

# INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

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Volume 6 | Issue 1

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2023

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# The Houses: Raison d'être

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## ABSTRACT

*This paper aims to make a look into the powers and functions of the parliament of India. How constitution defines the Parliament. The paper takes up the question about the purpose and reason behind it's functioning. This paper further explains the Lok Sabha and Rajya Sabha separately and the virtue behind the houses. This paper takes up a basic question, what is the purpose of a bicameral legislature. This paper concludes how it is dealing with the house is an important democratic entity and functions to fulfil the hopes, aspirations and expectations of the public.*

**Keywords:** Purpose, Functioning, Lok Sabha, Rajya Sabha, Constitutional Definition.

## I. INTRODUCTION

Any legal philosophy says that democracy has four pillars, Legislature, Executive, Judiciary and Media. In India, legislature and executive, and judiciary have been given the status of three pillars of Indian Democracy, and media is 'considered' the fourth pillar. Now, each has its own importance, own powers and functions. In India, the powers and functions are wholly balanced. The legislature is one important among all four. The functions of the legislatures are discharged by a very powerful elected body, The Parliament of India, which is a bicameral body, at union level. While, at provincial level, there are Legislative Assemblies, which is unicameral. However, some states have bicameral.

### (A) Constitutional Definition

The parliament derives its powers and functions from chapter-II of the Constitution of India. Article 79<sup>2</sup> of the constitution of India provides for two houses, i.e. Lok Sabha (House of people) and Rajya Sabha (Council of States). The further articles provide for composition, qualifications of members, officers, business conduct, etc.

## II. WHY INDIA ADOPTED BICAMERAL LEGISLATURE?

There can be two types of legislatures, unicameral and bicameral. Although, between 1984 to 1994, the republic of South Africa embodies three house, which was called *Tricameral*

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<sup>2</sup> There shall be a Parliament for the Union which shall consist of the President and two Houses to be known respectively as the Council of States and the House of the People.

*Legislature*, which was not much success and hence was abolished after enactment of new constitution there. The most popular is bicameral legislature. Most of the countries in modern democracy have generally two houses. India also has two houses, i.e. *Lok Sabha* (House of people) and *Rajya Sabha* (Council of states). While states legislatures have only one house, except few, while some states have withdrawn their bicameral. Therefore, it not a constitutional obligation, neither any other legal provision, rather bicameral cameral and unicameral legislatures in India is more political situation of the respective state.

In today's modern democracy, those countries generally prefer to have two houses, which have a huge population, so that each and every section of the society shall be represented in the houses. In case of India, which is the biggest democracy of the world, itself have a very huge and a country with abundance diversity. It is home to six major religions of the world, approximately thousands of languages and dialects are spoken here <sup>3</sup>. The geographical condition of India is also diverse. To represented each and every section, based on each and every segment of the society.

Apart from that, the most important benefit of having a bicameral legislature is that, any decision is discussed twice. Any bill, policy, or any scheme is considered twice. This ensures that there is a 'double check', on any said issue, with parliamentary point of view. If the decision, made by a house is in a haphazard manner, or in hustle, due to some political instability the discussion on the matter is possible in the other house.

*"...an Upper House could perform the...useful function of being a revising body, and ...its views may count but not its votes... ...,those who could not enter into the rough and tumble of active politics could...advise the Lower House."*

Purnima Banerji CAD, Vol. IX, p. 33, 30 July 1949

### III. WHAT ARE THE MAJOR FUNCTIONS OF PARLIAMENT?

Setting aside the purpose of bicameral legislature, the first question comes to mind, is the purpose of the parliament as a whole. What does the parliament do? Why do we need a legislature?

The legislature of the union government is collectively called as 'Parliament'. This name is derived, due to British rule. Different countries call their legislature with different name. Instance, *Bundstag*<sup>4</sup> and *Bundesrat*<sup>5</sup> in Germany, *Pyithu Hluttaw*, in Myanmar, *Folketing* in

<sup>3</sup> The eighth schedule of the Constitution of India has scheduled 22 languages, till date.

<sup>4</sup> (Lower house)

<sup>5</sup> (Upper house)

Denmark, *Rashtriya Panchayat*, in Nepal, *Duma* in Russia, *Senate* in United States, *Diet* in Japan, *Knesset* in Israel etc.

1. **Representation of the people:** - The parliament in India is vested with various functions, which is not merely making of laws. Rather, law-making is a part of its functions. It provides a platform for representative democracy. It seems like a joke as it is not practically possible for every citizen of a country can sit together, express their opinion in the law-making. Therefore, in practicing democracy, our constitution framers introduced representative democracy. Since, people can directly approach their representatives for any grievances and people may hold their representatives responsible, hence, it is the platform for every democratic processes. It is packed with action; walkouts, protests, demonstration, unanimity, concern and co-operation. All these serve very vital purposes. Indeed, a genuine democracy is inconceivable without a representative, efficient and effective legislature.

