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## Centre-state Relations: A Kerala Experience

by

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## Abstract

Immediately after the formation of the state of Kerala, general election was held to the Kerala State Legislative Assembly. In this election, the communists came to power in Kerala. This was the first instance of the formation of a government through ballot by the communists in Asiatic region. The congress party was in power in Centre and in all other states when Kerala became the lone communist state. Thus, the co-operative federal experience of India gave way to competitive federalism. Since then, the congress party had been looking for an opportunity to dismantle the first communist ministry in Kerala. This opportunity was provided with the introduction of educational and agrarian reforms by the communist government to wipe out inequalities existing in these two sectors. The educational reforms attracted the ire of the Catholic community while the agrarian reforms that of the Nair community since the former managed the largest number of schools while the latter formed the main landowning community. Thus, these two path breaking reforms made two most influential communities in Kerala against the government. The congress party made better use of the situation with the support of the Central government and joined the liberation struggle started by the Nair Service Society, a local organization of Nair community, in collaboration with the Catholic congress representing Catholic community to topple the government. The liberation struggle was blessed by the congress government at Centre with the dismissal of the ministry which was unconstitutional from any angle. It was found the dismissal of the first Communist ministry in Kerala was unconstitutional from any angle.

## Key-words

Kerala, government, communist, Centre, State



## 1. Introduction

Kerala was divided into three administrative units before its formation—Travancore, Cochin and Malabar. Travancore and Cochin were princely states whilst Malabar was under the direct British rule. Travancore and Cochin joined together in 1949 to form Travancore-Cochin and it finally amalgamated with Malabar on linguistic lines to create the State of Kerala on 1 November 1956. Kerala was under President's rule during its formation. The first general election was held to the Kerala State Legislative Assembly and communists came out as majority party and formed government. The creation of the government by the communists in Kerala was a unique event because in all other States and at Centre the congress Party had been well entrenched as a ruling party. The communist government was presented with a number of issues which the previous regimes had failed to resolve because of the continuous instability of the previous governments or stiff opposition from the vested interests. The comprehensive legislations on education and land were the most important among them. It attracted the ire of the Christians and Nair communities in Kerala. It was seen an opportunity by the Congress Party to dismantle the Communist government. The present study analyses how the Congress Party, the ruling party at Centre and the remaining States, toppled the Communist government and whether the dismissal of the ministry was constitutional.

## 2. Trajectory to the Dismissal of the Ministry

The communist government formed when the congress Party was ruling in remaining fourteen states and at the Centre. The 1957 election convinced the congress party that its dissensions, corruption and policies made people of Kerala disgusted and they turned towards the communists. Shriman Narayanan, the congress General Secretary, visited Kerala and announced that law and order in Kerala was danger within three days of the formation of the ministry<sup>1</sup>. Immediately after the assumption of power, the communist government concentrated on educational and land reforms. The previous congress governments had tried to bring these reforms but failed to do so. The communist government attempted only to implement the congress programs, the same land and



educational reforms. The Kerala Education Bill piloted in the state legislature aimed to bring private schools under the control of the government from the private managers. It irked the Catholic Church because most of the schools were owned by them. The Kerala Agrarian Relations Bill aiming the prevention of the concentration of lands in the hands of a few and equal distribution of land among the landless irritated the Nair Service Society which represented the Nair community since they were the major land owning community in Kerala. Hence, with the passage of the two bills, the two major communities became the staunch enemies of the communist government and it was fully exploited by the opposition political parties to overthrow the government.

