

Parliamentary Practices and Procedures: Need for Reforms to secure greater Executive Accountability



Lok Sabha Secretariat
New Delhi
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EXECUTIVE ACCOUNTABILITY**

**LOK SABHA SECRETARIAT
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PREFACE

Parliamentary practices and procedures play a pivotal role in helping the Parliament in achieving its set objectives. These not only help in the orderly and expeditious transaction of business in the House by providing various devices to members for raising issues, but also impart an element of stability and predictability to the democratic system. Parliamentary procedures are not sacrosanct but have to be in a state of evolution, constantly adapting to the changing needs of time. As we celebrate 50 years of the functioning of our Parliament, we can take legitimate pride in the dynamic and ever evolving nature of our parliamentary practices and procedures. Over the years, we, in India have made several innovations in our parliamentary rules, procedures, customs and conventions with a view to strengthening our parliamentary institutions and making the Executive accountable to the elected representatives of the people.

This background paper gives an insight into the various procedural devices available to our members for securing the accountability of the Executive to the Legislature. It also indicates some recent trends and suggests areas for further initiatives and reforms. The information contained in the background paper is, however, based on various published sources and may not be construed as the views of the Lok Sabha Secretariat or as the official position of the Government of India.

New Delhi
January 2003

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Secretary-General
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Introduction

A full-fledged parliamentary system of Government with a modern institutional framework was established in the country with the coming into force of the Republican Constitution in 1950. Our journey as the world's largest parliamentary democracy began in right earnest with the constitution of the First Lok Sabha in 1952 following the first ever General Elections based on the principle of universal adult franchise. The House met for the first time on 13 May 1952. Ever since, our Parliament has functioned as the supreme legislative institution of the country, guiding and leading the nation on the path of socio-economic development of the people.

Constitutional Provisions

The Constitution of India, republican in character and federal in structure, embodies the salient features of the parliamentary system. It provides for a Parliament for the Union consisting of the President and the two Houses, namely, the Rajya Sabha (Council of States) and the Lok Sabha (House of the People), in which the Lok Sabha has supremacy in financial matters; a Union Executive drawn from both Houses of Parliament and collectively responsible to the Lok Sabha, ensuring thereby an intimate relationship between the Union Executive and the Parliament; a head of the State, the President of India, acting with the aid and advice of the Union Council of Ministers headed by the Prime Minister; Rule of Law; independent Judiciary; and a Civil Service, anonymous and politically independent and States with basic provisions parallel to those for the Union in respect of the Executive and the Legislature.

In the Constitution of India, the functions of the three organs of State *viz.*, *the Legislature, the Executive and the Judiciary* have been clearly demarcated. Each organ of the State functions independently within its own sphere free from interference from the other two. While the Parliament's main role is to enact laws and ensure the accountability of the Executive, the main function of the Executive is to govern and implement the laws passed by the Parliament. The Judiciary interprets the Constitution and laws and acts as the guardian of citizens' rights.

The Executive

Under article 53(1) of the Constitution, the executive powers of the Union are vested in the President. Article 74(1) states that there shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President who shall, in the exercise of his functions, act in

accordance with such advice. The President has thus been made a formal or constitutional head of the Executive and the real executive powers are vested in the Council of Ministers. The Council of Ministers is collectively responsible to the popularly elected House, that is, the House of the People (Lok Sabha).

Parliament: A Multi-functional Institution

The Parliament of India is the cornerstone on which rests the edifice of our democratic polity. It occupies a pre-eminent position in our system of governance. The primary function of a Legislature is the making of laws. Under the Constitution of India, Parliament is the supreme legislative body at the national level. However, like other Parliaments, the Indian Parliament has also emerged as a multi-functional institution. It is the political nerve-centre of the country, acting as a mirror of the society, accommodating the needs of changing times, shouldering responsibilities and engaging itself fully in the process of running our polity.

Parliament, today, performs a variety of functions. Some of the cardinal roles and functions of Parliament are Law making, financial functions, ensuring executive accountability; constituent functions, representational role, educational role, national integration, informational functions, training and recruitment of leadership, besides some miscellaneous functions.

