

## INTRODUCTION



1. SIGNIFICANCE OF THE STUDY
2. AIMS AND THE OBJECTIVES OF STUDY
3. HYPOTHESIS
4. METHODOLOGY
5. PLAN OF THE STUDY
6. UTILITY

The Constitution was intended to secure to all the citizens.

**“Justice, social, economic and political;**

**Liberty of thought, expression, belief, faith and worship;**

**Equality of status and opportunity; and to promote among**

**them all**

**Fraternity assuring the dignity of the individual**

**and the unity and integrity of the Nation.<sup>1</sup>”**

The Constitution of India, which was expected to be the precursor of the new Indian renaissance, became effective on Jan 26, 1950. The Constituent Assembly, comprising of many legal luminaries and persons of eminence took about two years of deliberations and discussions before finalising and adopting the new Constitution. The Constitution makers had tried to imbibe the best provisions from the Constitutions of different countries of the world, such as the U.S.A., the U.K., Australia, Ireland etc. Their sincere efforts in giving the country the best possible Constitution cannot be doubted, nor can their ability to do so can be called in question.

Still today, when the Constitution has been in operation for more than fifty years, a large part of the Indian people feel that India has failed

---

<sup>1</sup> Preamble to the Constitution of India.

to bring about the desired changes in the destiny of all and Gandhiji's vision of Swaraj : wiping out of every tear from every eye, has remained unfulfilled. There has been a growing feeling that the apparatus of the state, as provided by our Constitution, has not been very effective and perhaps needs to be reformed to 'keep the promises made' and to see that 'tryst with destiny' on the midnight of 14<sup>th</sup> August, 1947 sees the dawn of an era of hope for all.

While deliberating on the failure or success of our Constitution, one is reminded of what Dr. Ambedkar, chairman of the Drafting Committee, had said about it – "I feel that it (the Constitution) is workable, it is flexible and is strong enough to hold the country together, both in peace time and war time. Indeed, if I may say so, if things go wrong under the new Constitution, the reason will be not that we had a bad Constitution; what we will have to say is that the man was vile."<sup>2</sup>

Going by the falling standards of our political life, one should not hesitate to say that it is not the Constitution that has failed us, but we have failed the Constitution. To put it in Dr. Ambedkar's words, the man has become 'vile', and this ever-growing 'vileness' has brought about demise of a healthy political culture in our country. What is happening all over the country is to a great extent anti-thesis of some of the important values enshrined in the Constitution. The existing political system has been largely distorted by the unscrupulous politicians to meet their own petty and selfish goals. This has created various problems which are threatening the very unity and integrity of our country. Corruption has become so rampant in the state machinery that the situation appears to be irredeemable. Centrifugal forces have raised their ugly head in the name of religion, community, region and language. Due to our hydra-headed party system, the country is having coalition governments at the Centre and in many states which have proved to be neither stable nor effective.

---

<sup>2</sup> Subhas Kashyap- 50 years of Parliamentary democracy.( 2001 ).

While celebrating 50 years of the Constitution in the Central Hall of Parliament, Shri Shankar Dayal Sharma, the then President of India, had said on January 27, 1999, "Today when there is so much talk about revising the Constitution or even writing a new Constitution, we have to consider whether it is the Constitution that has failed us or whether it is we who have failed the Constitution."<sup>3</sup>

After 50 years of independence, the list of Indian woes seems endless. Corruption, violence, sectarianism, the criminalization of politics, and widespread social tension are increasing. Nearly half the Indian population lives below poverty line. Illiteracy is wide spread.

Many of the intellectuals who had been strongly advocating a constitutional review for last several years, have expressed their views that our electoral system and the Parliamentary form of government are responsible to a great extent for the political instability which has become chronic in the past decade. There is a growing feeling in the people that the present system of government, as envisaged by our Constitution is not suitable to address all these problems being faced by us. The leading author on Constitutional Law, D.D.Basu, has listed three reasons for our Parliamentary system of government having not worked as successfully, as in England. These reasons are: (1) we have got a system of multiple parties, some of which are of mushroom growth and have very small following, (2) very few of these parties have any fixed or defined policy or ideology which can be presented as an alternative to the one which is advocated by the ruling party and

- (3) The tradition of the party system has been destructive because of its origin in the upsurge against the imperial rule.<sup>4</sup>

A debate has been going on for quite a long time about working of the parliamentary system and federalism in our country. The recent trend

---

<sup>3</sup> Golden Jubli Function of 'Fifty Years of The Constituent Assembly' in Central Hall taken from Internate, site 'Parliament'.

