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<b>Module Name/Title</b>	<b>THE INDIAN PARLIAMENT STRUCTURE, FUNCTIONS AND ROLE</b>
<b>Module Id</b>	
<b>Pre-requisites</b>	
<b>Objectives</b>	<ul style="list-style-type: none"> <li>• To analyse composition, powers and roll of parliament</li> <li>• To understand the functioning of Indian Parliament and its contribution to parliamentary democracy in India.</li> <li>• To evaluate the role of Rajya Sabha as the second chamber of Indian Parliament.</li> <li>• Evaluate the efficacy of parliamentary committees.</li> </ul>
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## **THE INDIAN PARLIAMENT STRUCTURE, FUNCTIONS AND ROLE**

**AJAY K. MEHRA.**

*On the 26<sup>th</sup> of January 1950, we are going to enter into a life of contradictions. In politics we will have equality and in social and economic life we will have inequality. [...] We must remove this contradiction at the earliest moment, or else those who suffer from inequality will blow up the structure of political democracy which this Assembly has so laboriously built up.*

**B. R. Ambedkar on 25 November 1949, *Constituent Assembly Debates*, New Delhi: Lok Sabha Secretariat, 1989, vol. IX, p. 979.**

### ***Introduction***

This statement from Dr. B.R. Ambedkar's penultimate day speech in the Constituent Assembly, which drew the curtain on its deliberations of 2 years, 11 months and 17 days, unambiguously affirms that he envisioned parliamentary institutions in independent India to mitigate social inequality in order to sustain political equality ensured by the Constitution. As Indian Parliament celebrated its diamond jubilee in May 2012 (the first elected Lok Sabha met on 13 May 1952), Dr. Ambedkar's caution on the contradiction inherent in Indian political sociology has been resonating. Yet, a review of India's representative democracy as well as processes and institutions supporting it at its six decade's landmark present a mixed picture. There is social broad-basing of the representative institutions, characterized variously as the upsurge from below, third electoral system and plebianization, along with critical reviews of processes and institutional culture, as India's democratic culture turns both vibrant and boisterous, inviting introspections on institutional norms

This brief exposé of the Indian Parliament in the diamond jubilee year of its functioning looks at its constitutional, institutional and representative dimensions as well as its contribution to the world's largest democracy.

### ***Inception***

That independent India would opt for liberal democratic system was a foregone conclusion and absolutely clear from the way the national movement led by the Indian National Congress had gone, representative institutions the colonial masters had conceded during the decades of demands for self-rule (*swaraj*) and independence (*poorna swaraj*), the resolutions it had passed over the years and statements its leaders had made during the course of the movement. Naturally, whichever form of government they would have opted for under democratic system, a representative legislature was a precondition. However, after intense debates the Constituent

Assembly opted for 'parliamentary system of constitution',<sup>1</sup> because, as Dr. Ambedkar said:

The Parliamentary system differs from a non-Parliamentary system in as much as the former is more responsible than the latter but they also differ as to the time and agency for assessment of their responsibility.... The daily assessment of responsibility which is not available under the American system is, it is felt, far more effective than the periodic assessment and far more necessary in a country like India. The Draft Constitution, in recommending the parliamentary system of executive has preferred more responsibility to more stability.<sup>2</sup>

His statement became the central factor in the selection of the British parliamentary system. The arguments clinching the issue meant that the parliamentary system in general and Parliament in particular were preferred and designed to create a structure of democratic governance that was *representative* and ensured *accountability*.<sup>3</sup> This discourse during framing of the Constitution is significant as a point of departure for an assessment of the Indian Parliament.

The choice of universal adult suffrage to ensure optimum representation to the diversity constituting India, despite illiteracy and poverty, by the Constituent Assembly reflected a concern that processes of representation had to bridge a huge temporal chasm and create bicameral equilibrium too. Thus, the fear of disproportionately larger representation to bigger States in the Rajya Sabha, proportional representation as well as equal representation on the lines of the US Senate were considered in the Constituent Assembly. Similarly, the size (area and population) of a constituency, reservation of seats in general as well as for the minorities came in for intensive debate and

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<sup>1</sup> Both the Union Constitution Committee and the Provincial Constitution Committee recommended 'parliamentary executive' for the country. The latter said, 'it would suit the conditions of this country better to adopt the parliamentary system of constitution, the British type of Constitution with which we are familiar'. CAD, vol. IV, New Delhi: Lok Sabha Secretariat, p. 578.

<sup>2</sup> CAD, vol. VII, New Delhi: Lok Sabha Secretariat, p. 32-33.

