

NEW PARLIAMENT BUILDING, OLD FUNCTIONAL CHALLENGES

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ABSTRACT

The new parliament building was inaugurated on May 28, 2023,¹ though marked with political controversies regarding its inauguration, the installation of the “Sengol- gold sceptre from Tamil Nadu”, and whether the President was invited or not. But from a macro view, the new parliament building is indeed a historic event for India. It delivers the vision of India’s magnificent escalation in its global presence as the “mother of democracy”. On a more profound reflection, the concern is not the grandeur of the Parliament that a country has but on its functioning which is the software signifying the actual work put in by its occupants. However, the concern is the steady deterioration in the functioning of the parliament in the last two decades. This article focuses on recent developments and data concerning the parliamentary workings and the need for its members to swear allegiance to the oath taken by them under the third schedule of the constitution² to follow its obligations in utmost good faith.

Keywords: Parliamentary Procedures, Statistical Handbook 2021, Lok Sabha, Rajya Sabha.

INTRODUCTION

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The project of building the new Parliament building was initiated in the year 2019 by the present government and its work started in the year 2021, part of the Prime Minister’s flagship project and as a part of the Amrit Mahotsav i.e. celebrating 75 years of Independence and also as a part of “Atma Nirbhar Bharat”. The need for the new parliament building was felt because of the shrinking space in the present parliament which would be much less after the next delimitation and also to modernize the place with the new technologies and facilities. But what should not be lost from the splendid view of the infrastructure is the decline in the functioning of the Parliament as intended by our founding members and as written in our Constitution. The Parliament shall be the cornerstone where the rule of law, democracy, and good administration prevails.

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¹ Sourav Roy Barman, ‘May 28, 2023’ *The Indian Express* (India, 29 May 2023) 3

² The Constitution of India 1950, Third Schedule- Forms of Oaths or Affirmations

THE CONTROVERSIES

The inauguration of the new building led to several debates, disagreements, and political turmoils. Around 21 opposition parties did not attend the inaugural function for several reasons namely: whether Prime Minister was correct in opening the new building, whether it was correct to sideline the President, whether religious neutral ceremonies were to be performed or not, and whether the Sengol (*dharma dand*) should have been used or not (its relevance in the 21st century).³ Both sides had their contentions for justifying their actions and beliefs. The inaugural ceremony was performed by the Prime Minister, which included the installation of the Sengol near the speaker's podium.

The syncretic essence of our nation is on display in the new Parliament building, which connects modernism with long-standing traditions. It includes elements and symbols from across different religions such as Hinduism, Islam, Jainism, Christianity, and Sikhism.⁴ This demonstrates the legitimate meaning of India's secularism as one which includes diversity and upholds pluralism.⁵

The Parliament is considered the voice of the people. Thereby during the inaugural function, the speeches referred to the new building as the resurgence of the new India, which can be achieved through upholding the constitutional mandate of following the due procedure of law. However, a complete volte-face of the Parliamentary procedures can be seen. The researcher has tried to include data from different sources for a better understanding and comparison from what was the scenario in the initial years of the Independent Parliament and the gradual erosion of its significance thereafter.

DECLINE OF PARLIAMENTARY FUNCTIONING

There have been several instances that have stalled the workings of the Parliament for example, through shouting and sitting on protests & *dharnas*, tearing the bills that are not to the liking of a particular party's ideology, entering into the well of the House and many such disruptions. The following are the instances where there has been a steady deterioration and diminishment of the Parliament as a rule-making body of the Government:-

³ Manu S Pillai, 'Symbolism of the Sengol' *The Indian Express* (India, 29 May 2023) 14

⁴ Sheela Bhatt, 'By boycotting inauguration of new Parliament, Oppn has scored a self-goal' *Sunday Times of India* (India, 28 May 2023) 12

