

INDIA HAS BEEN GROANING UNDER ILLUSIONS OF BEING “A FREE DEMOCRATIC, SOVEREIGN, SOCIALIST, SECULAR REPUBLIC”

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1. Introduction

India was granted freedom with effect from the midnight of 14 - 15 August 1947 through an act, called “Indian Independence Act 1947” passed by the British Parliament. Essentially, this Act created two independent dominions, India and Pakistan, carved out of what was British India and provided for the lapse of suzerainty of His Majesty the King of Great Britain over the Indian States as well as of any treaties or agreements with persons having authority in the tribal areas. The legislature of each of the two dominions became free to enact without its Governor General having to seek the assent of His Majesty to that enactment into law. No Act of Parliament of the United Kingdom and no order-in-council would be operative in any of the two dominions after that day. However, each dominion would continue to be governed as per the provisions of the Government of India Act, 1935, the latest of such Acts in force at that time, until the dominions framed their own constitutions through their Constituent Assemblies. The Governor General of each dominion was to be appointed by His Majesty as his representative for the government in the dominion.

The earlier Government of India Acts and their dominant features are as follows:

- i.** *Government of India Act 1858*, under which India became a formal Crown Colony and the British Government took over administrative functions from the British East India Company following what was termed as Sepoy Mutinee in 1857.
- ii.** *Government of India Act 1907*, which introduced the elective principle.
- iii.** *Government of India Act 1919*, which introduced provincial diarchy where in some “nation building” subjects would be in the hands of elected ministers while core subjects such as finance and law & order would continue to be in the charge of officials appointed by, and responsible to, the governor and ultimately to the British Parliament.
- iv.** *Government of India Act 1935*, which granted Indian provinces autonomy, ending diarchy introduced by the 1919 Act. Direct elections were introduced for provincial assemblies, enabling the party having majority to form government. However, Governors enjoyed discretionary power in critical areas, severely limiting the effectiveness of elected state governments.

2. Framing of the Constitution (1)

Ever since India came under direct administrative control of the British Government in 1858 and became a Crown Colony, it was ruled under a set of justiciable rules and regulations called Government of India Act passed by the British Parliament. These acts were thus constitutions for governing a colony for the ultimate purpose of exploitation of its natural as well as human resources for the primary benefit of the colonizing empire. Such a governance was markedly different from that under 'Mughal Kings' or 'Rajas' or 'Maharajas' of Indian princely states or even under British East India Company, where governance was based on awe and arbitrariness. Under the British rule over India, while the traditional awe of the Indian masses for their rulers was taken advantage of for His Majesty's or Her Majesty's government, arbitrariness in governance was seemingly done away with under the cloak of colonial constitutions. While the fundamental, dominant and ultimate objective of a colonial governance was the exploitation of the colony for the primary benefit of the colonial masters, the objective was sought to be achieved through an ingeniously devised governance system based on awe and 'Rule of Law'. This provided both legitimacy and sustainability to the government. While the exploitation-based benefits accrued primarily to the colonial masters through the instrumentality of colonial governance, it secondarily benefited the agents who operated the governance instrument or who helped operate it, either Britishers or Indians, and the exploited masses got the tertiary benefits in the form of certain rudimentary services like railways, post and telegraph, hospitals, schools, colleges, irrigation and roads. These services, however, were primarily set up and run for facilitating the operation of the instrument of colonial governance and thus became incidentally available to the people. Modifications of the Government of India Acts, or colonial constitutions, had to be done from time to time in response to and to accommodate the emerging situational changes, keeping the primary object intact. The Indian national movement was waged initially to seek changes in, or repeal of certain laws which were considered unjust, abhorrent, oppressive or torturous. In the progression of this movement, it was Gandhi who first referred to the need of framing a constitution for India in 1922 soon after the inauguration of the Govt. of India Act 1919. A National Convention was convened in 1923 under the presidentship of Sir Tej Bahadur Sapru, which drafted "Commonwealth of India Bill", which was finalized in an All Parties Conference presided over by Gandhi in 1925. This was sent to a member of the Labour Party, then in power in Britain, but could not be passed by the British Parliament in spite of its wide support among the Labour Party members. Since then, there had been a consistent demand by the Congress Party voiced through resolutions passed by its Working Committee, the Annual Sessions and All Parties Conferences for having a Constitution of India framed by a Constituent Assembly comprising representatives of the people of India elected on the basis of adult franchise. In response to this demand, the British Government offered only certain constitutional reforms and finally enacted the Government of India Act 1935 to satisfy the Indian aspirations. This, however, failed to do that as it was imposed by an outside authority and contained repugnant provisions. Although the Congress Party contested elections to the provincial legislatures, as per provisions of this Act, they did so on the issue of total rejection of this Act as well as on the demand for a new Constituent Assembly. On coming out victorious in these elections,

