

# Function of the Indian Parliament: An Exploratory Analysis

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## ABSTRACT

**Parliament is the legislative organ of the union government; the other two are Executive and Judiciary. The paper focuses on Indian parliament as responsible for enacting laws, scrutinizing policies, and representing the interests of the citizens. The Parliament makes laws in a skeleton form and authorizes the executive to make complete rules and regulations within the framework. The primary function of the parliament is to make laws for the governance of the country. The Indian Constitution grants legislative power to Parliament, allowing it to create and enforce laws concerning topics listed in the Union. The fundamental function of the legislation of India includes the administration, passing the Budget, ventilation of public criticisms.**

**Key words: Parliament, executive, legislative, Judiciary, Loka Sabha, Rajya Sabha constitutional, democracy and Assembly**

## INTRODUCTION

The main function of the parliament is to make sure the formulation and regulation of different laws and rules in the country. India has chosen parliamentary system of governance after its independence in 1947. Like other parliamentary democracies in the world, Indian Parliament has the cardinal functions of legislation, overseeing of administration, passing of annual budget, attending to public grievances and debating on various subjects like development plans, national policies on different subjects and international relation. Union legislature is called the Parliament which is bicameral including the Lok Sabha and Rajya Sabha, i.e lower and upper house respectively. The Lok Sabha is inclusive of the members directly elected by the people and Rajya Sabha represents the states of Indian federation. Bicameralism was resorted to with a view that there should be parity between the direct representative of the people and the representation of the states from where they were coming.

The lok Sabha is the popular chamber of the Indian Parliament with a minimum strength of 545 members and this is so from the Thirty- first Amendment onwards when it was increased from 525 members to 545 member bodies. Of the total members, not more than 525 represent states

and 20 is the number of seats reserve for union. Territories, the provision is of two members to be nominated by President from Anglo- Indian communities, if in the President's opinion, it does not have a fair representation in the Lok Sabha. The election of the members the Lok Sabha is out of the pre-divided constituencies and while demarcating them two guide lines have been followed. i.e., there is uniformity of representation between the states and this regards, the states have been allotted seats and its population is, as far as practical the same for all states. And also the member of people is residing in one constituency. Second amendment has laid down that 1971 census will serve as the basic of allocation of seats to each states and this will remain so still 2000 A D. Recently, the Union cabinet has extended this gap up-to 2026 A D . This also puts a halt on gerrymandering i.e., altering the boundary of constituencies of vested interest. "The government, seated in New Delhi, has three primary branches: the legislative, the executive and the judiciary, whose powers are vested in a bicameral Parliament" (Gledhill, Alan 1970: 127)

The term of Look Sabha is for five years. However, it can be dissolved earlier. On the other hand, the term of Lok Sabha can be increased in a situation of emergency. The convention is of Lok Sabha meeting not less than twice every year and there must not be gap between two meeting exceeding six months. The time of meeting is decided by the president, who also has the choice of venue where the meeting can be held. The president also enjoys the power to dissolve or prorogue the house. The quorum of meeting to be held is in ninth of the total strength of the house. A person to be able for contesting election for the membership of Lok Sabha must be less than 25 years of the and should not hold a position of profit.

The Rajya Sabha consists of a maximum of 250 members including members nominated as well as elected. The number of elected members is not to exceed 238 representing the states and the Union Territories. The President nominates 12 members having exceptional qualities and experiences in diverse field like art, literature, science, and social service. India Upper House is different from the US counterpart as this House is not functioning truly for giving balanced representation to the smaller States. The members are elected indirectly by the members of Legislative Assemblies of the states in accordance with the system of proportional representation by means of a single transferable vote.

The Rajya Sabha is a permanent body and cannot be dissolved. However, one third of the members retire at the end of every second year. . This way the member enjoys a six-year term in the house. A member must have the basic requirement of being an Indian and not less than 30 years of age. The member must also not hold any office of profit, if he is chosen. If a member remains absent from the House for more than 60 days, the seat may be declared vacant.

The position of Indian Parliament is typical in its own respect. It is neither sovereign like the British parliament nor enfeebled like the American one, but enjoys a position somewhere in between the two. This is the result of own constitutional arrangement and expediency. "India today prides itself in being the world's largest democracy, and the 4th largest economy in the world. Even though much remains to be done, especially in regard to eradicating poverty and securing effective structures of governance, India's achievements since independence in sustaining freedom and democracy have been singular among the world's new nations" (Metcalfe & Metcalfe 2012:327) The position of Indian parliament becomes clear when it is compared with its American and British counterparts in details. In USA, the polity is regulated by a written and rigid constitution which is supreme and sovereign. The branches of US government draw their authority from the constitution. This is true in the case of American Congress also, Not only does it have a limited role in the constitutional amendments, but any law passed by it can be declared 'null and void' by the Supreme Court under its assumed power of judicial review. Lastly, it has no role to play when it comes to legislate for the states of the US Federation.

