

Gherao: An emerging tool among law-makers in India

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Abstract: The present paper is a study on the increasing but unproductive use of the practice of gherao which has almost become an accepted norms amongst the law-makers in India. Originally rooted in the labour movements of the 1960s as a form of protest, it must be conceded that gherao has increasingly become a normalized, albeit disruptive, tactic among Indian lawmakers. The study highlights how elected representatives—both in power and in opposition—have appropriated this confrontational method, diverging from traditional parliamentary norms and procedures. Based upon an approach combining content analysis of parliamentary proceedings, secondary sources, media reports, and government expenditure data related to legislative disruptions, the paper concludes that gherao is often employed to intensify political discourse and stall proceedings. Although gherao has intensify debates between those in power and the oppositions in India, yet the public exchequer has lost tremendously at the expenses of tax-payers and public funds undermining the efficient functioning of democratic institutions.

Keywords: Gherao, law-makers, parliamentary practices, political parties, opposition.

1.1 Introduction:

The rules of procedures under the Constitutions lays down a foundation for any discussion in the Parliament of India- whether it be a debate or any put up by a member (an MP), or between political parties. There are many forms of doing that, such as question hour, zero hour, etc. They are referred to also as parliamentary tools. However, based upon the review of empirical evidences found across different secondary sources, it has come to light that the behaviour of political parties (in power and opposition) has tilted away from the constitutional norms and practices. The recent 'Ambedkar Row' of 19th December, 2024 incident indicates that such behaviours have severely affected the workings of Parliamentary system in India and throw a negative light on the policy makers and the policy making process of the country. From this perspective, a descriptive analysis is made on 'Gherao' which has become a chosen tool for protest inside and outside the Parliament. The underlying questions involved here are: Has parliamentary disruptions in the form of 'un-parliamentary protest/practices such as 'Gherao' been seen as a tool to meet the demands of various political parties? Has Gherao appeared to be progressively satisfying to political parties in meeting their demands?

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It is unfortunate that India being the largest democratic country in the world has unprecedented interruptions, disruptions and walk-outs during proceedings of both the Houses during the last two decades.

1.2 Gherao: Meaning, Origin and Types:

Gherao, meaning encirclement is a term commonly used in India referring to a situation where workers prevent an employer from leaving the workplace by surrounding him/her. It is a form of protest first employed and reported by Mr. Subodh Banerjee who was a PWD and Labour Minister of West Bengal in 1967. It is said that Mr. Banerjee initiated Gherao as a movement to achieve social justice in the state. The Gherao movement emerged widespread during the emergency period of the Seventies owing to the various social injustices of that time. It was felt that the traditional forms of justice were too expensive for common man with few remedies available to the people. Gheraos were mainly targeted against corruption which were widely prevalent.

There are *four* types of Gherao based on the groups of people who organized the Gheraos: i. Gherao led by Women and Middle-Class Mothers, ii. Gherao organized by Trade Unions and Labourers, iii. Gherao initiated by Social Activists, and iv. Gherao driven by Political Party members.

i. Gherao led by Women and Middle-Class Mothers:

The first type of Gherao began in the 1970s. This was mainly carried out by poor and middle class house-wives who had to bear the grunt of the hike in prices of food and other essential commodities. These women went in groups by surprise, locked the offices and buildings by confining the Gheraoed person to an isolation. The target of this type of Gherao were mainly government officials and Ministers or those who were at the helm of power. This type of Gherao does not involve physical force or assault or injury. Rather, the women were helped by prominent newspapers posting a cartoonist character of the Gheraoed person. No political parties were involved in this movement. The Gulati Gang or Pink Gang was a case in point. It was founded by Sampat Pal at Atarra comprising of about twenty-thousand female members.

ii. Gherao organized by Trade Unions and Labourers:

The Second type of Gherao were mainly perpetuated by Labour Unions and other similar interest groups. So, this type was mainly confined to the men in factories, factory workers and landed labourers. The target was against the top brass of the Management and other government officials or employers.

