

**1. With the help of suitable examples, differentiate between ‘rule of law’ and ‘due process of law’.**

**Approach:**

It is straightforward question – where it expects student to give introduction about concepts in first part – then in body part you need to write differences between these two concept with examples.

**Introduction:**

Rule of Law means that Law is supreme and is above every individual. No individual whether if he is rich, poor, rulers or ruled etc. are above law and they should obey it. Due process is the legal requirement that the state must respect all legal rights that are owed to a person. Due process balances the power of law of the land and protects the individual person from it.

**Body:**

Difference between rule of law and due process of law:

Rule of law	Due process of law
Rule of law signifies commitment to certain principles and values. Generally, the rule of law is the principle that no one is above the law and treated equally among citizens.	Due process of law checks whether any law in question is fair and not arbitrary.
Rule of law symbolises the quest of civilised democratic societies to combine that degree of liberty without which law is tyranny with that degree of law without which liberty becomes licence.	If the Supreme Court of India that any law as not fair, it will declare it as null and void. This doctrine provides for more fair treatment of individual rights.
A V Dicey in his book The Law of the Constitution (1885) has given the following three implications of the doctrine of rule of law.	The due process of law gives wide scope to the Supreme Court to grant protection to the rights of its citizens.
1. Absence of arbitrary power, that is, no man is punished except for a breach of law.	The Supreme Court can declare laws violative of fundamental rights and render them void not only on substantive grounds of being unlawful but also on procedural grounds of being unreasonable.
2. Equality before the law, that is, equal subjection of all citizens (rich	Under due process, it is the legal requirement that the state must respect all

<p>or poor, high or low, official or non-official) to the ordinary law of the land administered by the ordinary law courts.</p>	<p>of the legal rights that are owed to a person and laws that states enact must conform to the laws of the land.</p>
<p>3. The primacy of the rights of individual, that is, the constitution is the result of the rights of the individual as defined and enforced by courts of law, rather than constitution being the source of the individual rights.</p>	<p>For example, a state might fire someone from a government job, send defendant to prison, revoke a prisoner's parole, or cut someone's social security payments or other welfare benefits. Due process does not prohibit these actions, but it does require that certain procedures be followed before any action is taken.</p>
<p>For example, one may be the Prime Minister or the Speaker or the Imam or the Archbishop or a judge or the Sankaracharya or whoever, all are equally subject to the law. That imparts the element of non-discrimination in the concept of the Rule of Law.</p>	

**Conclusion:**

In vibrant, inclusive democracy law must be fair, ethical and just. Both Rule of law and Due process of law helping in strengthening of democracy by upholding rights of citizens.

**2. In parliamentary proceedings, examine the significance of the 'question hour'. What was the recent controversy related to it? Discuss.**

**Approach:**

It is straightforward question it expects student to write about - in first part write significance of question hour - in second part discuss recent controversy related to it.

**Introduction:**

Question Hour is the first hour of a sitting session devoted to questions that Members of Parliament raise about any aspect of administrative activity. The concerned Minister is obliged to answer to the Parliament, either orally or in writing, depending on the type of question raised.

**Body:**

Importance of Question Hour:

- The Government is put on its trial during the Question Hour and every Minister whose turn it is to answer questions has to stand up and answer for his or his administration's acts of omission and commission.
- Through the Question Hour the Government is able to quickly feel the pulse of the nation and adapt its policies and actions accordingly.
- It is through questions in the Parliament that the Government remains in touch with the people in as much as members are enabled thereby to ventilate the grievances of the public in matters concerning the administration.
- Questions enable Ministries to gauge the popular reaction to their policy and administration.
- Questions bring to the notice of the Ministers many loopholes which otherwise would have gone unnoticed.
- Sometimes questions may lead to the appointment of a Commission, a Court of Inquiry or even Legislation when matters raised by Members are grave enough to agitate the public mind and are of wide public importance.

