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# Manthan

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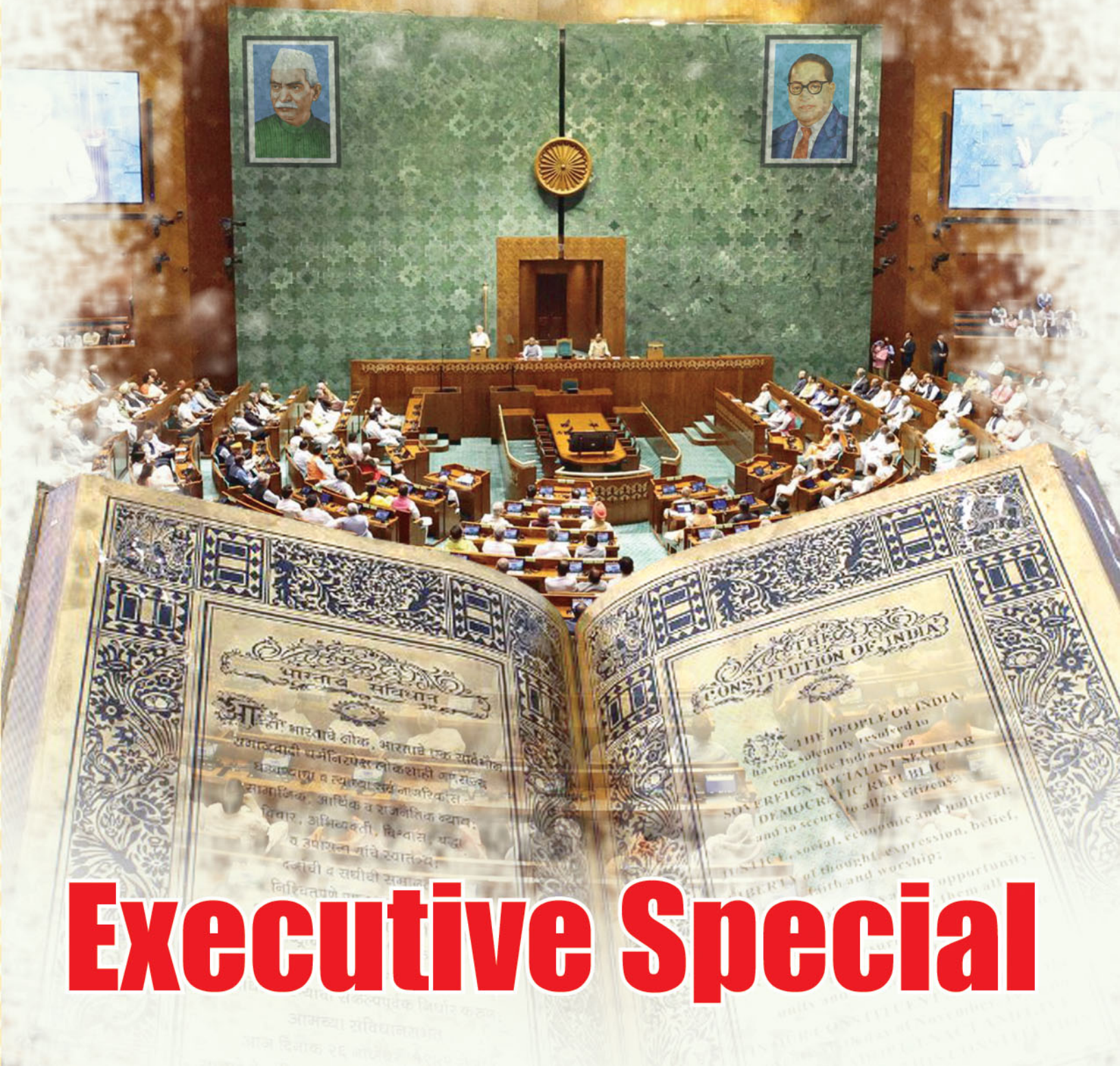
A UGC Care Listed and Peer-Reviewed Journal




# Executive Special

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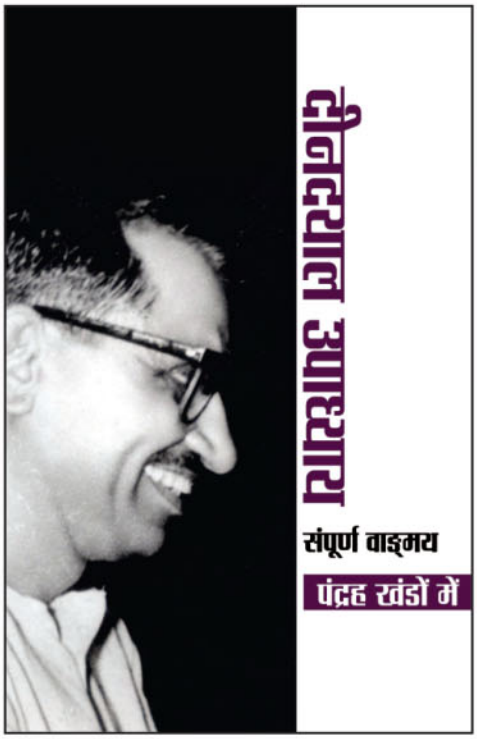
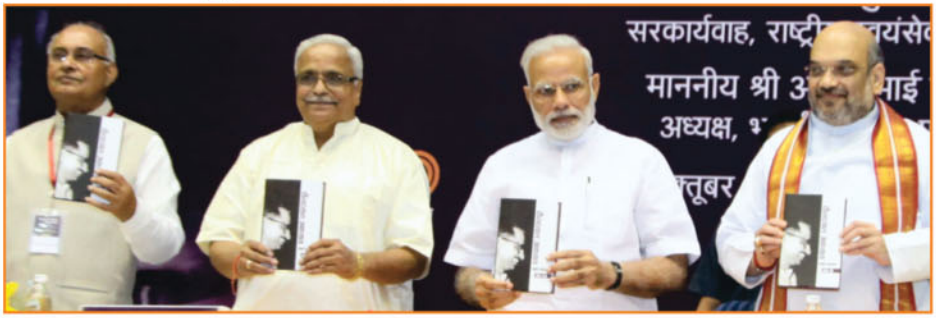
## नवनूतन प्रकाशन की गौरवशाली परंपरा

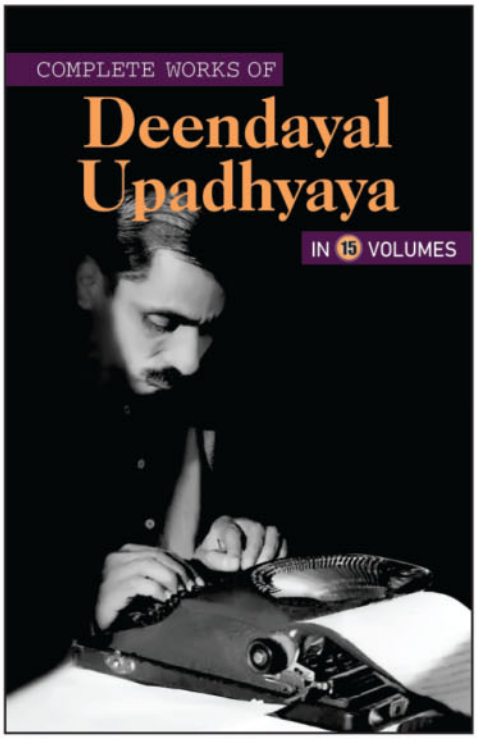



# दीनदयाल उपाध्याय

## संपूर्ण वाङ्मय (पंद्रह खंडों का सैट)



9 अक्तूबर, 2016 को नई दिल्ली के विज्ञान भवन में पं. दीनदयाल उपाध्याय जन्म शताब्दी वर्ष के अवसर पर डॉ. महेश चंद्र शर्मा द्वारा संपादित एवं प्रभात प्रकाशन द्वारा प्रकाशित 'दीनदयाल उपाध्याय संपूर्ण वाङ्मय' के पंद्रह खंडों का लोकार्पण भारत के प्रधानमंत्री मान. श्री नरेंद्र मोदी, राष्ट्रीय स्वयंसेवक संघ के सरकार्यवाह मान. श्री सुरेश ( भय्याजी ) जोशी व भारतीय जनता पार्टी के राष्ट्रीय अध्यक्ष मान. श्री अमित शाह के करकमलों द्वारा संपन्न हुआ।

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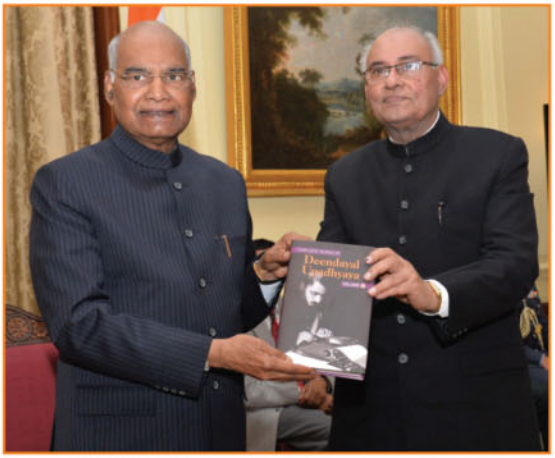

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# Manthan

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# Executive Special

Editor
**Dr. Mahesh Chandra Sharma**

## A UGC Care Listed and Peer-Reviewed Journal

**Manthan is a multidisciplinary, peer-reviewed, academic and theme oriented** journal dedicated to the social and academic activism, published quarterly from Delhi. It is always oriented on a particular theme. It welcomes original research articles from authors doing research in different genres of Humanities.

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**Dr. D. D. Pattanaik** is former Member of Indian Council of Social Science Research, New Delhi. He has authored *Hindu Nationalism in India*, *Indian Political Tradition, Political Philosophy of Subhas Chandra Bose, Cultural Nationalism in Indian Perspective, Towards Political Theory of Indian Nation, Indian Freedom Struggle* : *A Nationalist Worldview* besides over a dozen library edition works and text books - some are combined, *Glossary (Integral Humanism)*, edited and translation. Around two hundred columns including Organiser have come up.

**Prof. Vishwanath Mishra** is a Professor of Contemporary Political Theories and International Relations in Arya Mahila PG College of BHU. Five books are credited to his name are Bhartiya Rajneeti mein Kshetravad aur Nrijatiyata, Rajvidya evam Rajneetishastra, Pashchimi Gyanodaya ke Vaicharik Sankat, Hinsa ka Utkhanan, and Sanatan Gnadhi: Bapu se Vaishvik Samvad.

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**Dr. Chanchal** is a sincere scholar of ancient Indian political philosophy. A postgraduate in Political Science from Chaudhary Charan Singh University. Meerut and Vidya Nishnat, Vidya Vachaspati and LLB degree holder Dr. Chanchal has completed her Post-doctoral Fellowship on Public Welfare in Ancient India. Currently she is an independent researcher.

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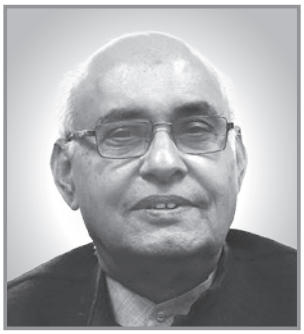
# *Editorial*



Dr. Mahesh Chandra Sharma

Following the first issue of this year, the 'Legislation Special', I am pleased to present this second issue of *Manthan* for April-June, titled 'Executive Special'. The issues are made possible through the active cooperation of researchers and scholars. I am profoundly grateful to all those researchers and senior academic scholars for this.

We are fortunate to have qualified and guiding Guest Editors for our various issues. As a result, we are able to do some justice to the chosen themes of these issues. The Guest Editor for this issue is respected Shri Ram Bahadur Rai. However, it feels inappropriate to refer to him as a 'guest' because *Manthan* has taken its present form largely due to his constant guidance. After reviewing all the articles and engaging in extensive dialogue with the authors, he has penned a comprehensive guest editorial on 'The Issue of Government's Responsibilities'. Therefore, this editorial serves more as a formality. Before delving into this issue, I highly recommend reading Rai Saheb's insightful editorial first.

In India, the Executive has a broad scope, which is gradually expanding. It sometimes appears that the Legislature has taken a backseat while the Executive and the Judiciary have come face to face. This trend and the nature of the Executive have been beautifully highlighted by the distinguished writers in this issue.

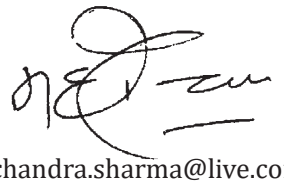
The President and the security forces are particularly sensitive components of the Executive, and those who write about them must also adhere to certain decorum. Our parliamentary Executive essentially revolves around the Prime Minister. In this issue of *Manthan*, we have thoroughly examined the roles of the President, the military forces and the Prime Minister.

The issue of bureaucracy within the Executive remains a deeply controversial topic. Is our bureaucracy merely a continuation of the colonial administration? There is also tension regarding the relationship between the people’s representatives and the bureaucracy. Allegations of corruption against the Executive cannot be fully evaluated without

examining the relationship between the departmental ministers and the bureaucracy.

We have reached this stage after seven decades of both bitter and sweet experiences. In *Manthan*, we first explored the Legislature, and now we turn our focus to the Executive in this issue. Our next issue will be on 'Justice' or the 'Judiciary Special'.

Your suggestions and feedback are always welcome. Best wishes.



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Ram Bahadur Rai

# *Guest Editorial*

# The Issue of *Rajdharma*

A little different from and beyond the immediacy of the newspapers and magazines, a series of issues of *Manthan* are being brought out. We know that every issue has a definite theme. The purpose is to have research-based articles with an ideological depth on the prescribed topic. An effort is made to prepare every article in such a way that every dimension of the topic can be covered. In this way, to present the subject in its entirety, a process of selecting writers and talking to them several times is adopted. This determines the outline of the articles. Every article attempts to identify their strength, ideological aspect and goal as well as how much element of creativity is there in it, how many negative points are there and what kind of insight a citizen will be able to get from these articles. However, this is possible only when there is an element of curiosity among the readers. *Manthan* assumes that its readers are a curious lot and are interested in positive change. All the works mentioned here are obviously done by the Editor.

This issue too is part of a series, about which the Editor had given information in the last issue. That issue was on Legislation. There is clearly a purpose in bringing out this issue too, which is related to the constitutional system. While the division of powers is clear in the Constitution on one hand, a balance of power has also been created on the other hand. In other words, no doubt the Constitution has created various power centres, but has also made provisions for maintaining balance among them. The Indian mind is well aware of this balance of power. The truth is that it is like our blood flow and is a part of our consciousness. One of the power centres that has emerged from the Constitution is named as the Executive. What is the personality of what we call the Executive, what we know as the Executive and what we recognise as the Executive? If we think about this, it will become clear that in the parliamentary system, the top of the Executive is formed by the elected representatives. But the top alone is not the whole Executive. This issue of *Manthan* is helpful in knowing and understanding what it is then and where its foundation lies. From this, it becomes possible to know that the basis of implementation is one, but the ways of looking at it are different.

The Constitution provides the foundation and creates a constitutional system, in which those principles are mentioned that are to be put into practice. In a sense, the Constitution itself is a principle. It is also a 'scripture', but not in the sense in which we know the word traditionally. In some religions, commentary on scriptures is possible, but in others, such commentary is strictly prohibited. However, the Constitution is such a scripture that keeps getting commented upon every now and then. Fellow litterateur Dr. Hazari Prasad Dwivedi used to describe the commentaries on a scripture as a temple bell. He said that just as every believer rings the bell before entering the temple, similarly scholars consider it their august duty to comment on the scriptures.

The scriptures are the presentation of religion and the commentaries are their interpretations. The best constitution will be the one which is based on religion. But the constitution is not meant for the establishment of religion, although it remains within the constitution like its blood flow. The constitution is made for governance, and governance is related to politics. If religion is the search for truth, then in politics only victory is considered as truth, whereas truth does not exist. The question here is how to become the touchstone of religion in its infinite meanings while following it? This has been the direction of Indian thought process. It is expected that there should be no confusion or misconceptions in this direction. That is why, what is nowadays called 'discussion' was once called 'debate'. Statements in the form of discussion are very revolutionary. *Manthan* is synonymous with discussion. If we think about this, many things can become clear.

Firstly, implementation can have another name, '*Rajdharma*' or the duties and responsibilities of a government. If anyone has any difficulty in understanding this today, then he should take help from Dr. Pandurang Vaman Kane's book -- 'Dharmashastra Ka Itihas'[1] (history of the scriptures). Dr. Kane has mentioned three things in his introduction. One, "*Rajdharma* has been discussed in theology since ancient times... It has been discussed in detail in the Shanti Parva of Mahabharata." Two, "The topics of art and science of governance find resonance in our literary traditions and discussions have been taking place on them since centuries before the Christian era began. It is clear that in that period, the issues of reign and science of governance had taken a systemic form." Three, "*Rajdharma* has been considered to be the basic element or essence of all the religions… *Rajdharma* was the biggest objective of the world and it used to cover the rules of conduct, behaviour and penance also."[2]

There was a need to take help from 'Dharmashastra Ka Itihas' because in this issue of *Manthan*, there are articles explaining the banyan tree of *Rajdharma* and its branches in the present context. In his book, Dr. Kane has mentioned about 'seven parts' of the State. These are indicators of the ancient State system. But the State system that has been developed after 1950 is governed by the Constitution of India. Prime Minister Narendra Modi famously said, "The government has only one scripture -- the Constitution

of India. The country will be and should be run only by the Constitution. Only by the strength of the Constitution can the country gain strength."[4] This statement in itself contains a scripture like a seed in the form of a formula. No Prime Minister before this had given the Constitution of India the status of a scripture. This is a novelty. That's why, it also has a shine.

Be it a principle, be it a milestone of thought, be it a scripture or be it even a religious text, it does not get identity without being connected to the roots of public life. It is a long process. It consumes time. Sequence of events gives it a shape. The first stage of that process is the constitutional provision and the second stage is legislation in accordance with the provision. In this context, implementation of the legislation is like a litmus test. By passing through this, the decision of right and wrong is taken. Implementation is a subject which, while there is symbolism in it, also demands intense research and experimentation. This issue of *Manthan* is an effort in that direction. Implementation is a continuous process, which is seen and understood at two levels. The first level is of policy formulation and the second level is of its implementation. On both the planes, more remains invisible than what is visible. For this reason, whatever studies are done, they reveal only one dimension. It always demands time to go deeper to know and identify the other dimensions. The call of time can be heard in this issue also.

As far as I understand, the purpose of this issue is very clear. The aim is to present the necessary study material to make the implementation of the State system citizen centric. Here, it is necessary to clarify about the maintenance nature of the State system, otherwise confusion may arise. There is a concept of trinity in Indian philosophy, in which the gods of sustenance and balance are determined. Implementation also falls in this category. There are nine articles in this issue of *Manthan*. They are a rainbow of nine colours visible from a distance. By presenting the articles sequentially in this issue, *Manthan* has given one colour of white to the rainbow, although the hues and diversity of these articles remains the same. White is the colour of the common people's dreams, in which all the colours are embedded. Read these colourful articles together, the tone defining implementation can be heard there.

These articles run parallel but they can be divided into groups. From the point of view of political leadership, the Prime Minister, the President and the parliamentary experience can be put into the first group. The second group is that of bureaucracy. The third group is of army, governance and political leadership. The fourth group can be formed related to federalism. And the last one can cover the goal of Gram Swaraj, the constitutional reality and the unfulfilled dreams. Every article has its own importance. If we take a cursory glance at these articles, we should start with Prof. Rajni Ranjan Jha's article. He is experienced and a renowned expert in his subject. He has deliberated on whether the Prime Minister is the first among the equals under the Constitution of India? It is a concept. Another concept linked to it is that the position of the Prime Minister is like the brick in the middle of

the arch, and if the brick is moved, the arch will collapse.

Such concepts were created and developed in the British parliamentary system to explain the place of the Prime Minister and the importance of that position. We also know that the nature of the parliamentary system is not the same everywhere. India cannot be an exception in such a situation, because the post of Prime Minister is not governed by any artificial intelligence. It is shaped by a leader who has a mature vision of his own. The Constitution has not made the post of Prime Minister a 'Rangeela Rasool' or colourful messenger. The Constitution has given the Prime Minister the position of Yudhishthir. In the Constitution drafted and accepted by this country, from the very beginning, the Prime Minister has not been placed on the top of the hierarchy, but his place is right in the middle. Thus, the Prime Minister is a system in itself. Many people have also said that under this Constitution, if Jawaharlal Nehru had been the President and Dr. Rajendra Prasad had been the Prime Minister, then India would have run under the Presidential system. This makes it clear that initially the position of Pandit Jawaharlal Nehru was such that he himself had become a system.

On the basis of the Article related to the Prime Minister in the Constitution, Prof. Rajni Ranjan Jha has said in his article that some questions were raised during the times of Pandit Nehru and Sardar Patel, which remained unanswered. Nehru's dominance was established after the death of Sardar Patel. Prof. Jha has made an authentic review of the tenure of every Prime Minister. There is an insight in it from which one can understand how a system is set in motion by the interaction between the office of the Prime Minister and the politician occupying it. He has also given the conclusion of his analysis to the readers. There is a wide range of material available in books to study this subject. For example, the first book is Durgadas's famous book -- 'From Curzon to Nehru'. In this, he has compared Pandit Nehru with Lord Curzon and has commented, “Nehru's genius lay in romancing politics, not in the field of administration.”[6] Nani A. Palkhivala has described P.V. Narasimha Rao as a Prime Minister "who is in office but who does not have power."[7] The Prime Minister's Office is an aspect which has to be studied. Prof. Rajni Ranjan Jha has not touched it perhaps because it is a

On the basis of the Article related to the Prime Minister in the Constitution, Prof. Rajni Ranjan Jha has said in his article that some questions were raised during the times of Pandit Nehru and Sardar Patel, which remained unanswered. Nehru's dominance was established after the death of Sardar Patel. Prof. Jha has made an authentic review of the tenure of every Prime Minister. There is an insight in it from which one can understand how a system is set in motion by the interaction between the office of the Prime Minister and the politician occupying it

different topic altogether. But recently a book on the same subject, 'How Prime Minister Decides' written by famous journalist Neerja Chaudhary, has come out. The personality, working style and decision making style of every Prime Minister before Narendra Modi has been explained with examples in the book. This book is much in discussion.

In that sequence, D.D. Patnaik's article should get the second place. He has presented a deep study of the constitutional and practical anomalies of the presidency. Some questions have also been raised which are ideological. At one place, he has even described the presidential system as a necessity for our country. This article is interesting and may help further the debate. Dr. Rahul Chirmurkar has also raised questions on parliamentary democracy while reviewing the experiences of parliamentary governance. As a suggestion, he asks "Why not consider a presidential system!" In his article, however, he has not answered the question "What strength the parliamentary system has gained from the Standing Committees of Parliament which have been prevalent since 1993?" This has been left out in his scrutiny. Dr. Bhanu Kumar Jha's article introduces the reader in a descriptive style to the parliamentary process of government-Opposition and citizen relations within the ambit of Parliament. This article is replete with the history of parliamentary politics. Parliament is a public representative institution. There should also be a study of how much the MP LAD Scheme has affected the public representative character of the MPs. This is a subject of independent research. The first book on this subject was written by journalist A. Surya Prakash.

Prof. Vishwanath Mishra has raised a fundamental question in his article. His article is titled "Expansion of the powers of the Executive and shrinkage of public space: A deliberative study." Actually, this is a global question from the point of view of political system, for which there is no solution in sight as of now. But discussions on this have been going on for a long time worldwide. It is related to the contraction of society under the State system that emerged from industrial civilisation. This concern was highest among the heroes of India's freedom struggle. There was a good reason for this also, which has now been established authentically. That is, till the 17th century, the society in India was almost independent, although the slavery under the central government was expanding. In this background, if we connect this with the basic concept of the Indian polity and examine, we will find that the country's leadership could not integrate the basic elements of its polity into the constitutional system created after Independence. Therefore, big questions persist even today. Prof. Vishwanath Mishra has raised the philosophical side of those questions. This is a subject that demands continued study, and it can be said that this article is in continuation of that.

Dr. Chandrapal Singh has deliberated on the colonial roots of bureaucracy and has cited ample facts to identify it. His article contains such material that it is easy for the reader to clearly understand the foundation of bureaucracy. But if that was all, it would have been a different matter. This article also

arouses curiosity in the mind of the reader to raise a question. It can also be said that a spark of thought would arise in everyone's mind while reading the article. This question would surely flash in the reader's mind that "Can the bureaucracy, which was created by the British Raj, also be able to bring Ram Rajya?" Nani A. Palkhivala has raised this question at a point in his book 'We, the Nation: The Last Decades' and his answer is that "Broadly speaking, the administrative structure in India still remains the same as the British left it."[8]

This statement of Nani A. Palkhivala is very valuable. Mark Tully spent three decades in India reporting major events in South Asia for the BBC. He has written in one of his books, "Rajiv Gandhi was the first Prime Minister who expressed his intention to bid farewell to red tape… but he could not end the basic structure of the licence - Permit Raj."[9] Famous bureaucrat N.N. Vohra has taken a dip deep into it. He warns in his book that "If the bureaucracy is not made more efficient, responsible, honest, result oriented and accountable, then there can be a danger of anarchy, unrest and serious disturbance in the country."[10] This is an empirical view. The question is: Whether this is a problem of system or leadership? This subject should be deliberated upon. In my view, this is a matter of bringing radical changes in the structure of the State system.

Manoj K. Jha's article explains the continuity of post-Independence changes by linking the military-political leadership and security loops. He has cited its examples and also signals of security confidence arising out of accountability. In her article, Prof. Rekha Saxena has given an updated account of the developments in the journey of the federal structure. She has also explained how NITI Aayog is giving shape to the federal structure. In her conclusion, she states that Indian federalism is in a new phase, in which while there is cooperation, there is also competition. This will give it a shape in the future. This new phase of competition and reciprocity started after 2014. This is a parallel process, which is fundamentally different from the horizontal process. This experiment is also a conceptual one. With this, it is possible that India may develop its own model.

Dr. Manoj Srivastava has written his article '73rd Constitutional Amendment: Legislation and Implementation' on a larger canvas in which we get a glimpse of his administrative experience and the reality of this subject. He has written, "This is the time for the mantra of 'Self-reliant India'. This mantra also translates into 'self-reliant villages'… The villages are dependent on the State to the extent that they are not able to display their autonomous character. In such a situation, the top of the pyramid is supporting the base." This is a bitter truth. Jai Prakash Narayan was the first to realise this fact in independent India. He then wrote a letter to Nehru. There was a debate on that. Its description and analysis is there in his small book which has been published under the title 'Restructuring of the State system: A suggestion'. It is important to say two things here.

The first thing is that Mahatma Gandhi mainly planned and led three major campaigns to achieve Independence. If he had been able to run the fourth campaign, then in my opinion, it would have been the one of his dream, that is Gram Swaraj, and he would have put himself on the stake again to realise it. Vinoba thought that Gram Swaraj would come through the Bhoodan movement. Today it can be said that he could not get at its formula. Had J.C. Kumarappa also got the opportunity, he would have given a direction to his village movement. Is the 73rd Constitutional Amendment complete in itself? Can Gram Swaraj be realised if the State implements it? If not, what is the biggest obstacle? Manoj Srivastava has given us a direction to identify it. The biggest question is: How would Vindhyachal, which covers the sun of Gram Swaraj, come to earth? Will Agastya reincarnate? There are some such questions, and to ensure that they do not persist, the series of *Manthan* should continue to come out.

**Ram Bahadur Rai**

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Dr. Rajani Ranjan Jha

# Is the Indian Prime Minister first Among Equals?

Prime Minister plays a crucial role in the government of India. A look into the functioning of different Prime Ministers in India

After almost 200 years of British colonial rule when India became independent in 1947, the founding fathers of our constitution opted for a parliamentary -federal republican political system. An important hallmark of the parliamentary system as gradually evolved in the United Kingdom, according to Walter Bagehot, is that the Executive is marked by the salience of dignified part and the efficient part. The dignified part is represented by the King / Queen where as the Prime Minister represents the efficient part. The real power resides with the PM and his council of ministers which is accountable to the lower house of the parliament. The office of the PM, in the UK, is the result of accident of history and gradual evolution. The tradition established in the twentieth century in Britain is that the PM must belong to the Lower House (House of Commons). The gradual evolution of the PM's position and power has been influenced by the changing socio-political situation in the UK in 19th and 20th century. As a result, political commentators have used various different similes to describe the position of the British PM e. g "first among equals," "moon among stars," "steersman of the ship of the state" etc. Much of the description is based on the relative position of the PM with his cabinet/council of Ministers as developed from time to time. The British political system in the late 19th and 20th centuries was better known by the cabinet system which by the end of the Second World War, as RHS Crossman, points out turned into the Prime ministerial system. The position of the PM, though technically first among equals, changed vastly from his other cabinet colleagues because of his prerogative to appoint his cabinet, allocate portfolios to his cabinet colleagues, shuffling the Council of Ministers, remove them in case of disagreement over policy decision, and finally, ask the King/ Queen for the dissolution of the House of Commons for a fresh mandate. The personal popularity, charismatic personality, hold over party members, ability to lead the party to victory in general elections are other factors which over the years changedand strengthened the position of the British PM.Another development in the post-World War II period has been the fact

that elections are fought in the name of the prospective PMs which strengthens his individual position in the party and government. When India became independent, as a parliamentary democratic system she had to fall back on British practices on many issues of governance as there hardly existed any precedent in the country.

## Indian Constitution & Prime Minister

Like the British political system, the PM in India also plays a crucial role in the government of India. Only four articles of the Constitution of India mention the PM. Article 74 of Indian constitution says that "there shall be a Council of Ministers with Prime Minister as the head to aid and advise the President who 'shall', in the exercise of his functions, act in accordance with such advice". Further, Article 75 says that President of India shall appoint the Prime Minister, and other Ministers shall be appointed by the President on the advice of the Prime Minister. Thus, constitutionally and technically speaking the PM is just like any other cabinet minister. There is no specific procedure mentioned in the constitution for the election or appointment of the PM. A person to be appointed as PM should command the confidence of the majority of members of the Lok Sabha. This simply means that the President shall appoint as PM a person who is the leader of the majority party in parliament or the leader of a coalition of parties commanding majority in the Lower House. Unlike the British practice, it does not peg that the PM must belong to the Lower House of Parliament. When Indira Gandhi became PM in 1966, she was a member of the Upper House (Rajya Sabha). Dewegowda and Manmohan Singh also were members of the Upper House only. Article 75 adds that the Council of Ministers will function during the pleasure of the President which effectively means during the pleasure of the PM. Article 78 says that it shall be the duty of the Prime Minister to inform the President of all significant decisions made by the Council of Ministers regarding the management of Union affairs and other legislative proposals. Members of the Council of Ministers shall be as per parliamentary convention collectively responsible to the Parliament.The PM in India enjoys a constitutional position and the Executive powers listed under the President of India are, in practice, exercised by the PM. The death or resignation of the PM dissolves the government whereas the death or resignation of a minister only causes a vacancy. Besides being the leader of the majority party in the Lok Sabha, the PM is the Chairperson of the Cabinet, head of the Council of Ministers, normally the leader of the Lok Sabha, executive head of the Union government and administration, authoritative spokesperson of the country within India and outside. The Union government is known by the name of the PM. A look into the functioning experience of different PMs will make it somewhat clear how they have treated their position vis -a- vis their cabinet colleagues and what strategies have they adopted in order to strengthen their position.

