Gandhism. The ultimate goal which Gandhian tenets seek to achieve is establish swaraj or self-control or self-realization. This will lead to formation of Ram Rajya or a society where people live in peace and harmony, govern themselves, and enjoy security. In Ram Rajya, an ideal society, people self-regulate, self-govern, through village panchayats/village republics. It is high civil society; such societies have compassion and fellow feeling. In Ram Rajya, the village panchayats performs the functions which can be performed by the state. Ram Rajya/Swaraj implies minimum role to the state, which is a coercive institution. When a scholar uses concept of Satyagrah, non-violence, truth, etc. to analyse role of institutions such as state, sharing of power (decentralization), mobilisation through non-violence and non-cooperation it denotes usage of Gandhian approach. Gandhian approach has been used in different disciplines in social sciences.

Check Your Progress Exercise 1

Note: i) Use the space below for your answers.

ii) Check your answers with the model answers given at the end of this unit.

1) What is Gandhian Approach to politics and what are its core elements?

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2) Compare Gandhian approach with liberal and Marxist approaches.

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3.3 IN SEARCH OF HUMAN FACE

One of the most influential political scientists who has used Gandhian approach to Indian politics is Rajni Kothari. He along with some other intellectuals founded Lokayan with a group of intellectuals. According to Gail Omvedt Lokayan (*Reinventing Socialist Revolution*, quoted by Rudolph and Rudolph) was a “Gandhian-Socialist” civil society organization. As a member of Lokayan, Rajni Kothari, has been influenced by Gandhian philosophy. This is reflected in his academic and popular writings since the 1970s. As you read in unit 1, Rajni Kothari used system approach, a variant of liberal approach to explain Indian politics. Usage of Gandhian approach in his later writings emerged out of his critique of the system approach. He rethought some of the premises which were earlier analysed in the system framework. The changes that took place over four decades following Independence could not be explained by the system approach. The changes could be seen in influence of technology and subservience of the state to it, and consequent problems in society (violence, etc.), people’s movements, human rights violation, ethnicity (identities), erosion of institutions, rise of individual leaders like Indira Gandhi, populism, personal loyalties. In Kothari’s opinion, due to overinfluence of technology Indian state became inhumane; it turned against people. A need for human face of the state was felt. It necessitated rethinking of framework which could help in search of a new India. Alien model of development, which was not pro-people worked under the shadow of world capitalism. And the alternative is available in a human framework, influenced by Gandhian principles. Kothari underlined “an approach that was in many ways different from earlier selections” (Kothari 1989, Vol. I:x); his new writings “contradict” his earlier work. The alternative framework influenced by Gandhian philosophy was supposed to be more democratic than the present one Westminster model. According to this perspective, the Westminster model was implanted in India, from a prosperous milieu to a poor country. It gave more powers to the executive and bureaucracy leading to undue centralization of powers for policy initiative and implementation. There has often been a talk of a “new constitution”. According to Rajni Kothari (1988), development model in India where technology dominates the state, there are “two Indians”: the state is being manipulated by corporate capitalism, and common people are suffering; on the one hand democracy has been highjacked by the rich, on the other it has become playground for communal, casteist and the corrupt. In this context, when party and institutions are losing credibility, “non-party politics” is happening in every part of the country. Alternative which is emerging – “alternative movement”, peoples action.

3.4 GANDHIAN APPROACH AND POLITICAL SCIENCE IN INDIA

In Political Science the most common themes which have been studied by Gandhian approach are social movements and usage of Satyagrah in them; critique of Indian state as a coercive institution; the notion of Swaraj, communal and social harmony, and decentralisation (Panchayati Raj Institutions) or the 73rd and 74th Constitutional Amendment Acts, and the influence of Gandhism on development debate, and on perspectives, etc. Gandhian way is used to assess the influence of Gandhism on intellectuals such as Charan Singh, Lohia and other socialist leaders. Lohia and Charan Singh attacked industrialization in favour

of small-scale/village industries. Although Charan Singh was influenced by Gandhi, he disagreed with Gandhi on some issues. For instance, he opposed to Gandhi's notion of cooperative farming. He opined Gandhi's views in support of cooperative farming. However, Charan Singh was not opposed to cooperative in service in farming. The tenets of Gandhism/Gandhian philosophy which influenced Lohia included – unsuitability of European model of socialism; he critiqued Nehruvian model of development from the point of view of Nehruvian model of development. He was most influenced by Gandhian ideas of civil disobedience or Satyagrah and economic and political decentralization. As in Gandhian perspective, the state has generally been viewed as a soulless machine which uses coercive methods, Gandhian perspective seeks to explain the extent to which state is required to provide security. Indeed, he is not opposed to state; instead, he supports minimum state. It provides security. The role of the state can be performed by Panchayati Raj Institutions. State should perform minimum functions. Gandhism supports a kind of democracy in which people share power and participate in decision making process through decentration or Panchayati Raj Institutions.

3.4.1 Social and Social Harmony

The question how Gandhism has helped to combat communal polarisation has been used by historians, especially with reference to Noakhali riot (Batbayal 2005): in Noakhali, Gandhi could use religion in politics, and sanctification/justification of violence by religion, the question which was addressed in Noakhali was if Gandhi's doctrine was failing and how idea was of conversion made to justify violence. In the case of Noakhali riots, the historians have attempted to see the impact of Gandhian method of Satyagrah to achieve communal harmony. It was so despite the fact Gandhi was criticized both by Hindus and Muslims. Bhikhu Parekh viewed Noakhali riot through the notion of inter-relatedness of personal purity (Personal suffering through hunger strike, etc.) and political success achieved in communal harmony. The Gandhian perspective attempts to analyse how different communities can be brought together in situations of communal strife.

3.4.2 Social Movements

Studying Gujarat movement in Gujarat 1974 against the price rise, Ghanshyam Shah shows the role of Satyagrah in anti-levy. The movement which was launched by the students began against inflated mess bills took up varieties of issues, i.e., corruption, black-marketing, price rise, denationalisation, civil liberties. The agitation forced Gujarat chief minister Chimanbhai Patel to resign. It later got linked with JP movement. It provided a background to imposition of emergency in 1975. Some scholars underline the importance of Satyagrah and non-violence in farmers' movements, and in movements against corruption.

Gandhians like Subba Rao and Rajagopal, P.V. and Jayprakash Narain used Gandhian ways to convince dacoits in Chambal to surrender abjuring violence and follow non-violence, to mobilize of youths in Bihar in the JP movements against corruption and, against emergency. Balagopal founded Ekta Parishad to mobilize tribals against encroachment of their land, and for granting land rights to them. Ekta Parishad is inspired by Gandhian philosophy of non-violence and non-cooperation. It sought to bring the state and society. For this purpose a Joint

Task Force (JTF) was formed in the 1980s. It pressurised the Congress/Digvijay Singh government to introduce land reforms. Over three decades from the 1990s, Ekta Parishad took up various issues – wages, migration, bonded labour, rehabilitation, employment, etc. Ekta Parishad launched an “alternative mobilization” or new social movement in Bundelkhand and Chhattisgarh. It organised long march (pad yatras, dharnas, chakkajams, etc, land satyagrah) of peasants from MP to Delhi passing through different states of India (Pai 2010).

3.4.3 Party System

Revising his views on revisiting the Congress system in an article in *Asian Survey* December 1974, 14 (2), Rajni Kothari states that a government will not be able to deliver without grass-root organisation. In the post-Nehruvian period, the Congress was lacking it. Even conflict which assumes the form of mass agitation grows outside the legislature and electoral channels. It develops rapport with the people. In the absence of organization, police and hirelings from outside make up for the gap in organizational structure. If the Congress fails in building grass-root cadres, it can be filled up by the opposition. Without bring back the party structure, elections will lose credibility.

3.4.4 Impact of Gandhian Philosophy on Public Policies

The Janata government’s policies attempted to replace Nehruvian model of development: investment priorities and plan allocation in favour of agriculture rather than industry; employment through investment in agriculture and small scale industry, and “appropriate” policy. Through such policies India was supposed to become a nation more of farmers than of bureaucrats. These are some examples of impact of Gandhism on state policies. Such issues have been influenced by Gandhian perspectives Charan Singh’s attack on Nehruvian model, and his views on alternative model of development giving priority to agriculture, village community and small scale industries can be viewed to be cast in Gandhian framework. He accused Nehru of having “de-industrialized” India. Using Gandhian approach, Rahul Ramagundam (2008) underlines role of material and ethics in sustenance of life. The material aspect was influenced by Nehruvian philosophy and ethical by the Gandhian. However there has been lack of adequate policy-oriented assessment of Gandhian socio-economic practices.

3.5 GANDHIAN PERSPECTIVE AND POSTMODERNISM

In their book *Postmodern Gandhi and Other Essays*, Lyod I. Rudolph and Susanna H. Rudolph liken Gandhi to a postmodern thinker. They challenge the general notion about Gandhi that he was a traditional leader. In their opinion, Gandhi was a post-modernist. For understanding as to why Rudolph and Rudolph consider Gandhi as postmodern thinker, it is relevant to identify some core features of postmodernism. These features are as follows: primacy to the segment of a whole or its fragments, truth as a contested reality and significance of the context. In relation to these features, Rudolph and Rudolph also categorise Gandhi as a postmodernist thinker. Quoting Gandhi’s book *Hind Swaraj* (1909) and *My Experiment with Truth*, they argue that for Gandhi the authenticity of truth is contextual and experimental. Gandhi’s emphasis on the need for decentralisation of social and political power also qualifies him to be designated as postmodern thinker.

Check Your Progress Exercise 2

Note: i) Use the space below for your answers.

ii) Check your answers with the model answers given at the end of this unit.

1) Discuss the impact of Gandhian approach on the approach of Rajni Kothari.

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2) How is Gandhian approach used to explain Indian politics?

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3) Which major issues are focus of Gandhian approach?

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3.6 LET US SUM UP

Gandhian approach is a way to explain and vision to affect change in society. It has been followed by three kinds of persons such as professional academicians, activists and politicians inspired by Gandhian philosophy. The followers of this approach try to see as to how basic tenets of Gandhism such as truth, non-violence, Satyagrah, Swaraj, Ram Rajya, Sarvodaya, etc., can be applied to explain issues in Indian politics. The issues which have received the most attention of political scientists include decentration, dissent in democracy, social harmony, importance rural society, place of agriculture and small-scale industries as alternative to heavy industry-based development. They have also used Gandhian perspective to critique Nehruvian model of development. Gandhian activists and politicians, in addition, have used Gandhian tactics such as satyagrah, hunger strike to mobilise popular support.

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3.8 CHECK YOUR PROGRESS EXERCISES

Answers to Exercise 1

- 1) Gandhian approach is a way to interpret politics. Its core elements are truth, *satyagrah*, non-violence, *swaraj*, *Ram Rajya*, ethics, decentralization of power, social harmony, trusteeship, etc.
- 2) Gandhian approach is a vision for social change and a methodology to explain politics. The liberal approach, especially its variant, system approach focuses on resilience and consensus building of political system. Gandhian approach has similarities with the Marxist approach: both are ways to explain politics and vision for change in the society. They are different in the sense that Marxist approach looks at the class struggle, the Gandhian approach looks at social harmony and morality.

Answers to Exercise 2

- 1) For a few years of his intellectual careers, Rajni Kothari followed system approach to explain Indian politics. But he did not find system approach

adequate to explain several political and social change. This resulted in change in his approach. The change was influenced by Gandhian philosophy. Along with a group of intellectuals, Rajni Kothari founded Lokayan, which according to Gail Omvedt was a “Gandhian-Socialist” civil society organisation.

- 2) Gandhian approach is used to critique the development model which gives priority to heavy industries. It underlines the significance of alternative model of development which underlines the significance of small-scale industries, cottage industries, village society, decentralization of power. It seeks to study the role of Gandhian tools such as Satyagrah, morality, self-sacrifice in popular mobilization. It also attempts to explain the extent to changes meet the requirement of Gandhian principles – social harmony, decentralizations, self-control, finally reflecting achievement of Ram Rajya.
- 3) The most common issues studied under Gandhian approach include decentralization or Panchayati Raj Institutions, role of Satyagrah, non-violence in mass movements; social or communal harmony, critiquing development model and providing an alternative model; and influence of Gandhi on some intellectuals, politicians and socialism in India.



BLOCK 2
INDIAN CONSTITUTION



BLOCK 2 INTRODUCTION

Constitution of India guarantees security of rights of all individuals, promotion of fraternity among them and ensures unity and integrity of nation. Purpose of this block is to introduce you to the provisions dealing with the basic features of the constitution, rights and duties of the people, relationships among them, and about the directives which the constitution gives to the state (government) to device policies for their welfare. These themes are discussed in three units of this block. Unit 4 discusses the basic features of the constitution. Units 5 is about Fundamental Rights. Unit 6 deals Directive Principles of the State Policy and Fundamental Duties of citizens.



UNIT 4 BASIC FEATURES*

Structure

- 4.0 Objectives
- 4.1 Introduction
- 4.2 Government of India Act, 1935
- 4.3 Constituent Assembly
- 4.4 Essential Features
 - 4.4.1 Sovereign, Democratic, Republic
 - 4.4.2 Union of States
 - 4.4.3 Fundamental Rights
 - 4.4.4 Directive Principles of State Policy
 - 4.4.5 Fundamental Duties
 - 4.4.6 The Union: Executive, Legislature and Judiciary
- 4.5 Emergency Provisions
 - 4.5.1 General Emergency
 - 4.5.2 Declaration of Constitutional Emergency
 - 4.5.3 Financial Emergency
- 4.6 Federalism
 - 4.6.1 Centre-State Relations
- 4.7 Relative Flexibility
- 4.8 Let Us Sum Up
- 4.9 References
- 4.10 Answers to Check Your Progress Exercises

4.0 OBJECTIVES

In this Unit we shall discuss the salient features of the Indian Constitution in the backdrop of the relevant events that preceded the coming into force of the Constitution. After going through this unit you should be able to:

- List out the essential features of the Indian Constitution; and
- Highlight the significance of the salient features.

4.1 INTRODUCTION

The constitution of India is the will of the people of the country. It sets the broad functional parameters of governance. The Constitution was prepared after lengthy deliberations in the Constituent Assembly, which began on 6 December 1946 and came into force on 26 January 1950. The precursor to the Indian Constitution was the Government of India Act of 1935.

*Dr. P.V. Ramana, Formerly Research Fellow, Institute of Defence Studies and Analysis, New Delhi. This unit is adopted from BPSE-212, unit 6.

4.2 GOVERNMENT OF INDIA ACT, 1935

The 1935 Act was the product of the Report of a Joint Select Committee that was discussed in the British Parliament before finally receiving the assent of the Queen, on 2 August 1935. Some of the features of the 1935 Act, with modification though, were later incorporated in the Constitution of India. These include a federal structure in the form of a Union government and State Government(s) (Centre and State(s)), and the division of powers between them (Union List, State List and Concurrent List) bicameral Legislature – the Lower House and the Upper House (Lok Sabha and Rajya Sabha at the Union level; and State Legislative Assembly and State Legislative Council, at the State level), Federal Court (the Supreme Court).

4.3 CONSTITUENT ASSEMBLY

For the purpose of writing a constitution, a Constituent Assembly was convened. Constitution making was no easy task. The Constitution had to live up to the aspirations of the people who had been exposed to several centuries of injustice, social exploitation and discrimination, as well as two centuries of colonial dominance. Moreover, if it were to be applicable and acceptable to diverse religious, political and regional sections, it had to embody their interests. The motto with which the constitution-making exercise was undertaken was ‘consensus’ rather than the ‘majority principle’. In this, representatives from diverse ideological backgrounds, and several of them with a legal background, worked together. At the head of the exercise was Dr. Rajendra Prasad, a veteran of the freedom movement who was later to hold the office of the president of India for two successive terms, and the leading light was the first Prime Minister of Independent India, Jawaharlal Nehru. Renowned members of the Assembly included T T Krishnamachari, Dr. B R Ambedkar, Alladi Krishna Swami Iyer and Gopalaswami Aiyangar, Shyama Prasad Mukherji, J B Kriplani, Vallabhai Patel and Pattabhi Sitaramayya.

There were to be 381 members in the Constituent Assembly. They represented the various political parties and belonged to the Congress Party, Communist Party of India, Praja Party, Krishak Praja Party, Scheduled Castes Federation, Non-Congress Sikhs, Unionist Muslims and Provinces and the Princely States were also represented in the Assembly.

The provisions of the Constitution were extensively debated upon in the several Committees that were formed for the purpose before being presented to the Assembly for its consideration. On the basis of the deliberations in the Assembly, the Drafting Committee, which was constituted on 29 August 1947, prepared the draft text of the Constitution. Dr. B R Ambedkar was the chairman of the Drafting Committee. The final document, after making amendments to the draft Constitution, as signed on 26 November 1949, and two months later it came into force.

It is, indeed, creditable that the Members of the Constituent Assembly completed the exercise of preparing a Constitution within a period of three years while it took many more years for other countries to have their first Constitution. Also, it goes to the credit of the country and is a testimony to the broad vision of the Constitution makers that the Constitution of India was never abrogated, and a

new one introduced. The Indian Constitution was never seriously questioned since the time it came into force. The changing requirements were attended to through affecting amendments to the Constitution while its essential features were retained; they occasionally came under strain, though.

4.4 ESSENTIAL FEATURES

The essential features of the Constitution of India are as follows: The Constitution is supreme; The sovereignty of India cannot be surrendered or pledged; India is Republic and cannot be turned into a monarchy; Democracy is a way of life than merely providing for adult franchise; Secularism and independent judiciary are two pedestals of this democracy. Amendments to the Constitution can be made without altering its essentials. We shall discuss some of these features.

4.4.1 Sovereign, Democratic, Republic

The 'Preamble' to the Constitution declares that the people of the country are the sovereigns. In other words, 'Sovereignty' rests in the people and is exercised through the institutions that have been created for that purpose. The sovereignty of the country can not be pledged, i.e., India can not be turned into a colony or a dependency of another country. The entire course of the Freedom Movement was on this quintessential principle of sovereignty.

In the Preamble it is also stated that the country shall be a Republic and shall adhere to a democratic form of government. In Republic there is no scope for a Monarch to reign over the people, but the people themselves rule the country through their elected representatives.

4.4.2 Union of States

An important feature of the Constitution is that it has constituted India as a Union of States (Art 1). There is also scope in the Constitution to create new States as well as to admit new ones. Notable example of these are the formation of States, for the first time after independence in 1956 by bifurcating some of the then existing States on a linguistic basis-Andhra Pradesh, Tamil Nadu, Karnataka and Kerala. Through the bifurcation of the Bombay State Maharashtra and Gujarat were formed. More recently, in the year 2000, three new States – Uttaranchal, Chhattisgarh and Jharkhand – were created. An example of the admission of new States into the Indian Union is the admission of Sikkim, in 1975, till then a protectorate of India, into the some of the Princely States were yet not ready by the time the Constitution would come into force to become part of India. The Nizam's State of Hyderabad is one such example. And, besides, there were French and Portuguese colonies – Pondicherry and Goa that remained to be integrated with India. On August 5, 2019 the State of Jammu and Kashmir was bifurcated into two union-territories – Jammu and Kashmir and Laddhakh.

4.4.3 Fundamental Rights

The Fundamental Rights provided for in the Constitution could be summarised as Right to Equality, Right to Freedom, Right Against Exploitation, Right to Religion, Cultural and Educational Rights and the Right to Constitutional Remedies. The Right to Property was made a legal right through the Forty Fourth Constitutional Amendment Act, and is hence, not a Fundamental Right now. In

the large interests of the country, the property belonging to any person can be acquired by paying a 'compensation.'

The Fundamental Rights are enshrined in Part III of the Constitution, and their implementation is guaranteed by the Supreme Court. In other words, Fundamental Rights are justice able. Indeed, some of the Fundamental Rights, it might be noted, are applicable only to the citizens of the country and not to foreigners. Article 20, Article 21 and Article 22 are, however, applicable to all. At the same time, it should also be borne in mind that what is applicable is the 'restriction' on the Right.

Except during an 'Emergency', Fundamental Rights cannot be suspended. However, even during an Emergency Article 20 and Article 21 cannot be withheld. The Constitution was amended by the Forty Fourth Amendment Act and through Article 359-1A it was stated that Article 20 and Article 21 cannot be suspended even when a proclamation of Emergency is in operation.

Right to Freedom

The Constitution also ensures the Right to Freedom under Articles 19 to 22. Article 19 guarantees the right to freedom of speech and expression, right to peaceful assembly, right to form associations, right to visit and reside' in any part of the country and the right to profess and practice ones religion. These rights too, are subject to any reasonable restrictions that can be imposed by the state under clauses 2 to 6 of Article 19.

Article 20 guarantees that no person shall be punished on the basis of laws that are enacted after a crime has been committed (protection from *ex post facto* laws). Protection from being punished more than once for the same offence (protection from 'double jeopardy') and protection from standing trial against oneself (protection from self-incrimination). Article 21 ensures the protection of 'personal life and liberty'. In other words, the state does not have the right to take away the life of a person, except through the procedure established by law. Article 22 prohibits detention of person's without trial. However, preventive detention of a person up to three months and, in some cases, beyond that is permitted.

Right to Equality

Article 14, guarantees the Right to Equality before the Law and the Right to Equal Protection of the Laws. In other words, this article ensures that all persons can be tried in a court of law and every person can approach the courts for justice and that no person shall be discriminated against in the application of laws, nor can any person claim special privileges and favouritism.

Article 15 guarantees protection from discrimination on the basis of 'religion, race, caste, sex or place of birth'. and provides for equal access to and thus the Right against Discrimination. It also, however, states clearly that the state can make special provisions for the uplift of certain categories of people like socially and culturally backward classes and Scheduled Castes and Scheduled Tribes. An example in this context is the reservation provided in educational institutions and in the public services to the disadvantages sections of the society. As one commentator observed, "the framers of the Indian Constitution sought to shape an overarching a) adequate means of livelihood for all,(b) distribution of wealth

and control over it, rather than concentration, in the common good, (c) equal pay for equal work for both men and women (d) non-abuse of the health of all workers and (e) the protection of the children of the country from exploitation and their growth in an atmosphere of freedom and dignity.

Article 16 provides for the Right to Equality of Opportunity in employment. Continuing with its desire to ensure equality of all citizens, the Constitution also abolished 'Untouchability' whose practice is a crime under Art 17, while Article 18 abolished Titles.

4.4.4 Directive Principles of State Policy

The Directive Principles of States Policy (DPSP) are an adaptation from the Irish Constitution. These are broad guidelines which have to be borne in mind while enacting laws and implementing them. Unlike the Fundamental Rights, the DPSP are not justiceable. Simplistically understood the DPSP have a 'welfare' connotation. The Constitution does not provide for their guarantee and, therefore, their enforcement can not be questioned in a court of law.

Fundamental Rights and the DPSP "together, not individually" form the core of the Constitution; "the true conscience". The DPSP prescribes that the state shall ensure.

4.4.5 Fundamental Duties

The Fundamental Duties enshrined in the Constitution are intended to obligate all the citizens to strive for the common benefit of all. They are expected to respect the Constitution, National Tri-colour and the Anthem. They are called upon to strive for upholding the unity and integrity of the country and work for a harmonious society setting aside all divisive tendencies. The citizens of the country have a duty to protect its resources both natural and material and work towards higher levels of achievement.

4.4.6 The Union: Executive, Legislature and Judiciary

There are, as all students of Political Sciences know, three organs or branches of government, i.e., legislature, executive and judiciary. A harmonious functioning among the three is vital for the furtherance of a country.

Legislature

At its Independence, India chose to adopt a parliamentary form of government. In such a form of government, the President is the Head of the State while real executive power is exercised by the Head of Government, the Prime Minister, in association with his Council of Ministers, all of who are collectively responsible to Parliament.

Executive

In India, the legislature and the executive are drawn from one another, while the judiciary is an independent body. The legislature comprises of the House of People (Lok Sabha), Council of States and the President of India. A member of the Union Council of Ministers has necessarily to be a member of either of the lower house, the Lok Sabha or the Upper house, the Rajya Sabha.

President

Both the houses of Parliament and the legislatures in the States elect the President by means of a 'single transferable vote'. The office of the President, its functions, powers tenure, method of election and re-election, impeachment, and the qualifications required to hold the office are enunciated in Articles 52 to 62. All activities of the state are carried out in the name of the President as the executive power is vested in the President (Art 52). As in the United States, in India, too, the President is the Supreme Commander of the Armed Forces. The President summons both the houses of Parliament and addresses its joint sessions. He has the power to remit sentences and grant reprieve. He appoints all the important functionaries of the state such as the Prime Minister and the Council of Ministers, Judges of the Supreme Court and High Courts, the Attorney General, Governors of States, Chairpersons of Commissions like the Election Commission of India and heads of organisations like the Comptroller and Auditor General of India (C & AG).

The Union Council of Ministers

It need to be kept in mind that there is a difference between the Cabinet and the Council of Ministers; the Cabinet is composed of Ministers of Cabinet rank and Ministers of State, while the Council also includes the Deputy Ministers. The Council of Ministers is collectively responsible to Parliament. Activities of the Ministries are brought under scrutiny by the opposition during the two-hour long Question Hour at the beginning of each day of the Session in Parliament. The Council of Ministers makes recommendations to the President, in what is called 'aids and advises', in the affairs of the country. Important among the recommendations that we should be aware are those relating to dissolution of the Lok Sabha, declaring war or declaring a 'state of Emergency'.

Legislature/Parliament

The Indian Parliament is the supreme law-making body of the country. It is a bicameral legislature as in the United Kingdom, the United States and several other countries. The upper house is known in Hindi as the Rajya Sabha and in English as the Council of States. It comprises the Chairman, who is also the Vice-President of India, the elected members and 12 nominated members, each holding a term of six years, with one-third of its membership retiring every two years.

A significant aspect and point of difference between the Rajya Sabha and its equivalent, the American Senate is that the membership of each State in it is proportional to its population, whose legislative assembly elects the members of the Rajya Sabha. Thus, all States of the Indian Union do not send an equal number of representatives. The lower house of Parliament is the House of the People, better known as the Lok Sabha. Its members are elected for single, term of five years or less directly by all eligible voters by means of 'universal adult suffrage' from territorially delimited constituencies.

The Rajya Sabha has little power over money bills. These can not be introduced in the Rajya Sabha. It has to return such bills to the Lok Sabha with its recommendations within 14 days, and it is for the Lok Sabha to accept or reject any of its recommendations. In case of a deadlock over a non-money bill between the Lok Sabha and the Rajya Sabha, the President convenes a joint sitting of the two houses to debate and vote on the bill.

The President of India appoints all Judges of the Supreme Court and High Courts and the Chief Justices. The Constitution also clearly lays down the procedure for impeaching the Judges and Parliament alone can impeach a judge of the Supreme Court.

The supreme Court and Parliament have on occasion entered into a tug of war. This was finally resolved with the Constitution Amendment Act stating that the Supreme Court has the power.

4.5 EMERGENCY PROVISIONS

Emergency Provisions are enshrined in Part XVIII of the Constitution under Articles 352 to 360. There are three types of Emergency that can be declared: External aggression or armed rebellion (Article 352): Emergency was declared under this provision for the first time in the wake of the war with China on October 26, 1962. It continued upto January 10, 1968. Another proclamation of emergency took place on December 3, 1971, in the wake of the India-Pakistan war. During its continuation, a third Emergency was declared was on June, 1975. It was revoked in 1977. Critics argue that the third emergency was intended more to retain Mrs. Indira Gandhi in power than there was the actual threat. It was the darkest period for Indian democracy as there were arbitrary detentions, for a prolonged period of time and accusations of widespread infringement of Fundamental Rights.

4.5.1 General Emergency

An emergency can be proclaimed when the security of the country is under threat or is under the danger of a threat from hostile countries during times of war or only to state whether an Act was in contravention of the provisions of the Constitution or not.

4.5.2 Declaration of Constitutional Emergency

The most contentious and abused emergency provision is Article 356. If the President receives a report from the Governor of a state stating that the constitutional machinery has broken down or that the administration of the State can no longer be carried out in accordance with the provisions laid down in the Constitution of India, and emergency can be declared in that State. The President may do so even if he is otherwise satisfied of a constitutional breakdown in a State. The provision allows dismissing the State government and bringing it under President's Rule or Central Rule. Under such a condition, the Governor of the State assumes all functions and carries out the administration in the State, on behalf of the President, i.e. the Centre, with the aid of his advisors appointed by the President upon the recommendation of the Union Council of Ministers.

There were several instances when Article 356 was brought into force in various State. The first instance of dismissing a State government by invoking Article 356 even while it continued to enjoy the confidence of the State Legislature occurred in 1959, in Kerala, when the Communist government of the day was dismissed. It generated a major controversy and it was argued that it was a wrong decision as the government commanded a majority on the State Assembly. On

the other hand, the supporters of the decision held that public dissatisfaction manifest in the form of agitation against the government and its policies was reason enough to conclude that there, indeed, was a break down of law and order, and, hence, it was correct to impose President's Rule.

Other instances include the dismissal of State governments en masse twice, in 1977 after the Janata Party swept the general elections and subsequently in 1979 when the Congress Party returned to power. Other contentious occasions on which invoking the provision was resorted are in 1984 in Andhra Pradesh and later in Karnataka when the S R Bommai government was dismissed, and the court later subsequently held that the decision was incorrect.

4.5.3 Financial Emergency

Financial emergency can be declared under Article 360 in conditions in which the financial stability or credit of the country or any part of the country is threatened. However, as provided for in the Forty Fourth Constitutional Amendment Act of 1978, such a proclamation needs to be approved by the both the Lok Sabha and the Rajya Sabha within two months from the date of its proclamation, or, if the Lok Sabha is at that time dissolved, within 30 days from the date it (the new house) reconstituted.

4.6 FEDERALISM

At the time of Independence the diversity of the country was such that the Constitution makers, thought it fit to have a strong Union government (Centre) within a federal framework. Provisions related to Centre-State relations are enumerated in Part XI of the Constitution. The Indian Constitution provides for governments with specified powers in the various States, too. India's Constitution thus has both centralizing and de-centralising features.

For more than a decade and a half after Independence, the Centre and the States had almost no problems. Scholars attribute this to the existence of Congress governments in most of the States in the country as well as at the Centre, the towering personality of the then Prime Minister, Jawaharlal Nehru, and also the leadership in the States as well as at the Centre that was less prone to schism, but guided more by idealism. The balance in relations tilted more in favour of the Centre when Indira Gandhi was the Prime Minister of the country. This was due not only to the Emergency that was imposed in 1975, but also because of weak leaders at the State-level whose survival in political power was dependent on the clout that they could wield at the Central level.

By the 1990s, at least a few of the States exercise greater leverage vis-a-vis the Centre. A Central government that lacked an absolute majority in Parliament had to depend on the support of its regional allies – the Dravida Munnetra Kazhagam and the All- India Anna DravidaMunnetraKazhagam, National Conference in Jammu and Kashmir, the AsomGana Parishad in Assam, and the more recent splinter groups of the erstwhile Janata Party that have established themselves in the different States.

4.6.1 Centre-State Relations

Problems in Centre-State relations came to the fore after non-Congress government came to power in several States – Orissa, West Bengal, Kerala, Punjab, Uttar Pradesh and Bihar in the late 1960s.

Financial Relations

Another contentious issue is the sharing of financial resources between the Centre and the States and allocation of Central grants to various States. While States have since long been demanding the allocation of larger portions, a new proposition suggested allocation on the ‘basis of performance’.

Governor’s Rule

Yet another point of difference is the ‘imposition of Governor’s Rule on a state and his/her role while in office, besides that of his/her abrupt removal. Governors are generally appointed with the concurrence of the Chief Minister of the concerned State, and the Sarkaria Commission, too, in 1988, recommended the same. The recommendation, however, has not always been adhered to. The Sarkaria Commission sought to herald co-operative federalism.

