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ROLE OF PARLIAMENT IN INDIAN DEMOCRACY: INSTITUTIONAL MANDATE, PERFORMANCE & REFORM.

~ *Kalpesh Sarsambe*

ABSTRACT

The Parliament is the core of India's democratic structure. Under Articles 79 to 122¹ of the Constitution, it was created. Unlike the British model of parliamentary sovereignty, the Indian Parliament operates within the bounds set by the Constitution. It is not only responsible for making laws in the country, but it also has to ensure that finances are in order, that the executive branch is answerable to it, and that there is room for discussion on issues affecting the country. This paper examines Parliament not as a political arena but as an institution. This paper examines what the Constitution expects Parliament to do and how it has actually operated over the years. This shall be based on the provisions of the Constitution itself, relevant Supreme Court rulings on the matter, and available data on its operation.

One of the key issues addressed in this paper is the disconnect between the powers vested and the powers exercised. As evident from the Constitution, Parliament is vested with significant powers. However, if one were to look at the trends emerging with regard to the functioning of Parliament, one would note a few issues. For example, the reduction in the number of sessions held, the lack of time available for the scrutiny of bills, the decline in the scrutiny power vested with the committees, and the increased reliance on ordinances by the executive. It is submitted that the structure is sound; however, the functioning needs a closer look. While the intent of this study is not to take a political stance on the issue, it is submitted that a robust parliamentary form of democracy is not only a product of the Constitution but also a product of how the Constitution functions on the ground.

INTRODUCTION

The parliamentary system of government was adopted in India as part of the country's constitutional architecture in 1950. Under this system of government, the Indian Constitution established a representative and responsible system of government in which the executive branch is collectively responsible to the legislative branch. Thus, the Parliament in India is not

¹ INDIA CONST. arts. 79–122.

simply a law-making institution; rather, it is the central institution that sustains democratic accountability. Unlike in the British system of parliamentary sovereignty, the Indian Parliament operates in a system of constitutional supremacy, where its powers are vast but not absolute. The Indian Constitution has conferred a number of vital roles on the Parliament. First, the Parliament in India has the power to make laws, control the country's finances, amend the Constitution, and ensure executive accountability. These roles are carried out through debates, motions, and committee-based oversight. These provisions suggest that the Parliament plays a vital role in ensuring democratic governance in India. Nevertheless, in practice, there is not always a perfect match between the design and the institutions. Over time, there have been certain trends that have raised issues about the proper functioning of Parliament. There have been issues raised about the reduction in sitting days, limited scrutiny of legislation, disruptions in Parliament, and the increasing resort to ordinances. These issues may not relate to the constitutional structure itself, but rather to the way the institution functions in practice.

The research questions that this paper attempts to answer are:

1. How effectively does Parliament discharge its constitutional roles in practice?
2. How do structural and procedural aspects impact its discharge?
3. How can institutional reforms improve the quality of legislation and democratic accountability?

Although significant research has been conducted on the political process and the constitution, relatively less emphasis has been placed on the institutional performance analysis of Parliament, differentiating between the authority and the functioning of the Parliament. This paper aims to fill this research gap to some extent, incorporating the analysis of the constitution with the trends related to the procedures. The aim of the present research paper is not to take any political side, but to analyze the extent to which the institutional mechanisms are functioning properly according to the constitution. By identifying the scope for improvement in the procedures, the present paper aims to add to the discussion on the topic, as the institutional analysis of the Parliament remains vital for the sustained growth of parliamentary democracy.

LITERATURE REVIEW

Academic research on the Indian Parliament has generally developed along three broad research strands, namely, constitutional analysis, political process studies, and institutional reform discussions. However, not many research studies have focused on the Indian Parliament from the perspective of institutional performance vis-à-vis the constitutional provisions. In the context of the Indian Constitution, Granville Austin focused on the importance of the Indian Parliament from the broader context of democratic values (Austin, 1966). He saw the Indian Parliament as an instrument that enabled the realization of the values of the Constitution. Although the book provides significant insights on the importance of the Indian Parliament, the focus of the research was not on the institutional performance of the Indian Parliament. In the context of the Indian Parliament, Subhash C. Kashyap has written extensively on the procedures that govern the functioning of the Indian Parliament (Kashyap, 2008). He has focused on the procedures that govern the functioning of the Lok Sabha and the Rajya Sabha.

Although the research provides significant insights on the procedures that govern the functioning of the Indian Parliament, the focus of the research was not on the institutional performance of the Indian Parliament.

M.P. Jain, in his scholarship (Jain, 2018) on constitutional law, has studied the powers of parliament, especially regarding constitutional amendments and judicial review. Decisions of the Indian judiciary in cases such as *Kesavananda Bharati v. State of Kerala* and *Raja Ram Pal v. Hon'ble Speaker, Lok Sabha* have been studied in the context of the powers of parliament. This literature provides a better understanding of the constitutional limits of parliament but does not provide an assessment of the effectiveness of parliament.

