

## **Lok Sabha and Law Making: Tracking the Legislative Efficiency of Indian Parliament**

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### **Abstract**

Parliament is a crucial part of the legislative process. Though the powers of initiating the legislation lies with executive, the role of the Parliament in deliberating and amending the ultimate outcome is of considerable importance. In that sense, law making constitutes the core competency of the Lok Sabha, which is the popularly elected chamber of Indian legislature. The present paper attempts to trace the contours of Lok Sabha as a law making body. It examines the changes in the efficiency of Lok Sabha as a law making body and explores the context in which such changes have taken place.

### **INTRODUCTION**

The consistent theme in research on legislature iterates that the legislature plays an in significant role in policy making. The general weakness of the legislature outside the United States of America has been has become a cannon of legislative literature (Huber: 2008) and it has been argued that executive dependence on the legislative majorities that are ensured through political parties has been the major cause of Parliamentary ineffectiveness (Huber: 2008). Party leaders in the legislatures, who are also a part of the government, use the institutional structure of the party to dominate/discipline the members of Parliament. This in effect reduces the Parliament to formal institution that merely sanctions legislations.

Historically, the beginning of this line of thought began in the 19<sup>th</sup> century. Walter Bagehot an eminent nineteenth century scholar pointed out that the primary function of the Parliament is not policy making but electing the executive (Bagehot: 1867). The secondary functions included criticizing the government, informing the cabinet about public sentiment educating the public. In Bagehot's conceptualization, policy making did not even constitute the secondary function of the Parliament. Ivor Jennings continuing the line of thinking pointed out that the function of the government was to govern, and that of the Parliament was to criticize (Jennings: 1957)

More recent literature on legislature emphasises on the legitimization function of the Parliament, where the Parliament provides support to the system by building consensus for policies advocated by the government. The system functions of legislatures are now well established. However, there can be little doubt about the fact that till today there is a keen interest in becoming a part of the legislature. If Parliament is merely a legitimizing entity what explains the keen interest of individual legislator in becoming a part of the legitimizing machinery? These and such complicated issues have been a part of scholarly debates on the role of legislatures (Norton: 1993, Marsh: 1988, Rawling :1990).

The study on Parliament in India has been largely confined to official data on member's background and performance of Parliamentary business. Other than this, historical account of the successive Parliaments (Kashyap: 1995), have analysed the changing nature of Parliament in India. Occasional papers on performance of Parliament as an institution of oversight (Mehta & Kapur; 2006) have argued on the relative ineffectiveness of the Parliament. More recently there has been some attempt to analyse the effectiveness of Parliament (M. Manisha & Mitra Deb: 2009, Narayanan: 2014) in performance of its functions. However, none of these works look into the role of the Parliament and the Parliamentarians in making laws. This paper attempts to look at the law making function of the Lok Sabha, the popularly elected chamber of Indian Parliament.

## METHODOLOGY

The federal character of Indian polity and the Parliamentary form of government that India has adopted, places restrictions on the role of the Parliament as a law making body. In addition, law making is a long and complicated process that involves several stages that need to be accounted for in any discussion on legislative efficiency. The present paper examines the stated role and the actual performance of Lok Sabha, which is the lower, popularly elected and more powerful chamber of Indian Parliament in the process of Law making in the period 1971-2014, i.e. from the Fifth to the Fifteenth Lok Sabha.

The paper begins by broadly outlining the law making process in India and examining the role of Lok Sabha in it. It also analyses the necessary conditions for free and fair deliberations, which make them meaningful and its prevalence in India. Since the laws are drafted largely by the executive wing of the government that is responsible to the legislature, the paper examines the various opportunities that are available to the Lok Sabha, to intervene in the policy making process and its efficiency in it.

In assessing the efficiency of Lok Sabha as a law making body, the paper looks into

- Time spent by Lok Sabha on legislative deliberations,
- Volume of legislations enacted,
- Volume of bills introduced and passed, and
- Duration of discussion.

