

Preferential Policies and 'Sons-of-the-Soil' Demands: The Indian Experience

T M Joseph and S N Sangita

Abstract

This article examines the contradictions between India's affirmative action or preference policies on behalf of socially and economically backward peoples and the measures taken by the various state governments to provide special preferences to local people—the 'sons-of-the-soil'—as against migrants and other considered as outsiders. Considerable attention is paid to the 'sons-of-the-soil' pressure groups in the State of Karnataka, and the impact of these policies of the state government there. The tendency of state governments in general to adopt preference policies for local peoples is often challenged in the courts. So far there has been no clear-cut policy in the judiciary's response to these challenges. The rulings of the High Courts and the Supreme Courts have varied from one case to another.

I Introduction

The principal demand of all 'sons-of-the-soil' movements is governmental intervention—in the form of laws, regulations and administrative orders—to provide jobs and admission to educational institutions to the members of local ethnic groups. These interventions are often referred to as preferential policies. This article seeks to provide an account of various preferential policies for the local people adopted by the central and state governments in general, and Karnataka State in particular. An attempt has also been made to examine the judicial responses to preferential policies adopted by various state governments.

In India, preferential policies are of two types. The first of these are intended to impart special benefits and reservations to Scheduled Castes,

Scheduled Tribes, and socially and economically backward classes in entry to educational institutions and in recruitment and promotion in government services. They are also given reserved constituencies in State Legislative Assemblies and in Parliament.

The second set of policies seeks to provide preferences to local ethnic groups in a particular state as against the migrants from other states in employment. Though such policies are less common than the first set of policies outlined above, there are residential requirements for employment, set by various state governments and often the private sector is also encouraged to hire local people. Such preferences are also extended to local people in educational institutions especially in medical and engineering colleges. The rationale for such preferential policies is that so long as a local ethnic or linguistic group—especially one that is numerically significant—is disadvantaged in relation to migrants, they deserve preferences.¹

II

Preferential Policies at the National Level

In what is now a standard work on the subject Myron Weiner has identified certain general characteristics in the preferential policies adopted in India.² They are:

- (1) The central objective of preferential policies whether for Scheduled Castes and Tribes, Backward Classes, or 'sons-of-the-soil,' is to expand educational and employment opportunities for the people who belong to the respective groups.
- (2) Preferences are on the basis of group membership rather than individual characteristics. Preferences are given to those who belong to the "local" community, with "local" understood as referring to the numerically dominant linguistic group in the locality.
- (3) The justification for preferences is based neither upon minority status nor upon past discrimination, though both justifications are employed with respect to Scheduled Castes and Tribes. The demand for preferences for 'sons-of-the-soil' is made by a majority in relation to a minority. The primary justification is the group's unequal status—in education, employment, and income—in relation to other groups within the urban locality or the State as a whole and is not linked to the question of why the group is economically, educationally, or occupationally behind.

It is worth noting that 'sons-of-the-soil' demands had been advocated by the leaders of the nationalist movement in India as early as 1938. For instance, a report prepared by Rajendra Prasad for the Working Committee of the Indian National Congress presents an extensive survey of the Bihar situation as of 1938. This report, endorsed by the Indian National Congress, uses the term provincials to refer to the 'sons-of-the-soil' and declares that their "desire to seek employment in their own locality is natural and not reprehensible, and rules providing for such employment to them are not inconsistent with the high ideals of the Congress, particularly when they exist in all provinces."³ Rajendra Prasad argued in the report that it is "just and proper that the residents of a province should get preference in their own province in the matter of public services and educational facilities."⁴ He observed that as communities and groups that were once backward in education became educationally more advanced, they demanded that their own provinces ensure them a larger share of jobs in public services. "It is neither possible nor wise to ignore these demands, and it must be recognised that in regard to services and like matters the people of a province have a certain claim which cannot be overlooked."⁵

The Constituent Assembly—the body which framed India's post-independence constitution—itsself had serious deliberations on 'sons-of-the-soil' claims. Through article 10 of the draft constitution, the Constituent Assembly initially imposed a strict ban on any discrimination based on place of birth. Deliberating on the draft, Jaspat Roy Kapoor of the United Provinces sought to strengthen the restriction by adding "residence" to the grounds on which discrimination would be prohibited. According to Kapoor's amendment, article 10 was to read: "No citizen shall on grounds only of religion, race, caste, sex, descent, place of birth or residence or any of them be ineligible for any office under the state." He pleaded that,

"every citizen of the country, wherever he might be living, should have equal opportunity of employment under the State. Every citizen irrespective of his place of residence should be eligible for employment under the State anywhere in the country. There being only one citizenship for the whole country, it should carry with it the unfettered right and privilege of employment in any part and in every nook and corner of the country. A citizen residing in the province of Bengal, Madras, or Bombay should be eligible for employment in the Uttar Pradesh and similarly a resident of Uttar Pradesh should have the right and privilege of employment in any other province of the country, provided of

course he possesses the other necessary qualifications for the office. Every citizen of the country must be made to feel that he is a citizen of the country as a whole and not of any particular province where he resides. He must feel that wheresoever he goes in the country, he shall have the same rights and privileges in the matter of employment as he has in the particular part of the country where he resides. Unfortunately, for some time past we have been observing that provincialism has been growing in this country. Every now and then we hear the cry, 'Bengal for Bengalis,' 'Madras for Madrasis' and so on and so forth. This cry is not in the interests of the unity of the country, or in the interests of the solidarity of the country."⁶

Contrary to the views of Kapoor, equally cogent arguments were made by Alladi Krishnaswamy Ayyer, Mahawir Tyagi and B R Ambedkar in favour of extending preferences to local persons in employment. Ayyer sought to amend clause (2) of article 10 with the following new clause:

"(2a) Nothing in this article shall prevent Parliament from making any law prescribing in regard to a class or classes of employment or appointment to an office under any State for the time being specified in the first schedule or any local or other authority within its territory, any requirement as to residence within that State prior to such employment or appointment."⁷

Supporting the amendment of Ayyer, K M Munshi said:

"if the clause with regard to residence has to be qualified and a residential qualification has to be imposed, it can only be done by the Parliament, that is by the central Legislature. The reason of this change is that there should be uniformity with regard to this qualification throughout the whole country and that this provision should not be abused by some legislature by imposing an impossible residential qualification."⁸

Mahawir Tyagi cited the sovereign impulses of the separate regions. He proposed that residential qualifications were not an unreasonable concession to the desire on the part of the states to be self-governing: "If there are open chances for the residents of one province to serve in another, it means that the residents of that province shall not be able to

enjoy self-government.” The absence of residential requirements, Tyagi argued, “... will go against the real spirit of Swaraj.”⁹

