STRONG DEMOCRACY NEEDS STRONG OPPOSITION-AN ANALYSIS IN THE LIGHT OF PRESENT DAY SCENARIO IN INDIA

Dr. Kishori Lal

Ms. Neerja, Research Scholar

Ms. Jyoti, LL.M Student

Faculty of Law, University of Lucknow, Lucknow

Abstract

The term democracy implies that the constitution has provided a form of government which gets its authority from none other than the people of India. The government is elected by the people and is responsible to the people. Democracy is another name of the rule of the people. There are various provisions in the constitution to introduce; nourish and sustain the democratic set up in India. As for example, Art 326 providing adult suffrage for election to the House of People (Lok Sabha) and to the legislative Assembly of every state. Every citizen who is not less than 18 years of age. Provided he is not otherwise disqualified, has right to vote Art 75(3) contemplates that the council of ministers shall be collectively responsible to the house of people.

Keywords: Democracy, Implies, responsible, nourish, sustain, suffrage, Preamble, democratic republic characterized, colossal territory, Description structure, ultimate, delegate entrench, Region.

Introduction

The preamble of the constitution declares India to be a democratic republic. Democracy is the basic feature of the Indian Constitution.

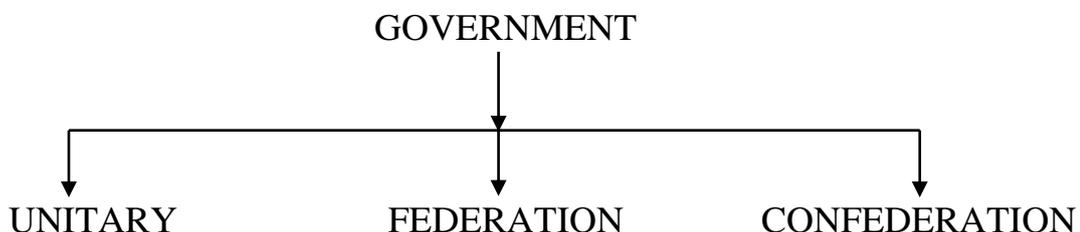Assistant Professor. Faculty of Law, University of Lucknow, Lucknow

Democracy is sustained by free and fair elections. Only free and fair elections to the various legislative bodies in the country can guarantee the growth of a democratic polity. It is the cherished privilege of a citizen to participate in the electoral processes which place persons in the seats of power.

India has been characterized as the biggest democracy in the world because of the colossal nature of the elections held in the country. At a general election, an electoral of millions goes to the polls to elect members for the Lok Sabha, state legislative assemblies, and the legislatures of the union territories, free and fair election has held to be a basic feature of the constitution.

EXPLANATION:
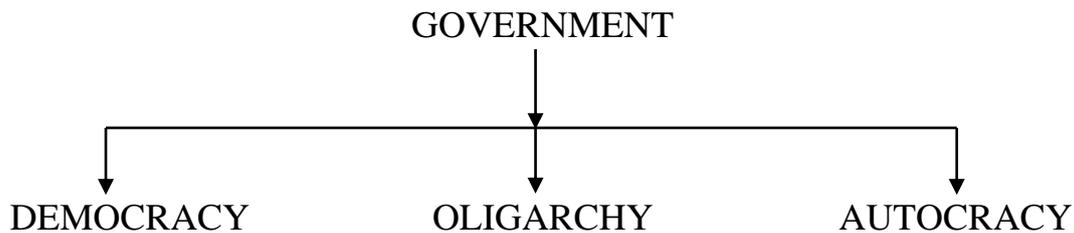
Forms of government by POWER STRUCTURE

GOVERNMENT

UNITARY   FEDERATION   CONFEDERATION

Descriptions of the way in which a government is structured can be described as follows:

