

1. Examine the significance of parliamentary debates in a representative democracy like India. Would you agree that the standards of Indian Parliament as the temple of democracy has declined in the recent years? Critically examine.

Introduction

As an institution, Parliament is central to the very idea of democracy and was assigned a pivotal role in our Constitution by the founding fathers of the republic. Parliament is responsible for legislation—laws of the land—by which people govern themselves. It must ensure accountability of governments—on policies or actions—to the people. It should engage in discourse and debate on issues that concern the nation and the citizens.

Body

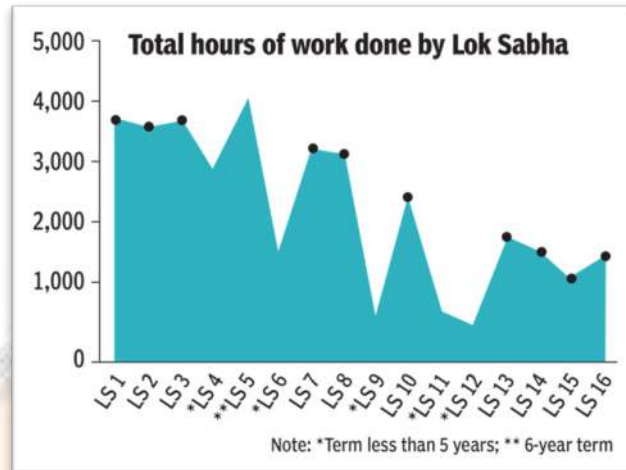
Significance of parliamentary debates

- These debates provide a forum for MPs to express their opinions and concerns, and contribute towards making policy.
- It allows parliamentarians to voice the interest of the people of their constituencies.
- Scrutinising, overseeing and holding government accountable: one of parliament's main roles is to examine, check and challenge the work of government through questioning Ministers and debating over it.
- Better policy formulation.
- Diverse views.
- Assist in informed decision making.

Indian Parliament as the temple of democracy has declined in the recent years

There are three designated roles for Parliament in a democracy. It is responsible for legislation—laws of the land—by which people govern themselves. It must ensure accountability of governments—on policies or actions—to the people. It should engage in discourse and debate on issues that concern the nation and the citizens.

- There are mainly two reasons for this decline. Parliament does not meet or work long enough. And there are institutional constraints on its performance while working.



- Incomes and assets apart, the criminalization of politics is a reality. ADR, Association for Democratic Reforms, reports that 34% of the MPs in the 2014 Lok Sabha faced criminal charges, as compared with 30% in 2009 and 24% in 2004.
- There are institutional constraints on the performance of MPs as well. The allocation of time for MPs to speak is proportional to the strength of their political party in the house and its leadership decides who gets to speak and for how long. The speaker of the Lok Sabha or the chairman of the Rajya Sabha have little discretion in the matter. The only other opportunities for MPs are during question hour or zero hour. In zero hour, the speaker or the chairman have the discretion to invite an MP to speak, but time is too little and speeches are often drowned out in pandemonium
- In India, the anti-defection law stipulates that a three-line whip can be violated only if more than one-third of a party's MPs do so. This is the unintended consequence of a law that might have mitigated one problem but created another, which is emasculating our Parliament as an institution.
- The excruciatingly slow process of legislating big policy decisions, with months and even years of acrimonious stalemate in parliament, interspersed by the all too rare breakthrough. This has led to two consequences. First, it leaves the government of the day scrambling to eke out executive decisions that will not require parliament's sanction. And More importantly, it creates a vacuum in governance that has increasingly been filled by an activist judiciary.
- Even the Supreme Court has felt compelled to get involved in such micromanagement as stipulating measures for garbage disposal and cleanliness in housing colonies; settling parking rates and restricting the use of loudspeakers and firecrackers during festivals.
- This forfeiture of what is rightfully the role of the legislature disturbs the balance of powers between it and the other pillars of the constitution. It is thus no surprise that many have begun to wonder aloud about the relevance of parliament.

Conclusion

The founding fathers of Indian Constitution adopted Parliamentary system of government by considering the fact that it will be more suitable to India's pluralism and heterogeneity character. But at present healthy debate and discussions, the hall mark of Parliamentary democracy, was overshadowed by disruption, confrontation, forced adjournment of the houses and adopting other non-democratic alternatives. In order to restore the values of Parliamentary democracy it is essential as well as urgent to concentrate on the following measures:

- Devoting most of the time for quality debates and discussions,
- falling attendance in the Parliament should be controlled,
- Members should shun their party affiliation while dealing with issues affecting the common man and the nation,
- Strict enforcement of Code of Conduct for people's representatives.

