



Parliamentary Reforms in India

 driishiias.com/printpdf/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.