



Legislative council in parliamentary democracy: A study of Karnataka

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Abstract

A parliamentary system is a system of democratic governance of a state in which the executive branch derives its democratic legitimacy from, and is held accountable to, the legislature (parliament); the executive and legislative branches are thus interconnected. In a parliamentary system, the head of state is normally a different person from the head of government. This is in contrast to a presidential system in a democracy, where the head of state often is also the head of government, and most importantly, the executive branch does not derive its democratic legitimacy from the legislature. This paper underlines the parliamentary democracy and related aspects in Indian political environment.

Karnataka, formerly (until 1973) Mysore, state of India, located on the western coast of the subcontinent. On 1973 November 1, the name Mysore was changed to Karnataka. The state chooses the city of Bangalore as its capital and gave Kannada the status of administrative language. According to the 2011 census of India, the total population of Karnataka was 61,095,297. At 11:00 am on 18 June 1952, Wednesday, the first session of the legislative assembly was held at the old public office building conference hall (the present high court building) in Bangalore. On 16 December 1949 the maharaja of Mysore dissolved the representative assembly and the legislative assembly. The constituent assembly which was constituted in 1947 became the provisional assembly of Mysore until the elections were held in 1952. The Karnataka Legislative Assembly is the lower house of the bicameral legislature of Karnataka state in southern India. Karnataka is one of the seven states in India, where the state legislature is bicameral, comprising two houses. The two houses are the Vidhan Sabha (lower house) and the Vidhan Parishad (upper house). The members of the Vidhana Sabha are directly elected by people through adult franchise. There are 224 members of the Vidhana Sabha or the Legislative Assembly of Karnataka state. One member is a representative of the Anglo-Indian community nominated by the Governor of Karnataka. The state of Karnataka is divided into 224 constituencies used to elect the Legislative assembly members. The main purpose of the study is to evaluate the Opinion Polls, Exit polls and Election Result of the election held on 15th May 2018. The study emphasizes to find the relevance of Opinion polls and Exit Polls in the state assembly election of Karnataka. The study also evaluates the final result of assembly election of Karnataka state and correlates the final results with the Opinions polls and Exit polls.

Keywords: exit polls, election, opinion polls, legislative assembly, and survey

Introduction

“The dignity of the individual and the sacredness of human personality are the fundamental principle of democracy. The moral basis of a democratic society is respect for the individuals. The voice of the people must be carried by the Government and the parliamentary democracy is the best instrument for the ascertainment and the expression of the public mind. Parliament acts as liaison between the people and the State. It is the function of the Parliament to express, not to suppress, public opinion and social discontent, if any. A sound democracy requires freedom of thoughts and expression and this demands respect of minority opinion.”

Dr. S. Radhakrishnan (in: Morris-Jones, 1957)

“*We the People of India...*” the very first wordings of the Preamble of the Constitution of India clearly indicate that the people adopted the Constitution to ensure social, economic and political justice. The makers of the Constitution were not aware of the fact that they were making the world’s largest Constitution. The Constitutional Assembly believed that India already had the tradition of British system, which is better suited to our country’s conditions (Rao, 1961), and adopted the parliamentary form

of democracy based on the Westminster Model for ensuring the political justice for the citizens. After obtaining independence, when the new Constitution of India came into effect on the 26th January 1950, India became for the first time in her long history, a full-fledged parliamentary democracy with the modern institutional framework (Pathak, 1971). Democracy is a concept, a political philosophy, an ideal practiced by the nation culturally advanced and politically mature, resorting to governance by representatives of the people elected directly or indirectly.

Pursuant to the Indian Constitution, the very basis of the parliamentary democracy is the exercise of the power, which is based on the popular will and the popular control.³As a form of government, the envisaged form of democracy is a representative democracy (the representative democracy is also known as parliamentary democracy); therefore, in our Constitution, there are no agencies of direct control by the people, such as „a referendum“ or „an initiative“. The people of India have to exercise their sovereignty through Parliament at the central level and through Legislature in each State, which is to be elected on the adult franchise⁴ and to which the real executive, the

Council of Minister, shall be responsible. Though there shall be an elected President as the Head of the Union and a Governor nominated by the President as the Head of each State.

