

Declining Importance of Parliament

April 12, 2021

The Budget session of Parliament ended, two weeks ahead of the original plan, as many political leaders are busy with campaigning for the forthcoming State Assembly elections. This follows the trend of the last few sessions: the Budget session of 2020 was curtailed ahead of the lockdown imposed following the novel coronavirus pandemic. As a result, the fiscal year 2020-21 saw the Lok Sabha sitting for 34 days (and the Rajya Sabha for 33), the lowest ever. The casualty was proper legislative scrutiny of proposed legislation as well as government functioning and finances.

In news: Dormant Parliament, fading business – The Budget session of Parliament ended two weeks ahead of the original plan

Placing it in syllabus: Law & Policy

Dimensions

- Envisaged Role of Parliament in India
- Various aspects of Decline
- Reasons for Decline
- Suggestions

Content:

Envisaged Role of Parliament in India:

- Parliament has the central role in our democracy as the representative body that checks the work of the government.
- Parliament is the legislative organ of the Union government.
- It occupies a pre-eminent and central position in the

Indian democratic political system due to adoption of the parliamentary form of government

- It is also expected to examine all legislative proposals in detail, understand their nuances and implications of the provisions, and decide on the appropriate way forward.

The functions of the Parliament are mentioned in the Indian Constitution in Chapter II of Part V. They are:

Legislative Functions

- Enacting laws is the primary function of the Parliament in India.
- The Parliament legislates on all matters mentioned in the Union List and the Concurrent List, and also on residual subjects.
- Under certain circumstances, the Constitution also empowers the Parliament to make laws on the subjects enumerated in the State List
- An ordinance issued by the President becomes inoperative if it is not approved by the parliament within six weeks after its reassembly.
- Delegated legislation or subordinate legislation are placed before the Parliament for its examination.

Executive Functions

- The Constitution has established a parliamentary form of government in India. In it, the Executive is responsible to the Parliament for its policies and acts.
- The Parliament exercises control over the Executive through question-hour, zero hour, half-an-hour discussion, short duration discussion, calling attention motion, adjournment motion, no-confidence motion, censure motion and other discussions.
- It also supervises the activities of the Executive with the help of its committees like committee on government

assurance, committee on subordinate legislation, committee on petitions, etc.

Financial Functions

- Parliament is the ultimate authority when it comes to finances. The Executive cannot spend a single pie without parliamentary approval.
- The budget is placed before the Parliament for its approval every financial year.
- The Parliament also scrutinises government spending and financial performance with the help of its financial committees such as the public accounts committee, estimates committee and committee on public undertakings.

Constituent Functions:

- Subject to the 'basic structure' of the Constitution, the Parliament is vested with the powers to amend the Constitution by way of addition, variation or repeal of any provision
- Both Houses of the Parliament have equal powers as far as amending the Constitution is concerned.

Electoral Functions

- The Parliament takes part in the election of the President and the Vice President.
- The electoral college that elects the President comprises, among others, the elected members of both Houses.
- The President can be removed by a resolution passed by the Rajya Sabha agreed to by the Lok Sabha.

Judicial Functions

The judicial powers and functions of the

Parliament include the following:

- Impeachment of the President for the violation of the Constitution.
- Removal of the Vice-President from his office.
- Recommending the removal of constitutional functionaries including judges (including chief justice) of the Supreme Court and the high courts, chief election commissioner, comptroller and auditor general to the president.
- Punishing its members or outsiders for the breach of its privileges or its contempt.

Other powers/functions

- Issues of national and international importance are discussed in the Parliament. The opposition plays an important role in this regard and ensures that the country is aware of alternate viewpoints.
- In a democracy, the Parliament plays the vital function of deliberating matters of importance before laws or resolutions are passed.
- The Parliament has the power to alter, decrease or increase the boundaries of states/UTs.
- The Parliament also functions as an organ of information. The ministers are bound to provide information in the Houses when demanded by the members
- approves all the three types of emergencies (national, state and financial) proclaimed by the President.

Various aspects of Decline

No Bill scrutiny:

- An important development this session has been the absence of careful scrutiny of Bills.
- During the session, 13 Bills were introduced, and not even one of them was referred to a parliamentary committee for examination.

- Many high impact Bills were introduced and passed within a few days.
- In all, 13 Bills were introduced in this session, and eight of them were passed within the session. This quick work should be read as a sign of abdication by Parliament of its duty to scrutinise Bills, rather than as a sign of efficiency.

Important Bills Passed

The Government of National Capital Territory of Delhi (Amendment) Bill, 2021:

- the Bill to change the governance mechanism of Delhi – shifting governance from the legislature and the Chief Minister to the Lieutenant Governor
- was introduced on March 15 in the Lok Sabha, passed by that House on March 22 and by Rajya Sabha on March 24.

