AN INSTITUTIONAL INTERFACE BETWEEN THE PARLIAMENT AND THE JOINT PARLIAMENTARY COMMITTEES

Dissertation submitted to Jawaharlal Nehru University
in partial fulfilment of the requirements
for the award of the Degree of

MASTER OF PHILOSOPHY

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2017

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Date: 25.07.2017

DECLARATION

I declare that the dissertation entitled "*An Institutional Interface between the Parliament and the Joint Parliamentary Committees*" submitted by me for the award of the degree of Master of Philosophy of Jawaharlal Nehru University is an original piece of work. The dissertation has not been submitted for any other degree of this University or any other university.

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CERTIFICATE

We recommend this dissertation to be placed before the examiners for evaluation.

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List of Acronyms

AGP	Assam Gana Parishad
AIADMK	All India Anna Dravida Munnetra Kazhagam
AITC	All India Trinamul Congress
ATR	Action Taken Report
BJP	Bhartiya Janata Party
BSE	Bombay Stock Exchange
CAG	Comptroller and Auditor General of India
CBI	Central Bureau of Investigation
CCPA	Cabinet Committee on Political Affairs
CDMA	Code Division Multiple Access
CPI	Communist Party of India
CPM	Communist Party of India (Marxist)
CVC	Central Vigilance Commission
DMK	Dravida Munnetra Kazhagam
DoT	Department of Telecommunication
DRSC	Departmentally Related Standing Committee
ED	Enforcement Directorate
EU	European Union
FCFS	First Come First Serve
FII	Foreign Institutional Investment
GSM	Global System for Mobile communication
ICAI	Institute of Chartered Accountants of India
ICS	Indian Congress (Socialist)
INC	Indian National Congress
IT	Income Tax
JKN	Jammu and Kashmir National Conference
JPC	Joint Parliamentary Committee
MP	Member of Parliament
MUL	Muslim League
NCP	Nationalist Congress Party
NCRWC	National Commission for the Review of Working of Constitution
NDA	National Democratic Alliance
NSE	National Stock Exchange of India
ONGC	Oil and Natural Gas Corporation
PAC	Public Accounts Committee
RBI	Reserve Bank of India
RSP	Revolutionary Socialist Party
SEBI	Securities and Exchange Board of India
SP	Samajwadi Party
SS	Shiv Sena
TDP	Telugu Desam Party
ToR	Terms of Reference
TRAI	Telecom Regulatory Authority of India

UAS	Universal Access Service
UPA	United Progressive Alliance
UTI	Unit Trust of India

Joint Committee to Enquire into Bofors Contract, 1987 **Bofors Scam JPC**

Joint Parliamentary Committee Report to Examine Matters Relating to Allocation And Pricing Of Telecom Licences and Spectrum, 2011

2G Spectrum Scam JPC

Joint Committee on Pesticide Residues in and Safety Standards for Soft Drinks, Fruit Juice and other beverages, 2003

Pesticide residues in soft drink JPC

Joint Committee to Enquire into Irregularities in Securities and Banking Transactions

The Harshad Mehta Scam JPC or Securities and Banking irregularities (1992)

Joint Committee on Stock Market Scam and Matters Relating Thereto, 2001

The Ketan Parekh Scam JPC or Stock Market Scam (2001)

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Preface

A Parliament is a symbol of responsibility and participation by the representatives who derive legitimacy from the people under a democratic arrangement and institutions. Across the parliamentary democracy, an institution like Parliament ensures the accountability of the government to the people who have elected them. The Parliament performs the role of oversight and keeps executive in check. The Parliament has evolved various tools and techniques in order to evaluate role of the executive. One such technique was the institution of committees consisting of the member of parliament who dedicate their focused attention on the prescribed work as mandated by the Terms of Reference of a committee by two Houses, Lok Sabha and Rajya Sabha.

In this dissertation, the focus is to study five investigative Joint Parliamentary Committees (JPCs), the Bofors Scam (1987), the Harshad Mehta Scam (1992), the Ketan Parekh Stock Market Scam (2001), Pesticide residues in soft drinks issue (2003), and the 2G Spectrum Scam (2011). Any scam or corruption related issues spill over into different domains, namely the criminality aspect, the financial aspect and the policy related shifts and loopholes. Mandate of JPCs is to look into the policy related glitches, and fixing responsibility unlike other agencies which have specified functions, for example, CBI and CVC look into the criminality aspect; ED and PAC focus on the financial aspects. The question worth discussing is to look into the nature of the recommendations of JPCs, the extent to which they are binding and the extent to which the report is discussed on the floor of the house.

The study began with questions like why does government constitute a committee? Did committee succeed in getting what it is constituted for? Does it because the government tries to absorb the instant people's outrage on certain issues by constituting ad-hoc committees? Is it about shifting the responsibility on the committees for not being able to

inquire into the right direction or an attempt to cover up, thereby acting as a buffer between government and the people? The role of the opposition also becomes important as it is primarily the opposition that raises the demand to constitute any committee. Does opposition gain relatively more bargaining power in a committee unlike the floor of the House?

The constitution of all the five investigative JPCs has been preceded by opposition's obdurate demand and governing party's justification that instead of going for Joint Parliamentary Committees, let us have an open debate, discussion and deliberation on the floor of the house. The explicit agenda that the ruling party puts forward is that unlike JPCs, debates in parliamentary Houses give broader scope for debate and discussion. Any member can put forward their concerns and opinions unlike closed door meeting of the committee members of JPCs. The explicit message is to convey that 'supremacy of the parliament' remain at the forefront in a democracy. How the above questions and assumptions unravel themselves can be seen in the coming chapters of the dissertation.

This dissertation consists of four chapters. As an introduction, the first chapter is an attempt to evolve a framework to understand the committee system in Parliament. It talks about the principles on which the JPCs are constituted to ensure the watchdog and oversight role of the legislature. It also looks into the interaction between institutions and the political processes with respect to the functioning of JPCs. An analytical frame is proposed in terms of the politics of the constitution of the JPCs, nature of issues leading to the constitution of JPCs, the terms of reference, powers and functions of JPCs, relationship between different JPCs and the importance of consensus and dissent in JPCs.

The second chapter on parliamentary reforms via the committee system, elucidated the rationale for revamping the committee system in the Indian Parliament. It also looks into the advent of Departmentally Related Parliamentary Committees in India, their consolidation over time, their role in contemporary legislation, and ever growing relevance. However, at the same time, a glimpse of the British model of parliamentary

committees achieved by recent reforms opens up huge possibility for reforms in Indian Parliament in the field of the committee system.

The third chapter, on the Bofors and the 2G Spectrum Scam JPCs and their interplay with parliament, politics and processes, are pivotal in understanding the rationale for combining the very first and last JPC under one rubric. The working, functioning and outcome of these two JPCs fit into the analytical distinction between committees made in Chapter One. Further, this chapter delves into the description of the Bofors (1987) and 2G Spectrum scam (2011), the debates in the parliament over the demand and formation of the JPCs. Along with above aspects, a large part of the study seeks to understand the reasons and political explanations behind the failure of these two JPCs.

The fourth chapter clubs together the remaining three JPCs, those relating to the Harshad Mehta Scam (1992), the Ketan Parekh scam (2001) and the pesticide residues in soft drinks issue (2003), in one analytical frame. These JPCs tried to make a difference at the level of implementation, and questioned the executive as well as regulators such as SEBI, ICAI, RBI, for their inactive role while the irregularities were being done and institutions were being manipulated. Two of them, the Harshad Mehta scam JPC (1992) and the Ketan Parekh Scam JPC (2001), demanded Action Taken Reports from the government which made the executive accountable to the legislature. The role of politics in the functioning of these JPCs is also dealt with in the chapter which restricted the potential of these JPCs to an extent.

The concluding chapter presents an analysis with the help of six basic arguments based on which it makes policy recommendations. The chapter revolves around the argument that Parliamentary reforms in recent decades emphasised only on revamping the committee system which cannot get rid of all that ails that Parliament. The second argument is that the investigative committees in India so far have been used as a political tool to fulfil partisan political agendas which result in making committees ineffective. Thirdly, committees in India are in need of greater autonomy in functions, role and powers enshrined in the Terms of Reference adopted by the entire Parliament. Fourthly,

there is need to openly discuss and debate the committee reports on the floor of the House. Fifth, two factors need to be considered together, that is, to look into the effectiveness of the committee's report, and also to scrutinise the performance of the committee itself. On a positive note, the committee system in India is institutionalising itself with mechanisms such as Action Taken Reports.

Acknowledgement

The first person I would like to express my gratitude to is my guide Prof. Niraja Gopal Jayal. She taught me the fundamentals of doing research throughout my M.Phil. This work would not have been possible without her forbearance and encouragement. She left no stone unturned to shape and craft my academic pursuit and quest for understanding the purpose of the research. To materialize a vague idea of studying committees in India into a framework would not have been possible without her consistent endeavor and dedication for the academic excellence.

I would like to thank the entire faculty of Centre for the Study of Law and Governance who taught me during my course work and occasional discussion on the theme of my research. I am grateful to Dr. Chirashree Das Gupta who promptly helped me whenever I needed. I would like to acknowledge my teachers Prof. Amit Prakash, Dr. Ghazala Jamil, Dr. Pratiksha Baxi, Prof. Jaivir Singh, Dr. P. Puneeth, Prof, Amita Singh, Dr. T. Haokip and Dr. Nupur Chowdhury, Dr. Amir Ali, Dr. Ajay Gudavarthy, Dr. Sudhir K. Suthar, Dr. Harish Wankhede, Dr. Shyam Kumar, and Dr. Papia Sengupta. I feel myself blessed having taught by teachers like Prof. Valerian Rodrigues and Prof. Gopal Guru. My interest in institutions and politics got sharpened by the lectures of these two teachers in my Master's days. Prof. Valerian Rodrigues helped me time and again in clarifying my initial approach of this study.

I would like to thank Dr. Raghab Prasad Dash, Director, LARRDIS, Rajya Sabha Secretariat who was kind enough to come to JNU many times to discuss the nitty-gritty of my work. I learnt a lot from his doctoral thesis and his experience as an insider of the Rajya Sabha. I acknowledge Dr. M.R. Madhavan, President of PRS Legislative Research who agreed to discuss the broader understanding of my work and his insights helped me a lot.

I would like to acknowledge the cooperation of Parliament Library staff, Nehru Memorial Museum and Library staff, JNU Central Library staff, CPS DSA Library staff and CSLG

DSA Library staff without whom search for books, documents and archival materials were not possible. I thank my friends Ankit, Chandu, Satya, Salman, Suchentan, Sachin, Mohammad, Aishwarya, Pallavi, Pankaj, Supriy, Sujata, Chandan, Deepak, Arun who brought innumerable moments of happiness and care in my life. I am ever thankful to my friend Krati who remained pillars of support. My special thanks to Mohammad who is no less than a savior when he gave me his spare laptop when my laptop failed me at a critical juncture.

At the end, I wholeheartedly express my gratitude to my parents who kept me safe from all the ups and downs of our lives, so that I could focus on my studies. They are the source of my everlasting inspiration and insurmountable faith in hard work and determination. I dedicate this work to those who dare to teach their children fighting against all hardships.

1
Joint Parliamentary Committees in India: Evolving a Framework of Analysis

1.1. Framing Principles of the JPCs

The purpose of constitution of Joint Parliamentary Committees (hereafter JPCs) is to carve out alternative spaces of direct participation[1] by legislators of both, the Upper House and the Lower House of the Indian Parliament, to legislate, to inquire, to investigate, to oversight issues involving irregularities, misconduct or violations of government bodies, offices or for that matter to make rules and regulations in bipartisan manner. Motive behind such arrangement is to make executive accountable and answerable to the entire legislature and people of this country because legislature as a whole possibly cannot deliberate on issues such as financial irregularities by any department of the government except in the business hour for limited time, hence, it is considered effective to refer such issues to a committee consisting of fixed number of legislators elected on the basis of proportional representation from both the Houses to especially inquire into all the angles of the issue in detail. When it comes to informing people, it has been observed that 'scrutiny committees are not just involved in scrutinizing others but have an active role to play themselves in putting issues on the agenda and acting as a forum for public debate' (Liaison Committee, 2012-13, 09).

It is Parliament which envisions the arrangement of JPCs and ensures that their formation keeps executive in check because such demands and provisions proves 'pivotal in promoting the role of the Parliament' (Brazier, Flinders, & McHugh, 2005, p.10).

[1] Alternative spaces of direct participation means, the Houses (both Lok Sabha and Rajya Sabha) has mechanisms where elected representatives participate in decision making of the government by debating all the issues ranging from public policy to issues in the interest of the people. Committees are one such space where MPs from different parties, be it ruling or Opposition, participate to deliberate and debate based on evidence, witnesses, and documents on a platform where their voices matter for the success of the committee as one of the cardinal objectives of the committee is to keep it bipartisan, consensual and united. So, unlike the floor of the House where the small parties feel dominated and neglected, the space of the committee provide them equal space at par with other members, thereby creating alternative spaces for all of them.

However, this is not to say that the only principle behind constitution of a committee is to ensure accountability, transparency and representative voice of the institutions. Many a times, there are political compulsions generated by churning of political processes themselves that leads to such arrangements. In other words, committees are not only intended to achieve their effectiveness on government but 'the MPs involved in scrutiny have a range of other motivations to balance in their scrutiny work- personal, party, political and parliamentary' (White, 2015, p.1). Unlike political systems of countries like the US, committees of the Westminster system just have the power to recommend, and suggest when it comes to scrutiny as 'scrutiny committees in Westminster do not have the power to actually change anything' (White, 2015, p.18). The pester power of committees, power to initiate and routinely scrutinize legislation and directly amend legislation are some of the aspects of a Westminster political system that are absent in India.

It is in this context, the framework of JPCs in India has to be understood. The outcomes of committees are directly proportional to the fact of how seriously their recommendations and suggestions have been taken into consideration. The nonbinding nature of committees' recommendations creates space for the government both ways, either to get rid of it or 'to act'. Due to these factors, political consensus over agenda of committees, and the Terms of Reference decide the outcome of reports of JPCs. Government's response to this model of JPCs, so far, can be understood in the purview of the fact that debates on substantive nature of report becomes unimaginable as reports are often dismissed even before coming to the House or immediately after being tabled on floor of the House. Thus, the stage where the merits of a report should be discussed is not used effectively. So far, out of five JPCs, only one, the Ketan Parekh Scam JPC (2001) witnessed the periodic Action Taken Reports bi-annually[2]. The Harshad Mehta scam JPC (1992) has one Action Taken Report released in August 1994 followed by a revised reply by government in December 1994. The neglect of JPCs reports by the successive governments rendered us with no possibility where comparative study of 'the degree of policy change that the recommendation called for' or 'the type of policy that this change was applied to' (Russell & Benton, 2011, p.34) could be done persuasively. For example

[2]By December 2014, Ministry of Finance has been submitted 23 Action Taken Reports in pursuant of the recommendations of the JPC on Stock Market Scam and matters relating thereto (2001).

when it comes to changes in the provisions of Securities and Exchange Board of India (hereafter SEBI) after 2002 with respect to 1992, one witnesses no such substantive change even after several recommendations of the Harshad Mehta Scam JPC report, 1992. The stark difference lies in the fact that to what extent any existing policy or regulations changed or some new policy came into existence vis-à-vis to what degree it could have been changed following the JPCs recommendations or suggestions. In no way, the purpose of this dissertation is to numerically count the recommendations on which government have so far, effectively, or partially taken action, on the contrary the purpose is to look into essence of the government's action over the report. To elaborate my point further, the substantive quality of JPCs would be established of the government takes into consideration those indispensable recommendations, suggestions and conclusions into action for which they were constituted, the terms of reference are deliberated upon not only during the constitution of committees but also when reports are discussed, and the usefulness of the recommendations in order to purposefully deal with the given terms of reference. Terms of reference reflect the essence of the committee, which should be dealt by committees at the beginning and later by government.

The task with which JPCs are equipped with is to look into mistakes, irregularities, and to suggest the ways to get rid of the same. The purpose of JPCs is to ensure accountability of different tentacles of executive to the legislatures that '[accountability] may be retrospective…in the sense responding to perceived government failure' (Russell & Benton, 2011, p.85); to suggest preventative ways; and to recommend prospective policy changes or model.

1.2. Institutions and Processes

When one harks back to see the phases in which Indian Parliament evolved, we witness semblance of responsibility and accountability, evisceration of constitutional essence by measures such as Emergency in 1975, abuse of President's Rule in states and turning a Nelson's eye to the uncomfortable voices and agencies which was envisioned to keep the executive and government accountable are some of the prominent features. The

impetuosity of the opposition against the recalcitrant government by usurping the legislative process at many instances had long term impact which is being debated in the form of 'Decline of Parliament' (Mehta & Kapoor, 2006). Sometimes entire session of the Parliament got stalled because of disruptions.

The changes in the institutional behavior of the Parliament are subject to the transformations within its sub-institutions, for instance, the Parliament as an over-arching body witnessed changes in the committee system when the three Departmental Committees on Agriculture, Environment and Forests and Science and Technology were provisionally introduced in 1989 before permanently introducing seventeen Departmentally Related Standing Committees (hereafter DRSC) in 1993, which were later supplemented with seven more Departmental committees in 2004 based on the recommendations of Rules Committee of Lok Sabha. It was a change internal to the legislative strength of the Indian Parliament with longstanding impact on its potential and effectiveness. Such systems enabled changes at the micro level of the Parliament by giving relatively greater importance to the voices of competing political forces in the form of the opposition in policy making when it came for considerations in the various standing committees of different departments.

The parliament is an amalgam of political, legal and moral authority of the democracy; an acknowledgement to *vox populi* in the ambit of procedural framework guided by 'Rules of Procedure and Conduct of Business' in the Rajya Sabha and the Lok Sabha. The role of Parliament in India is to streamline and ensure the effectiveness of the discussion, the penetrating potential of deliberation by the members' which reaches to their respective constituencies representing grievances and aspirations of the people congregated at one place and then simultaneously transmitting across the country with the help of other members. The essence of the parliamentary discussions and debate is to cater the constituencies in socio-political nous of this country. It depends on the collective wisdom, strategy and effort of the House that how they go into making their claims and represent the people's wish in front of the government as different from that of the wish of the House and the Parliament combined. For any government in Parliamentary system, it seems burdensome to carry forward the wish and will of the entire House, that is, the

parliament. The way Parliament is associated with the government in functional mechanism, the government is not necessarily associated with the parliament in same manner. To further ponder over this, it is the moral duty of the government to carry together the Parliament along with collective Opposition of the Houses, i.e., to keep entire House in confidence regarding executive and ministerial decisions; propose legislative changes by introducing new bills or proposed amendments to the existing one, along with persuading them for other day to day affairs of the country which many a times could be controversial, sensational, and raising serious allegations on the government itself. The Parliament has to look to the government in order to execute decisions mandated by both the Houses. However, this relationship is not necessarily reciprocal in the sense that the government can supersede the will of the Parliament by using the techniques such as Ordinances[3]. In recent years, a peculiar phenomenon has been observed inside the Indian Parliament where numerically majoritarian government in the Lok Sabha introduces a Bill under the section of Money Bill[4] convolutedly carrying some of the conditions needed in order to qualify as Money Bill, with the intention to avoid Bills getting stuck in the Rajya Sabha where the ruling parties are not numerically majoritarian. So, when government fears or has any sort of apprehension that

[3]Article 123 of the Constitution of India provides that Ordinances having the same force and effect as an Act of Parliament may be issued by the President from time to time except when both the Houses of Parliament are in session, if the President is satisfied that circumstances demand immediate action. Accordingly, after the Constitution came into force and till December 2014, the President of India has promulgated 679 Ordinances (Presidential Ordinances 1950–2014; 2015; Lok Sabha Secretariat, New Delhi). All the governments successively used ordinances as an effective technique to bypass the parliament. In 2015, Land Acquisition ordinance was brought into effect bypassing several pending amendments and deleting provisions like Social Impact analysis which later vehemently criticized across the country which ultimately lapsed and then the government constituted a Joint Committee to look into the new Proposed Bill.

[4]Under Article 110 (1) of the Constitution, a Bill is deemed to be a Money Bill if it contains provisions dealing with six specific matters [Article 110 (1)(a) to (1)(f)] broadly related to imposing, abolishing or regulating a tax; regulating government borrowings; the Consolidated and Contingency Funds of India; and "any matter incidental to any of the matters specified in (the previous six) sub-clauses… [Article 110(1)(g)]". The expression "incidental to" makes the definition of a Money Bill comprehensive. "If any question arises whether a Bill is a Money Bill or not," Article 110(3) says, "the decision of the Speaker of the House of the People thereon shall be final". Under Article 109(1), a Money Bill cannot be introduced in Rajya Sabha. Once passed by Lok Sabha, it is sent to Rajya Sabha — along with the Speaker's certificate that it is a Money Bill — for its recommendations. Rajya Sabha cannot reject or amend the Bill, and must return it within 14 days, after which LokSabha may accept or reject its recommendations. In either case, the Bill is deemed to have been passed by both Houses. Under Article 109(5), if RajyaSabha fails to return the Bill to LokSabha within 14 days, it is deemed to have been passed anyway (http://indianexpress.com/article/explained/meaning-money-bill/). Several legislation making AADHAR mandatory in bits and parts have been passed by the government in the garb of Money Bill.

it might get stuck and would cease to become an Act, they bypass the Upper House going against the ethos of the democratic spirit of the Parliament. Thus, reciprocity behavior is not guaranteed by the government vis-à-vis Parliament.

1.3. Do JPCs follow a pattern?

Discussing a pattern in the functioning of JPCs entails an analysis of the entire process from the constitution of the committee to its final outcome in the form of a Report. The political spectrum in India is characterized by a volatility of the political processes, amalgamation of politics, reconfiguration of rules and procedures along with emergence of new idioms of socio-political languages and new forms of political assertion blended with economic alternatives. The story of investigative Joint committees in India is scattered and discrete as these are constituted on different matters and issues. Nonetheless, there is possibility that when it comes to formulating a framework by which one can understand the constitution of Joint Parliamentary Committees, their functioning and the relationship with the Parliament, a plausible framework to analyse all the JPCs, encompassing institutional and political issues, may be conceptualized as follows:

1.4. Politics of the constitution of the JPCs

1.5. Nature of irregularities provoking the constitution of JPCs

1.6. Terms of Reference of JPCs

1.7. Relationship between different JPCs

1.8. Powers and functions of the JPCs

1.9. Political consensus and dissent in JPCs

1.4. Politics of the constitution of the JPCs

The Committees in India can be understood, firstly, as an agent ensuring fulfillment of certain defined tasks such as constitution of the committees for a specific purpose; and secondly, as an agent fulfilling the outcome for which they were constituted implies that there are procedural aspect of the committees abide by rules, norms and procedures, and there are substantive aspects of the committees which hold the essence of these democratic processes by virtue of which these committees come into existence to deliberate, investigate, and reach a conclusion. By virtue of the latter, the focus is on the scrutiny, effectiveness, accountability of the executive towards the legislature or making government answerable to the parliament, while the former highlights the skeleton by which any committee gets the legitimacy of the entire House, i.e., in this case the Lok Sabha and the Rajya Sabha. Despite the fact that the opposition raised the demand for JPC aftermath of Swedish Radio Broadcast in Bofors scandal, by the time government agreed to constitute it around 100 days later, the collective opposition were against it and termed it as an effort to whitewash. The politics behind this had to do with the noncompliance of government over non-Congress chairman, terms of reference not mandating looking into the German Submarine deal and committee's inability to summon ministers. However, by then, corruption had already become a buzzword and political parties didn't allow it to slip by so easily. The issue, as Chitra Subramaniam (1993) puts it, was that 'there was talk of a nationwide stir with corruption as the pivotal issue…Bofors' and Government's shifting postures had led to battle lines drawn along the "corruption in public life" issue' (p.49). What I am trying to say is that even by fulfilling all the procedural criteria of forming the first JPC ever, government miserably undermined the substantive aspect of it and the goal for which it was intended to examine. The chairman of the committee, B. Shankaranand who was already the then Minister for Water Resources development was promoted to the Minister of Law and Justice soon after the JPC submitted its report and found nobody in government guilty of any misconduct in the inquiry. Such incentives to the members raise questions about the partisan nature of any committee where there are apprehensions that the work in a

committee might attract or for that matter generate aversion towards any member by the government.

The setting up of this committee was not an attempt to blame the government or just to find the guilty, but was meant to fix responsibility at the right place; to set a precedent that a small opposition have a dignified place inside the parliament which can make government accountable when it fails to do so. It is clear that rules and procedures are used as a shield to evade various steps and mechanisms of the JPC per se. Nonetheless, what the opposition benefitted from was the proportional participation in the committee to enquire into the specific functioning of the government. The diverse character of the committees is subject to the nature of diversity in the House. My quest is, in no way, to look into the intention of the parliamentarians. So, the best way to figure out what could be the possible and probable reasons that led to the formation of JPC is to put the spotlight on the political processes and weakening of the umbrella nature of the ruling party.

Since the advent of Parliamentary democracy in India, the first Joint Parliamentary Committee that was proposed by the government and later materialized came to function only in 1987. There were earlier occasions when the opposition demanded for the Parliamentary probe, but ruling party rejected by constituting departmental or judicial inquiries, for example German Submarine controversy[5], Fairfax deal[6]. Repeated

[5] At the beginning of 1979, the Cabinet Committee on Political Affairs (CCPA), the highest body for the approval of international contracts, under the then Prime Ministership of Morarji Desai approved the acquisition of submarine-to-submarine killers (SSK) for the Navy with a diving depth of 350 meters. It was decided that Navy would pay for the transfer of technology and the indigenous co-production of four submarines, at an estimated cost of Rs. 350 crore. Eventually, four companies, namely, the Kockums, a Swedish firm, the West German HDW, the Italian Sauro and TNSW-1400 were shortlisted. A six-member expert committee under the chairmanship of Rear Admiral S.L. Sethi gave the Swedish Kockums first preference followed by Italian Souro. The German HDW was rejected as it had a diving depth of only 250 meters, unfulfilling the criteria. Just after a month of this report, the German Submarine was once again put on the list as it would consider improving the diving depth and became a contender to the contract. In the meantime, officials from various ministries heads by Rear Admiral D.S. Painthal visited several shipyards in Europe and the US to survey the available options. The delegation concluded that the Swedish Kockums was the best. At this juncture, the Indian politics changed, and Moraji Desai ceased to the PM. Charan Singh became the PM, so the composition of CCPA changed. The proposal and the reports could not be processed further till a newly formed government, again under the Prime Ministership of Indira Gandhi came to power. The chairmanship of the expert panel was changed, and the Swedish Kockums and German HDW became the two shortlisted company. The new committee headed by S.S. Sindhu, the additional Secretary of Defense Ministry, toured Sweden and Germany. In May 1980, the committee made up its mind to give HDW preference over Kockums as the later cost gone up to Rs. 403 crore against the former

allegations on the government and each time the intensity of the scam allegation grew deeper gave an opportunity to otherwise miniscule opposition to make the issue a national agenda in upcoming election.

The overarching framework and politics involved in the investigative Committees system in India can be culled out from parliamentary debates, JPC reports and various Action Taken Reports thereafter. So, when the Bofors Scandal broke out accusing senior leaders of India of bribing and facilitating the contract for a commission, it became necessary for the Indian parliament to launch a probe against their own members. However, this time, the probe would be of different kind unlike previous probes such as departmental committees or judicial inquiries. Among various Parliamentarians, Somanth Chatterjee highlights the stark difference by arguing that in order to avoid parliamentary inquiry; the government time and again appoints a departmental commission in which the concerned minister can himself/herself direct the inquiry as happened with German Submarine Deal. In order to prevent this scandal from being lost to such callousness and dubious inquiries,

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Rs. 332 crore. The proposal was approved in June 1980 in favour of HDW. The deal was finally signed in December 1981 stating that the four HDW submarines would be delivered to a total cost including torpedoes of Rs. 465 crore after six years by the end of 1987. But by mid-1987 only two submarines had been delivered. During this time, V.P. Singh became the Defense Minister. He received information that the Germans may have overcharged India, so, fresh attempt should be made to renegotiate the prices for the remaining two submarines. In February 1987, the ministry was informed that the Germans were not inclined to reduce the price because it included a 7 percent commission to secure the contract. Following which V.P. Singh ordered an inquiry which led to a confrontation between him and Rajiv Gandhi. V.P. Singh resigned three days after he ordered inquiry.

[6] The controversy erupted when it was alleged that V.P. Singh, when he was the Finance Minister, asked a private detective agency, The Fairfax Group, to investigate the finances of 34 prominent NRIs, using the records of the American Internal Revenue Service. The impression was that he entrusted the agency the task of investigating the black money and foreign exchange of Indians overseas without informing the Prime Minister or cabinet; did not maintain written records; left decisions to bureaucrats, and embarrassed the government by allowing his subordinates to engage an agency with former intelligence officers of another country. Contacting a private detective agency for governmental work interpreted as a threat to national security. The allegation was on hiring a private firm and was seen as a plot to destabilise the Rajiv Gandhi government, in which Singh's role was by default seen as complicit. It was also alleged that the list included the name of Amitabh Bachchan, a fast friend of Rajiv Gandhi, Dhirubhai Ambani with others. Rajiv Gandhi appointed a two-member judicial commission famously known as Thakkar-Natrajan Commission to look into the legality and procedure of the hiring of the private firm by the Finance Ministry. The method of working of the commission was questioned as it operated from home oh Justice Thakkar despite the mention that it would work from the Supreme Court premises. Several witnesses were either not summoned or had not given ample time to be able to record their statement. S. Gurumurthy, the then Indian Express journalist, was allegedly accused of introducing Fairfax to the Finance Minister was not summoned. V.P. Singh demanded a public & open enquiry and the secrecy of the commission was questioned too. The focus of the report was to find out the role of V.P Singh, Bhure Lal, who was the Enforcement Directorate Head and contacted the Fairfax on the instructions of the former without taking other authorities in confidence.

it become imperative that Parliament, not government should conduct a probe against the executive (Lok Sabha Debate [LSD], 20 April 1987).

This, however, was not supposed to be a very revolutionary step; nevertheless, it was supposed to be a milestone in reestablishing the attempt to gain the trust and accountability of the government to the people in a bipartisan manner. While parties represent their mandates and political constituencies in different ways, this does not prevent them from coming together on a common platform on certain issues, such as corruption. In this way, the idea of Joint Parliamentary Committees garners and safeguards the spirit of representative democracy. It is also an effort to bring leaders from different parties under one platform which will give confidence to the entire House and all small and big parties as it is supposed that where everyone is involved, nothing can be hidden or suspicious. The members of the committee examine the evidence, witnesses and deliberations of the people involved in the matter so, it is considered that the attempt to cover-up or whitewash is not possible. Also it would enhance the impartiality during the investigation. However, to analyze parliamentary debates in order to get arguments in support of committee formation does not give much except rhetoric and moralistic claims. Many a time the parliamentarians began to argue that since there have been serious allegations, even if charges are not taken at face value, the government should constitute the committee just in order to emerge 'clean' (LSD, 20 April 1987).

The Harshad Mehta scam (1992) and the Ketan Parekh Scam (2001) JPCs were intrinsically related with securities, finance and capital market, and it was imperative for government to ensure smoothness in the speculative stock market and maintain transparency through some regulatory bodies. So, unlike the previous Bofors JPC (1987) where the question of parliamentary supremacy over other organs of the government occupied pivotal place, the objective of these committees were articulated in terms of economic development and its impact on the people. The argument, here, emerged that

> in order to save the system, in order to see that the money saved through the sweat and toil of the men and women of the country is not wasted, does not go into unproductive activities, and to see that it comes into the productive arena and plays a role in the industrial development, in the overall economic development of this country, you [govt.] should agree to the constitution of a JPC (Rajya Sabha Debate [RSD], 13 March 2001).

One of the interesting things that the fourth JPC (Pesticides Residues in soft drinks, 2003) exhibited was that an opposition leader was made the chairman of this 15 member JPC. There was no major methodological or procedural change on the terms of reference but it could be the case since the issue has neither to do with the ruling party nor the opposition. Here, no allegations were being made against any political parties or their leaders unlike previous three previous JPCs. It was private companies involved in not abiding by certain parameters and regulations, so, the chairman from any side of the benches would not be detrimental to the image of the government or the ruling party. The political processes and the issues involved and what is at stake matters the most for the government before giving the JPC in the hands of the opposition. The same government was not as magnanimous in the Ketan Parekh Scam JPC, 2001 where the demand was to give chairmanship to the opposition as it was in the Pesticide residues in soft drinks JPC, 2003. In 2003, addressing the House, the then minister of Health and Family Welfare and Minister of Parliamentary Affairs, Sushma Swaraj stated that '[Speaker] should appoint JPC in which there should not be any member from the ruling party, only the opposition members should be there and chairman should also belong to the opposition' (LSD, 21 August 2003). She goes on to say that 'we should establish a new precedent by constituting an all opposition JPC' (LSD, 21 August 2003). This precedent ceased to exist in the fifth committee of 2G Spectrum scam, 2011. Following the scam of 2G Spectrum allocation, when CAG in 2009 came with the report that due to government's policy the total presumptive revenue loss was equivalent to 1.76 lakh crores, the collective opposition vehemently demanded a free, fair and speedy enquiry. The PAC had started an inquiry into the matter, but again, the opposition demanded a JPC, leading the entire winter session to get stalled and disrupted due to government's reluctance to constitute one.

However, government eventually had to accept the JPC demand, though with a chairman from the ruling party only. The 2G Spectrum scam JPC report was not even discussed in the House. The charges against the government of the ineffectiveness of institutions and malfunctioning of the government were such that the judiciary had to intervene in the work of the executive with the Supreme Court directing the CBI to report to it directly regarding 2G investigation. So, the onus is on the legislature to ensure the supremacy of

the parliament by constituting the JPC which will make executive answerable to the legislature and at the same time will prevent intrusions by the judiciary breaching the separation of powers. Analyzing the effectiveness of committees entails studying the outcome of long term implementations, policy making with projected evaluations. Hence, the analysis of the committees examined in this study paves the way to look into the outcomes of the Joint Parliamentary Committees constituted in 1987, 1992, 2001, 2003 and 2011.

1.5. Nature of irregularities provoking the constitution of JPCs

One way to categorize the JPCs is to bundle them based on the nature of the irregularities or scams which led to the constitution of these Committees and the parties against whom allegations were made. There were two such JPCs (The Bofors scam JPC,1987 and the 2G Spectrum scam, 2011) that were mandated to investigate the corruption charges directly against the government and its ministries[7]; another two JPCs (the Harshad Mehta scam, 1992 and the Ketan Parekh scam,2001) were mandated to inquire into loopholes and suggest the regulatory framework which led to irregularities and fraud in banking transactions and stock market financing respectively resulting crores of financial irregularities and loss of money to public and cooperative banks with the help of nexus between stock brokers and bank officials. While, these two issues were totally different from each other, the regulatory agency which looks into such irregularities was the same, viz., the Securities and Exchange Board of India (SEBI). SEBI was empowered to prevent both kinds of irregularities in the wake of increasing speculative and capital finance in India which got a vigorous boost from 1991 onwards.

The nature of the one remaining JPC (2003) was concerned with formulating criteria for evolving suitable safety standards for soft drinks, fruit juice and other beverages where

[7] In Bofors, 1987, Ministry of Defense and Prime Minister's Office was directly under radar. The then Prime Minister of India, Rajiv Gandhi was under scrutiny for his alleged role in accepting commission and facilitating the contract to the Bofors for Defense ammunitions. Similarly, in 2009, the Ministry of Telecom and Prime Minister's Office was directly involved in irregular auctioning of 2G Spectrum which led to the revenue loss of 1.75 Lakh Crores.

water is the main constituent and to look into the pesticide residues in the soft drinks. Irrespective of the nature of irregularities, the anxiety behind demanding the opposition chairmanship for the JPC has to do away with the nexus of 'how manipulators, brokers, political brokers and power brokers managed…the banking system' (LSD, 31 July 1992), particularly in 1992. There was overwhelming concern regarding uncovering the nexus of bureaucrats, politicians, industrialists and power brokers which the Harshad Mehta JPC (1992) was supposed to be one means to unravel. Perhaps, this was the central concern which made the Harshad Mehta JPC (1992) more cohesive and organized in nature than the previous Bofors JPC of 1987.