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## PM's Power: Subject of Bitter Controversy

The Interim government in India was formed under the Prime Ministership of Jawaharlal Nehru in September 1946. After independence, again

the Government of India was constituted under Nehru's leadership. Not long afterwards differences arose between the PM and the Deputy Prime Minister (DPM), Sardar Vallabhbhai Patelregarding the powers and position of the PM vis-à-vis his cabinet colleagues. The differences and the resultant bitter debate between the two started when after a series of riots at Ajmer-then centrally administered territory, Nehru's visit was cancelled due to some unavoidable reason and the PM sent his Principal Private Secretary (PPS), H. V. R. Iyenger to assess the situation and report back to him. Patel who was the DPM and minister of Home and States, it is learnt, had already briefed Nehru on the issue and felt no need to send an officer of his private office for visit of inspection. Patel viewed this step of the PM as an interference in his ministerial functioning. Nehru did not take Patel's objection in a pleasing manner and wrote to Patel," If I am to continue as Prime Minister I cannot have my freedom restricted and I must have a certain liberty of direction. Otherwise, it is better for me to retire. I do not wish to take any hasty step, nor would you wish to take it." Nehru asserted that the PM was" not only a figurehead" but had an important role when he remarked:

"As Prime Minister, however, I have a special function to perform which covers all the ministries and departments and indeed every aspect of governmental authority. The function cannot be easily defined and the proper discharge of it depends a great deal on the spirit of cooperation animating all the parties concerned. Inevitably, in discharging this function of Prime Minister I have to deal with every Ministry but as a coordinator and kind supervisor."

Nehru added further: "The Prime Minister should have full freedom to act when and how he chooses, though of course such action must not be an undue interference with local authorities who are immediately responsible. The Prime Minister is obviously as much interested as anyone else in having the loyalty and cooperation of the services. Patel felt," that conception if accepted, would raise the PM to the position of a virtual dictator, for he claims 'full freedom to act when and how he chooses." This in my opinion is wholly opposed to democratic and cabinet system of government."[1]

The exchange of letters on this issue between Nehru and Patel was getting bitter and was about to rock the government in its initial phase of working. Both Nehru and Patel separately turned to their mentor, Mahatma Gandhi, for his advice and resolving the serious issue. They were scheduled to meet him on 30-31 January 1948.Due to Gandhiji's assassination on 30 January this was not possible. The issue remained unresolved. Despite such vital differences of opinion on the position and powers of the PM and his relation with his cabinet colleagues, after the untimely, sudden removal of Mahatma Gandhi from the scene, both Nehru and Patel cooperated in the urgent task of running the administration, nation building and reconstruction. But the vital issues raised by Patel remained unanswered. It is generally believed that as long as Patel was alive and, in the cabinet, both Nehru and Patel used to take major decisions almost jointly. The above discussion, however, makes it clear that even when Patel was alive Nehru always insisted on the preeminent position of the PM which had by then already been established in the UK.

## Dominance of Nehru after Patel

After Patel's death, there hardly was anybody in the cabinet to challenge the supremacy of Nehru. It was a one man show as stated by Nehru's biographer, S. Gopal. Canadian Scholar, Michael Brecher, writes that on some important issues especially relating to Jammu and Kashmir, Nehru did not take the matter to the cabinet and decided on his own. But there were also occasions when Nehru, on the suggestion of senior colleagues like Maulana Azad and G.B. Pant, changed his decisions.One such known instance relates to the continuation of Dr. Rajendra Prasad as the President of India

in 1957.Nehru was in favour of appointing Dr. S. Radhakrishnan, the philosopher Vice-President, as the second President of Indian Republic but he changed his stand on the suggestion of Azad and Pant. The general impression about Nehru is that generally he did not interfere in the functioning of ministries which were then headed by well-known leaders of national movement. Cabinet Secretariat worked as the main coordinating agency of the governmental functioning. There was virtually no role for the Prime Minister's Secretariat other than assisting the PM. Nehru was somewhat reluctant in removing his cabinet colleagues even when there was public demand for their removal. In spite of difference of perception on many issues Nehru always treated Morarji Desai with respect and assigned him number two position in the cabinet.Nehru's term as PM seemed to be of dignified authority who saw to it that the position of the PM is not reduced to that of a "mere figure head".[2] Nehru tried to nurture the institutions of parliamentary system of governance in the country.

## Shastri's PMS: A New Beginning

After Nehru's death in May 1964, Lal Bahadur Shastri was selected as the Prime Minister by the party bosses in the hope that with Shastri" a form of collective leadership" would function in India.[3] All the important leaders of the INC were his contemporaries and commanded as much respect and influence as he did. A well-known British scholar on Indian politics, Morris Jones, comments that in the true spirit of cabinet government, Shastri permitted his cabinet to" work as a team of near equals out of whom consensus had to be constructed".[4] Shastri's brief period is generally viewed as the golden era of the cabinet government in India which means the PM was treated as first among equals. In the opinion of Guha, however, "very soon the incumbent was asserting his authority" as PM. This could be seen through the three early decisions of Shastri as PM. First, Morarji Desai who was a contestant for leadership was dropped from the cabinet. Second, Indira Gandhi, daughter of Nehru, though included in the cabinet on public clamour was given insignificant portfolio of Information and Broadcasting. Third, the inventive creation of the Prime Minister's Secretariat (PMS) not only for independent policy advice but to free him from the excessive dependence on the cabinet".[5] Unlike Nehru years, the PMS, started influencing the functioning of ministries. Shastri was mild mannered but firm. In his cabinet meetings Shastri would allow everybody to express his views but finally the PM made the decision and the decision made was final. He was conscious of the fact that ultimately it was the PM who was responsible for the decisions and for that he was accountable to the parliament. It may therefore be concluded: had Shastri not died untimely in Tashkent in January 1966, it is difficult to say what course of action he would have taken as PM vis-a-vis other colleagues in the cabinet.

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## A New Beginning with Indira

Indira Gandhi was chosen by K. Kamraj, the party President and other top leaders of the party at national and state levels, as they thought her "an innocuous person for Prime Minister at the centre" in comparison to Morarji Desai. Once in power,

she failed all assessment about her. Except for the first year, the process of undermining cabinet government and imposing her domination as PM started not long after assuming power. She hardly cared for observing the niceties and modalities of cabinet government. The term "Kitchen cabinet" for the first time came into political parlance in India which referred to her close advisers over and above the cabinet. She stripped Morarji Desai, the DPM, of Finance portfolio and subsequently from the position of DPM also to establish her dominant position in the cabinet as also to send a clear message that the PM alone stood at the pyramid of power. In 1969 she supported V.V. Giri- a rebel candidate in Presidential election, split the INC. Her unprecedented victory at the 1971 parliamentary elections, triumph of Indian forces and the creation of Bangladesh in December that year turned her into a charismatic personality, changed her image from a national to an international leader. With the old guards of the INC forming a separate party-Congress(O), there hardly was anybody either in cabinet or in the party to challenge her dominant position. She started taking, if not all, major important decisions of the government and party single -handed. The PMS became all powerful under the guidance of P.N. Haksar, her secretary. The PMS started acting as the policy planner, think tank, coordinator of government functioning, source of all information to the PM and her political strategist .By adopting the strategy of shuffling in the Council of Ministers She kept with herselffor some time the portfolios of Home and Finance in the early 1970's and made two important changes in these two ministries: the first was to delink the Central Bureau of Investigation(CBI) from the Home Ministry and the Enforcement Directorate from the Finance Ministry and transfer them to the Cabinet Secretariat ,which eventually meant under the charge of the PM herself which could be used/misused at her behest.[6] Her final show of full authority and unbridled power came with the declaration of Emergency in June 1975 when she asked the then President F.A. Ahmad in the midnight to sign the proclamation of Emergency without any discussion in the cabinet. The President also obliged her without raising any question. As we know, all semblance of democratic governance disappeared during Emergency. Thus, Indira Gandhi, as PM, never treated herself as first among equals vis-à-vis her cabinet colleagues. She always treated herself over and above her cabinet colleagues. This thinking perhaps came into her as a result of her mass popularity, evident capacity to win elections for the party, control over party, and her image of a charismatic leader.

## Morarji Desai: First Among Equals?

Morarji Desai became PM of Janata Party government after Emergency in 1977. This government in essence was a coalition government. Unlike his earlier image of being obstinate and uncompromising in his principles, as PM, he tried to behave as if he was first among equals. The PM did not try unduly to interfere in the functioning of ministries. He did not try to accumulate powers through his PMO and Principal Secretary, V. Shankar. In fact, he not only reduced the strength of the PMS, renamed it as Prime Minister's Office (PMO) but returned much of the powers taken away from the Ministry of Home and Finance by Indira Gandhi during 1970-76. One of the possible reasons for this changed attitude of Morarji treating PM's position as first among equals could be explained in two ways. First, the Janata government formed after the Emergency was conscious of the consequences of overstepping the PM's position by Indira Gandhi. Second, Desai might also have been conscious of the mistreatment he received as a senior cabinet minister and DPM under Indira Gandhi. During Morarji period the position of the Cabinet Secretary was somewhat restored in terms of its importance and role in the functioning of the union government. It must, however, be noted that in one important instance Morarji called an

emergency meeting of the cabinet and "with its concurrence sent a sharp letter" to Chaudhary Charan Singh demanding his resignation "for having violated what was described as the collective responsibility of the Government" by exercising his powers as the PM.[7] Here concurrence of the cabinet is important factor to be taken note of.

During his brief term as a PM who never faced Lok Sabha, Choudhary Charan Singh after recommending the dissolution of the House, it is believed, tried to function as first among equals in the caretaker government he headed. He did not get enough time and opportunity to either expand or implement his idea of collective responsibility of the cabinet which he had shared as a cabinet minister with the then Chief Minister, C.B. Gupta in Uttar Pradesh sometime in 1950s and 1960s or the position of PM vis-à-vis other cabinet colleagues.[8] With her return back to power in 1980 Indira Gandhi continued to treat herself as more than first among equals. Her hold on the party and the government was the primary reason for her elevated position and strength as the P.M. The PMO continued to play a very important role in policy planning and governance of the country. During 1971-1977 and in post 1980 period Indira Gandhi also utilized the prerogative of reshuffling of the council of Ministers as a strategy to augment her personal position as PM vis-à-vis cabinet colleagues.

## Rajiv: No belief in First Among Equals

Rajiv Gandhi became PM in the backdrop of the tragic assassination of Indira Gandhi, his mother. In the parliamentary elections of December 1984, he got unprecedented support of the people by winning 414 seats for the Congress party. He relied more on his advisers like Sam Pitroda, G.K. Arora, Pupul Jayakar etc. than his experienced cabinet colleagues. On many issues, he used to consult P.V. Narasimha Rao, Buta Singh and Ghulam Nabi Azad but there were occasions when Rao was not consulted.[9] During the period of 5 years of his stewardship Rajiv reshuffled his cabinet seventeen times within three years and changed the incumbents of important ministries at least 4-5 times. It is believed that within a period of 5 years he reshuffled his ministers twenty- six times. Prabhu Chawla writes about the sixth cabinet reshuffle in which he cut to size powerful men like Arjun Singh, Arun Nehru.[10] He put more reliance on his PMO than either his cabinet or the Planning Commission for policy making. Initially known as "Mr Clean", Rajiv's image got dented after Bofors Deal came to limelight. His hold on politics and administration loosened after that. Put together, he is taken as a PM who regarded his position as PM much more powerful than his cabinet colleagues and behaved accordingly.

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## V.P. Singh: Votary of First Among Equals

V.P. Singh's brief tenure (2 December1989-10 November 1990) as PM is known for his first among equals approach in the cabinet. Since he had resigned from the cabinet of Rajiv Gandhi defying the PM, he maintained the independence of his cabinet ministers. He encouraged ministers to take decisions concerning their departments at their level. He was not in favour of concentrating power in the PMO. He behaved more as the head of a government of federalizing India who presided

over a coalition government. Could the same be said about the Chandra Sekhar government? Chandra Shekhar had a wealth of experience of dealing in parliamentary and public life but the government he was heading was a freak government-a coalition government dependent on the outside support of Congress Party. Many commentators including the former President, Pranab Mukherjee have commended him for his performance as PM. Subramaniam Swamy in one of his interviews called him nice executive PM. It appears, Chandra Sekhar believed in a powerful PM but without unduly hurting the sentiments of his cabinet colleagues by interfering in the affairs of their ministries. Additionally, the short span of time as PM and the existing political situation did not clearly bring out his views concerning the nature of relationship he had in mind with his cabinet colleagues.

## Rao: Was He a Believer in first Among Equals?

P.V. Narasimha Rao (1991-1996) began with a low profile as head of a minority government. He was not a person who wanted to centralize all powers in his PMO. In the beginning,it seemed, Rao's government was functioning in the best traditions of parliamentary democracy. In fact, however, some ministers and bureaucrats were given more importance.[11] Rao is also said to have restored the supremacy of the cabinet. One may, thus, infer that he tried to treat the PM as first among equals. When Li Peng, the Chinese Premier was visiting India, he sent his Minister of state for Finance, Rameshwar Thakur to have consultations with Jyoti Basu, the Marxist Chief Minister of West Bengal and the longest serving Chief Minister in the country at that time. Rao must therefore be credited with reversing the general trend of state Chief Ministers/Ministers flocking the centre for advice. Things, however, appear to have changed later when even members of his Council of Ministers were finding it difficult to meet the PM because of the gate keeper's role played by his Principal Secretary to PMO, A.N. Verma. As a seasoned and shrewd political executive, it is believed that Rao had, like Indira Gandhi, got prepared a dossier of his political opponents both from the opposition parties as well as from his own party to be used in case of any likely political need. These secret files over a dozen' troublesome' politicians were passed by Rao to Dewe Gowda and were kept in the PMO during the tenures of I.K. Gujral and Vajpayee.[12] This provides another picture of Rao who might have changed his mind on his role as the PM vis-a vis his Cabinet colleagues in the later part of his tenure as PM. This also gives us a glimpse of the various ways by which a PM can control his potential rivals in politics of power.

## Gowda & Gujral: Adhered to First Among Equals

After Rao, H.D. Dewe Gowda was chosen to lead the united front government on 1 June 1996 and continued until 21 April 1997.This was a coalition government with outside support of the congress party. As PM Dewe Gowda functioned strictly by the rule book and projected himself as first among equals. The government ran smoothly free from any corruption charge. The ACC proposals were cleared within hours of their receipt in the PMO. The system of appointments to senior positions in the government were said to be fair, objective and transparent during this government. There is an instance when the permission given by the PM to a Minister of State for power for visiting abroad for attending a seminar was cancelled by the PM/PMO when it was brought to the notice that existing rules did not permit the minister to attend the ensuing meeting.[13] The next PM Inder Kumar Gujral treated the PM's position as first among equals because of the coalitional nature of government and his own gentle, dignified, sophisticated behaviour as a politician.

## Vajpayee: Advantage of Acceptability & Personality

Atal Bihari Vajpayee headed the

National Democratic Alliance government of twenty-four party coalition (1998-2004)-perhaps a world record in itself. Because of his long parliamentary experience, amiable nature, traits of a mature leader whose friends circle extended beyond party line, who was respected by one and all, image of not-a-hard liner BJP leader, Vajpayee was able to successfully coordinate (except with AIADMK) with his coalition partners by finding his own ways of doing government business in the face of occasional stresses and strains of governance. He treated his ministers and leaders of coalition parties with respect and dignity. His attitude towards the leaders of opposition parties was also dignified and respectful. As PM though he treated himself as first among equals with his cabinet ministers, he was treated with respect and honour by his cabinet colleagues because of the sheer force of his personality and acceptability in general. During his tenure, as tool of governance, the PMO became very powerful under Brijesh Mishra, his Principal Secretary. Despite his generous political approach, it is reported" BJP ministers of Vajpayee era maintain that Vajpayee did not share many information on several key decisions with Advani and others. But his strong personality ensured that he had his way".[14] There are issues before the PM which he can share only with the trusted few, sometimes not share at all with his cabinet colleagues.

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## Manmohan: Firm Believer in First Among Equals

Manmohan Singh, in the words of Sanjaya Baru, was an "accidental Prime Minister". He was neither among the top leaders of his party, nor a popular mass leader-not even a member of the Lok Sabha. His major asset was vast experience of successfully working at different levels of government. Sonia Gandhi appointed him as PM because of his loyalty to her and as he was rootless in politics. The general public impression about his Prime Ministership is that he was a weak PM because the real power was with the Congress President, Sonia Gandhi who was also the Chairperson of the ruling United Progressive Alliance (UPA). Since it was a coalition government the composition of the council of ministers and the distribution of portfolios were decided by the alliance partners and not by the PM. Even within his own party the selection of ministers and their portfolios were not to his satisfaction. Ministers owed their inclusion in the Council of Ministers as much to the PM as to the party President, if not more. The general impression is that Manmohan Singh never exercised his independent position as PM. He went generally by the line of policies suggested by the National Advisory Council set up by the first UPA government headed by Sonia Gandhi. But in one major instance concerning the passage of Indo-US Nuclear Deal when the PM decided, he had his way despite reservations on this issue in some of the supporting coalition partners, in July 2008. Here Manmohan Singh amply demonstrated his powers and position as PM. It is generally acknowledged that without Manmohan Singh's personal stakes as PM the deal was an impossibility.

## Narendra Modi: Centralization of Power in PM & PMO

With Narendra Modi assuming the PM's position in June 2014 a new dimension concerning the powers and position of the PM started unfolding. Here was a

PM who had long administrative experience as the Chief Minister of Gujarat (2001-2014) and who emerged as the tallest and most popular and powerful leader of his party. Because of his charismatic personality and leadership, the BJP emerged as the party having majority on its own, after 1989, in the Lok Sabha. Unlike the predecessor Manmohan Singh government, the PM started exercising control over his ministers and partymen, began with new experiments in moulding the work culture of bureaucracy from generally a status quoist organization to performance- oriented machinery. Not only his style of campaigning in the election was presidential in nature, his style of functioning as PM reflected the same. As the Chief Minister of Gujarat, Modi had direct rapport with bureaucrats. He depended more on civil servants than his cabinet colleagues. In his very first address to the Secretaries of Union Government as PM on 4 June 2014, Modi gave them his RAX and email numbers and asked them to directly get in touch with him if they have any problem in working or if they had any suggestion for the PM to improve the system. It was clear that they need not approach the PM through their ministers. The total power remained with the PM and PM only.[15] (Rajani Ranjan Jha," Evolution of PMO in India: From Nehru to Modi", *Studies in Humanities and Social sciences*, Vol XXVIL, Number 1, Summer, 2020, IIAS, Shimla, pp157-158). The results of 2019 parliamentary elections credited exclusively to the personalized hurricane like electioneering and appeal of Modi all the more strengthened the position of the PM. The PM today is not the first among equals but in every sense the director of the cabinet and the government, the fountain head of politics, policies and administration, the most all-powerful political person and executive head in the country and perhaps at the global level. Every one marvels at his vision of taking India forward-both at domestic and international levels, his untiring energy of work schedule at this age, his level of connect and popularity with the masses, his excellent oratory, his high level ofpreparedness before any meeting whether of the cabinet orgroup of secretaries to the Government or meeting with any individual or organization, his phenomenal quality of quick learning and astonishing memory power put him much above and apart from his other members of the cabinet. In meetings with senior functionaries of the government he sets a task, listens to their difficulties, tries to remove them and fixes a deadline for its completion as if time is really very precious, scarce and not unlimited for the task of nation building and achieving national glory for India. He is in reality a very hard task master which he shows by his own personal example. In this endeavour he is being assisted by his PMO at all levels from planning of policies, supervision to execution. The PMO under Modi is viewed today as the de facto Government of India. Over the years these changing dynamics in our political system has shifted the balance of power from the cabinet government system to the Prime Ministerial System-in substance, if not in form. The office of the PM under Modi is getting 'presidentialised' in its perception, outlook and functioning. Under the existing situation, to view PM Modi as first among equals will be doing injustice with his political persona. Another remarkable development under Modi's stewardship is that we have

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entered into a phase which can be better described as "Primedential System" which represents a mixture of the features of both parliamentary and presidential systems in the functioning of our polity. What impact this will have on the working of different branches and layers of our governmental system only time will tell.

## Concluding Observation

On the basis of the above synoptic description of the changing position of Indian Prime Ministers with their cabinet colleagues from Nehru to Modi period during the last 75 years, one can draw some conclusions. First, the description that the PM is first among equals was made in the context of the British experience in the early years when the position of the PM was gradually establishing its roots in the convention -based political system of the UK. at a time when the cabinet system was touted as the hallmark of British political system. The position of the PM started changing in England also after the Second World War from cabinet system which had become obsolete to Prime Ministerial system as pointed out by R.H.S. Crossman. Second, soon after our independence, there was sharp difference of opinion on the issue of the position and powers of the PM and his cabinet colleagues between the PM, Pandit Nehru, and his redoubtable DPM, Sardar Patel and some senior cabinet members.Both Nehru and Patel were to meet their leader and mentor Gandhiji to resolve the issue, the next day, but Gandhiji's assassination on 30 January 1948 robbed them and the nation of this opportunity. The issue remained unresolved. Patel viewed PM's position only that of a coordinator-first among equals. Nehru always insisted on the pre-eminent position of the PM vis-a -vis his cabinet colleagues. Patel insisted on the cabinet form of government whereas Nehru had Prime Ministerial form in his vision and functioning. With the advantage of hindsight view one can say that perhaps this difference was due to the manner in which Nehru was selected as the PM with the intervention of Gandhiji even though majority of Provincial Congress Committees had preferred Patel for PM's position. However, as true disciples of Gandhiji, both Nehru and Patel cooperated by making most of the decisions jointly in the cabinet during the initial difficult days of our country. After Patel's death Nehru had his way and, on many issues, as PM, he did not consult his cabinet and the cabinet also did not question him for this lapse on the part of the PM. Third, whenever the PM is popular with the masses, has a charismatic personality, the party wins and comes to power with full majority because of the PM's mass appeal and electioneering the PM stands on a higher pedestal than his cabinet colleagues. He cannot be called first among equals. Nehru, Indira Gandhi, Rajiv Gandhi and Narendra Modi may be put under this category of PMs. Fourth, the position of PM in a coalition form of government is compromised as a result of his inability in the selection of his cabinet colleagues, allocation of portfolios or dismissal of a minister from cabinet. Choudhury Charan Singh, V.P. Singh, Chandra Shekhar, Dewe Gowda, I.K.Gujral and Atal Bihari Vajpayee may be placed under this category of PMs. Technically speaking Morarji Desai was PM of Janata Party government but the constituting units of the party had failed to

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assimilate fully in the party, his government, for the purpose of our analysis, may be treated as a coalition government.By the sheer force and acceptability of the PM's personality, Vajpayee's coalition government made a world record on two counts: firstly, by running a coalition government of 24 parties and, secondly, in completing the full five-year term of its government. Fifth, the Governments of L.B. Shastri and P.V. Narasimha Rao started on the assumption of the PM as being first among equals but later, it appears, changed the thinking and started acting somewhat in a powerful way with the help of PMS and PMO respectively. Sixth, Manmohan Singh, as PM neither got free hand in the running of his government partly because of this being a coalition government and also because the power was divided between the PM and the Congress President. Though a respected eminent economist, he was very weak politically. He treated his position as first among equals or, put differently, some of his senior cabinet colleagues did not owe full allegiance to the PM. This weakened his position as PM and led to what was later termed as "policy paralysis" in the government. As stated earlier, Manmohan Singh did not assert his position as PM except once on the nuclear deal issue. Seventh, the institution of the PM has got institutionalized in India and the powers and prerogatives that the PM enjoys in making higher levels of patronage and other appointments, access to and control over intelligence and enforcement agencies, gradual concentration of power in the PMO, the PM's position has got incredibly strengthened in comparison to his /her cabinet members. As stated above, under a one party majority rule and a strong, popular leader India has entered into a "Primedential system" as we find during the period of Narendra Modi government.

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Dr. D.D. Pattanaik

# Rashtrapati: Dichotomy in Constitutional and Behavioral Position

The role of the President is very dignified in our system, but politics has not left it without dragging into controversies. An objective interpretation

The Constituent Assembly was euphoric in adopting Westminister system of governance so much so that the Members were well accustomed with the given paradigm under the Government of India Act, 1919 and 1935 (and may be elusive soft-corner to the British mode); albeit trenchant argument of Prof. K.T. Shah besides others tilting towards presidential pattern in order to position stable government with crystal decipheration of functioning[1]. It was obvious that Jawaharlal Nehru ostensibly threw his lot to internalise the parliamentary system.

Finally Article 52 of the Constitution surfaced embodying "There shall be a President of India", the shortest Article in the Constitution affirming creation of the Head of the State. Nowhere in the Constitution there is mention of Parliamentary system of government; but it is deducible out of Articles 74 and 75 of the Constitution[2]. Further, this system of government is otherwise known as Prime Ministerial government, which is sketched by the celebrated authority, Prof. Harold J. Laski, thus: "The Prime Minister is the key-stone of the Cabinet arch, he is central to its formation, central to its life and central to its death"[3].

Since a 'de jure' or nominal head is *sine qua non* in a parliamentary system, a civilian President was imperative in India since there was no Royal figure encompassing the whole or major part of India; and he is to be elected indirectly so much so that a directly elected President would be apt to usurp the authority of the Prime Minister. Thus India earned the distinction to have first parliamentary form of government with republicanism.

Dr. B.R. Ambedkar's clarification was that the President of India was similar to that of the King under the English system. The Supreme Court in Minerva Textile Mills case wrangled on the fundamental structure concept of the Constitution and held corroborating with B.R. Ambedkar that the Indian President occupies the same position as that of the British King; and clarified that in case of any apprehension or confusion on any provision of the Constitution the debates of the Constitution would act as reference point or index[4].

## The British Monarchy: An Evolving Offshoot

Parliamentary system of government in England is a matter of chance and wisdom – the cumulative effect of constitutional vicissitude encompassing eight centuries of its history. Monarch in England dates back to Anglo Saxon epoch; and the Parliament surfaced in thirteenth century in this journey, and the question of supremacy of the two phenomena was oscillating sporadically. In chequered British history monarchy faced civil war (1649) and finally got marginalised as a sequel to the Glorious Revolution (1688) shifting its paramountcy of sovereign authority to the Parliament[5]. In this 'final act'[6] of seventeenth century the King turned into an ornamental figurehead.

With this backdrop, the large sized bicameral Parliament could hardly be able to govern, which prompted to constitute a Committee thereof, which virtually became Cabal signifying the first alphabet after the name of a designated Member, which is etymological genesis of the Cabinet. The leading figure of the Cabinet was known as the First Lord of Treasury, who was made known as the Prime Minister in the Treaty of Berlin, 1878. He naturally emerged as the 'de facto' head of the government to reckon with. This position had been loaded with accountability to the Parliament. Therefore it was acknowledged that the "King could do no wrong" since the Cabinet headed by the Prime Minister was responsible for governance. It meant the King reigns, but does not govern. The King was said to represent the Nation leaving the Prime Minister to bear with the constitutional fabric.

The King became a practical need to safeguard the Anglican Protestant Church, and act as the silver link with the Commonwealth of Nations[7]. He constitutes the sublime symbol of British history, its society and culture, its tradition and ethos, and whatever connotes in the realm of British national life. He unleashes radiation to the English people psychologically and sociologically. Therefore there is popular saying that "the people of the United Kingdom sleep more quietly with the King in Buckingham Palace".

## Indian President and the British King Compared and Contrasted

With this kind of kaleidoscopic historical backdrop in England the Indian President could hardly be placed to stand at par with him. After all the Indian President is a 'made' executive in Herman Finer's language[8]. Further, while the Presidential candidates are drawn from manifold layers, all incumbents could not be measured in the same yard stick involving personal charisma and wisdom. Dr. Rajendra Prasad and Dr. S. Radhakrishnan are in reminiscent as exception.

Since the President is elected by an electoral college consisting of the elected Members of the Parliament and the State Assemblies it is boasted that he represents the federal fabric. But it is not enough, in the sense that it is hardly tantamount to represent the Indian Nation in entirety in civilisational standard. Of course the President's role and position as constitutional head crudely reflects that of the King. He takes oath to "preserve, protect and defend the Constitution". But this is basically political dimension, deficient of radiation of national firmament. Further, he is of course adorned as the ceremonial

head, yet he is a manufactured one, and thus could not match the historically evolved Crown[9]. It is evident that the Queen Victoria ruled for 64 years and Elizabeth II for 70 years. A Monarch avails opportunity to assert personal influence by virtue of his long standing historically derived position deficient of election imbroglio. It is on record that Queen Victoria could avert an emerging war with France, and Edward VII was instrumental in scoring Anglo-French *Entente Cordialle* in 1904.

Sri Atal Bihari Vajpayee, leader of Opposition, replied in the course of vote of thanks to the President in the Lok Sabha on 15 March 1992, "Reading out the Government's achievements and resolve of the President is the same as the British Queen…… Yet at least the Queen draws honour from all concerned and nobody taunts her…..". This anguish spells volumes[10].

The President of India gets elected being backed by the ruling party and hence he is susceptible to incline to it dictated by psychological constraint, whereas the British Monarch is absolved from the heat of political dynamics. The King's presence somewhere speaks volumes on non-partisan complexion radiating increasing national echelon, which is deficient in Indian context.

In spite of volumes of disparities there are certain meaningful parities operationally. In British perspective the King has three practical responsibility, which are known as his prerogatives, where he acts being dictated by his subjective satisfaction.. Three prerogatives are in his hand, viz., appointment of the Prime Minister, dismissal of the Prime Minister and dissolution of the House of Commons. However, since the British political system is basically bipartisan throughout its political history, those three prerogatives need not be exercised arbitrarily since the outcome springs up *suo motto*. The Indian President is exactly armed with these three discretionary powers. But due to the multiparty system his activism is apt to be too tedious and even partisan. Coalition government, apprehension on majority support in the Lok Sabha and confusion on confidence of the Prime Minister are frequently visible; and the President's role is dragged into utter petty political intrigues. This is disheartening, but a usual fact. The States in India are also designed in parliamentary mode, where the prerogative factor often displays increasingly derogatory standard.

One British constitutional authority, Walter Bagehot summed up rightly that the British King has right to be consulted, to warn and encourage his Government[11], and a wise King has nothing to stretch more. The same may be employed rightfully in case of Indian President without any ambiguity; and this healthy trend is obviously common to both the nations.

