

**Workshop on**  
**THE INDIAN PARLIAMENT: A COMPARATIVE PERSPECTIVE**

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**Elections and Representational Legitimacy**

*by*

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## ELECTIONS AND REPRESENTATIONAL LEGITIMACY

### 1. Impressive record

1.1 Among the nations liberated after the Second World War, India has a unique record of successive elections and stable and peaceful democracy. Many countries that emerged as nascent democracies over the past fifty years with high hopes have fast succumbed to authoritarian impulses and army coups. The experiences of our own neighbours – Pakistan and Bangladesh – illustrate the difficulties in running a democracy. Indian democracy has shown refreshing capacity to adapt to conditions and uphold democratic institutions and practices. People have been voting in large numbers, and democracy has broadened its appeal, though it may not have struck deep enough roots. There is wider representation of various castes and social groups in legislatures. By all accounts, the bold experiment of universal adult franchise since the inception of our republic has paid off.

1.2 However, it will be useful to pause and examine the record of post-colonial India in the light of the democratic institutions and practices as commonly understood in contemporary liberal democratic world. *Myron Weiner* has listed four such institutions and practices as follows:

- i) Government leaders are chosen in competitive elections in which there are opposition political parties.
- ii) Political parties – including opponents of government – have the right to openly seek public support. They have access to press, freedom of assembly, freedom of speech and freedom from arbitrary arrest.
- iii) Governments defeated in elections step down; losers are not punished by winners; defeated leaders are not punished unless in the act of governance they have broken the law; their punishment is based on due process.
- iv) Elected governments are not figureheads; they exercise power and make policies and are accountable to the electors – not to the military, the monarchy, the bureaucracy, or an oligarchy.

1.3 Judged by these yardsticks, many countries, while having elections, fail to qualify at varying periods of time as true liberal democracies (Alan Ware). Zambia and Argentina had for sometime competitive elections for public office, but gave unlimited power to elected leaders. In Argentina for some time there was also limited electoral competition with major political forces banned. In apartheid South Africa and white-dominated Rhodesia, while there were regular elections, large sections of people were forcibly prevented from participating in them. In fact, even in the Southern states of the United States, the blacks, while legally permitted to vote, were in practice denied the franchise until the Civil Rights Movement of the 1960s. In countries like Mexico for decades, and in Pakistan and Bangladesh often, there was theoretical electoral competition, but massive state sponsored rigging was practiced. In Turkey, Pakistan, Bangladesh, and Philippines periods of electoral competition are interspersed with authoritarianism. In Algeria and Burma there was electoral competition but the winning parties were prevented from assuming office, and are in fact persecuted. In countries like Iraq some parties exist, with no electoral competition. Erstwhile Soviet Union, and most of the Eastern European countries until their adoption of democracy about a decade ago, had authoritarian communist regimes in which only one party could control government. China continues to be under an authoritarian, one-party rule. Several South East Asian countries too have witnessed limited electoral competition or outright authoritarianism for decades.

1.4 Judged by these standards, as *Myron Weiner* points out, "India is one of a handful of post-colonial countries that could be regarded as having a stable democratic regime. The list is very small and one could quarrel with the inclusion of several of the countries in it: Malaysia, Sri Lanka, Jamaica, Trinidad / Tobago, Papua New Guinea, and a variety of mini-states: Bahamas Islands, Barbados, Botswana, Gambia,

Mauritius and Surinam. In the main, post-colonial regimes have been one-party states, military bureaucracies and dictatorships, communist, or personalized autocracies. The new regimes typically restrict opposition parties, limit freedom of assembly and freedom of the press, do not permit competitive elections, restrain the judiciary from performing an independent role, and limit freedoms of their citizens in a variety of ways – to speak out, to travel abroad, to criticize the regime and to change the government peacefully. In most post-colonial regimes, political participation is restricted and leaders are not held accountable; and, in the worst cases, governments are tyrannical. India, along with a handful of smaller countries, is a notable exception."

## **2. Aberrations**

2.1 However, there have been several aberrations from time to time in our commitment to democratic institutions and practices. The best-known example is the period of "internal emergency" between 1975 and 1977. Civil liberties and habeas corpus were suspended during the period and thousands were incarcerated for no other reason except that they were the opponents of the regime. Elected legislators and leaders of opposition were all detained without charges or trial. Opposition political parties had no access to media. Freedom of press was suspended and press was subjected to pre-censorship. The 42nd Amendment allowed the Parliament to suspend elections and extend its own life indefinitely – one year at a time. In fact, the life of the 5th Lok Sabha was extended thus, and elections were postponed. However, it must be said in favour of Mrs Gandhi, the architect of that emergency, that she did voluntarily call for elections, though after the expiry of the natural term of the Lok Sabha, and lifted the curbs on most freedoms. The elections in 1977 were by and large free and fair, and the transfer of power from the defeated ruling Congress Party to the newly elected Janata Party was peaceful and orderly.

2.2 There have been many other aberrations too. Flawed elections have often reduced the legitimacy of our democracy. Severely flawed electoral rolls, polling irregularities, vote-buying, unaccountable use of money in elections, criminalization of politics and the scourge defections for personal gain have undermined the sanctity of elections. For a long period, the state-owned electronic media have been rigorously controlled by the government of the day. The autocratic and unaccountable control of parties has reduced them to personal estates and private fiefdoms, undermining the political process. The well-intentioned but poorly designed Tenth Schedule of the Constitution has reduced legislators to a status of serfdom. All these undemocratic institutions and practices have severely eroded the legitimacy of governments and legislatures.

2.3 Certain recent trends have been even more disturbing. There is a perceptible and alarming decline in the quality of debate in legislatures. Much of legislative business and reviewing the work of government has become perfunctory. Legislatures have become theatres of the absurd to catch the attention of the media and the public, with little sense of purpose or dignity. Changes of governments, particularly in States, have been often divorced from the people's mandates. Midnight parleys and palace coups, but not public opinion or policy differences, have often led to change of governments. The ouster of NTR's government in Andhra Pradesh and Farooq Abdullah's government in Kashmir in 1984, and the unseating of NTR's government in Andhra Pradesh in 1995 all had nothing to do with people's mandate or policy differences. There were scores of other such changes in governments engineered by palace coups and politics of defection for personal gain. However, it must be stated that all these downfalls of governments were constitutionally and technically valid, even though their democratic legitimacy was questionable. And more importantly, peaceful transfer of power has been the norm. Even after the elections to the 6th Lok Sabha, when the first transfer of power took place in the Union government, the change was peaceful and dignified despite the heat and passion generated by the authoritarianism of the emergency period.

2.4 A more disturbing trend is in evidence in recent times. The brief episode of Jagadambica Pal government in Uttar Pradesh in February 1998 showed that even peaceful and orderly transfer of power

cannot be taken for granted any longer. The television cameras brought to millions of drawing rooms the vivid images of Jagadambica Pal being forcibly evicted literally from the chief minister's official chair by a court directive. The tension, drama, and fisticuffs, which accompanied the formation of the first governments in the newly formed States of Chattisgarh and Jarkhand indicate further erosion of the democratic tradition of peaceful and dignified transfer of power.

2.5 The infamous JMM bribery case of proven acceptance of bribes to extend support to the government on the floor of the Lok Sabha is a telling illustration of this tendency to support or bring down governments for a price. Happily in India, losing politicians are not victimised, jailed or beheaded as is the unfortunate practice in many post-colonial nations, including neighboring Pakistan and Bangladesh. However, public officials are not held accountable either. The system never allowed a government leader to be punished for misdeeds or corruption while in office. The rare instances of charge-sheeting, trial, or conviction have invariably been well after they lost power, and always while their opponents are in power. Launching of prosecution has always been selective, sparing the ruling parties and aimed against a rare opposition politician

2.6 The most important infirmity of the elected governments is in the realm of governance. While elected governments in India are not figureheads, their capacity to really make a difference has proved to be marginal at best. If we play a mind game and assume that all the legislators who have won a general election have actually lost, and instead their immediate rivals won, the reality is that the quality of governance would be virtually unchanged, and the change of government would go totally unnoticed. The only visible difference with change of government is the new set of faces in public office, and the improved fortunes of individuals playing the power game! This woodenness in our governance process means that no matter who wins or loses in the election, the people always end up as losers. The institutional rigidities in our parliamentary democracy have thus ensured that real governance reform, bureaucratic accountability or significant shifts of public expenditure are virtually impossible. The room for maneuvering of any government is extraordinarily limited, and the system is locked in a vicious cycle. The incapacity of the governments to address the deepening fiscal crisis is a case in point. The fights against corruption, the struggle for electoral reform, the measures for speedy and efficient justice, the efforts to decentralize power, and the attempts to enforce bureaucratic accountability have all been stymied by these institutional rigidities and consequent governance failure.

### 3. Key ingredients of democracy

3.1 While the record of our parliamentary democracy has been fair when judged by Myron Weiner's postulates, our polity emerges poorly when judged by more exacting standards of democracy. There are **five key ingredients** of democratic polity: freedom, self-governance, empowerment of citizens, rule of law and self-correcting institutions of state. Let us briefly examine the performance of Indian polity in the light of these standards:

- i. **Freedom**, in an elementary sense, is the right of an individual to do as he or she pleases, as long as his actions do not impinge on the freedom of others. While the constitution and law have guaranteed these freedoms in a fair measure to citizens, in reality freedom is undermined by the unchecked power of parties and state functionaries to paralyze society at will, to appropriate resources, and to blackmail or bully citizens and groups. Institutional maladies including inaccessible school education and primary health care, delayed justice, unaccountable police, unchecked crime, secrecy in government and inefficient public services have severely eroded our freedoms despite constitutional guarantees.
- ii. **Self-governance** is the right of citizens to govern themselves directly or indirectly. Representative democracy means that the elected legislators and governments should be fully

accountable to citizens. However, autocratic political parties, flawed electoral process, limited and often unhappy choice of candidates, uninformed and distorted public discourse, criminalisation of politics, marginalization of citizens and over-centralization have all reduced our self-governance to a mockery.

