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The Parliamentary System

What we have made of it
What we can make of it

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Introduction

Today in India, two races are afoot. The first is the race between a creative society, a society that shows much energy and is surging upwards on the one hand and, on the other, the scaffolding of the State which is being hollowed by termites. The second is the race between those who are making the new India—primarily, the entrepreneurs and middle-class professionals—and the political class that is stoking the old India—for instance, by pumping in the poison of caste—to keep itself in business.

If things are just left to proceed at will, the outcome may go either way: a dynamic economy and those forging it may be so hobbled by the worsening of governance that they may put enough pressure on the political class to mend its ways, to improve governance; or governance may deteriorate to such an extent that Bihar and U.P. are generalized and economic growth is once again pulled down.

Why is it that, to take the obvious contrast, in industry new leaders are emerging by the year, leaders who are doing better and more innovative things; but in public life second-raters are giving way to third-raters, politicians are giving way to politicians-dependent-on-criminals, and the latter to criminals-who-have-become-politicians?

Why is it that while our entrepreneurs are venturing into newer and newer fields, that while they are registering conquests in more and more distant countries, that while they are thinking and planning farther and farther into the future and transforming their operations today so that they may outdo the world in the distant future; why is it that while in one sphere we see these features, in the other sphere, our politicians are stoking ever narrower sections; why is their horizon becoming shorter and shorter?

This brief book is about features in the structure of the 'parliamentary system'—actually, that should be 'in the structure of *what we have made of the parliamentary system*'—which hurtle us

Having observed Parliament first hand for ten years; reading accounts of the condition to which discourse has fallen in the Assemblies of our states, I fear that the greatest present threat to governance, and the most imminent threat to our liberties is this string of notions—starting from ‘The people are sovereign’ and ascending to ‘Therefore, Parliament is sovereign.’ I have, therefore, devoted a good bit of the book to recalling one sequence of events—to recalling what was proclaimed in the name of the people, to what was claimed and then grabbed in the name of sovereignty of Parliament. As voices of that kind continue to be raised every other month in and out of our legislatures, I fear that sequence of events—though seemingly three decades old—is as current as can be.

There is another reason for recounting that sequence. In many ways the Emergency was a defining moment for our generation—it awakened and politicized the middle class. But two-thirds of our people—yes, two-thirds—were not even born then. Another sixth or seventh, though born, were too young to realize what was happening. And yet, unless such usurpations are kept fresh in our minds, we are liable to set ourselves up for the next forfeiture. For governance goes out of hand not as often by a sudden collapse as by gradual erosion. Liberties are lost not by sudden assault alone. They are eroded as people get accustomed to bits falling off. They are lost not just to the usurper in distant capitals but to the neighbourhood gangster.

Given this threat to governance, and its fountainheads—namely, legislatures and the claim on their behalf to being sovereign—the book argues that the doctrine of the Basic Structure—a doctrine that Mrs. Indira Gandhi and her acolytes had denounced as ‘an invention of the judges’—is a dyke we need. Accordingly, I urge that, even as the power and role of legislatures is reduced and that of the Executive strengthened, this dyke, and the power that it accords to the Judiciary, should be reinforced. But even a brief review of some major pronouncements of the courts on the Basic Structure shows that the judges themselves have chiseled several fissures in the dyke. Hence, the book illustrates the sorts of pronouncements, often born of excessive trust, by which judges have weakened the dyke, and argues that it is not enough to grant more powers of review and

oversight to the Judiciary. The judges must act the independence that has been given to them.

There are twin problems, of course. First, the decision to change the system lies in the hands of those who are the beneficiaries of the system as it is. Second, in an open society, the key to bringing pressure on them lies in a vigorous public discourse. But this too is dominated by them—look at the play that inane speeches of whoever happens to be in the government get in our media; look at the way organizations of industry have become mere event-managers for whoever happens to be in the government. And, then, for other reasons, reasons independent of the political structure, there is the dumbing down of the media. That has contributed as much to elevating these notions to the status of ‘truths we hold as self-evident’.

