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Indian Parliament in Transition: A Perspective (2004-2021)

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ABSTRACT

India has been successful in sustaining the ethos and functioning of parliamentary democracy for more than 70 years, which is undoubtedly an achievement. India's experiment with parliamentary democracy has succeeded in influencing its neighbours to endorse such a form of democracy. However, since the past few decades, the functioning of the Indian Parliament has been witnessing a transformation in terms of its composition; the number of parliamentary sittings held and the time spent; debates and the passing of bills; issue of ordinances; increasing disruption of sessions and so on. This article attempts to critically analyse the performance of the Indian Parliament since 2004 onwards and the way forward. If effective measures are not initiated to prevent the decline in its functioning, it would not only lead to the failure of the institutions of democracy, but democracy itself.

Keywords: Parliament; India; South Asia; Disruption; Bills; Democracy

INTRODUCTION

The success of India's experiment with parliamentary democracy, over the decades, has lured its neighboring countries to follow it closely and endorse it. Inspired thereby, Sri Lanka, Bhutan, Afghanistan, Pakistan, Bangladesh, Myanmar, Maldives have been strengthening their parliamentary institutions. Interestingly, Bhutan witnessed a transition from monarchy to democracy during the third National Assembly elections held in October 2018 (the first took place in 2008 and the second in 2013), with the victory of the Druk Nyamrup Tshogpa (DNT) party. In 2013, for the first time in the history of Pakistan, a civilian government handed over power to another civilian government after completion of its full term in office. Both in Nepal and Maldives, after a lot of political turmoil and instability, new governments have been elected. Similarly, in Myanmar there

has been a holistic shift of power from a military regime to democracy. All these trends, in different ways, signify the maturing of the democratic processes within each country in South Asia. Hence, the democratic form of government is gradually gaining deep roots in South Asian countries.

The reason why South Asian countries have adopted and been able to sustain it, lies in the advantages of parliamentary democracy, that is: (a) It represents the will of the people and deliberates the tasks of policymaking. As a representational body, the Parliament integrates the regional community, while as a deliberative body it endeavours to solve the problems of the country. (b) It discusses a variety of issues, including international, regional and ethnic issues and explores alternatives to peacefully address the problems. (c) It provides a forum for the articulation of radical demands while avoiding conflict. Legitimate aspirations that tend to get crushed under tendencies of centralisation are



not labelled anti-national if they are voiced through the Parliament. (d) With its primary function being deliberation, it encourages the free flow of people and information, the “representational functions of grievance ventilation, education and advice without prejudice to the existing territorial sovereignties”¹. It is rightly stated that Parliament as an institution is a public forum for the ventilation of grievances². (e) The parliamentary process is based on debate and negotiation. It is at the level of negotiations that Parliament is the most effective medium². (f) It harmonises aspirations such as constructing a regional identity amongst the political elites, strengthening the emblematic regional organisation with the help of public opinion and third countries, and facilitating intra-regional communication. (g) It helps the country to address the common problems and concerns confronted by states/provinces such as poverty, gender issues, migration, trade barriers, human rights, natural disasters, climate change, terrorism, drugs, arms and human trafficking and so on. (h) Parliamentary debates and committee systems check upon the government’s accountability and thereby enable the framing of good and balanced public policies.

At the same time, in South Asian countries, the parliamentary system is under continuous stress and is still evolving. In Sri Lanka, the then President Rajapakse became more powerful than the Parliament due to the 18th Amendment of the Constitution, weak opposition parties and his government being the majority in Parliament. Now with Gotabaya Rajapakse, the former defence minister and the brother of Mahinda Rajapakse, becoming the President (November 2019), there is a prevailing perception that the powers of Parliament would be further curtailed. Bangladesh has witnessed frequent military rule or fragile parliamentary structure and deep dissonance between the two main rival political parties, the Bangladesh Nationalist Party (BNP) and Awami League (AL), which in a way has challenged democracy. In Nepal, even though there have been several significant changes in the political arena, the lack of political consensus and increasing polarisation on the question of federalism have led the country on the path of instability. In the Maldives, the advent of democracy has brought to the fore various challenges like the politicisation of the media, ineffective functioning of Parliament, lack of independence of institutions, and increasing use of religion as a political tool³. Similarly, both Afghanistan and Pakistan have witnessed serious distortions in democratic institutions over the decades. Thus, the functioning of parliamentary democracy in South Asia has been a mixed baggage of success and failure. In this regard, India is no different.

