

UNIT 6 INTER-GOVERNMENTAL RELATIONS

Structure

- 6.0 Objectives
 - 6.1 Introduction
 - 6.2 Inter-Governmental Relations : Meaning and Importance
 - 6.3 Policy Making Structures and Processes in India
 - 6.4 Interaction between Different Levels (Vertical and Horizontal)
 - 6.5 Let Us Sum Up
 - 6.6 Key Words
 - 6.7 References and Further Readings
 - 6.8 Answers to Check Your Progress Exercises
-

6.0 OBJECTIVES

After reading this Unit, you should be able to :

- explain the meaning and importance of inter-governmental relations in policy making;
 - highlight the policy making structures in India;
 - discuss the policy making processes in India; and
 - analyse the vertical and horizontal linkages between different policy making structures in India.
-

6.1 INTRODUCTION

Policy making process is analytical and complex. There are various actors and agencies which perform their role in making and executing the policies. Different organs of the government at various distinct levels of their operations have specified tasks to accomplish through policies being enacted. The policies formulated at these various levels are made through different structures available. The Indian Constitution has divided the subjects into three categories or lists, these are known as the union list, the state list, and the concurrent list. The subjects included in the union list are the ones on which only the union government can make policies. Likewise, the subjects in the state list are left for the states and on the subjects included in the concurrent list, both the union and the state governments can make policies. The union government, under special circumstances, can issue directions to the state governments for making policies in accordance with the guidelines issued by the union government on such subjects which are in the state list. In normal circumstances, policies on such subjects are made by the state governments only. We know that in India there is government at three levels, that is, the union, state, and local levels. Regarding the first two, the provisions and structures for policy making are mentioned in the Constitution. The local government in India does not have any separate Constitutional status. It functions as per the statutes enacted by the state legislature. Though there are distinct structures available at different levels for making policies, there are significant inter-governmental relations and intra-governmental relations also for making the policies. The discussion in this Unit will be on the meaning and importance of inter-governmental relations (IGRs) in policy making. The policy making structures and processes at various levels will be explained. Besides, the interaction between different levels will also be dealt with.

6.2 INTER-GOVERNMENTAL RELATIONS : MEANING AND IMPORTANCE

Inter-governmental Relations (IGRs) do not just imply relationship between different government organs but involves both the citizens and governmental institutions, agencies and officials. It takes into account the said agencies and officials at various levels of the governmental operations. It is very difficult for the policy formulators to make any policy by keeping it isolated from the effect and impact of the other governmental agencies in existence at different levels. The union government cannot reach its goal in an effective and efficient manner without the cooperation of the states. The state government cannot uplift the weaker sections and protect the interest of their public without the power and support of the union government. Likewise, the local governments cannot overcome their problems and meet the challenges without the help of the union and state governments, be it in terms of political guidance, administrative support and control, or financial aids and grants. The union and state governments cannot perform their tasks adequately without the proper support of the local government. It means that at the stage of policy formulation, policy implementation and policy evaluation, the governmental structures at the union, state and local levels have to interact with each other for achieving the maximum with the minimum inputs.

In our political and administrative systems, therefore, interaction between various governmental organs is indispensable. Hardly could one find any political structure or sub-structure, administrative agency or sub-organisation of an administrative structure where the IGRs are not having a place of prominence. The problems being faced by any given sub-section of society need the immediate attention of the government at various levels to think seriously about it, so that the said problems are solved in that area and more than that they are not allowed to spread in the other parts of the country. Let us assume, for instance, that there is an epidemic in a state. Not only it is the duty of that particular local government, state government, but also of the union government that prompt remedial measures are adopted to check the epidemic in that state and to see to it that it does not cause damage in other states as well. Hence, the problem of one state becomes the concern of all the other states and the union government. IGRs also have substantial roots in the past and will have important consequences in the future regarding important issues like education, energy, environment, agriculture, etc. IGRs have been defined by William Anderson as "an important body of activities or interactions occurring between governmental units of all types and levels within a system".

The major characteristics of IGRs could be summed up as follows :

- i) IGRs have a bearing on all governmental units in operation in a given system. From the top to the bottom, for example, in India, that is, the union government, state governments, municipal corporations, municipal committees, cantonment boards, zila parishads, panchayat samitis, gram panchayats, etc., all are involved in it. The relationship between each other and the quality of the same coupled with frequency of interaction amongst them has its impact on policy making and implementation;
- ii) IGRs aim at purposeful behaviour of the governmental officials involved in the process. The officials' actions and attitudes have to be positive and meaningful. For their self-interest they should not put the public interest at stake. The officials' goal oriented attitude does not permit them to have wrong inclination regarding the other participants involved in the process of policy making;
- iii) IGRs aim at regular interaction among officials. Through frequent interactions, based on objective data and analysis, the officials at various levels can contribute to the attainment of targets fixed for the given unit of governance. The day-to-day contacts along with most called for practical working relationship among the officials would go a long way in improving the policy making process;
- iv) Public officials include all governmental officials and actors. These are elected representatives, as in the Lok Sabha, legislative assemblies, local governments,

or indirectly elected representatives, as in the Rajya Sabha, Vidhan Parishads, local governments, political executive and appointed officials, including the administrative personnel at lower and middle ranges, etc. The interaction amongst all the governmental actors and officials, whether elected or appointed, contribute in improving the policy process; and

- v) The financial aspects, viz., loans, grants-in-aid, revenue sharing, auditing, etc., also strengthens or weakens the inter-governmental relations. The governmental structures which are evident at grassroots, states, or union level are made to facilitate the policy process in such a way whereby the common person could get the maximum benefits through the policies made. The financial assistance and help from one level of government to another is also a step in this particular direction and an important component of IGRs.

The inter-governmental relations focus on critical and significant issues of public policy. Policy is a predominant feature of IGRs. Deil S. Wright in his book, *Understanding Inter-governmental Relations*, has said that from policy being a significant trait and focus of attention of IGRs, the following lessons could be drawn.

- i) Inter-governmental actors may be unclear or uncertain about the roles they intend to play or are expected to play;
- ii) Policy purposes and expectations in one plane or jurisdiction of government may be drastically different from the purposes and expectations in another;
- iii) Boundary or jurisdiction-spanning efforts require extra resources and special strategies, but neither strategies nor resources are guarantors of success.
- iv) Successful policy making and execution in IGRs are difficult to measure;
- v) Policy making in IGRs has few neat beginning and ending points, but more continuous knitting and unravelling points; and
- vi) Doubt and distrust, even suspicion and hostility are not uncommon in IGRs.

From the above six points of concern in policy making vis-a-vis IGRs, there emerges the need for very clear understanding between the governments and officials at various levels. Not only formulation but also successful implementation of policies through sound IGRs should be the objective. The policy-makers, at all levels, must make the roles and obligations of the officials and agencies involved for carrying out their activities in an efficient manner.

The union-state-local governmental relationship could either be based on the hierarchical control, or there could be an element of coordination between the three, or there could be the element of overlapping. Deil S. Wright, has talked of three such models in his book. These include:

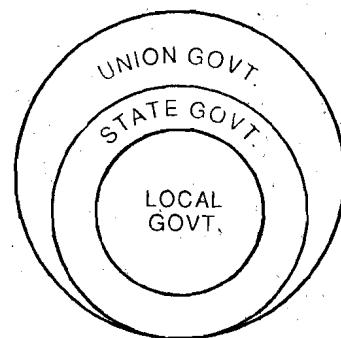
- i) **Inclusive Authority Model** : As per this model the state and local governments depend exclusively on decisions that are nationwide in scope and arrived at by the union government. In this model, the hierarchy dominates, that is, the state government dominates over the local government, the union government dominates the state and local governments and the union and state government dominates the local government. In nutshell, the state or local governments are viewed as mere appendages of a powerful union government in control of a centralised system.
- ii) **Coordinate-Authority Model** : This model is an opposite pole to the Inclusive-Authority Model. It posits union-state authority relationship as autonomous. Their jurisdictions have distinct domains of power and control. The model aims at the element of coordination of the activities of all the units in the overall interest of the polity and the society. All the units, as per this model, are to work in accordance with the basic spirit of the Constitution and established conventions of the land. There has been much criticism of this model for failing to fit the actual operating features of the union, state and local relationships. However, in a specific case or problem, the elements of this model are accurately represented.

- iii) **Overlapping Authority Model :** This model has limited dispersed powers of each unit of operation. The element of interdependence of the units is very much visible. There is a limited area of autonomy with regard to each unit. The relationship amongst the units is mostly of bargaining exchange type. Besides, the facets of cooperation and competition among different units are clearly on the scene. This model describes IGRs as patterned, interdependent, and bargained behaviour among all the three units, that is, the union state and local. It is true of their officials as well. Contact and exchanges between officials may be cooperative or competitive.

All the three models could be diagrammatically shown as :

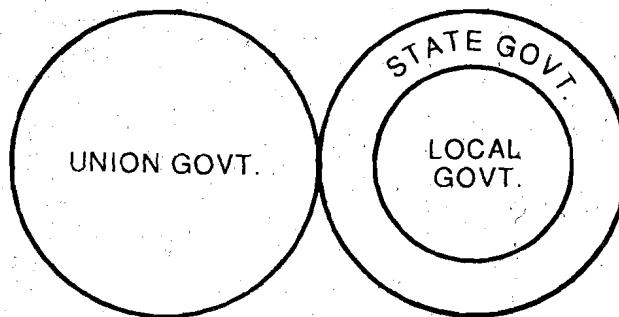
- i) **Inclusive-Authority Model :**

Inclusive - Authority Model



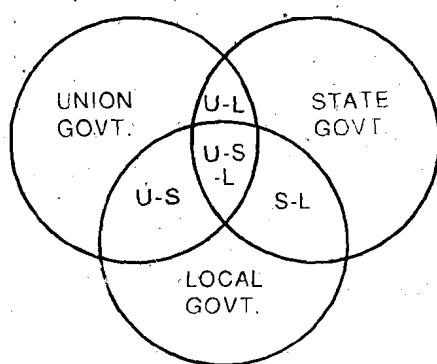
- ii) **Coordinate Authority Model :**

Coordinate Authority Model



- iii) **Overlapping Authority Model :**

Overlapping Authority Model



These three models depict three kinds of relationship amongst the different units of the government. Depending upon the situation, the Constitution, the convention, and the demands of society, etc., the government systems could change its relationship pattern.

The discussion about the meaning, importance, features, and models of IGRs in this sub-section has enabled us to know about IGRs. It would help us to analyse the IGRs in Indian policy making situation. The succeeding text is devoted to the policy making structures and processes in India.

Check Your Progress 1

Note : i) Use the space given below for your answers.
ii) Check your answers with those given at the end of the Unit.

- 1) Mention any three characteristics of IGRs.

.....

- 2) Discuss the Overlapping-Authority Model.

.....

6.3 POLICY MAKING STRUCTURES AND PROCESSES IN INDIA

Policies are made through the structures specifically designed for that purpose. With regard to policy making in India, one comes across some significant factors. It would be appropriate to mention these factors as it would help us to understand the policy making structures and processes in India and the role of IGR in a better manner.

These factors include:

- i) India is a vast country with population of more than 800 million. There is a vast diversity in languages, traditions and culture in the country;
- ii) India does not have adequate material resources. Though the country has developed industrially, yet it is lacking on a number of counts. It is still dependent on foreign nations for technological and economic inputs;
- iii) India has parliamentary form of government. As per the Constitution, the country has unitary, as well as federal features. The broadly unitary form of government, with its many federal features conferring a degree of autonomy to the states, creates a constant interplay of centripetal and centrifugal forces, generated by the Centre and the periphery;
- iv) Because of large diversities of high magnitude there are a number of pressures, varied in form and spirit, being exercised over the policy makers for formulating policies. Consequently, the policies enacted do not appear to have sound and logical directions. It so appears that often policy making is perceived to be a sort of random movement without a sense of overall direction; and
- v) The policies to be formulated by the union or state governments have to be in

accordance with the basic spirit of the Constitution. No such policy could be made which goes against the Constitution Articles. In case such policies are formulated, the judiciary can declare them as **ultra vires**.

In the light of the points mentioned above, the policies in India are made through the specified structures available at different levels. The policy making structures in India are discussed below under three sub-headings. A detailed discussion on the role of these structures or organs in policy making will be made in the subsequent units:

- i) Union Level :
 - a) Legislature
 - b) Executive and
 - c) Judiciary
- ii) State Level
 - a) Legislature and
 - b) Executive
- iii) Local Level
 - a) Elected Representatives and
 - b) Executive

i) Union Level

a) **Legislature** : India has a parliamentary form of government. In this system the governmental authority is vested in the legislative body, that is the Parliament, and in the Cabinet headed by the Prime Minister. Indian Parliament has two Houses—the Lok Sabha, and the Rajya Sabha. The Cabinet exercises political leadership and directs the administration. Cabinet ministers are entirely or largely selected from the membership of the Parliament and the Cabinet continues in power so long as it commands the support of the majority of the Parliament. Substantiated disagreement between the Parliament and the Cabinet results in either the appointment of a new ministry or the election of a new House of Representatives, that is, the Lok Sabha. All the issues on which the policies are to be framed are placed before the Parliament for its approval. The issues could be placed before either House of the Parliament. However, the financial bills are submitted first to the Lok Sabha. The issue put before one House is debated upon, and once approved it goes to the other House.

There is a set procedure for formulating policies on issues presented before the House. There are three stages through which the issue, also known as, 'Bill' has to pass through. The first stage is, when the mover of the issue introduces it in the House. At this stage the title of the issue on which the policy is to be enacted is read and a brief sketch of the policy is submitted before the House. On some occasions the issue is opposed at this stage also. Both the opposition as well as the movers get an opportunity to explain their viewpoint. Once the issue is through from this stage, it goes on to the second stage, which is quite important. At length all the clauses of the bill are discussed. The mover proposes whether the bill should be sent to a select committee or joint committee of both the Houses, or it should be considered by the House straightaway or it may be circulated for eliciting public opinion thereon. In accordance with the decision taken the bill is passed on to the concerned channel. In case, it is to go to the committee, a date is fixed by which the committee is to submit its report to the House. After this stage is another stage, known as the report stage. The committee has the powers to suggest changes in the bill. The changes suggested are incorporated, in case the mover agrees on to it. The bill is discussed clause by clause in the House and normally several amendments are made in it at this stage. On every clause the approval of the House is taken. After this the bill is in the third stage. Only such important points which could not be raised at second stage are considered at this point of time. Once cleared from it the bill goes to the other House. In case, it is approved by the Lok Sabha then it goes to the Rajya Sabha or vice versa. In case, a bill is passed first in the Lok Sabha, the Rajya Sabha can suggest some changes which the Lok Sabha may or may not agree with. The bill first passed in the Rajya Sabha comes back to the Lok Sabha and the changes if any suggested by the Lok Sabha have to be taken into consideration by the Rajya Sabha. Once it is cleared by both the Houses, then it goes to the President for his assent.

The President can send the bill back with some suggestions. In case the Parliament approves it again without incorporating the suggestions of the President and sends it again to the President, he has to give his assent. This is how the legislative structure at the union level performs its role in policy-making in India. The role of legislature will be discussed in detail in Unit 9 of this Course.

b) Executive : There is a political as well as a permanent executive which play an important role in policy making. The political executive is responsible to the legislature and so remains in the seat of power till it enjoys the confidence of the Parliament. At the union level, different ministries are responsible for policy making. Besides, the supra-ministry institutions play their role. These include: the council of ministers, the Prime Minister, the Cabinet, the Cabinet Secretariat, and Prime Minister's office. The dynamics of the Parliamentary democracy lead to policies getting modified as a result of debate in Parliament or in consultative committees of members of the Parliament. The political executive depending upon the spirit of the policy, the ideology of the party in power, need of the day, pressures from groups, etc., identify the issues to be presented before the legislature for formulating policies on the same. The political executive is supported by the permanent executive in furnishing necessary information regarding the issues to be put on agenda for policy making. Even with regard to the issues which are presented before the legislature for making policies on the same by the members of the opposition, the permanent executive provide details to the political executive to support or not to support the same in the legislature. It may be made clear that the issues submitted before the legislature, by the opposition members cannot be turned into policies, unless the party in power supports it, because, the party in power has the majority in the legislature which is a must for making policies.

The executive has a role in policy making from another count as well. A great deal of legislation takes place outside the legislature in government departments, bearing varied nomenclature; rules, regulations, bye laws, schemes, orders, notifications, etc. This is known as delegated legislation. The term delegated legislation is used in two senses. In one sense it means, the power of making rules having been delegated by the legislature to the executive, in other it means the output of that power, that is, the rules, regulations, orders, etc. In whichever sense one may use the term, it is a fact that the work of delegated legislation has increased substantially in India. Because of proliferation of the government in innumerable spheres, the work of legislature has increased thoroughly. In order to cope with it, the legislature delegates some of the legislative work to the executive. The role of political and permanent executive will be discussed in detail in Units 7 and 8 of this Block.

c) Judiciary : It is a fact that policy making is the basic task of the legislature but the judiciary also has a significant role to play in it. The judiciary is considered as custodian of the rights of the people and a balancing wheel between the executive and the legislature. Besides, it also decides all the disputes which might arise between the union and the states, so that federal structure is not put under heavy strain. At the union level in India, there is a Supreme Court. Article 124 of the Indian Constitution, clearly says that there shall be a Supreme Court in India. It is the judiciary which decides whenever the law is silent or unclear or does not fall in consonance with some other policies or policy already in existence. To this effect the court is guided by the values of equity and justice. Judicial decisions provide legitimacy to the government institutions/output through various policies.

Under the Indian Constitution, the Supreme Court has been given the power of judicial review, which implies that on an application having made to it, the Supreme Court can examine the validity of a policy enacted by the Parliament. In case the Supreme Court opines that the policy is wholly or partially not in accordance with the provisions of the Constitution, the policy totally or that part of it which goes against the spirit of the Constitution can be declared unconstitutional, and thus invalid.

ii) State Level

a) Legislature : The procedure adopted for enactment of policies, on all matters falling in the state list, by the state legislature is similar to that of the policy making mechanism in

the union legislature. As per Article 168 of the Indian Constitution, all states except that of Andhra Pradesh, Bihar, Jammu and Kashmir, Tamil Nadu and Maharashtra, the state legislatures have one House, that is, the Vidhan Sabha comprising the elected representatives of the people. The states mentioned above have two houses—Vidhan Sabha (the Lower House) and Vidhan Parishad (the Upper House). The state executive, like the union executive, is responsible to the legislature and remains in power till it enjoys the confidence of the legislature. Besides making policies on the state list subjects, the state legislature can make policies on concurrent list subjects, provided such legislative measures are not against any policy enacted by the Union Legislature.

b) Executive : The states also like the union government have a number of ministries who have the responsibility of initiating policy issues and proposals before the state cabinet for deciding the policy issues to be kept on policy making agenda of the state legislature. The departments in the state secretariat have to perform the task of gathering data and information regarding issues falling under each department's jurisdiction for framing policies. The permanent executive, that is, the bureaucracy assists the political executive in this regard.

iii) Local Level

a) Elected Representatives : We have mentioned in Sub-section 6.3 of this Unit that all elected as well as appointed officials of the government at different levels have a substantial role to play in the enactment of policies at their distinct levels. In most of the states, the local governments, as per states' legislative statutes are in existence at the city, town, block, and village level. Depending upon the population and revenue resources, there are municipal corporations in some bigger cities, there are municipal committees in others. Besides, Town Area Committees and Notified Area Committees are in existence at some places. At the rural level, there are village panchayats, panchayat samitis at the block level and zila parishads at the district level. But for panchayat samitis and zila parishads, the rest of the institutions have councils of elected representatives. These councils or bodies, depending upon the needs of the local constituents, areas, and the resources available, frame policies for the betterment of the people. The directives issued by the state governments and union government, from time to time, regarding any policy measures are taken into consideration by the elected representatives of local bodies and the policies made accordingly. By simple majority decisions regarding works to be undertaken are made in these elected councils.

b) Executive : The executive here means the permanent executive, that is, the bureaucracy operating at the local and also that at the state level which has dealings with the local bodies regarding works to be undertaken by the local bodies. The bureaucracy at the local level plays quite an important role in the priorities fixed and decided by the local bodies and also in the policies being made by the local councils. At times it is felt that the local administration does not provide a substantial helping hand to the local bodies in making these institutions work effectively. The control being exercised by the bureaucracy at district and lower levels and over the local bodies is enormous and does not permit the local councils to work effectively.

The Indian Constitution has made a clear distinction of powers between the union and state governments for making policies at the union and state levels. Issues get translated into policies after being approved by the respective legislatures. At the level of the legislature, political executive, and permanent executive there are number of processes involved in policy making. Besides there are different ministries that perform important role in policy making and there are certain other agencies which take care of a number of important aspects relating to policy making. Some of the most important among these include the Planning Commission, National Development Council, Finance Commission, etc. Besides, there are some other institutions and agencies as well, which play a crucial role in formulation of policies in the context of Inter-governmental Relations (IGRs).

The Planning Commission in India has come to stay as an important institution. Every activity of the nation revolves around this organisation. Unless funds for a project are made available by the Commission, the work cannot go on. The Planning Commission advises the governments, both central and states, on the strategy, size,

mobilisation and allocation of resources. The Planning Commission performs its desired role by maintaining a close liaison with the Union Cabinet as well as with the states. The members of the Commission are invited by the union as well as state cabinets and its committees. The Commission also does not act in vacuum and takes full stock of important economic issues and priorities before the ministries. It would not be wrong to say that there is a constant stream of ideas which flow from the Commission to the governments, both union and states and vice versa. Contributing to the making of policies, the role of the Commission is important from the obligations undertaken by the Commission which include: assessing of the material, capital and human resources of the country, including the technical, personnel and investigating the possibilities of augmenting those which are found to be deficient in relation to the requirements; formulating a plan for the most effective and balanced utilisation of the country's economy; and determining of priorities, defining the stages in which the plan is to be carried out, and proposing the allocation of resources for the due completion of each stage. The role performed by the Commission plays a substantive part in determining issues to be translated into policies both by the Union, as well as, state governments. The states also have Planning Boards which undertake the planning works within the states. The state planning boards and district planning cells provide the relevant information/data regarding the resources available; human and natural, as well as financial in the states and the districts in order to ascertain the usefulness of the plans. The Planning Commission has to take into view the data provided by these boards while formulating programmes and policies. Even for implementation of centrally sponsored schemes like the anti-poverty programmes the resources available at the state and district levels and viability of programmes have to be determined. Thus the Planning Commission has to interact with the state governments. Though the state and district boards in India are almost dysfunctional, there is a need to revitalise them in order to improve IGRs. Over here the role of the National Development Council assumes importance. It is a body that acts as a means of interaction between the Planning Commission, the union government and the states in the process of plan formulation.

In strengthening the inter-governmental relations and the formulation of policies by the Union and state governments, the National Development Council (NDC) has a place of prominence. This is a nodal body for approving the policies and strategies of development planning. Though it is an advisory body, yet it has assumed important position because of its composition. It comprises the Prime Minister, the union ministers, the chief ministers of all the states, the lieutenant governors and administrators of the union territories and the Planning Commission members. NDC prescribes guidelines for the formulation of the Five Year Plans including the assessment of resources for questions of social and economic policies affecting national development. The role of the NDC in policy making is of crucial importance. It provides a framework to the union and state governments to make policies on the same.

The role of the Finance Commission in IGRs is also of crucial importance. Finance is the pivot of all activities. It has great significance and bearing on policy making. No state activity can run without providing for adequate finance. It is for want of finances that regional imbalances are created and some of the states remain underdeveloped & whereas, the others advance in all walks of life. As per Article 280 of the Indian Constitution there is a provision for a Finance Commission. Its duty is to recommend to the President the distribution between the union and the states of the net proceeds of taxes which are to be divided between them and also allocation between the states of respective shares of such proceeds. It also suggests the principles which govern the grants-in-aids of the revenue of the states out of Consolidated Fund of India. In the words of M.V. Pylee, "The Commission acts as a buffer between the union and the states, checking the clamorous, finance hungry states but upon applying their political pressure on the union and at the same time, making the latter give as much as possible to the needy states". Highlighting the Finance Commission's role vis-a-vis planning of policies, it has been observed that 'when the Finance Commission begins its work, it has to keep in view the requirements of the plan. The result is, that, it has to function more or less within the lines already laid down by the Planning Commission'. But there is no conflict

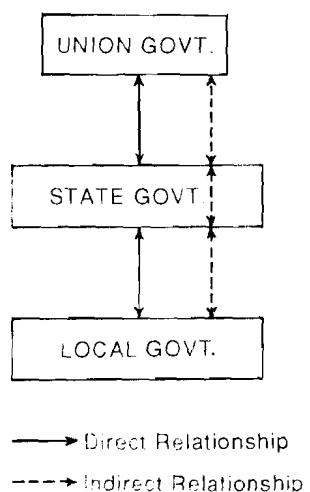
between the two Commissions. The Planning Commission always keeps in view the suggestions and recommendations made by the Finance Commission. The Finance Commission, on the other hand, does not ignore plan needs of a state before making recommendations to the President about financial requirements of the states.

The discussion made in the sub-section has brought to light the different structures of policy making at different levels. It has also emphasised upon the importance of institutions, like the Planning Commission, the National Development Council, the Finance Commission, etc., in establishing processes of policy making in the wake of inter-governmental relations. There are various other fora through which the centre interacts with the states. We shall read about them in the following section.

6.4 INTERACTION BETWEEN DIFFERENT LEVELS (VERTICAL AND HORIZONTAL)

As per the Constitution, the subjects on which the policies could be formulated by the Union and state governments have been divided in three lists, that is, the Union list, state list, and concurrent list. Mention has been made about these lists and the specified role of the Union and state governments in policy making in accordance with these lists in the earlier sections of this Unit. The following illustration reveals the interaction between the three governmental levels.

Policy Making : Vertical Linkages



In Indian federal polity, the Union government is very powerful and strong. In comparison to it the states are weak. Inspite of all this, the states enjoy certain autonomy and in that way these are not "glorified municipalities". The states can make policies on the subjects included in the state list and normally the Union government is not supposed to interfere in the working of the subjects. Through the grants-in-aid given by the Union or by the International Agencies for specified projects to the states, the Union government interacts with the states for making policies accordingly. Besides, issues like proclamation of internal emergency, sending of some of the bills passed by the state legislature to the President by the Governor for his approval before giving assent to it, and a resolution passed by the 2/3rd majority in the Rajya Sabha to give powers to the Parliament to legislate on subjects mentioned in the state list in the national interest, etc., speak of some checks on the states' autonomy or in other words reveal the role of the Union government in the policy making process of the state governments.

The local governments are in existence in the urban, as well as, rural areas because of the statutes enacted by the respective states. The state government has enormous checks and control over the local governments. It would not be wrong to say that the local governments enjoy the status of only extended arms of the state government. The local governments have little autonomy and more accountability.

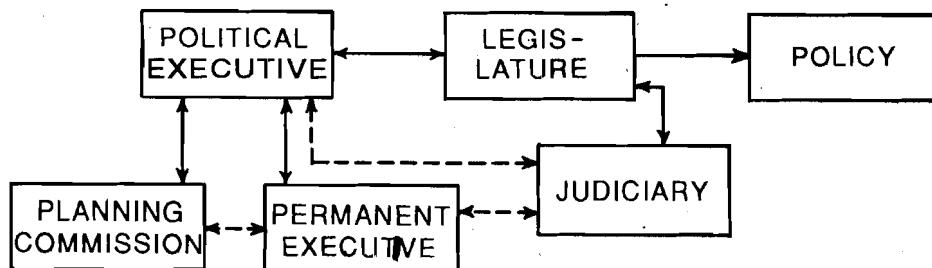
The Union government through state government and also directly, in some cases, interact with the local governments regarding a number of projects and programmes Jawahar Rozgar Yojna is an example of this. Moreover, the local governments are most of the time dependent on state governments for finances. Full-fledged policy formulation is, therefore, almost absent due to lack of resources. Though the division between the different levels is in the fore, yet, India as a country is one, and it so appears that for the purpose of effective and efficient handling of the issues, the various levels perform their assigned role in policy making by having sound interaction with each other.

Interstate Council, Zonal Councils, Annual Meets of the Chief Ministers, Annual Meets of the Governors, etc., also signify the importance of inter-governmental interaction and relationship for the purpose of policy making. Zonal Councils have been called upon to promote inter-state cooperation, to cooperate with each other in speedy execution of development projects, to enable the centre and the states to cooperate and exchange ideas and to solve problems concerning border disputes, linguistic minorities and inter-state transport. Then we have the Control Boards, which act as a link between the Centre and the states, they ensure efficient economic and clear execution of the river projects. Damodar Valley Corporation is an example of a Control Board. The Central government has constituted Regional Electricity Boards to advise on the integrated operation of all the power systems within its jurisdiction, they also review the progress of power development schemes.

Conferences and Councils help in increasing IGRs between the centre and the states. They act as institutionalised channels for consultation with the states on a wide variety of subjects. These bodies are mostly adhoc but the NDC (mention about it has already been made), Central Council of Health and Central Council of Local Self-government owe their existence to the resolutions of the Central government. These conferences take place at political administrative and professional levels. NDC, Chief Ministers Conference, Conference of ministers of different departments are examples of conferences at the political level. Conference of Chief Secretaries, Conference of various functional secretaries are examples of the administrative level conferences. At professional level, we have Conferences of the Chief Justices of State High Courts, Conferences of the Vice-Chancellors, etc. Inter-State Council is another forum through which the Centre and the state interact with each other.

Besides, vertical interaction there are horizontal linkages at each level. The relationship between different organs of the government plays a substantive role in the policy making process. The diagram given below brings to light the horizontal linkages at the union level.

Policy Making : Horizontal Linkages



→ Direct Relationship

- - - → Indirect Relationship

This diagram shows linkages between different organs in formulation of the policy. Straight lines indicate the direct relationship between one or more organs and others contributing towards enactment of policies. The dotted lines indicates the indirect relationship between the legislature and executive, both political and permanent, in

the way of policies emanating due to delegated legislation, and between judiciary and executive regarding interpretation of the policies in accordance with the spirit of the Constitution and natural justice. As discussed earlier, the political executive plays a crucial role in getting the policy issues submitted and translating them into policies by the legislature. Policy making is, definitely, fragmented. Such policies, which fall within the broad framework of socio-cultural issues, are the concerns of large number of ministries. The departments dealing with agricultural research, atomic energy sphere, defence, research, science and technology and electronics frame policies concerning various aspects of the scientific spectrum. It is only in areas like defence and foreign affairs that the issues are sorted out by the single ministry. Moreover, there is enough role of permanent executive in each area of policy making. It all needs adequate coordination between different ministries for reaching at a point of consensus. As per the Administrative Reforms Commission Study Team, "the Prime Minister has an unenviable responsibility of keeping the enthusiastic minister from going too far or too fast and prodding the laggard into action. He has the overall responsibility for providing leadership in policy formulation, as well as, implementation. The chief ministers have analogous function to perform in their respective states".

The permanent executive, though not responsible to the legislature, like the political executive, has an enormous part to play in policy making. The role of the cabinet secretary at the Union level and the chief secretary at the state level is important enough. The Prime Minister and the cabinet secretary at the union level and chief minister and chief secretary at the state level have crucial roles to play in the effective functioning of the Cabinet and its committees to which all important policy matters are referred. The process of decision-making in the cabinet has been stated as, "accommodation and settle" and where major differences appear, are often assigned to the Cabinet committee or to the Cabinet secretary or to a committee of secretariats for the purpose of probing and reporting to sort out the differences.

The judiciary also plays an important role in policy making. It keeps checks on the executive, both political and permanent, and the legislature. It has been mentioned in earlier parts of this Unit, as well as, in Unit 10 of this Course. The committees of the Parliament also play a significant part in policy making, Public Accounts Committee, Committee on Public Undertakings, Estimates Committee, Committee on Private Members Bills, etc., are some of the important committees to this effect. As a result of the linkages between different organs the policies are established. This aspect will be explicitly dealt in Unit 11 of Block 3.

Discussion on horizontal linkages will remain incomplete unless we make mention of interaction between different state governments regarding policy issues. Many a times such policy issues came up before a state which do not exclusively fall under its purview, for example, policy regarding some river water, environmental control etc. Recently the Cauvery water dispute has brought into fore the confrontation between the states of Karnataka, Tamil Nadu and the Union government. The three governmental organs have to solve the issue and formulate a policy which satisfies all the parties. The establishment of the Joint Public Service Commission is another example of inter-state interaction. The Councils Conferences, which we discussed in the previous section, are all examples of inter-state interaction. Any policy regarding curb on industrial wastes falling in the rivers as a pollution control measure will involve the states in which the rivers run. Thus, there can be many issues which call for interaction between the different state governments. While studying inter-governmental relations, therefore, interaction between the Union, state and local governments as well as, interaction between different state governments and local governments has to be kept in mind.

Check Your Progress 2

Note : i) Use the space given below for your answers.

ii) Check your answers with those given at the end of the unit.

- 1) Mention the significant factors which the policy makers have to take into consideration while framing policies.

2) Which are important policy making structures at Union level?

.....
.....
.....
.....
.....

3) Highlight the important organs having horizontal linkages in policy making.