Ensuring Executive Accountability

The functions of Parliament assume great significance in view of the basic principles and assumptions associated with parliamentary democracy. In this system, the Executive not only emanates from Parliament but is also accountable to Parliament for all its acts of omission and commission. This accountability of the Executive to Parliament is based on the principle that since Parliament represents the will of the people, it should be able to oversee and keep the Executive under control and constant surveillance.

Parliamentary control over the Executive has several aspects. It is aimed at ensuring that the Government of the day delivers and performs to the best of its ability for public good. Parliamentary surveillance is essential to ensure that executive power is not misused or abused and to prevent mis-governance. The policies and programmes of the Executive are constantly subjected to parliamentary scrutiny. One of the basic objectives of a representative democracy is to see that governance is carried out according to the wishes of the people and it strives to meet their needs, fulfil their aspirations and promote their welfare. In a parliamentary system, the political Executive heading the administration has the mandate of the people and it is through Parliament that its accountability to the people is ensured.

Parliamentary Devices

Parliamentary practices and procedures are an integral part of a parliamentary system. Parliamentary system in India has developed many intricate procedures and processes. These help members to take up various issues in the House and also in smooth and orderly conduct of the business. Even though initially modelled somewhat on the British pattern, parliamentary procedure and practices in India are not a replica of the procedure that is available in the British House of Commons. Despite many similarities between the two systems, the Indian parliamentary practices have grown on their own, made substantial departures in many respects and have, over the years, charted their own course in evolving various procedures with a view to catering to our requirements.

Successive Lok Sabhas can justifiably claim to have introduced several new devices which have proved to be of immense value and have enabled the members to voice the grievances of the people; to draw the attention of the Government to important developments, to elicit information from the Executive and facilitate expeditious transaction of business. There are various parliamentary practices and procedures which are intended to regulate and facilitate debate and discussions on issues of vital concern to the people. While the basic principle and rules of procedure remain the same, parliamentary techniques, practices and devices are always in a state of evolution and keep growing to suit the emerging situation.

Some Procedural Innovations in our System

During the last five decades of the functioning of our Parliament, we have introduced several innovations in the procedures relating to the working of the two Houses as well as their Committees. With the passage of time and with the experience we have gained over the years, new procedures and reforms have become inevitable to meet the demands of the times and to make Parliament perform its functions more effectively.

In this respect, it may be worthwhile to mention a few procedural devices and innovations which have proved to be of immense value in the conduct of the proceedings of the House. Half-an-Hour Discussions, Short Duration Discussions, Calling Attention Notices, raising Matters under Rule 377 in the Lok Sabha and Special Mention in the Rajya Sabha, the Business Advisory Committee, the Committee on Government Assurances and the Committee on Papers laid on the Table of the House are *essentially Indian Innovations*. All these, together with many other existing procedural devices, provide useful opportunities to members to effectively participate in the proceedings and help in ensuring greater accountability of the Executive to the Parliament.

The setting up of the Departmentally Related Standing Committees (DRSCs) has been another landmark development in the area of securing greater accountability of the Executive to the Parliament. The Committee system of the Indian Parliament has been further strengthened more recently with the setting up of the Ethics Committee, the Committee on Members of Parliament Local Area Development Scheme (MPLAD) and the Joint Committee on Empowerment of Women.

Let us discuss some of these procedural devices and initiatives and their usefulness particularly in ensuring greater Executive accountability.

Motion of Thanks on the Address by the President

A major occasion for discussion on Government policies and the review of administration by Parliament is provided by the discussion on the Motion of Thanks on the Address by the President. The President addresses both Houses of Parliament, assembled together, at the commencement of the first session after each general election to the Lok Sabha and at the commencement of the first session of each year to inform Parliament of the causes of its summons. The President's Address contains, *inter alia*, information about the policies and programmes which the Government intends to pursue and implement.

The scope of discussion on President's Address is very wide and members are free to speak on various national or International problems. During the discussion a large number of amendments are moved by members highlighting the issues which the President's Address failed to take note of or criticising the policy enunciated in the Address or making suggestions for Government action.