Recent studies on the working of parliament have been done by policy research organizations (PRS Legislative Research, 2023) such as PRS Legislative Research. These studies provide quantitative data on parliamentary functioning. However, these reports are primarily monitoring exercises and are not integrated into broader evaluations of parliamentary effectiveness. The National Commission to Review the Working of the Constitution (NCRWC, 2002) has also studied the working of parliament and provided recommendations regarding the same. Even though the NCRWC has found the current constitutional framework to be sound, there is a need to look at procedural improvements. Despite the wealth of information that is currently available, a relatively small gap appears to exist in terms of integrated analysis. While much of the information is geared towards constitutional theory, political trends, and so on, there is a lack of integration in terms of linking the theoretical and actual performance of Parliament. In this respect, the distinction between theoretical and actual performance has

not always been formally analyzed. The purpose of this paper is to attempt to bridge this theoretical and actual performance of Parliament, bringing together theoretical and actual performance, and assessing Parliament not just in terms of what it is capable of doing, but also in terms of how effectively that capability is actually being utilized.

CONSTITUTIONAL AND LEGAL FRAMEWORK

The constitutional framework of Parliament is provided in Part V of the Constitution of India. Article 79 declares that there shall be a Parliament² for the Union which shall consist of the President and two Houses, one to be known as the Council of States and the other as the House of the People. This article provides the formal framework of the Union Legislature. Article 80 and 81 describe the composition³ of the Rajya Sabha and Lok Sabha respectively. Rajya Sabha represents the States of the Union and thus provides the federal feature of the Constitution. Lok Sabha represents the people of India directly. The legislative powers of Parliament are provided in Articles 245 and 246⁴. Article 245 grants power to Parliament to make laws for the whole or any part of the territory of India. Article 246 grants legislative powers to Parliament. This article, together with the Seventh Schedule to the Constitution, provides the division of legislative powers between the Union and the States. Parliament has exclusive powers over matters falling in the Union List and concurrent powers over matters falling in the Concurrent List.

² INDIA CONST. art. 79.

³ INDIA CONST. arts. 80–81.

⁴ INDIA CONST. arts. 245–246.

Apart from the general powers, the Parliament also has some special powers under certain conditions. Under Article 249⁵, the Parliament is empowered to make laws on the State List subject matter if the Rajya Sabha declares it necessary in the National Interest by a resolution. Under Article 250⁶, the Parliament is empowered to make laws on the State List subject matter during a National Emergency. Thus, the Constitution has provided the flexibility in the working of the parliamentary system. Another significant power vested with the Parliament is the financial power. Under Article 112⁷, the presentation of the Annual Financial Statement, also called the Union Budget, is required to be made to the Parliament. Articles 109 and 110 lay down the procedure⁸ for the same, which is required to be initiated only in the Lok Sabha. Thus, the Constitution has vested the financial power with the Parliament. The power vested with the Parliament under Article 368⁹ to amend the Constitution is another significant power vested with the Parliament. However, this power is not absolute. In the landmark judgment of *Kesavananda Bharati vs. State of Kerala*¹⁰, the Supreme Court held that the Parliament has the power to amend any part of the Constitution, except for the basic structure. Similarly, in the case of *Raja Ram Pal v. Hon'ble Speaker, Lok Sabha*¹¹, the Supreme Court was called upon to adjudicate the extent of parliamentary privilege. In this case, the Supreme Court was of the opinion that though there was some procedural autonomy available to the Parliament, this was always subject to judicial review if there was a violation of the constitutional provisions.

These judicial pronouncements have made it clear that the Indian Parliament works within a regime of checks and balances. Thus, it may be concluded that the constitutional and legal regime provides for a strong Parliament but within constitutional limits. The constitutional framework appears institutionally sound; the concern lies in the effective exercise of these powers.

INSTITUTIONAL STRUCTURE

The structure of Parliament is based on constitutional provisions as well as established parliamentary practices. As per the provisions of the Constitution under Article 79, the Parliament comprises¹² the President, the Rajya Sabha, and the Lok Sabha. However, apart from this formal structure, the functioning of the Parliament internally incorporates a number of procedural and structural aspects. The Lok Sabha is the directly elected House and thus plays an important role in issues relating to finance and accountability of the executive. The Council of Ministers remains collectively responsible to the Lok Sabha under Article 75(3)¹³. This ensures that the executive remains accountable to the elected House. The Rajya Sabha represents the States and remains a revising body. The continuous composition of the Rajya Sabha with one-third of its members retiring every two years provides it with institutional continuity. The presiding officers of both Houses play an important role in maintaining order and regulating parliamentary business. The Speaker of the Lok Sabha and the Chairman of the

⁵ INDIA CONST. art. 249.

