

Improving India’s Parliamentary Voting and Recordkeeping

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Pranesh Prakash

This paper examines parliamentary voting and recordkeeping practices in India, comparing them with other democracies like the US and UK. It argues for reforms including mandatory recorded votes on bills, publication of party whips, and adoption of open standards like Akoma Ntoso for parliamentary recordkeeping.

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1. Parliamentary Voting

Every democratic assembly requires a way of gauging the opinion of the gathering. The most common way to do this in a parliament is through voting. However, there is no standard way of voting. And even when voting is used, as James Carey notes in his book on parliamentary voting, “in most countries, it is exceedingly unusual to record how each legislator voted on a given proposal.”¹ This is true of India as well: individual legislators’ votes are not usually recorded. It is a common misconception that one can review the voting record of one’s representative in parliament. Voting records cannot serve as a means of accountability for individual members of parliament, nor for the member of the legislative assembly and the local city councillor.

2. Voting Procedures in the Indian Parliament

Before getting into the whys and wherefores of parliamentary voting, it is instructive to look at the law in India and to understand how voting currently happens in India’s Lok Sabha (House of the People) and Rajya Sabha (Council of States). Voting procedures are codified in the “Rules of Procedure and Conduct of Business” that are framed by each House of Parliament. While the

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¹John M. Carey, *Legislative Voting and Accountability*, Cambridge Studies in Comparative Politics (Cambridge University Press, 2009), ix.

Lok Sabha and the Rajya Sabha frame their rules of business and procedures independently, they are similar, if not identical, on most important matters.

All issues that need to be decided by the Lok Sabha and the Rajya Sabha take the form of “motions” proposed by individual members.² All motions require voting, as mandated by the Constitution of India, art. 100(1), which states:

Save as otherwise provided in this Constitution, all questions at any sitting of either House or joint sitting of the Houses shall be determined by a majority of votes of the members present and voting, other than the Speaker or person acting as Chairman or Speaker.³

However, the constitution does not define what a “vote” is, nor how a determination of a “majority” is to be made.

2.1. Voice Votes

The most common form of voting is the voice vote, and it is the default followed in all cases where counted voting is not mandatory. In this form of voting, the Speaker (in the Lok Sabha) or the Chairman (in the Rajya Sabha) puts forth the motion, and asks those who agree with the motion to say “Aye,” and those who disagree to say “Nay.” Whichever group seems to have more voices (i.e., is louder) is proclaimed by the speaker to “have it.” After making the declaration once, the Speaker is, in theory, supposed to wait to see if there is any objection. If there is not any objection, she repeats either “the Ayes have it” or “the Noes have it” two more times, after which the motion is considered voted upon.

While the sense of the House as a whole may be determined through a voice vote, it is clear that the views of each member is not. Further, when one watches the proceedings of Parliament as relayed on television, one realizes that this is a mechanical invocation since there is usually no pause between the Speaker asking those who oppose to motion to say “No” and her declaring thrice: “the ayes have it, the ayes have it, the ayes have it,” all in a single go.

2.2. Counted Votes

If a member of Parliament objects to the Speaker’s declaration of the result of a voice vote, the motion may need to be put to a counted vote, as detailed below. This can take one of four forms: a head count, a vote using a voting machine, a vote by going into “lobbies,” or a vote by “aye” or “no” slips (this form is only available in the Lok Sabha).

In a head count, those who agree with the motion will stand up when asked to and the number of members standing will be counted, and similarly for those

²“Rules of Procedure and Conduct of Business in the Council of States (Rajya Sabha)” (2016), https://rajyasabha.nic.in/rsnew/rs_rule/rules_pro.pdf; “Rules of Procedure and Conduct of Business in Lok Sabha” (2014), http://164.100.47.194/loksabha/rules/RULES-2010-P-FINAL_1.pdf.

³“Constitution of India” (1950), <http://www.legislative.gov.in/constitution-of-india>.

who oppose the motion. While the numbers are recorded (unlike in a voice vote), the names of the voters are not. If the Speaker wishes, she may order a “division.” It is up to the Speaker as to which form of counting to use. She may, thus opt not to order a division—during which members’ names are recorded alongside their votes—and instead use a head count—during which members’ names are not recorded.