V.P. Singh, the former PM expressed his concern behind the constitution of any JPC so as to 'reach at the bottom of the truth and also as to what measures should we take that in future such things do not happen or repeat' (LSD, 3 August 1992). Moreover, the way a committee will tilt wholeheartedly depends on the chairman. It is the steering potential of the chairman which decides whether to go for minority report or consensual report by all the members. This tendency is often observed in the Westminster system where the burden of the success or the failure of committee is left to the leadership. It is one of the reasons due to which government keeps the chairmanship with itself.

1.6. **Terms of Reference of JPCs**

All the five Joint Parliamentary committees are structured by the same rules, procedures and conduct and 'terms of reference' of the Parliament and the directions of the Speaker of the Lok Sabha. An important aspect of all the JPCs is the subject of 'Terms of Reference' which makes the committee functional by enabling it to stretch over the terrain determined by parliament based on the nature of the subject under scrutiny, and parliament also deciding the extent to which it can go. Another issue is of the powers and functions conferred on the JPCs by the House and the Speaker; the party wise composition of the Committees has also crucial role to play in reducing any suspicions regarding the working of the committees.

So, the impression that the JPCs are linked to each other is actually a procedural and systemic linkage, for example rule number 253-286 of chapter XXVI of 'Rules of Procedure and Conduct of Business in Lok Sabha' guides the constitution of the committees; terms of reference being drafted by the concerned ministry. For instance, since the Bofors scam (1987) was related with the defense deal, the Minister of Defense tabled the motion for the formation of Joint Parliamentary Committee. In the case of Securities and Banking irregularities (1992) and Stock Market Scam (2001), Minister of Finance tabled the motion for the JPC formation. Similarly, in Pesticide residues in soft drinks matter (2003), Minister of Health and Family Welfare tabled the motion. Once passed and adopted by the House after deliberation, discussions and amendments, the Speaker of the Lok Sabha has the power to make and grant certain specific powers to the JPCs related to calling of witnesses (whether any minister or Prime Minister can be called for hearing and as witness or not), limitations of the JPCs, and conferring certain other working powers related to working hours and days (such as the committee cannot meet when House is in session, however under special circumstances, Speaker of the House have allowed JPC to convene the meeting simultaneously).

While debating the JPC motion on Bofors, opposition members came up with seven different amendments regarding terms of reference, powers and functions. The collective Opposition wanted the addition of the two more items in the terms of reference: firstly, the issue of examining 'all aspects of the policy, procedures and decisions in regard to the defense procurements of equipment, stores and ancillaries, since January 1980'; and secondly 'the JPC should also examine the allegations in regard to the payment of commission in the purchase of submarines from West Germany' (LSD, 3 August 1987). The rationale behind explicitly mentioning terms of reference in a JPC is to make it 'focus on the issues emerging from the issue…and saving the committee from an unrewarding and unfocused exercise' (LSD, 3 August 1987). The JPC would function within the time honoured rules of business governing the functioning of parliamentary committees and on the directions of the Speaker of Lok Sabha occasionally in order to regulate the procedures and organization of the work of the JPC, with the paramount principle that the establishment of the JPCs in itself 'reflects the unanimous wish of the parliament and of all political parties' (LSD, 3 August 1987).

As stated before, another anxiety of the opposition was related to the chairmanship of the committee. Parliamentarians like Somnath Chatterjee, Indrajeet Gupta, Dinesh Goswami advocated that such committees should necessarily be headed by an opposition leader just like the Public Accounts Committee (PAC) to avoid any sort of doubt of foul play or to maintain the balance of power. However, in all the five JPCs, no such convention was adopted except in the JPC to enquire into pesticide residues in Soft Drinks (2003) whose chairmanship was given to Sharad Pawar, who was in the opposition at that time. What all the five investigative JPCs have in common is the rules and procedures that guide for its constitution. But the central question in this chapter is whether there exist some frameworks other than procedural that make these committees coherent in a way which suggests analytical conclusions about JPCs in India.

1.7. Relationship between different JPCs

In examining inter-linkages between the various JPCs, the attempt would be to situate the 'processes' in the procedures, or, more explicitly, whether political processes impact the working, outcome and effectiveness of the JPCs in general. It is difficult to establish any formal relationship between these five committees except similarity in some functional aspects of the two committees of 1992 and 2001. Somewhat similarly, the phenomenon of the corruption in 2G Spectrum and Telecom Licensing (2011) led to similar conditions which again delegitimized the ruling Congress completely following the corruption cases.

The first two committees of 1987 and 1992 set up a precedent for the demand of upcoming JPCs by the opposition. The outcome, impact and effectiveness of the Bofors JPC was not at all impressive. It has lost its relevance as an effective tool, used merely as a number to signify that it was the first JPC procedurally. The second JPC could garner more support across the political spectrum in terms of its functioning, working and effectiveness, but interestingly it was the government that was dissatisfied with the committee as it implicated the Finance Minister and Ministry along with RBI and several other public enterprises for dereliction of duty. Government had to disagree with the report on record, though the opposition, the terms of reference and the JPC's directive

was that government has to bring an Action Taken Report (ATR) on all the recommendations and suggestions within stipulated time limit, i.e., in May 1994 explaining all it has done based on the JPC recommendations. ATR could have been a medium for the successful implementation of regulatory frameworks. SEBI was given relative autonomy and powers to deal with such fraud in future despite the fact that the implementation of the recommendations was dismal. The 2002 JPC report observed that

> SEBI has still a long way to go before becoming a mature and effective regulator. If SEBI had continued to improve its procedures, vigilance, enforcement and control mechanisms, it could have been more effective in a situation where the stock market become unusually volatile, leading to an unprecedented surge and subsequent depression in the capital market (Joint Committee on Stock Market Scam and Matters Relating Thereto, 19 December 2002, p.8).

Nonetheless government had to answer to the people via Parliament all it has done to respond to the recommendations and suggestions.

The echo of the Harshad Mehta scam JPC (1992) can be heard since the very beginning of the demand of the Ketan Parekh scam JPC (2001) due to the large scale irregularities found in Stock Market. By now, JPC experiences, its report, post-report discussions and one ATR have given some knowledge of the overall working of a JPC and how to make it effective, starting with the statement that 'the recommendations would not be effective in deterring further scams unless they are properly implemented' (Joint Committee on Stock Market Scam and Matters Relating Thereto, 19 December 2002, p.5). So, the 2001 debate took shape in the form of asking the government that what happened to the recommendations of the 1993 JPC as 'it was necessary to find out the deficiencies in the implementation of the last report' (Joint Committee on Stock Market Scam and Matters Relating Thereto, 19 December 2002, p.5). In NDA government (1999), Minister of Finance, External Affairs, Defense, Commerce and Industry, Petroleum and Natural Gas were all then members of the 1993 JPC, so it becomes even more accountable and responsible for the government to explore the previous recommendations and ask what action have been taken so far. Another reason to ask this question was that since the nature, agencies and scope of both the irregularities are similar on several counts, such irregularities and negligence might be avoided if the recommendations could have been taken into action by the government and other statutory bodies. Once the prima facie case was established, the government agreed to the JPC, and the Ketan Parekh scam JPC

(2001), too, saw the chairman being appointed from the ruling party only. This was the third consecutive JPC under the chairmanship of ruling party despite the strong demand of opposition for an opposition party chairman. Finance Ministry was under radar in 2001 irregularities and scam somewhat similar to 1993. There was consensus on the terms of reference and later the addition of one more issue of UTI US-64 Scheme to the same Committee.

The Harshad Mehta scam JPC (1993) made 276 recommendations, observations and conclusions. One of its recommendations was that government should present the ATR within 6 months of the presentations of the reports. It was supposed to be an accountable way to make successive governments answerable to the recommendations. These two consecutive JPCs, the Harshad Mehta scam JPC (1993) and the Ketan Parekh scam JPC (2001), have in common the provision of ATR, however the 1993 JPC was followed by one ATRs unlike bi-annual ATRs in 2001 JPC. ATR consists of original recommendations, government's response and action by the same and other institutions on the given recommendations. It is supposed to be a tool by which the people can acquaint themselves on the development and progress of the actions that was supposed to be case in order to avoid such irregularities and scams. ATR is the interface between the governmental actions by different ministries and departments and the committees. Among the five JPCs, only two have witnessed such trends. The provision of ATR can also be understood alternatively because these two committees were primarily dealing with the regulatory mechanisms failure and fraud cases which needed robust, vibrant and strong regulatory oversight and provisions as 2002 JPC report contends

> with liberalization, the role of the government as a direct player in the financial market will diminish. This makes it all the more necessary that the procedures and guidelines laid down for the creation and perpetuation of fair and transparent financial markets and institutions like stock exchanges and banks have to be more specific, and effective mechanisms have to be put in place to ensure that they are regularly followed. The job will have to be done by the regulatory authorities viz. SEBI, RBI, DCA in liaison with investigative agencies like IT Department, ED and CBI' (Joint Committee on Stock Market Scam and Matters Relating Thereto, 19 December 2002, p. 9).

The two committees after 2001 JPC, viz., the pesticide residues in soft drinks (2003) and the 2G Spectrum Scam (2011) did not follow such precedent mainly because the

pesticide residues in soft drinks JPC was not considered as important as to pursue the report by the government once the government decided a standard for pesticide residues in soft drinks and other beverages. In case of the 2G Spectrum scam JPC, entire report was rejected by the collective opposition. There was no debate on the merits of the report. Soon after the submission of the 2G Spectrum scam JPC report, the government at the centre changed and the then opposition who had rejected the report came into power in 2014. As the present government considered the report an attempt to cover up, they possibly cannot come up with an Action Taken Report. Also, none of the two JPC reports (the Pesticide residues in soft drinks, 2003 and the 2G Spectrum scam, 2011) directed the government to come up with a periodic ATR.

1.8. Powers and functions of the JPCs

All the five committees worked on the premise that 'the committee shall have the power to hear or to receive evidence, oral or documentary, connected with the matters referred to the committee or relevant to the subject matter of the enquiry and it shall be in the discretion of the committee to treat any evidence tendered before it as secret or confidential' (LSD, 3 August 1987). It was a tedious task to reach a consensus as there was already an apprehension regarding the role and functions of the committee. During the Bofors JPC in 1987, opposition members were sure that the government is going to dominate the committee with the ruling party and chairman belonging to the ruling party itself. Moreover, the Terms of Reference suggested by the opposition were not taken into consideration at all. The defense minister explained that 'the rules of procedure of this House relating to the Parliamentary Committees shall apply with such variations and modifications as the speaker may make' (LSD, 3 August 1987). Even so, the opposition boycotted the JPC, which they alleged was a cover up tool; in the words of one of the opposition leaders, 'the government is trying to hustle this motion through the House, without any effective consultation with the opposition' (LSD, 3 August 1987). So, the irreconcilable differences over the terms of reference of the first ever JPC in 1987 were interpreted as follows:

> the motion moved by the defense minister… [is] a calculated attempt to provide a pretense of a parliamentary probe over serious complaints of corruption and bribery [by] an inquiry to be made by a committee predominantly loaded with the members of the ruling party who are very vitally concerned to revive the tarnished image of their leader…They are supposed to have issued a whip, kickbacks outside, and whip inside (LSD, 3 August 1987).

The argument here is that a Joint Parliamentary Committee is supposed to be free from *a priori* vested interests or bias. Joint Committees would be a blend of the treasury and opposition benches from both sides which would prevent the exercise of prejudices, and biased enquiry. A point of contention recurring in all the committees is the issue of representation and total number of leaders from ruling party and the collective opposition. It is invariably alleged that the government provides miniscule representation to the opposition as a whole which further leads to division within the opposition as each party tries to put its own members in the committee, thereby reducing the cohesiveness and number of opposition members on the committee. In the Bofors JPC, opposition parties like Communist Party of India (Marxist) with 22 MPs, Telugu Desam Party (TDP) with 30 MPs, Communist Party of India (CPI) with 6 MPs, and Janata Party (JNP) with 10 MPs in Lok Sabha boycotted the committee, which left JPC dominated by the Congress members and Opposition participation limited to smaller parties like Muslim League (MUL), Jammu & Kashmir National Conference (JKN), Dravida Munnetra Kazagam (DMK) and Sikkim Sangham Parishad. There emerged a view that once a JPC has started working in the matter, Parliament is not supposed to discuss the same issue until it tables the JPC report in the House, thus stifling the parliament till the JPC is dissolved.

It seems a persuasive argument that when a specialized body is deliberating and investigating the matter, there is no need to discuss the same in the House, especially because the House itself has consented to give away its right to discuss it with the formation of JPC. Here, the issue at stake is, when a considerable section of the opposition has boycotted the JPC, articulating the apprehension that it is a way to white wash the entire matter by giving the committee into the hands of ruling party members. At the same time, denying sufficient powers to the committee and chairmanship to the opposition. The absence of opposition members from the committee is an invitation to the

government to use the JPCs as per their political comfort. This is because once the JPC has been formed without a substantive role for the opposition, it would not be as effective as it is supposed to be. In this way, leaders can neither discuss or raise the matter on the floor, nor make JPC an effective body, ultimately compromising the investigation and taking for granted the committee system. The same argument applies with the judicial commission as well.

Is it justifiable to say that committees' outcomes and their effectiveness are subservient to the political process, especially when the JPCs have no authority to make executive decisions, but only to give some findings to recommend, observe and suggest certain changes; and to record the satisfaction as well as dissatisfactions with the existing rules and laws at the same time?

Those who led the debate from the opposition benches on the Bofors Scam, demanded the constitution of the JPC and also suggested amendments to the government's motion, ended up ultimately boycotting the JPC. Leaders like S. Jaipal Reddy, Somnath Chaterjee, Indrajit Gupta, Prof. Madhu Dandavate and C. Madhav Reddi boycotted the committee on the demand that the 30 members of the JPC should be divided equally in terms of representation between government and the opposition (20 Lok Sabha and 10 Rajya Sabha[8]) and it must be headed by an opposition leader along with discontents over Terms of Reference. S. Jaipal Reddy reiterated his point of view that 'it is not correct on their part to assume that we do not want to work on the committee. We cannot work on the committee, when we know that the committee is being deliberately loaded and composed in such a manner as to produce no worthwhile report' (LSD, 3 August 1987). Another objection was that 'the procedure, the powers, and the jurisdiction of the committee have not been defined' (LSD, 4 August 1987).

Responding to the above concerns of the opposition, several ruling party members explicitly explained the powers of the committee. The source of powers and rules of a JPC derives from the same source i.e., rules and conduct of procedure of Lok Sabha,

[8] All the four JPCs have 30 members (20 from Lok Sabha and 10 from Rajya Sabha) and one on Pesticide Residue in Soft Drinks and Safety Standards for Beverages in 2003 JPC have 15 members (10 from Lok Sabha and 5 from Rajya Sabha).

unless explicitly mentioned otherwise. Rule 269 and rule 270 provide for the JPC to summon the witnesses, send for persons, papers and records. The committee can also record the proceedings, call for records and examine the evidence (Rules of Procedure and Conduct of Business in Lok Sabha, 2015, pp.100-101). As per Rule 271, the committee, under the direction of the Speaker may provide a counsel approved by the committee. However, there was also the demand that any minister or Prime Minister can be called as witnesses by the JPC which was refused by the House as per direction 99(1) of the directions by the Speaker that 'a minister shall not be called before the committee (In this instance, it refers to the financial committees) either to give evidence or for consultation in connection with the examination of the estimates or accounts by the committee' (LSD, 6 August 1987). Interestingly, two members of the committee were inducted into the cabinet symbolizing the casual attitude of the government towards the whole committee as such steps may lure JPC members not to go hard on the government. The committee would be guided by direction 55 from the directions by the Speaker that explains that

> the proceedings of a committee shall be treated as confidential and it shall not be permissible for a member of the committee or anyone who has access to its proceedings to communicate, directly or indirectly; to the press any information regarding its proceedings including its report or any conclusions arrived it, finally or tentatively, before the report has been presented to the House (LSD, 26 February 1988).

Similarly, Direction 65 (2) says, 'relevant portions of the verbatim proceedings of the sitting, at which evidence has been given, shall be forwarded to the witnesses and members concerned for configuration and return by a date fixed by the Lok Sabha secretariat' (LSD, 26 February 1988). These rules remain the same across all the JPCs since 1988.

1.9. Political consensus and dissent in JPCs

The Bofors JPC exonerated all the leaders under suspicion including the private players involved. One of the members of the JPC, Aladi Aruna of Anna Dravida Munnetra Kazagam submitted a note of Dissent. Appended to the report, his note of dissent alleged

that ‘adequate opportunities were not given to the JPC’s members to examine witnesses or even go through documents. Some of the documents were not in proper order. The manner in which committee was “hustled” into receiving Bofors President and company’s jurist “was nothing short of shocking” ’ notes Chitra Subramaniam (1993) in her book (p.107). In similar vein, Prashant Bhushan (1990) in his book, *Bofors: The Selling of a Nation*, argues that

> though the vast majority of the members, being from the Congress party, did not object to the methods of the Chairman, the members of the Congress allies, Anna DMK and the National Conference did occasionally create difficulties for the chairman. It was due to the split in the Anna DMK after the constitution of the JPC which led to public disclosures of the style of functioning of the JPC, much to Chairman’s embarrassment. Two members of the JPC, Alladi Aruna and S. Jagatharakshan went with the factions of the ADMK which broke its alliance with the Congress. These members put in a fair amount of effort to prevent Chairman from easily getting away with his whitewashing job (pp. 237-238).

Nonetheless, Alladi’s dissent note was responded to by the Chairman as a note ‘replete with innuendoes and unsubstantiated charges which have no merit whatever. The committee cannot be a party to conjectures, surmises and suspicion on which Aruna has based his observations’ (Joint Committee Report to Enquire into Bofors Contract, 1988, p.238). The committee avoided collecting the evidence of Ministers such as Arun Singh. The note of dissent was even condemned politically during Lok Sabha debate by then Defense Minister, K.C. Pant, that

> the person, the dissenter…sat through the meetings…most classified papers which normally would not be made available to any member of parliament, most classified papers were made available to all members constituting the JPC…the dissenter had also free access, unfettered access, to these privileged documents…so the Note of Dissent was the outcome of the politics that overlapped the better of the judgment of his morality (LSD, 4 May 1988).

So, a committee functions on the basis of consensus, not on the party considerations, it has to deliberate on the basis of ‘objectivity and impartiality’ (LSD, 4 May 1988). It is supposed to be a ‘fact-finding and investigative body, not a court in itself’ (LSD, 4 May 1988). The apprehensions in the beginning by the opposition that it will prove white wash materialized in the language such as

> this committee from the very beginning lacked credibility because of its composition, because of the Terms of Reference and because of the so-called powers conferred on it and it is precisely why

> the opposition had not agreed to take part in it, while it was going to be a powerless, toothless committee which will be utilized for the purpose of carrying out operations which will…find out the truth. The result is that all meaningful inquiry has been jettisoned and the result is that Parliament's dignity, Parliament's position as being accountable to the people has been compromised today (LSD, 4 May 1988).

Similarly, Dissent note was submitted by all the opposition leaders in 2G Spectrum scam JPC in 2013. Out of 30 member committee, 13 members voted against the report and submitted the Note of Dissent thereafter. The main concerns of the Dissenting members were:

- 'it was a bid to cover up the truth' (Joint Parliamentary Committee Report to Examine Matters Relating to Allocation and Pricing of Telecom Licences and Spectrum, 2013, p.191);
- 'there were serious procedural irregularities in the functioning of the JPC, despite repeated requests by the undersigned and other members of the committee, it failed to call material witnesses the Prime Minister and the Finance Minister, also denied A. Raja an opportunity to appear before the committee to cross examine him' (Joint Parliamentary Committee Report To Examine Matters Relating To Allocation And Pricing Of Telecom Licences And Spectrum, 2013, p.193);
- It failed to consult and take inputs from the opposition members of the JPC.

Objections were also raised about the substantive conclusions of the JPC regarding auctions. All the seven Dissent notes by different members were included as a part of the report without any response by the Chairman unlike Bofors JPC Chairman rejoinder. 2G Spectrum JPC report passed with the support of only 16 members, with 13 members dissenting. The nature of committee itself was highly politically charged and partisan from the beginning. However, both Bofors and 2G Spectrum JPC met the same fate in terms of their (in)effectiveness and even discussions for that matter. The demand for this JPC which started with optimism, and a vision to enquire into the corruption charges, identifying the guilty and offering certain policy recommendations which will prevent such activities, ended up with doubt, cynicism and cover up and boycotting of the

committee itself. Procedurally the functioning of the JPC was rarely questioned; however, the way it was interpreted and the larger politics of the House metamorphosed, failed to result in specific persuasive conclusions. However, what is needed is to locate such responses and outcomes of the committee in the context of the political processes of that period.

Interestingly, in the banking irregularities of 1992, government came up with the suggestions of the JPC using the idiom, in the words of the then prime minister, Narasimha Rao, 'I feel that there is a need for a comprehensive inquiry through the instrument of Parliament which not only fully establishes parliamentary supremacy but also provides an effective safeguard to protect the countries interests' (LSD, 9 July 1992). He goes on to say, 'we have had consultations with all political parties in parliament and there is consensus on the desirability of setting up of Joint Parliamentary Committee in this regard' (LSD, 9 July 1992). This was despite the fact that there was already a committee set up by RBI called Janakiraman Committee to look into these particular irregularities, and another committee of the Ministry of Finance named Narasimhan Committee, which was in action before the coming up of this irregularity. The idea that surfaced in order to constitute a JPC was that it restores Parliamentary Supremacy which we will see also articulated during the demand for the 2G Spectrum Scam JPC. There was an opposition demand for the resignation of Finance Minister and he himself termed it a systemic failure in the speculative stock market where public sector banks lend money to private brokers without any legal tender. Entire range of banks from SBI to other co-operative banks was involved, and the Central Bureau of Investigation (CBI) was doing its inquiry into the criminality aspect. But, in order to ensure the accountability of the parliament, it became necessary to assure that parliament too can investigate the policy frameworks, functional lacunae and systemic failures by constituting a committee.

A 30-member JPC was constituted under the chairmanship of Ram Niwas Mirdha despite the demand of the opposition that this post must go to a leader who is not supporting the minority government of the Congress from inside or outside. The politics involved here was that Finance Minister was directly under attack by the Opposition. However, the report blamed the Finance Minister for being in 'slumber' through the scam, and the

banking fraud led Manmohan Singh to submit his resignation to the Prime Minister. As it was Congressmen chairing the JPC, this came as nothing less than a shock. However, Narasimha Rao's biographer, Vinay Sitapati states that he told his secretary that '[Manmohan Singh] does not understand that I am the target of their criticism. He assumes that all our MPs are under our control and we can dictate them… he does not realize that they want to embarrass me, not him' (Sitapati, 2016, pp.157-158). This was the dynamics of political processes inside the committee. Along with this, the scam and the commissions related to this irregularity and financial fraud were so entangled that, in the words of Shanker Singh Vaghela, 'it is so big a scam that concerns several crores unaccounted money… I have a list of chief ministers of four to five states who are also reportedly involved. It actually involves half of the cabinet and a large number of officials' (LSD, 31 July 1992). The responsibility of the Finance Minister was under serious doubt and questioned by the opposition, which subsided only when his resignation was not accepted.

JPCs are suggestive of a perspective relatively broader than just establishing, corroborating and identifying the culprits at the present. The speculative nature signifies 'a way forward' by JPCs suggesting policy frameworks to the House. That is the reason behind supporting JPC as it is not possible to 'legislate principally on constructive responsibility which has to be resurrected in parliament…occupying high offices…demands the principle of constructive responsibility, [otherwise] there won't be accountability' (LSD, 3 August 1992). Just like the previous committee, opposition leaders like Jaswant Singh had apprehensions regarding the success and effectiveness of the committee. He was skeptical about whether 'this appointment of JPC is merely a device to safeguard or to protect an awkward parliamentary situation' (LSD, 3 August 1992). Moreover, one of the serious grievances and demands of some of the opposition leaders was that when there is dereliction of duty at one level and collusion at the other level, it becomes imperative that the JPC be provided with the background work of the people related to the dereliction of the duty, otherwise, George Fernandes proclaimed, 'I make a forecast that the JPC will not be able to perform its task' (LSD, 3 August 1992).

Concluding Remark

The overarching expectations of JPCs have been that it is a common venture of the whole House and is one of the most effective representative and impartial, objective instrument to make a comprehensive probe by the parliament. Unlike the 1987 JPC, the Harshad Mehta scam JPC, 1992 from the beginning enjoyed consensus on the issue of terms of reference. The inception of the working of the committee commences from the juncture that there should be some kind of owning of 'moral responsibility' by the government otherwise there will not be anything fruitful possible. In the words of a prominent parliamentarian and advocate N.K.P. Salve 'the whole nation is worried about it and the parliament owes. It is not only they- it's the responsibility to the nation' (RSD, 8 July 1992). The responsibility also comes with the fact that the constitution of the JPC does not necessarily means that other penal offences of the scam will be halted till the report.

2
Reforming Parliament: Revamping the Committee System

The expression 'parliamentary reforms' has several connotations in institutional and political parlance. The expression refers to an institutional arrangement, which intends to get rid of existing maladies, drawbacks, malfunctioning of the political institution or socio-economic system. This socio-political and economic system can be an electoral system, parliament, bureaucracy, education, or a traffic and air control system. These arrangements can be brought by legislative changes in existing acts, or laws, rules or norms; changes brought by executive decisions; or even many a times induced by citizens demand to influence the judiciary. The fundamental reference point is the same in all the reform measures, that is, to march ahead for betterment or work towards a relatively better outcome. It is a gradual process. It is possible that the path of reform can be suddenly altered just because some unforeseen circumstances engulfed the processes, for example, the United Kingdom's decision to exit from European Union (EU) left all kind of EU reforms meaningless in relation to UK-EU ties.

In this chapter, the objective is to assess parliamentary reforms with respect to the committee system in India. Approaching reforms through the committee system is in no way to belittle the importance of parliamentary reforms in the field of legislation, that is, reforms related to the disruptions of parliament, wastage of zero and question hour, absenteetism, legislative paralysis, guillotine etc. One of the background papers of The National Commission for Working of the Constitution (NCRWC) (2000-2002) "The Working of Parliament and Need for Reforms" expressed a similar spirit when it observed that 'little effort had been made to develop the essential prerequisites for the success of parliamentary polity-discipline, character, high sense of public morality, ideologically oriented two party system and willingness to hear and accommodate minority views (Book 3, Vol II, p.1217). So, this chapter is also an attempt to understand

how committee supplements the parliamentary reforms in performing oversight role and scrutinizing the executive.

2.1. Indian Scenario

The political system in the 1990s was undergoing two transformations simultaneously: economic and socio-political change. The parliament by virtue of being the 'supreme institution of the people' (NCRWC, 2002, p.1218) needed to ensure that the institutional changes brought about by the new economic policy get absorbed as soon as possible, as this would bring stability in the country's economy. As the New Economic Policy (NEP) slowly got embedded in the political, economic and social system of India post-1991, NCRWC argued that the 'reforms and urgent remedial action seem imperative for making parliamentary institutions and processes effective…for ensuring sustainable economic growth…as NEP led to cutting back on the government involvement and drastic reduction in the role of parliament and its committees' (NCRWC, 2002, p.1217). In such circumstances, the need is to go for 'fundamental institutional-structural, functional, procedural and organizational change' (NCRWC, 2002, p.1217).

At the same time, the socio-political changes brought out by the advent of coalition politics at the national level began to impact the institution (parliament). The assertion of the regional stakeholders at the national level and the corroding strength of the Congress party made the entire establishment uncomfortable. The politics at the countryside and the centre completely changed the *modus vivendi* of the working principles of the institutions including the parliament.

The decade of 1989-1999 was the time when Indian politics remained in flux, and many governments were formed and collapsed due to power play politics and the inability of the parties to win a solid majority on their own. It was in this period that 17 Departmental Related Standing Committees (DRSCs) were introduced in 1993 on the recommendation of the Third Report of the Rules Committee of Xth Lok Sabha. Before this, in 1989, three committees had been constituted to look into legislation related to the departments of

Agriculture, Science and Technology and Environment and Forest. There were the first of their kind 'charged with eliciting facts through data collection and expert testimony, examining proposed legislation, scrutinizing budgets, recommending policies, and monitoring bureaucratic implementation of legislation within the overall mandate of the Parliament' (Pai & Kumar, 2015, p.165).

Through the proposal to constitute three departmental committees on the recommendation of the Rules Committee of Lok Sabha in 1989, India undertook piecemeal Parliamentary reforms that were taking place in the United Kingdom several decades earlier where, the three subject committees on Agriculture, education and science, and Overseas aid were constituted in the late 1960s (Rogers & Walters, 2006, p.346), before the advent of subject related standing committees /Departmental Committees (18 committees) in 1979 on the recommendation of Procedure Committee of 1978. India followed the same trajectory by first launching three subject related committees, then going for comprehensive DRSCs four years later.

The setting up of 17 new committees in 1993 signified government's connection that the mounting task in legislation, increasing the need for specialized and focused policy making keeping in mind the target group instead of the entire population, can only be addressed effectively in closed group meetings as the House remained in flux in the absence of majority government. There were negotiations going on in order to stabilize the government. Time and again, the government had to prove vote of confidence in the Lok Sabha to survive. Amidst all these, what could not be left untouched were the policy and law making, and institution building for a better India. In such circumstances, the departmental committees came to effect in 1993.

In a parallel development in the UK beginning in 1979, the British Parliament has witnessed several changes in terms of committees, for example, in order to address jurisdictional overlaps (which India too solved with the introduction of 8 more committees in 2004 on the subsequent recommendations of JPC and the Rules Committee), the British Parliament had devised five cross-cutting committees which

would look horizontally across departments in place of the vertical responsibilities of departmental committees (Rogers & Walters, 2006, p.348). These five committees are Environmental Audit (set up in 1997), European Scrutiny (in effect since 1973), Liaison Committee (consists of the chairman of all the permanent select committees and two additional members, one of whom chairs the committee vested with the task of considering matters related to the work of select committees; it is due to the Liaison Committees consistent effort that in December 2000, as Rogers and Walters (2006) observed that 'the chairman of the committee wrote to the Prime Minister inviting him to give evidence to the committee on the government's annual report to spell out your policies in an atmosphere very different from that on the floor of the House' (p.349). The request was turned down at that time, but in July 2002 the Prime Minister's maiden appearance in front of the committee became a convention after that. Initially, the Prime Minister used to appear twice a year, now does so thrice a year to answer relevant policy related issues besides PM's Question Hour), Public Accounts Committee and Public Administration Committee (set up in 1997).

Both countries' experience with the changing scenario depicts the resilience to accommodate institutional change. So, the overarching impression was that the Parliament could cope with changing socio-political circumstances. These reforms would, once again, make parliament the supreme institution of the people by fulfilling the demands of the citizens. The outcome of Parliament would improve following the introduction of the committees. It would strengthen the parliament as an institution of the scrutiny, oversight, regulation, legislation and accountability.

2.2. Lok Sabha Debate on the DRSCs

The Third Report of the Rules Committee of Xth Lok Sabha was presented in the Lower House on 29 March 1993. The report recommended the constitution of 17 Departmental Related Standing Committees (DRSC)[9] to bring technical expertise to legislation along

[9] The Departmentally Related Standing Committees (DRSCs) are constituted under Rule 331-C of the Rules of Procedure and Conduct of Business in Lok Sabha. On 29th March, 1993 the Lok Sabha and Rajya

with ensuring the smooth and better functioning of the parliamentary deliberations. The debate focused on the functional aspect of these committees, the rules of which would bind the committees and the role of the committees in the legislative process. During the debate, only a limited number of MPs including George Fernandes, Malini Bhattacharya, Bhogendra Jha, Rupchand Pal, Ram Naik, E. Ahamed, Amal Datta, Nirmal Kanti Chatterjee, Ram Vilas Paswan and Somnath Chatterjee participated. The important points raised by members pointed to the nature of the limitations of the committees, the powers of the committees, the composition of the committees, the chairpersonship of the committees and the mode of selection of the committees' members.

One of the already settled debates among all members was that the Departmental committees are the need of the hour. A crucial point raised by George Fernandes was regarding the role of the speaker in deciding the rules of their working, the matters to be investigated and the persons to be summoned for evidence. He argued that

> I have objections regarding the amendments to Rule 331. Under Rule 331, the committee which had been framed earlier though those were not sovereign, had the rights to decide regarding rules of its working, the matters to be investigated and the persons to be summoned for the evidence, etc. But under the new Rules these rights have been snatched away and according to the new proposals suggested by the Rules Committee those rights have been conferred on you (Speaker) (LSD, 29 March 1993, p.613).

Fernandes was concerned that the speaker in future

> may exercise his powers under these rules as we are going to surrender our rights in view of these rules to investigate any matters…the speaker would have the sole right to decide as to which bill would be examined or not or which subjects would be investigated by the committee. Even the right of referring the matters to be investigated before the committee lies with the speaker giving

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Sabha adopted Rules establishing 17 DRSCs covering all Government Ministries/Departments. These DRSCs replaced the earlier three subject Committees constituted in August, 1989. The 17 DRSCs were formally constituted with effect from 8th April, 1993. After experiencing the working of the DRSC system for over a decade, the system was re-structured in July, 2004 wherein the number of DRSCs was increased from 17 to 24. The Committees specified under Parts I & II above work under the directions of the Chairman, Rajya Sabha and the Speaker, Lok Sabha, respectively. Parliamentary Committees have statutory sanction as they owe their (origin, powers, functions and privileges to the Constitution, the rules made thereunder. Acts of Parliament or Motions/Resolutions adopted by the House. The composition of the Parliamentary Committees which scrutinize the functioning of the Government consists of Members of Parliament only and Rules do not permit appointment of Ministers as members of such Committees. Parliamentary Committees examine subjects within their mandate and present reports to the Houses.

> concentration of power of the House in the hands of a single individual (LSD, 29 March 1993, p.614).

Replying to his concern, the speaker (as he/she happened to be the chairperson of the Rules Committee) said that formally all bills barring technical bills would be referred to the committee as per the direction of the government (LSD, 29 March 1993, p.621) and the power to decide which bill is 'of technical nature and which is not will rest with the chairman of the Rajya Sabha and the Speaker of the Lok Sabha' (LSD, 29 March 1993, p.627). Another important point raised related to the tenure of the committee members and the chairmanship of the committee. One of the MPs, Rupichand Pal asked whether 'the chairmanship of the committee would be given on the basis of the principle of the strength of the different political parties or will they be elected?'(LSD, 29 March 1993, p.623). Responding to these questions, the Speaker informed the House that 'the party leader would refer the names to the speaker of Lok Sabha and Chairman of Rajya Sabha and those members would be made the members of the committee' (LSD, 29 March 1993, p.627).

It is here in the Lok Sabha debate that the Speaker explicitly mentioned that the 'chairmanship would be given in proportion to its membership in the House. There is no ambiguity here. The Rules Committee has framed the rules, so there is no problem in the interpretation of these rules' (LSD, 29 March 1993, p.628). One of the greatest achievements of this committee system, as the Speaker stated

> out of a budget for about 2 lakh crores we used to pass in this House, the discussion could take place only on grants for 30 or 40 thousand crores only, remaining budget was guillotined. After appointment of these committees at least 45 members will hold a discussion on the demands for grants of each department and demands for grants of no ministry will be passed without discussion (LSD, 29 March 1993, p.632).

When Malini Bhattacharya raised a demand for open hearings and deliberations, so that the press and media are allowed, the Speaker rejected the demand by arguing that

> The partial reporting of what is happening in the committee is likely to misled than to lead to the correct conclusions as there is no enough space available in the newspapers to publish the entire proceedings. So let us not take decision on this point at this point of time…in future, we may look into the possibility and take a decision (LSD, 29 March 1993, p.639).

