

Vol 4 Issue 3 Sept 2014

ISSN No :2231-5063

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International Multidisciplinary  
Research Journal

Golden Research  
Thoughts

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**RNI MAHMUL/2011/38595**

**ISSN No.2231-5063**

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## PARLIAMENTARY DEMOCRACY IN INDIA: ELEMENTS IN CRISIS

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**Abstract:-**The Socratic insistence on definition of terms could profitably be applied to the tide itself, for it accepts as a basic premise, a concept which is itself open to doubt. Should India be a Parliamentary Democracy? If the Constitution itself is carefully studied, it seems obvious that its founding fathers envisaged a Presidential system. Clause 53, in the Constitution clearly says: "The Executive power of the Union shall be vested in the President, \*and shall be exercised by him, directly, or through officers subordinate to him in accordance with the Constitution". This is reinforced by Article 74, which says: "There shall be a Council of Ministers, with the Prime Minister at the head, to aid and advise the President, in the exercise of his functions." Why the British Parliamentary system was superimposed on what is virtually a verbatim copy of Presidential powers enunciated in the American Constitution, is an enigma of Indian history.

**Keywords:**Parliamentary Democracy , Elements in Crisis , Socratic insistence .

### INTRODUCTION

Although the Supreme Court has recently examined and ruled on the powers of the President, there have been instances where it has reversed its own previous judgements. This may be one more instance, when second thoughts may eventually become necessary, particularly in today's troubled political context. Since the best qualified people prefer to keep out of politics, in India, the presidential system would enable the country to harness their talents, without making such service conditional on their membership of legislature. Moreover, their failure or corruption could be punished by ousting them from office, without causing the dissolution of the legislature, with the attendant expense and political disruption inherent in fresh elections. Since the 4th Lok Sabha was dissolved without good reason, and the weapons of dissolution and fresh elections have been misused in many states, for reasons of political expediency, the presidential form of government would enable legislatures to complete their full tenure; facilitate restoration of combined elections to Parliament and state assemblies, and make for the induction of experts into the Executive wing of government. Coming to the second generic term used in the 'title', it would appear that an examination of the concept is superfluous, since India is the largest democracy in the world. True, in the sense that representative institutions exist whether they are shadow or substance, makes all the difference between a Democracy in name, and a Democracy in fact. If Democracy were to be defined, even in the most narrowly political framework, it postulates the existence of a pluralistic political pattern, in which Dissent is not only present, but effectively institutionalised; in which the Executive does not encroach unduly on the independence of the Legislature, and the Judiciary; in which the citizen enjoys a wide spectrum of personal freedom. India fails, on the first count itself. It is not a genuinely pluralistic system. Significantly, it has chosen to ally itself most closely with Soviet Russia, rather than the pluralistic societies of the free world, because there is a natural affinity between one-party government.

### OPPOSITION AND RULING PARTIES

After independence, translating what was essentially a movement, into a political party, Congress emerged as the single most important political party in the country. Since then, it has used the machinery of government to

further the fortunes of the Party, and to perpetuate itself as the Party in power, almost ad infinitum. When for the first time, its predominance was challenged in 1967, by the emergence of a sizeable opposition in Parliament and non-Congress governments in the states, it embarked on a bold design of toppling non-Congress state governments, and opted for a dissolution of Parliament, at a time when the Opposition was taken by surprise, while the government itself was riding a crest of popularity, after carefully-timed, pre-poll gestures like Bank Nationalisation, and Abolition of Privy Purses. Even now, when the post-1971 euphoria shows its first warning signs of eclipse; there is almost a note of hysteria in the Prime Minister's fulminations, at the base designs of Opposition parties seeking to dislodge her and the Congress Party from office. Surely, in an open democratic society, this is the function of an Opposition? Only in a Fascist, or in a Communist dictatorship, is such a right questioned, and suppressed. It will no doubt, be argued, that in the USSR, and Eastern Bloc countries, there is only one party, just as Islam recognises only one prophet and that the place of the dissenter there may be in Siberia, or, in exile. While Opposition parties are nominally alive, their role in Parliament is that of speech which will leave not the slightest mark on the shaping of policies. In the street, there is a feeling that government has different yardsticks for dealing with the Opposition: favoured parties like the C.P.I., find every assistance, while others find themselves obstructed by government machinery in any demonstrations against the ruling Party, as in the case of Jayaprakash Narayan.

