

Parliamentarism vs. Presidentialism: Problems and Prospects in the Indian Context

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OVERVIEW

The case for a comprehensive second look at the provisions of the Indian Constitution has been voiced with varying degrees of assertiveness in recent years. The spotlight has, more often than not, been on the working of the parliamentary system, especially in the backdrop of the political developments triggered off by the results of four successive Lok Sabha Elections (1989, 1991, 1996 and 1998). Further, the National Agenda for Governance (NAG), formulated by the Bharatiya Janata Party (BJP) and its allies, categorically states that a 'Commission to review the Constitution of India in light of the experience of 50 years and to make suitable recommendations', (NAG 1998) will be appointed.¹ In this paper, an in-depth assessment of the factors and forces that assume significance in any debate on the relevance of the parliamentary scheme of governance, in the wider context of the dynamics of Indian democracy, is attempted.

The continued relevance of the parliamentary system—in its present form—has been challenged on several grounds. While some have argued that the prerequisites essential for the effective functioning of such a system of governance do not exist in India, others have asserted that the parliamentary system has not only caused 'political instability, horse-trading and other evils' (Chandrababu Naidu as quoted in the *Hindu*, 29 October 1997), it has also failed to adequately mirror the aims and aspirations of the Indian people. India's parliamentary democracy, it is opined, cannot be expected to 'survive on the pillars of people's cynicism, lack of hope and active participation' (Vajpayee as quoted in the *Hindu*, 13 November 1996). Under the present system, the law has become 'nothing more than the will of the ruler of the day'

(Nehru 1987) and 'almost inevitably and increasingly catapult(s) into the seats of power the more undesirable elements of our society' (Nehru 1992:10). As a result, 'it is extremely doubtful whether the existing system can deliver the good without being sufficiently reformed' (Kashyap, 1992:23).

With the clear emergence of a competitive party system in the country and the formation of minority and coalition governments at the national level, the capacity of these governments to act freely has often been in doubt as they have 'to look around all the time, nervous, anxious and uncertain as to how the supporting parties will behave' (Venkataraman as quoted in the *Indian Express*, 23 April 1995). A more detailed estimation of the issues raised above is undertaken in a later section.

CONSTITUENT ASSEMBLY DEBATES

A Categorical Vote in favour of Responsible Government

To place the debate in perspective, it would be useful to recall the factors that prompted the members of the Constituent Assembly to favour the adoption of the parliamentary system of governance. Long before the country gained independence, the parliamentary system of government was endorsed by both the Nehru Report (1928) and the Sapru Report (1944). Alladi Krishnaswamy Aiyar appears to have echoed the dominant mood in the Constituent Assembly when he stated:

After weighing the pros and cons of the Presidential system as obtaining in America and the Cabinet system of Government obtaining in England and the Dominions, taking into account also the working of responsible Government in the Indian Provinces for some years and the difficulty of providing for a purely Presidential type of government ... this Assembly had deliberately adopted the principle of responsible Government both in the States and in the centre.

(Constituent Assembly Debates, hereafter referred to as CAD 9:836)

A clear indication of the support for the parliamentary system, among the framers of the constitution, was apparent in the decision arrived at by the Union and Provincial Constitution Committees of the Constituent Assembly on 7 June 1947, which 'came to the conclusion that it (parliamentary system) would suit the conditions of this country better ... (as) we are familiar with its working' (Patel, CAD 4:578). Ambedkar, while moving the Draft Constitution in the Constituent

Assembly, clarified the position further, when he stated that in recommending the parliamentary system, the Drafting Committee had expressed its specific preference in favour of *more responsibility than more stability* (CAD 7:34–36).

However, it must be stressed that there were a few members of the assembly who expressed their reservations about the suitability of the scheme of parliamentary democracy. While Shibban Lal Saksena expressed his preference for a directly elected president (CAD 11:706), K.T. Shah favoured 'a complete separation of powers and functions and organization between the principle organs of the state' (ibidem 620–21). Hussain Imam supported the American system as against the British system (CAD 4:865–67).

Several amendments to the scheme of parliamentary governance (as suggested in the Report on the Principles of a Model Provincial Constitution) were moved by the Muslim League members of the Assembly. They questioned the premise that the British executive was based on democracy and regretted the fact that though the British were quitting India 'their shadow (was) ... not leaving us' (ibidem 636). The English system, they stressed, 'did not suit India' and had 'caused disturbances and bloodshed in this country' (ibidem 578). Some of them made out a case for adopting the Swiss system, under which the legislature elects the executive for a certain period during which it is irremovable (ibidem 631). This system, they felt, was truly democratic as all sections of the people are represented (ibidem 637). In order to ensure that the minorities were adequately represented, the party favoured a system of proportional representation for elections to the legislatures and in the choice of ministers. Munshi opposed the Muslim League's proposals on the grounds that any system of proportional representation would fragment the political life of the country (ibidem 644) and would weaken the government.²

The overwhelming support that the scheme of parliamentary government received at the time of the drafting of the constitution, needs to be seen in the backdrop of the strong influence of British parliamentary traditions on the Constituent Assembly members and their familiarity with parliamentary practices in view of this system having been introduced in phases during British rule, though in a severely limited way. Further, with the interim government having been formed in September 1946, the senior leaders of the Congress—who were also influential members of the Constituent Assembly—had come to occupy important positions under a system which was, in very many ways, similar to the parliamentary scheme. What was endorsed by the Constituent Assembly, symbolized the mere legitimization of an already existing

organizational arrangement.³ Years later, Nehru, while justifying the choice of the parliamentary system stated:

We chose it only because, to some extent, we had always thought on these lines previously, but because we thought it was in keeping with our old tradition also.... We chose it also ... because we approved of its functioning in other countries, more specifically the United Kingdom. (Lok Sabha Debates 20.3.57:1:10:1290)

