

## India's Parliament as a Representative Institution

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*"Voicing the constituents' concerns on the floor of the house is the primary parliamentary duty of an elected representative."*

– Lok Sabha Rulebook

*"One of the important functions of Rajya Sabha is to focus public attention on major problems affecting policies of the Government and administration and to provide a forum for ventilation of public grievances."*

- Rajya Sabha Rulebook

India's parliament is not functioning well as a representative institution. It is failing as a platform for aggregating citizen preferences into public policy: deliberations are shorter and more sparsely attended than ever and disruptions seem to be more frequent. Public ire is on the rise and institutional "shortcuts" to achieve policy change without legislation or legislative oversight seem to be increasingly accepted.

While much of the public criticism focuses on the Members of Parliament (MPs), this paper turns to look at possible institutional determinants for the malfunction. In particular, I document how India's parliament compares to others in the rules and procedures for aggregating representatives' inputs via deliberation to form policy. India's parliamentary procedures stand out among parliaments around the world in the limitations they place on most members' ability to represent their constituents in the normal course of debate or policymaking. Its *individual* MPs are elected representatives, but its rules and norms for

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aggregating these members' inputs into policy limit the extent to which the *institution's* decisions can be representative of the members.

There is a strong logical basis for a link between India's parliamentary rules and the observed absenteeism, curtailed debate, and frequent disruptions. Parliamentary rules are unlikely to be the sole reason for the unprofessional behavior – other parliaments share some of the Indian parliament's features without sharing its behaviors – but they are a very plausible and often-overlooked contributing factor.

First, the rules are the means by which the government can limit debate. These limitations are one of the oft-cited symptoms of Parliamentary decline. As discussed below in more detail, the government exercises substantial control over what issues get discussed, when, and for how long. It also has the power to circumscribe committee deliberations.

Second, the rules and their application are also likely to limit MP's incentives to prepare for and participate in debate. The observed absenteeism, disruptions, and direct interference with the bureaucracy could be seen at least in part as reasonable responses to Parliament's failures as a representative institution. Rushing the well, disregarding the rules of debate, and other "wastes of time" could be analogous to the riots, rebellions, and vigilantism that Kohli (1990) argues are citizens' response to the failure of other channels for political voice. He and other analysts of Indian politics typically focus on disenfranchisement of citizens; I argue that Parliament also seems to disenfranchise at least some of their representatives. "The government is stubborn. It does not listen to us. So we get in the well," said one MP when asked about the disruptions.<sup>2</sup>

The relative difficulty of influencing policy through debate could also affect individual MPs' incentives to focus on constituency service. Focusing on direct policy influence makes sense as a strategy if there is no reasonable way for a representative to ensure that constituent preferences will ever be heard in a debate. India's first-past-the-post electoral system also places particular pressure on India's MPs to deliver identifiable returns for their constituents.<sup>3</sup>

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<sup>2</sup> Statement from Shanavaz Hussain, an MP from an opposition party (BJP). A second MP from a party allied with the government (Mohd Salim, CPM) questioned this logic, asking "What's the need to rush to the well? There are other platforms to protest." Both quoted in Shrivastava (2007).

<sup>3</sup> See Carey and Shugart (1995) and Wallack et al (2003) on the strength of constituency service incentives created by various electoral systems.

Various analyses of Parliamentary function in other countries share this assumption that tight government control over contentious debates will create incentives for the opposition to disrupt proceedings. Di Palma (1976), for example, argues that the Italian government at that time avoided disruption from the significant minority party in the opposition by focusing on legislation about uncontroversial issues. Doring (1995) notes that time is a valuable commodity that the opposition can squander through obstruction, leaving the government with an incentive to avoid exercising the agenda control powers he documents in a way that provokes disruption. Actual disruptions are rare only because governments are assumed to tailor their strategy to stop short of provoking disruption. Avoiding disruption, however, depends on the government acting coherently, something that the increasingly fractious coalition governments in India may not be capable of.<sup>4</sup>

The new importance of the parliamentary rules relative to intra-party negotiations in aggregating representatives' preferences may also have contributed to the rise in disruption. The formal rules have become more important for structuring political debate as the one-party dominant system has given way to a new reality of hundreds of parties fielding candidates, and tens of parties represented in each house. Interactions between Members of Parliament are now more likely to be inter-party discussions than intra-party debates resolved according to party practices.

It is difficult to empirically validate any explanation for the decline of Parliament, but important to consider all plausible reasons for the parliamentary failings. Parliament's declining performance and the increasing criticism of the institution is worrisome for India's democracy. Complaints about "the government" aggregate dissatisfaction with courts, bureaucrats, and politicians at all levels, resulting in diffuse criticism unlikely to lead to a substantive alternative. In the words of Winston Churchill, "Democracy is the worst system except for all others." The increasingly sharp critique of Parliament's activities, however, is targeted at a key link in the chain of delegation from citizen to bureaucrat. As discussed in the following section, there are also specific and increasingly accepted bypasses for this perceived weak link.

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<sup>4</sup> Coalitions do not always seem to have much of a shared ideology. Many of the parties in the current Congress-led coalition, for example, were founded at least in part in opposition to the then-dominant Congress (many by exploiting particular caste, ethnic, regional or other identities). Chakrabarty (2005).

The next section provides a brief overview of Parliamentary malfunction and its consequences. Section Three discusses the current diagnoses of the underlying causes of the decline in debate and argues that we need to consider the institution as well as the individuals to understand the failure of representation in policymaking. Section Four gives an institutional overview of India's Parliament as a representative institution in comparative perspective. I focus on how the Parliamentary rules affect individual members' ability to convey their constituents' preferences and represent their constituents as their better-informed agents in more complex policy decisions. The concluding section discusses some institutional changes that might improve Parliament's ability to serve as a representative institution.

