

“Functioning of Parliamentary Democracy in India”

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Parliamentary Democracy as distinguished from Presidential Democracy

Our constitution provides for parliamentary form of government. We have borrowed the constitutional features of several democratic countries. But our parliamentary model is predominantly based on the British system. The Head of Government in our system, the Prime Minister, can hold office only so long as he commands the confidence of the Lok Sabha. Confidence of the House is reflected in existence/continuance of majority support - whether it be of a single party or of a coalition of parties. This feature can, and does, cause instability in governance. In Presidential democracies, the Head of Government, the President is directly elected by the people and cannot be removed from office except in circumstances of high crimes and misdemeanour established through impeachment process. Hence, Presidential democracies provide stable governance. In our parliamentary system, we have had changes of government through mid term elections or political realignments. Changes in government undoubtedly bring about disruptions in implementation of policies, development programmes and schemes.

A question that has been publicly debated often is whether we should not opt for Presidential form of government. Parliamentary form being a basic feature of the Constitution, as held by the Supreme Court, legal problems might arise in switch over to any other form. Nor is it the case that parliamentary form is without its merits. The Parliament is in a position to keep the Prime Minister and his Ministers under constant vigil through its oversight mechanisms and devices - Question Hour, Adjournment Motions, Calling Attention Notices, debates, Confidence and No Confidence Motions, Scrutiny of budget and its implementation, public accounts audit etc.

We should also remember that lack of mandate for the parliament to force a government out of office when circumstance would warrant may result in dictatorial tendencies on the part of the Head of the Government.

We can perhaps consider the feasibility of adopting the German model of constitutional/legal provisions for constructive Votes of No Confidence. Under this model, the parliament may express its lack of confidence in the Head of government

only by electing a successor by the vote of a majority of Members and requesting the President for the appointment of the successor.

Head of Government to be from the House of the People

Under Article 75 of the Constitution, the Prime Minister is appointed by the President and the other Ministers are appointed by the President on the advice of the Prime Minister. The Council of Ministers including the Prime Minister are collectively responsible to the Lok Sabha. Often our Prime Ministers are not from the Lok Sabha but from the Rajya Sabha. His responsibility being to the Lok Sabha, it is desirable that the Prime Minister is drawn from the Lok Sabha.

Multi Party System

For a long time now, governance through coalition arrangements has more or less become the order of the day in the multi party system that we follow. In the current (15th) Lok Sabha, forty political parties have their presence. As of now, the present UPA II Coalition consists of 11 parties and is supported from outside by 9 parties. Running the government by coalition formations like this is like running a handicapped race. The government gets to be hamstrung in taking effective policy/reform measures. Coalition partners have their regional, local and ideological agendas which they are often unable to harmonize with the overall coalition programmes. While the Government tries to ventilate its helplessness by referring to "coalition compulsions," the constituent partners complain of violation of "coalition dharma" by the government in not reaching out to them. There needs to be effective and meaningful efforts on the part of ruling coalitions at what late Prime Minister V.P Singh characterized as "management of contradictions". This is feasible only if coordination mechanisms are perfected and made functional by ruling coalitions.

Federalism

Our polity is a Union of States. Our administration is decentralized. Sharing of powers is constitutionally provided for and mandated. Rising up to local aspirations, since original States Reorganization, several new States have been created. In my experience, parliamentarians and constitutional authorities of other countries have marvelled about our finely balanced Centre State relationship. Our political leaders

owe it to our people not to disrupt this balance. Of late, especially with the rise of the regional parties, jurisdictional questions are being increasingly raised on grounds of federalism. Examples are jurisdictional debates in the context of Lok Pal Bill and creation of National Counter Terrorism Centre (NCTC). On issues of national importance, National and State level leaders and parties need to carefully harmonize their respective concerns in a non partisan manner. This would be feasible only if National and State governments reach out to each other for consensus building.

Money and Muscle Power in Elections

Money power plays a significant role in our elections. Of course, the Election Commission does try to keep vigil through its expense monitoring mechanisms against efforts at mobilizing votes for money. That by no means can be considered to be adequate. At least the public perception is that the election expenses incurred by candidates are several multiples of the expenditure ceilings officially fixed. Even as ceilings have to be reviewed and revised, making them more realistic and consistent with ground realities, statutory regulations in respect of their breach should be made stringent and deterrent.

