

## Chapter 16 - Legislative Bodies

The legislature is often regarded as the cornerstone of democracy, vested with the authority to make, amend, and repeal laws for a political community, whether it is a country, a state, or a local body. The term “legislature” is derived from the Latin word *legis*, meaning “law,” which highlights its primary function as the law-making organ of the state. More than just an institution, the legislature embodies the spirit of democratic representation. It brings together elected or nominated representatives who debate, deliberate, and decide on matters of public importance. In this way, it reflects the plural voices, aspirations, and interests of the people, giving both legitimacy and vitality to the democratic process.

Embracing the parliamentary form of government gives the Parliament a central position in India’s political framework. As the supreme representative body, the legislature not only enacts laws but also ensures that governance reflects the values of democracy and constitutionalism. Through this process, it shapes the legal framework that regulates society, safeguards the rights of individuals, promotes justice, and directs the course of collective progress. In this sense, the legislature stands as a vital pillar of the democratic structure, where the aspirations and ideals of the people are translated into tangible legislative action.

### Parliamentary form of government:

A parliamentary system of governance is a democratic framework in which the executive emerges from the legislature and remains accountable to it. This creates a close interlinking of the two organs, often described as a fusion of powers. The head of government, generally the Prime Minister, is the leader of the majority party or coalition in the lower house of Parliament and derives authority from its confidence. The executive’s tenure and legitimacy depend on its ability to command and retain this majority support, and the government can be compelled to resign if it loses a vote of confidence in the lower house.

### Key Features of the Parliamentary System:

1. **Fusion of Power:** In parliamentary systems like India’s, the executive (Prime Minister and Cabinet) is part of the legislature and must answer to it. If the government loses the confidence of the majority, it must resign, and a new government can be formed by the opposition party.
2. **Accountability:** The government is directly accountable to parliament, ensuring continuous checks on its actions. The opposition is prepared to take over the reins of government, ensuring stability and continuity.
3. **Bicameral Legislature:** India’s Parliament consists of two houses: the Lok Sabha (House of the People) and the Rajya Sabha (Council of States). This bicameral structure ensures broad representation.
4. **Prime Minister’s Role:** The Prime Minister leads the government and advises the President. They play a key role in policymaking and governance, holding the confidence of the lower house to remain in power.

Contrastingly, in a presidential system, the head of state (the President) is elected independently of the legislature and holds separate executive power. This separation of powers often creates more checks and balances between the branches of government.

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Features	Parliamentary System	Presidential System
Definition	Executive is part of the legislature, and the government depends on the confidence of the legislative branch	The executive is independent of the legislature, with fixed terms of office.
Head of State	Ceremonial; separate from the head of government (e.g., President in India, Monarch in the UK).	The president serves as both the head of state and government.
Head of Government	Prime Minister is the head of government, accountable to the legislature.	President is the head of government, not accountable to the legislature.
Election of Executive	Prime Minister is elected by the legislature, typically from the majority party.	The president is directly elected by the people or an electoral college.
Separation of Powers	Limited separation of powers; Executive is part of the legislature	Clear separation of powers between executive, legislature, and judiciary.
Accountability	Executive is directly accountable to the legislature; and can be removed through a vote of no confidence.	The executive is not accountable to the legislature; impeachment is the only way to remove the president.
Decision-Making Process	Faster decision-making, especially when there is a majority government; coalition governments can be unstable.	More stable due to fixed terms, but decision-making can be slower due to checks and balances and the possibility of legislative-executive conflict.
Stability of Government	Can be unstable if coalitions fall apart; frequent elections are possible.	More stable due to fixed terms; political deadlock can occur if different parties control the executive and legislature.
Legislative Control	The legislature has direct control over the executive through the vote of no confidence.	The executive operates independently of the legislature; no legislative control over the term of the president.

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Examples	India, United Kingdom, Japan, Canada	United States, Brazil, South Korea
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### Why did India choose the Parliamentary System?

India's adoption of the parliamentary system of governance after independence was influenced by several key factors:

1. **Historical Context and British Legacy:** As a former British colony, India inherited the Westminster model of parliamentary democracy. The framers of the Indian Constitution were familiar with and influenced by the British parliamentary system, which they believed would be well-suited to India's diverse population and political landscape.
2. **Accommodating Diversity:** The parliamentary system's ability to represent diverse interests was a major factor in India's choice. As a country with immense linguistic, religious, and cultural diversity, India needed a system that could accommodate the aspirations of various groups. The bicameral legislature, with the Lok Sabha representing the people and the Rajya Sabha giving voice to the states, enabled this diversity.
3. **Responsible and Accountable Government:** The parliamentary system's emphasis on collective responsibility and the executive's accountability to the legislature resonated with India's democratic ideals. The Prime Minister and the Cabinet are collectively responsible to the Lok Sabha, ensuring that the government remains responsive to the will of the people.
4. **Flexibility and Stability:** The parliamentary system offers flexibility in governance, allowing for quick decision-making and adaptation to changing circumstances. It also provides for the peaceful transfer of power, as evidenced by the smooth transition from the Indian National Congress to other parties in government.
5. **Preventing Authoritarianism:** The parliamentary system of checks and balances, such as the Prime Minister's dependence on the confidence of the Lok Sabha, help prevent the concentration of power in the hands of a single individual. This was an important consideration for India, which had recently gained independence and wanted to safeguard its democratic institutions.
6. **Ensuring Continuity:** The parliamentary system allows for the formation of an alternative government if the ruling party loses the confidence of the Lok Sabha. This ensures continuity in governance and prevents political instability, which was crucial for a newly independent nation.
7. **Representation of Marginalized Groups:** India's parliamentary system ensures the representation of marginalized communities, such as Scheduled Castes and Scheduled Tribes, through reserved seats in the Lok Sabha and state legislative assemblies. This helps address issues of social inequality and promotes inclusive governance.

### Should India adopt the Presidential System?

The debate over adopting a presidential system of governance in India revolves around the potential benefits and drawbacks compared to the existing parliamentary system. The presidential system, where the head of state and government are the same individual, contrasts with the parliamentary system, where the executive is accountable to the legislature. This

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analysis explores the arguments for and against a switch to the presidential system, considering India's unique political and social context.

### Current Challenges in the Parliamentary System

The parliamentary system in India faces several challenges, many of which arise from weak party structures and unstable political loyalties. Unlike the British model, where the system evolved around stable and programmatic political parties, Indian politics is often dominated by caste alignments, personality-driven leadership, and frequent defections. Despite the enactment of the Tenth Schedule through the Anti-Defection Law of 1985, political instability persists as members frequently resign or switch allegiances to engineer changes of government. In *Kihoto Hollohan v. Zachillhu* (1992), the Supreme Court upheld the validity of the Anti-Defection Law but also cautioned that the Speaker's role as an adjudicator must remain impartial. Later, in *Ravi S. Naik v. Union of India* (1994), the Court clarified that even voluntary resignation could amount to defection if intended to circumvent the law.

Coalition politics adds another layer of complexity, as Prime Ministers are often compelled to accommodate allies in the cabinet, limiting the scope for merit-based appointments and weakening the executive. The Dinesh Goswami Committee on Electoral Reforms (1990) and the Law Commission of India in its 170th Report (1999) highlighted the need for stronger anti-defection mechanisms and inner-party democracy to check such practices.

The legislative process is also weakened by frequent disruptions and lack of debate. Bills are often passed hastily under the whip system, undermining deliberation and scrutiny. The National Commission to Review the Working of the Constitution (NCRWC, 2002) noted that this trend diminishes the quality of legislation and called for strengthening committee systems in Parliament. Moreover, opposition parties often resort to obstructionist tactics rather than constructive debate, eroding parliamentary dignity and effectiveness.

### Arguments in Favor - Presidential System

Advocates of the presidential system emphasize its capacity to provide stability and decisive leadership. Since the President is elected for a fixed term, the risk of frequent government collapses, as often seen in coalition-based parliamentary systems, is significantly reduced. This stability enables the executive to focus on long-term policy goals without the constant threat of losing legislative support. Direct election of the President further enhances democratic legitimacy, making the head of state accountable directly to the people rather than to shifting legislative coalitions. This allows leaders to concentrate on governance rather than political survival.

A presidential system also permits the head of state to appoint a cabinet based on merit and professional expertise, creating the possibility of a more efficient and technically competent executive branch. The separation of powers between the executive and legislature, a hallmark of this system, reinforces checks and balances and helps guard against over-concentration of power. Proponents further argue that such a framework could be extended to local governance in India, where directly elected mayors or local executives with real authority and resources could strengthen self-government.