Countries with parliamentary systems may be constitutional monarchies, where a monarch is ceremonial head of state while the head of government is almost always a member of the legislature (such as the United Kingdom, Sweden and Japan), or parliamentary republics, where a mostly ceremonial president is the head of state while the head of government is regularly from the legislature (such as Ireland, Germany, Pakistan, India and Italy). In a few parliamentary republics, such as Botswana, South Africa and Suriname, as well as German states, the head of government is also head of state, but is elected by and is answerable to the legislature.

Historical and Political perspective of Karnataka State
Karnataka, formerly (until 1973) Mysore, state of India, located on the western coast of the subcontinent¹. It is bounded by the states of Goa and Maharashtra to the north, Telangana to the east, Tamil Nadu to the southeast, and Kerala to the south and by the Arabian Sea to the west. The state extends for about 420 miles (675 km) from north to south and for about 300 miles (480 km) from east to west. Its coastline stretches for some 200 miles (320 km)². After Indian independence, the Wodeyar Maharaja acceded to India. In 1950, Mysore became an Indian state, and the former Maharaja became its rajpramukh, or governor, until 1973. The Ekikarana movement which started in the latter half of the 20th century, culminated in the States Reorganisation Act of 1956 which provided for parts of Coorg, Madras, Hyderabad, and Bombay states to be incorporated into the state of Mysore. Mysore state was renamed Karnataka in 1973. The state of Mysore was formed on November 1, 1956 and since then November 1 of every year is celebrated as Kannada Rajyotsava / Karnataka Rajyotsava. After the Indian independence and partition of the country the states were reorganized based on the linguistic and other criteria and thus the divided areas of Kannada speaking population came together to form the present day Karnataka under the name of Mysore⁵. On 1973 November 1, the name Mysore was changed to Karnataka. The state choose the city of Bangalore as its capital and gave Kannada the status of administrative language. The Vidhana Soudha build by Kengal Hanumanthya became the state parliament house. The Attara Kachery was made the state high court. The state covers an area of 191,976 square kilometres (74,122 sq mi), or 5.83 percent of the total geographical area of India. It is the seventh largest Indian state by area. With 61,130,704 inhabitants at the 2011 census, Karnataka is the eighth largest state by population, comprising 30 districts. Kannada, one of the classical languages of India, is the most widely spoken and official language of the state alongside Konkani, Marathi, Tulu, Tamil, Telugu, Malayalam, Kodava and Beary⁶. Karnataka also has the only 3 naturally Sanskrit-speaking districts in India. According to the 2011 census of India⁷, the total population of Karnataka was 61,095,297 of which 30,966,657 (50.7%) were male and 30,128,640 (49.3%) were female, or 1000 males for every 973 females. This represents a 15.60% increase over the population in 2001. The population density was 319 per km² and 38.67% of the people lived in urban areas. The literacy rate was 75.36% with 82.47% of males and 68.08% of females being literate.

84.00% of the population were Hindu, 12.92% were Muslim, 1.87% were Christian, 0.72% were Jains, 0.16% were Buddhist, 0.05% were Sikh and 0.02% were belonging to other religions and 0.27% of the population did not state their religion.[57] As per the 2011 census, Karnataka had a literacy rate of 75.36%, with 82.47% of males and 68.08% of females in the state being literate.[7] In 2001, the literacy rate of the state were 67.04%, with 76.29% of males and 57.45% of females being literate. At 11:00 am on 18 June 1952, Wednesday, the first session of the legislative assembly was held at the old public office building conference hall (the present high court building) in Bangalore. On 16 December 1949 the maharaja of Mysore dissolved the representative assembly and the legislative assembly. The constituent assembly which was constituted in 1947 became the provisional assembly of Mysore until the elections were held in 1952. The Karnataka Legislative Assembly⁹ is the lower house of the bicameral legislature of Karnataka state in southern India. Karnataka is one of the seven states in India, where the state legislature is bicameral, comprising two houses. The two houses are the Vidhan Sabha (lower house) and the Vidhan Parishad (upper house). The members of the Vidhana Sabha are directly elected by people through adult franchise. There are 224 members of the Vidhana Sabha or the Legislative Assembly of Karnataka state. One member is a representative of the Anglo-Indian community nominated by the Governor of Karnataka. The state of Karnataka is divided into 224 constituencies used to elect the Legislative assembly members. Each constituency elects one member of the assembly. Members are popularly known as MLAs. The assembly is elected using the simple plurality or "first past the post" electoral system. The elections are conducted by the Election Commission of India. The normal term of the members lasts for five years. In case of death, resignation or disqualification of a member, a byelection is conducted for constituency represented by the member.

