CHAPTER V

PARLIAMENTARY PROCEDURE

Introduction:

Mr. J.P. Sharma's contention that the procedure of the republican assembly was far more simple than the texts would have us believe is a mere surmise. Facts at our disposal speak otherwise. We have seen above that the administrative business of the republics was carried out in a popular assembly which met frequently in a Santhāgāra. Unfortunately, we do not have any detailed and direct account in the Buddhist texts of the procedural rules and regulations which governed the working of the assembly. There is one single direct reference regarding the Sakyan Assembly. It is recorded that when the Sakyan capital Kapilavastu was besieged by the king of Kosala, the Sakyan kings met in an assembly to discuss the question of surrender. The assembly being divided upon this issue, a voting was taken to find out the majority which resulted in the favour of capitulation. And following this, the

1. Republics in Ancient India, p. 113.
city capitulated. And also noteworthy here is the account of a palaver in Sakka's heaven wherein all are seated in a specified order, the president puts up the proposed business, there is a debate, and finally the recorders take charge of the unanimous decision arrived at. The actions of the gods in this account were obviously drawn in imitation of the actions of men, and were more or less modelled on the proceedings in the republican states of the time. The above two references are no doubt very

5. CHI, pp. 155-57. See also Gokul De who suggests the antiquity of democratic procedure in transacting political affairs in Grāmanī Government on the evidence of a Jātaka story (Jat. No. 31); Significance of Jātakas. Cf. E. B. Havel, who observes: "In England, the Parliament of the church established by a foreign missionary was the Prototype of the Parliament of the realm. But the Buddha's mission in the Sixth Century before Christ was in no sense a propaganda of foreign ideals and the administration of the Buddhist church - afterwards followed in many details by the church of Christ - was entirely based upon the ancient political institutions of the Aryan village community which formed the foundation of the Indo-Aryan Polity." - The History of Aryan Rule in India, p. 52.
meagre, but are highly indicative and they put us on the right track. But the problem remains as to where to get the ample details regarding the procedure of the working of the republican assembly. The organisation of the Buddhist Samgha throws indirect light on this. The rail texts furnish detailed information on the working of the Buddhist Samgha. The consensus of eminent historians suggests that the Buddha organised his Samgha on the model of the political Samgha of his time which was existing in a large number in the North-Eastern India, especially that of the Liochhavi Samgha. This very fact is clearly born out by the high esteem accorded to the Liochhavi Samgha by the Buddha in his celebrated discourse with the Brāhmaṇa statesman of Magadha named Vassakāra, and also in his address to the Buddhist order in the service hall at Rājagriha in which he emphasised that the virtues he had extolled in the institution of the Liochhavīs were indispensable for the welfare of every organised community.

8. Ibid.
And finally, the genuine democratic principle and spirit seen in the organisation and working of the Buddhist Samgha put the seal of confirmation on this point, for the political Samgha was unquestionably anterior to the religious Samgha founded by the Buddha. Thus Buddha, who himself came from a republican community and who was quite familiar with its working system, must have adopted and adapted it to the benefit of his own order. It has been reasonably suggested that the full account of the working of the political Samgha of the Buddha's time may be had from the comprehensive procedure adopted at the Ceremony of Ordination (Upasampadā) and that of Uposatha at the Samgha of the Buddhist bhikkhus. Therefore, by eliminating the religious modifications from the descriptions of the Buddhist Order, we may have a true picture of the procedure of the Buddhist Republics. A remarkable attempt in this matter was made by late Dr. K.P. Jayaswal with the help of the Vinaya text, especially the Mahāvagga and the Chullavagga. But this requires a fresh examination.

9. Cf. G. Dey: Democracy in Early Buddhist Samgha, p. 115. “Democracy in the Early Buddhist Samgha must have been the reflection of some republican system of government current in certain states in the time of the Buddha.”