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This would empower local leaders, ensure accountability, and improve administrative efficiency at the grassroots level.

Examples from the United States and several Latin American democracies illustrate how fixed tenure and direct accountability can contribute to both political stability and effective governance, though these models also carry their own risks of executive dominance.

### Concerns - Presidential System

Despite its merits, the presidential system carries significant concerns. A key risk is the tendency toward authoritarianism, as concentration of power in a single elected executive can weaken legislative oversight. Scholars often cite experiences in Latin American countries, where weak checks and balances enabled the rise of dictatorial regimes. In contrast, the parliamentary system in India, supported by judicial review as in *Indira Nehru Gandhi v. Raj Narain* (1975), has acted as a safeguard against excessive executive dominance.

Another challenge is political gridlock. When the executive and legislature are controlled by rival parties, as frequently witnessed in the United States, law-making can stall, impeding governance. For India's plural society, such deadlocks could prove especially disruptive.

Concerns also extend to the federal structure. Concentration of power in a directly elected President may dilute the role of states and weaken cooperative federalism, which has been a cornerstone of the Indian model. The Sarkaria Commission (1988) and the Punchhi Commission (2010) both emphasized the need to strengthen, not weaken, federal mechanisms. Finally, any shift to a presidential system would require wholesale constitutional amendments and restructuring of institutions, a transition fraught with political resistance and practical difficulties.

### Unicameral & Bicameral Legislature

A unicameral legislature refers to a system of governance where law-making authority is vested in a single legislative chamber. In contrast, a bicameral legislature consists of two houses, each with distinct roles, powers, and methods of representation. The terms derive from Latin, with *uni* meaning one, *bi* meaning two, and *camera* meaning chamber.

### What constitutes a Legislature in India?

The parliamentary form of government in India functions at both the Union and State levels. At the Union level, the Parliament operates as a bicameral body comprising two Houses: the Council of States (Rajya Sabha), also called the Upper House, and the House of the People (Lok Sabha), also referred to as the Lower House. Together, they constitute the supreme law-making authority of the country.

At the State level, the Constitution grants flexibility to adopt either a unicameral or bicameral structure depending on local needs and political considerations. A unicameral legislature consists solely of the Legislative Assembly (Vidhan Sabha), which acts as the directly elected house of the people. In states with

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a bicameral system, the Legislative Assembly serves as the lower house, while the Legislative Council (Vidhan Parishad) functions as the upper house. At present, only six states—Uttar Pradesh, Karnataka, Maharashtra, Bihar, Andhra Pradesh, and Telangana—have bicameral legislatures, while the rest follow the unicameral model.

### LOK SABHA vs RAJYA SABHA

	LOK SABHA	RAJYA SABHA
<b>Election</b>	Direct, FPTP	Indirect, Proportional Rep.
<b>Minimum Age</b>	25 years	30 years
<b>Term</b>	5 years	Permanent
<b>Chair</b>	Speaker	Vice-President
<b>Composition</b>	Max 550 (530 States + 20 UT)	Max 250 (238 Elected + 12 Nominated) Current 245
<b>Electorate</b>	Citizens (18+)	State MLAs

#### Parliament:

Parliament functions as the legislative branch of the Union Government, with law-making as one of its foremost responsibilities. A true democracy cannot exist without a representative, efficient, and effective legislature that ensures accountability of the government to the people. This makes the legislature the very cornerstone of representative democracy. Among all organs of government, Parliament is the most representative, as its members are directly or indirectly elected from diverse social, regional, and

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economic backgrounds, enabling it to reflect the aspirations and expectations of the people more closely than any other institution.

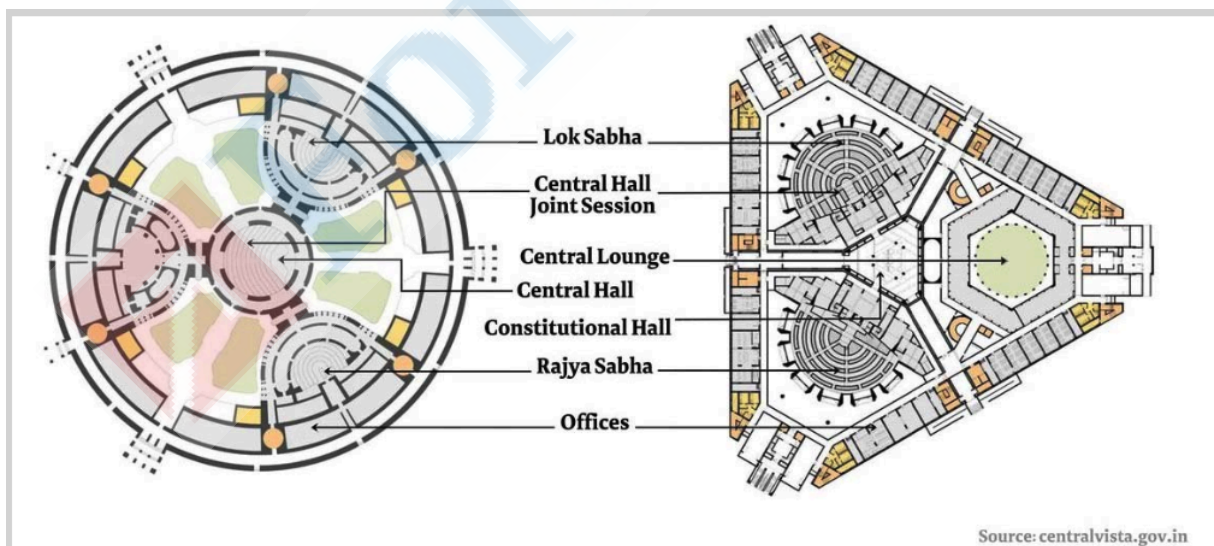
The Constitution of India under Part V, Articles 79-122, provides provisions for the organization, composition, duration, officers, procedures, privileges, powers and so on of the Parliament. The Parliament consists of – the President, the Council of States and the House of People, as outlined under Article 79. **(PYQ 1997, 2012)**

The President forms an integral part of Parliament, as no Bill can become law without his or her assent. Although not a member of either House, the President performs several important functions in relation to Parliament. These include summoning, proroguing, and addressing both Houses, dissolving the Lok Sabha, and issuing ordinances when Parliament is not in session.

Parliament itself comprises two chambers. The Lok Sabha, or House of the People, is the lower house and represents the people of India as a whole, while the Rajya Sabha, or Council of States, serves as the upper house and represents the states and union territories, thereby reflecting the federal character of the polity. In 1954, the official Hindi names *Lok Sabha* and *Rajya Sabha* were adopted for the two Houses. Interestingly, Dr. R.K. Mookerji, an eminent historian and member of the Rajya Sabha, once suggested that the Council of States would be more appropriately named *Rashtra Sabha*, underscoring its national significance.

### New Parliament Building

The new Parliament building, designed in the style of the Central Vista buildings, is a triangular structure covering 64,500 square meters. It accommodates the Lok Sabha, inspired by the national bird 'peacock' with a capacity of 888 seats, and the revamped Rajya Sabha, themed around the national flower 'lotus' with 384 seats. Each chamber has benches allowing two members to sit side by side, equipped with digital systems and touch screens.



Source: centralvista.gov.in

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### Old vs New Parliament Building

The new Parliamentary complex is a 'State of the Art' building which serves as a testimony for the 'Art of the State.' The complex includes a Constitution Hall to highlight India's democratic heritage, large committee rooms with advanced audio-visual systems, and 92 rooms for the Council of Ministers. Notably, the complex is 'divyang-friendly' and is a platinum-rated green building, reflecting India's commitment to sustainable development with features like rainwater harvesting and water recycling systems.

### Composition of the Rajya Sabha

#### Article 80: Composition of the Council of States

- (1) The Council of States shall consist of-
  - (a) twelve members to be nominated by the President in accordance with the provisions of clause (3); and
  - (b) not more than two hundred and thirty-eight representatives of the States and of the Union territories.
- (2) The allocation of seats in the Council of States to be filled by representatives of the States and of the Union territories shall be in accordance with the provisions in that behalf contained in the Fourth Schedule.
- (3) The members to be nominated by the President under sub-clause (a) of clause (1) shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely - Literature, science, art and social service.
- (4) The representatives of each State in the Council of States shall be elected by the elected members of the Legislative Assembly of the state in accordance with the system of proportional representation by means of the single transferable vote.
- (5) The representatives of the Union Territories in the Council of States shall be chosen in such manner as Parliament may by law prescribe.

