



*Journal of Advances and
Scholarly Researches in
Allied Education*

*Vol. X, Issue No. XIX,
July-2015, ISSN 2230-7540*

FACTORS TO DECLINE OF LEGISLATURES: A STUDY IN INDIAN CONTEXT

AN
INTERNATIONALLY
INDEXED PEER
REVIEWED &
REFEREED JOURNAL

Factors to Decline of Legislatures: A Study in Indian Context

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Abstract – India's founders saw parliament as an institution that would provide social and political unity. They adopted a first-past-the-post electoral system which enabled the Congress Party to dominate legislative politics for three decades. The overlapping nature of the ruling party and the government caused parliament to serve primarily as a public forum for the ventilation of grievances rather than a law-making body. The decline of Parliament is, indeed, a worldwide phenomenon, but even more striking in India. In India, except for brief periods, a single party was the majority in both Houses of Parliament. Thus party bosses have had much more say in policy matters than Parliament as such. This paper discusses the major factors to decline of legislatures

Keyword: Political System, Decline of Parliament, Politics

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1. INTRODUCTION

Second, the rigidity of party discipline has tied down party members to follow the dictates of party bosses once elected to the Legislature. He or she votes according to the directions of the party whip even if larger social and national interests are being sacrificed to short-sighted policies for short-term political gains.

Related to this situation is the fact that many of our Members of Parliament have been voted into power for reasons other than pure ability or competence. Many do not want to give up the benefits of being an MP just for the sake of some initiative and independence on the floor of a House. Also, in the modern parliamentary system the private members are left with little opportunity to express their point of views or make concrete suggestions.

Third, the growth of delegated legislation has led to the decline of Parliament. Parliament lays down general principles of law and entrusts to Ministers (in effect, the Departmental Secretaries) the power to frame regulations necessary for their amplification. As a result, the powers of Parliament have declined while those of the administrative departments have increased.

Finally, the decline of Parliament has been due to the technicality and complexity of government business. Legislation on technical issues necessitates prior consultation with experts and individual institutions concerned. Much data has to be collected and studied before a Bill is drafted. All this is beyond the easy reach of private members. As a result, Bills, when

introduced, are pushed through rapidly, and the members do not get enough time even to express their points of view.

All these factors inevitably point to the conclusion that, although India has a parliamentary system of government, it is so only in form. In actual practice, the power of Parliament has passed in to the hands of the Cabinet headed by the Prime Minister.

The growth of delegated legislation is perhaps the most important factor for the decline of Parliament. In the present day world, it is not possible for the Parliament to devote its entire time to the details of legislative measure. Hence all the bills contain a clause empowering the government to frame necessary regulations and bye-laws. Thus, delegated legislation robs the Parliament to a great extent, the law-making power, resulting in the decline of the prestige of the Parliament.

The primary duty of Members of Parliament is of course to enact laws. But in the Indian context these popularly elected representatives are expected to perform so many varied tasks that their role has become highly complex and multifaceted. In Parliament, the issues coming up for discussion cover a wide range of national and international affairs.

The ever changing political and moral conditions in India are also responsible for the decline of prestige and position of Parliament. Dominance by the party, the lack of party organization, the malaise of political defections, corruption and the decline of the morale

of politician have all contributed to the erosion of the prestige of Parliament.

The gradual loss of confidence in the impartiality of the presiding officers of the legislatures also is a point of importance. They have shown an inclination to side with the government and the ruling party, almost functioning as their representatives, not as guardians of the public interest.

2. REVIEW OF LITERATURE:

The Constitution itself has tried to maintain a fine balance among the Parliament, the Judiciary and the Executive, what we see in practice is the Executive gaining immense powers by virtue of the majority enjoyed by its party in Parliament.

It is true that the instrument of judicial review places a very heavy hand of the judiciary on the supremacy of the Parliament; it is equally true that the overriding control of judiciary can be further over-ridden by the Parliament itself acting at the behest of the Cabinet. The result is that the Parliament has come to live under the redeemable control of the judiciary on the one hand and of the generally irredeemable control of the Cabinet on the other.

The rashness with which the Government of Mrs. Gandhi managed to have the 24th and 25th Constitution amendment Act passed in 1971 and the 38th and 39th amendment Acts in 1975 constitutes a concrete evidence of the political axiom that the Cabinet can make use of the Parliament in repudiating the challenge of the judiciary.

