

Asian Resonance

Growth of Representative Government in India under British Rule

Abstract

Democracy, as a system of government in India, under which people exercise their power of governance through Parliament at the Centre and in the legislatures of states is, of course, recent growth having been introduced and developed under British rule. During British rule, till independence of India various Acts were passed. The Indian Councils Act, 1909 embodied an element of election. The Government of India Act, 1919 made legislature bi-cameral. The Government of India Act, 1935 provided a federal structure. There were some shortcomings in these Acts. However, the idea of Parliament, that is, the House of the people of Lok Sabha was inherent in the British parliamentary system of governance in nebulous form.

The framers of the Constitution of India made Parliament bi-cameral, much similar to that of British Parliament. They made arrangements for the working of Parliamentary democracy in India vide elaborate Articles enshrined in the Constitution.

Keywords: Government, the Government of India Act, council, The Indian Councils Act, , the Constituent Assembly, amendment, Constitution. Constitution.

Introduction

As a system of government, the democracy in India, under which people exercise their power of governance through Parliament at the Centre and a legislature in each state, is a recent growth, having been introduced and developed by the British Government in India. 'The influences which favored the development of representative system were : the tradition in which British people themselves had been living and nurtured, the familiarity of English- educated class in India with the British political ideals and institutions.

It is noteworthy; however, that democracy in India owes its beginning not only to the democratic sense of Britishers or of the English-educated Indians, but also to stern need of the country. The Mutiny- the Revolt of 1857- clearly demonstrated to the Britishers the impossibility of governing India without associating Indians with administration. Hence, various Indian councils Act were passed in the post-mutiny period, and Indians were associated with government. This was not so much the outcome of a desire on the part of British rulers to establish parliamentary institution in India, but due to a necessity to administer efficiently.¹

Keeping our present purposes of study in mind, 'we need not go beyond 1858 when the British Crown assumed sovereignty over India from the East India Company, and Parliament enacted first statute for the governance of India under the direct rule of the British Government-the Government of India Act, 1858..² This act was unconcerned about the opinion of Indians. The Administration of the country was unitary and highly centralized.

Indian Councils Act of 1861, for the first time recognized the right of Indians to represent in the legislative bodies. This Act of 1861 was introduced primarily to provide means in order to bridge the gulf, which was digged between the rulers and ruled, due to the Mutiny. To remedy this, the restoration of the Provincial Legislative councils, which were abolished in 1833, took place. A sort of functional division was made between the legislative and executive capacity of the council, though the executive still remained dominant part of the legislature. The council was not a parliament, as there was no elective principle and also no proper representation³

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Asian Resonance

Sabarwal and Gupta quote Sir Charles Wood, who while introducing the Indian Councils Act of 1861 in the British House of Commons said, "to talk of native representation is to talk of that which is simply and utterly impossible."⁴ In the opinion of Bipin Chandra this council possessed no powers at all.⁵ Grover has also said that the Act of 1861 in no way established representative government in India that was prevalent in England at that time.⁶ But for the full three decades, that is, up to 1892 the Act of 1861 was a statute law upon which the governance of India rested, though it failed to satisfy the aspiration of the people of India and evoked demand for further reform by the Indian National Congress in 1885. As a result the Governor-General Lord Dufferin appointed a committee to suggest electoral reforms, but none of the suggestions satisfied the nationalists of India.

The Indian Councils Act of 1892 was definitely an improvement of the previous Act and made a positive change in the character of Indian Legislature, but still the Act of 1892 remained inadequate to meet the demand of the nationalists of India. However, a beginning was made, though the goal of representative government was a far cry.⁷

In 1909, Lord Minto brought a bill, which took the form of the Indian Councils Act of 1909, known by the names of Lord Morley and Lord Minto popularly called, "Morley-Minto Reforms."

The Act of 1909 provided a number of reforms, modifications and changes in the existing functions of the Government. The size of the Provincial Legislative Councils was enlarged by including elected non-official members so that the official majority was gone. An element of election was also introduced in the Legislative Council at the Centre but the official majority there was maintained.⁸

In case of Governor General's Council at the Centre, the membership was raised from sixteen to sixty members. The membership for Provincial Councils of Bengal, Bombay and Madras was raised from twenty to fifty; United Provinces from fifteen to fifty; Bihar and Orissa were to have fifty members and Assam, Burma and Punjab were to have a maximum of thirty members in their legislative councils.⁹

The Act of 1909 required that the Legislative Councils should include members elected and non elected. This Act provided that councils were to consist four categories of members, that is to say, ex-officio members; nominated officials; nominated non-official members, the elected members.

