Our discussion in the preceding chapter will remain incomplete unless an assessment of the impact of the following provisions on Union State Relations is made. They are -

(i) Role of Governor on Union State Relations.
(ii) Deployment of para military forces by the Union in States.
(iii) Impact of mass media vis. Radio and Television.
(iv) Impact of Language.

The constitutional provisions relating to these may sound wise and they may indicate the farsightedness of the constitution makers but in the practical working they have become an eye sore of the autonomists.

ROLE OF GOVERNOR

The institution of Governor plays an important part in the Union State Relations in our country. On the
On hand the Governor is a representative of the Central Government, on the other, he is the constitutional head of the State Government. In the later capacity he should normally play the same role as the president at the centre; as a representative of the centre he should act as transmission belt and ideally, should be a balancing wheel and contribute to harmony between the State and the Union. Unfortunately since they are appointees of the centre and often enough aging politicians who have been reduced to non-entities or bureaucrats picked up because of their conformist attitude, at crucial times, they have tended to act as mere survivors of the ruling party at the centre, both during the congress and the short lived Janata regimes. In one sense Governors are constitutional redundancies and ceremonial figure heads ¹ although ideally they should be cementing functionaries and head of the State and customary in the Cabinet System.²

In its memorandum the provincial constitution committee suggested that the Governor should be elected directly by the people on the basis of adult suffrage. The

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2. Ibid. p. 21.
drafting committee, made two alternative proposals—one for popularly elected Governor and the other for Governor appointed by the President from a panel of four names elected by the State Legislature. It was ultimately decided to abandon the idea of an elected Governor in favour of an appointed Governor. An important reason why the makers of our constitution preferred "appointed Governor" to 'elected Governor' was their anxiety to strengthen the hands of the central Government which was considered essential for maintaining national unity and containing fissiparous or separatist tendencies. At the same time the clear intent of the framers of the constitution was that their appointments should be made in consultation with and with consent of State’s Chief Minister, they should be persons of high calibre and stature, there must be security of tenure for them, and they should freely discharge their functions without any dictation or instruction from the Centre in regard to the appointment of Chief Minister or dissolution of legislature. A well established convention which have grown up in the appointment of Governor is that prior to the appointment the Central Government should consult the provincial Government. Mr. Alladi Krishnaswami Ayyar observed: "In the normal working of the constitution I have no doubt that convention will grow up, of the Government of India consulting the provincial cabinet, in the election of the Governor..........."
Such a convention has grown up in the appointment of Governors in Canada. In Australia too, though under a different constitution, a similar convention has grown up and the Governor of a State is appointed on the advice of the provincial cabinet. Like wise Mr. Jawaharlal Nehru also expressed the view that the Governor must be acceptable to the Government of the province. Though the Chief Minister of a State has no right of veto in the appointment of a Governor to that State, as a matter of political expediency and for co-operation his view ought to be obtained in advance. But the doubt of prof. K.T. Sah that 'it is doubtful that such convention is unlikely to grow in India' came to be true particularly after the forth General election in 1947 when non-congress coalition Governments came into existence in a number of States. By way of example the appointment of Governor in West Bengal can be cited. The first West Bengal Government (i.e. United Front) suggested the name of Mr. G.S. Pathak, a former law Minister and Mr. Mityananda

4. Ibid. p. 455.
5. Ibid. p. 471.
Kanungo, the then Governor of Gujrat, for appointment as the Governor of West Bengal after the retirement of Miss Padmaja Naidu. But the Central Government, ignoring the sentiment of the State Government, appointed Mr. Dharam Vira, the then Governor of Punjab and Haryana, as Governor of West Bengal. The State alleged that the centre did not consult the State Government in appointing the Governor in West Bengal. The writing of Mr. Dharam Vira that he was so appointed on the purely personal choice of the Prime Minister clearly proves the contention of the State Government.

Again the suggestion of Rao-Birendra Singh, the erst-while Chief Minister of Haryana (now Minister in the Centre) that the Central Government should discuss with him the penal of names for Governorship was turned down and the Central Government suggested only one name to him for appointment as the Governor of Haryana, and not a penal of

names. The Central Government, however, accepted the demand of the Chief Minister that a politician should not be sent as Governor of Haryana and consequently Mr. B.N. Chakravarty, a former Commonwealth Secretary and permanent representative of India to the United Nations, was appointed as Governor. True, as the constitutional provisions stands, that no one can challenge the right of the Central Government to appoint a Governor, but to inspire the confidence of the State such consultation is always desirable.