The toppling of the government alarmed momentum with Andhra rice deal issue. Kerala has had no major scandal under the Communists which the opposition could effectively exploit. The one partial exception to this was the famous rice deal in which the Kerala government purchased rice from a Madras company at a price higher than that generally prevailing in order to deal with the extraordinary insufficiency of food in Kerala and for the speedy supply of rice in the state market<sup>I</sup>. Even, here, however, an impartial investigation disclosed error of judgment, rather than criminal conduct<sup>II</sup>. The enquiry commission found that the deal caused an avoidable loss of 100000 rupees<sup>IV</sup>. The opposition parties demanded the resignation of the government over Andhra rice deal<sup>V</sup>. This demand was raised by the congress party when congress ruled states were marred with corruption and nepotism. No action was taken against the congress government in West Bengal when the enquiry committee reported corruption in the supply of rice in the market<sup>VI</sup>. The report of the commission was finally submitted in August 1958. The Comptroller and Auditor General found scandal to the tune of two crore rupees in the six years functioning of the congress government in Rajasthan<sup>VII</sup>. The Chandy Commission indicted former congress minister of Punjab Sardar Ujjal Singh in the land transaction and the commission reported corruption of crores of rupees<sup>VIII</sup>. The Das Commission found the Home Minister of congress government in Bihar guilty in police firing on students in Patna in 1955<sup>IX</sup>. But no action was taken against the accused congress ministers in these states. Likewise the Vanchu Committee enquired the police firing on students in 1953 met the same fate<sup>X</sup>. Under the chairmanship of Balwantri G. Mehta found financial irregularities in the starting of iron factories in India and it caused loss of crores of rupees to the state exchequer. But no action was taken on this report<sup>XI</sup>. The postal department caused a loss of 1,03,250



rupees to the government due to the extraordinary delay in buying steel stand<sup>xii</sup>. The Public Accounts Committee of the Union Parliament appointed to enquire the purchase of cloth from Japan found a heavy loss of 5500000 rupees to the government. However, the sub committee recommended judicial enquiry, no action was taken in this regard<sup>xiii</sup>. The Public Accounts Committee Report found that the government of India caused a loss of 267000 rupees due to the purchase of rice from a company in Bombay<sup>xiv</sup>. The loss would have avoided had it been purchased from Madras company.

When the agitation against the Andhra rice deal did not produce any desired result, Panampilli Govinda Menon, former chief minister and member of All India Congress Committees expressed that time had come for a freedom fight and called for a liberation struggle against the communists<sup>xv</sup>. He expressed that the liberation struggle would liberate India and most probably the whole of Asia, from communism<sup>xvi</sup>. He also warned the members of the all India services revenge for the commission of acts at the behest of the communist government when the congress party returned to power or at the hands of the central government manned by the congress party<sup>xvii</sup>. On 1 May 1959, a meeting of the leaders of the congress party, Catholic congress and the Nair Service Society was held at Changanacherry. The meeting was presided over by Mannath Padmanabhan, the NSS leader, and the Commander-in-chief of the liberation struggle. The meeting passed two important resolutions. One pledged full support to school closure agitation against the Kerala Education Bill. This resolution was moved by Kalathil Velayudhan Nair, Member of the Kerala Pradesh Congress Committee and seconded by P.S. George, KPCC Treasurer. The second resolution was moved by Kumbalath Sanku Pillai and seconded by Cheriyan Kappan, another congress leader. This resolution called upon the people of Kerala to overthrow the government and liberate Kerala from communism, by all means in their power<sup>xviii</sup>. An action council to lead this liberation struggle was also constituted with NSS leader Mannath Padmanabhan as President, and included PSP leader Kumbalath Sanku Pillai, former congress MLA and a prominent congress leader K.M. Chandy, former congress minister and KPCC member Kalathil Velayudhan Nair and former congress MLA and congress Municipal Chairman of Palai Cheriya Kappan. Later, the Indian Union Muslim League joined with them even though they had not even a single grievance against the government. The congress President Indira Gandhi pronounced the verdict that whatever might be the character of AIML, the Kerala branch of the League was a



democratic organization<sup>XIX</sup>. Thus the Kerala Muslim League ranged itself with the opposition on an assurance from the congress that it would be treated as a democratic party.

The KPCC executive considered that it was absolutely necessary to carry forward vigorously the campaign for the ending of the misrule of the communist government, protesting against Education Act and getting the Rice Deal Enquiry Report accepted by the government in the interest of safeguarding democracy. P.S. George, KPCC Treasurer expressed the congress party had aimed to pull down the government rather than protesting against the Education Act or get it withdrawn<sup>XX</sup>. C.M. Stephen, member of the AICC and the president of Kollam District congress Committee declared that the Education Act was not an issue but only one of the means to topple the government<sup>XXI</sup>. Liberation struggle was started with the blessing of congress High Command<sup>XXII</sup>. In early 1959, R. Sankar became the President of KPCC and he organized congress organization against the communist government in collaboration Indira Gandhi<sup>XXIII</sup>. The congress leaders, Madhava Menon, Moidu Maulavi, A.V. Kuttimalu Amma, C.K. Govindan Nair and P.P. Ummer Koya provided leadership to the liberation struggle in Calicut and all of them were arrested<sup>XXIV</sup>.