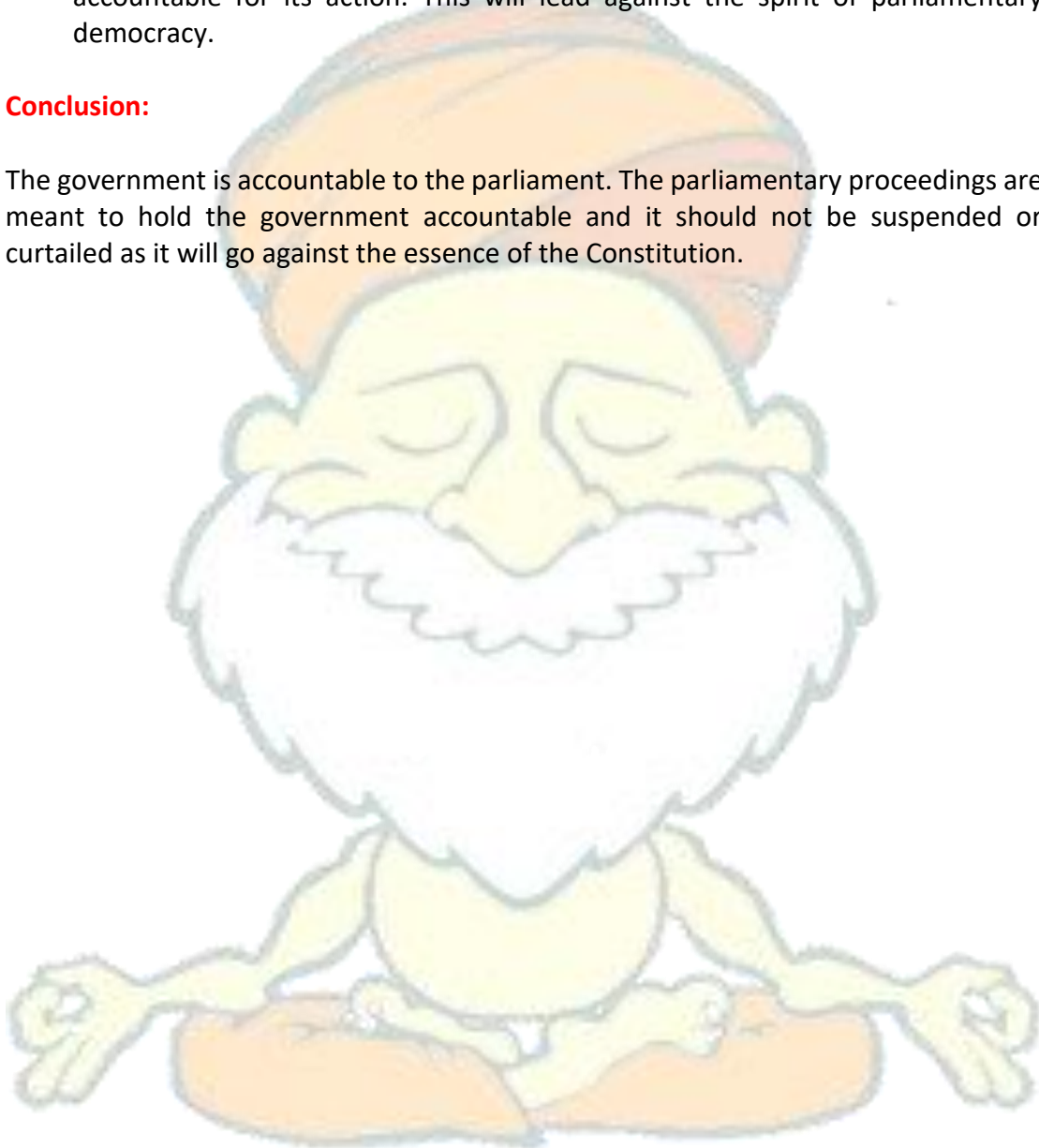
Recent controversy regarding question hour:

- The monsoon session of the Parliament has begun from 14th of September. For this Parliamentary session a decision was taken to go without Question Hour. This decision has raised some serious concerns regarding the democratic functioning of the institution. Question hour is an opportunity for the members to raise questions.
- The decision to skip Question Hour during the Monsoon session of Parliament has earned criticism.
- With the ongoing issues in our country like the unprecedented decline in GDP and its impact on the economy, the New Education Policy, tensions at the border, rising unemployment, the miseries of migrant labour.
- Questions regarding all these issues were supposed to be asked in the question hour session with the government.