“Division” is parliamentary parlance for counted voting. When a division is ordered by the Speaker, the Secretary-General of the House starts the ringing of the division bell (which rings intermittently for division in the Rajya Sabha, and continuously for division in the Lok Sabha). This bell rings for 3½ minutes, after which the doors to the inner lobby of the house are shut, preventing the entry or exit of Members of Parliament (MPs). The Speaker takes one more voice vote and declares the results. If the results are challenged a second time, she has to order that votes be counted. The most common form of counted voting in India is through the “automatic vote recorders,” which were introduced in 1956. To use it, the MP presses a “vote activation button” along with a button indicating their vote—“Aye,” “No,” or “Abstention”—for ten seconds (and the results are shown on a board before being declared as final). Otherwise, the division may be undertaken by “lobby,” where the ayes and the noes go to opposite sides of the room and a division clerk counts them by name. In the Lok Sabha, one additional method of division is permitted, whereby MPs take “aye” or “no” slips, write their division number on it and sign it, and then hand it to a division clerk. In all cases, members who for some reason cannot vote using the prescribed method (e.g., for reasons of infirmity) are allowed alternative forms of voting as long as they are within the lobby. Further, before the division results are announced, each MP has the opportunity to correct her vote in case she did not cast it correctly, or cast it from the wrong seat. Once the result of a division is announced, however, it may not be challenged.

While the totals of the ayes and noes from a division are provided when the “unedited” version of the debates are put up on the Lok Sabha and the Rajya Sabha websites the day after a debate, the names of the individual members and the way they voted is not provided until the edited version appears, which may take up to a few weeks.

2.3. When are Divisions Mandatory?

There are two situations in which voting by division is provided for under the rules. First, when a member of the house disputes the Speaker’s declaration on two successive voice votes on the same motion, and the Speaker using her discretion, opts to order a division instead of a head count.

Second, if a vote requires the assent of at least two-thirds of the members of the House of Parliament. In this latter case, a division is mandatory. This is only required for seven distinct kinds of matters: for amendments to the Constitution of India, for removal of the President or judges of the Supreme

Court, for limiting the powers of autonomous tribal states, for the power to legislate on behalf of the States, for the establishment of all-India services, or for the approval or extension of a proclamation of emergency. Needless to say, all of these are infrequent occurrences, with constitutional amendments being the most common among them.

2.4. Secret Ballots

There are some circumstances in which the votes are recorded secretly. The election of the President and the Vice-President are both done through a “system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot.”⁴

2.5. Voting Procedures in the USA and the United Kingdom

The U.S. Constitution has a specific provision on voting that not only talks about voting, but specifically speaks of recorded votes by stating, “the Yeas and Nays of the Members of either House on any question shall, at the Desire of one-fifth of those present, be entered on the Journal.”⁵ Given this provision, the default in both the House of Representatives and the Senate is voice votes, with counted votes being the exception. Counted votes in the House can take the form of a division (where names are not counted, only totals), recorded teller votes and ‘yea and nay’ votes (where names and totals are counted in both cases, and both happen electronically). In the Senate, counted votes happen either through a “division” vote or by a roll-call vote, with roll-calls being the official way of deciding contentious issues. The rules in the Senate even allow a motion to be passed without a vote if it is “without objection.”

In the United Kingdom, the procedure is similar to India, with a voice vote being the default, and divisions by going into separate lobbies (chambers to the left and the right of the main room) being held when MPs dispute the Speaker’s assessment of a voice vote.

In the U.S. Congress, the rules provide 15 minutes as a minimum between the announcement of a roll-call/recorded vote and its conduct. In the United Kingdom, eight minutes is provided from the time the division bell starts ringing to when the lobby doors are closed. Both the United States and the United Kingdom allow for deferred voting, thus allowing a number of different votes to be held together in a cluster at a pre-announced time, thus simplifying voting significantly.⁶

⁴Constitution of India, arts. 55(3) & 66(1).

⁵Constitution of India.

⁶Shalaka Patil, “Push Button Parliament - Why India Needs a Non-Partisan, Recorded Vote System,” *Anuario Colombiano de Derecho Internacional* 4 (2011): 182, <https://revistas.urosario.edu.co/index.php/acdi/article/view/2052/1819>.