<sup>3</sup> K. M. Munshi supported Dr. Ambedkar's contention with his own argument about continuity based on tradition and experience:

*We must not forget a very important fact that during the last 100 years Indian public life has largely drawn upon the traditions of British Constitutional law .... For the last thirty or forty years, some kind of responsibility has been introduced in the governance of this country. Our constitutional traditions have become parliamentary and we now have all our provinces functioning, more or less, on the British model. As a matter of fact, today, the Dominion government of India is functioning as a full-fledged parliamentary government. After this experience why should we go back upon the tradition that has been built for over 100 years, and try a novel experiment which was, as I said, framed 150 years ago and which has been found wanting even in America. CAD, vol. VII, New Delhi: Lok Sabha Secretariat, pp. 984-85 (italics mine).*

interestingly, the proposal came in for criticism from a Muslim (Maulana Hasrat Mohani) and a Sikh (Giani Gurumukh Musafir) member each, who thought that such arrangements would result in compromise with principles of secularism.<sup>4</sup>

If there were strong opinions on parliamentary supremacy in legislative and financial matters<sup>5</sup>, there were equally cogent views on parliamentary accountability. For example, members argued against extending parliament's term even during war or emergency.<sup>6</sup> In fact, the question of parliamentary accountability came in for consideration also during the discussion on Articles 21 and 22 (draft Articles 15 and 15A) relating to 'personal liberty' in the chapter on Fundamental Rights. The interesting part of this debate is that while the Constituent Assembly's Advisory Council on Fundamental Rights recommended incorporation of 'due process of law' in the Article meant to secure 'protection of life and personal liberty', the Drafting Committee opted for 'procedure established by law'. Many members questioned this, arguing that personal liberty would be in peril if the Parliament and parliamentarians abdicated accountability, which was considered a possibility given the embryonic stage of democracy in the country and the judiciary was considered a perfect and deserving foil for such an eventuality.<sup>7</sup> An apprehension of parliamentary accountability was the hallmark of this debate. Clearly, the wise persons gathered in the Assembly were concerned about institutional aspects of the new polity. Obviously, a societal review of the emerging aspects of representation must critically examine the Parliament's role in ensuring the 'daily assessment of responsibility'.

### ***Structure and Functions of Parliament***

The Indian Parliament consists of the President of India, the Rajya Sabha (Council of the States) and the Lok Sabha (the House of the people).<sup>8</sup> The Rajya Sabha consists

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<sup>4</sup> CAD, vol. VII, New Delhi: Lok Sabha Secretariat, pp. 1195-1258.

<sup>5</sup> CAD, vol. VIII, New Delhi: Lok Sabha Secretariat, pp. 753-54.

<sup>6</sup> CAD, vol. VIII, New Delhi: Lok Sabha Secretariat, pp. 86-87. Obviously, the extension of the term of the Lok Sabha in 1976 during the emergency declared by Mrs. Indira Gandhi was against the spirit of the Constitution as perceived by the framers.

<sup>7</sup> CAD, Vol. VII, New Delhi: Lok Sabha Secretariat, pp. 842-55. Also see, Ajay K. Mehra, "Due Process" or "Procedure Established by Law": The Constituent Assembly's Cogitations', in Pran Chopra (ed.), *The Supreme Court vs. the Constitution: A Challenge to Federalism*, New Delhi: Sage, 2006.

<sup>8</sup> Article 79, *The Constitution of India*.

of 250 members – 238 ‘representatives of the States [and of the Union Territories]’<sup>9</sup> are elected indirectly by the elected members of Legislative Assembly of each State through proportional representation by means of single transferable votes and twelve members are nominated by the President of India from the fields of literature, science, art and social service.<sup>10</sup> The Rajya Sabha is a continuing body. Its members are elected for six years. However, ‘nearly as nearly as possible one-third of the members thereof shall retire as soon as may be on the expiration of every second year in accordance with the provisions made in that behalf by Parliament by law.’

The Lok Sabha consists of not more than 530 members elected by direct election from territorial constituencies in the States, not more than 20 members to represent the Union Territories in such manner as Parliament may by law provide and not more than two members to be nominated by the President to represent the Anglo-Indian community. Currently the Lok Sabha consists of 543 members elected from 28 States and seven Union Territories. The Lok Sabha is elected for five years, unless dissolved earlier. There is a provision for extension of its tenure ‘while a Proclamation of Emergency<sup>11</sup> is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.’<sup>12</sup>

The Parliament is convened at the discretion of the President. However, the Constitution stipulates that there should not be a gap of more than six months between two sessions. Thus, the Parliament convenes three sessions in a year, known as Budget session (February-May), Monsoon session (July-August) and Winter session (November-December). The power to summon or prorogue either or both the Houses of Parliament is with the President of India, while the respective presiding officers have the power of adjournment. Adjournment of a house merely postpones the proceedings of the House to a future date, but prorogation brings an end to a session

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<sup>9</sup> Only two of the seven Union Territories – Puducherry and Delhi – have Legislative Assemblies. The modality of the election of the Rajya Sabha members from the rest of the five, Andaman and Nicobar Islands, Chandigarh, Dadara and Nagar Haveli, Daman and Diu and Lakshadweep fall under this category.

<sup>10</sup> Article 80, *The Constitution of India*.

<sup>11</sup> Articles 352-360, *The Constitution of India*.

<sup>12</sup> Article 83, *The Constitution of India*.

of the House. The President can call a joint sitting of the two Houses and even a special session if in his discretion a situation so desires.

