

Parliamentary Oversight of the Executive

Background Note for the Conference on Effective Legislatures

Parliament performs four major functions: representation of citizens, law making, oversight of the executive, and scrutiny of the budget. This note briefly outlines the mechanisms that are available to the Parliament to conduct oversight of the executive, and highlights major recommendations to strengthen this function of Parliament.

Mechanisms for parliamentary oversight of the executive

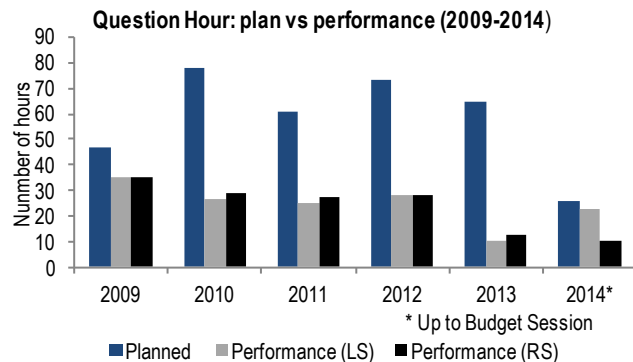
Through its oversight function, Parliament holds the government accountable and ensures that policies are efficient and in keeping with the needs of citizens. In addition, parliamentary oversight is essential to prevent arbitrary and unconstitutional action by the government.¹ There are two key mechanisms of parliamentary oversight: (i) questions and debates on the floor of the House, and (ii) parliamentary committees which scrutinise government policies.

I. Accountability on the floor of the House

A. Question Hour

Question Hour allows Members of Parliament (MPs) to pose questions to ministers relating to government policies, and hold the government accountable for its actions. Certain questions must be answered orally on the floor of the House, while others receive written replies from the relevant ministry.

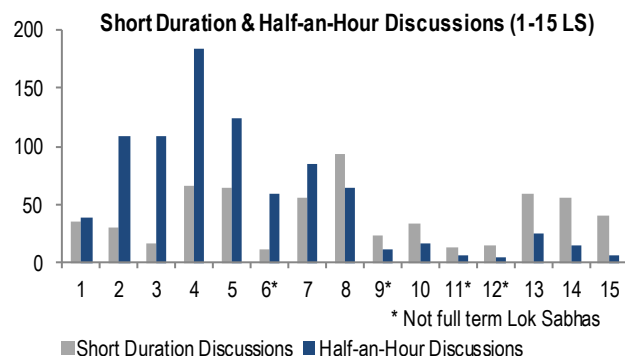
For example, MPs may ask about the performance of a scheme of the government, the action taken by the government on a matter of public policy, etc. Up to 20 questions (15 in the Rajya Sabha) are selected to be answered orally and up to 230 (160 in the Rajya Sabha) receive written replies from the ministry each day of session in the Lok Sabha. MPs can ask two follow-up questions to questions answered orally by the minister.



The graph shows that between 2009 and 2014 (Budget Session), Question Hour functioned for an average of 42% of its scheduled time, largely as a result of disruptions. When Question Hour is disrupted, it is not made up by extending the scheduled time for the sitting or through meeting on additional days. Recently, in order to reduce disruptions, Rajya Sabha moved Question Hour from the first hour of sitting to the second hour of sitting.²

B. Debates and motions

Debates and motions play a central role in parliament’s oversight function by allowing MPs to initiate discussions and seek clarifications on government policies. There are two major types of discussions which are used by MPs to raise issues on the floor of the Parliament: (i) debates, which do not require a vote at the end of the discussion, and (ii) motions, which require a vote at the end of the discussion.

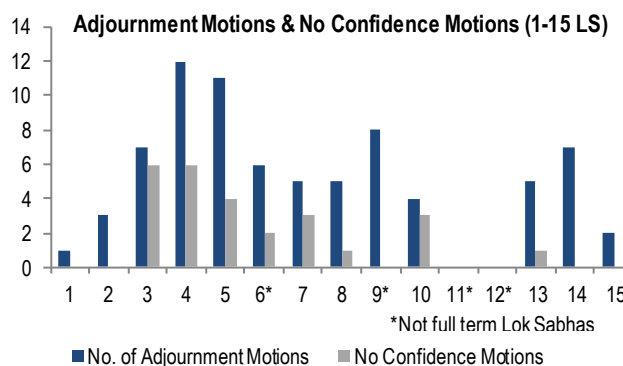


Debates: There are four major types of debates, which allow MPs to question ministers on the floor of the House, but do not require a vote at the end of the discussion. During Short Duration Discussions (Rule 193 in the Lok Sabha/Rule 176 in the Rajya Sabha), an MP can raise a matter of public importance, which is followed by a discussion with other MPs and a statement by the relevant minister. In the past, MPs have raised issues such as price rise and drought conditions using Short Duration Discussions. Similarly, Calling Attention is used to elicit a response from the relevant minister on an urgent issue, however, without discussion with other MPs.