2.6. Voting Freedom

Should a legislator vote in accordance with her conscience, or in accordance with what she believes her constituents (or the majority thereof) want, or in accordance with what her party leadership wants? This is an inescapable and central issue in all party-based democratic systems. Carey dubs this the “fundamental tension between individualism and collectivism,” and explains that “individual accountability implies that legislators answer to the specific demands of citizens in their behavior, including voting. Collective accountability implies that teams of legislators—mainly parties and coalitions, in most legislatures—act collectively to promote a policy agenda and are evaluated by citizens as a group according to their effectiveness in advancing it. Where constituents—even supporters of the same party or coalition—put diverse demands on legislators, the demands of individual accountability can contradict the collective action on which collective accountability is based.”⁷

This tension also has one other basis, which is the question of who voters and constituents would wish to hold accountable: parties or individual MPs. Do voters vote on the basis of parties, regardless of who is standing for election for that party, or do they vote on the basis of individuals, even if that individual shifts between parties? Or does it lie somewhere in between, and if so, closer to which end of the spectrum? There are no clear answers to these questions, and indeed, there might not be one universal answer.

2.7. Whips

In different parliaments, the term “whip” is used to mean different things. In the following discussions, the term is mainly used to refer to instructions issued by a political party to its legislators. The negative consequences for disobeying a whip are quite different in India from countries like the United States or the United Kingdom. In the U.S. Congress, “disciplinary action for voting against the views of party leaders is rare, although Senators and Representatives may indirectly be sanctioned by denial of assignment to, or leadership positions on important committees.”⁸ Whereas in the United Kingdom, the measures for disobeying a whip “can include a written reprimand from the party chief whip (also communicated to the Member’s constituency party organization), temporary suspension from the party organization in Parliament, or a ‘withdrawal of the whip,’ a formal expulsion from the party organization.”⁹

However, in India, the anti-defection law passed in 1985 allows an MP to be disqualified from her parliamentary seat upon disobeying a party whip. In the Supreme Court case of *Kihoto Hollohan v. Zachillhu*, the anti-defection law was upheld. However, in doing so, the court also limited the application of the law

⁷Carey, *Legislative Voting and Accountability*, 166.

⁸R. Eric Petersen, “Parliament and Congress: A Brief Comparison of the British House of Commons and the U.S. House of Representatives,” 2005, 4, <https://fas.org/sgp/crs/misc/RL32206.pdf>.

⁹Petersen, 4.

to no-confidence motions and motions on “integral policy and program of the political party on the basis of which it approached the electorate.”¹⁰ This might seem a reasonable limitation, however, it has not worked out in practice since the Supreme Court has also held that the Speaker can unilaterally decide whether a legislator has voluntarily given up her seat or has gone against party directions. There is no clear way in which a Speaker can distinguish between disobeying a party on a trifling matter and on an “integral policy and program” since many parties don’t release election manifestos, and even then it is difficult to say which policies and programs are “integral” to the party and which ones aren’t.

2.8. Voting Practices Compared

There is a clear historical trajectory to the idea of recorded voting, as David Beetham notes:

[...] the idea of accountability implies a more focused and systematic ‘account-giving’ after the event, to which the public can respond. As we have already seen, constituents are increasingly interested in learning how their representatives have voted on key issues before parliament, and interrogating them about their actions. For members to have their voting record published, and to be able to give a reasoned defense of their record, is of the essence of political accountability. The extension of the Internet makes this requirement much more readily realizable, and it is now a standard feature in many parliaments.¹¹

This seems to suggest that recorded voting is now seen as a bare minimum. Importantly, recorded voting by itself does not include justification of MPs’ votes to their constituents, nor does it include reporting by MPs to their constituents on other forms of parliamentary activity.¹²

In 2018, the U.S. House of Representatives had 500 recorded votes, and the Senate had 274 (in both cases, not including committees). In 2017, the numbers were 710 and 325 respectively. Since the 2017 general elections in the United Kingdom, there have been 353 divisions in the House of Commons. By comparison, in India, in the 16th Lok Sabha (2014-2019), there have been 90 divisions, 55 of which were mandatory and 35 were non-mandatory. But only 11 bills were voted upon. This is despite the far lengthier and cumbersome processes for recorded voting in both the United States and the United Kingdom.

There is a clear indication that India’s anti-defection law is responsible for this. An insightful study by Shalaka Patil shows that there was a dramatic drop

¹⁰Kihoto Hollohan v. Zachillhu, No. AIR 1993 SC 412 (1993).

¹¹David Beetham, *Parliament and Democracy in the Twenty-First Century: A Guide to Good Practice* (Inter-Parliamentary Union, 2006), 96, <https://www.ipu.org/resources/publications/handbooks/2016-07/parliament-and-democracy-in-twenty-first-century-guide-good-practice>.

¹²Beetham, 96.

in the number of divisions held in the Lok Sabha after 1985, when the anti-defection law was enacted.¹³ The 3rd Lok Sabha (1962-67) had 330 divisions, whereas the 14th Lok Sabha had only 20 divisions.

