



**FUTURE OF
PARLIAMENTARY SYSTEM
IN INDIA**



न्यायः मम धर्मः

Paper Contributed by

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FUTURE OF PARLIAMENTARY SYSTEM

**“Traveler, there is no path;
Paths are made by walking.”**

(Quoted by Henry Kissinger from a Spanish poem.)

The view that the western parliamentary democratic system would not suit BHARTIYA conditions was expressed by many great thinkers including Mahatma Gandhi, Aurobindo, C. Rajagopalachari, Manavendra Nath Roy, Sri Guruji, L.N. Jayaprakash Narayan and Acharya Vinoba Bhave. Even while the work of constituent Assembly was in progress, some constitutional pundits had publicly expressed their resentment about some provision of the draft constitution. They include, among others, Dr. Rajendra Prasad, Dr. Sachchidanada Sinha and even Dr. Babasaheb Ambedkar himself. Dr. Babasaheb Ambedkar drafted the constitution almost single-handed. For, as T.T. Krishnamachari admitted on November 5, 1948, Dr. Ambedkar completed the work of drafting single-handed remaining six members of the Drafting committee making no contribution to the allotted task.

Yet it would be unfair to say that the constitution reflects fully the views of Dr. Ambedkar. He himself has publicly stated this fact. He had to accommodate the various views expressed by different members of the Constituent Assembly. Though he skillfully persuaded the Constituent Assembly members to adopt Article 36 to Art. 51 of Part IV of the constitution (Directive Principles of State Policies) which resembled Art. 28 to Art. 40 of Part IV of the draft submitted by him on behalf of the scheduled castes Federation, it become obvious that he did not succeed in incorporating in the constitution what all he wanted to, and whatever was submitted by him to the Constituent Assembly (published later as ‘States and Minorities’).

That is why no one was surprised when subsequently he declared in public meetings that he would not hesitate to burn a constitution drafted by himself if he found out that it had failed to achieve the professed objectives.

According to prof. Srinivasan, in the entire debate on this issue in the Constituent Assembly, one could clearly see the despair and anguish of most of the members, that the basic frame of the constitution hardly reflected the spirit and genius of Indian civilizational experience. Extensive comments of P. Koteswara Rao are already well-known. Evenwhile the constituent Assembly was continuing its work — L.N. Jayaprakash Narayan had challenged the representative character of the constituent Assembly. He observed :

“The present draft constitution seeks to speak in the name of the Indian people. “We, the people of India having solemnly resolved, etc.” are the opening words of the draft constitution. But who can honestly claim that the present constituent Assembly has any right to speak in the name of the Indian people ? It was surely not elected by the people. It represented only 12% of the people”

Alladi Krishnaswamy Ayyar said :

“We are not starting a constitution anew after a revolution. The existing administrative structure which has worked so long cannot be altogether ignored in the new framework.”

In April, 1948, Pt. Jawaharlal Nehru told the Constituent Assembly:

“One has to be careful to the steps one takes so as not to injure the existing structure too much I am not brave and gallant enough to go about destroying any more”.

Cautious but not dynamic, inspite of revolutionary slogans. One is compelled to agree with the following observation of Sri. Nagi Reddy :

“Whatever the outward changes in political control, nothing essential has changed either in our social set-up or in our economic organisation.”

The experience of the last 50 years has proved the soundness of these observations. The present crisis in the political field has brought home to every thinking mind the urgency of reconsidering the whole issue. Generally, people are in a mood to accept “paradigm shift”, - a term introduced by Thomas Kuhn in his “The Structure

of Scientific Revolutions”.

It is interesting to note the reactions of the deep thinkers to the working of the present system.

Firstly, let us go through the following sarcastic remarks made in a lighter vein.

— Doug Larson of the United Feature Syndicate :-

“Democracy is system that gives people a chance to elect rascals of their own choosing.”

— Dr. Puntambekar of BHU :- “In democracy, amature is at the top, premature at the bottom, immature in the middle and the mature out.”

— The ‘Optimist Magazine’ quoted :- “A successful politician is someone who can stand on a fence and make people believe it is a platform.”

—Dong Larson, again :- “Crime must pay or so many politicians would not be seeking re-election.”

Of course, all this in a lighter vein. now see the observations of more serious nature.

According to Sri. Aurobindo in the modern state

“There is no guarantee that this ruling class or ruling body represents the best mind of the nation or its noblest aims or its highest instincts.”

Regarding the politician, he further says, “Great issues often come to him for decision, but he does not deal with them greatly.”

The institution of political party is fast loosing credibility.

Alexander Solzhenitsyn says :

“A society in which political parties are active, never rises in the moral scale in the world to-day, while we doubtfully advance towards dimly glimpsed goal can we not, we wonder, rise above the two-party or multi-party system? Are these no extra-party or strictly ‘non-party’ paths of national development ?”

In the words of Ramsay Muir, “It is the leadership of a party that

gives to the Prime minister his enormous power, it is common membership of a party that gives unity of character and aims to a cabinet, it is the existence of an organised supporting party in the House of commons that enables the cabinet to carry on its work, and (when the party has a majority) endows it with a complete dictatorship over the whole range of government; and this dictatorship is only limited or qualified by the fear of those who wield it lest any grave blunder may weaken the party in the country, and bring downfall in the next election.”

Sri. M. N. Roy came to conclude that party politics was inconsistent with the ideal of democracy and that it was liable to degenerate into power-politics. (Hence his concept of people’s committees as elaborated in his Draft Constitution of Free India.)

Dr. Pitirim A. Sorokin wrote :

“At present, political parties are predominantly militant machines animated by the lust for power and booty. As intermediaries between the voters and the state governments, they have —— the role of agencies for ascertaining the opinions and wishes of the electorate. They have monopolised elections, depriving the citizens of the possibility of freely choosing whom they wish, since there is no possibility of voting for candidates not nominated by the parties. To a considerable extent they have converted the citizenry into a mere instrument for serving the selfish interests of the losses or party ——.”

Nearer home Lok Nayak Jayaprakash Narain observed :

“The party system with the corroding and corrupting struggle for power inherent in it, disturbed me more and more. I saw how parties backed by finance, organisation and the means of propaganda could impose themselves on the people, how people’s rule became in effect party rule, how party rule in turn became the rule of caucus or coterie; how democracy was reduced to mere casting of votes; how even the right of votes was restricted severely by the system of powerful parties setting up their candidates from whom alone, for all practical purposes, the voters had to make their choice; how even this limited

choice was made unreal by the fact the issues posed before the electorate were by and large incomprehensible to it.”

“The party system as I saw it was emaseulating the people. It did not function so as to develop their strength and initiative nor to help them establish their self-rule and to manage their affair themselves. All that the parties were concerned with was to capture power for themselves so as to rule over the people, no doubt, with their consent. The party-system was seeking to reduce the people to position of sheep whose only function of sovereignty would be to choose periodically the shepherds who would look after their welfare. This, to me, did not spell freedom, the ‘swaraj’ for which I had fought for which the people of the country fought.”

✓ Our English educated people generally suffer from mental slavery. They refuse to think for themselves, though, surely they are capable of deep and concentrated thinking and long-range vision. For them, everything in the west is standard, even when westerners themselves are becoming more and more sceptical about soundness of the western paradigm. The myth of universality of European experience is also exploded. Mohmed Kutub, the histoian has rightly remarked.

“ The different stages of economic evolution infer communist, that is, final communist society. When it is dialectical materialism, described as a common phenomenon in the history of the mankind, really it has no existence whatever, outside the European history. These tages were never passed through by any people outside Europe. “

They are gullible enough to believe that if any system appears to be functioning effectively in Great Britain, it must also work with equal efficiency in our country also. They have no patience to study why a person like Winston Churchile said that he had preferred the present system because it was least defective. He did not certify that the British system was an ideal one. And, again, have our intellectuals taken cognisance of the difference between the historical course of events in Great Britain and that in Bharat ?

In our country, Dharma has always been accepted as the supreme authority. Dharma-Danda over the Raja-Danda. In the West, the

✓ very concept of Dharma is unknown to the people. Hence the recognition of political power as the Supreme Authority. Self-expansion and self-perpetuation are the natural tendencies of political power.

C.K. N. Raja in his "Acquitted by History" remarked that " 'Dharma' in ancient Indian jurisprudence cannot be considered a synonym for the Anglican word Law, since the former has a wide connotation and application. However, in the absence of an exact equivalent for the word in English, LAW can be accepted as coming close to Dharma".

✓ But there has been constant, conscious and systematic effort to ensure that no other power-centre should be allowed to emerge in society. Not even the LAW. Machiavelli declared this shamelessly. John Austin asserted that 'law' is only what emanates from the central authority of the State, whether through legislation, or through the law courts; there is neither 'natural law' nor 'custom'. but there are also no limits on the power of the State, no counter vailing powers.

✓ Sir Henry Maine announced in 1861 that the 'historical progress of the law' has been "from status to contract". According to Maine, in modern society there are only individuals. Peter Drucker says that no saying was more profoundly quoted in mid-victorian society than Maine's epigram - "sovereignty" of the monarch was complete."

✓ This situation became intolerable for different section of the population who became progressively self-conscious in course of time. Modern business enterprise, modern corporation, the modern civil service, labour unions, schools-colleges-universities, the whole health-care-system, the third sector non-profit institutions, and autonomous, self-governed social organisations. All these strove to become power-centres. This was the beginning of the peoples' struggle for individual liberty and democracy. In England, the demand for democratic rights was voiced first in the last couple of years of the 12th century. In 1215, Magna C'arta was signed by King John who formed the king's council which was only an advisory body

without any executive powers. The term 'parliament' gained currency in the last phase of the 13th century. But 'parliament' was only a recommendatory body-monarch remaining the supreme authority. It was only after the glorious revolution of 1688 that the supremacy of parliament was decisively established. But at that time hardly four per cent of the population had the right to vote. After the 1832 Reform Act, which was described as 'a long leap towards democracy', only 10 percent of the total population got the right to vote. After a few more Reform Acts all citizens got the voting right with the reservation that male citizens became entitled to this right at the age of 18 and female citizens at the age of 21. It was only in 1928-29 that this disparity was removed, and the process of the adult franchise became complete.

Thus the present democratic rights in England were the outcome of the continuous struggle for more than seven centuries. The natural consequence of such a prolonged struggle was the political education and appropriate moulding of minds. Thus, in that country development of democratic temperament preceded the parliamentary democratic institution.

What was the historical course of events in Bharat?

✓ Our people were accustomed to Hindu way of democratic institutions whose nature was explained by Mahatma Gandhi on many occasions. But the western parliamentary democratic system was alien to them. The british system of elections was introduced here for the first time in 1920. At that time the voting right for the council of states was granted to 17000 (Seventeen thousand) citizens, and for the National Assembly to 9,09,000 (Nine lakh nine thousand) and odd. At that time the total population of the country was 24 crores (240 million).

And just after three decades all the citizens in the country were granted the right to vote. it should be noted that the public education is not as widespread in Bharat as it has been in England.

M.N. Roy used to lay great stress on education of the citizens as the pre-condition for the success of parliamentary system. The

right to participate in the decision making of the state is the essence of any democratic system. Every citizen should be well equipped for this purpose. This presumes widespread public education which would make the state and the Society co-extensive. Was it not a long way, considering the vast population of Bharat? Roy used to reply : "It may be a long way, but if it be the only way, then it is also the shortest one.

The consequence of this difference in the historical courses of events can be easily imagined by all students of personal and social psychology. Again, are our westernised intellectuals aware of the fact that ours is a pluralistic society. This is not the case of British society.

We are told that in Britain parties are ideological. If we go deep into the matter, we will find that by 'ideological' they mean economic ideological parties. The same can be said about other West European countries like Germany, France and Italy. In those countries, the societies are not pluralistic. The main differences lie in the economic field. And therefore the terminology of 'right', 'left' and 'centrist' has come into vogue. In other spheres, there may be differences among the people. But they are not so basic and sharp. Those differences can be resolved outside the jurisdiction of the political party and political power. There are other institutions or arrangements for the resolution of such differences.

But ours is a pluralistic society. U.S.A. is pluralistic. And we find that in U.S.A. the main parties are not economic ideological parties. They cannot be categorised as left, right or centrist. They are just election machineries. And on the eve of an election they just publish their proposed programmes for the next tenure on the basis of which people are called upon to vote.

Now, it is true that as a nation U.S.A. is only a child considering its age in years. We are an ancient nation. Being a new nation, U.S.A. has no long historical past and no inherent unity as is the case with our country. Here there has always been a string of unity in the midst of diversity. In U.S.A. there is diversity without any string of unity. Because of such diversity, various differences arise in

different fields of life, and they do not expect their political parties to resolve all such differences for which different institutional arrangements are made.

In the case of West European countries where societies are not pluralistic, there are no expectations from political parties that they should resolve problems outside the economic sphere. Consequently, the Westminster model of the political party can fulfill the requirements of their nations.

But in our country the differences in all spheres are sharp and basic. Hence the Westminster model cannot effectively deal with the problems that arise and that are expected to be resolved by a political party. So our expectations are much higher than the sphere of usual activity of a political party as understood in Great Britain from where we have borrowed the institutions.

It is therefore necessary to evolve a different institutional framework to fulfill the aspiration of the people to voice different opinions. All such things cannot be accomplished under the umbrella of the political party.