The disgruntled workers would ring themselves around a building where government officials or employers were located and refuse to let them leave until their demands were made.

iii. Gherao initiated by Social Activists:

This form of Gherao emerged late during the 2010s. It was a coordinated efforts of civil society activists in India against corruption. Supporters of Jan Lok Pal Bill gheroed Ministers and other elected leaders by responding to the clarion call of the Gandhian Anna Hazare. In this Gherao too, the politicians and Ministers were at the receiving ends. However, Anna's appeal was paid a deaf ear by most of the elected politicians and MPs. It was condemned that Gherao weakened democracy and strengthened mobocracy instead. It must be noted here that Gherao has been so far carried on by disgruntled citizens- poor middle-class women, factory workers, labourers, students and activists against socio-economic issues such as rape, dowry, corruption, local criminals, wife-beaters, corrupt politicians, crooked police, dishonest officials, mounting prices for food, kerosene, cooking oil, etc. which were an outpour of frustrations. To them, Gherao was considered justice and empowerment.

Quite contrast to this earlier belief of Gherao, a prominent political scientist JC. Johari stated that Gherao has no place in democracy. Johari's contention was that Gherao is not merely one crime, it is bundle of crimes involving criminal trespass, wrongful restraint and confinement, and host of other wrongs punishable under the penal law of the country. He further annihilated Gherao through his remark- Nothing but the storehouse and net result of moral, mental, political, economic, social, cultural and psychological ruination.

iv. Gherao driven by Political Party members:

The Ministers and elected MPs who were always at the receiving ends of the Gherao movement in India have shifted their inclination from the earlier stands. Today, both the ruling as well as the opposition parties have resorted to Gherao in an unprecedented manner. Although Gherao has been considered to stand against the democratic and parliamentary norms nor irrespective of its legal standing, the Supreme Court of India held that the right to Gherao when exercised lawfully is a legitimate form of protest and cannot be banned out rightly unless it is illegal. The limit of legality therefore ends and become punishable under the law when Gherao involves the use of force or coercion. In contrast to this lawful Gherao and in the light of the statement upheld by the Supreme Court of India, it must be mentioned here that the recent Ambedkar Row during the Winter Session between the ruling NDA/BJP MPs and INDIA bloc MPs on 19th December, 2024 involving manhandling and physical

assault outside the Parliament of India is an illegal form of Gherao. The local police has registered an FIR on grounds of causing grievous hurt, endangering life, using criminal force, attacking and manhandling, etc. This incident is a Gherao which is an extremely unlawful form of protest by lawmakers against lawmakers.

Gherao, thus, exhibits both a positive and a negative implication. It may further be discussed as follows:

(i) Positive implication of a lawful Gherao:

In the first place, although Gherao possessed all the characteristics of a parliamentary disruptions, it significantly put a question on the executive as well as the ruling party on the quality and effectivity of their governance. Gherao, in this sense, foster democratic accountability and effective governance. The practice prioritized public interest over the interest of the party on the floor of the House. Thus, a decision taken will express greater diversities or views and the parties in opposition exercises an informal veto power over questionable legislation. This shows that power is not concentrated in the executive alone but dispersed across the spectrum of political parties. It fosters the strength of political parties, especially in a multi-party system, in the political processes of the country. Thus, Gherao became an effective mechanism for opposition parties to voice their opposition against the exercises of absolute power by the ruling parties.

(ii) Gherao and its negative implication:

As stated above, Gherao also refers to illegal actions that not only obstruct legislative proceedings by shouting slogans or entering the well of a House or showing play-cards. It has undermined the productivity of the august law-making institution of the country-the Parliament of India. Besides, the economic losses caused due to such an unruly behaviour of political parties and their law-makers is unrepairable. The table below indicate the varying number of productive working days among four most popular democratic countries- India, UK, Canada and the US.