While voice votes implicitly introduce a presumption that the government will carry the motion, the anti-defection law has implicitly introduced a presumption that all the members vote in line with their party even if a division were to be held.

Interestingly, whips are not recorded in the United States, nor in the United Kingdom, though educated guesses can be made by looking at voting records.

2.9. Voting Reforms

2.10. Recording of Votes

The various forms of voting reveal different information to different actors. Voice votes and head counts are forms of “signal votes” where individual MP’s positions are not revealed to their constituents or the public, but are revealed to their party leaders. Division votes are “open votes” that show the MP’s position to the public.¹⁴ Less than 2 percent of the bills considered by the Lok Sabha are decided by counted votes.¹⁵ This needs to change. One cannot sufficiently evaluate an MP’s legislative and representative roles without voting records.

At the very least, the most important votes in Parliament—all motions related to bills and subordinate legislation, as well as no-confidence motions which determine whether a government survives or falls—ought to be voted on through divisions. There have been multiple instances of governments, with the help of partisan speakers, refusing to hold divisions even on no-confidence motions, as was the case in the state of Maharashtra in 2014, and last year in Sri Lanka. These are indeed cases of parliamentary procedures being used to undermine democracy in a way that the framers of the procedures never contemplated.

One problem that arises with the recording of votes is that MPs are not always present for votes. To improve attendance and engagement during votes on bills and subordinate legislation, the practice of deferred/clustered divisions should be introduced, allowing Parliamentarians to vote on a number of laws and amendments at the same time. These two sets of changes would need the amendment of Parliamentary rules of procedure.

¹³Patil, “Push Button Parliament - Why India Needs a Non-Partisan, Recorded Vote System,” 170–72.

¹⁴Simon Hug, Simone Wegmann, and Reto Wüest, “Parliamentary Voting Procedures in Comparison,” *West European Politics* 38, no. 5 (September 2015): 943, <https://doi.org/10.1080/01402382.2015.1045290>.

¹⁵Patil, “Push Button Parliament - Why India Needs a Non-Partisan, Recorded Vote System,” 171.

2.11. Recording of Whips

While many political scientists have focused on analyzing votes by legislators in various countries and their public nature, not many have studied the public availability of instructions issued by political parties. While this is useful in all democracies with political parties, it is essential in countries like India where disobeying whips issued by political parties can have very serious consequences.

Even if one argues that in a weak parliament (where the legislature largely votes in accordance with the executive's will) the voting record of individual legislators does not matter, one cannot say the same about political parties. Since the whips that political parties issue to their MPs can have consequences, there ought to be a clear record kept of them. While Patil suggests that whips ought to be conveyed to the Ministry of Parliamentary Affairs, it is better for whips to be conveyed to Speaker or the Secretary-General of each House of Parliament, since that would serve two distinct functions. First, since it is the Speaker who has the power to disqualify an MP, whips ought to be available to the Speaker. Second, whips are an important aspect of parliamentary functioning, and as such should form part of the record of Parliament and be published by the same authority that publishes debates and the votes of legislators.

2.12. Manifestos by Political Parties

Even if one disagrees with *Kihoto Hollohan v. Zachillhu*, one would agree that in order for any reasonable application of that decision, all political parties should have to indicate to voters what policies and programs are “integral” to the party through a separate section of their manifesto issued in multiple languages before a Lok Sabha election. Currently, many political parties do not even release manifestos.¹⁶ Without this, it will be left to the Speaker to judge what issues were advertised to the electorate as “integral” to a party.

2.13. Beyond Voting

Voting is only one part of the duties of an MP. While it is clear that an individual MP does not have too much leeway to influence governmental policy through votes in Parliament, it is far from clear that MPs don't have influence over governmental policy. Most important laws (though not all) are usually referred to standing committees and the inputs of those standing committees, which generally have representation from multiple political parties, are often taken seriously by various ministries and laws are often re-written to address the concerns of the standing committees. As a general practice, standing committee reports are issued collectively (with allowances for dissents) and are helmed by the MP chairing each committee. This makes it harder for MPs to use standing committees as a location for signaling their work to their constituents, and perhaps also accounts for their low attendance rates.¹⁷ But this lack of

¹⁶Patil, 192.

¹⁷Lok Sabha Secretariat, “Resumé of Work Done by Lok Sabha: 16th Lok Sabha, 13th Session,” February 2018, 32–33, <http://164.100.47.193/resumeofwork/XIII/5163LS.pdf>.

signaling also means that there can be cross-party cooperation, rather than mere contention, in standing committees, which is harder to achieve on the floor of Parliament.