The paper is not the first to note the popular disdain for the institution, nor is it the first to ask how well Parliament represents its constituents. It is more unusual in that it draws on the formal comparative politics literature's emphasis on the consequences of how state institutions are structured rather than focusing on the interface between citizen and state. This approach is rarely applied to studies of Indian politics; cleavages in civil society, the power of individual leaders or technocrats, and the lack of individuals with "political will" seem to be more common frameworks for explain policy change (or lack thereof) in India.<sup>5</sup>

### **Parliamentary Malfunction**

The Parliament's malfunction as an institution has been well-documented by previous studies, most of which highlight a decline in performance over the past decade or so. Members spend less time sitting to deliberate and the deliberations that do occur are sparsely attended. Actual days of sitting to deliberate are a third of what they were in the 1950s, even though other aspects of constituency representation such as travelling to and communicating with constituents have gotten easier.<sup>6</sup> Systematic data on absenteeism and quorum violations are not recorded, but Mehta and Kapur (2006) recount a number of anecdotes that they assert "could be multiplied endlessly" based on the interviews they carried out. (18) Shourie (2007)

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<sup>5</sup> Kapur and Mehta, eds (2005) is an exception. See Wallack and Singh (2007) for an overview of the literature.

<sup>6</sup> Mehta and Kapur (2006).

reports that there are twin conventions on quorum: the presiding officer does not check to see if enough members are present to constitute a quorum unless a member draws his attention to the matter, and no member ever draws his attention to the matter.

Mehta (2007) argues that Parliament has become increasingly unprofessional, passing budgets with almost no scrutiny among other signs of decline.<sup>7</sup> Nineteen bills, including a constitutional amendment, were passed on one day in March during the 9<sup>th</sup> Lok Sabha.<sup>8</sup> National Social Watch Coalition (NSWC, 2007) estimates that more than 40% of bills were passed in the Lok Sabha in 2006 with less than an hour of debate, while 65% of members of the lower house never said anything about any legislation during that year. Even in addition to the disruptions, much of the time spent in sessions seems to be spent on activities other than legislative debate. Madhukar (2007) estimates that the Lok Sabha spent just 20% of its time debating legislative issues and the Rajya Sabha 23% over the last seven sessions.

Parliament also seems to be abdicating its responsibility to provide guidance to the bureaucracy, instead leaving many substantive decisions to unelected civil service members. Legislation at center and states tends to assign residual and rule-making power to the concerned ministry, leaving the ministries to make new rules, create new public agencies, and make decisions with distributional consequences. Guidance by threat or promise of transfer seems to be the more common way for politicians to oversee the bureaucracy. At least half of the IAS officers serving between 1978 and 1996 spent less than 1 year in their jobs according to Das (1998). Four hundred twenty out of 500 IAS officers in Uttar Pradesh were transferred every year between 1992 and 1998 by Bardhan (2006)'s calculations. Anybody who has worked with civil service officials has at least a few anecdotes of politicized transfers to share. "Transfer is an industry in some states!" notes one former Secretary to the Government of India.<sup>9</sup>

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<sup>7</sup> Mehta argues that this behavior would be detrimental for fiscal discipline. Many other scholars of pork barrel politics would suggest that the opposite is true - that the tight control over the budgets would limit incentives for logrolling relative to a free-for-all. In any case, the point is that India is a democracy, and the budget is one of the major policy statements of a democracy, so elected leaders should be paying attention.

<sup>8</sup> Agrawal (2005). Perhaps the formal discussion of the bill is not the real discussion of the bill: things have been pre-negotiated within the ruling coalition, so there is no need for further amendment. The political control takes place through these informal discussions.

<sup>9</sup> Dr. G. Sundaram, in "Myths About Indian Civil Services."

Stalling seems to be replacing debate as a tactic for dealing with conflict, even as the number of issues that need to be debated and put to rest increases. The Eleventh Lok Sabha lost five percent of its time to disruption, the Twelfth ten percent and the (current) Thirteenth 22.4%.<sup>10</sup> Speakers to the Parliament were threatened twice in one week in March 2007, for example: marshals were summoned on March 12, 2007 when CPI (M) members stormed the well and threatened the Minister of Shipping. His party members formed a human wall to protect him. Members of the BJP and other opposition parties reportedly “rushed threateningly” toward the Finance Minister on March 19, 2007.<sup>11</sup> The 2007 Monsoon Session adjourned four days early following disruptions that cost it 42 hours. Lok Sabha Speaker Somnath Chatterjee raised questions about the “utility of our system of Parliamentary democracy and its future,” and called the continued disruption a “disease” in his concluding speech.<sup>12</sup> The 2007 winter session of Parliament adjourned *sine die* after just 17 sittings, many of which were also disrupted.<sup>13</sup>

Stalling as a tactic does not seem to be a matter of the current political configuration. The current wave of critiques focus on disruptions under the Congress-led government, but Parliament was stalled for four days in 2002 under the BJP-led government as opposition MPs pushed for discussion and a vote on responsibility for violence in Gujarat and for a week in 2001 over an arms scandal.

The cost of these disruptions has become front-page news in some of the elite media. Mint, a local English-language partner of the *Wall Street Journal*, prominently displays a “Parliament Waste Tracker” monitoring the cost per minute of debate and of disruptions. One of the paper’s recent “Quick Edits” asked why the members are paid salaries and perks for not working, going on to note that nearly 26% of Parliament’s time was lost due to disruptions. The “wasted” time cost taxpayers Rs. 26,000 per minute.<sup>14</sup> CNN -IBN reported that the disruptions during the 2007 Monsoon session cost the country Rs. 18 crore, while the Hindu reported a

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<sup>10</sup> National Social Watch Coalition (2007)

<sup>11</sup> Reported in Divan (2007).

