CHAPTER IV

Impact of communalism

Criminalisation of politics

Corruption in elections and

The reforms in

Election system in India
CHAPTER-IV

IMPACT OF COMMUNALISM, CRIMINALISATION OF POLITICS AND CORRUPTION IN ELECTIONS AND REFORMS IN ELECTION SYSTEM IN INDIA.

"Politics is was without blood shed while was is politics without blood shed"

..... Mao-Tse-Tung

4.1 GENERAL INTRODUCTION

Political corruption refers to misuse of public power by political office holders for private profit. Misuse implies the doing of something improper and the essence of impropriety is the replacement of a public motive by a private one. Interference of wealth in the political sphere which helps in protecting and promoting personal interest of political power.

The terms like corruption and political corruption may be distinguished to make their meaning clear. Through outwardly they appear to be synonymous, the former is more comprehensive having a wider
connotation. It refers to the misuse of office for private or pecuniary benefits at the cost of public interest. In every-day life corruption means that a civil servant abuses his authority in order to obtain an extra income from the public. It is always an exploitation of the public which can occur only because the civil servants occupy a constitutionally independent positions vis-à-vis the public. Corruption, broadly speaking, refers to perversion of power.

While political corruption is an inducement to commit a violation of duty, bribery, on the other hand, is a price, reward, gift or favour bestowed or promised with a view to pervert the judgment or corrupt the conduct especially of a person in a position of trust. Bribery, indeed, is defined with sufficient sharpness by the century dictionary as a gift or gratuity bestowed for the purpose of influencing the action or conduct of the receiver; especially money or any valuable consideration given or promised for the betrayal of a trust or the corrupt performance of an allotted duty, as to a fiduciary agent, a judge, legislator or other public officer, a witness, a voter, etc. Bribery also refers to cold-blooded commercial transaction. In the administration of regulatory ordinances and laws of various types bribery has been a convenient way to avoid legal requirements which may be impracticable of application. Other rules socially desirable and applicable have been swept aside in the same way by businessmen too busy and impatient to spend their time in securing the formulation and adoption of more workable standards reconciling their interests and the public welfare in a "fair" manner.¹

¹ Kashyap, Subhash C., (Ed), Crime and Corruption to Good Governance (Uppal, New Delhi 1997), p132
Political corruption may also include nepotism and misappropriation. Nepotism refers to favouritism shown to nephews and other relatives because of their relationship rather than on their merits. In the words of Nye, nepotism is bestowal of patronage by reason of ascriptive relationship rather than merit. Misappropriation, on the other hand, refers to "illegal appropriation of public resources" for private use or to appropriate dishonestly for one's own use. In both the cases of nepotism and misappropriation there is "inducement by means of improper considerations". Political corruption, although intimately connected with bribery, is a general term which covers misuse of authority as a result of considerations of personal gain, which need not be monetary\(^2\).

The election law as enacted in 1951 divided corrupt practices in relation to election in two clauses: (i) those which were regarded as of serious nature and a single one of which, except in certain very exceptional cases, could suffice to declare the election of a returned candidate void if he was found to have committed it either himself or through his agents; and (ii) those which were either not so serious or were committed by others and which could be a ground for avoiding an election only if the result of election was materially affected by them. There was yet another class of practices which were known as illegal practices and which could also avoid an election in certain cases.

The experience gained as a result of the first general election in respect of provisions relating to corrupt and illegal practices pointed to the need of simplification and Parliament amended substantially the Representation of the People Act, 1951 in 1956 in this respect. There

remained after the amendment no such thing as minor corrupt practices or illegal practices. One minor corrupt practice specified in clause (5) of the since deleted Section 124 found place in Section 123. Even in the new Section 123, changes were made after the second general elections and the definition of "bribery" was substituted by another definition and a corrupt practice by a person other than the candidate or his agent was taken out of the purview of the section unless it was committed with the consent of the candidate or his election agent. A further amendment took place in 1961 by which clause (3) was substituted and a new kind of corrupt practice was introduced by inserting a new clause (3-A). Lastly, in 1966 clauses (1) and (5) were amended. Section 123 as it now stands is as below:

"123. Corrupt practices.—The following shall be deemed to be corrupt practices for the purposes of this Act:—

(1) "Bribery" that is to say,—

(A) any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his election agent of any gratification, to any person whomsoever, with the object, directly or indirectly of including—

(a) a person to stand or not to stand as, or to withdraw or not to withdraw from being, a candidate, at an election, or

(b) an elector to vote or refrain from voting at an election, or

as a reward to—

(i) a person for having so stood or not stood, or for having withdrawn or not having withdrawn his candidature, or—

(ii) an elector for having voted or refrained from voting.

(B) the receipt of, or agreement to receive, an gratification, whether as a motive or a reward—

(a) by a person for standing or not standing as, or for withdrawing or not withdrawing from being, a candidate; or
(b) by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or attempting to induce any elector to vote or refrain from voting, or any candidate to withdraw or not to withdraw his candidature.

The consequences of the commission of a corrupt practice have been laid down in Section 100. A corrupt practice committed by a person mentioned in (a) or (c) above or by an election agent out of (b) above will by itself be a ground for declaring the election of the candidate concerned void. A corrupt practice by an agent other than the election committed in the interest of the candidate whose agent he is (but not in the interest of any other candidate whose agent he is not) will also be a ground to declare the election of the candidate whose agent he is void, provided it has materially affected the result of the election so far as it concerns such candidate. It was laid down by the Supreme Court4 that Section 99 does not purport to define a corrupt practice and the definition of corrupt practice occurs in Section 123 and the corrupt practice mentioned in Section 99 has to be corrupt practice as so defined. this must apply to the case of Section 100 also.

The evidence in support of a charge of corrupt practice need not necessarily be direct, but it is well settled that circumstantial evidence and the inference deducible there from must be such as to lead to the only reasonable conclusion of the commission of the corrupt practice alleged. No conjecture or surmise. However attractive or even plausible should take the place of proof, and if two equally reasonable inferences or conclusions are possible, one innocent and the other guilty, the former

4 S. B. Adityan v. Kandaswamy 1958-AIR(SC)-0-857
should normally prevail. The Supreme Court held that the onus on a petitioner to prove corrupt practice was not discharged on proof of mere preponderance of probability, as in the trial of a civil suit and corrupt practice must be established beyond reasonable doubt by evidence which was clear and unambiguous. In the same case when it was before the Madhya Pradesh High Court, it was observed that the measure of certainty that is required in cases in which the standard of proof of Criminal cases is applicable is that the Court should be satisfied beyond reasonable doubt but a doubt must be a 'reasonable' doubt. It must not be fanciful or a doubt based simply on the catch phrase 'anything may happen'.

4.2 COMMISSIONS OF INQUIRY IN INDIA

Following the debacle of the Congress party in the fourth general election of 1967, various state Governments appointed different inquiry commissions against those who were in power. But on the basis of the findings of the commissions, actions, were hardly taken against most of the political offenders in the pre 1977 period. Commission reports found their place only in the libraries and archives. However, in the post 1977 period follow-up actions were taken on the basis of the commission reports, lest they might be termed as mere scraps of paper. A few commissions of inquiry may be discussed in brief to highlight the nature and dimension of political corruption.

4.2.1 THE DAS COMMISSION OF INQUIRY:

A one man commission of inquiry was appointed by the Government of India on 1 November 1963 to go into the charges framed against Pratap Singh Kairon. It consisted of Sudhi Ranjan Das, a former chief justice of the Supreme Court of India.