The appointment of Governor became a matter of serious controversy when the name of Mr. Mityananda Kanungo was announced as Governor of Bihar. The Chief Minister of Bihar suggested the extension by another term of service of the then Governor Mr. A.M. Iyengar which was not accepted by the Central Government in spite of clear rejection of Mr. Kanungo's name by the Bihar Cabinet. The Prime Minister and the Home Minister had a consultation with the Chief Minister of Bihar regarding the appointment of the new Governor.
Governor. When the centre decided to appoint Mr. Kanungo as Bihar's Governor, the Bihar Cabinet adopted a unanimous resolution that either Mr. Iyengar be given another term of five years or his present term be extended by one year. The Chief Minister observed that Mr. Kanungo should not accept the assignment in view of the State Cabinet's attitude. Moreover, the Bihar Government expressed its strong disapproval through a telegram to the Union Home Minister. Despite all these developments, there was no change of arrogant attitude by the Union Government that led to strained relations between the Union and Bihar Government. The Union Home Minister said in the Lok Sabha that according to the well-settled convention, the Chief Minister should be consulted. But he could not be given the right to veto in the appointment of the Governor. But what is the utility of a mere consultation if it does not yield some positive result? After all, consultation should not be 'a mere formality for the sake of consultation'. It should be something much more significant and real. The process of consultation 'must be genuine'.

14. Ibid.
Similar situations arose in 1969 and in the recent past in the West Bengal also. In 1969 the Chief Minister and Deputy C.M. of the Second U.F. Government of West Bengal jointly proposed two names to the Union Government for the governorship of the State. But the Union Government without giving heed to it appointed Mr. S.S. Dhawan, the then Indian High Commissioner in London. The Chief Minister was reported to have informed the Prime Minister that the non-acceptance of the State Government's proposal was resented and that Mr. Dhawan's appointment would be 'your choice and responsibility. We cannot make any comment either way.'

It also appears that at the time of the appointment of Mr. B.D. Pande as the Governor of West Bengal in 1961 the State Chief Minister was not consulted.

Thus, controversy arose as to the extent to which the Chief Minister should be consulted in appointing a Governor by the Union Government, 'the genuine consultation' as suggested by Mr. Nath Pai, in the Lok Sabha is also not clear. At the time of the appointment of Mr. S.S. Dhawan as the Governor of West Bengal in 1969, Mr. Jyoti Basu,

16. Supra.
the then Deputy Chief Minister of West Bengal observed that had the new Governor been chosen out of the panel proposed by the State Government "that would have meant consultation as we meant it". However, it should be noted that the hope of the framers of the constitution expressed in the constituent Assembly that at the time of appointment of a Governor the Union Government should consult the State Chief Minister, does not imply that the Chief Minister has the right of overriding the decision of the Union Government of the proposal of the Union Government is subject to approval or ratification by the State Government, nor does it imply that the President of India is under the obligation of appointing the Governor from a panel of the names submitted by the State Government concerned for this purpose. It should be admitted that in the interest of harmonious relationship between the Union and the States, the view and feeling of the Chief Minister should seriously be considered by the Union Government and it is always desirable to have a unanimous choice of a Governor. To deliberately select as Governor a person who is not acceptable to the Chief Minister would not be a promising start of co-operative federalism. If the State Government develops a feeling,

rightly or wrongly, that the Central Government has intentionally imposed upon it a Governor who is not liked by it will not be possible for the Governor to work, in cordial relationship with the provincial cabinet. So not only in the interest of smooth relationship between the Union Government and the States, but also for sake of cordial relationship between the Governor and the State Cabinet, the opinion of the State Chief Minister (i.e. State Cabinet) should not be taken so lightly by the Union Government. Mr. Asok Kumar Sen raises the question "can or should the president appoint a Governor who is out of tune with the party in power in the States? If he does so, it may create a most undesirable conflict."