It may be argued that when the Opposition is so fragmented, one-party dominance is a necessary corollary of stability. Even this argument, no longer holds good. In 1967, non-Congress governments were toppled by the lure of offices dangled like so many carrots, to potential defectors. Now, the country faces the strange situation of Congress government falling like ninepins, not by external, but by internal challenges, from dissidents in the party. This phenomenon has surfaced after the split in the Congress, when chief ministers were chosen, not necessarily because they commanded the confidence of the Legislature party, but because they were obedient servants of the Prime Minister. Karnataka is a typical example. When the election of the Party leader was in progress, a final decision was suspended, till the will of the Prime Minister was made known by telephone, from Bangladesh! In dealing with dissidents, as in dealing with defectors, the government has adopted the same technique: unrestricted expansion of cabinets, to buy peace by accommodation of trouble makers. Since each minister is a substantial burden on the public exchequer, this is a high price to pay, for the perpetuation of one-party rule. In the Bill on Defection, the remedy contemplated would enforce the tyranny of a party on its members, in respect of any vote cast against the party whip, even on a matter of conscience. Defection, and internal discord could be more effectively curbed by statutory limits on the size of cabinets, and by amendments of Rule Books in Parliament, and state legislatures, barring memberships of committees, to legislators who have notified to the Speaker, change of their political affiliations, without adducing convincing reasons for the change. But these are palliatives, for what is a result, and not the cause, of a one-party government.

Fundamentally, the cause of the one-party which has emerged— as a negation of the democratic concept is an electoral system which perverts, rather than projects the mandate of the people. In the 1971 election, when Congress won its biggest mandate from the people, it could still get only 47 per cent of the popular vote, though it won more than a two-thirds majority in the Central Legislature. It achieved this result, not only because the one-man-one-vote system, acts in its favour, but because the whole apparatus of the election law gives it advantages which other parties do not enjoy. Fortunately, even if Jayaprakash were to achieve nothing else, he has focused attention on the need for electoral reform. Among the more practical suggestions made by parties, are the system of preferential voting mooted by the BKD, so that no candidate is elected without a genuine majority; measures to cheapen elections, like the issue of identification slips by government itself, and a ban on any transport other than official transport during the polling day; punch-marked ballot papers to eliminate the possibility of chemical fraud, and early counting of ballots, again, to obviate any suspicion of chemical tampering with the vote actually marked on the ballot paper. Without these necessary reforms, particularly those designed to make elections cheaper, elections will destroy democracy by breeding an unhealthy collusion between the corrupt politician, and the corrupt entrepreneur who finances him, in anticipation of improper favours at some future date.

#### **LEGISLATURE, EXECUTIVE AND JUDICIARY**

The second feature of democracy is an independent Legislature, and an independent Judiciary. In the parliamentary system, even under ideal conditions, the Legislature cannot be really independent, because the Executive (The Cabinet, in reality a subcommittee of the Ruling Party) is derived from it, and can only continue in office, while it enjoys a majority. If the party majority in the legislature were to vote against any measure emanating from the executive, it would precipitate the dissolution of the legislature along with the fall of the ministry. Its obedience to the executive is therefore pragmatic, and automatic. Only a Presidential system makes for a real separation of powers, and for discussion of issues on their merits, since a vote against the official line of the party, need not cause the fall of the Executive, and the probable dissolution of the Legislature itself. In India\*, apart from the interdependence on the Executive which is the peculiarity of the parliamentary system, there is the physical reality of the blitzkrieg majority enjoyed by the ruling party. Bills introduced by the Executive are hardly ever discussed by its supporters on the Treasury Benches, and even when bitterly criticized by the Opposition, reach the statute book,

without a single amendment ever accepted by the government. Important measures of legislation, even Constitutional Amendments, are carried by voice vote, in a depleted House.

