

# 3 The Executive System in Theory and Practice

## LEARNING OBJECTIVES

- To provide an explanation of the factors influencing the adoption of the particular executive system in the country.
- To illustrate the various institutions and functionaries constituting the executive system like the President, Prime Minister, and the Council of Ministers.
- To assess the role of civil services as a part of executive, their problems, and prospects of reforming them.

As for many other things, the Constitution of India by providing for a distinct system of executive in Indian political system may, arguably, be taken to have made an innovation of sorts, for, despite being designed on the pattern of British parliamentary system, a number of marked modifications have been made to make it suitable for the Indian requirements. Ordained to fit into the mosaic of socio-economic and politico-strategic peculiarities called India, the executive system is enriched by several features drawn from the constitutions, other than the British, as the major, if not whole, set of operational circumstances for the executive in India is different from that of Britain. For instance, the homogeneous and unitary characteristics of the British society and polity, respectively, are markedly different from the heterogeneous and federal features of Indian society and polity, requiring a different set of operational parameters for the executives in the two countries. Thus, though rooted in the broad spectrum of the British parliamentary democracy, the Indian executive system departs from that of the British in terms of an elected Head of State in the form of President in place of

a hereditary monarch; supremacy of the Constitution instead of the supremacy of Parliament; and the overbearing authority of the Supreme Court to test the constitutionality of the executive orders and parliamentary enactments as against the final authority of Parliament in all matters of constitutional disputes. The Indian executive system, in later years, turned out to be the model for a majority, if not all, of the developing countries who were looking for a suitable system of governance, different from the straight-jackets of the Western countries, for them after getting independence. In this chapter, an analysis of the theory and practice of the Indian executive is presented with reference to the institutions of the President, the Prime Minister, the Council of Ministers, and the bureaucracy.

## **ADOPTING THE EXECUTIVE SYSTEM**

Despite the omnipresent sound bytes for the adoption of a democratic system of governance for the country, the fathers of the Constitution were not hundred per cent sure of the nature and type of the executive system, to begin with. The conditions of a direct and responsible government were fulfilled by most of the existing executive systems of Europe and America from where the Constituent Assembly was trying to transplant a model in India. Of the three existing major types of executive: the British cabinet system, the Swiss elected executive, and the American presidential system the two that attracted the attention of the framers were the British and the American systems. Though the majority of the members of the Assembly were fascinated by the parliamentary executive, a few members, interested in providing for a foolproof protection to the rights of the Muslim minorities amidst the fear of a Hindu majority government in independent India, were vying for the system of government obtained in America. Finally, the Assembly agreed upon the desirability of having a parliamentary executive in which the executive and the legislative branches of government would work in supplementing the efficacy and effectiveness of each other rather than working at cross purposes. As A.K. Ayar reasoned out, 'An infant democracy cannot afford, under modern conditions, to take the risk of a perpetual cleavage, feud

or conflict or threatened conflict between the legislature and the executive.<sup>1</sup>

Once the broad decision to opt for the parliamentary executive was taken, the task at hand now was to fine-tune the niceties of the system to make it adept to the Indian situation. Initially, in the scheme of things proposed from various quarters, there were suggestions of direct election of the President and vesting him/her with specified special responsibilities in the exercise of his functions. The provision for an Instrument of Instructions was also suggested to guide the President in the exercise of his functions and to check him from turning into an overreaching Head of State. However, the incongruity of such provisions with the spirit of the parliamentary executive was obvious, and therefore, under the persuasions of many members, notably Nehru, the Drafting Committee set all such suggestions on the office of President aside. Finally, in keeping with the letter and spirit of the British parliamentary system, it was provided that the executive power of the Union would vest with the President who must exercise such powers in accordance with the aid and advice of the Council of Ministers, with the Prime Minister at the head, and the advice so tendered would be binding on the President. Thus, as Jawaharlal Nehru pointed out in the Assembly, 'We want to emphasize the ministerial character of the Government, that power really resided in the ministry and in the legislature and not in the President as such.'<sup>2</sup>

Functionally, the constitutional scheme of parliamentary executive, as devised by the Constituent Assembly, is supposed to work in accordance with the written provisions of the Indian Constitution as well as the tacit conventions of the cabinet government, as practised in Britain though all such conventions would not have been incorporated in the Constitution as written provisions. Moreover, the subtle motive of the framers, as understood by Austin, in opting for the parliamentary executive, was to provide 'strength with democracy'<sup>3</sup> to the political system of the country, for, as noted by K.M. Munshi, 'the parliamentary system produces a stronger government, for (a) members of the Executive and Legislature are overlapping, and (b) the heads of government control the Legislature,'<sup>4</sup> though, at the same time, it ensures that the people get the chance to elect their representatives to form the House of People (Lok Sabha), from which the body of the Council of Ministers, including the Prime Minister is drawn, primarily.

## THE PRESIDENT<sup>5</sup>

Under the Constitution, the office of the President has been made analogous to that of the British monarch in keeping with the spirit of the parliamentary executive, which the country has drawn from the latter, albeit with certain modifications in the form, not the substance of the cabinet government. Moulded in the frame of the ceremonial Head of State, though the office of the President is an exalted one, with enormous prestige, authority, grace, dignity, respect, and adoration, its utmost utility lies in remaining as the constitutional head without even an iota of activism in real-politik. The repositing of all the executive powers of the Union in this office (Article 53) has been based on the assumption of the President remaining a rubber stamp of the government to authenticate the decisions taken by the Council of Ministers, barring an extremely few cases ordained by the circumstances. In fact, in the Constituent Assembly, at one point of time, when there was the talk of affording the President with some discretionary powers, the major concern of the members was not with the extent of those powers but with the provision of formidable checks to deter him from usurping the powers and functions of other functionaries of the government.<sup>6</sup> All attempts by different presidents to adorn an activist role, therefore, met with strong denouncement not only by the Council of Ministers but also by the constitutional luminaries of the country.

Keeping in view the position of the President in theory and practice, various conditions of his office have been provided for in the Constitution. Thus, though any Indian with thirty-five years of age and eligible to be elected to Lok Sabha is entitled to contest for the office of the President, in reality, only persons with either exceptional qualities and stature or having the blessings of the leader of majority party in Parliament have entered the august office. Similarly, the mode of election for the office of President is indirect through an electoral college consisting of the elected members of both Houses of Parliament and the elected members of the State Legislative Assemblies—where the vote is calculated according to a formula devised by N.G. Ayyangar<sup>7</sup> to give just weight to the provincial population. Elected for a term of five years, with an entitlement for re-election, no President, except Dr Rajendra Prasad, has been re-elected to office, thereby setting a convention of sorts

that the President should not be re-elected to the office.<sup>8</sup> Finally, the President may be removed from the office by the process of impeachment on the charges of violation of the Constitution. Thus, though the various aspects of the office of President have been so designed as to contribute to his figurehead and ceremonial position, by providing for a cumbersome process of his removal from office, the Constitution has ensured him a stable tenure so that he can function without fear or favour in the exceptional cases when he may be required to take a position that is unpleasant to the party in power.

## **Powers and Functions of the President**

Calling him the Chief Executive of the Union (Article 52), the Constitution vests the executive powers of the Central Government in the President, to be exercised by him either directly or through officers subordinate to him, in accordance with the Constitution (Article 53). In this capacity, the President has been accorded such a central position in the governance of the country that each and every significant institution and functionary stated in the Constitution is directly or indirectly attached to him. Though the various organs of the government have been given distinct status and functional space by the Constitution, an organic link amongst them has been sought to be established through the office of the President. The powers and functions of the President, therefore, underpin each and every vital activity of the state in India.

The executive powers of the President primarily means the execution of the laws enacted by the legislature, and the power of carrying on the business of government as well as the administration of the affairs of the state.<sup>9</sup> The core of the executive functions of the President appears to be the appointment, in accordance with the prescribed procedure, of high dignitaries of the state including the Prime Minister, other ministers of the Union, the Attorney General, the Comptroller and Auditor General (CAG), and Judges of the Supreme Court and the high courts, Governors and other civil, military, and diplomatic officials of the Union, though, he has also been designed to be the Supreme Commander of the armed forces and diplomatic business of the country is conducted in his name.

Amongst his integrative functions, legislative and judicial functions stand out. Made an inalienable part of the Parliament, he is

vested with the power to summon the sessions of each House of Parliament, prorogue the houses, and dissolve the Lok Sabha. More importantly, he can address both the houses at certain occasions and send messages to either House of Parliament, apart from nominating twelve members to Rajya Sabha and two members to Lok Sabha. The criticality of the President's legislative powers lies in his giving assent to the bills passed by the Parliament to give them the status of law and prior recommendation to the money bills. Similarly, the power to issue ordinances when the Parliament is not in session allows the President to don the mantle of a legislature in certain cases. Judicially, the President is vested with the power to grant pardon, reprieve, respite or remission of punishment, and suspend or commute a sentence of a person. Significantly, he can also refer any matter of constitutional law to the Supreme Court for advice, which, otherwise, is not binding on him.

Exceptionally, the President is conferred with enormous emergency powers, to be exercised in (a) a situation arising out of war, external aggression or armed rebellion (Article 352); (b) failure of constitutional machinery in a state (Article 356); and (c) financial emergency (Article 360). Though envisaged precisely to defend the security and unity of the country, the provision under Article 352 was on certain occasions put to flagrant misuse as in 1975. Similarly, the provisions under Article 356 have been made to meet out a typical situation in a state, which, unfortunately, have also been remorselessly misused by successive governments at the Centre, resulting into the demand for the scrapping of this Article. The financial emergency, luckily, has not been imposed till date, signifying the soundness of the financial structures and processes in the country.

## **Actual Position of the President**

A glimpse at the powers and functions of the President with a non-holistic perspective of the constitutional vision may lead a novice to draw misplaced conclusions about him. What, therefore, becomes indispensable is that the actual position of the President must be clarified immediately after elaborating his constitutional powers and functions. Hence, as Ambedkar succinctly pointed out in the Constituent Assembly:

Under the Constitution, the President occupies the same position as the king under the English Constitution. He is the head of the state but not of the executive. He represents the nation but does not rule the nation. He is the symbol of the nation. His place in the administration is that of a ceremonial device on a seal by which the nation's decisions are made known.<sup>10</sup>

Echoing this, Article 74(1) envisages that there shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President who shall, in the exercise of his functions, act in accordance with such advice, to settle full and final the position that the President can never think of acting without the aid and advice of the Council of Ministers.

However, a few presidents, beginning with Dr Rajendra Prasad, who not for 'entirely personal' reasons but with a view 'to enable the Presidency to assume authority and continuity, should the nation, or more particularly the Union Government, ever undergo political upheaval',<sup>11</sup> sought to attribute vastly greater powers to the office of President than ordained by the Constitution and act in slightly independent manner. Unexpectedly, Prasad's spar with Nehru 'strengthened the Constitution by establishing the firm precedent that within the Executive the cabinet is all powerful',<sup>12</sup> as both A.K. Ayyar and Attorney General M.C. Setalvad reasoned out against the contention of Prasad. After almost forty years, in 1987, President Giani Zail Singh, presumably, for more personal than constitutional reasons, for the first time since the inauguration of the Constitution, used the unknown tool of pocket veto to withhold his assent to the Indian Post Office (Amendment) Bill passed by Parliament. He, however, restrained himself from taking any more untoward step, thereby avoiding any sort of constitutional crisis in the country. Barring these two aberrant situations, the constitutional position in the country seems to have been conclusively dovetailed by transplanting the British Constitution into the Indian constitutional matrix.