<sup>4</sup> Hansaria B.L.-Does India Need a New Constituion? (1998).

of coalition governments and the consequent instability of the successive governments at the Centre and in some of the states have focused the public attention on this debate even more sharply. The eroding authority of the Centre and the demand of more and more autonomy of the States have also called into question our federalism. Such sorry state of affairs leads many to believe that perhaps a change in the system of the government is the only possible solution to most of our problems. In such circumstances it is high time that one should take up a comprehensive study of the parliamentary system and federalism as practiced by the Indian State and also to examine as to whether any change is required, and if so what changes are required. The proposed research purports to be an attempt in this direction.

## **1. SIGNIFICANCE OF THE STUDY**

The reason of undertaking critical study of some of the aspects of working of the Parliamentary system and federalism in India is that fifty years after the Constitution of India come into force there is a very large body of opinion in the country which holds that a review of its working has become necessary. It is submitted that there is nothing fundamentally wrong with the Constitution, though some of distortions have crept in during last thirty years or so. Innovations can be made only if they can be engrafted on the existing system. Another view is expressed that the Constitution is not suited to the genius of the people and a radical change is necessary. Those who share this view advocate the adoption of the Presidential system. It is not unknown that the first cries for the executive President were raised soon after the death of Pandit Jawahar Lal Nehru, the First Prime-Minister, on 27<sup>th</sup> May 1964. They were inspired by fears of instability in the country. Such fears have been renewed by nine changes of Government at the Centre in the last decade. By force of circumstances India has entered the age of coalition. This experiment

of coalition government at the Centre is, however viewed with suspicion by many.

No country would be able to fulfill its aspirations in terms of peace and progress if there is no stability of the government at the Centre, and to secure stability what is needed in our country is the implementation of electoral reforms religiously. Dependence on anti-social elements, criminalization of politics, vote banks based on caste, language and religion, corruption and violence have, to a large extent, made free and fair election impossible. Democracy cannot survive for long without free and fair election in the country. Hence critical study is made about the adoption of the List system, State funding of election and a system of binary voting.

India's federalism has suffered grievously during last three decades and so with the change of the government at the Centre with uniform disdain for constitutional norms and values or scruples for political morality. The office of the Governor of the State has been systematically abused for political ends by those in power in New Delhi and often the State Legislative Assemblies were dissolved though duly elected and possessed the confidence of the House and of the people. The office of the Chief Minister of the State is also afflicted by the same abuse. Very many Chief Minister owe their office, during last three decades or so, not so much to the confidence of their Legislature party as to the bounty of what is commonly called the party's High-Command. Article 356, instead of remaining the dead letter, has been often misused to secure the narrow ends of the party in power at the Centre.

## **2. AIMS AND OBJECTIVES OF THE THESIS**

The aim of the thesis is to examine the working of some of aspects of the Parliamentary system in last 54 years. Parliamentary form of democracy is the most difficult to work. It is a product of British

genius and peculiar to British traditions and conventions. When it is transplanted to other countries, its success depends upon the climate and local conditions of these countries. The Parliamentary form requires discipline, character, a high sense of public morality and a willingness to listen to the minority views and, a readiness for political accommodation and adjustment. Have we exhibited these qualities in the last 54 years? Most of the developing countries had adopted the Presidential form of the Government. Some had switched over, under the stress of circumstances, to the Presidential form, eg. Nigeria and Sri Lanka. Nevertheless, we have proved that we have preserved the democracy. We have had no military coups; the decisions of the Parliament, though some of them unpalatable, had been obeyed. However, we did not want survival only. After independence, our Parliamentary democracy was in an infant stage. Just as the infant requires utmost care for its steady growth and development, our Parliamentary democracy also needed the same. However, soon after independence, we had to face the problems like abolition of zamindari, mass illiteracy, abject poverty, communal forces at work in some parts of the country, lack of resources for industrial development, etc.