⁵ Ram Madhav, 'Indian Dharmocracy' *The Indian Express* (India, 3 June 2023) 13

When there is an overwhelming majority in the Parliament then the latter is needed just for the mere formality of passing the bills or for legislative enabling because the numbers surpass the deliberation. Taking into account the last session of the Parliament i.e. the budget session 2023, Parliament hardly had any debate or discussion, it was marked as the most unproductive session in the last seven decades of the Parliamentary functioning.⁶ Some instances are: no consultation was held with the opposition when demonetization was done and when the nationwide lockdown was announced with just a 4-hour notice.⁷

The voice of the opposition is to be heard even if they are in the minority. But even this has been in steady decline. As our Parliament consists of the executives as well, in recent times the role of the executive in the narrative of the law-making power and the extent of the delegation to the bureaucracy has been on the rise. Thus leading to the revamping and reshaping of the institutional relationships between the different organs of the government.⁸ The function of the parliament is not just to make laws but also to make sure that the executive is held accountable. However, neither of the things are followed with due diligence in recent times. The opposition can have the government accountable through the “short duration discussion” held for the important issues which are of national importance.⁹ But even the duration of it has been reduced in recent terms of the Lok Sabha (hereinafter referred to as “LS”). According to the data, there were 113 short-duration discussions held in the 14th and 15th LS terms while in the 16th and 17th LS (the present term) there is a decline to mere 42 such discussions.¹⁰

Journal of Legal Research and Juridical Sciences

The partisan behavior of the presiding officers of the Parliament leads to unfairness and biases and taking the route of ordinances to make laws to bypass the need for any debate over them with the opposition MPs, is also one of the many ways of not following the procedures and rules of the Houses of Parliament. According to the data, 61 ordinances were passed during 2004-14 taking 6 ordinances passed on average in a year and 80 ordinances have been

⁶ ‘Budget Session 2023’ (*PRS India*) <<https://prsindia.org/sessiontrack/budget-session-2023/productivity> > accessed 21 June 2023

⁷ Government of India- Prime Minister’s office, ‘PM calls for complete lockdown of entire nation for 21 days’ (*Press Information Bureau*, 24 March 2020) <<https://pib.gov.in/newsite/PrintRelease.aspx?relid=200658> > accessed 22 June 2022

⁸ Zoya Hasan, ‘Indian Parliament is diminished by Official Disruption’ (*The Wire*, 9 April 2023) <<https://thewire.in/politics/indian-parliament-is-diminished-by-official-disruption> > accessed 19 June 2023

⁹ Lok Sabha Sectariat, New Delhi, ‘Rules of Procedure and Conduct of Business in Lok Sabha’ (*Lok Sabha official website*, April 2019) <<https://loksabha.nic.in/rules/rules.pdf> > accessed 21 June 2023

¹⁰ Ministry of Parliamentary Affairs, Government of India, ‘Statistical Handbook 2021’ (*mpa.gov.in*, 20 April 2022) <<https://www.mpa.gov.in/sites/default/files/Statistical%20Handbook%202021%20MoPA.pdf> > accessed 19 June 2023

passed during the period of 2014-22 - roughly 10 per year.¹¹ Thus, the “immediate action required” as stated under Article 123 of the Constitution is misused most of the time.¹²

DISREGARDING THE DUE PROCESS WHILE LEGISLATING

Disruptions of the LS and Rajya Sabha (hereinafter referred to as “RS”) are now routine. There has been a sharp drop in the number of hours the Parliament sits, debates being held, and the bills being scrutinized by the Parliamentary committees.¹³ The issue is not just with the present ruling government but even before 2014, the Parliament’s role was diminished by their stealthy maneuvers.