- Question hour is a parliamentary device primarily meant for exercising legislative control over executive actions.
- Over the decades, MP's have utilised this question hour to throw light on the government functioning. Suspension of the question hour is a straight indication that the opposition will lose the right to question the government. Plus, the Ministers are not liable to reply to the issues raised during the Zero Hour.
- This would mean that the MPs would not be able to hold the government accountable for its action. This will lead against the spirit of parliamentary democracy.

**Conclusion:**

The government is accountable to the parliament. The parliamentary proceedings are meant to hold the government accountable and it should not be suspended or curtailed as it will go against the essence of the Constitution.



**3. What is the MPLAD scheme? Critically evaluate its performance in recent years. Do you support the recent decision of the government to suspend MPLADS for two years? Substantiate your views.**

**Approach:**

As the question has two specific directives it will be better to answer the question in a straightforward way. In the introduction part one can explain what is MPLAD scheme and how it is implemented. Main body part will have two parts, in the first part one needs to arrive at a fair judgment based on overall performance of MPLAD scheme substantiated with examples and facts. In the second part of the answer it is necessary to put your opinion on the suspension of MPLAD scheme for two years. The opinion should be backed by supporting arguments with examples and facts. In the conclusion one can conclude by explaining the impact of such scheme in brief and stating further course of action for continuation or discontinuation of scheme. The scheme is implemented by Ministry of Statistics and Programme implementation.

**Introduction:**

The Local Area Development Scheme known as MPLADS is a government scheme launched in 1993. This central sector scheme was developed as an initiative to enable the parliament members to recommend developmental work in their constituencies based on locally felt needs. The scheme emphasises on durable assets of national priorities and community needs viz. drinking water, primary education, public health, sanitation and roads, etc.

**Body:**

Features of MPLAD scheme:

- The MPLADS is a Plan Scheme fully funded by Government of India. The annual MPLADS fund entitlement per MP constituency is Rs. 5 crore.
- MPs are to recommend every year, works costing at least 15 per cent of the MPLADS entitlement for the year for areas inhabited by Scheduled Caste population and 7.5 per cent for areas inhabited by S.T. population.
- In order to encourage trusts and societies for the betterment of tribal people, a ceiling of Rs. 75 lakh is stipulated for building assets by trusts and societies subject to conditions prescribed in the scheme guidelines.
- Lok Sabha Members can recommend works within their Constituencies and Elected Members of Rajya Sabha can recommend works within the State of Election (with select exceptions). Nominated Members of both the Rajya Sabha and Lok Sabha can recommend works anywhere in the country.
- All works to meet locally felt infrastructure and development needs, with an emphasis on creation of durable assets in the constituency are permissible under MPLADS as prescribed in the scheme guidelines. Expenditure on specified items of non durable nature are also permitted as listed in the guidelines.

