

A parliamentary democracy or an executive democracy

Last week, a new Parliament building was inaugurated with both fanfare and controversy. In particular, the exclusion of the President of India – the formal head of the executive – from the inauguration, and the symbolism around the *Sengol* – a sceptre originally used to signify the transfer of power between Chola rulers – generated significant debate. Submerged beneath this debate, however, is an overlooked fact: the increasing subordination of the “Parliament” in India’s “parliamentary democracy.”

Parts of this story are familiar: we know that Bills are passed with minimal or no deliberation. We know that Parliament sits for fewer and fewer days in a year, and parliamentary sessions are often adjourned. We know that presidential ordinances have become a parallel if not dominant form of law-making.

By constitutional design

It is tempting to attribute all of this to unscrupulous or callous politicians. What that misses, however, is the understanding that the growing irrelevance of Parliament is not because of individual actions but a matter of constitutional design. In other words, the Indian Constitution, by its very structure, facilitates and enables the marginalisation of Parliament, and the concentration of power within a dominant executive.

How does this happen? Consider the various safeguards that parliamentary democracies generally tend to put in place against executive dominance or abuse. First, in order to enact its agenda, the executive must command a majority in Parliament. This opens up the space for intra-party dissent, and an important role for ruling party parliamentarians – who are not members of the cabinet – to exercise a check over the executive. Occasionally, ruling party backbenchers can even join forces with the Opposition to defeat unpopular Bills (as was the case with various Brexit deals in the U.K. House of Commons between 2017 and 2019). Second, the Opposition itself is granted certain rights in Parliament, and certain limited control over parliamentary proceedings, in order to publicly hold the executive to account. Third, the interests of Parliament against the executive are meant to be represented by the Speaker, a neutral and independent authority. And fourth, certain parliamentary democracies embrace bicameralism: i.e., a second “Upper House” that acts as a revising chamber, where interests other than those of the brute majority are represented (in our case, that is the Rajya Sabha, acting as a council of states).



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When these features function as they should, it becomes very difficult for the executive to ride roughshod over Parliament and, in turn, opens up space for Parliament to act as the deliberative and representative body that it is meant to be.

A dilution, erasure

In India, however, each of these features has been diluted or erased over the years.

First, the possibility of intra-party dissent within Parliament has been stamped out by virtue of the Tenth Schedule to the Constitution, popularly known as the “anti-defection law”. Introduced through a constitutional amendment in 1985, the Tenth Schedule penalises disobedience of the party whip with disqualification from the House altogether. Ironically, as recent events have more than amply demonstrated, the Tenth Schedule has failed to fulfil the purpose for which it was enacted, i.e., to curb horse-trading and unprincipled floor-crossing. What it has done, however, is to strengthen the hand of the party leadership – which, in the case of the ruling party, is effectively the cabinet/executive – against its own parliamentarians. Intra-party dissent is far more difficult when the price is disqualification from Parliament.

Second, right from its inception, the Indian Constitution did not carve out any specific space for the political Opposition in the House. There is no equivalent, for example, of Prime Minister’s questions, where the Prime Minister has to face direct questioning of their record from the Leader of the Opposition as well as by other politicians. In other words, the manner of proceedings in Parliament are under the complete control of the executive, with no real constitutional checks upon how that control is exercised.

Third, this is exacerbated by the fact that the Speaker, in our system, is not independent. The Speaker is not required to give up membership of their political party, and is not constitutionally obligated to act impartially. This has led to an increasing trend, at both the central and the State levels, of Speakers acting in a blatantly partisan manner in order to advance the interests of the executive over the interests of the House. Not only does this affect the quality of the deliberations in the lower house (as the Speaker has control over the conduct of the House) but it also has a knock-on effect on the Upper House: as has been seen of late, when the ruling party wishes to avoid effective scrutiny in the Rajya Sabha over Bills, the Speaker simply classifies the Bill as a “money bill”, thus depriving the Rajya Sabha of the right to make amendments. This was

seen most vividly in the case of the Aadhaar Act, where Rajya Sabha scrutiny was avoided in this precise manner, and many important rights protecting amendments could not be passed.

Role of the Upper House

Fourth, the role of the Upper House is undercut not only by the Speaker’s misclassification of Bills but also by the constitutionally-sanctioned ordinance making power. An ordinance is nothing more than executive legislation; and while, in theory, it is meant to be used only for an emergency, while Parliament is not in session, in practice, it is used as a parallel process of law-making, especially when the executive wants to bypass the Upper House altogether, at least for a period of time, and create a *fait accompli*.

When we put all of this together, what emerges is a picture where the only effective check upon the executive is one where the electorate has thrown up a fractured mandate and the ruling party is forced to govern in a coalition with allies with whom it does not always see eye-to-eye. In such a scenario, coalition partners can exercise something of a check upon the executive in Parliament.

However, when there is a single, majority ruling party, whether at the Centre or in the States, there is very little that Parliament can do. The anti-defection law wipes out intra-party dissent. The political Opposition’s scope for participation depends upon the discretion of the executive. Partisan Speakers further ensure that the executive is insulated from public embarrassment at the hands of the Opposition, by controlling the debate. And the Upper House is taken out of the equation, either by the misclassification of money Bills or by the use of ordinance power.