Parliament's legislative functions begin with the presentation of a Bill in either House, which has to be passed by both the Houses and assented to by the President before it becomes a law. To this extent both the Houses have coequal powers. However, a Money Bill can originate only in the Lok Sabha and after it passes the Bill, it is sent to the Rajya Sabha for its recommendations that must come within fourteen days. Whether or not the Lok Sabha accepts its recommendations and whether or not the Rajya Sabha communicates its recommendations within the stipulated time, the Money Bill is deemed to have been passed by both the Houses and sent for the Presidential assent.<sup>13</sup>

Under the scheme of division powers prescribed by Article 246 of *The Constitution of India*, Parliament can legislate over the subjects that are mentioned under the Union List (or List I) in the Seventh Schedule of the Constitution of India. Ninety seven subjects listed in List I are those which deserve attention and application on all-India basis. The principal Union subjects are citizenship, defence/national security, foreign affairs, railways, communications, currency, banking, income tax, customs, excise, atomic energy, census, Union Public Service Commission and the All India Services, etc. Parliament also shares powers to legislate over 47 subjects in the Concurrent List (or List III), with prominence having been given to its role over these subjects. Under certain circumstances, some normal, but mostly in times of 'Emergency' Parliament can also legislate on subjects listed in the State List (List II).<sup>14</sup> It can also legislate under the residuary powers that the Indian of the Union Government.

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<sup>13</sup> Articles 107 and 109, *The Constitution of India*. Budget proposals of the government as well as any proposal dealing with 'the imposition, abolition, remission, alteration or regulation of any tax' and matters defined in Article 110 of *The Constitution of India*, are treated as a Money Bill.

<sup>14</sup> Further, when a Proclamation of Emergency is made by the President due to threat to the security of India or any part thereof by war or external aggression or armed rebellion, Parliament acquires the power to make laws for the whole or any part of the territory of India with respect to any of the matters enumerated in the State List. Similarly, in the event of the failure of the constitutional machinery in a State, the powers of the Legislature of that State become exercisable by or under the authority of Parliament. This apart, the Constitution also vests in the Parliament the constituent power or the power to initiate amendment of the Constitution.

Article 108 makes a provision for joint sitting of both Houses in certain cases. Three cases in which a joint sitting can be called after a Bill has been passed by one House and transmitted to the other House are:

- a) the Bill is rejected by the other House; or
- b) the Houses have finally disagreed as to the amendments to be made in the Bill; or
- c) more than six months elapse from the date of the reception of the Bill by the other House without the Bill being passed by it.

Until now only three Bills have been passed by the joint sitting of Parliament: the Dowry Prohibition Act (1961), the Banking Service Commission Repeal Bill (1978) and the Prevention of Terrorist Activities Act (2002). On the latter two occasions the ruling dispensation did not have a majority in the Lok Sabha.

Though the Lok Sabha has relatively greater political importance because it holds the government is responsible to it and it holds monopoly over the finance bill, the Rajya Sabha's significance has increased in recent years due to coalition politics and the rise of regional parties, many of which are running state governments. The absence of the phenomenon of a dominant party has also led to it. These have meant that the ruling coalition could be in a minority in the Rajya Sabha, which gives it effective veto power on non-finance bills, but as mentioned earlier, the government has the option to call a joint session of Parliament in rare cases. Thus the need for cooperation between the government and opposition has increased particularly where the two-thirds majority is needed.

Besides passing laws, Parliament can by means of resolutions, motions for adjournment, discussions, questions addressed by members to Ministers, system of committees, etc., exercise control over the administration of the country and safeguard people's liberties.

### ***Remunerations to Members of Parliament***

MPs, i.e. the Members of both Houses of Parliament are entitled to monthly salary, pension on completing their tenure, traveling allowance to visit their constituency as well as to travel within the country. The emoluments of MPs are governed by *The Salary, Allowances and Pension of Members of Parliament Act, 1954 and the Rules Made Thereunder*, as amended from time to time. The current entitlements of the Members of Parliament, last amended in 2009, are as follows:



- An MP's base salary is ₹ 50,000 per month and pension on completion of her/his term is ₹ 20,000 per month. If the tenure exceeds five years, this pension increases by ₹ 1,500 for each additional year of service.
- In addition, MPs are compensated for official expenses through – daily allowance of ₹ 2,000 for each day of attending Parliament, constituency allowance for expenses incurred in the constituency (₹45,000 per month) and office expenses for staff, stationery and postage (₹45,000 per month).
- MPs are provided accommodation in Delhi, which varies from hostel rooms to two-bedroom flats to bungalows. They are also reimbursed for electricity, water, telephone, and internet expenses, and also for 34 one-way air tickets from their constituency to Delhi.

However, despite the hike, MPs in India are paid lower than many senior government officials. Their salaries are still lower than in many other democracies.<sup>15</sup>

Since December 1993 the MPs have been entitled to Local Area Development Fund (MPLADS) for recommending developmental projects in their constituencies. The fund is not directly given to them, but kept with the district administration and an MP can select from a list of work permissible under the scheme and recommend to the District Magistrate, the administrative head of a district, to get the work done. To begin with the MPLADS was fixed at ₹ 500,000 per MP, it was raised in 1994 to ₹ 10,000,000. In 1998, it was raised to ₹ 20,000,000. It has been raised to ₹ 50,000,000 since July 2011. Initially, there was no monitoring, but since 1994 the Ministry of Statistics and Programme Implementation has been the nodal agency that monitors the scheme. Among the guidelines it has fixed are 'locally felt needs' and 'durable capital assets' being created.