## Marginalisation of the Stature of the Head of the State

The first President Dr. Rajendra Prasad assumed the office of the President by virtue of his own dignified stature, portraying his contour in high pedestal of India's constitutional horizon[12]. Precisely, his contribution to the freedom struggle, an index to hold high office, besides his close proximity to Mahatma Gandhi, if at all it is a parameter, was not the least in comparison to Jawaharlal Nehru who was elusively surfacing as the highest figure, next after Mahatma Gandhi. Dr. Prasad was the President of the Constituent Assembly, and as such he was the natural choice to be the President for the transitional period of 1950-52, which meant, till the Parliament and the Sate Assemblies were adequately constituted. Even after this period he continued as the President till 1962. In 1957 Dr. Prasad himself sought to be the presidential nominee and Nehru could not withstand on face value[13]. Dr. S. Radhakrishnan had been the Vice President from 1952 to 1962; and he had earned the status of a metaphysical ambassador of India next after swami Vivekananda. In 1967 Dr. Zakir Hussain became the President as an educationist and a leader of integrity[14].

Dr. Hussain succumbed to heart attack in July 1969. Neelam Sanjib Reddy became the Congress candidate for Presidency; but the Prime Minister Indira Gandhi fielded

V.V Giri as her personal nominee; and exhorted the Congress Members of the Electoral College to vote employing their own 'conscience'[15], which directly meant to vote for V.V. Giri. The development raises the question of political morality when the supreme leader of the party revolts against the official candidate! V.V. Giri got elected after counting of second preference, which is a record till this date.

Fakruddin Ali Ahmed, the Food Minister in the Government of India, became the President in the year 1974. So, eyebrows are again raised if the august office of the President could be assumed by a sitting Cabinet Minister – for the reason that he is likely to be eclipsed by the image of the Prime Minister who blessed him to occupy the august office. When Fakhruddin Ali Ahmed passed away on 6 February 1977 the Vice President B.D. Jatti[16] became the Acting President when the general election was in processing.

Dr. Shankar Dayal Sharma was a distinguished person and in term of academics he was recipient of the highest qualification. But he had adorned Presidency of Indian National Congress; and then became the President of the Indian Republic (1992-97). Again, the same kind of apprehension as to how much could he be non-partisan, leave aside the independence of British King from the dust of politics.

Further, nobody would demean the stature of Pranab Mukherjee; but after all he became the President (2012-17) when he was continuing as a Cabinet Minister under Dr. Man Mohan Singh. It means, the Cabinet Minister became the President under the same Prime Minister. So the factor of propriety obviously surfaces on virtual constitutional status of the President.

The first President, Dr. Rajendra Prasad, held office of the President from 1950 to 1962 – the longest period indeed – synchronising with premiership of Jawaharlal Nehru. In view of his superb backdrop Rajendra Babu was given to comprehend himself as no least to Nehru in term of personal charisma, and owing to their divergent worldview their clash of personality cropped up sporadically, and Nehru was obstinate instead of exhibiting sagacity

People of varied sectors such as Draupadi Murmu have adorned the highest office. There is no way to escape from the republican fabric. But while comparing with the British counterpart it appears to be problematic in term of stature, impartiality and functioning as the ceremonial Head, which is somewhat antithesis to an organic, vibrant democracy. The question is why to create such an ornamental Throne? The Constitution framers were well aware that a Parliamentary system of government would obviously demand such an office which came into vogue in Great Britain under the driving force of history!

## Constitutional and Legal School

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collectively responsible to the Parliament (Lok Sabha)[17]. This was the Constitutional School of Pandit Nehru as against the Legal School interpreted by Dr. Prasad. Nehru used to employ M.C. Setalvad, the then Attorney General, to articulate his (Nehru's) contention and Setalvad used to argue the constitutional spirit rather than the letter.

Nehru tried to curb the activities of Prasad and the latter defied them without mincing words. Sardar Patel passed away on 15 December 1950, and Dr. Prasad attended the funeral pyre at Mumbai in spite of categorical objection raised by Nehru that it would violate the protocol since Patel was a Cabinet Minister and Prasad was the President[18]. A humanitarian question – was the relation between Patel and Prasad was shaped exclusively on the basis of the constitutional position they held? Nobody knows their relationship better than Nehru himself!

Dr. Prasad registered strong protest in 1950 as Supreme Commander of the Defence Forces (Article 53 (2)) that he was kept in dark on the circumstance which led to General Thimaya's resignation[19].

Further, Dr Prasad turned down the advice of the Prime Minister Nehru when the former was set on to inaugurate the consecration of the deity at Somnath on 11 May 1951, "which would symbolise religious revivalism", to Nehru, and standing against the secular credential. Dr. Prasad was not palatable and pointed to the significance of Somnath as the symbol of national resistance to an invader. Dr. Prasad added, "I cannot disown my religion for being the President"[20]. To make aware of its importance Dr. Prasad roared at Somnath, "With this consecration ceremony thousand years of ignominy has been wiped out". What did he mean by "thousand years of ignominy"? Same was the response of Dr. Prasad when he visited Kashi Vishvanath temple in 1952 and washed feet of the priest. The Socialists including Nehru clamoured, "The President of India – touching down the feet of a Brahmin!".

Dr. Prasad was reluctant to Hindu Code Bill (1952) which aimed at only comprising the Hindus while keeping the 'Shariat' aside, His voice was almost the same as Dr. Syama Prasad Mookerjee those days. His contention was in conformity of Article 44 of the Constitution which provided for Uniform Civil Code. Prasad's perception on States Reorganisation (1955-56) on linguistic basis was also not appreciated. He also warned on the Tibet crisis triggered by China in 1959; but which was kept in deaf ear by Nehru. After the said demise of Sardar Patel K.M. Munshi always lent support to Rajendra Prasad.

Eisenhower was the first President of the United States to visit India in 1959 and Elizabeth II paid such visit here in 1961. Both had invited Dr. Prasad to their respective nations. But Nehru was reluctant[21]. He used to curtail Prasad's visit abroad lest his (the latter's) Hindu image might compromise his (Nehru's) secular credential!

While files to appoint Governors and Ambassadors were sent to Dr. Prasad, he used to take serious exception that he was being treated as a mere rubber stamp. Once he wrote back to Nehru, "You are laying down bad precedents. A President, who did not like you, could have given you a lot of trouble". It was assuaged with assurance that the President would be consulted at the outset on such higher appointments.

Dr. S. Radhakrishnan succeeded Dr. Prasad in 1962, who was also an 'active' President. When Indian defences had crumbled against the advancing Chinese in October 1962, Dr. Radhakrishnan publicly castigated the government for having brought the country "to the sorry pass – a matter of sorrow, shame and humiliation". According to H.V. Kamath the President played a significant role in the ouster of the then Defence Minister Krishna Menon from the Union Cabinet altogether – not mere change of port folio[22]. The President was also contemplating to dismiss Jawaharlal Nehru for debacle in northern border. He did not resort so of course; but the President at least ventured to ponder so!

Justice V.R. Krishna Iyer, Presidential candidate in 1987 against R. Venkataraman, boasted during the election campaign that

he would prove to be an "active and dynamic" President"[23]. He was of course defeated. But since he was a Justice in the Supreme Court, question arises as how he could have exhibited dynamism as President if elected!

## Erosion of the Presidential Office

"Prime Minister's President" epithet got incorporated in the lexicon of Indian constitutional system in 1969 followed by the political developments in 1974. In the way Giri was elected in 1969, he became obviously the personal choice of Indira Gandhi and as such got the dubious distinction as the Prime Minister's President. Giri was succeeded by Fakhruddin Ali Ahmed, who was then the Food Minister in the Cabinet of Indira Gandhi. As natural corollary his pathetic position became evident when National Emergency was proclaimed at mid night of 25 June 1975 and aired by All India Radio soon after. But the President's assent was obtained next morning, and that too without any Cabinet decision, as if he was taken for granted!

President Ahmed succumbed to heart attack on 6 February 1977 when the general election was on run; and succeeded by the Vice President Banappa Dasappa Jatti. The Congress Party was wiped out in the election to Lok Sabha in March 1977 in nine States where it was in power. Behaviourally, albeit not constitutionally, the Congress regimes in those States evidently lacked popular mandate. So Morarji Desai Government advised the Acting President to dismiss the said nine State Governments and dissolve the State Assemblies. But the President sat over the advice for a couple of days. On third day the Communication Minister George Fernandes moved Rashtrapati Bhavan and besought to extend his assent, otherwise the Morarji Desai Government would resign. Sensing the popular euphoria the President signed on dotted lines. But the question at stake is if the President could disregard the advice of the Prime Minister!

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This episode prompted the Government to strive a Constitutional Amendment, which was incorporated in the 44th Constitution Amendment, 1978; which read: "The President may require the Council of Ministers to reconsider such advice, either generally or otherwise and the President shall act in accordance with the advice tendered after such reconsideration"[24]. Further, in view of the mode of declaration of National Emergency on 25 June 1975, the said Amendment provided that the decision of the Cabinet must be communicated to the President in writing to proclaim National Emergency (Article 352 (3)).

Giani Zail Singh, another Cabinet Minister, entered Rashtrapati Bhavan in 1982 as the "Prime Minister's President". His loyalty to the Congress Family was vindicated when he stated that Motilal Nehru and Jawaharlal Nehru constituted his best political icon. He hurriedly returned from his foreign tour and sworn in Rajiv Gandhi as the Prime minister at the evening of 30 October 1984 after five hours of the sad assassination of the Prime Minister Indira Gandhi. Rajiv Gandhi was at the moment touring in West Bengal and was flown back to the Capital. Well, immediate appointment of the Prime Minister is imperative under parliamentary system of government, but only to the leader of the parliamentary party. Rajiv Gandhi was first appointed as the Prime Minister and next day he was elected as the leader of the parliamentary party, which was clear violation

of the parliamentary protocol[25]. However, prerogative of the President to appoint the Prime Minister could not be questioned.

## Further Controversies

With this kind of apprehension Zail Singh started to assert his presidential position later. Article 78 of the Constitution provides that the President shall be communicated on decisions of the Government. It was customary on the part of the Prime Minister to meet and appraise the President after every foreign visit. But while returning from his visit from the West in 1986, Rajiv Gandhi boasted before the press at Indira Gandhi International Airport that he had violated many traditions and as such he did not feel it imperative to meet the President after his foreign tour. Zail Singh was also kept in dark on the proceedings of the South Asian Regional Conference held at Bangalore in 1986 in spite of verbal request of Zail Singh to Rajib Gandhi. The President was also not informed on major national events like Punjab Accord with Longowal and Mizoram Accord with Mizo National Front. He was also not provided the New Education Policy, 1986 document nor the much acclaimed 20-point Economic Programme of the Union Government.

Rajiv Gandhi reported in Lok Sabha on 4 March 1987 that he used to inform the President properly on all major developments. However, the Indian Express stormed the nation that Zail Singh had despatched a letter to Rajiv Gandhi over the Prime Minister's remark[26]. Madhu Dandavate moved a Privilege Motion on 18 March. Speaker Balram Jhakar disallowed the motion that communication of the President and Prime Minister are treated as secret documents; and the President must be kept beyond the acrobatics of politics[27]. Yet Chandra Shekhar argued that the communication of the President to Rajiv Gandhi constituted public excitement on propriety of the Prime Minister[28]. Similar motion was moved by Jaswant Singh in Rajya Sabha. The Chairman R. Venkataraman replied citing Dr. Ambedkar that the President was a mere constitutional head and the Council of Ministers was responsible to the Parliament. He added, under Article 74 of the Constitution the communication between the President and the Prime Minister could not be questioned.

However, L.K. Advani alleged thus: "If the President violates the Constitution, the only sanction provided in the Constitution is to arraign him, he can be impeached. But if a Prime Minister is guilty of disregarding the Constitution, only sanction available to the Members of Parliament is to invoke the intervention of the President"[29].

Jawaharlal Nehru had categorically stated in the Constituent Assembly that "we did not want to make the President just a figure head like the French President (then). We did not give him real power, but we have made his position one of great authority and dignity". Further, the Supreme Court in its landmark judgement in Shamsher Singh's case was categoric that "Far from it, like the King in Parliament, the President will have still the right to be consulted, to encourage and to warn. The President in India is not at all a glorified cypher…..but actually vested with a pervasive and persuasive role"[30].

To add, Zail Singh maintained reticence over the Indian Post and Telegraph Bill in 1986 leading to shelve the Bill in the cold storage. The bill authorised the Government to intersect any correspondence which was

With this kind of apprehension Zail Singh started to assert his presidential position later. Article 78 of the Constitution provides that the President shall be communicated on decisions of the Government. It was customary on the part of the Prime Minister to meet and appraise the President after every foreign visit. But while returning from his visit from the West in 1986, Rajiv Gandhi boasted before the press at Indira Gandhi International Airport that he had violated many traditions and as such he did not feel it imperative to meet the President after his foreign tour

comprehended objectionable.

By this time there had been complete breakdown of communication between the President and the Prime Minister; and the rumour mill read that Zail Singh might dismiss the Rajiv Gandhi Government at any time. Atal Bihari Vajpayee and L.K. Advani of BJP made a representation before Zail Singh that any such step would create a bad precedent. The factor of communication of the President and the Prime Minister was the prime point in the newspapers those days. However, Zail Singh left his successor to interpret the scope of Article 78 of the Constitution; and the matter remained in oblivion.

## Critical Appraisal

Gone are the days of absolutism of the British King. Theory and practice of the English system rolled down in the annals of their history gathering mass and momentum, and all constitutional stake holders maintain their respective role with perfection.

Kingship and his powers and position have been created in the cherished history of England and he has been a ceremonial head. What made the Indian Constitution makers to create a ceremonial, ornamental head while India emerged from the debris of colonial superstructure and feudalism? Rather they would have decolonised themselves as a matter of symbol that they have brought something unique in reconstruction of the nation. But they bore the burden of colonial legacy!

Creating an ornamental head has become unduly costly to the exchequer, besides it is also involves duplication of the work load since all the files are being despatched to Rashtrapati Bhavan for formal assent. Nowhere the President could exercise his subjective decision except three prerogatives designed in the Constitution, which could have been avoided. When he endeavours to differ there is unwanted clash with the Prime Minister as demonstrated in the initial decade. This is after all Prime Ministerial form of Government – not Presidential.

Duplication of work also results in unnecessary delay. So both cost and time factors were being ignored by the Constitution makers and they jumped to the band wagon of parliamentary system. Perusal of the Constitution debates indicates that the opinion on this dimension was euphoric; euphoric in the sense they were jubilant that they were carrying aloft the system practised by their erstwhile colonial master, Great Britain. Presidential system of government would have not only saved needless financial burden and time owing to the ceremonial head and the system, but created political stability. Post-independence India rather demanded swift implementation of national reconstruction agenda. The only alternative is certainly not the American mode; they could have amended certain provisions of the American mode and evolved a unique one just they did in case of the West Minister system.

Many factors guide to select a Presidential candidate, and this compulsion is inevitable in democratic frame-work. So a President could hardly be non-partisan and absolutely impartial. Dr. A.P.J. Abdul Kalam was the only exception who had non-political background. Yet a kind of psychological factor might grasp the President since he was being invited and supported by ruling political dispensation.

There have been unexpected extenuating circumstance when the President has been at cross-roads, and that too under the weight of inbuilt demerit of the Parliamentary system itself and not due to the President. Illustratively, split of the parliamentary party which may reduce the ruling party to minority, as happened in 1979. The split group led by Chaudhary Charan Singh mustered majority support along with the opposition Congress (against whom they had fought and won); but it lasted for only a couple of months. Charan Singh as Prime Minister never faced the Lok Sabha, even to prove his majority support, and had to resign in July 1979 – only to invite mid-term poll in December 1979. Why to blame the role of the President? He acted as and when the constitutional propriety needed.

The same kind of situation was repeated in 1990 October-November when BJP withdrew support from V.P. Singh

Government since Advaniji was arrested at Samastipur. Chandra Shekhar headed a splinter group of Janata Dal and with the support of the opposition Congress sworn in as Prime Minister only to resign during the budget session of the Parliament in 1991.

There was hung Parliament in 1996. The President invited the single largest party headed by Atal Bihari Vajpayee to form the Government. But with a span of only thirteen days it collapsed since it lacked the confidence of the House. Then a peculiar conglomerate came up with Congress support ensuing the Prime Minister Deve Gowda's resignation dictated by the supporting party The Congress paved way for Indra Kumar Gujral to assume the Prime Ministerial office; which also proved short lived[31].

The Vajpayee Government for the second time continued for thirteen months inviting mid-term poll after withdrawal of AIDMK led by Jay Lalita. Thus two mid-term polls were conducted, in 1998 and 1999, due to political instability. Role of the President in appointment of the Prime Ministers was obviously trying. Yet nobody could cast any apprehension on any of the Presidents. Only the parliamentary system of the Government is to be blamed after searching scrutiny. The Constitution makers opted for it in spite of the bitter experience of multiple short lived governments in Italy and Japan with this system.

Given the experience a stable singular executive would have been justifiable in Indian condition to get rid of political instability and confusion pushing the nation in adverse direction. The institution of the President could be phenomenally utilised in proper perspective along with the actual pivot of the Government, ie., the Prime Minister. The King-in Parliament very well exists in India when the President is integral part of the Parliament (Article 79 of the Constitution). So the course correction demands vigorous attempt to depoliticise the institution of the President and keep the system of communication run effectively as a matter of practice, say, custom. "One Nation One Election" worldview might be a constructive step in the vision of course correction.

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2. Article 75
   (1) The Prime Minister shall be appointed by the President and other Ministers shall be appointed by the President on the advice of the Prime Minister.
   (2) The Ministers shall hold office during the pleasure of the President.
   (3) The Council of Ministers shall be collectively responsible to the House of the People.
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3. Laski, *Parliamentary Government in England*, Oxford, 1938, p.228-9.
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9. Elizabeth II in 1998 amended the tradition of eldest male of the royal family to ascend the throne (law of primogeniture), and female, if eldest, could also ascend so.
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11. Bagehot, Walter, *The English Constitution*, Oxford, 1872, (Source, National Library,

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12. Chakraborty Rajgopalchari was the Governor General then, who was a strong contender for the Presidency. A Cabinet Sub-committee was constituted consisting of Jawaharlal Nehru and Sardar Patel to pick up the President. Sardar Patel forcefully pleaded for Dr. Rajendra Prasad, and his view prevailed upon.
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15. The Indian Express, 15 July 1969; which was news in every newspapers including editorials and columns.
16. Banappa Dasappa Jatti had incurred dubious distinction as Governor of Odisha since he dissolved the Assembly in 1973 and advised President's Rule in 1973 even though the Leader of Opposition, had paraded majority support before him. Perceptibly for this service he was awarded the office of the Vice President.
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Prof. Vishwanath Mishra

# The Expansion of the Power of the Executive and Shrinking of the People's Domain: A Deliberative Study

The executive is a very important part of our system but the overexpansion of its powers is narrowing the public sphere. A pursuit

It was in the first half of the last century itself that Lord Hewart viewed the increasing powers of the administration and the executive branch of the state as a new dictatorship.[1] According to his view, the core of this new dictatorship was the surrender of the legislative and judicial branches of the state to its executive one.[2] Hewart held the tendency and practice of delegated legislation too as being responsible for this.[3] Although this book was then severely criticized and the British government constituted the Donoughmore Commission to investigate its provisions and review the powers of ministers, but this commission too failed to understand the nuances of the problem. Behind this failure was also the role of commission members like Laski, who were influenced by socialist ideas, who then considered the expansion of the executive power of the state as conducive to the achievement of socialist goals and went to the extent of criticizing the rule of law. Since the coming into existence of the state, its executive power has expanded to a degree greater than that of the legislative and judicial branches. The reasons for this are advocated as better implementation of laws, proper management of sudden disasters, internal demands of bureaucratic structure, delegated legislation, and pressure of international politics, etc. But looking at the extent to which the executive has expanded its power and the state of performance of the administration, it can be said that the increase in the level of performance in proportion to the increasing power of the executive branch is not satisfactory. Yet today, administration and the state have become synonymous with each other.

In the context of overall human life, we may perceive the excessive expansion in the powers of the executive as a malaise, in which one part of the human body has expanded more than other parts. In a way, it is like elephantiasis, in which the foot becomes much thicker and heavier than other organs, but its functionality is lost and due to this, the functionality of other organs also diminishes. This disease becomes severer when a particular person is made the head of the entire executive or the entire administration, and he is presented as the face of, or the

central figure in the function of every department. This tendency was seen in Nazi Germany as well in the past. Stalin's rule also suffered from this tendency.

In our times, the expansion of the powers of the executive has given rise to the malady of shrinking of the people's space, which not only hinders the all-round development of the society but which has also blurred the distinction between legal and political responsibility. In modern times, we can find the sources of theorization in favour of this trend in David Easton's post-behaviourism, where he described the politicization of businesses as a characteristic of post- behaviourism.[4] However, when Easton spoke about the politicization of profession, his objective was also to bring about the rise to such a psychology among the American people associated with various professions that would be in favour of the American capitalist free society that would be supportive of the capitalist state and its policies against its socialist opposition. This initiative first promoted public support in American society for the increasing powers of the executive branch of the state, and later, when behaviourism and post-behaviourism began to be taught as a standard approach throughout the world, provided political legitimacy. The American mentality pushed other indigenous attitudes into the background. In recent years, American thinkers like Michael Sandel have presented a basic philosophy regarding the increasing powers of the state, which is directly related to the expansion of executive power. The essence of his exposition is that the Western state is based on the concept of non-historical and non-social man (unencumbered self), which has harmed the concept of community man and community values and has also created problems of justice.[5] Explaining the expansion of the executive power of the state, Sandel has written that when an attempt was made to awaken national consciousness in America through a centralized economy instead of a decentralized one, it not only led to the defeat of American republicanism, but one of its consequences was also that instead of connecting between people, it promoted complexities.[6]

The increase in the executive power of the state in the name of better implementation and management also needs to be reviewed from the point of view as to whether it uses this power for the development of any noble human sentiments, or is its purpose merely to maintain the state system and to keep it active. For this we need to understand today's politics. One form of politics has been that about which a thinker like Kautilya even wrote that *"**Sarve Dharmāhā Rajdharme Praviṣṭhāhā**"*. While looking at politics from a similar perspective in the Greek tradition, it too was called the best form of civilization building. This was that form of politics where politics did not merely follow the economy, industry, machinery and mass consumption, but in fact used to direct them. For this reason, politics had the optimum place in collective human cooperation. It is in this form of politics that power was vested in. Hannah Arendt says that later on violence elbowed out this power of place in politics.[7] The displacement by violence, of the power vested in politics, has given rise to a civilizational crisis that first led to the decline of community life and its inherent values in Europe itself and which is now leading to a Western lifestyle based on the Western model of economy, politics and consumerism

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throughout the world. Because of following this, it is causing the decline of community values and companionship-based lifestyle of every society.

Hannah Arendt has used several variables to explain this change. But the thing on which she emphasizes the most is labour,[8] work[9] and through them, achieving action.[10] In a way, this interpretation appropriately reflects the culmination of the egoistic-powerful man and his secular vision of life as defined in the Western Enlightenment. This is at a time when what is most desirable for the most powerful branch of the State is the development of its own power and keeping mankind tied up in the needs of labour and work. In a way, this is an attempt to shape the future of mankind into uniformity, which has taken away man's individuality. This is an attempt to forge a consciousness through materialism, which is also the biggest violence against humanity. Its effect is now also manifesting itself in the way that the public sphere, which was the biggest realm for the creation of human consciousness, has also been transformed into the sphere of material achievements and the sense of public companionship or association inherent in it is disappearing. This entire trend is entirely compatible with the Abrahamic way, but in the Brahmic tradition, non-violence has been described as the essence of the State. While directing the head of the executive in Kautilya's *Arthashāstra*, it has been written: '***Sarveṣāmahi nsāsatyamśaucamānasūyā nṛśamsyamkṣhamāca*** (1/2/3),[11] meaning, it, i.e., the state should eschew violence towards everyone and remain pure, benign and forgiving.

It is said in the *Amarkosha* that "***Shaktiḥ strī***, (Shaktin) ***Kāyajanana sāmarthyam***" while explaining this, in the very next line giving an example from the *Devīī Māhātmyam Tikā* (commentary) written by Durga Kalpadruma Nagoji Bhatt, it is written "***Yā devī sarvabhuteṣu śaktirūpeṇa sansthitā***". That is, Shakti is that form of Goddess which is present in all the beings. The presence of Goddess Shakti in all the beings is the basis of "***Ātmavat sarvabhūteṣu***". This is the collective expression of Shakti and the Goddess Shakti herself is the expression of the collective radiant energy of all the gods. That is, the basis of the "potential" in power is that of the collective. Similarly, the answer to the question of what kind of "result" is expected to be produced from the "ability" in the form of power is also dealt with in the in *Amarkosha*. "***Sham kalyāṇam karoti***" has been instructed from the example of the *Skanda Purana*. Here, the meaning of Shakti is formed from the suffix 'Sham' from the root 'Kri' as "***Śamidhāto sangyāyāma***". In this way, in the Sanatana tradition, the power that produces the outcome of collective welfare from a collective source has been termed as Shakti.

Again, in the *Amarkosha*, Shakti has been mentioned and described through its three categories—Sat, Raja and Tama collectively called the *Shaktitrayātmaka*. Similarly, Māyā has also been expressed as the power of God through "***Vishṇormāyayā***". Māyā has also been called nature. In the *Amarkosha*, citing an example from the *Bhāva Prakāsha*, it has been said "***Pradhānam prakriti śaktirnityā cāvikṛtastathā. Etāni tasyā nāmāni puruṣam yā samāṣritā tasyā gunānāha satvam rajastamastrīni vijneyāhā prakritergunāhā.***"

Dharma has also been called

Hannah Arendt has used several variables to explain this change. But the thing on which she emphasizes the most is labour, work and through them, achieving action. In a way, this interpretation appropriately reflects the culmination of the egoistic-powerful man and his secular vision of life as defined in the Western Enlightenment. This is at a time when what is most desirable for the most powerful branch of the State is the development of its own power and keeping mankind tied up in the needs of labour and work

Shakti in the *Amarkosha*. Here, it is necessary to reveal the secret of power in the form of "Shaktitrayātmakaḥ" and "Vishnormāyayāhā". For this, let us take help of the dialogue between Krishna and Arjuna. Krishna said to Arjuna, "***Sangamtyaktvā Dhananjaya***", which means, shed attachments, Arjuna. Krishna also said, "***Traiguṇya viṣayāvedā nistraiguṇyo bhavārjuna***", i.e., rise above the *triguṇātmikā* intellect even in the matter of knowledge. Krishna further said, "Arjuna, what I am saying is the truth". In fact, the problem or despondency of Arjuna and by extension, of the modern world, is that we start trying to apply māyā, i.e., the laws of nature or science to man and society in the same way as they are applied to the material world. As we become engulfed by technology, only the world of work remains and action becomes ostracized. This tendency is a natural result of depression. These consequences change our rules of morality and our structure of thought. The mind cast in this mould believes that by tying a piece of the red garment offered to Mother Durga to the barrel of a gun, the bullet that emerges from the barrel will be as infallible as the arrow of Goddess Durga and will also be of a spiritual nature.

The nature of working of today's executive is also similar, in which it is seen taking the help of spirituality, but inasmuch as it is a partisan use of religion in the sense of pandering to the sect, it is not meant to transmit spirituality among the public. If we want to understand this issue through symbols, we can say that the politics of those who have been called demonic is dominated by violence while the politics of those termed godly are dominated by Shakti or (benign) power. Whenever today's executive branches (of governments) discard the differentiation between ends and means, they actually bring in demonic politics. There are many such stories mentioned in our hoary scriptures of whenever the head of state or executive fell to the level of power-based politics, he had to undergo severe penance in order to rectify it. In the *Manusmriti*, while giving the example of Vena and Nahusha, it has been said that the person(s) bearing the sceptre must be free of vice; else, the sceptre itself would destroy them.[12]

In today's time, the game of capturing people's minds in order to win elections and in party politics has tarnished all the norms of political probity. When a player who is an expert in the politics of competition and blame comes to power, he too starts a campaign to convert his lies into truth. This too increases the power of the executive; the public sphere becomes politicized and starts losing its roots.

The concept of state-centric Western nationalism has also conferred immense power to the executive in favour of the state to arouse the feeling of being ruled among the people. In fact, when people get organized through nationalism, they develop a polity based on power, in the form of a nation. Due to this, the role of public sphere also becomes wider and a sublime association too is established in it. But when nationalism is used by the ruling class to generate legitimacy for the regime, it proves to be disruptive and destructive

The concept of state-centric Western nationalism has also conferred immense power to the executive in favour of the state to arouse the feeling of being ruled among the people. In fact, when people get organized through nationalism, they develop a polity based on power, in the form of a nation. Due to this, the role of public sphere also becomes wider and a sublime association too is established in it. But when nationalism is used by the ruling class to generate legitimacy for the regime, it proves to be disruptive and destructive. For this reason, it is necessary to differentiate between nationalism among the people and nationalism projected by the ruling class. Expressing this difference in a different way, Rabindranath Tagore has called the nationalism of ancient societies as handloom type of

nationalism and the nationalism of modern societies as powerloom kind of nationalism. This power loom kind of nationalism fits the individual like a part in the machinery of the state, where he becomes like a material object, devoid of his human and conscious self.[13] In modern societies, this kind of nationalism has been promoted by the executive establishments for their own protection.

Many arguments have also been used in defence of the increasing powers of the executive branch of the state. For example, today's civil society organizations of the NGO model are said to be conductors and complementors of the public sphere. The argument is often advanced that all of them work in collaboration with the executive branch of the state, as a result of which the power of the public sphere has been enhanced. PPP, or public-private participation, is also talked about in this context. But this argument of defence is a demonstration of indifference towards the politics behind the voluntary organizations started by the World Bank through the efforts of Robert McNamara. In fact, the economic interests of such voluntary organizations are followers of Western economic structures and are also a means of dispersing the growing public anger against those setups. On the contrary, traditionally in India, temples, ashrams, castes, markets, fairs, gurukuls, pilgrimages, festivals, etc., have been such powerful mediums of civil society or the public sphere, which had more control over public sentiments than political power could wield, and which were used by our traditional society to prevent political power from going astray. Their language then was the language of dharma and was associated with human concerns. But due to the storm of development of the Western model and the influence of colonialism, their language too has become the language of politics and they have begun working as the hidden mediums of the consolidation of power, due to which the social pressure on the executive branch of the state has now reduced.

Often, there is a demand for strengthening the executive branch on the basis of the failure of the then state in medieval India against foreign invasions on many occasions. However, this demand does not reflect a correct understanding of the facts and perspective. In fact, after examining many such failures, it becomes clear that our power was more than that of the attacker but we did not deploy that power properly. In modern India, due to the effectiveness of the executive branch, quick implementation, etc., the presidential system of governance has been advocated many times instead of the parliamentary system of governance. But changing the structure is not the solution. Rather, what is worth considering is that in the world in which we live today, more than two-thirds of the world's capital has been concentrated in less than four thousand families. The moot question is whether today's state can influence this economic structure on the basis of public concerns or has it itself has become a medium to nourish this structure.