One way of evaluating the working of the Constitution would be to find out the aims and objects in the minds of the founding fathers that they set out to achieve at the time of framing the constitution. How far this system has achieved the aspirations and objectives of our Constitution Makers? How far the system is responsible for present political conditions? What are its drawbacks? What are the reasons for its failures? How can we remove these drawbacks and make it successful?

**The broad objectives** of the thesis can be summarized as follows:

- To evaluate the working of some aspects of the parliamentary system in the last fifty-four years.

Such as the Party System, Election System, Coalition System, Electoral Reforms and Anti-Defection Law.

- To evaluate the working of federal system in of India with special reference to Centre-State Legislative Relations and State Autonomy, co-operative federalism, Role of Governor in a state is expected to play under the Constitution and use and misuse of Article 356 by the Central Government.
- To consider probable solutions for the efficient working of Parliamentary System and Federalism in India.

Currently the subject has assumed greater importance and invoked deep interest and the need to review the working of the Parliamentary system with peculiar federal structure of India was also felt by the present Government. Otherwise also it is essential and desirable for a great and complex nation like India to periodically review its political institutions: Whether they serve the basic objective of the Indian polity and

Whether they have become wholly or partially obsolete or required to be amended?

In this regard the Union Ministry of Law, Justice and Company Affairs had constituted in February 2000, the 11-member National Commission to review the working of the Constitution under the Chairmanship of Hon'ble Justice M.N. Venkatachaliah. The Commission reviewed all the aspects of the Constitution and presented the final report on March 31,2002.

### **3 HYPOTHESIS FORMULATED**

1. Are the aims and objectives of the Constitution as mentioned by its Architects such as Representative Parliamentary Democracy and framing of federal structure in such a way as to promote the interest of all concerned have been achieved?

2. What ails our Parliamentary Democracy? The Parliamentary system was adopted giving preference to Responsibility over stability. Have we secured this objective?
3. Parliamentary system in India along with multi-party system worked well to a large extent in the initial period after Independence. However, in the last few decades it is felt that our Parliamentary system does not truly represent the electorate due to growing corrupt practices in the elections, criminalization of politics and increased role of money. What electoral reforms may be suggested to cure our election system or to make our election system free and fair?
4. Whether Anti-Defection Law has been able to secure its purpose? What lacunas, if any, are found in this law? What suggestions may be made to amend this law?
5. To curb the misuse of power under Article 356 what suggestions may be made?
6. What role the Governor is expected to play under the Indian Constitution so far as the Centre-State relations are concerned? What amendments to the Constitution should be made to see that Governor is allowed to play his role as per the intentions of the Makers of the Constitution?
7. Whether the guidelines given by Sarkaria Commissions in regard to implementation of co-operative federalism have been implemented? If not, what suggestions may be made?

#### **4. METHODOLOGY OF RESEARCH WORK**

The basic material for the proposed Research work is Literature Survey. It involves study of various writings by eminent authors on the Constitution like D.D.Basu, H.M. Seervai, Subhash Kashyap, A.G. Noorani, M.V.Pylee etc. and by the political thinkers on Parliamentary System, Presidential System and Federalism. It also involves study of the ideas of the founding fathers of the Indian Constitution as recorded in the Constituent Assembly Debates and in various other



related published works. Various law journals like Journal of Constitutional and Parliamentary Studies etc. and Law reports of Sarkaria Commission and Law Commission etc. and other periodicals, like Lawyer's Collective, Law Teller etc. and Judgments of Supreme Court and High-Courts are also perused to find out contemporary thinking on the subject.

To conduct the study, the relevant information is collected from the specific and related statutory enactments and related conventions. The material and information are collected from sources like various relevant statutes, published national and international books, parliamentary works, national journals and paper presented at national seminars, symposia, conference and workshops, original judgment of various national courts and relevant websites available on the topic.

The study also includes a comparative analysis made of various national and international legislations on the subject. An effort has been made to compare and contrast the analysis made of various national and international legislations on the subject.