- iii. **Empowerment** is the ability of citizens to influence the course of events on a sustained basis and to make meaningful decisions on matters of governance having impact on their own lives. In effect, people should always continue to remain sovereigns. However, rampant corruption, hostility to public participation in governance, centralization, secrecy, red tape, and a culture of touts and middlemen with the backing of powerful party organizations have denied people any meaningful degree of empowerment.
- iv. **Rule of law** is the concept of people being governed by law, and all citizens, irrespective of station and rank, being subject to the same laws to the same extent. However, centralized and autocratic political party functioning, flawed electoral system, highly opaque and secretive functioning, habitual abuse of executive authority, ubiquitous patronage system, VIP culture in every public service, gross failure of public order, primacy of political agents, influence-peddlers, touts and rabble rousers in government decision making at the cost of non-partisan citizens, political control of crime investigation and the tardy and inefficient justice system all make rule of law virtually non-existent in our society.
- v. **Self-correcting mechanisms** give institutions of state and polity the capacity to learn from past experience and to constantly improve themselves in order to serve the people better. Our incapacity to design and operate the institutional correctives, constitutional functionaries being amenable to political influence, the secrecy in government, tardy and inefficient justice system, a political system dependent on uncontrolled corruption, and the moribund party structure incapable of attracting the best elements of society have made sure that the decline of the Indian state is progressive. This impairment of self-correcting mechanisms contributed to near-collapse of our governance structure, and made reversal of the trend within the existing framework a Herculean task.

#### 4. Primacy of politics

4.1 Given these infirmities and distortions of our political process, it is easy to deride politics and democracy. In fact it has become fashionable among the upper echelons of society to be anti-political, and to wistfully suggest authoritarian, even fascist, solutions. It therefore needs to be emphasized that true politics is about promotion of human happiness. In a democracy there is no substitute to political process. Politics is the mechanism through which the gulf between unlimited wants and limited resources is bridged, and means are reconciled with ends in governance. Political process mediates conflicts in society, and resolves seemingly irreconcilable differences among various groups in society. Finally, politics is the only means of peaceful, democratic transformation in a free society. Contempt for democratic institutions is dangerous and shortsighted. Anti-political approach is both undemocratic and counterproductive. The real solution to the problem of democracy lies in deepening democracy. In order to preserve and strengthen liberty and democracy, we should constantly seek to improve the democratic institutions and practices based on lessons of past experience.

#### 5. Trends in representation

5.1 Over the years, the representational base of our legislatures has certainly widened. In the early years, members from upper castes and landed gentry dominated the legislatures. Many members were educated lawyers and professionals who were involved in the freedom struggle. The scheduled castes (SCs) and scheduled tribes (STs) had fair representation due to reservation of constituencies for them. But the other poorer segments, intermediate castes and other backward castes did not have adequate representation. In many ways, the challenge to Congress came from these segments. As the days of single-party domination

ended, other parties gained in prominence, bringing with them other caste groups into legislatures. For instance, the percentage of members of Lok Sabha belonging to Backward Classes (BCs) has gone up from 10.2 in 1952 to 23.3 in 1996. Correspondingly, the percentage of farmers in Lok Sabha went up from 22.5 in 1952 to 51.8 in 1996.

*Table 1: Representational base of our legislatures*

| Year of election | % of Members of "Forward Castes" | % of BC Members | % of farmers |
|------------------|----------------------------------|-----------------|--------------|
| 1952             | 45.4                             | 10.2            | 22.5         |
| 1962             | 49.4                             | 12.8            | 27.4         |
| 1971             | 44.7                             | 13.0            | 32.2         |
| 1984             | 36.9                             | 9.3             | 38.3         |
| 1996             | 45.6                             | 23.3            | 51.8         |

*Source: India Today, July 16, 1996. p26-30*

5.2 However, the representation of women in parliament has been unsatisfactory. The widening representational base, and election of members from the hitherto marginalised sections has not translated into greater women's participation or representation. The representation of women in Lok Sabha has been stagnant, with the present (13th) Lok Sabha having 49 women members (9.02%) representing the highest women membership. This under-representation of women has given rise to the demand in the 90's for enacting laws promoting women's participation and election to legislatures.

*Table – 2 : Women's Representation in Parliament 1952-1999*

| Year           | Lok Sabha  |           |                | Rajya Sabha |           |                |
|----------------|------------|-----------|----------------|-------------|-----------|----------------|
|                | Seats      | Women MPs | % of Women MPs | Seats       | Women MPs | % of Women MPs |
| 1952           | 499        | 22        | 4.41           | 219         | 16        | 07.31          |
| 1957           | 500        | 27        | 5.40           | 237         | 18        | 07.59          |
| 1962           | 503        | 34        | 6.76           | 238         | 18        | 07.56          |
| 1967           | 523        | 31        | 5.93           | 240         | 20        | 08.33          |
| 1971           | 521        | 22        | 4.22           | 243         | 17        | 07.00          |
| 1977           | 544        | 19        | 3.49           | 244         | 25        | 10.25          |
| 1980           | 544        | 28        | 5.15           | 244         | 24        | 09.84          |
| 1984           | 544        | 44        | 8.09           | 244         | 28        | 11.48          |
| 1989           | 517        | 27        | 5.22           | 245         | 24        | 09.80          |
| 1991           | 544        | 39        | 7.17           | 245         | 38        | 15.51          |
| 1996           | 543        | 39        | 7.18           | 223         | 19        | 08.52          |
| 1998           | 543        | 43        | 7.92           | 245         | 15        | 06.12          |
| 1999           | 543        | 49        | 9.02           | 245         | 19        | 07.76          |
| <b>Average</b> | <b>528</b> | <b>33</b> | <b>6.15</b>    | <b>238</b>  | <b>22</b> | <b>09.00</b>   |

*Source : CSDS Data unit*

5.3 One other feature of the past 50 years is the shrinking space for political participation outside the party structure. Even as parties have become unaccountable oligarchies in their exercise of power, their importance in electoral politics has grown. This domination of political parties at the expense of individual candidates and groups is in keeping with the trend throughout the democratic world. Since independence, the number of independent, non-party candidates elected has been shrinking. Even more significantly, the percentage of independents who gained a significant proportion of vote has declined dramatically, as seen from the candidates who lost their deposits. This clearly established the primacy of parties in political action and electoral participation. Though party activity is no longer seen as worthy of

respect and awe as in days of freedom struggle, it is increasingly difficult for individuals to break into the system outside parties. As a result, any reform in our electoral system or governance has to be spearheaded by political parties only. But as entrenched parties are the beneficiaries of the distortions in our electoral and governance system, it is unlikely that reform impulses will come from them. Clearly, we are in a log jam which makes status quo both sustainable and irresistible, even as it is counter productive from democratic and nation-building point of view.

*Table 3 : Independents Elected to Lok Sabha in Successive General Elections*

| Year | No.of seats filled | No.of independents elected | Percentage of independents who lost deposit |
|------|--------------------|----------------------------|---|
| 1952 | 489                | 38                         | 66.6  |
| 1957 | 494                | 42                         | 60.1  |
| 1962 | 494                | 20                         | 79  |
| 1967 | 520                | 35                         | 86.2  |
| 1971 | 518                | 14                         | 94  |
| 1977 | 542                | 9                          | 97.2  |
| 1980 | 529                | 9                          | 98.9  |
| 1984 | 542                | 5                          | 99.7  |
| 1989 | 529                | 12                         | 98.9  |
| 1991 | 534                | 1                          | 99.5  |
| 1996 | 542                | 9                          | 99.7  |
| 1998 | 542                | 6                          | 99.1  |

*Source : Lok Satta Data unit*

## 6. Distortions in representation

6.1 The health of a democracy depends on the choice of representatives and leaders, which in turn is directly linked to the way political parties function and elections are conducted. While we have outstanding men and women in public life, flawed electoral process is increasingly alienating public-spirited citizens from the political and electoral arena. The persons best equipped to represent the people find it impossible to be elected by adhering to law and propriety. If elected, decent citizens cannot survive for long in elective public office without resorting to, or conniving in, dishonest methods. Even if they survive in office, their ability to promote public good is severely restricted. Indian people have often been changing governments and elected representatives. However, this change of players has little real impact on the nature of governance. Even if all those elected lose, and all losers are elected, the outcome is not substantially altered. This sad situation calls for a change in the rules of the game, and citizens cannot be content with mere change of players.

6.2 The representational distortions in our legislatures stem largely from three sources. **First, the nature of our party system and the failure of parties to evolve a democratic political culture has largely distorted representation. Second, the serious flaws in electoral process have led to high degree of criminalization, excessive and unaccountable use of money power and the resultant all-pervasive corruption and abuse of office. Third, the high degree of centralization in our governance, the first-past-the-post electoral system we have adopted, and the Westminster model of parliamentary**

**executive have led to decline in the legitimacy of the political process and distorted representation.** Let us examine each of these in some detail.

## **7. Failure to evolve a democratic political culture**

### **7.1 New entrants into politics**

7.1.1 If we examine the new entrants into politics over the past three or four decades in the country, very few with intellect, integrity, commitment to public service and passion for improvement of the situation could enter the political arena and survive. Almost every new entrant has chosen politics exactly for the wrong reasons. A careful analysis shows that heredity and family connections are the commonest cause for entry into politics. This is closely followed by those who have large inherited or acquired wealth and have decided that investment in politics is good business. In recent years, many local muscle men, whose services were earlier sought for extortion or vote-gathering, are now directly entering the fray and gaining political legitimacy. A few persons have entered politics out of personal loyalty to, and close contacts with those in high public office. People with very high visibility on account of great success in mass entertainment like sports or films have also been increasingly drawn into the vortex of politics. Occasionally, accidents of fate are pitch forking certain individuals into elective public office. If we exclude these methods of heredity, money power, muscle power, personal contacts, high visibility, and accidents of fate, there will not be even a handful of persons in this vast country of ours, who have entered politics with deep understanding of public affairs and passion for public good and survived for any length of time over the past four decades. There is no activity more vital and nobler than governance. In the true sense, politics is about promotion of happiness and public good. But if the best men and women that society can boast of are either prevented or repelled or rendered incapable of surviving in the political arena, then that governance is bound to be in shambles. Over the past forty seven years of our republic, the unsuitable constitutional and legal mechanisms that we evolved landed the Indian republic in an extraordinary crisis of governability.

7.1.2 Democracy is the only system, which demands constant selection, nurturing and development of capable leadership. If the best men and women society can offer are repelled by the political process and politics acquires a pejorative connotation, the result is collapse of ethics in public life, and with it public confidence in governance. With the most competent and qualified persons eschewing politics, paralysis of governance is the inevitable consequence. With all decisions geared towards somehow winning elections and retaining power or to amass individual wealth at the cost of the public, the people are swindled. This legal plunder ensures that public goods and services are of appalling quality and wholly insufficient to meet the requirements of a civilized society or growing economy. Public exchequer will soon be depleted and fiscal collapse will be imminent. Sadly, all these ugly features of a dysfunctional democracy are evident in contemporary India.