By appointment by the head of state, without reference to parliament: While in practice most prime ministers under the Westminster system (including Australia, Canada, New Zealand, India and the United Kingdom) are the leaders of the largest party in parliament, technically the appointment of the prime minister is a royal prerogative exercised by the monarch or the governor-general. No parliamentary vote takes place on who is forming a government, but since parliament can immediately defeat the government with a motion of no confidence, the head of state is limited by convention to choosing a candidate who can command the confidence of parliament and has little or no influence in the decision.

- Appointment by the head of state after parliament nominates a candidate: Example: Japan, where the Emperor appoints the Prime Minister on the nomination of the Diet. The Republic of Ireland where the President of Ireland appoints the Taoiseach on the nomination of the Dáil Éireann.
- The head of state nominates a candidate for prime minister who is then submitted to parliament for approval before appointment as prime minister: Example: Spain, where the King sends a nomination to parliament for approval. Also Germany where under the German Basic Law (constitution) the Bundestag votes on a candidate nominated by the
- The head of state appoints a prime minister who has a

set timescale within which s/he must gain a vote of confidence: (Example: Italy, Thailand)

- The head of state appoints the leader of the largest or second-largest political party in the Parliament as Prime Minister: (Example: Greece)
- Direct election by parliament: (Example: Papua New Guinea, Pakistan. In Sweden, the Prime Minister is appointed by the Speaker of the Riksdag.)
 - Direct election by popular vote: (Example: Israel, 1996–2001, where the prime minister was elected in a general election, with no regard to political affiliation.)

Furthermore, there are variations as to what conditions exist (if any) for the government to have the right to dissolve the parliament.

- In some countries like Denmark, Malaysia, Australia and New Zealand, the prime minister has the de facto power to call an election at will. This was also the case in the United Kingdom until the passage of the Fixed-term Parliaments Act 2011.
- In Israel, parliament may vote in order to call an election or pass a vote of no confidence against the government.
- Other countries only permit an election to be called in the event of a vote of no confidence against the government, a supermajority vote in favour of an early election or prolonged deadlock in parliament. These requirements can still be circumvented. For example, in Germany in 2005, Gerhard Schröder deliberately allowed his government to lose a confidence motion, in order to call an early election.
- In Sweden, the government may call a snap election at will, but the newly elected Riksdag is only elected to fill out the previous Riksdag's term. The last time this option was used was in 1958.
- Norway is unique among parliamentary systems in that the Storting always serves the whole of its four-year term.

The Parliamentary system can be contrasted with a presidential system which operates under a stricter separation of powers, whereby the executive does not form part of, nor is appointed by, the parliamentary or legislative body. In such a system, congresses do not select or dismiss heads of governments, and governments cannot request an early dissolution as may be the case for parliaments. There also exists the semi-presidential system that draws on both presidential systems and parliamentary systems by combining a powerful president with an executive responsible to parliament, as for example the French Fifth Republic.

Parliamentarianism may also apply to local governments. An example is the city of Oslo, which has an executive council (Byråd) as a part of the parliamentary system.

Nature of parliamentary democracy

According to Abraham Lincoln, "Democracy is the Government of the people, by the people and for the people" (Malhotra, 2005). But there is also a concept of representation in this democracy because, due to mass population, it is very difficult to run government by involving everyone in the government. In Indian context, we have both types of representation: direct and indirect. In popular elections, people directly elect their representatives

in government and after that the elected representatives elect their representatives. Basically, having both direct and indirect representation, the nature of Indian parliamentary democracy is participatory democracy.

Advantages and disadvantages

One of the commonly attributed advantages to parliamentary systems is that it is faster and easier to pass legislation, as the executive branch is formed by the direct or indirect support of the legislative branch and often includes members of the legislature. Thus the executive (as the majority party or coalition of parties in the legislature) has a majority of the votes, and can pass legislation at will. In a presidential system, the executive is often chosen independently from the legislature. If the executive and the majority of the legislature are from different political parties, then stalemate can occur. Thus the executive might not be able to implement its legislative proposals. An executive in any system (be it parliamentary, presidential or semi-presidential) is chiefly voted into office on the basis of his or her party's platform/manifesto, and the same is also true of the legislature.