The most unfortunate aspect of the Act of 1909 was that it provided separate electorate in the councils. The separate representation to Muslims in the Central Council was five seats. In the provincial councils of Assam and Madras two seats each; in Bombay, United Provinces, Bihar and Orissa four seats each and in Bengal five seats were reserved for Muslims.¹⁰

D.D. Basu says that it was a positive 'vice of the system of election introduced by the Act of 1909 that it provided separate representation of the Muslims and thus sowed the seed of separation.'¹¹

The Morley-Minto Reforms, instead of satisfying the aspirations of the nationalists of India irritated them and invited their bitter criticism, for the Reforms did not

aim at the establishment of parliamentary system of government in the country. The Indian National Congress became more active during the First World-War and started campaign for self-government, and as a consequence, Lord Chelmsford and Mr. E.S. Montagu submitted a report, keeping in view the policy of the Crown on self-governing institutions, on the basis of which the government of India Act of 1919 was drafted.¹²

Montagu-Chelmsford Report was a landmark in constitutional development in India. The Act of 1919 marked a new epoch of the development of representative system in British India. The concept of 'Diarchy' or dual government was introduced in the administrative setup in the country.¹³

The Act of 1919 implemented significant changes in the Central Legislature. The Legislature was made more representative and, for the first time, bicameral. It was to consist of a Legislative Assembly- the Lower House and an Upper House, named Council of State.¹⁴

The Legislative Assembly was to consist of one hundred forty five members of whom one hundred five were elected by the people, twenty six were official members and fourteen were nominated non-officials. Of the elected members fifty three were General, thirty Muslims, two Sikhs, nine Europeans, seven Landlords, and four representatives of Indian Commerce. The nominated non-official members included one each from amongst depressed classes, Anglo- Indians, Indian Christians, Associated Chamber of Commerce and Labour interests.¹⁵

The Upper House- the Council of State was composed of sixty members of whom thirty four were elected and twenty six nominated. Of the twenty six nominated members were to consist twenty official and six non-official members, while of the thirty four elected members, twenty were to be elected by General constituencies, ten by Muslims, three by Christians and one by Sikh, constituencies.¹⁶

The powers of both the Houses, writes D.D. Basu, 'were equal except that the power of vote supply was given exclusively to the Legislative Assembly- Lower House. The Electorates were, however, arranged on a communal and sectional basis, developing Morley-Minto device further.'¹⁷

The Act of 1919 brought significant changes in the sphere of provincial legislature too. All the legislatures of provinces were enlarged. The numerical strength, however, varied from province to province, the system of election adopted was a direct one. The communal electorate introduced by the Act of 1909 continued and even extended.¹⁸

The Reforms of 1919 gave a rude shock to the people of India. Although Indian Legislature was now more representative and a Lower House came into existence, achieving more importance than the Upper House, the aspirations of the political parties in India still remained unfulfilled, 'and led to an agitation by Congress for 'Swaraj' or 'self- government,' independent of the British Empire, to be attained through 'Non-cooperation'.¹⁹

Asian Resonance

The condemnation of the Act of 1919 by the Indian Nationalist and persistent demand of reforms, led the British Government in 1927 to appoint Simon Commission to inquire into the working of the Reforms of 1919 and make recommendation. Sir John Simon submitted the report in 1930.²⁰ The Simon Commission's report was considered by the Round-Table Conference in three sessions held between 1930 and 1932. 'On the basis of the results of this Conference a White Paper was prepared and it was examined by a Joint Select Committee of the British Parliament and the Government of India Bill was drafted in accordance with the recommendation of the Select Committee and passed by the British Government, as the Government of India Act, 1935.'²¹

The Government of India Act of 1935 aimed at providing a Federal Structure.²² According to the Act of 1935, the Federal Legislature was to consist of His Majesty, represented by Governor-General and two chambers- the Council of State and House of Assembly generally known as Federal Assembly.²³

The strength of the Council of State (when all the states have joined the federation) was fixed at two hundred sixty, consisting of one hundred fifty six representatives of British India and one hundred four representatives of the Indian States. The rulers of the Indian States were to appoint representatives of states in such a manner as they deemed proper. 'Of the one hundred fifty six members fixed to the British India, six were to be nominated by the Governor-General and the rest were to be elected. For this purpose each Province or Territory was to be divided into the necessary constituencies.'²⁴ The 'Communal Award' provided separate representation not only for Muslims, but also for the Europeans, Christians and Sikhs through their own electorate.²⁵

The Federal Assembly- the Lower House of the federal Legislature - was to consist of three hundred seventy five representatives. Out of these representatives two hundred fifty were to represent British Indian Provinces and the rest were to represent Indian States. Each Indian Province was free to decide whether the state representative would be sent to the Assembly through election or nomination.