4.7 RELATIVE FLEXIBILITY

According to several scholars, a Constitution is a living document and, hence, it has to reflect the changing times. An amendment to the Preamble made the principle of secularism an integral feature of the Constitution.

When a Constitution is amended it is expected that it would bring a change for the better. In other words, it would ‘give more’ than ‘take away any’. Article 368 together with other articles, empowers Parliament to make amendments to the Constitutions. In fact, the occasion for debate, on what the fundamental features of the Constitution are, was created when certain amendments were made to the Constitution. The amendment procedure laid down in the Constitution is both rigid and soft for different articles. While some need only a simple majority, most need a majority of two-thirds present and voting in both the Houses of Parliament and the assent of the President. The toughest amendment procedure prescribed requires, besides the two-thirds present and voting and requirement, also the consent of at least half the number of Legislatures in States in the country. And further more, it also requires the assent of the President.

Two of the most vehemently contested aspects were: one, the authority of Parliament to effect amendment itself to any article of the Constitution; and two, on who holds supremacy of decision over and amendment.

While the Indian Parliament held that it was the supreme authority and had, therefore the right to amend any article in the Constitution, its critics said it was the Constitution that is supreme and not Parliament, whose creation Parliament was as much any other institution. It was, in the final analysis, resolved that Parliament is rightfully authorised to amend the Constitution, but only so long as it did not amend the ‘basic features of the Constitution. Besides, the Supreme Court has the power to decide whether and amendment to constitution, indeed, were against the basic features of the Constitutions or not.

Check Your Progress 2

Note: i) Use the space given below for your answers.

ii) Check your answers with model answers given at the end of the unit.

1) Examine the Parliament's powers to amend the Constitution of India.

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2) Can the Indian Parliament amend the basic structure of the Constitution?

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4.8 LET US SUM UP

The Indian Constitution is a successful document and it has sought to foster the best democratic tradition. The tradition that it had established had the resilience to correct occasional anomalies, which itself is proof of its success. The Constitution incorporates federalism, guarantees the fundamental rights of the people of the country, a system of checks and balances through the institutions of President, Council of Ministers, etc.

4.9 REFERENCES

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4.10 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

1) Article 20 guarantees fair trial and Article 21 protects an individual's life and liberty.

2) a) The Prime Minister, Minister of Cabinet rank and Minister of State

Check Your Progress 2

- 1) Parliament can amend some article of the constitution with a simple majority, but most amendments require the approval of two-thirds of the members sitting and voting and the assent of the President. A few even require the additional consent of at least half of state legislatures.
- 2) Since the Constitution and not the Parliament is supreme, the Parliament cannot amend or alter the basic feature of the Constitution.



Structure

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- 5.2 Historical Background
 - 5.2.1 The Commonwealth Bill of 1925
 - 5.2.2 The Nehru Report of 1928
 - 5.2.3 The Sapru Report of 1945
 - 5.2.4 Sub-committee on Fundamental Rights
- 5.3 Salient Features of the Fundamental Rights
- 5.4 The Six Fundamental Rights
 - 5.4.1 Right to Equality
 - 5.4.2 Right to Freedom
 - 5.4.3 Right against Exploitation
 - 5.4.4 Right to Freedom of Religion
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- 5.6 Reasonable Restrictions on Fundamental Rights
- 5.7 Let Us Sum Up
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- 5.9 Answers to Check Your Progress Exercise

5.0 OBJECTIVES

After reading this unit, you will be able to explain.

- Historical background of Fundamental Rights;
- Their Salient Features;
- Six Important Fundamental Rights; and
- Reasonable restrictions on Fundamental Rights.

5.1 INTRODUCTION

The preamble to Indian constitution is about the resolution of Indians (“We, the People of India”) for securing freedom, equality, justice, security, dignity to all citizens. These commitments have been incorporated as Fundamental Rights and Directive Principles of the State Policy the Part III and the Part IV respectively. The Fundamental Rights are justiciable. It means that if Fundamental Rights of citizen or persons are violated, she/he can approach the court for their protection. They are different from the Directive Principles of the State Policy which are non-justiciable. It means that if state does not follow the provisions of the Directive Principles of the State Policy, a citizen can not approach court claiming them.

*(Adopted from BPSC-102, Unit 4), Divya Rani, Consultant, Faculty of Political Science, IGNOU, New Delhi

5.2 HISTORICAL BACKGROUND

The notion of rights which finally came to be known as Fundamental Rights in Indian constitution evolved from the nineteenth century. Galvine Austin opines that the concept of Fundamental Rights was implicit in the formation of the Indian National Congress in 1885, in which Indians wanted the same rights and privileges that the British enjoyed in India and in England. Some of these rights were included in the documents such as the Constitution of India Bill, 1895. This bill sought for Indians rights such as free speech, imprisonment only by competent authority, and free State education. In the following period, attempts were made from quarters asking the British government to grant rights to Indian. These demands were made in resolutions by the Indian National Congress between 1917 and 1919, in several bills and in committee reports. The Commonwealth Bill of India Bill 1925 drafted by Annie Basent, the Nehru Report 1928, Sapru Report of 1945, and Sub-Committee of the Constituent Assembly on Fundamental Rights.

5.2.1 The Commonwealth of India Bill, 1925

The Commonwealth of India Bill demanded seven Fundamental Rights for Indians. Among these rights included: individual liberty, freedom of conscience, free expression of opinion, free assembly, and equality before law. The Bill also had provisions for right to free elementary education, equal right to use roads, court of justice and all other places of business or resort dedicated to public.

5.2.2 The Nehru Report, 1928

The printing of the Commonwealth Bill was followed by the visit of Simon Commission in 1927, which aimed to study the possibility of introducing constitutional reforms in India. In response to the Simon Commission, the Congress passed a resolution to set up committee in its forty-third annual session held at Madras for the purpose of drafting of “a Swaraj Constitution for India”. A declaration of rights was to be the basis of this draft constitution. The task to draft the constitution was assigned to a committee. This committee came to be known as Nehru committee after its chairman, Motilal Nehru. The Nehru report underlined the need for securing Fundamental Rights that had been denied to them by the colonial government. Indeed, the Fundamental Rights in the Nehru report were reiteration of the rights mentioned in the Commonwealth Bill of India Bill, about which you have read above. This report underlined prominently the need to protect minority rights. The Congress party in its session in 1931 held at Karachi Resolution highlighted the need to end exploitation of masses and to make economic freedom intertwined with the political freedom. It suggested that suitable legislations should be made to safeguard the interests of working classes.

5.2.3 The Sapru Report of 1945

The Sapru Committee was assigned the task of doing spadework for making constitution for future India. The Committee consisted of thirty members. It was known as Sapru Committee after the name of its chairman, Tej Bahadur Sapru, an

eminent lawyer. The report was published in 1945. The Sapru Committee is distinguished for making two suggestions about rights. One, it made distinction between justiciable rights and non-justiciable rights. Two, it suggested that rights of the minorities must be protected.

5.2.4 Sub-Committee on Fundamental Rights

The Constituent Assembly had constituted various committees to give suggestions for inclusion in the constitution. One such committee was to give suggestions about Fundamental Rights, Minority Rights and Tribal and Excluded Areas. It was headed by Sardar Ballabhbhai Patel. This Committee was divided into sub-committees. One such sub-committee was also on Fundamental Rights. The Fundamental Right sub-committee or the Rights sub-committee as it was known was headed by J.B. Kripalani. This committee had representation of diverse sections of society, including women such as Amrit Kaur and Hansa Mehta. An important decision which the Right sub-committee took was to include the Fundamental Rights as justiciable right. The suggestions of the Rights sub-committee were incorporated as Fundamental Rights in Part III of the Constitution after they were discussed in the Constituent Assembly.

5.3 SALIENT FEATURES OF THE FUNDAMENTAL RIGHTS

The important features of the Fundamental Rights are:

- i) ‘All are equal before the law’. It means that all citizens are equal under law. They have equal the right to freedom of religion, assembly, association, and movement. No person is to be deprived of his life, liberty, or property, except in accordance with the law.
- ii) Minorities are allowed to protect and conserve their language, script, and culture. Fundamental Rights primarily protect individuals and minority groups from arbitrary, prejudicial state action. Three of the articles have been designed to protect the individual against the action of other private citizens. Article 17 abolishes untouchability; Article 15(2) lays down that no citizen shall suffer any disability in the use of shops, restaurants, wells, roads, and other public places on account of his religion, race, caste, sex, or place of birth; Article 23 prohibits forced labour- which, although it had been practiced by the state, was more commonly a case of landowner versus peasant.
- iii) Various means are provided whereby the citizens can move the Supreme Court and other courts for the enforcement of the Fundamental Rights. There are two different mechanisms of enforcement of Fundamental Rights: first judicial review and second writs against a public authority violating a person’s rights. Both the remedies operate through Article 32.
- iv) The Fundamental Rights are both natural as well as legal.

Check Your Progress Exercise 1

Note: i) Use the space below for your answers.

ii) Check your answers with the model answer given at the end of this unit.

1) What was Commonwealth Bill of 1925?

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2) What were the important features of Nehru Report and Sapru Report?

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5.4 THE SIX FUNDAMENTAL RIGHTS

The original Constitution (1950) had seven Fundamental Rights. But after the passage of the 44th Amendment in 1978, there are now six Fundamental Rights. This Amendment deleted the seventh fundamental right, viz., right to property (Art. 31) from the list of Fundamental Rights. In sub-sections below, you will read about the six Fundamental Rights:

5.4.1 Right to Equality

Articles 14 to 18 deal with different aspects of right to equality. Article 14 states that the state shall not deny to any person equality before the law and equal protection of law within the territory of India. It, thus, provides equality before to every person without discriminating on grounds of religion, race, caste, sex or place of birth. Articles 15, 16, 17 and 18 relate to socio-economic equality. Article 15 prohibits state from discriminating against any person on grounds only of religion, race, caste, sex, place of birth or any of them. However, the state can make special policies of protective discrimination for welfare of women, children, socially and educationally backward classes, and SCs and STs. It also prohibits discrimination or restriction to any person from access to shops, public restaurant, hotels and places of public entertainment, or use of wells, tanks, bathing ghats, roads and places of public restaurant which are maintained wholly or partly out of state funds or which are dedicated to the use of general public.

Article 16 guarantees equality of opportunity for all citizens in public employment and prohibits ineligibility of or discrimination against, a citizen in respect of employment or office under the state on grounds of religion, race, caste, descent, place of birth, residence or any of them. However, the state may reserve offices

which relate to religious or denominational institutions for members professing the concerned religions or denominational institutions. Article 17 abolishes untouchability and prohibits its practice in any form. The enforcement of any disability arising out of untouchability is punishable by law. According to Article 18, no title other than military and academic distinction shall be conferred by the state. No citizen of India shall accept any title from a foreign state. No person holding an office of profit or trust under the state shall accept a gift or present or emolument or office of any kind from or under a foreign state.

5.4.2 Right to Freedom

Right to freedom are given in Articles 19 to 22. The right to freedom is not an absolute right. It is subject to 'reasonable restrictions' that may be imposed by law. The Article 19 guarantees the following rights:

- i) Freedom of speech and expression: its main concern is the interests of sovereignty and integrity of India, security of the state, friendly relations with foreign states, public order, decency or morality or in the relation of contempt of court, defamation or incitement to an offence;
- ii) to assemble peacefully and without arms: it is qualified by the interests of security and integrity of India or public order;
- iii) to form associations and unions: it is qualified by the interests of sovereignty and integrity of India, or public or morality. It also includes "cooperative societies" that was added by 97th Amendment in 2012;
- iv) to move freely throughout the territory of India: general interests of the public or the protection of interests of the scheduled tribes;
- v) to reside and settle in any part of the territory of India; and
- vi) to practise any profession, or to carry on any occupation, trade or business: it is qualified by professionals' qualification needed for practising them and the power of the state or a corporation owned or controlled by the state to the total or partial exclusion of citizen.

The Articles 20, 21 and 22 assure personal freedom of persons. Central to them, indeed central to all the Fundamental Rights, is the right to life and personal liberty. In 2002, judiciary interpreted this right in a creative way. Right to life is now seen as a right to life of dignity and fulfilment. Moreover, the 86th Amendment in 2002 further added Article 21 A to the constitution that authorises the state to provide free and compulsory education to children between the ages of six and fourteen in such manner that the state may determine. Earlier it was present in the Article 45 of the directive principles of state policy. Article 20 provides a fair trial and freedom from arbitrary conviction by the state. No person can be convicted except for the violation of an offence under the law prevalent at the time of the commission of the act charged as an offence. Article 22 and its different clauses provide protection against Arrest and Detention in certain cases.

5.4.3 Right against Exploitation

The Indian constitution guaranteed right against exploitation in Articles 23 and 24. Article 23 prohibits traffic in human beings and beggar (unpaid labour) and other similar forms of forced labour. According to Article 24, no child below the age of fourteen shall be employed in the factory, mine or hazardous occupations.

5.4.4 Right to Freedom of Religion

Article 25 entitles all persons equally to freedom of conscience and right to freely profess, practice and propagate religion. But the freedoms are subject to public order, morality and health, and to other provisions of part III of the constitution. Nothing in this article shall affect the operation of any existing law or prevent the state from making a law-

- a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;
- b) providing for social welfare and reform or throwing of Hindu religious institutions of a public character to all classes and sections of the Hindus.

Freedom of conscience is strengthened by two articles, i.e., Articles 27 and 28. Article 27 provides that no person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious domination. Article 28 prohibits religious instructions in any educational institution wholly maintained by state funds unless such an institution, even though administrated by state, has been set up under an endowment or trust which requires that religious instructions be imparted in them.

5.4.5 Cultural and Educational Rights

Articles 29 and 30 are about cultural and educational rights. Article 29 grants any section of the citizens residing in the territory of India or any part of it, possessing a distinct language, script or culture of its own, right to conserve it. No citizen shall be denied admission into an educational institution maintained by the state or receiving aid out of state funds on the basis of religion, race, caste, language or any of them. According to the Article 30, all minorities, whether based on religion or language, have the right to establish and administer educational institutions of their choice.

5.4.6 Right to Constitutional Remedies

According to Article 32, the Indian Constitution has certain provisions which give powers to the courts to enforce Fundamental Rights. The devices through which the courts protect Fundamental Rights are known as writs or judicial processes. These writs or judicial processes are: *habeas corpus*, *mandamus*, *prohibition*, *quo warranto* and *certiorari*. The Supreme Court may issue directions or orders or writs to enforce Fundamental Rights. The meanings of the writs are mentioned below:

Habeas corpus: It means “to have the body”. This writ protects the right to life and personal liberty (Article 21). It can be issued by the courts to any authority which has detained a person without trial to produce him to the court for trial. It challenges the executive if it has detained anyone against the authority of law. It can also challenge a law under which the detention has been made if that law is unconstitutional. The court can free a person if she/he is detained illegally. Disobedience to this writ is met with punishment for contempt of court.

Mandamus: *Mandamus* means a command. It is an order issued to an authority or a person to do the duty mandated to it by law which it has refused to perform.

Mandamus is not granted against the President, Governor of the state, the high court or supreme court judges. It is not issued against a private individual or body.

Prohibition: It is a writ issued by a higher court – the Supreme Court or a high court to an inferior court. It prohibits the latter from continuing proceedings to hear a case which is beyond the jurisdiction.

Certiorari: By this writ the Supreme Court, and the High Courts may call for the record of a case from a lower court or semi-judicial body on an allegation of an excess of jurisdiction.

Quo Warranto: by this writ the court asks a person or body of persons under which authority it is in a public office created by the constitution or a statute.

5.5 THE BASIC STRUCTURE DOCTRINE

According to the Basic Structure Doctrine, the Parliament can not change through amendments the basic features of the constitution, which include Fundamental Rights along with judicial review, secularism and parliamentary democracy. This doctrine emerged from the Supreme Court judgement in March 1973 about *Kesavanad Bharati vs. State of Kerala* case. In this case, His Holiness Kesavanand Bharati Sripadagalvanu, leader of a *math* in Kerala challenged in the Supreme Court the decision of Kerala government about taking over the private land as part of land reforms programme. In its judgement about this case, the Supreme Court pronounced that basic structure of the constitution, i.e., Fundamental Rights can not be changed. However, the court also held that right to property did not constitute basic structure of the Constitution. The 44th Amendment, 1978 removed the right to property as Fundamental Rights. As Fundamental Rights are enforceable, the courts have a special responsibility to protect them. The courts protect Fundamental Rights by issuing writs. Prior to *Kesavanad Bharati* case, the Supreme Court protected Fundamental Rights in *Golakhnath vs. State of Punjab* case (1967). In this case, the court restricted Parliament from curtailing any Fundamental Right. In *Indira Gandh vs. Raj Narayan* case in 1975, the Supreme Court used Basic Structure doctrine to strike down the 39th Constitutional Amendment made, which sought to place elections of President, Vice-President, Prime Minister and Speaker of Lok Sabha beyond the purview of judicial review.

Check Your Progress Exercise 2

Note: i) Use the space below for your answers.

ii) Check your answers with the model answers given at the end of this unit.

1) What are the six parts of Fundamental Rights?

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2) What is Basic Structure Doctrine?

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5.6 REASONABLE RESTRICTIONS ON FUNDAMENTAL RIGHTS

Indian constitution has provided a safety net to all sections and groups through various articles especially regarding Fundamental Rights of the citizens and the persons. However, the Fundamental Rights are not absolute. They are subject to reasonable restriction. The state can put restrictions on right to freedom for protection of sovereignty and security of the country; for maintenance of public order by imposing curfew and morality; and for maintaining friendly relations with other countries. The state can also put reasonable restriction of right to equality by devising welfare policies for marginalised sections of society such as women, children, socially and educationally backward classes, Scheduled Castes and Scheduled Tribes.

Article 33 empowers Parliament the power to restrict or abrogate the application of Fundamental rights in relation to armed forces or the forces, police, etc. This article is meant to instil discipline among the forces whose duties are related to maintenance of public order and sensitive subjects. According to Article 32, a person has fundamental right to approach the Supreme court but not the high court to seek constitutional remedies for enforcement of Fundamental Rights. High Court may decline to hear a petition seeking constitutional remedies.

5.7 LET US SUM UP

Fundamental Rights are given in Part III of the Constitution. They are essential conditions for development of human beings. They provide freedom, equality, security and dignity to all persons and citizens without discriminating on grounds of religion, race, caste, gender, place of origin, descent. They are justiciable. Their violation can be challenged in the court of law. In India, realization to have Fundamental Rights which finally were included in the Constitution grew from the nineteenth century. As per the Basic Structure Doctrine, the Fundamental Rights represent basic structure of the constitution. They cannot be amended. The courts can enforce the Fundamental Rights with the devices known as writs.

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5.9 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress Exercise 1

- 1) The Commonwealth Bill of 1925 laid down that individual liberty, freedom of conscience, free expression of opinion, free assembly, and equality before the law was to be ensured. The Bill also demanded right to free elementary education, equal right to use roads, court of justice and all other places of business or resort dedicated to public.
- 2) Nehru Report was a report prepared by a committee headed by Motilal Nehru in 1928. It was assigned the task of preparing draft of a constitution of India. The committee emphasized the need for securing Fundamental Rights to Indians including the minority rights. The Sapru Report made two important suggestions: to make distinction between justiciable rights and non-justiciable rights, and to ensure the minorities' rights.

Check Your Progress Exercise 2

- 1) The six parts of Fundamental Rights are: the right to equality, the right to freedom, the right against exploitation, the right to freedom of religion, cultural and educational rights and the rights to constitutional remedies.
- 2) The Basic Structure Doctrine denotes that basic structure of the constitution, which includes among some other provisions, the Fundamental Right. It was propounded in Keshavanand Bharati case in 1973.

UNIT 6 DIRECTIVE PRINCIPLES OF STATE POLICY AND FUNDAMENTAL DUTIES*

Structure

- 6.0 Objectives
- 6.1 Introduction
- 6.2 Genesis of Directive Principles of State Policy and Fundamental Duties
 - 6.2.1 Evolution of Fundamental Duties
- 6.3 Fundamental Duties of Indian Citizens
- 6.4 Amendments to the Directive Principles of State Policy and Fundamental Duties
- 6.5 Execution of Directive Principles of State Policy and Fundamental Duties
- 6.6 Limitations of the Directive Principles of State Policy and Fundamental Duties
- 6.7 Let Us Sum Up
- 6.8 References
- 6.9 Answers to Check Your Progress Exercises

6.0 OBJECTIVES

This Unit deals with the Directive Principles of the State Policy and Fundamental Duties. It explains the genesis, characteristics, and limitations of the Directive Principles of State Policy and Fundamental Duties outlined in the Constitution. After reading this unit, you will be able to:

- Understand Directive Principles of State Policy and Fundamental Duties
- Explain Amendments to Directive Principles of State Policy and Fundamental Duties; and
- Limitation of Directive Principles of State Policy and Fundamental Duties

6.1 INTRODUCTION

In unit 5, you have read justiciable rights, i.e. Fundamental Rights. In this unit, you will read non-justiciable rights, i.e. Directive Principles of State Policies and about Fundamental Duties. Directive Principles are the directions given by the constitution to the state for the welfare of citizens of India. The Directive Principles of State Policy are mentioned in Articles 36-51, Part IV of the Constitution. Their main purpose is to achieve social and economic development of all sections of the society, aiming to set up an egalitarian society. In Granville Austin's views, Directive Principles of State Policy have been helpful in achieving the constitutional goals of social, economic and political justice to all. On the other hand, Indian constitution contains not only positive laws but also describes some duties of state as well as citizens. These duties are incorporated in the Part

IV A of the constitution, which was added by the 42nd amendment in 1976 and further expanded by the 86th amendment in 2002.

6.2 GENESIS OF DIRECTIVE PRINCIPLES OF STATE POLICY AND FUNDAMENTAL DUTIES

As you have read in unit 5, the Fundamental Rights were incorporated in the Constitution according to the suggestions of Rights Sub-committee of the Constituent Assembly. Apart from giving suggestions on the Fundamental Rights, this Sub-committee gave suggestions on Directive Principles of State Policy. Indeed, there has been a debate in the Constituent Assembly whether the rights should be divided into two parts – justiciable and non-justiciable or Fundamental Rights and Directive Principles of State Policy. They provide directives or instructions to the state to introduce policies about the welfare of different sections of the society. Granville states that four members played decisive role in framing Directive Principles of State Policy – B.N. Rau, A.K. Ayyar, B.R. Ambedkar and K.T. Shah. Among them B.N. Rau was “the most influential”.

The origin of Directive Principles of State Policy can be traced to Karachi Resolution, and socialist and nationalist ideas which were prevalent from the 1920s in India. As you have read in unit 5, Sapru Committee suggested that rights should be divided between two parts – justiciable and non-justiciable. Even the Right Sub-Committee made these suggestions. At the time of discussion on Directive Principles of State Policy in India, the inclusion of provisions about the state’s role in social and economic development of society was not an exception to India. In the opinion of Granville Austin, they attracted “a wide range of Assembly members”. Hindu outlook and Gandhian ideas also influenced the decision to include provisions of social, economic and political development of people. After serious deliberations, the Constituent Assembly included Directive Principles of State Policy in Part IV in the Constitution. A list of Directive Principles of State Policy is given below.

Directive Principles of State Policy – Part IV

Articles No.	Subject-Matter
36.	Definition of the State
37.	Application of the principles contained in this part
38.	State to secure a social order for the promotion of welfare of the people
39.	Certain principles of policy to be followed by the State
39 A.	Equal Justice and free legal aid
40.	Organization of village panchayats
41.	Right to work, to education and to public assistance in certain cases
42.	Provisions for just and humane conditions of work and maternity relief
43.	Living wages, etc., for workers

43 A.	Participation of workers in the management of industries
43 B.	Promotion of co-operative societies
44.	Uniform civil code for the citizens
45.	Promotion for early childhood care and education to children below the age of six years
46.	Promotion of educational and economic interests of Scheduled Castes, Schedules Tribes and other weaker sections
47.	Duty of the State to raise the level of nutrition and the standard of living and to improve public health
48.	Organization of agricultural and animal husbandry
48 A.	Protection and improvement of environment and safeguarding of forests and wildlife
49.	Protection of monuments and places and objects of national importance
50.	Separation of Judiciary from Executive
51.	Promotion of international peace and security

Durga Das Basu classifies the Directive Principles of State Policy into three groups. First, certain ideals, which the members of the Constituent Assembly expected the state to achieve. These ideals especially, were economic. Second, certain directions to the Legislatures and the Executive which they were expected to follow for exercising exercise their legislative and executive powers. Third, certain rights of the citizens were not be enforceable by the Courts like the Fundamental Rights, but which could be implemented by the state through its legislative and administrative policies.

Apart from the articles mentioned in Part IV of the constitution, there are some other articles in the constitution which enjoin on the state to make certain policies for people and non-justiciable in nature. Such articles are Articles 335, 350A and 351. According to Article 335 the claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with affairs of the Union of a State. Article 350 A suggests that every state and every local authority within state will provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups. Article 351 enjoins the Union to promote the spread of Hindi language and to develop it so that it may serve as a medium of expression of all elements of the composite culture of India.

6.2.1 Evolution of Fundamental Duties

When the constitution was adopted, there was no provision on Fundamental Duties. It was incorporated into the constitution in the late 1970s. However, Article 33 provided for some Fundamental Duties mainly for armed forces and police as they were supposed to maintain discipline and perform their duties. The 42nd Amendment of 1976 has introduced Fundamental Duties in the

Constitution. According to this amendment, the people (including police personnel and armed forces) were expected to perform certain Fundamental Duties. The 42nd Constitutional Amendment was made according to the recommendations of the Swaran Singh Committee Report. The Swaran Singh Committee was set up in 1976 by Indira Gandhi Government. Sardar Swaran Singh was the Chairman of the Committee. The Committee had recommended to include a new part in the Constitution of India on the Fundamental Duties of the Indian citizen. Based on the recommendations of the committee, government brought some changes to the constitution through 42nd amendment of the constitution and that came into effect on 3 January, 1977. These duties are further expanded in the 86th Constitutional Amendment in 2002. The Fundamental Duties are enshrined in Article-51A have similarity with Article 29(1) of the Universal Declaration of Human Rights which states “everyone has duties to the community in which alone the free and full development of his personality is possible”. There are 11 Fundamental Duties of the citizens of India which have been discussed in the following section.

6.3 FUNDAMENTAL DUTIES OF INDIAN CITIZENS

Article 51 A of Part IVA has listed the following Fundamental Duties of Indian Citizens:

- a) To abide by the constitution and respect its ideals and institutions, national flag and the national anthem;
- b) To cherish and follow the noble ideals which inspired our national struggle for freedom;
- c) To uphold and protect the sovereignty, unity and integrity of India;
- d) To defend the country and render national service when called upon to do so;
- e) To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities, to renounce practices derogatory to the dignity of women;
- f) To preserve and value the rich heritage of our composite culture;
- g) To protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures;
- h) To develop the scientific temper, humanism and spirit of inquiry and reform;
- i) To safeguard public property and abjure violence;
- j) To strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement;
- k) To provide opportunities by a parent or guardian for education to his/her child or, as the case may be, to the ward between the age of six to fourteen years.

6.4 AMENDMENTS TO DIRECTIVE PRINCIPLES OF STATE POLICY AND FUNDAMENTAL DUTIES

Some new clauses were added through constitutional amendments to the existent articles in the Directive Policy. These amendments made the list of articles about Directive Principles of State Policy more inclusive of social welfare. The 42nd Amendment Act of 1976 added four new subjects that required the State to secure healthy development of children (Article 39), to promote equal justice and to provide free legal aid to the poor (Article 39 A), to secure participation of workers in the management of industries (Article 43 A), to protect the environment, forests and wildlife (Article 48 A). The 44th Amendment Act of 1978 added the Article 38 that required the State to minimize inequalities in income, status, facilities and opportunities. The 86th Amendment Act of 2002 brought changes in both DPSP and Fundamental Duties. In DPSP, it modified the content of Article 45 which required the State to provide early childhood care and education for all children until they complete the age of 6 years and was directed in making education a fundamental right under Article 21 A. In Fundamental Duties, it made parents or guardians of children from 6-14 years of age to provide education to them. The 97th Amendment Act of 2011 added Article 43 B in DPSP, which required the State to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies.

Check Your Progress Exercises 1

- Note:** i) Use the space below for your answers.
ii) Check your answers with model answers given at the end of the unit.

1) What are the Fundamental Duties of the citizens of India?

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2) Trace the origin of Directive Principles of State Policy.

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6.5 EXECUTION OF DIRECTIVE PRINCIPLES OF STATE POLICY AND FUNDAMENTAL DUTIES

Since Independence, various central state and governments in India have enacted several acts, launched schemes and programmes, and set up commissions according to Directive Principles of State Policy. The Planning Commission (which has been abolished and replaced by Niti Aayog) through its Five-Year Plans aimed to bring about social and economic equity and justice. Introduction of land reforms in several states which included as Zamindari Abolition, tenancy reforms, ceilings on land holdings, cooperative farming reduced inequalities in agrarian rural society. The governments introduced several measures to help the underprivileged sections. Such measures included acts to protect the interests of the poor: ensuring minimum wages to workers, protecting contract workers, providing free legal aid to the poor, abolition of child labour, abolition of bonded labour, resolution of industrial disputes, etc. For helping women these measures included: acts about maternity benefits and equal remuneration was enacted to protect the interests of women. The government passed acts for protection of wildlife and conservation of forest and set up central and state pollution boards to protect environment. The government set up Khadi and Village Industries Board, Handlooms and Handicrafts Boards to develop cottage industries. It enacted laws for protection of ancient and historical monuments and archaeological sites and remains, and places of national importance. To protect the interests of Reservation of seats for SCs, STs and OBCs. Reservations have been given to them in government jobs and political institutions government and representative, and enacted laws for protection of civil rights and for prevention their social exploitation. Establishment of village panchayats and reservations for weaker sections in them has empowered them. Programmes such as Community Development Programme, Hill Area Development Programme, Minimum Needs Programme, IRDP (Integrated Rural Development Programmes), MGNREGA (Mahatma Gandhi National Rural Employment Guarantee Act) and NRHM (National Rural Health Mission), etc. have resulted in social and economic inclusion of people. For executing DPSP efficiently central and state governments have made several acts. There are many recommendations made by Verma committee to make Fundamental Duties effective. This committee was established under the chairmanship of Justice J S Verma which is famously known as Fundamental Duties of the Citizens Committee (1999). This committee was a response to a notice issued by Supreme Court of India to the Government of India regarding its plan to teach Duties to the citizen of the country. The Verma Committee made the following recommendations:

- a) Fundamental Duties will raise standards of the citizen in public life. Therefore, every individual entity should obey and promote these duties.
- b) Public office holders should avoid selfishness or nepotism. Their foremost priority must be to serve public interests rather than individual interests.
- c) Integrity will be the main principle in the functioning of the public office.
- d) Holders of public office must be accountable for their decisions and actions to the public.

- e) They should be as open as possible about all the decisions and actions were taken by them.
- f) Public officials will maintain honesty while in office.
- g) Leadership is very important in the sense that holders of public office should promote these principles by leadership skill and set an example.

For strengthening the Fundamental Duties, the Verma Committee had identified few existing acts by which a proper implementation of such duties can be accomplished. These are: the Representation of People Act (1951); The Unlawful Activities Protection Act (1967); The Protection of Civil Rights Act (1955) in which the person who preach and practice untouchability must be punished in accordance with the act; the Wildlife Protection Act (1972); The Prevention of Insults to National Honour Act (1971); and the Forest Conservation Act (1980).

Ensuring the effective fulfilment of duties, the Supreme Court of India has issued directions to governments to create encouraging environment and the apex court, directed Central Government in August 2003 to implement the recommendations of the National Commission to Review the Working of the Constitution (2000) and Verma Committee (1999).