Term	Definition
Unitary State	A unitary state is a state governed as a single power in which the central government is ultimately supreme and any administrative divisions (sub-national units) exercise only the powers that the central government chooses to delegate. The majority of states in the world have a unitary system of

	government. Of the 193 <u>UN member states.</u> 165 are governed as unitary states.
<u>Federation</u>	A federation (also known as a federal state) is a <u>political entity</u> characterized by a <u>union</u> of partially <u>self-governing states</u> or regions under a central (federal) government. In a federation, the self-governing status of the component states, as well as the division of power between them and the central government, is typically constitutionally entrenched and may not be altered by a unilateral decision of either party, the states or the federal political body. Alternatively, federation is a form of government in which sovereign power is formally divided between a central authority and a number of constituent regions so that each region retains some degree of control over its internal affairs.
<u>Confederation</u>	A confederation (also known as a confederacy or league) is a union of sovereign states, united for purposes of common action often in relation to other states. Usually created by a <u>treaty</u>, confederations of states tend to be established for dealing with critical issues, such as defense, foreign relations, internal trade or currency, with the <u>general government</u> being required to provide support for all its members. Confederation represents a main form of inter-governmentalism, this being defined as 'any form of interaction between states which takes place on the basis of sovereign independence or government.

Forms of government by APPARENT POWER SOURCE

GOVERNMENT

DEMOCRACY   OLIGARCHY   AUTOCRACY

Description of the source of power for various governments can be based on the following attributes :

Term	Definition
Democracy	Democracy, meaning "rule of the people", is a system of government in which the citizens exercise power directly or elect representatives from among themselves to form a governing body, such as a parliament. Democracy is sometimes referred to as "rule of the majority". Democracy is a system of processing conflicts in which outcomes depend on what participants do, but no single force controls what occurs and its outcomes.
Oligarchy	Oligarchy, meaning "rule of the few", is a form of power structure in which power rests with a small number of people. These people might be distinguished by nobility, wealth, family, ties, education or corporate, religious or military control. Such states are often controlled by families who typically pass their influence from one generation to the next, but inheritance is not a necessary condition for the application of this term.
Autocracy	Autocracy is a system of government in which supreme power

| | (social and political) is concentrated in the hands of one person, whose decisions are subject to neither external legal restrains nor regularized mechanisms of popular control (except perhaps for the implicit threat of a coup detat or mass insurrection). Absolute monarchy (such as Saudi Arabia, the United Arab Emirates, Oman, Brunel and Swaziland)   and dictatorships (such as Cuba, China and North Korea) are the main modern days forms of autocracy. |

PARTY SYSTEM:

Originally, the constitution made no reference to the party system, as such. In course of time, however, the party system has come to be recognized formally as being essential for the running of the parliamentary democratic system.

INDIAN CONSTITUTION AND JUDICIARY:

The Supreme Court has dilated upon the significance of the party system in several cases. For example, in *Rama Kant Pandey V. Union of India,* the court has pointed out that the cabinet system adopted in India is based on the British pattern. For a strong vibrant democratic government, it is necessary to have a parliamentary system which involves a majority as well as a minority so that there may be a full - fledged debate on controversial issues on the floor of the house. This is best achieved through the party system. "To abolish or ignore the party system would be to permit a chorus of discordant notes to replace an organised discussion." "It is, therefore, idle to suggest that for establishing a true democratic society, the party system should be ignored."

The court explained the role of political parties thus: in any democratic system of government, political parties occupy a distinct and unique place. It is through

them that the generality of people attempts to voice and ventilate their grievances. "Considering also, the power which they wield in the administration of government affairs, a special conferment of benefits on them in the matter of modalities governing the election process cannot be regarded as unreasonable or arbitrary."

In *Dhartipakar Madan Lal Agarwal V. Rajiv Gandhi,* the Supreme Court has taken note of, and emphasized upon, the vital role played by the political parties in a parliamentary system in the following words:

"In parliamentary form of democracy political parties play vital role and occasionally they sponsor candidates of the election."

To strengthen the party system, the court has even suggested the need for discouraging independent candidates from contesting elections because its causes unnecessary confusing to the votes.

The election symbols (reservation & allotment) order, 1968, is also a step in the direction of recognizing the party system. While upholding the validity of the symbols order, the court observed in *Kanhaiya Lal Omar V. R.K. Trivedi.*

"It is true that till recently, the constitution did not expressly refer to the existence of political parties. But their extensive is implicit in the nature of democratic form of government which our country has adopted... The political parties have to be there if the present system of government is to succeed."

The anti-defection law introduced in 1985 through the X schedule to the constitution is also an attempt to strengthen the party by discouraging defections from one party to another.

The constitution thus formally recognized the party system as an essential limb of the constitutional process in the country.

The Representation of the people (amendment) ordinance, 2000.

Reference has been made earlier to criminalisation of politics and the ruling of the supreme court in *Union of India V. Association for Democratic Reforms*. To dilute the impact of the court order, the Central Government has now promulgated the above ordinance making certain amendment to the Representation of the People Act, 1951.