they reiterated their demand for constituting and convening a Constituent Assembly to frame a new constitution for a free India. Gandhiji also wrote in an article titled “The Only Way” published in the Harijan of 19 November 1939, “Constituent Assembly alone can produce a constitution indigenous to the country and truly and fully representing the will of the people”. Finally, with the Labour Government coming into power in England, the demand for election-based Constituent Assembly was conceded as part of its Indian Policy announced in September 1945. For the sake of expediency, the Constituent Assembly was constituted by members elected by the members of the Provincial Assemblies, for which elections were recently held in 1946, on the basis of proportional representation with single transferable vote, roughly representative of the population and different religious communities (Muslims, Sikhs and General) inhabiting that province. The number of members representing the people of Indian States was also fixed on this basis. Additionally, four members representing the four what were called Chief Commissioner’s provinces, one from each, were also included in the Constituent Assembly. The Constituent Assembly thus formed first met on 9 December 1946. The historic Objectives Resolution was moved in this Constituent Assembly on 13 December 1946 by Jawahar Lal Nehru, the then Prime Minister in the Interim Government of India and was finally adopted by the Assembly on 22 January 1947. This resolution envisaged a federal polity with the residuary powers vesting in the autonomous federating units and sovereignty belonging to the people. This formed the guiding principle of constitution making. When India became independent as per the Indian Independence Act 1947, the Constituent Assembly, which was already in place, became a fully sovereign body, which could abrogate or alter any law made by the British Parliament applying to India including the Indian Independence Act itself. Dr. B. R. Ambedkar, Chairman of the Drafting Committee appointed by the Constituent Assembly on 29 August 1947 submitted the Draft Constitution of India to the President of the Constituent Assembly, Dr. Rajendra Prasad on 21 February 1948. Several comments, criticisms and suggestions for amendment of the Draft Constitution were received which were examined by a special committee and certain of their amendments were incorporated in the Draft Constitution, which was submitted to the President of the Assembly on 26 October 1948. A clause by clause consideration of the Draft Constitution went on for about a year in the Constituent Assembly through mandatory three readings after which it was finally passed by the Constituent Assembly on 26 November 1949. On that day, the people of India through a representative Constituent Assembly, “adopted enacted and gave to themselves” a Constitution. This Constitution was finally signed by members of the Constituent Assembly on 24 January 1950, the last day of the Constituent Assembly and came into effect on 26 January 1950 when India ceased to be a dominion of the His Majesty’s Government and became a republic.

3. Evolution and Progression of the Indian Republic

India does not possess any significant historical experience of having been a republic, particularly on such an extensive territorial jurisdiction. In the Magadh-Maurya period up to the Gupta period (4th century B.C. to 7th century A.D.), we get historical accounts of a few republics, but they prevailed over some cities or rather small areas. The Lichchvi republic in the contemporary Vaishali district in North Bihar was one such

republic about which detailed and colorful accounts are available. Excepting these instances, India had always and dominantly been under kingships. Under the colonial period when the British Parliament controlled the Indian Government, India was a colony of the British Empire reigned over by His Majesty the King or Her Majesty the Queen of the United Kingdom. They were even titled as Empress of India or Emperor of India. Even in the pre-historical or mythological periods such as Ramayana or Mahabharata periods, India has been depicted to have been ruled over by benevolent kings. This helped in engendering an attitude of reverence and obedience of the Indian people towards their kings or queens. This was one of the significant factors for endurance of the colonial rule over India, attendant with national degradation and the exploitation of its natural and human resources for the immoral benefit of the colonial masters.

