

EXTRACTS FROM

June 2011

ONE INDIA ONE PEOPLE

Patriotism: Redefined

The Political Whirlpool



Change the
old order

'Hindu?' or 'metas?'

Yes, President!

Presidential Democracy

-The Need of the Hour

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Modified version of the article **Yes President!**
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The founding fathers of our Constitution spent a long time drafting what is supposed to be the world's longest document of its kind. It safeguarded the fundamental rights of the people. However, so far as the form of Government was concerned, it adopted the British system with a few changes, the President replacing the King as the near-ceremonial Head of State.

Undoubtedly, it was the feeling of familiarity and respect for the British which made them to opt for this model. The eminent jurist, the late Shri M.C. Chagla, had said "*The preference for the former (parliamentary democracy) was mainly due to (i) before Independence we had been working our legislatures both at the Centre and in the States more or less on the British model and so, we were accustomed to the practices and conventions of that system, and (ii) an elected President as the head of the executive was too reminiscent of the kings and emperors who had ruled us in the past.*"

Having watched the deteriorating level of governance and ever-increasing corruption which has scaled new heights, time has now come to examine the performance of our system and compare it with an open mind with other popular forms of democracies prevalent in other countries viz. the U.S.A., France, Germany, etc.

While we opted for the British model mainly on account of our familiarity, the pertinent question would arise as why did the framers of American Constitution, a large majority of whom were themselves British citizens, before

migration opt for a different model. The debate preceding the framing of U.S. Constitution reveals the most important aspect which the founding fathers of our Constitution seem to have overlooked

but which having watched the performance during last 60 years of the British model we have adopted, requires serious consideration.



Enemies Zindabad



This is becoming a nuisance a code must be evolved so that no government can be toppled for at least a couple of months!

While considering the British model, there was a lurking fear in the minds of the framers of American Constitution that although the majority of the first lot of immigrants were of English origin, in due course as a nation of immigrants it was going to attract immigration from various countries of Europe including France, Germany, Spain, Italy, Portugal etc. On account of their strong national identities including that of language, there was every possibility of each of these immigration groups to form independent political parties based on their roots and the nation may end up with several political parties and a parliamentary form of government under such a multiple party formation may lead to a weak and unstable government which may be exploited by the political parties to suit their vested interest and in due course there could be even demand for independence by these various groups. They therefore preferred a different model providing for a stable government with fixed tenure for the Executive head of the government directly elected by the people.

How true was their fear is borne out of our own experience of last 60 years. While initially we almost started with a single party rule both at Centre and in almost all the States, over a period of time, we have now witnessed a plethora of regional / language/ caste based political parties in most of the states, such as Shiv Sena in Maharashtra, Telugu Desam in Andhra Pradesh, the Two (and now three) DMKs in Tamil Nadu, Jharkhand Mukti Morcha in Jharkhand, Akali Dal in Punjab, National Conference & PDP in Kashmir, Assom Gana Parishad in Assam, the Biju Janata Dal in Orissa, Trinamool Congress in West Bengal, the Mizo National Front in Mizoram, Nagaland People's front in Nagaland, Manipur People's party in Manipur and Maharashtrawadi Gomantak

party in Goa besides caste-based parties such as Republican Party of India, Bahujan Samaj and Samajwadi Party in UP and Rashtriya Janata Dal in Bihar etc.

Impact of Presidential system on the Party evolution

Strange as it may sound, but it is true that inspite of there being no emphasis given to the party system for the successful functioning of the government, there has been a gradual evolution of a healthy two-party system in the American democracy. Many political pundits attribute this to the system itself and argue that by its inherent character, it promotes the two-party system. A majority of the electoral college votes are required for the election of the President and unless there are two strong parties or a coalition of like-minded parties (before the election), it is impossible to achieve a majority of electoral votes. A study of the pattern of elections for the U.S. Presidency indicates that the emergence of smaller parties is not encouraged as it does not have an overall impact on the electoral votes. Thus, for example, in the 1968 U.S. Presidential elections, Alabama's racist Governor, George Wallace, who founded the American Independent Party, had secured 13.59 per cent of popular votes. However, this did not have an overall impact on the final outcome and his party soon faded away. Similarly, even in 1980 Presidential elections, another powerful personality, John Anderson, a republican had broken away from the main party and contested elections as a third party candidate securing 6.6 percent of total vote. However, this had hardly any impact on the final outcome of the elections and in the subsequent elections, Anderson himself endorsed the candidature of the Democratic party nominee in the subsequent election.



I am more honest than you are. There are eight corruption charges against you and only six against me !

