

**Institute of Distance and Open Learning  
Gauhati University**

**MA in Political Science  
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**Paper VII  
Politics in India II**

**Block 1  
Judicial System in India**



**Contents:**

**Block Introduction–**

**Unit 1 : Constitutional Provision of Judicial System in India**

**Unit 2 : Judicial Review and Judicial Activism**

**Unit 3 : Tension between Judiciary and the Legislature**



## **Block Introduction:**

This paper is an attempt to introduce you to The Indian political system. In the third paper we have already discussed about the Indian political system. You are acquainted with the functioning of executive and legislature. In this paper you will be introduced to the judicial system of India and its functioning. The first block of this paper specifically deals with the judicial system of India. Judiciary plays an important role in resolving disputes in the society. Indian constitution makes provision for the independence of judiciary. In India, there is a single comprehensive judiciary where the Supreme Court stands at the apex. There are High Courts at the state level and districts and lower courts at the bottom. In its attempt to deal with the judicial process in India, this block discusses the concept of judicial review and judicial activism and their role in securing justice to its citizens. Moreover, the block also gives you an idea about the issue of sovereignty of legislature and judicial intervention over it.

Unit 1 is an attempt to deal with the composition of Indian Judiciary. It discusses the powers and functions of the Supreme Court. It also discusses the role of judiciary in protecting the fundamental rights of the Indian citizens. Moreover, the unit also focuses on the legislative procedure of the parliament as well as enactment of ordinary law.

In the unit 2 of this block you will be introduced to the concept of judicial review and judicial activism. This unit also gives you an idea about the scope of judicial activism in India. It also deals with the methods of exercising judicial activism like Public Interest Litigation.

Unit 3 makes an attempt to deal with the areas of tensions between judiciary and legislature. While dealing with the tension areas, the unit first focuses on the provision of separation of powers between executive and the legislature. The unit further deals with judicial intervention in legislative matters in the recent time.

In this block we have three units:

**Unit 1:** Constitutional Provision of Judicial System in India

**Unit 2:** Judicial Review and Judicial Activism

**Unit 3:** Tension between Judiciary and the Legislature

# Unit 1

## Constitutional Provision of Judicial System in India

### Contents:

- 1.1 Introduction**
- 1.2 Objectives**
- 1.3 Composition of Indian Judiciary : The Integrated System**
  - 1.3.1 The Supreme Court**
  - 1.3.2 The High Court**
- 1.4 Powers of the Supreme Court**
- 1.5 Judiciary and Fundamental Rights**
- 1.6 Judiciary and Basic Structure of the Constitution**
- 1.7 Summing Up**
- 1.8 References & Suggested Readings**

### 1.1 Introduction

In any society, disputes are bound to arise. For resolving disputes an independent and impartial authority is required which acts in accordance with the rule of law. Rule of law implies that all individuals are subjected to the same laws. Judiciary is an important organ of the government empowered to decide legal disputes. The Constitution of India provides various provisions for the establishment of an independent judiciary. The Constitution provides for a single integrated judiciary system and the apex Court i.e., the Supreme Court of India acts as the final interpreter of the Constitution.

### 1.2 Objectives

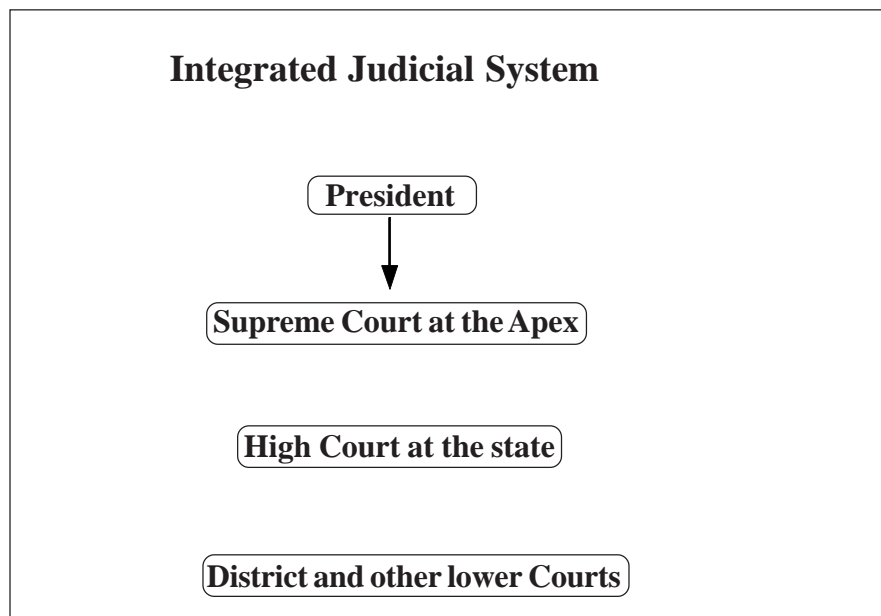
The objective of this unit is to introduce you to the Indian judicial system. After going through this unit, we shall be able to:

- *discuss* the composition of Indian judiciary.
- *describe* various powers of the Supreme Court of India
- *explain* the role of judiciary in the matter of Fundamental Rights.
- *discuss* the role of Judiciary in the matter of Basic Structure of the constitution

### 1.3 Composition of Indian Judiciary : The Integrated System

The Indian Judiciary has a single integrated system of courts. Hence a person can approach the same court for enforcement of State laws as well as laws enacted by the parliament. Some federal states like the USA on the other hand have a dual system of Courts, one for administering the federal laws and another for state laws.

In India there is unified or integrated judiciary having one system of fundamental law and justice with The Supreme Court at the apex, High Courts at the state level and other lower Courts under the High Courts. The Constitution of India contains provisions for the establishments, powers and other matters pertaining to the Supreme Court and the High Courts.



This single system of Courts, adopted from the Government of India Act of 1935, enforces both central and state laws. The Supreme Court is the highest Court of the country. Article 124 provides, "There shall be a Supreme Court of India". It enjoys supreme judicial authority in India. Its decisions are binding on all Courts. No appeal lies against its decisions.

#### **Stop To Consider**

##### **Historical Background of the Indian Judicial System**

Indian judiciary is a continuation of the British Legal system. Under the British East-India company a system of courts were established in three Presidencies-

-- Bengal, Bombay and Madras. The types of courts and their jurisdiction varied from presidency to presidency. When the Company's administration was replaced by the Crown, uniform judicial system was introduced in the entire country. The British administration also put emphasis on customs, precedents and legislative laws. The Supreme Court of India was constituted in 1950 in New Delhi by raising the status of the then Federal Court set up under the provisions of the Government of India Act of 1935.

### **1.3.1 The Supreme Court**

Originally, the Supreme Court of India consists of one Chief Justice and seven other judges. In 1956, the number of other judges was raised to 10, in 1960 to 13, in 1977 to 17 and to 25 in 1986 and to 30 in 2008. Thus, at present the Supreme Court consists of a Chief justice and 30 other judges.

#### ***Method of Appointment of judges:***

Article 124 (2) makes provisions for the appointment of the judges of the Supreme Court and of the High Courts. The judges are appointed by the President of India after consulting with the Chief Justice of India and the judges of the Supreme Court and High Courts in the state as he or she may deem necessary. Though no such provision exists in the matter of appointment of a Chief Justice, the usual practice is to appoint the senior most judge of the Supreme Court as Chief justice in consultation with the retiring Chief Justice. The Law Commissioner's 8th Report on "the appointment of Judges" presented in 1980 recommended that the principle of seniority should be strictly followed by the Government in the appointment of the Chief Justice of Supreme Court. The Supreme Court in the Second Judges Case (1993) ruled that the senior most judge of the Supreme Court should alone be appointed to the office of the Chief Justice of India.

#### ***Qualifications of judges:***

A person to be appointed as a judge of the Supreme Court should have the following qualifications:

- (i) He/she should be a citizen of India.
- (ii) He/she should have been for at least 5 years a judge of a High Court or of two or/she more such Courts in succession; or

- (iii) He/she should have been an advocate of a High Court or High Courts in succession for ten years; or
- (iv) He/she should be a distinguished jurist in the opinion of the President.

***Term of office:***

A judge of the Supreme Court holds office until he/she attains the age of sixty five years.

***Method of removal of judges:***

In order to preserve the independence of the judiciary a difficult procedure has been prescribed for the removal of a judge of the Supreme Court or of a High Court. A judge of the Supreme Court cannot be removed from his/her office except by an order of the President passed after an address by each House of The Parliament. Such an address must be supported by a majority of the total membership of that House and by a majority of not less than two thirds of the members of that House present and voting and must be presented in same session in both Houses of Parliament. A judge of the Supreme Court or of a High Court can be removed only on the ground of proved misbehaviour or incapacity.

**SAQ:**

Dou you think that the procedure of removal of judges help in protecting the independence of judiciary in India? (60 words)

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### **1.3.2 The High Court**

Article 214 of the constitution states "there shall be a High Court for each state". However, as Article 231 (1) provides, parliament may by law establish a common High Court for two or more States and union territory. At present Punjab and Haryana have a common High Court. The Gauhati High Court is also a common High Court for seven states - Assam, Nagaland, Manipur, Tripura, Meghalaya, Arunachal Pradesh and Mizoram.

Composition: According to Article 216 every High Court shall consist of a Chief Justice and such other judges as the President may, from time to time, deem it necessary to appoint.

#### ***Method of appointment:***

Every judge of a High Court shall be appointed by the President after consultation with the Chief Justice of India, the Government of the State concerned and in the case of appointment of a judge, other than the Chief Justice of the High Court.

#### ***Tenure:***

A judge of a High Court including the Chief Justice holds office till the age of 62 years.

#### ***Qualification of a Judge:***

A person to be appointed as a Judge of a High Court shall have the following qualifications:

- i) He/she should be a citizen of India
- ii) He/she must have held a judicial office in the territory of India for at least ten years; or
- iii) He/she must have been an advocate of a High Court or two or more such Courts in succession for at least ten years.

#### ***Method of removal:***

We have already learnt about the manner in which a judge of the Supreme Court can be removed from office. The same procedure is applicable in case of a judge of any High Court. A judge of a High Court may be removed from his office by the President in the manner provided in Article 124 (4) for the removal of a judge of the Supreme Court.



### **District And Other Lower Courts:**

Besides the High Courts, there are other lower Courts which are classified depending on the nature of cases. There are four classes of criminal Courts. These are:

- a) Court of session
- b) Judicial Magistrate of the 1st class and in any metropolitan area, Metropolitan magistrate
- c) Judicial Magistrate of the 2nd class and
- d) Executive Magistrate

### **Classes of Civil Courts in India:**

- a) District Court
- b) Court of small causes e.g., Civil judge or Munsiff

Apart from these, there are other Courts like Revenue Court, various Tribunals like MACT, Foreigner's Tribunal, Consumer's Forum, Family Court, Arbitrators etc.

### **Appointment of District Judges:**

According to Article 233 (1) appointment, posting and promotion of the District Judge in any State shall be made by the Governor of the State in Consultation with High Court exercising jurisdiction in relation to such state. The Consultation with the High Court is mandatory.

The expression 'District Judge' includes judge of a city Civil Court, Additional District Judge, Joint District Judge, Assistant District Judge, Chief Judge of Small Cause Court, Chief Presidency Magistrate, Additional Chief Presidency Magistrate, Session Judge Additional Session Judge and Assistant Session Judge.

### **Appointment of other judges:**

Appointment of persons other than District Judges to the judicial service of a State shall be made by the Governor of the State in accordance with rules made by him in that behalf after consultation with the State Public Service Commission and with the High Court exercising jurisdiction in relation to such state.

**Check Your Progress:**

1. Discuss the Composition of Indian judiciary.
2. How a judge of the Supreme Court can be removed?
3. Can the President remove a judge of the High Court at his will?

**1.4 Powers of the Supreme Court**

The Supreme Court is a federal Court and has original jurisdiction over disputes between states, or between one or more states and the Union. It is the protector of Fundamental Rights and the highest Court of appeal in all Civil and Criminal matters. It is the final interpreter of the Constitution. The Supreme Court has wide jurisdiction and varied powers. The powers of the Supreme Court can be understood from the following:

**A Court of Record:**

The Supreme Court is declared to be a Court of Record, that is, a Court whose records are admitted to be of evidentiary value and are not to be questioned when they are produced before the Court. A Court of Record has the power to punish for contempt.

Article 129 of the Indian Constitution confers this power to the Supreme Court to punish for its contempt. As for example, we may cite the Ayodhya Case. In *Mohd. Aslam vs. Union of India* (1994), the Chief Minister of U.P. Mr. Kalyan Singh was punished for failing to honour the undertaking given to the Court in regard to the Ram Janma Bhomi Case. This judgement establishes the principle of the rule of law that no authority is above the law. The Supreme Court has the power to punish a person for the contempt of itself as well as of its subordinate Courts.

The powers and functions of the Supreme Court are clearly reflected in its jurisdiction. The jurisdiction of the Supreme Court is of three kinds:

- i) Original jurisdiction
- ii) Appellate jurisdiction
- iii) Advisory jurisdiction

### **A) Original jurisdiction:**

Article 131 of the Constitution of India vests the Supreme Court with original and exclusive jurisdiction in any disputes:

- a) between the Union Government and one or more states, or
- b) between the Union Government and any state or states on one side and one or more states on the other, or
- c) between two or more states.

**Exception:** The original jurisdiction of the Supreme Court, however, does not include the following matters:

- 1) Disputes arising out of any treaty, agreement, contract, engagement, Sanad or other similar instrument which was executed before the commencement of the constitution.
- 2) Under Article 264 parliament may by law exclude the jurisdiction of the Supreme Court in disputes with respect to the use, distribution or control of the water of any inter state river-valley.
- 3) Matters referred to the Finance Commission (Article 280).
- 4) The adjustment of certain expense between the Union and the State (Article 290).

The jurisdiction conferred by Article 131 is exclusive. Only the Supreme Court has the jurisdiction to entertain and decide such disputes.

### **Writ jurisdiction under Article 32:**

Article 32 confers original jurisdiction on the Supreme Court to enforce Fundamental Rights. This right is enjoyed and can be enforced by a private person against the state. Article 32 (1) clearly states that wherever there is a violation of Fundamental Rights any person can move the Supreme Court for an appropriate remedy. Article 32 provides a guaranteed remedy for the enforcement of Fundamental Rights, and this remedial right is itself made a Fundamental Right. A citizen can resort directly to the Supreme Court for such relief without first resorting to the High Court.

## **B. Appellate jurisdiction:**

The Supreme Court is the highest Court of Appeal in the Country. The Appellate jurisdiction of the Supreme Court can be classified into following main categories:

- i) Appeal in Constitutional cases
- ii) Appeal in Civil cases
- iii) Appeal in Criminal cases
- iv) Appeal by Special leave

**i) Appeal in Constitutional cases :** Under Article 132 (1), an appeal can be made to the Supreme Court from any judgement decree or final order of any High Court, whether in a civil, criminal or other proceedings, if the High Court certifies that the case involves a substantial question of law as to the interpretation of the Constitution where a certificate is issued by the High Court to that effect to any party in the case.

But where the High Court has refused to issue such certificate, the Supreme Court may, if it feels that the case involved a substantial question of law as to the interpretation of the Constitution, grant Special leave under Article 136, from such judgement, decree, final order or sentence.

**ii) Appeal in civil cases:** Article 133 provides that an appeal shall lie to the Supreme Court from any judgement, decree or final order in a civil proceeding of a High Court only if the High Court certifies (a) that the case involves a substantial question of law of general importance (b) that in the opinion of the High Court the said question needs to be decided by the Supreme Court.

In an appeal under Article 133 the appellant cannot raise new grounds which are not raised before the lower Court.

Article 133 (3) provides that no appeal shall lie to the Supreme Court from the judgement, decree or final order of a single judge of a High Court unless parliament by law otherwise provide.

**C. Appeal in Criminal cases :** According to Article 134 an appeal lies to the Supreme Court from any judgement, final order or sentence in a criminal proceeding of a High Court in the following two ways :

a) Without a certificate of High Court (Act. 134 (a) (b)).

b) With a certificate of High Court (Act 134 (c))

**a) Without a certificate :** In criminal cases an appeal lies to the Supreme Court without a certificate of the High Court as of right in cases

i) Where a lower Court passes an order of acquittal of an accused person but the High Court reverses the order of acquittal on appeal and sentences the accused person to death.

ii) Where the High Court withdraws for trial before itself any case from a subordinate Court, and after trial convicts the accused person to death.

**b) With a certificate:** Under Article 134 (c) an appeal lies to the Supreme Court, if the High Court certifies, under Article 134-A, that the case is a fit one for appeal to the Supreme Court.

The power of the High Court to grant a fitness certificate in the criminal cases is a discretionary power. But this discretion is a judicial one and must be exercised judicially. The Supreme Court has laid down guiding principles for the High Courts to follow in granting certificates. Parliament may by law confer on the Court any further powers to entertain and hear appeals from any judgement and final order or sentence in a criminal proceeding of a High Court. Thus, parliament has enacted The Supreme Court enlargement of Criminal appellate Jurisdiction Act, 1970. The Act specifies two cases where appeal would lie to the Supreme Court without a certificate as of right. These two cases are:

a) If the High Court has on appeal reversed an order of acquittal of an accused person and sentenced him to imprisonment for life or for a term of not less than 10 years.

b) If the High Court has withdrawn for trial before itself any case from any subordinate Court and has in such trial convicted the accused person and sentenced him to imprisonment for life or to imprisonment for a period of not less than 10 years.

Prior to this Act, the right to appeal was allowed only where death sentence was passed. But after the Act of 1970 the right to appeal is available even in cases of imprisonment for 10 years.

**Appeal by Special Leave:**

Article 136 confers wide and discretionary powers on the Supreme Court in the matter of granting special leave to appeal from any judgement, decree, determination, sentence or order in any cause or matter passed or made by any Court or tribunal in India, other than Military Tribunal and Court Martial.

**Limitations of Article 136:**

One cannot approach the Supreme Court directly under Article 136 instead of approaching the High Court under Article 226. In an appeal under Article 136, the Supreme Court does not allow the appellant to raise any new plea for the first time.

**Nature of Art 136:** Article 136 itself does not create a right of appeal. It confers a power on the Supreme Court giving it a discretion to interfere in exceptional and grave matters. This discretionary power is to be exercised not in a routine manner but to be exercised sparingly.

**In Civil Cases:** Special leave is granted where there is some substantial question of law of general interest is involved.

In Criminal cases the Supreme Court will grant special leave of appeal if it is satisfied that special and exceptional circumstances exist or grave injustice has been done.

**In case of Tribunals:** The Supreme Court interferes with the decisions of Tribunals on the following grounds:

- i) Where the Tribunal has exceeded its jurisdiction
- ii) Where there is an apparent error on the face of the decisions
- iii) Where the awards are made in violation of principles of natural justice
- iv) Where the tribunal has erroneously applied well-accepted principles of jurisprudence.

Under Article 136 the Supreme Court has wide power to interfere and correct the judgment and orders passed by any Court or Tribunal in the country. In addition to the appellate power, the Court has special residency power to entertain appeal against any order of any Court.

## **Stop To Consider**

### **Concept of Natural Justice**

Natural justice implies certain rules of judicial procedure. Concept of natural justice is closely related to natural law. It stands for procedural fairness and ensures a fair decision. The principle of natural justice was derived from the Romans who believed that some legal principles were 'natural' or 'self-evident' and did not require a statutory basis. It is defined to mean "fair play in action".

The two rules of natural justice are:

- i) Nobody should be condemned unheard.
- ii) Nobody can be a judge in his own cause.

### **iii. Advisory jurisdiction:**

Article 143 of the constitution, which confers Advisory jurisdiction on Supreme Court, Article 143 provides that if at any time it appears to the President that:

- a) A question of law or fact has arisen or is likely to arise, and
- b) The question is of such nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, he may refer the question for the Advisory opinion of the Court and the Court may after such hearing as it thinks fit, report to the President its opinion thereon.

Here the word "may" indicates that the Supreme Court is not bound to express its opinion on the question referred to it by the President.

### **3. Miscellaneous powers**

In addition to the above powers, the Supreme Court enjoys certain other powers which are described as follows:

#### **a) Decisions of the Supreme Court are binding :**

The decisions of the Supreme Court are binding on all the Courts and are enforceable throughout the territory of India. However, the Supreme Court itself is not bound by its decisions. For example, its own decision in the Golak Nath case. was overruled by it in Keshavanand Bharati's case.

**b) Power to review its judgment :**

The Supreme Court has the power to review its judgment, subject to the laws made by parliament or rules made by the Supreme Court under its rule-making power under Article 145.

**c) Power to make rules (Article 145):**

Subject to the provision of any law made by parliament the Supreme Court may make rules for regulating generally the practice and procedure of the Court with the approval of the President.

**d) Power to control over its own establishment:**

Appointments of officers and servants of the Supreme Court shall be made by the Chief Justice of India in consultation with the UP Supreme Court. The conditions of service of officers and servants of the Supreme Court shall be made by the CJI with the approval of the President. All the administrative expenses of the Supreme Court including all salaries, allowances and pensions payable to or in respect of the officers and servants of the Court shall be charged upon the consolidated Fund of India and any fees or other money taken by the Court shall form part of that fund.

**e) Power of the Supreme Court to issue certain writs (Article 139):**

The parliament may by law empower on the Supreme Court to issue directions, orders or writs including writs of Habeas Corpus, Mandamus, Prohibition, Quo-warranto and certiorari for any purpose other than the enforcement of Fundamental Rights. Under Article 32 (2) the Supreme Court can issue directions or orders or writs only for the enforcement of any of the Fundamental Rights.

**f) Powers to investigate the election disputes:**

All the disputes relating to election of the President or the vice-President are investigated by the Supreme Court and its decision in this regard is considered as final.

**g) Power to fill up the post /office of the President:**

When the office of the President falls vacant due to vice-President's inability to discharge the duties of office, then the chief justice of India acts as President of India. Such a situation arose when VV Giri, who acted as President after the death of Zakir Hussain tendered his resignation to



contest the Presidential election, then Mohammad Hidayatullah, chief Justice of India acted as President of India from July 20 to 24 Aug, 1969.

**h) Power of the Supreme Court to transfer cases:**

The Supreme Court has been empowered to transfer any case, appeal or other proceedings pending before any High Court to any other High Court. The Supreme Court can also withdraw a case from a special judge and transfer it to the High Court.

**i) Ancillary powers of Supreme Court:**

Under Article 140, parliament may by law confer upon the Supreme Court such supplementary power as may appear to be necessary or desirable for enabling the court to function more effectively. But such power should not violate any other provision of the constitution.

Thus, the Supreme Court of India has been vested with very extensive powers. The Supreme Court of India is the most powerful in the world having the largest jurisdiction. A comparative study of the Indian Supreme Court with its American counterparts shows that the Supreme Court of India has wide jurisdiction and varied powers. Our Supreme Court has wide powers in case of appellate jurisdiction. It is the protector of Fundamental rights and the highest Court in appeal in all civil, criminal and constitutional matters already decided by the High Courts. It has also directed the Supreme Court to grant special leave to appeal against the judgments of all lower Courts and tribunals. On the other hand, the appellate jurisdiction of the American Supreme Court is limited to the constitutional cases decided by the highest Courts of the states, circuit Courts of appeal and in some limited cases by the District Courts.

Our Supreme Court has advisory jurisdiction which the US Supreme Court does not possess.

Finally, we may conclude with the words of Sir Alladi Krishnaswami Ayyar who rightly said that the Supreme Court of India "has more power than any other Supreme Court in any part of the world."

**Check Your Progress:**

1. What is meant when the Supreme Court of India is called "The Court of Record"?
2. Discuss the powers and functions of the Supreme Court of India.
3. Write a note on the advisory jurisdiction of the Supreme Court of India.

**1.5 Judiciary and Fundamental Rights**

We know that Part III of the Indian Constitution guarantees six fundamental rights. These rights are classified in the following categories:

- a) Right to Equality (Article 14 to 18)
- b) Right to Freedom (Article 19 to 22)
- c) Right against Exploitation (Article 23 and 24)
- d) Right to freedom of Religion (Article 25 to 28)
- e) Cultural and Educational Rights (Article 29 and 30)
- f) Right to Constitutional Remedies (Article 32 to 35)

It is to be noted that the Right to Property guaranteed by Article 31 has been deleted from the list of Fundamental Rights by the Constitution (44th Amendment) Act. 1978.

**Role of judiciary in cases of violation of Fundamental Rights:**

The Indian judiciary occupies a vital and position relating to the remedy in case of violation of fundamental rights. Article 32 to 35 deals with the right to constitutional remedies in the cases of violation of fundamental rights guaranteed in part III of the constitution. Article 32 guarantees the right to move the Supreme Court by appropriate proceedings for the enforcement of the Fundamental Rights. In case of violation of the fundamental rights the right to move to the Supreme Court under Article 32 is itself a fundamental right. Besides, an aggrieved person may also approach the High Court under Article 226.