4.2.2 THE AYYANGAR COMMISSION OF INQUIRY

Bakshi Ghulam Mohammed was a salesman of “Khadi Bahandar” getting a meager salary of Rs.20 per month when he joined politics. His father and brothers were petty tailors. There was no other source of income. Here was a man who had earned notoriety for corruption and oppression even in the days when Sheikh Mohammad Abdullah was the Prime Minister of the State and Bakshi the Deputy Prime minister. Bakshi became all in all in the state after 8 august 1953 when Sheikh Abdullah was arrested after the coup. He assumed the office of the Prime Minister of Jammu and Kashmir in 1953. A Commission of Inquiry headed by Justice N.Rajagopalam Ayyangar, a judge of the Supreme Court of India, was appointed on 30 January 1965 to conduct an inquiry into the corrupt practices of Ghulam Mohammad. The terms of reference of the Ayyangar commission consisted of two parts, the first was concerned with the nature and extent of the assets of Bakshi Ghulam Mohammad and members of his family, and his other relatives, acquired between October 1947 and October 1963. The second part of the terms of reference directed the commission to inquire whether, during the same period, Bakshi obtained any assets, pecuniary resources or advantages or other benefits by misusing his official position held by him or by the aforesaid members of
his family and other relatives and persons exploiting his office with his
consent, knowledge or connivance.

Justice Ayyangar submitted his report on 30 June 1967. The
commission found Bakshi Ghulam Mohammad guilty of "Gross
misconduct". It was alleged by the Government that the total amount of
improper benefit or undue financial advantage obtained by the Bakshi and
the members of his family was estimated at Rs.54 lakhs. But it was found
by the commission that only about Rs.33 lakhs were obtained by Bakshi
and members of his family. However it could not be proved whether
power was misused in gaining Rs.21 lakhs improperly by the members of
his family. Referring to this the commission remarked:

"The would mean that the members exploited their relationship, but
that Government have not been able to prove that this exploitation
had been with his knowledge or connivance. These sums are by no
means insignificant, though they look small compared to the total of
over Rs. 1.5 crores by which the family has approved its finance
since 1957."

Bakshi was debarred from contesting the elections to the Legislative
Assembly of Jammu and Kashmir after the submission of Commission
report.

4.2.3 THE AIYAR COMMISSION OF INQUIRY:

After the Fourth General Election to the Assembly held in 1967 a
United Front Ministry was formed on 5 March 1967 in Bihar, headed by
Mahamaya Prasad Sinha. The Sinha Government set up a one man
commission headed by T.L. Venkatarama Aiyar, a retired judge of the
Supreme court, to probe into a number of charges against six congress
leaders who had held office in the former Governments. Charges were framed against the former Chief Minister, Krishna Ballahava Sahay and five of his colleagues, namely Mahes Prasad Sinha, Satyendra Narayan Sinha, Ramalaxmana Singh yadav, Raghavendra Narayana Singh, and Ambika charan Singh. Broadly the charges centered around the misuse of power and exploitation of official positions by the office holders to enrich themselves directly or indirectly by using their relations as proxies. The Aiyar commission was asked to find out the extent to which the accused politicians minted money and acquired property by virtue of their being in office and then to investigate whether the pecuniary benefits were the result of direct or indirect misuse of their official positions.

The Aiyar commission exposed the former Ministers. It found that Mahes Prasad Sinha had received bribes to the tune of Rs. 1,75,000 from contractors. K.B. Sahaya, the former Chief Minister, was found to have made investments exceeding his income, "his acquisitions are a bit on the high side". The net income earned by Sahay during his minister ship was Rs. 3,30,000 while the assets acquired by him comes to Rs. 4,38,000. The commission also found that he exploited his position and misused his power.

Ram Laxman Singh Yadav was held guilty of five charges regarding wrongful purchase, favouritism in appointments, and exoneration of an executive engineer who was being proceeded against on charges of corruption, just on the eve of his quitting office. Raghavendra Narain Singh was found guilty of six charges out of nine with regard to distribution of electricity, ferries, transport, etc. and grant of mineral concessions, etc.,
the misuse of Government money and property and giving appointment to a favourite.

In case of Ambika Charan Singh, only two out of eleven charges were substantiated by the commission, one related to favouritism shown while appointing an officer and the other was improper remission of arrears of sales tax due from a dealer.

**4.2.4 THE MUDHOLKAR COMMISSION OF INQUIRY**

J.R. Mudholkar, a former justice of the Supreme court of India, was appointed by the B.P. Mandal Government of Bihar on 10 September 1968. He inquired into the charges against the former Chief Minister Mahamaya Prasad Singh, and thirteen other ministers of the United Front Government of Bihar, who were in office from April 1967 to January 1968. The commission criticized Sinha "in appointing K.N. Singh the "Raja" of Ramagada, a big mine owner, as Minister for mines and geology" as this act did not speak much of his concern for the State's interest. He was also found guilty of several other charges.

Hasibur Rehman, the Law Minister, was found guilty of favouritism in the appointment of a public prosecutor, Bhola Prasad Singh, Minister for Local Self Government, misused his office by giving appointment to a person of his own choice in the Patna municipal corporation. Ramanand Tiwari abused his power when he cancelled the suspension order against a District Superintendent of Police who was facing serious allegations. After from the common charges of impropriety in withdrawing six criminal cases
which arose out of the Patna "Bundh", no charge could be proved against other members of the cabinet.

4.2.5 THE MITTER COMMISSION OF INQUIRY

The Mitter commission of Inquiry was appointed by the Government of Orissa in 22 February 1973 to inquire into the charges framed against R.N. Singh Deo, a former Chief Minister, and other Ministers of the state. The Commission observed that in the matter of grant of renewal of agreements by Singh Deo in favour of Kendu leaf agents and purchasers for the year 1972 and in the matter of grant of rebate, concessions and exemptions, the orders undoubtedly affected the revenues of the state detrimentally causing a loss of over Rs. 40 lakhs to the state of Orissa. The said orders were neither proper nor justified in the circumstances of the case.

4.2.6 THE SARKARIA COMMISSION OF INQUIRY

Following the dismissal of the Karunanidhi ministry in Tamil Nadu, a one-man commission headed by Justice R.S. Sarkaria of the Supreme court of India, was appointed by the Government of India on 3 February 1976 on the recommendation of the Governor K.K. Shah to probe into the charges of corruption, favouritism, administrative and financial improprieties and abuse of official position against the former Tamil Nadu chief minister M. Karunanidhi and some of his cabinet colleagues.

The first report of the commission was placed on the table of the Rajya Sabha on 1 March 1977, covering seven of the 28 allegations under
inquiry. The commission found charges of corruption to have been established by "cogent, convincing and reliable evidence oral, documentary and circumstantial" against M. Karunanidhi and Ambil Dharamlingam, former Agriculture Minister in respect of allegations relating to award of agricultural aerial spraying contracts. Both have been found by the commission to have received illegal gratification in the form of the commission amounting to Rs. 5,30,019 for awarding the contracts during the year 1970-71 and 1971-72.