### **7.2 Role of political parties**

7.2.1 In India, traditionally parties have been seen as pocket boroughs of those at the helm. Often there are entry barriers to members. Communist parties have always had a somewhat strict membership admission procedure, which is generally uniform in its application. The mainstream parties which are mass-based and have no rigid membership norms, however, have been erecting barriers of entry to all persons who are potential threats to the current leadership. While ordinary, faceless members are admitted as cannon-fodder with ease, the potentially influential members are not always welcomed with open arms. Similarly, even the faintest criticism of party bosses on any issue is taken as an act of indiscipline, often leading to suspension or expulsion. Again, when leadership changes in the party, the



same member who was earlier punished for rebellion is welcomed back with alacrity. There are countless instances of such disgraceful autocracy in all major political parties in India.

7.2.2 The political parties, which exhibit such authoritarian tendencies in protecting the privileges of those in power and nipping in the bud any potential threat to individual dominance have not shown the slightest sense of shame or remorse in assiduously cultivating and recruiting known criminals, corrupt persons and charlatans and rogues. Such shady elements are courted and welcomed, while decent and dignified citizens are shunned and often rejected. No major mainstream party has any published membership rolls. Spurious membership and disputes arising out of it are only too well known to all of us in respect of major political parties. As a net result, parties have often become a collection of greedy, corrupt and unscrupulous persons, who are willing to use any method, however ugly, immoral, violent or brutal, to perpetuate their hold on state power. By virtue of entry barriers and expulsion powers in the hands of party bosses, no real rejuvenation of parties with injection of fresh blood is possible. All idealistic, talented youngsters are often repelled by the parties, and undesirable elements find a haven in them.

7.2.3 As a perceptive political observer commented some years ago, in Indian political parties, 'the man who wears the crown is the king'. Leadership is often acquired through undemocratic means and retained by the power of patronage, nomination and expulsion, rather than the support of members. This paved way for oligarchies and unaccountable and un-elected coteries dominating and manipulating the political process. Party leadership, however illegitimate the ascent to it may be, gives total control of the party apparatus and resources. Through total monopoly over candidates' choice, the leadership's access to, and control over, levers of state power is complete and unchallenged. Given the fact that most parties are dominated by only one leader, and not even a small group, 'monarchy' is the correct description of party leadership. Once in office, the power of leadership is absolute, and control of resources is awesome. Any potential dissidence or principled opposition is instantly snuffed out. Suspension, expulsion, instant removal from office, denial of party tickets, all these and more weapons are fully available to leadership if there is any whiff of opposition. If the party is in power, state machinery is used for party ends, and more often to perpetuate absolute control over the party and state, with cynical disregard to propriety and public good. All positions in the regional and local units are nominated by the party leader. Every party functionary owes his or her position to the grace and good will of the 'High Command'. Myths and images are assiduously propagated to perpetuate personal power. No other party functionary or leader is allowed to share the limelight. The moment a local or rival national leader is gaining in popularity, he is immediately cut to size, removed from office, and if necessary expelled from the party to deny him a political base, and force him into political wilderness.

7.2.4 Membership rolls are not available, and when prepared are often spurious. Elections are not held, and if held are rigged. Musclemen often take over party meeting and conferences at various levels, and fisticuffs and violence are quite common. All parties, without exception, nominate candidates for public office through the dictates of the leadership or high command. All funds are collected clandestinely and spent at will to further augment personal power. State level 'leaders' are nominated by the 'high command'. When a party is elected to office in any State, the legislature party leader, who will be Chief Minister, is nominated by the central leadership, and formally anointed in a farcical 'election'. Often sealed covers are sent indicating the name of the person chosen as Chief Minister by the party leadership. There are instances in which persons who did not command the support of even a handful of legislators became Chief Ministers. Even candidates for public office in local government elections and cooperatives are decided by the party's central leadership. When the party obtains a majority in a local election, again the zilla parishad chairman or other functionaries are decided by the party bosses far removed from the scene. In short, political party functioning has become totally autocratic, oligarchic, unaccountable and undemocratic. The whole political process and all democratic institutions are systematically subverted.

Party leaders have become medieval potentates, with the sole intent of survival in power, and bequeathing their office to their family members or chosen successors.

### 7.3 Public scrutiny and regulation

7.3.1 It does not require any great analysis or insight to understand that undemocratic political parties cannot nurture, sustain or strengthen a democratic society. The most critical need is to reform parties and make them open, democratic and accountable. Basic democratic principles of member control, elected representatives from lower tier electing leadership at higher levels, open membership rolls, fair and free elections, no power to central party over regional and local units, easy and effective challenge to incumbents, no recourse to expulsion or removal of potential rivals, and no nominated office holders at any level, should be integral to the functioning of any political party. The question then is, can the political parties be left to manage their own affairs democratically? Past experience shows that it is futile to expect parties to become democratic on their own. Through long years of neglect, democratic processes have become fragile. The coteries, individuals and families controlling parties are so firmly entrenched, that there is no realistic hope of members being allowed to organize themselves and challenge the leadership and procedures. It will be somewhat naïve to expect the party leaders themselves initiating the process of party reform, which will undermine their own unaccountable, and often illegitimate personal power. Nor is there hope that democratic elections for public offices will automatically force reform on parties. As the choices offered to the public are between Tweedledom and Tweedledee, no matter which party wins, the picture remains unchanged and immutable.

7.3.2 We as a people have an abiding and legitimate interest in the affairs of parties. As we have seen, parties are by no means private clubs looking after their personal interest. They are the engines of democracy and instruments of governance in society. They seek and acquire power over us, and in reality have effective, and unbreakable monopoly over power. The power of the party cartels cannot be checked by forming new parties. Experience everywhere shows that the hope of new parties emerging and spawning a new culture rejuvenating the political process is a pipe dream. The emergence of a successful new political party itself is a rare phenomenon in modern world. The emergence Telugu Desam Party in Andhra Pradesh was one such rare example. A combination of unusual circumstances – a strong-willed, extremely popular leader who became an idol to millions as a successful film star, absence of a viable political alternative to the dominant ruling party, people's disgust with misgovernance and corruption, and a strong anti-establishment sentiment have brought about a major political change in 1983 in Andhra Pradesh. However, as events have shown, the same new party has become a replica of Congress, and has conformed to the iron law of Indian politics – 'all mainstream, centrist parties imitate Congress and become its clones'. This fate is seen in varying degrees in many parties. The Janata of 1977, which took birth from the anger of people, and its various progeny; BJP, which claimed indigenous cultural roots and promised a brave new world, and yet lost is sheen in office within a few months; the regional parties like the two Dravidian parties, whose origin was based on cultural regionalism; the Shiv Sena, which rose out of urban middle class frustration; the many other religious, tribal, caste, and regional ethnic parties with bases all over India – all these have proved to be no different from Congress in organizational ethos and internal functioning. Of the three truly ideology-driven parties, Swatantra party and Socialists disappeared, and Communists continue their policy of splendid isolation and democratic centralism, unmindful of the tectonic shifts in global and Indian politics.

7.3.3 From this bird's eye view of Indian political parties, it is clear that we, as a people, have stakes in their functioning and future. The moment they seek power over us, and control over state apparatus, they forfeit their claim to immunity from public scrutiny and state regulation based on reasonable restraints. This is particularly true in a climate in which they have proved to be utterly irresponsible, unaccountable and autocratic, perpetuating individual control over levers of power and political organization, entirely for

personal aggrandizement, self and privilege. Therefore, in a deep sense, the crisis in political parties is a national crisis, and has to be resolved by a national effort. This leads us to the inescapable conclusion that there should be internal democracy in parties, regulated by law, and monitored and supervised by statutory authorities. Every party, by law, should be obligated to practice internal democracy in all respects. The details of functioning can be left to the party's own constitution, but it should conform to the broad principles of democracy stated clearly in law. The actual practice of internal democracy should be verifiable by an external agency, say the Election Commission. Mandatory publication of membership rolls of political parties at local level, election of leadership at every level by secret ballot supervised by the Election Commission, a comprehensive prohibition on nominations of office bearers or expulsion of rivals, a well-established system to challenge the leadership of incumbents at every level, and justiciability of these internal democratic processes through special tribunals – all these measures could form the basis of any meaningful reform and regulation of political parties. Extreme care and caution should, however, be exercised to ensure that a party's democratic choices of leadership or its espousal of policies are not in any way directly or indirectly influenced by law or external monitoring agencies. The party leaders and its policies should be judged only by the public, in the market place of ideas and in elections.

## **8. Flaws in electoral process**

### **8.1 Perceptions — macro level vs. micro level**

8.1.1 The elections are largely plebiscitary and the people vote for a platform or a leader or a promise or, as is seen more often, vote to reject the incumbent government or party in power. The individual candidate's ability is rarely an issue in our electoral politics. At the same time party workers and local oligarchies do not regard election as an opportunity to vindicate their policies or ideologies. In most cases, election of their chosen candidate is merely an opportunity to have control of state power and resources, to extend patronage selectively to people of their choice, to get pliant local bureaucrats appointed in plum postings, to humiliate and harass the inconvenient employees who would not do their bidding, and increasingly to interfere in crime investigation and prosecution by doctoring evidence, influencing investigation and letting criminals loyal to them go scot free and implicating people opposed to them in criminal cases. In the midst of this, governance is an irrelevant, and often inconvenient ritual without any meaning to those in power and without any positive impact on the people.

8.1.2 At the macro level when we examine a whole state or the country, the electoral verdict does broadly reflect public opinion. More often than not this verdict is a reflection of the people's anger and frustration and is manifested in the rejection vote, or their support to a leader, promise or platform. However, at the local level, caste or sub-caste, crime, money and muscle power have become the determinants of political power. All parties are compelled to put up candidates who can muster these resources in abundance in order to have a realistic chance of success. While political waves are perceived around the time of election or afterwards, at the time of nomination of candidates all parties are uncertain about their success and would naturally try to maximize their chances of success at the polls by choosing those candidates who can somehow manipulate or coerce the voters. As a net result, irrespective of which party wins, the nature of political leadership and quality remain largely the same, and the people end up being losers. This is then followed by another rejection vote in the next election and the vicious cycle keeps repeating. Where the candidate cannot muster money or muscle power, he stands little chance of getting elected irrespective of his party's electoral fortunes. Increasingly in several pockets of the country, people are spared even the bother of having to go to the polling station. Organized booth-capturing and rigging are ensuring victory without people's involvement.

