

THE ROLE OF PARLIAMENT IN A DEMOCRACY

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I deem it indeed a privilege to deliver Santhanam Memorial Lecture and I thank the Bharatiya Vidya Bhawan for giving me this opportunity to do this very pleasant task. Santhanam belongs to that class of people who have achieved immortality by their service to this country. He was a man of great thoughts. He had a very distinguished academic career and with his felicity of expression and depth of knowledge, he would have made a success in the mundane world.

In fact he could have gone up the rungs in the bureaucratic, official as well as in the legal profession if he had only cared to do it. But the clarion call came from Gandhiji and his mentor Rajaji and he gave up a very brilliant and prosperous career before him to join the national movement. He courted arrest, faced imprisonment and suffering. Mr. Santhanam is not a man who will flinch at any suffering or any discomfort, once he had dedicated himself to a cause. As the previous speakers have mentioned, he became the Minister of State for Railways and Transport. He was a member of the Constituent

Assembly. He was a lieutenant Government and also the Chairman of two important Commissions – The Finance Commission and the Anti-Corruption Commission. I would say he has left an indelible imprint on the sands of the Indian Polity. What struck me most was Santhanam's ability as a Parliamentarian. I have had the privilege of working with him in the Provisional Parliament and I know him very closely and intimately. He was one person who was thorough with the subject, who talked very convincingly, who would not assume an air of superiority and at the same time had objectivity in respect of all issues before him. It is the Minister's ego not to accept any suggestions from others.

I have seen Santhanam on several occasions accepting good suggestions emanating from the house and not standing on prestige. In fact he used, Parliament as an excellent instrument for furtherance of democracy and therefore. I thought a fitting subject for his Memorial Lecture would be "THE ROLE OF PARLIAMENT IN A DEMOCRACY".

1. Democracy is a very complex concept which cannot be easily defined. People resort to CLICHES – Government by the people for the people and so on. But they do not bring out all the ingredients of democracy. In fact the ingredients of democracy can be identified. It is by applying these ingredients you can say whether a country is a democratic country or not. I will just mention a few ingredients that go to make a good democracy. First democracy is government by the people either directly or through elected representatives. In the old City States there was direct democracy. All the people participated in the democracy. In the functioning and administration of the City / State or in the local unit. Today it is not possible, to have great democracy. Therefore, you have to have a system of representative democracy, the fulfilling of democratic objects by elected representatives. There are occasions, where people have been called upon to express their view on crucial issues that affect the country and the state. A country like Switzerland has Referendum and the Referendum provides an opportunity to the people either to endorse or to refuse a policy put forward by the Government. At the present moment in Europe a number of countries are having a Referendum on the Maastricht Treaty. There the European community wants to have a single currency and unification in various aspects. Here is the case where people directly participate in democracy by being able to express their views and enforce them by means of a Referendum. I will come to it later.

2. The second is every adult person must have the right to choose his representative without any let or hindrance or restriction. Sir, elections must be free and fair and should reflect the will of the people. I would like you to mark each of these words – elections should be free and fair. Merely having free and fair elections along is not sufficient. It must reflect the will of the people. For instance in a territorial constituency elections, the number of votes polled by a party does not bear any relation to the number of seats won by it. Though there is a free and fair election, in my opinion, it does not reflect the complexion of the political opinion of the country. I will also come to that later.
3. The people should have equality and equal protection of law without any discrimination.
4. Rule of Law should prevail with independence of judiciary.
5. Freedom of expression and respect for other points of view should be guaranteed.
6. Minority rights should be safeguarded
7. Most importantly human rights and human dignity should be inviolable. If you find all these things in a country, then you can say it is a democratic country. If a country does not have 2 out of 8 ingredients I have mentioned. You may say it is largely a democratic country. But if it has only two and does not have the other 6 ingredients I have mentioned, you have to declare that it is not a democratic country. Even though there were the routine elections at periodical intervals, it is not mere holding of the elections that make a true democracy. A true democracy must have all the ingredients which I have mentioned.

Since direct participation is not possible, they should have a representative system. They should have democracy through representatives of the people. When I say representatives of the people, again it is not the persons who have been elected by the people but who truly reflect and represent the views and opinions of the people at large.