11. Cf. HP., pp. 86-87. “The procedure of the Buddhist Samgha would be nearer the procedure of the parent Samgha, the Republic. If we eliminate the religious modifications, we can restore the common type.”
And in doing this, it is quite necessary to heed the note of caution struck by some great scholars against the tendency to apply wholesale the Buddhist ecclesiastical regulations to the political organisation of the republican states of the time of the Buddha. For, though it is certain that the Buddha adopted the constitution of the political Samgha, he adopted only those which were necessary for religious Samgha and not the entire one, as the requirements of the political and religious organisations are never identical, and also in doing this he made necessary adaptations and modifications. The salient features of the deliberative procedure in these republics were as follows:

Seating Arrangements:

There was a special hall called Santhākara where the republican assembly used to meet to transact its business. The seats in the hall were called Asanas and were arranged in the order of seniority by a special officer called the Asanapanāpaka or Asanaprajñāpaka.

12. B.A. Saletore: Ancient Indian Political Thought and Institutions, pp. 112; R.C. Majumdar: Corporate..., pp. 242-43; P.V. Kane: History of Dharmaśāstras, Vol. III, pp. 87-91. Mr. Kane finds no reference in Buddhist Literature to the vital question of voting and membership of the republics. He characterises Jayaswal and Bhandarkar's theory as 'as gratuitous assumptions.'

13. Chullavagga, XII.2.7. (Vinaya Text, SBE., XX, p. 408).
The provision for quorum which was known as Gana-pūrṭi. For each meeting to be valid, the attendance of a requisite number of members was quite necessary. The chairman or Vinayadhara was not counted for the purpose of quorum. A Buddhist chapter required the quorum of twenty members to transact all kinds of formal acts. It is very likely that a similar rule may have existed regarding quorum in the meetings of the political Samgha. It may be noted that any business, which was transacted without the prescribed quorum, was considered invalid and inoperative. An officer was specially deputed to secure the quorum for a meeting, and he was called Gana-pūraka who was like the present whip. Some scholars interpret Gana-pūraka otherwise to mean a member who completed quorum. But this is not acceptable. For, it appears that difficulties were very often experienced in completing the quorum as indicated by the exhortations of the Buddha to the Bhikkhus to help in completing the quorum which was

14. ibid., II.1.7; 1.21.2.; IX.4.1.
18. Mahāvagga, IX.3.2; भृगुप्रथेन न च पिलसेय बड़मस्क्रण्यः अक्षेत्य न च स्वप्नीयः
19. Mahāvagga, III.6.6. गणपूर्वकः वा भविष्यातीति।
   Cf.Pāṇini, V.2.52. गणपूर्वकः स्वप्नीयः तिथिः।
very strictly observed. And in this context, it is highly probable that a person must have been specially deputed to secure the quorum and that it was he who was called Ganes-
pūraka.

President:

The business of the assembly was carried out under a president who regulated its conduct. President was to be neutral, which is indicated by the fact that he was not counted for the quorum. In case of his being partial, he was furiously criticised. The president of the state or the Samgha-Mukhiya usually acted as the President of the assembly.

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22. Mahāvagga, V.13.12; Cf. Mbh. XII,81.11. Here Krishna, president of the Andhaka-Vrishni-Samgha, describes his neutrality between the two fiercely quarrelling parties led by Āhuka and Akrūra like that of mother of two gamblers who can neither desire the victory of the one nor the defeat of the other.

23. Vide, Mbh. XII,81.5-82; Cf. SGAI., p.131.
24. CHI., p.157;

Buddhist India, p.10.
Motion:

The business of the assembly meeting was introduced in the form of a motion. The mover first announced to the members present what resolution he was going to move. This was called Ńatti or Jñapti or notice.

Resolution:

After this, the mover moved the matter in the form of a resolution or Pratijñā to be adopted by the assembly.

ũṇṇi-Dutīya:

The procedure of moving the Ńatti once and the Pratijñā once, was called Ńatti-Dutīya.

ũṇṇi-Chaturtha:

When they had to be moved thrice, it was called Ńatti-Chaturtha.

