

Unmasking India: An Examination of India's Political System

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Abstract

India, a diverse nation, stands to be a unique democracy today because of the forces that shaped its policies and structure. The oppression of the colonial rule inspired independence, sovereignty, and other core values of the current government. A diverse and pluralistic society was accommodated through a representative government that committed itself to democracy. Its legacy as a colonized state made the agenda clear: to avoid a concentration of power and to give the people a voice. This was exercised through political processes like elections. Eventually, the structure and the very functioning of the state were formed through the influence of these factors. This paper will elaborate on the current political structures in India and the role of the agents.

Keywords: India; President; Parliament; Minister

Introduction

Some say politics is a game, some say it's an earnest business; I believe it's both- an intricate activity that cannot be compartmentalized easily, it is a daily ongoing venture of the State. From the genesis of man, we are aware of our nature as 'social animals'; we cannot reside in a Robin Crusoe economy- the world, to a certain extent, begins and ends with politics. This paper will be examining and illuminating the venture of one such State- India.

India is a land of diversity and dynamism. This state was built on a foundation of culture, tradition, and language, a scissored land, covered with the shrouds of many. However, this nation has continued in its relentless march towards progress. It has had its fair share of stumbles, setbacks and lessons, but the nation has undeniably moved forward from where it stood 76 years ago. This was possible due to the efforts of the constituent assembly that gave structure and adopted the supreme law of the land. After independence, India did not face a smooth sailing journey contrary to our expectations; we were left with an economically drained nation with many problems. Thus began the venture to decide and create a government that would be 'of the people, by the people and for the people.'

India's political landscape is complex. It drew inspiration from other constitutions and can be likened to a canvas painted with myriad hues. The Indian political system has often been an amalgamation of sorts; its birth as a state much later than others meant it could borrow other successful tactics from different States. But this led to the creation of a complex state- one that encompassed many dichotomies like being federal in structure but unitary in spirit or adopting a mixed economy. This paper will explain the nuances and the modus operandi of this State.

Background

Deepak Rana said, "The best thing about India is the freedom that one enjoys here, which is also the worst thing about it." Simply put, freedom is a double-edged sword; too much leads to chaos like the gun violence the USA is facing, and too little leads to tyranny.

A country needs to strike a balance on the exact amount to provide for its citizens. Another concept is the reality of these freedoms. Oftentimes, freedoms guaranteed by law are interpreted differently or fail to materialize into a reality due to many factors and end up looking good only on paper.

India was born on 15th August 1947, after a period of oppression. The State so formed later was left to decide its fate. India chose to become a liberal democratic state. It comprises a representative government, provides civil liberties, defines and specifies roles to the organs of the government, places social, political and economic checks and balances, ensures a limited government, a multi-party system with the freedom to form and manage political parties and associations, and endeavoured to protect and promote interests and welfare of minorities.

This state, thus, operated through a rule of law. This law was decided by a constituent assembly; indirectly elected by the provincial legislative assemblies and nominated by princely states and the viceroy of India. The law elaborated on the political system of the state. It currently includes 448 articles, 25 parts, 12 schedules and 105 amendments. It is within this extensive legal framework that we will look into the politics of this country and understand the political structure, how war is declared and treaties ratified, and understand the role of the head of state and government.

Literature Review

Ghai, K.K. (2019) examines comprehensively and systematically concepts of the constitution, government and Indian Democracy with the help of comparative examples drawn from India, the USA and the UK.

Kashyap, S. C. (2004) delves into the functions of the parliament, the role of presiding officers, the question hour and other various procedural devices like different types of motions, budgetary committee and legislative processes, etc. It thoroughly explains in detail this organ of the government and its connection with the executive.

The above review of literature throws light on the following facts

- India's political structure and functioning in today's world.
- India's diplomatic processes during times of war and peace.
- The role of prominent agents within the nation- Head of State and Government.

Research Gap and Research Question

Many researchers and scholars have described the Indian political system. However, not many have compared the reality of politics and the theory of politics. This paper will focus on this specific aspect. Thus, the research question emphasized here is, "How does the realm of political theory diverge from actual political practice in India?".