It will be of great interest and instructive to see how India as a republic has evolved and progressed over the years and decades since it became a republic almost for the first time in its long history of thousands of years, and how or whether the picture of national degradation and exploitation characterizing the colonial period changed. Although it will be difficult to depict this picture in all its details, its outstandingly salient points will be equally difficult to fail to notice and even be affected by them. These are as follows:

- i.** *Political Degradation:* Political life on a national or regional scale became visible during national movement for freedom. The person who acquired the status of the national leader of this movement was undoubtedly Mohandas Karamchand Gandhi. The politics of Gandhi based on truth and nonviolence was almost at a spiritual level. Other national, regional, provincial and even grass-roots leaders who participated in this movement were all under Gandhi's spell and imbibed his spirit and philosophy of the political struggle being waged under his leadership. Honesty, sacrifice and a sense of service characterized the political and even personal lives of these leaders. People held these leaders in high regard. From this high pedestal of practice of politics in those days to the depths of degradation that current 'no holds barred' practice of politics has hit is patently obvious to any observer of national life in India. Such a steep fall in national political morality is probably unique in the world and this fall has been rather systematic and growing worse with time.
- ii.** *Corruption:* Another feature of contemporary national life is the rampant corruption stalking all walks of public activities and interactions and at all levels. Apart from the fact that people participating in these activities and interactions really encounter and experience corruption in the dealings, there is a wide-spread perception in people's minds that corruption has become a way life and that prevalence and magnitude of corruption have increased with time in the republic of India. In the colonial period also, corruption existed in the governmental dealings but its prevalence was limited, was well-integrated in the governmental transactions and was widely accepted as part of colonial governance. In the republic of India, corruption proliferated with the increase in scale and scope of governmental activities. While the scale of corruption increased in the traditional departments where corruption existed in the colonial period, corruption entered

other and new departments where there was any scope of corrupt practices. Moreover, corruption afflicted not only the lower levels of governmental hierarchy but even the higher levels did not remain immune to this virus. The much publicized Mundhra scandal brought to light on the floor of the Parliament in 1958 exposed a high level corruption perpetrated in complicity with the highest government officials under the Ministry of Finance, Govt. of India. This case, when exposed, was promptly investigated through a judicial commission and the guilty persons and officials were indicted and punished as per law. The finance Minister was also advised to resign, and he did, in view of his constitutional responsibility for the deeds done by the officials under his ministry. This incident indicates both the existence of corruption even at higher levels of government as well as the existence of political morality and virtue at the highest levels in the initial years of the republic. This latter proved to be a vanishing quality of our politicians in later years of the republic. Apart from a plethora of cases of corruption at high levels of government officialdom coming to light from time to time, a number of scandals involving massive amounts of money have surfaced in the last several decades, such as the Harshad Mehta scandal, Telgi scam, Bofors scandal and Fodders scandal with definite evidence of political connivance and complicity. However, as distinct from the Mundhra scandal, the transparency, the promptness and even the credibility of the investigations in all these cases were woefully lacking. In recent years, the canker of corruption has crept into even among the members of the legislative bodies and judiciary. Thus, the whole body politic of the republic of India is afflicted with this debilitating disease which has been getting worse with time.

- iii. *Social Unrest and Criminality*: The republic of India has witnessed increasing social turmoil and unrest over the past years and decades. Historically and traditionally, Indian society had never been homogeneous in terms of religion, castes and creeds. This heterogeneity, however, was not only well tolerated, but was well accepted, integrated and assimilated in the social fabric of India, even contributing to its cultural diversity and richness. In the run up to the political independence of British India, the Indian society, much against its ethos, was sought to be brutally divided in the name of religion, probably with the covert connivance and even machination of the colonial power which understandably was loath to part with the most precious colony of its Empire, leading to partition of the country alongwith or as a price of its political independence. However, even in the Indian republic, which never subscribed to the notion of religion as the basis of a nation-state and even formally declared itself to be secular, communal feeling has been agitated and instigated for political ends. Furthermore, in the Indian republic, the caste cleavage in the society has been activated in the pursuit of political power, leading to social tensions on this account. On a national scale, even regionalism and provincialism are openly advocated as virtue, expressly for political ends. In a society where the rich and the poor have traditionally lived in harmony for centuries, this divide is getting increasingly strident and rancorous in the Indian republic.

The social tensions on account of various divides in the society of the Indian republic are mostly instigated for political ends by vested interests and often result in violence. Sometimes, these divides are taken advantage of and used for anti-national, insurgent and terrorist activities by certain groups.

Apart from the social divides and resulting violence, criminality has also crept into the society, threatening its peace and stability. Criminality on account of economic reasons has long existed in the Indian society, albeit on a much smaller scale. What is of concern is its practice for political purposes with its increasing acceptability in the society. In a society where the long struggle for political independence of the nation was waged on the principle of non-violence, it is a shame that criminality is resorted to, not only with impunity but with acceptability, for petty political gains. This has given rise to a nexus of politics and criminality. While previously, politicians did not hesitate to take the help of criminals, promising them suitable rewards, these days the criminals are entering corridors of politics and power for greater rewards.