The commission held the then education minister, V.R. Nedunchezhhiyan, responsible for preferring Nathan publications and for violating the principle of appointing one the firm was in violation of the rules and norms of propriety and was clearly done with the motive of favouring members and supporters of the Dravida Munethra Khazagam party. The commission also held that karunanidhi received Rs. 13,21,296 by way of illegal gratification from nine sugar mills in 1970 and accused him and his food minister P.U. Shanmugham of accepting the amount illegally. The commission also held as proved with a preponderance of probability that the then minister for electricity, O.P. Raman, received Rs.1.3 Lakhs from purchasers of the plant and machinery of the Samyanallur Thermal power station. P.V. Shanmugam, the then minister for food along with karunanidhi, collected money for appointing the sugar mills as sellers of levy sugar on behalf of the state. In doing so they committed "serious acts of impropriety in violation of the national sugar policy".
4.2.7 THE KHANNA COMMISSION OF INQUIRY

R.N. Singh Deo, the Leader of the Opposition in the Legislative Assembly of Orissa, and sixty-two petitioners including four members of the parliament and twenty-two members of the Assembly belonging to the Swatantra and Socialist parties submitted a memorial dated 28 July 1964 to the President of India on 13 August 1964, making allegations of impropriety and misuse of power against Bijju Pattanaik, Biren Mitra and other former ministers of Orissa. The memorial demanded that the president should set up an inquiry commission to examine the allegations. It was also followed by two other memoranda submitted in September and October 1964. The then Home Minister Gulzarilal Nanda, who openly declared to wipe out corruption, referred the case to the investigation into the charges against Bijju Pattanaik and others. The Director of CBI submitted his report on 15 November 1964. After this it was expected that the Government of India should appoint an inquiry commission to inquire into the allegations. But no such commission of inquiry was appointed. Instead, the Government of India pointed a cabinet sub committee to examine the CBI report along with the charges. The Cabinet Subcommittee in its report stated that the ministers committed certain acts of administrative improprieties.

In spite of the demands of the opposition leader, the Government of India did not setup the inquiry commission. It could be only possible when the Fourth General Election to the Orissa Legislative Assembly was held in 1967 and when R.N. Singh Deo formed a coalition ministry. On 26 October 1967, the Government of Orissa appointed justice H.R. Khanna, who was then a judge of the Delhi High Court, as the Commission of Inquiry under
the commission of Inquiry Act, 1950 to make an inquiry into the charges against the former Chief Ministers Bijju Pattanaik, Biren Mitra, Sadasiva Tripathy and twelve other former ministers.

4.3 POST 1977 COMMISSIONS OF INQUIRY

4.3.1 THE SHAH COMMISSION OF INQUIRY

In the General Election to the Lok Sabha held in 1977 the congress party lost its majority and as a result the Janata party came to power at the centre. Soon afterwards the Central Government appointed Justice J.C.Shah, the former Chief Justice of the Supreme Court of India on 16 May 1977 to head one man Commission of Inquiry. The commission was asked to probe (a) the excesses committed during the 'Emergency', (b) the specific instances of misuse of authority, (c) misuse of power, (d) excesses of malpractices committed by public servants and individuals associated with them during the emergency, particularly in connection with arrests and detentions, maltreatment of those arrested under the defense of India Rule (e) the application of coercion in the implementation of family planning programmes and demolition of houses and slums. The commission was also asked to suggest measures to prevent the kind of unhappy exercises of the emergency. The Commission received 48,000 complaints out of which it investigated 2,342 cases and the rest were sent to either the Union Government or state Government for consideration and consequent action.
4.3.2 THE GUPTA COMMISSION OF INQUIRY

Justice Dhattri saran mathur, a retired chief justice of Allahabad high court, was appointed by the Government of India on 29 May 1977 as one man Commission of inquiry to undertake a through probe in to the affairs of the Maruti concern. The commission was asked to investigate whether any person in authority or those related to or associated with such persons, or nay one related to or associated with such persons or any public servant, had misused power or position or contravened the law to show undue pecuniary benefits to the concerns coming under the scope of the inquiry. For certain reasons, however, D.S. Mathur was replaced by Atul Chandra Gupta to head the Commission of Inquiry.

The main charge against Indira Gandhi was that she took keen personal interest in Maruti affairs. She allowed Sanjay Gandhi to take advantage of his relationship with her and let him use the residence of the Prime Minister for his business. Her interest in Maruti affairs created an atmosphere in which ministers and officials were induced to help the firm. Those who did not oblige were penalized or harassed. The commission stated that Indira Gandhi has misused the office of the Prime Minister of India in order to promote the business interest of her son Sanjay Gandhi in regard to the Maruti, the Small Car Project. It also held that Sanjay Gandhi had adopted fraudulent means to promote business interests in several fields apart from the small car project for which his Maruti Limited had primarily been established. It was found that on the strength of the office of his mother, he collected heavy amount of money from businessmen and promised of giving them small car dealerships. But he never returned them even the interest due. He also used wrong means to get the
prototype of his car approved by the vehicles research and development establishment of the defense ministry and then got the license.

4.3.3 THE REDDY COMMISSION OF INQUIRY

On 16 June 1977 the Home Minister of the Government of India, charan Singh, announced in the Lok Sabha regarding the appointment of an inquiry commission on 14 June 1977 headed by P. Jaganmohan Reddy a retired judge of the Supreme Court of India to inquire into the charges of corruption and misuse of power against the former Defense Minister Bansi Lal. The commission was asked to inquire into twelve specific charges to ascertain whether there was any irregularity, impropriety of contravention of any law or rule or departure from normal office procedure by Bansi Lal in his capacity as the Chief Minister of Haryana and Union Defense Minister or with his connivance, by any other person in authority or a high official or a public servant.

The Reddy commission has concluded that there is no direct evidence of any corrupt motive being established either against the then Defense Minister or any one else.

4.3.4 THE GOVERN COMMISSION OF INQUIRY

The Government of India appointed on 23 May 1977 Justice A.N. Grover to probe into the allegations of corruption, nepotism and misuse of power against the Chief Minister of Karnataka, Devraj Urs and some of his cabinet colleagues. The commission inquired into sixty seven allegations. The commission also found that twenty acres of government pasture land
reserved for the cattle in Bommanahalli village in Bangalore district was
granted to M.D. Nataraj, son in law of the chief Minister, in violation of the
provisions of the Karnataka Land Revenue Act. This was an act of
nepotism and favouritism which would certainly undermine the confidence
of the people in the administration.

4.3.6 THE BURMAN COMMISSION OF INQUIRY

The Burman commission was appointed by Government of Tripura
to inquire into alleged case of nepotism, favouritism and abuse of power
indulged in by the Congress Government headed by Mr. S.N. Sengupta. It
indicated the former Chief Minister and top Government officials for misuse
of power and other acts of omission and commission. The commission
found regarding the detention of six opposition members of the Legislative
Assembly in March 1975 that Sengupta "is prima-facie guilty of misuse of
power" in ordering the unlawful arrests on fabricated charges. The then
Additional Chief Secretary, Mr. Amar Singh and another Secretary
Mr. D.N. Baruah, who were his Principal advisers, were also found guilty by
the commission. It held that Mr. Sengupta in carrying out the unlawful
detention of another twelve opposition members of the Legislative
Assembly in May 1975 on false grounds acted to save his ministry.

In a setup where the state has acquired control over an ever
widening area of social and economic activity, the power of patronage has
increased and with it is the cost of positions on various elective bodies. As
a matter of fact, elections to such bodies as the Municipal Corporation in
urban centers and to land Mortgage banks, Co-operative Credit Societies,
not to speak of panchayat bodies at various levels in the rural area are
fiercely contested. There have been cases where members of district panchayats have declined the offer of seats to the Legislative Assembly or even to parliament. The reluctance stems from the calculation that as a member or perhaps the president of the district panchayat, one has far more influence and scope to dispense patronage than one would have as an MLA or MP. District panchayat elections are known to have cost lakhs of rupees. Expenses incurred in such elections have come to be regarded as profitable investments which yield returns after assumption of office.

Funds are needed for a variety of purposes. There are leaflets and posters to be printed, distributed and put up; workers to be paid on a daily basis; jeeps and vehicles to be hired and made available with running expenses; election offices to be maintained; telephone bills to be met; voters slips to be printed and an army of clerical staff recruited to fill in these slips; there are polling day expenses formidable in parliamentary constituencies with polling stations numbering between 500 and 1000 spread over the constituency; and finally, there are the vote banks on bakers who control, or claim they do, blocks of votes of varying magnitudes who have to be compensated. The larger the number of voters they control the higher is price demanded. These 'vote bankers' could be village chiefs or 'Mukhias' as they are called or 'slum lords' in the cities. The price also depends on the number of candidates. It is a classic illustration of the working of the law of supply and demand in the market place of India's electoral politics.