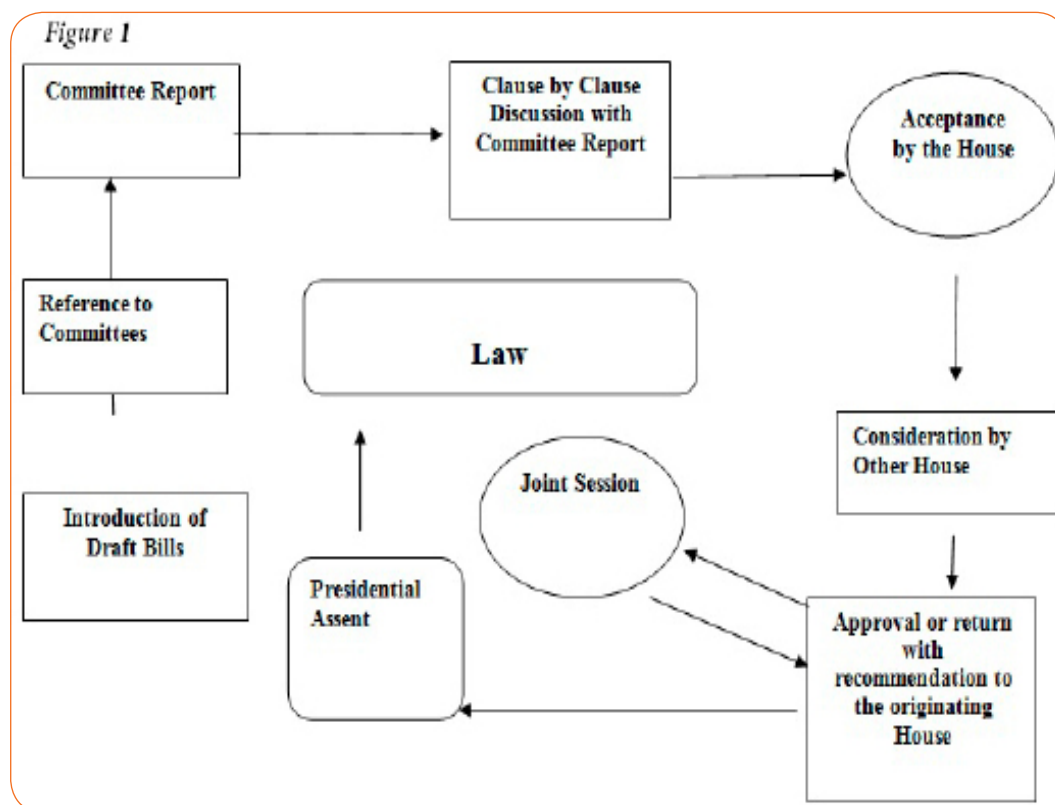
On the basis of statistical analysis of the above, based on data provided by official sources. the paper attempts to generalize the findings and interpret it in the context of parliamentary democracy in India,

### Legislature and Law making

The modern legislature is a corporate entity<sup>1</sup> that balances the functions of processing and passing the legislature desired by the government. It acts as democratic counterweight to abuse of power. It provides the democratic space for active contestation of ideas and exemplifies the liberal ideal that conflict between ideas in the political sphere results in best possible decisions. In India, as in many other countries of the world, the constitution designates the Parliament as the institutional forum for such contestations. It consists of elected representatives of the people, who are expected to assimilate the aspirations of the various constituents whom they represent. Free and fair elections held at periodic intervals and existence of more than one political party which provides a basis of making electoral choice add to the legitimacy of Parliament as a law making body

### Law making Process in India

The law making process comprises of several stages, which include preparation of policy drafts on the basis of inputs from various public and private agencies, introduction of bills in the Houses of the Parliament, reference to committees, committee deliberations, discussions of the bill in the House, approval by the House and finally Presidential assent( See Figure).



Significant to the entire process, is the role of the legislature as a debating chamber. It is only as a debating body that the legislature possesses the ability to impact the political process and create a democratic space for both political contestation and active consensus building.

### Limitation on Law making Powers of Parliament

The law making powers of the Parliament in India are subject to several constraints. The federal nature of India's polity divides the law making authority between national and state legislature, thereby limiting its powers of the Parliament to make laws. The Parliament in India can make laws only on matters included in the Union list and Concurrent List under normal circumstances. Even on matters included in these, the tacit support of the states is imperative for the actual operationalization of the law under conditions of coalition politics.

In India, as the world over, increasing executive initiative in the law making process<sup>2</sup> has limited the role of the legislature. The initiative to make laws often comes from the bureaucracy, various ministries, governmental and non governmental organizations. In very rare cases, the Parliament proposes a law which is then taken up for legislations.

Added to this, the increasing importance of smaller regional parties even in the national level (since 1989) has meant that that the legislative initiatives come not only from the leadership of the national political parties, but also from the leaders of the regional parties, who may be geographically located in the various state capitals of the country. Since the leaders of such regional parties are not always the members of Parliament, it is their leadership at the state level, who may not even be a formal part of the national legislature, who determine the fate of legislation.

Subject to the above mentioned limitation the role of the legislature in the formal law making process is includes

- Giving suggestions relating to introduction of a bill
- Discussion on the bill

- Removal of discrepancies
- To improve on the bill through amendments
- Formal ratification of the bill.

Notwithstanding the limited role of the legislature in the law making process, the institutional structure of the Parliament and the various procedures involved in the law making process provide important opportunities of political and civic engagement, which may add or dilute the nature of democratic polity.