It is interesting to note that in all the States, where controversy arose regarding the appointment of the Governor, the Governments were run by a party who are not in power at the Centre at the relevant time. It indicates that the problem was more political than constitutional. The root of the controversy was mutual distrust between the party in power at the Centre and the non-Congress parties running the various provincial Governments. Moreover, the

party in power at the centre may be interested in dislodging a provincial Government of a different political complexion or in keeping it under constant pressure. In this regard pressure may come from the provincial unit of ruling party at the centre. The State of Jammu and Kashmir is an excellent example of such political game when Mr. Farookh Abdullah's Ministry was dislodged and Shah Ministry was installed with the support of congress (I).

It cannot be denied that the role of the Governor, particularly before 1967 election was not looked down upon as a tool in the hands of Union Government in toppling the State Ministry. It was mainly uniparty rule both at the Centre and States. But after the 1967 general election when non-congress parties came to power in some states, the office of the Governor became the matter of serious concern, although the constitutional provisions regarding appointment, removal, powers and functions of the Governor remaining the same since the commencement of the constitution. Of late few adjectives, like play boy in the hands of union, cat's paws of the Union, mere political agent of the ruling party at the centre are added to the office of the Governor and the reason for this is not far to seek.
No doubt the Governor is placed in a helpless position because of the following:

1. he is appointed by the president who (the president) acts according to the aid and advice of the Union Cabinet;
2. he holds office during the pleasure of the president;
3. he has a chance for reappointment for a second term;
4. Governor is to act in accordance with the aid and advice of the Council of Ministers of the State.

Our constitution makers felt that Governor should be a bridge between the union and the States which is enjoined upon his office as much by the discussion in the constituent Assembly as by the written provisions which are found in Art. 355 which expects of him to "ensure that the Government of every State is carried on in accordance with the provisions of this constitution." The Administrative reforms Commission also observed:

20. Art. 74.
21. Art. 136(1)
22. Art. 263.
23. Proviso to Art. 253, added by constitution (Seventh Amendment) Act. 1956. 5-6.
23. Art. 263.
"The Governor functions for most purposes, as a part of the State apparatus, but he is meant, at the same time, to be a link with the centre. This link and his responsibility to the centre, follows out of the constitution mainly because of the provisions that he is appointed and dismissed, by the president .......... The constitution thus specifically provides for a departure from the strict federal principle and it is relevant to observe that this departure is not fortuitous or casual .......... It is clear, therefore, that the constitution makers did not intend the Governor to be only a component in the apparatus of Governance at the State level. They meant him to be an important link with centre".24

In the constituent Assembly also prof. K.T. Shah was of the opinion that the Governor should not be left entirely at the mercy or pleasure of the President. No non-provincial authority from the centre should have the power to say that the Governor should be removable by that authority. So long as he acts in accordance with the advice

of his Ministers, he should be irremovable during his term of office. Similar view was also expressed by Prof. S.L. Saksena. Their apprehensions became a reality now in as much as that he has become a creature of the President, that is to say, the Prime Minister and the party in power at the centre. Example of this is not far to seek when, among other instances, on October 26, 1880, Mr. Prabhudas patwari, the Governor of Tamil Nadu was removed before the expiration of his normal term of five years, because he belonged to the Janata party and he was appointed when the Janata party was in power at the centre.

However, in Kargovind V. Raghukul the Supreme Court of India speaking through Bhagwati, J. said that the office of Governor was not an employment under the Government of India and it did not come within the prohibition of Art. 319(d) of the constitution. Rejecting that Governor is under the control of the Government of India, Justice Bhagwati said:

"Governor's office is not subordinate or subservient to the Government of India. He is not amenable to the directions of the Government of India, nor is he accountable to them for the manner in which he carries out his functions and duties. He is

26. Ibid. p. 473.
an independent constitutional office which is not subject to the control of the Government of India. He is constitutionally the head of the State in whom is vested the executive power of the State and without whose assent there can be no legislation in exercise of the legislative power of the State.28

Beside this judicial pronouncement, Jawaharlal Nehru, among other architects of our constitution, expressed the view that Governors were not political appointees and should not be changed with every new regime, saying "it would be infinitely better if a Governor was not intimately associated with local politics and factions, but was a more detached figure, acceptable to the state, no doubt, but not known to be a part of its party machine.29 In the State of affairs prevailing since 1947 general election it cannot be asserted with firmness that the demand of the office of Governor, if it is to be kept up, that a man of high calibre, independent judgment and esteem in society, not political henchman, unwanted politicians, obliging retired personnel like, is to be appointed as governor, has been conceded to.

