

LOST IN CHAOS: WILL THE PARLIAMENTARY DEMOCRACY SUSTAIN WITH AN INCREASINGLY DISRUPTIVE PARLIAMENT?

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“The system of parliamentary democracy embodies the principles of change and continuity. If continuity is broken we become rootless and the system of parliamentary democracy breaks down.”

-Jawaharlal Nehru¹³⁴⁴

ABSTRACT

A genuine democracy is inconceivable without a representative, efficient and effective legislature. Our forefathers envisioned our democracy to be inclusive and robust. Hence, they chose Parliamentary Democracy to give voice to each and every section of the country. Parliament is recognized as one of the most democratic and open fora for debate. Cabinets have to prove and retain their majority through parliament. Disruptions and disorderly scenes in Parliament are not of recent vintage. As far back as 1952, the Preventive Detention (Amendment) Bill caused disruption in parliament. India accepted the pole system of the election through its constitution. Anti- Defection law was enacted by 52nd amendment by adding it in the 10th schedule for good reasons to prevent members from defecting. It allows parties to herd their members, weakens incentives of legislators to invest in developing their own viewpoints and express them freely as they cannot use their own stand on different issues to evolve or develop their own political careers. Disruptions affect the efficiency of parliament badly. The most important effect of disruption can be observed in people's reduced confidence in parliament. To minimize disruptions we need to take into consideration the duality of the problem. One is regarding members of parliament and other is structural changes required. Parliament currently is facing a lot of issues. However, there is also a ray of hope. In monsoon session, 2018 productivity was 118% which is highest since the year 2000. Strengthening the institution is not an impossible task.

KEYWORDS:

Parliament, Democracy, Disruptions, Winnability, Structural Improvements.

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¹³⁴⁴ 3 MINISTRY OF INFORMATION AND BROADCASTING, GOVERNMENT OF INDIA, *Jawaharlal Nehru's Speeches* (1983).

INTRODUCTION:

A genuine democracy is inconceivable without a representative, efficient and effective legislature. Our forefathers envisioned our democracy to be inclusive and robust. Hence, they chose Parliamentary Democracy to give voice to each and every section of the country. Parliament is recognized as one of the most democratic and open forum for debate. Cabinets have to prove and retain their majority through parliament. Parliament is the lawmaking body of the country. Though it is actually bureaucracy that prepares the actual bill under the guidance of concerned minister still parliament largely overlooks the whole procedure through its various committees and debates.

Parliament is a multi-functional institution performing a wide variety of roles. It has a representative role, being the custodian of the nation's ideals, hopes and faith. Apart from lawmaking it also controls the executive and ensures its accountability. In a robust democracy, it is vital for parliament to ensure that the executive does not overstep its authority and remains responsible for people that have elected them. Similarly, the legislature also has the financial power to decide how the government raises the taxes and how the money is spent. The debating function of parliament ensures views of representatives of the different background are heard at the apex level. Members are free to debate any topic of national importance without fear and analyze it in depth. These discussions constitute the heart of democratic decision-making.

Yet in most democracies including India legislatures are losing a central place to the executive. This is being exacerbated by increasing disruptions in parliament leaving many parliamentary procedures tenuous. Hence the very idea behind parliamentary democracy is being subdued.

HISTORICAL OVERLOOK OF DISRUPTIONS IN INDIAN PARLIAMENT:

Disruptions and disorderly scenes in Parliament are not of recent vintage. As far back as 1952, the Preventive Detention (Amendment) Bill caused disruption in parliament.¹³⁴⁵

In 1990s railway and union budget started to telecast on National TV and thus a new era began. On 24 July 2006, entire proceedings of Lok Sabha were telecast live. Since last 5 Lok

¹³⁴⁵ Dated August 2, 1952: Preventive Detention, THE HINDU (Aug. 02, 2002), <https://www.thehindu.com/2002/08/02/stories/2002080200390800.htm>.

Sabha, the disruptions have increased and the number of annual working days have decreased in arithmetic progression. In fact, in 10th Lok Sabha, less than 10% time was lost due to disruption whereas in 15th Lok Sabha (2009-14) as much as 40% of total time lost in disruptions making it least productive Lok Sabha.¹³⁴⁶

The monsoon session of 2015 turned out to be near washout due to disruptions and as a result, the GST bill which was earlier agreed upon by all stakeholders could not be passed.¹³⁴⁷

HOW DO THE MEMBERS DISRUPT PARLIAMENT?

Usually to project issues outside agenda members drown one another in their noisy demands. Often, they do cross-talking, demand suspension of question hour. They highlight their protest by not complying with the instructions of the chair. Sometimes they shout slogans in well in front of the chair. They force adjournment of house hour to hour, day by day.