## **5. PLAN OF THE STUDY**

### **(2)**

The architects of the Indian Constitution had taken a conscious decision not to put the past completely behind and start on a new and clean slate. Instead, they chose to build further on the foundations of the old, on the institution which has already grown and which they had known and become familiar with and worked, despite all the deficiencies, drawbacks and limitations. Thus the Constitution did not represent a complete break with the colonial past. Before proceeding to critically examine working of some of the aspects the working of the Parliamentary system in India in the last fifty four years, it will not be out of place to go into the historical background as to in what circumstances the framers of our Constitution favoured the Parliamentary system over the Presidential system and what modifications were made to suit the needs of our country.

Having traced the germs of Parliamentary type of democracy in the Rig Veda, attempt is made to examine the factors which prevented its growth in the subsequent ages and ultimately how the concept of representative government gradually developed through various Acts passed by the British government after 1858. The accountability of the executive to Parliament is the cardinal principle of Parliamentary Democracy. The formation of the Council of Ministers, the position of the Prime Minister therein, the Cabinet System, the principle of collective Responsibility, etc. have been discussed at a considerable length.

### **(3)**

Political parties are indispensable to any democratic system, and they play the most crucial role in the electoral process, in setting up candidates and conducting election campaigns. The instability at the Central level or in the States can be attributed largely to the growing

number of parties and the malaise with which the political system suffers today lies in the functioning and the dynamics of the party system in India. The learned author D.D.Basu, while giving reasons for our government having not worked successfully, referred to a system of multiple parties and lack of any ideology of these parties.<sup>5</sup>

Parliamentary form of Government works best in strong two party system. In 1952, 74 parties contested election and these fragmented over the period and frequent party splits, mergers and counter splits have increased the number of parties more than 177. In most democratic countries, there is neither any constitutional provision regulating the functioning of political parties, nor any legal sanction establishing political parties as a necessary governmental institution. Over the years, no political party has been able to observe the basic norms of inner party democracy. In most political parties the leadership may be democratic in appearance but highly oligarchic in reality. There has been a sharp erosion in the ideological orientation of political parties. The present day political leadership seems to be in a tremendous hurry to reach up to the top, and is not averse to use short cuts, dubious methods, money or muscle power to achieve their objectives. The campaign methods used by parties in the days of electronic media, high-tech publicity, projecting images through the glamour of film stars have taken away the element of serenity and the spirit of public service from the political leadership. The regionalization of political parties, castes lending strong support to particular political parties and politics of communalism and religious fundamentalism in the post independence period has led to a number of separate movements in various states and regions of the country. Despite the adoption of the policy of 'secularism' as a constitutional creed, the trend towards communalism and fundamentalism in Indian politics has been strengthening day by day. Criminalization, growing

---

<sup>5</sup> H.L.Hansaria-Does India Need a New Constitution? (1998).

violence and fractionalization and coalitions are other concerned areas.

There is a need for a comprehensive Legislation to regulate party activities and to regulate party funds. Maintenance of regular Accounts by political parties and making available for open inspection are indispensable to start with any reform. Criteria for registration as a National or State party should be fixed. Steps are required to curb the role of casteism, communalism and criminalization Structural and organizational Reforms are also required. For reforming the system in this regard various committees were formed and efforts were made. Centre for Policy Research Study on party Reforms, Tarakunde Committee and Law Commission's Report and Report of NCRWC are in the point.

The practice of **defection** is a natural adjunct of politics and party system. The phenomenon of defection which has started as a process of legitimate and natural polarization of social and political ideas and interest gradually turned into a method of changing political affiliations for power and at times, for financial games. The polity in India is put to serious strain as a result of repeated and unprincipled changes in party loyalties. The practice of such unprincipled defection acquired serious proportions in the country only after the fourth general elections (1967) which did not provide the requisite majority for any political party to form governments on their own in considerable number of States. Prior to 1967, defections were infrequent and shifting of political affiliation was resorted to only for honest and genuine reasons. But, in the second half of the sixties, the politics of defection came to acquire threatening dimensions.

Parliament's concern for the need to curb the malady of defection was reflected for the first time in December 1967. The Government constituted a Committee under the chairmanship of Shri Y.B.Chavan. The Committee placed its report before the two Houses of Parliament

on 28.2.1969. The draft proposal ,however, could not be brought before Parliament due to one reason or the other. Four years later, in order to give effect to the recommendations of the Committee, the Government introduced the Constitution(thirty-Second Amendment )Bill, in the Lok Sabha on 16 May 1973. But the Bill was opposed even at the introduction stage and it was withdrawn.