### **Preconditions for Deliberations**

The performance of deliberative functions requires certain enabling conditions. In the absence of these, though the House may be able to perform law making function, its efficacy may not be fully realized. These include:

- The rules of legislature must provide for adequate opportunities for members to make interventions in the deliberative process.
- Rules of contestation must be free, fair and transparent.
- Availability of adequate devices /opportunities/ time on the performance of this function
- Contending parties that are clearly distinguishable from one another

### **Opportunities for Intervention**

The procedures of Parliament in India, as in countries like U.K and U.S.A afford ample opportunities to Members of Parliament (MPs) to intervene in law making process and make their contribution to it. Some of these include:

- Debates at various stages of the passage of a bill,
- Discussions within the committees,
- Proposals for amendments of bills,
- Ratification of bills

These are vital devices at the disposal of the Parliament to ensure proper transaction of the functions of the Parliament as a lawmaking body.<sup>3</sup> The question that arises is do individual MPs and the House as a whole make use of these procedure? If so, how effectively? This may be examined with the help of Lok Sabha data on Parliamentary business, which is attempted in the subsequent section.

### **LOK SABHA AND LAW MAKING: 1971-2014**

A statistical analysis of the working of the Lok Sabha from 1971- 2014 gives an understanding of the place of legislative deliberation within the Parliamentary business.

It is important to look at the time spent by the legislature in its various activities to get a preliminary idea about its efficiency over time and priority assigned to activities that are solely related to law making. As Chakshu Roy, a researcher, who heads the outreach team at PRS Legislative Research points out “sitting hours and productivity of Parliament are important parameters but they are not the only parameters on which the work done by the legislature can be evaluated. Time spent debating legislation and budgetary proposals, the working of the question hour, the work done by parliamentary standing committees are some other parameters which can shed light on the effectiveness of Parliament”. But, what matters in the end is the availability of quality time.”<sup>1</sup>

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<sup>1</sup> <http://www.thehindu.com/opinion/blogs/blog-datadelve/article5041419.ece>

**Table 1:** Sittings of Lok Sabha, Time Spent on Legislations and discussion of Bills

Lok Sabha	Sittings held	Time spent (in hours)	Average time spent in hours (yearly) <sup>4</sup>	Bills passed	Time Spent in legislative Activity Hrs-Mins	% of Total Time Spent	Avg. time /bill Hrs-Mins	Bill passed annually
5 <sup>th</sup>	613	4071	698	487	1121-52	27.55	2-18	83
6 <sup>th</sup>	267	1753	725	136	412-28	23.51	3-01	56
7 <sup>th</sup>	464	3324	688	336	797-48	23.99	2-22	70
8 <sup>th</sup>	485	3224	667	346	806-59	25.05	2-20	72
9 <sup>th</sup>	109	754	603	63	122-37	16.18	1-57	50
10 <sup>th</sup>	423	2527	514	284	560-03	22.16	1-58	58
11 <sup>th</sup>	125	814	528	64	128-15	15.66	2-00	42
12 <sup>th</sup>	88	575	531	60	95-25	16.60	1-35	55
13 <sup>th</sup>	356	1946	445	302	493-79	25.30	1-34	60
14 <sup>th</sup>	332	1737	353	261	375-40	21.63	1-36	40
15 <sup>th</sup>	357	1334	267	179	318-35	23.79	1-45	36

*Source: Lok Sabha Secretariat, Parliament of India*

The data in Table 1 indicates that there has been an overall decline in the productivity of Lok Sabha in terms of both the time spent and business transacted. The number of sittings held by the Lok Sabha has declined by half from 613 in the Fifth House to 314 in the Fifteenth. The average time spent by the Lok Sabha in its sittings has declined from a high of 725 hours annually in the Sixth Lok Sabha to 250 hours in the Fifteenth House. This amounts to one third of the time spent by the Fifth Lok Sabha. The decline in the effective time spent in transacting business is large and in many ways startling in view of the increasing complexity of economy and polity

The total time spent by the Lok Sabha in its activities relating to law making, including discussion on bills, divisions and clause by clause passage of bills as well as the volume of legislations enacted, has also declined by a fourth from 1121 hours annually in the fifth Lok Sabha to 375 hours in the Fourteenth (see time spent in legislative activity). It further declined to 321 hours in the Fifteenth Lok Sabha.

### **Volume of Legislations Enacted**

The total number of bills passed by the Lok Sabha has also declined from 487 in the fifth Lok Sabha to 217 in the Fifteenth Lok Sabha. The average number of bills passed by the Lok Sabha has declined from 83 to merely 37 in the same period. The time spent on each bill in the Fourteenth Lok Sabha is roughly one and half hour, compared to more than two hours in the Fifth Lok Sabha.

The early Lok Sabhas passed larger number of laws compared to the later Lok Sabhas despite the increasing complexity of legislative requirements of the country. The Fifth Lok Sabha showed great efficiency in terms of volume of legislation passed (487 bills passed). This, maybe attributed to its unusual life span, due to the Emergency. If we consider the Fifth Lok Sabha as an exceptional case, the Seventh and Eighth Lok Sabhas, which completed their full terms, too enacted larger number of legislations (336 and 346 respectively), while the Tenth Lok Sabha enacted only 284 legislations; 13 per cent less than that of the Eighth Lok Sabha and 15 per cent less than the Seventh, though it too completed its full term. The Fourteenth Lok Sabha too was inefficient in comparison, while the Fifteenth Lok Sabha has been described as the 'least



Productive Lok Sabha, though both completed their full terms.

