CHAPTER-III

POLICY SYSTEM AND ITS DIFFERENT UNITS

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CHAPTER-III

POLICY SYSTEM AND ITS DIFFERENT UNITS

Policy making is essentially a manifestation of power. It is, therefore, important to understand exactly how power is exercised in the policy making process.

Power is defined as the ability to bring about some change in the behaviour of other people. In social context, it is defined as "the capacity of an individual, or group of individuals, to modify the conduct of other individuals or groups in the manner which he desires most". In terms of public policy, power may be defined as the capacity of an individual, or groups or holder of public offices to determine policy decisions and such decisions may relate to the choice of individuals for political offices and also to the selection of different purposive courses of action.

In policy making, the power, for example is exercised by different individuals and groups, the members of the councils of Ministers, members of legislature, bureaucrats, leaders of organised interest groups, individual citizen. Each set of the forces does exercise certain influences which taken together make-up policy making process. This is to say that there is a 'process' through which public policy is made. The process consists of the complex interrelationships of the decisions made under the influence of powerful individuals and groups.
The sources of power which cause change in other people's behaviour are many. It is easier to identify the source of an individual's power than to determine which individuals have power in the sense of bringing about a crucial change at a significant moment. The problem becomes complicated by the fact that in politics, groups rather than individuals affect the way the policy is made. Policy making is thus "an extremely complex analytical and political process to which there is no beginning or end, and the boundaries of which are most uncertain".

An attempt has been made here to explain how groups and organisations bring influences to bear on those who are vested with the power of taking and enforcing decisions. Such decision-makers comprise those who occupy formal offices within the constitutional system of rules. Politics and policy making are activities in which people with different sets of values compete for those positions and assign their occupants the right to take decisions or impose decisions on others.

There are activities as well in which non-official groups seek to influence the decisions taken by occupants of formal offices. This dimension examines the influence of those who are away from the centres of policy making but who, in a particular situation, may perform one or more of the specialised roles which according to Lindblom constitute influential behaviour: initiating, vetoing, planning, adjudicating, controlling, mortalising, cooperating and agitating.
3.1 THE CITIZEN

In a democratic form of Government, people are said to be masters of their own destinies and politically sovereign. There are two essential prerequisites, according to Dorothy Pickles, which must be fulfilled for the existence of a democratic system of Government. "It must, first, be able to elicit, as accurately as possible, the opinion of as many people as possible on who shall be their representatives and on how the country ought to be governed. Second, it must provide ways of ensuring that those chosen by the public in fact do what the electorate wants them to do or that they can be replaced if they do not, even between the elections." Democracy, then has come to mean representative and responsive government.

In representative democracy it is assumed that power flows from the people. Representation carries with it the clear implication of delegation from people to a legislature. Through legislature the representatives of the people frame, laws and decide policy by a majority vote. Further, the practice of submitting certain office-holders to periodic election will ensure that attention is paid to the interests of those who are represented. In democracy, people initiate the process of legislation and policy making by voting for candidates whose opinions and values they know.

Yet in practice, citizen participation in policy making is negligible. Many people do not seem to be exercising their franchise or engaging in party politics. Acting alone, the individual citizen is hardly a significant political force. The public or the
people, on the contrary, suggest a unity of will and purpose. In politics, groups rather than individuals affect the way policy is made. A relatively small group of office-holders may be held responsible for the actions they perform.  

Further, it has been observed that the majority of people who become involved in politics prefer to do so on an individual basis, rather than to join a political organisation. They neither join organised interests nor do they exhibit any active interest in public affairs. Even while voting, they are influenced comparatively very little by policy choices. Only a small minority hold the legislative, executive and judicial offices at the levels of the central, state and local government in India. In public service, large numbers of people are employed, yet only a very small percentage of them are influencing the choice of public policies.