If the legislature must function as a real sounding board of public opinion, many changes will be needed. Unrestricted adult franchise has always, been assailed, but may require radical change, if it is to be curtailed. There is, however, a good case for imposing some qualifications on legislators, who are called upon to do a crucial and complex job. If no lawyer can practice without a necessary qualifications, is it logical that the lawmaker should require no qualifications other than those of age and citizenship? Is it a credit to Parliament that an MP should put his signature to a document, without being able to decipher its contents? Is Mr. Tul Mohan Ram, an exception, or alas, a far too common type, among MP's elected, not on their own merit, but in the name of the Prime Minister? If good government is to have any chance, legislators should fulfil certain basic requirements of literacy, if not education, and such a change should be incorporated in the Constitution. Within Parliament, many conventions and rules of procedure must be modified, if debating time is to be purposeful, and fruitful. For example, on the Budget, which is the most vital procedure available to Parliament, it is customary for debates to ventilate every subject except the fiscal proposals contained in the Budget itself. Possibly, this is because there are few who have the expertise to talk about it. Consequently, all grants are passed, and all proposals accepted, without any significant evaluation of their necessity and utility. Even if they lack the numbers to effect a material change, it is necessary that spokesmen in the opposition carefully study every budgetary provision and every Bill, because they can at least muster public opinion against bad measures, and keep dissent alive by projecting another point of view reasonably, and effectively. Study and specialization may pay greater dividends than scandals and histrionics.

The third organ of government is the Judiciary. Like the Legislature and the Executive, it derives its authority from the Constitution itself. It is from the Constitution of India, which the people bequeathed unto themselves, that it is made the guardian of the citizens' rights, and the supreme arbiter on the constitutionality of any legislation emanating from Parliament. It may be argued that this enables it to function like a Third Chamber, but the legislative and judicial processes are both entirely different from each other. Whereas in Britain, the Parliament is supreme, it is merely one among the three organs of the state in India, equal, but not superior to the Judiciary. This is, as it should be. Unlike England, where a small electorate, an enlightened public opinion, and a well balanced two-party system, temper any likely excesses by the Legislature or the Executive, India has an enormous, half-literate electorate, and virtually a one-party government, over-shadowed by the personality of a Prime Minister, who bestrides the Party, the Executive and Legislative machines like a colossus. Whereas the first Prime Minister resented, but respected the role of the Judiciary, the third Prime Minister has proceeded from the stage of resentment, to that of crippling the independence of the Judicial function. While it may be conceded that the present Supreme Court created by the Prime Minister has not departed from the high traditions of the Court, and has in fact, passed notably independent judgment (like the one directing that Party expenditure should be computed, in assessing the money spent by a candidate for election), the fact remains that the manner of its creation represents a dismal chapter in the history of Indian democracy. That the supercession of three judges was carried out with all the secrecy of a coup; that it was directed against those who had delivered an adverse verdict against government on a prestige case; that the supercession was justified on the ground, that judges must be 'committed' to the social philosophy of the government, is a bad augury for the future. Some judges, like the present ones, may be able to withstand such pressures, but others, not made of such stuff, may succumb. If justice becomes the handmaid, not of the perennial values enshrined in the Constitution, but of any party which may enjoy a majority at some point in time, what Justice will be left? As if this attack on the judges were not enough of a blow to Civil Liberties, it has been compounded by an attack on the Law itself. In the Constitution 24th and 25th Amendment Bills, and legislation like MISA, government has barred appeal to the courts. Under the Constitution, the right of society over the individual is recognized, by restriction on various freedoms, for 'public purpose'. But for government to deprive the citizen of a right to question, whether the restrictions are indeed 'reasonable' or whether 'public purpose' is genuine or not genuine, is not the act of a democratic government, but an authoritarian one. When the Constitution 24th Amendment Bill was on the anvil, few has the foresight to see it for what it was as a two handed engine ready, at the door, to strike but once, and strike no more." Had it been resisted, at the proper time, many subsequent laws would have been checked at the proper stage. On the supercession of the judges, there was more awareness of the threat to democratic freedoms, which have taken shape in the MISA legislation. This is ostensibly aimed at smugglers, but is capable of being used against any citizen, like the letters de cachet with which the kings of France used to silence opponents forever, in the silence of the Bastille, without any knowledge of the charges against them, to a public trial to prove their innocence or their guilt.