The Mines and Minerals (Development and Regulation) Amendment Bill, 2021:

- amends the Mines and Minerals Act, 1957 to remove end-use restrictions on mines and ease conditions for captive mines
- This Bill was introduced on March 15 and passed by both Houses within a week.

The National Bank for Financing Infrastructure and Development (NaBFID) Bill, 2021:

- Creates a new government infrastructure finance institution and permit private ones in this sector.
- It was passed within three days of introduction.

The Insurance (Amendment) Bill, 2021:

- increases the limit of foreign direct investment in insurance companies from 49% to 74%
- It took just a week between introduction and passing by

both Houses.

Extreme reluctance to refer Bills to Parliamentary Committees:

- To strengthen the lawmaking process, it is important that all Bills are examined by Standing Committees before passage. This ensures thorough scrutiny of the law.
- Parliamentary committees have often done a stellar job.
- For example, the committee that examined the Insolvency and Bankruptcy Code suggested many changes to make the Code work better, and which were all incorporated in the final law. Similarly, amendments to the Motor Vehicles Act were based on the recommendations of the Committee.
- However, the percentage of Bills referred to committees declined.
- The quantum has declined from 60% and 71% in the 14th Lok Sabha (2004-09) and the 15th Lok Sabha, respectively, to 27% in the 16th Lok Sabha and just 11% in the current one.

Misusing Money bills to circumvent Rajya Sabha:

- The last few years have seen the dubious practice of marking Bills as 'Money Bills' and getting them past the Rajya Sabha.
- Some sections of the Aadhaar Act were read down by the Supreme Court of India due to this procedure (with a dissenting opinion that said that the entire Act should be invalidated).
- The Finance Bills, over the last few years, have contained several unconnected items such as restructuring of tribunals, introduction of electoral bonds, and amendments to the foreign contribution act.
- Similarly, this year too, the Finance Bill has made major amendments to the Life Insurance Corporation Act, 1956. As this is a Money Bill, the Rajya Sabha cannot make any amendments, and has only recommendatory

powers.

- Some of the earlier Acts, including the Aadhaar Act and Finance Act, have been referred to a Constitution Bench of the Supreme Court.

Very little discussion on Budget:

- The Constitution requires the Lok Sabha to approve the expenditure Budget (in the form of demand for grants) of each department and Ministry.
- In the last 15 years, 70% to 100% of the Budget have been passed without discussion in most years.
- This year too, the Lok Sabha had listed the budget of just five Ministries for detailed discussion and discussed only three of these; 76% of the total Budget was approved without any discussion.

Delay in election of Deputy Speaker:

- A striking feature of the current Lok Sabha is the absence of a Deputy Speaker.
- By the time of the next session of Parliament, two years would have elapsed without the election of a Deputy Speaker.
- The issue showed up starkly this session when the Speaker was hospitalised. Some functions of the Speaker such as delivering the valedictory speech were carried out by a senior member.

Article 93 of the Constitution states that “... The House of the People shall, as soon as may be, choose two members of the House to be respectively Speaker and Deputy Speaker...”

Usually, the Deputy Speaker is elected within a couple of months of the formation of a new Lok Sabha, with the exception in the 1998-99 period, when it took 269 days to do so.

Reasons for Decline:

- The government has shown extreme reluctance to refer Bills to Select Committees of the Houses or Joint Parliamentary Committees.
- The government used its majority in both the Houses of Parliament and steamrolled the Bills (with hardly any discussion), amid the predictable din and noise that a fragmented Opposition could mount.
- The majority support enjoyed by the Executive in the Parliament reduces the possibility of effective criticism.
- Confusing definition of Money Bills has created scope for its misuse.
- The Parliament has neither time nor expertise to control the administration which has grown in volume as well as complexity.
- The growth of 'delegated legislation' has reduced the role of Parliament in making detailed laws and has increased the powers of bureaucracy.

Suggestions:

- In order to fulfil its constitutional mandate, it is imperative that Parliament functions effectively.
- It would be useful if the Supreme Court can give a clear interpretation of the definition of Money Bills and provide guide rails within which Bills have to stay to be termed as such.
- This will require making and following processes such as creating a system of research support to Members of Parliament, providing sufficient time for MPs to examine issues, and requiring that all Bills and budgets are examined by committees and public feedback is taken.
- Parliament should not adopt remote working and technological solutions, as several other countries did during Covid-19 pandemic.

Mould your thought: The role of Parliament as a platform for ensuring accountability of the executive, deliberation and consensus-making has declined in the past few years. Evaluate.

Approach to the answer:

- Introduction
- Discuss the functions of Parliament in Brief
- Discuss the aspects of decline
- Discuss the reasons for the decline
- Give Suggestions for improving the situation
- Conclusion