However, the Parliament was successful in enacting an Anti-Defection Law in 1985 in the form of 52<sup>nd</sup> Amendment to the Constitution of India. The 52<sup>nd</sup> Amendment Act, 1985 amended articles 101,102,190 and 191 of the Constituion regarding vacation of seats and disqualification from membership of Parliament and the State Legislatures and added a new schedule (10<sup>th</sup> Schedule) to the Constitution setting out certain provisions as to disqualification of members on grounds of defection. **The Anti-Defection** law has been the subject matter of a controversy from the very beginning. According to Madhu Limaye, “it is an Anti-dissent Act or Bulk-Defection Act. Instead of retail defection wholesale defections have been sanctified by the Anti-Defection Law. It did not correctly diagnose the disease from which India’s body politic has been suffering”<sup>6</sup>.

The 7<sup>th</sup> clause of the Anti-Defection Act which barred the jurisdiction of the courts was struck down as being *ultra vires the Constitution* by the High Court of Punjab & Haryana in Prakash Singh Badal V. India (1987). When an appeal against this order was preferred, the Supreme Court confirmed the decision of the High Court barring the jurisdiction of courts and declared that while operating under the Anti-Defection law, the speaker was in the position of a tribunal and, therefore, his decisions like those of all tribunals were subject to judicial review. Despite the majority decision of the Supreme Court upholding the primary authority for disqualification conferred upon the Speaker, the majority of the Speakers have forfeited their right to

---

<sup>6</sup> Madhu Limaye-Divine of a Political System.

this trust. Most blatant examples of such dishonesty was the order passed by the Speaker in Manipur, Meghalaya, Gujrat ,Nagaland and Goa.<sup>7</sup>

#### (4)

One of the reasons that is responsible to a great extent for the political instability which was cronic during last decade is our **Election System**. Elections are constitutional necessity and the best barometer of public opinion. In the last 54 years, while there had been many improvements in the conduct of elections, many new undesirable developments have also taken place distorting the system and corrupting it in a substantial manner. Over the years while working out these electoral systems various aberrations and distortions have erupted.

To ensure free and fair elections to the Parliament and State assemblies, India opted for the Anglo-American majority model as our electoral system and enacted the Representation of the People Act, 1951. According to the Anglo-American system the country is divided into the single member constituencies. The “first past the post” (FPTP) system of elections, taken from UK with its two-parties, has been belied its two traditional justifications, viz, that it would foster political stability at the national party system level by reducing the role of small players, and inhibit” fragmentation of the party system along “ethnic” lines”.<sup>8</sup> The point is that Parliaments are unrepresentative in character, and Governments thrown up by such Parliament are even more so. The present rule of the “first past the post” clearly does not do so in a multi-party system like ours, though it would work in a two-party system. The victor wins not necessarily because he has the majority behind him, but because he has managed to split the votes against him.

---

<sup>7</sup> The Lawyers February 1992.

<sup>8</sup> Madhu Limaye-Parliamentary Democracy.

Factors working against the Parliamentary form are growing corrupt practices, criminalization of politics and increased role of money because of which the Parliament is not accepted as truly representing the electorate and voicing their wishes. It has crossed all limits and reached a shocking state, as appeared from the figure given by the Election Commissioner, Shri G.V.G. Krishnamurthy, in the press conference held on 21.8.97 at Nirvachan Bhawan, New Delhi. He stated that 700 out of 4072 M.L.A.s and 40 M.P.s had criminal background with cases pending against them in 25 States and 2 Union Territories. The further information given was that about 1500 of the 13952 candidates who contested the general election had records of murder, dacoity, rape, extortion or theft.<sup>9</sup> Recent Stamp scam which is also known as Telagi scam unmasks politician-criminal nexus. This, and cessation of elections being free and fair have virtually broken the backbone of Parliamentary system since integrity of electoral system and electoral process form the very foundation of a democratic system of Government.