A SECOND LOOK AT THE PARLIAMENTARY SYSTEM

The Rationale for Change

The utility of any system of governance needs to be viewed from the perspective of its relevance, effectiveness and stability. Those demanding a second look at the Indian Constitution—in the light of the working of parliamentary democracy—focus on the fact that the pre-conditions vital for the successful working of the traditional British system of parliamentary government, are not found in India. Former Indian president, R. Venkataraman, had, more than three decades ago (in 1965), stressed that the success of the parliamentary system in UK and some other Commonwealth countries was because of: (a) homogeneity of the people; (b) presence of a national outlook; and (c) absence of multiplicity of parties (as quoted in the *Indian Express*, 23 April 1995). These conditions, he then argued, were conspicuous by their absence in India.⁴

Subhash Kashyap has asserted that the pre-requisites for the success of representative parliamentary democracy of the British type include: (a) the people should have become a nation; (b) there must be a general commonality of interests and agreement on fundamental national issues; (c) some economic stability with a certain level of prosperity having already been achieved; (d) there must be relative absence of social tensions and an atmosphere of reasonable peace; (e) there must exist some democratic traditions, a more or less homogeneous population and political consciousness among the people at large; (f) there should be a well organized ideologically oriented, fairly stable system of two major national parties (Kashyap 1992:20).⁵ Kashyap goes on to add that these pre-requisites did not exist at the time of the inauguration of the constitution and are also not present in the system today (ibid.).

The absence of native democratic traditions in India, was highlighted by B.K. Nehru, who felt that:

...the Constituent Assembly was dominated by lawyers, trained solely in the British tradition and in the British system of law, who constituted a substantial proportion of the membership of the assembly.... In adopting the constitution, the founding fathers underestimated the differences between the condition in Britain and India (Nehru 1987).

Other commentators, like Subhash Chandra Sarker, have gone a step further:

There is a tendency in this country to bestow upon the political leaders and constitutional experts who dominated the scene on the eve of independence, with wisdom and goodness of heart which they did not possess. There is a most unjustifiable superiority of wisdom attributed to these constitutional experts who were the beneficiaries of British rule and had an inherent distrust in the common man in India. (Sarker 1992:8)

In view of the political soil of India being considered not conducive to the growth and nurturing of those institutions considered vital in a traditional parliamentary democracy, the advocates of change have suggested several alternatives, including the presidential system, a quasi-presidential system and a reformed parliamentary system.

K.M. Munshi's comments, a decade after the constitution came into force, reflect his frustration with the manner in which the parliamentary system had functioned in the years after independence:⁶

During the framing of the constitution, we all dreamt that we would make a success of parliamentary.... It must be confessed that the experiment has failed. If I had to make a choice again, I would vote for the Presidential form of government, so ... at least, one strong organ of the state (is) capable of tiding over the crisis (1963 vii).

Subsequent to the adoption of the constitution, among the early advocates of the presidential system of government, was the leading industrialist J.R.D. Tata. The parliamentary system, which was witnessing ever changing coalitions, defections and floor crossing, Tata felt, would result in anarchy and threaten the very existence of a united India (as quoted in Appadorai, 1980). For him the only viable alternative to this system of government was a chief executive at the centre and in the states, directly elected for a fixed term 'during which they

... (were) irremovable and free to govern through a cabinet of experts' (As quoted in Noorani, 1968).

Much later, during the Internal Emergency, A.R. Antulay, the then general secretary of the Congress party, was instrumental in getting a document circulated at the AICC session at Chandigarh held in 1975, that pleaded strongly for the adoption of the presidential system of government, in order to ensure that the chief executive has complete freedom to attend to his/her responsibilities without being at the mercy of the shifting opinion of parliament. Antulay made out a case for an all powerful president who could not even be called to account by the legislature:

We must have the presidential system ... (though) the pitfalls of the presidential system would be avoided ... if the President is elected as the supreme executive of the nation ... he should be in a position to do so and should not be allowed to be voted down by a Senate or a Congress.... After all he has been voted to power by the electorate at large which is far bigger than the Congress and Senate (sic) put together. (1981:35. Emphasis added)

The 'Antulay scheme' was rejected by the committee appointed by the AICC to examine the proposal, on the ground that, the 'parliamentary system was best suited to preserve the unity and integrity of India' (as quoted in the *Indian Express*, 1976).

Yet, another senior Congress leader Vasant Sathe, has since the 1980s, been forcefully arguing in favour of a directly elected president. Coalition governments and those with a slender majority have both contributed to instability and Sathe believes that under the present system, democracy has been relegated to the background as it is not the people who are directly deciding the fate of the government (the *Statesman*, 7 June 1998). He makes out a case for a 'national government headed by a president directly elected by the people which will be an even more democratic way than the present indirect election' (1992:190).

B.K. Nehru has also favoured separating the executive from the legislature. His preference is for a directly elected president, or a president elected by an electoral college consisting of members of parliament, state legislatures, and local bodies up to the panchayat level (1987, 1992). All executive authority should be vested in the president who must not be permitted to seek re-election as:

Policies which are in the long term of national benefit often cause immediate hardship. There is a great temptation if there is a possibility of re-election, for the chief executive to modify these policies, tailor them to what he thinks will win him votes and even indulge in political gimmicks. (1987)

Subhash Kashyap has proposed the replacement of the parliamentary system with either the presidential system like in the United States or a mix of the presidential and parliamentary systems, as in the case of France, or by the German system, which permits constructive vote of confidence wherein the prime minister who is chosen by the house, continues in office till such time as a successor is elected (1992:24).