6.6 LIMITATIONS OF DIRECTIVE PRINCIPLES OF STATE POLICY AND FUNDAMENTAL DUTIES

The main limitation of Directive Principles of State Policy is that state is not legally bound to implement them. This is despite the fact that the state has moral duty to implement them. Exemption of Directive Principles from being justiciable may make the state vulnerable to the pressure of politically and economically influential groups in the society. Some members of the Constituent Assembly underlined the limitations, especially regarding their being non-justiciable. K.T.Shah commented that the limitation would make Directive Principles of State Policy 'pious wishes'. T.T. Krishnamachari described them as "a veritable dustbin of sentiment". K.Santhanam, member of the Constituent Assembly, asserted that the Directives could lead to constitutional conflicts between the Centre and States, Prime Minister and President, Governor and Chief Minister in terms of direction, guidance, legislation, assent, enforcement with regard to the problem of non-compliance and discretion. Fundamental Duties are non-enforceable and non-justiciable like DPSP and these constraints have limited the duties as no citizen can be punished by a court for their violation. In this aspect both DPSP and Fundamental Duties are same in nature. This characteristic of Duties differentiates India's Fundamental Duties from the other countries' Duties. In USSR, Yugoslavia, Republic of China, Poland, Czechoslovakia, Netherland, Japan, Democratic Republic of Vietnam and Albania, Fundamental Duties are legally enforceable. Fundamental Duties have ethical, social and economic significance. It is important for every citizen to perform his/her Duties to claim their Rights. The consciousness and realization to fulfil Fundamental duties have increased in Indian in past some decades. The court and civil society organizations, political parties and governments have also underlined the significance of Fundamentals Duties for overall development of society.

6.7 LET US SUM UP

Directive Principles of State Policy are provisions which give direction or instructions to the state to enact policies for social, economic and political empowerment of people and Fundamental Duties assign duties to the citizen that help them to grow morally and ethically. They seek to establish an egalitarian society. Both are different from Fundamental Rights in the sense they are non-justiciable while the Fundamental Rights are justiciable. It is state's duty to take care of Citizen's duties. Rights can be protected if every citizen adheres to their Fundamental Duties. However, despite being non-justiciable DPSP and Fundamental Duties both play a very important role in safeguarding the constitutional values.

Check Your Progress Exercises 2

Note: i) Use the space below for your answers.

ii) Check your answers with model answers given at the end of the unit.

1) What are the limitations of the Directive Principles of the State Policy and Fundamental Duties?

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6.8 REFERENCES

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6.9 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress Exercise 1

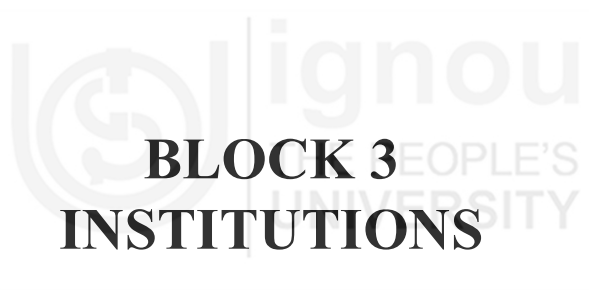
1. Article 51 A of Part IVA has listed 11 Fundamental Duties of Indian Citizens that has given in subsection 6.3.

- 2) Trace of Directive Principles of State Policy first appeared in Karachi resolution of the Congress in 1931 and can be linked to general atmosphere prevailing since the 1920s where ideas of socialism became popular, and to Hindu outlook and Gandhian principles. Sapru Report also made suggestions to distinguish between justiciable and non-justiciable rights. These suggestions were also made by the Rights sub-committee of the Constituent Assembly. They were finally accepted by the Constituent Assembly and incorporated in Part IV of the Constitution.

Check Your Exercise 2

- 1) Directive Principles of State Policy and Fundamental Duties are not legally binding on the state and citizens, though it is the moral duty of the state to implement them. The state can be vulnerable to public pressure to implement DPSP or to not implement them.





BLOCK 3
INSTITUTIONS

BLOCK 3 INTRODUCTION

Legislation, execution and adjudication of rules, their implementation and evaluation are important functions of a government. In the modern democracies, these functions are performed by the legislature, executive and judiciary, which function under the principles of checks and balances. The nature of a political system or the government depends to a large extent on the relations and functioning of these institutions. The sharing powers between the three organs of government – the legislature, the executive and judiciary is called separation of powers.

This block deals with the institutional framework of Indian political system in which three organs of government, i.e., Legislature, Executive and Judiciary have been discussed. In other words, this block is about the separation of powers. All the three organs have different characteristics and role in Indian Constitution. Unit 7 discusses the Legislature, Unit 8 deals with the Executive and Unit 9 provides a whole perspective of Judiciary System of India.



Structure

- 7.0 Objectives
- 7.1 Introduction
- 7.2 Union Legislature
 - 7.2.1 The President
 - 7.2.2 Lok Sabha
 - 7.2.3 Rajya Sabha
 - 7.2.4 Special Powers of Rajya Sabha
- 7.3 The Presiding Officers
 - 7.3.1 The Speaker
 - 7.3.2 The Chairperson of Rajya Sabha
- 7.4 Legislative Procedure
 - 7.4.1 Money Bills
- 7.5 Parliamentary privileges
- 7.6 Parliamentary devices to control the executive
 - 7.6.1 Parliamentary Committees
- 7.7 State Legislature
- 7.8 Let Us Sum Up
- 7.9 References
- 7.10 Answers to Check Your Progress Exercises

7.0 OBJECTIVES

This unit examines the evolution, structure and functioning of the Indian Parliament. After going through this unit, you will be able to:

- Trace the evolution of modern legislature in India;
- Discuss the organisation and functions of the Parliament; and
- Explain parliamentary procedures

7.1 INTRODUCTION

The term legislature has been derived from the Latin word *lex*, which means a distinct kind of legal rule mainly of general application. This rule is named legislation, and the institution, which enacts it on behalf of the people is known as legislature. Essentially, there are two models of legislative structure: the Parliamentary and Presidential. In the parliamentary model, the executive is selected by the legislature from among its own members. Therefore, the executive is responsible to the legislature. The Presidential system is based on the theory of separation of powers and does not permit any person to serve simultaneously in both executive and legislature.

In India, the legislature exists at two levels: at the union level, i.e. the Parliament

*Adopted from BPSC-212, Unit 10, Prof. Pralaya Kanungo, Centre for Political Studies, JNU, New Delhi

of India, and the State level, i.e. State legislatures. The unit deals specifically with the Parliament of India. In sub-section 7.7, you will also read about the State legislature. The Parliament of India, which is the creation of the Constitution, is the supreme representative authority of the people. It is the highest legislative organ and the national forum for the articulation of public opinion.

7.2 UNION LEGISLATURE

Under the provision of Article 79, the Parliament of India consists of the President and the two Houses - the Lower House or Lok Sabha (House of the People) and the Upper House or Rajya Sabha (Council of States). While the Lok Sabha is subject to dissolution, the Rajya Sabha is a permanent chamber which cannot be dissolved. The office of the President also never remains vacant.

7.2.1 The President

While the American President is not a part of the Legislature (Congress), the President of India is an integral part of the Indian Parliament. However, he cannot sit and participate in the deliberations in any of the two Houses. The President of India performs certain important role vis-à-vis the Parliament. The President summons and prorogues the House from one session to another and has the power to dissolve the Lok Sabha. A bill can not become law without the President's assent even though the bill may be passed by both the Houses. The President also has the power to promulgate Ordinances when both the Houses are not in session. These Ordinances, though temporary in nature, have the same force and power as a law passed by Parliament. In Unit 8, we will examine the position and powers of the President of India in detail.

7.2.2 Lok Sabha

The Lower House or the House of the People is popularly known as Lok Sabha. People of the country directly elect members of the Lower House. It includes not more than 530 members chosen by direct election from territorial constituencies in the States and not more than 20 members to represent the Union Territories. Moreover, the President may nominate two members of the Anglo-Indian community if in his opinion the community is not adequately represented in the Lok Sabha.

The distribution of seats among the States is based on the principle of territorial representation, which means each State is allotted seats on the basis of its population in proportion to the total population of all the States. For the purpose of election, each state is divided into territorial units called constituencies which are more or less of the same size in terms of the population.

The members of the Lok Sabha are elected on the basis of the adult franchise; every adult who has attained 18 years of age is eligible to vote. The candidate who receives the largest number of votes gets elected. The tenure of the Lower House is five years. However, it can be dissolved earlier by the President.

To be a member of the Lok Sabha, a person should be the citizen of India and must have completed 25 years of age. The person must also possess all other qualifications that are prescribed by the law. A candidate is free to contest from any parliamentary constituency of any States in India. The Constitution has laid

down certain disqualifications for membership of parliament. A person can not be a member of both Houses of the Parliament. A candidate may contest from several seats. However, he/ she can have only one seat according to his/her choice despite being elected from more than one seat; If a person is elected from both the State Legislature and the Parliament, and if he does not resign from the State legislature within the defined time period, he/she will forfeit his seat in Parliament; A member should not hold any office of profit under the Central or State government except those that are exempted by a law of Parliament and should not have been declared as an insolvent or of unsound mind by a competent court. A member also gets disqualified on the following conditions such as when he remains absent from the sessions of the House for a period of sixty days without prior permission; or when he voluntarily acquires the citizenship of another country; or is under any acknowledgement of allegiance to a foreign state.

7.2.3 Rajya Sabha

According to Indian constitution, the Rajya Sabha or the Council of States is the house of representatives of the States. The Rajya Sabha or the Council of States consists of not more than 250 members out of which 12 members are nominated by the President from amongst persons having 'special knowledge or practical experience in literature, science, art, and social service.' The remaining members are elected by the members of the State Legislative Assemblies on the basis of the population of the state. Unlike Lok Sabha, Rajya Sabha adopts the method of indirect election. There is no uniformity in the members of representatives of the Council of States. It largely depends on the population of the state. It means that the state which have larger population has more representative in the house compared to the states which have small population. The number of representatives of the States to the Rajya Sabha varies from one (Nagaland) to 34 (Uttar Pradesh) depending upon the population of a state. The Council of States thus reflects the federal character by representing the States or the units of the federation.

Rajya Sabha is a continuing chamber as it is a permanent body not subject to dissolution. One-third of its members retire at the end of every two years, and elections are held for the vacant positions. A member of Rajya Sabha has a six-year term unless she/he resigns or is disqualified.

7.2.4 Special Powers of Rajya Sabha

It has every right to seek information on all matters which are exclusively in the domain of Lok Sabha. It has no power to pass a vote of no-confidence in the Council of Ministers. It also does not have much influence on the matters of Money Bill. However, the Constitution grants certain special powers to the Rajya Sabha. As the sole representative of the States, the Rajya Sabha enjoys two exclusive powers which are of considerable importance. First, under Article 249, the Rajya Sabha has power to pass a resolution by a majority of not less than two-thirds of members present and voting, declaring that it is 'necessary or expedient in the national interest'. The matter in such resolution should belong to the State List. The law passed on the matter in the resolution shall be valid for one year. The second, Article 312 also provides special power to the Rajya Sabha to pass a resolution on another matter, i.e. to create one or more All India Services. Like the resolution to be passed under Article 249, under Article 312 also, the

resolution should be passed by two-third of members present and voting in the House. Thus, these special provisions make the Rajya Sabha an important component of Indian Legislature rather than just being an ornamental body. Its compact composition and permanent character provide continuity and stability in the system.

7.3 THE PRESIDING OFFICERS

Each house of the Parliament has a presiding officer. The Lok Sabha has a Speaker as its principal presiding officer and a deputy speaker to assist him and he acts as presiding officer in the absence of the speaker. The Rajya Sabha is presided by the Chairperson, assisted by a deputy chairperson. The latter performs all the duties and functions of the former in case of his/her absence.

7.3.1 The Speaker

The position of the Speaker of the Lok Sabha is more or less similar to the Speaker of the English House of Commons. The office of the Speaker is a symbol of high dignity and authority. Once elected to the office, the speaker does not have affiliation to any party but works in an impartial manner. He/ She acts as the guardian of the rights and privileges of the members.

The Speaker has the power to ensure an orderly and efficient conduct of the proceedings of the House. He/She conducts the proceedings of the house, maintains order and decorum in the house and decides points of order, interprets and applies rules of the house. The Speaker's decision is final in all such matters. The Speaker certifies whether a bill is money bill or not and he/she also authenticates that the house has passed the bill before it is presented to the other House or the President of India for his assent. The Speaker in consultation with the leader of the house determines the order of business. He/she also decides on the acceptability of questions, motions and resolutions. The Speaker does not vote in the first instance but can exercise a casting vote in case of a tie. The Speaker appoints the chairpersons of all the Committees of the House and exercises control over the Secretarial staff of the house. The Speaker's conduct cannot be discussed in the House except in a substantive motion. His/Her salary and allowances are charged to the Consolidated Fund of India.

A special feature of the Speaker's office is that even when the House is dissolved, the Speaker does not vacate his/her office. He/She continues in office until the new House elects a new Speaker. In the absence of the Speaker, the Deputy Speaker presides the House.

7.3.2 The Chairperson of Rajya Sabha

The Vice-President of India is the ex-officio chairperson of the Rajya Sabha. But during the period when the Vice-President acts a President or discharges the functions of the President, he/she does not perform the duties as a presiding officer of the Rajya Sabha. The Vice-President is elected by the members of both the Houses of Parliament assembled at a joint meeting, in accordance with the system of proportional representation by means of single transferable vote and the voting at such elections is by secret ballot. The Vice-President is not a member of either House of Parliament or a House of the Legislature of any State. He

holds office for a term of five years from the date on which he enters his office or until he resigns or is removed from his office by a resolution passed by a majority of members of the Rajya Sabha and agreed by the Lok Sabha. The functions and duties of the Chairperson of the Rajya Sabha are the same as those of the Speaker of the Lok Sabha.

Check Your Progress Exercise 1

Note: i) Use the space below for your answers.

ii) Check your answers with the model answers given at the end of this unit.

1) What are the qualifications and disqualifications for a member of Indian Parliament?

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2) What are the powers of Speaker of the Lok Sabha?

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7.4 LEGISLATIVE PROCEDURE

Law making is the primary function of the legislature. The Constitution of India prescribes the following stages of the legislative procedure:

The first stage of legislation is the introduction of a bill which embodies the proposed law and is accompanied by the “Statement of Objects and Reasons”. The introduction of the bill is also called the first reading of the bill. There are two types of bills: ordinary bills and money bills. A bill other than money or financial bill may be introduced in either House of Parliament and requires passage in both the Houses before it can be presented for the President’s assent. A bill may be introduced either by a minister or a private member. Every bill that is introduced in the House has to be published in the Gazette. Normally, there is no debate at the time of introduction of a bill. The member who introduces the bill may make a brief statement indicating broad the aims and objects of the bill. If the bill is opposed at this stage, one of the members opposing the bill may be permitted to give his reasons. After this, the question is put to the vote. If the House is in favour of the introduction of the bill, then it goes to the next stage.

In the second stage, there are four alternative courses: first, after its introduction, a bill may be taken into consideration; second, it may be referred to a Select

Committee of the House; third, it may be referred to a Joint Committee of both the Houses; and fourth, it may be circulated for the purpose of soliciting public opinion. While the first three options are generally adopted in the case of routine legislation, the last option is resorted to only when the proposed legislation is likely to arouse public controversy and agitation.

The day one of these motions is carried out, the principles of the bill and its general provisions may be discussed. If the bill is taken into consideration, Amendments to the bill and clause by clause consideration of the provisions of the bill is undertaken. If the bill is referred to the Select Committee of the House, it considers the bill and submits its report to the House. Then the clauses of the bill are open to consideration and amendments are admissible. This is the most time-consuming stage. Once the clause by clause consideration is over and every clause is voted, the second reading of the bill comes to an end.

In the third stage, the member in charge moves that “the bill be passed”. At the third reading, the progress of the bill is quick as normally only verbal or purely formal amendments are moved, and discussion is very brief. Once all the amendments are disposed, the bill is finally passed in the House where it was introduced. Thereafter, it is transmitted to the other House for its consideration

When the bill comes up for consideration of the other House, it has to undergo all the stages which it has undergone in the House where it was originally introduced. There are three options before this House: first, it may finally pass the bill as sent by the originating House; second, it may reject the bill altogether or amend it and return to the originating House; and, third, it may not take any action on the bill and if more than six months passes after the date of receipt of the bill, it is considered as rejection.

The originating House now considers the returned bill in the light of the amendments. If it accepts these amendments, it sends a message to the other House to this effect. If it does not accept these amendments, then the bill is returned to the other House with a message to that effect. In case, both the Houses do not come to an agreement; the President convenes a joint-sitting of the two Houses. The disputed provision is finally adopted or rejected by a simple majority of vote of those who are present and voting.

A bill that is finally passed by both the Houses is presented with the signature of the Speaker to the President for his assent. This is normally the last stage. If the President gives the assent, the bill becomes an Act and is placed in the Statute Book. If the President withholds his assent, there is an end to the bill. The President may also return the bill for the reconsideration of the Houses with a message requesting them to reconsider it. If, however, the Houses pass the bill again with or without amendments and the bill is presented to the President for his assent for the second time, the President has no power to withhold his assent.

Thus, law-making is a long, cumbersome and time-consuming process; it becomes difficult to pass a bill within a short time. Proper drafting of the bill saves time, and skilful soliciting of opposition support makes the task easier.

7.4.1 Money Bills

Finance bill may be said to be any bill which relates to revenue and expenditure. But the finance bill is not a money bill. Article 110 states that no bill is a money

bill unless it is certified by the Speaker of the Lok Sabha. A money bill cannot be introduced in the Rajya Sabha. Once a money bill is passed by the Lok Sabha, it is transmitted to the Rajya Sabha. The Rajya Sabha cannot reject a money bill. It must, within a period of fourteen days from the date of receipt of the bill, return the bill to the Lok Sabha which may thereupon either accept or reject all or any of the recommendations. If the Lok Sabha accepts any of the recommendations, the money bill is deemed to have been passed by both Houses. Even if the Lok Sabha does not accept any of the recommendations, the money bill is deemed to have been passed by both the Houses without any amendments. If a money bill passed by the Lok Sabha and transmitted to the Rajya Sabha for its recommendations is not returned to it within fourteen days, it is deemed to have been passed by both the Houses at the expiry of the said period in the original form.

7.5 PARLIAMENTARY PRIVILEGES

Parliamentary privileges are certain rights which assure free and efficient functioning of the members of Parliament. There are two types of privileges for the members of Parliament: enumerated and unenumerated. The enumerated privileges are: i) Freedom of speech in each House of the Parliament, ii) Immunity from proceedings in any Court in respect of anything said or any vote cast, iii) Immunity of liability in respect of publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings, iv) Freedom from arrest in civil cases for duration of the session for a period of 40 days before and after the session, and v) Exemption from attending as a witness in a Court. The unremunerated privileges empower the Indian Parliament to punish a person, whether a member or a non-member, in the case of contempt of Parliament.

7.6 PARLIAMENTARY DEVICES TO CONTROL THE EXECUTIVE

One of the important functions of the Parliament is to control the executive. A number of mechanisms are available to it for this purpose. The rules of procedure and conduct of business in Parliament provide that unless the presiding officers are otherwise direct, every sitting begins with the Question Hour, which is available for asking and answering questions. Asking question is an inherent parliamentary right of all the members irrespective of their party affiliations. The real object of the member in asking the question is to point out the shortcomings of the administration, to ascertain the thinking of the government in formulating its policy and where the policy already exists, in making suitable modifications in that policy.

In case, the answer given to a question does not satisfy the member who raised it and if he/she feels the need for detailed 'explanation in public interest', he/she may request the presiding officer for a discussion. The presiding officer can allow discussion, usually in the last half an hour of a sitting.

Members can, with the prior permission of the presiding officer, call the attention of a Minister to any matter of public importance and request the Minister to make a statement on the subject. The Minister may either make a brief statement immediately or may ask for time to make the statement at a later hour or date.

The adjournment motion is intended to draw the attention of the house to a recent matter of urgent public importance having serious consequences for the country, and regarding which a motion or a resolution in the proper notice will be too late. Adjournment motion is an extraordinary procedure which, if admitted, leads to setting aside the normal business of the House for discussing a definite matter of public importance. Adoption of an adjournment motion amounts to the censure of the government. Besides these devices, Parliament exercises control over the executive through various house committees. You will read about them in the next sub-section.

7.6.1 Parliamentary Committees

The accountability of the Executive to the Parliament and the Parliament's right to oversee, and scrutinise the way in which the executive functions are accepted as a matter of routine. But in practice, it is difficult for parliament to undertake thorough scrutiny of details of the functioning of the executive on daily basis. Parliament has solved this problem by establishing a series of committees. These committees have necessary powers to scrutinise the working of the different departments of the government.

Among the important Committees, which scrutinise the government's works, particularly in the area of public finances, two committees need special mention: Public Accounts Committee and Estimates Committee. These two and other Committees are expected to keep an eye on the executive. They ensure an effective and comprehensive examination of all the proposed policies. Often, Committees provide an ideal context for discussing controversial and sensitive matters in impartial manner, away from the glare of publicity. They provide a useful forum for the utilisation of experience and ability that may otherwise remain untapped. They also constitute a valuable training ground for future ministers and presiding officers.

7.7 STATE LEGISLATURE

The State legislature consists of the Governor and the Legislative Assembly. In many aspects, state legislatures are similar to the Parliament of India. However, all state legislatures do not have both houses, Legislative Assembly (Vidhan Sabha) and Legislative Council (Vidhan Parishad). The state legislatures which have both houses are known as bicameral, and those which have only one house, i.e. Vidhan Sabha are known as uni-cameral. The choice of having unicameral or bicameral legislature was left to the states. It depended on the assessment of a state whether it wanted to have both houses or only one (Vidhan Sabha). The principal reason for not having both houses has generally been financial. Some states found it difficult to maintain cost of two houses. They preferred to have only one house of the state legislature. Very few states (seven out of twenty nine) have opted to have bicameral legislature consisting of the Legislative Assembly (Vidhan Sabha) and the Legislative Council (Vidhan Parishad). As of 2019, Andhra Pradesh, Bihar, Karnataka, Maharashtra, Telengana and Uttar Pradesh have legislative councils. In 2019 Jammu and Kashmir was divided into two union territories – Jammu and Kashmir and Laddakh with the Jammu and Kashmir having assembly and Laddakh without it.

The Legislative Assembly of each State is composed of members chosen by direct election on the basis of adult suffrage from territorial constituencies. The

size of the Assembly varies from a minimum of 60 to no more than 500. The duration of the Legislative Assembly is for five years.

The membership of the Legislative Council shall not be less than 40 but not more than one-third of the total membership of the Assembly. The House is composed of partly elected and partly nominated members. Normally, 1/6 of total members are nominated by the Governor, and the rest are indirectly elected on a complicated formula involving graduates, educators and members of the Assembly. The role of legislative councils, where they exist, are considered as weaker than the legislative assemblies compared with the Status of the Council of States vis-a-vis the House of the People. It may be considered as unnecessary due to some reasons: A) The very nature of the composition of the Legislative Council makes its position weak, being partly elected and partly nominated, and representing various interests; B) Its survival depends on the will of the Assembly, as the latter has the power to abolish the Second Chamber by passing a resolution. C) The Council of Ministers is responsible only to the Assembly and not to the Council. D) As regard, any ordinary bill originating in the Assembly, the Council's position is very weak for it can only delay its passage for a limited period. Hence, the second chamber of the State legislature is not a revising body, but a mere dilatory body.

The legislative process in the State Assembly is similar to that in the Parliament with one significant exception. The Governor can reserve any bill passed by the State legislature for the consideration of the President. Particularly in one case, it is obligatory on the Governor to reserve the bill, i.e., when the bill is derogatory to the powers of the High Court. If the President directs the Governor to return the Bill for reconsideration, the Legislature must reconsider the bill within six months, and if it is passed again, the bill is presented to the President again. But it shall not be obligatory on the President to give his assent. Thus, it is clear that once the Governor reserves a bill for the President, its subsequent enactment remains with the President and the Governor has no further role in it. Since the Constitution does not put any time limit on the President either to declare his assent or withhold, the President can keep the bill in cold storage for an indefinite period without revealing his intention.

Check Your Progress Exercise 2

- Note:** i) Use the space below for your answers
- ii) Check your answers with the model answers given at the end of this unit.

1) What is Question Hour?

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2) Bring out the significance of adjournment motion.

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7.8 LET US SUM UP

The Parliament of India, the supreme legislative organ in the country, has a long historical background. The Parliament consists of the President, the Lok Sabha and the Rajya Sabha. To get elected to the Parliament, one has to fulfil certain qualifications prescribed by the Constitution and the Parliament. Members of the Parliament have certain privileges to enable them to function better. Each house has its presiding officer to conduct the meetings of the House and to protect the dignity and honour of the House.

The primary function of the Parliament is to enact laws and to hold the Council of Ministers responsible for its policies and criticises the policies wherever necessary. It also has the powers to amend the constitution and to impeach the President. There are several Committees appointed from among its members for effective functioning. Devices like the question hour, adjournment motion, calling attention motion, etc. are available for Parliament to check the government. The passing of the budget as an important function of the Parliament, provides an opportunity to scrutinise the activities of the government.

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7.10 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress Exercise -1

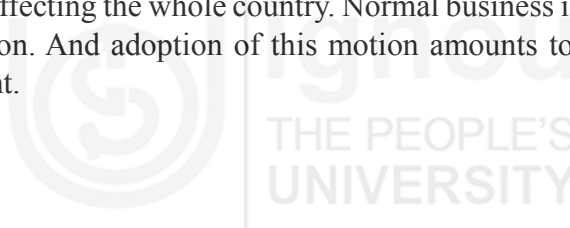
1) To be a member of the Lower House of the Parliament (Lok Sabha), a person should have completed 25 years of age; and for being the member of the Upper House of Parliament, a person should have completed 30 years of

age; for being members of the both Houses, a person should be a citizen of India. A person gets disqualified to be a member of the either House of Parliament, if as an MP he/she is absent from meetings in the House for more than 60 days without the permission of the Speaker of the Lok Sabha or Chairman of the Rajya Sabha, holds an office of profit under Government of India, is found to be of unsound mind, is declared insolvent, acquires citizenship of another country or is under any acknowledgement of allegiance to a foreign state. A member elected to the State Assembly forfeits his/her membership of Parliament if he/she does not resign from the State Assembly within a specified period.

- 2) The Speaker of Lok Sabha has wide and extensive powers. These include power to preside over the sitting of Lok Sabha, to conduct the Lok Sabha proceedings, to maintain order in the house and determine the order of business in the house. He/she also acts as spokesperson of the house, interprets and applies rules of the House, and authenticates bills, certifies, Money Bills- etc

Check Your Progress Exercise-2

- 1) The first hour of the sitting of a house that is available for asking and answering questions.
- 2) It is an extraordinary procedure to call the attention of the House to a matter of grave importance and affecting the whole country. Normal business is set aside to discuss the motion. And adoption of this motion amounts to the censure of the government.



Structure

- 8.0 Objectives
- 8.1 Introduction
- 8.2 President of India
 - 8.2.1 Qualifications
 - 8.2.2 Method of Election
 - 8.2.3 Term of Office and Removal of the President
- 8.3 Powers of the President
 - 8.3.1 Emergency Power
- 8.4 The Prime Minister
 - 8.4.1 The Council of Ministers and the Cabinet
 - 8.4.2 Collective Responsibility
- 8.5 The Cabinet and the Parliament
 - 8.5.1 Sources of Prime Minister's Power and Influence
- 8.6 The President and the Prime Minister
- 8.7 Let Us Sum Up
- 8.8 References
- 8.9 Answers to Check Your Progress Exercises

8.0 OBJECTIVES

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

- Describe the powers of the President of India;
- Explain the procedure for the election of the President of India;
- Describe the composition and functions of the Council of Ministers;
- Identify the sources of power and influence of the Prime Minister; and
- Discuss the position of the President and Prime Minister in the Indian political system.

8.1 INTRODUCTION

The executive power of the government of India is vested in the President of India, who is both the formal head of the state and the symbol of the nation. The Constitution of India, however, bestows authority and dignity on the office of the President without providing adequate powers to rule. The President performs essentially a ceremonial role. The Prime Minister exercises real executive power. While the President is the head of the state, the Prime Minister is the head of the government. The President carries out the actual functions of the government only with the aid and advice of the Prime Minister. How are the incumbents of these two important offices of the executive elected or selected? What is the

*Adopted from BPSE-212, Unit11, Prof. S.V. Reddy Faculty of Political Science, IGNOU, New Delhi

position of the President and the Prime Minister in the Indian political system? What is the relationship between the executive and legislature in a parliamentary system such as one prevailing in India? These are some of the questions that we seek to address in this unit.

8.2 PRESIDENT OF INDIA

The constitution has made detailed provisions to see that the President, the head of the state, is a ceremonial head and that he does not arrogate to himself any real power. The President is indirectly elected for a term of five years and can be removed on the basis of impeachment proceedings brought against him by the Parliament. The Constitution also provides for the post of a Vice-President. He/she is also indirectly elected, who would serve as head of the state in the event of the President's resignation, removal by impeachment or death.

8.2.1 Qualifications

Articles 58 and 59 of the Constitution of India lay down the qualifications for the office of the President of India. A candidate for the office of the President should be a citizen of India, must have completed 35 years of age and possess other qualifications which are necessary to become a member of the Lok Sabha. He/she should not hold any office of profit under the Union, State or local governments at the time of his election, nor should he/she be a member of either House of Parliament or state legislature. Besides, the candidate should possess such other qualifications as may be prescribed by the Parliament from time to time.

8.2.2 Method of Election

The Constitution prescribes an indirect election through an electoral college (composed of the elected members of Parliament and the elected members of the state legislative assemblies) on the basis of proportional representation and by means of a single transferable vote. Based on the system of principles of uniformity among states and parity between the centre and the states, the election procedure is designed to ensure the election of a truly national candidate.

To ensure uniformity among states, the value of the votes of elected members of the state assemblies is calculated on the basis of the total population of the state. The value of a state elector's vote is worked out by dividing the total population of the state, by the total number of elected members in the assembly. The quotient obtained is divided by 1000 to obtain the value of the vote of each member of the assembly in the presidential election. The value of the vote of a member of Parliament is obtained by dividing the total number of votes given to all the elected members of the States assemblies by the total number of elected members of both the houses of the Parliament.

Voting is by single transferable vote, with electors casting first and second preferences. A candidate who receives an absolute majority of votes cast by the Electoral College is declared the winner. In case no candidate secures an absolute majority in the first counting, the second preference votes of the lowest polling candidate are transferred to the other remaining candidates until one candidate crosses the threshold of 50 percent of the votes cast.

This method of election was intended to make the Presidential election broad-based to achieve a political balance between the Centre and the States.

Consequently, the President represents not only the Union but also the States and it shows the federal character of the Indian polity.

8.2.3 Term of Office and Removal of the President

The tenure of the office of the President of India is five years. His/her term commences from the date on which he/she assumes office after taking an oath administered by the Chief Justice of India. However, the President can seek a second term. For instance, Rajendra Prasad was elected as the President twice despite not being favoured by the then Prime Minister Jawaharlal Nehru but strongly supported by a large number of Congress leaders.

The President remains in office until his/her successor enters the office. However, if the President wishes to resign, he can send his resignation letter to the Vice-President. If the post of the President falls vacant, the Vice-President takes over the charge. But the election for the post of President must be conducted within six months from the date of occurrence of the vacancy.