It is not my contention that our intellectuals are incapable of in-depth study of any subject or of evolving a long-range vision. They are quite competent, - in some cases even superior to western scholars. But because of mental slavery they suffer from intellectual inertia. They do not take the trouble of reading between the lines. The absurdity of the conventional 'majority-minority' democracy is not adequately appreciated by our people. It means the rule of 50% over the 49.9 recurring percent. There are incidents when great momentous decisions were taken in equally divided house by the extra one vote only. In 1645, the British Parliament was equally divided on whether or not to elect Oliver Cromwell as the Head of the State, and it was by just one extra vote on his side that he won, and subsequently became Dictator. British Parliament had to decide whether Charles I should be put to death. Again, the House was equally divided and by just extra one vote the historic decision against Charles I was taken, and then implemented. The French Assembly (i.e. parliament)

took the momentous decision of abolishing monarchy in 1875 just by one extra vote; and the decision of beheading Louis XVI was taken just by one extra vote in an equally divided Assembly, i.e. Parliament of France. Similarly, this phenomenon of just one extra vote in an equally divided house played the miracle of electing Jefferson to the White House in 1870 and again electing the U.S.A. President in 1876. After the beginning of the Second World War, the most important decision of dissolving the French Republic was taken similarly by just one extra vote.

It is unfortunate that our scholars of history who are already in the know of all these facts are unable to link them properly so as to arrive at right conclusion.

Before proceeding further let us remember that while Constitution of a country has its own importance in the general scheme of things more important than constitution is the psychology of the people. Dr. Ambedkar has noticed that the democratic set up in Great Britain depended for its safety more on the spirit of constitutional morality among the British people rather than upon the constitution itself. Subsequently, while dealing with the problem of the protection of the rights of the minorities, Dr. Ambedkar said :

“Rights are protected not by law, but by the social and moral conscience of society. If social conscience is such that it is prepared to recognise the rights which law chooses to enact rights will be safe and secure. but if the fundamental rights are opposed by the community, no law, no parliament, no judiciary can guarantee them in the real sense of the word.”

In this context Abraham Lincoln observed :

“With public sentiment, nothing can fail; without it, nothing can succeed, consequently, he who moulds public sentiments goes deeper than he who enacts statutes or pronounces decisions. He makes statutes and decisions possible or impossible to be executed.”

Mr. John Kleinig, an authority on the problem of Human Rights remarked :- “Unless there is love, care and concern for others as individuals, in addition to the recognition of rights, there remains a

moral lack in international relationships Actions motivated simply by the rights of others remain anonymous or impersonal, whereas if motivated by love, care and concern for the other, their focus is on the other's particularity. Only relations of the latter kind are morally adequate. They are person-specific, whereas rights are species - specific"

In the "Principles of Economic Planning: Sri W. Arthur Lewis says : "If the people are on their side nationalistic, conscious of their backwardness and anxious to progress they willingly bear great hardships and to tolerate many mistakes - and they throw themselves with enthusiasm into the job of regenerating their country. Popular enthusiasm is both - lubrication oil of planning and the petrol of economic development; a force that almost makes all things possible."

Reversed Sri. Gururji said, "Our national regeneration should therefore start with the moulding of man."

Historian Will Durant remarked, "After all, when one tries to change institution, without having changed the nature of men, that unchanged nature will soon resurrect those institution."

Thus the real guarantee of successful implementation of any constitution or law lies not in the law of the land or in the institutional framework set up by it, but in the level of consciousness of the common man. This is not meant to underrate the value of the constitution, but first things should come first. We must therefore give highest priority to man -moulding programme, constitution is next in importance.

Dr. Ambedkar had stated in unequivocal terms that "However good a constitution may be it is sure to turn out to be bad because those who are called on to work it happen to be a bad lot. However bad constitution may be it may turn out to be good if those who are called on to work it happen to be a good lot "

WHAT IS DEMOCRACY ?

Democracy has been defined by different thinkers in different terms, though Lincoln's definition has become the most popular. (Government of the people, for the people, by the people.)

✓ Democracy is a way of life. It involves rational empiricism, emphasis on the individual, the instrumental nature of the State, voluntarism, the Law behind the law, nobility of means, discussion and consent, absence of perpetual rule, and basic equality in all human relations.

Dr. Babasaheb Ambedkar had taken great pains to study Democracy. He was an authority on Constitutional Law. But he was not a blind follower of the West. The trend of his mind can be judged from his assertion that he had taken the principles of Liberty, Equality and Fraternity, not from the French Revolution, but "from his Guru, Buddha."

He defined democracy as

a form and a method of Government whereby revolutionary changes in the economic and social life of the people are brought about without blood-shed.

According to him, a democratic way of life could never be conceived without an ideal society.

✓ An ideal society should be mobile, should be full of channels for conveying a change taking place in one part to other parts. In an ideal society, there should be many interests consciously communicated and shared. In other words, there must be social endosmosis.

Political democracy rests on four premises :-

(1) The individual is an end in himself; (2) the individual has certain inalienable rights which must be guaranteed to him by the constitution; (3) the individual shall not be required to relinquish any of his constitutional rights as condition precedent to the receipt of the privilege; (4) the state shall not delegate powers to private persons to govern others.

Democracy is not only a form of government, but is also a form of social organisation. The formal framework of democracy is of little value and would be a misfit if there is no social democracy.

Social democracy involves two things, an attitude of mind, a

feeling of respect and equality towards fellow human beings and a social organisation free from rigid social barriers.

Direct democracy demands direct participation of every individual citizen in the decision - making process of the State. This is not feasible in any vast country with millions of citizens. Therefore, the next best alternative namely the representative form of Government. Under this form though people are governed by representatives elected by them, there is no guarantee that their elected representatives will invariably follow the wishes of their constituents or majority of constituents on every occasion. After elections, in course of time, various issues, not dealt with in the party manifesto, crop up for which they have no mandate from their electorate.

For making the Participation of every citizen in decision - making practicable, it would be necessary for the elected representatives to approach their constituents on every occasion, whenever there is a new bill or resolution, on which vote is to be cast in Parliament, assess the majority view, and vote in Parliament or Assembly accordingly. But that never happens. On the country, after being elected they are to act on the directives of their respective political parties. and there is no guarantee that the party directives will reflect the wishes of the majority of the people in their respective constituencies.

In order to minimise the qualitative difference between direct democracy and the representative form, measures such as right to initiate, right to recall, plebiscite, referendum, etc. have been devised. But they have failed to eliminate the gap. — {

DHARMA :

For every meaningful discussion, an appropriate point of reference is necessary. For our present purpose it must be dharma.

Dharma has been our eternal point of reference. The ever changing socio-economic order in the light of the unchanging, the eternal Universal Laws of Sanatana Dharma, - this has been our modus operandi. The point of reference, the guiding principle is unchanging, all 'Yuganukul' changes, constituting 'Yugadharma' are to be introduced in the light of Sanatana Dharma. Every 'Yugadharma' is

the restatement of 'Sanatana Dharma' Keeping in view the requirements of particular times and climes.

Absorbing completely all the thought currents of the West as well as all indigeneous thought systems, Pt. Deendayalji spelt out 'Integral Humanism' which is the manifestation of Sanatana Dharma in keeping with the requirements of the post-second industrial-revolution period. That has to be the point of reference in the matter of national reconstruction.

Those who have allergy for the term 'Dharma' should note that Pt. Jawaharlal Nehru who criticised, condemned and opposed the concept of 'Dharma' throughout life, came to realise its importance in the last phase of his life. For example, writting a 'Foreword' to a book by Sri Shriman Narayan from the Circuit House of Dehra Dun on May 25, 1964, he wrote.

"In India, it is important for us to profit by modern technical processes and increase our production both in agriculture and industry. But, in doing so, we must not forget that the essential objective to be aimed at is the quality of the individual and the concept of 'Dharma' underlying it."

✓ In his "Talk with Nahru", Norman Cousins explains at length the view of Pandit Nehru on the humanist, scientific and assimilative charecter or Dharma.

On another occasion Pandit Nehru honestly admitted,

"In our efforts to ensure the material prosperity of the country. ~~We~~ We have not paid any attention to the spiritual element in human nature. Therefore, in order to give the individual and the nation a sense of purpose, something to live for, and if necessary to die for, we have to revive some philosophy of life and give a spiritual background to our thinking. We talk of welfare state and of democracy and of socialism, but they hardly convey a clear and unambiguous meaning. Democracy and socialism are means to an end and not an end in itself."

"In considering these economic aspects of our problems we have to keep in view the Vedantic ideals of life-force which is the inner

base of everything that exists."

✓ While welcoming President Eisenhower in Dec. 1959 Pandit Nehru said, "We in India have been conditioned throughout our history in a peculiar way. Our greatest leader of modern times was neither a man of wealth, nor of military power, nor of position, yet the millions of Indians bowed their heads before him and tried to follow his great lead. This is the type of man we honour, and I hope this is the type of man we shall always honour, even in the modern world."

Pt. Deendayal Upadhyaya said :

✓ "Let us understand very clearly that 'Dharma' is not necessarily with the majority or with the people. 'Dharma' is eternal. Therefore, it is not enough to say, while defining democracy, that it is the Government of the people. It has to be a Government for the good of the people. What constitutes the good of the people? It is 'Dharma' alone which can decide. Therefore, a democratic Government ('Jana Rajya') must also be rooted in 'Dharma', i.e. a 'Dharma Rajya'. In the definition of Democracy viz. "Government of the People by the People and for the people, 'of' stands for independence, 'by' stands for democracy and 'for' indicates 'Dharma'.

Therefore, the true democracy is only where there is freedom as well as 'Dharma'. 'Dharma Rajya' encompasses all these concepts."

✓ It is a matter of some satisfaction that Blackstones theory of 'Natural Law' is gaining ground among jurists of the U.S.A. They consider 'Natural Law' more important than the enacted one. If this trend becomes further stronger, their thinking will culminate in their understanding and appreciating our concept of 'Dharma'. *culminate*

CONSTITUTIONS :

In earlier conferences of the A.B. Adhivakta Parishad, there were discussions on some aspects of the constitution-making. Before proceeding further it would be appropriate to state in brief whatever has been said earlier on this topic.

Before we proceed to analyse our Constitution, it would be

advisable to note such features of other Constitutions as can have some bearing on our present effort.

On the subject of Constitutions, there has been no balanced growth of literature. Constitutional Pundits have recognised this fact. Till now political scientists had a tendency to concentrate on the governments of the major countries, the governments of smaller nations being ignored entirely. Primary importance was given to European Governments. In fact, with the rise of nationalism in Africa and Asia and the consequent emergence of new States, developments of far-reaching importance are taking place on every continent. Europe may have been the political pioneer, but non-European countries are now pushing into the world scene and establishing new frontiers of political experimentation. Even when the European influences has been predominant in the setting up of Governments in America, Asia and Africa, local conditions in these areas have forced modification which are often worth examining.

It is extremely difficult to compress into one manageable document the experience of a sufficiently representative number of governments.

For example, the political experience of the Scandinavian countries, and the Latin American countries provide some unique features which have received scant attention in our country.

In writing about comparative governments there has been a disposition to set up an initial pattern and then attempt to fit into it, rather arbitrarily, all governments.

The political experience of Britain has more to offer to students of comparative governments than that of any other country, since it was there that Western democratic institutions had their beginning and various developments occurred which have widely influenced governments elsewhere.

British parliament is the mother of Parliaments whose progeny is to be found in every country governed in the past by Great Britain.

Constitution is a frame of
political society organised through
and by law, that is to say, one in

which law has established permanent institutions with recognised functions and definite rights.

There can be three kinds of law. (1) That bundle of social habits which we call 'customs' untouched by any formal legal procedure; (2) A formal category of laws, not written out in Statute form, but being fully enforced as law in properly constituted law courts; that is the case law known in England as the Common Law; and (3) Written laws called statutes, properly passed through a legislature. Constitution may be written (documentary) or unwritten (non-documentary) or partly written and partly unwritten. There is still no document called the British Constitution.

Internal sovereignty is the supremacy of a person or body of persons in the State over the individuals or associations of individuals within the area of its jurisdiction, and external sovereignty is the absolute independence of one State as a whole with reference to all other States. In Great Britain, the legal sovereign is the Queen in Parliament, the political sovereign is the electorate. The legal sovereign in a federation is the Constitution itself.

States in a federal system are subsidiary sovereign bodies. The essence of a unitary State is that the Sovereignty is undivided. A unitary State implies (1) the supremacy of the central parliament; and (2) the absence of subsidiary sovereign bodies. A unitary state is one in which we find "the habitual exercise of supreme legislative authority by one central power", while a federal State is "a political contrivance intended to reconcile national unity and power with the maintenance of State Rights."

Constitutions of West Germany, Soviet Union, United States, Australia, Switzerland, Canada, Mexico, Brazil, Argentina, Venezuela are the federal type. The Governments of the United Kingdom, France, Norway, Sweden, Japan and most of the Latin American states fall in the unitary category.

In Canada, defined and specific powers are given to the provinces and the residue of the powers are left with the Federal Government.

In the case of Australia, residuary powers vest in the states. The Commonwealth has only enumerated powers. In the case of Australia, the Governors of states are appointed by the Crown without any reference to the Federal Government, and the latter has no power to interfere with the laws passed by the state legislatures. In Canada, the constitutions of the provinces are laid down in the constitution Act, 1981 and Constitution Acts 1867 to 1981 and any change therein requires amendment of the Constitution. In the case of Australia, ever-growing tendency for federal powers to increase at the expense of the states, particularly after the Second World War.

✂ Toss Anderson observes in his Essays :

....invalidating legislation not on its merits but on the ground that it was ultra vires the written constitution. Every national emergency found Australias' hands tied by constitutional manacles resulting in inaction and serious delay and bringing into ridicule the parliamentary system. No sovereign unity could be procured with 7 sovereign Parliaments, each of practically equal status, embracing 13 Houses, with more than 600 members and 70 ministers, with separate overseas representation and separate services.

A clear contrast between the Constitutions of Canada and Australia, as furnished by C.F. Strong in his Modern political constitutions is instructive.

