

Inter-State disputes and the Constitution

By A. G. Noorani

WAY back in 1968, the then Chief Minister of Karnataka, Mr Veerendra Patil, proposed that a code of conduct be formulated to regulate the pronouncements of Ministers on the actions and policies of States other than their own. He was prompted to make this proposal because of the public criticism by Ministers of the Tamil Nadu Government of his Government's alleged unfairness towards the Tamilians in Mysore. Mr Patil resented the manner, no less than the substance, of the criticism.

The recent controversy between the Chief Ministers of Kerala, Karnataka, and Tamil Nadu, on the one hand, the Chief Minister of Maharashtra, on the other, shows that Mr Patil's point was well taken even if the particular suggestion he made is inadequate. Public statements and publicised letters and telegrams between Chief Ministers charging ill-treatment of linguistic minorities do not help much in the long run, however understandable they may be as immediate reactions.

It is perhaps too late in the day to contend that reorganisation of States on the linguistic principle does not give a State a locus standi in the matter of treatment by another State of linguistic minorities hailing from the former.

Practice seems to sanction such concern even if the Constitution does not. Any impression of discrimination against a linguistic minority has its repercussions in the other State and sets off a chain reaction. In such a situation it is pointless to cite the Constitutional safeguards such as the fundamental rights, the Special Officer for Linguistic Minorities appointed by the President under Article 350B, and, of course, the State's responsibility for maintaining law and order.

But, if excessive legalism is unhelpful, so is the present practice which is unrestrained by any norms. Public statements are followed by Ministers of other States coming over to "study the situation" and reporting back. It is not difficult to appreciate that in certain situations they might do more harm than good.

If we are not to reduce the Union to a league of linguistic States we must consider earnestly whether it is not possible to have a forum in which such grievances can be aired in a manner which reassures feeling in the concerned State without adversely affecting the situation in the affected areas. In a recent letter to Mr Veerendra Patil, M.P., the Prime Minister is reported to have expressed the view that it might be useful to call a meeting of the National Integration Council after eliciting the views of the States and political parties.

But this process which began on August 24 last at a meeting of the Steering Committee for the revival of the Council, has taken unconscionably long. It is not easy to revive an institution which has died twice over after a year's uneventful existence each time that it was set up, in 1961 and in 1968.

Oddly enough, little thought is given to the possibility of setting up an institution which is envisaged by the Constitution itself precisely for such a situation. The one provision which has remained unused, nearly a quarter century after the Constitution came into force, is Article 263.

It empowers the President by order to establish a Council charged with the duty of "(a) inquiring into and advising upon disputes which may have arisen between States; (b) investigating and discussing subjects in which some or all of the States or the Union and one or more of the States, have a common interest; or (c) making recommendations upon any such subject and, in particular, recommendations for the better co-ordination of the action of the States and the Union."

President to define in the order establishing it.

This provision was adopted by the Constituent Assembly without any debate whatever on June 13, 1949, so obvious seemed its need. It is modelled on S.135 of the Government of India Act, 1935, which provided for an Inter-Provincial Council.

The *raison d'être* of the institution is most happily expressed in the report of the Sub-Committee on Federal Structure appointed by the Round Table Conference which was headed by the Lord Chancellor, Lord Sankey, and consisted of some of the ablest jurists of India and Britain, like Sir Tej Bahadur Sapru and Lord Reading. The report said that "in matters affecting more than one Province of British India, even where they relate to subjects classified as Provincial, there must be some authority capable of resolving disputes and of co-ordinating policy when uniformity of policy is in the interests of India as a whole and the sub-committee consider that the constitution should recognise this authority as vesting in the Federal Government and should make suitable provision for its exercise."

This is exactly the situation today. Matters which are admittedly a State's responsibility have come to affect other States. It is far better that they be discussed in an institution devised by the Constitution for the purpose, than form the subject of acrimonious public debate.

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