

# THE FLAWED WESTMINSTER MODEL OF PARLIAMENTARY DEMOCRACY

Relevant for: Indian Polity | Topic: Comparison of Indian Constitutional System with that of other Countries - Parliamentary & Presidential Systems of Governance

This form of 'people's rule' places checks on those in power that work only as well as the institutions enforcing them

Winston Churchill famously made a remark to the effect that democracy is the worst form of government, except when compared to all the alternative systems such as civilian dictatorship or military rule. He ought to have added that democracy's Westminster variant is the worst form of democracy, except when compared to other systems such as presidential or proportional representation.

With a majority government and the ability to issue a party whip, the prime minister and his or her cabinet can be described as constitutional oligarchs in a Westminster model of parliamentary democracy. Their power is kept in check only by what is constitutionally permissible. What is more, if such a government is dominated by the prime minister, and the cabinet is little more than a rubber stamp, then this system is effectively reduced to a constitutional dictatorship, in which those whose advice is listened to are officials or advisers in the prime minister's office, the most influential of whom whisper directly into the ear of the prince, to borrow a phrase from Niccolò Machiavelli.

The crux, therefore, is the constitutional framework within which a Westminster parliamentary system operates. In particular, many decisions taken *de facto* by the prime minister (head of government) and cabinet must be ratified *de jure* by the constitutional head of state—who is the monarch in the UK, the governor general in Canada, and the president in India.

That this may prove an insufficient check is best illustrated by the recent prorogation crisis in the UK, in which the prime minister, Boris Johnson, advised Queen Elizabeth II to "prorogue" or suspend Parliament to stave off a parliamentary vote on "Brexit" that he was almost certain to lose. The queen acquiesced, and this touched off the greatest constitutional crisis that the UK has faced since the forced abdication of King Edward VIII in 1936. However, another British institution of recent provenance, its supreme court, subsequently declared the prorogation illegal, rebuked the prime minister, and recalled parliamentarians to Westminster—thus establishing an important precedent.

Interestingly, the prorogation crisis in the UK ended very differently from a similar crisis in Canada in December 2008. The then prime minister, Stephen Harper, whose government was in a minority position, sought prorogation from the governor general, Michaëlle Jean, to avert a confidence vote that he was certain to lose against a coalition of opposition parties. Jean granted the request, and parliament was prorogued until late January 2009. By that time, the opposition coalition had crumbled, and Harper survived a confidence vote. Harper's government subsequently sought, and successfully received, the governor general's permission to prorogue parliament in December 2009, and this lasted until March 2010. Neither prorogation was successfully challenged in Canadian courts.

The lesson is that constitutional checks on the otherwise unfettered powers of a majority government work only as well as the institutions that ostensibly provide those checks. In the UK, the monarch is a hereditary ruler, while in Canada, the governor general is appointed by the

government, as are the members of its supreme court, as also the members of its upper house of parliament, making Canada, in theory, the least democratic among major Westminster-model countries. By contrast, India is, in theory, among the most democratic, as members of the Indian Supreme Court are picked by a collegium, the President is elected by an electoral college, and members of the Upper House are indirectly elected by state assemblies.

Commenting on the prorogation crisis in the UK and its eventual resolution, the *Financial Times* wrote on 24 September in an unsigned leader: "The UK system cannot allow a cabal around the prime minister to determine by itself the 'will of the people' and attempt to implement it, while sidelining those whom the people elected to represent them. This is the road to tyranny."

These words are apposite. We might reflect on what they mean for India's particular brand of Westminster democracy. Indira Gandhi's period of Emergency rule (1975-77) was, on paper, constitutional, declared so by a supine Supreme Court and President, and it ended not because it was declared unconstitutional, nor because of popular protests, but because Gandhi herself decided to end it and present herself to Indian voters, and for reasons not fully understood—since there was little, if any, external pressure on her to do so.

There is a larger point here. Authoritarianism may thrive under the cloak of democracy, ironically, more easily than it does when it is out in the open. In Canada and the UK, prorogation evoked little, if any, public protest, and only in one case (the UK), as we have seen, was it constitutionally overturned. In the case of India's Emergency, as reportage of the time suggests, the general reaction was more of resignation than of protest. Indeed, the truth is that apart from a few of her most vociferous critics, most Indians came to accept the reality of the Emergency as a "new normal" within a few months. As noted earlier, the decision to end it was Indira Gandhi's.

Democracy is much more fragile than is widely believed. Indeed, the putative democratic legitimacy of would-be authoritarian leaders may prove more damaging to democracy in the long run than any overtly authoritarian tendencies. One wonders how Churchill—who extolled democracy for the British but thought Indians unfit for it—might have reacted.

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