

## CONNECTING THE DOTS: 15-04-2018

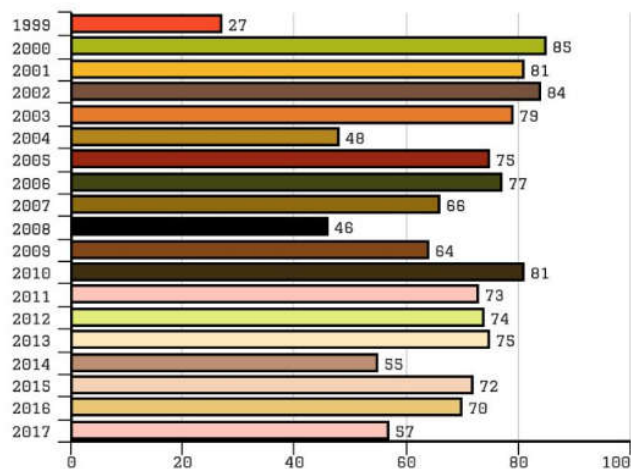
**'Connecting the Dots':** It is an initiative by Team Oracle IAS, where we give a topic to the students in the mornings of Saturday/Sunday. We post our article/views on the topic in the evening.

### **Objectives:**

1. To explain a tough topic by simplifying and breaking it into easily understandable parts.
2. To inculcate the habit of notes making in the students.
3. To explain by example how notes should be made.
4. To help you keep your notes updated.

## Topic: Parliamentary logjam and solutions

### SITTINGS OF THE LOK SABHA



Statistics show a sharp decline in the number of sitting days of parliament. Between 1952 and 1972 the Lok Sabha worked for an average of 120 days in a year. In comparison it worked for an average of 70 working days in the last decade. There is an urgent need to overhaul the functioning of this important institution lest law-making should suffer.

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Urgent changes under **four broad heads** need to be made to rejuvenate parliamentary functioning. These are:

### **Constitutional changes**

In some Commonwealth countries, the yearly calendar of Parliament is determined in advance and the dates of its sittings are known for the entire year. Unlike in India where the President convenes and prorogues the Parliamentary sessions, in these countries Parliament is in session for the entire year and takes scheduled breaks in between. Such mechanisms ensure that the Government does not escape Parliamentary scrutiny.

Another Constitutional change is with respect to the anti-defection law. Currently, MPs are required to vote in the Parliament on party lines. If they vote against the party whip they stand to lose their seat in Parliament. This impinges upon the concept of MPs as lawmakers and reduces them to a “headcount”. The MPs should be required to vote on party lines only when the fate of the Government hangs in balance. On legislative and other debates, they should be allowed to vote according to their will.

### **Procedural revamp**

While a number of Parliamentary procedures needs updating, there are three aspects which need immediate attention.

The first one is the business that is conducted in Parliament. Currently the business that is transacted is dictated by the Government and the Opposition has a limited say in setting the agenda for debate. This leads to disruptions, when the Government is reluctant to debate contentious issues. In other Parliamentary democracies this is handled in two ways. The first is by giving the Opposition parties a fixed number of days in a week where they are free to decide the day's agenda. The second is that a debate on a topic is taken up if a minimum number of MPs are in favour of such a debate.

The second area of focus should be departmentally related parliamentary committees. These were constituted in the early 1990s to scrutinise Bills and the work of Ministries. However Parliamentary procedures limit their effectiveness to a certain extent. For example, the rules do not make it mandatory for all Government Bills to be referred to a standing committee. The referral of Bills depends on the discretion of the presiding officer. This results in ministers requesting presiding officers not to refer Bills to committees on grounds of urgency. This is despite the fact that with respect to the Bills, the committee's recommendations are not binding and the Government is not required to provide reasons for refusing to accept the committee's recommendations. While bureaucrats testify before

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these committees, Parliamentary procedures prevent the calling of ministers to appear before these committees. These committees are entrusted with the task of examining technical and nuanced policy issues. However they do not have access to subject matter experts who can support their work.

The third aspect is with respect to voting in Parliament. Almost all of the business of Parliament is transacted by a voice vote, which means that MPs shout “ayes” or “nays” expressing their stand on Bills and motions. Recorded voting by pressing of buttons only takes place during a no confidence motion or when an MP asks for it and the presiding officer accedes to the request. Keeping a record of how an MP voted is important because, not only does it incentivise an MP to be present during debates in Parliament, it also makes his stand on issues clear to people.

### **Empowering MPs**

The last change is empowering our MPs with adequate resources which are commensurate with their role as national legislators. Ministers have the entire Government machinery available to them and MPs are required to keep these ministers accountable without any proper office or staff. With legislation becoming technical and Parliament debating issues which require in-depth understanding of law and policy, our MPs can only be as effective as the research support they have. This would ensure that the MPs are effective in the interventions that they make in Parliament and are able to hold the government accountable for its functioning.

### **Legislative process**

While looking at the legislative process, one can consider three stages: before the Bill is introduced (pre-legislative), while in Parliament, and later (post-legislative). It requires the administrative ministry to publish the proposed legislation on the Internet and through other media, and include the reasons for the Bill, the financial implications and impact on the environment, society etc. The ministry should seek public feedback on the Bill, which would be collated and sent to the standing committee which then examines it. This is a move towards increasing public participation in legislation and must be followed in spirit.

It is necessary to revitalize the legislative process in Parliament. Two crucial stages need to be strengthened: examination by committees and discussion on the floor of the House. Only about 70% of all Bills are referred to committees; this step must be made mandatory for all Bills, as in the British Parliament. The performance of committees is also not consistent. We also require adequate number of researchers to help the committee understand complex and technical issues; at present they do not have any research staff.

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Parliament should pass Bills only after due deliberation. Majority of the bills are passed with practically no debate. This trend needs to be reversed and MPs must express their views and discuss the implications of various provisions before approving the Bill. Also, there is no record in most cases of how MPs voted. Most Bills are passed by voice vote, and one does not know how, or even whether, each MP voted on it. As discussed above, it should be mandatory to record the votes on Bills to bring greater transparency and accountability of the MP to his voters.

The post-legislative step of overseeing the rules and regulations made by the government following the enactment of a law also needs to be overhauled. Currently, each House has a committee on subordinate legislation that examines rules. However, these committees rarely engage with stakeholders: public, civil society etc.

### **Conclusion:**

To sum up, a key task of legislatures is to legislate. We need several reforms to improve the quality of the legislative process: enable private members to make law, and strengthen the processes before, during and after the Bill is in Parliament etc.

### **Contact us (send feedback to):**

1. Mail : [oracleias.ddn@gmail.com](mailto:oracleias.ddn@gmail.com)
2. Phone : 09997453844(Hemant Sir)
3. Website : [www.oracleias.org](http://www.oracleias.org)