## **Does Indian President Have Any Discretionary Power?**

In spite of the finality of the issue that the President in India is merely a figurehead without any real powers, circumstantial dynamics

may probably afford him few, if not many, occasions to use his discretion in taking decisions. Three such circumstances are:

First, when after a fresh general elections, no party is able to command a majority in the Lok Sabha, the President is inadvertently put in a situation to apply his wisdom, without any aid and advice from a Council of Ministers. Second, if an incumbent government loses its majority in the Lok Sabha and the Council of Ministers recommends the dissolution of the House, the President might be in a position to use his mind to find out whether a reasonably stable government can be formed and the country saved from another general election, thereby acquiring a discretionary power to accept or reject the recommendation of the Council of Ministers. Last, due to the lack of time frame within which the President must assent to a Bill, he may, in his discretion, use the pocket veto to kill a Bill.

Apart from the earlier mentioned scenarios, several other issues have also been raised to fix, as much as possible, the position of the President in India. Thus, crucially, to what extent can the President use his conventional power 'to advice, to encourage and to warn'<sup>13</sup> to secure more authority and influence for him? What remedy does the President possess if the Prime Minister fails to discharge his constitutional duty to keep him informed of the activities and decisions of the Government, under Article 78 of the Constitution? Does the President have a power to dismiss the Prime Minister on the charges of corruption?

These issues have arisen out of the functioning of the Indian Constitution during the last sixty years in the circumstances which either the fathers of the Constitution could not visualize or ignored to provide for the evolution of suitable conventions on the issue. Despite a division of opinions amongst the experts on such issues many of which, if not all, defy constitutional straightjacketing, it appears that the problems, in practice, have been made a mountain out of a molehill, more due to the lack of cordiality in the relationship between the two constitutional authorities than the importance of the constitutional issues involved in the disputes. The solution, therefore, lies probably not only in evolving healthy conventions on many of the contentions but also in impressing upon the incumbents of the two august constitutional offices, through the people in general and the legal fraternity in particular, to develop and sustain cordial ties between them, for, as Paul R. Brass suggests wisely, the President can function effectively only if he has the confidence



of the Prime Minister and not vice versa<sup>14</sup> as 'the President is by convention reduced to a mere figurehead while the Ministry is the real executive.'<sup>15</sup>

## THE PRIME MINISTER

In contrast to the ceremonial position of the President, the Prime Minister happens to be the real executive in the parliamentary governance of the country. Indeed, amongst the constitutional offices, which have attained immense power and authority in the Indian political system, the office of the Prime Minister figures out prominently. True to the spirit of parliamentary system, the Constitution accords the prime position to the Council of Ministers in the executive framework of the country under the headship of the Prime Minister, to ward off the probability of the executive system turning into one man show of the Prime Minister and emphasizes the collective nature of responsibility of the government. Still, functionally, the system metamorphosed into ensuring a leading position to the Prime Minister and the collective responsibility of the Cabinet.<sup>16</sup> Presently, from being the first among equals, the Prime Minister has become the pivot or the lynchpin of the whole system of government, which crumbles with the crumbling of the Prime Minister; though too much depends upon the political hold of the Prime Minister on his party, and his political and administrative acumen in perceiving and responding to the situations way ahead of others.<sup>17</sup>

Although the appointment of the Prime Minister, under Article 75 of the Constitution, is ordained in the hands of the President, conventionally, the leader of the majority party in Lok Sabha is undisputedly appointed as the Prime Minister sans any discretion of the President. The situation, however, differs 'when the party system fails to throw up an obvious choice in the leader of a majority party'<sup>18</sup> affording discretion to the President to a certain extent. After being appointed to office, the Prime Minister is assumed to have a prerogative in selection of his ministers and their departments, as the ministers are appointed on his advice. But the imperatives of running a coalition government appear to have divested the Prime Minister of this exalted and deserving prerogative.<sup>19</sup> Following the British convention that only a member of the House of Commons can be appointed as the Prime Minister, a convention has also been

developing in India that the Prime Minister needs to be the member of the Lok Sabha only though an exception was made in the UPA government when Manmohan Singh, a member of the Rajya Sabha, was elected as the Prime Minister. Further, the continuation of the Prime Minister in office depends upon his majority support in the Lok Sabha though the Constitution provides that the ministers hold office during the pleasure of the President, but the pleasure of the President is in fact the pleasure of the majority support of Lok Sabha, to whom the government is collectively responsible and whose vote of no-confidence leads to the withdrawal of the pleasure of the President, resulting into the ouster of the government.

## **Role of the Prime Minister**

The role of the Prime Minister in the Indian political system appears to be much more widespread and penetrating than is constitutionally defined though the fathers of the Constitution were aware of the propensity of the post to concentrate most, if not all, of the executive powers of the Union in its hands. For instance, K.T. Shah, apprehending the concentration of powers in the Prime Minister, argued that such concentration may very likely militate against the working of the real responsible and democratic government.<sup>20</sup> In fact, the apprehension of framers like Shah was not misplaced owing to the scheme of things provided for in the Constitution, for, the President, vested with all the executive powers of the Union, is supposed to act in accordance with the aid and advice of the Council of Ministers headed by the Prime Minister, which in reality means the dominant, if not absolute, advice of the Prime Minister. Moreover, the persons with strong and assertive personalities like Indira Gandhi, and to some extent her father Pandit Nehru, assume so much power and authority that the system gets transformed into the prime ministerial one, as the only formidable check on the authority of the Prime Minister seems to be the majority support of the Lok Sabha; and when the House is completely in the grip of the Prime Minister, there is no looking back for her/him.

The Prime Minister's overbearing role spans through a number of channels embracing both constitutional and political spheres of the polity. Being the keystone of the arch of the Council of Ministers, he happens to be the absolute craftsman of his ministry, determining its shape, size, and constituents, with unfettered rights to shuffle

and reshuffle his stock as per his likings, provided he commands unhindered majority support of the Lok Sabha. Further, as chief of the government, he steers the formulation and execution of the policies, supervising and coordinating the visions of various ministries into the grand vision of the government as a whole. By virtue of his leadership of the Lok Sabha, he is looked upon to guide the proceedings of the House and make all major announcements of policies of the government on the floor of the House.<sup>21</sup> On the major issues concerning the departments of defence, finance, home, and foreign affairs, the Prime Minister's pronouncements are taken to be the final word of the government. Constitutionally, under Article 78 of the Constitution, the Prime Minister is also designated as the channel of communication with the President on all matters of importance in governmental functioning and decision-making. Above all, the Prime Minister functions as the mascot of the party in order to signify the achievements of the government as the achievements of the party, for, in the general elections it is the party which goes to the people seeking vote for its candidates. The Prime Minister, thus, dons the role of the captain of the ship of government to steer it on its journey of governance safely and with the hope that the ship remains in a position to renew its license for embarking upon more journeys in future.

## **Prime Ministers in Action**

The saga of the prime ministers in action in India is probably the saga of ups and downs in the prestige and authority of the august office under the influence of the changing fortunes of the political party in office. From the times of Jawaharlal Nehru to that of Indira Gandhi and to that of Manmohan Singh, the functioning of the prime ministers has experienced the distinct phases of leadership styles and authority systems based on the stature and grip of the leader on the party organization. Nehru's tenure as Prime Minister seemed to be of dignified authority, for 'he enjoyed power, used it to pursue his vision of the national good and could play rough to vanquish political opponents',<sup>22</sup> to ensure that the role of the Prime Minister is not reduced to that of a 'mere figure head'<sup>23</sup> but never allowed himself to bulldoze others in government as well as party. Equally, if not more, democrat and believer in consensual

functioning, Lal Bahadur Shastri, in the true spirit of cabinet government, allowed his cabinet to work 'as a team of near equals out of whom consensus had patiently to be constructed.'<sup>24</sup>

Indira Gandhi's prime ministership was arguably a class apart due to uncharacteristic leadership style in taking most, if not all, vital decisions of the government and party single-handedly. If her father's attitude towards power was ambivalent, her attitude was deterministic and possessive. Barring circumstantial limitations, as evident in her early years, she was never willing to accept the modalities of the cabinet government. Interestingly, in his initial years as the Prime Minister, Rajiv Gandhi tried to emulate the tone and tenor of his mother, partly due to his mammoth majority in the Lok Sabha, by allowing his friends and cronies to assume critical positions in decision-making of the government—a move whose implications he failed to manage, resulting in the tarnishing of his image and costing him dearly in subsequent elections.

In the era of coalition governments, the actions of the prime ministers are constrained, to a great extent, by the perspectives of the supporting or participating parties of the government. The major, if not the utmost, concern of the Prime Minister is to ensure the sustenance of the government by avoiding any tough and formidable traits of either his personality or his decisions unless he is ready to sacrifice his government.<sup>25</sup> Needless to say, in such circumstances the governance of the country takes a backseat with the Prime Minister just passing off time without any creditable acts of omission or commission.<sup>26</sup> The functioning of the present government of Prime Minister Manmohan Singh appears to be conditioned by the dynamics of the coalition politics in the country showing signs of subtle weaknesses at certain times.

## The Road Ahead

Undoubtedly, the functioning of the office of Prime Minister in the Indian political system appears to have come full circle with various types of leadership styles and effectiveness of the leader evident at different times. Despite the constitutional provisions ensuring a crucial and central position in accordance with the sound principle of parliamentary system, the functional character of each and every holder of the office has been distinct, owing to numerous factors.

Yet what needs to be emphasized is the point that there exists a well-defined scale of personal and political stature as well as domain of effective and independent leadership up to the level of which each and every Prime Minister must, more or less, measure up.

Contextualized in the framework of coalitional politics where the numerous regional parties become indispensable in the cobbling up of a government at the Centre, the functioning of the cabinet would remain a problematic proposition, but the way out will have to be found out by the Prime Minister. Once the common minimum programme is finalized and the broad contours of the governmental functioning is fine-tuned, the Prime Minister must be in a position to assert his prerogative in the formation and the operationalization of the cabinet, so that the government bears a distinct mark of the personality of the Prime Minister. If this minimum operational autonomy is not afforded to the Prime Minister by his party as well as the coalition partners, the office of the Prime Minister is bound to undergo a decline in both stature and effectiveness, which would ultimately compromise not only the quality of governance for the time being but also lead to a subtle shift in the constitutional framework of parliamentary government in the country. When the Prime Minister is unable to effectively act as the buckle to fasten the various strings of the government and ensure a prime position for himself in both party and the Lok Sabha, the governance of the country would be the first casualty and the prime minister's onerous achievement would be the mere survival of the government at the cost of the well-being of the people and the nation.