Among the Lok Sabhas that did not complete its term (the Sixth, the Ninth, the Eleventh, and the Twelfth), the decline in the number of enactments was steady and discernable. Thus, the Sixth Lok Sabha enacted 56 legislations, the Ninth 50, and the Eleventh 42 and the Twelfth 55 enactments, annually. This may, however, be attributed to their short life span.

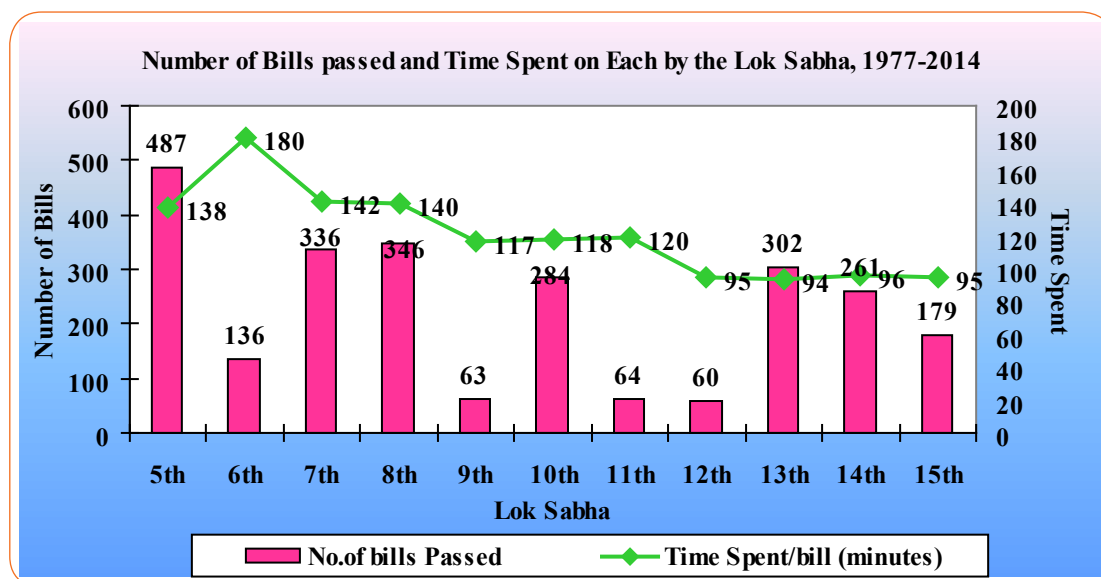
Since the life spans of each of the Lok Sabhas were different, an analysis of the average legislations enacted annually would provide a more accurate understanding of its efficacy. As can be seen, the Fifth Lok Sabha enacted the maximum number of legislations annually (83). It began to decline from the Ninth Lok Sabha onwards and reached its bottom in the Fifteenth Lok Sabha.

The number of bills passed by the Ninth Lok Sabha dramatically declined, from 71 to 50 enactments annually. The downward spiral was marginally stemmed by the Tenth Lok Sabha which approved 58 legislations per year. However, even the Tenth Lok Sabha, which was the only one in the decade to complete its term, passed fewer laws than all the previous Lok Sabhas that had completed their respective terms. The Eleventh, Fourteenth and Fifteenth Lok Sabha enacted the least number of legislations, annually (42, 40, and 37 respectively). It appears therefore, that in terms of volume of legislation, too, there has been an erosion of efficiency. Interestingly among the least efficient Houses, one did not last a full term while other two were coalition governments that lasted a full term.

### Duration of Discussion

It may be argued that all bills do not require the same intensity of debating. Moreover, given the large size of the Lok Sabha and the huge number of legislations that are proposed every year, it is not possible for the House to spend inordinately long time on discussions. A study of the length of debates on bills provides an interesting study.

**Figure 2**



On an average, the Fifth to the Eighth Lok Sabhas spent 2 hours and 43 minutes per bill. During this phase, it may be pointed, that the number of laws that the Sixth Lok Sabha voted upon were much less than the Seventh and the Eighth. The Ninth to the Eleventh Lok Sabha spent nearly two hours while Twelfth to the Fourteenth Lok Sabha spent one hour 46 minutes, on an average, in discussing each bill, i.e., nearly an hour less compared to the Fifth to Eighth Lok Sabhas. In each of these phases, the average time spent in discussing a bill was almost equal, in every House. It is interesting that the Twelfth, Thirteenth and Fourteenth Lok Sabha spent only one and half hours discussing each bill.<sup>5</sup> Despite the large number of legislations passed in the

period 2004-2014 the time spent on each is low.

A previous research on a similar subject showed analogous trends. A study of the monsoon session of the Lok Sabha in 1981 by C. K. Sucharita, a research scholar, revealed that a bill was normally discussed for one and half to two hours before being accepted by the House. The only exception was the Essential Services Maintenance Act (ESMA) which was passed after a marathon debate. This study revealed that approximately three hours of the day's business is taken for legislative business.<sup>6</sup>

The decline in the volume of legislations enacted and the time spent on discussions it, particularly from 1989, may be attributed to the fact that the period from 1989 was marked by six coalition governments and one minority government. Both minority and coalition governments are weaker when compared to one-party, disciplined, majority governments. The interest of such governments in law making may not be as much as in constituency service that may ensure their return to office.