When it comes to legislating from within Parliament, but from outside the government, i.e., what are known as “Private Member’s Bills,” the record is so abysmal in terms of them being passed that it is noteworthy that some MPs continue to introduce private members’ bills. It seems that MPs do so to push discussions on a topic and gain the attention of the government (as happened with MP Kanimozhi’s Transgender Rights Bill, which failed, but led to the government taking up the issue and introducing its own bill), or to engage in signaling to their constituents or their party leaders.

Apart from work within Parliament, MPs undertake much constituency-related work, including the disbursement of the MP local area development (MPLAD) funds and working with various levels of government to implement developmental programs in their constituency.

A few MPs have started issuing reports of their own performance in and outside of Parliament. It would be welcome if the press highlighted such reports, and created peer pressure for other MPs to start issuing progress reports to their constituents.

3. Parliamentary Recordkeeping

Parliamentary functioning can only be judged by the records it keeps, and thus parliamentary records are a critical part of parliamentary accountability.

What kinds of records does parliament generate? There are at least the following forms of records:

- Debate Records, with speaker’s and members’ names and timings
- Voting records, vote counts, and quorum counts
- Questions and answers, including corrections
- Bills and acts
- Subordinate legislation
- Amendments
- Committee meeting records
- Committee reports, including dissents
- Resolutions, references, announcements, statements, and special addresses
- Summary of work reports
- Reports of elections, inductions, and resignations, and deaths of members
- Rules of procedure and conduct of business
- Stand-alone books, pamphlets, and reports

3.1. Technology Use Within Parliament

Is there a uniform and efficient process for handling these records and for making them public? In 2016, an additional director of the Lok Sabha Secretariat noted

that “presently, a digitization project is under progress for the creation of PDF files of the proceedings of Lok Sabha, including Questions and Debates.”¹⁸ This makes it clear that there is no digital workflow for these documents. While the Lok Sabha and Rajya Sabha websites are updated on a daily basis, their site architecture, their abysmal search functionalities, and the less-than-useful format of the records on the sites make it clear that the records are both hard to find, and hard to make use of by researchers and citizens.

In the Rajya Sabha’s 2017 annual report, the chapter dedicated to LARRDIS (the parliamentary information retrieval system) has a dismal section on achievements related to computerization, where they list only four achievements: “using the Internet” for research, communications being “sent through email,” “soft copies” being emailed, and “all typing work” being “done on computers.”¹⁹

While the National Informatics Centre has a “Parliament Information Division,” which seems to be responsible for maintenance of the Parliamentary websites, there is not much information available about its functioning.

While there are a few Parliament-related files on data.gov.in, the central government’s open data portal, there are no datasets relating to Parliamentary debates. In response to an email asking for bulk access to the digitized debate dataset, the data custodians (as listed on data.gov.in) for both the Lok Sabha and the Rajya Sabha explained that whatever was on the website was all that was accessible.

3.2. How Open Standards Can Help

One technical way to improve the accessibility of parliamentary records, and consequently improve the work of parliamentarians, bureaucrats who work with parliamentary records, and researchers, is to use a structured and semantically marked-up format for recordkeeping and to establish a digital workflow for both houses of Parliament. There is an open standard for parliamentary (and judicial) records called Akoma Ntoso (“AKN”), which is an XML-based semantic structured format standardized within an international standards body called OASIS. All of the different forms of records produced by the Indian Parliament can be represented in the AKN format.

Ashok Hariharan, a software developer who was a coordinator of the Africa i-Parliaments Action Plan within the U.N.’s Department of Economic and Social Affairs, noted that there were several benefits to going in for a semantically marked-up structured format, including efficiency; improved collaboration

¹⁸Manju Jain, “Delivering Parliamentary Library and Research Services in an Interconnected World: The Case of the Parliament of India,” *IFLA - Library and Research Services for Parliaments*, September 2016, <https://www.ifa.org/node/10848>.

¹⁹Rajya Sabha Secretariat, “Rajya Sabha Annual Report 2017,” 2017, https://rajyasabha.nic.in/rsnew/annual_report/2017/LARRDIS.pdf.

among institutions; preservation; interoperability; cost-effectiveness; value addition; and ease of comparative research.²⁰

3.3. Producing Revised Versions of Laws

Various ministries and departments often do not have the latest version of the laws relating to their work on their website, instead opting to put up the base (unamended) statute, with each of the amendments listed separately rather than offering an integrated view of the law. They do this because integrating all the amendments is not easy in the formats they use (PDF and DOC/DOCX), and the integration has to be done manually. By contrast, if a format like AKN were used for the original statute and the subsequent amendments, then any suitable software can be used to automatically create the integrated version of the law.