According to Article 80, the maximum strength of the Rajya Sabha is fixed at 250, in which 238 members are representatives of States & Union Territories (UTs) and 12 members are nominated by the President. At present, the member strength of the Rajya Sabha stands at 245, wherein 233 represent the States & the UTs and 12 are nominated by the President. The allocation of seats in the Rajya Sabha to the States and the Union Territories is done in accordance with the Fourth Schedule of the Constitution, which in turn is largely based on population. Thus, India has unequal representation for states & UTs in the Rajya Sabha. Unlike India, the US Senate has two senators for each state, large or small.

The Constitution lays down that representatives of the states in the Rajya Sabha are to be indirectly elected by the elected members of the State Legislative Assemblies through the system of proportional representation by means of the single transferable vote. At present, the states collectively account for 233 seats in the Rajya Sabha. For Union Territories, the Constitution leaves it to Parliament to prescribe the mode of representation. Accordingly, under Part IVA of the Representation of the People Act, 1950,

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Parliament has provided that seats allotted to Union Territories shall also be filled through proportional representation by means of the single transferable vote using an open ballot. In such cases, the members are chosen indirectly by an electoral college constituted specifically for that Union Territory.

Presently, 8 seats have been allocated to the UTs. Out of a total nine UTs, only three UTs– Delhi (3), Puducherry (1) and Jammu & Kashmir (4) have representation in the Rajya Sabha. The other six UTs have too small a population to have any representative in the Rajya Sabha. The members elected to fill vacancies in the Rajya Sabha serve only the remainder of the term. [Refer to Appendix VII]

Other than the elected members, twelve individuals are nominated by the President to the Rajya Sabha to provide eminent persons a place in the Rajya Sabha without going through the process of election. These appointees must possess special knowledge or practical experience in fields such as Literature, Art, Science, and Social Service (L.A.S.S.). It must be noted that there is no provision for nominated members in the American Senate. Interestingly, the Indian constitution does not prescribe reservation of seats for any community in the Upper house.

### Composition of the Lok Sabha:

#### Article 81: Composition of the House of the People

(1) Subject to the provisions of Article 331, the House of the People shall consist of–

- (a) not more than five hundred and thirty members chosen by direct election from territorial constituencies in the States, and
- (b) not more than twenty members to represent the Union territories, chosen in such manner as Parliament may by law provide.

(2) For the purposes of sub-clause (a) of clause (1)--

(a) there shall be allotted to each State a number of seats in the House of the People in such manner that the ratio between that number and the population of the state is, so far as practicable, the same for all States; and

(b) each State shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and number of seats allotted to it is, so far as practicable, the same throughout the State: Provided that the provisions of sub-clause (a) of this clause shall not be applicable for the purpose of allotment of seats in the House of the People to any State so long as the population of that State does not exceed six millions.

(3) In this article, the expression “population” means the population as ascertained at the last preceding census of which the relevant figures have been published: Provided that the reference in this clause to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year 2026 have been published, be construed –

- (i) for the purposes of sub-clause (a) of clause (2) and the proviso to that clause, as a reference to the 1971 census; and
- (ii) for the purposes of sub-clause (b) of clause (2) as a reference to the 2001 census.

The Lok Sabha is composed of people chosen by direct election based on Universal Adult Suffrage (Article 326). The Constitution of India, under Article 81, allows for a maximum of 550 members in the House, with no more than 530 members (since 1987) representing the States and no more than 20 members (since 1973) representing the Union Territories. At present, the Lok Sabha has 543 seats, of

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which 530 seats and 13 seats are filled by elected representatives of the States and the Union Territories, respectively. Interestingly, the original Constitution of India provided for a maximum of 500 members in the House of People.

The representatives of States in the Lok Sabha are directly elected by the people, using secret ballot (discussed later in the chapter), from the territorial constituencies in the states, as outlined in clause (2) of Article 81. The election is based on the principle of universal adult franchise, i.e., all adults registered in the electoral roll are eligible to vote. The voting age was reduced from 21 to 18 by the 61st Amendment, 1988.

Regarding representation of the Union Territories, the Constitution empowered the Parliament to prescribe the manner of choosing the representatives. Parliament, accordingly, enacted the UTs (Direct Election to the House of the People) Act, 1965, by which the members of Lok Sabha from the UTs are also chosen by direct election. Interestingly, after the 104th Amendment, 2019, there is no provision for nominated members in the Lok Sabha.

### Anglo-Indian community

Before 2019, the maximum strength of the Lok Sabha was 552. Article 81, read with Article 331 provided that two Anglo-Indian community members could be nominated by the President.

if the community is not adequately represented in the Lok Sabha. Along similar lines, the Governor could also nominate 1 member from the Anglo Indian community to the State Assembly. Originally, this provision was to operate till 1960 but had been extended till 2020 by the 95th Amendment Act, 2009. It was discontinued by the 104th Amendment, 2019.

The Constitution, under Article 366 (2), defines Anglo Indian as a person whose father or any of whose other male progenitors in the male line is or was of European descent but who is domiciled within the territory of India and is or was born within such territory of parents habitually resident therein and not merely established there for temporary purposes.

Thus, as per the present composition, out of 543 seats, states represent 524 seats, and UTs represent 19 seats- 7 (Delhi) + 5 (J&K) + 2 (Dadar & Nagar Haveli) + 5 (one each for Ladakh, Chandigarh, Puducherry, Lakshadweep and Andaman & Nicobar Islands)

### Reservation in Lok Sabha

#### Article 334: Reservation of seats and special representation to cease after a certain period.

Notwithstanding anything in the foregoing provisions of this Part, the provisions of this Constitution relating to— (a) the reservation of seats for the Scheduled Castes and the Scheduled Tribes in the House of the People and in the Legislative Assemblies of the States; and

(b) the representation of the Anglo- Indian community in the House of the People and in the Legislative Assemblies of the States by nomination, shall cease to have effect on the expiration of a

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period of \*[eighty years in respect of clause (a) and seventy years in respect of clause (b)] from the commencement of this Constitution: Provided that nothing in this article shall affect any representation in the House of the People or in the Legislative Assembly of a State until the dissolution of the then existing House or Assembly, as the case may be.

\* Subs. by the 104th Amendment, 2019

After moving away from communal representation, the Constitution instead opted for the reservation of seats for Scheduled Castes (SC) and Scheduled Tribes (ST) in the Lok Sabha based on the basis of population. Initially, Article 334 stipulated that reservation of seats and special representation would cease after 10 years of the commencement of the Constitution (in 1960). However, this has been continuously extended by 10 years each time. The 104th Amendment, 2019, amended Article 334 to extend reservation for SCs and STs in the Lok Sabha and legislative bodies until January 25, 2030 (originally set to expire in 2020).

In 2023, the 106th Amendment reserved one-third of all seats for women in Lok Sabha, State legislative assemblies, and the Legislative Assembly of the National Capital Territory of Delhi, including those reserved for SCs and STs. The reservation will be effective after the publication of the census conducted following the Act's commencement and endures for a 15-year period, with potential extension to be determined by parliamentary action.

### Constituency:

For holding direct elections to the Lok Sabha, each state is divided into territorial constituencies. The Constitution ensures that there is uniformity of the representation between different states and between different constituencies in the same state. In this respect, the Constitution provides the following two provisions:

- (a) Each state is allotted a number of seats in the Lok Sabha in such a manner that the ratio between that number and its population (preceding census) is the same for all the states. However, this provision does not apply to a state having a population of less than six million.
- (b) Each state is divided into territorial constituencies in such a manner that the ratio between the population (preceding census) of each constituency and the number of seats allotted to it is the same throughout the state.

### Delimitation Commission:

The Delimitation Commission plays a pivotal role in redrawing electoral boundaries. It is a statutory body to carry out delimitation after every census. To date, it has been conducted in- 1952, 1962 and 1972- wherein inter- state and intra-state balancing exercises were conducted. Thereafter, inter-state balancing was frozen afterwards, in view of the population control measures. The delimitation commission in 2002 only looked at the intra-state balance (done as per Census 2001).

The 42nd Amendment, 1976, imposed a freeze on the allocation of seats in the Lok Sabha until 2000, maintaining them at the 1971 level. Subsequently, the 84th Amendment, 2001, extended this freeze until

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2026 while also mandating the government to readjust and rationalize territorial constituencies based on the population data from the 1991 census. However, the 87th Amendment, 2003, allowed for the delimitation of constituencies using the 2001 census data, while preserving the existing allocation of seats to each state in the Lok Sabha.