Criminalization of politics caused by the nexus between bureaucracy, political players and criminals has been a subject matter for public debates over several years. But the problem persists. Candidates having criminal background do enter legislative bodies. This is because parties, cutting across the political spectrum, give seats to candidates on ground of their so called "winnability." It is for the political parties themselves to set up standards regarding clean candidature policy.

Of course, electoral contestants are now making declarations regarding their criminal antecedents, if any, as well as their assets in affidavits filed by them while filing nomination papers. At present, this is being done by them based on Supreme Court Ruling. It is desirable to have clear statutory provisions regarding mandatory declarations. Such provisions should also stipulate appropriate sanctions against non disclosure of full information.

Inner Party Democracy

Choice of candidates by political parties for electoral contests is not necessarily driven by transparent inner party democratic processes. Often, it is the Party High Command which has the ultimate say in choice of candidates. Political parties need to introspect on the "High Command Culture".

Representation

The system of election that we follow in our country is the "first past the post system." That is, among various contesting candidates, whoever gets the highest number of validly polled votes is declared elected. This results in candidates who do not necessarily get the majority (more than 50%) of valid votes getting qualified for seats in the legislative bodies. This also results in political parties having seats in the legislative bodies disproportionate to the popular votes polled by them in electoral contests.

The merit of the "first past the post system" is that in our country of a billion people, we can conduct elections without complicated procedures inherent in proportional system of representation. The latter system also results in multiplicity of parties in the legislative bodies.

Rules of Order in the Houses

The Rules of Procedure for the Conduct of Business of the Houses do contain elaborate provisions concerning orderliness in business transaction. These provisions are more often observed only in their breach.

- Members drown one another in their noisy demands, projecting issues outside the agenda;
- demand suspension of the Question Hour;
- do cross talking;
- don't comply with the instructions of the Chair;
- repeat arguments in debates, not having done home work on the subjects of debates;
- often force adjournment of the Houses from hour to hour, day to day;
- boycott Ministers;
- pass budgets hurriedly without serious debates, cause guillotining important

demands for grants.

In the process what suffers is the performance of the parliament in holding the government to account. The people are seriously concerned with chaotic parliamentary proceedings. Of course, the Presiding Officers can discipline the Members. But they rarely exercise their disciplinary powers in the interests of patiently getting the business through. Ultimately, it is for the parliamentary parties to ensure the orderly conduct of their Members. Either the writ of these parties does not run among its Members or they passively allow the members to create chaos on partisan considerations. The parties should introspect on this matter.

Constructive Opposition

The Opposition necessarily has to play the role of vigilantly keeping the government on leash. But it has a very constructive role to play. Indeed, in the British parliamentary system, the senior leaders in the Opposition form "shadow cabinet" - to "shadow" each member of the government. It keeps government initiated laws and policies under scrutiny and offers alternative policies. Often, shadow cabinet members themselves become Ministers when the Opposition gets to form the government. Opposition unity and integrity is as important as unity and integrity of the ruling dispensation. People of the country should not lose out in terms of delivery of services in a merry ground of cyclical partisan hostility between the ruling dispensation and the Opposition

Law Making

Law making is the primary function of legislative bodies. In all parliaments, there are established procedures for making laws. By and large, these procedures concern initiation, introduction, general discussion, Committee scrutiny, public consultation, amendments, discussion in the plenary and voting leading to authentication by the President. We also have time honoured rules for legislation comparable to international standards. Of late, Civil Society Organizations have tended to become strident in regard to the manner in which they should be consulted in law making. Of course, these organizations can provide invaluable inputs based on their grass roots perception of people's aspirations. It is desirable that any public consultation including with Civil Society organizations is done within the framework of parliamentary procedures. In representational democracies, it is the prerogative of the parliament to

make laws on behalf of the sovereign people. We cannot allow law making to be delegated to the Civil Society with the result that it becomes something in the nature of collective bargaining. The simple reason is that there are lot many Civil Society Organizations and we should not tie ourselves down by complicated procedures. Nor do they have representative character. This apart, such organizations also may have their caprices and partisan orientations. Laws touching, as they do, millions of people should be formulated without capricious and partisan orientations. Government, on their part, could study, and learn from, the experiences of other countries such as UK in perfecting pre-legislative scrutiny.