<sup>12</sup> “Parliament Sessions Curtailed, Speaker Calls Disruptions ‘A Disease’.”

<sup>13</sup> The Hindu (2008) reports a total of 130 hours lost to disruption in both houses in 2007.

<sup>14</sup> “Parliament Takes it Easy.” These estimates seem to have escalated significantly over the past few years. One activist estimated the cost of disruption at US\$350/minute (about Rs 15,600 at the then exchange rates) in 2002. (H.D. Shourie, quoted in “Parliament Impasse Costs India.”)

figure of Rs.20 crore.<sup>15</sup> One reader's letter to the *India Today* Sept 10, 2007 issue asked "Since there are no real discussions in Parliament, why is the tax-payers' hard earned money being squandered trying to run it? It is better to scrap such discussions and meetings." (p. 8)

There are obviously other less quantifiable costs due to delayed policies and limited accountability. BBC's coverage of 2002 disruptions quoted one businessman's question, "With the opposition buying for blood, when will [Parliament] ever reconvene to take up important economic legislation?"<sup>16</sup> NDTV's coverage of parliamentary disruptions in September 2007 pointedly observed that "Over 1200 people dead in floods, 68,000 livestock lost, the loss to crops and property is estimated to be Rs 1200 crore, terror strike in Hyderabad and spiraling prices - all remained unheard inside Parliament. If the Indo-US nuclear deal was the reason for the strife, even that critical issue was never discussed."<sup>17</sup> Arun Shourie, a prominent political commentator, former Minister, and current member of the Rajya Sabha, summarizes the situation: "...these chambers are now not legislatures that hold governments to account, they are now halls in which the motions are gone through, in which put on melodramas are enacted."<sup>18</sup>

Parliament's dysfunction also seems to have increased support for alternative means of policymaking. The judiciary is increasingly active.<sup>19</sup> Courts have gotten involved in bureaucratic oversight, ordering the Power Minister to accelerate construction of electricity plants in 2007 and taking a role in Delhi urban planners' decisions about mixed-use designations, for example, in late summer 2006. They have gained popular support as a venue for citizens to express their policy demands through Public Interest Litigations (PILs). The "post-democratic delegation revolution" of policymaking to non-elected independent regulatory bodies is also in full swing in India.<sup>20</sup> Politicians' and the Parliament's ineffectiveness seems to be drawing more and more calls to remove state services from political oversight. V.S. Malimath, the Chairman of the

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<sup>15</sup> "Parliament Disruptions Cost Nation Rs. 18 Crore," and "Parliament disruptions costs Rs.20 cr to exchequer."

<sup>16</sup> "Parliament Impasse Costs India."

<sup>17</sup> Shrivastava (2007).

<sup>18</sup> Shourie (2007), p.27

<sup>19</sup> Mehta (2005) provides a detailed history and analysis of activism over the past decades. The activism is not new, but seems to be on the rise.

<sup>20</sup> (Kapur and Mehta, 2006, 30)

Committee for Reforms of Criminal Justice and former Chief Justice of Kerala and Karnataka High Courts, for example, suggested removing the criminal justice system from political oversight.<sup>21</sup>

Some of them appear to be improvements. Even Mehta (2007), generally a critic of judicial activism, writes that "representative institutions are so often burdened with the imperatives of money, power, and inertia that to call their decisions democratic and in the public interest is often something of a joke." (80) His essay struggles with the question of whether judicial activism might be justified in the face of Parliamentary abdication.<sup>22</sup> In the end, however, he concludes that at least Parliament represents the peoples' will better than unelected courts so temporary efficacy does not justify bypassing Parliament in policymaking: "Representative institutions are, after all, the essence of democracy, and judges do not stand in the same relation to us as legislators." (80) Shourie (2007)'s vehement critique of Parliament does not even cede this point to Parliament – several chapters of the book warn against "romanticizing the people."

In any case, the number of bypasses among the existing democratic set up is limited. What is the next option when judicial activism becomes incapable of handling the rising tides of demands? How many peaceful outside options are there? "People in the country are fast losing faith in the judiciary," write Justices A.K. Mathur and Markandey Katju of the Supreme Court.<sup>23</sup> The same article documents the rise of vigilantism – tacitly-sanctioned punishments reflecting cynicism about the effectiveness of the law – in addition to the flash-points of anger about particular incidents. "The public's 'grievance redressal mechanism' has collapsed," noted Pramod Kumar of the Institute of Development and Communication in Chandigarh – he noted that political and bureaucratic intervention has been seen as ineffective, so people take things into their own hands.<sup>24</sup>

### **Individuals, Institutions, and Representation**

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<sup>21</sup> "Needed: A Strong Moral Fibre."

<sup>22</sup> Mehta (2007), for example, cites Indian legal scholar Upendra Baxi's statement that judicial activism is "chemotherapy for a carcinogenic body politic."

<sup>23</sup> "Mob Rule."

<sup>24</sup> *Ibid*, p. 48.