- iv. *Impoverishment:*** The prime motivation for waging a national struggle for political independence by its supreme leader Mahatma Gandhi was the ruthless exploitation of the masses of India to their bones by the colonial power and their resulting poverty. It was clearly envisaged that impoverishment of the masses would stop and they would progress towards their legitimate prosperity commensurate with the natural and human resources of the nation, once the exploitative colonial governance was put an end to. This prospect is far from realized even after six decades of political independence and advent of the republic. While the rich have become richer and new pockets of affluence have come up immorally benefiting from political degradation, corruption and criminality, the masses have not been extricated from the depths of destitution. While famines, pestilence and other extreme conditions threatening human lives have been mostly controlled, the severity and prevalence of poverty have not been appreciably reduced in the Indian republic. The process of impoverishment has further been aggravated with the advent of the so called economic reforms, i.e., liberalization, globalization and privatization of the economy and entry of the multinational companies in the Indian market. While this has given rise to new pockets of affluence in the related sectors of economy, such as information technology, entertainment industry, advertising, financial institutions, retail business and even such vital social sectors as health and education at the expense of the consuming masses, the relatively poor among them have been further marginalized. The economic disparity in the society has further been widened in the process.

As mentioned earlier, it will be difficult to describe all the details of the picture of national life having diverse dimensions and perspectives as the Indian republic has evolved over the last six decades. The four aspects, i.e., political degradation, corruption, social unrest and criminality and impoverishment discussed above capture the broad and dominant aspects of national life of the Indian republic. Apart from these aspects, there are many other perversities and anomalies in our national life indicative of deeper crisis of the Indian republic.

Just one example is given here for illustration. The performance of the country having the second largest population in the world and inheriting one of its oldest and richest civilizations at globally comparative and competitive assessment of achievements and performances is rather shameful. While two Nobel Prizes were awarded to Indians for their work done in India (to Rabindra Nath Tagore for Literature in 1913 and to Dr. C. V. Raman for Physics in 1930), no Indian has got any Nobel Prize for his or her work done in the Indian republic so far. Three persons of Indian origin who received Nobel Prizes since India became a republic (Dr. Har Govind Khurana in 1968, Dr. S. Chandrashekhar in 1983 and Dr. Amartya Sen in 1998) were born and brought up in British India but did their works of reward in Canada, U.S.A or U.K. and have also settled there. Similarly, in Olympic Games, the performance of India has been rather shameful. In the recent Olympic Games held in Beijing in August 2008, India won just one Gold Medal and that too after 28 years and the first ever individual gold medal, while China won 51 Gold Medals. While India got Gold Medals for the game of Hockey 8 times since 1928, it has drawn blank in this game for the last 28 years.

4. Analysis of the Evolution of the Republic: Inner Contradictions and Illusions of the Constitution

If the evolution and progression of the Indian republic in the four critical aspects of national life are appraised dispassionately and objectively, it will be apparent that the record of the republic is wholly dismal. Also, it can be seen that it has been becoming worse systematically with time. This clearly shows that it is not the individuals who are to be found fault with for this systematic decline of the republic. In fact, during the republican period, we had many politicians of vision, virtue and integrity, bureaucrats and technocrats of outstanding caliber, social reformers and distinguished spiritual preachers having large groups of followers in conjunction with the religiosity of the people, high intellectual potential of the educated youth and the simple, toiling masses. The decline of the republic has distinctly been taking place in spite of these positive features of the republic. This leads to the inescapable conclusion that the decline of the republic in vital spheres is systemic, i.e., it is due to the infirmities, inadequacies, inappropriateness and/or inner contradictions of the system that operates the republic and specifies the rules of the game. This is clearly the Constitution of India.

The framing of the Constitution by the Constituent Assembly has been indicated earlier. When Dr. Ambedkar, the Chairman of the Drafting Committee introduced the final Draft Constitution in the Constituent Assembly on 4 November 1948 for its mandatory three readings before it was passed, certain criticisms were made by the members, two of which were vital and fundamental. One was that there was very little in it that could claim originality, as it was a blind copy of the constitutions of other countries. This criticism was glossed over by Dr. Ambedkar in his reply to this. Nine years earlier, Gandhi who always accorded high priority and importance to the framing of the Constitution in the Indian independence struggle that he led, had expressed his view in this regard in an article titled "The Only Way" in the Harijan of 19 November 1939, "Constituent Assembly alone can produce a Constitution indigenous to the country and truly and fully representing the will of the people". Thus, the criticism is fully validated