## **THE COUNCIL OF MINISTERS**

The essence of the parliamentary form of government lies in having a collective body of executive in the form of the Council of Ministers, headed by the Prime Minister and its collective responsibility to the Parliament. In marked distinction from the presidential form of government in which the entire executive powers and functions are embodied in the singular personality of the President, the Council of Ministers reflects the core of the parliamentary form of government in which it is the collective, in contradistinction with the individualistic, nature of governance that permeates the top echelons of the government. Therefore, though the Prime Minister is

ordained at the head of the Council of Ministers to provide unified and corporate character to it, the constitutional reckoning is always in terms of the Council of Ministers.

## **Basic Characteristics**

As the whole edifice of the parliamentary system of government in India is based on the constitutional provisions and conventions of the British political system, the fathers of the Constitution did not face much trouble in framing the basic provisions to envisage a cabinet form of government<sup>27</sup> for the country. Accordingly, Article 74(1) of the Constitution categorically states, 'There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President in the exercise of his functions.' By this general yet well-meant statement, the fathers put into perspective the positions of various players in the executive system of the country. Thus, providing for the classical feature of the parliamentary form of government, the Constitution ordains both the nominal as well as the real executives with the precondition that the former shall act only on the aid and advice of the latter.

The formation of the Council of Ministers is crucial to the successful functioning of the parliamentary government because two fundamental principles governing its formation characterize the essentials of the cabinet government. First, though the provision, as provided under Article 75(1) of the Constitution: 'the Prime Minister shall be appointed by the President and other ministers shall be appointed by the President on the advice of the Prime Minister', outlines the theoretical position of the composition of the Council of Ministers, in practice, the advice of the Prime Minister is guided by a number of factors, the most important of which appears to be his party's position in the Lok Sabha as well as his own position in the party. For instance, the prime ministers like Indira Gandhi and Rajiv Gandhi, whose party commanded absolute majority in the Lok Sabha and who were the unquestioned leaders of their party; the formation of the Council of Ministers was the matter of personal discretion for them. But for prime ministers like Atal Behari Vajpayee and Manmohan Singh, running coalition governments, the composition of the Council of Ministers was well beyond their control and dictated by the bosses of the participating parties of

the coalition. Moreover, such dictated Council of Ministers, quite often than not, becomes a non-homogeneous body, militating against the doctrine of the homogeneity of the same, and does not accept the preeminent position of the Prime Minister in the cabinet as the members of the cabinet do not owe their position to the Prime Minister.<sup>28</sup>

Second, in Britain the convention has evolved which the Indian Constitution has adopted, providing that the ministers must be the member of the either House of Parliament, to firmly establish the trademark of the parliamentary government that the executive is drawn from the legislature and is collectively responsible to it. Thus, while Article 75(2) lays down that the ministers shall hold office during the pleasure of the President, Article 75(3) qualifies it by envisaging the collective responsibility of the Council of Ministers to the Lok Sabha, which, in final analysis, means that the ministers can hold office during the pleasure of the Prime Minister who himself remains in power as long as his majority remains intact in the Lok Sabha. The loss of majority in Lok Sabha was not an issue in Indian polity till the onset of non-Congress ministries at the Centre and became endemic in the times of coalition and minority governments since 1989.

Another characteristic of the system of Council of Ministers seems to be the trend of creation of smaller bodies to handle the complicated responsibilities of the government in an efficient and quick manner. In fact, owing to its unwieldy size and diffused nature of composition, the Council of Ministers has over the years given way to the evolution of, what is known as the cabinet, in order to give speed and expertise in the performance of the governmental functions. Initially, an informal body consisting of the key members of the Council of Ministers, the cabinet has gradually acquired a formal position, conventionally, bestowed with the responsibility of taking all important decisions on behalf of the Council of Ministers. Presently, in India, the Council of Ministers consists of three types of ministers: the Cabinet Ministers, the Ministers of State, and the Deputy Ministers, of which the ministers holding the rank of the Cabinet Ministers form the cabinet. But sometimes, when a Prime Minister readies to act in a more concise manner or creates a coterie of three or four ministers to replace the cabinet, a new phenomenon called 'Inner Cabinet' or 'Kitchen Cabinet' comes into being.<sup>29</sup> Presently, in the wake of coalition government when the prime ministers are not in a position to form an inner cabinet but finds

the cabinet large and amateur enough to cater to the specialized needs of the government, a number of cabinet committees and groups of ministers are created to smoothen the functioning of the government. However, the delegation of functions does not mean the delegation of responsibility and the Council of Ministers remains collectively responsible to the Lok Sabha for all the acts and decisions of its subsidiary bodies.

## Functions of the Council of Ministers

In the maze of the existence of various components forming the gamut of executive in the parliamentary system of government, the precise denouement of the powers and functions, whether notional or real, of various institutions and functionaries required serious consideration. Typicality of such an exercise seems more pertinent in the case of the Council of Ministers, for, despite being the constitutional embodiment of the real executive authority, it has remained overshadowed by the office of the Prime Minister and almost eclipsed by the cabinet. Consequently, the powers and functions of the Council of Ministers have been described in terms of the powers and functions of the cabinet. Thus, drawing on the most authoritative description about the functions of the cabinet in Britain made in the Report of the Machinery of Government Committee (1918), the basic functions of the cabinet in India consist, broadly, in (a) the final determination of policy to be submitted to Parliament, (b) the implementation of policy determined by Parliament, and (c) the continuous coordination of the activities of the several departments of the government.<sup>30</sup>

Being the primary function of the cabinet, the task of final determination of policy served two useful purposes in the nascent parliamentary democracies like India. First, reaching at a decision after due deliberations in the cabinet ensures that the policy becomes the policy of the government rather than the policy of a minister with which all other ministers agree, facilitating a smooth implementation of the policy. Second, the submission of the final policy to the Parliament for its approval by the cabinet binds the entire cabinet by the doctrine of collective responsibility so that the adequacy of the parliamentary control over the cabinet could not be diluted in the name of the responsibility of an individual minister.



After getting the policy approved by the Parliament, the onus of the execution of the policy rests on the cabinet which delegates the niceties of such execution to the individual ministers. However, sometimes, keeping in view the importance of the matter, special cells may also be set up in the Cabinet Secretariat or the Prime Minister's Office to oversee the implementation of the policy. Still, the responsibility for the fallout of the execution of the policy remains with the cabinet on the floor of the Parliament.

An operational function of the cabinet relates to the continuous coordination of various ministries and departments of the government, engaged in the task of similar nature. Even if the issue of difference of opinion between or among two or more departments is set aside, the coordination assumes greater significance in view of economy and efficiency in implementation of the policies, for which a coordination cell is established in the Cabinet Secretariat, in addition to the Committee of the Secretaries of the concerned ministries under the Cabinet Secretary to advise the cabinet on the problems of inter-ministerial consultation and coordination.

Crucially, the control over finances and appointments permeate the functions of the cabinet to even the lower echelons of the government as substantial decisions pertaining to those issues cannot be taken without the approval of the cabinet or a competent authority on behalf of the cabinet. Though the day-to-day functions of monitoring the expenditure and incomes of the government rests with the Finance Minister, the broad policy guidelines suggesting the canons of financial management in the country emanate from the cabinet only.

## **Council of Ministers Over the Years**

The action part of the Council of Ministers over the years in India has been marked by two discernible features, rooted in the personality of the prime ministers and the political circumstances accompanying them. First, despite being the fundamental unit signifying the idea of government, the Council of Ministers, experiencing a role reversal, has increasingly become a reflection of the Prime Minister rather than the other way round. Second, the Prime Minister's own equations of influence with the Council of Ministers have been varying on account of the circumstantial

political strengths and weaknesses of the person as a result of which at times, the Council of Ministers was reduced to a position of insignificance in the face of the Prime Minister's clout over it whereas at other times the latter stood in a state of helplessness in front of the former.

A product, not entirely of his own volition but the legacy of the national movement, Nehru's Council of Ministers, in its early years, consisted of heavyweights, few of whom were equally, if not more, influential and capable like Nehru, defying any undue bulldozing by the Prime Minister. Though Nehru himself was a believer in democratic functioning, that he 'had to negotiate policies with talented and strong-minded colleagues',<sup>31</sup> even after the death of Patel confirms the relative autonomous functioning of the Council of Ministers in his times, a trend that continued during the reign of Shastri also.

Acting in total contrast with style and circumstances of her father, Indira Gandhi effected a progressive 'migration of power'<sup>32</sup> from the Council of Ministers to her kitchen cabinet and then to the Prime Minister's Office, eventually falling in the hands of her younger son Sanjay Gandhi as an unfettered extra-constitutional power centre. Individualistic monopolization of power, in place of the collegiate system of the cabinet, was so alarming that even the sympathizers of the government also suggested 'a self-conscious effort'<sup>33</sup> to be made by the prime ministers to ward off further moves aimed at concentration of powers in individual hands.

In the later years, with the installation of either minority or coalition governments barring that of Rajiv Gandhi, the belittlement of the Council of Ministers at the hands of the prime ministers could not become discourteous and prejudicial to the spirit of parliamentary government. Rather, as the regional and smaller parties became the crucial sustaining partners of the governments at the Centre, the position of the Prime Minister started turning out to be precarious with resultant autonomy and indispensability of the individual ministers as well as the Council of Ministers becoming formidable.

## **BUREAUCRACY**

Bureaucracy constitutes, what is called the 'Permanent Government'<sup>34</sup> of the Indian State along with its political counterparts like

the President, the Prime Minister, and the Council of Ministers in the complex web of the Indian executive. Going by the canons of the British parliamentary system of government, the conceptual framework of the Indian government was bound to be on lines of the British system where there exists a marked distinction between the political and the permanent branches of the government. However, in practice, when it came to designing the operational shape of the different wings of the executive, the framers faced the daunting task of arriving at a consensus on the type of bureaucratic model suitable for independent India. Though the problems faced by the country at the time of Independence were enormous yet varying in terms of maintaining law and order amidst the chaotic post-partition circumstances on the one hand and fostering a rapid socio-economic development on the other, the system of bureaucracy capable of meeting all kinds of challenges was not visible to the framers at the outset.

The existence of an efficient, though imperialist, Indian Civil Service (ICS) in the closing years of the British rule provided an alternative for the framers to fall back upon. But there existed an equally formidable opposition to it, seen as an instrument in the hands of the colonial rulers, having the virtues of neither Indian, nor civil nor service.<sup>35</sup> However fascinated by its steel frame endured ability to run the administration of the country in all thick and thin, Sardar Patel, in a planned way, emerged as the chief advocate of the ICS to ensure its acceptance across the board by the Constituent Assembly without any fetters on or dilution of its authority in the governance of the country. To be rechristened as the Indian Administrative Service, its preeminence in the Indian administration was ensured through the numerous constitutional provisions guaranteeing certain privileges and immunities to it, in an effort to insulate the officers from the vagaries of the political leaders. Thus, the bureaucracy, in post-Independent India, remained:

[T]he continuation of the old one with the difference that it was to function in a parliamentary system of government, accepting the undoubted primacy of the political executive which in turn was responsible to the people through their elected representatives in the legislature.<sup>36</sup>

The net result of the continuation of the steel frame, in the long run, turned out to be partial: though the country was pulled out of the chaotic situations and law and order was maintained along with

the unity and integrity of the nation, the onerous responsibility of meeting satisfactorily the 'raised expectations' of the people by bringing about a rapid socio-economic development could not be shouldered by the bureaucracy presumably due to lack of skill and expertise to handle the developmental goals.