Kammavāchā:

The act of putting the resolution (Pratijña) to the assembly was called Kammavāchā (Karmavāchā). It is

26. ibid.
27. ibid., pp.89-90.
28. ibid.
noteworthy that the prescribed order of the presentation
of the motion (Natti) and resolution (Pratijnä) could not
be subverted. In the case of subversion, the act was
declared invalid and unlawful.

Debate:

After the resolution was formally moved, debate on it followed. Often the debate appeared to be full of sound and fury. There was the possibility of break-out of violence (Shandana), quarrel (Kalaha) and dispute (Vivada). Discussions were strictly limited to the motion before the house. Indulgence in pointless, cantakerous (or anaggani) and irrelevant speeches was not permitted.

Three Readings:

A motion, if non-contentious, received one reading, and it was called Jñapti-Duṭṭiya. In case it was contentious, it received three readings, and it was called Jñapti Chaturtha-Karma. It is very likely that the procedure of the Buddhist Church, in which some resolutions were thrice proposed and passed, might have been followed in the meetings of the republican assembly, as it is done in the modern legislatures.

33. ibid., IV.14.19; XII.2.7; IV.14.9.
34. Chullavagga, IV.14.2.11; R.K.Mookerji : op.cit., p.247
Silence as Assent:

In the Buddhist Samgha the rule was that those who approved the resolution kept silence, while those who were against it, were required to speak or express their dissent. The suggestion of Dr. Altekar that in the republican assembly where passions ran very high, both sides must have vociferously expressed their votes, is highly reasonable. If the assembly remained silent, then the motion was declared to be carried, and the party affected was formally informed of the resolution.

Committee of Reference:

In case of disagreement or lack of unanimity over the resolution, recourse was taken to various devices to dissolve differences, and among them the most important was reference to a committee which was technically called 'Ubbāhikāya' which literally means "the turning over of the disputed point from the general Samgha to a committee," or 'Udāhikā Sabha' which means literally "the committee that can carry members over to a decision." Such a committee was constituted of eminent and learned members.

37. Chullavagga, IV.11.2. (SBE. XX29) and XI.1.4; Mahāvagga, I.28.6.
and which was adequately representative of all the interests or parties concerned. This committee was appointed by the assembly, and had a president and a secretary. For serious and undisturbed deliberations, this committee adjourned to a different suitable place. If the committee failed to reach unanimity, the matter was referred back to the assembly which settled the issue by putting it to vote.

Voting:

The procedure that was followed in taking vote was quite elaborate.

Polling Officer:

A member, who was expected to show no kind of partiality, malice and fear, was appointed as the Polling Officer by a special resolution of the assembly. He was called Šalakāgrāhapaśa.

Ballots:

Voting was by tickets made of wooden slips which were called Šalakās. The Šalakās were of different colours.

40. Chullavagga, XII, 2.7.8.; Cf. Hp., p.94.
41. Ibid., XII.2.7.8.
43. Ibid., IV.5.24; 4.18.
44. Ibid., IV.5.24.
each colour most probably representing a particular opinion. The voting was called Salākāgraṇa. These tickets were distributed among the members. Each member was asked to choose the ticket of the colour corresponding to his views, with the warning that he should not show it to any body else. The polling officer then collected these voting tickets. They were collected by him in a 'secret' manner (Gūhakām), or by 'whispering' (Sakanna-Jappakām) or 'openly' (Vivatakām) and 'undisguisedly' (Viśvasta). According to Buddhaghosa, the polling officer used the 'whispering method' (Sakanna-Jappakām) to influence voting if it went against Dharma.

**Freedom of Voting:**

Vote was called Ohhanda. Ohhanda has been interpreted literally to mean 'wish' or 'desire' by Jayaswal, and 'freedom' by R.K. Mookerji. From the obviously significant term, it has been rightly concluded that voting...