3.2 THE ELECTORAL PLEDGES

The process of election gives an opportunity to citizens to choose the policy options offered by candidates for governmental office. Some of these are related to eventual selection of policies. The electorate expect that the party they vote for, if elected to office, will formulate policies on the pledges made in the election manifests. That is to say, most of the Governments make policies according to the policy manifesto on which they have been elected to office.
Electoral power presupposes that the different sets of policies offered by the parties and candidates at election time will be put into corresponding decisions once they are elected to office. Election thus provides means which enables the electorate to punish or reward party in power for its past performance.

Yet it is felt that the correspondence of policy outputs to electoral intentions is by no means always so close. First, certain circulate decisions which its manifests does not suggest. A party may adopt rash electioneering tactics. It can be observed that the manifesto is not given serious weight when the party comes into power. For example, the financial instability in the country has forced the new government to remove the asset limit of MRTP companies and also to allow non-resident Indians to invest in new sectors. Similarly, massive increase in world prices, particularly of basic commodities, have influenced practically every policy decision which governments have had to take. Secondly, election pledges may be abandoned due to administrative constraints. An example of such practical difficulties being encountered was the raising of tax limits after the general elections in May 1991. Thirdly, the policy intentions of the government may be thwarted by political events. The bill on the office of the Lok Pal could not be enacted even though three attempts have been made since 1966. Finally, when in power, a party often assigns a low priority to its major election pledges made to electorate and only a small proportion of legislation is based on them. Election pledges may figure largely in the early stages of a new governments legislative programme but other sources of policy initiative rapidly supersede election intentions.
in significance. Only a minimal proportion of policies carried out during the tenure of a single government stems directly from the election promises. Pressures from interest groups on the legislature or the executive often leads to decision taken, not only in the absence of electoral strategy but also in the face of hostility from large sections. That policy will be selected which is morally right or in public interest.

3.3 THE MEDIA

A prerequisite of democracy is free media of communication. The media channels information between the citizen and government. They communicate the information to the citizen about the decisions the government have taken. In this way, the media help shape their reactions to each other's decisions. By making publicity of specific causes, the media act as the most important source of information for the government on the public's reactions to contemporary issues.

Since the media are acting as channels of communication, it is important to determine whether they are politically biased in their presentation of information. If they are biased in the way they present the decisions and actions of the government they may distort the very concept of democracy. If the citizen is to make rational decisions about public policy, the media should possess a high standard of reliability. There is considerable concern as to the quality of the media in their role of providing the public with information about the government. It is found that the ability of the press in particular to deal with political issues is counteracted not so much by the scope and complexity of the government alone but by legal and political rules as the Official
Secrets Act, parliamentary privilege, ministerial responsibility and the laws of libel. Press coverage of the government is declining in standard and there seems to be no strong pressure from either the elected persons or the electorate to reverse this trend.

When the media can influence opinions in a situation where the government is seen to be responsive and responsible to the public, then they are correspondingly influential in the determining of policy.

3.4 THE PRESSURE GROUPS

Public opinion expressed by individual citizen does not reflect the intensity of views. If does not, in the main, serve as the basis for a change in policy. Many citizens lack the required expertise in both the subject-matter and procedures of policy making. They often do not know which kind of policy issues to address to which official, with a view to wielding the greatest amount of influence. Acting alone, the individual citizen is rarely a significant force. On the other hand there are many citizens representing different and often conflicting interests and values. Group action is considered a more effective method than individual action for the ordinary citizen to influence the public policies. Unless large numbers of citizens are organised for some common purpose or interest, the chances of transmitting their messages and policy issues will become bleak for the individual citizen. The interest group is an important channel of communication. The interest groups or pressure groups are important means of enhancing the effect of
public opinion. They can communicate more effectively than individual citizens with public officials on policy decisions. The exercise of political influence by organised citizens is a predominant feature of the democratic form of government.