Within the broader framework of the parliamentary system, a reform that has been suggested is the formation of an all-party national government. This suggestion has frequently made the rounds, especially after 1989, with no political party being in a position to secure a simple majority in the Lok Sabha on its individual strength.⁷ The need to rethink the majority principle was emphasized on the ground that 'if we fall back upon the principle of majority decision, not only would the solution elude, but each of the problems would divide the nation and undermine its unity (Chakravarty 1991:11). Soon after the 1996 Lok Sabha elections, R. Venkataraman, N.A. Palkhivala, C. Subramaniam and H.R. Khanna called for the formation of a national government in view of the election results. The scheme outlined envisaged the Lok Sabha electing the prime minister by means of single transferable vote, from among candidates (who need not be members of parliament) who secured the support of at least 100 Lok Sabha MPs. Political parties were to be represented in the council of ministers in proportion to their strength in the house. A Common Minimum Programme acceptable to most of the political parties, if not all the political parties, must be formulated and placed before the two houses of parliament for approval. A no confidence motion to remove a prime minister should take effect only when the Lok Sabha elected an alternative leader (the *Hindu*, 1996). The above scheme, it was felt, would ensure stability of administration, cooperation of all parties in the administration of the country and elimination of rancour in the governance of the country (ibid).

Venkataraman's advocacy of the national government was on the ground that a new system to accommodate all parties in governance had to be developed to 'represent all sections of the people and ensure economic and political stability' (as quoted in the *Deccan Herald*, 26 September 1996, also the *Hindu*, 27 September 1997). The national

government proposal was also endorsed by the former Lok Sabha speaker, P.A. Sangma, in the light of the instability of coalition governments (as quoted in the *Times of India*, 28 September 1996).

Earlier, in April 1995, the then speaker of the Lok Sabha, Shivaraj Patil, had suggested a constitutional reforms package to ensure stability in government. The various suggestions made included: (a) the prime minister be elected by the Lok Sabha and resigns only when an alternative leader is chosen; (b) the prime minister be elected by 2/3 majority of the Lok Sabha; (c) the prime minister be elected by a majority of the Lok Sabha and Rajya Sabha; (d) the prime minister be elected by a majority of the Lok Sabha and Rajya Sabha and can be removed only by 2/3 majority of the Lok Sabha and Rajya Sabha; and (e) the prime minister be elected by a simple majority of the Lok Sabha and a no confidence motion to be passed must secure the support of 2/3 majority in the Lok Sabha (the *Statesman*, 1995).

The demand for taking into account the merits of the presidential form of government has gained momentum, especially after the 1996 Lok Sabha elections, with prominent political leaders, expressing themselves in its favour. Union Commerce Minister and former Karnataka Chief Minister Ramakrishna Hegde, has asserted that, in the present circumstances, the presidential form of government would be the only viable alternative to provide a stable government (the *Indian Express*, 4 August 1998). Andhra Pradesh Chief Minister Chandrababu Naidu, too, has favoured a switchover to the presidential system in view of the instability and political corruption experienced under parliamentary government (the *Hindu*, 29 October 1997).

The BJP has, in the last decade, stressed the need to debate the suitability of the parliamentary system for the country. In 1989, L.K. Advani (who was then party president), underscored the need to examine 'the suitability of the presidential system as a device to contain centrifugal tendencies' (the *Times of India*, 3 January 1989). The manifesto released by the party during the 1989 Lok Sabha elections, endorsed the views of its president. Interestingly, the party accorded primacy to the 'stability factor' while making out a case for constitutional reforms in its 1991 Lok Sabha election manifesto. The party promised to set up a commission to study and report whether the presidential system of government will give us a more stable government than the present parliamentary system (the *Deccan Herald*, 22 April 1991).⁸ A few months after the collapse of the BJP-led government in 1996, Vajpayee called for a national debate on possible alternatives to cleanse the democratic governing system of its ills (the *Hindu*, 13 November 1996). He went on to add that if the parliamentary system is

considered impractical or undesirable, then we should think of introducing prompt changes (ibid.). The manifesto released by the party during the 1998 Lok Sabha election campaign categorically stated that, if voted to power, it would appoint a 'commission to review the Constitution of India in light of the experience of 50 years and to make suitable recommendations'. The above commitment is reiterated in the National Agenda for Governance (NAG). With the BJP and its allies forming the government, Advani (in his new role as home minister) has focussed on the need to initiate a debate on whether the country should review the choice made by our constitution makers (the *Deccan Herald*, 27 April 1998). Acknowledging the virtues and limitations of both the parliamentary and presidential systems, Advani felt that at the present stage of India's development, which of these systems would serve us better needs to be widely discussed (ibid.).

At a theoretical level, it must be stressed, there exist a wide range of sub-categories and variations within both the presidential and parliamentary systems and real world cases yield both 'incongruous bedfellows and dubious inclusions' (Giovanni Sartori, 1994). While presidentialism has come to imply a popularly elected head of state, who is also head of government and cannot be discharged by parliamentary vote during his pre-established tenure, interesting institutional differences can be discerned across presidential systems. In Latin America, the continent of presidentialism, the ministers/advisers, are in most cases, permitted to participate in the legislature debates. In Peru, the president is required to appoint a chief of the cabinet who presides over the council of ministers which, in turn, can be censured by the house of deputies (Carlos Santiago Nino, 1992). In Costa Rica too, the legislative assembly can censure ministers. Further, some presidential systems have sought to check the presidency by fixing term limits or prohibiting immediate re-election. While parliamentarism has come to signify governments to be supported and discharged by parliamentary vote (Sartori), significant differences exist between the British and Continental parliamentary procedures (Verney, 1992). In Sweden, one-third of the ministers have on occasions not been members of the legislature and in Netherlands, Norway and Luxembourg ministers cannot continue as members of the legislature after their appointment (ibid.). The most significant departure from traditional parliamentarism was recently introduced in Israel with the prime minister being directly elected by the citizens. Juan Linz has rightly warned that:

... the terms *presidentialism* and *parliamentarism* each cover a wide range of political institutional formulas, and that the variety among

those formulas is such that it is misleading to generalize about either term. (1945:5)

IS A SECOND LOOK AT THE PARLIAMENTARY SYSTEM REALLY WARRANTED?