This is an interesting and unparallel initiative which has invited discussions. It was questioned by some on the ground of giving an undue advantage to a sitting MP, who could win electorate with his/her work, but nearly a decade of functioning of this programme indicates that not all MPs utilize this advantage. Evaluations of the programme have discovered both; best practices reported<sup>16</sup> there are also cases of play

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<sup>15</sup> For a comprehensive comparison of the salaries of the MPs in India see <http://www.prsindia.org/parliamenttrack/vital-stats/how-much-does-india-pay-its-legislators-2010-1318/> (accessed on July 14, 2012).

<sup>16</sup> A government sponsored evaluation says: 'The innovative practices evolved by various agencies in the process of implementation, involvement of local community not only in conception of projects but also monitoring/supervision, upkeep and maintenance of assets on voluntary basis, fairly good quality of assets created and good use made of the infrastructure has resulted in a positive impact of the works implemented under scheme on the local economy, social fabric and physical environment. <http://mplads.nic.in/exe-summ-i.pdf> (accessed on 15 July 2012).

of systemic corruption, neglect and underutilization. A study by Public Affairs Centre, Bangalore, of the utilization of MPLADS in Karnataka has indicated mixed results.<sup>17</sup> Another study by Delhi-based Observer Research Foundation found differences in performance statewise and constituency wise; it still considered it to be a good initiative that needed working on the loopholes.<sup>18</sup>

### ***Privileges of Members of Parliament***

The MPs in India have been guaranteed certain privileges and immunities by the Constitution, as described by Article 105. Freedom of speech in Parliament is the most important privilege they have. It follows from this that they 'shall not be liable to any proceedings in any court in respect of anything said or nay vote given by him in Parliament or nay committee thereof, and no person shall be so liable in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings.' The Parliament also has the powers to determine the powers, privileges and immunities of each House of Parliament, and of the members and the committees of each House. Similarly, those who by virtue of this Constitution have the right to speak in, and otherwise to take part in the proceedings of, a House of Parliament or any committee thereof as they apply in relation to members of Parliament.

Privileges and immunities of the MPs, as also of the Members of the Legislatures of the States [Article 194 (2, 3)], particularly freedom of speech within the Houses and publications thereof, are meant to secure the members so that they can attend to legislative business freely, without any fear of legal consequences. These are not applicable outside the Houses and beyond the business of the Houses.

### ***Conduct of the Parliamentary Business***

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<sup>17</sup> This study showed that Lok Sabha MPs (57 percent) showed better utilization than the Rajya Sabha (30 percent) MPs. Backward region MPs (47 percent) utilized it less than developed region MPs (63 percent). There was higher utilization by the MPs who were less educated, those with higher degrees appeared less inclined to fully utilize it. See: <http://www.pacindia.org/media/press-releases/MPLADS-funds-utilization-parliament-karnataka/> (accessed on July 15, 2012).

<sup>18</sup> The study concluded: '... it was felt that the scheme is a unique one which can aid in improving the developmental profile of the States. The scheme connects the MPs to their constituents and helps citizens assess whether the spending has been in line with the promises made or not.... there is a need to work on the loopholes and take corrective measures for its better implementation.' See: <http://orfonline.org/cms/sites/orfonline/modules/analysis/AnalysisDetail.html?cmaid=34929&mmacmaid=34930> (accessed on July 15, 2012).

The Constitution provides for a Chairman and Deputy Chairman to carry out the business of the Rajya Sabha. The Vice President of India is the ex-officio Chairman of the Rajya Sabha and the House elects, 'as soon as may be', from amongst its members a Deputy Chairman and at the earliest on this office falling vacant. The Chairman and in her/his absence the Vice Chairman conducts the business of the House. The Chairman's office is naturally coterminous with the five-year tenure of the Vice President, or on the office falling vacant due to death, resignation or impeachment. The Vice Chairman's office is coterminous with the term of the member elected to the office, or on the office falling vacant due to death, resignation or impeachment.<sup>19</sup> The Chairman of the Rajya Sabha is paid a salary of ₹ 125,000 per month. The Deputy Chairman of the Rajya Sabha is entitled to a sumptuary allowance at the same rate as a Minister of State at the Government of India along with her/his salary and allowance as an MP.

As soon as the Lok Sabha is constituted after a general election, it begins proceedings by electing one of its senior members as pro-tem Speaker. At the earliest it elects a Member as the Speaker and another as the Deputy Speaker, who presides over the House in the absence of the Speaker. The practice has been adapted from the Westminster model, where non-partisanship of the Speaker's office is sacrosanct. They hold office during the term of the Lok Sabha, or their membership of the House, unless the office is vacated due to death, resignation, or impeachment. In case the Deputy Speaker too is absent, following rules of procedures the House draws a panel of six members who preside over the Lok Sabha sessions in their absence.<sup>20</sup> Though India has not adopted the British practice of unopposed election of a Speaker, one healthy tradition that has developed to ensure impartiality is that the Speaker is normally elected from the ruling party (or coalition), and the Deputy Speaker from the opposition party (or coalition). Aside from salaries as an MP, a sumptuary allowance is paid both to the Speaker (equal to a Cabinet Minister of the Government of India) and the Deputy Speaker (equal to a Minister of State of the Government of India).