Nehru opposed any kind of struggle against the communist government<sup>XXV</sup>. There was a conference at Udhagamandalam where the KPCC members met Nehru, Indira Gandhi and U.N. Dhebar and got permission to start only a token strike to mark the protest against the activities of the communist government. Nehru expressed many reservations regarding the struggle against the communist government. The token strike was started on 12 June 1959 before the District Collector's offices in the state. U.N. Dhebar who had come down to report on the situation was feeling that the congress party had gone far beyond the permission given by Nehru to launch a token strike movement and he opined to stop it. But R. Sankar convinced U.N. Dhebhar that this was the only way for the congress party to survive<sup>XXVI</sup>. Then, Sadiq Ali, General Secretary of the congress party, came. At last Nehru himself came at the instance of Chief Minister Namboodiripad. He was received by the slogan that communist government would go. Nehru observed that the liberation struggle in Kerala as mass upsurge. Nehru stated that the people had the right to rebel in a democracy<sup>XXVII</sup>. He said that they had brought the communist government and, hence, they enjoyed the right to demand its termination. However, he



declined to intervene but advised the Kerala government to resign and seek fresh mandate of the people<sup>xxviii</sup>. But there was no national convention or there was no provision for right to recall. But the central government ruled out this provision in other congress ruled states. The Congress Parliamentary Board, the Congress Working Committee and Nehru did not denounce the anti-social activities like wanton attack on person and property, on schools and transport buses<sup>xxix</sup>. The visit of Nehru gave much enthusiasm and fillip to the liberators rather than bringing the law and order problem in Kerala come down.

Actually the insecurity was created in the state by the congress Party and its supporters. They burned buses and schools and marched to government offices. Further the opposition parties turned down the invitation by the government for a round table conference for the restoration of rule of law. Was this democratic? The opponents dropped the whole idea of negotiation when it was a question of Kerala ministry because they wanted to dismiss it anyhow. S.A. Dange expressed that the congress conspiracy in Kerala was not just an attack on the communist party but an onslaught against democracy, and the healthy democratic conventions being evolved in our country<sup>xxx</sup>

The first communist ministry enjoyed majority support on the floor of the house. However, the opposition alleged that it enjoyed only minority votes and hence, the ministry be dismissed. No doubt, the first communist ministry got 41 percent of the votes. But this test was applied to Kerala, the same would also applicable to Orissa and Bihar where the congress party enjoyed only minority votes<sup>xxxi</sup>. When the Samyukta Maharashtra Samiti got 600000 votes more than the congress in Maharashtra, the congress party claimed that it had got the majority votes of the people. Pursuant to this, the Samyukta Maharashtra Samiti organized mass upsurge against the congress government. Responding to this, the Union Home Minister had said that direct action and strike were not allowed in Swaraj and before independence, against the British, it was holy and right, and after independence, direct action and strike was wrong<sup>xxxii</sup>. But the Union government compromised this observation when the opposition parties and community organizations started liberation struggle and direct action against communist government in Kerala. Another allegation leveled against the government was that those who had voted Communists into power shifted their allegiance. But the victory of the communist party in the Deviculam by-elections and to the local bodies proved against this<sup>xxxiii</sup>.