.....
.....
.....
.....
.....

6.5 LET US SUM UP

Policy making in India is taken up at different levels. Provisions have been made in the Constitution, in accordance with the spirit of a federal polity. Inter-governmental relations play a significant task in formulation of policies at various levels. The meaning, importance, characteristics and different models of relationship between distinct governmental levels have been analysed in this Unit. The policy making structures at the Union, state and local levels have been discussed in order to determine the quality of relationship between different levels with regard to policy making. Besides, the vertical and horizontal linkages between different levels have also been highlighted. The study of the present Unit would enable us to understand the units on the role of the legislature, the political executive, the permanent executive and the judiciary in policy making in a better manner. The unit on 'inter-organ relations' will make the horizontal linkages between different levels of government more clear.

6.6 KEY WORDS

Central Council of Local Self-Government: It has been in existence since 1954 having been constituted by an order of the President. Chief Minister of Health is the chairperson of the Council. It is an advisory body and its functions are:

- i) to consider and recommend broad lines of policy in matters relating to local government;
- ii) to make proposals for legislation on matters relating to local government;
- iii) to draw up plan of action; and
- iv) to make recommendations to central government regarding financial allocations to local institutions.

Centrifugal : moving or tending to move away from the Centre.

Centripetal : moving or tending to move towards the Centre.

Inter-State Council : It is an effective device for consultations between the Centre and states. The President is given the powers under Article 263 of the Constitution to

define the nature of the duties of the Council. The Council is to inquire into and advise upon disputes which may have arisen between the states. In addition, it may investigate and discuss subjects of common interest between the union and the states or between two or more states in order to facilitate coordination of policy and action.

Metropolitan : A large city and its surroundings suburbs, which are socially and economically integrated. The term “metropolita” is derived from the Greek words “meter” (mother) and “Polis” (city).

6.7 REFERENCES AND FURTHER READINGS

Administrative Reforms Commission 1967, “Study Team for Machinery of Government of India and its Procedure of Work”, Publication Division, Government of India, New Delhi.

Dayal, Ishwar, et.al., 1976, *Dynamics of Formulating Policy in Government of India*, Concept, New Delhi.

Mathur, B.C. et.al. (eds.), 1979, *Management in Government*, Publications Division, Government of India, New Delhi.

Wright, Deil S., 1982, *Understanding Inter-governmental Relations*, Brooks/Cole Publishing Company, California.

6.8 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

- 1) Your answer should include the following points :
 - IGRs have a bearing on all governmental units in operation in a given system.
 - IGRs aim at purposeful behaviour of government officials involved in the process; and
 - Inter-governmental relations are strengthened or weakened by the financial aspects.
- 2) Your answers should include the following points :
 - It has limited dispersed powers of each unit of operation;
 - Each unit has limited autonomy; and
 - Competition and coordination are clearly visible.

Check Your Progress 2

- 1) Your answer should include the following points :
 - India has a vast population and tremendous diversity in languages, traditions, and cultures.
 - It lacks adequate material and other resources.
 - India has the parliamentary form of government and numbers of pressures are exercised over policy makers.
- 2) Your answer should include the following points :
 - Executive (Political and Permanent)
 - Legislature; and
 - Judiciary.
- 3) Your answer should include the following points :
 - Political Executive
 - Permanent Executive
 - Judiciary
 - Legislature; and
 - Interaction between different states.

UNIT 7 ROLE OF POLITICAL EXECUTIVE

Structure

- 7.0 Objectives
- 7.1 Introduction
- 7.2 Meaning of the term Political Executive
- 7.3 The Role of the Political Executive in Policy Making
- 7.4 Identifying Policy Issues
- 7.5 Identifying Policy Agenda
- 7.6 Identifying Policy Proposals : Some Techniques
- 7.7 Let Us Sum Up
- 7.8 Key Words
- 7.9 References and Further Readings
- 7.10 Answers to Check Your Progress Exercises

7.0 OBJECTIVES

After reading this Unit, you should be able to :

- understand the meaning and functions of the political executive;
- explain the role of the Prime Minister, Cabinet and Cabinet Committees in policy making;
- discuss the functions and role of the cabinet secretariat and Prime Minister's Secretariat;
- highlight the process of identifying policy issues, policy agenda and policy proposals; and
- explain the role of public opinion in policy making.

7.1 INTRODUCTION

Public policy making is the most significant activity of the government as it touches almost every facet of the life of the citizens and the nation as a whole. Policy making is one of the major functions of the political executive. Broadly speaking, the structure of the public policy making involves the entire political system. The ultimate authority in policy making, planning and budgeting rests with those who hold the power to legitimise policy. Legally, this power may be in the hands of a single individual (a king or a dictator), in the hands of a group of persons (a political party or military) or in the hands of the entire citizenry of a country. In this Unit, we shall highlight the role of the political executive in policy making in India, the role played by the Prime Minister, Cabinet Secretariat and Cabinet Committees in identifying policy agenda, issues and proposals. A discussion on the role of public opinion in policy making will also be made.

7.2 MEANING OF THE TERM POLITICAL EXECUTIVE

Policy making is not one person's or one political group's job, the actual formulation of policies is shared by political leaders of different political parties, pressure and interest groups, policy making units and the people as a whole. The U.N. publication on Development Administration (1975) says, "In view of the magnitude and complexity of various policy questions today, a king or party alone cannot make public policies and must, therefore, establish some central units to assist in policy making. Similarly, the citizenry, who usually exercise their power to legitimise policy through persons elected by them, directly or indirectly, normally require some central

units to initiate, examine and formulate policy proposals. Sometimes such units may even take policy decisions explicitly or implicitly in the name of those with the power to give policies legal authority. Such central units for policy making are mostly located in the executive branch of the government".

In a parliamentary democracy like India, the leadership of the government is in the hands of the Prime Minister, who is the real executive, the nominal executive being the President. Through the party system and the authority of patronage which the Prime Minister enjoys, the Prime Minister has usurped the authority of the Parliament. The ever increasing authority or influence of the Prime Minister has changed the Cabinet government into 'Prime Ministerial government'. Before we examine the role of the executive, let us first understand the meaning of the term 'Executive'. J.W. Garner observes, "In a broad and collective sense, the executive organ embraces the aggregate or totality of all the functionaries and agencies which are concerned with the execution of the will of the state as that will has been formulated and expressed in terms of law". In India, it comprises the Prime Minister leaders of the different parties, the ministers of the ruling party and the opposition, the Cabinet, its committees, Cabinet Secretariat and the Prime Minister's Secretariat. Before dealing with their role separately, it would be of relevance to discuss briefly, the broad functions of the executive which are as follows:

- 1) Maintenance of internal peace and order is the major function of the executive but maintaining external relations and saving the country from external aggression is also an equally important responsibility. In other words, the formulation of the national policy for domestic, as well as, external purposes is the chief concern of the executive. It includes all activities pertaining to the maintenance and well-being of the State.
- 2) As already mentioned, the initiative for legislative work has also become the responsibility of the executive. The bills are first approved by the Cabinet, and the government does not face any difficulty in getting the approval of the Parliament where, generally, it enjoys a majority. In the present context, though we have a minority government yet its proposals are accepted, with or without modification, by the Parliament as holding elections at short intervals imposes financial and political pressures on the system.
- 3) The executive proposes the budget and decides about the imposition or abolition of taxes. It may increase or decrease the tax rates. The executive also sees that provisions of the budget are implemented after the approval of the Parliament. It is, therefore, clear that the executive has all pervasive authority over the activities of the State.

7.3 THE ROLE OF THE POLITICAL EXECUTIVE IN POLICY MAKING

Now, we shall briefly discuss the role of the political executive in policy making by highlighting the role of the Cabinet, Cabinet Secretariat, Cabinet Committees, Prime Minister and Prime Minister's Secretariat.

The Role of Cabinet in Policy Making

The Cabinet plays a very important role in policy making as would be clear from the following:

- 1) It defines the direction which the national policy shall take and decides how each problem at home or abroad is to be tackled.
- 2) The Cabinet is responsible for all types of legislation. It gets the proposals prepared from various departments and only after its approval, these are submitted to the Parliament.
- 3) The Cabinet is held responsible for every detail of the administrative work carried on by the ever-growing administrative machinery.
- 4) It is also responsible for the finances of the State.

- 5) It is the Cabinet which decides as to what business is to be submitted to the Parliament and how much time be allotted for the same.
- 6) Higher appointments at home and abroad are also made by the Cabinet through its Committee on Appointments.

Thus, it is clear that the Cabinet initiates and decides public policy concerning almost every sphere of government's activity. Without its approval no policy proposal can become effective. While examining the role of the Cabinet, S.R. Maheshwari opines, "Policies acquire final approval at various levels of governance depending on their import and nature. Certain proposals are required to be brought before the Cabinet for its decision, and the Cabinet may take them up either directly or may refer them to one of its sub-committees for a more detailed examination. The Cabinet, functioning on the principle of collective responsibility, is the top policy making body in the government, but only major proposals are taken to it for its decision, other matters get disposed of by the minister at his/her own level. Even otherwise, it functions more as a referral body than an original one, more as a policy satisfactory organ than a policy formulating one. But occasionally, in its meetings some new policy items may get thrown up. Much more systematically powerful as policy making mechanisms are its subcommittees, particularly the Political Affairs Committee and the Economic Affairs Committee, both presided over by the Prime Minister and consisting of the key ministers".

Role of the Prime Minister

The Prime Minister always enjoys a special position in the realm of policy making and other ministers play varying levels of subordinate role. It is said that the crucial policy decisions are taken not in the Cabinet but in the inter-departmental committees, in Cabinet Committees or in conversation between the Prime Minister and the individual minister. Hence, the Prime Minister is the crucial element in the decision-making process. However, it is also pointed out that the Prime Minister's influence on the policy making may be exaggerated, as the spheres of state activity have increased enormously, that no one person is able to survey the whole field. The policy initiatives come from many sources, not just from the Prime Minister but also from the party policy, from the civil servants, from administrative necessity, from sheer pressure of events at home and abroad, and from the demands of public opinion channelled in various ways. Prof. Maheshwari further says that the Prime Minister is not often involved in the germinating stage of a policy. However, the shape that any policy would take does depend on the personality of the Prime Minister.

The Prime Minister alongwith his/her council of ministers, as we have already mentioned acts as the real executive in the parliamentary system. The council is a very large body, its membership crossing the 60 mark invariably, consisting of Deputy Ministers, Ministers of State and Cabinet Ministers. All its members meet officially very rarely. The effective policy making body is the Cabinet which consists of only the Cabinet Ministers and the Prime Minister—a Minister of the State is invited to its meetings when his/her subject matter is to be discussed. Generally, the Cabinet meets every week or when required, and takes decisions on all national policies. It acts as a collective body where the ministers take integrated decisions reflecting the national perspective. For facilitating the work of the cabinet, it makes use of the committee system. According to the Rules of Business, standing committees of the Cabinet can be provided for specific aspects of governmental business. The committees are set up to ensure speedy decisions on vital questions of political and economic significance and other urgent matters. These also help in bringing about effective coordination in well-defined fields of administration. The number and functions for which the cabinet committees are appointed vary from time to time. Sometimes ad hoc committees are set up for dealing with matters of temporary nature but requiring urgent attention of the Government. The most important of the cabinet committees is the Political Affairs Committee. Some other committees are on Appointments, Economic Planning and Coordination, Parliamentary Affairs, etc. For effective performance, the Cabinet is assisted by the Department of Cabinet Affairs headed by the Cabinet Secretary.

Cabinet Secretariat and Prime Minister's Secretariat : Their Role in Policy Making

The office of the Cabinet Secretary and its functions have evolved over the years. As head of the civil service, he presides over the committees of secretaries. These committees examine inter-ministry matters and other issues that concern the government as a whole. As a rule, the Cabinet Secretariat does not prepare papers for the Cabinet or its committees, these functions are performed by the concerned ministries. However, the Cabinet Secretary only oversees the agenda papers. It is only on rare occasions that the Cabinet Secretary prepares a paper for the Cabinet. He, however, attends all the meetings of the Cabinet and its committees. He is also responsible for preparing the agenda, priority of items and allocation of subjects to cabinet committees on the direction of the Prime Minister. He also prepares minutes of the cabinet meetings and committees to the concerned ministries. Ishwar Dayal and others opine that "there is no system of briefing the Prime Minister on the agenda items although the Cabinet Secretary may assist him during the meetings. The process of decision-making in the Cabinet, is a long and complex process and strong differences among the members are often assigned to a committee, or to the Cabinet Secretary to 'inquire and report'".

He, therefore, plays a very significant role in the policy apparatus but, essentially, in a servicing sense, except in personnel matters where he, as the head of the civil service, has a much greater influence. However, the significance of his position depends upon the style of functioning of the Prime Minister and the amount of confidence he reposes in the Cabinet Secretary. All the same, the Cabinet Secretariat has established itself, over the years, as a significant institution in the policy making process.

The institutional framework for policy making has changed sufficiently since 1965, when Shri Lal Bahadur Shastri, the then Prime Minister, created an independent institution known as the Prime Minister's Secretariat. Over the years, this office has grown in size and importance. The advisors and officials in this secretariat perform a variety of functions. In the words of Ishwar Dayal and others, "They advise the Prime Minister on the matters of importance and follow-up issues as necessary. They must collect all relevant information from varied sources and properly scrutinise it, and while doing so anticipate what is likely to be considered important by him. The secretarial personnel keep tabs on interministerial matters, and have access to data from different sources, and, due to their own study or contacts, they tend to provide information links in developing integrated policy perspectives. In official matters they work closely with the Cabinet Secretary. By virtue of their positions, the secretariat personnel become an important link between the Prime Minister and others".

It is quite evident that the secretariat staff performs significant functions and deals with many delicate and crucial matters which require the attention of the Prime Minister. Another important aspect of this office, in the words of Pai Panandikar is that "the advice given by him (PM's secretary) is not recorded in the files of the Government. The Prime Minister's secretary's advice is purely for the benefit of the Prime Minister and since it is not recorded in the files, the secretariat truly becomes a kind of Super Ministry". It is understood that the creation of this office has, to some major extent, circumscribed the role of the Cabinet Secretariat in public policy making, and has substantially increased the role of the Prime Minister. Pai Panandikar has observed, "The creation of the Prime Minister's Secretariat has perhaps been the single most important institutional change in the structure of the policy making apparatus in post-independent India. It signifies in many essential terms the changing policy processes in India and the role of the Prime Minister in the cabinet-system".

Check Your Progress 1

Note : i) Use the space given below for your answers.
ii) Check your answers with those given at the end of the Unit.

- I) Briefly list the functions of the political executive.

- 2) Discuss the role of the Cabinet in policy making.

.....
.....
.....
.....

- 3) What role does the Prime Minister's Secretariat play in policy making.

.....
.....
.....
.....

- 4) Briefly discuss the functions of Cabinet Secretariat in policy formulation.

.....
.....
.....

7.4 IDENTIFYING POLICY ISSUES

Now, we will familiarise ourselves with the process of policy making. The process of policy making follows a systematic pattern, a well laid down method which is very essential for policy formulation. Policies are not one minute decisions. They are made after thorough discussion and analysis of issues and problems requiring attention.

Various policies formulated by the Government are, generally, based on certain issues or problems. In dealing with the policy issues, various Governmental institutions, generally, do not pay a serious thought while formulating a policy concerning that particular issue or problem. Policy issues, have to be based on the demands of society, put forth by it in an organised form. However, sometimes even individual may catch the attention of the Government about some problems which, ultimately, may result in the formulation of a public policy. Modern political systems, by and large, are operating under the concept of welfare state. The very nature of a Welfare State throws out a number of challenges for the Government and to meet them the Governmental functions increase, accordingly. The Government has not only to release the social and economic tensions, but has also to take care that any individual or collective demand does not disturb the peace and tranquility of the system.

The policy issues can be raised individually, as also collectively. The issues raised by an individual are not likely to catch the required attention of the Government as an individual voice, in a democratic system like ours, is very rarely noticed. However, it would depend on the calibre of the individual raising the voice. If he/she is really influential say a big landlord, a political leader of long standing, etc., he/she is more likely to see that he/she is heard and the Government comes out with a policy statement. Even those who are not influential but can muster the support of some

people and can convey their feelings or demands to the Government through a common platform can affect policy making. In short, the policy issues can be major or minor depending upon the strength behind them. For example, the Government is not likely to take notice of one unemployed engineer but the moment the number of such engineers gathers weight the Government shall have to do something in order to provide reasonable job opportunities for them.

The policy issues can be brought to the notice of the Government by one or more members of the ruling party, these may come from the different streams of the opposition parties, various interest groups may throw a number of issues to the Government, these may also be initiated by the executive. These may even come as recommendations from the civil service, due to administrative necessity or due to certain sudden developments in the socio-economic system. Public opinion channelised through various sources including the news papers, radio, T.V., etc., also lays stress on certain issues of public importance. These issues may ultimately become policy issues.

The Policy Issues and the Public Opinion

The importance of the public opinion in a democratic society can hardly be underestimated. In fact, the health and vigour of public opinion determines the soundness of the Government. It is, therefore, necessary to understand what is meant by public opinion. In simple words, public opinion means the concern of the public regarding certain problems that they might be facing. It may be defined as preference for a course of action expressed by that proportion of the population which is concerned and involved with a particular issue.

Public opinion can influence the course of the governmental actions including policy formulation. It has also been found that the public opinion is not a unified whole but an aggregate of many, generally diverse, individual opinions. There is not any agreed view on the amount of influence that public opinion can exercise in getting a problem identified as a policy issue. Edmund Burke was of the view that the elected representatives in a democratic system are supposed to care for the interests of their electorate, but this does not mean that they should necessarily act in accordance with the wishes of the people so far as policy making is concerned. Moreover, it is difficult to decide who influences who, whether the public opinion exercises its influence over policy makers or the policy makers mould public opinion to suit their interests. We have seen in India and elsewhere, that the Government always attempts to mould public opinion for preparing a strong support base for all its actions. We have also seen that in case of reservation for 'other backward classes' in India, it was public opinion which compelled the government to adopt the economic criteria as a basis of reservation.

There is, no doubt, that the public opinion does influence the policy makers but, the intensity of its influence is not known. One does not come across qualitative and substantial material to this effect. However, the role of public opinion has always been limited and in today's context, it is much more true because in this materialistic age, the common person is busy earning the daily bread and does not have the time, money, level of awareness, or the required interest for understanding the issues and voicing an opinion. This is largely true about a vast majority of Indians. Moreover, how the public opinion can be effective when we forget all the wrongs committed by the Government soon after their occurrence? It is very rarely that one finds consistency in the thinking of the masses over a given issue. Rather, public opinion is, generally, inconsistent and unstable. Then, should we stop airing our views or feelings? The answer is no, because a voice unheard by the authorities is much better than a complete mum over an issue. We need to organise the people and make the media more effective for helping the common citizens by informing them about the issues of public concern and seeking their involvement on the issues. The literacy drive will go a long way in solving this problem.

7.5 IDENTIFYING POLICY AGENDA

is important to know how some items make to the agenda and why others cannot. We already know that in a Welfare State, the expectations of the people are always on the increase and the pressures on the government are enormous. We also find that citizens face, both individually and collectively, a number of problems, major, as well as, minor. The Government machinery selects only a few of such problems or issues causing tension or anxiety among the masses. The demands and issues preferred by the government make the policy agenda. Such an agenda is always brief in relation to policy demands and one can easily make a distinction between the two. Demands or problems are the ones which people want to achieve or get rid of whereas the agenda is the one which the government decides for making policies. Sometimes the policy agenda is considered as synonymous to the priorities of the party in power. It is felt that the party in power shall put only such items in the agenda as will help it in translating its ideology/manifesto and other promises made with electorate during the elections. However, the priorities of the party in power do not always find place in the agenda because there are some more compelling demands, issues or situations which might require urgent and immediate action by the Government.

Once the Government has identified the problems/issues, it starts finding and analysing the alternative solutions. As already mentioned, most other issues/problems which are taken on the agenda come from organised apparatus like political parties, interest groups, social organisations, civil services, the leader of the party in power, etc. Sometimes influential individuals are also successful in convincing the government for including a given issue on the agenda. However, the common masses do not get any worthwhile opportunity of even raising the issues.

It is, equally, important to understand the non-inclusion of certain issues in the policy agenda. Usually, the policy makers are compelled by influential individuals or interests not to include an issue in the agenda or not to take a decision on the same if its inclusion is of utmost necessity for the party in power. It is known as 'non-decision'. It happens when an issue is, likely to hamper the interests of the elite if translated into a policy. For the elite it is significant to see that the issue is torpedoed to the best of its liking at the time when the issue raises its head. The political parties, normally, allow a situation of non-decision on such issues as they get support from the elite in the form of money and manpower at the time of elections, and a decision on the issue may become detrimental to the party in power and its allied interests. Sometimes, the political system, itself, is not interested in solving all the problems just in one go. It tries to benefit by solving some of the issues and prefers to wait for greater rewards by taking a delayed decision in the case of other issues.

It may be noted that the government machinery frames the policy agenda keeping in view the welfare programmes, certain compelling situations, interests of the party in power, and some major demands supported by the mass of the people. The machinery for policy making, usually, takes up only those issues which help the Government in maintaining itself. The mass media play an important role in mobilising mass opinion in favour or against a given issue.

7.5 IDENTIFYING POLICY PROPOSALS : SOME TECHNIQUES

The problems and issues which, ultimately, find place in the policy agenda are known as policy proposals. However, all these proposals, may, not find the shape of a policy as the political executive still enjoys the choice of accepting or rejecting a particular proposal though, it might have included the same in the agenda under severe pressure. Therefore, it cannot be categorically stated that every policy proposal is going to be converted into a public policy. Converting a policy proposal into a policy needs a decision by the institution established under the law. The institution (say Cabinet or its committees) has a number of individuals, who at times, may have different or conflicting viewpoints on a given issue. However, even in such a situation where there is a plurality of decision-makers having conflicting parameters, certain decisions are taken as the leader may adopt

a style that may clinch the issue for him. The styles which are used in such cases are— bargaining, competition, command, conflict and cooperation. These are also called techniques of converting policy proposals into policies. Let us discuss them briefly.

Bargaining : The policy decision, usually, are the result of active interactions among several individuals and organisations. Objectives and preferences of all these persons are diverse though there may be some commonalities between some of them. The similarity of interests can be brought about in the majority of those involved in the policy making process. Hence, a forum is established where the majority view prevails, i.e., a process of give and take operates to an extent that an agreed alternative becomes acceptable to most of the persons. Since the majority has agreed, the minority also gives in, though in the process it might get some other major or minor benefits or promises. The Prime Minister in India, while formulating his/her Council of Ministers, adopts bargaining as a technique for reaching an acceptable decision. This technique is very common in modern times be it political decision-making or administrative policy making.

Competition : The existence of very strong values and preferences among various individuals and groups lead to a situation where more than one party starts competing for a policy decision that will protect their interests the most. This is known as competition, a technique of reaching decisions in policy making. The various political parties try to use their strength for getting the best possible gains. However, in real competition, strength is, generally, equal and, as such, the gains or losses do not vary significantly. In the developing countries, such a stage of competition comes very rarely, as one or a combination of parties enjoy political power for a longer period of time.

Command : It is a technique which refers to the assertive use of the Constitutional/legal and extra-Constitutional authority by the leader. In a controversial or complicated situation the leader issues a command and a decision is, accordingly, reached. This technique is largely used in the authoritarian political systems where the word of the supreme leader is taken as final and his dictates are reflected in the decisions. It is also used in democracies like U.S.A. and India. The leader of the party in power issues commands, which become quite handy in resolving problems. In India, we have seen that the order of the central leadership of the party has resulted in the change of Chief Ministers, though it is the prerogative of the concerned legislative party. The concept of 'Issuing Whips' is based on the discussions and consensus reached in the party meetings. However, it has also been used by the leader as a command without going into proper discussions at the relevant party forums. The command establishes a hierarchy which is bound by chain of command. It is the system of establishing superior-subordinate relationship. Those subordinates who comply with the command are, suitably, rewarded in due course of time and those who oppose or are passive to the command are deprived of some major benefits.

Conflict : It is also a means of reaching decisions at the organisational level. A conflict situation is one when the parties concerned are adamant on protecting the interests of the organisation though the perception of interests varies from group to group. Clash of interests is quite visible but all the concerned are very much interested in finding an acceptable solution. Such a situation can be tackled through domination, compromise and integration, as suggested by Mary Parker Follett.

Cooperation : A policy decision is to serve the best interests of the people at large. Therefore, it must take into account the socio-economic environment and the cultural factors. It is due to these factors that it becomes very essential for the decision-makers to cooperate in reaching the ultimate decision. The demands are many and resources are limited. It is through cooperation and proper understanding that priorities are reached and policy decisions are taken accordingly. However, it is not easy to reach such an understanding. It requires all out coordinated efforts on the part of all concerned with the process of the policy making.

It may be mentioned that any one of the above techniques is just not enough. A combination of more than one is, generally, put into operation for reaching on agreed policy decisions. Besides, substantiating policy proposals by the government becomes

very essential. The government in a democratic system has to have legitimacy for all its policies and programmes. In other words, the people, by and large, should not only be appreciative of the Governmental actions but should also extend distinct support for such actions. Such a situation can be attained by substantiating the policy proposals with all the relevant data. For example, if the Government intends to frame a policy with regard to the development of agriculture, it shall have to collect the data and information regarding total availability of the cultivable land, different types of cultivable land available, the crop that can give best yield in a given soil, availability of irrigational facilities, type of fertilisers to be used and their availability, marketing of the produce, and the basic requirements, both for the domestic and exports purposes, of the country. In order to make people aware of the policies, in order to make them understand and support policies, this exercise is a must.

Check Your Progress 1

- Note :**
- i) Use the space given below for your answers.
 - ii) Check your answers with those given at the end of the Unit.

- 1) How are the policy issues identified?

.....

- 2) What is a policy agenda? What type of issues are included in the agenda?

.....

- 3) Discuss the different techniques of identifying policy proposals.

.....

7.7 LET US SUM UP

Thus, this Unit gave us an idea about the role of political executive in policy making. We dealt with the meaning of the term 'executive', the role played by the Prime Minister, Cabinet, Cabinet Secretariat, Cabinet Committees and Prime Minister's secretariat in policy formulation. We also discussed the method of policy making by highlighting the ways of identifying policy issues, policy agenda and policy proposals. The Unit gave us a clear idea regarding the techniques of identifying policy proposals and stressed upon the need for substantiating policy proposals. The next Unit, will try to give a lurid picture of the role of bureaucracy in policy making.

7.8 KEY WORDS

Administrative Adjudication : An adjudication undertaken by certain administrative agencies created by the specific enactments to adjudicate upon certain matters or disputes, that may arise in the course of implementation of provisions of the relevant enactments. They are not required to follow the procedure prescribed by the relevant law.

Cabinet as a Referral Body : It does not initiate policies but only helps in policy making.

Committee on Appointments : The chairperson of the committee is the Prime Minister. It takes decisions in respect of secretarial appointments of the rank of Deputy Secretary and above, Chairperson and Managing Director of the state-owned public corporations. It is also, concerned with appointments which require the approval of the Government of India. It deals with the cases of disagreement between the UPSC and the departments concerned.

Committee on Parliamentary Affairs : This Committee looks after the progress of the Government business in Parliament to secure the smooth passage of legislation and determine the Government's attitude to non-official bills and resolutions coming up before the Parliament.

Economic Affairs Committee : It is engaged in directing and coordinating the Government activities in the economic field, in order to, regulate the working of the national economy.

7.9 REFERENCES AND FURTHER READINGS

Dayal Ishwar, 1976. *Dynamics of Formulating Policy in Government of India : Machinery for Policy Development*. Concept. Delhi.

Dror Yeheskel, 1968. *Public Policy Making Re-examined*. Chandler. Scranton.

Inamdar N.R. *Profiles of Indian Government and Politics*.

Maheshwari S.R. 'Public Policy Making in India' in Indian Journal of Political Sciences. Volume 48.

Maheshwari S.R. 1976. *Indian Administration*. Orient Longman.

Mitchell and Mitchell, 1972. *Political Analysis and Public Policy : An Introduction to Political Science*. Thompson, New Delhi.

Sahni Pardeep, 1987. *Public Policy : Conceptual Dimensions*, Kitab Mahal. Allahabad.

7.10 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

1) Your answer should include the following points :

- maintenance of internal peace and order
- safeguarding the country from external aggression
- initiating the legislative work
- proposing the budget and seeing through its implementation

2) Your answer should include the following points :

- it gets proposals prepared by all departments for submission to the Parliament.

- it has to decide as to what business is to be submitted to Parliament and how much time is allotted to it.
- without its approval, no policy proposal can become effective.

3) Your answer should include the following points:

- Prime Minister's Secretariat was created in 1965
- it advises the Prime Minister on matters of importance
- it collects information from varied sources and scrutinises it.
- the Secretariat personnel act as a link between the Prime Minister and others.

4) Your answer should include the following points :

- the Cabinet Secretary presides over the committee of secretaries.
- these committees examine inter-ministry matters and other issues that concern the government as a whole.
- the Cabinet Secretary oversees the agenda papers for the cabinet and its committees.
- the Cabinet Secretary prepares minutes of the Cabinet meetings and committees to the concerned ministries.
- the significance of the position of the Cabinet Secretary depends upon the style of functioning of the Prime Minister and the amount of confidence he reposes in the Cabinet Secretary.

Check Your Progress 2

1) Your answer should include the following points:

- policy issues can be raised individually or collectively
- they may come from members of the ruling party, opposition, interest groups, civil servants, executive, newspapers, radio etc.

2) Your answer should include the following points:

- the agenda is a list of items for carrying out discussions and arriving at a decision
- the government machinery chooses some selected issues for its agenda
- priorities of the party do not always find place in the agenda
- issues taken up for agenda come from political parties, pressure groups, social organisations, civil services etc.
- policy agenda is made keeping in view the interests of influential groups, welfare programmes, compelling concerns, role of the mass media etc.

3) Your answer should include the following points :

- Bargaining
- Competition
- Command
- Conflict
- Cooperation

UNIT 8 ROLE OF BUREAUCRACY

Structure

- 8.0 Objectives
- 8.1 Introduction
- 8.2 Meaning of Bureaucracy
- 8.3 The Changing Nature of Bureaucracy
- 8.4 Role of Bureaucracy in Policy Making
- 8.5 Delegated Legislation and Bureaucracy
- 8.6 The Growing Importance of Bureaucracy
- 8.7 Let Us Sum Up
- 8.8 Key Words
- 8.9 References and Further Readings
- 8.10 Answers to Check Your Progress Exercises

8.0 OBJECTIVES

After reading this Unit, you should be able to :

- understand the meaning of the term bureaucracy;
- highlight the different characteristics of bureaucracy;
- discuss the importance of bureaucracy in policy making;
- explain the role of bureaucracy in formulation of policies; and
- discuss the role of bureaucracy in delegated legislation.

8.1 INTRODUCTION

The emergence of the bureaucratic type of organisation in modern governments has laid the formation for a body of civil servants who work for the government as a life-time career. The very presence of such a professional body of trained persons is expected to exert a rational influence on the entire process of policy making. In the last Unit, we read about the role of political executive in policy formulation. This Unit will try to establish the fact that the political executive is to a large extent dependent on bureaucracy for making the policies. We shall discuss the meaning of the term 'bureaucracy', its different roles, characteristics and importance in policy making. The role of bureaucracy in delegated legislation will also be dealt with in some detail.

8.2 MEANING OF BUREAUCRACY

Before dealing with the role of bureaucracy in policy making, it is very essential to be clear about what is exactly the meaning of 'bureaucracy'. According to Max Weber, "Bureaucracy is universal social phenomenon and the means of carrying community action to rationally ordered societal action." In the words of Marshall E. Dimock, "Bureaucracy is the state of the society in which institutions overshadow individuals and simple family relationships, stage of development in which division of labour, specialisation, organisation, hierarchy, planning and regimentation of large groups of individuals either by voluntary or involuntary methods, are the order of the day."

Bureaucracy is said to be the product of a large size of organisations in public or private service. The bureaucratic administration breaks the absolute power of elected leadership or monarchy due to its systematised administration. As a system, it has to

practice autonomy and independence in giving its opinion to political leaders and has to faithfully execute the formulated policies. Hans Rosenberg has observed that "...an essential part of the present structure of governance consists of its far-flung system of professionalised administration and its hierarchy of appointed officials upon whom the society is thoroughly dependent. Whether we live under the most totalitarian despotism or in the most liberal democracy, we are governed to a considerable extent by a bureaucracy of some kind."

Herman Finer says that bureaucracy is a "professional body of officials, permanent, paid and skilled." Arthur K. Davis looked at bureaucracy from the structural point of view. To him, bureaucracy is "an integrated hierarchy of specialised offices defined by systematic rules, an impersonal, routined structure wherein legitimised authority rests in the office and not in the person of the incumbent". Bureaucracy is a system of administration under which all the employees are organised into a hierarchy of offices, each with well-defined spheres of duties and responsibilities. The meaning of 'bureaucracy' will become further clear by briefly discussing its major characteristics.