In addition to quicker legislative action, parliamentary government has attractive features for nations that are ethnically, racially, or ideologically divided. In a presidential system, all executive power is vested in one person: the president. In a parliamentary system, with a collegial executive, power is more divided. In the 1989 Lebanese Taif Agreement, in order to give Muslims greater political power, Lebanon moved from a semi-presidential system with a strong president to a system more structurally similar to classical parliamentary government. Iraq similarly disdained a presidential system out of fears that such a system would be tantamount to Shiite domination; Afghanistan's minorities refused to go along with a presidency as strong as the Pashtuns desired.

It can also be argued that power is more evenly spread out in parliamentary government. The prime minister is seldom as important as a ruling president, and there tends to be a higher focus on voting for a party and its political ideas than voting for an actual person. In his 1867 book *The English Constitution*, Walter Bagehot praised parliamentary government for producing serious debates, for allowing change in power without an election, and for allowing elections at any time. Bagehot considered the four-year election rule of the United States to be unnatural.

Some scholars like Juan Linz, Fred Riggs, Bruce Ackerman, and Robert Dahl claim that parliamentary government is less prone to authoritarian collapse. These scholars point out that since World War II, two-thirds of Third World countries establishing parliamentary governments successfully made the transition to democracy. By contrast, no Third World presidential system successfully made the transition to democracy without experiencing coups and other constitutional breakdowns.

Some constituencies may have a popular local candidate under an unpopular leader (or the reverse), forcing a difficult choice on the electorate. Mixed-member proportional representation (where voters cast two ballots) can make this choice easier by allowing voters to cast one vote for the local candidate but also cast a second vote for another party.

Although Bagehot praised parliamentary government for allowing an election to take place at any time, the lack of a

definite election calendar can be abused. Previously under some systems, such as the British, a ruling party could schedule elections when it felt that it was likely to retain power, and so avoid elections at times of unpopularity. (Election timing in the UK, however, is now partly fixed under the Fixed-term Parliaments Act 2011.) Thus, by wise timing of elections, in a parliamentary system a party can extend its rule for longer than is feasible in a functioning presidential system. This problem can be alleviated somewhat by setting fixed dates for parliamentary elections, as is the case in several of Australia's state parliaments. In other systems, such as the Dutch and the Belgian, the ruling party or coalition has some flexibility in determining the election date. Conversely, flexibility in the timing of parliamentary elections can avoid periods of legislative gridlock that can occur in a fixed period presidential system. Parliamentary democracy in India has become a farce. For the proper working of parliamentary democracy many pre-requisites are needed; till the leaders are responsible and conscious of their duties and responsive to the public opinion. Democracy itself will not be stable. But it is more so in the case of parliamentary democracy because the Council of Ministers should be responsible to the Parliament and should also take into consideration the voice of the people. If they start ignoring what the people want the Government will become dictatorial in its behavior.

Moreover, Parliamentary democracy also demands that there should be two-party system. If there are many political parties they can join hands and be in the majority to form their own Government, after sometime, there may be some new alignment and some other coalition Government may be formed. In other words, there are certain norms of Parliamentary democracy.

Unfortunately, in India Parliamentary democracy seems to be; just in name the Ruling Party has so much majority that it can get anything done so there is no check upon the Ruling Party. If the members of the opposition ask questions and try to embarrass the people in power by bringing some or the other facts to light they are ignored because their numerical strength is negligible. Moreover, opposition parties have no prominent leader who may be acceptable as an alternative to the leader of the majority party. The recent alignment of the different opposition parties has started showing, some serious cracks in it. Such an Opposition makes Parliamentary democracy just a farce.

The party whip is used so effectively because the leader of the majority party reduces other leaders to unimportant place. As a result of it they are dominated by one group of men. Such an organization is bound to become dictatorial and decision will be taken at the higher level. The virtual working of the ruling party becomes monolithic. This contrary to the spirit of parliamentary democracy, because the decisions should be broad based.

One of the saving graces is that many a time the Prime Minister calls a meeting of the opposition parties in order to take some important decisions. This helps the ruling party to know the: different shades of opinions of the different classes of people and different regions. In fact important decisions in a democratic setup and particularly so when it is parliamentary democracy should be taken by taking all the parties into confidence.

Another point which makes our parliamentary democracy somewhat chaste is that the ruling party is not prepared to dictate its terms to the opposition and other sections of the

people. The spirit of democracy demands that there should be 'give and take'. The Assam problem has been solved through negotiations so is the case with Tripura problem. The Prime Minister has also withdrawn the Defamation Bill because only the public opinion was against it. Similarly he has recently revealed that he is going to call an all party meeting in order to resolve the Punjab problem. In parliamentary democracy it is more important because in the Presidential type many a time the President can have his own say by one or the other method. It is wrong to think that our Parliamentary democracy is a farce.