The Indian parliamentary system also has failed to evolve a healthy political culture in the functioning of the Parliament and its associated institutions. Phenomena like political defections, indiscipline, corruption and power struggles have not allowed healthy norms and traditions

of parliamentary functioning to take roots. The opposition has tended to boycott Parliament to make political points, neither have the ruling parties shown due deference to the opposition⁴. Thus, many observers, including the parliamentarians agree with the view that the functioning of the Parliament is declining due to the increasing criminalisation of politics; a decreasing number of sittings days; fewer time spent over the scrutiny of bills; regular disruption; passing of a limited number of bills, including private bills; adoption of increasing number of ordinances and so on.

INDIAN PARLIAMENT IN TRANSITION

Generally, the Parliament represents the people, it debates and scrutinises bills and examines the actions of the government and the executive. To a certain extent, India has been successful in sustaining the ethos and functioning of parliamentary democracy for more than 70 years, which itself is an achievement. As a result, successive Indian political leaders, from Jawaharlal Nehru to the present Prime Minister Narendra Modi, have ostensibly regarded the Parliament as the “Temple of Indian democracy”.

Prime Minister Nehru, despite his domination in the Indian political system, played a critical role in building this institution, which he termed as the “supreme representative institution of the nation”⁵. As a result, he regularly participated in the parliamentary debates and also attended the Question Hour, even when his ministry was not involved. With his demise in 1964, the quality of debate and questions posed by opposition leaders/parties rose, due to the active participation of legislators like S.A. Dange, Indrajit Gupta, H.V. Kamath, M.B. Kripalani, Madhu Limaye, Bal Raj Madhok, Ashok Mehta, Nath Pai and A.B. Vajpayee⁶.

Indira Gandhi’s landslide victory in 1971, to a certain extent, began to see the downfall of parliamentary proceedings, as she continued to blame the Parliament for its failure to approve legislation enhancing her power. When Emergency rule was imposed in 1975, many members of the Parliament were imprisoned and legislative debates gradually declined or were censored. With the Janata Party coming to power in 1977, there was a temporary respite in restoring the dignity of Parliament. But when Mrs Gandhi returned to power in 1980, according to Robert Hardgrave and Stanley Kochanek, “she showed scant respect for the institutions [Parliament], spent less and less time in the house, and used her majority to dominate the legislative process”⁷. This trend continued after Rajiv Gandhi became prime minister with a two-thirds majority in 1984. He was absent from the Parliament even during important debates. The governments in 1989 and 1991 headed by V.P. Singh and Chandra Shekhar wanted to use Parliament to promote their agendas, but could not, because of coalition government politics and frequent defections. Prime Minister P.V. Narasimha Rao, who led the government from 1991, was no different from his Congress predecessors, despite having



a track record as a serious legislator. After Narasimha Rao's government, the successive governments were coalition governments; as a result, the political instability marked the political scenario of the time preventing the Parliament to function satisfactorily.

Narendra Modi's government came to power with a thumping majority and he entered the Parliament House as prime minister on 20 May 2014, and stated, "This is the temple of democracy"⁸. However, when he was chief minister of Gujarat since 2001, the state's Legislative Assembly sitting was just an average of 31 days in a year. Over 90 per cent of the bills were passed just in one day as soon as they were introduced and Modi's appearance in the Assembly sessions was also low⁹. Currently, Modi's appearances in the Parliament are limited due to frequent disruption of Parliament by the opposition parties, his frequent foreign visits (92 countries, as of December 2019)¹⁰, and his centralised system of functioning as a virtual "presidential" prime minister. Hence, it can be concluded that the Parliament still continues to function in the same way as it did earlier during Modi's predecessors.

COMPOSITION OF THE PARLIAMENT

Owing to India's founding fathers, entering the Parliament required people's mandate, rather than other aspects like property, education and so on. As a result, Parliament has always consisted of cross-sections of society, and its members have come from different backgrounds, educational qualifications and cultural and linguistic legacy, in a way showcasing the diversity of India united together. The rise of regional political parties has made the Parliament even more representative and inclusive, a development that has strengthened democracy. In this process, the political party system has transformed from a one-party-dominant system to a more fragmented combination of national and regional parties. According to the Election Commission of India, there are 2,293 registered political parties (as of March 2019) which have become pivotal to forming stable majority coalitions at the centre¹¹.