Material and Methods

The current research is descriptive in nature. The primary goal is to understand the current political scenario in India. This study will focus on comparisons, case studies and secondary data rather than primary data and the use of statistical tools. However, data from official centres and sites in India have been referred to while writing this paper. Various reports and primary sources were also analysed. The researcher has looked into government reports, laws, newspaper articles, etc. This study combines descriptive and analytical elements. Thus, an attempt to use both primary data and secondary data was made. The study's secondary data came from different sources, including articles, books, websites, reports, journals, etc.

Objectives

- To analyse the political system of India.
- To compare this structure with reality.

- To differentiate between the role of Head of State and Government.
- To investigate the process of declaration and peaceful resolution of war.

Importance of the study

Understanding the importance of our country's political system is crucial for several reasons. It's like having a map that guides you through a complex landscape. By knowing how your government works and the roles of different branches, you can better navigate the decisions that impact your life. Understanding your political system lets you engage in shaping your nation's policies and future. Knowing the history and mechanisms of your political system helps you appreciate how it shapes society. Ultimately, being politically aware empowers you to contribute to your country's progress and make informed decisions as a responsible citizen. After all, it is as Thomas Paine said, "The duty of a true patriot is to protect his country from its government."

Thus, learning about our political system will help us understand our past, avoid repeating the mistakes of history and understand the functioning of today's modern governments and constitutions.

Results and Discussion

INDIA: Political Profile	
"SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC"	
Population	1,430,912,853 (2023)
Type of State	Liberal Democratic State
Form of Government	Federal Structure with Unitary Spirit
Political Structure	Parliament
Declaration of War	Article 53, 74-75
Ratification of treaties	Article 53, 74, 253, Parliament
Role of Head of State	Article 52-53, 74-76, 111, 356
Role of Head of Government	Article 74-75, 78, 83, 85

Source: Ghai, K.K.

India has the largest population in the world. This implies that it is a land of diversity as it is a home to many communities. This diversity can be based on religion, language, caste, etc. Maintaining peace and striving to be prosperous without offending any community was possible only through adequate representation of all communities. This was made possible through democracy, and India has been comparatively one of the most successful nations in implementing and upholding the democratic type of State since its independence. It has not faced coups or dictatorships, a commonality in South Asian countries.

At the core of the Indian political system lies a parliamentary system. This is elaborated in Chapter 2, Part V of the Indian constitution. The parliament is the supreme legislative body of India. The Indian Parliament is bicameral. (Article 79) It comprises- the President and the two Houses - Rajya Sabha (Council of States) and Lok Sabha (House of the People). The president is not a member of the parliament but is still a part of the parliament. He has the power to summon and prorogue either House of Parliament or to dissolve Lok Sabha. Bills become laws only after they receive his assent. The Constitution of India came into force on January 26, 1950. The first general elections under the new Constitution were held in 1951-52, and the first elected Parliament came into existence in April 1952. Unlike the British Parliament, the Indian parliament is not sovereign. It can legislate only on the subjects granted to it by the Constitution.



The Indian Parliament.

The Indian parliament was designed to follow a Westminster model. This model advocates a responsible government with a bicameral legislature. There exists a president or a sovereign along with a prime minister. The prime minister's cabinet is responsible, and the members of parliament (MP's) can question them and hold them accountable. The party or coalition with a majority in the Lok Sabha forms the government, ensuring that it reflects the will of the majority of Indian voters. This type of government emerged due to the historical influence the British had on Indian governance during the colonial era. Thus, there was a sense of familiarity with this system, and the idea that a parliamentary form of government was more representative and less conflictual between the legislative and the executive moved the constituent assembly to decide on a parliamentary form of government. After being under British rule, the constituent assembly saw the need to have a responsible government with adequate checks and balances to ensure there was no concentration of power. The responsibility between the legislature and the executive both individually and collectively was appealing to the makers of the Indian constitution. Lastly, as mentioned before, India being a diverse land, called for a representative government. A parliamentary government gives greater scope for representation to all sections of society through proportional representation.