### **Bills Introduced and Passed**

Apart from the volume of legislations enacted, a close analysis of the number of bills introduced may also provide a useful insight into legislative efficacy. This is indicated in Table below.

**Table 3: Bills Introduced Passed by the Lok Sabha (1975-1999)**

Lok Sabha	Government Bills*	
	Introduced	Passed
<b>Fifth Lok Sabha</b>	378	487
<b>Sixth Lok Sabha</b>	161	136
<b>Seventh Lok Sabha</b>	290	336
<b>Eighth Lok Sabha</b>	273	346
<b>Ninth Lok Sabha</b>	81	63
<b>Tenth Lok Sabha</b>	248	284
<b>Eleventh Lok Sabha</b>	67	64
<b>Twelfth Lok Sabha</b>	71	60
<b>Thirteenth Lok Sabha</b>	252	302
<b>Fourteenth Lok Sabha</b>	219	262
<b>Fifteenth Lok Sabha</b>	215	179

Including those passed by the Rajya Sabha and laid on the Table of the Lok Sabha and passed the Lok Sabha. Source: Lok Sabha Secretariat, *Fifty Years of Lok Sabha (1952-2002), A Statistical Profile*, (New Delhi, 2002). For 13<sup>th</sup>, 14<sup>th</sup> & 15<sup>th</sup> Lok Sabha: Resume of Work done by Lok Sabha, Lok Sabha Secretariat, New Delhi

It appears that those Lok Sabhas that were unable to complete their term in office witnessed a spur in the introduction of bills, both private and government. Barring the Eleventh Lok Sabha all other Lok Sabhas which did not complete the full term (the Sixth, and the Ninth) witnessed the introduction of a large number of legislations annually (respectively, 66 and 65 government bills on an average annually).<sup>7</sup> The exception, however, was the Eleventh Lok Sabha, which lasted for 19 months, but witnessed the introduction of 43 government bills. In contrast, the average number of bills introduced in the 7<sup>th</sup>, the 8<sup>th</sup> Lok and Tenth Sabhas, was 59, 56 and 51 bills respectively.

The case of private member's bills is no different. Like the government bills, the maximum number of private member's bills were introduced in those Lok Sabhas that failed to complete their term.<sup>8</sup> Those that completed their full term witnessed a comparatively lower rate of introduction of private member's bills. The Eleventh Lok Sabha remains the only exception to

this trend. It is also interesting to note that the number of private member's bills introduced was nearly double that of government bills in those Lok Sabhas that did not complete their full term.

From the statistics given above, it is possible to arrive at certain conclusions. Firstly, the earlier Lok Sabhas (Fifth to Eighth) were more efficient if we take the criteria of enactment of legislation. The Fifth to the Eighth Lok Sabha enacted an average of 70 legislations per year, spent 25 per cent time of their total on deliberating bills and discussed each bill for nearly two and half hours. In contrast, the Ninth to the Eleventh Lok Sabhas voted on only 51 legislations on an average annually, spent 26 per cent of their time for this purpose and discussed each bill for less than two hours. The Twelfth to the Fourteenth Lok Sabha, were little more efficient, passed 53 bills annually and spent one hour 36 minutes per bill.

Secondly, the Ninth Lok Sabha seems to indicate a turning point in the Lok Sabha's performance as a law making body. There appears to be a perceptible decline in the legislative efficiency of the Lok Sabha from 1989 onwards. On all counts, including the number of laws passed, the amount of time spent and the extent of discussion per bill, the decline of Lok Sabha as a law making body began from this period.

It may be argued that the political instability of the period 1989-1998 was at least partly responsible for the decline in the Lok Sabha as a law making body. During this decade, India witnessed four general elections and only one Lok Sabha, namely the Tenth Lok Sabha, was able to complete its full term. From 1999 onwards, when stable coalition's governments became a political reality, the Lok Sabha was more efficient. Those legislatures that are led by stable governments, a disciplined majority and are not plagued by instability are often (though not always) more efficient in the passage of laws. It is, therefore, possible to assume that political instability has a direct impact on legislative efficiency.

The stability factor is not the sole cause of decline in legislative efficiency. The decline in legislative efficiency was discernable, even when the legislature completed its full term (Tenth, Fourteenth and Fifteenth Lok Sabha). A paradigm shift in the policies of the state may better explain the decline in legislative efficiency. It is interesting to note that the decline in legislative activity coincides with the liberalization of the Indian economy. The mortgage of gold reserves, the devaluation of the rupee, borrowing from the International Monetary Fund<sup>9</sup>(IMF) and the consequent opening of the Indian economy, occurred during the life span of the Ninth and Tenth Lok Sabhas. State directed economy was steadily giving way to a market dominated economy. The doctrine of minimum state seems to have been introduced in India, beginning with the economic instability of 1989. If legislative enactment is regarded as a parameter of governmental initiative, then the role of the state appears to have declined. It may be possible to attribute the decline in legislative activity of the Lok Sabha partly to this cause.