Where clarity is required on an answer provided in Parliament, a Half-an-Hour Discussion may be initiated. The graph on the previous page shows the number of Short Duration Discussions and Half-an-Hour Discussion which have been held from the 1st to the 15th Lok Sabha. Finally, in case an MP wants to make a statement on the floor of the House on an urgent matter, he may do so through Rule 377 (which corresponds to Special Mention in the Rajya Sabha). In this case, the minister is not required to respond. Using this Rule, MPs have raised a variety of issues ranging from the improvement of infrastructure in backward areas, to the provision of welfare schemes for vulnerable communities.

Motions: Unlike the debates mentioned above, motions allow for voting at the end of the discussion. There are three types of motions which assist in the oversight function of the Parliament: No Confidence Motions, Adjournment Motions, and Rule 184 in the Lok Sabha (corresponding to Rule 167 in the Rajya Sabha). The first two can only be moved in the Lok Sabha.

A No Confidence Motion can be moved against the Council of Ministers (not individual MPs) by an MP, but can be discussed only with the support of 50 or more MPs. The government must resign if the motion is passed on voting. The passing of an Adjournment Motion leads to the adjournment of the House, and signals disagreement of the House with a government policy. However, in this case, the government need not resign. The graph shows the number of Adjournment Motions and No Confidence Motions which discussed from the 1st to 15th Lok Sabha. In addition to these two motions, Rule 184 in the Lok Sabha (Rule 167 in the Rajya Sabha) is used to support or oppose government policy, through voting.



C. Zero Hour

The hour following Question Hour is popularly called Zero Hour and is used by MPs to raise urgent matters. MPs must notify the Speaker/Chairperson, who can decide whether the issue may be raised. Typically, MPs use this time to make statements on urgent issues using Rule 377/Special Mention. This time is also used for laying papers such as annual reports of government institutions, CAG reports, etc. Recently, Rajya Sabha has decided to start the day with Zero Hour, followed by Question Hour.²

II. The committee system

Given the large number of issues which Parliament must address, parliamentary committees, comprising MPs, examine Bills, budgets of ministries, and policies of the government. Committees allow for more informed debate in Parliament, and they also provide an avenue for citizens to engage with Parliament. Committees can either be permanent or appointed temporarily. The following committees assist in the oversight function of Parliament:

Departmentally Related Standing Committees (DRSCs)	There are 24 such committees, which examine the working of ministries which are allotted to them. These committees examine policies and issues related to the ministry allocated to them, in addition to Bills which are introduced in Parliament by the ministry. They also examine the ministry's budget.
Financial Committees	The three permanent financial committees of Parliament: the Public Accounts Committee, Estimates Committee, and Committee on Public Undertakings are responsible for financial oversight of the government. Unlike DRSCs, these committees monitor the expenditure of the government, once the budget has been passed. Detailed information on these committees is available in the PRS Note on Parliament's role in financial oversight. ³
Committee on Petitions	Citizens can petition this Committee for redress of grievances relating to any officer or authority of the central or state government. Recent reports have looked at issues of food safety, spurious drugs, and hydropower projects.
Committee on Govt. Assurances	This Committee examines the assurances given by ministers from time to time on the floor of the Parliament, and submits reports on the extent to which these are implemented.
Joint Parliamentary Committees (JPCs)	JPCs are temporary investigative committees, set up for a specific object and duration to examine issues of public importance. Past JPCs have examined the issue of allocation and pricing of spectrum, pesticides in soft drinks, and irregularities in securities and banking transactions.

Outside of the Parliament, MPs are also part of Consultative Committees, and Parliamentary Fora, which are not governed by the rules of procedure of Parliament and provide more informal spaces to engage with the government and experts.