Pressure groups are organisations with formal structures whose members share a common interest. They strive to influence the decisions of the government without attempting to occupy political offices. They serve as links between individual citizen and policy makers. To individual citizens, pressure groups are most important means of communication and power. They aid them in communicating their hopes to public officials by offering personnel and expertise in the substantive matters and the procedures of policy making. To policy makers, the interest groups offer expertise and political support as well as the intensity of views of large numbers of citizens with some common interest. In return, the interest groups are able to create areas of influence on citizen as well as policy makers. Sometimes they sponsor conditions in elections for testing support for their cause. They are, however, rarely successful.

Further, leaders of the interest groups may be invited or associated either to sit on public boards, councils or committees on account of their expertise, qualifications and proficiencies. The distinction between interest group and government offices is often blurred by the fact that government institutions may engage in lobbying activities from time to time. It may be mentioned here that all pressure groups are not exclusively concerned with political influence and activity.
3.5 THE POLITICAL PARTIES

Political parties are also a means of enhancing the impact of public opinion. Like pressure groups, they serve as intermediaries between citizens and policy makers. Party platform on which elections are fought form a basis for the party leadership when, as a Government, it engages in the making of public policy.

Political parties are thus regarded as important agents for establishing popular control over government and public policies. They play an important role in reflecting the issues at stake and in setting value-goals for the society. According to Burke, "A political party is a body of men united for promoting the national interest on some particular principles on which they are all agreed." Hence the political parties have an important role to play in the formulation of public policies.

Edwards and Sharkansky further say, "A two party system operating under these conditions would simplify the alternatives presented to voters, allow constituents to effectively express their attitudes towards policy, active public participation in politics, make majority rule effective and establish popular control over government."

3.6 THE LEGISLATURE

The Parliament in India or the Congress in the United States are supreme public policy making bodies. Ripley feels that the congress is at the heart of public policy making. Indeed, in a parliamentary form of Government, the legislature regions
Supreme because the Prime Minister is dependent on support from a parliamentary majority to remain in office. G.N. Jones observers, "Neither devolution nor delegation of legislative authority infringes the supremacy of parliament".\textsuperscript{11}

Parliament in India makes the laws and legitimises the decisions of the government. It authorises taxation and expenditure, and makes the government accountable for the financial decisions. In addition to its legal role, it subjects administrative action to criticism and scrutiny. It serves as a forum for public debate on issues of public policies besides a form for the expression of complaints and grievances. The parliamentary power enhances further as fewer votes are made into votes of confidence, over which a government can fail. When a vote is not a vote of confidence, individual members of parliament have greater freedom to vote without threatening the continuation of their government. The parliamentary systems in Germany and U.K. as well as in India work somewhat along these lines.\textsuperscript{12}

Thus in law and constitutional theory, the power of the parliament is unlimited in democratic systems. On the other hand the congress in the United States has less power than a parliament, because it does not participate in the process of choosing the head of the executive branch. Moreover, the constitution of the United States prohibits legislators from holding positions in the executive. For example, the officials of the President's cabinet, unlike the cabinet in parliamentary system, may not be members of the congress. This design not only leads to the division of authority but also inhibits the development of unnecessary informality between the two branches.\textsuperscript{13}
3.7 EXECUTIVE

Modern governments everywhere rely on executive leadership both in policy formulation and policy implementation. In a parliamentary system with cabinet governments, the governments in most cases rely on their backbenchers to provide them with the majorities necessary to conduct government business. In the United States, the congress expects the President to initiate or send proposals for legislation. In most developing countries the executives probably plays a larger role in policy formulation because of a greater concentration of power in the government.

In the Indian Political System, the executive consists of the President, the Council of Ministers and machinery of Government (bureaucracy). The President is head of the state and the central government carries out its functions under his name. Article 74 of the Indian Constitution provides for a council of ministers with the prime minister at its head to aid and advise the president in the exercise of his functions. The real executive is the council of Ministers which is collectively responsible to the Lok Sabha. The Prime Minister is a member of the Lower House. Other ministers to the council are appointed and dismissed by the President on the advice of the Prime Minister.