Though Ambedkar conceded that residential qualifications detracted from the value of a common citizenship, he was equally conscious about the consequences of the unfettered migration from one place to another. He said,

“since we have established a common citizenship throughout India, irrespective of the local jurisdiction of the provinces and the Indian States, it is only a concomitant thing that residence should not be required for holding a particular post in a particular state because, in so far as you make residence a qualification, you are really subtracting from the value of a common citizenship which we have established by this constitution or which we propose to establish by this constitution. Therefore, in my judgement the argument that residence should not be a qualification to hold appointments under the State is a perfectly valid and a perfectly sound argument. At the same time, it must be realised that you cannot allow people who are flying from one province to another, from one State to another as mere birds of passage without any roots... just to come, apply for posts and so to say take the plums and walk away.”¹⁰

The constitution eventually adopted a compromise between these two streams of thought. Article 19 of the constitution guarantees all citizens the right to move freely throughout the territory of India and to reside and settle in any part of the country. Similarly, article 15 bars discrimination on grounds of religion, race, caste, sex and place of birth. Article 16(2) states that no citizen shall on grounds only of religion, race, caste, sex, descent, place of birth, residence, or any of them be ineligible for or discriminated against in state employment.¹¹ Though most of the articles in the constitution prohibit discrimination on the basis of place of birth, one provision in a particular article provides an opening for it. Article 16(3) which states that:

“Nothing in this article shall prevent Parliament from making any law prescribing in regard to a class or classes of employment or appointment to an office under the government of or any local or other authority within a state or union territory any requirement as to residence within that state or union territory prior to such employment or appointment.”

has proved to be a useful loophole.

But this right has been given only to Parliament and legislation can be made only with respect to positions within the limits of a state government or a union territory.

Parliament, thus given the exclusive prerogative of enacting residential requirements, has in fact exercised little control over policy making. The only step Parliament has taken under article 16(3) was to pass the *Public Employment (Requirement as to Residence) Act of 1957*. This Act was enacted by the Parliament repealing all laws in force in the states and union territories with regard to requirements as to residence for purposes of any employment or appointment under the state or under any local or other authority. But section 3 of the Act empowered the central government to make rules prescribing requirements as to residence within the Telengana area of Andhra Pradesh and the erstwhile union territories of Himachal Pradesh, Manipur and Tripura for appointments in subordinate services or posts under the control of the state government/administration or to any service or post under a local authority in those areas.¹²

Faced with varying constitutional interpretations, the central government, very often has had to arrive at a compromise between the protagonists and opponents of 'sons-of-the-soil' policies. On the one hand, the central government is aware that the 'sons-of-the-soil' policies could lead to inefficiency. But it is also under heavy pressure from local ethnic groups to introduce or retain such policies.

The first policy pronouncement on the 'sons-of-the-soil' issue was made in the National Integration Committee which met in Kashmir in 1968.¹³ By accommodating 'sons-of-the-soil' claims without doing damage to meritocratic principles, the Committee urged that higher level jobs be recruited on an all-India basis and that lower-level positions be filled through local channels. The Council recognised that unemployment, particularly among the educated, had grown in every part of the country. The output from educational, professional and technical institutions had been growing and was expected to grow further. The combination of these factors had created regional tensions and people in almost every state/region had become resentful of employment opportunities being thrown open for competitive selection. In this connection, the committee stated that,

“in order to ensure that adequate employment opportunities are available to local people and they do not suffer from a sense of injustice, where qualified local persons are available from among the people of the State, they should be given a major share of the employment and employers should be requested to give effect to this objective, as a matter of policy.”¹⁴

Based on the Committee’s recommendation, Prime Minister Indira Gandhi wrote to the Ministers for Industrial Development and the Minister of Labour and Rehabilitation directing them to implement the National Integration Committee formula.¹⁵ The Minister of Industrial Development in turn issued instructions to public sector undertakings that recruitment to posts carrying a basic salary of not more than Rs 500 per month should be made through the National Employment Service¹⁶ (e.g. the local employment exchanges). Recruitment to higher posts, the Minister added, would continue to take place on an all-India basis, that is, no preferences would be given to local people. The Minister of Labour and Rehabilitation also issued appeals to the All India Organisation of Employers (private sector) to adhere to the same policy.¹⁷ A similar request went to State Labour Ministers asking them to persuade private employers in their states to do the same.

Later in 1978, the Finance Ministry, government of India, issued instructions to the effect that recruitment to all posts for which the basic salary did not exceed Rs 800 be filled through the National Employment Service.¹⁸ But this ceiling was subsequently raised to Rs 1,250 by an order of the Finance Ministry of 8 March 1984, which reads as follows: “It has been decided that recruitment to posts in public enterprises carrying pay scales, the maximum of which does not exceed Rs 1,250 per month, should henceforth be made only through the National Employment Service.”¹⁹

Thus the main elements in the claims on behalf of the ‘sons-of-the-soil’ have long been recognised by the government of India. It laid down certain principles in the matter of recruitment to its public undertakings. The important principles among them are:

“It will be of advantage of the units in various directions, if persons who come from areas near about the place of location of the project secure appointment to posts in the lower scales. In the case of all unskilled workers, even without any special efforts, they are generally drawn from the locality where the project is situated.

In the case of middle level technical and non- technical posts, having higher starting salaries equivalent to the class I junior scale of the government of India, recruitment should be made on an all-India basis, merit and qualifications being the principal criteria.

For the higher technical posts, the best qualified persons will have to be recruited either by advertisement or on all-India basis or by personal contact.”²⁰

The above principles are directed towards striking a balance between the desire to further national productivity and the need to respond to the claims for regional equality. This compromise is evident from Prime Minister Indira Gandhi’s statement in the Lok Sabha that preferential policies were promulgated by the central government with considerable reluctance:

“This is a matter in which one has to have a certain balance. While we stand for the principle that any Indian should be able to work in any part of India, at the same time, it is true that if a large number of people come from outside to seek employment.... that is bound to create tension in that area. Therefore, while I do not like the idea of having any such rule, one has to have some balance and see that the local people are not deprived of employment.”²¹

She made similar statements on the floor of the Rajya Sabha as well. Maintaining that national integration and productivity required a mobile labour force to which domicile restrictions would be inimical, she nevertheless conceded the need for preferential policies:

“.... and I do stand by this: that where there is any big industry or project it should be seen that those local people who cannot travel around seeking employment elsewhere should be given full opportunity. Otherwise tension will be created.”²²

As a result of the ambiguities in the national policies on this issue many state governments felt encouraged to adopt policies in favour of ‘sons-of-the-soil,’ though constitutionally this power has been given only to the Union Parliament. Many state governments have issued directives to employers urging them to recruit a given numerical quota of local persons not simply in the less skilled positions but at all levels of employment. Myron Weiner has identified the various forms of

preferential policies adopted by state governments.²³ According to him, the policies adopted by the states have been to:

- (1) Prescribe proficiency tests in the regional language as pre-requisite for recruitment to the public services;
- (2) Set domicile tests requiring a period of residence in the state or region;
- (3) Restrict non-residents from acquiring property;
- (4) Channel recruitment through local government employment exchanges where the practice is often to give preference to local persons in registration and placement;
- (5) Devolve on local bodies responsibility for recruitment; and
- (6) Set educational or other requirements such as previous degree or certificate from local educational institutions as pre-requisites for admission to a higher level of education.