Note: FPTP & PR to be covered in detail in Book II.

### Duration of the Houses of Parliament

A fixed timeline for the term of the Houses of Parliament ensures stability and predictability in the political system. It allows for orderly transitions of power, continuity in policymaking, and empowers citizens to hold their representatives accountable through periodic elections. The normal term of the Lok Sabha is five years from the date of its first meeting after a general election. However, the President holds the authority to dissolve the Lok Sabha before the completion of its term. This decision is not subject to judicial review. Early dissolution may occur if the Council of Ministers loses its majority in the House, or if the Council of Ministers advises the President to dissolve the Lok Sabha.

In special circumstances, such as when a National Emergency is in operation, the term of the Lok Sabha can be extended by a law of Parliament for one year at a time for any number of occasions. However, this extension cannot exceed six months after the emergency has ceased to operate. A notable instance of this occurred during the tenure of the Indira Gandhi government, when the term of the Fifth Lok Sabha was prolonged twice through the House of the People (Extension of Duration) Act, 1976. Around the same time, the Forty-Second Constitutional Amendment, 1976, increased the tenure of the Lok Sabha from five to six years, but this was later reversed by the Forty-Fourth Amendment, 1978, restoring the original five-year term.

In contrast, the Rajya Sabha is a permanent body that cannot be dissolved. Although the Constitution does not specify a fixed term for its members, it authorises Parliament to determine the same by law. Accordingly, the Representation of the People Act, 1951 fixed the term of Rajya Sabha members at six years. To ensure continuity, the Constitution provides that as nearly as possible one-third of its members shall retire every two years through biennial elections. This arrangement enables the House to maintain its functioning without interruption while allowing for periodic turnover. In the first Rajya Sabha, the initial two batches of retiring members were decided by drawing lots. Members who retire are eligible for re-election or re-nomination without any restriction on the number of terms they may serve.

### Qualifications for the MPs

#### Article 84: Qualification for membership of Parliament

A person shall not be qualified to be chosen to fill a seat in Parliament unless he--

- (a) is a citizen of India, and makes and subscribes before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule;
- (b) is, in the case of a seat in the Council of States, not less than thirty years of age and, in the case of a

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seat in the House of the People, not less than twenty-five years of age; and  
(c) possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

Coding the qualifications for membership of Parliament is essential for ensuring that individuals entrusted with legislative responsibilities possess the necessary competence to lend legitimacy to the electoral process. This leads to effective representation of their diverse constituents for making informed decisions and contributing to the governance process. In India, such qualifications have been provided in the Constitution of India and the Representation of People Act, 1951.

The Constitution of India, under Article 84, lays down these qualifications which suggest that the candidate must-

1. Be a citizen of India (Natural Born or Naturalized).
2. Not to be less than 30 years of age in the case of the Rajya Sabha and must not be less than 25 years of age in the case of the Lok Sabha.
3. Make and subscribe to an oath or affirmation before the person authorised by the election commission for this purpose. (Schedule 3 - Oaths and Affirmations, check Appendices)
4. Possess other qualifications as may be prescribed by a law made by Parliament. In this regard, the Parliament has provided for additional qualifications in the Representation of People Act, 1951.

The qualifications laid down by the Representation of People Act, 1951 suggest that s/he must-

1. Be registered as an elector in any Parliamentary constituency in India. This applies in the case of both, the Rajya Sabha and the Lok Sabha. Interestingly, till 2003, the candidate contesting an election to the Rajya Sabha from a particular state/UT 'must' be an elector in that particular state/UT. This requirement was dispensed with in 2003 and in 2006, the Supreme Court upheld the constitutional validity of this change. Thus, for election to the Lok Sabha, a nomination paper can only be filed by any citizen of India whose name appears in the electoral roll of a constituency (PYQ 2017).
2. Be a member of a Scheduled caste (SC) or a Scheduled tribe (ST) in any State or UT, if s/he wants to run for a reserved seat designated for them. Though seats are reserved for SCs and STs, they are elected by all the voters in a constituency, without any separate electorate. Additionally, the members of SC and ST are not barred from contesting on non- reserved seats.

### Security Deposit

To avoid frivolous candidature, every candidate must deposit a security of Rs 25,000 at the time of filing a nomination for the Lok Sabha election. Candidates belonging to Scheduled Castes and Scheduled Tribes must pay only half the amount, Rs 12,500, as the deposit.

### Disqualification of the Members of Parliament

The potential disqualification of a Member of Parliament is governed by a framework of constitutional and statutory provisions aimed at preserving the integrity and stability of the legislative process. Article 102 of the Constitution specifies grounds for disqualification, including holding an office of profit, being

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of unsound mind, or lacking Indian citizenship. The Tenth Schedule, inserted by the 52nd Amendment in 1985, addresses the issue of defections, seeking to prevent political opportunism and maintain party discipline. The Supreme Court, in *Kihoto Hollohan v. Zachillhu* (1992), upheld the validity of the Tenth Schedule and clarified that the Speaker's decision on disqualification is subject to judicial review only in cases of malafide or constitutional violation. Complementing these provisions, the Representation of the People Act of 1951 outlines additional grounds for disqualification, including corrupt practices, criminal convictions, and failure to submit election expense accounts. Together, these mechanisms ensure that Members of Parliament remain accountable to constitutional values, uphold electoral integrity, and maintain responsible governance.

### Grounds for disqualifications under Article 102

#### Article 102: Disqualifications for membership

(1) A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament—

- (a) if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder;
- (b) if he is of unsound mind and stands so declared by a competent court;
- (c) if he is an undischarged insolvent;
- (d) if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgement of allegiance or adherence to a foreign State; (e) if he is so disqualified by or under any law made by Parliament.

Explanation - For the purposes of this clause a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State by reason only that he is a Minister either for the Union or for such State

The Constitution, under Article 102, lays down that the Member of Parliament can be disqualified on the following grounds -

- a) if s/he holds any 'Office of profit'
- b) if s/he is of unsound mind, declared by a competent court
- c) if s/he is an undischarged insolvent
- d) if s/he is not a citizen of India, or has voluntarily acquired citizenship of another country
- e) if s/he is disqualified under any law made by Parliament. E.g., Representation of People Act, 1951.

Similar provisions for disqualification apply to the members of the State Legislature, under Article 191. A question with regard to disqualification on the above grounds is decided by the President for MPs & by the Governor for MLAs & MLCs, as outlined under Articles 103 and 192, respectively. The decision of the President and Governor in this regard should be based on the opinion of ECI and is final. The appeals to such decisions can be made to High Courts.

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**Grounds for disqualifications under Anti-Defection Law - 10th Schedule**

<p><b>1.</b> S/he voluntarily gives up membership of such political party.</p> 	<p><b>2.</b> S/he abstains from voting or acting contrary to directions given by such political party, without obtaining its prior permission and the political party does not condone such act within 15 days.</p> 
<p><b>3.</b> S/he is a nominated legislator who joins any political party after 6 months of being appointed to the House (PYQ 2022)</p> 	<p><b>4.</b> S/he is an independent elected member but joins a political party</p> 

### Office of Profit

The concept of “office of Profit” relates to a position held by public representatives that may provide financial gain or benefit, the amount of which may even be immaterial. The concept of ‘office of profit’ can be traced back to the UK tradition.

The fundamental idea behind disqualifying individuals for holding any office of profit is rooted in the Doctrine of Separation of Power. By holding such positions under the government, legislators could potentially be swayed by governmental influence, compromising their ability to keep the government accountable, effectively foregoing their constitutional duties. Thus, it aims to prevent conflicts of interest between the duties and interests of elected members. The office of profit has been dealt with in various laws, including the fundamental law of the land:

- The Constitution, under Articles 102 and 191, declares that a Member of Parliament and a Member of the Legislative Assembly will be disqualified if they hold an office of profit. It also provides that the office of a Minister should not be considered as an office of profit. However, it must be noted that despite the Constitution mentioning the expression ‘office of profit’, it does not define it (PYQ 2019)
- The Representation of People’s Act, 1951 does not mention the term ‘Office of Profit’, but under



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clause 9A, it indirectly touches upon the concept. It says that a person shall be disqualified if there is a contract involving him during his trade or business with the appropriate Government for the supply of goods to or for the execution of any works undertaken by that Government.

- The Parliament (Prevention of Disqualification) Act, 1959 exempts several posts from disqualification on the grounds of 'Office of Profit'. Such exempted offices include- a minister of union or state, Leader of opposition in the Parliament, Chairman of the National Commission on Minorities, etc. It has been amended five times to expand the exempted list (PYQ 2019).