Integrity of Institutions

Ministers and civilian officers come and go. But institutions are there to stay. They are expected to provide important technical support in governance - in their respective areas of competence. Indeed they constitute the memory for, and continuance of - smooth governance. The integrity of these institutions needs to be preserved and strengthened. An example of such institutions is the Comptroller and Auditor General (CAG). In all truly democratic countries, the supreme audit institution has constitutional status, autonomous and politically neutral. Our CAG also has constitutional status. He is appointed by the President. Before entering upon office he swears, inter alia, to perform duties of his office "without fear or favour, affection or ill will and uphold the Constitution and the laws". His duties and powers are as prescribed by law by the parliament. It is very important that the office of the CAG, being a watch dog institution meant to provide objective professional support to the parliament in its financial oversight of the government is not dragged into controversies.

Right to Information (RTI)

The RTI law established by the parliament is an important landmark in the evolution of our system of governance into a transparent and accountable one. While the law finely and deeply enunciates Fundamental Rights, there are bound to be lot more efforts at seeking its further liberalization. This is because there are numerous items of information which are exempt from disclosure, apart from organizations altogether excluded from the ambit of the law. The exempted items are likely to be ingenuously interpreted by the officialdom so as to negate the intent of the law. The enactment of the Right to Information Act should be seen not as the end of the movement for access

to information, but rather the beginning.

Public Outreach

Outreach of the parliament as an institution to the people and of the Members to their constituents is very crucial. This facilitates the parliament being seen as a body effectively engaged in delivery of services to the people. It helps in the Members holding themselves accountable to their sovereign voters. Most parliaments of the world have pressed Information Communication Technology (ICT) into service to create awareness among the people about the Members, daily business of the Houses, reports and proceedings of the Houses and their Committees, legislative initiatives etc. Our parliament also has made a lot of progress in this regard. It is desirable that our Members share the experiences of other parliaments such as those of UK, USA,

Germany, France and Japan in ICT applications.

Our Parliament is funding the Members in terms of Constituency Allowance, travelling allowances and facilities, staff support expenses, expenses for correspondence and telecommunication etc. - to help them reach out to their constituents. But in many areas voters do have grievances that their representatives do not maintain adequate visibility in the constituencies. This is perhaps the reason why many sitting parliamentarians do not get re-elected. Every parliament has a substantial number of new Members. This is a matter which needs to be monitored and addressed by the concerned political parties themselves.

Parliamentary Ethics: Probity and standards

In representative democracies, members of legislative bodies elected by the people hold their positions in trust for their constituents. People expect them to maintain high standards in public life. Constitutionally, legislators also have the function and responsibility of overseeing the Executive. It is the centrality of this function that maladministration on the part of those in positions of power in the Executive is under check. It is but natural, then, that the legislators who perform watch dog functions, are themselves expected to be persons of honesty and integrity.

In order to be seen and recognized as transparent and credible institutions of service delivery to the people, many parliaments have set ethical standards of behaviour for their members and enforce them through self regulation. They have established their own Codes of Conduct, Ethics Rules of Practice for implementing the Codes and internal mechanisms for enforcement of the Rules.

By and large, the Ethics Rules stipulate the following for adherence by the parliamentarians:

Financial disclosures;

Declaration of interests;

Prohibition of Advocacy;

Prohibition of outside employment;

Post tenure employment restrictions.

We do have Ethics mechanisms in both Houses of the Parliament. But there is considerable scope for bringing practices in conformity with international standards, especially with reference to all the above parameters.

Countering Corruption

We have been living with corruption down the decades. We have been bearing the brunt of both systemic corruption and that in high places. With liberalization of the economy and the elimination of licence raj, we have considerably divested governmental decision makers of their discretionary powers. This has helped in scaling down systemic corruption to a certain extent. But recently, cases of alleged corruption of Himalayan proportions have come to light. This has been significantly due to exercise of discretion by authorities in high places in the disposal of natural resources. The judiciary has also since ruled that natural resources should not be disposed of otherwise than through auctions. Irrespective of the ruling dispensation, addressing corruption in high places has always been problematic. It is in this context that the enactment of Lok Pal Law assumes importance. The issue central to this legislation is autonomy of the investigating and prosecuting agencies. Reportedly, other measures to counter corruption are under contemplation - Public Procurement

Law, Public Grievances Law (to ensure time bound delivery of services at the cutting edge levels) etc. Important as these laws may be, it is unrealistic to assume that enactment of these laws by itself would eliminate corruption. We are a highly over legislated country. But the track record of our performance in the implementation of enacted laws has been pretty poor. It is also important that whatever may be the measures we may take, we should address corruption at its demand as well as supply sides, especially because the unregulated Market also is no solution for corruption.