To combat criminalization, Section 8 of the RPA, for instance disqualify a person from contesting elections if he/she has been convicted in the manner specified in sub-sections (1), (2) & (3) of the Act. Section 8(2), (3) and (4) exempts the person from disqualification in certain conditions and periods. The incongruities in Section 8 of the RPA came into focus in "the Jayalalitha disqualification case". This case throws some more questions. A person who has been convicted and sentenced to more than two years imprisonment and has been disqualified to contest the elections but the MLA'S of the majority party in the State Legislature elect that very person as their leader and such person formed the Government. There was no legal bar on Jayalalitha being Chief-Minister. The Supreme Court's Constitution Bench ruled that she was ineligible to hold the office of the Chief Minister of Tamil Nadu following her conviction and

---

6. Hansaria, B.L.-Does India Need a New Constitution.(1998).<sup>9</sup>

disqualification under section 8(3) of the RPA. The Bench had made it clear that it would not hesitate to strike down Section 8 (4) in its entirety if it is found to be violative of Article 14 but there is lacuna in the Constitution, it has not laid down that only persons, who are not disqualified on the date of the Governor's invitation can become Chief-Minister. This case is people versus law.<sup>10</sup>Public mandate has put questions on law books.

It is of paramount importance to free our electoral process from the corrupting influence of money power. To achieve this objective, the RP Act, in Section 77, prescribe a ceiling on expenditure by the candidate in connection with his election. If he spends or authorizes expenditure more than the prescribed limit, it amounts to a corrupt practice, as laid down by Section 123(6) of the Act, and his election can be set aside on the ground under Section 100. Same proposition holds in the case of expenditure incurred by friends and supporters directly in connection with the election of the candidate. The Supreme Court in Amarnath Chawla's case (1975), set aside a candidates' election for his exceeding the prescribed expenditure. Unfortunately, within 20 days, this was nullified by an ordinance. A draft Amendment Bill was prepared in 1990 but lapsed because of the premature dissolution of Lok-Sabha. In C.K. Jaffer Sharief's case (1994) and again in Gadak's case (1994), Supreme Court candidly stated that growing influence of money power has effect of criminalization of politics and strongly urged Parliament to plug this lacuna in the law but there appears to be lack of political will to do so on the part of political parties.

Other corrupt practices, e.g. Booth Capturing and role of police, coercion and intimidation, caste and communal hatred and violence, role of judiciary in Election cases all have caught attention for study in detail. Independent candidates whose number has been increasing make serious administrative problems. The Court has drawn

---

<sup>10</sup> Outlook, May 28, 2001.



particular attention of all concerned to the menace of independent candidates. Certain devices have been discussed to end the onslaught of independents.

The recent Judgment of J. Shah, J. B.P.Singh and J. H..K.Sema in **UOI Vs Association for Democratic Reform & Ano.** ( JT 2002(4) SC 501 civil Appeal of 2001) And **People Union for Civil Liberties and Ano.Vs.UOI and Ano.( AIR-2002, SC 2112)**, declaring section 33B of the RP Act invalid and the voter's right to know the antecedents of candidates is a fundamental right guaranteed under Article 19(1) of the Constitution. It is recognized by all throughout the world and a natural right flowing from the very concept of democracy and requiring candidates in Assembly and Lok-Sabha elections to make a whole lot of disclosures and the accompanying direction to the EC to lay down by July 1,2002 a format of the necessary affidavit from candidates and June, 28,2002 order of the Election Commissioner directing full disclosure by candidates seeking elective office have served a great purpose and started a chain of events. The court's rulings on election expenditure ceilings is such an instance. The Court, responding to a public perception that the Representation of the People Act, 1951 has failed to keep criminals from entering state Assemblies and Parliament, had recognized the citizen's right to know a candidate's criminal background, assets, liabilities and educational qualifications, before he/she could make a choice while voting. Resultant amendment by the Representation of the People (Amendment) Ordinance 2002, which seeks to introduce Section 33 B in the RP Act, betrayed an impulse of the Supreme Court's concern than address them and exposed a lack of sync between the various institutions of democracy".<sup>11</sup>

---

<sup>11</sup> The Indian Express , 8.7.2002,by Rajindar Sachar.