However, the scheme received a fair criticism from various sections of society and demand for discontinuation due to its gaps in its performance since its inception which is as mentioned below:

- The scheme violates one of the cardinal principles, which though not specifically written down in the Constitution, actually permeates the entire Constitution: separation of powers.
- Simply put, this scheme, in effect, gives an executive function to legislators (read legislature). The argument that MPs only recommend projects, but the final choice and implementation rests with the district authorities is strange; there are hardly any authorities in the district who have the courage or the gumption to defy the wishes of an MP.
- The details below, which are some of the observations made by the Comptroller and Auditor General (CAG) of India, in a report made it clear that there are gaps in its implementation.
- Utilisation of funds between 49 to 90% of the booked amount; Though the scheme envisages that works under the scheme should be limited to asset creation, 549 of the 707 works test-checked (78%) of the works recommended were for improvement of existing assets.
- Delays in issuing work orders ranging from 5 to 387 days in 57% of the works against the requirement of issuing the work order within 45 days of the receipt of recommendation by the MP.
- There are wide variations in the utilisation of the MPLAD amount in various constituencies. A report published in IndiaSpend has some very interesting insights based on data made available to it by the Ministry of Statistics and Programme Implementation. Some of these are: "A year after they took office, 298 of 542 members of the 16th Lok Sabha — India's lower house of parliament — have not spent a rupee from the ₹5 crore that is set aside annually for them to develop their constituencies." Also, 508 MPs (93.55%) did not, or could not, utilise the entire MPLADS amount from May 4, 2014 till December 10, 2018, in 4 years and 7 months.
- Since the MPLADS began in 1993, ₹5,000 crore was lying unspent with various district authorities by May 15, 2015.
- Added to the data above is fairly widespread talk of money under MPLADS being used to appease or oblige two sets of people: opinion-makers or opinion-influencers, and favourite contractors. Sometimes these two categories overlap. An often-heard tale is that of the contractor being a relative, close friend, or a confidant of the MP, and the contractor and the MP being financially linked with each other.
- Reports of underutilisation and misutilisation of MPLADS funds continue to surface at regular intervals but there seems to have been no serious attempt to do anything about it till now. There are innumerable instances of misuse of these funds; one prominent example is the construction of a fountain in the open space of an unauthorised settlement, or a jhuggi jhopdi colony, which did not have provision of drinking water. The general belief in the settlement was that the contractor who bagged the contract to build the fountain was related to the local Member of Parliament.

- Also, The National Commission to Review the Working of the Constitution (2000) and the Second Administrative Reforms Commission, headed by Veerappa Moily (2007), recommended discontinuation of the scheme.

Meanwhile the scheme has some of the positive impacts too, they are as mentioned below:

- Similar to MPLADS, several states have enacted schemes called Member of Legislative Assembly Local Area Development Scheme (MLALADS) where funds are given to MLAs.
- According to the 'Guidelines on Members of Parliament Local Area Development Scheme (MPLADS)' published by the Ministry of Statistics and Programme Implementation in June 2016, the MPLAD funds can also be used for implementation of the schemes such as Swachh Bharat Abhiyan, Accessible India Campaign (Sugamya Bharat Abhiyan), conservation of water through rain water harvesting and Sansad Aadarsh Gram Yojana, etc. So, other schemes can be supported by funding through MPLADS.
- Based on Constitutionality of the Scheme, the MPLADS was challenged in the Supreme Court (SC) in 2010. A five-judge bench of the SC held that: Indian Constitution does not recognise strict separation of powers. Even though MPs have been given a seemingly executive function, their role is limited to 'recommending' works and actual implementation is done by the local authorities. Therefore, the scheme does not violate separation of powers.
- India has a quasi-federal nature of the Constitution. Article 282 held that both the Union and the State have the power to make grants for a purpose irrespective of whether the subject matter of the purpose falls in the Seventh Schedule provided that the purpose is "public purpose" within the meaning of the Constitution.
- Also, the Scheme falls within the meaning of "public purpose" aiming for the fulfillment of the development and welfare of the State as reflected in the Directive Principles of State Policy.
- Also there are robust accountability mechanisms for the scheme as it comes under the RTI Act.
- In 2018, when continuation of the scheme was approved, the government noted that "the entire population across the country stands to benefit through the creation of durable assets of locally felt needs, namely drinking water, education, public health, sanitation and roads etc, under MPLAD Scheme."
- Until 2017, nearly 19 lakh projects worth Rs 45,000 crore had been sanctioned under the MPLAD Scheme. Third-party evaluators appointed by the government reported that the creation of good quality assets had a "positive impact on the local economy, social fabric and feasible environment." Further, 82% of the projects have been in rural areas and the remaining in urban/semi-urban areas.
- There are numerous examples of good implementation of scheme. For instance, Cricket icon and Rajya Sabha member Sachin Tendulkar has sanctioned Rs 2 crore from his Members of Parliament Local Area Development Scheme (MPLADS) fund for revamp of rail foot overbridges in Mumbai here in the backdrop of the Elphinstone Road station stampede.