The British Indian representatives of the Federal Assembly were to be indirectly elected by the members of the Provincial Assemblies by the system of proportional representation with the single transferable vote.²⁶ The adoption of the principle of indirect election for the Federal Assembly was weakest and, indeed, was the abnormal characteristic of the Act of 1935. Again, contrary to the democratic principle, the Upper House was elected directly and the Federal Assembly indirectly, and the chamber elected directly was made indissoluble and indirectly elected chamber dissoluble. Further, the Council of State was elected on a very narrow franchise, but its members were given an abnormally long term of office.²⁷

The provincial Legislative Assemblies consisted of elected members and in both the chambers the seats were divided on communal lines. The composition of

provincial legislature naturally differed from province to province. In all provinces, the members of the legislatures directly elected by the people.²⁸ Thus, by deliberation upon the history of democracy as a popular form of government and growth of representative system at different stages, we find the idea of the popular House of Parliament, that is, the House of the People or Lok Sabha as termed in Indian Democratic Republic, present in the nebulous form in the British Parliamentary system of governance.

The demand that the political destiny of India should be determined by the people of India themselves had been put forward by Mahatma Gandhi as early as in 1922.²⁹ The failure of the Government of India Act of 1935 to satisfy the aspirations of the Indian nationalists accentuated the demand for a Constitution framed by the people of India without outside interference which was officially asserted by the Indian National Congress.³⁰

In 1938, writes D.D. Basu, Pandit Jawahar Lal Nehru formulated the pressing demand of a Constituent Assembly thus : "The National Congress stands for independence and democratic state. It has proposed that the Constitution of free India must be framed, without outside interference, by a Constituent

Assembly elected on the basis of adult franchise."³¹ This demand was reiterated by the Working Committee of the Indian National Congress in 1939, but it was resisted by the British Government until the breakout of Second World War. The dreadful war compelled the British Government to realize the urgency of solving the constitutional problems in India. This realization paved the way for the formation of the Constituent Assembly in which the people of India could participate and express their will regarding governance of free India. Consequently, in March 1942, the British Government sent Mr. Stafford Cripps to India with a reform proposal of War-Cabinet. These proposals were rejected, but the right of the people of India to frame their own Constitution through a Constituent Assembly was established.³²

It was reiterated by the Prime Minister Mr. Clement Attlee in a statement given on March 15, 1946. A.C. Kapur quotes Mr. Attlee, who while recognizing India's right to independence said, "...What form of government is to replace the present regime is for India to decide, but our desire is to setup forthwith the machinery for making decisions."³³ In pursuance of this statement of Prime Minister Mr. Attlee, elections were held in July, 1946 in order to constitute the Constituent Assembly.³⁴

However, the Constituent Assembly met on December 9, 1946, though the members of Muslim League boycotted and went to pressing for another Constituent Assembly for 'Muslim India', yet the Assembly began to function without their participation.³⁵ According to the Cabinet Mission Plan (1946) the Constituent Assembly was not a sovereign body. The Independence Act of 1947 established the sovereign character of the Constituent Assembly which became free of all limitations.³⁶ The Constituent Assembly re-assembled on August 14, 1947 as a sovereign Constituent Assembly for the Dominion of India.³⁷ Again, after partition of India, when

Asian Resonance

the Constituent Assembly held its sitting on October 14, 1947, the membership of the House was reduced to 299. Of these, 284 were actually present on November 26, 1949 and appended their signatures to the Constitution as finally passed.³⁸

The Constituent Assembly was, virtually a galaxy of top ranking political leaders, statesmen, renowned jurists and eminent people from the length and breadth of the country.³⁹ After the transfer of power the Constituent Assembly began to contemplate on the form of government and while framing the Constitution of India adopted parliamentary system of government. Certain significant factors induced the framers of the Constitution to adopt the parliamentary system for governance.