**(5)**

The important argument recently being advanced against the Indian Parliamentary government is the great instability that we have been watching since last decade. The basic requirement for good governance is stability. We have been fortunate that our democracy remained almost stable for nearly 3 decades but sixth General Election in 1977 brought an element of instability for the first time. The genesis of this instability has been witnessed following split in the ruling party at the Centre and thereby losing its hold over the electorate and emergence of other all India and regional political parties. This has enabled one political party to secure majority of seats in the Parliament, requiring frequent formation of coalition government at the Centre. Since 1996 General elections, the element of instability is building stronger in verdict of people. India faced hung Parliaments. No political party is getting clear-cut majority and search for democratic stability so far has been proved futile. Government at the Centre has been formed with the help of nearly score political outfits even though they had been pulling in different directions right from the day one. Such governments, with constituents having different perspectives and policies, have given rise to great political instability and virtually lack of good performance by the government. In the absence of consensus for a National Government, the only alternative is a coalition Government. The pattern of friendly parties supporting a Government from outside has been tried twice but both times experiment had failed. The downfall of the V.P. Singh Government, the Chandra Shekhar Government and that of the BJP Government demonstrated that without actively sharing power and responsibility with the supporting parties, no Government can remain in office for long.

An era of coalition Government which started due to fractured electoral mandate after 1988 has been a remarkable feature of Parliamentary democracy in India. It has necessitated the study of

political system of different countries such as France and Italy having experience of coalition governments.

**(6)**

The Constitution describes India as a “Union of States” (Article 1). The emphasis on India being a ‘Union’ was to convey the fact that it was not the result of a compact agreement between the constituent units but a declaration by the Constituent Assembly deriving its authority from the people of India as one. Further, a secondary position to the states and structural-functional balance was given in favour of the Union. Federalism is indispensable in Indian conditions. The constitution makers wisely applied this concept for India’s unity and integrity. Actually, federalism is a device for sharing power in a situation of territorially based pluralism. As a political system, it can be a meaningful performer only for a society faced with territorially identifiable ethnic or other diversities. It is an arrangement between separate territorial entities to share power through a free democratic will. The Indian Union does not fit into any of the accepted federal models.

Ideally, there is no dichotomy between a strong Union and strong states. Both are needed. But, the way the union Governments have operated during the last 50 years and misused their powers blatantly for political and partisan ends have weakened the case of the Union. The central problem is not of Union-State relations now but of greater decentralization of economic and political powers to lower levels rather than coming down from above.

The Centre – State relations viewed as a straight fight over turf came sharply in focus after the forth general elections which were widely considered as having opened a new chapter in federal processes. The persistence and intensification of multi party federalism over the last decade have created serious doubts regarding the viability of the old

centralized regulatory conception of federal management. Uneven development of ethno regional units and increased politicization lend urgency to review of economic and financial relations between the Centre and the States. So, tension have grown in our federal polity.

### (7)

An attempt has been made to discuss some of the tension areas between the Union and State Relations, particularly the Legislative relations between Centre and State and demand for the **State Autonomy**. After discussing distribution of legislative powers under the Indian Constitution that is basically biased in favour of the Union in a number of ways, amendments and judicial decisions are also discussed. After discussion on the concept and trends in demand for Autonomy a glance has been given to the factors responsible for demand. Except the scheme of distribution of legislative powers in favour of the Union, the actual enforcement of the provisions is one of the major irritants in Centre-State relations. Several efforts are being made in this regard. To decentralize the power in certain areas recommendations were made by Rajamannar Committee, the Administrative Reforms Commission and the Sarkaria Commission. The role played by judiciary is also very significant. The need for a strong united India which was the prime objective before the Constitution Makers, appears to dominate the process of adjudication of Union–State disputes by judiciary. NCRWC has also considered the problem. The Commission is of the opinion that there is no ground for change in the existing constitutional provisions. It recommended more stress on collective consultation through the Inter-State Council.

### (8)

**“Office of Governor” and “Article 356”** are some of the areas where problem lies. Actually demands for autonomy were raised because of misuse of the institution of Governor and misuse of Article 356. In

reality some Governors have functioned both as State's constitutional head as well as an agent of the Union Government. Some of the Governors had acted as representatives of the Centre in the States. The Parliamentary set up for the States was inspired by the Anglo-Saxon Constitutional model. Our Constitution Makers envisaged this Office as an important link between the Union and States to have the unity and integrity of the nation intact. His role and image after 1967 was brought under drastic changes. Some learned people even suggested for abolition of the post of the Governor. Many times Governors acted more as agents of the Centre, particularly the party in power at Centre. Their appointment and past performances are discussed with few examples in States. Coalition Governments offer them new role and position. Powers of the Governor are discussed in detail. There is a need for change in this regard. Specific rules and general principles as guidelines can be laid down. During past years efforts have been made to define Governor's discretion. Administration Reform Commission, Sarkaria Commission and NCRWC have recommended some guidelines that is discussed in detail.