The Indian Constitution has many sources, but one significant one was the Government of India Act 1935. It served as a precursor to India's own constitution, which was adopted in 1950. It laid the foundation for the structure of the government, including the division of powers between the central government and the provinces (states) of India. Many of the constitutional principles and administrative practices outlined in the 1935 Act were retained and adapted in the Indian Constitution. It introduced a federal system of government for British India. It created a bicameral legislature at the federal level. This federal structure was a significant precursor to the parliamentary system that India later adopted. The act also granted significant autonomy, laid the groundwork for the cabinet system and outlined the division of powers.

The Rajya Sabha consists of 250 members- 238 members are elected through a single transferable vote. 12 members are nominated by the President on the advice of the council of ministers (*Article 80*). N.R. Elango, R. Dharmar, P. Chidambaram, etc. are the names of some members of the Rajya Sabha from Tamil Nadu. The total membership of Lok Sabha is 545- 525 from states and 20 from Union Territories. Additionally, seats are reserved for SC, ST, etc. The Indian parliament holds legislative, executive, financial, judicial, electoral, amendment and special powers. The declaration of Emergency needs the parliament's approval.

Furthermore, to accommodate a diverse population, India chose to be neither a federation nor a unitary state. "India that is Bharat shall be a Union of States" (*Article 1*). Scholars like K.C. Wheare describe India as a 'Quasi-federation'. Currently, there are 28 states and 8 Union Territories. India is a federal State, this means India is divided into smaller political units- states, each of which retains a significant degree of political autonomy and authority. These smaller units have their own governments, with powers and responsibilities that are defined by a constitution or law. In a federal state, there is a clear division of powers and responsibilities between the central or federal government and the constituent states or regions. This is observed through its characteristics of division of power between union and states, a dual polity, a rigid, written constitution, and an independent judicial system. The subsidiary Unitarian

features include a strong central government, single citizenship, constitution and integrated judiciary, common election commission, Indian services, comptroller and auditor general and ad-hoc Unitarianism.

India adopted a federal polity, not only to accommodate its linguistic, cultural, religious, and ethnic population but also because of India's historical experience under British rule that introduced elements of federalism as seen through the Government of India Act 1935. It was also introduced to decentralize political power to reduce the risk of authoritarianism. This, is seen as a way to balance power as it checks the central government's authority. A federal system helps work on economic disparities. It allows states to have control over economic planning, resource allocation, and development policies, which can be tailored to address the specific needs and challenges of each state. It also supports the idea of local governance that was strongly advocated by Mahatma Gandhi. A federal structure also ensures administrative efficiency and appeases states by granting them a level of autonomy, thus, reducing communal and regional tensions.

A parliamentary government is one in which the executive has two parts: (1) Nominal Executive and (2) Real Executive. The head of the State is the nominal executive and is not responsible to the legislature. All executive powers are vested with him/her, but they do not exercise these. These are in reality exercised by the Council of Ministers headed by the Prime Minister. They form the real executive and for all its acts are collectively responsible before the legislature. There is a close relationship between the legislature and the executive, the latter is constituted by the leaders of the majority in the legislature, and they continue to act as both the legislators and the executive heads. Thus, the head of state is only a nominal and constitutional head of the executive in whose name the real executive exercises all executive powers.



Head of State-Droupadi Murmu.



Head of Government- Narendra Modi.

The head of State and government fall under the political executive. Policy formulation and decision-making are the two primary responsibilities of the political executive. The permanent executive (civil service) only advises and helps the political executive by presentation of possible alternative policies and decisions out of which the latter adopts one as the policy or decision. They are supposed to be responsible and accountable to the people when making their choices, as they remain in power as long as they hold the confidence in the legislature. The constitution declares India to be a 'Republic'. To secure this objective, the Constitution provides for an elected head of state- the President of India. He/She is elected by an electoral college consisting of the elected members of both the houses of the union parliament and the state legislative assemblies (*Article 54-55, 57-58*). The role and procedures regarding the President are mentioned in Articles 52-62 in Part V, Chapter I of the Constitution. The President, according to the constitution, plays a vital role as the head of the executive and administration in India. All executive powers are vested in him (*Article 53*). All executive actions of the government of India are expressed to be taken in the name of the President (*Article 77*). He appoints the ministers, and they hold office during "the pleasure of the president" (*Article 75 (2)*). All major appointments and promotions are made by the President. As the head of the State, the President accredits India's ambassadors and envoys to foreign countries and receives foreign ambassadors in India. All diplomatic activity – international treaties, agreements, multilateral and bilateral are negotiated by the government of India in the name of the President.