CAUSES BEHIND DISRUPTION:

India accepted the pole system of the election through its constitution. As our polity evolved, winnability of candidate became sole criteria subverting other important qualities such as prowess in parliamentary procedures, knowledge of country's problems etc. This has fundamentally changed the approach of members towards Parliament. Winnability being the sole criteria they try to solve problems through 'mass protest' rather than debate. Parliament is only as good as its individual members. With the rising trend of the percentage of candidates with criminal records, it has been observed that they tend to defy rules, create a ruckus in parliament. According to the association for Democratic reforms, 34% of MP's in 16th Lok Sabha face criminal charges. The percentage in 2009 and 2004 stood at 30 and 24 respectively.¹³⁴⁸

Experts also point out that the increasing trend in disruptions is directly proportional to the evolution of TV media. A myriad number of 24*7 news channels have arrived on the scene.

¹³⁴⁶ Shri P.A. Sangma, *Functioning of Parliamentary Democracy in India*, VIVEKANANDA INTERNATIONAL FOUNDATION, (Apr.10, 2012), <https://www.vifindia.org/transcriptions-paper/2012/04/04/functioning-of-parliamentary-democracy-in-india>.

¹³⁴⁷ Express Web Desk, *Parliament's Monsoon Session Washed Out, GST Bill Not Passed*, THE INDIAN EXPRESS (Aug. 13, 2005, 3:40 PM), <https://indianexpress.com/article/india/india-others/live-gst-bill-unlikely-to-be-passed-in-monsoon-session-of-parliament/>.

¹³⁴⁸ Rukmini S., *16th Lok Sabha will be Richest, have most MPs with Criminal Charges*, THE HINDU (May. 23, 2016, 6:48 PM), <https://www.thehindu.com/news/national/16th-lok-sabha-will-be-richest-have-most-mps-with-criminal-charges/article6022513.ece>.

To get more viewership they tend to cover sensational news and hence give more importance to disruptions than debates. And members have a belief that publicity even though bad is better than no publicity as winning next election has the top spot on their priority list.

Today's era is the era of perception. Political parties also believe that their interests are better served through disruption. In order to portray the government as inefficient, they carry out protests rather than discussing the problem in parliament. Today political parties have somewhat legitimized disruption as a parliamentary tool to oppose executive.

Anti-Defection law was enacted by 52nd amendment by adding it in the 10th schedule for good reasons to prevent members from defecting. But it has created a new set of problems. It allows parties to herd their members, weakens incentives of legislators to invest in developing their own viewpoints and express them freely as they cannot use their own stand on different issues to evolve or develop their own political careers. This law was further strengthened by 91st amendment. Its ramifications include subversion intraparty democracy. Hence it further leads to tickets being given only to loyalists which finally lowers the quality of members getting elected.

EFFECTS:

Members of Lok Sabha represent not only their constituency but also their state. Rajya Sabha members are elected by elected members of state legislative assemblies. When working of parliament is stalled due to disruptions members lose their chance to put a stand of their state in front of other lawmakers. This undermines the principle of federalism.

The major function of parliament is to hold the executive accountable. It uses different means such as question hour, an indigenous innovation the zero hours to ask questions to concerned ministers. Members also use calling attention motion to highlight the matter of public importance and seek authoritative statement. Parliament can also use censure motion against the council of ministers to oppose specific policies and action. In the matter of urgency, Adjournment motion is introduced to highlight the matter of recent occurrence and urgent public importance. But when members disrupt parliament they miss out on the opportunity to hold the executive accountable with facts and relevant points which is the very soul of parliamentary democracy.

Disruptions affect the efficiency of parliament badly. In 2016, Parliament saw 70 sittings and in 2015 it saw 72. In 2000, Lok Sabha was in session for as many as 85 days. In fact, in the

last 10 years, the lower House has met for an average of 70 days a year. In 2017, it hit a record low of 57 days.¹³⁴⁹ The average number of sittings of Lok Sabha in 1952-57 was 135 days in a year. Disruptions not only reduce working days but also efficiency. In 15th Lok Sabha, only 165 bills were passed making it the least deliberative full-term parliament ever.¹³⁵⁰

One among ramifications of parliamentary disruptions is an increased frequency of use of guillotine closure. While it's unavoidable looking at the increased workload of parliament guillotine lets many important undiscussed clauses of bill pass without deliberation. Hence chance to analyze nitty-gritty of bill is lost.¹³⁵¹

The most important effect of disruption can be observed in people's reduced confidence in parliament. There is not merely a perception now, but an opinion in the minds of the general public, that there has been a steady decline in the standard of our Parliament and Parliamentarians. Disruptions also contribute to undermining the respect representatives ought to have in the eyes of the citizens.

WHAT CAN BE DONE

To minimize disruptions, we need to take into consideration the duality of the problem. One is regarding members of parliament and other is structural changes required.