A candidate for election to a House of Parliament legislature is now required to further information on the following two points:

1) Whether he is accused of any offences punishable with imprisonment for two years or more in a pending case in which a charge has been framed by the court of competent jurisdiction.

2) He has been convicted of an offence and sentenced to imprisonment for one year or more.

The candidate is not required to give any other information as was desired by the Supreme Court.

As regard declaration of assets liabilities, same is to be made by an elected member to the presiding officers of the concerned House.

The ordinance then adds the following section as S 33B to the RPA.

"Notwithstanding anything contained in any judgment, decree or order of any court or any direction, order or any other instruction issued by the Election Commission no candidate shall be liable to disclose or furnish any such

ECONSPEAK: A Journal of Advances in Management IT & Social Sciences,
Vol. 5, Issue 11, November 2015 Impact Factor 3.418   ISSN: (2231-4571)
www.skirec.org   Email Id: skirec.org@gmail.com

information, in respect of his election, which is not required to be disclosed or furnished under this Act or the rules made there under."

While the ordinance takes a small step towards decriminalization of politics, it is a flawed piece of legislation on more than one ground. It is an example as to how politicians of different shades and hues who shout hoarse day in, day out condemning criminalization of politics, come together forgetting all their ideological differences to protect their turf. The Supreme Court had not made any radical suggestion but even these suggestions are not acceptable to the politicians. This shows that there exists a wide gulf between preaching and practices in today political arena. The ordinance seeks to draw a veil of secrecy over the acts of the politicians thus it lacks transparency.

It is also anti-democratic as it directly strikes at the people's right to know-a democratic right. The newly added S.33B seeks to deny to the people the right to be informed about the credentials of the candidates for whom they are prompted to vote. Can it be said that it promotes free and fair elections in the country?

Above all the constitutional validity of S.33B is extremely suspect. The Supreme Court has spelt out the right to know from the freedom of speech and expression couched in Art19 (1)(a) which is a fundamental right. Therefore, right to know is itself a fundamental right S.33B directly seeks to nullify this right. It is like saying that no one has freedom of speech outside the statute. Therefore, it is hard to hold S.33B as valid. No law, not falling within the parameter of Art.19 (2) can deny in any way the right guaranteed by Art.19 (1) (a). By no stretch of imagination S.33B falls within the scope of Art.19 (2).

PRESENT SCENARIO :

List of political parties in India

National

A registered party is recognised as a National Party only if it fulfils any one of the following three conditions:

1. The party wins 2% of seats in the Lok Sabha (as of 2014, 11 seats) from at least 3 different States.

2. At a General Election to Lok Sabha or Legislative Assembly, the party polls 6% of votes in four States and in addition it wins 4 Lok Sabha seats.

3. A party gets recognition as a State Party in four or more states.

7 Recognized national parties as of 2 September 2016 arranged alphabetically

No.	Name	Abbreviation	Foundation year	Current leader(s)	Party Symbol	Headquarter
1.	All India Trinamool Congress	AITC	1998	Mamta Banerjee	Flowers & grass	36G Tapsia Road, Kolkata-700039, (West Bengal)
2.	Bahujan Samaj Party	BSP	1984	Mayawati	Elephant	12, Gurudwara Rakabganj Road, New Delhi-110001, (Delhi)

ECONSPEAK: A Journal of Advances in Management IT & Social Sciences,
Vol. 5, Issue 11, November 2015 Impact Factor 3.418   ISSN: (2231-4571)
www.skirec.org   Email Id: skirec.org@gmail.com

3.	BharatiyaJanta Party	BJP	1980	Amit Shah	Lotus	11 Askoka Road, New Delhi-110001, (Delhi)
4.	Communist Party of India	CPI	1925	Suravaram Sudhakar Reddy	Ears of corn and sickle	Indrajit Gupta Marg, New Delhi-110002, (Delhi)
5.	Communist Party of India (Marxist)	CPI-M	1964	Sitaram Yechury	Hammer sickle and star	Bhai Vir Singh Marg, New Delhi-110001, (Delhi)
6.	Indian National Congress	INC	1885	Rahul Gandhi	Hand	10, Bishmabhar Marg, New Delhi-110001, (Delhi)
7.	Nationalist Congress Party	NCP	1999	Sharad Pawar	Clock	10, Bishmabhar Marg, New Delhi-110001, (Delhi)