As against this, there is no written law in the UK customs and conventions govern the country which is supplemented by rule can legislate on any subject, as null and void' as they do not enjoy the power of judicial review. The Indian model provides for the reconciliation of written constitution with parliamentary sovereignty. Thus, there is a fusion of American and British models in case of India. Though like USA, there is a written constitution which is the supreme and sovereign law of the land, the Indian Constitution resembles the British Parliament to 'some' extent because of the vast powers it enjoys in different fields.

The constituent Assembly while discussing the form of constitution for the country decided to go in for the westminster system of parliamentary democracy. Even the west presidential type of government was thought of. But the consensus was not in its favour . Adult franchisee was given though some were skeptical that with the majority of people illiterate whether they would exercise their franchise properly. Pandit Jawaharlal Nehru, the interim prime minister and Dr.Ambedkar, the chairman of the

constitution framing committee stood their ground and parliamentary democracy on the westminster model with certain modification came to be accepted.

India was declared a secular democratic Republic and from 1952 onwards, general elections were normally conducted every five years unless parliament got dissolved earlier than the mandatory five year period due to extraordinary circumstances. Generally election here takes place smoothly and peacefully barring a few incidents of booth capturing and false voting. Even then when anything serious happens the Election commission orders for a re-conduct of the polls in the booths where malpractices are clearly proven. The world committee has praised the conduct of free and fair elections in our country. We have the pride of place as the largest democracy in the world where almost 60 crores of people go to the booths to elect the government of their choice.

These are all the positive feature of our democracy. And yet in the functioning of our parliament there are many aberrations and the political parties and the political leadership should squarely bear responsibility for such aberrations.

The strength of the Indian parliament is evident in the fact that it has amended the Constitution more than that 80 times in a short span of 50 years. In these amendments, the role of the state legislatures is every marginal as only half of them are required to ratify it as against 2/3 in the US. Moreover, the states do not enjoy the power of initiate constitutional amendments. Then, there is a large number of areas in the constitution on which the parliament acts all and alone, and these are not even considered as amendment. The law making power of the Indian parliament is comparable to that of British Parliament. Besides the union list on which it has exclusive jurisdiction, it can also legislate on concurrent list and even state list, if need arises. During emergencies, it can legislate on any list and during President's rule in any state, it has the power to assume the legislate function for that state as to authorize anyone in this regards.

The functions and powers of the Parliament are extensive and appear in Constitution at different places. The Parliament has extensive power to make laws on the item given in the Union List as well as in the concurrent list include Defense, External Affairs, communications, currency, Citizenship etc. These are the items whose uniformity across the length and breadth of the country is essential for the solid foundation of the national existence. The Concurrent List includes items such as marriage, divorce, trade, criminal Law procedure, etc. these are the items on which uniformity is desirable but not essential. The powers of the Parliament are far reaching as it can also legislate on the matters included in the State List. However, as enshrined in Article 249, a prior approval of the Upper House is essential for the Purpose. Article 250 Mentions

that the Parliament can also legislate for the whole or any part of the India or any matter mentioned in the State List. The parliament also holds the power to elect and impeach the President and vice- President of India. The Parliament can also impeach the judges of Supreme Court and High Court on grounds of incapacity. The functions of Parliament are not only varied in nature, but considerable in volume. The time at its disposal is limited. It is not possible for the Parliament to carry out a detailed scrutiny of all legislative and other matters that come up before it. A good deal of its business is therefore transacted by the committees which it forms for the purpose.

Unlike the US Congress which has no role in the formation of the government, the Indian Parliament takes this aspect as one of its main functions. The party winning the majority in the popular House of the Indian Parliament, i.e., Lok Sabha form the government. The parliament criticizes the policies of the government, can censure it can even pass a vote of no confidence against the government, No such power belongs to the US congress.

In terms of electoral power, the Indian Parliament is far ahead. The British parliament has not bestowed upon itself any electoral power so far. The US congress has such power, in case of tie in the election of President and vice-President. However, this occasion has never come. The members of the Indian parliament form the part of Electoral College which elects the president of India. The Vice president is elected by the Member of Parliament only.

As Rajeev Dhawan, the eminent Constitutionist has rightly observed “India’s constitution has evolved over fifty years to quire some measures of principled stability” (Bhagwan, 56) There were occasions when the proceedings of parliament were stalled by opposition benches, uproarious scenes drenching any sensible debate to adjourn the parliament for several days. The congress has raised the issues of tainted minister George Fernandez being inducted into the cabinet but confine their opposition only to George Fernandez boycotting him as minister. Otherwise the congress as an opposition did not fail to fulfill its democratic function as such. But ever since BJP lost power in the May 2004 election, it has totally failed to discharge its constitutional obligation as an opposition party. Disruption of parliamentary proceedings has become its only agenda with an intention of bring governance to a halt. They have miserably failed to play a political role according to the democratic ruler of the game.