In sharp contrast, our system encourages the proliferation of smaller parties or interest groups and splits among major parties. This is mainly because even these smaller parties or interest groups or regional parties have realised that they can play a dominating role and dictate terms at the national or state level especially when no single party on its own is able to achieve the requisite majority. Some of the striking examples are that of Jayalalitha whose AIADMK Party which had supported Shri Vajpayee's coalition during his second tenure as a Prime Minister. With a mere 18 members out of total number of House of 542 M.P.s (i.e. less than 3.5%), she could manage to dictate terms as per her whims and ultimately also managed to bring about its downfall. The role played by Jayalalitha's AIADMK Party is almost repeated by DMK as witnessed in the Spectrum 2G scam involving a mind-boggling scam of Rs.1.76 lakh crores. In spite of his clean image as an individual, Manmohan Singh has been a virtual spectator as he himself had to admit about the compromises required to be made to run a coalition government.

France is another classic example of effect of Presidential form of government on party system. They had a Parliamentary system of Govt. and like us had witnessed a continuous process of unstable governments. There was also an endless process of formation of new parties as well as splitting of existing parties. The country much smaller in size than ours had as many as 14 political parties and during a 12 year period between 1946 – 1958 had as many as 26 different governments. After the adoption of the Presidential form of government in 1958, not exactly of the U.S. model, but with many similarities with it, there is not only a stable government but a drastic reduction in the number of parties. Against the 14 parties existing earlier, there are now only 4 major political parties and even these 4 parties now in vogue are divided in two large coalitions of the left and the right leading to the much-needed bipolarization.

Minimising Political Corruption

In the last 20 years, we have witnessed an era of hung parliaments, unstable governments and unprincipled coalitions among the political parties merely to share the spoils of power. During this period, we have had as many as 7 Lok Sabha elections including 3 mid-term elections and 10 Prime Ministers under coalition of several parties. While the corruption had always been an issue, the ministerial level corruption has now reached such a proportion that sky seems to be the limit. In fact

what we have witnessed in the coalition politics is virtual loot of the country as a price to support the government as is evident from the 2G Spectrum scam. It has vitiated the entire culture of the country and has adversely affected the morale of the entire administration. As the famous Sanskrit proverb says, 'Yatha Raja Tatha Praja' (As is the King, so are the People). Corruption, if it seeps from the top, rapidly contaminates the lower layers of social and political life, and that is why we find it corroding and eating into the vitals of almost every phase of our social and political.

The separation of powers between the executive and the legislature and providing the necessary security of tenure to the President at national level and Governors at State level has also played an important role in the USA in checking the political corruption found so rampant in our system. On most occasions, the Prime Minister or the Chief Minister in our country is helpless to take action against the corrupt ministers mainly because his very survival depends on the support of this minister or ministers including the minister's supporters in the legislature. Besides unlike our scenario the Members of Congress (i.e. the Senate or the Lower House in the USA) have no axe to grind in exposing the corrupt ministers as they do not form a part of the cabinet and there is no nexus between the two. Even Senators from President's own party are not reluctant to expose the corrupt minister unlike in our system where the ruling party has always shown a tendency to drag on the ministerial scandals for the reasons best known to all of us.

The practice of selection of ministers from outside the Parliament is also followed in France where, like the American system, the ministers have to resign their seats in the Parliament. The German Constitution also allows the Chancellor to select his team from anywhere outside the Bundestag (Federal Parliament) in spite of adopting a system wherein the Chancellor has to be elected by the majority of the Bundestag members. Even in Japan, where according to the present Constitution, the Diet (Parliament) is supreme, the Prime Minister has an option to select nearly half the cabinet members from outside the House.

Lokpal Bill

After having been stalled for 42 years, it seems that the government is now under tremendous public pressure to have Lokpal Bill passed under which an independent authority will be empowered to initiate investigation & prosecution against any bureaucrat or politician for corruption without any interference including PM/CM or any Minister. While, this would certainly be a welcome relief, in the euphoria generated

following Anna Hazare's crusade, we must not forget that the appointment of Lokpal will not be the panacea for eradicating corruption. The most effective and the logical way to eradicate / minimize corruption would be to have a system which would ensure appointment of honest and capable people at top level i.e. Ministerial level in the first place and have a system of checks and balances and Lokpal should only be a mechanism as a final recourse where still if there is a culprit, he must be caught and punished.