Articles 56 and 61 deal with the procedure for impeaching the President of India. In this regard, the constitution lays down 'violation of the Constitution' as the ground for removal. The process of impeachment can be initiated in either house of parliament and must be passed by not less than two-thirds of the total membership of the House in which it has been moved. If the other House investigates the charge and two-thirds majority of that house find him guilty, the President stands impeached from the office from the date of passing of the resolution. Thus, the procedure of removal of the President is difficult and has been made so to prevent misuse of this power by the Parliament. Till date, no President of India has been impeached.

8.3 POWERS OF THE PRESIDENT

Article 53 deals with the executive powers of the President of India. The powers of the President are broadly divided into two types, namely, ordinary and emergency powers. The ordinary powers of the President can be defined as executive, legislative, financial and judicial powers.

The executive powers of the Union are vested in the President. Article 53 confers all executive powers in him and empowers him to exercise these powers directly by himself or through officers subordinate to him. Article 75 requires the Prime Minister to communicate to the President regarding all decisions of the Union Council of Ministers. Article 77 holds that all executive powers of the Union government shall be exercised in the name of the President.

The President has both administrative and military powers. The supreme command of the armed forces is vested in him/her and all appointments in the armed forces are made under the authority of the President as the supreme commander of the armed forces. The President appoints the Prime Minister and, on the latter's advice, the council of ministers, the Attorney-General, the justices of the Supreme Court and High Courts, members of special commissions (such as the Union Public Service Commission and the Election Commission), and the governors of states. The choice of the Prime Minister is not a discretionary prerogative of the President but is usually dictated by the party commanding a majority following in the Lok Sabha.

The President of India is also the Commander-in-Chief of the Defence Forces. He appoints the Chiefs of the Army, the Navy and the Air Force. He has the power to declare war and conclude peace. But all these powers have to be exercised by him subject to the ratification of the Parliament. However, the President is not a member of either house of Parliament; Article 79 states that the President is an integral part of the Union Parliament. As we saw in Unit 7, the President has the power to summon both the Houses of Parliament, nominate twelve members to the Rajya Sabha, has the right to address either house or their joint session at any time and the power to dissolve the Lok Sabha. All money bills to be introduced in the Parliament have to obtain the recommendation of the President. Such a prior recommendation is also necessary for introducing bills regarding the formation of new states, alteration of areas, boundaries, names of the existing states, etc. Finally, when any bill is passed by the Parliament, it can become an Act only when it has the assent of the President. The President can withhold or return a non-money bill for the reconsideration of the Parliament. However, if the same is passed by both the houses with or without modifications and returned to the President, the latter is bound to give his assent.

When the Parliament is not in session, the President can promulgate ordinances in public interest. These ordinances have the same force and effect as the laws passed by the Parliament. However, they have to be placed before the Parliament within a period of six weeks from the day of the reassembling of Parliament. Without the Parliament's approval, the ordinance will become invalid.

Article 254 empowers the President to remove inconsistencies between laws passed by the Parliament and State Legislatures and the subjects included in the concurrent list. There is another legislative function of the President which has a bearing on states; the Governor of a state can reserve certain bills passed by the State Legislatures for the consideration of the President.

The judicial powers of the President of India include the appointment of the justices of the Supreme Court and High Courts, and the power to grant pardon, reprieve, suspension, remission or commutation of punishment or sentence of the court. These powers of granting pardon are given to the President for removing the extreme rigidity in the criminal laws and for protecting the persons on humanitarian considerations. The President also has the right to seek the advice of the Supreme Court on some important constitutional, legal and diplomatic matters. In 1977, the President sought the advice of the Supreme Court for creating Special Courts to try the emergency excesses.

8.3.1 Emergency Power

With the intention of safeguarding the sovereignty, independence and integrity of Union of India, the constitution bestows emergency powers on the President of India. The President is empowered to declare three types of emergencies, namely, a) national emergency arising out of the war, external aggression or armed rebellion, b) emergency arising due to the breakdown of the constitutional machinery in the States, and c) financial emergency.

The President can make a proclamation of national emergency at any time if he is assured that the security of any part of India is threatened by war, external aggression or armed rebellion. This proclamation must be submitted to the

Parliament for its consideration and approval. It must be accepted within one month by both the Houses of Parliament by two-thirds of the members present and voting. If the Parliament fails to approve the proclamation bill, it ceases to operate. If approved, it can continue for a period of six months. However, it can continue for any length of time if the President approves the proclamation for every six months. The Parliament, however, has the power to revoke the emergency at any time by a resolution proposed by at least one-tenth of the total members of the Lok Sabha and accepted by a simple majority of the members present and voting. National emergency under Article 352 was proclaimed for the first time in 1962 when the Chinese aggression took place. The second proclamation was made in 1971 during the Bangladesh war. On 25 June 1975, for the first time, the President proclaimed, on the advice of the Prime Minister, emergency in the name of grave danger to internal security.

According to Article 356, the President can impose emergency in a state when there is a breakdown of the constitutional machinery. However, imposition of President rule in a state has become more difficult after the supreme Court verdict in a case known as Bommai Case. According to this case the President can dismiss a state government only after the approval of the proclamation by the both houses of Parliament. If both houses of Parliament do not approve the proclamation, it lapses at the end of two months and the dismissed government is revived. In this case, in 1989, Nineteen letters from Council of Ministers were sent to the Governor of the State (Karnataka) for withdrawing support from the ruling party under the S.R. Bommai leadership (as Chief Minister). Following this the Governor dismissed the Bommai government. But within a short period, the defected MLAs promised to support back the Bommai government. But the governor did not give an opportunity to Bommai to produce his majority on the floor of house. The Governor dismissed the government on the plea that the Chief Minister lost majority in the house. S.R. Bommai challenged the Governor's decision in the Supreme Court. The Supreme Court gave its verdict in 1994.

The proclamation of this type of emergency, popularly called as President Rule, which can remain in force for a period of six months. By the 44th Amendment, the Parliament can extend the duration of the state emergency for a period of six months at one instance. Ordinarily, the total period of such emergency cannot exceed one year unless there is a national emergency in force. However, the total period of state emergency cannot go beyond three years.

The President can impose financial emergency. Article 360 states that if the President is satisfied that a situation has arisen where the financial stability or credit of India or any part of the country is threatened, he may declare a financial emergency. Like the National emergency, such a proclamation has to be laid before the Parliament for its approval.

On its face value, one can say that the President enjoys formidable powers. In reality, however, he can exercise his powers only on the aid and advice of the Council of Ministers, headed by the Prime Minister. In this respect, the Presidents position is more like that of the British Monarch rather than that of the President of the United States of America. While the President of India may be the head of the state, the head of the government is the Prime Minister.

Check Your Progress Exercise 1

Note: i) Use the space below for your answers.

i) Check your answers with the model answers given at the end of this unit.

1) How is the President of Indian Republic elected?

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2) What are the legislative powers of the President of India?

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8.4 THE PRIME MINISTER

The real executive power under the Constitution vests with the Union Council of Ministers with the Prime Minister as its head. The President is obliged to act according to the advice of the Council of Ministers which is responsible in the real sense of the term, not to the President but the Lok Sabha.

As in Britain, the Prime Minister in India is usually a member of the lower house of Parliament. When Indira Gandhi was selected as a Prime Minister in 1966, she was a member of the Rajya Sabha. By getting elected to the Lok Sabha, she strengthened the convention of the Prime Minister being a member of the lower house.

The Prime Minister is appointed by the President. However, the President has hardly any choice in selecting the Prime Minister. He can only invite the leader of the party in majority in the Lok Sabha or a person who is in a position to own the confidence of the majority in the house. The Prime Minister holds office during the pleasure of the President. The 'pleasure' of the President in this regard is related to the unwavering majority support which a Prime Minister receives in the Lok Sabha.

The President appoints the other members of the Council of Ministers on the advice of the Prime Minister. A minister may be chosen from either house and has a right to speak and take part in the proceedings of the other house, though he can vote only in the House to which he belongs. Even a person who is not a member of either house of Parliament can be appointed as a minister, but he has to qualify for it by being elected or nominated to either house within a period of six months.

8. 4.1 The Council of Ministers and the Cabinet

The term 'Cabinet' is used interchangeably with that of Council of Ministers. But they are different. The Council of Ministers, or the Ministry, consists of different categories of ministers. At the time of independence, there was no such institution as a cabinet in India. What existed then was the Executive Council. On 15 August 1947, the Executive Council was transformed into a Ministry or Council of Ministers that is responsible to the Parliament.

The term 'Cabinet' was used thereafter as an alternative to the Council of Ministers. At this stage, all the members of the ministry or the Cabinet except the Prime Minister had the same status. But the situation changed once junior ministers were appointed to the Council of Ministers. In 1950, based on the recommendations of the Gopalswamy Ayyangar's report, a three-tier system of the ministry was established with the cabinet ministers at the top, ministers of the state at the middle, and deputy ministers in the lowest rung. The Cabinet, composed of the 'senior-most ministers' whose responsibilities transcended departmental boundaries into the entire field of administration, is a smaller body and the most powerful body in the government. The Cabinet serves three major functions: i) It is the body which determines government policy for presentation to the Parliament, ii) It is responsible for implementing government policy, and iii) It carries out inter-departmental coordination and cooperation.

The cabinet meets regularly, as it is a decision-making body. It is assisted by the cabinet secretariat, headed by a senior member of the civil services, the cabinet secretary. To manage the volumes and complexities of work that comes before it, the cabinet members have developed standing and ad hoc committees. There are four Standing Committees which are permanent in nature. These are the defence committee, economic committee, administrative organisation committee and parliamentary and legal affairs committee. Ad-hoc Committees are constituted from time to time.

Next in rank are the ministers of state who hold independent charge of individual ministries and perform the same functions and exercise the same powers as a cabinet minister. The only difference between a minister of state and a cabinet minister is that he/she is not a member of the cabinet, but attends cabinet meetings only when specially invited to do so in connection with the subject that he/she is given charge of. There are other ministers of state who work directly under cabinet ministers.

At the bottom of the hierarchy are the deputy-ministers who do not have specific administrative responsibilities. However, their duties include: i) Answering the questions in parliament on behalf of the ministers concerned and helping to pilot bills, ii) Explaining policies and programmes to the general public and maintaining liaison with members of parliament, political parties and the press, and iii) Undertaking special study or investigation of particular problems, which may be assigned to them by particular minister.

From the above, it is clear that the Cabinet is the nucleus of the Council of Ministers. Precisely because of this reason Walter Bagehot calls the Cabinet 'the greatest committee of the legislature'. It is the 'connecting link between the executive and legislative power'.

8.4.2 Collective Responsibility

The Council of Ministers functions on the principle of collective responsibility. Under this principle, all ministers are equally responsible for each and every act of government. That is, under the collective leadership, each minister accepts and agrees to share responsibility for all decisions of the cabinet. Doubts and disagreements are confined to the privacy of the cabinet room. Once a decision has been taken, it has to be loyally supported and considered as the decisions of the whole government. If any member of the Council of Ministers is unable to support government policy in the Parliament or the country at large, that member is morally bound to resign from the Council of Ministers.

Even if the Council of Ministers is formed as a result of a coalition of various political parties, a minimum common programme becomes essential for maintaining the solidarity of the ministry, and the various political parties forming the coalition government have to stand behind that programme. Unless they do so, the Cabinet cannot survive. Unity within Council of Ministers is not only essential for its very survival but also necessary for its efficiency and efficacy, and it is also necessary to enjoy the confidence of the people. Open bickering between members of the Janata government on matters of public policy was the prelude to the collapse of the government in 1979.

8.5 THE CABINET AND THE PARLIAMENT

The core of the parliamentary government is the accountability of the Prime Minister and the Cabinet to the Parliament. The Parliament does not govern but critically examines the policies and acts of the government, and approves or disapproves of them as the representative of the people. The very existence and survival of the Prime Minister and the Council of Ministers depend upon the support they receive in the Parliament. As we observed, the Council of Ministers is collectively responsible to the Parliament. Thus, the general feeling is that the Parliament controls the Executive. But in reality, the Prime Minister with his majority support controls the very working of the Parliament.

8.5.1 Sources of Prime Minister's Power and Influence

Though the Constitution does not enumerate the powers and functions of the Prime Minister, in practice he/she enjoys a wide range of powers as a leader of the Council of Ministers and the Lok Sabha.

The Prime Minister's prerogative of constituting, reconstituting and reshuffling the Ministry as well as chairing the meetings vests the office with considerable influence over the members of Parliament. It must, however, be noted that the Prime Minister's has the freedom to select his colleagues and it is subjected to his/her own position within the party. For example, India's first Prime Minister, Jawaharlal Nehru, could not ignore Sardar Patel who was very powerful in the Congress party. He was, therefore, appointed as the Deputy Prime Minister and Home Minister. Some of Patel's followers were also made members of the ministry. Similarly, Indira Gandhi in the early years of her office had to accommodate powerful leaders of her party in the ministry. Emerging as an all-powerful leader after the 1971 mid-term elections, she had complete freedom in choosing and reshuffling ministers. In coalition governments, the Prime Ministers

do not have much choice in choosing ministerial colleagues. In the Janata government, Morarji Desai had many ministers whom he never knew before. In H.D. Deve Gowda's and later I.K. Gujral's governments, the ministers were selected not by the Prime Minister but by the leaders of the 14 regional parties that formed the United Front.

The Prime Minister also derives power and influence from the fact that he/she is the leader of the majority party in the legislature, and sometimes even the leader of the parliamentary wing of the party. As a leader of the Lok Sabha, the Prime Minister has enormous control over parliamentary activities. He/she advises the President on summoning and prorogation of the sessions of Parliament. The Speaker consults the Prime Minister in finalising the agenda of the Lok Sabha. The Prime Minister enjoys enormous legislative power in the form of recommending Ordinances to the President for promulgation when the Parliament is not in session. But the most important power of the Prime Minister regarding Parliament is to recommend dissolution of Lok Sabha. The President has to accept the advice of the Prime Minister. It is the power by which the Prime Minister controls even the opposition.

As the head of the government, the Prime Minister enjoys the power of patronage. All the major appointments of the Central government are made by the Prime Minister in the name of the President, which include Chief Justice and judges of the Supreme Court and High Courts, the Attorney-General, the Chiefs of the Army, the Navy and the Air Force, Governors, Ambassadors and High Commissioners, the Chief and members of the Election Commission, etc. Further, the Prime Minister's control over the administration, including the intelligence agencies and other administrative wings of the government enhances his/her influence over other members of parliament and administration. Apart from these structural factors, there are other features that increase the power and authority of the Prime Minister. In several instances, the general elections in most democratic systems virtually become an election of the leader, and it is interpreted as a popular mandate. Sometimes a leader derives strength from his/her charisma. Jawaharlal Nehru, Indira Gandhi and Narendra Modi present examples of charismatic leaders.

Check Your Progress Exercise 2

- Note:** i) Use the space below for your answers.
- ii) Check your answers with the model answers given at the end of this unit.

1) What are the three most important functions of a Cabinet?

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2) What is collective responsibility?

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8.6 THE PRESIDENT AND THE PRIME MINISTER

Article 78 enumerates the duties of the Prime Minister. The Prime Minister is to: a) communicate to the President all decisions of the Council of Ministers relating to the administration of the affairs of the Union and proposals for legislation; b) furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for; and c) if the President so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council. These duties of the Prime Minister seem to suggest that the President is the real executive with vast power. But as we saw, the President can exercise his powers only with the aid and advice of the Council of Ministers. The Prime Minister, heading the Council of Ministers, is, therefore, the real executive. However, there have been occasions when the President had differences of opinion with the Prime Minister on the policies of the government.

The first President of India, Rajendra Prasad, tried to break from the British convention that the head of the state is always bound by the advice of the Prime Minister and the Cabinet. For instance, he was unhappy with the Nehru government's attempt to reform Hindu personal law. In 1987, President Zail Singh withheld his assent to the Indian Postal (Amendment) Bill, despite its having been passed by both the Houses of Parliament. This was a reflection of differences between the President and the Prime Minister Rajiv Gandhi.

8.7 LET US SUM UP

Following the pattern of British Westminster model, India evolved its system of the parliamentary form of government in which the executive is responsible to the legislature. The executive power of the government of India is vested in the President of India, who is both the formal head of the state and the symbol of the nation. The President is endowed with authority and dignity without adequate powers. The President can exercise his/her authority only with the aid and advice of the Council of Ministers headed by the Prime Minister. It is the Prime Minister who exercises real executive power in the Indian political system. As the head of the Council of Ministers, the leader of the majority party in the Lok Sabha and often the leader of the Parliament, the Prime Minister enjoys considerable power and authority. Though the Prime Minister is appointed by the President and holds office during the pleasure of the President, the Prime Minister is in reality responsible to the Parliament. The Council of Ministers and the informal cabinet headed by the Prime Minister work on the principle of collective responsibility. Sometimes here have been differences between the President and the Prime Minister. But these did not assume serious proportions culminating in any constitutional crisis.

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8.9 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress Exercise 1

- 1) The President is elected by the members of the Electoral College, in accordance with the system of proportional representation and by means of a single transferable vote. The Electoral College comprises of the elected members of the Union Parliament and State Assemblies.
- 2) To summon and prorogue the Parliaments; to dissolve the Lok Sabha-power to promulgate Ordinances; to summon and address the joint sitting of the two houses of Parliament; to veto of non-money bills-powers; to nominate members to the Parliament, etc.

Check Your Progress Exercise 2

- 1) The Council of Ministers functions on this principle. Each member accepts and agrees to share responsibility for all decisions of the cabinet. It's necessary for efficiency and efficacy but also for the very survival of the cabinet system of government.
- 2) In a parliamentary system, the Prime Minister is the head of the Council of Ministers, leader of the majority party in the Lower House and head of the government.

Structure

- 9.0 Objectives
- 9.1 Introduction
- 9.2 Evolution of Judiciary in India
- 9.3 The Supreme Court
 - 9.3.1 Composition and Appointments
 - 9.3.2 Tenure
 - 9.3.3 Salaries
 - 9.3.4 Immunities
- 9.4 Jurisdiction of the Supreme Court
 - 9.4.1 Original Jurisdiction
 - 9.4.2 Appellant Jurisdiction
 - 9.4.3 Advisory Jurisdiction
 - 9.4.4 Review Jurisdiction
- 9.5 The High Court
 - 9.5.1 Composition of the High Court
 - 9.5.2 Jurisdiction
- 9.6 Subordinate Courts
- 9.7 Judicial Review
- 9.8 Judicial Reforms
- 9.9 Let Us Sum Up
- 9.10 References
- 9.11 Answers to Check Your Progress Exercises



9.0 OBJECTIVES

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

- Trace the evolution of the judicial system in India;
- Describe the composition of the courts in India;
- Explain the functions and jurisdiction of the Supreme Court, the High Courts, and the Subordinate Courts; and
- Explain the concept of judicial review and its importance in safeguarding fundamental rights.

9.1 INTRODUCTION

In a political system based on constitutional government, the functions of rule making, rule enforcement and rule interpretation are separated into the three institutions - the legislature, the executive and the judiciary. A judiciary that is independent of and acting as a check on the arbitrary exercise of legislative and executive power is an essential feature of a constitutional government. The

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judiciary is also the final arbiter of what that Constitution itself means. In a federal system, the judiciary also serves as a tribunal for the final determination of disputes between the union and its constituent units. Given the tremendous importance of the role and functions of the Supreme Court and the High Courts, various measures have been adopted to ensure the independence of the judiciary.

9.2 EVOLUTION OF JUDICIARY IN INDIA

The evolution of the contemporary judiciary in India can be traced to the colonial period. It was with the Regulating Act of 1773 that the first Supreme Court came into existence in India. Located at Calcutta (Kolkata), the Supreme Court consisted of Chief Justice and three judges (subsequently it was reduced to two judges) appointed by the Crown, and it was made a King's court rather than a Company's court. The court held jurisdiction over "his majesty's subjects" wherever the Supreme Courts were established. Supreme Courts were established in Madras (Chennai) first and in Bombay (Mumbai) later. Judicial system during this period consisted of two systems, the Supreme Courts in the Presidencies and the Sadr courts in the provinces. While the former followed the English law and procedure, the latter followed regulation laws and personal laws. Subsequently, these two systems were merged under the High Courts Act of 1861. This Act replaced the Supreme Courts and the native courts (Sadar Dewani Adalat and Sadr Nizamat Adalat) in the presidency towns of Calcutta, Bombay and Madras with High Courts. The highest court of appeal, however, was the judicial committee of the Privy Council.

At this stage of development of the Indian legal system, we see the beginning of a new era in the emergence of a unified court system. The Federal Court of India was established in Delhi by the Act of 1935. It was to act as an intermediate appellant between the High Courts and the Privy Council regarding matters involving the interpretation of the Indian constitution. In addition to this appellate jurisdiction, the Federal Court had advisory as well as original jurisdiction in certain other matters. This court continued to function until 26 January 1950, the day independent India's constitution was implemented.

9.3 THE SUPREME COURT

The entire judicature has been divided into three tiers. At the top there is a Supreme Court; below it is the High Court; and, the lowest rank is occupied by Session's Court.

The Supreme Court is the highest court of law. The Constitution says that the law declared by the Supreme Court shall be binding on all small courts within the territory of India. Below the Supreme Court, the High Courts are located in the states. Under each High Court, there are District Sessions Courts, Subordinate Courts and Courts of Minor Jurisdiction that is called Small Cause Courts.

Given the importance of the judiciary in a federal system resting on limited government, the Supreme Court was designed to make it the final authority in the interpretation of the Constitution. While framing the judicial provisions, the Constituent Assembly gave a great deal of attention to such issues as the independence of the courts, the power of the Supreme Court, and the issue of judicial review.

9.3.1 Composition and Appointments

The Supreme Court consists of the Chief Justice of India and not more than twenty-six other Judges. When the Supreme Court was inaugurated, it had only eight judges. Its strength has risen to twenty-six judges. The President of India, who is the appointing authority, makes these appointments on the advice of the Prime Minister and the Council of Ministers.

The Constitution stipulates in Article 124 (2) that the President shall appoint judges of the Supreme Court after consulting other persons besides taking the advice of his ministers. In the case of the Chief Justice of India, the President shall consult such judges of the Supreme Court and the High Courts as he may deem necessary. In spite of this clear constitutional provision, the appointment of the Chief Justice of India has become a matter of political controversy. Here, it may be worth recalling the issues that were raised in 1973 when the Government of India appointed Justice SS Ray as the Chief Justice of India superseding four other judges, against the recommendations of the outgoing Chief Justice, SM Sikri. Avoiding political interferences in the appointment of Judges of the Supreme Court, some important qualifications have been set for the post such as: a person should be a citizen of India; a Judge of the High Court for at least five years; or should have been an advocate of High Court for at least ten years; or a distinguished jurist in the opinion of the President of India.

The Collegium System of appointment of judges is unique in nature. It is also popularly referred to as judges-selecting judges. This system was created by two judgements of the Supreme Court in 1990s. In this, a body of senior apex court judges are responsible for appointment and transfer of judges of the Supreme court and High Court.

9.3.2 Tenure

Once appointed, a judge holds office until he attains 65 years of age. A judge of the Supreme Court may resign his office or may be removed in case of misbehaviour or incapacity. According to the procedure laid out in the Constitution, each house of the Parliament will have to pass a resolution supported by two-third of the members present and voting. The device to remove a judge is known as impeachment. The motion of impeachment against a judge was tabled in Parliament for the first in 1991. It involved Supreme Court Justice V. Ramaswami. When an audit report revealed several irregularities committed by the judge during his tenure as the Chief Justice of the Punjab and Haryana High Court, a three-man judicial committee was set up with a serving and a retired Supreme Court judge and the Chief Justice of the Bombay High Court. The Committee concluded that there had indeed been a wilful and gross misuse of official position and intentional and habitual extravagance at the cost of the public interest which amounted to 'misbehaviour'. Justice V. Ramaswami was the first judge of the Supreme Court against whom impeachment proceedings were initiated. Justice Ramaswami, however, maintained that there were procedural irregularities in the notice of the motion, the constitution of the committee and its functioning. The impeachment motion which was moved in May 1993 failed with 196 out of 401 voting for it and the remaining 205 abstaining. However, the Judge eventually resigned.

9.3.3 Salaries

A very important element that determines the independence of the judges is the remuneration received by them. The salaries and allowances of the judges are fixed high to secure their independence, efficiency and impartiality. Besides the salary, every judge is entitled to a rent-free official accommodation. The Constitution also provided that the salaries of the judges cannot be changed to their disadvantage, except in times of a Financial Emergency. The administrative expenses of the Supreme Court, the salaries, allowances, etc., of the judges, are charged on the Consolidated Fund of India.

9.3.4 Immunities

To shield judges from political controversies, the Constitution grants them immunity from criticisms against decisions and actions made in their official capacity. The Court is empowered to initiate contempt proceedings against those who impute motives to the judges in the discharge of their official duties. Even the Parliament cannot discuss the conduct of the judge except when a resolution for his removal is before it.

Check Your Progress Exercise 1

- Note:** i) Use the space below for your answers.
 ii) Check your answers with the model answers given at the end of this unit.

1) What are the qualifications required for appointment as a judge of the Supreme Court?

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2) What is the procedure for removing a judge of the Supreme Court.?

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9.4 JURISDICTION OF THE SUPREME COURT

Article 141 declares that the law laid down by the Supreme Court shall be binding on all courts within the territory of India. The different categories into which the jurisdiction of the Supreme Court is divided are as follows: 1) Original Jurisdiction, 2) Appellate Jurisdiction, 3) Advisory Jurisdiction, 4) and Review Jurisdiction.

9.4.1 Original Jurisdiction

The Supreme Court has original jurisdiction initially as a federal court. In a federal system like India, both the Union and the State governments derive their powers from and are limited by the same constitution. Differences of interpretation of the Union-States distribution of powers or conflicts between States governments require authoritative resolution by a judicial organ independent of both levels of government. Under Article 131, the Supreme Court is given exclusive jurisdiction in a dispute between the Union and a State or between one State and another, or between a group of States and others. When we say that the Supreme Court has an exclusive jurisdiction, we mean that no other court in India has the power to entertain such disputes. Similarly, the original jurisdiction of the Supreme Court will mean that the parties to the dispute should be units of the federation. Unlike the Supreme Courts in Australia and the United States, the Indian Supreme Court does not have original jurisdiction to decide disputes between residents of different states or those between a State and the resident of another State.

The Supreme Court also has an extensive original jurisdiction as the protector of Fundamental Rights. As you have read in the unit 5 Article 32 of the Constitution gives citizens the right to move the Supreme Court directly for the enforcement of any of the fundamental rights enumerated in Part III of the Constitution. As the guardian of Fundamental Rights, the Supreme Court has the power to issue writs such as *Habeas Corpus*, *Quo Warranto*, *Prohibition*, *Certiorari*, and *Mandamus*. *Habeas Corpus* is a writ issued by the court to bring before the court a person from illegal custody. The court can decide the legality of detention and release the person if the detention is found to be illegal. By using the writ of *Mandamus*, the court may order the public officials to perform their legal duties. *Prohibition* is a writ to prevent a court or tribunal from doing something in excess of its authority. By the writ of *Certiorari*, the court may strike off an order passed by any official of the government, local body or a statutory body. *Quo warranto* is a writ issued to a person who authorised occupies a public office to step down from that office. In addition to issuing these writs, the Supreme Court is empowered to issue appropriate directions and orders to the executive.

9.4.2 Appellate Jurisdiction

The Supreme Court is the highest court of appeal from all courts in the territory of India. It has comprehensive appellant jurisdiction in cases involving constitutional issues; civil and criminal cases involving specified threshold values of the property or a death sentence; and wide-ranging powers of special appeals.

Article 132 of the Constitution provides for an appeal to the Supreme Court from any judgement or final order of a court in civil, criminal or other proceedings of a High Court; if it involves a substantial question of law as to the interpretation of the Constitution. The appeal again depends upon whether the High Court certifies, and if does not, the Supreme Court may grant special leave to appeal.

Article 133 of the Constitution provides that an appeal in civil cases lies to the Supreme Court from any judgement, order or civil proceedings of a High Court. This appeal may be made, if the case involves a substantial question of law of general importance or if in the opinion of the High Court the said question needs to be decided by the Supreme Court.

Article 134 provides the Supreme Court with appellate jurisdiction in criminal matters from any judgement, final order, or sentence of a High Court. This jurisdiction can be invoked only in three different categories of cases: a) if the High Court on appeal reverses an order of acquittal of an accused person and sentenced to death; b) if the High Court has withdrawn for trial before any case from any Court subordinate to its authority and has in such a trial convicted the accused person and sentenced him to death; c) if the High Court certifies that the case is fit for appeal to the Supreme Court.

Finally, the Supreme Court has the special appellate jurisdiction. It has the power to grant, in its discretion, special leave appeal from any judgment, decree sentence or order in any case or matter passed or made by any court or tribunal.

9.4.3 Advisory Jurisdiction

The Supreme Court is vested with the power to render advisory opinions on any question of fact or law that may be referred to it by the President. The advisory role of the Supreme Court is different from ordinary adjudication in three senses: first, there is no litigation between two parties; second, the advisory opinion of the Court is not binding on the government; and finally, it is not executable as a judgement of the court. The practice of seeking an advisory opinion of the Supreme Court helps the executive to arrive at a sound decision on important issues. At the same time, it gives a soft option to the Indian government on some politically difficult issues.

9.4.4 Review Jurisdiction

The Supreme Court has the power to review any judgement pronounced or order made by it. It means that the Supreme Court may review its judgement order.

The Supreme Court in India is far more powerful than its counterpart in the United States of America. The American Supreme Court deals primarily with cases which arise out of the federal relationship or those relating to the constitutional validity of laws and treaties. Apart from interpreting the Constitution, the Indian Supreme Court functions as the court of appeal in the country in matters of civil and criminal cases. It can entertain appeals without any limitation upon its discretion from the decisions not only of any court but also of any tribunal within the territory of India. The advisory jurisdiction of the Indian Supreme Court also is something absent from the purview of the American Supreme Court.

Despite these powers, the Indian Supreme Court is a creature of the Constitution and depends on the continuation of these powers on the Union legislature which can impose limitations on them by amending the Constitution. Moreover, all these powers can also be suspended or superseded whenever there is a declaration of emergency in the country.

9.5 THE HIGH COURT

The Constitution provides for a High Court at the apex of the State judiciary. Chapter V of Part VI, from Articles 214 to 231 of the Constitution of India contains provisions regarding the organisation and functions of the High Court. By the provision of Article 125 which says “there shall be a High Court for each state”,

and these courts have a constitutional status. The parliament has the power to establish a common High Court for two or more states. For instance, Punjab and Haryana have a common High Court. Similarly, there is one High Court for Assam, Nagaland, Mizoram and Arunachal Pradesh.

In the case of Union Territories, the Parliament may by law extend the jurisdiction of a High Court to, or exclude the jurisdiction of a High Court from any Union Territory, or create a High Court for a Union Territory. Thus, Delhi, Madras even when it was a Union Territory, had a separate High Court while, this High Court has been having jurisdiction over Pondicherry, the Kerala High Court over Lakshadweep, the Bombay High Court over Dadra and Nagar Haveli, the Calcutta High Court over Andaman and Nicobar Islands, the Punjab Haryana High Court over Chandigarh.

9.5.1 Composition of the High Court

Unlike the Supreme Court, there is no minimum number of judges for the High Court. The President, from time to time will fix the number of judges in each High Court. The Chief Justice of the High Court is appointed by the President of India in consulting with the Chief Justice of India and the Governor of the State, which in actual term means the real executive of the State. In appointing the judges, the President is required to consult the Chief Justice of the High Court. The Constitution also provides for the appointment of additional judges to cope with the work. However, these appointments are temporary not exceeding two years period. There is also a provision for direct appointment of Judges of Supreme Court and High Court through the Collegium System, in which Senior Judges of Apex Court select or recommend the names for appointment of Judges.