Major Characteristics of Bureaucracy

Hierarchy : In a bureaucracy, activities based on specialisation are assigned to specific positions. There is a clear-cut division of work, competence, authority, responsibility and other job components. Each lower office is under the control and supervision of the higher office. Officials are accountable to their superiors for their official actions.

Professional Qualities : All officials possess professional qualities on the basis of which they are selected for appointment. Their merit for selection is determined on the basis of objective criteria. They deal in an impersonal and formalistic manner in their relations with others and also in the execution of their official duties. They enjoy a permanent career with reasonable opportunities of advancement with sufficient security of service.

Rules and Procedures : In bureaucracy, decisions are governed by a consistent system of abstract rules, regulations and procedures. Official behaviour is to follow definite rules of conduct and discipline. The use of authority has to be in accordance with the regulations of the organisation, which are written and tend to be rational and impersonal.

Specialisation : Official tasks are organised on a continuous regulated basis. These tasks are subdivided into functionally distinct spheres, each furnished with the requisite authority and sanctions. This functional specificity leads to specialisation of tasks.

Organisational Resources : The resources of the organisation are quite distinct from those of the members who are private individuals. It means that officials do not own resources necessary for performing the official duties, but they are accountable for the use of official resources. Official revenue and private incomes are strictly separated.

8.3 THE CHANGING NATURE OF BUREAUCRACY

Sir Warren Fisher, a noted civil servant in Britain, delineated the minister-civil service relationship, in the following words. "Determination of policy is the function of ministers, and once a policy is determined it is the unquestioned and unquestionable business of the civil servant to strive to carry out that policy with precisely the same energy and goodwill, whether he agrees with it or not. That is axiomatic and will never be in dispute. At the same time, it is the traditional duty of civil servants while decisions are being formulated to make available to their political chief all the information and experience at their disposal, and to do this without fear or favour, irrespective of whether the advice thus tendered may accord or not with the minister's initial view. The preservation of integrity, fearlessness, and the independence of thought and utterance in their private commission with ministers or

the experienced officials, selected to fill the top posts in the service of an essential principle in enlightened government." This view underlines the relationship between bureaucracy and political executive.

Bureaucracy has touched new heights in modern democracies. Its size and functions have increased enormously. Emergence of the Welfare State has added new dimensions to the expansion of bureaucracy. The nature of the role of bureaucracy in policy making is, thus, changing gradually. The concept of neutrality of bureaucracy has also lost significance. Political neutrality means not only the absence of political activity or bias on the part of the individual member of the bureaucracy but also that bureaucracy has to respond to the will of the political executive, no matter what its political complexion may be. Now the term 'committed bureaucracy' does not connote that the civil servants are loyal to a particular individual, political person or leader. Commitment connotes commitment to the objectives, ideals, institutions and modalities contained in the Constitution, the policies and programmes of the government, and the laws, regulations and rules issued by the political executive.

In the Indian context, the divergence of view between the ruling parties have become narrow and the division between the functions of politicians and bureaucracy in terms of policy making and implementation has ceased to be rigid. The processes of policy making are no longer confined to the political executive, they spread over the entire fabric of the government, resulting in inescapable delegation and zones of such policy, where the political executive does not come into the picture at all. The leadership role of public bureaucracy has become explicit in all political systems. Now it is very difficult to escape commitment of some sort or another to the State's goals and objectives, and certain degree of subjective bias cannot be eliminated.

8.4 ROLE OF BUREAUCRACY IN POLICY MAKING

Bureaucracy plays its role in policy making in various ways. It helps the executive in identifying major policy areas, preparing major policy proposals, analysing various alternatives and solutions to societal problems requiring urgent attention, dividing the major policies into sub-policies, determining programmes of action and suggesting modification in the existing policy on the basis of its experience on the implementation front. Their role can be categorised into three broad activities, informative, suggestive and analytical. Let us discuss them briefly.

Informative : A major part of the spade work of public policy making is done by the bureaucracy. For identifying policy issues and giving them a shape of policy proposals requires a systematic analysis of the existing problems. The bureaucracy engages itself in collection of relevant data and information in order to identify the crux of the problem. It has to determine what type of information is required, to what extent the information is substantive and how the information acquired can be put to the best use for framing a policy proposal. As we read in the previous Unit, the government has to substantiate its policy proposal in order to get public support, the bureaucracy provides the relevant data for substantiating policy proposals. For instance, if the bureaucracy has to help in formulation of a policy proposal for agricultural development, it has to collect and filter information regarding total cultivable land available in the country, types and quality of land available, types of crops that can be gainfully sown, agricultural requirements of the country, varieties of fertilisers to be used and their availability, irrigational facilities available, conditions for marketing agricultural produce, levels of consumption within the country, possible chances of export, etc. In other words the informative role of the bureaucracy in policy making relates to laying down of an objective base for systematic framing of policy proposals and providing the needed data for substantiating the proposals.

Suggestive : As the bureaucracy is constantly engaged in the task of substantiating policy proposals and collecting relevant data, it becomes closely acquainted with various problems and issues facing the country. Bureaucracy, specially at the secretariat level, is considered as the 'think-tank' of the government. In this context

it is always thinking about the various political, social and economic problems. Due to this the bureaucracy plays a very important suggestive role in policy making. It helps the political executive in identifying policy issues by suggesting about the nature of problems and the need for taking up a certain issue for consideration. It tries to frame its ideas in such a manner that they act as suggestions to the political executive. These suggestions are based on the administrative expertise and capability of the bureaucracy. It is not necessary that policy initiative must always come from the political executive, at many occasions, it is the bureaucracy which suggests the policy issues to the political executive. The suggestive role of the bureaucracy is also related to the submission of several alternative solutions to a given problem to the political executive. It is then up to the executive to accept or reject them.

Analytical : As already stated, public policy making is a complex process. Bureaucracy plays a very significant analytical role in policy formulation. After the crucial issues requiring urgent attention are identified, it has to be ascertained whether such issues could make viable policies or not. The bureaucracy engages itself in analysing the pros and cons of the issue that is taken up for policy formulation, it frames and reframes policy proposals keeping in view its viability, future prospects, resources available, acceptability, etc. Moreover, it is the responsibility of the bureaucracy to analyse policy proposals in relation to the provisions of the Constitution, the laws framed by the Parliament, and other existing rules and regulations. In this way the bureaucracy helps in framing sound and effective policies.

Check Your Progress 1

Note : i) Use the space given below for your answers.

ii) Check your answers with those given at the end of the Unit.

- 1) What is meant by the term 'bureaucracy'?

.....

- 2) Discuss the major characteristics of bureaucracy.

.....

- 3) The nature of bureaucracy is changing with time. Comment.

.....

- 4) Highlight the different roles of bureaucracy.

.....

8.5 DELEGATED LEGISLATION AND BUREAUCRACY

As we read in the previous Unit, legislation or rule making is basically a major function of the political executive. However, in modern democracies the functions of the government have become complex and multidimensional. There has also been enormous increase in the spheres of the government activity. Legislatures and political executive cannot cope with the increased legislative functions and, hence, the concept of the delegated legislation has been put into practice in almost every country. The concept has obliged the legislature to delegate some of the legislative power to the executive organs of the government, to be more specific, to the bureaucracy.

Before discussing the role of bureaucracy in delegated legislation, it would be better to familiarise ourselves with the meaning of the term 'delegated legislation'. Delegated legislation has been defined, "as the exercise of minor legislative power by subordinate authorities and bodies in pursuance of statutory authority given by the Parliament itself." It is, thus, the law-making power conferred by the Parliament on the executive. The executive does not enjoy any original power of making laws, and the delegated legislation is strictly subordinate to the terms of the statutes under which it is made. The power of the delegated legislation is given to highly responsible authorities and it cannot be further sub-delegated to other subordinates. The delegated legislation is subject to judicial review like any other legislation. It means that it can be declared as void if it is inconsistent with the statute or is in excess of the power granted by the Parliament.

The Need for Delegated Legislation

The practice of delegating legislative power to bureaucracy has been on the increase. There are various factors responsible for this. A brief discussion on the importance of delegated legislation will also be made in our Unit on 'Interaction among various Organs'.

Increase in the volume of work : The legislative work has expanded to such an extent that it has become almost impossible for the legislature to frame laws on each and every aspect of the work it is engaged in. Moreover, the tasks confronting the legislature have become so varied and technical in nature that the legislature does not have the skills and aptitude to carry them on. The need for specialised expertise of bureaucracy is constantly felt.

Lack of Time : The ever-increasing functions of the legislature do not leave enough time for the formulation of laws on varied issues and problems. The enormous volume of the legislative business renders it imperative that the Parliament should enact laws embodying broad principles, leaving details to be supplied by the executive departments.

Scientific and Technical Character of the Subject Matter : The political executive comprise laypersons, who do not have the experience to formulate laws in the areas which require technical and scientific knowledge and skill, thus they have to consult the bureaucracy.

Need to Provide for Unforeseen Contingencies : Delay is something which can be very dangerous in coping with emergencies like war, economic crises, etc. Thus, the political executive needs to take the help of the bureaucracy in order to formulate policies without unnecessary delay.

Types of Delegated Legislation : The delegated legislation can be classified into three categories contingent, supplementary and interpretative.

Contingent Delegated Legislation : This type of delegation takes place where the legislature makes the application of the main or the enabling Act dependent on the existence of certain facts or conditions and, accordingly, authorises the administrative agency, that is, the bureaucracy. It means that the bureaucracy has to formulate policy, keeping in view the facts and conditions laid down by the legislature.

Supplementary Delegated Legislation : Sometimes the legislature passes laws in only a skeleton form, i.e., it only lays down certain general principles or standards under which the laws have to be framed, everything else is left to the bureaucracy. The bureaucracy works out the details by collecting relevant information and fills up the skeleton laws. In India, the Municipal Acts, fall into this category.

Interpretative Delegated Legislation : After the formulation of the laws, the bureaucracy is authorised to explain and clarify the provisions of the law. The bureaucratic power to interpret the law makes legislation clear and explicit.

Thus bureaucracy plays a very important role in the area of delegated legislation. It has to take care of the fact that the rules to be framed under a particular law do not clash with the existing rules made under a different law. Moreover, it has to see that the real spirit of the law is actually met with while framing the rules. Rules under the delegated legislation have to be precise and comprehensive. The language used has to be unambiguous and simple. People should be clearly able to understand these rules. The bureaucracy has to ensure that the delegated legislation so framed will stand the test of the time, if challenged in a court of law. Further, the bureaucracy has to review the various provisions contained in the delegated legislation from time to time to bring them in tune with the fast changing socio-economic scenario of the country. The bureaucracy though its authority of delegated legislation helps the government in experimentation in various spheres of socio-economic development. The suggestive and analytical role of the bureaucracy is of great relevance in delegated legislation. It is here that the bureaucracy can exercise authority independently with minimal political interference.

8.6 THE GROWING IMPORTANCE OF BUREAUCRACY

It is clear from the Unit that the importance of the bureaucracy in policy making is increasing day by day. It is often said that it is for the political executive to lay down policy, and for the permanent executive that is the bureaucracy to carry it out. However, this distinction between the roles is fast diminishing. The bureaucracy does contribute towards policy formulation and the legislature and the political executive do take interest in the implementation of policy. The nature of their contributions may differ. The bureaucratic influence on policy making is two-fold. Firstly, the members of the bureaucracy can give shape to stated policies through the exercise of choice and judgement in administering them and, secondly, they engage in policy formulation through their suggestive, analytical and interpretative roles.

Bureaucracy, it has been observed is a congregating place for individuals concerned with the same objects. Some of these interested individuals become members of the administrative agencies while others join groups which look to that organisation as a rallying point, and the agency takes a leading part in representing their interests. In this representative process perhaps the bureaucracy's most important function is to promote the idea that its special area of concern is important, be it education, air, power, or mental health. The bureaucracy also promotes special solutions to policy problems in this area. Finally, it promotes objectives which are of particular interest to its members as bureaucrats. These are matters such as their working conditions, status and compensation, as well as, the maintenance and survival of their organisation.

One of the major tasks of administration is the formulation of policy proposals for consideration by the political executive. The capacity of the administrative agencies to perform rationally and in a responsible manner the task of formulating the policy alternative for politically responsible superiors is the major criterion of efficiency. Thus, a major part of policy making is done by the bureaucracy. The minister

receives his/her final advice through the permanent secretary, who has an overall view of the organisation.

S.R. Maheshwari observes, "Public policy cannot be made by one or few individuals, however, exalted be their situation. Nor can it be separated from administration. Public policy necessarily involves a large number of persons and institutions operating in hierarchical order or otherwise such as ministers, civil servants, parliamentarians, public pressure groups, professionals, etc... In the central government, the principal policy making functionaries are the Prime Minister and his office including his advisers, ministers and secretaries..." Bureaucracy even gains expertise by working on International Fora/Organisations. In order to be an agent of change, the bureaucracy must have the capacity (a) to forecast, project and understand the direction and tempo of major or significant changes in its environment; (b) to plan for necessary or desirable changes; (c) to adopt itself to changes demanded or planned by the political system or to other unforeseen changes; and, (d) to innovate on its own.

Check Your Progress 2

Note : i) Use the space given below for your answers.
ii) Check your answers with those given at the end of the Unit.

- 1) Discuss the role of bureaucracy in delegated legislation.

.....
.....
.....
.....
.....
.....

- 2) Highlight the different types of the delegated legislation.

.....
.....
.....
.....
.....
.....

- 3) Discuss the growing importance of bureaucracy.

.....
.....
.....
.....
.....
.....

8.7 LET US SUM UP

Bureaucracy, thus, plays a very crucial role in policy formulation. Its suggestive, informative and analytical roles have made the political executive and the legislature fully dependent on it. Bureaucracy's role in delegated legislation can in no way be undermined. This Unit gave us an idea about bureaucracy's role in policy making and its growing importance. The need for delegated legislation was discussed in detail and the meaning and changing nature of bureaucracy was also highlighted.

8.8 KEY WORDS

Committed Bureaucracy : It connotes that civil servants are committed to the objectives, ideals, institutions and modalities contained in the Constitution, they do not owe loyalty to particular individual person or leader or political party.

Neutrality of Bureaucracy : A bureaucracy is not supposed to commit itself to any political values. They are expected to cooperate and assist any party in power irrespective of their political preferences.

Sarkaria Commission : It was set up in June 1983 under the chairmanship of Justice R.S. Sarkaria. It presented its report in January, 1988. The Commission was set up to suggest reforms for an equitable distribution of powers between the centre and the states.

8.9 REFERENCES AND FURTHER READINGS

Avasthi A. and Maheshwari S.R. 1987. *Public Administration*, Laxmi Narain Agarwal, Agra.

Jain R.B. 1976. *Contemporary Issues in Public Administration*, Vishal, New Delhi.

Maheshwari, S.R. 1986. *Indian Administration*, Orient Longman, New Delhi.

8.10 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

1) Your answer should include the following points :

- it is the means of carrying community action to rationally ordered societal action
- it is the product of a large size of organisations in public or private service
- it is a body of officials permanent, paid and skilled
- it is a system of administration under which all the employees are organised into a hierarchy of offices, each with well-defined spheres of duties and responsibilities.

2) Your answer should include the following points :

- Hierarchy
- Professional Qualities
- Rules and Procedures
- Specialisation
- Organisational Resources

3) Your answer should include the following points :

- emergence of the Welfare State
- size and functions of bureaucracy have increased
- concept of neutrality of bureaucracy has also lost significance
- commitment now connotes commitment to the objectives, ideals, institutions and modalities contained in the Constitution
- divergence of views between the ruling parties have become narrow
- division between the functions of the politicians and bureaucracy in terms of policy making and implementation has ceased to be rigid.

- the leadership role of bureaucracy has become explicit in all political systems.
- 4) Your answer should include the following points :
- Informative
 - Suggestive
 - Analytical

Check Your Progress 2

- 1) Your answer should include the following points :
- there has been enormous increase in the spheres of government activity.
 - legislature and political executive cannot cope with the increased legislative functions and hence the concept of delegated legislation has been put into practice in almost every country.
 - the executive organ has thus got delegated legislative power to formulate policies.
 - the executive does not enjoy any original power of making laws.
 - the practice of delegating legislative power to bureaucracy has been on the increase.
 - increase in the volume of work, lack of time, scientific and technical character of the subject-matter, need to provide for unforeseen contingencies has led to increase in delegated legislation.
- 2) Your answer should include the following points :
- supplementary delegated legislation
 - interpretative delegated legislation
 - contingent delegated legislation
- 3) Your answer should include the following points :
- the distinction between policy formulation and implementation is getting blurred.
 - the members of bureaucracy can give shape to stated policies through the exercise of choice and judgement.
 - they engage in policy formulation through their suggestive, analytical and interpretative roles.
 - bureaucracy promotes special solutions to policy problems.
 - the major tasks of administration is the formulation of policy proposals for consideration by the political executive.
 - the bureaucracy must have the capacity to forecast, project and understand the direction and the tempo of major or significant changes in its environment.
 - it should plan for necessary or desirable changes.
 - it should adapt itself to changes demanded or planned by the political system.

UNIT 9 ROLE OF LEGISLATURE

Structure

- 9.0 Objectives**
- 9.1 Introduction**
- 9.2 Indian Legislature**
- 9.3 Legislative Process**
- 9.4 Role of Parliamentary Committees**
- 9.5 Changing Role of Legislature**
- 9.6 Let Us Sum Up**
- 9.7 Key Words**
- 9.8 References and Further Readings**
- 9.9 Answers to Check Your Progress Exercises**

9.0 OBJECTIVES

After reading this Unit you should be able to :

- discuss the legislative process in India;
- throw light on the role of the parliamentary committees; and
- highlight the changing role of the legislature

9.1 INTRODUCTION

Legislature in India plays a very important role in policy making. It is not just involved in modification and approval of bills on the floor of the House but, is also accountable to the people at large. A lot of discussions, debates and analyses take place in the legislature to ascertain the validity of the bills and proposals in the stage of enactments. This Unit will try to highlight the role of legislature in the policy making in India, a discussion on the role of the Parliamentary committees will also be made.

9.2 INDIAN LEGISLATURE

The Parliament plays a crucial role in the legislative process in India. It consists of two Houses, the Lok Sabha (the House of the People) and the Rajya Sabha (the Council of States). The Lok Sabha is elected directly by the people and Rajya Sabha is elected by state legislatures. The Council of States or the Rajya Sabha is a permanent body. It is never dissolved, but its membership rotates every two years, that is one-third members retire from membership every two years. But the Rajya Sabha, as a House never ceases to exist. The Lok Sabha has a term of five years only. It can be dissolved earlier and in an emergency its life can be extended.

The Parliament in India can make laws on the subjects specified in the Constitution. It can also make laws on subjects which are residuary subjects, that is, which are not allocated to states and which are not covered by the specified subjects allocated to Parliament. It has a function to vote expenditure also, the government cannot spend anything, unless it is voted by the Lok Sabha. The Rajya Sabha has no power of granting money. The Lok Sabha can also impose and regulate taxes. The Rajya Sabha again does not have any power in this area. Though the Rajya Sabha can make recommendations within fourteen days of receipt of a Money Bill in the Rajya Sabha, the Lok Sabha may or may not accept them or accept them with modifications. Thus, as far as the control over the purse, money, expenditure, taxation etc. is concerned, the Lok Sabha has the final say.

The legislature at the state level consists of the legislative assembly and the legislative council. Every state does not have a legislative council. However the Parliament may by law provide for the abolition of the legislative council of a state having such a council or for the creation of such a council in a state having no such council.

Article 172 lays down that every legislative assembly unless sooner dissolved, shall continue for five years, but the legislative council shall not be subject to dissolution. The procedure of bill's enactment is the same in the state legislature and the governor enjoys almost similar rights to give assent to the bill as the President.

The scheme of distribution of powers between the Centre and the states, envisaged by the Constitution, emphasises in many ways the general predominance of the Parliament in legislative field. Apart from the wide range of subjects allotted to it in the Seventh Schedule of the Constitution, even in normal times Parliament can, under certain circumstances assure legislative power over a subject falling within the sphere exclusively reserved for the states. For example, the Parliament may legislate on a matter included in the state list if the Rajya Sabha declares by a resolution supported by a two-third majority, that it is necessary or expedient in the national interest to do so, further, in times of grave emergency when the security of the country or any part thereof is threatened by war or external aggression or internal disturbance and a proclamation for emergency is made by the President, the Parliament acquires the power to make laws with respect to any of the matters enumerated in the state list. Similarly in the event of the breakdown of the Constitutional machinery in a state, the powers of the legislature of that state become exercisable by or under the authority of the Parliament.

9.3 LEGISLATIVE PROCESS

The role of the legislature in policy making can be determined by discussing the legislative process in India. One of the most important functions of any legislature is to legislate or to make laws. As we have discussed earlier, in a federation, the Parliament's law making power, is restricted by the division of subjects or items in different lists. In India we have three lists—Union list, state list and concurrent list—enumerating the items on which the Parliament and state legislatures could make laws. The Parliament legislates on subjects in the union and the concurrent lists. In the event of any conflict between the laws made by Parliament or any state legislature on any item mentioned in the concurrent list, the law made by Parliament prevails. Before dealing with the role of legislature in policy making, it has to be kept in mind that its role varies from one political system to the other. Legislatures are more active in presidential systems wherein they have a say in initiation of policies, though policies are initiated by the President but the move has to be made by the legislature. In the presidential form of government, the committees perform a major role. In a parliamentary system, the legislature can only suggest and discuss proposals. Initiation of legislative proposals belongs to the executive. But to take an extreme view that the legislatures have declined as law-makers would be wrong, for the executive only provides the draft, which is refined and modified by the legislature keeping in view the national policy and social and economic needs.

It is the legislature which provides a forum for organised articulation of the various shades of public opinion in the country and exercises an influence in the legislative process by getting the principal issues thrashed out, the details of legislation scrutinised and the interests of affected parties heard. It is the legislature which provides the final touches and gives the final shape to legislation in the course of its passage through various stages before it becomes a law. All legislative proposals must be brought in the form of bills before the Parliament. When a bill is passed by the Parliament and assented to by the President, it is called as Act. We will now discuss the procedure through which a bill becomes an Act.

Government Bill

Most legislative proposals, even of the non-financial type are presented to the Parliament by ministers. These legislative proposals take the form of government bills and are generally speaking initiated by particular ministers. As soon as a

legislative proposal has been conceived, the ministry concerned examines its constitutional, administrative, political, financial and other implications. Sometimes the advice of experts is also taken. If the proposed legislation pertains to other ministries of state governments, they too are consulted. The Ministry of Law and the Attorney General of India are consulted in respect of the legal and Constitutional aspects of the proposed legislation. When the proposal has been properly examined, the sponsoring ministry prepares a memorandum for the Cabinet. The Cabinet may give its approval after properly considering the broad aspects of policy underlying the proposed legislation or, if it is of an important or commercial character, refer it to one of its standing committees or to an ad hoc committee, so that the measure may receive a more detailed consideration (we will discuss the role of committees in our subsequent section).

In some cases, the Cabinet may after approving the underlying principles of a proposed legislation, require that the bill, when it has been drafted, be submitted to it again for a closer scrutiny. After a legislative proposal has received the line clear signal from the Cabinet, the sponsoring ministry sends all the relevant papers to an official drafts person who puts the proposal into the form of a bill. The draft prepared by drafts person is examined by the ministry concerned and more often several drafts have to be prepared before the bill is finally put into shape.

As already mentioned, the Parliament only modifies and approves the policy proposals that come from the executive, in this context, we need to mention something about the growing importance of delegated legislation about which we have also read in Unit 8. It is the inevitable outcome of increasing burden on legislature and about this we will read a little more in our next Unit on relationship between governmental organs. We have to keep in mind over here that every legislative proposal that comes in the form of bill before the Parliament does not actually originate there, the executive, both political and permanent indulges in a lot of spadework, a lot goes into the proposal in the form of collection of information, research, exploration of alternatives etc. before it is finally placed before the Parliament. Under delegated legislation the permanent executive fills in the gaps in the enactments delegated to it by the Parliament. In the Parliament a systematic procedure is followed through which a bill becomes an Act. Every bill has to undergo three readings in order to be passed in either House. We will discuss these readings briefly.

First Reading

The legislative process starts with the introduction of Bill in either House of the Parliament—the Lok Sabha or the Rajya Sabha. It is necessary to ask for leave to introduce the bill, if leave is granted by the House, the bill is introduced. A minister desiring to ask for leave to introduce a bill has to give a notice in writing about his/her introduction to do so. This stage of introduction of a bill is known as the first reading of the bill. If a motion for leave to introduce a bill is opposed, the speaker may, in his discretion, allow brief explanatory statements to be made by the member-in-charge. Thereafter, without further debate the question is put to the vote of the House. However, the motion for leave to introduce a Finance Bill or Appropriation Bill is forthwith put to vote of the House. A member can also oppose a bill on the ground that it initiates legislation on a matter which is outside the legislative competence of the House. After a bill has been introduced, it is published in the Official Gazette. But even before introduction, a bill might with the permission of the speaker, be published in the gazette. In such cases, leave to introduce it in the House is not necessary and the bill is straightforwardly introduced.

Second Reading

The second reading consists of consideration of the bill in two stages. The first stage consists of a general discussion on the bill as a whole, when the principle underlying the bill is discussed. At this stage it is open to the House or is referred to a select Committee of the House or a Joint Committee of the two Houses or to circulate it for the purpose of eliciting opinion or straightforwardly take it into consideration. Most of the bills of complicated, technical or controversial nature are referred to a Select Committee or a Joint Select Committee. When a bill is sought to be referred to any

Select Committee, the mover of such a proposal himself suggests the names of the members whom he would like to be on that Committee. The consent of the members is sought beforehand. If the bill is sought to be referred to a Joint Select Committee, the other House is requested to associate its members on such a Committee.

The Select or Joint Select Committee considers the bill clause by clause just as the House does. Amendments can be moved to the various clauses by members of the Committee. The Committee can also take evidence of associations, public bodies or experts who are interested in the measure. After the bill has been considered, the Committee submits its report to the House which considers the bill again as reported by the Committee.

If a bill is circulated for the purpose of eliciting public opinion, such opinions are obtained through the agency of the governments of the state and union territories. Where a bill has been circulated for generating opinions and opinions have been received and laid on the table of the House, the next motion on regard to the bill must be for reference to a Select Committee or a Joint Select Committee. It is not ordinarily permissible at this stage to move a motion for consideration of the bill, unless the speaker allows it.

The second stage of the second reading consists of clause by clause consideration of the bill as introduced or as reported by the Select Committee or Joint Select Committee. Discussion takes place on each clause of the bill and amendments to clause can be moved at this stage. Each amendment and each clause is put to vote in the House. The amendments become parts of the bill, if they are accepted by a majority of members present and voting, after the second reading is deemed to be over.

Third Reading

In the third reading the member-in-charge can move that the bill be passed. This stage is called the third or the final reading of the bill. At this stage debate is confined to arguments either in support of the bill or its rejection, without referring to the details thereof further than is absolutely necessary. Only formal, verbal or consequential amendments are allowed at this stage. In passing an ordinary bill a simple majority of members present and voting is necessary. But as far as a bill aiming at amendment of the Constitution is concerned, a majority of the total membership of the House and majority of not less than two-thirds of members present and voting is required.

After all the readings are over and the bill is passed by one House, it is sent to the other House for consideration with a message to that effect. In the other House also it goes through similar three stages. As already mentioned, in regard to money bills, the Lok Sabha has got the exclusive power to legislate and the Rajya Sabha can only recommend amendments therein and must return such a bill to the Lok Sabha within fourteen days from the date of its receipt. It is open to the Lok Sabha to accept or reject any or all the recommendations of the Rajya Sabha with regard to a money bill. If a money bill passed by the Lok Sabha and submitted to the Rajya Sabha for its recommendations is not returned to the Lok Sabha within the said period of fourteen days, it is deemed to have been passed by both the Houses at the expiration of the said period in the form in which it was passed by the Lok Sabha.

If a bill passed by one House is rejected by the other House, or, the Houses have finally disagreed as to the amendments to be made in the bill, or more than six months have elapsed from the date of the receipt of the bill by the other House without the bill being passed by it, the President may call a joint sitting of the two Houses to resolve the deadlock. If, at the joint sitting of the two Houses, the bill is passed by a majority of the total number of members of both the Houses present and voting, with the amendments if any, accepted by them, the bill is deemed to have been passed by both the Houses. Joint sitting of the two Houses is presided over by the Speaker of the Lok Sabha. The difference between the two houses are cleared at the joint sitting and whatever discussion is taken at the joint sitting is considered as final in the case of the differences.

When a bill is passed by both Houses, the Secretariat of the House which is last in possession of the bill obtains the assent of the President. The bill becomes an Act only after the President's assent has been given thereto. The President can give his

assent or withhold his assent to a bill. The President can also return the bill except, of course, a money bill with his recommendations to the House for reconsideration and if the Houses pass the bill again with or without amendments, the bill has to be assented to by the President.

Private Members' Bills

In the case of the bills of which notice is given by private members, we have to remember a few things. Such bills can be taken up only on the days which are fixed for private members' bills. Private members' bills are scrutinised in the Secretariat of the House and members are generally assisted in drawing up the bill in a proper form. These bills are referred to a special committee called the Committee on Private Members' Bill and Resolutions. The Rajya Sabha also has such a Committee. After the Committee has made its report to the House and copies of the bill as reported by the Committee have been circulated to members of the House, the bill is taken to have been formally introduced. Thereafter it goes through the same procedures and stages as applicable to other non-financial bills. The purpose of private member's bill is to generate a public debate over the burning social, economic and political issues and make the Government conscious of the nature of thinking in various sections of society, a point to be noted over here is that private members have no say in the financial or money bills.

Before moving over to our next section, a brief mention of the legislative powers of the President must be made over here, otherwise our discussion on legislative process in India would be incomplete. The legislative power of the President pertains to its power to promulgate ordinances when the Parliament is not in session. Article 123 lays down that if at any time, except when both Houses of Parliament are in session, the President is satisfied that circumstances exist which render necessary for him to take immediate action, he may promulgate such ordinance as the circumstances require.

An ordinance promulgated under this Article shall have the same force and effect as an Act of Parliament, but every such ordinance:

- a) shall be laid before both the Houses of the Parliament and shall cease to operate at the expiration of sixteen days from the reassembly of the Parliament, or, if before the expiration of that period resolutions disapproving it are passed by both Houses, and,
- b) may be withdrawn at any time by the President.

The ordinance is a legislative act and has the same force and effect as an Act of Parliament.

Check Your Progress 1

Note : i) Use the space given below for your answers.

ii) Check your answers with those given at the end of the Unit.

- 1) The second reading consists of consideration of the bill in two stages. Discuss.

.....

- 2) Write a note on the private members' bills.

.....

9.4 ROLE OF PARLIAMENTARY COMMITTEES

Committees have been an essential part of the procedure of the Houses of Legislature because of the need for speedy disposal of business and for thorough consideration of certain matters. A Parliamentary committee means a committee which is appointed or elected by the House or nominated by the Speaker and which works under the direction of the speaker and presents its report to the House or to the speaker. Broadly, parliamentary committees are of two kinds—Standing Committees and Ad hoc Committees. The standing committees are elected or appointed every year or periodically and their work goes on, more or less, on a continuous basis. The ad hoc committees are appointed on an ad hoc basis as and when the need arises, and they cease to exist as soon as they complete the task assigned to them, and have submitted their reports. Committees can and do meet while the House is sitting and in this way the House is enabled to consider a number of items of its business at the same time. Another reason for the growing importance of Committees is the inability of the legislature to undertake detailed consideration and enumeration of witnesses and experts and deliberation over a mass of documentary and other material which is required to arrive at a decision on complicated matters. Moreover, the procedure in a Committee is more flexible, there are no formal motions, no formal speeches and no formal divisions and the members can talk across the table and argue out issues.

As the proceedings in a Committee are not open to the public and press, the members become free from joining the party line and consider a matter from wider angles and in a spirit of give and take. Above all, the experts of the committees assume the status of expert opinions on the subject taken up by the members or the committees' work on them because of their special knowledge of, or interest in subject-matter being dealt with.

The main functions of the committees are investigatory, deliberative and recommendatory. In performing their investigatory functions they find out facts or collect opinions by examining persons as witnesses. While performing their deliberative functions, they discuss and consider the type of conclusions to draw from the material before them. The recommendatory function, as a part of the deliberative function, consists in considering what recommendations if any, to make to the House or Houses which composed the Committee. In discharging their functions either by rules or by resolutions of the House or Houses, the same powers which belong to the House in performing their functions apply to committees. Procedure in committees is principally the same as in the Houses of legislature. But there is a good deal of informality in such procedures. A member may speak more than once and there are few formal motions. An item is taken up, deliberated upon, witnesses called for finding out facts and decisions taken on the view, the committee may desire to form. There is almost no voting, though any member may insist on a vote being taken on an important issue. Committees can split themselves in sub-committees to deal with specific aspects of the question referred to them.

The Lok Sabha has around eighteen standing committees or so, and their membership varies from one committee to another e.g. Business Advisory Committee, Committee on Privileges, Committee on Private Members' Bills, Committee on Subordinate Legislation, General Purposes Committee, etc. Among the standing committees, the three financial committees—Committee on Estimates, Public Accounts Committee and Committee on Public Undertakings constitute a distinct group, and they keep a vigil on the government spending and performance. While members of the Rajya Sabha are associated with the Committees on Public Accounts and Public Undertakings, the members of the Committee on Estimates are drawn, entirely from the Lok Sabha.