The KPCC, under the leadership of R. Sankar, prepared a memorandum embodying all the mistakes committed by the communist government with the blessing of the congress high command and submitted it to the President of India<sup>xxxiv</sup>. Before the submission of charge sheet to the President of the Union of India R. Sankar had consulted it with congress President Indira Gandhi, U.N. Dheber, former president of congress, and Mr. Sadiq Ali, General Secretary of the congress party<sup>xxxv</sup>. A copy of which was also given to the Governor of Kerala, Ramakrishna Rao by P.T. Chako, leader of the congress opposition in the Kerala State Legislative Assembly and Sankar recommended him to send it to the government of India<sup>xxxvi</sup>. But he was reluctant to do so because he knew that the central government would not dismiss the government. Nehru opposed the dismissal of the government several times on the ground that it would create a bad precedent the dismissal of a duly elected government. But Indira Gandhi helped the KPCC in their endeavor.

Prominent Congressmen including ex-ministers were in the action committee of liberation struggle. Most of the congress leaders at central and state levels and their supporters took participation in the liberation struggle to oust the communist government. Udayabhanu, the congress M.P. was arrested in the three week old agitation to end the communist rule in Kerala at Ernakulam collectorate and sentenced to five days simple imprisonment<sup>xxxvii</sup>. Praja socialist party leaders, K.B. Menon and Amul Desai were also arrested for picketing government offices<sup>xxxviii</sup>. The Congress Parliamentary Board met in 5 July 1959 presided over by Indira Gandhi, the Congress President, at the house of G.B. Pant, the Home Minister attended by Nehru suggested people had the right to unseat a constitutionally elected government before its term by peaceful direct action in case it forfeited the confidence of the people<sup>xxxix</sup>.

B.T. Ranadive, Member of the Politburo of the Communist Party of India and A.K. Gopalan, communist member of Parliament, said the Congress Parliamentary Board and the congress high command should shoulder the full responsibility for all the violent activities in Kerala because in spite of the instructions to congressmen in Kerala not to picket schools and transport buses but to have symbolic picketing, R. Sankar, President of the KPCC had issued a statement after his return from Delhi saying that Centre would surely intervene and called for the intensification of agitation leading violent activities<sup>xl</sup>.



E.M.S. Namboodiripad met the President of India, Pandit Pant, V.K. Krishna Menon, Morarji Desai, Lal Bahadur Sastri and Hafiz Mohammed Ibrahim and apprised of the situation in Kerala<sup>XLI</sup>. Nambudiripad met Prime Minister, Nehru, at Shimla on 11 July 1959 to evolve a situation leading to ease the situation in Kerala. Nambudiripad met every minister individually to appraise the situation in Kerala<sup>XLII</sup>. The anti-bilingual movement in Bombay was much more serious than the Kerala agitation<sup>XLIII</sup>. But the union government was a mute spectator on this.

R. Sankar, the President of KPCC, said that he impressed the President of the Union of India and central ministry that the time was ripe in Kerala for central intervention. He made it clear that to the President and other central cabinet ministers whom they had met that they were definitely opposed to the continuation of the communist ministry in Kerala as a care taker government pending general elections. They were clear that a ministry, which was flouting all canons of democratic administration, would not be allowed to continue in any capacity when a truly democratic process at general election was sought to be used to settle the issue<sup>XLIV</sup>. The Kerala government was forced to have elections under the double threat of direct action from below and intervention from above<sup>XLV</sup>. Mr. Chacko, leader of the opposition in Kerala, declared that the opposition in Kerala would continue the struggle if the Communists come to power again<sup>XLVI</sup>. Morarji Desai, the Union Minister, expressed the view that elections were the only way out for solving the problem facing Kerala<sup>XLVII</sup>. He stated that the people of Kerala had become desperate due to the partisan attitude of the communist government and it was wrong to say that central intervention would be unconstitutional<sup>XLVIII</sup>.

The National Council of the Communist Party of India stated that the present agitation in Kerala was unjustified and the struggle in Kerala was that of vested interests and not the real people of the state<sup>XLIX</sup>. It rejected the mid-term election proposed by the Congress Parliamentary Board<sup>I</sup>. The Central government encouraged the lawlessness and used it as a pretext for central intervention and the dismissal of the ministry<sup>II</sup>. The National Council of the Communist Party observed that the offensive was launched precisely at a time when the Education Act was about to be enforced, the Agrarian Relations Bill had been passed by the state legislature, the Local Body and District Councils Bill were in the state committee stage and the Industrial Relations Bill had been introduced in the state assembly<sup>III</sup>. All these measures when implemented, would improve the economic



conditions of the people and lead to a great extension of democracy on the one hand and weaken the power of the vested interests on the other<sup>LIII</sup>.