⁶ INDIA CONST. art. 250.

⁷ INDIA CONST. art. 112.

⁸ INDIA CONST. arts. 109–110.

⁹ INDIA CONST. art. 368.

¹⁰ *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225 (India).

¹¹ *Raja Ram Pal v. Hon'ble Speaker, Lok Sabha*, (2007) 3 SCC 184 (India).

¹² INDIA CONST. art. 79.

¹³ INDIA CONST. art. 75, cl. 3.

Rajya Sabha are entrusted with the responsibility of maintaining procedural discipline and interpreting the rules correctly.

One of the most important features of the institutional structure of the Lok Sabha and the Rajya Sabha is the committee system. In the Lok Sabha and the Rajya Sabha, parliamentary committees function as smaller, specialized bodies that specialize in the examination of bills, expenditure, and the implementation of policies. The Departmentally Related Standing Committees are entrusted with the responsibility of scrutinizing the work of the particular ministry, demands for grants, and legislation. Financial committees such as the Public Accounts Committee, the Estimates Committee, and the Committee on Public Undertakings play a significant role in financial oversight. The Rules of Procedure of the Lok Sabha and the Rajya Sabha lay down the manner in which the business of the two houses is conducted. These rules govern the question hour, zero hour, motions, voting, and references to committees. Through these processes, the institutional structure aims to ensure that the discussion occurs in an orderly manner and that the scrutiny of issues occurs systematically. In addition to formal institutional structures, political parties and the party whip system also play an important role. Although the party system ensures stability and coordinated action, the level of independence of members while contributing to debates and decision-making processes can be affected. Consequently, the institutional structure of the Parliament comprises the constitution, rules, committees, and the political parties. This structure aims to ensure that the Parliament can perform its functions effectively. However, the key question is whether this institutional structure has operated effectively in practice.

EMPIRICAL PERFORMANCE ANALYSIS

Although the constitutional basis of Parliament can be said to be sound, its working can be gauged on the basis of empirical factors as well. In recent years, certain trends in the working of Parliament can be identified on the basis of empirical factors. These trends provide insight into how Parliament performs its constitutional role in practice. The number of sitting days of Parliament is one of the factors that has been highlighted as an important aspect of the working of Parliament. In the early decades of India's independence, Parliament had more sitting days in a year compared to recent decades. However, in recent decades, the number of sitting days has gradually decreased.

Since the holding of discussions in Parliament is one of the major forms of accountability, the decrease in the number of sitting days can affect the level of discussion on important legislative and policy issues in India.

The committees of Parliament were constituted with the idea of scrutinizing the bills before they were passed.

However, it has been observed that more and more bills have been passed without being referred to the Departmentally Related Standing Committees. Scrutiny by the committees would enable the members to have a better look at the technical, legal, and policy aspects of the bills. If scrutiny is not as detailed as it should be, the scope for detailed legislative scrutiny would also be affected. The use of the ordinance-making power would also be an important aspect that has been discussed with respect to the working of Parliament. According to Article 123¹⁴ of the Constitution, the executive has the right to promulgate ordinances when Parliament is not in session. Even though it is recognized as a constitutional provision, it was meant to be used only under exceptional circumstances when immediate action was required.

¹⁴ INDIA CONST. art. 123.

Another factor influencing parliamentary functioning is the operation of the party system and the anti-defection framework. The Tenth Schedule¹⁵, which is a part of the Constitution, has provided rules to tackle political defections and has ensured greater stability in the functioning of the legislature. This has also had a bearing on the autonomy enjoyed by the individual member in debates and voting sessions. Empirical indicators have also been developed by various policy research organizations, such as PRS Legislative Research, which have documented some of these trends through statistical data pertaining to the functioning of Parliament. These empirical indicators, although not conclusive in determining the efficacy of the institution, can be used as a yardstick to evaluate the trends in the functioning of Parliament. Overall, these empirical indicators suggest that although the Constitution and the framework of Parliament remain unchanged, the trends in the functioning of Parliament have undergone a significant change. These trends underscore the need to not just look at the powers vested in Parliament but also at the way in which these powers are exercised.

KEY CHALLENGES

The empirical trends on the functioning of Parliament point to some of the key challenges that are affecting its functioning as a democratic institution. The constitutional framework of Parliament is stable; however, the dynamics of its functioning raise certain issues that require closer examination. One of the issues often discussed is the reduction in the number of sitting days of Parliament. The fewer the number of sittings of Parliament, the lesser the time available for its discussions on legislative issues and executive decisions. The discussions of Parliament are one of the primary means of assessing and analyzing government policies and decisions. When the time available for such discussions is reduced, it is also likely to reduce the scope of detailed discussions on legislative issues.