The control exercised by these Committees is of a continuous nature, they gather information through questionnaires, memoranda from representative non-official organisations and knowledgeable individuals, on the spot studies of organisations and oral examination of non-official and official witnesses. Between them, the Financial Committees examine and report on a fairly large area of multifarious governmental activities. These committees have adequate procedures to ensure that

their recommendations are given due consideration by the Government. The progress in the implementation of the recommendations as well as, any unresolved differences between the Committees and Government are set out in 'Action Taken Reports', which are presented to the House from time to time.

9.5 CHANGING ROLE OF THE LEGISLATURE

As we have discussed in this Unit, the legislature performs a very important function of discussing and analysing the policy proposals that come before it. The success of Parliament depends upon fulfilling adequately its role by responding to the aspirations of the people and the commitment of our public functionaries in the implementation of the approved policies and programmes. Steps have been taken in a number of countries, both developed and the developing to increase the role of the legislatures. Those nations who had for some reasons suspended these institutions have again established their legislatures. Even in the African continent, the legislatures have been created in many of the newly independent nations. The Legislatures in the developing countries exist because people want them, to exist. Long-term trend is not toward the demise or decline of the legislature, which is an important channel of communication and pressure and is thus very relevant in a political system.

Parliamentary accountability to people is something which must be remembered. It has to be seen that all the three organs of the government, the legislature, executive (permanent as well as the political) and the judiciary are interlinked with each other and all the organs by cooperating with one another make the political system accountable to the people. The permanent executive which comes in direct contact with the people is accountable to the legislature, it provides all the necessary information required to solve crucial social, political and economic issues. The legislature keeps a check on the executive through the parliamentary proceedings, question hour sessions and cut motions, etc.

In order that the parliamentary control over the executive may be more effective and administrative accountability may be more precise, it is necessary that all policies laid down by the Parliament should be stated in specific terms. In order to make the Parliament more sensitive to public opinion, the role of the press cannot be undermined. In India, the press plays an important part in parliamentary activities. It is through the press that the Parliament enjoys so much prestige in the public eye and it is with the help of the press that the Parliament is able to control the executive effectively. The press is rightly called 'an extension of the Parliament'. It is the press which has the capacity to unearth the administrative lapses, scandals and shortcomings. The press gives expression to public grievances and difficulties and reports on how policies are being carried out. Most of the raw material for parliamentary questions, motions and debates comes from the press and is an important movement on which a member relies. The press keeps the public informed of what is happening in the Parliament to the utmost detail. The two-way traffic enables the press to maintain an important and strong link between the public and the Parliament. The role of the legislature is thus changing in accordance with the growing aspirations of people, new and crucial social and economic compulsions and increasing functions of press. Our next Block would try to highlight the role of the judiciary and the intricate relationship between the three organs of government, that is, the executive, legislature and judiciary.

Check Your Progress 2

- Note :**
- Use the space given below for your answers.
 - Check your answers with those given at the end of the Unit.
- 1) Discuss the role of parliamentary committees.

.....

.....

.....

- 2) Throw light on the changing role of the legislature.
-
-
-
-
-

9.6 LET US SUM UP

The legislature in India plays an important role in policy making, though the initiation of policies and proposals come from the executive, it is the legislature where it takes a formal shape. Each bill undergoes three readings in both the Houses before it is passed by them. It becomes an Act when the president assents to it. The procedure of bill becoming an Act involves a lot of discussions and analysis by the members of the Parliament. The permanent executive in the process provides the members with all the relevant information in order to enable them, to answer the queries raised on the floor of the House. The role of parliamentary committees in this entire process has become very important. Due to lack of time and expertise, many issues are referred to these committees for detailed consideration. The committees' style of functioning is more flexible and informal and the recommendations come in the form of 'Action Taken Reports' submitted to the House from time to time. This Unit highlighted some of these aspects, it threw light on the growing importance of the legislature and its accountability to the public.

9.7 KEY WORDS

Appropriation Bill : No money can be withdrawn from the Consolidated Fund of India except under appropriation made by law. Voting of the expenditure estimates and demands for grants or supplies by Parliament does not by itself confer upon the governments sufficient authority to expenditure to the extent voted. In order, to regularise it, an Appropriation Bill is introduced, which is discussed by the legislature and then passed. An Appropriation Bill, therefore, is in the nature of a formal legislation, to give effect to grants already voted by the legislature and expenditure charges on the Consolidated Fund of India.

Business Advisory Committee : This Committee recommends the allocation of time for items of government and other business to be brought before the House.

Committee on Public Undertakings : This Committee was constituted in 1964, its functions are to examine the reports and accounts of such public undertakings as have been specifically allotted to the Committee, to examine the report if any, of the Comptroller and Auditor General on public undertakings, to examine, in the context of the autonomy of public undertakings whether the affairs of public undertakings are being managed in accordance with sound business principles and to exercise such other functions vested in the Public Accounts Committee, and Estimates Committee in relation to the public undertakings specified for the Committee.

Committee on Subordinate Legislation : This Committee scrutinises and reports to the House whether the powers to make regulations, rules, sub-rules, bye-laws, etc. conferred by the Constitution or statutes are being properly exercised by the authorities so authorised.

Estimates Committee : The first Estimate Committee was constituted in 1950. Its functions include reporting what economies, improvements in organisation, efficiency or administrative reform, consistent with the policy underlying the estimates, may be

effected, suggesting alternative policies in order to bring about efficiency and economy in administration, examining whether the money is well laid out within the limits of policy implied in the estimates and suggesting the form in which estimates will be presented in the Parliament.

Public Accounts Committee : This Committee is an annually elected body of the Parliament. The function of the Committee is to satisfy itself that the money shown in the accounts as having been disbursed were legally available for and applicable to the purpose to which they have been applied, that the expenditure confirms to the authority which governs it and that every re-appropriation has been made in accordance with provisions made. It is the duty of this Committee, to examine, in the light of the report of the Comptroller and Auditor-General, and the statement of accounts showing the income and expenditure of state corporations, trading and manufacturing project, autonomous and semi-autonomous bodies.

9.8 REFERENCES AND FURTHER READINGS

Awasthi A. and S.R. Maheshwari. 1990, *Public Administration*, Laxmi Narain Aggarwal, Agra.

Basu, Durga Das. 1984, *Shorter Constitution of India*, Prentice-Hall of India, New Delhi.

Chand, Paul (ed). 1984. *Indian Parliament*, The Institute of Constitutional and Parliamentary Studies, New Delhi.

Jha, Radha Nandan. 1982, *Some Aspects of Parliamentary Procedure*, Janaki, New Delhi.

Kashyap Subhash C. 1988, *Parliament of India : Myths and Realities*, National, New Delhi.

Mukerjee A.R. 1983, *Parliamentary Procedure in India*, Oxford, Delhi.

9.9 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

- 1) Your answer should include the following points:
 - the first stage consists of general discussion on the bill as a whole.
 - in the first stage, the bill can be referred to a Select Committee of the House or a Joint Committee of the two Houses.
 - the Select or Joint Select Committee considers the bill clause by clause.
 - after the bill has been considered, the committee submits the report to the House
 - it is not permissible at this stage to move a motion for consideration of the bill, unless the speaker allows it.
 - the second stage of the second reading consists of the bill as introduced or as reported by the Select Committee or Joint Select Committee.
 - amendments to the bill can be moved at this stage.
- 2) Your answer should include the following points :
 - such bills can be taken up only on the days which are fixed for private members' bills.
 - these bills are referred to a special committee called the Committee on Private Members' Bills and Resolutions.
 - the bill goes through same procedures as applicable to other non-financial bills.

- the purpose of these bills is to generate a public debate over the burning social and political issues.
- private members have no say in financial or money bills.

Check Your Progress 2

- 1) Your answer should include the following points :
 - Committees are becoming more and more important because of the need for the speedy disposal of business, for more detailed consideration of various aspects of bill, for flexibility in its procedures, for its openness to the press and public.
 - main functions of the committees are investigatory, deliberative and recommendatory.
 - the procedure in the committees is absolutely informal, there is almost no voting.
 - committees can split themselves into sub-committees.
 - broadly, parliamentary committees are of two kinds, standing and ad hoc.
 - the Lok Sabha has around eighteen Standing Committees or so and their membership varies from one committee to the other.
 - the control exercised by the committees is of a continuous nature.
 - the committees have adequate procedures to ensure that their recommendations are given due consideration by the Government.
- 2) Your answer should include the following points :
 - the success of the Parliament depends upon fulfilling adequately its role by responding to the aspirations of the people.
 - steps are being taken to increase the role of the legislatures.
 - the legislatures have been revived in many countries.
 - the crucial interaction between the three organs of the governments highlights the growing importance of legislature.
 - the role of legislature can be made more accountable if the press is given adequate importance.

UNIT 10 ROLE OF JUDICIARY

Structure

- 10.0 Objectives
- 10.1 Introduction
- 10.2 The Nature of the Judicial System in India
- 10.3 Functions of the Judiciary
- 10.4 Impact of Judiciary on Policy Making
- 10.5 Importance of the Judiciary in Policy Making
- 10.6 Judicial Review
- 10.7 Let Us Sum Up
- 10.8 Key Words
- 10.9 References and Further Readings
- 10.10 Answers to Check Your Progress Exercises

10.0 OBJECTIVES

After reading this Unit, you should be able to:

- discuss the nature of the judicial system in India
- highlight the functions of judiciary
- discuss the impact of judiciary on policy making; and
- explain the importance of judiciary in policy making with special reference to its role of judicial review.

10.1 INTRODUCTION

An impartial judiciary is a sine-qua-non for the smooth functioning of a political system. It is the third organ of the government and is charged with the deliverance of justice to the aggrieved party. The judiciary does not have a substitute in the present society. The preceding Block dealt with the role of the legislature, the political executive and the bureaucracy in policy making. This Unit will try to give us an idea about the role of the judiciary in policy making.

A. R. Ball has opined that a judicial department to ascertain and decide rights, to punish crimes, to administer justice and to protect the innocent from injury and usurpation is indispensable. Thus in this Unit, we shall discuss the nature of the judicial system in India, its functions and its importance. The impact of the judiciary on policy making and its role of judicial review will also be dealt with.

10.2 THE NATURE OF JUDICIAL SYSTEM IN INDIA

In modern democratic political systems, the judicial system is known as open, impartial, consistent, stable and predictable. The judiciary operates in accordance with the prescriptions of the Rule of Law, i.e., equality of all citizens before the law, and a person being innocent unless committed by a court of law. Such judicial system believes in the fairness and openness of proceedings. Sometimes, to protect the interests of the State, certain restrictions may be put on the judicial system in the larger interests of the people, but there is seldom a deliberate attempt on the part of the State to abrogate the usual process and procedure of justice. In India, also, the judiciary is taken, largely, as independent, impartial, fair and real protector of the rights and liberties of the citizens.

In India, we have a unified structure of the judiciary despite the fact that our Constitution is quasi-federal. Under our Constitution, we have a single integrated system of courts for the Union, as well as, the states which administer both Union and state laws. At the apex, we have the Supreme Court, below the Supreme Court we have the High Courts of the different states, and under each

High Court there is a hierarchy of other courts which are called Subordinate Courts, these are the courts which are subordinate to and under the control of the High Court.

The organisation of the subordinate courts varies from state to state to some extent. The state is divided into districts, and each district has a district court which has an appellate jurisdiction in that district. Under the District Courts there are lower courts such as the Additional District Court, the Sub-Court, the Munsiff Magistrate Court, the Court of Special Judicial Magistrate, etc. The District Court Judge possesses unlimited original jurisdiction, both civil and criminal. He is the highest judicial authority in the District and hears appeals against the judgements of Munsif Courts and Sub-Courts. The Panchayat Courts are at the bottom of the hierarchy of the Subordinate Courts, these courts function under various names such as the Nyaya Panchayats, the Panchayat Adalat, the Gram Kutchery, etc. These Courts deal with both civil and criminal cases.

10.3 FUNCTIONS OF JUDICIARY

The judicial system, the worldover, performs a variety of functions starting from the interpretation and application of the existing laws, to the shaping of policies and laws that are likely to emerge in the future. Before dealing with the impact of the judiciary on policies and programmes, it would be better if a brief discussion on the functions of the judiciary in general is made.

- 1) The most important function of the judiciary is to see that the administration of justice is carried out in a fair and independent manner. It is in this context that its significant area of operation is the interpretation of the various provisions of the Constitution. The meaning and explanation given by the highest court is taken as final, unless, of course, the legislature amends the relevant provision of the Constitution. It may, therefore, be said that the judiciary is to uphold the Constitution as the supreme law of the land, and, thus, it acts as the guardian of the Constitution.
- 2) Modern political systems also envisage that the judicial system will act as the protector of the rights and liberties of the citizens. These days, almost every country provides for a set of rights to the people which are called the Fundamental Rights. In the case of India, these rights are considered as the basic structure of the Constitution. The government has tried to change the provisions of some of the rights (especially the Right to Property) but the judiciary has held from time to time that the Parliament cannot change the basic structure of the Constitution. It is very clear that the judiciary acts as the chief protector of the rights of the citizens.
- 3) By implication, the judiciary performs the functions of policy making through its pronouncements (judicial verdicts). The Constitution of a country, even if exhaustive, may fail to deal with some aspects of the political, administrative, economic, and social systems. As such, it may be silent on some issues, as in the case of India, the Constitution does not say anything with regard to the President's rule at the Central level in case of break-down of the Constitutional machinery, though such a provision very clearly exists for the state governments. Moreover, some laws may either be ambiguous or may be inconsistent with the other laws of the land. In such matters, the courts decide what the law is and what law should prevail.
- 4) In a federal system, the courts also act as independent and impartial arbiters between the federal government and the governments of the federating units, as also between the federating units themselves. Whenever there is a dispute or conflict between any set of governments, the judiciary is responsible for interpreting the provisions of the Constitution. This interpretation is taken as final. In this way in a federation the judiciary assumes the status of the 'Constitutional Court'. It is in this context that the Cauvery Water Dispute is being examined by the Supreme Court of India. Moreover, there is a very strong demand from the regional parties in Punjab for referring the water dispute, between Punjab and Haryana, to the highest court of the country.
- 5) The judicial system has a very significant role in legitimising the policy outputs

of the government. The courts sometimes have to show a conservative attitude and should interpret the meaning of the law in the highest of dynamic situations. It may, be possible that some forward looking decisions of the government are challenged as unconstitutional by some people in a court of law. However, the judges need to analyse the circumstances from a dynamic view point. Taken from this angle, the judiciary can give the character of legitimacy to policy outputs of the government. The change in the attitude of the American Supreme Court since 1937 is a very relevant example in this regard. It is, therefore, essential that the behaviour of the judiciary must not be obstructive or destructive. It should rather allow the political system to function smoothly. In this context, the role of the political culture is very important as the political beliefs and convictions of the people can save the situation from reaching the point of no-agreement. In the case of the American Supreme Court (1937), people played a significant role in disapproving the move of the President for increasing the number of judges of the Supreme Court. This also led to a distinct change in the attitudes and policy of the Supreme Court.

- 6) Another important function of the judiciary relates to its power of judicial review. This empowers the judiciary to declare any law, executive policy, and administrative action as intra-vires or ultra-vires. We shall discuss this in greater details in Section 10.6.

Check Your Progress 1

Note: i) Use the space given below for your answers.
ii) Check your answers with those given at the end of the Unit.

- 1) Discuss the nature of the judicial system in India.

.....
.....
.....
.....

- 2) Highlight the different functions of the judiciary in India.

.....
.....
.....
.....

10.4 IMPACT OF JUDICIARY ON POLICY MAKING

A description of functions of the judiciary makes it clear that the impact of the judiciary on policy making is quite significant. Actually, a variety of factors and institutions combine and interact in the policy making process. It is a very complex process through which persons in power/authority exercise power or influence over each other. Dr. P. R. Dubhashi explains the policy making process as "something like a policy making ladder with the chief executive like the Prime Minister at the top and apathetic non-voting citizens at the bottom. In between are the Prime Minister's cabinet colleagues, legislative leaders, policy making judges, high level administrators, interested group leaders, politically active citizens, and ordinary voters. The proximate policy makers, skilled practitioners of policy analysis, managerial elite, elite of wealth, are all policy makers. Most citizens influence policy very little but energetic citizens can influence policy to an extent".

The judicial system in a democratic country like India has a major role in the public policy making process. All policies are formulated keeping in view the existing laws and legal provisions. The judiciary enters the area of policy making delivering suggestive or advisory judgements aimed at the effective achievement of the goals of the country as contained in the Preamble and the body of the Constitution. At times, the judiciary issues directions for formulating a particular

policy or changing the existing policy to suit a particular purpose. It may also determine certain guidelines for the legislature and/or the executive that ought to be followed in the process of public policy making. It is, therefore, clear that the judiciary is an essential part of the political process wherein cooperation and conflict are of equal significance. In the words of A. R. Ball, the courts "interact with other parts of the political system, not as illegitimate outsiders but as part of the stable ruling political alliance". It is, thus, understood that the judiciary has its share in the political process of the country, especially in the process of policy making. In fact, it is the need of modern times that the role of the courts should be appreciated and confrontation between the legislature, the executive and the judiciary should be minimised if not totally avoided. However, it may be added that there have been situations and occasions when the actions or decisions of the judiciary have been either not welcomed by the political authority or its principal advisory, the bureaucracy. Despite all that, it has been the thinking of a civilised society, that a society can be thinkable without a fully developed legislative organ but a civilised State without any viable judicial branch is hardly conceivable.

In the system analysis, the system and its counterparts, the sub-systems, are continually in active or passive interaction at various levels and degrees to bring some acceptable outputs to society. It is, therefore, necessary to view the judicial system as an essential aspect of a political structure be it any form of government. Actually speaking, the political process in a given system does not spare any facet of the citizens' life. In one way or another, it influences them and their actions and reactions. Ultimately, they become essential ingredients in the interplay of socio-political forces that determine the areas, facets, contents, priorities and distribution of policy benefits in society. However, in all societies, primitive, medieval, traditional/conventional and modern, the judiciary has always, with some situational constraints, played its role in moderating the public demand and the system's capacity to bear such implications of its pronouncements. The judicial system cannot remain immune to major socio-economic developments, as also to the ever changing thinking of the total political process. In this context, Stephen L. Wasby observes, "The political situation affecting the administration of justice at the state and local levels has particularly attracted the attention of political scientists, concerned with the allocation of justice, with why different members of the community are treated differentially by law enforcement officials. The topic is one which comes within the purview of public law mainly because those who have shown interest in it have been previously doing work in the public law field. The same is true with respect to the activities of the legal profession. While it is the sociologists who have undertaken work on what can be called the 'ecology of the legal profession', that is the organisation and pattern of legal practice, political scientists have not been behind, particularly in relating this structure to participation in politics."

A very significant area of operation of the judicial system, especially in a developing country like India, is to ensure a desired level of social and economic development/advancement so as to reach a viable equilibrium for a tension free social system. It is in this context that the judiciary "investigates, declares and enforces liabilities as they stand on present or past facts and under laws supposed already to exist". Moreover, the judiciary establishes the values of equity and justice for stabilising society in its best possible egalitarian form. The Supreme Court in India has developed new methods and remedies for dispensing justice to the masses through public interest litigation. It is said that it has taken socio-economic justice to the common man. The former Chief Justice, P. N. Bhagwati has observed that "the Supreme Court has developed several new commitments. It has carried forward participative justice. It has laid just standards of procedure. It has made justice more accessible to citizens." It was under the innovative leadership of Justice Bhagwati that public interest litigation reached a new dimension.

The Supreme Court in India has been instrumental in the deliverance of relief to the poor and other under privileged sections of society. It has also provided relief for the under-trial prisoners, licensed rickshaw pullers etc., it has been successful in the release of women from the clutches of those indulging in promoting immoral traffic. It has tried to lay down that except in serious cases,

bail must be granted on personal bond. Again, it was on the insistence of the courts that free legal aid was strengthened. The Supreme Court has also allowed monetary compensation for administrative wrongs and violation of the citizens fundamental rights. It is, therefore, clear that the judiciary has made very serious attempts for dispensing social and economic justice to the masses despite of its inherent limitations. It is in this manner that it has been able to put pressure on the legislature and the executive to initiate and implement many major policies. The socio-economic change cannot be brought about only through public interest litigation. It is an arduous task which the social activists must carry forward. The administration has to be imbued with a missionary zeal for achieving this objective. It is more so because the major responsibility for framing and implementing policies relating to the socio-economic welfare of the masses rests with the government.

10.5 IMPORTANCE OF JUDICIARY IN POLICY MAKING

We already know that the judiciary is the third organ of the Government, the other two being legislature and executive. The government, in modern times, has to perform not only a magnitude of functions but has to deal with the complexities and technical nature of functions. In the sphere of policy making, government is helped by the legislature, executive, the judiciary, political parties, interest groups, media and public opinion. The need for an impartial and strong judiciary to influence policy making is clear from the preceding sections. The role of the judiciary in policy making can be understood from the following.

- a) The judiciary being the sole guardian of the Constitution, ensures that none of its provisions is contravened by the legislative, executive or administrative actions. In order to achieve this goal, the judiciary tries to formulate guidelines to be followed both by the legislature and the executive. In the absence of such guidelines, the courts restrain the concerned parties from contravening the Constitution by the application of the Rule of Law.
- b) Its decisions have facilitated a comparatively smooth working of the Indian federal system.
- c) It has helped the government in formulating its policies in a manner that does not dispute with the Fundamental Rights. The 24th and 25th Amendments were struck down in order to protect the basic structure of the Constitution (as in the Golaknath Case).
- d) The decisions of the courts have many a times led to the protection of private interests as was done while rejecting the Bank Nationalisation Act, 1969.
- e) Its pronouncements have moulded the thrust and contents of the public policy. Some policies are partly struck down by the courts and certain directions are issued which are mandatory for the government to follow, as was done in the Bhopal Gas Leak Case.
- f) We come across a number of court cases in which the administration has either framed rules in a wrong way or their implementation has been faulty or malicious. The cases may relate to selection, promotion, implementation of a particular scheme or consumer protection.

Thus, it is clear that the judiciary has an important role in policy making. However, its nature and extent may vary from case to case. In brief, the judiciary ensures:

- a) that only such policies are framed which are in accordance with the provisions of the Constitution;
- b) that any negligence on the part of the government in not formulating a policy or not implementing all the provisions of a policy, is taken very seriously by the courts. In such cases specific directions are issued to the concerned authority; and
- c) that all policies are aimed at the protection of the national interest and are

likely to increase the pace of social and economic development.

It is clear from the above that the judicial system has a definite role, not only in influencing the process of policy making, but also in its actual preparation as it gives definite directions/guidelines to the governments. Hence, it gives more acceptable tenure to the public policies.

10.6 JUDICIAL REVIEW

No discussion on the role of the judiciary can be complete without highlighting its role of judicial review. The judicial review is a very important tool in the hands of the judiciary, especially in a federal system, to keep the legislature and executive measures well within the framework of the Constitution. It is largely the outcome of the written Constitution. The rigid procedures for 'judicial review' may be defined as "the power of any court to hold unconstitutional any law or any official action based upon it, as illegal or void". Therefore, it is the power of the courts to examine the actions of the government, so as to ensure that such actions conform to the provisions of the Constitution of the country. It is also based on the fact that although courts use wisdom and experience while delivering judgements, yet some mistake or error may be committed by them unintentionally. The Supreme Court of India is, therefore, vested with the power to review any of its own decisions or orders for rectifying the wrong, if any, in its earlier judgement. Such power is also necessary because there is no appeal against the judgement of the Supreme Court, except in inimical cases involving the death penalty.

The term 'judicial review' is nowhere mentioned in our Constitution but still the Supreme Court has this power as can be seen from the provisions of Article 13 which say:

- 1) All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this part, shall, to the extent of such inconsistency, be void.
- 2) The states shall not make any law which takes away or abridges the rights conferred in this part and any law made in contravention of this cause shall, to the extent of contravention, be void.
- 3) Nothing in this Article shall apply to any amendment of the Constitution made under Article 368.

It can, therefore, be seen that the scope of judicial review in our country is confined to examination on two counts:

- a) whether the law under challenge is within the competence of the authority that has framed it; and
- b) whether it is consistent with Part-III of the Constitution which relates to the Fundamental Rights.

In India, the struggle between the supremacy of judicial review vs. parliamentary sovereignty in interpreting the Constitution, began soon after the commencement of the Constitution. One of the principle aspects of the struggle was the meaning of, and limitations on the right to property. The court concentrated on the meaning of compensation which, in effect, was held as the market value. However, the government came with a series of amendments, especially the 24th and 25th, which made the adequacy of the compensation paid by the states for acquired private property as non-justiciable. The Government did try to establish the sovereignty of the Parliament against the judicial review, and, to establish the primacy of the Directive Principles of State Policy over the Fundamental Rights. The issue was more seriously taken by the judiciary in the famous Golaknath Case in which it held that the Parliament had no power to amend Fundamental Rights. However, the government amended the Constitution (24th Amendment) and gave blanket power to the Parliament for amending any part of the Constitution including the Fundamental Rights. The reaction of the court was very clear and assertive in its judgement in the Keshwananda Bharti Case. While agreeing that

Fundamental Rights were subject to amendment, the Supreme Court held that the Constitution had a 'basic structure' which could not be amended. Then came the 42nd amendment, a part of which gave primacy to the Directive Principles of State Policy over the Fundamental Rights, and this provision attempted to put the matter beyond the reach of the judiciary. However, the Supreme Court, in the *Minerva Mills Case* (1980) reiterated that Parliament does not have unfettered power of amendment. Thus, Fundamental Rights continue to have precedence over the Directive Principles of State Policy. It is, therefore, clear that the Supreme Court in India, like its counterpart in America, has an extensive power of judicial review.

Check Your Progress 2

Note: i) Use the space given below for your answers.
ii) Check your answers with those given at the end of the Unit.

- 1) Discuss the impact of the judiciary on policy making.

.....
.....
.....
.....

- 2) Explain the role of the judiciary in policy making.

.....
.....
.....
.....

- 3) What is meant by 'Judicial Review'?

.....
.....
.....
.....

10.7 LET US SUM UP

It is clear from the Unit that the third organ of the government, i.e., the judiciary plays a significant role in the policy making as the other two organs. In many ways its role becomes most significant as it gives legitimacy to all the policies framed by the legislature and the permanent and political executive. It influences the government to formulate certain policies involving major problems/issues confronting the country and also declares null and void any policy that goes against the basic premises of the Constitution, the Fundamental Rights of the people, various liberties of the citizens and ideals and morals upheld by society. This Unit, thus gave us an idea about the nature of the judicial system in India, and the functions of the judiciary.

10.8 KEY WORDS

Appellate Jurisdiction of the Supreme Court: The Supreme Court has appellate jurisdiction over the High Courts and other tribunals in the states. The appellate jurisdiction has two aspects (i) jurisdiction regarding appeals involving the interpretation of the Constitution whether in a criminal, civil or other proceedings; and (ii) jurisdiction regarding appeals in other civil or criminal matters.

Original Jurisdiction of the Supreme Court: The original jurisdiction of the Supreme Court is of two types namely, exclusive and concurrent. It has an exclusive jurisdiction in any dispute i) between the Government of India and one or more states; or ii) between the Government of India, any state or states on one side and one or more states on the other. The Supreme Court has a concurrent original jurisdiction along with high courts for the enforcement of the Fundamental Rights.

Public Interest Litigation: It refers to a system of intervention of social action groups in making courts accessible to the deprived, submerged and invisible millions of poor and victims of social oppression.

Rule of Law: Dicey's Rule of Law connotes that no person is above the law of the land and that every person, irrespective of his/her rank or status, is subject to the ordinary law and amenable to the jurisdiction of the ordinary tribunals. Every citizen is under the same responsibility for every action of his/hers without lawful justification.

Special Jurisdiction of Supreme Court: There are provisions for the enlargement of the jurisdiction of the Supreme Court. Article 138 provides that the Supreme Court shall have further jurisdiction and power with respect to any of the matters in the Union List as the Parliament may by law confer. It shall have such further jurisdiction and powers with respect to any matter as the Government of India and the government of any state may by special agreement confer, if the Parliament by law provides for the exercise of such jurisdiction and powers by the Supreme Court. Under Article 139, the Parliament may by law make provision for conferring upon the Supreme Court such supplemental powers not inconsistent with any of the provisions of the Constitution as may appear to be necessary or desirable for the purpose of enabling the court to exercise the jurisdiction conferred upon it by or under the Constitution.

Ultra-vires: Violative of the Constitutional provisions.

Usurp: Seize or assume power wrongfully.

10.9 REFERENCES AND FURTHER READINGS

- Basu Durga Das. 1982. *Introduction to the Constitution of India*. Prentice Hall, New Delhi.
- Dubashi P.R. 1985. *Essays in Public Administration*. NBO, New Delhi.
- Johari J.C. 1985. *Indian Government and Politics*, Vishal, Delhi.
- Narang A.S. 1987. *Indian Government and Politics*, Gitanjali, New Delhi.
- Wasby Stephen L. 1973. *American Government and Politics*. Charles Scriber. New York.

10.10 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

- 1) Your answer should include the following points:

- the judicial system is known to be open, impartial, consistent, stable and predictable.
- in India the judiciary is regarded as independent, impartial, fair and real protector of the rights and liberties of the citizens.
- in India, we have a unified structure of judiciary.
- we have a single integrated system of courts for the Union as well as the states.
- at the apex we have the Supreme Court.
- below the Supreme Court, we have the High Courts and below these we have various Subordinate Courts.

- state is divided into districts, under them we have the lower courts such as Munsif courts, and below them we have the panchayat courts.

2) Your answer should include the following points:

- to see that administration of justice is carried out in a fair and independent manner.
- to act as the protector of the rights and liberties of the citizens.
- to perform the function of policy making through its pronouncements and judicial verdicts.
- to act as an arbiter between the federal government and the governments of the federating units.
- to legitimise the policy outputs of the government.
- judicial review.

Check Your Progress 2

1) Your answer should include the following points:

- a variety of factors and institutions combine and interact in the policy making process.
- the judiciary enters the area of policy making by delivering suggestive or advisory judgements aimed at the effective achievement of goals of the country.
- it may also determine certain guidelines for the legislature and/or the executive that ought to be followed in the process of public policy making.
- it plays the role of moderating the public demand and the system's capacity to bear the implications of its pronouncements.
- it has to ensure a desired level of social and economic development/advancement so as to reach a viable equilibrium for a tension free social system.
- the judiciary establishes the values of equity and justice for stabilising the society in its best possible egalitarian form.
- the judiciary has carried forward participative justice.
- it has been instrumental in the deliverance of various reliefs to the poor and other underprivileged sections of society.

2) Your answer should include the following points:

- the judiciary being the sole guardian of the Constitution ensures that none of its provisions is contravened by legislature, executive or administrative actions.
- the functioning of the judiciary has facilitated a comparatively smooth working of the Indian federal system.
- it has helped the government in formulating its policies in a manner that does not dispute with the Fundamental Rights.
- the judicial pronouncements have moulded the thrust and contents of the public policy.
- the judiciary ensures that only those policies are framed as are in accordance with the provisions of the Constitution.

3) Your answer should include the following points:

- it is an important tool in the hands of the judiciary.
- it is the power of any court to hold unconstitutional and hence unenforceable any law or any official action based upon it, as illegal or void.
- the Supreme Court, is vested with the power to review any of its own decisions or orders for rectifying the wrong, if any, in its earlier judgement.
- the struggle between the supremacy of judicial review vs parliamentary sovereignty in interpreting the Constitution began, soon after the commencement of Constitution.

UNIT 11 INTERACTION AMONGST VARIOUS ORGANS

Structure

- 11.0 Objectives**
- 11.1 Introduction**
- 11.2 Political and Permanent Executive**
- 11.3 Parliament and Permanent Executive**
- 11.4 Parliament and Political Executive**
- 11.5 Parliament and Judiciary**
- 11.6 Executive and Judiciary**
- 11.7 Let Us Sum Up**
- 11.8 Key Words**
- 11.9 References and Further Readings**
- 11.10 Answers to Check Your Progress Exercises**

11.0 OBJECTIVES

After reading this Unit, you should be able to highlight the relationship between:

- political and permanent executive
- parliament and permanent executive
- parliament and political executive
- parliament and judiciary; and
- executive and the judiciary.

11.1 INTRODUCTION

The previous Units throw light on the role of bureaucracy, political executive, judiciary and legislature in policy making. It is now clear that these organs of the government have a crucial role to play in the policy formulation process. While discussing their respective roles in the process, we must keep in mind that all the organs interact closely with each other in order to formulate policies, their cooperation and support for each other is a precondition to a sound policy making mechanism. In the working of these governmental organs, we find that the areas of conflict are much less than the areas of cooperation, and wherever conflict arises, efforts are made to solve it amicably. This Unit would try to highlight the different areas of interaction between these three organs of the government, that is, the legislature, executive and judiciary.