In addition to this, coalition governments shift the focus of legislators away from law making to other activities, such as control of the executive and the airing of public grievances. Such activity attracts immediate media and public attention and ensures the presence of legislators in public memory. This is vital, especially if the legislators have to be constantly prepared for ensuing elections due to the fall of government. A comparative estimate of the time spent by legislators in various kinds of activities, such as, Adjournment motions, Calling attention motion, discussion on matters of public importance indicates that the Sixth Lok Sabha spent only about one fourth of its total time these things. This increased to a third in the Seventh, Eighth and Ninth Lok Sabhas. In fact, in the Twelfth Lok Sabha and the Fourteenth the percentage of time spent on discussion of matters of public importance was more than the time spent on debates



and accounted for nearly two fifth of the floor time .<sup>10</sup>

**Table 4:** Comparative Estimate on Time Spent On Debate, Adjournment, Calling Attention, matters of Urgent Importance, Rule 377, Motions and Resolutions

Lok Sabha	5th	6 <sup>th</sup>	7 <sup>th</sup>	8 <sup>th</sup>	9 <sup>th</sup>	10 <sup>th</sup>	11 <sup>th</sup>	12 <sup>th</sup>	13 <sup>th</sup>	14 <sup>th</sup>	15 <sup>th</sup>
<b>Debates</b>	27.55	23.51	23.99	25.05	16.18	22.16	15.66	16.60	25.36	21.63	18.3
<b>Adjournment Motion</b>	1.56	1.42	1.00	0.56	4.78	0.93	0.98	N.A	4.53	N.A	1.68
<b>Calling Attention</b>	5.29	4.99	9.85	3.85	2.79	0.41	0.84	0.97	6.68	3.6	1.50
<b>Matters of Urgent Importance</b>	6.47	4.10	9.14	15.77	12.95	7.46	8.36	19.15	9.48	8.52	11.15
<b>Rule 377</b>	N.A	N.A	3.19	2.46	2.14	1.83	1.98	2.06	1.75	12.44	1.72
<b>Motions</b>	6.55	10.7	6.35	3.66	4.35	6.53	17.33	10.45	4.41	2.67	3.14
<b>Resolutions</b>	5.17	3.76	3.96	5.47	5.72	6.23	4.63	4.45	3.05	3.18	2.61

Source: Parliament Of India, Fifth to Twelfth Lok Sabha: A Study, (Lok Sabha Secretariat, New Delhi, 1977, 1979, 1985, 1991, 1992, 1997, 1999,)), Resume of Work Done by the Lok Sabha (Lok Sabha Secretariat, New Delhi, 2003-2014)

“Mundane” legislative activity which “career politicians” are neither equipped nor expected to perform in its entirety, often assume secondary importance under coalitional situation. This period also coincided with improved electoral participation and improved representation in Lok Sabha. It is, therefore, not surprising that the decade of 1989- 1998 witnessed a steady decline in the legislative performance of the Lok Sabha. It became increasingly more active in airing grievances. During this period, the proportionate decline in legislative activity was accompanied by an increase in time spent on airing public grievances.

From 1999 onwards a situation of marginal decline and steady balance has prevailed, wherein members interest in legislative activity has marginally declined, though their interest in representational activity has not jumped. During the period 2004-2014, the two UPA governments led by Dr. Manmohan Singh were relatively stable coalitions, yet in terms of parliamentary productivity they could not be categorized as efficient. The Fourteenth Lok Sabha was criticized as being ‘least productive’. The decline in productivity of these Parliament brings into focus to the role of leadership in ensuring the efficiency of the Parliament.

The decline in efficiency of Parliament is also indicative of a change in the perception of members regarding the role of the legislators in law making and the role of Parliament in the political process of the country ( discussed below).

**CONCLUSION: INTERPRETING THE CHANGES**

The proper functioning of an institution depends on three vital prerequisites, namely, proper conception of institutional design, the availability of procedural devices, the wisdom with which the procedural devices are used and the quality of personnel who man these institutions. As mentioned earlier, the Parliament, in general and Lok Sabha in particular was conceptualized as an institution for policy making, representation, accountability and social betterment. Herein, the Lok Sabha was given the power of government formation, monitoring its performance, and on the basis of the latter, either maintain it in office or replaces it with an available alternative. It was also entrusted with the responsibility of ensuring general welfare and social change, The rules of procedure and conduct of business of the House give the Lok Sabha ample scope for

participation and intervention in the policy making process. That these instruments have been utilized is also amply evident.

The nature of lawmaking process, wherein the executive department drafts laws limits the role of the legislature to merely oversight of the legislative process in any country. Moreover, the sheer size of the Lok Sabha, the large number of apparently contradictory functions that it is expected to perform, the paucity of time and declining interest of the members have resulted in the transfer of the law making function from the Parliament to the executive. This is not unique to India, but is apparent in all democracies of the world. The causes and repercussions of such a development need to be analyzed.