3.4. Dated Versioning of Laws

At times, especially for judicial cases, government departments (who often file the cases) and courts need to know what the precise content of a law was on a particular date. In order to have this, the department or court needs to keep an integrated version of the law after each amendment. For laws that get amended frequently—e.g., regulations by the Central Board of Direct Taxes and the Reserve Bank of India—this would be quite cumbersome. If AKN were used, then an accurate version of the law as on a particular date could even be generated dynamically.

3.5. Tracking Changes During Amendments

One problem that many legislators face is that of keeping track of the amendments proposed for the bills that they are considering. The amendments often take the form of a document which contains cryptic declarations such as, “on page 5, line 17 substitute [...]” Neither the Ministry of Parliamentary Affairs, nor the parliamentary secretariats produce redlined versions of the law with all the proposed amendments incorporated. That job is left up to the offices of each parliamentarian, and can be very cumbersome since all the data for doing this has to be entered manually. If AKN were used with a digital workflow management software, such redlined versions could be created automatically. MPs would even be able to directly edit a copy of the proposed bill and automate the generation of the amendments they wish to propose in forms easily understood by both the software as well as by the parliamentary secretariat.

3.6. Making Complex Research Easier

Usage of a structured format like AKN allows for complex structure-aware searches to be conducted, enabling research that otherwise would have been

²⁰Ashok Hariharan, Interview with Ashok Hariharan., March 2019.

difficult to carry out.²¹

3.7. Examples of Usage of Akoma Ntoso

The European Union uses AKN internally for many purposes, apart from using a platform called AT4AM, which also uses AKN, for handling amendments, and which is tightly integrated with their work-task allocation, budgeting, and translation systems. AKN is also used in South Africa, the United Kingdom, Italy, the U.S. state of California, and a host of other jurisdictions. In 2017, a U.N. inter-agency Working Group on Document Standards recommended the formation of a “Semantic Interoperability Framework,” which included the usage of Akoma Ntoso localized for the U.N.’s needs (AKN4UN) as one of the two prongs.

Many NGOs that work on legislative transparency use a free/libre/open source platform named Indigo, which provides a convenient interface for writing laws in AKN, including transforming existing laws into AKN. In India, an NGO named Nyaaya had already converted more than 800 Indian laws into AKN.

In India, the use of an XML-based format called XBRL is mandated for the submission of all company financial reports to the Ministry of Corporate Affairs. Given this, there is precedent for using XML-based semantically-marked up and structured formats within government. Indeed, the National Policy on Open Standards mandates the use of open standards for e-governance, and the Interoperability Framework for e-Governance (IFEG) lists a number of standards, but unfortunately, the IFEG does not list Akoma Ntoso as one of the standards since it doesn’t take legislation or parliamentary records as a separate e-governance domain.

3.8. Judicial Interventions

An important case in this regard has emerged from a right to information (RTI) query by a law student, wherein he asked the Legislative Drafting Department of the Ministry of Law to provide him a copy of the Indian Christian Marriage Act, 1972 since the version available on IndiaCode.nic.in was not readable. Later, this case was filed as a public interest litigation (PIL) in the Delhi High Court, noting that Section 4 of the RTI Act mandates the proactive uploading of laws by the government. In this regard, Justice Manmohan of the Delhi HC quoted the CIC order:

“Section 4 [of the Right to Information Act] mandates the Ministry of Law to place the texts of enactments. It is the duty of Legislative Department to provide information about access of every updated enactment. It is not just a recommended obligation under Section 4(1)(a) of RTI Act, but a

²¹John Sheridan and Jim Mangiafico, “Structure-Aware Search of UK Legislation,” in *XML London 2016 Conference Proceedings* (London, United Kingdom: XML London, 2016), 78–81, <https://doi.org/10.14337/XMLLondon16.Sheridan01>.

constitutional mandate, a legal necessity, and an essential requirement for peace.”

In one of his orders, Justice Manmohan even asked the Ministry of Law to convene a meeting to consider, among other issues, whether Akoma Ntoso could be used as a standard. Unfortunately, the minutes from the meeting convened by the Ministry of Law do not mention Akoma Ntoso. It would seem that even this judicial intervention did not suffice to put India on the path to the modernization of parliamentary recordkeeping.

