

Rethinking the Functioning of the Indian Parliament

Background Note for the Conference on Effective Legislatures

The role of Parliament includes representing citizens, making laws, scrutinising and passing the budget, and conducting oversight on the activities of the government. During the tenure of the 15th Lok Sabha, the ability of Parliament to discharge its role effectively has faced public scrutiny. This has been due to a low number of sittings, frequent disruptions, decline in legislative activity, and budgets passed without discussion.

These are symptoms of a weakening institution and are a result of structural issues that constrain the effectiveness of Parliament and Members of Parliament (MPs). Strengthening of Parliament requires an understanding of its institutional design, processes and the issues that need to be addressed. This note presents an analysis of the functioning of the 15th Lok Sabha and highlights structural issues that affect the functioning of Parliament.

Parliament during the 15th Lok Sabha

Sitting Days and Productive Time of Parliament

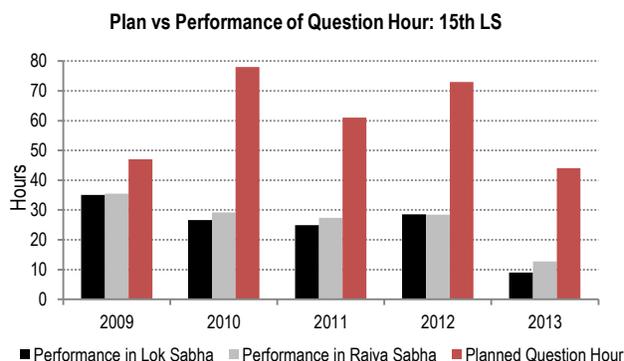
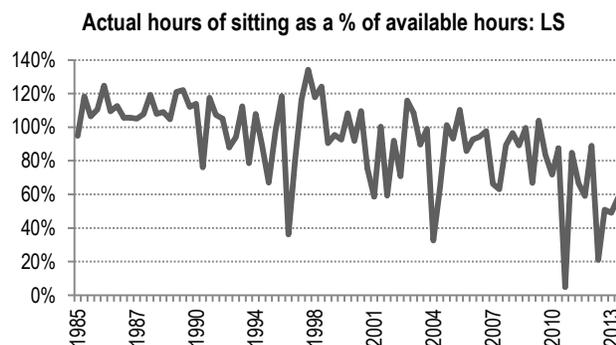
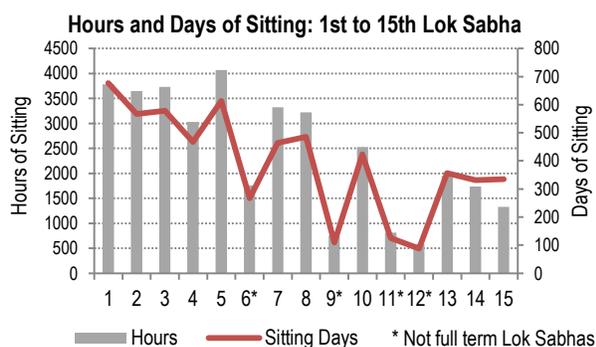
There has been a steady decline in the number of sitting days and working hours of Parliament. As indicated in the graph, the lower house during the 14th and 15th Lok Sabha has met for a lower number of days and hours compared to the 1st and 2nd Lok Sabha. From 1952 to 1967, each of the three Lok Sabhas sat for an average of 600 days and more than 3700 hours. In comparison, the 15th Lok Sabha from 2009 till 2013 has met for 335 days and 1329 hours.

Several bodies have recommended an increase in the number of sittings of Parliament. The Chairman of Rajya Sabha, Speaker of Lok Sabha and several MPs have reiterated the need to increase the number of sittings to minimum of 110 days in a year.¹

The lesser number of sitting days has been compounded by frequent disruptions of parliamentary proceedings over the last 25 years. In the 15th Lok Sabha, disruptions by MPs resulted in almost no parliamentary business being transacted in two sessions. Lesser number of sitting days which have been frequently disrupted has resulted in limited time available to examine the working of the government.

Question Hour

Frequent parliamentary disruptions led to Question Hour being held for 40% of scheduled time in Lok Sabha and 43% in Rajya Sabha. Question Hour is used by MPs to hold government ministers accountable for the functioning of their ministries. Since parliamentary procedures dictate that the first hour of a sitting has to be question hour, when question hour is disrupted, the opportunity for holding the government accountable is lost. This time is never made up by sitting beyond scheduled time or on Saturdays.