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Vote banks apart, impoverished and illiterate voters released that this business of periodical elections was proving financially and materially beneficial. They discovered that the 'leaders' normally aloof and moving about in limousines became friendly, concerned with their welfare. There was free liquor available, sarees and cooking utensils for the womenfolk and money for those who preferred cash to kind. There was yet another item of expenditure and that was the provision of an incentive to certain candidates, generally Independents, to withdraw. These candidates either fancied themselves popular enough to get elected or had set themselves up so as to demand a price to get out of the race. It all depended on the circumstances and the situation in a constituency. All this cost the candidate and his party plenty of money. The result was that in their election budgets, apart from providing for legitimate expenses there was provision for sundry expenses to take care of the financial and material needs of certain sections of the electorate.

The election rules\(^1\) as amended on January 16, 1971 prescribes the maximum that may be spent by candidates in elections to the Lok Sabha, State Assemblies and Territorial councils. The maximum varies between Rs.35,000 (in 16 States) to as low as Rs.15,000 in the State of Nagaland. The varying amounts reflect the population and size of the state. And candidates are expected to submit an account of their election expenses with 30 days of polling. This has to do with candidates' expenses. The conduct of Election Rules and the Representation of the People Act is silent on the expenditure incurred by political parties or others on the candidates' behalf. An examination of election returns submitted by candidates would reveal that no candidate claims having spent beyond the

\(^1\) The Conduct of Election Rules (1961)
limit prescribed. In fact in many cases the accounts show that the
candidate has not spent even fifty per cent of what he is entitled to.

In a study entitled 'Black Money and Election communication',
Satpal Kapur estimated that an election to parliament from an average
constituency with an electorate of 5,00,000 cost on an average
Rs.5,00,000. According to Kapur the main heads of expenditure were:
communication Rs.3,20,000; posters-Rs.50,000; for making
announcements, badges, flags advertisements, cinema slides and wall
paintings Rs.30,000; entertainment for canvassers at Rs. 3,000 a day
Rs.90,000; polling arrangements including conveyance, decoration of
agents' offices and checking identification slips Rs. 50,000; office
expenditure –between making preparatory surveys and arranging the
distribution of identification slips to voters Rs. 25,000. Kapur asserted that
considering the necessity of reaching an electorate of 5,00,000 people and
heavy dependence on traditional media methods, the expenditure of Rs. 5
lakhs was not big as it came only to a rupee per voter. The large bulk of it
from industrialists, film start, estate agents, financiers, large-scale tax
evaders, smugglers and the like. Much has been written on the corrupting
influence of money power in politics. The eve of any election is the period
when the symbiotic network of corrupt politicians, corrupt bureaucrats and
corrupt businessmen and industrialists works overtime. Pre election
concessions represent a quid pro quo. In the case of the poor slum
dweller liquor is exchanged for his vote; in the case of the businessmen or
trader huge profits are exchanged for immediate financial assistance. To
call donations in these circumstances 'voluntary' is to abuse the word. In a
key-note address to the Associated Chambers of Commerce and Industry
on April 4, 1975, Mr. J.R.D.Tata said: "has not the ruling party condoned
economic misdeeds and condoned corruption by openly collecting illegal contributions mostly black money for its election funds”

On the eve of the second General Election in 1957, a commercial enterprise applied to the Bombay High Court for permission to alter the objects clause of its memorandum of association to enable it to contribute to the funds of political parties. H.R. Gokhale was counsel for a shareholder who opposed the plea. Even while allowing the appeal on the ground that the law did not permit this, Chief Justice M.C. Chagla referred with approval to Gokhale’s argument that if the plea was permitted “it would be impossible to get a party which is elected to power with the help of such financial aid to determine upon policies in the interests of the country, in the interests of socialism or in the interests of democracy”. The chief Justice warned of “the great danger inherent in permitting companies to make contributions to the funds of political parties. It is a danger which may grow apace and which may ultimately overwhelm the even throttle democracy in this country. He therefore advised parliament to look into this matter and prescribe the “circumstances” and the “limitations” under which companies should be permitted to make these contributions”.

Parliament amended the Company law in 1960 enabling companies to contribute “to any political party or for any political purpose to any individual or body” provided it did not exceed Rs.25,000 or 5 percent of the average net profits of the three preceding years, whichever was greater. Almost defeated in the General elections of 1967, the Congress amended the companies Act again in 1969 imposing a total ban on company

9 Avasatthi Prahladrai L. Beginning to Analyse Constitutional Democracy of India, Truth Prevails Series, Ahmedabad, Gujarat, 1997. (Monograph)
donations to political parties or for political purposes. Possibly the ban was imposed out of fear that companies might now divert their funds to opposition parties. When the Congress went to the polls in 1971 and 1972, and with the possibility of the opposition coming anywhere near power being remote in the circumstances prevailing then, the ruling party once again introduced in 1976 another amendment seeking to lift the ban and permit companies to contribute to political parties subject to a limit of Rs. 50,000 or 5 percent of the average net profit for the preceding three years whichever was greater. But the Bill lapsed with the dissolution of Parliament, and the law of the land continues to ban companies from contributing to political parties. The ban relates only to joint stock companies and does not cover proprietary or partnership enterprises in its purview.

If the purpose of the statutory ban was to prevent money power from influencing elections it was a miserable failure. Even when contributions were legally permissible until 1969, donations by cheque were a mere drop in the ocean compared to the huge sums paid in cash. The 'parallel economy' or 'black money' which the party in power repeatedly denounced and vowed to eliminate was the main financial proposition of political parties not only during election time but also in the interregnum to carry on routine party activities. S.K.Patil's statement that "till around 1967 (Congress) fund collections were above the table as companies were permitted to give up to 2 ½ per cent of their gross profits" should be taken with a pinch of salt.

Political parties receiving such cash donations could even credit the amount in banks and issue a receipt in favour of an "anonymous
contributor". No questions could be asked and even if some inquisitive tax collector wanted to know, he could be told to mind his business. Under the law donations to political parties are not considered 'income'. Income refers only to the amount received as interest or returns on investment. In other words, if a political party chose to put the donation it received in fixed deposit in a bank, the interest on this fixed deposit attracted tax, but not the principal amount itself.

A clever device to circumvent the law was the "Souvenirs racket". A Congress invention, this was a method of receiving donations through advertisements. Under the country's tax laws a certain percentage of expenditure can be legitimately incurred by a company for promoting itself and its products. This amount is deductible for tax purposes. It is, however, the company's responsibility to satisfy the tax authorities that the expenditure so incurred is for genuine commercial purposes. When political parties got into the business of getting companies to advertise in party souvenirs, they took care to see that the rate charged per page was reasonable in terms of the expected circulation of the souvenir. Even the appeal for the advertisement was drafted as to underline the commercial value of the souvenir to the advertiser.

What could have passed muster had it been kept within reasonable limits became a racket when funds on a large scale were sought to be siphoned through advertisements. For instance, a company when asked to donate a hundred thousand rupees would agree to do so provided they could split the amount into a hundred advertisements at Rs.1000/- a page.

The party obliged by producing 100 souvenirs, each souvenir representing a district unit of the party. The bills for printing these souvenirs usually gave inflated figures of the number of copies printed. This was to provide evidence of the commercial value of the advertisement. Even the actual printing bill was normally paid by the donor in cash and reached the printer through the political party. But the ruling party got careless. The confidence which comes with untrammeled power resulted in Congress fund raisers ignoring the cost per page-circulation ratio. It was even reported that a large part of the funds received as advertisement revenue proved to be for ghost souvenirs.