A judge of a High Court normally holds office until he attains the age of 62 years. He can vacate the seat by resigning, by being appointed a judge of the Supreme Court or by being transferred to any other High Court by the President. The President can remove a judge on the grounds of misbehaviour or incapacity in the same manner in which a judge of the Supreme Court is removed.

9.5.2 Jurisdiction

The original jurisdiction of a High Court includes enforcement of Fundamental Rights, settlement of disputes relating to the election to Union and State legislatures and jurisdiction over revenue matters. Its appellate jurisdiction extends to both civil and criminal matters. In civil matters, the High Court is either a first appeal or a second appeal court. In criminal matters, appeal from decisions of a session's judge or an additional sessions judge where a sentence of imprisonment exceeds seven years, and other specified cases other than petty crimes constitute the appellate jurisdiction of a High Court. In addition to these normal original and appellate jurisdictions, the Constitution vests the High Courts with four additional powers. These are:

- The power to issue writs or orders for the enforcement of the Fundamental Rights. Interestingly, the writ jurisdiction of a High Court is larger than that of the Supreme Court. It can not only issue writs in cases of infringement of Fundamental Rights but also in cases of an ordinary legal right.
- The power of superintendence over all other courts and tribunals except those dealing with the armed forces. It can frame rules and also issue

instructions for guidance from time to time with directions for speedier and effective judicial remedy.

- The power to transfer cases to itself from subordinate courts concerning the interpretation of the constitution.
- The power to appoint officers and servants of the High Court.

In certain cases, the jurisdiction of High Courts is restricted. For instance, it has no jurisdiction over a tribunal and no power to invalidate a Central Act or even any rule, notification or orders made by any administrative authority of the Union, whether violates of Fundamental Rights or not.

Check Your Progress Exercise 2

Note: i) Use the space below for your answers.

ii) Check your answers with the model answers given at the end of this unit.

1) In what areas does the Supreme Court have original jurisdiction? Which area is an exclusive preserve of the Supreme Court?

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9.6 SUBORDINATE COURTS

Under the High Court, there is a hierarchy of courts which are referred to in the Indian constitution as subordinate courts. Since these courts have come into existence because of enactments by the state government, their nomenclature and designation differ from state to state. However, there is a uniformity regarding its organisational structure.

The state is divided into districts, and each district has a district court which has an appellat jurisdiction in the district. Under the district courts, there are the lower courts such as the Additional District Court, Sub-Court, Munsiff Magistrate Court, Court of Special Judicial Magistrate of the II Class, Court of Special Judicial Magistrate of I Class, Court of Special Munsiff Magistrate for Factories Act and Labour Laws, etc. At the bottom of the hierarchy of Subordinate Courts are the Panchayat Courts (Nyaya Panchayat, Gram Panchayat, Panchayat Adalat, etc.). These are, however, not considered as courts under the purview of the criminal courts jurisdiction.

The principal function of the District Court is to hear appeals from the subordinate courts. However, the courts can also take cognisance of original matters under special status, for instance, the Indian Succession Act, the Guardian Act and Wards Act and Land Acquisition Act.

The Constitution ensures the independence of the subordinate judiciary. Appointments to the District Courts are made by the Governor in consultation with the High Court. A person to be eligible for appointment should be either an advocate or a pleader of seven years standing, or an officer in the service of the

Union or the State. Appointment of persons other than the District Judges to the judicial service of a State is made by the Governor in accordance with the rules made by him in that behalf after consultation with the High Court and the State Public Service Commission.

The High Court exercises control over the District Courts and the Courts subordinate to them, in matters as posting, promotions and granting of leave to all persons belonging to the State judicial service.

9.7 JUDICIAL REVIEW

The notion of judicial review means the revision of the decree or sentence of an inferior court by a superior court. Judicial review has a more technical significance in public law, particularly in countries having a written constitution, founded on the concept of limited government. Judicial review, in this case, means that Courts of law have the power of testing the validity of legislative as well as other governmental action concerning the provisions of the constitution.

In England, there is no written constitution. Here the Parliament exercises supreme authority. The courts do not have the power to review laws passed by the sovereign parliament. However, English Courts review the legality of executive actions. In the United States, the judiciary assumed the power to scrutinise executive actions and examine the constitutional validity of legislation by the doctrine of 'due process'. By contrast, in India, the power of the court to declare legislative enactments invalid is expressly enacted in the constitution. Fundamental rights enumerated in the Constitution are made justiciable and the right to constitutional remedy has itself been made a Fundamental right.

The Supreme Court's power of judicial review extends to constitutional amendments as well as to other actions of the legislatures, the executive and the other governmental agencies. However, judicial review has been particularly significant and contentious regarding constitutional amendments. Under Article 368, constitutional amendments could be made by the Parliament. But Article 13 provides that the state shall not make any law which takes away or abridges fundamental rights and that any law made in contravention with this rule shall be void. The issue is, would the amendment of the constitution be a law made by the state? Can such a law infringing fundamental rights be declared unconstitutional? It was a riddle before the judiciary for about two decades after India became a republic.

In the early years, the courts held that a constitutional amendment is not law within the meaning of Article 13 and hence, would not be held void if it violated any fundamental right. But in 1967, in the famous *Golak Nath Case*, the Supreme Court adopted a contrary position. It was held that a constitutional amendment is a law and if that amendment violated any of the fundamental rights, it could be declared unconstitutional. All former amendments that violated the fundamental rights to property were found to be unconstitutional. When a law remains in force for a long time, it establishes itself and is observed by the society. If all past amendments are declared invalid, the number of transactions that took place in pursuance of those amendments become unsettled. It will lead to chaos in the economic and political system. In order to avoid this situation and for the purpose of maintaining the transactions, in fact, the past amendments were held valid. The Supreme Court clarified that no future transactions or amendments contrary

to fundamental rights should be valid. This technique of treating old transactions valid and future ones invalid is called prospective over-ruling. The Court also held that Article 368 with amendments does not contain the power to amend the constitution, but only prescribes the procedure to amend. This interpretation created difficulty. Even when there is a need to amend a particular provision of the constitution, it might be impossible to do so if the amendment had an impact on fundamental rights.

In 1970, when the Supreme Court struck down some of Indira Gandhi's populist measures, such as the abolition of the privy purses of the former princes and nationalisation of banks, the Prime Minister set about to assert the supremacy of the Parliament. She was able to give effect to her wishes after gaining a two-thirds majority in the 1971 General Elections. In 1972, the Parliament passed the 25th Constitutional Amendment Act which allowed the legislature to encroach on fundamental rights if it was said to be done by giving effect to the Directive Principles of State Policy. No court was permitted to question such a declaration. The 28th Amendment Act ended the recognition granted to former rulers of Indian states and their privy purses were abolished.

These amendments were challenged in the Supreme Court in the famous Kesavananda Bharathi Case (otherwise known as the Fundamental Rights Case) of 1973. The Supreme Court ruled that while the parliament could amend even the fundamental rights guaranteed by the Constitution, it was not competent to alter the 'basic structure' or 'framework' of the Constitution. Under the newly evolved doctrine of 'basic structure', a constitutional amendment is valid only when it does not affect the basic structure of the constitution. The second part of Article 31C (no law containing a declaration to implement the Directive Principles contained in Article 39 (b) and (c) shall be questioned) was held not valid because the amendment took away the opportunity for judicial review, which is one of the basic features of the Constitution. The doctrine of basic features gave wide amplitude to the power of judicial review.

Later history shows the significant role played by this doctrine in the review of constitutional amendments. For challenging the election to Parliament of a person who holds the office of Prime Minister, the 39th Constitutional Amendment provided a different procedure. The election can be challenged only before an authority under special law made by Parliament, and the validity of such a law shall not be called in question. The Supreme Court held that this amendment was invalid as it was against the basic structure of the Constitution. It argued that free and fair elections are essential in a democracy. Excluding judicial examination of the fairness of the election of a particular candidate is not proper and goes against the democratic ideal which is the base of our constitution.

In a later case, the Minerva Mill Case, the Supreme Court went a step ahead. The 42nd Constitutional Amendment of 1976, among other things, had added a clause to Article 368 placing a constitutional amendment beyond judicial review. The Court held that this was against the doctrine of judicial review, the basic feature of the constitution.

Since the late 1970s, the judiciary began to take an active role to protect and implement the constitutionally guaranteed fundamental rights of citizens. It is commonly described as judicial activism; the Supreme Court has stepped to protect the rights of the disadvantaged sections which on account of poverty, social disability or lack of awareness, could not approach the courts for denial of

their rights. The Supreme Court did this by diluting the principle of *locus standi* which limited the Court's power of judicial review. By the principle of *locus standi*, only persons aggrieved by an administrative action or by an unjust provision of law had the right to move the court for denial of rights. In 1979 the Supreme Court, however, decided to hear a case filed not by the aggrieved persons but by others on their behalf as the case involved a consideration of public interest. Again in 1982, the Supreme Court in judgement on the democratic rights of construction workers of the Asian Games granted the Peoples Union for Democratic Rights, the right of Public Interest Litigation (PIL). Taking recourse to epistolary jurisdiction under which the US Supreme Court treated a post card from a prisoner as a petition, the Supreme Court of India stated that any 'public spirited' individual or organisation could move the court even by writing a letter. It opened the gates for a large number of cases where a large number of public spirited individuals and non-governmental organisations sought judicial intervention for the protection of existing rights, the betterment of life of the poor, protection of the environment, etc. The momentum for the implementation of rights generated by judicial activism ultimately led to the setting of mechanisms for the protection of rights of the weak and the deprived. In the 1990s, the National Commission of Minorities, the National Commission on Women, the National Commission for Backward Classes, the National Commission for Scheduled Castes and Scheduled Tribes were established by law to protect the rights of the minorities, Dalits, Backward classes, tribals and women. Further, the National Human Rights Commission (NHRC) was established in 2000 to protect the fundamental and other kinds of rights. The NHRC conducts an enquiry on its initiative or petition presented to it by a victim into complaints of human rights violations. Although the NHRC does not have the power of prosecution, it can make a recommendation to the government or to the courts to initiate proceedings against the violators of human right.

Since the granting of the right to PIL, what some claim to be the only major democratic right of the people of India, and granted not by the Parliament but by the judiciary, the courts have been flooded by PILs. While the flood of such litigation indicates the widespread nature of the deprivation of democratic rights; they also pose the danger of adding further pressure on the courts that are already overloaded.

9.8 JUDICIAL REFORMS

While the judiciary has earned respect for its contribution to protecting citizens from arbitrary exercise of power, a large number of pending cases and the delays in the dispensation of justice are seen as its major drawbacks. At the All India Seminar on Judicial Reforms in August 2010, the Chief Justice of India, S.H. Kapadia pointed out that there are over one crore cases pending for more than one year. Reasons for the piling of a large number of cases can be attributed to structural and procedural flaws in the judiciary. The availability of multiple remedies at different rungs of the judicial ladder also enables dishonest and recalcitrant suitors to abuse the judicial system. It leads to the piling up of cases as well as a delay in the dispensation of justice.

Another weakness of the judicial system is cumbersome procedures and forbidding cost of justice. Suggestions for judicial reforms have been helpful to achieve a new order and bring economic, political and social justice.

9.9 LET US SUM UP

As we saw in this unit, the existing judiciary in India can be traced to the British period. The Regulating Act of 1773, the Indian High Courts Act of 1861 and the Act of 1935 are the important milestones in the evolution of the modern judicial system in India. According to the Constitution of India the Supreme Court is the highest court of law. The law declared by the Supreme Court has been made binding on all small courts, that is, the High Courts and the Subordinate Courts

Given the importance of judiciary as a federal court and as a guardian of fundamental rights of the citizen, the framers of the Indian Constitution gave a great deal of thought to such issues as the independence of the courts and judicial review.

Judicial review is a technique by which the courts examine the actions of the legislature, the executive and the other governmental agencies and decide whether or not these actions are valid and within limits set by the constitution. The foundation of judicial review is (a) that the constitution is a legal instrument, and (b) that this law is superior in status to the laws made by the legislature that is itself set up by the constitution. It is now well established in India that judicial review constitutes the basic structure or feature of the Constitution of India.

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9.11 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress Exercise 1

- 1) A person to be appointment as a judge of the Supreme Court should be a citizen of India, should have been a High Court judge for at least five years, and an advocate of High Court for at least ten years or a distinguished jurist.
- 2) A Supreme Court judge can be removed by the impeachment motion. According to this procedure each house of the Parliament has to pass a resolution supported by the two third of the members present and voting.

Check Your Progress Exercise 2

- 1) It has original jurisdiction as a guardian of Fundamental rights and as a federal court. As a federal court, it has exclusive jurisdiction in disputes between the Union and a State or between one State and another, or between a group of States and others.

BLOCK 4
SOCIETY AND POLITICS



BLOCK 4 INTRODUCTION

India is a diverse society consisting multiple social identities such as caste, tribe, gender, etc., and social classes - farmers and workers. They have relationship with politics. Politics is a process through which multiple identities and social groups seek to resolve their conflicts and have their issues addressed. Overall, politics is about being able to participate in making decisions about these issues through their representatives or by participating in political activities. Politics occurs within the institutions and outside them – in public spaces or even within private spaces. The identities represent society, and they interact with politics. Thus, there is relationship between society and politics. This relationship is reciprocal: the society impacts politics and vice-versa. The 3 units in this block are about such relationship. Unit 10 is about caste, class and tribe. Unit 11 discusses social and political issues in relation to gender. Unit 12 deals with the issues of farmers and workers in India, and their relationship with politics.



Structure

- 10.0 Objectives
- 10.1 Introduction
- 10.2 Caste
- 10.3 Class
- 10.4 Tribe
 - 10.4.1 Meaning
 - 10.4.2 Characteristics
 - 10.4.3 Tribes and Political Movements
- 10.5 Let Us Sum Up
- 10.6 References
- 10.7 Answers to Check Your Progress Exercises

10.0 OBJECTIVES

This unit is about three important aspects of Indian society. After reading this unit, you will be able to:

- Explain the meanings and differences between caste, class and tribe;
- Understand the changes which have taken place in their features; and
- Analyse their impact on politics and vice-versa.

10.1 INTRODUCTION

This unit is about identities. Identities denote relations among social groups. Some identities are hereditary. The nature of such identities may undergo changes, but these identities remain. Caste is such an identity. Some identities are not hereditary. They depend upon the economic conditions. Such identities are classes. Some identities are defined by certain characteristics which members of such group have. Such identities are known as tribes. Caste, class, tribe are among several other identities such as religion, language or region. As you will read in this unit, caste, class and tribe are crucial identities that impact social, economic and political aspects in India.

10.2 CASTE

Caste denotes position of a social group in a hierarchy of relations. This position is based on the birth of a person. Apart from the caste being hereditary, it is also endogamous. It means that a person can marry within his or her caste. These are the notional features of caste. Traditionally, every caste was assigned specific occupation in society. The caste-based occupations also indicated the social hierarchy in the society. Different castes were grouped into four varnas: Brahmins, Khatris, Vaishyas and Shudras. The erstwhile untouchable castes which are placed in the Scheduled Caste (SC) category in the government gazette are also

known as Dalits. Over the years especially after Independence, these ideal features of castes have undergone significant changes. However, its two features – its hereditary nature and endogamy remain largely enduring. According to the Louis Dumont, the author of *Homo Hierarchicus*, different castes in India are placed in a graded hierarchy. He argues that in power relationships among castes, Brahmins enjoy more decisive role than the Kshatriya. Dumont's notion of caste has been challenged by Nicholas Dirks and others. The Dumont's notion was criticized as it failed to explain the social change, dynamism and individualistic strivings even within the traditional Indian society. Gerald Berreman pointed out that principle of Brahmanical hierarchy was not uniformly followed by all Hindus. He also criticised the Dumontian notion that power and economic factors are distinct and epiphenomenal to caste. It has been pointed out by others that caste hierarchy is not a fixed hierarchy; rather it is context-specific and fluid and contains seeds of contestation among various castes. Nicholas Dirks cites ethnographic and textual evidence to demonstrate that Brahmans and their texts were not so central to the social fabric of Indian life. According to this view, power relations and command over men and resources were more important. Brahmans were merely ritual specialists, often subordinate to powerful ruling families. According to this view the caste-based scriptural or Brahmanical model of traditional India was an invention of the British Orientalists and ethnographers. However, caste played a very critical role in the Indian social-reformers' and nationalists' perception of caste. It was certainly not a mere product of British imagination. Disagreeing with Louise Dumont, sociologist Dipankar Gupta argues that though different castes are placed in a hierarchical order, they have emerged as discrete caste or distinct caste identities.

The policies of the state – social welfare schemes for the welfare of marginalised groups, implementation of Constitutional provisions prohibiting caste-based untouchability, reservation for the SCs in government jobs, political institutions, land reforms, etc. diluted the rigidity of caste relations. Specifically, the notion of purity and pollution do not impact the role of caste outside family as rigidly as it did earlier, in the public sphere. This phenomenon is called as secularisation of caste by political scientists such as Rajni Kothari and D.L. Sheth. Caste has played an important role in Indian democracy. Following the introduction of universal adult franchise with the commencement of Indian Constitution, as every adult citizen of India got an opportunity to participate in electoral democracy, caste became an important tool for political mobilisation. Castes formed caste associations. According to Lyod Rudolph and Sussan Rudolph caste associations have played crucial role in mobilising castes for getting their democratic rights. In the book edited by Christophe Jaffrelot and Sanjay Kumar, *Rise of the Plebians?*, several scholars have argued that participation of Dalits and OBCs (Other Backward Classes) in different states has increased, especially since the last decades of the twentieth century. This is reflection of change in nature of caste in the post-Independence period. Apart from caste associations, several parties which address the issues of specific castes or caste groups have emerged in India. These parties aim to empower specific castes. In Uttar Pradesh, the BSP (Bahujan Samaj Party) attempted to empower majority sections (Bahujan Samaj), mostly Dalits and Backward Classes. Similarly, in the 1970-80s, political parties led by Charan Singh, the BKD (Bharatiya Kranti Dal), BLD (Bharatiya Lok Dal) or LD (Lok Dal) mobilised the backward classes farming communities in north India. In Tamil Nadu, the DMK, AIADMK mobilised the backward classes or dravidas. Support bases of the Congress, especially till the 1980s, and that of

the BJP from the 2014 consist of multiple castes. The policies of the governments led by these parties devised policies to mobilise their support. This helped them to get support of various castes.

Check Your Progress Exercise 1

Note: i) Use the space given below for your answers.

ii) Check your answers with the model answer given at the end of the unit.

1) What are the features of caste and what changes have taken place in them?

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2) Discuss the role between caste in politics?

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10.3 CLASS

Class is different from the caste. Unlike caste, class is not hereditary. It is also not restricted to any religion. Class denotes economic position of a group or a person belonging to such group. Class is generally associated with the relationship of a person to economic aspect. It shows the relationship of a group with the economic resources, control of the resources and their distribution among groups or individuals. Although class is an economic category, it is not devoid of its relationship with non-economic aspects such as caste, tribe or religion. In Marxian terms, there are basically two types of classes: the haves and the have-nots. The haves own resource or means of production, and the have-nots do not own resources but have labour power. In a capitalist society, those who own means of production are called bourgeoisie. They do not work, and work in their enterprise is done by workers or the proletariat. The bourgeoisie make profit from the labour of the workers. Thus, in a capitalist society, there are basically two classes: the bourgeois or capitalists and the proletariat or the working classes. Harish Damodaran in *India's New Capitalists* explains that caste background of the capitalists became since the last few decades of the twentieth became wider than it was till a few years after the Independence. Since, in India, the industries form a smaller proportion of economy in comparison to agriculture, the industrialist and working classes form smaller part of classes. Lylod Rudolph and Sussan Rudolph *In Pursuit of Lakshmi* underline that working classes form tiny section of Indian classes. Classes can be observed in agrarian sector also. But composition and formation of classes in Indian agriculture have varied in different regions. In

the post-Independence period, the agrarian classes can be described as follows: landlords and tenants; kulaks/rich peasants/middle peasants and agricultural labourers; marginal and small farmers, and footloose labour. Landlords and tenants generally had existed before the implementation land reforms in different states in India. However, they have not completely disappeared in every state. In several parts of the country, new classes emerged abolition of zamindari following implementation of land reforms. These classes came to be known as rich farmers, kulaks or self-cultivating middle farmers. In the areas which have witnessed green revolution, these classes got involved in cash crops. These areas also seen the emergence of agricultural labourers, who work on the land of the landowning classes. Besides, there are classes who own small landholdings. These landholdings are not enough to meet their family needs. Apart from working in their land, they work in others' land or somewhere else. These are known as marginal or small farmers. Apart from these classes, there are some social groups who are not engaged in some fixed occupation. They do whatever work is available to them. They do not own land or do not have any durable means of livelihood. In his book *Footloose Labour*, Jan Breman terms these classes as footloose labour. Classes have close relationship with caste. Although all classes are found in all castes, generally the low castes – Daitis and lower section have larger share of poorer classes than the high castes. The rich farmers or middle farmers mostly belong to high castes and middle classes such as Jats, Yadavs, Marathas, Reddis, Kammas, Vokaliggas and Lingayats. The agricultural labourers, small and marginal farmers, footloose labour mostly belong to Dalits and lower backward classes. Besides, industry and agriculture, there are classes in service sectors which consist of multiple middle classes. Middle classes generally denote those classes who are engaged in salaried occupations in public or private sectors. They also include professionals or self-employed persons such as doctors, lawyers or journalists. Middle classes are not homogeneous groups. Depending on their economic conditions and positions in public or private jobs, middle classes can be grouped as lower, middle or upper middle classes.

Check Your Progress Exercise 2

- Note:** i) Use the space given below for your answers.
 ii) Check your answers with the model answer given at the end of the unit.

1) What is the difference between caste and class?

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2) What is the composition of India's New Capitalists?

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3) What is footloose labour?

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10.4 TRIBE

10.4.1 Meaning

Tribes refers to a group of people who share some characteristics which are different from those of castes. As you have read section 10.2, caste is basically associated with Hindu communities (though there are castes among other religion such as Muslims or Sikhs) social status and caste occupations have been traditionally defined by birth into caste and by endogamy. The principal defining characteristic of a tribe is not birth into a specific religion; tribes belong to different religions – animists, Christians, Buddhists or Muslims. Some scholars regard tribals as ‘indigenous’. In Jharkhand, Chhattisgarh and a section of tribals in Assam are also known as adivasis. Tribals in India have been subjected to prolonged exploitation and deprivation. Tribe as a concept was introduced by the British during the nineteenth century in India. It was used to differentiate the communities which did not fit into the definition of castes. The concept of tribe was officially defined in the Government of India Act, 1935. In India, tribals predominantly inhabit the states of northeast India (with largest numbers of tribes in India), Jharkhand (earlier – Chhotanagpur), Andaman Nicobar and some other regions in the country such as Odisha, Maharashtra, Andhra Pradesh, Telengana, Nilgiris, central India, Gujarat, Rajasthan. According to Article 341 of the Constitution, the President of India may specify tribes or tribal communities, groups within certain tribes in a state for the purpose of the Constitution. In view of this notification, the Parliament may include or exclude tribes from the list of Scheduled Tribes in a State.

The constitution of India has several provisions for the welfare of the Scheduled Tribes in India. Article 342 provides for special administrative measures for the welfare of the ‘Scheduled Tribes’. The state shall provide special provisions for the welfare of such tribes such as reservation in public offices and in the Parliament and Vidhan Sabhas (Articles 16, 46, 335 (consideration of members of these groups in making appointment to services, etc.), 330 and 332). The constitution also ensures protection of the ‘tribal’ languages, dialects and culture (article 29). The VI Schedule provides for establishment of Autonomous District Councils in the hills inhabited by the tribes in northeast India. The V Schedule Area provides for the establishment of Tribal Advisory Councils in ‘tribal’ dominated areas of mainland India. Tribal Advisory Councils consist of members of which three quarters are to be representatives of the Scheduled Tribes in the Legislative Assembly of the respective state. The function of the council is to advise the state government on matters pertaining to welfare and interests of the ‘tribes’ in the state. Autonomous District Councils on the other hand provide ‘tribal’ communities space for a certain legal and administrative autonomy, a form of

self-governance. Thus, a clear and strong legal framework exists, anchored in the constitution of India, within which the national state's agenda for the social, economic and political 'upliftment' (as it is locally referred to) of 'tribal' people has to be understood. The constitution of India contains many special assertions for the 'tribes.'

10.4.2 Characteristics

Tribes are generally identified by certain features. It is important to note that as tribal societies are undergoing transformation, the characteristics of tribes are getting affected by the transformation. However, we can identify certain features which are associated with tribes. These are given below:

- i) Traditionally tribes have been inhabiting hills and forests, which are generally located in areas which lack basic facilities – roads, schools, health facilities;
- ii) The agriculture in such areas mostly involve family labour. In the tribal-dominated areas, *Jhum* or shifting cultivation is practiced, and people are engaged in livestock, fishing, hunting, forestry, etc. – construction sector, mining and quarrying.
- iii) Usage of relatively traditional means of cultivation.
- iv) The tribals do not have access to developed market to sell their products.
- v) In comparison to women in the non-tribal societies women generally enjoy more equality.
- vi) Tribal chiefs or community leaders play decisive roles in the adjudication of affairs within the tribes.

During the post-Independence period, the tribal communities have witnessed changes. However, these changes have not impacted tribes all regions equally; there exist inequalities in their economic and educational standards within the same tribes and same regions. These changes have mainly occurred due to policies of the state and central governments made according to the special provisions of the Constitution. The Sixth Schedule and Fifth Schedules of the Constitutions protect the customs and economic interests, and political rights of tribes in the hills and plain areas. Policies for reservation in public employment, the elected bodies and welfare schemes have contributed to change in tribal society to a considerable extent. As a result of these changes new classes have emerged among different tribes in India. These classes are middle classes such as teachers, engineers, doctors, businessmen, politicians. Some of them are contributing to the welfare of tribal societies. Besides, the rise of new classes, intrusion of market has disrupted the tribal economy, leading to ecological degradation and depletion and extraction of natural resources. The tribal-inhabited areas have been subjected to exploitation and suffered deprivation.

10.4.3 Tribes and Political Movements

Tribes in different regions of India have been engaged in political movements against their exploitation and for their political autonomy from time to time. During the nineteenth century, the tribes were involved in a series of revolts against the colonial rule and its interference in the lives, culture and rights of tribal communities. Consequently, an administrative system for 'tribal' areas was

created which was different from the general Indian administration. The distinct legislative and executive measures were adopted which primarily aimed at protecting and safeguarding the interests and welfare of the 'tribes.' From 1874 onwards, 'tribes' or 'tribal areas', i.e, the areas that had a majority of 'tribal' population, were governed by the Scheduled District. As per this Act, the Government was required to specify what laws were to be enforced in the Scheduled Areas or Districts; these laws were from different from the ones applied elsewhere in India. These Provisions were continued in post-independent India despite their colonial roots and origins.

In post-Independence period also, the tribals have been involved in movements for ending backwardness of their regions and their political marginalisation. Through the movements, they seek political and regional autonomy by rearranging existing relations between vertical units of governance – the local self- governance institutions, state and the centre. The rearrangement of these relations range from district, regional level autonomy within a state, to creation of new state out of an existing state or even to getting a sovereign state. Some tribal groups have been involved in insurgency, which means they get popular support in their movement, which often become violent. Among the examples of different types of autonomy movements in northeast India are the movements of Nagas in the Naga-inhabited areas, of Mizos in Mizoram and of Bodo tribes in Assam.

Check Your Progress Exercise 3

Note: i) Use the space given below for your answers.

ii) Check your answers with the model answer given at the end of the unit.

1) What is a tribe? How is different from caste?

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2) What the characteristics of a tribal society?

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3) What are special constitutional provisions for the welfare of tribes?

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10.5 LET US SUM UP

In this unit you have read about three identity groups – caste, class and tribe. Caste is a hereditary and endogamous category. Although nature of caste has undergone changes, it remains an enduring identity. Caste-based hierarchies exist. But different castes have emerged as discrete units. Castes have formed caste associations. They have contributed to increasing role of castes in Indian democracy. In the past few years, lower castes' participation in democratic process has increased. Class denotes relationship of a group or person with the resources and their distribution. Unlike caste, class is not a permanent category. Class of a person may change with the change in his or her relations with the resources and their distribution. There are rich farmers, kulaks, middle farmers and agricultural labourers, small or marginal farmers and footloose labour in agriculture sector; capitalists and working classes in industrial sector; and middle classes in the salaried or professional groups. Tribes are identified on the basis of some characteristics: their closeness to natural resources such as forests; relatively more equality for in comparison to women in non-tribal societies; decisive role of the tribal chiefs in affairs of the community; and relatively traditional tools in agriculture. However, these characteristics are undergoing considerable changes.

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10.7 ANSWERS TO CHECK YOUR PROGRESS EXERCISE

Check Your Progress Exercise 1

- 1) Caste is a social group in which position of a person is determined by birth. It is dedicatory system. A caste follows endogamy. Traditionally, castes can

be identified with specific occupations. In this post-Independence period, various state policies such as land reforms, social welfare and reservations of the SCs and OBCs in public jobs and political institutions have diluted to the rigidity of caste relations.

- 2) Introduction of universal adult franchise following the commencement of Constitution in 1950, provided all castes equal opportunities to participate in politics. They formed caste associations which helped in empowerment of castes, especially the Dalits and the OBCs. Particularly, since the 1990s of the twentieth century, the participation of the Dalits and OBCs in democratic politics has increased.

Check your Progress Exercise 2

- 1) Caste is a hereditary and endogenous category. Class denotes the relationship of a group or persons with resources and their distribution.
- 2) Composition of new capitalists is different from the earlier capitalists. Unlike the latter, the composition of the new capitalists is wider.
- 3) Footloose labour consists of social groups who do not have any fixed means of livelihood. They do whatever work is available to them. They do not own land or any other means of livelihood.

Check your Progress Exercise 3

- 1) Tribe is a group of people who are conscious that they share all or some of several common markers – culture, language, race, religion, history, etc. The tribes generally have some features such as distant location of their habitat from the areas which are supposed to be mainstream, relative equality of women in comparison to non-tribes, and prominence of the role of chief of tribes. Tribes are different from caste. Caste is mainly a feature of Hindu society. The identity of caste is not religion specific. Tribes belong to different religions – Muslims, Buddhists, Christians or animists.
- 2) Characteristics of tribes are undergoing change. However, their general features are as follows. Tribes have traditionally been inhabiting hills and forests. The agriculture in such areas mostly involve family labour and they use relatively traditional means of cultivation. They are engaged in livestock, fishing, hunting, forestry, etc. – construction sector, mining and quarrying. They practice *Jhum* or shifting cultivation. They do not have easy access to market.
- 3) Articles 16, 46, 335 (consideration of members of these groups in making appointment to services) 330 and 332. The constitution also ensures protection of the 'tribal' languages, dialects and culture (article 29). The V and VI Schedules of the constitution provide for protection of tribal culture and autonomy.

Structure

- 11.0 Objectives
- 11.1 Introduction
- 11.2 Gender and Issues
- 11.3 Gender and Development
- 11.4 Gender and Movements
 - 11.4.1 Historical Background
 - 11.4.2 Post-Independence Period
- 11.5 LGBTQ or Transgender Persons
- 11.6 Let Us Sum Up
- 11.7 References
- 11.8 Answers to Check Your Progress Exercises

11.0 OBJECTIVES

This unit introduces you to the issue of gender in Indian society. After going through it you will be able to:

- Differentiate between sex and gender;
- Explain the position of men, women and transgenders in Indian society;
- Identify the issues relating to gender question; and
- Analyse the nature of gender-based movements in India.

