

Oppositional Practice in India: Understanding Parliamentary Responses to Populism

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Abstract: The scholarship on the role of opposition in parliaments has highlighted a dual role for the opposition, that is to extract accountability from the government and to be prepared as the “government-in-waiting”. However, there are significant constraints on opposition in populist regimes. Specifically, alternation of governments becomes increasingly impossible as populist governments obstruct channels of political change giving rise to authoritarian and/or competitive authoritarian regimes. However, we discuss that the opposition can still play an important role in such contexts, using India as a case study. We discuss how oppositional practice of advocacy and de-acceleration can be a response to the populist politics of anti-pluralism; and immediacy and impatience. The de-accelerating effect consists of stalling, delaying and influencing of the legislative proposals of the government. We specifically highlight how the much-maligned parliamentary disruptions in India, which were understood to be creating a state of “gridlock and dysfunction”, can now present opportunities for resisting populist projects and protecting democracy and constitutionalism.

Keywords: Opposition; Parliament; Populism, India; Parliamentary Disruptions

A. Introduction

As in many other jurisdictions, democracy in India is on a decline.¹ The growing executive aggrandisement in India has imperiled its liberal constitutional order.² The decline has much to do with the electoral dominance of the *Bhartiya Janta Party* (BJP), which has

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1 *Tarunabh Khaitan*, Executive Aggrandizement in Established Democracies: A Crisis of Liberal Democratic Constitutionalism, *International Journal of Constitutional Law* 17 (2019), p. 343.

2 *Tarunabh Khaitan*, Killing a Constitution with a Thousand Cuts: Executive Aggrandisement and Party-State Fusion in India, in: Swati Jhaveri / *Tarunabh Khaitan* / Dinesha Samararatne (eds.), *Constitutional Resilience in South Asia*, Oxford 2023, p. 134.

won three consecutive national elections in 2014, 2019, and 2024. BJP's dominance can be attributed to its populist leader, Narendra Modi and the ideological shift in Indian politics to Hindu majoritarianism.³ However, the BJP has also given itself a partisan advantage in elections. This has been achieved through the increasing executive influence over the Election Commission⁴ and changes in campaign financing laws.⁵ Opposition leaders also continuously find themselves under the ire of government-controlled investigative agencies, facing charges of corruption, criminal defamation etc.⁶ Thus, while the opposition can participate in elections, the cards are stacked against it, making India a competitive authoritarian regime.⁷ A crucial question that then arises is whether the opposition can still play a substantial role in politics in contemporary India. The situation is further complicated by the fact that the Parliament, where the opposition has institutional opportunities to oppose the government, has been undermined in the last decade by flagrant violations of parliamentary procedures and conventions by the BJP government and BJP affiliated presiding officers.⁸

No doubt, in the last decade there has been a constitutional and democratic regression in India. We acknowledge that the Parliament has also come under significant pressure. However, in this article we aim to complicate this narrative by telling a story of resistance, with a focus on the period following the rise of the BJP in 2014. We explore the opposition-

- 3 *Christophe Jaffrelot / Gilles Verniers*, A new party system or a new political system, *Contemporary South Asia* 28 (2020), p. 142.
- 4 *Mohsin Alam Bhat*, ECI is not up to the task of sanitizing a chaotic electoral process, *The Wire*, 4 June 2019, <https://thewire.in/politics/election-commission-model-code-hate-speech-religion> (last accessed on 30 June 2025); see also the Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Terms of Office) Act 2023 (sets up a executive dominated selection committee to nominate members to election commission).
- 5 *Khaitan*, note 2, p. 141.
- 6 For example, the corruption cases launched against the Aam Aadmi Party leaders and Hemant Soren (Jharkhand Mukti Morcha party) and the case of defamation launched against the Congress party leader Rahul Gandhi, see BBC, Arvind Kejariwal: Delhi Chief Minister remanded to custody in corruption case, 22 March 2024, <https://www.bbc.com/news/world-asia-india-68634000> (last accessed on 22 May 2025); *Apurva Vishwanath*, Rahul Gandhi disqualified as Lok Sabha MP after conviction, *Indian Express*, 24 March 2023, <https://indianexpress.com/article/explained/explained-law/rahul-gandhi-can-avert-disqualification-as-mp-if-conviction-stayed-8515487/> (last accessed on 22 May 2025).
- 7 *David Landau*, Abusive Constitutionalism, *UC Davis Law Review* 47 (2013), p. 199; *James Manor*, A New, Fundamentally Different Political Order: The Emergence and Future Prospects of 'Competitive Authoritarianism' in India, *Economic and Political Weekly* 56 (2021); See also Freedom House, India: Freedom in the World 2023 Country Report, <https://freedomhouse.org/country/india/freedom-world/2023> (last accessed on 4 December 2024).
- 8 Civil Society Organisations and Citizens, Charge sheet against Government of India for Subverting and Undermining Parliamentary Democracy, 9 February 2024, <https://bahutvakarnataka.wordpress.com/2024/02/09/chargesheet-against-government-for-subversion-of-parliamentary-democracy/> (last accessed 22 May 2025).

al practice of diverse oppositional actors in the national legislature⁹ including non-governing parties, the Upper House of the Parliament (Rajya Sabha), and coalition partners of the BJP government to assess how they have in some forms resisted the democratic decline ushered in by the current regime. Essentially, for the purposes of this article we understand the ‘opposition’ as this dispersed set of forces in Parliament, and not as a singular party or actor. The article is limited in its scope to a focus on parliamentary opposition. While opposition against the government can take various forms, parliamentary opposition has institutional opportunities within the Parliament to oppose the government.¹⁰

The article discusses responses and strategies employed by the oppositional actors in the Parliament to overcome the democratic crisis, with a focus on two aspects of oppositional practice. The first is the forms in which the oppositional practice has had a discursive impact. This could be through the advocacy of the opposition on behalf of their constituents – such as minority communities, sub-national interests or those opposed to the establishment of an illiberal majoritarian order. The second is how oppositional practice in the Parliament has played a role in stalling, influencing and changing the governmental agenda. We argue these aspects of oppositional practice, to advocate and to de-accelerate the government’s program, have been demonstrated by a combination of both legally permissive forms of parliamentary practice and disruptions. The legally permissive forms include raising questions, moving motions and exercising oversight through parliamentary committees. On the other hand, disruptions may violate rules and norms governing parliamentary conduct,¹¹ and may include disobedience of presiding officers, sloganeering, interrupting and boycotting.¹²

In deploying these responses and strategies, the oppositional practice has attempted to resist the democratic decline, both in terms of the thin and thick conceptions of democracy. Rosalind Dixon has referred to the thin conception as a commitment to the democratic minimum core, which includes free and fair elections and institutional checks and balances.¹³ Oppositional practice over the last decade in India has attempted to prevent the complete neutralisation of the Parliament. The Parliament, as we argue, can still provide some institutional checks over the government through the oppositional practice of advocacy and de-acceleration. The thick conception of democracy relates to a commitment to broader values like protection of minorities and a deliberative form of democracy, and is not

9 The article deals with the national legislature due to the constraints of scope, although state legislatures remain important interactive sites of democratic politics in India: see *Jaffrelot / Verniers*, note 3, pp. 145-147.

10 *Julian L. Garritzmann*, *Oppositional Power*, in: Ali Farazmand (ed.), *Global Encyclopedia of Public Administration, Public Policy, and Governance*, Berlin 2018, p. 4250.

11 See Rules 349 and 352, Rules of Procedure and Conduct of Business in Lok Sabha (“Lok Sabha Rules”).

12 *Ibid.*

13 *Rosalind Dixon*, *Responsive Judicial Review*, Oxford 2023, pp. 60-64.

just limited to establishing a competitive democracy.¹⁴ The advocacy carried out through oppositional practice entails promotion of minority interests and deliberation as a value.

The article makes three contributions. First, it adds to the comparative constitutional law literature on democratic decay by focusing on parliamentary opposition, and specifically literature that takes India as its site of enquiry.¹⁵ Some notable work has been done in this area by political scientists, on whose work we also rely.¹⁶ Second, the article contributes to the literature on constitutional resilience, which focuses on the “ability of institutions to react against and survive challenges against them”.¹⁷ Literature on democratic “decay” or “backsliding” is overly focused on a linear spectrum of regression.¹⁸ Such an analysis risks missing how democratic decline and democratic consolidation in a country undergoes its own vicissitudes – rarely following a straight trajectory. Finally, this article critically engages with the role of deliberation in the Parliament. It seeks to redeem conflict as a part of the legislative process – recognising the value of protest in the Parliament in the form of disruptive behaviour.¹⁹

This article proceeds as follows: in Part II, we discuss how oppositional practice in Parliament can be a response to populist politics, both in terms of countering populist discourse and the populist drive for impatience and immediacy. In Part III, we examine the constitutional-institutional features of the Indian Parliament and how they enable and

14 Ibid.

15 There is an existing, but not a substantial body of legal literature studying the opposition in India: see, *Meenakshi Ramkumar, Aishwarya Singh*, The Road Not Taken: India’s Failure to Entrench the Rights of the Opposition, *Comparative Constitutional Law and Administrative Law Journal* 6 (2022); On functioning of Indian Parliament, *Maansi Verma*, Agenda Control in the Indian Parliament and the Impact on its Oversight Function – Analysis and Evidence, *Socio-Legal Review* 18 (2022). There has been some general work on illiberal tendencies in law-making in rising illiberal and populist regimes. See *Tímea Drinóczi / Ronan Cormacain*, Introduction: illiberal tendencies in law-making, *The Theory and Practice of Legislation* 9 (2021).

16 See *WH Morris*, *Parliament in India*, Philadelphia 1957; *Shirin Rai / Rachel Johnson* (eds.), *Democracy in Practice*, Berlin 2014; *Ronojoy Sen*, *House of the People: Parliament and the Making of Indian Democracy*, Cambridge 2023.