The basic characteristics of Indian bureaucracy, in terms of its structure, role, behaviour, and attitude have a deep lineage from the socio-economic and political milieu of the pre-Independence India, rooted in the vision of British imperialism and bereft of the realities and aspirations of the Indians at large. The apparent modifications brought in it were more in form than substance, leaving a wide gap between the requirement of a forward-looking, development-oriented, dynamic, and innovative bureaucracy, and the provision of a restrictive, status quoist, regulatory, backward-looking, and static one. The immediate concern of the political leaders in the post-Independence period was probably bringing back of law and order in the country and ensuring the unity and integrity of the nation in the long run. With abject betrayal of the cause of socio-economic development, the steel frame sounded to be the best suited to them, the consequences of which are faced by the people even today—in the sense that even after almost sixty years of Independence, the country still suffers from the scourges of poverty, illiteracy, imbalanced regional development, and so on, on one hand, and the lack of basic necessities of life like *bijli* (power), *sadak* (roads), and *pani* (water), on the other.

Structurally, the Indian bureaucracy continues to be defined by the broad parameters prescribed by the Macaulay Committee Report in 1854 patterned more or less on the broad characteristics of the Weberian model. Hence, while recruitment is made through an open competitive examination based on academic achievement, there exists an elaborate training arrangement. Moreover, the characteristics like permanence of tenure; generalist nature of the service; a graduated and regular scale of pay, pension, and other benefits; and a system of promotion and transfers endow the bureaucracy with the necessary resilience to be an all-weather institution. The role of bureaucracy has undergone a vast transformation both in terms of nature and scope: in addition to the maintenance of law and order it was required to be the harbinger of socio-economic change in view of the planned method of development overstretching its reach to all aspects of citizens' life.<sup>37</sup> The behaviour of the civil services, despite sincere and repeated efforts to make it propitious

to the requirements of a modern democratic developing state, appears to have remained embedded in the colonial outlook of ruling over people albeit with a certain degree of benevolence in the face of delivering some goods and services to the people. Thus, while the colonial civil servants had a paternalistic attitude towards the people and ruled largely by negative discretionary powers,<sup>38</sup> their successors, noting the vast unmet development needs of the people, substituted positive discretionary powers of patronage and subsidies, reinforcing the colonial syndrome of dependency on the *mai-baap* state.<sup>39</sup> The cumulative impact of these characteristics have been so debilitating on the cent per cent role performance of the bureaucracy that it is now almost conclusively proved that it is best in what it was doing in the colonial times, that is, the maintenance of law and order, and the onus of steering the country into the comity of developed and prosperous nations needs to be shifted on the shoulders of the specialists working in various fields of life instead of the generalist bureaucrats. The ensuing recommendations of the Second Administrative Reforms Commission (Moily Commission) is expected to formalize the long-standing feelings, in the minds of the people, of withdrawing the bureaucracy from the domain of socio-economic development of the country.

## Issues in Reforms of Bureaucracy

An assessment of the role of bureaucracy since Independence in India provides an ambivalent perspective. While it would look like an exaggeration of facts to take its role as essentially progressive and markedly successful, it would be naïve to call it an outright failure. In fact, proving true to the expectations of its post-Independence protagonists, the bureaucracy has been able to excel in the performance of the role for which it was specifically eulogized, like bringing back order in the immediate aftermath of the partition, keeping the unity and integrity of the nation intact, liaising between provinces and the Central Government, ensuring a successful working of the Constitution, and so on. As the performance of such functions did not require capabilities and attitudes different from the colonial times, the bureaucracy's track record in such areas has been exemplary, though in contemporary times, the upsurge in violent and subversive activities born out of societal tensions have again

put question mark on the efficacy of the civil services in governing the country in an efficient manner.

Interestingly, much of the brickbats aimed at bureaucracy appear to be for the failure in discharging those responsibilities for which it was not initially marked out. As explained earlier, Patel's primary argument for the retention of the colonial structure of bureaucracy in independent India was for the purposes other than developmental. Apparently, the major challenge for the bureaucracy to tread on an uncharted path came in the wake of the planning which visualized a state-led path of socio-economic development putting bureaucracy in the driver's seat to usher in an era of development administration imbued with the traits of professionalism, flexibility, dynamism, and selfless commitment to the development of the masses. All of a sudden, enormous amount of resources and discretion to design the policies and implement them in order to ameliorate the conditions of the masses was handed over to those who neither had vision nor professional abilities to carry out the task at hand. Astonished at the faith reposed in it to be the kingpin of developmental efforts at all levels in the country, the bureaucracy, in sheer blissfulness, found it mired in the banes of corruption, politicization of services, and unimaginative expansion of the cadres<sup>40</sup> to the gross, if not total, neglect of the noble cause at hand. What, however, emerges from this is that more than the failure of the bureaucracy, it appears to be the fault of the leaders of independent India who, despite embarking on the path of planned development in the country, did not persevere to create a new cadre of development administrators bestowed with the responsibilities of formulating and implementing the plans of socio-economic development. By sticking to the pre-existing regulation-minded system of bureaucracy to enter into the domain of a new and innovative activity, the leaders, in a way, ensured the failure of the grand enterprise called socio-economic development of the country even before the actual assessment of the task by the bureaucracy could take place. Hence, the partial success of the bureaucracy in the performance of the developmental tasks might be attributed to the lack of wisdom and imagination in the leaders, alongside the failure of the bureaucracy in this regard.

Almost forty-five years of miserable performance by the bureaucracy in carrying out the socio-economic development of the country inspired the leaders to look for an alternative course of

development resulting into the wave of liberalization-driven reforms at the cost of the bureaucratic authority and discretion. Echoing the mood of the times, Prime Minister Rajiv Gandhi succinctly pointed out:

The paternalistic model of our administration is not suitable for a society where the main thrust of administration is on development. It was agreed that the regulatory functions of administration should not be seen as an end in themselves, as they tended to be in colonial times, but as a means of reinforcing and sustaining the processes of broad-based development.<sup>41</sup>

Thus, the stage was set for the inauguration of a series of reforms in the Indian bureaucracy guided by both internal as well as external persuasions.

Coming out with a blueprint for the civil service reforms, the recommendations of the Fifth Pay Commission struck at the roots of the problems plaguing the bureaucracy in the country. Thus, its recommendations focused mainly on downsizing the government through corporatization of many of its activities, ensuring transparency, openness, and economy in its operations, provision for contractual appointments in selected areas of activities, and the repeal of the archaic laws like the Official Secrets Act, and so on.<sup>42</sup> Placing special emphasis on an efficient machinery for the redressal of the citizen's grievances, the Commission advocated the introduction of the novel concepts of Citizen's Charter and Right to Information to ensure greater participation of people in the activities of the government.

## CONCLUDING OBSERVATIONS

The theory and practice of the executive system in India presents a picture of continuity and change. Owing to the experiences of the country with some sort of parliamentary system of government during the latter part of the British rule in India, the choice in the Constituent Assembly was obvious with the majority favouring the adoption of the system with suitable modifications keeping in view the peculiar conditions of the country, and conventions and traits of governance in the history of the country. Hence, while the British system of parliamentary democracy was adopted by the

fathers of the Constitution in letter and spirit, they did not fail to bring about a number of overbearing modifications of the polity of the country in order to provide a semblance of uniqueness of the Indian political system on the one hand, and make the system balanced and vibrant on the other. For instance, by discarding the fundamental trait of the British political system, that is, the supremacy of the Parliament in the affairs of the country, the framers of the Constitution in India opted for the supremacy of the written Constitution as the supreme law of the land and made all other organs of government, including the Parliament, subservient to the provisions of the Constitution. Such modifications in the model of the British political system before its transplantation in India seemed desirable ostensibly due to the fact that India has a different set of political mindset, and there could not have been a certainty that the Parliament would, for all times to come, remain a body of rational and impartial people. Hence, in order to nip in the bud any move on the part of the Parliament to alter the basic contours of the polity in the country, the fathers of the Constitution put obvious fetters on the span of functioning of the Parliament.

Despite having a clear-cut demarcation of the executive authority, the political system of India has been witness to various styles of functioning of prime ministers having variable styles of their own in such a way that while some have proved their timeless mettle to wriggle out of all sorts of situations, many others have proved themselves to be the hostage of circumstances and in testing times of their tenure they either gave up or responded in such a way that it did more harm to the country than doing any good, either to the leader or to the society. Though circumstantial variations were quite important in shaping the calibre and competence of a Prime Minister, his/her personal formidability and visionary outlook made the most significant contribution in the success and failures of the prime ministers. However, in the era of coalition governments, the element of poise and understanding of the Prime Minister would gain even a greater significance in determining the effectiveness of the government in not only ensuring the survival of the democratic polity in the country but also the tackling of the simmering problems of the nation.

Finally, the most pressing requirement for shedding its original tone and acquiring a new character has been presented before



the bureaucratic set-up of the country in the post-Independence times. As in its colonial incarnation, the bureaucracy had to don a different sort of mantle. With the focus of administration remaining confined to the law and order functions of the state instead of having any sort of positive outlook regarding the well-being of the common masses, such an attitude and behaviour on the part of the administrative set-up of the country was found unacceptable. Hence, the bureaucracy in the post-Independence times was hard-pressed to transform its role from that of the traditional bureaucracy to that of a modern development-oriented bureaucracy whose major concern now became the bringing about of rapid socio-economic transformations in the lives of the people, apart from performing the minimum task of maintaining the law and order in the society. Thus, though the structures of executive system in the post-Independence times are trying to change themselves, the nature and pace of such transformations leave much to be desired in the times to come.

## NOTES

1. See Constituent Assembly 1948: 985–86.
2. Ibid.: 734.
3. See Austin 1966: 116.
4. Ibid.
5. In the Constitution, the President of India is addressed by the pronoun 'He', though the present incumbent happens to be Mrs Pratibha Devisingh Patil.
6. Ibid.: 118–32.
7. See Austin 1966: 122.
8. This convention, if we call it so, has taken root in the country more due to political reasons than any sound constitutional logic, as political parties do not like a nominee of the previous government to get re-elected. For instance, the opposition of the Left parties to the re-election of Dr Abdul Kalam is couched in the logic that there is no convention for the re-election of the President since Dr Prasad, and that the NDA, too, had opposed the re-election of K.R. Narayanan on the basis of the said convention. See, *The Statesman*, New Delhi, 9 May 2007.
9. See Basu 1989: 163.
10. See Constituent Assembly 1948: 974.
11. See Austin 1966: 141–43.
12. Ibid.: 143.
13. See Bagehot 1968: 69.
14. See Brass 1992: 47.