Till date, committee deliberations are opaque to public or media gaze unlike UK or US where any parliamentary or Congressional hearing is televised and open to the public, if otherwise not detrimental to national security.

2.3. The Implementation of DRSCs

Welcoming the Department-related Committee System, the then Vice President and Chairman, Rajya Sabha, K.R. Narayanan on 31 March 1993 described the system as 'a new phase in the evolution of our parliamentary system...to ensure the accountability of Government to Parliament through more detailed consideration of measures in these Committees...The intention is not to weaken or criticise the administration but to strengthen it by investing it with more meaningful parliamentary support' (Devi & Gujar, 2017, p.930). The introduction of the committee system brought some changes in the working of the parliament. The Parliament's potential to approach the legislation transformed in the beginning of the reforms. However, within a decade NCRWC in its background paper observed that

> The parliamentary oversight of administration is not an end in itself. It is never intended to affect administrative initiative, effectiveness and discretion adversely. It is meant to galvanize, not supplant action. The purpose of accountability mechanism is to strengthen the efficient functioning of the administration and not to weaken it, and it is reasonably well established that parliamentary scrutiny over public finance is at present inadequate (NCRWC, 2002, p.1222).

One of the major reasons for the underperformance of the departmental committees was the jurisdictional overlap between different ministries till 2004. All the ministries and departments had divided the seventeen committees among themselves, and in practice problems arose when it came to deal with legislative activities involving two departments

or to evaluate grants that involved multiple departments. This choked the working of the committees as it primarily involved the active role of the executive. In the wake of this problem, Parliament constituted a 20 member Joint Parliamentary Committee to look into the question of jurisdictional overlap between Parliamentary Committees on 5 December 2000. Pranab Mukherjee, then a Congress MP from Rajya Sabha was the chairman of this committee. The committee submitted its report on 26 July 2001. However, the recommendations were not deliberated till the latter half of 2004, under the UPA-I regime. The JPC on DRSCs recommended increasing the number of departmental committees from 17 to 24 committees so that the clear categorisation could be done while allocating works to the committees. The recommendations were brought into the spotlight in July 2004 when the Rules Committee of Lok Sabha under the chairmanship of the then Speaker Somnath Chatterjee in its very first report noted that

> The unwieldy jurisdiction of some of the existing 17 DRSCs is hampering the committees in the timely examination of and reporting on the subjects selected by them…due to long time being taken by committees in examination of and reporting on the Bills referred to them, passage of the Bills is also being delayed in the Parliament (Rules Committee First Report, 2004, p. 4).

Hence, taking note of the JPC's recommendation, it has been noted by the Rules Committee that the meeting of Speaker with the leaders of Parties decided that, 'The number of the DRSCs may be increased from 17 to 24 as recommended by the JPC on Jurisdictional Overlap' (Rules Committee First Report, 2004, p.4). The number of members of each standing committees was reduced from 45 to not more than 31 members (21 from Lok Sabha and ten from Rajya Sabha). Further, the Rules Committee directed that 'the 24 new DRSCs may be reconstituted immediately to enable them to examine the Demands for Grants of their respective Ministries during the recess period from 24th July to 15 August 2004' (Rules Committee First Report, 2004, p.11).

The first report of the Rules Committee was presented in Lok Sabha on 20th July 2004. All the recommendations were passed without any debate in the House on the ground of 'urgency'.

The Speaker of the House observed that

> in pursuance of the decision taken at the meeting of Leaders of Parties/groups on 4th July 2004, the Rules Committee at their sitting held on 8th July, considered and approved a proposal regarding increasing the number of DRSCs…the report of the Rules Committee has been laid on the Table of the House today. Under rule 331, the report of the Rules Committee is required to be laid on the Table for seven days. Considering the urgency of constituting the DRSCs, the Rules Committee had also recommended that the requirement of laying the Report of the Committee on the table of the House for seven days under Rule 331 may be suspended (LSD, 20 July 2004, p.334).

After that, the House adopted the motion moved by N. Janardhana Reddy (Visakhapatnam) that 'this House do agree with the First Report of the Rules Committee laid on the table today' (LSD, 20 July 2004, p.335). One of the necessary reforms brought out after ten years of the introduction of Departmental committees was passed without any discussion on the floor of the House. Even the Rules Committee merely concurred with the JPC recommendations and the executed amendment was not even properly discussed by the Rules Committee. The urgency was not specified except the consideration of Demand for Grants of the respective ministries as parliament could not discuss each grant. So the reforms were hurried due to the compulsion that the grants of the budget had to be discussed by the respective committees. Following these reforms, one of the principal tasks of the departmental committees had been to discuss the demand for grants comprehensively along with other works like examining the bills, long and short term policies referred to them by parliament and government. Departmental committees are actively involved in working in tandem with the parliament and the government.

Numerically speaking, the involvement of departmental standing committees varies according to the need of that particular sector in the country, for example since encouraging the growth of the information technology sector has been a prime focus of government's efforts, the reports submitted by the departmental committee on Information Technology, since 13th Lok Sabha have been by far the largest in number. It presented 64 reports in 13th Lok Sabha, 68 in 14th Lok Sabha, 53 in 15th Lok Sabha and 38 till March 2017 in current 16th Lok Sabha. These reports include those on Demands for Grants, and Action Taken Report on various policies and programmes including bills.

Similarly, the Social Justice and Empowerment Committee presented 41, 46 and 42 reports in 14th, 15th and 16th Lok Sabha Respectively till date. Since the Energy sector demands attention, the Committee on Energy presented 47, 31, 44 and 27 reports in 13th, 14th, 15th and 16th Lok Sabha respectively. However, a greater emphasis has been on the demands for grants and the Action Taken Reports (ATRs) in these sectors. Nonetheless, the working of committees depicts the involvement and approach of the changing governmental focus on areas that need sustainable use.

The success of the committees depends upon how effectively can they contribute to the following objectives, as per the NCRWC consultation paper (2002):

a. Close pre-budget scrutiny of the estimates and complex expenditure plans (Demands for Grants) before they are voted on the floor of the House;
b. examination of the activities of government departments';
c. Monitoring the evaluation of performance, relating to financial inputs to the policy objective;
d. Close scrutiny of all legislative proposals;
e. Review of the implementation of laws passed by Parliament;
f. Participation of the backbenchers;
g. Development of specialization and expertise among members. (p.1223)

Procedurally, these committees are fulfilling the functions for which they are constituted. There is a convention that the report ought to be unanimous. The House does not debate the reports. The only relevance of the House is that it is used to table all the reports. However, there are instances where exceptions were made. For example, when the JPC report to enquire into the Bofors Contract was tabled in the House, the Rajya Sabha discussed it by way of a short duration discussion following which the Deputy Chairman observed that ‘it is a Parliamentary Committee report. Such reports are placed before the House and are not discussed. However, taking into consideration the importance of the subject-matter, as an exception, we are taking up this report for discussion’ (Devi & Gujar, 2017, p.948). Similarly, following the same criteria, the 1992 JPC Report on the Securities Scam was discussed in the House (Devi & Gujar, 2017, p.948). Otherwise, the House has not witnessed any debate on the reports of the remaining three JPCs in either

of the Houses. There are instances where the members of the Lok Sabha tried to move an Adjournment motion to discuss the 2002 JPC report on the Ketan Parekh Scam, but the Speaker did not allow an open debate on the matter (LSD, 20 Dec 2002). There had been considerable differences between the opposition and the government in all the JPCs which opened up the possibility for a debate on the floor of the Houses. Even the NCRWC (2002) in its report recommended that 'major reports of all Parliamentary Committees ought to be discussed by the Houses of Parliament especially where there is disagreement between a Parliamentary committee and the Government' (para. 5.9.3). The debate among members on relevant issues will sharpen the legal and conceptual understanding of the issues among them as one of the longstanding complaints about the committee members had been that they lack depth of understanding about the matter they are supposed to discuss and decide. So it needs expertise to evaluate proposed policies holistically.

2.5. The Performance of Committees

The committees in Parliament are an arrangement to rescue the working and quality of legislation and debate of the declining Houses. The committees become immensely important in such circumstances where the only available path to improve the quality of the Parliamentary deliberations and work vest with the functioning of the various committees. In the very beginning of the Sectional Manual of Office Procedure (SMOP) (2010) of Department-Related Parliamentary Standing Committee Sections of the Rajya Sabha explains the genesis of the committees in terms of the 'tremendous increase in governmental activities over the years and Parliament was finding it difficult to exercise its constitutional role of ensuring accountability of the executive' (p.1). It is, by now, settled that the advent of the committees in the Parliament was meant to compensate for the loss that the Houses were responsible for in various ways. As the NCRWC report (2002) on the Parliament and State Legislatures observed, the initiative of Departmental Standing Committees was a 'path-breaking innovation that provided Parliament with the wherewithal to handle complex economic and social issues with growing levels of competence and sophistication. It is in these committees that the demands for grants of

the ministries and departments can be examined in depth in an atmosphere of objectivity and freedom from partisan passions' (Chap. 5). Obviously, the observation was signaling towards the declining nature of work in the Houses of the Parliament.

As the working on the floor of the Houses corroded, the scrutinisation of the government's legislative proposals weakened. The committee system carved out a path, democratic in nature, consisting of all the parties depicting a mini-parliament which would effectively manage the legislative and the oversight functions what was supposed to be undertaken by the Houses of the Parliament as a whole. The traditional understanding of Parliament as merely a legislative body was questioned by the beginning of the 1990s in India. However, such was not the case with the Westminster political system. The United Kingdom adopted the Departmental Committees way back in 1979, but the quality and quest for a robust Parliament always remained unfulfilled. The prominent logic of 'Parliament, principally a legislator' (Bamforth & Leyland, 2003, p.54) was fading, and the tendency to 'see parliament as a scrutineer, or as a regulator, of government' (Bamforth & Leyland, 2003, p.54) was gaining ground.

The effort here is not to focus on numerical and procedural details of the Parliamentary reforms by way of introducing committees. What is needed in the present context is to devise substantive changes instead of merely looking into the procedural domain, for example, increasing the number of DRSCs from 17 to 24 would just ensure that the jurisdictional overlap is avoided, but it would not ensure, by means of its membership or constitution, that it would act as a superior scrutineer, or as an institution to make Parliament a robust institution of legislation, at the least. For instance, the reasoning behind introducing eight more DRSCs on an 'urgent' basis in 2004 by Parliament was that it would consider the budgetary allocations and demands for grants of various ministries effectively without any delay caused due to jurisdictional overlap, but the trends show something very dismal. M.R. Madhavan, in his work on Parliament, argues that huge percentages of demands for grants of various departments are guillotined. As per his compilation, in 2005, 85 per cent grants were guillotined & only four ministries were discussed. The trend continued to be the same till date. The percentage of demands

for grants guillotined is as high as 95 percent in 2007, 63 percent in 2008, 79 percent in 2009, 84 percent in 2010, 92 percent in 2012, 100 percent in 2013, 94 percent in 2014 (Kapur, Mehta, & Vaishnav, 2017, pp.86-87). The trend raises serious questions on the substantive reforms of Parliament even regarding legislating budget which is one of the principal concerns and responsibilities of the Parliament.

The membership of committees is based on selection or nomination by the Speaker of the Lok Sabha, or Chairman of the Rajya Sabha from the list provided by the party leaders of the different parties in the House on proportional representation basis. So there are two things operating here. First, each party prepares a list of members which is based on no criteria at all and submits it to the presiding officer of the Houses; and second, the Speaker of the Lok Sabha select one among all the members as the chairman of the committee. So, there is no transparency, and the personal preference of the leader plays an important role. It should not be the way a Parliament functions. It needs some system which ensures that the selection itself is based on some criteria as a House of 545 members is delegating their powers to a small group of members to decide on issues of public and national importance on their behalf. At the same time, the onus lies on the committee members that they come up with a unanimous report in a bipartisan manner unlike the dominant logic of the operations on the floor of the Houses. The only plausible and reasonable way to ensure such a non-partisan approach is that the committee members enjoy the maximum possible confidence of the entire House including ruling as well as opposition parties, so elections at the levels of intra-party, House and at the committee become indispensable. It is a kind of legislative scrutiny before venturing into the executive scrutiny.

Many MPs of both the Houses have written in favour of reforms in the two Houses of Parliament. Recently, there has been a debate that the Rajya Sabha is no longer relevant because it is used to block the legislations passed by the Lok Sabha. So, the need is to reduce the powers of the Rajya Sabha in the wake of the concept that it is blocking bills passed by directly elected representatives of Lok Sabha, inimical to the concept of ‘democracy’. There are other voices talking about the necessity to bring reforms in the

Lok Sabha per se. For instance, Baijayant Panda, MP argued that we have been 'so far treating parliamentary disruptions as the disease, whereas they are merely the symptoms' ("Restoring the House", 2011). He asserted that the 'India's Parliament contains many obsolete rules and conventions that desperately need changing, without which it is illogical to expect a lasting change in its functioning' ("Restoring the House", 2011). Further Panda observed that

> successive governments...they are happy to treat Parliament as a platform for the opposition to vent its ire, but not to the extent that it can exert true pressure. As that would be too uncomfortable, requiring the government to mobilise, utilise its political capital, and sell its agenda to the nation. Instead, every government strongly prefers the easy option of treating Parliament as a toothless debating house, listening to the opposition with an indulgent smile, and then doing exactly as it pleases ("Restoring the House", 2011).

The plea, in the words of M R Madhavan, is 'to reduce the discretion of the Speaker and the Business Advisory Committee' (Kapur, Mehta, & Vaishnav, 2017, p.79). Limiting the discretion of the Business Advisory Committee implies restricting the role of the government and preventing parliament from any work according to its wishes. It should take the views of the opposition as well in deciding the subjects that should be discussed on the floor of the House. Both Madhavan and Panda offer solutions to this. Panda suggests that 'voting motions should be commonplace in Parliament…so the best way to balance...is to do away with consensus and discretionary powers to decide what should be a voting motion; instead, replace those with a precise rule requiring a demand from a substantial minority of MPs, say 33 Percent' ("Restoring the House", 2011). That is, if one-third of the House demands voting on any matter, it should be accepted by the House. Or, as Madhavan argues, we could adopt the British system to accommodate opposition's demands by fixing a certain number of days dedicated to the issues and matters raised by them (Kapur, Mehta, & Vaishnav, 2017, p.79). It is to be noted that role of committees and the way that function in India are not as vibrant and effective as those in the United Kingdom.

The reason for this has to do with the ways in which standing committees, joint committees, or ad hoc committees become functional here. The role, outcome and effectiveness of the committees can broadly be categorized into two parts, one,

understanding the institutional and structural dynamics of the various committees; and second, the functional dynamics of the committees. In both these aspects, the committees in the United Kingdom outperform Indian committees. This comparison might seem vague at this juncture, but the larger concern is related to the fact that, in the name of committees, the government frequently succeeds in avoiding or scuttling a number of discussions, debates and deliberations pertaining to new bills, existing acts and legislations, budgetary allocations, matters related to public importance, etc. in both the countries. There is always an assurance from the government that the committees are discussing the matter so even if the House could not deliberate upon it, it would harm nobody and no one is at a loss. The committees are considered a mini-parliament proportionally representing (in India) all the actual stakeholders of the House. So, it gives solace to all the parties that the representatives from all parties would be able to represent the party standpoint on every proposed bill or amendment, which finally has to come to the floor of the House anyway, once the committee reaches consensus. When it comes to discuss bills and amendments descriptively, clause by clause, which often need expert advice for its smooth and effective post-implementation, there is a possibility that committees do relatively well compared to those committees which are involved in other activities such as investigating charge and accusations, looking into public finance and its just use, etc. The role of departmental committees becomes pivotal in the former case, but at the same time, there are instances when the government constitutes joint committees to look into proposed bills or amendments due to the fact that those bills are going to leave their impression on more than one ministry and need suggestions across different stakeholders; another reason is that it is possible that the proposed bill command public attention and the public spectacle compels government to go beyond departmental committees and to constitute JPCs inviting diverse political and expert opinion within and across the Parliament. Recent examples include the Constitution of Joint Committee on the Right to Fair Compensation and Transparency in the Land Acquisition, Rehabilitation and Resettlement (Second Amendment) Bill, 2015 followed by a hue and cry by the opposition and widespread protests in some parts of the country due to the ordinance that government brought in to avoid the House. The committee is yet to submit its report. Another Joint Committee that has now ceased to exist as it has submitted its report was

constituted to look into the Insolvency and Bankruptcy Code, 2015. The former bill falls under the domain of the Rural Development Ministry and the later under the Finance Ministry. Both the ministries have their departmental committees, yet the government decided to give the mandate to look into the bills to the joint committees. What could be the possible reasons for this?

With the tendency to frequent parliamentary disruptions, oftentimes so indiscriminate as to render entire sessions paralyzed, committees are spaces where discussions on matters can go on smoothly. It just requires a quorum (one-third of the composition) which can easily be fulfilled by the ruling party MPs itself as the membership is based on the proportional representation system. So, those who are not members cannot attend the session negating the chance of disrupting the committee per se, at the same time the committee can be run by the members of the ruling party alone. Committees are considered an exception to everyday House business because of which even when the members disrupt the House, fails to stop the functioning of the committees, though, it can cause delays. The chairmanships of the Departmental committees are decided by proportional representation divided among different parties of the parliament.

Out of 24 DRSCs, the Lok Sabha has the authority to constitute 16 DRSCs; the Rajya Sabha has the mandate to constitute the remaining 8. As of now, after applying the proportional representation method, the National Democratic Alliance (NDA) has 11 chairpersons out of 16 DRSCs in Lok Sabha, 9 of which have, as their chairpersons, BJP MPs and one each the Bhartiya Janata Party (BJP) allies, TDP and Shiv Sena. In the Rajya Sabha, out of eight, the BJP has the chairmanship of two DRSCs since NDA does not have a majority in the Upper House. Thus, out of total 24 DRSCs, 13 DRSCs have chairpersons from NDA and remaining 11 from different opposition parties including 5 from the Congress (2 in Lok Sabha & 3 in Rajya Sabha), 2 from All India Trinamool Congress (1 in each Lok Sabha and Rajya Sabha), and 1 each from Biju Janata Dal, AIADMK, Janata Dal (United), and Samajwadi Party. The functions of these departmental committees are defined explicitly in the provisions of the Rules of the Procedure and Business in the Lok Sabha and the Rajya Sabha manual. These committees

cannot easily deflect from the written rules. The main focus has always been discussing the proposed bills and amendments of the respective departments and ministries.

On the other side, those Joint Committees which were constituted to look into contentious amendments like Land Reforms have had chairmen from the ruling party only. Since Joint Committees' Terms of Reference, rules, functions, powers and overreach all depends on the House mandate, the government can formulate these as per its own convenience. The basic structure is taken from the Rulebook of the House. Since the role and importance of the opposition do not find any mention there, it remains ambiguous in the joint committees. Also, wherever the rules, roles and functions of the committees are ambiguous and not explicitly mentioned, the Speaker of the House becomes the final authority to decide on every aspect of that, which gives reason to be doubtful about the claim that the committees represent the mini-parliament which can make the government accountable to the legislature. In India, the speaker is elected from the ruling party or supporting the coalition. However, while the Speaker may act in a neutral fashion, it cannot be guaranteed that the party loyalties and interests have been shrugged off. As a result, what remains troubling is the fact that many times, the speaker can decide contrary to the position and wish of the committee as there is an element of ambiguity.

2.6. The Committee System: Comparative Experiences

The United Kingdom in the last one and half decades introduced reforms in the parliament and reformed the committee system radically. In the context of Britain's select departmental committees, it has been observed that there was a need to change the system where 'committee members were chosen by the Commons' Committee of Selection: a body made up largely of party whips. Hence the whips could block troublesome MPs from membership' (Russell, 2011, p.614). Against this approach, several steps were taken by British MPs, for example, the Liaison Committee way back in 2000 whose members consist of all the chairman of the committees of Parliament proposed that select committee appointments should instead be made by a group of senior MPs acting more independently in the interests of the whole House. However, this recommendation was

dismissed. Then once again in 2002, the Modernization Committee attempt to reform the selection of the members of the various committees was defeated in the House of Commons by 209 votes to 195. The outcome and the defeat were the results of the collusion between the Labour and Conservative whips. They came together to defeat the motion so that their whips could remain strong over the individual members who are supposed to work in the select committees. Meanwhile, there was a lot of anxiety regarding the status of chairman of the select committees. After the two failed attempts at reform, a cross-party group of parliamentarians in 2003 'proposed that a secret ballot should elect the select committee chairs across the whole House' (Russell, 2011, p.616). The House did not accept these recommendations till 2011.

After six years, in 2009, the crisis over the MPs' Expenses scandal[10] shook the political establishment. This crisis was 'followed by months of allegations, feeding public and media outrage, and leading to parliamentary resignations, retirements and de-selections, and the resignation of the Commons Speaker' (Russell, 2011, p.618). It raised concerns, as Meg Russell argued, about 'whether public confidence in parliament, and the political class, could ever be restored' (Russell, 2011, p.618). The Commons' MPs took advantage of the situation and demanded the then Labour Prime Minister, Gordon Brown constitute a special committee. In 2009, Tony Wright wrote to the Prime Minister of United Kingdom suggesting that he 'announce a new special committee on parliamentary reforms...with a mandate to come forward quickly with reform proposals. The key reform would be to separate the control of Government business from House business… A

[10] In May 2009, the *Daily Telegraph* newspaper published a series of revelations about MPs expenses using tax payer's money. The expose contained ministers, Labour politicians, Conservative politicians, and Liberal Democrats leaders dubious expenses which jolted the entire country. 'The Parliament was on its knees', the *Economist* described the scandal's after effect. Unlike the other scandals which usually involve a particular politicians, this scandal 'engulfed the entire political class' (The Electoral Impact of the UK 2009 MPs'Expenses Scandal by Charles Pattie & Ron Johnston, Political Studies, vol 60, 730-750, 2012, 730-31) cutting across ideologies and political poles. A total of 389 MPs were involved in the frivolous and profligate claims of expenses. The intensity was so stark that the Speaker of the House of the Commons, Michael Martin was forced to resign, the first Speaker to do so since 1695- after more than 300 years. Following the scandal, political career of many MPs wiped out, were isolated, a small number of MPs were prosecuted. The newly elected Speaker of the House of Commons, John Bercow described the scandal 'as doing more damage to Parliament than anything in recent history with the possible exception of when Nazi bombs fell on the chamber in 1941' (Review of the year 2009: Expenses scandal By Andrew Grice , Independent, Wednesday 23 December 2009). This led to a situation where reform of the system became inevitable.

further and well-rehearsed reform would be to elect the chairs of Select Committees (and to improve committee selection procedure more generally)' (Russell, 2011, p.618).

The Prime Minister instantly accepted the proposal. Tony Wright became the chair of this committee, and the committee came to be known as the Wright Committee 2009. One of the subjects looked into by this committee is especially relevant for this chapter, and this is the question of 'how select committee members were chosen' (Russell, 2011, p.619). The underlying motive for select committee reforms was to tackle the menace of whips during the deliberations of the committees. There were two arguments in the public domain regarding the selection of the members of the Committee. First, that parties should be responsible for choosing their own representatives with the help of elections within party groups; and second, the chamber should be responsible for selecting their members and chairs with the help of elections across the whole House (Russell, 2011, p.619). However, the Wright Committee adhered to a third way by integrating both the arguments. The committee's proposal was that 'the chairs of the main select committee should be elected by all the members in a secret cross-party ballot, after which remaining committee members should be elected by secret ballot within their party groups' (Russell, 2011, p.619). Another recommendation of the committee was that the 'select committees should be reduced in size to 11 members, to boost collegiality and reduce non-attendance' (Russell, 2011, p.619).

The interesting part is that 'virtually all of the Wright committee's key recommendations had been agreed unanimously by the House' (Russell, 2011, p.624). The voting over the recommendations, such as reforming selection of committees' chairs and members, the number of members, making of Backbench Business Committee, and the House Business Committee as separate from government's business. The plea was to delineate the government's and non-government business in the House and should be separate. The committee also proposed that there should be a House Business Committee whose membership would be comprised of the members of Backbenches Business Committee along with other MPs. The holistic focus of the committee was to strengthen the working of the Parliament as a whole, not of the government alone. The Majority passed the

recommendations despite opposition from the frontbench Labour as well as Conservative MPs. Following the formation of the Conservative-Liberal Democrat coalition government in 2010, it was the first time when a new parliament witnessed 'the elections held for the chairs of 24 select committees…16 competitive elections were held, in one case six Labour candidates competing to become chair of the prestigious Public Accounts Committee… 590 members voted in the secret ballot for these positions' (Russell, 2011, p. 627). Meg Russell (2011) claimed that 'this was the beginning of a new outbreak of democracy inside the House of Commons' (p.627). Recently, the House of Commons elected new chair of the select committees on 12 July 2017 aftermath of the UK general election. Though there were 28 chairs to be elected, but only 11 chairs were being contested on the basis of closed ballot voting by all the members of the House. Remaining 17 chairs were elected unopposed.

Similarly, the chair of the new Backbench Business Committee was elected in an all-House secret ballot. The important point to remember is that due to this business committee in its business arrangements included the 'first ever vote in parliament over the country's nine-year military engagement in Afghanistan' (Russell, 2011, p.627). The challenge was, as per Meg Russell (2011), not just to 'reform the structures' but also to 'change the culture' (p.627) of the Parliament. Therefore, the reforms opened up the possibility and potential for,

> (Firstly) the select committee chairs to represent the whole House, rather than owing their positions to party whips. It should give them a greater sense of legitimacy and more confidence to speak for the chamber as a whole; secondly, makes select committee members answerable and accountable to all their party colleagues, rather than just the whips (Russell, 2011, p.628).

Concluding Remark

The concern here is to trace the reforms in the parliament brought out by revamping, revisiting and redefining the role of committees in Westminster political systems like India and United Kingdom. The basic question here is whether functional as well as structural changes in the committees can bring about qualitative and substantive or for

that matter any reasonable change in the Parliament at large. The multifaceted nature of parliament's work opens up immense possibilities of political reforms in all arenas, ranging from electoral reforms to internal, intra-institutional reforms within a committee which is a very tiny constituent of the parliament. In these seven decades of the Indian parliamentary journey, the tremendous potential and necessity of democratic ethos and institutions have been recognised. The need to always look ahead to explore the best possible political system in the country was never abandoned resulting in reforms and legislative improvements.

3
Partisan Politics and JPCs: Lessons for Government and Opposition

This chapter is an effort to analytically explain the Bofors scam and the 2G Spectrum scam together, as despite their very different nature they had similar consequences on larger politics. Why should the Bofors Scam (1987) and the 2G Spectrum Scam (2011) JPC be clubbed together in one category? There are striking similarities between the political manifestations of the two alleged scams. Factually, two scams are not at all similar in any way. Bofors had to with the defense weapons, spectrum has to do with the communication and telecom sector. Here, my emphasis is on essence of the scam, the parties involved, and the nature of the scam which brings these two scams together analytically.

The purpose is to understand the analytical distinction between different JPCs by drawing attention to certain aspects of political phenomena which might not otherwise seem relatable in a cursory or superficial study. Both the issues had to do with allegations of corruption. In the Bofors scam, the allegation was that the politicians of top echelons in Indian government were directly involved in accepting kickbacks from the Bofors in lieu of a contract they got. Among the politicians, the then Prime Minister Rajiv Gandhi's name was prominent. The 2G spectrum case has to do with corruption charges involving the then PM Manmohan Singh, and direct involvement of various cabinet ministers in allocation of the spectrum and telecom licenses by abusing all procedures, intent and processes. The substantive link between the two scams is the direct involvement of government in the scam. The ministerial authorities were compromised with and abused which led to loss of public money; in Bofors it was 64 Crores and in 2G spectrum the presumptive loss of 1.76 lakh crores as per Comptroller and Auditor General of India (CAG). The government had to defend itself in both the cases. The opposition had the advantage. In 1987, it was fragile and scattered combination of various parties playing

the role of opposition attacking the ruling party and in 2011, the nature of the opposition had changed drastically in the sense that it was organised, cohesive, electorally influential and stronger in nature taking the ruling coalition (United Progressive Alliance II) government headed by the Congress party head on.

The nexus between corporates and politicians was at the centre stage in both cases. The proximity of an industrialist or businessman with a politician of immense authority proved to be a means to exploit public funds. However, the *modus operandi* of these two scams were different in the sense that in case of Bofors, kickbacks were allegedly paid to politicians by the company on a contract of Rs 1500 crore approximately. The technical department estimates were almost similar to the value of the contract but the question was whether the means used to acquire the contract were malafide and illegal. The question was on intent, procedure and favoritism in lieu of which huge amount was paid in return. It was a quid pro quo based on contract and money.

The 2G Spectrum scam (2011) was directly linked with the fact that public exchequer lost a presumptive amount of 1.76 Lakh crore which could be earned provided the spectrum and licenses could have been auctioned publically. So, the very process and procedure was malafide. The intention too was dubious which forced government to go for seven years old defunct method based on fixed pricing allocation of spectrum only on Rs. 1659 crores on first cum first serve basis. The method adopted was simple: the government would allocate maximum range of spectrum to their pre-decided favoured companies at a very low amount, which later would be sold by those companies to other telecom companies at current prices in the open market, thereby making huge extra amount (profit upto 13 times) just by buying and selling the spectrum. It was a direct loss to the public money as the government succumbed to the corporate nexus. Possibly, the quid pro quo would happen when the companies resold their spectrum to a third company making tremendous profit. In the first case, there is possibility that the favoritism would lead to the contract without hampering any procedural means or steps. In the latter case, the procedure and the means by which spectrum would be allocated need to be rigged so that a particular company gets the spectrum.

In the Bofors case, what was needed was just to fulfil minimum criteria to remain in the race where various defense industries would compete for the weapon and the best would be awarded the contract to supply the weapon as per need, for example the argument given in favour of Bofors for weapons contract was that fulfillment of all the criteria such as the class of the weapons, technicalities, performance, maintenance etc were done by two companies, but government awarded the contract to Bofors as it offered little cheaper price than SOFMA of France in the same configuration of the weapon. The procedure and policy was not tampered with at all.

Interestingly, in case of 2G Spectrum scam, it was already decided in advance as to which companies would be given the spectrum as well as licenses. Accordingly, the game was arranged and policies were manipulated, for example, advancing cutoff date for application by a week and the first cum first serve basis was brought into effect and applied only when it was ensured that all the favoured companies had already applied for the licenses and spectrum on the very first day so that they do not get eliminated at the screening stage. So, the policy and procedure did not matter at all. What mattered the most was the wishes of the agents, companies and the politicians involved in the entire process. The procedural aspect was abused and renegaded. Despite a policy framework and procedural foolproofing, the lack of transparency rendered them useless and ineffective. So, direct collusion of the government with corporates and companies makes these two scams relatable in analytical aspects.

Another similarity between Bofors and 2G Spectrum scam has to do with the after effect of the scam on the broader political spectrum of country. The allegation of corruption in both cases shook entire country, at least electorally. The general election of 1989 and 2014, held in the shadow of the corruption charges, saw the government led by the Congress party, being routed in both the elections. It is crucial to remind here, that Congress in 1984 got unprecedented mandate of 411 seats out of 545 seats under the leadership of Rajiv Gandhi followed by the killing of the then Prime Minister Indira

Gandhi reduced to 197 seats in 1989[11]. Ironically, in 2014 general election, the condition of Congress deteriorated to a level where its 206 seats of 2009 reduced to a mere 44 seats[12]. The situation of Congress party deteriorated to a new low in 2014. Today, it does not hold the dignity of the leader of the opposition in the Lok Sabha. In 1989, the main deserter of Congress Party V.P. Singh (who also holds the cabinet minister post such as Finance Minister in Rajiv Gandhi cabinet) spearheaded the entire campaign of anti-corruption tirade against Rajiv Gandhi and the Congress party. The then Janata Dal and the BJP immensely benefitted from this campaign by routing Congress party. Similarly, it was the then Chief Minister of Narendra Modi who became face of the BJP against the rampant corruption in the government led by Congress in 2014.

The corruption charges of 1987 played a pivotal role in breaking the hegemony of Congress System and single party government in India (after a short span of Janata Alliance rule between 1977-1979) leading to an era of coalition government for more than two decades, and interestingly, the uproar and anxiety followed by rampant corruption in UPA II rule (2009-2014) led to the advent of single party rule yet again in India in 2014 general election when BJP won 282 seats. However, it formed the government under the banner of National Democratic Alliance (NDA) with total 336 seats. As a *fait accompli*, the opposition which delegitimised Congress party in 1987 as well as 2014 elections never again left any possibility open for Congress to form a government unalloyed but to go for forming alliances with other regional political forces in 1991, supporting United Front government between 1996-1998, 2004 and 2009. The corruption charges played an indispensable role in carving out political terrain of India, post-1989 till today. Corruption is one of the principal political agenda which brings together the entire electorate which otherwise are not monolithic in any other sense in a country like India. The political ramifications of the two scams resonate in the realm of Indian politics.

[11] http://eci.nic.in/eci_main/StatisticalReports/LS_1989/Vol_I_LS_89.pdf
[12] http://eci.nic.in/eci_main/archiveofge2014/18%20-%20Political%20Party%20wise%20seat%20won%20and%20valid%20votes%20polled%20in%20state.pdf

The constitution of JPCs, following these allegations, was another intriguing feature in broad timespan between two events. The functioning, deliberations, and effectiveness of Joint Parliamentary Committees offer an opportunity to trace some functional and substantive commonalities between these two JPCs. The first ever JPC constituted in 1987 to look into the matter of Bofors witnessed lot of ups and downs in its lifespan of eight months. The response that the two JPCs and their report received from government was very dismal so was the opposition's response. The opposition in case of 1987 JPC enquiry boycotted the committee after demanding that the committee should be dominated by the opposition leaders and chairmanship too should go to the opposition party following the Public Accounts Committee precedent. When these conditions were not fulfilled by the Congress, opposition announced a boycott of the committee itself. Basically, even before committee started functioning, it was crystal clear that neither the ruling party nor the opposition cared about the way the JPC would function. The JPC, which was constituted to make executive accountable to legislature along with scrutinizing the government, was left unattended and unaddressed by stakeholders. The accountability of the committee was compromised. The report was outrightly rejected by opposition and accepted by government because it was not at all critical of government or of those whose names were allegedly cropping up time and again as having received kickbacks from Bofors for the contract. It became a political tool for the opposition who would hold up the examples of the JPC in order to show government's apathy towards consensus building and neglecting parameters of transparency and oversight. For the ruling party, it played an important role in justifying itself of all charges as JPC, in principle, is considered to be a unit representing entire parliament and its constituents. So, when JPC found nobody guilty of any wrongdoing, by implications there was no wrong done at all.

In a similar manner, 2011 JPC was replete with dissent notes by every opposition member. The report was not consensual but passed by majority of 16-13 votes. The opposition rejected the report in toto, and the government found it convenient to accept it as it merely indicted the then minister of telecom and communications A. Raja who was already in jail by that time and under custody and investigation by the CBI. The argument

in both JPCs remained the same for the opposition that names of many of the prime accused were not called in to depose or witness by the chairman of the committee. The chairman, belonging to the ruling party, purposefully and intentionally did not call any of the main accused. For example A. Raja was not called for questioning, Finance minister P. Chidambaram too was execused, so was the Prime Minister Manmohan Singh. The same thing happened with the Bofors JPC when a prime accused like Quattrocchi was allowed to leave the country, and the defense minister and prime minister were neither asked to submit written answers nor to answer oral questions, Bofors Company's top brass were tutored before deposing to JPC. The nature of claims and counterclaims by the government and the opposition were similar in both the JPCs, which brings them together analytically and raises a pertinent question as to discernible patterns. These factors compel one to think about the analytical similarities between the first (1987) and the last (2011) JPCs.