Parliamentary Questions

Parliamentary Question is one of the main procedural devices available to members to seek information from the Government on a matter of public importance. 'Question Hour' being an important occasion to ensure Executive Accountability has a special significance in the proceedings of Parliament. It is through Questions in the Parliament that the members are able to ventilate the grievances of the public on matters concerning administration. The Question Hour is also a useful device through which the Administration can be put in the dock and made answerable to the people. Though Questions are put for eliciting information, their real purpose is also to point out lapses of the Administration, press for action and scrutinise the administrative machinery, etc.

Half-an-Hour Discussion

Closely connected with the 'Question Hour' is the provision for Half-an-Hour Discussion. When a member feels that the answer given to a recent Question is not complete or does not give the desired information

or needs further elucidation on a matter of fact, he can raise the matter under the device of Half-an-Hour discussion for getting more information from the Minister.

Calling Attention

A member may, with the prior permission of the Speaker, call the attention of a Minister to any matter of urgent public importance and the Minister may make a brief statement or ask for time to make a statement at a later hour or date. Although the process does not involve any censure of the Government as there is no discussion or voting, it helps members to point out any shortcoming in the actions of the Government in dealing with a matter.

Matters under Rule 377

Under Rule 377 of the Rules of Procedure and Conduct of Business in the Lok Sabha, members may bring to the notice of the House any matter which is not a Point of Order or which cannot otherwise be raised under the Rules. The relevant proceedings regarding matters raised under Rule 377 are sent to the Ministers concerned for reply direct to the members concerned within one month of raising of such matter, under intimation to the Lok Sabha Secretariat. The Ministry of Parliamentary Affairs coordinates and keeps a watch over the progress of replies sent by Ministers to the members. It also reminds the Ministries periodically in this respect.

Short Duration Discussions

Another parliamentary device available to members to draw the attention of the Government to matters of urgent public importance is to raise Short Duration Discussions. To provide opportunities to members to discuss matters of urgent public importance, a convention was established in 1953 whereby members could raise discussion for short duration without a formal motion or vote thereon. This procedure later became part of the rules.

Zero Hour

The period of time immediately after the 'Question Hour' is over and before the regular business, as entered in the List of Business is taken up, is referred to as 'Zero Hour'. During this period, members try to focus the attention of the House on important matters mostly based on newspaper reports. Although the term does not find place in the Rules of Procedure, it has become a popular device in practice. Considering that members cutting across party lines have found this practice useful, the practice has gained acceptance and there have been attempts even to regularise it. The Government is, however, under no obligation to respond to the matters raised during the so called 'Zero Hour'.

Adjournment Motion

The primary object of an Adjournment Motion is to draw the attention of the House to a recent matter of urgent public importance having serious consequences in regard to which a motion or resolution with proper notice will be too late. The matter proposed to be raised should be of such a character that something very grave has happened. The purpose of an Adjournment Motion is to take the Government to task for a recent act of omission or commission having serious consequences. Adoption of an Adjournment Motion amounts to a sort of censure of the Government.

No-Confidence Motion

The most important constitutional right in the hands of members of the Lok Sabha is to move a Motion of No-Confidence in the Council of Ministers. This is subject to the restriction that leave of the House to move the motion has to be asked for by the member when called by the Speaker and at least 50 members should support the motion. When leave of the House to the moving of a No-Confidence Motion has been granted, no substantive motion involving the approval of government policy should be admitted and debated in the House. During discussion on such a motion, members get opportunities to highlight the shortcomings in the working of the Government. If a No-Confidence is passed by the Lok Sabha, the Executive has to go.

Although it is primarily the political executive which has to struggle for its survival and the administrative apparatus is not directly affected, since the administration is inextricably connected with the Government, it has to supply material facts and data to the Government and strengthen the Government's case in order to defend itself and the administration. The administration is, therefore, on a severe test at such a time.

Motion of Confidence

In addition to the well established procedural device of Motion of No-Confidence under Rule 198(1), the Motion of Confidence is also used to test the majority of the Government of the day. Motion of Confidence has come up as a new procedural device to cope with emerging situations. The era of coalition politics and frequent changes of Government have led to the use of this device. In the case of a Confidence Motion, there is no requirement for seeking the leave of the House as in the case of a no-confidence motion. The one line notice of a Motion under Rule 184 reads that "this House expresses its confidence in the Council of Ministers".