11.1 INTRODUCTION

People in a society can be identified on the basis of language, religion, caste, sex, gender, tribe, etc. As this unit is about gender, it is essential to know what gender is and how it is different from a related concept, sex. Generally, many people consider that sex and gender are the same. This is not true. There is a difference between the sex and the gender. Sex denotes biological identity of a person; gender signifies the role of social, economic, political and other factors in determining the position of sex in society. It means the levels of social status, economic conditions and power positions of men, women or transgenders are determined by the social, economic and political conditions in which they are placed. As men, women and transgenders grow in different circumstances, they do not enjoy similar status in society. There exists social hierarchy, economic and political inequalities in their positions. In our society, men are placed in higher position in relation to women, men and transgenders. This is reflected in relation to their position to inherit property, choice of career opportunities, in matters of marriage or clothing or social behaviour. Men enjoy more freedom than the women or transgenders. Their unequal positions in society show their different positions in relation to gender. The society in which men enjoy superior

*This unit is mostly drawn upon material from unit 24 BPSE-212 written by Ms. Jayanti Alam and Unit 20 written by Dr. Rakesh Batabyal, MPS-003.

power than the women are known as patriarchal societies, and in the societies where women theoretically enjoy power in certain aspects of society are matriarchal societies. These are also reflected in the value system in a society. Patriarchal values do not treat women with equality. Kate Millet in her book *Sexual Politics* (1970) explains how power or patriarchy shapes gender relations. Kate Millet was influenced by feminist philosopher, Simone de Beauvoir's book, *The Second Sex* (1949). In India, with exception of three tribes in Meghalaya – Khasis, Garos and Jaintias; Nairs in Kerala and some tribes in Andaman and Nicobar Islands, patriarchy exists. Among these tribes matrilineal system exists. However, as Tiplut Nongbri, a sociologist, underlines with reference to the Khasis, matrilineal system does not treat women equally in some respects.

11.2 GENDER AND ISSUES

Since the 1980s, the scope of women's movements at the local levels – villages and towns and at higher levels and range of issues raised by them have widened. However, these movements have not occurred with similar effectiveness everywhere. On the basis of what you have read above, we can say that gender-related issues are not the problems only of women, men or transgender. They concern all. Their solution also lies in collaborative efforts of all. However, as the genders' position is determined by unequal location of men, women and transgender in social, political and economic relations, it is women who are apparently placed in the most vulnerable position. Several problems continue to pose a challenge to their emancipation or empowerment. Many practices abetting gender-based discrimination have been legally banned, and do not get approval from every section of the society. Despite this, however, they continue to exist. They exist in families, public places and in workplaces. Some examples of gender-based discrimination are as follows: rape, domestic violence, discrimination of daughters, dowry, bride burning, sex determination tests; in the public places, cases of harassment; in society, child marriage, discrimination by some traditional caste panchayats such as *khaps*; and in the work. Besides, women are discriminated in getting wages for the work which is equal to the men's work.

11.3 GENDER AND DEVELOPMENT

Gender-based inequality is largely rooted in social and economic disparities, lack of representation of women and transgender in decision making institutions. It can be argued that if women become economically independent, get educated, and get political representation, their equality can be achieved. Although economic independence help in reduction of gender-based discrimination, it is not a sufficient condition. Such conditions can be supplemented by change in the patriarchal values. It means that men, women and transgenders are entitled for equal treatment as human beings. Gender-based discrimination is, thus, embedded in the level of human development. Human development means development of human beings in terms of economic independence or having viable means of livelihood, getting proper education and keeping good health and getting respect as a human being. Even as job, education and health are important factors to remove gender-based inequality. They are inadequate without being accompanied by provisions for self-respect and dignity. That is possible by change in patriarchal values that support gender-based discrimination. Amartya Sen in *Development as Freedom* (2000) argues that development in terms of developing capabilities

in human being – health and education, result in providing freedom to human beings.

Check Your Progress Exercise 1

- Note:** i) Use the space below for your answers.
- ii) Check your answers with the answers give at the end of the unit.

1) What is difference between sex and gender?

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2) What are the main issues of gender discrimination?

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3) What is the relationship between gender and development?

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11.4 GENDER AND MOVEMENTS

11.4.1 Historical Background

The trajectory of women’s movement in India can be traced to pre-Independence period. These movements addressed almost all kinds of issues concerning women. Some of these remain focus of contemporary women’s movement in India. Some social reformers played leading role in combatting some practices which undermined women’s rights and dignity. Contemporary movements in India to end gender-based discrimination can be traced to the pre-Independence period. In the early decades of the nineteenth century, Ram Mohan Roy and Bidyalankar fought against the practice of Sati. In 1817, Pandit Mrityunjay Bidyalankar declared that sati had no “Shastric” sanction. Similarly, in the 1850s Pandit Ishwarchandra Bidyasagar argued that the Shastras were not opposed to the re-marriage of a widow. One year later Governor William Bentinck prohibited Sati in his province, viz. Bengal. It took 11 years for this prohibition to get extended

to other parts of India as the Sati Prohibition Act of 1929. Against the prohibition of widow remarriage, a Widow Remarriage Association was established in Madras in 1871. In 1878, Virasalingam started the Rajamundri Social Reform Association, focusing mainly on widow re-marriage. Jyotirao Phule founded Satya Sodhak Samaj to end social evils associated with castes, which negatively affected women also. Swami Dayanand started Arya Samaj movement to initiate reforms within Hindus. He interpreted the Shastra to argue that men and women were equals. He opposed polygamy and child marriage. He supported compulsory education for boys and girls both and suggested that equal stress on tradition and modernity through the compulsory learning of Sanskrit and English. He raised the age of marriage for girls and boys to 16 and 25, respectively. Due to the influence of the social reformers the British government made laws which banned custom of sati and child marriage, permitted women to remarry, etc. Women leaders supported by the Congress demanded equal voting right and representation for women in legislative bodies. All India Women's Conference (AIWC) was set up in the 1920s to spread education among women.

11.4.2 The Post-Independence Period

Gender-based discrimination and inequality became a focus of studies in social sciences during the 1975-85, which was known as the International Women's decade. Gender studies became priority agenda of research of the Indian Council of Social Sciences Research (ICSSR) and the University Grant Commission (UGC). In several universities centres for women's studies were established. Some scholars argue that the women's movement in India is influenced by women's movement in west. But some scholars disagree with this view and argue (Seemanthini Niranjana) that feminist movement is rooted in culture and national history of India (Shah 2004).

Patriarchal values impact the attitude of the state institutions and society towards gender-based inequality and discrimination. A large number of persons in society are not averse to the gender-based discrimination. They support practices and customs which endorse gender-based discrimination, which include Sati, ban of entry of women in certain religious institutions, etc. These values are shared by some persons who run public institutions. These institutions symbolise the state. Thus, we can see a section of society and the state share common patriarchal values. However, along with the presence of patriarchal and misogynist elements in the society and the state, there are several organizations, activists, scholars, intellectuals and leaders who attempt to end gender-based discrimination and inequality. They strive to end male dominance and seek equality for all genders – men, women and transgenders. Indeed, opposition to gender-based discrimination and search for gender equality has assumed the form of women's and LGBTQ movement. These movements address gender-based issues, have leaderships, organizations, and patterns of mobilization.

On the basis of ideological orientations, Gail Omvedt categorises women's movements into two types: women's equality movements and women's liberation movements. The former have a specific goal, i.e., to abolish patriarchal inequality. They do not directly target the existing family, social and economic structure. The movement for women's liberation directly challenges feudal hierarchy and sexual division of labour. Women's movements adopt different ways such as demonstrations, dharnas, mass petitions, social media, etc. to underline their

demands and pressurise the government to accept them. These ways also help to generate consciousness and sensitise people about gender discrimination and gender inequality. The most recent case of gender-based infringement of human right included the Nirbhaya case that took place in Delhi in December 2012. One student nick-named as Nirbhaya died because she was gangraped and tortured by six men while she was travelling in a bus. One of the culprits was the driver of the bus. This is an example of how patriarchal and misogynist values can endanger the life and honour of women. The incident provoked massive public protest in Delhi and other cities. The court sentenced four culprits to be hanged till death: one of the culprits committed suicide and one was sent to juvenile home. The government also set up Justice Verma Committee to suggest as to how gender-based discrimination can be ended. The Justice Verma Committee made recommendations for ending gender-based discrimination.

Gender discrimination and inequalities are intertwined with caste hierarchy and economic inequality. While women and transgenders from all castes, religions, tribes or economic strata face gender-based discrimination, those from low castes and economically poor classes face multiple forms of discrimination. A Dalit or tribal woman agricultural labourer is more vulnerable to gender, caste and class-based discrimination. However, organisations such as Self-employed Women's Association (SEWA), Working Women's Forum and Annapuran Mahila Mandal empower women by carrying out economic activities. Leadership in women's movements generally belong to educated upper castes and middle classes.

11.5 LGBTQ OR TRANSGENDER PERSONS

Gender-based movements are part of new social movements. The new social movements refer to those social movements or collective action which are different from the movements which occurred prior to the 1980s in the following ways. They are movements of those social groups or social classes which were not visibly involved in collective mobilization; they address new kinds of issues and they claim to be politically apolitical or they are not affiliated to any political party. Among such groups are included transgender groups. They are also known as LGBTQ (Lesbians, Gays, Bisexuals, Transgender and Queers). According to the Transgender Persons (Protection of Rights) Bill, 2016, a transgender person is "one who is—(a) neither wholly female or male; (b) a combination of female and male; or (c) neither female nor male. Such a person's gender does not match the gender assigned at birth, and includes trans-men and trans-women, persons with intersex variations and gender-queers". Transgenders faced discrimination due to the status of their gender. They face social stigma, discrimination in getting employment in public or private institutions, and within their families. The LGBTQ groups in India have been mobilising themselves to influence the law makers to make laws to end their multiple discrimination and provide them dignity and self-respect. Right to self-identification is among their main demands.

In response to their movement, Truchi Siva placed a Private Members Bill in Rajya Sabha on December 12, 2014. In Rajya Sabha, the Bill was passed unanimously on 24 April, 2015. On 6 September 2018 the Supreme Court legalised homosexuality in India. The Transgender Persons (Protection of Rights Bill), 2019 was passed by the Lok Sabha on August 5, 2019. The Bill prohibits discrimination against transgender persons including denial of service or unfair treatment in relation to education, employment, healthcare, access to, or enjoyment

of goods, facilities, opportunities available to the public, right to movement, right to reside, rent, own or otherwise occupy property, opportunity to hold public or private office, and access to a government or private establishment in whose care or custody a transgender person is. It also sought to provide right to self-identification to transgenders. It will be left to a transgender person whether she/he wants to be identified a man, women or transgender. The Bill also suggested that the government should introduce some welfare measures for the transgender persons.

Check Your Progress Exercise 2

Note: i) Use the space below for your answers.

ii) Check your answers with the answers given at the end of the unit.

1) What is the significance of the International Women's decade?

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2) What is difference between women's equality movements and women's liberation movements?

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3) What has been the impact of gender-based movements?

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11.6 LET US SUM UP

Gender is one of the markers of identity of an individual. It is different from sex. Sex indicates biological status of a person. Gender shows how the status of a man, woman or transgender is shaped by the social, economic and political circumstances. There are three kinds of gender: men, women and transgender or LGBTQ (Lesbians, Gays, Bisexual, Transgenders and Queers). In most of India, patriarchy defines the relationship between men and women. Men enjoy more rights than women and are generally considered superior to women. Women

face multiple types of discrimination and inequalities in society. However, among some tribes of India such as Khasis, Garos and Jaintias, and among Nairs in Kerala and some tribes in Andaman and Nicobar, matrilineal system defines the position of men and women in society. In such system, women have more rights than the men in a patriarchal system. Gender-based inequalities and discrimination occur because of the domination of patriarchal values and lack of economic independence to women or transgenders. Provisions that ensure participation of women and transgenders in the decision-making bodies can help in eliminating gender-based discrimination and inequalities. Since the 1980s, growth of consciousness about such discrimination has resulted in women's and transgenders' movements. Consequently, laws against practice of sati, dowry, domestic violence, etc, and laws protecting the rights to transgender have been passed.

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11.8 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress Exercise 1

- 1) The difference between sex and gender is as follows. Sex is a biological category on the basis which a person can be identified as man, woman or transgender. The position of such person in power relations, social hierarchy or economic opportunities denote the gender. Gender is determined by the social, economic, political, etc. of a person.
- 2) The principal examples of gender-based discrimination include rape, domestic violence, discrimination in workplaces and in the families, dowry, bride-burning, sex determination tests, humiliation, child marriage, customary practices such as *sati*, etc.
- 3) Gender and development are interrelated. Since the gender is determined by social, political and economic circumstances, development of capabilities of a person can help in improving conditions which are related to the gender. If a woman or transgender gets proper education, nutrition and health care this can contribute to her empowerment.

- 1) Significance of the International Women's Decade (1975-85) lies in the fact during this period gender-based discrimination became a focus of research. The ICSSR and the UGC gave priority to gender-related research.
- 2) The goal of women's equality movements is to end patriarchal inequalities. The goal of women's liberation movements is wider i.e. to directly challenge feudal hierarchy and sexual division of labour.
- 3) The gender-based movements have generated consciousness about gender-based discrimination and need to end it. Due to their impact, several rules seeking to end gender-based discrimination and inequalities have been passed by the government. However, gender discrimination continues to exist in different forms.



Structure

12.0 Objectives

12.1 Introduction

12.2 Workers Movements

12.2.1 Workers' Movements in the colonial period

12.2.2 The Issues and the Types of Collective Actions

12.2.2 Workers' Movements in the Post-colonial Period

12.3 Peasant Movements

12.3.1 Small and Poor Peasants' Movements

12.3.2 Rich Peasants' and Farmers' Movements

12.4 Impact of Liberalisation on the Workers' and Peasant Movements

12.5 Let Us Sum Up

12.6 References

12.7 Answers to Check Your Progress Exercises

12.0 OBJECTIVES

Workers and peasants in India have been involved in the collective actions in order to fight for their demands. Their collective actions like those of other social group can be included in the social and political movements. After going through this unit, you will be able to :

- Explain the nature of the movements of the workers and peasants;
- Understand their demands, problems and leaderships;
- Define patterns of mobilisation in the collective actions;
- Analyse the influence of these movements on the state; and
- Analyse the impact of the liberalisation on the workers and peasants.

12.1 INTRODUCTION

Workers and the peasants together form the largest groups of the Indian society. While the workers largely belong to the exploited section, the peasants consist of both the poor and the rich sections. These groups have been involved in the collective actions or the social and political movements to get their demand fulfilled. The nature of the issues raised by them or their leadership depends on the place they occupy in the economy or society. It also depends on the fact whether the workers are engaged in the organised, unorganised, agrarian or the industrial sectors or whether a peasant is a poor peasant or the rich peasant operating in the mechanised capitalist economy or in the backward –feudal economy. In this unit, we shall discuss important features of the workers and peasants movements in India.

*Adopted from BPSE-212, Unit 28, Dr. Rabindra Narayan Mishra, Dept.of Political Science S.G.T.B., Khalsa College, University of Delhi

12.2 WORKERS' MOVEMENTS

The workers movement in India can be divided in two phases – the pre-Independence period and the post-Independence period.

12.2.1 Workers' Movements in the Colonial Period

The modern working class made its appearance in India in the second half of the 19th century with the growth of modern industries, railways, post and telegraph network, plantation and mining. But the labour movement started in an organised way only after the Second World War. The organised workers' unions are known as the trade unions. The All India Trade Union Congress (AITUC) was formed in 1920. Its objective was to coordinate activities of all organisations in all the provinces of India to further the interests of the Indian labour in economic, social and political matters. In the second half of the 1920s there was a consolidation of left ideological forces in the country. In 1928 the left wing including the communists succeeded in acquiring dominant position inside the AITUC. The moderates started a new organisation known as All India Trade Union Federation (AITUF). The 1930s was not a favourable period for the growth of trade union movement of India. The communists were implicated in the Meerut Conspiracy case and the Bombay Textiles strike of 1929 had failed. A lull marked the activities on the trade union front. The serious economic depression of this period added to the woes of the workers further. It led to large-scale retrenchment. The main focus of the trade union movements during this period was maintaining wages and preventing retrenchment.

The Second World War divided the trade union leaders. The communists argued that with the Nazi attack on the Soviet Union in 1941 the character of the war had changed from imperialist war to people's war. The communists were following the line of the Russian Communist Party and thought that in the changed circumstances it was the duty of the workers to support British war efforts. But the nationalist leaders wanted to strengthen the national movement to overthrow the British rule from India. The ideological rift led to another split in the trade union movement. The mounting cost of living made the workers to realise the need of an organised effort to secure relief. In spite of the government resorting to Defence of India Rules, which prohibited strikes and lockouts, there was a perceptible increase in number of both unions and organised workers.

12.2.2 The Issues and the Types of Collective Actions

The main issues which caused the workers strikes included: wages, bonus, personnel, leave and hours of work, violence and indiscipline, industrial and labour policies, etc. The workers take recourse to various types of collective actions for getting their problems redressed. These are – strikes, satyagrah, hunger strikes, *bandhs* and *hartals*, *gharaos*, demonstrations, mass casual leaves, work to rule, cutting of supply of electricity, etc. The most common form of workers' collective action is the strike. There are examples of the railway, jute, plantation, mine and textiles workers strikes in the pre-Independence period. The centres of the strikes were Nagpur, Ahmedabad, Bombay, Madras, Howrah and Calcutta. In 1920 Gandhi intervened in the strike of the textile workers of Ahmedabad and provided leadership to the workers.

12.2.3 Workers' Movements in the Post-Colonial Period

i) The National Level

The high hopes of workers were shattered after independence. There was hardly any improvement on the fronts of better wages and other service conditions. Three central trade union organisations were borne. The Indian National Trade Union Congress (INTUC) started by the Congress party was born in 1947. The Praja Socialist Party started the Hind Mazdoor Sabha (HMS) in 1948. The workers had to struggle hard even to retain what they had achieved earlier. A series of strikes stirred the country. There were highest number of strikes in 1947, i.e., 1811 strikes which involved 1840 thousand workers. The number of strikes and man-days lost had surpassed all the previous records. This declined in the 1950s, but number of strikes and lock-outs increased again in the 1960s-1970s. Some radicalists had formed the United Trade Union Congress (UTUC) in 1949. After 1964 when there was a division in the Communist Party of India and Communist Party of India (Marxist) was borne, this led to a split in Communist controlled AITUC as well. And in 1970 Centre for Indian Trade Union (CITU) was borne. They are affiliated to the CPI and CPI (M).

According to the provisional figures released by the Chief Labour Commissioner in 1994 Bharatiya Mazdoor Sangh (BMS) which is an affiliate of BJP acquired a total membership of 31.17 lakh workers securing it the top position. The INTUC a Congress affiliated body with a total membership of 27.06 lakh is on the second position. The third position is enjoyed by CITU affiliated to CPSM with a total membership of 17.98 lakh. The fourth position is enjoyed by HMS.

ii) The Provincial Levels

Another remarkable development of the 1960s was the birth of trade unions of the regional parties like the DMK and AIDMK in Madras. The Shiv Sena was born in Bombay in 1967. It soon set up its labour wing called Bharatiya Kamgar Sena. It was generally believed that the Shiv Sena had the backing of the industrial houses in the Bombay -Pune belt to counter the strong influence of the Communists and Socialists in labour unions. It succeeded in achieving this objective and its trade union established its supremacy in the Bombay region by the mid -1970s. The predominance of the Sena -led union was successfully challenged by Datta Samant, an eminent INTUC leader. When emergency was imposed in 1975 he refused to tone down his militancy. He was arrested and sent to jail. Then he was a Congress MLA. After coming out of jail when the emergency was lifted in 1977 he became even more popular. By the end of the 1970s he became the most powerful trade union leader in the Bombay -Pune belt. In the year 1978 he left both congress and the INTUC to set up an independent union named the Maharashtra Girmi Kamgar Union (MGKU). He remained one of the most influential trade union leader in Bombay till he was murdered.

(iii) The Trade Unions without Political Affiliations

The 1960s also witnessed the emergence of independent or “apolitical” unions. They were independent in the sense that they were not affiliated to

any political party or federation. These kinds of “apolitical” trade unions emerged out of the dissatisfaction of the workers with the existing trade unions which were affiliated to the political parties. The leadership of these unions has largely come from the educated middle classes. Engineering Mazdoor Sabha led by R J Mehta was one of the earliest unions of these type-covering workers in engineering, chemicals, printing and allied industries. Datta Samant started a number of unions like Association of Engineering workers, Mumbai General Kamgar Union, Maharashtra Girni Kamgar Union. Shankar Guha Neyogi and A.K.Roy also came into limelight as leaders of independent unions. Neyogi concentrated on mobilising contract workers in the iron –ore mines of Dalli Rajhara near Bhilai in Madhya Pradesh. While AITUC and INTUC were concerned with the problems of permanent and better paid workers of the Bhilai Steel Plant, Neyogi concentrated on casual workers employed in small and medium-scale industries in the region. Neyogi was murdered in 1990. Another example of this type is A.K.Roy who organised coal mine workers in the Dhanbad - Jhariya belt of Bihar. Roy’s support base was also among contract and casual labour in the coalmines. Roy also received support from a large number of local tribal mine workers because the trade unions operating in these areas did not satisfy them. Another important example of this type was the Self-Employed Women’s Association (SEWA) formed by Ela Bhat. She founded SEWA because she felt that unions in the organised sectors were not sensitive to the problems encountered by female workers.

One of the most important examples of the movement launched by the union which was not affiliated to the political parties was the textile workers’ strike of 1982 in Mumbai. Dissatisfied with the Rastriya Mill Mazdoor Sangh (RMMS), affiliated to the INTUC the workers of the textile industry in Mumbai, rallied behind the MGKU-led by Datta Samant.

The workers of the textile workers of Mumbai went on indefinite strike on January 18, 1982. The demands of the workers included higher wages, making the *badli* (temporary) workers permanent, allowances for leave and travel and payment for house rent. The workers of other sectors than the textile also rallied behind Datta Samant. The Industrialists adopted intransigent attitude towards the strike.

The strike had its repercussion on the rural areas to which the workers belonged. The textile workers also were the poor peasants or small farmers having links both in the cities as well the villages. Datta Samant was able to link the rural issues like the wages of agricultural labourer with those of the textile workers. The strike, however, did not succeed in getting the original demands of the workers accepted. But it helped Datta Samant to emerge as the most influential trade union leader in Bombay.

iv) **Limitations of the Trade Union Movement in India**

The Trade Union Movement in India is faced with many limitations. Only a small fraction of the working class is organised. Even in the organised sector a sizable chunk of workers do not participate in Trade Union Movement Indian economy is largely agriculture based. Small peasants and agricultural labour encounter the problems of seasonal unemployment and low income. They are forced to go to cities in search of employment. Most of these workers

are illiterate and ignorant and under the grip of superstitions and they have a migratory character. A large section of the workers do not show much interest in trade union movement because city life for them is a temporary condition. So they do not realise the importance of unity among workers. Another major weakness of trade union is poor finance. This is a fact that working class in India is a very small part of the population but the main problem is the multiplicity of trade unions. The subscription rate of membership by Indian workers is small in comparison to their numbers. This makes the trade unions dependent on external finance and influence. Another weakness of the trade union movement has been the dominance of the leadership from outside. The main reason for this has been lack of education among the workers. Mostly leadership is provided by professional politicians. It is being increasingly felt that the working class movement should be led by persons from the ranks of the workers who are aware of the problems and difficulties encountered by the working class.

Check Your Progress Exercise 1

- Note:** i) Use the space below for your answers.
- ii) Check Your answers with the model answers given at the end of the unit.

1) Identify the main issue of the workers’ movement in India.

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2) What were the reasons for the rise of “apolitical” trade Unions?

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3) Mention the limitations of the trade union movement in India.

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12.3 PEASANT MOVEMENTS

Peasants are those agrarian classes which are related to agriculture as the tenants or owners of land, and participate in the farming activities. They are a differentiated group. In the backward and feudal agriculture they cultivate land as the tenants of the landlords. In the more advanced agriculture, where the tenants have become the landowners following the implementation of the land reforms, they are the owners of the land. The peasants whose resources in the land are not enough to meet their basic needs, and who also work as labourers for others apart from working on their fields are poor and small peasants. The peasants who do not work for wages, but have enough resources relating to agriculture are rich and middle peasants or the farmers. They either mainly depend on the family labour to work on the land or they may combine it with the hired labour from outside the family. In this section you will be studying the movements of the small and poor peasants as well those of the rich peasants or the farmers.

12.3.1 Small and Poor Peasant Movements

There were several peasant movements both in the pre-Independence and post-Independence periods. Some examples of the former are – Oudh movement (UP) in 1920, Kheda and Bardoli (Gujarat) and Champaran (Bihar) movements and Moplah rebellions. The main examples of the of the post-Independence period are – Telangana (Andhra pradesh), and Tibhaga and Naxalite (West Bengal) movements.

The peasants during the pre-Independence period were living in the miserable social and economic conditions. They were exploited by a group of classes, e.g., landlords and their agents, moneylenders and the officials of the colonial state. The landlords increased the rents on the peasants continuously, took forced gifts and extracted *begar* from them. The inability of the peasants to pay these multiplied due to the frequent famines and draught which affected them adversely. They were heavily indebted to the moneylenders in order to pay the rent and meet the needs of their subsistence. When the peasants could not pay the rent, services or the *begar*, they were evicted form their land. They were also physically tortured. Commercialisation of crops, and introduction of new land rules further worsened their conditions.

The peasants reacted to by revolting against the landlords, moneylenders and agents of the colonial state. Leadership in the peasant movements was provided either by the rural intelligentsia or urban intelligentsia. Baba Ram Chand , the leader of the Oudh peasant movement belonged to the former.

The peasants had been mobilised by some organisation. In case there was no organisation, some kind of informal networking of the peasants and their leaders had worked as orngisation. This was true especially for the localised revolts. The informal networking or the organisational structure worked in mobilisation, communication of the messages and in planning strategies and programmes.

From the beginning of the twentieth century different political parties mobilised the peasants in the revolts. The Congress started mobilising the peasants from the 1920s with the purpose to broaden its support base. This enabled peasant movements which were localised and running parallel to the national movement to merge with the latter. The Bardoli Sataygrah of 1928, no- rent campaign were

examples of such merger. But the Congress did not encourage the conflict between the landlords and the peasants to get sharpened. The Congress had been more interested in forging an alliance between the landlords, peasants and other classes.

After the Civil Disobedience Movement radical nationalists and many leaders of peasant movement started sharing the impression that the Congress was sympathetic towards the capitalists and Zamindars. The need to evolve independent class organisations and leadership to safeguard the interest of the peasants was being felt by them. This was under these circumstances that the first all India peasant organisation the All India Kisan Sabha was formed in 1936 in Lucknow under the presidentship of Swami Sahjanand Saraswati, the founder of Bihar Pradesh Kisan Sabha. N.G.Ranga the pioneer of Kisan movement in Andhra became its first General Secretary. The birth of an all India organization with a programme of common demands and expressing the aspirations of the peasants all over the country was an event of great historical significance. Very soon the branches of the All India Kisan Sabha were established in many districts.

The formation of Congress Ministries in a majority of the provinces in early 1937 marked the beginning of a new phase in the growth of peasant movements. The Congress had promised radical improvement in the conditions of the peasants on the eve of elections. There was definite increase in civil liberties, which provided better opportunities for the mobilization of peasantry. Different Congress Ministries introduced agrarian legislations for debt relief, restoration of lands lost during depression, for security of tenure etc. But these measures did not affect the conditions of the peasants of lower strata. The dissatisfaction of peasants found expression in a number of protest meetings, conferences and demonstrations. They criticised number of anti-peasant measures taken by the government like arrest of peasant leaders and banning peasant meetings. The outbreak of the World War II brought the resignation of the Congress Ministries and launching of severe repression against Kisan Sabha leaders. In the year 1939 the national convention of the All India Kisan Sabha was presided over by Acharya Narendra Dev. In his Presidential address he emphasised the need of separation of Kisan Sabha from Congress. According to him a separate Kisan Sabha was necessary in order to put pressure on the Congress.

The end of the war, followed by the negotiation for the transfer of power and the anticipation of freedom marked a new stage in the history of peasant movements. Approaching freedom had filled the peasant movements with new spirit to assert their rights. The analysis of some of these movements gives us sufficient insight into the nature, social basis, achievements and limitations of the peasant movements in India.

The Tebhaga Movement of Bengal was one of such movements. The provincial Kisan Sabha of Bengal launched this Movement in 1946. Gradually the influence of the left in general and the communists in particular increased in the Kisan Sabha. In 1947 the leadership of the All India Kisan Sabha went into the hands of the communists. The communists led the provincial Kisan Sabha of Bengal also. This Movement soon took the form of a clash between the bargardars (share-croppers) and the jotedars, the employers. The share-croppers began to assert that they would no longer pay a half share of their crop to their jotedars but only one-third. They also insisted that before division the crop would be stored in their khamars (godowns) and not in that of the jotedars. Poor peasants, middle peasants and also some sons of jotedars led the movement. The middle peasants

provided the bulk of the leaders and they supported the movement up to the end. They hoped that it would culminate in total attack on landlordism. When the government resorted to severe repression in 1947 the movement came to an end.

Another such movement was the Telangna Movement. It was launched in 1946 in the princely state of Hyderabad ruled by the Nizam. This movement developed in the context of the post-war economic crisis. This movement started as a protest against collection of excessive revenue using force by jagirdars. In the beginning the leadership was in the hands of the rich peasants and the movement was directed against the big absentee landlords allied to the Nizamsahi. But very soon the initiative passed into the hands of poor peasants and agricultural labour that started occupying lands of landlords, and wastelands and started distributing it among them. By 1947 this movement organized a Guerilla Army mobilizing poor peasantry and agricultural labour many of which were tribal and untouchables. This army snatched large quantity of arms from the zamindars and subdued the local government officials. They established their control over an area of 15,000 square miles with a population of 40,000. The administrations in these areas were run by peasant soviets. The army of independent India succeeded in crushing the Telangna Movement in 1951.

In 1967 there started a peasant protest at a place called Naxalbari in the Darjeeling District of West Bengal. After two decades of independence and Congress rule there was disenchantment among people on a large scale, which found expression in the defeat of the Congress election in eight states. But the communists had done well in both Kerala and West Bengal. The per capita income was on decline and unemployment was on the rise a group of young communists. Due to theoretical disputes within CPI and CPIM's policy of participation in 1967 election. They joined the Naxalite movement and emphasised the need of armed struggle with peasantry as the leading element. The peasant organisation of the CPIM in Darjeeling district was in the hands of such communist leaders. The land reform policy of the government had not succeeded in taking lands from zamindars and big farmers and distributing among poor peasants and landless labour in any significant way. There existed discontent among peasants. In such situation the leaders of peasant organization gave a call for establishing the government of peasant committees, organizing armed struggle to end the ownership of the jotedars on land and distribute it among poor peasants and landless labour. They drew inspiration from the Telangna Movement. The Naxalbari movement reached its zenith by the third week of May 1967. There was violence on a large scale. Naxalbari got enormous publicity largely because it was fighting a state government wherein C.P.I.M. was a major coalition partner and also because China believed that the Naxalites were following the correct line.

It lasted for fifty-two days only. In July 1967 police and battalions of paramilitary forces sent by Ajoy Mukherjee then the Chief Minister of the state, combed the whole area and the rebellion was suppressed. Naxalbari was a minor event in terms of its durations, intensity of resistance, area controlled or number of casualties suffered or inflicted on the other side. Naxalbari movement had its reverberations in several parts of the country. After this the revolutionaries who became active in U.P., Bihar, Punjab, Kashmir, Kerala and Andhra Pradesh came to be known as Naxalites. It emerged as a more powerful force in Kerala, Andhra Pradesh and Bihar. The emergence of Naxalism led to the formation of C.P.I.

