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enable the  
government to



**ASSIGN  
BUSTER**

A constitution also grows by a process called informal.

The letter of law remains the same, unchanged and unaltered, but expediency and exigency give to the provisions of the constitution another meaning which is radically different from the original meaning given to them. Talking about the United States Constitution, Charles Beard said that “ it is a printed document explained by judicial decisions, precedents and practices and illuminated by understanding and aspiration. In short, the real constitution is a living body of general prescriptions carried into effect by living persons.” The constitution is today not the written fundamental instrument of the Federal Government framed at Philadelphia together with its amendments. It also includes statutes enacted by Congress, executive orders and actions which enable the government to function efficiently, the monumental judicial decisions, and the innumerable political habits, governmental usages and needs which chisel the constitution to achieve the dynamic political purposes. The constitution remains the same, but the political habits of the people and their attitude towards government and the solution of problems confronting the government change the spirit of the constitution. The factors which prominently account for informal growth and expansion of a constitution are: 1. The process of centralization is the first and the most important in the count.

Centralization is the shifting of governing authority from lower or member units to higher units, with a tendency for power to grow at the top. Federal centralization, a universal phenomenon now in all the federal governments, is the tendency for the national government to assume influence or control over functions which formerly were considered to be under State jurisdiction

thereby disturbing the constitutional division of powers between the Central and State governments. War, economic crisis, the growth of social services and planning are the primary causes of the process of centralization.

Moreover, the people of all countries, federal or unitary, at all stages of their development, had always looked to the national government for solving their problems. Their desire to make the county big and prosperous necessitates big business, big agriculture and big labour, and all add up to big government. All this means enhancement of the powers of the national government without making any amendment in the constitution.

The acquiescence of the people in this process is spontaneous irrespective of the barriers which the constitution might have created. All this means a vital change in the spirit of the constitution. 2. The second factor is the party system. Political parties are indispensable for the working of a democratic government, yet no constitution provides for them, except in one-party States. Though it has an extra-constitutional growth, yet it forms the hub of the political life of the nation. Referring to the United States of America, Brogan says, " But for the appearance of a national party system the election of a President really enough, of a national figure to carry out his duties, might have been impossible.

And it is certain that the greatest breakdown of American constitutional system, the Civil War, came only when the party system collapsed." The President is chosen as a party man to head a government operated under a party system. He surrounds himself with advisers of his own political faith, consults usually with men belonging to his party in framing policy, and he uses his power as chief legislator to pursue the party's programme to a

crowning victory. All this has meant a fundamental change in the spirit of the constitution. 3. The electoral system prevalent in a country also influences the working of the constitution. The method of voting, the qualifications of the electors, their behaviour at the polls and the complexion of political parties all influence the operative part of the constitution.

Uninterrupted one-party rule, absence of an effective Opposition, multiple-party system particularly based upon local loyalties and religion plague the working of a constitution. Defections are another bane of such politics as they pollute the political system whatever be the lofty ideals of the constitution. All constitutions plan for a stable government, but when the electorate determines an uncertain composition of the parties and the strength of the executive in the legislature, it creates conditions of uncertainty and the operative ideal envisaged in the constitution is rendered impracticable. The mass party system in the newer States is still more reprehensible. It chokes normal constitutional channels. 4.

The attitude of the people toward their constitution also affects the machinery of the government it establishes. President George Washington succinctly explained this in his farewell address. He said, " Time and habit are at least as necessary to fix the true character of governments as of other institutions." In countries practicing constitutionalism, people respect their constitutions to the point of veneration. For example, the people of the United States have so much abiding faith in the sagacity, moderation, and " sense of the possible" shown by the framers of the constitution that the original document is virtually worshipped. Although there is no document

which contains the British Constitution, the constitutional structure essentially has remained the same through all these centuries.

The institutions necessary for carrying out the functions of the State were established from time to time as the need arose. But as Jennings says, “ Formed to meet immediate requirements they were then adapted to exercise more extensive and sometimes different functions. There has been a constant process of invention, reform and amended distribution of powers. The building has been constantly added to, patched and partly reconstructed, so that it has been renewed from century to century, but it has never been razed to the ground and rebuilt on new foundations.” On the other hand, France had been the “ laboratory” of constitutions. The constitutions in the developing States, both in Asia and Africa, are always in the melting pot.

Pakistan is the most convincing example in this respect. The problem of emerging Asian and African States is still a social, more than a political one and if the constitutions are to grow and endure, the need is to build a strong sense of unity in the country so that criticism and diversity may not seem like treason. If this cannot be achieved, the only alternative is revolution. Soviet Russia was at the extreme, where the constitution was ordained as a transitory phase and it was to die its own death with the “ withering” away of the State. Till very recently, the constitution was what the leadership of the Communist Party determined it to be. There was nothing sacrosanct about it and the constitution provided no effective restraints on governmental actions, which really meant actions of the Communist Party.

The same pattern existed in other Communist countries.