15. See Alexandrowicz 1957: 127.
16. See Pylee 1965: 345.
17. The point can be borne out by comparing the prime ministerships of Indira Gandhi and Manmohan Singh. Despite the common constitutional sanction, there exists a drastic difference between the two in terms of their authority over the whole system of government on account of their differing political hold over the party. For a general review of the personal and political dynamics of the Prime Minister in the functioning of the government, a useful though dated work is: R.J. Venkateswaran, 1967. *Cabinet Government in India*. London: George Allen and Unwin.
18. See Singh 1995: 187.
19. A case in point, in this regard, is the appointment of Radhika Selvi as the Minister of State for Home on 18 May 2007. Coming in the wake of the forced resignation of Dayanidhi Maran, the date, time, venue, and department of Mrs Selvi were announced in a press note by DMK in Chennai, quoting a Prime Minister's Office missive, snatching the prerogative of the Prime Minister to select his ministers and to decide about their responsibilities in the Council of Ministers. See *The Hindu*, Delhi, 19 May 2007.
20. See Constituent Assembly 1949: 146.
21. This preposition holds good even if the Prime Minister is not a member and therefore leader of the Lok Sabha.
22. See Austin 1999: 28.
23. See Frankel 1978: 75.
24. See Morris-Jones 1971: 145.
25. One such instance included the pre-emptive dismissal of the Deputy Prime Minister Devi Lal by Prime Minister V.P. Singh who sensed the design of the former to topple his government, thereby showing the signs of a tough and formidable Prime Minister.
26. For an insightful analysis of the dynamics of coalition politics in the country, see Chakrabarty 2005; and for a discussion on the aspects of the Prime Minister's functioning in an era of coalition politics, see Mehra 1998.
27. An informal construct, to begin with, the concept of cabinet has evolved in Britain to denote the small body of key ministers, drawn from the Council of Ministers, under the headship of the Prime Minister to become the *de facto* government, due to which the parliamentary form of government is also, sometimes, called as the cabinet form of government. See Keith 1970.
28. See Mehra 1998: 302.
29. See Panandikar and Mehra 1996: 1.
30. See Venkateswaran 1967: 40–42.
31. See Austin 1999: 27.
32. Ibid.: 190.
33. See Dhar 1989: 59.
34. See Rudolph and Rudolph 1987: 236.
35. *Jawaharlal Nehru, An Autobiography: With Musings on Recent Events on India*, cited in Chakrabarty and Bhattacharya (eds) 2003: 32.
36. See Alexander 1998: 62.
37. For a succinct study of the role of bureaucracy in both pre- and post-Independence times, see Potter 1996.

38. See Chakrabarty and Bhattacharya 2003: 33.
39. See Sudarshan 1999: 111, cited in Chakrabarty and Bhattacharya 2003.
40. See Trivedi 2002: 157.
41. Cited in Chakrabarty and Bhattacharya 2003: 38.
42. For details, see *Report of the Fifth Pay Commission* 1997. Volume 1.

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# 4 Parliament

## LEARNING OBJECTIVES

- To describe the composition and functions of the two Houses of the Parliament, namely, Lok Sabha and Rajya Sabha.
- To illustrate the changing profile of the Parliament due to the rapid socio-economic churning taking place in the country.
- To elucidate and assess the role and effectiveness of the Parliamentary Committees in the working of the Indian parliamentary system.

Constituting the cardinal precept of parliamentary democracy, the Parliament stands at the core of the institutional arrangement envisaged by the Constitution of India to ensure a democratic polity in the country. Modelled on the pattern of the British Parliament, with substantive modifications, the Indian Parliament is placed in such a way in the polity of the country that no institution or function of the government stands in a position of non-attachment with it. In fact, representing the will of the people through their representatives, the Parliament is destined to govern the basic norms of functioning of various other institutions, in addition to exercising the control over the executive to ensure its accountability. Hence, it becomes important to analyze the basic issues involved in the structure and functioning of the Parliament in India which forms the basic thrust of the present chapter.

## A THOUGHTFUL CHOICE

The motivations for the choice of a parliamentary system of governance over the presidential one were embedded not only in the

oft-repeated argument of the previous experience of the Indians in running the governmental system based on parliamentary model but also in the interest of the imperatives of future Indian polity which were to be met by the institution of the Parliament. To put it differently, the adoption of the parliamentary system of governance by the Constituent Assembly was more in keeping with the advantages expected to accrue from the institution of the Parliament in future than the familiarity of Indians with the functioning of representative bodies in the country in the past. Thus, once it was determined firmly that the future Indian polity would be based on democratic principles of governance, thanks to the legacy of the national movement against the authoritarian colonial rulers, the option of parliamentary system would have seemed obvious but there lay deep understanding of the niceties involved in the working of the Parliament and their positive implications for the successful working of the democratic system in the country.

First, as Austin pointed out, the framers sought to achieve the objective of unity in the country through the mechanism of popular government by 'uniting Indians into one mass electorate having universal adult suffrage, and by providing for the direct representation of the voters in genuinely popular assemblies,'<sup>1</sup> the culmination of which are to be found in the Parliament. Overturning the argument of Penderel Moon that 'the root of the trouble lay in the decision to introduce parliamentary democracy into a society which was far from homogenous and riven with a deep Hindu-Muslim cleavage,'<sup>2</sup> Austin maintained that the problem did not lay in adopting the parliamentary democracy but in the fragmentation of the franchise based on the considerations of property, education, and other qualifications resulting in the split of the electorate into not less than thirteen communal and functional compartments.<sup>3</sup> Thus, by one stroke of pen of the framers, the biggest issue troubling their minds was resolved with the provision of the Parliament as the supreme representative body of all the Indians irrespective of any discrimination or biases to foster a feeling of unity among all alike.

Second, the parliamentary system appeared to be the thing that could have accommodated all sorts of imperatives bothering the Constitution-makers on the eve of Independence. Quite evidently, democratic system of governance was a predetermined thing which was sought to be contextualized in the parliamentary system. At the

same time, federal nature of polity also became an indispensable norm with the supremacy of the Constitution holding key to the successful functioning of the other institutions. Establishing an independent judiciary, the framers' major concern, however, remained with obtaining such a flexible system which could come up with plausible solutions to all sorts of expected or unexpected problems likely to be encountered by the nascent independent state of India, with specific challenges to her unity, democracy, and constitutional framework of governance. For instance, going in for a presidential model for the sake of a strong executive to ensure the unity and integrity of the nation, would have been fraught with the real dangers of the President turning into a despot, as happened in many other newly-independent countries including her neighbours, eclipsing the whole notion of democratic governance in the country. Hence, keeping the Parliament in the central position, the framers devised such a hybrid system of governance which included those valuable virtues of all the existing systems of governance that were found propitious to fit into the bill of India as a sovereign, democratic, federal, republic, embarking on the path of socio-economic and political reconstruction of the country.

Last, the institution of Parliament was probably the only operational guarantee which the framers could think of, to ensure the unscathed functioning of federalism in the country by bringing about a harmonious co-existence of the Centre as well as the states under the overall rubric of the Union of India. Although the Supreme Court was also tasked with the responsibility of adjudicating the disputes arising between the Centre and the state or states and/or between two states themselves, such mechanisms were assumed to be the mechanism of last recourse and that too, only to sort out the specific cases of dispute. The well-thought out mechanism of ensuring the sanctity of federal nature of the polity and formulating the broad guidelines regulating the relations between the Centre and the states was obtained in the form of the Parliament. Like the arrangements existing in other federations like the United States, the second chamber of the Parliament—Rajya Sabha—was accorded special powers and functions in relation to the working of the Centre-state relations. Owing to the complexity of India's political divisions into a number of administrative units divided into British ruled provinces and princely states on the eve of Independence, though an equal representation of the states in the Rajya Sabha

was ruled out, specific provisions have been made to make the Rajya Sabha the custodian of the rights of the states. For instance, the provision that a new All India Service can be created only if the Rajya Sabha passes a resolution to this effect by two-third majority, has acted as a useful check on the temptations of the Central Government to constitute more such services as they have, over the years, become the bane of the state's functional autonomy by acting more as the agent of the Central Government than the faithful servants of the state governments.

## **LIMITATIONS/FEATURES OF INDIAN PARLIAMENT**

Since the Indian political system, as envisaged by the Constituent Assembly, happened to be an amalgam of the desirable features of several constitutions existing at the time in different countries of the world, the institutions in India did not become the identical clone of the institutions of the countries from which they have been drawn. This fact is not truer in the case of any other institution than the Indian Parliament. Designed broadly on the pattern of the British Parliament to play the pivotal role in the democratic governance of the country, the position of Parliament in India, is however, so much adjusted to bring it in conformity with the constitutional requirements of other institutions that it underwent substantive transformations, giving way to the emergence of certain peculiar features of the Parliament.

In marked distinction with the British Parliament, the Parliament in India has not been made the supreme insofar as the governance of the country is concerned. Set to function within the bounds of a written Constitution, considered to be the lengthiest in the world, the functional domain of the Parliament is circumscribed by the federal nature of the polity as well as the existence of an independent Supreme Court to act as the guardian and protector of the Constitution. In fact, constitutionally, the sovereignty of the nation lay in the people who, by adopting a written Constitution for them, have permanently obtained the guiding principles of the government which can be altered only by the people themselves through mechanisms like referendum, and so on, not by the representative bodies like the Parliament. Thus, divesting the Parliament of the supremacy, the framers made the Constitution as the supreme law of the land.



Significantly, by demarcating the law-making powers of the Parliament in India into two branches of constitutional and statutory laws, the framers have again tried to restrict the legislative discretion of the Parliament. Consequently, the amendment procedures of the Constitution have been so formulated that special procedure have to be followed in order to carry out an amendment in the constitutional law. Further, in the later years, deducing from the intentions of the framers, the judicial pronouncements have raised a sort of 'holy cow' in the form of the 'basic structure of the Constitution' to bar the Parliament from amending such provisions of the Constitution.

The powers and position of the Parliament were further compromised with the provision of an independent judiciary vested with the responsibility of, among other things, protecting and safeguarding the sanctity of the Constitution. Exercising its power of judicial review to test the constitutionality of the laws made by the legislatures and the orders issued by the executive, the Supreme Court has, from the *Keshvanand Bharti* case of 1973 onwards, emerged to be the biggest challenge to the unfettered powers and positions of the Parliament. Initially, acting under Article 13(2) of the Constitution, which prohibits, subject to specified restrictions, the State from passing any law that would take away or abridge any of the fundamental rights, to nullify numerous enactments of the Parliament, the Court evolved the doctrine of the 'basic structure' of the Constitution to put permanent fetters on the amending powers of the Parliament.