In fact the political consciousness among the people has not gone deep and so opposition party has not been able to become strong in the Parliament. We are heroworshippers by nature and so they respect the time-honored walls. This conservative nature has made them to elect the same political party to power. When the people become politically awake and organize themselves this will not happen. So we can say that at present parliamentary democracy has not acquired its true character. It will take some time more for it to become proper type of parliamentary, democracy.

In a parliamentary democracy like India, prime minister is not only the representative of people but also answerable to them directly. He fills the role of prime minister with a mandate from public, first by winning a seat for himself in election to Lok Sabha (People's or Lower House of Parliament) and then leading the political party with most seats in Lok Sabha and having the support of at least 50% MPs in Lower House of Parliament. This makes the prime minister, the highest ranked politician and leader in a parliamentary democracy, chosen (elected) directly by people rather than hand-picked for the job by a third party or person (elected or unelected); and his leadership is perceived to have the democratic legitimacy and effectiveness and it enhances and strengthens the office of prime minister and the institution of parliamentary democracy.

People ultimately expect the prime minister and his government to solve immediate problems affecting the nation and also have a clear vision for the future of country. This requires the Government (Govt.) to recognize long term issues and to articulate them properly to public while also offering appropriate suggestions to deal with them. Should the prime minister and Govt. fail to do that, public is justified to feel unhappy and dissatisfied with elected representatives (including the prime minister, his party and ministers) and vote them out in next parliamentary elections to Lok Sabha. India is a large country with a huge population. It has people speaking many different languages and following several kinds of religions. India also faces many complex problems and issues with serious social, economic, political and other types of consequences.

A number of very serious issues affecting India today and having long term consequences are given below

Overpopulation - India is a country of huge population. It has limited space, energy and natural resources. There is already a serious problem of overpopulation in India which has resulted in a lack of sufficient food, drinking water, clean air and available space for many people. Pollution and degradation of environment (including rivers and lakes) are also on the rise due mainly to overpopulation. A large number of species of plants and animals are endangered and already on the verge of extinction. Agricultural land and forests are facing quick reduction as people move into areas

not occupied before. Similarly, the depletion of natural resources, energy and water is taking place more rapidly as the number of people increases. Overpopulation has also led to the proliferation of slums and slum like dwellings all over the country, especially near the cities. The problem of slums is further worsened by the inability of law and order to protect local people and their property from encroachers, from inside and outside the country.

Corruption, inefficiency and lack of accountability in Govt. and society - If there is going to be a change and improvement in country's economy and infrastructure etc., it will require Govt. to take steps to end bribery, corruption and inefficiency at all levels. In addition, the practices and systems for diverting and siphoning public funds and property by politicians and officials for their own use and benefit must end. Various projects and programs from Govt. should be selected carefully and according to their value and long term benefit to society rather than to serve the interests of just a few, handling and dealing with them directly or using them to squander public funds. Govt. should also set up proper controls on public spending and they must be enforced strictly, without any exception, thus ensuring a complete transparency with respect to flow and spending of public money. In general, there is a need for Govt. and society, public and private sectors, to become more efficient and accountable and end corruption.

Lack of a non-religious uniform legal code - Currently there are several legal codes in use in India which are based on different religions. These religion based legal codes are not only outdated, but their choice and use by people according to their religions has also led to legal inequality on the basis of gender and religion. In addition to being socially divisive and discriminatory, these multiple religious laws seem to create confusion, inefficiency and unnecessary complexities and delays in legal matters.

Furthermore, the practice of outdated customs and lifestyles (not conforming to latest in education, science and technology etc.) among some people and at the same time their adhering to outdated religious laws has denied them the progress and prosperity. Their ability to keep pace with others, in India and internationally, is curtailed. If this trend continues in future the gap and disconnect between them and others will increase, endangering social harmony and secularism in the country. Moreover, it will lead to a greater socio-economic disparity among people which even the Govt. might have a hard time undoing afterwards, no matter what the type of assistance and consideration from Govt. later.

Thus the Govt. should take immediate steps to replace religious laws and codes currently in use in India with a non-religious and uniform legal code (e.g. UCC), and encourage people to follow customs and practices which are best able to meet their needs during present times and will help them keep pace with the humanity at large. This will result in equality in law for everyone (irrespective of gender, religion or caste), lead to greater social harmony and ensure economic prosperity for all.