17 *Philipp Dann*, Epilogue: Resilience and Political Constitutionalism in South Asia and Beyond, in: *Swati Jhaveri / Tarunabh Khaitan / Dinesha Samararatne* (eds.), *Constitutional Resilience in South Asia*, Oxford 2023, p. 463.

18 *Swati Jhaveri / Tarunabh Khaitan / Dinesha Samararatne*, Constitutional Resilience in South Asia: A Primer, in: *Swati Jhaveri / Tarunabh Khaitan / Dinesha Samararatne* (eds.), *Constitutional Resilience in South Asia*, Oxford 2023, p. 18.

19 Disruptions in Indian Parliament have been studied in the political science literature for some time, with some authors associating disruptions with parliamentary decline and others with greater democratization, see *Devesh Kapur / Pratap Bhanu Mehta*, The Indian Parliament as an Institution of Accountability, UNRISD Programme Papers on Democracy, Governance and Human Rights 23 (2006), p. 11; *Tarunabh Khaitan*, The Real Price of Parliamentary Obstruction, https://india-s-einar.com/2013/642/642_tarunabh_khaitan.htm (last accessed on 4 December 2024); *Carol Spary / Faith Armitage / Rachel E. Johnson*, Disrupting Deliberation? Comparing Repertoires of Parliamentary Representation in India, the UK and South Africa, in: *Shirin Rai / Rachel Johnson* (eds.), *Democracy in Practice*, Berlin 2014.

constrain the oppositional practice. Part IV provides a theoretical framework to analyse oppositional practice in India, where we identify three elements – opposition as a dispersed force; oppositional practice as fulfilling an advocacy function; and reliance on debate and disruption as tools of carrying out this practice. Part V provides certain select examples where oppositional practice in India has performed the advocacy function that we identified as important in Part IV and where it has de-accelerated the execution of populist projects of the BJP government.

B. Populism and Parliamentary Processes

The Narendra Modi-led BJP government came into power in 2014. This was a coalition government, but the BJP was elected with a substantial majority in the Lower House of the Parliament (Lok Sabha). This was a significant shift in the political landscape from the prior era of coalitional politics: since the 1990s, no party had gained enough electoral support to single-handedly form the government. Political commentators have argued that post-2014, India has entered into a dominant party system under the BJP.²⁰

An important factor for BJP's dominance is its populist politics under the leadership of Narendra Modi. Populism can be a difficult concept to define and not all variants are the same. In relation to the Indian context, Jaffrelot and Tillin classify populism as “a category of political leadership in India characterized by direct, personalized appeals to “the people” by leaders who deploy particular cultural registers to secure and maintain political power by circumventing intermediaries and neutralizing institutions.”²¹ This definition accounts for some descriptions of populism that exist in the literature, where a single leader attempts to embody the “people” and there is a de-valuation of liberal constitutional checks on power.²² Populist politics may by itself not be anti-democratic and many populist leaders are elected through free and fair elections in the first cycle. However, over time populism can become dangerous to democracy because of its derision of institutional checks on political power and its exclusionary tendencies.²³

While India has experienced different forms of populism at both the national and regional levels, the Narendra Modi-led BJP variant of populism has been classified as the Hindutva version, where it is the Hindus that have been framed as the “people” (instead of the poor, as is often the case in other systems).²⁴ The morally charged battle of the people against the elites is then not defined in socio-economic terms, as elsewhere, but cultural terms. The “people” the BJP government represents are in conflict with a group of

20 *Jaffrelot / Verniers*, note 3.

21 *Christophe Jaffrelot / Louise Tillin*, Populism in India, in: Cristobal Rovira Kaltwasser et al. (eds.), *The Oxford Handbook of Populism*, Oxford 2017, p. 180.

22 *Jane Mansbridge / Stephen Macedo*, Populism and Democratic Theory, *Annual Review of Law and Social Science* 15 (2019).

23 *Wojciech Sadurski*, *Poland's Constitutional Breakdown*, Oxford 2019, p. 243.

24 *Jaffrelot / Tillin*, note 21, p. 185.

“English speaking, Westernized – uprooted-elites who defend secularism at the expense of an authentic, Hindu identity of the nation”.²⁵ The homogenising impacts of such populism is that it downplays the caste/class divisions among Hindus and vilifies religious minorities like Muslims. Hindutva populism is anti-pluralistic in nature. While Hindu nationalism is not new to Indian politics, its populist variant has been used most powerfully by Narendra Modi, where he relies on direct personalised appeals to the public superseding institutional and party networks.²⁶

An important feature of populist politics is its spatiotemporal elements.²⁷ Populists present an alternative arrangement of democratic governance – where they not only claim to reduce the gap between the government and the governed, but also claim to be better suited to demands of “temporal efficiency and rapidity”.²⁸ Populists show an impatience with institutions like the legislature. Parliamentary processes promote deliberation, disagreement, negotiation and compromise. They slow down decision-making for good reason: they act as a buffer against majoritarian whims. This impatience is also evident in Narendra Modi’s governance style which seeks to represent him as a strong man who can take quick decisions “bypassing existing institutions”.²⁹

The task of the opposition is then to keep the legislature as a relevant institution against the onslaught of populist politics promoting (a) anti-pluralism; and (b) immediacy and impatience. We argue it can be done through advocacy for pluralistic interests and de-acceleration of populist projects. In effect, oppositional actors have to act as vanguards of representative democracy, which comes under threat from majoritarian and unmediated populist politics. However, the difficulty for the opposition here is that the more it delays governmental decision-making, the more it may affirm the narrative that legislatures are “lethargic” institutions, obstructing the general will of the people from being executed.³⁰ Stalling of decision-making in Parliament, specifically through disruptive behaviour, can negatively affect the opposition’s image.

But narratives are about meaning-making. The “people” constructed by the populists are also a myth, created by ascribing homogeneity to a community and downplaying its divisions. Oppositional speech and advocacy in the Parliament carries the possibility of presenting a variety of claims and opinions that can fracture the myth of a unified “people”. Further, disruptions in the Parliament, if executed well, can be understood as curated

25 Ibid.

26 Ibid, p. 188.

27 *Raphael Girard*, Populism, Executive Power, and “Constitutional Impatience”: Courts as Stabilisers in the United Kingdom, *Constitutional Studies* 8 (2022), p. 35.

28 Ibid.

29 *Jaffrelot / Tillin*, note 21, p. 188.

30 *Girard*, note 27.

performances for what the opposition legislators consider their electorates.³¹ Ethnographic literature on the Indian Parliament has pointed out that “it is safe to assume that that the resulting performances of parliamentary ‘breakdown’, ‘disruption’ ‘paralysis’ or ‘decline’ are consciously enacted performances by politically savvy team dramaturgs (senior leadership).”³² These are enacted with an eye on the discursive spaces that such performances open up in the media and social networks.³³

We engage in a deeper discussion of this advocacy function of the opposition and de-accelerating parliamentary conduct in Part IV of the article. Our purpose in this Part was to show how these two tasks of oppositional practice interact with populist politics. However, before we turn to expand on the advocacy and de-accelerating function, we lay down the constitutional-institutional features of the Indian Parliament, which provide the structural context in which such oppositional practice takes place.

C. Constitutional and Institutional Features of the Parliament

There are three important constitutional-institutional features of the Indian Parliament that have a bearing on oppositional practice: first, its bicameral structure; second, the constitutional position of opposition parties and members; and third, government control of the Parliament, reflected in its control over presiding officers and parliamentary business.

I. Bicameral Structure

India has adopted the Westminster parliamentary system, where the President is the head of the government/executive. The members of the executive are drawn from the Parliament. The President is bound by the aid and advice of the Council of Ministers, headed by the Prime Minister.³⁴ The Indian Parliament is a bicameral legislature, consisting of two houses that consists of elected and appointed legislators. The Lok Sabha (House of the People or the Lower House) consists of 543 members who are elected through direct elections every five years, based on the first-past the post electoral system.³⁵ The Rajya Sabha (Council of States or the Upper House) has 250 members, with 238 members being elected and 12 members being nominated by the President on the advice of the Cabinet.³⁶ The Rajya

31 *Bairavee Balasubramaniam*, *The Indian Parliament: Performing Decline since the 1960s*, in: Shirin Rai / Rachel Johnson (eds.), *Democracy in Practice*, Berlin 2014, pp. 174-175.

32 *Ibid.*, p. 174.

33 *Ibid.*

34 Article 74, Constitution of India.

35 Lok Sabha Secretariat, *Eighteenth Lok Sabha, Parliament of India (Lok Sabha)*, <https://sansad.in/ls/members> (last accessed 4 December 2024).

36 Rajya Sabha Secretariat, *FAQ on Parliament (With Special Emphasis on Rajya Sabha)*, <https://cms.s.rajyasabha.nic.in/UploadedFiles/ElectronicPublications/FAQ.pdf> (last accessed 4 December 2024).

Sabha is a continuous body, whose members have a tenure of six years, and one-third of the members retire every two years. The members of the Rajya Sabha are indirectly elected by an electoral college consisting of the elected members of state legislative assemblies through a system of proportional representation by means of single transferable vote.³⁷ The Prime Minister and the Council of Ministers can be members of either House but they must have the majority support in the Lower House.

The elections to the Rajya Sabha are staggered and the election schedules of state legislatures differ from the election to the national legislature, creating the possibility of different political majorities in the Lok Sabha and Rajya Sabha.³⁸ It can then be difficult for the national government to push through its agenda in the Rajya Sabha, without building consensus with other parties. Bhat has argued that the Indian constitutional design intended to empower the Rajya Sabha as a federal, deliberative and counter-majoritarian chamber. Since the members of the Rajya Sabha are not subject to the immediate pressures of direct popular elections, Bhat highlights that they can offer a “deliberative pause in the legislative process” checking the majoritarian impulses of a popularly elected Lower House.³⁹ This also feeds into the counter-majoritarian function of the Rajya Sabha.⁴⁰ Thus, if political majorities in the two houses are different, the Rajya Sabha can exercise an oppositional oversight over the government.