Misconception about Presidential System

The general misconception about the Presidential system is the fear that it may degenerate into dictatorship. The likelihood of any democracy, whether parliamentary or presidential, degenerating into dictatorship is dependent on the provision of in-built checks and balances. In a short span of 7 years (1932-1939) during the 'Third Reichstag' in Germany (1920-1939) Hitler could assume all the powers of a dictator by circumventing the then existing parliamentary democracy. Even in our own Parliamentary system, we had a near dictatorial regime during the emergency rule of the late Smt. Indira Gandhi. The Forty-second Amendment to the Constitution passed during this period was a nearest step to dictatorship as it had empowered the Parliament to amend Article 368 of the Constitution thereby enabling it to change any part of the Constitution which could not be questioned in any Courts on any ground. Fortunately, this Amendment was repealed during the Janata regime.

The executive, legislature and judiciary are the three main organs of the government. In a broad sense, the executive would cover the Prime Minister and his team at the National level and the Chief Minister and his team at the State level. In order to have a truly democratic Presidential system of democracy where the checks and balances are really effective, the separation of powers between the executive and the legislature is essential. This would mean that the legislature must not be a part of the executive i.e. the Cabinet. The Constitutions in both the U.S.A. and France score on this point as compared to other Presidential systems. The U.S. is a near perfect example where the executive and the legislature have ideally performed the exercise of providing checks and balances on each other. On one hand, the President has been given a free choice to select the best available talent for his cabinet while, on the other hand, he is also required to get the necessary approval of the concerned committees in the Legislature (i.e. the Senate)

for all the appointments in the cabinet. The Senate on its part has no vested interest in these appointments as no Senator or member of Lower House is allowed to be a part of the cabinet. On the legislative front, the members of the Congress i.e. the legislators (the upper and the lower house) have been given full freedom to vote on any legislation irrespective of the party lines and there is no such word as 'whip' in American democracy and through a strong committee system, all proposed legislations are analysed in an impartial and professional manner.

Many eminent persons from various walks of life which include B.K. Nehru, Nani Palkhivala, J.R.D. Tata and Arun Shourie all of whom have strongly advocated Presidential System of democracy, unfortunately, no organised and sincere efforts have been forthcoming in this regards.

While concluding this article, the words of Dr. Babasaheb Ambedkar (in his Memorandum to Constituent Assembly in 1947), sounds prophetic today *"In view of the clashes of castes and creeds there is bound to be a plethora of parties and groups in the Legislature in India. If this happens, it is possible, nay certain, that under the Parliamentary System, Executive is bound to resign upon an adverse vote in the Legislature. India may suffer from the instability of the Executive. For it is the easiest thing for groups to align and realign themselves at frequent intervals and for petty purpose and bring about the downfall of the Government. Constant overthrow of the Government is nothing short of anarchy. The American form of executive is an equally good type of a democratic and responsible form of the Government."*¹

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¹ (From the notes provided by Late Shri Chimanbhai Mehta, a veteran politician and former union cabinet minister)

Q How will it be possible to bring about the required change from the present Parliamentary System to the Presidential form of government?

A *The proposed adoption of an alternative system would involve a substantive change in the existing Constitutional framework. In the author's opinion, it may be possible to bring about such a change by means of a valid amendment to the Article 368 of the Constitution under category two which would require two-thirds majority of the members of the Parliament since it does not involve any alteration to the basic structure of the Constitution as regards the guarantee to the fundamental rights and the independence of the judiciary.*

The course of action that can be adopted would be for the like-minded persons, who are convinced about the historic necessity of switching over from the current political set up to a better democratic polity in the form of Presidential democracy, should pressurize the major political parties to opt for a Presidential form of government as an alternative. There is, however, a strong possibility that any concerted attempt to switch over to a better democratic system may be staunchly resisted by the concerned politicians, who have developed a vested interest in the continuance of the present system. This is because the proposed alternative system of Presidential democracy would deprive them of the coveted ministerial berths and other offices of profit to which they have been accustomed. The new system would also put an end to the sordid game of defections and other evils spawned by the current system. The impetus for a change-over would, therefore, have to come from the many discerning and right-thinking patriotic Indians, who have no vested interest in the current political system for securing their personal ends.

To bring about the required change would need massive awareness campaign to convince all sections of the society that a truly democratic presidential system with necessary checks and balances is in the best interest of the country. Having a political party solely committed with the manifesto for a truly democratic Presidential system may ultimately lead to building up an organization with an established identity facilitating such a change in due course. For a Political Party registered u/s. 29 A of the Representation of the Peoples Act 1951, Individual / Company donations are fully exempted u/s. 80 GGC of I.T. Act and u/s. 80 GGB of I.T. Act. respectively. This would enable to mobilize the required funds necessary for a nation wide mass campaign.

A full version of the book

"Presidential Democracy - The Need of the Hour" (pp 71)

is available for download on website :

www.presidentialdemocracy.org