3.1. The Bofors Scam,1987

3.1.1. The Issue

On 17 April 1987, newspapers across India reported an alleged bribe paid by Bofors to some Indian politicians and defense personnel for authorizing the contract for the purchase of Howitzers gun to the Bofors by government of India. This report was based on a broadcast by Swedish National Radio on 16 April. The government's immediate response was to deny the charges 'while reiterating government's categorical denial of this baseless allegation' (LSD, 20 April 1987, p.5). On the same day, the Government of India issued a formal statement saying, 'the news item is false, baseless and mischievous…government's policy is not to permit any clandestine or irregular payments in contracts. Any breach of this policy by anyone will be most severely dealt with. The report is one more link in the chain of denigration and destabilization of our political system. Government and the people are determined to defeat this sinister design with all their might' (LSD, 20 April 1987, 38). However, the allegation by the Swedish broadcaster went a step ahead when it was claimed that they were in possession of some critical evidence which proves their claim. They reiterated that, 'first, we stand by the

allegations that we have made in our earlier announcement. Second, we have the correspondence and the document at our disposal and at the appropriate time we will be prepared to release that' (LSD, 20 April 1987, 38). The government asserted its innocence by delving into the *modus operandi* of the contracting of the defense weapons. The government's argument took recourse to a philosophy paper which contained relevant details relating to advantage of new weapons system and modernization process of defense weapons (Joint Committee to Enquire into Bofors Contract, 1988, p.34) of 1979 prepared by the Indian Army which sought the inclusion by purchasing an advanced artillery system for better prospects during war time. Between the years 1980-1982, the Army evaluated a variety of weapon systems followed by the tentative shortlisting of four manufacturers from across the world. Finally, on the recommendation of Price Negotiating Committee under the chairmanship of the Defense Secretary in May 1985, Bofors of Sweden and SOFMA of France were on the shortlist for consideration. The finalization of the contract between the Indian government and Bofors took place in March 1986. The Defense Minister in his statement on April 20, 1987, claimed that the Indian government categorically denied the involvement of any kind of middleman in the deal, and in return the then Prime Minister Olof Palme and Bofors both assured that 'they did not employ any representative/agent in India for the project. However, for the administrative services, for example hotel bookings, transportation, forwarding of letters, telexes etc. they use the services of a local firm' (LSD, 20 April 1987, p.6). Interestingly, even before the above statement made by the Indian Minister, his counterpart, Carl Johan Aberg, Permanent Under Secretary of State Foreign Trade of the Swedish Government released a statement as early as on April 17, 1987 itself. The statement read: 'The Indian Prime minister Rajiv Gandhi himself during his talks in 1985 with Olof Palme said that one of the preconditions that Bofors should satisfy in connection with the Howitzer contract was that the company should have no middlemen. The deal should be drawn directly between Bofors and Indian Defense Ministry. The company informed the Swedish government representative in autumn 1985 that 'there would be no middlemen involved and they would deal directly with Indian defense ministry' (LSD, 20 April 1987, p.6). The Indian government reiterated its non-acceptance of middlemen/agents in defense deals as a policy measure which must be adhered to under all circumstances.

3.1.2. The Debate

In the debate in the Lok Sabha on the reported allegation of the involvement of middlemen and charges of commission paid to some politicians for the contract of Bofors guns, the Indian government expressed the concern that the whole fiasco was just meant to '*destabilize the political system'*. For the opposition, bringing the factor of forces of destabilization inside and outside who are threatening the integrity of the country was a mere ruse by the ruling party to brush the scam under the carpet. Indrajit Gupta MP said that

> existence of powerful forces which are working to destabilize countries like our' includes all the countries and is a reality in this phase. This is known to everybody, but what are we expected to do when such charges are made against government conduct. We are not expected to raise the questions and to seek from the government a clear announcement, declaration and explanation of all these things, contradicting it or whatever it is? Why should we not do that? What is our job then? If something of this sort appears in the press we are supposed to keep quiet because if we raise questions, the country will get destabilized! I refuse to agree with this theory at all (LSD, 20 April 1987, p.59).

The opposition's prime demand against the evasiveness of the government was that instead of Rajiv Gandhi's fallacy that opposition is 'not making any charges against the government' (LSD, 20 April 1987, p.13), the ministry should hand over 'all the files pertaining to these matters to the speaker' (LSD, 20 April 1987, 15) where the selected leaders of the opposition could be called to look into the files in order to clear their doubts. According to the opposition members, the house as a body would be the ideal place to look into the facts as it is difficult to trust the government's claim regarding the empirical details of the contract as the Houses did not have all the knowledge related to the scams, claims and counter-claims. So, the opposition members alleged that the government was trying to conceal the factual details, terms, and truth of the scam from the Parliament, which gives assent to the demands for grants and passes the defense budget every year.

From the inception of the debate, the defiant opposition left no stone unturned to pressurize the government to constitute a Joint Parliamentary Committee. Past experience showed that whenever there were controversies involving financial loss or procedural lapses, the government constituted either a judicial commission or a specific departmental

committee to investigate the alleged affairs, as in the case of *Fairfax* and the *German Submarine deal* respectively. The objection to the constitution of the departmental committee was that it excludes the rest of the legislature from internal investigation as it includes the executive of the particular department. Similarly, a judicial probe also excludes the legislature from the investigation as it is conducted by the judicial branch. The legislature is directly answerable to the people and is responsible for making the executive accountable to them. However, in inquiries led by executive or judiciary involving the matters of public importance, the legislature finds no say at all, but is restricted to a mere reading and discussion of the final report, whenever it is on the floor of the House.

Therefore, in this allegation, opposition wanted '*a parliamentary probe'* as a way to respect the people's mandate to the parliament. The executive and the government must make themselves accountable to the legislature, if their integrity is subjected to question. The grievance of leaders such as Somnath Chatterjee was that despite such allegations, the government failed to take parliament into confidence (LSD, 20 April 1987, p.24). According to parliamentarians like Madhu Dandavate, the essence and spirit of democratic principles can be guaranteed and maintained in such adversities by making the executive and the government accountable to the legislature where a parliamentary committee should be appointed to enquire into the entire allegation (LSD, 20 April 1987, p.93). One of a prominent parliamentarian of the Indian Congress (Socialist), V. Kishore Chandra was categorically demanding the constitution of parliamentary committee. Chandra rejected the government's rhetoric that when opposition gets carried away by such allegations, the morale of the army gets low and the forces of destabilization get a boost. Chandra's argument was that 'what else can be a bigger destabilization for a country and discouraging for the army than the thousands of crores of rupees being siphoned out into the secret Swiss bank accounts. Is this what is going to keep the morale of the army high? Are these kinds of reports going to increase the feelings of patriotism with the common man and people within the country? So, he asserted that the only way for the government to get out of this kind of mess and clout is by instituting an enquiry or constituting a parliamentary committee and surrender to it (LSD, 20 April 1987, p.95).

Meanwhile, the Swedish Government started an enquiry into the alleged scam by Swedish National Audit Bureau in Sweden which released its report on June 4, 1987. The observation and summary of their investigation of the Bofors accounts reached the conclusion that 'an agreement exists between Bofors concerning the settlement of commission subsequently to the FH 77 deal', and also 'considerable amounts have been paid subsequently to, among others, Bofors previous agents in India'. Further it states that 'the costs of this assistance ("winding up costs") amounted to 2-3 percent of the order sum that is SEK 170-250 million and that the final payment was made during 1986'. Three payments of commission were specified in the media (the Swedish Radio Company, Eko-redaktionen, 16 April 1987). It was reportedly a matter of 'three part-payments made in the middle of November, 1986 of a total of SEK 29.5 million, and a fourth payment of SEK 2.5 million made in December' (LSD, 3 August 1987, pp.376-378). As per secrecy clause, Bank of Sweden cannot reveal the name of those who received the money. As per the defense minister, the Indian government asked Bofors to furnish the

> details of the precise amount which have been paid and the amounts which are due to be paid by Bofors by the way of commission, secret payments etc. in connection with the Indian contracts; the recipient of such amounts, whether they be persons or companies and in case of the latter, their proprietors/presidents/directors and place of incorporation; the services rendered by such persons/companies with reference to which such amounts have been paid; all other facts, circumstances and details relating to these transactions, in their possession (LSD, 3 August 1987, p.379).

Bofors prevaricated and denied any such payments of bribes or the use of middlemen to win the contract and asserted that 'they were forced to terminate long standing international cooperation and to reorganize their marketing organizations to fulfill government of India's requirement that no middlemen shall be involved. However, to terminate their earlier arrangements, *winding up* costs were paid in accordance with normal practice' (LSD, 3 August 1987, p. 380). Strangely enough, these *winding up costs* were equivalent to the amount claimed by Radio and then by Audit bureau report which was almost 3 percent of the total contract given by India to the company.

3.1.3. The Constitution of the JPC

To the utter surprise for the opposition, in a face saving act, the government decided to constitute a parliamentary probe as they could no longer tamper with the enquiry report of the Swedish Audit Bureau which *ipso facto* accepted the illicit transaction of money. The allegation of the scam was not going to fade as easily as previous controversies; the hue and cry around the scam forced the government to announce a parliamentary probe. On July 29, 1987, government acquiesced with the opposition to announce and move a motion for the constitution of a Joint Parliamentary Committee, the very first of its kind in the history of India's parliamentary democracy. Defense Minister K.C. Pant moved the original motion for the constitution of the parliamentary committee as follows:

1. that a joint committee of both the Houses consisting of 21 members, 14 from Lok Sabha and 7 from Rajya Sabha, be elected in accordance with the system of proportional representation by means of a single transferable vote and the voting at such election shall be by secret ballot, to enquire into the following issues arising from the Swedish National Audit Bureau on the Bofors contract:

i. To enquire into and establish the identity of the persons/agencies/firms who received payments of the following amounts:
   a. SEK 170-250 million;
   b. SEK 29.5 million; and
   c. SEK 2.5 million;

   From M/S. Bofors in connection with their contract to supply 155 mm Howitzer guns and associated equipments to India (a referred to in the report of the Swedish national Audit Bureau, received by the Government of India on June 4, 1987)

ii. To inquire into and determine the Indian laws, rules and regulations which were violated by the concerned persons/agencies/firms by receiving the payments referred to in (i) above;

iii. To make suitable recommendations, based on the findings on (i) and (ii) above.

2. That the joint committee shall make a report to this house by the last day of the first week of the next session of parliament.
3. That the rules of procedure of this House relating to the Parliamentary Committee shall apply with such variations and modifications as the speaker may make.
4. That the House recommends to Rajya Sabha that the Rajya Sabha do join the Committee and communicate to this house the names of the members elected from amongst the members of the Rajya Sabha to the committee as mentioned above. (LSD, 29 July 1987, pp.324-326)

The first substitute motion was moved by Somnath Chatterjee, where he suggested that the strength of the committee should be 30 members, 20 from Lok Sabha and 10 from Rajya Sabha. Besides this, there was some amendment in the *terms of reference* in which the proposed committee would look into. Some of the important terms were:

1. To examine the government policy and decisions in relation to purchase and procurement of defense equipment, stores and ancillaries since January, 1980, and procedures laid down, from time to time, for purchase of such equipments and stores in pursuance of General Staff Requirements;

2. that Prof. Madhu Dandavate be appointed Chairman of the committee. The Chairman will have the power to choose a secretary and other members of the staff from among the Lok Sabha/Rajya Sabha in consultation with the secretary-General of the respective Houses.

3. that the quorum of the committee shall be one-third of the total strength of the committee.

4. (a) that the committee shall have power to summon any person including a Minister, for oral examination and call for the production of any document relevant for the purpose of the enquiry.

5. that the Comptroller and Auditor General of India, the Attorney General and all investigating agencies of the Government of India shall render such assistance to the

Committee as may be required by the committee for the purpose of this enquiry (LSD, 3 August 1987, p.385).

Another substitute motion was moved by Janata Dal leader Dinesh Goswami which sought to enquire into the West German submarines allegation and Fairfax along with the Bofors controversy. His crucial points were:

1. That the committee would consist of 15 members from Lok Sabha catering to 8 from ruling party, and 7 from the opposition parties to be nominated by the Speaker in consultation with the Leader of the House and the Leaders if the opposition parties respectively.
2. That following the convention of the Public Accounts Committee, the chairman of the Committee will be from the opposition.
3. The committee shall have the power to ask for the members of Council of Ministers to appear before the Committee.
4. That this House recommends to Rajya Sabha that the House do join the Committee and nominate 7 members to the Committee in accordance with the procedure that the House may decide and communicate the names of the members so nominated to this House (LSD, 3 August 1987, p.387).

Telugu Desam Party leader C. Madhav Reddy too proposed a substitute motion which summarily accepted the amendments moved by both Somnath Chatterjee's 30 members Committees, and Dinesh Goswami's concern to look into submarines allegation. K.P. Unnikrishnan's amendment talked about a 30 members committee, 21 from Lok Sabha and 9 from Rajya Sabha inquiring into the policy and procedures laid down by government since 1980; procedure adopted for the selection of 155 mm HOWITZER system, sub-systems and ammunition and its procurement and details of such bids and proposals, its technical and commercial evaluation including field trials and negotiations and nature of involvement of the governments of manufacturing countries and companies, as on January, 1986 and final mode of selection adopted, conditions imposed or guarantees south from manufacturers/suppliers (LSD, 3 August 1987, pp.390-391). Indrajit Gupta of CPI moved an amendment resonating with that of Dinesh Goswami's amendment advocating for Opposition leader as the chairman and the power to depose

any minister for the purpose of investigation (LSD, 3 August 1987, pp.392-393). C. Janga Reddy of BJP's amendment regarding the membership was similar to the original motion moved by the government; and his amendment regarding terms of reference resonated with K.P. Unnikrishnan of ICS. Reddy too emphasized upon the opposition leader as the chairman of the committee (LSD, 3 August 1987, pp.394-397).

The defense minister while responding to the amendments moved by various parliamentarians focused, to a large extent, on the question of powers conferred on the committee to summon a minister to depose before the committee for questioning and evidence. He argued

> they want that the committee shall have the powers to summon any minister for oral examination…In the USA, the ministers do appear before sub-committees. They have a system in which the ministers are not members of Parliament of either House and they go before the committee but they do not go before Parliament. They are not answerable to the members of parliament. In the Westminster model, on the other hand, the ministers are answerable to parliament. They don't go before the committee. We have adopted this pattern (LSD, 6 August 1987, p.553).

He quoted from Kaul and Shakdhar, 'a general power is given to a Parliamentary Committee by Rule 270 of the Lok Sabha rules which states that a committee shall have power to send for persons, papers and records' (LSD, 3 August 1987, p.554). Further, locating the conditionality, he continued that direction 99(1) of the *directions by the Speaker* specifically mentions that 'a minister shall not be called before the committee (in this instance, it refers to the financial committee) either to give evidence or for consultation in connection with the examination of the estimates or accounts by the committee' (LSD, 6 August 1987, p.554). Hence, the government's position is that as *May's Parliamentary Practices* explains, 'members of the Commons (including, of course, many of the ministers) afterall, a minister is a member of this House are not summoned to a select committee, but can be invited to attend. Only an order of the House itself can require a member to attend a committee' (LSD, 6 August 1987, p.555). So,

> by far a minister is not summoned by committees, but they can go on their own, however keeping in mind the special nature of the committee, the government will be prepared to let the ministers go before the committee if the speaker, after ascertaining the view of the committee…if the speaker after ascertaining the view feels that a minister's appearance is necessary for the inquiry…we have full confidence in the speaker (LSD, 6 August 1987, p.556).

The motion moved by the minister of defense after discussions and amendments, stated:

> That a Joint Committee of both the Houses consisting of 30 members, 20 from Lok Sabha and 10 from Rajya Sabha be elected on the basis of proportional representation to enquire into the issues arising from the report of the Swedish National Audit Bureau relating the Bofor's contract to supply 155 mm Howitzer guns to India. Other alterations were:

1. Whether the procedures laid down for the acquisition of weapons and systems were adhered to in the purchase of the Bofors' gun;
2. Arising out of the inquiry, if there is *prima facie* evidence that Bofors have in addition to above mentioned payments, made any other payments for securing the Indian contracts, the identity of the persons who received such payments shall be ascertained;
3. The speaker shall nominate one of the members of the committee to be its Chairman.
4. That the quorum of the Committee shall be one third of the total strength of the committee.
5. That the CAG of India and the Attorney General of India will provide assistance to the committee, as necessary.
6. That the investigating agencies of the government of India shall render such assistance to the Committee as may be required by it for the purposes of its enquiry.
7. The committee shall have the power to ask for and receive evidences, oral or documentary, from foreign nationals or agencies provided that if any question arises whether the evidence of a person or the production of a document is relevant for the purposes of the Committee, the question shall be referred to the Speaker whose decision shall be final (LSD, 6 August 1987, pp.566-569).

3.1.4. The Conflict

The debate followed by these motions sheds light on the interface between the government and the opposition. Government ignored the importance of the opposition by not consulting them before moving the motion of the terms of reference of the committee. The acerbic attack of the opposition leaders focused on the fact that if they were taken into confidence by the government, then a consensus could be reached which miserably failed. It was argued that the government brought disgrace to the parliament and the democratic spirit of the country. According to Somnath Chatterjee, the terms of reference of this committee were

> a calculated attempt to provide a pretence of a parliamentary probe over serious complaints of corruption and bribery, alleged to be even against the highest level in this country; a inquiry to be made by a Committee predominantly loaded with the members of the ruling party…this motion is a part of a very crude attempt on the part of the government not to reveal what the country should know under the façade of a pretended enquiry and the government knows that it has also cost credibility among the people of this country (LSD, 3 August 1987, p.428).

The anxiety of the opposition not to be the part of the committee in sufficiently proportionate numbers made the entire probe susceptible to the whims and fancies of the majority again. So, the tactical move of the government was to constitute a parliamentary probe consisting almost tentatively of ruling party except for a few others, thereby making it impossible for the entire House to discuss the matter until the Committee tabled its report to the House.

For the opposition, the *terms of reference* in the original motion were intended to bring out nothing more than what was already in the public domain. For instance, *coup d'oeil* to the terms should have made clear how the identity of the recipient of the money i.e., identity of the middlemen would be disclosed. Once Bofors had refused to accept the charges made by Swedish government and the Bank of Sweden was bound by secrecy laws not to reveal the names, what was the use of foreign visit by the sub-committee when they are not empowered by the Parliament? So, to collaborate in the task of cover up would be detrimental for the parliamentary democracy and at the same time inimical to *vox populi*. Hence, the opposition termed it a 'white washing' report, equivalent to committing *political fraud.* Refuting the charges, Bhagwat Jha Azad of Congress defined democracy as 'a responsible opposition trying to hit the government to keep it always on its toes but not to malign the government without sufficient facts and here is an example where we find the gun barrels, though they were the fittest in the world, had been condemned by them' (LSD, 3 August 1987, p.447). In his understanding, the effectiveness and the scrutinizing capacity of the committee depends not on the instrumentalities of the composition but on the rules and procedure which guides the functioning of the committees. Even if there is full conformity with the procedural aspects, substantive aspect may not be adequately achieved. In this case, however, even the procedural aspects were not properly followed. S. Jaipal Reddy of Janata Party rejected the committee in toto as the intention of the government to go for it was suspicious because it suggested that the JPC was meant for white-washing (LSD, 3 August 1987, p.458). However, he urged the opposition to join the probe provided 'reasonable agreement is reached in regard to the composition, terms of references and the special powers bestowed to it' (LSD, 3 August 1987, p.460).

The distinctive feature of a parliamentary committee is that it should represent the entire parliament unlike representing some specific and sectarian interest of some parties. Dinesh Goswami raised some very fundamental questions when he argued that the parliament should clearly mention in the option itself the name of the members of the committee, the powers and jurisdictions to be explicitly mentioned so that it can become precedent in future. One pertinent concern is whether this is an *Ad hoc committee* or an *Ad hoc* with *special powers committee* as it is the first time an investigation would be conducted by the parliament. Also, it was not that the government willingly agreed to the parliamentary probe into the scam, but rather that it capitulated to the opposition's demand, irrespective of other compelling reasons.

3.1.5. The Report: Finding and Recommendations

The Joint Parliamentary Committee was constituted to go into the question of 155 mm Howitzer Guns from Bofors of Sweden. For an enquiry of such a magnitude, the Committee followed the procedure as laid down by motion adopted by Lok Sabha; Rules of Procedure and Conduct of Business in Lok Sabha; and *Directions by the Speaker, Lok Sabha* (Joint Committee to Enquire into Bofors Contract, 1988, p.24). The Joint Parliamentary Committee gave a clean chit to the government. Among its notable observations and conclusions were the following:

> the committee is of the view that it is amply proved that the procedures prescribed for the acquisition of weapons/systems were followed by the Army Headquarters/Ministry of Defense in the purchase of the Bofors gun' (Joint Committee to Enquire into Bofors Contract, 1988, p.47); 'the selection of the most suitable weapon system is based on very meticulous and detailed examination of various offers, that every care and precaution has been taken, including adequate testing in the field trials, to identify the best weapon system for the Indian Army. It is most unfortunate that uninformed criticism had been leveled to insinuate that the Bofors field artillery system was picked up on extraneous considerations' (Joint Committee to Enquire into Bofors Contract, 1988, p.76); 'a total of SEK 319 million were paid by Bofors to their agents in the context of Indian contract as "winding up" costs. Inquiries made in Sweden with the Ministry of Foreign Affairs showed that the Chief District Prosecutor had not been able to find any evidence to show that bribes were paid to any Indian, whether resident or non-resident in India, to win the Indian contract by A.B. Bofors, nor did he find any violation of any Swedish law (Joint Committee to Enquire into Bofors Contract, 1988, p.172)'; 'No extraneous influence or consideration such as kickbacks or bribes as alleged in the media affected at any stage the selection and the evaluation of the gun systems or the commercial negotiations with the competing suppliers'(ibid 190); 'there is no evidence to show that any middlemen were involved in the process of the acquisition of the Bofors gun. There is also no evidence to substantiate the

allegation of commissions or bribes having been paid to anyone' (Joint Committee to Enquire into Bofors Contract, 1988, p.191); also 'mere suspicion as regards existence of middlemen and/or payments of commissions does not constitute sufficient ground for initiating action to terminate the contract with Bofors (Joint Committee to Enquire into Bofors Contract, 1988, p.192).

A deep seated resentment could be seen when the motion was moved demanding the extension of time for the submission of the JPC report in February 26, 1988 against the *modus operandi* of the committee as the opposition questioned the surreptitious motives of government and Congress-dominated JPC. The several charges included the higgledy-piggledy working of the committee as they were unable to restrict the flow of half-baked information which was leaking to the press; the collusion of government and committee when the top Bofors officials visited India which raised the eye brows of the opposition, in the words of Saifuddin Chowdhary, a CPM parliamentarian '[the officials of Bofors and from India] should not have directly met, but directly sent to the committee because the government, its ministries and members of the ruling party were accused in this case… this committee has reduced itself to an appendage of the government' (LSD, 26 February 1988, p.304); then the committee as a custodian of the parliamentary sovereignty and accountability miserably failed to 'take up the main task of investigating who has received the kickbacks' (LSD, 26 February 1988, p.304); In the name of accountability and scrutiny, the committee was busy looking into what was already available in the public domain and followed the already narrow *terms of reference*. Such an attitude of prevarication on the part of the committee was seen as a disgrace to the parliament as an institution and compelled the opposition to oppose the move to give any extension to the JPC.

The discussion on the tabled report of the Joint Parliamentary Committee was more of an outburst of anger on the part of the opposition.

3.1.6. The Cover Up

The conundrums of Bofors scam ended up with no closure whatsoever when it came to delivering justice and fairness. It remained open for interpretation and conspiracy

theories. The scandal rocked entire ruling establishment including the then Prime Minister, Rajiv Gandhi. The charges against the PM and several high profile businessmen and lobbyist were of accepting kickbacks or commission in lieu of a contract given to the Bofors for artillery weapons by the government in 1986. When the JPC completely exonerated all the government officials and the PM himself of any wrongdoing, it was dubbed a cover up. V.P. Singh who emerged as one of the prominent leaders after making the Bofors issue an agenda of day to day politics in the coming election of 1989, succeeded in uprooting the Congress government. V.P. Singh's promise was that he would make sure that the Bofors culprit was put behind bars as soon as possible. A substantial amount of investigation was done between the interregnum 1989-91, V.P. Singh and Chandra Shekhar's government (National Front) which included charge sheets and success in getting Bank's documents from the Swiss government which it had been refusing to give for two years after the scam.

At the beginning of 1990, the CBI filed the charge sheet in the Bofors case which embarked the legal battle after three years of the scam. The accused were S.K. Bhatnagar, former Defence Secretary; Ottavio Quattrocchi, Wheeler-dealer and close friend of Rajiv Gandhi; W.N. Chadha, Bofors agent in India; Martin Ardbo, former president of A.B. Bofors; also the charge-sheet included the name of the Rajiv Gandhi himself as an accused. The three Hinduja brothers were the co-conspirators in the charge sheet. The name of Quattrocchi remained hidden for a long period, in fact for about six years except for his name in the charge sheet of 1990, the concrete evidence came only in 1993. Quattrocchi and his wife Maria Quattrocchi's names became obvious only after the Swiss Government released the names of the appellants who were trying to prevent the Bofors disclosures at the Swiss Courts in 1993. However, the appeal was dismissed by the Swiss Court and led to the 'release and arrival of some 500 pages of the Swiss bank documents and related papers containing explosive information on the recipients and the deep end of the payoffs' (Ram, 1999). Following the charge sheet, his account too was frozen as per CBI directions to the Swiss authorities and was de-frozen only in 2006 mysteriously on Indian government order. Quattrocchi's name was hidden in the entire episode. Prabhu Chawla recalls that

> When the Bofors scandal first broke in 1987, Rajiv's government successfully firewalled Quattrocchi. The official investigation teams were under strict orders to swallow back his name if it ever came to the tips of their tongues. When the Bofors team led by its president, Per Ove Morberg, was summoned to India, officials scrupulously avoided asking any question relating to Quattrocchi. An agreed summary of the discussions—running into more than 15 pages—shows that the Indian team had taken only random shots with questions about unknown or non-existent entities, such as Fresisca Incorporated, Gavaline Shipping, Car Badzel, S. Visca Bost Ltd and such gobbledygook. Besides, the Bofors team was asked if they had made any payments to Walter Vinci and Val de Moro, two relatives of Sonia, or to Amitabh Bachchan, the Hindujas, Rajiv or Sonia. The answer could only be 'no,' because the graft is never stashed into identifiable accounts' (India Today). Quattrocchi's name was hidden because of his links with Rajiv Gandhi as it was obvious that once his name crops up, it would become troublesome for Gandhi's. Another prime accused, Martin Ardbo's diary mentioned that 'Q's involvement was a problem because of his closeness to R'[13] ("The Quattrocchi Connection", March 1996, *India Today*).

The Swiss document received by the CBI depicts that the shell company AE Services which received the money from the Bofors transferred its funds to the account operated by Quattrocchi and his wife. Prabhu Chawla, in his report in *India Today* argued that

> the CBI has a strong case against Quattrocchi. He is the beneficiary-operator of an account which has been traced back to the illegal payments made by Bofors on account of the Indian orders. And the surmise is that it was possible only because of his powerful connections in the PMO. Therefore, in the anti-corruption case, he is a clear abettor in a crime as defined by the law (Chawla, March 1996).

He was residing in India for almost 28 years representing Snamprogetti[14], a state-owned Italian company and had unrestricted access to the prime ministerial residence and PMO.

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[13] The 1987 diary and "daily notes" kept by Ardbo, the Bofors chief executive, offer dark hints about the involvement of Rajiv Gandhi ("R" of Ardbo's handwritten record), Olof Palme ("P"), Arun Nehru ("Nero" and "N"), the Hindujas (referred to variously as "Hanssons", "G.P.H.", "H", and "S.P.,G.P.", Ottavio Quattrocchi ("Q"), Bob Wilson ("Bob") and others involved in the affair.

[14] Snamprogetti licensed the technology for fertilizers plants worldwide, supplied certain proprietary equipment and executed engineering, procurement and construction contracts. A series of Indian fertilizer projects were executed by the same company during Quattrocchi's tenure. These include the Indian Farmers Fertilizer Cooperative (IFFCO) Phulpur; four plants of KRIBHCO at Hazira; and the Trombay V and the Thal Vaishet plants of Rashtriya Chemicals and Fertilizers Limited. These were awarded during Indira Gandhi's tenure of prime ministership. However, Haldor-Topsoe, a Danish firm, was originally selected to set up the Hazira plant, but the contract went to the former. Even in the case of Howizter system, SOFMA and BOFORS were the final competitor and SOFMA had advantages in many fields including financial considerations, but somehow, Bofors won the contract eventually. N. Ram gave a convincing answer to the question as to why and How Bofors was given the contract. According to him, 'Since they knew no way to make Army Headquarters budge from its preference for the French gun, they patiently waited it out, notwithstanding the supposed urgency of the Army's strategic requirements. When

He was considered to be a confidant of Rajiv Gandhi and Sonia Gandhi. His clout was legendary. Sudha Mahalingam (1999), a Journalist and Energy Consultant, has written that

> Some of those who were in senior positions in the bureaucracy during Rajiv Gandhi's premiership say that he dropped names unabashedly, walked into Ministers' and Secretaries' offices without prior appointment, and at times even waited outside the venue of Cabinet meetings just in case his presence was needed to clarify a point or make a presentation. Senior bureaucrats who served during the 1980s remember sighting him in the company of Ministers and top bureaucrats. Quattrocchi was generous to those who promoted the interests of his company and vindictive towards those who did not, they say ("The 'Q' Connection", 13 November 1999, *Frontline*).

Following the charge sheet, he left India in July 1993 to avoid arrest and never came back again until his death in 2013. As stated in the chapter elsewhere that Sonia Gandhi made sure that the Narasimha Rao as PM after 1991, do not go hard on the Bofors issue gets reflected in the episode that the CBI, under the charge of Narasimha Rao, avoided seeking his extradition from Malaysia. Repeatedly, he was again held in Argentina in 2007, but the Congress government again failed to extradite him.

Quattrocchi died in 2013. In 2011, a Tis Hazari Court discharged him from the payoff case, ending the Bofors scandal. The magistrate noted that the CBI, even after 21 years of investigation, had failed to put forward legally sustainable evidence regarding conspiracy in the matter. Also, the court highlighted that 'as against the alleged kickbacks of Rs. 64 crore, the CBI had by 2005 already spent around Rs. 250 crore on the investigation, which is a sheer wastage of public money'[15] ("Major Chapter Closed in Bofors case," Kattakayam, 2011)

General A.S. Vaidya's retirement neared and even before General K. Sundarji formally took over as Army chief, they moved swiftly to clinch the decision for Bofors. With Army Headquarters reversing in February 1986 a succession of earlier professional judgments that had gone against Bofors, the stages of final decision-making were telescoped and rushed through, resulting in the formalisation of the choice of Bofors on March 24, 1986. The CBI charge-sheet reveals, among other things, that after the Negotiating Committee recommended, on March 12, the issuance of a Letter of Intent to Bofors, the file was approved by five officials and three Ministers on March 13 and finally approved by Rajiv Gandhi on March 14.'

[15] http://www.thehindu.com/news/national/Major-chapter-closed-in-Bofors-case-Delhi-court-discharges-Quattrocchi/article14934244.ece

3.2. The 2G Spectrum Scam, 2011

3.2.1. The Issue

Spectrum is considered to be a national asset and is limited, so it has to be rationed out sensibly, justly and appropriately. The New Telecom Policy of 1999 was used to exploit public money and favour some particular companies. However, the telecom sector remained messy when, in 2001, the new telecom policy was implemented allegedly giving undue advantage to selected operators. Since different companies are seen to be favored by different governments, on the same pattern in 2007 some of the companies favored by A.Raja, the then Telecom Minister, were given 2G Spectrum and telecom licenses through illegal means and Raja had to ensure that they got both the benefits by abusing the allocation procedures.

The process of the allotment of 2G Spectrum for Telecom along with Universal Access Service (UAS) Licenses was initiated by the Department of Telecommunications (DoT) in August 2007. On 25 September 2007, an advertisement was put out, inviting applications latest by 1 October 2007, by which date the DoT received 575 applications for UAS licenses by 46 companies. In the first week of November, the PM Dr. Man Mohan Singh wrote to Raja directing him to ensure that the auction of 2G Spectrum is done in a fair and transparent manner and also to keep revenue requirements of the country in mind. PM's direction was ignored by Raja while the allocation. He reverted back to the PM that since 2G spectrum allocation is based on First-cum-First-serve basis and at the fixed price of Rs. 1659 crore, as per the 2001 rule, it would be unfair for new entrants if the auction method is adopted for it. Suddenly, on 10 January 2008, DoT decided to issue licenses on a First-come-First-serve basis and that too, advancing the cut-off date by a week from the original deadline, i.e., whosoever had applied on 25 September, 2007, the very first day of the advertisement, would be eligible. On the same day, 10 January 2008, DoT posted an announcement on its website around 2:30 pm, saying that those who applied between 3:30- 4:30 pm on the same day, would be issued

licenses in accordance with the said policy. Swan Telecom, Unitech, Tata and other six companies rushed with Demand Drafts of Rs.1659 crore each to buy the licenses. Many of the companies were not telecom companies but real estate companies such as Swan (later sold to Etisalat) and Unitech (sold to Telenor) who later sold the same spectrum at 7 times the price they bought it from government. Tata partially sold its spectrum to Docomo at 13 times the price at which they bought it from the government, leading to a huge loss of revenue to government, which would have earned much more if it had directly sold the spectrum to the telecom companies. Government effectively allocated 2G spectrum at throwaway prices.

2G spectrum was sold on the basis of first-cum-first-serve at the price fixed way back in 2001 when the then NDA government, arguably in order to boost the telecom sector and use of information technology, had adopted methods and offers like allocation of spectrum of FCFS, one time entry fee and license fee as a percentage of gross revenue under license (Joint Parliamentary Committee Report to Examine Matters Relating to Allocation and Pricing of Telecom Licences and Spectrum, 2013, p.25). However, there had been gradual change in the telecom policies with time, such as Universal Access Service combining both GSM and CDMA services in the same spectrum. For example, under New Telecom Policy of 1999, the fixed license fee regime (of NTP 1994) was changed to a revenue sharing regime. The motive was that the spectrum should be utilized efficiently, economically, rationally and optimally.

The midterm appraisal of the Tenth Five Year Plan observed that 'spectrum is the scarcest of resources…the spectrum availability needs to be adequately increased by both more efficient utilization by the existing operators and services and by release of spare spectrum by modernization and up gradation of equipment' (Joint Parliamentary Committee Report to Examine Matters Relating to Allocation and Pricing of Telecom Licences and Spectrum, 2013, p.130). In January 2008, the then additional secretary (Economic Affairs) of Finance Ministry sent a note to the Prime Minister stating that the 'spectrum is a scarce resource. The price for spectrum should be based on its scarcity value and efficiency of usage. The most transparent method of allocating spectrum would

be through auction. The method of auction would face the least legal challenge' (Joint Parliamentary Committee Report to Examine Matters Relating to Allocation and Pricing of Telecom Licences and Spectrum, 2013, p.174).