There has been a reduction in the annual sitting days of the Parliament. Sitting days in the LS has declined from an annual average of 121 days during 1952-70 to 68 days since 2000.¹⁴ It had been 64 days in 2011-20. The 15th LS (2009-14) was scheduled to sit for 606 days but the actual sitting was just 357 days with 51% of time lost due to adjournments. The 16th LS (2014-19) had a scheduled sitting of just 337 days over the 5-year period and lost 16% of that time due to adjournments.¹⁵

According to the PRS Legislative research data, in 2020 the LS and RS took only 10 and 30 minutes respectively to pass a bill. Also in 2020-21, the farm and labor laws were passed without any discussion or debate that is, by completely surpassing the opposition.¹⁶ However, it culminated in the withdrawal of the bills after a major backlash from across the nation. The bills referred to the Parliamentary committees have declined from 71% in the 15th LS to 27% in the 16th LS, and only 13% in the year 2019.¹⁷ One of the most recent instances was the bill removing Article 370 of the Constitution of India which granted special status to the then state of Jammu and Kashmir and creating two Union territories out of it was also not referred to the committee. The significance of the parliamentary committees is that when a particular

¹¹ *Ibid.*

¹² Soumyadeep Chatterjee, ‘The Continuing decline of Parliamentary democracy in India’ (*News Click*, 26 May 2022) < <https://www.newsclick.in/continuing-decline-parliamentary-democracy-india> > accessed 19 June 2023

¹³ The wire (n 8)

¹⁴ PRS Legislative Research, ‘Vital Stats, 70 years of Parliament’ (*PRS India*) < https://prsindia.org/files/parliament/vital_stats/Vital%20Stats_70%20years%20of%20Parliament.pdf > accessed 20 June 2023

¹⁵ Arvind P Datar, ‘Now for the software’ *The Indian Express* (India, 1 June 2023)

¹⁶ Special Correspondent, ‘Parliamentary proceedings| Lok Sabha clears farm laws repeal bill without discussion’ (*The Hindu*, 29 November 2021) < <https://www.thehindu.com/news/national/lok-sabha-clears-farm-laws-repeal-bill-without-discussion/article37746792.ece> > accessed 21 June 2023

¹⁷ PRS Legislative Research, ‘Vital Stats, Parliament functioning in Budget session 2022’ (*PRS India*) < <https://prsindia.org/sessiontrack/budget-session-2022/vital-stats> > accessed 20 June 2023

bill is referred to them, they form a proper report after due consultations with the various stakeholders and after due deliberation. This exercise of the legislative body ensures that the law made through this process is fair and beneficial to all sections of society.

As per Article 93¹⁸ of the Constitution, there should be a speaker and a deputy speaker in the LS, but after 2019 the post of the latter is vacant. The reasons could be many such as since the post has to be filled by any member from the opposition, it hasn't been done so until now because to have a strong hold on conducting the sessions in the House and also the deputy speaker is the one who decides whether a bill is a money bill or not. Concerning the issue of the money bills, Article 110¹⁹ deals with it and states that a bill could be termed as one, only when it relates to any fiscal or tax issue.²⁰ What is exploited through the money bill is labeling any bill as the money bill and passing it through the LS when there is a majority in the LS. In cases of money bills, RS has only a recommendatory role to play and it works in the favor of the majority government when they aren't having the majority in the RS. For example, the Aadhar Act and amendments to several tribunals through the Finance Act, 2017 were passed as a money bill.²¹

Another undesirable practice followed by the parliamentarians is the introduction of the Finance Bill on Budget Day. Thereby the clauses of the former are debated on priority and thus on the last day of the session when the bill has to be passed, many important clauses are added without any deliberation. The recent instance was in the 2023 budget session of the LS when an entire chapter relating to the GST tribunals was added on the last day without any debate.²²

The data available from the Union Ministry of parliamentary affairs (from Statistical Handbook 2021) shows a decline in the number of days when the LS has conducted its meeting:-

¹⁸ The Constitution of India 1950, A 93

¹⁹ The Constitution of India 1950, A 110

²⁰ Arvind P Datar (n 15)