Financial Accountability

Parliamentary control over Government's expenditure is an essential feature of an accountable and responsible administration. It is imperative

that the expenditure made from public funds be prudently made, no waste of resources occur, the money is not misappropriated, grants are not made hastily, the public is not put under increased financial burden and adequate results are obtained for money spent. As revenue is collected from the humblest citizen, it is morally incumbent upon the Government to spend money efficiently and economically.

Financial accountability involves various operations designed to raise, spend and account for funds needed to be spent on public services. Although all Demands for Grants and taxation proposals emanate from the Executive, expenditure can only be sanctioned by the Parliament. This is the sacred principle embodied in the phrase "no taxation without representation". To safeguard the rights and interests of the tax-payer, our Constitution makes three fundamental provisions, namely: (a) no tax can be levied or collected except by the authority of law (Art 265); (b) no expenditure can be incurred from public funds except in the manner provided in the Constitution and in accordance with law; i.e. unless it has been sanctioned by the Parliament (Art 266); and (c) the Executive is bound to spend money in the manner as sanctioned by the Parliament.

As mentioned earlier, the powers and functions of the Parliament in respect of the Budget comes from the Constitution of India and several other procedural devices evolved over the years. The budgetary process in Parliament begins with the introduction of Annual Budget in the Lok Sabha by the Finance Minister which is followed by a general discussion in both the Houses. After the reply of the Finance Minister to the general discussions the Houses adjourn for a specific period during which the seventeen Departmentally Related Standing Committees scrutinise, in detail, the Demands for Grants of various Ministries and Departments. Thereafter, the Committees submit their reports to the Houses. The Speaker, in consultation with leaders of various parties and groups selects the Ministries whose Demands are to be taken up for discussion and voting in the House while the Demands of the remaining Ministries are guillotined.

The functioning of the Departmentally Related Standing Committees (DRSCs), since 1993, is a major procedural improvement over the earlier system inasmuch as the Demands for all the Ministries/Departments are now getting closely examined by these Committees, greatly enhancing the Executive's accountability to the Parliament. With the enormous growth in its activities, the Parliament was increasingly finding it difficult to scrutinise the Budget in depth.

During consideration of demands of various Ministries, members may move cut motions which may even lead to the fall of the Government.

After the Demands of all the Ministries are voted, the Appropriation Bill is passed authorising the Executive to withdraw money from the Consolidated Fund of India. This is followed by passing of the Finance Bill. With this, Budgetary process in Parliament is complete.

The parliamentary system has provided other instrumentalities to keep its vigil on the Executive in regard to money and finance. In fact, the strong Committee System that has evolved over the years, including the Public Accounts Committee, the Estimates Committee and the Departmentally Related Standing Committees, is acting as a watchdog of Parliament on how the Executive is raising resources and spending the same. A strong committee system can effectively restrain the profligacy of the Executive in money matters. Moreover, the Office of the Comptroller and Auditor-General, a unique institution enjoying constitutional protection, helps Parliament to detect financial irregularities and compel the Executive to take corrective measures.

Parliamentary Committees in India

Parliamentary Committees have also emerged as useful instruments for facilitating greater administrative accountability to the Parliament. These days Parliament transacts a great deal of business through various Committees which are, in fact, microcosms and extensions of the House. Besides, performing those functions which are delegated to them and which the House by itself is not well equipped to perform, *viz.* finding out the facts of a case, examining witnesses, sifting evidence and drawing up reasoned recommendations, Parliamentary Committees assist the House in its principal task of ensuring Executive accountability.

After the Constitution came into force, the nature and content of the Committee System has undergone a major transformation. Over the years, there has been a substantial increase in the number of Committees as well. Today, we have as many as 47 Parliamentary Committees functioning in India, each performing an important function.