But there are several factors that give ground for the hope that change can be brought about in spite of these problems. For one thing, governance is sinking to such depths that even the influentials are getting affected. For another, legitimacy, authority, power have passed out of the hands of beneficiaries of things as they are—the political class—into the hands of those who are set back by the deterioration; that is, it has passed into the hands of those who are making the new India.

So, the need for another structure is there. The opportunity for bringing it about is also there.

From these two facts flows the plea of this book. Excel in your specialization, of course. But step beyond that specialization. Don’t just wait for a breakdown to do the job, as the breakdown in our external account did with regard to economic reforms. Spare time and effort for improving the general condition of governance. In a word, ‘Give history a helping hand.’

into the kind of politics that we see today, which steer power into the hands of the sorts of politicians we see today. And about the structure that we may adopt as an alternative.

Of course, there is no structure which cannot be perverted. And it has been well said that agitations to change constitutional arrangements often are 'exercises in escapism'—that instead of rectifying conduct, we expend time debating and devising and decreeing some other set-up, only to find, decades later, that conduct has remained the problem it was, and the new arrangement has become another problem. That is fair warning. But it is only half the truth.

One structure will induce conduct of one kind; another structure will make some other type of conduct more profitable. Our tax system of the 1950s and 1960s with its extortionate taxes ensured neither higher revenues nor equality. It fanned the black economy. As the rates have been lowered, compliance has improved. Similarly, under the license-quota *raj*, knowing the technology or the markets was not a fraction as important as knowing the Minister for Commerce and Industries, and the civil servants in the DGTD and the Office of the Controller of Imports and Exports—yes, *Exports* too: even to *export* something you had made and earn the foreign exchange the country so desperately needed, you needed permission which only these worthies could give. That structure induced one kind of effort; it brought one kind of entrepreneur to the top—the one whose core-competence lay in his ability to manipulate the State apparatus. As that structure has been dismantled, we see an entirely different kind of conduct among our entrepreneurs; we see an entirely new type of entrepreneur rise to the top.

Pluck, as an example, a proposal that figures later in the book. We lament the fact that today elections are greatly influenced by the money that a candidate can deploy; by the castes that he can work up. We dread the advantage that dons now have over ordinary candidates because they have a network of criminals that they can mobilize. Suppose we dispensed with elections altogether, and instead selected legislators by lottery. That 'X' can throw out more money; that he is from one caste rather than another; that he has a whole posse of criminals to do his work—none of these 'strengths' would improve his chances. The influence of money/caste/criminality would be erased.

So, structures do affect the outcome. They do affect conduct. And, therefore, the fact that there is no structure that cannot be perverted, should not deter us from exploring alternatives.

The conclusions that this brief review urges are:

- ❑ The key problem today is that the parliamentary system, and the electoral system from which it springs are fragmenting the electorate on the one hand, and, on the other, are not yielding persons who have the competence, integrity and dedication to govern a billion people;
- ❑ Our legislatures, thus, are the root of the problems we face in governance today;
- ❑ Accordingly, we should find ways to reduce the role and influence of legislatures;
- ❑ Correspondingly, we should devise ways which improve the chances of getting a better type to man the Executive;
- ❑ Thereafter, we should tilt the balance away from legislatures towards the Executive;
- ❑ We should seek to secure accountability through institutions other than legislatures;
- ❑ In particular, we should strengthen the powers and role of the Judiciary.

Yet, the fact that the proposition is half the truth, that there is no structure which can work the cure by itself, is also important. The ills that the 'parliamentary system' as we know it has fomented, have been facilitated by and made worse by wrong notions. The cult of the 'common man'. The sense in which a legislator is a 'representative of the people'. The linear ascent: 'The people are sovereign'; 'Therefore, the *Parliament* is sovereign'; 'Therefore, *parliamentarians* are sovereign'; 'Therefore, the *majority* of parliamentarians is sovereign'; 'Therefore, *the one who controls the majority* of parliamentarians is sovereign'... Such notions are the staple of politicians: they are ever so handy whenever politicians need to push some inconvenience, like the Judiciary, aside. And as the quality of persons in public life has deteriorated, the politicians hurl these notions more and more often to aggrandize their power, and to squash all questioning of their conduct.