Caste based reservations and quotas in education and jobs - The present system of using caste or class, e.g. OBC (Other Backward Classes / castes) or SC/ST (Scheduled Castes and Scheduled Tribes), to determine the eligibility and suitability for government grants in education and jobs is ill-conceived, unnecessary, never-ending and worthless. It leads to helping many undeserving people in education and

jobs while unfairly leaving out other poor and deserving candidates.

Parliamentary democracy challenges

All stakeholders have to work untimely to find lasting solutions to safeguard parliamentary democracy from the tremendous strains experienced today and to strengthen it. India had the great benefit of starting its journey under the leadership of Jawaharlal Nehru during the defining years of its freedom, and a great line-up of visionary and sagacious men and women provided effective leadership in the task of consolidating democracy and in laying the institutional foundations of the republic. Jawaharlal Nehru, as president of the Indian National Congress, declared in 1936 that India's ultimate objective was "the establishment of a democratic state," a sovereign state which would promote and foster "full democracy" and usher in a new social and economic order.

A study indicated that in the first three years of the 14th Lok Sabha, 26 per cent of parliamentary time has been lost due to disruptions. During the budget session this year, the Lok Sabha lost 73 hours (34 per cent of its time) due to disorder. Only 11 of the slotted 25 Bills were passed in the monsoon session. In that session, the Lok Sabha lost 40 per cent of its time due to adjournments, and the Rajya Sabha lost 49 per cent. Four Bills were passed without discussion in the Lok Sabha. If the Lok Sabha worked 124 hours in the monsoon session of 2006, it worked only 65 hours in the monsoon session of 2007. Each minute of parliamentary time costs the public exchequer to the tune of about Rs.26,000.

Intolerance, divisiveness, corruption, confrontations and disrespect to dissent are increasingly vitiating our socio-political system. Added to this is the attempt by some institutions to malign and marginalise important people's forums with an intent to occupy larger space than what is ideally feasible or constitutionally permissible in a representative democratic system. Judicial activism is sought to be justified because of the perceived decline in the effectiveness of parliamentary accountability. Frequent interventions in the exclusive jurisdiction of the legislature will only contribute to further eroding the authority of Parliament.

By expelling 10 MPs for their involvement in the 'cash-for-query' scam, and by suspending others for different periods for various misdemeanors, Parliament has set an example. But these initiatives are not projected properly to help enhance people's respect for democratic institutions. The media, rather than becoming the prophets of doom and contributing to the loss of the people's faith in the institutions, should endeavour to reinforce their trust in them.

They would do well to remember that only in a democracy does free media flourish. Market-driven competitive journalism will hurt the long-term interest of our political system. Once democratic institutions lose popular trust, it could very well herald the beginning of anarchy.

The cynicism that is creeping into the minds of the people, specially the youth, about our democratic structure should be removed by the proper functioning of the people's most important institution, so that bright young citizens do not get disinterested about participation in public affairs and politics. All stakeholders in our democracy have to unitedly work with dedication, commitment, cooperation and self-discipline to find lasting solutions to safeguard

parliamentary democracy from the tremendous strains experienced today and to strengthen it.

The question that we all, particularly, today's youth, need to ask ourselves is, should we always be the beneficiaries of the system or should we not come forward to contribute to transform the quality of our polity and to make a positive impact on the socio-economic fortunes of the people. Attracting the right talent — honest, well-meaning, public-spirited and educated youth — into the arena of politics and public life is an important challenge before our democracy. Our youth and particularly the students have to take on the onus of addressing the aberrations and for removing the various ills plaguing our society and to provide dynamic and committed leadership to change the system for the better. Politics in the country today carries with it an image of intrigue, venality, disorder and anarchy. We need to correct it urgently, so that our people begin to view politics as a respectable profession in the service of society as was perceived during the long years of our struggle for freedom. Only the youth can help correct this image. Remember that only democracy gives you the power to participate in the political process, express your opinion and thus to be a factor in bringing about positive changes in the socio-economic condition of the country.

The makers of the Indian Constitution, while adopting the parliamentary form of government, had a view that parliamentary democracy will be the best suitable form of government for India. Most of the members of the Constituent Assembly were in favour of adopting the British parliamentary system as the role model for Indian parliamentary democracy. Pt. Jawahar Lal Nehru, Sardar Patel, K.M. Munshi, Dr. B.R. Ambedkar and Alladi Krishnan Ayyer strongly believed that British parliamentary system would be the best model, which would be able to meet with all democratic problems and aspirations in the future. But, after 66 years of the republican system of governance, we find that the operation of this parliamentary system is not so smooth or free of hurdles. In the past period, a number of problems have been observed in the practical functioning of parliamentary democracy.