Among the Standing Committees, the three Financial Committees—*Committees on Estimates, Public Accounts and Public Undertakings* constitute a distinct group, keeping an unremitting vigil over governmental spending and performance. While members of the Rajya Sabha are associated with the Committees on Public Accounts and Public Undertakings, the members of the Committee on Estimates are drawn entirely from the Lok Sabha. The control exercised by these Committees is of a continuous nature. They gather information through questionnaires, memoranda from representatives from various organisations, non-official organisations and oral examination of official and non-official witnesses. These Committees have adequate procedures to ensure that their recommendations are given due consideration by the Government.

The 17 Departmentally Related Standing Committees, besides examining in detail the Demands for Grants of the concerned Ministries/ Departments, as mentioned earlier, also examine the Annual Reports of these Ministries/Departments; national basic-long terms policy documents presented to the House, if referred to the concerned Committee; and examine Bills pertaining to these Ministries/Departments as are referred to the concerned Committee by the Chairman, Rajya Sabha/Speaker, Lok Sabha; and make report thereon.

Among other important Standing Committees in each House, particularly from the point of view of securing executive accountability, are the following:

The *Business Advisory Committee* on which different sections of the House are represented, recommends the allocation of time for all items of Government business to be brought before the House, which on approval, takes effect as an Order of the House. The Committee on its own initiative has sometimes suggested important subjects for discussion in the House. A comprehensive control over the administration can also be achieved through the *Committee on Government Assurances*. A number of assurances are given to the House by Ministers during the Question Hour and other discussions. The Committee performs an active role in vigorously pursuing the assurances given by the Ministers on the floor of the House. This Committee has to ensure speedy and proper implementation of all such assurances.

The *Committee on Petitions* of Lok Sabha not only looks into petitions on Bills and other matters pending before the House, but also entertains representations on other matters from the public in order that no grievance of a substantial nature goes unremedied. The *Committee on Papers Laid on the Table of the House* examines all papers laid on the Table other than those which fall within the purview of the Committee on Subordinate Legislation or any other parliamentary committee to see *inter alia* whether there has been any delay in laying the Papers and whether satisfactory explanation has been given in cases of delay.

The *Committee on Subordinate Legislation* scrutinises and reports whether the powers to make regulations, rules, sub-rules, bye-laws, etc. conferred by the Constitution or delegated by the Parliament are being properly exercised by the Executive within the scope of such delegation. The *Committee on Welfare of Schedule Castes and Scheduled Tribes* examines the reports of the National Commission for S.C.s and S.T.s; representations from persons belonging to these categories, etc. and reviews the working of welfare programmes meant for them. Similarly, the *Committee on Empowerment of Women* examines the issues concerning the women and also the measure taken by the Government to secure for women equality, status and dignity in all matters. The *Ethics Committee* examines such issues which involve members' behaviour in the House and makes recommendations thereon.

The *Committee on the Members of Parliament Local Area Development Scheme (MPLADS)* also helps in ensuring Executive Accountability to the Parliament by pointing out any lapses which have come to the notice of the Committee in the implementation of various projects undertaken under the scheme.

Besides, Parliament may also constitute other committees, the commonest of which are the Select or Joint Committees on Bills. A number of *ad hoc* committees have been constituted from time to

time either by the two Houses on a motion adopted in that behalf, or by the Speaker/Chairman to enquire into and report on specific subjects.

Emerging Trends

It is generally believed that the power of the Executive is steadily increasing. Over the years, there has been a considerable growth in the range, magnitude and complexity of the activities of the Government. As a result, it is becoming increasingly difficult for the Legislatures all over the world to exercise their role as an informed critic of the actions of the Government. Added to this phenomena are many emerging trends which pose new challenges to our legislative bodies demanding a fresh look at our existing parliamentary practices, procedures, customs and conventions.

As the time of the House is precious, it is necessary that the time available is utilised meaningfully. A study of the time spent and sittings held during the First to the Thirteenth Lok Sabhas reveals that there has been a noticeable decline in them over the years. The Resolution adopted by the Conference on 'Discipline and Decorum in Parliament and Legislatures of States and Union Territories' held in New Delhi on 25 November, 2001, has recommended *inter alia* that immediate steps be taken to ensure a minimum of 110 days of sittings of the Parliament, so that the business before the House could be transacted effectively.