11.2 POLITICAL AND PERMANENT EXECUTIVE

The interaction and relationship between the political executive, that is, the ministry and the permanent executive, that is, the bureaucracy in framing policies is both qualitative and quantitative. The role of both these wings of the executive in policy making has been discussed at length in Units 7 and 8. The focus of discussion here would be on interaction between these two wings. It has been discussed earlier that the permanent executive assists the political executive in preparing policy proposals and also suggesting and analysing various different alternatives to a particular issue at hand to be translated into a public policy. In the making of policy proposals, which are the basis of the policies, the permanent executive works in a well planned and thoughtful manner with the political executive. Gone are the days when policy formulation was considered to be the sole domain of political executive. Because of the changing technological and scientific developments, the expertise of the permanent executive has become

almost essential for putting through the right kind of choices, clauses, and dimensions of different policies. Besides providing the information through data (collected on various issues) to be incorporated in a policy proposal, the permanent executive perform the suggestive role by putting various suggestions before the political executive. It also interacts with the political executive in policy making when it analyses the various alternatives available for making a policy and puts it before the political executive. Thus, it becomes evident that the permanent executive has a major role in policy making. But this role is performed by way of its interaction with the political executive. It does not mean that the permanent executive has predominance over the political executive. They both work hand in glove with each other for giving a proposal a final shape.

Primarily there are two important activities involved in policy formulation. Firstly, the decision regarding what is to be done, and secondly, the way it is to be done. Normally, in the first activity the major role is that of the political executive and with regard to the second, the permanent executive performs the important role. Of course, in both the activities one takes help and guidance of each other. Furthermore, the permanent executive is under the direct control of political executive which in turn is accountable to the legislature. This means that permanent executive has an indirect interaction with legislature but direct interaction with political executive.

11.3 PARLIAMENT AND PERMANENT EXECUTIVE

It will be better if we clarify at this point that the relationship between the Parliament and the executive cannot be discussed under watertight categories of relationship between the Parliament and the political executive and the Parliament and the permanent executive. The three, that is the Parliament, permanent executive and political executive interact closely with each other in the process of policy making. As we read in the Unit on the 'role of bureaucracy', the political executive, in its role of identifying policy issues and concretising them into policy proposals, is helped a great deal by the permanent executive, which does a lot of spade work for the political executive. It performs the informative, suggestive and analytical roles in order to help the political executive in substantiating the policy proposals and collecting the relevant data. The political executive employs a huge staff consisting of administrators, experts, technicians, scientists, specialists and ordinary workers to carry out the tasks assigned to it. With the increase in the functions of the government in the field of economic and social well being of the people, the responsibilities of the government have greatly expanded and so has the staff working under the government. The government machinery and the bureaucracy have become complex and too elaborate, and the responsibility of the council of ministers has consequently, increased. This has, in turn, led to an increase in the parliamentary work. The administrative apparatus, that is the bureaucracy which is employed to implement the task assigned to it, also helps the council of ministers in formulation of their policies, which are eventually approved by the Parliament. In fact, before any proposals of the government before the Parliament, they should be examined and modified by the administrative machinery under the control of the council of ministers. Thus the three organs, the Parliament, Cabinet and council of ministers and bureaucracy are constantly helping one another in the process of arriving at decisions.

Because the permanent executive works intimately with the council of ministers and is in fact the major instrument for carrying out the policies of the political executive approved by the Parliament, it is through the council of ministers that their accountability to the Parliament is discharged. It is the minister who in the ultimate analysis, has to take the blame for any failure, deficiency, delay, mistake or irregularity on the part of the administration. Therefore, the permanent executive is under heavy responsibility, it has to be careful, alert, watchful, honest and efficient and a lot of burden falls on the council of ministers to carry out the systematic supervision of the administration which is the permanent executive.

One important point which should be taken into account is the discussions and development of the party meetings which influence the political executive more

in shaping its policies or responding to public opinions. Its impact on the administration is no less important than the impact of the Parliament, though the permanent executive is not directly accountable to the party in power, but indirectly the criticism it suffers at the party hands reflects itself on the floor of the House and gets channelised through different parliamentary procedures by which the permanent executive is called to account.

A very important device through which the Parliament interacts with the bureaucracy or the permanent executive is through delegated legislation. A mention of it has already been made in our previous Unit 8. We will now try to discuss the importance of delegated legislation and the development of delegated legislation in India.

- i) Pressure upon the parliamentary time: the large volume of legislative business makes it essential for the Parliament to enact laws, embodying broad principles, leaving details to be supplied by the executive departments.
- ii) Scientific and technical character of the subject matter: As the Parliament is a body of laypersons, it is not able to handle the scientific and technical aspects underlying the policies and yet, such matters are important parts of the legislative enactments. The Parliament, not being an apt body to deal with details which are technical, delegates them to the executive.
- iii) Need to secure flexibility: need for allowing for rapid adjustments to meet the local conditions results in delegating legislative power to the executive.
- iv) Need to provide for unforeseen contingencies: to cope with contingencies such as war, economic crises, etc., the government needs to take quick action. It cannot wait until the Parliament passes a law authorising necessary action, for in an emergency that is neither practicable nor sensible. Consequently, the Parliament grants legislative power to the executive.

Delegated legislation has become the need of the hour, otherwise, it will be very difficult for the Parliament to enact the number of legislations needed to meet the challenges posed by the changing social, economic and political scenario.

The effectiveness of the parliamentary control over the executive is determined by three important conditions. Firstly, as a matter of principle, legislatures can be effective in its conduct over the executive only in proportion to the strength of the opposition, which by virtue of its strength and appeal to the electorate, expects that some day it would have a chance to form the government, that is, it should be "a Cabinet of the future". In the Indian parliamentary system if the legislature has not quite succeeded in creating institutions and procedures for more effective control over the executive, it is partly due to the dominating position of the Congress party in the Parliament and partly due to the existence of an opposition that has not been able to perform a strong and assertive role.

Secondly, the effectiveness of such control also depends upon the strength and quality of the public opinion. Representative legislatures backed by strong public opinion can effectively control executive and administrative action. Public opinion controls the executive, both through independent expression of opinion on public issues, backing or opposing the legislature in its attitude towards the executive, and also at the time of elections by choosing such people who would be honest and fearless in analysing governmental actions. Thirdly, the effectiveness of the legislative control over the executive depends upon the devices and procedures instituted by the legislature in carrying out its functions to meet the changing needs of modern society. However, legislative procedures are only a means to an end, the end being responsible and democratic discussion of public issues in the Parliament. Care, thus, has to be taken to develop effective check and supervision over governmental actions, and not to curb the initiative and quickness of the executive for vital decisions.

11.4 PARLIAMENT AND THE POLITICAL EXECUTIVE

share a very important relationship. We have already discussed the relationship between the Cabinet and the Parliament in Unit 7, we have also discussed the role of the political executive, that is, the Prime Minister, the Cabinet, cabinet committees, cabinet secretariat and the Prime Minister's secretariat in policy making. A crucial facet of this relationship between the Parliament and the political executive is the practice of ministerial responsibility. Under Article 75(3) of the Constitution of India, the council of ministers is collectively responsible to the Lok Sabha. So long as the executive commands majority support in the Lok Sabha, the executive in a very legitimate manner is entitled to control the legislature. Although the council of ministers is appointed by the President, all ministers have to be members of the Parliament and if a minister is not a member of the Parliament at the time of his/her appointment, he/she has to become a member within a period of six months, otherwise, he/she would cease to be a minister. The council is a grand committee of the Parliament charged with the duty of conducting the executive affairs of the government. It is this relationship which is crucial to their role in policy making, and determines the whole course of parliamentary control over the political executive. Initiative rests in the council of ministers to bring forward legislative and financial proposals before the Parliament, and the role of the Parliament is one of judging the potential of the proposals, the validity of factors on which they are based and their capacity to achieve the objectives.

While the policy is in the stage of formulation, it is the executive which considers it and gives it a concrete shape. The Parliament's role begins only after the proposal is placed before it for approval. Thus, the council of ministers and the Parliament are closely interlinked, but still there is a clear distinction between their functions.

The close association of the Parliament and the executive is one of the most important characteristics of the parliamentary system. Whatever activity the Parliament is engaged in at any time, be it legislative, ventilation of the grievances of the people, voting of supplies, discussion of matters of urgent public importance, the executive is always involved. The relationship between the executive and the Parliament is one of inter-dependence based on mutual trust and confidence. Though the executive has vast freedom in shaping policies and taking steps to implement them, the Parliament has the right to call for information and to oversee whether the executive has acted in accordance with their obligations and utilised the powers conferred on them for the purpose for which they were intended.

The executive has to be fully conscious of its accountability to the Parliament. It always has to be prepared to face parliamentary scrutiny. Significant occasions for review are provided by discussion on Motion of Thanks on the President's Address and the Budget including Demands for Grants from various ministries and departments and the proposals to raise funds for meeting expenditure. Apart from these, specific matters may be discussed through motions on matter of urgent public importance, private members resolutions and other substantive motions. Discussions can also take place on motions for modification of statutory rules and on annual reports of departments and public undertakings; and government actions in specific fields discussed or local problems aired through cut motions. In extreme cases, a motion of no confidence can be moved against the government.

Some of the other specific procedural devices executed for parliamentary surveillance over the executive include laying of papers on the Table of the House, Questions, Half-an-Hour Discussions, Calling Attention Motion, Short Duration Discussions, Adjournment Motions, etc. Let us discuss these briefly. As we know that the minister has to respond to any question raised by the member of Parliament.

The permanent executive helps in preparation of these responses, the executive makes available information to the Parliament by placing papers on the Table. As the papers so placed may all of a sudden become public documents and may even lead to a debate or discussion in the House, the executive has to be very vigilant in the preparation and presentation of papers. Parliamentary questions which are tabled for answers are important devices through which information is sought from the government on the floor of the House. During the question hour, the administration is made accountable to the members of the Parliament for its actions and non-actions and at times the administration may have to even

spell out the proposed future course of action in certain important matters. All aspects of administration come under the vigilant eye of the Parliament during the question hour. The minister concerned has to be prepared for any type of query on the floor of the House. There can be supplementary questions which in the name of seeking information may actually be directed at detecting lapses of the government.

There also exists a provision for half-an-hour discussion in the House in case of inconclusive or unsatisfactory answers when the matter involved is one of sufficient public importance. We also have a procedure of motion of adjournment. This helps in discussing a definite matter of urgent public importance which can be moved with the consent of the speaker. The purpose of an adjournment motion is to take the government to task for a recent act of omission or commission having serious consequence, its adoption is regarded as amounting to a sort of censure on the government. The Calling Attention Motion is another device which enables the members to draw the attention of the government to any sudden development and public importance. This is essentially an Indian innovation and a member may, with the previous permission of the speaker, call the attention of a minister to any matter of urgent public importance and request the minister to make a statement on the subject.

One of the most effective methods by which the Parliament exercises check over the executive is through its control over finance. The executive decides how much revenue is to be raised or what the desired level of expenditure should be, and once the Parliament votes the revenues and disbursements, the executive cannot deviate from the Parliamentary sanctions. For any excess amount spent, the executive has to seek regularisation by the Parliament. And for Parliament to regularise such excess, the executive has to give proper explanations. Similarly, during the budget discussion, the executive comes under close parliamentary scrutiny. It is not only the ministers, but also the departments and the various subordinate offices under them that are involved and the final sanction of money can be decided only after thorough discussion and evaluation of their activities during the year. Another device through which the Parliament keeps effective surveillance over executive are the committees. In the area of finance, through financial committees. A discussion and the role of parliamentary committees has already been made in the previous Unit.

Check Your Progress 1

Note: i) Use the space given below for your answers.

ii) Check your answers with those given at the end of the Unit.

- 1) Highlight the relationship between the Parliament and the permanent executive.

.....
.....
.....
.....

- 2) What kind of relationship exists between the Parliament and the political executive.

.....
.....
.....
.....

11.5 PARLIAMENT AND THE JUDICIARY

While making policies, the Parliament has to keep in view the judicial pronouncements and rulings. The judicial role in relation to the Parliament assumes

importance because of three factors, firstly, the power of the judiciary to interpret the parliamentary legislation, to give meaning to the words used in a Statute, and to fill in the gaps, secondly, the judicial power to declare a statute unconstitutional and thirdly, the power of the courts to invalidate constitutional amendments.

The power of the judiciary to examine the validity of legislation depends upon two factors. Firstly, it should have the power to give remedy to the individual approaching the court to challenge the validity of a statute, and secondly, the language and the dimension of the constitutional provisions against which the validity of the Statute is to be judged. As regards the first factor, the Constitution of India incorporates judicial remedies in itself, instead of leaving the matter to the legislature's will. These remedies are primarily contained in Article 32 and 226. Article 32 empowers the Supreme Court to issue prerogative writs for the enforcement of the Fundamental Rights and for any other purpose. Thus a person challenging the validity of a Statute against a Fundamental Right may either go directly to the Supreme Court or to the High Court. For violation of any other constitutional provision by a Statute, the individual will have the remedy of approaching the High Court first and then going to the Supreme Court by way of appeal.

The forty-second amendment of the Constitution, 1976, attempted to dilute these remedies in two ways. Firstly, the Supreme Court under Article 32, was to consider only the constitutionality of a central law and not a state law and the High Court was to confine itself to consider the validity of a state law. The Supreme Court had, however, the authority to decide upon the validity of a state law in its appellate jurisdiction.

The most important device of supplying power to the judiciary to invalidate a Statute is provided by the Fundamental Rights. Most of the cases of constitutional validity have arisen under Articles 14, 19 and 31. One thing more is to be considered in the relationship between the legislature and judiciary, and that is the power of the judicial review given to the Supreme Court under a written Constitution, the power of judicial review over the legislative enactments is to be conceded. However, since it is a question of invalidating an Act passed by the representative of the people, superior in terms of number as compared with the judges, there is the necessity of judicial self-restraint in such a matter. The court has to show due respect to the legislative determination and strike down a Statute when it is quite clear that it should be done.

There have not been many occasions of conflict between the judiciary and the legislature. The tendency of the court has been to uphold the legislature rather than quash it. The legislature and the judiciary do not stand apart in performing their functions. There is interrelationship between the two organs of the government though in some respects the perspective of the legislature is somewhat different from the perspective of the judiciary.

11.6 EXECUTIVE AND THE JUDICIARY

As we read in the previous section, the judiciary gives meaning to the words used in a Statute, it can declare a Statute unconstitutional and can invalidate constitutional amendments. In this context the relationship between the executive and the judiciary is also very important. Actually it is the executive that initiates policy proposals, these are only placed before the legislature for approval, what the judiciary declares unconstitutional are in the real sense policy proposals that come from the executive or the gaps which the executive fills in the enactments delegated to it by the legislature.

The phenomenal increase in the governmental functions leads to concentration of enormous powers in the hands of the executive. These powers include, in addition to the subordinate law making powers, the judicial powers. In a Welfare State, legislation on a large number of subjects is an absolute necessity. The legislative output, consequently, becomes quite enormous and this leads to more delegations and more sanctions on the liberty of the individual. Thus, we witness an emergence of large number of administrative tribunals or courts to share the burden of the ordinary courts. Because of the fact that the administrative tribunals are more flexible, informal, quick, and responsive, their importance is increasing day by

day. These are surely less expensive way of getting justice, yet indiscriminate use of administrative tribunals should be avoided as these are not managed by people with legal training and experience. The administrative adjudication is fast becoming an indispensable adjunct to the judicial sphere. The administrative tribunals have been set up in certain limited and special fields of public administration, such as, income tax appellate tribunal, railway rates tribunal, individual tribunal etc. The emergence of tribunals has given a new dimension to the relationship between the executive and judiciary. Sometimes the cases that come before the tribunals require changes in the overall policy. It might require changes in the judicial pronouncements pertaining to the policy and it is here that the executive comes in contact with the judiciary. A citizen can even approach the Supreme Court for getting any action of the administration quashed, be it judicial, quasi-judicial, ministerial or purely discretionary, which infringes his/her Fundamental Rights. Article 136 gives powers to the Supreme Court to hear appeals against the decision or order of any tribunal in the territory of India, excepting those established under laws relating to the armed forces. In this changing scenario when the functions of the administration are increasing day by day, the major task of the judiciary is to control administrative arbitrariness, administrative despotism, mal-administration and abuse of power.

Check Your Progress 2

- Note:** i) Use the space given below for your answers.
ii) Check your answers with those given at the end of the Unit.
- 1) Bring out the relationship between the Parliament and the judiciary.

.....
.....
.....
.....

- 2) What is the nature of interaction between the executive and the judiciary.

.....
.....
.....
.....

11.7 LET US SUM UP

Thus, it is clear from this Unit that the three organs of the government, the legislature, the executive and the judiciary, closely interact with each other in policy making process. Each organ has its respective role to play in the formation of policy. While the political executive initiates the policy proposals that are placed before the legislature for approval, the judiciary has a right to declare them unconstitutional. The policies formulated and approved are implemented by the permanent executive which is again connected with giving shape to policy legislation. It is accountable to the legislature through the political executive, that is, the Cabinet and the council of ministers.

11.8 KEY WORDS

Appellate Jurisdiction: As mentioned in the key words of Unit 10, Article 132-136 deals with the appellate jurisdiction of the Supreme Court which may be classified under the following heads:

- i) appeals on constitutional questions,
- ii) appeals involving no constitutional questions, and

iii) appeal by special leave of the Supreme Court in any case other than the above.

Demands for Grants: All expenditure out of the Consolidated Fund of India, is provided in demands for grants. These demands generally cover the requirements of each ministry. A ministry, for example, will have its demands for the expenditure of the ministry and one each for the expenditure of each of the various departments. The estimated expenditure is arranged under major heads and under suitable sub-heads, indicating the categories of expenditure included in the demand.

Motion of No-confidence: The most crucial weapon, at the hands of the members of the Parliament remains the no-confidence motion in the council of ministers. If such a motion is admitted, the government has to debate it at the earliest.

During such a debate the government and the administration can come under severe criticism, the members being able to bring any question of policy or act of government for discussion.

Power of Judicial Review: It implies the power of the courts to examine the legality and constitutionality of the legislative enactments, executive orders and administrative acts of officials.

Prerogative Writs: There are extraordinary remedies in the nature of prerogative writs of Habeas Corpus, Mandamus, Prohibition, Certiorari and Quo Warranto. They are called extraordinary remedies because the courts grant these writs (except the writ of Habeas Corpus) in their discretion and as a matter of right, when no other adequate remedy is available.

11.9 REFERENCES AND FURTHER READINGS

Basu, Durga Das, 1984. *Shorter Constitution of India*. Prentice-Hall of India, New Delhi.

Chand, Phul (ed.) 1984. *Indian Parliament*. The Institute of Constitutional and Parliamentary Studies, New Delhi.

Haqqi, S. A. H. 1986. *Indian Democracy at the Crossroads*, Mittal, Delhi.

11.10 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

1) Your answer should include the following points:

- the Parliament, the political executive and permanent executive interact closely with each other
- the permanent executive works closely with the council of ministers and is a tool for carrying out the policies of political executive approved by Parliament.
- delegated legislation is another device through which the Parliament interacts with permanent executive.

2) Your answer should include the following points:

- the relationship between the Parliament and executive is one of interdependence
- the executive is accountable to the Parliament
- significant provisions to review the working of the executive are provided in parliamentary proceedings, cut motions, question hour sessions, budget discussions, etc.
- the Parliament also exercises control over the executive through its control over finance
- the executive decides how much revenue is to be raised or what the desired level of expenditure should be and once the Parliament votes the revenues and expenditures, executive cannot deviate from parliamentary sanctions

- a crucial facet of the relationship between the Parliament and the political executive is the practice of ministerial responsibility
- the council of ministers is the grand committee of Parliament charged with the duty of conducting the executive affairs of the government
- political executive brings forward the legislative and financial proposals before the Parliament which are approved after ascertaining their viability

Check Your Progress 2

1) Your answer should include the following points:

- the judiciary has the power to interpret parliamentary legislation
- it has the power to give meaning to the words used in parliamentary Statutes
- it can declare the Statutes unconstitutional
- it can invalidate constitutional amendments
- the Supreme Court has the power to issue prerogative writs for the enforcement of the Fundamental Rights
- the Supreme Court has the power of judicial review over legislative enactments
- in the changing scenario when the tasks of administration are increasing, the role of the judiciary is to prevent administrative arbitrariness, administrative despotism, maladministration and abuse of power.

2) Your answer should include the following points:

- the executive shares an indirect relationship with the judiciary
- the legislative enactments that the judiciary interprets or invalidates are actually formulated or modified by the executive
- the emergence of the administrative tribunals has given a new dimension to the relationship between the permanent executive and the judiciary
- the Supreme Court has a right to hear appeal against the decisions of the tribunals.

UNIT 12 POLICY MAKING PROCESS IN INDIA: THE CASE STUDY OF BONDED LABOUR SYSTEM (ABOLITION) ACT 1976-I

Structure

- 12.0 Objectives
- 12.1 Introduction
- 12.2 Bonded Labour System in India
- 12.3 Efforts in the Abolition of Bonded Labour System—Pre-Independence Period
- 12.4 Post-Independence Efforts: Major Steps
- 12.5 Reports of the Commissioner of Scheduled Castes and Scheduled Tribes 1951-74
- 12.6 Let Us Sum Up
- 12.7 Key Words
- 12.8 References and Further Readings
- 12.9 Answers to Check Your Progress Exercises

12.0 OBJECTIVES

After studying this Unit, you should be able to:

- throw light on the bonded labour system in India;
- highlight the efforts to abolish the system in pre-Independence as well as post-Independence periods;
- discuss the reports of Commissioner of Scheduled Castes and Scheduled Tribes; and
- explain the factors which led to the abolition of bonded labour.

12.1 INTRODUCTION

The system of bonded labour has been prevalent in India since pre-Independence period. A lot of efforts have been made to abolish this inhuman system in pre-Independence as well as post-Independence periods. Many provisions have been made to improve the conditions of bonded labourers, but despite all this the system prevails. This Unit would try to clarify the meaning of bonded labour system. It will also discuss the efforts made to abolish it till date. Different reports of the Commissioner for SCs and STs will be discussed and an attempt will be made to analyse the reasons for the perpetuation of this system and the measures that could be taken to end it.

12.2 BONDED LABOUR SYSTEM IN INDIA

The landless agriculture labour constitute the largest segment of wage employed workers in India. These labourers earn major part of their income by sale of labour power in the activities connected with agriculture. They are primarily dependent on job opportunities offered by the landholders. These labourers due to their dependence on landholders suffer from a large number of social and economic disabilities. As a consequence of this, in the relationship of employer and employee in agriculture, distinction has to be made between those arrangements in which the labour participate freely and those in which their bargaining power is restricted. A free labourer is the one who is able to accept or reject the

conditions and wages offered by the employer. An unfree labourer is one whose bargaining power is virtually non-existent or has been surrendered. Bonded labour is one of the categories of unfree labour in India. This form of labour is a product of debt bondage where the dependence and control of labour is through indebtedness. The Bonded Labour System is created when redemption of any advance in cash or kind at usurious rate of interest makes the debtor undertake a work at nominal or no wages till the time the debt is paid. The debt tends to increase rather than diminish and the person in debt and, sometimes his family are bound for life. This system provides an assured labour supply to the landholders while it also affords some sort of subsistence to the labourers. The need for lump sum money to meet the social and cultural commitment forces the labourers towards acceptance of such a bondage.

The Report of the Commissioner of Scheduled Castes and Scheduled Tribes (1971-72) describes the debt-bondage in the following words:

"The prominent feature of the system is that a man pledges his person or sometimes a member of his family against a loan. The pledger or his nominee is released only on its discharge. Until then the man himself, or the member of the family is required to work for his creditor against his daily needs. Since he gets no wages, he has to depend upon some one in the family to procure the sum required for his release; this, of course, rarely happens. The relationship lasts for months and sometimes years, occasionally for an entire life and not infrequently follows the male line."

The bonded labour system essentially comprises:

- Landless agricultural labourers, without remunerative occupation, seeking credit quickly for meeting the expenses on social ceremonies, or paying back or paying back creditors;
- Seeking credit without any security;
- Credit being mostly in kind, without security, any money-lender or agricultural landholder readily advancing the required money and getting benefit of services of the debtor or members of his family in addition to the monetary transaction.
- After a loan is advanced, the creditor makes some oral or written agreement to get the services of the debtor to satisfy debt adjusting towards capital and interest only.
- The agreement once entered lasts for quite sometime and the debtor continues to render services for years together or sometimes for generations. The ignorance of the bonded labourers and their vulnerable position without any alternative available, makes them subjugated to the money-lenders.
- The system implies the infringement of the basic human rights and destruction of the dignity of human labour.

The reasons for which the landless agricultural labourers including Scheduled Castes and Scheduled Tribes are forced to enter into labour agreements are listed below:

- The caste system; wherein the lower classes worked as bonded labourers in the arrangements of the high classes.
- Expenditure incurred on account of social and religious customs associated with births, marriages and deaths;
- Mortgage of land by needy tenant farmers;
- Poverty of the rural masses who are forced to become indebted even to subsist.

Bonded labour is known by different terms in different parts of the country. In Andhra Pradesh it is known as Bhaghela, Cotchi, Vetti, Cassigals. In Bihar as Saurkiya, Kamia, Ramasia and Janaouri. Gujarat had the Hali and Halpati systems. In Karnataka, the Jeetha system existed. Maharashtra saw traces of Vet and Begar. In Kerala, the system existed in the forms of Vallorkavu Panam, Nilpu Panam and Adiina. Madhya Pradesh witnessed the Harvahi, Mahidar, Kabadi, Hali and Kamia systems. In Orissa, the Gothis system was prevalent. The Sagri

system in Rajasthan. In Tamil Nadu, the Vetti, Pandyal and Charmas systems. In Uttar Pradesh, the Mat, Khundit Mandit, Sanjayat, Lag—Bangh, Barwahi, Hariya and Sevak systems were in existence. In West Bengal, the Chakar and Hali systems were in vogue. Punjab had the Sepi system.

12.3 EFFORTS IN THE ABOLITION OF BONDED LABOUR SYSTEM—PRE-INDEPENDENCE PERIOD

Before Independence, many attempts were made to abolish the bonded labour system, many legislations were passed in this regard. The salient features of those legislations are given below:

1) Orissa Kamiauti Agreements Act 1920

This Act declared that such arrangements (bonded labour arrangements) were void.

- Unless the full terms of the agreement were expressed in stamped documents.
- Unless the Kamiya (the bonded labourer) was given a copy of the document.
- If the period of agreement exceeded or could exceed possibly one year.
- Unless the Kamiya's liability is completely explained on the expiry of the agreement; and
- Unless the Kamiya's remuneration under the agreement was fair and equitable.

2) The Madras Agency Debt Bondage Abolition Regulations 1940

- A labourer agreement entered into after the commencement of this regulation shall be wholly void.
- All liability to perform labour under a valid labour agreement shall be over on the expiry of the period specified under such agreement.
- A labourer shall be at liberty to pay off any balance due out of the amount due and free himself from the obligation to perform labour.
- Collateral agreement by a labourer shall be void.
- Penalty for obtaining labourer in pursuance of void agreement shall be fined upto Rs. 200 or in default, six months imprisonment.
- The employer is made liable for punishment, if he fails to file before the authorised officer, a copy of the agreement entered into after the commencement of Regulation.
- No offence made punishable by or under this regulation shall be tried by the court inferior to that of Agency Divisional Officer and no Civil Court shall have any jurisdiction in any matter arising out of this Resolution.
- For the purpose of this Regulation, the State Government may fix fair and suitable remuneration payable to the labourers. The rates fixed by the State Government are (1) Rs. 75/- p.m. where the labourer is not provided with food by the employer and (2) Rs. 50/- p.m. when provided with food.

3) The Hyderabad Bhagela Agreement, 1943

This Act prescribed the execution of an agreement between the Bhagelas and agriculturists and also imposed certain restrictions with a view to eliminate the exploitation of the Bhagela. The Act provided that the terms of the contract should be recorded and that no child under twelve years of age should be engaged. The main provisions of the Act are as follows:

- Section 4 provides that the terms of Bhagela Agreement shall be recorded in an instrument duly stamped and that a counterpart of the instrument shall be delivered to the executant. Further, the stipulated period of service shall not exceed one year, and that on the expiry of this period all liabilities arising out of the contract shall be regarded as liquidated. Again the rates of wages must be reasonable.

- Section 5 of the regulation fixed the rate of interest recoverable under Bhagela Agreement at 6 per cent per annum.
- Section 6 provides that the death either of the Bhagela or the executant shall render the agreement void. The liability to perform labour shall not survive against any heir or the estate of the deceased.

By and large, all these Acts provided that an agreement—oral or written or partly written and partly oral in which the consideration for the performance of labour includes the advances, loan or interest thereon are illegal in case they are for a period of more than two years and do not disclose a fair and equitable rate of remuneration. These Acts further provided that such agreements must be written and registered and that its counterfoil must be handed over to the executant.

This system despite the legal sanctions continued to operate mainly due to the following reasons.

- “Inability of certain groups of agricultural labourers to acquire money from normal channel for social and economic activities.
- Restricted and vague definition of bonded labour and excessive legalism and long, involved procedures.
- Relegation to background of inspections and enquiries required to establish the actual state of affairs.
- Lack of stringent provisions relating to punishments.
- Inadequate provisions for repudiation of and redemption from debts.
- Absence of specific responsibilities for implementation and applications for developmental assistance to bonded labourers.
- In the absence of adequate penal provisions it was difficult to bring defaulters to book.
- The landlords and money-lenders easily circumvented some of the provisions of these Acts to suit their convenience.
- No substitute agency was established to provide funds to agricultural labourers at times of their needs.”

International Labour Conference

The International Labour Conference at its fourteenth session held in Geneva in June, 1930 adopted a Draft Convention requiring all member countries to abolish forced or compulsory labour in all its forms within the shortest possible period. The Convention provided for exceptions in which forced labour can be exacted by the competent authority concerned for public purposes and the conditions under which such forced labour can be allowed are specified therein. Article 2 of the International Labour Convention on Forced or Compulsory Labour, 1930, defines ‘forced or compulsory labour’ as ‘all work or service which is exacted from any person under menace of any penalty and for which the said person has not offered himself voluntarily’.

The Convention adopted by the International Labour Conference was placed before the Legislature, in accordance with the I.L.O. Constitution, both the Houses adopted in 1931 the following resolution:

“While considering that the Draft Convention on forced labour could not be ratified until Article 2 thereof is modified so as to exclude labour exacted under the Criminal Tribes Act, the Good Conduct Prisoners: Probational Release Act and other similar social legislation in force in India. This Assembly/Council recommends to the Government of India that they proceed to make action on all provisions contained in the Draft Convention and the Recommendations as soon as may be practicable.”

The resolution was accepted by the Government of India and to give it effect, the Provincial governments were requested to:

“take steps to abolish at the earliest possible opportunity, forced or compulsory labour for the benefit of private individuals, companies or associations;

- modify any enactment of the local legislature which permitted the use of forced labour or compulsory labour for public purposes within the transitional period of five years allowed by Article of the Convention; and
- issue such executive orders as might be deemed advisable to secure the objects in view.”

The Royal Commission on Labour in India (1931) in its Report stated that “there are traces of feudalism to be found in many parts of the country; in a few areas there is still a system of bond service which is not remote from slavery. Speaking of debt bondage, the Report went on to say that the labourer “borrows money from the landlord under a contract to work until the debt is repaid. The debt tends to increase rather than to diminish and the man and sometimes his family is bound for life.” “Such systems, the Report felt, have now no legal sanctions and in Bihar special legislation has been adopted in the endeavour to eradicate the abuse. But it continues to exist.” It recommended penalising the giving of advances to secure the labour of children.

12.4 POST-INDEPENDENCE EFFORTS: MAJOR STEPS

Our Constitution makers were well aware of the reasons for the failure to abolish the bonded labour system. Thus many provisions were incorporated in the Constitution to safeguard the interests of wage labourers. The post-Independence period witnessed a few Bonded Labour Abolition Acts, some committees on abolition of bonded labour were also established, reports on this issue were laid down besides the incorporation of various Articles in the Constitution to protect the bonded labourers. We will now deal with them briefly:

The Orissa Debt Bondage Abolition Regulation, 1948

- Gothi agreement (Bonded Labour) entered into after commencement of the regulation has been declared to be wholly void.
- Special provision has been made for regulating the subsisting Gothi agreement.
- A labour agreement entered into after the commencement of this regulation should be wholly void if the prescribed forms and conditions are not fulfilled.
- The labourer is at liberty to pay off the amount due to be paid by him together with interest if any, at any time during the subsistence of the labour agreement and free himself from the obligation to perform labour.
- The offence of obtaining labour in pursuance of the void agreement is punishable with fine which may extend to Rs. 200 or in default with imprisonment which may extend to six months.
- Hill tribes have been exempted from payment of fees for filling any documents, complaints, applications or appeal under the Legislation.

The Rajasthan Sagri System Abolition Act, 1961

- The Sagri system (Bonded Labour) includes any other like system of advance of loans prevailing in any part of the state, by whatsoever name it may, locally be called, of which the rendering of labour or personal service is an ingredient.
- The Sagri system shall stand abolished, and no creditor shall advance a loan to his debtor on the Sagri system.
- If one or after the said date any loan is advanced on the Sagri system, it shall not be recoverable by suit or other proceeding in any Court and the debtor shall not be bound or compelled to render the labour or personal service stipulated.
- Whoever compels his debtor to render labour or personal service in fulfilment of the terms on which a loan was advanced to him, shall on conviction before a Magistrate of the first class, be punishable, for every such advance or compulsion, with imprisonment or fine which may extend to five hundred rupees, or with both.