In order to keep the values of our parliamentary democracy we should elect only morally trained representatives; and the members of the Parliament and State Assemblies should set themselves as an example for the public, especially the youth.

2. What is the role and mandate of the Foreign Affairs Committee of the Parliament? Recently the government decided to end the tradition of opposition party chairing the committee. What are your views on this?

Introduction

The Standing Committee on External Affairs/Foreign Affairs is one of the Departmentally Related Standing Committees, which has been constituted to examine matters pertaining to the Ministry of External Affairs and the institutions/organizations falling under its purview.

Body

Role and mandate of the Foreign Affairs Committee

As per Rules of Procedure and Conduct of Business in Lok Sabha, the activities being performed by the Standing Committee on External Affairs are:

- Examination of Demands for Grants of the Ministry of External Affairs and the Ministry of Overseas Indian Affairs and make reports thereon.
- Examination of such bills pertaining to both the above Ministries that are referred to the Committee by the Chairman, Rajya Sabha or the Speaker as the case may be and make a report thereon.
- Consideration of Annual reports of both the Ministries and make reports thereon.

- Consideration of national basic long-term policy documents presented to the Houses, if referred to the Committee by the Chairman Rajya Sabha or the Speaker, as the case may be, and makes reports thereon.
- In addition to this, the committee also meets with visiting foreign delegations from various countries from time to time.

Implications of the government decision to end the tradition of opposition party chairing the committee

Parliamentary committee of Foreign Affairs draws its authority from Article 105 (on privileges of Parliament members) and Article 118 (on Parliament's authority to make rules for regulating its procedure and conduct of business). Committee reports are usually exhaustive and provide authentic information on matters related to governance. Bills that are referred to committee is returned to the House with significant value addition. Parliament is not bound by the recommendations of committees.

External affairs committee, much like the Public Accounts Committee, is conventionally headed by an MP from the main opposition. Recently the government decided to end the tradition of opposition party chairing the committee. Implications of this move may involve

- Parliamentary Committees comprising members across party lines from both the Houses. They can call for and examine witnesses, look into the minutiae of an issue, and give detailed recommendations, but most important, they allow a member to speak her mind on an issue without the need to toe the party line. This helps build consensus to resolve deadlocks in legislation. The outcome is usually a report tabled in Parliament having "persuasive" or "advisory" value. This move may affect to build consensus to resolve deadlock in legislation
- A Parliamentary committee not only examines each provision within the Bill extensively, giving each member multiples opportunities to present her detailed views and amendments, but also acts as a check on poorly drafted provisions within legislation which is hurriedly passed through a House. Additionally, given the bipartisan nature of such committees, the government all but co-opts the Opposition from opposing the Bill once the report has been tabled. This move may not provide opportunity to express views of the Opposition Parties.
- When a government lacks the numbers in a House to pass the contentious bill, the committee process helps bring on board support which it would otherwise lack. But where a government has adequate numbers to push through legislation, it might view the committee as superfluous at best, and, perhaps, even a disadvantage, as it allows the Opposition to get its dissent

noted on record. This move may lead bypassing the views of opposition in the committee which may inimical to parliamentary democracy.

Conclusion

It's believed that Indian polity has been able to sustain its democratic nature because of the constant scrutinizing by opposition parties. A party might not be able to form the government at the center because of the lack of majority, but that doesn't take away the responsibility of acting as a watchdog of the ruling party. When it comes to questioning the government and preventing them from taking negative strides, parliament is the most suitable platform for the opposition to leverage.

3. Why are political defections a threat to democratic political processes? Are there constitutional and legal safeguards against political defections? Examine.

Introduction

Political defection refers to, elected representative giving up allegiance to one political party in exchange for allegiance to another, in a way which is considered illegitimate by the first party. Defection politics in India started after Fourth General Elections held in 1967 and thereafter it continued to draw serious attention of the people. The political instability contributed by large scale political defection was in fact a threat to democracy which many a time reduced the concept of democracy to a mockery.

Body

Political defections a threat to democratic political processes

- **It creates political instability**
 - In 1990, the V.P Singh Government was abruptly ended because 28 members of the ruling Janata Dal party were expelled by the party and later joined the Janata Dal(S) headed by Chandra Shekhar.
 - There were instances where minority governments absorbed splinter groups into the ambit of the party and transformed into majority governments.
 - Ministerial positions if they undertook defection.
- Betraying the trust of the electorate
- Leads to erosion of faith in the mechanism of elections.

Constitutional and legal safeguards against political defections

The constitutional provisions alluding to the consequences of disqualification are Articles 102 and 191 of the Constitution. These Articles states that the person shall be disqualified from being a member of the Legislature if he is so disqualified under the Tenth Schedule.