Legal issues

Role of President, The essence of the parliamentary democracy is that the Council of Ministers shall be responsible to the House of the People. In *U.N.R. Rao v. Indira Gandhi*,³⁶ the Supreme Court observed that the President is only the constitutional head and must act on the advice of the ministers, whereas the real executive powers are to be exercised by the Council of Ministers. The 44th Amendment of the Constitution of India provides that the President may require the Council of Minister to reconsider the advice, either generally or otherwise, and the President shall act in accordance with the advice tendered after such reconsideration. Similarly, under Article 111 of the Constitution of India, the President may return the Bill for reconsideration (unless it is a money Bill). But if the Bill passed again by the Houses, it shall be presented to the President for assent and the President shall have no power to withhold his assent.

There have been few instances when the President sent a Bill for recommendation. In 1986, President sent the 1986 Post Office (Amendment) Bill to the Cabinet. In 2006, President Abdul Kalam sent the amended Parliament (Prevention of Disqualification) Act of 1959 for such

recommendation. He assented to it when it was presented to him again, after such reconsideration but without any amendment. Hence, the issue arises: what is the effect of returning a Bill to the Houses if the Council of Ministers has power to present the same Bill after just a formality of passing the Bill again?

Delegated legislation: The main function of Parliament is to make law for the country. But, usually, what happens is that the legislature enacts a law covering only the general principle and policies relating to the subject matter in question, and confers the rule-making power to the government or to some other administrative agencies. The absence of the Members of Parliament from the proceedings, as well as some un-parliamentary activities (such as watching porn clips, abusing others, throwing shoes, papers, paper weights and ink, sleeping during discussion, unreasonable walk-outs, demonstrations of banners and causing disturbance by raising unnecessary slogans) are the main causes for increasing of delegated legislation in India.

Role of Speaker/Chairman with reference to Anti-defection Law: The office of the Speaker/Chairman has an important position which is always associated with respect, dignity and authority. But, the convention has developed common practice that the Speaker is appointed by the majority party (from their party membership) whereas the Deputy Speaker is appointed from the opposition. Both the Speaker and the Deputy Speaker remain affiliated with their respective party. The Speaker/Chairman functions as a Tribunal while deciding on the matters regarding anti-defections and other disciplinary matters. However, in most cases, it is observed that the Speaker/Chairman keeps his ties with the respective party and misuses the powers by keeping the decisions pending. For example, in the year of 2013, the Speaker of Haryana legislative assembly decided on an anti-defection case involving five Members of State Legislative Assembly. The case was filed in 2009 and decided almost at the end of the tenure of the government. This kind of issue raises the question on the impartiality of the Speaker/Chairman in the parliamentary form of Government. If the impartiality of the office of the Speaker/Chairman is not maintained, how can it act as a tribunal?

Qualification of Representatives: The minimum qualification to contest the election of MPs and MLAs is required in Indian parliamentary system. Article 84 clause (c) of the Constitution of the India provides power to the Parliament to decide the qualifications for its members. The Parliament enacted the Representation of People's Act, 1951 which provides for qualification and disqualifications of the Members of Parliament. Yet, the educational qualification is not specifically provided for being elected for the membership of the Parliament. The Haryana Government has fixed the minimum education qualification for Panchayat elections by the Haryana Panchayati Raj Amendment Act, 2015. The Apex Court of India also observed this amendment constitutional valid in *Rajbala v. State of Haryana* (Civil Writ Petition 671/2015). When a state government can take such a strong step to enhance the standard of elected representatives then why the Parliament cannot take such steps to fix minimum qualifications for

MPs and MLAs.