At the same time, the process has allowed many persons with rich, corrupt and criminal backgrounds to get elected to the Parliament. According to the Association of Democratic Reforms (ADR), a civil society group, the 14th and 15th Lok Sabha (LS) consisted of around 30 per cent and 58 per cent richest MPs respectively¹². In the 16th LS (2014), around 82 per cent (442 MPs) and 17th LS (2019), 88 per cent (475 MPs) of the members have assets worth over 10 million rupees each. Among the 16th LS, the Bharatiya Janata Party (BJP) had the maximum number of MPs - 237 out of 281¹³. The Congress had 44 MPs, among whom 80 per cent (35) were millionaire. Interestingly, the regional parties like Telugu Desam Party (TDP), Telangana Rashtra Samithi (TRS) and YSR Congress Party (YSRCP) had the richest MPs, whose average assets were 500 million rupees. The TDP had the

richest MP, with assets worth Rs 6830 million. At the 17th LS, of the 265 MPs (BJP), 43 MPs (Congress) and all the elected MPs from regional parties were millionaire¹⁴. Overall, the current 17th LS have the richest MPs in Indian history, and the trend seems to continue in the near future.

A criminal background has also been a key for candidates to get elected. Criminal charges against MPs include murder, rape, kidnapping, extortion, forgery, bribery, dacoity and causing grievous hurt by dangerous weapons. The number of MPs with criminal charges is increasing. The 16th LS had around 34 per cent members (186 out of 541) with criminal charges and of the 282 BJP MPs, 98 had criminal records; of the 44 Congress MPs, 8 had a criminal history. Among the regional parties, 100 per cent of the Rashtriya Janata Dal (RJD) MPs have criminal charges against them, followed by Shiv Sena (83 per cent), Nationalist Congress Party (NCP) (80 per cent) and Communist Party of India (CPI-Marxist) (56 per cent)¹⁵. The 17th LS is no different, there are currently, 233 MPs (43 per cent) facing criminal charges and of which 159 MPs (29 per cent) have serious criminal charges¹⁶.

Most of the MPs with criminal cases, if punished would lead to imprisonment for years or life; as a result, it is believed that most of the MPs with criminal background enter politics to use political power to manipulate investigations against them. Overall, the rich and criminal background has emerged as the winnability factor for any political party while choosing its candidates. Ironically, candidates having a criminal background does not also matter much for the common voters. As a result, candidates with limited assets and a clean track record are ignored both by the party high command and the common people, which in a way affects the image of the Parliament and its functioning in the long run.

Parliamentary morality has also declined since the 1990s. For instance, there were allegations against the P.V. Narasimha Rao-led Congress government to have bribed the Jharkhand Mukti Morcha (JMM) MPs to win a confidence vote in the LS. The United Progressive Alliance (UPA)-I regime also had faced serious allegations of bribing the national and regional parties to survive the confidence vote on 22 July 2008, as the Left parties withdrew its support from the government over the Indo-US nuclear deal. In 2011, the image of Parliament hit an all-time low, with the leak of the taped conversations (recorded between May and July 2009) of lobbyist Nira Radia, who initially worked with the Tata Group and later with Mukesh Ambani (leading industrialist), which highlighted the role of the corporate sector in influencing the "news and views of free media and even in the allocation of ministerial portfolios in coalition governments"¹⁷. In addition, there are allegations against Modi government, some of its ministers and MPs for helping defaulters (accused of fraud and economic offences) like Vijay Mallya, Nirav Modi and Mehul Choksi to leave the



country.

SITTING DAYS AND TIME SPENT

Article 85 of the Constitution empowers the president to summon Parliament, but on the advice of the council of ministers. As a result, the government decides when a Parliament session will take place and oversees its functioning. More number of working days allows for more productive activity. But statistics show a sharp decline in the number of sitting days of Parliament, from an average of 120 days in a year between 1952 and 1972 to an average of 70 working days in recent decades¹⁸. The 1st LS met for an average of 150 days a year, and, between 1952–1967, the average sitting of the three LSs was 600 days (3700 hours)¹⁹. In contrast, the 15th LS from 2009–2013 met for 335 days (1329 hours)²⁰. In the year 2004, the LS met for 48 sittings and the Rajya Sabha (RS) for 46, which was the worst record in that decade²¹.

