

Indian Parliamentary Board and President, Prime Minister – An Empirical View

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Abstract

This paper attempts to study how **the idea of democracy in India**, The decision of the Constituent Assembly on the form of Government in India was considerably influenced by the political background of India and the practice and traditions evolved during the British rule². It is, therefore, not surprising that from the initial stages of the discussions on the principles of the new Constitution, opinion appears to have been overwhelmingly in favour of adopting for India an Executive responsible to the Legislature in accordance with the British tradition. Dr. Ambedkar made an exhaustive and authoritative statement on the general character of the Executive while introducing the Draft Constitution in the Constituent Assembly on November 4, 1948. He observed, *inter-alia*: "The Parliamentary system differs from a non-Parliamentary system in as much as the former is more responsible than the latter but they also differ as to the time and agency for assessment of their responsibility. Under the Non-Parliamentary system, such as the one that exists in the United States of America, the assessment of the responsibility of the executive is periodic. There is a provision for a bicameral legislature consisting of an upper house, the Rajya Sabha (Council of States), which represents the states of the Indian federation, and a lower house, the Lok Sabha (House of the People), which represents the people of India as a whole. The Constitution provides for an independent judiciary, which is headed by the Supreme Court. The court's mandate is to protect the Constitution, to settle disputes between the central government and the states, to settle inter-state disputes, to nullify any central or state laws that go against the Constitution and to protect the fundamental rights of citizens, issuing writs for their enforcement in cases of violation. There are 543 members in the Lok Sabha, who are elected using Plurality voting (first past the post) system from 543 single-member constituencies. *Key words: Democracy, politics, India, General Elections, political system*

Introduction

One of the most important questions which engaged the attention of the framers of the Constitution was the nature of the Executive and its relation with the Legislature. Dr. Ambedkar observed in introducing the Constitution: "A student of constitutional law, if a copy of a Constitution is placed in his hands, is sure to ask two questions. Firstly, what is the form of Government that is envisaged in the Constitution; and secondly what is the form of the Constitution. For these are the two crucial matters which every Constitution has to deal with.

It takes place once in two years. It is done by the electorate. In England, where the Parliamentary System prevails, the assessment of responsibility of the executive is both daily and periodic. The daily assessment is

done by members of Parliament, through questions, resolutions, no-confidence motions, adjournment motions and debates on Addresses. Periodic assessment is done by the electorate at the time of the election-which may take place every five years or earlier. The daily assessment of responsibility which is not available under the American system is, it is felt far more effective than the periodic assessment and far more necessary in a country like India. The Draft Constitution in recommending the Parliamentary System of executive has preferred more responsibility to more stability."³In furtherance of this, the Constitution of India elaborately defines, the position, powers and the inter-relationships of the various organisations of State and of other institutions.

The Constitution of India provides for a Parliament consisting of an elected President⁴ and the two Houses the House of the People (Lok Sabha) and the Council of States (Rajya Sabha).⁵ The President appoints the Prime Minister and on his advice the other Ministers of the Council of Ministers. The Council of Ministers is collectively responsible to the House of the People.⁶ The President summons the two Houses of Parliament to meet from time to time. He can prorogue the two Houses and can dissolve the House of the People. The interval between two sessions must not exceed six Months.⁷ Parliament in India usually meets for about seven months in a year in three Sessions: The Budget Session (Feb.-May), the Monsoon Session (July-Aug.) and the Winter Session (Nov.-Dec.)*. The first session after the General Elections and the first session each year begins with an Address by the President.⁸ The sweep and scope of the legislative jurisdiction and other powers of Parliament under the Constitution are vast. The constituent power also vests in Parliament and the sovereign will of the people may be said to find expression only through the collective decisions of their elected representatives in Parliament. Nevertheless, Parliament of India is neither sovereign nor supreme.