Many state governments had begun instituting measures to protect the employment opportunities of the local population since the late 1960s. These measures include formal bills passed by the state legislatures as well as directives issued by the state governments. As it is difficult to document the preferential policies adopted by various state governments in favour of the local people, an attempt has been made here to detail the policies of the government of Karnataka.

III

Preferential Policies of the Karnataka Government

The first governmental intervention in favour of the 'sons-of-the-soil' in Karnataka came in 1974 when Devaraj Urs of the Congress Party was the Chief Minister.²⁴ An order issued on 8 January 1974 made a pass in Kannada, the principal regional language, a requirement for class I, II and III government officials. This was done following the government's decision to enforce the use of Kannada in the administration. Government servants in all these categories were allowed three years time to pass the language test. Failure to secure a pass in the test meant loss of regular increments.

Another important order was issued by the Gundu Rao government (Congress-I) in 1981 to the effect of requiring 15 years of residential qualification for registering in employment exchanges in Karnataka.

“Government hereby directs that no application of any person shall be registered in any employment exchange in the State of Karnataka unless the applicant, or his parents or his/her wife/husband resided in the State of Karnataka for not less than 15 years at any time prior to such application.”²⁵

But the order provided for exemption for the following categories of people:

- (a) Ex-servicemen and to their children who are residing in the State of Karnataka.
- (b) The children of central government servants.
- (c) The state government servants working outside the state; and
- (d) Children of persons employed in public sector undertakings.

In the following year, the government issued another order to the effect that local people should be recruited to the maximum possible extent. On 5 November 1982, the Secretary to the Department of Commerce and Industries, issued a directive to all Chief Executives of the state public sector undertakings which read:

“It is the desire of the State government that to the maximum extent possible preference should be given to local persons in the matter of appointments in the State public sector undertakings.”²⁶

In the same year—i.e. 1982—the Gundu Rao government also issued another important notification making a pass at the Kannada test compulsory for those seeking government jobs. But in 1983, the succeeding Janata government of Ramakrishna Hegde withdrew the same order and passed another one making the Kannada test necessary only after joining the service but not before the confirmation.

The Ramakrishna Hegde government sent letters to the central government undertakings on local recruitment. Emulating the model of Bharat Heavy Electricals Ltd. (BHEL), which had made some attempts to recruit candidates from the Industrial Training Institutes (ITI) campuses in the state, the state government sent directives to all central government undertakings in the state to the effect that:

“With a view to increase the number of persons recruited from Karnataka they (BHEL) have made campus selections at different centres in the State and have taken particular care to recruit candidates from the State....All major industrial establishments including the central public sector undertakings are requested to

follow the methods adopted by BHEL in making campus recruitments at different locations within the State of Karnataka so that there is increased local employment.”²⁷

A circular issued on 30 April 1983 by the state government further extended the policy of preferences to local persons. This circular issued by the Director General, Karnataka State Bureau of Public Enterprises to all Chief Executives of the public sector undertakings stated that:

“In order to ensure better job opportunities to the persons within the state/local persons, it is considered necessary that preference should be given to local persons in the matter of recruitment in the state public sector undertakings. All the Chief Executives of the public sector undertakings are, therefore, requested to ensure high priority to local persons/persons from within the state in the public sector undertakings while making recruitments in their undertakings in all disciplines.”²⁸

Following on this circular, the Secretary of the Commerce and Industries Department, wrote another letter to all chief executives of companies/corporations under his department, on the matter of according priority to the local persons in recruitment. The letter directed all chief executives “to ensure high priority to local person/persons from within the state in the public sector undertakings.”²⁹

The most important policy decision taken by the Ramakrishna Hegde government with regard to the ‘sons-of-the-soil’ issue was the appointment of the Sarojini Mahishi Committee to study the unemployment problems of Kannadigas. This committee was appointed by the government in 1984 as a response to the pressure from various Kannada organisations to check uncontrolled migration from other states and thereby to ensure employment opportunities for Kannadigas in Karnataka.

The committee was headed by Sarojini Mahishi, a Rajya Sabha member of Janata Party from Karnataka.³⁰ The other members of the committee were:

- | | |
|--|--------------|
| (1) Gopalakrishna Adiga | .. Member |
| (2) G K Sathya | .. Member |
| (3) G Narayan Kumar | .. Member |
| (4) K Prabhakar Reddy | .. Member |
| (5) With A H Someshwar, Deputy
Secretary to government as | .. Secretary |

The terms of references of the Committee were:

- (1) The Committee shall study the present factual position relating to employment of persons belonging to Karnataka in central public sector undertakings and Banks and other institutions under the control of the government of India;
- (2) The Committee shall ascertain the problems and grievances of the employees who belong to Karnataka in such undertakings; and
- (3) The Committee shall make appropriate recommendations regarding any remedial measures which the Committee considers necessary.

After two years of investigation, the Committee submitted its report to the government in 1986. The Committee had made 58 recommendations aimed at protecting the employment interests of Kannadigas. The most important of them was the one which suggested reservation of a specific quota of jobs for Kannadigas:

The ratio of employment opportunities of Kannadigas in the Central Public Undertakings should be as follows:

Class IV (Group D) Posts	:	100%
Other posts having pay scales up to Rs. 1250.00	:	80%
Remaining higher posts to be filled up on direct recruitment basis	:	65%

Reluctant to implement the Sarojini Mahishi Committee report inspite of the continuing pressures from the part of the nativist organisations for its implementation, the government appointed yet another committee, called the *Kannada Udyogigara Samithi* (Kannada Employment Committee), headed by a Janata Party MP, V Venkatesh, to examine the recommendations of the Sarojini Mahishi Committee on job opportunities for Kannadigas and oversee its implementation.³¹ The other four members were D B Chandre Gowda, P V Narayan, G Narayan Kumar and K Prabhakar Reddy.

