CONFUSING PRESIDENTIAL AND WESTMINSTER SYSTEMS

Combining elements of two systems of government has led to difficulties which should be considered when constitutional reform is next on the political table, argues a senior Member of the governing alliance.

Sri Lanka has a most peculiar constitution which grafts an American-style presidency onto a Westminster parliamentary cabinet government. The result is confusion, with neither the executive nor the Legislature able to fulfil its principal functions properly.

Ironically, when former President J.R. Jayewardene suggested a directly elected President, he wanted the cabinet too to lie outside Parliament so that its members could run their departments without the usual distractions of Parliamentarians. But when he introduced the 1978 constitution, he kept the requirement that all members of the cabinet, except the President, be Members of Parliament.

Ministers in Parliament

This has had two consequences which detract from the traditional distinction between these two branches of government. In the first place, members of the executive dominate Parliament.

Secondly, their work in running departments is influenced by their need to continue as Members of Parliament.

Neither of these is unique to Sri Lanka. Even in Britain, where the practice in the 18th century contributed to Montesquieu’s theory of the separation of powers, the executive has to an increasing extent dominated Parliament ever since the Prime Minister replaced the monarch as the real head of the executive. But, given the relatively large number of Westminster Members of Parliament who are not part of the executive, and the continuing tradition that a Member is not only a representative of his/her party, the tradition of independent perspectives being presented in debate from both sides of the House continues. This is strengthened by committee systems which are more often than not the preserve of Backbenchers of both sides.

This is rare in Sri Lanka. Ever since Jayewardene decided, having removed himself from Parliament, to maintain his control of his parliamentary group through a sticks and carrots approach, which led to well over half that group being given executive authority, the assumption has developed amongst Parliamentarians that they are being kept down unfairly if they are not made Ministers.

The idea that Parliamentarians on the government side actually have a legislative function no longer exists, and this has contributed to the opposition view...
that their only legislative function is to oppose. The decline of consultative committees as regards policy formulation has contributed to this impression.

Appealing to local voters
Another factor is the increasing difficulty of ensuring continuation in Parliament. Even in the Westminster system, Parliamentarians have to nurse their constituencies; but in Sri Lanka the effort has to be all the greater because Parliamentarians compete for votes in entire districts, not simply in constituencies.

In addition, they have to compete for votes principally against not members of other parties, but rather members of their own parties, and not only those in Parliament but also members of local bodies who might be candidates at the next election. Thus they cannot easily, as Members in Britain for instance do, build up symbiotic relations with local representatives, since promoting such may prove their own undoing in time.

This is one reason to crave executive office, for it provides one with the wherewithal, as well as the means of patronage, to satisfy one’s constituents on the massive scale necessary. The result is that individual Ministers expend on small areas and parochial considerations much effort which should be directed towards the nation as a whole. Thus one Minister of Education turned several schools in the District from which he had been elected into National Schools. There may of course be Ministers who resist the temptation to use their office for personal electoral gain; but they suffer in comparison with their peers, and cannot really be blamed for using tools that lie to hand to stay in Parliament and hence in office.

Concomitantly, pleasing their constituents is tough on ordinary Members of Parliament.

They have a decentralized budget, but compared with what

Ministers can dispose of, the amounts involved are nugatory, and also subject to restrictions which are resented — certainly in comparison with the more generous funding available to the members of local bodies whom they see as potential rivals.

Reform options
Is there any solution to this strange situation? The constitutional reforms necessary are unlikely to happen since they would require the support of those elected to Parliament under the present system. Nevertheless, as the system is strained to breaking point, with increasing responsibilities thrust on individuals who do not have the same compulsions, there may come a general realization that some changes are necessary.

Most obviously, if we are to continue with the executive Presidency, a directly elected head of government must be allowed to select Ministers from outside those striving for election to Parliament under the current intensely competitive system. Incidentally, after it abolished its second Chamber, Sri Lanka lost the chance of introducing even a few Ministers through the Senate, as had happened previously.

But, though there seems a consensus now on reintroducing a second Chamber, what would be more effective than just a few nominees from outside is the introduction of the system that obtains in countries held up as models of executive presidential systems, namely to disallow Ministers from being Members of Parliament. Good administrators elected to Parliament will not be precluded from being appointed to executive positions, but they would be required, as in France, to resign from Parliament.

Concomitantly, to enable Members of Parliament to fulfil what in any case they now see as their primary function, they should have a much larger decentralized budget, which would enable them to undertake projects that would not be possible for line Ministries.

If the constituency system is restored, with proportionality ensured through a parallel list system, the two functions of Parliament would be more effectively fulfilled. The constituency Members would deal with the concerns of the citizens they represent, whilst the others would contribute to committees and legislation.

All this may be a pipe dream, but it needs to be on the table, given the confusion that we continue to suffer following the unconsidered grafting of one political dispensation on another without proper debate or consideration.