The political instability that the parliamentary system is believed to have generated in India has been focussed on by numerous commentators. With four Lok Sabha elections and as many as seven coalition/minority governments in less than nine years (1989–98), the negative impact of government instability is increasingly attracting public attention.

Further, periodic splits in political parties are also believed to have contributed to political instability. The Anti-Defection Law, passed in 1985, was a major initiative of the Rajiv Gandhi government to check political instability and corruption. The manner in which the provisions of this law have been manipulated for partisan political ends in recent years bears testimony to the fact that the practice of 'floor crossing' has only become more sophisticated, often involving meticulous planning, generating new forms of political corruption and instability. The defection of individual legislators is now replaced by mass 'defections' and has been conferred a cloak of legitimacy by the Anti-Defection Law by terming the act as a party split.

Any discussion on the strategies to ensure political stability should emphasize the stability of the political system, rather than that of the government alone. Political stability necessarily involves four crucial dimensions: system maintenance, civil order, legitimacy and effectiveness (Hurwitz, 1973). Expanding on this theme, Arend Lijphart argues that the:

... foremost characteristics of a stable democratic regime are that it has a high probability of remaining democratic and that it has a low level of actual and potential civil violence ... the latter can also be viewed as a prerequisite for, and as an indicator of, the former. Similarly, the degree of legitimacy that the regime enjoys and its decisional effectiveness are related both to each other and to the first two factors. Jointly and interdependently, these four dimensions characterize democratic stability. (1982:4)

Even if stability were to be viewed in terms of those in government being allowed to remain in power for a reasonably secure term, it is opined that the parliamentary system, and not the presidential, offers greater stability. As Jean Blondel puts it:

Ministerial duration is short in America: among Atlantic countries, only Finland, Portugal and Greece had a shorter average duration of ministers than the U.S.—which, on the other hand, with ministers lasting an average just over three years, scores only a little more than the bulk of Latin American countries.... Constitutional presidentialism does therefore lead, even when it is operated effectively and without hindrance, to a low ministerial duration. (Blondel 1985:123)

Further, Linz in his study of presidential and parliamentary democracies points out that those who seek to highlight the virtue of stability of presidential systems need to take into account 'the almost total renewal of government with each new president appointing his men or women'. He goes on to add that 'collective decision making in parliamentary cabinets provides all the ministers with some familiarity with a wide range of issues and has the potential to ensure stability, especially, in the long run.' (1994:32)

Federal balance in plural societies has often been more successfully achieved under parliamentary systems, as compared to their presidential counterparts.⁹ The parliamentary system, it is felt, has helped Canada cope with the separatist movement in Quebec and maintain the unity of the country (Lipset 1990, Linz 1994:42–44). On the other hand, presidentialism in Latin America has severely undermined federal fairness, as presidents have used their power to intervene in states, suspend elected authorities and appoint intervenors with full powers (Linz 1992:43). The high degree of centralisation in Latin American federal systems is a clear indicator of this trend.¹⁰

Studies have also shown that presidentialism, when combined with a fragmented multi-party system, is especially inimical to stable democracy as it 'creates difficulties in the relationship between the president and the Congress' (Mainwaring, 1992). On the other hand, says Mainwaring, 'Parliamentary systems have institutionalized means of resolving this problem: in most cases, the prime ministers can call parliamentary elections, and in all cases, the parliament can topple the government.'

Lijphart, in his seminal work on majoritarian and consensual democracy, maintains that while presidentialism spells majoritarianism and is 'inimical to the kind of consociational compromises and pacts that may be necessary in the process of democratization' the collegial nature of parliamentary executives makes such compromises and pacts easier to achieve and realise. Lijphart concludes that 'while consociational democracy is not incompatible with presidentialism ...

a better institutional framework is offered by parliamentary systems.' Further, while politics in a parliamentary system has a focal point—parliament, there appears to be no such focal point in the presidential system. More often than not, as Verney avers, instead of concentration there is division; instead of unity; fragmentation.' Verney further asserts that in a parliamentary system there could be 'a delicate balance of powers, which check each other out, without the benefit of separate institutions.'

Central to the presidentialism vs. parliamentarism debate is the capacity of the two systems to promote democratic intensity and ensure substantive forms of accountability. The numerous opportunistic, often unprincipled, political alliances that have been catapulted to positions of power in India, both at the national and state level, are cited as examples of authority being wielded by those who have no popular mandate.¹¹ Supporters of presidential democracy claim that this system, provides for a 'plebiscitary democracy', thus, enhancing democratic legitimacy. However, presidential elections are today strongly individualistic and those elected often suffer the wildest swings in popularity, acclaimed today 'as providential figures (and) ... tomorrow ... cursed as only fallen gods can be.' In those presidential systems where the president is not permitted to stand for re-election or term limits have been imposed, says Linz, he remains largely unaccountable as he can 'neither be punished by the voters by defeat nor rewarded for success by re-election.' Given the personalized nature of presidential election campaigns, even the political party that an incumbent president belongs to, can rarely be held accountable for his actions.

It has also been contended that accountability with separation of powers is not easy to enforce, as presidents can shift blame to the legislature and vice-versa, thus making division of powers an alibi for failure.

Further, presidential systems endorse the winners take all—losers lose all principle. As Linz puts it:

The zero sum game in presidential regimes raises the stakes of presidential elections and inevitably exacerbates their attendant tension and polarisation. ... Winners and losers are sharply defined for the entire period of the presidential mandate ... the loser must wait at least four or five years without any access to executive power. (1992:121)

In Latin America, experience has shown that presidential systems suffer from a serious democratic deficit, a trend only too obvious in presidential systems in Afro-Asian nations too. A study of regime types in

93 countries that became independent between 1945 and 1979, undertaken by Alfred Stephan and Cindy Skach, reveals that 41 systems adopted parliamentarism and 36 presidentialism.¹² Fifteen of the 41 parliamentary systems were continuous democracies during the period 1980–89, while none of the 36 presidential systems were continuous democracies during the same period (Stephan and Skach 1994:125–26).