The authority and jurisdiction of Parliament are limited by the Powers of the other organs, the distribution of legislative powers between the Union and the States,¹⁰ the incorporation of a code of justiciable fundamental rights,¹¹ the general provision for Judicial review and an independent judiciary. The Supreme Court can declare a law passed by Parliament null and void, as violative of fundamental rights, or as contravening other provisions of the Constitution.¹² Also, under the ruling of the Supreme Court, there are limits to the constituent power in as much as Parliament cannot alter what have been called the basic features of the Constitution.

Conventionally, the terms 'Legislature' and 'Executive' respectively, connote a body which legislates or makes laws and a body which executes them. But law-making is not the only function of Parliament. Similarly, the term 'Executive' is often used rather loosely to connote several different things. Under the Constitution of India, the head of the Executive is the President. All executive power is vested in him and all executive actions are taken in his name.¹⁴ He is, however, only a Constitutional Head of State acting on the aid and advice of the Council of Ministers and as such only the formal Executive. The real or the political Executive is the Council of Ministers.¹⁵ Then, there is the permanent administration comprising the civil services-the huge staff of administrators, experts, technocrats and others forming an administrative apparatus which really helps the Ministers in the formulation and implementation of policies. The relationship between the Parliament and the

Executive may therefore, cover the relationship of Parliament with the political executive i.e. the Council of Ministers as also the relationship of Parliament with the administration i.e. civil services.

The question of relationship between the Executive and the Legislature has been engaging the attention of political thinkers and constitutional theorists alike in Britain as also elsewhere. For instance, there has been much talk of the diminishing role of Parliament and the increased power of the Executive in the British Political system. Critics have sometimes examined current trends and have tried to suggest concrete remedies; they have frequently looked back to an alleged 'golden age' when the balance between Legislature and Executive was better maintained. Others have reached the pessimistic conclusion that little can be done to alter the situation.¹⁶ There are two broad views about the functions of Parliament vis-a-vis the Executive. The first refers to Parliamentary sovereignty, ministerial responsibility, the parliamentary surveillance. The second refers to the responsibility of the Government, the danger of political interference with civil servants, the importance of debate rather than control.¹⁷ Halsbury's Laws of England of posits the Executive Legislative relations as follows:

"Parliament is not an executive authority, but either directly or indirectly it exercises a dominating control over the action of the Crown and of the executive government and the administration of the laws which it has enacted. This control is effected in various ways, namely: 1. By the legal restrictions which prevent the Crown or its ministers from imposing any charge upon the people or from maintaining a standing army in time of peace without the consent of Parliament.

2. By the doctrine of the Constitution by which supply is granted annually by the House of Commons and must receive legislative sanction each year;

3. By means of the rule by which supply granted to the Crown must be appropriated to the particular purposes for which it has been granted; and

4. By the Doctrine of the Constitution by which a Minister of the Crown is held responsible to Parliament for any act done by him in his ministerial capacity, or by the Ministry or department of which he is the political head or for any advice tendered by the minister to the Sovereign." ¹⁸

To John Stuart Mill, there was a radical distinction between controlling the business of Government and actually doing it. According to him, a numerous assembly is as little fitted for the direct business of legislation as for that of administration. The only task in which a representative assembly can possibly be competent is not that of doing the work, but of causing it to be done; of determining to whom and to what sort of people it shall be confided, and giving or withholding the national sanction to it when performed. In J.S. Mill's view, therefore, the proper function of a representative assembly is "to watch and control the Government; to throw the light of publicity on its acts, to compel a full exposition and justification of all of them which any one considers

questionable; to censure them if found condemnable, and, if men who compose the Government abuse their trust, or fulfil it in a manner which conflict with the deliberate sense of the nation, to expel them from office."¹⁹

According to the second view, Parliament is not a corporate entity so much as an arena or forum. In this arena, individual members air grievances and groups of members' carry on the party struggle. Minister, appear so that members can 'have a go' at them: debates on large issues are staged so that the opposition may present an alternative policy for the benefit of the electors. In other words, this view assigns Parliament a subservient role even though its debates may make newspaper head-lines.²⁰

The Indian system, however, represents a real fusion of the highest executive and legislative authorities. In terms of the Constitution, as also In actual practice, the relationship between the Executive and the Legislature is one that is most intimate and ideally does not admit of any antagonism or dichotomy. The two are not visualized as competing centres of power but as Inseparable partners or copartner in the business of Government. Parliament is a large body. It does not and cannot govern, The Council of Ministers is the 'grand executive committee' of Parliament charged with the responsibility of governance on behalf of the parent body. It is drawn from, and remain a part of the Parliament and is responsible to the Lok Sabha. The relationship between the Executive and the Legislature, may be said to be that of a part to the whole and one of interdependence.