Governments recent move to discontinue MPLADS for 2 years:

- The central scheme has continued uninterrupted for 27 years. It is budgeted through the government's finances and continues as long as the government is agreeable. In 2018, the Cabinet Committee on Economic Affairs approved the scheme until the term of the 14th Finance Commission, that is March 31, 2020.
- However, the Government of India in the event of struggle against Covid-19 has suspended Member of Parliament Local Area Development Scheme or MPLADS funds for two years (2020 and 2021) and directed these funds to be transferred to the Consolidated Fund of India.
- The Government is seeking to garner around Rs 7,900 crores by suspending the MPLADS for two years. For comparison, this is only 4.5% of the Rs 1.70 lakh crore relief package for the poor announced under the Pradhan Mantri Garib Kalyan Yojana.
- The government is of view that the transfer of these sums to the Consolidated Fund of India would help judicious deployment of fund, but political opposition has criticized this move, as in their opinion the decision may undermine the decentralized manner of funding local area development.

When we see at the implementation gap as highlighted by the CAG report and current grim situation induced by pandemic, the move seems to be a right move in the right direction due to following reasons:

- In this pandemic like situation it is better to have more funds in hand for the building infrastructure and facilitating services in the Health sector. For instance, Resident doctors of Hindu Rao Hospital supported by AIIMS staff staged a protest alleging non-payment of salaries.
- According to the World Bank database, India was the 13th lowest (among 206 for which data was available) in terms of the percentage of total government expenditure that went to health in 2017. At present, Government spending on the healthcare industry stands at 1.15% of the Gross Domestic. Considering the balloon of pandemic this much expenditure on health care sector is meagre amount of money relatively to other sectors.
- Hence, it becomes evident that the current move by the government to suspend the scheme for two years is a well thought move.

However, we cannot neglect the objective of MPLADS. It aimed to create durable assets of national priorities and community needs, which also should not stop citing the basic needs of the citizens. Unless problems such as poor utilisation of funds, irregular sanction of works, delay in completion of works are tackled in an efficient manner, the efficacy of the scheme will remain in doubt.

### **Conclusion:**

While resuming the operation of scheme after two years, corruption related factors needs to addressed so that MPLADS full potential can be utilised. Meanwhile, to



compensate the loss incurred by suspension of scheme for two years, government needs to put on some constructive work in the durable assets creation by giving impetus to its other schemes such as, Accessible India campaign, Swachh Bharat Abhiyaan, conservation of water through rain water harvesting and Sansad Aadarsh Gram Yojana etc.



#### 4. The presiding officers of the legislatures are important functionaries in the constitutional process. Elucidate.

##### Approach:

It expects students to write about the presiding officers in legislatures and their various important constitutional functions in the Lok Sabha and Rajya Sabha.

##### Introduction

Speakership in India dates from the year 1921, Under the Government of India Act, 1919, office of the President of Indian Legislative Assembly came into existence. The Office of the Speaker and Chairman occupies a pivotal position in our parliamentary democracy which necessitates that the holder of these offices of high dignity has to be one who can represent the House in all its manifestations.