8.1.3 There is much that is wrong with our elections. Flawed electoral rolls have become a menace. About 40% errors are noticed in electoral rolls in many urban areas, and bogus voting in towns exceeds

20%, making our elections a mockery. Purchase of votes through money and liquor, preventing poorer sections from voting, large scale impersonation and bogus voting, purchase of agents of opponents, threatening and forcing agents and polling personnel to allow false voting, booth-capturing and large scale rigging, bribing polling staff and police personnel to get favours and to harass opponents, use of violence and criminal gangs, stealing ballot boxes or tampering with the ballot papers, inducing or forcing voters to reveal their voting preferences through various techniques including 'cycling' etc, illegally entering the polling stations and controlling polling process — all these are an integral part of our electoral landscape. No wonder the Election Commission estimate that more than 700 of the 4072 legislators in States have some criminal record against them!

8.1.4 Many scholars wonder how despite massive irregularities the electoral verdicts still seem to largely reflect public opinion, and how parties in power often lose elections. The answers are simple. Happily for us, though parties in power are prone to abusing authority for electoral gains, there has never been any serious state-sponsored rigging in most of India. The irregularities are largely limited to the polling process alone, and most of the pre-polling activities including printing and distribution of ballot papers, and post-polling activities including transport and storage of ballot boxes and counting of ballots are free from any political interference or organized manipulation. That is why parties in power have no decisive advantage in manipulating the polls, and electoral verdicts broadly reflect shifts in public opinion. However, the massive irregularities in polling process make sure that candidates who deploy abnormal money and muscle power have a distinct advantage. Sensing this, most major parties have come to nominate 'winnable' candidates without reference to their ability and integrity. Thus, the use of money power and muscle power are sanctioned by almost all the parties, and often they tend to neutralize each other. The net result is that candidates who do not indulge in any irregularity have very little chance of being elected. Election expenditure - mostly for illegitimate vote buying, hiring of hoodlums and bribing officials - is often ten or twenty times the ceiling permitted by law. Criminals have a decisive or dominant influence on the outcome in many parts of India, and have often become party candidates and won on a large scale.

## **8.2 Election expenditure - root cause of corruption**

8.2.1 Excessive, illegal and illegitimate expenditure in elections is the root cause of corruption. Often the expenditure is 10 to 15 times the legal ceiling prescribed. Among elected representatives, almost everyone violates expenditure ceiling laws. Most election expenditure is illegitimate and is incurred in buying votes, hiring hoodlums or bribing officials. Abnormal election expenditure has to be recouped in multiples to sustain the system. The high risk involved in election expenditure (winner-take-all process), the long gestation period required for most politicians who aspire for legislative office, the higher cost of future elections, the need to involve the vast bureaucracy in the web of corruption (with 90% shared by the large number of employees) - all these mean that for every rupee of expenditure, fifty to hundred rupees has to be recovered to sustain the system. One rupee election expenditure normally entails at least a five-fold return to the politician. To share five rupees with the political class, the rent-seeking bureaucracy has to recover about Rs.50. In order to extort Rs.50 from the public, there should be delay, inefficiency, harassment, humiliation and indignity worth Rs.500 heaped on the innocent citizens! To take the example of a major State, it is estimated that about Rs.600 crores (6 billion) has been spent by the major political parties in the recent general elections for Parliament and Legislative Assembly in 1999. This expenditure can be sustained only when the returns are of the order of at least Rs.3000 crores (30 billion), which in turn is translated as extortion of Rs.30,000 crores (300 billion) from the public by the vast bureaucracy. The inconvenience, humiliation, the lost opportunities and the distortion of market forces are often worth ten times the actual corruption. Unaccounted and illegitimate election expenditure is thus translated into huge corruption siphoning off money at every level. In addition, this ubiquitous corruption alters the nature of political and administrative power, and undermines market forces, efficiency and trust on a much larger scale, retarding economic growth and distorting democracy.

Cleansing elections is the most important route through which corruption and mal-administration can be curbed.

## **US - India Comparison**

8.2.2 The expenditure incurred by parties, candidates and political action committees in the recently concluded elections for the presidency, both houses of congress and gubernatorial offices in the United States is estimated to be of the order of \$ 3 billions. About half of this is for issue advertising, and half is the actual campaign expenditure. There is much criticism and debate on this high cost of electioneering in the U.S, and campaign finance reform is a strong and recurrent theme in American politics. However, two facts should be remembered while analysing the U.S elections – all campaign financing is fully accounted for and disclosed; and all expenditure is legitimate and open, over 90% spent on television advertising. The Indian situation presents a depressing contrast. The expenditure for parliament and State legislature elections in India is estimated to be of the order of \$ 1.5 billion (Rs. 7000 crores) at current exchange value. In purchasing power terms, it means that the Indian election expenses are probably five times those in the U.S, making our per capita expenditure higher than in the U.S! Considering our low income per capita, this is an absurd situation. And more importantly, almost all this campaign finance is undisclosed and illegal, and worse still, most of it is spent illegitimately – for buying votes, hiring hoodlums and bribing election officials! Prime Minister Vajpayee has gone on record several times stating that most elected politicians start their careers with a big lie – by signing an affidavit that their election expenditure has not exceeded that ceiling prescribed by law, while the actual expenditure is often ten to twenty times the ceiling limit!

8.2.3 It must be added however, that high expenditure in itself will not guarantee election. But in most elections when there is no sharp contrast between parties and candidates, and no emotional issues are involved, the candidates who do not incur high and illegal expenditure are almost certain to lose the election. Thus all parties and candidates are dragged into a vicious cycle of high election expenditure and endemic corruption. In the process, no matter which candidate or party wins, the people end up losing always!

## **8.3 Criminalization of politics**

8.3.1 One of the most glaring distortions in our parliamentary democracy is the increase in criminalization of politics. Several scholars, authors, committees, commissions and courts have commented on it adversely. Vohra Committee report has laid bare the degree of criminalization of our political process. As the report states:

“Like the Director CBI, DIB has also stated that there has been a rapid spread and growth of criminal gangs, armed senas, drug mafias, smuggling gangs, drug peddlers and economic lobbies in the country which have, over the years, developed an extensive network of contacts with bureaucrats/Government functionaries at the local levels, politicians, media persons, and strategically located individuals in the non-State sector. Some of these syndicates also have international linkages, including the foreign intelligence agencies. In this context, the DIB has given the following examples:

- i. In certain States like Bihar, Haryana and UP, these gangs enjoy the patronage of local level politicians, cutting across party lines, and the protection of Government functionaries. Some political leaders become the leaders of these gangs/armed senas and, over the years, get themselves elected to local bodies, State Assemblies and the national Parliament. Resultantly, such elements have acquired considerable political clout seriously jeopardizing the smooth

functioning of the administration and the safety of life and property of the common man, causing a sense of despair and alienation among the people.

- ii. The big smuggling Syndicates, having international linkages, have spread into and infected the various economic and financial activities, including havala transactions, circulation of black money and operations of a vicious parallel economy causing serious damage to the economic fibre of the country. These Syndicates have acquired substantial financial and muscle power and social respectability and have successfully corrupted the Government machinery at all levels and wield enough influence to make the task of investigating and prosecuting agencies extremely difficult; even the members of the judicial system have not escaped the embrace of the Mafia.
- iii. Certain elements of the Mafia have shifted to narcotics, drugs and weapon smuggling and established narco-terrorism networks, especially in the States of J&K, Punjab, Gujarat and Maharashtra. The cost of contesting elections has thrown the politician into the lap of these elements and led to a grave compromise by officials of the preventive/detective systems. The virus has spread to almost all centres in the country; the coastal and border States have been particularly affected.
- iv. The Bombay blast case and the communal riots in Surat and Ahmedabad have demonstrated how the Indian underworld has been exploited by the Pak ISI and the latter's network in the UAE to cause sabotage, subversion and communal tension in various parts of the country. The investigation into the Bombay blast cases has revealed extensive linkages of the underworld in the various governmental agencies, political circles, business sector and film world.

"DIB has stated that the network of the mafia is virtually running a parallel government, pushing the State apparatus into irrelevance. It is thus most immediately necessary that an institution is established to effectively deal with the menace."

8.3.2 The Election Commission has revealed in 1997 that over 700 of the 4072 legislators in States and more than 40 members of Lok Sabha had criminal records against them. The Commission warned that:

"The whole country is now expressing serious concern over the anti-social and criminal elements entering the electoral arena. Even parliament, in the debates on 50 years of independence and the resolution passed in the special session in August 1997, had shown a great deal of concern about the increasing criminalization of politics. It is widely believed that there is a growing nexus between the political parties and anti-social elements, which is leading to the criminalization of politics, where criminals themselves are now joining the election fray and often even getting elected in the process. Some of them have even adorned ministerial berth and thus, law breakers have become law makers"

### ***Lok Satta's experience***

8.3.3 Several citizens' initiatives have prepared lists of candidates with criminal records. 'Outlook' magazine, with the assistance of a panel of eminent citizens led by Justice Kuldeep Singh, listed 72 candidates with criminal record in the 1998 Lok Sabha election. In the 1999 elections to Lok Sabha and Andhra Pradesh Legislative Assembly, Lok Satta movement released a list of 45 candidates with criminal record. What is interesting is that no party disputed the list. The only complaint of politicians was that another 20-25 candidates with criminal record were omitted from the list! This contention was true, as many candidates with criminal antecedents could not be listed, since there is no verifiable record against them, though it was widely known that they were involved in serious crimes. In the recent elections to

UP Legislative Assembly, it is reported that more than 100 elected members (out of 403) have criminal records against them.

8.3.4 It is by now widely accepted that our electoral process and democratic system are severely distorted by this criminalization. The Election Commission and the Law Commission made several recommendations to curb this criminalization, but to no avail. The courts have commented adversely on this process. Many movements and citizens' initiatives have been fighting criminalization with great courage and integrity. Some of these initiatives are succeeding in mobilizing public opinion and forcing political parties to respond to people's urges.

8.3.5 Lok Satta's experience in this respect is instructive. Over the past four years Lok Satta movement has assiduously mobilized public opinion against criminalization through its widely popular Election Watch activities. A panel of distinguished jurists, media persons, activists and administrators solicits verifiable information from the public and other sources. Candidates' record is scrutinized carefully, and those who have been convicted in a court of Law, who are facing charges framed by a magistrate after prima facie inquiry, or those who are listed as rowdy sheeters or history sheeters are listed. These lists are released before the election after verification of records. The lists often include incumbent legislators, members of parliament and ministers. This scrupulously non-partisan effort has gained wide public acceptance and credibility over the years. The media attention generated, the public support mobilized against criminalization of politics, and the credibility of the process have forced the political parties on the defensive. There is evidence to suggest that recognised parties in Andhra Pradesh are now desisting from nomination of candidates with criminal record.