The functioning of the office of the Governor in India shows that his holding of office at the pleasure of the President largely determines the limits of his objectivity in assessing the political and non-political developments in the State. But it must be stressed that once a right person, a man of ability with independent judgment having courage to uphold the sanctity of the office of the Governor, without any political biasness is appointed for the office of Governor, much of the constitutional abuses made by the Governor will disappear. But unfortunately, under the present system and practice, Governorships are treated as so many sinecures to be awarded to the Prime Minister's favourites at his or her whims and caprice.

Though through the President of India and, as such governors are expected to function as a mere tools of the party in power at the centre; the choice is made not on the basis of merit and dignity of the office of the Governor but on the basis of loyalty, past services to the leader or the party.

But once the appointment to the office of the Governor is based on his merit, personality and calibre,

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questions like should the Governor have security of tenure, should the doctrine of pleasure of the President? and can he be appointed for a second term? will have no relevance. Because such personalities seldom care for security of tenure. However doubt may still arise about the personality of such person in as much as that even legs of Elephant may slip and boat of honesty may sink, we may add by way of abundant caution that the Governor should be irremovable during the tenure of his office except for his incapacity or proved misbehaviour after due inquiry by the Supreme Court.  

It is stressed again that a right man for the office of the Governor can remove much of the abuse of the constitutional provisions that is happening so far powers and functions of the Governor is concerned. It is alleged that article 356 has been abused by the Governors of some States ignoring the objectives and assurance given by Dr. Ambedkar, and this has been discussed earlier. But if the Governor only acts in accordance with the terms of the provision i.e. by sending report to the President only when there is real failure of constitutional machinery


32. Ante.
in States, there will be no abuse of Art. 356 by the Governor, rather it will save the state from a situation which is not desired by anybody. Discriminate use of Art. 201 also indicate abuse of this power by the Governor, Rajamaneer committee suggested repeal of the provision for presidential assent on ground of such abuse. But much of the abuses or right uses of the Article will depend on the personality of the Governor. But this power may be usefully retained, if its indiscriminate use can be checked by some machinery i.e. by providing mandatory guidelines in the instrument of instructions to the Governor, if not by mere personality of the Governor,


Summerising, it can be said that to uphold the dignity of the office of the Governor so as to enable him to function in accordance with the constitutional provisions keeping in view the objectives of those provisions appointment of a right type of person for the office would be sufficient, but alternatively it can be said that:

Governor should be appointed always in consultation with the State cabinet where political

33. Art. 201 permits the Governor to reserve the State Bill for the consideration of the President, also see ANTE. P.
consideration should be avoided by both the union and State Governments. The other alternative will be to make the appointment in consultation with a high power body specially constituted for the purpose.

The Governor should be rendered ineligible for a second term of any office under the Government. He should not be liable to be removed except for proved misbehaviour or incapacity after an inquiry by a judge of the Supreme Court.

A specific provision should be inserted in the constitution enabling the President to issue instruments of instructions to the Governor which should lay down guidelines indicating the matters in respect of which the Governor should consult the Union Government or in relation to which the union Government could issue directions to him. The instruments of instructions should also specify the principles with reference to which the Governor should act as the head of the State including the occasions for the exercise of the discretionary powers.
B. DEPLOYMENT OF PARA-MILITARY FORCES BY THE UNION IN THE STATES

Another area of profound interest where strong centralising tendency is markedly visible is the "maintenance of public order". Item 1 of list II of the constitution vests in the States the exclusive authority in regard to "public order". The Union cannot claim legally any share in it although in a federalism mutual help between the Union and States are always desirable. For maintaining 'public order' the States have their own police Departments and they utilise their own ordinary police for the maintenance of law and order as laid down in the various State Police Acts. Besides, the ordinary police, there are the reserved police forces which are maintained on para-military lines and which are ordinarily held in reserve for use in emergent situations, in order to limit the use of the Military in aid of the civil power to the greatest possible extent.