This Committee had a premature end with the resignation of its chairman V Venkatesh before its final report was submitted. However, the committee had submitted three interim reports to the government. The first interim report recommended the publication of a bulletin in Kannada on employment opportunities in the state, publication of a Kannada section in the Employment News published by the government

of India, the posting of Karnataka Administrative Service officers as heads of the departments and improving the standards of examination for the recruitment of Karnataka Administrative Service officers to attract the best possible talent equal in calibre to IAS officers. It further recommended that at least 80% of the posts carrying a salary of Rs 1,250 should be made available for Kannadigas and 65% of the posts at the higher level. To ensure better employment prospects for local people, the committee recommended a ministerial level department on the lines of a Human Resources Development Department and a legislative committee to monitor employment opportunities for Kannadigas.³²

The second interim report, submitted on 26 November 1988 recommended measures to ensure that 100% of jobs in the state are reserved for Kannadigas. Adopting much the same definition of 'Kannadiga,' made by the Sarojini Mahishi Committee, it recommended that all those who had lived in Karnataka for 15 years could be considered 'Kannadigas.' The Committee further recommended that the registration in employment exchanges should be made compulsory for those seeking appointment in private and public sectors in the state in future.³³

The *Kannadiga Udyogigara Samithi* submitted its third interim report to the government on 5 February 1989. It recommended special incentives to encourage Kannadiga engineers to take up civil contracts.³⁴ Although the committee had not submitted its final report, on 19 April 1989 the Karnataka government had already accepted in principle all the recommendations made by the *Kannadiga Udyogigara Samithi* in its three interim reports and directed it to prepare an action plan for its implementation.³⁵

IV

Responses of Political Parties Towards Nativist Demands

Apart from government orders and committee reports, policy pronouncements were also made by the ministers on the floor of the legislature. The Law and Parliamentary Affairs Minister M Veerappa Moily, in reply to a question by Shivananda H Koujalagi (Janata Dal), told in the Legislative Assembly that "the government was committed to take whatever steps required to implement the recommendations of the Mahishi Committee. Programmes for giving employment to locals were already in existence but they had to be strengthened."³⁶ The Chief Minister Veerendra Patil, in reply to a question raised by T A Rangaiah in the Legislative Council, assured the house that a decision on the Sarojini Mahishi Committee report on giving of opportunities to Kannadigas

would be taken up soon.³⁷ He said that he understood the sentiments of the members and a cabinet sub-committee had been constituted to examine both the Sarojini Mahishi and Venkatesh Committee recommendations.³⁸ Replying to a question raised in the Legislative Council, the Ports and Fisheries Minister T N Narasimha Murthy said that the government was actively committed to giving primacy to Kannada at all levels.³⁹ He cited that 6,529 Kannada typewriters were in use in the various government departments and 4,777 English typewriters had been withdrawn. Industry Minister S M Yahya in a public speech declared that, "eighty per cent of jobs in factories to be set up henceforth should be earmarked compulsorily for the locals."⁴⁰ The Minister further said, "earmarking of jobs for locals, who include people speaking Kannada, Tamil and Urdu who are born and brought up in Karnataka, would be one of the programmes of the government under the industrial policy to be announced shortly."

In spite of these public announcements, the government did not take any serious steps to implement the Sarojini Mahishi Committee report. The only thing the government did was to place the Sarojini Mahishi Committee recommendations in the official gazette. This was done by the Bangarappa government (Congress-I) on 12 December 1990.

These responses of the Karnataka government to the 'sons-of-the-soil' demands, make it clear that both the Congress and Janata/Janata Dal Governments have adopted a sympathetic attitude towards nativism. Of the five governments which were in power during the 1980s, the crucial policy decisions on these matters were taken by the Gundu Rao and the Ramakrishna Hegde governments. The Congress (I) leader, R Gundu Rao had taken a strong stand in favour of the 'sons-of-the-soil' demands, when he was in power. On 10 February 1980 he had assured the people of the state that he would ensure that job opportunities were limited only to Kannadigas. "Why only 80 or 90 per cent, I will make it cent per cent," he said and added, "when these industries use Kannada land, water and power, there is every justification in demanding that they should give jobs to the local people."⁴¹ But he expressed entirely different opinions when he was personally interviewed ten years after he relinquished office. He said,

"outsiders come in when the local people are lazy and lethargic. If the local people are active and enterprising, outsiders cannot come in. Many Kannadigas do not like to come out of their villages. Especially, for particular jobs like nursing, army, sweeping, carpentry, masonry and construction works, Kannadigas did not

seem to be interested. They do not like to do the manual jobs, because they feel that such jobs are inferior.”

To pinpoint the lack of mobility among Kannadigas, he cited one example from his own experience as Chief Minister of the State.

“In the Legislative Assembly one member asked about why all the drivers and cooks working in Karnataka Bhawan, New Delhi, are non-Kannadigas. In response to that question, I assured the House that if any one could suggest any Kannada speaking driver or cook who is ready to work in Delhi, straightaway I will appoint them. But nobody came forward with a name. That is the plight of Kannadigas.”⁴²

He called upon the advocates of the ‘sons-of-the-soil’ theory to see that young people would be motivated to take up any type of jobs available and to be ready to move out of the state if it was necessary to do so. He said that in a federal set up, the ‘sons-of-the-soil’ sentiments are not a healthy trend.

But, contrary to the stand of Gundu Rao, Ramakrishna Hegde, Janata Dal leader and former Chief Minister, maintained a favourable attitude towards the nativist demands.⁴³ He disclosed that

“... outsiders are outnumbering Kannadigas in all major public sector undertakings in Bangalore. It is not because that qualified hands were not available in Karnataka. Since the top people in these undertakings were outsiders, they have brought their own people. Migrant communities are happily placed in Bangalore. See, for example, in Railways, Telugus, Tamils and Malayalis are dominating.”

Attributing this problem as partly political and partly real, he said that this movement had been politically exploited. He urged that given an equality in qualifications, Kannadigas should be given preference in employment. His definition of ‘Kannadiga’ was in line with that of the nativist leaders, i.e. a person would be accepted as a Kannadiga only if his mother tongue was Kannada. A north Indian family, even after two or three generations of stay in Karnataka, would continue to speak Hindi in their family, and cannot be called Kannadigas unless they adopt Kannada as their mother tongue. He justified the ‘sons-of-the-soil’ movement on the basis of economic injustice done to the local people, adding that the sense of injustice was bound to create tension.