However, the Rajya Sabha’s constitutional status and legislative powers are lesser than those of the Lok Sabha, which can effect its ability to exercise an oppositional oversight. The Rajya Sabha can neither introduce nor block money bills.⁴¹ If a money bill has remained pending with the Rajya Sabha for more than two weeks, it is deemed to have been passed.⁴² The power to classify bills as money bills vests with the Speaker, the presiding officer of the Lok Sabha.⁴³ This has become contentious because the Speaker is elected with the support of the majority in the Lok Sabha.⁴⁴ A government that anticipates difficulty in passing bills in the Rajya Sabha can abuse the office of the Speaker to classify such bills as money bills.

37 Article 80 (4) of the Constitution of India.

38 *M Mohsin Alam Bhat*, *The Parliament and State Legislatures of India*, in: Po Jen Yap / Rehan Abeyratne, *Routledge Handbook of Asian Parliaments*, London 2023, p. 184.

39 *Ibid.*

40 *Ibid.*

41 Article 109, Clause 1 and Clause 4.

42 Article 109 (5).

43 Article 110 (3).

44 Article 93; Rule 7, Lok Sabha Rules.

II. *Absence of Constitutional Empowerment of the “Losers”*

Unlike some other jurisdictions, the role of non-governing parties in the constitutional government has not been formally recognised nor prescribed under the Indian Constitution.⁴⁵ This lack of constitutional empowerment of the opposition was a contested issue when the Constitution was being drafted. There was a debate in the constituent assembly on whether the post of the Leader of Opposition should be officially recognised.⁴⁶ Z.H. Lari, a constituent assembly member, proposed that a Leader of Opposition be recognised under the Constitution and be paid a salary, similar to the practice in the UK.⁴⁷ In the UK, the largest non-governing party is given the status of His/Her Majesty’s Loyal Opposition and their leader is recognised as the Leader of Opposition.⁴⁸ This leads to the formal recognition of the opposition in the constitutional structure.⁴⁹

Lari argued that there is a symbolic value to the recognition of the Leader of Opposition: it allows criticism by the opposition to not be seen as disaffection, but as a discharge of a constitutional obligation.⁵⁰ This builds on the principle of loyal opposition in the UK. Waldron has noted that the word “loyal” as the prefix to the opposition enables the opposition to carry out their oppositional role freely without being questioned over “their loyalty” to whatever it may be (the monarch, the constitution or the nation).⁵¹ However, Lari’s proposal was rejected based on the argument that non-recognition of Leader of Opposition in the Constitution did not prohibit the creation of a salaried post of the Leader of Opposition in the future.⁵² The rejection of the proposal shows that constitutionally entrenching the role of the opposition was a low priority for the majority of constituent assembly members. In fact, some members disparaged the idea on the basis that there was

45 Recognition of Leader of Opposition: Section 73, Constitution of the Republic of Mauritius; Section 57 (2), South African Constitution; Section 74, Constitution of Barbados. Leader of opposition part of the constitutional council: Article 41A, Constitution of the Democratic, Socialist Republic of Sri Lanka; see also *Elliot Bulmer*, *Opposition and Legislative Minorities: Constitutional Roles, Rights and Recognition*, International IDEA Constitution-Building Primer 22, 9 July 2021, <https://www.idea.int/publications/catalogue/opposition-and-legislative-minorities> (last accessed 4 December 2024).

46 Constituent Assembly Debates (CAD), Volume 8, 20 May 1949, <https://www.constitutionofindia.net/debates/20-may-1949/> (last accessed 4 December 2024).

47 *Ibid.*, paragraph 8.88.5-8.88.10.

48 The creation of the loyal opposition is understood to be a leading principle of the British constitutional structure, even though the UK does not have a codified constitution to embody this principle and it is a statute that defines the Leader of Opposition. See *Jeremy Waldron*, *Principles of Loyal Opposition*, in: *Jeremy Waldron* (ed.), *Political Political Theory*, London 2016.

49 *Ibid.*

50 CAD, note 46, paragraph 8.88.10

51 *Waldron*, note 48, p. 122.

52 CAD, note 46, paragraphs 8.88.23-8.88.25, 8.88.26-8.88.27.

no “healthy opposition” and it cannot be created “willy nilly” through the creation of the post of the Leader of Opposition.⁵³

In the absence of any constitutional recognition, there is currently only a statutory stipulation of the post under the Salary and Allowances of Leaders of Opposition in Parliament Act, 1977 (LOP Act). The LOP Act provides that the leader of a party in opposition to the government, that has the greatest numerical strength, would be recognized as the Leader of Opposition by the Speaker of the Lok Sabha or the Chairperson of Rajya Sabha.⁵⁴ However, the Speaker decided to leave the position vacant from 2014-2024 (two consecutive Lok Sabhas) because Congress, the opposition party having the greatest numerical strength in Lok Sabha, did not have one-tenth of the membership of the Lower House.⁵⁵ But this is not a requirement under the LOP Act. While embodiment of the post of Leader of Opposition in a statute should have some meaning, in a state with a codified constitution, the symbolism associated with the failure to follow a statutory provision could come across simply as an irregularity instead of the Speaker’s disregard for the constitutional structure itself. Such codification is especially important in younger democracies that are yet to develop shared understandings of constitutional functioning and culture, that are entrenched.⁵⁶ The danger of lack of codification of such norms is evident from the Speaker’s refusal to appoint a Leader of Opposition for over a decade of BJP’s rule.

In the absence of constitutional empowerment of the “losers” of the political game, the losing legislators may rely on the judiciary to protect their rights. However, as we have argued elsewhere, the Supreme Court has been inconsistent in how it intervenes in the legislative process, leaving it uncertain whether it can truly protect the “losing” parties of the political competition.⁵⁷ In populist regimes, judiciaries themselves are open to capture⁵⁸ and therefore empowering the opposition legislators through constitutional codification remains a better alternative.

53 CAD, note 46, paragraph 8.88.27.

54 Section 2.

55 The requirement of having at least ten percent of seats in the House is listed in the Speaker Directions for being recognised as a political party in the Parliament. However, the numerical strength of party only has functional relevance; that is it enables certain parties to enjoy facilities in the House, see *Maheshwar Nath Kaul / SL Shakhder*, *Practice and Procedure of Parliament*, Greater Noida 2016, pp. 401-407.

56 *Madhav Khosla*, *India’s Founding Moment: The Constitution of a Most Surprising Democracy*, Cambridge MA 2020, pp. 23-24.

57 *Ramkumar / Singh*, note 15.

58 *David Landau / Rosalind Dixon*, *Abusive Judicial Review: Courts Against Democracy*, UC Davis Law Review 53 (2020).

III. Government Control of the Parliament

The Speaker, who is the presiding officer of the Lok Sabha, has vast powers under the Lok Sabha rules. The Speaker has the final say on the admissibility of questions⁵⁹, providing consent to motions⁶⁰, suspension of members⁶¹ and the adjournment of the House in the case of disruptions⁶². Given their immense powers, the Speaker is expected to act in a neutral capacity. However, in India, the Speaker is not required to sever their connection with the political party on whose ticket they are elected to the Lok Sabha. The Speaker is elected like any other member to the Lok Sabha and their seat is contested. They are not expected to resign from the political party they are affiliated to, once elected as the Speaker, which is typically, the ruling party. At most a convention has arguably developed, where the Speaker affirms, on election, that they belong to the whole House.⁶³ The affiliation of the Speaker with a political party, and their dependence on it for their election and continuation of tenure raises concerns about their impartiality.

Such concerns have been raised by the judiciary. In a series of cases relating to the anti-defection law under the Tenth Schedule of the Indian Constitution, the Supreme Court has raised concerns about the partisan conduct of Speakers. Under the Tenth Schedule, the Speaker has been given the power to decide defection complaints. A finding of defection leads to the disqualification of a member of the house.⁶⁴ The grant of such power was challenged before the Supreme Court on the ground that the Speaker cannot be expected to act as an independent adjudicatory authority.⁶⁵ While the majority of the Court upheld the Speaker's jurisdiction to decide defection complaints on the basis that the Speaker holds a high ceremonial office and thus, is expected to behave impartially and with propriety, the minority judgement highlighted that such faith in the office of the Speaker is misplaced. The minority observed that, "[t]he Speaker being an authority within the House and his tenure being dependent on the will of the majority therein, likelihood of suspicion of bias could not be ruled out".⁶⁶ In subsequent cases, the fear of the minority came true. Speakers have been repeatedly rebuked in Supreme Court judgements for acting in a partisan manner while dealing with defection complaints.⁶⁷

Another area of government control of the legislature can be seen in the extent to which the non-governing parties and legislators are able to utilise "intra-parliamentary opportuni-

59 Rule 43, Lok Sabha Rules.

60 Rule 56 and 194, Lok Sabha Rules.

61 Rule 374, Lok Sabha Rules.

62 Rule 375, Lok Sabha Rules.

63 *Kaul / Shakhder*, note 55, p. 107.

64 Paragraph 6, Tenth Schedule, Constitution of India.

65 *Kihoto Hollohan v. Zachillhu*, 1992 Supp (2) SCC 651.

66 *Ibid.*, paragraph 181.