The emergence of new parties pursuing disparate regional, sectarian and segmental courses and the fragmentation of erstwhile vote banks have affected the situation that electoral reforms have become unavoidable. Indeed, the divided polity and sharper competition for votes require that the poll exercise be sedate and frugal and that the commission carry forward the realistic changes initiated by Chief Election Commissioners S L Shakdhar, Peri Sastry, T N Seshan and M S Gill. The commission's new directives, disallowing transfers and home district postings for senior officials, banning fresh recruitment in government departments and agencies, seeking a hike in poll expenses by candidates virtually outlawing politicians from inaugurating state projects and seeking time slots for regional parties in the Government run tele-media were clearly aimed at fostering a level playing field for contestants and making the election process free of unhealthy extraneous influences.11

Violence during 12th general elections was appreciably all time low with only 65 deaths. Not a single death was reported in violence prone Uttar Pradesh where 100 people died in 1996. Voter turnout increased by almost four percent over 1996 to 66.2 percent, at least partially as a result of constant advertisement by the Election Commission through the electronic media. But the entry of 27 MPs with criminal proceedings out of 72 such candidates shows that the commission will have to do something to ensure that the 13th Lok Sabha consists of MPs with clean image. However, in UP, voters appear to have decisively rejected candidates with a known criminal history Brij Bhushan Singh (BJP) from Gonda, Phoolan Devi (SP) from Mirzapur, Ram Sajivan (BJP) from Banda, Ramakant Yadav (SP) from Azamgarh and D P Yadav (BJP backed BSP rebel) from sambhal were routed. Only nine of 30 listed in UP by outlook weekly magazine in its February 23 1998 issue have been elected. In Bihar however, strong arm politician continue to dominate.

Former Supreme Court of India chief justice J S Verma is reported to be one of the those who want that persons with "criminal background" be debarred from contesting elections. He said: "Anyone facing prima facie charges under the category of cases already specified in section 8 of the representation of people act should be disqualified". The election commissioner, J M Lyngdoh rightly observed at a seminar in New Delhi on march 21, 1998: "The Representation of People Act is poorly drafted and it has more lacunae than teeth". As pointed out by a Supreme Court of India judge, G T Nanavati: criminals found politics a profitable business and also an influential field where they could get immunity from the law of the land so that their criminal activities could go on unchallenged. The power, to amend the constitution is always in the hands of politicians. In this
situation, an effective reform seems difficult. However, if scholars and academicians could bring about awareness in the masses by exposing criminal politicians nexus, there seems to be ray of hope in overcoming such a situation. It is a matter of great satisfaction that the BJP led Government has included this poll reform in their national agenda for governance. Let's hope that it will have the support of majority of the parties, when the Bill is introduced in the parliament12.

Political parties are indispensable to any democratic system and play the most crucial role in the electoral process in setting up candidates and conducting election campaigns. In recent years, it is witnessed a succession of unstable governments, and the reason for such a recurring phenomenon is said to be the archaic and chaotic functioning of political parties. Alliances and coalitions are made, broken and changed at whim, and the balance of power seems to be held not by those at the Union level, but by minor parties on the fringes. There is no doubt that Indian political parties have fragmented over the years. Frequent party splits, mergers and counter splits have dramatically increased the number of parties that now contest elections.

Political parties and the party system in India have been greatly influenced by cultural diversity, social, ethnic, caste, community and religious pluralism, traditions of the nationalist movement, contrasting style of party leadership, and clashing ideological perspectives. The two major categories of political parties in India are National and State, and are so

12 Democracy in India’ in M P Singh (Ed.), Lok Sabha Elections 1989: Indian Politics in 1990s (Delhi: Kalinga Publications, 1992)
recognized by the Election Commission of India on the basis of certain specified criteria.

4.4 CONSTITUTIONAL AND LEGAL POSITION

The legal and constitutional position of political parties varies from country to country. In most democratic countries there is neither any direct constitutional provision regulating the functioning of political parties, nor any legal sanction establishing political parties as a necessary governmental institution, although there are some governmental systems which try to prescribe some conditions for the operation of party system. A very good example is furnished by the Constitution of the Fifth French Republic, which prescribes that Parliament (The French National Assembly) cannot make a law that may abridge the right of the political parties to carry on their activities freely. This is perhaps a tacit recognition of the existence of political parties as a sine qua non of a democratic system. Similarly, the basic law of Germany's Constitution includes political parties in its purview. Art. 21 of the Law guarantees the legitimacy of parties and their right to exist, if they accept the principle of democratic government. The Federal Government of Germany has thoroughly institutionalized the structure of political parties, by introducing the 5% clause, which makes it extremely difficult for minority or splinter parties to form and flourish. The Canadian practice of Registration of Party or Party foundation is very comprehensive. Parties are registered on certain conditions and party leaders are selected through a national

Nepalese Constitution\footnote{Under Article 12 of the Constitution of India} provides freedom to form union and association, which has been enshrined as a fundamental right, and deals specifically with the prohibition to ban political parties\footnote{Under Article, 112 of the Constitution of India}. Any law, arrangement or decision which allows for participation or involvement of only a single political organization or party or persons having a single political ideology in the elections or in the political system of the country shall be inconsistent with the Constitution and there are conditions for registration of political parties for contesting elections; (a) they should adhere to the norms of democracy within the party (b) there must be provisions for election of the office bearers in the Constitution of the party at least once every five years (c) political parties must field at least 5% women candidates for election. (d) those parties which get at least three per cent of total votes cast in elections are qualified for registration as political parties. A member of parliament cannot change his party loyalty or abandon the party of which he was a candidate at the election. If he does so, he loses his seat in the House.\footnote{Under Article, 49, Clause (1) (f) of the Constitution of India} However, all the parliamentarians from a party which received less than three percent of the cast votes in the election to the House of Representatives are treated as Independents.

Political parties do not as such find any direct mention in the Constitution of India. However, there is one provision in the Constitution
which is directly relevant to the functioning of political parties. The Tenth Schedule of the Constitution was added by the Constitution (Fifty-second Amendment) Act, 1985. It deals with the disqualification of a person for being a member of either House of Parliament or the Legislative Assembly or Legislative Council of a State, on ground of defection.

In the absence of a sufficiently detailed constitutional provisions, the major onus of framing and administering the rules and regulations governing political parties in India has fallen on the Election Commission, a constitutional body responsible for conduct of elections. The Election Commission of India has the ultimate power to accord recognition and status of political parties to “the association or body of citizens of India”. The Election Commission has the power to decide whether or not to register an association or body of individuals as a political party.

According to the provisions of the Act it is mandatory for any association or body of individuals of India calling itself a political party to make an application to the Election Commission for its registration as a political party, within thirty days following the date of its formation. The Act requires that the application shall be accompanied by a copy of the memorandum or rules and regulations of the association or body, by whatever name called, and such memorandum or rules and regulations shall contain a specific provision that the association or body shall bear true faith and allegiance to the Constitution of India, and to the principles of socialism, secularism and democracy and would uphold the sovereignty,
unity and integrity and unity of India and proviso to Section 29A provides that no association or body shall be registered as a political party under this Section unless the memorandum or rules and regulations of such association or body conform to these provisions. The decision of the Commission in this matter is final.

The recognized political parties are accorded the status of a National or State political party in accordance with the provisions of Election Symbols (Reservation and Allotment) Order, 1968 as amended from time to time. The number of National parties has been varying from 14 to 4 owing to continuous review of the status based on the performance of the parties. In 1951 there were 14 National parties while presently there are 7 National political parties.