##### Body

According to the Constitution of India, both offices are vested with immense administrative and constitutional powers, some of which are enumerated below:

1. The Speaker and Chairman presides over the meetings in Lok Sabha and Rajya Sabha respectively. In other words, the Speaker and Chairman conducts business in their house by ensuring discipline among members.
2. Both offices guard the rights and privileges of the members deciding who should speak at what time, the questions to be asked, thus preserve the freedom of speech and expression in house.
3. In the absence of a quorum in the House, it is the duty of the Speaker and Chairman to adjourn the House or to suspend any meeting, until a quorum is met.
4. The Speaker and Chairman is invested with the immense powers of interpreting the Rules of Procedure. Therefore, rules made by him/her needs to accepted respected in true spirit by members.
5. The Speaker and Chairman ensures that MPs are punished for unruly behaviour. So that the decorum of the house is maintained.
6. A Speaker and Chairman can also disqualify a Member of Parliament from the House on grounds of defection (under the Tenth Schedule of the Constitution). Therefore, matter of defection needs to be dealt impartially by the presiding officer.
7. A Speaker and chairman use his/her power to vote, in order to resolve a deadlock. That is, when the House initiates a voting procedure, the presiding officers does not cast a vote in the first instance. It is only when the two sides receive equal number of votes that the Speaker in Lok Sabha and Chairman in Rajya Sabha vote breaks the deadlock, making his/her position impartial.
8. The Speaker and Chairman nominates the various Chairman of Committees while monitoring the committees' workings as well in this respect has its huge impact in policy formulations and on various bills.

9. Presiding officers are the ultimate arbiter and interpreter of those provisions which relate to the functioning of the House. His/her decisions are final and binding and ordinarily cannot be questioned, challenged or criticized.
10. The Rajya Sabha and Lok Sabha Secretariat functions under the control and direction of the Chairman and Speaker.
11. Under the Judges (inquiry) Act, 1968, the Presiding officer has to constitute a Committee, upon receipt of a motion for the removal of a Judge of the Supreme Court or of a High Court, for investigation into the grounds on which the removal of a Judge is prayed for.
12. A member who flouts the Speaker's and Chairman's orders or directions may be named by the Speaker and Chairman and in such cases, the member may have to withdraw from the House.

Interestingly, there are few special power and functions of Speaker of Lok Sabha such as -

- The Speaker permits various parliamentary procedures like the motion of adjournment, the motion of no confidence, the motion of censure, among others.
- The Speaker presides over the joint sitting of the two Houses of Parliament.
- Once a Money Bill is transmitted from the Lower House to the Upper House, the Speaker is solely responsible for endorsing his or her certificate on the Bill. In other words, s/he is given the pivotal power to decide whether any Bill is a Money Bill. His/her decision is considered final.
- The Speaker also decides on granting recognition to the Leader of the Opposition in the Lok Sabha.
- The Speaker decides the agenda that must be discussed in a meeting of the Members of the Parliament.

But there have been non-observance of constitutional conventions by the presiding officers in both the Houses, some of which can be seen as given below -

- Two critical examples in the Lok Sabha are the presiding officer's arbitrary certification of the Aadhaar Act as money bill and their non-acknowledgement of the Opposition party leader as the statutorily recognised Leader of Opposition.
- On the other hand, in the Rajya Sabha, the presiding officer declared the previously mentioned farm bills as passed after a voice vote against which multiple Opposition members had protested.

### **Conclusion**

India's first Prime Minister Pt. Jawahar Lal Nehru had said that in a parliamentary democracy, the presiding officer represents the dignity and the freedom of the House and because the House represents the country, the speaker in a way becomes the symbol of the country's freedom and liberty which clearly highlights their immense constitutional responsibility and importance.

**5. What role do department-related Parliamentary Standing Committees play? Explain their significance with the help of suitable examples.**

**Approach:**

It expects students to write about the role and important functions of departmental parliamentary standing committees and present their significance with help of suitable examples.

**Introduction:**

The visible part of Parliament's work takes place on the floor of the House. This part of Parliament's work is televised and closely watched. However, Parliament has another forum through which a considerable amount of its work gets done. These are known as Parliamentary Committees. These Committees are smaller units of MPs from both Houses, across political parties. These smaller groups of MPs study and deliberate on a range of subject matters, Bills, and budgets of all the ministries.