On May 2009, a complaint was made by the NGO Telecom Watchdog to the Chief Vigilance Commissioner regarding the illegalities in the 2G Spectrum followed by another complaint by Arun Agarwal highlighting the gross collusion between Swan, Uninor etc. with the government in selling the spectrum at throwaway prices. The CVC directed the CBI to investigate the corruption in allocation of 2G spectrum. The Delhi High Court holds illegal the change of cut-off date on 1 July 2009. In October 2009, CBI registered a case under the Prevention of Corruption Act against unknown officers of the DoT and companies. Meanwhile, on 31 March 2010, the draft report of the Comptroller and Auditor-General (CAG) noted that the whole process of issuance of licenses lacked fairness and transparency. In November 2010, the CAG report on 2G Spectrum to government observed that it resulted huge loss (presumptive) of public exchequer, roughly rounding up to 1.76 lakhs crore. By the end of 2010, Raja had to resign. The Supreme Court came down heavily on him for ignoring the PM's advice, and asked the centre to consider setting up a special court to try the 2G Spectrum scam case. On 14 March 2011, the Delhi High Court set up a special court to deal exclusively with 2G cases. However, estimates of the presumptive loss to the exchequer vary from Rs 65,000 crores to 1.76 Lakhs crore by government auditors, at the rate on the basis of 3G auction, and sale of equity by the new license holders like Unitech and Swan to other companies like Telenor and Etisalat. Telecom Minister Minister A. Raja, former telecom minister Dayanidhi Maran, Member of Parliament Kanimozi, Swan Telecom Promoter Shahid Balwa, Bollywood producer Karim Morani, Kalaignar TV Managing Director Sharad Kumar, Director of Kusegaon Fruits and Vegetables Pvt Ltd Rajeev Agrawal, and several others were named in CBI chargesheet prepared under the monitoring of the Supreme Court. The Court, in April 2017, had ended the trial, hearing has been done and the judgment is expected in July 2017.

3.2.2. The Debate

In February 2012, the Supreme Court ordered the scrapping of 122 telecom licences issued to nine companies in 2008 and ordered its auction as per the open market rate. Meanwhile, the Public Accounts Committee under the chairmanship of veteran BJP leader Murli Manohar Joshi, started looking into the whole matter. The opposition started demanding a Joint Parliamentary probe in the winter session of 2010-2011. The government turned hostile to the PAC inquiry and the draft report was rejected by the then Speaker of the Lok Sabha. Later, the PAC report for the first time had to be decided by the majority voting in its meeting led to rejection of the report as the opposition got defeated in the voting. The demand for JPC turned vigorous and stalled the entire winter session leading disruptions.

The rationale for the demand for a JPC was very straight forward. First, the amount involved in the scam was so huge that it had shaken the entire country and the trust of the people in their government had corroded, so it was seen as the responsibility and the duty of their representatives and legislators to restore this trust. Hence, the parliament demanded a JPC consisting of MPs from different parties to scrutinize the executive. Secondly, it is unprecedented for the Supreme Court to ask the CBI to submit the charge sheet to the court before filing it. It was a breach of separation of powers, where the judiciary was intervening in the work of executive, and this could become possible only, as opposition members like Sushma Swaraj and Arun Jaitley argued, due to the weakening of the government. The perception of the people was that their elected representatives are not concerned about anything; hence judiciary had to become overactive. So, in order to boost the strength of legislature, the JPC must act as a tool to make government accountable to the people via the parliament. The concern was that the judiciary would remain vigilant so long as the legislature continues to be in slumber. Hence the demand to make the legislature effective by allowing it to probe into the policy glitches, loopholes and abuse of authority by the minister.

3.2.3. The Constitution of the JPC

The incommensurability between the government and the opposition could not be reconciled through the whole winter session and even in various official/unofficial meetings called by the Speaker or in the all party meeting organised outside the floor of the House. It appeared that it would not be possible to conduct the budget session in harmony unless government succumbed to the demand for a JPC. So, at last, government moved the motion for a JPC on 24 February 2011 in Lok Sabha. The terms of reference of the JPC were mainly concerned with

> examining the policy prescriptions and their interpretation thereafter by successive governments, including decisions of the Union Cabinet and the consequences thereof, in the allocation and pricing of telecom licenses and spectrum from 1998 to 2009; to examine the irregularities and aberrations, if any, and the consequences thereof in the implementation of government decisions and policy prescriptions from 1998-2009; and to make recommendations to ensure formulations of appropriate procedures for implementation of laid down policy in the allocation and pricing of telecom licenses (LSD, 24 February 2011).

Congressman P.C. Chacko was the chairman of the 30-member committee. The witnesses were former secretaries of the ministry of Communications and IT (Department of Telecommunications) like Nripendra Mishra, P.J. Thomas, D.S. Mathur, Shyamlal Ghosh, Siddartha Behura, Brijesh Kumar, Anil Kumar; former chairmen of TRAI, Justice S.S. Sodhi, Pradip Baijal, Nripendra Mishra, M.S. Verma; other witnesses were D. Subbarao and the written replies were submitted by A. Raja, Vinod Mehta (Editorial Chairman, Outlook Magazine) and Manju Madhavan (Former member, Telecom Commission). The committee did not call Raja for oral examination even once.

The entire focus of the JPC was to prove that the allocation of 2008 was done according to the rules setup by the previous NDA government. It was sought to be argued that there was nothing wrong in that, as they had just followed the already existing rules regarding 2G spectrum allocation. In 2007-08, the telecommunication sector was at its boom, the market was replete with service providers, and there was no dearth of competition in the market. Practically, it should have been auctioned just like 3G spectrum was done. But the government misused the existing rule, which was meant to be amended periodically,

to allocate the 2G Spectrum to the selected few favored companies. The nexus between the Minister of Telecom and the companies like Swan and Unitech exploited the old rules in their mutual favour by not auctioning the spectrum in open and transparent ways. The committee simply indicted the then minister A. Raja for keeping the PM in the dark and colluding with private companies.

3.2.4. The Report: Finding and Recommendations

The report exonerated the government of any wrongdoing in the auctioning of the 2G Spectrum and telecom licenses at 2001 rate on First Come First Serve basis. However, the report noted that '85 licences out of 122 licences issued to 13 companies in 2008, did not satisfy the eligibility conditions prescribed by the Department of Telecommunication' (Joint Parliamentary Committee Report to Examine Matters Relating to Allocation and Pricing of Telecom Licences and Spectrum, 2013, p.175). The committee rejected the presumptive amount loss theory of CAG and stated that the 'notional loss of revenue to the exchequer calculated by CAG is not tenable' (Joint Parliamentary Committee Report to Examine Matters Relating to Allocation and Pricing of Telecom Licences and Spectrum, 2013, p.177). The report further, observed that the 2G Spectrum scam had created an environment where huge loss figures calculated on the basis of auction will prove to be unrealistic and the calculation of 'presumptive' loss in the context of allocation of licenses and spectrum in a CAG report is misleading (Joint Parliamentary Committee Report to Examine Matters Relating to Allocation and Pricing of Telecom Licences and Spectrum, 2013, p.179).

The report emphasized that the government should decisively respond to the recommendations of TRAI within a specific time frame. Also, the report stressed on the need of mechanism so that the Licensor or the Regulator could be ensured optimal utilization of the spectrum by the service providers. It is important to mention that the report neither agreed with the CAG calculation, nor provided its own calculation. In fact, the report stuck to the fact that the government rightly followed the 2001 rule so, there were no wrong doing at all.

3.3. JPCs and the Political Process

This chapter looks into the politics of the interaction between Joint Parliamentary Committees and Indian Parliament. It also emphasizes the significance of politics inside and outside of the legislature and executive which had important impact on the functioning, its success and failure of the JPCs. The overarching impression of all the two JPCs so far, in India bear the burden that either it was a step to cover up and whitewash, to safeguard the ruling echelon of the politics or it miserably failed as their recommendations, conclusions and suggestions were not taken into consideration seriously.

There are two different ways to approach this phenomenon. The first is the allegation that the constitution, as well as the functioning of the JPCs themselves, were a part of a cover-up operation and manipulative in nature, for example, Bofors (1987) and 2G Spectrum (2010-11) JPCs, for some commentators such as Sucheta Dalal even 1992 JPC was meant for cover up only. The second aspect has to do with the fact that the constitution and functioning of the JPCs were honest initiatives on government parts, but they failed to take into action their reports in detail, the obvious examples are 1992, 2001, and 2003 JPCs. This chapter looks into the first approach and the next chapter will focus on the other approach.

Some of the basic questions raised in this chapter are, is it the reports of the JPCs which suggest a cover up, when seen against media questions and investigations? How does one know about the intentions behind the constitution as well as the functioning of the JPCs? Are there any parameters? If yes, would it suffice to argue that the way the ruling parties have treated JPCs and government give us any clue about this? Can Parliamentary Debates and discussions tell us about the seriousness with which any government takes JPCs into account? Or does it give any concrete assurance that if the Chairman of the JPCs belongs to Opposition benches, it will work successfully? Or, are all the above questions and their answers shaped by the politics and the processes that one gathers from the political debate?

The chairman of the JPC on Bofors (1987), B. Shankaranand, a confidant of the then Prime Minister Rajiv Gandhi against whom the allegations were made of accepting bribes and kickbacks, gave a clean chit to all the agencies and persons associated with Indian Government and to Rajiv Gandhi despite several doubts and suspicions about the dubious activities by contracting companies and statements by persons involved in the deal. Quite interestingly, the same man, B. Shankaranand got implicated by the JPC in the 1992 Banking Irregularities Scam and was forced to resign in 1994. Perhaps, JPC was the last attempt to conceal as it was holistically based on evidence collection and their investigation, deposition by witnesses, and the evaluation based on the technical, financial and commercial aspects. The response of the Bofors company was convolutedly misleading or evasive most of the times in ways such as evading the essential questions or doubts by using clauses such as ‘confidentiality clause', or ‘winding up cost' which was exactly equivalent to 3 percent of the total contract (this 3 percent amount was supposedly the commission paid by company to the middle man). When the committee asked to know the details, the response was that ‘on the ground of commercial confidentiality, Bofors have not furnished full details of the persons to whom winding up costs were paid’ (Joint Committee to Enquire into Bofors Contract, 1988, p.191). Similarly, Bofors ‘expressed inability to provide copies of their initial as well as the termination agreements with the three companies to whom winding up costs were paid, on the plea of commercial secrecy’ (Joint Committee to Enquire into Bofors Contract, 1988, p.191). The logic behind giving clean chit to each under suspicion by the JPC was based on the reasoning that, firstly, according to the report submitted by the Swedish National Audit Bureau, it claims that there was an agreement between Bofors and some individuals whose name cannot be revealed by the agency due to secrecy clause ‘çoncering settlement of the commission’ (Joint Committee to Enquire into Bofors Contract, 1988, p.196); and also considerable amount have been paid subsequently, so the JPC can't act on blind when the names of the beneficiary is not known. Secondly, as per both Indian as well as Swedish agencies, all the three firms involved in the transaction of so-called winding-up charges have neither been domiciled in India (Joint Committee to Enquire into Bofors Contract, 1988, p.174) nor in Sweden, barring them from any legal accountability and scrutiny under Swedish or Indian law.

The effort is to convey two simple points, the first one is even if something illegal or quasi-legal has been done while giving the contract, the illegality cannot be brought into effect as per the Indian Law because the firms are not registered inside the territory of India. Secondly, the conjecture of Indian investigative agencies that the winding up cost may be a pseudonym for the commission cannot be verified as those who received the money from the Bofors company in Sweden, and their names cannot be made public by Swedish government and the transacting Banks following the secrecy clause. So, paralysing the Indian agencies in both the ways as it has not enough material or evidence to rely on during the investigation. The JPC was stuck between this classic bureaucratic paradox. What stopped, procedurally, at least, this JPC was not the width and breadth of possibility to the extent it can go into deeper, but the limitations and questions regarding the domain of legality and illegality, even if one negates the possibility of any politics here.

At this crucial juncture, the intersection as well as the interplay of legality and illegality where the role of politics, political processes becomes pivotal in defining the stretch of the domain. To focus explicitly, the controversy had such immense potential that it just ravaged and withered the Congress Party in the 1989 polls completely from the unprecedented tally of 413 in 1984 Lok Sabha election. It never stopped haunting Sonia Gandhi and Congress, as is vividly clear in Vinay Sitapati's biography of Narasimha Rao, who says that Sonia Gandhi was specifically interested to see, even after the assassination of Rajiv Gandhi, that under the Prime Ministership of Rao, Bofors case does not come to haunt again, in a way, slowing down the pace of inquiry by the CBI. Interestingly, the JPC ceased to exist on April 26, 1988, once it submitted its report to the Parliament. The report found no one guilty of any misconduct, be it policy oriented or procedural. One of the paramount goals of Terms of Reference of the JPC is to look into the policy level loopholes and limitations, whether it was policy or processes which led to such irregularities. The report found nothing wrong in policy level inquiry either. It is evident that any Parliamentary Committee cannot look into the criminal aspects of the matter, nor can efficiently peep into the financial irregularities, the suitable body to look into these issues are CBI, Central Vigilance Commission (CVC), Enforcement Directorate (ED), CAG.

The very limited terms of reference of this JPC was ‘to ascertain the identity of the persons who received, and the purpose for which they received payments’ (Joint Committee to Enquire into Bofors Contract, 1988, p.22) as revealed in the Swedish report seems impaired since the beginning as it was already clear that Swedish government was not giving any names nor the Banks, so the only source who would have been provided with the names were the Bofors company itself. Opposition Parties suggested that the Indian government must cancel all contracts with Bofors unless it gives us the names, but such steps were never taken into consideration. The President of A.B. Bofors, Per Ove Morberg who deposed as witness to the committee first met Rajiv Gandhi, Aladi Aruna in his Dissent note writes,

> before being produced before us [in hustled manner], the witnesses [Per Morberg & Lars Gothlin, Chief Jurist and Senior Vice President of Bofors] for three days had been closeted with the officials of the Defence Ministry and the Prime Minister's Secretariat. When they finally came, it seems that the line they were to take could have been settled before they came before us (Joint Committee to Enquire into Bofors Contract, 1988, p.217).

Once it was known that the money has not paid in India, nor to any company registered in India, the identity cannot be ascertained unless the committee takes any harsh, bold and compelling steps to do so. This is what happened exactly when either committee or the Parliament or the government failed to stand tough in front of Bofors or Swedish government.

However, Aladi Aruna's dissent note was the final nail in the working and success of the JPC, raising substantive as well as procedural questions. The beginning of the crisis of the working of the JPC started on the day it was constituted in the Lok Sabha, i.e., on 6 August 1987. Though there were debates which were addressed in the first chapter while the motion was on the table for discussion, once it was passed in the Lok Sabha, the same day 18 opposition groups ranging from minuscule, small to big opposition parties issued a joint statement in both the Houses that they have decided to boycott the JPC claiming ‘they had given serious consideration to various aspects of the committee’ (“Opposition boycotts ‘futile' Probe”, 7 August 1987). The signatories were Telugu Desam Party, CPM, Janata Party, Akali Dal (L), CPI, Asom Gana Parishad (AGP), BJP, Congress (S), Lok Dal (B), Lok Dal (A), RSP, Forward Bloc, DMK, Peasants and Workers Party of

India (PWP), Sikkim Sangram Parishad, Janata (G), and Kangar Aghadi, the report mentions. The electoral apocalypse of the entire opposition following the killing of Indira Gandhi in 1984 made Congress unaware of the consequences that the oppositions were trying to bring to the masses in post-Bofors scam phase. The Congress tried to tackle the matter at the level of policy and procedural framework, i.e., if Congress succeeded in making an impression that they are 'legally' and procedurally 'upright' and nothing wrong has been done, people will be satisfied and convinced. However, these politics failed miserably once the questions raised by opponents were not settled properly or addressed adequately and issue of corruption became the principal agenda in the general election led by V.P. Singh.

The inherent vulnerability with any committee has to do with the fact that if it holds too much powers and autonomy, the government wants to keep it under its hold so that it can be tamed at times; or if government want to show itself as transparent and balanced by giving various influencing chairs to the opposition members, then it becomes inevitable that the same committee does not have too much influence on the executive or legislature by means of written rules and powers. It is in this context the tussle between Public Accounts Committee (PAC) and the government can be seen following 2G Spectrum scam. The PAC under the chairmanship of Murli Manohar Joshi left no stone unturned to compel the government to be held accountable to the auction leading to humongous loss to the public exchequer. It did not have the power to call any minister. The government refused to accept report and subsequently rejected by voting, which happened for the first time in the PAC. The JPC met its destiny unlike any of the previous JPCs; even Bofors relatively scored better than this. All opposition members gave their dissent note. The BJP alleged that the chairman of the committee, P C Chacko, altered the dissent note paragraph by paragraph, before attaching them to the report. No significant recommendations were made about policy changes, or any suggestions regarding the recovery of gone exchequer. JPC cleared both PM and the then Finance Minister, P Chidambaram by putting all the blame on A Raja. Even while chairing the JPC, P C Chacko accepted the post of Congress Spokesperson. Earlier, all the opposition except Samajwadi Party and BSP, rejected the findings and demanded the dismissal of the chairman, but, later two members of the JD(U) were absent during final voting on the

report in the JPC, which helped them to secure the majority. The JPC left no stone unturned to bully the then Comptroller and Auditor-General Vinod Rai. One of the Journalists, J Gopikrishnan, keenly following this scam since very beginning argues that when Opposition MPs demanded the summoning of P. Chidambaram. JPC went for a vote, knowing it had a majority. According to the judgment of 2G Special Court, Chidambaram and Raja were parties to the two decisions, first, fixing the price of the Spectrum at dirt cheap price, and second, offloading of shares of tainted companies to multinationals at exorbitant prices' ("First the Scam, Then the Sham", 17 October 2013, The Pioneer). However, the Court did not find conclusive evidence for making Chidambaram a party to the criminal act. It was ultimately Supreme Court which cancelled all the 122 licences and directed the government to issue a fresh notice inviting auctions for the spectrum to recover the money. JPC was just the result of disruption of the whole winter session of the House in 2010. Since the government cannot take the budget session for granted, so it agreed to constitute the JPC. The JPC itself indeed in a partisan manner did not call in A.Raja to depose though it was his minister ship that the entire process of auctioning was done, and the PM's advice was bypassed. It was an archaic policy which gave enormous benefit to certain Industrial Houses in India.

Concluding Remark

All the constituent units of the political system were guided by two objectives, firstly, the opposition didn't let the flame of the scam die before the general election of 1987 or 2014; and secondly, ruling party wanted to bury the entire scam by manipulating the committee, agencies, etc. before both the general election. The nexus between politicians and industrial houses remain bereft of any political accountability and beyond any policy change or improvement that were raised during the Banking and Securities transaction scam or the Stock Market scam.

4
The Politics of Consensus on JPCs: Lessons for Parliament

The issues under investigation in the JPCs of 1992, 2001 and 2003 have to do with either failure of regulatory bodies or the absence of regulatory bodies (in the pesticides residues in soft drinks case, there was no fixed standard by any regulatory authority). The government was not in a position to ignore either the Banking Transactions fraud of 1992 or the Stock Market Scam in 2001 because the pace at which the Indian economy was transforming under the neoliberal market reforms, if government had shown a lacklustre attitude, it could hurt the broader goal of market revamping. The irregularities in the banking sector, public sector industries' securities and stock market manipulation needed to be addressed promptly, otherwise market reform and the stock market would collapse leading to detrimental situations. So, more than any political compulsion, it was the economic compulsion which needed to be tackled in a bipartisan manner.

The opposition and the ruling parties came together to get rid of such irregularities leading to huge loss of money. However, opposition left no stone unturned in projecting that government had not been as effective as it should have been in order to control financial irregularities and the regulators. It was politician-corporate nexus leading to irregularities and scams in both 1993 and 2001. In 1993, the BJP accused Congress of such a nexus, and in 2001, the Congress accused BJP of such a nexus. But, a broader consensus was there that such tendencies should be curbed by strengthening regulatory bodies like SEBI, TRAI, etc. The unholy nexus among bankers, corporate, government officials from public sector and banks, stock brokers, lobbyist and politicians was addressed to a small extent. Cases were registered, though investigations by the police, CBI, ED, and IT remained dismal and unsatisfactory. The phenomena of recurring financial frauds and scams led to a consensus inside the JPCs as it was inimical to the economic environment of the country. There was space for a common minimum

understanding among all the parties in the parliament which paved the way for a bipartisan model of problem solving.

While the questions can be raised on the real determination of a government and parliament in dealing with cases effectively, there were several instances where consensus across the party line could be witnessed. For example, Ram Niwas Mirdha of the Congress, heading the 1992 JPC, was critical of his own government; similarly, Prakash Mani Tripathi of BJP heading 2001 JPC indicted his own government's Ministry of irresponsible and unaccountable actions. The government blamed regulatory agency SEBI for irregularities.

The JPC (2003) on the issue of pesticide residues in soft drinks enjoyed consensus and bipartisanship across the inquiry and report submission. These three JPCs (1992, 2001, 2003) enjoyed a commonality regarding consensus building inside the committee. These were issues where constituents, people and their trust in institutions, were at the receiving end. They were primarily middle-class consumers, stock buyers, insurance holders, and bank customers. The liquidation of Bank of Karad, bail out of Madhavpura Cooperative Bank, disbanding UTI's US-64 scheme, Canara Bank's loss, National Housing Bank's loss were some of the entities which were in direct business with the people. There was no other interface between the banks and citizen as client or consumer. So, this makes imperative for government and parliament that standards, strategies and roadmap to take on these issues needed to be different than those for the Bofors and the 2G spectrum scams.

4.1. The Harshad Mehta Scam, 1992

4.1.1. The Issue

On April 23, 1992, the *Times of India* reported that the State Bank of India had asked the Big Bull[16] (Harshad Mehta) to square up Rs 500 crores of irregularities. This created

[16] Those who buy shares, and Harshad Mehta earned the title Big Bull due to his strategy to aggressively buy the shares of companies like Apollo and ACC.

mayhem in the stock market which soon reached the Parliament. Following this, the *Indian Express* (IE) on 30 April, 1992 reported that the UCO Bank allowed Harshad Mehta to use Rs 50.37 crores by discounting its bills. A series of revelations followed, one after another. For instance, on May 6, 1992, the IE reported that the National Housing Bank, a subsidiary of the Reserve Bank of India had given money to Harshad Mehta to help him pay his outstanding with the SBI. The total amounts of transactions for which the banks and financial institutions involved do not have security backing were roughly estimated at about Rs. 3542 crores. The transactions had been in 'flagrant and deliberate violation of the established rules and guidelines. There was a serious failure of internal control systems in the banks involved' (LSD, 8 July 1992, p.577). Mehta used to take huge amounts of money from the banks which he invested in the stock market on a large scale, keeping public money insecure all the time.

The banks involved in the illegal transactions were UCO bank, Standard Chartered, Bank of Madura, Bank of Karad, Bank of Saurashtra, ANZ Grindlays Bank and other financial institutions such as Canbank financial services and Fairgrowth. He also used the securities transactions of some public sector companies like ONGC, UTI. There was a manifest collusion of bank officials, stock brokers and other bankers who swapped large amount of money without any security from banks to stock market and were involved in the fraud. Sucheta Dalal (2016) describes it as, 'one of the biggest Indian financial scandal…it ravaged the stock markets, shook people's faith in banks, tainted the reputation of foreign banks and India's best-known bank, SBI' (p. xxii). The government tried to get rid of the whole irregularities by terming it a 'systemic failure' because Indian economy was not yet accustomed to the way share market has transformed itself in recent years after the advent of New Economic Policy and open market system.

4.1.2. The Constitution of the JPC

The debate on the issue sparked in Lok Sabha on April 30, 1992 where three fundamental questions (LSD, 30 April 1992, p. 460) were raised, related to the fluctuations 'in the behavior of the Stock Market in the recent months', 'the need to protect the small

investors', and 'the concern about certain malpractices which have been noticed in the financing of transactions relating to Government Securities' (LSD, 30 April 1992, p.460). The Finance Minister accepted the fact that 'excessive speculation in the stock markets' was the burning issue where it was financed by bank funds (LSD, 30 April 1992, p. 463). The statement also said that 'when the State Bank of India came to know about the discrepancies in its securities accounts and the ledgers , it took appropriate action and they recovered Rs. 622 Crores from this particular broker' (LSD, 30 April 1992, p. 463). The Finance Minister in his very first statement on May 4, 1992 in the Rajya Sabha highlighted the lacunae that stock market was suffering from. These were: a.) capital adequacy norms for brokers; b.) uniform trading hours; c.) faster clearance and settlement of transactions; d.) increasing corporate membership; e.) checking insider trading and pride rigging (RSD, 4 May 1992, pp. 247-248). Further, he emphasized the fact that 'there is no doubt that there has been a system failure. There are shortcomings in the working of our banking system, in the working of our financial system' (RSD, 4 May 1992, p.292).Responding to Finance Minister, Suresh Kalmadi argued that 'as per the statement there is a prima facie case that something has happened in the State Bank of India. An inquiry on this is going on. But till the inquiry is going on, will the top officials of the SBI be suspended? Otherwise there will be no free inquiry at all' (RSD, 4 May 1992, p.293). However, Saurin Bhattacharya of the Rajya Sabha countered the government's claim of systemic failure by saying that 'it is not a question of system failure, but a question of deliberate overlooking of the responsibility for supervising things' (RSD, 14 July 1992, p.359) which later even JPC report mentions explicitly. On July 8, 1992 Finance Minister Manmohan Singh in his official statement acknowledged that

> RBI had appointed a Committee under Deputy Governor R. Janakiraman to inquire into the matter. The Committee submitted an interim report on June 1, 1992 and a second report on July 6, 1992…The findings of the Committee confirm that unscrupulous brokers, in collusion with certain banks officials have manipulated securities transactions of banks and other financial institutions for their own purposes in a variety of ways and in clear violation of the established rules, guidelines and prudent business practices (LSD, 8 July 1992, p.576).

The demand for the constitution of a Joint Parliamentary Committee to look into the fraudulent malpractices by the Opposition was actively backed by former Prime

Ministers V P Singh and Chandra Shekhar as they were not satisfied with government's statement. Prime Minister P.V. Narasimha Rao acknowledged the fact that

> The events that have unfolded in the last few months in the financial sector of the country have caused grave anxiety to me and the country at large. The ramifications of this matter have to be thoroughly probed and effective measures taken so that the basic integrity of the financial institutions of the country is not jeopardized and the new economic initiatives taken by the government to strengthen and accelerate the economic growth are in no way inhibited (RSD, 9 July 1992, p.206).

On the relentless demand and agitation of the Opposition, Prime Minister, P.V. Narasimha Rao himself made a statement on the following day (July 9) where he urged the Speaker to proceed with the formation of a Joint Parliamentary Committee in consultation with all political parties. On July 31, 1992, Shanker Singh Vaghela raised some pertinent questions regarding the power play and political situated-ness of various parties in the Parliament. So, the paramount task of the government should be to 'make an announcement in advance' (LSD, 31 July 1992, p.401) regarding the constitution of the Parliamentary Committee. Also, the chairman of the committee must be from opposition and opposition means 'from those parties who are not supporting the government' *(*LSD, 31 July 1992, p.401). For V.P. Singh the motive behind the formation of JPC was to 'reach the bottom of the truth and also as to what measures should we take in future that such things do not happen' (LSD, 3 August 1992, p.600). The autopsy of the scam must be done in time-bound period by different agencies including JPC as the volume of money it talks about is not only unsavory but also inimical to public interest. The government plea to the opposition was to 'come forward and lend their assistance in the deliberations of the JPC where all parties will be properly represented' (LSD, 3 August 1992, p.627).

Narsimha Rao said in the Rajya Sabha that

> the inquiry by the CBI and the action by the Special Court will be pursued…while this aspect is being fully attended to, I feel that there is need for a comprehensive inquiry, through the instrument of Parliament which not only fully establishes Parliamentary Supremacy but also provides an effective safeguard to protect the country's interests. We have had consultations with all political parties in Parliament and there is consensus on the desirability of setting up of a JPC…therefore, I am requesting the Speaker to proceed with the formation of a JPC and entrust it with the task…within a reasonable time (RSD, 9 July 1992, p.207).

Responding to the announcement, S. Jaipal Reddy argued that the 'JPC should be headed by an Opposition leader; the terms of reference of the JPC must be settled mutually between the government and the Opposition parties before this committee is appointed' (RSD, 9 July 1992, p.231). The presumptive argument for the constitution of JPC was that

> this is a common venture of the whole House and we have decided on that mechanism, and device and everybody here thinks rightly that the Joint Parliamentary Committee is the most effective representative and impartial, objective instrument which can be fashioned by us, by this Parliament for making a comprehensive probe into this whole affair (LSD, 4 August 1992, p.607).

The function of the JPC 'will have to make a thorough probe into apart from the accountability of individuals…with pointing out the specific recommendations as to how this system failure can be avoided in future' (LSD, 4 August 1992, p.625).On August 6, 1992, Ghulam Nabi Azad, Minister of Parliamentary Affairs, while moving the motion for the appointment of a Joint Parliamentary Committee proposed a 30-member committee with the terms of reference to go into the

> irregularities and fraudulent manipulations in all its aspects and ramifications in transactions relating to securities, shares, bonds and other financial instruments and the role of the banks, stock exchanges, financial institutions and public sector undertakings in transactions relation thereto, which have or may come to light'; 'to fix responsibilities of the persons, institutions or authorities in respect of such transactions'; 'to identify the misuse, if any, of and the failures/inadequacies in the control mechanism and the supervisory mechanism'; 'to make recommendations for safeguards and improvements in the system for elimination of such failures and occurrences in future'; and 'to make appropriate recommendations regarding policies and regulations to be followed in future (LSD, 6 August 1992, p.480).

Regarding rules of the committee, 'if the need arises in certain matters adopt a different procedure with the concurrence of the Speaker otherwise rules and regulations related to the parliamentary committee should apply' (LSD, 6 August 1992, p.480). Debating the motion, Nitish Kumar argued, referring to the earlier JPC on Bofors, that 'earlier also when a JPC had been constituted to enquire into the Bofors case but at that time there was great difference of opinion on the issue of the terms of reference due to which all members of the Opposition did not participate in that. But today, in different circumstances there is consensus on the issue of the terms of reference' (LSD, 6 August 1992, p. 480).

4.1.3. The Report: Finding and Recommendations

The JPC came to a conclusion that the banking irregularities and securities scam was a deliberate and criminal misuse of the public funds by siphoning of banks and public sector units' funds. The funds were invested in speculative market (Report of Joint Committee to Enquire into Irregularities in Securities and Banking Transactions, 21 December 1993, pp.7-8). The report observed the culture of non-accountability in 'all sections of the government and banking system where the persistence of non-adherence to rules, regulations and guidelines were rampant' (Report of Joint Committee to Enquire into Irregularities in Securities and Banking Transactions, 21 December 1993, pp.7-8). Considering the nature of this case and the complexity of the transactions, 'the committee recommends that the matter should be enquired thoroughly by a joint team consisting of CBI, CBDT, SEBI, Department of Company Affairs and RBI' (Report of Joint Committee to Enquire into Irregularities in Securities and Banking Transactions, 21 December 1993, p.262).

The JPC argued that the scam was the result of failure to check irregularities in the banking system and also liberalization without adequate safeguards which led to collusion of big industrial houses with the brokers and government officials. The committee has come across various instances of close nexus between prominent industrial houses, banks and brokers (Report of Joint Committee to Enquire into Irregularities in Securities and Banking Transactions, 21 December 1993, p.262).

Some of the lacunae pointed out by JPC were that the supervisory role and responsibility were absent. The committee also raised the issue of moral responsibility of the agencies. The report stated that there was the lack of moral fiber as 'no system can work through regulations alone but much more than that, if a system is devoid of the moral quotient, of a common sense appreciation of right from wrong, of a sense of public duty particularly when entrusted with public funds, then it cannot work' (Report of Joint Committee to Enquire into Irregularities in Securities and Banking Transactions, 21 December 1993, p. 8). Moreover, the report discussed the background of this scam by raising the issue that many of

> The irregularities in securities transactions that took place in 1991-92 had been building up since the mid-80s, if not earlier, and could have been minimized if the authorities concerned had heeded to the early signals. The RBI issued several circulars, including the one in July, 1991, prohibiting these misdeeds and yet everything that was sought to be prevented in fact, accelerated and assumed uncontrolled dimensions (Report of Joint Committee to Enquire into Irregularities in Securities and Banking Transactions, 21 December 1993, p.14).

Further, the observation is that the banks had in blatant violation of the RBI guidelines relevant thereto entered into a large number of ready-forward or buy-back transactions and indulged in irregularities like misuse of Bank Receipts and Bankers Cheque etc. The committee noted that it is the duty of the Ministry of Finance to undertake the responsibility to trace the money by either instituting a separate committee for the purpose, or through a team 'comprising specialists in the field of accountancy, taxation and criminal investigation' (Report of Joint Committee to Enquire into Irregularities in Securities and Banking Transactions, 21 December 1993, p.257). The committee recommended that

> special scrutiny may be carried out by the RBI in all the foreign banks involved in the recent irregularities and the question of disallowing repatriation of profits through irregular securities transactions and other malpractices be considered. It is necessary that stringent penalties, including suspension of their licenses are imposed on these banks keeping in view the extent of irregularities indulged into by each of them. Legal action should be pursued both in India and the foreign country concerned (Report of Joint Committee to Enquire into Irregularities in Securities and Banking Transactions, 21 December 1993, p.59).

The committee suggested that the Reserve Bank of India and the Institute of Chartered Accountants of India (ICAI) should scrutinize the audit reports of the banks involved in the irregularities and initiate suitable action against the defaulting auditors. Hence, 'necessary action should be initiated by the RBI against all auditors who failed to discharge their duty properly. The ICAI should also be informed about such auditors so that they may take necessary disciplinary action' (Report of Joint Committee to Enquire into Irregularities in Securities and Banking Transactions, 21 December 1993, p.76). Following the 2001 Ketan Parekh Scam, the first Action Taken Report of May 2003 on the JPC of 2001 stated that 1991 JPC report enlisted 17 cases which were in the eyes of ICAI. ICAI itself identified 48 other entities. Out of total 65 entities, by May 2003, 35 cases were still at the prima facie stage after ten years.

In terms of accountability, the committee observed that there is no evidence to suggest that there has been vigorous follow-up of the matter in the Ministry of Finance (MoF). The MoF failed to 'anticipate the problem and failed to respond to it purposefully when the scam surfaced' (Report of Joint Committee to Enquire into Irregularities in Securities and Banking Transactions, 21 December 1993, p.209).

The report directed to the government that the 'parliament should be informed of the conclusive departmental action taken against officers including top management and staff concerned for their involvement in the irregularities committed in the securities transactions, within a period of six months' (Report of Joint Committee to Enquire into Irregularities in Securities and Banking Transactions, 21 December 1993, p.86*).*

4.1.3. The Debate on the Report

The Minister of Power, N.K.P. Salve while commenting on the opposition's argument on the report, argued that

> it was clear from the beginning that the House on the report was divided very sharply. Undoubtedly, the debate involves questions of constitutional proprieties and cardinal norms of Parliamentary democracy…to my distress, and to my dislike- the report being discussed is a report of the JPC, it is a mini-parliament notwithstanding the high status, high position, of the Committee, so far as the Report is concerned very unfortunately, it *failed to inspire confidence*, it failed to inspire esteem, it failed to inspire any reverence to the entire House as a whole and the report failed to inspire (RSD, 30 December 1993, p.55).

The important aspect of his comment *ipso facto* raised questions on the intention of the government as to whether government was going to reject the report in toto? Another former Prime Minister, Inder Kumar Gujral commented that Salve's argument was denigrating the JPC report by dissociating the government from the findings of the Report and wanted to see that the unanimous report submitted to this House and the other House does not command the respect of the government (RSD, 30 December 1993, p.65). Salve took shelter under the jurisprudential limit of the constitution and the powers that the committees have. Does the committee indict an individual in the name of

irresponsibility if the whole system is found to be paralyzed? On this basis, he concluded that 'the report is a big zero, and it has to be rejected lock, stock and barrel' (RSD, 30 December 1993, p.104). Another echo that kept resonating in the Upper House was that the JPC was expected not only to look into the irregularities and other unscrupulous tampering with the rules, loopholes but also to point out where exactly the siphoned off funds went. But the committee really failed to find out as to where the money had gone (RSD, 30 December 1993, p.107). Pranab Mukherjee, the then Commerce Minister, brought some crucial aspects to the forefront by linking the *terms of reference* with those of the actual report tabled in the Parliament. He observed that the committee was

> set up to fix the responsibility to determine the quantum and magnitude of the loss involved in the scam…along with this to make some recommendations to ensure that there is no recurrence of the type of situation which developed during the period concerned (RSD, 30 December 1993, p.134) which he applauded and appealed for 'dispassionate consideration by both sides of the House (RSD, 30 December 1993, p.135)
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> .