Taty Vanhanen's study of the political index of democratization covered 37 pure parliamentary systems and 22 pure presidential systems. The study concluded that only 6 of the 37 (16 per cent) parliamentary systems were democratic underachievers and as many as 31 (84 per cent) were democratic overachievers. In the case of the 22 presidential systems, as many as 12 (55 per cent) were democratic underachievers and only 10 (45 per cent) were democratic overachievers (Vanhanen 1990:75–97).

The advocates of the presidential system of government have, in most cases, projected the positive achievements of the United States under presidential democracy. Reflecting on the working of American democracy, Sartori observed that it works in spite of its constitution, hardly thanks to its constitution. 'Pragmatic flexibility', he says, 'weak and indisciplined parties and locally-centred politics are considered to be the key factors contributing to the working/success of the American political system.' Karl Loewenstein says: 'In the past, the transplantation of the American model (has) ... rarely if ever produced lasting political stability' (Loewenstein 1949:462).

In the light of the above facts, it must be emphasized that to effectively meet the challenges which the Indian political system faces today, it would be necessary to focus attention on the need to expand the democratic space and not merely tinker with the structures of governance.

The process of democratization itself, could be termed as an effort in the direction of providing 'more substantive forms of democratic rule' (Bangura, 1992). In a democratic polity, the efforts initiated in the direction of equalization and more meaningful citizen participation are part of the process of ensuring greater democratization. The linkage between democracy, equalization and legitimacy were most succinctly articulated by Lars Rudebeck in the following words:

People demand democracy, including political rights, most strongly when they think it is right and just and when they believe at the same time that such a system of rule will help them improve their lives. (1992:8)

Bangura while raising the question, when does democracy make sense, believes that:

Stable democratization logically assumes significant changes in the structures and forms of accumulation, rather than an exclusive focus on rules and institution building.... This calls for the empowering of the majority, the provision of popular welfare and the reduction of inequalities. (1992:99)

The linkage between the political and social dimensions of democracy was highlighted by Ambedkar too, in his concluding remarks in the Constituent Assembly:

On the 26th day of January 1950, we are going to enter in a life of contradictions. In politics we will have equality and in social and economic life we will have inequality.... We must remove this contradiction at the earliest possible moment or else those who suffer from inequality will blow up the structure of political democracy which this assembly has so laboriously built up. (CAD 11:979)

It is also interesting to note that the demand for major constitutional changes has not been voiced by the social movements, which have, on the other hand, demanded a more vigorous implementation of the constitutional provisions. As Manoranjan Mohanty maintains:¹³

...the plea for a drastic revision of the Constitution has not come from any of the social movements.... on the contrary (they have demanded) ... a thorough implementation of the present constitutional provisions.... India has suffered violence or turbulence not because of the parliamentary system of government but because of our ruling elite forgetting its commitment to the values of the Constitution. (Ibid.)

While it is important that effective measures are initiated to expand the democratic space, the levels of 'democratic intensity' already achieved in India, under the system of parliamentary governance, cannot be lost sight of. A recent survey conducted under the National Election Study 96 (NES 96), coordinated by the Centre for the Study of Developing Societies (CSDS), shows that the democratic system enjoys greater legitimacy today than in the past ... and the poor and the deprived defend democracy more vigorously than the elite. 'Elections have seen increasing non-elite participation and the election results reflect the

dynamics of the interaction between political and social change. In the 1996 Lok Sabha elections, voter turnout among the economically backward, dalits and rural residents, was higher than the national average, while among the upper castes, urbanites and graduates it was lower than the national average' (Yogendra Yadav, 1996).

More often than not, as Sartori observes, the crises of parliamentary systems are crises of government, not regime. With the emergence of a competitive multi-party system in India and the inevitability of coalition politics, minor reforms need to be initiated in the scheme of parliamentary governance to expand the democratic space and increase the effectiveness of government. An editorial in the *Times of India* has rightly warned:

A multi-party formation in power is neither an aberration nor per se a sign of political instability ... care should be taken that the advocacy of change does not become a self fulfilling prophecy or worse an illusory panacea for all our ills. (the *Times of India*, 5 May 1995)

The reforms in the parliamentary system that brook no further delay include: (a) major and comprehensive electoral reforms; (b) efforts towards meaningful decentralization of power; (c) ensuring the growth of and respect for parliamentary norms and conventions in the light of coalitions; and (d) strengthening parliamentary control over the executive through a more effective committee system.

ELECTORAL REFORMS

The pressing need for electoral reforms has now been voiced for several years and has found a prominent mention in the election manifestoes of all the major political parties. Both the Tarkunde Committee and the Dinesh Goswami Commission have made several useful suggestions in this regard. While, an activist Election Commission has, in recent years, contributed significantly to sanitizing the electoral process, the implementation of comprehensive electoral reforms is long overdue. The United Front government's initiative in moving and ensuring the passage of the Poll Reform Bill deserves commendation.

A major trend noticed in Lok Sabha and state assembly elections is that, under the present electoral system, the electoral verdict is not effectively mirrored in the composition of the house. The first-past-the-post system permits a candidate to win an election from a constituency merely because he/she polls the highest number of votes and the fact that he/she secured less than 50 per cent of the valid votes polled is of

little electoral significance. A person, as Raja Ramchandra says, wins the election not so much because of the 'majority behind him,' but because he has managed to split the votes against him.' Multi-cornered contests are largely responsible for this trend. As a result, the present electoral system has resulted in an alarming and disproportionate gap between the percentage of votes polled and the percentage of seats won by the various political parties. Ruling parties at the centre have come to power as a result of a 'manufactured majority' (Rae, 1967:74), as in all the Lok Sabha elections, on no occasion has the party that formed the government after the elections, polled more than 48 per cent of the votes. The percentage of seats won by the ruling party has always been significantly higher than the percentage of votes polled by it (Shastri 1992a, 1992b, 1998).