It may be noted that political parties in India are also sometimes categorized by observers, academics and political analysts on the basis of their territorial or geographical representation, such as: All India parties, Regional parties and Local parties. This is done by them only as a matter of convenience to argue a particular point, or identify them in a particular way, and does not in any way reflect either any official party classification recognized by the Government or by the Election Commission. Similarly any identification of a party on the basis of its ideological orientation as a

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21 Under Article 29A (5) of the Constitution of India
22 Under Sub-section (7) of the Representation of People Act of 1951
23 The provisions of Sub-section (5) of Section 29A of the Representation of People Act of 1951
24 These provisions are discussed in para 3 below
25 The number of National parties was: in 1957 (4), 1971 (8), 1977 (5), 1980 (6), 1984 (7), 1989 (8), 1991 (9), 1996 (8), 1998 and 1999 (7). There were no National parties in 1962 and 1967. [These were at that time called multi-State parties]
party of the left, right, center, socialist, communist, communalist or leader-centered etc. bears no official recognition.

4.5 PROVISIONS FOR RECOGNITION

Political party means an association or body of individual citizens of India registered with the Election Commission of India as a political party under the Act. As per para 6A of the Election Symbols (Reservation and Allotment) Order, 1968, as recently amended, a political party shall be treated as a recognized National party, if, and only if, either (A)(i) the candidates set up by it, in any four or more States, at the last general election to the House of the People, or to the Legislative Assembly of the State concerned, have secured not less than six percent of the total valid votes polled in their respective States at that general election; and (ii) In addition, it has returned at least four members to the House of the People at the aforesaid last general election from any State or States; or (B)(i) its candidates have been elected to the House of the People, at the last general election to that House, from at least two percent of the total number of parliamentary constituencies in India, any fraction exceeding one-half being counted as one; and (ii) the said candidates have been elected to that House from not less than three States.

According to of the Election Symbols (Reservation and Allotment) Order, 1968, a political party, other than a National party, shall be treated as a recognized State party in a State or States, if, and only if, - either (A)(i) the candidates set up by it, at the last general election to the House

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26 Para 2 (h) of the Election Symbols (Reservation and Allotment) order 1968
27 Section 29A of the Representation of People Act of 1951
28 Para 8B
of the People, or to the Legislative Assembly of the State concerned, have secured not less than six percent of the total valid votes polled in that State at that general election; and (ii) in addition, it has returned at least two members to the Legislative Assembly of the State at the last general election to that Assembly; or (B) it wins at least three percent of the total number of seats in the Legislative Assembly of the State, (any fraction exceeding one-half being counted as one), or at least three seats in the Assembly, whichever is more, at the aforesaid general election²⁹.

The Act²⁰ makes it mandatory for the political parties to provide specifically in their constitutions that they bear true faith and allegiance to the principles of secularism, socialism, and democracy besides to the Constitution of India, to gain registration by the Election Commission. However, the sanctity of the provision is diluted by the fact that the parties who do not subscribe to secularism, socialism and democracy would be denied registration but they can contest election. Also the Election Commission has held that a political party duly registered under the R. P. Act, 1951 cannot be de-registered by the Commission on the allegation that the party had violated the law or has ceased to function in accordance with the undertaking that it would abide by the principles of secularism. The only case where the Commission could de-register a party was when it was found later that a party had obtained, through fraudulent means its registration, or it was declared by the Government as unlawful. It could also be de-registered if the party itself intimated the Commission that it had

²⁹ According to para 6C of the Election Symbols (Reservation and Allotment) Order, 1968 if a political party is recognized as a National party under paragraph 6A, or as a State party under paragraph 6B, the question whether it shall continue to be so recognized after any subsequent general election to the House of the People or, as the case may be, to the Legislative Assembly of the State concerned, shall be dependent upon the fulfillment by it of the conditions specified in the said paragraphs on the results of that general election.

³⁰ Section 29 A of the Representation of People Act of 1951.
ceased to function or had changed its party constitution, or that it would not function in accordance with the provisions of the law.

4.6 RECENT TRENDS IN THE GROWTH OF PARTIES

The history of origin and growth of political parties in India can be traced to the days of India's struggle for freedom. The Indian National Congress was perhaps our first political party; it came into existence in the year 1885. There were some groups formed by patriotic Indians before that, but they did not converge into becoming a political party. The Indian National Congress was the natural and inevitable outcome of a national awakening. The evolution of the party system after Independence presents a study of transformation from one-party dominant system to a complex of multi-party configuration, in which presently strong trends of fragmentation, factionalism, and regionalism, coupled with the desire to form alliances for seeking a share in the power irrespective of any strong ideological or programmatic commitments are being increasingly witnessed.

Elections for the tenth Lok Sabha held in May-June 1991 produced a 'hung' house. The Congress (I) occupied the position of the single largest party with 220 seats followed by BJP and the Janata Dal. A minority government under the leadership of the Congress (I) President Mr. P. V. Narasimha Rao, who succeeded the assassinated leader Rajiv Gandhi was installed. The fractured verdict of the Eleventh Lok Sabha elections also produced a hung parliament. The BJP formed a minority government under the leadership of A. B. Vajpayee but the Prime Minister had to relinquish office only after thirteen days. When he was not sure of proving his majority in the House, he resigned. The fall of the BJP
government paved the pay for installation of the UF government first under H. D. Deve Gowda and then I. K. Gujral on 1 June 1996 and 21 April 1997 respectively. Even then the Lok Sabha could not complete its full tenure of five years.

In 1998, the BJP changed its strategy of fighting alone and entered into alliances with a number of regional parties. This strategy helped the BJP to improve its own score and also that of the alliance. The contest was mainly between two major pre-poll alliances.

4.7 REPRESENTATION OF WOMEN

Political parties cannot remain indifferent towards women who constitute nearly 50% of the electorate. Although almost all parties have attempted to build women organizations to secure their support and make their organization more broad-based, but in practice they have fielded much less proportion of women candidates in the elections giving them proportionately much less representation in the legislative bodies than their actual population strength. In recent times this has been a matter of crucial concern in view of the controversy over reservation of 30% or so of the seats in these bodies.

Training and orientation of new members is one of the important functions of political parties. The parties which are organized on the model of cadre party systematically develop appropriate agencies of training for

31 The other alliance was led by the Congress Party and was composed of RJD, Samajvadi Party, Republican Party of India, BSP, TUTS, TNP, BKKP, Muslim Majlis etc
members. But most Indian parties, except for the Communist parties and the BJP have not followed this model. Parties in India do not have a permanent system of training of their members, and whatever arrangements for training are done are done on ad-hoc basis by national or state level organization. To perform various functions and contest elections in an effective manner, every political party requires huge funds. Apart from expenditure of office establishment, full time-workers, agitations, propaganda and travel, parties have to organize election campaigns. But the financial matters of party are kept secret while other aspects of organization are known to people. Very little is known about finances of political parties. In fact, secrecy is maintained even within a party. Only a few leaders at the higher level know the truth about the total funds and expenditure.

Parties do not publish statements of accounts, income and expenditure, though financial matters are discussed at conventions and conferences or in meetings of higher bodies like working committee or the executive committee. Many political parties and candidates have been found to be using dubious methods in raising funds, like kickbacks, funds from foreign countries and even from donations by mafia gangs and other non-desirable elements. How to let the parties get honest funding from legitimate sources for their basic and continuing political activities has emerged as one of the most crucial contemporary concerns of the reform agenda in respect of the functioning of political parties in India. Most observers of political scene have stressed the need to ensure accounting and auditing of party finances at various levels of party organization. Transparent sources of party finances are a must.
4.8 LACK OF IDEOLOGY AND VALUES IN POLITICS

There has been a very sharp erosion in the ideological orientation of political parties. Party dynamics in India has led to the emergence of valueless politics much against the ideals of the father of the nation, Mahatma Gandhi, who suggested that the Congress party should be disbanded after the achievement of Independence and its members should engage themselves in the service of the people. While Gandhiji taught us tremendous selflessness, self-sacrifice and service to the people, such inspirational values, the democratic norms and institutions have been destroyed systematically over the last sixty two years of the working of the Constitution. In the process, both the politicians and political parties have lost their credibility, the ultimate value that should bind them with the masses. There seems to be a crisis of character amongst the politicians, as the system does not encourage the honest leader because of the falling moral standards both in the public and among the leaders, criminalisation of politics and politicization of criminals has become the norm. It is due to degeneration of leadership, parties have been entangled in power struggle for the sake of personal ends.

