

INSTITUTIONAL EROSION AND ITS IMPACT ON DEMOCRACY: INDIA

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Abstract

Independent organizations are the basic arrangement of democracy to bar the political executives from making undue changes in the fundamentals of the governance. They ensure that accountability, execution and judication of the government took place in independent manner so that people could trust government. Recent example in India where autonomy of Reserve Bank of India, Central Bureau of Investigation, and National Statistical Commission was compromised is the alarm in this direction. These tendencies contribute to the loss of credibility of these organizations. What we need indeed is effective autonomy to them while equally ensuring democratic control over them. It's the same thing that government is lacking in current time. Institutional erosion in the name of democratic control, popular sovereignty and transformation of these institutions are the major problem in current time. Parliamentary scrutiny of government action is lacking because of continuous disruption of parliamentary proceedings and short span of

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parliamentary sessions. These must be the major thrust area of attention in upcoming times.

Introduction

Whether by Leftist or by Rightist, modern nation state was always envisaged as the byproduct of emergence of capitalism in Europe. Nation State always followed the path of Economics. As Karl Marx has said, Economics considerations are core of any socio-political decisions in modern times. This economic consideration has played an active role in the emergence of Communist Regimes in East Europe while it's the same economic consideration which has played the prominent role in the emergence of liberal political regime in west Europe and North America. In contemporary times, neo liberal regimes have emerged in the world after the collapse of 2nd world in Eastern Europe Communism. This has made the sharp change in the philosophy of governance, as now the only political necessity to follow the welfarism was ended.* This led to the role back of state from many public spheres in UK, Canada and Western Europe. Reganomics and Thatcherism was the main narrative after collapse of communism.

In administrative perspective, these changes asked for more streamlined role of administration. From the role of service provider, as now, state became the regulator only, it has become more necessary for state to balance its role between that of interest seeking agent to that of control inspector. *Regulation* was the more challenging job for the bureaucracy with trained incapacity. The success of neo liberal structure was much more dependent on free and fair regulation by state and its absence could have been the reason for crony capitalism. As witnessed first in collapse of Asian Tiger aka East Asian Economies in 1997 and then in the collapse of Lehman Brother which led to wide spread global economic recession of 2008, the regulatory role of government was much more necessary than ever before. The great depression of 1930s changed the capitalism into more of state led development and welfarism, that of 1960s and 1970s helped in the emergence of neo-liberal policies. Now after the failure of neoliberal policies in 2008, we cannot go back to state led model. The solution, as expressed by many academicians, lies in the

* Left front and Marxism was always looked as the reason behind the emergence of welfarism in capitalist societies. Labor Laws and Factory Acts were the efforts to stop the spread of communism in west.

fact that government has failed in its role of regulator and unless it is fixed, we cannot expect the capitalism to work efficiently for the betterment of wider public.

In this perspective, we have to focus more on public institutions as only independent and efficient public institutions are the effective way to control the negative tendencies in neo liberal state. What we have observed in recent time is the emergence of new despots in the form of bureaucracy in highly technical domain of public affairs. So, again we need to keep these public institutions in the effective public scrutiny so that no one should be in a place to abuse their power. It means we need effective democratic control over them as well as effective autonomy to them to perform their task with independence. Here lies the actual challenge of 21st century.

Plato, in his famous classification of government, has termed democracy as worst form of government (1). He says that not every man is man of gold, and that's why when everyone participates in the electoral politics, it corrupts the state. Though his opposition to democratic system cannot be accepted in totality but his view that people lack the technicality for governance and they lack in their ability to control their own appetite while in power cannot be ignored. Even during initial phases of democracy in western world, ruling class was always stubbornly suspicious about the effectiveness of democratic structure where public pressure can exert a huge influence on government policies and affairs. This skepticism was also there during the time of transition of ruling power from the established monarch to the temporarily elected New Ruling Class as it was feared that new ruling class might abuse power for their own betterment. With this in mind, scholars like Max Weber (2), F. W. Riggs (3) and Nigel Bowles always suggested the independent 'fourth pillar' of government as bureaucratic structure (4). They envisaged this pillar as independent from electoral politics and able to understand the technicalities of the governance in true sense. They thought that this would be the best way to provide continuity in governance and the effective way to put pressure on elected representative to be in constitutional limits. This independent bureaucratic structure was supposed to counterbalance any destructive efforts of elected political government for the larger interest of public. It was argued that even the bureaucracy should be obliged to constitutionalism and not just to present day government (5). But in the recent times, with the emergence of new right-wing tendencies in the global political arenas, it has been witnessed that these institutions, which were supposed to counter balance the arbitrariness of political leader, are continuously weakened