The main reason for such infrequent sittings was disruptions of parliamentary proceedings by the opposition parties when the government refuses to address what they regard as critical issues. The 15th LS witnessed serious disruption by the MPs, due to which, two sessions were lost without much productivity. As a result, the 15th LS had productivity of 61 per cent, which is the lowest in 60 years of parliamentary democracy²². The 16th LS, sat for 331 days (June 2014–Feb 2019), but spent 32 per cent (1,615 hr) of its time, which is 20 per cent more than the 15th LS, but 40 per cent lower than the average of all full-term LSs (2,689 hours)²³.

To ensure that Parliament meets for more number of days, the National Commission to Review the Working of the Constitution (2002) pitched for a minimum number of 120 days and 100 days working days for the LS and the RS respectively. Furthermore, a private member's bill was introduced by Mahendra Mohan, a RS MP, to amend the Constitution for making a mandatory provision of minimum 120 working days, but it was opposed by the government²⁴. Successive governments have not made efforts to build consensus on the fixed number of days for the Parliament to meet.

DISRUPTION: COMMON PHENOMENON

The forms of disruption include rushing to the well of the House; hurrying to the podium; staging sit-ins; using placards or distinctive dress; initiating walkouts; boycotting sessions; holding external demonstrations and even conducting a parallel assembly. Opposition parties justify obstructionism as a parliamentary strategy on the ground that the government is insensitive to their demands. Disruption has become a routine feature not just in India but in other countries like Taiwan, Japan and Ukraine. In the United Kingdom (UK), disruptions rarely occur and

are mostly individual protests and the perpetrators are swiftly suspended as punishment for conducting such acts of remonstrance²⁵.

In India a disruption happened in 1952 over the Preventive Detention (Amendment) Bill. In 1963 when the Official Languages Bill was introduced such acts were repeated, which a newspaper described as “disorderly scenes” in the House and two members, including Swami Rameshwaran of the Jan Sangh, had to be forcibly ejected by the ward staff²⁶. In the same year, some members tried to disrupt a sacrosanct feature of the Parliament—the president's address to the two Houses. This was strongly disapproved by Nehru, who said, “This Parliament is supposed not only to act correctly but lay down certain principles and conventions of decorous behaviour”²⁷. Subhash C. Kashyap points out, “The fourth Lok Sabha period may be remembered for the fundamental changes in the idiom, the style and culture of parliamentary politics. Hereafter, it was politics in the raw with much of masks and gloves off”²⁸. Such disruptions have become frequent since the 1970s.

This type of disruptions has been viewed as a threat to the institutional reputation of Parliament and the functioning of parliamentary democracy²⁹. The then Prime Minister A.B. Vajpayee suggested that even walk-outs are preferable to disruptions: “the most effective way to oppose someone is a walkout.... It should be considered the highest form of opposition or antagonism. [But], no need for someone to jump into the well or beat their chest and scream slogans while addressing the parliamentary officer”³⁰.

The national political parties tend to use disruption as a tit-for-tat strategy. For example, during the UPA-I and II regimes, it was the BJP, sitting in the opposition, which was the main player in disrupting Parliament on various issues/scams such as 2G Spectrum and Commonwealth Games scams; allocation of coal blocks; Foreign Direct Investment (FDI) in the retail sector; demand for Telangana state and so on. Now, with the BJP-led National Democratic Alliance (NDA) government in power (2014–till date), it is the Congress along with its allies, with far fewer members in the LS, but significantly more in the RS, which has managed to stall the Parliament.

As a result, the LS monsoon session of 2010 (August–September) witnessed adjournments due to disruption on 17 out of the 19 days of actual sittings. The worst case was when 36 per cent of the allocated time in Parliament was lost in disruption in 2012³¹. In the RS, where the opposition parties were more in number than the present government, the monsoon session (July–August 2015) managed to work only for 9 per cent of its scheduled time due to disruptions. In the 16th LS, 16 per cent of the time was lost in disruption, and it was 37 per cent in the 15th LS and 13 per cent in the 14th LS and 36 per cent of the time wasted in disruptions in the in RS³².



Furthermore, the disruptions are at times, directed towards the Speaker. The then Speaker Somnath Chatterjee argued that “disruptions and disrespect for the Speaker’s authority are a disease of democracy”³³. Disruptions have also affected question hour, which is a tool for the MPs to hold the government ministers accountable for the functioning of their ministers and it is the only plenary session in which legislators are not formally restricted by party oversight (whips) and where institutional rules are not heavily biased against opposition legislators. Ironically, disruptions have curtailed the significance of the question hour. For example, in 2012, 146 hours were allocated for question hour in both Houses, but only 57 hours (39 per cent) were used. Question hour was a washout in the RS during the winter sessions of 2010 and 2013³⁴. In the 16th LS, the session in January was one of the least productive question hours, due to disruption and both the LS and RS lost a sixth and third of its time in disruption respectively³⁵. Thus, the disruption of question hour impinges on the opportunity for MPs to hold government accountable for its actions.