Impartiality and independence from political and partisan considerations being the main attributes of the office of presiding officers of legislatures in democracies worldwide, Indian parliamentarians made a sound beginning. Vithalbhai Patel, who

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<sup>19</sup> Articles 89-90, *The Constitution of India*.

<sup>20</sup> Articles 93-96, *The Constitution of India*.

presided over the Central Legislative Assembly (1925-30), resigned from the Swaraj Party.<sup>21</sup> G.V. Mavalankar, the first Speaker of the Lok Sabha in 1952 till his death in February 1956, did not resign from the party, but set very high standards in the high office, which his successor M. Ananthashayanam Aiyangar too followed. Thus, the tradition that on election to the office of Speaker the incumbent resigns from his party, did not develop in India. Though the politics of the 1980s and 1990s brought in some controversies, particularly when some former Speakers were inducted as Union Ministers,<sup>22</sup> the office has generally remained above political reproach.

This has helped in building a tradition where the Speaker of the Lok Sabha is able to enjoy the wide and extensive responsibilities vested in the office to conduct the country's legislative business. Vested with the powers to ensure orderly and meaningful discussions on legislative issues, he exercises unquestioned authority over the House to enforce the rules and procedures; which includes taking disciplinary action against members who turn disruptive. The Speaker's offices processes introduction of a Bill in the House. She/he allocates time for discussion during different stages of discussions and passage of a Bill. The constitution and conduct of the business of parliamentary committees too are part of the Speaker's responsibilities, whose role has acquired added significance in the era of coalition politics.

In the process of becoming an Act, a Bill is introduced in either House of Parliament, either by a Minister (Government Bill) or by a Private Member (Private Member's Bill). This stage and process is known as the First Reading of the Bill. Thereafter, the question is put to the vote of the House, following which it is published in the Gazette. After a Bill has been introduced, the Presiding Officer of

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<sup>21</sup> Swaraj Party was constituted on January 1, 1923, following the Gaya Session of the Indian National Congress in December 1922, when some leading Congressmen - C.R. Das, Motilal Nehru, Ajmal Khan, Vithalbhai Patel, etc., declared the Non-cooperation Movement to be a failure and lost its momentum with the detention of Gandhi. They were keen to participate in election for the Legislative Councils established under the Montford Reforms of 1919 and to use moral pressure to compel authority concede the popular demand for self-government.

<sup>22</sup> G.S. Dhillon, twice Lok Sabha Speaker (8.8.1969-17.3.1971 and 22.3.1971-1.12.1971) joined the Union Cabinet under Rajiv Gandhi and served as the Minister for Agriculture during 12 May 1986-14 January 1988). Bali Ram Bhagat was Speaker during 15.1.1976-25.3.1977 and Minister of External Affairs during 1985-86 and Governor of Rajasthan during 1993-98. Balram Jakhar, Speaker of seventh and eighth Lok Sabhas (1980-89), became Union Agriculture Minister in 1991 and was Governor of Madhya Pradesh during 2004-09. Shivraj Patil, Speaker of the tenth Lok Sabha (1991-96), was the Union Minister for Home Affairs 2004-2008, when he had to resign in the wake of a public outcry following the 26/11 Mumbai terrorist attack.

the concerned House can refer the Bill to the Standing Committee concerned for examination and make report thereon. If a Bill is referred to the Standing Committee, the Committee shall consider its general principles and clauses and make report thereon. The Committee can also take expert opinion or the opinion of the general public who are interested in the measure. After the Bill has thus been considered, the Committee submits its report to the House. The report of the Committee, being of persuasive value, shall be treated as considered advice given by the Committee.

The Second Reading of the Bill takes place in two stages. At the first stage, the principle underlying the Bill is discussed generally. The House may refer the Bill to a Select Committee of the House, or a Joint Committee of the two Houses or circulate it for the purpose of eliciting opinion or just take it into consideration. If a Bill is referred to a Select/Joint Committee, having considered it clause-by-clause, the Committee can move amendments; it can also take evidence of associations, public bodies or experts who are interested in the measure. After the Bill has thus been considered, the Committee submits its report to the House which considers the Bill again as reported by the Committee. At the second stage, the Bill reported by Select/Joint Committee is considered clause-by-clause, amendments can be moved and put to vote. The amendments become part of the Bill if they are accepted by a majority of members present and voting. Thereafter, the member-in-charge can move the Bill to be passed; known as the Third Reading. At this stage, the debate is confined to arguments either in support or rejection of the Bill. Only formal, verbal or consequential amendments are allowed to be moved at this stage. An ordinary Bill needs a simple majority of members present and voting, but in the case of a constitutional amendment Bill, a majority of the total membership of the House and a majority of not less than two-thirds of the members present and voting in each House of Parliament is required. After the Bill is passed by one House, it is sent to the other House for concurrence with a message to that effect, and there also it goes through the stages described above, except the introduction stage.

