

# CHAPTER – I

## **STATEMENT OF THE PROBLEM / THEORETICAL FRAMEWORK**

Though there is no denying the fact that now executive has become the most important organ of government, the legislature, most commonly known by the name of Parliament, is still regarded as having the most celebrated place in the political organization of a country. The word 'Parliament', that originally meant 'a talk', is derived from the French word 'Parler' and the Latin 'Parliamentum'. Garner says: "of the several organs through which the will of the state is expressed and carried out, the legislature unquestionably occupies the paramount place..... In all states it exercises a large control over the sources of supply and its power to create public offices and to establish new services. Thus, the legislature is, in a sense, the regulator of the administration.

It is said that modern Parliaments arose through a fusion of the legislature and judicial functions and the voting on taxation or supply. In medieval times a Parliament was usually a meeting of the king-in-council to which the judges were summoned for consideration of pleas and petitions to the king to redress grievances on the other hand , the word 'Parliament' may be applied to what was more normally described as colloquium , or meeting of the clergy, or any or all of them. Such a colloquium might be summoned, for instance, to discuss measures for dealing with raids by Scots over the border, or the sending of any army to Glascony. More often, the purpose was to

obtain assent for the levying of an aid or custom duties. In fine, the Parliament signifies a body of persons assembled for discussion.

As such, the legislature is regarded as the 'mirror' of the will of the nation'. It is taken as the chief means of the expression of the popular will; or a body of the representatives of the people, it is considered to be the most important organ of the political system. Hence, the legislature is exalted in the colourful phrases as 'grand inquest of the nation', 'embodiment' of the general will of the community', ' a committee' of grievances', ' a congress of opinions' and the like.

A question arises as to what should be the mode of composition of the legislature. Two important points are to be taken into consideration in this connection. It is universally taken for granted that the members of the first, or lower, or popular house should be elected by the people. Thus, the members of the House of Commons in England and Canada, the House of Representatives in the United State, Japan and Australia, of the Lok Sabha in India, of National Assembly in France and Switzerland, and of National people's congress in China are elected by the people. Second, the mode of composition of the upper and second house varies. For instance, the members of the House of Lords of U.K. enjoy hereditary membership, the Senator of America, Australia and New Zealand and the members of the Swiss Council of State are elected directly by the people; the members of the Indian Rajya Sabha and the Senators of France are elected indirectly by the governments of the units; the Senators of Canada and South Africa appointed by the Governor General.

In this direction, it may be suggested that the best course is to have direct election of the members of the first chamber of the legislature and, for

that reason, it is known as popular chamber. In case the legislature is bi-cameral, the members of the second or upper house should be elected indirectly so far as to give representation to different sections, interests, classes and units (in the cases of a federation). Moreover, the members of the upper house must be persons of higher age and experience. Garner, therefore rightly suggested: "Reason and experience would seem to suggest that if legislative bodies are to continue to be organised on the bi-cameral principle, the two chambers should be constituted on different bases and principles. The members of one chamber ought to enjoy longer tenures, they ought to represent or larger constituency, higher membership qualifications ought to be required of them, and they might well be chosen in a different manner and by a differently constituted electorate".

Now is the turn to discuss the function of a legislature. Legislation, we know, is the foremost function of a legislature. In conformity with the express provisions of the country's constitution, the legislature undertakes to make, repeal, or rescind law. Law-making power of the legislature includes purely law-making as well as deliberation. Mill distinguished between the two and observed that "a numerous assembly is little fitted for the direct business of legislation". He recommended the setting up of a small committee of experts for undertaking the task of purely law-making. The reason for the bifurcation of legislative work is that "every provision of a law requires to be framed with the most accurate and long-sighted perception of its effect on all other provisions; and the law when made should be capable of fitting into a consistent whole with the previously existing laws. It is impossible that these conditions should be in any degree fulfilled when laws are voted clause by clause in a miscellaneous assembly". While the drafting and formulation of laws should be entrusted to the small committee of specialists, the

deliberative function belongs to the whole assembly. Law is the mirror of the thinking of the whole nation. Hence, the assembly as the focus of the general will of the community deliberates on the content and final form of law. In Mill's language, the committee of experts would embody the element of intelligence, and Parliament the element of will. The actual conduct of modern legislatures does not wholly follow the pattern of legislative work as suggested by Mill. But in Parliamentary form of government the cabinet which largely undertakes the legislative initiative avails of the expert advice of the permanent officials of the government in the actual drafting of laws.

Apart from and over and above the function of making laws, the functions of legislature are many more that touch administrative, financial and judicial as well. A brief account of these functions is as mentioned below;

The legislature is the custodian of the national purse. The government, for running its various projects, administrative and welfare, has to incur a large amount of expenditure of the revenues of government. Through control over finance, the legislature controls the actual conduct of government as manifested in its internal and external policies.