8.3.6 Fewer and fewer candidates with verifiable criminal record are now nominated. One of the most significant successes in this struggle against criminalization has been recorded in the Zilla Parishad election in Kurnool district. The ruling Telugu Desam party had a majority among the members of Zilla Parishad elected in 2001. One elected member, Kapatrapu Venkatappaiah Naidu, was the official candidate of TDP for ZP chairmanship. He is a notorious faction leader known for violent crime and murder politics. There was a gap of about a week's time before election of members of Zilla Parishad, and election of chairman by members. In this short span, Lok Satta could launch a major campaign against the election of the member with criminal record as chairman. The media gave full support to this campaign. On account of the public outcry, the TDP asked its district unit to suggest an alternative candidate for ZP chairmanship. But all the ZP members, Legislators, MPs and ministers from the ruling party insisted on Venkatappaiah Naidu being elected as ZP chairman. However, the revulsion generated across the State, and the growing public attention on the issue forced the ruling party to change its candidate at the last minute. Another person was thus elected as chairman. This was perhaps the most visible success of civil society against criminalization.

8.3.7 But it should be cautioned that the problem of criminalization is far more intractable than it appears. The success of Lok Satta has been partial, though significant. Only new candidates with criminal record are now discouraged by parties. But entrenched politicians with past criminal record continue to dominate the scene. The process of criminalization is thus arrested, and not reversed despite massive public pressure, credible and non-partisan civil society activism and media attention. The reasons for this intractability are many. An analysis of these reasons is vital to understand the causes of criminalization of politics. Criminalization is not the cause of our crisis, but is a consequence of flaws in our electoral process, failure of our governance system, and compulsions of our electoral system.

8.3.8 There are five critical factors which promoted criminalization of politics and distorted representation in legislature – the polling irregularities which are rampant in elections, the failure of criminal justice system, limitations of the electoral law, compulsions of the first-past-the-post (FPTP) system and the

parliamentary executive model we have adopted. A critical examination of these factors and their impact on criminalization is necessary to understand the nature of our electoral politics.

#### **8.4 Polling irregularities**

8.4.1 Lok Satta's studies have recently focused attention on the hitherto unsuspected areas of electoral failure. Voter registration is severely flawed. Verification of electoral rolls on a random sampling basis in Andhra Pradesh reveals that the errors of omission (names of eligible voters omitted) and errors of commission (names of ineligible persons added or continued in voters' lists) are unacceptably large. In rural areas, there are 10.34% errors of commission and 4.7% errors of omission, accounting for over 15% errors in voter lists. In urban areas, the error margin is much higher at 44.8%, of which errors of omission are 26% and errors of commission are 18.9% (please see Table No.4 for details).

8.4.2 Voter registration is the foundation on which the whole electoral edifice is built. Flawed electoral rolls of this magnitude have predictable consequences. As seen from Table No.5, a random survey of a limited sample of five polling stations in Hyderabad city (in 1999 Assembly & Lok Sabha elections) shows a possibility of upto 21.7% fraudulent voting. At least 7.7% voting is clearly fraudulent, whereas among those who shifted residence, it is possible that some people may have voted. More accurate assessment are not available, and detailed field survey of each voter residing in other areas are expensive, cumbersome, and are sometimes impossible as no forwarding address is left. But the picture which emerges shows clearly that probably 12-15% of the votes in cities are cast by impersonation.

8.4.3 The complexity of the problem is further revealed by the data gathered by Lok Satta during the 2001 Assemble elections in Kolkata city (Table No.6). Theoretically polling irregularities should be fully curbed by the simple expedient voter identity cards. In the 2001 Assembly polls in West Bengal, the Election Commission made voter identity cards or any one of the listed forms of identity mandatory for voting. If such a directive is strictly implemented, there should be no possibility of impersonation and rigging. Lok Satta installed a help line in Kolkata with 20 telephone lines and widely publicized it asking voters to register their complaints if they had any difficulty in voting. As the table below shows, 550 complaints were received on the polling day. Amazingly, 37% of the complaints were from voters who could not vote because some one else had already voted in their name! Clearly either polling officials were in collusion with parties and candidates, or they were coerced into ignoring the voter identity card requirement.

8.4.4 All this evidence clearly suggests that candidates who can muster muscle power of lumpen elements, local petty criminals and impersonators in an organized and systematic manner to rig polls have an enormous advantage in our electoral system. Also, as seen in section 8.2, victory in our elections needs enormous money power. The unpublished study commissioned by the Election Commission in 1999 Lok Sabha polls clearly established that 8 out of 9 candidates elected or runners up belonged to the category of super-rich or 'very rich'. When use of unaccounted money power becomes all-important in electoral victory, it is but natural that people with ill-gotten money are in the forefront of the political process. As crime syndicates, mafias and land sharks are among the wealthiest in India with vast sums of unaccounted money at their disposal, they have naturally been playing a significant role in elections, and legislatures. As the Law commission, in its 170<sup>th</sup> report analysed, the current provisions of Representation of the People Act, 1951 are inadequate to prevent the entry of criminals into electoral arena.



Table 4: Verification of Voters' Lists in Andhra Pradesh

| Survey of Rural Polling Stations        |                         |               |   |            |            |             |              |   |                     |             |             |              |                        |
|---|-------------------------|---------------|---|------------|------------|-------------|--------------|---|---------------------|-------------|-------------|--------------|------------------------|
| Particulars of electoral rolls verified |                         |               | Deletions Required (Errors of Commission) |            |            |             |              | Additions Required (Errors of Omission) |                     |             |             | Total Errors |                        |
| District                                | No. of Polling Stations | No. of Voters | Moved out of the area                     | Death      | Other *    | Total       | % to voters  | Attained 18 years of                    | Moved into the area | Total       | % to voters | Total number | % to voters registered |
| E.G                                     | 4                       | 1289          | 166                                       | 36         |            | 202         | 15.7         | 31                                      | 50                  | 81          | 6.3         | 283          | 22.0                   |
| W.G.                                    | 2                       | 2086          | 37  | 52         |            | 89          | 4.3          | 24                                      | 23                  | 47          | 2.3         | 136          | 6.5                    |
| Krishna                                 | 1                       | 416           | 27  | 13         | 1          | 41          | 9.9          | 12                                      | 3                   | 15          | 3.6         | 56           | 13.5                   |
| Prakasam                                | 2                       | 1297          | 43  | 38         | 2          | 83          | 6.4          | 34                                      | 12                  | 46          | 3.5         | 129          | 9.9                    |
| Nellore                                 | 4                       | 3084          | 87  | 79         | 15         | 181         | 5.9          | 60                                      | 100                 | 160         | 5.2         | 341          | 11.1                   |
| Chittoor                                | 2                       | 1762          | 143                                       | 37         | 90         | 270         | 15.3         | 47                                      | 110                 | 157         | 8.9         | 427          | 24.2                   |
| Kurnool                                 | 4                       | 4648          | 488                                       | 71         | 1          | 560         | 12.0         | 82                                      | 128                 | 210         | 4.5         | 770          | 16.6                   |
| Warangal                                | 2                       | 1399          | 51  | 15         | 4          | 70          | 5.0          | 7                                       | 12                  | 19          | 1.4         | 89           | 6.4                    |
| M'bnagar                                | 1                       | 344           | 32  | 11         |            | 43          | 12.5         | 35                                      | 12                  | 47          | 13.7        | 90           | 26.2                   |
| Karimnagar                              | 5                       | 3956          | 549                                       | 100        | 59         | 708         | 17.9         | 78                                      | 142                 | 220         | 5.6         | 928          | 23.5                   |
| Khammam                                 | 2                       | 2016          | 11  | 36         | 12         | 59          | 2.9          | 37                                      | 0                   | 37          | 1.8         | 96           | 4.8                    |
| <b>Rural Total</b>                      | <b>29</b>               | <b>22297</b>  | <b>1634</b>                               | <b>488</b> | <b>184</b> | <b>2306</b> | <b>10.34</b> | <b>447</b>                              | <b>592</b>          | <b>1039</b> | <b>4.7</b>  | <b>3345</b>  | <b>15.10</b>           |
| Survey of Urban Polling Stations        |                         |               |   |            |            |             |              |   |                     |             |             |              |                        |
| Vizag                                   | 3                       | 1298          | 355                                       | 22         | 17         | 394         | 30.4         | 82                                      | 413                 | 495         | 38.1        | 889          | 68.5                   |
| E.Godavari                              | 3                       | 419           | 78  | 14         | 0          | 92          | 22.0         | 39                                      | 85                  | 124         | 29.6        | 216          | 51.6                   |
| W.Godavari                              | 2                       | 1491          | 121                                       | 12         |            | 133         | 8.9          | 46                                      | 179                 | 225         | 15.1        | 358          | 24.0                   |
| Krishna                                 | 3                       | 1919          | 690                                       | 35         | 0          | 725         | 37.8         | 53                                      | 500                 | 553         | 28.8        | 1278         | 66.6                   |
| Kurnool                                 | 3                       | 1796          | 419                                       | 43         | 28         | 490         | 27.3         | 62                                      | 90                  | 152         | 8.5         | 642          | 35.7                   |
| Nalgonda                                | 1                       | 797           | 273                                       | 5          | 2          | 280         | 35.1         | 34                                      | 125                 | 159         | 19.9        | 439          | 55.1                   |
| Warangal                                | 2                       | 1863          | 320                                       | 28         | 30         | 378         | 20.3         | 43                                      | 74                  | 117         | 6.3         | 495          | 26.6                   |
| Guntur                                  | 5                       | 4060          | 1039                                      | 83         | 92         | 1214        | 29.9         | 209                                     | 604                 | 813         | 20.0        | 2027         | 49.9                   |
| Hyderabad                               | 5                       | 4459          | 923                                       | 31         | 42         | 996         | 22.3         | 85                                      | 691                 | 776         | 17.4        | 1772         | 39.7                   |
| <b>Urban Total</b>                      | <b>27</b>               | <b>18102</b>  | <b>4218</b>                               | <b>273</b> | <b>211</b> | <b>4702</b> | <b>26.0</b>  | <b>653</b>                              | <b>2761</b>         | <b>3414</b> | <b>18.9</b> | <b>8116</b>  | <b>44.8</b>            |
| <b>Rural+Urban</b>                      | <b>56</b>               | <b>40399</b>  | <b>5852</b>                               | <b>761</b> | <b>395</b> | <b>7008</b> | <b>17.3</b>  | <b>1100</b>                             | <b>3353</b>         | <b>4453</b> | <b>11.0</b> | <b>11461</b> | <b>28.4</b>            |