"First, it is a system with which the country had grown familiar. Secondly, it can provide effective leadership in emergencies. Thirdly, parliamentary government ensures harmony between the Executive and Legislature. Fourthly, this system gives more responsibility. 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 and debates on addresses. Periodical assessment is done by the electorate at the time of the election which may take place every five years or earlier. The daily assessment of responsibility of the Executive was considered necessary in a country like India".⁴⁰

The Constituent Assembly, which took lead in projecting parliamentary form of government, contemplated on the constitution of Parliament. The assembly intended to make Indian Parliament more representative and bi-cameral much similar to the model of British Parliament. The original proposal, making Parliament in India, before the Constituent Assembly under Article 66 was: "There shall be a Parliament for the Union which shall consist of the President and two Houses to be known respectively the Council of States and the House of the People."⁴¹ This article was discussed thoroughly by the Constituent Assembly. Some amendments were moved by the members of the House.

Mr. Loknath Mishra (Orissa-General) insisted strongly to do away with the Council of States and insisted to keep only one House of Parliament, that is, House of the People.⁴²

Begum Ejaz Rasool (United Provinces-General) brought amendment in Article 66 of the Constituent Assembly proposing to substitute the words, 'There shall, be a Parliament for which' by the words the 'Legislature of the Union shall be called the Indian National Congress and' in the article. She told the House that 'if the word Parliament is replaced by the word Indian National Congress, we would implant the freedom struggle of the Congress in the memory of the country.' She added that 'the word Congress is not new. American Parliament is called Congress and if this word is used for Indian Legislature, then certainly the attention of the world would be centered on those ideals and principles which the Congress accepts.

Therefore, as I understand, it is proper for us that the word Indian National Congress be kept in place of Parliament in the Constitution.⁴³

Professor K.T. Shah proposed amendment as, "There shall be a Parliament for the Union which shall consist of two Houses to be known respectively as the Council of States and the House of the People."⁴⁴ His contention was that 'the British Crown is considered to be an essential constituent of entire administrative system.' He further argued that the British laws are 'made by the King with the advice and consent of two Houses.' He added that 'such a system could not be proper for the Constitution of our country.' The method of 'the King in Parliament' adopted in England is not only based on traditions but laid on solid foundation.

'The King exercises prerogative power. Doubtlessly he exercises this authority with the consent of ministers, though the authority vests in him. But the President of India would not possess the prerogative power and since no such power is vested in the President, then to place the President under Article 66 of the Constituent Assembly is entirely untenable.' He further suggested that 'it would not be proper to give the same position to the President as the British King holds. Thus, in my opinion in Article 66 the President should not be made a part of Parliament.'⁴⁵

While participating in the debate centered on Article 66 of the Constituent Assembly Mr. M. Anantshaynam Ayyanger (Madras General) told the Assembly that he 'felt sorry for opposing the amendments moved in the House.'

The amendment tabled by Mr. Loknath Mishra for scraping the Council of States from Article 66 of the Constituent Assembly and restricting to the House of the People only, is most significant. Mr. Ayyanger told the House that 'every one knows that now a days there is a great enthusiasm in our country and leave the other causes aside, viewing this enthusiasm and multiplicity, it is necessary that the people be given opportunity to take part in politics.

Therefore, it is necessary that we keep the second chamber where people's skill could get maximum participation.' Mr. Ayyanger further argued in favour of second chamber that if 'the Lower House passes any legislation which might be the outcome of the passion of the people, it would subside the passion after in reaching the Upper House'. The third reason for supporting the second chamber is that 'the Upper House is a permanent chamber and the House of the People is dissoluble. Keeping in view these reasons, in our present situation, it is essential to keep the second chamber for the progress of the country.'⁴⁶

Debating on the next amendment moved by Begum Ejaz Rasool, Mr. Ayyanger praised her intention. He said that 'it is Congress which struggled for independence of the country, which is why sympathy has been shown for the Congress. If the amendment is accepted, it would be blamed that the governance of The country is in the hands of a particular party.'⁴⁷

Coming to the amendment moved by Professor Shah, Mr. Ayyanger told the House that 'I would like to draw the attention of our respected friend on Article 42 that has already been passed which provides that the executive power of the Union shall be vested in the President and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution.'⁴⁸

The Deputy Chairman of the Constituent Assembly, Dr. H.C. Mukherjee asked to vote on each

Asian Resonance

amendment. On voting all the amendments were defeated and at the same time the proposed Article 66 before the Constituent Assembly was passed and was included in the Constitution.⁴⁹

Conclusion

Thus, by deliberation upon the history of Democracy as a popular form of Government and growth of representative system at different stages in India, we find the idea of the popular house of Parliament, that is the House of the People or Lok Sabha as termed in Indian democratic republic, present in the nebular form in the British Parliamentary system of governance.