In view of the glaring anomalies that have arisen as a result of the first-past-the-post system, there is an urgent need to replace the system with a more suitable one. Several suggestions have been made in this regard.

The Tarkunde Committee (the committee appointed by Jayaprakash Narayan on behalf of the Citizens for Democracy) in its report, spoke of the possibility of adopting the 'Partial List System', which would result in the total strength of each party (directly elected + elected from the list) being roughly proportionate to the votes polled by the party. However, the committee also acknowledged the weaknesses of the system and called for a widespread public debate for a consensus to emerge (Report 1981:596).

The Vice President of India, Krishna Kant, has suggested (when he was Governor of Andhra Pradesh), that a system of negative voting be introduced. A negative vote provision—wherein a voter would have the benefit of an extra column on the ballot paper stating, none of the above—would, he felt, be a legal channel for the expression of dissent (1992:31-32). The negative vote suggestion may at the most, serve as a negative solution to the problem and will in no way positively contribute to strengthening the electoral system.¹⁴

A more meaningful and practical alternative appears to be the second ballot system. Under such a system, if no candidate secures more than 50 per cent of the valid votes polled in the first round of elections in a constituency, a second run-off is held between the top two contestants within a week. As a result, the candidate who wins the election from a constituency secures a majority of the votes polled. Adopting the second ballot system appears to be the most effective alternative for overcoming the defects of the first-past-the-post-system. Candidates would have to take their election campaigns more seriously and

electoral victories would not be merely caused by dividing the opponents' votes on caste/religious lines or concentrating on securing the votes of one segment of the voters. Those elected could then be termed as being genuinely representatives of the constituency they have been elected from (Shastri 1992a:11). Further, in a competitive party system, a second ballot vote would encourage the polarization of political forces and contribute to the emergence of a bi-polar alliance system. While endorsing the utility of the second ballot system, a caveat needs to be added. This reform cannot be considered in isolation and would have to form a part of a comprehensive package of electoral reforms that the system needs today.

MEANINGFUL DECENTRALIZATION

The federal arrangement that was envisaged by the constitution created a federal system that decidedly tilted the balance of power in favour of the centre. Yet, the constitution did provide for specific areas of influence and operation for both the centre and the states. However, till the late 1980s, the system witnessed hyper-centralization of power. The abuse of the constitutional provisions, the attitude of the political leaders at the centre, near absence of intra-party democracy, politicization of the governor's office, misuse of Article 356 and the increasing financial dependence of the states on the centre—all contributed to this trend. A natural byproduct of this development was the increasing demand for state autonomy.

The 1990s have been witness to the emergence of multiple centres of power in the Indian polity and this has had a critical impact on the dynamics of centre-state relations. The Common Minimum Programme (CMP) formulated by the United Front government underscored the importance of these changes when it promised an 'alternative model of governance based on federalism, decentralization, accountability, equality and social justice' (CMP, 1996). While making an unequivocal commitment to strengthening the forces of political federalism—a strong centre, strong states and viable local bodies (*ibid.*), the CMP went on to add that there had been a new articulation of states' rights and the need for greater powers to the states to meet the aspirations of their respective states (*ibid.*). The emphasis on federalism and decentralization in the CMP needs to be viewed in the backdrop of the composition of the 13-party United Front and the power equations within the Front. With the exception of the C.P.I. and the Janata Dal, the Front was essentially composed of regional parties. The role played by the leaders of these regional parties in the choice of H.D. Deve

Gowda¹⁵ (and later I.K. Gujral) as the head of the United Front, and the chairmanship of the Steering Committee of the United Front being offered to a chief minister, were indicative of the increasing influence of state-level leaders in national politics. The attempt of the United Front government to involve chief ministers in federal decision making, was also reflective of the changing power equations within the political system.

During the months preceding the 1998 Lok Sabha elections, the various alliances that were negotiated were proof of the fact that even the major 'national' parties found it necessary to seek the support of regional parties and it became clear that the government coming to power after the elections would necessarily involve the cooperation—even participation—of more than one party. The National Agenda of Governance (NAG)—formulated by the BJP and its allies—has recognized the need for devolution of more financial and administrative powers and functions to the states and promises to effect decentralization right up to the grassroot level by activating and involving panchayat and local bodies (NAG, 1998). The BJP's allies—most of whom are powerful regional forces—have come to play a major role in the decision making process at the national level and its impact on federalism and centre-state relations is clearly apparent.

In view of the above developments, the desirability of continuing with the existing arrangement of the union council of ministers alone advising the president on federal matters needs to be examined in depth. The union council of ministers is essentially a 'central authority' and it would be in keeping with the federal spirit if a 'federal body' were to be entrusted with the responsibility of advising the president on crucial issues relating to centre-state relations. As Daniel Elazar says such a 'federal body'—consisting of those who represent both the centre and the states—would symbolize the quintessence of federal unity as federalism is both an expression of political diversity and accommodation. Such a 'federal body' could verily be the 'glue' that holds the federal system together. The inter-state council is one such 'federal body' which could be assigned this task. Created in 1990, by the National Front Government, under the provisions of Article 263, the inter-state council consists of the prime minister as chairman, a few senior union ministers and the chief ministers of all the states. However, not much was heard of the inter-state council when the Congress was in power between 1991 and 1996. The United Front government once again revived this body, and the BJP government's attitude to the council remains unclear.