Source: Lok Satta's Research Data - 2000. The Surveys were monitored by Sri PS Bhagavanul, Statistician  
\*[under-aged / ineligible / fictitious]

Table 5: Verification of Polling - Survey Results

| S. No | Assem<br>bly<br>Consti<br>tuency<br>/<br>Polling<br>Booth<br>No. | Area  | No. of<br>voters<br>in the<br>list | No. of<br>votes<br>Polled | No of<br>voters in<br>Col.5<br>reported<br>'voted' | No of voters in Col. 5 reported<br>'not voted' |  |   | Total voters<br>reporting<br>'Not Voted'<br><br>Columns<br>(7 to 9) |
|-------|--|---|------------------------------------|---------------------------|--|--|--|---|---|
|       |  |   |                                    |                           |  | Residing in<br>the area but<br>not voted       | Non-Residents  |   |   |
|       |  |   |                                    |                           |  |  | Left Polling<br>Booth area but<br>residing<br>elsewhere<br>within town | Left the<br>city/country<br>(including<br>deaths) |   |
| 1     | 2  | 3   | 4                                  | 5                         | 6  | 7  | 8  | 9   | 10  |
| 1     | 207 /<br>173   | Himayatnagar<br>Urdu Hall area<br>D.No. 3-6-110/1<br>to 3-6-139/6 | 1143                               | 625                       | 483  | 5<br>(0.8)                                     | 91<br>(14.6)   | 46<br>(7.4)                                       | 142<br>(22.7)   |
| 2     | 207 /<br>176   | Himayatnagar<br>D.No. 3-6-190/5<br>to 3-6-271/1                   | 956                                | 459                       | 377  | 15<br>(3.3)                                    | 41<br>(8.9)  | 26<br>(5.7)                                       | 82<br>(17.9)  |
| 3     | 209/<br>93   | Chilakalaguda<br>D.No.10-7-1001<br>to 10-7-1214/6                 | 725                                | 428                       | 306  | 20<br>(4.7)                                    | 95<br>(22.2)   | 7<br>(1.6)  | 122<br>(28.5)   |
| 4     | 209/<br>75   | Gopalapuram<br>10-6-92/1<br>to 10-6-509                           | 989                                | 495                       | 380  | 42<br>(8.5)                                    | 72<br>(14.5)   | 1<br>(0.2)  | 115<br>(23.2)   |
| 5     | 210/<br>426  | Lothukunta /<br>Sainagar<br>1-11-1<br>to 1-11-141/C               | 893                                | 476                       | 399  | 22<br>(4.6)                                    | 49<br>(10.3)   | 6<br>(1.2)  | 77<br>(16.2)  |
|       |  | Total   | 4706                               | 2483                      | 1945   | 104<br>(4.2)                                   | 348<br>(14)  | 86<br>(3.5)                                       | 538<br>(21.7)   |

Source: Lok Satta Survey unit; Note : Figures in brackets denote the percentage of votes polled in Column 5

Table 6: Complaints to Lok Satta Help Line W.Bengal Assembly Elections – 2001

|  |  |  |              |            |
|--|--|--|--------------|------------|
| Total Number Of Voter Complaints         |  |  | <b>519</b>   | <b>%</b>   |
| No Name Specified                        |  |  | 72           | 13.87%     |
| No Part Number                           |  |  | 137          | 26.40%     |
| <b>Complaints Type</b>                   |  |  |              |            |
| A) Vote Already Cast                     |  |  | 197          | 37.96%     |
| B) Long Queue Of Voters / Very Slow Vote |  |  | 12           | 2.31%      |
| C) Bombs Thrown / Fight Broke Out        |  |  | 32           | 6.17%      |
| D) Others -                              |  |  | 278          | 53.56%     |
|  |  |  | <b>TOTAL</b> | <b>519</b> |

*Source: Lok Satta Data Unit*

8.4.5 All this explains the natural advantages criminal gangs and mafias enjoy in our electoral process. But we have to examine why politics is attractive for crime syndicates. The normal explanation that political corruption brings rich rewards to elected representatives, and their investment is returned in multiples is not adequate in the case of successful criminals. In a situation in which justice system has been paralyzed with the enormous case load, indefinite delays and low percentage of successful prosecution, criminals make extraordinary amounts of money. There is an ever-increasing market demand for criminals and muscle men to provide rough and ready justice by use of brute force.

8.4.6 In the process, a whole new industry of administering rough and ready justice by using strong-arm tactics to achieve the desired goals has been set up by local hoodlums in almost all of our cities and towns, and increasingly in recent years in rural areas. The clout and money these hoodlums acquire makes sure that they are the ones who later enter political parties, and eventually acquire state power. There are countless examples in almost every state in India of slum-lords, faction leaders, and hired hoodlums acquiring political legitimacy. Most of them started their careers attempting to fill the vacuum created by judicial failure through extra-legal, and often brutal methods. In addition, the courts have tended to condone delays and encourage litigation and a spate of appeals even on relatively trivial matters.

8.4.7 These criminals who have thus acquired financial clout have a great incentive to become political. In our criminal justice system, crime investigation is almost entirely controlled by the elected government and politicians. The combination of several functions including crime investigation, riot control, intelligence gathering, security of state properties and prosecution of important citizens - all in a single police has had a devastating effect on the criminal justice system. The government of the day controls the police functioning by a variety of means including transfers, postings, promotions and power to launch prosecution or close cases. As the government of the day has complete powers over the crime investigation machinery as well as the legal authority to drop criminal charges against the accused, crime investigation has become a plaything of partisan politics. Elected politicians often control crime investigation. As a result, the law breaker who until a few days ago was afraid of the policemen is saluted the moment he becomes a legislator. Once a criminal is elected as a legislator, not only are cases against him withdrawn, but prosecution is also diluted by tampering with evidence and witness. On top of it, the police are browbeaten into submission, and they wink at criminal activities of the elected legislators. The documented cases of ministers hobnobbing with gangsters, offering protection

to criminals, and sometimes leading mafia syndicates and gangs involved in abductions and murders testify to the power of politicians in controlling crime investigation. Therefore, from the criminals' point of view, political power offers enormous opportunities to make more money, immunity from prosecution, protection from rivals, dilution of cases pending against them, and withdrawal of criminal charges.

### **Crime-caste nexus**

8.4.8 The peculiar features of our FPTP system combined with the Westminster mode of parliamentary executive made the elected legislator the advocate and leader of the dominant caste group in the locality extending patronage to his loyal supporters and receiving unquestioned loyalty and support in return. Party has become a mere label. A legislator is no longer a representative of the people, but is the leader of a section of the people, and a disguised executive exercising unaccountable state power. Criminalization of politics has been integrally linked to this unaccountable executive power. In fact a legislator who resorts to violence and crime has a better chance of enforcing his will in dealing with the bureaucracy. As systems of accountability have collapsed in most of the government, it is the use of brute force which enforces compliance. The clever criminals who transformed themselves into successful politicians have therefore combined their caste power with criminal career skillfully. In time, the criminal is seen as a caste 'neta'. This is very manifest in States like Uttar Pradesh and Bihar, where the murderous gangs have a direct caste-crime nexus. An attack on a criminal of a particular caste is seen as an attack on the caste itself, with serious political and public order ramifications. The caste riots engineered by the warfare of politicized criminal gangs in coastal Andhra Pradesh in 1988 was one such clear case. Not surprisingly, criminal gangs which were once together eventually split on caste or communal lines, and become rivals for political space. This is what happened in Andhra Pradesh, and to a large extent in Mumbai City. Many Mumbai gangs were very secular crime syndicates about 15 years ago. But eventually the gangs split on communal lines, and forged powerful links with parties and politicians.

## **9. Distortions resulting from electoral system**

### **9.1 Unrepresentative legislatures**

9.1.1 Many analysts have commented on the unrepresentative nature of our legislatures. This is a result of several deficiencies. Firstly the average polling has been around 60%, with 40% of the votes not cast. Many people choose not to vote because of ignorance, apathy or pitiful choice of candidates. Many more people are unable to vote because of fear or use of force. In addition, there are wide-ranging flaws in electoral rolls. Lok Satta's surveys indicate that up to 40% of the electoral rolls in urban areas are flawed – either the names of eligible citizens are not enrolled, or the names of dead or fictitious persons and those who migrated find place in voters' list. In rural areas these errors are of the order of about 10%, making the overall error margin in electoral rolls about 18-20%. Random post-polling surveys of Lok Satta in Hyderabad city indicate that over 21% of the votes polled may be bogus – either the voters do not exist, or do not live in the locality or city or have not actually voted. Any meaningful analysis must take these serious flaws into account, and the remedies for enhancing representative legitimacy should be practical, effective and fair.

9.1.2 Syed Shahabuddin observed (Table No.7) that on an average the ruling party or combine needs only about 35% of the votes polled. This in itself forms only around 21% of the total electorate. "The popular base of the government of the day would fall even lower, if we take into account the inaccuracies in the electoral rolls and the extent of those corrupt practices like-rigging and booth-capturing which pile up votes without voters!" This excludes the corrupt practices that incite or bribe a voter into casting his vote the way he does. As Shahabuddin further points out, "The above macro analysis assumes a homogenous electorate with no variation in caste, religion, race, language, and domicile so that it is equally responsive to the ideology and programmes of all political parties. This is an ideal picture. In fact, the plurality of the Indian society is writ large on its face, and directly or indirectly every political party has over the years developed a well-defined social constituency, discarded a national appeal and adopted sectional appeal that would at least keep its flock together. In fact, even if it works for votes from outside its social constituency, this is primarily to safeguard or strengthen the representation of that social constituency or to neutralize / erode to the extent possible the support base of its main adversary".