“The Monsoon Session of Parliament usually takes place between July and August. It derives its name from the occurrence of the monsoon season during this time. This session primarily focuses on enacting legislation, as it provides an opportunity for Members of Parliament to introduce bills, engage in extensive debates, and collectively decide on their passage. Apart from legislative

functions, this session also involves discussions on various issues of national importance, enabling the government to address concerns raised by the opposition and seek their support” (Morris-Jones 2015: 45)

While the congress in the opposition never suggested who should be elected the prime Minister on behalf of the national Democratic Alliance. Constitution experts feel that they defeated the national Democratic Alliance is trying to hold the Indian Governance to ransom for the simple reason they have been rejected by the Indian electorate. Actually in the first 100 days of Manamohan Singh government the BJP never allowed the parliament to function and consequently a Railway Budget of RS 41, 417 crores and general Budget of Rs 477,829 Crores was passed without discussion. And 105 demands for Grants of 339,229 Crores were made without discussion. This is the kind of role in NDA opposition is playing today in parliament. Without participation in the budget discussion a bench of opposition leaders met the Prime Minister and submitted memorandum containing their suggestions and objections to the Prime Minister which is he rightly refused to accept. How can the opposition bypass the parliament and have an in- camera discussion with Prime Minister for incorporating the Suggestions in the Budget proposal? Is it not an affront to the august sovereign body which the people were elected? The NDA opposition by this ridiculous behavior has made parliamentary democracy a mockery.

Despite all these, it can safely be argued that the Indian Parliament does not enjoy unlimited powers. There are solid reasons for this. Firstly, the country has a written constitution in which sovereign authority is vested. All institutions of government including the parliament derive their authority from this ‘Supreme law of the land’. The parliament cannot transgress its limits and overshadow the constitution. Despite its wide- raging amending powers, the parliament cannot change the basic feature’ of the constitution and if it does so, it would be declared ‘ null and void’ as per the verdict given by the supreme court in the Keshavanand Bharti case in 1973. Secondly , under the powers of ‘judicial reviews’ the Supreme court has the power of declaring a law as unconstitutional if it is beyond the competence of the Parliament or if it is in contravention of the fundamental rights guaranteed by the constitution. The Supreme Court has many times utilized this power to invalidate laws passed by the parliament. Thirdly, even the amendment process is not so easy. From 1967 to 1973, the Supreme Court and the Parliament were at two ends over the issues of Parliament’s competency to amend the constitution including the fundamental rights. Lastly, this is an era of universal decline of legislature. “Impeachment Power: The Parliament has the authority to initiate impeachment proceedings against the President, Vice President, and Judges of the Supreme Court and High Courts for the violation of the Constitution” (Kumar, Arvind (2011) everywhere, national parliaments are losing

power vis-a-vis the executive. Similar is the case in India. The growing technicalities from the bills, lack of time and expertise and growing popular expectations from the government has forced the parliament to be manipulated by executive's whims and fancies.

In a parliamentary the role of the opposition is much important as the role of the ruling party. The opposition is much a part of constitutional governance as the government. The press has a vital to play in such critical times in a democracy. The press and other electronic media and also some political analyst want to assess the performance of Manamohan Singh government of the first 100 days. It is alright assessing the initial performance of the government. Is it not obligatory on the part of the press and the other media to assess the role played by the opposition in the first 100 days of the new government? In a democracy we need a vibrant and functioning opposition to complement the role of the government. Unfortunately the politics of defeat is playing havoc in undermining the democratic institutions as Jawaharlal Nehru has rightly said: "Democracy is not only a form of government but a way of life".(Gokhale, 221 )

More importantly a political way of life and it is high time our politicians learn about it. According to article 85(1), the constitution imposes a duty upon the President, according to which the President must summon each House at intervals so that six months are not passed from the last sitting of the session of the parliament. Thus the President is empowered. To summon either of the Houses to prorogue either of the Houses, and dissolve the Lok Sabha. The Rajya Sabha is a permanent body of the parliament, so it is not subject to dissolution. However, according to the Parliament provisions, one third of the members retire on the expiration of every second year. The normal tenure for the House of the People is 5 years, but the President can dissolve the Lok Sabha before its tenure. On the other hand, during the period of the Emergency, the Normal period of Lok Sabha can be extended. However, the extension cannot be made for more than one year at a time and such extension cannot continue beyond a period of six months after the proclamation of Emergency is ceased. The period between the first meeting of the Parliament and its prorogation or dissolution is called session of the Parliament and its re-assembly in a new session is termed as 'recess'. The Parliament is also vested with powers to impeach the President, the judges of the Supreme court and High Court, Comptroller and Auditor- General, and Chief Election Commissioner as per procedure laid down in the constitution of the country.

## CONCLUSION

The Indian Constitution recognized a parliamentary method of government in which the executive is held responsible to Parliament for its policies and actions. Parliaments can be 'sovereign' only in a country having an unwritten

constitution and a unitary form of government. India has neither of them. The very nature of federal polity compels to give 'sovereignty' to the constitution and not to parliament. As such, Indian Parliament is not sovereign, and for the reasons cited above, it has neither unlimited powers. Yet it is a Parliament which is far more powerful than many of its contemporaries. The parliament's chief function is to make laws and rules to run the system in a transparent and peaceful way.

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