It is the Cabinet that initiates a bill and it is the Cabinet alone that has to see that its Bill is passed by the Parliament. Not only that, it is the Cabinet that decides about the time when the bill has to be moved and debated and finally adopted by the Parliament. It is thus enough to say that the Cabinet, under the leadership of strong Prime Ministers like Nehru and Indira Gandhi could well become the first and also the last chamber in our law-making mechanism.

Whatever has happened in the form of confrontation between the Parliament and the Supreme Court has actually been a struggle for supremacy between the Cabinet and the Court. It was the policy of the Cabinet in accordance with which ordinances relating to the nationalization of 14 major banks and the abolition of the privy purses and privileges were affected and that were struck down by the Supreme Court.

2.1 Disruptive Behavior in Indian Parliaments:

The seriousness of the problem of disruptive behavior in India's parliaments is reflected in the commentaries of many observers. Khushwant Singh, a well-known columnist, mixed his expressions of frustration with humor when he wrote in August 2006:

The more I see of the way our two Houses of Parliament conduct their 'business', the more I feel that our Parliamentary system of governance is on the verge of collapsing. Most of my friends agree with me. The Monsoon Session clearly showed that it has been a dismal failure. It was one adjournment after another on issues of trivial importance. Several mornings just about all the members were on their feet shouting at each other.

You could not make out what they were saying. Some are known shouters. A Sardarji who has a most impressive personage used to be the loudest shouter when he was with the Congress. He is today the champion shouter for the BJP. In all the years he has been an MP, I haven't heard him make a single coherent speech. There are quite a few others like him.¹

A Senior Advocate of the Madras High Court, Arvind P. Datar, observed that "The hallmark of an effective parliamentarianism now seems to be the ability to shout and disrupt proceedings, preferably from the well of the House."² And, he added, "Paralysing House proceedings do not solve any problem. In the long run, it will only affect the credibility of Parliament as an institution."³

A similar point of view was expressed by the former editor of the *Times of India*, Inder Malhotra, a month later:

Even those of us who had despaired of the unspeakable and apparently unstoppable plummeting of parliamentary standards – daily barracking, abusive exchanges, and, above all, the lemming-like rush to the well of the House – had never anticipated that things would descend to such low depths as they have.⁴

He observed,

In most countries where democracy has been smothered, only military dictators have dissolved and locked up Parliaments. Is the world's largest democracy going to have the ignominy of its Parliament being shut down by veteran parliamentarians themselves?⁵

In the midst of the Tehelka scandal in 2001 involving corruption in defense deals, Rajeev Dhavan wrote:

It is a disservice to democratic governance to bring Parliament to a grinding halt, paralyse its working and hold it to ransom unless demands, however justified, are met. If the institutions of democracy fail, democracy itself will fail. It is not enough to hold periodic elections. The institutions for which elections take place must work effectively.⁶

Pran Chopra, a political analyst and former chief editor of the *Statesman*, wrote that year that parliamentary behavior was different in the 1950s and 1960s.

The guilty were few in those days, and so the rest were able to shake heads tolerantly on what they saw only as untrained exuberance on the part of newly elected members who had yet to digest the unfamiliar sense of power which the vote had given them. But today the guilty are many, in all parts of the House and they are drawn from all sections of society. So the contagion spreads. What those in one legislature do today they are able to do because others in other legislatures had done it yesterday.⁷

He continued,

There is neither need nor justification now for parties to flout the rules of parliamentary democracy. Yet they continue to do so, and thus make themselves and their leaders contemptible in the public eye. One doubts whether there has ever been a time when public esteem for Legislatures and legislators, and for politics and politicians, has sunk as low as it has today, with obvious consequences for the future of democracy. They may have come closer than they realize to dragging India also into the graveyard where many countries have buried the democracy they had once boasted of. That is a sad footnote to add so soon to the recent celebrations of India's democracy- the '50 years' and the millennium celebrations, and the soul searching session of the Lok Sabha at which members pledged themselves to better behaviour.⁸

He argued that the cause seemed to be a change of thought. "If public respect for Parliament is diminishing by the day it is because its members, including some upon whom it has conferred the title of Parliamentarian of the Year, now believe that public causes are best served by public display of high visibility disorder."⁹

2.2 The function of Speaker of the Legislative Assembly:

The members of the Legislative Assembly, soon after its first session after general elections starts, elect the Speaker and the Deputy Speaker from among themselves. The Speaker is the presiding officer of the Assembly. In his absence, the Deputy Speaker functions as the Speaker.