67 See *Rajendra Singh Rana v. Swami Prasad Maurya and Others*, (2007) 4 SCC 270; *Keisham Meghachandra Singh v. Hon'ble Speaker Manipur*, 2020 INSC 65.

ties” to engage in oppositional practice.⁶⁸ The parliamentary rules provide them certain opportunities to direct and lead discussions in the Parliament. These include the ability to question ministers during the question hour⁶⁹ and raise matters of public importance during the zero hour⁷⁰. Members of Parliament can also move motions of no confidence in the Council of Ministers and motions of adjournment,⁷¹ and they can introduce private member bills (although they are unlikely to pass).⁷² However, the ability to exercise these opportunities is limited in practice. First, much depends on the Speaker’s discretion to admit motions, take up private member bills and allow discussions on matters of public interest raised by opposition members.⁷³ Second, there is no dedicated time for the non-governing parties and legislators to lead discussion. Third, agenda-setting powers lie with the government. The Business Advisory Committee (BAC) decides the time for discussion that is to be allotted for government bills and other business.⁷⁴ Verma has noted that although BAC is an all-party setup, the governing party has a dominant presence, effectively having a “veto in deciding which business gets taken up when and in what form”.⁷⁵

Despite the above structural disadvantages, one space where non-governing parties and legislators can play an active role in influencing the government’s legislative agenda are parliamentary committees. Committees are either permanent or appointed for a temporary period and consist of members across parties. There are Departmentally Related Standing Committees, which examine the issues and bills related to the Ministry that have been allotted to them.⁷⁶ There are also temporary investigative committees called Joint Parliamentary Committees (JPC) – many of which have been set up to investigate government scams or to examine bills. Commentators have noted that often parliamentary committees function with a spirit of non-partisanship and consensus building.⁷⁷ Karwa notes that this deliberative spirit is a result of a lack of broadcasting of committee proceedings unlike parliamentary proceedings. This dis-incentivises members from grandstanding on issues and members can

68 *Garritzmann*, note 10, pp. 4250–4252.

69 Rule 36, Lok Sabha Rules.

70 *Kaul / Shakti*, note 55, pp. 1050–1051. Zero hour is the period after the question hour where members of the Parliament can raise urgent matters of public interest.

71 An adjournment motion can be used to defer the discussions on the scheduled business of the House to discuss a specific matter of urgent public importance. See Rule 56, Lok Sabha Rules.

72 Rule 65, Lok Sabha Rules; *MN Kaul, SL Shakti*, note 55, p. 665.

73 Rule 56, 194 and 198, Lok Sabha Rules; See *The Week*, Parliament Winter Session: Lok Sabha, Rajya Sabha adjourn sessions amid opposition ruckus over Modi-Adani row, 25 November 2024, <https://www.theweek.in/news/india/2024/11/25/parliament-winter-session-lok-sabha-rajya-sabha-adjourn-sessions-amid-opposition-ruckus-over-modi-adani-row.html> (last accessed 4 December 2024). However, a motion of no-confidence becomes obligatory if 50 or more members have moved it.

74 Rule 288, Lok Sabha Rules.

75 *Maansi Verma*, note 15, pp. 39–40.

76 Rule 331C, Lok Sabha Rules; *MN Kaul and SL Shakti*, note 55, pp. 622–623.

77 *Balasubramaniam*, note 31, p. 175.

express their views freely without being bound by the party whip.⁷⁸ But the structural issue remains that much is left to the government's discretion. The committee reports can be ignored and often are.⁷⁹ Further, the government frequently does not agree to opposition demands of referring a bill to a committee. A motion needs to be moved and adopted to refer a bill to a committee, which needs majority support.

D. Understanding Oppositional Practice in India

In this Part, we set up a theoretical framework to describe and understand oppositional practice in India. The theoretical framework borrows from the existing political theory and constitutional theory literature on opposition as well as democratic representation. We also embed our description of the oppositional practice in the context of the constitutional-institutional features of the Parliament and the current BJP regime. However, these forms of oppositional practice may have relevance for non-BJP periods of government as well.

I. *Opposition as a Dispersed Force*

First, we argue that a helpful way to understand opposition in India is not through the concept of the largest non-governing party in the Parliament. Rather, to understand opposition as a dispersed force, where the Rajya Sabha, opposition parties (and not just the largest non-governing party) and even the coalition partners of the ruling government should be considered as forming the opposition.

In India, there is no constitutionally embodied differentiation between the “capital-O Opposition” and opposition benches generally, in contrast to what is seen in the UK.⁸⁰ However, much of the constitutional empowerment of the “capital-O Opposition” in the UK parliament is based on its ability to be the replacement of the government in the next election. In the UK context, Webber specifically argues for this distinction between the “biggest losers” and other opposition parties to be maintained, not only because of the former's constitutional position, but because it reflects the largest non-governing party's “readiness and expectation of office”.⁸¹ Waldron also argues that the two classic functions of the loyal opposition (“capital-O Opposition”) are criticising the government and to be the government-in-waiting; and that it is the latter function which is the “main role of the official opposition”.⁸² Despite such focus on the “capital-O-Opposition”, even the UK-focused

78 *Surbhi Karwa*, Parliamentary Rules, The JPC on Waqf Bill, and the Need for Deliberative Culture, Law and Other Things, 9 February 2025, <https://lawandotherthings.com/parliamentary-rules-the-jpc-on-waqf-bill-and-the-need-for-deliberative-culture-part-i/> (last accessed on 12 May 2025).

79 *Kapur / Mehta*, note 19.

80 *Grégoire Webber*, Loyal Opposition and the Political Constitution, *Oxford Journal of Legal Studies* 37 (2017), p. 361.

81 *Ibid.*

82 *Waldron*, note 48, p. 102.

scholarship has acknowledged the oppositional role of backbenchers and smaller opposition parties.⁸³

The UK is an interesting comparator, both in terms of theoretical reflection and institutional practices, because the Indian Parliament “owes its beginnings to British colonial rule” and has adopted many of the British parliamentary practices.⁸⁴ Also, as already noted, the debate on the constitutional empowerment of the opposition in India was framed in relation to the practices in the UK, with Lari explicitly invoking the British principle of loyal opposition. However, unlike the UK, India has experienced two notable phases of dominant party regimes, with the latest being under the BJP.⁸⁵ The oppositional party space against a dominant party in such times is more crowded instead of being substantially occupied by a single party, and therefore the largest non-governing party may not in fact be the “government-in-waiting”. For instance, in the 2014-2019 Lok Sabha term, Congress, the largest non-governing party, had 42 seats, while in the 2019-2024 Lok Sabha term it had 52 seats. The majority mark in the Lok Sabha is 272 seats. In the 2024 elections, the Congress improved its tally to 99 seats, but it is still significantly behind the BJP, which has 240 seats. Essentially the difference in seats between the BJP and the largest non-governing party, Congress, is significantly higher than the difference between the Congress and other opposition parties. This requires us to take the *opposition benches* more seriously than focusing only on what can be considered as the “capital-O Opposition”. These smaller opposition parties (often representing sub-national or community interests) also become crucial players in coalition governments. As potential coalitional partners, they are more likely to influence the legislative agenda of the government, who they may strategically rather than ideologically align with for political power. The definition of opposition can then become more complex in coalition governments, where the government-opposition dichotomy is not as clear.

Finally, the Rajya Sabha can also be considered as a site of oppositional practice. We have discussed above how the constitutional design meant to avoid “duplication of political representation” in the Rajya Sabha.⁸⁶ Bhat has argued that Rajya Sabha’s “role has gained significance in recent times, owing to the need to check excessive prime-ministerial control over the Executive, and the rise of populist politics that can dominate the lower

83 *Webber*, note 80, pp. 370-371; *Nevile Johnson*, *Opposition in British Political System, Government and Opposition* 32 (1997), pp. 504-505; For a helpful description of varieties of opposition see *Philip Norton*, *Making Sense of Opposition*, *The Journal of Legislative Studies* 14 (2008). Norton also follows the classification of “capital O opposition” and other opposition.

84 *Bhat*, note 38, p. 180.

85 India functioned “more-or-less” as a “dominant party system” under Congress at least at the national level, until the late 1980s from the first elections in 1951-1952 (except the brief electoral loss that Congress suffered as a punishment for the proclamation of Emergency in the mid-1970s). See *Khaitan*, note 2, p. 135.

86 *Bhat*, note 38, p. 184.

house and undermine democracy”.⁸⁷ This branch-focused understanding of the opposition rooted in a system of checks and balances is not new. Polsby, for instance, has argued that in the US “varied forms of opposition are embodied in institutions”.⁸⁸ While India has a Westminster system that does not maintain a clear inter-branch separation between the executive and the legislature, bicameralism is understood to be a mechanism for “institutionalising and fragmenting opposition”.⁸⁹ The possibility of the Rajya Sabha engaging in oppositional practice is contingent on the political majority in the Lok Sabha and Rajya Sabha being different. The increasing dominance of the BJP in state elections can then threaten this pole of institutional opposition. However, as we discuss in Part V, the Rajya Sabha has previously been this pole of oppositional practice against the BJP government and the state elections remain a more contested space, making Rajya Sabha still a relevant site of analysis.

We thus argue that instead of employing a definitional lens to understand *who* is the opposition, it is more useful to understand the opposition through oppositional practice – the doing as opposed to the being; the verb as opposed to the noun. This is a more functional conception of opposition.

II. *Advocacy as Opposition Function*

In a Westminster model, especially arranged around a two-party system,⁹⁰ the classic opposition functions are understood to be, as Waldron says, to criticise the government and to prepare as the “government-in-waiting”.⁹¹ The first function of government criticism is tempered by the second function. Webber introduces the related idea of “responsible opposition” where the opposition’s office-seeking function results in an exercise of a certain self-restraint.⁹² Indiscriminate criticism by the opposition can dampen its chances of forming the government as it will lose credibility.⁹³ Waldron and Webber focus on the “capital-O Opposition” as they conceptualise these classic opposition functions. As Webber concedes, this complication of framing criticism in a manner that does not impede pursuit of office may not affect minor parties who do not expect to hold office.⁹⁴ Studies

87 Ibid.

88 *Nelson Polsby*, Political Opposition in United States, Government and Opposition 32 (1997), p. 511.

89 Ibid., p. 512.

90 The two-party system has been noted to have limited application in other systems and over time has failed to characterise the coalition governments in Britain too. See *Robin Best*, How Party System Fragmentation has Altered Political Opposition in Established Democracies, Government and Opposition 48 (2013).