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46. ibid.
48. ibid.
49. Mookerji: op.cit., p.252.
50. Chullavagga, IV.14.24; SBE., XX, p.54; LXVI, p.56.
52. Mookerji: op.cit., p.252.
53. SBE., Vol.XVII, p.266 (Mahāvagga, II.3.5.)
54. HP., p.90.
was free and fair to the maximum extent. Of course, the possibility of voting being influenced or manipulated by persons of power and influence is not ruled out as suggested by Buddhaghosa, who speaks of the 'whispering' method of collection of votes being used by the Polling Officer to influence voting.

Absentees' Votes Counted:

The votes of the members, who could not be present due to illness or other disabilities, were scrupulously collected. And omission to do this invalidated the proceedings. But such votes were counted only with the consent of the members present.

Majority Vote:

In the matter of decision by voting, the principle of majority was adopted. This was technically called Ye-bhuyyasikam. Thus the opinion of the greater number (Bahutara) prevailed. The most typical example of this procedure is to be found in the case of the Sakyan.

57. Vinaya Pitaka, II.p.315, quoted by Oldenberg : op.cit.
58. Jayaswal : op.cit., pp.90-91 (based on S.Bk., Vol.AIII, p.277), which speaks of the Buddha prescribing that the consent of a sick Bhikkhu was to be taken for formal enactment by Samgha.
Parliament which decided to capitulate to the Kosalan king by majority vote. It is narrated that when the Kosalan king Viqūdabha, having invaded and seized Kapilavastu, the Sakyan capital, gave an ultimatum to the Śākyas to surrender, the Sakyan assembly met to deliberate the issue. In the debate some favoured surrender, while others were opposed to it. Finally, therefore, the issue was put to vote and the majority favoured to surrender. And accordingly the gates of Kapilavastu were opened and the city capitulated. This procedure, being the obvious and natural one, must have been followed everywhere.

It should be noted here that doubts have been expressed by certain eminent scholars about the existence of voting procedure in the political assemblies of the republics under review. That, as the Buddhist chapter,

See also Pāṇini, V.2.32.
62. (a) Prof. Rhys Davids (CHL., p.157): quite a number of cases are given in the Canon Law; and in no single case, apparently, is there question of deciding the point at issue by voting on a motion moved. Either the decision is regarded as unanimous, or matter is referred for arbitration to a committee of reference. It is quite possible that certain of the rules of the order are taken from those in
which was modelled after the republican assemblies, decided by unanimity as alleged by them, it does not necessarily follow that there was no voting in these political assemblies. The Buddhist church being anxious to preserve its unity, voting might have been very rarely practised in deciding the issue. Next, all these writers have conceded the existence of an elaborate procedural rules which guided the business of the democratic religious and political Samghas. In this context, it would be naive to assume that there was always unanimity in all cases, and that always, a decision might have been given up or deferred (contd.)

use at the Mote-halls of the free clans. But, however that may be, we are justified by this evidence in concluding that the method of procedure generally adopted in the Mote-halls was not, as in modern parliaments, by voting on a motion, but rather as just above explained."

(b) Dr.P.V.Kane : The History of Dharmaśāstra, Vol.III, pp.87-91: He states that we have no information at all as to the most important points in connection with the republics, viz., who were entitled to vote and what were the qualifications for membership. Cf. Saletore : op.cit., p.112.

(c) Basham : A.L., op.cit., p.97. He denies the procedure of voting in a Buddhist chapter where all decisions were to be unanimous unlike the modern committees.

63. Mookerji : op.cit., p.252(Vide Chullavagga, IV.10.1.)
to an indefinite time, however very urgent and important, because a few might have objected. Thus the procedure of voting in the case of difference of opinion in the Buddhist chapter and the political assemblies must have been followed as a matter of necessity and in the quite natural course. Finally, the instance of the Sakyan Parliament which decided to capitulate to the Kosalan king by majority vote leaves not even a shred of doubt about the observance of the procedure of voting and decision by majority. Even the Jātakas, which speak of the Pre-Buddha's time, refer to the procedure of voting and its use in political matters before the birth of the Sākya Muni. And therefore, I am inclined to support the view of Dr. Jayaswal so scholarly expounded on this point in his Hindu Polity and which has found acceptance with other eminent scholars.