(1) The Australian Constitution defines the powers of the Federal Authority and leaves the reserve of powers to the states, while the Canadian Constitution states the powers of the provinces and leaves the rest to the federal authority; (2) Australia leaves the State

Governors to be appointed without federal interference, whereas Canada gives the appointment of Lieutenant-Governors of the provinces to the Government of the Dominion; (3) in Australia the Commonwealth Government has no right to interfere with state legislation, while in Canada the dominion Government has veto on provincial statutes; (4) Australia has a Supreme Court to interpret the constitution, whereas the Supreme Court in Canada enjoys such power to much lesser degree; (5) the Australian Senate is elected in equal numbers from the State, while members of the Canadian Senate are nominated for life by the Dominion Government. In general, then, the Commonwealth of Canada approaches much nearer to the type of State called unitary than does Australia. The federation of Australia resembles that of the United States, far more closely, than does that of Canada.

South Africa is a unitary state, having in some respects the appearance of federal form of political organisation. In practice the federal features are only one semblance.

France is a text book example of a unitary constitution.

The Constitution of the United States is regarded as a touchstone of federal constitution in the world. It clearly demonstrates the three essential characteristics of federalism, i.e., the supremacy of the constitution, the distribution of powers, and the authority of the federal judiciary. A convention at Philadelphia in 1787 drew up the present constitution, which became effective (in 13 states) in 1789. The constitution makes a double division; first it separates the three organs of Government, i.e., legislative, executive and judicial; and makes them independent of each other. Secondly, it divides the powers between the federal and the state authorities in such a manner as to secure to the federating units all the powers not absolutely necessary to the federal authority for the common advantage.

Lincoln fought for the vindication of the principle of union. In recent times, there is progressive strengthening of the federal power.

The United Kingdom gives a role to its Constitution which has no parallel elsewhere. Constitutions have a lesser place in Canada, Norway and Sweden, but here, too, they stand to the fore. In France

and Germany constitutions are not without their importance, but they have never achieved the place which they hold in such countries as the United Kingdom, the United States, and the Scandinavian countries. In Germany, relative lack of experience in democratic form of government may be a reason. In France, there is something in the national character that limits the role of constitution. Japan's national character limits the influence of the constitution below that found in the United Kingdom and the United States. In Latin American countries, the constitutions are less binding as fundamental law. There has never been an adequate understanding of the basic character and purpose of a constitution, though Uruguay has progressed better towards constitutionalism.

It is not uncommon for text books in comparative governments to omit any consideration of the twenty Latin American Governments. No Government seems to be typical of the whole group. All are considered as latin American in character, though the Latin strain seems more noticeable in those countries fronting on the Atlantic, with Brazil basing its language on Portuguese and the other countries deriving their non-Indian languages from Spanish.

It is fair to conclude that constitution in most, if not all, of the Latin American states occupy a place quite different from that noted in the case of the United Kingdom. To an Englishman, the constitution is the very foundation of government as it serves as the fundamental law of the country. In the United States also the constitution is higher law. In the Latin countries of Europe, constitutions may play a significant role, but they cannot restrain the government to the same degree. In many of the Latin American countries they command much less respect. In the more backward Latin American countries, where there is little by way of public opinion, a constitution has been an artificial sort of thing which has been imposed from above as a gesture and has little meaning to the people. It is not uncommon in Latin American Countries for a strong leader to brush aside the constitution at critical moments.

The law of the constitution in Great Britain contains four principal factors. First, there are certain historic documents, sometimes referred

to as landmarks. Some of these are, -the Magna Carta, the Petition of Rights and the Bill of Rights. Second, there are parliamentary statutes extending or restricting powers of the Crown, guaranteeing civil rights, regulating suffrage, creating local governments, proceeding for setting up courts, and administrative machinery. Examples of these are the Habeas Corpus Act of 1679, the Act of Settlement of 1701 (modified by the Abdication Act of 1936), the Reform Acts of 1832, 1867, and 1884, the Municipal Corporation Act of 1835, the Judicature Acts of 1873-76, the Parliament Acts of 1911 and 1949, the Statute of Westminster of 1931, the Ministers of the Crown Act of 1937, Third, there are judicial decisions fixing the meaning and limits of statutes and Charters. Fourth, there are numerous principles and rules of common law. These principles and rules grew up on the basis of usage (sometimes backed by judicial decisions) and have never been enacted by Parliament. They include some of the most fundamental features of the governmental and legal system and are fully accepted and endorsed as law. The prerogative of the crown, for example, rests entirely on common law. The first three are to be found in written form. The rules of the common law, public as well as private, however, have never been systematically reduced to writing, but they are to a large extent to be found in reports, legal opinions, and judicial decisions. Those portions of the constitution which are termed as 'conventions' are not law in the traditions, customs and practices which regulate a large proportion of the actual day-to day activities of even the most important of the public authorities. But they do not appear in statute books or in any statement of law, written or unwritten, because, though elements of the constitution, they are not law.

According to some pundits, even the supreme authority of the electorate is merely a convention, for the courts recognise only the sovereignty of Parliament - the people being the political, but parliament the legal sovereign. United Kingdom is the classic land of conventions. No one can understand the country's government without paying as much attention to customs and usage as to positive rules of law.

In Great Britain, women voted for the first time in December 1918 elections. Prior to Reform Acts of the nineteenth century, the suffrage was extremely limited. The Reforms Acts of 1832-1928 have led the democracy in Great Britain to its present form. In the 1928 Act the traditional property basis was discarded and the principle of universal adult suffrage was adopted.

An amendment to the Municipal Corporations Act of 1869 gave women the ballot in municipal elections. the 1918 Act conferred right to vote in Parliamentary elections to a female british subject 30 years of age, with certain qualifications. The 1928 Act repealed all provisions of law of 1918, that made women less than equal to men. As in Britain, female suffrage, was granted in 1920 in the United States after a long agitation on the part of women. (Curiously enough, the right to vote was granted to female citizens in New Zealand before 104 years).

Among important modern states, there are only two in which no special procedure for constitutional amendment is known. These states are Great Britain and New Zeland. Their constitutions are flexible in the real sense.

Of the white self-governing Dominions under the British Crown, New Zealand alone has a flexible constitution, though the 1956 Electoral Act provides that certain sections of the constitutions may not be repealed except by a 75 percent majority of the House of Representatives or following a referendum.

The length of our constitution runs to approximately twenty times that of the constitution of the United States. Prof. B.R. Sharma, President of the Indian Political Science Association in 1953, in his presidential address had said,

India has chosen to be camp follower of the West and is taking pride in its godless secularism and the paraphernalia of parliamentary democracy ... It is a matter of great sorrow that the new constitution

does not breathe the principles of
truth.....

Though a number of its provisions may be traced to the constitutions of the U.S., France, Ireland, Italy, Germany, Spain, the most important source of material for the Indian Constitution was the Government of India Act, 1935.

Following the example of Ireland and Spain our constitution enumerated certain principles which are basic for the governance of the country. They are called the Directive Principles of State Policy and are included in Part IV. They are not enforceable by the courts.

Like the constitutions of the West German Federal Republic and the Fourth Republic of France, the Indian constitution sets down in detail not only the political but also the economic and social rights of the people.

The Constitution of Irish Republic has a chapter of Fundamental Rights and another on Directive Principles of State Policy. Its Preamble states

In the name of the most Holy Trinity - we the people of the Ireland humbly acknowledging our obligations to our Lord Jesus Christ

The Irish Constitution was submitted in a referendum to the people, and it came into force after their approval. Our constitution was never put to the vote of the people.

The Mauritanian Government has adopted a new law authorising political pluralism after twenty years of single party rule and incorporating a provision to hold a referendum on the drafting of a new constitution. The law, however, forbids political parties to have relations with foreign countries and to obtain foreign aid. it also bans formation of Islamic parties.

To bridge the gulf between direct democracy and representative government, a number of devices e.g. Referendum, Plebiscite, Initiative and Recall are introduced. (Recently, there is a tendency to replace plebiscite by referendum.) Referendum is used in connection with Constitution Amendment in Australia, Denmark, Ireland, France,

Italy, Switzerland, New Zealand and in some of the states of the United States.

Initiative sometimes accompanies Referendum. In Switzerland, we find both, Referendum and Initiative. In the United States, Initiative is not as general as Referendum. Recall has recently been incorporated in certain States of the United States. As in the case of Referendum and Initiative, Recall is generally speaking, confined to Western States of the U.S. it is not prevalent elsewhere, though the Swiss arrangement is nearer to this device.

In one respect at least, we can claim to be nearer to the British system. That is regarding the equipment of the Ministers.

Law says: In Government of England :

“A youth must pass an examination in arithmetic before he can hold a second-class clerkship in the Treasury, but a chancellor of the Exchequer may be middle-aged man of the world, who has forgotten what little he ever learnt about figures at Eton or Oxford, and is innocently anxious to know the meaning of “those little dots” when first confronted with Treasury accounts worked out in decimals. A young officer will be refused his promotion to captain’s rank if he cannot show some acquaintance with tactics and military history; but the Minister for War may be a man of peacewho regards all soldiering with dislike, and sedulously abstains from getting to know anything about it.”

There is a general impression in our country that in advanced western countries there was clean administration right from the inception of the democratic system. it has not been so in many important cases. In the United States, there prevailed the 'spoils system'. When a new party came in office, it removed all the employees that were employed by their predecessor including even the ministerial staff and filled their vacancies by those who helped the new party to come to power. The United States, as matter of fact, had no permanent administration worth mentioning for a number of years. Subsequently, they themselves realised that this was not helpful to democracy. They abolished the 'Spoils System'. In England, in order that administration should remain pure, impartial, away from the hubbub of politics, they have made a distinction between what is called 'political officers' and 'civil officers'. The Civil Service is permanent. It serves all the parties duly elected to power from time to time, and carries out the administration without interference from the minister.

It is generally presumed that in the affluent Western countries secularism is a dominating principle. but this assumption is not supported by facts. In the fifth chapter of his book 'Freedom of Conscience in the U.S.S.R.', the learned author A. Barminkov says :

Bourgeois has declared the principles of freedom of soul, the separation of the Church from the State, and of the Church from education; but this has not been put into practice. Having captured power, they (Bourgeois) supported church in their fight against atheism to save religion from atheism. Several capitalist countries, even today, separate church from State and use it as a shield. As atheism grows and different religions grow more intolerant, the church is being

used to secure compromises favorable to the exploiter class. In many capitalistic countries, the church is a real and on occasions a legal organ of the State. The States help the church financially and use the church in the interest of the dominant classes.

In most of the capitalistic countries, the constitution permits a particular religion and forbids the others; this is done to favour the chosen religion. As examples, consider the following; In Denmark, Norway and Sweden, Evengelical Lutherean Church is the State Religion. While in Greece, the state supports Eastern Orthodox Church. In Britain, the Church of England is the official church. In Spain, Roman Catholic is the established religion. Whenever a particular religion is made the State Religion, other religions and sects become secondary. With minor changes, this is what obtains in the present world. In seventeen countries of Middle-East, South-East Asia and Africa, Islam has been legally assigned a special status. In 14 countries of Europe and Latin America, there is express provision to favour Roman Catholic Church. In Twenty two countries, only a member of a recognized church is eligible to become head of State. In Argentina, Liberia and Iran such qualification is necessary for State service. Then what is the significance of the 'freedom of the soul'? With political motivation and support of ruling class in Britain, Protestants attack Irish Catholics, In the same way Protestants were tortured in Catholic Spain. They could not get employment in any State department and were not permitted to teach in school. In State service, they were not promoted to higher posts.

Even though in America there has been a formal declaration of the freedom of the soul and of the separation of the Church from the State, functions in most State institutions are celebrated in accordance with religious traditions. A sessions of American Congress opens with a recitation of Christian prayer. Not only State officials but even the President has to take a religious oath while taking up

their official positions. In the constitutions of forty two states there is a prayer addressed to God. In many countries, the courts do not admit evidence given by atheists. They are not recruited to Government services. According to constitution of Delaware State, it is compulsory for all citizens to attend public prayers. In capitalistic countries, the freedom of the soul is restricted to only the method of worship, but in many countries even this freedom is not available.

The constitution of Norway makes it compulsory that all citizens must educate their children according to the spirit of the Evangelical Lutherean Church. In West Germany, the church runs several schools and other educational institutions. According to Greek Law, the education in primary and secondary schools must conform to Greek nationalism and the ideals of the Greek-Christian culture. In Israel, there is a State committee for religious education and Jehovaism has been give the status of State religion.

WHAT WERE THE FORMS OF GOVERNMENT IN ANCIENT INDIA ?

EXTRACTS FROM – “ELEMENTS OF POLITICAL SCIENCE IN MAHABHARAT” — 9

(Lessons & Warnings)

The Rajdharmas section of the Santiparvan in particular deals with the origin and development of kingship, its drawbacks and virtues along with popular control in it by a council of ministers with proper education and devotion to the cause of the nation. That Danda Neeti formed an important aspect of our Dharmashastra upto the advent of Islam in India is attested by the Dharmasamhitas and nibandha works. It flourished in the regions where native culture prevailed even during the Mohammedan period. The Arthshastra of Kautilya occupies an outstanding position in our ancient political literature. It is supposed to be the work of an Acharya, whose theoretical proficiency very largely contributed to the establishment and guidance of the Great Maurayan Empire. A study of the epics, Puranas, Dharmasastra works and later digests including the Arthasastra and epigraphical records offers invaluable materials for reconstruction of

a connected history of the science of government in India spread over reveal several.

Side by side with constitutional monarchy there existed numerous democratic governments as is attested by the epic, the Arthashastra, the Astadhyayi of Panini and the accounts of Alexandar's historians.

The Vedas, Epics and Puranas had their origin under monarchies. But they praise the virtues of republics and evince sympathy at their weakness. A deep study convinces one about the mutual give and take between the two schools of political thought. We find Sri Krishna, a republican, espousing the cause of the monarchial Pandavas in the Kurukshetra war. Similarly, Mahavira and the Buddha both born and brought up in republics had very close relations with contemporary monarchies.