The reasons for the increasing disruptions are: (a) Adherence to parliamentary norms gradually broke down from the 1970s, which was also the time the Congress lost its dominance and the composition of the House became more heterogeneous. This trend intensified in the late 1980s, with coalition politics becoming a reality, coupled with an increase in number of MPs from the Other Backward Classes (OBC), due to the Mandal Commission Report. (b) Though the Railway Budget and Union Budget were telecast live for the first time in 1992, it was from 2006 that the entire proceedings of the LS were telecast live by Doordarshan. As Devesh Kapur and Pratap Bhanu Mehta point out, “media gives greater coverage to MPs who engage in this behaviour than those who busy themselves in parliamentary debates ... many MPs believe that publicity, even bad publicity, especially if it makes it to the evening news is better than no publicity”³⁶ (c) At the same time, many politicians and MPs see parliamentary disruptions as an effective signal of representation; an indicator of a vibrant democracy; an imperative for elected representatives to air grievances and draw the attention of government on critical issues. Najma Heptullah, former Deputy Chairperson of the RS (1988–2004), emphasised that agitation was part of democracy and MPs were entitled to do so³⁷. Even the late Union Finance Minister Arun Jaitley, then the Leader of the Opposition in the RS, justified disruption in the following words: “If parliamentary accountability is subverted and debate is intended to be used merely to put a lid on parliamentary accountability, it is then a legitimate tactic for the Opposition to expose the government through parliamentary instruments available at its command”³⁸. (d) In the 15th LS around 38 parties and in the 17th LS (2019), 37 parties have been represented³⁹. Thus, most the parties

got smaller allocation of time to speak during the debates, as a result, disruption became a common pheromone in the realm of stiff political competition. (e) It can be used by the MPs to attract public attention to the government’s inability to act on a particular issue. At times, MPs tended to use the issues for personal advancement, rather than for public interest. (f) Furthermore, the prime minister should have the strength to win the support of the opposition parties. In the case of the present prime minister, Modi, his interventions have been few and rarely spontaneous or unscripted. For the entire monsoon session (July–August 2015) the parliament hardly functioned, and he was silent in the House. In contrast, Atal Bihari Vajpayee was more proactive in engaging with the opposition MPs and enjoyed the cut and thrust of debate. There is absence of the sort of fodder that the leadership of a Nehru or Vajpayee provided for the opposition parties to disrupt the parliament⁴⁰. (g) Generally, under Rule 374(A) of the General Rules of Procedure and Conduct of Business, the Speaker has the power to eject and suspend members who disrupt proceedings. For instance, in 2013, 17 MPs and 12 MPs were suspended in the winter and monsoon sessions respectively. Sumitra Mahajan, LS Speaker, suspended 25 Congress MPs in August 2015 for five sessions. More recently, during the budget session (March 2020), the LS speaker Om Birla suspended seven Congress MPs for their unruly behaviour and disrespect to the chair as demonstrated by disrupting the proceeding with slogans and demanding the resignation of Amit Shah, the home minister for his inaction in preventing the Delhi violence (23-25 February 2020)⁴¹. But such disciplinary action, as in the past when MPs have been suspended, often proves counterproductive. In the current instance, it only served to unite the entire Opposition, which was prior to that ready to part ways with the Congress on its disruptive agenda⁴².

DEBATING AND PASSING OF BILLS

Two vital functions of MPs are to scrutinise every piece of legislation that is introduced in both the Houses and in standing committees and debate the budget and demands for grants⁴³. Unfortunately, the time spent in deliberating on the bills has witnessed a drastic decline. For instance, during the 1st LS, around 49 per cent of the total time was spent on debating legislation, but in the 2nd LS it was reduced to 28 per cent and in the 15th LS it was just 23 per cent⁴⁴. This clearly indicates that bills are passed without much debate, leading to the introduction of weak public policies.

Apart from debating, passing of bills also reflects the constructive functioning of Parliament. For example, the 1st LS (1952-1957) around 333 bills were passed and since then every LS that completed three years has passed an average of 317 bills. Those LSs that lasted for less than three years have passed an average of 77 bills; the 6th LS had passed 130 bills, the 9th LS 63, the 11th LS 61, and the 12th LS 56⁴⁵. The 13th and 14th LSs were able to pass only 297 and 248 bills



respectively, and the 15th LS was able to pass just 162 of the 291 bills that were introduced, which is an all-time low⁴⁶. In the 16th LS, around 133 bills were passed, and most of them were related to the financial sector.