Members of the **16th Lok Sabha** were elected during the 2014 Indian general election. The elections were conducted in 9 phases from 7 April 2014 to 12 May 2014by the Election Commission of India. The results of the election were declared on 16 May 2014. The Bharatiya Janta Party (of NDA) achieved an

absolute majority with 282 seats out of 543, 166 more than previous 15th Lok Sabha. Its PM candidate Narendra Modi took office on 26 May 2014 as the 14th Prime Minister of independent India. The first session was scheduled to be convened from June 4 to June 11, 2014. There is no leader of the opposition in the 16th Lok Sabha as the Indian Parliament rules state that a party in the Lok Sabha must have at least 10% of total seats (545) in order to be considered the opposition party. The Indian National Congress (of the UPA) could only manage 44 seats while the All India Anna Dravida Munnetra Kazhagam party from Tamil Nadu came a close third with 37 seats. Mallikarjun Kharge has been declared the leader of the Indian National Congress in the Lok Sabha. 5 sitting members from Rajya Sabha, the Upper House of Indian Parliament, were elected to 16th Lok Sabha after the Indian general elections, 2014.

A strong opposition needed :

"A strong democracy needs a strong opposition"; "absolute power corrupts absolutely", and "without check and balance a democracy cannot function properly" - these are not my words, different political philosophers said these at different times. There are other theories also. In the mid 50's some political pundits said that a developing country needs a strong government rather than a strong opposition.

It was proved that for lasting development a developing country needs strong democracy. That democracy should be based on two strong parties-one in power and the other in the opposition.

Why a strong Congress in Opposition is essential for Indian Democracy?

The recent Assembly election results in Uttarakhand and Uttar Pradesh, where the Congress has been virtually decimated by the Bharatiya Janta Party (BJP), has people worried with the idea of a spineless Opposition.

In the recently-declared results of the Uttar Pradesh Assembly election results, Congress managed to win seven seats, which is even lower than BJP ally Apna Dal's tally of wins in 9 constituencies. It takes no genius to realize that the results have dealt a body blow to the Congress which seems to be shrinking in influence with each passing day.

But then, the gradual decimation of the Congress from Indian polity should also come as bad news for India and the idea of Indian democracy.

Strong Opposition essential for democracy.

A strong and active opposition is an indication of any healthy democracy. The Congress, being the biggest party in Opposition, is the sole party being which other parties rally to demand answers from the ruling NDA dispensation.

However, by the looks of it, the Congress hasn't just lost the numbers in the elections, but also the will to fight for people. The scenario that unfolded in Goa and Manipur is a clear indication of how the Congress could not even capitalize on the mandate that was given to it by the people. BJP moved quickly and efficiently to form government in both states because it had the will and the passion to rule.

Moreover, it seems to have learnt no lessons after a similar drubbing in the 2014 Lok Sabha elections. Instead of moving ahead and reinventing to establish itself as a voice of the people, the party went into sulking and doesn't appear to have recovered yet.

Protests and demonstrations :-

Protests and demonstrations are a big part of a democracy and form the cornerstone of highlighting the people's anguish and sufferings. However, the Congress which fought tooth and nail for the Leader of Opposition seat, has not bothered to hold any large-scale demonstration for causes that actually affect the people in over two years now. The last big protest that the Congress orchestrated was against the NDA government's Land Acquisition Amendment Bill where it managed to bring the entire opposition, and even some NDA allies, together.

On the other hand, even Shiv Sena, an ally of the BJP in Maharashtra and the Centre, has been fiercer in its criticism of the government that the Congress.

Congress a nucleus of opposition parties.

In the current political scenario in the country, the Congress is the only opposition party with a pan-India reach. Though there are many strong regional parties with strong bases, their popularly ends with the boundaries of their respective states and their impact, nationally, has been insignificant. Though fiercely opposed to the ruling dispensation at the Centre, parties like the JD(U), Samajwadi Party, BSP and the TMC have stopped short of coming together at the national level to put a strong opposition to the BJP. All these regional parties need a nucleus around which they can come together to challenge the BJP and there is no denying that the center could only be the Congress.