To situate the things in perspective, the apparent fetters put on the powers and functions of Parliament need not be construed in the sense that the framers visualized the adoption of the American doctrine of separation of powers in its strict sense. Rather intending to provide functional vitality to other institutions of the polity also, the framers just infused, in a faint degree, the principle of checks and balances to ensure that the legislature, executive, and judiciary functioned within their allotted sphere. Had they thought of putting the Parliament in a relatively subservient position, they would have gone for the American formulation of 'due process of law' under which parliamentary sovereignty could have been interfered with on the basis of the considerations not expressly provided for in the Constitution. In contrast, what appears to have made the difference to the overall polity in general and the position of the

Parliament in particular, is the adoption of a written Constitution which, by laying down the sacrosanct principles of governance of the country, has marginally taken away the right of the Parliament to formulate the basic premises of governance of the country. Consequently, the Supreme Court has also been given only that much of power to test the constitutionality of the laws made by the Parliament which relates to the alleged destruction of the basic structure of the Constitution. The contemporary phase of seemingly strained relations between the Parliament and the Supreme Court is more due to the inability of Parliament to legislate adequately for the complexities of rapidly changing life of the people and the tendency of the people to get the space vacated by the Parliament to be occupied by the Supreme Court. Otherwise, the constitutional provisions regarding the delineation of the powers and functions of different institutions of the political system have proved to be perfect. The need, therefore, is to realize the axiomatic veracity of the 'fundamental assumption of the success of any political system or of any form of governance that the persons manning its institutions should have the necessary sagacity, erudition and sensitivity so as to ensure that all the institutions comprising the total system of governance function in an orchestrated manner.'<sup>4</sup>

## COMPOSITION OF THE PARLIAMENT

Conventionally, like the other parliamentary systems in the world, the composition of the Indian Parliament is also visualized in terms of the President of India and the two Houses, namely, the Rajya Sabha (Council of States) and the Lok Sabha (House of the People). Interestingly, though the nucleus of the Parliament lies in the Lok Sabha, the inclusion of the President, and the Rajya Sabha as the inalienable components of the Parliament is guided both by convention as well as sound principles of democratic parliamentary governance. Based on the British system evolving over a long period of time but moulded in the republican frame, the office of the President of India has been visualized to act as the Head of State in which capacity it has been accorded certain specified functions in relation to all other institutions of the Indian state. To put it differently, assumed to be the only office to hyphenate the various institutions of the state, the President happens to have a

role, in varying degrees, in the structure and functions of all the institutions including the Parliament. Moreover, his position as the chief of the executive whose functional domain is coterminous with the legislature makes it incumbent upon the President to be an integral part of the Parliament<sup>5</sup> though he does not sit in either of the two Houses except for delivering his opening address.<sup>6</sup>

Devoid of any capacity to unduly influence or deflate the powers and position of the Parliament, the presidential role in the parliamentary arena appears to be primarily, if not totally, ceremonial. For instance, his functions like summoning the session of the two Houses, proroguing the sessions, addressing both the Houses at certain occasions, appointment of pro tem speaker of the Lok Sabha, causing the laying of budget in the Parliament, and presentations of the reports of various other constitutional functionaries and bodies like the Comptroller and Auditor General (CAG) and the Finance Commission, and so on, are purely routine matters requiring no application of mind by the President. However, in certain cases like the dissolution of the Lok Sabha, the seemingly routine functions of the President may assume real overtones with the propensity of turning the tide in the polity even by remaining within the bounds of the constitutional provisions. As explained elsewhere in this volume, this particular power of the President affords him the rare opportunity where he may be in a position to use his discretion. In other cases, though substantive ones like the promulgation of ordinances when both the Houses of the Parliament are not in session, assenting to the bills passed by the Parliament, and the nomination of the members in both Houses, the letter and spirit of the constitutional provisions envisage the President to act in accordance with the aid and advice tendered by the Council of Ministers, divesting him of any activist role vis-à-vis the Parliament.

## **Rajya Sabha**

Notwithstanding the bicameral shape of the Parliament, which the Rajya Sabha has ensured, the issue of the utility of the second chamber for the Indian political system cropped up in the Constituent Assembly also though not much controversy was generated on the matter. Unlike the British perspective on the shape of the Indian polity, the various reports authored by Indians like

Motilal Nehru and Tej Bahadur Sapru invariably argued for the second chamber, rejecting, though, the American formula of giving equal representation to the states in the House.

Two theoretical propositions were advanced to hammer out the usefulness of the second chamber. First, the provision of a second chamber in practically all the federations of the world inspired the framers to go for the second chamber on the assumption of it to become the custodian of interests of the units of the federation and maintain the sanctity of the federal system. Second, as N. Gopalaswamy Ayyanger argued:

[The second chamber was expected] to hold dignified debates on important issues and to delay legislation which might be the outcome of passions of the moment until passions have subsided and calm consideration could be bestowed on the measures which will be before the Legislature ... and give an opportunity, perhaps to seasoned people who may not be in the thickness of the political fray but who might be willing to participate in the debate with an amount of learning and importance which we do not ordinarily associate with House of the People.<sup>7</sup>

Ultimately, in the final product, the structure and functions of the Rajya Sabha appear to have backed out on the promise of being a fulcrum of the federal nature of Indian polity but has outstandingly fulfilled the aspirations of the framers on affording an opportunity for reconsideration of legislation in a 'somewhat cooler atmosphere'.<sup>8</sup> Thus, as Morris-Jones bears it out, the justification of the Council of States has always been in terms of 'second thought' rather than 'State rights'.<sup>9</sup>

Accordingly, known as the Upper House with the aim of assuring a superior quality of debate and discussion, structurally, the Rajya Sabha is made a smaller House in comparison with the Lok Sabha, with only 250 members, including twelve members nominated by the President for their distinguished achievements in the field of literature, science, art, and social service. Among other qualifications to become a member of the House, the bar of maximum age appears to have been raised to thirty in order to secure the maturity of the members in the House.<sup>10</sup> True to the status of the House as Rajya Sabha, its members are elected indirectly by the elected members of the legislative assemblies of the states and certain union territories in accordance with the system of

proportional representation by means of single transferable vote for a term of six years. Thus, immune from the apprehension of premature dissolution, the House functions on a permanent basis with one-third of its members retiring every two years. Importantly, securing a suitable and dignified functional position for the Vice President, the Constitution envisages him to be the Chairperson of the Rajya Sabha to be assisted by a Deputy Chairman elected by the members from amongst themselves.

Paradoxically, the powers and functions of the Rajya Sabha represent the irony of its position in the Indian political system. While in the name of ushering into a true era of democracy, its position has been compromised in comparison with the Lok Sabha, in the name of making it the custodian of federal features of the polity, certain exclusive powers have also been granted to it. Thus, though made inferior to the Lower House in the matters of money bills, securing the responsibility of the executive to the legislature and the passage of a piece of legislation through the mechanism of the joint session of the two Houses, it is exclusively authorized to adopt a resolution to empower the Parliament to legislate on one or more matters contained in the State List; and pass a resolution for the creation of one or more All India Services, which the Parliament will subsequently create by law.

Carrying forward its ironical position, the structure and functions of the Rajya Sabha have been subjected to critique for both its faulty structure making it weak, and excessive clout in the functioning of legislative system in India. While the provision of nomination of members is criticized as undemocratic and reactionary elements in a democratic polity, the inequality of membership from various states, depending on their population, is considered to undermine the logic of the second chamber as the protector of state interests as the smaller ones are not able to safeguard their interests like the bigger states. Thus, a question mark is placed on the progressive, democratic, and federal credentials of the House. Similarly, on its powers, critics lament that elected indirectly over a period of six years without reflecting the opinion of the people at any point of time, the Rajya Sabha is capable of blocking the passage of any non-money bill despite the all out efforts by the Lok Sabha, with the provision of joint sitting of the Houses being absurd due to the inability of the government to muster adequate numerical strength in the Lok Sabha.

Despite several aspersions being cast on its existence and functional vitality, the Rajya Sabha appears to have established its roots in the political system of the country so much so that it may now be considered to be a part of the basic structure of the Constitution, ruling out any tempering with its standing. Significantly, its usefulness is gaining deeper ground with the transformations in the nature of the polity. For instance, it has been argued that the changes in party positions in Parliament during the 1980s have invested the Rajya Sabha with greater potentiality as a federal second chamber which is likely to increase further with the escalating regionalization and federalization of the political system.<sup>11</sup> Similarly, the role of the Rajya Sabha as the chamber to illuminate the visions of the members of the other House and provide a scale to the level of discussions taking place in the Parliament has not only been performed well by its members but its tradition of dignified and responsive debates was excelled by its illustrious chairpersons like S. Radhakrishnan, Zakir Hussain, and so on, who had 'given an aura of dignity to the atmosphere of the House by conducting the proceedings with judicious combination of firmness and flexibility.'<sup>12</sup> In addition to these conventional utilities, the Rajya Sabha has served three more useful purposes, as pointed out by Morris-Jones.<sup>13</sup> First, it creates additional political positions which are in growing demand by the political elites of the country; second, it ensures some additional debating opportunities, which occasionally becomes quite urgent; and finally, it helps in doling out the solutions to the legislative timetable problems. Thus, the utility of the institution of Rajya Sabha has proved to be axiomatic in the parliamentary system of India.

## **Lok Sabha**

Envisaged to be the popular House in contrast to the Rajya Sabha, the Lok Sabha is the representative chamber of the Indian Parliament with its members elected directly by the people from the territorial constituencies of the states and the union territories distributed all over the country. Constitutionally confined at the membership not exceeding 552, including the two nominated members to represent the Anglo-Indian community, it presently

consists of 545 members whose membership is distributed among the states in such manner that the ratio between the number of seats allotted to each state and the population of the state is, in so far as possible, the same for all states<sup>14</sup> with suitable reservations of seats for the Scheduled Castes and the Scheduled Tribes. Chosen for a term of five years to begin with, the Lok Sabha can be dissolved by the President under certain exigencies. Also, in the time of the proclamation of an emergency in the country, the term of the Lok Sabha can be extended by Parliament for a period of one year at a time and the elections need to take place for the same within six months of the withdrawal of the proclamation of emergency. Further, the Lok Sabha is presided over by the Speaker, who by virtue of his position, assumes greater responsibilities in the functioning of the parliamentary system in the country apart from the routine functions of chairing the sittings of the House and conducting its proceedings.<sup>15</sup> In discharging his functions, the Speaker is ordinarily assisted by a Deputy Speaker who performs the duties of the Speaker when the former is absent or while the office of the Speaker is vacant.

By virtue of its position as the lower House with truly representative character, the Lok Sabha, like the British House of Commons, has been placed at a superior pedestal than the Upper House in respect of those spheres of activities which underpin the notion of parliamentary democracy. The most significant of such spheres relates to provisions on the money bill with respect to which the role of the Lower House is of monopolistic nature whereas the role of the Upper House is constricted to the extent of it being subservient, if not irrelevant. For instance, beginning with the certification whether a bill is a money bill till its final passage by the Parliament, the powers of the Lok Sabha are exclusive as a money bill can be introduced in the Lok Sabha only with the relevant certification by the Speaker. The Rajya Sabha's position has been so miserable in this regard that not only is it forbidden from voting on Demand for Grants but also if it fails to return the bill to the Lok Sabha within a period of fourteen days, the bill shall be construed to have been passed. Another equally important prerogative of the Lok Sabha is its power to hold the executive accountable by passing a vote of no confidence in the Council of Ministers. Thus, the governments which may be interested only in perpetuating their existence in power without minding much about the governance

of the country, as happens in the case of coalition or minority governments, the functional sphere of the Parliament might be reduced to the domain of Lok Sabha only with no concern for the views of the Rajya Sabha.