The qualifications that are required to contest Lok Sabha elections ensure that the composition of the Lok Sabha is essentially that of generalists. Individual legislators, in the absence of adequate technical assistance, find it difficult to partake in the law making process. The role of Lok Sabha is therefore confined to general discussions of broad policy issues.

The change in the composition of the Lok Sabha has also contributed to this phenomenon. Both in terms of educational specialization and professional qualification of the Lok Sabha has become a body of generalists with inadequate expertise in specialized subjects.<sup>11</sup> The declining presence of professionals like lawyers and the increasing presence of social and political workers has accentuated the generalist character of the Lok Sabha. Although a large number of members have specialized in law and political science, they appeared to lack knowledge of legislative procedures and specialized policy issues. It is perhaps on account of this that a large number of members of the Lok Sabha acknowledged the need for technical assistance to participate effectively in the law making process.<sup>12</sup>

A second set of factors that have affected the law making functions of the Lok Sabha relate to the rule of conduct. Legislative deliberations in India are almost always along party lines and bills are passed by voice votes, or divisions. Consequently, party positions are important in determining the fate of the bill. This limits the autonomy of members to participate in legislative discussions. The anti-defection law has further contributed to the hardening of party stands and makes any non-partisan deliberation difficult. According to the anti-defection law when a whip is issued by political parties, MPs vote on debates and motions in Parliament based on their party whip. An MP voting against a party whip can be disqualified from his parliamentary seat. This limits MPs' freedom to vote on a bill or motion according to their choice or beliefs. 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".<sup>13</sup> In the UK and Australia, political parties are allowed to announce a "free vote" or "conscience vote", where members are free to express their views. The anti-defection law is an important impediment in legislative deliberation.

Further, the established practice in the Lok Sabha is to pass legislation by voice vote and not recorded vote. If an MP requests for a recorded vote, the Speaker may call for a 'division' which requires every MP's vote to be recorded. During the Fifteenth 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 the MPs voted on a particular law or issue in Parliament. For an individual MP the lack of direct association means that there is neither any direct benefit, nor direct penalty for non-participation, making legislative participation less rewarding for the political career.

The absence of pre legislative scrutiny has also diluted the efficacy of law making process. Currently there is no institutional mechanism to ensure that members give their feedback on a law before

it is introduced in Parliament.<sup>14</sup> Public participation or feed back to legislations is also limited. 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.”<sup>15</sup> Recently the National Advisory Council also recommended measures through which the government could ensure proactive, wider and transparent pre-legislative scrutiny of laws.<sup>16</sup>

At qualitative level, it has also been observed that deliberations on important bills are dominated by interventions by senior and more experienced party leaders. These debates are widely publicized and determine the contours of public debate on the bill. The closed nature of the process contributes to the lack of interest in the legislative process among less experienced, less articulate members. It has also meant that legislative debates are used for political posturing rather than constructive criticism and fruitful deliberation.

Inadequate interest in the law making process may also be attributed to the multiple functions of the Parliament and the frenetic schedule of members who juggle between their roles as law makers, oversight agencies, federal and constituency representatives. Apart from committee meetings and parliamentary business, meeting with constituents, party activities and trips back home detract from reflection on public policy matters and deliberations. The long term impact of the representative function on the career prospects of a legislator encourages sensitivity to constituents and interest group demands rather than serious lawmaking business. Members of the legislature spend an inordinately long time in running errands for their constituencies, attending social functions, interceding with administrative agencies on behalf of constituents and entertaining them when they visit the capital.<sup>17</sup> Legislative matters are frequently neglected because the member's time is preempted by the constituent's demands.

The performance of the Parliament must be seen in the context of two important developments in Indian democracy. The first has been the growing importance of smaller regional parties and national parties and the consequent emergence of coalition politics (since 1989) at the center. All the national government in the period 1989 to 2014 have been coalition governments, with regional parties being important partners. The state parties with nearly a third of seats (159 in Fifteenth Lok Sabha and 186 in current one) have re imagined institutions and processes. Law making under coalition politics is a complicated process of bargaining and compromise. The national and state government and their leadership have emerged as important stakeholders in the process. The new leadership reinterpreted law making, which is understood as ‘attempting to influence the formal process of legislation’. It is neither related to the actual decision making process, nor does it involve the use of formal institutional structure or official positions. It takes place often even before the policy decision to introduce legislation takes place. The methods used are non-institutional such as power sharing, bargaining and compromise. New means such as common minimum programme have been devised and used with partial success, to give formal structure and to such a compromise.

The structure and leadership of regional parties have also had an impact on the parliamentary functioning. The parliamentary leadership of regional parties are often the second level leaders, close confidants, family members or loyalists of the leadership of such parties. The parliamentary leadership of regional parties do not have either the authority or the autonomy of decision making on the floor of the House. Hence, decisions on most matters are taken outside the Parliament, through a process of consultation with top leadership rendering the Parliament merely into a formal apparatus. The top leadership of State parties, on the other hand, seek

influence to policies from outside the institutional structures in view of their limited presence within the legislative framework.