In my opinion the institution of Parliament is the greatest political invention of man. He has devised this instrument in order to see that his views are reflected in the body which is charged with the duty and responsibility of the governance of the country. Whether it is a cabinet form of Government or the Presidential form as in America, the parliament or a legislature by whatsoever name you may call it, is an important instrument. That is a vital instrument for ensuring a democratic system to the country. We must know the limitations also on parliament as we go on. In the British System, the Parliament is supreme. It has no written constitution. It is said that the British Parliament can declare a man as a woman and a woman as a man and nobody can challenge it. But under the written constitution, the constitution is supreme and the laws enacted by Parliament are subject to scrutiny by the judicial authority whether those enactments fall within the ambit of the powers given to the Parliament, and if it is not, they are liable to be declared void and *ultra-vires*. So, when talking on the role of Parliament in India, we should bear this aspect in mind. The Parliament is not supreme, as it is in the United Kingdom. The Parliament is subject to restrictions which have been imposed by the Constitution and it has only such powers as are given to it under the constitution.

In order that Parliament may truly reflect the opinion of the people, what John Steward Mill called the general will of the people, Elections should be fair and free. If elections are not fair and free, merely because we have an elected Parliament, it does not become a true democracy. Free and fair elections are ensured by observing all the codes of behaviour. If an election is vitiated by the violence, by booth capturing, by bribery and corruption of the voters, or by appealing to the religion, caste, creed and other considerations then the elections are neither free

not fair and the Parliament does not and, repeat does not represent the will of the people. We have also have a free and fair elections. If we do not ensure this, any amount of the periodical elections, any amount of representatives going in and coming out of Parliament will not render it a true democracy. Therefore, in order to see that the Parliament functions and discharges its role as an instrument of democracy, we have to ensure that free and fair elections are conducted in the country. They completely divert the attention of people from the issues involved in the country and utilise instruments which will completely blind them to their obligations. What happens in an election is, there is a grand display, electrical lights and bulbs are flashing all over, dramas are enacted, music concerts are held and every conceivable thing which has nothing to do with the election is made. The elector, the voter is being misled into voting to a particular party or a person by appealing to his major instincts or through entertainments, displays and so on. In a democracy people should vote for the policies and programmes of the party.

It is an occasion when people express their desire to be governed in accordance with a certain well known criteria. All over the world we have the system of conservatives, liberals, radicals and the people choose the type of Government they want. But instead of doing that, if people are misled into voting for a party on the basis thamash, entertainment and so on, we are not only depriving the elector of his right but misleading him to a society.

Election expenses are reaching enormous heights. There must be a quid pro quo like that. It may be instant or deferred. But surely there will be a quid pro quo. The present practice of, not to taking into account the expenditure incurred by the political parties in furtherance of the candidate, a large lacuna is lift election laws. Though it has been stated several times by every right thinking man in this country, we have not yet enacted a law calling upon political parties to furnish audited statement of accounts. If the political parties spend a great deal, it goes for the benefit of the candidate. What is the fun or the meaning in having a ceiling? There is no ceiling and the political parties are spending more on the election, I would suggest that the election law bans displays of these paraphernalia, all these show, and direct only the publication of the election manifesto of the candidates of the parties and make incurring of expenditure on anything except these a penal offence as well as a corrupt practice, a correct practice which will disqualify the member and a penal offence which would send him to a place where he deserves to go. Some suggestions have been made that Government should fund the elections. In fact in Germany we have that system. But there is a very stringent law which prohibits the parties from collecting funds from industrialists and other and private people also. If there is some such law in our country, it would be honoured in breach. Payments over the table will become payments under the table and the laws will just a dead letter on the statute book. I am of the opinion that State funding would only augment extravagance in which the candidate will indulge in by collecting funds from various sources. The suggestions deserve any consideration.

There is also another advantage thing. We should ban all the other activities which I have mentioned, processions, rallies and so on. These rallies create law and order situation. One party takes out a rally then another party takes out a competitively bigger rally, then clashed occur, then law and order situation arises. And you will find that the entire resources of the country will be diverted towards maintaining law and order rather than getting smooth elections through. In my opinion elections should be a smooth and should be an intellectual activity and no ripple should be caused on the social fabric. Try all means of going door to door and canvassing and creating opinion that will at least educate the people.

The reform of the electoral system is a basic necessity for a true democracy as I have repeated very often that periodical elections are not a test of democracy. Now the persons

elected should be truly representative of the general will of the people. In the territorial constituencies as I have said earlier, the number of people elected does not reflect the number of votes which the Party has got. To cite one instance, in the November, 1984 elections where the Congress party got an all time record of largest number of seats – viz 415 out of 542 members, the votes polled by the party was only 48.1%. How can you say that this reflects the political complexion of the country? Territorial constituencies have one advantage it ensures particularly in a two party system, the chance of one or the other party forming the Government.

