

Presidential v/s Parliamentary system for India

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Abstract: This paper enunciates the comparison between the features of parliamentary government and presidential government. It also makes an effort to bring out the historical debate, discussion and decision of three main framers of the constitution of India, i.e., *DR B. R. Ambedkar, Jawaharlal Nehru and K. M. Munshi*, about the adoption of parliamentary form of government for Indian political system and emphasize on the factors that drove India to adopt the Parliamentary system of government.

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The framers of the constitution of India adopted the parliamentary pattern of government, based on the Westminster model of democracy practiced and planted by the British in the Indian political system. It became an explicit announced policy under the government of India act, 1919 and when India emerged as an independent nation in 1947 it naturally chose that form of government with which it was familiar with.

I. THE PARLIAMENTARY SYSTEM

The Parliamentary system of government refers to “a system of government having the real executive power vested in a cabinet composed of members of the legislature who are individually and collectively responsible to the legislature.”¹

There are a number of features² of this system of democracy. Some of them are:

1. Nominal head of the state- under this form of government, the head of the state i.e., the president in Indian context is titular, while the prime Minister is the real head. This implies that the person holding Presidential post may have great stature but he does not exercise his power independently. The president has to act according to the advice of council of ministers headed by the prime minister.
2. Close nexus between the executive and the legislature- the constitution makers adopted a partial separation of powers between the executive and the legislature so that they are not totally independent of each other. Therefore, under this system the executive and legislature have a close collaboration. This is done by choosing the Council of Ministers from the legislature, which involves 15% of the strength of the house of the people. The president summons the legislature and gives his consent to the bills that are initiated and passed by the legislature to make them acts.
3. Accountability of the executive- The executives have to perform all those residuary functions of the government which involve the implementation and administration of various policies & Acts and orders determined by the legislature and ordered by the judiciary respectively. In the Parliamentary system, the executive is responsible and accountable to the legislature for all its actions since it has the right to seek detailed information about the working of the Ministers. The Council of Ministers remain in office as long as they enjoy the support and confidence of the Lok Sabha, i.e., the House of the People.
4. Collective Responsibility: The Council of Ministers has Collective Responsibility towards each other which mean that the council shares the responsibility for the lapses of each and every minister. Moreover, the individual minister cannot differ from the decision of the council, particularly the Cabinet. Thus, in order to oppose the policy or decisions of the cabinet, the minister has to resign from the council and then refute it on the floors of the legislature. Therefore, the ministers “swim and sink together”.

¹ Definition according to – <http://www.merriam-webster.com>

² Devesh kapur and Pratap Bhanu Mehta, *The Indian Parliament as an institution of accountability*, United Nations Research Institute for Social Development, January 2006.

5. Leadership of the Prime Minister: J. Laski said, "Prime Minister is central to formation, central to growth and central to the death of the Council of Ministers." Since he is the Head of the Government and also the Real head of the State, the President appoints and distributes portfolios among the members of the Council of Ministers upon the recommendations of the Prime Minister as enunciated by Article 75 of the Indian Constitution. The Prime Minister has the power to dismiss any minister any time without assigning any reason. Also, his resignation leads to the resignation of the entire Council of Ministers. He also serves as a "link or pivot" between the Council and the President by conveying the decisions taken by the council after every meeting.

Benefits of the Parliamentary system of Government³ :

The parliamentary form of government offers the following benefits owing to its features:

1. Smooth Functioning- The close link between the executive and the legislature avoids any kind of conflict between the two organs of the government. This also ensures as working of both of them in a complementary way to each other. In India, there is a concept of partial separation of powers which accounts for freedom accompanied with responsibility and accountability. Therefore, the two organs can function without any interference if they work as per the interest of the masses.
2. Quick Decision Making- If the ruling party enjoys majority in the legislature, then the executive can take decisions quickly and implement them without any hindrance and fear of being let down on the floor of the House. This can be very helpful in case of constructive decision making and overcoming the problems of procedural delays.
3. Flexible System- This form of government is highly adaptive in nature to the changing situations. An example of benefit of a flexible system can be seen in case of grave emergency, wherein the leadership can be changed without any harassment and objections. This will enable the government to tackle the situation efficiently as was seen in as it happened during World War II in England when Mr. Chamberlain made way for Mr. Winston Churchill to handle the War.⁴ Even the elections can be delayed till normality is restored in the country.
4. Open Administration- The executive remains vigilant and always tries to administer properly and effectively in order to secure its electoral prospects and confidence of the Parliament. The Parliament controls the executive, particularly the Cabinet in two ways:
5. Need of Confidence by the Government- Since by a motion of "No Confidence" against the government would make the Prime Minister resign from his office, leading to the dissolution of the Council of Ministers as a whole.
6. Financial Powers of the Parliament- The Government has to seek for financial grants by the Parliament to implement its policies and for the purpose of administration. The Parliament has the power to grant or refuse to grant the requested funds, thereby controlling the executive. The House also has to control the expenditure made out of granted funds.