2. **Control on Executive:-** The parliament also provides a council of ministers, who are responsible for regulating and facilitating the portfolio allotted to them, by the President of India, on the advice of the Prime Minister of India, who is the head of the government, as provided in Article 75(1)<sup>6</sup>. The council is responsible towards the house. During the proceedings of the house, there is 'question hour', where the members can ask the questions or queries related to issues related to law making or regarding any issues related to their respective constituencies. The council of ministers have 'collective responsibilities', towards the house and the people, provided under Article 75(3)<sup>7</sup>. Therefore, the parliament not only provides the cabinet, but controls it too.

3. **Deliberations:** - The Parliament provides a platform for deliberations and discussions. The house provides a platform to bring out the issues, loopholes and criticisms of the policies and schemes of the government of India and hence the space for revision of such policies is possible. This also prevents the government to turn to autocratic and hence preserves the core value of democracy.

4. **Source of information:** - The Parliament is a source of information. Instance, a 'Gazette' is more powerful and authentic than any press release by any media house. The media is meant to promote their channels or printings, and increase their viewers or readers. But, the Parliament secures *authoritatively*.

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<sup>6</sup> The Prime Minister shall be appointed by the President and the other Ministers shall be appointed by the President on the advice of the Prime Minister.

<sup>7</sup> The Council of Ministers shall be collectively responsible to the House of the People.

5. **Economic Control on the nation:** - The Parliament is the sole body, empowered to authorise the national expenses incurred and revenue generated for the public services. The Article 112<sup>8</sup> provides for the Annual Financial Statement, which is presented in the house of people by the Minister, who is in-charge of the portfolio of the finance, on behalf of the President of India. The parliament has the tax control of the nation and state by their respective legislatures.

The most important function of the parliament is the power of *legislation*, the apex body to formulate or modify the laws, acts, codes, rules and regulations.

But, the parliament can't surpass the apex law of the land, which is the mother of all laws, in our country, i.e. Constitution of India.

#### IV. THE LOK SABHA; EXPLAINED

The Lok Sabha is the lower house of the parliament of India. The Article 81 of the Constitution of India provides for composition of the Lok Sabha. Although, the composition is subjected intermittently to revision and delimitation, the procedure mentioned in the Delimitation Act, 2002<sup>9</sup>.

The Constitution of India mentions the lower house, Lok Sabha, as the house of the people, as it is directly elected by the people. The Lok Sabha has small constituencies, which are basically small geographical areas, consisting of population of sixteen lakhs. The general elections are conducted in every five years, as the normal term of the Lok Sabha is only five years. While,

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<sup>8</sup> (1) The President shall in respect of every financial year cause to be laid before both the Houses of Parliament a statement of the estimated receipts and expenditure of the Government of India for that year, in this Part referred to as the "annual financial statement".

(2) The estimates of expenditure embodied in the annual financial statement shall show separately—

(a) the sums required to meet expenditure described by this Constitution as expenditure charged upon the Consolidated Fund of India; and

(b) the sums required to meet other expenditure proposed to be made from the Consolidated Fund of India, and shall distinguish expenditure on revenue account from other expenditure.

(3) The following expenditure shall be expenditure charged on the Consolidated Fund of India—

(a) the emoluments and allowances of the President and other expenditure relating to his office;

(b) the salaries and allowances of the Chairman and the Deputy Chairman of the Council of States and the Speaker and the Deputy Speaker of the House of the People;

(c) debt charges for which the Government of India is liable including interest, sinking fund charges and redemption charges, and other expenditure relating to the raising of loans and the service and redemption of debt;

(d) (i) the salaries, allowances and pensions payable to or in respect of Judges of the Supreme Court;

(ii) the pensions payable to or in respect of Judges of the Federal Court;

(iii) the pensions payable to or in respect of Judges of any High Court which exercises jurisdiction in relation to any area included in the territory of India or which at any time before the commencement of this Constitution exercised jurisdiction in relation to any area included in 1 [a Governor's Province of the Dominion of India];

(e) the salary, allowances and pension payable to or in respect of the Comptroller and Auditor General of India; (f) any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal;

(g) any other expenditure declared by this Constitution or by Parliament by law to be so charged.

<sup>9</sup> (Act 33 of 2002, as amended up to Act 10 of 2016)

different countries have different tenures, for instance, US Senate has tenure of only four years. Otherwise, if there is lack of confidence or the any political party lacks majority, the dissolution may take place, in such extra-ordinary circumstances.