The campaign methods used by parties in the days of electronic media, high-tech advertisement, projecting images through the glamour of models and the film / TV idols have taken away the element of serenity and the spirit of public service from the political leadership. The election campaigns both at the regional and national levels these days have become kinds of stage shows in which the matinee idols are paraded to attract voters in support of their candidates by the rival parties without seriously discussing or educating the electorate about the issues at stake.
in the election. The regionalisation of political parties has compelled many of the parties to orient their highly centralized organization and decision-making structure to suit the new demands of party at the state level, thus adopting a confederation like approach for the party organization. This has resulted in a lesser assertion of national control over state units. Secondly, regionalism and regional parties have made 'ethnicity' acquire a growing respectability at home and abroad. Thirdly, as national politics has now entered a coalition phase, regional parties are being grouped together to provide a working majority at the center. At the same time, differences in the economic, educational and social interests of regional middle classes, intermediate castes and the new classes are bound to overwhelm the unifying capacity of regional pride. Moreover, as concerns of the national polity move away from egalitarian restructuring, the regional parties too are likely to fall prey to the new economic forces represented by liberalisation, globalization and the NRIs. Fourthly, India in strict legal terms is a union of states, rather than a constitutional federation. In practice, it has some characteristics of federalism, and the states do enjoy a certain amount of autonomy, but the popular perception is one of a centrally governed country.

If India has entered a plural-polity situation, in which several parties govern the country, one or more at the center and others in the states, a question is raised time and again whether a stable regime at the center can cope with a plurality of regimes in the states, some of them basically unstable. And, if the regime at the Center is itself unstable, what would happen to the process of governance, and the popular perception of India

as one of a centrally governed country. This is perhaps the greatest dilemma facing the growth of political parties today, and needs some serious consideration for devising strategies towards harmonizing the regional with national interests.

Although there is hardly any instance in India of a political party being totally identified with any particular caste group, yet there are cases of certain castes lending strong support to particular political parties. Thus while political parties struggle among themselves to win different caste groups in their favour by making offers to them, caste groups too try to pressurize parties to choose its members for candidature in elections. If the caste group is dominant and the political party is an important one, this interaction is all the more prominent. In many political parties, in place of ideological polarization there occur the determination of policies and programmes as well as the nomination of electoral candidates and the extension of support to them on caste consideration. Caste exercises its impact in the political field by specific caste groups coming together to vote en bloc for a candidate of their own caste, without considering the merits and demerits of the candidate, by appointing the members of influential caste or caste group or groups in the party as well as in the constituency and to offices of profits.

A caste, wishing to exercise political power must have a considerable number of its members elected. This involves putting pressure on some particular party and different castes struggling against each other in a bid to have a majority of their caste candidates elected. The electoral field witnesses both competition as well as alliances between various caste groups in order to get a substantial number of their caste-
men elected. Caste, therefore dominates the political field, especially at the lower level.

The emergence of regional parties and the 'withering away of national outlook and spirit' thus sets off another crisis. Candidates come to be selected not in terms of accomplishments, ability and merit but on the appendages of caste, creed and community. Ultimately caste becomes the deciding factor on selection. When 'disparate' political groups with caste-based ideologies compete for space in governance, national goals take a back seat. The more serious repercussion of this development is the political violence that has resulted in many parts of the country, particularly in Bihar, where dominating caste groups openly clash with minority groups resulting in a spate of caste-wars and massacres of innocent people. One caste, in its attempt to obtain political power is committing aggression on the other. The talk of minority interests by regional parties is only a smoke-screen to hide caste and regional interests. Caste based politics and casteism are eroding the 'unity' principle in the name of regional autonomy.34

The partition of the former united India in 1947 in two independent nations had its origin in the forces of communalism that swept the sub-continent during the first half of the last century. Despite the emergence of India as a 'secular' state, the 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. Communal polarization, rather multi-polarization, has posed a threat to the

Indian political ethos of pluralism, parliamentarianism and federalism. Despite the adoption of the principle of 'secularism' as a constitutional creed, which ironically allows communal parties to compete, the trend towards communalism and fundamentalism in Indian politics have been growing day by day. The spirit of tolerance that is essential for a 'secular' society seems to have completely vanished from the body politic of India. The covert communalism practiced by every political party, in pursuit of electoral politics and vote banks has earned it the epitaph of 'pseudo-secularism' or 'minorityism'\(^{35}\).

In recent years caste and religion emerged as rallying points to gain electoral support. Unfortunately there is a tendency to play upon caste and religious sentiments and field candidates in elections with an eagle eye on the caste equations and communal configurations\(^{36}\). Exploiting caste sentiments and playing off one caste combination against the other with a political axe to grind, perhaps even more than religious bigotry is the very anti-thesis of rationalism, but the monster of casteism has all of a sudden mysteriously gained wide respectability as a means of empowerment of the subaltern India. Some politicians, well known for their 'communally sensitive' disposition, taking a clue from communalism have gone to the extent of demanding a 'fair' representation of the minorities in the bureaucracy, police and para military forces.

\(^{35}\) The dynamics of national and state politics of the last decade is a mute witness of the clashes and conflicts between the so-called 'secularist' and the 'communalist'. Although a comprehensive constitutional amendment Bill (80th Amendment Bill) and Representation of the People (Amendment ) Bill 1993 were introduced to de-link politics from communalism, casteism, and lingusim etc. by the minority Government, these could not pass through the Parliament.

\(^{36}\) S.K. Jha in Politics India, Oct. 1998
Although the influence of muscle power in Indian politics has long been a fact of political life since the First General Elections of 1952, when some feeble allegations were made about the use of outlaws by the politicians to further their electoral prospects, the intensity and frequency of such allegations, have increased in more recent times, and the criminalisation of politics and the persons known to have criminal past becoming legislators and ministers has not only become very common but is being openly defended by the party leaders. A stage has now reached when the politicians openly boast of their criminal connections. A Bihar minister’s statement in the Assembly that he patronized and would continue to patronize gangsters to fight and win elections is a pointer to the growing phenomena where criminal background has become an invisible requisite to win elections. Despite the country-wide debate that was generated by the Committee\(^\text{37}\), the system has changed only to the worse. Earlier in the 1960s, the criminal was only content to playing second fiddle to the politician to enable him win the election and in turn to get protection from him. The roles have now reversed. It is the politician now, who seeks protection from the criminals. The latter seek direct access to power and become legislators and ministers\(^\text{38}\).

The Election Commission’s observations that nearly 40 members of the 11th Lok Sabha and 700 members of the state assemblies had a criminal past proves this aspect. The Election Commission’s requirement that prospective candidates file an affidavit listing the criminal charges that they face had hardly made on the growing criminalisation of politics. Some

\(^{37}\) Vohra Committee Report on criminalisation of politics

\(^{38}\) Roy Jaytilak Guha, ‘Criminalisation of Politics and Role of Law and Order Administration in Elections - A Study of 1988 Lok Sabha Elections’ Research paper for Indian Institute of Public Administration, New Delhi, P154
radical reform in the existing structure of law needs to be taken urgently. Until this is done, political parties could have taken certain initiative in curbing this trend, that is by refusing tickets to politicians with a criminal background. Far from it, the party leaders invariably seek out those candidates for party tickets, who can, not only win elections themselves, but can also help other party candidates to win, irrespective of their past criminal history or background. The Election Commission is powerless in preventing criminals from contesting the elections. The Act allows it to debar candidates convicted of certain crimes, but it cannot stop those under trial, or whose appeals from their earlier convictions are pending for disposal before the higher judiciary for multiple murders or rape, or corruption or theft from the public exchequer, from sitting in the country's highest legislative forums. There have been a number of cases where persons under trial have contested elections, while being lodged in jail, and have won. Unfortunately no political party has taken any concrete steps to curb this menace.