In India, Gandhi and Deendayal Upadhyay had closely understood the anomalies of machinery, industry, centralization and excessive consumption. They were well aware of the corrupt influences of this quad and understood that it would neither allow Indianisation of politics nor allow political power to become a medium of service. Without making politics a medium of public service, any reform as regards the executive's aspiration for power over performance is often far-fetched.

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evade the courts, and to render the will, or the caprice, of the Executive unfettered and supreme". Lord Hewart (1929), *The New Despotism*, Ernest Benn Limited, London, p.17.

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4. M.L. Varma (2008), *Advanced Modern Political Theory*, Rawat Publications, New Delhi, pp. 61-65.
5. Michael J. Sandel (1982), *Liberalism and the Limits of Justice*, Cambridge University Press, New York.
6. "In our public life, we are more entangled, but less attached, than ever before" Michael J. Sandel (1984), *The Procedural Republic and the Unencumbered self, Political Theory*, Vol-12, No-1, p.94
7. "Political theories from Left to Right that violence is nothing more than the most flagrant manifestation of power. All politics is a struggle for power the ultimate kind of power is violence", said C. Wright Mills, echoing, as it were, Max Weber's definition of the state as the "rule of men over men, based on the means of legitimate, I.E. allegedly legitimate violence". The agreement is very strange for to equate political power with the "the organisation of violence". Hannah Arendt(1969), A special supplement: reflection on violence, *The New York review*, February 27th.
8. Labor is the activity which corresponds to the biological process of human body, whose spontaneous growth, metabolism, and eventual decay are bound to the vital necessities produced and fed in to the life process by labor. The human condition of labor is life itself. Hannah Arendt (1998), *The Human Condition*, Chicago: The University of Chicago Press, pp. 5-8
9. Work is the activity which corresponds to the unnaturalness of human existence, which is not imbedded in, and whose mortality is not compensated by, the species ever recurring life cycle. Work provides an "artificial" world of things, distinctly different from all natural surroundings. Within its borders each individual life is housed, while this world itself is meant to outlast and transcend them all. The human condition of work is worldliness. Hannah Arendt (1998), *The Human Condition*, Chicago: The University of Chicago Press, p. 7
10. Action is the only activity that goes on directly between men without the intermediary of things or matter, corresponds to the human condition of plurality, to the fact that men. Not man, live on the earth and inhabit the world. While all aspects of the human condition are somehow related to politics, this plurality is specifically the condition – not only the condition sine qua non, but the condition per quam – of all political life.... However, of the three, action has the closet connection with the human condition of natality; the new beginning inherent in birth can make itself felt in the world only because the newcomer possesses the capacity of beginning something new, that is, of acting. Hannah Arendt, *The Human Condition*, Chicago: The University of Chicago Press, 1998, pp. 7-8
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12. *Manusmriti*; commentary by Kullak Bhatt, 7/41-42
13. "Before the nation (nation state in terms of western meaning, emphasis added) came to rule over us we had other governments which were foreign, and these, like all governments, had some element of the machine in them. But the difference between them and the government by the nation is like the difference between hand-loom and power-loom. In the products of the handloom the magic of man's living fingers finds its expression, and its hum harmonize with the music of life. But the power-loom is relentlessly lifeless and accurate and monotonous in its production". Rabindranath Tagore (2005), Omnibus, Vol -3, Rupa Publications, New Delhi, p. 40

Dr. Chander Pal Singh

# Bureaucracy: An Imperialistic Agency

Administration of our country mainly relies on its bureaucracy. An account of seeding and development of modern bureaucracy in India

Originally the term 'bureaucracy' meant a cloth that covered the desks of eighteenth century French officials, describing a government ruled by officials.[1] In this article, the term 'civil service' is used interchangeably with bureaucracy, both the words meaning the same. Bureaucracy includes a hierarchy of personnel from the chief secretary level down to a lower division clerk, but scope of this article is limited to the uppermost level of civil service called Imperial Civil Service (ICS) in the British India and Indian Administrative Service (IAS) in independent India. This article argues that British bureaucracy played a vital role in creating, maintaining and strengthening imperialistic rule of first the East India Company upto 1857 and afterwards of the British Crown over India till 1947. Further, it tries to connect the problems plaguing the post-independence Indian bureaucracy such as constrains of red tape, rule bound nature, lack of initiative and innovation, procedural issues and elitism with bureaucracy's colonial origins. Though the recruitment to ICS ended in 1940s and a new service IAS was born after India became independent, IAS could not shake off the colonial inheritences.

Bureaucracy is intrinsically associated with the state and hence origins of the bureaucracy can be traced from the dawn of the civilisation. Its functions expanded with time and by the eighteenth century the role of the civil services had widened considerably in the nation states of Europe. So when British rule was established in India in mid eighteenth century, beginning from Bengal and then covering most of the rest of India, British bureaucracy played a vital role in the Empire. By 1765, the term 'civil servant' started appearing in the records of the East India Company to describe its officials to distinguish between those engaged in civil and military activities.[2] Initially those recruited into civil service of the Company were 'writers' nominated by directors of the Company, mostly such nominations were sold for money and hence the appointment process was a source of income for the directors. Almost all such young civil servants came into India with the objective of amassing a fortune in India resulting in rampant plunder

and corruption. When these civil servants returned back to Britain they were jeered as *nawobs*. The issue of corruption by the Company officials in India became such a big scandal in England that British Parliament had to pass a law in the Charter Act of 1793, forbidding the directors of the Company to take an oath that they will not make any nomination in exchange for gifts and money.[3] Ultimately, the Charter Act of 1833 ruled that for every vacancy in the Company's civil service, at least four candidates will be nominated by the directors, out of which one shall be selected by a written entrance examination.[4] The 1833 Act also fixed the age of candidates between seventeen and twenty years meaning there by that most of the writers who came to India only had school education and they were without a university degree. Subsequently, the Charter Act of 1853 threw open the appointments to civil services to open competition and a committee with Lord Macaulay as Chairman was appointed to advise on the ways and means to recruit and train suitable candidates for the civil services.

Macaulay Committee's report was submitted in 1854, it laid down the foundations of a merit-based recruitment which continues to the present day.[5] The committee recommended the age bracket of eighteen and twenty-three years for the new recruits so that had a university education. Secondly, the candidates were to be tested in certain subjects such as English language and literature, history, mathematics, natural sciences, moral and political philosophy, Sanskrit, and Arabic. Thirdly, Macaulay Committee also drew a training programme for the selected candidates after they were again examined to determine their rank in the civil service.

The primary task of the civil services in colonial India was to create and sustain an empire eight thousand miles away from the mother country, in a land which had more population and more diversity than the entire Europe, so services of the best and the brightest were called for. British bureaucracy which never exceeded 1,200 officers, assisted by some 50,000 British troops were able to hold and administer some 30 crore people, thus earning the sobriquet - 'steel frame'[6]. ICS directed all the activities of the colonial state in India. They collected the revenue, allocated land rights, oversaw famine relief and agricultural improvement, built public roads, suppressed revolts , drafted laws, investigated crimes, judged lawsuits, took up municipality administrations and a host of other activates. They also implemented policies approved by home authorities in Britain. They were the vital linkages of

"a clear-cut chain of command, resting on a rigorous system of reporting, linked the humblest griffin to the House of Commons. Assistant commissioners, at the bottom of the heap, did what the deputy commissioners told them; half a dozen deputy commissioners, each with his own district, worked under the supervision of a commissioner; the commissioners got their orders from the governor, through the governor's mouthpieces, the secretaries who ran the provincial secretariats; the provincial governments got their instructions from the viceroy and his councillors; the Government of India obeyed despatches from the India Office; the Secretary of State reported to the Cabinet; and the Cabinet answered to parliament for the actions of their minions."[7]

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half of the ICS strength were engaged in administrating the districts. District being the primary unit of British administration in India, a typical ICS spent most of his service there as district collector or district officer or district magistrate or a deputy commissioner enjoying executive, financial and judicial powers. Jurisdiction of the district officers covered petty civil and criminal offences but at some point in their career ICS were given special appointments in the higher judiciary until Montague-Chelmsford reforms restricted ICS officers to comprise no more than twenty percent of all high court judges.[8]

More than administering the Indian Empire, ICS was charged with securing its dominance. ICS officers had a large say in the formulation of policy and a great deal of discretion in executing it. For many Indians and Britons, the ICS with its concentration of legislative, executive, and judicial power was the Raj.

The imperialistic nature of the British Raj being ruled from afar necessitated a hierarchical and rigid rule bound civil service in India, maladies which later continued into independent India's administrative machinery. As native subordinates could not be trusted to take decisions, all their decisions were to be approved by their officers. For similar reason, an elaborate set of rules and regulations to control the decision-making powers of the large number of native subordinates. Another way to deal with native subordinates was to centralise the decision-making process. Accordingly, the organisational setup was made hierarchical to ensure a clear-cut chain of command, based on an elaborate system of reporting.

After the ICS was opened to competition, It became the pinnacle of aspiration of educated Indians. No wonder that Indianization of civil service was an early nationalist demand. East India Association in 1867 had first raised demand for simultaneous ICS exams in India and Britain. After the formation of Indian National Congress, this demand figured in its every resolution from 1885 to 1915.[9]

The exam was now open to all, and selection to the service decided on the basis of the merit list. Yet there were still a number of barriers to entry of the Indians such as the age-limit, location, and content of the exam were all weighted against Indian applicants. Each was to be a bone of contention between the British establishment and the growing Indian political class, from whose ranks most Indian ICS aspirants would be drawn. In 1876, the age-limit for the ICS exam was reduced from 21 to 19 causing big trouble for Indian aspirants because in several regions age of the person was counted from the conception, not the birth, and most young boys started their eduction late. Naturally, the move was seen by Indians as a mechanism to keep them out of the ICS because in order to be able to compete for the ICS, Indians had to first graduate from college in India, then proceed to England, where they would have to spend at least a year preparing for the exam. Also, the syllabus for the exam was heavily weighted in favor of those who already had an English public school education. Finally, the fact that the exam was held only in England was a huge barrier for Indian ICS aspirants. It was an expensive and dicey proposition: a failed ICS candidate might well be responsible for loans running into thousands of rupees, with very few prospects for paying it back.

Thus, it is not surprising that ICS consisted largely of Europeans until 1919, exam being held in England until 1923 was geared to students with an English public school education. As far as university background of the Europeans, Oxford and Cambridge universities predominated. Upto 1914, 47 percent of successful candidates were from the Oxford University and 29 percent from Cambridge University. After 1914 this figure was 41 percent and 35 percent respectively.[10]

First Indian to make it to ICS was Satyendra Nath Tagore in 1864 from the Tagore family. Data regarding the presence of Indians in ICS shows that by 1873:4, 1883:12, 1892:25, 1915:63 natives were serving in the ICS. The year 1914, being the year of start of the first world war also marked a

significant shift in the recruitment of ICS. From 1914 onwards, London examination suddenly ceased to be the main avenue of recruitment. Appointment of European candidates through examination dropped suddenly. From 1915 to 1924, 80 percent of all European candidates were not secured by examination but by appointment of persons who served in (and survived) the war.[11] For the Indian candidates, the long pending demand for examination in India was fulfilled when in 1922 an annual competitive examination was introduced at Allahabad (1928 onwards in Delhi). In the same year a new practice was started whereby Indians from minority communities, unsuccessful at the examinations were nominated in ICS as counterweight to Hindu candidates. Of the 87 Muslims who entered the ICS during the period 1922-43, 58 (68 percent of the total) were not successful in the examinations but were nominated to the ICS.[12] As a result of these changes, Indians accounted for 44 percent of all ICS recruits during 1915 to 1924.[13] We can say that Indianization of ICS began from 1915 onwards. In the year 1939 there were 583 Indians serving in the ICS. In the early 1940s Indians outnumbered Europeans for the first time.

First World War marked the waning of English influence in ICS but the first big jolt to to the ICS creed came with the Montague-Chelmsford reforms in 1919 so much so that a prominent English ICS lamented that reforms 'would ruin the Indian Empire whah my ancestors had helped to create'.[14] 1919 Act limited the influence of ICS officers in the provincial and central legislatures by placing a cap on official participation in these bodies. In the provinces, ICS were made directly accountable to elected ministers in respect of transferred service. The 1919 Act also recommended a gradual increase in the Indian component in the service. The British element in the ICS was very much disappointed by the new system. Authority of the district officer declined, not only because of the rising nationalist sentiment in the Gandhian movements but also because political workers in the district now had a direct line of communication with ministers in the provincial government. Already there was some discontent against the increased numbers of Indians in the service and also against the Indian politicians. Overall the message was that ICS' role in the policy making was reduced. Extent of discontent was such that more than 200 people resigned from the service in 1922.[15] A wider impact of this realisation, the data shows, was that fewer European candidates were interested in taking the ICS examination.

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To look into the issues of service discontent and decreased recruitment, two commissions were appointed in 1922 - Lee Commission and the MacDonell Commission. MacDonell Commission found that discontent stemmed in part from the uncertainty of the ICS position with respect to the 1919 Act, and due to the rise in the anti-British feeling.[16] Lee Commission suggested a number of measures to uplift the morale of civil services - improving service conditions, more lenient leave rules and personal benefits. Importantly, Lee Commission re-emphasised the 1919 Act position that Indians and Europeans be recruited in equal numbers, as far as possible to deal with the new political realities.[17]

The failure to attract new recruits to the ICS alarmed all shades of political opinion in Britain. Government of India moved to re-establish their

supremacy under the orders from the Cabinet in London. Lee Commission being one such response. In the British parliament, Prime Minister Lloyd George, made a remarkable speech to dispel insecurity amongst the British bureaucracy and also to encourage potential candidates in universities and public schools in England.

"I can see no period when they [the Indians] can dispense with the guidance and the assistance of this small nucleus of the British Civil Service, of British officials in India…they are the steel frame of the whole structure. I do not care what you build on it – if you take the steel frame out, the fabric will collapse…"

"We cannot keep a continuous eye upon what happens in India… It depends upon the kind of Government that you have there. It is essential that they should be strengthened, but whatever you do in the way of strengthening it, there is one institution we will not interfere with, there is one institution we will not cripple, there is one institution we will not deprive of its functions or of its privileges, and that is that institution which built up the British Raj – the British Civil Service in India."[18]

Implementation of the Lee Commission recommendations and spirited defence of ICS by the British government did have a positive impact on European recruitment in ICS which rose up significantly in the later 1920s (three in 1924 to 20 in 1925, 29 in 1926, and 37 in 1927) before it fell away again in the early 1930s (five in 1935).[19] Overall, during the early 1930s, there was a severe shortfall of European entrants to the ICS whereas the number of Indians in the services was fast increasing. Between 1925 and 1935 total Indian recruitment was 311 compared to European recruitment of 255 in the same period.[20] Number of Indian entrants was consequently reduced so that the ICS would not be swamped by Indians. Therefor, control posts in the colonial structure meant for ICS officers were being gradually abandoned.[21]

Next landmark in the history of ICS was Government of India Act, 1935. As Viceroy Linlithgow put it in retrospect, the 1935 Act was seen to be the best way of maintaining British influence in India, on a long view, 'to hold India to the Empire'. The 1935 constitution provided unprecedented degree of constitutional protection to civil servants. In addition to safeguards in the matter of privileges such as pensions and salaries, civil servants were taken to hold service at the pleasure of the Crown and their dismissal was forbidden by an authority inferior to the appointing authority

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The context of bestowing constitutional protection to the civil service is understandable given the prospect of fear of political vindictiveness on part of the Indian political parties who would come to power. British

bureaucracy being the executive arm of the colonial state was neck deep in suppressing nationalist activities and movements. Yet, despite this history of opposition, there was surprisingly little acrimony between the Indian political parties in elected legislatures and the ICS. Congress ministries relied on bureaucracy to implement their policies, and ICS officials were pleasantly surprised by the amount of support they received from the Congress leaders in power. This was made possible by the conception of ICS as a politically neutral civil service, a service which would implement the orders of its political masters regardless of what they were.[23] Memoirs by former civil servants, both British and Indians, bear testimony to the curious but symmetrical responses of the British and Indian political establishments. The British tolerated nationalist views of Indian ICS officials as long as these were matters of private opinion and did not interfere with their public duties; while Congress leaders tolerated actions of ICS officers in support of the Raj as they were seen as 'simply doing their job'.

The conception of a politically neutral civil service, trust in its ability to efficiently run the administration in the difficult phase of partition and independence, and the need of the hour to maintain unity of the country at any cost were the reasons which convinced the ever pragmatic Vallabh Bhai Patel to staunchly support the continuity of the civil service in independent India (ICS became IAS). During an intense debate in the Constituent Assembly, Patel had to convince an influential group in Congress who viewed Indian ICS officers as disloyal collaborators — 'enemies of the country' who could not be trusted, that the country could not be run without the Services. In Patel's opinion, there was no credible alternative to the ICS. He rejected the opinion that Congress workers could substitute for bureaucrats in the administration. More significantly, he also put forward a forthright defence if the loyalty of the civil service:

"...do not quarrel with the instruments with which you want to work. It is a bad workman who quarrels with his instruments. Take work from them...Nobody wants to put in work when every day he is criticized and ridiculed in public … If you have done with it and decide[ed] not to have this service at all, even in spite of my pledged word, I will take the Services with me and go."

"I wish to assure you that I have worked with them during this difficult period — I am speaking with a sense of heavy responsibility — and I must confess that in point of patriotism, in point of loyalty, in point of sincerity and in point of ability, you cannot have a substitute. They are as good as ourselves…I wish to place it on record in this House that if, during the last two or three years, most of the members of the services had not behaved patriotically and with loyalty, the Union would have collapsed."[24]

Patel was not being just pragmatic. He strongly believed in the importance of an all-India service to protect the integrity and unity of the country. Moreover, he realised the fact that the ICS were a loyal civil service to the Raj is exactly what makes them useful to the new state.

Jawaharlal Nehru was a staunch critic of the idea of continuity of the civil service into independent India. As mentioned in his autobiography, he recorded in 1934 that he was "quite sure" that "no new order can be built in India so long as the spirit of the Indian Civil Service". So it was "essential that the ICS and similar services must disappear completely".[25] At the same time, it was under his tenure as the first prime minister of India, Indian ICS were invited to stay on in the independent India and like so many traditions of the Raj the legacy and traditions of the civil service continued. Interestingly, Nehru's antagonism with civil service did not change with time though he found himself helpless to find an alternative. When asked about in a private conversation about his biggest failure as first prime minister of India, he reportedly replied "I could not change the administration, It is still a colonial administration". He justified his statement by saying that continuation of the that colonial administration "was of the main causes of India's

inability to solve the problem of poverty"[26]. Later, Indira Gandhi also expressed similar opinion on the colonial nature of the administration.[27]

Nehru's exasperation regarding the colonial nature of the administration is understandable in the wider context that independent India could not shake off its colonial baggage and its colonial past continues to cast a long shadow over many aspects of its society and institutions. Bureaucratic system in India is largely inherited from colonial rule and it reflects deep rooted structures and practices that have persisted with little change. This is hardly surprising given the fact that India's present constitution borrowed a great deal from the Government of India Act, 1935 and as we have seen that the 1935 Act gave massive safeguards to bureaucracy from the political class. Thus essential features of the British administration such as highly centralised and rigid hierarchical structure of the administration, plenty of red tape and a top down decision making process became the salient aspects of India's administration after the independence.

Colonial influence in the Indian bureaucracy is also to be seen in its focus on rules and procedures over outcomes. In other words Indian bureaucracy is more rule oriented than goal oriented. A government servant's most prized possession is her job and prospect of losing her job is her greatest fear. This explains her disproportionate emphasis on adhering to established protocols and bureaucratic formalities hindering efficiency and responsiveness. Initiative and innovation find no place in the bureaucracy. This mentality is also a barrier to timely decision making and effective implementation of policies.

British introduced a clear distinction between the ruling class and the subjects which bred a culture of elitism and entitlement among the bureaucrats. This elitism has over the years created a disconnect between the bureaucracy and citizens whom they are meant to serve. Another continuity from the Raj is merit system, competition among the best but the emphasis on merit has not helped in mitigating lack of diversity and inclusivity as well as persisting under-representaion of marginalised communities.

Need of the hour is to make more transparent, participative and consultative approach to decision making, leaving behind elitism and top down approach in administration involving the last man in the queue and to achieve efficient, inclusive and citizen-centric administrative machinery. India cannot regain its pole position in the world unless it pushes the monkey of colonial inheritance off its back.

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# Concept of Executive Indian Tradition & Our Constitution

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The Indian concept of Executive is actually an embodiment of constitutional certainty. A historical analysis

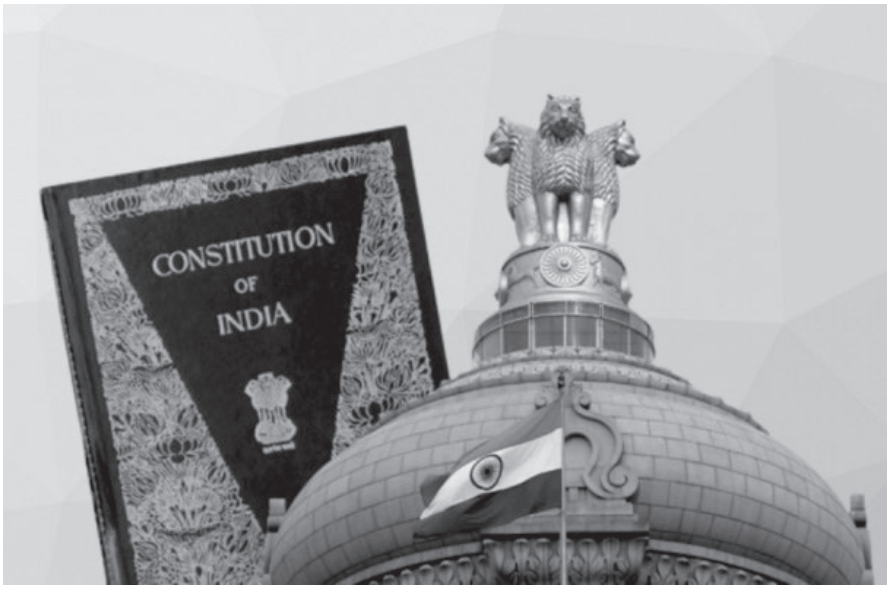
The concept of Executive in India is actually a reflection of constitutional certainty in our rich heritage, administrative tradition and cultural prosperity as well as the thought process and sentiments borne out of the age-old social practices and the mindset of acceptance of values and public aspirations at all times, wherein all the officials of the government act as its Executive branch and implement the laws and policies laid down by the Legislature. In various governance systems around the world, the word 'executive' indicates towards the Chief Executive of the State and its ministers and advisors. In Britain, the King and his Cabinet are called the Executive while in America, it's the President and his Secretaries. In Indian Constitution, the executive power of the Union is vested in the President, which he exercises through himself and his subordinate officials. According to Article 53, the President is the ex-officio but only nominal head of the Executive.[1] The real executive power is vested in the Council of Ministers. The Government of India Act, 1935, established the Confederation and the Indian Constitution largely followed the parliamentary system of Britain, due to which the position of the President of India is equivalent to that of the King of Britain. In Britain, the King's crown is a symbol of rule. All legislative, executive and judicial powers are vested in it. But all the real powers of governance are vested in the Cabinet only. In Indian Constitution, the Union Council of Ministers is responsible for all the work done by the President, but no provision of the Constitution holds the President responsible for the work of governance.

In Indian tradition, the king is the head of the Executive. He is the pivot of the whole political system around which the entire Cabinet revolves. It can be said in a different way that the entire Legislative, Executive and judicial system is based on it. In ancient literature, all the work of governance is done in the name of the king. He creates administrative organisations and appoints administrative officers. It is the responsibility of the king to run the government with the help of the Council of Ministers and subordinate officials.

In modern constitutions, the principle of '*separation of powers*' has been followed by dividing the organs

of governance into Legislature, Executive and Judiciary. This theory propounded by Montesquieu believes that if legislative, executive and judicial powers are not separated, then freedom will come to an end. When judicial power is combined with executive power, judges may adopt the path of violence and repression. To keep freedom alive, it is necessary that these three organs of the government work in their respective areas without any interference. In Indian tradition, emphasis has been laid on unity of command rather than separation of powers of the government, in which however it is clearly stated that the king cannot do any work alone. In India, there is mutual coordination and equality in the activities of these organs of governance, which carry out governance functions with mutual cooperation.

In the ancient Indian tradition, the concept of Executive is approved by the law and completely as per the moral value system, in which selecting the most capable ministers while appointing them was not a legal requirement for the king but an administrative necessity. That is why it is said in the '*Mahabharat*' that without the help of a minister, the king cannot run the kingdom even for three days.[2] The king is as dependent on his ministers as any living being is on others, Brahmins are on the Vedas and women are on their husbands. Mutual coordination in the successful running of the State is also indicative of the system of self-discipline in administration. Maharishi Manu says that no person can do even the simplest work alone, so how can the royal work, which is very important, be completed without the help of others.[3] According to Acharya Shukra, even a capable king cannot understand all the things because the splendour of intelligence is different in every man. Therefore, a king who wants the growth of his kingdom should choose capable ministers. Otherwise, the king's downfall is certain. In Indian tradition, after formulation of policies, special importance has been given to the work of implementation of policies in which the king executes the policies related to governance with the help of his ministers. In the Mahabharat, Bhishma Pitamah says '*Mantrinam mantramulo hi raja rashtram vivardhate*', that is, the advice of the king's ministers is the mainstay of the State.[4] The king, who is on the throne and is skilled in all the fields of investigation, trilogy, negotiation and punishment policy, still seeks advice from the ministers and takes no decision without it. He should complete his royal duties in a concerted manner only after taking the consent of the chief officials of the State, his advisors, ministers and the courtiers.




The division of powers into three parts in the operation of the State is actually a Western concept. The West has all the time seen centralisation of power and authoritarian forms of rule through monarchies everywhere. That is why for Western political thinkers, controlling the powers of the king and systematically dividing those powers among other institutions and structures was an inevitable necessity. Hence, constitutionalism there is basically an extension of separation of powers based on written documents. The Indian

Constitution morally follows the existing statutes or legal records of the world and accepts the separateness and distinctness of the three organs of governance. In India too, as a result of acceptance of parliamentary democracy, the existing form of Legislature, Executive and Judiciary was accepted as organs of governance. Along with this, as a pre-requisite of the parliamentary system, a written separation and a systematic distribution of power between these three organs of governance was also adopted. As a result, the responsibility of all types of policy making and legislation for running the State is rested solely on the Legislature. Primarily, the Executive was directly entrusted with the responsibility of presenting policy proposals to the Legislature for collective approval. However, in parliamentary democracy, apart from the Executive, the door is also open for others to put forward proposals for consideration for policy making. But generally, the presentation of the policies is possible only by the Legislature and in the Legislature. In this background, the existing Indian constitutional system, in its incarnation of parliamentary democracy, merely provides the facility to the Executive that it is also an essential part of the Legislature. According to the presidential system, the Executive is not a separate, independent unit in India. Therefore, the Executive is basically responsible for the implementation of the approved policies despite being involved in the responsibility of policy making and legislation within the Legislature. Thus, it is clear that the Executive will ensure proper implementation of the policies. This Executive is made up of politically elected public representatives. Therefore, being a part of the Legislature, it is also collectively responsible to the Legislature for its actions, decisions, policies and implementation. This is called the "*principle of collective responsibility*" in parliamentary democracy.

Indian tradition generally does not accept this type of institutional division. Probably, one of the reasons for this is that as the first concept of governance, a unit called the State, automatically accepted by the society, was run by the king, but this king was not given uncontrolled and uninterrupted powers in any way. The king was selected through a coordinated decision by various sections of the society. Sometimes such examples also came to light that after the selection of the king, he was deposed by the society after seeing the deterioration in his conduct and performance

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has determined various grounds and factors for the qualities of the king before his appointment.[8] In the later period, Kautilya systematically outlines the rights, responsibilities and powers of the king as well as his qualifications.[9] The qualities that Kamandak has expected in his king also follow the tradition of the thinkers who preceded him.[10] In the sequence of Indian knowledge tradition, apart from the qualities of the king, the oath taken from him before the coronation is also a reflection of the powers of the king being under public and collective social control. The result was that with the rise of the State in India, the rise of the king and his power somehow kept the king away from becoming autocratic or dictatorial.

Traditionally combined with the powers of policy making and justice regarding all sections of the society, the king may feel proud that he could declare '*adandyosmi*' or impunity for himself. But immediately social norms ask him to remain under control by the order of 'dharmadandyoasi' or punishable as per the moral value system. In such a situation, it was essential for the executive power of the king to be based on the existing moral value system. This executive power of the king cannot in any way be seen separately from his responsibility of policy making and deliverance of justice. It is mandatory for the king to depend on a well organised and well established Council of Ministers for his every activity. Ancient Indian political thinkers have defined the formation of the Council of Ministers and working as per its advice as a very important element in the running of the State affairs. The thinkers have conceptually believed that the State is a huge system and the king can never run it all alone. Despite possessing all the required qualities, the king is forced to depend on his Council of Ministers for his policy making, administration of justice and execution of orders. It is also a fact that this compulsion to act as per the advice of the Council of Ministers does not curtail the rights of the king in any way. Rather, it is a sign of giving preference to social norms over State powers. That is why the Executive is also not an independent and uncontrolled unit like the Council of Ministers, rather it is a social structure ready to help the king in discharging his royal duties. Hence, according to the thinkers, to be a member of the Council of Ministers does not dependent on the whims and fancies of the king. Before being appointed, the members have to undergo thorough scrutiny of their qualifications, character, loyalty and ideological commitment through various types of tests. Kautilya has enumerated these tests in detail in his '*Arthashastra*'.