In relation to every transaction made after the date of the commencement of this Act whereby a creditor advances a loan to a debtor and also engages him or any member or members of his family or his hired servant or labourer or his relations to render any labour or personal service to or for the benefit of himself (the creditor) or any person named by him in this behalf, it shall be presumed that the loan was advanced on the Sagri system unless it is satisfactorily proved that such engagement on labour or personal service was altogether independent of the advance of the loan.

The observations contained in the Reports of the Commissioner for Scheduled Castes and Scheduled Tribes on the enforcement of some of these Acts (in the pre-Independence as well as post-Independence periods) are given below:

The Fifteenth Report of the Commissioner of Scheduled Castes and Scheduled Tribes (1965-66) states that:

"The Madras Debt Bondage Abolition Regulation, 1940, has been in force... but no cases are reported under the Regulation.... The Collectors who are in charge of the working of this Regulation have reported in their Annual Reports of the areas that the Regulation has not been contravened. However, it is clear from the survey... that even though labour agreements in the nature of bonded labour are entered into, no written agreements are executed or registered with the concerned authorities. As regard the Fixation of Fair and Equitable Remuneration Regulation (4), it is understood that the remuneration was last fixed in August 1959.... Thus it is apparent that the Regulations are not properly enforced..."

The situation pertaining to the Orissa Debt Bondage Abolition Regulation of 1948 is not very different, as evident from the following Reports of the Commissioner for Scheduled Castes and Scheduled Tribes. The Tenth Report (1960-61) states:

"The Rules under the Regulation have not been framed. Fair and equitable remuneration under the regulation has also not been notified. The State Governments have not also set up appropriate machinery for the enforcement of the Regulation."

The Twelfth Report of the Commissioner of Scheduled Castes and Scheduled Tribes (1962-63) states:

"The State Government has passed the Rajasthan Sagri System Abolition Act, 1961.... It, however, appears that the law has only a symbolic value, as no prosecutions under it took place during the year and no special steps have been taken to enforce it strictly. It is reported that now there is a tendency among the sahukars, to pay their sagris on a monthly basis or in the form of a share in the crops, but even this hardly brings about an element of competitive and free contract in their relationship, which continues to be only a disguised slavery."

As a consequence, these legislations remained 'dead letters' because of weak sanctions and ineffective organisational and administrative measures to implement them.

Thus the Bonded Labour Abolition Acts could not make a dent in the problem. A few other types of efforts were also made to tackle those issues after Independence. The Ministry of Labour, Government of India, on the 11th August, 1948, appointed an Officer on Special Duty "to study the various legal enactments—Central, Provincial and Indian states—and all available literature relating to forced labour and submit a report indicating the extent to which the existing legislation was effective for stopping forced labour, what further legislation was required and which of the defects could be cured by administrative action commenting generally on matters connected with the subject."

The Officer on Special Duty had adopted two broad divisions of forced labour. The first category included forced labour authorised by law while the second category included forced labour under debt bondage. The Report contained proposals for repeal or amendment of the offending provisions in various enactments allowing exaction of forced labour in order to bring them in conformity with the ILO Convention on Forced or Compulsory Labour. The Report suggested insertion

of suitable provisions regarding age limits, hours of work, weekly day of rest, compensation for accidents or arising out of the employment subsistence allowance, etc.

The Report of the Officer on Special Duty was examined by the Ministry of Labour in consultation with the Ministry of Law and as a consequence, it was agreed to modify certain provisions in the various enactments.

Indian Constitution

The framers of the Constitution were aware of the problems of forced or bonded labour. Article 23(i) of the Constitution states:

“Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence in accordance with the law.”

Article 35(a)(ii) of our Constitution provides that Parliament shall have and the legislature of a state shall not have power to make laws prescribing punishment for those acts which are declared to be offences under this Article 23.

Article 146, one of the Directive Principles of State Policy directs that the State shall

“Promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.”

Other Developments

In a statement indicating the measures taken to eradicate forced labour placed before Parliament on 10th September, 1951, the Ministry of Labour stated that “forced labour is prohibited by the Constitution... on further legislation as such is considered a necessity.” And that furthermore “it is proposed to bring to the notice of the State Governments and the Ministries concerned... to weed out such provisions” in Acts “as may be offending the Constitution... allowing the exaction of forced labour. In addition they will be requested to give the widest possible publicity in rural areas to the provisions of the Constitution and... that... the exaction of forced labour in contravention of Article 23 would be unlawful and punishable under Section 374 of I.P.C. (Indian Penal Code).”

The Dhebar Committee

The Dhebar Committee (1961) went into the question of bonded labour and stressed the need for giving protection to the tribals against their exploitation, particularly by the money-lenders. It suggested that states should undertake sample surveys in tribal areas to ascertain the quantum of indebtedness, the nature of violations of the existing laws and the extent of the exploitative element in money-lending transactions. It recommended that “it is also necessary for the state government to undertake an enquiry into the existence of bonded labour. In the case of indebtedness accompanied by oral, customary or written agreements as void, the debt discharged and the labour as released. The tribal will not be able to stand up against the creditor if the burden of debt survives. An agreement of this nature should be declared not only illegal but an offence punishable severely.”

Check Your Progress 1

Note: i) Use the space given below for your answers.
ii) Check your answers with those given at the end of the unit.

1) What is meant by the term ‘bonded labour’?

.....
.....
.....
.....

- 2) Throw light on the efforts made in the direction of abolition of bonded labour system in pre-Independence period.
-
.....
.....
.....

- 3) Briefly discuss the post-Independence attempts to abolish bonded labour in India.
-
.....
.....
.....

12.5 REPORTS OF THE COMMISSIONER FOR SCHEDULED CASTES AND SCHEDULED TRIBES 1951-74

The Government of India established the office of the Commissioner of Scheduled Castes and Scheduled Tribes under Article 338 of the Constitution.

The duty of this Commissioner is to collect information on the socio-economic conditions of the Scheduled Castes and Tribes and to monitor the implementation of laws and other measures designed to protect and promote their interests. The Annual Reports of the Commissioner are laid before each House of Parliament.

The reports of the Commissioner for Scheduled Castes and Scheduled Tribes from 1951-1974-75 provided instances of the problem of bonded labourer and received the serious attention of Government and Parliament, before whom these reports were placed.

The Report of 1951 mentioned that "Traffic in human beings and begar and other similar forms of forced labour have been prohibited under Article 23 of the Constitution and any contravention of this provision has been declared an offence punishable in accordance with the law." The Report observed that "In spite of the vigorous efforts of the Government, forced labour is still in existence and it is mostly the Scheduled Castes and also Scheduled Tribes people who are suffering on account of this unlawful practice."

The Report for 1956-57 once again mentioned that "Forced labour wherever prevalent, is generally practiced to the disadvantage of the backward classes." It went on to say that "It is true that the practice is not found generally except in rare cases, in some of the interior areas, but it is still prevalent in some form or the other.... in the villages of Dasmantipur and Narayanpatra of Koraput sub-division and in the Sundergarh district of Orissa State 'Gothi' system is in force.... in some of the areas in Vindhya Pradesh, a system called 'Barwahi Pratha' is prevalent."

The Report for 1959-60 indicated that "a type of serfdom still exists in certain areas of Madhya Pradesh. Under this system whenever the Harijans take loans from the landlords or rich people, one member of the family is left with the conditions to work in lieu of loan till the money is repaid."

In 1960-61, the Report claimed that "the practice remains in existence even now in some parts of Kerala, Madras, Madhya Pradesh, Orissa and Rajasthan." Describing the practices of bonded labour statewise, it went on to say, "in...Kerala, several instances.... of begar or forced labour have been found."

In Orissa, the Report claimed that the system of bonded labour—"gothri" existed

in different forms while in Rajasthan, the 'sagri' system—a system of debt bondage, continued. Under the sagri system, a sagri was to serve his money-lender without any wages, in lieu of the interest, until the loan was repaid.

The Report for 1961-62 revealed the existence of bonded labour in Jammu and Kashmir, Madhya Pradesh, Maharashtra, Orissa, Uttar Pradesh and Mysore State. It claimed that in Jammu and Kashmir, a system of bonded labour, known as Jane, Manjbi or Lajhari existed in the Pooch district of Jammu. It reported a kind of bonded labour known as Vet or Begar in the Thana and Nasik districts of Maharashtra. Here it was found that mostly landless labour served money-lenders as bonded labour, when they were unable to repay their debts. Bonded labour among the Kolta community was detected in the Jamunasp-Barwar area of Dehradun district of Uttar Pradesh while a form of bonded agricultural labour as Jeetha was revealed in some areas of Mysore State.

In 1962-63, the Report mentioned the prevalence of the Harwahi Halli or Mahidari System (a form of bonded labour) in the interior parts of Gwalior division of Madhya Pradesh. In the Union Territory of Dadra and Nagar Haveli, a system of bonded agricultural labour called Valva was mentioned as existing in Nagar Haveli.

For 1963-64, the Report mentioned the existence of bonded labour in Mysore, Orissa, and Rajasthan. The Commissioner analysing the bonded labour system found that "the practice of bonded labour thrives among the people with deficit economy and who are educationally backward and cut off from the main life stream." He felt that for eradicating this system "it is necessary that systematic attempts.... made to find out the magnitude of the problems in all the concerned areas. Thereafter suitable legislative measure, reinforced with a comprehensive scheme to make the bonded persons self-sufficient economically should be undertaken. For this purpose, the resources available under the Tribal Development Blocks Scheme and other welfare programmes should be pooled and a variety of measures, such as providing agricultural land, houses, irrigation facilities, large-scale horticulture programmes, animal husbandry, etc. be taken up."

The Report of 1964-65 mentioned that the Paniyans and the Adiyans in the South and North Wynad Taluks and Kozhikode district and in Cannanore district of Kerala were working as bonded labourers.

The Commissioner's Report for 1965-66 mentioned that "in many areas Scheduled Castes and Scheduled Tribes are subject to certain types of bonded labour. Though there is a distinction between bonded labour and forced labour, it cannot be denied that bonded labour deprives the persons concerned of full market value for his services. In fact, this amounts to same kind of social subjugation."

The Commissioner complained that the urgency of the problem had not been appreciated and that adequate steps were yet to be taken by the states concerned and union territories. He felt that both for Scheduled Castes and Scheduled Tribes, the system of bonded labour usually originated from the loan which they took at an exorbitant interest, promising to serve in the agricultural fields of the creditors in return for nominal financial gain.

The Report for 1966-67 had nothing specific to state, remarking generally that forced labour, as such was not found anywhere in the country but that in certain areas, a modified form of servitude connected with agriculture continued to exist.

The 1967-68 Report made mention of the stray cases of bonded labour involving Sholage (A Scheduled Tribe) and Arunthiyar (A Scheduled Caste) in Coimbatore district of Madras State.

The Commissioner's Report for 1968-69 revealed the practice of bonded labour in some form or the other in Andhra Pradesh, Jammu and Kashmir, Madhya Pradesh, Maharashtra, Mysore, Orissa, Punjab, Rajasthan, Tamil Nadu and Uttar Pradesh, despite the legislative and executive measures undertaken for eradication of this practice. The Report claimed indebtedness to be the root cause of bonded labour and therefore suggested controlling the activities of money-lenders.

The Commissioner's Report of 1971-72 and 1972-73 pointed out that "the problem exists mainly in tribal and other rural backward areas." He recommended remedial measures which included removing shortcomings found in the existing legislation, introducing new suitable legislative measures wherever necessary, providing suitable

clauses under the Debt Regulation Acts, a suitable publicity machinery and assuring bonded labourers that they would not have to go back to their masters to seek future loans and bind themselves under debt.

From the above Reports, it would be clear that the system of bonded labour in some form or the other has been in existence in some states and union territories. It was suggested in the Report of the Commissioner for Scheduled Castes and Scheduled Tribes (1972-73) that the following steps should be undertaken by the state governments/union territories' administration for ameliorating the conditions of the bonded labourers:

- “Intensive studies should be made in the practice of bonded labour wherever found and in such backward areas where there is probability of its prevalence.
- Scaling down of old debts and payments to the creditor of whatever amount is arrived at through this process by either co-operative society or a Government department in respect of those bonded tribals who have been in bondage for a specified period should be made. For this purpose, suitable provision should be made in the Backward Classes Sector.
- Prosecution of the money-lenders who are carrying on the business of money-lending without the permission of the competent authority.
- Enforcement of the Minimum Wages Act, vigorous propaganda for payment of wages in cash to the labourers engaged by the landlords for working on their land.
- Allotment of cultivable lands to as many bonded labourers as possible together with agricultural inputs for bringing the land under cultivation.
- Appointment of suitable staff to guide the bonded labourers for assertion of their rights for getting payment of wages in cash and settlement of old debts under the provision of existing law.
- Reputed non-official agencies should be entrusted with the scheme for improvement of economic conditions of bonded labourers.”
- The existence of bonded labour was criticised by several members of Parliament both in the Rajya Sabha and Lok Sabha in 1973. The 20-point Programme of July 1975 included abolition of bonded labour in item 4 of the programme. It stated that “Bonded Labour, wherever it exists, will be declared illegal.” The inclusion of the abolition of bonded labour as a programme to be implemented, was the key factor in bringing out a central legislative measure. It was suggested that “a central legislation would be the first step in the direction of tackling the problem of bonded labour and debt-bondage. It would promote to the development of criteria on the basis of which the phenomenon of bonded labour can be viewed and also provide support to all those working for the abolition of bonded labour. While avoiding the defects of the state legislations in this regard, it can be a more effective instrument to contain and combat this evil in different states.”

Check Your Progress 2

Note: i) Use the space given below for your answers.
ii) Check your answers with those given at the end of the unit.

- 1) Highlight the major findings of the Reports of the Commissioner for Scheduled Castes and Scheduled Tribes.

.....
.....
.....
.....

- 2) What are the steps that were recommended by the Report of the Commissioner for SCs and STs (1972-73) for improving the conditions of the bonded labourers?

.....
.....

12.6 LET US SUM UP

This Unit primarily defined the system of bonded labour, its essential characteristics, the causes and the extent of its prevalence in different parts of the country. It also provided us adequate information regarding efforts made before independence for the abolition of the system in the post-independence period primarily in terms of constitutional provisions, reports of the Commissioner of Scheduled Castes for the abolition of the system in the post-Independence period primarily in terms of Constitutional provisions, reports of the Commissioner of Scheduled Castes and Scheduled Tribes from 1951 to 1973-74.

12.7 KEY WORDS

Collateral: A valuable item used as security for a loan. If the borrower fails to repay the debt the collateral can be sold and debt deducted from the proceeds.

Liquidation: Bankruptcy, the state of being reduced to financial ruin. The concept of liquidation applies to a company when the company is unable to pay its debts.

Mortgage: The mortgage credit links the lender and borrower in a contract which typically provides for (1) designation of the property as security for payment of the loan (2) a specified payment schedule and interest rate (3) the term over which loan payments are to be made (4) penalties, if any for prepayment of loan (5) the circumstances under which the borrower fails to satisfy the contractual obligation of the mortgage loan, and is subject to loss of the property.

Rate of Interest: Interest is the price paid for the use of money over time. It is usually expressed as a rate charged or earned per period.

Redemption: This term was originally applied to the purchase of the liberty of a slave. It actually means to recover by expenditure of effort or by stipulated payment.

12.8 REFERENCES AND FURTHER READINGS

Breman, Jan, (1974), *Patronage and Exploitation: Changing Agrarian Relations in South Gujarat*, University of California Press, Berkeley.

Indian School of Social Science, (1976), *Bonded Labour in India*, Indian Book Exchange, Calcutta.

Kumar, Dharma, (1965), *Land and Caste in South India*, University Press, Cambridge.

Patel Surendra J., 1952, *Agricultural Labourers in Modern India and Pakistan*, Current Book House, Bombay.

Patnaik, Utsa and Manjari Dingwany (eds.), 1985, *Chains of Servitude: Bondage and Slavery in India*, Sangam Books, Madras.

Reports of the Commissioner for Scheduled Castes and Scheduled Tribes (1951-1974-75), Government of India Press, New Delhi.

Sarma, Marla, 1981, *Bonded Labour in India: National Survey on Incidence of Bonded Labour—Final Report*, Biblia Impex, New Delhi.

Thorner, Daniel, et al. 1962, *Land and Labour in India*, Asia Publishing House, Bombay.

12.9 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

- 1) Your answer should include the following points:
 - these labourers have limited bargaining power
 - this term of labour is a product of debt bondage
 - the debtor undertakes a work at nominal or no wages till the debt is paid
 - the debt tends to increase and the person and sometimes his family is bound for life
 - the man pledges himself or sometimes a member of his family against a loan
 - the labourers take loan because of their requirement for quick credit (without security) to meet social and cultural commitments
 - there is an oral or written agreement between the creditor and the debtor
 - the system implies infringement of basic human rights.
- 2) Your answer should include the following points:
 - Orissa Kamiauti Agreement Act 1920
 - The Madras Agency Debt Bondage Abolition Regulations 1940
 - The Hyderabad Bhagela Agreement 1943
 - The Resolution of International Labour Conference on Forced Labour 1930.
- 3) Your answer should include the following points:
 - the Orissa Debt Bondage Abolition Regulation 1948
 - The Rajasthan Sagri System Abolition Act 1961
 - Article 23(i) of the Constitution
 - Article 35a(ii) and Article 46 of the Constitution
 - The Ministry of Labour's statement on Forced Labour (1951)
 - The Dhebar Committee

Check Your Progress 2

- 1) Your answer should include the following points:
 - The 1951 Report highlighted the prevalence of forced labour despite the provision of Article 23
 - The 1956-57 Report pointed out the existence of forced labour to the disadvantage of backward classes
 - The Report for 1959-60 indicated that "a type of serfdom still exists in certain areas of Madhya Pradesh..."
 - The Report (1960-61) claimed that bonded labour was in existence in Kerala, Madras, Madhya Pradesh, Orissa and Rajasthan
 - The Report for 1961-62 revealed the existence of bonded labour in Jammu and Kashmir, Madhya Pradesh, Maharashtra, Orissa, Uttar Pradesh and Mysore State
 - In 1962-63, the Report mentioned the prevalence of the Harwahi Halli or Mahadari system
 - For 1963-64, the Report mentioned the existence of bonded labour in Mysore, Orissa and Rajasthan
 - The Report of 1964-65 pointed that many were working as bonded labourers in the South
 - The Commissioner's Report for 1965-66 complained that the urgency of the problem had not been appreciated.
 - The other reports too mentioned a few cases of bonded labour
 - The Report of 1971-72 and 72-73 recommended certain remedial measures.
- 2) Your answer should include the following points:
 - intensive studies should be made on the practice of bonded labour
 - scaling down of old debts and payments
 - prosecution of money-lenders practising illegal money lending
 - enforcement of Minimum Wages Act
 - allotment of cultivable lands to bonded labourers
 - inculcating awareness among bonded labourers.

UNIT 13 POLICY MAKING PROCESS IN INDIA: THE CASE STUDY OF BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976-II

Structure

- 13.0 Objectives
- 13.1 Introduction
- 13.2 Policy Making Process: In Context of Bonded Labour System in India
- 13.3 Parliament and Policy Making; and Passage of Bonded Labour System (Abolition) Bill 1976 in Parliament
- 13.4 Salient Features of the Bonded Labour System (Abolition) Act, 1976
- 13.5 Supreme Court Judgement on Bonded Labour System (Abolition) Act, 1976
- 13.6 Let Us Sum Up
- 13.7 Key Words
- 13.8 References and Further Readings
- 13.9 Answers to Check Your Progress Exercises

13.0 OBJECTIVES

After studying this Unit, you should be able to:

- explain the various processes that were involved in policy making regarding bonded labour system in India;
- highlight the institutional framework for policy formulation in the context of the Bonded Labour System (Abolition) Act 1976;
- discuss the processes involved in enacting legislation and the role of the Ministry of Law;
- throw light on the importance of each of the above processes and their relationships with each other;
- discuss the impact of the Supreme Court judgement on Bonded Labour System (Abolition) Act, 1976.

13.1 INTRODUCTION

In the previous Unit, an attempt was made to provide the background of the bonded labour system, efforts made before and after Independence to curb this evil practice, reasons for failure of these measures and the factors which gave rise to the need for enacting legislation on this problem.

In this Unit, we would attempt to provide an insight into the successive stages of policy making with reference to the Bonded Labour System (Abolition) Act, 1976. While discussing the process of policy making with reference to this Act, it is to be remembered that due to the constraints of the Official Secrets Act and the tradition of anonymity in the civil service, it is not possible to provide the full length insights of the process of policy making with reference to the role of the civil service, inter-ministry consultations and centre-state consultations etc.

At best, we will try to give some generalisation regarding the policy making process as far as the above-mentioned aspects are concerned. It is only after the introduction of the Bonded Labour System (Abolition) Bill, 1976 in the Parliament, the process of policy making came up in full view with regard to the reasons which necessitated immediate legislation, determination of objectives, contemplation of various provisions, administrative arrangements etc. We shall discuss these in the Unit.

13.2 POLICY MAKING PROCESS: IN CONTEXT OF BONDED LABOUR SYSTEM IN INDIA

As we already know, in the Indian Constitution, the power between the Centre and the states is divided by three legislative lists—the union, the state and the concurrent. Those subjects which are mentioned in the union list are within the exclusive jurisdiction of the Union Parliament and those in the state list within that of the state legislature. The subjects in the concurrent list are under the jurisdiction of both the Union and the states. The residuary powers are vested in the Union Legislature. These three lists, in a way, also define areas of policy formulation between the Union Government and the states.

The Government of India (Transaction of Business) Rules made under the Constitutional provisions govern the procedure for policy making. All important policy decisions at the Union Government level are taken by the Cabinet. The Cabinet is responsible for the final determination of the policy besides providing overall direction, coordination and supervision of the business of the Government. There are also a number of Cabinet committees, and depending upon the composition of a cabinet committee, its decision is either final on behalf of the government (as when the Prime Minister heads the Committee) or its decision may go before the full cabinet to be ratified. It is also important to emphasise that they are at the official level committees of secretaries which examine interministry matters involving policy issues. Depending on the nature of the policy, consultations with the state governments are also necessary. In the policy making process the role of the Finance Ministry, Law Ministry and Planning Commission are also significant.

Although, it is true that in the parliamentary system of Government of those who are elected to office, many assume the primary initiative in setting the national political goals, but in so doing they are open to expert advice of the senior civil servants as their advisors and executive agents. The role of the senior civil servant is very crucial in the preparation of the agenda papers. The term 'senior civil servants' denotes those officials who hold key posts in the ministries/departments. In the Indian context, secretaries, additional secretaries and joint secretaries are considered as senior civil servants. The senior civil servants are basically policy and programme planners and coordinators of a well-organised area of governmental operations.

The initial thinking provided by the political executives lead to the preparation of the agenda paper. The agenda paper broadly gives the background of the problem, need for policy and alternatives for the proposed policy. In fact, the agenda paper is a comprehensive paper on the subject on which the policy is being formulated, drawing evidence from various sources, i.e., government reports, commission reports (if any), books, research articles, etc. It also provides the broad outline of the type of measures to be taken which forms the basis for policy formulation.

Inter-Ministerial and Inter-State Consultation

Another important process of policy formulation is consultation with ministries closely related to the problem on which a policy has to be formulated. The deliberation in these meetings lead not only to the further clarification of issues but also provide a forum where the agenda paper is discussed in greater detail and it does result in some sort of clarity regarding the parameters of the policy in question. On the basis of these discussions a paper is prepared by the sponsoring ministry providing a preliminary summary of the proposed policy. This draft summary is prepared by the senior civil servants of the Ministry and usually is to be approved by the concerned minister.

If the nature of the subject-matter is such that it requires consultation with the states, a note is circulated to various state governments to seek their views and concurrence on the proposed policy. It is also important to mention that before the draft summary for the Cabinet is put up, it also has to be circulated to the ministries concerned with the subject for their comments. After consultation both with the states and related ministries a draft summary provides in nutshell broad

issues relating to the subject, need for policy, inadequacy of the previous policy (if any), comments of the states and other concerned ministries, broad outline of the proposed policy measures, etc.

The other important process in the formulation of a policy is shifting of the comments received from the state governments and various concerned ministries. In case, there is a divergence of fundamental nature in the comments of ministries, it further leads to discussion among senior level civil servants of the ministry which is formulating the policy with the ministries which has different views on the proposed policy. In case, the differences continue, the matter is referred back for reconsideration to such ministries. However, they are requested to give back their comments after their views are listened to and explanation provided by the Ministry which is proposing the policy. In case the ministry holds divergent views on some aspects of the proposed policy, such matters are normally sorted out at the level of the ministries. This shows that it is necessary by and large to sort out difference of opinion between the concerned ministries before proceeding further in this matter.

Cabinet Approval

Again on the basis of the comments received from different concerned ministries a revised draft is submitted to the Cabinet. The Cabinet normally approves the draft, although it does highlight and provide broad outline on which the proposed legislation has to be evolved. The concerned ministry while formulating the legislation has to examine these points.

Preparation of the Bill

In case the policy requires assent from the Parliament it is the Law Ministry of the Government of India which prepares a tentative draft bill. At this stage, there is close collaboration between the ministry initiating the legislation and the Law Ministry. After the tentative draft bill is ready it is again sent to the ministries concerned with the subject-matter. On the basis of the discussion amongst the various ministries, a close scrutiny of the draft bill takes place. At this stage a thorough analysis is made of the proposed legislation keeping the objectives of such a legislation in view. In case it is found that there is a deficiency in the proposed legislation, then it is the duty of the ministry to suggest alternatives so as to make it purposeful. Such issues are discussed by the senior civil servants with the concerned minister. Normally, in such circumstances a note is prepared by the senior civil servants suggesting modifications/additions to be made in the proposed legislation policy. This is submitted to the Law Ministry again. This process is most crucial in the formulation of the policy. On the basis of this note the matter is further discussed between the concerned ministry and the Law Ministry. After the approval of the bill by the concerned ministry, a summary is prepared for the approval of the Cabinet. This summary usually provides the decision of the Cabinet, approving the proposal for the formulation of the policy, important features of the proposed policy and the draft of the proposed policy. It has to be remembered that the policy making process is in the ultimate analysis a process of political decision-making.

It is very difficult to comment on the relationship of the political executive and the civil servant in the policy making. The roles of the political executive and the civil servants are so inextricably mixed up that it is difficult to separately pinpoint the contributions made by the political executive and the senior civil servants or permanent executive. However, it is important to mention that if a minister is strong and knows the subject well, he will definitely make a contribution to the formulation of the policy. The senior civil servants play an important role in policy formulation, right from the time of the preparation of the agenda paper to its finalisation.

13.3 PARLIAMENT AND POLICY MAKING

In a parliamentary form of government, one of the functions of the Parliament is to legislate. The role of the executive is to propose legislation and policies necessary to achieve socio-economic objectives. The Parliament gives its approval

after the necessary deliberation and debate. As such, the Indian Parliament serves as a clearing house on all major questions of policy and legislation.

The unorganised poor in India have been sought to be lifted through legislation which derive their authority from the Constitutional provisions. Such legislations have been regulatory in their thrust. Regulatory policies are, those in which "Statute embodies rules of conduct with sanctions for failure to comply". In India, since independence, a number of such laws have been promulgated for the protection of agricultural labourers. The important ones being the Minimum Wages Act 1948, Contract Labour (Regulation and Abolition) Act 1970, Bonded Labour System (Abolition) Act, 1976 and Inter-State Migrant Workmen (Regulation of Employment and Conditions and Services) Act 1979.

In the case of legislative proposal the procedure to be adopted is well laid out. A bill is the draft of a legislative proposal. It has to pass through various stages before it becomes an Act of Parliament. As you read in Unit 7 of Block 2, the legislative process starts with the introduction of the bill in either House of the Parliament, Lok Sabha or Rajya Sabha. It is necessary to ask for leave to introduce the bill. If leave is granted by the House, the bill is introduced. This stage is known as the First Reading of the bill. After a bill has been introduced in either House of the Parliament, it is published in the Official Gazette. The Second Reading consists of consideration of the bill in two stages. The first stage consists of a general discussion on the bill, as a whole when the principle underlying the bill is discussed. The second stage of the second reading consists of the clause by clause consideration of the bill as introduced. Discussion takes place on each clause of the bill and amendments to clauses can be moved at this stage. Each amendment and each clause is put to the vote of the House. The amendments become part of the bill, if they are accepted by a majority of members present and voting. Thereafter, the member-in-charge can move that the bill be passed. This stage is known as the Third Reading of the bill. At this stage, the debate is confined to arguments either in support of the bill or its rejection, without referring to the details. In passing an ordinary bill a simple majority of the members present and voting is necessary.

If the bill is passed by one House, it is sent to the other House for concurrence, and there also it goes through the three stages described above. The bill becomes an Act only after the President's assent has been given thereto. Now we shall discuss the procedure through which the bill on bonded labour system became an Act.

Bonded Labour System (Abolition) Ordinance 1975

As the Parliament was not in session, the Labour Ministry prepared the draft bill in consultation with the Ministry of Law. The Labour Ministry also sought the Cabinet approval to the promulgation of the proposed legislation as an ordinance.

The important features of the proposed Ordinance were:

- 1) Abolition of the system of the bonded labour.
 - 2) Extinguishment of the liability to repay bonded debts.
 - 3) Vesting implementing authorities with appropriate executive and judicial powers relating to cognizance, inquiry, prosecution and trials.
 - 4) Setting up Vigilance Committees at district and subdivisional levels (these Committees would advise the implementing authorities on all matters relating to the enforcement of the Ordinance and also ensure the economic rehabilitation of the freed bonded labourers).
 - 5) Barring the jurisdiction of civil courts in matters covered by the ordinance.
- The Bonded Labour System (Abolition) Ordinance 1975 was promulgated on 15th October, 1975.

The Passage of Bonded Labour (Abolition) Bill 1976 in the Parliament The Rajya Sabha Debate

The Bonded Labour System (Abolition) Bill 1976 was introduced in the Rajya Sabha on 6th January, 1976. On 12th January, 1976, the Rajya Sabha debated the above bill. Moving the bill, the Labour Minister spoke of the objectives of

the bill in the following words: "That the bill to provide for the abolition of bonded labour system with a view to preventing the economic and physical exploitation of the weaker sections of the people and for matters connected therewith or incidental thereto be taken into consideration." He also emphasised the necessity of the immediate abolition of the bonded labour as it formed a part of the 20-Point Programme. He also said that the bonded labour system is the "most anomalous remnant of feudalism still vitiating our society. It is the moral duty of the nation to abolish the system." He also described the mechanics of this system, whereby "a poor peasant or an agricultural worker takes small loans; his dues accumulate very fast under exorbitantly high rates of interest; soon he finds it impossible to extinguish his debts, he disposes off his property but still continues to be in the red; he then begins to work for the creditor at absurdly low wages and hopes to repay the debt by the fruits of his labour; but the crucial logic of usury defeats him; his children and grandchildren also begin to work for nominal wages to liquidate the debt. Generation after generation become virtual slaves to the creditor. The entire future of the family becomes mortgaged to small loan taken in the remote past, the debt becomes the destiny."

Speaking of the bonded labourer, the Minister described him as having "no access to any commodity or capital market; he ceases to be a free economic agent; he is reduced to an appendage of the feudal property... he lives like a subman; he lives like a thing." Mentioning that the Prime Minister had decided "that the system must end", the Minister gave examples of the bonded labour system existing in different parts of the country.

Speaking of the bill, the Minister described its salient features. He said, "It has been laid down in the Ordinance that all debts incurred by the bonded labourers shall be deemed to have been liquidated. Any act that can, in any way, perpetuate this system, or stand in the way of the abolition of this system has been made a punishable offence.... there shall be vigilance committees at the district and sub-divisional levels consisting of officials dealing with development projects and non-officials concerned with rural development.... Officers of the State Government can be vested, under the Ordinance, with adequate powers in respect of inquiry, cognizance, prosecution and trial." The state governments have already been told that the eradication of bonded labour cannot be done by legislation only; it is a complex administrative problem, the solution of which will require the concerted efforts of the developmental machinery of the Government, nationalised banks, rural banks and social workers working in the agrarian sector. State governments have been requested to utilise the Plan Schemes for the rehabilitation of freed bonded labourers.

In the debate that followed, one member spoke of the different kinds of bondage prevalent in the country, and suggested that the government create a machinery to recognise and abolish these forms of bonded labour. Another member spoke of the bonded labour system "sanctioned by local customs and traditions, and mentioned that "bondage may not be caused by obligations sanctioned by local customs." He claimed that the prevalence of the system originated from the existing socio-economic structure and that economic backwardness resulted in "indebtedness among the poorer classes to meet their minimum daily needs." On the bill, he suggested associating organised rural workers in the implementation of the Act, ensuring implementation at the state and central levels and including MLAs, MPs and Trade Unions in the Vigilance Committees.

