

DO NUMBERS MATTER IN RAJYA SABHA ?

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

The Parliament Building in New Delhi. V. V. Krishnan V. V. Krishnan

The Indian Constitution provides for parity of powers between the Lok Sabha and the Rajya Sabha in law, making an exception in some cases.

The Money Bill or Finance Bills can be introduced only in the Lok Sabha which only can approve the Demands for Grants.

On the other hand, the Rajya Sabha has some special powers as requiring to adopt a resolution allowing Parliament to legislate on subjects in the State List and creating All India Services, besides approving proclamations of Emergency and President's Rule when the Lok Sabha is dissolved.

Renowned British philosopher and political economist John Stuart Mill as early as in 1861 said in his great treatise *Considerations on Representative Government* that management of free institutions requires conciliation; a readiness to compromise; a willingness to concede something to opponents and mutual give and take.

The Bryce Conference on Reform of House of Lords in early 20th Century observed that a second chamber is to interpose only so much delay in the passing of a Bill into law as may be needed to enable the opinion of the nation to be adequately expressed upon it. Famous constitutionalist Abbe Sieyes pithily noted that if a second chamber dissents from the first, it is mischievous; if it agrees, it is superfluous.

Obstructionist tag

If the House of the People is prone to passions of the moment and volatile political considerations, is the Rajya Sabha free from the same? Has the Rajya Sabha been obstructionist?

To understand these in perspective, a scrutiny of law-making in the country since 1952 may be in order.

Elections to the Lok Sabha are held every five years and before that on dissolution of the House. For the Rajya Sabha, one-third of the members are chosen every second year reflecting its permanent nature. While the Lok Sabha elections hold a mirror to the recent will of the people, the Rajya Sabha is envisaged to convey the same in different phases of development marking some continuity. The Executive lasts only as long as it has a majority in the Lok Sabha, but in law-making, both the Houses are at par. Given the possible variations in the composition of both the Houses on account of different modes of election to them, did it impact the nature and speed of legislation?

Unlike Lok Sabha

An analysis undertaken by the Rajya Sabha Secretariat recently revealed that during the past 68 years since the first general elections in 1952, the government of the day had a majority in the Rajya Sabha only for 29 years and was in a minority for 39 years, including an unbroken stretch

for the past 31 years.

This pronounced divergence in numbers in the two Houses of Parliament does not indicate any adverse impact on the broader course of legislation except in a few cases. Since 1952, the Rajya Sabha held 5,472 sittings and passed as many as 3,857 Bills till the Budget Session this year. There are, however, a few discordant notes during this long journey of legislation. But there is no case for terming Rajya Sabha as “obstructionist”.

So far, Parliament held only three Joint Sittings to resolve differences between both the Houses. The first instance was in 1961 when the then Nehru government enjoyed a majority in the Rajya Sabha but the Dowry Prohibition Bill, 1959 suffered a defeat. In 1978, the Banking Services Commission (Repeal) Bill, 1977 was rejected by the Rajya Sabha and in 2002, the Prevention of Terrorism Bill, 2002 could not pass the Rajya Sabha scrutiny.

The Rajya Sabha was taunted as regressive when it rejected the Constitution (Twenty-fourth Amendment) Bill, 1970 for abolishing privy purses to erstwhile rulers after it was passed by the Lok Sabha. In 1989, the Constitution (Sixty-fourth and Sixty-fifth Amendment) Bills seeking to empower local governments fell short of the required special majority in the Rajya Sabha, though the government had the numbers.

The required spirit of cordiality between the two Houses suffered a dent on some occasions. First when Rajya Sabha members were not included in the Public Accounts Committee in 1952. Again, when the Income Tax (Amendment) Bill, 1953, was introduced in the Rajya Sabha, some members questioned its certification as a Money Bill by the Lok Sabha Speaker. When the controversy was thickening, Prime Minister Nehru intervened, asserting that “For those who are interested in the success of the great experiment in nation building that we have embarked upon, it is a paramount duty to bring about this close cooperation and respect for each other (House).”