The Council of Ministers is a three-tier organisation consisting of Cabinet Minister, Minister of State and Deputy Ministers. The Council itself meets rarely and all the policy functions are performed by the cabinet.
3.8 THE BUREAUCRACY

Public Administration, as an academic pursuit, is defined as the process of achieving goals in accordance with given policies through public organisation. In other words, public administration has concentrated on the machinery for the implementation of public policies, as given, rather than on making them. Although, policy making and policy implementation are two distinct functions of Government, they are closely interrelated. Policy is laid down by the legislature or the political authorities who are vested with the power of giving policy the legal authority. The legislature lays down a policy in general terms which is usually expressed in the forms of acts and laws. In order to give more precise expression to these acts and laws, the administrative arm of the government plays an important role in policy making also. But, in the main, the administrative arm does not legally possess the power of making a policy; it assists in policy making. Its responsibility lies in the sphere of policy implementation. In recent years, however, the role of the administration of government in policy making has grown in importance. Therefore, it seems strange that policy making as well as implementation have come into hands of the administrators. The policy making and implementation roles of civil servants have evoked mounting public criticism, and top level administrators in India have faced unusually serious challenges to their authority.

Democratic norms, however, emphasise that the government should be political and merely administrative. Government by the administration is called the bureaucracy. The bureaucracy is an administrative organisation consisting of a legal
body of non-elective employed officials and organised hierarchy in departments in accordance with the rules governing the conditions of service. In democratic countries, the bureaucracy is an executive branch of government. Civil Servants or public administrators are recruited in theory to serve ministers by carrying out their decisions. The ministers decide on policies and the civil servants take necessary executive actions to implement them.

Despite the formal control of the civil service by the political executive in the parliamentary democracies, there is a continuous discussion on the role of higher civil servants in policy making and a constant fear that their influence is too great. It has been argued, on the one hand, that their role is to develop and carry out the will of those who lay down policies. On the other hand, there is recognition, of the fact that they are actively involved as are other pressure groups, political parties and the like, in the making of policy in its formative as well as implementation process.

In theory, although civil servants are recruited to serve political leaders by carrying out their decisions, in reality, they exercise much more power in the formulation of public policies than the formal description of their responsibilities suggests. The importance of the role of high civil servants in policy making arises from the fact that they are concerned with the ends and not merely the means. It is now widely accepted that the old politics - administration dichotomy was an artificial one and that the higher civil servants exercise a great deal of influence on policy because of their administrative knowledge, permanence and closeness to political power. It means that
they present and embody the problem of bureaucratic inertia in the face of politically proposed change. The B.B.C. programme of 'yes Minister' succeeds in conveying humorously the manner in which they can dominate their ministers. Senior administrators are likely to exert tremendous influence on policy in its formative state through active campaigning, selective interpretation of data and through their own programmes, designs and strategies. Often they are able to change, rearrange and modify the intent of legislative enactments.

3.9 THE JUDICIARY

The judiciary as a political institution plays the greater role in policy making in any democratic country. The courts, notably the supreme court in the United States and in India, have often greatly affected the content of public policy through the exercise of powers of judicial review.

The judicial review is the power of the judicial courts to determine the constituionality of actions of the legislature and executive and declare null and void if such actions do not conform to the constitutional provisions. In the United States, where the separation of powers is institutionalised to a larger extent than in Britain and India, the Constitution entitles the Supreme Court to exercise judicial review. Under the rules and conventions of British Constitution and the Indian Constitution as well, the judiciary seems to be highly politicised as a result of the absence of a clear separation of powers.17
However, the judiciary, in any political system, participates in the policy making process because that is its job. Courts are approached to interpret and decide the meaning of legislative provisions that are often generally stated and permit conflicting interpretations. Any judge confronted with a choice between two more interpretations and applications of a legislative act, executive order, or constitutional provision must choose from among them, because the decision has to be given or the controversy must be ended. And when the judge does so, his or her interpretation becomes policy for the specific litigants. When a court accepts one interpretation or a decision is accepted by other courts, the court has made a policy for all jurisdictions in which that viewpoint prevails. The Chief Justice, Mr. Charles, Evan Hughes of the United States, once said that the "constitution is what the judges say it is."