A) Improve the quality of members as well as their capacity building:

The criminalisation of politics is a serious concern. In a recent judgement, Chief Justice Misra said: "Criminalisation in politics is a bitter manifest truth, which is a termite to the citadel of democracy".¹³⁵² Judgement instructs candidates fighting election who are facing criminal charges to advertise them thrice. As suggested in the judgement parliament must enact the law to bar those who are accused of a crime from contesting the election. It is not possible without consensus between all parties. Hence political parties must also need to

¹³⁴⁹ Rakesh Dubbudu, *The Winter Session of 2017 Will be the Shortest in 20 years*, THE QUINT (Nov. 29, 2017, 05:27 PM), <https://www.thequint.com/news/india/winter-session-2017-to-be-shortest-in-20-years>.

¹³⁵⁰ Special Correspondent, *Parliament has 130 Pending Bills*, THE HINDU (May 18, 2016, 07:32 AM), <https://www.thehindu.com/news/national/parliament-has-130-pending-bills/article5678494.ece>.

¹³⁵¹ Pradeep Kaushal, *Guillotine: Fast-track Lawmaking*, INDIAN EXPRESS (Mar. 16, 2018, 02:10 AM), <https://indianexpress.com/article/explained/guillotine-fast-track-lawmaking-lok-sabha-budget-session-bills-passed-arun-jaitley-5099440/>.

¹³⁵² Krishnadas Rajagopal, *Supreme Court asks Parliament to frame laws to bar those accused of crimes from fighting elections*, THE HINDU (Sept.25, 2018, 11:02 PM), <https://www.thehindu.com/news/national/cant-bar-politicians-with-criminal-charges-from-contesting-elections-parliament-should-frame-laws-sc/article25035435.ece>.

observe restraint while giving tickets.

Today MP's have to perform many tasks. To ask questions in parliament they need be equipped with detailed knowledge both technical and legal about the country's problems. They must be ready with research, complex macroeconomic concepts to scrutinize budget. Hence MP's need to be assisted with competent research staff.

B) Structural Improvements:

Article 85 of the constitution empowers the president to summon parliament. And the president follows the advice of the council of ministers. So, effectively, the government decides when parliament is going to meet to oversee its functioning. There has been a decline in a number of working days. In light of the fact that parliament does not have the power to convene itself, a solution can be to fix a minimum number of working days for it in a year. The National Commission to Review the Working of the Constitution had recommended that a minimum number of working days for Lok Sabha and Rajya Sabha should be fixed at 120 and 100 respectively.¹³⁵³

It can be concluded that majority of disruption is caused during question hour. It is the first hour in working of the Lok Sabha. In 15th Lok Sabha, 60% of question hour time was lost to disruptions.¹³⁵⁴ Many times House is adjourned for the whole day due to disruption in a very first hour. Hence question hour can be shifted in Lok Sabha like it was in Rajya Sabha in 2014 to 12 pm to 1 pm.

Anti-defection law has curtailed the capacity of members to express their opinions beyond party lines in-house and increases the incentives to control or create a political party to be able to issue diktats to its members. Even though they can voice the concerns of their voters, they cannot vote according to their conscience in opposition to the official party position. We need to expand room for an individual member to express their opinion freely in parliament. The issuance of the whip can be limited to only those bills which can threaten the government such as money bill, no-confidence motion as suggested by Dinesh Goswami Committee on Electoral Reforms (1990)¹³⁵⁵ and the Law Commission Report 170 (1999).¹³⁵⁶

¹³⁵³ *Summary of Recommendation*, OUTLOOK (Apr. 02, 2002), <https://www.outlookindia.com/website/story/summary-of-recommendations/215076>.

¹³⁵⁴ PRS Legislative Research, *Performance of Parliament During the 15th Lok Sabha*, PRS (Sept.11, 2020), <http://www.prsindia.org/administrator/uploads/general/1393227842~~Vital%20Stats%20-%20Performance%20of%2015th%20Lok%20Sabha.pdf>.

¹³⁵⁵ Ministry of Law and Justice, *Report on the Committee of Electoral Reforms* (1990).

CONCLUSION:

Parliament currently is facing a lot of issues. However, there is also a ray of hope. In monsoon session, 2018 productivity was 118% which is highest since the year 2000.¹³⁵⁷ Strengthening the institution is not an impossible task. With determination and continuous effort, we need to build consensus along political spectrum about the selection of candidates, maturity and restraint among political parties which is vital to minimize disruptions and hence accentuate stature of our legislature.



¹³⁵⁶ Law Commission of India, *Reform on Electoral Laws*, Report No. 170, <http://www.lawcommissionofindia.nic.in/lc170.htm>.

¹³⁵⁷ PTI, *Monsoon Session: Lok Sabha records 118% Productivity, Best since 2000*, THE TIMES OF INDIA (Aug. 10, 2018, 11:00 PM), <https://timesofindia.indiatimes.com/india/monsoon-session-productivity-of-lok-sabha-118-best-since-2000/articleshow/65359028.cms>.