James Manor, an American political scientist based in Britain, has explained why Ramakrishna Hegde advocated a policy of “Karnataka for Kannadigas.”

“He wanted to make an independent power base for himself. This slogan enabled him to gather some of the pro-Kannada excitement which had been mounting in the State. He seized the opportunity from the Kannada matinee idol Rajkumar, who was considering the possibility of entering into politics. Moreover, by adopting the cause of Kannada, Hegde has strengthened his image as a regional leader. This pro-Kannada attitude had, no doubt, helped him in leading his party to a landslide victory in 1983 Assembly elections.”⁴⁴

Although the leaders of both Congress (I) and Janata Dal made several statements in support of nativist demands, neither of these parties have referred to this issue in any of their party documents or election manifestos. On the contrary, they have taken an equivocal stand on the ‘sons-of-the-soil’ issue. The primary reason for this is that none of them would like to lose the votes of minority linguistic groups, which constitute quite a large segment of the Karnataka population, i.e. nearly 35%. Secondly, the national parties are restrained by the fact that if they take linguistic nationalism or regionalism too far, they would lose support in other states. For example, any party in Karnataka that commits itself too strongly to linguistic identities could see a loss of votes for it in neighbouring states such as Andhra Pradesh, Tamil Nadu and Kerala. Thirdly, political parties enjoying power at the national level, or even aspiring for it, would tend to oppose fissiparous or separatist tendencies and promote integrative tendencies.

The Indian experience suggests that the political exigencies compel the political parties at the state level to soften their stand towards the “sons-of-the-soil” movement. When the conflict is between the majority linguistic community (local) and the minority linguistic communities (migrants), political parties tend to take a stand in support of the majority linguistic group, but would be careful not to seem too committed to such a policy since they are aware that it is only with the support of majority linguistic group (locals), that they can come to power. Taking a stand opposed to the demands of the majority linguistic group (locals) would become politically costly. Therefore, no state government, irrespective of party affiliation, is likely to be indifferent towards the demands of the nativist organisations, since they are dependent on the support of the

same local linguistic group for their own ascendance and continuance in power.

It also has to be understood that a state government which functions within the strict framework of the Indian constitution cannot restrict the freedom of Indian citizens to take up jobs in any part of the country. Under the Constitution, the Union Parliament is the only competent authority to set residential qualifications for employment. Any attempt by the state legislature to enact a law to the effect of reserving job opportunities to the local people thus faces the prospect of intervention by the judiciary in such instances. We turn now to an examination of how the judiciary has handled various cases related to preferential policies for local people.

V

Judicial Response to Nativism

Myron Weiner has identified three principles—efficiency, equity and state interest—as the rationale behind such judicial decisions.⁴⁵ He points out that the courts have dealt with three questions in reaching a decision on the ‘sons-of-the-soil’ issue:

- (1) Are domicile practices in admission procedures consistent with the selection of the most meritorious students?
- (2) Will domicile rules advance the interests of the state?
- (3) Can domicile rules be justified by a region's claim of backwardness?

One of the first cases that the judiciary considered was *Raghun Rao vs. State of Orissa* which involved both residential and language issues. A Governor's resolution stipulated that applicants to the Orissa Administrative Service should be permanent residents of the State. Paragraph 5 of the resolution defined a permanent resident of the province of Orissa, as any person who, or one of whose parents, has lived in the province of Orissa for a minimum period of 12 years and has the ability to speak Oriya. However, the court upheld the requirement until such time as Parliament were to make a law under Article 16(3).⁴⁶ Later in 1969, the Orissa High Court upheld a policy which made knowledge of Oriya mandatory for appointment to the position of District Judge.⁴⁷

While the number of job-related cases was rather limited, there has been a considerable amount of litigation relating to ‘sons-of-the-soil’ policies in educational institutions. The articles of the Constitution with a

bearing on educational admissions include article 29(2), which bars discrimination in admissions on grounds of religion, race, caste, and language. No mention is made in this article, however, of either birthplace or residence. Residence or domicile restrictions in educational admissions are usually challenged therefore, under articles 14 or 15.⁴⁸ The latter bars discrimination on grounds of birthplace but not residence.

In most medical and technical colleges, preference is given to persons domiciled and/or residing in the state. The courts have consistently barred reservations based on place of birth but have sustained domicile and residential requirements, which are defined in terms of an individual's intention to make the state the locality of future residence and/or ability to provide evidence of previous residence (five to fifteen years) within the state.⁴⁹ State High Courts as well as the Supreme Court have taken a position which, while barring discrimination on grounds of place of birth, nevertheless upholds lengthy residential requirements.

In 1971, the Supreme Court struck down a policy decision of the Mysore government for selection of candidates for admission to the state medical colleges, framed by the state on 4 July 1970. The rule stated that "no person who is not a citizen of India and who is not domiciled and resided in the State of Mysore for not less than ten years at any time prior to the date of the application for a seat shall be eligible to apply." The court held that a domicile requirement (met by demonstrating the intention to reside in the state) and, in addition, the ten years residential rule were not in contravention of article 14. Justice Dua, delivering the judgement of the court, conceded that,

"the object of framing the impugned rule seems to be to attempt to impart medical education to the best talent available out of the class of persons who are likely, so far as it can reasonably be foreseen, to serve as doctors, the inhabitants of the State of Mysore. It is true that it is not possible to say with absolute certainty that all those admitted to the medical colleges would necessarily stay in Mysore State after qualifying as doctors. But these possibilities are permissible and inherent in our constitutional set-up and these considerations cannot adversely affect the constitutionality of the otherwise valid rule."⁵⁰

The same rule was challenged when it was applied to the private colleges in Karnataka. In the case, Arun Narayan vs. State of Karnataka,

decided in the Karnataka High Court in 1976, Justice Chandrashekhar held that,

“the right to move freely throughout the territory of India... and to reside and settle in any part of India... do not by themselves [sic] ensure that every citizen of India will have all the advantages and privileges in every State available to citizens domiciled or residing therein and that no kind of preference is permissible to citizens who are domiciled in or residents of that State.”⁵¹

In an earlier case, in 1972, the Andhra Pradesh High Court upheld the 15 years residential requirements for admissions into the private medical colleges in the state. The High Court held that because the medical college was private, article 14 was not applicable.⁵²

It is evident from the above judgements that while the courts have rejected most of the residential requirements in employment, they have endorsed such requirements for admissions to educational institutions. The courts have upheld admission procedures which favour even students who had graduated from the same university. In *Siddappa vs. State of Mysore* and *Chanchala vs. State of Mysore*, the courts decided that such a requirement did not violate article 14. In the judgement, Justice M Shelat noted that the preferential treatment for a university's own students “does not have the disadvantage of district-wise or unit-wise selection as any student may pass the qualifying examination in any of the three universities irrespective of the place of his birth or residence.”⁵³