The legislature also exercises control over administration of the country. In a parliamentary system, the ministers are individually as well as collectively responsible to the legislature. As such, the legislature may censure the minister. The minister may be removed by a no-confidence motion. In a presidential system, the legislature may remove the head of the state by adopting a motion of impeachment. By asking questions and their supplementary, by adopting motions and resolutions and, above all, by censuring the conduct of the executive, the legislature exercises its control over the administration of the country.

Again, in some states the legislature participates in the election of the executive and judicial heads. In our country, for instance, the President who is the chief executive is elected by the members of both the houses of Parliament and of State Assemblies. Again, in Switzerland, the Federal Assembly elect the judges of the Federal Tribunal.

Lastly, the legislature in some countries performs the functions of a judicial nature. In England, the House of Lords is the highest court of appeal in some civil and criminal cases, although its judicial function is performed by a small portion of its total membership. The Senate of America has “the sole power to try all impeachments” including those involving the President and the Vice-President. In India also the Parliament can act as court of impeachment for the trial of the President. In that case, one house would move the resolution to impeach and the other investigate the charge. It may be noted here that whenever a legislature performs some judicial function, it generally follows the technique or mode of the judiciary.

We may now come to form the impression that the functions of a legislative cover any fields. It may well be said that the role of an organised assembly is to analyse, criticise, and pass or reject the policies and proposals of the government; to voice the desires and anxieties of the mass of citizens; to protect their liberties against any abuse of power by the government; to educate public opinion through its debates; and finally,— as the term ‘legislature’ implies—to participate in the process of law—making to the extent this is still possible in an area that relies increasingly on the expert and the administrator. Now, in view of the fact that legislature thus plays a very vital and fruitful role in parliamentary democracy it is, no doubt, necessary to make an in-depth and detailed study of the function and contribution of the legislative assembly in Tripura (and its law—making role in particular) specially

keeping the fact in view that it has obviously been functioning within the structure of India's parliamentary democracy. At the same time, since a study of the political development of the state of Tripura through legislative initiatives is also equally and highly instructive and interesting, we are starting with a brief overview on the historical account of the state and its Legislative Assembly.

Since its merger with the Indian Union in 1949 Tripura attained the status of Statehood in 1972 through a protracted process of political development. Political development is deeply interwoven with the socio-economic development of the state. This calls for critical analysis of legislations. In reality, legislative measures constitute important instruments for ushering in socio-economic development. In that way, a study of Legislative Assembly, inter alia, institutional frame, composition and party configuration brings to light the nature and direction it provides for socio – economic development of the state. While concentrating on some important legislation, it is possible to indicate the demands articulated in the political system. It is intended to study the impact of legislations on political development of the state including the rise of insurgency. Aftermath of the partition of the country there had been a heavy exodus of Hindus from erstwhile East Pakistan leading to metamorphosis in demographic composition of the state. The problem confronted that time may be summoned up thus: the need for protection of Tribal interest arose in the face of heavy exodus of displaced persons; a policy of rehabilitation with development as advocated by the government of India was pursued for the displaced persons. While overwhelming number of displaced persons brought in its train a plethora of socio-economic and ethnic problems, a good number of tribals who gradually were marginalised became restive. Political parties in

their task of interest aggregation seek to find solution to the problems emanating out of the situation through various enactments in the legislature, i.e., policy making.

Tripura Legislative Assembly evolved through the status of Territorial Council (TTC) which did not wield much amplitude of powers and functions as enjoyed by Tripura Legislative Assembly. In comparison, it is evident that Legislative Assembly status is far more propitious for ushering in socio-economic development. The Congress-led government (1972-1977) used the Legislative Assembly in order to pass legislations for propelling socio-economic development. A sample of legislation during this period relating to administrative decentralisation, socio-economic and social welfare may be undertaken for the purpose of our study. During the last twenty years of its rule the Left Front addressed itself to many important questions pertaining to political development. The Congress (I) – TUJS coalition remained in power for the period from 1988-1993. It is highly instructive to know the legislative initiatives under taken by Left Front and Congress (I) –TUJS alliance in order to underline the nature and direction of political development of the State of Tripura.

The main objectives of the present study, as have already been hinted, are to analyse some important legislative enactments for understanding political development of the State of Tripura. Political development in this context has to be studied in its many important facets:

- a) Administrative decentralisation,
- b) Socio-economic aspects and
- c) Social welfare.