Last delimitation took place in year 1971 and will remain effective till 2026, under Article 82 and by the virtue of Eighty-fourth Amendment Act, 2001 and Delimitation Act, 2002 (33 OF 2002). By the then time, the Constitution of India prescribes 550 seats for Lok Sabha, out of which, elections on five seats are not conducted due to heavily disturbed areas of Pok<sup>10</sup>, Aksai Chin<sup>11</sup>, and other areas of North-East India and Central India, disturbed by Naxals and Maoists. Rest there are 543 constituencies, where free and fair elections are conducted, out of which two members may be nominated, hailing from Anglo-Indian Community, by the President of India, if he/she feels that the Anglo-Indian community is not adequately represented, by the virtue of Article 331.

The Lok Sabha is the lower house of the parliament, but enjoys more matters, in terms of financial matter. The Article 109 provides money bill can only be presented in the lower house, rest any ordinary bill<sup>12</sup>, say Amendment bill<sup>13</sup> or ordinance repealing bill<sup>14</sup> can be presented in either house of the parliament. Even if, the money bill is passed by the Lok Sabha, but the Rajya Sabha is not ascending its consent, within fourteen days, the said money bill is considered passed. But, Article 109 also provides that, the Rajya Sabha may send the recommendations to the upper house, i.e. Lok Sabha, regarding the said bill and within the time period of fourteen days, if the Lok Sabha may or may not accept such recommendations and the said bill is deemed to be passed. Even if, the recommendations are not accepted, by the Lok Sabha or even such is not transmitted to the Lok Sabha, it is deemed to be passed, as provided by clause (3), (4) & (5) of Article 109 of Constitution of India.

The reason behind providing such provision is that due to political constrains, the economic matter should not remain pending. The Lok Sabha is directly elected body by the house of people. The government is responsible for collection of taxes and the taxes are meant for the expenses, which the Government of India contrivance, in order to implement public policies and address public grievances.

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<sup>10</sup> Pakistan Occupied Kashmir- This refers to those areas of Jammu & Kashmir, which is illegally occupied by Pakistan

<sup>11</sup> Those areas of Ladakh, which is illegally occupied by China

<sup>12</sup> Article 107, Constitution of India

<sup>13</sup> Article 368, Constitution of India

<sup>14</sup> Article 123, Constitution of India

## **V. THE RAJYA SABHA; EXPLAINED**

The Rajya Sabha is the upper house of the Parliament, but as mentioned earlier in this paper, the Rajya Sabha exercises less powers in the matter. But, the most salient feature of Rajya Sabha is that it is a permanent body, unlike Lok Sabha, it is not subjected to dissolution. Therefore, it is a permanent body. This salient feature is extended as all the members do not retire from the house from the same time. Even the house does not have the tenure of its own, as Lok Sabha. Rather, the members of Rajya Sabha have an individual tenure of six years. After every two years, one-third of the members retire and fresh elections are held for those particular seats only. The prime benefit for the same is, even if the government is not in the session, or dissolved or if general elections are going on, and urgent need is there for a call of the parliament, the Rajya Sabha will be there to help the government.

## **VI. CONCLUSION**

In contemporary times, nearly most countries have adopted a parliamentary form of government, either in partial form or wholly parliamentary form of government. For instance, in the Buddhist Kingdom of Bhutan, all the final executive and judicial lies in the hands of his majesty, in a bonafide manner. Still, it has a parliament to aid and advice his majesty. Because it represents the voice of the people to the king.

According to data released by the Inter-Parliament Union, Out of 190 parliaments in the world, 79 are bicameral (158 chambers), and 111 are unicameral, making a total of 269 chambers of parliament with some 44,000 members of parliament. IPU membership is made up of 178 national parliaments.

This stands that ninety-eight percent of the countries in the world consider the importance of a parliamentary form of government.

Now through the parliament, the common people have a voice in the government. It is of utmost importance that the people should have a say in the government; the people should cooperate with the government. For instance, the regime and autocracy of military dictators like Colonel Muammar Gaddafi and General Adi Amin fell due to the mutiny of the common people.

Although, some scholars claim that the parliamentary form of government is slow, steady and unstable. But, such a format of government helps to consider the decision twice and helps to abstain from any mistake or decisions which are taken in the hustle. This ensures the 'double check' on the decisions and functioning of the government.

During the preceding sessions of the parliament, it can be discovered that our Parliament is truly

a rainbow of colourful dresses representing different regions of the country. Throughout the proceedings, members speak in a variety of languages. They are from various castes, religions, and sects. They frequently engage in heated debates. Many times, the impression is created that they are squandering the nation's time and money. However, these same parliamentarians can effectively control the executive. They can represent the interests of various segments of our society. The Legislature is the most representative of all government organs due to its composition. The mere presence of members from various social backgrounds makes legislatures more representative and potentially more responsive to public expectations. In a parliamentary democracy, the legislature, as a body representing the people's wishes, holds a position of great power and responsibility. This is where the Parliament's democratic potential is revealed.

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