Legislative Business

An overview of the 15th Lok Sabha shows a slowdown in legislative activity. In the 1st Lok Sabha, 49% of the total time was spent on debating legislation. This dropped to 28% in the 2nd Lok Sabha. In contrast, the 15th Lok Sabha has spent 23% of its time debating legislation.

The current Lok Sabha has passed 162 Bills in the last four years. So far this is the least number of Bills that has been passed by a full term Lok Sabha. The 13th and the 14th Lok Sabha had passed 297 and 248 Bills, respectively. These numbers do not compare well with the earlier Lok Sabhas. For example, the first three Lok Sabhas passed an average of 330 Bills in each of their terms.

Lesser legislative time results in a larger proportion of Bills getting passed without adequate scrutiny and debate in the House. In the 15th Lok Sabha, 35% of the total Bills passed were debated for an hour or less. These include Bills with significant implications, such as the Protection of Women from Sexual Harassment at the Work Place Bill, 2011 which was passed earlier this year by Lok Sabha in 20 minutes.

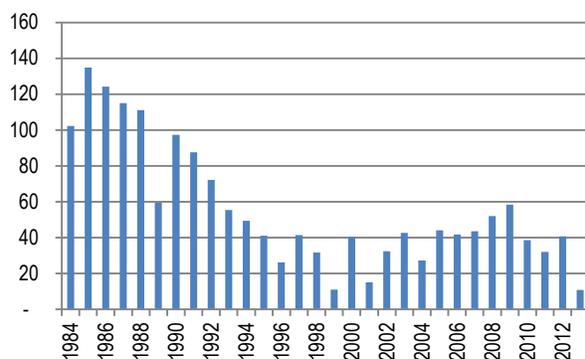
In emergent situations and when Parliament is not in session, the Constitution empowers the government to make a law. This is referred to as an Ordinance and has to be approved by Parliament in its next session. During the 15th Lok Sabha, 28 Ordinances have been promulgated.

In some cases, the government issued Ordinances having already introduced a similar Bill that was pending in Parliament. This was the case in the Criminal Laws (Amendment) Ordinance, 2012 and the National Food Security Ordinance, 2013.

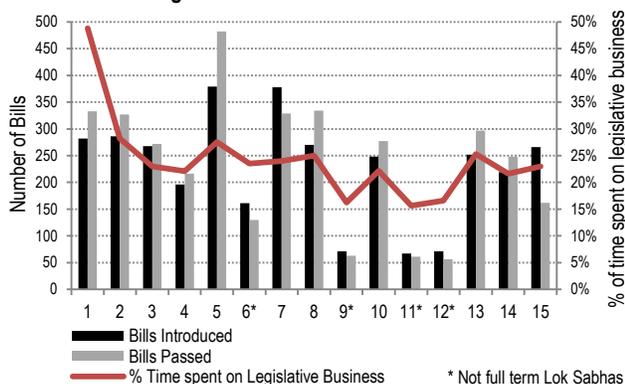
The 15th Lok Sabha also saw the government repromulgating ordinances when the original Ordinance lapsed because it was not passed by Parliament. For example, the Indian Medical Council (Amendment) Ordinance and the Readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies Ordinance, 2013 have been repromulgated on multiple occasions. The repromulgation of Ordinances by a state government was challenged in the Supreme Court in 1986. The Court observed that if the government enacts law through repromulgation of Ordinances, it usurps the law making power of the legislature.

In addition to ministers, individual MPs can also introduce Bills in Parliament. These are referred to as Private Member Bills. Between 1952 and 1970, 14 Private Members Bills were passed by Parliament. However, in the last three decades, no Private Member Bill has been passed by Parliament. Now MPs use these Bills to draw the attention of the government to gaps in law or policy. In the 15th Lok Sabha, 372 Private Member Bills were introduced in the lower house and 22 of them were discussed, over a period of 16 days spread over five years.