The President is the supreme commander of the defence forces of India (*Article 53*). He makes all higher defence appointments and promotions and grants all military honours and titles for acts of bravery and commendable service. He even has the power to grant titles and honours like Padma Shri, Bharat Ratna, etc. As the Supreme Commander of the armed forces, with the aid and advice of the Council of Ministers, defensive actions of the state are practised. The process of going to war or engaging in armed conflict is primarily governed by executive and legislative actions, as well as international law. The decision to go to war or engage in armed conflict is primarily an executive decision, typically made by the government (Council of Ministers) led by the Prime Minister. The President, as the Supreme Commander of the armed forces, acts on the advice of the Council of Ministers. While the President can order military action, significant military operations and declarations of war are subject to parliamentary approval. The government is constitutionally required to seek the approval of Parliament. Additionally, India, like other nations, is bound by international law and norms governing the use of force and armed conflict. Declarations of war must conform to international legal standards, including those outlined in the United Nations Charter, which generally prohibits the use of force except in self-defence or when authorized by the United Nations Security Council. However, it must be noted India has never taken an offensive stance in war. But if war is to be declared the process would start with the cabinet consulting and issuing a note that would be sent to the president for assent through the cabinet secretary. The cabinet secretary would later receive the duly signed note and the defence minister would issue the statement of declaration.

Case Study: India-Pakistan War of 1971

Background: The 1971 war between India and Pakistan was centred around the struggle for the independence of East Pakistan (now Bangladesh). East Pakistan was geographically separated from West Pakistan (present-day Pakistan) and experienced political, economic, and cultural discrimination by the West Pakistani government.

Events Leading to the War

In East Pakistan, the Bengali population had been demanding greater autonomy and political rights for years. The situation escalated when the Pakistani military launched a military operation in East Pakistan in March 1971 to suppress the Bengali population's demands. This led to widespread atrocities and loss of life. India then supports Bengali Independence, and millions of refugees flee to



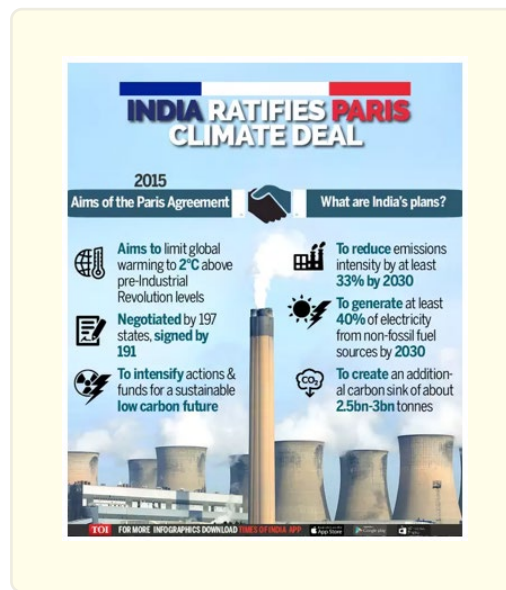
India, creating a humanitarian crisis. India expressed strong support for the Bengali people's struggle for independence and provided refuge to the refugees.

Declaration of War: India did not formally declare war on Pakistan in the traditional sense. Instead, the conflict escalated gradually as tensions between the two countries increased. India, however, made efforts at the United Nations to draw international attention to the crisis in East Pakistan. It sought support for a resolution condemning Pakistan's action and calling for a peaceful solution. The war began in earnest when, on December 3, 1971, the Pakistani Air Force launched preemptive airstrikes against Indian airfields in the western sector (present-day Rajasthan and Gujarat). This attack marked a significant escalation. In response to the airstrikes, India formally entered the conflict. On December 3, 1971, India's Prime Minister, Indira Gandhi, addressed the nation, stating that 'India had been attacked' and that a state of war now existed with Pakistan. This highlights the power of the real executive and how the decision to go to war or engage in armed conflict is primarily an executive decision led by the prime minister. India actively supported the Mukti Bahini, the Bengali liberation forces fighting against the Pakistani military in East Pakistan. Indian troops also moved into East Pakistan to engage the Pakistani military.