During the period under review the Tripura Legislative Assembly enacted a good number of legislations in regard to these areas in

order to propel political development in the State. Thus, a study of the Tripura Panchayat Act, 1983 (as amended in 1994) brings to light the nature and scope of administrative decentralisation in the State. Similarly, socio-economic aspects of political development may reveal itself with an in-depth study of the Tripura Land Revenue and Land Reforms Act, 1974 (as amended in 1997). The most important aspect of political development, i.e., social welfare may be brought to limelight by way of thorough examination of these legislations; a) Tripura Tribal Areas Autonomous District Council Act 1979 (as amended in 1995); b) Tripura Scheduled Castes and Scheduled Tribes Act, 1991 (as amended in 1997); c) The Tripura Commission for Women Act 1993(as amended in 1994).

The study would cover both historical and empirical aspects. In order to note that evolution of the State Legislative Assembly and political process it would be necessary to collect materials from books, documents reports, legislations and party documents. Empirical aspects would be studied by way of interview and interaction with political leaders and legislators.

### **Research Questions**

The following questions would constitute the core of the present study:-

- (1) What are the important components of political development?
- (2) What are the important legislations enacted by the state legislative assembly during the period of 1972-2002?
- (3) What is the impact of these legislations?
- (4) Do these enactments testify the wisdom of peoples' representatives in solving the emerging problems of the state?

(5) **Review of Literature**

(6) The present study is somewhat unique in the sense that there is no learned work in this regard. However pieces of information may be gathered from the under mentioned titles:

(7) Nositter, T. J., *Communism in Kerala: A study in Political Adaptation*; Oxford University Press, London, 1982.

(8) Gonchoudhuri, J. , *A Political History of Tripura*, Inter-India Publications, New Delhi, 1986.

(9) Bhattacharjee, B.K., *Tripura Administration, The era of modernisation*, Mittal Publications, New Delhi, 1986.

(10) Bhattacharjee, S.R., *Tribal Insurgency in Tripura*, Inter-India Publications ,New Delhi, New Delhi, 1989.

(11) Basu, P.K., *The Communist Movement in Tripura*, Progress Publishers, Calcutta , 1996.

(12) Majumder, B.M., *The Legislative Opposition in Tripura*, Tripura State Tribal Cultural Research Institution and Museum, Agartala, 1997.

(13) **A Political History of Tripura**

(14) The book covers the entire political history of Tripura right from the days of the mythological rulers of the state and progress through the rise of Tripura Kingdom under the Manikya Kings, merger with Indian Union, Development in the political consciousness among the people, electoral profile from the General Election of 1952 to 1983. This work has been used to the extent useful, but it has not come of much help for the present work.

(15) **Communism in Kerala: A study in Political Adaptation**

(16) This famous book deals in details with the genesis, growth, functions and problems of the communist movement in Kerala and also emergence of the Kerala Communists as the electoral force (1951-1960), Communists in government (1957-1959), Kerala and the CPI split (1960-1965), Communist accommodation (Formation of the United Front )1965-1967), Front Politics and Ministerial stability (1967-1977), Front Politics economic development and social change (1967-1975), and the basis of party support (1965-1980). This learned work has also attempted to compare the economic development in Kerala under the Left Front rule with that in West Bengal where it was commented, “ If we note the contrast with the situation in West Bengal where CPM Chief Minister Jyoti Basu has effectively begun the rejuvenation of the economy, it seems possible that the explanation for the CPM’s comparative disregard of economic growth in Kerala may lie in the very traditions of Malayali Society and Culture.” But as there is no mention in the book regarding the political and administrative happenings in Tripura during the period under review, it comes of no use for the present work excepting getting an idea about Communist movements in Kerala and West Bengal including step for economic development in these two states.

**(17) The Tripura Administration, the era of modernisation**

(18) This book has been very much helpful for the present work and some information has been taken from this for use from time to time.

**(19) Tribal insurgency in Tripura**

(20) This work in general and its chapter nos. 2,4,5 and 6 in particular have also come of use for this work.

**(21) The Communist Movement in Tripura**

(22) This book has also come of some use , particularly its chapters on Development of the communist Movement in Tripura II , and the Tribal Question and the Communists in Tripura.

**(23) The Legislative Opposition in Tripura**

(24) Last but very important is this Book in so far as the present work is concerned. At the initial stages of survey on the present work , it appeared likely that pieces of information may be collected from this book at the time of writing the different chapters of this. An in-depth study on the book also revealed that relevant data may be collected thrice in chapter II , 6 times in chapter IV , once in chapter V and 4 times in chapter VI from the pages 47 and 64; 107 -176 ; 8; and 103 and 105 . In addition to these, the chapters of the book, i.e., chapters III, IV and V are likely to go a long way in giving some insight into some legislations made in the Tripura Assembly during the period from 1963 to 1976.