(Marxist Leninist) the third Communist party. This party believed that the goal of socialism could be achieved through armed struggle, justified use of violence for capturing lands of Zamindars and distributing them among poor peasants. The Naxalite Movement became a reference point for those poor peasants and landless labour that got nothing from the government except promises and whose condition showed no signs of improvement and were suffering oppressions at the hands of rural dominant sections. They found a ray of hope in this militant philosophy. This philosophy continues to inspire that segment of rural population who has lived at the receiving end. At many places they are fighting for security of employment, minimum wages, rights over a share of produce and against sexual abuse of their women. There are instances of violence when they exercise their right to vote.

The second phase of land reforms known as the Land Ceiling Act started from 1961 onwards with the stated objective of distributing land among the landless. After the Naxalbari Movement of 1967 and the Land Grab Movements launched in different states of 1970 the need to impose rigorous land ceiling was realized. As early as in 1969 the Home Minister had warned that if steps were not taken to lessen agrarian tension both by the state and central government things would go beyond control. Land Reforms was essential part of the twenty Point Programme of Mrs Indira Gandhi during Emergency period. But in spite of all this by 1977 only 4.04 million acres were declared surplus, out of this 2.10 million were taken over by the government and merely 1.29 million acres were actually distributed. The much acclaimed Green Revolution did not make much of difference in their condition. The percentage of households below poverty line in the rural areas has gone up from 38.11% in 1960-61 to 48% in 1977-78. Agricultural labour continues to be their main income and most of the studies suggest that there has been a marked decline in both real wages and the days of work. Naxalite outfits are active in Andhra pradesh, Bihar, Madhya Pradesh Jharkhand and Chatisgarh. Many times they indulge in mindless militancy but they continue to inspire the underdogs of rural society because mostly they take up the problems faced by these sections. They take up the problems of the agricultural labourers, poor peasants, contract labourers whether dalits, tribals. They struggle for wages, land, and against oppression of different types. Their movements are weak and divided.

Check Your Progress Exercise 2

- Note:** i) Use the space below for your answers.
- ii) Check Your answers with the model answers given at the end of the unit.

1) In which way were the peasants exploited during the colonial period?

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2) What is the Telengana Movement?

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3) Comment on the Naxalite movement?

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12.3.2 Rich Peasants' and Farmers' Movements

The last quarter of the twentieth century has seen the movements of a very important social group in the rural areas known as rich peasants, farmers, kulaks or the capitalist farmers in several regions of India. They rallied behind the farmers' organisations in their respective regions. These organisations are - two Bharatiya Kisan Unions (the BKUs) of Punjab and Uttar Pradesh, Shetkari Sangathan of Maharashtra, Khadyut Samaj of Gujarat, Karnataka Rajya Raitha Sangha of Karnataka and Vivasayigal of Tamil Nadu. The most prominent leaders of these unions were Bhupendra Singh Mann in Punjab, Mahendra Singh Tikait in UP, Sharad Joshi in Maharashtra and Nandunjappa Swami in Karnataka. These farmers are the most influential and resourceful sections of rural society in their respective regions. They largely belong to the intermediate castes. They have benefited most from the state policies especially the land reforms and the green revolution. They cultivate land with the family labour supported by the hired-labour. They control the maximum resources in the rural society – land, water resources, animals, modern technology like tractors, etc.

The movements of rich farmers unlike the movements of poor peasants are not directed against any rural exploiters. In fact, a large group of them belong to the latter. These are directed against the state and unequal terms of trade.

Their main demands have been – remunerative prices, subsidised inputs, writing off loans, lowering of electricity bills, substantial reduction in water canal charges, representation of the farmers in the Agricultural Price Commission. With the exception of the Maharashtra, these movement did not raise the problems of the small producers. Rather, Tikait has demanded scrapping of land ceiling laws and of the Minimum wages Act.

The most common mode of mobilisation in the farmers' or the rich peasants' movements include rallies, *satyagrah*, road blocked, *gaon bandi* (banning the entry of outsiders into the villages) and attack on the public property. Some times these result in violence. Their "apolitical" nature, which means their not being attached to the political parties has been the most effective method of mobilisation, especially in the in the initial phase of the movements.

While the farmers' movements in India shared several common characteristics, e.g., they raised the market-oriented demands, their "apolitical" nature, their direction against the state, patterns of mobilisation, the BKU movement of UP was distinct in terms of leadership and involvement of the traditional institution. Mahendra Singh Tikait, the chief of the Uttar Pradesh BKU was also the hereditary head of the traditional caste organisation known as the *Sarva Khap* of the farming Jats. His social position enabled him to become the leader of the BKU at a time when the farmers of the UP did not have a leader of that stature in the wake of the death of Charan Singh in 1987. Tikait was able to involve the traditional leaderships or *Khaps* -chiefs of several farming castes under the banner of the BKU. Besides, the BKU also took up the social issues like dowry in the initial phase of its movement.

The Bharatiya Kissan Union of Mahendra Singh Tikait speaks a language that invokes elements of Charan Singh's discourse on agriculture. Charan Singh used to argue that there was an urban bias in Indian planning and held it accountable for diversion of resources from agriculture. It, however, does not go to the extent of treating industrial and urban India against the rural India unlike the Shetkari Sangathan of Sharad Joshi. The rich peasant organisations do not admit any contradiction between the interests of rich peasants and the poor agrarian classes. They argue that unremunerative prices affect both the rich and the poor peasants. While the Shetkari Sangathan maintains a façade of India and Bharat divide to hide the class divide in agriculture, the BKU conceals it under the cover of existing *Bhaichara* (brotherhood) and peasant- proprietorship in the western U.P.

The movement of rich peasant has become an important fact of the present day Indian reality. No political party can afford to displease them. The government's decision to enhance electricity rates for farmers, raising fertilizer prices are met with stiff resistance. Many times they resort to stoppage of the supply of commodities like onion sugar or milk to get their demands conceded. One thing has become obvious that there has been a tremendous increase in the power of this class. They not only exploit the labour power and control majority of land they also control levers of power like gram panchayat, zila parishad co-operatives and educational institutions and banks to get maximum benefit from these institution. They also to maintain its dominant position in the rural area.

The rich farmers are diversifying their sources of income. Some of their income comes from outside the agrarian sector like employment in cities, rent trade, money lending or transport. They also invest in small industries like sugar and rice mills as well as in food processing.

12.4 IMPACT OF LIBERALISATION ON THE WORKERS' AND PEASANT MOVEMENTS

The economic reforms in the country that came to be known as liberalisation can be said to be mainly the 1990 development. The era of reforms started with the government of P.V. Narsimha Rao. Since then successive governments have continued with liberalisation agenda. The government of Atal Behari Vajpayee also committed to this agenda. Among the main planks of this New Economic policy were closure of sick and loss making public enterprises, disinvestments from and privatisation of the public sector enterprises. There had been a marked decline in the growth rate of total employment in the organised sector in the 1990's as compared to 1980's. In fact this period is known as a period of jobless growth. Labour laws relating to job security were changed. Many workers had been pushed out of jobs under the voluntary retirement scheme. A practice of using contract and casual labour in place of regular employees became widespread. There were strikes by Trade Unions to protect the interests of workers in State Electricity Boards, ITDC hotels, banks, etc. A National Renewal Fund was created as early as in 1992 to provide a social safety net to the labour force rendered jobless.

In 1994 the government of India signed the Uruguay round of the General Agreement on Tariffs and Trade (GATT) at Maracas [Morocco] and became a member of the World Trade Organization (WTO). This step of the government could be seen as part of the New Economic policy. As per conditions of the GATT, developing countries including India were under obligation to introduce subsidies-discipline. They were being asked to keep subsidies to the farmers up to 10% of their value of output. But cutting down on subsidies was a difficult proposition because no government wanted to displease the rich farmers. They continued to get things like irrigation waters and electricity either free or at throwaway prices. Another GATT related problem faced by the farmers was introduction of patenting in agriculture. The farmer was not automatically permitted to use farm-saved-seeds of protected varieties to sow the next crop. He had either to pay compensation for the use of seeds saved by him or obtain the approval of the breeder. As most of the Plant Breeders are the Multi National Corporations (MNCs), their primary intention is maximisation of profit. This leaves the farmers no option but to buy the seeds again. Farmers in Karnataka attacked the farm of Cargill Seeds to register their anger. There were protests against Terminator-Seeds of cotton in Maharashtra and Gujarat. The response of the rich farmers' movements to new developments like the New Economic Policy, India joining WTO has not been undifferentiated. While Sharad Joshi in the western part of the country had supported the new developments. Mahendra Singh Tikait in the north and Nanjundaswamy in the south were critical of it.

Check Your Progress Exercise 3

Note: i) Use the space below for your answers.

ii) Check Your answers with the model answers given at the end of the unit.

1) Identify the main farmers' organisations along with their main leaders and the regions of their operation.

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2) What are the main demands of the rich peasant movements?

3) What has been the impact of the New Economic Policy on the workers?

12.5 LET US SUM UP

In this unit you have studied about the collective action or the social and political movements of the workers and the peasants in India. These groups have been agitating from the colonial period for the redressal of their grievances. They formed their organisations and responded to the call of their leadership. The problems of the workers included mainly wages, bonus, personnel, leave and hours of work, violence and indiscipline, industrial and labour policies, etc. The peasants are not a homogeneous category. The poor and small peasants are related to their vulnerable social and economic conditions. The farmers which are also known as the rich peasants, kulaks or the capitalist farmers are mobilised around the issues related to the developed and commercial farming. The period from the 1980s onwards has seen the rise of workers and peasants' organisations and the movements which are not affiliated to any political party. The farmers and peasants movements affect the political processes in India to a significant extent.

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12.7 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress Exercise 1

- 1) The main issues in the workers' movements included - wages, bonus, personnel, leave and hours of work, violence and indiscipline, industrial and labour policies, etc.
- 2) The "apolitical" trade union emerged because the workers were dissatisfied with the existing trade unions which were affiliated to the political parties.
- 3) The trade unions have the following limitations: the organised working class is small section of the working population in India; poor finance; dominance of the outside leadership; factionalism, etc.

Check Your Progress Exercise 2

- 1) They were exploited by a group of classes, e.g., landlords and their agents, moneylenders and the officials of the colonial state. The landlords increased the rents on the peasants continuously, took gifts forcibly and extracted *begar* from them. They were heavily indebted to the moneylenders in order to pay the rent and meet the needs of their subsistence. When the peasants could not pay the rent, services or the *begar*, they were evicted from their land. They were also physically tortured.
- 2) Telangna Movement was launched in 1946 in the princely state of Hyderabad ruled by the Nizam. This movement started as a protest against collection of excessive revenue using force by jagirdars. In the beginning the leadership was in the hands of the rich peasants and the movement was directed against the big absentee landlords allied to the Nizamshahi. But very soon the initiative passed into the hands of poor peasants and agricultural labour that started occupying lands of landlords, and wastelands and started distributing it among them. By 1947 this movement organized a Guerilla Army mobilizing poor peasantry and agricultural labour many of which were tribal and untouchables. This army snatched large quantity of arms from the zamindars and subdued the local government officials. They established their control over an area of 15,000 square miles with a population of 40,000. The administration in these areas was run by peasant soviets. The army of independent India succeeded in crushing the Telangna Movement in 1951.
- 3) The Naxalite movement originated in the Nazxalbari area of North Bengal. It was directed against the landlords and the state agencies. The movement was based on the principles of violence. It had spread into other states like Andhra Pradesh, Madhya Pradesh and Bihar.

Check Your Progress Exercise 3

- 1) These are - two Bharatiya Kisan Unions (the BKUs) in Punjab and Uttar Pradesh, led by Bhupender Singh Mann and Mahendra Singh Tikait respectively; Shetkari Sangathan in Maharashtra led by Sharad Joshi, Karnataka Rjya Raitha Sangha in Karnataka led Prof. Nanjundappa Swami; Khadyut Samaj in Gujarat, and Vivsayingal Sangam in Tamil Nadu.
- 2) Their main demands have been – remunerative prices, susidised inputs, writing off loans, lowering of electricity bills, substantial reduction in water canal charges, representation of the farmers in the Agricultural Price Commission. With the exception of the Maharashtra, these movements did not raise the problems of the small producers. Rather, Tikait has demanded scrapping of land ceiling laws and of the Minimum wages Act.
- 3) The impact of the New Economic Policy on the workers is reflected in the following way: deterioration in their material conditions, privatisation, retrenchment and the Voluntary Retirement Scheme, etc.



BLOCK 5
RELIGION AND POLITICS

BLOCK 5 INTRODUCTION

In block 4 you have read units which deal with identities such as caste, gender and tribe, and social classes such as farmers and workers. These are non-religious identities. This block is about the religious identities. It is about religion and politics. The block has two units. Unit 13 is about secularism. It discusses the nature of relationship between religion and the state, of religion with community, individual, and with democratic values such as liberty and equality, and with ethics. Unit 14 explains how communalism has been defined and how it is related to individual rights and the state.



UNIT 13 SECULARISM*

Structure

- 13.0 Objectives
- 13.1 Introduction
- 13.2 What Is Secularism?
- 13.3 Secularism in Indian Constitution
- 13.4 “Anti-Secularism”
- 13.5 Secularism and Religious Groups
- 13.6 Let Us Sum Up
- 13.7 References
- 13.8 Answers to Check Your Progress Exercise

13.0 OBJECTIVES

The objectives of this unit are to acquaint you with some crucial issues about secularism in India. After reading this unit, you will be able:

- To explain the meaning of secularism and secularization;
- To explain the issues related to secularism;
- To streamline main arguments in debate on secularism in India;
- And after comparing this unit with unit 14, to underline differences between secularism and communalism.

13.1 INTRODUCTION

Secularism is one of the most crucial issues in the current political scenario in world. Yuval Noah Harari, the author of *21 Lessons for the 21st Century* includes secularism among 21 most urgent issues of the 21st century. In India too, secularism has also been at the core of academic, popular and political discourse. Some questions are often raised about secularism: about its relationship with religion, state and other institutions, faith, religious communities, place of individual, democratic values such as freedom and equality about religion, and ethical values.

13.2 WHAT IS SECULARISM?

The central issue in secularism is religion. Secularism in a society implies that the religious supremacy of a community does not lead to discrimination and persecution of religious minorities. Meaning of secularism depends on the extent of relationship religion has with the attributes mentioned above, i.e, relationship with religion, state and other institutions, faith, religious communities, place of individual, democratic values such as freedom and equality about religion, and ethical values. There are three meanings of secularism according to different perspectives: one talks about relationship between the religion and the state;

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two, is about the possibility or impossibility of applicability of secularism in India; and the third is about equal respect to all religions or *sarva dharma sambhav*. These perspectives have been reflected in the debate within the Constituent Assembly, popular and academic discourse in India. As you will read in this unit, the debate on secularism in India, in the Constituent Assembly, and academic discourse has involved these three meanings to varying levels. The debate on secularism in the Constituent Assembly, has revolved around all or some of these issues.

According to Rajiv Bhargav success of secularism depends on certain factors. These are democracy and independence of the state from pressure of classes and ethnic groups in society which again depends on presence of state. Democracy depends on pacification of politics, i.e. peaceful competition or competition without violence. In fact, secularism is associated with values which are linked with democracy and equal citizenship. Yuval Noah Harari underlines that in a secular society, people belonging to different faiths – Hindus, Christians, Muslims and atheists follow certain ethical codes. These ethical codes are enshrined in the values or secular ideals such as truth, compassion, equality, freedom, courage and responsibility. For secularists, truth is different from belief, and there is no single source as custodian of truth. Compassion implies a “deep appreciation of suffering”, to reduce sufferings in the world in best possible way. Since sufferings are universal, the commitment to truth and compassion result in commitment to equality. The search for truth can be achieved with freedom to think, investigate and experiment. Courage includes value to fight biases and oppressive regimes, to admit ignorance and “venture into unknown”. Responsibility means to not rely on higher power to address problems facing societies, no divine power needs to be credited for it. The developments result from knowledge of human beings themselves and their compassion.

Secularism can also prevail in a secular state. What is secular state? In DE Smith’s model in *India as a Secular State*, a secular state can be identified by its dealing with three subjects – exclusion of state in relationship between individual and the religion (religious liberty); relations between individual and state in which religion is excluded (individual as citizen); and state neutrality. In Smith’s perspective, India had prospects of success of democracy: characteristics of secularism are present in Hinduism. However, there have been challenges in consolidation of secular state in India: caste and community loyalties which could easily turn into communal rivalry and conflict. Gallenter finds Smith’s model of Indian secularism unconvincing: countering Smith, he contends that Indian state departs from principles of secularism by giving subsidies to religious schools and bodies, promoting Hinduism and compromising its secular credentials. For him, precondition for a separate state to succeed lies in presupposing a normative conception of religion with capacity to judge and evaluate religion. In his opinion, the compromise in India on secularism, could be visible in the Constituent Assembly the debate on religious liberty (right to religious worship, religious practice, whether the state should recognise only linguistic minorities or linguistic minorities as well); on citizenship (universal civil code, religion-based political reservation); and on state neutrality (whether the state should give instructions in the state aided schools).

Akil Bilgrami contests the notion of secularism as merely state’s neutrality and equidistance from different religions. Bilgrami rejects this notion and provides

alternative notion. He argues that secularism does not emerge in all historical contexts. It emerges in some contexts. It emerges where there is a threat of "majoritarianism". It can also emerge in the context which are not fully modernist. Secularism is different from secular and secularisation. Secularism is a *political* doctrine. A person may remain secular simultaneously retaining his/her religious identity.

13.3 SECULARISM IN INDIAN CONSTITUTION

Indian constitution did not include the word secularism when it commenced on January 26, 1951. Although secularism was not mentioned in the Constitution, the fact that Independent India became a democracy, secularism was implied in it as a cardinal principle, a fait accompli, not needing its mention. But it was incorporated in the Preamble of the Constitution by 42nd Constitutional Amendment in 1976. Later, the Supreme Court ruled in the *Bhommaji* judgement that secularism is a basic feature of the Constitution. Besides, provisions in Articles 25-30 protecting the rights of religious minorities in the Constitution emerged from debate in the Constituent Assembly of India: these signify values of secularism. The questions whether word secularism should be included in Indian Constitution, what kind of secular state India needed to become ("a secular state in a religious country"), whether separation of state from religion was a testimony for secularism, whether a secular state was contingent on a secular society or whether state that respects all religions equally meant presence of secularism in India, were discussed in the Constituent Assembly on October 17, 1949. The opinions on these questions were divided in the Constituent Assembly. Finally, the assembly decided to not include the word secular in the Preamble. However, there was an agreement among all members to establish India as a secular state. And most of them agreed that separation of religion and state was related to democratisation of society.

Shefali Jha identifies three alternative arguments on secularism which were debated in the Constituent Assembly. She terms the first argument as "no concern theory of secularism". The proponents of this argument argued that religion should not be concern of the state. Religion is a private affair and there should be separation between religion as a private affair and the state (public affair). People have liberty to practice religion as a private affair. The state should recognise an individual as a citizen not as a person from a religion. The principal representative of this argument were K.T. Shah, Tajamul Husain and M. Masani. The second line of argument also suggested that religion and state should be separated. But their argument was just opposite to first alternative. While the first kind of argument contended religion was a personal matter for the state to intervene, this argument suggested that religion was a system of absolute truth. Association of religion would not weaken the state but would demean religion. Whims of the majorities which keep changing should not be allowed to have a say in a democratic state. The third theory which Shefali Jha describes as "Equal Respect Theory of Secularism" argues that since in India religion was the most important part of people's life, the state should respect all religions equally along with maintaining a distance from religions. The most vocal advocate of this argument was K.M. Munshi. He argued "we had to evolve a characteristically Indian Secularism". In his opinion, India can not have a state religion; nor can a rigid line be drawn between the religion and the state. In this view, a people's state can not be founded on a kind of secularism that is contemptuous of religion. Since

most religions preach tolerance, if the state allows public sphere to religion it would not lead to inter-sectarian strife. Jaya Prakash Narayan argued that it was not religion but use of religion for social, economic and political purposes that leads to communal violence.

Check Your Progress Exercise 1

- Note:** i) Use the space below for your answers.
- ii) Check your answers with the answers given at the end of the unit.

1) What is secularism?

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2) What were main points in debate on secularism in the Constituent Assembly?

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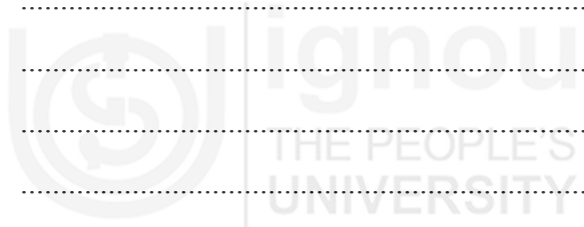
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13.4 “ANTI-SECULARISM”

The points in debate on secularism which were discussed in the Constituent Assembly and in the 1950s were discussed in the debate on the theme which occurred later. One such debate represented a term which came to be alluded to as “anti-secularism”. Like an argument given in the Constituent Assembly, advocates of "anti-secularism" are not opposed to secularism per se. What they are opposed to is the notion of secularism which suggests separation between religion and the state. They are critical of both communal-fundamentalist (Hindutva) and secularists. According to the advocates of "anti-secularism", since India is a religious society, religion and the state can not be separated. They consider the separation of religion and the state a western notion, which is not applicable to a religious society like India. Roots of real secularism can be traced in Indian traditions, which have been tolerant. Secularism can be achieved by equal respect for all religions (*Sarva Dharma Sambhava*). The main advocates of anti-secularist perspective are Bhikhu T Parekh, T.N. Madan and Ashis Nandi. Especially, Madan considers secularism as a “gift of Christianity”, and Nandi has “an anti-secularist agenda” to critique secularism. According to Achin Vanaik, they focus on six general themes regarding Indian society: modernity, understanding of culture, civilisation, religion and Hinduism, past and present; secularism and secularisation; particularism and universalism, individualism and communitarianism; and neo-Gandhianism. While they share common point that

state should respect all religions equally and Indian tradition has been a tolerant tradition, they have differences.

Rajiv Bhargava argues that the notion of secularism needs to be reconceptualised or re-imagined. Instead of focusing on state-church relationship the following is needed: (i) secularism should be focused as a response to deep religious diversity; (ii) diversity must be understood as enmeshed in power relations; hidden potential of religion-related domination must be understood; (iii) the two moves can help us to view secularism as a response to institutionalised religion (inter-and intra-religious) domination: secularism is not against religion, it is opposed to institutionalised religion-based domination; (iv) only by maintaining principled distance a secular state can show critical respect to all religions and philosophical world views. He explains Indian secularism in terms of the notion of principled distance. He states “the idea of principled distance entails a flexible approach to the issue of state’s inclusion or exclusion of religions, and to the issue of engagement with or disengagement from religion, which at the level of law and order depends on the context.” He classifies secularism into two kinds: political and secular.

According to some scholars (Smith, Tambia), secularism in India is facing crisis. There are external and internal factors responsible for this. External factors include - breakdown of Congress, increasing centralisation of power of the state, secession in Punjab and Kashmir and implementation of Mandal Commission Report. Internal factors include – totalising world-view of which secularism is a part (Madan and Nandi), and demand for equidistance which can not be met by any state (Chatterjee). For Tambiah, crisis lies in ambiguity about Nandi and Madan imply that secularism lacks legitimacy.

13.5 SECULARISM AND RELIGIOUS GROUPS

Secularism and secularisation are two inter-related concepts. But in the academic and political discourse, it is the former which has received more attention. Several articles published in *Economic and Political Weekly* (Vol. 58, No. 50 Dec. 14, 2013) discuss the notion of secularisation and its relationship with secularism, and several related aspects with reference to India, Pakistan and Bangladesh. It is about the nature of relationship about democratic rights of religious groups and individuals within them. It is also about ethics or morality.

Secularisation means absence of influence of religion on public policies and social relations. But it does not negate religion itself. It is how religion is the basis of favour or discrimination. It is about modernisation and modernity. Secularisation must be “collective normative project”; whereas secularism in Europe was not “launched as a programme of collective action” (Rajiv Bhargava). Using notion of secularisation, Joya Chatterjee explains that following partition, both India and Pakistan followed policy of secularisation, which was partial. Both got busy in addressing non-religious issues of partition-affected families: rehabilitation of the refugees. However, it was a limited secularisation which did not permeate lower parts of state machinery. The top level bureaucrats were encouraging secularisation. After the policy of neutrality or secular approach to settlement of people affected by migration of people was stopped and religion became an effective factor in this regard.

13.6 LET US SUM UP

Secularism has broadly two meanings: one, separation of religion from the state; and two, equal respect to all religions by the state or *sarva dharm sambhav*. Originally, the Preamble of Indian Constitution did not mention the word secularism. It was inserted into the Preamble by the 42nd Constitutional Amendment. The Constituent Assembly discussed whether secularism should be mentioned in the Constitution. There were three broad arguments in the Constituent Assembly: One argument suggested that since religion was a personal affair, there was no need to discuss it; Second argument contended that there should be separation between religion and the state; and the third argument stated that the state should respect all religions equally or there should be *sarva dharm sambhav*.

Check Your Progress Exercise 2

- Note:** i) Use the space below for your answers.
ii) Check your answers with the answers given at the end of the unit.

1) What are the main arguments of "anti-secularists"?

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2) What is the difference between secularism and secularization?

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3) What is meant by the notion of principled distance?

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13.8 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

- 1) Secularism denotes relationship between religion, state, institutions, social groups and individual. There two notions of it: One, suggests a distance between religion and the state or equal distance or request to all religions by the state; another, talks about the relationship of religion with communities and individuals, about democratic values such as freedom and equality, and morality.
- 2) In the Constituent Assembly, there were three types of arguments on secularism: One, the state should not interfere in religious matter; two, state and religion should be separate because religion is higher than the state/ beyond the scope of the state; and three, the state should pay equal respect to all religions.

Check Your Progress Exercise 2

- 1) The anti-secularists argue that secularism which preaches distance between religion and state is a western concept. In a country like India where religion is an essential aspect of life, religion and state can not be delinked. The real secularism can be traced in Indian traditions, which is marked by tolerance. True secularism can be achieved by following the principle of *sarva dharma sambhav* (equal respect for all religions).
- 2) Secularism denotes distance between religion and the state or equal respect to all religions. Secularisation denotes absence of the impact of religion on the state policies about social groups. It is also about how moral or ethical values shape attitudes about followers of different religions.
- 3) The idea of principled distance is propounded by Rajeev Bhargava. It denotes a flexible approach to state's engagement or disengagements with religions, and to their inclusion or exclusion of religions by the state. The level of engagement, exclusion or inclusion depends on context, nature, and current state of religions.

UNIT 14 COMMUNALISM*

Structure

- 14.0 Objectives
- 14.1 Introduction
- 14.2 What Is Communalism?
- 14.3 Origin of Communalism
- 14.4 Communalism and the state
- 14.5 Communalism and Media
- 14.6 Let Us Sum Up
- 14.7 References
- 14.8 Answers to Check Your Progress Exercise

14.0 OBJECTIVES

After reading this unit, you should be able to:

- Explain the meaning of communalism;
- Trace the growth of communalism in India;
- Discuss relationship between media and communalism; and
- Analyse the relationship between the state and communalism.

14.1 INTRODUCTION

Identity forms an important aspect of life of an individual or group in a society. In a diverse society, there are multiple factors that shape identities. Such factors are culture, language, religion, customs, history, region, economy, etc. In shaping an identity, the numbers of these factors vary. The numbers and effectiveness of the factors depend on the context in which identities are formed. Even though multiple factors shape an identity, sometime a single or some of them plays more dominant role than the other factors. This is true of the role of religion also in shaping an identity. As India is a multi-religious society, it is relevant to understand how religion helps in shaping identities of people, in building harmonious or conflictual relations between people following different religions.

14.2 WHAT IS COMMUNALISM?

Communalism is an ideology which shapes the vision of members of a community, formed on the basis of common religion, about themselves, other religious communities, nationalism and the state. In their book *India's Struggle for Freedom*, Bipan Chandra and others, underline that communal ideology consists of three elements. The first element underlines the belief that people from similar religion community have similar secular interests such as political, economic, social and cultural interests. The authors of the book term it as “the first bedrock of communal

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ideology". The second element denotes that the people belonging to different religious communities do not have common secular interests – social, economic, cultural or political interest. The third element or phase of communalism shows a stage in which the relations between different religious communities are seen as mutually incompatible, hostile and antagonistic.

Communalism is linked to another concept, e.g. communal violence. Both are different but inter-related. Communalism is a consciousness and when this consciousness gets expressed in terms of violence between two different religious communities it is called communal violence. Different religious communities do not become communal own their own. Nor do their relations turn into communal violence automatically. Religious communities are turned into communal communities by certain sections of society, and they can convert relations between such communities into communal riots. Such sections can be political leaders, activists, middle classes or community leaders. They explain to the members of their respective communities that the other community is responsible for their problems. In certain politically suitable situation or context they are able to mobilise their respective communities into communal violence.

There have been different approaches to the way communalism can be studied. First has been the approach which may be called empirical approach used by various scholars like Ashgar Ali, where different communal riots were studied and general conclusion have been drawn. A large number of scholars like Amrita Basu, Paul Brass, Asutosh Varsheya etc. can be seen to have followed this approach to test their theories

The second approach has been Materialist approach which argues for foregrounding the study and understanding the social conditions which included the role and nature of the state, material conditions in which community formations are taking place etc., to understand the formation of ideology of communalism. The episodes of communal violence are studied as a reflection of these fundamental situations. K.T. Shah, Bipan Chandra, Achin Vnaik, C.P. Bhambhri, Aditya Mukherjee can be seen as the practioner of this approach. A third approach has been the essentialist approach where the communities are already seen to be different living across Faultlines with essentially separate and defined mutual relationship . Huntington, the American political scientist in his very celebrated book *Clash of Civilisations* has presented an outline of such approach.

14.3 ORIGINS OF COMMUNALISM

Communalism as a belief or an ideology has been the product of the colonial rule in India. In this sense it is product of modern times in India. Earlier also, there were large number of instances of inter-sect or inter-cult or religious conflicts and violence. But they were not communal in the sense it came to be understood from the mid-nineteenth century. The communalism in India largely was product of the colonial policies towards different communities, especially after the 1857 revolt. The challenges faced by the colonial rulers in the latter half of the nineteenth century became the reasons for them to devise policies that promoted communalism. Among these challenges included criticism of the colonial administration by a new intelligentsia, which had emerged in India by mid-nineteenth century. This intelligentsia, most often, was the product of new English education. This intelligentsia began to realize that people of India were suffering

due to the colonial rule. Transcending linguistic, caste, sectarianism or cultic identities the new intelligentsia sought to generate national consciousness against the colonial administration. Thus, the new intelligentsia, trained in both traditional knowledge and the new western knowledge through English Medium wanted an Indian people to emerge as a nation. This consciousness led them to attempt to constitute a 'national community' consisting of Indians of different sections of society. This was to contest the colonial constructs of a society and polity.