This control over the executive keeps it on its toes and ensures that there is no misuse of powers and funds. The more mistake the executive commits, the less popular it gets and more confrontation by the opposition and hence it becomes vulnerable to the restraint of funds and collapse of the government.

The Presidential system⁵

Features and Merits of Presidential System:

1. President is the Real Head- The President is both the head of the State as well as of the Government. This enables him to take bold and quick decisions without any interference of the ministers. They may advise him, but the President is not bound to follow them and the Ministers have to implement the decisions taken. This adds to the efficiency of the system in times of emergencies by taking prompt and bold decisions. This concentration of executive power and control makes the President to handle any situation effectively. He has no obligation to convince the Ministers about the outcomes of the decision taken.
2. Checks and Balances- In the Presidential system, the executive, legislature and judiciary are independent of each other. This separation of power contributes to checks and balances in the system making it more

³ Shri P.A. Sangma, "Functioning of Parliamentary Democracy in India", 01/2008.

⁴ S.A. Aiyar, *Obama shows why India must not seek a presidential system*, The Times of India Blogs as on 13th October, 2013

⁵ Rooha Khurshid, *Is parliamentary government good enough for India? : Need for a change*, www.Lawctopus.com

democratic since there is no absolute concentration of powers in the same body and the presence of other organs ensure proper working of the system.

3. Stability and Efficiency- Since there is a fixed term for both the President and legislature, there is political stability, continuation of policies and freedom to make long term policies. Also, the President has the power to appoint competent and expert persons as ministers. These ministers are answerable only to the President. This assures that they perform their duty efficiently amounting to proper administration.
4. More Suitable for Multi-party systems- The multi-party system invokes political concerns everywhere in the system making it prone to political instability and inefficiency. To check this, a strong executive as in the Presidential system is required, for the sake of people's interest and stability.

Why parliamentary system?

This decision of parliamentary system was a result of long discussion in the constituent assembly. DR. B.R. Ambedkar, the first law minister of independent India and principal architect of the Indian constitution of India was of opinion that , it was the American and not the British pattern which would suit the Indian situation. His main concern was how to establish a proper relation between the legislative and executive bodies in order that they might work independently and simultaneously and be answerable and cooperative with each other. He did not favour the executive of the British type. In British parliament, he maintained, there is a political majority, but the majority in India is communal majority. That being the difference , the presumption that arose in England could not be regarded as a valid presumption in conditions for India.

He stood for parliamentary form of government because according to him , there were three features in parliamentary government :

1. Hereditary rule has no sanction in parliamentary system of government.
2. The laws were to be made by the representatives of people in parliament.
3. All legislators were to go back to people and obtain fresh renewal of their confidence.

It is strange that Ambedkar was for a parliamentary executive in 1942, but in 1947 he thought that non parliamentary executive would suit India better. Ambedkar is acclaimed as the 'Father of the Indian constitution'. The one who is familiar with Ambedkar's views on constitutional and political matters would find that this description is deceptive. The philosophy that finds its expression in the constitution is that of Jawaharlal Nehru and other congress leaders. Ambedkar's role was of a secondary importance. He himself admitted "what I was asked to do, I did much against my will... But I am quite prepared to say that I shall be the first person to burn it out." After his resignation as a law member he became a leader of opposition, made speeches in parliament but they were ineffective. His work in the constitution making was nullified by his threat to burn it. He considered the constitution as a pious sample; but according to him it was occupied by men not of integrity and character.⁶

The decision to adopt parliamentary form had in its support the favourable recommendation of the constitution committee (for the union government) presided over by Nehru. Jawaharlal Nehru highlighted the merits of parliamentary system as follows:

1. We chose this system in keeping with our own old traditions.
2. Parliamentary democracy involves peaceful methods of actions, peaceful acceptance of decisions taken and attempts to change them through peaceful ways again.⁷

"We prize the parliamentary form of government because it is a peaceful method of dealing with problems. It is a method of argument, discussion and decision, and of accepting that decision, even though one may not agree with it."⁸

Parliamentary system prevent a conflict between legislature and executive and promotes harmony between the different parts of governmental system.⁹

Nehru had the fullest faith in Parliament as supreme representative institution of the people. He believed in the primacy of the parliament and in the supremacy within the field assigned to it by the constitution. In the matter of the role of judiciary and extent of judicial review Nehru took a very firm stand and said that the courts could not become a third legislative chamber; their role was to

⁶ C. M. Saraswati, Indian political thinkers

⁷ Dr. B. L. Fadia, Indian government and politics.