#### **FREE PRESS AND CITIZEN**

Montesquieu did not mention the press, in his famous thesis, but it remains a powerful Fourth Estate, a free society. Here again, in India the semblance of freedom remains, but its substance is threatened, if not lost. By controlling the import and distribution of newsprint, by threatening diffusion of ownership; by offering prestige posts to some editors, and turning they screws on managements to oust or rid themselves of inconvenient critics, government exercised a more insidious influence on newspapers, than the blatant control exercised by Mao to

Brezhnev. While people in Moscow or Peking are aware that the news they read, is not the objective much, but the truth suitably amended for propaganda purposes, people in India tend towards an uncritical acceptance of anything they read, as few of them realize that the so-called 'Free Press', protected by the Constitution, is also subject to heavy pressures and constraints.

What of the citizen? How has he emerged, from a system which is ostensibly democratic, but not actually so? His area of personal freedom has been steadily shrinking, and after the passing of the Constitution 24th Amendment Bill, is liable to be ended, with a single stroke.

He is no longer free to move freely throughout the territory of India: his presence may be unwelcome, if he is not a son of the soil. His right to assemble peaceably, and without Arms, is conditional on his being a member of the ruling party, or the 'loyal' Opposition.

His personal law, his places of worship, his educational and social institutions (if he belongs to a minority community), are liable to interference from the state.

His property can now be confiscated, without compensation. Worst of all, when these rights are taken away from him, under the specious blanket plea of 'public purpose', he cannot appeal to a Court of Law, for redress.

In the economic sphere, which is a separate subject in itself, government has been acting on the premise that individual Ownership is per se, bad, and state ownership, is per se, good. This idea, has been sedulously fostered by a poisonous radical Press, though common sense should demonstrate that ownership is not purified when it passes into the hands of the state, for the state is not the electorate, but those who have come to represent it through a corrupt electoral system and who do not know the special tasks assigned to them, because they are not experts in their field. The state is also its officials, Who, lacking a personal interest, in the sectors they are called upon to manage, seldom discharge their responsibilities, with much regard for public ownership. Yet in the name of public ownership, sector after sector has been nationalized, each time, with dismal results.

What little private enterprise remains, is stultified in every way. Before a man can start a business, his ingenuity and enterprise are diverted to the filling of forms, rather than the problems of production. If he can reach the stage of production, he must pay the penalty of success, in taxation, which kills all incentives for expansion, if it does not actively drive him to tax evasion. It is a way of life, in which only the smuggler, the blackmarketeer and the permit licence-shark can thrive. In land, the crackdown on the peasant proprietor, through ceilings has halted the green revolution, without causing any uplift of the landless worker. State capitalism, has blighted all progress, because it denies the incentives of a free society, without substituting the whip of discipline, which produces results in Russia and China: it is a half way house, which combines the worst of both world.

It may be said that this portrait of India has been etched in dark tones, and that things could be worse, they could be, in a fully regimented society, but even these societies offer physical and financial security to their people in exchange for abrogating freedom. India is moving fast, towards the authoritarian character of the one-party Communist governments, though at snail's pace, towards any kind of social security. Though the full potential of limitations on personal freedom have not yet been exploited on a mass scale, except perhaps, in Bihar, the fact that legislation of that type exists, is as deterrent to the climate of freedom, as the actual application of the Law itself.

The question is, whether change is possible. Each section of this thesis attempted to offer workable solutions for specific troubles. Yet the difficulty is, that the implementation of remedies lies in the hands of a government with a two-thirds majority, which it could win again, if the same election law continues to be in force. Does that mean that change is impossible? It is not, provided there is a mass awakening, which forces government to reconsider Its position. Some see in Bihar, the first stirrings of the kind of mass awakening witnessed during the freedom movement. Others dismiss it, as an isolated phenomenon confined to the middle classes, in a particular state. It would be useful if the Bihar movement directs itself specifically to the task of amending the Election Law—a strategy which J.P. has at last recognized. Fresh elections on the old basis would replace King Log by King Stork.

There is, however, always hope, that even the unlettered common people can become politically aware, given the right leadership. They found it once, in Gandhiji. They could find it again, if intellectuals came out in large numbers, in defence of Democracy.

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