



## Parliamentary Reforms in India

Representative democracy and parliamentary institutions have endured in India for more than seven decades. It is a great tribute to India's democratic framework.

However, in recent years there is a debate regarding the declining standards of the Indian Parliament. It is also highlighted in the recent [15 point reform charter](#) given by the Vice President of India.

### Parliamentary System of Government in India

- **Parliamentary system of government:** Executive is responsible to the legislature for its policies and acts.
- The Constitution of India provides for a parliamentary form of government, both at the Centre and in the States.
  - Articles 74 and 75 deal with the parliamentary system of government at the Union level and Articles 163 and 164 contain provisions with regard to the States.
- The parliamentary system in India is borrowed from the Government of India Act 1935.

### Challenges Faced by the Parliament

#### ▪ Criminalisation of Politics

- According to a report by the **Association for Democratic Reforms (ADR)**, the proportion of legislators with criminal cases against them has continuously increased. It stood at 15% in the year 2009 moving to 19% in 2019.
- This has impacted the standards of democratic discussions, debate and dissent.

#### ▪ Dominance of Archaic Laws

- India is a young nation but it is still ruled by old laws.
- For example, the police is governed by such colonial-era statutes as the **Police Act of 1861**, which predates independence by nearly a century.
- The archaic laws are inadequate in addressing contemporary challenges.

#### ▪ Anti-Defection Law

- The [Anti-defection law](#) (Tenth Schedule of the Constitution) states that the Speaker/Chairman of the legislature is the final authority to decide on the disqualification of a legislator.
- However, the role of the presiding officers has become increasingly politicized. Thereby creating doubts over Speaker's role vis-à-vis anti-defection law **being biased**, as recently seen in the Karnataka political crisis.

#### ▪ Decline of Representative Democracy

- As per Anti-defection law, the legislators have to vote as per party whip. Due to this, legislators are compelled to vote on party lines irrespective of their local or regional interest.

- This has narrowed scope of democracy dissent and divergent views.

- India has **first past the post electoral system**, which means that candidates winning the highest number of votes gets elected.
  - This leads to neglect of representation of voters who voted for another candidate.
  - Also, this system of voting is not suitable for the representation of minorities, raising questions on representation.
- Only 14.3% (78) of the total members in the current parliament are women.
- All these factors taken together defeat the intended purpose of representative democracy.

#### ▪ Lowering Standards of Parliamentary Scrutiny

- In order to ensure that Parliament discharges its law-making responsibilities effectively, the concept of Department-related Standing Committees was introduced in March 1993.
  - These committees are meant to **scrutinize legislation** pertaining to specific ministries.
- However, the majority of the bills were passed by the Parliament through a voice vote, without much debating and without referring them to the parliamentary committees.
  - For example, RTI Amendment Act (2019), UAPA Amendment Act (2019) - which have huge implications on civil liberties, **were passed without referring them to the Parliamentary committee.**

#### ▪ Frequent Elections

- India is a Union of 28 states, thereby putting India in a continuous cycle of Lok Sabha and State Legislative Elections.
- The frequent elections lead to **massive expenditure and policy paralysis** (due to imposition of the Model Code of Conduct during election time).

#### ▪ Parliamentary Privileges Curbing Freedom of Speech

- Parliamentary privileges under **Article 105**, are sometimes used to curb freedom of the press through **Strategic lawsuit against public participation (SLAPP)**.
- A SLAPP is a lawsuit that is intended to censor, intimidate, and silence press in the name of parliamentary privileges.

#### ▪ Weakened Opposition in India

- Democracy works on the principle of checks and balances. It is these checks and balances that **prevent democracy from turning into majoritarianism.**
- In Parliamentary system, these checks and balances are provided by the opposition party.
- However, the majority of a single party in the Lok Sabha has diminished the role of an effective opposition in the Parliament.

### Steps Taken so far

#### ▪ Electoral Bonds

- In order to cleanse the system of political funding in the country Electoral Bonds Scheme was launched in 2017.
- This is an effective step to minimise the role of black money in the election and thereby keeping a check on criminalisation of politics.

#### ▪ Regulating Anonymous Donations

- In Union Budget 2017-18, the government declared that the maximum amount of cash donation, a political party can receive is Rs2000 from one person.

- **NOTA (None of the Above)** option in electronic voting machine was mandated by the Supreme Court of India in 2013. It enables the voter to officially register a vote of rejection for all candidates who are contesting.

#### ▪ Removal of Archaic Laws

- In accordance with **Ramanujam committee (2014)** recommendation, the government

plans to repeal more than 1500 archaic laws.

- Bill to provide reservation for women in the Parliament was introduced in 2008. However, till now it has not been passed.

## Way Forward

### ▪ Legislative Impact Assessment

- A detailed framework for pre and post Legislative Impact Assessment was needed.
- Every legislative proposal must incorporate a detailed account of social, economic, environmental and administrative impact for wider awareness and subsequent legal assessment.
- A new Legislation Committee of Parliament to oversee and coordinate legislative planning should be constituted.

### ▪ Codification of Privileges

- The privileges of legislators should be defined and delimited for the free and independent functioning of Parliament and state legislatures.
- Article 105 may be amended to clarify the extent of immunity enjoyed by members under parliamentary privileges

### ▪ Parliamentary committee reforms

- Measures for the effective functioning of **Department Related Standing Committees** like longer tenure (instead of the present one year), promoting specialization, etc ,are needed.

### ▪ Review of Anti-Defection law

- In order to revive debate and deliberations in the Parliament, the use of whip can be restricted to no-confidence motion only.
- The adjudicating power of speaker vis-à-vis anti-defection law can be transferred to Election Commission of India.

### ▪ Curbing Criminalization of Politics

- The Supreme Court in 2017 asked the Central government to have the 12 promised special courts up and running by March 2018 to try criminal politicians in a time-bound manner within the maximum period of a year.
  - However, till now only 7 such courts are operational.
  - Therefore, the government should make efforts to establish more number of such fast track courts.
- In order to curb the use of money in the elections, India must adopt state funding of election. For that purpose, a **national electoral fund** can be constituted, which will comprise all political donations.

### ▪ Statutory Reforms

- The **Hybrid system of voting** can be brought by amending Representation of People's Act of 1951. However, **simultaneous election** will require constitutional amendment.
- **Hybrid system of voting**
  - It is a mix of both first-past-the-post and proportional representation voting system.
  - It was recommended by the Law Commission in its 170th report which suggested that 25% or 136 more seats should be added to the Lok Sabha and be filled by proportional representation
  - This will lead to better representation of all sections of society.
- **Simultaneous election**
  - It will **save public money, reduce the burden on administrative setup** and security forces, ensure **timely implementation of the government policies**.
  - It will also ensure that the administrative machinery is engaged in developmental

activities rather than electioneering.

▪ **Strengthening of Election Commission of India**

- **Statutory backing to Model Code of Conduct:** It is expedient to give statutory backing to the Model Code of Conduct leaving no vacuum for the [Election Commission of India](#) (ECI) to exercise its residuary power to enforce the Model Code of Conduct.

▪ **Strengthen the Role of the Opposition**

- In order to strengthen the role of the opposition, the institution of shadow cabinet can be formed in India.
  - **'Shadow Cabinet'** is a unique institution of the British cabinet system.
  - It is formed by the opposition party to balance the ruling cabinet and to prepare its members for future ministerial office.
  - In such a system each action of Cabinet Minister must be countersigned by the minister in the shadow cabinet.

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