At the time of constitution making an unsuccessful attempt was made to transfer 'public order' to the central list. Brajeshwar Prasad, through one amendment sought to give the centre the power for protection of public order. He argued, "There are dangers within and without, and we
cannot depend upon the loyalty of the provincial administration in times of crisis. Centrifugal forces have been the base of our political life since the down of history. I, therefore, urge that public order "should become central subject".34 Ambedkar and others resisted this attempt and the amendment was lost. This indicates that the constitution makers did not envisage any central machinery for the protection of law and order.

About the protection of central property also the constitution makers had no doubt. According to them, it would fall within the constitutionally delimited sphere of the States. Ambedkar's statement on the scope of Art. 257(3) in this connection revealing. He said; "All police, first of all, are in the list II (State list)." Consequently the protection of railway property also lies within the field of State Governments. It was felt that in particular cases the union might desire that the property of the railway should be protected by taking special measures by the State and for that purpose the centre now seeks to be endowed with power to give directions in that behalf.35 It is thus found that the intention of the constitution makers was to vest in the State the exclusive right for

34. C.A.D. Vol-IX. p. 1437
35. Ibid.
the protection of central property in the State and at the same time, to endow the centre with the necessary directive power. The directives are binding upon the State.  

However, the police administration in India does not in practice conform to this basic constitutional scheme. In addition to the existing State Police force, the union has also raised certain para-military organisations such as CRPF, BSF and CISF and has come to play a significant role in essentially State sphere. The use of "such paralled" forces by the union in the States is a typical feature of Indian federalism. The Administrative Reforms Commission had supported such use. In its report it observed:

"The central Reserve Police and Boarder security forces are armed forces raised by the union to meet the needs of the security of the country, both external and internal. In the circumstances, the use of armed police forces of the union in aid of the civil power of a State is perfectly constitutional. It is also clear that such aid can be provided at the request of the State Government or suo moto. The question whether such aid is needed must obviously be a matter of judgment by the centre."  

36. Consequences are laid down in Art. 365.  

The role of the union Government in deploying the central para-military forces in the States have taken various forms such as -

(i) Co-ordination, (ii) development and (ii) police functions. No state has got objections in the first two roles as they have helped the States in a big way both administratively and economically. But the use of these para-military forces in the States maintaining law and order in the States has strained the relations between the Union and the States.

The CRPF which was created by the central Reserve Police Force Act. 1949, there occurred considerable enlargement of CRPF., in course of time, and their deployment throughout India. In 1982 the strength of the CRPF was 66 battalions including 3 special peace keeping battalions now being raised. The BSF. which was created by the Boarder Security Force Act., 1968 has now total strength of 79 battalions

38. After Sixth Finance Commission 50% of the cost of such police force is born by the Union Government and 60% of it is given to the States as grant.

39. See 25(a) of the CRPF Act. 1949 empowers such deployment.


41. Ibid.
which has been increasingly used in all parts of the Country. In addition to its primary duties, it also provided assistance to civil administration in law and order duties in different States. "It has become an agency to suppress civil disturbances there is hardly a major riot to-day that does not see the BSF induced to quell it." The BSF was also raised by the CSIF Act, 1968 and now it is manned by 49600 personnels.

The events in the past show that whenever the one party dominance system is replaced by a competitive multiparty system, there arises certain resistance to the indiscriminate use of para-Military forces. This resistance becomes sharper and more vocal in the States where an important segment of ideology of the Government is directed towards radical mobilisation of regional demands.

The use of para-Military organisations by the Union in the States has in the past evoked resistance and antagonism on the part of the States. For instance, in 1968 the Union Government issued an ordinance to meet the threat of strike by the central employees. It also

issued directions to all States to arrest and prosecute those central employees who would take part in the proposed strike and also deploy CRPF units to meet the situation. However, the leftist Government of Kerala infuriated by centre's despatch of CRPF to Kerala without consultation informed the Central Government that it would maintain law and order, protect central property but not arrest those who were instigating other employees to go on strike. The State Government felt it was within its discretion to decide what action should be taken and how. The Union Government said that it had sent the CRPF to protect only its property, office and installations at the time of proposed strike. A similar situation arose in West Bengal when United Front Government organised a bandh (strike) for a day in April 1969 to protest against the action of the CRPF which fired on a group of workers at the Defence Factory near Calcutta and killed a few of them.