in the name of popular control of democratic leader, while rightly neglecting its long-term impact on the governance and on those governed.

Current Scenario in India

India being at the center of this popular political upsurge is no exception to this tendency and we have witnessed many such events in the near past. While one section of society believes that this is completely within the power of the government another section believes it to be power abuse. That may be with RBI, or CBI, or National statistical Commission, but while analyzing this, we have to keep in mind that though the intervention of government in state affairs is purely valid and undeniable, its long-term possible impact and effectiveness on governance can be disastrous. So, matter in question is not about the validity of the intervention but about the utility and effectiveness of such interventions.

Recent example of government intervention in RBI functioning was one such example in debate. Though RBI is an independent organization from govt from RBI Act 1934, section 7 of same act permits government to issue any binding directives to Central Board of Directors of RBI which it may seek fit for public welfare (6). Recent Example of tussle between RBI governor and Ministry of Finance over transfer of capital from RBIs reserve to govt, so that government could spend that on social welfare program, is the best example with this regard. This tussle has the background of conflicting priorities on the banking issues, where government is more concerned about their electoral obligations while central bank looks at the issue from the prism of inflation control (7) and banking regulation (8) only. While speaking in a broader arena, this issue has the background of many such issues like that of interest rate, PCA and bank loans to MSME sector which government thinks a good way to generate jobs in the election period. But again, as clearly stated by Raghuram Rajan in one of his recent interviews, RBI, being a permanent body and guardian of exchequer, is more concerned about rising NPAs in Mudra Scheme (9) – a scheme to finance MSME sector. So, here again, govt pressurized RBI by threat to invoke sec 7 of RBI act. All this debate calmed down only after newly appointed RBI governor Urjit Patel resigned from his office for undisclosed reasons. New RBI governor, who came from bureaucratic background, while enquiring into the matter accepted the notion that

sovereign is supreme (10), but also warned that the proportionate money is needed to keep in reserve so that RBI could give justice to its mandate.

Same kind of institutional erosion happened when the matter of Chief of Central Bureau of Investigation was removed arbitrarily by central government. That matter is a matter of concern for citizenry as it clearly violates the directives given by Honorable Supreme Court in Prakash Sigh Case (11). Even while making the appointment of Special Director in CBI by Government, without any consultation by selection committee, just because selection committee have its jurisdiction over Director and not on special director, government has clearly violated the spirit of CVC act. Even once Supreme Court restored the suspension of CBI Director, government immediately removed him from his office for unspecified reasons (12). Here again the modus operandi chosen by government clearly shows the tweaking of the rule for its benefits while completely ignoring the philosophical aspect of the provision. As SC has stated in its judgment, CBI cannot be used as a political instrument in the hands of the serving ruling party. It must be freed from its executive branch otherwise it would remain to act like a caged parrot (13).

Same efforts to erode the independence of the institutions and to make them work on the political decree of the party in power happened with the statistical commission of India (14). The commission was established after the recommendation of Rangrajan commission for independent and autonomous commission for credible statistics of India. Though the commission is still far away from quality data, it was at least known for credible data it has produced in the past. Recent controversy of rejecting the publication of report of this specialized institution on the ground of technical shortcomings and subsequent resignation of its chief and member has again highlighted the governments' undue involvement in the institutions (14). Leaked report of NSC on unemployment data has shown the unemployment rate at 4-decade high point, which can be seen as reason for denial for publication of the report (15). Here again, the same law of supreme sovereignty of the state is used by government to curtail all the voices which opposes their narrative.