3.9. Costs

The Indian Parliament is one of the most underfunded parliaments in the world, getting an annual budget in 2017-18 of 0.049 percent of the total government expenditure, whereas the worldwide average is ten times higher at 0.49 percent.²² I asked one of the original authors of Akoma Ntoso, who has a long history of consulting on legislative standards transitions, for a cost estimate given the Indian scenario.²³ The largest cost, he noted would be for proof-readers for the digitization of existing legislation. Writing the software for parsing of laws is not very expensive, coming to only six to seven months of work for a single person (i.e., six to seven man-months), even taking into account the customizations required.²⁴ The search functionality with a public-facing website would be another six man-months. Automating the production of new documents would be a bit more complicated. Overall, he estimated a cost of around \$2-5 million USD, which, even on the higher end of the estimate, is less than three percent of the annual Parliamentary budget of \$150 million USD.²⁵

Even with this comparatively low overall importance given to parliamentary budgeting, the amount needed for a transformation of records in a minuscule percentage, and even less given the spread of the developmental costs over a multi-year period. Given this, improving the technology on which our Parliament is built is not in the least a difficult choice.

4. Conclusion

There are multiple aspects to what makes a parliament democratic and legitimate: its representative character, openness and transparency, accessibility, accountability, and effectiveness.²⁶ In this paper, I have focused solely on openness, transparency, and accountability in the form of parliamentary voting and parliamentary records. I have demonstrated that both the practices as well as the rules of procedure covering voting in the Indian parliament require a

²²Chakshu Roy, “Budgeting For Democracy,” *The Indian Express*, February 2017, <https://indianexpress.com/article/opinion/columns/union-budget-parliament-democracy-lok-sabha-rajya-sabha-4511240/>.

²³Hariharan, Interview with Ashok Hariharan.

²⁴Hariharan.

²⁵Hariharan.

²⁶Beetham, *Parliament and Democracy in the Twenty-First Century*, 7.

serious overhaul if we are to have meaningful accountability of Parliamentarians to their constituents for their legislative functions.

We must mandate counted voting on all motions related to bills and delegated legislation, as well as no-confidence motions. The lack of such provisions currently contributes to a lack of legislative accountability, as well as opening up the possibility of a Speaker misusing her powers during a no-confidence motion. Further, we need parliamentary recording of whips issued by political parties to their members in order to enable a Speaker to know when a whip has been disobeyed by a member, as well as for accountability of political parties to those who voted for them. We also need to mandate pre-election declaration of “integral” policies and programs by each political party to ensure that it is clear when there’s a violation of such a policy or program by a member of parliament who got elected on the party ticket.

However, I have also argued that it is insufficient, as Parliamentarians perform many functions beyond legislation. There is a need for greater transparency and reporting by Parliamentarians themselves, in the absence of any other systematic means of reporting to the electorate about their promises and accomplishments.

In relation to recordkeeping, I have pointed out the harms caused by the non-usage of a semantic and structured open standard for legislative records, and the manifold benefits of adopting a format like Akoma Ntoso alongside an appropriate digital workflow, including for bureaucrats, parliamentarians, researchers, and voters. I have also provided a cost estimate for the development of and transition to an Akoma Ntoso-based platform in a way that covers both past and current records.

Finally, I have also pointed out multiple avenues for further research on parliamentary accountability and recordkeeping in the Indian context.

5. Appendix 1: Examples of Akoma Ntoso

Here is a snippet of the Aadhaar Act (2016) marked up in Akoma Ntoso:

```
<akomaNtoso xmlns:xsi="http://www.w3.org/2001/XMLSchema-instance"
xmlns="http://www.akomantoso.org/2.0" xsi:schemaLocation="http://
www.akomantoso.org/2.0 akomantoso20.xsd">
  <act contains="originalVersion">
    <preface>
      <p class="title">
        <shortTitle>Aadhaar (Targeted Delivery Of Financial And Other
Subsidies, Benefits And Services) Act, 2016</shortTitle>
      </p>
    </preface>
    <preamble>
      <p>A Bill to provide for, as a good governance, efficient,
```

transparent, and targeted delivery of subsidies, benefits and services, the expenditure for which is incurred from the Consolidated Fund of India, to individuals residing in India through assigning of unique identity numbers to such individuals and for matters connected therewith or incidental thereto.</p>