But in a multi-party system where no single party can hope to get an absolute majority, at any rate it has been our experience that no single party has got an absolute majority in a multi-party system in Europe. Therefore representation, to truly reflect the electorates, must be changed. Either we would go to proportional representation under a list system or proportional representation under the single transferable vote system. In France for the National Assembly, if a person does not get 50% plus one of the votes and not 50% plus one per cent of the votes cast. There is a repoll so that you ensure that the person elected represent at least 51% or 50% plus one per cent of the electorates. In the other system also parties will get their seats in proportion to the votes cast and the persons whose list is filled before the election date with the authority will be called upon to fill that particular number of seats allotted. In the single transferable vote system, if nobody gets a majority, then the votes of the second and the third preference will be transferred until the person gets 51% majority. The single transferable system is too complicated for a country like India. Therefore, a list system which will truly reflect the position of the political parties in the country would be a desirable reform in our electoral system. It is only then that the Parliament will reflect the public opinion of the country. There is one disadvantage in the list system. In a democracy based on constituency elections, an unpopular person could be voted out, even though the party may not be voted out. But under a list system, the electorate has no choice of the person, he has only choice of the party. But this can also be got over by introducing a system of negative vote. The people can be called upon to vote for the party and in another column the people could be allowed to express a vote against a particular person in the list by way of a negative vote, so that even if the party gets elected, the number of negative vote in the constitution can provide that they will not be allowed as members.

We cannot go on having an old system without applying our mind to meet the challenges which arise from day to day, what has happened to us is, that we have become so conservative so tied in the wood that we are not prepared to make any change, nor even countenance suggestions for change. You will find lot of people tomorrow criticising me for this kind of what they will call, fantastic suggestions. What I want to do is to kindle your thought, make you think. I do not claim infallibility nor does any one. But if nobody starts speaking, thinking on these problems, there will be no progress at all. Therefore there are very many ways in which you can meet the situations. This is very necessary if you want to use Parliament as an instrument of democracy. A worthless parliament which does not reflect the people, which has been elected by corrupt practices, cannot be an instrument of democracy at all. Therefore, electoral reform so as to reflect the general will of the people is an absolute necessity for improving the quality of democracy in our country.

The next question arises; if no single party gets a majority, the President of India or the Executive Head of the State will be called upon to solve the political know that will develop. This is an argument which I have heard from many people. They said alright you say representation, and in proportional representation, no single party will get the trading, all the inducements, every thing will be offered and the whole system will be demoralised, I do not

think so, if we look at Europe today, most of the Governments are coalition governments. Coalition governments would give or would reflect the general will of the people better than a single party Government. It is very necessary to have coalition governments in order to ensure that greater part of the opinion of the people is reflected in the administration.

I am aware that in order to have coalition governments, you must shed some of your present prejudices. Today in our Parliament, there is no comradeship, there is no fellowship, there is no friendliness between the Government and the opposition or the other parties. In fact we regard the opposition enemies. In the British House of Commons there will be bitter debate, people will take very violently opposite points of view, argue bitterly, but the moment the debate is over, both of them will go arm in arm to the pub to have a drink. It is nearly the very same thing even in our country, take for instance the Bar, there are cases in Courts and outsiders will think that we are going to cut each other's throat. But the moment the hearing is over, people will come together and they have no misunderstanding at all. It is not that India does not have that spirit. We have that spirit. But we do not develop it. In order that coalition governments may work, you must have to evolve an approach to the Opposition which is friendly, respectful and at the same time imbued with a common purpose. Now what is the difference between the Government and the opposition, the members of the Treasury Benches are elected by the people. Members of the Opposition have also been elected by the people; Members of the Opposition have also been elected by the people. Only people in the Treasury Benches have got a larger number of seats and they are sitting on one side and people who got smaller number of seats are sitting on the other side. Intrinsically what is the difference between a member on the Treasury Bench and the person in the opposition? There is none, both of them elected by the majority of people in that constituency. But somehow the moment we sit in the Treasury Benches, we assume an air of superiority over all the other world. And we do not accord to the Opposition, their lawful legitimate right as member. If we shed this complex, coalition governments can be formed. Though it has been my misfortune as President to appoint three minority Governments during two years, it has always been my advice to the political parties that they should form coalition governments and try to save the country.

