



# The Working of the Indian Parliamentary System : Issues and Challenges

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4th Commemorative Lecture on Shri R.Venkataraman – 4 December 2012

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*It is indeed a rare honour and unique privilege for me to be invited to deliver the 4<sup>th</sup> Commemorative Lecture on Shri R.Venkataraman. Shri R.Venkataraman was one of the finest leaders this nation has produced. The depth of his knowledge, the range of his interests, the breadth of his experience and the richness of his personality all went to make him an extremely special person. He was a statesman among leaders and a leader among statesmen. When the political history of the second half of the twentieth century of India is written, Shri Venkataraman's name would stand out as one of those who shaped the course and destiny of politics in this country. I have chosen as the subject for this Memorial lecture a theme that was very close to Shri Venkataraman's heart. A topic on which he had written extensively – the working of the Indian Parliamentary System.*

*The working of parliamentary democracy has increasingly come under the scanner especially with coalition governments/ politics becoming the defining character of Indian political process. The case for a searching review of the parliamentary system in the light of recent political changes has been voiced with varying degrees of assertiveness. The political developments triggered off by the results of seven successive Lok Sabha Elections (1989, 1991, 1996, 1998, 1999, 2004 and 2009) have raised questions about the suitability and feasibility of the Indian parliamentary model as it stands today. Commenting on the capacities of coalition governments to act freely, Shri Venkataraman had observed in 1995 that these governments have 'to look around all the time, nervous, anxious and uncertain as to how the supporting parties will behave'. Recent political developments more than underscore this point.*

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*To place the debate in perspective, it would be useful to recall the factors that prompted the members of the Constituent Assembly to favour the adoption of the parliamentary system of governance. Long before the country gained independence, the parliamentary system of government was endorsed by both the Nehru Report (1928) and the Sapru Report (1944). A clear indication of the support for the parliamentary system, among the framers of the Constitution, was apparent in the decision arrived at by the Union and Provincial Constitution Committees of the Constituent Assembly on 7 June 1947. Sardar Patel as the Chairman of the Committee has clearly stressed that the Committee 'came to the conclusion that it (parliamentary system) would suit the conditions of this country better. .. (as) we are familiar with its working'. Ambedkar, while moving the Draft Constitution in the Constituent Assembly, clarified the position further, when he stated that in recommending the parliamentary system, the Drafting Committee had expressed its specific preference in favour of 'more responsibility than more stability'. The overwhelming support that the scheme of parliamentary government received at the time of the drafting of the constitution, needs to be seen in the backdrop of the strong influence of British parliamentary traditions on the Constituent Assembly members and their familiarity with parliamentary practices in view of this system having been introduced in phases during British rule, though in a severely limited way. Further, with the interim government having been formed in September 1946, the senior leaders of the Congress (who were also influential members of the Constituent Assembly) had come to occupy important positions under a system which was, in very many ways, similar to the parliamentary scheme. What was endorsed by the Constituent Assembly, symbolized the mere legitimization of an already existing organizational arrangement'. Years later, Nehru, while justifying the choice of the parliamentary system stated, 'We chose it only because, to some extent, we had always thought on these lines previously, but because we thought it was*

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*in keeping with our old tradition also. . . . We chose it also... because we approved of its functioning in other countries, more specifically the United Kingdom`.*

*The utility of any system of governance needs to be viewed from the perspective of its relevance, effectiveness and stability. Those demanding a second look at the parliamentary system in the light of the working of parliamentary democracy focus on the fact that the pre-conditions vital for the successful working of the traditional British system of parliamentary government, are not found in India. Shri R. Venkataraman, had, nearly half a century ago (in 1965), stressed that the success of the parliamentary system in UK and some other Commonwealth countries was because of: (a) homogeneity of the people; (b) presence of a national outlook; and (c) absence of multiplicity of parties . These conditions, he then argued, were conspicuous by their absence in India. In the true spirit of open debate which Shri Venkataraman stood for, an alternate view point can be put forward that India is an example of a parliamentary system which has seen a reasonable degree of success in spite of not having the above conditions.*

*Within the broader framework of the parliamentary system, a reform that has been suggested is the formation of an all party national government. This suggestion has frequently made the rounds, especially after 1989, with no political party being in a position to secure a simple majority in the Lok Sabha on its individual strength.? Soon after the 1996 Lok Sabha elections, Shri R. Venkataraman along with N.A. Palkhivala, C. Subramaniam and H.R. Khanna called for the formation of a national government in view of the election results. The scheme outlined envisaged the Lok Sabha electing the prime minister by means of single*