In practical terms, however, the exclusivity of domains of both the Rajya Sabha and the Lok Sabha does not imply a judgemental view of the respective positions of the two Houses. The concept of Parliament is complete only with each House supplementing the role performance of the other. Visualized to exist in a position of reasonable balance through an indirect check on each other, the two Houses have, nonetheless, been accorded coterminous responsibilities on all non-money bill matters. Consequently, the crucial functions like the amendment of the Constitution, impeachment of the high dignitaries including the President, and so on, need to be performed by each of the two Houses separately. Above all, the two Houses must function like the two wheels of the institution of Parliament in order to guarantee its successful functioning, for, an unnecessary dispute on the issue of their domains would serve no purpose than to 'lower Parliament as a whole in public esteem.'<sup>16</sup>

## CHANGING SOCIO-ECONOMIC PROFILE

Obtaining the parliamentary form of government in the new democratic set-up of the country, the framers' major concern was to ensure that the Parliament should represent all sorts of socio-economic interests of the society. The members elected to the Parliament needed to reflect the broad contours of the social and economic structure of the country so as to infuse a sense of satisfaction amongst the people that their voice would be heard in the Parliament through their representatives. To be a microcosm of India, the Parliament was thus constituted to secure, as far as possible, the presence of all sorts of differentiations found amongst the people in every nook and corner of the country, even by way of reservations for certain sections of the people.

Socially, the profile of the Parliament has undergone a substantive transformation over the years beginning with the inauguration of the Parliament in 1952. With the gradual disappearance of the leaders of the national movement belonging to the upper social



strata and affluent economic background from the scene, the membership of the Parliament has expanded deeper to the grassroot of society. For instance, the overwhelming majority of public school and Western-educated parliamentarians has given way to a vast array of membership ranging from government school and indigenous college educated to even those who are semi-literates and illiterates representing their particular caste or regional interests. In terms of the caste composition of the Parliament, the constitutional arrangement for the reservation of seats for the Scheduled Castes and the Scheduled Tribes, initially for a period of ten years but continuing till date, have no doubt assured a minimum stipulated percentage of representation to these communities but its overall ameliorating impact on the society appears to be limited as the same set of people has continued to corner the leverages of the membership of the Parliament. Rather defying the clutches of reservation which seems to have 'degenerated into a political mobilization gimmickry with scant regard for social equity and merit',<sup>17</sup> people belonging to the other backward communities have evidenced a marked improvement in their standing in the Parliament, snatching the leadership of their communities from the people of the forward castes, since the decade of 1990s.

Moreover, bearing out the expansion in the educational base of the country, the literary profile of the members of the Parliament have also shown a sharp rise over the years, with more than 50 per cent of the members of the fourteenth Lok Sabha having a graduate degree.

The diffusion of the social configuration of the parliamentarians to the lower strata of society, however, does not mean the sourcing of the members of Parliament from the common populace as even within the so-called backward castes also a distinct class of social elites has come to monopolize their share in the membership of the Parliament, with the common people of these castes sharing the common feeling of deprivation with the commoners of the other castes.

The representation of women in the Parliament has remained, by and large, marginal, demonstrating the male-dominant nature of the Indian electoral politics. Betraying the absence of a clearly defined policy on the issue of increasing the representation of women in the higher elected bodies, the political parties have obliged the women with tickets more on the basis of favouritism

and nepotism than on the basis of their objective contribution to the community or in recognition of their stature or calibre in any field of social life. Ultimately, the women were compelled to demand the crutches of reservation to improve their presence in the elected bodies to a dignified level. However, the beguiling response of the male-dominated political leadership of the country to the demand for 33 per cent reservation for the women in the elected bodies was evident when it was accepted at the level of the Panchayati Raj Institutions only, denying a chance to the mass of women to land themselves into the higher bodies of decision-making capacities in the political system.

The economic description of the parliamentarians, like their social profile, also depicts a subtle transformation owing to the dynamics of electoral politics in the era of populism. Upsetting the stage when the Parliament was overwhelmed by professionals, with major chunk belonging to the legal profession, the Parliament, over the years, became the bastion of people engaged in the occupations rooted in agriculture and cooperatives spread all over the country. For instance, the percentage of lawyers fell from 35.6 in the first Lok Sabha to 24.5 in the third Lok Sabha and further to 12.24 in the eleventh Lok Sabha; commensurately, the percentage of the agriculturists rose from 22 in the first Lok Sabha to 38.4 in the eleventh Lok Sabha. Interestingly, even amongst the agriculturists, the clout of the big zamindars and landlords was reduced considerably with the centre stage being taken by the small landowners and cultivators, with the estimation by the experts that in the coming times, the substantial number of people may be drawn from the landless labourers, small farmers, and other deprived sections.<sup>18</sup> Similar trends are also visible in the representation of the traders and industrialists as their share of percentage came down drastically from 12 per cent in the first Lok Sabha to just 2.63 per cent in the tenth Lok Sabha. Thus, the economic profile of the Parliament no more remains dominated by the rural landed gentry and the urban middle classes as the newly well-to-do classes from both the rural as well as the urban areas are cornering the lion's share of seats in the Parliament.

Unfortunately, the implications of the changing socio-economic profile of the Parliament has apparently not been able to add substance and depth in the standard of parliamentary proceedings and the quality of legislative output, despite broadening the

representational base of the Parliament. Over the years, the performance of the members of Parliament does not appear to be in consonance with the loftier norms of the parliamentary system as a number of dysfunctionalities have come to the surface. Above all, the fear of party whip on the one hand and the dynamics of populist vote bank politics on the other, appear to have weighed so heavily on the vision and perspectives of the members of the Parliament that they quite often than not forgo their rationality and national interest to side with such divisive proposals which have far-reaching negative implications for the cohesiveness of the society, vibrancy of the democratic polity, sound health of the economy, and impeccability of the unity and integrity of the country.

## PARLIAMENTARY COMMITTEES

As one of the most crucial innovations to streamline the working of the Parliament in an increasingly complex politico-administrative and almost unmanageably expanding public expenditure system, the parliamentary committees have become the alter-ego of the Parliament in the specified areas of their functioning. Born in the British parliamentary traditions in quite early years of the formation of the British Parliament, these committees were expected to infuse the virtues of efficiency, effectiveness, expeditiousness, and expertise in the performance of the functions by the Parliament. The utility, if not indispensability, of these committees is born out by the fact that today most of the serious business of the Parliament is transacted through these committees as a result of which the number of the committees has increased manifold in various forms and for numerous purposes.

In India, the history of the committee system may be traced back to 1854 when the first legislature was established in the form of the Legislative Council which, in turn, appointed its own committee to consider what should be its standing orders. In post-Independence period, primarily, 'the review of administrative action and the examination of numerous and complicated legislative proposals and subordinate legislation require an expertise and close scrutiny that are not possible in Lok Sabha consisting as it does of 545 members,'<sup>19</sup> necessitating the creation of the parliamentary committees. In addition to acting as the eyes and ears of the Parliament, the

committees are also useful in offsetting the bulk of load of the Parliament, securing an in-depth and expert analysis of legislative proposals, ensuring a harmonious working between the two Houses of the Parliament, and affording a platform to the common people to participate in the decision-making of the Parliament by giving written memoranda or oral depositions, as may be required, to the committees as and when asked for.

Devoid of any direct constitutional reference, ostensibly due to their evolution out of sheer parliamentary discretion without any pre-designed scheme of things or constitutional mandate, the parliamentary committees did not find a mention in the proceedings of the Constituent Assembly, for, the fathers took them 'for granted and left it to the House to make provisions for them under their rules of procedure.'<sup>20</sup> Accordingly, the Parliament has created numerous ad hoc and standing committees, the prominent of the former type includes the select committees and joint committees. Of the standing committees, More<sup>21</sup> gives a five-fold categorization: (a) committees to inquire like the Committee on Petitions and the Committee on Privileges, (b) committees to scrutinize like the Committee on Government Assurances and the Committee on Subordinate Legislation, (c) committee of an administrative character relating to the business of the House like the Committee on the Absence of Members, (d) committees dealing with the provisions of facilities to members like the General Purpose Committee and the House Committee, and (e) the financial committees, such as, the Estimates Committee, the Public Accounts Committee, and the Committee on Public Undertakings. Of all the parliamentary committees, the ones meriting detailed exposition include the three financial committees.

## Estimates Committee

A fine example to assert the monopoly of the Lower House on the financial matters of the government, the Estimates Committee was created in 1950 by the Lok Sabha to provide for an adequate control over the grants made to the government and the actual appropriation thereof. Replacing the then Standing Finance Committee and consisting of the members drawn exclusively from the Lok Sabha, it is called 'the House in miniature as it represents

the parties and groups in the Lok Sabha more or less in proportion to their representation in the House.<sup>22</sup> Framed to achieve the twin tasks of scrutinizing the estimates and suggesting the measures to introduce economy in the government expenditure, the terms of reference of the Committee relate to the suggestions on economies in the expenditure including suggestion of alternative policies in this regard, finding out whether the money has been rightly laid out within the confines of the underlying policy and indicate the form in which the estimates may be presented to the Parliament. Adopting a selective approach in choosing a few ministries, and even from them also, a few subjects to look at the estimates, the Committee usually desists from making ideologically judgemental comments on the policy underlying the estimates; even the alternative policies may be suggested only with the aim of more efficiency and economy in administration. Conventionally, though the reports of the Committee are not discussed in the House; its recommendations are regarded as directions to the government which ordinarily accepts them, signifying the position of the Committee as a powerful force not to be ignored.<sup>23</sup>

The functioning of the Estimates Committee, over the years, bears a testimony of the vital role it plays in ensuring the effectiveness of the Parliament. Echoing a positive note, Asok Chanda succinctly sums up the nature of the role of the Committee:

While the Committee refrains even now from openly criticizing the policy implicit in the estimates, its examination does often indirectly reflect on the manner in which a particular policy has been evolved or is being implemented. There has also been considerable improvement in the organization of the Committee and in its technique, which has better equipped it to fulfill its responsibilities. Even though it works within the limitations inherent in a democratic form of government, its contributions are tending to become more and more effective in economizing national expenditure.<sup>24</sup>

In their endeavour to fulfil the aspirations of the House, the Committee members invite official, as well as non-official experts, if a technical matter comes up for discussion and the members find themselves in a helpless situation.<sup>25</sup> However, sometimes, the Committee is criticized for not being able to see the wood for the trees. As Morris-Jones notes, the members of the Committee:

[A]re supposed to look for possible economies but they have in fact been happy to rule out the faint line between economy and efficiency. Further, they have not hesitated to recommend in the name of efficiency, large administrative reforms and even reorientation of policy. Their audacity occasioned strong comment....<sup>26</sup>

Such criticisms may, however, be taken as an aberration in the outstanding role performed by the Committee as the permanent economy Committee in the Indian parliamentary system.