Samajwadi Party and BSP in UP, RJD-JD(U) in Bihar, Left and TMC in West Bengal, BJD in Odisha, DMK and AIDMK in Tamil Nadu would meet to rally around the Congress in Delhi to challenge the ruling NDA. However, most of these parties restrict themselves to extending issue-based support or refrain from

doing so altogether. What the Congress needs is to convince them to support its cause and it can only do so when it is stronger.

Numbers matter in Parliament.

The BJP has absolute majority in the Lok Sabha and the support of its NDA allies make the ruling coalition only stronger. The opposition is growing thinner than it has ever been in the last two decades.

However, it is a different story altogether in the Rajya Sabha where NDA does not have enough numbers. Though the Congress has not used its numbers in the Rajya Sabha efficiently and has only disrupted the House over superficial issues, it could be a key to keeping the BJP government in check.

A strong opposition in the Parliament will only work in the favour of democracy, no matter how inconvenient it might be for the ruling dispensation.

However, all these talks of strong opposition will only be futile if the Congress does not get its own house in order.

Several senior leaders from the Congress have asked for changes in the party for it to regain strength. The chorus for a "grand alliance" to take on the mighty BJP under Prime Minister Narendra Modi has also gotten stronger.

But the Congress and others must understand that Congress cannot become the glue to hold together an alliance that big if it does not get stronger itself. And for that, it must heed the advice of its senior leaders for "structural, organisational changes," and a "major surgery," and for that it needs to shed the sycophancy rampant in the party.

It is indeed essential for the Congress to get stronger if it wants democracy to thrive in India.

Opposition will have to rise again, India needs it

The poll results have made one thing clear - that the formidable political stature of PM Narendra Modi-led BJP is more acceptable on the ground. The Congress and other parties have not shown any impact.

Vulnerable opposition

It is not the first time in independent India that the opposition is so weak. The Congress had its day. The Gandhis were formidable. Their political astuteness helped them rule them rule the country for over six decades. The opposition was not strong enough to put a strong opposition against them.

So, what now?

When the country's oldest political party Congress is more vulnerable than ever and has been left alone to introspect, neither the public nor political fraternity is taking it seriously. So, how to make a comeback with a strong opposition?

For finance minister and Congress veteran OP Chidambaram said it needs to start from scratch.

The Congress needs to strengthen its ground base without relying on the mighty Gandhi's. Its leaders need a new approach. They have to leave behind the old aristocratic attitude and approach of political hierarchy and reach people with folded hands, listen to them, stand with them and provide solutions to their basic problems.

It has to adopt a long term strategy to repeat the magic of 2004 when it took the entire nation with surprise and returned to power with tremendous ground support.

However, for other opposition parties also it is important to modify their approach. Exerting their entire energy on caste calculations is not going to help them in the long run. The UP poll result should become an eye-opener for them.

Why a strong opposition is important?

For a healthy democracy, a healthy opposition is as important as a strong government. It helps keep the regime in power under control, and prevent it from developing arrogant and autocratic deviations from the path of progress and democracy by questioning such steps, assessing their policies and programmes objectively and also by giving important inputs.

Right now, like Nehru and Indira Gandhi, Modi is enjoying a larger-than-life image.

India needed a strong leader in 2014, not a messiah but because of weak opposition his image has attained daunting heights.

This is why issues emerging from JNU and the death of Hyderabad research scholar Rohith Vemula have become insignificant to the people.

At present, this country is suffering from a most non-synced and unprepared opposition. Only boycotting Parliament or hitting the streets in protest is not sufficient. They need to reach to the masses and awaken them about the unspoken truths.

An opposition of the people, by the people, for the people.

Conclusion:

So, in my opinion there should to be a strong opposition for strong democracy because only this can make a democracy healthy. It helps keep the regime in

power under control, and prevent it from developing arrogant and autocratic deviations from the path of progress and democracy by questioning such steps, assessing their policies and programmers objectively and also by giving important inputs.

At present, this country is suffering from a most non-synced and unprepared opposition. Only boycotting Parliament or hitting the streets in protest is not sufficient. They need to reach to the masses and awaken them about the unspoken truths.

An opposition of the people, by the people, for the people.

References :

1.   Constitutional Law of India by Prof Narendra Kumar
2.   Constitutional Law of India by Mamta Rao
3.   Constitutional Law of India by A.K. Jain
4.   Constitutional Law of India by J. N Pandey
5.   Constitutional Law of India by M.P. Jain
6.   Constitutional Law of India by D.D. Basu