On 18 July 1959, Pattom Thanu Pillai met the President of the Union of India and appraised him of the situation in Kerala and demanded the immediate end of the communist rule in Kerala<sup>LIV</sup>. The K.P.C.C. unequivocally stated that it would continue its agitation till the communist ministry dismissed<sup>LIV</sup>. Mrs. Sucheta Kripalani was deputed by congress high command to a fact-finding committee to study on Kerala situation and report to the congress high command<sup>LVI</sup>. Following which, the central government and the congress high command expressed mid-term election as the only way out of current agitation. The congress High Command and the central government provided moral and political support to the agitation in Kerala, otherwise it would have been collapsed soon. Much bigger movements than one in Kerala were launched by opposition parties in other states, including Bombay and Punjab, but the government of those states were never asked to resign and hold mid-term elections.

Indira Gandhi called immediate action to end impasse in Kerala. She said that there was no constitutional impropriety in the central government intervening in Kerala<sup>LVII</sup>. She commented that the constitution was for the people and not the other way and observed that if the constitution would not ensure the welfare of not more than eighty percent of the people of the state who had risen against the communist government, what was the good of having such a constitution and summed up that the communist government as a danger to parliamentary democracy if it was continued<sup>LVIII</sup>. N. Lekshmi Menon, Union Deputy Minister for Educational Affairs, demanded that considering the situation prevailing in Kerala, the Union government should suspend the constitution and see that constitution did not stand in the way of safeguarding the freedom and welfare of the people of state<sup>LIX</sup>. She said that the constitution had given the government powers to protect the people and safeguard their rights and freedom and if there was any government which did respect that governance, the people would look to the Centre to see that the constitution was suspended and this the least the union government should do<sup>LX</sup>. K.P. Kuttikrishnan Nair, congress M.P. and former Madras minister was arrested while picketing Huzur office at Calicut on 27 July 1959. After a public meeting held at the Town Hall which was addressed by Mrs. Sucheta Kripalani, a big procession led by Mr. Kuttikrishnan Nair started from the



Town Hall to the Huzur gate<sup>LXI</sup>. Children were compulsorily prevented from attending schools. Farmers were asked not to sow crops. Transport buses were smashed<sup>LXII</sup>.

The Kerala Governor, Dr. B. Ramakrishna Rao, forwarded to Delhi his report and his comments on the Kerala government's reply to the memorandum submitted to the President, earlier this month by the KPCC president<sup>LXIII</sup>. The report of the Governor of Kerala with his comments reached Delhi on 29 July 1959. The Union cabinet agreed on the principle of central intervention in Kerala<sup>LXIV</sup>. The Union cabinet advised the President of India to take over the administration of Kerala state under powers vested in him by Article 356 of the constitution of India to end the impasse in the state<sup>LXV</sup>.

Even the opponents had the belief that Nehru would act impartially and he was held in high esteem. But with the dismissal of the first communist ministry in Kerala he lost that status. Even the liberators expressed that the dismissal of the ministry was not constitutional later<sup>LXVI</sup>. The central government was bound to protect the state from any internal or external aggression. The central government could intervene only when there was a breakdown of constitutional machinery. It became clear that the congress wanted to establish its one party rule everywhere and would resort to any means to do it. R. Sankar had close relations with Indira Gandhi since the days of liberation struggle. R. Sankar expressed that without her support and backing it would not have been possible to topple the first communist government<sup>LXVII</sup>.

### 3. Constitutionality of the Dismissal of the Ministry

The President of India issued a proclamation on 31 July 1959 assuming to himself all functions of the Government of Kerala, dismissing the ministry under article 356 of the Constitution of India based on the report of the Governor of Kerala and other information<sup>LXVIII</sup>. It terminated the twenty-seven months old first Communist Government in Kerala and dissolved the State Legislative Assembly. It was for the first time in the history of Indian Republic that a democratically elected state government enjoying majority support in the assembly was dismissed. In the President's proclamation no charge was levelled against the Kerala Government nor did a word as to how the Communist Government violated the provisions of the constitution<sup>LXIX</sup>.