As there has been no legal definition of 'Office of profit', the Supreme Court, in *Gurugobinda Basu vs Sankari Prasad Ghosal* case, 1963, laid down the test of appointment to determine an office of profit: (a) whether the government is the appointing authority, (b) whether the government has the power to terminate the appointment, (c) whether the government determines the remuneration, (d) what is the source of remuneration, and (e) the power that comes with the position.

### Related cases:

- In 2006, Mrs. Sonia Gandhi faced a controversy related to holding an office of profit. She was elected to the Lok Sabha from Rae Bareilly while holding the position of Chairperson of the National Advisory Council (NAC), a government-appointed body (2004-2014) to advise the Prime Minister. This raised concerns about a potential conflict of interest and in response, she resigned from her Lok Sabha seat and also from the position of Chairperson of the NAC and was later re-elected from the same constituency.
- The SP Rajya Sabha member, Mrs. Jaya Bachchan, also held the post of the Chairperson of the Uttar Pradesh Film Development Corporation in 2006. Later, she became the first MP to be disqualified by the Election Commission for holding the office of profit on the ground that the office is 'capable of yielding profit or pecuniary gain' and not whether the person actually obtained a monetary gain.
- In 2018, the President disqualified 20 MLAs of the Delhi Legislative Assembly, following a recommendation from the Election Commission, due to their appointment as parliamentary secretaries, which was deemed as holding an "office of profit".

### Grounds for disqualifications under Anti-Defection Law - 10th Schedule

The 52nd Amendment, 1985 introduced the anti-defection provisions and added the 10th Schedule to the Indian Constitution (PYQ 1998, 2014). The law intends to check political corruption by discouraging political defections to bring stability to governments, specifically after 1967. It introduced clause (2) in Articles 102 and 191 which declared that the legislators (MP/MLA/MLC) shall be disqualified if s/he is declared disqualified under the 10th Schedule.

The legislators belonging to any Political party shall be disqualified under the 10th Schedule if:

- S/he voluntarily gives up membership of such a political party.
- S/he abstains from voting or acting contrary to directions given by such a political party, without obtaining its prior permission and the political party does not condone such act within 15 days.

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- S/he is a nominated legislator who joins any political party after 6 months of being appointed to the House (PYQ 2022)
- S/he is an independent elected member but joins a political party

The anti-defection framework under the Tenth Schedule allows legislators to merge with another political party as a collective group without attracting disqualification. This process is termed a “merger.” Initially, a defection by one-third of a party’s elected members was treated as a valid merger. However, the 91st Constitutional Amendment Act of 2003 raised the threshold to at least two-thirds of the party’s members to be legally recognized as a merger, thereby curbing opportunistic defections while still accommodating genuine realignments. The Supreme Court in *Rajendra Singh Rana v. Swami Prasad Maurya* (2007) clarified that the Speaker must carefully assess whether the merger satisfies the legal requirements under the Tenth Schedule before granting recognition.

Certain legislative offices are exempted from the anti-defection law in order to preserve impartiality in legislative proceedings. These include the Speaker and Deputy Speaker of the Lok Sabha or State Legislative Assemblies, the Deputy Chairman of the Rajya Sabha, and the Chairman and Deputy Chairman of Legislative Councils. Members elected to these offices may voluntarily resign from their political party without attracting disqualification. However, they are barred from rejoining their party or affiliating with another political party while holding such offices, though they may return to their party once their tenure ends.

The constitutional validity of the Tenth Schedule was upheld in *Kihoto Hollohan v. Zachillhu* (1992), where the Supreme Court emphasized the quasi-judicial role of Presiding Officers and underscored the need for impartiality. Yet, political crises such as those in Karnataka (2019) and Maharashtra (2022) revealed how Presiding Officers have often delayed disqualification proceedings, sometimes for partisan reasons. In *Shrimanth Balasaheb Patil v. Speaker, Karnataka Legislative Assembly* (2019), the Supreme Court reiterated that while Speakers have the power to disqualify defectors, such decisions are subject to judicial review to prevent abuse.

Decisions regarding disqualification are generally referred to Presiding Officers, whose rulings were initially considered final, as the Tenth Schedule barred judicial scrutiny. However, following *Kihoto Hollohan*, such decisions are now open to limited judicial review on grounds of mala fides or violation of constitutional mandates. Despite this safeguard, the law does not prescribe any time frame for deciding defection cases—a lacuna that has often prolonged political instability and was even asked in UPSC Mains 2022. If the disqualification of the Presiding Officer themselves is in question, the House must elect another member to adjudicate the matter, ensuring neutrality. If a **notice to remove the Speaker** is pending, the Speaker **cannot decide** defection petitions (**Nabam Rebia**, 2016), a principle frequently invoked during political crises (pyq)

Presiding Officers are further empowered to frame rules for implementing the Tenth Schedule. At the same time, Articles 122 and 212 bar judicial interference in parliamentary or legislative proceedings, including those under the anti-defection law, unless constitutional violations are alleged. To enforce

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compliance, the law provides that if a disqualified member continues to sit or vote in the House, they are liable to pay a fine of Rs. 500 per day. Importantly, disqualified members are not permanently debarred from contesting elections; they may seek re-election, even from a different political party, to the same House. Moreover, the Supreme Court in *Kuldip Nayar v. Union of India* (2006) clarified that the anti-defection law does not extend to Rajya Sabha elections, as the Tenth Schedule applies to legislators once elected, not to the conduct of elections themselves.

### Loopholes in the Anti-Defection Law:

The Anti-Defection Law exhibits several loopholes that have raised concerns among critics. Firstly, it refrains from penalizing political entities for accepting lawmakers defecting from their original parties. Secondly, the role of constitutional high offices has come under scrutiny, with critics highlighting instances of delay by presiding officers in deciding on anti-defection proceedings, which is perceived as a partisan attitude. For instance, the cases of Bengal and Manipur in 2021, where the lackadaisical attitude of speakers led to objections from the Supreme Court. Thirdly, the involvement of gubernatorial offices in anti-defection matters has been criticized, particularly in instances where governors direct a floor test before anti-defection proceedings are completed, such as the case of Arunachal Pradesh in 2016.

Fourthly, another loophole is the misuse of resignations by legislators to reduce the effective strength of the house, facilitating illicit political mergers or destabilizing the government. Furthermore, the law allows for group defection by merger between political parties while disallowing individual defections, as exemplified by the recent defection and fall of the elected government in Maharashtra. Fifthly, critics argue that the law has become ineffective in deterring defections due to the monetary inducements and fear of investigative agencies, citing allegations of defections in Karnataka and Uttarakhand based on political exigencies. Sixthly, it is alleged that the Anti-Defection Law curbs intra-party democracy by undermining the principles of freedom of speech and expression, with the party whip limiting the scope for dissent even when justified.

### What can be done to make the Anti-Defection Law more effective?

To enhance the effectiveness of the Anti-Defection Law, several measures can be considered. Firstly, the ambit of the law can be extended to encompass pre-poll alliances, necessitating an appropriate amendment with inter-party consensus. Secondly, exploring the possibility of transferring the responsibility of presiding officers in Anti-Defection proceedings to the ECI could be beneficial. Thirdly, efforts should be made to address loopholes and gaps in the law, such as disincentivizing defections for political exigencies. Fourthly, occupants of constitutional offices should refrain from partisan behaviour and adhere to constitutional morality. Implementing strict timelines for presiding officers to decide on Anti-Defection petitions is crucial, and to ensure political neutrality, adopting the British system where the Speaker resigns from their political party may be advisable.

Defection, especially when done for vested interests, is a breach of trust that the electorate poses as their representative. An all-encompassing approach along with these steps can contribute to a more effective Anti-Defection Law, bolstering the integrity of democratic processes.

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### Role and Importance of Individual Parliamentarians

In any democratic system, Parliament plays a vital role in shaping the laws and policies of the nation. However, for Parliament to be truly effective, individual Members of Parliament (MPs) must function as active lawmakers. They must be capable of contributing to meaningful debates, scrutinizing bills, and holding the executive accountable. The effectiveness of Parliament hinges not only on the collective strength of political parties but also on the active participation of its members. Furthermore, MPs must be accountable to their electorate, ensuring a democratic and transparent process.

### Declining Role of Individual Parliamentarians

Despite their central role, the influence and effectiveness of individual parliamentarians have been steadily declining. Several factors contribute to this erosion. Frequent disruptions in the House limit MPs' ability to engage in constructive debates, leaving legislative business in a state of gridlock. Additionally, the Anti-Defection Law and the pressure of party whips restrict MPs from voting in accordance with their personal beliefs or the interests of their constituents. As a result, MPs become mere followers of party lines rather than independent thinkers.