In fact, looking at the huge system of contemporary Executive, we see corruption and power oriented behaviour of the Executive as two important challenges before democracy for many years. In the present system, the public service entity is generally called 'bureaucracy', which is seen by the common citizens as an effective mechanism to cooperate with the elected political Executive for the implementation of policies. It is also seen that due to its inexperience and lack of interest, many times this bureaucracy spontaneously, or sometimes intentionally, suddenly establishes dominance over the thought process of the political Executive. Due to this, many types of difficulties arise in the functioning of the State. It has also been seen at many places that this public service entity itself indirectly takes over the responsibilities of the Legislature for policy making through the political Executive. But in the ancient Indian tradition, despite there being no clear form of separation of powers prescribed in responsibilities while dispensing the '*rajdharma*' or royal duties, there are visible boundaries of rights. That is why Maharishi Vyas, Manu the '*Law Giver*' and Acharya Kautilya outline the responsibilities, departments, perimeters, areas, powers, rights and limitations of the Council of Ministers. Acharya Shukra goes even further and rolls out a detailed list of State functions and establishes a hierarchy in decision making. By studying the works of major writers of ancient Indian Sanskrit literature, we also come

to known that in every political system, many types of officials were appointed to provide proper assistance to the king in exercising his rights and duties. In the State system, mentions of many officials associated with executive powers - from the village level to the central level - are available in the Vedic hymns. We can also see modern versions of many of them in the current political system. Many provinces of modern times have accepted the names of executive officials of Vedic, Upanishadic and epic period in their administrative systems in the same manner even today. This also appears as a symbol of the eternal and intact acceptance of India's age-old knowledge tradition. Sanskrit poets have often spontaneously mentioned many officials of the State Executive in their plays, epics and other works. In the works of great poets Kalidas and Bhasa, there are abundant descriptions of deviations in public activities and responsibilities of individuals associated with the executive powers of the State and the constant surveillance on them by the political system. Therefore, it is also important to note that regular inspection of the conduct of persons working as public servants is as important and useful as the tests conducted before their appointment. The present day thinkers of public administration have set the standards and determinants for the appointment of public servants as well as their fixed period of increment, demotion, promotion etc., the forms of which are visible everywhere in the literature of ancient Indian thinkers. Especially Kautilya, Shukra and Yajnavalkya discuss in detail various dimensions of public service. After formulation of policies and announcement of decisions by the State, their public disclosure and proper implementation is the responsibility of various elements of the Executive. Therefore, our knowledge tradition also depicts at many places that the rules of succession, arrangement for the welfare of the people of the society, providing special facilities for the helpless, orphans, disabled, old people, destitute etc as well as collecting the necessary economic resources for the running of the State etc should be ensured. For this, the State Executive should develop a sympathetic and compassionate structure of taxation and tax collection. Therefore, all the ancient Indian political thinkers have prescribed many formulas in the form of instructions given to the employees engaged in tax collection and taxation. Money is required for the execution of various functions of the State and for this, keeping in mind the collection of money and the strengthening of the State treasury, it has been established that it must be fair. For the functioning of the polity, Maharishi Atri has suggested that all kinds of arrangements should be made to encourage those who behave properly and lawfully, to punish those who violate the rules, to collect funds justly, to be treated in the most impartial manner in the society and to protect the nation. He identifies them as the five basic elements acceptable to the king as his duty for smooth governance of the State.[11]

For the ancient Indian administrative organisation, ministers were appointed on the basis of their test results, nobility, domicile, parentage, popularity and propriety. For the proper conduct of government affairs and to maintain the dignity of the post, it was necessary that the person fulfills the required qualifications. In our ancient tradition, advice from ministers was considered essential. In the Mahabharat, ministers were expected to advise the king only after careful consideration of the matter in hand because their advice would form the basis of the progress of the State and its citizens

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the person fulfills the required qualifications. In our ancient tradition, advice from ministers was considered essential. In the Mahabharat, ministers were expected to advise the king only after careful consideration of the matter in hand because their advice would form the basis of the progress of the State and its citizens. Maharishi Manu has clearly instructed the king that before doing any work, he must consult his ministers on that matter. In the present polity, the role of administrative officers in consultation is equivalent to this. Ancient Indian thinkers are however not unanimous regarding the number of members the Cabinet should consist of. In the Mahabharat, Bhishma Pitamah prescribed the appointment of 37 members[12] while Manu fixed the number of ministers at seven to eight.[13] Kautilya talks about the number of ministers as per the situation and requirement. He has considered it appropriate to appoint 3 or 4 ministers for consultation.[14] Acharya Shukra has fixed the number of members for the Council of Ministers at 10. In the opinion of Somdev Suri in the medieval period, the Cabinet should neither be too big nor too small. He is a supporter of a Cabinet consisting of three, five and seven members.[15] In the ancient knowledge tradition, two forms of Cabinet can be found which are necessary for the implementation of policies. Firstly, the size of the Cabinet organization is large in form, whereas secondly, it has adopted a small form within the larger Council of Ministers. The second type of Cabinet has a special role in government affairs. Decisions that are quick, complex and have far-reaching effects are taken with the advice of these Cabinet ministers. Due to their ability and proficiency, they do not reveal any secrets and their trust, faith and accountability towards the system is of a special level. The existence of the modern day Cabinet system is a direct example of this.

In the epic Mahabharat, in the organisation of governance, in addition to the 37 ministers, 18 types of posts have been arranged according to the hierarchy -- minister, priest, crown prince, commander, gatekeeper, intercessor, prison head, treasurer, secretary, governor, city head, work builder, bishop, assembly president, policeman, fortman, State border guard and forest guard. There is no formal list of administrative officers available in 'Manu Smriti' but King Manu was a strong supporter of the hierarchical system

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As per ancient Indian thought, the role of ministers in

administrative work is of utmost importance. That is why clear instructions have been given to the king that he should do the work of appointing royal officials very carefully and as per their merit only. It is the sacred responsibility of the king to examine the appointed officials from time to time because these officials holding important posts in the government have direct relations with the people. These officials send information about government affairs to the people and also present the problems and difficulties of the people before the king. Due to this dual role, they play a pivotal role in policy making and policy implementation. That is why it was the duty of the king to conduct secret screenings even after the appointment of these officials. At that time, the '*Upadha*' system was prevalent[18] in which the king checks whether the appointed officials are performing their duties appropriately or not, through '*Dharmopadha*' (testing one's loyalty and truthfulness), '*Arthopadha*' (testing one's financial integrity), '*Kamopadha*' (testing one's character) and '*Bhayopadha*' (testing one's grit and valour). If any official was found misusing his position or power, then the ministerial post was taken away from such official by the king.

The post of ministers was very important in ancient Indian literature. Ministers were the source of all work in the State. They used to perform tasks related to the welfare and prosperity of the people, protection from external and internal enemies, tax collection, prevention of addictions, inspection of income and expenditure, protection of the crown prince, etc. In its internal affairs, the State used to depend on the treasury. Important tasks related to collection of taxes and control over income and expenditure used to depend on the advisor. The role of ministers is also important in religious, personal and social functions of the State. In the external affairs, the ministers used to discuss treaties and agreements in the conduct of international relations and also participated directly in wars. They were prepared through training so that they would be capable of facing the most difficult situations. There are also examples available wherein they even used get the war postponed with their advice and policies. In the epic Mahabharat, when Arjun attacked Gandhar, the queen mother there went to the battlefield along with the elderly minister and got the war postponed.[19] Whenever any calamity occurred, the ministers used to try to free the king from the calamity. In the Mahabharat war, when Duryodhan was taken prisoner by the Gandharvas, his relatives freed the captive Kauravas with the help of the Pandavas.[20] In ancient Indian thought, the rights of officials in the implementation of policies were very extensive. They also used to protect the State with their wisdom, skill, ability, experience and through tactful measures. They not only fulfilled the responsibilities that were given to them befitting their position but they also used to do many works related to the welfare of the State at their own discretion. Ancient statesmen used to accept the fact that due to the mutual relation between the officials in government work, the influence of their extraordinary intelligence definitely gets transmitted and due to experience, the qualities and specialties of the officials get enhanced and their decision

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making ability also develops, and this should definitely be utilised by the king. As per ancient Indian thinking, mutual cooperation and coordination is more visible instead of conflict between the organs designated for government work. Important tasks like policy making and policy implementation were accomplished only through mutual coordination.

In the ancient Indian knowledge tradition, mutual cooperation has been considered absolutely essential for a well organised governance system. The relationship between the king and his ministers used to be very cordial. Both were often seen together on every occasion, at every time and at every place. Their presence was important not only in the council or royal assembly but also in all the religious, economic and personal functions of the king. That is why all the ancient rulers had given clear instructions to the king to give due respect to his ministers during his rule and provide them with all the necessary materials and facilities useful for their life because they prove to be helpful to the king.

By seriously studying the ideas described in the ancient political system, it appears that the solutions to many complex problems of the present time have been presented very simply in accordance with the traditional democratic and administrative values. The entire system -- from formulation of policies to execution of policies -- can be duly mentioned only by acknowledging the ancient tradition. The problem of human behaviour can be solved only by improving the behaviour. Therefore, in the implementation of policies, it is absolutely necessary for the officials to have faith in the system along with the competence of the officials because the entire efficiency of the administration and the success of the implementation of the policies depends on this factor. It is necessary for the administrative officers to be not only experts but also committed towards the State's goals, only then all the aspirations of the people can be fulfilled.

Therefore, if we look at the Indian constitutional system along with the Indian tradition, it is clear that the present political Executive and public service collectively provide the basis and strength to parliamentary democracy. That Indian tradition is combined with the noble desires of humans. The Preamble of the Indian Constitution basically identifies the various dimensions of this noble desire in modern terminology. Therefore, the expansion of the power of the Executive is an extension of India's traditional spirit of world welfare. Our Constitution, in all its modernity, appears to be imbued with the essence of India's knowledge tradition at various places. It also has institutional signs of our eternally intact cultural grandeur and direct threads of ideological holistic vision as well as modern characteristics of traditionalism and also has the basis of '*rajdharma*' or royal duties.

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Dr. Manoj K Jha

# Balancing Civilian Oversight and Military Preparedness The Indian Experience

Indian military is well known not only of its core role of guarding borders, but also for its role in nation building. An outline

The rationale behind maintaining a military force lies in ensuring a nation's security amidst both internal and external challenges, a common practice observed in nearly all nations. In India, the military has played a pivotal role in nation-building since independence. Its contributions range from persuading princely states to join the Indian Union to maintaining order during mass migrations after partition. Additionally, the Indian military has successfully repelled invasions from Pakistan in 1947-48, 1965, 1971, and 1999, showcasing its valour and dedication. Despite the setback of the 1962 Indo-China war, the military's disciplined problem-solving approach has been commendable. Trained personnel have not only excelled in times of conflict but have also significantly contributed to nation-building. As India grows in stature and influence globally, a capable military becomes essential for protecting and advancing national interests. A modern and relevant military ensures stability and security, facilitating all-round growth and contributing to nation-building efforts. Its secular, apolitical ethos serves as an exemplary model, instilling trust and unity among citizens and projecting a positive image of the country worldwide. But to sustain such a situation, a nation must possess a military that can not only protect and safeguard its interests but also further them in the long term. Today, India finds itself in this typical situation where the military has a positive role to play in projecting it onto the world stage.

In May 2014, amidst widespread anticipation of transformative change, Narendra Modi assumed office for his first term as Prime Minister of India. However, it wasn't until December 2015, during a notable address at a biannual meeting with senior military commanders, that glimpses of a forward-looking approach began to emerge. Despite intermittent speculation about imminent policy shifts, Modi's initial tenure proved underwhelming in terms of substantive defence policy reforms. Notably, defence expenditure as a percentage of the gross domestic product plummeted to alarming lows, reminiscent of levels preceding the nation's harrowing 1962 conflict with China. Despite public pronouncements and assertions, Modi's defence policies were limited

to meet expectations and faced some criticism also. However, in his second term real execution started. Surprising many, the announcement to establish the position of Chief of Defence Staff (CDS) marked a pivotal moment in India's military transformation. This decision set in motion a series of developments aimed at reshaping the defence landscape. In addition to structural reforms, Modi's administration has prioritised bolstering India's domestic defence industry, a sector historically plagued by heavy reliance on arms imports. Under the Aatmanirbhar Bharat initiative, the government has made concerted efforts to promote indigenous defence production. This initiative has fostered a paradigm shift in the mindset within the military and defence industry. Another crucial aspect of the military transformation under Modi's leadership is the redefined role of the Indian military in shaping foreign policy priorities—a departure from previous administrations' hesitancy and uncertainty. This government has empowered the military to play a central role in signaling India's foreign policy objectives.

But, why it took so much time to make a forward-looking policy for India's defence sector is well known. The sentiments expressed regarding Prime Minister Nehru's approach towards the military highlights a complex relationship between the political leadership and the armed forces in India. The perceived disdain and neglect towards the military have had far-reaching implications, shaping the dynamics within the defence establishment and impacting the nation's security apparatus. Prime Minister Nehru's purported loathing for the military is emblematic of a broader perception of civilian distrust or disinterest in matters pertaining to defence. This attitude, coupled with subsequent generations of politicians and bureaucracy, has led to systematic reductions in the military's powers, status, and resources. The consequences of such actions have been profound, with a noticeable decline in the quality of personnel, demoralization within the ranks, and a growing sense of disillusionment among the leadership.

One of the key issues highlighted is the interference of the civilian bureaucracy in military affairs, which has created a dysfunctional relationship between the two spheres of governance. The bureaucratic hurdles and archaic processes have hindered the military's ability to adapt to modern warfare complexities and address its evolving needs effectively. Consequently, the armed forces have been constrained by outdated practices, leading to a state of deliberate neglect characterized by obsolete equipment, critical shortages, and inadequate preparedness. The ramifications of this neglect are manifold, encompassing both operational inefficiencies and strategic vulnerabilities. Obsolete inventories and equipment shortages undermine the military's capacity to respond effectively to emerging threats and challenges. Moreover, the erosion of trust between the military leadership and the civilian bureaucracy exacerbates the existing tensions, perpetuating a cycle of dysfunction and stagnation within the defense establishment. And it has a history, Nehru's distrust of the military was well-

known, especially among those serving. One clear example was when General Cariappa shared a plan to secure NEFA after China took over Tibet. Nehru angrily dismissed the idea, insisting the military focus only on Kashmir and Pakistan. This attitude, combined with the lack of opposition after Sardar Patel's death, led to the disastrous 1962 Sino-Indian War and national embarrassment. Sadly, the military also went along with decisions they knew were wrong. To understand this more, we will have to go a little back. After independence, despite the Indian Army having 400,000 soldiers in August 1947, politicians wanted to cut costs. They decided to reduce army numbers to 200,000 after the Jammu and Kashmir (J&K) Operations, meaning many units were disbanded. New laws were passed, like the Territorial Army Act in 1948, and units with regular officers were formed in 1949. But between 1948 and 1960, military authority decreased. The title of Commander-in-Chief was dropped in 1955, and civilian bureaucrats in the Ministry of Defence took over important decisions. This decline continued during Krishna Menon's time as defence minister, with decisions made without military input, weakening our strategic position.

India's civil-military relations stem from a colonial legacy, but Jawaharlal Nehru initiated reforms to reshape this dynamic. Nehru's reforms, including sidelining the Commander-in-Chief and expanding civilian oversight, centralized power in the civilian government. Despite Nehru's reforms, challenges persisted, such as civilian meddling during crises like the 1962 India-China War. The 1962 India-China War stands out as a pivotal moment in Indian military history, marked by significant challenges in civil-military relations. Civilian officials faced accusations of undue interference in military affairs, particularly concerning strategic decisions during the conflict. The implementation of the 'Forward Policy' under the Nehru government, aimed at establishing outposts in disputed areas, was criticized for overstretching military resources without adequate preparation for potential Chinese retaliation. However, there were also arguments suggesting that the military itself was not fully prepared for the range of eventualities posed by the Chinese advance. Despite differing opinions on the root causes, the outcome of the war revealed the civilians' limited understanding of military matters and their tendency to defer to military judgment on operational issues. This pattern persisted into the 1965 India-Pakistan War, where civilian officials largely entrusted operational decisions to the military. While this approach yielded successes in some instances, such as the 1971 Bangladesh Liberation War, it also resulted in failures, such as Operation Bluestar in Punjab in 1984 and Operation Pawan in Sri Lanka in 1987.

Efforts to improve civil-military relations continued especially after the Kargil War, with recommendations for integration within the Ministry of Defence (MoD). The Modi government further addressed this issue by establishing the Defence Planning Committee (DPC) and appointing General Bipin Rawat as the first Chief of Defence Staff (CDS) in 2019. General Rawat's appointment, along with the creation of the Department of Military Affairs (DMA), aimed to streamline military affairs within the government structure. However, challenges remain, particularly regarding civilian involvement in operational matters, necessitating better-informed leadership for optimal civil-military ties.

In this context, we need to understand the defence force's executive relationship with civil authority in the constitutional framework and also how things are changing in the Modi government. The relationship between civilian governance and military authority is a critical aspect of any nation's political landscape. In India, this dynamic is characterized by a unique balance between ceremonial symbolism and practical executive control. At the heart of this balance lies the role of the President of India as the formal Supreme Commander of the Indian Armed Forces, alongside the executive leadership headed by the Prime Minister.

In the constitutional structure of India, the President holds the ceremonial position of Supreme Commander of the Indian Armed Forces. This title embodies the nation's respect for civilian authority over the military and underscores the principle of civilian control. However, it's essential to recognize that this role is largely symbolic. While the President represents the apex of military hierarchy on paper, the practical control and decision-making authority rest with the executive branch. The actual governance of the Indian Armed Forces is vested in the executive branch, with the Prime Minister at its helm. As the head of government, the Prime Minister plays a pivotal role in formulating defence policies, making strategic decisions, and overseeing military operations. This executive control ensures that the military remains subordinate to civilian authority, safeguarding the democratic principles enshrined in India's constitution. Facilitating the interface between civilian leadership and the military is the Ministry of Defence (MoD). Tasked with the responsibility of countering insurgency and ensuring the external security of India, the MoD serves as the administrative hub for defence-related matters. It formulates policies, allocates resources, and coordinates with the Armed Forces to implement strategic initiatives aimed at safeguarding national interests. Here are some examples that illustrate how the Prime Minister of India heads the defence forces in various capacities:

1. Policy Formulation and Strategic Planning: The Prime Minister, along with the Ministry of Defence and other relevant stakeholders, formulates defence policies and strategic plans to address national security challenges. For example, the "Make in India" initiative launched by Prime Minister Narendra Modi aims to boost indigenous defence production and reduce dependence on foreign imports, thereby strengthening India's defence capabilities and self-reliance. One needs to understand that our ordinance factories were almost defunct during China war. Which shows how badly the country was lacking strategic planning in those days.
2. Crisis Management and Decision-Making: During crises or conflicts, the Prime Minister leads the decision-making process on critical defence matters. For instance, in response to the Pulwama terror attack in 2019, Prime Minister Modi authorised an airstrike on terrorist camps in Pakistan, demonstrating decisive leadership in safeguarding national security interests.
3. Civilian Oversight and Accountability: The Prime Minister ensures civilian oversight of the armed forces to uphold democratic principles and accountability. An example of this is the Prime Minister's role in overseeing defence procurement processes and ensuring transparency and efficiency in defence acquisitions to prevent corruption and mismanagement.
4. International Engagements and Defence Diplomacy: The Prime Minister represents India in international forums and plays a key role in defence diplomacy and strategic engagements with other countries. For instance, Prime Minister Modi's interactions with world leaders and participation in defence summits contribute to fostering defence cooperation, sharing best practices, and building strategic partnerships to address common security challenges.

Prime Minister Modi's insistence on action over empty promises is evident in his approach to defence and national security and also his relationship with defence force as executive head. While these transformative reforms are undoubtedly necessary, the Indian Army's most significant strength lies in its complete apolitical nature and genuine sense of nationalism. India must leverage this invaluable asset to its fullest potential. Additionally, it is imperative for the nation to ensure that the army is prepared for the future challenges and equipped to elevate India into a formidable military power on the global stage.

Dr. Rahul Chimurkar

# Seven Decades of Parliamentary Governance India's Experience

Increasing dominance of Executive and diminishing role of Parliament has led to constant erosion of the principle of responsibility and accountability of executive in our democracy. An account of the history

The foundation of India's political system rests on Parliamentary Democracy. Similar to other parliamentary systems, the Indian Parliament has evolved into a multi-functional institution. Representing not only people but also their opinions, it performs several functions like legislating laws, ensuring executive accountability through various mechanisms etc. The nature of parliamentary oversight on the executive varies depending on the adopted constitutional framework in each country. For instance, in the United States, the parliamentary control over the executive differs significantly from that in a country like India, where the Cabinet is accountable to Parliament. In the former scenario, ministers are not obligated to defend their policies before Parliament, they cannot be summoned to explain on the House floor, nor can they be removed by a parliamentary vote. However, in a system like India, where ministers are answerable to Parliament, their continuity relies on parliamentary approval. In this latter case, parliamentary control is direct and specific. However, over the years, strained executive-legislative relations have raised the concern of reconsidering the question of parliamentary executive since it as a direct bearing on overall governance of the country and its progress. In this context, this paper would look at the experience of India's Parliamentary democracy in the last 7 decades of our independence. This paper aims to investigate the challenges within the functioning of parliamentary democracy, particularly in the context of welfare issues. Consequently, the overarching inquiry revolves around whether potential solutions to these challenges exist within the democratic structure of India or if their persistence poses a threat to the country's democratic foundation. It would also attempt to explore the alternatives models of parliamentary executive to ensure deepening of democracy in India.

## Why Parliamentary Democracy?

While a common belief among many Indians suggests that the parliamentary form of government was unanimously chosen by the Constituent Assembly, historical evidence contradicts this notion.

There were members who opposed this system and advocated for Presidential form of government. Prof K T Shah advocated for the Presidential system of democracy. In a Parliamentary Democracy , 'the executive is in a position to corrupt the House; the executive is in a position to influence votes of the members, by the number of gifts or favours they have in their power to confer in the shape of offices, in the shape of Ministerships, in the shape of Ambassadorships, in the shape of Consulships, and any number of offices which the Executive has it in its power to bestow.'[1] Another prominent member Shibban Lal Saxena who endorsed Presidential system argued in the constituent assembly that the legislature will not only pass those laws which the majority party think are necessary. Legislature will get subordinated to the executive. This proved to be correct to a certain extent after the arrival of Indira Gandhi as Prime Minister. Other members like Syed Kazi Karimuddin, Ram Narayan Singh, Mahboob Ali Baig supported Presidential system. Even Dr Ambedkar before being appointed as Chairman of Drafting Committee endorsed Presidential Democracy. He said - "The British Cabinet System has undoubtedly given the British people a very stable system of government. Question is, will it produce stable governments in India? The chances are very slender. In view of the clashes of castes and creed, there is bound to be a plethora of parties and groups in the legislatures in India. If this happens, it is possible, nay certain, that under the system of Parliamentary democracy like the one that prevails in England, under which the Executive is bound to resign upon an adverse vote in the legislature, India may suffer from instability of the Executive. For it is the easiest thing for groups to align and realign themselves at frequent intervals and for petty purposes, and bring about the downfall of the government. The present solidarity of what are called major parties cannot be expected to continue. Indeed, as soon as the problem of the British in India is solved, the cement that holds these parties together will fail away. Constant overthrow of the government is nothing short of anarchy." He had further added, "Taking all these considerations together, there is no doubt that the British type of the Executive is entirely unsuited to India. Indians who are used to the English form of the Executive forget that this is not the only form of democratic and responsible government. The American form of Executive is an equally good type of democratic and responsible form of government."[2] A question may arise then why did he go for Parliamentary democracy in the constituent assembly? While discussing the form of government in constituent assembly on November 4,1948, he said- "A democratic executive must satisfy two conditions— (1) It must be a stable executive and (2) it must be a responsible executive." It was not possible to achieve with these in equal degree. US provides for greater stability than responsibility since it is not dependent on Congress for its existence whereas British system provide for more responsibility

than stability since it is dependent on the parliament for its survival. A Parliamentary Executive being more dependent upon a majority in Parliament become more responsible when compared with non-parliamentary executive as in US.'[3] Therefore one had to be chosen and Parliamentary democracy was chosen for because the assessment of responsibility of the Executive is both daily and periodic. The daily assessment is done by members of Parliament, through Questions, Resolutions, No-confidence motions, Adjournment motions etc..

Several efforts have been undertaken by successive governments since 1952 to nurture and promote parliamentary democracy in India. Unlike so-called developed countries like US and UK, we adopted Universal Adult Franchise the day constitution came into force. Elections are considered the bedrock of any Parliamentary Democracy. Conducting elections for 7 parliamentary elections and more than 400 assembly elections by Elections Commission of India shows the meticulous planning and execution by the commission in the world's largest democracy. In 2019 Lok Sabha elections, a team of polling officers undertook a four-day journey for over 300 miles just to set up a polling booth for one voter in Malagom, Arunachal Pradesh. In the upcoming elections of 2024, ECI is going to set up 12 lakh polling station for approximately 96 core voters. Another major step was to lower the voting age from 21 to 18 years in 1989. Democracy is not only about 'representation of people but also of opinions'. The presence of multiparty system guarantees the representation of all segments of the society. As of today, we have 6 National Parties, 56 recognised state parties and 2796 unrecognised parties. These all reflects the efforts undertaken for deepening of democracy in India. 'England has no Legislature'- only an Executive claimed Lord Hailsham.[4] This holds true in context of India. With more than seven decades of India's experience with Parliamentary Democracy, increasing dominance of Executive and diminishing role of Parliament has led to constant erosion of the principle of responsibility and accountability of executive in our democracy.

Article 356 grants the President the authority to revoke the executive and legislative powers of a state and bring them under Union control if the President believes that a situation has emerged where the state government is unable to function in accordance with the Constitution. The determination of whether the constitutional machinery has broken down can be made by the President based on a report from the Governor or on their own initiative

## Misuse of Art 356

Article 356 grants the President the authority to revoke the executive and legislative powers of a state and bring them under Union control if the President believes that a situation has emerged where the state government is unable to function in accordance with the Constitution. The determination of whether the constitutional machinery has broken down can be made by the President based on a report from the Governor or on their own initiative. During the era when the Congress party held a dominant position at the national level, Article 356 was frequently employed against state governments led by leftist and regional parties. "From its inception until 1959, Jawaharlal Nehru's government utilized the article six times, including the removal of the first elected communist government in Kerala in 1959. In the 1960s, it was invoked 11 times. Following Indira Gandhi's rise to power in 1966, Article 356 was deployed seven times between 1967 and 1969 alone. The 1970s witnessed heightened political turmoil, with President's Rule being imposed 19 times between 1970 and 1974. After the Emergency period, the Janata Party government invoked it in 1977, leading to the dismissal of nine Congress-led state governments. Upon Indira

Gandhi's return to power in 1980, her government also imposed President's Rule in nine states.[5]

In 1992-93, Prime Minister Narasimha Rao dismissed three BJP-led governments in the aftermath of the Babri structure demolition, along with Kalyan Singh's government in Uttar Pradesh.

In 1989, the Central government dismissed the S R Bommai-led administration in Karnataka. The Supreme Court, in its significant judgment in the S. R. Bommai v. Union of India case in 1994, extensively deliberated on the provisions of Article 356. A nine-judge Bench, in its ruling, outlined specific conditions under which President's Rule can be imposed and those under which it cannot.

The court established that Article 356 can be invoked in situations involving the physical breakdown of the government or in cases of a 'hung assembly.' However, it emphasized that such invocation is not permissible without affording the state government an opportunity to demonstrate its majority in the legislative assembly. Additionally, the imposition of President's Rule is deemed inappropriate unless there is evidence of a violent breakdown of the constitutional machinery.

BJP government in 2016 misused this provision and imposed presidential rule in Uttarakhand. However, division bench of UK High Court restored the Congress government in the state and asked the Chief Minister Harish Rawat to prove majority in the Vidhan Sabha.

This misuse of Art 356 by the executive violates another major principle of our parliamentary democracy i.e. federal structure enshrined in our constitution.

## Politics of Defection

Since executive is dependent on the confidence of the legislature in our democracy, it engages in politics of defection and Horse trading which has become a major blot on Indian democracy. Even opposition political parties pursue this path to topple the government and create conditions of instability. Unprincipled politics through buying of MPs/ MLAs using illicit money and promising them post or tickets leads to endangering democracy by denigrating peoples' mandate and trust. This politics of defection contributes to heightened political corruption, increased violence, government instability, larger ministries, erosion of party system institutions, and frequent, unnecessary elections that strain the financial resources of the government. Within a brief span of 4 years (1967-71), there were 142 defections in Parliament and 1969 defections in State Assemblies across the country. Thirty-two governments collapsed and 212 defectors were rewarded with ministerial positions.[6] To prevent this kind of a scenario, anti-defection act was passed in 1985 to prevent defections from taking place and bring stability in the system. However, the provision of 'split' and 'merger' in the law were erroneous, giving way to MPs defection in groups of one thirds to escape disqualification. After its abundant misuse by political parties, Parliament omitted this provision and incorporated a section that disqualification will not be applicable incase of merger of his/her original party with another party with a caveat that not less than two-thirds of total members have agreed for merger. The recent political drama in Maharashtra around two regional parties the shiv sena and Nationalist Congress Party (NCP) or defection of Congress MLAs in Arunachal Pradesh (2015) reveals that power hungry leaders, for the sake of their personal interests, forget peoples mandate and make a mockery of Parliamentary democracy. Recent elections to Rajya Sabha in states of Uttar Pradesh, Karnataka and Himachal Pradesh has also highlighted the use of saam, daam, dand, bhed by different political parties to win seats and maintain their dominance in Rajya Sabha. This compels us to think about developing alternatives to maintain a separation of executive from legislature.

## Undermining Principle of Collective Responsibility

Parliamentary democracy in India rest on the accountability of Council of Ministers to the Lok Sabha. However, since 1980s this

principle has been violated by strong Prime Ministers like Indira Gandhi, Rajiv Gandhi, Narendra Modi, reason being the growing prominence of Prime Minsters' Office. PMO is usually headed by the Secretary to the Prime minster who is now designated as the Principal Secretary to the PM.[7] PM Shastri mostly functioned through PM's Secretariat. During Indira Gandhi's tenure as Prime Minister, the Secretary's office gained unprecedented power and authority. It functioned as the de facto decision-making body, essentially operating as the Government of India. L.K. Jha as Secretary was sent for deliberations on foreign affairs. He represented her in discussions on the Nuclear Non-Proliferation Treaty in Moscow, London, Paris and Washington. Such was the situation that PMO was treated like a parallel government and known as 'Prime Minister's House (PMH).'[8] It has arrogated to itself enormous powers with the advent of coalition politics in India as it has become responsible for overseeing and coordinating the functions of a large sized cabinet. PMs like Deve Gowda, I.K.Gujral, Atal Bihari Vajpayee heavily relied on notes, advice, information from the Principal Secretaries in policy making and to run the administration in smooth manner. Powers of PMO could be gauged from the fact that following the Pokhran blast on May 11, 1998, Brajesh Mishra, who served as the Principal Secretary to Prime Minister Vajpayee, was the first person to speak to the nation, not the Prime Minister. The current dispensation has gotten away with the EGoMs and GoMs which provided all requisite information and advice to the cabinet for better policy making. The PMO has taken on the responsibilities of the Cabinet, thereby undermining the fundamental principles of a parliamentary system. This attempt to equip the bureaucrats in PMO with overarching authority to decide almost all matters and overshadowing the cabinet undermines the principle of collective responsibility.