### (9)

The one of the pragmatic reason for which office of Governor has come under severe criticism is **Article 356**. This Article provides for imposition of President's rule at the State level which is inspired by section 93 of the Government of India Act, 1935. The Constitution Makers wanted a strong and stable Centre for the country so they provided Article 356 within the Constitutional framework but at times it has only been an instrument to bring in the shift of power at the state level from one political party to another. Under this provision, state governments have been taken over on more than 100 occasions during last half-decade, that is, on an average more than two states each year. Governors recommended President's rule under Article 356 in a partisan manner for political purposes by the party in power at the Union level, usually to dismiss state governments of parties in

opposition. In the Constituent Assembly, while replying to the critics of this provision, Dr. Ambedkar had expressed the hope that Article 356 might remain a dead letter and might never be used except as a last resort, after everything else had failed. After wards there has been a demand for deletion of Article 356. The question arises whether article 356 needs to be amended or deleted. Emergency Constitutional provisions also are discussed. Judicial interpretations and efforts in this direction have also taken deserved place.

This research work also includes comparative study of working of the Constitutions of the other countries in respect of the Parliamentary system of Government and Federalism.

### **VIII UTILITY OF THE STUDY**

For Parliament, it is of the utmost importance constantly to review and refurbish its structural-functional requirements and from time to time to consider renewing and reforming the entire gamut of its operational procedures to guard against putrefaction and decay. The case for reforming Parliamentary system is unexceptionable and, in a sense, has always been so. The real question is of how much and what to change to strengthen and improve the system. We have to be clear about the precise need, the direction and the extent of the reforms that would be desirable at present. It is obvious that mere tinkering first-aid repairs and trifling cosmetic adjustments would not anymore be enough. What is needed is a full-scale review. NCRWC was a good step in the direction and it came up with some very useful recommendations but the sad part is practically not much is being done in the direction. We have to be prepared for fundamental institutional - structural, functional, procedural and organisational - changes. The overriding guiding norm and purpose of all parliamentary reforms should be to remove all flaws and lacunas in the system and to make both Government and Parliament more

relevant to meet the challenges of the times and the changing national needs in the context of the objective of faster economic growth and. While we can legitimately proud of the reasonably successful working of Parliament during the last five decades, Parliament is relevant only as a dynamic institution ever adjusting its functions and procedures to the changing needs of the times. If democracy and freedom are to endure, if representative institutions are to be made impregnable and if the new economic reforms and an all round effort at liberalization are to bear fruits, it is essential to restore to Parliament and its Members their traditional esteem and honour in the affections of the people. Reforming the Parliament in essential respects is already a categorical imperative. An integrated approach to political and economic systems reforms is necessary. No single reform can provide a miracle cure. Also, parliamentary reforms cannot be effected in a hurry. We must proceed with care and caution and begin by setting up a Parliamentary Reforms Commission or a 'Study of Parliament Group' outside parliament as was done in U.K. before the procedural reforms. Finally, of course, the Rules committee or a Special Procedure Committee of the House should report on the matter.

Parliamentary reforms, political party reforms, electoral reforms, judicial reforms, etc., all have to be taken up together in an integrated approach to political and economic reforms and as part of the overall review of the working of our Constitution. No single reform can provide a miracle cure and no reforms should be effected in a hurry. We must proceed with utmost care and caution and evolve a national consensus on desirable changes. Last and not the least comes Constitutional Morality that cannot be induced by law. Moral sanction of natural law theory have vanished in nowadays time. May we can induce these through other sanctions. This thesis is an attempt to review the working of some of aspects of Parliamentary form of Government and Federalism under the Constitution of India. Most of the aspects of Parliamentary form of Government are close to the

practical working of the Constitution. Overlapping of some of the aspects of Parliamentary system with some of the aspects of political Science was evitable. Sometimes it seems that there is only a thin line between few topics e.g. Coalition system and Party system.