Moreover, the criminalization of politics has led to a growing number of MPs with dubious backgrounds, undermining the integrity of Parliament. The live telecast of parliamentary proceedings, while promoting transparency, often leads to MPs engaging in theatrics rather than substantive discussions, as they seek to gain media attention. Furthermore, the increasing politicization of the Speaker's role has weakened their ability to act as impartial referees in parliamentary debates. This environment encourages populism and the prioritization of short-term gains over long-term legislative goals, diminishing the quality of governance.

### Impacts:

The decline in the quality of individual parliamentarians has several detrimental impacts on the functioning of Parliament. First and foremost, debates and discussions often become shallow and uninformed. With MPs less equipped to contribute meaningfully, legislative debates suffer, reducing the quality of decision-making. The lack of rigorous scrutiny of bills is another consequence, as MPs no longer have the time, knowledge, or inclination to engage deeply with proposed legislation.

Additionally, the absence of diverse opinions stifles innovation and compromises the policy-making process. In a Parliament where MPs are increasingly prone to rhetorical posturing, the focus shifts away from facts and constructive discourse. This also reduces the accountability of the Executive, as MPs, rather than providing oversight, often engage in party politics that distract from the real issues at hand. Furthermore, the decline in quality leads to fewer private member bills being introduced, limiting the opportunity for MPs to initiate reforms that are not driven by party interests.

### Scope of Reform:

To address these challenges, several reforms could be implemented to improve the quality and effectiveness of individual parliamentarians. One of the first steps would be to amend the Anti-Defection Law, providing MPs with more freedom to vote according to their conscience without the threat of disqualification. Intensive orientation programs for MPs would also help ensure that they are better informed and equipped to fulfill their duties as lawmakers.

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Additionally, MPs should be encouraged to raise issues within the rules of procedure, ensuring that parliamentary business remains orderly and focused. The provision of research staff and resources for individual MPs would further enable them to perform their duties effectively. With high-quality researchers supporting MPs, the quality of debates and scrutiny of bills could improve dramatically.

Finally, to ensure a more balanced and meaningful contribution from the Opposition, Parliament could incorporate specific days for the Opposition to raise important issues, much like the House of Commons does. This would provide a platform for the Opposition to engage in discussions without being overshadowed by the government's agenda, fostering a more robust democratic process.

### A Path Forward for Individual Parliamentarians

In conclusion, while the challenges facing individual parliamentarians are substantial, they are not insurmountable. By implementing reforms aimed at enhancing their role, improving the quality of debates, and fostering a culture of accountability, we can restore the vibrancy of Parliament and ensure that MPs can perform their duties effectively. The restoration of individual parliamentarians as active, informed, and accountable lawmakers will enhance the overall functioning of democracy and strengthen the legislative process.

### Grounds for disqualifications under the Representation of People Act, 1951

The Representation of the People Act, 1951, serves as a cornerstone legislation governing electoral processes in India. Alongside the Constitution, it provides for additional grounds for disqualification, outlining the criteria under which an individual may be barred from participating in elections or holding public offices. These grounds include, if s/he:

- a) Is found guilty of certain election offences or corrupt practices in the elections. Such offences and practices have been detailed in the Act.
- b) Is convicted for any offence resulting in imprisonment for two or more years (except for detention under a preventive detention law). For instance, IPC, Protection of Civil Rights Act, 1955, UAPA Act, 1967, etc. - **Section 8(3), Representation of the People Act, 1951 (RPA) (PYQ 2020)**
- c) Has failed to lodge an account of his/her election expenses within the time. (S/he is disqualified for a period of three years from the date of the ECI order)
- d) Has any interest in government contracts, works or services. e) Is a secretary or director or managing agent or holds an office of profit in a corporation in which the government has at least 25% share. (Not applicable in case of Co-operative Society)
- e) Has been dismissed from government service for corruption or disloyalty to the State. (S/he is disqualified for a period of five years from the date of such dismissal)
- f) Has been convicted for promoting enmity between different groups or for the offence of bribery.
- g) Has been punished for preaching and practising social crimes, such as untouchability, dowry and sati.

The Supreme Court in its ruling in Lok Prahari vs Union of India, 2018 clarified that a disqualification triggered by a conviction under Section 8 of the Representation of the People Act, 1951 will be reversed if the conviction is stayed by a court. "Once the conviction has been stayed during the pendency of an appeal, the disqualification which operates as a consequence of the conviction cannot take or remain in

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effect,” the ruling said.

### Remedies against disqualification

In any democratic system, disputes regarding disqualification can arise, challenging the eligibility of individuals to hold public office. To safeguard the rights of individuals whilst ensuring just decision-making, legal frameworks often provide remedies against disqualification. Such remedies include:

- An election can be called into question by an election petition filed in the High Court, with its appeal lying at the Supreme Court.
- Any candidate having been disqualified due to corrupt practices (section 8A) may petition the President/Governor to have their conviction and disqualification overturned. However, the President or Governor shall act according to the advice of the Election Commission of India.
- Besides, after a legislator is disqualified, the Election Commission may, on certain grounds, remove or reduce any disqualification or its period, by recording reasons.
- The disqualified person can appeal to higher courts challenging the decision of the Election Commission or any other competent authority that initiated the disqualification.
- A person might, in exceptionally rare situations, pursue a pardon from the President, which can overturn a conviction and eliminate the disqualification.

Elections serve as the cornerstone of any democracy, vital for its sustenance and vitality. The efficacy of electoral procedures, including qualification and disqualification provisions, significantly influences the trajectory of a nation. The Election Commission of India's proactive approach in instituting timely reforms, in tandem with the judiciary's vigilant oversight, has played a pivotal role in ensuring the conduct of free and fair elections thus far.

### Representation of People Act (RPA), 1951

The Representation of the People Act, 1951 serves as a pivotal legislation governing the conduct of free and fair elections. Enacted by the Parliament of India, this act was formulated to establish the groundwork for fair, transparent, and inclusive electoral processes across the nation.

It delineates the qualifications and disqualifications for membership in the Parliament and State Legislatures, delineates the delimitation of constituencies, and outlines the procedures for conducting elections, including voter registration and the maintenance of electoral rolls. Through its provisions, the Representation of the People Act, 1951, plays a crucial role in upholding the principles of democracy and ensuring the active participation of citizens in the governance of the country.

### Challenges faced by RPA, 1951

The Representation of the People Act, 1951, despite its pivotal role in regulating electoral processes in India face several shortcomings that hinder its effectiveness. Firstly, one major issue is the increasing criminalization and radicalization of

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politics, leading to acts of hooliganism by political parties with little regard for law and order. On top of this, it fails to empower the Election Commission of India (ECI) to deregister such parties.

Secondly, the act has proven insufficient in addressing the rising instances of corruption, such as the acceptance of offices of profit and making false declarations.

Punishments outlined in the RPA, 1951 lack stringency and clarity on such issues.

Thirdly, amendments made to the RPA in 2017, aimed at protecting the anonymity of donors to political parties, have raised concerns about financial irregularities in electoral funding. Fourthly, the proliferation of print and digital media has also presented challenges, including the spread of paid news and the misuse of big data and psychographics by political consultancies to manipulate social media, exemplified by the Cambridge Analytica scandal.

Fifthly, the current electoral expenditure threshold, with the rise in inflation, restricts candidates' ability to reach out to their constituents effectively. The distinction between the capping of party and candidate expenditures creates loopholes that undermine the intended purpose of setting rational limits on electoral expenses. Sixthly, the absence of proxy voting provisions for overseas Indians highlights a significant gap in the electoral laws of the country, given the substantial Indian diaspora worldwide.

### Way Forward:

To address the contemporary challenges and enhance the effectiveness of the RPA, 1951, several corrective measures can be implemented. Firstly, there is a pressing need to reassess the provisions governing electoral expenditures to accommodate the general rise in prices, ensuring a more realistic limit. Secondly, amendments in line with the Law Commission's recommendations should be made to the RPA to disqualify candidates for making false declarations while providing a uniform definition for 'offices of .'. Thirdly, electoral laws should be amended to introduce provisions for proxy voting for overseas Indians and to facilitate secure electronic voting for both domestic and overseas citizens, enhancing accessibility and efficiency.