But a complete picture of the ancient republics cannot be had today due to their gradual disappearance after Mauryan age. Whatever we get, comes through the supporters of monarchy. But it presents a picture of an important aspect of Indian genius. The Vedas and the vedic literature offer peeps in the republican institutions, some of which survived and flourished till the invasion of Alaxander the great. He came across a good number of city states with republican constitution consisting of educated, warlike, rich and proud citizens. They offered stiff resistance to the Macedonians whose historians eulogised their virtues.

The Astadhyay, of Panini mentions republican instutitons called Pugas, Vratas and Sanghas differing from one another mainly in respect of the means of livelihood of citizens. Among the republican states invaded by Alexander, we find unions of caste basis. The unions of Brahmans Kshatriyas Ambasthas and Kudrakas deserve special mention.

The Arthashastra of Kautilya refers to the republics in its seventh Akhikarana in connection with their relation with the princes. According to Kautilya, a republic as an ally can be of much help in respect of military and economic spheres. And a prince anxious of prosperity should, therefore, keep the republics on his own side through pacification (sama) and gratification (dāna). When antagonistic, they

should be subdued by creating dissension (Bheda) and by force (Danda). Kautilya mentions the republic of Kamboja and Saurashtra where people lived on agriculture and warfare. He further mentions the republics of Licchavis, the Vajjikas, the Mallakas, Madrakas, Kukuras and Kurus. The Kukuras and Pancalas seem to be the successors of the two main contending parties destroyed at Kurukshetra. Kautilya's advice to the heads of the republics is that they would be just in their dealings, look after the welfare of the citizens, popular, benevolent, self-restrained and in constant touch with the citizens and serve to fulfill their aspirations.

The Mahabharata offers highly valuable informations about their republican tenets (XII. 108, Critical Edn.). In a conversation between Bhishma and Yudhishthira both the advantages and disadvantages of the republics have been recounted. Yudhishthira wanted to know from the grand old historian how the Ganas can flourish, remain united, conquer enemies and acquire allies, when they are usually confronted with two great disadvantages: (i) They fall easy victim to internal dissension and (ii) It is very difficult for them to keep the state policies a close secret.

It may be noted here what these disadvantages confront the present-day republics also including our own. Now let us hear what Bhishmadeva has to say on these problems. He says that greed and intolerance among the citizens are the two enemies in the republican society just as those on the part of a prince in a princely state.

Greed and intolerance on the part of one section leads to quarrels. They together bring about financing loss and loss of life on both the sides and consequently the result becomes disastrous on the part of both.

Pacification, gratification and disintegration through espionage, secret planning, use of force and grabbing of property on the part of one section create loss of men and money and raise fear in the other. The perpetual estrangement between them becomes the inevitable result.

Now the different sections of split up Gana of which concord should be the mainstay. When separated from one another through gratification from outside become depressed in mind and fail an easy

prey to the outside enemy through fear.

A discord in a Gana cause its destruction as the enemies find it easy to conquer the sections one after another. Hence mutual concord should be accepted as their aid to prosperity. When the Ganas live in mutual concord, they attain riches through the prowess of their united force. Outside enemies also befriend those in concord.

The wise are eloquent in praise of the Gana of which the citizens respectfully hear one another's views. They attain all round happiness when benefit of mutual deception.

The heads of the Ganas (i.e. the elders) who establish just and equitable conventions according to the scriptures and zealously guard their observance help them to attain all round prosperity.

The ideal democrats should restrain their sons, brothers and other relatives and should ~~at ways~~ impart proper education to them. They should entrust state responsibility to them only when they become fit for the same through moral and general education. This contributes to the prosperity of the Gana.

The Ganas, the citizens of which as a whole are always attention ^g to espionage, secret counsel and in replenishing the public exchequer, attain all-round prosperity.

The Ganas are destined to prosper when they are always attentive in honouring with employment of the people who are wise, valiant, of great prowess and of abiding manliness in the discharge of the public duties.

People who are wealthy, brave, expert warriors and well versed in the scriptures protect the Ganas when they become highly perplexed by serious adversities. Anyone among anger, split, fear, punishment, snatching, imprisonment and murder instantaneously puts a Gana under the control of the enemy. Therefore, the elders should primarily be respected by the people of the republic as the worldly affairs largely depend on them.

Secret counsel and espionage are in charge of the elders and the entire body of citizens have no access to such counsels. As such the elders in a body should decide the warfare of the Gana.

When the Gana is divided and its members are scattered here and here its best interests suffer and disaster follows. When the citizens of a Gana are split up and try to perform the state duties according to personal or group interests, the main duty of the expert democrats should be to curb them immediately.

A quarrel arising in a Gana, when overlooked by the elders, brings about destruction of the clan or state in question.

An internal fear destined to bring about dissidence should be dispelled forthwith. A external fear is of lesser consequence. The former cuts the roots of the Gana in no time.

When sudden appearance of anger, deusion or convetousness which are but natural, blocks usual mutual greetings among citizens, it indicates the ensuing discomfiture.

The citizens are equal to one another in respect of birth and clan. But in respect of diligence, intellect, physical charm and worldly possession every is different from his counterpart.

The enemies try to destroy the Ganas by creating dissensions as well as by bribery. As such concord has been pronounced the safe shelter of the Ganas.

In a separate chapter (XII.82. Crit. Ed.) the Mahabharata reproduces a conversation between Narada and Sri Krishna regarding the actual state of things in the Yadava republic. Sri Krishna, it should be remembered here, was the mainstay of the republic though Akru~~ya~~a, his kinsman and Ugrasena, his maternal grand-father representing the Vrsnis and Bhojas respectively, were its executive authority. Krishna was an ideal democrat. We hear him saying,

I do not like to see any citizen of our state existed with hunger, directly clad and praying for help from others (Harivamsa, Crit Edn. 86.60). He received the highest honour as a statesman from the court of Yudhisthira at their Rajasuya sacrific~~e~~ where Bhishma recounts his virtues that entitled him the honour in question.

This bears much significance as it comes from the patriarch who was an ardent advocate of monarchy. We may incidently refer to Dhrit~~ra~~ashtra advice to Yudhisthira just before the former's retirement

to forest in the Asramavasikaparvan. The king, he say,

should, with his ministers, try his best to smash the Ganas.

This is but the usual attitude of the monarchists towards the Ganas.

In spite of all his virtues and services to the Yadavas Krishna had to face serious difficulties due, mainly, to the enmity between Akrura and Ugrasena. Dejected, Sri Krishna addresses Narada saying that state secrets of utmost significance should not be disposed to one who is not favourably disposed. Even if he is so, he cannot know of it ~~fs~~ he is not learned enough. Again a learned and well disposed citizen also cannot be trusted when he ~~is~~ not self-possessed. My leadership over my few citizens he goes on, is indeed slavery to them. I receive only half of my dues and have got to endure harsh criticism. My kinsmen churn and burn by heart. They vie with one another. They are extremely proud of their personal virtues to the neglect of others. Balarama, Gada and Pradyumna are arrogant on this account or that and I am helpless. Other Yadavas are endowed with prosperity and strength. They are not easily accessible. Their favour makes and disfavour mars anybody. Akrura and Ugrasena are the leaders of the Vrsni-Bhoja confederacy. I do not side with either and each criticism ~~obstacles~~ in my way. There is no misfortune greater than having these two as allies. Again there is no greater misfortune in not having them as such. I, like the other of two gamblers pray for the victory of one and safety from defeat of the other.'

Now Krisna respectfully seeks Narada's advice which may lead himself and his fellow citizens to prosperity. Here Narada's analysis of the problem and the remedy suggested are in agreement with the principles enunciated earlier. The only difference is that he looks at them in a particular context. He says - Dangers to the Gana rule are two fold. The one comes from outside and the other springs from within. The latter also may either be created by oneself or by others. The danger in question, was created by Krisna himself as he himself did not assume the charge of the state after the elimination of Kamsa, the tyrant who eclipsed the republican set-up of the Yadvas.

Narada goes on - 'You earned the power and handed it over to others. They have now spread their roots and the republic is now known to have been ruled by them. They have their respective political allies. You cannot easily take its leadership back. Any attempt for this is fraught with the danger of split. This is particularly so when you yourself became a party to the dispute. Even if the end is achieved after serious exertion, it will mean a huge loss and waste. It may even mean total annihilation.'

The advice of Narada is therefore, 'Use a soft weapon not made of any metal that penetrates the heart alone and removes the crook (read jihmam for jihrvam in the printed text) by constant sharpening. Narada further elucidates - Distribution of good, endurance, simplicity, sweet behaviour and due reception to the worthy on the part of the leader constitute the weapon in question. Through pleasant speech pacify the bitter and unbecoming speeches, hearts and minds of those who want to abuse you.' 'Note but a great soul, nor but a self-possessed man having strong allies can undertake a heavy responsibility just as a highborn ox carries heavy loads on perilous roads. Discord brings about destruction of a sangha. A sangha refuses to accept the leadership of even a learned man if he is not intelligent, tolerant, self-possessed and philanthropic.'

'The elevation of the Gana is praiseworthy and conducive of fame and long life. Hence act in such a way that your own people may flourish. You know all the six expedients of dealing with the external enemy. The Yadavas and their sub-ganas, the Kukuras, Bhojas, Andhakas and Vrsnis-all are sub-servient to you - both the primary senators and the elders.'

We thus get a not too bright picture of the inner working of the Yadava republic during their heyday in Dvarevati. Their military supremacy and the sound democratic conventions receive eloquent praises from Sanjaya, the wise minister of Dharasastra (MBH VII. 144). According to Sanjaya, the Yadavas, do not insult their kinsmen, follow the lead of the elders, do not covet the properties of the Brahmanas, preceptors and kinsmen and help them while in need. They do not despise the strong, always help the weak, are devoted to the

gods, are self-possessed and humble in disposition. It is because of this that the Vrsni confederacy is ever victorious. But in spite of every advantage there were some cancerous growths among the Yadavas that did not allow the republic to survive its leader. The Yadava youths became discourteous to the intelligencetsia. Earlier rivalry persisted in the disguise and assumed a magnitude in spite of Sri Krisna's best efforts to suppress it. Their addition to drinking was proverbial. The climax was reached in a pleasure trip to the Raivataka and the entire Yadava race was killed as a result of an internecine quarrel.

The Mahabharata further mentions the republics of the Yaudheyas, Ksudrakas, Malavas, Vasatis, Sibis, Ambhasthas, Udumbaras, Trigartas, Madras, Kekayas, Prasthalas, Utsava-samketas and the Pancālas. But we know not much about their position except some glimpses of the last one, among which a tyrant Ugrayudha by name usurping all political rights of the people. Bhisma uprooted him and made Pratipa the head of the Pancala republic. This brought about a temporary peace between the Kurus and Pancalas, who were rivals for ages. But this temporary peace evaporated due to the offering of shelter to Drona by Bhisma in the Kaurava court as Drona was an arch enemy of Drupada, son of Pratipa and the then leader of the Pancalas.

The ancient republics in India vanished one after the leaving traces of democracy here and there. They were the victims of violations of the principles of democracy. *Why - internal correctives?*

A PARADIGM SHIFT :

The consideration of the subject on this forum presumes a paradigm shift.

Paradigm shift?

Yes! Certainly.

But of what type, in which direction, towards which destination?

Before proceeding further, it is advisable as a first step, to consider what all was sought to be accomplished by the exercise of the Constituent Assembly, how much of it has been achieved so far, and how much remains still to be achieved. The next step should be to find out

the reasons for the non-performance - to whatever extent it might have been, even after such a long period. For, diagnosis is half the cure.

For this purpose, let us first inquire what was sought to be accomplished. The paper quoted below gives the complete picture of original objectives.

The Questionnaire is quite comprehensive, it covers the whole canvas: On the basis of it the replies to the above mentioned questions can be properly found out.

(The Framing of Indian Constitution - Shiva Rao. Vol. 2)

The Questionnaire Issued by the Constitutional Advisor

March 17, 1947

1. What should be the designation of the Head of the Indian Union?
2. How should he be chosen?
3. What should be his term of office?
4. Should he be eligible for re-election?
5. Should the office rotate among the different communities in turn?
If so, how?
6. Assuming that the Indian Union is to have a President as its Head, should there be Vice-President or Vice-Presidents?
7. What should be the term of office of a Vice-President?
8. What should be the functions of the President?
9. What should be the functions of the Vice-President?
10. Should the President be liable to removal? If so, in what manner?
11. How is a temporary vacancy in the office of the President to be filled?
12. What should be the nature and type of the Union Executive?
Should it be of the British type (Parliamentary) or the American type (mixed) or any other type?
13. If Parliamentary, should there be any special provision to secure a stable Executive?
14. What should be the composition of the Executive? What should be the maximum, if any, of the number of ministers?

15. Should provision be made to secure representation of different communities on the Executives? If so, how,
16. How should joint responsibility or coordination be secured?
17. How should the members of the Executive be chosen?
18. What provisions should be made for the removal of the Executive?
19. What should be the nature of relations between the Head of the Union and the Executive?
20. Should the Union Legislature have a single Chamber or two Chambers?
21. If bicameral, how should the two Houses be constituted?
22. What provisions should be made for the adequate representation of different communities and interests?
23. What should be (a) Composition, (b) franchise, (c) electorate, (d) constituencies, (e) method of election and (f) allocation of seats in respect of the Union Legislature?
24. What should be the term of the Union Legislature?
25. If bicameral, what should be relative powers of the two Houses? What provision should be made to resolved deadlocks?
26. Should there be a separate chain of courts to administer Union Laws?
27. What provisions should be made regarding amendments to the Constitution?

It is for the people to judge whether our leaders have done justice to this questionnaire? And to what extent this omission is responsible for the present miserable plight?