**Body:**

There are 24 Department-related Standing Committees (DRSCs). The 17 Departmentally Related Standing Committees were formally constituted with effect from April, 1993.

Role played by departmental related parliamentary standing committee:

- DRSCs perform three main roles: Examine Bills referred to them; select specific topics related to the ministries and examine implementation by the Government; and examine the budgetary outlays of the departments.
- They secure more accountability of the Executive to the Parliament. Through Committees, Parliament exercises its control and influence over administration and keeps vigilance over the executive.
- The Committees aid and assist the Legislature in discharging its duties and regulating its functions effectively, expeditiously and efficiently. They assist the Parliament in thoroughly and systematically scrutinising the matters which could not be discussed on the floor at length.
- After a Committee completes its study, it publishes its report which is laid in Parliament. These recommendations are not binding; however, they hold a lot of weight. For example, the Standing Committee on Health made several recommendations to the National Medical Commission Bill in 2017. Many of these were incorporated in the recently passed 2019 Bill.

Bills and issues that are referred to committees are returned to the House with value addition has huge significance on parliamentary affairs such as:

- Committees help by providing a forum where Members can engage with domain experts and government officials during the course of their study. For example, the Committee on Health and Family Welfare studied the Surrogacy (Regulation) Bill, 2016. As MPs come from varying backgrounds, they may not understand the details around surrogacy such as fertility issues, abortion, etc. The Committee called upon a range of stakeholders including the National

Commission for Women, doctors, and to better their understanding of the issues, before finalising their report.

- Committees member not bound to party whip. Being outside direct public glare allows members to discuss issues and reach consensus across political party without worrying about constituency pressures. Committees have closed door meetings, which allows them to freely question and discuss issues and arrive at a consensus.
- Bill is scrutinised properly before it is passed, our law-making procedure has a provision for Bills to be referred to a DRSC for detailed examination. Over the years, the Committees have immensely contributed to strengthen the laws passed by Parliament. For example, the Consumer Protection Act, 2019, overhauling the 1986 law. An earlier version of the Bill had been examined by the Committee on Food and Consumer Affairs, which suggested several amendments such as increasing penalties for misleading advertisements, making certain definitions clearer.
- DRSCs also examine the budget. The detailed estimates of expenditure of all ministries, called Demand for Grants are sent for examination to the DRSCs. However, only a limited proportion of the budget is usually discussed on the floor of the House. In the recently dissolved 16<sup>th</sup> Lok Sabha, 17% of the budget was discussed in the House.
- Committees meet throughout the year; they help make up for this lack of time available on the floor of the House. For example, In the last 10 years, Parliament met for 67 days per year, on average. This is a short of amount of time for MPs to be able to get into the depth of matters being discussed in the House.

The recent decline in the role and performance of standing committees is part of a larger trend visible even before the lockdown, as per India Spend analysis.

Traditionally, DRSC function on a non-party basis. Of late, this tradition seems to have broken down and members have started political posturing,” said PDT Achary, former secretary-general of Lok Sabha.

National Commission to Review the Working of the Constitution (NCRWC) 2002 pointed out some shortcomings of the committees:

- (a) low attendance of MPs at meetings.
- (b) too many ministries under a committee.
- (c) norms not followed by most political parties while nominating MPs to committees.
- (d) the constitution of DRSCs for a year leaves very little time for specialisations.

### **Conclusion:**

Indian democracy derives its legitimacy by effective functioning of Indian Parliament. Substantial part work of Indian parliament is carried out by these departmental standing committees. Committees have substantially impacted Parliament’s efficacy in discharging its roles, their performance affects the Parliament as an institution that makes laws, holds the Government accountable, and gives sanction for public spending, still there is scope for strengthening the Committee system for overall effectiveness of Indian parliamentary system.