Consultative Committees are established by the Ministry of Parliamentary Affairs, and are attached to 34 ministries, including agriculture, defence, railways, etc. In the 15th Lok Sabha, six Parliamentary Fora were established by Speaker of the Lok Sabha in consultation with the Chairman of the Rajya Sabha. These examined issues such as water conservation, public health, and disaster management.

Strengthening parliamentary oversight of the executive

Major recommendations to strengthen parliamentary oversight of the executive include: (i) allowing Parliament to convene itself, (ii) strengthening the role of the opposition, (iii) revising certain rules of procedure of Parliament related to debates, (iv) strengthening the committee system, (v) ensuring the accountability of regulators, and (vi) ensuring the accountability of intelligence agencies. These are detailed below.

Parliament's power to convene itself

Currently, Parliament does not have the power to convene itself. The Constitution mandates that Parliament be convened by the President at least once every six months. Since the President acts on the advice of the Council of Ministers, effectively, Parliament is convened at the behest of the government. The government may therefore convene Parliament for as long as is necessary to address the government's agenda. In this context, granting Parliament the power to convene at the request of a required number of MPs may allow Parliament to address issues more promptly, even during inter-session period. However, this requires a constitutional amendment.

Role of the opposition

Within the institution of Parliament, the opposition can play a central role in monitoring the government and holding it accountable. The 13th All India Whips Conference recommended that opposition parties be given more space to place their agenda on the floor of the House.⁴ Opposition parties could play a greater role in deciding the daily agenda of Parliament, or alternatively, time could be set aside each week for opposition parties to set the agenda. Internationally, the UK allows the opposition party to determine the agenda for 20 days of each session of Parliament, and Canada for 22 days.⁵ At present, in India, the Business Advisory Committee sets the agenda of Parliament and the ruling party has a greater say in deciding the agenda.

Additionally, in countries such as the UK, Canada, and Australia, the opposition forms a Shadow Cabinet, wherein opposition MPs form an alternative Cabinet, and individual opposition MPs follow or shadow the work of each member of the Cabinet.⁶ This practice could strengthen the ability of the opposition to hold the government accountable, through allowing for greater specialisation in tracking the government.

Accountability measures on the floor of each House: rules of procedure

Both Houses of Parliament are governed by their respective rules of procedure, which can be modified by each House. For example, as mentioned earlier, the Rajya Sabha has recently decided to shift Question Hour to the second hour of sitting. Certain rules may be re-examined to strengthen Parliament's oversight, in particular.

Increasing accountability in Question Hour: At present, the Prime Minister is only required to answer questions that pertain to ministries allocated to him. There may be questions relating to issues which span the domains of various ministries, and have cross-sectoral implications. However, as the Prime Minister does not answer these questions, they may not get adequately addressed. The UK has a Prime Minister's Question Time during which the Prime Minister answers question on the government's policies, across sectors.⁷

Strengthening discussions: Currently, the Speaker/Chairman can determine whether to admit a discussion as a debate or a motion. As mentioned earlier, the key difference between the two is that the latter involves voting at the end while the former does not. In practice, there is often disagreement between the government and the opposition on the rule under which a discussion is conducted, as motions are put to vote. Voting can help record the position taken by each MP and party on an issue. An alternative practice could be to allow a sufficiently large group of MPs to decide whether an issue should be introduced as a voting motion, or alternatively a debate.

Examination of reports: Given that a range of parliamentary committee reports are presented in Parliament, institutional mechanisms may be developed to highlight issues raised in these reports. The National Commission to Review the Working of the Constitution (NCRWC) has recommended that all committee reports be discussed in Parliament, especially if there is disagreement between the committee and the government on an issue.⁸

The committee system

Parliamentary committees can play a central role in oversight of the executive, through detailed examination of government policies. Major recommendations to strengthen the committee system are detailed below.

Requirement of attendance of ministers before committees: In current practice, government officials depose before committees, and ministers are exempt from appearing before committees. This implies that the political executive, which is accountable to Parliament for the decision taken by it, does not clarify and defend its position before the committee. In other countries, such as the UK, ministers are required to depose before committees.

Increasing transparency: Allowing for greater transparency in the procedures of the committees will provide a greater check on the oversight function of Parliament, and therefore ensure that procedures are followed in process of conducting oversight. While some Parliaments allow for video recording of committee meetings (such as the US and UK), others selectively allow meetings to be opened to the public (such as Denmark).⁹

Greater public participation: DRSCs examine a range of subjects related to their department or ministry. While some invite suggestions from the public on these issues, there is no consistency in the manner of public participation across these committees and on issues. Public participation should be invited more systematically and be institutionalised in the procedures of each committee to strengthen the oversight function of committees.