However, he stressed the point of the constitutional responsibility of the Minister vis-à-vis the observations of the Parliamentary Committee. He was concerned about the committee's observation related to the irregularities in the functioning of the Ministry itself and the demand of opposition to tender the Finance Minister resignation. He began to argue that

> can we raise a demand for the resignation of Ministries if a Parliamentary Committee comes to some conclusion about the irregularities in the functioning of the Ministry itself (RSD, 30 December 1993, p.135)? …as in our (Westminster) system, Ministers do not appear before the parliamentary Committees, whether it is the Public Accounts Committee or the Estimates Committee or the Committee on Public Undertakings or even the Standing Committee. Their job is to find out the irregularities in the Ministry itself (RSD, 30 December 1993, p.136).

Mukherjee goes on to say that

> if the same logic is applied to a JPC where it found some irregularities in the ministry, how come the demand of resignation is justified by owning the moral responsibility? What if other select and standing committees come up with adverse comments on some ministry in future, will the same logic be applied to that also? Or are we ready to change the system where henceforth even the ministers will appear before the Committees. Are we going to extend the temper, tenor, and modality of the discussion on the floor of this house to the Committee rooms (RSD, 30 December 1993, p.136).

A committee is a place where 'we are not guided by our partisan interests', Mukherjee commented, 'in the country, a system has been developed, a beautiful convention that the Parliamentary Committee should submit its report unanimously' (RSD, 30 December 1993, p.136). The above argument was countered by S. Jaipal Reddy arguing that 'there is a fundamental, substantive difference between the House Committees and the joint Parliamentary Committee. JPC was specially constituted unlike in the case of other committees, ministers were allowed to depose before this committee' (RSD, 30 December 1993, p.138).

Pranab Mukherjee made an indelible interjection where he questioned the subjectivity of the House itself, for example, he argued that [in Bofors JPC] the report was described as white wash, that is, if 'some recommendation of a particular JPC is convenient to me, I will say to accept it unanimously without a debate and act on it without any further consideration because it is a unanimous report. Therefore, if there are any notes of dissent that is not to be accepted' (RSD, 30 December 1993, p.140). He warned against such tendencies and forbade the members to adhere from such 'classification of the JPCs depending upon this arithmetic, as it is a dangerous proposition needs rethinking' *(*RSD, 30 December 1993, p.140). Another Rajya Sabha MP, Ram Jethmalani, debunked the government's argument that it is the individual who makes the system fail. To evade in the name of System failure is simply a method of jettisoning political responsibility to transfer the fault from human beings to an impersonal concept like a system (RSD, 30 December 1993, p.225). Another argument that reverberated in parliament was that

> no Parliamentary Committee, however august or eminent, can return findings which politically or legally bind anybody. Every member of this House is entitled, to the best of his judgment, to scrutinize that report and if (s)he comes to the conclusion that the JPC was wrong in any aspect of its factual conclusion, he is entitled to say so and by argument and cogent reasoning (RSD, 30 December 1993, p. 227).

One achievement of this JPC, according to Ram Jethmalani, is that it succeeded in 'achieving unanimity' signifying bipartisan approach and sidelining party prejudices (RSD, 30 December 1993, p. 227). Otherwise, the general discontent regarding the report, on which several members agreed,was that it failed to identify the very first transaction where no securities were given against the money transfer, no identification

of civil servant personnel, and no identification of beneficiaries in political and bureaucratic circles.

4.2. The Ketan Parekh JPC, 2001

4.2.1. The Issue

In the beginning of 2001, the Sensex witnessed fluctuations and extreme volatility a few days after the budget. This created a hue and cry in the market, and in Parliament. The preliminary investigations by SEBI unraveled a scheme of parking stocks and price rigging in a nexus between banks, brokers, stock operators, mutual funds and companies. The broker-members of the BSE governing board, including the president were deeply mired in controversy. The regulators, RBI and SEBI, were found sleeping (Dalal, 2016, p. 347) since 1998. After the 1998 price manipulation of Videocon, Sterlite and BPL, SEBI's inquiry resulted in the resignation of the then president and Executive Director of the Bombay Stock Exchange. However, leader of the opposition in the Rajya Sabha, Manmohan Singh, countered that the resignation of the president does not matter as he was already retiring within a month and also resignation is not deterrence against a misconduct. All the cases involving 1998 irregularities by Harshad Mehta were still at very preliminary stage which is very shocking seeing the nature of the stock market, which needs speedy trials and inquiries to keep the system intact and under full supervision.

Over one year 2000-01, Rs 20,000 crores in market capitalization were lost by small investors. The share market in 2001 was controlled by just a dozen and a half operators including bulls and bears[17]. Bulls used some of the good companies to shore up their prices, so that some of the prices of bogus companies could go up. When the Sensex went high, government was happy, regulators were happy as they were unable to see the

[17] Bears in stock market are referred to those brokers who sell the stocks.

deeper dynamics of this fabrication. Since the market was just controlled by a few, the manipulation became much easier. The bulls and bears shattered the whole financial system of the country by buying and selling indiscriminately. The bear gets the stock from the Stock-holding Corporation of India, but the bull has to have the money to buy. The money came from FIIs and Global Trust Banks. These big players gave money to the bull to buy long-term. The bulls buy long-term and when the market goes up, sells it or dumps it. The bear started short-selling. The crisis arose because the bull who was buying had reached the saturation point. Once, the stock started going down, the selling of stocks started. Here, we see the middle class putting their savings in the stock, not knowing when to sell and when to buy.

Ketan Parekh was at the centre of the scam. Unlike Harshad Mehta scam in 1992, it was corporate private sector money rather than the money of banks that was involved in 2001. Ketan Parekh was an accused in one of 1992 Scam cases, Canbank Mutual Fund Case-3 of 1996. The Harshad Mehta Scam came to light when Rs 600 crore hole at State Bank of India accounts was found. This time, it was the Rs 130 crore hole at the Bank of India, which led to the trail to Madhavpura Mercantile Co-operative Bank and then to Ketan Parekh and thousands of crores of market losses. At the centre of allegations were UTI, and the mutual funds played crucial role as many funds had portfolios stuffed with K-10 scrips (Ketan Mehta's cluster of companies).

In 1992, three JPC members, George Fernandes, Rabi Ray, and Jaipal Reddy had pointed out how UTI was 'used by the unscrupulous among industrial houses for their manipulative games and for many others illegitimate deals', and had called for a full investigation. Nine years later, UTI's flagship scheme US-64 remained outside the supervisory purview of SEBI (Dalal, 2016, p. 349). By 2001, UTI invested in Ketan's favorites bubble stocks like DSQ Software, Global Tele-systems, Zee Tele-films, and HFCL. Foreign Institutional Investors (FII) were the greatest beneficiaries of the scam. SEBI's preliminary inspection report said that UTI had provided a "benchmarking" of prices to the speculators. The key players in 2001 were foreign broking outfits and FIIs involved in price rigging were conduits for unaccounted Indian money flowing in and out

of the stock market. FIIs provided the missing link between brokers and businessmen whose stocks were ramped up. They had been known to offer the safety of their anonymous sub-accounts for the stock operations by Indian industrialists (Dalal, 2016, p.350). In 1992, the names of Reliance Industries, Apollo Tyres and United Breweries cropped up, just as in 1998, BPL, Videocon, and Sterlite Industries were found to have colluded with Harshad Mehta (bull operator) in ramping up or rigging their shares prices. Ketan Parekh's companies like Zee, DSQ Softwares, HFCL, Global Tele, Ranbaxy, Kopran and Nirma were involved in ramping up their shares prices. (Dalal, 2016, p.352)

4.2.2. The Debate

There was a lot of apprehension that SEBI was incapable of investigating impartially the whole scam of 2001, so parliamentarians like Manmohan Singh, Sanjay Nirupam, Kapil Sibal, R.K. Anand, Nilotpal Basu, Prem Chand Gupta, R. Margabandhu demanded for an independent investigative committee by the parliament. The reason behind doubting the credibility of the SEBI was due to the fact that Harshad Mehta had resurfaced in stock broking again in 1997-98, after which the irregularities in BPL, Sterlite, and Videocon stocks came into light. The price rigging in stock market that started between bulls and bears ultimately burst in 2001.

Answering a question in the Rajya Sabha, on 13th March 2001, the Finance Minister informed the House of the extreme volatility of the Stock Market, but also that fluctuations in the sensex have not been unusual compared to the international markets. However, SEBI received information that stock prices were being manipulated. On 2nd March, when the Finance Ministry ordered SEBI to investigate the post-budget crash, the stock exchange identified First Global as one of the four firms which allegedly indulged in massive bear hammering. According to one estimate, losses in the grey market on account of collapsing K-10 stocks could easily be around Rs 2000 crore (Dalal, 2016, p.367).

SEBI failed to come up with a report of 1998 irregularities even after three years of the incident and now there was another scam in the spotlight. Moreover, a connection was alleged between the BSE President Anand Rathi and SEBI Chairman due to which it became essential that either a judicial commission or a Joint Parliamentary Committee investigate the whole matter. Anand Rathi resigned on 8th March 2001 following the charge that he had acquired sensitive and confidential information from the Surveillance Department which was out of his authority. It was a criminal offence. The role of the SEBI officials were compromising as the members of the SEBI too were allowed to trade in shares which obliterates any kind of restrictions or separations of functions by the members of the SEBI itself. The Finance Minister answered that 'there is now a complete ban on SEBI employees trading in the market' (RSD, 13 March 2001).

While debating the efficacy of JPC and the opposition's charge that the SEBI had malfunctioned, the Finance Minister, Yashwant Sinha defended the SEBI contribution and role in monitoring the stock market. SEBI acts in a quasi-judicial capacity along with supervising the role of the various stock exchanges. In 1995, the Surveillance Division of the SEBI was set up with the primary responsibility of market surveillance of stock exchange. It has risk containment measures, such as margining system[18] and linking intra-trading limits and exposure limit to capital adequacy; daily price checks to curb abnormal price behaviour and volatility, reporting by stock exchanges through periodic and event-driven reports, inspection of intermediaries, suspension of trading in scrips to prevent market manipulations, formulation of inter-exchange market surveillance group for prompt, suspension of trading in scrips to prevent market manipulations,

[18] It is an arrangement devised to reduce the risk and uncertainty of the prices in stock markets, for example, if an investor buys 100 shares at Rs. 10 per share on a given date. The investor has to give the total amount of Rs. 1000 to the broker from whom he is purchasing, and the broker has to submit that money to the stock exchange consecutively. There is a possibility that the investor might not be able to pay the entire amount in at once before s/he get hold of the share. So, the investor would buy that 100 shares by paying an advance. The advance, that is the initial token payment in order to buy the shares is called margin. This margin is fixed in the stock market, so if the margin is 15 per cent, then the investor has to pay the equivalent amount of that percentage. Once the margin is paid and registered, any kind of fall or boom in the stock prices of those particular shares would not affect the original prices of the shares on which it was bought or sold. So, it is the margining system which keeps the investors and brokers safe even if prices goes up or moves down.

implementation of online Automated Surveillance System etc. Despite all these efforts, the episodes of 1998 and 2001 occurred and SEBI remained an ineffective body.

As the demand for the JPC speeded up, the Finance Minister commented that the RBI and SEBI will investigate the matter, so there is no need for a JPC. Moreover, it was neither like 1992 when share market was out of control nor like 1998 when there was a balance of payments crisis. The situation was arguably under control. The deterioration of the US-64 scheme was mainly due to the fact that by 2001, private investors and companies were into the business of mutual funds investment and they were the same companies sponsoring the UTI, hence the JPC recommended that the conflict of interest should not arise between the two parties engaged in investing in the market.

The Ketan Parekh JPC was mandated to look into the matter of gross violations of rules, regulations and loss of money by UTI's flagship, the Unit Scheme (US)-64. This was a statutory corporation established by Parliament through the Unit Trust of India (UTI) Act, 1963, that came into force in 1964. The scheme was primarily propelled by the investments of the middle class and salaried people. It had nearly 1.9 crore unit-holding accounts and assets under management (excluding fixed assets) of Rs 16,509 crore. By 2001, the UTI had assets under management of Rs 55,924 crore, accounting for 57 percent of the total assets under management by the entire mutual fund industry (Dalal, 2016, p.372). It delivered regular and steady incomes to the unit-holders in the form of annual dividends. The UTI invested in 1,426 companies, out of which only 81 showed appreciation. Almost about 654 of them were not even traceable, they did not even have an address of their own and many of them were unlisted companies (LSD, 2 August 2001). The unscrupulous investment led to huge financial loss, also due to insider trading information. The reserve of the UTI had become negative, where the net asset value of investment in US- 64 scheme was lower than the repurchase price (RSD, 24 July 2001). The JPC observed that the

> present state of affairs in the UTI is a consequences of the negligence of its principal contributor, IDBI, the concentration of power in the post of the chairman, UTI without adequate checks and balances to prevent its misuse, and the unwillingness of the UTI management and the government

> to make necessary legislative and organisational changes to restructure the institution (Joint Committee on Stock Market Scam and Matters Relating Thereto, 19 December 2002, p. 34).

The whole issue had to do with the manipulation of the capital market to benefit market operators, brokers, corporate entities and their promoters and managements. The new entrants like private banks and cooperative banks, stock exchanges, overseas corporate bodies and financial institutions were willing facilitators in this exercise. The scam lies not in the rise and fall of prices in the stock market, but in the large scale manipulations like the diversion of funds, fraudulent use of banks funds, use of public funds by institutions like the UTI, violation of risk norms on the stock exchanges and banks, and use of funds coming through overseas corporate bodies to transfer stock holdings and stock market profits out of the country (Joint Committee on Stock Market Scam and Matters Relating Thereto, 19 December 2002, p.439).

Even after commenting on the role of co-operative banks and small private banks in 1992, the JPC had made no recommendations about tightening supervisory control over these banks. RBI's supervision continues to be slack. Madhavpura Mercantile Co-operative Bank became a pawn in the same way as Metropolitan Co-operative Bank had been in 1992. This time, however, this bank was bailed out as part of a self-serving political decision pushed by L.K. Advani, who was the MP from Ahmedabad. Madhavpura Merchantile Co-operative Bank was bailed out as it lost a huge amount of money by buying ZEE Telefilms' 40 Lakhs shares. These shares were at very high prices, costing approximately 40-50 crores. Suddenly the shares prices fell abruptly leading to a total loss of the Banks investment. The shares of Zee Telefilms on 9th March 2000 were Rs. 1348 and on 9th March 2001 it was Rs 124. Global Tele moved from nowhere to Rs 3550 and dropped to around Rs 100 mid-April 2001 but remained a 'strong buy' of First Global. The stock was now Rs. 60. First Global moved the stock from Rs 80-90 levels all the way to Rs 1400 and it later fell to Rs 200, despite great profitability (Dalal, 2016, p. 359). The other companies were Pentamedia Grapics whose share fell from Rs 1816 to 125 in March 2001; Himachal Futuristics' share fell from Rs 1102 to Rs. 206.

The JPC of 1992 specifically held RBI responsible for ignoring warning signals since 1986. The deputy governor named in the last JPC report and other officials were not touched. The department of supervision, initially envisaged as a powerful and independent supervisory agency dwindled into just another sleepy RBI department. It was headed by a deputy governor, unknown for initiating any stringent supervisory action. The scam of 2001 was brought on by SEBI's inability to check the utter lawlessness of the Calcutta Stock Exchange or the brazen price ramping by the Bombay-based operators.

4.2.3. The Constitution of the JPC

The government had to accept the demand of the opposition following enormous pressure as the shadow of the scam continued to grow deeper. In the meantime, the Tehalka Magazine released a sting operation indicting various ministers and leaders of the then NDA of bribing for a defense deal. The potential of this sting was tremendous and the opposition demanded JPC. But, government now readily accepted the JPC for Ketan Parekh Scam and a judicial enquiry for the Tehalka sting operation.

The Ketan Parekh JPC was constituted on 27 April 2001 under the chairmanship of Prakash Mani Tripathi, a BJP leader. It was a 30-member committee with the terms of reference, mandating the committee to go into the irregularities and manipulations in all their ramifications in all transactions, including insiders trading, relating to shares and other financial instruments and the role of banks, brokers and promoters, stock exchanges, financial institutions, corporate entities and regulatory authorities; to fix the responsibility of the persons, institutions or authorities in respect of such transactions; to identify the misuse, if any, of and failures or inadequacies in the control and the supervisory mechanisms; to make recommendations for safeguards and improvements in the system to prevent recurrence of such failures; to suggest measures to protect small investors; and to suggest deterrent measures against those found guilty of violating the regulations (LSD, 27 April 2001).

This particular JPC followed the footsteps of the Bofors Scam and the Harshad Mehta JPCs in its rules and regulations. The hearing was not open for public or the media, however press briefings and regular update would be provided. One of the relaxations given to this committee was under the direction of the Speaker of the Lok Sabha. For example, the JPC mentions that as per the

> Direction 99 of the Directions by the Speaker applicable to Financial Committees prohibits the committees from calling a Minister before the committee either to give evidence or for consultation in connection with the examination of estimates or accounts. However, the motion adopted by the House for the JPC provided that the Committee might, if need arises, in certain matters adopt a different procedure with the concurrence of the Speaker… a specific request was made to the Speaker of the Lok Sabha by the chairman of the JPC on 20 May 2002, as decided by the committee for permitting the committee to call written information on certain points from the Finance Minister and Minister of External Affairs. The Speaker had accorded the necessary permission (Joint Committee on Stock Market Scam and Matters Relating Thereto, 19 December 2002, p,5).

Many of the rules that directly apply to other standing committees of the Parliament apply to the Joint Parliamentary Committees constituted on ad-hoc basis. However, it is contingent upon the Speaker to amend certain rules especially for the purpose of JPC investigation provided request is made to her/him by the chairman of the committee. Following this precedent, when the matter of US-64 scheme was debated in the Rajya Sabha between 24 July- 2 August 2001 and the members demanded a fresh probe. The government requested the Speaker to allow this investigation to combine with the already going on JPC inquiry as the committee was mandated to look into the partial stock investment of the UTI already. The Speaker, after discussion with the leaders of all the major parties and the chairman of the JPC, decided to mandate the committee to look into the US-64 scheme. The witnesses who submitted in writing or orally were Yashwant Sinha, the then Finance Minister, Former Finance Ministers like Manmohan Singh and P. Chidambaram, Ketan Parekh, Sucheta Dalal, officials from RBI, ICAI, Madhavpura Mercantile Cooperative Bank, Bank of India, Global Trust Bank, UTI, BSE, CSE, NSE, SEBI and several others.

The JPC played a pivotal role establishing the nexus between the brokers, corporate and banks which later proved by the SEBI, DCA and CBI. However, the committee failed to

bring into account the nexus between the political establishment and the irregular practices of many brokers and corporate. Many important questions were raised regarding the functioning of the committee as it failed to bring on board the coherent link between the previous scam in 1992. The committee, of course, commented on the non-implementation of the previous recommendations following which the 2001 scam shaped, but there were details about various leaders under whose minister ship, policies were framed which were already in question. Ketan Parekh and his entities were found guilty of gross misappropriations and manipulations of rules and regulations and violated the regulatory bodies. He was debarred from any kind of securities trading and stock market from 14 years and in 2014 he was imprisoned for two years for the same crime.

4.2.4. The Report: Finding and Recommendations

The Ketan Parekh scam JPC submitted its report in 2003. The report observed that the private sector banks were involved in wrong doings in this particular scam. The Cooperative banks ignored the rules, procedures and risk management regulation. The trading practices of stock market were poorly shaped. Even the procedures, adherence to rules and the concern for common investor were not properly safeguarded. The nexus between corporate houses and banks were vivid as per the JPC report but the report recommended that SEBI or Department of Company Affairs (DCA) should further investigate this aspect.

The report mentioned that the scam was the result of the manipulation of the capital market to benefit market operators, brokers, corporate entities, and their promoters and management. SEBI had not been able to ensure the inspection of the Stock Exchange which led to numerous violations in the year 1998, 1999 and 2000 repeatedly. All these glitches and loopholes went unrectified till the Ketan Parekh Scam broke out. The report suggested that there should be centralized surveillance mechanism across all the major Exchanges to oversee the operations of the market participants.

The committee observed that there have been serious delays at the level of regulators and in the Ministry of Finance concerning the legislative proposals for strengthening rules and regulations. The report had given detailed suggestions for investor's protection, systemic reforms, SEBI's role in tackling such irregularities, Ministry's active response to the executive and legislative demands.

4.3. Pesticide Residues in Soft Drinks, 2003

4.3.1. The Issue

In August 2003, a leading Delhi-based environmental NGO, the Centre for Science and Environment (CSE), published a report regarding alarming levels of pesticides residues in aerated drinks. They had found residues of pesticides in samples of 12 such soft drinks procured from the open market in Delhi. As compared to European Union standards for pesticide residues in soft drinks, the residues found in India were 45 times in Coca Cola, 43 times in Fanta, 30 times in Mirinda, 37 times in Pepsi, 37 times in Seven-up, 30 times in Limca, 28 times in Mountain Dew, 32 times in Thums Up, 14 times in Diet Pepsi and 11 times in Sprite. The residues of Lindane, DDT, Malathion and Chlorpyrifos were present in these samples which cause serious health related complications such as long-term cancer, damage to the nervous and reproductive system, birth defects and severe disruption to bone mineral density. On an average, the samples contained 15 times higher DDT, 21 times higher Lindane, 42 times higher Chlorpyrifos, and 87 times higher Malathion were present (LSD, 6 August 2003).

At that time, there were no Indian standards to which these MNCs were required to conform. So the standard adopted was that of European countries. However, no such limit was accepted by the companies. India did have a limit on residues in bottled drinking water, but nothing for beverages like soft drinks.

4.3.2. The Constitution of the JPC

The issue was debated in the Lok Sabha on two occasions before the proposal of JPC was put forward by the government. The then Minister for Health & Family Welfare, Sushma Swaraj on 21 August 2003 informed the house that all the 12 samples that were tested did not have pesticides residues, 3 samples had residues even lower than the European Union Standards and 9 samples consisted of 1.2 to 5.22 times of residues than the allowed limit in EU. The minister contradicted the CSE report and said that CSE did not go for confirmatory tests. The opposition benches alleged a cover up by the minister and disrupted the House which later culminated in the demand for a Joint Parliamentary probe. The demand for JPC was led by Mulayam Singh Yadav, K. Yerrannaidu, Raj Babbar and several other MPs. The minister readily accepted the demand for constituting the JPC and that too, for the first time, with a chairman from the opposition benches. The JPC would have 15 members in total, 10 from Lok Sabha and 5 from Rajya Sabha, unlike previous JPCs which had 30 members in total. The issue in question was not considered divisive at all and all the members amicably agreed to everything proposed by the minister. Sharad Pawar, a leader from the opposition benches, was its chairman. Even at the beginning of the debate, there was a demand for a ban on the products, however this was not considered to be a practical solution, hence it was resolved that regulations be put in place to make them accountable to the government.

The JPC was constituted on 22 August 2003 and submitted its report on 4 February 2004. There were two Terms of Reference: one, whether the CSE findings are correct or not; and second, and most important, to suggest criteria for evolving suitable safety standards for soft drinks, fruit juice and other beverages in India. The representatives from the Ministry of Health & Family Welfare, Food Processing Industries, Consumer Affairs and Food & Public Distribution, Water Resources, Environment and Forest, Rural Development and Agriculture appeared before the JPC in order to give evidence and submit to questioning; they also submitted testimonies in writing. Since, the whole inquiry needed an expert gaze and specialists in the particular field, the Speaker, at the request of the committee, appointed experts in toxicology, agriculture and pesticides.

Besides directing government to come up with a standard for soft drinks, the JPC indicted the concerned ministry of being negligent till a NGO took up the task of whistleblower. It was the duty of the ministry to look for such huge irregular practices by the MNCs. Also, the JPC was not satisfied at all with the explanations tendered by MNCs like Pepsico and Coca Cola. The JPC thus observed a lack of responsibility on the part of both the ministry and the MNCs. The JPC had endorsed the CSE's method of experiment. One of the milestones of the JPC was finalization of a standard of pesticides residues in soft drinks by BIS in October 2005 as directed by the committee.

4.3.3. The Report: Findings and Recommendations

The pesticide residues in soft drinks JPC report agreed that the pesticide residues were found in the soft drinks. The report found the presence of pesticide residues in carbonated water of the 36 samples of 12 brand names as discovered by the Centre of Science and Environment study. The report mentioned with concern that the soft drink industry in India with an annual turnover of Rs. 6000 crores (in 2004) is unregulated. This industry is exempted from industrial licensing under the Industries (Development and Regulation) Act, 1951 and gets one time license to operate from the Ministry of Food Processing Industries. The report emphasized on the need of proper scientific study in order to fix a standard for the residues limit.

The report strongly recommended that there should be some provisions to recharge the ground water to the maximum extent possible by those players who extract ground water for commercial purposes such as manufacturing of soft drinks. The committee observed that the regulatory body, Bureau of Indian Standards (BIS) should be strengthened. The technical and scientific resources of the bureau should be enriched.

4.4. The Politics of JPCs

The propelling force behind the demand of the JPCs in India is the nature of politics on the issue in question. The more the issue has been politicised by the legislators, media and people, the more vigorous has been the demand for the JPC. All the four JPCs of 1987, 1992, 2001 and 2011 were politically aggressive, ruling parties has been on the back foot, and a nexus has been observed in which politicians remain omnipresent. Following the Bofors Scandal, the irregularities in securities and banking transactions of 1992, Harshad Mehta Scam, garnered a lot of public and media gaze. The uproar due to the huge financial transactions following illegal means, bypassing all existing rules and procedure of the financial units of the country, flouting banking norms and ethics, which was whimpering in a closed circuit between the stock market brokers and the banking officials were suddenly unclothed in an obnoxious manner. Only the JPC on the pesticides residues in Soft Drinks neither fit into such a category of parliamentary investigation nor was it scandalous in nature as on the contrary, it was a scientific issue that needed precision. What was needed was a panel of experts who could examine different soft drinks against Indian standards. The EU limit of pesticides in different soft drinks has been drastically different and safer compared to what India follows. Meanwhile, the JPC could not deliver anything, and it failed to make government accountable in ways such as Action Taken Reports.

The constitution of the Ketan Parekh scam JPC in 2001 was considered as a step to complete the unfulfilled tasks of the Harshad Mehta Scam JPC, 1992. The opposition in 2001 was demanding another JPC to probe the Tehalka Scandal which rocked the country as it had video tapes of the then ruling party leaders talking about defense deals for commissions. The Tehalka scandal was more sensational. In the meantime, demand for the investigation in the stock market scam and UTI's securities came to the public domain. The government had the opportunity to subside the Tehalka scandal by shifting the parliament's focus to the multi crores Stock Market scam. The government agreed to constitute the JPC for the investigation into the stock market irregularities, 2001.

Now, coming back to the banking and securities transactions irregularities of 1992, what made it political was certainly not the technicalities which were used to manipulate the banks and securities but, to start with, the sensationalism with which the news was broken. A man called Harshad Mehta, reached from rags to riches, basking in the glory of newly earned money and power suddenly, and one day became the lead and the prime suspect of missing 600 crore securities from SBI, which gradually unraveled in thousands of crores across the banks' securities. Entire regulatory provisions and mechanisms failed to detect any of the glitches and misconduct until the media broke the story. Regulatory authority such as newly formed SEBI which was referred as 'a watchdog, as a guardian of what happens in the stock market' (Joint Committee to Enquire into Irregularities in Securities and Banking Transactions, 21 December 1993, p.2) including RBI eagle eye could not figure out any illegal nexus between the banks and individual playing with customers and public money.

There were factions within the Congress itself followed by the elevation of Narasimha Rao as Congress President and the Prime Minister. The tussle was between Rao, who was trying to bring democratic ethos within the party by the mode of reintroducing elections for the various posts of the party; and those whose intentions were to give the party back to the Gandhi-Nehru family, that is, establish Sonia Gandhi's control over the party. Rao was supposed to give up the Congress President post to Arjun Singh once he became Prime Minister but he refused to resign until 1996. There was a constant, stealthily operating, and gradual tussle between the factions led by people like, on the one side, Narasimha Rao, Jitendra Prasada, V C Shukla, Shyama Charan Shukla, Nawal Kishore Sharma, Bhuvanesh Chaturvedi, Rajesh Pilot, Manmohan Singh, B. Shakaranand, Pranav Mukherjee and the other side led by Arjun Singh and his confidants. Rao became a bête noire for many especially as he was seen to have played a passive role in the Babri Masjid demolition in 1992 and the riots that followed. Natwar Singh (2014) in his autobiography remembers that 'I had many differences with P.V.'s style of functioning and openly spoke against him' (p.292). One faction operating against Rao and his confidants was the group composed of N.D. Tiwari, Shiela Dikshit, Shiv Charan Mathur, M.L. Fotedar, P. Shiv Shankar and late K.N. Singh, with Arjun Singh as the mastermind (Singh, 214, p.292). By the beginning of 1993, there was already a newly formed party,

the Tiwari Congress. At the AICC meeting in Surajkund in March 1993, the Tiwari Congress and the fourteen members including Natwar Singh protested and Arjun Singh resigned as Minister of Human Resource Development.

The politics emanating out of above mentioned factions led to the demand for resignation of the then Finance Minister, Dr Manmohan Singh, one of the confidants of Narasimha Rao himself and his cabinet, spearheading the economic reforms in India by some of the Congress politicians along with the opposition. By 1991-92, even if the opposition is taken as a permanent political foe looking for opportunities to hamper the ruling party in search of power, this was not the only case during that period.

In the backdrop of such power play, the banking and securities transaction irregularities surfaced which soon became sensational when the prime suspect Harshad Mehta alleged in a press conference that he had personally delivered rupees one crore to the Prime Minister's residence. The government, since the inception of the scam, was trying to term it as a 'systemic failure' in the wake of market reforms and increasing importance of stock market in India which the archaic arrangements could not cope with, leading to a situation where complete banking system and securities management, as well as functioning and fluctuations in stock market collapsed, could not be scrutinised critically. By the end of 1991 and beginning of 1992, an 'abnormal spurt in the share prices in the stock market was registered' (Joint Committee to Enquire into Irregularities in Securities and Banking Transactions, 21 December 1993, p.1). Normally, the reason given by various agencies and Finance Ministry was 'the increasing expectations of the investors generated by the rise in the level of foreign exchange reserves and improvement in overall economic environment' (Joint Committee to Enquire into Irregularities in Securities and Banking Transactions, 21 December 1993, p.1). When this myth was shattered following *Times of India* lead report by Sucheta Dalal and R. Srinivasan "Rs. 500 Crore Irregularity: SBI asks broker to square up" (23 April 1992) stating that '[SBI] making frantic efforts to reconcile the books of its securities and investment department following the discovery that several hundred crore rupees had been advanced without following the procedure and possibly without collateral' (23 April 1992).

Following this news, the furore generated by it compelled RBI to constitute a committee under the then deputy director R. Janakiraman to look into the banking securities and transactions. In its interim report submitted in May 1992, it observed that 'unscrupulous brokers in collusion with certain bank officials had manipulated securities transactions of banks and financial institutions…which is in clear violation of the established rules, guidelines, and prudent business practices' (Joint Committee to Enquire into Irregularities in Securities and Banking Transactions, 21 December 1993, p.3). The indicated transactions ranged from several public sector banks to some private banks and many governmentally owned companies securities under different ministries of the government. The opposition demanded a Joint Committee of Parliament to investigate the entire scam besides CBI inquiry. Unlike the previous committee, this committee witnessed more cohesiveness and unanimity most of the time from the beginning, be it the debate around its constitution or the conduct of its business. The chairmanship was given to the ruling party again despite several objections. One of the principal demands has always been that someone from the opposition should chair the Joint Committees. The serious allegations on finance minister and some other cabinet ministers in the securities irregularities made government susceptible to give the chairmanship to the opposition.

The chairman is not simply a formal post, but how the committee will function, the way unanimity will be achieved, and the effectiveness of the committee depends very much on the involvement of the chair himself or herself. It is the chairperson who decides the list of witnesses, which plays a decisive role in making JPC vibrant regarding information collection, cross-questioning during testimony, and evidence gathering. The then Finance Minister tried to get rid of the scam by terming it a 'systemic fault', but his name was at stake. There was another minister, B. Shankaranand who was involved in investing government money and securities into a bank where his vested interest lay due to which he was later forced to abandon his ministership. The government was facing trouble, and agreeing to give the chairmanship to the opposition could prove detrimental to them. Just like previous Bofors JPC of 1987, the government expected that a JPC headed by the ruling party, i.e., under the control of the government, would absolve them of any misconduct or irregularities. This claim was vividly established when the government

rejected the JPC report because it indicted the finance ministry of lack of responsibility in safeguarding the loot of public money.

The terms of reference were fixed with the powers and functions equivalent to the previous one, i.e., the powers and functions of the 1987 JPC. In the case of any exigencies, the Speaker of the Lok Sabha has the final say in this. The proceedings and deliberations were closed door as is the practice in India, and this JPC managed to take the evidence of the then sitting ministers Manmohan Singh, Finance Minister and B. Shankaranand, Minister of Health and Family Welfare and ex- Minister of Petroleum and Natural Gas after due permission from the Speaker. The unanimity and cohesiveness of the JPC was dented once it was analysed that some sections of the draft report are critical of the Congress Party and the government. A report published on 28 June 1993 in *Times of India* stated that Murli Deora of Congress had issued a statement saying that the Congress members will propose substantial changes in the draft report, particularly the portion relating to the indictment of the Finance Minister ("Rift in JPC likely", 28 June 1993). The divide on party lines was witnessed on more than one occasion. The previous Bofors JPC was termed as a whitewash and cover up by the entire opposition as it never raised questions on the government, but on the contrary, had given a clean chit to the individual as well as the government. This time the ruling party was protesting because the committee has been critical of the government and some of its ministries. Implicating two ministers of the Rao cabinet was not easily digestible either for Rao who considered it a ploy by his opponents within the same party to defame him by targeting his ministers, or for neutral Congressmen who were considering it a win by the opposition parties.

The immediate goal of the committee remained limited to indicting the nearest possible person either on some material ground or moral and ethical responsibility. However, the only charges against the Finance ministry were that it failed in its responsibility. The committee limited itself to indicting the Finance Ministry. Sucheta Dalal (1993) writes that JPC grossly failed in examining any Industrial Houses despite ample proof produced by RBI and Janakiraman Committee that these houses did play a role ("JPC Squabbles, lets off Politicians", 6 dec 1993). The JPC report in its observation in the very beginning comments that 'the most unfortunate aspect has been the emergence of a culture of non-

accountability which permeated all sections of the government and banking system… state of the country's system of governance, the persistence of non-adherence to rules, regulations and guidelines, the alarming decay over time in the banking' (Joint Committee to Enquire into Irregularities in Securities and Banking Transactions, 21 December 1993, p.7). The report is replete with words like responsibility, transparency, accountability, scrutiny. The miserable failure of auditors, banks, RBI, and ultimately Ministry of Finance can, in the language of Report, be explained as, failing to anticipate the problem; failing to respond to it purposefully once surfaced; failing to manage the consequences of it; failing to apply the needed correctives; and also failing to punish the guilty in time (Joint Committee to Enquire into Irregularities in Securities and Banking Transactions, 21 December 1993, p.209). Retorting to Finance Minister Manmohan Singh's approach to the issue about which he had said, 'but that does not mean that I should lose my sleep simply because stock market goes up one day and falls next day', the JPC observed that 'it's good to have an FM who does not lose his sleep easily, but one would wish that when such cataclysmic changes take place all around some alarm would ring to disturb his slumber' (Joint Committee to Enquire into Irregularities in Securities and Banking Transactions, 21 December 1993, p.211). JPC rebuked the Finance Ministry in particular by concluding that 'despite MoF being aware of what was happening in the Stock Market did not address themselves seriously to check the unhealthy trend believing this phenomenon to be a beneficial consequence of their policy' (Joint Committee to Enquire into Irregularities in Securities and Banking Transactions, 21 December 1993, p.309).