References

1. Sabharwal, H.N. and Gupta, R.N. Indian Politics and Government, p. 157, (Kamal Prakashan, Kanpur, 1964)
2. Basu, D.D. Introduction to the Constitution of India, p.3 (Wadhwa and Company, Nagpur, 19th Edition, reprint-2004)
3. Basu, D.D. Introduction to the Constitution of India, p.3(Wadhwa and Company, Nagpur, 19th Edition, reprint-2004)
4. Sabharwal, H.N. and Gupta, R.G: Indian Politics and Government, p. 158.
5. Ibid: P. 158.
6. Chandra, Bipin: India's Struggle for Independence; p. 113. (Penguin Book India (P), New Delhi, 1989)
7. Grover, B.L. and Grover, C: A New Look at Modern Indian History, p.539 (S. Chand & Company Ltd., New Delhi-2002).
8. op. cit., p. 543.
9. Basu, D.D. Introduction to the Constitution of India, p.5.
10. Sabharwal, H.N. and Gupta, R.G: Indian Politics and Government, p.176.
11. op. cit., p. 176.
12. Basu, D.D.: Introduction to the Constitution of India, p.5.
13. Ali, R.: The Working of Election Commission of India, p. 13.
14. op. cit, p. 13.
15. Basu, D.D.: Introduction to the Constitution of India, p.7.
16. Sabharwal, H.N. and Gupta, R.G: Indian Politics and Government, p.212.
17. Grover, B.L. and Grover, C: A New Look at Modern Indian History, p. 558.
18. Basu, D.D.: Introduction to the Constitution of India, p. 7.
19. Puri, S.K.: Indian Legal and Constitutional History, pp. 209-210. (Allahabad Law Agency, Edt. 1980)
20. Basu, D.D.: Introduction to the Constitution of India, p. 7.
21. Ibid: p. 8
22. op. cit., p. 8
23. Kashyap, Subhash C.: Our Parliament: An Introduction to the Parliament of India, p. 15. (National Book Trust, New Delhi, Second print, 2001)
24. Sharma, B.M.: The Republic of India, p. 52 (Asia Publications, Bombay, 1966)
25. Ibid : p.52
26. Grover, B.L. and Grover, C: A New Look at Modern Indian History, p. 574.
27. Sabharwal, H.N. and Gupta, R.G.: Indian Politics and Government, p. 246.
28. Grover, B.L. and Grover, C. A New Look at Modern Indian History, p. 578.
29. Basu, D.D. Introduction of the Constitution of India, p.14.
30. Ibid : p. 14
31. Ibid : p. 14
32. Kapur, A.C. Select Constitutions, Part-II, p. 44. (S. Chand & Co. Ltd. New Delhi, 14th Edition, Reprint 1999)
33. Ibid : p. 44
34. op. cit., p. 44.
35. Basu, D.D. Introduction to the Constitution of India, p. 44.
36. Singh, D.K. V.N. Shukla's The Constitution of India, Introduction p. LIX (Eastern Book Company, Lucknow, 1977, Sixth edition)
37. Basu, D.D. Introduction of the Constitution of India, p.18. Also, M.V. Pylee writes: "It re-assembled on the evening on August 14, 1947, as the sovereign Constituent Assembly of the Dominion of India to take over power from the British." An Introduction to the Constitution of India, p.1 (Vikas Publishing House Pvt. Ltd. 2003 Second Reprint)
38. Basu, D.D.: Introduction to the Constitution of India, p.18.
39. Kapur, A.C. Select Constitutions, Part-II, p. 44.
40. Quoted by D.K. Singh : V.N. Shukla's : The Constitution of India, Introduction p. LXXI, the Constituent Assembly Debates, Vol VII, p. 33.
41. Article 66, of the Constituent Assembly is Article 79, The Constitution of India.
42. Constituent Assembly Debates Vol. VII, Book 4, pp. 2070-2071, (Hindi Edition)
43. Ibid, pp. 2070-2072.
44. Ibid: p. 2073.
45. op. cit., p. 2072-2074.
46. Ibid : p. 2075-2076.
47. op. cit. 2076.
48. Ibid: p 2076.
49. Ibid: p. 2077.