The effective functioning of any democratic system rests not only in the Parliament but also other institutions and mechanism like Election Commission of India, President, Judiciary, CBI, CVC etc. Jawaharlal Nehru was known for rising above narrow party interest for promoting and establishing effective institutions. However, at times he also intervened in the functioning of independent institutions like ECI. In 1953, ECI had recommended the disqualification of 12 members of Vindhya Pradesh Assembly for holding office of profit

## Deinstitutionalisation of Institutions

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judiciary and executive over the appointment of Chief Election Commissioners showcases the centralising tendencies of the executive. Supreme Court ruled that President shall appoint the Chief Election Commissioner and other Commissioners on the advice of committee consisting of PM, leader of the Opposition and Chief Justice of India. The executive reversed this judgment and brought an act for the appointment of CEC on the recommendation of a committee consisting of Prime Minister, a Union Cabinet Minister and Leader of Opposition. The major concern is regarding equating the salary of CEC and ECs with that of Cabinet Secretary which is determined by the executive. This raises question over financial independence of the Election Commission. Ruling Executive over the years have also mastered the art of misutilising the agency of CBI for its own personal interest. The investigating agency were asked to compile files with the intention of either incriminating or exonerating a specific individual. Congress used this agency to implicate Amit Shah in the Ishrat Jahan case. Similarly, current ruling dispensation is accused of using the agencies like CBI and ED to destroy the credibility of opposition leaders in the country. It becomes entirely important in a democracy like ours to retain the autonomy and credibility of such institutions.

## Undemocratic Practices

The edifice of Parliamentary Democracy rests on the accountability of the executive to the Parliament. Efforts by the ruling executives to escape parliament scrutiny could prove dangerous for Indian democracy. Budget session in 2004-05, 2013-14 and 2018-19 witnesses 100% of demands passed without discussion. Monsoon session of Parliament was held without Question Hour which provides an opportunity to MPs to ask questions to the government. Passing of bills without referring it to Parliamentary Committees has become a norm as well. UPA rule between 2004-09 saw 33 bills passed within 5 minutes of discussion. Same practice followed in its second tenure from 2009-14 in which 20 bills were passed in less than 5 minutes. In the current 17th Lok Sabha, only 16% of bills were sent to committees for detailed scrutiny which is lower when compared with the last 3-4 Lok Sabhas. In Monsoon Session 2023, Lok Sabha passed 22 Bills in this session. 20 of these Bills were discussed for less than an hour before passing. Nine Bills, including the IIM (Amendment) Bill, 2023 and Inter-Services Organisation Bill 2023, were passed within 20 minutes in Lok Sabha.[9] Another major phenomenon is misuse of Ordinance powers by the executive, undermining the democratic process in the country. This democratic decline is termed as 'democratic backsliding' by Nancy Bermeo. She notes a shift away from direct threats to democracy, such as coups or election fraud, since the Cold War. Instead, there is a trend towards more gradual forms of destabilization, which occur when a democratically elected executive employs legal means to bring about institutional changes.[10] During the Post independence era, Speaker of Lok Sabha G.V. Mavalankar wrote to Nehru on July 17,1954 objected to the Ordinance issued by Nehru government amending section 34 of Income Tax Act and called it undemocratic.[11] Since then governments have been resorting to this tactics

The edifice of Parliamentary Democracy rests on the accountability of the executive to the Parliament. Efforts by the ruling executives to escape parliament scrutiny could prove dangerous for Indian democracy. Budget session in 2004-05, 2013-14 and 2018-19 witnesses 100% of demands passed without discussion. Monsoon session of Parliament was held without Question Hour which provides an opportunity to MPs to ask questions to the government. Passing of bills without referring it to Parliamentary Committees has become a norm as well

to escape the legislative route. Despite dominant party majority, Nehru government promulgated 39 ordinances till 1957. Indira Gandhi issued 93 including the one which restricted the freedom of press. Biggest misuse was the V.P.Singh's decision to implement the Mandal Commission report by issuing ordinance in 1990. Post globalisation, most governments have promulgated ordinances on an average of 20-22 ordinances every year. For the first time no ordinance was promulgated in the year 2022. It is high time that institutions of accountability must be protected to prevent democratic deficit in an era of governance.

## Conclusion

On November 25, 1949, Dr. Ambedkar stated in the Constituent Assembly : "… however good a Constitution may be, it is sure to turn out bad because those who are called to work it, happen to be a bad lot. However bad a Constitution may be, it may turn out to be good if those who are called to work it, happen to be a good lot."[12] The Constitution can provide only the organs of State such as the Legislature, the Executive and the Judiciary. The factors on which the working of those organs of the State depends are the people and the political parties they will set up as their instruments to carry out their wishes and their politics." India's experience with the Parliamentary Executive during the last 75 years is far from reassuring. Irrespective of government in power, all democratic institutions are being undermined or devalued for the sake of power. The lust for power in parliamentary democracy has often led to instability, thereby creating a political crisis. To prevent this, transformative changes are required within the existing system which may not only impart stability to the governments but also ensure 'daily assessment of responsibility' of the ruling executive. Measures like direct election of Executive at all tiers of government with sufficient checks and balances, separation of Executive from the legislature to eliminate the problem of defection; appointment of independent committees to appoint functionaries of Election Commission, CBI, CIC etc.. What India needs today is SMART (Simple, Moral, Accountable, Responsive, Transparent) kind of a democratic system that will ensure Good Governance.

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Bhanu Kumar

# Executive, Opposition & Public Participation

The Opposition has played an important role in the parliamentary system in independent India. Here is a neutral analysis of this role along with some important historical developments

The Opposition has a special place in the parliamentary democratic system that India has adopted after Independence. It is believed that the true assessment of democracy is known from the state of the Opposition. Also, to what extent the government is democratic can be understood from the activities of the Opposition. That means apart from the ruling dispensation, Opposition too is an essential part of the parliamentary system. The Indian parliamentary system is not an exception.

In India, the Executive, the Opposition and the active participation of the general public in their activities through the elected representatives has made the Indian parliamentary system a vibrant institution in the last 75 years, whereas most of the countries that became independent along with India are today struggling to have or sustain a democratic system successfully. For this reason, our parliamentary system remains an ideal subject of research and discussion in the world today.

In India, the sense of unity that has developed over time between the ruling party and the Opposition and public participation has neither allowed the Executive to become authoritarian nor the Opposition to become inactive, nor have they given any opportunity for a feeling of indifference to arise among the general public. However, when the Executive turned dictatorial during the Emergency, the collective participation of the Opposition and the public successfully worked to restore parliamentary dignity.

The objective of this article is to understand and analyse the history and evolution of the Opposition in the Indian parliamentary system. The scope of this analysis is the parliamentary platform alone. Statistics and facts make it clear that the power of the Opposition in presenting both the facts and arguments has declined over time. On one hand, the time span for debate in the House kept shrinking, while on the other hand, there was a shortage of influential leaders in the Opposition. The objective of this article is also to evaluate the history and the present to determine what the form the Opposition would take in the parliamentary system in the future.

## Shrinking time for Parliamentary Debate: Silent Consent of both

## Ruling Party and the Opposition

The MPs of the opposition parties elected in the last two Lok Sabha elections are more tied to their party interests rather than the interests of the public, due to which the frequent altercations between the Treasury Benches and the Opposition have made the House a place of adjournments instead of debates. For example, the 17th Lok Sabha could meet only for 274 days, which is the lowest for a Lok Sabha that has completed full five years.[1]

A glaring example of how the changing relationship between the ruling party and the Opposition has changed the meaning of the parliamentary platform was seen during the Covid pandemic period. When it came to running the House session, both the ruling party and the Opposition agreed to end the Question Hour. In such a situation, the Question Hour, which is considered to be the time for the Opposition's voice, was strangled by the Opposition itself. According to PRS data, figures for 2009-2020 show that 90 percent of the time allotted to raise questions orally was not utilised at all.[2] The most unfortunate thing is that in the last three decades, it is none other than the opposition parties which have resisted holding debates under the parliamentary system the most. The Parliament, which should have otherwise been used by the Opposition for raising burning issues of public interest, was sacrificed for the interests of their own parties.

Now, the question is whether this position of the Opposition has always been like this in the Indian parliamentary system? On political and historical study of the context in history, it comes to light that despite their number being less in the initial phase, the voice of the Opposition in the Parliament was not only strong, but even the government was afraid of it. There were two reasons behind this phenomenon. Firstly, the presence of influential and popular leaders in the Opposition and secondly, the moral pressure of the Opposition on the Executive. But with time, both the reasons have faded. This angle has also been examined in this article.

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## Meaning of the Opposition in Parliamentary System

India's parliamentary system has been borrowed from Britain. The Opposition is an important part in this system. British political scholar Ivor Jennings's opinion on the role of the Opposition is: "The government rules and the Opposition criticises it." According to him, in the parliamentary system, the Opposition's opposition is seen not only as opposition but also in terms of the future government. Indian constitutional experts like Subhash Kashyap also agree with this fact.

According to the British politician late Sydney Tierney, the duty of the Opposition is not to present any proposal but to oppose everything and overturn the government. Former UK Prime Minister Benjamin Disraeli believed, "No government can remain safe for long without a strong Opposition." Because in a democracy, the government is formed on the basis of majority, which can also inspire the government to act arbitrarily. In such a situation, the role of the Opposition is important to control it. In view of the history of the politics of Opposition pressure in the Indian parliamentary system, this argument seems reasonable to some extent.

The makers of our Constitution have also defined the concept

of Opposition in India. Ganesh Vasudev Mavalankar, the first Speaker of the Lok Sabha, believed that "Democracy cannot progress properly unless the number of political parties is kept to a minimum. As far as possible, there should not be more than two major parties which can establish each other as the ruling party and the opposition party." At the same time, Hari Vishnu Kamath, who was a member of the Constituent Assembly, outlines three responsibilities for the Opposition -- firstly to keep the government alert, secondly to oppose it and thirdly to oust it if possible. Former President R. Venkataraman used to consider discipline and etiquette as the two main pillars of parliamentary democracy. If the ruling party has the freedom to express its views and the Opposition too has the similar freedom, it can be considered as an excellent example of the parliamentary process. It means a healthy parliamentary system can survive and further develop only through positive dialogues with the Opposition. Hence, there is no fixed definition of the role of the Opposition in the parliamentary system as it keeps changing with time and situation.

## The Executive and the Opposition

To understand the Indian parliamentary system, it is important to understand the relationship between the Executive and the Opposition. At the same time, there is a need to understand the gradual evolution of both of them. It is also important for us to be familiar with the basis on which the Constitution makers laid the foundation of this parliamentary system.

There was an extensive debate in the Constituent Assembly on what type of governance system there should be in India. On 4 November 1948, Dr Baba Saheb Ambedkar explained before the Constituent Assembly the reason for adopting the parliamentary system of governance. He said in the Assembly meeting, "The systems of Switzerland and America have more stability but less responsibility. On the contrary, in the British system you will find more responsibility, but less stability."[3] Further clarifying the reason, he said, "In a country like India, daily scrutiny of the responsibilities of the Executive class is very necessary. In the presented draft constitution, responsibility has been considered more important than stability, and that is why the parliamentary system has been recommended in it."[4] After approval in the Constituent Assembly, the parliamentary system was adopted in which the Executive was equipped with wide range of powers.

Under Article 74 (1) of the Indian Constitution, the Prime Minister has been given the responsibility of advising the President. Under Article 75 (1), the President has also been given the right to appoint the Prime Minister and then other ministers on the advice of the Prime Minister. On the basis of the provisions of Articles 74 to 78, the Executive has got the freedom to act on its own discretion. However, the Executive has shown limited accountability towards the Parliament till now.

For this reason, making the government accountable to the public interest becomes the main task of the parliamentary Opposition. Madhu Dandavate, who was a vocal voice of the Opposition in the Parliament, believed that due to the absence of any clear structure of the role of the Opposition constitutionally, the role of the opposition parties and their leaders becomes most important in making the Executive constitutionally compliant.[5] However, over time the shadowy role of the Opposition did not succeed in doing so. Today, while on the one hand, the Executive has tried to provide more comprehensiveness to the parliamentary system by giving the Leader of the Opposition a place in the appointment of many constitutional posts in the Parliament, on the other hand, the Opposition has been opposing these appointments most of the time, dubbing its own existence inconsequential.

## Status of the Opposition in Initial Period

There was no organised Opposition in the interim parliament that started during the British rule. In the pre-

Independence era, the members of the interim parliament were divided on two grounds -- Attached and Unattached. The attached members belonged to the Congress while other members were unattached. In 1950, the number of unattached members was only 22, but in 1951, their number increased to 51.[6]

The first general elections in India were held in 1951-52. Congress came to power with 364 seats. CPI, which got 16 seats, became the largest party among the opposition parties. After this, in the Lok Sabha elections of 1957, 1962 and 1967, no opposition party could muster even 10 percent seats of the total number of seats in the House so as to get the status of a recognised opposition party as per the Mavalankar Rule. But during this period, the Opposition in the Indian parliamentary system was represented by a large group of influential leaders. Acharya Kripalani, Meenu Masani, Ram Manohar Lohia, Madhu Limaye, Prakashveer Shastri and Atal Bihari Vajpayee were prominent among them. With their influential speeches, they raised a strong voice in the Parliament against the government at the ideological level, and thus set the definition and limitations of the functions of the Opposition in the Parliament. However, this definition and limitations evaporated with the departure of these leaders from the House.

The provision for the post of Deputy Speaker in the Lok Sabha is provided in Article 93 of the Constitution. In an amendment in 2002, it was decided that the Deputy Speaker must have to be elected within a month of the election of the Speaker. However, there is no minimum qualification or party barrier for the post of Deputy Speaker. But the tradition of appointing the leader of an opposition party has been there since the first Lok Sabha. Akali Dal's Sardar Hukum Singh[7] was made the Deputy Speaker by the Nehru government in 1956 while the Akali Dal had just four members in the House. Whereas in 1984 and 2014, despite there being no recognised opposition party during the governments of Rajiv Gandhi and Narendra Modi respectively, opposition party MP Munisamy Thambi Durai[8], who was elected from Tamil Nadu, was made the Deputy Speaker. But this tradition was broken in the 17th Lok Sabha and the House ended without having a Deputy Speaker althrough.[9]

## Parliamentary Alliance of Opposition Parties

The credit for forming the first union within the Parliament by merging the opposition parties goes to Shyama Prasad Mukherjee. He formed the National Democratic Party within the Parliament by including Ganatantra Parishad, Akali Dal, Hindu Mahasabha and some independent MPs.[10] During the short period of his parliamentary stint, he became the loudest voice of the opposition parties. Due to his efforts, the government also informally considered him as the Leader of the Opposition. Apart from this, Samajwadi Pragatisheel Gut was formed under the leadership of Acharya Kripalani. Despite extensive efforts, the number of MPs in it could reach only 41, due to which it could not get the recognition of the opposition party.

## Moral Pressure of the Opposition on the Executive

In the second Lok Sabha also, the number of Opposition MPs was around 125. The ruling Congress had 371 seats. But when the issue of 'Mundhra incident' was raised in the Lok Sabha by the members of ruling Congress itself, the opposition parties grabbed the opportunity. As a result, Finance Minister T.T. Krishnamachari had to resign from his post. This was the first incident when the government bowed before the Opposition, the reason being parliamentary moral pressure. The issue of breach of privilege against John Mathai was also raised in the House by Atal Bihari Vajpayee. These incidents further enlivened the strong presence of the Opposition in the Parliament. But the period of moral pressure started receding from 1969. This year, there was a split in the Congress party and for the first time, along with the members of opposition parties, the leaders of the ruling Congress who had broken away from the party also occupied the chairs meant for

Opposition leaders. Congress (O) became a recognised opposition party with 65 members and its leader Ram Subhag Singh became the Leader of the Opposition in the Lok Sabha. Those who had broken away from the ruling Congress were now in the Opposition and were formally providing leadership to the parliamentary Opposition.

## Influential Voices of the Opposition

This brief history of the Opposition can be better understood from some key characters. In the initial period, Acharya Kripalani was the strongest and loudest voice of the parliamentary Opposition against the ruling Congress. Kripalani also has the credit of bringing a no-confidence motion against the Nehru government for the first time in independent India. Then, he was an MP from Amroha. On 19 August 1963, a no-confidence motion against the government was brought by him in the Lok Sabha with the support of 44 MPs. There was a debate on this for 40 hours in four days in which 40 MPs from both sides participated.[11] But the most important thing was the powerful language used by the three Opposition leaders Kripalani, Masani and Lohia which shook the government.

This no-confidence motion was further important because Kripalani, Lohia and Masani, who brought this motion, had come to the Lok Sabha after winning the by-election in 1963. However, the Opposition candidate from Jaunpur, Deen Dayal Upadhyay, had to face defeat in the by-elections held on the four seats. But the three elected leaders opened the doors of future possibilities for the Opposition in India. Further, these leaders provided a stronger base to the Opposition in the parliamentary system of India.

Ram Manohar Lohia, who won the by-election from Farrukhabad, intensified the Opposition tirade in the Parliament the most. The debate on the definition of 'poverty' in the country, famous as 'three annas versus 15 annas',[12] not only made the government uncomfortable in the Parliament but also forced it to rethink on the issue. Lohia directly linked the role of the Opposition to the issues of public concern. The government tried to make its concerns on the issue of poverty known by organising 'Janvani Diwas' on 13 March 1964 in Delhi. During his short tenure, Lohia made the role of the Opposition important in the parliamentary system. Speaking on the mid-term evaluation of the Five-Year Plan on 9 December 1963, he said, "This plan has been prepared by countryless, directionless, foolish scholars, and it is being implemented by corrupt people."[13] The reason for his uttering such harsh words was that while making policy for India, the government and its machinery always looked towards America and Russia whereas India's situation is different from those countries. In such a situation, India's welfare is never possible through policies framed by copying the British model. The job of the Opposition is not only to oppose the government policies but also to deal with serious issues related to the nation and the country, especially related to education and culture. Raising the issue of history written by the United Nations, in the Lok Sabha on 26 March 1966, he said, "If we do not come to know and recognise our past (history) properly and do not teach it to our children properly, this country will never be good and happy."[14] Overall, Lohia not only cornered the government in the Parliament on important

This brief history of the Opposition can be better understood from some key characters. In the initial period, Acharya Kripalani was the strongest and loudest voice of the parliamentary Opposition against the ruling Congress. Kripalani also has the credit of bringing a no-confidence motion against the Nehru government for the first time in independent India. Then, he was an MP from Amroha. On 19 August 1963, a no-confidence motion against the government was brought by him in the Lok Sabha with the support of 44 MPs

issues like poverty, history, national minimum income, house arrest, etc but also gave a roadmap for the future on how the Opposition should work in the Indian parliamentary system. But the present Opposition hardly remembers Lohia.

As a strong voice of the Opposition, Madhu Limaye has also made important contributions. From 1964 to 1979, he was elected member of the Lok Sabha four times. During this period, he confronted the governments within the Parliament on several occasions over constitutional issues, economic progress and international issues. According to former Lok Sabha member Mohan Singh, Madhu Limaye was able to neutralise the government's majority in Parliament several times with his arguments. During that period, many ministers used to be scared after seeing his bag, wondering against whom the case was going to be opened that day.[15] Under the leadership of Madhu Limaye, a forum of opposition parties was formed within the Parliament.[16] Under his successful leadership, many opposition parties, including Jan Sangh (earlier incarnation of BJP), fought against the government. There should be a voice of national interest in the voice of the Opposition and Madhu Limaye was the best example of this. When he started speaking in the Lok Sabha after the war with China, he simultaneously put both the Congress and the Communists in the dock. Speaking in the Lok Sabha on 11 March 1965, he addressed his Communist colleagues saying: "India's progress cannot be possible by looking towards Moscow, London or Washington."[17] The intention of his words was clear that the opposition parties will have to focus only on indigenous solutions to solve India's problems and will also have to put pressure on the government of the day with the same thinking. However, Madhu Limaye also believed that in the parliamentary system, parties should get seats according to the percentage of votes. In his speech on 13 December 1973, he had said that "if the government is the owner of 43 percent, then we are the owners of 57 percent." If we understand the meaning of this, then the parties in government in India have never got more than half the votes of the electorate. In such a situation, the opposition parties have the majority of the public opinion as per the vote percentage. This not only makes the actions of the opposition parties accountable but also provides the basis of logic to continuously put pressure on the government, as is clear from the statement of Madhu Limaye.

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After Indira Gandhi's majority government came to power in 1971, it was expected that the Opposition would weaken but the Pondicherry License Scandal gave it a new lease of life. The debate that took place inside the Parliament during this period is known as 'Pratipaksha Case'.[18] During this period, not only was the Parliament bowed to the arguments of the Opposition but the government was also helpless. The reason was the objectionable remarks made by George Fernandes against some members of Parliament in his article published in 'Pratipaksha', a Hindi weekly magazine.

Six Opposition leaders played an important role in bringing the government to its knees even before the Allahabad High Court verdict. Atalji's oratorical style, Jyotirmaya Basu's harsh candour, Madhu Dandavate's subtle knowledge of the subject, Madhu Limaye's knowledge of constitutional subjects, Piloo Mody and Shyamanandan Mishra's parliamentary experience and skills made the Opposition the most powerful in

independent India.[19]

The fact that the Opposition was a strong voice in this period of Parliament is clear first from the speeches mentioned above. Secondly, the time of meetings on the floor of Parliament was also utilised properly. The average annual sittings of the Lok Sabha between 1952 and 1970 was 121 days, which decreased to 55 days in 2019-2024. The study of the status of the Opposition during this period makes it clear that it remained a strong voice against the Executive on the floor of the House through its ideological arguments.

## Institutional Form of the Opposition Post 1989

The nature of parliamentary Opposition changed drastically since 1989. Now the opposition parties started seeing themselves as the government of the future. Due to this, the opposition parties and their leaders were not only counting the failures of the government but were also placing their future action plans on the parliamentary table. The punch line of the Opposition leaders was that "If we are elected to power, then..." But on the other hand, the continuous boycott of Parliament also exposed the indifference of the opposition parties towards the parliamentary system when 10 percent time was wasted in the 10th Lok Sabha. There was less wastage of time from 11th to 14th Lok Sabha. But the situation again became pathetic in the 15th Lok Sabha as 40 percent of the debate time was lost to frequent confrontations.

In the 1989 elections, the National Front founded by rebel Congress leader V.P. Singh contested the elections with the opposition parties. He became Prime Minister with the support of both the BJP and the Left parties. Congress lost the elections and sat in the Opposition. For the first time, Rajiv Gandhi, who was the Prime Minister of the country, became the Leader of the Opposition. He held this post from 18 December 1989 to 24 December 1990. After this, Chandrashekhar became the Prime Minister with the support of Congress. Initially, Gandhi refused to resign from the post of Leader of the Opposition. Due to this, a new crisis arose as the main opposition party was supporting the government and also wanted to play the role of parliamentary Opposition at the same time. However, after the controversy, Rajiv Gandhi resigned from the post of Leader of the Opposition but Chandrashekhar's government fell before he could reach the Parliament. During the short term of Chandrashekhar government, BJP became the recognised opposition party for the first time by winning 89 seats and its leader Lal Krishna Advani became the Leader of the Opposition. He held this post from 24 December 1990 to 13 March 1991.

The Congress returned to power in the 1991 elections and P.V. Narasimha Rao became the Prime Minister. Garnering 112 seats in the elections, BJP emerged as the second largest party. Thus, this election clearly established two axes -- the ruling side and the Opposition side -- in the Indian parliamentary system. One axis was Congress while the other one was BJP, and this has been happening till date. Lal Krishna Advani again became the Leader of the Opposition. He held this post from 21 June 1991 to 25 July 1993. After this, Atal Bihari Vajpayee became the Leader of the Opposition, who also became the Prime Minister of India later. He held the Opposition post twice -- first time from 26 July 1993 to 10 May 1996 after Advaniji's resignation and second time from 1 June 1997 to 4 December 1997. When Vajpayeeji became the Leader of the Opposition for the first time, the Leader of the ruling party in the Lok Sabha was Prime Minister P.V. Narasimha Rao, whereas when Vajpayee was the Prime Minister for 17 days, the Leader of the Opposition was P.V. Narasimha Rao. Notably, when Atalji was the Leader of the Opposition, Narasimha Rao government had made him the head of the team going to the United Nations to present the opinion of the Government of India. This is seen as an indicator of the maturity of the Indian parliamentary system.[20]

In 1998, Vajpayeeji became the Prime Minister for the second time and senior Congress leader Sharad Pawar became the Leader of the Opposition. He held this post from 19 March 19989 to 26 April 1999. When Vajpayee became

Prime Minister for the third time, Sharad Pawar had separated from Congress. Now the command of Congress was with Sonia Gandhi, both in the House and outside. Her tenure as Leader of the Opposition was from 13 October 1999 to 6 February 2004. She became the first woman Leader of the Opposition.

In the 2004 Lok Sabha election, the BJP-led alliance NDA lost the elections and Congress formed the government with the help of its alliance UPA partners. As the Leader of the Opposition is seen as the next Prime Minister if his/her party wins, Sonia Gandhi was being considered as the prime ministerial candidate. But political developments at that time did not allow this to happen.

It is necessary to understand the complexity of the relationship between the ruling party and the Opposition during this period in the context of Atal Bihari Vajpayee and Manmohan Singh. Both have been the Prime Minister and also the Leader of the Opposition. When Atal Bihari Vajpayee was the Prime Minister, he was of the opinion that the behaviour of the opposition party Congress during the Kargil War was irresponsible. When Atalji sat on the Opposition chair on 26 August 2005, he accused the government saying, "The government does not want our cooperation and if the government does not allow the Opposition to do its work, then they will have to face widespread problems. As a result, democracy will not be able to function properly." While he was the Prime Minister, Singh believed that the government and the Opposition were bound by sacred obligations in the parliamentary system, and in such a situation, blocking the parliamentary process by the Opposition was to suppress the voice of the people. While being the Leader of the Opposition, however, his statement was that "The government is moving forward without discussion in the Parliament, in such a situation the Congress party will oppose it extensively in the House." As a consequent, the House became a victim of the Opposition during this period. The essence of the statements of both the leaders is that in the Indian parliamentary system, the ruling party and the Opposition had decided their role in a certain framework during this period. As a result, the Parliament has become more a place of adjournments than debates. That is why there is a need that on the floor of the Parliament, the members of the Opposition will have to work outside the party line to play their role, that is, bringing issues of public interest on the table without fear.

There were two Opposition leaders when Manmohan Singh was the Prime Minister -- first Lal Krishna Advani and then Sushma Swaraj. Advaniji remained on this post from 22 May 2004 to 18 May 2009. In 2008, a no-confidence motion was brought against the UPA government on the issue of Nuclear Bill. During voting on this proposal, 21 Opposition MPs did cross-voting. The Opposition accused "Cash for votes" scam against the ruling Congress.[21] However, this incident not only broke the unity of the Opposition but also marked the beginning of the era of money power in the parliamentary system.

In 2009, UPA again won under the leadership of Congress and Advani remained the Leader of the Opposition. With this, he became the Leader of the Opposition in the Lok Sabha for the fourth time. He used to see his Leader of the Opposition role as that of the future government. He delivered a speech at a FICCI convention on 15 February 2008 wherein he spoke more on his future projects than attacking the government. If we try to understand the political meaning of this speech, it becomes clear that by this time, the Leader of the Opposition had started considering himself as a 'Shadow Prime Minister'. He held this post from 22 May 2009 to 21 December 2009. Even after the BJP's electoral defeat, due to Lal Krishna Advani's stature, the BJP Parliamentary Party made him its Leader in the House. But due to increasing pressure within the party, Advaniji had to resign from the post on 18 December 2009. Sushma Swaraj became the Leader of the Opposition and held the post till 2014.

In this Lok Sabha, 40 percent of the Parliament was adjourned due to the wranglings between the ruling party and the Opposition, which is the highest till date. The reason behind this was the

allegations of a slew of scams against the UPA government. Leader of the Opposition Sushma Swaraj was the voice of the parliamentary Opposition and she and her party received nationwide support. The reason was that Sushma Swaraj was aware of the principled aspect of the role of the Opposition. According to her, "The government should not be opposed just for the sake of opposing." Rather, as the Opposition, she believed that the BJP and she herself would oppose those policies of the government which cause harm to the country. In an interview to Neerja Choudhary for Rediff.com, Swaraj explained as to why the Leader of the Opposition and the opposition parties are so important for Indian democracy. "After 2009, BJP was the main opposition party but it could not win Lok Sabha seats in all the States of India. In such a situation, the question arises that 'should the party play Opposition role only for those limited areas (where it won)?' I believe that it is our responsibility to raise the issues even in the States from where we have not elected even a single MP, because we are the main opposition party."[22] No one can disagree that Swaraj truly played the role of parliamentary Opposition in Indian party politics and gave it a central role.

## Expulsion of Opposition Leaders from the House

Presence of the Opposition is the greatest requirement for the floor of the House to make the country and the government aware about your voice. But since 1989, the Opposition members have been expelled from the House due to their aggressive behaviour. Mass expulsion from the Lok Sabha happened for the first time in 1989 when 63 MPs were expelled during the debate on the Thakkar Commission report.[23] This was the first time in parliamentary history that the ruling party itself got its own MPs suspended from the House. In 2013-14 also, the Congress government expelled 18 of its own MPs from the House on the issue of Andhra bifurcation.[24]

In 2015, 25 Lok Sabha MPs were suspended from the House for five days after five consecutive meetings had to be cancelled on the Vyapam issue.[25] With an eye on the upcoming parliamentary elections in 2019, the AIADMK members behaved rudely in the Lok Sabha over the demand of dam on Cauvery river and the TDP members for special status for Andhra Pradesh. As a result, Lok Sabha Speaker Sumitra Mahajan expelled 45 members from the Lok Sabha.

In the winter session of the House in 2023, 146 MPs of the Opposition were expelled from both the Houses. The reason was the Opposition's demand for a debate on security lapses in the new Parliament complex. They became so aggressive with this demand that they forgot about the dignity of the House.

## Status of the Parliamentary Opposition After 2014

However, the 2014 elections restricted the role of the parliamentary Opposition. This time, BJP came to power with full majority while main opposition party Congress could muster only 44 seats, which was 11 less than the minimum requirement for Leader of the Opposition. In such a situation, recognised opposition parties and the post of Leader of the Opposition both remained vacant from 2014 to 2019. In the 2019 Lok Sabha polls, BJP won 302 seats while Congress could win 52, which was three less than required to qualify for the Leader of the Opposition. However, the government recognised Congress member Adhir Ranjan Chaudhary as the Leader of the Opposition.

Speaking in 2019 on the declining numbers of Opposition members in two consecutive elections, Prime Minister

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Narendra Modi had said, "In a democracy, the existence of the Opposition, the Opposition being active and the Opposition being powerful is an essential condition of democracy and I hope that Opposition people should stop worrying about numbers. Whatever number of seats the people of the country might have given them but for us, their every word is valuable and their every feeling is valuable. And when we sit on our chairs in the House as MPs, then the feeling of impartiality is more important than that of ruling party and Opposition. And I am confident that instead of being divided on the lines of the ruling party and the Opposition, we will make efforts to raise the dignity of this House in the coming five years by giving top priority to public welfare in an impartial manner."

Thus, over time, the Opposition has only expanded its role in the Indian parliamentary system. Since the period of influential leaders, the opposition parties are working in somehow a disciplined manner till today. However, only time will tell whether the Opposition will strengthen or weaken the parliamentary system in the future.