Many of the critiques assume that individual failings are at the heart of the problem. Media reports point to the increasing criminalization of politics, many citing a 2004 study that quarter of the Members of Parliament have a criminal background.<sup>25</sup> Voters don't always have great options to choose from and their choices do not always seem ideal. Columnist Tavleen Singh reports one illustrative anecdote:

"During an earlier election in Uttar Pradesh, I stopped at a teashop in Yadav's constituency to ask why people voted for a man infamous for his illicit activities and the old man said, 'Because the man who is standing against him is also a criminal, so we may as well vote for a stronger and better criminal.'<sup>26</sup>

Mehta and Kapur (2006)'s comprehensive assessment of Parliament as an institution of accountability focuses on describing the individual members' characteristics more than the institution's failures. They do not explicitly "blame" individuals, but it is striking that they do not discuss the rules of procedure along with the members' characteristics as possible inputs into the poor outcomes. Shourie (2007)'s critique of Parliament is more pointed. He notes that many Members of Parliament represent a minority of their constituencies. More than half - 60% - of members of the Lok Sabha elected in 2004 gained office with less than 50% of the votes from their constituency. Almost all - 99% - gained office with the votes of less than half the potential voters in their constituencies.<sup>27</sup>

The near-exclusive focus on individuals as the failure stems from a common conflation of representatives and representative institutions. "Representation" in the political economy literature usually refers to individual activities. Some use it as a synonym for responsiveness to constituent demands and communication.<sup>28</sup> Others use it to denote a kind of information service transmitting constituents' stated policy requests to the larger policymaking forum on

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<sup>25</sup> Study of the 2004 Lok Sabha by the Public Affairs Centre, Bangalore, cited in Behar et al, 2006. Gowda and Sridharan (2007) argue that parties today are more likely to choose criminals because these people have the clout to win constituencies that the party reputation (which may not exist for some new parties) cannot sway.

<sup>26</sup> Singh (2007).

<sup>27</sup> P.28-29. This is not an entirely new phenomenon, though fragmentation of vote shares has increased somewhat with the proliferation of parties. India's first past the post electoral system allows the candidate with the most votes to win and has no majority runoff requirement.

<sup>28</sup> Pitkin (1967), Eulau and Karps (1977), Searing (1985).

behalf of those who could not be present. “Representation” can also mean acting as an agent; deciding what constituents would have decided if they had all of the information available that the representative has. Manin, Przeworski, and Stokes (1999)’s comprehensive overview labels the first two the “mandate conception of representation” and the third the “accountability concept.”<sup>29</sup>

These definitions describe how individual representatives should behave *vis a vis* their constituents, but do not provide any benchmark for evaluating how the collective decisions of representatives should relate to the collective preferences of the represented. The literature has tended to blur individual representativeness and institutional representativeness. Manin, Przeworski, and Stokes open their book by summarizing the prevailing understanding of representativeness as: “Governments are representative because they are elected ... [such governments] will act in the best interest of the people.” (29) Even studies that explicitly seek to study institutional representativeness, such as Loewenberg and Kim (1978), focus on individuals. They intend to consider the “representative relationship ... as it exists between parliaments as collectivities and groups of constituents,” but use measures of individual responsiveness to constituents in their empirical analysis.<sup>30</sup>

People elect representatives, but parliaments’ actions are the product of the rules for aggregating these representatives’ inputs as much as the inputs themselves. A representative institution should allow all of these representatives to actively represent their constituents in the group’s decision making. Its decisions as a whole should be summaries of its members’ inputs. At a minimum, its members should be able to shape policy debates by conveying their constituents’ views in two ways: proposing policies and commenting on those policies proposed by others. A representative institution should also enable its members to effectively serve as

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<sup>29</sup> Note that neither concept of representation necessarily means good policy in a social welfare sense. The mandated policy may not always actually be the best policy for voters because circumstances might change or voters might be misinformed. The agent’s choice of policy is more likely to be the best policy for the decisive voter (if representation is strong) because it takes advantage of available information, but it is not necessarily the most welfare-enhancing policy for society.

<sup>30</sup> P.27 The authors find that MPs’ conceptions about “constituency,” receptiveness to ideas from constituents, and channels of communications vary more across Parliaments than within, and interpret this as evidence that something about the Parliaments is more or less representative. It could also be interpreted as a finding about the incentive effects of electoral systems or any other cross-country institutional variation.

agents by enabling them to acquire and use specialized information to choose policies based on their constituents' preferences.

The challenge in assessing Parliament's functionality as a representative institution is in measuring institutional representativeness. There is no clear outcome benchmark, no alternate view of what the peoples' will is to be compared to the expression of the peoples' will through Parliament. It is also harder to test theories about what makes for a "representative institution" since there are fewer institutions than individuals to include in feasible datasets, and more degrees of freedom to control for.

This paper uses a different tactic: focusing on the extent to which the institution enables representatives to actually represent their constituents. I look at both the quantity and quality of individual members' opportunities to represent their constituents. "Quantity" of opportunities is simply the amount of time that members can expect to be able to speak in committee or in debate on the floor. The "quality" of representation opportunities is far more important and depends on various factors. The ability to propose, amend, and frame the decisions to be voted on all affect the impact that a representative can have with a certain number of minutes of speech. I also consider Parliaments' support for individual members' efforts to become informed agents for their constituents.

The discussion of the "quality" of MP's time in the next section synthesizes past work on Parliamentary institutions and their influence on the policies that emerge from debate. Some form of agenda control, or control over the items for discussion, sequence of discussion, opportunities for amendments, and ability to influence the timing of the final vote, is almost universally recognized as a determinant of the final decisions. Laver and Shepsle (1994) focus on control of the plenary timetable as the key to the government's influence on the Parliament's decisions. Doring (1995) and Tsebelis (2002) dissect agenda control into the power to introduce bills, the power to amend bills, the power to limit committee discussion, and the power to force votes to curtail debate. Tsebelis (2002) considers the vote of no confidence to be the government's most powerful weapon of all since it transforms a vote on any particular issue into a much larger question of confidence in the coalition (and potential for destroying one's own job).