**Powers of the High Court in case of violation of Fundamental Rights:**

If there is any infringement of fundamental rights the aggrieved person may seek remedy from the High Court. Article 226 empowers the High Court

to issue writs for the enforcement of the fundamental rights as well as for any other purpose. Article 226 provides that every High Court shall have the power throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority including in appropriate cases, any Government within those territories, directions, orders or writs including writs in the nature of Habeas corpus, Mandamus, Prohibition, Quo-warranto and Certiorari or any of them for the enforcement of fundamental rights guaranteed by part III of the Constitution or for any other purpose.

It is to be noted here that the remedy provided in Article 226 is a discretionary remedy and cannot be claimed as a matter of right and the High Court can refuse to issue the writs. However, the High Court must exercise its discretion on recognized and established principles and not arbitrarily. Where any fundamental right is infringed, an application under Article 226 should not be thrown out simply on the ground that the proper writ has not been prayed for. The Court should give suitable protection to fundamental rights.

### **Powers of the Supreme Court in case of violation of Fundamental Rights:**

The Supreme Court of India is the final interpreter and guardian of the Constitution. It is also the protector and guardian of the Fundamental Rights enshrined in the constitution.

For this purpose, the Supreme Court can issue orders, directions, and writs in nature of Habeas corpus, Mandamus, Prohibition, Quo-warranto and Certiorari, as may be appropriate. This power has been specifically vested in the Supreme Court by the Constitution. Article 32 makes right to constitutional remedies a Fundamental Right and authorizes the citizens to approach the Supreme Court for the enforcement of the Fundamental Rights. Article 13 makes the Fundamental Rights justiciable. It makes provisions for judicial review of legislation. Article 13 (2) prohibits the state from making any law which takes away or abridges the rights granted to the citizens by part III of the Constitution. It is not only the power but also the duty of the Court to declare a law void if it is inconsistent with or in derogation of the Fundamental Rights.

### **Judicial Remedy through various Writs:**

A right without a remedy is a meaningless formality. Hence, the High Court (under Article 226) and the Supreme Court (under Article 32) are empowered not only to issue five prerogative writs but also may be appropriate in the circumstances of each case. Let us discuss these writs.

1. **Habeas corpus:** Habeas corpus means - bring the body. It is a prerogative writ by a person who is confined or detained. If the Court finds the detention illegal, it will order to set him free. The object of this writ is to secure the release the person detained illegally, but not to punish the person who has detained another person illegally. For the writ of Habeas corpus, an application may be made by the detente himself or if he is not in a position to do so, by any other person on his behalf.

In the case of application for the writ of Habeas corpus, the strict rules of pleading are not followed. Even a postcard written by detained is sufficient to seek the remedy.

It is to be noted that if the application for Habeas corpus under Article 226 is dismissed by the High Court, the applicant may move to the Supreme Court to file a petition for Habeas corpus under Article 32.

2. **Mandamus:** "Mandamus" literally means a command. The writ of Mandamus can be issued by the Supreme Court and High Courts commanding a person or a body to perform the duty which he or it bounds to do or to abstain from doing any illegal act.
3. **Certiorari:** This writ is issued by the Supreme Court and High Courts to remove a suit from a subordinate court. This writ is issued for want or excess of jurisdiction, in case of violation of procedure or disregards of principles of natural justice, for correcting error of law.
4. **Prohibition:** A writ of prohibition is issued primarily to prevent an inferior Court or tribunal from exceeding its jurisdiction or acting contrary to the rules of natural justice.
5. **Quo-warranto:** The Supreme Court and High Court can issue the writ of quo-warranto to restrain a person from holding an office which he is not legally entitled to hold.

**Check Your Progress:**

1. Discuss the role played by the Supreme Court of India as the guardian of the Fundamental Rights of the citizens.
2. Write a short note on "Habeas Corpus".
3. Explain the various judicial remedies provided in case of violation of Fundamental Rights.

**1.6 Judiciary and Basic Structure of the Constitution**

Our constitution has grown steadily since its inception in 1950. During this period, many of its features have undergone changes or amendments on various occasions. But it is judicially established that the basic structure of the constitution remains the same. In the leading case of *Keshvanand Bharati vs. state of Kerela*, the Supreme Court held that parliament has power to amend the Constitution but it cannot alter the basic structure of the Constitution.

However, the concept 'basic structure of the Constitution' has not been defined by the Supreme Court precisely. The Court has only given some examples of the basic structure of the constitution, including the following aspects:

- a) Supremacy of the Constitution
- b) Democratic and Republican forms of Government.
- c) Sovereignty of India.
- d) Federal character of the Constitution
- e) Secular character of the Constitution
- f) Ideals contained in the Preamble
- g) Parliamentary system of Government.
- h) Fundamental rights guaranteed by Part III of the Constitution
- i) Principle of equality
- j) Social and economic justice
- k) Welfare state
- l) Separation of powers between executive, legislative and judiciary
- m) Judicial review
- n) Independence of judiciary
- o) Rule of law
- p) Principle of free and fair election
- q) Limitation on the amending power of parliament under Article 368.

### **Instances of Judicial interference:**

There are numerous instances of judicial interference where the Supreme Court has held that certain amendments were likely to destroy the basic structure of the Constitution. As for example, in *Indira Gandhi vs. Raj Narayan*, the validity of clause (4) of Article 392A inserted by the Constitution (39th Amendment) Act, 1975 was nullified challenged on the ground that it violates the basic structure of the Constitution.

In *Minerva Mills vs. Union of India*, the Supreme Court declared clauses 4 and 5 of Article 368 invalid as they the basic structure of the Constitution. The Court held that these clauses took away the power of judicial review which is a part of the basic structure of the Constitution.

### **Stop To Consider**

#### **Procedure of Amendment of Indian Constitution**

Article 368 confers the power to amend the constitution on Parliament and prescribes the procedure for amendment. Basically these are two procedures for amendment:

1. By simple majority: Some Articles like Article 4, 239-A, 312 etc. can be amended by parliament by ordinary legislative process.
2. By special Majority and ratification: Matters relating to the federal structure can be amended only passed by a majority of the total membership of each house and a majority of  $\frac{2}{3}$  of the members of each House of Parliament present and voting and is to be ratified by the legislatures of not less than half of the states by resolution to that effect. Such matters include:
  - a) Member of election of President
  - b) Executive power of the Union and the States
  - c) The Supreme Court and the High Courts
  - d) Distribution of Legislative powers between the Union and states
  - e) Any lists of the 7th Schedule
  - f) Article 368
3. By Special Majority: All the provisions except those procedures cited above are amended by special majority. In other words, the Bill must be passed by a majority of  $\frac{2}{3}$  of the members of each House present and voting and such majority must exceed 50% of the total membership of the House.

### **Check your Progress**

1. Write a short note on the basic structure of the Constitution of India.
2. Can the basic structure of the Indian Constitution be amended? Illustrate with Court decisions.
3. Explain the amending power of parliament.

### **1.7 Summing Up**

After going through this unit it becomes clear to you that though India inherited the British and colonial legal and judicial system, the judiciary in India at higher level particularly the Supreme Court has emerged as an institution of respect and protector of democratic values. You have learnt that when a fundamental right of a citizen conferred by the Constitution is infringed, the aggrieved person may approach the Court for redress, and the Court applies its power to provide the remedy. To this effect, the Supreme Court of India has played a commendable role in ensuring legal aid and assistance to all including the indigent.

### **1.8 References & Suggested Readings**

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## **Unit 2**

### **Judicial Review and Judicial Activism**

#### **Contents:**

- 2.1 Introduction**
- 2.2 Objectives**
- 2.3 Meaning and Scope of Judicial Review Under Indian Constitution**
  - 2.3.1 Constitutional Provisions as well as Reasons for the provision of judicial review in India**
  - 2.3.2 Judicial Review and the principle of procedure established by Law**
- 2.4 Judicial Activism--Meaning and Scope**
- 2.5 Exercising judicial Activism, PIL & Issue of Public Concerns**
  - 2.5.4 Criticism**
- 2.6 Summing Up**
- 2.7 References and Suggested Readings**

#### **2.1 Introduction**

The judiciary, one of the important organs of the government has been endowed with large scale functions by the Constitution of India. The constitution of India has conferred the power of judicial review on the Supreme Court and High Courts to uphold the principle of the supremacy of the constitution. The availability of the provisions of writs and Public Interest Litigation (PIL) makes the judiciary more beneficial and easily accessible. In this unit, we shall discuss the scope of judicial review under the Indian constitution. The unit also deals with the meaning and scope of judicial activism as well as how judicial reviews are exercised and the issues of public concern.



## 2.2 Objectives

The objectives of this unit are to acquaint you about judicial review and judicial activism. Various issues relating to judicial review, writs and public interest litigation are also discussed in this unit. After going through this unit, we shall be able to—

- *discuss* judicial review and its scope
- *explain* the concept of judicial activism in detail
- *discuss* public interest litigation.

## 2.3 Meaning and Scope of Judicial Review Under Indian Constitution

Judicial review refers to the power of the court to interpret the constitution and to declare void the acts of the legislature, or the executive if it finds them in conflict with the constitution.

The doctrine of judicial review originated in America and developed by the American Supreme Court. However, there was no express provision in the American Constitution for judicial review. In a case of *Marbury Vs. Madison* of 1803 the U.S. Supreme Court held that it had the power of judicial review and can therefore declare the acts of legislature and executive to be void, if it finds them violating the provisions of the constitution. In England there is supremacy of the Parliament and therefore the Acts passed by parliament cannot be declared void by the court. Unlike the U.S. constitution, the constitution of India expressly provides for judicial review.

### 2.3.1 Constitutional Provisions as well as Reasons for the provision of judicial review in India

Though the phrase "Judicial Review" has nowhere been used in the constitution, several articles of the constitution indirectly provide for Judicial Review. The constitutional validity of any act of the legislature can be challenged in the Supreme Court in the following grounds:--

- i. It infringes on the Fundamental Rights.
- ii. It is not within the competence of the legislature which has passed it.
- iii. It is repugnant to the provisions of the constitution.

Now let us discuss the reasons for the provision of judicial review in India.

The reasons are as follows:--

- i. For the enforcement of the supremacy of the constitution
- ii. To maintain federal equilibrium (balance between centre and states)
- iii. To protect the Fundamental Rights of the citizens
- iv. For securing the independence of judiciary.

It must be noted here that judicial review is not automatic. It means that the court does not conduct judicial review of its own. The court conducts judicial review only when any act is challenged before the court either specifically or in the process of legislation. The constitution of India provides the system of judicial review through several articles which are explained as follows-

- **Article 13:** Article 13 makes provisions of judicial review in respect of laws inconsistent with or in derogation of the Fundamental Rights. According to Article 13(1) all laws in force in the territory of India immediately before the commencement of the constitution, which are inconsistent with the provisions of the Part-III of the constitution, shall be void. Article 13 (2) states that the state shall not make any law which takes away or abridges the fundamental rights.
- **Article 32:** This Article confers original jurisdiction on the Supreme Court to enforce Fundamental Rights. The Supreme Court exercises judicial review power for protecting the Fundamental Rights.
- **Articles 131 & 132:** These Articles confer the original and appellate jurisdiction to the Supreme Court. These include the power to settle centre-state disputes between two states or among more than two states and the power to interpret the constitution. In the exercise of these powers, the Supreme Court takes recourse to the power of judicial review.
- **Article 226:** This Article provides judicial review power to the High Courts for protecting the Fundamental Rights as enumerated in Part III of the constitution.
- **Article 246:** Article 246 provides the distribution of legislative powers between the centre and states and the Supreme Court has the judicial review power to decide all cases of dispute over division of powers between the union and the states.

### **2.3.2 Judicial Review and the principle of procedure established by Law**

The scope of judicial review in India is not as wide as in the USA. In India, judicial review is governed by the principle of "procedure established by Law" and not by the "Due process of Law" which is applicable in the USA. The scope of judicial review under the principle of 'procedure established by law' is limited in comparison to that under the principle of "Due process of law". The latter gives wide scope to the Supreme Court to grant protection to the rights of its citizens. It can declare laws violative of these rights void not only on substantive grounds of being unlawful, but also on procedural grounds of being unreasonable. Under the "procedure established by law" the court only reviews the law to determine the constitutionality of law and examines only the substantive question i.e., whether the law is within the powers of the authority concerned or not. Hence, it has limited scope. M.V. Pylee states that the scope of judicial review in India is not wide as it is in the United States. This is because the Supreme Court has consistently refused to declare legislative enactments invalid on the ground that they violated the natural, social or political rights of citizens, unless it could be shown that such injustice was expressly prohibited by the constitution. The Fundamental Rights enumerated in part-III of the constitution of India have not been declared in absolute terms whereas the American constitution declares the Fundamental Rights in absolute terms. The constitution of India itself provides for the limitation and qualification of each Fundamental Rights and, thus, the determination of the ambit of the Fundamental Rights has not been left to the courts. This has restricted the scope of the power of judicial review.

However, despite such limitation the Supreme Court of India has played a significant role in constitutional development. The scope of Judicial Review in India is sufficient to make the Supreme Court a powerful agency to control the activities of both the legislature and the executive. (Pylee: 2000: 381) While the constitution expressly provides for the power of regulation of Fundamental Rights by the legislature, it also insists that such regulation must be reasonable. The Supreme Court is the ultimate authority to decide what is reasonable. Here is, thus, a sizable measure of power for the court to determine the reasonableness or otherwise of piece of legislation in the light of constitutional provisions.

**SAQ:**

Do you think that the exercise of judicial review has curtailed the power of the executive and legislature?

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**2.3.3 Salient features of Judicial Review in India**

In this sub-section let us deal with the salient features of judicial review are explained as under:-

- Both the Supreme Court and high courts exercise the power of judicial review. The Supreme Court has the final power to determine the constitutional validity of any law.
- Judicial review is not automatic. The court does not conduct judicial review of its own. It conducts judicial review only when any act is challenged before a court either specifically or in the process of litigation.
- Judicial Review can be conducted in respect of all central and state laws, the orders and ordinances of the executives and constitutional amendments.
- Judicial Review cannot be conducted in respect of the Acts and Regulations specified in the Ninth Schedule of the constitution. Article 31-B was added by the constitution (1st Amendment) Act, 1951. It provides that none of the Acts and Regulations mentioned in the Ninth Schedule of the constitution shall be deemed to be void on the ground that they are inconsistent with any of the rights conferred by part-III of the constitution.
- Judicial Review applies only to the questions of law.

### **Stop to Consider:**

#### **Right to Property and the 9th Schedule of the Constitution of India**

The constitution (1st Amendment) Act, 1951 inserted Articles 31A and 31B and the Ninth Schedule to give protection from challenge to land reform laws. Originally, sixty-four laws were added to the Ninth Schedule. The schedule is amended several times and added various laws. After the constitution (78th Amendment) Act, 1995 the total number of Acts included in the Ninth Schedule has risen to 284. Some of the laws included in Ninth Schedule are: --- The Bihar land Reforms Act, 1950, The Assam State Acquisition of lands belonging to Religious or charitable Institutions of Public Nature Act, 1959. The Manipur Land Revenue and Land Reforms Act, 1960, The Essential Commodities Act, 1955 (Consul Act 10 of 1955), The West Bengal Land Reforms Tribunal Act, 1991 (West Bengal Act 12 of 1991) etc.

### **2.3.4 Criticism of judicial review**

Several critics criticize the judicial review on the following grounds:-

- ***Undemocratic system:*** Judicial review is severally criticized as an undemocratic system, which has undermined the position of the parliament as the judges of the Supreme Court can decide the fate of the laws passed by the elected representatives of the people.
- ***Friction between judiciary and parliament:*** Judicial review has encouraged litigation which in many occasions promoted friction between judiciary and parliament.
- ***Lack of clarity:*** The constitution of India does not clearly mention the system of judicial review. It rests mostly upon the doctrine of implied powers and upon the interpretation of several Articles of the constitution.
- ***Delaying Process:*** The process of conducting judicial review is a slow process which leads to delay and inefficiency.
- ***Creates Administrative Problems:*** Where an Act or any part/parts are struck down by the Supreme Court as unconstitutional, the decision becomes effective from the date on which the judgment is delivered. An act faces judicial review only when a question of its constitutionality arises and such matter may come before the Supreme Court after many years of the enforcement of that Act. As such when the court declares it null and void, it creates administrative problems. Thus, in many occasions judicial review decision creates new problems.

Despite various shortcomings of judicial review, it enables the judiciary to play an important role as a protector of the constitutional values. Judicial review is based on the assumption that the constitution is the supreme law of the land and hence all organs of the government derive their powers from its provisions. Accordingly all organs must discharge their functions within the framework of the constitution and must not do anything which is inconsistent with its provisions. Article 13(2) of the constitution clearly says: "The State shall not make any law which takes away or abridges the rights conferred by part-III and any law made in contravention of this clause shall, to the extent of contravention, be void." The judiciary thus enjoys the power to scrutinize an executive order or a legislative enactment and to declare void if it is found inconsistent with the provisions of the constitution.

The concept of 'voidness' has three essential aspects. Firstly, the judiciary may declare the whole or a part of the impugned executive order or legislative measure void. Secondly, there may arise a case of 'relatively void' or 'partially void statute'. That is, the court may rule that a law is valid against the citizens but not against the corporation; or valid against the majorities but not against the minorities. Thirdly, what is declared void by the court may be revived by the State in the form of a law or Constitutional amendment with necessary modifications as desired by the judiciary. Thus, what the Supreme Court struck down in the Bank nationalization case was done away with the new law in this regard (Johari: 2001: 176).

Judicial review comprises of three aspects: judicial review of legislative action, judicial review of judicial decisions and judicial review of administrative action. The judges of the superior courts have been entrusted with the task of upholding the constitution and to interpret it. They have to ensure that the balance of power envisaged by the constitution is maintained and that the legislature and the executive do not in the discharge of their functions transgress the constitutional limitations.

**Check Your Progress:**

1. Define the doctrine of judicial review in the light of the constitutional provisions provided by the Indian Constitution.
2. Critically analyse the Judicial Review in India.
3. Distinguish between the principle of "procedure established by Law" and "The due Process of Law".

## 2.4 Judicial Activism: Meaning and Scope

The Supreme Court enjoys wide powers for the protection of the constitutional rights of citizens and the court in this regard has adopted an activist approach which involve taking of positive action with a view to secure enforcement of the fundamental rights. The judiciary has been assigned this active role under the constitution for protecting the fundamental rights and liberties of citizens.

In the words of P.B.Sawant, judicial activism "may be defined as the action of the judiciary which tends to increase on legislative and executive fields. Judges not only direct the executive, they also try to monitor actions and counter inaction. Every time as the apex court gives a decision involving judicial activism, interest in the subject is enlivened. An enlightened executive should welcome judicial activism." (Johari: 2001: 722).

Here you should remember that the judicial review of the laws made by legislature and acts of executive is not to be identified with judicial activism. As part of judicial activism, the judiciary has made the investigating agencies look into the acts of political corruption and amassment of ill-gotten wealth by political bosses. It is one of the primary functions of the judiciary to ensure the rule of law. The investigating agencies and the vigilance cells, often shirk from their duty in investigating gross political corruption and amassment of ill-gotten wealth by ministers and other high personages, because the investigating officers are subordinate to or under their administrative control. As such, they turn a blind eye to such acts political corruption and amassing of wealth, lest they offend their bosses. The judiciary has removed the shadow of fear and made the investigating officials enforce the rule of law. The judiciary has upheld the basic principle that none can avoid the penalties for violation of the law. It is a result of ensuring the rule of law that many acts of corruption have come to light.

There are certain events when the judiciary may overstep its normal jurisdiction and intervene in the domain of legislature. Important of these events are-

- When the Legislature fails to discharge its responsibilities.
- In case of a 'hung' legislature when the government is weak, insecure and busy only in the struggle for survival and therefore unable to take any decision which displeases any caste, community or other group.

- Where the legislature and executive fails to protect the basic rights of the citizens or to provide an honest, efficient and just system of laws and administration.

The first major case of judicial activism through social action litigation was the Bihar under trials case. Then in 1980, two Professors of law made a letter to the Editor of Indian Express describing barbaric conditions of detention in the Agra Protective Home, the basis for a writ petition under Article 21. This was followed by a similar petition for Delhi Women's Home by a third year law student in Delhi Law Faculty and a social worker. Then three journalists after an expose of a thriving market in which women were bought and sold as cattle, filed a writ petition demanding prohibition of this practice and immediate relief for their victims through programmes of compensation and rehabilitation (Fadia: 2003: 431).

Dr. B. L. Fadia has pointed out some of the consequences of judicial activism: (Fadia: 2003: 436)

- (a) Corruption exposed in high places.
- (b) Penal action initiated against top politicians and public servants.
- (c) Strict enforcement of environmental laws leading to closure or relocation of a large number of industries.

The growth of 'judicial activism' has enhanced the powers and prestige of the judiciary. When the executive and the legislative wings of the government were not discharging their constitutional duties, the judiciary assumed a more active role and gave directions to the various authorities-governmental and civic, to discharge their legally assigned duties. Thus the court has issued directions to control pollution, has directed the civic authorities of Delhi to dispose of garbage daily accumulating on the roads threatening the health of the people. Likewise, in *Gaurav Jain vs. Union of India* (1997) the Supreme Court has issued directions for rescue and rehabilitation of child prostitute and children of fallen women. In *M.C. Mehta vs State of Tamil Nadu* (1999) the Supreme Court has issued several directions in the interest of children. Apart from these there are number of instances of judicial activism in which the Apex court has booked several mighty personnel in various cases of cheating, forgery and corruption, viz. *Lakhubai Pathak case*, *St. Kitts case*, allotment of petrol pumps and gas agencies case etc.



### **Stop To Consider:**

#### **Rule of Law**

The expression 'Rule of Law' has been derived from the French phrase 'la principle de legalite' i.e. a government based on the principles of law may be taken to mean mainly a rule or principle which governs the external actions of the human beings and which is recognized and applied by the state in the administration of justice.

The Rule of law was originated by Sir Edward Coke and developed by A.C. Dicey. According to Dicey, Rule of law has three meanings–

- (i) No man can be punished except for a breach for a law.
- (ii) No man is above law.
- (iii) General principles of the constitution are the result of judicial decision.

### **2.4.1 Constitutional Basis of Judicial Activism**

Article 13, 32, 141 and 142 are of considerable importance in judicial activism. Article 32 is itself a fundamental right. It makes the Supreme Court as the protector and guarantor of the fundamental rights. Article 13 makes the Fundamental Rights justifiable. It makes provision for judicial review of Legislation. The Supreme Court has been conferred wide power of judicial review. In the exercise of judicial power it can examine the constitutionality of the executive or legislative act. Article 32(1) guarantees the right to move the Supreme Court by "appropriate proceedings" for the enforcement of the fundamental rights conferred by part-III of the constitution. The Supreme Court is empowered to issue appropriate directions or orders or writs, including writs of Habeas Corpus, Mandamus, Prohibition, Quo-warranto and Certiorari for the enforcement of any of the Fundamental Rights Thus, Article 32 provides for an expeditious and inexpensive remedy for the protection of Fundamental Rights from legislative and executive interference.

On the other hand the High Courts are also empowered under Article 226 to issue the writs for the enforcement of Fundamental Rights and other rights. Thus, the Supreme Court and High Courts both can examine the act of the executive and legislature and can declare it void if found in contravention of the constitutional provisions.

Article 141 proclaims that the law declared by the Supreme Court shall be binding on all courts within the territory of India. However, the Supreme

Court itself is not bound by its earlier decisions. For example, the decisions in the cases of Shankari Prasad (1951) and Sajjan Singh (1965) were overruled by the Supreme Court in Golak Nath's Case (1967) and the decision in Golak Nath's case was overruled by it in Keshavand Bharati's Case (1973). And, if there is a conflict between the two decisions of the Supreme Court given by the judges of equal strength, the decision of the later bench will be binding. Again, the decision of the larger bench is binding on a smaller bench.

Article 142(1) confers on the Supreme Court plenary power to pass any decree or order to ensure complete justice in any case or matter pending before it and any such decree or order shall be enforceable throughout the country.

Article 142 (2) empowers the Supreme Court to order the attendance of any person, the discovery or production of any documents or the investigation or punishment of any contempt of itself. This power has a limitation too. In Supreme Court Bar Association's Case (1998) the Supreme Court has held that the law-making power of the statutory body can not be assumed by the Supreme Court.

Article 227 confers on the High Court a power of superintendence over all courts and Tribunals throughout the territories in relation to which it exercises jurisdiction. The High Court has exercised jurisdiction under Article 227 in the following cases:-

- (i) excess of jurisdiction
- (ii) erroneous assumption of jurisdiction
- (iii) violation of the rules of natural justice
- (iv) error of law apparent on the face of the record
- (v) gross injustice
- (vi) improper refusal to exercise jurisdiction
- (vii) perverse finding
- (viii) disregarding the law laid down by the Supreme Court or the High Court.