In recent times, institution of parliament is also witnessing erosion. As clearly stated in PRS India Report, as compared to 15thLok Sabha, 16thLok Sabha has witnessed the double incidents

of issuance of ordinance. This despite the fact that current government enjoys the very much majority in the parliament. It clearly shows the declining importance of parliamentary scrutiny of a bill/act, and government's negligence towards that. 16th term Lok Sabha has worked for 1615 hours which is 40% less than the average of all full-term Lok Sabha. This loksabha sat for total 331 days which is again 29% lower than the average of all full term loksabha. Even at this lower level of time in parliament; loksabha has lost 16% of its time in disruption while rajysabha has lost 36% of its schedule time in disruption. (16). Parliament acts as a control over present government and it's a most useful tool to take the government of the day accountable to people. But as seen by above analysis, even the institution of parliament has gone through the erosion. What led to this and what can be done in this regard can be the question of all together different topic but as we have seen here, erosion of parliament is the reality now.

Many pro government arguments can be put forward in this regard which says the government is working for the restructuring of the institutions for the changing times. But this argument can be seriously misleading. There is the fundamental difference between restructuring and erosion. While restructuring works on basis of law, at the same time, erosion works on execution level. As we have witnessed in the recent time, there has not been any effort to change the law of the land w.r.t. these institutions but what we are observing is the malafide execution of the existing law. When government intervenes in daily functionality of the institutions it can clearly be regarded as the erosion of autonomy of concerned institutions.

Conclusion

The scheme of three separate wings of state is designed with the well-defined motive to keep the checks on the working of the state machinery. When autonomy of any of this institution is breached, it leads to the misuse of power by another entity. What we are observing in India is a matter of concern because we are giving too much power to the political executive and this is leading us on the verge of power abuse. The autonomy of RBI in the functioning of economy was well regarded even by colonial British government when white papers on constitutional reform, published after 3 round table conferences clearly says that the independence of India cannot be given unless the well functional central bank is established which must act free from government interventions. As stated by Santhanam Committee to tackle corruption in public life,

independence of investigation machinery is the pillar of effective control over corruption. This has been reiterated by Hon'ble Supreme Court of India while terming CBI as a caged parrot. This erosion of institutional autonomy clearly points towards the act of power abuse by government which has to be looked seriously by the citizenry as it can have serious implication over their life.

India being a diverse country with its own destined share of wellbeing still in a pipe, needs the independent institution, for its promising future, far more than any other nation in the world. When Britishers used the strategy of safety valve w.r.t. the establishment of Congress, they were providing the legitimate ways to the masses to express their grievances and to solve them without bringing the politics on street (17). It needed the independent mechanism to safeguard the public interest and public's trust in it. Even while analyzing the emergence of naxalism in India, expert claim the lack of legitimate institutions to express the grievances of public or say legal vacuum as the reason for the movement to go violent (18). When these all kind of institutions needs to be independent from one another, other requirement to make them legitimate, is the firm trust of public in these institutions. Dr Ambedkar, while addressing the constituent assembly in its last days, clearly stated that any of these institutions cannot be the effective carrier of democracy if the person behind those institutions is lacking in democratic spirit. Once people's belief in the institution's shekels, they take their politics to the street. John Stuart Mill has also warned not to lay our liberties at the feet of even a great man or to trust him with power which enables him to subvert their institutions (19). India has to protect itself from that anarchy again. The idea of popular control over bureaucracy is undeniably needed. It can only be achieved by making them responsible to elected government of the day. Government needs the right to appoint and remove the official from their positions but arbitrary use of governments' power for this can only be detrimental to larger goal of public interest. Democratic structure of government is needed a country like India, and we equally need the popular control over these institutions but what we are missing is in democratic politics, majority decides the policy but implementation or execution of policy cannot be rested with majority opinion. It needs to be done by independent bureaucratic structure. For this to happen we have to keep it autonomous and free from regular government interventions. After 1991 LPG, all the institutions are subverted in this name of majority popular control. In representative type of democracy, we

definitely need the checks and balances to maximize our strength and to minimize our weaknesses but as cleverly stated by Mr. Raghuram Rajan, “We need checks and balances but we also need to balance the checks to make it work” (20)

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