The power of judiciary to make policy is inherent in the judicial functions in any democratic country. The elements of this complexity are explained as follows:

Firstly, it is contended that these exists in a democratic polity a significant body of judge made ‘Common Law’ rules that have grown alongside legislative laws and acts. The courts determine rules for what constitutes criminal conduct. The courts also interpret the language of the laws the legislature has passed. They may also lay down the requirements that they may determine to be demanded by a law.

Secondly, the decisions of administrative tribunals whether, in adjudications, individual cases or rule making decisions of general applicability, may be appealed against to the High Court or Supreme Court in India.18 The Supreme Court has the power of judicial review for administrative bodies.19 The decision of the court can have
significant impacts on the future decisions of administrative bodies. By contrast, as Walter Bagehot once wrote, "There is nothing the British Parliament can not do except transform a man into a woman and woman into a woman".\[^{20}\] British courts accept the supremacy of parliament. Judges can not test the validity of parliamentary enactment against some higher norm, unlike the US Supreme Court justices who "regularly test the validity of legislation against constitutional standards of which they are the guardians".\[^{21}\] But in US and India, judicial review of the administrative decisions has been an established fact. The courts can strike down the administrative actions, which are not in accordance with authorising legislation. Thirdly, the courts decide on specific issues. They may not take the initiative. Law suits are placed before the courts in specific and particularised form. The demands made by the litigants and the rules of the judicial process determines the manner in which the problem is presented to the court. A person seeking to invoke the power of courts must show direct legal inquiry and must have exhausted all administrative remedies before a judge will list to the case. The judge must take that particular set of facts and make a decision that will resolve the immediate problem. If the decision is accepted by other judges, the judge has made a policy for all jurisdictions in which that view prevails. For instance, the school prayer decision banned the use of Bible reading as a religious exercise in public schools in Baltimore, Maryland, and Abington Township, Pennsylvania (U.S.).\[^{22}\] In fact, the court meant the decision to have general application in all public schools. If the he does not decide, a policy choice cannot be made because it leaves the status quo intact. However, he is constrained not only by precedent but also by constitutional requirements and legislative
action. The judge must make decisions within certain constraints or run the risk of conflict with the executive or the legislature. The legislature and executive, of course, are equally restrained by constitutional problems as determined by the Supreme Court. The courts are also dependent on the executive branch for the enforcement of their orders. The bureaucrats alter judicial decisions in a variety of ways as they apply, interpret and enforce them.

The judiciary is democratic system has played a major role in the formation of social and economic policies. Much of the law relating to such matters as equal protection of law, properly ownership, corporations, employer-employee relationships and the position of women in society, has been developed and applied by the courts in the shape of common law. Anderson observes, "Not only are the courts getting involved but they are playing a more positive role in policy formation, specifying not only that government can not do but also what it must do to meet legal or constitutional obligations". 23

Although the courts in such other Countries as Australia, Canada, Japan and West Germany have some power of judicial review, their impact on policy has been much less than the Supreme Court of the United States. This is because the American Supreme Court and the High Courts has formal authority in many areas not usual in other countries. In India also on the issue of fundamental rights, public interest cases and pollution etc. the Supreme Court has given important directions to the policy makers.
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3. Ibid.


15. A Deputy Minister is never in-charge of a Ministry.


17. Example of appointment of Chief Justice in India.


23. Vacancies of Judges in the Supreme Court of India as on December 1991.