Another key issue is the lesser scrutiny of legislation. The Parliamentary Committees were constituted with the primary objective of scrutinizing legislation. However, not all bills are sent for scrutiny by the Departmentally Related Standing Committees of Parliament. When legislation is introduced and passed without being scrutinized by Parliament, it is likely that the scope of analyzing and examining the implications of such legislation is reduced. The occurrence of disruptions during sessions of Parliament has also been cited as a factor that affects its functioning. Though it is natural for some form of disagreement and debate to occur in a democratic setup, excessive disruptions could result in a reduced amount of working time for Parliament. The balance between legislature and executive is also a significant factor that affects the functioning of Parliament. The executive in a parliamentary form of government is essentially chosen from its own members and is accountable to them. However, with the complexity of government and the preponderance of executive authority, some concerns are raised regarding its oversight. Another structural factor affecting the functioning of Parliament is related to the party system and the anti-defection rule. The Tenth Schedule was incorporated in the Indian Constitution with the objective of dealing with the issue of political defections.

However, the anti-defection rule has had an impact on the level of autonomy exercised by parliamentarians during debates and voting sessions. All these factors, as seen, do not point towards any defects in the constitutional design of the Indian Parliament. Rather, these are some of the institutional and procedural features, which have an impact on the

¹⁵ INDIA CONST. Tenth Schedule.

functioning of Parliament. It is essential to recognize these challenges in order to identify the possibilities of reforms in the functioning of parliamentary democracy in India.

REFORM IMPERATIVES

The issues identified in the working of Parliament suggest the need for some institutional reforms in the working of Parliament. These reforms may not involve any major structural changes in the Constitution but may involve some institutional and procedural improvements in the working of Parliament. One such reform is the increase in the number of sittings of Parliament. This would enable more time to be devoted to debates and scrutiny of legislation and executive actions. It would also give more opportunities to members to take part in discussions on various legislative and policy issues.

Another such reform is the strengthening of the committee system in Parliament. The committees in Parliament play a very important role in scrutinizing the legislation in detail. The Departmentally Related Standing Committees could be more effectively used in this context. It would also enable the members to scrutinize more bills in detail before they are passed by Parliament. This would help them to study the legal, administrative, and policy implications of the bills.

Another area where reforms can be useful is in improving research and institutional assistance provided to members of Parliament. It has been noted that, in recent times, there are complex legal and policy issues involved in the decision-making processes of the legislature. Thus, improving research assistance can be useful in improving the decision-making processes of the legislature. Improving transparency in the processes of parliament can also be useful in improving democratic accountability. It has been noted that the greater the transparency in the processes of parliament, the greater the understanding of the processes of parliament.

Another sphere wherein clarity of institutions could be useful is with regard to the application of Ordinance-making powers. While Article 123 provides for such powers of making ordinances when Parliament is not in session, ensuring that such powers are exercised in “appropriate circumstances” would reinforce Parliament’s role in the legislative process.

These changes should be understood as part of efforts to build on existing parliamentary institutions and not as altering them in terms of their constitutional design. The existing constitutional framework offers a robust framework for parliamentary democracy. The focus is on building on existing procedural and institutional strengths so that Parliament is able to discharge its constitutional role effectively.

CONCLUSION

The Indian Parliament plays a vital role in the constitutional setup of the Indian government. The Constitution has provided the Indian Parliament with a complete framework to ensure the smooth functioning of the government in a democratic manner. The analysis done in the above paper reveals that the constitutional framework of the Indian Parliament is sound from an institutional perspective. The Constitution has clearly defined the composition, powers, and procedure of the Indian Parliament through various provisions. The role of the Indian courts has also been significant in defining the powers

and limitations of the Indian Parliament within the framework of the Constitution. However, the empirical trends relating to the Indian Parliament indicate that some operational challenges have emerged over time, such as the decrease in the number of sitting days, legislative scrutiny, disruptions in the Parliament sessions, and the growing complexity of the government, etc. These trends may not be indicative of the constitutional framework, but they emphasize the need to strengthen the procedural practices within the Indian Parliament.

The discussion on reform imperatives indicates that there are ways to improve the working of Parliament through institutional and procedural measures, such as more sittings of Parliament, improvement in the committee system, more research support to its members, and greater transparency in its processes, which can improve the working of Parliament and its ability to function more effectively in accordance with its constitutional role. The ultimate test of the working of parliamentary democracy does not merely depend on the provisions in the Constitution, but on how effectively the institutions function in practice. A functioning Parliament is as important as ever to ensure democratic accountability, informed legislative decision-making, and balanced governance in India. Improvements to the working of Parliament are an important step in consolidating the working of democracy in India.

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