Even after repeated requests from the Communist members in the Parliament, the Government of India did not table the report of the Governor of Kerala recommending the dismissal of the Communist ministry. Instead a summary of the report prepared by the Governor Ramakrishna Rao himself was tabled in Lok Sabha on 17 August 1959 and Rajya Sabha on 24 August 1959 amid pandemonium from Communist members. The major allegations levelled by the Governor in his report against the Government were mass release of prisoners, interference of party men in administration and police, promotion of Communist trade unions at the cost of others, use of public funded cooperatives to promote party interests, non-interference of police in labour disputes and the enactment of the unpopular Education Act regulating private schools<sup>LXX</sup>. The Governor himself expressed that such isolated instances of irregularities and partialities could also be found in other states. But he stated that in these Congress governed states; the ministries functioned independently of the party and did not closely follow the party directive. He echoed, therefore, that Central intervention in Congress ruled states would be unconstitutional whatever might be the intensity of the opposition of the people to the government and whatever the magnitude of such opposition.

The Governor contended that the first Communist ministry had lost the support of the overwhelming majority of the people. He opined that even when the ministry was formed it enjoyed only a meagre majority and there was no doubt that there had been a tremendous shift in the mind and the feeling of the people and this public opinion could not be ignored and the only solution available was to exercise of power under Article 356 of the Constitution of India<sup>LXXI</sup>. But the Governor did not take into account that in Congress ruled states of Madras, Bombay and Uttar Pradesh the party enjoyed only a simple majority<sup>LXXII</sup>. The Governor held the view that the present agitation was not the result of one or two particular legislative or administrative act of the Government but the cumulative effect of many acts of omission and commission of the Government for the last twenty eight months. The Governor complained that the main attention of the communist government throughout its rule was the consolidation of party position and it reflected in all its administrative and legislative actions<sup>LXXIII</sup>. But in fact the major legislations of the first communist ministry like the Education Act, Kerala Agrarian Relations Bill or the local body act were not introduced to consolidate party position as observed by the Governor. He expressed the belief that if the situation were left



uncorrected, serious consequences would follow, and concluded that the administration of the state could no longer be carried on in accordance with the Constitution of India.

Generally a scrutiny of the summary of the report of the Governor would make it clear that it had been borrowed from the memorandum submitted by the Kerala Pradesh Congress Committee to the President of India<sup>LXXIV</sup>. The Governor acted as a congressman par excellence. If not, he would have consulted his council of ministers earlier and sorted out each issue. But, in fact, the Governor had not complained even once to the Chief Minister or other ministers about any fault of the government<sup>LXXV</sup>. The report was fully one sided accusing the communist government and not even a single word was used against the opposition parties and community organizations that were actually the pillars of all troubles in the state. Further Article 163 (1) of the Constitution of India obliges the Governor to act according to the advice tendered by his Council of Ministers except the discretionary powers specifically mentioned in the constitution. The submission of a report under Article 356(1) is not a function to be exercised by the Governor in his discretion. B. Ramakrishna Rao, the Governor of Kerala during the period of first Communist regime, sent the report to the Ministry of Home Affairs of the Government of India without consulting the Council of Ministers headed by the Chief Minister<sup>LXXVI</sup>. As the Governor was a veteran Congress leader hailing from Andhra Pradesh and an ant-Communist, his loyalties were left with the congress party and the Union government.

Jawaharlal Nehru, the Prime Minister of India, expressed that the communists could not adapt themselves to the Indian context of democratic structure<sup>LXXVII</sup>. He further defended the central intervention in Kerala and said that there was no other alternative<sup>LXXVIII</sup>. G.B. Pant, the Union Home Minister, expressed in the Rajya Sabha that there was no way out other than the dismissal of the ministry to overcome the impasse in Kerala<sup>LXXIX</sup>. Acharya Kripalani of the PSP eloquently urged that democracy had, in fact, been saved by the intervention<sup>LXXX</sup>. While the Central Executive Committee of the Communist Party of India passed a resolution in New Delhi on 8 August 1959 condemning the central intervention in Kerala as a partisan and deliberate act<sup>LXXXI</sup>. S.A. Dange, the Communist leader, dubbed the dismissal of the ministry as congress conspiracy<sup>LXXXII</sup>.