91 *Waldron*, note 48, p. 102.

92 *Webber*, note 80, p. 378.

93 Ibid., p. 376.

94 Ibid.

on post-socialist oppositions have noted that an additional function of “new oppositions” is to transform “hidden and marginalized issues” into foci of political interest, which “gatekeepers of political system do not allow”.⁹⁵ While this is helpful, it again works within the binary of what the traditional opposition does as its function, and what new oppositions can offer.

Those engaging in opposition of the government do often aim to replace it either by themselves or by garnering support, but they also engage in a representative function. As Rai points out, members of Parliament “not only make laws and hold the executive accountable, but they also make a ‘representative claim’ to represent different constituencies, identity groups and interests”.⁹⁶ These representative claims may also be made by coalition partners when they oppose the policies of the dominant partner in a coalition government. It is not our claim that the opposition’s classically defined functions, especially its office-seeking function, are not relevant. But an expanded notion of oppositional function can help us reflect on the dimensions of oppositional practice that is not captured in these classic functions.

We advance a conception of the opposition’s function relying on democratic theories that discuss representation. Here we specifically find Urbinati’s account of representation as advocacy enlightening. Urbinati situates her model of representation in the agonistic model of deliberation. This model is anti-rationalistic and finds value in a representative’s passionate commitment to their elector’s cause. Her representative-advocate sits in contrast with Burke’s representative-trustee. Burke’s ideal representative is concerned with the general good and employs general reason.⁹⁷ A representative-trustee would see deliberation as a rationalistic process where distorted perceptions, and “local prejudices” can be corrected.⁹⁸ But a representative-advocate is more interested in interpreting “public interest from the point of view of those in disadvantaged conditions”; their role is to have their claims expressed rather than be responsible to the whole nation.⁹⁹ The result is not that general policies are not produced because an advocate is partisan, but that the process of deliberation is not assumed to be revelatory of a definitive truth or good. Rather it acknowledges that decision-making is a fallible process and decisions are open to revision.¹⁰⁰ Disagreement is a part of arriving at decisions; and posing a continued challenge to them.

The oppositional practice in the Parliament carries this advocacy function. Advocacy gives more texture to what the critical function of the opposition is. Further, advocacy is not

95 *Drago Zajc*, Role of Opposition in Contemporary Parliamentary Democracies – The Case of Slovenia, *Journal of Comparative Politics* 9 (2016).

96 *Shirin M. Rai*, Political Performance: A Framework for Analysing Democratic Politics, *Political Studies* (2014), p. 2.

97 *Nadia Urbinati*, Representation as Advocacy: A Study of Democratic Deliberation 28 (2000), pp. 773-778.

98 *Ibid.*, p. 773

99 *Ibid.*, pp. 777-778,

100 *Ibid.*, p. 775.

bound by pursuit of office. Opposition actors engaging in advocacy in the Parliament do not have to necessarily present an alternative programme of general policies for the nation that they would pursue if in office. Rather if they are able to present interests of those who are ignored; those who do not enjoy equal political consideration (identity groups, sub-national groups, ideological groups etc.) – their electors would feel that their *cause* was advocated for publically and they were heard equally. Such oppositional practice is then not simply futile, even if it is merely critical, because it is premised on the principle of “political equality”¹⁰¹, to simply have a chance to speak. While perhaps an idealised view of the opposition function, it is more expansive – accounting for different forms of opposition (not just “capital-O-Opposition”) and bridges the idea of representation to oppositional practice in the Parliament.

Opposition as advocacy is especially relevant in a polity like India, which is divided along many cleavage lines and has a multi-party system, but still lacks a proportional system of representation. At least those groups that are not represented by the political majority in the Lok Sabha can have a right to be heard in Parliament even if they are deprived of a right to decide. For instance, while the BJP has been able to form the government owing to the vagaries of the first past the post system, it has never achieved 51% of vote share in any of the parliamentary elections since 2014.¹⁰² Hence, many Indian citizens remain unrepresented by the BJP and rely on the opposition parties to represent their interests.

We have discussed in Parts I and II how India is turning into a competitive authoritarian regime where alteration of government is becoming increasingly difficult. The office-seeking function of the opposition parties is, thus, constrained. We then need a different metric to assess opposition activity. The question becomes that in the absence of political change, was the opposition able to advocate for the interests of their constituents and challenge the totalising public discourse of a populist government. While we discuss examples of the opposition doing advocacy and de-accelerating governmental agenda as separate categories of oppositional practice for analytical clarity in Part V, advocacy as a broader function not only entails *voicing* different interests, but also extends to *influencing*, *delaying* and *stalling* governmental agenda. Essentially, de-accelerating policy that would damage the interests of the constituents of the opposition. The constituents who are often excluded from the BJP’s majoritarian/populist projects would perhaps value a government that is made more conversant with their interests by a noisy and passionate opposition; and whose anti-democratic policies (both under thin and thick conceptions) are subject to the mediating effect of the Parliament. As Nadia puts it, minorities “want an advocate, not a rubber stamp”.¹⁰³

101 Ibid, p. 778.

102 BJP’s vote share in national elections: 2014 (31%); 2019 (37.3%) and 2024 (36.6%), see e.g., *Abhishek Jha*, From 2014-2024 – 282, 303, 240: Charting shift in BJP’s tally, Hindustan Times, 6 June 2024, <https://www.hindustantimes.com/india-news/from-2014-2024-282-303-240-charting-shift-in-bjp-s-tally-101717616309825.html> (last accessed on 4 December 2024).

103 *Urbinati*, note 97, p. 777.

III. *Debate and Disruption as Tools of Oppositional Practice*

If the function of the opposition is advocacy, then what it requires is speech. As Urbinati states, “political exclusion in representative democracy would take the form of *silence*, of not being heard or represented”.¹⁰⁴ The Parliamentary procedures and practices are also in many ways built around protecting this speech. Webber discusses that the time spent on debating government bills, asking questions and demanding answers is essentially opposition time.¹⁰⁵ But the space for speech is curtailed in the Indian Parliament. We have discussed the structural features that contribute to it in Part III. These include the lack of control that the opposition has over parliamentary business and agenda and the lack of dedicated time for opposition. However, speech by oppositional actors has also been constrained on account of an illiberal political regime. The BJP government has attempted to instrumentalise Parliament to implement its political projects. This has manifested in frequent irregularities in the legislative process. Kazai has argued that misuse of the legislative process can be understood as a part of the illiberal toolkit.¹⁰⁶

The BJP has often abused the office of the Speaker. As discussed, the Speaker has vast powers including the ability to certify bills as money bills limiting scrutiny of the bill by the Rajya Sabha. The BJP-led government did not have majority seats in the Rajya Sabha in its first term (2014-2019). During that time, many controversial bills were categorised as money bills to bypass the oppositional oversight of the Rajya Sabha.¹⁰⁷ Another tactic that the government has employed is surprise bills. One such bill was the Jammu and Kashmir Reorganisation Bill, which derecognised Jammu and Kashmir as a state and reduced it to a union territory controlled by the national government. The reorganisation accompanied the abrogation of the autonomous status of Kashmir under the Indian Constitution. The bill was introduced in the Rajya Sabha without prior circulation and with many opposition members raising the concern that it was not mentioned in the list of business.¹⁰⁸ Other methods of intentional subversion of parliamentary procedures include the use of voice votes to

104 *Ibid.*, p. 773.

105 *Webber*, note 80, p. 375.

106 *Viktor Zoltán Kazai*, The misuse of the legislative process as part of the illiberal toolkit. The case of Hungary, *The Theory and Practice of Legislation* 9 (2021).

107 See for example the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 which was categorised as a money bill. The bill sought to create a biometric identity for Indian citizens. The constitutionality of the classification was challenged before the Supreme Court. While the majority upheld the classification because certain provisions of the legislation dealt with delivery of welfare services charged on the Consolidated Fund of India, the dissenting opinion held that the classification was a ‘fraud on the constitution’ as the government sought to bypass the Rajya Sabha where it did not have the requisite majority to pass the bill (K. S. Puttaswamy v. Union of India, (2019) 1 SCC 1).

108 *Maansi Verma*, Diminishing the Role of Parliament: The Case of the Jammu and Kashmir Reorganisation Bill, *Engage*, 16 November 2019, <https://www.epw.in/engage/article/diminishing-role-parliament-case-jammu-and-kashmir> (last accessed on 4 December 2024).

pass bills, ignoring requests for recording individual votes¹⁰⁹; canceling question hours or reducing their scheduled time¹¹⁰; sending fewer bills to parliamentary committees¹¹¹; and not taking up private member bills or adjournment motions.¹¹²

These constraints on speech, on account of both structural institutional factors and an illiberal political regime, pushes oppositional actors to devise other methods of engaging in oppositional practice, like disruptions. A disruption can be understood as a protest where the members of Parliament engage in disobedient conduct.¹¹³ Disruptions can take many forms including crowding the presiding officer's chair, sloganeering, disobeying the directions of the presiding officer, arguing with the presiding officer, taking the floor beyond the scheduled time, interrupting, boycotting etc.¹¹⁴ Disruptions in India have on occasion been violent, but very rarely.¹¹⁵ Disruptions can often fall outside the realm of legally permissive conduct, taking the form of civil disobedience.¹¹⁶ However, in certain institutional contexts like India, they are entrenched as an accepted and tolerated form of oppositional practice and occupy the liminal space between the legal and legitimate.¹¹⁷ The tacit acceptance of disruptions is also evident from the lack of punishment that typically follows such conduct.¹¹⁸

Disruptions have been associated with the decline of the Parliament, much before the BJP became a dominant political force in 2014. The decline of the Parliament as an

109 For example, farm laws controversially liberalising the agricultural sector were passed in the Rajya Sabha through voice votes. This was contested but a division was not held. *Sobhana K. Nair*, Parliament proceedings | Rajya Sabha passes two farm Bills amid fierce protests, *The Hindu*, 20 September 2020, <https://www.thehindu.com/news/national/parliament-proceedings-rajya-sabha-passes-2-farm-bills-amid-ruckus-by-opposition-mps/article61724177.ece> (last accessed on 4 December 2024).