Another speaker wondered how the bill would be implemented by the states, whose actions left much to be desired. He felt that leaving the implementation of this Act to the bureaucracy was not sufficient, and that public co-operation was imperative. He suggested organising rural workers; including representatives of agricultural workers in the Vigilance Committees and organising and recognising Trade Unions of bonded labourers. One member sought information on the machinery to defect bonded labour. On the Vigilance Committee, he remarked that providing alternative livelihood for freed bonded labourers, being one of its functions, would not be possible, nor would these Committees, be able to 'arrange relief from the rural banks' as proposed.

Another member in his speech felt that 'the bill, although it provides for the abolition of the bonded labour system, does not seem to be very adequate to

implement it thoroughly'. He felt that the bill did not mention about the resettlement of bonded labour and that a provision should be introduced to make resettlement, a statutory obligation on both the central and state governments and to "see that at least a piece of land and some loan is advanced to the freed bonded labourers" so that they "can make their own living and live with self-respect." He suggested that the Government should consider constituting special tribunals... in every district instead of using the normal machinery to implement the Act." To implement the Act immediately, he suggested that some special committee or high powered committee be constituted to make immediate rules so that the Act could be implemented without delay.

Another member wanted the definition of the bonded debt to be elaborated as he felt that "all debts were not necessarily bonded labour debts, but might finally result in bonded labour. Therefore, every debt which resulted in bonded labour "should be defined as bonded debt." Another member advocated that the Act be implemented strictly, the keepers of bonded labour prosecuted, watchdog committees set up in every state and field officers held responsible if any complaints were reported from their areas. This fixing of responsibility would ensure that the officers strictly implemented the Act.

One member felt that the implementing machinery of the Act was inadequate. He criticised the function of the district magistrate as envisaged in the Act. He also felt that the wording which laid down that he would "as far as practicable try to promote the welfare of the freed bonded labourer." He further commented that unless alternative employment was assured to the freed bonded labourers, no rehabilitation programme could succeed. He wanted an effective implementation machinery and offences under the Act made non-bailable. Another member mentioned the prevalence of the bonded labour system in the brick kiln industry and in agriculture. He suggested that the Vigilance Committees should have funds to disburse and felt that its Chairman should be a non-official, while the Deputy Commissioner be its Secretary.

In his closing speech, the Labour Minister spoke of the rehabilitation programmes envisaged by the Labour Minister's Conference held on 11th January, 1976 which decided that the state governments would take steps for specifically identifying bonded labour and that surveys would be used effectively for identifying the existence of bonded labour. The state governments would also prepare and implement schemes for the social and economic rehabilitation of the bonded labour and the State Labour Ministry would act as the coordinating agency. Specific rehabilitation schemes for the bonded labour would form part of the Annual Plan Programmes. In the clause by clause discussions, that followed a number of amendments were proposed by the members. However, all such amendments were negated. Later on, the Labour Minister moved that the bill be passed, which was done.

Lok Sabha Debate

After the Rajya Sabha passed the bill on 12th January, 1976, the Lok Sabha debated upon it on 23rd and 27th January, 1976. Introducing the bill, the Labour Minister virtually repeated his speech in the Rajya Sabha, we have indicated its salient features before. In the debate that followed the Minister's introductory speech, one member criticised passing the bill without assuring the freed bonded labourers of land and assistance. He felt that the Central Government would not take any responsibility to implement this Act, and concluded by remarking "that this bill is more for the purpose of serving as a favourable propaganda for the ruling party than for the liberation of the bonded labourer." Another member, in his speech, said that the mere abolition of the bonded labour by legislation was not going to be effective. He felt that there were many who were outside the purview of the Act, but in reality, bonded labourers. He urged the government to identify such people immediately, free them and create credit institutions so that timely loans to the freed bonded labourers are forthcoming. On the role of the Vigilance Committees, he doubted their effectiveness and felt that unless the Central Government directly involved itself the states would not implement the Act seriously. He suggested the inclusion of the local member of Parliament, members of the legislative assembly and the Chairman and members of panchayat unions in the Vigilance Committees.

Another member, while welcoming the bill suggested that all forms of forced labour prevalent in the country should be incorporated in the bill and pointed out that there was no provision for the rehabilitation of the freed bonded labour. He recommended that a legal provision for rehabilitating such people be made and that the central government be specifically responsible for these rehabilitation programmes. He also suggested setting up a vigilance committee at the central level. Another member emphasised the need for effective implementation of the Act, and urged the "mass involvement of the agricultural workers and the general mass of the people, the exploited people, to fight against the vested interests."

One of the members suggested that instead of the three Scheduled Castes/Scheduled Tribes representatives in the district and Sub-Divisional Vigilance Committee, there should be five of them, as bonded labourers were mostly from the Scheduled Castes and Scheduled Tribes. He also suggested that these representatives should be paid. One member complimenting the Prime Minister on this bill, pointed out that attention should be paid to the human problem of the bonded labourers. He suggested that whenever rules were to be formulated, those rules should ensure that no injustice was done to the freed bonded labourers, also that opportunities to earn their livelihood should be created and sufficient employment avenues exploited. He suggested representatives of the bonded labourers in the vigilance committees and requested sufficient credit to free the bonded labourers from the Regional Rural Banks.

Another member wanted the introduction of the bill abolishing rural indebtedness throughout India and the formulation of policies to tackle poverty and backwardness. One member mentioned that the bill prohibited bonded labourers from being evicted from their homestead or other residential premises, but no corresponding provision had been made for providing them land.

Another member suggested certain measures which would ensure effective implementation of the Act. He suggested an intensive campaign in villages to free the bonded labourers, and magistrates and tehsildars should go to villages to free such people. Adequate employment opportunities should be given to such freed labour and money-lenders and their strong men prevented from harassing them. He suggested that voluntary organisations be entrusted with the implementation of the Act.

Another member felt that too much responsibility was being thrust upon the district magistrate, who was to implement the Act. He asked why were the lower level functionaries not held accountable? He recommended that offences under the Act should be made non-bailable. He emphasised that the removal of poverty would solve many of the present ills.

Replying to the debate, the Labour Minister, thanked the members of the House for their participation and shared Government's view that "socio-economic legislation is bound to be reduced to a dead letter, if appropriate follow-up steps are not taken on the economic and social fronts." Analysing the economic problem that a bonded labourer would face on being freed the Minister said that "He will not have inputs for production or any supply of credit; he will neither have any professional skill that would enable him to pursue an independent livelihood..." Even when installed in a profitable activity, he will have no income during the period of gestation of any income generating process; therefore, he may have to be given a consumption subsidy during the gestation period. The bonded labourer who is used to a world of domination and servitude will not obviously be aware of his rights.... At time, he may not even like to undergo the strenuous process of economic rehabilitation and may prefer reversion to serfdom.

The Minister mentioned that guidelines were being prepared for the state governments, that the Union Labour Ministry would function as the nodal ministry and monitor and coordinate the implementation of the Act by the various state governments. Explaining why the types of bonded or forced labour were not exhaustive, the Minister stated that the intention was merely to clarify, and assist the courts in interpreting the definition of the bonded labour system, which was the most important section in the Act. He pointed out that the need to organise the rural poor had been recognised and that steps were being taken by the Union Labour Ministry and the National Labour Institute to create an ethos conducive to collective bargaining by the agrarian labour.

Speaking of the problem of identifying the bonded labour, the Minister spoke of the need for intensive surveys and states having been requested to conduct them. He pointed out that the suggestion that the punishment for offences being enhanced, would not be held as "no punitive action on its own can bring out the fundamental transformation" and that "increased punishments may not be compatible with the penal provisions in other statutes." The suggestion for fixing rigid time limits for restoration of property was not considered pragmatic as the courts might consider such time limits arbitrary.

The Minister informed the House, that the committees set up at the central and state levels should monitor and coordinate measures under this Act. Emphasising the role of the district magistrate as chairman of the District Vigilance Committees, he pointed out their powers would facilitate speedy action. The necessity of introducing a separate provision for rehabilitation programmes, was not necessary, as the states were already taking appropriate action under the Ordinance.

The Clause by Clause discussions then took place. A number of amendments were suggested, but all of them were negated. The Act received the assent of the President on 9th February, 1976, and came into being as the Bonded Labour System (Abolition) Act 1976.

Check Your Progress 1

Note: i) Use the space given below for your answers.
ii) Check your answers with those given at the end of the Unit.

- 1) Throw light on the nature of inter-ministerial and inter-state consultation in policy making.

.....
.....
.....
.....
.....
.....
.....
.....
.....

- 2) Point out the important features of the Bonded Labour System (Abolition) Ordinance 1975.

.....
.....
.....
.....
.....
.....
.....
.....
.....

- 3) Highlight some of the major points raised by the members of Lok Sabha while debating the Bonded Labour System (Abolition) Bill.

.....
.....
.....
.....
.....
.....
.....
.....

13.4 SALIENT FEATURES OF THE BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976

The Act is a comprehensive piece of legislation which not only defines the bonded labour system and abolishes it but also provides for extinguishment of repayment of bonded debt. An attempt has been made below to give the salient features of the Act:

Definition of the Bonded Labour System

The Bonded Labour System, inter alia, means that if persons belonging to any particular caste or community are forced or partially forced to work for a creditor under an agreement either without wages or for nominal wages which are less than the prescribed minimum wages, they would come under the definition of the "Bonded Labour System."

Sections IV and V of the Act deal with the abolition of the bonded labour system. There are two important aspects of this abolition. It provides that on the commencement of this Act, the bonded labour system shall stand abolished and every bonded labourer stands free and discharged from any obligation rendered to any bonded labourer. In a way, this Act has taken care that all past and present agreements (till the commencement of the Act) stand abolished.

This Act also provides that in future after the commencement of the Act no person shall (a) make any advance under or in pursuance of the bonded labour system, or (b) compel any person to render any bonded labour. It was also mentioned in the Act that any custom or tradition or any contract, agreement by virtue of which any person is required to do any work shall be illegal/or inoperative.

Extinguishment of Liability to Repay the Bonded Debt

Under this section detailed provision is made which abolish every obligation of a bonded labour to repay any bonded debt and also abolish future liability of repaying a bonded debt. There is also a provision that no suit or other proceedings shall be instituted in any civil court for the recovery of any bonded debt, every attachment made before the commencement of the Act for the recovery of any bonded debt shall stand vacated and such movable property shall be restored to the bonded labourer. The Act specifically provides that if a restoration of the possession of any property referred to above is not made within 13 days of the commencement of this Act, the aggrieved person may apply to the prescribed authority for the restoration of the possession of the property.

Another important feature of the Act is that no person who has been freed and discharged under this Act, shall be evicted from any homestead or other residential premises which he was occupying immediately before the commencement of this Act as part of the consideration for the bonded labourer.

Implementing Authorities

The Act has made the State Government responsible for the implementation of the provisions of this Act. The Act has specifically charged the District Magistrates or Sub-Divisional Magistrates with these duties. The Act also specified the state governments to confer such powers and impose such duties on District Magistrates as may be necessary to ensure that the provisions of this Act are properly carried out.

The District Magistrate shall, as far as possible try to promote the welfare of the freed bonded labourers by securing and protecting their economic interests so that they may not have any occasion or reason to contract any further debt. This section also enjoins on the District Magistrate or any officer specified by him to enquire whether the bonded labour system is being enforced and if any person is found to be enforcing the bonded labour system, he shall take such action as may be necessary to eradicate the enforcement of such forced labour.

This Act also provides that the state government shall constitute Vigilance Committees in each district and sub-division for the implementation of the Act. The Vigilance Committee both at the district and sub-division levels shall comprise of official and non-official members.

Functions of the Vigilance Committees

- 1) The Functions of each Vigilance Committee shall be:
 - a) to advise the District Magistrate or any officer authorised by him as to the efforts made, and action taken, to ensure that the provisions of this Act or any rule made thereunder are properly implemented;
 - b) to provide for the economic and social rehabilitation of the freed bonded labourers;
 - c) to co-ordinate the functions of rural banks and co-operative societies with a view to channelising adequate credit to the freed bonded labourer;
 - d) to keep an eye on the number of offences of which cognizance has been taken under this Act;
 - e) to make a survey as to whether there is any offence of which cognizance ought to be taken under this Act;
 - f) to defend any suit instituted against a freed bonded labourer or a member of his family or any other person dependent on him for the recovery of the whole or part of any bonded debt or any other debt which is claimed by such person to be bonded debt.
- 2) A Vigilance Committee may authorise one of its members to defend a suit against a freed bonded labourer. The member so authorised shall be deemed, for the purpose of such a suit; to be the authorised agent of the freed bonded labourer.

Offences and Procedure for Trial

The Act provides for imprisonment up to three years and fine up to two thousand rupees to whoever compels any person to render any bonded labour and advances any bonded debt. An offence under this Act may be tried summarily and every offence under this Act shall be cognizable and bailable.

To implement the Bonded Labour System (Abolition) Act, 1976, the Bonded Labour System (Abolition) rules, 1976 were enacted on 28th February, 1976 under Section 26 of the Act. This Section empowered the central government to make rules for carrying out provisions of the State Act.

13.5 SUPREME COURT'S JUDGEMENT ON THE BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976

A number of cases have been brought before the Supreme Court by way of 'Public Interest Litigation'. However, in the case of 'Bandhua Mukti Morcha Vs Union of India', the Court has given legitimacy to 'Public Interest Litigation' under Article 32 of the Constitution. In the judgement of the case cited above, the definition of the expression 'Bonded Labourer' in the Bonded Labour System (Abolition) Act, 1976 was expanded. It was observed, "whenever it is shown that a labour is made to provide forced labour, the Court would raise a presumption that he is required to do so in consideration of an advance or other economic consideration received by him and he is, therefore, a bonded labourer. This presumption may be rebutted by the employer and also by the State Government, Unless and until satisfactory material is produced for rebutting this presumption, the Court must proceed on the basis that the labourer is a bonded labourer entitled to the benefit of the provisions of the Act."

This resulted in the amendment of Section 2, in the Bonded Labour System (Abolition) Act 1976. In Section 2 in clause (G) the following explanation was added at the end, namely: Explanation:- For the removal of doubts, it is hereby declared that any system of forced, or partly forced labour under which any workman of the Contract Labour (Regulation and Abolition) Act, 1970 or an Inter-State migrant workman as clause (e) of sub-section (i) of section 2 of the Inter-State Migrant Workman (Regulation of Employment and Conditions of Service) Act, 1979 is required to render labour service in circumstances of the

nature mentioned in sub-clause (i) of this clause or is subjected to all or any of the disabilities referred to in sub-clause (2) to (4), is "bonded labour system" within the meaning of this clause." This amendment was carried out in December 1985.

Check Your Progress 2

Note: i) Use the space given below for your answers.
ii) Check your answers with those given at the end of the Unit.

- 1) Highlight the salient features of the Bonded Labour System (Abolition) Act, 1976.

.....
.....
.....
.....
.....
.....
.....

- 2) Discuss the functions of the Vigilance Committees in safeguarding the interests of bonded labourers.

.....
.....
.....
.....
.....
.....
.....
.....

- 3) Throw light on the Supreme Court's judgement on the Bonded Labour System (Abolition) Act.

.....
.....
.....
.....
.....
.....
.....
.....

13.6 LET US SUM UP

This Unit dealt with the successive stages of policy making in the context of Bonded Labour System (Abolition) Act, 1976. It provided a brief background of the constitutional and institutional aspects of policy making in India. It also dealt with the role of civil servants and political executives in the formulation of the policy. An important aspect of the policy process is inter-ministry consultation as well as the exchange of views and opinions between the Centre and the states, this was also dealt with. It described the role of the Parliament as reflected in the debate which took place on Bonded Labour System (Abolition) Bill. It is significant that many members contributed substantially giving this Act the present shape. The Unit also analysed the role of the Supreme Court in the interpretation of the Bonded Labour System (Abolition) Act, 1976 which subsequently led to the amendment in the Act. Thus, this Unit has analysed the role of political

executive, civil servants, the Parliament and the judiciary in the policy process in the specific case of the Bonded Labour System (Abolition) Act of 1976 in order to clarify the role of different organs of government in policy making.

13.7 KEY WORDS

Cognizable Offence: Offence committed with full knowledge of its repercussions or effect.

Gestation Period: The interval of time from conception of a programme to its final implementation. In this Unit it is used in the sense of time taken to rehabilitate the freed bonded labourers.

Ordinance: The Constitution empowers the President to promulgate ordinances at any time when Parliament is not in session. An ordinance is a special emergency measure, while in operation, it has the same force as an Act of Parliament but it must be laid before both the Houses within six weeks from the date on which it reassembles and ceases to operate at the end of six weeks from the date on which the Parliament reassembles, or earlier if both the Houses pass resolutions disapproving it.

Punitive Action: Action taken in order to inflict punishment.

Residuary Powers: The power to legislate with respect to any matter not enumerated in any one of three lists, viz., union, state and concurrent and the final determination as to whether a particular matter falls under residual power or not rests with the courts.

Usury: Lending of money at interest (especially at exorbitant or illegal rate).

13.8 REFERENCES AND FURTHER READINGS

Baxi Upendra, (ed) 1988, *Law and Poverty Critical Essays*, N. M. Tripathi (Pvt.) Ltd., Bombay.

Dayal Ishwar, Kuldeep Mathur, et. al, 1976, *Dynamics of Formulating Policy in Government of India: Machinery for Policy Development*, Concept Publishing Company, Delhi.

Dave, P.K., Some Aspects of Policy, Formulation at the two levels, *Indian Journal of Public Administration*, Vol. XVI, No. 3, July-Sept.

Dror, Y., 1968, *Public Policy Making Re-examined/Chandler*, Pennsylvania.

Maheshwari, S.R., 1990, *Indian Administration*, Orient Longman, Delhi.

Saran, K., 1975, 'Law and Bonded Labour System', *National Labour Institute Bulletin*, Vol. 1, No. 11.

13.9 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

1) Your answer should include the following points:

- in the consultation stage, the agenda paper is discussed in greater detail
- on the basis of discussions, a paper is prepared by the sponsoring ministry providing a preliminary survey of proposed policy
- a note is circulated to various state governments and ministries in order to seek their comments
- a draft summary of proposed legislation is prepared
- if the comments of the state governments and ministries clash with each other, then further discussions are made at junior civil servant levels
- any difference of opinion is sorted out by the ministers

- 2) Your answer should include the following points:
- abolition of the system of bonded labour, extinguishment of liability to repay bonded debts
 - vesting implementing authorities with the requisite powers
 - setting up Vigilance Committees
 - barring of jurisdiction of civil courts in matters covered by the ordinance
- 3) Your answer should include the following points:
- one of the members pointed out that labourers outside the purview of the Bill should be identified and freed
 - the Central government, it was felt should be directly involved in the implementation of the Act
 - one of the members felt that opportunities for employment and livelihood should be created
 - another felt that offences under the Act should not be bailable
 - proper following steps needed to be taken up according to one member
 - consumption subsidy to be provided during gestation period—was recommended by one of the members.

Check Your Progress 2

- 1) Your answer should include the following points:
- it defined the bonded labour system
 - it extinguished the liability to repay bonded debts
 - it made the state governments responsible for implementation of the Act
 - it recommended the constitution of Vigilance Committees by the state governments
 - it provided for imprisonment and fine to whoever compels any person to render any bonded labour and advances or any bonded debt.
- 2) Your answer should include the following points:
- to advise the District Magistrate as to efforts made and action taken regarding abolition
 - to provide for economic and social rehabilitation of the freed bonded labourers
 - to coordinate the functions of rural banks and cooperative societies
 - to defend any suit instituted against a freed labourer
 - to make a survey of any offence of which cognizance has to be taken under the Act.
- 3) Your answer should include the following points:
- in the case of 'Bandhua Mukti Morcha Vs Union of India', the Supreme Court gave legitimacy to public interest litigation
 - in the judgement, the definition of bonded labour was expanded
 - it amended Section 2 of Bonded Labour System (Abolition) Act.

UNIT 14 INTEREST GROUPS AND POLICY-MAKING

Structure

- 14.0 Objectives
 - 14.1 Introduction
 - 14.2 Interest Groups and Public Policy
 - 14.3 Interest Groups and Policy-Making
 - 14.4 Interest Groups and Nature of State
 - 14.5 Let Us Sum Up
 - 14.6 Key Words
 - 14.7 References and Further Readings
 - 14.8 Answers to Check Your Progress Exercises
-

14.0 OBJECTIVES

After studying this unit, you should be able to:

- discuss the meaning and categorisation of interest groups;
 - explain the relationship between interest groups and public policy;.
 - describe the role of interest groups in policy-making;
 - discuss the nature of relationship between interest groups, public policy-making and the nature of Indian State.
-

14.1 INTRODUCTION

Interest groups are such organised groups in which members share common views and objectives and actively carry on programmes to influence government institutions, officials, and policies. These groups are unlike political parties as they do not seek to win control of and operate the government. These are primarily interested in influencing the formulation of those public policies that directly or indirectly affect their interests. Such groups vary considerably in size, wealth, power, and objectives. Their methods of operation, however, are quite similar to each other and include lobbying, electioneering, and propagandising to influence public opinion and government institutions. Interest groups seek to influence decisions in the legislative, executive, and judicial branches. The concept theory of interest group rests on the psychological principle of attainment of self-interests and accomplishment of goals of a particular section of the society. Individuals in society join hands with each other quite easily when they have common self-interests. In the political system, especially in a representative democracy, the individual is free to become a member of any political party whose ideology appeals to him most. Normally, an individual is not in a position to exercise any meaningful influence on the functionaries of a political party for making a policy suitable to his interests. For a party has its own programme, and is broadly based, therefore, it cannot accommodate the interests of an individual or a group of individuals. Furthermore, the individuals who become members of a party in a formal manner are bound to obey the party commands and guidelines. This makes them simply ‘logs in the party machinery’. Hence, for the protection and upliftment of their common interests and views, individuals join hands and form interest groups for exercising influence over the governmental policy-making agencies.

This unit has two parts: one dealing with general questions, and the other concerning the specific case of India. Since the course is intended for Indian students, greater emphasis is on interest groups in India—their character and relative strength in political process and public policy-making. A brief reference is also made to the recent economic reforms and the role of interest groups.

14.2 INTEREST GROUPS AND PUBLIC POLICY

The activities of the interest groups form a chain of linkage between the public policy and environmental forces and vice-versa. The socio-economic composition of a society is reflected through the structure of interest groups at work in the said environment. In the words of Thomas R. Dye, "Modern urban institutional societies spawn a multitude of diverse interest groups. The resulting multiplicity and diversity reduces the likelihood that any single interest group can determine policy working in all fields. In contrast, poor, rural, agricultural societies produce fewer interest groups, but the opportunity for these interest groups to dominate policy-making in underdeveloped economies is greater." It goes without saying that interest groups have a close relationship with public policy. These groups exercise influence on the policy makers formulate such policies from which they get maximum benefit.

In comparison to the modern and developed nations, the interest groups are fewer in developing and underdeveloped states. In these states, the interest groups exert influence over public policy primarily through means of personalised relationship and 'overlapping elites'. In developing states, the information content of these groups is seldom rational, their goals are narrow and parochial and they are less farsighted in comparison to the developed nations interest groups.

Whatever be the nature of the polity—totalitarian, dictatorial, or democratic—the interest group's role in public policy cannot be minimised. The efforts of these groups are directed towards limited values, goals and objectives. In order to support their viewpoints, the groups garner and provide data to the policy makers. On the basis of the information provided, the policy formulators go ahead, in case, they feel convinced of the same. In India, as in most other Third World countries, government has a crucial role in social and economic development. Naturally, therefore, public policy has the most pervasive influence in the formulation of development goals and priorities.

In order to understand, in depth the contextual setting of public policy-making, it is necessary to understand the role of interest groups. Interest groups are not political parties. However, such groups "are the living 'public' behind the parties". These groups do not nurse the constituencies for competing at the polls. Their principal concern is to influence the governmental process in order to ensure public policy-making in keeping with their special interests. Thus, the chambers of commerce or the trade unions get politicised to put pressures on governmental process. In brief, interest groups are organisations intended to influence primarily the policy-making process; they do not ordinarily undertake to nominate candidates. Sometimes, however, one or two interest groups nominate candidates at the polls, but this is seldom treated as a common pattern of behaviour for such groups.

By an interest group we mean "an organised aggregate which seeks to influence the context of governmental decisions without attempting to place its members in formal governmental capacities". The members of an interest group hold shared attitudes. When the members interact, some "common habits of response", which may be called shared attitudes among the interest group emerge. These, as David B. Truman says, "afford the participants frames of reference to interpreting and evaluating events and behaviours". An additional component comprises shared attitudes towards "what is needed or wanted in a given situation, observable as demands or claims upon other groups in the society".

The shared attitudes actually reflect either the interests or the values, or both. Interest groups, as one of the categories, are those groups in which the attitudinal homogeneity emanates from the community of interests among their members. For instance, an interest group may comprise all big farmers. The second category, the value-based groups, are those groups the members of which share certain values in common. For instance, a pacifist group is one in which all members are totally opposed to war. The narrowly conceived interest groups such as labour unions or farmers associations have their other activities besides the activity of influencing the public policy, and sometimes the former is more important than the latter. But for the value-based groups, influencing public policy-making is the main concern.

In several countries there is a close relationship between interest groups and political parties. However, the intensity of relations varies between countries. In France, for

instance, the relations between interest groups and political parties are very close. Trade union movement is split up into three principal segments. Again, in Britain a major political party, the Labour Party grew out of the British Trade Union Movement, and even now is closely related to the movement. But in many other countries the relationship is not that close, and the degree of interest group influence depends upon a number of variables. In a political party system, where party discipline is weak and strong ideological differences among members are missing, the legislators are greatly sensitive to interest group influences. This obtains, for instance, in USA. Another determinant of interest group activity is the complex of attitude-orientations on, what is called, political culture prevailing in a country. Compared to liberal democracies of Europe, the political attitudes in USA exhibit a greater political accommodation of interest group activities.

Now interest group politics has become a subject of serious study. The topic, however, is not wholly modern. For, even in Bryce's work entitled, American Commonwealth, there was an illuminating appendix devoted to the "lobbies". Eminent scholars like D.B. Truman, A.F. Bentley, V.O. Key, Jr., have made notable contributions towards understanding the dynamics of public policy-making in the context of group politics. The critics of interest group politics would, however, point out that as the various interest groups seek to push their interests without bearing the responsibility of governance, they seem to be a menace to representative government. It is argued that their working undermines the basic assumption of representative government based upon common interest and general welfare.

Check Your Progress 1

- Note: i) Use the space given below for your answers.
ii) Check your answers with those given at the end of the unit.

- 1) Define Interest Group.

.....
.....
.....
.....
.....
.....
.....

- 2) Discuss Interest Group's relationship with Public Policy.

.....
.....
.....
.....
.....
.....
.....

14.3 INTEREST GROUPS AND POLICY-MAKING

Interest groups occupy a place of significance in the process of policy-making. These play an important role in every political set-up. The present age is an age of competition and number of interest groups are in operation in different environments. For getting the desired ends, which strengthen their base, the interest groups cannot take the issues at hand in a non-serious manner. They actively make efforts in the directions they have kept before them. An organised interest group claims to represent not only those who are potentially its members, but also all those who by virtue of some common characteristics, go along with the ends pursued by the groups. The

polities which do not have strong party systems, are subject to more direct influence on policy-making by the interest groups. Because of lack of powerful and organised political parties, the interest groups play a dominant and direct role in legislative affairs. As there is no strong political party to moderate their influence. On the contrary in polities which have strong, cohesive and organised parties, the interest groups are likely to be more numerous and active. Their influence on policy formulation gets filtered and is also subject to moderation to key in line with the parties' interests, ideologies, and programmes.

The evolution of India's political economy has mobilised various interest groups and led to complexities of connections between the mobilised groups and the mainstream political parties. The nature and dimension of electoral politics we have in India, emphasize the need for both mobilisation of funds and local votes by the political parties for winning at the hustings. The support of the interest groups is necessary in both the endeavours. Such support has recently been felt very important in view of the fact that most of the mainstream political parties have ceased to have active grassroots organisational limbs, and moreover, election expenses have increased enormously.

Some of the interest groups such as chambers of commerce, provide the bulk of finance for the major political parties, while groups like farmers' associations mobilise local electoral support for the parties. In return, these groups assert their role in public policy-making.

While, on the one hand, new political elites have emerged in the rural areas in the wake of the agricultural growth several important urban lobbies, such as the industrial capitalists and public bureaucracies, have significantly influenced public policy-making. State policies increasingly "have come to reflect the interests of the dominant classes". In the early years all the major interest groups prospered in the process of economic growth.

The new rural elites have set up significant interest groups in various parts of the country. There are several such agricultural interest groups, the most conspicuous of which are in Punjab, Uttar Pradesh, Maharashtra and Karnataka. The Bhartiya Kisan Union with its main base in Uttar Pradesh and led by Mahendra Singh Tikait and the Maharashtra-based Shetkari Sanghatana led by Sharad Joshi, have come into great prominence in the recent years. These state-based farmers' organisations have been making efforts to come together for the purpose of making a greater impression on national politics. Although these efforts have not been very successful, the farmers associations have succeeded, firstly, in enhancing their influence in the national legislature, and secondly, in most of the mainstream political parties.

These groups are dominated by the rich farmers who are generally members of dominant local castes. Although they are split by "deep political, cultural and economic divisions that make consistent class action virtually impossible even in a localized area", the wealthy farmers make a common cause "on matters of state policies, affecting their common class interests" such as "agitating for high farm product prices or in frustrating land ceilings legislation".

In recent years the farmers' associations have become enormously powerful. However, in the early years, although the wealthy farmers did not generally constitute strong interest groups at national level, they exerted a significant influence in the making of public policies at the state level. In the 1950s and 60s the principal issues were land reforms, compulsory procurement of foodgrains and taxation on agricultural income and property. The rich farmers, as an interest group, exerted sufficient pressure at the state level to successfully scuttle much of what was intended to be done initially on those issues. For instance, because of such pressures most of the state governments adopted a diluted kind of land reforms, with the result that the entrenched interests of the rich farmers were virtually kept intact.

From the late 1960s the major issues have been output and input prices and cost subsidies, with the agrarian demands pressed at the central government, do not figure in the agenda of farmers' associations. The necessary mobilisation efforts are made at the state level, so that the state governments are obliged to put pressure upon central decision-making.

To understand intensively the rise of rural interest groups in India, it is necessary to look at the terms of trade between agriculture and industry and the aspirations of the

locally dominant caste rich farmers. Since 1975-76 the price index of agricultural products has lagged behind that of manufactured products. An important tendency of economic policy-making in India has been to disturb parity between prices of agricultural and industrial products by attempting to siphon surpluses from agriculture to industry.

The persistently unequal exchange between industry and agriculture has given rise to open conflicts between industrial and agricultural interests and the rise of organised agricultural interest groups. There seems to be, lately, a certain dominance of the surplus-producing rich farmers in all political parties. This has made the farmer's lobby operate effectively in India's political system.

An equally powerful interest group comprises the industrial capitalists. A widespread concern, expressed on public platforms, about the consequences of industrial policies relates to the monopoly houses (the Birlas, Tatas, Ambanis, etc.) capacity to manipulate these policies in order to secure the concentration of corporate property. They have enormously benefited from the Government's import substitutes policies, the policy of taking over sick firms and the foreign investment central policy. They could also turn to their advantage the industrial licensing system. This has been possible mainly because the framework of economic policy-making and management is not insulated from "the clientelist demands of the political process".

Thus, the crucial question is : what are the mechanisms employed by the industrial capitalists to decisively influence the political process ? One is democratic politics and the play of money. In elections huge sums are spent by the candidates, and hence, the politicians look to the industrial capitalists for the necessary funds. As JRD Tata, while emphasising the role of his class, said: "We have for many years allowed ourselves to be willing pawns in that game, paying for it heavily at every election time either out of fear or false hopes. There has perhaps been no greater factor in the growth of corruption in the country during the last 30 years than the repeated surrender of business and industry to demands. . . . for the political funds." This in return has given the business community an advantage of extracting licenses and subsidies; and many other benefits from the Government by way of various policies enacted from time to time.

Moreover, these classes have their powerful organisations which act as influential lobbies for affecting decisively the political and administrative decision-makers. The Federation of Indian Chamber of Commerce and Industry has played a crucial role in public policy-making. As a former President of the Federation observed, this body "... played the role of a practical and constructive adviser on measures relating to commerce and industry. The Federation made its due contribution in the formulation of successive Five Year Plan by conducting advance studies and submitting its findings to the Government and the Planning Commission."

Actually the industrial policy and strategy adopted by the Government has helped create economic and political groups with vested interests in the preservation of the system. The close links forged between these groups, and the politicians and the public bureaucracy, have been the source of political and administrative corruptions, and have helped the business houses influence the industrial and trade policies.

Kochanek has pointed out that of the modern interest groups in India the business has been more successful in influencing the government than any other. Notwithstanding a certain opposition both within bureaucracy and the political party system, the post-1980 Indira Gandhi government and the Rajiv Gandhi government formulated and implemented some programmes of liberalisation. This could take place as in the later years India's system of control and licensing showed alarming signs of disturbances in the national economy. Actually, for quite some time, an important segment of India's public opinion had been favouring both liberalisation and a reduction in the role of the state in economic management.