THE PRESENT NATIONAL SCENE :

Such is the sea-change in the political culture after August 15, 1947 that responsibility, the keyword of Parliamentary democracy is as good as banished from the Political lexicon of the ruling class. The new creed appears to be that majority equals moral authority.

Time-honoured, healthy precedents, traditions, conventions and standards have become irrelevant. Things can move only when there

is pressure of violent agitations.

Under the circumstance, no legal protection or social justice can be available to those who cannot organise themselves into violent pressure groups. It is precisely such sections of the wretched of the earth who need such protection and justice most like the Shah Banos, victims of dowry-murders and other atrocities, the unfortunate women forced to become prostitutes, devadasis, women workers, working housewives, the divorces, the eunuchs, the orphans, the innocent children working under callous employers; children kidnaped, maimed and used by professional goonadas for begging, and the children of divorced persons; the Vanavasis deprived of their traditional rights in forest areas, victims of the conspiracy of contractors, conservators and politicians, and displayed on a large scale in the name of developmental projects like dams; the denotified communities or the ex-criminal tribes and all the nomadic and semi-nomadic tribes; the bonded labour; the dalits and the backward classes those affected by natural calamities, such as, floods, fire, droughts, earthquakes, epidemics, etc. or by extraneous factors, such as terrorism, riots, wars, accidents, violence, sabotage etc. Families of military personnel or members of police and other forces killed while discharging their duties; rural artisans, and handicraftsmen millions of illiterate unemployed and underemployed. The educated unemployed, workers retrenched on account of high technology, victims of occupational hazards and occupational law and safety measures, as well as the law relating to cruelty towards animals the homeless and the slum-dwellers. The unsuspecting, illiterate consumers. The destitutes; the disabled; the handicapped; the crippled; the mentally retarded, the juvenile delinquents and the lunatics; the blind the deaf, and the dumb; the beggars and the victims of dreadful diseases. Refugees as distinct from infiltrators. Prisoners who become victims of the lust or the sadism of jail authorities.

✓ The people are losing faith in the leader and the parties whose credibility is at the lowest point. They find no other way out of the present catastrophe except violence, violent revolution. Leaders have no time to explain to such desperate people like Naxalities the logic and the mechanism of violent revolution.

REVOLUTIONS :

The minimum pre-requisite for the launching of a violent revolutionary war has been prescribed by ^{Che} (the) Guevera in the following words:

It must always be kept in mind that there is necessary minimum without which the establishment and consolidation of the first centre (of rebellion) is not practicable. People must see clearly the futility of maintaining a fight for social goals within the framework of civil debate. When the forces of oppression come to maintain themselves in power against established law, peace is considered already broken.

In these conditions, popular discontent manifests itself in more active forms. [An attitude of resistance crystal in an outbreak of fighting, proved initially by the conduct of the authorities.]

Where a government has come into power through some form of popular vote, fraudulent or not, and maintains at least an appearance of constitutional legality, the gurrilla outbreak cannot be promoted, since the possibilities of peaceful struggle have not been exhausted.

People will be prepared to make supreme sacrifice for the revolution only when they are convinced that the situation can be attend drastically, not just by a change in the government but by a complete change in the system itself, what is required is not a change in the government but a change in the system

Have we reached that stage?

THE GLOBAL SCENE :

It is also imperative to know the salient features of the present state of the total global order. Unless 'what ought to be' is rationally related to 'what is', the whole thought process would become only utopian - an exercise in futility.

Obviously, the world in 1997 is drastically different from that in 1997. During any period, the relationships of classes, races, cenders, professions, nations and other human groups alter continually by shifts in population, ecology, ideology and culture. The dawn of the century witnessed the nations and subsequently nations-states, as the basic,

and the more important units or ingredients of mankind. Independence and sovereignty are the natural attributes of the nation-states. International agencies created first by the League of Nations and, subsequently, by the United Nations had marginal impact on the status of nation-states, though it was unfortunate that the confused United Nations could not make any distinction between the 'Nation' concept and the 'State' concept. The impact of voluntary transnational bodies dealing with environment, human rights, civil liberties, tourism, arms control, labour relations, etc., has been comparatively more. But some other forces have been given a shock treatment to the well-entrenched nation-states.

These are :

- * International fundamentalism;
- * transnational terrorism;
- * International monetary bodies, trade regulators and financial corporations capable of transferring operations, funds, pollution and people across the national borders;
- * International 'underground empires' of narcotics or drugs which have come to acquire, in some cases, more wealth, larger armies, more capable intelligence agencies, and more influential diplomatic services in many countries.

These forces are challenging the very concept of 'national sovereignty'. Another challenging development is the vertical organization for the European Community which raises two pertinent questions:

1. Whether the same psychology will not come to dominate other regions, such as, North America, the Slavland, the Arab World, the new Confucian community, the Shinto sphere, etc.? and
2. Whether such vertical regional organizations may not reduce the involved nation-states to the status of provinces by imposing supra-national controls over currency, central banking, educational standards, environment, agriculture and national budgets?

Apart from these threats to the concept of Nation and National Sovereignty, a great calamity is awaiting the fate of these familiar

and sacred concepts and deep theoretical study and skillful practical strategies will have to be evolved to steer clear of all these dangers.

Because in recent years the nature of power itself is being transformed. The accelerated advance of science and technology, lasers, computers, super-computers, memory chips, viruses with which to attack computers or people, robotics, extra-intelligent electronic networks and media for moving knowledge and its precursors - data and information, rising interest in cognitive theory, learning theory, "fuzzy logic", and neuro-biology, continual innovations in science, information technology, art, imagery, business, industry, and in such knowledge-intensive technologies as micro-electronics, advanced materials, optics, artificial intelligence, satellites, telecommunications, advanced simultaneous and software biotechnology, superconductivity, and semi-conductor technology; precision-targeting, brief-case weapons, human bombs, ballistic missiles, nuclear, chemical, and bacteriological weapons; all these flow from the Knowledge Power which has come to occupy the center stage, so that even economics and war science are becoming progressively more and more dependent on this new power.

And, most important of all, a revolution in the 'info-sphere', i.e. the entire knowledge system, is already underway.

Thus, the situation can be handled properly and successfully only by the far-sighted leaders with long-range vision.

NEEDED - FARSIGHTEDNESS :

- ✓ V. What is far-sightedness or long range vision? To cite a few examples: Reverend Sri Gururaj forewarned in 1965 that the tendency of the Government of India to yield before the pressure of foreign powers would ultimately land Bharat into economic slavery. When the Samyukta Maharashtra movement was at its peak, he had courage enough to declare publicly in Bombay that the principle of linguistic states was harmful for the integrity of the country. When most of the like-minded people in Punjab were propagating that all should declare Hindi as their mother-tongue, even persons with Punjabi mother-tongue should declare themselves as Hindi speaking, Sri. Gururaj insisted

in his tour of Punjab as their mother tongue at the time of the census. To-day all can appreciate the wisdom behind such insistence.

In European history, there is one classical example. As early as in 1915, Roberto Michels pronounced. "The Socialists might conquer, but not socialism, which would perish in the moment of its adherents' triumph". Has his prophery not come true after so many decades? Tony Blair is the symbol of the correctness of the prophecy.

This is far-sightedness or long range vision. Every great man in world history was endowed with this faculty.

Dr. Ambedkar, who piloted the Draft in the C.A. exhibited this marvellous faculty on every occasion. But very often his became a cry in the wilderness. To cite a single example, take the case of the most likish problem of the day.

That is, of the minorities

On the problem of minorities, Dr. Ambedkar said in the Constituent Assembly on 4 November, 1948,

"In this country both - the minorities and the majorities - have followed a wrongpath. It is wrong for the majority to deny the existence of minorities, it is equally wrong for the minorities to perpetuate themselves. A solution must be found which will serve a double purpose. It must recognise the existence of the minorities to start with. It must also be such that it will enable minorities and majorities to merge some day into one."

How to achieve this ideal stage? The alternative strategies to achieve this goal were discussed first in the League of Nations after the end of the first world-war. The map of Europe redrawn after the world war created a problem of minority rights. The League of Nations put forth a formula of 'minority treaties'. Sir Austin Chamberlain explained in his speech at the League of Nations on 9 December 1925, Fauchille said:

This is a solution which perhaps is not without certain dangers; for, if equality of treatment of all the inhabitants of a country, is an element of political and social peace, the recognition of rights belonging

to minorities as ~~separate~~ entities, by increasing their own strength, may provoke them to separate themselves from the state of which they form a part, and in view of the right of peoples to dispose off themselves, the recognition of the rights of these minorities runs a risk of leading to the disruption of states.)

These were the two approaches. The disastrous fate of unfortunate Czechoslovakia proves beyond the faintest shadow of doubt, how hollow were Sir Austin Chamberlains' hopes and how justified the apprehensions of Paul Fauchille. Because of political expediency, our politicians have preferred to adopt ostrich-like attitude learning nothing and unlearning nothing. Appropriate pressure of the awakened and enlightened public opinion is to be brought to bear on these power-hungry leaders who are the Chamberlains of modern Bharat.

✓ Nevertheless, on ~~the~~ question also Dr. Ambedkar proved that he was a man with a vision.

Our present politicians are busy proving the soundness of an Old Testament truth.

✓ "People without a vision perish"

✓ **JOURNALISTIC THINKING :**

For arriving at any conclusion on this subject, we should refrain from, what Marx termed as, 'Journalistic Thinking'. This is not a comment on journalism. And the need to acquire up-to-date information on all relevant subject through mass-media is indisputable. But it is also a fact that now-a-days the type of Ramnath Goenka, Sadananda, Frank Moraes or Pothan Joseph is becoming rarer. In pre-independent period, every great leader started his journal to educate the people on problems arising from time to time. Today, for majority of papers, the goal is commercial. There is a keen competition to become comparatively more sensational and entertaining. The former object of education is being replaced by entertainment. Morefore making full use of all journals to keep oneself up-to-date, greater stress should be laid upon basic understanding of all relevant aspects of any topic.

Under the influence of Journalistic thinking, some of our able

thinkers are confining themselves to the consideration of electoral reforms, – French President System, U.S. Presidential System, German List System, - proportional representation, etc. While all this is certainly a part of any comprehensive research on this subject, it would be wrong to presume that human genius cannot go beyond ready-made models. Referring to events of July-Aug. 1979, Seervai observes :

The events of July-August 1979 have revived the cry for a Presidential form of government. If the present condition of parliamentary democracy in India is due to a fall in the standards of character and morality, the same causes would operate even more powerfully in a Presidential system. If we cannot trust a council of Ministry with the Prime Minister at its head, how can we trust a President not responsible to the legislature and irremovable for five years? A discussion of the Presidential system in a Federal Constitution is outside the scope of this book. But the reader may find a discussion in the undernoted Paper not unhelpful.⁵² The following passage from that paper sums up the present writer's view on the Presidential system in a Federal Consitution:

“But does it follow that the Presidential form of government would avoid these disasters and secure a stable government? And how is such form of government to be introduced? In my opinion, the forces which have stultified parliamentary democracy in India would produce an even greater paralysis of government under the presidential system. An independent, irremovable executive can function only so long as the other great departments of the State – the Legislature and the Judiciary – co-operate in running the affairs of the State. But when the principal pre-occupation of political parties at the Centre and in the States appears to be to secure defections from opposing parties at the Centre and in the States appears to be to secure defections from opposing parties, with a view to toppling governments, it would be naive to believe that such co-operation would be forthcoming, and that the legislature would not paralyze the president and force him out of office by refusing to pass necessary legislation and by refusing to

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provide funds for carrying on the affairs of the State. That the presidential system requires co-operation of all the three great departments of the State is best illustrated by the following striking passage from the judgement of Chief Justice Taft in *Ex parte-Grossman*⁵³: 'By affirmative action through the veto power, the Executive and one more than one third of either House may defeat all legislation. One half of the House and two thirds of the Senate may impeach and remove the members of the judiciary. The Executive can reprieve or pardon all offences Negatively, one House of Congress can withhold all appropriations and stop the operations of government. The Senate can hold up all appointments, confirmation of which either the Constitution or a statute requires, and thus deprive the President of the necessary agents with which he is to take care that the laws be faithfully executed The fact is that the Judiciary, quite as much as Congress and the Executive, are dependent on the co-operation of the other two, that government may go on'. (*Seervai - Constitutional Law, 3rd Ed. Vol. 2 P.P. 27*) DD Basu on the same issue observes :

Of late, some people whose voice does count, have been urging that the British Parliamentary system having failed, We should adopt the Presidential System or, more particularly, that system as it obtains in France today. It is evident that unless he is a thorough specialist on the merit and demerits of the British Parliamentary system, of the American Presidential system and of the French system (which is, to a certain extent an amalgam of the British & American systems), a person would not be competent enough to give such advice to the nation or to canvass for such a radical experiment.

It is interesting to find that Mr. Palkhivala, who initiated this school of reform, himself acknowledged the need of a comparative study of the relevant foreign institutions before adopting the proposed reform. to quote his word as reported in the statesman [Calcutta, 25-10-1980, p 7]

" ... if we ultimately decide to have a presidential system, we will have to consider the various forms of the system which are in force in other free democracies, including the U.S.A. France and Sri Lanka.

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Having regards to the experience of those countries and our own peculiar needs we will have to evolve a presidential model of government specially inlred to suit our own requirements."

I would, however, differ from him if his above observation suggests that the decision to replace the presidential system for the existing one will first be made politically to be followed by a study of the foreign institutions only to shape the form of the presidential system to suit our needs; the very decision to adopt the Presidential system should be provided by a close examination of the countries having the Presidential system and of the capabilities of that system to eliminate the vices of the existing system of India, which according to Mr. Palkhivala, are - (i) exclusion from the Cabinet of outstanding talents outside the elected Legislature; (ii) proneness of the party in power to introduce cheap populist measures which are detrimental to the national interest, in the long run; (iii) waste of the public time by Ministers in politicking instead of carrying on the job of the administration; (iv) continuous desertions and defections by politicians and legislators motivated by the personal thirst for power.