My focus on opportunities for MPs to represent their constituencies as a measure of an institution's representativeness is parallel to the practice of measuring an individual MPs' "representativeness" as a function of free and fair elections. It is explicitly comparative in an effort to benchmark the functionality of India's institutions. The literature on Parliaments contains a number of comparative surveys of rules, some cited here, but these have never included India among the comparison. The analysis highlights some plausibly consequential ways in which India's version of parliamentary democracy stands out.

### **Parliament as a Representative Institution**

India's Parliament falls short as a representative institution in aggregating its members' information and in ensuring that these representatives have adequate information to act as agents for their constituents. While the quantity of time for representation is allocated proportionally to party representation, the quality of opportunities for contributing to parliamentary discussion are unevenly divided between Government and Opposition, as well as between party leaders and rank and file. Both houses of Parliament emphasize the duty of each elected representative to actively voice their constituents' voices and concerns, but the rules make it difficult for all to do so. The first part of this section focuses on various dimensions of the quality of opportunities for opposition MPs to represent their constituents, while the second turns to the level of support for MPs as informed agents of their constituents.

#### *Determining Issues on the Agenda*

Government and opposition leaders sit on the Business Advisory Committee and work out the agenda for discussion under the guidance of the Speaker in the Lok Sabha and the Vice President in the Rajya Sabha. Time is allocated proportionally to representation and opposition parties are assured of opportunities to speak but the government retains substantial control over quality of time.

The government holds a majority of seats on the Business Advisory Committee – nine of the fifteen members of the committee in the current Lok Sabha are from the coalition.<sup>31</sup> This arrangement affords less government control over the agenda than some Parliaments – the government alone determines the plenary agenda in the UK and Ireland, for example, on most days – but more than most. Austria, Belgium, Germany, Norway, and Spain seek consensual agreement on the agenda, although the plenary majority has the right to overturn this decision.<sup>32</sup> Party leaders have to decide unanimously on the agenda in Italy, though they do so under the threat that President of the Chamber (a member of the government) gets to decide if they cannot agree and any subsequent amendments to the agenda for the day require  $\frac{3}{4}$  majorities.<sup>33</sup> The entire chamber collectively decides the agenda in the Netherlands.<sup>34</sup>

The opposition's ability to place their statements strategically around decision points depends on their bargaining power rather than any particular guarantee that explicit rules of debate provide. There is room for the government to resist discussion on some issues if the Speaker and Vice President are not sympathetic, though this tends to attract public criticism. Within parties the senior-most members get far more opportunities to represent their constituents than junior members.

Question hour is the main exception to this rule. India's MPs can pose questions to the government during the first hour of every meeting. Any Member can submit a question to any Minister, requesting an oral or a written answer. The Speaker of the House and the Business Advisory Committee select and order the questions (submitted at least ten days in advance) by lottery. Some are slated for oral delivery, allowing room for discussion, but most get answered in writing with no discussion. The Speaker may allow a separate half-hour discussion outside of Question Hour, but is not required to. He may also allow a "Short Notice Question" for urgent

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<sup>31</sup> This includes CPI members as part of the coalition, though technically they are supporting the government from the outside.

<sup>32</sup> Portugal also required a consensus on the agenda until 1985, according to Doring (1995)

<sup>33</sup> Italian law states that speakers must take the government's priorities into account when setting the agenda. Doring (1995) reports that the President of the Chamber frequently does not execute the government's requests, however, so this threat may not actually be the threat of government control over the agenda but of particular parties' control over the agenda.

<sup>34</sup> Doring (1995) quotes one MP as saying that the chamber "does not even share the power to determine the agenda with its own speaker." (231)

matters, but he determines what is urgent and the concerned Minister decides whether he or she is prepared to answer it at short notice.

The questions appear to be valuable opportunities to raise issues for public scrutiny or extraction of assurances from the government: eleven MPs were expelled in 2006 for accepting bribes to ask questions.<sup>35</sup> Nevertheless, some unwritten convention (perhaps party discipline) seems to affect access to the opportunity. Datta (2006) finds that government coalition “front-benchers” – politicians who are likely to go on to become Ministers or otherwise nationally prominent – tended to ask more questions than any other group in the 10<sup>th</sup> Lok Sabha and Rajya Sabha. Government Ministers were especially likely to ask each other questions during televised sessions.

India’s exception for Question Hour does not counteract its relatively high degree of government control over placement of issues on the agenda. Question Hour is similar to the Prime Minister’s Questions in the UK House of Commons, Question Time in New Zealand, and the Question Period in Canada. Other Parliaments, even some of the stricter Parliaments, also have at least some days that opposition get more control over the agenda. Britain has 20 statutory “Opposition Days” in which opposition parties can decide which topics are to be debated. Between these and the “Private Member Days” discussed below, opposition members or government back-benchers can speak up roughly 15% of the time Parliament is in session. The Greek Parliament spends one day per month on pending opposition bills. Portugal’s legislative system includes several “parliamentary group days” per session in which opposition groups are given more time than government groups.

### *Introduction of Bills*

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<sup>35</sup> One government website (<http://www.parliamentofindia.nic.in/ls/intro/p6.htm>) gives the following advertisement for these sessions: “The Question Hour is an interesting part of the Parliamentary proceedings...there are many a time lively and quicksilver repartees between the Members asking the questions and the Ministers answering them. These repartees are sometimes coupled with flashes of wit and humour.”

Any Member of Parliament in India - governing party, opposition, individual member – can propose a bill that does not imply an increase in expenditure of taxation.<sup>36</sup> In practice the government introduces most of the bills.<sup>37</sup> Only 2 ½ hours per week are available to discuss private members' bills and resolutions.<sup>38</sup> Private members' bills do not traditionally get passed and are generally withdrawn after the government gives assurances that it will consider the issue and perhaps introduce a similar bill.