While the Executive has almost unlimited right to initiate and formulate legislative and financial proposals before Parliament and to give effect to approved policies, unfettered and unhindered by Parliament, Parliament has the unlimited power to call for information, to discuss to scrutinize and to put the seal of approval on the proposals made by the Executive. The Executive (i.e. the political Executive the Council of Ministers) remains responsible and the administration accountable to Parliament. It is the function of Parliament to exercise political and financial control over the Executive and to ensure parliamentary surveillance of administration. Executive responsibility and administrative accountability, are two different functional concepts.

The head of every Government Department is a Minister and Parliament exercises control over the Department through the Minister. A Ministry has practically an autonomous existence of its own and conducts its business in pursuance of statutory provisions, rules and regulations or according to a long-standing practice. The Parliamentary control over the Ministry rests in the fact that any action of the Ministry can be called in question by any Member and the Minister responsible for the administration of that Ministry has to defend the acts of his officials. It is a well-established constitutional principle that a Minister is responsible to Parliament for all the acts of the Ministry and it is he who takes the blame, should Parliament disapprove of any administrative act. There can, however, be a case where a civil servant acts either deliberately or recklessly, outside the policy of his Minister or contrary to that policy. By doing so, he relieves the Minister of the responsibility of protecting him. But the constitutional responsibility of the Minister of Parliament remains and he has to satisfy Parliament that he is dealing with the matter adequately.²¹

Administrative accountability means the accountability of the administration to Parliament. Parliament does not interfere with day to day administration nor does it control administration. Accountability to it is technical and indirect i.e. through the Ministers, and it is *ex post facto* i.e. after something is done; after action has ended. Also, it has to be based on specific grounds. Under the Indian system, after a policy is laid down, a law is passed or monies are sanctioned, it is administration which is required to execute and implement, Parliament cannot itself administer nor can the Ministers. It is, therefore, the officials and not the Ministers--who have to explain if things go wrong in the process of implementation. ²²

In a parliamentary polity, Parliament embodies the will of the people and it must, therefore be able to oversee the way in which public policy is carried out so as to ensure that it keeps in step with the objectives of socio-economic progress, efficient administration and the aspirations, of the people as a whole. This, in a nutshell, is the *raison d'être* of parliamentary surveillance of administration. Parliament has to keep a watch over the behaviour of administration. It can enquire and examine *ex post facto* whether the administration has acted in conformity with its obligations under the approved policies and utilized the powers conferred on it for purposes for which they were intended and whether the monies spent were in accordance with parliamentary sanction. This ensures that the officials function in the healthy awareness that they, would be ultimately subject to parliamentary scrutiny and answerable for what they do or fail to do. But in order to be able to conduct meaningful scrutiny and call the administration to account, Parliament must have the technical resources and information wherewithal.

The various procedural devices like the system of parliamentary Committees; Questions, Calling Attention, Half-an-Hour Discussion, etc. constitute very potent instruments for effecting parliamentary surveillance over administrative action. Significant occasions for review of administration are also provided by the discussions on the Motion of Thanks on the President's Address, the Budget demands and particular aspects of governmental policy or situations. These apart, specific matters may be discussed through motions on matters of urgent public importance, private members' resolutions and other substantive motions. Members are free to express themselves and to say what is good for the country and what modifications are required in the existing policies. Government is sensitive to parliamentary opinion; in most cases it anticipates that opinion; in some cases it bows to it and in some others it may feel that it cannot make any change consistent with its commitments, obligations and political philosophy. Nevertheless, during discussions members have full liberty to criticize the administration for its performance and suggest how, it should behave in the future or how a particular measure should be carried out or implemented. The discussions are important for they indicate parliamentary mood and bring the impact of public-thinking on the administrative apparatus which may otherwise remain immune or impervious to public sentiments and feelings. It is as well that the parliamentary debates should serve to remind the administration of its duties and obligations. Parliamentary debates affect thinking and action of the administration in the variety of ways and the public influence which cannot be measured in terms of any visible