Parliamentary Committees play an important role in the legislative process. They could in a way be considered mini Parliaments within the Parliament. Tasked with commenting and advising the two Houses of Parliament on the Bills submitted and other important issues, their input adds quality both to parliamentary debates and its legislative output. Thus, the Committee system put in place in the Indian

Parliament at the outset has evolved in the past six decades in terms of functions and efficacy; some innovations too have been attempted from time to time for enhanced efficiency. Broadly, there are two types of committees in the two Houses – the Standing Committees<sup>23</sup> and *Ad hoc* Committees. The Standing Committees are permanent in nature, while the *Ad hoc* committees are task and responsibility specific and cease to exist after serving their purpose. The two Houses also form Joint Parliamentary Committees consisting of members drawn from both the Houses. In 1993, seventeen Department Related Standing Committees (DRSC), eleven for the Lok Sabha and six for the Rajya Sabha, were created at the advice and initiative of the then Speaker of the Lok Sabha Shivraj Patil.

Three finance-related Standing Committees at the Lok Sabha – Public Accounts Committee, Estimates Committee and Public Undertakings Committee – have been meaningful to parliamentary work. Having a limited role in fiscal and financial legislation, the Rajya Sabha has not created any finance related committee. DSRCs, numbering twenty-four now, cover specific departments.<sup>24</sup> A perusal through the data concerning the modus operandi of the DRSCs establishes that: (i) most of them meet reasonably regularly; the finance-related committees having as many as 80 meetings a year; and (ii) most of them regularly produce reports about the workings of their respective ministry. But for a number of reasons, these committees have had a very limited impact on the production and quality of legislation and on the performance of the executive, even relative to the modest expectations of the oversight role of Parliament.

The evaluatory reports on the efficacy of parliamentary committees have been mixed. First, it is a simple fact that Parliament itself tends to ignore the reports of its committees. Most committee reports are not tabled for deliberation and discussion in Parliament at all. The dilemma is that if the committee reports are at variance with the government, the majority has no interest in having them tabled; however, if they broadly uphold the government's position, they are considered superfluous. Both the government and the opposition, which sees itself as a potential government, have an interest in seeing that the parliamentary agenda does not veer too far away from the executive's intentions. There seems to be a great fear that allowing for the regular

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<sup>23</sup> See Annexure I.

<sup>24</sup> See Annexure II.

practice of discussing standing committee reports will generate an alternative set of initiatives within Parliament. While the statutory ambit of the committees has been extended over the years, they can hardly be said to perform a greater function in legislative business. Second, the internal composition of parliamentary committees militates against their becoming more effective agents at disciplining the executive and contributing to legislative business. Unlike committees, say in the United States Congress, parliamentary committees that examine bills are, for the most part, temporary. They are organized for particular bills and are usually dissolved after the business of the bill is concluded. As a result, these committees are unable to do much of the work on legislation and have to rely on the executive for everything, from information to expertise. Since these committees are of short duration, their quid pro quo power vis-à-vis the government remains very weak.

### ***The Changing Representational Profile of Parliament***

The social composition of Indian Parliament has been changing noticeably over the years. This reflects that the fluidity of power has been a characteristic of Indian politics since independence but more particularly since the fifth general election in 1971, making the society and polity among the most politicized in the world. The highly charged debates, even the pandemonium in Parliament for the past couple of decades, mirror this representational transformation.

Beginning with an elite assembly of British educated lawyers, a variety of social strata and occupations are being represented in Parliament. Since the twelfth Lok Sabha (1998), 'agriculturists' and 'political and social workers' (presumably professional politicians) precede lawyers among the three largest occupational categories. The most notable development in the social representation profile of the Parliament and legislative Assemblies is the increasing representation of leaders belonging to the erstwhile lower castes and classes.<sup>25</sup> The process has brought in a social broad basing of representation in India.

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<sup>25</sup> Various described as the upsurge from below and the rise of plebeians, it has also been aided by what has been described as the third electoral system. See, Ajay K. Mehra, 'Indian Elections 2004: Multiple Transformations', *Think India*, 7 (3), July-September 2004, pp. 62-71 and 'India's Fifteenth General Election: Realities, Implications, Prospects', Working Paper No. 56, *Heidelberg Papers in South Asian and Comparative Politics*, South Asia Institute, University of Heidelberg, July 2010, [http://archiv.ub.uni-heidelberg.de/volltextserver/volltexte/2010/10916/pdf/HPSACP\\_Mehra.pdf](http://archiv.ub.uni-heidelberg.de/volltextserver/volltexte/2010/10916/pdf/HPSACP_Mehra.pdf); Christophe Jaffrelot and Sanjay Kumar (eds.), *Rise of the Plebeians? The changing face of Indian*

An analysis of the members of the fourteenth (2004) and fifteenth (2009) Lok Sabhas showed that India's parliamentarians are substantially richer now. There are 300 millionaires in the fifteenth Lok Sabha, compared to 154 in the fourteenth.<sup>26</sup> Whether this hundred percent rise is due to millionaires suddenly finding politics and parliamentary slots useful or lucrative, or it is due to existing parliamentarians making it good, deserves analysis. Indeed, the policy impact of this phenomenon still has to be analysed.