In 1995, the Supreme Court called upon the Government of India to work for securing a uniform civil code for all the people as stipulated in the Directive Principles of State Policy under Article 44. This was indeed an act of judicial activism. The Supreme Court is practicing 'activism' in getting expedited

action in CBI case against public servants alleged to have been involved in several scams and acts of indiscretion. For example, the Hawala Scam, Urea Scam, Fodder Scam etc. Many such cases have been brought to the court through the Public Interest Litigation (PIL). The scope of judicial activism is further widened due to the rise and growth of PIL.

In the light of above discussion we can say that the approach of judicial activism adopted by the Indian courts has proved a boon for the common man.

### **Stop To Consider:**

#### **Uniform Civil Code in India**

Uniform Civil Code refers to the concept of an overarching Civil Law code in India. It is against the system where citizens are governed under different personal laws based on their religion or caste or tribe. Thus, it envisages administering the same set of secular civil laws to govern different people belonging to different religions and regions. The common areas covered by a civil code include: a). personal status b). rights related to acquisition and administration of property c). marriage, divorce and adoption. Article 44 of the Constitution of India says: "The state shall endeavour to secure for the citizens a uniform civil code throughout the territory of India." It means that a codified law is enacted which is applied to all irrespective of caste, creed and religion.

The trend of judicial activism has been criticized mostly by the politicians of the country who have now come to realize that they are not above the law of the land. It is said that the courts have breached the principle of checks and balances as laid down by the makers of the constitution. They are encroaching upon the domains of the legislature and executive. A noted jurist of the country like N.A. Palkhivala, comments that it is never right that the power vested in the elected representatives of the people will be shifted to a few learned judges today and to a band of dictators tomorrow and the people feel happy that it is all justified as justice is being done to them. Judicial activism becomes another name for judicial adventurism or judicial excessivism that may ultimately lead to judicial despotism in the country. However, such apprehensions are unwarranted. The active role of the judiciary is a definite consequence of the passive role of the executive and the legislature (Johari:2001: 726).

Some of the Critics also say that judiciary encroaches upon the jurisdiction of the executive, the legislature and other independent and autonomous institutions.

**Check Your Progress:**

1. Define judicial activism.
2. Discuss the Scope of judicial activism with two important decisions.
3. Critically describe the judicial activism in the light of public interest litigations.

## **2.5 Exercising Judicial Activism, PIL and Issues of Public Concerns**

S. Ratnavel Pandian J. in *Janata Dal V. H.S. Choudhury* said, "Lexically the expression 'Public Interest Litigation' means legal action initiated in a court of law for the enforcement of public interest or general interest in which the public or a class of community have pecuniary interest or some interest by which their legal rights or liabilities are affected." (Kesari: 2000: 321)

Public Interest Litigation has provided significant assistance in making the judicial activism more meaningful. Public Interest Litigation is entertained by the court at the instance of any public spirited citizen or organization acting bonafide for the enforcement of fundamental rights. Hence, it can be said that a person or class of persons unable to approach the court for judicial redress due to social disability or poverty can move the court for relief by filing a PIL, i.e. Public Interest Litigation. Litigation here means legal action and includes all proceedings in this connection initiated and conducted in a High Court or Supreme Court for enforcement of law or seeking judicial intervention. The court has got the opportunity to give directions in issues of public concerns by exercising judicial activism through PIL cases. Justice Bhagwati explained the nature and purpose of Public Interest Litigation as follows---Public Interest Litigation is not in the nature of adversary litigation but it is challenge and an opportunity to the government and aims to make basic human rights meaningful to the deprived, vulnerable section of the community and assure them social and economic justice which is the significant tune of our constitution. Public Interest litigation is a modest attempt to ensure justice to each and all and especially it is beneficial to the

poor and weak of the society. PIL makes the judicial system more accessible and available to the weaker and the victims of injustice. Under the principle of PIL, the petition can be filed in the court by any person or organization to seek relief on behalf of the aggrieved person or group of persons. The courts look liberally and follow the stand that matters can be raised even without formally filing a suit. Even letters or telegrams to the Supreme Court by socially conscious citizens were treated as writ petitions. The PIL favours the poor, weak and ignorant. The Supreme Court by encouraging PIL has not only protected the rights of the weaker sections of society but also tried to ensure socio-economic justice to weaker sections of the society.

### **2.5.1 Constitutional remedies against the violation of Fundamental Rights**

It is commonly said that any person whose Fundamental Rights have been infringed has the right to move to the Supreme Court. The power conferred by Article 32 is only for the enforcement of Fundamental Rights. For the violation of other rights the remedy is to be sought from appropriate courts.

This traditional rule of Locus Standi has been relaxed by the Supreme Court. The court has opened its doors for the poor and have-nots by relaxing or sometimes even throwing overboard the rule of Locus Standi. The Supreme Court allows a public spirited citizen or social organization to move to the court for the other legal rights of any person or group of persons who because of their poverty or disadvantaged position are themselves unable to approach the court. Thus, any member of the public having sufficient interest can approach the court for enforcing the rights of other persons also.

The Supreme Court in *Bandhawa Mukti Marcha vs. Union of India*, (1984) reiterated its jurisdiction for participative justice and the need for liberation of Locus Standi rule. In the case the petitioner is an organization dedicated to the cause of release of bonded labourers in the country. He made a survey of some of the stone quarries in Faridabad district and found that there were a large number of labourers from Maharashtra, M.P., U.P. and Rajasthan who were working in these quarries under inhuman and intolerable condition and many of them were bonded labourers. The petitioner addressed a letter to the Supreme Court pointing out the abject conditions of bondage of a large number of labourers for about last ten years. The petitioner also

set out the various provisions and the statutes which were not being implemented or observed in regard to the labourers working in these quarries. He has prayed for the issue of a writ for proper implementation of these provisions of the constitution and statutes with the view to end the misery, suffering and helplessness of these victims of inhuman exploitation.

The court treated a letter addressed to it as a writ petition under Article 32 of the constitution wherein complaints about bonded labour system and inhuman conditions of workers in stone quarries in certain areas of Faridabad district were voiced. The court was concerned that its directions were not carried out and further it directed the State government to act as welfare state and ensure that workers continue to work with improved conditions. About the nature of Public Interest Litigation, the Supreme Court said that it is a challenge and an opportunity to the Government and its officers to make basic human rights meaningful to the deprived and valuable sections of the community and assure them social and economic justice.

### **Stop To Consider**

#### **Public Interest Litigation**

The concept of PIL can be traced in the system of Action Popularis of Roman law which permitted any one in the society to make the court of law for the protection of public property or a religious charitable property. Thus the system of Action Popularis of Roman law can be described as the historical basis of the present form of Public Interest Litigation.

### **2.5.2 Features of PIL**

Some important features of Public Interest Litigation are:

- PIL are filed on behalf of a group or class of persons.
- PIL are filed on behalf of such group or class of persons, who on account of their social, economic or other constraints cannot move the court for legal remedy.
- It is a new concept of jurisprudence which is developing its own mechanism for ensuring justice.
- It is a Law proposal and propounded by judges.
- Action is initiated in PIL against irresponsible, illegal acts of Government.

- It gives rise to such causes of action where legal damage has been caused to the public at large.
- Any person or member of an Association who initiates PIL must come with the intention of serving the interest of the public rather than any personal gain.

There are numerous instances of cases which raised the issues of public concerns benefited the society at large through PIL. Let us discuss some such cases that expanded the scope of PIL to environmental protection, child welfare and protection of public health, human rights, investigation by C.B.I. or police etc.

M.C. Mehta vs. Union of India (1987) is a major PIL case on environmental pollution. In this case the petitioner requested the court to issue appropriate direction to prevent the pollution of Ganga Water. This case implicated about 400 major and medium industries and about 100 Municipalities in Uttar Pradesh, Bihar and West Bengal and they have been asked not to allow trade effluents and sewage to flow into the river Ganga.

Sheela Barse vs. Secretary, Children Aid Society (1987) is another case where several allegations were raised against the working of the New observation Home run by the children Aid Society, Bombay. In this case the court observed that the children should not be made to stay long in the Home and laid down several suggestions for the improvement in the working of the observation Homes.

Parmanand Kataria vs. Union of India (1989) is another important PIL where the petitioner filed an application under Article 32 of the constitution asking for a direction to the Union of India that every injured citizen brought for treatment should be given medical aid to preserve life. In this case Supreme Court observed that Article 21 of the constitution casts the obligation on the State to preserve life. Accordingly the doctors at the Government Hospitals or otherwise are professionally duty bound to extend medical assistance for preserving life.

Apart from these, other grave issues of public concern like political corruption and crimes which are also brought to the court through PIL. Examples includes Hawla Scam, Fooder Scam, Urea Scam etc.

**SAQ:**

Do you think that the PIL has overburdened the judiciary?

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**2.5.3 PIL and Locus Standi**

The liberal view of permitting PIL does not mean that Locus Standi is completely dead. The court never permits a person to abuse the legal process pretending to be a public spirited person. Hence, the Court always scrutinizes the proceedings to find out whether it will serve a public purpose or not.

To make this point more clear let us cite a case of S.S. Mann vs. Union of India (1992) when two persons were found guilty of murder of General Vaidya and sentenced to death. One Mann, who was the president of a political party, filed a petition challenging their conviction. The Court held that the petitioner had no Locus Standi. He was a total stranger to the prosecution and had not even been authorized by the convicts.

**2.5.4 Criticism**

In spite of wide appreciation of PIL, it has been criticized by many on various reasons.

Firstly, it is said that entertaining litigation through a letter overburdens the court resulting delay in deciding many other important cases pending in the court of Law.

Secondly, interference by the courts through PIL is likely to cause conflict between the three organs of the government.

Thirdly, excessive judicial interference in administrative matters is likely to affect the administration of the country.



**Check Your Progress:**

1. What do you mean by PIL?
2. Describe the PIL as an effective measure to provide the justice.
3. Discuss the various features of PIL.

**2.6 Summing Up**

After reading this unit, you are now in a position to analyse the meaning and scope of judicial review. It has also helped you in understanding the fact that the position of judiciary has been strengthened due to the provisions of judicial review. Moreover, the discussions on judicial activism and its scope in this unit have helped you to have a comprehensive idea of judicial activism. Hence, after going through this unit you can say that the growth of judicial activism through various writs and PILs is a healthy trend which created justice easily accessible to each and every one.

**2.7 References and suggested readings**

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## **Unit 3**

### **Tension between Judiciary and the Legislature**

#### **Contents:**

- 3.1 Introduction**
- 3.2 Objectives**
- 3.3 The Issues of Separation of Powers in Indian Constitution**
- 3.4 Powers, Privileges and Rights of Legislature**
- 3.5 Intervention of Judiciary in the Domain of Legislature: The Recent Trend**
- 3.6 Judicial Intervention & Issues of Equilibrium in Parliamentary Democracy**
- 3.7 Summing up**
- 3.8 Reference and Suggested Readings**

#### **3.1 Introduction**

After going through the previous unit of this block, we know that India has one unified judicial system where the Supreme Court of India stands at the highest level and is known as the apex court. It is also known to us that below the Supreme Court there are High Courts at the State level and subordinate Courts in various districts and sub-divisions.

The doctrine of separation of powers adopted under the Constitution of India makes a clear separation of powers and functions of the three organs of the government, i.e., the legislature, executive, and the judiciary, so as to maintain the balance between them for the smooth functioning of the government. This separation of powers prevents concentration of powers in any one organ and prevents one organ from encroaching upon the functions of another. Encroachments of these three organs on one another's domain can lead to tension between them. Here, in this unit we shall discuss the relationship, confrontations and tensions between the judiciary and legislature in the light of the doctrine of separation of powers and the relevant constitutional provisions.

### 3.2 Objectives

As mentioned earlier, this unit is an attempt to discuss the relationship and the areas of tension between the judiciary and the legislature. After going through this Unit, We shall be able to:

- *discuss* the issues of Separation of Powers in case of India.
- *analyse* the powers, rights and privileges of the legislature in India
- *explain* the instances of intervention of judiciary in the domain of legislature.
- *discuss* the issue of equilibrium between parliamentary democracy and judicial intervention.

### 3.3 The issue of Separation of powers in Indian Constitution

One of the basic features of the Indian Constitution is separation of powers. Before we discuss the issues of separation of powers in Indian constitution, let us know what separation of powers is. The doctrine of Separation of powers is originally propounded by Aristotle and was developed by Locke. According to Montesquieu, there are three organs of government namely, the legislature, executive and judiciary. The function of the legislature is to make laws, the function of the executive is to execute them and the function of the judiciary is to adjudicate and interpret them. None of these three organs should control or interfere with exercise of the functions of other organs. This is in brief the doctrine of separation of powers. Hence, it can be said here that the doctrine of separation of powers means that one organ can not take the functions assigned to other organs. For example, the parliament has been given the power to make law. This power cannot be exercised by the judiciary. Similarly, the power of judiciary cannot be exercised by the parliament. The executive organ of the government has power and functions to execute the laws and this power cannot be exercised by the other two organs.

The doctrine of separation of powers should be taken in this sense that it exists in the Constitution of India and forms the part of the basic structure of the Constitution. The constitution of India does not recognize the doctrine of Separation of power in its absolute rigidity, but functions of the three organs of the Government have been sufficiently differentiated. None of the three organs can take over the power and functions assigned to the other

organs. This doctrine of separation of powers forms the part of the basic structure of the Indian constitution.

The separation of powers into legislative, executive and judiciary is one of the characteristics of Indian Constitution. But in practice, these three organs are really separated or not it is a debatable issue. Most of the jurists and political scientists argue that in practice it is impossible to put these three powers in water tight compartments. There has to be interaction and interflow of these powers, though the extent of the flow may be limited.

In the words of Wade and Phillips: "To avoid confusion of thought it is important to note that Separation of powers may mean three different things: (a) that the same person should not form part of more than one of the governments, e.g. Ministers should not be responsible to parliament, (b) One organ of government should not control or interfere with the exercise of its function by another organ, e.g. The judiciary should be independent of the executive and the minister should not be responsible to parliament, (c) that organ of government should not exercise the functions of another, e.g. That minister should not have legislative powers." (Rai: 2003: 51)

**Check Your Progress:**

1. What do you mean by separation of powers?
2. Describe the main functions of the three organs of the government?

### **3.4 Provisions for Independence of Judiciary**

One of the facets of the doctrine of separation of powers is the independence of judiciary. By various provisions regarding appointment, transfer, payment of salary etc. the constitution attempts to establish an independent judiciary. The judges of the Supreme Court and High Court are paid such salaries as may be determined by parliament by law. The salaries and allowances of the judges of the Supreme Court are charged upon the consolidated Fund of India and salaries and allowances of judges of the High Court are charged upon the consolidated fund of the state.

Article 124 (2) provides that every judge of the Supreme Court shall be appointed by the President after consultation with such judges of the Supreme Court and of the High Court in the states as the President may deem it necessary for the purpose. According to Article 124 and Article

218 every judge of the High Court is appointed by the President after consultation with the Chief Justice of India, the Governor of the state and in the case of appointment of the judge other than the Chief Justice, the Chief Justice of the High Court. The constitution also provides a provision of removal of judges of the Supreme Court and High Court from their office by the legislature on the other hand, judiciary has power to enforce and interpret laws and if they are found in violation of any provision of the constitution, it can declare them unconstitutional and therefore, void. As we know, Article 50 of the constitution lays down that the state shall take steps to separate the judiciary from the executive. In pursuance of this directive, the parliament has by law assigned the judicial functions exclusively to the judiciary. By the enactment of the Criminal Procedure Code, 1973 the executive officers have no function to perform in the judicial system. There is complete separation of judiciary from the executive. But still the three organs of the government are not completely separated. Even Montesquieu did not mean that the legislature and executive ought to have no influence or control over the acts of each other, but only that the neither should exercise whole power of the other.

An independent judiciary is the sine qua non of a vibrant democratic system. Only an impartial and independent judiciary can stand as a bulwark for the protection of the rights of the individual. The judiciary is the protector of the constitution. For rule of law to prevail, judicial independence is of prime necessity. The powers and jurisdiction of the Supreme Court has been laid down in the Constitution. The Parliament has been given the authority to amend the pecuniary limits for appeals ton Supreme Court in civil cases, and hence it's appellate jurisdiction, or confers supplementary powers. However, the Parliament cannot curtail the powers and jurisdiction of the Supreme Court.

### **Stop to Consider**

#### **Independence of Judiciary:**

There are debates over the issue of independence of judiciary. The supporters of independence of judiciary believe that democracy is not possible in the absence of independent judiciary. They are of the opinion that rule of law can be administered only by supreme judiciary. The opponents of this principle want to uphold the supremacy of the Parliament. According to them, powers of

the judiciary should be limited and it should not stand in the path of economic and social reforms in the country for the establishment of a socialistic society. Montesquieu first put forward the idea of independence of judiciary. He advocated separation of powers among three organs of government, viz, executive, legislature and judiciary. American constitution first established an independent judiciary in the country.

### **3.5 Powers, Privileges and Rights of Legislature**

We can understand the position of legislature in India through the study of its powers, privileges and rights. The constitution of India provides for union legislature which is called as parliament and state legislature in every state.

The primary function of the legislature is to enact laws. It has power not only to make laws, but also to amend laws or repeal the laws. With object to proper discharge of their duties and obligations there are certain privileges has been given to the legislature and its members by the Indian constitution. Article 105 makes provisions in respect of the privileges of parliament and its members and Article 194 deals with the privileges of the state legislatures and their members.

According to Article 105, there shall be freedom of speech in the Parliament. It is clear that no member of Parliament shall be liable to any proceedings in any court in respect of anything said or any vote given by him in parliament or any committee thereof.

The Supreme Court has held in an important case of P.V. Narsimha Rao vs. State (1998) that the members of parliament accepting bribe and voting are entitled to the protection of Article 105 (2) and are not answerable in a court of law therefore but the members of Parliament offering bribe not entitled to the protection of Article 105 (2) and may be prosecuted therefore.

A member is protected for what he says within the House, but not for words spoken outside the House except when these are spoken in the essential performance of his duty as a member. A member who publishes outside Parliament a splendid speech made by him within Parliament is not protected from a court action.

Accordingly, Article 194 provides that there shall be freedom speech in the legislature of every state. Article 194 (2) provides that no member of the

legislature of a state shall be liable to any proceedings in any court in respect of anything said or vote given by him in the legislature.

Article 105 (2) also provides that no person shall be liable to any proceedings in any court in respect to the publication by or under the authority of either house of parliament of any report, paper, votes or proceedings. The state legislature also has the same privilege under Article 194 (2).

A member of parliament or state legislature cannot be arrested or imprisoned in civil proceedings 40 days before the commencement and 40 days after the termination of a session of the house. However, this privilege is available only in respect of the arrest under civil process and thus it does not extend to arrest under criminal proceedings or under the Preventive Detention Act.

A House of Parliament has a right to exclude strangers from its proceedings and hold its sittings in camera. This power may be used by the House to go into secret session for reasons of national security.

**Check Your Progress:**

1. What do you mean by independence of judiciary?
2. How the Constitution of India maintains the independence of judiciary?
3. Explain the rights and privileges of the legislature.
4. Write short notes on freedom of speech of legislators

**3.5 Intervention of Judiciary in the Domain of Legislature: The Recent Trend**

The Indian Constitution clearly provides that the proceedings in parliament are not subject to judicial scrutiny. Hence it lays down immunities, powers and privileges of members of legislature. However, the judiciary as the final interpreter of the Constitution is empowered to regulate the exercise of administrative and legislature powers through its power of "Judicial Review". Though the expression "Judicial Review" does not find place in our Constitution, this power has been derived by the judiciary from various provisions. The "Judicial Review" is the authority of the Courts to declare void the acts of the legislature and executive if they are found in the violation of the provisions of the Constitution. The judiciary's power of "Judicial Review" enforces the supremacy of the Constitution.

In England, supremacy of the Parliament prevails and therefore the Act passed by Parliament cannot be declared void by the Court. Though there is no express provision of the judicial review in the American Constitution, in *Marbury vs. Madison* the Supreme Court made it clear that it had the power of judicial review. In India, like USA but unlike UK there is supremacy of the Constitution and thus the Courts can declare the Acts of legislature and executive to be void if they are found in violation of the provisions of the Constitution.

The implementation of Anti-defection law enacted in 1985 has led to many cases of judicial intervention. According to this law, a member of either House of parliament or a state legislator belonging to any political party shall be disqualified for membership of the House, if he has been voluntarily given up his membership of such political party or if he votes or abstains from voting in such House contrary to any direction issued by the political party to which he belongs or by any person or authority authorized by it in this behalf without obtaining the prior permission of such political party, person or authority, provided that such voting or abstention has not been condoned by such political party, person or authority within 15 days from the date of such voting or abstention. But, such defection does not apply in case of split. The authority to take decision on such disqualification of legislators has been given to Speakers. However, in many cases such disqualified legislators have challenged the Speaker's authority and approached the courts of law. The judiciary in such cases has either passed stay orders or asked for the speaker's explanation. This is also one example of judicial intervention in the domain of legislature. Moreover, the house of parliament or the state legislatures has power to punish its members or outsider for the breach of privileges or contempt of the house. The person committing the breach or contempt may be punished with fine or imprisonment and if such person is a member of the House, he may be suspended or even expelled by the House. But there are many instances where the judiciary has intervened in such matters by granting stay order against the warrants of arrest by the Assembly particularly against journalists in the state of Tamil Nadu, Uttar Pradesh and Orissa. One such instance is the stay order passed by the Supreme Court on a warrant of arrest issued by the Tamil Nadu Assembly Speaker against a journalist in April, 1992. Recently instances have occurred wherein the judiciary has been said to



have entered into the domain of legislature. The Supreme Court in a case of Vishaka vs. State of Rajasthan (1997) stated that in the absence of any enacted law of the legislature and executive action, the judiciary may fill up the gap. In this case, the Supreme Court gave certain directives for effective enforcement of basic human rights of gender equality and guarantee against sexual harassment. Thus, it was clarified that the court was acting under Article 32 of the Constitution and the directions would be treated as the law declared by the court under Article 141 of the Constitution.

The Vishaka case is important because it gave a rationale for the judiciary to intervene in the interest of justice when there is legislative inaction. The intervention of judiciary in the domain of legislature has been by and large appreciated not only in India but abroad too. In most cases of judicial intervention the Supreme Court exercises its power under Article 142 which confers on the court the power to pass orders for doing complete justice.

There are numerous instances of confrontation between judiciary and legislature and these are not new in Indian parliamentary democracy. Indira Gandhi made a series of attempts to establish supremacy of parliament over the judiciary through 24th, 25th and 42nd Constitutional amendments. She even tried to demoralize the highest judiciary by appointing a junior judge as the chief justice superseding senior judges in 1973.

Another example of judicial intervention in the domain of legislature is a case of Golak Nath vs. the State of Punjab. In this case the Supreme Court held that parliament could not amend any provision in part III of the Constitution so as to take away or abridge the Fundamental Rights guaranteed by the Constitution.

It is observed that the judgment of the Supreme Court in the Golak Nath case provoked sharp controversy among jurists, legislators and political scientists. Mr. S. K Das, former Chief Justice of India suggested that parliament should approach the Supreme Court to reverse its decision. Niren De, India's Attorney General expressed the opinion that the Supreme Court's judgment was wrong and asserted that parliament had the power to amend the Constitution. He argued that economic liberty for the people was as fundamental as the fundamental rights (Chander: 2009: 109).

H.M. Seervi said that the judgment places a judicial veto on any legal amendment of Part III and denies to Sovereign people, acting through its

freely elected representatives in parliament, the power to implement policies demanded by and in the interest of the people. He asserted that no judiciary can hold up the will of a people reflected through the democratic process of free election. Almost similar views were expressed by CJ Gajendragadkar. He said "The judicial verdict is, no doubt, final so far as it goes and is binding all the parties including the legislature. This is one aspect of the democratic way of life and the rule of law. However, the other aspect is that the legislatures are sovereign in their respective spheres and if they find the judicial interpretation does not correctly represent the true intent of the legislatures, the legislators are entitled to amend the law so as to give effect to their true intention. This process does not involve disrespect for the judiciary in any sense. It is a part of democratic way of life". (Chander: 2009: 109-110)

The Indian Constitution possesses a typical feature having both parliamentary and federal features simultaneously. Parliamentary form of government hints at Legislative Supremacy. But the federal nature of the Constitution makes it imperative that the highest judiciary is able to exercise the power of judicial review.

#### **Check Your Progress**

1. Explain the reasons of judicial intervention in the domain of legislature.
2. Do you think the power of judicial review is the hindrance of the legislative supremacy? Support your argument with suitable examples.
3. Critically analyze the anti-defection law. Do you think it fails to embody parliamentary democracy.