It is no wonder, then, that the quality of parliamentary deliberations has declined: it is simply a mirror of Parliament’s own structural marginalisation under the Constitution. Instead, what we have is greater and greater executive power: a situation that resembles presidential systems with strong executives, but without the checks and balances and veto points that those systems have; in effect, the worst of all worlds.

Therefore, even as the new Parliament is inaugurated, the urgent question that we must ask is whether in formal terms, India can continue to be called a parliamentary democracy, or whether we have gradually morphed into an executive democracy. And if, indeed, we want to return to parliamentarianism, what manner of constitutional changes and reforms that it would require.

Even as the new Parliament has been inaugurated, what is overlooked is the increasing subordination of Parliament in India’s ‘parliamentary democracy’

Biodiversity is us and we are biodiversity

The observance of International Biodiversity Day (May 22) was yet another reminder of the pivotal role our natural world plays in resolving the climate change crisis, which, along with the decline of biodiversity, poses an existential threat to our future.

Biodiversity, the rich variety of life forms and their interconnections with each other and the environment, is everywhere: inside our bodies as ubiquitous microbiomes, in our backyards, villages, towns, and cities, and in remote wild places as well-organised ecological communities and ecosystems. Maintaining and enhancing biodiversity on land and in oceans is perhaps the least expensive mechanism to sequester carbon dioxide from the atmosphere so as to cool our land and oceans.

Mitigation of climate change is but one of the several benefits we derive from biodiversity. It also fulfils our basic needs for food, shelter, medicines, mental health, recreation, and spiritual enrichment. To face the continuing decline in the quality of our environment, we will need to rely more and more on solutions that draw upon biodiversity or nature, also called nature-based solutions to secure our future. It is biodiversity that will restore our degraded lands and polluted rivers and oceans and sustain our agriculture in the face of climate change. It is biodiversity that will form the basis of a new sustainable green economy. And it is biodiversity that will inspire our children to opt for a more humane, just, and hopeful future, which accords primacy to the living world.

Despite the importance of biodiversity that ultimately sustains all human endeavours, we have been poor stewards for caring and nurturing life on earth. Globally as well as in India, we have failed to adequately conserve and manage our precious, irreplaceable natural heritage.

Biodiversity is declining worldwide, and our last remaining, largely isolated ecosystems are degrading due to changes happening around them, such as loss of species, climate stressors,



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The engagement of all citizens will be key to the enhancement and protection of the world's natural heritage

and continuous human pressures.

In India, the Forest (Conservation) Amendment Bill will further weaken our resolve to sustain the remaining biodiversity.

Nurturing and managing biodiversity

In many ways, biodiversity is us and we are biodiversity. Thus, civil society must play a critical role in sustaining our biodiversity. A paradigm shift in the care of biodiversity, long overdue, must begin now, flowing from this International Biodiversity Day.

Let us first change the way we manage our biodiversity. Currently, the main custodian of the natural world is the Indian Forest Service. But the term "Forest" to describe our immense and unique natural heritage is flawed. India's biodiversity is not only on land but also in waterbodies, rivers, deltas, and oceans. A rich array of our ecosystems is in the form of grasslands, savannas, alpine pastures, deserts, and other types of ecological communities. Even in the 20th century, people had started to talk about living organisms and the interconnectedness manifested as ecosystems and ecosystem services in multifunctional landscapes dominated by humans. In the 21st century, the basic terms "forests" and "wildlife" have limited meaning or usefulness.

We must think of multifunctional landscapes, where aspirations, beliefs, traditional knowledge, and direct participation of local communities are central to the notion of conserving and sustaining life on earth. In 2006, policymakers in India enacted the Forest Rights Act, that called for an increase in the stake of indigenous groups in ownership as well as management of biodiversity. However, the Act largely remains on paper, yet to be implemented on the ground. Seventeen years later, it is time to even move beyond the Act's steps to fundamentally alter the way we manage our biodiversity. If biodiversity is everywhere, as it is, we must mainstream it into our daily actions – in every development programme, in every

government department, in every public and private institution. And it is time to decentralise the management of biodiversity by bringing together multiple stakeholders, especially local communities, through gram sabhas and biodiversity management committees.

Mainstreaming biodiversity

This very mainstreaming of biodiversity is the goal of the proposed National Mission on Biodiversity and Human Wellbeing, an idea this writer has referred to in earlier columns. India's leading conservation biologists, working under the umbrella of the Biodiversity Collaborative based in Bengaluru, conceptualised the idea and developed a road map for the Mission approved in principle by the Prime Minister's Science, Technology, and Innovation Council.

The Mission will enable our country to meet critical challenges in climate change, natural and regenerative agriculture, and ecosystem and public health using biodiversity and ecosystem services – usually referred to as nature-based solutions. The ultimate goal is to enhance and conserve biodiversity to foster human well-being; more specifically, to meet the United Nations Sustainable Development Goals related to poverty alleviation, nutrition and health, and environmental protection, and support an era of new green economy.

People will be at the centre of the Mission, the goal of which is to have all citizens engaged in the conservation and sustainable use of biodiversity, embed consideration of biodiversity in every development-oriented programme of the public and private sectors, and arouse curiosity about nature and a sense of responsibility for safeguarding biodiversity – and our very future – in the minds of every child and every student. Undertaking such a pledge would be a fitting celebration of our precious and irreplaceable natural world.

The views expressed are personal