## **Public Accounts Committee**

Described as the 'twin sister' of the Estimates Committee, the Public Accounts Committee acts in tandem with the former in the following sense:

While the Estimates Committee deals with the estimates of public, the Public Accounts Committee examines mainly the accounts showing the appropriation of sums granted by the House for the expenditure of the Government of India in order to ascertain whether the money has been spent as authorized by Parliament and for the purpose for which it was granted.<sup>27</sup>

Though initiated in 1923 itself, the Committee became truly parliamentary committee in the post-Independence period when two substantial changes took place in its structure and function: first, increasing its membership to twenty-two, seven members of the Rajya Sabha are also made the members of the Committee, and second, the CAG is made an adjunct of the Committee to facilitate the streamlining of its functioning. Affording added credibility and prestige to its status, a convention grew to appoint a member of the Opposition as the chairperson of the Committee. In discharging its function of scrutinizing the Appropriation Accounts of the government based on the audit reports furnished by the CAG, the Committee is guided by the principles of economy and public morality, and functions under the limitations of not being concerned with the question of policy and its findings being *ex post facto* in nature.

The Public Accounts Committee, over the years, has established its sound credentials as the watchdog of the public finances through

an efficient and impeccable track record of inducing a sense of responsibility and precision in the officials in spending the public money. Prone to detect any case of moral turpitude in managing government finances, the Committee's impression in the minds of the officials, far from being ephemeral, remains ingrained for many years to come, reminding them of their responsibilities towards the people of the country, whose money they are supposed to utilize with due care and diligence. Though the Committee is criticized for looking 'to the future by looking into the past,'<sup>28</sup> Morris-Jones clarifies:

The fact that their scrutiny is *ex post facto* is less important than that the government has continuously to act in the knowledge that the scrutiny of any item may take place and that waste and impropriety may be widely exposed in the House and the Press. The fact that the Government replies to the Public Accounts Committee are often vague and cool, is less important than that behind the reply, there has often been embarrassment and some resolve not to let it happen again.<sup>29</sup>

Thus, the very fact of the existence of such a Committee introduces the element of deterrence in the minds of the officials to desist from probable wastage and wrong appropriation of the precious public resources. Moreover, the method of functioning of the Committee brings the officials into contact with the parliamentarians, which serves the purpose of informing of the milieu of parliamentary control within which they have to work. At the same time, as Morris-Jones informs insightfully, 'the work of the Committee serves to bring the officials and politicians together and to train both—the former in responsiveness to public opinion, the latter in the task of constructive criticism,'<sup>30</sup> in order to achieve the twin purposes of ensuring efficiency and economy in the spending of the public money without hampering the nation's march on the path of socio-economic development.

## **Committee on Public Undertakings**

A by-product of the massive increase in the governmental involvement in the economic activities of the country under the rubric of planned economic development resulting in the creation of a

large number of economic and financial bodies under government ownership with huge amount of public money for investment at their disposal, the Committee on Public Undertaking is the extended specialized arm of the Parliament to take account of the role and functions of these bodies. Constituted in 1964 at the initial initiative of Lanka Sundaram, an independent member of the Lok Sabha, the Committee consists of twenty-two members drawn from the two Houses in the ratio of fifteen and seven for the duration of one year. Drafted with utmost care not to compromise with the operational autonomy of the public undertakings, the functional domain of the Committee is confined to examining the report and accounts of specified public undertakings; the reports, if any, of the CAG on these undertakings; and to see whether the affairs of these undertakings are being managed with the sound business principles and prudent commercial practices, within the limitations of the autonomy and efficiency of these undertakings. Equally important, however, is the bar put on the Committee in terms of restraining it from looking into the matters of major government policy as distinct from business or commercial functions, matters of day-to-day administration, and matters for consideration of which machinery has been established, in order to ensure that the Committee does not turn out to be a monster out to defeat the purposes for which such undertakings have been set up, under the garb of parliamentary control over these undertakings.

Of the three financial committees of Parliament, the Committee on Public Undertakings appears to be most wanting in the discharge of its responsibilities in an efficient manner. Marred by the overwhelming amount of work in hand and lack of proper vision on the nature, scope, and value of its role performance, the Committee has been subjected to scathing criticism by both the practicing parliamentarians, as well as by the experts. For instance, lamenting the futility of the recommendations of the Committee, Indrajeet Gupta, a veteran member of the Lok Sabha has remarked that 'barring some minor issues, most of the recommendations of the Committee on Public Undertakings remain unimplemented. This strengthens the hands of those erring/inefficient public sector managers who know nothing would happen to them except temporary criticism in Parliament.'<sup>31</sup> Further, the tone and content of the reports of the Committee have also been criticized for either being too harsh or being inconsequential. Nevertheless, the utility



of the Committee in ensuring a sustained parliamentary control over the public undertakings has proved beyond doubt as it has been able to promote a greater understanding between the members of Parliament and the management of the Central undertakings, thereby making the public accountability of government enterprises more effective.<sup>32</sup> The hiccups of the initial years no more become a hindrance in the effective role performance of the Committee with the growing experience and developing of traditions out of more than fifty years of its functioning.

## **Standing Subject Committees**

With the growing complexity and volume of the work involved in the functioning of the executive in recent years, a feeling of relative deprivation had cropped up in the quarters of the Parliament on account of the inadequacy of the existing parliamentary committees to exercise the desired amount of scrutiny, supervision, and control over the financial and administrative matters of all the departments of the Government of India. The idea, therefore, germinated in 1989 to constitute subject-based or departmentally-related standing committees to secure an effective oversight over the entire spectrum of the concerned department.<sup>33</sup> Initially, established for three highly specialized and technical subjects, namely, agriculture, environment and forests, and science and technology, the range of these standing committees was enlarged in 1993 to encompass the whole gamut of executive functioning by setting up seventeen such committees consisting of forty-five members each, drawn in the ratio of thirty from the Lok Sabha and fifteen from the Rajya Sabha. Bestowed with the responsibility of toning up the accountability of the executive to the Parliament, the Committees' modus operandi include the screening of legislation, assessment of the policy statements, and verification of the claims made by the departments in their annual reports, apart from the most crucial function of scrutinizing the demand for grants presented by the various ministries and departments.

The Constitution of the Standing Subject Committees, in fact, carries forward the tradition of borrowing useful provisions from other constitutions as they represent a synthesis of the British and the American legislative systems.<sup>34</sup> Emerging as an adequate, if not

an all-out, solution to the problem of guillotine, the functioning of these committees has, more or less, revolutionized the way parliamentary control was exercised on the executive in the country. Without indulging into undue interference in the day-to-day functioning of the departments and ministries, the existence of the Standing Committees inspire the executive to become quite accurate, balanced, fine-tuned, and progressive in formulating the policy and presenting the demand for grants to the Lok Sabha because they know that any shortcoming on their part would not go unnoticed, unlike the previous probable situations. Positively, though the reports of the Committees have only persuasive value, they serve the greater purpose of illuminating the executive, instead of admonishing it, to adopt a more informed and correct perspective of the case in point. Similarly:

[U]nlike the parliamentary financial committees, the subject committees would not do a mere postmortem examination of subjects. On the contrary, they may constantly, continuously and concurrently monitor the working of all the concerned Ministries/Departments in their subject areas and take up for fuller examination specific subjects of topical interest as they arise.<sup>35</sup>

Moreover, the ambit of the functioning of these Committees, by embracing all the ministries and departments including hitherto spared units like the atomic energy, space, and so on, has provided for comprehensive and coordinated view of the operational dynamics of the interrelated departments in order to look for any overlapping or duplication of work amongst various departments.

## CONCLUDING OBSERVATIONS

In the framework of the parliamentary democracy in India, the Parliament becomes the central institution of governance on whose successful functioning depends the whole structure of the government. Therefore, much pain was taken by the Constituent Assembly to demarcate the structural and functional dynamics of the Parliament with a view to provide some sort of a permanent shape to the institution of Parliament so that the basic features of the polity remain intact forever. In other words, since the Parliament was made the custodian of making laws for the country, keeping

executive accountable to the people through their representatives in the Lok Sabha, and in times of need, amend the Constitution, the onus of responsibility fell on the Parliament to see that these functions are performed in such a way that the visions of the fathers of the Constitution are not diluted in any eventuality.

However, over the years, the functioning of the Parliament has left much to be desired. Instead of acting as the agency to keep the executive branch of the government on its toes through its inquisitive questioning of the policies and programmes of the government from time to time, and provide some sort of encouragement to the government by extending desired approval to the proper policies, the Parliament appeared to have allowed itself to be carried away by the executive. In such a scenario, while the situation did not take an ugly turn in view of the presence of persons of democratic vision and restrained functioning in the seat of power like Jawaharlal Nehru despite commanding a huge majority in the Lok Sabha, the state of things definitely took a perverse turn in times of the prime ministers like Indira Gandhi when she decided to keep aside the democratic institutions of governance and took upon herself to rule the country with the help of a caucus, without any accountability to either Parliament or any other organ of the government. In such circumstances, the role of scrutinizing the executive decisions and checking it from usurping the powers of other organs of government came down to the Supreme Court and the high courts, putting the judiciary on a collision course with the executive from time to time, though situations never seemed to go out of control.

Among other things, the increasing politicking in Parliament led to the conversion of the august body into a ring for the politicians to fight with each other not only with words but sometimes with blows also. Consequently, the basic purpose of the existence of Parliament as the examiner of the executive policy formulations and budgetary allocations started suffering. Hence, to tide over the situation, the committee system was introduced in Parliament so that certain specific committees are able to scrutinize the executive proposals and keep tab on the functioning of the government. The establishment of the standing subject committees has been taken as a sort of innovation in the parliamentary system of the country as a result of which a greater degree of transparency and accountability have been ensured in the functioning of the executive agencies.

## NOTES

1. See Austin 1966: 144.
2. See Moon 1961: 61, cited in Austin 1966: 144
3. See Austin 1966: 144.
4. See Chatterjee 2007.
5. See Basu 1998: 198.
6. See Pylee 1995: 171.
7. See Constituent Assembly 1947: 644.
8. See Nehru 1928: 94.
9. See Morris-Jones 1971: 193.
10. See Trikha 1984: 94.
11. See Singh 1995: 124.
12. See Banerjee 1967: 314.
13. See Morris-Jones 1971: 232.
14. See Kashyap 1992: 22–23.
15. For a detailed discussion on the powers and function of the Speaker as well as his position in the Indian parliamentary system, a useful, though dated volume is Kaul and Shakhthar 1972.
16. See Morris-Jones 1957: 262.
17. See Kashyap 1990b: 182.
18. See Singh and Saxena 1999: 143.
19. See Kashyap 1992: 137.
20. Ibid.: 139.
21. See More 2001: 219–20.
22. See Sinha 1967: 399.
23. See Morris-Jones 1957: 307.
24. See Chanda 1961: 186.
25. See Jena 1966: 164.
26. See Morris-Jones 1957: 196.
27. See Kashyap 1992: 146.
28. See Mallay 1972: 69.
29. See Morris-Jones 1971: 195.
30. See Morris-Jones 1957: 295.
31. Cited in Mathur 1993: 70.
32. See Mathur 1993: 68.
33. See Kashyap 1990a: 3247.
34. See Arora and Goyal 1996: 527.
35. See Kashyap 1992: 149.

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