## Public Participation

Uninterrupted public participation is an essential condition for the survival of parliamentary democracy. India has not remained untouched by this. This tradition is a gift to us from our past. People organising meetings and forming committees in ancient India are the most appropriate examples of public participation in the work of the Executive. Public participation in the Indian parliamentary system can be understood on two grounds -- first, through political participation of the public by casting their votes during elections and second, the general public sending their concerns, advices and suggestions during the policy making exercise of the government.

While about 45 percent people voted in the first and second Lok Sabha elections, it increased by 10 percent for the third Lok Sabha. When elections were held in the country after the Emergency, 60 percent people participated in it. This participation has increased to 67 percent in the 17th Lok Sabha held in 2019 which is the highest so far. Higher participation in elections has not only succeeded in strengthening the Indian parliamentary system over time, but the increasing voting percentage has also helped in increasing interest and accountability of the political leadership towards people's aspirations at large.

On the other hand, in 2014, there was an important change in the direction of public participation in the parliamentary system. While adopting the policy of pre-legislation consultation, the government started the tradition of seeking suggestions from the general public on proposed legislations within 30 days of making them public. This will not only ensure transparency in the law making process but also increase its acceptance among the public. To sum it up, over time, the government, the Opposition and increasing public participation seem to be largely successful in keeping the Indian parliamentary system integrated.

## Conclusion

The above facts and figures have only one implication that there is a decline of Parliament as a democratic institution due to narrow interest of the parties in the name of party discipline. A big betrayal was done with the people of the country by turning the platform of Parliament into a stage for party conflicts, which should rather have been used for safeguarding the interests of the people in a democracy. In true sense, the reason for this downfall is lack of connection between the leadership in the opposition parties, decision making and pro-public interest thinking. Dynasty is a bitter truth in Indian politics. In such a situation, except the BJP and a few smaller parties, all other parties are controlled by one family or other. While in the Opposition, BJP handed over leadership to leaders like Atalji, Advaniji, Arun Jaitley and Sushma Swaraj, who made their mark in the country even while being in the Opposition. At the same time, the control of families like Gandhi family on Congress and Yadav families on Samajwadi parties suppressed the Opposition voice in the narrow interest of their parties.

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Prof. Rekha Saxena

# Navigating from Co-operative to Competitive and Collaborative Federalism

Indian democracy is well known for its cooperative federalism, but today we also need competition between our provinces alongwith the cooperation. A look into the concept of cooperative competitive federalism

On the 15th of August of the last year, India commemorated the 76th anniversary of its liberation from British colonial rule. As the nation embarks upon the "Azadi ka Amrit Kaal" (the era of the nectar of independence), Prime Minister Narendra Modi, during his ninth consecutive address on Independence Day, delineated a vision spanning the forthcoming 25 years leading up to the centennial commemoration of independence. In pursuit of this aspiration, he underscored the imperative of "Sabka Prayas" (collective endeavor) to propel the nation towards progress. Recognizing states as pivotal pillars in the legislative framework, the Prime Minister advocated for a paradigm of "Competitive Cooperative Federalism," wherein states endeavor to surpass one another in attaining unprecedented levels of development.

## Understanding Cooperative and Competitive Federalism

Cooperative Federalism epitomizes a horizontal dynamic between the Central and State governments, fostering collaboration to address shared challenges in service of the broader public welfare. Conversely, Competitive Federalism embodies a vertical relationship wherein states vie with each other under the overarching oversight of the Central government. While these paradigms may initially appear contradictory, both are directed toward the overarching objectives of fostering economic advancement and national welfare in an impartial and equitable manner. Initially, our Constitution predominantly espoused the principles of cooperative federalism, employing mechanisms such as the Inter-state Council, Zonal Council, and the delineations within the Seventh Schedule. However, over time, as states began competing to attract capital and investment, thereby stimulating economic activity and enhancing administrative efficacy, the necessity for Competitive Federalism became apparent. This approach ensures minimal resource wastage and optimal resource utilization by fostering healthy competition among states in the development of both physical and social infrastructure.

PM Modi, in his address,

acknowledged that the Centre and States might differ in their schemes and in their style of working, but dreams for a nation cannot be different. He urged to move towards such an era where any state's progress is for India's progress. Many states have played a great role in taking the country forward, have led and worked as examples in many fields. This gives strength to our federalism. But today, we need not just cooperation but competition as well to foster development. This is not the first time he emphasised implementing the model of Cooperative Competitive Federalism.

Since 1994, only minor adjustments have occurred in the formal structure of Indian federalism. Notably, there has been no alteration to the list of exclusive central powers since that time. It is worth mentioning that the 88th amendment, which would have conferred upon the center the responsibility for taxes on services, has yet to be enforced; verification is required to confirm its status. While no amendments pertaining to the concurrent and state lists have been ratified, changes in the allocation of tax resources between the center and the states, as stipulated in Part XII of the Constitution, have transpired. (Swenden, 2014).

However, despite the relative stability in the formal allocation of powers between the center and the states, significant shifts have occurred in the exercise of these powers. Saxena and Singh (2013) identify these changes as indices of federalization, which include:

- A notable decline in the imposition of President's Rule, facilitated in part by landmark Supreme Court rulings such as Bommai, which aimed to curb its misuse for partisan political purposes by restricting its application.
- A decrease in instances of central intervention in state legislative processes, particularly evidenced by the reduced utilization of the governor's power to reserve state bills for the President's consideration.
- States asserting their autonomy in matters of foreign policy, particularly when it pertains to state interests, such as the impact of the WTO treaty in 1995 on agriculture, an area traditionally under state jurisdiction, and successful lobbying efforts by the Trinamool Congress-led West Bengal government to oppose an Indian-Bangladeshi water-sharing agreement. Additionally, Chief Ministers and Finance Ministers of state governments have increasingly participated in foreign missions to attract capital investment.
- Increased utilization of discretionary powers by Presidents and Governors concerning state governments and legislatures, where such actions are not explicitly subject to parliamentary consent. However, these instances present a paradoxical trend, necessitating further scrutiny and analysis.

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## Towards Liberalisation and Federalization

Within the discourse surrounding center-state relations, contemporary scholars have endeavored to delineate the foundational shifts within India's policy regime. Lawrence Saez posits that there was a rapid transformation in federal relations from inter-governmental cooperation to inter-jurisdictional conflicts among the states following the initiation of economic liberalization policies in the 1990s (Saez 2002).

The liberalization measures

of 1991 facilitated not only a transition from the public to the private sector and from state control to market mechanisms but also redefined the relationship between regional states and the central government. This process of federalization has been argued by Rob Jenkins to have contributed to the political sustainability of India's reform process by shifting opposition to the state level. (Jenkins 1995)

In this context, M.P. Singh contends that there exists a symbiotic relationship between federalism and neo-economic reforms, wherein both elements collectively enhance the autonomy of state governments and the domestic/global private sector. The structure of the Indian economy gives rise to a new phenomenon characterized by a regulatory state and sectoral federalism, which is more horizontal than vertical in nature. This horizontal orientation primarily stems from the transition away from direct administrative control of the economy towards the establishment of autonomous regulatory bodies within the framework of a new political order. (Dua and Singh 2003).

Regional states have adopted diverse approaches to shaping and implementing economic reforms, a phenomenon extensively analyzed by scholars such as Kennedy (2004). Additionally, significant changes and continuities have been observed in center-state relations in the post-1991 era. The nature of competition in the post-reform era has evolved from one characterized by cooperation among states and dominance by the center to a different dynamic observed today. Sinha (2004) notes that competition post-reform has transitioned from a vertical model, where states competed for centrally determined resources, to a horizontal model, where states vie for resources from a multitude of actors. This shift to symmetrical horizontal competition has spurred processes of diffusion and learning through emulation among a larger number of states than previously observed. Despite the increase in the number of competing states and the apparent convergence of policies and discourses, regional disparities in outcomes persist. (ibid).

In their perceptive analysis, the Rudolphs argue that the economic reforms of the 1990s in India have engendered a transformation in the nature of the Indian economy. This transformation has seen a shift from a command economy to a federal market economy, facilitating a broader "sharing of sovereignty" between the state and the market. In this new era, states have begun to command a larger share of economic sovereignty, a departure from the centrally planned economy era where their autonomy was more limited. The evaluation of their economic performance now hinges more on their independent actions. Presently, states occupy a pivotal role as the primary destinations for private investment, offering mutual advantages and benefits through long-term cooperation, suggesting the necessity to forgo short-term gains. Crucially, there has been a transformation in the role of the Union Government from an interventionist guardian of a "federal market economy" to an enforcer of "fiscal discipline" while ensuring transparency and accountability (Rudolph and Rudolph, 2001). In the age of globalization, states within the Indian federation have emerged as formidable entities, underscoring their significance. It is important to note that some states are governed by political parties ideologically incongruent with globalization and macro-reforms.. (Bhattacharya And Konig 2016).

## Reforms in the Federal Set-Up

The recommendations put forth by various commissions, including the Sarkaria Commission, the National Commission for the Review of the Working of the Constitution (NCRWC) chaired by Justice M.N. Venkatachaliah, and the Second Commission on Centre-State Relations chaired by Justice M.M. Punchhi, converge on the empowerment of intergovernmental forums such as the Inter-State Council (ISC) and the National Development Council (NDC). These recommendations advocate for the activation and institutionalization of these forums as mechanisms for consultation and decision-

making between the Union and the states, encompassing both domestic and foreign policy matters.

Swenden and Saxena undertake a critical assessment of the Planning Commission's impact on center-state relations in India. They contend that the Planning Commission exerted a centralizing influence through its administration of five-year and annual planning, its role in devising and managing Centrally Sponsored Schemes (CSS), and its discretion in grant-making. Despite its mandate, the Planning Commission failed to evolve into a shared governance institution capable of counterbalancing centralizing tendencies due to the policy priorities of the central government and interstate divergences.

## Role of NITI Aayog and other Institutions

The Planning Commission, often perceived as a de facto extension of the central government, contributed to the centralization of Indian federalism through its involvement in grant allocation and central and state planning. Furthermore, its actions sometimes encroached upon the domain of the Finance Commission, a statutory body responsible for allocating pooled tax revenues to the center and states in a more formulaic and less discretionary manner. (Swenden and Saxena 2017).

A significant structural reform in this context is the transformation of the Planning Commission into the NITI Aayog (National Institution for Transforming India), established through a cabinet resolution. This policy think-tank is composed of a civil servant serving as the Chief Executive Officer, two full-time experts (an economist and a defense research and development expert), six Union Ministers (three ex-officio and three special invitees), with free-market economist Arvind Panagariya appointed as the Deputy Chair and the Prime Minister serving as the Chair. The primary objective of the NITI Aayog is to advance a 'national agenda' intended for use by the Prime Minister and Chief Ministers to promote 'cooperative federalism.' Its Governing Council comprises all Chief Ministers of the states and Lieutenant Governors of the union territories, with the Prime Minister again serving as the chair.

NITI Aayog, established to fortify cooperative federalism, advocated for a blend of cooperation and competition as early as 2017, underscoring the role of states in propelling transformation in India. Through its Index approach, NITI Aayog introduced sector-specific indices such as the School Education Quality Index, Sustainable Development Goals Index, State Health Index, India Innovation Index, Composite Water Management Index, and Export Preparedness Index, sparking a new era of constructive competition among states. Additionally, the Aayog regularly publishes rankings on the performance of Aspirational Districts, a program initiated in 2018 with the aim of swiftly and effectively revitalizing 112 of the most underdeveloped districts across the country. This combination of cooperation and competition ensures that these districts not only vie with each other to excel within their respective states but also actively seek the necessary support. Over time, the program has expanded to concentrate on progress at the block level within each district.

In 2017, Niti Aayog advocated for a competitive approach to "cooperative federalism," emphasizing that this strategy would redefine the dynamics between the Centre and the States. Arvind Panagariya, the former Vice Chairman of Niti Aayog, emphasized the responsibility of the States in reshaping the brand image of India. During one of the meetings, Chief Secretaries of States showcased the best practices implemented in their respective regions, with the aim of fostering the exchange and cross-pollination of ideas.

The operations of NITI Aayog present a glimmer of hope in fostering a competitive yet cooperative environment among states, encouraging them to spearhead governance initiatives under the ethos of "cooperative, competitive federalism." A key objective of NITI Aayog is to establish dynamic

institutional mechanisms where "eminent individuals outside the government system" can contribute to policy formulation.

The Aayog's priorities are evident in its recommendations for streamlining 66 central schemes on skill development and transforming Clean India into a continuous program, leading to the formation of three Chief Minister sub-committees. In a subtle manner, NITI Aayog not only underscores the responsibility of Chief Ministers to expedite project implementation for state improvement but also aims to position the states as attractive investment destinations—a manifestation of competitive federalism.

Given the enhanced scope for states to collaborate and glean insights from each other, it is apparent that for federalism to thrive, these states must fulfill their role in advancing shared national objectives. However, it is worth noting that the absence of statutory status for NITI Aayog may render it susceptible to future alterations under a different political regime, potentially undermining its efficacy.

The Inter-State Council (ISC) had the potential to serve as the Governing Council of NITI Aayog, yet successive governments, including the Janata Dal-led National Front Government that established it, have opted to relegate its role for political expediency. However, both NITI Aayog and its Governing Council have been characterized by a greater degree of informality, functioning more as ad hoc deliberative bodies activated by specific referrals rather than serving as regular channels for policy advice in the government. This stands in stark contrast to the Nehru-era Planning Commission and the National Development Council (NDC), which were tasked with providing guidelines for five-year plans and approving draft plans. (Singh, Saxena, and Bhardwaj, 2015).

Indeed, NITI Aayog diverges from the Planning Commission by establishing Regional Councils aimed at addressing specific contingencies affecting multiple states or regions. These councils, convened and chaired by the Prime Minister, consist of a group of Chief Ministers representing the concerned states.(Cabinet resolution January 1, 2015) During its inaugural meeting in February 2015, the NITI Governing Council established three Regional Councils focusing on the restructuring of Centrally Sponsored Schemes (CSS), skills development, and the Swachh Bharat Abhiyan (Clean India Mission). Additionally, NITI Aayog has instituted smaller task forces, primarily comprising senior civil servants and consultants, to concentrate on poverty alleviation and agricultural development initiatives. (NITI Brief 1. Accessible via www.niti.gov.in accessed on April 2015).

Many experts have welcomed the organizational changes in the composition of NITI Aayog, as this restructuring potentially allows for greater involvement of the states in the initial stages of policy formulation. (Interview with Indira Rajaraman, March 9, 2015; with Amitabh Pande, March 16, 2015).

Swenden asserts that compared to the Planning Commission, NITI Aayog has been able to offer more short-term contracts to externally recruited policy analysts, albeit mostly at the junior level. However, he believes that NITI Aayog could have engaged civil servants or practitioners from the states to better fulfill its role as a 'federal' think tank or intergovernmental hub, which it has largely failed to do. Swenden argues that while NITI Aayog's contribution to working with the states in fostering "Team India" and nurturing 'competitive cooperative federalism' is mixed at best.

In terms of organizational structure, NITI Aayog operates as a central political institution under the authority of the Prime Minister, who serves as its chairperson. Other members include a CEO with the rank of secretary, a vice-chairperson appointed by the Prime Minister, three full-time members, four ex-officio members, and three special invitees, all belonging to central ministers. One member of NITI Aayog emphasized that "as the NITI reports to the PM, it is logical for the PM to choose who will become its members and to

set the NITI's agenda." (Swenden 2019).

Another significant structural change in tax reforms is the transition from Value Added Tax (VAT) to Goods and Services Tax (GST), aimed at establishing India as a unified national market. The GST Council, responsible for its administration, comprises the Union Finance Minister as chair and state finance ministers as members, with states holding a two-thirds voting block. However, a majority decision in the GST Council must include the Union Finance Minister.

Experts argue that GST would enhance the "ease of doing business in India" and increase government revenues. However, for consumers, goods may become cheaper while services, including education and healthcare, may become costlier. The reality is that exemptions for petroleum products, electricity, real estate, and alcohol limit the scope of the common national market. Additionally, the creation of a general Trade and Commerce Commission envisioned by the framers of the Constitution remains elusive.

The acceptance of the recommendations of the 14th Finance Commission has led to a significant increase in devolution, with states now receiving 42% of the divisible pool compared to the 32% suggested by the previous commission. This enhanced devolution empowers states to design and implement programs that are better tailored to their specific needs.

While competitive federalism has not been fully embraced by all states, several states are actively taking measures to enhance their business environments. This includes undertaking challenging reforms related to land acquisition and labor flexibility. As a result, federalism is no longer a source of tension in Center-State relations but rather represents a new partnership paradigm, fostering collaboration among all stakeholders as part of 'Team India'.

## Collaboration and Cooperation in Indian Federal Structure

The cooperation between the central and state governments has long been a focal point in the social sector, particularly in areas such as education and health. The 42nd Amendment to the Constitution of India in 1976 transferred the subject of education from the state list to the concurrent list, thereby expanding the concurrent jurisdiction of the union in education, which was previously under exclusive state jurisdiction. In addition to this constitutional amendment, various Acts of the union and numerous subordinate legislations have played a crucial role in reshaping the federal landscape in education. The proliferation of central regulating agencies and centrally sponsored schemes in education represents significant developments that have introduced new and important dimensions to union-state relations in India.

Against the backdrop of these post-constitutional developments in educational federalism, it is pertinent to examine the evolving dimensions of union-state relations in education. The policy initiatives of the union in recent decades, including the establishment of central regulating agencies and the recently launched centrally sponsored scheme of Rashtriya Uchchatar Shiksha Abhiyan (RUSA), will serve as the foundation for understanding these relations.

The issue of health becomes particularly crucial during pandemics. The global spread of COVID-19 has underscored the necessity for cooperative federalism in addressing such crises, as all levels of government must implement measures to mitigate and manage them effectively. While healthcare typically falls under the purview of provincial governments in many countries, central governments must take proactive roles during pandemics when citizens' lives are at risk. Local governments also play vital roles in implementing preventive measures and managing the repercussions of interventions by other levels of government. Thus, irrespective of the distribution of powers and responsibilities, close coordination among all levels of government is essential, epitomizing the spirit of cooperative federalism.

Despite the central

government's implementation of uniform measures nationwide, certain states may adopt innovative approaches to crisis management, offering valuable lessons for others. However, if state governments obstruct central government measures instead of cooperating and learning from each other, crises may escalate. Therefore, effective coordination and mutual learning among all levels of government are crucial. A well-functioning federal system can be a boon in crisis situations, but a lack of harmony and cooperation can exacerbate challenges during pandemics and other crises. ( Styetler, Mail Communication, March 24, 2020 at 12:55 AM).

Since 2014, the BJP-led NDA government has been advocating the agenda of cooperative federalism. The establishment of institutions like NITI Aayog and the GST Council has been presented by the government as steps towards achieving cooperative federalism. However, critics view the government's pursuit of cooperative federalism as mere political rhetoric, pointing out that the dominance of the central government is evident and confrontations between the central government and state governments have escalated significantly, particularly after the 2019 elections, in which the BJP-led NDA secured a decisive majority in the Lok Sabha.

Another instance of cooperative federalism is the announcement made by the Prime Minister during his Independence Day Speech of Ayushman Bharat, also known as the National Health Protection Mission (AB-NHPM) or Modicare, which was launched on September 25, 2018. Under the Pradhan Mantri Jan Arogya Abhiyaan, 10 crore families will receive Rs 5 lakh health insurance coverage per family per year. This scheme aims to cover over 1 million poor households, or approximately 50 million people, based on the socio-economic caste census, providing coverage for secondary and tertiary care hospitalization.

However, non-BJP ruled states such as Delhi, West Bengal, Punjab, and Odisha criticized the scheme, expressing concerns that it is insufficient and preferring to continue with their own health insurance schemes that they believe will cover more people compared to Modicare. Despite the central government's expectation that states would contribute 40% of the total funds while the center supports 60%, these states argue that they would spend approximately the same amount or even less on their own healthcare schemes and would receive full credit for their implementation. Since health is a state subject, this issue may become increasingly complex in the future.

## Conclusion

Indian federalism stands at a critical juncture, where the interplay of competition and collaboration will shape its trajectory. While competition among states and between the center and states has intensified in the era of globalization, the challenges posed by globalization across various domains such as security, social sectors, and foreign relations necessitate increased collaboration among different levels of government. Collaboration, both vertically and horizontally, is a defining feature of federal systems, and it becomes particularly crucial in addressing security threats.

For instance, natural disasters like the recent floods in Kerala require coordinated efforts from both the center and the states. Prime Minister Narendra Modi announced a grant of 500 crore rupees, supplemented by 100 crore rupees declared by Home Minister Rajnath Singh, to aid Kerala in its relief efforts. Additionally, Delhi Chief Minister Arvind Kejriwal pledged 100 crore rupees for Kerala's relief fund. This demonstrates both vertical and horizontal collaboration in action.

Another example of horizontal collaboration is the establishment of a centralized secretariat in Panchkula to collectively combat the drug menace in the northern region of the country. This centralized secretariat, initiated by six states (Haryana, Punjab, Himachal Pradesh, Rajasthan, Delhi, and Uttarakhand) and the Union Territory of Chandigarh, involves the appointment of nodal officers from each state to facilitate the sharing of intelligence and information.

In summary, the dialectics of competition and collaboration will determine the course of Indian federalism, and fostering effective collaboration across different levels of government is essential for addressing diverse challenges and advancing the collective welfare of the nation.

It is imperative to promote intergovernmental relations based on constitutional norms, values, and rules without delay.

Achieving both cooperation and competition on a national level is a challenging endeavor, necessitating collective responsibility from both the Central and State governments. While prosperous states may effectively implement both policies, economically backward states would require support from the Center to achieve their developmental goals. Even with adequate financial assistance, we cannot expect uniform performance across all states due to variations in literacy levels, skilled workforce availability, and other developmental prerequisites. To ensure fair competition among states, it is essential to establish a level-playing field.

The allocation of resources by the Fifteenth Finance Commission, balancing demographic management, growth inequality, state needs, and performance incentives, represents a positive step in this direction. Additionally, the full implementation of the 74th Constitutional Amendment in its true letter and spirit is imperative. This would grant greater decision The COVID-19 pandemic has underscored the critical lesson that individual efforts alone are insufficient to address national emergencies. It highlights the ongoing necessity to reinforce and rejuvenate the cooperative spirit within Indian federalism. Concurrently, fostering a competitive spirit will ensure the nation's preparedness to confront such contingencies, as it motivates states to innovate and build the necessary resilience. Striking a balance between competition and cooperation holds the potential to propel India towards becoming a developed economy by 2047.

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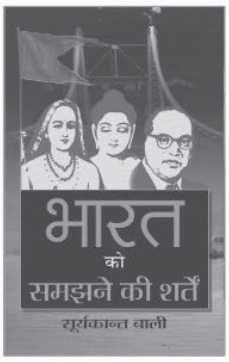
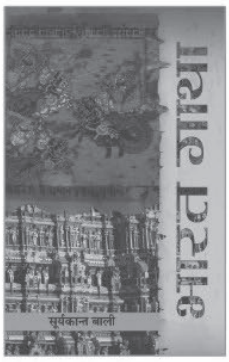
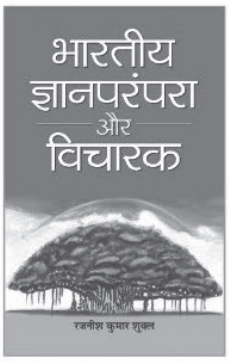
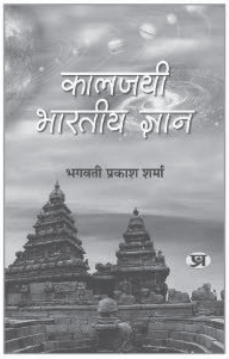
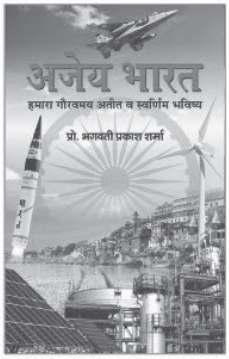
# भारतबोध पर पुस्तकें

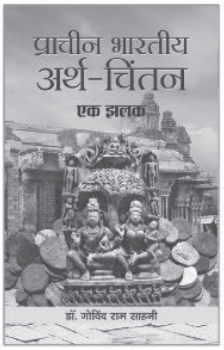


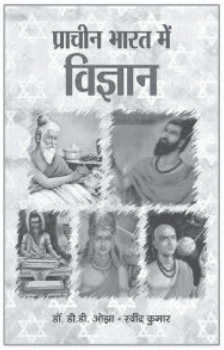



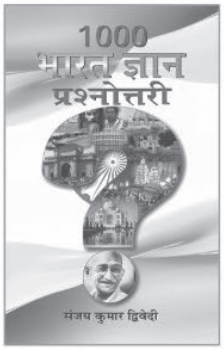



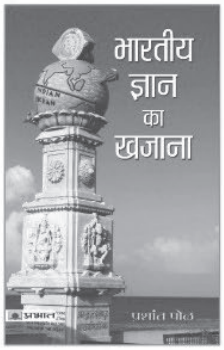


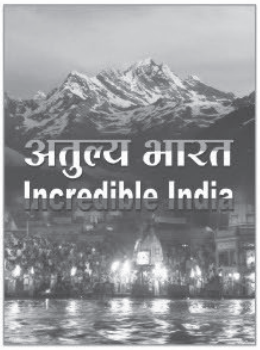



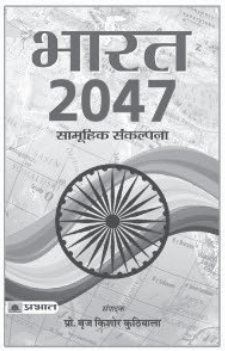


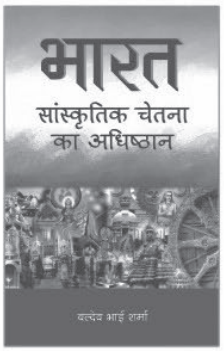



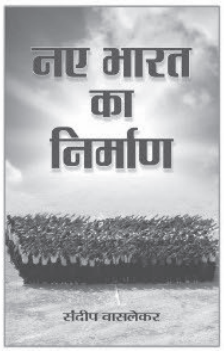



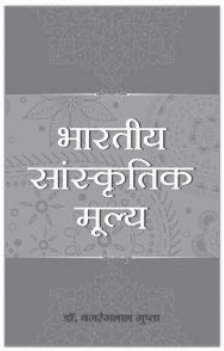



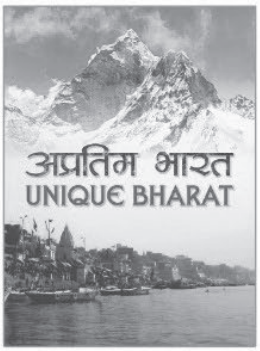







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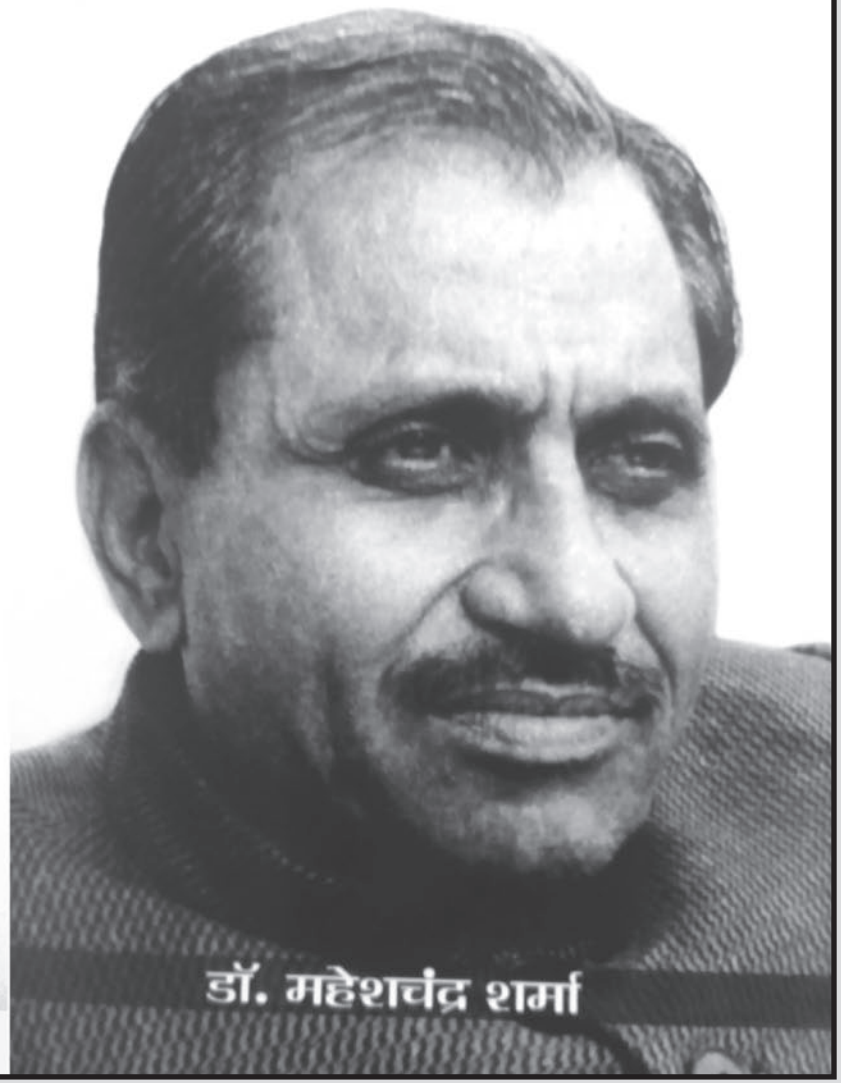

Manoj Kumar Srivastav

# 73rd Constitutional Amendment
# Legislation and Implementation

The 73rd amendment to the Constitution did give a new impetus to the Panchayati system, but was it successful in its objective? An analysis with historical background…

If India's constitutional federalism has satisfied regional aspirations, then Panchayats have fulfilled local aspirations at a more granular level. The major advantage of the presence of Panchayats lies in the contextualization of governance and development priorities. This was not possible even with the Panchayats of the sixties and seventies after independence and as Bhavani Sengupta said[1], it had become a network of toothless symbols of a non-existent rural democracy. Credit should be given to the 73rd Constitutional Amendment and thereafter, also to the determination of the administration(s) of the state that it infused a new life and impetus to the Panchayati system that it could impart a local identity to the priorities. Unfortunately, even then, among the ruling (and elitist) class of the country, there was no respect or understanding for that Indianness, which is a composite of many kinds of indigenous ethos. On one side, there were those desperate for structural adjustment who used to mouth such slogans at various international forums: "When you first came to see us, you waited for two hundred years. Now, come with the intention of staying for two hundred years", or "We are a traditional society that is struggling to become modern." While apologizing for the traditions of their country, these people considered the 'magical' mantra of globalization as the panacea of liberation. They neither had the patience nor the vision to look at the fine details of whence a global challenge of defacement was arising for Indianness. What indeed did the localism of the Panchayat mean to them in a world of computers, microchips, cybernetics, Windows, multi-channel, forex market, complete convertibility, Cogentrix and the like? On the other hand, there were those for whom, although they might have had to set records in putting on an act and indulging in Orwellian doublespeak in the setups of coalition regimes, their rhetorical faith in Marx and Mao was still alive.[2] A third side was of those who considered Indian traditions to be exploitative instruments and hence were filled with an intense feeling of contempt for all that, which has mostly passed. But those of this disposition were not interested in ending injustice, they

were interested only in altering the direction and axis of injustice. The only result of their efforts was that it was a form of Venu or Nanda that came into being.[3]

Therefore, the problem could not be solved by the 73rd amendment. Decentralization could not eliminate corruption. Government money is like a coin of ice. The more hands it passes through, the more it gets dissipated. Sometimes, beginning from one rupee, the remainder is only fifteen paise. Former Prime Minister Rajiv Gandhi's hope from Panchayati Raj was that it would end the corruption of power brokers. But perhaps everything did not happen as per expectations. Corruption did not end; it simply became decentralized. Earlier, the brokerage of the topmost movers and masters was situated very far away. Later, a mushroom-like army of their smaller versions flourished, which also made the Indian public more tolerant towards corruption. Moving further on, corruption needed no binoculars to be seen; it became our immediate neighbour. Gradually, India too reached that charmed stage where corruption began to be defined as cost incurred on "educating people", as certain multinational companies have been doing.[4] The little authoritative control that exist to curb it was perhaps cone away with in the country. Just as the industrial capitalist civilization reduces the individual to an insignificant cog of a giant machinery, in the same way majority in the gram sabhas of today's distorted rural society has become a challenge of design, not a social challenge. If one has to have a glimpse of the efficiency of manipulating numbers here, its proof is Shrilal Shukla's Raagdarbari, not the republic of Mahapandit Rahul Sankrityayan's Jai Yaudheya.[5] or the ancient republics of Acharya Chatursen's Vaishali ki Nagarvadhu.[6]

Therefore, the importance of the last decade lies in the fact that the transparency that was necessary after the 73rd Amendment has become possible by depositing monetary aid directly into the accounts of the panchayats and the beneficiaries. The advent of technology in panchayati raj has resolved many of its inadequacies; otherwise, the situation once upon a time was that panchayats were considered to be the black hole of our system, where funds would no doubt be sunk, but even the details of their use wouldn't be known.