The central intervention was approved by the Lok Sabha on 20 August 1959 by 270 votes to 38 and by the Rajya Sabha on 25 August 1959 by 114 votes to 12. Even the first



Communist ministry was not allowed to remain in office as a care taker government till the next general election as did elsewhere. On 17 September 1959 the Government of India appointed P.V.R. Rao, Chief Secretary of Mysore, as advisor in Kerala during President's rule in the State<sup>LXXXIII</sup>.

Considering the emergency provisions relating to the intervention of the Union government in States, Article 352 of the Constitution of India states that a proclamation of emergency may be made by the President of India at any time when he is satisfied that the security of India or any part thereof has been threatened by war, external aggression or armed rebellion<sup>LXXXIV</sup>. The word armed rebellion was inserted into the constitution only in 1978 replacing the original word internal rebellion through the Forty-fourth Constitutional Amendment Act<sup>LXXXV</sup>. The Article may be used even before the actual occurrence of the disturbance<sup>LXXXVI</sup>. So the Union Government had the option to declare emergency under article 352 arised out of internal disturbance without dismissing the first Communist ministry in Kerala and dissolving the State legislature.

Article 355 of the Constitution of India reads that it shall be the duty of the union to protect every State against external aggression and internal disturbance and to ensure that the government of every State is carried on in accordance with the provisions of the constitution<sup>LXXXVII</sup>. The framers pointed out in the Constituent Assembly that Article 355 was based on the principle underlying Article IV, Section 4 of the Constitution of the USA<sup>LXXXVIII</sup>. It provides that the United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic violence<sup>LXXXIX</sup>. The first part of Article IV of the US constitution conforms to the second part of Article 355 of the Constitution of India while the second part of the Article IV of the US constitution conforms to the first part of Article 355 of the constitution of India<sup>XC</sup>. Thus Article 355 imposes on the Union government the obligation of protection of states from internal disturbance and external aggregation. But in USA the federal government can act only at the instance of provincial government. While there is no such pre condition under Article 355, the Union government can interfere even without state's request<sup>XCI</sup>. The Union government can deploy forces under its control to suppress an internal disturbance when the State government alone suppresses it.



The President and the Ministers of the Union Government are bound to uphold the constitution. Members of the Union cabinet individually and collectively may be guilty of the grave dereliction of duty if they fail to protect the States and its governments from internal disturbance<sup>XCII</sup>. They are not permitted to remain passive spectators of act of violence against the States. But the intervention of the Union in a State should not be wanton, arbitrary and unauthorized by law<sup>XCIII</sup>.

So the Union government was constitutionally bound to protect the first communist government against the liberation struggle. The Union government ought to have held discussions with the liberators and reprimanded the state congress leaders for their association with liberation struggle and the consequent law and order problem. If it did not yield desired result, the Union government could have sent the central forces to suppress the liberation struggle and to maintain law and order. But in practice the Union government acted on opposite side. It meant that the congress government at Centre had no interest to protect a government run by the communists. This was a gross violation of the provisions enshrined in the Constitution of India by the Union for political purposes.

If only all acts and means applicable under Article 355 of the Constitution of India cannot save the situation in the State, the Union government can use Article 356 of the constitution<sup>XCIV</sup>. Article 356 (1) of the Constitution of India empowers the President to declare a proclamation assuming to himself the administration of the State government based on the report of the State Governor or otherwise that a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of the constitution<sup>XCIV</sup>. The words 'or otherwise' indicate that the President may act under Article 356 (1) on information received from sources other than the report of the Governor. It may include the report of the Union Ministers or the advice of the Union Council of Ministers. Whether the President has received the report of the Governor or not is not a matter of concern but the President has to act in accordance with the advice tendered by the Prime Minister and if the latter so advise, the President cannot but issue a proclamation under Article 356(1) in respect of the State concerned<sup>XCVI</sup>.