This opinion has further consolidated and extended, and has recently affected public policy in a significant manner. The pressures from both industrial capitalists and the international bodies such as World Bank and International Monetary Fund have resulted in several economic reforms at deregulation. Their principal objective is "to unshackle the Indian industrial economy from the cobwebs of unnecessary bureaucratic control". Hence, "industrial licensing will henceforth be abolished for all industries", except for those having overriding security, and socio-environmental considerations.

At the bottom of the new reforms in Indian economy lies the growing strength of a coalition consisting of enlightened section of industrial bourgeoisie and national bureaucracy, and non-official academies and journalists. For several years now this coalition has been building up public opinion against the dysfunctional system of administrative control over the national economy. The efforts have now fructified in significantly influencing the economic policies of government. The private sector is further emphasising their right to enter the finance and banking fields.

However, the major segments of the Indian bureaucracy, down to the level of organised white-collar workers of the public sector undertakings, are not favourably disposed to the recent liberalisation measures. Actually public bureaucracy including the public sector skilled employees, constitute a significant interest group. Their strength emanates, partly from their privileged acquisition of modern education and various types of technical skills. But in a large measure their strength arises from their capacity to manipulate within a system of enormous State control over trade and industry. In the upper echelons of public bureaucracy the resistance to liberalisation is born out of their twin desires for power and extra benefits, both of which multiply in a system of economic regulation. At the bottom levels, however, the opposition to deregulation has its roots in their anxiety to maintain and promote job prospects.

If liberalisation measures undertaken by the government are implemented sincerely and more such measures are adopted, the influence of public bureaucracy in government decision-making is likely to fall markedly. Firstly, as their role in economic management will be minimum the number of posts in the ministries, dealing with economic matters, will decline significantly. So they will eventually lose the strength of number. Secondly, in a market-oriented economy the government officials have insufficient power of control. And, moreover, since in this sort of economy the government-private sector nexus is marginalised, the government officials find it difficult to generate extra income for themselves.

An important interest group comprises unionised industrial labour. However, the unions do not generally play a positive role with regard to the formulation of labour policy. Their conspicuous role has usually been one of criticising or resisting a government policy rather than initiating or influencing one. This is notwithstanding the fact that there are more than 25 million people employed in the organised sector.

There are some reasons for this. The internal division of the unions stands in the way of the possibility of their influencing public policy. There are nearly 40,000 registered unions, and at the summit of the union organisation there are 14 national federations formally linked to one or the other political party. Even the nation-level unions, industry-wide or category-wise, are fragmented. Hence, it is difficult for them to bring in requisite pressures on public policy mechanisms. Secondly, the conspicuous role even now of 'outside' leaders in the working class movement and the virtual absence of rank-and-file participation, deny the unions activity sufficient strength to influence the governmental decision-making. Lastly, the union movement does not generally have sufficient skill and expertise to effectively participate in the process of policy formulation. This limitation is in contrast to the sufficient skill mobilisation by chamber of commerce and industry. This in association with other advantages, enables the latter to influence meaningfully public policy-making concerning industrial relations. Whatever little influence the organised labour exercise upon the public policy-making, emanates from the connections the union has with political parties, principally the party/parties in power. It is frequently noticed that compared to industrial bourgeoisie and public bureaucracy, the unionised labour has an insufficient role in public policy-making. This is clearly evident from the fact that Government is pursuing greater liberalisation measures, notwithstanding the resistance of organised labour movement.

14.4 INTEREST GROUPS AND NATURE OF STATE

There are numerous, largely unorganised, interest groups, such as agricultural labourers or industrial workforce, employed in unorganised sector of the economy. These groups are not usually politicised, in the sense that, in the course of their growth, they do not deliberately make claims through or upon the institutions of government. In other words, unlike the organised interest groups these groups lack

effective access to decisional authority in government. However, their interests are not totally overlooked in the system of representative democracy which India has. In several states agricultural wages have been fixed through appropriate legislations. Similarly, for other unorganised groups whose demands are generally ineffective, public policy-making is directed to mitigating their grievances. In a representative democracy the activity and methods of organised interest groups are kept within limits, lest the interest of the unorganised groups are jeopardised. This is the view of the state based, as Lasswell says, on the recognition that "one belongs to a community with a system of paramount claims and expectations". All this, as Lasswell further says, "is frequently expressed as "sense of justice....".

This sense of justice constitutes the bedrock of a vigorous representative democracy. In India, as the numerous unorganised groups in combination control the bulk, of the electorate, it is difficult for the state to ignore wholly their interests. However, in India's representative democracy the sense of justice is incompletely expressed, and hence, it is frequently seen that the interests of the unorganised groups are not fully taken care of in public policy-making or in public administration. Even when legislations are made for the unorganised or weakly organised interest groups such as agricultural labourers or women, such legislations are not sufficient to ameliorate their grievances. In case policies are well-structured, they are generally half-heartedly implemented. This is mainly because the unorganised groups do not bulk prominently in the political process, as these lack the pressure of organised power.

In India the three demand groups, the industrial bourgeoisie, the affluent farmers and the public bureaucracy, separately or in combination have dominated the political process and so the public process. Hence, the general tendency of the public policy-making has been towards satisfaction of demands of these mobilised groups. The urban working class people, mainly because of their organisational splintering and 'outside' leadership, have not been able to significantly influence the public policies. In particular the affluent farmers as an interest group have recently gained in terms of the right of access and influence. This is because such groups have been able to mobilise and articulate the interests of the traditional caste institution, thus, as Rudolphs describes, blurring lines "between natural and voluntary structures". This blurring has given the farmers' associations much strength to influence public policy-making.

Check Your Progress 2

- Note:** i) Use the space given below for your answers.
ii) Check your answers with those given at the end of the unit.

- 1) Discuss the role of interest groups in policy-making.

.....

- 2) Why have the Industrial Labour Interest Groups failed to exercise pressures on public policy-making?

.....

14.5 LET US SUM UP

The meaning and characteristics of interest groups, the relationship between these groups and public policy, and the role of interest groups in policy-making has been discussed in this unit. Specific illustrations of distinct groups and their influence on policy-making have been analysed for clear understanding of the concept. Besides, characteristics of interests groups have been described in the unit. It explains the commonality of the members of a group in terms of their interests or shared beliefs or both, give them an enduring basis for working together. In the course of their growth they get organised and acquire the right of access to decisional authority in government. The level of their influence in public policy-making depends upon the level of their organisation and mobilisation. In a system of representative democracy, which India has, the interest groups influence political process through various ways such as funding election expenses of the parties, mobilising the support of the voters etc. The more organised an interest group is, the more influential it is in the political process, and so in the public policy-making. An organised interest group can effectively articulate and press its demands in the policy process in government. However, in a representative democracy, since it embodies the concept of justice, the claims of the unorganised groups such as women or agricultural labourers, are not totally neglected. But in India's representative democracy justice has not blossomed fully, and hence, the major tendency of the public policy-making is directed towards the claims of the dominant interest groups such as industrial capitalists or the rich farmers.

14.6 KEY WORDS

Aggregation of Interests: The process by which two or more political actors combine their demands to seek a political objective. Aggregation of interests within political systems is commonly performed by Interest Groups/Political Parties that seek, amid a welter of individual interests, some common denominator of principles, policies, and demands upon which all or most group/party members can agree.

Data: The facts, statistics, and other forms of information that provide the raw material for analysis.

Pluralistic: From pluralism, which means, heterogeneous institutions and organisations having diversified religious, economic, ethnic, and cultural interests existing in a modern society. Political pluralism describes a society in which power is widely distributed among numerous groups arrayed in shifting patterns of conflict competition, and co-operation with one another.

14.7 REFERENCES AND FURTHER READINGS

- Froman, Lewis A., 1966. "Some Effects of Interest Group Strength in State Politics", *American Political Science Review*.
- Jewell, Malcolm, 1962. *The State Legislature*, Random House : New York.
- Miller, A., 1962. *The Nature of Politics*, Gerald Duckworth : London.
- Turner, H.A., 1968. "How Pressure Groups Operate", *Annals of the American Academy of Political and Social Science*, Philadelphia.
- Zeigler, Harmon and Michael Baer, 1969. *Lobbying: Influence and Interaction in American State Legislatures*, Wadsworth : California.

14.8 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

1) Your answer should include the following points :

- These are organised groups with members having common objectives and carrying out programmes to influence government institutions, officials, and policies.
- Interest groups seek to influence decisions in the legislative, executive, and judicial branches.
- In these groups the attitudinal homogeneity emanates from the community of interests among their members.
- The critics of interest group politics point out that as these groups seek to push their interest without bearing the responsibility of governance, they seem to be a menace to representative government.

2) Your answer should include the following points :

- The activities undertaken by the interest groups provide a chain of linkage between the public policy and the environmental forces.
- The interest groups exercise influence on the policy-makers for such policies which serve their interests.
- The interest groups collect information and provide it to the policy-makers.
- In developing states, interest groups information content is not that rational, these have narrow parochial goals and are less farsighted in comparison to their counterparts in developed nations.

Check Your Progress 2

1) Your answer should include the following points :

- Interest groups occupy a place of significance in the process of policy-making.
- Such political systems which have less strong party systems witness more direct role of interest groups in policy-making.
- The interest groups help political parties securing seats in legislatures through mobilisation of funds and votes. In turn they expect favour through such policies formulated by the winning legislators which suit their ends.
- The groups exert pressures to successfully scuttle such policies which adversely affect the concerned groups' members.
- Dominance of surplus-producing rich farmers in all political parties has made the farmer lobby operate effectively in India's political system through policies suitable to their objectives.
- Because of the financial help extended to the policy formulators, the business community has got the advantage of extracting licenses, subsidies, and many other benefits from the government by way of various policies.

2) Your answer should include the following points :

- The nation-level unions, industry or category-wise, are fragmented.
- Conspicuous role of 'outside' leaders in the working class movement and virtual absence of rank-and-file participation.
- Lack of sufficient skill and expertise to effectively participate in the process of policy-making.

UNIT 15 POLITICAL PARTIES AND POLICY-MAKING

Structure

- 15.0 Objectives
 - 15.1 Introduction
 - 15.2 Political Parties : Meaning and Importance
 - 15.3 Political Parties in India
 - 15.4 Political Parties and Policy-Making
 - 15.5 Let Us Sum Up
 - 15.6 Key Words
 - 15.7 References and Further Readings
 - 15.8 Answers to Check Your Progress Exercises
-

15.0 OBJECTIVES

After studying this unit, you should be able to:

- Describe the meaning and importance of political parties;
 - Discuss the nature of operation of the political parties in a representative system of government;
 - Highlight the role of party system in aggregating various interests in the policy-making process; and
 - Understand the implication of party structures for policy-making in a democratic set-up.
-

15.1 INTRODUCTION

A political party is a group of individuals, often having some measure of ideological agreement, who organise to win elections, operate government, and determine public policy. It is a body of persons united for promoting national interests on some particular principles on which they all agree. Political parties normally do not confine to a limited number of issues. "A political party in the modern sense may be thought of as a relatively durable social formation which seeks office of power in government, exhibits a structure of organization which links leaders at the centres of government to a significant popular following in the political area and its local enclaves, and generates in group perspectives or at least symbols of identification of loyalty."

The general discussion in this unit is upon the nature and role of India's political parties in the context of public policy-making. The Indian political parties have been categorised, and their linkages with the interest groups have been identified. In this connection, two cases, one referring to policy-making at the national level and the other at the state level, have been discussed. How both these cases highlight the nature of connections between the ideological stances of the ruling political parties, the interest groups and public policy-making has been analysed.

15.2 POLITICAL PARTIES : MEANING AND IMPORTANCE

A democratic Constitution provides for a representative and responsible system of government. Concepts of responsibility and representation are woven into the fabric of a modern democracy. It is through this system that public demands are articulated, synchronised and converted into public policies.

Political parties initiate a process of opinion-formation on various issues and merge the opinions, with varying degrees of success, into some alternative policies. While the

representative system provides for periodical choices of such policies by the voters, such choices do not automatically lead to a coherent programme which the government can pursue. In order to formulate concrete public policies a government is obliged to compromise and reconcile the varying demands of sections of the people.

A political party is a group operating to secure the control of government. Obviously, the first important point about political parties is that they are groups with some degree of organisation and permanency. Here, they may be contrasted with the temporary political organisations such as Famine Resistance Committee, which are formed for the single purpose of concentrating on a particular temporary issue; and, moreover, on such organisations various political parties and voluntary organisations are represented. Political parties, on the other hand, have some degree of permanency, and they live by the strength of their organisation. Secondly, parties have definite aims and objectives. These are often a mixture of ultimate and immediate objectives. Besides, a recognition of material advantage that goes with the securing of power, is a force which motivates the party programmes. In the United States, as in many other countries the concern for material interests appears dominant. As Carl J. Friedrich points out, "What is mere observation of the actual working of the government points toward the conclusion that the ideal objectives are forced upon parties by struggle for gaining control of the government. It is a platitude of practical policies that the outs are invariably more emphatic in their advocacy of principles than the ins."

Thus the parties have an organisation and a programme combining ideal and material objectives. The programme, especially in its material aspect, reflects a blend of interests. Various interests find individual and group expression in party alignments. Parties in fact serve as convenient agencies for the expression of individual and group interests. The most vital interest determining party affiliation is held to be economic. Individuals are strongly motivated in political behaviour by their economic interests. This is, however, far removed from the Marxist assumption of economic determinism and its concomitant dichotomy of social classes. What is stressed here is that people tend to support and vote for the political party that holds the prospect of promoting their desired economic objectives in public policy-making. In terms of such interests parties can be categorised into Liberal, Conservative and Radical.

However, in policies and programmes parties actually unite sectional interests, as no party in a modern system of representative democracy can form a government by mobilising the support of one specific interest or section. Every party is obliged to the electorate beyond one or two specific sectional interests. At the same time, it is difficult for a serious party to surrender completely its ideological stance. Within the broad ideological framework a party makes compromises to come to terms with reality.

The most important function of a party is to collect the opinions of the variegated "publics" from the areas of society and carry them into the machinery of government for public policy-making. As MacIver says, "It is the agency by which public opinion is translated into public policy."

In appraising the role of parties in public policy-making three facets have to be kept in view. These are: 1) ideological stances, 2) organisational structures and 3) leadership. The first one, that is, ideological stances, has already been considered. The other two facets are equally relevant. As Maurice Duverger opines, "the present-day parties are distinguished less by their programmes or the class background of their members than by the nature of their organisation." He draws attention to the great variety of party organisation. The most interesting theme in Duverger's analysis is the classification of party structure. He mentions four types of structure. These are i) the caucus, ii) the branch, iii) the cell and iv) the militia. Most of the modern political parties operating in a democratic system, are branch parties having a centralised party structure with its basic units being distributed geographically in space. Delegates are elected by the branches and the regions to a central body which represents the highest policy-making body. However, within each party there is a caucus whose members are influentials and elites.

In this connection, the theory of party structure, as presented by R. Michels, is relevant. According to him, the party organisations fall victim to, what he calls, the 'iron law of oligarchy'. He says that the party leaders who hold positions of authority within the organisation or who hold positions of authority within the organised are not controlled by the individuals holding subsidiary positions in the organisation.

These leaders provide direction and guidance in party policies, and obviously, they exercise authority in public policy-making. In this connection the concept of hegemonic party is significant. This conveys the idea of a very strong degree of hierarchical control, and there is no real section of the leadership which commits the hegemonic party to responsible government. So there is a manifest tendency towards irresponsible public policy-making. Such hegemonic party formation, as experience shows, is possible even within a formal democratic framework.

Check Your Progress 1

Note: i) Use the space given below for your answers.
ii) Check your answers with those given at the end of the unit.

- 1) Discuss the important features of political parties.

.....
.....
.....
.....
.....
.....
.....
.....

- 2) Mention the facts which should be kept in view while appraising the role of parties in policy-making.

.....
.....
.....
.....
.....
.....
.....
.....

15.3 POLITICAL PARTIES IN INDIA

As has been noted in an earlier unit, a myriad of interest groups exist in India. In a pluralist society, like the United States, the parties aggregate the interests into public policies. However, in India, since some of the principal interest groups such as caste, are alien to the western society, and since, for many of the organised interest associations the areas of operation are limited, the parties do not perform the aggregative role as neatly as is done by their western counterparts.

Among all political parties in India, the Congress (I) performs most perfectly the aggregative function. This is mainly because the Congress, after Independence, eventually turned into a political party with the responsibility of governance. During the freedom movement the task of the party was to accommodate all the discrete interests in order to mobilise the entire country against colonialism. It was a subtle coalition of interests. However, as we will eventually see, this historical character of the Congress (Indian National Congress) got enormously diluted in the course of its governance of post-Independence India.

Formally, the Congress is a mass party with an extensive hierarchical organisation, the Working Committee being the apex executive body. However, almost from the beginning of post-Independence period, the iron law of 'oligarchy' started operating. From 1950-51 onward Nehru had complete sway over policy and politics, and set up an intimate core group the members of which acted as his mediators in intra-party conflicts at the state level. Later, with the rise of an extremely powerful leader, Indira Gandhi, especially from early 1970s, the Congress increasingly developed a hegemonic tendency. This resulted in an almost total collapse of the local units and the rise of a caucus at the summit. The sanction of normal democratic, federal system was rendered almost inoperative.

The Congress is a middle-range party whose ideological position is spelt out in terms of generalities. The Janata Dal too is a middle-range party. However, the heightened centralisation of the Congress is missing in the Janata Dal which is a strong advocate of decentralisation. Actually, the Janata Dal is an extremely loose and disjointed party with its erstwhile constituent units trying to project their former territories of influence. It does not seem to have a strong organisational centre. Besides, while in the Congress industrial and professional classes dominate, the influence of mobilised rural-agricultural interests seems strong in the Janata Dal.

The Bharatiya Janata Party (BJP) has an extensive organisational base in the States of the Hindi Heartland, and has lately extended its influence to some non-Hindi areas such as Karnataka. The BJP, is a cadre-based party and its organisational discipline lies in its ideological cohesion. It believes in the unity of the country through an assertion of the dominant Hindu culture. The BJP is the dominant rightist party. It is favourably disposed towards a strong national government and a deregulated economy. Its traditional social support base comprises the middle class, and the small traders and businessmen as well as a myriad of mainly city-centred Hindu fundamentalist groups. Lately, of course, a segment of the party's social group support is drawn from the locally dominant middle castes whose aspiration to influence national politics and policy is now being mediated through mobilised Hindu nationalism.

The Communist Party of India (Marxist) is the single most powerful among the leftist parties. Other leftist parties include the Communist Party of India (CPI), Revolutionary Socialist Party (RSP) and Forward Bloc. All these have their ideological roots in the Marxist brand of socialism. Naturally, therefore, these parties insist that economic development and management should receive priority in public policy-making. Besides, these parties are advocates of decentralisation and radical institutional reforms. However, these parties, taking into consideration the nature of the rural reality, have, at times, pursued the multiclass strategies, rather than concentrate solely on the agricultural workers and the poor peasantry.

There are several regional parties in India. These include the Telugu Desam in Andhra Pradesh, the AIADMK and the DMK in Tamil Nadu, the Akali Dal in Punjab and the Asom Gana Parishad in Assam. These parties made a good impression on the political process in 1989 elections, but have since declined considerably; with the exception of the AIADMK. These parties reflect strong decentralising tendencies in India's party system. They concentrate on the local issues, and have formulated demands for the federalisation of the Indian political system and for the greater autonomy for state governments. In other words, the parties seek to regionalise the public policy issues. Many of the parties represent the aspirations and demands of the locally dominant castes such as Jat Sikhs in Punjab or Kammas in Andhra or Vokkaligas in Karnataka or the newly mobilised politically aspiring Backward Communities such as Kapus in Andhra. However, the support of the castes for the parties does not remain stable.

These parties vary in terms of their influence upon public policy-making. The regional party/parties which are close to the national government, seem to exercise more influence. For in India's federal system, the national government has considerable policy authority; by comparison, the state governments have little power. In the existing configuration of political forces the AIADMK, which is in power in Tamil Nadu, is close to policy centres in New Delhi, as the Narasimha Rao government is dependent upon the AIADMK's support in the Lok Sabha for its continuance in power. But the Telugu Desam in Andhra Pradesh and the Akali Dal in Punjab, which are not in power at the state level, and at the same time, are in the

national opposition, find it difficult to influence the public policy-making. Thus, the strength of the regional parties to affect the public policies depends upon the extent of their rapport with the party/parties in power at the national level.

India's political party system thus comprises several elements. There are few national parties worth the name, and only two parties, the Congress and the Janata, have exercised power at the national level, the latter, however, being in power only for two short spells in 1977 and 1989. The Congress is more aggregative in its role performance than the Janata, although the industrial and professional classes seem to be more conspicuous than other interest groups in influencing the Congress party's political decisions. The Janata Dal is more oriented towards the interests of the rural-agricultural sections, especially of the backward castes. Hence, it has developed a certain/rigid posture which has denied the party a wider manoeuvrability to accommodate and aggregate the various interests of India's complex society.

The BJP is seeking a comprehensive role in political decision-making by aggregating the interests of the various groups. However, since, the party's ideology is turned to strengthening the unity of the country through an assertion of the dominant Hindu culture, the aggregative function is being performed within the boundary of the majority community. In its attempt to mobilise Hindu nationalism the BJP is trying to consolidate the various sections of the majority community. In particular, the party is trying to move from the earlier segmented Brahmanical Hindu identity to broaden the Hindu community across castes and regions. The overall outcome is a certain rise of Hindutva community as a conscious interest group.

For other political parties like the CPI(M) the aggregative role is minimum. This is mainly because the class ideology of the party, has an inbuilt bias for the toiling masses. However, the reality of India's electoral politics does not allow the party to pursue consistently its class ideology.

For it to acquire national status there is a need for a certain aggregative function however, limited, which the party performs. Nevertheless, the party like the essentially regional parties, is seeking to mobilise the region as a perceived interest group through constant centre-baiting and by asserting the regional claims in public policy-making.

Thus the parties in India perform a certain aggregative function just as in the USA. However, this function is not as neatly done by the Indian parties as by their American counterparts, there are marked differences in the ideological stances, organisational structures in the manner of operation of the Indian parties. Moreover, some of the organised interest groups have their limited territorial bases. For instance, the landless agricultural labourer and the poor peasantry are mobilised in the political process, and so in the public policy-making, only in some states, such as Kerala and West Bengal. They do not constitute organised groups nationally. Hence, in most of the states and at the national level, these sections are virtually outside the mainstream political party system and thus, outside the public policy role.

15.4 POLITICAL PARTIES AND POLICY-MAKING

It is necessary to view the nature and extent of connections between parties, interest groups and public policy-making within one framework. Let us discuss party politics and public policies from this perspective and in the context of some significant issues of development. One such issue relates to the role of the state in planning and managing economic development. The Congress Party, at its annual session at Avadi in January 1955, adopted a resolution affirming its faith in socialism. The resolution said: "In order to realise the object of the Congress... and to further the objectives stated in the Preamble and Directive Principles of State Policy of the Constitution of India, planning should take place with a view to the establishment of a socialist pattern of society, where the principal means of production are under social ownership and central production is progressively speeded up and there is equitable distribution of the national wealth."

In subsequent years the Congress reaffirmed the Avadi resolution, and took measures for executing it. At its annual session at Indore in January, 1957, the Congress amended its Constitution to read that the objective of the Congress was the

In conformity with this ideological parameter of the ruling party the basic objectives and strategies of economic development were formulated. And, these were embodied in the Second Five Year Plan (from 1956 to 1961). The central theme of the plan was an assertive proposal for capital intensive, heavy industrialisation, dominated by the public sector, which would set up the key industries and control the commanding heights of the economy. The private sector was assigned a relatively insignificant role, that is, "to play a complementary role in the mixed economy".

This model of economic development was not derived from indigenous wisdom as embodied in Gandhian blueprint of development; it was patterned largely after the experience of Soviet Union mellowed by Fabian Socialism. Its principal objective was to turn India into a modern industrial power. The other aims of development such as, agricultural growth, the augmentation of job opportunities, etc. were subordinated to this principal strategy as focussed in the Second Five Year Plan.

However, from early 1980s, the controversy regarding the relative roles of public and private sectors, emerged again. An important segment within the Congress (I) adopted a critical stance about the performance of the public sector which increasingly became huge loss-incurring units. There also arose an extensive criticism against the state regulation of private investment. This influenced the thinking of the leadership, especially the ruling oligarchy of the Congress (I). In particular, Rajiv Gandhi successfully "resisted demands for a reinstatement of the earlier public investment strategy and instead shifted the balance in the planning process in favour of private investment while taking several modest measures to liberalise the licensing, import control, and foreign trade regimes which have been criticised for restricting private enterprise and for distorting and corrupting the entire development process"

Thus, there took place a shift in public policy regarding the role of State in industrial development. This, however, evoked mixed reactions. Some opposition parties, especially the leftists, started seeing in this new public policy the gradual abandonment of the socialist framework, which, in the beginning, acted as a basis for legitimising change. While the right-wing opposition parties and sections of professional economists and jurists welcomed the shift.

During the last few years from opposition to government control of the national economy has increased. The popular discontent against the appalling performance of the public sector enterprises, has further strengthened such opposition. The severity of the mounting economic crisis, as evidenced by unmanageable balance of payment difficulties in the recent months, made the P.V. Narasimha Rao government opt for extensive liberalisation measures. The enormous pressure from the World Bank and the IMF, made this choice unavoidable for the government which looked to those institutions for assistance to tide over the balance of payments crisis. As the Statement on Industrial Policy says, "The attainment of technological dynamism and international competitiveness requires that enterprises must be enabled to swiftly respond to fast changing external conditions that have become characteristic of today's industrial world. Government policies and procedures must be geared to assisting entrepreneurs in their efforts. This can be done only if the role played by the Government were to be charged from that of only exercising control to one of providing help and guidance by making essential procedures fully transparent and by eliminating delays." To do this, as the statement further says, "industrial licensing will henceforth be abolished for all industries", except for those having overriding security, social and environmental considerations. The main objective is "to unshackle the Indian industrial economy from the cobwebs of unnecessary bureaucratic control".

This policy of liberalisation, however, has had an effect upon the behaviour of India's party system. A segment of the ruling party seems to believe that this policy marks a departure from the Nehruvian model of development and may eventually marginalise the role of public sector. The Janata Dal and the left combine are opposed to this policy, as large-scale retrenchment in the wake of the closure of public sector enterprises is apprehended. Moreover, the government's policy of encouraging multinational corporations to do business in India, and of having greater links with the IMF and the World Bank, is likely to imperil India's economic sovereignty.

Let us now view public policy-making at the state level in the context of party politics. A specific case study concerning democratic decentralisation in the state of Karnataka, is taken for this purpose.

The recommendation of the Team for the Study of Community Projects and National Extension Services headed by Balvantray Mehta, that "public participation in community works should be organised through statutory representative bodies", constituted the foundation of the new panchayati raj which emerged in India in late 1950s and early 1960s. The Study Teams' report was accepted by the Government of India, and later, the National Development Council affirmed the principles of democratic decentralisation as enunciated by the Team, but left it to the states to work out the details. However, since the Congress party was in power at both central and state levels, the basic structure of democratic decentralisation as recommended by the Balvantray Mehta Study Team, was found acceptable to the states.

In conformity with the basic recommendations of the Team, the Congress government of erstwhile Mysore framed an appropriate legislation called Mysore Village Panchayats and Local Boards Act, 1959. Under the Act, popularly elected taluk development boards were set up and came to constitute the principal rural centres of democratic decentralisation. But, in contrast, the new district-level local body christened the district development council, of which the Deputy Commissioner was the ex-officio chairman, lacked popular base and was not assigned any important role.

In 1983, the people of Karnataka removed the Congress Party from power and elected a new government. The new ruling party, the Janata Party, and the other constituent units which fought the elections on a common platform, had an ideological commitment to change the grassroots system of governance in order to enhance the power of the people. The idea "Power to the people" received a conspicuous place in the election manifesto.

Since the idea was endorsed by the people, the first task of the Janata government was to translate this idea into action. In the first Cabinet meeting itself it was decided to begin the legal process for setting up people's institutions at the district and village levels. The government enacted a legislation which came to be later known as the Karnataka Zilla Parishads and Mandal Panchayats Act. This was more or less based upon the principles formulated in the Report of the Ashoke Mehta Committee which was set up by the Janata Party, when it was in power at the centre, in late 1970s.

Since the ruling Janata Party did not possess an absolute majority on its own, it had to accept certain compromises enforced by the Congress opposition. Besides, although the bill was sent for President's assent towards the end of 1983, it received the assent only in the second week of July 1985. It shows that for policy-making at the state level there is an inbuilt constraint in India's federal system.

Check Your Progress 2

Note: i) Use the space given below for your answers.

ii) Check your answers with those given at the end of the unit.

- 1) Mention the names of any three Regional Parties. Discuss the important characteristics of Regional Parties.

.....

.....

.....

.....

.....

.....

.....

.....

- 2) Highlight the role of Congress Party in policy-making over the years.

15.5 LET US SUM UP

The evolution of India's political economy seems to have created a situation where several earlier axioms and assumptions have been rendered obsolete. The new economic policy initiated recently by the Congress government at the centre aims at growing deregulation. Behind this major shift in public policy in economic development lie two causes 1) profound economic crisis and 2) pressures of the international financial institutions, such as the IMF and the World Bank for liberalisation and linking the national economy to the global economy. However, this move seems to have impaired the initial interparty consensus on growth within a socialist framework which had acted, for the first three decades of development, as a basis for legitimising change.

With the vast erosion of this consensus the political party system appears to be heading towards polarised politics. An intense resistance to the reversal of the earlier economic policies is arising among segments of the opposition. The Left parties and the Janata Dal have come together to mobilise public opinion against the new policies which, it is feared, will lead to closure of many public sector undertakings and surrender of economic sovereignty. At the same time, there seems to be a growing convergence in views between the ruling Congress Party and the principal opposition, the BJP on the usefulness of the new economic policies. However, there are some issues, such as Mandir-Masjid at Ayodhya and public policy-making, on which the BJP and the ruling Congress do not agree, but on which the Leftists, the Janata Dal and the Congress agree substantially. Similarly, on the Mandal and reservation issue, most of the parties do not agree with the Janata Dal.

Thus the party system in India reflects the forces of both fusion and fission. Both these forces contribute to the public policy-making processes. The result is that the perfect aggregation of interests is not done through the party system in the area of public policies. This, at times, has the effect of segmenting and polarising party politics. What happened in the wake of emergency rule in 1975, the Janata Dal government's policy of reservation in 1990, and the Congress government's policy of liberalisation in 1991, shows in an intense form, the nature of interactions between party system and public policy-making in India.

15.6 KEY WORDS

Colonialism: The rule of an area and its people, by an external sovereignty, that results from a policy of imperialism. Historically, two broad types of colonialism can be identified: (i) that which involved the transplanting of immigrants from the mother country to form a new political entity; and (ii) that which involved the imposition of rule over the technologically less-developed, indigenous peoples of Asia and Africa. In either case, the colony was established to advance the military security, economic advantage, and international prestige of the imperial power.

Ideology : The “way of life” of a people reflected in terms of their political system, economic order, social goals, and moral values. It is particularly concerned with the form and role of government and the nature of a state's economic system. Ideology is the means by which the basic values held by a party, class, or group are articulated.

Interests Aggregation : The process by which two or more political actors combine their demands to seek a common political objective. Interests aggregation within a political system is commonly performed by political parties that seek, amid a matter of individual interests, some common denominator of principles, policies, and demands upon which all or most party members can agree.

15.7 REFERENCES AND FURTHER READINGS

Hartman, H. 1982. *Political Parties in India*, Meenakshi Prakashan : Meerut.

Hasan, Zoya (et al.), (Eds.). 1989. *The State, Political Processes and Identity*, Sage : New Delhi.

Kothari, Rajni (Ed.), 1967. *Elections and Party System in India*, Allied : New Delhi.

Kothari, Rajni, 1989. *Politics and the People*, Ajanta Publications : New Delhi.

15.8 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

1) Your answer should include the following points :

- Political Parties initiate a process of opinion-formation on various issues and merge the opinions, with varying degrees of success, into some alternative policies;
- It is a group operating to secure the control of government;
- Political Parties have an organisation and a programme combining ideal and material objectives; and
- Parties unite sectional interests.

2) Your answer should include the following points:

- Ideological stances;
- Organisational structure; and
- Leadership.

Check Your Progress 2

1) Your answer should include the following points:

- Regional Parties reflect strong decentralising tendencies in India's party system;
- They concentrate on local issues;
- They seek to regionalise the public policy issues;
- These parties vary in terms of their influence upon policy-making; and
- Telugu Desam in Andhra Pradesh, AIADMK in Tamil Nadu, and Akali Dal in Punjab.

2) Your answer should include the following points:

- The Congress is a mass party with an extensive hierarchical organisation;
- The Congress party adopted a resolution affirming its faith in socialism at its annual session at Avadi in January 1955 and later took measures for executing it;
- The basic objectives and strategies of the country's economic development were formulated in conformity with the ideological parameter of the Congress party; and
- The shift in public policy regarding the role of the state in industrial development also has the Congress party's ideological stance to support it.