Article Title: "Less check, more balance: Reforms must reduce Rajya Sabha's power to block the popular mandate, unparalleled globally"

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Last month, Italy's upper house of Parliament, the Senate, voted to drastically reduce its own powers, including its number of members and its power to block constitutional amendments and other key legislation. Though steps like a public referendum and passage by the lower house remain, in all likelihood this heralds the end of a decades-long era of chaotic governance. This ought to interest us in India, accustomed as we are to our version of chaotic governance. However, when finance minister Arun Jaitley mooted a relook at Rajya Sabha's powers in August, it led to a furore from many quarters. Those objections continue, but in an unthinking, dogmatic way. It is important, and high time, that the issue is examined dispassionately.

First, let us be clear that democracies are crucially dependent on checks and balances. Thus, there are very good reasons for having a bicameral legislature, with one house representing the popular will of the day, and the other, with a longer perspective, exercising restraint against a potentially hysterical mob mentality.

But governance in India, like Italy and others earlier, is caught in a logjam of far too many checks and not enough balance. Nowhere else in the world are there as many legislative checks against the popular mandate of the electorate. Joint sessions of Parliament are no solution as they are impractical to convene frequently and cannot pass constitutional amendments. And structuring major legislation as money bills solely to bypass the Rajya Sabha is undesirable.

It is instructive to consider how other democracies deal with these issues. Take for instance the UK, on whose Westminster model of parliamentary democracy our system is mostly based. Till a century ago, its House of Lords could reject all bills except money bills, just like our Rajya Sabha today. However, in 1911 the Brits amended this, reducing its powers from being able to block legislation to only delay it up to two years. Then in 1949 the House of Lords' powers were further diluted, so that today, with minor exceptions, all it can do is delay legislation for up to a year.

To be sure, the House of Lords is an appointed, not elected, body, though there are moves to change that. This is an aspect on which the present debate in India suffers from much confusion. Those frustrated by the Rajya Sabha's intransigence often assert that it is an unelected house of nominated members, and should not exert so much power.

Of course, that is a popular misconception: only 12 of the 245 Rajya Sabha members are actually nominated, the others being elected, albeit indirectly from the state assemblies rather than directly from the public. But this is a crucial distinction, which cries out for greater introspection and debate.

The reality is that the Rajya Sabha's indirect elections are, indeed, akin to party nominations. This has been reinforced in recent years by two significant developments. The anti-defection law, while doing away with the ills of horse-trading, has had the unintended consequence of making party whips all-encompassing. This, in conjunction with the 2003 amendment that did away with secret voting by MLAs for Rajya Sabha candidates, has all but ensured that only party-nominated candidates win.

In theory, Rajya Sabha is supposed to represent the interests of states as a whole. But in practice, what it thus represents are the interests of parties, in fact of party leaderships. Other democracies have faced, and resolved, similar problems.

The most striking example is the US Senate, which the Rajya Sabha resembles in its members' terms of six years, with one-third retiring every two years. Originally, the US Senate was also indirectly elected from state legislatures, just like the Rajya Sabha today. But in 1913, during the so-called Progressive Era in the US that saw many political reforms, the constitution was amended to make Senators directly elected by the public of each state.

The effect was dramatic. It broke the hold of party bosses to nominate cronies with no alignment with public interest. And by requiring candidates to seek a plurality of votes all across a state, instead of just cosying up to party bosses, it forced eventual winners to reject fringe concerns in favour of centrist, broad-based campaigns.

India needs to choose one of two paths to break its systemic legislative gridlock. Emulating the UK or Italy would leave the Rajya Sabha electoral process intact, but reduce its powers. It would still have the ability to slow down the passage of bills, to ensure that those who win elections don't ride roughshod over the losers. But it would no longer have the power to indefinitely block legislation, thus ensuring that those who lose elections don't have a veto either.

Pursuing the American example would leave the Rajya Sabha's veto powers intact, but make election to it direct, by the public. That would make its members' agendas much less insular, and more broadly aligned with public interest.

For either to happen will require sustained championing by political leaders, much as US President Theodore Roosevelt did a century ago or Italian PM Matteo Renzi has in the past two years. As in such reforms elsewhere, this would need, and deserve, support from the opposition too; at least from those who hope to govern someday.