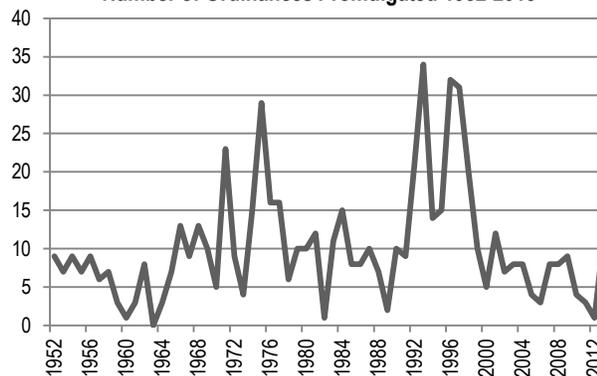
Time spent on the General Budget (hours)



Legislative work: 1st to 15th Lok Sabha



Number of Ordinances Promulgated 1952-2013



Scrutiny of the Budget

Most government expenditure needs to be scrutinised and sanctioned by Parliament. This is usually done as part of the annual Budget process. Over the years, the time spent on discussing the Budget has reduced from an average of 123 hours in the 1950s to 39 hours in the last decade.

The detailed estimates of the ministries' expenditure are called Demand for Grants. These are examined by parliamentary standing committees and are discussed and voted upon in the Lok Sabha. Typically parliamentary standing committees spend

three to four weeks reviewing the Demands for Grants of various Ministries. However, in the past decade, about 95% of these proposals have been passed without discussion. This year was an extreme case, as all Demands for Grants amounting to Rs 16.6 lakh crore were voted and passed without any discussion in the House.

Strengthening institutional mechanisms within Parliament

The role of MPs is split between being national legislators and representatives of their constituents. There is a tension between these two roles, because MPs need to be responsive to the needs of their constituency, as it has a bearing on their re-election. Enabling and incentivising MPs to discharge their role as national legislators effectively may require changes in institutional mechanisms and practices. We discuss some of these below.

Strengthening the legislative process

With time available for debating and passing legislation shrinking, there is a need to strengthen the legislative process to make it more rigorous and time bound. Currently there is no institutional mechanism to ensure that stakeholders give their feedback on a law before it is introduced in Parliament. Public participation and feedback in the pre-legislative process would strengthen a draft Bill by ensuring that differences in viewpoints are addressed before its introduction. This would make it easier for Parliamentarians to resolve conflicting objectives while considering it in Parliament. In its 2002 Report, the National Commission to Review the Working of the Constitution also recommended that, "all major social and economic legislation should be circulated for public discussion to professional bodies, business organisations, trade unions, academics and other interested persons."² Recently the National Advisory Council also recommended measures through which the government could ensure proactive, wider and transparent pre-legislative scrutiny of laws.³

	13 th LS	14 th LS	15 th LS
Total No. of Bills Passed	297	248	162
No. of Bills passed with recorded voting (division)	22	8	19
Other motions with recorded voting (i.e. adjournment motions)	4	4	6

Typically, the practice in Parliament is to pass legislation by voice vote and not recorded vote. If an MP requests for a recorded vote, the Speaker or Chair must call for a 'division' which requires every MPs' vote to be recorded. During the 15th Lok Sabha, there were 19 instances of recorded voting while other Bills were passed by voice vote. The absence of recorded voting makes it difficult for citizens to know how their MP voted on a particular law or issue in Parliament.

Revisiting the anti-defection law

Currently, the anti-defection law ensures that when a whip is issued by political parties, MPs vote on debates and motions in Parliament based on their party whip. This limits MPs' freedom to vote on a Bill or motion according to their choice or beliefs. An MP voting against a party whip can be disqualified from his parliamentary seat. In 2009, the Chairman of the Rajya Sabha recommended that, "we need to build a political consensus so that the room for political and policy expression in Parliament for an individual member is expanded. This could take many forms. For example, the issuance of a whip could be limited to only those Bills that could threaten the survival of a government, such as money Bills or no-confidence motions. In other legislative and deliberative business of Parliament, this would enable members to exercise their judgment and articulate their opinion."⁴ In the UK and Australia, political parties are allowed to announce a "free vote" or "conscience vote" which implies that for a particular Bill, MPs are free to vote as they wish and not controlled by whips issued by parties.

Convening of Parliament and fixing an annual calendar of sittings

The decrease in the number of sittings of Parliament reflects poorly on its image as the highest law making body. However, Parliament does not have the power to convene itself, as the government decides if and when Parliament should convene, subject to the constitutional requirement that a session must be held at least once in six months. Parliament is convened by the President upon the advice of the government. Effectively, this provision gives the government the power to decide when Parliament shall meet to oversee its functioning. It is important that an independent Parliament meets often, and is able to convene itself without the permission of the government.