²¹ *Ibid.*

²² Arvind P Datar, 'Constitution of GST Tribunal goes against several rulings of Supreme Court' (*The Indian Express*, 11 April 2023) <<https://indianexpress.com/article/opinion/columns/constitution-of-gst-tribunal-goes-against-several-rulings-of-supreme-court-8549359/>> accessed 22 June 2023

- The 1st LS (1952-57) convened for the highest number of days i.e. 677 days, then was the 5th LS (1971-77) for 613 days. Thereafter there has been a gradual decline with the 16th and 17th LS convening only for 331 and 149 days respectively.²³
- There were many terms of the LS which didn't complete the 5-year tenure like, 4th, 6th, 9th, 11th, and 12th. Thereby examining the average number of days worked per year would be a more preferred comparison. The highest was the 1st LS which met for 135 days per year. Even according to these statistics, the lowest average was of the 17th LS with 60 days per year (factoring in COVID-19 impact). The closest to it was the 14th LS term which convened only for 63 days per year.²⁴

SUGGESTIONS

As per the aforementioned data, there must be a restoration of the primacy of the Parliament as the highest rule-making body so that there is no circumvention through the explicit maneuvers of the executive because these immediate and short-term benefits of instant executive measures will soon produce a subpar Parliament.²⁵

Therefore do not have a dysfunctional Parliament, there should be strict adherence to the parliamentary procedures of the LS and RS, proper debate and consideration over every bill before it is passed by each house of the Parliament, and a strict allegiance to the Constitutional provisions. As per Article 107²⁶ of the Constitution, every bill can be passed only when "it is agreed by both the houses of the Parliament". The word "discussion" is not used, but through the term "agreed" it is implied that the discussion and debate is a pre-requisite for the agreement by both the Houses.²⁷

In Article 85²⁸ of the Constitution which states the sessions of the Parliament, what must be added through an amendment is the "minimum number of days" per year i.e. the average number of days for the working of both houses of the Parliament or the minimum number of days in each session of the Parliament. At least 120 days per year either house must do its

²³ Statistical Handbook 2021 (n 10)

²⁴ *Ibid.*

²⁵ Arvind P Datar (n 15)

²⁶ The Constitution of India 1950, A 107

²⁷ P. Santosh Kumar, 'Parliament must sit at least 120 days a year' (*The Telegraph India Online*, 6 December 2022) <<https://www.telegraphindia.com/india/parliament-must-sit-at-least-120-days-a-year/cid/1902187>> accessed 19 June 2023

²⁸ The Constitution of India 1950, A 85

business.²⁹ A considerable time such as 120 days would give time for a proper debate, and the executive could be held accountable as there will be no curtailment of the short duration discussion, calling attention motions, half-hour discussion, assurances, etc.

CONCLUSION

India is a democracy which means it is neither an autocracy nor a dictatorship regime. It is a government which is formed by the collective will of the people and the government derives its legitimacy through them. What must be followed is the rule of law and due diligence which has been provided in the constitution and not shadowing it away with the overreach of the executive in the area of law-making power. Even though in India, there is no absolute separation of powers between the three organs of the government and the Parliament consists of the executive and the legislators, the former must not wield the powers in such a manner to diminish the status of the Parliament as the pillar of good governance. One of the tactics used by the bureaucracy is enacting rules, notifications, circulars, and guidelines for governing the nation rather than following the procedure which must be followed for making the laws of the country i.e. through scrutiny, taking stakeholders' interest into account and through proper deliberation and debate in the LS and RS.³⁰ Therefore the business of both houses of the Parliament is an integral aspect of the democracy. In order to fulfill the aspirations of a developed India by the time we reach the centenary of Independence in the next 25 years, it is imperative that those in the highest echelons of the Government adhere to the system of checks and balances to restore the status of the Parliament as the most pre-eminent rule-making body.

²⁹ P. Santosh Kumar (n 27)

³⁰ Arvind P Datar (n 15)