The Tenth Schedule was inserted in the Constitution in 1985 by the *52nd Amendment Act*. It lays down the process by which legislators may be disqualified on grounds of defection by the Presiding Officer of a legislature.

Grounds for Disqualification

If a member of a house

- Voluntarily gives up the membership of his political party
- Votes against party whip.
- If an independent candidate joins a political party after the election.
- If a nominated member joins a party six months after he becomes a member of the legislature.

The law allows a party to merge with or into another party provided that at least two-thirds of its legislators are in favour of the merger.

The Tenth Schedule to the Constitution was challenged before the Supreme Court in the ***Kihoto Hollohan case***. The main challenge to the Tenth Schedule was on grounds of violation of the free speech right of legislators guaranteed under Articles 105 and 194 of the Constitution.

The Constitution Bench, by a majority judgment, held that legislators' freedom of speech can be reasonably curtailed for the larger interest of the nation. The legislators, who fought and won elections on the basis of the programmes and policies of the political party, are not supposed to do floor crossing midway through the term of the government.

Conclusion

The fundamental premise of democracy is the protection of the wishes of the people. But at the same time, political stability is essential for the progress of the country and its march forward. The loyalty of the legislators is not first to the party that fielded them, but to the electorate of the constituency that elected them.

4. Not many private members bills have been passed in the history of the Indian Parliament. What does this suggest? Do individual voices get stifled by a majoritarian discourse? Critically examine.

Introduction

Any MP who is not a Minister is referred to as a private member. Both Ministers and private members contribute to the lawmaking process. Bills introduced by Ministers are referred to as government bills. Private member's bills are piloted by non-Minister MPs. Only 14 private member bills have become laws since the first Lok Sabha in 1952, and none in nearly five decades.

Body

- The purpose of Private member's bills is to draw the government's attention to what individual MPs see as issues and gaps in the existing legal framework, which require legislative intervention.
- The admissibility of a private member's Bill is decided by the speaker of the house. Private member's Bills can be introduced and discussed only on Fridays. Private member's Bills have been introduced and discussed in Rajya Sabha on 20 days in the last three years.
- Only a fraction of private member's bills that are introduced, are taken up for discussion. Upon conclusion of the discussion, the Member piloting the Bill can either withdraw it on the request of the Minister concerned, or he/she may choose to press ahead with its passage.
- The last time a private member's Bill was passed by both Houses was in 1970. This was the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Bill, 1968. Fourteen private member's Bills — five of which were introduced in Rajya Sabha — have become law so far.
- However, it isn't just the passage of private member bills that has a dismal record. The discussion of such bills since 1999 — when 13th Lok Sabha (data prior to that not available) was formed — has an equally dim record. Of the total of 2,042 such bills introduced in the past two decades, only 49 were taken up for discussion — a mere 2.4 per cent.

Such a dismal record with regards to an important tool of parliamentary functioning can suggest the following:

- Governments have tended to view Private Member Bill's as an intrusion by non-Ministers into their domain.
- A perception also seems to have been built that the passage of such a Bill would mean that the government is incompetent and far removed from the needs of the people.
- Without support from the ruling party of the alliance, that command majority, it becomes impossible to pass the bill, especially in the Lok Sabha.
- Earlier governments often displayed features of bipartisanship, with the Cabinet Ministers themselves holding opposing views. This resulted in healthy debates and respect towards viewpoints held by others and therefore, a greater acceptance of Private Member legislation. Subsequent governments have not upheld this trait as much, and this shows in the way Private Member Bill's are treated.

- While any MP can introduce a private member bill, it is difficult to get the bill passed for a number of reasons. These bills get low priority, with both Houses allotting a fixed day and limited time slot for these bills, thus providing little time for them to be taken up for discussion.

The individual voice of Parliamentarians does get stifled to an extent in the lawmaking process due to factors like Anti-defection law, presence of whip and difficulty in the passing of private member's bill. But there have been incidences of bipartisan support to the private member bills (PMB's).

- PMBs were designed to empower MPs to bring attention to issues that were willingly or unwillingly ignored by the party at the helm. Mr. Tiruchi Siva's PMB on the rights of transgender people is another great example. These Bills speak volumes of the significance of PMBs in a democracy.
- An unofficial convention where, if a PMB finds support in the House, the Government usually requests the Private Member to withdraw her/ his Bill with the assurance that the Government will introduce a Bill on the same issue. Most recently, this happened in the case of The Rights of Transgender Persons Bill
- Furthermore, bringing in private member's bill on a particular topic effectively leads to discussion in the public domain with regards to it and helps in promotion of healthy democratic culture of sharing of views to arrive at consensus.
- Various countries across the world effectively empower their Private Members and respect their initiative in the lawmaking process. For instance, in the UK, since 1948, as many as 775 Private Members' Bills have received Royal Assent and the Canadian Parliament has passed 290 Private Members' Bills till date.