by Gandhi's view. Another criticism of substance of the Draft Constitution was that it was based for the most part on the Government of India Act, 1935. Dr. Ambedkar accepted that it was so, didn't see anything wrong in this and was not apologetic about it. As the 1935 Act specified the governance structure of India under the colonial rule, the constitution ensured a continuance of the same governance structure for the republic of India. While the Constitution rejected the British rule over India, it retained the institutions of governance that had developed during the period of long British rule and thus wittingly or unwittingly, ensured the continuance of the same ethos of governance. This ran counter to the fundamental stand of the Congress Party and to the basic premise of the freedom struggle waged under the leadership of Gandhi and on the basis of which Gandhi gave a clarion call to the people to participate in the struggle. The Congress had contested elections to the Provincial Legislatures in 1937 on the issue of total rejection of the 1935 Act. On several occasions Gandhi emphasized that our freedom struggle was aimed at eradication of the British system of government established by law in India and not necessarily against the British people in India, either in the government or otherwise. While deposing before a British Judge in a court in Ahmedabad in March 1922 in a case in which he was charged with sedition for three of his articles published in his magazine *Young India*, Gandhi accepted the charge and said "I have no desire whatsoever to conceal from this court the fact that to preach disaffection toward the existing system of government has become almost a passion with me". On another occasion in the deposition, he said about the system of government as 'a system which I considered had done an irreparable harm to my country'. While maintaining that the town dwellers were assisting the government in various ways for loaves and fishes which he termed as brokerage they got for the work they did for the foreign exploiter at the cost of the Indian masses, he said about them "...little do they realize that the government established by law in British India is carried on for the exploitation of the masses". In this deposition, he decried the operation of the system in the following way, "In my opinion, the administration of the law is thus prostituted consciously or unconsciously for the benefit of the exploiter.

The greatest misfortune is that Englishmen and their Indian associates in the administration of the country do not know that they are engaged in the crime I have attempted to describe. I am satisfied that many Englishmen and Indian officials honestly believe that they are administering one of the best systems devised in the world and that India is making steady though slow progress. They do not know that a subtle but effective system of terrorism and an organized display of force on the one hand, and the deprivation of all powers of retaliation or self-defense on the other, have emasculated the people and induced in them the habit of simulation. This awful habit has added to the ignorance and the self-deception of the administrators"(2).

About the reforms that were introduced from time to time in the British system of governance, he stated, "I saw too that not only did the reforms not mark a change of heart, but they were only a method of further draining India of her wealth and of prolonging her servitude." In defending himself from his point of view, he said, "But I hold it to be a virtue to be disaffected toward a government which in its totality has done more harm to India than any previous system. India is less manly under the British rule than she ever was before." Finally, he concluded his deposition at the trial as follows, "Nonviolence implies voluntary submission to the penalty for non-cooperation with evil.

I am here, therefore, to invite and submit cheerfully to the highest penalty that can be inflicted upon me for what in law is a deliberate crime and what appears to me to be the highest duty of a citizen. The only course open to you, the judge, is either to resign your post, and thus dissociate yourself from evil if you feel that the law you are called upon to administer is an evil and that in reality I am innocent, or to inflict on me the severest penalty if you believe that the system and the law you are assisting to administer are good for the people of this country and that my activity is therefore injurious to the public weal.”

The above mentioned excerpts of Gandhi’s statement at his trial on the charge of sedition by a British judge at an Ahmedabad Court in 1922 unequivocally states what the freedom struggle was aimed at and why. He explained this tenet of the freedom struggle to the Indian people, educated them about it and called upon them to join it by traveling through the length and breadth of the country and giving hundreds of speeches for seven months soon after his tenet and strategy of the struggle was fully endorsed and adopted by the Indian National Congress party in 1920. The Indian people overwhelmingly responded to his call and joined the struggle, thus turning what was earlier confined to the middle class elite of the Indian society into a truly mass movement. Gandhi always laid stress on our Constitution being indigenous, based on the genius and values of the Indian people and addressing their needs. Unfortunately, due to his unforeseen demise he himself could not make any direct impact on constitution making. In this view of the matter, the Constitution of India incorporating most of the structure and provisions of the Government of India Act, 1935 is the antithesis of the basic tenet of our freedom struggle and in a way, is a betrayal of the masses and their supreme leader who fought, suffered and died for India’s freedom.