Concerns have also been expressed over the incidents of commotion and pandemonium in the legislative bodies. This not only tends to undermine the respect of the representative institutions, but also results in the loss of precious time of the House. This issue has been discussed in several *fora*. The Special Session of Parliament to mark the Golden Jubilee of India's Independence, held from 26 August to 1 September 1997 unanimously adopted a Resolution which reiterated the imperative of discipline and decorum. Maintenance of discipline and decorum is an essential pre-requisite for the smooth functioning of our parliamentary democracy. Parliament itself is seized of the issue and the Rules of Procedure are constantly reviewed to cope with the emerging realities.

The strength of the Parliament or the Legislature lies in its ability to scrutinise the political as well as administrative actions of the Government. It is universally acknowledged that Parliament should be posted with adequate information regarding the working of various Departments of the Government if it is to oversee effectively the Administration. It is for this purpose that the Parliament and its Committees have been given an unlimited right to obtain information regarding the activities of the Government. With the induction of new Information Technology (IT) in the functioning of legislatures, the Indian Parliament, particularly the Committees of Parliament have now got

new vistas of information open for them. When any technical subject is under examination of these Committees, apart from using the traditional channels of information, information can also be downloaded through internet. The information which is now available to Committees is comprehensively as well as qualitatively different from what it is used to be earlier. The members and the officers of the Parliament serving the House and its committees should be fully equipped to make optimum use of this development. This should go a long way in enhancing the capability of the legislature in performing its role more effectively.

The involvement of back-benchers in the proceedings of the House is also another area which requires to be reflected upon. Back-benchers do get a lot of opportunities to participate in the deliberations of the Committees, but they do not often get adequate chance to speak on the floor of the House. In India, largely it is the whips of political parties who decide the speakers for participation in discussion on a particular matter in the House. It will perhaps be in the larger interest of the functioning of our parliamentary democracy that adequate opportunities for participation in debates are given to such members also.

Matters of public importance are raised by private members under Rule 377 in the Lok Sabha and under Rule 180A in the Rajya Sabha. The response to Special Mention, which is given individually by the Ministers, is also sometimes found to be inadequate by the members on various grounds.

Important matters are sometimes raised during Zero Hour. Matters raised during Zero Hour are, not always responded to by the Government either on the floor of the House or otherwise. There is a case for examining whether the subjects raised during 'Zero Hour' should be responded to by the Government.

Conclusion

An effective mechanism of scrutiny operated by dedicated and vigilant members through their more active participation in various parliamentary debates and discussions is essential for ensuring greater administrative accountability to the Legislature. We, in India, have formulated rules and procedures and developed conventions and traditions to govern the proper functioning of the Parliament. Over the last fifty years, many innovations have been made in the rules, voluminous precedents evolved, a number of conventions established and quite a few practices, peculiar to our own system, developed. Yet, the need to strengthen various devices of parliamentary scrutiny to give greater meaning to the concept of administrative accountability is a continuing one. Parliament has been in the process of change. Procedure, therefore, cannot be static. It evolves itself.

Sources Consulted

Lok Sabha Secretariat : Rules of Procedure and Conduct of Business in Lok Sabha (Tenth Edition), New Delhi 2002.

Lok Sabha Secretariat: Relation of Legislatures with the Executive and Legislators with Government Officials; April 1998.

M.N. Kaul and S.L. Shakhder: Practice and Procedure of Parliament (5th Edition), edited by Shri G.C. Malhotra (New Delhi, 2001)

G.C. Malhotra; Parliamentary Committees with Special References to Departmentally Related Standing Committees, New Delhi 2002.

G.C. Malhotra (ed); Fifty Years of Indian Parliament, Lok Sabha Secretariat; New Delhi 2002.

Bhogendra Jha; Parliamentary Reform, The Journal of Parliamentary Information, March 1993.

Yagya Dutt Sharma, Parliament and the Executive, The Journal of Parliamentary Information, March 1993.

Varkula Radhakrishnan; Role of Legislature in Ensuring Administrative Accountability, The Journal of Parliamentary Information, December 1989.