The colonial authorities responded to the challenge of growing national consciousness being generated by the efforts of the new intelligentsia through the following strategies: debunking the notion that Indians who had multiple diversities could be united as a nation, by creating a colonial knowledge, and by highlighting differences among people which existed on the basis of religion, caste, language, etc. and by introducing religion-based representation in the legislative/political bodies. As a part of such knowledge, James Mill wrote a book *The History of British India*, in which he argued that history of India can be divided on the basis of religion into three periods: ancient, medieval and modern. Mill contended that ancient period in India's history symbolized India's golden period when she was ruled by the Hindus; in medieval period, the Muslim invaders destroyed the glorious ancient Indian history and established Muslim rule; and the modern period denoted the end of the Mughal rule and establishment of the British rule in India. Such periodization of Indian history has been used by the communal historians and the colonial authorities to divide the society on communal lines. As most of the intelligentsia came from the upper crust of the Hindu society, its growth and ideas could be shown to be detrimental to the interest of Muslims by the Muslim intelligentsia and traditional elite. Syed Ahmad Khan was one such personality. In 1987, Dufferin (Viceroy) and A. Colvin, Lt-Governor of UP attacked Congress for being anti-imperialism. Syed Ahmad Khan joined the attack thinking that it would increase Muslims' share in administrative and professional positions. He believed that with the growth of Hindu intelligentsia and middle classes, the dominance of Muslims declined. Solution to Muslims dominance lay in enabling Muslims to get English education. For this purpose, he founded Anglo Mohammedan Anglo-Oriental College in 1875 which later became AMU (Aligarh Muslim University). Meanwhile, a new Muslim middle class too was emerging at that time. However, its late arrival witnessed an already entrenched Hindu middle class since 1870s which was quite vocal and anti-colonial in its approach. One of the strategies of the traditional Muslim elite and new middle class was to demand that they should be given preferences of representation in public institutions. The demand for reservation in jobs and educational institutions by the Middle class soon got converged with the demand of the Muslim elite for more political power via statutory reservations in the legislative and other bodies. This led to the formation of the Muslim League in 1906 which was also encouraged by the British colonial government. In other areas, for example, the British encouraged sections from among the Hindus too with certain favours which seemed to divide the emerging national unity created by the Indian National Congress. The demand for reservation in government jobs and representation of legislative bodies to the Muslims resulted in similar demands from some sections of the Hindus. And a competition between some sections of Hindu and Muslim intelligentsia ensued for reservation in government jobs and legislative bodies. Later, these demands views were voiced by the Muslim League. In fact, the earlier Muslim intelligentsia and later Muslim League represented sections of Muslim landlords and middle classes and their vision and demands were common.

For some historians, Hindus had all the glory which was destroyed by the Muslim invaders while some historians saw the British as destroyer the glory of Islam. According to them the Islamic glory had to be restored once again. This could be done by establishing an Islamic rule. These two versions represented two-nation theory. The policy level intervention to divide the Indians on communal lines included introduction of separate electorate in 1909 (Morley-Minto Reform). According to the policy of separate electorate, in 1909 municipal elections, Hindu and Muslims contested from separate constituencies, where candidates and the electorate belong to the same religion. Separate electorate was political manifestation of communal divide. From the 1920s, the demands for more representation in the councils widened and so was popular participation. The 1920s saw the emergence of Khilafat movement which for the first time brought many Muslim into the larger political fold. This meant that there were seeds of separate identities based on non-religious interests but along the religious lines planted. The Colonial government however organized the Round Table Conference in 1930-32 in which representatives of all conceivable groups and sectional interest were invited.

In comparison to Hindus, the rise of Muslim educated in English was limited. Educated Hindus and Muslims competed for government jobs. It gave a feeling among some sections of the new elite/middle class from both communities that because of the other community, they were not getting jobs and representation in political institutions. The Hindus viewed that their interests were antagonistic to Muslims' interests and vice-versa. As you have read above, in communalism the secular interests of different religions communities are antagonistic. Thus, communalism in India grew between the late nineteenth century and partition of the country.

Check Your Progress Exercise 1

Note: i) Use the space below for your answers.

ii) Check your answers with the answers give at the end of the unit.

1) What is communalism?

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2) What is the relationship between communalism and communal violence?

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3) Briefly narrate the origin of communalism in India.

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14.4 COMMUNALISM AND THE STATE

Communalism often leads to communal violence between different religious communities. There are several examples of communal violence in India. Communal violence is also result of intermingling of religion and politics. In the post-Independent India, communalism has become part of the competitive electoral politics. According to K.N. Pannikar (1990), politics and communalism have become complementary, reinforcing each other in the post-Independence period. It can devise policies which can either stop or encourage communalism. It can also play partisan role in communal politics. The nature of state’s role on communalism depends on the nature of pressure of social groups on it, and composition of the personnel in the state institutions, and political context. Thus, the state functions under the pressure of different social groups and classes. These also include religious communities. As you have read above, the colonial rule promoted religious divisions: the policy was based on preferential treatment and discrimination. According to C.P. Bhambhri, the post-Independence period inherited the legacy of religious backwardness and religious conflict. The context of pre-Independence period – the state attitude of preference and discrimination, mediation by the British in the 1940s between the separatists and nationalists became the context of the post-Independence state in India. The state in India is placed in paradoxical situation: on the one hand it has to act through rules and regulations, new technology; on the other hand, it has to deal with the society where symbols, rituals and inherited social regulatory mechanisms exist. Indian state loses loyalty of the masses if it is perceived to be acting against traditional practices – Muslim personal law (1985), Operation Blue Star (1984), Sabrimala (2019). In a democratic society such as India, the state functions under pressure of different social forces. It becomes a site of multiple ideologies and tendencies – including secularists and communalists. Like the space in the society, the state also becomes site of contests between different ideologies such as communalism and secularism. In the post-Independence period, the Indian state has followed the strategy for managing conflicts – of oppression and cooptation: it makes compromises with communalism and casteism. And the exploiting classes have exploited religious sentiments to legitimize exploitation in the society. Zoya Hasan (1990) argues that the state has surrendered to the pressure of religious fundamentalist in Muslim Women’s Bill and Ram Janma Bhumi case.

14.5 COMMUNALISM AND MEDIA

Media, in both its traditional and newer forms, helped ideologies and ideas to spread. As has been discussed in the rise of public sphere by Jurgen Habermas in the context of Europe, the public associations, clubs, public gatherings and later on print media which included newspapers, novels, textbooks, etc., have all helped

many ideas to spread. Benedict Anderson, for example, called nation as an *Imagined Community* because it was created because of spread of imagined ideas of nation by the print media since the 18th century onwards. While media plays a decisive role in generating awareness among the people, on several occasions it has contributed to the spread of communal divide in the country. In relation to communalism in India, the media plays an influential role in creation and spread of communalism. Its role becomes crucial in reporting, explaining and commenting on communal riots or violence; about the reasons for occurrence of communal violence, role of leaders of different communities and politicians. The media includes print media – newspapers, magazines, and electronic media (television channels), and social media (WhatsApp, face book, tweeter, email). In the recent past, fake news, have become quite frequent to arouse communal passion in the society. Many reports in the media are based on rumours and unverified facts. The social media for example has a reach which very few previous media had in the past. It is also not controlled through censorship and other ways and therefore any news or information, which may cause violence or animosity among different groups of people travels rapidly.

Check Your Progress Exercise 1

Note: i) Use the space below for your answers.

ii) Check your answers with the answers give at the end of the unit.

1) How does the state play a role in communalism?

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2) Briefly describe the nature of relationship between communalism and media.

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14.6 LET US SUM UP

Communalism is an ideology which preaches that communities are formed on religious lines. And members of a community share common interests which are incompatible with the interests of other religious communities. In certain political contexts, communalism can lead to communal violence. This happens because of the role of political or community leaders. The communal riots and large scale violence that India has witnessed over the last two centuries has been the reminder of the divisive politics that the colonial rule could create for its purpose. Communal violence which the post-independent India has seen can thus be traced to the colonial period. Sometimes communalism gets expressed in the form of

communal violence. This can happen when some sections of leaders or political activists convert relations between religious communities into conflict. In past few years social media have also become source of communal divide.

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14.8 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

- 1) Communalism is an ideology which share the visions of members a community formed on the basis of religion about themselves, other communities and nationalism. It has three elements: first, members of a religious community share common interests; two, people from two different religious communities do not share common interests; and three, relations between different religious communities are incompatible and hostile.
- 2) Communalism and communal violence are different but inter-related. The former is an ideology which preaches that people from a religious community share common social, economic, political and other kinds of interests which are incompatible with the interests of other communities. Communal violence is violent expression of the differences between different religious communities.
- 3) It emerged during the second half of the nineteenth century, the colonial period. It was product of the divide and rule policy of the British. The policy was reaction to critique of colonial policies by the newly emergent intelligentsia. The colonial state responded to the critique of colonial rule by encouraging the intelligentsia and middle classes to make demands for reservation in jobs and representation in political institution on religious lines. They introduced separate electorates through Morley-Minto reforms in 1909. Consequently, it resulted in genesis of communalism in India.

Check Your Progress 2

- 1) The state can play an effective role in communalism in two ways: One, by devising policies which can either encourage or impede communalism; two, by taking action against people or agencies involved in spread of communalism or communal violence. The role of state depends on political

ideologies of those who control the state and on its capacity to manage pressures of different communities.

- 2) Media and communalism are related. Media not only plays role in either creating and spread or combatting it. During the second decade of the twenty first century, social media has become more decisive in shaping communalism in India. Quite often, media spread fake news and unverified information which contribute to communalism.



BLOCK 6

PARTIES AND PARTY SYSTEM IN INDIA

BLOCK 6 INTRODUCTION

Political parties are the most effective medium through which people participate in legislative and executive processes in India. As India is a vast country, it is not possible for people to participate in these processes directly. This is largely done through political parties, though some people not affiliated to political parties, known as Independents, also represent people. There are several parties in India. Based on some features parties can be placed in party systems. This block has only one unit, i.e. unit 15 Parties and Party Systems. It discusses how parties are categorized in India, and what kind of party system exists in India.



UNIT 15 PARTIES AND PARTY SYSTEM*

Structure

- 15.0 Objectives
- 15.1 Introduction
- 15.2 Classification of Political Parties
- 15.3 Party System in Indian States
 - 15.3.1 The Era of Congress Dominance
 - 15.3.2 The Breakdown of the Congress System: 1967-1989
- 15.4 Towards Fragmentation of State Party Systems: 1989 onwards
- 15.5 Let Us Sum Up
- 15.6 References
- 15.7 Answers to Check Your Progress Exercise

15.0 OBJECTIVES

After reading this unit, you will be able to:

- Define the Party System and Regional and State Parties;
- Explain the dominant party system in different eras;
- Differentiate the era of Congress dominance to the breakdown of the Congress System.

15.1 INTRODUCTION

Party system in a democracy normally refers to the pattern of interaction and competition between political parties. In India, the pattern of interaction and competition among political parties has given way to the multi-party system. This kind of characterisation of the party system is, however, more accurate as of now than that existed a few decades ago. What existed then was the impeccable hegemony of the Congress Party and this was well characterised by Kothari and Jones as a 'dominant party system. Such system was a multiparty system, in which free competition among political parties occurred but it was the Indian National Congress which enjoyed a dominant position both in terms of the number of seats it held in the parliament and the state legislative assemblies, and in terms of its immense organisational strength. Kothari coined the term the 'Congress System' and Jones called it a 'Congress Dominated System'. Enormous changes have taken place in the party system in recent years. These changes started taking place from 1967 onwards but these have become much more pronounced since the late eighties and early 1990s. The party system has moved away from a one party dominated system to a multi-party system. It is also referred to as a federalised party system or a coalitional party system. Since 2014 the Bharatiya Janata Party has emerged as the single most dominant party in India. We shall, in this unit, concern ourselves mainly with the party systems that had emerged and developed at the state level in the Indian union. But before doing so, we look at

* This Unit is adapted from Unit 7: MPSE-008, Arun Kanti Jana, Professor, North Bengal University, Dist. Darjeeling, West Bengal.

regional and state parties in brief since they have grown enormously in recent years and play a crucial role in shaping the party system in many of the Indian states.

15.2 CLASSIFICATION OF POLITICAL PARTIES

In India, political parties are classified in two ways: one, by the academics; another by the Election Commission of India. The former classifies parties based on factors such as their regional support base, policies, ideologies. The Election Commission of India classifies them according to percentage of valid votes polled by them in Vidhan Sabha or Lok Sabha elections in a specific number of states. It classifies political parties into three categories — national, state and registered parties. Its definition of state parties is the most elaborate. In this definition a party to be called a state party must have been engaged in political activity for at least five years and must have won either four per cent of the seats in a general election or three per cent in a state election. In addition, it must have had the support of six per cent of the votes cast. The parties which are called state parties by the Election Commission of India are generally referred to as regional parties in academic and popular discussions. Oliver Heath and Yogendra Yadav consider those parties as regional parties whose social bases are restricted to one or two states. This definition takes into consideration only the social base of a party and its area of operation. A national party is recognised as a national party if it is recognised as a state party in four or more states. A registered party is a party that is neither recognised as a state or a national party but is registered with the Election Commission. Such parties are also termed as unrecognised parties. The definition provided by the Election Commission of a regional party is not very satisfactory. Since the definition takes into consideration the past performance of a political party, it is not accepted as a proper definition by the academicians. They consider those parties as regional parties whose bases and activities are restricted to a particular state and rooted in both regional aspirations and grievances. The support base of a regional party is limited to a particular state because it identifies itself with the region's culture, language, religion, etc. It also presents the regional perspective vis-à-vis the centre and other states. These parties use 'region' and 'language' effectively for electoral benefits. A political party, to be recognised as a regional party must satisfy three specific criteria. First, a regional party restricts its area of action to a single region which, in the prevailing Indian situation means a state. Secondly, the parties of this kind typically articulate and seek to defend a region based-ethnic or religio-cultural identity. And thirdly, by their very nature, regional parties are primarily concerned with the local or state level grievances.

15.3 PARTY SYSTEM IN INDIAN STATES

State party systems in India have developed in close connection and interaction with the national party system. Closeness of relationships between the state party system and the national party system has been termed as the combination of the state party systems by some observers in the recent years. This is natural considering that India consists of different states. The changes in the national party system have affected the state party systems, and in turn transformation in the nature of party competition at the state level had affected the national party system substantially. The second development, however, is more pronounced in

recent years because of the spectacular growth of the regional and state parties in Indian politics.

15.3.1 The Era of Congress Dominance

The party system in India before 1967 has been a system of Congress dominance. It has been also referred to as the “Congress Dominated System” or the “Congress System”. Till the fourth general elections which were held in 1967 state party system in India, like that of the national party system, was dominated by the overwhelming presence of the Congress Party. The Congress Party dominated in almost all the states. But the domination of congress was not uniform in all states. The Congress, for example, had to face the toughest competition in the former princely states that acceded to the Indian Union after 1947 whereas in other states it almost had an impeccable hegemony. It ruled almost all the states except Jammu and Kashmir where the National Conference had a domineering presence. Kerala was also an exception because in the second general elections in 1957, the CPI emerged victorious and formed a government along with its allies for two years till it was dissolved arbitrarily in 1959. A quick reference to some data will help illustrate this point. The Congress was such a dominant force that it secured comfortable majorities in almost all the elections to the Lok Sabha and the State Assemblies in 1952, 1957, 1962. Though it never secured more than 48 per cent of the votes in the Lok Sabha elections (the highest being 47.78 in 1957), it always secured comfortable majority in terms of seats (364 seats in 1952, 371 seats in 1957 and 361 in 1962). In the State assemblies, except for a few, it secured comfortable majorities almost in all the assembly elections. It secured 42.2 per cent of votes and 68.4 per cent of seats in 1952, 44.97 per cent of votes and 64.9 per cent of seats in 1957 and 43.65 per cent votes and 61.3 per cent of seats in 1962. Electoral data thus indicate that the performance of the Congress in the Assembly elections was slightly poorer than in the Lok Sabha elections. This was because of the nature of resistance offered by the opposition which included the state and regional formations. Opposition to the Congress in the assembly elections was much more severe than in the Lok Sabha elections. Let us briefly refer to this position of dominance across some of the bigger Indian states while referring to its performance in the assembly elections. In Uttar Pradesh assembly elections between 1952 and 1962, the party secured between 47.9 and 36.3 per cent votes. It captured between 390 to 249 seats, out of a total 430 seats. In Bihar, in the same period the party secured between 41.4 per cent to 42.1 per cent votes but between 72.2 per cent and 58.1 percent seats. Similarly, in West Bengal, the Congress secured between 38.9 and 47.3 per cent of votes and between 63 per cent to 62.3 per cent seats. In Andhra Pradesh, after the state was formed it secured between 41.7 per cent to 47.3 per cent votes in 1955-57 and 1962 and 187 to 177 seats (out of a total 300). In Tamil Nadu the party enjoyed a dominant position in the assembly elections of 1957 and 1962. It secured between 45.3 per cent and 46.1 percent votes and captured between 67.4 percent to 73.6 per cent seats. In Maharashtra the party secured 48.7 per cent to 51.2 per cent of votes in 1952 and 1962. Thus it is clear that the Congress Party enjoyed a dominant position in the electoral politics of the states in the Indian Union, even though it was hardly able to secure the majority of the votes. In fact, it won a majority of seats in the assemblies of all the states on the basis of plurality of votes against a fragmented opposition.

15.3.2 The Breakdown of Congress System: 1967-1989

The dominance of the Congress in the states started crumbling from the mid of 1960s; the fourth general elections of 1967 marked the intensification of this change. The party system that emerged in the states after that and continued till 1989 may be referred to as a bipolarised one in which a weak Congress Party was confronted with a united opposition in most of the states. The following pattern of bipolarisation was seen in the states for the general elections in the period from 1967-1989. In Madhya Pradesh, Rajasthan, Himachal Pradesh and Delhi, the competition was between the Congress and the BJS/BJP. In Kerala, Tripura and West Bengal the competition has been between the Congress and Left. In Punjab, Jammu and Kashmir, Andhra Pradesh, Assam and Goa, a Congress-regional parties led alliance emerged, though the BJP also gained substantially. In the North-Eastern states the contest was mainly between the Congress and a variety of regional parties or their alliances. In Tamil Nadu, competition has been mainly between the DMK and the AIADMK. Finally, in seven major states-Odisha, Maharashtra, Uttar Pradesh, Bihar, Haryana, Gujarat and Karnataka-the Congress retained dominance. One can, however, add that even in these states opposition grew stronger as we shall notice later. So far as the assembly elections are concerned, the following pattern of bipolarisation emerged after 1967. One may note that the votes of the Congress party declined much more drastically in the assembly elections than in the parliamentary ones. In Madhya Pradesh, Rajasthan, Himachal Pradesh and Delhi, the non-Congress votes consolidated in favour of the BJS/BJP (Bharatiya Jana Sangha/Bhartiya Janta Party). The latter emerged as the second most important party. In Punjab, Jammu and Kashmir, Assam, Goa, a Congress-Regional party bipolarisation came into existence. Similarly in the North-East, a Congress-regional parties bipolarisation came into existence, though in this case the Regional parties were very unstable.

Let us have a look at how these changes occurred. We shall refer mainly to the party systems that we witness in the state assembly elections. It has been noted earlier that the Congress had never secured more than 50 percent of the votes either in the parliamentary or assembly elections except in some states but has always secured huge majorities in terms of seats. This is indicative of the fact that though significant opposition to the Congress existed at the state level, due to fragmentation in their ranks and because of the rule associated with the "first past the post system," the Congress always emerged victorious in terms of seats. The 1967 election in fact put an end, at least for a temporary period, to this disunity in the opposition. The post-1967 period saw the emergence of anti-Congress alliances in state after state and this altered the nature of the contests particularly for the assemblies. These developments resulted in the defeat of the Congress in as many as eight out of sixteen states of the Indian Union. There was also a marked decline in the vote share of the Congress party in the parliamentary elections from 44.72 in 1962 to 40.7 per cent in 1967. In the legislative Assemblies, the decline was from 43.65 per cent to 39.96 per cent. As a consequence, the percentage of seats came down from 61.3 per cent to 48.5 per cent. The states entered into a bipolarised system, the principal contenders being the Congress and almost a united opposition in many of the prominent Indian states. This

system continued almost till the end of the 1980s, though on occasions (for example, in 1971 and 1972) the Congress was able to restore its predominant position at the central and to a lesser extent at the State level. We also note that in the early 1970s the Congress was able to make a comeback after 1972 for a brief period. This position was soon lost by the party in the late 1970s. Let us have a brief look at the nature and pattern of party competition in some states in India since the 1970s. This will help illustrate the point better. In Northern India, in Uttar Pradesh, the Congress, from the assembly elections of 1974 onwards was never able to secure 40 per cent of the votes; not even in the elections of 1985 that were held after the parliamentary elections of 1984 in which the Congress recorded a landslide victory. One or the other parties like BJS/BJP, Janata Party/ later the various factions of the Janata Party, Lok Dal etc., challenged the hegemony of the Congress. In 1974, the BJS increased its share of votes to 17.1 per cent and secured 61 seats in the Assembly. In the 1977 elections, the Congress was routed by the Janata Party. Through the Congress Party returned to power in 1980, it managed only 37.7 per cent of the votes. In 1985 the Congress could hardly manage 39.3 per cent of votes, though it secured the majority of the seats. The Lok Dal could wrest 21.3 per cent of votes and 84 seats. In the West, in Maharashtra, strong challenge to Congress hegemony came in 1978 and later from the mid of the 1980s. In the 1978 assembly elections the Congress led by Indira Gandhi was routed. In the 1985 assembly election it secured a majority, with around 24 per cent votes. Gujarat also moved closer to a bipolarised system one from the late 1960s. In the 1970s, the Indira Congress was challenged by the INCO [Indian National Congress (Organisation)] and the Janata Party in the election of 1985. In both the elections that were held in the 1970s, the NCO had secured more than 23 per cent of the votes though its seats tally was not very impressive in 1972. The Janata Party secured little less than 20 per cent votes in 1985 with only 14 seats in the 182 member assembly. In central India, in Madhya Pradesh, the largest of the Indian states, the Congress was challenged by the BJS/BJP in 1972, 1980 and 1985. It was challenged by the Janata Party in 1977. The BJS secured 28.7 per cent votes in 1980, the BJP secured 30.3 per cent and in 1985 it could secure 32.4 per cent votes. In the 1977 State assembly elections, the Janata Party had secured 47.3 per cent of votes and had formed the government with 230 members. In Bihar, between 1972 and 1985, the Congress never secured more than 35 percent votes except in 1985. There was a considerable challenge to it from the BJS/BJP, NCO, JNP, Independents, Lok Dal etc. In the south, in Tamil Nadu, the party competition since 1967 narrowed down to a two party competition, first between the Congress and the DMK and then between the DMK and AIADMK. In Andhra Pradesh, the Congress' popular votes share had started declining from the 1978 elections and entered into a bipolar competition from 1983 onwards. In West Bengal, the Congress lost its hegemonic position from 1967 onwards and saw bipolarisation from the elections of 1971. Thus in the country as a whole barring a few marginal states, that remained effectively under the control of the Congress, a bipolar system of party completion emerged. To a large extent the breakdown of the Congress system was the main factor behind these developments.

Check Your Progress Exercise 1

- Note:** i) Use the space below for your answers.
ii) Check your answers with the model answers given at the end of this unit.
- 1) Define the different categories of political parties classified by the Election Commission.

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- 2) Briefly analyse the era of Congress dominance.

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15.4 TOWARDS FRAGMENTATION OF STATE PARTY SYSTEMS: 1989 ONWARDS

The party systems at both levels – national and states moved towards a fragmentation from the late 1980s or more particularly from the 1990s. What are the features of these fragmentary systems? At the national level there has been an end of the one party dominance and the movement towards a multi-party system. As you have read earlier, this trend started in 1967 at the state level. However, the systems that exist in the states are different from the national level. Many states have moved towards a two party system and probably this is the most prominent feature of party competition at the state level.

At the national level, since the 1990s, the competition has narrowed down to two different alliances, one led by the BJP and the other by the Congress. At the state level, the competing parties differ from state to state but in most of the states it is a two party system. In many states it is a multi-party system where the important contenders are the Congress, the BJP and state or regional parties. In some of the states, the competition is primarily between state or regional parties, though national parties also occupy a significant space in those states. Now, let us turn to the reasons behind the emergence of this kind of systems in the states. There are multiple causes but the most important of them are the decline of the Congress in the states, the spectacular growth of the BJP particularly in the Hindi heartland and some other states and thirdly, the growth to prominence of regional and state parties. As mentioned earlier these trends had started much before the 1990s. Let us have a brief look at all these developments which preceded trends of the 1990s in brief and then turn to the salient features of the party systems that have

emerged in the states since 1989. Although the Congress Party had started declining since the late 1960s in the states, this decline became much more prominent in the late 1980s. We have seen earlier that the Congress that had enjoyed dominance at the state level for more than two decades gradually started declining after the death of Nehru. The decline of Congress became more spectacular after Indira Gandhi assumed the leadership of the party. There are numerous explanations for this. Zoya Hasan, for example, has argued that the Congress declined because of its inability to maintain the political bases of its coalition. It is true that the party's ability to mobilise voters at the lower level during the elections — whether at the state assembly or at the parliamentary elections declined significantly in the late 1980s and the 1990s. Thus, the Congress became a much reduced force at the state level since the late 1980s. The share of votes and seats, the Congress captured in the Lok Sabha and more particularly in the Assembly elections in the states sharply declined in the last decade of the twentieth century. Its performance in the Assembly elections in some of the prominent states will help illustrate the point. In the state of Uttar Pradesh, the biggest of the Indian states, the Congress remained a much reduced force with its vote share declining from 15.08 per cent in 1993 to 8.96 per cent in 2002. In Andhra Pradesh, the largest of the South Indian states, the Congress returned to power in 1989 but it lost in the 1994 elections and remained in opposition till of 2004. In Bihar, the votes of the percentage of the Congress slumped from 24.78 per cent in 1990 to 11.06 per cent in 2000 and the seats from 71 to 23 in the same period. Similarly, in Maharashtra it lost its hegemony in the 1990s completely. In 1990, it secured 38.17 per cent votes and 141 seats but this dropped to 27.20 percent votes and 75 seats in 1999. In Tamil Nadu, the Congress had lost its dominant position much earlier to the two regional forces, the DMK and the ADMK. Similarly in West Bengal, its decline was much more rapid in the late 1990s due to the split and the subsequent formation of the Trinamool Congress. In the 2001 elections, it could manage only 7.98 per cent vote and 26 seats against 39.45 per cent votes and 82 seats in 1996. The expansion of the BJP in recent times has been much more dramatic than the decline of the Congress. The expansion has mainly been due to the decline of the Congress, the aggressive mobilisation strategy based around the ideology of Hindutva which it adopted from the late 1980s and its strategy of alliance formation. At the national level in the Lok Sabha, it increased its seats from a 2 in 1984 to 182 seats in the 1998 elections that catapulted it to the position of a ruling party. In 1999 it secured the same number of seats, though, along with its allies, it was able to consolidate its position as a ruling party. However, this onward march of the BJP was halted in the 2004 general elections. It established dominance in 2014 and 2019 Lok Sabha election. In the assembly elections the performance of the BJP in the 1990s was equally spectacular. It increased its share of votes and seats in some of the prominent Indian states. In Bihar it increased its share of seats from 39 and votes from 11.61 in 1990 to 14.64 per cent of votes and 67 seats in 2000. In Uttar Pradesh, in the 1990s its vote share and seat share remained almost the same (over 170 seats and 33 per cent votes) though it declined in the 2002 elections. In Gujarat, it increased its vote share from 26.69 percent in 1990 to 44.81 per cent in 1998 and further to 49.85 per cent in 2002. This increase was also evident in many of the other Indian states. In some other states, it was able to form governments either alone like in Madhya Pradesh and Himachal Pradesh in 1990 or in alliance with others like in Maharashtra with the Shiv Sena in 1995. The third interrelated development that has taken place in the recent times is the expansion of regional and state parties largely at the cost of the Congress in the

states. As a result, they have increased their presence in the national legislature since the 1996 elections and due to this they have come to play a very crucial role in the making and unmaking of governments at the central level. Election data indicate that these parties have secured an increasing presence in the Lok Sabha. In 1991, the regional parties (including some state parties) occupied 56 seats whereas in 1996 they came to occupy 137 seats, 161 seats in 1998, and 188 seats in 1999. The increase in their strength in the state assemblies in recent years is much more remarkable. In 2002, in as many as twelve states of the Indian Union, regional parties (including state parties) occupied a prominent position in the state legislatures. Not only have these parties increased their presence in the state legislatures, but also formed governments at the state level in some of states in the 1990s. The Shiv Sena (SS) for the first time came to power in Maharashtra along with its ally, the Bharatiya Janata Party (BJP) in 1995. The Assam Gano Parishad (AGP) similarly returned to power for the second time in Assam in 1996. The National Conference (NC) came to power in 1996 with a large majority in Jammu and Kashmir. The Dravidian parties, the DMK and the AIADMK alternated power among themselves in Tamil Nadu in the 1990s. The Telugu Desam Party (TDP) returned to power in 1995 and remained in office till 2004. The Akali Dal (AD) also formed a government in the state of Punjab in 1997 along with its ally, the BJP. Thus these parties were increasingly successful at the national and state level in the 1990s. It is due to these interrelated developments that the party systems in the states had undergone significant transformation in recent years more particularly from 1989 onwards. From a system that was Congress — dominated (like that of the national party system) it has become fragmented (with features of bipolarity). In this fragmented system, the competition is primarily between two parties whether national or regional but — there are others who occupy a significant position in the party politics of the states. The competition at the state level in recent years and the party systems that has emerged as a result may be classified into four main categories. To the first category belong states like Himachal Pradesh, Madhya Pradesh, Rajasthan and Gujarat. These states are essentially two party states in terms of vote and seat share. Included in this category are West Bengal, Kerala, Tripura, Maharashtra and Punjab which are essentially bipolar states. In these states either two alliances or one-party opposed by an alliance of two or smaller parties dominate party politics. 8 In the second category belongs to those states In the second category belongs to those states like Karnataka, Bihar and Orissa where there are three or more poles though it appears that in future it will drift towards a bipolar system either due to alliances or due to splits in existing parties. Thirdly, there are states like Uttar Pradesh where a four-cornered contest exists between the BJP, Samajwadi Party, the Bahujan Samaj Party and the Indian National Congress. The fourth category belongs to those states in which a bipolar or two-party system exists but there is also an increasing growth of a third party. The third party may not be strong enough to capture large number of seats but has a significant vote share.

Check Your Progress Exercise 2

Note: i) Use the space below for your answer.

ii) Check your answer with the model answer given at the end of this unit.

1) Examine the developments towards the multiparty system in India.

15.5 LET US SUM UP

In this unit, we have principally analysed the party systems that emerged and developed at the state level in the India since independence with a focus on the transformations which has taken place recently. We confined our discussion to the broad features of the state party systems. We have also dealt with regional and state parties in brief since they have grown a great deal in recent years, and are playing a crucial role in shaping the party system in most of the Indian states. We have noticed that the supremacy of the Congress party that existed for a few decades after independence at the centre and the states has come to an end. The party system changed from one party dominant system to multi —party system at the national level, a system that is noticeable by the presence of a dwindled Congress party, a significant but inadequate expansion of the Bharatiya Janata Party (BJP) and an enormous increase in the strength of regional and state parties in national politics. The changes started taking place since 1967 onwards but have become much more pronounced since the last two decades. Parallel to these changes at the national level, significant changes have taken place in recent years at the state level. From a system that was dominated by the Congress it has transformed into a fragmented (essentially with features of bipolarity). In this fragmented system the competition is primarily between two parties whether national or regional. There are indications that this fragmented system will stay and the possibility is that more and more states will move towards a bipolar part system.

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15.7 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress Exercise 1

- 1) According to Election Commission, political parties are classified in three categories: National, State and Registered Parties. National party is a party that recognised as a state party in four or more states. State party is a party that must have been engaged in political activity for at least five years and must have won either four percent of the seats in a general election or three percent in a state election. A registered party is a party that is neither recognised as state or a national party but is registered with the Election Commission.

- 2) The Congress dominance era can be seen in Indian Politics till the fourth general elections which were held in 1967. The Congress party dominated in almost all the states before 1967 except Jammu and Kashmir where the National Conference had a strong presence and in Kerala where CPI emerged as victorious party.

Check Your Progress Exercise 2

- 1) The party system both at national and state level moved towards a fragmentation from the late 1980s or more particularly from the 1990s. At the national level it was the movement towards a multi-party system and at the state level, it was a two party system. The important cause of multi-party system was the decline of the Congress in the states and prominence growth of regional and state parties. Decline of congress party system also gave spectacular growth of the BJP particularly in the Hindi heartland.



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NOTES



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