The conflict garnered international attention, with some countries supporting India's stance and others supporting Pakistan. Ultimately, India's military campaign, combined with diplomatic efforts, led to the surrender of Pakistani forces in Dhaka on December 16, 1971, and the creation of the independent state of Bangladesh. India has generally adhered to a policy of using military force as a last resort and has favoured diplomatic solutions to conflicts. The 1971 war was a unique case driven by the extraordinary circumstances surrounding the Bengali struggle for independence and the humanitarian crisis that unfolded.

Similarly, the power to negotiate and ratify treaties is vested in the President, who acts on the advice of the Council of Ministers (headed by the Prime Minister). The process of treaty-making and ratification involves negotiations conducted by the executive branch, primarily the Ministry of External Affairs. India's diplomats, with the guidance and approval of the government, engage in negotiations with representatives of other countries or international organizations. Once negotiations are completed, the proposed treaty is submitted for approval by the ministers. The ministers examine the terms of the treaty and assess its implications for India's interests. After approval, the authorized representative of India (often the Minister of External Affairs or another high-ranking official) signs the treaty on behalf of the country. The act of signing indicates India's intention to be bound by the treaty, but it does not yet create binding legal obligations. Ratification is the formal process by which India confirms its consent to be bound by the treaty at the international level. In India's parliamentary system, the government must submit the treaty to Parliament for scrutiny according to democratic practices. The treaty is typically accompanied by an explanatory note outlining its key provisions and implications for India. However, in practice, not all treaties require parliamentary ratification. Only bilateral treaties involving subjects under the state list may require parliamentary approval. Under Article 253 of the Indian Constitution, the Parliament has the power to legislate any law relating to an international treaty or an agreement. The Parliament also has the power to enact laws for the implementation of international treaties or agreements, even if the subject matter of the treaty or agreement is in List II. Even if the subject matter of the treaty is in the State list, even then the enactment for implementation of such a treaty can be done by the Parliament. The resolution serves as formal authorization for the President to ratify the treaty. Following the passage of the resolution of approval by Parliament, the President formally ratifies the treaty. The President's ratification is the final step in the process, and it signifies India's commitment to fulfil its obligations under the treaty. Once ratified, the treaty is notified in the official gazette to inform the public and relevant authorities of its entry into force. This notification also makes the treaty a part of Indian law.

An example of treaty ratification in India is the Paris Agreement on climate change. The Paris Agreement is a global treaty adopted in December 2015 as part of the United Nations Framework Convention on Climate Change (UNFCCC). It aims to address climate change by limiting global warming to well below 2 degrees Celsius above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5 degrees Celsius.



The Paris Agreement was negotiated and adopted during the 21st Conference of the Parties (COP21) to the UNFCCC, held in Paris, France, in December 2015. The agreement was endorsed by nearly 200 countries, including India. In India, the ratification process began with the Union Cabinet, the highest decision-making body of the Indian government. The Cabinet reviewed and approved India's participation in the Paris Agreement. After Cabinet approval, India's President, who acts on the advice of the government, formally ratified the Paris Agreement. The "Instrument of Ratification" is a legal document through which India expressed its commitment to be bound by the terms of the treaty. Once ratified, India submitted the Instrument of Ratification to the United Nations. This formalized India's entry into the Paris Agreement. After ratification, India took various domestic measures to align its policies and actions with the goals of the Paris Agreement. This included setting emissions reduction targets, implementing renewable energy initiatives, and enhancing climate resilience efforts. Finally, a party to the Paris Agreement, India actively participates in international climate negotiations and collaborates with other countries to address climate change on a global scale.

