

A MATTER OF DELIBERATION

Relevant for: Indian Polity | Topic: Parliament - structure, functioning, conduct of business, powers & privileges and issues arising out of these

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Earlier this week, the Rajya Sabha was witness to acrimonious scenes during the discussion on the RTI Amendment Bill, which amends the RTI Act of 2005. It provides that the term of office and remuneration of information commissioners (both at the Centre and states) will be prescribed by the central government. The original law specified both of these in the law rather than delegating the power to the central government. Opposition parties were demanding that the Bill be referred to a committee of the House for detailed scrutiny before being passed. The treasury benches and a few other parties were of the opinion that the Bill should be passed after debating it on the floor of the House. Ultimately, the House passed the RTI Amendment after voting down the demand for sending it to a committee. So far, none of the 13 bills passed by Parliament in this session have been referred to a parliamentary committee.

Our Parliament broadly has two forums for discussion. One is on the floor of the House where the debate is televised and MPs take positions based on their parties' stand on a subject. The other is the closed-door forum of parliamentary committees. These committees are made up of MPs either from one or both Houses. Their meetings are not televised and the record of the meetings does not reflect the position taken by an individual MP. Both these forums have their own advantages and disadvantages. A debate on the floor of the House allows for the cut and thrust of political debate and can be wrapped up in a few hours. Debates in committees are more technical but the deliberations require time and stretch for a few months.

The idea behind the establishment of the committee system in Parliament was to provide a specialised forum for deliberation on national policy issues, which was not constrained by the limited number of sitting days (less than three months a year) of Parliament. In 1993, when this modern subject committee system took shape, the then Vice President of India summed up the objectives of parliamentary committees: "...the main purpose, of course, is to ensure the accountability of Government to Parliament through more detailed consideration of measures in these committees. The purpose is not to weaken or criticise the administration but to strengthen it by investing it with more meaningful parliamentary support." The committee, over the years, has worked well in strengthening our legislative process.

The scrutiny of a bill by a committee usually takes a few months. If a bill is referred to a committee, its legislative journey slows down as it can only be debated after the committee has submitted its report. This slow down of legislation has been a source of continued tension between the ruling party and Opposition over the last five years. A bill can usually be referred to a parliamentary committee in three ways. First, the minister piloting the bill can seek the permission of the House to refer the Bill to a committee. Second, the Chairman/Speaker has the discretion in referring the bill to a committee. When ministers are trying to build political consensus on a bill, they welcome its referring to a committee. However, when they are in a hurry to get their legislative proposals approved by Parliament, they impress upon the Chairman/Speaker not to refer the bill to a committee. This is when the third mechanism kicks in. When a bill reaches a House where the government does not have a majority, the MPs of the House can marshall the numbers to move a motion to refer the bill to a committee. This leads to the

government blaming the Opposition for the slowdown, which counters by accusing the government of trying to bulldoze legislation through Parliament. However, there is an additional dimension to the scrutiny of bills by committees. Whenever the government and Opposition see eye to eye on a subject, bills are not referred to a committee.

A robust lawmaking process requires thorough scrutiny by Parliament. Such scrutiny should not be impacted by either the strength of numbers in Parliament or political agreement on issues. This robustness can be ensured by requiring that all Bills be referred to Parliamentary committees. Exceptions to this rule should be strictly defined and the exceptions explained to Parliament. In addition, the committees should be strengthened to scrutinise and present their reports in a timely fashion. These mechanisms will ensure that all bills passed by Parliament, irrespective of the party in power, go through a well laid-out process of debate.

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