One point seems to have been missed by the foregoing summary of Mr. Palkhivala's views, namely, the tendency of a Prime Minister, backed by an overwhelming majority, to be despotic. The question is, whether by reposing all this power in the hands of a President for a fixed tenure instead of a Prime Minister subject to constant responsibility to the Legislature, we would gain anything on this point. Fortunately, Mr. Palkhivala admits that the core of the existing evil lies in the decline in national character. If so, the fault is not with the institutions but with the men who run them. So long as the national character is not elevated by infusing honesty and morality into the participants in the game, we might instal a worse monster in the shape of a 'Leviathan', who would not be removable except through the difficult process of impeachment or the like. I am not to be understand to given my conclusion in the present context. I am merely emphasising that we must consider the issue only after examination the institutional as well as political history, particularly, of France and Srilanka, before taking our jump for a remedy which might be worse than the maledy. (DD Basu - Comparative Constitutional Law, page 102)

It is, therefore, essential for this purpose to acquire working knowledge of ancient Sanskrit literature including Kautilay's Arthashastra, and to study the writings of (L.N) Tilak, Mahatma Gandhi, Aurobindo, M.N. Roy, V.D. Savarkar, S.A. Dange, Jyotiba Phule, Ram Mohan Roy, Dr. Ambedkar, Acharya Javadekar ad, from the west Plato, Aristatle, Machiavelli, John Locke, Voltaire Montesque, Rousseau, John Stuart Mill, Marx, Harald Lasky, Adam Smith, Keynes, Samuelson and Peter Drucker. Also Thomas Paine, Henry Thoro (Turgenev), Dostoievsky, Tolstoy, Probhoun, Bukanin and Prince Kropotskin. (The New Left literature need not be taken cognisance of).

SOCIO ECONOMIC ORDER :

While considering the nature of Constitution, the more relevant question would be what type of socio-economic order we envisage as our destination?

The Western thinking is in direct contrast with the Hindu concept of progress and development.

In his speeches at Thana Meet in 1972, Shri Gururji explained the basic Hindu view on socio-economic problems which can be summarised in brief as follows:

1. The basic needs of life must be available to every citizen.
2. Material wealth is to be acquired, with the object of serving society which is but a manifestation of God, in the best possible ethical manner, and out of all that wealth, only the minimum should be used for our own purpose. Allow yourself only that much which is necessary to keep you in a condition to do service. To claim or to make a personal use of more than that is verify the act of theft against the society.
3. Thus we are only the trustees of the society. It is when we become true trustees that we can serve the society best.
4. Consequently, there must be some ceiling on the individual accumulation, and no person has a right to exploit someone else's labour for personal profit.

5. Vulgar, ostentation and wasteful expenditure is a sin when millions are starving. There must be reasonable restrictions on all consumption 'Consumerism' is not compatible with the spirit of the Hindu Culture.
6. Maximum production and equitable distribution' and restrained consumption should be our motto; national self-reliance, our immediate goal.
7. The problem of unemployment and under-employment must be tackled on war footing.
8. While industrialisation is a must, it need not be the blind imitation of the West. Nature is to be milked and not killed. Ecological factors, balance of nature and the requirements of the future generations should never be lost sight of. There should be an integrated thinking on education, ecology, economics and ethics.
9. Greater stress should be laid on the labour-intensive rather than the capital-intensive industries.
10. Our technologists should be required to introduce, for the benefit of the artisans reasonably adaptable changes in the traditional techniques of production, without incurring the risk of increase in unemployment of workers, wastage of the available managerial and technical skills, and complete decapitalisation of the existing means of production, and to evolve our own indigenous technology with great emphasis on decentralisation of the processes of production with the help of power, making home, instead of factory, the centre of production.
11. It is necessary to reconcile efficiency with employment expansion.
12. Labour is also one form of capital in every industry. The labour of every worker should be evaluated in terms of share, and workers raised to the status of shareholders contributing labour as their share.
13. Consumers' interest is the nearest economic equivalent of national interest. Society is the third, and more important party to all industrial relations. The current Western concept of 'collective bargaining' is not consistent with this view. It should be replaced

by some other terms, such as, 'National Commitment', i.e., the commitment of both, the employers and the employees, to the Nation.

14. The surplus value of labour belongs to the nation.
15. There need not be any rigidity about the patterns of industrial ownership. There are various patterns, such as, private enterprise, state ownership, co-operatives, municipal ownership, self employment, joint ownership (State & Private), democratisation, etc. For each industry the pattern of ownership should be determined in the light of its peculiar characteristics and the total requirements of the national economy.
16. We are free to evolve any variety of socio-economy order, provided it is in keeping with the basic tenets of Dharma.
17. But changes in the superstructure of society will be no use if the mind of every individual citizen is not moulded properly. Indeed, the system works ill or well according to the men who work it.
18. Our view of the relation between individual and society, has always, been, not one of conflict, but of harmony and co-operation, born out of consciousness of a single reality running through all the individuals. The individual is a living limb of the corporate social personality.
19. The Sanskaras of identification with the entire nation constitute, the real, social infra-structure of any socio-economic order.

GENERAL ADAPTABILITY :

What is the secret of the adaptability of the Hindus to ever-new situations?

This has been aptly elaborated by Sri. Gururji in the following words:

"Once the life-stream of unity begins to flow freely in all the veins of our body-politic, the various limbs of our national life will automatically begin to function actively and harmoniously for the welfare of the Nation as a whole. Such a living and growing society

will preserve out of its multitude of old systems and patterns whatever is essential and conducive to its progressive march, throw off those as have outlived their utility, and evolve new systems in their place. No one need shed tears at the passing away of the old order, nor shirk to welcome the new order of things. This is the nature of all living and growing organisms. As a tree grows, old leaves and dry twigs fall off, making a way for fresh growth. The main thing to bear in mind is to see that the spirit of oneness permeates all parts of our social set-up.

Every system or pattern will live or change or even entirely disappear according as it nourishes that spirit or not. Hence, it is useless in the present social context to discuss the future of all such systems, the supreme call of this age is to revive the spirit of inherent unity and the awareness of its life-purpose in our society. All other will take care of themselves.”

Pandit Deendayal Upadhyay representing the Bhartiya thought system, which was not a status-quo-ist, was of the view that old order has to change. His view was:

“But one thing is clear, that many institutions will yield place to new ones. This will adversely affect those who have vested interests in the old institutions. Some others who are by nature averse to change will also suffer by efforts of reconstruction. But diseases must be treated with medicine. Therefore, we shall have to discard the status-quo mentality and usher in a new era. Indeed our effort at reconstruction need not be clouded by prejudice against or disregard for, all that is inherited from our past. On the other hand, there is no need to cling to past institutions and traditions which have outlived their utility.”

FUNCTIONAL REPRESENTATION :

Shri Gurujī insisted upon the inevitability of ‘Functional Representation’. Earlier, Sri Aurobindo had said that in Bharat only the Government of Interests can function properly. In view of the present form of our Constitution Sri Gurujī suggested that the current territorial representation should be supplimented by functional

representation.

The character and composition of Lok Sabha and State Assemblies be changed. The territorial representation should be reduced numerically, each member being required to represent a larger electorate. In industrial sector, workers of each major industry and minor industries or their trade groups be given representation in the Lok Sabha and the State Assemblies respectively. The organised labour and other such sections be given representation on Local Self-Government bodies.

✓ There should be de-limitation of industrial Constituencies of the national, the State and the local levels for this purpose.

On the national level, the number of representatives to be elected by each functional group be directly proportionate to the extent of its contribution to the national income. (See Annexure IV).

(A curious coincidence! Seven months after Sri Guruji's death, Mijalko Todorovic presented the Draft Constitution of the Socialist Federal Republic of Yugoslavia, the special characteristics of which were the autonomous, and mutually cooperative, self-managing communities of interest groups and the warp and woof of the territorial representation and the functional representation. This Draft Constitution was adopted on January 30 and 31 of 1974).

IDEAL ADMINISTRATIVE SET-UP :

Sri Guruji further urged upon leaders of the country to find out the ways and means of ensuring under the present set up, achievement of the ideal of fewer ministries and slimmer civil service. For example, as a suggestion for detailed consideration,

Retaining in the departmental structure only the strictly Governmental functions for which direct ministerial responsibility to Parliament is essential, to convert as many other functions as practicable, whether routine payments, technical or specialist services, trading and economic services, judicial and equity administration or regionalised and localised services into non-Governmental Public Agencies under Commissions, Tribunals or boards to be managed by the Public Administrators and subject to supervision at the highest

level by the Parliament through specially constituted Ministry of Public Agencies, thus achieving the ideal of fewer Departments and slimmer civil service by relieving the Cabinet and bureaucracy of certain departmental functions, such as -

- i) Industrial Relations;
- ii) Health, Education and Youth Services;
- iii) Information, Broadcasting, Tourism;
- iv) Posts, Telegraphs, Civil Aviation, Railways, Shipping and Transport.
- v) Social Welfare, Family Planning, Cooperation and Community Development.

About the items enumerated and the suggestion made Sri Guruji's stand was flexible, not rigid. He, however, wanted that our experts should examine the issue thoroughly - that this should not escape their attention.

He also wanted that the institution of Ombudsman should be set up but that about its composition and functions, appropriate decision should be taken by constitutional pundits after in-depth study of all relevant aspects, and keeping in view the traditions and present peculiar conditions of our Country.

About the suitable form of Government, he had detailed discussion with Pt. Deendayal Upadhyaya who elaborated what was expressed in 'Sutra form' earlier by Sri. Guruji.

Panditji put forth the concept of 'Janapada'. He proposed an integrated form of government which would be unicentral but vested with minimum powers. There would be widest possible decentralisation of power to the lowest units through the 'Janapadas'. This 'Janapada' comprised areas with common local characteristics. For sightedness of Panditji was appreciated recently even by sceptic intellectuals when, after a number of agitations, they came to realise that Telangana, Vidarbha, Uttarkhanda, Jharkhanda, (Vananchala), Bundelkhanda, Gorkha land, Nagaland and Mizoram fulfil the criterion of Panditji's concept of a 'Janapada'.

UNANIMOUS ELECTIONS :

Sri Guruji was firmly of the view that elections to the lowest primary units must be unanimous; unless there is unanimity there should be no elections. For us who are born and brought up in westminister atmosphere this would appear to be fantastic. But it is worth remembering that Muhammad, the Prophet, also recommended this pattern of election on some occasions. Asked what should be the qualification for such unanimous election, he said that he should be elected as Amir who has no desire to become Amir. Acharya Vinoba Bhave was also of the same view, and he adhered to it even in the most critical period of emergency.

RIGHT QUESTIONS :

✧ [Toffler says that right question is more important than right answers to wrong questions.]

Pt. Deendayalji was a Seer - A Drastha. He located and diagnosed the maladies of the humanity. Their solution was his life-mission.

As during his life time so also today the mankind is confronted with a number of basic and baffling problems. For example -

How to reconcile —

- Individual liberty with social discipline;
- Incentive for individual development with urge for equality;
- Economic growth with social justice;
- Basic organic unity with apparent diversities;
- State authority with industrial and civic self-governments;
- System with spontaneity;
- Social order with statelessness;
- Rationalism with consciousness of the office and limitations of Reason;
- Self-restraint with self-unfoldment;
- Specialisation with integrated view;
- Material advance with spiritual elevation;
- National self-reliance with international cooperation.

And, again, How to ensure -

- Liberty without licentiousness;
- Discipline without regimentation;
- Status without privileges;
- Unity without uniformity;
- Stability without stagnation;
- Dynamism without adventurism;
- State authority without Stateism;
- Technological advance without loss of humaneness;
- Material prosperity without crude 'materialism';
- Vertical arrangement of societies without their horizontal division;
- Humanism without homo-centricism.

On national plane too there are a number of urgent and challenging problems. For example -

How to reconcile —

- Expansion of employment opportunities with upto date modern technology;
- Decentralised processes of production with increase in productivity;
- Nationalisation with public accountability;
- Pace of urbanisation with cultural background;
- Micro-planning at lower levels with macro-planning at national level;
- Integration of various natural groups with the preservation of their distinct group characteristics;
- Bhartiya values of life with the modern scientific and technological advance;
- Demands of the modern age with the Sanatana ideals of Dharma.

How to achieve —

- Evolution of the World State enriched by the growth and contribution of different national cultures; and

- Evolution of Manava Dharma enriched by the perfection of all the religions including 'materialism'.

Needless to add that this enumeration is illustrative, not exhaustive. These were the challenges confronting us till 1968. During the intervening period there are many more fresh challenges some of which are threatening the independence and sovereignty of our country. With the present constitutional set-up, institutional framework, legal system, psychological atmosphere and values of life, we cannot face the onslaught of foreign economic imperialism. We have to equip ourselves at the earliest to meet this challenge. For this purpose it is imperative to change the present order and replace it with a new one. Drastic changes in constitution, institutions and public psychology!

Hence the urgency to constitute a new Constituent Assembly.

But before we take this apparently innocent step, many hurdles will have to be crossed.

A common man does not understand the difference between Constituent Assembly and regular Parliament.

DR. BABASAHEB AMBEDKAR EXPLAINED:

The Constituent Assembly in making a Constitution has no partisan motive. Beyond securing a good and workable constitution, it has no axe to grind. In considering the articles of the Constitution, it has not an eye on getting through a particular measure. The future parliament, if it met as a Constituent Assembly, and its members will be acting as partisans seeking to carry amendments to the Constitution to facilitate the passing of party measures which they have failed to get through Parliament by reason of some articles of the Constitution which have acted as an obstacle in their way. Parliament will have an axe to grind while the Constituent Assembly has none. That is the difference between the Constituent Assembly and the future Parliament.