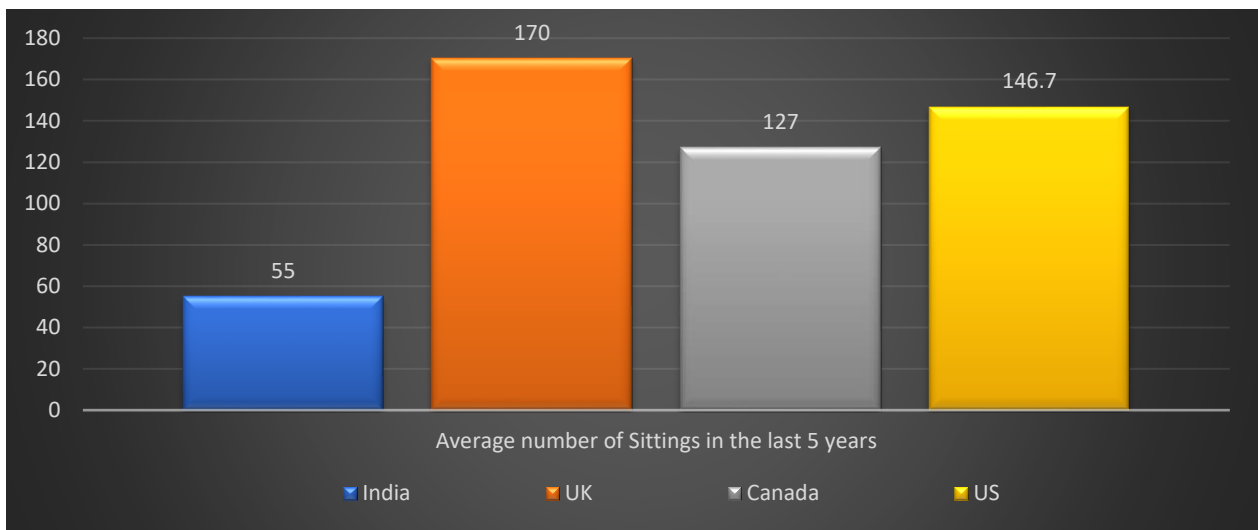


Figure. 1. A comparison of average number of working days/sittings among four major democracies- India, UK, Canada and US during the last five years (Source: The Times of India, dated 20th December, 2024)

The economic lost incurred by India has also been calculated by the *Times of India* to be at Twenty-Five Lakh rupees every minute leading to a total loss of Ninety Crore rupees alone during the Winter Session of 2024. Besides, Gherao has painted a negative picture of the lawmakers of the country when compared with other parliaments of the world. Such negative implications of Gherao indicate lack of legislative reforms, lack of parliamentary accountability, trust deficits between the ruling and the opposition parties, ineffective parliamentary mechanisms for democratic deliberations, etc. Moreover, the Vidhi Centre for Legal Policy has also reported similar negative implications in the form of the waste of tax payers money on a non-functioning Parliament, and Legislative Paralysis.

An assault from within:

The assault of the Parliament on 26/11 was a dark chapter in the history of Parliamentary existence in India. However, at times, this assault on Parliament comes not only from external threats, but also from within. In this respect, the un-parliamentary practices such as Gherao have broken the custom and practices of the most august body. What has to be done in the streets has been done on the floor of the house. What a burglar has done on the gates has been done on the door of the Parliament. This is unprecedented.

1.3 Conclusion:

Freedom to hold meetings, processions or protest is an essence of modern-day democracy. It is a basic fundamental right guaranteed to all citizens. The Constitution of India also provided freedom to assemble peaceably and without arms under article 19(1)(b). Similarly, the US, the UK and others have similar such

privileges and rights exercised by their respective citizens. Gherao initially emerges as a powerful means to resist injustices. From the poor and middle-class house-wives, it began to be used extensively by the trade unions and labourers as a collective means to ensure their rights. Social activists, later employed Gherao to fight injustices across the socio-economic spectrum of the country against corruption and other social illnesses. However, in the hands of the Parliamentarians and elected law-makers, Gherao has affected the legislative efficiency and undermined her democratic processes. The use and practice of Gherao has indeed become so common that both the members of the Lower and Upper Houses of the Parliament (India) as well as the Lower houses of the State Legislative Assemblies of the country began to employ it as a political strategy leading to frequent Parliamentary disruptions and paralysis.

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