While a fixed number of parliamentary sittings per year have been recommended, it might be useful to consider the practice in other countries, like the UK and Australia, where an annual calendar of sittings is announced in advance. This will allow better scheduling of business and reduce the scope for the government to postpone a session if it wants to defer parliamentary scrutiny on some emergent issue.

Institutional research support for MPs

MPs have to routinely debate technical legislation, discuss budgets and hold the ministers accountable for different policies and programmes. However, they do not have institutional mechanisms by way of high-quality research staff or office space to perform their parliamentary duties. They get an office allowance of Rs 45,000 per month. This includes Rs 28,000 for staff costs, and the balance to cover costs associated with running their office. This, combined with some support from the Parliament library, are the only resources they have to scrutinise the work and proposals of ministers who have the entire bureaucratic machinery of the government at their disposal. In other democracies like the USA, each Senator is provided office space next to Congress, has a total office allowance of about \$4 million per year, of which staff salaries are \$3 million per year.⁵ Similarly in the UK, MPs are allotted office space, and the salary of staff members are reimbursed to the tune of £87,000 per year.⁶

Strengthening the committee system

Parliamentary standing committees were established to strengthen the expertise of Parliament when examining legislative, financial and policy matters of the government. The effectiveness of these committees is constrained by various factors. The technical support available to parliamentary committees are very limited and only include a secretariat that enables scheduling of meetings, note-taking etc. The reports of standing committees are not deliberated in Parliament and their recommendations are not binding on the government. Further, government ministers are not required to state reasons for rejecting recommendations made by the standing committee. As per current practice, ministers do not depose before a parliamentary committee even if an issue under examination falls under his purview. Most of the inquiries that committees conduct are directed towards officials in the ministry, even if the minister is responsible for making the relevant policy decision. This practice differs from countries such as the UK, where ministers are required to depose before parliamentary committees.

The Chairman of the Rajya Sabha had suggested, “the committee system can be strengthened by having a higher attendance requirement and by the induction of experts in an advisory capacity. The present practice of exempting ministers from appearance before the committees should be reviewed. As in other parliamentary democracies, the examination of witnesses (but not the finalisation of reports) should be open to the public. This would make the public better aware of this important aspect of the work of legislatures.”¹

Minimising disruptions in Parliament

In 2001, the Conference of Presiding Officers of Legislatures tried to identify the reasons behind MPs’ frequent disruption of parliamentary proceedings. It found that non availability of adequate time and consequent frustration of MPs in not being able to raise matters on the floor of the House was a major reason behind MPs disrupting Parliament. Another reason was the absence of prompt action against MPs responsible for disrupting the proceedings of the House. The Conference recommended the automatic suspension of MPs guilty of misconduct for specified periods.⁷

The Fourteenth All India Whips Conference recommended that one full day in a week, should be set aside for discussion on matters that were of concern to MPs. In the UK Parliament, 20 days of each Parliament session are reserved for opposition parties to determine Parliament’s agenda. Of these 20 days, 17 are allotted to the principal opposition party and three to other opposition parties. In the Canadian Parliament, 22 days in every calendar year are allotted to opposition members for initiating a debate.

1. Vice President’s Address to the Kerala Legislative Assembly, September 11, 2013, <http://vicepresidentofindia.nic.in/printable3.asp?id=454>.

2. The Report of the National Commission on the Working of the Constitution, 2002, Ministry of Law and Justice.

3. Recommendations on the Pre-Legislative Process, National Advisory Council, May 28, 2013, <http://nac.nic.in/pdf/plp2.pdf>.

4. “Vice President inaugurates seminar on Evaluating Committees and Committee System: Changing Contours of Governance and Policy”, Vice President’s Secretariat, Press Information Bureau, November 18, 2009, <http://pib.nic.in/newsite/erelease.aspx?relid=54190>.

5. http://thomas.loc.gov/cgi-bin/cpquery/?&sid=cp1120mn5v&r_n=sr080.112&dbname=cp112&&sel=TOC_65211.

6. <http://www.parliament.uk/about/working/mp>.

7. Fourteenth All India Whips Conference, <http://mpa.nic.in/MPA/Pdf/agenda1.pdf>.

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