Passing of bills without much discussion or debate has also contributed to the decline in the functioning of the Parliament, like the highest number of bills passed in a single year was 118 in 1976, during the period of the Emergency⁴⁷. In the 9th LS (1989–1991), 19 bills, including a constitutional amendment, were passed in one day (March 1991), without much debate and discussion⁴⁸. Ironically, the lowest number of bills passed was just 18 in 2004, the year the UPA came to power. In 2012, around 11 bills were passed with less than 30 minutes of discussion and in the case of the RS, almost half of all bills were passed after a discussion lasting between one to two hours⁴⁹.

Bills that have vast implications for the public are also passed without much debate and discussion. For instance, eight bills were passed in 17 minutes in 2008. In the 15th LS, 35 per cent of the bills were passed after a debate of less than an hour, like the Protection of Women from Sexual Harassment at Work Place Bill, 2011, which was passed in just 20 minutes⁵⁰. In December 2015, the 237th session of the RS ended with the passage of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Bill; the Arbitration and Conciliation (Amendment) Bill and Atomic Energy (Amendment) Bill without discussion⁵¹. Thus, on the face of it, Parliament has fallen short in discharging its constitutional duty of effectively scrutinising laws before passing them and overseeing the work of the government.

Similarly, scrutiny of the budget is a crucial task of Parliament, but “the time spent on discussing the budget has reduced from an average of 123 hours in 1950 to 39 hours in the last decade”⁵². In this context, the former RS Chairman, Mohammad Hamid Ansari, stated: “the *raison d'être* of our existence is enacting legislation after due deliberation and ensuring the accountability of the executive. While much legislation has taken place in this session, the passing of legislative business in the din does no credit to our Parliament”⁵³. According to PRS statistics, parliamentary standing committees generally take three to four weeks to review the demands for grants of the different ministries. Ironically, since decade, more than 95 per cent of these proposals were passed without much discussion. In 2014, the demands for grants (Rs.16.6 lakh crore) were passed without much discussion⁵⁴. The 16th LS, passed 83 per cent of the budget without discussion; in case of the 2018–2019 budget, 100 per cent of the demands were passed without any discussion⁵⁵. The Monsoon Session (August 2021) 14 bills were passed with just 10 minutes or less time spend on discussing these bills. This trend clearly indicates that debate and discussion on critical bills have been declining.

UNDERPERFORMING COMMITTEES?

The parliamentary committees are one of the key instruments for the effective functioning of the Parliament. It was only in 1993 that the department-related parliamentary standing committee was introduced. As the role and responsibility of the Parliament expanded and increased over the decades, it is difficult for the Parliament to scrutinise all the government policies and executive actions during the sessions and that too within a limited time. Hence, the parliamentary committees are assigned with the task of examining the proposed laws, policies and expenditure of the government and also evaluating a public petition on key policies⁵⁶. In addition, if the committees have more time, they can call experts and stakeholders on several issues, for getting clarifications. As the committee members are based on the strength of individual parties, this provides scope for consensus building on national interest as there is no whip system in these committees.

Despite the parliamentary committee, known as ‘mini parliament’, there are many challenges that curtail its performance in the recent decades, such as: (a) Several important bills are passed without refereeing to the committees, i.e., over the decades the percentage of bills referred to the committee are declining; for example, in the 16th LS, only 25 per cent of the bills introduced were referred to the committees, which was less than those initiated in the 15th LS and 14th LS—71 per cent and 60 per cent respectively⁵⁷. (b) At the same time, once the bills are referred to the committees, the number of sittings undertaken by these committees has also witnessed a declining trend, at least in the key departments like defence and home affairs. For example, the number of sittings in defence in the 14th LS, 15th LS and 16th LS has been 37, 15 and 12 and in home affairs 27, 24, and 15 respectively⁵⁸. Moreover, not all the recommendations made by these committees are accepted by the government, like on an average the Public Accounts Committee made around 180 recommendations every year (2011–2018), of which only 80 per cent were accepted and the rest ignored by the government; so is the case with the Committee on Public Undertakings (COPU), only 67 per cent were accepted by the government⁵⁹. (c) Sometimes the constitution of committees itself is delayed for a long period; as a result, the several bills in the sessions are passed without any scrutiny by the committees. For instances, in the first session of 17th LS (June–August 2019), 11 bills were passed without the scrutiny of the parliamentary standing committee, as the government was yet to complete the process of consultations with the parties to constitute the committees⁶⁰. Generally, the process of constituting the committees takes a few months, like in 2014, the committees were notified on 1st September and during the UPA II, it was done on 31 August 2009⁶¹. But Modi government’s second term took more time than required, due to which many bills bypassed committee scrutiny, which undermines the