110 News18, After Opposition Uproar, Question Hour of 30 Minutes to Be Held in Parliament's Monsoon Session, 04.09.2020, <https://www.news18.com/news/politics/after-opposition-uproar-question-hour-of-30-minutes-to-beheld-in-parliaments-monsoon-session-2847379.html> (last accessed on 4 December 2024).

111 Less than 20% of bills were sent to committees in the last Lok Sabha (2019-2024), see PRS, Functioning of 17th Lok Sabha, <https://prsindia.org/parliament/vital-stats/functioning-of-the-17th-lok-sabha> (last accessed on 4 December 2024).

112 Only two private member bills were discussed out of the 729 bills that were introduced in the last Lok Sabha (2019-2024); no adjournment motion was taken up in the last two Lok Sabhas (2014-2024), *Ibid.*

113 *Sparj / Armitage /Johnson*, note 19, p. 182.

114 *Ibid.*, pp. 182-184.

115 *Ronojoy Sen*, *House of the People: Parliament and the Making of Indian Democracy*, Cambridge 2023, p. 131

116 Rules 349, 352, Lok Sabha Rules.

117 *Sen*, note 115, p. 143.

118 *Ibid.*

institution is often linked to the rise of coalition era governments post-1989.¹¹⁹ However, disruptions by themselves were not a new practice: Morris's work on the early years of the Parliament reveal that disruptions were always a part of the opposition's toolbox, albeit perhaps not as routine.¹²⁰ The decline thesis claims that there has been a deterioration in the standard of debates and discussions in the Parliament, disruptions being a prominent marker of it, which reduces public faith in representative institutions and politicians.¹²¹ Further, disruptions are understood to be antithetical to the idea of rational deliberation in the Parliament.

We have already discussed how the advocacy function of the opposition provides an alternative model of anti-rationalistic deliberation. But advocacy by opposition though requiring a passionate oppositional practice may not, by itself, require disruptive behaviour. What it does, however, require is the possibility of speech. Here, Habermas's theory of discursive democracy can be useful. While he also relies on the idea of rational deliberation, he acknowledges that such deliberation can only take place in a conducive deliberative forum. It is his articulation of the conditions for deliberation that we are interested in rather than his emphasis on rationality of deliberation. Habermas notes that in a deliberative forum, all voices are treated equally and given an opportunity to be heard in a manner that fosters consensus.¹²² However, as elaborated above, the Indian parliamentary processes do not facilitate such deliberation and instead systematically negate a space for discursive democracy.

However, the binary between disruption and deliberation can also be superfluous. Disruptions themselves can be seen as an act of speech as much as they are a consequence of denial of speech. It is often difficult to demarcate *contention* and *deliberation* in political participation, as deliberation includes disagreement and contestations.¹²³ Articulation of disagreement could be informed by disapproval and resentment that manifests in sloganeering or other disruptive practices.¹²⁴ Even Habermas views disruptions as an extension of public deliberation and as a mode of public argument in contexts where there is no conducive environment for deliberation.¹²⁵

Disruptive acts in the Indian Parliament have been accompanied by the greater democratisation and indigenisation of the Parliament, where it has become more heteroge-

119 *Rahul Verma / Vikas Tripathi*, *Making Sense of the House: Explaining the Decline of the Indian Parliament amidst Democratisation*, *Studies in Indian Politics* 1 (2013), p. 184.

120 *WH Morris*, *Parliament in India*, Philadelphia 1957, p. 142.

121 *Verma / Tripathi*, note 119, p. 162.

122 *Jürgen Habermas*, *Deliberative Politics*, in: David Estlund (ed.), *Democracy*, Oxford 2002, pp. 107-126.

123 *Ricardo Fabrino Mendonça / Selen Ercan*, *Deliberation and protest: strange bedfellows? Revealing the deliberative potential of 2013 protests in Turkey and Brazil*, *Policy Studies* 36 (2015), p. 271.

124 *Ibid.*

125 *Ibid.*

nous in terms of caste and class composition. Sen has observed that this has changed what constitutes legitimate “tenor and idiom of debates”.¹²⁶ Disruptions have been “justified by claims to democratic inclusion and allowing marginalised voices to be heard” on issues that are important to them.¹²⁷

We do not deny that sometimes disruptions may just be frivolous. They might not meet the normative ideal of engaging in a *form of speech* that enhances political representation, especially in contexts of structural-institutional and political suppression. But the hand-wringing over disruptions and how they impact parliamentary productivity is too simplistic a view of the complex function disruptions perform in the Indian Parliament. Crucially, opposition often relies on disruptions and other forms of parliamentary practices in a synergistic fashion.¹²⁸

In this part, we aimed to show that parliamentary speech can take the form of legally permissive parliamentary processes like debate on the floor of the house, discussion in committees, raising questions etc., but also through disruptions. This makes debate and disruptions the tools of oppositional practice. We discuss in Part V how disruptions along with other parliamentary practices have been used to carry out an advocacy function and to de-accelerate the government’s populist majoritarian projects.

E. Oppositional Practice and Populist Projects

Despite structural constraints and subversion of parliamentary procedures by the BJP, the opposition has attempted to carry out oppositional practice. This practice has been carried out by a diverse range of actors including all sorts of opposition parties, the Rajya Sabha (especially when it had a different political majority than Lok Sabha), and even BJP’s coalition partners¹²⁹. In this Part, we provide examples that illustrate the elements of the oppositional practice that we have discussed above.¹³⁰ We do not claim that these examples are representative of the full gamut of oppositional practice that has emerged during the

126 Sen, note 115, p. 149.

127 Spary / Armitage / Johnson, note 19, p. 204.

128 Vernon Hewitt / Shirin Rai, Parliament: in Niraja Jayal, Pratap Bhanu Mehta, The Oxford Companion to Politics in India, Oxford 2010, p. 35.

129 Although we do not discuss this in detail, BJP faced opposition from its coalition partner, Akali Dal, over the passing of what are popularly known as the “farm laws”. These were three laws that were passed for the creation of a private market for sale of agricultural produce, which would have adversely affected the interests of smaller farmers. The passage of the bills also led to a huge civil unrest. The farm bills led to a fall out between the BJP and its ally Akali Dal, see *Jatinder Kaur Tur*, Farm bills: Farmer unions in Punjab ask political parties to stay away from their protests, Caravan Magazine, 25 September 2020, <https://caravanmagazine.in/agriculture/farm-bills-unions-ask-political-parties-to-stay-away> (last accessed on 4 December 2024).

130 We engage in a form of illustrative theorising which attempts to show that theoretical ideas “have some meaningful basis in existing empirical reality”. Dixon and Perham discuss illustrative theorising in the context of comparative engagement. While our examples focus on India, the category of illustrative theorising generally captures what we are attempting to do, see *Rosalind*

BJP government. We rely on the text of parliamentary debates, texts of bills, academic material and news reports to build our analysis in this section.

I. Ideological Advocacy

The ideological advocacy that we see from oppositional actors is against the nature of the BJP regime itself, i.e. its populist and illiberal character. We discuss two instances of such advocacy: the response to the demonetisation scheme, and the protests that followed the mass suspension of opposition legislators from the Parliament.

On November 8, 2016 the Union government issued a notification stating that specified bank notes would cease to be legal tender with effect from the very next day i.e. November 9, 2016.¹³¹ This was popularly known as the demonetisation scheme. The move culled 86% of the currency notes in circulation. The entire scheme was initially implemented through executive notifications. Prime Minister Narendra Modi acted unilaterally without consulting relevant governing bodies. The Cabinet and the Reserve Bank of India were informed just hours before the action despite it being a “major policy initiative”.¹³² Modi’s aim was to present himself as a crusader against black money, although the effect of demonetisation on black money is contested. The means of implementing demonetisation simply through executive notification has also been considered legally dubious.¹³³

Demonetisation scheme did not go unchallenged in the Parliament. The policy was “poorly implemented and caused enormous hardship” to the people, especially the poor.¹³⁴ Initially, the opposition attempted to use legally permissive practices to debate the issue. Many members of the opposition parties filed motions in the Lok Sabha¹³⁵ to adjourn the business of the house and discuss the demonetisation issue under Rule 56 of Lok Sabha Rules. However, these motions were not entertained by the Speaker.¹³⁶ The rejection of these motions led to various interruptions in the proceedings of the House. However, these disruptions were not empty obstructionism. For instance, when members of the House

Dixon / Elisabeth Perham, *Theorising Constitutions Comparatively*, Comparative Constitutional Roundtable UNSW, 23 May 2025 (on file with the authors).

131 Gazette Notification No. S.O. 3407(E); See also Vivek Narayan Sharma v. Union of India, 2023 SCC OnLine SC 1, paragraph 6.

132 *Amrita Basu*, *Narendra Modi and India’s Populist Democracy*, *Indian Politics and Policy* 1 (2018), p. 94.

133 When demonetisation was challenged before the Supreme Court, the dissenting opinion held that demonetisation of currency could not have been carried out through an executive act and required an ordinance or a legislation. See Vivek Narayan Sharma v. Union of India, 2023 SCC OnLine SC 1. It was only on 30th December 2016 that an ordinance was introduced to implement demonetisation, which became a legislation in February 2017 - Specified Bank Notes (Cessation of Liabilities) Act, 2017.