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Now if we are talking about rural rebirth, we should know what the previous life was like. Did India have a self? Were villages a part of this self of India? Is any exploration of India's creative genius possible without traversing the streets of villages? Vinoba Bhave had once categorised the history of India into four periods: ancient India, when the country was independent as well as its villages, medieval India, when the country was subjugated, but its villages were independent, India during the British era when both the country and its villages were subjugated and today's India, when the country is independent, but its villages are dependent.[7]

What did Vinoba mean by the subjugation of villages? If one desires any kind of rural renaissance in India, then in which of these four past eras of India would one like to be reborn?

What sort of self-determination and village autonomy did Vinoba seek to draw our attention to? Colonel Thomas Munro had observed that every village is a kind of republic and India is a confederation of such republics.[8] Metcalfe had written: "These village communities are mini-democracies. They

have everything they could want and are almost completely independent of any outside relationships. They last while nothing else does". Colonel Tod also considered self-government to be the most important aspect of traditional Hindu law. As mini-republics, these villages were an Imperio Imperium.[9]

If we look at our villages today, do they emit the fragrance of freedom? Is development alone sufficient for a rural renaissance, or is local self-government too essential? Will this renaissance be possible if the local government forgets its own status and simply uses the development money coming from above? Have our Panchayats been conceived as institutions of self-government or they were utilized as mere agencies to implement schemes handed down from above?

In other words, "development capital" has strangulated the dream of the emergence of a "ground level governance". The basic craving for self-governance is being by the infusion of money.[10] And in this 'balance' of convenience that has been established, the sarpanch feels comfortable that he is being treated like an agency of construction instead of being expected to strive to fulfill the responsibilities of governance. At some level, the Panchayati posture of supplication also gives psychological satiation to the upper political powers. How then will rural rebirth come about? Let us bear in mind that village self-governance is a phenomenon that has taken place in India in the past. It is neither a utopia nor some nostalgic romanticism. In 1961, Dharmapal[11] had seen that there were twenty Biswa Panchayats parallel to the government panchayats in the Sawai Madhopur district of Rajasthan. Till a few decades ago, there were 52 self-governing villages around Jagannathpuri, where all kinds of common ownership of land were in existence. Once upon a time, such units called Samudhyam villages, Desam villages, Tara villages, Chaturvedimangalam villages and Perupuri villages had existed in India.[12] Therefore, if we talk about any rural regeneration or renewal, it is not any sentimentalist grandiloquence. Let us identify those structures that have suppressed the enterprising spirit of village life and remove those oppressive systems. This is the time of the mantra of 'self-reliant India'. This mantra also translates into 'self-reliant villages'.

To the extent that villages are dependent on the state, they are not demonstrating their autonomous character. There, it is the top of the pyramid that supports the base. Grants and delegations are ultimately the largesse of the Central or State governments. They crystallize the mindset of waiting and anticipation and somewhere in the process of waiting, there is also a suspension of the self. Are villagers merely the spectators of development or mere beneficiaries? Are they not the agents of development themselves?

All the functions of panchayats mentioned in Article 243G (A) and (4) of the Constitution are developmental. It is not based on self-governance at all. In the Amrit anniversary of independence, we should remember that Mahatma Gandhi had defined independence as 'Swaraj'. This grassroots unit of self-governance doesn't only avoid imposing taxes, it also shies away from tax collection. Only when development takes place through pooling of local capital, inspiration and talent will it be a development based on swarajya. If rural renaissance is the aim, development cannot be achieved through imported definitions, trends and techniques. The current standards of development are Western and materialistic. They have rendered two-thirds of the world undeveloped, underdeveloped, illiterate, technologically backward ignorant people who are looked upon as a problem; it has degenerated the world as a place plagued by self-abnegation, self-doubt and guilt. In the alternative model, the people are the beneficiary; development takes place in fragmented and divided pockets in order to attain the goal. The yoke of imposed goals is to be carried on one's shoulders. No rural society can continue for long considering itself a problem. What Eduardo Galino[13] had said about Latin America's villages is true about our villages as well: "First they train you to be

paralyzed, then they sell your crutches." For example, literacy is said to be so important that oracy, nurtured by the village for centuries, does not count. Whereas in Indian tradition, the synonym of Saraswati is speech, not writing.

What was the purpose of the 73rd amendment to the Constitution? Decentralization or delegation? That legislation was inspired by a great purpose. But from the saga of its implementation, it would seem that we too have accepted that decentralization is but an extension of delegation, or perhaps its advanced form. Is there a difference of merely degree between the two, and not of character? Perhaps this is where something is wrong that makes departments so eager to delegate. But delegation is a kind of load-shedding, whereas the aim of the Panchayati Raj legislation is to make the grassroots level so strong that it can bring together and concentrate its resources. Delegation is the contribution of available resources at the senior level, but decentralization is the stimulation and accumulation of local energies. From the experience of Panchayati Raj so far, this situation has emerged that the gram panchayats only stand with bowls for alms coming from above. In fact, this grant-dependence of the gram panchayats is a collective expression of the subsidy mentality that proliferated in the old days. The Finance Commission has also suggested giving only a fixed amount of money per panchayat. But the real failure of panchayati raj is that most gram panchayats do not show any eagerness to utilize the power of taxation. Dharampal in his books The Beautiful Tree and India Before the British has repeatedly proved how the old panchayats used to carry out important functions like education and health in ancient India the utilization of local resources. But today, it is easier to wait for the first or second or next installment of MNREGA. The enactment of Panchayati Raj is not to develop a culture of dependency, but to provide a creative outlet for local initiative, talent and inspiration.

Ultimately, Panchayati Raj is a symptom of the retreat of the state, equivalent to Manmohan Singh's economic liberalization and privatization. It is a medicine or remedy for a state suffering from lack of resources. But if the outcome is that the state is handing over its resources to the gram panchayats without expecting them to generate new resources, the medicine will turn out to be more dangerous than the disease, because in this new structure, where there is decentralization of resources and rights, responsibility and accountability have not been decentralized. For that, it is just a social audit of the gram sabha. At a time when Panchayati Raj institutions are a reflection, not an alternative, of the exploitative rural power structure, even the gram sabhas remain silent in the face of the dread of the elite classes.

The state then appears to be squandering its limited resources carelessly. Just as in the initial phase of the policy of liberalization and privatization, the mishap of people taking away the properties, shares and establishments of public enterprises cheaply occurred, in the face of the withdrawal of the state, it came about in its initial phase itself, that the Panchayats squandered those resources in laying mud on the roads,[14] which otherwise could have resulted in the creation of permanent assets. The self-restraint that responsibility brings about was absent. What Peter Biles termed, albeit in an altogether different context, as institutional laissez-faire, was clearly visible in this early phase.

The 73rd Constitutional Amendment mainly created a three-tier system. But it also contained arrangements wherein from the point of view of administrative decentralization, each Panchayat is an administrative unit in itself. The Sen Committee[15] had propounded the principle of non-hierarchy in this. Each level of LSG is an autonomous entity, and the three levels are not hierarchically organized. Coordination, complementation and integration is achieved through a process of iterative consultation. When the time

came for implementation, some liberty was taken with Gandhi's theory of concentric circles. The chief executive officer of the higher level of panchayat began exercising administrative control over the administrative staff of the lower level panchayats. Panchayat workers appointed by gram panchayats were made administratively responsible to the chief executive officer of the district panchayat. How awkward it would seem in urban areas, if suppose the same relationship exists between the municipal commissioner of the municipality and the CMO of the town panchayats.

Both the legitimacy and legality of interrelationship of the three-tier panchayat raj institutions, which has been imagined through the fiction of ex-officio membership, seem doubtful. The issue is that membership is not an administrative power; it is a qualitative power of exclusive representation obtained through political election. If the election has been held for one corporation body, how can one become a member of another corporation? Can a member of the Legislative Assembly also be a member of the Lok Sabha in ex-officio capacity?

Something similar happens with the representatives nominated by the MLA. Corporate bodies are not administrative committees in which nominations take place and if the nomination is as an active member of the audience gallery, devoid of legislative powers, it is useless and meaningless. In fact, since there is only one Panchayati Raj Act for all three levels of panchayats, there is confusion in their interrelationships. In comparison, Bangladesh has three separate acts at all three levels. The lowest unit is the union Council; above that are the sub-district councils formed under the Local Government (Sub District Councils and Sub District Administrative Reorganization) Ordinance of 1982, then the district councils formed under the Local Government (District Councils) Act of 1988. There, in the sub-district councils, only the chairman is directly elected by voting and the remaining members are either ex-officio members in the capacity of president of the union council or nominated and official members of the sub-district administration.

In fact, the cutting edge of this entire system is the gram panchayat. But ad hocism is most prevalent there. If taxes have to be collected in urban areas or encroachments have to be removed, this task is carried out by the municipal corporation commissioner/chief municipal officer and his team, but if the same work has to be done in rural areas, the elected sarpanch and panchayat body has to do it. But in carrying out 'unpleasant' tasks like tax/ encroachment, they not only have the problem of their own inherent nature and resolve

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There is also a need to reconsider the size of panchayats. There are very small gram panchayats in some states and quite big in some others. A ward of a gram panchayat in Kerala is larger than an average Indian village. Whenever the size of panchayats is reconsidered, these panchayats will go through the process of integration or merger. There were once 10,000 local

self-government units in Japan, which then declined to 3,284 after a process of rationalization. In (now former) Yugoslavia, local self-government units decreased from 5,000 to 400 in the two decades of 1952-1970.

For the success of direct democracy in the form of gram sabhas, it is necessary to develop the ability of absorption of administrative knowledge by the general public. Before the right to know, it is necessary to have the knowledge of what is worth knowing. Before expecting the answer, it is important to know what is the relevant and important question. Transparency is a good thing, but only for those who are able to see.

Secondly, if one sits in gram sabhas without any hindrance or interference, one will find that conducting business and regulation of affairs is often not possible. An incomplete meeting takes place, in which Dalits, especially women, do not participate. Not even in those places where reservation has given representation to these classes. No matter if a Dalit cannot speak in the law panchayats, he does speak in his caste panchayats, but a woman is neither able to speak anywhere nor is she in a decisive position. Third, gram sabhas are also sometimes dealt with in a 'circulatory' manner, when a register is moved from house to house. Sometimes its business is disposed of in a totally inert and unprogressive way with the collection of different thumb impressions or signatures in the same dwelling. Fourthly, to complete the quorum in the gram sabha, there is an atmosphere of "Come if you want to, we won't go". Fifth, in the Vedic period, the assembly used to conduct division by ballot in case of disagreement, but in the modern village, all matters will be decided by the majority of the members present and voting will be done by show of hands. Victory too will be declared by the raising of hands. However, there are many dangers in raising hands in gram sabhas. According to Section 6(6) of the Sixth Gram Sabha Panchayat Act, it "considers any matter related to the functions of the gram panchayat', but due to this, the work of social audit, which the gram sabha has to do, is not done. In panchayati raj, social audit is taken to mean perhaps that whatever gram panchayats do or don't do is given approval by the gram sabha, whereas in the United States, social audit means social assessing needs and surpluses and evaluating the work done on that basis. For this reason, social audit is used in a distorted sense in our gram sabhas. There are two types of distortion. One is the obsession with the actions and inactions of the gram panchayat itself. The second is in providing the benefits of the intangible world in the form of social audits that can be manipulated, without the fear of real financial audits. If we take social audit in its American sense, then such an audit will create a kind of consensus. Today, in the gram sabhas, there is either criticism of the sarpanch or feudal devotion towards him, but it is more important to focus on the subject rather than the individual. Then, if social audit does not investigate the role of the panchayat as a change agent in transforming the social realities, reducing bitterness, and improving the status of Dalits and women, how can it be called 'social?'

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Panchayats are units of local self-governance, and so one of the important parameters of their performance is how much of their resources they mobilize for various public expenditures. Donation can be in the form

of money, material, labour, experience, local technology or taxation. Can panchayats be like self-help groups? Can they like be the neighbouring groups in Eucador?[16] Can they be like the community sector in the United States?

In fact, presently, a major point of criticism of the state governments has been that they have not given adequate grants to the panchayats. But the truth is that whatever the panchayats have done till now has been accomplished only with the help of government grants. Their failure is not that what they achieved from the largesse received from above has been small. Their failure lies in the fact that they have proven singularly incapable of gathering anything from the ground below. To the extent this dependence of theirs continues, to that extent they would remain frustrated with their epicentre of control. This is in direct contradiction to the Gandhian concept of village swaraj. While defining village swaraj, Gandhi had said:[17]

"It meant that every village must be an independent and self-contained unit in itself, self-sustained and autonomous so that every village is capable of managing its affairs itself, even to the extent of defending itself against the onslaught of the environment."

But to the extent that they are dependent on the state, they appear to be an extension of the state. They have no autonomous character. They have not been able to provide any alternative to the base, simplicity and size of the power pyramid. When only the top is holding the base, the panchayats will not be able to come anywhere near Gandhi's oceanic circles. This dependence will ultimately lead to what social psychologists have termed social migration, in which group members put less effort into a task that they probably could do better alone. This social migratory tendency is contrary to Gandhi's declared goal of panchayati in which the gram sabhas were to ensure the stabilization of persona. If the gram panchayats did not ensure that collectivity and sharing, then Gandhi was not only afraid of the erosion of community life but also of the loss of personality.

There is also a point about recycling of government investment. Most gram panchayats are given work-specific grants by the government, which is a one-time investment. After exhausting them, the panchayats extend their palms again. Can the amount given to panchayats be used as seed capital? Can there be any cascade effect of this amount so that the money can be made revolving? Has the permanent community asset created resulted in incremental income growth for the village? And can any part of it be returned to the village community in the form of money/crop to create some new productive community asset? Can a small share or place of the gram panchayat be identified from any potential economic surplus?

Still, it is true that Panchayati Raj slips towards that future as narrated in a Western world which George Orwell described[18] in his novel 1984, the dystopian dream of which was dreamt of by both Kafka and Marx, and is an alternative counter to Indian tradition. It is a regimented super-bureaucratized future in which the average man is reduced to a mere cog, in which organizations become ever larger and more powerful. In response to the organizations weakening under their own weight, an alternative to panchayats has emerged in the form of a kinetic institution. When Baren Bennis first declared that in the next 20 to 50 years we would "be participating in the end of bureaucracy", he would not have even dreamt that in India his intention would be manifested through Panchayats. All three characteristics of bureaucracy—hierarchy, stability and division of labour—have been confronted with the alternative challenge in the form of the panchayati system. Since they are independent circles, they are freer from the pressures of hierarchy. Secondly, they are such small cells in themselves that will also help the state in its self-renewal. But there is a lot of scope for debate on the practical details that are being prepared to enable them to do this.

The Constitution had also

talked about an intermediate level, between the village and district level. But Dadra and Nagar Haveli, Daman and Diu, Goa, Puducherry, Mizoram, Manipur and Sikkim do not have this district level. Now if we look at it, the Ashok Mehta Committee had also talked about two-tier panchayati raj. But perhaps in small states two tiers are considered sufficient. It is a matter of importance that panchayat was envisioned in the Constitution as a institution of self-government. This self-governance has to happen at all levels of panchayat, whether two or three. That is, if we are talking about self-government, how is it possible without all the elements of government? For example, the judiciary is a major instrument of any government but is almost missing in the panchayat system and the initial experiments of Nyaya Panchayats have now subsided and along with them, not only the indigenous and traditional legal methods of redress have ended, but also the legal culture of the communities. But an integrated and impersonal justice system has registered its final victory. Now, while the principle of legal pluralism is gaining strength in many countries of the world, there is no discussion on it here.

When Article 243 A of the Constitution came through the 73rd amendment, it was said that the gram sabha would do the same work and powers at the village level as the legislature does at the state level. But this gram sabha is not the old natural gram sabha developed from local inspirations and traditions. This is an artificial imposition which is invoked four times under the instructions of the state government and sometimes even the top controller of the state government himself imposes it on paper due to the vested interests of land acquisition. That is, the assembly which was conferred the glory of the legislature in the Constitution, has been made ad hoc in practice to such an extent. The problem of gram sabha is that it is a group but not an organization. Every member in the organization has a functional role and also a special use, but this is not ensured in the direct democracy of the gram sabha. That is why there is no depth and density in affiliation among its members and association between them. That is the reason leadership isn't emerging from the gram sabha. It would have emerged only if the gram sabha had been run in an organic manner. Due to roles being defined, self-help groups were more successful in developing the power of leadership than gram sabhas. The legislative work that was to be done by the gram sabhas was done by the state government instead, by making all sorts of rules and bye-laws. This brought relief to those gram sabhas but the same old syndrome of dependency continued.

Although the 73rd Amendment of the Constitution had provided for direct election of panchayats, it had also given the right to the states to represent sarpanches in the districts and district presidents in the district panchayats. In two-tier states, representation of sarpanches was possible even at the district level. But what happened was that many states did not make any use of this indirect representation, although the constitutional amendment gave a good option in which the waves of Gandhiji's oceanic circles would touch each other. But Article 243 C (3) itself did not extend the touch of these waves; otherwise, an indigenous base of district panchayat presidents could have been created near the Parliament and mainstreaming of rural issues could have been done.

Then there is also the issue of reservation. The system of reservation, which was ensured by the 73rd Constitutional Amendment has a sequential order. This has weakened the spirit of panchayat candidates to nurture their constituency and to some extent, has also developed apathy and unresponsiveness among them. This sequence was going to take the reservation from representation to integration and in this way, it was characteristically different from the reservations legislated by the Vidhan Sabhas/Lok Sabha, etc. which in the name of reservation have given rise to a set of political elites. The institutional design of the panchayats was done in such a way that an alternative quota system could flourish. Due to this, the state and the nation

got thousands of non-traditional representatives from the reserved classes and a social capital was created. This sequential development was made possible by women's reservation, which has been a big achievement in itself. Today, fourteen and a half lakh women representatives have come forth in the country for this reason. Although the Constitution proposed reservation for one-third of the seats, till now 21 states and two union territories have made arrangements for 50% reservation. But this sequence has also influenced the desire to make politics a career. Now, if a woman does not get an opportunity next time due being caught up in an unfavourable turn of the cycle, she is forced to return to her family world. This has sowed the very same psychology of uncertainty among the male candidates too.

Panchayati Raj was not just a dream of Mahatma Gandhi, it is the lived reality of our nation, and the truth of so many millennia. If it was distorted during British rule, the need is to shed the burden of colonial inheritance, not to banish Panchayati Raj from sight. If we think about the 2.0 version of panchayats, we shall also have to see which indigenous folk traditions the panchayats carry and through them are able to reconstruct themselves. Panchayats are the soul of India, but where is the soul of the panchayats themselves? Time calls for exploration of that self.

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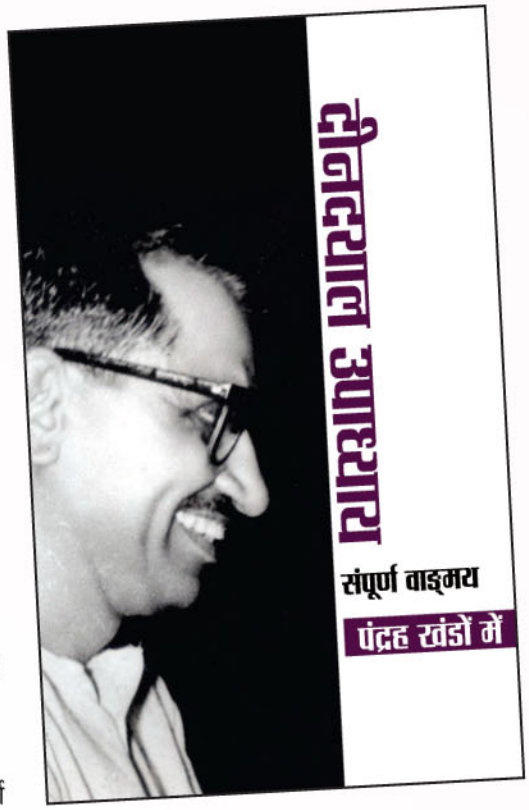
# प्रभात

नवनूतन प्रकाशन की गौरवशाली परंपरा

# दीनदयाल उपाध्याय

## संपूर्ण वाङ्मय (पंद्रह खंडों का सैट)





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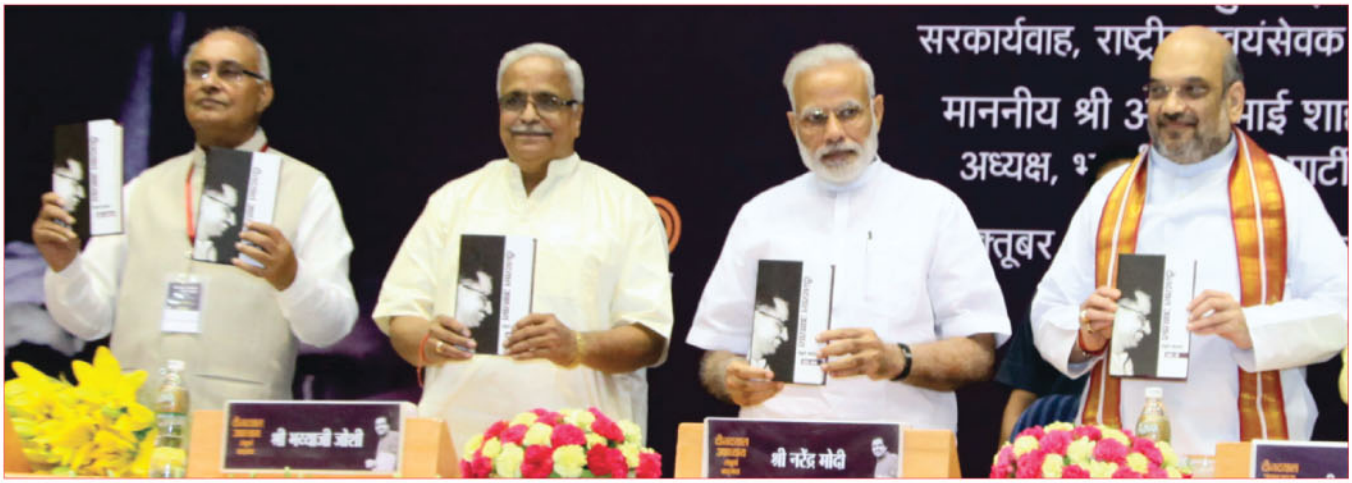
• श्री ज्ञानेंद्र बरतरिया • श्री भरत पंड्या • श्री मुज़फ़्फ़र हुसैन • श्री प्रभात कुमार • श्री स्वदेश शर्मा


9 अक्तूबर, 2016 को नई दिल्ली के विज्ञान भवन में पं. दीनदयाल उपाध्याय जन्म शताब्दी वर्ष के अवसर पर डॉ. महेश चंद्र शर्मा द्वारा संपादित एवं प्रभात प्रकाशन द्वारा प्रकाशित 'दीनदयाल उपाध्याय संपूर्ण वाङ्मय' के पंद्रह खंडों का लोकार्पण भारत के प्रधानमंत्री मान. श्री नरेंद्र मोदी, राष्ट्रीय स्वयंसेवक संघ के सरकार्यवाह मान. श्री सुरेश (भय्याजी) जोशी व भारतीय जनता पार्टी के राष्ट्रीय अध्यक्ष मान. श्री अमित शाह के करकमलों द्वारा संपन्न हुआ।

''यह पंडितजी की जीवन-यात्रा, विचार-यात्रा और संकल्प-यात्रा की त्रिवेणी है। यह दिन इस त्रिवेणी का प्रसाद लेने का दिन है। पं. दीनदयाल उपाध्यायजी कहा करते थे कि अपने सुरक्षाबलों को मजबूत किए बिना कोई राष्ट्र अपनी स्वतंत्रता को अक्षुण्ण नहीं रख सकता, इसलिए सुरक्षा-तंत्र मजबूत होना ही चाहिए। पंडितजी द्वारा कही गई बातें आज भी इतनी ही प्रासंगिक हैं।''

**–श्री नरेंद्र मोदी,** प्रधानमंत्री, भारत

''विचारों का छोटा सा बीज पं. दीनदयालजी ने बोया था, आज वह वटवृक्ष के रूप में खड़ा होकर न केवल भारत बल्कि पूरे विश्व की समस्याओं को सुलझाने की दिशा में अग्रसर है। उनका साहित्य उनकी सरलता, दूरदर्शिता और संकल्पशक्ति का परिचय कराएगा।''

**–श्री अमित शाह,** राष्ट्रीय अध्यक्ष, भाजपा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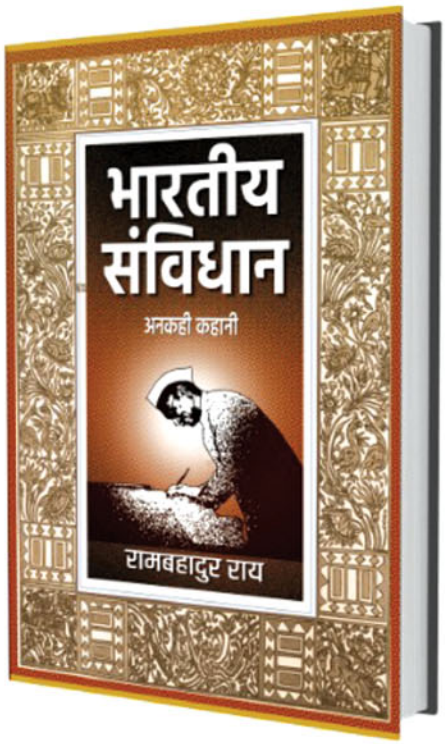


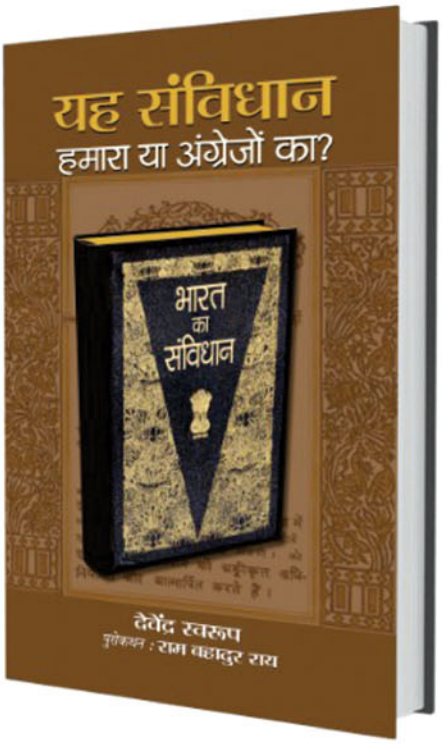


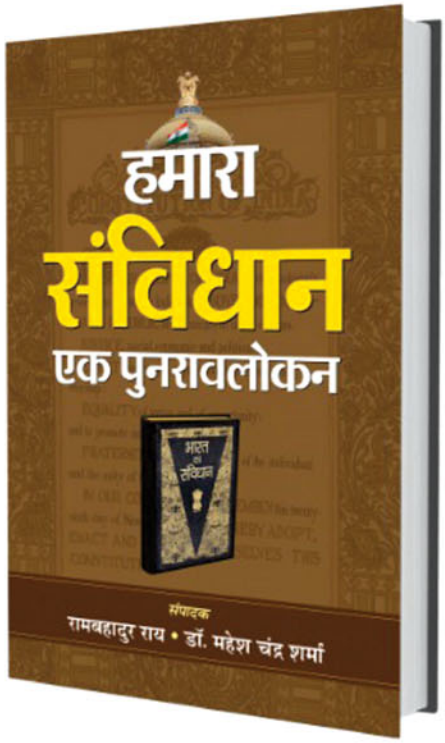


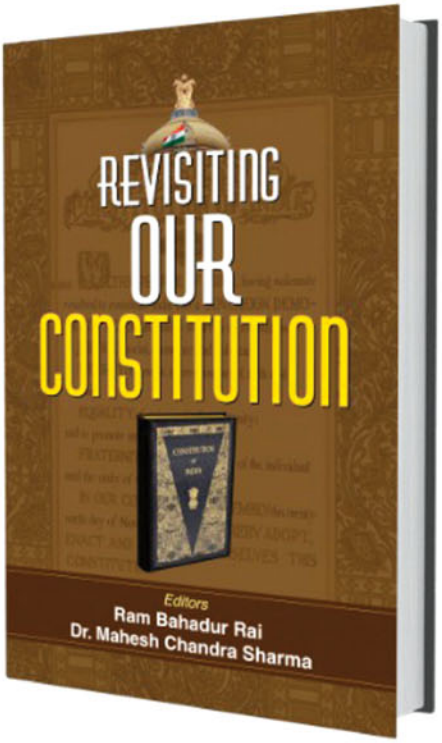


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