The larger parties have struggled to set the agenda for the political process on account of their dependence on small regional parties. Major national parties have not been able to function as policy making engines. Thus for instance, the Women's reservation Bill 2009, that seeks to reserve 33 percent seats for women in the national legislature and state legislatures failed enactment in the Parliament because the Samajwadi Party did not support the bill, despite the support of all the national parties including the INC which leads the government.

A second important development has been the expansion of electoral democracy in India. The period from 1989 has coincided with improved electoral participation particularly amongst the marginalized (Yadav: 2000). It has also led to marginally improved representation of communities, especially the Backward Castes (OBCs) from 14 to 21 from 1984 to 1989 (M.Manisha:2009). Such deepening of democracy has led to increasing emphasis on 'symbolic representation.' It is, therefore, not surprising that the decade witnessed a steady decline in the legislative performance of the Lok Sabha at the cost of representative function. The Lok Sabha in the period has become increasingly more active in airing grievances. It is possible to surmise that the proportionate decline in legislative activity was accompanied by an increase in time spent on airing public grievances on the one hand, and obstructive activities that attract media attention on the other.

The utility of the legislature lies no longer in its ability to make law or control the legislature, but in the numbers that Parliament provides to the government and the theatrical role that it plays. The Lok Sabha over the last two decades has developed into an institution for debate that puts a premium on publicity and theatre rather than on serious discussions which could help to develop policy alternatives, agreements, or assist the public in choosing among alternatives. The theatrical role of the members is not insignificant. Much of the sensationalism generated by the members is televised, covered by the national press and circulated in the public domain. This gives the legislature leveraging power. It is a technique of bargaining, of pressurizing the government to respond to its demand within the available time and within the existing system. This has added a new dimension to the Lok Sabha that distinguishes it from its counterparts elsewhere.

## SUMMING UP

The gradual decline in the law making function of the Parliament is indicative not so much of the decline of the Parliament in India, but of the disjuncture between the electoral process and the legislative functions. The legislature was primarily conceived as an instrument of law making, executive oversight and deliberation. However, the deepening of democratic process as reflected in increasing electoral participation, rise of new political forces and the opening up of newer democratic spaces has had two significant consequences. In the first place, it has invigorated democracy, bring into its fold new leadership, new interpretation of institutional roles and new methods of accomplishing it. The new leadership has conceptualized the role and functioning of the Parliament in new terms. There has been an increased emphasis on 'representation.' Consequently, there has been a decline in the efficiency of the Parliament as an instrument of law making and executive oversight. The decline in law making function of Parliament indicates of the structural challenges that institutions face as democracy deepens and institutions change in developing countries.

## (Endnotes)

[1]. West Bogdoner in David Sills (ed), *International Encyclopedia of Social Science* , vol. 13 (The Macmillan Co. and The free Press, U.S.A, 1968 ), p. 23.

[2]. In U.S.A, the role of committees in making law is accepted. About two thirds of the total legislations that are accepted by the legislature have their origin in the executive department. For details refer see...Max. J. Skidmore and Marshall



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- [3]. Lok Sabha Secretariat, *Rules of Procedure and Conduct of Business*, Tenth Edition (Lok Sabha Secretariat, New Delhi, 2002).
- [4]. Average time spent by each Lok Sabha is calculated by dividing the total time spent, divided by the life span of the Lok Sabha, in years. For instance the Sixth Lok Sabha spent 1753 business hours in its entire life span of 29 months. The average time spent by the Sixth Lok Sabha (annually) in discussing legislations was 1753 hours divided by 29 and then multiplied by 12, that is, 725 hours.
- [5]. *Parliament of India, The Twelfth Lok Sabha (1998-1999), A Study* (Lok Sabha Secretariat, New Delhi, 2000).
- [6]. C. K. Sucharita, 'Indian Parliament at Work- Some Suggestion for Reforms,' in Phul Chand (ed), *Indian Parliament* (The Institute of Constitutional and Parliamentary Studies, New Delhi, 1984), pp. 189-190.
- [7]. The Twelfth Lok Sabha marked a continuation of this trend. It passed 66 Bills on an average every year during its tenure. On the whole, 71 government bills were introduced in this Lok Sabha, 60 were passed, while 122 private bills were introduced, none of which were passed.
- [8]. The number of private members bills introduced increased from 282 in Fifth Lok Sabha to 122 in the Twelfth. In the 11<sup>th</sup> Lok Sabha 155 Private Members bills were introduced
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- [16]. Recommendations on the Pre-Legislative Process, National Advisory Council, May 28, 2013, <http://nac.nic.in/pdf/plp2.pdf>.
- [17]. Interview with Manavendra Singh (MP), 21 March, 2005 in New Delhi. Almost all the Parliamentarians who were interviewed echoed similar views.

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