*Table 7: Percentage of votes and seats obtained by the largest party in Lok Sabha.*

| Year   | % of Votes Polled | Name of the Largest / Majority Party | Seats obtained /Total No. of Seats | % Votes obtained by largest / Majority Party | % votes necessary for obtaining 50% seats | % votes needed for half the seats (in total electorate) |
|--------|-------------------|--------------------------------------|------------------------------------|--|---|---|
| 1952   | 61.7              | Congress                             | 357/489                            | 45.04  | 30.9                                      | 19.07   |
| 1957   | 63.7              | Congress                             | 359/494                            | 47.8   | 32.8                                      | 20.89   |
| 1962   | 55.4              | Congress                             | 358/494                            | 44.7   | 31.0                                      | 17.17   |
| 1967   | 61.3              | Congress                             | 279/520                            | 40.7   | 37.9                                      | 23.20   |
| 1971   | 55.3              | Congress                             | 352/519                            | 43.7   | 32.3                                      | 17.86   |
| 1977   | 60.5              | Janata                               | 295/542                            | 41.4   | 38.0                                      | 22.99   |
| 1980   | 56.9              | Congress                             | 353/527                            | 42.7   | 32.9                                      | 18.72   |
| 1984   | 64.1              | Congress                             | 415/543                            | 48.1   | 32.6                                      | 20.89   |
| 1989   | 62.2              | INC                                  | 197/543                            | 39.5   | 54.5*                                     | 33.89*  |
| 1991   | 56.7              | Congress                             | 232/543                            | 36.5   | 42.7                                      | 24.20   |
| 1996   | 57.9              | BJP                                  | 169/543                            | 20.3   | 32.6                                      | 18.80   |
| 1998** |                   |                                      |                                    |  |   |   |
| 1999   | 60.0              | BJP                                  | 182/543                            | 23.75  | 35.50                                     | 21.30   |

Note: \* Congress lost a large number of seats with small margin

\*\* Figures not immediately available

Source: Syed Shahabuddin: 'Representational Legitimacy of the Existing System' – paper presented at the National Seminar on Electoral Reforms, Kolkata, 17-18 Nov 2000

9.1.3 These distortions of electoral roll irregularities and the first-past-the-post (FPTP) system of elections based on West minister model in a plural society resulted in several serious consequences. On the one hand the winning party takes power on a minority of the votes cast. As is well-known, every single government since independence has been based on a minority of votes cast. This is true not only of parties that do not have overall majorities in the legislatures but also the governments that have had an absolute party majority in parliament. On the other hand, a large number of social groups that may not have sufficient presence in constituencies to secure election of their candidates remain unrepresented and underrepresented, thus seriously undermining the representative legitimacy of the democratic system. This would be a severe flaw

in any democracy, but is particularly debilitating in a vast, plural democracy with unmatched diversity.

## **9.2 Distortions of First-past-the-post (FPTP) system**

9.2.1 The other criticism of the FPTP system is that many candidates are elected with the support of a minority of votes polled. To be elected, a candidate needs simply to have more votes than any challenger. The National Commission to Review the Working of the Constitution (NCRWC), in its consultation paper "Review of Election Law, Processes and Reform Options" presented data showing that in the 13th Lok Sabha election, only 40% of the members were elected with the support of over 50% of the votes polled. Data also shows that over 81% of the members obtained more than 40% of the votes cast, and 90% of the members obtaining over 35% of the votes polled. In the 12th Lok Sabha election, one-third of the members were elected with a majority of votes polled, 80% of the members were elected with over 40% of votes polled, and 94% of members with over 35% of the votes polled. In the 11th Lok Sabha election, 27.44% of the members were elected with a majority support in their constituencies, where as 68.5% of the members obtained over 40% votes, and 85% members were elected with over 35% of votes in their constituencies. In elections for State Legislative Assemblies the picture varies; Tamil Nadu has elected over 90% of the members with the majority support, and Andhra Pradesh has elected over 72% members with majority support, and over 90% members with over 45% votes polled. At the other extreme, Uttar Pradesh in 1996 elected 11% of the members with majority support, and 42% of members with over 40% support, and 78% of members with over 35% support. Clearly, the FPTP system exaggerates the electoral significance of large social groups, and correspondingly reduces the role of smaller groups in elections.

9.2.2 The above analysis raises two questions. FPTP system has significantly distorted the composition of legislatures, and favoured large parties at the expense of sizeable social groups that are underrepresented. At the constituency level, many candidates have been winning with a minority support. In many ways, both these issues are linked. We have to evolve methods to enhance representational legitimacy of members, and improve the composition of legislatures to reflect the various shades of opinion and the social groups.

9.2.3 However, it must be recognized that there are serious flaws in this analysis too. It is somewhat simplistic to assume that in the FPTP system, all the votes polled for the other candidates are necessarily against the winning candidate. In a constituency election based on plurality, the voters are merely given the choice of selecting the person they feel would best represent their interests. When there are four candidates, A, B, C and D, it does not necessarily follow that the votes cast in favour of B, C and D are against A. Therefore the assumption that the individual elected was opposed by all those who voted for other candidates is fallacious. The remedy to this problem lies in giving voters the option of ranking their choices in an alternative voting (AV) system. Then the votes polled in favour of the candidate who obtained least support can be transferred to other candidates based on the second choices, and so on until a winner emerges with over 50% support. In the absence of such a system, true voter preferences cannot be gauged, and the representative legitimacy of the elected member can never be truly ascertained.

9.2.4 In reality, this quest for determining whether those elected for the constituencies truly represent the constituencies that elected them masks a more crucial question of the overall composition of the legislatures. In FPTP system, as we have seen above, many social groups remain underrepresented, and the winning party most often obtains only a minority support. A large body of opinion does not get represented in the legislature, leading to alienation. Entrenched parties, whose functioning is far from democratic and accountable, have no incentive to change their nature and behaviour in the absence of electoral challenge from new formations with realistic chance of success. Scattered groups, however large, are totally left out of the legislatures. Concentrated presence in a few pockets, rather than broad public support across society, becomes the determining factor in winning elections in a territorial constituency-based FPTP system.

9.2.5 One direct consequence of non-representation of the various social groups, and the rise of false elites to accommodate these groups is the rising demand for reservations for various groups for elective office. As the economically and socially dominant sections have perpetuated their hold on political and administrative levers, representation of scattered subgroups became an emotive issue. Exaggerated claims of numbers and extreme postures became the norm. Even where the groups were accommodated by parties in allocation of seats, almost always the benefits accrued to individuals and not to the different social groups or the society at large. Equity and fairness suffered, and genuine long-term policies for the upliftment of the poorer sections took a back seat. Much of political management became patronage based. As sharing of spoils is the basis of sharing political power, honest building of social coalitions has become virtually impossible. Social cleavages thus were perpetuated as political divisions of a narrow kind. Exclusively constituency-based representation, instead of being a balm to heal the past wounds, and an adhesive to cement bonds, has actually lead to seemingly irreconcilable differences, and potentially explosive situations. Not surprisingly, in this zero-sum-game of politics of patronage, every segment of population feels victimized and discriminated against. Education, health care, economic opportunities and decentralization that are the true measure of empowerment and social, economic and political upliftment have been grievously neglected.

9.2.6 There is another serious defect in the constituency-based FPTP system. As *Michael Dummett* in his *Principles of Electoral Reform* explains, many voters have felt within themselves a conflict between the two purposes of the electoral process – electing a person, who will best represent the constituency, and determining the overall composition of the legislature by political parties. "An elector may favour a certain political party, or even be a member of it, and yet disapprove of the candidate who is standing for that party in the single-member constituency in which he has a vote. The elector may dislike or distrust the candidate personally; or he may support some particular cause or policy, not that of the party as a whole, which that candidate opposes..... He is torn how to cast his vote: he wants his party to gain most seats in Parliament, and does not want to be disloyal to it; but his loyalty may also go to the particular cause in question, or he may simply think that it would be disastrous if he were elected to Parliament. It is obviously a serious defect in an electoral system that it can place voters in such a quandary".

### **9.3 Our parliamentary executive in perspective**

9.3.1 Ever since powers have been transferred to elected governments in India, we have been accustomed to parliamentary executive. In provinces substantial powers were transferred to

elected governments even under the Government of India Act, 1935. The partial transfer of powers to a responsible government at the central level as envisaged never materialized. With the formation of the interim governments in 1946, and with the adoption of the Constitution, it was accepted as axiomatic that the executive at every level would be drawn from the legislature. There were good reasons for adopting parliamentary executive at the Union level. Apart from familiarity with the Westminster model and our own constitutional evolution, the vast size, unmatched diversity and breathtaking complexity of the nation demanded an executive collegium. Given our history and diversity it was necessary to give a sense of sharing of power to all groups and regions. Our parliamentary executive was the natural consequence of these impulses.

9.3.2 History proved that it was a wise decision. Our parliamentary democracy has withstood the test of time and provided us remarkable stability in the midst of myriad problems and many travails. Even more importantly, parliamentary executive protected the nation from authoritarian tendencies. True, the period of emergency witnessed state tyranny and severe curtailment of individual liberty. Also from time to time, whenever the ruling party enjoyed a comfortable majority and the prime minister enjoyed unchallenged supremacy within the party, the executive was more presidential than parliamentary in its style of functioning. This is by no means uncommon in modern democracies with a parliamentary executive system. Britain, Germany, Australia and Canada have witnessed a similar phenomenon of centralization of power, with the prime minister emerging as the unchallenged leader and becoming the symbol as well as substance of the government. Elections too have largely become plebiscitary, and the party platform and the leader seem to matter much more than individual candidates. Despite these trends, parliamentary executive is less likely to become overtly authoritarian. The presence of a constitutional, though often titular head of state acts as a bulwark against authoritarianism. The collective decision-making in the cabinet, though often subordinated to prime ministerial authority, acts as a check against individual arbitrariness and tyranny. In addition, the fact that the prime minister has to literally rub shoulders with other colleagues and legislators on the floor of the parliament made him less remote and more earthy and human, diminishing authoritarian tendencies. Finally the knowledge that the government could be brought down by a vote of no-confidence at any time, or that Lok Sabha could be dissolved to pave way for a mid-term poll acted as effective safeguards against authoritarianism.

9.3.3 While parliamentary executive model of government served our democracy reasonably well at the Union level, such a model is not without its flaws. In fact a prime minister with an unchallenged majority in parliament often has far greater powers than the directly elected head of government. The prime minister combines in himself the roles of head of government, and de facto head of legislature with a captive majority. The constitutional head of state is often a titular head with no powers or discretion of his own, and is duty bound to assent to any bill, ordinance, proclamation or order recommended by the council of ministers at the prime minister's behest. In a society that traditionally showed exaggerated deference to power, the prime minister emerged as a formidable, larger-than-life figure. Despite these trends, the diversity of the nation and the decline of the singly party domination ensured that prime ministerial power is under check.