Right to reject and recall: The Election Commission of India has introduced the NOTA option (None of the above) in pursuance of the order of the Supreme Court of India. The issue is: if the electorates chose the NOTA, what purpose will it serve? for anyone, why would he come to the polling station to cast his vote? If the voters cast their votes as NOTA, there is no effect on the election. The right to reject or recall an elected representative has not been given yet, although it seems to be a natural right along with the right to vote. After the fair and free election, an elected representative may change his mind in the course of a legislative term, or may be negligent in exercising his duties. In that case, what kind of legal remedy do the voters have at their disposal? In Britain, for example, the local party sometimes calls on a member to resign. Would it be wise to institute recall, *i.e.* the right of the local electorate to decisively request the resignation of a party member? (Singhvi, 2006: 3295)

Office of the Governor: In Indian parliamentary democracy, there can be different government at the Central level as well as at State level. Conventionally, the Government at the Central level appoints the Governors for the States in India. Sometimes, the governor uses his discretionary powers, which causes disturbance in the governance and policy making. The term of the Governor depends upon the pleasure of the President which acts in accordance with the aid and advice of the Council of Ministers in Parliament. So, the Council of Ministers use their influence over Governors of the States. The insecurity of term of Governor's office can make the Governor pro-Centre government, which is a serious issue regarding democracy.

Reservation for women: The parliamentary institution represents the will of the citizen of the country. For adequate representation in the democratic system, under Article 334 of the Constitution of India, reservation of seats and special representation in Parliament is provided for SC, ST and Anglo-Indian community. But, the issue of reservation of seats for women representation in Parliament has not been resolved yet. Article 243D (3) of the Constitution of India provides 33% reservation for woman in Panchayat election while Article 243T (2) provides 33% reservation for women in Municipal election. The reservation is given at the lower level, but it is not provided at the central level. In the first Lok Sabha, the representation of women was 4.50% (22 members), while in 2014 the representation of women was 12.15% (66 members). While the global average for Women in Parliament stands at 22.4%, India is at the 103rd place out of 140 countries with a mere 12% representation. Within Asia, India is at the 13th position out of 18 countries. Countries like South Sudan and Saudi Arabia have better women representation in Parliament than India.³⁷ With these issues, how can we secure the representation of the citizens' will? There is a need to provide reservation for women representation in Parliament as well as for the representation of socially and educationally backwards citizens.

[Source - Jawaharlal Nehru Memorial Lecture, titled Status of Parliamentary Democracy in India, delivered by Somnath

Chatterjee, Speaker of the Lok Sabha, at Jawaharlal Nehru University, New Delhi, on November 14]

Obstacles

The Major Obstacles faced in the Smooth Functioning of Parliamentary Democracy in India! India may best describe as Representative Parliamentary Democracy. Parliament occupies the centre stage in the Indian Political System. The Parliament of India represents all constitutionally organized shades of public opinion at the national level. It epitomizes the 'Sovereign Will' of the people of India.

However, there co-exist major obstacles in the smooth working of the Parliamentary democracy in India. India being basically a traditional society was not prepared to adopt the values of Parliamentary democracy. The heterogeneous composition of India Acts as a major hindrance to the democratic working of the Parliamentary System.

The Indian society being highly segmented along the lines of castes, religion, class etc, prevents the true working of Parliamentary democracy. Then there are the obstacles in the form of high prevalence of illiteracy and poverty.

Both continue to create a vicious circle which traps the successful functioning of the system. These factors have contributed to the growth of malaises in the form of corruption, criminalization of politics. Added of these are the problems or regionalism, communalism.

Regionalism have many time raise demands for separate statehood. Another consequence of regional have been the growth of regional parties which in effect have made coalition Governments a trend in Indian Parliamentary democracy. Communalism is another evil which adversely effects the normal functioning of the system. The problems associated with the lack of transparency in the Governmental structure and judicial delays have made the smooth functioning of Parliamentary democracy complex.

Conclusion

Pursuant to the Indian Constitution, the envisaged form of government is the parliamentary democracy based on the British model of popular representation and control. The envisaged tenets of parliamentary democracy are: (1) representation of the people, (2) responsible government, (3) accountability of the Council of Ministers to the legislature. Yet, after 66 years of the republican system of governance, we find that the operation of this parliamentary system is not so smooth or free of hurdles. In the past period, a number of problems have been observed in the practical functioning of parliamentary democracy in India. The discussed issues and challenges show that the character and content of parliamentary democracy ultimately depend on the quality of the persons who man the legislature as representatives of the people. Given that debate, discussion and persuasion are the means and essence of the democratic process, *there is a need to ensure maximum citizen participation and representation of all sections of the society, to raise the qualification standard of elected representatives, to enhance women representation in Parliament, and to vest more power in the local electorate by ensure the right to recall an elected representative. Above all, it is essential to address the observed problems and negative tendencies which preclude achieving the goals of parliamentary democracy in India.*

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