India's treatment of bill introduction is fairly standard. The country's rules on money bills are on the strict side, but shared by France, the U.K., Ireland, Portugal, and Spain. Its de facto treatment of private members' bills is less unusual. Sweden restricts introduction of private members' bills to 15 days around the time of the Budget Bill in January.<sup>39</sup> Anybody can submit a bill in Iceland, but bills need the consent of a majority to be placed on the floor after 6 months into the Althingi session. Private members' bills in France have to get approval from the government before being discussed. The U.K. allows debate on private member's bills for 10 Fridays, about 5% of the time a house is in session. There is a raffle to determine the right to introduce a bill during one of these Fridays. The Greek Parliament debates individual laws once a month, with some restrictions on the opposition's ability to introduce money bills. Ireland discusses these for 1 hour, twice a week.<sup>40</sup>

### *Control over Amendments*

The Government's bills often pass through the Parliament intact. After the first reading's introduction of the bill and its aims and the second reading's proposal for consideration, the bill

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<sup>36</sup> The Speaker decides what does and does not constitute a "money bill." Money bills can only be introduced in the lower house.

<sup>37</sup> The practice could be a function of its size: large Parliaments of 300 or more tend to discourage individual members initiatives more than smaller Parliaments. The rationale: too many private bills makes Parliament inefficient.

<sup>38</sup> Agrawal (2006).

<sup>39</sup> Private members' bills can only be introduced later if they are related to the topic of Government proposed legislation. Mattson (1995) rates Sweden as one of the countries that is most friendly to individual members' initiatives.

<sup>40</sup> This paragraph draws on Mattson (1995).

can then be voted on immediately, circulated for public comment, or referred to an ad hoc or (more often) a standing committee.

Bills do not have to be considered by committees. Non-financial bills are referred to committees on the recommendation of the Speaker of the Lok Sabha or the Chairman of the Rajya Sabha. Rules 272 and 331G of the Rules of Procedure and Conduct of Business in the Rajya Sabha and Lok Sabha respectively state that grants to ministries and departments have to be examined and reported on by the concerned standing committees of Parliament, but both rules can be suspended by majority. Most other parliaments require committees to consider bills.<sup>41</sup>

Although opposition members can influence the committees, the bodies seemed to be primarily instruments for delay until recently. Kapur and Mehta (2006) report that the executive refers bills to these committees in order to get them stuck. The committees were expected by convention to give a unanimous amendment, which was difficult given the partisan composition. This convention has started to give way to majority opinion reports with attached dissent notes, perhaps further undermining the role of the opposition in the committees since the government coalition would typically have a majority. In any case, the recommendations are not binding even though they are often respected. Individual MP's can also offer amendments when a bill is placed before Parliament, but these also must be approved by the Cabinet in order to be incorporated for the final vote.

Greece is the only country with similar provisions – amendments must be submitted prior to debate and the Government has to agree to their being discussed. France strikes a middle ground in that committees can propose amendments, but the Government can stipulate a final vote on a version that retains only amendments it proposes or accepts.<sup>42</sup> The Government can also reject any amendment that increases expenditures or depletes resources. Parliaments in the U.K., Ireland, Denmark, and the Netherlands appear to restrict committee amendments less: their parliaments consider the Government bill with committee amendments

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<sup>41</sup> All of the Parliaments considered by Doring (1995) except Denmark, Ireland, Spain and the UK require committee deliberation.

<sup>42</sup> Heller (2001), Table 1, Mattson (1995).



added.<sup>43</sup> Spain banishes committee amendments to an annex separate from the reporting of the original bill, but the amendments are reported. Even Ireland's ad hoc committees have the right to insert amendments that must be considered by the full house. Austria, Portugal and Luxembourg allow committees to offer the house a substitute bill that is considered in comparison to the government bill. The largest group of parliaments – Belgium, Finland, Germany, Iceland, Italy, Norway, Spain, Sweden, and Switzerland – allows committees to rewrite government text for presentation to the house.<sup>44</sup>

### *Timing of the Final Vote*

Government can also unilaterally (by majority vote) suspend debate. The government decided to revise the business of Parliament in March 2006, for example, to pass the Budget and Finance Bills by voice votes with no discussion. It also passed the controversial Office of Profit Bill during this time.<sup>45</sup> It reconvened Parliament a few days later to discuss the bills as if they had not already been passed – standing committees were even asked to consider the bills.<sup>46</sup>

This ability puts India among the parliaments with more government control along with France, Greece, Ireland, and the UK. The majority of Parliaments (Austria, Belgium, Denmark, Germany, Iceland, Italy, Luxembourg, Norway, Portugal, Spain, and Switzerland) require supermajorities or consensus to suspend debate. Finland, Netherlands, Sweden have no provisions at all for rushing bills through.<sup>47</sup>

### *Individuals' Rights to Vote their Constituents' Preferences*

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<sup>43</sup> The U.K. and Ireland's formulation of the committee jurisdiction leaves little room for substantial change. (Mattson and Strom, 1995; Saalberg, 2000).

<sup>44</sup> Doring (1995), Table 7.4, Mattson and Strom (1995)

<sup>45</sup> The Office of Profit Bill was returned by the President, and Parliament did reconsider it in the next session but then passed it in the original form.

<sup>46</sup> Jalan (2007) provides a blow-by-blow description of the episode, widely regarded as one of the nadirs of Parliament. (131)

<sup>47</sup> Doring (1995)

India's *de facto* rules for votes of no confidence also constrain coalition members' ability to represent their constituents. The vote of no confidence effectively prevents a subset of the government from engaging with the opposition on issues that might be supported by an alternate majority of part of the government coalition and part of the opposition. Coalition members' powers to dissent are limited to the "nuclear option" of bringing down the government, which may not always be a credible threat.