Oversight committee: According to the Inter-Parliamentary Union, Parliaments may establish a general oversight committee to oversee the work of other permanent and ad-hoc committees.¹ These committees can co-ordinate the oversight functions of sector specific committees. They may recommend issues that committees take up to investigate, and other committees may bring matters up before this committee. For example, the US has established a Committee on Oversight and Government Reform specifically to perform oversight functions over the federal government, even though individual committees also perform oversight functions over their sectors.

Oversight of regulators

Given the changing role of government, and the establishment of regulators to whom executive functions are often devolved, Parliament must develop formal oversight mechanisms for regulators, such as the Reserve Bank of India, Telecom Regulatory Authority of India (TRAI), etc. For example, by law, certain functions that were earlier carried out by the Department of Telecommunications are now under the purview of TRAI. While the relevant minister answers questions in Parliament, and responds during discussions related to the working of the Department, there is no mechanism for Parliament to directly hold TRAI accountable for its actions.

The Second Administrative Reforms Commission made the following recommendations on strengthening Parliament's oversight of regulators: (i) regulators must appear before sector specific parliamentary committees and explain their policies, and (ii) an expert group should establish guidelines, once every five years, upon which regulators may be evaluated.¹⁰ The Financial Sector Legislative Reforms Commission has also recommended that regulations framed by regulators be placed before a sector specific parliamentary committee and not a general committee for delegated legislation.¹¹

Oversight of intelligence agencies

At present, intelligence agencies such as the Intelligence Bureau and Research and Analysis Wing are exempt from parliamentary oversight. This implies that there is limited operational or financial oversight of these agencies. As pointed out by the Chairperson of the Rajya Sabha in 2010, in other countries, parliamentary oversight over intelligence agencies may: (i) encompass policy and operations (in the US and Germany), (ii) be limited to financial oversight (in the UK), or (iii) focus on human rights violations and the rule of law (in Norway).¹² In this context, he recommended establishing a permanent parliamentary committee on intelligence agencies to perform oversight over these agencies.

1. "Tools for Parliamentary Oversight: A Comparative Study of 88 National Parliaments", Inter-Parliamentary Union, 2007.
2. Parliamentary Bulletin II, No. 52453, November 11, 2014, http://164.100.47.5/newsite/bulletin2/Bull_No.aspx?number=52453.
3. "Parliament's Role in Financial Oversight", PRS Legislative Research, December 1, 2014.
4. No. 18(1)2008-ME, Ministry of Parliamentary Affairs, <http://mpa.nic.in/MPA/Pdf/agenda.pdf>.
5. UK (Website of the Parliament of UK): <http://www.parliament.uk/site-information/glossary/opposition-days/>; Canada (Website of the Parliament of Canada): <http://www.parl.gc.ca/About/House/Glossary/glossary-e.html#allotted-day> (both accessed December 1, 2014).
6. UK (Website of the Parliament of UK): <http://www.parliament.uk/site-information/glossary/shadow-cabinet/>; Canada (Website of the Parliament of Canada): <http://www.parl.gc.ca/parlinfo/compilations/houseofcommons/ministrymembers.aspx>; Australia (Parliamentary Education Office): <http://www.peo.gov.au/learning/fact-sheets/ministers-and-shadow-ministers.html> (all accessed December 1, 2014).
7. Website of the Parliament of UK: <http://www.parliament.uk/about/how/business/questions/> (accessed December 1, 2014).
8. "The Report of the National Commission to Review the Constitution", Ministry of Law and Justice, March 2002.
9. US (Website of the Library of Congress): <http://thomas.loc.gov/video/house-committee>; UK (website of the Parliament of UK) <http://www.parliamentlive.tv/Main/Home.aspx> (both accessed December 1, 2014); Demark: "Tools for Parliamentary Oversight: A Comparative Study of 88 National Parliaments", Inter-Parliamentary Union, 2007.
10. "Organisational Structure of Government of India", 13th Report, Second Administrative Reforms Commission, April 2009.
11. "Report of the Financial Sector Legislative Reforms Commission", Government of India, March, 2013.
12. "Vice President delivers Fourth R.N. Kao Memorial Lecture", Press Information Bureau, Vice President's Secretariat, January 19, 2010.

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