The Speaker continues in office until another Speaker assumes office after the general elections. The Speaker or the Deputy Speaker can be removed from office if a resolution for Nis removal is passed by the Legislative Assembly at least by the majority of its existing members.

After the Assembly ejections of 2009, Sri Pradip Kumar Amat, the BJD MLA - Boudh was elected as the Speaker of Orissa Legislative Assembly.

Towards his salary and allowance, the Speaker of Orissa Legislative Assembly is paid per month Rs. 6,500/- and Rs. 12,500/- respectively, while the corresponding figures for its Deputy Speaker are Rs. 5,500/- and Rs. 10,500/- respectively.

Functions of the Speaker

- (a) The main function of the Speaker is to preside over the meetings of the Legislative Assembly.
- (b) He maintains order and discipline during meetings. He maintains its decorum and dignity.
- (c) He interprets Rules of Business and enforces them.
- (d) He protects the rights of the MLAs and punishes those who breach the privilege of the House.
- (e) He appoints the Chairman and members of different Committees of the House.
- (f) He determines 'defection' under Anti-Defection Act, 1985.
- (g) He casts his vote in case of 'tie' (when the supporters and opponents of a resolution have equal votes).

The Speaker of the Legislative Assembly usually belongs to a political party. But once he is elected by the MLAs as the Speaker, he is expected to act in an impartial manner. His job is that of an impartial referee in a match. But most of the Assembly Speakers are found to be acting in partisan manners.

Sessions

The Governor summons prorogues and dissolves the Assembly. There should be at least two sessions of the Assembly in a year. If an MLA remains absent for 60 days without the permission of the House, it may declare his seat vacant.

1. Factors to decline of legislatures:

In the twentieth century, the power of the legislature is on its decline. The reasons are as follows.

1. The Concept of Welfare State:

The two World Wars, economic depression and complex problems of modern life converted all states

into welfare states. The concept of social welfare has strengthened the hands of the executive. The executive has become a multi-functioning organ. The rise in the power of the executive has led to corresponding decline in the powers of the legislature.

2. Development of Science and Technology:

The development of science and technology has made the society complex, so complex laws are necessary to tackle social problems. The modern legislature, being composed of amateur politicians, lacks scientific and technical knowledge. Therefore, it makes laws in broader principles and delegates some legislative authority to the executive.

3. Rigidity of the Party System:

The party whip has increased day by day. Rigid party discipline has curtailed the independence of the ordinary members of the legislature and reduced the debate to a mechanical level. On the other hand, the party whip has strengthened the hands of the executive.

4. Delegated Legislation:

Legislatures lack the time and technical competence to deal with the ever-increasing volume of legislation in a modern state. As a result, the legislature passes the laws in broad outline and delegates the power of making details of laws to the executive.

By this delegated legislation the civil servants enjoy enormous power and influence. In the welfare states of today the executive has gained leadership in the matter of governmental operation.

5. Meeting Emergencies and crisis situations:

Modern states are faced with several crises and emergencies. War, financial crisis, natural disasters like earthquakes, cyclones and floods demand immediate response and that can be done only by the executive. The legislature, being a large body of motley crowd, cannot rise to the occasion. As a result, its importance has declined.

CONCLUSION:

The Legislature is an integral part of democracy. The success of democracy largely depends on the quality, dedication and commitment of the members of legislature. Legislators of high quality can properly represent the problems and demands of people on the floor of legislature and pressurize the government to take necessary steps.

They can also actively participate in the process of law-making and significantly influence the policies and decisions of government. In line with this, we also found that the rule of parliamentary supremacy over the Courts, in its practical manifestation, is the rule of

Cabinet's supremacy over the Parliament and through it, over the Courts. Important matters take place behind the curtain; they are taken to the Parliament for giving them the form of constitutional sanction making it the "formal centre and focus of constitutional system".

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