Fourthly, granting legal status to the Model Code of Conduct under the RPA, as suggested by the Parliamentary Standing Committee on Law and Justice, would further strengthen electoral governance. Fifthly, empowering the ECI to deregister political parties engaging in activities detrimental to law and order, such as hate speech, is crucial for ensuring accountability and integrity in political campaigning. Sixthly, recommendations such as making paid news and fake news an electoral offence under the RPA, as advocated by the Chief Election Commissioner should be brought into force. Implementing the Umesh Sinha Committee's suggestions to maintain the campaigning silence during the last 48 hours before elections would serve to curb electoral malpractices and uphold the sanctity of the electoral process.

These measures collectively represent essential steps towards modernizing and fortifying the electoral

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framework in India. There is a need to progressively amend the act to accommodate contemporary requirements, wherein linking Aadhar with voter cards can be a good starting point.

### Vacation of Seats of Members of Parliament

#### Article 101: Vacation of seats

(1) No person shall be a member of both Houses of Parliament and provision shall be made by Parliament by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other.

(2) No person shall be a member both of Parliament and of a House of the Legislature of a State and if a person is chosen a member both of Parliament and of a House of the Legislature of a State, then, at the expiration of such period as may be specified in rules made by the President, that person's seat in Parliament shall become vacant, unless he has previously resigned his seat in the Legislature of the State

(3) If a member of either House of Parliament--

(a) becomes subject to any of the disqualifications mentioned in clause (1) or clause (2) of article 102, or  
(b) resigns his seat by writing under his hand addressed to the Chairman or the Speaker, as the case may be, and his resignation is accepted by the Chairman or the Speaker, as the case may be, his seat shall thereupon become vacant: Provided that in the case of any resignation referred to in sub-clause (b), if from information received or otherwise and after making such inquiry as he thinks fit, the Chairman or the Speaker, as the case may be, is satisfied that such resignation is not voluntary or genuine, he shall not accept such resignation.

(4) If for a period of sixty days a member of either House of Parliament is without permission of the House absent from all meetings thereof, the House may declare his seat vacant:

Provided that in computing the said period of sixty days no account shall be taken of any period during which the House is prorogued or is adjourned for more than four consecutive days.

The seats of a legislature can become vacant in various circumstances: like resignation, disqualification, death, absence without permission, or other specific conditions outlined in the Constitution of India or relevant laws. When a seat becomes vacant, it triggers a by-election or appointment process to fill the vacancy and to ensure that the representation in Parliament remains intact.

The Constitution, under Article 101, provides for various grounds for vacation of seats in the Parliament:

1. **Dual membership:** No member is allowed to be a member of more than one House of Legislature, including Parliament and State Legislatures. A 351 person cannot become a member of both the Houses of Parliament. In this regard, the Constitution empowers the Parliament to make a law. Thus, the Representation of People Act, 1951 provides that:
  - a. If an individual secures election to both the Houses of Parliament, s/he is required to notify within 10 days which House they wish to serve in. Failure to do so will result in their seat in the Rajya Sabha being vacated by default,
  - b. If a sitting member of one chamber is subsequently elected to the other chamber, his/her position in the first chamber becomes vacant,

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- c. If a person is elected to two seats in a House, he should exercise his option to resign from any one seat. In case of default, both seats become vacant. Similarly, a person cannot be a member of both the Parliament and the state legislature at the same time. If a person is so elected, his seat in Parliament becomes vacant if he does not resign his seat in the state legislature within 14 days. This duration of 14 days was laid down by the President in the Prohibition of Simultaneous Membership Rules, 1950.
2. **Disqualification:** If a Member of Parliament becomes subject to any of the disqualifications specified in the Constitution under Article 102, his seat becomes vacant.
3. **Resignation:** A member may resign by writing to the Presiding officer of the respective House. The seat falls vacant when the resignation is accepted. The 33rd Amendment, 1974, added that the Presiding Officer may not accept the resignation if he is satisfied that it is not voluntary or genuine. For instance, in 2019, the resignation of 17 dissident Karnataka MLAs was rejected by the Speaker in lieu of the confidence vote that was to be held within a few days.
4. **Absence:** If an MP is absent from all meetings of the House for a period of sixty days without its permission, the House may declare his/her seat vacant. This period of sixty days does not include the days when the House is prorogued or is adjourned for more than four consecutive days.
5. **Other cases:** An MP will have to vacate his seat in Parliament, if
  - a. S/he is expelled by the House,
  - b. S/he is elected/appointed to the office of President or Vice-President or Governor of a state,
  - c. His/her election is declared void by the court. The Constitution doesn't specify a process to declare an election void if a disqualified individual is elected to the Parliament. Instead, the Representation of the People Act, 1951 addresses this, by granting the High Court authority to annul such elections. The aggrieved party dissatisfied with the High Court's decision can appeal to the Supreme Court.

### Vacation of Seats of Members of State Legislature:

Similar and related provisions are also applicable to the vacation of seats of Members of the State Legislature. The Constitution, under Article 190, lays down similar grounds for vacation of seats in the State Legislature. The only exception is the provision regarding Dual Membership, which outlines that:

- a) A person cannot be a member of both the Houses of Legislature of a State. The Constitution empowers the State Legislature to make a law to vacate one of the two seats to which the individual is elected.
- b) A person cannot be a member of the Legislature of more than one State. The Constitution empowers the President (not the Governor) to make a rule in this regard. The same rule- Prohibition of Simultaneous Membership Rules, 1950, applies here as well.

Thus, effectively, when a person is a member of two or more state Legislature and S/he doesn't resign from any seat, all such seats will become vacant.

### Parliamentary Offices:

The offices of Parliament constitute a vital framework for the functioning of the world's largest

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democracy. These offices serve as guardians of the democratic process, overseeing the effective operation of the Parliament. From the Presiding officers for each House and their Deputies to the Leaders of the House, these offices affect the constitutional values, ensuring the integrity, accountability, and smooth functioning of India's parliamentary system. Let's have a look at each one of them.

### Speaker and Deputy Speaker of Lok Sabha

The institutions of Speaker and Deputy Speaker originated in India in 1921 under the provisions of the Government of India Act of 1919 (Montague-Chelmsford Reforms). The same nomenclature continued till 1947. These offices were then referred to as the President and Vice-President, respectively. The Constitution, under Article 93, mandates that the Lok Sabha shall choose two members to be Speaker and Deputy Speaker, as soon as possible.

### Speaker

#### Article 93: The Speaker and Deputy Speaker of the House of the People

The House of the People shall, as soon as may be, choose two members of the House to be respectively Speaker and Deputy Speaker thereof and, so often as the office of Speaker or Deputy Speaker becomes vacant, the House shall choose another member to be Speaker or Deputy Speaker, as the case may be.

In India, the Office of the Speaker is a dynamic institution that seeks to address the real needs and challenges of Parliamentary democracy. S/he is the presiding officer of the Lok Sabha, which represents the will of the people. In the table of precedence, the Speaker stands at the seventh position.

### Election & Term of the Speaker

The Speaker of Lok Sabha is elected by its members from amongst them with a simple majority (PYQ 2012). The election process is regulated by Rule 7 of the 'Rules of Procedure and Conduct of Business' in the Lok Sabha. The date of the election of the Speaker is fixed by the President. The practice has been to elect the Speaker during the first session of the new House.

Typically, the ruling party nominates a candidate after informal discussions with leaders from various parties and groups in the House. This tradition ensures the Speaker's broad acceptance across the House. While no specific qualifications are mandated for the Speaker, a solid grasp of the Constitution and national laws is highly valued for the position.

The Speaker holds office from the date of his/her election till immediately before the first meeting of the next Lok Sabha, for nearly 5 years. Thus, the Speaker does not vacate office upon dissolution of the Lok Sabha (PYQ 2018). S/he demits office immediately prior to the first sitting of the newly constituted Lok Sabha. The speaker once elected is eligible for re-election. Thus, s/he does not hold office during the pleasure of the President (PYQ 2012).

Salaries and allowances of the Speaker are fixed by Parliament by law and are *charged* on the Consolidated Fund of India (not voted), ensuring independence. In the Order of Precedence, the Speaker ranks 6th; the post carries administrative control over the independent Lok Sabha Secretariat (Art. 98)

### Unprecedented election of the Speaker - 18th Lok Sabha

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The 18th Lok Sabha witnessed a contest for the Lok Sabha Speaker for the first time since 1946. This is a rare occurrence, as the position of Lok Sabha Speaker is typically filled through consensus between the ruling party and the opposition. Om Birla (NDA candidate) was elected as the Speaker of the 18th Lok Sabha by defeating K. Suresh (INDIA candidate) by a voice vote. He is the only Lok Sabha speaker after Balram Jakhar in 1985 to get two full terms.