### **3.6 Judicial Intervention and Issues of Equilibrium in Parliamentary Democracy**

In the last unit we came to know that the need for judicial intervention cannot be denied in some cases where the matter goes beyond the Constitutional provisions and therefore the judiciary rightly intervenes in the matter as a final interpreter and guardian of the constitution. However, such intervention should be within the limitations as per the norms of the separation of powers.

For sound functioning parliamentary democracy should have a reasonable equilibrium between the powers of legislature, executive and judiciary, the three organs of the government. An imbalance in either organ can lead to distortions in power relations and affect the quality of the democratic system. Excessive power of the executive can affect government's accountability. Increasing the representativeness of parliament, strengthening political parties and providing electoral assistance assure some of the ways of addressing the imbalances.

To maintain the balance of parliamentary democracy the norms of separation of powers and the doctrine of checks and balances should be strictly observed. Presidential form of government is based on the doctrine of separation of powers and provides for check and balances to keep the different organs within their allotted areas. This provides better protection to liberty. In parliamentary form of Government the legislative and executive powers are concentrated in the council of Ministers headed by the prime Minister which may sometimes pose a threat to human rights.

In India, we have a system of representative parliamentary democracy. The words representative, parliamentary and democracy are the cardinal features of our political system. The basic idea of true democracy is that every individual is capable of governing himself and of managing his affairs, the way he deems suitable. In a democracy the people are their own masters.

The word 'parliamentary' refers specifically to a kind of democratic polity wherein the supreme power vests in the body of people's representatives called parliament. The parliament is thus the people's institution par excellence through which the sovereign will of the people finds expression.

To maintain the equilibrium in parliamentary democracy, restrictions on judicial interventions are specifically provided by the Indian Constitutions.

The validity of any proceeding in either House of parliament cannot be questioned before a court of law on the ground of any alleged irregularity of procedure. The courts have no jurisdiction to issue writs, directions or order relating to a matter which affects the internal affairs of the House.

P.B.Gajendragadkar while subscribing to this view says: "The Constitution provided for a just balance between the legislature, the executive and the judiciary. The superior courts were made equal in origin and equal in title to

the other two branches of the Government and were charged with the inescapable duty of guarding the fundamental rights and preventing infringement of the rule of law by any authority within the state." (Johari: 2001: 178)

The Constitution was made by 'we, the people of India' and the power of making any amendment in its rules is vested in those who represent 'we, the people of India'. Therefore, our judges cannot sit in judgment over the sovereign will of the people. They can exercise their power of judicial review over and above the will of the legislature in case the representatives of the people dishonor the real will of the people of India. It means that the will of the people "must prevail against everything else, that where the will of the legislature or of the executive stands in opposition to that of the people, as declared in the Constitution, our judges are to be governed by the latter, rather than by the former and that they are to regulate their decision by the fundamental laws of our country rather than by those which are not fundamental (Johari: 2001: 179).

Jawaharlal Nehru also told the constituent Assembly that "No supreme court and no judiciary can stand in judgment over the sovereign will of the parliament representing the will of the entire community. If we go wrong here and there, it can point it out but in the ultimate analysis where the future of the community is concerned, no judiciary can come in the way. And if it comes in the way, ultimately the whole constitution is a creation of parliament...it is obvious that no court, no system of judiciary can function in the nature of a Third House of Correction. So it is important that with this limitation the judiciary should function." He asserted "ultimately the fact remains that the legislature must be supreme and must not be interfered with by the courts of law in such measures of social reform. Otherwise you will have to adopt strange procedures. Of course, one is the method of changing the constitution. The other is that which have seen in great countries across the sea that the executive which is the appointing authority of the judiciary begins to appoint judges to appoint judges of its own liking for getting decisions in its own favour, but that is not a very good method." (Chander: 2009: 112)

The three organs of the government must work in close harmony. The confrontations should be carefully avoided. Frequent confrontations between

the legislature and judiciary and the interventions of judiciary in the domain of legislature and executive will damage the equilibrium of Indian parliamentary democracy.

**Check Your Progress:**

1. Write short notes on balance between three organs of the government with two suggestions.
2. What do you mean by the Doctrine of checks and balances?
3. Offer two points of suggestion to avoid confrontations between legislature and judiciary.

### **3.7 Summing Up**

After going through this unit, you have learnt about the functioning of doctrine of separation of powers. Despite the constitutional provision of separation of powers, the three organs of government sometimes transgress over the arena and ambit of one another and thus tension is created between them. From this unit you have also learnt that the relationship between the legislature and the judiciary in practice and the consequences of intervention of judiciary in the domain of legislature. Thus, from the unit we have learnt that both the organs should function within their limitations harmoniously for the maintenance of equilibrium in parliamentary democracy.

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**Institute of Distance and Open Learning  
Gauhati University**

**MA in Political Science  
(2<sup>nd</sup> Semester)**

**Paper VII  
Politics in India - II**

**Block 2  
Party System in India**



**Contents:**

**Block Introduction–**

**Unit 1 : The Congress and the other National Parties in Indian Politics**

**Unit 2 : Regional Political Parties in Indian Politics**

**Unit 3 : Coalition Politics in India**

**Unit 4 : Voting Behaviour of Indian Electorate**

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## **Block Introduction:**

Political parties play a vital role in the modern democracies. In fact, modern democracies are unthinkable without political parties as modern democratic government implies the government for popular representation where the common people exercise the supreme power through a delegated authority. Political parties provide the opportunity to all sections of the society to share their opinions and express their grievances. India is considered to be the largest democracy in the world and political parties help in the functioning of this democracy. In India, a number of political parties operate at national and regional levels. The Congress Party is one of the oldest political parties in India which dominated the political scenario of this country for a long time in the post-independence period. This block is an attempt to introduce you to the Congress and other major national parties of India which are playing decisive role in the formation of the government. It will also help you gain some ideas regarding the emergence as well as the role of the regional political parties in Indian electoral politics. In recent times, India has witnessed the formation of coalition governments because of the existence of numerous political parties and defection politics. This block is designed to help you understand the emergence of coalition politics in India and the question of political stability under the coalition government. Moreover, this block will also introduce you to the concept of voting behaviour and various determinants of voting behaviour in India.

**Unit 1** of this block systematically deals with the evolution of the Congress party before and after independence of India as well as the role and function of other national parties. It also examines the role played by the Congress party in the electoral politics of India. Moreover, in this unit, an attempt has been made to deal with the Non-Congress parties in India as well as their electoral performance in the context of electoral politics and the consequent formation of governments.

**Unit 2** is aimed to deal with the causes responsible for the emergence of regional political parties in India and their electoral performance which is central to the larger context of national political scenario. Though the regional parties basically address the regional problems, their importance at the national level cannot be ignored in the present context. This unit focuses on the role of some of the important regional political parties in India as evident in the cases of AGP, TDP, DMK and AIADMK.



**Unit 3** introduces you to the concept of coalition politics in India as coalition becomes a necessity for the formation of governments at the national level and in some cases at the regional levels too. This unit tries to examine the question of political stability under the coalition governments. Moreover, the unit also addresses the problem of political defection and its impact on the formation of governments in India.

**Unit 4** deals with the concept of voting behaviour in the context of electoral politics as a study of the patterns of voting behaviour is crucial to the operation of democratic governments. India's heterogeneity and social complexities contribute to the varied trends in voting behaviour. Hence, this unit is specifically designed to address the determinants of voting behaviour in India. Our attempt here is to examine the recent trends of voting behaviour in India in the context of electoral politics.

In this block we have four units. They are:

**Unit 1:** The Congress and the other National Parties in Indian Politics

**Unit 2:** Regional Political Parties in Indian Politics

**Unit 3:** Coalition Politics in India

**Unit 4:** Voting Behaviour of Indian Electorate

# **Unit 1**

## **The Congress and the other National Parties in Indian Politics**

### **Contents:**

- 1.1 Introduction**
- 1.2 Objectives**
- 1.3 Congress Party before Independence**
- 1.4 Congress Party after the Independence: Dominance and Decline**
  - 1.4.1 Dominance of the Congress Party**
  - 1.4.2 Decline of the Congress**
- 1.5 Important Non-Congress National Parties in India**
  - 1.5.1 Bharatiya Janata Party (BJP)**
  - 1.5.2 The Communist Party of India (CPI)**
  - 1.5.3. Communist Party of India (Marxist) –CPI (M)**
  - 1.5.4. The Bahujan Samaj Party (BSP)**
  - 1.5.5. The Nationalist Congress Party (NCP)**
- 1.6 Summing up**
- 1.7 Reference and Suggested Readings**

### **1.1 Introduction**

We all are familiar with the term ‘political party’ and know that political parties are an integral part of democracy. It refers to a group of persons who share common ideology; follow a common programme and common line of action. Political party can be conveniently defined as a body of men united for promoting, by their collective effort, upon principles to which they have all agreed. In India we have a multi party system. In recent years the number of political parties has increased in multifold. The total number of parties contesting the Lok Sabha elections went up from 55 in 1952 to 230 in the 2004 elections and further increased to 364 in the 2009 general elections. The emergence of strong regional parties has led to the inevitability of coalition governments at the centre.

This unit will make an attempt to deal with the major recognised national parties of India like - the Indian National Congress before and after the independence, its dominance and decline, the Bharatiya Janata Party, the Bahujan Samaj Party, the Communist Party of India, the Communist Party of India (Marxist) and the Nationalist Congress Party. Thus the unit focuses on the philosophy, objective, structure and their election performance of these political parties in brief.

## **1.2 Objectives**

Political parties in India can be divided into two broad categories in terms of their status pronounced by the Election Commission of India, a constitutional body which is responsible for holding elections in India. There are recognised parties and unrecognised parties. A recognised political party shall either be a national party or a state party. After going through this unit you will be able to:

- *discuss* the oldest party in India i.e the Indian National Congress; its pre-dominance, decline and revival
- *understand* the formation, structure and system of the major national parties in India
- *explain* the electoral performance of the national parties in general elections

## **1.3 Congress Party before Independence**

The Indian Congress (INC), the oldest party in India, was founded in 1885 by Allan Octavian Hume. It was the culmination of a process of political awakening that had its beginning in the 1860's and 1870's. The first Session of INC was held in Bombay between 28-31 December 1885. With 72 delegates, the session was presided over by Woomesh Chandra Banerjee who was also elected as the first president of Indian National Congress. The need for representing the interests of the educated classes and an urge for social reforms were the major concerns at that point. However, the growth of the INC was phenomenal and it turned to reflect the discontent among the people, especially among the educated class against the policies of the British Government. The 1889 Annual Session of INC was attended

by 2000 delegates and eventually it became the major vehicle for the struggle for freedom.

In the first two decades, since the formation of the INC, prayers and petitions to the administration marked its activity. However, its leaders were soon disillusioned. As a result, a section among the Congress demanded popular agitations against the government; not for administrative reform but for the right to self rule. The partition of Bengal by Lord Curzon in 1905 prepared the setting for an agitation and also transformed the INC. Leaders like Bipin Chandra Pal, Aswani Kumar Dutt, Aurobindo, Lala Lajpat Rai called for the boycott of foreign goods, educational institutions and government offices and stood for the promotion of indigenous industries and establishment of educational institutions. Bal Gangadhar Tilak's famous slogan, 'Swaraj is my birth right and I shall have it' was coined during this time. The INC was heading for a split; however, it was averted by appointing Dadabhai Naoroji, though a moderate, but accepted by both the factions, as the Congress President in 1906. Soon in 1907, at the Surat session, the moderates took control of the party completely.

The next landmark in the history of INC was the arrival of Gandhiji in India in 1915 from South Africa. It changed the course of freedom struggle and the INC became a mass organisation under his leadership. A couple of years after his arrival, in 1917, Gandhiji organised 3 *satyagrahas* in Champaran (in Bihar) and Ahmedabad and Kheda (in Gujarat) and emerged as a mass leader. So much so, the 1920 Nagpur Session of the Congress approved Gandhiji's non-cooperation method as a way of struggle to achieve *Swaraj* (through legitimate and peaceful means). The INC expanded its base and adopted a new constitution in 1921. Civil Disobedience became its creed from then. The non-cooperation movement, the Dandi March (Salt Satyagraha) and the Quit India movement were part of INC.

In December, 1929, the Lahore session of the Indian National Congress gave a call for *Purna Swaraj*" The Lahore session marked a culmination of the process set in motion at the Nagpur session in December 1920 when the Congress goal was redefined from self -rule to *swaraj*. The Karachi session of the Congress in March 1931 expanded the goal *purna swaraj* further and defined it on the basis of concept such as Fundamental Rights in addition to a resolution on the National Economic Programme. "In order

to end the exploitation of the masses,” the resolution said, “political freedom must include real economic freedom of the starving millions.”

On the political plane, the Karachi resolution committed the Congress to guarantee the basic civil rights of free speech, free press, free assembly, and freedom of association. The resolution also held out a commitment to put in place a judicial system based on equality before the law irrespective of caste, creed or gender. It also made a commitment to elections based on universal adult suffrage. The Karachi resolution, indeed, was the charter on which the Constituent Assembly would work to draft the Republican Constitution.

In the meanwhile, a strong socialist faction was emerging inside the INC under the leadership of Acharya Narendra Dev, Jayaprakash Narayan, Achyut Patwardan and Yusuf Mehrally. They formed the Congress Socialist Party in 1935. It is important to note here that though it is called a party, in reality it is only a group that functioned within the Indian National Congress. These leaders, who were also called as the Nashik group (because they were all held in the Nashik jail after their arrest for breaking the Salt Law) played an important role in organizing peasants and working class. Their role in the Quit India Movement of 1942 was also very significant.

On September 2, 1946, Jawaharlal Nehru formed the Interim Cabinet with himself as the Prime Minister and 15 others. Jawaharlal Nehru was the president of the Indian National Congress at that time. The Interim Cabinet, however, was constituted by representatives of not only the Congress but other political platforms and also independent persons at that time.

### **Stop To Consider:**

#### **Requirements of National and Regional Parties in India:**

To be recognised as a National party, certain conditions have to be fulfilled. They are: “either (A) (i) the candidates set up by it, in any four or more States, in the previous general election to the Lok Sabha or to the Legislative Assembly of the State concerned, have secured not less than six per cent of the total valid votes polled in their respective States in that general election; and (ii) in addition, at least four members are elected to the Lok Sabha.; or (B) (i) its candidates being elected to the Lok sabha, from at least two per cent of the total number of parliamentary constituencies in India and (ii) the said

candidates have been elected to that House from not less than three States.

To be recognised as a State Party;

either (A)(i) the candidates set up by it, in the previous general election to the Lok Sabha or to the Legislative Assembly of the State concerned, have secured not less than six per cent of the total valid votes polled in that State; and (ii) in addition, it has returned at least two members to the Legislative Assembly of the State; or (B) it wins at least three per cent of the total number of seats in the Legislative Assembly of the State, or at least three seats in the Assembly, whichever is more, at the aforesaid general election”.

In order to maintain the status of a National or State party, they have to continue to fulfill the conditions laid out above in the subsequent general elections and Assembly elections respectively. The national parties, as defined in the above manner at this time are the Indian National Congress, BJP, BSP, CPI, CPI (M)) and Nationalist Congress Party. As on 2009, there are 158 recognised State parties and hundreds of registered (unrecognised) parties.

#### **1.4 Congress Party After the Independence: Dominance and Decline**

At the time of independence, the Congress was the only party which had its roots in every nook and corner of the country and for the next two decades, the party faced hardly any challenge from the opposition. In the first general elections to the Lok Sabha, held over 6 months in 1951-52, the INC secured absolute majority and Jawaharlal Nehru became the first Prime Minister of independent India. Nehru led the Congress Party in three consecutive elections of 1952, 1957 and 1962 and the party won a majority in all these. The ability of the Congress, under Jawaharlal Nehru, to construct a *national political* culture that was essentially modernist and egalitarian—the two core principles of the nationalist struggle, had contributed to the success.

##### **1.4.1 Dominance of the Congress Party**

In 1952 elections Congress won 364 seats out of 489 Lok Sabha seats; 371 seats out of 494 in 1957 and 361 out of 494 in the 1962 elections. This does not mean that there was no opposition party at all. In 1946, the congress socialists in the Congress party had split away and formed the Socialist Party. Likewise, in 1950, Acharya Kripalani and his followers,

disillusioned with Nehru, formed the Kisan Mazdoor Praja Party. The Hindu Mahasabha, that existed even at the time of British rule had metamorphosed into the Bharathiya Jana Sangh before the first general election. The Communist Party of India too was there as an opposition party at that time. However, they did not pose any real challenge to the Congress.

Nehru embraced secularism, socialist economic policies and a non-aligned foreign policy, which became the hallmark of the modern Congress Party. After the death of Nehru in May 1964 Lal Bahadur Sastri became the Prime Minister. Sastri carried on with Nehru's cabinet and the only change he proposed was to include Indira Gandhi as Minister for Information and Broadcasting.

However, electing a leader after the sudden death of Shastri in Tashkent turned out to be a difficult task. Morarji Desai, who was the Finance Minister in Nehru's cabinet, openly spoke about the need for an election for the PM's job rather than a nomination; the congress leaders, however, wanted Indira Gandhi to be the Prime Minister. Finally, on January 19, 1966, the Congress Parliamentary Party (party members of the Lok Sabha and the Rajya Sabha), in a secret ballot, elected Indira Gandhi as leader. She won by an impressive majority: 355 votes against the 169 votes that Morarji Desai polled. Consequently, Indira Gandhi became the Prime Minister in January 1966.

**SAQ:**

Discuss the reasons for the dominance of Congress Party in Indian Politics after independence. (60 words)

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**1.4.2 Decline of the Congress**

The INC's decline began slowly but steadily. There were several reasons for the decline. These reasons can be cited as follows:

- The internal struggle for power, its inability to keep its social base, especially the dalits,
- the emergence of strong regional parties in the different states, the retreat from the socialist policies,
- erosion of values among politicians and corruption in the administration,
- centralization of power and finally the declaration of national emergency and its repercussions.
- the economic crises –inflation and price rise—at regular intervals also contributed to the fall of the Congress party.

The Congress party suffered reverses in the general elections of 1967. Incidentally, that was the last time when elections to the Lok Sabha and the State Assemblies were held simultaneously. The Congress lost power in nine States: Bihar, Haryana, Kerala, Madhya Pradesh, Orissa, Punjab, Rajasthan, Tamil Nadu, and West Bengal.

Equally significant was the fact that the strength of Congress party in the Lok Sabha came down substantially. The Congress could win in only 283 out of the 516 Lok Sabha constituencies. This was unprecedented then. The vote-share of the Congress party too fell from 44.7% in 1962 to 40.8% in 1967. The downslide was pronounced in such states as Uttar Pradesh, Bihar and Orissa where the losses of Congress party were gains registered by the Socialist Party.

The above mentioned situations indicated that Indira Gandhi, in her second term as Prime Minister had to confront challenges from several quarters and the most significant of the challenges was the split in the Congress in 1969. While those loyal to Indira Gandhi went to constitute the Congress (R), the others led by Morarji Desai constituted the Congress(O).

The immediate impact of the split was that Indira Gandhi's government was rendered into a minority. The party strength in the Lok Sabha came down to 220 in a House of 530. Indira Gandhi, however found support coming from the two communist parties, the DMK, the Muslim League and some independents and the Congress continued to head the government. In December 1970, Indira Gandhi called for elections (though the term of the Lok Sabha was valid until March 1972) and elections were held in March 1971.



In the 1971 general elections, the Congress (R) led by Indira Gandhi made a comeback winning 342 out of the 518 Lok Sabha seats. The Congress (O) put up candidates in 238 seats and won only 16 seats. The State Assembly elections in 1972 too strengthened the position of the Congress (R). The party was now in power in all the states barring Tamil Nadu.

But then, opposition to the Government was building across the country in the wake of rising prices. The *nav nirman* movement in Gujarat, involving students and sections of the urban middle classes, the student movement in Bihar, the general strike by railway workers and finally the opposition parties gathering around Jayaprakash Narayan led to the withering of popular support to the Congress.

In June 1975, election was held to the Gujarat Assembly. A coalition of the Congress(O), the Socialist Party, the Swatantra Party, the Jan Sangh and the Lok Dal called the Janata Morcha secured 86 seats in the 181 member Gujarat Assembly. And on the same day as the Gujarat results — June 12, 1975 — Justice Jagmohan Lal Sinha of the Allahabad High Court gave a judgment declaring Indira Gandhi's election to the Lok Sabha from Rae Bareli (in March 1971) as null and void. The immediate result of this was the declaration of National Emergency on June 26, 1975.

The emergency, however, united the opposition parties to fight against the congress. This led to the formation of Janata Party (the BLD, Jan Sangh, Congress (O) and the Socialist Party ) in January 1977. We shall deal with these issues in detail later on in this unit.

In the 1977 elections people voted against the Congress and the Janata party formed the first non-Congress government at Centre with Morarji Desai as Prime Minister. However the opposition unity did not last for long.

As for the Congress, the party underwent a split once again in January 1978. While some of number its senior leaders walked out to form the Congress (O), Indira Gandhi led her own faction; and this was registered with the Election Commission under the name Congress (I), the 'I' standing for Indira. In January 1980, after the Janata Party Government collapsed under its own weight, the Congress (I) returned to power and Indira Gandhi became the Prime Minister once again.

She was, however, assassinated by her own security guard on October 31, 1984 and her son, Rajiv Gandhi took over as Congress leader and was

sworn in as the Prime Minister. Elections were held in December 1984 and the party secured a large majority and Rajiv Gandhi became the Prime Minister.

However, the Congress party was voted out of power, once again, in 1989. The Bofors scandal and many other charges of corruption as well as internal battles in the party caused this defeat. Once again the opposition parties united to form the National Front; it was launched at a public rally in Madras on September 17, 1988. The Front represented a collective platform of several regional parties. It is relevant to state here that the Asom Gana Parishad was a part of this Front and Prafulla Mahanta, then the Chief Minister of Assam was among its leaders.

In the 1989 general elections, the Congress won only 197 seats in the Lok Sabha. But then, despite this the Congress(I) remained the single largest party in the Ninth Lok Sabha.

The Janata Dal had secured 143 seats in the Lok Sabha, the BJP won 85 seats and the Left Front, consisting of the CPI(M), CPI, Forward Bloc and the Revolutionary Socialist Party (RSP) had 52 MPs in all. A non-Congress (I) was formed at the centre with the outside support of the BJP and the Left Front in 1989 and V.P. Singh was sworn as Prime Minister. Dinesh Goswami from the AGP was a minister in this cabinet.

The National Front Government (December 2, 1989 to November 7, 1990), in fact was just the beginning of a long phase, i.e an era of coalitions in independent India's political history. It marked the end of single party rule. However, like the non-Congress government in 1977, this government was also short-lived and collapsed in November 1990. Fresh elections in May-June 1991 threw a hung Parliament again. Meanwhile, on May 21, 1991, Rajiv Gandhi was assassinated by a LTTE mercenary while campaigning for his party in Sriperumbudur in Tamil Nadu.

Due to this, PV Narasimha Rao became the Prime Minister. Narasimha Rao was sworn in on June 21, 1991 as a minority government. However, it was turned into a majority-government by August 1992. Charges of corruption haunted the Congress again and eventually caused the fall of the Congress again.

In the 1996 general elections, the BJP won 161 seats and along with its allies — Shiv Sena, Akali Dal and Samta Party – had 201 MPs in the Lok Sabha. This was far too short of the 272 required in the House of 544. However, Vajpayee was sworn in as Prime Minister. The Government was out of office in just 13 days after it was sworn in and the Congress was ready to support a non BJP government and Deva Gowda of the Janata Dal became the Prime minister with the support of left parties and the Congress (I). His government also did not last long. On April 11, 1997, Gowda's Government was voted out; I.K.Gujral, Minister for External Affairs in Gowda's cabinet was sworn in as Prime Minister. His Government too fell soon and elections were held again in May 1998.

In 1998, Sonia Gandhi became the Congress president. In the 1998 elections, Congress (I)'s strength in the Lok Sabha came down further to 141 seats. The BJP emerged as the single largest party in the Eleventh Lok Sabha with 182 seats. The National Democratic Alliance (BJP, Samata Party and Akali Dal and AIADMK) elected Atal Behari Vajpayee as the leader and he was sworn in as Prime Minister on March 19, 1998 for the second time.

The Vajpayee government fell in 1999 when the AIADMK withdrew support and the next general elections were held in September 1999. The National Democratic Alliance returned to power. On October 13, 1999, Vajpayee was sworn in as Prime Minister for the third time within a span of 4 years. As for the congress, it ended up with 114 seats in the Lok Sabha.

However, in the 2004 general elections, the Congress and its allies (RJD, NCP, DMK, PMK, MDMK) performed better than the previous elections. With the support of the Left Front (60 MPs) a Congress-led coalition — the UPA — formed the government and Dr. Manmohan Singh was sworn in as Prime Minister on May 22, 2004.