No Brute Majority!

The decision by majority vote was the last resort, as it amounted to coercion. In case of such matters as threatened the state with disruption and disunity and

65. Jātaka, I (Paus.), p.599. It narrates the stories of the election of a king to the vacant throne of a city.
66. HP., pp.91 and 96.
destruction, the procedure was not adopted. Numerous devices like reference committees to which controversial matter were sent, indicate that all efforts were made to avoid decision by voting and reach unanimity. This great anxiety for unanimous decision might have been inspired by the constant threat to these small republics from the neighbouring powerful monarchical States of Kosala and Magadha; for the strength of these republics obviously lay in their internal unity and cohesion.

Invalidity of Voting:

There was a provision for declaring voting as null and void. Voting was declared invalid where votes were given irregularly (Adhārāma) or unequally, by sections (Varga), or against the voter's opinions (Yatthādṛśṭi).

Res Judicata:

Once a question was settled in accordance with the valid procedure, it was not to be reopened. If an issue was once settled, it was settled for good.

70. ibid., IV.24.25.
71. HP., p.94.
Censure Procedures:

A member could be censured if he was unrestrained in debate and displayed contradiction, cantankerousness and similar misdemeanor in his speech. Reopening a settled question was also an offence (Pashittiya).

Principle of Representation:

The principle of representation appears to be adopted, which is evident from the manner of appointment of members to committees and juries.

Referendum:

The use of referendum as a constitutional procedure is indicated by a Jataka story which narrates the election of a king by votes (Chhandakas) of the entire city (Sakalanagara).

Assembly Clerks:

The records of the proceedings of the assembly were maintained and there were assembly clerks for this

73. ibid., IV.14.16; Cf. Jayaswal : op.cit., p.94.
74. ibid., XII.2.7.8; V.4.14.21 (SBE., XX, p.52):
purpose. Minutes of the deliberations (Vuttavachana) and the resolutions (Pashchhanusittha Vachana) were scrupulously recorded. This fact is suggested by the account of the meeting of the Gods in their Hall (the Sudhamma Sabha), which has been most reasonably interpreted to be the reflection of the transaction in the human assemblies in the Mote-Halls of the Buddha's time.

Summing-Up:

At the meetings of the Saṅgha all the members took their seats according to seniority, their places being assigned to them by an official called the Āsana-prajñāpaka - the seat arranger. The proceedings opened by the president repeating the formula 'May the Hon'ble Saṅgha hear me! If the time seems fit to the Saṅgha.' After the motion had been read, the proposer of it explained its purport and only those who disapproved of it continued the debate. The president put the question whether the motion should be accepted or not. If there was no opposition after it had been put three times, it was declared carried; otherwise it was put to the vote and a majority of the Saṅgha including absentees, decided the question. This was not, however, a system of government by majority vote in the modern political sense. In

77. Jayaswal : op.cit., pp.94-95; Rhys Davids : Dialogues,II pp.263-64, "There must have been such records at the meetings in the Mote-Hall."
the Buddhist Saṅgha, as in the Aryan popular Assemblies, the unwritten traditional law was above any act of the Saṅgha and was not determined by a casual majority vote. No vote of the Saṅgha was valid which was contrary to the Dharma, the truth or law as revealed by the Buddha himself, which was the spiritual counterpart of the common law of the Aryan pale. The only authority competent to adjudicate when the correct interpretation of the Dharma was in dispute was the General Assembly of the Saṅgha, the summoning of which was an event as important in Indian life as a General Election in Western Politics. In the Indo-Aryan political system was therefore a compromise between arbitration and majority rule.

Thus, it is clear from the above account that the constitutional procedure followed by these republics in the transaction of their business was highly complex and greatly elaborate and also truly democratic. And as such it appears to have anticipated in manifold respects the working of the modern popular assemblies and legislatures or parliaments.

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78. E.V.Haveli: op.cit., pp.52-53.


Cf. J.P.Sharma: op.cit., p.113.