Since the Election Commission of India made it mandatory for the candidates contesting parliamentary and legislative elections to file affidavit in the court regarding their moveable and immoveable assets and any court cases against them, the issue of members with criminal court cases against them has cropped up. It has emerged as a contentious issue not only amongst the political actors and parties, but also between the civil society actors and the government. It is one of the questions in agenda for electoral reforms campaigned for by the civil society groups and being considered by the ECI.<sup>27</sup>

Indian Parliament, however, has a huge deficit of gender representation, which has remained at eight to ten percent, even as the Women's Quota Bill to provide 33 percent representation to women in Parliament and state Legislative Assemblies, similar to the rural and urban local bodies, hangs in balance since 1997. Though it was passed by the Rajya Sabha in March 2010, it could not go through the Lok Sabha and pressure from the women caucus in the Parliament continues. However, through quotas, 15 percent and 7.5 percent seats have been earmarked for the Scheduled Castes and Tribes respectively, which are historically marginalized groups; ensuring the representation of these groups in Parliament. Thus, while imperfect, Parliament has a reasonable representation of the diversity of social interests.

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*Legislative Assemblies*, New Delhi: Routledge India; Sandeep Shastri, K.C. Suri and Yogendra Yadav (eds.), *Electoral Politics in Indian States: Lok Sabha Elections in 2004 and Beyond*, New Delhi: OUP

<sup>26</sup> <http://indiatoday.intoday.in/story/The+new+face+of+Parliament/1/43179.html> (accessed on 23 July 2012).

<sup>27</sup> Ajay K. Mehra, 'Criminalisation of Indian Politics', in K M de Silva, G H Peiris and S W R de A Samarasinghe (eds.), *Corruption in South Asia: India, Pakistan and Sri Lanka*, International Centre for Ethnic Studies, Kandy: Sri Lanka, 2002, pp. 99-138. Ajay K. Mehra, 'Parliament Under Social Watch: Representation, Accountability and Governance' in National Social Watch Coalition, *Citizens Report on Governance and Development 2006, Delhi: Pearson* and Ajay K. Mehra, "Indian Parliament and the 'Grammar of Anarchy'", in National Social Watch Coalition, *Citizens Report on Governance and Development 2007*, Delhi: Sage Publications, 2007.



### *Parliament as an Institution of Accountability*

In the parliamentary system of government of the Westminster variety the government, which in a way is a committee of parliament entrusted with governance responsibility in accordance with constitutional provisions and political conventions, the government is responsible to parliament. It is in power only so long as it enjoys parliamentary confidence, which effectively means that the ruling dispensation must enjoy absolute majority of votes in the House. Clearly, there is an opposition (party) which makes the government answerable and uses the instruments of debates, questions, and 'no confidence motion' for the purpose.

The opposition, consisting of other competing party or parties that could not get the desired majority, is integral to parliamentary system and business. It has both the political incentive and parliamentary duty to keep the government accountable which commands a large share of seats. In a minority government or coalition situation the scene is different. In either case the opposition has to be on its toes, which is the practice in the UK, but in India the situation is not as effective. The organisational weaknesses of political parties in India makes the opposition too weak, which is unable to generate requisite information, become proactive (rather than reactive) and remained focused on short term gains.<sup>28</sup>

No confidence motion is one of the tools that the opposition uses to keep pressure on the government, which may not be successful most of the time. However, the manner in which a no-confidence motion produces accountability depends in part upon the incentives under which particular political parties are operating. Though it has been used several times in Indian Parliament, since 1989, this has brought down the government four times. In 1989, the V.P. Singh government was brought down; in 1990, the Chandrashekhar government met a similar fate; in 1997, the I.K. Gujral government fell; and, in 1999, the A.B. Vajpayee government was brought down.

The stranglehold of parties over their members attenuates the formal mechanisms of parliamentary accountability. In the entire legislative history of modern India there have been very few instances where individual legislators have crossed party lines, although the party system has witnessed high rates of fission and

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<sup>28</sup> Devesh Kapur and Pratap Bhanu Mehta, 'The Indian Parliament as an Institution of Accountability', Democracy, Governance and Human Rights Programme Paper Number 23, <http://casi.ssc.upenn.edu/system/files/Indian+Parliament+-+DK,+PBM.pdf>.

pre-election crossover to obtain coveted party nominations for the past three decades. Partisanship even in the running of committees and other parliamentary functions also weakens accountability structures and mechanisms.

However, using the simple measure of fulfillment of assurances given on the floor of the house, Parliament is an enormously successful institution. According to the Ministry of Parliamentary Affairs, the link between the government and Parliament, the rate of implementation of assurances is very high, although both the number of assurances and implementation rates has dropped since 1994. This could be due to: (i) implementation of the most recent assurances with a lag time; (ii) the decline in the number of sittings of Parliament; and (iii) a reflection of institutional decline. This can only be taken as a simple indicator of parliamentary accountability.<sup>29</sup>

### ***Conclusion***

The Parliament in India is changing, in terms the membership profile, work and institutional cultures, party profile within it and for some in terms efficacy too, but despite many shortcomings, it has endured as an institution. Shortcomings pointed out are also in several ways agenda for reform, which too may not go as satisfactorily as many perfectionists would want, but that their need is felt and discussed would mean that they are issues that are alive.