The era of coalition, which began in 1989, had by now matured into a political arrangement that could not be dismissed. The Congress party too seems to have internalized this by now. In May 2009, the congress and its allies won a comfortable majority and Dr. Manmohan Singh was sworn in as the Prime Minister for the second time.

**Check Your Progress:**

1. Discuss the role of Indian National Congress in the pre-independence period of India.
2. Write a brief note on the decline of the Congress.

**1.5 Important Non-Congress National Parties in India**

From the above discussions we have come to know that the Congress party dominated the political scenario for a longer period of time. However, the Congress party started to decline after sometime leading to the growth of some other political parties. In this section, we shall make an attempt to deal with other national political parties of India.

**1.5.1 Bharatiya Janata Party (BJP)**

The origin of the Bharatiya Janata Party goes back to the Bharatiya Jana Sangh (BJS) established by Dr. Shyama Prasad Mookherjee in 1951. The objective of the party was to “make India a political, social and economic democracy on the basis of Indian culture (sanskriti) and values (Maryada)”. In the 26 years of its existence, the BJS could not make itself into a large force in parliament. In the 1952 general elections it won 3 Lok Sabha seats with 3.06 percent of votes polled and in 1957 general election 4 seats. In 1962, it won 14 seats with 6.44 percent votes; and in 1967 it won its highest tally with 35 seats. In the 1971 general elections, the party had to satisfy with 22 seats. At no point of time, it could cross the 10 percent of the total votes that were polled. However the party invested its time and energy preparing for the future and also cultivating leaders like A.B Vajpayee.

***Formation of Janata Party***

The National Emergency (1975-1976) declared by Indira Gandhi government indiscriminately detained several opposition political leaders, including Jana Sangh leaders in jail. Upon their release in January 1977, the leaders of the opposition – Jana Sangh, Congress (O), Bharatiya Lok Dal and the Socialist party merged to form the Janata party. In 1977 general elections, the united opposition won 330 out of 542 seats.

Morarji Desai was sworn in as the Prime Minister on May 24, 1977. However, the opposition unity did not last long. Desai had to resign and Charan Singh became the Prime Minister for 24 days (July 28, 1979 to August 20, 1979) with the support of the Congress. The Congress withdrew the support in August 1979 and the Charan Singh government fell and nation faced another general election in 1980.

### ***Formation of Bharatiya Janata Party***

The Janata label caused damage to the Jan Sangh and that was indeed evident in the outcome of the 1980 polls. Of the 31 Janata Party MPs who won in January 1980, only 16 belonged to the Jan Sangh. This was a steep fall from 93 Jan Sangh members who were Janata MPs in the previous House. The RSS leaders realized the perils of associating with the Janata Party and on April 5, 1980, the Jan Sangh faction in the Janata Party announced the creation of the Bharatiya Janata Party. The party was formally launched at a national convention in Bombay in December 1980. The BJP continued with the policies of the Jana Sangh.

The BJP's philosophy is *Hindutva* or cultural nationalism and Integral Humanism. The idea of cultural nationalism was based on M.S.Golwalkar's definition of nation and nationhood that had remained central to the Jan Sangh's political programme. BJP listed nationalism, national integration, democracy, positive secularism and value-based politics as its five core principles. The party's economic policy is the same as that of the Janata Party's Election manifesto of March 1977. It says: "What the small sector can make, the medium sector shall not attempt; what the medium sector can produce, the large sector shall not make; what goods the large sector can deliver, the multi-national corporations shall not be allowed to produce". This, in fact, was a repeat of the Bharathiya Jan Sangh.

According to the party constitution the objective of the Party is "to build up India as a strong and prosperous nation, which is modern, progressive and enlightened in outlook and which proudly draws inspiration from India's ancient culture (sanskriti) and values (Maryada) and thus is able to emerge as a great world power playing an effective role in the committee of Nations for the establishment of world peace and a just international order.

While the BJP won only 2 seats in the 1984 general elections (the first after its formation), in the 1989 elections, the party had adjustments with the Janata Dal and won as many as 85 seats in the Lok Sabha. For the BJP, the 1989 elections were a landmark. The party also captured power in three States: Madhya Pradesh, Rajasthan and Himachal Pradesh. These States were the party's traditional strongholds from the Jan Sangh days.

In the next general elections in 1991, BJP won 119 seats on its own and most of the gains came from Uttar Pradesh. The Ayodhya issue helped the party in this regard; it won 51 seats from UP. The BJP also expanded its base in Gujarat.

In the 1996 general elections, BJP had pre-poll alliance with the Samata Party (strong in Bihar), the Akali Dal (in Punjab) and the Shiv Sena (in Maharashtra). All these pre-poll allies of the BJP and the ruling combine added to 201 MPs to the BJP kitty but far too short of the 272 required in the House of 544. However, Vajpayee was sworn in as Prime Minister on May 16, 1996 along with 12 others as ministers to be out of office in just 13 days after it was sworn in, on May 28, 1996.

In the 1998 elections, BJP's strength in the Lok Sabha increased to 182 seats. The party managed to address its shortcomings in 1996 elections by striking alliances with the Samata Party in Bihar, the Biju Janata Dal in Orissa, the Trinamool Congress in West Bengal, the AIADMK in Tamil Nadu. The BJP led NDA, with a simple majority, formed the government at the Centre with Vajpayee as the Prime Minister. However, the government did not last long for one of its coalition partners from Tamil Nadu – AIADMK withdrew its support to the government and Vajpayee had to put down his papers in May 1999.

Fresh elections were held in October 1999 and the NDA came back to power with 303 seats in a 545 strong Lok Sabha. The BJP won 183 seats. Vajpayee sworn as Prime Minister for third time in 4 years and the government could complete its term of five years without many difficulties.

However, in May 2004, the BJP just got 138 seats. In the 2009 elections, UPA repeated its victory and the BJP had to be satisfied with 116 seats.

An important aspect of the BJP, indeed, is its extensive organizational structure. It consists of certain mass organisations. They are: Akhil Bharatiya

Vidyarthi Parishad (ABVP) for the students, the Bharatiya Janata Yuva Morch (BJYM) for the youth, Bharatiya Kisan Sangh (BKS) (the farm wing, the Bharatiya Mazdoor Sangh(BMS) the trade union and the BJP Mahila Morcha.

### **Stop To Consider:**

#### **Features of Indian Party System**

The main features of the party system in India are as follows-

- In India there is multi party system. The number of political parties runs into hundred and new parties are also coming up.
- The members of political parties do not follow any strict party discipline. Defection has become a prominent feature of Indian party system.
- In India the role of regional political parties has considerably increased.
- Most of the parties in India are not well organized.
- Indian party system is witnessing the end of single party dominance of the Indian National Congress.

### **1.5.2 The Communist Party of India**

Inspired by the October Socialist Revolution in Russia, the communist party of India was founded in the year 1925, , with an aim to establish a ‘socialist society that is free from class exploitation and social oppression’. The party adopted Marxism-Leninism as its guiding principle and the class question was at the centre of the party’s ideology. The party draws its members from the workers, peasants and from the intelligentsia. The founding members of the party were M.N Roy, Evelina Trench Roy, Abani Mukerjee, Rosa Fitting, Mohammad Ali (Ahmed Hasan), Mohammad Shafiq Siddiqui and MPBT Acharya.

Soon after its formation in 1925, the Meerut (1929) conspiracy charges were framed against its leaders by the British Government and that resulted in the banning of the outfit. The CPI was declared illegal along with all other communist outfits which were operating in Bengal, Bombay, Punjab and the Madras Presidency and the party had to work from underground for many years. In 1929, all the CPI leaders were arrested in the Meerut

Conspiracy case and their trial ran for 4 years. However, the party was reorganized in 1933, after the communist leaders from the Meerut trials were released.

For the first 2 decades, the main centres of the CPI were restricted to Bombay, Calcutta, Madras and Punjab. It is also important to note here that some of those leaders of the communist party were also in the Congress Socialist Party that existed as a group inside the Indian National Congress.

In the pre-independence years, the CPI organised and led a number of working class and peasant struggles and in that sense played an important role in the freedom struggle too. Immediately after independence, in February 1948, the Calcutta Congress of the CPI called for armed revolts against the imperialistic and feudal forces and fight for freedom and (real) democracy. As part of this the CPI organised the peasants, landless labourers and other deprived sections of the society. And the late 1940's witnessed a number of armed revolts - Tebhaga movement in Bengal, Punnappa Vayalar struggle in Malabar, the Worli adivasis, Tripura tribal people and Telangana peasants' armed struggle. These uprisings were suppressed by the government ruthlessly. The party also organised a railway strike in March 1949. As a result the CPI was banned.

The ban on the party was lifted before the first general election and in the 1957 Kerala Assembly election, for the first time in the history of the communist parties, the CPI came to power through ballot. EMS Namboothiripad became the chief minister of the state. The ministry, however, was dismissed invoking Article 356 of the Constitution in 1959. As far as parliament is concerned, the CPI secured 16 seats in 1952 elections with 3.3 % votes and 27 seats in the second Lok Sabha with 8.9 percent of votes and 29 Lok Sabha seats in the 1962 elections.

However, by 1962, the party was caught in a debate within centred on the character of the Congress party and Nehru's socialism. This debate began after the Avadi session of the Congress (in 1955) and grew into a split in the party in 1964. The CPI(M) was born out of this split. Another reason was that of the different positions on the Sino Indian conflict. A faction in the party wanted to support the Indian Government while the other faction analyzed the conflict as a war waged against a communist country—a more pro Chinese position.



In March 1967, in the general elections after the split, the CPI won in 23 Lok Sabha constituencies including five seats each from Bihar and Uttar Pradesh. Indrajit Gupta, who would become Union Home Minister in 1996, was among those elected. The CPI supported the Indira led Central Government in Parliament after the 1964 split and this continued even during the National emergency of 1975-76. However, after the emergency, the CPI reoriented its approach towards the Congress. Since then, CPI has remained a part of the Left Front and has been sharing power with the CPI (M) in governments in Kerala, Tripura and West Bengal.

In 1989, the CPI too extended outside support to VP Singh's National Front Government and in 1996 it joined the United Front Governments headed by Deve Gowda and I.K.Gujral. It supported the United Progressive Alliance (UPA) government from outside along with the CPM since 2004.. However, in July 2008, along with the CPM, the CPI also withdrawn the support to the UPA in protest against the decision of the Central Government to go ahead with the Indo-US civilian nuclear deal. At present, the party is a major partner of the Left Front governments in Kerala, West Bengal and Tripura.

The CPI has an organizational structure and a number of front organisations too. The All India Trade Union Congress (AITUC) among the working class, the All India Kisan sabha (AIKS) among the peasantry, the All India Youth Federation (AIYF) among the youth, the All India Student Federation (AISF) among the students, the National Federation of Indian Women and the Bharathiya Khet Mazdoor Union among the agricultural workers are its prominent front organisations.

### **Problems of political parties in India-**

The political parties play a very important role in Indian political system. But they have not worked that successfully due to various organizational, financial and disciplinary problem. These are as follows-

- The political parties in India face the problem of leadership crisis, and there are not many honest and dedicated leaders to guide the political parties.
- The evil growth of defection also greatly hampers the smooth working of the political parties.
- The presence of a large number of independent members in the parliament as well as state legislatures has also undermined the position of the political parties.

- The spirit of mutual co-operation and co-existence is completely missing among the political parties in India.
- The growing role of black money has also affected the working of the political parties. Various parties depend on donation from business groups and companies as the election in India is a quite expensive affair. In return they have to protect and promote the interest of those groups.

### **1.5.3. Communist Party of India (Marxist) –CPI (M)**

The Communist Party of India (Marxist) –CPI (M) was founded in 1964 as the result of a split in the Communist party of India (CPI). Hence, the history of CPM is the same as the history of the CPI till the split in 1964. The Calcutta Congress of 1964 (first Congress of the CPI (M) after the split), adopted a separate political programme for the CPI(M). It should be noted that at the time of the holding of its Calcutta Congress, large sections of its leaders and cadres were in jail without charges and detained under the Defence of India Rules (DIR).

The aim of the party is evident in the programme “The Communist Party of India (Marxist) is the revolutionary vanguard of the working class of India. Its aim is socialism and communism through the establishment of the state of dictatorship of the proletariat. In all its activities the Party is guided by the philosophy and principles of Marxism-Leninism which shows to the toiling masses the correct way to the ending of exploitation of man by man, their complete emancipation. The Party keeps high the banner of proletarian internationalism.”

The structure of the party is based on the Principles of Democratic Centralism. That means “a centralised leadership based on inner-Party democracy under the guidance of the centralised leadership”. Democratic Centralism also means:(a) All Party organs from top to bottom shall be elected; All Party organisations shall carry out the decisions and directives of the Party Congress and of the Central Committee; collective decisions; All Party committees shall function strictly on the principles of collective decisions and check-up combined with individual responsibility.

The struggles taken up by the party on behalf of the ordinary masses made the party popular among the people. In the mid 60’s and in the 1970’s and this led to its emergence into a stronger party than the CPI. The party launched several agitations against price raise, food crises and so on. At

present the party has strong presence in Kerala, West Bengal and Tripura. The CPI (M) led left front is ruling in all the above said states presently. Apart from these states, the party has presence in Punjab and Andhra Pradesh.

The CPI(M), in the first ever elections in 1967 after it was founded (in 1964) secured 19 seats in the Lok Sabha. 9 out of the 19 came from Kerala (where the party also won a majority in the State Assembly), 4 from Tamil Nadu and 5 from West Bengal.

In 1967, the left front, headed by the CPI(M) came into power in Kerala and a United Front consisting of the CPI(M) and the Bangla Congress wrested power in West Bengal. Both these coalition governments fell by 1970. However, in the 1977 election, the CPI(M) won majority in the Legislative Assembly of the State of West Bengal defeating the Congress and Jyothi Basu became the chief minister, an office he held until his retirement in 2000. The CPI(M) has held the majority in the West Bengal government continuously since 1977. In Tripura too, the party won power soon and likewise in Kerala.

The CPI(M) supported the VP Singh government in 1989, the United Front Government in 1996 and the Congress-led UPA government in 2004.

At present CPI(M) has 22 seats in the Lok Sabha and the CPM led coalition government is ruling in three states —Kerala, Tripura and West Bengal

Like the CPI, the CPI(M) too has its front organisations such as the Students Federation of India (SFI) among the students, the Democratic Youth Federation of India (DYFI) among the youth, the All India Democratic Women's Association (AIDWA) among the women, the Centre of Indian Trade Unions (CITU) among the working class, the All India Kisan Sabha (AIKS) among the peasants, the All India Agriculture Workers Union in addition to its unions or associations among the white collar workers and the intelligentsia.

**Stop to Consider:**

Factors Responsible for the Rise of Regional Parties in India-

One of the features of the Indian party system is the presence of a number of regional parties. Various factors have influenced the growth of regional parties in India. These are -

- The social, ethnic, cultural and geographical diversities of India have largely contributed to the rise of regional parties.
- Certain areas want to maintain independent entity due to strong historical and traditional reasons. For this purpose they form regional political parties.
- The factional fight within the larger parties also encourages the formation of regional parties.
- The growing economic disparity has also encouraged the growth of regional parties in India. Sometimes, the regional parties are formed to demand greater attention to their development.

In certain areas regional parties emerge as a protest against the ever increasing centralizing tendency

#### **1.5.4 The Bahujan Samaj Party**

Kanshi Ram, a scheduled class bureaucrat who resigned from his high profile job to establish the Bahujan Samaj party (majority people's party) in 1986 was inspired by the philosophy of Dr. Ambedkar. The party's election symbol is elephant. It has its presence in Uttar Pradesh in a big way; and is also present in Bihar, Maharashtra, Punjab and Madhya Pradesh. The objective of the party, as stated in the party document, is: "to work as a revolutionary social and economic movement of change with a view to realise, in practical terms, the supreme principles of universal justice, liberty, equality and fraternity enunciated in the Constitution of India"

The ideology of the Bahujan Samaj Party (BSP), according to the party is "Social Transformation and Economic Emancipation" of the "Bahujan Samaj", which comprises of the Scheduled Castes (SCs), the Scheduled Tribes (STs), the Other Backward Classes (OBCs) and Religious Minorities such as Sikhs, Muslims, Christians, Parsis and Buddhists and account for over 85 per cent of the country's total population. And it claims to be in fight against the obnoxious Manu-wadi system. However, it turned out to be an exclusive Scheduled Caste party and contrary to its ideology, it allied with the BJP against the Samajwadi Party of Mulayam Singh (A party of backward castes), to get into power.

Nevertheless, the emergence of BSP expanded the participation of the social base, in the sense that it brought a change in the social composition of those who participate in the political space. Dalit exclusivist agenda of the BSP facilitated the political participation of the Scheduled Castes. In other words

what happened was that of the inclusion of the excluded communities into the political system.

Several atrocities, including massacres, committed against the scheduled caste people over a period of time and the failure of the state to contain such acts of lawlessness, and the failure of the established political parties (the Janata as well as the Congress) to contain the violence was the reasons behind the dalit consolidation. The widespread perception that the Dalits were just treated as vote banks by the established parties helped the consolidation of the Bahujan Samaj Party (BSP).

Soon after its establishment, in 1986, it emerged as a significant force in Uttar Pradesh and in the 1989 elections to the State Assembly, the BSP scored 10% of the votes. The BSP had made a mark, even earlier, in the Allahabad by-elections in 1987, with Kanshi Ram, the party's founder and president, securing as much as 18 per cent of the votes. It also won 2 Lok Sabha seats from Uttar Pradesh in the November 1989 elections. This was primarily at the cost of the Congress(I).

After the death of Kanshi Ram, Mayawati became the president of the BSP. The party registered a steady growth ever since then to emerge as a partner in a coalition (with Mulayam Singh Yadav's Samajwadi Party) that won the State assembly elections in November 1993. The BSP also formed its Government in UP with the support of BJP for short spells in 1996 and 1998.

A decade later, in May 2007 UP assembly elections Mayawati, the leader of the BSP steered her party to win 206 seats in the 401 strong -assembly and emerged as the single majority party and became the Chief Minister in her own right. Mayawathi became chief minister for the fourth time. BSP is now the third largest national party in India.

### **1.5.5 The Nationalist Congress Party (NCP)**

The Nationalist Congress Party (NCP) is a recently formed party. It was founded in 1999 by the Congress leader Sharad Pawar along with P.A.Sangma (who was the speaker of Lok Sabha from 1996 to 1998) and Tarique Anwar after they were expelled from the Congress for challenging the leadership of Mrs. Sonia Gandhi on her foreign origin. Though the party

has presence in many states, it is primarily based in the state of Maharashtra (where Sharad Pawar belong to) and Meghalaya (where P.A. Sangma belong to). Ideologically, it is similar to Indian National Congress.

In the 2004 Indian General Elections, NCP fought in alliance with the Congress and the party won 9 Lok Sabha seats with 1.8% of the vote. Since 2004, NCP had been a member of the UPA government. The party is also a coalition partner of the Congress in the State. P.A Sangma, left the party in 2004, just before the general elections, upon the issue of NCP's alliance with the Congress and joined the Trinamul Congress of Mamta Banerjee. He was elected to the Lok Sabha at Trinamul Congress ticket in the 2004 general elections. However, he rejoined NCP in December 2005.

In the 2009 general elections, NCP fielded candidates in 13 states and have 15 MPs in the 15<sup>th</sup> Lok Sabha. And in the 2009 Assembly elections in Maharastra, NCP- INC alliance won half of the seats in the 288 strong assembly; INC with 82 seats and NCP with 62 seats.

#### **Check Your Progress:**

1. Trace the origin of Bharatiya Janata Party. Write a brief note on its performance in different elections.
2. Make an analysis of the role of Communist Party of India in Indian electoral politics.
3. How did Communist Party of India (Marxist) come into being? Write a note on its role in Indian politics.
4. Write a brief note on Bahujan Samaj Party.
5. Discuss briefly the performance of the Nationalist Congress Party in the elections.

### **1.6 Summing Up**

Political parties are indispensable part of a democratic system. From this unit, it is clear to you that in India, we have a multi-party system with national parties and regional parties. In this unit, we discussed the major national parties, their philosophies, policies and also election performance since the 1951-52 elections to the present. This unit gives you an idea about the

performance of Indian National Congress before and after independence. Moreover, it also helps you to understand the reasons for the decline of the Congress party and growth of other national parties. Reading of this unit has helped you to have a clear idea about the role of other national parties in India like the Bharatiya Janata Party, the Communist Party of India, the Communist Party of India (Marxist), The Bahujan Samaj Party and the Nationalist Congress Party. However, it is also important to know about the regional parties like Assom Gona Parishad in Assam, DMK and AIDMAK in Tamil Nadu, Telegu Desam in Andhra Pradesh and such other parties at regional level. In the next unit of this block we shall deal with the above mentioned regional parties of India.

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## **Unit 2**

### **Regional Political Parties in Indian Politics**

#### **Contents:**

- 2.1 Introduction**
- 2.2 Objectives**
- 2.3 Growth of Regional Political Parties in India: A Short Review**
  - 2.3.1 Forms of Regional Parties**
- 2.4 Electoral Performance of Regional Political Parties**
- 2.5 Cases of Regional Political Parties:**
  - 2.5.1 Asom Gana Parishad (AGP)**
  - 2.5.2 Telegu Desham Party (TDP)**
  - 2.5.3 Dravida Munnetra Kazhagam (DMK)**
  - 2.5.4 All India Anna Dravida Munnetra Kazhagam (AIADMK)**
- 2.6 Regional Political Parties and National Politics**
- 2.6 Summing Up**
- 2.7 References and suggested Readings**

#### **2.1 Introduction**

Political party is the articulate organization of a society's active political agent in a democratic country. They are concerned with controlling power of the movement with the support of the people of concerned society. In India, with the introduction of parliamentary system of government and promulgation of the principle of 'universal adult franchise', the political parties have come to occupy an important position. While tracing the history of political parties in India, it can be traced back to the period of 1885 when the Indian National Congress was formed. Numerous political parties existed prior to date and served as a forum for discussion and debate on various political and public issues. In the previous unit of this block, we have already discussed the role of national parties. In this unit we are going to discuss the role of regional political parties in Indian political system. The geographical and ethnic diversity of India paved the way for the formation of various



regional parties to secure its own interests. Unlike national parties operating in the entire country, a regional party generally operates within a limited geographical area. They represent only the interest of particular linguistic, religious ethnic or cultural groups. Despite having their roots since the British Period, numerous regional parties have emerged only after 1996. And now they are playing a key role in Indian politics. Now we find the impact of regional parties in Indian political structure and process of politics has been “multi-directional and far-reaching”. Emergences of these parties are responsible for concluding the era of “one-party dominant system”, better known as Congress system and beginning an era of ‘The one-party Plus’ system. Here in this unit we shall discuss the growth of regional political parties in India and their performance in the elections with special reference to some dominant regional parties as AGP, TDP and DMK, AIADMK. We shall also discuss their role in the formulation of the government and their relationship with the national parties. Let us discuss the regional political parties in Indian politics.

## **2.2 Objectives**

India’s social, cultural, and historical diversity paved the way to form regional parties. Vast geographical area makes impossible for a national party to observe every aspect of life of its people. Henceforth, to secure the interest of particular group regional parties emerged in Indian political system and they play a key role in decision making process of the government. After reading this unit you will able to:

- *discuss* the growth of regional political parties in India
- *analyze* the electoral performance of regional political parties
- *examine* the position of some regional parties
- *describe* the relationship between regional political parties and national politics

## **2.3 Growth of Regional Political Parties in India: A Short Review**

We know that political parties are part and parcel of a representative democratic system. They play the most crucial role in the electoral process

through which we choose our representative to form the government. They provide us candidate and compete election. Political parties and the party system in India are greatly influenced by its cultural diversity, social, ethnic, caste, community and religious pluralism, traditions of the nationalist movement, contrasting style of party leadership, and clashing ideological perspectives. In India, we find two categories of political parties, viz, national and state or regional. As of today, there are six national parties (seven after the split in the Janata Dal in August 1999) and 38 regional parties. In the previous unit of this block we have discussed the national parties; here in this section we shall discuss the growth of regional parties in Indian political system.

Regionalism usually stands for a particular state of consciousness of a group of people united by ties of kinship, religion, race or language, who seek self identification in terms of a particularistic territory as their own sphere of activity. Regionalism is the other name of particular and exclusivist political movements. Unlike the national parties the regional parties are mainly working in a particular geographical area of the country and mostly they participate in elections only within that area. However, some regional parties also participate in neighbouring states, with constituencies with similar culture similar to the first state. Different state parties are established at different periods because of different reasons. Some even have origins prior to India's independence. Let us discuss the emergence of regional political parties in Indian political scenario.