4.9 GROWING VIOLENCE

The growth of political parties and emergence of various political groups in India has brought into focus a very disturbing and serious phenomena in the body politic of India. There are some sections of the population and highly organized political groups and parties, who do not like to remain within the orbit of the Indian Constitution and work outside the existing political apparatus and party norms, and in the process have

39 The Representation of People Act
taken to political violence and terrorism in a big way, as the only method for political participation. This has not only spread panic amongst the general population in some areas of the country, but people seem to have lost confidence in the efficacy of government in ensuring security for the general populace. Criminals now call the shots. They dictate and the Governments obey. Whether it is the hijackers of a plane or kidnappers of a film star, their writ runs supreme.

4.9.1 FRACTIONALIZATION AND COALITIONS

A spate of minority and coalition governments at the Center due to 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 coaltitional 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 rapprochment amongst the coalescing partners. The efforts were not quite successful.

A significant impact of the trend towards coalition governments in India has been its effect on the policy outcomes. A generic characteristic
of the public policies adopted in India over the last decade is the short time horizons embodied in them as most coalitions of party system are committed to providing short term benefits to their constituents. One important facet of this is the well known crisis of public finance plaguing most state governments in India, in particular the larger states, which has been aided by the short-term mismanagement of the exchequer. Examples include writing off loans, sometime even the full amount of the original loans. The present phase of the evolution of parties in India has revealed a number of grey areas of party functioning having serious repercussions for the political system, policy issues and process of governance. The party manifestos, which are supposed to provide an indication of the direction of policy perspectives have in most cases become a set of promises, something for everybody so that more votes can be garnered. Most party manifestoes have ignored the burning policy issues like population growth, pollution, rising prices, illiteracy, unemployment, empowerment of women and the integrity and security of the nation. It is time that these deficiencies are sought to be overcome if the country is to maintain a resemblance of continued economic progress with stable democratic framework of government.

The relationship between the two is very close. Fractionalization operates on essentially two levels in India. The top level, and most fractionalized is the national level. The dynamics of party competition at state level has shown little sign of increased fractionalization in the 1990s. This indicates that the fragmentation at the national level is not representative of the actual types of contest that exist in the direct

In a significant study conducted by Oliver Heath in 1998, it has been demonstrated that on the whole there had been remarkable continuity between the degree of fractionalization shown at the state and constituency level.
competition between parties. Thus one cannot say that the fractionalization at the national level represents a fractured mandate, as on the whole the mandate of the people is fairly clear, it is just that the clarity only exists within the context of state rather than national politics.

The implication of these two conflicting 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 that increased ineffective parties at national level has had on state contests 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 instance, it is regional parties that have prospered and the national parties, like the Congress that have suffered.

Thus we are left in a position where politics only makes sense at the state level. A reversal of this situation is not likely to happen overnight, and any move towards fewer effective parties at national level is only likely to happen at the cost of an increased fractionalization at state level. It would therefore seem that the major issue of facing any party that hopes to form a government at the Union level, is not how to win an overall majority, but how to form strong and secure inter-state alliances. 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 every thing 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.

4.10 POLITICAL PARTIES AND GOVERNANCE

Atul Kohli defines the concept of governability as the capacity of the rulers to do three things: maintain coalitional support; initiate solution to problems perceived to be important, and resolve political conflicts without force and violence. Thus, a democratic developing country is well governed if its government can simultaneously sustain legitimacy; promote socioeconomic development, and maintain order without coercion. The growing incapacity of India to perform these tasks is what has been conceptualized by him as the manifestation of crisis of governability.

Given the emphasis on the structural origins of the crisis in governance, the kinds of leadership actions that could halt or reverse India's erosion of authority would have to involve two major changes: (1) the need to strengthen the organizations of the major parties, and (2) the need to narrow the gap between the state's commitments and capacities.

According to him four major factors have influenced the nature of political change in India: (1) the de-institutionalizing role of national and regional leaders; (2) the impact of weak political parties; (3) the undisciplined political mobilization of various caste, ethnic, religious, and other types of groups; and (4) the increasing conflicts between the haves and have-nots in the civil society. If these trends continue unchecked, India's political crisis is likely to get worse.
If one had to predict the most likely outcome over the next decade, it would be, policy ineffectiveness and continuing turmoil, encouraging further centralization and use of force, punctuated by occasional bursts of hope created by elections and electoral gimmicks. If one were to set out to alter the current political trends, then strengthening the party organizations would be an important area for action. The ongoing populist posturing of India's political parties, without the capacity to deliver on promises, has become a serious political problem.

Another study under the auspices of Center for Policy Research by Lok Raj Baral also supports such trends. He notes that since the national parties in India started fast loosening their grip on local institutions, and the elites were preparing grounds for regional and local organizations, problems of governance increased as a result of the lack of accord between the emerging local realities and the rigid approach of the national elites to such burgeoning trends of governance. Other issues concerning the diminished role of national parties are also related to ideological contradictions and functional gaps between commitments and practices manifesting them in election campaigns or in their opportunistic alliances formed for political aggrandizement. India's governability has been greatly affected by the pulls and pressures of the ruling party at the Center or by positions taken by parties supporting the government. The Prime Minister's position under a loose coalitional arrangement has been perennially precarious owning either to his diminutive position in his own party or to his act of balancing of disparate groups whose incongruous motivations and tactical lines may not be in the larger interest of the government.
The manner in which political parties in India are increasingly becoming anarchical in both their behavioural norms and functions suggests that too much compromise for staying in power would result in bad governance. If members of parliament and State Assemblies themselves become rowdy in their behaviour as is demonstrated by frequent walkouts, sit-ins into the well of the house, installing the proceedings of the house on flimsy grounds for days on and on without regard to the staggering financial burden that it is causing to the public exchequer, apart from the precious waste of time and energy of the political elites, breaking furniture, communication equipment, using these as weapons to beat and hurt the opponents within the precincts of the house, prompting the Speaker to frequently remark that it was "a mindless mockery of the people who have returned us to Parliament", it is shameful not only to the people of India but also to those who look upon Indian democracy for inspiration. The politics of splits, defection, violence and 'subterfuge' has taken over the governance of the country thus showing no deference to norms, rules and procedures. Such trends are likely to be routine affairs if parties continue to stoop too low for grabbing power by force or by foul means.

4.11 JUMBO COUNCIL OF MINISTERS

The experience of minority and coalition governments has also resulted in the practice of creating abnormally large or what is known as jumbo size council of ministers in order to accommodate the coalition partners in the government. It has given rise to serious impediments in the process of governance. Besides the inherent problem of conflicting jurisdictions of the various ministers, both vertically and horizontally,
personality clashes and egos, and the woefully inadequate physical facilities and assistance for their effective and efficient functioning, it has been observed that many of the incumbents of the offices lack the basic capabilities to govern. Most of the time they are interested in their privileges and perks as being the ministers of the government, making speeches, cutting ribbons at inauguration functions, laying foundation stones, and making trips to foreign countries on government expense. A majority of these seem to be interested in the politics of transfers and making all sorts of recommendations for their relations and favourites. The consequences are not only a tremendous drain on the meagre government exchequer, but inefficiency, delays and slackness because of the inflated governmental machinery, hence increase in malpractices and corruption