Article 356 of the Constitution of India was borrowed from Section 93 of the Government of India Act 1935<sup>XCVII</sup>. It provided that if the Governor of a Province was satisfied that a situation had arisen in which the government of a Province could not be carried on in accordance with the provisions of this Act, he might by proclamation assume



to himself all or any of the powers vested in or exercisable by a provincial body or authority, including the ministry and the legislature, and to discharge the functions thus assumed in his discretion<sup>XCVIII</sup>. The only exception was that he could not encroach upon the powers of the High Court. The analysis of the constitutional history thereof made it clear that the object of this provision was to avoid a political deadlock<sup>XCIX</sup>. Only extraordinary circumstances could justify the exercise of this extraordinary constitutional power<sup>C</sup>.

The framers of the constitution had discussed at length this provision of the constitution. While dealing with this article, Dr. B.R. Ambedkar, Chairman of the Drafting Committee, expressed that there was a possibility of this article being misused or employed for political purposes and it was expected that this article would never be called into operation and it would remain a dead letter<sup>CI</sup>. He hoped that the first thing was to issue a mere warning by the President to a province that had erred, that things were not happening in the way in which they were intended to happen in the constitution<sup>CI</sup>. He stated that if it did not yield the desired result the President would do the second thing of ordering an election allowing the people of the Province to settle matters themselves and only when these two remedies failed the President would resort to this article. He further stated that as the constitution made the States sovereign and gave powers to make laws for the peace and good government, the unauthorized intervention of the Centre must be barred because that would be an invasion of the sovereign authority of the Province<sup>CI</sup>.

H.L. Saxena, Member of the Constituent Assembly, observed that the drastic powers invested with the Centre under emergency provisions would reduce provincial autonomy<sup>CIV</sup>. Another Member of the Constituent Assembly, H.V. Kammath, expressed that it would not be proper to invoke this article for resolving ministerial crisis nor for ending maladministration in a State<sup>CV</sup>. Kazi Syed Karimudin, Member of the Constituent Assembly, heavily criticized the inclusion of this article because of the possibility of its misuse for the protection of the interests of the ruling party at Centre<sup>CVI</sup>. Naziruddin Ahmed, another Member of the Constituent Assembly, stated that it might enable the Centre to interfere in States on the slightest pretext or to refuse to interfere on the gravest occasion according to the parties ruling at Centre and States<sup>CVII</sup>.

The Constitution-framers recognized that the provision of Article 356 was necessary to meet the exceptional situation of the break-down of the constitutional machinery in a



State<sup>CVIII</sup>. At the same time, they hoped for the growth of healthy conventions which would ensure that these extraordinary powers were used most sparingly, in extreme cases, for the legitimate purposes for which they were intended<sup>CIX</sup>. An important point made during debates in the Assembly was that mere mal-administration by a duly constituted government in a State was not a good ground for invoking Article 356<sup>CX</sup>.

#### 4. Conclusion

It was for the first time a non-congress party got majority support and formed government in a State. It surprised the congress party and blew to the monopoly of the congress party. Further, the communist government provided stability as never before. The previous congress and PSP governments were the result of instability. The stability of the communist government denied opportunity to the congress and PSP to come to power again. When all parliamentary methods to oust the communist government ended in failure, they resorted to extra parliamentary method of liberation struggle to oust the government. The liberation struggle was directed not against the Kerala Agrarian Relations Bill or Kerala Education Act but purportedly to topple the government. The reaction against the Kerala Education Act could be considered not only against the state government but also against the Union government because the Act was passed with the consent of the President. The Kerala Education Act was examined by the Supreme Court of India and assented to by the President. Considering the above views, opposition against the Education Act and the agrarian reforms registered through demonstrations, picketing of schools and public offices, stone throwing and setting fire to state transport buses and the enrichment of the party position could not be considered as a failure of constitutional machinery as contemplated in Article 356 of the Constitution of India. The failure of the constitutional machinery ought to have been due to the breakdown of executive, legislative or judicial functions in the State. But no such failures happened under the first Communist regime in Kerala. However the ministry was dismissed without exploring all possible measures to contain the situation by the Union Government. Hence, the dismissal of the first Communist ministry in Kerala was unconstitutional.

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