In fact the first Government under V.P. Singh was installed, then it was a minority government. Instead of honestly coming together with a common programme for the benefit of the country another party said that we will support the Government from outside the Government, a device which, in my opinion, has proved disastrous. You must take the responsibility for supporting the Government. You cannot criticise the Government outside and vote for the Government in the very House. What kind of logic and what kind of morality is this? You say, you will support the Government by voting for it in the Government in the Parliament and then we go and openly criticise the very Government outside. This device of supporting the Government from outside should, in my opinion, disappear from the dictionary of politics. Either you should support the Government honestly on the basis of certain defined agreed, policies and programmes or you should not support.

Stability is the most important aspect of a Government. An unstable government can never serve the people. The aim of every political organization should be to ensure that there is a stable government for the country. If you cannot ensure stability, then you forfeit the right to represent the people because people want stability, they are not interested in your internecine quarrels; they are interested only in a stable government which will solve their problems. I therefore, think that under a system of proportional representation, coalitions could be formed

and should be formed for the purpose of carrying on the administration for the benefit and welfare of the people.

Another ominous of thing that has occurred now which denigrates Parliament, namely floor crossing and defections, if according to me, a person is elected on the basis of the election manifesto, whether one person abandons. The party or the manifesto of the party or one third of the party, it is defection, what is wrong morally cannot become right because a large number of people do it. Here again we should take measures to prevent this kind of defections and floor crossing because the moment you cross the floor or you defect, you have betrayed the electorate who which elected you on a particular election manifesto. The right of recall which some countries have, it is too difficult in our country. But a right is really a salient one. Because if a person defects and goes out, the people should have the right to ask for the recall of that member.

One suggestion that I have made several times to curb the defections, is to deny any office for a person who changes from the party on which ticket he has been elected from any public office during the currency of the term of that Parliament or Legislature so that the temptation to make profit will be taken out. It is a simple suggestion. You do not have to seek any huge amendment to the Constitution regarding defections and all that. Any person who crosses the floor, who defects, will be deprived of the right to any public office not for his whole life but for the current year of Parliament to which he has been elected on a particular ticket.

There is also another very important constitutional change which must be undertaken. That is a constitutional limitation on the number of members of the Cabinet. In one of my addresses to the nation in my broadcast, I have mentioned the strength of the cabinet should not be more than 10% of the elected members of that country, if you fix that ceiling, there will be no temptation to go and defect in the hope of getting a berth in the Cabinet. Not only that, it will save a lot of squander mania, extravagance and waste. For instance the States in North East, Nagaland Mizoram and so on there are only the Assam State and they were administered by one District Collector, One District Superintendent of Police and so on. Today each one of them has 20 to 30 Ministers as many Secretaries, Chief Secretaries, any number of Inspector Generals of Police and so on. All the money which are given to these States go only for administrative expenditure, not a pie has trickled down to the people. No wonder the people are disappointed with us. Very often when I had gone to those places, they would ask me the question – What is it we have benefited? Even in the interest of economy this reform is absolutely necessary, if you do not have this reform, you cannot lay claim to your being a democracy because the lure of office will subvert everything else in the country.

I will now deal deeply with the use that could be made of Parliament for the purpose of furthering people's control over administration. Somehow in our country we have developed distaste for Rules and Regulations. Everybody says Rules are awful; the rules should be changed; the rules should be deleted and so on. But the Rules and Regulations of Parliamentary procedure are distilled from the past experience and trials and tribulations. They ensure proper debate, full discussion, as well as afford opportunities for expression of different points of view, different perceptions and for offering alternative remedies and solutions. If they abandon the Rules and start vociferously shouting, then why have a Parliament, why have elections? Parliament should be utilised for the purpose of ventilating the grievances of the people, of exercising control over the executives for promoting the welfare measures of the people. Parliament has become ineffective or Parliament has been rendered irrelevant.

Similarly people who sometimes say cancel the question hour. The question in Parliament is one of the finest instruments of eliciting information from the Government. Except those which

the Government says cannot be disclosed in public interest, have got to be given to the House. It is an excellent system which prevails in a democracy parliamentary democracy as against presidential system. The absence of this is, in my opinion, a weakness in the American Constitution. Instead of getting the information and exercising the option of probing into the acts, and omissions of the Government, if you stall the question hour and say, it should be cancelled. It is to the great advantage of the Minister concerned. I know some of the Ministers used to vociferously protest against the Opposition demands for dropping the question hour, but feeling inwardly happy that they have been saved the ordeal of facing questions.