The New Constituent Assembly

According to our tried and tested tradition, who should be eligible to be chosen or appointed as a member of the new constituent assembly.

The criterion for this finds a pride of a place at the inner entrance of our Parliament House:

“अयम् निजो परो वेति
त्रणना लघुचेतसाम्।
उदार चरिताणाम् तु
वसुधैव कुटुम्बकम्॥”

A person without any vested interest. Not a man of likes and dislikes. One who can justifiably say -

“न मे द्वेष्योऽस्ति न प्रियः।”

One who has no wish to occupy any official position. A person with ~~im~~motional intelligence - with a blending of IQ and EQ. One who has no wish to become a leader. One who can approximate to the ideals of Plato's 'Philosopher - King' or Raghuvansh's 'Rajarshi'. A person of moral convictions and ethical values.

Shri M.N. Roy after going 'Beyond Communism' realise in the later phase of his life:

“The crying need of the time is to harmonise ethics with a social philosophy and political practice. The sovereignty of man ... can be deduced only from the fact that man is a moral entity.”

“...until the intellectual, cultural, spiritual atmosphere of the country was changed, it was not possible to bring about a political and economic reconstruction of the country.”

What was his destination? “a Social reconstruction of the world as a commonwealth and fraternity of free men by the cooperative endeavour of spiritually emancipated moral men.”

For whom social discipline is a matter of moral conviction. 12

One who prefers self-discipline as a means to self-development and self-gratification. A person with moral scrupulous, with not only intellectual conviction but with moral and emotional conviction also. For whom ethical values are more precious than economic or political interest. One whose thinking process is not tyrannise by words. One who is above prejudices, biases, partiality, discrimination, injustice, and exploitation. Compassionate towards minors, women, handi-

capped, disabled, lunatics, victims of dreadful diseases, the helpless, the aged, the blind, the crippled, soldiers families, orphans, victims of natural calamities. Neither egotistic nor haughty nor negligent nor arrogant. Never thinking about himself, prepared to lay down his life for the protection of his people and their properties, from the internal as well as the external enemies.

And all this without any expectation, of credit, publicity or public felicitation. Following Dharma not because it is beneficial to do so but because it is the natural duty.

Only such a person is qualified to become a member of the Constituent Assembly.

In our public life do we come across such persons in adequate numbers. If not - why not?

LEADERSHIP: PRESENT AND FUTURE

Recently, there is a growing feeling among the people that the quality of popular leadership is fast deteriorating, that credibility of leader is at the lowest ebb. They are also aware that there is a marked degeneration in the general psychological atmosphere, and that change in the traditional values of life is both - a cause and a result of such degeneration.

In the West, they are recently conducting scientific surveys about the credibility of leadership. In our country, such an attempt would be considered unnecessary, superfluous and even ridiculous.

Leadership is won when people believe that their leader is capable of meeting their needs. In a recent survey, it was asked, "What values (personal traits or characteristics) do you look for and admire in your superiors?" "The most frequent responses, in order of mention, were:

- 1) Integrity (is truthful, is trustworthy, has character, has convictions);
- 2) Competence (is capable, is productive, is efficient); and
- 3) Leadership is inspiring, is decisive, provides direction.

The four leadership characteristics regularly selected as most important have been honesty, competence, forward looking and inspiring.

According to Donald Kennedy, "The essence of leadership is to energetically reflect back to the institution how it best thinks of itself." People need to know how they are, when they are at their best, not at their worst. The leader has a responsibility to help followers, develop a positive image of themselves. A negative image depresses performance.

Leaders are role models. The followers look to them for clues on how they, (i.e. the followers) should behave

यद् यद् आचरति श्रेष्ठः तत् तद्देवतरे जनाः॥

Our people have not taken cognizance of the remarkable fact that changes in our psychological atmosphere and values of life are subsequent, and also consequent, to similar changes in the west. Generally, what westerners think today our English educated intellectuals think day after tomorrow. All due to mental slavery. This mutual relationship has escaped the attention of our Thinkers. They have a vague feeling that leadership in the past was of a higher quality which was generally missing today, but they have not noted the period during which their turning point came, the conditions obtaining in the west during the same - or approximately the same - period and mutual relationship between the two.

Stephen Covey who studied the entire success literature in English thoroughly had made the following observations:

"As my study took me back through 200 years of writing about success, I noticed a startling pattern emerging in the content of the literature. Because of our own pain and because of similar pain I had seen in the lives and relationship of many people I had worked with through the years, I began to feel more and more that much of the success literature of the past 50 years was superficial. It was filled with social image consciousness, techniques and quick fixes - with social band aids and aspirin that addressed acute problems and sometimes even appeared to solve them temporarily, but left the underlying chronic problems untouched to fester and resurface time and again."

"In stark contrast, almost all the literature in the first 150 years

or so focussed on what could be called the 'CHARACTER ETHIC' as the foundation of success - things like integrity, humility, fidelity, temperance, courage, justice, patience, industry, simplicity, modesty and the Golden Rule."

This was followed by the success literature which focussed on what may be called the 'PERSONALITY ETHIC' which is clearly manipulative, even deceptive, encouraging people to use techniques to get other people to like them, or to take interest in the hobbies of others to get out of them what they wanted, or to use the 'power look' or to intimidate their way through life."

In our public life this Personality Ethic is described as 'Image Building'.

Our traditional concept of genuine, ideal leadership is very much akin to that of Character Ethic. You are all very well acquainted with this fact I need not therefore take your time in explaining the same. In brief, the concept was -

“अमानी मानदो मान्यो - लोकस्वामी भिषेकधृत्।” (विष्णु सहस्रनाम)

The leadership of Lord Vishnu was evolved because he did not take any honour or credit to himself, he invariably gave honour and credit for everything to others. This made him popular and such popularity made him the Leader of the People.

We have experienced in the past that with the emergence of such an ideal leadership, evolution of suitable constitutional arrangements, institutional framework and legal system becomes easier, if not exactly automatic.

Superprisingly, the other ancient Asian country i.e. China, had also evolved similar thinking on this problem, in earlier times. They had also studied carefully the problem of effective leadership, and after mature consideration had decided that the process of Image Building was the very anti-thesis of genuine ideal leadership.

See, for example, the following observation of Lao Tze,

“The Sage, wishing to be above the people, must by his words put himself below them, wishing to be before the people, must put himself behind them. In this way, though he has his place above

them, the people do not feel it as an injury. Therefore, all mankind delights to exalt him, and weary not of him. The Sage expects no recognition for what he does, he achieves merit but does not take it to himself, he does not wish to display his worth."

And, again, "the leader's personal state of consciousness creates a climate of openness. Center and ground give the leader stability, flexibility and endurance."

"Because the leader sees clearly, the leader can shed light on others."

"The leader who knows when to listen, when to act, and when to withdraw can work effectively with nearly every one, even with other professionals, group leaders, or the rapists, perhaps the most difficult and sophisticated group members."

"Forget those clever techniques and self improvement programmes, and everyone will be better off."

"They think that their leadership position gives them absolute authority, when actually their behaviour diminishes respect."

"The leader teaches by example rather than by lecturing others, on how they ought to be."

"The leader shows that style is no substitute for substance, that creating an impression is not more potent than acting from one's center."

"Their leadership did not rest on technique or on theatrics, but silence and on their ability to pay attention."

"Insecure leaders try to promote themselves.

Impotent leaders capitalise on their position."

"The wise leader's ability does not rest on techniques or gimmicks or set exercises."

"When leaders become super stars, the teacher out-shines the teaching. Very few super stars are down to earth. Fame breeds fame and before long they get carried away with themselves. Then they fly off-centre and crash."

These are a few examples. But they indicate their line of thinking,

which gave China a Confucius and a Sun Tzu.

To some of you it may appear preposterous and finasfic, but it is a fact that in the west, there has not been till recently the evolution of scientific thinking on the specific topic of the critical evaluation of leadership qualities. The example of a scientific survey on this point in the west is very recent. This particular aspect had escaped their attention till before a decade.

On reading Carl Sandberg's 'Lincoln The War Years' Donald T. Philips, who had read most of the literature on Lincoln, had a desire to know specifically about the leadership quality of this 'Greatest American President.'

"Later, to improve my own managerial skills, I decided to explore this aspect of Abraham Lincoln's life in more detail. I assumed there would be numerous books and articles on his leadership and management style. I was surprised though, to find that the local library had nothing on the subject. When I contacted the Abraham Lincoln Bookshop at Chichago and said that I was looking for a book on a very specific aspect of Lincoln's life, the proprietor informed me that he could supply me with a book on every conceivable subject dealing with our sixteenth President." "What specific subject are you looking for?" asked Dan Weinberg, "Leadership or management philosophy", I replied. "Sorry", said Dan, "no one has yet written a book on that particular aspect of Lincoln"... It was now quite obvious to me that if I were to learn anything about this particular subject, I would have to research it on my own." He further observed,"Curiously, with everything that has been written about Abraham Lincoln, little is known about his extra-ordinary leadership ability. This is perhaps because leadership theory itself is a relatively recent phenomenon. Only in the last ten to fifteen years has the study of leadership been examined closely, and not as part of the "management philosophy of the business world."

Now that this line of research is initiated there, it is sure to be expedited. It is their trait. And though we cannot pre-judge the outcome of such a research, it is certain that it will take them away from personality ethic. Even now Stephen Covey has already remarked that

the leadership based upon personality ethic is necessarily of a secondary type and is found to be not durable.

Since as said earlier, what the westerners think today, our English educated people think day after tomorrow, it can be presumed with some amount of certainty that in course of time this image building process will become unfashionable even in Bharat. Subsequent to such a turning point there will be an emergence of different values of life, different psychological atmosphere, and different style of popular leadership. In the long run, the things are sure to be set up properly but, in the immediate context, our question remains unanswered. Who will be eligible to become members of the new Constituent Assembly?

In the very inaugural convention of our A.B. Adhivakta Parishad, we had dealt with this point.

“The facts stated so far lead us inevitably to the conclusion that fresh thinking is necessary on all legal and constitutional aspects. The law, the legal system, the Constitution, the institutional framework, and above all, the psychology of all those involved in this process - all must be thoroughly changed. It is to be an onward march in the light of the Universal Laws. All this is an important, indispensable, and integral part of the process of national reconstruction. The Destiny has called upon Bharat to give a new lead to the world grouping in the dark after the miserable failure of the western thought-systems. The mankind is clamouring for what is described as the ‘third way’. It is the moral and divine responsibility of Bharat to show the ‘the way’ which would in fact be the ‘only’ way. This necessitates tremendous home-work and equipment. One of the first and indispensable steps in this direction is to convene a new, and competent Constituent Assembly. Who would be qualified to become members of the new Constituent Assembly? Power-hungry politicians? Our first Constituent Assembly was dominated to a great extent by members of this tribe. And we have been experiencing the consequences. Who is morally as well as, intellectually equipped to play this role? More than any other section of the population, it is the lawyers dedicated to the cause of the national reconstruction. They can play a key-role

in preparing the new Weltanschauung. Thus the Akhil Bhartiya Adhivakta Parishad is not merely a body of lawyers set up to protect and promote their professional interests; it is competent and determined to become the nucleus of the Constituent Assembly of the resurgent Bharat."

Of course, this can be termed only as a stop-gap arrangement. I am sure our patriotic Adhivaktas will strive their best, will spare no pains, will hold the fort till the reinforcement arrives. But even if they fight with their backs to the wall till the appropriate time, their efforts would require earliest possible re-enforcement. Because we are entering a war with unprecedented dimensions. The world is moving fast towards 'armageddon' - the scene of a final decisive battle between the forces of the good and the evil.

To ensure ultimate triumph of Dharma over Adharma, let us pray to God, in the words of the poet Josiah Gilbert, Holland:

"God give us men: A time like this demands Strong minds, great hearts, true faith and ready hands; Men whom the lust of office does not kill; Men whom the spoils of office cannot buy; Men who possess opinions and a will; Men who have honour; Men, who will not lie; Men who can stand before a demagogue And damn his treacherous flatteries without winking; Tall men, sun crowned, who live above fog. In public duty and in private thinking."

ANNEXURE I

There is ample modern literature available on this subject. To cite a few examples.

- I. Lord Morrison : 'British Parliamentary Democracy' Asia Publishing House, 1961.
- ✓ II. Palkhivala, N.A. : The Constitution and the Common Man, Bombay, 1971.
- ✓ III. Rajeev Dhawan: The Amendment, conspiracy or Revolution, Delhi, 1978.
- ✓ IV. M.C. Saxena, The Dynamics of Federalism, Amar Prakashan, New Delhi, 1982.

- ✓ V. M.M. Shankhdher, Framework of Indian Politics Gitanjali Publishing Home, 1983.
- VI. T.C. Pocklington, Liberal Democracy in Canada and the U.S.A., 1985, Canada Publication.
- VII. Commission on Centre - State Relations (Sarkarea Commission) Report, Parts I & II; 1988.
- VIII. Gillet, Nicholas: The Swiss Constitution - Can it be exported? Yes Publications, Bristol, 1989.
- IX. Kashyap, Subhash C: History of Parliamentary Democracy Shipra, Delhi, 1991.
- X. The Report of the India International is Committee on Constitution headed by Dr. Karan Singh, 1992.
- ✓ XI. Khan, Rasheeduddin, Federal India - A Design for change, Vikas, New Delhi, 1992.
- ✓ XII. Lijphart Aread (ed) : Parliamentary Vs. Presidential Government, Oup., 1992.
- ✓ XIII. Lok Sabha Secretariat: Seminar on Constitution of India: Precepts and Practice, Papers on Theeme Sessions, New Delhi, 1992.
- XIV. Morris Jones, The Government and Politics of India, 1996, UBS.
- ✓ XV. Bryce: Modern Democracies, 1929.