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*transferable vote, from among candidates (who need not be members of parliament) who secured the support of at least 100 Lok Sabha MPs. Political parties were to be represented in the council of ministers in proportion to their strength in the house. A Common Minimum Programme acceptable to most of the political parties, if not all the political parties, must be formulated and placed before the two houses of parliament for approval. A no confidence motion to remove a prime minister should take effect only when the Lok Sabha elected an alternative leader. The above scheme, it was felt, would ensure stability of administration, cooperation of all parties in the administration of the country and elimination of rancour in the governance of the country. Shri Venkataraman's advocacy of the national government was on the 'ground that a new system to accommodate all parties in governance had to be developed to 'represent all sections of the people and ensure economic and political stability'. While the suggestion has a tinge of idealism, it is difficult to perceive its smooth operation in the rough and tumble of competitive party politics.*

*There has been a vigorous debate in India on the suitability of the presidential system and the mixed systems incorporating the best features of both presidential and parliamentary governments. At a theoretical level, it must be stressed, there exist a wide range of sub categories and variations within both the presidential and parliamentary systems. Sartori highlights the fact that the real world cases yield both 'incongruous bedfellows and dubious inclusions'. While presidentialism has come to imply a popularly elected head of state, who is also head of government and cannot be discharged by parliamentary vote during his pre-established tenure, interesting institutional differences can be discerned across presidential systems. In Latin America, the continent of presidentialism, the ministers/advisers, are in most cases, permitted to participate in the legislature debates. In Peru, the president is required to*

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*appoint a chief of the cabinet who presides over the council of ministers which, in turn, can be censured by the house of deputies . In Costa Rica too, the legislative assembly can censure ministers. Further, some presidential systems have sought to check the presidency by fixing term limits or prohibiting immediate re-election. While parliamentarism has come to signify governments to be supported and discharged by parliamentary vote, significant differences exist between the British and Continental parliamentary procedures. In Sweden, one- third of the ministers have on occasions not been members of the legislature and in Netherlands, Norway and Luxembourg ministers cannot continue as members of the legislature after their appointment . The most significant departure from traditional parliamentarism was recently introduced in Israel with the prime minister being directly elected by the citizens. Juan Linz has rightly warned that: ` . . . the terms presidentialism and parliamentarism each cover a wide range of political institutional formulas, and that the variety among those formulas is such that it is misleading to generalize about either term`.*

*The political instability that the parliamentary system is believed to have generated in India has been focussed on by numerous commentators. With seven Lok Sabha elections and as many as eight coalition/minority governments in what is close to a quarter of a century (1989-2012), the so called `negative` impact of government instability is increasingly attracting public attention. Any discussion on the strategies to ensure political stability should emphasize the stability of the political system, rather than that of the government alone. Political stability necessarily involves four crucial dimensions: system maintenance, civil order, legitimacy and effectiveness. Expanding on this theme, Lijphart argues that the ` . . . foremost characteristics of a stable democratic regime are that it has a high probability of remaining democratic and that it has a low level of actual and potential civil violence... the latter can also be viewed as a*

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*prerequisite for, and as an indicator of, the former. Similarly, the degree of legitimacy that the regime enjoys and its decisional effectiveness are related both to each other and to the first two factors. Jointly and interdependently, these four dimensions characterize democratic stability'. Even if stability were to be viewed in terms of those in government being allowed to remain in power for a reasonably secure term, it is opined that the parliamentary system, and not the presidential, offers greater stability.*

*Federal balance in plural societies has often been more successfully achieved under parliamentary systems, as compared to their presidential counterparts . The parliamentary system, it is felt, has helped Canada cope with the separatist movement in Quebec and maintain the unity of the country . On the other hand, presidentialism in Latin America has severely undermined federal fairness, as presidents have used their power to intervene in states, suspend elected authorities and appoint intervenors with full powers. The high degree of centralisation in Latin American federal systems is a clear indicator of this trend.*

*Scott Mainwaring, has also shown that presidentialism, when combined with a fragmented multi-party system, is especially inimical to stable democracy as it 'creates difficulties in the relationship between the president and the Congress'. On the other hand, Mainwaring argues that Parliamentary systems have institutionalized means of resolving this problem: in most cases, the prime ministers can call parliamentary elections, and in all cases, the parliament can topple the government. '*