13 members of the JPC attached a three-page note at the end of the report, which they called 'Supplementary Notes' for the purpose of highlighting the lacunae, non-fulfilment of certain functions of the JPC along with supplementing the 'unanimous report'. It was meant to support the unanimous report, but at the same time, they did feel that some of the crucial matters were not taken into consideration in details or evaded. The note points out that the committee failed to examine allegations relating to payment of Rs. 1 crore by Harshad Mehta; questions of the audit of public funds and banking institutions; and certain lacunae in the functioning of the investigating agencies. However, the factionalism within the committee can be understood by the fact that there were a total of

six different notes by different members explaining, registering his/their objections or consent separately. Besides the 13 member's note, T.N. Chaturvedi wrote a separate note on CAG and auditing; George Fernandes, Rabi Ray and S. Jaipal Reddy also attached a note highlighting the nexus between industrial houses, brokers, bankers and others; Gurudas Das Gupta described the entire JPC as a fiasco, disappointing, full of limitations and the report failed to laybare the collusion. Das Gupta (1993) argued that the JPC report 'failed to state unambiguosly that the securities fraud was not the bi-product of the irregularities of the system and the outcome of unguarded liberalisation only but also the outcome of the collusion between the brokers, industrial houses, banks, bureaucrats, and people in high position' (p. 97). All the Congress party members submitted two separate notes denying Harshad Mehta's claim of bribing the PM and said its contradictory and misleading by Harshad Mehta's depositions and dismissing any foul play to defame PM; last note was by K.P. Unnikrishnan highlighting the success of the JPC.

Whether the report was unanimous or not, one thing was clear that the JPC was internally divided, and several factions were operating as per their vested interest. The claim that there was no dissent note in the JPC report was true, but empirically, it is also true that the report was not unanimous as far as the notes attached to the report highlighting the dissatisfactions, supplementing the report or lacunae in it taken into consideration. A note by all the Congress leaders stated that the allegation against the Prime Minister by Harshad Mehta about the payoff of one crore was baseless. The note mentioned that 'the records available to the committee do not substantiate the allegations made by Harshad Mehta regarding payment of the said pay-off to the Prime Minister' (Joint Committee to Enquire into Irregularities in Securities and Banking Transactions, 21 December 1993, p.336). The point to remember here is that the actual JPC report does not mention any such claim. So, the six notes which were added to the JPC claiming that they would 'supplement' the report are doubtful as there is no such precedence or rule that says that the members can supplement the report other than dissent note in the same report which was written by them unanimously. Similarly, the supplementary report attached by the BJP MPs highlights their concern and dissatisfactions with the report.

These issues were that the allegations of the pay-off to the PM were not investigated; the question of an audit of public funds and banking institutions and the cooperation with the committee and powers of the committee of Parliament were not comprehensively dealt with (Joint Committee to Enquire into Irregularities in Securities and Banking Transactions, 21 December 1993, p.323). Now, if such matters which command immense importance in the entire scam were not discussed or investigated properly, then how can a report which is outcome of that committee be considered unanimous? Also, if it was a unanimous report, then all those who gave 'supplement' write ups should have been an integral part of it. There is no way to evaluate how promising a unanimous report is when the dissent note has been replaced by something called 'supplement note' which is equivalent to giving the impression that the committee was fragmented inside and was replete with factions.

The report made a recommendation of Action Taken Report in six months by the government which was not in the Bofors JPC. It was an arrangement to make government accountable and answerable to the report. The government presented an ATR in the month of May and Dec 1994, however reluctantly. The report had indicted the then minister B. Shankaranand of serious misconduct while chairing some of the meetings as an ex-officio chairman of the Oil Industry Development Board where certain irregular investments worth hundreds of crores were decided. The charges against him were direct in the report yet he remained a minister until December 1994. It was alleged that OIDB had invested 592.82 crores in CANFINA (294.42 crores) and Syndicate Bank (198.38 crores) after January 1990. The power to invest these amounts lay with the Board secretary till Petroleum Minister (B. Shankaranand) took it under his command. He continued to invest money in CANFINA, even after its involvement in the scam was out in the open. The resignation became a reality in December 1994 only when one of the Congress faction leaders Arjun Singh threatened to quit the ministry, Rao accepted his resignation. The stalemate continued for about a week and finally Shankaranand had to step down. It was the politics and pressure from the party factions that Shankaranand succumbed to, not the serious charges made against him.

When it came to implementing the JPC recommendations, suggestions and conclusions, the government turned its back on the report. SEBI, a newly adopted statutory body, could not revamp itself as per the expectations of the JPC. SEBI could be one regulatory authority which has the potential to check and balance the stock market, securities transactions, etc. The 2002 JPC report on Stock market scam begins with the acknowledgement that 1993 JPC recommendations were not adopted by the government after 1994. The report was reduced to garbage otherwise the huge scam of 2001 could have been averted or checked on time. The 2001 JPC's deliberations started with an anxiety about how well the previous JPC's recommendations were implemented by the government. Hence, the JPC on Stock Market Scam under the chairmanship of Prakash Mani Tripathi decided to 'examine the question of whether there should be a mechanism or institution to ensure the effective and timely implementation of Action Taken Reports presented to Parliament on the recommendations made by 1992-93 JPC' (Joint Committee on Stock Market Scam and Matters Relating Thereto, 19 December 2002, p.7). This committee found an inordinate delay in the punishment of the guilty and stated that unless the regulators are alert and the punishment is swift and adequately deterrent, scamsters will continue to indulge in financial misconduct. Further, it argued, 'under the present system, there is no deterrence to malpractices, irregularities, and manipulations in the capital market' (Joint Committee on Stock Market Scam and Matters Relating Thereto, 19 December 2002, p.13). Besides a large number of cases yet to be adjudicated (66 out of 72 cases after more than nine years)[19] depict the intentions and evasion. The Special Cell constituted by CBDT on the 1992 JPC's recommendations to examine the role of Industrial Houses about the securities scam became non-functional without 'arriving at any findings…the cell was only revamped after six years when this JPC

[19] The JPC report in 2002 indicted the government that the follow up cases of 1992 Harshad Mehta scam was very dismal. Among these cases, almost two dozen cases on Harshad Mehta Groups, a dozen on Dalal Group, and several other cases on Amarchand & Hariram, people like Margabanthu of UCO Bank, Anil Sharma of SBI Caps, R. Sitaraman & C.L. Khemani of SBI were booked under Anti-Corruption Act which included disproportionate assets, bribe, and misappropriation. Other firms or brokers like V.B. Desai, Y.S.N. Shares & Securities, Chanderkala & Company and C. Mackertich & Stewart company were also booked by the CBI. The Finance Ministry in its first Action Taken Report on May 2003 explained that out of 72 cases registered by CBI related to irregularities in securities transactions in 1991-92, charge sheets had been filed in 47 cases and in the remaining 25 cases the agency had recommended department action against the concerned officials or closure of cases or cases were otherwise disposed off. However, the follow on of Action Taken Reports bi-annually continued to argue the above claim until July 2005. On July 2005, the ATR stated that the action has either completed or disposed off.

started functioning…the cell now arrived at the finding that nexus between brokers and banks/financial institutions was prominently visible…nexus between industrial/business Houses and the Banks was mainly through the Portfolio Management Scheme in violation of RBI guidelines'(Joint Committee on Stock Market Scam and Matters Relating Thereto, 19 December 2002, p.14). Moreover, the disciplinary proceedings against many auditors were far from dismal. The committee's observation unlike the then Finance Minister (1998-2002) about the steps taken to ensure the implementation of 1992 JPC, Yashwant Sinha, who himself was a member of the JPC for sometime until his term expired in Rajya Sabha, told the committee that

> to the best of my recollection, I do not think that at any point of time I was told that any or many of the recommendations of the JPC were still to be implemented, I had imagined and one would imagine that by 1998- the JPC submitted its report in 1992 (1993) and there were governments in between - most of the recommendations would have been entirely implemented and exhausted. That they would remain outstanding even in 1998 was something difficult to imagine, was diametrically opposite when it observed it is obvious to the committee that implementation was far from satisfactory and MoF took so casual an approach to the implementation of the JPC, 1992 recommendation… that they neither monitored implementation nor informed successive Finance Ministers about the non-implementation. This culture must change (Joint Committee on Stock Market Scam and Matters Relating Thereto, 19 December 2002, p.18).

The Finance Minister's response as mentioned above was very casual and rhetorical in nature by neither denying nor accepting any factual details on the implementations but transferring the burden to the previous governments. So was the committee's opinion when it mentioned that it is the duty of successive Finance Ministers to inform the succeeding minister about the extent of the task fulfilled or not. Any report submitted to the government is considered to be a document that all the future government can make use of it, and it's the duty of all governments irrespective of partisan nature to take into consideration. The JPCs reports are public, submitted to the Parliament, belonging to all the parties, raising the concern of huge public interest cannot die with the change of government as happened and continue to be happening with most of the committees, commissions and reports.

The politics behind the process is simple - the committee belongs theoretically to the Parliament. Numerically, the Parliament is dominated by the ruling parties. So, any committee's composition would reflect the same pattern as it is based on the proportional

representation system. So, the emphasis of the opposition remains that someone from the opposition bench should head the committee as it would provide an opportunity to the entire opposition by being critical to the government while investigating the matter. Otherwise, a ruling party leader chairing the committee can exonerate the government. For that matter, even the indictment of the government by the committee has political significance for the opposition as it could help it electorally if the issue is sensational. Anyway, their implementation becomes irrelevant as far as systemic, regulatory or scrutiny functions are concerned. All the JPCs so far met the same fate when it came to bringing those into action effectively. It is this politics which compelled many commentators to consider the constitution of a JPC in the wake of any scam, as pointless, and to suggest judicial commission instead. For example, Sucheta Dalal expressed her disgust for the JPCs 'as it is fast becoming a tool to intimidate people and settle personal or corporate scores' ("Whose interests does the JPC serve anyway?", 12 Aug 2001). Signaling towards the 30 members of 1992 JPC, she claims that 'at least two-third of the members neither understood the scam nor cared to do so...attended occasional hearings…many questions were utterly frivolous- most of the information was simply junked by the members, and a large portion of it was routinely available for a price' ("Don't Bother with a JPC on Scam 2001", 9 April 2001). And her ultimate defence was that 'this circus was hidden from the Indian public under the pretext of absurd banking secrecy rules and the media given only a carefully edited briefing at the end of each day' ("Don't Bother with a JPC on Scam 2001", 9 April 2001). In 1992, JPC held 'RBI superficially responsible for ignoring warning signals since 1986…one may well cut and paste the same statement in the JPC report of 2001' (Joint Committee on Stock Market Scam and Matters Relating Thereto, 19 December 2002) as the deputy governor named in the report of 1993 was not touched or prosecuted. Similarly, the previous JPC 'has pulled up the CBI for not investigating the connections between brokers and 'politically important persons', 2001 JPC would mention the same point again' (Joint Committee on Stock Market Scam and Matters Relating Thereto, 19 December 2002).

Out of a total of 276 recommendations in 2001 JPC report, 19 recommendations were exactly same as that of 1992 JPC report. These pertained to the functioning of brokers, the bank broker nexus, inspection of banks, auditors in banks, role of nominee directors

in governing bodies, inordinate delays on the part of investigative agencies, violation of guidelines by banks, responsibility of Finance Ministry, nexus among industrial houses, and banks, failure of regulators etc. The 2001 JPC recommends that the nexus between Ketan Parekh, banks and the corporate houses should be thoroughly investigated by SEBI or Department of Company Affairs 'expeditiously'. Following the recommendation, June 2004 ATR stated that 'out of 15 corporate[20] referred in the JPC report, corporate/promoter-brokers (KP entities) nexus has been established in 7 cases' (Action Taken Report on Joint Committee on Stock Market Scam and Matters Relating Thereto , June 2004, p. 19). Once the collusion was established, SEBI debarred Ketan Parekh and all the entities related to him from dealing in securities market in any manner for 'a period of 14 years and a prosecution has also filed against him' (Action Taken Report on Joint Committee on Stock Market Scam and Matters Relating Thereto , June 2004, p. 19). By December 2007, the SEBI had substantiated that there was explicit nexus between all the alleged corporate, promoters, banks and Ketan Parekh. SEBI had taken quasi-judicial action ranging from cancellation of registration of promoters for seven days, 15 days to debarring broker for 14 years. Also, penalty was imposed on promoters from as low as Rs. 30,000 to Rs. 60,000 to 1.5 lakh.

One can witness the stark violation of the regulatory mechanisms and their failure of implementation. The first ATR stated that 'The irregularities brought out in the present Stock Market Scam do not reveal any systemic weaknesses but are basically violation of RBI norms and involve transactions of a fraudulent nature by a few private/co-operative banks' (Action Taken Report on Joint Committee on Stock Market Scam and Matters Relating Thereto , June 2004, May 2003, p.12). The political and economic situation had changed by 2001. The report from the beginning, advocated a great deal about the non-functioning of agencies and regulatory bodies like SEBI, DCA- HLCC, RBI, ED, Income Tax and other investigative bodies.

[20] These 15 firms were SSI Ltd., Silverline Technologies, Cyberspace Ltd, Lupin Lab Promoters, Adani Exports Ltd, Pentamedia Graphics, Global Tele, Zee Telefilms, Aftek Infosys, Global Trust Bank Ltd, Ranbaxy Laboratories Ltd, Delhi Securities Ltd, Padmini Technologies Ltd, DSQ Software, Global Telesystems Ltd, Himanchal Futuristic Communications Ltd, & Shonkh Technologies International Ltd.

Almost after a decade of neoliberal reforms, the report states that

> with liberalization, the role of the government as a direct player in the financial market will diminish. This makes it...necessary that the procedure and guidelines laid down for the creation and perpetuation of fair and transparent financial markets and institutions like stock exchanges, and bodies have to be more specific, and effective mechanisms have to be put in place (Joint Committee on Stock Market Scam and Matters Relating Thereto, 19 December 2002, p. 439).

The plea was to go for a robust regulatory mechanism when the direct involvement of the state becomes contingent upon the market. The state has already rolled back its tentacles, so the only method to make private partners accountable in the market economy is the regulations employed by the state. So, the unanswered question is who will regulate the regulator? If during an investigation, regulatory bodies like SEBI have been found in bad shape, whose responsibility, it is to fix that? At this juncture, the recommendations of the JPC remain untouched who has been made accountable for this? As far as JPCs are concerned, these questions are yet to be answered. As long as JPCs continue to be a political tool either to nail the government or to satisfy the opposition, the merits and effectiveness of the JPCs are difficult to evaluate holistically. The 2001 report made a special recommendation that an Action Taken report has to be presented in the Parliament every six months so that the progress can be analysed. Even after 14 years of this, successive governments continue to do so and so far 23 ATRs have been presented, in which the update on the recommendations and suggestions are replete with references to 2002, 2003, 2009, 2006, etc. that is to say, the last progress on those recommendations were made several years ago. Even the auditors have not been prosecuted by ICAI so far as per recommendations.

The progress report on ATR has become nothing more than a ritual. In the eyes of government as well as the opposition, it holds no substantive value to insist upon in future. Two JPCs constituted after 2001 have not seen a single ATR as there was no specific provision for this in the report. So, neither the previous precedents of ATRs were adopted, nor any initiative by the government was taken on their own to acquaint the Parliament about the updates on the issue. Also, there is no arrangement except the Houses floor which will check and ensure the answerability by the government on the recommendations. As the JPC ceases to exist the moment it tables the report to the

House, everyone seems to lack any formal or professional interest towards the report, in particular. After five JPCs spanning across twenty-five years, so far, could not setup any precedence as far as powers, roles and autonomy are concerned. The moment, JPC goes beyond the written words of Terms of Reference, it needs the Speaker's permission, for example, if JPC wants to call any sitting minister, it has to seek the Speaker's permission unlike investigative committees of the US or even various Westminster model like the UK. The UK has Liaison Committees to look into the workings of all committees, and since 2009, Prime Minister of UK has to depose before that in particular, and committees can summon the PM to witness in general.

Arguably, to look into any matter, the government has many options including JPCs. There is debate over what sort of inquiry should be done to keep it effective, out of controversy as well as credible. By far, in these five matters, three different kinds of inquiry had been suggested. Firstly, demand for the JPC mainly by the opposition in the Parliament. Secondly, some people strongly suggested judicial probe blended with an open and public hearing as they were fascinated by the way it was done in Haridas Mundhra Trial of 1957[21] conducted by Justice M C Chagla. 'It was an open and public hearing which attracted such high profile interest that the proceedings have to be amplified with loudspeakers so that people could follow the testimonies. The judge had decided that "a public inquiry is a very important safeguard for ensuring that the decision will be fair and impartial"; and because the "public is entitled to know on what evidence the decision is based"' narrates Sucheta Dalal ("Whose Interest does the JPC serve anyway?", 12 Aug 2001) while reiterating her support in this form of inquiry. The third mode of inquiry was a well established departmental probe against which the demand for

[21] Feroze Gandhi, an MP from Rai Bareli on December 16, 1957 brought up an issue on the floor of the House accusing a Calcutta based businessman Haridas Mundhra of manipulating government owned LIC as the company had invested Rs. 1.26 crore in the shares of six of his weak companies. PM Jawaharlal Nehru set up a one man judicial commission of Justice Mohammad Currim Chagla. It was a public investigation. Inder Malhotra, veteran Journalist and political commentator argued that this scandal triggered the resignation of the then Finance Minister T.T. Krishnamachari and for about two months it remained at the centre of the political stage. The investigation was wrapped up in 24 days and observed that LIC's investment in Mundhra's firm was flawed, pressures and bad. The commission opined that Haridas Mundhra was not an industrialist at all, but an adventurer whose passion was to swallow as many firms as possible. The investment involved a series of improprieties committed by many officials. The repercussions of the inquiry led to the demission of senior government officials, Union Finance Secretary H M Patel, LIC Chairman K.R. Kamath and other official L S Vaidyanathan.

JPC erupted during Bofors. However, Natwar Singh suggests that it was the JPC which created furore during Bofors, if it had been a departmental probe, the situation could have been quite the opposite and safe. He writes, 'I felt then, and still do, that the Prime Minister could have handled the matter in a more nuanced manner. All that Gandhi had to do was to appoint a committee of senior officials under the chairmanship of the cabinet secretary to deal with the Bofors issue' (Singh, 2014, p.275).

As explained in the first chapter the rationale for the Joint Parliamentary Committees was substantively democratic in nature. It flourished on the ground where parliamentary supremacy can be ensured vis-à-vis executive is concerned. So, it is the legislature which makes executive answerable in case of any misconduct and abuse of power, not by some inquiry carried out by the executive itself. However, the motive which gave birth to the JPC failed to foresee its effectiveness or otherwise in the long term. After all, it is executive whose task is to take action and steer the task of JPC's recommendation into implementation. Hence, the goal of making the executive accountable to the legislature is very much contingent upon the politics between the parliament and the government or the legislature and the executive. For example when the fourth JPC was demanded and constituted on August 2003 over the issue of Pesticide Residues in Soft Drinks, unlike the previous demand for JPCs which used to witness a lot of disruptions and disturbances sometimes resulting adjournment of the House, government accepted it smoothly and wholeheartedly without any grievances.

Moreover, without any specific demand, the government proposed a leader from the opposition, Sharad Pawar's name to chair the JPC. Also, the then Minister Sushma Swaraj strangely suggested that all the members of the JPC should be only from opposition parties headed by Sharad Pawar, another Opposition MP. The report of this JPC submitted in 2004 witnessed one significant implementation in 2005. The report recommended and directed the government to set pesticides standards for the soft drinks for India specifically. The Bureau of Indian Standards (BIS) after rigorous deliberations and meetings with different stakeholders such as people from beverage industries, associations', food and nutrition scientists, government officials and NGOs finalised the standards for pesticides in cold drinks. The set limit is 0.1 ppb for individual pesticides

and 0.5 ppb for total pesticides in soft drinks. One doesn't see any limitation in the implementation of executive orders of the JPC in this case as it was neither politically inflammable nor any particular party was allegedly involved in this. The government acted smoothly and promptly. One thing that can't be explained here is, to recommend Indian standard to the government could have been done by any committee or panel consisting of scientists and specialists. Then, why did government constitute a JPC for this purpose? The motive and intention cannot be answered, however, what is essential to note here is that, it had a chairman from opposition benches.

These three Joint Committees on the Banking Transaction irregularities (1992), the Stock Market Scam (2001) and the Pesticide residues in soft drinks case (2003) had one thing in common. It was in the nature of the issue, that regulators like SEBI, BIS were under questions. At the same time, the issue was grave in nature as common people were directly affected in all the three issues. This aspect forced the government as well as the opposition to attempt to build consensus. Though the opposition, as explained in the previous sections was dissatisfied with the committee that investigated the Harshad Mehta scam of 1992, nevertheless, gave its support for a consensual JPC report. In all these three cases, the nature of the issue in question compelled leaders across the political spectrum to shed their partisan political differences to address the common concerns of the people and the ills of the system. This provided favorable conditions for consensus building.

Concluding Remark

The terrain accommodating all the JPCs witnessed no patterns as such. There is no partisan emanating from these three JPCs, except the relatively consensual basis of their formation. To elaborate further, even if a JPC gets an opposition party member as a chair, for example in the Pesticide Residues in soft drinks JPC (2003), it is not a pre-condition that future JPCs are going to follow a similar pattern. There are no such directives or rules regarding various aspects of the committee system in India. The speaker has discretionary powers to take decisions on issues such as who can be called as witnesses,

when can a committee meet, in what form depositions and written statements would be made, whether media and public is allowed while deliberation or not, and also, it is totally up to Speaker whether a debate and discussion should be allowed on the report submitted by the Committee to the Parliament. Hence, understandably, either there are rules, regulations and directives or there is precedence which is the manifestations of certain practices carried out in the Parliament time and again, repeatedly. Committee system in the contemporary UK is the outcome of the precedence set up over decades, which later became rules. India followed the same path when the chairmanship of Public Accounts Committee is given to the main opposition party, precedence as well as a tool to make the parliamentary system accountable and balanced. The limitation with PAC is that the reports tabled by this committee cannot be discussed in either of the House, thus scuttling the public evaluation part of the report.

5

Conclusion

The focus of this study was to understand the role investigative committees play in parliamentary democracy. It was an attempt to examine the procedural and substantive aspects of five investigative Joint Parliamentary Committees (JPCs) in relation to politics, political processes and the parliament. The analytical study of the committee system in India remains limited and scarce unlike other Westminster systems such as the UK or Presidential systems like the USA. There is comprehensive analytical work available on the committee system in the UK which is helpful in understanding the role, functions, importance and efficacy of the committees in the political system of a country. India adopted the committee system from the UK model.

The committee system developed gradually in post independent India along with reforms in the parliamentary system. The committees not only supplement the work of the parliament, but have occupied an indispensable role in the day to day affairs of both the Houses. The arrangement is such that the contemporary parliament cannot be imagined in the absence of various committees that have taken shape over a period of 70 years. Ideally, the introduction and expansion of the committee system was meant to make parliament a more robust institution in terms of its relevance and effectiveness.

The advent of a comprehensive committee system in 1993 was one among various reforms related to the parliament. In this year, India adopted the Departmentally Related Standing Committees, the primary motive of which was to revamp the legislative activities of parliament, not only procedurally but substantively. The expression ‘procedurally’ here, means that the committee takes into consideration the fact that any bills or proposed amendments are considered clause by clause by the respective committee. The debate keeps the sanctity of the parliamentary ethos, which is to discuss anything that comes to the House floor, to deliberate on the introduced subject to reach a

consensus. To debate is a procedural necessity and how the debate will go on and shape the committee's understanding, the broader and deeper aspects which have been taken while debating any subject, is the substantive strength of the committee. The post-1990s debate on the decline of the Indian Parliament questioned the later aspect. The efficacy and applicability of any policy that parliament make depends on the basic factor of how well the policy addresses the pros and cons of the issue. The draft bill is presented in the parliament, which is why the opinions and feedback are collected, considered and reconsidered several times. Following the same principle, MPs in the parliament debate the motion raising several points and objections to it. When a debate does not take place, the relevance of the parliament is doubted and in grave danger. The committees try to address such concerns by debating clause by clause in a closed room among the selected members. It also takes expert opinion and feedback to make the bill robust and long lasting. So, is this the only role that committee play? Or is there any other purpose the committee system also serves?

The genesis of ad hoc, joint and select committees opened up huge possibilities to take up scrutiny and oversight work. Often, the government constituted ad hoc committees to consider the legislative activities of the parliament too. With the constitution of the DRSCs, the legislative activities relating to bills, amendments and public policies came into the ambit of these committees. Along with these, there were committees constituted for special purposes such as to inquire and investigate into certain specific matters of utmost significance and importance. The parliament constitutes such committees with a mandate to investigate in any arena, be it an issue related to executive, legislature or judiciary. So far, the parliament has constituted joint committees to investigate executive irregularities or misconduct, and also to consider various bills and policy legislation.

The focus of this dissertation has been on understanding the relationship between parliament and the Joint Parliamentary committees. So far, five JPCs have been constituted in 1987, 1992, 2001, 2004 and 2011 to investigate the role of government in scams, corruption and charges of irregularities in Bofors Gun contract, Banking securities and transactions, Stock market scam and UTI securities, Pesticide residues in Soft Drinks

and allocation of licences in 2G Spectrum scam respectively. The government, directly or indirectly, implicitly or explicitly was at the receiving end in all cases. The overarching focus was to fix accountability of the executive, make it answerable and scrutinise it. The committees undertook the task defined to them as per their respective terms of reference. There is no relationship between any of the JPCs except that they are addressed by the common name of 'Joint Parliamentary Committee'. All the committees were bound and regulated by the rules and regulations provided in the Parliament's manual and Speaker's conduct. However, there was no coherence in terms of a framework. So, the challenge for this research was to come up with an analytical framework which could guide the study. Chapter One elaborated the pattern and the basic analytical framework. The discrete, incoherent and scattered experience of JPCs was to be understood in terms of how they were interacting with a common institution, that is, the parliament; how they were impacting a common phenomena, that is, the politics and political processes; and how the outcome was contributing to a process of institutionalisation of a system within the parliamentary democracy.

The analytical framework as explained in the first chapter makes it easier to understand the complexities of a phenomenon which is not as yet fully defined or institutionalized, and the effectiveness of these committees is entirely dependent on the behaviour of the ruling and the opposition parties in the parliament. If the treasury benches reject the JPC reports and the opposition benches support it, the report is not going to hold any importance as implementation of the recommendations is subject to the willingness of the government. Similarly, if the government accepts the report, considering it favourable, and the opposition rejects it saying a cover up, the former's effort to implement the recommendations and suggestions will largely go unscrutinized and unanswerable due to later's disinterest. Another situation could be when both the government and the opposition accept the report unanimously in the parliament. Even in this case, the implementation very much depends on the assertiveness of the parliamentarians of the two Houses. The entire House accepted the 2003 JPC to inquire into the pesticide residues in the soft drinks, but it failed to come up with the ATRs and the responses of the government to the questions and recommendations made by the committee. However,

a standard for the pesticide level in the beverages was decided following the JPC recommendation, though this was only one of the various recommendations and suggestions of the report. Also, this particular matter was not as politically volatile and charged as were the other four issues of scams and irregularities. So, implementation, as well as non-implementation, in all the cases were very much contingent on the nature of the issues at stake.

Another instance is the 2001 JPC on the Ketan Parekh Scam where there was a consensus regarding the committee report. There were no major disagreements on the floor of the House about the report except the issue that it was selectively leaked to the media. Moreover, there was no debate on the report per se in the parliament. It was considered the most effective JPC report of all. Following the recommendations of the committee, successive governments have been providing bi-annual Action Taken Reports and their progress report. There are so far till December 2014, 23 ATRs. The government addressed each recommendation and suggestion, at least on paper. How effective the government's action has been on the said recommendations is an altogether different domain of study, addressing the question of executive accountability and performance. However, the committee succeeded in making the executive answerable to legislative concerns and questions. This step is setting precedents for future ad hoc committees.

To keep the conclusion crisp and sharp, the coming section will discuss pointedly the takeaways from the chapters of this dissertation. The argument will revolve around the following points:

5.1. Committee system as a panacea to all that ails Parliament
5.2. Investigative Committees as a political tool to fulfil partisan political agendas
5.3. The Terms of Reference of Committees: the need for autonomy in functions, role and powers
5.4. Absence of explicit provisions to debate Committee reports on the floor of the House

5.5. Need to look not only the effectiveness of the Committee report but also to scrutinise the performance of the Committee itself

5.6. Push to the institutionalisation of the committee system through mechanisms such as Action Taken Reports (ATRs)

5.1. Committee system as a panacea to all that ails Parliament

As explained in the second chapter on Parliamentary reform, unlike the Westminster model of the British political system, the Indian parliament adopted reforms which were quite different in tone and tenor. The reforms of 1993 and 2004 of the working and functioning of the parliament followed by the constitution of departmental committees and the subsequent addition of eight more committees respectively was an essential step to address the rapidly changing nature of Parliament in the wake of the neoliberal market economy and changing domestic politics. The problems include a range of issues such as decreasing working hours of parliament, guillotining of the budget, wastage of zero hours and question hours, no discussion on demand for grants, absenteeism, and the increasing money and muscle power of parliamentarians. The last two reforms of 1993 and 2004 indicate an emphasis on strengthening the committee systems. However, the way Britain addressed the committee reforms in 2009 Wright Committee reforms, was never discussed in India. Simply increasing the number of committees cannot address the issue of legislative paralysis. These committees submit hundreds of reports every year along with monitoring progress through Action Taken Reports by the Ministry, but even then their ambit is very limited. The scope of the reports is not addressed in substantive ways. The members of parliament, except those who are members of the particular committee, do not get the opportunity to discuss the issue. The argument that the House cannot possibly discuss each matter on the floor of the House due to time constraints is convincing, but at the same time, any issue discussed in the committee is restricted for public hearing and live telecast. One can only get to know by press conference or through reports or the minutes that only briefly reiterate the decision taken reports. This opaque nature is characteristic of all parliamentary committees in India unlike countries like the UK and the USA where deliberations are open to the public and live telecast. Once the

deliberations are blacked out, the advocacy of transparency and accountability does not hold any significance. In this case, providing live access to the proceedings of the Houses of Parliament makes no sense when a large part of House business which is taken by the various committees is blacked out.

Also, the committee system does not and cannot address the issues of absenteeism, guillotining, weakening of zero hour and question hour, and no attempts have been made to undertake reforms on these aspects. The purpose of the revamped committee system was to shift the pressure of parliamentary work to the committees so that legislative work would not get hampered due to the non-functioning of the two Houses. The simple hypothesis behind this is that when a large group of people cannot work together harmoniously due to their political affiliations, prejudices and interests, we can make that work done in small groups by changing the idiom itself, that is, by making that group more technocratic and expert-oriented. The argument behind the committee system is that all the committees are equipped and mandated to have expert opinions and technocratic help regarding any bill or proposed policy legislation. This aspect makes the deliberations less political in nature, at least in perception, as the expert or the technocratic opinions are primarily considered non-political and neutral in nature.

The committee system which came into existence as a subsidiary to the parliament now ironically overlaps with parliament as a prime space for representatives to take up the task of legislation, oversight and scrutiny of the executive. At the same time, parliament resembles more the space controlled predominantly by the government when it comes to talking about the legislative activity of the parliament, or a space for House disruption when it comes to evaluating the opposition. For example, any decision taken by the government which the opposition does not endorse results, time and again, in the form of constant parliamentary disruptions, but the working of the committees goes on regularly without any such disruptions. This makes committees perennially important and relevant.

The question, however, is, does it address the problem of what ails parliament and the need for reforms? The parliament as a representative body congregating the diversity of

the country cannot feasibly be reduced in itself to a committee that is opaque, ill equipped, not autonomous in its powers and even functions. The contradiction is that the committees are taking up large chunks of parliamentary work of utmost importance to keep legislation vibrant. Also, the committees have no autonomous powers and functions. How effective would such a committee be when it has to take permission from the Speaker or the chairman of the House even in calling a witness for testimony?

Also, reports of all the committees are tabled in the House, but the House is not supposed to debate any of the reports unless the Speaker allows this in some special circumstance. This rule applies to all the committees, be it a departmental committee or an investigative committee. So, the committees derive powers from the will of the entire House by the medium of the presiding officer of both the House, but strangely, the House is not mandated to debate and discuss the report of the committees when it comes to scrutinising the committee itself.

The reforms of the committee system do address the larger question of parliamentary reforms but cannot adequately substitute for it. The Indian experience shows that the introduction of the committee system was an attempt to take measures of parliamentary reform which needed to be revised according to the changing role of legislation and parliament, but these could not be addressed unlike the UK's attempt to reform the process of selection and working of the committees as explained in the second chapter. The Indian Parliamentary system has not so far been able to come up with transparent and effective mechanisms for the election of the members and the chairperson of each committee. Such reforms give relatively more autonomy to the committee members and their functioning as they enjoy the confidence of the entire House despite the fact that members belong to different parties having distinct ideologies. As their membership is ultimately contingent upon the mandate of the House, the committees are answerable to the parliament in terms of their working.

Situations where a special committee is formed on an ad hoc basis demand greater precision and carefully crafted parliamentary safeguards, so that the purpose could be not

only achieved formally but also be substantively. That is why JPCs need attention in such a way that goes in direction of reforming parliament. The House at the same time must focus on reforming the other facets that are crucial for a robust parliament, that is, how the question of zero hour and guillotine is addressed, how disruptions may be addressed effectively, how to bring all members of parliament into the process of effective deliberation and proceedings.

5.2. Investigative Committees as a political tool to fulfill partisan political agendas

The study looked into the Joint Parliamentary committees which are investigative in nature. The allegations made in the scams and corruption charges were serious in nature and content. But the way the JPC was used clearly the instruments of partisan political agenda as explained in the last two chapters. The corruption charges in the Bofors and 2G spectrum scam had the potential to shake the entire political establishment. This potential motivated the members to use JPCs as a political tool. The JPC miserably failed and could not even come up with a unanimous report, at the same time it exonerated the government and the ruling parties. The terms of reference mandated to look for possible policy loopholes and improvements too were ignored by the committees. This gave immense possibility for the opposition to indulge in politics. From the very beginning, the demands of the opposition to keep the committee impartial by electing an opposition chair was rejected, further giving a ready-made reason to the opposition to reject the JPC in toto. The Harshad Mehta JPC also witnessed internal Congress politics due to the rivalry between the camps of Narasimha Rao and Arjun Singh along with several other prominent politicians. Even in the Ketan Parekh Scam, the way the demand for the JPC was accepted raised doubts about its effectiveness as, during the same time, the opposition was demanding another JPC in the Tehelka Sting scandal alleging senior BJP leaders of bribery in defence contracts. The government, however, rejected the demand for a JPC in the Tehelka affair but agreed to constitute a committee in the Stock Market Scam that came to light simultaneously.

The nature of the issue was completely different in the Harshad Mehta and Ketan Parekh Scams, as explained in the last two chapters. The scam attempted to distort the whole financial and banking system through collusion with officers, bankers, accountants and brokers. Public money exchanged several hands for each other's profit without any accountability or control. It was a time when the government was expecting huge private investment as well as spending by the public in order to increase the flow of money in the market. Money was pumped into the market. So, if such scams could make the people cynical about their investment, it would lead to a crisis. The regulator, which was supposed to guarantee safety and security, failed due to negligence, non-coordination and limited authority to act. Also, there is an absence of stringent laws which could prevent recurrences of such crimes and nexus. For example, when Harshad Mehta reentered the stock market in 1998, he again got involved in the rigging of prices of the stock of several companies like Videocon and HPCL, in the same manner. Once SEBI debarred Ketan Parekh from indulging in any stock or securities market for fourteen years, he remained active stealthily with the help of 18 dummy or front runner companies working for him till around 2010. These are well-established facts that regulators failed to control time and again. What made them fail is the point to consider. Is it the absence of laws or the misuse of safeguards provided in those laws? Is it politics or the procedure giving them cover, time and again?

