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Constitution Review

## **Party System & Electoral Reform**

R. Venkataraman

Governments securing minority of the votes cast are ruling the nation during the period of 50 years since inauguration of the Republic.

An analysis of elections to the Lok Sabha from 1952 shows that at no time the Lok Sabha or the Union Government represented majority of votes cast at the general elections. In the very first Lok Sabha the Congress Party secured 364 seats with 44.9% of the votes cast. Rajiv Gandhi secured a massive 415 seats in 1984 though the Congress polled 48% of the votes cast and the Janata Party won 297 seats in 1974, though it polled 43% of the votes cast.

Thus, Governments securing minority of the votes cast are ruling the nation during the period of 50 years since

inauguration of the Republic.

In order to overcome this problem, I have been suggesting that the system of second vote, as in France, where a candidate to the National Assembly who secures more than 50% of the votes cast is declared elected and if no candidate gets a majority of votes cast there is a "run-off" (re-poll) within a week between the top two candidates and the winner among them is declared as elected member.

It has been objected that such a system would delay constitution of National Parliament and State Assemblies and that it will be almost like a second general election and,

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further, that it would involve enormous expenditure.

As there is no revision of electoral rolls and no fresh nominations and as the same polling booths are used there need not be delay of more than a week.

Furthermore, though initially there may be a large number of constituencies with such re-poll, the system will correct itself in due course and the number of such constituencies with re-poll will decline.

There would be, no doubt, some additional expenditure but this would be worth incurring in order to ensure that the legislatures and the governments represent the majority of the people.

**Two Party System**

If the Westminster type of Parliamentary Democracy has worked well in Australia, Canada, New Zealand and Britain it is because of the substantially two party system in these countries.

A similar system can be achieved in India if certain

measures are taken. One of these is to prescribe statutorily in the next election that all political parties which secure less than 10% of the votes cast in a general election shall be derecognised by the Election Commission. Thereafter in every subsequent election the party which gets lowest number of votes can be derecognised.

The process can continue till the number of parties is reduced to two. This scheme is not violative of the Fundamental Freedom of Association as the right to formation of political parties or groups is not taken away from the citizens. Only the right of parties to be recognised for electoral purposes is regulated.

But even if a two party system is ushered in the country one cannot ensure stability of the Government because it is still possible for a chunk of the ruling party to defect to the opposition. There is therefore need for a more stringent anti-defection law disqualifying a defector (one or one-third of the party) from

contesting for any statutory body or position from Panchayat/Co-operative to the President of India, for a period of six years.

#### Compulsory Voting

One other suggestion I would like to make is to make voting compulsory for the lower houses of the state and the union.

Most of the Panchayats are small ones with less than a population of 1000 and the number of voters may be around five hundred. Is it such a formidable task for the local authority to ensure that these five

hundred people attend the polls?

The advantage of compulsory voting is that the voter realizes that he is not conferring a favour to the candidate but exercises his duty as the citizen.

I advocated compulsory voting during the general debate on the Peoples Representation Bill in the provisional Parliament in 1951. Dr. Ambedkar who was piloting the Bill while expressing sympathy for the idea felt it might be a great burden.

True, it might have been

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difficult in 1952 when we were introducing adult franchise for the first time but it should be no problem after fifty years of independence.

Compulsory voting has been in vogue in Australia for several years.

#### Constructive Vote

One immediate measure to reduce kaleidoscopic changes in Government, which does not require any constitutional amendment or other elaborate changes is to provide in the Rules of Procedure of the Lok Sabha that a motion of no confidence against the ministry should, in the same motion, name the Prime Minister to succeed the existing incumbent, if the motion to vote him out is carried.

This system of constructive vote prevails in Germany where there is a multi party system.

The motion for the removal of the Chancellor should name the successor in the motion itself so that if the motion were carried there would be another Chancellor already chosen by the House.

The Constitution of India prescribes that the Council Ministers shall be collectively responsible to the House of People.

It is the Rules of Procedure which define the mode of removal of the Ministry and hence these rules can provide for the constructive vote which provides for naming of a successor, in case the existing incumbent is defeated.

#### Free and Fair Election

Unless the elections are free, fair and equitable, the democratic system will collapse. Representation of the People Act of 1950 and 1951 sought to provide for free and fair elections.

During the last fifty years, however, despicable developments have taken root in our nation which have rendered elections almost a farce. Money power, muscle power, corrupt unfair practices are increasingly resorted to with impunity.

Several other malpractices and improprieties of Political Parties in the collection and expenditure of funds, bribery and mis-

authority plague our system.