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*In the light of the above facts, it must be emphasized that to effectively meet the challenges which the Indian political system faces today, it would be necessary to focus attention on the need to expand the democratic space and not merely tinker with the structures of governance. The linkage between the political and social dimensions of democracy was highlighted by Ambedkar, in his concluding remarks in the Constituent Assembly 'On the 26th day of January 1950, we are going to enter in a life of contradictions. In politics we will have equality and in social and economic life we will have inequality. . . . We must remove this contradiction at the earliest possible moment or else those who suffer from inequality will blow up the structure of political democracy which this assembly has so laboriously built up'.*

*While it is important that effective measures are initiated to expand the democratic space, the levels of 'democratic intensity' already achieved in India, under the system of parliamentary governance, cannot be lost sight of. A series of election surveys conducted under the National Election Study (NES 96,98,99, 04 and 09), coordinated by the Centre for the Study of Developing Societies (CSDS), shows that the democratic system enjoys greater legitimacy today than in the past... and the poor and the deprived defend democracy more vigorously than the elite. 'Elections have seen increasing non elite participation and the election results reflect the dynamics of the interaction between political and social change'. With the emergence of a competitive multi-party system in India and the inevitability of coalition politics, minor reforms need to be initiated in the scheme of parliamentary governance to expand the democratic space and increase the effectiveness of government.*

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*The reforms in the parliamentary system that brook no further delay include: (a) major and comprehensive electoral reforms; (b) efforts towards creating a dynamic federal system; and (c) ensuring the growth of and respect for parliamentary norms and conventions in the light of coalitions.*

### **ELECTORAL REFORMS**

*The pressing need for electoral reforms has now been voiced for several years and has found a prominent mention in the election manifestoes of all the major political parties. The Tarkunde Committee, Dinesh Goswami Commission and the National Commission to Review the Working of the Constitution have made several useful suggestions in this regard. While, an activist Election Commission has, in recent years, contributed significantly to sanitizing the electoral process, the implementation of comprehensive electoral reforms is long overdue. This presentation does not focus on reducing the influence of money power in elections. The solution to that challenge lies in curtailing the parallel economy as unless the source is controlled the temptation to spend will continue to be there irrespective of legislations. This lecture focuses on the debate on the First Past the Post (FPTP) system.*

*A major trend noticed in Lok Sabha and state assembly elections is that, under the present electoral system, the electoral verdict is not effectively mirrored in the composition of the house. The first-past-the- post system permits a candidate to win an election from a constituency merely because he/she polls the highest number of votes and the fact that he/she secured less than 50 per cent of the valid votes polled is of little electoral significance. Multi-cornered*

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*contests are largely responsible for this trend. As a result, the present electoral system has resulted in an alarming and disproportionate gap between the percentage of votes polled and the percentage of seats won by the various political parties. Ruling parties at the centre have come to power as a result of a 'manufactured majority' as in all the Lok Sabha elections, on no occasion has the party that formed the government after the elections, polled more than 48 per cent of the votes. The percentage of seats won by the ruling party has always been significantly higher than the percentage of votes polled by it*

*In view of the glaring anomalies that have arisen as a result of the first-past-the-post system, there is an urgent need to replace the system with a more suitable one. Several suggestions have been made in this regard.*

*The Tarkunde Committee (the committee appointed by Jayaprakash Narayan on behalf of the Citizens for Democracy) in its report, spoke of the possibility of adopting the 'Partial List System', which would result in the total strength of each party (directly elected + elected from the list) being roughly proportionate to the votes polled by the party. However, the committee also acknowledged the weaknesses of the system and called for a widespread public debate for a consensus to emerge.*

*The former Vice President of India, Krishna Kant, had suggested (when he was Governor of Andhra Pradesh), that a system of negative voting be introduced. A negative vote provision - wherein a voter would have the benefit of an extra column on the ballot paper stating, none of*

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*the above - would, he felt, be a legal channel for the expression of dissent . The negative vote suggestion may at the most, serve as a negative solution to the problem and will in no way positively contribute to strengthening the electoral system.*