units pervades through all the ranks of administration-high and low. Administrative accountability is thus laid down in these parliamentary discussions and after Parliament approves the policies, administration has complete freedom to implement them in the best manner possible but it is nevertheless haunted and guided by the various viewpoints expressed on the floor of the House.

The Executive enjoys the right to formulate the Budget. The Constitution provides for an annual statement of the estimated receipts and expenditure to be placed before Parliament. The Executive is completely free to suggest what the level of its expenditure should be and specify the purposes for which various amounts may be acquired. It has also full freedom to suggest how revenue should be raised to meet the expenditure. Thus the entire initiative in financial matters is with the Government. Nevertheless, parliamentary control over public finance--the power to levy or modify taxes and the voting of supplies and grants is one of the most important checks against the Executive assuming arbitrary powers. No taxes can be legally levied and no expenditure incurred from the public exchequer without specific parliamentary authorization by law.

In a Parliamentary form of Government, such as we have, the function of Parliament is to legislate, advise, criticise, and ventilate the public grievances; and that of the Executive, to govern. A country requires laws for the maintenance of public order, for facilitating economic and social process, and for ensuring a sound and efficient administration. The Executive for the most part proposes the legislation necessary for the *imprimatur*, after due deliberation and debate and suggesting modifications, whenever necessary. Control over finance, the power to levy or modify taxes, the Voting of supplies and grants, and ventilating people's grievances are the exclusive prerogatives of Parliament. It is through these powers that Parliament enforces the responsibility of the Executive to itself and to the people in the ultimate analysis.

Under the Constitution of India, the relationship between the Executive and the Parliament is based on mutual trust and confidence. An unwritten code subsists between the two: Parliament does not interfere with the Executive in the day-to-day administration and the Executive pays a heavy price for it by staking its life every day for what it does or does not do. Parliament has almost unlimited right of information and criticism *ex post facto* and the Executive has likewise unlimited right to initiate and formulate proposals and policies and to give effect to the approved policies, unfettered and unhindered. In essence, Parliament must respect the Executive and the Executive must feel parliamentary influence all the time. So long as this equilibrium is maintained, there is every reason to believe that the government of the country will be carried on in accordance with the wishes of the people. The success of our system lies in our having in fact this happy balance and blending.

Nonetheless, there is scope for increasing the influence and strengthening the control of Parliament over the Executive. One of the proposals which is debated and canvassed is the use of the existing Committees on an increasing scale and extending the Committee System of Parliament. It is suggested that these are needed to oversee administration, to scrutinise the actions of Government, to collect, discuss and report, on actions and performance of Departments of Government.

Objective:

This paper intends to explore and analyze the way **Indian Democracy** run with **institutional** support. Their **effectiveness in 21st century** holds the government accountable, protects people's interests and ensures a democracy's functioning.

Conclusion

In the 21st century, Indian politics has become dynastic, possibly due to the absence of a party organization, independent civil society associations that mobilize support for the party, and centralized financing of elections. This phenomenon is seen from national level down to district level. One example of dynastic politics has been the Nehru–Gandhi family which produced three Indian prime ministers. Family members have also led the Congress party for most of the period since 1978 when Indira Gandhi floated the then Congress(I) faction of the party. The ruling Bharatiya Janata Party also features several senior leaders who are dynasts. Dynastic politics is prevalent also in a number of political parties with regional presence such as Indian National Congress (INC) , All India Majlis-e-Ittehadul Muslimeen (AIMIM), Dravida Munnetra Kazhagam (DMK), Indian National Lok Dal, Jammu & Kashmir National Conference (NC), Jammu and Kashmir Peoples Democratic Party (PDP).

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