Apart from this, the administration of Union Territories is under the President (*Article 243*). The president also holds financial power. No money bill can be introduced in the parliament without his/her prior consent. He/she controls the contingency fund of India. His/her judicial powers include the power to grant pardon, reprieve, respite, suspension, commutation or remission for certain crimes, cases or offences. Finally, the President also holds emergency powers wherein, if an emergency under *Article 356* is declared by any state, that state comes under the President's rule. In case of a financial emergency under *Article 360*, the President can issue any direction to the states to protect the financial stability of India.

Article 74 provides for a real executive- "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." The appointment of the Prime Minister is further elaborated in *Article 75*. The Prime Minister need not always be from the Lok Sabha or a sitting member of the Parliament. For example, P.V. Narasimha Rao became the Prime Minister when he was not a member of the Parliament. Later on, he was elected to the Lok Sabha. The Prime Minister focuses on forming the Council of Ministers. He allocates and reshuffles portfolios. He/she is the chairman of the cabinet and acts as the chief link between the President and the Cabinet. He/she can demand the resignation of any minister at any time and can even ask for the dissolution of the Lok Sabha. He/she acts as a coordinator-in-chief, as it is his/her responsibility to coordinate the activities of all departments. The prime minister is the leader of the parliament and director of foreign affairs. He/she determines the foreign policy and is responsible for India's prestige and participation in international relations. It is important to note that the office of the Prime Minister is very powerful, and though he/she enjoys an enviable position, they can neither be a dictator nor behave like one.

Conclusion

Through this paper, the researcher has reiterated the political structure of India as a Liberal Democratic State that is federal in structure but unitary in spirit with a parliamentary form of governance. The researcher has delved into the role of the President and the Prime Minister and also focused on how war is declared and treaties ratified. The focus of this paper was to analyse how the realm of political theory diverges from actual political practice in India. The Indian constitution, true to its criticism, is indeed a bag of borrowings, wherein, most of the constitution is derived from features of other constitutions like the inclusion of parliamentary government from Britain, inclusion of directive principles from Ireland, etc. But the system so set was in keeping with the structure. However, theory diverges from reality when we look into the role of the Head of State and government. In the constitution, most powers are vested in the hands of the president. The prime minister is seen to be a mere advisory agent. However, in reality, the executive powers exercised by the President are as per the advice of the prime minister and council of ministers (*Article 74*). Such advice is binding upon the President, the nominal head. Theoretically, the minister advises the president, but in reality, the president advises the prime minister. The advice of the ministers is usually binding, but the president can ask the minister to reconsider the advice. However, the president has to accept the reconsidered advice, as per *the 44th Amendment*.

Another difference between theory and reality is during an Emergency. When *Article 356* is declared in any state, the state comes under the President's rule. The governor of the state becomes the real executive, and the state council of ministers gets removed. Thus, it is the governor who runs the administration of the state on behalf of the President and carries out the directions of the Union Government. Though the constitution vests vast powers with the President to deal with emergencies, there are also various constitutional checks for preventing misuse of the emergency powers. Further, the President, once again exercises his emergency powers under the advice of the Prime Minister and council of ministers. Thus, the emergency powers that the constitution vests in the President are in reality exercised by the Prime Minister. The president declares an emergency only under the advice of the cabinet, which in reality means the advice of the Prime Minister. The immense powers of the prime minister were observed in April 1977, acting president B.D. Jatti ordered the dissolution of 8 state legislatures upon the advice of Prime Minister Moraji Desai. During an emergency under *Article 352*, the prime minister becomes very powerful and can act in a manner that may befit a dictator. This was observed during 1975-77. After reviewing the powers of the president, it becomes easy to determine the position of the president. At face value, the president's power appears to be formidable. A closer scrutiny reveals a paper tiger. The president is a nominal and constitutional head acting on the advice of the ministers. The 42nd amendment of the constitution laid down that the President is bound to accept the advice of the Prime Minister and council of ministers. But this is negated by the 44th amendment that calls the Council to reconsider their advice. The presidential directive for reconsideration can mean polite advice or warning. Thus, it is wrong to consider the president a mere figurehead or rubber stamp, but it is right to state that politics differs in theory and practice.

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