

## Parliament Logjam: 5 rules to better discretion

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Why is the world's largest democracy stuck at a level of how to set an agenda for parliamentary discussion?

The latest logjam in Parliament is again for a familiar reason, whether the debate on demonetization should conclude with or without voting. Many Opposition parties are unwilling to start the debate unless it is pre-agreed to be followed by a vote, since they see an opportunity to embarrass the government. Equally, the government has stood firm that, there being no hard-and-fast requirement to have a voting debate, there is no reason for them to agree to one.

Why is the world's largest democracy stuck at this basic level of how to set the agenda for parliamentary discussion, and the manner of such discussion? This is a crucial question. The reality is that India's Parliament functions with obsolete colonial-era structures, rules and conventions borrowed from 19th century UK, which itself has discarded many of them.

Even more fundamentally, other democracies including the UK and US have significantly updated their legislative structures in ways that are instructive for us in India. The most important of these are changes to their upper houses, the UK House of Lords and the US Senate. However, this column will focus only on the very first milestone that any legislature needs to cross: how to decide what to discuss.

Most importantly, with rare exceptions, the Indian Parliament's agenda-setting procedures are not strictly rules-based, but rather depend on discretion and consensus. An exception is the rule for no-confidence motions, which are mandatory if demanded in writing by at least 50 MPs.

Decisions on virtually every other kind of agenda item are left to "the Speaker's discretion," which actually means by consensus within the Business Advisory Committee (BAC), composed of the floor leaders of all the parties. Decades of following this convention have hardened the dependence on consensus as an article of faith. And anyway, in the absence of consensus in the BAC, neither is it feasible for the Speaker to bulldoze her "discretion," since it would inevitably fuel disruptions all over again.

So while there is "rule 184" for a voting discussion in the Lok Sabha, and "rule 193" for a non-voting discussion, there is no rule for deciding which should apply in any particular discussion, leaving it to consensus in the BAC!

But it should be obvious to anyone that while consensus among government and opposition parties in Parliament may have worked in the 19th or early 20th century, it is simply impractical today. The Westminster model of parliamentary democracy that we adopted was developed in a far smaller and much more homogenous country, where there were far fewer parties in Parliament.

Even now, the number of parties represented in the UK House of Commons pales in comparison to the unwieldy 36 in our Lok Sabha. But a bigger differentiator than numbers of parties in Parliament, are the stricter rules-based systems in most modern democracies, leaving little to discretion or consensus. Those rules make discussions — and even voting discussions— commonplace, without being either flippant or unattainable.

Our Parliament needs such rules. First, two non-discretionary rules for voting and non-voting discussions should be introduced. 50 MPs' signatures mandatorily leading to a non-voting discussion and 100 MPs' signatures for a mandatory voting-discussion would solve the bottleneck of trying to set the agenda through impractical consensus.

Third, the requirement of 50 MPs' signatures for launching a no-confidence motion should be raised to 150 MPs. After all, it is not a frivolous motion, and anyway requires 272 —a majority of the Lok Sabha's 543 members—in order to succeed. Together, these three rules would provide an elegant, escalating scale of interventions to deal with issues of varying importance.

Two other non-discretionary rules would also do much to improve Parliament's functioning and bring it in line with global practices. Thus, the fourth reform should be to introduce, like in the UK, some days in every session dedicated to discussing issues of the Opposition's choice. A ballot of all Opposition MPs should decide the agenda for such days.

Finally, the fifth reform should be to have rules-based disciplining of the most disruptive MPs, in place of the Speaker's discretion. This is because, despite the existing provision for the Speaker to have disruptive MPs removed, and the many all-party resolutions to behave well, in reality the Speaker faces much ire if she does actually do so.

A simple, football-like rule of automatic removal of an MP for a day for going into the well for the first time, and for the rest of the session for doing it a second time, would go a long way to restore the dignity of Parliament. In fact, this has already been mooted as a way to solve disruptions in state assemblies, with some presiding officers reportedly favouring it. This would save the Speaker embarrassment, while allowing her discretion over more routine, relatively minor infractions.

Without these changes, it is only to be expected that some opposition parties, denied the ability to legitimately press their point, will routinely attempt disruption. And similarly, it is only natural that the government of the day will routinely deny consensus in the BAC for challenging agenda items, and will only want to allow the least contentious ones.

Unless we recognise that outdated, consensus-based “rules” simply cannot be expected to be effective in modern legislatures, we will keep going around in circles and experience the same disruptions again and again. It is high time for our Parliament and Assemblies to have numbers-based, non-discretionary, real rules