Disagreement with the government is a *de facto* vote of no confidence and there are few options for criticizing the bureaucracy short of taking this drastic step.<sup>48</sup> The options for holding up the budget, a potential instrument of Parliamentary oversight, are also limited: a failed budget proposal is automatically a vote of no confidence. The threat of not supporting the budget unless certain provisions are inserted is thus not credible.

Most other Parliamentary democracies make some distinction between criticism and votes of no confidence. Germany, Spain and (since 1995) Belgium, for example, require an explicit constructive vote of no confidence in which the Parliament elects a new government simultaneously with dismissing the old.<sup>49</sup> Conventions in Denmark, Finland, Ireland, and Sweden require an absolute majority of Members of Parliament to vote to censure the government.<sup>50</sup>

Finally, India's rules regarding defection from parties also limit MPs' ability to represent their constituents if their interests depart from parties' interests on any particular issue. MPs have to vote with their parties when the party whip is invoked or they lose their seats for the remainder of the term. They can dissent only in the case of a "genuine party split" in which a third of the members vote against the party. India's parties have never been seen as particularly internally democratic so voting with the party leaders does not necessarily mean voting with representatives of representatives.<sup>51</sup>

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<sup>48</sup> Politicians can and do discipline individual bureaucrats by recommending or pressing for individual transfers. The practice is no substitute for agency-wide oversight – it can be used arbitrarily against individuals, regardless of their objective achievements, and cannot change the organizational processes that affect overall bureaucratic performance. Krishnan and Somanathan (2006).

<sup>49</sup> Saalfeld (2000).

<sup>50</sup> Saalfeld (2000).

<sup>51</sup> It is not clear why this kind of party leader autocracy survives in India, given the fact that MPs are elected in first-past-the-post contests rather than chosen on the basis of nationwide vote totals. One would expect that

### *Empowering MPs as Agents*

All members of India's Parliament face unusual trouble in representing their constituents as agents who make the decisions that constituents would have made if they had expertise in the particular policy area. They have relatively little support for acquiring the specialized knowledge to serve as an agent. Individual members are given an allowance for a personal assistant, free air travel, and free telephone calls among other perks, but there is no funding for a research staff.

NWSC (2007)'s review of questions asked during question hour suggests that many members are not making up for this lack of support through personal or party initiative. The report finds that "most of the questions were for mere statistical derivations, the information which could have easily been derived from the administrative channels" and some of the questions concerned allocation of funds for programs that had been stopped years ago. The report blames the Members of Parliament, stating that "These kinds of questions show the ignorance and complete lack of homework of our esteemed parliamentarians." (18)

India's parliamentary committees are similarly handicapped. These are potentially powerful instruments of oversight, and opposition members are traditionally chairpersons of some of the most potentially powerful committees such as the Committee on Public Accounts.<sup>52</sup> The committees are understaffed, however, and have a limited research budget and staff for assistance to help with evaluating the bill. They do have some resources to invite specialists to present expert testimony, but most of the research on the policy is done by the departments themselves.<sup>53</sup> The committees' membership also changes every year, making it more difficult to build up political capital in negotiating with the agencies or interests that the

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party leaders would be more responsive to individuals who could win local elections, and therefore "represent" these individuals' constituents' demands better.

<sup>52</sup> The committee has a mandate to ensure that the sums granted by Parliament to the Government have been used prudently and economically. Its members are selected from the Lok Sabha (15) and the Rajya Sabha (7) by single transferable vote. The committee can create subcommittees and working groups to look into particular matters, and also can use the Comptroller and Auditor General for examining witnesses and reviewing financial statements.

<sup>53</sup> Agrawal, 2005.

policy affects. They also cannot build up domain knowledge to serve as an effective counterpoint to the Minister's proposals.

Most Parliamentary committees in Western Europe, in contrast, have some professional staff support. They can solicit information from a variety of sources: not only Ministries (as in India) but also outside experts, interest groups, and others. Individual French MPs get help from parliamentary attaches in preparing bills.<sup>54</sup>

### **Toward a More Representative Institution**

India's Parliament has never, to my knowledge, been explicitly included in any of the cross-country comparisons of government control over Parliamentary business. Like the British system that it was obviously influenced by, its rules tend to provide the government with substantial control over the collective decisions of the peoples' representatives. The government can control the issues that appear on the agenda, limit introduction of the opposition's bills, and stymie attempts at amendments. The Parliamentary committees are weaker than most as repositories of specialized expertise and as sources of alternatives to the government's proposed policies. I argue that this set of rules limits India's potential as a representative institution by limiting the inputs of non-government MPs in policy debates and especially in the collective decisions. The government need not always exercise this control, and may not always appear to use its full powers, but the fact that it has the rights casts a shadow over the ability of all representatives to represent.

The rules may also explain part of the current parliamentary dysfunction. Popular and academic explanations for the increase in disruptions and decline in quantum and quality of debate tend to focus on individual MPs without considering the opportunities and incentives they have to actually fully participate in debate.

The Indian Parliament might function better as a representative institution simply by becoming more like other Parliaments around the world: allowing more room for opposition members to participate meaningfully in debates as well as propose and amend bills, developing

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<sup>54</sup> Mattson, 1995.

a stronger and better-funded committee system, and separating votes of no confidence from votes of disagreement with a particular issue. Some of changes might lead to more contentious debates in the short term, but at least it would be institutionalized discussion of alternative policy proposals rather than cacophony on the floor and dismissal of the Parliament.