In the context of the emerging competitive party system in India, revitalizing and strengthening the inter-state council appears to be a feasible institutional arrangement to ensure centre-state cordiality. The inter-state council would be an ideal forum for 'investigating and resolving multi-sectoral inter-governmental disputes' (Shastri 1994a:10). The council could advise the president on matters relating to (a) appointment of governors, members of the planning and finance commission; (b) formulation of guidelines to assist the governors in the discharge of their responsibilities; (c) use of Article 356; (d) impact of union policies on the states and *vice versa*; (e) legislation relating to subjects in the concurrent list; (f) administrative directives from the centre to the states; (g) federal fiscal relations; and (h) inter-state disputes (Shastri 1997:5-6).

Federal fairness could be ensured if states are permitted to play their legitimate role in federal governance and activating the inter-state council would be a positive step in this direction.

With the passage of the 73rd and 74th constitutional amendments, several commentators have asserted that an 'updated second version' of Indian federalism that accords a legitimate status to the local governments as the third tier of the federal system must be developed and accepted (Krishna Iyer 94-96). Any effort in the direction of empowering local governments must take into account the role and initiative of state governments in this regard. While there has been strident criticism of the misuse of Article 356 by the centre, the role of states in undermining the position and powers of local bodies has not evoked a matching response. This fact assumes even greater relevance in the light of local governments figuring in the state list in the scheme of distribution of powers.

Federal justice demands that all three levels of government be allowed to operate with sufficient autonomy. If federalism is to be accepted as a principle that permits the expression of political diversity in its myriad manifestations, it logically involves not merely pressing for state autonomy but also freeing local bodies from the shackles of bureaucratic control and giving them the necessary autonomy to effectively discharge their responsibilities.

PARLIAMENTARY NORMS AND CONVENTIONS

Efforts need to be made to ensure that parliamentary norms and conventions are respected. John Stuart Mill referred to conventions as the 'unwritten maxims of the Constitution.' India's former President, R. Venkataraman has suggested that:

There are still a few dark corners which need to be lit with the lamp of conventions. Time is appropriate for setting up a few healthy conventions so that different yardsticks are not applied by successors causing conflict and uncertainty. (1996:6)

In this context, the need for evolving healthy conventions both at the time of the formation of a government and testing its majority have become imperative. For several years now—ever since no single party has been in a position to secure a majority in the Lok Sabha—it has been suggested that the prime minister be directly elected by the Lok Sabha. Any candidate who has the support of 100 Lok Sabha members should be allowed to contest the election. The system of single transferable vote should be followed and the members of the Lok Sabha should be asked to rank the candidates. In the event of their being more than two contestants, through a process of elimination (of the candidates with the lowest first preference votes) and transfer of votes (second preference votes of those eliminated) the candidate who secures a majority of the votes polled should be appointed as the prime minister. Such a system would also insulate the office of the president from controversies,¹⁶ as the person appointed as prime minister has already secured majority support in the Lok Sabha. Further, the process of choosing the prime minister or leader of the coalition which enjoys a majority, would be more democratic in the event of the Lok Sabha members directly participating in the process. When Deve Gowda, and later Gujral, were chosen as the leaders of the United Front, many believed that the decision was made by a few leaders (some of whom were not even members of parliament) and not by the Lok Sabha MPs belonging to the United Front. Under such a scheme, the prime minister could be first administered the oath of office. The other members of the council of ministers could be sworn in once their names are approved by the Lok Sabha.

With the practice of coalition governments receiving 'outside support' becoming increasingly frequent, conventions in this regard need to be developed. A common agenda needs to be drafted by the political parties who form the government, and those who offer outside support, and this agenda must be endorsed by the Lok Sabha and form the basis of the policies and programmes of the government. In Germany, an ideal power sharing arrangement has been worked out among the coalition partners in the form of the 'coalition contract', which guides the government in its functioning (Laver, et al.).

The successful working of coalitions also requires the clear identification of the 'coalition nuclei'. The major party in the coalition—to

which the prime minister normally belongs—needs to play a vital role in holding together the alliance. Strict adherence to the principle of collective responsibility—a major casualty in recent coalitions—would then be possible.

Further, in the event of the government being defeated on the floor of the Lok Sabha at the time of voting on a confidence/no-confidence motion, the government should be required to vacate office/submit its resignation only after the house has been able to choose an alternative leader to replace the defeated prime minister.

It is also noticed that the strength of the union council of ministers has varied from time to time and 'jumbo' ministries have often been formed in order to provide 'political accommodation'. To satisfy ministerial aspirants new portfolios are 'created' often without any rationale. Many a time, cabinet ministers have been allotted minor portfolios, while ministers of state have been assigned independent charge of crucial and important ministries. Against this background, it is desirable that a well-defined convention or rule be evolved in so far as the number of ministers/portfolios and structure of the ministries is concerned. (R.L.M. Patil and Sandeep Shastri, 1997)

STRENGTHENING PARLIAMENTARY CONTROL

The effectiveness of the parliamentary system can be considerably enhanced by strengthening and streamlining the mechanisms of parliamentary control over the executive. The accountability of the executive to the legislature has today become remote, mythical and largely illusory (Shastri 1994b:1-4). The chain of parliamentary control needs to be revitalized and the dynamics of parliamentary surveillance made operationally purposive, by strengthening the committee system. While commending the committee system, Jawaharlal Nehru had stated in 1957:

The business of government and the business of Parliament become more and more complicated and it becomes a little doubtful how far parliamentary democracy can carry on its work and solve such problems. Some kind of division of authority may become necessary; otherwise problems might remain unsolved, unsolved problems are dangerous.... How far can parliamentary democracy be adapted to meet these new burdens and functions of government satisfactorily, effectively and on time? (as quoted in Kashyap 1992:22)

The creation of department-related standing committees in the Indian parliament in 1993, was a major step in the direction of more effective

review of the budgetary proposals of the government. However, in the last five years for a wide range of reasons, these committees have been unable to discharge their responsibilities effectively.¹⁷ Members of parliament need to ensure that the department-related standing committee system is further strengthened to secure meaningful parliamentary control over the executive. In this context, Verney's recipe for the success of parliamentarism merits mention:

For parliamentarism to succeed, the government must not fret at the constant challenge which the Assembly offers to its programmes, nor wince at the criticism made of its administration. The Assembly in turn must resist the temptation to usurp the functions of Government. Here is a delicate balance of powers which check each other even without the benefit of separate institutions. (1992:38)

CONCLUSIONS

The political structures that were painstakingly modeled by the framers of the Indian constitution appear to have today become the instruments of manipulative politics controlled by a chosen few. In such circumstances, a second look at the constitution would be a mere exercise in futility as we may in the process, unwittingly, permit the legitimization of the abuse of authority.

