

A CONSTITUTION : WHAT IT IS AND WHAT IT SIGNIFIES
(1983). By P. Jaganmohan Reddy, Andhra University Press, Waltair.
Pp. 78.

THE CONSTITUTION of a nation provides steel framework of governance of a society and reflects its political and socio-economic aspirations and limitations. The existence of a constitution does not, however, necessarily guarantee constitutionalism.

The work under review is an endowment lecture¹ delivered by a former Supreme Court judge P. Jaganmohan Reddy. He has dealt with certain basic questions of constitutions in general and those of Indian Constitution in particular. The role of independent judiciary with power of judicial review vis-a-vis individual liberty is the focus of this lecture. According to Justice Reddy, constitution is a collection of principles according to which the powers of the government, rights of the governed and the relations between the two are defined. He has briefly discussed the ideologies of John Stuart Mill, Immanuel Kant and Karl Marx about individual and human rights and the extent to which these influenced the framework of several constitutions. Both the American Declaration of Independence and French Revolution, he feels, greatly influenced human rights and representative government movements throughout the world but socialism of nineteenth century was hostile to these.

According to Justice Reddy, the constitutions can be divided into three categories, namely, the Western democratic constitutions—libertarian, the socialist communist constitutions and others in which he has placed constitutions of the Third World. He feels that the crux of democratic representative governments is independence of judiciary which enabled the United States to develop general principles of the constitution.

He has briefly touched upon the French and German experiences before coming to the constitutions of British dominions. About socialist constitutions, he says that though they guarantee certain basic rights to their people, these are enjoyed by them only by political sufferance and grace of the government.

About many Third World countries he maintains that in them lip service is paid to democracy but in actual practice there is one party system and dissent is viewed as treason.

For Justice Reddy it is unfortunate that in the Constitution of India provision has been made for the declaration of emergency and legislation by ordinances. He considers *Kesavananda Bharati*² historic because it provides that Parliament cannot change the basic structure of the Constitution and extend its amending jurisdiction. He is convinced that constant

1. Professor S. Venkataraman Endowment Lecture.

2. *Kesavananda Bharati v. State of Kerala*, A.I.R. 1973 S.C. 1461.

attempts are being made to undo *Kesavananda Bharati* decision; to establish that judiciary is standing in the way of socio-economic measures of the government, and also to demoralise it with a view to concealing governmental inefficiency in the matters of solving vital problems of the country. He, however, sees a bright future in the judgment delivered by the Supreme Court in *Maneka Gandhi*³ insofar as individual freedom and other rights are concerned.

He is unhappy with the pronouncement of the Supreme Court on the transfer of High Court judges without their consent in what is commonly known as the *Judges* case.⁴ He suggests that matters involved being of great importance, it be reconsidered for maintaining independence of judiciary.

About the leadership in India he believes that it cannot brook dissent and is authoritarian in temperament. He is very critical of defection politics.

Justice Reddy concludes by saying that cry of power to the people has dangerous portents and in the ultimate analysis it is abiding consciousness and faith of the people for freedom, liberty and social values etc. wherein lie the safest and the strongest foundations of a truly constitutional government.

The lecture has lucidly touched upon interesting current problems but while dealing with them subjectivity is unavoidable, and this absorbing reading is no exception to it. Independence of judiciary is a condition essential for maintaining individual liberty, but there are other related factors as well. Their discussion and linkage would have made the present lecture more illuminating and informative.

*Hans Raj**

3. *Maneka Gandhi v. Union of India*, A.I.R. 1978 S.C. 597.

4. *S.P. Gupta v. President of India*, A.I.R. 1982 S.C. 149.

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