In *Chanchala vs. State of Mysore*, also decided in 1971, the university based admission procedure was upheld by the Supreme Court. Justice Shelat noted that,

“although a university based admissions process might mean that a candidate with lower marks from the university in question could be preferred over a candidate with higher marks from another university, this would not necessarily mean, given the possible difference of standards, that a less meritorious student was chosen over a more capable one. A preference to one attached to one university in its own institutions for postgraduate or technical training is not uncommon. Such a system for that reason alone is not to be condemned as discriminatory, particularly when admission to such a university by passing a qualifying examination held by it is not precluded by any

restrictive qualifications, such as birth or residence, or any other similar restrictions.”⁵⁴

Residential requirements for admissions have been invalidated by the Supreme Court in *Periakaruppan vs. State of Tamil Nadu* on account of the principle of merit. Justice K S Hegde observed:

“Before a classification can be justified it must be based on objective criteria and further it must have a reasonable nexus with the object intended to be achieved. The object intended to be achieved in the present case is to select the best candidate for being admitted to medical colleges. That object cannot be satisfactorily achieved by the method adopted...”. “Reservation of seats should not be allowed to become a vested interest. It must be remembered that the government's decision in this regard is open to judicial review.”⁵⁵

On the other hand, the Supreme Court has upheld preferential policies for local people in educational institutions on the principle of protecting the interests of the state.⁵⁶ The rationale underlying this principle is that the beneficiaries of such policies will serve the interests of the people in the state. But contrary to this, the Alahabad High Court in a 1975 case struck down the preferential treatment in admission of students from rural areas that the state is not justified on “service” grounds:

“Medical graduates hailing from rural areas may also be disinclined to return to the villages for medical practice on account of poor facilities and they will also try to build their career in the urban centres where they hope to have a better job satisfaction. The assertion on behalf of the State of Uttar Pradesh that the reservation of seats for candidates of these areas was with a view to feed the dispensaries of these areas appear to be pretentious and cannot be a justifiable ground for making reservations.”⁵⁷

Though the reservation of seats in medical colleges in Uttar Pradesh for rural candidates was declared unconstitutional, the reservation for candidates from hill areas and the Uttrakhand area was held valid,

“The hill and Uttrakhand areas in U.P. are instances of socially and educationally backward classes of citizens. Backwardness is judged by the economic basis that each region has its own measurable possibilities for the maintenance of human numbers,

standards of living and fixed property. From an economic point of view, the classes of citizens are backward when they do not make effective use of resources. When large areas of land maintain a sparse, disorderly and illiterate population whose property is small, and negligible, the element of social backwardness is observed.”⁵⁸

The judiciary also took distortions in the regional development of a state into consideration in deciding cases pertaining to preferential policies for local people. The argument was that such distortions in economic growth could result in regional tensions in a state, and limited resources coupled with the increase in the number of those seeking a slice of the cake were bound to create new constitutional problems.⁵⁹

Former Supreme Court Chief Justice M Hidayatullah has alluded to the role that residential preferences may play in reducing uneven levels of development. Noting that discrimination on grounds of residence may be justified, the former Chief Justice remarked: “Sometimes local sentiments may have to be respected or sometimes an inroad from more advanced states into less developed states may have to be prevented.”⁶⁰

In *A V S N Rao vs. State of Andhra Pradesh*, a problem of this nature came before the Supreme Court. The petitioners were working in the Telengana area of the State of Andhra Pradesh. It was decided by the government that they should be provided places outside the Telengana area so as to provide employment for the ‘sons-of-the-soil.’ All non-domicile employees affected by this were to be provided with employment in the Andhra Region without break in service and by creating supernumerary posts, if necessary. The action was taken under section 3 of the *Public Employment (Requirement as to Residence) Act 1957* which was a Union Act made under article 16(3) of the Constitution. Chief Justice Hidayatullah, while elaborating the main principle of the Constitution, observed “the intention here is to make every office of employment open and available to every citizen, and *inter alia* to make offices or employment in one part of India open to citizens in all parts of India.”⁶¹

On a similar ground, the Andhra High Court in a 1972 case held that preferential treatment of Telengana students in medical admissions was justified since,

“Kakatiya Medical College was started for the spread of medical education mainly for Telengana region, which is educationally backward in the State. If in view of this object, provision is made

to cater to the educational needs mainly of that particular region, as it badly requires such assistance, it cannot be said that the object to be achieved has no relation to the classification made by giving larger representation to the Andhra region. The increase in the Telengana quota is consistent with the object underlying the establishment of the institution.”⁶²

Most of the preferential policies for ‘sons-of-the-soil’ are issued in the form of administrative directives or executive orders. The legal binding of such orders have also been questioned in courts. In a 1961 case in Madhya Pradesh, the High Court ruled that administrative directives could not be questioned under the equality clause of the constitution,

“The rules are only administrative directives given by the government and that non-compliance with the rules does not confer on the petitioner any right to compel the respondents to proceed in strict conformity with the rules. The contention of the government is a double-edged weapon and it cuts both ways. If they had been statutory rules, we would not have hesitated to strike down such of those rules as offend against the provisions of Article 14 or quash any discriminatory action taken.”⁶³

VI

Judicial Responses Towards the Issue of Medium of Instruction

Ever since the re-organisation of states on the basis of language, the medium of instruction in educational institutions has been a matter of conflict between the majority linguistic group on the one hand and the minority linguistic groups on the other in most of the states. The issue has been taken to the courts many times and their judgements are of importance in this study.