PILOTED BY PRIVATE MEMBERS

26TH AMENDMENT, which abolished privy purses in 1971, was catalysed by the private member's legislation piloted by Rajya Sabha MPs Bhupesh Gupta (CPI), Jogesh Chandra Chatterjee (Congress), Chitta Basu (Forward Bloc), Banka Behary Das (Praja Socialist Party).

61ST AMENDMENT, which reduced the voting age from 21 to 18, was seeded by private member's legislation by Bhupesh Gupta (CPI), Shiva Chandra Jha (BJP), Satya Prakash Malaviya (Janta Dal).

Conclusion

India's lawmaking process appears to be broken due to a distorted balance of power between the government and other Members of Parliament, including the opposition. In this regard, it is the collective responsibility of enlightened citizenry to put pressure on the Parliament and the government to reform the existing procedures to recognise the importance of Private Members inside Parliament.

5. In the light of the changing parliamentary dynamics, the role of the Speaker must

be reassessed and recalibrated to make parliamentary proceedings more effective and efficient. Comment.

Introduction

The office of the Speaker is a Constitutional Office. The Speaker is guided by the constitutional provisions and the Rules of Procedure and Conduct of Business in Lok Sabha. With the parliament seeing several disruptions, the role of speaker becomes vital for the productive functioning of parliament.

Body

Changing parliamentary dynamics:

The majority government and the way of opposition working in the parliament has been a cause of concern for the reasons like

- Committee scrutiny: The bills are not being referred to the parliamentary standing committees. E.g. the latest budget session passed around 30 bills without complete committee scrutiny.
- Ensuring discipline in the House: Falling productivity of parliamentary sessions. It is the speaker responsible maintaining discipline and decorum of Lok Sabha. E.g.
 - In 2015, 1/3rd of bills in budget session is passed in 2-3 hrs.
 - 2016 winter session was a washout due to disruptions etc.,
 - As per Association of democratic reforms, the 15th Lok Sabha has been the most unproductive House since independence owing to the disruptions and lack of discipline among the elected representatives. The Speaker is empowered to initiate disciplinary action against the disrupting MPs, but had failed to do so.
- Misuse of 'Money Bill' power: Allegations of bills passed as money bills which is certified by speaker. E.g.
 - Aadhar bill passed as money bill which was challenged in supreme court.
 - Recently, in the budget session the government had included amendments to the RBI Act in a Finance Bill so as to circumvent the 'obstructionism' of Rajya Sabha, where the government is not in a majority.
- Defection: The power to disqualify legislators under 10th schedule and the incidents of defection on several instances.
- Conferring Leader of Opposition of Lok Sabha: No Leader of opposition in Lok Sabha was elected in the last 2 terms which is the prerogative of speaker.
- Breach of privilege moved against the prime minister and it is the speaker who is the first level of scrutiny.

Reassessment and Recalibration of speaker role:

Speaker is the epitome of impartiality and regarded to be the true guardian of the traditions of parliamentary democracy. Hence, the speaker elected should be impartial and apolitical.

- The speaker can be barred from future political office or to be fielded as an independent candidate (except for post like president/Vice president).
- The speaker of India remains to be a member of political party even after elected as speaker. This can be reformed as in UK so that after election as the Speaker of Lok Sabha, he/she resign from the political party. This will help the speaker to be objective in deciding the defection cases, privilege motions in the house.
- The speaker can be elected from the opposition party as was experimented in 1996.
- In critical decisions like disqualification for defection, president can be made the determining authority with inputs from the Election Commission than the speaker.
- As in case of Ireland or in UK, it is observed 'once a speaker is always a speaker'. A speaker is not inducted into the cabinet in future. Offering future rewards for performance of speaker make the position a spoils post and makes it political. The same has to be followed in Indian parliament as well.
- There must be clearly marked role for speaker vis-à-vis the bills that is sent to the committee scrutiny. He should be accountable for any deviations with respect to the same. In the same lines, the role of certifying money bill by the speaker becomes imperative and there is a need for reassessment in this role with an additional level of expert scrutiny.
- The need for reelection skews incentives for the speaker. This can be reformed as in UK where the constituency of the speaker is uncontested.
- If the speaker has worked in an impartial and efficient manner during the tenure of his/her office, he/she should be allowed to continue in the next parliament.

Conclusion

Supreme court in BP Singhal case said that "Governor is the constitutional head of the state. He is not an employee or an agent of the Union government nor a part of any political team". The same applies to speaker as well. A set of reforms as suggested above will help in smooth, fair and unbiased functioning of the office.