Similarly Parliamentary control of expenditure has been very well provided in our Parliamentary democracy. There can be further refinements. For instance, a committee system in which the expenditure of the respective Department will be referred to Committees for scrutiny. It would be an ideal state of affairs. But then it has also its limitations. After Scrutiny by the Committee, if you start again debating in the House every one of the things which have been discussed, debated and concluded in the committee, it will become a duplicate work and waste of time. If you opt for a committee system, you must also accept the limitation, namely, of not raising all the issues again in the House.

During the Central Assembly and later during the provisional parliament, we had a committee called the Standing Finance Committee, I was a member in 1950-52 of the Standing Finance Committee. All proposals for New Scheme of over Rs. 5 Lakhs at that time --today it must be Rs. 5 Crores have to be scrutinised by the Standing Finance Committee and approved. Even an ounce of Scrutiny before the proposal is taken up is far better than tons and tons of scrutiny post mortem, after the event. I am glad that the Parliament is now thinking in terms of having the Committee system in some form and I would wish that they put through it as early as possible.

Above all, democracy cannot succeed without discipline, we have to observe the Rules and follow the procedures which were framed, not by any other person, by ourselves. It is an ancient saying that democracy discipline without leads to mobocracy and chaos and without discipline democracy leads to slavery. Therefore, democracy and discipline must go hand in hand together. The citizen has every right to criticise the Government, but at the same time, he has a duty as against the right of obeying the laws punctually. Look at the countries which are examples of true democracy like Switzerland. The laws are observed by the people voluntarily and seldom enforced by any authority. As I have seen in Geneva that if they just put up a board this road is closed for such and such purpose, nobody will cross it. But in our country you have to put up a board and put a posse of constables, even than somebody will try to sneak. Voluntary observance of laws is very necessary. It is in fact the sine qua non of democracy. Why is it that all of us are not committing just? Are not committed to that? Not because the police perhaps will send us to jail but because we feel that we voluntarily you must observe this code of conduct for the benefit of society as a whole. If 10% violate the law and 90% observe the law, law can be maintained, order can be maintained, if 90% violate the law and 10% observe it, then chaos will prevail. It is the duty of every one to accept the law, while you have every right to criticise and take all the legal measures to get that law abolished, every right to go to Parliament or get elected to Parliament and repeal it, taking the issue to the streets will not help a democratic form of Government, if every issue is going to be settled in the street, why have parliament, why have all these paraphernalia, why spend so much of money on it. Some people have very cleverly argued with me – you are one of those who went to jail. Gandhiji said, break the law. How do you

preach now that you do not break? When Gandhiji said break the law, the laws are not made by the people of India. There is a right of rebellion against the Government which does not represent the people. There is a right to even armed rebellion, in case of Colonial / and subjected people because the Government is imposed on them by somebody else, but in a democratic set-up you have elected your own Government the right to violate the law does not rest with the person. The right to change the law is there. The right to change the administration is with you. So you cannot use such an argument. What applies to a colonial administration cannot apply to a democratic administration now under a self government. I think that in order to make democracy a perfect instrument for the welfare of the people, electoral reforms will have to be undertaken.

I will sum up.

1. Since direct participation by the people in Government is not possible, Government through representatives of the people is the only best alternative. Parliament is therefore the greatest political invention of man.
2. Parliament should truly reflect the general will of the people and therefore, elections must be free and fair.
3. Electoral constituencies do not reflect correctly the public opinion in a multi-party system, as proportional representation does. And, it should be preferred.
4. Since in a Multi-party system, no single party gets an absolute majority, the habit of forming coalition government should be cultivated.
5. The sanctity of Parliament is marked by members elected on the basis of an election manifesto, crossing the floor or defecting to other parties, defection by either by an individual or by a group of members is an affront to the electorate and should not be recognised,. Defectors should be debarred from any public office for the duration of the term of legislature to which they have been elected.
6. Also a constitutional ceiling should be imposed on the strength of the State and Union Cabinet.
7. The instrument of Parliament should be utilised effectively for the purpose of ventilating grievances, expressing different perceptions and providing alternative suggestions for the purpose of improving the quality of life of the people.
8. As I said, Parliament without discipline will soon turn into a rabble and become less effective as an instrument of democracy.
9. Ultimately it is the duty of the electorates to see and to ensure that these principles are observed.