It is very difficult to find out the date of origin of regional parties in India. However, the root is found during the British period. It is the State of Tamilnadu in South India, two main state parties — All India Anna Dravida Munnetra Kazagham (AIADMK) and Dravida Munnetra Kazagham (DMK)) are operating and their origin is the prior to the independence. The main ideology of this party is Tamil national pride. The regional parties came into existence in Indian politics because of India's federal system, state assembly votes are held in an electoral arena that often enables regional parties to obtain power by espousing issues of regional concern. Simultaneously, the single-member district, first-past-the-post electoral system has given the advantage to national parties, such as the Congress, which possess a realistic chance of gaining or retaining power at the national level and the opportunity to use central government resources to reward

their supporters. Although regional parties have exercised authority at the state level, collectively they receive only between 5 to 10 percent of the national vote in parliamentary elections.

But the scenario is changed during the governments of the Janata Party (1977-79) and the National Front (1989-90). During this period regional parties have played important role in the national politics too. Again with the decline of the Congress (I), the regional parties are playing an important role at the national level. Since then regional parties are formed in every part of India to secure the interest of a particular group in different regions. As we earlier stated that in Tamil Nadu regional parties are formed prior to the independence and they continue their journey till now, in fact they are much stronger than the national parties.

### **STOP TO CONSIDER:**

#### **An Overview of Origin of the Regional Parties in Tamilnadu:**

Regional parties in TamilNadu trace their roots to the establishment of the Justice Party by non-Brahman social elites in 1916 and the development of the non-Bhraman Self-Respect Movement, founded in 1925 by E.V. Ramaswamy Naicker. As leader of the Justice Party, in 1944 Ramaswamy renamed the party as the Dravida Kazhagam (DK—Dravidian Federation) and demanded the establishment of an independent state called Dravidasthan. In 1949, charismatic film script writer C.N. Annadurai, who was under Ramaswamy's authoritarian leadership, split from the DK to found the DMK in an attempt to achieve the goals of Tamil nationalism through the electoral process. The DMK dropped its demand for Dravidasthan in 1963 but played a prominent role in the agitations that successfully defeated attempts to impose the northern Indian language of Hindi as the official national language in the mid-1960s. The DMK routed the Congress in the 1967 elections in TamilNadu and took control of the state government. With the deterioration of Annadurai's health, another screen writer, M. Karunanidhi became Chief Minister in 1968 and took control of the party after Annadurai's death in 1969.

Like South India, regional political parties become important political force in North India. In North India Akali Dal which represents Punjabi people, one of the strongest regional parties. However, Akali Dal is based on religion whose followers are the Sikhs. This party was formed before independence. The major objective of the party is to demand a special status for the Sikhs.

Again, in the West India and North East India regional parties came into existence because the local populations felt that they were neglected or discriminatory treatment was meted out to them by the central government. For example, in the mid- 1980s, the Asom Gana Parishad (AGP) rose to power in Assam on the crest of Assamese nationalism. Immigration to Assam—— primarily by Muslim Bengalis from neighbouring Bangladesh—— had aroused concern that the Assamese would become a minority in their own state. The AGP was formed by Assamese student leaders after the signing of the Assam Accord, and the new party won the December 1985 elections with 35 percent of the vote and sixty-four of 108 seats in the state legislature. After this election party again won the election of 1995 but failed to win in the next election.

The National Conference, based in Jammu and Kashmir, is a regional party, which, despite its overwhelmingly Muslim following, refused to support the All-India Muslim League during the freedom struggle; instead it allied itself with the Indian National Congress. In 1975 the party formed government in Jammu and Kashmir. The National Conference remained Jammu and Kashmir's dominant party through the 1980s and maintained control over the state government for most of the period. In parliamentary elections, it won one of Kashmir's six parliamentary seats in 1967.

Apart from these parties there also exist other regional parties in almost every state. To name a few there are, National Conference in Kashmir, Haryana Vikas Party in Haryana, Manipur People's Party in Manipur, Maharashtrawadi Gomantak in Goa, Sikkim Democratic Front in Sikkim, Mizo National Front in Mizoram, and many other parties. Breaking away from larger national parties, like the Congress paved the way for the emergence of some state parties. Some of such parties are—— the West Bengal Trinamul Congress, Tamil Manila Congress, Kerala Congress. Moreover, there are also communist state parties.

From the above discussion it is clear that the regional parties are operating in India prior to the independence. Several regional political parties emerged in India primarily due to the presence of socio-economic, religious and cultural pluralism. At the grassroots level, the regional parties make the people politically conscious and it makes popular participation more extensive and wide. After 1996, several regional parties have emerged and these are now playing key roles in national politics.

**Check Your Progress:**

1. Define regional political party.
2. Mention the name of two important regional parties of South India.
3. Discuss the reasons behind the formation of regional parties.
4. Write a note on the evolution of Regional parties in India.

**2.3.1 Forms of Regional Parties**

We have already learnt that the feeling of regionalism may arise due to the continuous neglect of a particular area or region by the ruling party. Again some political leaders encourage the feeling of regionalism to maintain their hold over a particular area or group of people. Regionalism may have various forms. Some of them are discussed below:

- **Demand for State Autonomy:** Regionalism has often led to the demand by states for greater autonomy from the centre. Increasing interference by the centre in the affairs of the states has led to regional feelings. Demand for autonomy has also been raised by regions within some states of the Indian federation.
- **Secession from the Union:** This is a dangerous form of regionalism. It emerges when state's demand separation from the centre and try to establish an independent identity of their own. Disputes between states over the sharing of river water, primacy given by the states to the language of majority and to people of their own states in job opportunities have also given rise to feelings of regionalism. Migration of people from backward state to a developed state for employment opportunities have often resulted in a hostile attitude against the migrants as evident in the problems going on in Karnataka and Andhra Pradesh.

It is also observed that to protect own ethnic, cultural and historical identity many regional parties are formed in India.

**2.4 Electoral Performance of Regional Political Parties**

As we stated earlier, India's social, cultural, and historical diversity paved the way for the formation of regional parties. Although regional parties have exercised authority at the state level, collectively they receive only 5 to 10

percent of the national vote in parliamentary elections. Only during the governments of the Janata Party (1977-79) and the National Front (1989-90), the regional parties have participated in forming the central government. Here in this section we are going to discuss the performance of these regional parties in the national level elections.

Till the fourth general elections Indian National Congress dominated the Indian Politics. But steadily their support base declined and it was in the fourth general election in April 1967 when for the first time, it lost nearly 60 seats in the Lower House (managing to win 283 seats). It also suffered a major setback as non-Congress ministries were established in Bihar, Kerala, Orissa, Madras, the Punjab and West Bengal. It is the beginning, after that in every general election the regional parties play a crucial role in the formation of the government. For example, in 1969 the government under the Prime-Ministership of Indira Gandhi lasted due to the support of DMK. Apart from her government, Morarji Desai's Government stayed in office with the support of regional parties like Akali Dal and DMK.

If we look at the percentage of vote share by the regional parties we find that it has been increasing. As against 8% votes polled by the regional parties in 1980, their share of vote has increased to 21% in 1998. In this context, it is pertinent to mention here that as against the regional parties, the share of vote for the national parties has declined. Here is an example of how regional parties performed in the elections with reference to the state of Assam.

### Region wise voting-pattern of Assam

Lok Sabha constituency	INC		BJP		JUI/UP		AAP		CPI		CPI(M)		OTHERS	
	2004	2009	2004	2009	2004	2009	2004	2009	2004	2009	2004	2009	2004	2009
Kamrup (M)	47.80	37.89	34.12	21.73			36.73	19.97					1.29	3.29
Sibsagar	48.48	39.49	34.98	35.37			39.39	-			1.72		19.41	3.19
Autonomous Districts	36.39	41.17	14.58	30.81			9.94				8.84	8.13	9.43	19.08
Dibrugarh	43.80	34.89	18.89				31.88	38.19					18.88	11.29
Kokrajhar	6.39	49.89	-				-	21.89					35.89	38.89
Barpeta	38	39.75	14.59				23.89	36.07	31.36		4.08		19	1.19
Chirang	48.89	43.87	33.13	44.73			8.80	38.84					4.89	3.81
Morigaon	37.33	34.89	48.74	31.35			18.39	17.2					4.83	14.08
Tezpur	48.27	38.31	12.88				8.48	38.48	41.77		3.41	4.34	1.85	8.45
Nagaon	38.88	33.87	33.8	38.11			28.83	33.17					3.83	38.73
Kolibaheer	38.89	48.35	-				38.71	38.78	38.43				38.88	4.81
Jorhat	38.84	47.45	12.47	38.84			14		28.84	8.71			4.85	4.74
Dibrugarh	17.80	47.87	32.88				38	48.88	1.88	8.88	1.18		4.38	1.78
Lakhimpur	34.88	38.73	11.14				37.84	38.83	1.87		8.71		7.18	12.28

Source: C.E.S, Assam

This Table provides you the basic idea that regional parties in Assam continuously increasing their vote share in the national level elections.

In other states also the situation is similar. However, the decline in support for national parties is certainly problematic. It is at the least a portent of a new party system. In the post-independence period, the Congress became the dominant party in the political scenario. The Congress could win 60% or more of the seats in Parliament with 40 per cent or more of the vote because the opposition vote was divided. Beginning with the hung parliament in 1989, India's party system changed from a dominant party system with governments based on majority parties in Parliament to a regionalized multi party system with coalition government at the center.

The Lok Sabha Election of 1996 has also produced a hung parliament. No one national party was able to secure clear cut majority. In that election, out of 542 seats, four national parties Congress (140), Janata Dal (44), Bharatiya Janata Party (BJP) (161) and CPM (33) won only 378 seats. Remaining are won by the regional parties. BJP formed government with the support of more than 13 regional parties.

Again in the general election of 2004, the Congress won 26.7 percent of the vote and the BJP 22.2 percent. Both parties vote share declined slightly from the previous election due to the rise of regional parties. It remains to be seen whether the congress and the BJP can compete effectively with the regional parties. The proportion of the vote controlled by parties classified as national by the election commission was 76 % in 1991, declining to 63 % in 2004; seats controlled by them went down from 78% to 68% and went to the hand of regional parties.

But despite loosing the percentage of votes the last election forwarded a completely new scenario. The 15th Lok Sabha elections result has far reaching political implications for the electoral politics Congress-led United Progressive Alliance (UPA) could garner overwhelming support. Many regional parties failed to continue their success. In Maharashtra, Andhra Pardesh and Tamil Nadu, Assam the Shiv Sena, TDP, AIADMK and AGP have respectively lost seats. However, it does not mean that regional parties lost their support base. They lost their seats but they were able to increase their vote sharing percentage.

Hence, from the above discussion it is clear that India is a mosaic of multiple linguistic and ethnic communities. Its ethnic demography impinges on national politics. It is difficult for a political party to win in an election without the support of state parties.

## **STOP TO CONSIDER:**

### **Reason for the growth of Regional Parties in India:**

We know that the presence of regional parties is an important feature of Indian political system. Apart from the regional diversity the causes behind the formation of regional parties are as follows

1. Social, ethnic, cultural and geographical diversities are important causes. Apart from those causes for the formation of regional parties primordial sentiments like caste, religion have been quite strong in India and on the basis of these sentiments regional parties are formed in India.
2. Certain areas in India due to its strong historical and traditional reasons have shown keenness to maintain their independent entity and resisted all attempts at integration. For this reason they formed regional parties.
3. Factional fights between the party members of national parties also give birth to another party.

## **2.5 Cases of Regional Political Parties: Asom Gana Parishad (AGP), TDP and DMK, AIADMK**

Often, the existence and strength of regional identities is regarded as a foundation for the thriving of regionalist political parties. Apart from a subjective and an objective dimension of the concept of regional identity, a connecting dimension expressing the perception and recognition of characteristics of the region can be distinguished. This section describes the various regional parties in different regions in India.

### **2.5.1 Asom Gana Parishad (AGP)**

The regional aspiration of the Assamese people culminated in the formation of Asom Gana Parishad (AGP) in the year 1985. The emergence of Asom Gana Parishad (AGP) was a significant development after long Congress rule in Assam. There has been a long history of struggle of Assamese people for their distinct socio-cultural and political identity. Although it may seem that the AGP is the result of anti-foreigner movement, yet it provides an occasion to look closely at the phenomenon of regional parties and the allied phenomenon of cultural sub-nationalism.

The Asom Gana Parishad has emerged in Assam politics as a result of the six years long Assam Movement during the period 1979 to 1985, on the foreigner's issue. Therefore, a unique feature of the movement was that it



functioned outside the existing framework of the party system in Assam. Initially, it was led by the All Assam Students Union (AASU) and its political wing, the All Assam Gana Sangram Parishad (AAGSP) which had gathered mass political support on a very large scale.

In 1985 and 1996, AGP formed government in Assam. However in the national level election it was unable to influence the national politics since 1995. However, in 1995 AGP was a part of NDA government led by BJP. Again in 2001 and 2006 legislative elections it failed to form government in Assam owing to its organizational problems.

The 15th Lok Sabha election's result has far reaching political implications for the electoral politics of Assam. With the turnout 69.5 percent of votes, the people of Assam have firmly shown their faith in democracy and voted for stability. Although the Congress-led United Progressive Alliance (UPA) could garner overwhelming support at the national level, the party has suffered a minor setback in Assam as its seat tally reduced to seven compared to nine in 2004 election with a loss of just one percentage point in votes. On the other hand the seat sharing arrangement between AGP and BJP turned out fruitful one for BJP but not for the regional party, while the emergence of Assam United Democratic Front as a major force proved to be a cause of concern for the Congress. The electoral understanding with the AGP turned out to be correct for the BJP as the party managed to increase its tally in Assam to four seats from two in the 2004 polls.

The decline of AGP is very significant in Assam electoral politics. It did not decline only in terms of seat but also lost people's support. The basic reasons behind their debacle in this election raised many questions. They acted as an opposition party in the state Assembly since 2001. Here, you must remember that under a parliamentary system of government, the opposition has an important role to play. It not only keeps the government on the guard through constant criticism of government's functions but also provides an alternative choice to the people. One organized opposition can help government to take necessary step for upgrading the society. In the present context, we cannot term AGP as a successful opposition party in Assam. They are busy with only their thoughts for survival, not with the public matters.

**SAQ:**

Do you think that the opposition party has been playing a positive role in Assam. Give reason for you support. (60 words)

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.....  
.....  
.....  
.....

**2.5.2 Telegu Desham Party (TDP)**

Telegu Desham Party is one of the strongest regional parties of India. The party was formed by N.T. Rama Rao on 29th March 1982. The basic cause behind the formation of this party is to protest the corrupt and inefficient Congress (I) government in the state. The party basically operated in Andhra Pradesh. Since the formation of the party it is playing a crucial role in Indian Politics.

After analyzing the manifesto of the party we find that it basically laid emphasis on rural development and the improvement of the standard of living of the common people. The party also pledged special measures for the protection of women and took initiative to provide free mid-day meals to the children in primary schools. Some other policy and programmes of the party are— to make corruption free administration in Andhra Pradesh, generate employment opportunity, curb useless government expenses. Apart from that, the party also works for greater autonomy and adoption of Telegu language for the state. The party also stands for complete co-operation with the centre.

Form the above discussion you got an idea that the party was established for removing corruption from its administration and getting greater autonomy for their state. Now let us discuss the electoral performance. After one year of inception, the party gave a remarkable performance in the Assembly elections held in 1983 and captured 202 seats out of the 294 seats. However, by that time the party splitted, some of its members withdrew their support from the party and formed a new party. But again the party formed government in 1985. But in the mean time, in the Lok Sabha election it got only 2 seats. However, in 1991 party improved its position and

captured 13 seats. After that election, the party lost its support-base and in 1995 it could not capture power. Like the assembly elections the party also lost its seat in the Lok Sabha election. While the party got 29 seats in 1999, in 2004 it got only 5 and in 2009 only 6 seats.

From the above discussion it is clear that TDP is a major political power of South India. Due to spilt in the party it lost its popularity but still the party enjoys majority support in the state.

#### **STOP TO CONSIDER:**

##### **Nandamuri Taraka Rama Rao, the founder of TDP:**

Nandamuri Taraka Rama Rao, also known as NTR and fondly referred to as Anna Guru, was an actor, director, producer, and a politician of Andhra Pradesh. He is the founder of Telugu Desam Party in 1982 and served as Chief Minister of Andhra Pradesh for three terms between 1983 and 1994. He was awarded the Padma Shri by the Government of India in 1968 for his contribution to Telugu cinema. After his career in movies, Rao became a political activist and party leader. To promote the Telugu Desam Party, Rama Rao travelled across the state of Andhra Pradesh with his son Hari Krishna. Rama Rao notched up over 75,000 kilometres during his 1982 campaign. He campaigned for restoring the dignity of the Telugu people and advocated a closer bond between the government and the common people, going into the elections with the slogan, 'Telugu vari Atma Gauravam', meaning "Telugu people's self-respect". He reflected socialist views in his policies. He also believed that the state must take care of the people living below the poverty line and everyone must have their basic necessities fulfilled. He also worked to secure the basic necessities such as home, cloth and food for the people and to provide subsidies on clothes and houses to the needy. He was also an advocate of women's rights and worked on a bill to amend inheritance law to provide equal rights for women enabling them inherit ancestral property, enacted later, in 1986.

#### **2.5.3 Dravida Munnetra Kazhagam (DMK)**

Dravida Munnetra Kazhagam (DMK) was founded in the year 1949 by C. N. Annadurai in Madras Presidency of India as a regional political party in the state of Tamil Nadu. It is also present in the Union territory of Pondicherry. Since 1969, DMK is headed by M Karunanidhi, the current Chief Minister of Tamil Nadu. DMK is the first single party other than Congress to win elections in an Indian state with clear majority.

For Tamils, the party is a light to every Tamil household, a servant to the nation and a political party with a new political agenda. The party was formed to protect unique language of Tamils, to retrieve Tamil legacy and Tamils' rights. The party stood for the principles of equality, social justice, socialism and uphold the shining political values – duty, dignity and discipline. The DMK successfully strides its way as a people's movement in Tamil Nadu due to the untiring work and varied contributions of its unparalleled leader Kalaingar M.Karunanidhi. In 1989, the DMK participated in the National Front government formed under the Prime Ministership of V.P Singh, a crusader of social justice. On the insistence of DMK, 27 % reservation for OBCs in the services of the Government of India was implemented as per the recommendations of the Mandal Commission.

#### **2.5.4 All India Anna Dravida Munnetra Kazhagam (AIADMK)**

The party All India Anna Dravida Munnetra Kazhagam is the outcome of the split in DMK. It is founded by M.G Ramachandran. Despite having a colleague of DMK chief Karunanidhi, ideological differences crept up leading to the dismissal of MGR from the post of party. On October 17, 1972, with Anna's profile on the flag, the Anna Dravida Munnetra Kazhagam (ADMK) was launched. It changed its name to All India Anna Dravida Munnetra Kazhagam (AIADMK) on May 16, 1976. On January 31, 1976, the Central Government dismissed the Karunanidhi government and Assembly elections. After that incident the AIADMK emerged victorious. The party remained in power for the next 10 years. The present leader of the party Ms. J. Jayalalitha entered the party in 1982.

#### **Check Your Progress:**

1. Examine the role of AGP in the politics of Assam.
2. Critically examine the role of regional parties in Indian Political system.
3. Discuss the causes of the emergence of regional parties.
4. Describe the various form of regionalism.

#### **2.6 Regional Political Parties and National Politics**

We have already discussed the growth and emergence of regional political parties in Indian politics. We have also discussed the policy and programmes

of some regional political parties operating in Indian politics for a long time. Now in this section, we are going to discuss the relationship between regional parties and national parties. Here we shall also discuss the role of regional parties in the formation of national government.

You have already learnt that regional parties are operating in a limited territorial area, whereas national parties are operating at the national level. The policies and programmes of a national party are wider than a regional party. You also know that in Indian parliamentary democratic system, one party needs more than 273 seats out of the 543 Lok Sabha seats to form the government at the centre. In this process, now due to the emergence of regional parties now one single party is unable to get clear cut majority. Because of this reason in certain specific regions some regional parties have more support base than a national party. It has resulted in hang parliament. But in the mean time it will help the states to participate in the decision-making process of the government. They get an opportunity to end the hegemony of one national party. The process has also helped in bringing awareness among people and solving problem with the consent of a large number of populations.

However, participation of regional parties in the national government resulting in the growth of coalition government is not always useful. For example, at the time emergency they are unable to take quick decision due to the lack of consent among the parties. Again it provides an unstable government which wastes time and money.

No one national party is able to form a government without the help of regional parties after the fourth general election. With the collapse of Indian National Congress, regional parties of India are playing a crucial role in the National politics.

After the fourth general elections of 1967 many regional parties were also partners in the coalition governments formed in several states. At the centre of late the regional parties have been able to play critical role in helping formation of government. For example DMK, a regional party, supported Mrs. Indira Gandhi's government after split in the party in 1969 and enabled her to carry on government despite loss of majority in the Parliament. Telugu Desam was the pillar of strength for the United Front and later the National Democratic Alliance. The representatives of the regional parties focus the

attention of the Parliament on regional issues and try to influence the policies of the government to promote their own interests.

Since 1996, regional parties have become indispensable in the formation of government at the national level. They have been important partners in the coalitions that came to power after 1996. Besides, numerical strength of the regional parties has considerably increased with a sizable vote share being captured by regional parties. Finally, regional parties have emerged in a large number of states. The experiment of United Front (UF) government first underscored the centrality of regional parties to national politics. In the 1996 Lok Sabha, 137 MPs belonged to various regional parties. At that time, it appeared that most regional parties were gravitating against the BJP. Thus, 95 of the 137 MPs belonging to regional parties were part of the UF coalition. The regional forces, at least some of them—quickly switched over to the BJP-led National Democratic Alliance (NDA) in 1998. The Lok Sabha in 1998 included 162 MPs belonging to regional parties; 92 of them were part of the NDA. TDP, one of the leading parties of UF, chose to join the NDA which proved crucial for the survival of the government. Another regional party, AIADMK, played a decisive role in defeating the NDA government. The thirteenth Lok Sabha (1999) has 168 MPs who belong to regional parties. The NDA includes 109 MPs from different regional parties. In all, 32 regional parties are represented in the 13th Lok Sabha of which 15 are part of NDA, four are constituents of Left Front (6 MPs), six were Congress allies (23 MPs) and seven parties have not joined any front or alliance (38 MPs).

Thus from the above discussion it is clear that now regional political parties are important part of national politics. The support of regional parties is essential for forming the central government. The trend is also visible in our present government. In this government, we find that RJD, SP, BSP, JD (S) and other smaller parties and independents provide external support to the government. Hence it can be said that now regional parties are the backbone of national parties.

## **2.6 Summing Up**

After going through this unit now you are able to examine the role of regional political parties in Indian Politics. In this unit we have learnt that due to the

lack of concentration and due interest by the national parties, Indian people formed their own parties in their respective states. These parties are operating only in a limited territory and termed as regional parties. Some regional parties are operating since the British period to protect their own identity. Now Indian politics reached that position where without the support of regional parties national parties are unable to form government. It has some positive and negative effects in Indian Politics. For example, the participation of regional parties provides greater participation of people in the decision making process but in the mean time it is responsible for unstable government.

## **2.7 References and Suggested Readings**

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## **Unit 3**

### **Coalition Politics in India**

#### **Contents:**

- 3.1 Introduction**
- 3.2 Objective**
- 3.3 Emergence of Coalition Politics in India**
  - 3.3.1 Emergence of Coalition Government in India (1967 to till date)**
- 3.4 Coalition Politics and Political Stability in India**
  - 3.4.1 Fractionalization and Coalition politics**
- 3.5 Political Defection and Coalition Politics**
- 3.6 Coalition Politics in India: A Critical Evaluation**
  - 3.6.1 Coalition Politics in India: Challenges and Suggestions**
- 3.7 SummingUp**
- 3.8 References and Suggested Readings**

#### **3.1 Introduction**

Political parties are the significant instruments of manifest and expressing the demand and expectations of the common masses. Political parties play a pivotal role in the representative democratic system in the formation of government. It is worth mentioning here that the party who enjoying majority is only able to form the government. It is easy for two party systems like UK and USA to form a government by one party is but the case is different in the multi-party system like India. If no one party able to secure majority then some party make alliances to form the government. In Political Science, it is known as coalition. The English word coalition is derived from the Latin word 'coalition' which means "to go" or "to grow together". Thus a coalition can be defined as a temporary political alliance of distinct parties or persons, who preserve their separate political identities.



Coalition politics is the sharing of power in which different interests are democratically accommodated. A study of the coalition behaviour reveals that it is an alliance of political parties to maximise their long term influence over the decision-making process. Coalition thus, refers to a combination of political groups or forces, temporary in nature and for specific objectives. It is also generally accepted that coalition can take place only within the contexts of mixed motive in which both conflict and common interest are simultaneously present. In this unit we are going to analyze the nature of coalition politics in Indian context. An attempt is also made to explore the various causes which gave birth to the coalition trends in India. In this unit we shall also discuss various aspects of coalition politics which give you a better idea to understand different aspects of Indian coalition politics which was emerged basically after the fourth general elections.