As in late 1960s so to-day the multi-party system has encouraged the growth of controversy on the use and deployment of para-military forces by Union in the State. Constitutionally it appears that the States are right in arguing that the union cannot use para-military forces without the concurrence of the concerned State Government. At the same time, when a plural society like Indias' is undergoing a severe pluralising process and several
particularistic groups are increasingly becoming politically mobilised, how can the centre protect India's integrity and over all national interests unless it can freely deploy its police forces? So, the basic question is: how is it possible to maintain autonomy of the State Governments in regard to public order and at the same time, to retain Union's overriding responsibility in regard to territorial integrity and national cohesion? To answer this question it must be said that autonomy of a State Government must not be for the sake of autonomy only. It must yield some positive result to the common mass. India's common mass have had bitter experience of communal riots, Rasta Roko and the like and no State Government can claim that it succeeded in controlling such riots etc. either because of inadequacy of police forces or partisan attitude of local police or for some other reason. Mass Killing in Assam in 1983, 14(Feb.) in Delhi in 1984 (Nov. Dec.), in Bhiwandi in 1984 and many other examples can be cited where it become possible for the State Government to control the situation only with the help of para-military forces. The Government is for the wellbeing of the people.

It cannot remain as a helpless spectator by upholding its state autonomy while mass killing, arson and looting continue. Because of this the states have shown an increasing tendency in the recent years to draw upon the Union Government's resources of police manpower to deal with law and order problem in the States. Such deployment of para-military forces by the union in the States should be considered by the States as an assistance from the centre to maintain law and order. By way of caution it may be added that the Union Government must not deploy the forces for any purpose other than maintaining territorial integrity and over all national interest but never for the end of political purpose.

C. MASS MEDIA AND THE STATE AUTONOMY: RADIO AND TELEVISION

The Doordarshan and Radio are the important mass media through which the images of the Governments can be dissiminated to the teeming millions residing even at the remotest part of the country. But the facility is available to the central Government only and the states are denied its legitimate, though not legal, share and it is more so in case of the states having political complexion different from that of the centre. The legality of the total central control over the broadcasting rests entirely on the
constitutional provision i.e. entry 31 of list I of the Seventh Schedule. There is no Broadcast or Communication Act to define in detail the operational or administrative relation in this respect between the union and the States. Moreover, there is no policy statement which may put the thing in the right perspective. It is a case of absolute control by the Central Government which is federal and democratic in character and as such accountable, unlike in an authoritarian state, to the people to whom it provides the broadcasting service.

No autonomist nor any state claim that broadcasting should be transferred to the State list. But what is most objectionable to the State is the use of these two media by the Central Government in a way that it irritates the State Governments and causes harm to the political elites of different political ideologies. "During the last three decades in which the Central Government used the media in such a manner that one is bound to feel that the Central Government is the sole owner of cosmic and ether over the whole of India." It is not necessary to quote instances to substantiate this as every one is familiar with them through their radio or televisions or both.

44. Relates to posts and Telegraphs, Telephones, Wireless broadcasting and other like forms of communication.

However, one glaring instance of State's dissatisfaction is that Jammu & Kashmir had raised the question of election broadcast (the National Conference had refused to avail the facility) and wanted a committee to go into it. The centre's reply was that there was no need for a committee. The non-Congress Government of States made the point that they should have a voice in the formulation of the programme and policies concerning their own areas. The crushing reply by the centre was that the constitutional provisions delegated total authority to them (the centre). The centre may consult the States, but it is under no obligation to accept their advice on any matter in any form relating to broadcasting. Such a reply, although constitutionally valid, is never conducive to a federal polity. It can be said that the centre's broadcasting media are totally aligned to the ruling party at the Centre.