Several changes, both aimed at restricting the vote of no confidence have in fact been discussed informally. One would introduce a requirement that every no-confidence motion would have to be accompanied by a positive vote of confidence in an alternative prime minister. Another would fix the Lok Sabha term for five years. Both are ostensibly aimed at making the government more stable and assertive. The additional stability might also enable the boundary between “government” and “opposition” to be more fluid so that issues could be decided on their merits for constituencies rather than the exigencies of maintaining a particular coalition.

India’s parties might also consider relaxing the anti-defection laws to leave party discipline up to party leaders rather than mandating dire punishment (loss of seat) for voting against the party. This is unlikely to actually happen in India, given the collective memory of horse-trading in MPs before anti-defection laws were put into place, but it would be worth re-considering. The anti-defection laws are merely promoting a different kind of defection: creation of smaller parties.

Relaxing the anti-defection law would allow individual Members of Parliament to balance their constituents’ interests with the party platform. They would be unlikely to completely abandon the general party line because party leaders would still control campaign finance as well as nominations for meaningful party labels. Another alternative would be to allow MPs to represent their constituencies over their parties in a limited number of cases – giving them a “difference allowance” of some sort.

India might also consider adopting some features of presidential systems to ensure a more representative system. Parliaments’ ability to be representative institutions is inherently limited by their defining feature: that a majority coalition in the legislature is the executive branch and its survival depends on that majority voting together. The insecurity of tenure allows minorities within the coalition to hold up policies creates a rationale for limiting agenda

access to prevent proposals from the opposition that could split the coalition. There is no room for representatives to form different groups on different issues, as they might in a presidential system where such policy-specific re-alignments do not have any catastrophic consequences like provoking a change in government. Frequent re-alignment need not mean that party labels lose their meaning (since parties can stick together but re-align) nor does it necessarily mean incoherence in policymaking.

A more presidential system would have a more independent executive that did not require constant re-affirmation. Legislatures in presidential systems can air all of the grievances they wish, or vote against the executive branch on any particular issue without bringing down the government. Legislators do not have to curb their dissent for fear of losing their jobs. Legislatures in presidential system also tend to have looser restrictions on introduction and amendment of bills by non-majority party members than Parliaments. Parliaments can't afford to have bills that the government would disagree about – and may have to fall over – introduced too often; Presidential systems can. Issues can be considered case by case on their merits rather than as votes of confidence in the ruling coalition.

Ironically, a move toward presidentialism in India might reduce one of the problems that presidentialism is often presumed to create. Linz (1994)'s famous critique argues that presidentialism encourages a winner-take-all mentality in politics. India's parliamentary rules actually allow the winner to "take all" in setting the legislative agenda.<sup>55</sup> Moreover, they allow small coalition partners - non-winners - to "take a lot" by exercising the threat to defect from the coalition.

There are potential trade-offs with granting this kind of independence to the executive. The executive could remain in power and continue to influence policy even when the majority of the legislature consistently disagrees with it.<sup>56</sup> Much depends on the exact design of the presidential system.<sup>57</sup>

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<sup>55</sup> Mainwaring and Shugart (1997) make a similar point about parliamentary systems in general in their critique of Linz, adding that executives in Parliaments actually may have more power than in presidential systems because they can strategically time elections to maximize probability of re-election.

<sup>56</sup> Linz (1994) argues that executive independence creates potential for conflicts that cannot be resolved within institutions, and so is likely to disrupt them.

<sup>57</sup> See Mainwaring and Shugart (1997), Shugart (2006).

More than what to do, however, the question is where these changes would come from. The current focus on blaming individual Members of Parliament hampers the prospects for changing the Parliamentary rules to be effective. There are three possible forces for institutional reform: crusaders in Parliament or in civil society; increased political competition; and universal recognition of impending crisis. Successful crusaders might bring the disenfranchisement of some representatives to the public eye and provoke some pressure to change the laws. Increased political competition might create incentives for parties in the ruling coalition to temper some of the rules that could be used against them when they were in the opposition. MPs currently seem to be rewarded more for their individual favors to constituents than for their role in Parliamentary discussion. Spending time lobbying for more research funding, or putting together a coalition for stronger standing committees might not be on the top of any but a crusader's agenda, but impending crisis such as dismantling of the institution's policymaking prerogatives might inspire collective action to ensure a more level playing field for all representatives.

The prospects for a crusader seem dim. Such a crusader would have to create some public sympathy for MPs and recognition that even those who actively try to represent their constituents or serve as informed agents face obstacles. This is far from the current public discussion of MPs as overpaid, lazy, and often criminal.

Sudden collective action due to recognition of an impending crisis also seems unlikely. Public disrespect for the institution is accumulating gradually, as are alternative methods of policymaking. There are no immediate threats to the existence of Parliament as an institution that might inspire its members to take action. It is also unlikely that a change in the rules of debate would be the first response to a perceived threat if one were recognized. Given the perception that members are at fault, the first step would probably be to adjust eligibility requirements or the electoral system and to crack down on criminality and corruption.

Political competition does seem to be on the rise, however. The major parties have more reason to fear spending some time on the outside of the ruling coalition where they would be unable to predictably get their constituents' concerns on the agenda or propose policies and amendments on their behalf. Whether they can get their smaller coalition partners to

agree to any of the changes is another matter. Smaller parties are likely to be loath to agree to any modifications of the vote of no confidence procedure, since their threat to defect is the source of their leverage over the rest of the coalition. The coalitions might be more able to agree on rules to relax agenda control, increase latitude for amendments, and strengthen committees.

It is possible that India's Parliament will self-correct as a representative institution, but first its leaders have to recognize the importance of the institutional arrangements as well as the individual characteristics for successful representation.



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