### **3.2 Objective**

In the contemporary political scenario coalition has been playing a very important role in different countries of the world. In India the existence of multi-party system has significantly contributed towards the emergence of coalition politics. After going through this unit you will be able to:

- *understand* the meaning of coalition
- *discuss* different forms of coalition politics
- *describe* the nature and form of coalition politics in India

### **3.3 Emergence of Coalition Politics in India**

It is already mentioned that the Indian polity is dominated by the presence of multi-party system. Party identification in India is relatively weak due to party defections and splits and emergence of new parties. Coalition Politics is also the result of the rise of regional parties on agendas of national importance. The growth of regional parties can be attributed to their success in articulating the interests of the assertive backward castes and *Dalits* or 'untouchables'. These parties remain 'regional' in terms of geographic location, but are national in terms of issues relevant to the country as a whole. Their role within the national coalition is also indicative of a more competitive and polarised party system in the Indian polity. The continuity

of coalition in India has marked an end to the dominance of one party rule at the centre and provided for the growth of smaller and regional parties. It is pertinent to mention here that we find two types of coalition in Indian politics. One is pre-poll alliances where parties are alienated before the elections and others is post-poll alliances where alliances is made after the elections.

In India, in the recent times it is observed that coalition governments are running the administration of the country. While tracing the history of coalition in India, it is found that the elections of 1967 brought into picture the phenomenon of coalitions. In that election, since no single party got majority, various non-Congress parties came together to form joint legislative parties that supported non-Congress governments. These anti-Congress governments came to be described as SVD governments. In most of these cases the coalition partners were ideologically incongruent. The SVD government in Bihar was formed with the CPI on the left and Jana Sangh on the right. In Punjab it was called the 'Popular United Front' and comprised the two rival groups — Republican Party and the Bharatiya Jana Sangh.

#### ***Causes of the emergence of Coalition Politics in India:***

You have already learnt that in the wake of the decline of Congress Dominance, the fragmentation of the National Party System and the emergence of party systems at the regional level have turned India into a hub of coalition politics. Apart from these some other causes of the emergence of coalition politics in India are stated below:

- **Loss of trust:** In the early years of our independence Congress was the only dominant party, which during the initial years of its coming to power was able to keep the people united by accommodating regional and local interests. But as years rolled on with the spiralling of caste and regional identities maintaining a single party identity became difficult for them.
- **Inability to represent diverse interests:** India is a multi-ethnic country with different ethnic, religious and language communities. Different communities reflect different ideologies. The national parties failed to represent this diversity of interests of different communities.

- **Moral degeneration in politics:** Defections within the party led to the moral degeneration in maintaining party discipline. While the Anti-Defection Law of 1985 was brought about as a panacea to prevent the unethical behaviour of party defection it gave enormous power to the leadership of the party to make its member work according party diktats which amounted for the loss of political voice among the smaller parties within the fold of the national parties.
- **Rise of regional parties:** Lastly, as explained earlier the growth of regional parties as a way of fulfilling regional aspirations representing and national interests gave rise to coalition politics in India.

Hence it is clear that due to the multi-party system no single party is able to secure a working majority in the popular house then the coalition take place between two or more party to form the government. In common parlance a coalition may be necessitated by a national crisis when various political groups may suspend their political strife and collaborate in the general cause of protecting and promoting their national interest.

#### **STOP TO CONSIDER:**

##### **Contemporary Trends in Indian Party System**

Political parties in a democracy enable people to choose their rulers. In India since the British Rule political parties are existing. The Indian party system has unique features which are quite different from the rest of the world. Though India has multi-party system the Congress ruled since its 4<sup>th</sup> general election of 1967. However a different trends are visible in Indian party system after 1977 which are as follows:

1. **End of the unipolarism of Congress:** After the 4<sup>th</sup> general elections the Congress lost its popular support and brought non-Congress government both in the centre and the state. The aristocratic rule of Indira Gandhi brought a drastic change in Indian politics. For the first time a non-congress Coalition government led by Janata Dal was formed in India.
2. **Emergence of Religion based parties:** Religion occupied an important position in Indian society. It was British who divided Indian people in the name of religion. After independence many parties are formed to protect one community interest or a religious group.
3. **Spilt in the parties:** Since 1967 a new trend is visible in Indian party system *i.e.* spilt or fractions between the parties. The new trend is welcomed by the Congress when it was spilt into two fractions over the question of Presidential candidate. Since then fraction becomes a major problems for the political parties.

### **3.3.1 Emergence of Coalition Government in India (1967 to till date)**

After reading the sections you have already got an idea that the coalition government in India is the result of its multi-party system. As we stated earlier, the 4<sup>th</sup> general election of India marked a remarkable history in Indian politics. The elections weakened the monolithic character of the Congress rule beginning the era of coalition politics.

Now it is clear to you that the coalition government emerged especially after the 4<sup>th</sup> general election of 1967. However, India has experienced coalition government in the state level prior to 1967. It was the state of Kerala where for the first time coalition government is formed in 1960 in its mid term elections.

After that India got a taste of coalition politics at the state level when the Left front comprising of Communist Party of India (CPI), CPI (Marxist) and others formed the Coalition Government in West Bengal with Mr. Jyoti Basu as the Chief Minister (succeeded by Mr. Buddhadeb Bhattacharjee) which till date has not been defeated. On the other hand at the national level the first ever coalition government was formed under the Prime Ministership of Late Shri Morarji Desai which existed from 24th March 1977 to 15th July 1979 headed by now an insignificant Janata Party (who reputation has now been acquired by its breakaway section which formed the Bharatiya Janata Party).

Though the Congress dominated Indian politics since 1967, the 'Congress system' was also based on coalition in political sense as it followed coalition logic in its relationship with the opposition parties in the process of governance. The period from the later half of the 1980s onwards witnessed the erosion of the central role of the Congress in maintaining and restructuring political consensus. The 1990s in particular witnessed a decisive end to the dominant multi-party system of the earlier years. It signified a move towards a competitive multi-party system both at the central and state levels. The general election in 1989 and the State assembly election of 1993- 1995 confirmed this trend. Along with an upsurge of new social groups and identities the growing regionalisation of the national parties (not excluding the Congress and BJP) taken place. Consequently, there has been a blurring of lines between the national and state party system and the process of 'federalisation' in the party system. In this complex and interlocking

relationship between the national and state parties the changes in the latter have been increasingly influencing the former.

Since 1996, coalition government dominated Indian politics. Coalition governments. Post 1970s emergency period saw the emergence of Janata Party and the weakening of the Indian National Congress, once the undefeatable Political Party in India. The breaking up of the National Parties also saw a resurgence of regional parties which started dominating the state-level politics. Although coalition governments were in existence once or twice during the era of Late Shrimati Indira Gandhi, during 1996-1999 there were four coalition governments. When Shri Atal Bihari Vajpayee could not sustain the Government in 1996 due to lack of Majority (i.e. 272 seats) in the Indian Parliament after being just 13 days old, the Third Front (a group of regional parties and Non-Congress and Non-BJP combine also referred to as the United Front) formed the Government headed by Mr. H. D. Deve Gowda who remained in office from 1<sup>st</sup> June 1996 to 21<sup>st</sup> April 1997. The Congress Party and other smaller parties including the Left provided internal support to him in order to provide a stable Government and prevent snap-polls. But due to rising discontent between the UF and Congress, the latter withdrew support and in order to avoid elections, a compromise was reached. The Congress party agreed to support another United Front government under new leader, and provided its concerns—such as not being consulted before taking important decisions and being marginalized. Such issues were addressed. The United Front elected Shri Inder Kumar Gujral as new leader and he was sworn in as Prime Minister on 21<sup>st</sup> April 1997. But unfortunately due to some internal problems in the Government, Congress again withdrew support and mid-term elections were called after Third Front governments failed twice. This time, a cohesive bloc of political parties lined up with it to form the National Democratic Alliance headed by the BJP, and Shri A.B. Vajpayee was sworn in as the Prime Minister. The NDA proved its majority in Parliament. Towards the end of 1998 however, the AIADMK withdrew its support from the 13-month old government. The government lost the ensuing vote of confidence motion by a single vote. As the Opposition was unable to come up with the numbers to form the new government, the country returned to elections with Vajpayee remaining the “care-taker prime minister”.

After four failed coalition governments and 2 mid-term elections, on October 13, 1999, Shri Atal Bihari Vajpayee took oath as Prime Minister of India for the third time. The BJP-led NDA had won 303 seats in the 543 seat Lok Sabha, thereby securing a comfortable, stable majority. The Coalition Government that was formed lasted its full term of 5 years – the only non-Congress government to do so. The National Democratic Alliance was widely expected to retain power after the 2004 general election. The parliament had been dissolved before the completion of term in order to capitalize on the economic boom and improved security and cultural atmosphere. However, the coalition sidestepped controversial and ideological questions in favour of bread-and-butter economic issues during the campaign and subsequently lost almost half its seats, with several prominent cabinet ministers being defeated. The Indian National Congress, led by Mrs. Sonia Gandhi became the single largest party and, along with many minor parties, formed the United Progressive Alliance. With the conditional support of the leftist parties from the outside, the UPA formed a government under Dr Manmohan Singh. The alliance completed a full term and remained in power after the 15th General Elections in May 2009. Although the left no longer supports the UPA but with new allies it has been able to extend its lead in the Lok Sabha.

Hence it is clear for you that the coalition governments in India have mainly been the result of multi-party system emerged after 1967. As sometimes no single political party was able to achieve clear cut majority in the legislative assembly, the parties were obliged to seek support and co-operation of other groups to form the government. Now the coalition government has become a part and parcel of Indian political system.

**Check Your Progress:**

1. Briefly explain what you understand by the meaning of coalition.
2. Trace the history of emergence of coalition politics in India.
3. Explain the coalitional nature of politics during the one party dominant system in India.
4. Why did the Janata Government fail to fulfil its term?
5. Discuss the factors contributed to the growth of regional parties.

### **3.4 Coalition Politics and Political Stability in India**

We know that there has been a remarkable blending of tradition and modernity in the Indian society in which various identities have found democratic channels of expression in the political process. Coalition politics is the sharing of power in which different interests are democratically accommodated.

It is well known that a coalition government addresses the regional disparity more than the single party rule. It is also useful for inclusive growth of all the regions. Apart from these the coalition government is more democratic, and hence fairer, because it represents a much broader spectrum of public opinion than government by one party alone. In almost all coalitions, a majority of citizens voted for the parties which form the government and so their views and interests are represented in political decision-making. Hence political stability is ensured in a much better way under a coalition government.

Coalitions provide good government because their decisions are made in the interests of a majority of the people. Because a wide consensus of opinion is involved, any policy will be debated thoroughly within the government before it is implemented than a single-party government (for example, the Emergency rule under Mrs. Indira Gandhi). Coalition government provides more continuity in administration since the government functions on the principle of politics of consensus. Besides, states are given more powers, and the base of the concept of federalism is strengthened. Coalition governments have been effective in enhancing democratic legitimacy, representativeness, and national unity.

Hence it can be said that there is nothing wrong in the formation of coalition government with the desire for political stability, and indeed for an escape from the disintegrative trends of recent years. However, political stability is not worth unless it can be built on the foundations of just, secular, efficient and clean governance, and policies that address the internal and external challenges of rising India in a progressive way. It is not worth having unless it prioritises the basic needs and interests of the overwhelming majority of the population, the hundreds of millions of working people who suffer multiple

deprivations in terms of income, livelihood, nutrition, education, health, shelter, environment, gender, and so on. Coalition government make way for the representation of various sections since it is formed by different political parties. Again we also know that each political party has its own programmes and ideologies.

In Indian context it is worth mentioning here that, the six general elections between 1989 and 2004 underlined the fact that the polity was divided three ways, ruling out even the thought of a majority government (with the outcome of the abnormal 1991 general election standing out as something of an exception) and dictating for the foreseeable future coalition arrangements involving some common positions and approaches but much discord and expediency. Against this background, the 2009 general election has been widely interpreted in political and business circles and in the national and international media to be some kind of game-changer. After all, the real significance of the 2009 'mandate' was the ruling out of any viable alternative political arrangements in New Delhi. The main political opposition, the BJP, the party of the Hindu Right, found itself weakened (its 18.8 per cent of the vote meant a negative 3.6 percentage point swing from 2004) and in unprecedented disarray. The main ideological opposition, the Left, suffered big political setbacks in its two main strongholds, West Bengal and Kerala, and found its Lok Sabha strength truncated to just over a third of what it was in 2004. While the significant regional parties pulled their weight in States such as Tamil Nadu, Bihar, Orissa, and Uttar Pradesh, they found their overall political weight and leverage reduced in the Lok Sabha. Equally important in a federal set-up, the balance of power in some large States, notably Andhra Pradesh, West Bengal, Maharashtra, and Rajasthan, and a handful of smaller States tilted the Congress way, while voting trends in India's most populous State, Uttar Pradesh, where the party had suffered long-term marginalisation, hinted at a revival in its fortunes.

Now it is clear to you that coalitions are inherently unstable and undermine democracy. In general this type of government depends on the type of election result and a fractured verdict by the electorate can only result in a coalition. But verdict given by the electorate cannot be visualised as any violation of the electorate's mandate and cannot be treated as undemocratic.



## **STOP TO CONSIDER**

### **The most successful Coalition Government of India**

The NDA or National Democratic Front is one of the most successful coalition government of India. The stability of the NDA coalition, 1999-2004, can be explained by a combination of the surplus majority of its *legislative* coalition and territorial compatibility indeed *mutual electoral interdependence*, of the constituent parties of this legislative coalition due to state-level electoral arithmetic, and the impossibility of constructing an alternative coalition. It helps them to bring together, and likewise, the impossibility of constructing a Congress-led coalition given the rivalry between the Congress and most regional and Left parties at the state level. The TDP, INLD, SDF, HVC, ABLTC and MADMK, who were formally part of the NDA coalition and accepted its manifesto, the National Agenda for Governance, combined with the fact that the TDP and INLD at least, in their sole home states of Andhra Pradesh and Haryana, were dependent on pre-electoral coalitions with the BJP to avoid splitting of the vote against their common rival, the Congress party, and were thus tied to the BJP in a way that would make it very difficult for them to withdraw support without damaging their own electoral prospects. Likewise, the BJD of Orissa, JD(U) of Bihar, SAD of Punjab and Shiv Sena of Maharashtra, who were part of the executive coalition, were so tied to the BJP by mutual electoral interdependence. Hence, the leading party in the NDA, the BJP, could have great confidence that the coalition would not lose its majority by the withdrawal of support by these external supporters. For example, the TDP, despite its disapproval of the NDA's handling of the Gujarat riots in 2002, did not withdraw support since it knew that it would lose policy influence without bringing down the government.

### **3.4.1 Fractionalization and Coalition politics**

You have already understood that a coalition government is useful in maintaining political stability in a country like India. The need of coalition politics is reflected in its capability of promoting compromise and check radicalism.

However in the contemporary political scenario the fragmentation of the party system has laid bare the vulnerability of the process of governance due to political uncertainty and instability of governments. Efforts were made by the coalition partners or allying parties to establish some sort of institutional mechanism to evolve a consensus on the minimum governmental

programme for action and to affect coordination between the different constituents of the government both vertically as well as horizontally by instituting multi-layered coalitional structures and a variety of steering and coordinating committees both for inter-party and party-government consultations and/or to resolve major differences through personal emissaries of the Prime Minister. At best, however, these efforts remained merely *ad hoc* in nature and did not quite result in the establishment of some effective permanent institutional devices to bring about a rapprochement amongst the coalescing partners. The implication of the patterns of fractionalization makes the possibility of a single party securing an overall majority in the Lok Sabha in the near future very remote. The lack of disruption introduced in state elections by the increasingly ineffective parties at national level indicates that the growth of one party has been evenly matched by the decline of another. The transformation in the composition of parties at state level has been almost seamless. In this context, it is regional parties that have prospered and the national parties, like the Congress have suffered.

Today, the regional political parties have come to play a very effective role in the formation and deformation of governments leading to political instability and frequent elections. However, there is a need to conceptualize the role of regional political parties in a democracy like India. The regional parties come into power because of some popular stand that they take up on some local issues. The national political parties have aligned with them for political reasons without commitment in detail to everything that regional parties may profess. But a problem continues in the relationship between national and regional parties as a national party has to cater to national issues and causes which should naturally admit of no regional barriers; while regional parties by their very nature have to take up only local issues. Hence, the national party too tends to become 'regional' as it adopts a regional platform.

Coalitions come into existence because they are a political necessity, but different partners may have mutually conflicting interests. There are clear divergences between the interests of smaller and larger parties. The BJP would aspire to a position of dominance much like that enjoyed by the dominant party in the mixed ministries of Kerala, whether by Congress or the CPI (M). Smaller entities like the Telugu Desam would prefer a United Front type arrangement in which the smaller parties hold the key to power and can command more influence than their numbers might indicate. But

there is a further divide at the heart of the party system. Both the Congress and the BJP are more comfortable with a stronger Centre. The former was its chief architect and the latter is its prime ideologue today. Yet this difficult to hold in the coming years.

Hence it is clear that the coalition politics is the result of the rise of regional parties on agenda of National Importance and Fractionalization of political parties. One of the reasons for the growing importance of Regional Parties has been their success in articulating the interests of a particular community especially the minority or backward class of the society. The role of regional parties within the national coalition is also indicative of a more competitive and polarised party system.

**SAQ:**

Do you think that coalition politics or a government is suitable for ensuring democratic ideals than that of a single party government? (80 words)

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**3.5 Political Defection and Coalition Politics**

Coalition politics in a democratic polity is a reflection of various ideologies due to its representative nature. It is often said that unity among the party members makes the party strong and it is able to undertake various people oriented policies. However, the defection politics makes the party weaker than before due to the fragmentation. In Indian context, the politics of defection has left manifold impact on the Indian polity. Here in this section we are going to analyze the impact of defection in the coalition government.

The year 1967 ushered in an unprecedented era of Political instability preceding the following the formation of coalition governments in several States The formation of such coalition governments was most often a marriage of convenience. They were constituted of heterogeneous elements—political parties coming together to share power often having no ideological similarity.

At a large scale the politics of defection started in the post 1967 period, when Congress failed to secure a clear cut majority in seven of the seventeen states (in 1967 – election), and the opposition parties joined hands despite different ideology form coalition government. A large numbers of MLAs were encouraged to defect to renounce allegiance to the parties on whose ticket they were elected and join Congress so that requisite majority could be attained and government could be formed. Political defection has reverse impact on India polity which brings instability. We can point out some demerits of political defection and its impact on coalition politics as follows

- Firstly, defections and counter defections rendered the duly elected governments ineffective and this prevented them from giving practical shape to the policies and programme outline in their manifestoes. Generally they tend to follow only populist policies to keep themselves in power.
- Secondly, defections produced political instability in several states which encouraged the people to install a stable government at the centre. This explains why after two years of Janata rule from 1977 to 1979 people voted back Mrs. Indira Gandhi to power, even though the programme and performance of the Janata Party was better than that of Congress. Similarly in 1984, the Congress was voted back to power.
- Thirdly, defections also greatly contributed to lawlessness in several parts of the country. The disgruntled political leaders often worked against their party and organised protests, strikes etc to bring down the credibility of the government.
- Fourthly, defections gave rise to corruption and bribery. Political leaders tried to purchase members by offering them high price with a view to pull down the governments. Frequent defections and counter-defections created uncertainty about the position of various parties in the state. As a result coalitions are formed. Sometimes this results in frequent fall of governments and necessitates imposition of President's rule. The regional parties playing an important part in breaking and forming a coalition is also the outcome of these defections. The disgruntled political leaders often formed regional parties with a view to assert their position. Thus, we can say that the politics of defection has a deep impact on the nature of Indian politics.

The political leaders and the public had expressed serious concern over the widespread incidents of defections, especially after the decline of the Congress Party in the 1960s, but few concrete steps were taken to deal with the problem. Such initiatives as were taken could not be pursued or died down because of change in the government at the Centre. It was during Rajiv Gandhi's tenure that a concerted legal intervention in the form of the 52nd Constitution Amendment was adopted.

### **STOP TO CONSIDER**

#### **Anti Defection Law:**

To curb the political defection and maintain stability the law makers of India favoured a bill which can prevent defection. The Fifty Second Amendment Act of Indian Constitution mainly focused on this issue. The act of 1985 (52<sup>nd</sup> Amendment) envisages curbing of political defection. It has following provisions:

1. A Member of Parliament or state legislature belonging to any political party shall be disqualified for being a member of that house if,
  - a. he has voluntarily given up his membership of such political party, or
  - b. he votes or abstains from voting in such house contrary to any direction issued by the political party.
2. In the case of an independent member, an elected member shall be disqualified for being a member of the House if he joins any political party on the date on which he takes his seat.

Again in 2003, the 92<sup>nd</sup> Constitutional Amendment Act has also made some directions regarding this issue. This legislation pertaining to changes in the anti defection law is limiting the size of the Council of Ministers at the centre and the state level. The act debar a defector from holding any remunerative political post for the remaining tenure of the legislature or unless re-elected. The act states that no splits are allowed in parties except on ideological issues and status quo is to be maintained on the issue of whip to ensure stability of the government.

### **3.6 Coalition Politics in India: A Critical Evaluation**

You have already learnt that coalition politics becomes an integral part of Indian political system. Now there is no alternative to the coalition which makes it imperative to study their advantages and disadvantages. In India for the first time the coalition governments were formed in several states during the period 1967-1971 when Congress suffered setback in several states and the political parties professing faith in different ideologies and

programme joined hands to capture power without bothering about a common programme. Once in power the members of the coalition fought for offices and portfolios and openly criticised each other to further their interests. The evil of defections that took place between 1967 and 1971 resulted in the failure of many coalition governments to follow any clear cut policies. They continued to make compromises on principles because they were more concerned about the survival of their governments rather than carrying out the set principles or policies. The internal bickering and political strife among the members of the coalition greatly contributed to instability of governments and adversely affected the efficiency of administration. In view of these shortcomings people reacted sharply and voted Congress to power in 1971.

Thereafter, different states continued to experiment with coalition governments of various durations at regular intervals, but most of these coalitions were based on convenience rather than common programme. Both experts and political parties agree that the era of Coalition Politics has just begun and it is here to stay. The resounding victories of state based parties like DMK, TMC, Telegu Desam, Asom Gana Parishad etc, brought complete new orientations and changed the concept of single party rule.

Many critics of the coalition experiment however raise the question of its negative relations between the Centre and the States. Obviously in terms of its relation with the Central government a state government will be at an advantage if formed by a party which supports the Central government. On the other hand, a state government formed by parties, which are in the opposition in the Parliament will have a difficult passage. However, this is not only true of coalition governments. Even with single party majority governments such problems do arise and these have more to do with working out an effective federal structure-that allows smooth Centre- State relation than with coalition politics per se.

It is well known that India is a diverse country with different ethnic, linguistic, and religious communities, it also has diverse ideologies. Consequently the benefit that a coalition has is that it leads to more consensus based politics and reflects the popular opinion of the electorate. In order to have stable coalitions, it is necessary that political parties moderate their ideologies and programmes. They should be more open multiple points of view as well.

They must accommodate each other's interests and concerns. In India, parties do not always agree on the correct path for government policy. Different parties have different interests and beliefs and it is difficult to sustain a consensus on issues when disagreement arises. However, this is not to say that we have never had successful coalitions.

Hence it is clear to you that the diversity and plurality in Indian fabric can be best represented through coalition politics when even small groups regional groups, etc. have say in politics. This is not possible in single party dominance. In a vast country with diversity as ours, coalitions may be thus a necessary stage in the evolution of democracy. Also, a coalition government need not necessarily lead to instability or discontinuity in policies, nor can they be called ineffective or less purposive.

**SAQ:**

Do you think that the coalition government is able to maintain status-quo in Indian political system? Give arguments in favour of your answer. (60+40 words)

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**3.6.1 Coalition Politics in India: Challenges and Suggestions**

Though the coalition politics becomes an inevitable part of Indian politics, it is still fighting for its survival. The main challenge regarding coalition politics is that since, it is inevitable in India, the focus should be on the mechanism to ensure that the basic issue of good governance, clean politics and administration are not neglected. It is a fact that coalition politics has come to stay in the Indian scenario. One party majority system or that of two single party systems are planning a passed. The dominant political scenario would be the two coalition groups. Thus rather than return to a political centralization that was the cause of economic ruin of India, our major national parties need to focus on social and cultural ecosystems, linking them, together across regions and communities.