ANNEXURE II

- ✓ The noted Constitutional Pandit Shri Basu says,
- “Three fourths are based on the Govt. of India Act, of 1935”
- Many of its ideas like the rule of law, Judicial review and responsible government are British.
- Nevertheless, the Constitution differs from the Govt. of India Act, 1935 on the following points:
- The republican form of government.
 - The complete responsibility of the executive to the legislature.

The independence of Parliament from any kind of external control.
The inclusion of the princely states and the provinces within the same constitutional framework and the adoption of the same democratic form of government to both alike.

The definition of citizenship.

The incorporation of the Fundamental Rights of citizens.

The declaration of the Directive Principles of State Policy.

The abolition of separate electorates and the introduction of universal adult suffrage.

The vesting of the residuary powers in the federal government.

The power of the Union Parliament to amend the Constitution excepting some specified provisions, which require, in addition the consent of at least half the legislatures of the States.

ANNEXURE III

The State: Some definitions:

“The State is a community of persons, more or less numerous permanently occupying a definite portion of territory, independent of external control and possessing an organized government to which the great body of inhabitants render habitual obedience.” Garner

“A particular portion of mankind viewed as an organized unit.” (Burgess).

“A territorial society divided into government and subjects, claiming within an allotted physical area a supremacy over other institutions.” (Laski).

“Wherever there can be discovered in any community of men a supreme authority exercising a control over the social actions of individuals and groups of individuals and itself subject to no such regulations then we have a State” (Willoughby).

“What is commonly implied in the current use of the term, ‘State’ is (i) that the aggregate of human beings, thus denoted, is united, if in no other way, by the fact of acknowledging permanent obedience to a common government and governed a corporate life distinguishable from the lives of its members, (ii) that the government exercises

control over a certain portion of the earth's surface, and (iii) that the society has a not inconsiderable number of members, though the number cannot be definitely stated." (Sidgwick).

"A State is numerous assemblage of human beings, generally occupying a certain territory, amongst whom the will of the majority of an ascertainable class of persons is by the strength of such majority or class, made to prevail against any of their numbers who oppose it." (Holland).

"A State is a combination or association of men, in the form of government and governed, on a definite territory, united together into a moral, organized, masculine personality, or, more shortly, the state is the politically organized national person of a definite country." (Bluntschli).

ANNEXURE IV

FUNCTIONAL REPRESENTATION

Difficulties Envisaged

Shri Guruji was aware that introduction of the process would not be easy. To classify the entire population on functional basis for purposes of elections was not so simple. Classification of industries particularly the smaller ones-would present some difficulties. To determine the group of an individual is difficult even when the jobs are static. The problem would become still more complicated because of the mobility of individuals from industry to industry.

According to some thinkers, the principle of functional representation is inconsistent with the principle of national sovereignty and contrary to the object of national integration. The functional representation would, they feel, force citizens to give priority to their sectional interests and ignore over-all national interest. They apprehend that this process "would promote a struggle between different interests and forces, accentuate the feeling of antagonism between them, and undermine the sound doctrine that a man's interest in the welfare of the group, class or profession to which he belongs, should be secondary to his interest in the welfare of the whole society".

Objection Foreseen

Shri Guruji appreciated the validity of this view. He could also foresee that functional representation may be objected to on the ground of impropriety. For example, Laski has said, "Why a function, like that of medicine, for instance, is properly relevant to the purpose of the legislative assembly? There is not a medical view of foreign policy, of the nationalisation of mines, or of free trade".

Integrated Thinking

Shri Guruji was fully alive to the other side of the shield. But he also felt that the democratic decision making processes of the legislature would become lopsided in absence of functional representation. He, therefore, did not lay exclusive emphasis on this principle alone. He stood for interweaving the texture of the functional and the territorial representation.

Dissatisfaction : Its Causes

Dissatisfaction of social thinkers with the system of territorial representation is not a recent phenomenon. In the beginning such thinkers demanded, by way of reform the system of proportional representation. But they soon realised that the latter ensures representation of minorities which are recognised as political parties. It does not give representation to economic, social, professional and other special interests. The need for such interests being represented was progressively felt.

Some Western Thinkers:

MIRABEAU pleaded that a Legislative Assembly should be a mirror of all the interests in society.

SIEYES thought that the great industries should be given special representation in legislature.

DUGUIT advocates that all the great forces of the National life ought to be represented - industry, property, commerce, manufacturing professions, and even science and religion. He stood for the establishment of a duty based society.

GRAHAM WALLAS thinks that while the lower chamber should be elected on the territorial basis, the second chamber should represent

various interests and functional groups.

9. The **WEBBS** stand for a system in which there should be a Political Parliament and a Social Parliament.

PELLOUTIER introduces the idea of non-political, purely economic interests. The task of revolution is to free mankind not only from all authority but also from every institution which is not for its essential purpose, i.e., the development of production. He stands for statlessness. Trade Unions of producers constitute the only authority. In the organisation of unions he wanted to combine vocational with territorial representation.

LAVERGNE pleads for the Parliament elected by strictly professional representation. He considers the Parliament of today to be defective. In the first place, legislators are ignorant of economic and social questions. Secondly, social bodies are not integrated in the State. He stands for professional representation by which he meant (i) the representation of professional interests, either individualistic, or syndicalistic, i.e., associational (ii) the representation of technical skills or professional techniques, and (iii) representation of competences (efficiencies), such as, that of scientific associations, etc. Both the Houses, i.e., the Chamber and the Senate, should be reconstituted, each House to be composed of members, representing half and half, the interests of the individuals as well as of the groups.

The groups would be (1) scientific associations; (2) economic associations; (3) associations of general interests. Thus reconstituted, they would be with territorial as well as professional representation.

MARTIN stands for representation of professional groups in the Councils of the State. All the members of a profession in every region should be organised as units for the purposes of public life. These should constitute the basis for the electoral and constitutional framework.

LAUTAUD and POUDENX also propagate the theory of professional representation. The purely political institutions, according to them, are incapable of solving the economic problems. The idea and fact to multiplicity of corporate groups are to be harmonized with

the idea and fact of the unity of the State. Professional representation is the representation of efficiency, interests and professions.

PAUL BONCOUR envisages economic federalism under which social, regional and corporate groups would reconquer the fullness of their autonomy from the centralised state. This would lead to economic decentralisation. It is the professional groups that are most diverse in their tendencies and vary according to the complexity of economic facts themselves.

BOUGLE pleads for a council of professional interests as aid of Parliament with territorial representation.

SPANN stands for 'community-state' which would give so much of the economic and administrative functions to communities that the central state itself will be left in charge mainly of the idealistic functions, that is, religion, education (not technical which would be taken up by the communities); law (excluding economic), army, etc. Political parties of the present type have no place in his scheme. The members of his state are not individuals but communities in and through which the individuals have their existence. All these communities function as partial wholes, within the framework of a larger whole. They have their own administrations, within the framework of the community-state.

BENOIST wants the professions to be the basis of the electoral constituency. Though the relative quality of different professions should also be taken into consideration, the professions should be broadly allowed representation in proportion to their numerical strength and social importance. He was an enthusiastic advocate of Economic Parliament based upon professional representation.

Guild Socialists :

Believing, as did Leroy Beaulieu, Gierke and Durkheim, in the importance of voluntary, intermediate, functional associations between the State and the individuals, and developing the concept of industrial self-government as propounded by A.J. Penty, S.G. Hobson, and A.R. Organe and Russel, G.D.H. Cole, who is the chief exponent of Guild Socialism lays great stress upon functional democracy. His theory

stands for the combination of the functional and geographical representation reflected in two legislative assemblies, a Political Parliament and an Economic Parliament. The economic sovereignty is to be shared between the Guilds and the State.

Anarchist Kropotkin :

The extreme Leftist theory of anarchism stands for statelessness. Peter Kropotkin, who was the first scientific interpreter of Anarchism which was fathered by Pierre-Joseph-Proudhon and developed by Count Michael Bakunin, envisages the stateless society based upon mutual aid and cooperation of different self organisations of workers, consumers and other interests, which can exist in conformity with the classless society and govern its affairs in lieu of the State and the Government.

Sister Nivedita :

Sister Nivedita, an admirer of Kropotkin and also a disciple of Vivekananda, came to conclude that cooperatives and 'self organisations', such as, the trade unions, the peasants unions, the rate payers associations, railway servants associations, etc., must be given important place in the scheme of the State.

French Syndicalists :

The French Syndicates Congress at Lyons (1919) demanded nationalisation of land and water transport, mines, water, power and credit organisations, and specified the association of producers and consumers as the Authority.

The Economic Legislative Charter :

The principle of functional representation constituted the basis of the Imperial Economic Council established by Bismark. Subsequently, the Weimar Constitution of Germany, 1919, introduced the National Economic Council representing the interests of labour, capital and consumers. The Council was, for certain purposes, almost the economic legislative chamber, though, on practical plane, an ineffective one.

Under Fascism :

In the official programme of the Fascist Party formulated by

Mussolini in consultation with Marinetti, Bianchi, and Rocca, one of the items was "participation of workers" representatives in the technical and organisational management of factories, administration of railways by railwaymen's Union". The Party, however, did not implement this programme after coming to power. Mussolini did introduce the system of occupational representation, but no special significance can be attached to it in view of the totalitarian character of his Government.

In U.S.S.R.

Theoretically, the territorial representation had been replaced in USSR by a system based on the functional representation. It is not the district but a particular interest that is represented. But this is also devoid of any significance on the same ground.

Yugoslav System

While changes are still being introduced in the Yugoslav system, one noteworthy feature of the Yugoslav bicameral legislature, as pointed out in the B.M.S. Labour Policy, is that its one chamber, called the 'Council of Producers', is elected by representatives of Producers. This is at all levels - the commune, the district, and the Republic. The Council of Producers in districts and communes are elected by the members of worker's councils and other self-managing bodies of producers, and the district councils elect the members of the Councils at the Republic level. For the purpose of representation, producers are divided into two groups of industry, commerce and handicrafts, and the group of agriculture. The number of seats for each group at each level is proportionate to its contribution to the national income. This is defended on the ground that man's voice in the fortunes of his community should be proportionate to the value of what he contributes to the national income. Both chambers have equal rights in matters, such as, passing of social plans and of other regulations and decisions concerning national economy as a whole; but certain questions relating to the work of economic units, Government organisations and self-governed institutions are within the separate jurisdiction of the Council of Producers. This is how the social and economic organs of the People are integrated at all levels of the highly decentralised economy.

So far as India is concerned, what would be the form of 'functional representation'? Which organs of the society are to get the right of representation through this system?

Basis For Representation

Though, in ancient India, functional representation meant representation of the four Varnas, the same cannot be reintroduced today for obvious reasons, Shri Guruji thought. No Varna or Caste was in existence today in the true sense of term. He was not apologetic about the scientific character of the Varna system. The so-called 'radicals' condemn the system because they are ignorant of the fact that, in the words of Dr. Mees, "Varnas can never be instituted, simply because they are there all the time. Division between men on this basis can never be made. It is there all the time, and no amount of effort could do away with it". The Varna system cannot be 'established' in the sense in which socialism or communism is sought to be established. The Varna character is ~~their~~ right now, and even the worst critics of the Varna system already belong to one Varna character or the other - inspite of themselves. But the fact remains that the system of the four fold scientific division of society, as envisaged by Hindu seers as well as by Persian - Zarathustrian Sociologists, Plato, Aristotle, Abul Fazal of the "Ain-i-Akbari" fame, or Adam Mueller, the German thinker of the last century, is not in existence anywhere today, and representation on its basis is simply inconceivable.

New Socio-Economic Entities

Regarding castes also Sri Guruji held similar views. With the introduction of changes in the techniques of production, communication, etc. most of the more than 3,000 traditional jobs became obsolete or least remunerative, and new jobs came into being. This resulted in the break-down of the traditional caste-system, though casteism is growing stranger for political reasons, Sri Guruji envisaged emergence of still more and highly skilled jobs as a result of the uninterrupted advance of modern technology, causing ever-increasing inter-occupational mobility. The process of consolidation and organisation of occupational or trade groups must be pursued and the latter given due representation on elective bodies. The role of Trade Unions, Chambers of Commerce, Engineers' Institute, Indian Medical Association, commodity-wise

Consumers' Associations, Technicians' Association, etc., was helpful for this purpose, according to him. But the vast majority of our people, such as peasants, the managerial and technical cadre, self-employed artisans, agricultural and forest labourers etc., is still unorganised. Their occupationwise organisation must be expedited, for successful introduction of the principle of 'functional representation', he thought.

The Texture of Hindu order

The warp of autonomous industrial families from village level upwards, crossed by the woof of regional administration with village panchayat as its base, - thus had been interwoven the texture of Hindu socio-economic order. The similar structure would be beneficial even for the future, though, as in the past so also in future, the old, fossilised, socio-economic organisms must, in the process, be replaced, from time to time, by the newly born living ones.

Consensus for Criteria

He felt that the criteria to determine the proportion of representation to various functional entities should be worked out through the process of joint consultation and consensus. Once the principle of 'Functional Representation' is accepted, it was not too difficult to work out the details, he thought. He himself did not present any blue print of the proposed system because, in the first place, he thought that the time was not yet ripe for the same ^{when} even the principle not being endorsed by the people so far, and, secondly, the very fact of the presentation of a comprehensive scheme by any person or group of persons would vitiate the evolution of the process. In this context, it would be quite relevant to question whether mere numerical strength of any profession should be the basis for determining the extent of representation it should be granted. Or should there be prescribed any qualitative standards also (to cite a single example, Yugoslavia's representation to various groups proportionate to their contribution to the total national wealth). There can be other qualitative standards also. What is important in this respect is not so much the correctness or soundness of the criteria adopted as its approval by the largest number of people.

It is high time that our leaders of thought and action give serious consideration to these views and do the needful without further delay.