It is understood that in many cases, the courts have upheld the rights of linguistic minorities to have their children educated in their own language. When Punjabi was made the sole medium of instruction, the Supreme Court struck down such a provision as seen from *D A V College Bhattinda vs. State of Punjab* (1971). Similarly, in *Ahmedabad St. Xaviers College Society vs. State of Gujarat* (1975), the Supreme Court held that the linguistic minorities have a fundamental right to conserve their language and culture. “That cannot be interfered with and there cannot be an element of force obliging the student to study another language.”⁶⁴

Another judgement made by the Karnataka High Court has invalidated a Karnataka government order making the Kannada language compulsory to all students in schools. In *Linguistic Minorities Protection Committee vs. State of Karnataka*, the High Court held that such an order violated of Articles 29(1) and 30(1) of the constitution. The court said:

“The government order dated 20th July, 1982 in so far it relates to the making of study of Kannada as a compulsory subject to children belonging to linguistic minority groups from the first year of the primary school and compelling the primary schools established by linguistic minorities to introduce it as a compulsory subject from the first year of the primary school and also in so far it compels the students joining high schools to take Kannada as the sole first language and compelling the high schools established by linguistic minorities to introduce Kannada as the sole first language in the secondary schools, is violative of Articles 29(1) and 30(1) of the Constitution.”⁶⁵

But the same Karnataka government order was upheld by the Supreme Court in a 1993 judgement. The court said:

“Certainly, it cannot be contended that a student studying in a school from Karnataka need not know the regional language. It should be the endeavour of every State to promote the regional language of that State. Therefore, to contend that the imposition of study of Kannada throws an undue burden on the students is untenable. In view of this analysis, it is clear that there is no violation of Article 29 or 30 of the Constitution infringing the right of the minorities.”⁶⁶

From the foregoing analysis of the judiciary's role in settling cases related to the nativist demands, it is evident that no clear cut policy has been evolved either by the High Courts or by the Supreme Court. Despite the large number of cases that reached the courts on this issue, their rulings have varied from one case to another. The contradictions between the constitutional provisions and the tendency of state governments to adopt preferential policies, naturally create difficulties for the judiciary. Most of the provisions in the constitution clearly prohibit preferential policies for local people. For instance, Articles 14, 15, 16(1) and (2), and 19 guarantee equality of all citizens before the law, and bar discrimination in state employment on grounds of the place of birth and residence and guarantees to all citizens the right to move freely, and reside in, and settle

anywhere in India. Article 16(3) confers the exclusive right to set residential requirements in state services to the union Parliament. The courts have adjudicated only a limited number of cases in this regard, and have not evolved any coherent principles in their judgements. The cases challenging 'sons-of-the-soil' policies have involved both residential and language requirements in matters of employment and admission to educational institutions.

T M Joseph is Head, Department of Political Science, Newman College, Thodupuzha, Idukki, Kerala, India and S N Sangita is Associate Professor, Development Administration Unit, Institute for Social and Economic Change, Bangalore, India.

Notes

1. Myron Weiner, M F Katzenstein, and K V Narayana Rao, *India's Preferential Policies: Migrants, the Middle Classes, and Ethnic Equality*, Chicago, University of Chicago Press, 1981, p 2.
2. *ibid.*, pp 16-17. The history of preferential policies in India can be traced back to the 19th century. In the regions of Madras, Baroda and Travancore, special schools and scholarships were established for depressed classes as far back as the 1880s. The British had set up separate electorates for the Muslim community in 1909 a principal which was enshrined in the Minto-Morley Reforms and was extended in 1919, under the Montague Chelmsford reforms, to other minorities. A system of special reservations in government jobs was also gradually instituted in many regions. In Madras, for example, the first communal government order of 1921 established six categories (Brahmin, Non-Brahmin, Christian, Muslim, European and Anglo-Indian) from which recruits for Government service in Madras were drawn. In the Punjab, similarly, 20% of Government positions were reserved for the Sikh community at the time of independence. See also M F Katzenstein, "Preferential Policies, the Courts and National Unity in India" in *National Unity: The South Asian Experience*, Milton Krael (ed.), New Delhi, Promilla & Co., 1983, p 135.
3. *Bengali Bihar Question: Report of Babu Rajendra Prasad*, Alahabad, All India Congress Committee, 1939, p 18 cited in Myron Weiner, "Changing Conceptions of Citizenship in a Multi-Ethnic Society: Migration, Protected Labour Markets, Law and Citizenship in India," unpublished working paper, Cambridge, Massachusetts Institute of Technology, 1975, p 21.
4. *ibid.*, p 19.
5. *ibid.*, p 20.
6. *Constituent Assembly Debates*, VII, 30 November 1948, p 676.
7. *ibid.*, p 677.
8. *ibid.*, p 695.
9. *Constituent Assembly Debates*, III, 30 April 1947, p 448.

10. *Constituent Assembly Debates*, VII, 30 November 1948, p 700.
11. The first legal assertion of this right can be seen in section 87 of the *Government of India Act of 1919* which was subsequently incorporated into the *Government of India Act of 1935*. The section reads: "No native of British India nor any subject of His Majesty resident therein shall by reason only of his religion, place of birth, descent, colour or any of them be disabled from holding any office under the Crown in India."
12. *Lok Sabha Debates*, No. 22, New Delhi, *Lok Sabha Debates*, 13 December 1972, p 25.
13. In fact, the first reference to the 'sons-of-the-soil' issue at the governmental level came in the Rege Committee report in 1958. It referred to the allegations of discrimination made before it and hoped that such evils as were associated with recruitment in general would be remedied when recruitment was based on scientific principles and effected through an impartial agency like the Employment Exchange. See the Report of the Labour Investigation Committee, Government of India, 1958, p 108.
14. "Report of the National Integration Council," Government of India, June 1968, cited in *The Report of the National Commission on Labour*, Government of India, Ministry of Labour, Employment and Rehabilitation, 1969, pp 75-76.
15. Myron Weiner, M F Katzenstein, and K V Narayana Rao, 1981, *op.cit.*, p 25.
16. The purpose of recruiting through employment exchanges is to restrict the employment opportunities to local people. Normally, only the residents of a particular district can register in the employment exchanges located in that district, though an exception is made for graduates and other technically trained people who can register in any exchange within the same State. When the recruitment takes place through the exchanges and registration rules are strictly enforced, there would be limited migration across state boundaries.
17. Myron Weiner, M F Katzenstein, and K V Narayana Rao, 1981, *op.cit.*, p 25.
18. Government of India, Order No. BPE/GL-007/78 NAN 3(2)/75-BPE-GM-1, 13 November 1978.