Primarily an account of these two features of the Indian Constitution, which were criticized even in the Constituent Assembly, i.e. (i) its not being indigenous and its many constitutional ideas and concepts having been copied as such without any transformation and integration in the totality of the Indian Constitutional framework, and (ii) its largely being based on Govt. of India Act 1935, thus imposing continuance of the ethos and structure of colonial governance for the republic of India, it creates myths and illusions about key constitutional declarations and consequently it is beset with inner contradictions. The Constitution, which has been framed for a free India, in its Preamble declares India to be a “Democratic, Sovereign, Socialist, Secular Republic”. The terms socialist and secular were not there in the original constitution adopted on 26 January 1950. They were added through the 42nd constitutional amendment made in 1976. The illusions and myths with regard to this basic declaration made in its Preamble and consequent inner contradictions are indicated as follows:

- i. *Myth of Freedom:* The Constitution has been framed for governance of ‘free’ India. ‘Free’ cannot be an absolute term, it is always with reference to something which is binding, restraining, constraining or enslaving. In this case, India was earlier enslaved by colonial governance. This colonial governance was overseen by the British Parliament under the titular sovereignty of His Majesty, the King of the U.K. On 15 August 1947, the Indian Independence Act 1947 passed by the British Parliament became operative, through which certain parts of British India, newly constituted and named as India (the remaining parts were newly constituted

and named as Pakistan) became free of any authority of the British Parliament but still under the titular sovereignty of His Majesty and still subject to its governance by the Government of India Act, 1935 until India framed its own constitution, for which it was free. Through a Constituent Assembly which was as much representative of the people of India as it was considered expedient at that time, it framed a Constitution, 75% of which was based on Govt. of India Act 1935, which was meant and designed for colonial governance. As the freedom struggle was waged to get rid of this very system of governance, which was condemned as an exploitative and degrading mechanism, we chose to subject ourselves to the same mechanism through the Constitution made operative on 26 January 1950. From this point of view, India did not get freedom for which India's long and glorious freedom struggle was waged either on 15 August 1947, the Independence Day or on 26 January 1950, the Republic Day.

- ii. *Illusion of Democracy*: We take pride in India being the largest functioning democracy in the world. Democracy as it functions is defined by the Constitution. As per this Constitution, all Indian citizens above the age of 18 years have a right to vote, normally every 5 years, in order to elect the representatives of their specified respective constituencies for the union legislative body (Lok Sabha) and for their respective state legislative bodies (Vidhan Sabha). At the time of election, the electors, or the people eligible to vote, have the option to vote for one of the contesting candidates or for none of them. However, they have no role in deciding who these candidates will be or should be. That is decided by the respective political parties which have their own hierarchy and command structure for the purpose. Henceforward, the citizens have no role, let alone right, in the formation of the governments at the centre or in the state. Once having cast their votes, the electors have no role in determining how their elected representatives act or behave with relation to the formation or change of the governments. Formation of the government means election of the Prime Minister (PM) or the Chief Minister (CM) by a majority of various representatives in the respective legislative bodies and then selection of other ministers by the PM/CM. The group of ministers headed by the PM/CM constitutes the government at the centre/states. Under each minister, there is an elaborate hierarchical administrative structure or bureaucracy to assist him in his decision making and in implementation of the decisions. The people or even their elected representatives have no role how this administrative apparatus is structured or manned. The iron frames of administrative and other civil services are almost the same as existed in the colonial governance. As far as the judiciary, the other wing of government, is concerned, people have absolutely no role or right in determining how it should function.

Recently, Panchayati Raj has been introduced in many states. Even though Panchayati Raj functionaries are elected by the people, Panchayati Raj Institutions do not constitute a government. They are merely extensions of the respective state governments.

Thus we see that democracy in India means right to vote in order to elect their representatives for the legislatures at the centre and at the states. Except for

this, the people have no role to play in how the government is formed, how they are administered by the executive wing of government or how justice is administered and delivered to them. Consequently, they have no part to play even in managing the affairs affecting their day to day life and living like schooling of their children, maintenance of law and order in their neighborhood and locality, construction and maintenance of the roads in their village or town, etc.

Thus, the democracy that India has is very limited in scope and may be called parliamentary democracy at best, which is far from grass-roots democracy. It cannot ensure democratic governance.