In reply to a charge by few opposition members that their speeches in the debate on the white paper on the Panjab issue were blacked out in the 1 P.M. bulletins of AIR and Doordarshan (July 24) ....... Mr. Bhagat, the Information and Broadcasting Minister assured the Lok Sabha...
that AIR and Doordarshan had no intention to blackout speeches made in the House by opposition leaders. 46

There was a time when the Indian political field was dominated by the uniparty rule both at the centre and States and personalities like Gandhi, Nehru and Patel dominated the Indian political scene. In that period the issue of mass media against the States interest was hardly questioned by anybody. But Nehru, Patel and Gandhi is no more and after 1967 general election the Indian political scenario has also changed by ending uniparty rule in some States and moreover 1984 (but 1986 and onward may see again uniparty rule as indicated by 1986 general election) is not 1950. For a harmonious relation between the Union and States, things should have been viewed from this angle although broadcasting certainly should remain as a central subject.

In order to establish better relation between the Union and States it may be suggested that the States should be adequately represented in the communication bodies to review and suggest improvement of the functioning of

radio and Television. An Act may also be passed to regulate the activities of these.

Another solution to this problem has been suggested by A.G. Moorani. According to him if all India Radio and Doordarshan have been able to get away with "murder of news and information" the reason of which lies in the public apathy, indifference of political parties and legal illiteracy, things may improve "Mr. Moorani points to the fundamental rights to equality (Art. 14) and freedom of speech and expression (Art. 19(1)(a) as applicable to broadcasting through radio and Doordarshan. He draws attention to the Supreme Court ruling 'Whatever be its activity, the Government is still the Government and is subject to restraints inherent in its position in a democratic society.'

The Supreme Court's decision in Manaka Gandhi Vs. Union of India further fortifies with it the right to gather information as also to speak and express oneself at home and abroad and to exchange thoughts and ideas with others not only in India but also outside.

47. The Seminar December 1983.
The constitutional powers conferred on the Government cannot be exercised by it arbitrarily or capriciously or in an unprincipled manner. It has to be for public good. Mr. Moorani's conclusion is that misuse of broadcasting is justiciable. He suggests that in such an event the court will not be creating anything novel. They will only be applying the constitutional and administrative law to a Government agency (Broadcasting) which has escaped judicial scrutiny. This solution appears to be the best solution of the problem.

D. IMPACT OF LANGUAGE ON CENTRE-STATE RELATION

Keeping in view the sociological relevance this topic has been chosen for our investigation as the language and religion are two important sentimental and sensitive spots of Indian heterogeneous society by striking even one of which the integrity of the country may be put to danger. And the autonomy of the States which is said to be the hallmark of a federal polity, is not merely confined to legislative and executive process, but is equally inviolable in cultural, social, economic and educational sphere.
The diversity of Indian nation is well reflected in the multiplicity of languages as recorded in the linguistic survey of India. According to this report, the number of languages spoken in that portion of Indian Empire subjected to the survey amounts to 179 and the number of dialects to 544. The decennial censuses records as many as 1,652 languages and dialects in India. The 1971 census report records as many as 3000 languages and dialects in the country. But the problem of heterogeneity of languages is, however, not so great as it appears from the above mentioned census figures. For only a few dozens of them are numerically significant, literally rich, territorially bound and deeply entwined in history. Moreover, out of these languages only 15 languages are recognised as regional languages. But one of the factors for having subnationalisms within the main stream of Indian nationalism is recognition and protection of these regional languages and culture by the constitution of India.

53. Schedule VIII of the constitution.
54. Part. XVII chapter II of the constitution.
55. Art. 29 and 30 of the Constitution.
The members of the constituent Assembly were seiged of the problem as how to evolve a common national life in the midst of diverse languages and culture. To them a common language seemed to be the essential condition of building a national life. For, a common language is a potentially powerful unifying force for a national population. Perhaps "out of this consideration the members of the constituent Assembly adopted Hindi in Devangari script as the official language of the Union as well as the language of inter communication." 56

The constitution of India is designed for a federal polity with multiple languages and cultures. The framers of the constitution being moved by the sentiment of nationalism and overjoyed by independence were enthusiastic enough to have a national language and they articulated the same sentiment in Art. 343 of the constitution.