9.3.4 The other problem with parliamentary executive is the need to draw ministers only from the legislature. When the finest talent is available in parliament, this requirement adds to the



strength of the executive by allowing collective leadership. When the political process makes it difficult for genuinely public-spirited citizens with no capacity to muster muscle or money power to enter electoral arena, the legislature no longer has the talent and experience to nurture a high-quality executive. This is increasingly a problem in India. Elections have become extraordinary gambles with large amounts of money at stake. Vote buying and deployment of money power, arousal of caste and other divisive primordial loyalties, short-term populism and ruthless domination of the local oligarchies have come to be the more unsavoury features of elections in our parliamentary system. As a result most individuals best suited for governance are excluded from the political process. Election verdicts are also often distorted on account of these malpractices. But the vast size of the nation, the political complexity with several parties controlling the levers of power in several States, and the diversity ensure that the electoral verdicts broadly reflect public opinion across the whole nation. Once a government is elected to office with majority support in the legislature, its survival depends on the continued support of the legislature. This makes its existence precarious, and the executive is often captive to the whims of individual legislators or the caprices of small groups. This unaccountable exercise of influence over executive functioning by the legislators has grievous consequences in day-to-day governance. Any dissatisfaction with the executive's inability to yield to legislators' demands unrelated to policy may lead to collapse of the government. However, at the national level these tendencies to bring down a government on such personal and flimsy grounds are largely under check. The power of public opinion, the limited choices on offer for national leadership, the increasing tendency of parties to coalesce around two broad political formations and the fear of rejection at the polls in case of a mid-term election have brought a degree of cohesion and stability at the national level despite some occasional aberrations. Happily, the culture of ayarams and gayarams is not very pronounced at the national level. Therefore, on balance, at the national level the difficulties of a parliamentary executive are outweighed by the advantages of collective leadership, and sense of power sharing among all regions. That a parliamentary executive is less likely to degenerate into an authoritarian dictatorship enhances its appeal at the national level.

#### **9.4 Legislator as disguised executive**

9.4.1 There is ample evidence to show that the parliamentary executive model that served to unite India has actually proved to be counterproductive in States. One of the main causes of this decline in politics and political discourse is the fact that the legislative office is not perceived by the candidates as well as the general public as one of law making and keeping the executive under check. Legislators are seen by the people, and themselves, as the disguised executive. The Indian Union and even States are too large for any social group to gain complete dominance or decisive influence. The sheer diversity of our society ensures that no group can really exercise control over a whole State or nation. When we come to the constituency level, it is an altogether different proposition. The local dominant castes or groups can, and do, exercise near-total control. When these groups elect the disguised executive in the form of a legislator, what they are looking for is control of the executive branch of government through that legislator. There is little concern for law making. Those few people's representatives who discharge their legitimate public duties fairly and diligently are likely to either lose support of dominant groups, or fall prey to the rejection vote in the election. What the dominant groups want is a legislator who can get a local police or revenue official transferred, who can intervene on behalf of the

accused in a criminal case, or at best one who can be a dispenser of patronage in the form of many government welfare schemes. In our constitutional scheme of things, these legislators' support is critical for the survival of the government. Rarely is this support given on the basis of principles or ideology or public opinion. Invariably, there is a price extracted for such support, which can be in many forms. The executive is then at the mercy of the legislators, on whose continued good will and support its survival depends. As a consequence, integrity and survival in power are not compatible any longer.

9.4.2 In addition, as the local legislator is elected more as a representative of the dominant castes or groups, he doesn't stand for an ideology or a mandate or poll platform. His main purpose is to further the interests of the dominant groups or castes as a legislator, or as a minister, if he can muster enough support to become one. As the people have to choose between two or three contenders of similar unsavory background, the choice is often very unsatisfactory. As the political executive is drawn from those elected in this process, it is almost always certain that we have ministers, who have neither common purpose, nor larger vision, nor deep understanding of public affairs. The council of ministers is very often a loose collection of warring tribes, perpetually feuding for crumbs of office or to further their own group or caste interests. This situation, coupled with the public anger and frustration with the political process as evidenced by the rejection vote, makes it impossible to have any honest or far-sighted governance.

9.4.3 All governance is then reduced to patronage, and transfers and postings of bureaucrats. As Robert Wade pointed out, there is a well-developed market for public office in India. Money habitually changes hands for placement and continuity of public servants at various levels. These public servants in turn have to collect 'rent' from the public. The hafta paid to a policeman, the mamool charged by the excise official, the bribe collected by the revenue functionary or the corruption of a transport officer are all part of a well-integrated, well-organised structure. This vicious cycle of money power, bureaucratic placements, political power, muscle power and election battles based on dominance of local factions is extremely well-entrenched and resilient and cannot be dismantled by a few good deeds of a few good people or by incremental reform or tinkering with the system. It is this vicious cycle that leads to the pervasive corruption that large sections of citizenry in all walks of life are disenchanting with, and which is enfeebling ordinary citizens. With the exclusion of the people from the political process or governance, except for voting once in a while in favour of a candidate who is imposed on them, most people are sullen, resentful, angry and frustrated. No matter how many times they reject a government or party, no matter how often they give vent to their anger and frustration through public protests, demonstrations, and at times violence, the real character of governance does not seem to change; the local public servant behaves in the same manner as always — corrupt, greedy, arrogant and arbitrary.

9.4.4 Often the fear of rejection compels governments to adopt highly short-sighted and populist measures. However, as a general rule they do not help, as the exchequer is soon depleted, and the people have no respect for a government that is venal, no matter how many direct subsidies are doled out. In any case, they realise that even when a government makes earnest attempts to improve their lot, its power to do good is extremely limited, while its capacity for harming public interest is enormous. A large and important part of people's lives is neither touched by the government, nor are the people given control over it to guide their own destinies. Many

perceptive observers noted this extraordinary crisis of the Indian polity over the years and commented on the ungovernability of India. Galbraith, for instance characterised India as a "functioning anarchy" decades ago.

### **Captive parliamentary executive in States**

9.4.5 Given this dominance of local entrenched groups and the culture of disguised executive, two consequences follow. Firstly elections at the local level are often a test of supremacy of the local oligarchies, and public opinion and popular sovereignty are a far cry given the dominance of the local elites. As the legislative office is key to executive power at the State level, getting elected as a MLA is of crucial importance for political survival. Therefore all means – money, muscle power, other inducements, threats, brute force – are liberally employed to get elected locally. Party affiliation and ideologies have no real meaning to these local oligarchies, and what matters is supremacy in faction struggle. Thus the parliamentary executive system has exacerbated electoral irregularities, voting fraud and vote buying at the assembly constituency level. Secondly, the legislator is elected not to legislate and monitor the government's functioning, but to exercise executive authority in legislator's garb. As a result, the legislator's role in routine executive sphere is awesome.

### **Reversal of Roles**

9.4.6 In fact in States, parliamentary executive system has led to a curious reversal of roles. The legislator's real concern is to function as the disguised and unaccounted executive. Therefore he has little concern for legislation. Laws are often enacted perfunctorily, without the serious attention they deserve. Budgets are approved with utmost casualness, all the legislative bluff and bluster ultimately signifying nothing. A strong chief minister with comfortable majority in the legislature, particularly with a commanding role in his party, can ride roughshod over both his cabinet colleagues and the legislature. With complete control of the legislature and executive, the chief minister can be a highly authoritarian figure. The executive thus completely controls the legislative agenda, and the legislators in turn control the local executive decisions in an unaccountable manner. This development has led to another reversal of roles in day-to-day administration. The elected political executive is busy with day-to-day management of politics of survival. Therefore much of the executive's time and energy are spent in retaining the legislators' support, leaving little attention to governance and policy making. Therefore much of the policy making, except in respect of short-term populist policies, is left to the bureaucracy. Thus, the politician is content to pay attention to day-to-day policy implementation, patronage and transfers and postings, and the bureaucracy is fulfilling the task of policy formulation. This unhealthy tendency has severely undermined our democracy and made our political process increasingly self-serving and unaccountable.

9.4.7 With this confusion of roles, blame-throwing and finding alibis for non-performance have become endemic. As authority is often divorced from accountability, and de facto power is delinked from *de jure* authority, accountability suffered. While things deteriorate, there is no one to assume responsibility. This again resulted in short-term populism and high centralization of power through patronage-distribution. In view of the systemic nature of the problem, electoral verdicts and change of governments do not necessarily improve the situation. As high and

illegitimate expenditure is the necessary accompaniment of the constituency-based election of the legislator as disguised political executive, power is bound to be abused for private gain. Corruption is thus ubiquitous as most public services are controlled by rent-seekers in this vicious cycle of 'dangerously stable equilibrium', as described by Robert Wade. Elections often change the players, but the rules of the game are unchanged.

9.4.8 As explained earlier, given the compulsions of the patronage-based political culture dominated by local oligarchies, the talent available in State legislatures for executive office is extremely inadequate. As the parliamentary executive can be drawn only from the legislature, the quality of the cabinet suffered grievously over a period of time. This led to significant decline in the quality of governance and decision-making. Even when a party has a clear mandate and there is clarity in goals, and even if legislators' interference in day-to-day executive decisions is kept under check, the quality of ministers is often less than adequate to meet the complex requirements of modern democratic governance. As a result, even sound policies have failed to yield dividends for want of the ability to translate ideas into effective action. School education, health care, police reform, population control, employment generation, investment promotion, sustainable natural resource development, anti-poverty measures, policies for promotion of equity and social justice have all suffered even when the governments have recognised the need to pursue sound policies for their own political gains. For a complex country with myriad problems of great magnitude, the political talent available in State legislatures is woefully inadequate.

## 10. Conclusion

10.1 In conclusion, our parliamentary democratic institutions have served reasonably well, at least to the extent of preserving freedoms, sustaining a competitive, open electoral process and facilitating frequent change of governments. But the severe distortions on account of our failure to evolve a democratic political culture has made our political and state institutions captives in the hands of unaccountable oligarchies. The flaws in electoral process have severely distorted our democracy, undermined our institutions and increasingly alienated the best citizens from politics and elections. The FPTP electoral system we have chosen, coupled with territorial representation has tended to consolidate local oligarchies and promote modern zamindaris. This coupled with administrative centralization has made our citizens subjects, and our representatives and bureaucrats their masters. The Westminster model at state level encouraged the unaccountable, disguised executive, institutionalized corruption, undermined accountability and made honesty and political survival increasingly incompatible.

10.2 Our republic is founded in glorious democratic values. For the first time in our history the ideals of rule of law, human dignity, liberty of citizens, people's sovereignty, and universal adult suffrage have taken root in our society. However, there is need for correcting the distortions which have surfaced over the years. Gandhiji's admonition should be the guiding principle in rebuilding institutions of state. ***“The real swaraj will come, not by the acquisition of authority by a few, but by the acquisition of the capacity by all to resist authority when abused.”***