parliamentary democracy. (d) Although the attendance of the MPs in the Parliament is not encouraging, this trend is also visible in committees as well. With the 24 and 8 committees administrated by LS and RS in the 16th LS, the average attendance of committee members (MPs) was just 49 per cent. The railways, petroleum and natural gas had the highest average of 55 per cent, and the lowest was External Affairs, at just 36 per cent⁶². This trend is continued in the 17th LS; around 95 MPs did not attend a single meeting of parliamentary standing committee that had the task to review allocation of different ministers post the presentation of the 2020–2021 Union Budget. Since September 2019, 100 MPs out of the 248 LS and eight panels in Rajya Sabha had skipped two or more meetings⁶³. At the same time, several MPs had 100 per cent attendance in these panels. With advent of Covid-19 Pandemic, there is a growing demand from the MPs to hold the parliamentary committee meetings online, however the Vice-President, Venkaiah Naidu in May 2021 rejected the demand on that grounds that there is need for amendment to hold virtual parliamentary meetings. Nevertheless, the performances of committees are hindering the process of parliamentary democracy.

PRIVATE BILLS: LOW RATE OF SUCCESS

MPs also can introduce bills, known as private bills. Just 14 private member bills were passed from 1952 to 1970. In contrast, the British Parliament passed 17 private bills from 2010 to 2013. From time to time, MPs in India have been introducing private bills, but are unable to get them passed. For example, in the 10th LS (1991–1996), around 406 private member bills were initiated, but only 31 bills were discussed, and none were passed or even recommended to any parliamentary committees⁶⁴. Similar during the 15th LS, around 372 private members' bills were introduced, of which only 22 were discussed, over 16 days spread over five years, which is not a healthy reflection of the parliamentary system in India⁶⁵. Despite these odds, Tiruchi N. Siva, a DMK MP from Tamil Nadu, moved his bill for transgender rights in the RS, which was successfully passed and went on to become the historic Rights of Transgender Persons Bill, 2014. Interestingly, in the 16th LS, a total of 1,163 private bills were introduced, of which the majority were from BJP MPs, but none became law⁶⁶. Similarly in August 2021, couple of BJP MPs from Uttar Pradesh planned to introduce a private bill on population control and Uniform civil code, but due to shortage of time, it was not tabled in the parliament. Thus, since the 1950s, only 15 private member bills have become law.

The reasons for this state of affairs are: (a) Although more than 3,000 bills were proposed or introduced, they did not become law; successive governments convinced/promised the MP that they would introduce a bill and postponed the proposals⁶⁷. (b) Since only half a day is reserved in a week for private members' business, the majority of the

private members' bills do not even come up for debate. Although this can easily be addressed by changing the rules of procedure of both Houses, so far nothing has moved in this regard. (c) Even if the debate is held, an MP does not press for his bill to be taken up for consideration and passing by the House. Instead of having the House decide whether the bill should be passed or not, by a voice vote or a recorded vote, the MP withdraws it at the request of the minister, without extracting an assurance from the minister that the government would introduce a similar bill at the earliest⁶⁸. (d) Sometimes, the significant bills are defeated at the initial stage, thus denying it being introduced. For example, in 2015, MP Shashi Tharoor attempted to push for a bill on decriminalising homosexuality, but could not be introduced in the Parliament, as the BJP MP Nishikant Dubey forced it to be voted and was easily defeated. (e) In the UK, parties at times announce something called a "free vote", where the MPs are free to vote as they wish and are not controlled by party's whip. Former RS Chairman Hamid Ansari made a similar suggestion:

We need to build a political consensus so that the room for political and policy expression in Parliament for an individual member is expanded... the issuance of a whip could be limited to only those bills that could threaten the survival of a government, such as money bills or no-confidence motions. In other legislative and deliberative business of Parliament, this would enable members to exercise their judgement and articulate their opinion⁶⁹.

