

# Parliament (Part-I)

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## Introduction

- **Supreme Legislative Body:** The Parliament is the legislative organ of a Union government and the Parliament of India is its **supreme legislative body**.
  - It occupies a pre-eminent and central position in the Indian democratic political system due to the adoption of the **Parliamentary form of Government ('Westminster' model of government)**.
- **First Parliament:** The **first general elections** under the new Constitution of India were held during the year **1951-52** and the **first elected Parliament** came into existence in **April, 1952**.
- **Constitutional Provisions: Articles 79 to 122 in Part V** of the Constitution deal with the organisation, composition, duration, officers, procedures, privileges and powers of the Parliament.
- **Frame of Reference for Parliament:** The framers of the Indian Constitution **relied on the British pattern for Parliament** rather than the American pattern.
  - The President is not an integral part of the legislature in the USA, however, in India, it is.

## Organs of Parliament

- **Rajya Sabha (The Council of States):**
  - **About:** It is the Upper House (Second Chamber or House of Elders) and it **represents the states and union territories** of the Indian Union.
    - The Rajya Sabha is called the **permanent House of the Parliament** as it is never fully dissolved.
    - The **IV Schedule** of the Indian Constitution deals with the allocation of seats in the Rajya Sabha to the states and UTs.

- **Composition:** The maximum strength of Rajya Sabha is **250** ( out of which 238 members are representatives of the states & UTs (elected indirectly) and **12 are nominated by the President**).
  - **Current strength of the house is 245**, 229 members represent the states, 4 members represent the UTs and 12 are nominated by the president.
- **Election of Representatives:** The **representatives of states** are elected by the members of state legislative assemblies.
  - The **representatives of each UT** in the Rajya Sabha are indirectly elected by members of an electoral college specially constituted for the purpose.
    - Only three UTs (**Delhi, Puducherry and Jammu & Kashmir**) have representation in Rajya Sabha (others don't have enough population).
  - The members nominated by the President are **those who have special knowledge or practical experience** in art, literature, science and social service.
    - The rationale is to provide eminent persons a place in the house without going through elections.
- **Functions:** Rajya Sabha has an important role of **reviewing and altering the laws** initiated by the Lok Sabha.
  - It can also **initiate legislation** and a bill is required to pass through the Rajya Sabha in order to become a law.
- **Power:**
  - **State Related Matters:** The Rajya Sabha provides representation to the States. Therefore, **any matter that affects the States must be referred to it** for its consent and approval.
    - If the Union Parliament wishes to remove/transfer a matter from the State list, the **approval of the Rajya Sabha is necessary**.

## ▪ **Lok Sabha (The House of the People):**

- **About:** It is the **Lower House** (First Chamber or Popular House) and it represents the people of India as a whole.
- **Composition:** The maximum strength of the Lok Sabha is fixed at **550** out of which 530 members are to be the representatives of the states and 20 of the UTs.
  - The **current strength of Lok Sabha is 543**, out of which 530 members represent the states and 13 represent the UTs.
  - Earlier, the President also nominated two members from the Anglo-Indian community, but by the **95<sup>th</sup> Amendment Act, 2009**, this provision was valid till 2020 only.
- **Election of Representatives:** The representatives of states are **directly elected by the people** from the territorial constituencies in the states.
  - By the **Union Territories (Direct Election to the House of the People) Act, 1965**, the members of Lok Sabha from the UTs are chosen by direct election.
- **Functions:** One of the most important functions of the Lok Sabha is to **select the executive**, a group of persons who work together to implement the laws made by the Parliament.
  - This executive is often what we have in mind when we use the term government.
- **Powers:**
  - **Decisions in Joint Sitting:** Any ordinary law needs to be passed by both the Houses.
    - However, in case of any difference between the two Houses, the final decision is taken by calling a joint session of both the Houses.
    - Due to a larger strength, the **view of the Lok Sabha is likely to prevail** in such a meeting.

- **Power in Money Matters:** Lok Sabha exercises **more powers in money matters**. Once the Lok Sabha passes the budget of the government or any other money related law, the **Rajya Sabha cannot reject it**.
  - The Rajya Sabha can only delay it by 14 days or suggest changes in it, however, the former **may or may not accept these changes**.
- **Power over Council of Ministers:** The Lok Sabha **controls the Council of Ministers**.
  - If the majority of the Lok Sabha members say they have 'no confidence' in the Council of Ministers, all ministers including the Prime Minister, have to quit.
  - The Rajya Sabha does not have this power.
- **President:**
  - **About:** The President of India is **not a member of either of the Houses and does not sit in the Parliament** to attend its meetings but s/he is **an integral part of the Parliament**.
    - S/He is the **head of the state** and is the **highest formal authority** in the country.
  - **Appointment:** The elected Members of Parliament (MPs) and the elected Members of the Legislative Assemblies (MLAs) elect the President of India.
  - **Powers:**
    - **Assent for Passing a Bill:** A bill passed by both the Houses of Parliament cannot become law without the **President's assent**.
    - **Summoning and Prorogation of Houses:** He has the power to **summon and prorogue both the Houses, dissolve** the Lok Sabha and **issue ordinances** when the Houses are not in session.