134 *Basu*, note 132, p. 95

135 Parliament Digital Library (“PDL”), Lok Sabha Session on 16 December 2016, p. 11.

136 *Ibid.*, p. 11.

were walking up and standing near the table of the Speaker to protest, the opposition legislator, Mallikarjun Kharge expressed that the opposition parties were demanding for the adjournment motion to be admitted to discuss the difficulties faced by the poor, the labourers, daily wage earners and small shop-owners.¹³⁷ These groups rely on an informal cash-based economy and had to stand in long queues at banks to return demonetised notes. This session of the Parliament continued to see massive disruptions, with eventually 2 bills being passed out of the 19 listed.¹³⁸

We would argue that the disruptions opened a discursive space. The continuous disruptions over demonetisation made news and contributed to the public discourse. While some questioned the effect of disruptions on the productivity of the Parliament¹³⁹, the protests in Parliament highlighted the distaste of the BJP government for parliamentary debate; perhaps even its inability to withstand such debate. This is because populists often offer “overly simple, unsustainable, and even counterproductive solutions to complex policy problems”¹⁴⁰, which parliamentary debates can expose. The opposition parties catching on to government’s escapism on this issue questioned the government’s attempt to “run away” from debate in the Parliament.¹⁴¹

An even clearer case of opposition practice that exposed the illiberal nature of the BJP regime relates to the protests that took place outside the Parliament when a large number of opposition legislators were suspended. At the time, the BJP-led government had launched an ambitious legislative initiative to replace the colonial era criminal laws using the rhetoric of decolonisation. However, the rhetoric was without much substance because the new bills retained most of the “colonial logic of command and control” of the old laws.¹⁴² But the claims of indigenisation and the use of Hindi titles for the laws aligned well with the populist politics of the ruling government. The controversial aspects of these bills would have generated substantial parliamentary debate and opposition, however, the Speaker resorted to mass suspensions of members of the Lok Sabha when the bills were being considered. Around 100 members were suspended for misconduct, which is the highest in

137 Parliament Digital Library, Lok Sabha Session on 18 November 2016, pp. 7, 9. Notice the use of the Hindi word ‘अवधान’ which means interruptions.

138 PRS, Vital Stats: Parliament Functioning in the Winter Session 2016, <https://prsindia.org/session-track/winter-session-2016/vital-stats> (last accessed on 4 December 2024).

139 *K.S Venkatachalam*, Demonetisation has paralysed India’s Parliament, *The Diplomat*, 8 December 2016, <https://thediplomat.com/2016/12/demonetization-has-paralyzed-indias-parliament/> (last accessed on 30 June 2025).

140 *Mansbridge / Macedo*, note 22, p. 67

141 *Aurangzeb Naqshbandi / Bhadra Sinha*, In Parliament and Supreme Court, questions over demonetization singe government, *Hindustan Times*, 10 December 2016, <https://www.hindustantimes.com/india-news/in-parliament-and-supreme-court-questions-over-demonetisation-singe-govt/story-1TW1bJgcUUTyLcdI5ffbXJ.html> (last accessed on 30 June 2025).

142 *Abhinav Sekhri*, Decolonising Criminal Law, *Verfassungsblog*, 4 September 2023, <https://verfassungsblog.de/decolonising-criminal-law/> (last accessed on 4 December 2024), DOI: 10.17176/20230904-183210-0.

any term of the Lok Sabha so far.¹⁴³ Similarly, the Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Bill, 2023 was also passed by the Lok Sabha in the absence of suspended opposition members. Those opposition party members who did participate in the proceedings opposed the bill.

The explanation given by the Speaker for the suspensions was that these legislators had engaged in disruptive behaviour over a demand to discuss a parliamentary security breach, which the government had refused to discuss. However, the fact that such important bills were passed when the suspensions were in order points to a more sinister violation of a principle of deliberative democracy. The suspended opposition members staged protests outside the Parliament, strategically sitting on the steps of the Parliament whose doors they could not enter. They sat with pycards having a picture of Modi stating that the Indian democracy was under siege.¹⁴⁴ The mass suspensions of members and protests were reported in both national and international media.¹⁴⁵ The suspensions were also criticised by civil society organisations.¹⁴⁶ The protests outside the Parliament demonstrated the autocratic tendencies of the ruling government.¹⁴⁷ Populist autocrats of today are different from autocratic leaders of yesterday. They do not rely on democratic overthrow but claim to represent the will of the common people; thus, the narrative that they have democratic legitimacy is important for them.¹⁴⁸ The disruptions and protests give the appearance that the opposition is not being heard. The opposition itself has been sent to the Parliament by the people through elections. It signals to the public that all is not well and their political representation is being impeded by the government in power.

143 PRS, Parliament Functioning in Winter Session 2023, https://prsindia.org/files/parliament/session_track/2023/vital_stats/Vital_Stats_Winter_Session_2023.pdf (last accessed on 4 December 2024).

144 *Meryl Sebastian*, Parliament winter session: India opposition fury as 141 MPs suspended, BBC, 19 December 2023, <https://www.bbc.com/news/world-asia-india-67724698> (last accessed on 4 December 2024).

145 *Ibid.*; The NewsLaundry Team, A record India should not be proud of: Editorials slam suspension of 141 Opposition MPs, The NewsLaundry, 20 December 2023, <https://www.newslaundry.com/2023/12/20/a-record-india-should-not-be-proud-of-editorials-slam-suspension-of-141-opposition-mps> (last accessed on 4 December 2024).

146 *Chakshu Roy*, Let them speak: Suspension of MPs shows Parliament must find better ways to engage, Chakshu Roy, Indian Express, 20 December 2023, <https://prsindia.org/articles-by-prs-team/let-them-speak-suspension-of-mps-shows-parliament-must-find-better-ways-to-engage> (last accessed on 4 December 2024).

147 *Hannah Ellis-Petersen*, Indian Government accused of attack on democracy as 141 MPs suspended, The Guardian, 19 December 2023, <https://www.theguardian.com/world/2023/dec/19/indian-government-accused-attack-democracy-mps-suspended-modi-bjp> (last accessed on 4 December 2024); *Rahul Bedi*, Indian Government accused of 'demolishing democracy' after mass suspensions of opposition MPs, Irish Times, 20 December 2023, <https://www.irishtimes.com/world/asia-pacific/2023/12/20/indian-government-accused-of-demolishing-democracy-after-mass-suspension-of-opposition-mps/> (last accessed on 4 December 2024).

148 *Mansbridge / Macedo*, note 22, pp. 60-62.



Suspended legislators sitting on the steps of the Parliament with pLYcards¹⁴⁹

II. Minority Advocacy

The opposition parties in India sometimes, rightly so, have been accused of being silent on issues relating to Muslims.¹⁵⁰ The hesitation stems from the populist rhetoric of the BJP that is aimed at delegitimising any advocacy on behalf of Muslims by opposition parties as 'minority appeasement' which harms the interests of Hindus. The opposition in the fear of alienating their Hindu voters then prefers to remain silent to actively opposing the BJP's anti-Muslim policies.¹⁵¹ However, opposition's advocacy for Muslims was apparent when the Waqf Amendment Bill 2024 was introduced in the Parliament. The Waqf Act of 1995 was introduced to regulate Waqf property (a permanent dedication of property for a religious purpose recognised in Muslim personal law) through Waqf boards. The bill, *inter alia*, sought to change the composition of the Waqf boards to include non-Muslim members.

Kanimozhi Karunanidhi, representing the Dravida Munnetra Kazhagam, a regional party, opposed the Waqf Bill, when it is was introduced, for being against Muslims.¹⁵² Opposition members like Supriya Sule and K Radhakrishnan insisted that the Waqf Bill

¹⁴⁹ The NewsLaundry Team, note 145.

¹⁵⁰ Apoorvanand, Opposition's Shocking Silence in the Face of Anti-Muslim Violence, *The Wire*, 25 June 2024, <https://thewire.in/communalism/oppositions-shocking-silence-in-the-face-of-anti-muslim-violence> (last accessed on 4 December 2024).

¹⁵¹ *Jaffrelot / Tillin*, note 21, pp. 148-149.

¹⁵² Lok Sabha, Synopsis of Debates, 8 August 2024, https://sansad.in/getFile/Synop/18/II/SYN_08082024_ENG.pdf?source=loksabhadocs (last accessed on 24 May 2025).

required consultation among the stakeholders.¹⁵³ The opposition members demanded that the bill be referred to a JPC.¹⁵⁴ As we discuss, parliamentary committees can be forums for the opposition to influence legislation. However, the recommendations of the JPC report were not incorporated and the Bill was tabled for discussion again in April 2025.

While the opposition was unable to modify the legislative proposal, it did carry out the task of advocacy. An unusual 12 hour debate took place in the Lok Sabha before the Bill was passed on April 2, 2025.¹⁵⁵ The debate was not only long but heated, which made the contested nature of the bill apparent in the media.¹⁵⁶ The criticism of the bill arose from various parties. During the debate, Akhilesh Yadav highlighted that the Bill by including outsiders in the Waqf board aimed to “deprive our Muslims brothers of their rights and diminish their importance and control”.¹⁵⁷ Even members of the previous coalition partner of the BJP, Akali Dal, argued that the bill was a reflection of the ruling party’s politics of Hindu-Muslim polarisation and interfered with minorities.¹⁵⁸ Midhun Reddy emphasized that with the Muslim population in the country being almost 14.06 per cent, their concerns must be addressed.¹⁵⁹ The bill was passed in the Lok Sabha with a narrow margin of 288 members who voted in favour, and 232 who opposed it. The significant opposition to the bill both in the debate and numbers, by diverse parties representing different communities and regions (some of which are in power in state governments) cast Muslims as legitimate participants in Indian democracy. This public and formal opposition of BJP’s ideological politics, of which Waqf bill was an example, challenges the hegemonic status of Hindu nationalism in India and its bidding of Hindus as the “exclusive people”.¹⁶⁰

III. *De-acceleration*

Here we discuss two instances where oppositional practice led to some delay and modification of the original legislative proposal of the government. Specifically, the technique of disruption was employed by the oppositional actors, functioning in synergy with other legally permissive parliamentary practices like scrutiny by parliamentary committees, to achieve this impact.