The solution lies in making an attempt to wrest the levers of power from the political elite and return to genuine mass-base politics. The dynamics of the impact of social change on the democratic processes is very clearly mirrored in the recent political developments and its implications for governance are far-reaching. As former Prime Minister V.P. Singh rightly stressed, managing contradictions has been the focus of political activities in this emerging phase of coalition politics.

Merely initiating constitutional reforms cannot set the system back on the right track. A fresh look at the constitution, if at all necessary, should only be to remind those who operate the system of the rationale, logic and philosophy that guided the constitution makers in creating these political structures. Minor reforms within the parliamentary system (instead of opting for the presidential system) would go a long way in expanding the democratic space and, in the process, enriching the quality and content of governance. A structural remedy can never be an answer for problems triggered off by operational incompetence.

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NOTES

1. Union Home Minister L.K. Advani had announced that the Commission is likely to be constituted in September 1998, as quoted in *Deccan Herald*, 30 August 1998. However, the Commission was not constituted in view of political developments and subsequent resignations of BJP-led government.
2. Munshi's appears to have voiced the concerns of the Congress party, more specifically, its leadership.
3. It must be noted that by the time the Union and Provincial Powers Committee held their first meeting (7 June 1947) and decided to recommend the adoption of the parliamentary system, the Partition Plan had already been accepted and the interim government had been in place for over nine months.
4. It is relevant to note that studies that have focussed on the failure of the parliamentary system in Africa have asserted that the 'Westminster model was the creation of Britain's own history ... (and) Colonial rule was by no means a preparation for post-independence democratic government ... it was singularly different from it' (Munslow 1983:223-27).
5. As to whether the attributes of representative parliamentary democracy as outlined by Kashyap can be found in UK itself, can be contested.
6. Munshi strongly defended the scheme of parliamentary democracy in the Constituent Assembly.
7. The Congress government headed by P.V. Narasimha Rao which assumed office in 1991, was initially a minority government but succeeded in securing a majority by 1993 through a series of political manipulations.
8. The shift of emphasis from containing 'centrifugal forces' to more 'stable government' needs to be viewed in the light of the National Front coalition experiment (1989-90).
9. The United States may be cited as an exception in this regard. However, later in this paper, the American presidential system and its apparent success is discussed at length.
10. It can be argued that even in India (under the parliamentary system), the centre, has in the past, misused the provisions of the constitution to intervene in the states. However, presidentialism with its unipersonal authority system can result in more frequent and unchecked intervention in the states especially when constitutional and democratic norms have not taken firm roots.
11. No party/alliance that has formed the government at the centre after a Lok Sabha election, has polled more than 48 per cent of the votes in the election (for details see Shastri 1992b). In recent Lok Sabha elections, the percentage of votes polled by the party that formed the government is significantly lower: Congress 36.6 per cent (1991), BJP 20.3 per cent (1996) and 25.9 per cent (1998). The election survey conducted as part of National Election Study 1998 by the CSDS shows that only 27 per cent of the respondents favoured the BJP and its allies as the ruling alliance after the polls (Yadav 1998:20). The post poll survey conducted as part of the National Election Study 1996 by the

CSDS shows that only 12 per cent of the respondents interviewed felt that the United Front should have formed the government. Interestingly, 34 per cent of the respondents (of whom a significant chunk had actually voted for the parties in the United Front) had no definite opinion on this question (Yadav 1996:40).

12. Three were classified as semi-presidential and 13 had ruling monarchies.
13. Mohanty concedes that the autonomy movements are the only exception.
14. Krishna Kant once again pleaded for the 'rejection vote' while delivering the convocation address at the National Law School of India University and emphasized that it was not a negative solution as negating the negative aspects of the political process becomes positive, non-violent action for cleansing the process of power. Parties too would be forced to field the best among the people (the *Indian Express*, 31 August 1998).
15. Deve Gowda's was the first case of a chief minister relinquishing this position to become prime minister. While former Prime Ministers Morarji Desai, Charan Singh, V.P. Singh and P.V. Narasimha Rao had also served as chief ministers, this was many years before they became prime ministers.
16. Shankar Dayal Sharma's inviting Vajpayee to form the government can be cited as an example.
17. In 1993, in view of the delay in the framing and approval of the Rules, the committees had limited time for completing the scrutiny of the demands for grants and submitting their reports. As a result, it has been argued that the committee scrutiny in the inaugural year was extremely cursory. In 1994, a controversy arose with regard to the adjournment of the two houses of parliament. This adjournment was necessary as per the rules, to permit the committees to examine the demands for grants. In 1995, in view of the elections to the state legislature and the directive of the Election Commission, the union budget was presented only on March 15 and as a result the time allotted to the committees was cut short to less than three weeks. In 1996, the budget was presented only in July, resulting in the committee once again having limited time to review the budgetary proposals. In 1997, the resignation of the government soon after the presentation of the budget (even as parliament had adjourned for a month long recess to permit the department related standing committees to submit their reports on the budgetary proposals) resulted in attention being deflected away from the committee's investigations. In 1998 too, with the delay in the presentation of the budget, the committees were left with little time to scrutinize the budget proposals. In 1999, with the passage of the budget without discussions, the committee deliberations served a limited purpose.