(e) It is also argued that many of the private bills introduced in any session seek to amend the Constitution, which requires two-thirds majority and without the prior consensus of political parties, the introduction of bills becomes meaningless. Thus, the strength of private bills is not capitalised by the Parliament and the ruling government. Nevertheless, bills do create awareness among the public, which strengthens the ethos of parliamentary democracy.

ORDINANCES: LIMITING THE POWERS OF THE LEGISLATURE

Article 123 of the Constitution grants the president certain law-making powers to promulgate ordinances when either of the two Houses of Parliament is not in session, though, they need to be approved in subsequent session. Successive governments from 1950s have issued ordinances, which amounts to the executive encroaching on legislature powers. For example, even the government led by the champion of parliamentary democracy, Jawaharlal Nehru, issued 32 ordinances. By 2013, 600 ordinances were promulgated: 61 during the Emergency period, 34 in 1993 under the Narasimha Rao government, 83 between 1996 and 1998 under the coalition government, 33 under the Vajpayee government (1999–2004), with half of the ordinances being reissued in 2000 alone, as it was not approved in parliament legislation⁷⁰. Similarly, during the 15th LS, 28 ordinances



were promulgated even on critical issues like the Nirbhaya rape case (2012) and National Food Security (2013). In a few cases, ordinances were issued, despite a bill pending in the Parliament like the Criminal Laws (Amendment) Ordinance, 2010 and the National Food Security Ordinance, 2013. The 15th LS also saw the government re-promulgating ordinances when the original ordinance lapsed because it was not passed by Parliament like the Indian Medical Council (Amendment) Ordinance and the Readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies Ordinance, 2013⁷¹. During the 16th LS, 45 ordinances and in 2014–2015 alone nine were promulgated. The Modi Government had overall issued around 76 ordinances from (2014–2020), which is higher than the UPA-I and II regime (2004–2014), which had issued 61 ordinances. Thus, ordinances continue to be a vital tool for successive governments to achieve their own political interest.

Overall, despite the mixed performance in the functioning of Parliament and a widely prevailing debate that India needs to shift to the presidential form of government, it is important to continue with the parliamentary form of government and initiate measures to strengthen it. In this connection, K.R. Narayanan, the then President of India, rightly pointed out that “We have to consider whether it is the Constitution that has failed us or whether it is we who have failed the Constitution. Our experience of instability in government is perhaps not sufficient reason to discard the parliamentary system in favour of the presidential or any other system”⁷².

The weakening of Parliament results in an accretion of disproportionate power in other institutions, upsetting the system of checks and balances and creates distortions which ultimately weaken the political system. To improve the functioning of Parliament, the following measures need to be taken.

- More number of sitting days and session in a year should be held for constructive debate and discussion in Parliament, which will not just strengthen the bills, but also give an opportunity for MPs from different parties to air their opinion and contribute in the parliamentary proceedings.
- Despite the fact that the MPs need to cater to the needs of their constituency, they should attend the sessions regularly. The number of MPs skipping sessions has been increasing. As a result, the MPs' contribution is limited, the problems of the constituency are not reflected, and government-introduced bills get passed without much scrutiny. It should be made compulsory for all MPs to attend the sessions, except for emergencies, so as to strengthen parliamentary functioning. The principle of ‘No work, No pay’ should be followed.
- The increasing indiscipline and unruly behaviour of MPs and the increasing tendency to disrupt the House

is the result of inadequate time allocated for MPs to raise the matters concerning their constituency and lack of strict action by the Speaker for this behaviour. As a result, MPs stalling proceedings has to be checked, by allotting more time for MPs to raise the critical issues and the Speaker should use the powers to punish the MPs involved in the disruption of the House, without bias and also deliberate on the recommendations of successive Committee of Ethics to prevent uncalled and unruly disruption.

- The Parliament should not have representatives with criminal or corrupt background, which tarnishes its image. Thus, voters should be educated to vote for candidates with a clean track record, which can be done by using the None of the Above (NOTA) option while voting and putting pressure on political parties not to nominate candidates who don't conform to the minimum standard of ethical consideration which are essential for the smooth functioning of the Parliament.

In a nutshell, the government, opposition parties and the MPs have a major responsibility in safeguarding decorum and the dignity of the Parliament as it is the highest forum of democracy that continues to provide opportunities for constructive debate and discussion on public policies. If effective measures are not initiated to prevent the drastic declining in the functioning of Parliament, it would not just be the failure of one of the institutions of democracy, but democracy itself.

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