## Membership of Parliament

- **Qualifications:**

- **Rajya Sabha:** S/He should be a **citizen of India** and **at least 30 years** of age.
  - S/He should **make an oath or affirmation** stating that s/he will bear true faith and allegiance to the Constitution of India.
  - According to the **Representation of People Act, 1951**, s/he should be registered as a voter in the State from which s/he is seeking election to the Rajya Sabha.
    - However, in 2003, a provision was made declaring, any Indian citizen can contest the Rajya Sabha elections irrespective of the State in which s/he resides.
- **Lok Sabha:** S/He should be **not less than 25 years** of age.
  - S/He should **declare through an oath or affirmation** that s/he has true faith and allegiance in the Constitution and that a/he will uphold the sovereignty and integrity of India.
  - S/He must **possess such other qualifications as may be laid down by the Parliament** by law and must be **registered as a voter** in any constituency in India.
  - Person contesting from the **reserved seat should belong to the Scheduled Caste or Scheduled Tribe** as the case may be.
- **Disqualifications:**
  - **On Constitutional Grounds:**
    - If s/he holds any office of profit under the Union or state government (except that of a minister or any other office exempted by Parliament).
    - If s/he is of unsound mind and stands so declared by a court.
    - If s/he is an undischarged insolvent.
    - If s/he is not (or not anymore) a citizen of India.
    - If s/he is disqualified under any law made by Parliament.

- **On Statutory Grounds (Representation of People Act, 1951):**

- Found guilty of certain election offences/corrupt practices in the elections.
- Convicted for any offence resulting in imprisonment for two or more years (detention under a preventive detention law is not a disqualification).
- Has been dismissed from government service for corruption or disloyalty to the State.
- Convicted for promoting enmity between different groups or for the offence of bribery.
- Punished for preaching and practising social crimes such as untouchability, dowry and sati.

- **Tenure:**

- **Rajya Sabha:** Every member of Rajya Sabha enjoys a **safe tenure of six years**.
  - One-third of its members retire after every two years. They are **entitled to contest again** for the membership.
- **Lok Sabha:** The normal term of Lok Sabha is **five years**. But the President, on the advice of the Council of Ministers, may **dissolve it before the expiry of five years**.
  - In the case of national emergency, its term can be **extended for one year** at a time. But it will not exceed six months after the emergency is over.

- **Officials:**

- **Rajya Sabha:** The Vice-President of India is the ex-officio Chairman of the Rajya Sabha. S/He presides over the meetings of Rajya Sabha.
  - In his absence the Deputy Chairman (elected by its members from amongst themselves) presides over the meeting of the House.
- **Lok Sabha:** The **presiding officer of Lok Sabha** is known as Speaker.

- S/He remains the Speaker even after Lok Sabha is dissolved till the next House elects a new Speaker in her/his place.
- In the speaker's absence, a Deputy Speaker (elected by the House) presides over the meetings.

## Powers/Functions of Parliament

- **Legislative Functions:** Only Parliament can **make laws on the subjects of the Union List**. Along with the State Legislatures, the Parliament is empowered to make laws on the **Concurrent List**.
  - In a subject not mentioned in any list, the residuary powers are vested with the Parliament.
- **Financial Functions:** It is the **custodian of the public money**. The Government can neither impose any tax on the public nor spend the money without the approval of the Parliament.
  - The **budget** is approved by the Parliament every year.
- **Electoral Functions:** It participates in the election of the President of India and also elects the Vice-President.
  - The Lok Sabha elects its Speaker and Deputy Speaker and the Rajya Sabha elects its Deputy Chairman.
- **Power of Removal:** Certain high functionaries may be removed from office on the initiative of the Parliament.
  - It can **remove the President, Judges of the Supreme Court and High Courts through impeachment** for violation of the Constitution.
- **Amendment of the Constitution:** Most of the parts of the Constitution can be amended by the Parliament by special majority.
  - Certain provisions can only be amended by the Parliament with the approval of States.
  - The Parliament **cannot change the basic structure of the Constitution**.

- **Power over Executive:** Parliament exercises control over the Executive through **question-hour, zero hour**, calling attention notice, **adjournment motion** etc.
  - The **government always takes these motions very seriously** because the government's policies are criticized severely and their likely impact on the electorate whom the government would have to face ultimately.