There is a general sense that the procedural norms that are the basis of parliamentary practice began to erode since the mid-1970s, debates have lost their quality and there is loss of time due to pandemonium in the two Houses too frequently.<sup>30</sup> Though some of these developments, the extent to which they could be considered true, are due to the weakening of political parties, the multiplicity of political parties represented in Parliament – from five in the first Lok Sabha to nearly 40 in those elected a half-century later – and the changing nature of re-election incentives have all transformed this key institution of Indian democracy with respect to the way it is perceived both by people and their representatives as well as by

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<sup>29</sup> Kapur and Mehta, op. cit.

<sup>30</sup> See Ajay K. Mehra, fn 27, particularly the two publications in the National Social Watch.

parties and political leadership in several respects.<sup>31</sup> The question remains what could be considered a decline.

It would be apt to close this discussion with a couple of pertinent quotes. Commenting on the tendency to consider the visible changes in parliamentary behaviour and practices in India as decline, Balveer Arora says, 'Such an argument is not just simplistic but also dangerous in the extreme. It grossly underestimates the extent of the democratic upheaval that has been set in motion over the years, in which Parliament has to remain focal point of democracy itself is to survive.'<sup>32</sup> At a more general level, Lord Bryce in his treatise *Modern Democracies* thus observed nine decades back:

Every traveler who, curious in political affairs, enquires in the countries which he visits how their legislative bodies are working, receives from the elder men the same discouraging answer. They tell him, in terms much the same everywhere, that there is less brilliant speaking than in the days of their own youth, that tone of manners has declined, that best citizens are less disposed to enter the chamber, that its proceedings are less fully reported and excite less interest, that a seat in it confers less social status, and that, for one reason or another, the respect felt for it has waned.<sup>33</sup>

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<sup>31</sup> Some of the representative studies of the Indian Parliament are W.H. Morris-Jones, *Parliament in India*, Philadelphia: University of Pennsylvania Press, 1957; Ajay K. Mehra and Gert W. Kueck, *The Indian Parliament: A Comparative Perspective*, New Delhi: Konark, 2003; B.L. Shankar and Valerian Roderigues, *The Indian Parliament: A Democracy at Work*, New Delhi: Oxford, 2011; Kapur and Mehta, op. cit and Vernon Hewitt and Shirin M. Rai, 'Parliament' in Niraja Gopal Jayal and Pratap Bhanu Mehta (eds.), *The Oxford Companion to Politics in India*, New Delhi: Oxford, 2010, pp. 28-42.

<sup>32</sup> Balveer Arora, 'The Indian Parliament and Democracy', in Ajay K. Mehra and Gert W. Kueck, *The Indian Parliament: A Comparative Perspective*, New Delhi: Konark, 2003, p. 36.

<sup>33</sup> Lord James Bryce, *Modern Democracies*, Vol. 2, Ch. LVIII, New York: Macmillan, 1921.

## *Annexure*

### *I*

#### **Major Standing Committees of the Rajya Sabha include:**

The Business Advisory Committee, Committee on Rules, General Purpose Committee, Committee on Government Assurances, Committee on Privileges, Committee on Subordinate Legislation, House Committee, Ethics Committee, Committee on MP's Local Area Development Scheme.

#### **The Major non-Financial Standing Committees in Lok Sabha include:**

Business Advisory Committee, Committees on Rules, General Purpose Committee, Committee on Government Assurances, Committee on Paper Laid on Table, Committee on Petitions, Committee on Privileges, Committee on Subordinate Legislation, House Committee, Committee on Private Members' Bills and Resolutions, Committee on the Welfare of Scheduled Castes and Scheduled Tribes.

### **II Department Related Standing Committees**

<b>S. No</b>	<b>Name of Committee</b>	<b>No. of Members*</b>
<b>Standing Committees of the Lok Sabha</b>		
1	Committee on Agriculture	31
2	Committee on Information Technology	31
3	Committee on Defence	31
4	Committee on Energy	31
5	Committee on External Affairs	31
6	Committee on Finance	31
7	Committee on Food, Civil Supplies and Public Distribution	31
8	Committee on Labour	31
9	Committee on Petroleum & Natural Gas	31
10	Committee on Railways	31
11	Committee on Urban Development	31
12	Committee on Water Resources	31
13	Committee on Chemicals & Fertilizers	31
14	Committee on Rural Development	31
15	Committee on Coal & Steel	31
16	Committee on Social Justice & Empowerment	31
<b>Standing Committees of the Rajya Sabha</b>		
17	Committee on Commerce	31
18	Committee on Home Affairs	31
19	Committee on Human Resource Development	31
20	Committee on Industry	31
21	Committee on Science & Technology, Environment & Forests	31
22	Committee on Transport, Tourism & Culture	31
23	Committee on Health & Family Welfare	31
24	Committee on Personnel, Public Grievances, Law & Justice	31

Committees from Sl. No. 1 to 16 are under the administrative control of the Speaker and the Secretarial assistance is provided to these Committees by the Lok Sabha Secretariat. The Speaker appoints Chairmen of these 16 Committees. The remaining 8 Committees are under the administrative control of Chairman, Rajya Sabha. The Chairmen of these 8 Committees are appointed by Chairman, Rajya Sabha.

\* Includes 10 members from Rajya Sabha.