The arguments that India needs a national language to ensure national integration is fallacious on many counts. Firstly India, unlike other countries, has never had a national language when India become a federation. The analogy of USSR with 18 languages is totally irrelevant

because Russian has been the national language from the time of Peter the Great and Ivan the Terrible. South Africa and Canada are more relevant examples. In the former, Dutch and English are used for all purposes and in the latter English and French with no so-called national language.

The whole concept of Hindi as a national language is ill-conceived with dangerous portents. Fifteen languages have been recognised by the constitution with each language as the cultural heritage of a region or area. Hindi as the written and spoken language in the Hindi belt has never been spoken, written or understood in the non-Hindi areas. It is only a regional language spoken by only about 42% of the Indian population and that too confined in the Hindi Speaking belt. Therefore, any attempt to enforce the national language upon States whose regional languages are not Hindi is bound to create tension between the relations of the Union and the States.

By way of example it can be cited that the constitutional provision that English might be used as link language for a period of fifteen years i.e. till 1965 evoked an angry protest in the south and particularly in Tamil Nadu in 1963. Cultural and administrative dominance of the South by the North was genuinely feared. Even the
national unity was threatened. Ultimately the parliament saved the situation by passing the Official Language Act, 1963 and subsequently the official language (Amendment) Act 1967 by which English was allowed to be continued for all official purposes of the Union and for which it was being used immediately before that day and for the transaction of business of the parliament.

Such an action might have set the controversy at rest, but it must be conceded that it cannot solve the problem for good unless the fear of vitiation of their own language and culture and of the dominance of the State by Union is allayed by some constitutional method. Such fear is one of the reasons which gave rise to regional political parties. The subnationalism advocated by such regional parties seeks to exploit language controversy apart from others.

The supporters of Hindi as national language maintains that if the position of Hindi as provided in the constitution remains, a time may come when every educated Indian will be bilingual and the people of non-Hindi States will be speaking Hindi nearly as fluently as they do their mother tongue. But such hope is belied

by the history of last 34 years of the working of the constitution. Because, according to the census of India 1961 58 only two percent of the total population use Hindi as a subsidiary language.

Indian society is a pluralistic one which extends to the whole gamut of life. The outlook on life and the world, food and dress habits, morals and manners, social traditions and conventions and religious outlook differ from one region or area to another. Cultural development varies from region to region depending upon variety of factors but mainly upon socio-economic conditions and regional autonomy and freedom from dominant power at the centre. If the south is to-day one homogeneous cultural block and the north extending from Jammu to Indo-Gangetic plain another, it is solely on account of the regional autonomy enjoyed by these areas to promote and preserve their culture, art and history. The diversity is so bewildering and heterogeneity so transparent that to foster the kind of unity enjoyed by the people with one language, religion etc. in India is tantamount to chasing a mirage. 59 Neither in the Pre-British period, nor

during the British period India even enjoyed cultural and linguistic unity. The British, without affecting the sentiment of people and their languages and culture overcame the problem of administrative and communication by introducing English among the leading section of the Indian Society. A semblance of unity and administrative cohesion was soon visible for the first time in India. This lesson of history should have been kept in view by the framers of the constitution while providing for a national language. It is a matter of serious concern that what could be achieved by the British with a foreign language, the same could not be achieved by us with a language (i.e. Hindi) which is not foreign to the Indian Soil.

The framers of the constitution should have born in mind that no language or culture can be forced on a section of society unless they accept it voluntarily and by heart. Moreover, it is more important to maintain the national integration than to have a national language for the sake of mere name. These two things should have been remembered by the Constitution makers at the time of enacting Art. 341.
E. CRITICAL APPRAISAL

If India, inspite of long and arduous freedom struggle, upheavals, communal discords and rise of nationalism or subnationalism still presents a coherent and cohesive administrative and political mosaic, it is largely because of the administrative set up by the British and the channels of communication, though on a severely restricted area, opened through the English language.

Therefore, by way of suggestion it can be added that the situation can be saved and the relation between the States and Union can be placed on a new pedestal through an Act of Parliament and necessary amendment to the constitution assuring that no regional language would threaten the development of other languages of the people of India and English may be retained as link language so long as people of non-Hindi speaking belt want it. Because English language is no more guest or mere friend of us but as one of our own.