- iii. *Significance of Sovereignty*: The Constitution invests sovereignty with the people of India. All authority for governance is derived from the people. However, the system of governance prescribed by the constitution almost negates this most important constitutional stipulation. In actual functioning of the government, people who are sovereign by constitutional stipulation are marginalized. The relationship between people, the source of all authority and a government official, who is a public servant, is far from this constitutional stipulation. In fact, it is just the reverse.

- iv. *Adieu Socialism*: The Indian republic being socialist means that the interests of the society or the people at large would be given preference over those of the individual. In translating this tenet of the constitution into a state policy, it was considered necessary and permissible for the government to establish and run key industrial, trade, service, energy and other enterprises apart from its traditional government functions. In order to provide these state run enterprises necessary latitude in operations, along with maintaining governmental control, they were organized as corporations or public undertakings. Most of these public undertakings, however, miserably failed to perform as envisaged and ran into huge losses in spite of substantial financial and other support by the government. On analysis of their functioning and performances, it was found to have become victim to the same debilitating features as in the government, their parent body, such as political degradation and corruption. Latitude provided to them for their business-like functioning was turned into a license to be much less accountable for their misdeeds. They turned out to be convenient organizations to accommodate failed politicians of the ruling party or favoured bureaucrats at public expense. Thus, this constitutional tenet got discredited not due to its innate infirmity but rather due to the ethos of governance inherent in the constitution. With the introduction of so called economic reforms comprising increasing privatization, liberalization and globalization in the Indian economy, the constitutional tenet of socialism was expressly maligned and given a go by, leading to concentration of wealth and widening of economic disparity and consequent social tensions in the society of the Indian republic.

- v. *India is Secular?*: Secularism as a tenet of the Indian Constitution should mean the following: (i) there is no official state religion, (ii) all religions and all citizens irrespective of their religious beliefs are equal in the eyes of law and the

government must not favour or discriminate against any religion, (iii) every citizen is free to believe in and practice any religion of his or her choice, and (iv) no religious instruction is imparted in any government or government-aided schools. In the conductance of power-centric politics engendered by the system of governance provided in the constitution, where religious communities are also, or mostly, seen as vote banks, this constitutional stipulation is brazenly flouted in letter as well as in spirit not only by political parties but also by the governments. Religious sentiments are played up and appeasement policies are followed or professed aimed at ensuring the votes. In a secular polity, actions or statements of the governments or political parties should relate to citizens or people without any reference to their religious followings. The Indian political scene is far from this.

- vi. *India is a Republic?* : A Republic has been defined in several ways. In a strict limited sense, a state or a country headed not by a hereditary monarch but by a citizen of that state or country fulfilling certain eligibility criteria, generally titled as President, is called a Republic. Here, any of such citizens can potentially be a candidate for being a President. On the basis of this definition, even a country having a dictator as its head can be said, and has been actually proclaimed, to be a Republic. This definition is then further qualified that the President has to be elected by people or by representatives of people. This also has been subjected to manipulation and maneuvers by powerful and crafty military and civil dictators. Another definition, which is not too specific but is imbued with its essential sense, is that a state or a country where people have impact on its government and is headed by a citizen fulfilling specified eligibility criteria is a Republic. In an ideal sense, a state or a country having a government 'of the people, by the people and for the people'⁽³⁾ is truly a Republic. Thus, we can see that while India is a republic in a technical sense, but is not so in a real or ideal sense. On account of the prevailing system of governance, people have impact on the government in a very convoluted and indirect manner which almost negates it. Ideally, India is still far from having 'a government of the people, by the people and for the people', as indicated earlier.

It can be seen that the nature and features of the Indian republic declared in the Preamble of the Constitution have been diluted and even negated by the system of governance provided in the Constitution. This is quite understandable. This system of governance is largely as prescribed in the Government of India Act 1935 which was designed and formulated for colonial governance aimed at systematic exploitation of the colony while giving it a semblance of representative government. This Act was a modification of the earlier Government of India Act 1919 done in response to the demands for greater representation of the governed in the government, keeping the ultimate objective of the colonial masters uncompromised. The unfortunate aspect of this contradiction between the constitutional declarations in its non-justiciable Preamble and the justiciable provisions in the constitutional prescription for governance of the republic is that people nurture illusions of India being a free, democratic, sovereign, socialist, secular republic. This is a dangerous situation. If a person is ill and he knows that he is ill and is conscious of his illness, he will strive to get rid of his illness. On the other hand, if

a person is ill but he is under the illusion of being healthy, he will systematically get worse and worse and various malignant manifestations of illness would appear with time. If he tries to treat these manifestations without diagnosing and treating the basic illness, his effort is likely to be fruitless and frustrating. Worse still, his effort may lead to adverse side effects and other more serious problems. This is what has been happening with our republic for the last six decades or so, causing such as malignancies as political degradation, corruption, social unrest and criminality and impoverishment of the masses, as indicated earlier. It is high time that we recognize the basic wrong with our republic and tackle it at that root suitably and effectively, rather than lamenting resignedly or fighting the manifestations frustratingly.