19. Government of India, Order No. 15/12/84-GM, 8 March 1984.
20. *The Report of the National Commission on Labour*, Government of India, Ministry of Labour and Employment and Rehabilitation, 1969, pp 77-78.
21. *Lok Sabha Debates*, XXII, December 13, 1972, p 13, quoted in Myron Weiner, M F Katzenstein and K V Narayana Rao, 1981, *op.cit.*, p 25.
22. *Rajya Sabha Debates*, 28 February 1974, p 93, quoted in Myron Weiner, M F Katzenstein and K V Narayana Rao, 1981, *op.cit.*, p 25.
23. Myron Weiner, M F Katzenstein, and K V Narayana Rao, 1981, *op.cit.*, p 41.
24. In fact, an order providing reservation of seats in medical colleges under a particular university for students who had graduated from the same university was issued as early as 1965 by the Government of Mysore. Rule 11 of the order says: "seats other than those reserved under Rule 4 shall be distributed university-wise that is, seats in colleges affiliated to the Karnataka University shall be allotted to persons passing from colleges affiliated to that university and seats in colleges affiliated to Bangalore and Mysore Universities shall respectively be allotted to persons passing from colleges affiliated to each such university." See Government of Mysore Order: PLM 778 MMC 64, 11 June 1965.
25. Government of Karnataka, Order No. SWL 70 ETX 77, 23 July 1981.
26. Government of Karnataka, Order D O No. CI 151 PUM 82, 5 November 1982.
27. Government of Karnataka, Order No. C14 PUM 83, 6 January 1985.
28. Government of Karnataka, Order No. DAR (BPE) 9 SPU 83, 30 April 1983.
29. Government of Karnataka, Order No. CI 26 PUM 81, 2 January 1984.
30. Government of Karnataka, Order No. DPAR 23 SRR 83, 4 August 1983. Later the Government has nominated two more members to the Committee namely B S Hanuman, IAS (Rtd) and Siddayya Puranik, IAS (Rtd) on 1 January 1985.

31. *Deccan Herald*, Bangalore, 21 May 1988.
32. The first interim report of the *Kannada Udyogigara Samithi* submitted to the Government on 20 July 1988.
33. The second interim report of the *Kannada Udyogigara Samithi* submitted to the Government on 26 November 1988.
34. The third interim report of the *Kannada Udyogigara Samithi* submitted to the Government on 5 February 1989.
35. *Deccan Herald*, Bangalore, 20 April 1989.
36. *Legislative Assembly Debates*, VII, 12 June 1990.
37. *Legislative Council Debates*, VIII, 5 July 1990.
38. The Cabinet Sub-Committee on jobs for Kannadigas was headed by Law and Parliamentary Affairs Minister Veerappa Moily. The other two members were Education Minister K H Ranganath and Health Minister Manorama Madhwaraj.
39. *Legislative Council Debates*, VII, 20 June 1990.
40. *Deccan Herald*, Bangalore, 22 June 1990.
41. A G Noorani, "The-Sons-of-the-Soil Doctrine," *The Indian Express*, Bangalore, 21 April 1980.
42. R Gundu Rao, Personal Interview, Bangalore, 6 September 1991.
43. Ramakrishna Hegde, Personal Interview, Bangalore, 26 November 1991.
44. James Manor, "Blurring the Lines between Parties and Social Bases: Gundu Rao and the Emergence of a Janata Government in Karnataka" in *State Politics in Independent India*, John R Wood (ed.), London, West View Press, 1984, p 157. Ramakrishna Hegde had given expression to his Pro-Kannada views from public platforms on numerous occasions. For instance, speaking at the Rajyotsava celebrations organised by the Kannada Chaluvalli Kendra Samithi in Bangalore on 1 November 1985, he cautioned non-Kannadigas settled in Karnataka that "the State Government would not hesitate to take action against them if they tried to exploit Kannadigas." He further said, "Kannadigas by nature are very shy, tolerant and are prepared to make sacrifices, and welcome

others. This concession should not be misused by the non- Kannadigas here nor should they think that the Kannadigas were weak.” See *Indian Express*, Bangalore, 2 November 1985.

45. Myron Weiner, M F Katzenstein, and K V Narayana Rao, 1981, *op.cit.*, p 36.
46. *Raghun Rao vs. State of Orissa*, All India Reporter, 1955, p 113, cited in M F Katzenstein, 1983, *op.cit.*, p 149. The High Court ruled that “Article 16(3) read with Article 35(a) undoubtedly empowers Parliament only to make a law prescribing requirements as to residence within the state. This does not, however take away the power of the State Legislature to prescribe conditions of recruitment and service which is provided for in Article 309. There is a provision in this Article for the governor to make rules regulating recruitment and conditions of service of persons appointed to such services until provision is made in that behalf by an Act of the appropriate legislature. Entry 41 in List 2 of the Seventh Schedule mentions “State Public Services” as one of the state subjects, in respect of which the State Legislature is competent to make laws. Under article 372 existing laws could continue in force. From this it follows that until Parliament has made a law under Article 16(3) the existing laws continue to be in force and are not affected by that article. Article 309 says: “Subject to the provisions of the Constitution, Acts of appropriate legislature may regulate the recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State.”
47. *Radha Charan vs. State of Orissa*, All India Reporter, 1969, Orissa, p 237.
48. Myron Weiner, M F Katzenstein, and K V Narayana Rao, 1981, *op.cit.*, p 32.
49. *ibid.*
50. *N Vasundara vs. State of Mysore*, All India Reporter, 1971, SC, 1439, pp 1440-1443.
51. *Arun Narain vs. State of Karnataka*, All India Reporter, 1976, Karnataka, p 185.
52. *Nookavarapu Kanakadurgan Devi vs. Kakatiya Medical College*, All India Reporter, 1972, Andhra Pradesh, 83, p 90. The Court held that although the college received a grant-in-aid from the Government and was

attached to a Government hospital, and although membership of its executive committee included ministers and other officers of the Government, it was still considered a private institution.

53. *Siddappa vs. State of Mysore*, All India Reporter, 1971, SC, 1762, p 22.
54. *D N Chanchala vs. State of Mysore*, All India Reporter, 1971, SC, 1769.
55. *A Peria Karuppan vs. State of Tamil Nadu*, All India Reporter, 1971, SC, 2303.
56. *N Vasundara vs. State of Mysore*, All India Reporter, 1971, SC, 1443, cited in M F Katzenstein, 1983, *op.cit.*, p 158.
57. *P Tandon vs. State of Uttar Pradesh*, All India Reporter, 1975, Alahabad, p 567.
58. *ibid.*
59. *Annual Survey of Indian Law*, New Delhi, Indian Law Institute, 1970, p 11.
60. *ibid.*, p 70.
61. *ibid.*, p 11.
62. *Nookavarapu Kanakadurgan Devi vs. Kakatiya Medical College*, All India Reporter, 1972, Andhra Pradesh 83, p 93.
63. *Ramachandra Vishnu vs. State of Madhya Pradesh*, All India Reporter, 1961, Madhya Pradesh 247, p 250.
64. *Ahmedabad St. Xaviers College Society vs. State of Gujarat*, All India Reporter, 1995, SC, 173.
65. *Linguistic Minorities Protection Committee vs. State of Karnataka*, All India Reporter, 1989, Karnataka 226, p 264.
66. *English Medium Students Parents Association vs. State of Karnataka*, All India Reporter, 1991, SC, 586.