5.3. The Terms of Reference of Committees: the need for autonomy in functions, role and powers

Any investigative committee which has been constituted for a specific task and aim needs to be given autonomous sources of power so that it could not depend on some other bodies in the course of the investigation. All the five JPCs had limited powers enshrined in their terms of reference. The terms of reference are the width of the ambit allowed which the JPC can work without any other’s permission or interference. However, in all the five JPCs, the role of the speaker is very decisive and important when it comes to calling any minister or prime minister, the mode of their enquiry, and even in deciding the content of the dissent note to be attached to the report. Time and again, a major part

of the dissent note was expunged by order of the Speaker in the JPC report. This is the domain of the speaker as explained in the Rajya Sabha manual

> If in the opinion of the Chairman of the Committee a minute of dissent contains words, phrases or expressions which are unparliamentary, irrelevant or otherwise inappropriate, he may order such words, phrases or expressions to be expunged from the minute of dissent. Likewise the Chairman, Rajya Sabha shall have the power to order expunction in like circumstances or to review all decisions regarding expunction from minutes of dissent, and his decision thereon shall be final. As distinguished from the minute of dissent, a member may also give a Note on the report which is also appended to the report when it is presented to the House (Devi & Gujar, 2017, p. 928).

The adopted motion of the Bofors JPC states that 'the committee shall have the power to ask for and receive evidence, oral or documentary, from foreign nationals or agencies, provided that if any question arises whether the evidence of a person or the production of a document is relevant for the committee, the question shall be referred to the Speaker whose decision shall be final' (Joint Committee to Enquire into Bofors Contract, 1988, p.23). It further states that 'the Rules of Procedure of this House relating to Parliamentary Committees' shall apply with such variations and modifications as the Speaker may make' (Joint Committee to Enquire into Bofors Contract, 1988, p.23). Further, the then defence minister responding to the demand for calling for testimony or questioning by the committee said that

> as per practice obtaining in the Westminster (UK) the ministers are being answerable to Parliament, are not summoned before Parliamentary Committees. In Lok Sabha, under Direction 99(1) of the Directions by the Speaker, Ministers are not to be called before the Financial Committees for a formal evidence. However, if a minister wanted to place some facts before the committee of his own, he could do so. Given the special nature of the committee, the government would be prepared to allow the ministers to appear before the committee of the speaker, after ascertaining the views of the committee, felt that his appearance was necessary for the purpose of the inquiry (Joint Committee to Enquire into Bofors Contract, 1988, p.21).

A similar concern came to notice in the 1992 Harshad Mehta Scam where the opposition leaders once again demanded that there should be provisions mentioning the 'procedure to enable the committee if it felt necessary, to summon a minister with concurrence of the Speaker' (Joint Committee to Enquire into Irregularities in Securities and Banking Transactions, 21 December 1993, p.4). However, once again the passed motion put on record that

> Direction 99 of the Directions by the Speaker provides that a Minister shall not be called before the committee either to give evidence or for consultation in connection with the examination of estimates or accounts by the committee. The chairman of the committee may, however, when considered necessary but after its deliberations are concluded, have an informal talk with a minister, the estimates or accounts of whose ministry or undertaking was under consideration by the committee. However, as the motion adopted by the House for the JPC provided that the Committee might if need arises in certain matters adopt a different procedure with the concurrence of the Speaker' (Joint Committee to Enquire into Irregularities in Securities and Banking Transactions, 21 December 1993, p. 4).

When the JPC asked for the Speaker's permission to call in some ministers, the Speaker while 'permitting to call written information on certain points' (Joint Committee to Enquire into Irregularities in Securities and Banking Transactions, 21 December 1993, p.5) from ministers/ex-ministers also stated that 'the approval is given in view of the uncommon nature of the case and the views expressed by the leaders of all parties at the time of constituting the committee' (Joint Committee to Enquire into Irregularities in Securities and Banking Transactions, 21 December 1993, p.5).

Similar pattern was adopted by the 2001 Ketan Parekh Scam. The adopted motion stated that

> Direction 99 of the Directions by the Speaker applicable to Financial Committees prohibits the Committees from calling a Minister before the Committee either to give evidence or for consultation in connection with the examination of estimates or accounts. However, the motion adopted by the House for the JPC provided that the Committee might, if need arises, in certain matters adopt a different procedure with the concurrence of the Speaker. Given this, a specific request was made to the Hon'ble Speaker, Lok Sabha by the Chairman, JPC on 20th May 2002 as decided by the Committee for permitting the Committee to call written information on certain points from the Minister of Finance and Minister of External Affairs. Hon'ble Speaker, Lok Sabha accorded the necessary permission on 1st June 2002. Accordingly, the Committee called information in writing on certain points from the Ministers (Joint Committee on Stock Market Scam and Matters Relating Thereto, 19 December 2002, p.5).

The new aspect, in this case, was that the JPC needed some further clarifications from the ministers again, for which the committee had to seek the Speaker's permission once again in September 2002.

This procedure was also followed in 2004 Pesticide Residues JPC and the 2011 2G Spectrum JPC when they did not call any minister for oral testimony in both cases, however, written statements were submitted by the ministers in 2004 and by the accused

Telecom Minister in 2011 2G Spectrum scam to the JPC. In the words of 2G Spectrum JPC chairman P.C. Chacko, on the opposition demand to call in the Prime Minister, 'even if the Prime Minister wants he cannot appear before the JPC. That's the norm which applies to all of us. Even if the JPC wants, it cannot call a minister as a witness till a unanimous resolution is passed. The resolution will then have to be sent to the Lok Sabha Speaker who will take the final decision'[22]. In the same case, the Telecom Minister A. Raja who was willing to depose before the committee for testimony was not summoned by the chairman.

The role of the Speaker becomes pivotal when it comes to questioning any minister. In all the four scams, except the pesticide issue of 2003, the role of the ministers was questioned time and again. Either a minister was doubted for lack of responsibility towards his duty or was considered to be involved such as B. Shankaranand in 1993 and A. Raja in 2011. The JPCs also raised questions about ministerial responsibility in the 1993 Harshad Mehta and 2001 Ketan Parekh Scam. Such cases embarrass any government due to which the ruling party tries to prevent the questioning of the ministers in an open, accountable and transparent way by the committee. Any government operating with such intentions will not allow any committee to work autonomously with sufficient powers. The Speaker plays an important role here. However, it is not assured or guaranteed that the Speaker will act in an impartial and politically neutral way. There are instances where the Speaker just concurred with what the government decided without caring about the neutrality or impartiality enshrined in the stature of a Speaker. To cite an example, Madhu Limaye, a veteran parliamentarian and socialist, recounts that during Sanjeeva Reddy's tenure as Speaker of the Lok Sabha, an opposition member was used to chair the PAC. However, the Speakers during the 1970s and 1980s became partisan and got involved in politics, offering the Chairmanship of Committees like PAC to passive Members of the House. Active Members like Jyoti Basu, Amalan Dutt and George Fernandes, were sidelined in the direction of desired objective (Tripathi, 2008, p.23). Recent examples of the Speaker's partisanship can be seen in the conduct of the last Speaker Meira Kumar's decision to go ahead with the voice and head count vote despite

[22] https://www.telegraphindia.com/1130403/jsp/nation/story_16741605.jsp).

the opposition members of Lok Sabha demanding a division of the House on the Bill to create Telangana State in 2014, and the current Speaker Sumitra Mahajan's decision to bring the then Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Bill, 2016 as a Money Bill. The conduct of the Speakers in the state assemblies is much more controversial. This malaise is widespread as it is the ruling party who decides on one candidate and also makes sure that the Speaker occupies the chair at the pleasure of the government.

In India, the committees with maximum significance are chaired by the ruling party leader. At the same time, the government ensures that the committees do not start acting on their own by narrowing down their terms of reference and restricting their powers. So, if a committee decided to work to come up with an effective report by examining all the facets, two hurdles need to be overcome. One, that the committee has the power to unanimously decide to call any minister. Once they have decided unanimously, the chairman will ask for permission of the Speaker. If the Speaker gives the permission only then can any Minister be asked for either oral or written comments. The repercussions of such provisions can be clearly seen in two most controversial scams, the Bofors and 2G Spectrum where no minister was summoned despite the fact that the allegations were directed against some high-level politicians. In the 2G Scam, A. Raja willingly submitted written evidence and even when he openly announced that he is ready for oral questioning, the chairman of the JPC did not call him for testimony as it could pose a direct threat to the then Prime Minister Manmohan Singh and some other ministers.

The JPC was compromised when the government did not agree to appoint an opposition leader as chairman. The need is to include explicit provisions of committee's role, powers and functions in the terms of reference itself which will be adopted and passed by the two Houses of parliament. The Speaker's role is ambiguous and expandable which restricts the autonomy of the JPCs. The Parliament agrees that the JPCs are meant to inquire into and investigate issues of immense political importance. The legislature needs to ensure executive accountability, oversight and enhanced scrutiny. The general purpose committees are constituted to undertake the legislative work such as considering the Bills

and amendments. So, when a committee is constitued to enquire issues such as scams or irregularities, the general rules applicable to general committees are bound to fail as the purposes of these two types of committees differ from each other.

5.4. Absence of explicit provisions to debate Committee reports on the floor of the House

All committees, be they permanent or ad hoc, derive their legitimacy from the legislature. The Parliament is the author of the proposed motion of the committee formation, determining its terms of reference, debating the amendment motion, accepting amendment or not, and voting on the final motion. The participation of parliament in the entire process gives committees the power to function making them, in turn, answerable to the legislature. It is the Speaker of the Lok Sabha and Chairman of the Rajya Sabha through whom the committee's chairman interacts with the rest of the Houses.

As explained in previous chapters, the reports of the Public Accounts Committee (PAC), the DRSCs, and the JPCs are tabled on the floor of the House but are not discussed in normal circumstances. The focus of this study has been on five investigative JPCs, of which the report of only two JPCs was discussed in parliament. The 1987 Bofors JPC and the 1992 Harshad Mehta JPC report was discussed comprehensively on the floor of the House, not in normal circumstances, but as an exception, observed by deputy chairman of the Rajya Sabha before allowing the debate of the Bofors JPC report in 1988 under Short Duration discussion,

> It is a Parliamentary Committee report. Such reports are placed before the House and are not discussed. However, taking into consideration the importance of the subject-matter, as an exception, we are taking up this report for discussion, and it was thought more appropriate to discuss it by way of a short duration discussion than by way of a motion (Devi & Gujar, 2017, p. 948).

A similar argument was proposed on the discussion for Harshad Mehta JPC report 1992. The argument of the 'importance of subject-matter' is very subjective and contingent upon the speaker's or ruling party's political decision. For instance, the PAC report on the 2G Spectrum Scam was not even tabled, let alone debated in the House, by the Speaker on the pretext that it could not pass with a majority by the PAC itself.

The parliament constitutes the JPCs with the objective that a small group of parliamentarians can work effectively in a focused way to get to the root of the matter for which it was constituted. The entire Houses vest their confidence in the committee. The parliamentarians are answerable to the people in the matter of making the executive accountable to the legislature. So, the ideal model should be that once the committee comes with a report examining each facet of the issue, it should not only be tabled in the House, but also be debated in detail on the floor of the House.

Debate would help to scrutinize, not only the executive but also the performance of the committee itself. The people could witness the deliberations with televised sessions. The members of parliament could evaluate the significance of the power that they vested to a committee to strengthen the role of the legislature as a paramount institution of the people's will and representation. Otherwise, the committee acts as a black box, the merits and demerits of the report are never looked at in a detailed or transparent manner. The minutes of the committee are very formal as they mention the final decision taken and not each sentence uttered inside a committee's proceedings unless it's a witness testimony which is published verbatim. At the same time, it should also be kept in mind that the committee proceedings and working are not only about examining the witnesses, testimonies or asking the advice of experts. The discussion among members of the committee based on the collected and gathered facts and narratives are inevitable for the entire parliament to know in detail. How and why the members reached a certain conclusion must be justified and known to the parliamentarians and the people unless every aspect of the committee's working is deemed as confidential or for the sake of national security.

5.5. Need to look not only at the effectiveness of the Committee report but also to scrutinise the performance of the Committee itself

There are a plethora of empirical works available to calculate the effectiveness of committees' in British Parliament, US Congress, and several European countries. The method used is to look into each recommendation, suggestion or conclusion of the committee report, and then to analyse the legislative and executive decisions over the recommendations. This entails looking into the government's response not only through measures like Action Taken Reports but also as implied in the law or policy or amendment which directly or indirectly addresses the particular issue that any committee has taken into consideration. With the advent of departmental committees, the work of analysing effectiveness has become relatively easier as now one can simply correlate the working of the department in response to the committee's recommendations. The effectiveness of any report of the committee is subject to the executive's interest in the report. The question is how to make the legislature an actor in deciding the effectiveness of the report as well as the scrutiny of the JPCs themselves?

The role of the legislature seems dismal when it comes to looking into the JPC's performance. The legislature has rarely viewed the evolution of the committee system in India as a tool to ensure oversight as well as scrutiny of the executive. There is no evidence of members of parliament who served as committee members standing in the House and raising questions regarding the report that they once submitted. Once the report has been submitted, the committee is dissolved.

The JPC reports do not become part of any judicial considerations or proceedings; investigative agencies such as the Police, CBI, ED, Income Tax Department do not take the JPC reports into consideration while investigating as they have their independent machinery and mechanisms. So, the JPC report is an end in itself and matters only to the government or the legislature. The foregoing chapters have shown the political circumstances in which governments implement the reports or even accept the JPC

reports. This applies to the opposition also, but they have their limitations which manifest either in the form of dissent notes or taking the issue at stake, such as scams or corruption charges, to the people through the media or their political organisations.

The effort, so far, has not been to look into the impact of the JPC. One way in which this can arguably be done is to look into the afterlife of the JPCs among the parliamentarians, the media and the people. The Bofors JPC report is considered as the benchmark of the failure of a committee ever. The opposition and the media dubbed it a cover-up effort by the then Congress government. Similarly, the Harshad Mehta JPC reinvigorated itself in the wake of 2001 Stock Market Scam after eight years. The 1992 JPC became a talking point because the 2001 scam was seen in the light of the events which were ignored despite the alarm signaled by the 1993 Harshad Mehta JPC, and the ignoring of its recommendations by successive governments. The JPC could only catch the media glare until the time the committee itself attracted the politics of the opposition, the Congress and the government. So, the Ketan Parekh JPC was seen as an extension of the Harshad Mehta JPC because the two scams had similar characteristics and repercussions on the Indian economy and market.

The Bofors issue echoed through the decade of the 1990s because of two main factors. One was the politics and the immense potential of that politics to shake the entire political establishment, and the other was the slow enquiries by the CBI and the court proceedings which time and again rocked the political scene. The JPC and the role of the legislature in it was a forgotten affair. Similarly, the 2G Spectrum JPC could never attract the media glare as there was already enough politics on the ground and the phenomenon of the JPC was merely repeating the fate of Bofors JPC. The 2G Spectrum JPC was yet another effort to cover up and save the already exposed face of the government since the ruling parties could not address the stubborn opposition's demand for a Joint Parliamentary probe. The JPC in the 2G Spectrum Scam was never the focus as by the time the JPC came into existence, enough progress and investigation had been done by the CBI and other agencies. So, it was a mere formality to appease the opposition.

Also, the Ketan Parekh JPC report became a regular affair for the executive for almost 12 years till 2015 as the report recommended that the government has to come with an Action Taken Report and provide a bi-annual progress report on it. So far, there are 27 ATRs submitted by the Finance Ministry to the Parliament, but no discussion on the progress report at all. It is a one-sided affair of the government.

5.6. Push to the institutionalisation of the committee system through mechanisms such as Action Taken Reports (ATRs)

The process of institutionalisation is gradual and slow. Ad hoc committees like JPCs act as a link to the whole process. In what ways the efforts of various committees helped in institutionalising the system need to be understood by the way DRSCs are functioning. This study by nature emphasises on various aspects of JPCs. Nevertheless, it signals towards the features which are considered to be important ingredients of institutionalisation. One such feature is the mechanism of Action Taken Reports (ATRs). ATRs were not a routine part of the committee system in India till 2004. However, an exception was made in the Harshad Mehta JPC when the government came up with an ATR in May 1994 and then a revised report in December 1994, because the report itself recommended that the government should inform the Parliament about the progress on the report in six months.

After that, the Ketan Parekh JPC made a recommendation to the government in the wake of failure of successive governments to implement the previous Harshad Mehta JPC recommendations that the government should come up with an ATR with a bi-annual progress report. As a result, the successive governments followed the recommendations. Amidst this, one significant achievement was that government would come up with ATRs responding to the various departmental standing committees.

One of the circulars of Rajya Sabha on 24 September 2004 stated that

> the Minister concerned is required to make once in six months a statement in the Rajya Sabha on the status of implementation of recommendations contained in the Reports of the Department-related Parliamentary Standing Committees (DRSCs) with regard to his Ministry. There is, however, no clear procedure laid down as regards the follow-up action to be taken by the Committee Sections concerned on such statements and to monitor whether such statements are being made within the stipulated period (Handbook Of Important Decisions Concerning Committee Coordination, 2010, p.23).

Further, amendments were made to this circular in 2007 where the clause 'If the statements are not made by the Ministers within the stipulated period of six months, the Committee Sections concerned shall immediately take up the matter with the Ministry concerned' (Handbook Of Important Decisions Concerning Committee Coordination, 2010, p.23) was inserted. Moreover, the committees' were empowered to take follow-up actions on the statements (ATRs) made by the ministers every six months on the status of the implementation of recommendations contained in the reports of the DRSCs (Handbook Of Important Decisions Concerning Committee Coordination, 2010, p.24).

As a result, contemporary standing committees entail ATRs and a follow-up response by the concerned ministry and the committees. One of the main work of the DRSCs is also to look into their previous reports, their ATRs by the government, and the implementation of those ATRs along with the follow-up report. But, this mechanism has not been applied on the JPCs constituted after the Ketan Parekh Scam in 2001. The 2003 and 2011 JPC report do not have any ATRs due to the reason that these reports do not specifically recommend that the government come up with an ATR and progress report. So, governments have preferred not to follow up with any ATR.

This consistency raises doubts about the process of institutionalisation. Perhaps, for these reasons, Philip Norton has used the term 'nascent institutionalisation' in the context of British committees. He has basically used two parameters, first in terms of 'specialisation within the legislature, that is, delegating tasks to particular bodies, usually committees' (Longlay & Davidson, 1998, p.143) and the second in terms of 'institutionalisation within committees as of highly developed procedures and norms, with continuity in membership

and some degree of corporate ethos at one end and those with few developed procedures, practices and membership continuity at the other' (Longlay & Davidson, 1998, p.143). Even in the context of India, the inconsistency can be found in the JPCs on above parameters as explained in the main chapters.

ATRs are one of the many still awaited reforms in the committee system in India which will surpass this 'nascent' phase of institutionalisation. In a nutshell, the other aspects are to reform the selection process, the chairmanship, closed ballot elections, enhancing specialisation by exposing the MPs to those areas in which they are serving as a member of the committee, open debate on the reports, giving media and public access to the deliberations, scrutiny of the standing committees by the parliament, and making government answerable to each and every recommendation along with stating the rationale and reasons behind either the acceptance or rejection of any suggestions or recommendations.

The Final Word

The JPCs effort of making the executive accountable cannot be relied upon unless the implementation aspect becomes paramount. Regarding scrutinizing the legislature, the partisan nature of the JPC internally, as well as of the entire Parliament itself, inhibits the suggestions made by JPCs regarding the role of policy making by the legislature. Policymaking and amendments are so dependent on the government that until government initiates any new bill or amendment to existing law, individual members play an extremely minimal role in initiating policy changes through Private Member's Bill[23]. One way to make government answerable is to make robust use of each and every parliamentarian present in the Houses. It is a completely different matter whether an

[23] Raghab Dash (2014) in his work on Private Members' Bills mentioned that the significant role of the government, and Parliament's law-making exercise is carried out predominantly through government legislative procedure. However, PMB procedure also forms another important mode of legislation. The problem is that successive governments have not accorded much priority to the PMB procedure resulting weakening private member's legislative mechanism. Dash (2014) stated that so far only fourteen bills have become part of the statute book at the initiative of PMB. Out of these fourteen, five have been originated in the Rajya Sabha and nine in the Lok Sabha. the first PMB passed in July 1952 and the last PMB passed in November 1968. Post-1970s, the PMB mechanism was primarily seen as an opposition activity and any initiative regarding PMB did not receive government support. Between 1952-2009, 712 PMBs were taken up for consideration by both the houses, but only fourteen passed successfully.

individual member's bill survives or not, but coming up with a bill or amendment in itself signifies the substantive nature of parliamentary democracy, especially when the JPCs have indicated policy glitches. The change has to be brought out by the same legislature whose members constituted the committees. It is politics of one kind which seeks to neglect the recommendatory tone of the report which can be suitably answered by another kind of politics; the politics which has carved out its space in the domain of representative democracy, the politics of the opposition. Endless disruptions can't be an answer, but making use of parliamentary tools and techniques such as Zero Hour, Question Hour, PMBs compels the government to answer or respond to them, irrespective of the ways and instant benefits.

The Parliament provides that ideal place for politics through debates, discussions and deliberations. The good old practice of Parliamentary methods has no alternatives vis-à-vis any open forum. As Mark Tushnet (2010) aptly puts it, 'the Constitution matters because it provides a structure for our politics. It's politics, not "the constitution," that is the ultimate, and sometimes the proximate source for whatever protection we have for our fundamental rights' (p.1). The Parliament, in the same way, is neither just a concrete structure nor an imagination of rules, regulations, directives, parliamentary ethics and business. It envisions a form of politics within itself which makes it vibrant and catalytic. If some rules of Parliament restrict certain kinds of activities as have not been defined in the law, it is politics which makes parliament respond to the same activities by making legislative changes. The perceived and introduced change is the quest of politics. It is the perceived change which makes parliament relevant. Presently, parliament is acting more like an actor in the age of globalizing institutions. The governing agenda does not remain limited to the sovereign people of the country, but is being shaped globally. The Parliament can said to be a facilitator, a mediator, and a regulator whose quest is to attain transparency, and accountability.

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APPENDIX I

Joint Committee to Enquire into Bofors Contract, 1987

Serial No.	Member's Name	Political Affiliation	Period of Service
Member of Parliament (Lok Sabha)			
B. Shankaranand	**Chairman**	Congress	12 August 1987- 26 April 1988
1	D.K. Bhandari	Sikkim Sangham Parishad	12 August 1987- 26 April 1988
2	Dileep Singh Bhuria	Congress	12 August 1987- 26 April 1988
3	Naresh Chandra Chaturvedi	Congress	12 August 1987- 26 April 1988
4.	K.G. Adiyogi	Congress	12 August 1987- 4 December 1987
	T. Basheer	Congress	4 December 1987- 26 April 1988
5	V. N. Gadgil	Congress	12 August 1987- 26 April 1988
6	S. Jagathrakshakan	ADK (AIADMK)	12 August 1987- 26 April 1988
7	Jagan nath Kaushal	Congress	12 August 1987- 26 April 1988
8	P. Kalandaivelu	ADK (AIADMK)	12 August 1987- 26 April 1988
9	Ashutosh Law	Congress	12 August 1987- 26 April 1988
10	Y.S. Mahajan	Congress	12 August 1987- 26 April 1988
11	M.V. Chandrasekhara Murthy	Congress	12 August 1987- 26 April 1988
12	Ebrahim Sulaiman Sait	MUL	12 August 1987- 26 April 1988
13	Prof. Nirmala Kumari Shaktawat	Congress	12 August 1987- 26 April 1988
14	Prof. Saif-ud-Din Soz	JKN	12 August 1987- 26 April 1988
15	Tariq Anwar	Congress	12 August 1987- 26 April 1988
16	Ram Naresh Yadav	Congress	12 August 1987- 26 April 1988
17	Mahabir Prasad	Congress	12 August 1987- 16 March 1988
	Ganga Ram	Congress	16 March 1988- 26 April 1988
18	Sumati Oragon	Congress	16 March 1988- 26 April 1988
	P.K. Thungon	Congress	26 February 2002- December 2002
19	Prof. Narain Chand Parashar	Congress	12 August 1987- 26 April 1988
Member of Parliament (Rajya Sabha)			
20	Aladi Aruna *alias* V. Arunachalam	AIADMK	12 August 1987- 26 April 1988
21	Darabar Singh	Congress	12 August 1987- 26 April 1988

22	H. Hanumanthappa (retired from RS)	Congress	12 August 1987 till 2 April 1988
23	Shrimati Kailashpati (retired form RS)	Congress	12 August 1987 till 2 April 1988
24	B.V. Abdulla Koya	ML	12 August 1987- 26 April 1988
25	Thomas Kuthiravattom	KC	12 August 1987- 26 April 1988
26	Ghulam Rasool Matoo	J&K National Conference	12 August 1987 till 2 April 1988
27	Mirza Irshad Baig	Congress	12 August 1987- 26 April 1988
28	Jayanthi Natrajan	Congress	12 August 1987- 26 April 1988
29	K.V. Thangkabalu	Congress	12 August 1987- 26 April 1988

APPENDIX II

Joint Committee to Enquire into Irregularities in Securities and Banking Transactions, 1993

Serial No.	Member's Name	Political Affiliation	Period of Service
Member of Parliament (Lok Sabha)			
Ram Niwas Mirdha	**Chairman**	Congress	6 August 1992- 11 December 1993
1	Mani Shankar Aiyar	Congress	6 August 1992- 11 December 1993
2	Vijaya Kumar Raju Bhupatiraju	TDP	6 August 1992- 11 December 1993
3	P.C. Chacko	Congress	6 August 1992- 11 December 1993
4.	Shrimati Rajeswari Basava	Congress	6 August 1992- 19 January 1993
	A.Charles	Congress	5 March 1993- 11 December 1993
5	Nirmal Kanti Chattterjee	CPM	6 August 1992- 11 December 1993
6	Kamal Chaudhary	Congress	6 August 1992- 11 December 1993
7	Murli S. Deora	Congress	6 August 1992- 11 December 1993
8	George Fernandes	JD	6 August 1992- 11 December 1993
9	Jaswant Singh	BJP	6 August 1992- 11 December 1993
10	Ram Naik	BJP	6 August 1992- 11 December 1993
11	P.G. narayanan	ADK	6 August 1992- 11 December 1993
12	Debi Prasad Pal	Congress	6 August 1992- 11 December 1993
13	Sriballav Panigrahi	Congress	6 August 1992- 11 December 1993
14	Shravan Kumar Patel	Congress	6 August 1992- 11 December 1993
15	Harin Pathak	BJP	6 August 1992- 11 December 1993
16	Rabi Ray	JD	6 August 1992- 11 December

			1993
17	P.M. Sayeed	Congress	6 August 1992- 17 February 1993
	M.O.H. Farook	Congress	17 February 1993- 11 December 1993
18	K.P. Unnikrishnan	ICS (SCS)	6 August 1992- 11 December 1993
19	Sushil Chandra Varma	BJP	6 August 1992- 11 December 1993
Member of Parliament (Rajya Sabha)			
20	S.S. Ahluwalia	Congress	6 August 1992- 11 December 1993
21	Triloki Nath Chaturvedi	BJP	6 August 1992- 11 December 1993
22	Jagesh Desai	Congress	12 August 1987 till 2 April 1988
23	Gurudas Dasgupta	CPI	12 August 1987 till 2 April 1988
24	H. Hanumanthappa	Congress	6 August 1992- 11 December 1993
25	Murasoli Maran	DMK	6 August 1992- 11 December 1993
26	S. Jaipal Reddy	JD	12 August 1987 till 2 April 1988
27	Ram Naresh Yadav	Congress	6 August 1992- 11 December 1993
28	Dipen Ghosh	CPM	6 August 1992- 6 August 1993
	Sukomal Sen	CPM	6 August 1993- 11 December 1993
29	Yashwant Sinha	JD (S)	6 August 1992- 14 November 1993
	Digvijay Sinha	JD(S)	7 December 1993- 11 December 1993

APPENDIX III

Joint Committee on Stock Market Scam and Matters Relating Thereto, 2001

Serial No.	Member's Name	Political Affiliation	Period of Service
Member of Parliament (Lok Sabha)			
Prakash Mani Tripathi	**Chairman**	BJP	27 December 2001- December 2002
1	Mani Shankar Aiyar	Congress	27 December 2001- December 2002
2	Margaret Alva	Congress	27 December 2001- December 2002
3	Vijayendra Pal Singh Badnore	BJP	27 December 2001- December 2002
4.	Balram Singh Yadav(Resigned)	SP	27 December 2001- 22 August 200
	Rashid Alvi	BSP	22 August 2001- December 2002
5	C. Kuppusamy	DMK	27 December 2001- December 2002
6	Jagannath Mallik	BJD	27 December 2001- December 2002
7	Rupchand Pal	CPM	27 December 2001- December 2002
8	P.H. Pandian	ADMK	27 December 2001- December 2002
9	Pravinchandra Rashtrapal	Congress	27 December 2001- December 2002
10	S. Jaipal Reddy	Congress	27 December 2001- December 2002
11	Kunwar Akhilesh Singh	SP	27 December 2001- December 2002
12	Maheshwar Singh	BJP	27 December 2001- December 2002
13	Prabhunath Singh	JD(U)	27 December 2001- December 2002
14	Kirit Somaiya	BJP	27 December 2001- December 2002
15	Kharabela Swain	BJP	27 December 2001- December 2002
16	K. Yerrannaidu	TDP	27 December 2001- December 2002

17	Harin Pathak	BJP	27 December 2001- 26 February 2002
	Srichand Kriplani	BJP	26 February 2002- December 2002
18	Vijay Goel	BJP	27 December 2001- 26 February 2002
	C.P. Radhakrishnan	BJP	26 February 2002- December 2002
19	Anant Gangaram Geete	Shiv Sena	27 December 2001- 9 August 2002
	Anandrao Vithoba Adsul	Shiv Sena	9 August 2002- 28 November 2002
	Anant Gudhe	Shiv Sena	28 November 2002- December 2002
Member of Parliament (Rajya Sabha)			
20	S.S. Ahluwalia	BJP	27 December 2001- December 2002
21	Nilotpal Basu	CPM	27 December 2001- December 2002
22	K. Rahman Khan	Congress	27 December 2001- December 2002
23	Praful Patel	Congress	27 December 2001- December 2002
24	Kapil Sibal	Congress	27 December 2001- December 2002
25	C. Ramachandraiah	TDP	27 December 2001- December 2002
26	C.P. Thirunavukkarasu	DMK	27 December 2001- December 2002
27	Prem Chand Gupta	RJD	27 December 2001- December 2002
28	Amar Singh	SP	27 December 2001- December 2002
29	Ramdas Aggarwal	BJP	27 December 2001- 7 May 2002
	Vikram Verma	BJP	7 May 2002- 9 December 2002
	Lalitbhai Mehta	BJP	9 December 2002- December 2002

APPENDIX IV

Joint Committee on Pesticide Residues in and Safety Standards for Soft Drinks, Fruit Juice and other beverages, 2003

Serial No.	Member's Name	Political Affiliation	Period of Service
Member of Parliament (Lok Sabha)			
Sharad Pawar	**Chairman**	NCP	22 August 2003- January 2004
1	Ananth Kumar	BJP	22 August 2003- January 2004
2	Anil Basu	CPM	22 August 2003- January 2004
3	Avtar Singh Bhadana	Congress	22 August 2003- January 2004
4	Ramesh Chennithala	Congress	22 August 2003- January 2004
5	Ranjit Kumar Panja	AITC	22 August 2003- January 2004
6	E. Ahamed	MUL	22 August 2003- January 2004
7	Akhilesh Yadav	SP	22 August 2003- January 2004
8	Sudha Yadav	BJP	22 August 2003- January 2004
9	K. Yerrannaidu	TDP	22 August 2003- January 2004
Member of Parliament (Rajya Sabha)			
10	S.S. Ahluwalia	BJP	22 August 2003- January 2004
11	Prithvi Raj Chavan	Congress	22 August 2003- January 2004
12	Prasanta Chatterjee	CPM	22 August 2003- January 2004
13	Prem Chand Gupta	RJD	22 August 2003- January 2004
14	Sanjay Nirupam	Shiv Sena	22 August 2003- January 2004

APPENDIX V

Joint Parliamentary Committee Report to Examine Matters Relating To Allocation And Pricing Of Telecom Licences And Spectrum, 2011

Serial No.	Member's Name	Political Affiliation	Period of Service
Member of Parliament (Lok Sabha)			
P C Chacko	**Chairman**	Congress	4 March 2011 – October 2013
1	Jai Prakash Agarwal	Congress	4 March 2011 – October 2013
2	Deepender Singh Hooda	Congress	4 March 2011 – October 2013
3	Nirmal Khatri	Congress	4 March 2011 – October 2013
4.	Paban Singh Gatowar	Congress	4 March 2011- 12 July 2011
	Ijyaraj Singh	Congress	4 August 2011- October 2013
5	T.R. Baalu	DMK	4 March 2011 – October 2013
6	Kalyan Banerjee	AITC	4 March 2011 – October 2013
7	Yaswant Sinha	BJP	4 March 2011 – October 2013
8	Harin Pathak	BJP	4 March 2011 – October 2013
9	Gopinath Munde	BJP	4 March 2011 – October 2013
10	Sharad Yadav	JD(U)	4 March 2011 – October 2013
11	Dara Singh Chauhan	BSP	4 March 2011 – October 2013
12	Gurudas Dasgupta	CPI	4 March 2011 – October 2013
13	Arjun Charan Sethi	BJD	4 March 2011 – October 2013
14	M. Thambidurai	AIADMK	4 March 2011 – October 2013
15	V. Kishore Chandra S. Deo	Congress	4 March 2011- 12 July 2011
	Vijay Bahuguna	Congress	4 August 2011- 30 April 2012
	Shashi Tharoor	Congress	22 May 2012- 1 November 2012
	V. Aruna Kumar	Congress	26 November 2012- October 2013
16	Manish Tiwari	Congress	4 March 2011- 29 October 2012
	Bhakta Charan Das	Congress	26 November 2012- October 2013
17	Adhir Ranjan Chowdhary	Congress	4 March 2011- 5 November 2012
	Sardar Pratap Singh Bajwa	Congress	26 November 2012- October 2013
18	Akhilesh Yadav (resignes as MP)	SP	4 March 2011- 2 May 2012
	Shailendra Kumar	SP	22 May 2012- October 2013
19	Jaswant Singh	BJP	4 March 2011 – October 2013
Member of Parliament (Rajya Sabha)			
20	Praveen Rashtraphal	Congress	4 March 2011 – October 2013
21	Yogendra P. Trivedi	NCP	4 March 2011 – October 2013
22	S.S. Ahluwalia	BJP	4 March 2011- 2 April 2012

	Dharmendra Pradhan	BJP	22 May 2012 – October 2013
23	Ravi Shankar Prasad	BJP	4 March 2011 – October 2013
24	Ramchandra Prasad Singh	JD(U)	4 March 2011 – October 2013
25	Satish Chandra Mishra	BSP	4 March 2011 – October 2013
26	Tiruchi Siva	DMK	4 March 2011- 24 July 2013
	Ashok S. Ganguly	Nominated	29 August 2013 – October 2013
27	Sitaram Yechuri	CPM	4 March 2011 – October 2013
28	Prof. P.J. Kurian	Congress	4 March 2011- 1 July 2012
	Ananda Bhaskar Rapolu	Congress	6 September 2012- October 2013
29	Jayanthi Natarajan	Congress	4 March 2011- 12 July 2011
	E.M. Sudarshana Natchiappan	Congress	7 September 2011- 17 June 2013
	P. Bhattacharya	Congress	29 August 2013- October 2013