153 Ibid.

154 Lok Sabha, Report of the Joint Committee on Waqf (Amendment) Bill 24, January 2025.

155 *Sanndeeep Phukan*, Lok Sabha passes Waqf Bill after 12-hour debate, *The Hindu*, 3 April 2025, <https://www.thehindu.com/news/national/waqf-bill-does-not-interfere-with-religious-practices-of-muslim-community-says-home-minister/article69405292.ece> (last accessed on 24 May 2025).

156 *Cherylann Mollan*, India passes controversial bill on Muslim properties after fierce debate, *BBC*, 4 April 2025, <https://www.bbc.com/news/articles/cwyn87ly1pqq> (last accessed on 22 May 2025).

157 Lok Sabha, Synopsis of Debates, 2 April 2025, https://sansad.in/getFile/Synop/18/IV/SYN_0204_2025_MERGED_ENG.pdf?source=loksabhadocs (last accessed on 24 May 2025), p. 11

158 Ibid., p. 34

159 Ibid., p. 21.

160 See on populist politics and “exclusive people”, *Mansbridge, Macedo*, note 22, p. 63,

The government's populist politics includes preservation of patriarchal family structures driven by religious notions of Hindutva morality.¹⁶¹ This was captured in the controversial The Surrogacy (Regulation) Bill, 2016 which was tabled in the winter session of 2016. The bill intended to eliminate the practice of commercial surrogacy by providing that only a close relative of an intending couple can be a surrogate mother.¹⁶² Further, only a married heterosexual couple could avail surrogacy under the bill.¹⁶³ The bill excluded single parents, same-sex couples and cohabitating couples from availing surrogacy. This conservative posturing falls into alignment with global trends in right wing populist campaigns that seek to preserve traditional family values, control female sexuality and are anti-LGBTQ rights.¹⁶⁴ Incidentally, the bill was not initially passed in the Parliament due to the demonetisation disruptions.¹⁶⁵ Disruptions on account of demonetisation, thus, served a dual function of both advocating (as we discuss above) and de-accelerating other legislative agendas. This surrogacy bill was later referred to a parliamentary standing committee on January 12, 2017.¹⁶⁶ After subsequent amendments and referrals to standing committees, the bill became a law in the form of the Surrogacy (Regulation) Act, 2021 providing wider access to surrogacy compared to the 2016 bill. The Act allowed single women (divorced or widowed) to avail surrogacy.¹⁶⁷ It also removed the condition that the surrogate had to be a close relative to allow any 'willing woman' to be a surrogate.¹⁶⁸ In its final form, the Act still preserves certain moralistic features excluding same-sex and cohabitating couples (an issue which was raised by the opposition¹⁶⁹). However, the opposition was able to delay the passage of the bill, compel the government to refer the bill to parliamentary committees and modify aspects of the proposed legislation.

Similar to the *Waqf* project, the government had previously attempted to marginalise and 'other' Muslims through the criminalisation of *triple talaq*. Here too, disruptions helped in modifying the legislative agenda. In 2017, the Supreme Court declared the

161 P.M. Aarathi, *Silent Voices: A Critical Analysis of Surrogacy's Legal Journey in India*, Social Change 49 (2019), p. 344.

162 Section 4 (iii) (b) (II), The Surrogacy Regulation Bill 2016.

163 Section 2 (g), The Surrogacy Regulation Bill 2016.

164 *Dubravka Zarkov*, Populism, Polarization and Social Justice Activism, *European Journal of Women's Studies* 24 (2017), p. 197.

165 PRS Winter Session, Legislation, <https://prsindia.org/sessiontrack/winter-session-2016/bill-legislation> (last accessed on 4 December 2024).

166 PRS, Department-related Parliamentary Standing Committee on Health and Family Welfare One Hundred Second Report The Surrogacy (Regulation) Bill, 2016 https://prsindia.org/files/bills_act_s/bills_parliament/2016/SCR-%20Surrogacy%20Bill,%202018.pdf (last accessed on 4 December 2024).

167 Section 2 (s), Surrogacy (Regulation) Act 2021.

168 Section 4 (iii) (b) (II), Surrogacy (Regulation) Act 2021.

169 *Jimmy Jacob*, After Opposition Objections, Centre Refers Surrogacy Bill To Select Panel, NDTV, 21 November 2019, <https://www.ndtv.com/india-news/after-opposition-objections-centre-refers-surrogacy-bill-to-select-panel-2136564> (last accessed on 4 December 2024).

practice of *triple talaq*, an Islamic form of divorce, unconstitutional.¹⁷⁰ Under this form of divorce, a Muslim husband could unilaterally divorce his wife by pronouncing *talaq* (divorce) thrice. While the petition was supported by certain organisations working with Muslim women as a much needed gender justice reform,¹⁷¹ the ruling government saw this as an opportunity to not only support nullification of this form of divorce under personal law but to criminalise the practice.¹⁷²

The BJP has for long communalised the issue of Muslim personal law by actively projecting Hindu personal law as progressive and Muslim personal law as regressive.¹⁷³ This is in stark contrast to the position of the Indian women's movement which has highlighted the discriminatory practices within all personal laws, including Hindu law, and have advocated for community led-reform.¹⁷⁴ After the judgment, the government immediately introduced The Muslim Women (Protection of Rights on Marriage) Bill, 2017 in the Lok Sabha criminalising *triple talaq*. The bill was passed in the Lok Sabha on the very same day. Knowing that the bill would be met with resistance, the law minister introduced the bill with certain amendments in the Rajya Sabha. The amendments made the offence cognizable¹⁷⁵ only if the complaint was made by the wife against her husband, or her relative. Thus, limiting the scope of a complainant under the bill.¹⁷⁶ The proposed amendments also made it easier to obtain bail under the bill and allowed the compounding of offences.¹⁷⁷ This shows how opposition can leverage the fear of de-acceleration to push a populist government to dilute its own legislative proposals.

However, despite the changes, the bill was not passed in the Rajya Sabha and lapsed. The BJP tried to introduce the bill again in 2018 but was not able to pass it in the Rajya Sabha and had to rely on issuing ordinances as a stop-gap measure to implement the bill.¹⁷⁸ Only after the 2019 Lok Sabha elections, when the BJP returned to the Lok Sabha with full majority and it had more seats in the Rajya Sabha (still not meeting the majority mark), was it able to pass the bill.¹⁷⁹ Then too, the bill passed with a narrow margin with 99 votes

170 *Shyara Bano v. Union of India*, (2017) 9 SCC 1; In India, there is a patchwork of statutory and non-statutory personal laws that govern marriage and divorce depending on the religious sect one belongs to.

171 Bebaak Collective and the Centre for Study of Society and Secularism.

172 Sections 3 and 4, The Muslim Women (Protection of Rights on Marriage) Bill 2017.

173 *Nivedita Menon*, A Uniform Civil Code in India: The State of the Debate in 2014, *Feminist Studies* 40 (2014).

174 *Ibid.*

175 Arrest can be made by a police officer for a cognizable offence without a warrant.

176 PRS, Notice of Amendments, https://prsindia.org/files/bills_acts/bills_parliament/2017/Triple%20Talaq%20Notice%20of%20Amendments.pdf (last accessed on 30 June 2025).

177 *Ibid.*

178 *Sohaira Siddiqui*, Triple Talaq and the Political Context of Islamic Law in India, *Journal of Islamic Law* 2 (2021), pp. 24-27.

179 *Ibid.*

for the bill and 84 against.¹⁸⁰ While the bill passed eventually, there was a delay of two years and the BJP had to continuously confront opposition leaders stalling parliamentary proceedings with the law minister even observing that the opposition had been “creating ruckus” leading to adjournments.¹⁸¹ This example shows how the opposition can impede a populist government’s drive to execute its projects with “temporal efficiency and rapidity”.

F. Conclusion

In this article, we have sought to highlight the role parliamentary opposition can play in populist regimes to protect democracy. The study of parliamentary responses by opposition becomes important because of the electoral hegemony many populist regimes are able to establish by blocking channels of political change. In this context, we discuss how different oppositional actors in the Indian Parliament can play a role in advocating for political minorities and a democratic liberal order; and de-accelerating legislative agendas of the government. We specifically highlight how the much-maligned use of parliamentary disruptions, which were understood to be creating a state of “gridlock and dysfunction”¹⁸² during the era of the coalition governments (pre-2014), can now be seen as presenting opportunities to protect democracy and constitutionalism. The disruptions are often deployed in tandem with the use of legally permissive parliamentary processes: for instance, disruptions may compel the government to allow legislation to be sent to parliamentary committees or to allow parliamentary debates to be held. We do not aim to conclusively comment on the state of oppositional practice in India; rather we intend to start a dialogue on what parliamentary opposition is, what it does and what it can possibly do in constrained democratic conditions.

Through our article, while we have noted the subversion of the Indian Parliament, we have also attempted to tell the story of democratic resilience and resistance. It is not our claim that the parliamentary opposition has been the most successful political force against rising populism and authoritarianism in India. However, we intend to complicate the narrative that the Indian Parliament has been completely neutralised with the rise of

180 Ibid.; see also Indian Express, Triple Talaq: How Rajya Sabha Voted to Pass Landmark Bill, 30 July 2019, <https://indianexpress.com/article/india/triple-talaq-how-rajya-sabha-voted-to-pass-landmark-bill-5864693/> (last accessed on 4 December 2024).

181 India Today, Opposition Stalls Triple Talaq Bill in Rajya Sabha, 1 January 2019, <https://www.indiatoday.in/mail-today/story/opposition-stalls-triple-talaq-bill-in-rajya-sabha-1421289-2019-01-01> (last accessed on 4 December 2024).

182 *Tarunabh Khaitan*, The Real Price of Parliamentary Obstruction, https://india-seminar.com/2013/642/642_tarunabh_khaitan.htm (last accessed on 4 December 2024).

populism. It still remains an important site of advocacy and de-acceleration against populist projects.



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