Since coalition politics has come to stay and all parties have come to realise the inevitability of coalition and political alliances their tactics will change accordingly. They will aim at compatibility which would reduce and even remove in-coalition stresses and conflicts. This would necessary lead to prior formulation of ideological and policy commitment oriented to solving issues than merely gaining power. Coalition will probably work better if there are two or three major parties which might act as the anchor or pillars of the system. The other parties can co-operate with them in an endeavour to provide a stable government.

India has now moved much ahead from where it was fifty years ago. Material progress can be realised faster if moral flanks are guarded. The foundations of the new politics cannot be built without an ethical base for polity and administration.

For a successful coalition, the parties have to accommodate each others interest while formulating the ideologies and programmes for the party. It is difficult to arrive a consensus for formulating a government policy meant for public welfare if diverse interest prevails. Coalition in so far as they are based on concrete programmes and not only political opportunism and lust for power, can greatly contribute to the smooth working of democratic and representative government in India. Despite its apparent shortcomings and limitations, the coalitions provide the only feasible and viable alternative in the parliamentary democracy and provide a bulwark and necessary safeguard against the unsung collapse of a democratic set up.

**Check Your Progress:**

1. What are the trends visible in the coalition politics at the present time?
2. Is coalition government successful in India?
3. What are the challenges faced by coalitions governments in its functioning? Suggest some remedial measures necessary for reforming coalition government.

**3.7 Summing Up**

After going through this unit now you are in a position to understand the concept of coalition politics in Indian context. You have gain the idea that



the coalition politics operates in two ways - one, by the coalition of the political parties outside the government; two, formation of the government by two or more political parties. The latter is known as a coalition government. The party system and the political system in India in the first twenty-five years or so after Independence were completely dominated by Congress both in the electoral and organisational sense except for the Janata party, 1977-79, and the Janata Party (Secular) of Charan Singh. Congress acting on its historical legacy represented a broad-based social coalition. However, in the period since 1989, coalition and/or minority governments have been in power at the Centre. The evolution of coalitions in India can be summarised as an anti-Congressism in the 1960s and 1970s by intra-state coalitions and we find that all the coalitions since 1996 have been inter-state territorial coalitions. The period since 1991 has also seen the growth and sustenance of intra-state alliances based on ideology (like the BJP-Shiv Sena) and based on territorial compatibility of two kinds. The prevalence of coalition governments in India can be explained by the pattern of fragmentation of the national party system due to the operation of Duverger's law under federalism into a territorially compatible, multi-party system with numerous small regional parties with strong incentives for pre-electoral coalitions. This, when combined with ideological differences between parties on key issues like secularism and economic liberalisation, and expectations of instability, tends to give rise to coalitions since 1996 rather than to minimal winning or surplus majority coalitions. Hence it can be said that the Indian case of coalition behaviour is basically rational choice theory-confirming if adjusted for institutional features, particularly federalism, the electoral system and social heterogeneity with multiple cross-cutting cleavages.

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## **Unit 4**

### **Voting Behaviour of the Indian Electorate**

#### **Contents:**

- 4.1 Introduction**
- 4.2 Objectives**
- 4.3 Meaning of Voting Behaviour**
- 4.4 Determinants of Voting Behaviour in India**
  - 4.4.1 Politics in India at Present Context**
  - 4.4.2 Nature of the Indian electorate**
- 4.5 Recent Trends in the Voting Behaviour of Indian Electorate**
  - 4.5.1 Phase wise Changes in the Voting Behaviour of the Indian Electorate**
  - 4.5.2 Coalition Era (1998-2004)**
  - 4.5.3 General Election of 2009 and the changing political behaviour**
- 4.6 Summing up**
- 4.7 References and Suggested Readings**

#### **4.1 Introduction**

India is a federal country with more than 30 states. You have already learnt that India has a bicameral legislature at the national or federal level – the upper house is called Rajya Sabha and the lower house is called Lok Sabha. While members of the upper house are elected by the state legislatures, the 543 members of the Lok Sabha are directly elected from single member districts using a first-past-the-post system. The party that enjoys a majority in the lower house of the Parliament forms the national government. It is also known to us that elections are the critical ingredient for democracy. It is through this process that the citizens are accorded a rightful and democratic opportunity to make their individual choices as to who has the power to govern a country. However, this process would be futile if the voting behaviour/trends are not taken into consideration.

This unit will help you to understand the meaning of voting behaviour. The unit will help you to understand the pattern of political participation and how religion and caste play significant roles in voting behaviour of the Indian

electorate. The role of political parties is important for us in the study of voting behaviour and vice versa since the party a contestant belongs to is found to be a major factor in choosing which candidate one votes for.

## **4.2 Objectives**

For understanding any political system it is important to have a proper idea of the voting behaviour of the population. After reading this unit, you will be able to:

- *discuss* the meaning of voting behaviour
- *examine* the determinants of voting behaviour
- *understanding* the recent trends of the voting behaviour of Indian electorate

## **4.3 Meaning of Voting Behaviour**

Voting is the most vital instrument in forming governments in liberal democracies. Voting behaviour refers to the study and analysis of voting pattern of the citizens. It also tries to analyse the factors that determine the manner in which a particular group of people vote for a specific political party. Usually, voting behaviour is determined by the political attitudes, assumptions, policy preferences, and partisan loyalties of individuals and the political and institutional context within which they cast their votes in an election. Again, voting behaviour articulates an interest leading individuals to support a particular party, and how voters might switch support from one party to another under different electoral scenarios and prevailing circumstances.

## **4.4 Determinants of Voting Behaviour in India**

In Indian political scenario, it has been observed that voting pattern of the Indian people is changing with changing time. From various election studies it is clear that a combination of factors determine the electoral behaviour. These factors mainly include religion, language, regional feeling, caste, tribe, etc. In Punjab the religious, linguistic and regional factors have been used by the Akali Dal to garner votes. The regional and linguistic factors were

used to mobilise votes in Tamil Nadu by the DMK, AIADMK, in Andhra Pradesh by the Telugu Desam, in Assam by Asom Gana Parishad. With increased democratisation and politicisation, the political parties have tried to exploit the caste factor for election purpose which in turn enables the elite group of castes to get inducted into the political process. In fact, caste is the most commonly used factor of mobilisation. It does, however, not mean that all the castes or even an entire caste becomes politicised or mobilised to influence the political system.

The caste associations in India began much before independence as agents of Sanskritisation sought to secure educational, service and other facilities to raise the status of their caste in social hierarchy. But their role in post-independence India has become more important and complicated since they now combine the roles of pressure groups in economic and political fields as well. The caste associations have made people conscious of their rights and privileges. Their most important contribution lies in making the illiterate masses participate effectively in politics. Through this process, politicisation of caste has reached a stage where not only is caste regarded as one of the main issues for deciding in favour of a candidate by the voters but caste is also one of the most important variables in the distribution of election tickets and formation of governments. While the higher caste Brahmins, Bhumihars, Rajputs have dominated the politics of several parts of India, the middle castes like Jats, Marathas, Yadvads, Reddies, Kammas, Vokkaliggas, etc., emerged as powerful caste groups as a result of land reforms and Green Revolution in some parts of India. In the recent past, it is witnessed that even dalits, especially in North India have become an important and decisive caste group. The rise of the Bahujan Samaj Party in Uttar Pradesh is the most important example of increasing role of dalits. The caste groups, in fact, have come to be known as the “vote banks” of political parties in the light of their support to the parties. Thus, the caste connections of leaders, command over the means of their caste men and the ability to form coalitions of castes for the purpose of political gains came to play significant roles. With the introduction of universal adult franchise, the dalits and other backward castes became conscious of their potential power due to their sheer numerical size. It has been observed that caste solidarity has acquired tremendous importance in the recent years in the Indian political scenario. The interaction between caste and electoral

politics has resulted in traditionalisation of politics, on the one hand, and politicisation of caste on the other hand. The logic of electoral politics has also compelled the political parties to broaden their social or caste base.

**Check Your Progress:**

1. What are the various factors that determine the voting behaviour of the Indian electorate?
2. What do you think about the role of caste in influencing the voter during election?
3. Examine whether 'true' or 'false':
  - a) India has a two party system\_\_\_\_\_.
  - b) Religion has no role to play in influencing the behaviour of the electorate\_\_\_\_\_.
  - c) Assam movement was a language based movement\_\_\_\_\_.
  - d) Telengana is in Rajasthan\_\_\_\_\_.

**4.4.1 Politics in India at present context**

Indian political scenario has been dominated by the Congress party for a long time as a result of which Indian Party system was termed as 'One-party dominated system'. However, in the later period some other national parties came to prominence. The emerging scenario of Indian politics is competitive. There are many reasons for the emergence of such a scenario. Institutional decay within the Congress Party and rise of new parties can be cited as the first reason. Secondly, the rise of intermediary castes and classes creates a social class balance in the economic field as well as an economic dynamics that affects political alliances and party programmes. The relative autonomy of state politics has led to a differential party system that not only represents the social context more clearly, but also brings in a new set of elites in Indian politics through the rise of regional parties,—in states as well as nationally. This creates an interesting situation in the Indian polity. Paradoxically the impact of this trend on society and polity is both integrational and fragmentational. The caste dynamics that was the basis of social coalition successfully operated by the Congress has taken new forms, perhaps for each State. While castes such as dalits are experimenting with dalit-only and dalit-centric parties, they have not given up other options. The analysis of the politics of the state also shows that there was an extensive mobilisation by the separatists against participation in the polls.

#### **4.4.2 Nature of the Indian Electorate**

India constitutes a rich laboratory for the exploration of voting behaviour. The overwhelming support for democracy and a belief that it is the instrument to fulfil our basic needs provides us an important clue to the nature of the Indian electorate. A look at the voting pattern of 2004 election reveals the fact that a large chunk of voters of a state actually vote for a particular party. As evident in the distribution of votes in the earlier elections they do so consistently over several elections. There may be some variation in different elections due to a variety of factors, such as alliances, leadership factor, selection of candidates to contest in elections, etc. But these parties do enjoy a minimum base among these social groups. For example BSP enjoys overwhelming support from the dalits and the SP from Yadavas and Muslims in UP, Lok Jan Shakti Party among dalits in Bihar, Shiromani Akali Dal from Jat Sikhs in Punjab, Nationalist Congress Party among Marathas in Maharashtra, Congress among Reddys and TDP among Kammas in AP, Pattali Makkal Katchi among Vanniyars in Tamil Nadu, and so on. In fact, in popular perception these parties are known as the parties of these communities and the top party leader or core leaders belong to this caste or community. People in India consider voting on caste lines as important, but the caste identity merges with securing individual benefits through group association. In a situation where parties are identified with specific castes and communities and are dependent on their support for survival, preference for party and candidate could be on the lines of the dominant thinking among the people of a particular caste and community. The emergence of state level parties as crucial actors in Indian politics has added a new momentum. State level parties are sharing power at the national level and have played a central role in the country's politics. Although political parties act within the sphere of this consensus, popular movements and organisations are simultaneously identifying new forms, visions and pathways of development. Issues like poverty, displacement, minimum wages, livelihood and social security are being put on the political agenda by peoples' movements, reminding the state of its responsibility. Similarly, issues of justice and democracy are being voiced by the people in terms of class, caste, gender and regions.

#### **4.5 Recent trends in the Voting Behaviour of Indian Electorate**

Coalition seems to have become intrinsic to the Indian polity. Indian politics is now regionalized and coalition governments have become an important ingredient of political articulation reflecting the socio-political and cultural diversities of the country. What appeared to be a mere trend in 1967 when several Indian states saw the formation of coalition governments seems to have become a pattern. Democracy is a guarantor of adult suffrage in India. This has unleashed a process that has gone beyond mere voting by empowering people in a manner that radically changed the contours of Indian politics. Democratic empowerment of the lower strata of society and formerly excluded groups led to articulation of voices that always remained unheard in the past. Universal Adult Franchise and democratic empowerment of various sections of the society have given the opportunity to express grievances. This has also resulted in the growth of different political parties representing different interests. Following the rise of the regional parties as formidable partners in governance, the constituent states in federal India are growing strong gradually and steadily. Not only are they now capable of articulating their demands effectively, but they also become decisive in policy-making.

We have already learnt that caste, community, religion, language, region, etc. are the main determinants of electoral behaviour. However, caste plays the most dominant role in election. Different political parties nominate candidates on the basis of caste composition of the concerned constituency and voters are mobilised on the basis of caste. Thus, Indian election cannot be understood without properly understanding the role of caste in election.

##### **4.5.1 Phase wise changes in the voting behaviour of the Indian electorate**

In section 3.4 we have studied that the voting pattern of Indian population has been changing over the time. In this section we shall make an attempt to analyse the voting behaviour of the Indian electorate in different phases.

**Phase I:** (1952-67) the period from 1952-67 denotes the one dominant party system or the 'Congress Dominance' marking the overwhelming dominance of the Congress party both at the centre as well as in the states.

**Phase II:** (1967-89) signifies the 'Congress Dominance under Challenge' from the opposition forces. It has also been described as the second Congress system.

**Phase III:** (1989-98) characterizes the 'Post-Congress Polity and the Emergence of a Multi-Party System'. The big story that came up during this period is the relative decline of the Congress and the rise of BJP and other regional and state based parties in the electoral scenario.

**Phase IV:** 1998 onwards reflects a perfect 'Coalition Era', which is the outcome of a multi-party Post-Congress polity with the fragmentation of party system in India.

Coalition in its broadest sense implies initiation of measures to secure consensus among diverse social groups and communities in the pursuit of a common minimum programme. The 1998 Parliamentary election was the turning point in India's electoral politics, which not only characterized the beginning of a coalition era but also brought the Hindu nationalist and communal forces like the BJP into power.

The 1989 Parliamentary elections marked a significant break from the earlier trend of Congress dominance and reflected a fragmentation of the party system at the centre. The politics by this time i.e. late eighties and early nineties had been reconfigured with three major issues of 'Mandir', 'Mandal' and 'Market'. The distinctive feature of 1989-98 phases signifies the prominence of caste and religious identities i.e. symbolically 'Mandal' and 'Mandir' emerged as deciding factors in India's electoral politics. In these circumstances, the electoral success of Bharatiya Janata Party (BJP) was rather astonishing in terms of Lok Sabha seats won by that party: Two seats in 1984 to 86 seats in 1989, 121 seats in 1991, 161 seats in 1996, 181 seats and 182 seats in 1998 and 1999 respectively. The 'Mandir' issue became instrumental behind the rise of BJP apart from upper caste assertion and building up calculated electoral alliances with the regional parties in several states which succeeded the BJP to mobilize a section of OBC, Dalit and Tribal votes as it expanded in non-traditional states i.e. beyond the North-Indian Hindi heartland and western states of Gujarat, Maharashtra and Goa.



**Stop To Consider:**

The Mandal issue which calls for a 27 per cent reservation for the OBCs in government jobs as per the recommendations of Mandal Commission was brought into public domain and there was an upsurge of the subalterns in North-India. The lower and backward caste based social cleavage posed a counter challenge to religious nationalism of BJP. The intense national debate for and against reservation in jobs made people from the OBC communities more aware of this identity. Thus, it helped those who wanted to mobilise these groups in politics. This period saw the emergence of many parties that sought better opportunities for OBCs in education and employment and also raised the question of the share of power enjoyed by the OBCs. These parties claimed that since OBCs constituted a large segment of Indian society, it was only democratic that the OBCs should get adequate representation in administration and have their due share of political power. The electoral performances of caste based parties gave a certain amount of respectability to the whole 'politicization of caste'. This OBC-dalit combination in North-India became a new political and electoral constituency. Another significant issue namely, 'Market' emerged with a new dimension in Indian politics with debates revolving around liberalization, privatization and globalization.

The 3rd Electoral system i.e. 1989-98 did not bring alternative or at least significant structural changes in party system but it did bring fundamental changes in terms of popular or majoritarian politics. Redefinition of caste politics and realignment of caste identities more being witnessed. Caste politics was working both on identities and interests. The emergence of states becoming the major arena of politics for political parties as a relevant choice was also an important feature of this phase. This phase also characterizes the emergence of marginal groups as an important political actor in Indian politics. This was certainly a significant change, which was more than symbolic. New tendencies of politics emerged with a significant rise in Dalit efficacy. In 1978 the Backward and Minority Classes Employees Federation (BAMCEF) was formed. This organisation was not an ordinary trade union of government employees but a strong OBC and minorities based organization. It was out of this that the subsequent Dalit Shoshit Samaj Sangharsh Samiti and later the Bahujan Samaj Party (BSP) emerged under the leadership of Kanshi Ram. The BSP began as a small party supported largely by Dalit voters in Punjab, Haryana and Uttar Pradesh.

But in 1989 and the 1991 elections, it achieved a breakthrough in Uttar Pradesh. This was the first time in independent India that a political party supported mainly by Dalits voters had achieved this kind of political success.

The 1998 and 1999 Parliamentary elections saw the ascendancy of BJP which had successfully formed the National Democratic Alliance (NDA) by making strategic allies in different states with certain secular parties who had made compromises with the forces of communalism. The 1999 Parliamentary election was held in October after the victory of Indian army in Kargil War designated as “Operation Vijay”. The 1999 election saw massive shifts among several parties to change their camps. The verdict of the 1999 election slowly gave rise to two major political camps namely the NDA and the Anti-NDA forces. Both 1998 and 1999 elections also witnessed the rise of a new social block namely the ‘urban middle class’ rallying behind the BJP led NDA with the aspiration of procuring the benefits of pro-consumerist economic reforms. However the BJP led NDA could not come to power in 2004.

An examination of the 2004 elections would show how the voters voted and what changes characterised their behaviour. It was a watershed election in Indian politics as it marked a deviation from the dominant belief that BJP led NDA would once again come to power. The prevalent ‘India-shining’ and ‘Feel Good’ campaign perpetrated by the propaganda managers of BJP, failed to appeal to the common people. The verdict reflected the political assertiveness and political consciousness of the Indian electorate. So, it witnessed a silent revolt of the common Indian voter against all odds like heightened media campaign. Considering political environment comfortable, the BJP preponed this election by 5 months in April-May which scheduled to be held on October 2004 after winning the assembly elections of Rajasthan, Madhya Pradesh and Chhattisgarh in December 2003. However the NDA was defeated in the election. The NDA’s defeat only reflected a deep-rooted anger of the socially and politically conscious voter against anti-people government policies and India Shining campaign. A rising part of the social strata applauds change, while receding or status quo elements may bitterly fight it. ‘India Shining’ vs. continuing poverty illustrated the differences that proved to be politically relevant in the elections. This verdict only strengthened the politics of issues and interests coming to the fore with the marginalising tendency of popular social cleavages like caste and religion.

The inference that one can derive from this verdict only reinforces the fact that can be rightly interpreted as a verdict against economic reforms and overdoing of Hindutva brand of communal fascism. The BJP's effort to achieve what it could not do through governance, and tried to with the help of grand high sounding slogans, did not succeed with the voters. The role of identities like caste and religion that previously set as an agenda of Indian politics has showed a minimizing tendency after this election. In fact, the most significant outcome of 2004 election has been the shift in the foci of India's electoral politics.

The verdict of 2004 compels us to think positively about the possibility of an alternative that went beyond the aspects of identities. Whether this increasing tendency of marginalisation of identity politics will be sustaining or not is another matter, as time will eventually tell us. But in today's context, there is no denying the fact that an increasing space for secular political domain is surely noticed which makes the 2004 election a significant one in the history of Indian politics.

Electoral politics has ensured that compromise is essential to maintain national parties as well as coalitions at the state level. Extremist rhetoric based on religion, caste and even secularism is moderated by the compulsions of electoral politics as filtered through India's diversity. Needless to say that election in different states took place in varied conditions that have been building up over time to create a particular mood in each state. However different these immediate factors may have been in the various states, all of them point to one distinguishing common factor—the mood of the electorate.

**Stop To Consider:**

**Election Studies in India**

Studying elections in India is a tough job as India is the largest democracy in the world. Taking into consideration India's size and population, it can easily be concluded that Indian national elections have been the largest electoral exercise. The election studies have helped a lot in understanding the pattern of voting in India as well as in the development of the theory of voting behaviour. India being a diverse and plural society, various factors determine the voting behaviour of its citizens. Party identification, issues, candidates, campaigns, socio-economic status of voters and other areas have been recognized as important realms for

studies in voting behaviour. To elaborate, with the development of mass-media, some institutions like the Indian Institute of Public Opinion conducted opinion surveys on the general elections. Many of such opinions central to election studies in India were not systematic and scientific as they lacked systematic sampling. Nevertheless, these studies helped in understanding the perception and opinion of the common people. Here we can cite two examples— firstly; the assassination of the then Prime Minister Indira Gandhi in 1984 had greatly influenced the election of 1985. Secondly, the survey of 1992 general election showed a tense mood of the people after the demolition of Babri Masjid followed by a large-scale communal riot.

While tracing the history of election studies in India we find that election studies were pioneered in India soon after independence in the late 50s by a journalist, Eric Da Costa. In fact, he is considered the ‘father of opinion polling’ in India. However, those studies were mostly descriptive and journalistic. Later, political scientists such as Bashiruddin Ahmed, Ramshray Roy and Rajni Kothari provided the scientific grounding to election studies in India. Kothari gained expertise in psephology i.e, the statistical analysis of elections in Michigan University. After returning he started systematic study of elections at the Delhi based Centre for the study of Developing Societies (CSDS). The first survey-based analysis of an Indian election was carried out by CSDS in the Kerala Assembly Election of 1965. The major step in the field of election studies was taken in the general election of 1967 by the CSDS as it was based on large-scale sample survey. Since then, the studies made by CSDS have been providing us facts through which people’s perception can be understood. These studies have helped in understanding the socio-economic status like education, caste, occupation and class value systems and other important characteristics of voters as well as issues in the elections, ideological positions and strategies of mobilization used by the political parties.

There is always a close relationship between media and election studies. Noted journalist Prannoy Roy applied this method to Indian elections. He co-produced a series of volumes with Butler and Lahiri. Roy also conducted a series of all India opinion polls for the magazine *India Today*. Later, in 1998 he founded a new television channel NDTV where he anchored shows devoted to the statistical analysis of elections. Later, Yogendra Yadav brought NDTV and CSDS closer. In 1995, the CSDS team led by Yogendra Yadav created ‘Lokniti’, a network of scholars based in various Indian states. Lokniti has been studying elections systematically and scientifically since 1996 by conducting National Election Survey (NES) 1996, 1998, 1999, 2004 and 2009.

**SAQ:**

1. Do you think the nature of the Indian electorate has undergone any change over the years? If yes, specify the changes (80 words).

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2. Do you think the electorate in India are well informed? Give reasons for your explanation. (80 words)

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**4.5.3 The Changing Political Behaviour in the Recent General Election of 2009**

In India's most recent national elections in 2009, the resounding victory of the Congress led United Progressive Alliance provides several evidences of the changing political behaviour of the Indian electorate. The popularity of certain social welfare policies enacted by the Congress-led United Progressive Alliance (UPA) government during its tenure and UPA's efforts to implement employment security through the National Rural Employment Guarantee Act (NREGA), and to forgive a massive amount of agrarian debt, were identified as in large part responsible for the Congress' victory. An explanation emphasizing the importance of policies like NREGA contributed to a view that voting on "the issues" was becoming an increasingly important component of Indian political behavior. Emergence of dynamic young leader Rahul Gandhi on the political scenario also helped in garnering votes for the party. The non-stop campaigns of the young, dynamic son of ex-Prime Minister Late Rajiv Gandhi decimated the opposition surprising the two local parties which had campaigned on the basis of caste in Uttar Pradesh. The Hindutva-focused concept of Indianness of the BJP and its attack on the government over terrorism failed to garner support of the people.

**Check Your Progress:**

1. Examine the political change of Indian politics.
2. Make a comparative analysis of 2004 general election and 2009 general election. What changes do you notice in the voters' behaviour?
3. Fill in the Blanks:
  - (a) \_\_\_\_\_ was the winner of 2009 election.
  - (b) Hindutva is the ideology of \_\_\_\_\_.
  - (c) Congress led UPA sought to generate employment security through \_\_\_\_\_.
  - (d) The politics of 1989 was reconfigured by \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_.
  - (e) Mandal Commission is related to \_\_\_\_\_ reservation.
  - (f) Kargil war is also known as \_\_\_\_\_.
  - (g) Sarvajan political strategy was developed by \_\_\_\_\_.

**4.6 Summing up**

The electoral process in India is influenced and determined by the political culture of the political system. Elections are political processes, which provide a link between the society and the polity and between the traditional social systems and evolving political structures. After reading this unit you have got an idea about the meaning and determinants of voting behaviour in India. This unit has also helped you in understanding the politics in India at the present context. Moreover, after reading this unit you are now in a position to comprehend the nature of Indian electorate. In recent years, it is observed that voters' behaviour in India has become highly unpredictable. This unit has helped you in understanding the trends of voting behaviour of the people in different phases of Indian electoral politics

**4.7 References and Suggested Readings**

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