⁸ Lok sabha debates, part II, vol. I, No. 10, 20 March, 1957, col. 1290.

⁹ Atul Kohli, democracy and discontent.

interpret the laws made by the parliament and not to themselves lay down the law. It was through his efforts that the parliament secured a pre – eminent position in the country's polity.¹⁰

On 7 June, 1947, the union constitution committee after holding a joint meeting to determine the basic principles of the constitution, concluded that "it would suit the conditions of this country better to adopt the parliamentary system of constitution, the British type of constitution, with which we are familiar."¹¹

During the long discussion about the decision to adopt the parliamentary system two issues were raised:

1. What would make the strongest executive consistent with a democratic constitutional structure?
2. What was the form of executive which was suited the conditions of this country ?

Giving his view in answer to these questions, K. M. Munshi said :

" the strongest government and the most elastic executive have been found to be in England and that is because the executive powers vest in the cabinet supported by a majority in the lower house which has financial powers under the constitution. As a result , it is the rule of the majority in the legislature; for its support its leaders in the cabinet, which advises the head of the state, namely, the King. The King is thus placed above party. He is made really the symbol of the impartial dignity of the constitution. The government in England is found strong and elastic under all circumstances...

We must not forget a very important fact, that during the last hundred years, Indian public life has largely drawn upon the traditions of British constitutional law. Most of us have looked up to the British model as the best. For the last thirty or forty years, some kind of responsibility has been introduced in the governance of the country. Our constitutional traditions have become parliamentary and we have now all our provinces functioning more or less on the British model. Today, the Dominion government of India is functioning as a full - fledged parliamentary government. After this experience, why should we go back upon the tradition that has been built for over a hundred years and try a novel experiment...?"¹²

There were failures in the parliamentary form of government like, decline of the parliament, decline in qualities of our representatives, decline in quality of debates, defections, corruption, criminalisation of politics, lack of strong opposition... to name a few. A debate has been going on whether any change in the form of government of India should be effected switching over from the Parliamentary to the Presidential system.

As it happened K. M. Munshi was among the first to change his opinion a decade and a half after the enactment of the constitution. In a monograph entitled, "The President under the Indian constitution" he candidly stated the reason : "During the framing of the constitution we all dreamt that we would make a success of parliamentary democracy and the British cabinet system. It must be confessed that this experiment has failed. If I had to make choice again, I would vote for the Presidential form of government so that, whenever the politicians fail the country, there is at least one strong organ of state capable of tiding over the crisis."¹³

The reason why the framers of the constitution discarded the American model after providing for the election of the President of the republic by an electoral college formed of members of the legislatures not only of the union but also of the states, has thus been explained¹⁴: In combining stability with responsibility, they gave more importance to the latter and preferred the system of 'daily assessment of responsibility' to the theory of 'periodic assessment' upon which the American system is founded. Under the American system, conflicts are bound to occur between the executive, legislature and judiciary; and on the other hand, according to many modern American writers the absence of coordination between the legislature and the executive is a source of weakness of the American political system. What is wanted in India on her attaining freedom from one and a half century of bondage is a smooth form of government which would be conducive to the manifold development of the country without the least friction, - and to this end, the cabinet or Parliamentary system of government of which India has already had some experience, is better suited than the Presidential.

Therefore, the familiarity of the Indian polity with the working of the British system of government, daily assessment of responsibility, for smooth governance and due to efforts of Nehru, led to the adoption of the parliamentary system of government in India by the constituent Assembly. But there has been an increased concern over the system of government in India. The successive flaws of the parliamentary

¹⁰ Subhash C. Kashyap (ed.) Nehru and parliament, lok sabha secretariat (New Delhi, 1986), Introduction.

¹¹ Constituent assembly debates, vol. IV, No. 2, 15 July, 1947, p. 578.

¹² K. T. Shah was the most ardent champion of this group. C. A. D. VII, pp. 975 – 80.

¹³ A. G. Noorani, The Presidential system - the Indian debate (New Delhi, 1989), p. 29.

¹⁴ C.A.D., Vol. IV, pp. 580, 734; Vol. VII, pp.32, 974, 984

government has made us think if we need to reconsider this decision and move towards Presidential form of government. This debate over the presidential government is as old as the constitution. A system of government is not just a matter of society's nature and character but also of governments morality . The system of government under which a man lives is fundamental to his being. Though this age old debate is still going on in the present time, the switch over to the presidential system is not possible under our present constitutional scheme because of the 'basic structure' doctrine propounded by the Supreme Court in 1973. To alter the parliamentary form of government to presidential form would violate the 'basic structure' of the constitution.

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