5. Way Ahead

What has been indicated so far in this paper would serve to diagnose the basic illness of our republic and that is the system of governance inscribed in our Constitution. As indicated, it is largely based on the Government of India Act 1935 which was designed for governance of a colony aimed at its exploitation for the benefit of the colonial power. Gandhi had seen through this system and was of the firm opinion that it is through this system that the colonial power had been exploiting this country for long and that we must get rid of it if India was to be saved from further ruination. He waged the freedom struggle with a novel strategy based on truth and non-violence with this aim in mind and called upon the people to participate in it on this basis. The Congress Party had fought the elections for provincial assemblies in 1937 on the issue of eradication of the Government of India Act 1935. Unfortunately, this was somehow disregarded and the system of colonial governance was incorporated in the Constitution for governance of a republic.

There are two interrelated dominant features of this system which made it an eminently suitable instrument for exploitation of the people and to channelize the fruits of exploitation to flow from Delhi to London. First, the political power was given the complexion and ethos required to do this job efficiently. Secondly, in order to facilitate this, the administrative structure was centralized in authority at a few trust worthy nodal points, which in the colonial India was the Collector/District Magistrate, Provincial Governor and Governor General/Viceroy. These nodal points of authority were assisted principally by those who were in British Secretary of India services, called first Imperial Civil Service and then renamed as Indian Civil Service. In the Indian republic, the purpose of political power has come to be exploitation and self-aggrandizement, with development and other governmental functions as rather incidental. Secondly, in order to make it possible, the governance structure is similarly centralized at a few nodal points. In the Indian republic, authority is centralized at the nodal points of D.M., C.M. and P.M. assisted by Indian Administrative Services and other all India services.

Formulation of a suitable system of governance for the republic of India will undoubtedly be an elaborate exercise. However, the two features mentioned above in the existing system will have to be radically changed. The complexion and ethos of political power have to be changed from an instrument of exploitation and self-aggrandizement to one of service to people. Gandhi had clear vision about it and in the last letter of his life written on 29 January 1948, which may be called Gandhi's Will, had advised the

Congress Party to disband itself in the existing form, which was suitable for carrying out a freedom struggle, and organize itself for the next task as an organization for service to people and had even suggested a name for it Lok Sevak Sangh. Secondly, the governance system for the Indian republic has to be totally decentralized. The primary level of government will be a fully autonomous Village/Town/City Government. Gandhiji had called it a Village Republic. Gandhiji had visualized Swarajya for India as beginning from Village Swaraj (4). The secondary level of government will be at state level and the tertiary level at the central level.

All the three levels of government will be autonomous for carrying out the functions assigned to them. Of course, the three levels of government will interact. The mutual relationship of the three levels will be defined in the constitution in such a way that both the autonomy of the respective governments as well as the integrity of the nation are secured. There may be certain sectors which are critically important for civil life for which it may be desirable to have a system of administration and management different and distinct from normal governmental system, such as education, health sanitation. For such sectors, special organizations have to be devised which will be based on, on the one hand, participation of concerned people and, on the other, will have full professional and functional autonomy.

6. Outlook

The system of governance indicated above is not at all impractical or utopian. This will not only conform to the ideas of Gandhi, who was not only a visionary but who also invariably considered the practicality of his vision, and help realize his “India of My Dreams” (5) it is a functioning system in several democratic countries of the world. Our Constitution can be amended as per the provisions for its amendment to introduce this system.

With such a system of governance in place in India, it will undergo almost a revolutionary transformation. Political morality will once again acquire its glory, corruption will be an exception rather than the rule, social harmony will be established in its traditional form, spirituality and religiosity of Indian people will assert themselves driving out criminality from the society, villages will once again be worth while places to live in and work and unnecessary migration of people causing disruption and other problems will stop, pace of development will be vastly accelerated, and impoverishment will not only be arrested but rightful prosperity to the people commensurate with India’s natural and human resources will be assured. Astounding developments in modern science and technology will greatly help India’s envisaged transformation. India’s genius, long suppressed, will bloom in such a republic (6).

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