*A more meaningful and practical alternative appears to be the second ballot system. Under such a system, if no candidate secures more than 50 per cent of the valid votes polled in the first round of elections in a constituency, a second run-off is held between the top two contestants within a week. As a result, the candidate who wins the election from a constituency secures a majority of the votes polled. Adopting the second ballot system appears to be the most effective alternative for overcoming the defects of the first-past-the-post-system. Candidates would have to take their election campaigns more seriously and electoral victories would not be merely caused by dividing the opponents' votes on caste/religious lines or concentrating on securing the votes of one segment of the voters. Those elected could then be termed as being genuinely representatives of the constituency they have been elected from. Further, in a competitive party system, a second ballot vote would encourage the polarization of political forces and contribute to the emergence of a bi-polar alliance system. While endorsing the utility of the second ballot system; a caveat needs to be added. This reform cannot be considered in isolation and would have to form a part of a comprehensive package of electoral reforms that the system needs today. It also needs to be stressed that the National Commission for the Review of the Working of the Constitution (NCRWC) has also supported this reform.*

### ***GENUINE FEDERALISM***

*The federal arrangement that was envisaged by the constitution created a federal system that decidedly tilted the balance of power in favour of the centre. Yet, the constitution did provide for specific areas of influence and operation for both the centre and the states. However, till the late 1980s, the system witnessed hyper-centralization of power. The abuse of the constitutional provisions, the attitude of the political leaders at the centre, near absence of intra-party democracy, politicization of the governor's office, misuse of Article 356 and the increasing financial dependence of the states on the centre - all contributed to this trend. A natural byproduct of this development was the increasing demand for state autonomy.*

*The politics since the 1990s have seen a clear shift in the balance of power in favour of the states of India. The role of the states in deciding and defining the course of politics is noticed in the nature of the party system emerging in the country. While there is a near bi-polar competition in most states, this transforms itself into competitive party system at the national level. This paper argues that political developments of the last two decades point to the clear gravitation of the system towards a bi-polar alliance system. Many commentators have asserted that “the theatre of politics has shifted to the states”. Second, a large segment of the political parties operating in the political system are today essentially state based parties. It can also be asserted that outcomes of Lok Sabha elections in the country in the last decade can be best understood best as a sum total of 28 different electoral verdicts across the states.*

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*The politics of the last decade of the twentieth century and the first decade of the twenty first century have placed state based parties at the “table of power” at the central level. No longer are state based parties characterized as having a “regional vision”. State based parties have the opportunity to enrich the “national” vision by making it the sum total of “regional visions”. Their participation in national coalitions, in the last two decades has given them greater visibility and power to define and determine national/central policies.*

*In view of the above developments, the desirability of continuing with the existing arrangement of the union council of ministers alone advising the president on federal matters needs to be examined in depth. The union council of ministers is essentially a 'central authority' and it would be in keeping with the federal spirit if a 'federal body' were to be entrusted with the responsibility of advising the president on crucial issues relating to centre-state relations. As Daniel Elazar says such a 'federal body' consisting of those who represent both the centre and the states would symbolize the quintessence of federal unity as federalism is both an expression of political diversity and accommodation. Such a 'federal body' could verify be the 'glue' that holds the federal system together. The inter-state council is one such 'federal body' which could be assigned this task. Created in 1990, by the National Front Government, under the provisions of Article 263, the inter-state council consists of the prime minister as chairman, a few senior union ministers and the chief ministers of all the states. However, not much was heard of the inter-state council when the Congress was in power between 1991 and 1996. The United Front government once again revived this body, but the stand of the NDA government and the present UPA government to the council remains unclear and ambivalent.*

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*In the context of the emerging competitive party system in India, revitalizing and strengthening the inter-state council appears to be a feasible institutional arrangement to ensure centre-state cordiality. The inter-state council would be an ideal forum for 'investigating and resolving multi-sectoral inter-governmental disputes'. The council could advise the president on matters relating to (a) appointment of governors, members of the planning and finance commission; (b) formulation of guidelines to assist the governors in the discharge of their responsibilities; (c) use of Article 356; (d) impact of union policies on the states and vice versa; (e) legislation relating to subjects in the concurrent list; (f) administrative directives from the centre to the states; (g) federal fiscal relations; and (h) inter-state disputes.*

*Federal fairness could be ensured if states are permitted to play their legitimate role in federal governance and activating the inter-state council would be a positive step in this direction. With the passage of the 73rd and 74th constitutional amendments, Justice Krishna Iyer asserted that an 'updated second version' of Indian federalism that accords a legitimate status to the local governments as the third tier of the federal system must be developed and accepted. The impediments which now exist to legitimately carry forward the ground work commenced with the 73<sup>rd</sup>/74<sup>th</sup> amendment need to be addressed. Any effort in the direction of empowering local governments must take into account the role and initiative of state governments in this regard. While there has been strident criticism of the misuse of Article 356 by the centre, the role of states in undermining the position and powers of local bodies has not evoked a matching response. This fact assumes even greater relevance in the light of local governments figuring in the state list in the scheme of distribution of powers.*