### Party System

Parliamentary Democracy presupposes the existence of political parties. It recognizes the right of the citizen to form themselves into political parties in order to express their hopes and aspirations and offer suggestions for betterment of the society. They have also to function as a corrective to administrative failures or excesses.

The Party System serves as means of ascertaining the majority opinion of the country and for

choosing the government of the day. Even the opposition (a minority opinion) is expected to offer constructive cooperation in the larger national interest.

Western democracies have, by long years of experience established healthy conventions regarding their functioning. Unfortunately India has not developed the same.

It, therefore, becomes necessary to regulate the formation and functioning of political parties by Statute. Britain has no laws regulating the

political parties.

But it has developed healthy conventions since the inception of party system in the 17<sup>th</sup> Century. Germany on the other hand has a well-defined law regulating the political parties.

Article 21 of the Basic Law of Federal Republic of Germany (1949), which became the Constitution of Germany on reunification by the Federal Republic and the German Democratic Republic, provides as follows:

"Political parties shall participate in the formation of the political will of the people. They may be freely established. Their internal organization must conform to democratic principles.

They must publicly account for their assets and for the sources and use of their funds. Details shall be regulated by Federal laws."

On the same lines a Political Parties Registration and Regulation Act can be passed in India which *inter-alia*, may provide:

1. That every political party shall

*be open to all citizens of India without distinction of caste, creed race religion or sex and shall have a democratic constitution.*

2. That the said constitution shall provide for a register of members.

3. That the executive of the party shall be elected at least once in two/three years.

4. That disciplinary action against any member shall be taken in accordance with the rules approved by the General Body: that there shall be a right of appeal to an internal body against such decision.

5. That there shall be at least one General Body meeting every year of the members or the delegates elected according to prescribed procedure.

6. That true and accurate accounts of receipts and disbursements shall be maintained and the same shall be audited every year by a Chartered Accountant, and filed with the Election Commission within the date to be prescribed. Such audited statements shall be public documents and be opened for

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inspection and for obtaining copies on payments of prescribed costs.

7. That political parties shall enforce discipline and decorum in the legislature and the misbehaving members shall be placed outside.

8. The whip (expelled from the party). A political party which fails to do so may be derecognized by the Presiding Officer of the Houses apart from any other action taken against the member himself and

9. That Political Parties shall ensure that their members observe highest probity and integrity in the discharge of their duties as members of the legislature. Members guilty of misconduct shall be debarred from being a member of any political party apart from any other action or actions taken according to law.

In 1978 the Income Tax Was amended by inserting section 13A that provided for maintenance of accounts and records in a specified manner by political parties and for maintenance of a record of all contributions in excess of Rupees

Ten thousand indicating the names and addresses of the persons making the contribution. The amendment also provided for audit of political parties' accounts in the manner specified. However, this Section 13 A has remained a dead letter and the Income Tax Departments of successive Governments have been remiss in enforcing this revenue measure. The Comptroller & Audit General of India has not commented on this lapse of the Income Tax Department and this is surprising beyond measure.

In a Public Interest Litigation filed by Common Cause (a Registered Society) against the Union of India, the Supreme Court held that the political parties are under a statutory obligation to file a return of income in respect of each assessment year and the parties not filing such returns have *prima facie* violated the statutory provisions of the Income Tax Act and have been wholly remiss in the performance of their statutory duties. (To be contd.)

Darshana

## The True Religious Life

Dr. S. Radhakrishnan

Religious life does not consist in the acceptance of academic abstractions or the celebration of ceremonies. It is not sentimental adoration or cringing petition. It is not a confession of faith or a vague social idealism. It is spiritual certainty offering us strength and solace in the hour of need and sorrow. It is the conviction that love and justice are at the heart of the universe, that the spirit which gave rise to man will further his perfection.

It is faith which grips us even when we suffer defeat, the assurance that though the waves on the shore may be broken, the ocean conquers nevertheless. It does not lose heart if the universe seems to be unfriendly; it does not complain even if God seems to forsake us. It is so utterly indifferent to what happens to the little self and so completely taken up by the life of spirit.

This is perhaps the significance of Spinoza's great

saying that he who loves God cannot want that God should love him in return. Highest love does not expect any return, reward or recompense. Its satisfaction lies within itself. It asks for no consolation and makes no covenant. It is an utter self-surrender, a pure self-giving. It is a deep acceptance of life and death and an unyielding determination to re-fashion existence in conformity with the dreams of heaven. It works for the welfare of the world, not for