Rajya Sabha members objected to when the Lok Sabha Speaker referred the Major Port Trust Bill, 1963 to its Select Committee without involving Rajya Sabha members and this Bill was later referred to its own Select Committee again.

Continuing with some reservations voiced in the Constituent Assembly about having a second chamber, some members of the Lok Sabha moved resolutions as early as in 1954 and again later in 1971, 1972 and 1975 for the dissolution of the Rajya Sabha. But wise counsel prevailed and such efforts were thwarted.

As per the constitutional provisions, the Rajya Sabha at best could hold a Money Bill for 14 days during when it has to return such Bills without or with amendments for the consideration of the Lok Sabha. There were some occasions when such amendments of the Rajya Sabha were accepted by the other House as in cases of the Travancore Cochin Appropriation (Vote on Account) Bill, 1956, The Union Duty of Excise (Distribution) Bill and the Estate Duty and Taxes on Railway Passenger Fares (Distribution) Bill, 1957 and the Income Tax Bill, 1961.

During these years, the government of the day enjoyed a majority in the Rajya Sabha. At the same time, there were instances when amendments proposed by the Rajya Sabha were rejected by the other House.

There were occasions when the Rajya Sabha sat over Bills passed by the Lok Sabha for a long time including the Prevention of Corruption Bill, 1987 and the Dock worker (Safety, Health and Welfare) Bill, 1986. If this was checking hasty legislation, the Rajya Sabha had passed five Constituent Amendment Bills in one day on August 25, 1994 when the government of the day

did not have the numbers. The Rajya Sabha has also made amendments to several Bills passed by the Lok Sabha and these were accepted in several cases by the other House.

Though the present government, too, does not have the required numbers in the Rajya Sabha, members of different parties rose to the occasion in passing landmark legislation relating to the GST, Insolvency & Bankruptcy Code, Triple Talaq, Unlawful activities, Reorganisation of Jammu & Kashmir, Citizenship amendment and so on.

This goes to prove that numbers in the Rajya Sabha is not an issue as far as law-making is concerned. It is a different concern which applies broadly to the legislatures of the country.

Increasing disruptions

An analysis by the Secretariat revealed that the productivity of the Rajya Sabha till 1997 has been 100% and above and the past 23 years have thrown up a disturbing trend of rising disruptions. Productivity fell to 87% during 1998-2004, 76% during 2005-14 and 61% during 2015-19.

While the time spent by the Rajya Sabha on legislation since 1978 remained the same at about 29%, a concern emerges in respect of the 'Oversight' function of the House. Legislatures ensure accountability of the executive through Questions, Calling Attention Notices etc. Time share of this important Oversight function of the Council of States in the total functional time of the House during 1978-2004 was 39.50%. This fell to 21.99% during 2005-14 and to 12.34% since 2015.

This decline is primarily on account of disruptions forcing cancellation of Question Hour frequently. Disruptions also dent the quality of law-making as seen in passing of Bills without discussion sometimes.

However, the Rajya Sabha is proving to be more and more a 'deliberative' body with increasingly more time being spent on this function. The time share on deliberations under instruments like Short Duration Discussions, Zero Hour, Special Mentions, Discussion on Budgets and working of ministries, Motion of Thanks to President etc was 33.54% during 1978-2004. It rose to 41.42 % during 2005-2014 and to a high of 46.59% during 2015-19.

After the initial frictions, Rajya Sabha and Lok Sabha have proved to be constructive partners in steering the socio-economic transformation of the country since 1952, co-scripting pioneering laws. This partnership has been guided by the required spirit of co-operation and camaraderie despite divergence in the composition of both the Houses for most part of this journey. By virtue of this, Rajya Sabha can't be said to be 'obstructive'.

What needs to be addressed by all the stakeholders is that while enabling Rajya Sabha to retain its independence, it should not be seen as 'disruptive' as evidenced over the past two decades. Political passions should not be the basis of such disruptions, if the perception is that they are. The line between obstruction and disruption is very thin and we should guard against it. Both the sides of the House have a stake in proper functioning of Rajya Sabha.

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