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*Federal justice demands that all three levels of government be allowed to operate with sufficient autonomy. If federalism is to be accepted as a principle that permits the expression of political diversity in its myriad manifestations, it logically involves not merely pressing for state autonomy but also freeing local bodies from the shackles of bureaucratic control and giving them the necessary autonomy to effectively discharge their responsibilities.*

### **PARLIAMENTARY NORMS AND CONVENTIONS**

*Efforts need to be made to ensure that parliamentary norms and conventions are respected. John Stuart Mill referred to conventions as the 'unwritten maxims of the Constitution.' Shri R. Venkataraman has suggested that, 'there are still a few dark comers which need to be lit with the lamp of conventions. Time is appropriate for setting up a few healthy conventions so that different yardsticks are not applied by successors causing conflict and uncertainty'.*

*In this context, the need for evolving healthy conventions both at the time of the formation of a government and testing its majority have become imperative. For several years now - ever since no single party has been in a position to secure a majority in the Lok Sabha - it has been suggested that the prime minister be directly elected by the Lok Sabha. Any candidate who has the support of 100 Lok Sabha members should be allowed to contest the election. The system of single transferable vote should be followed and the members of the Lok Sabha should be asked to rank the candidates.-In the event of their being more than two contestants, through a*

*process of elimination (of the candidates with the lowest first preference votes) and transfer of votes (second preference votes of those eliminated) the candidate who secures a majority of the votes polled should be appointed as the prime minister. Such a system would also insulate the office of the president from controversies, as the person appointed as prime minister has already secured majority support in the Lok Sabha. Further, the process of choosing the prime minister or leader of the coalition which enjoys a majority, would be more democratic in the event of the Lok Sabha members directly participating in the process. When Deve Gowda, and later Gujral, were chosen as the leaders of the United Front, many believed that the decision was made by a few leaders (some of whom were not even members of parliament) and not by the Lok Sabha MPs belonging to the United Front. When the UPA was on the threshold of power, the manner in which Manmohan Singh was asked to accept the responsibility of Prime Ministership reflected the entrenchment of a High Command culture even within a coalition government. The adoption of this reform, would give greater legitimacy to the Prime Ministers office as he/she would be elected by the Lok Sabha.*

*With the practice of coalition governments receiving 'outside support' becoming increasingly frequent, conventions in this regard need to be developed. A common agenda needs to be drafted by the political parties who form the government, and those who offer outside support, and this agenda must be endorsed by the Lok Sabha and form the basis of the policies and programmes of the government. The frequent tensions between the UPA and the left parties are a by-product of the lack of this clarity. In Germany, an ideal power sharing arrangement has been worked out among the coalition partners in the form of the 'coalition contract', which guides the government in its functioning.*

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*The successful working of coalitions also requires the clear identification of the 'coalition nuclei'. The major party in the coalition - to which the prime minister normally belongs - needs to play a vital role in holding together the alliance. Strict adherence to the principle of collective responsibility - a major casualty in recent coalitions - would then be possible. Further, in the event of the government being defeated on the floor of the Lok Sabha at the time of voting on a confidence/no-confidence motion, the government should be required to vacate office/submit its resignation only after the house has been able to choose an alternative leader to replace the defeated prime minister.*

*It is also noticed that the strength of the union council of ministers has varied from time to time and 'jumbo' ministries have often been formed in order to provide 'political accommodation'. Thanks to the 97<sup>th</sup> Constitutional Amendment, the upper limit for the number of member in the Council of Ministers has been fixed at 15% of the strength of the Lower House. However, to satisfy ministerial aspirants new portfolios are 'created' often without any rationale. Many a time, cabinet ministers have been allotted minor portfolios, while ministers of state have been assigned independent charge of crucial and important ministries. Against this background, it is desirable that a well defined convention or rule be evolved in so far as the number of ministries/portfolios is concerned.*

*The political structures that were painstakingly modeled by the framers of the Indian constitution appear to have today become the instruments of manipulative politics controlled by a chosen few. In such circumstances, a reform of the working of the parliamentary system has become imperative. This will help ensure that the multi-verse of Indian democracy is truly*

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*reflected in the working of the Indian political system. Shri. R. Venkataraman was one of the stalwarts who helped shape our parliamentary traditions and institutions. It is our duty to preserve his legacy and reform the system in the context of the changing times.*

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