<p>Be it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:--</p>

```
</preamble>
<body>
  <chapter id="chapter-I">
    <num>I</num>
    <heading>Preliminary</heading>
    <section id="section-1">
      <num>1.</num>
      <heading>Short title, extent and commencement.--</heading>
      <subsection id="section-1.1">
        <num>(1)</num>
        <content>
          <p>This Act may be called the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.</p>
        </content>
      </subsection>
    </section>
  </chapter>
</body>
</act>
</akomaNtoso>
```

Example of Akoma Ntoso snippet recording the presence of a quorum and a vote in a debate, and then to include that in a summary analysis by linkage:

```
<!-- Verbatim debate notation, which creates "eId" references named "quantity_2" (for ayes) and "quantity_3" (for noes).-->
<debateSection eId="dbsect_2" name="... ">
  <summary eId="summary_1">(Question carried by <quantity eId="quantity_2" normalized="72" refersTo="#ayes">72</quantity> to <quantity normalized="34" eId="quantity_3" refersTo="#noes"> 34</quantity> votes)</summary>
</debateSection>
<!-- Analysis notation, which refers to the debate outcome (via "href" tags of "quantity_{2,3}").-->
<parliamentary>
  <voting eId="voting_1" href="#summary_1" refersTo="#voting outcome="#approved">
    <quorum eId="voting_1_quorum_1" refersTo="#majority" value="80"/>
```

```
<count eId="voting_1__count_2" refersTo="#ayes" href="#quantity_2"
value="72"/>
<count eId="voting_1__count_3" refersTo="#noes" href="#quantity_3"
value="34"/>
</voting>
</parliamentary>
```

References

Beetham, David. *Parliament and Democracy in the Twenty-First Century: A Guide to Good Practice*. Inter-Parliamentary Union, 2006. <https://www.ipu.org/resources/publications/handbooks/2016-07/parliament-and-democracy-in-twenty-first-century-guide-good-practice>.

Carey, John M. *Legislative Voting and Accountability*. Cambridge Studies in Comparative Politics. Cambridge University Press, 2009.

Constitution of India (1950). <http://www.legislative.gov.in/constitution-of-india>.

Hariharan, Ashok. Interview with Ashok Hariharan., March 2019.

Hug, Simon, Simone Wegmann, and Reto Wüest. "Parliamentary Voting Procedures in Comparison." *West European Politics* 38, no. 5 (September 2015): 940–68. <https://doi.org/10.1080/01402382.2015.1045290>.

Jain, Manju. "Delivering Parliamentary Library and Research Services in an Interconnected World: The Case of the Parliament of India." *IFLA - Library and Research Services for Parliaments*, September 2016. <https://www.ifa.org/node/10848>.

Kihoto Hollohan v. Zachillhu, No. AIR 1993 SC 412 (1993).

Lok Sabha Secretariat. "Resumé of Work Done by Lok Sabha: 16th Lok Sabha, 13th Session," February 2018. <http://164.100.47.193/resumeofwork/XIII/5163LS.pdf>.

Patil, Shalaka. "Push Button Parliament - Why India Needs a Non-Partisan, Recorded Vote System." *Anuario Colombiano de Derecho Internacional* 4 (2011): 163. <https://revistas.urosario.edu.co/index.php/acdi/article/view/2052/1819>.

Petersen, R. Eric. "Parliament and Congress: A Brief Comparison of the British House of Commons and the U.S. House of Representatives," 2005. <https://fas.org/sgp/crs/misc/RL32206.pdf>.

Rajya Sabha Secretariat. "Rajya Sabha Annual Report 2017," 2017. https://rajyasabha.nic.in/rsnew/annual_report/2017/LARRDIS.pdf.

Roy, Chakshu. “Budgeting For Democracy.” *The Indian Express*, February 2017. <https://indianexpress.com/article/opinion/columns/union-budget-parliament-democracy-lok-sabha-rajya-sabha-4511240/>.

Rules of Procedure and Conduct of Business in Lok Sabha (2014). http://164.100.47.194/loksabha/rules/RULES-2010-P-FINAL_1.pdf.

Rules of Procedure and Conduct of Business in the Council of States (Rajya Sabha) (2016). https://rajyasabha.nic.in/rsnew/rs_rule/rules_pro.pdf.

Sheridan, John, and Jim Mangiafico. “Structure-Aware Search of UK Legislation.” In *XML London 2016 Conference Proceedings*, 78–81. London, United Kingdom: XML London, 2016. <https://doi.org/10.14337/XMLLondon16.Sheridan01>.