### Powers & Functions of the Speaker:

The powers and functions of the Speaker of the Lok Sabha are derived from three principal sources: the Constitution, the Rules of Procedure and Conduct of Business of the Lok Sabha, and well-established parliamentary conventions. The Lok Sabha Secretariat, in its authoritative work *Practice and Procedure of Parliament*, aptly describes the Speaker as the “principal spokesperson of the House,” embodying its collective voice and serving as its sole representative to the outside world.

Entrusted with complete authority to regulate the proceedings of the House, the Speaker ensures order and decorum in parliamentary functioning. Article 122 bars judicial interference in matters relating to the internal proceedings of Parliament, thereby reinforcing the Speaker’s authority. As the custodian of the rights and privileges of the House, its members, and its committees, the Speaker decides on points of order, enforces discipline, and may even suspend members when necessary.

The Supreme Court in *Raja Ram Pal v. Speaker, Lok Sabha* (2007) clarified the scope of judicial review in parliamentary proceedings. While upholding the Speaker’s wide powers, the Court held that judicial review can be exercised in cases of illegality or unconstitutionality, thus ensuring that the Speaker’s authority is not absolute.

Within the House, the Speaker functions as the final interpreter of the Constitution, the Rules of Procedure, and established parliamentary precedents. To facilitate smooth conduct of business, the Speaker, in consultation with the Leader of the House, determines the agenda, allocates time to members for debate, and retains the authority to expunge unparliamentary or objectionable remarks from the records. The Speaker also holds a special casting vote in case of a tie, underscoring the neutrality of the office.

Several functions of the Speaker carry constitutional significance. These include certifying a Bill as a Money Bill under Article 110, presiding over joint sittings of both Houses under Article 108, and deciding questions of disqualification of members on grounds of defection under the Tenth Schedule. The landmark case of *Kihoto Hollohan v. Zachillhu* (1992) upheld the constitutional validity of the Tenth Schedule and recognised the Speaker’s role as a quasi-judicial authority in deciding defection matters. However, the Court also subjected the Speaker’s decisions to judicial review to prevent misuse of power. Resignation of an MP (Art. 101(3)(b)) is addressed to the Speaker; acceptance requires the Speaker’s satisfaction that it is *voluntary and genuine* (Lok Sabha Rules provide for inquiry where needed).

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The Speaker is further empowered to adjourn or suspend a sitting in the absence of quorum. The importance of the office has been highlighted in several political crises, such as the Karnataka (2019) and Maharashtra (2022) defections, where the Speaker's discretionary powers were intensely scrutinised.

The Speaker also plays a pivotal role in the committee system of Parliament. Not only does the office appoint chairpersons to various parliamentary committees, but it also directly presides over key committees such as the Business Advisory Committee, the Rules Committee, and the General Purpose Committee. Beyond Parliament, the Speaker occupies an important national position as the chairperson of the Conference of Presiding Officers, thereby strengthening coordination among legislative bodies across India. The Speaker also *nominates a Panel of not more than ten Chairpersons* to preside in the absence of both Speaker and Deputy Speaker

### Casting vote

A casting vote is a special vote used to break deadlocks in the case of an equality of votes. The office of the Speaker of Lok Sabha has been entrusted with this special power of 'Casting vote' to determine the outcome of the vote and making a final decision. All questions in either House or joint sitting shall be determined by a majority of votes of members present and voting, other than the Speaker or person acting as Speaker. The Speaker, or person acting as Speaker, shall not vote in the first instance but can use casting vote in the case of equality of votes. (PYQ)

### Deputy Speaker

In addition to the Speaker, the Deputy Speaker wields additional authority to maintain order and discipline within the chamber. In case of vacancy in the office or absence of the Speaker, the Deputy Speaker takes up the role of the Speaker. Typically, s/he holds the second-highest position in the Lok Sabha hierarchy. It should be noted here that the Deputy Speaker is not subordinate to the Speaker. S/he is directly responsible to the House. In the table of Precedence, the Deputy Speaker stands at the tenth position.

### Election & Term of the Deputy Speaker

Following the election of the Speaker, the Lok Sabha elects a Deputy Speaker from amongst its members with a simple majority. The election process is regulated by Rule 8 of the 'Rules of Procedure and Conduct of Business' in Lok Sabha. According to Article 93 of the Constitution, the election is to be held "as soon as may be," though no fixed time limit is prescribed. Typically, the Deputy Speaker serves until the dissolution of the House, which is usually five years. The election of the Deputy Speaker is, usually, not delayed beyond the second session unless there are compelling and unavoidable circumstances. (The 17th Lok Sabha (2019-2024) completed its *entire term without a Deputy Speaker*, highlighting that no statutory time-limit exists despite the "as soon as may be" mandate.)

The Speaker determines the date for the election of the Deputy Speaker. The election is held through a ballot vote, and the members are informed about the election date via a bulletin

Though it has not been mandated by law, it is a parliamentary convention that a member of the Opposition assumes the Deputy Speaker's post. For the first time, In the fourth and fifth Lok Sabha (1969-1977), Mr. G.G. Swell of the Meghalaya-based All Party Hill Leaders Conference was elected as the

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Deputy Speaker, when the Indira Gandhi-led Congress was in power. However, this tradition was also altered in between, most notably, AIADMK's M. Thambidurai was elected as deputy speaker in 2014, which was from the ruling alliance.

Notably, during the tenure of the 17th Lok Sabha, which was dissolved in June 2024, the position of the Deputy Speaker remained vacant throughout its term because the Constitution does not specify a time frame for making the appointments.

### Powers & Functions of the Deputy Speaker

The office of the Deputy Speaker plays a vital role in ensuring the continuity of parliamentary functioning. Under Article 95 of the Constitution, the Deputy Speaker is entrusted with the responsibility of performing the duties of the Speaker whenever the office of the Speaker falls vacant. In such circumstances, the Deputy Speaker exercises all the powers and responsibilities of the Speaker until a new election is held.

If both the Speaker and the Deputy Speaker's offices are vacant, the President appoints a member of the Lok Sabha to carry out the functions of the Speaker. By convention, this responsibility usually goes to the senior-most member of the House. In routine situations where the Speaker is absent for a sitting, the Deputy Speaker presides. When both the Speaker and Deputy Speaker are absent, the Rules of Procedure of the Lok Sabha allow a member from the Panel of Chairpersons, nominated by the Speaker, to preside over the proceedings. If none from the panel is available, the House itself chooses a member to take the Chair.

When the Deputy Speaker presides in the absence of the Speaker, he or she enjoys the same authority within the House, including the power to interpret the rules, maintain order and cast a deciding vote in case of a tie. Unlike the Speaker, however, the Deputy Speaker is free to participate in debates and vote as an ordinary member when not presiding. This gives the Deputy Speaker a dual character of being both a neutral authority when required and an active representative otherwise.

The Constitution also provides that in the absence of the Speaker, it is the Deputy Speaker who presides over a joint sitting of both Houses of Parliament. A further privilege of the office is that whenever the Deputy Speaker is appointed as a member of a parliamentary committee, he or she automatically becomes its chairman, though in other committees the Deputy Speaker functions as a regular member.

In practice, the office of the Deputy Speaker has also been a matter of political importance. Although the Constitution does not require it, parliamentary convention has often favoured giving this office to the opposition as a symbol of democratic balance. This convention has not been followed consistently, and in recent years the long vacancy of the post during the Seventeenth Lok Sabha between 2019 and 2024 has drawn criticism and renewed attention to the need for strengthening parliamentary conventions.

#### Has a Deputy Speaker ever had to fill in for an absent Speaker?

There have been notable instances where the Deputy Speaker has filled in as acting Speaker. After the demise of the first Speaker, G.V. Mavalankar, in 1956, Deputy Speaker M. Ananthasayanam Ayyangar

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performed the duties of the Speaker for the remainder of the term and was later elected Speaker of the second Lok Sabha. Similarly, after the death of Speaker G.M.C. Balayogi in 2002, Deputy Speaker P.M. Sayeed served as the acting Speaker until a new Speaker was elected.

### Vacation, Resignation and Removal of Speaker and Deputy Speaker

#### Article 94: Vacation and resignation of, and removal from, the offices of Speaker and Deputy Speaker

A member holding office as Speaker or Deputy Speaker of the House of the People-- (a) shall vacate his office if he ceases to be a member of the House of the People; (b) may at any time, by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker, to the Speaker, resign his office; and

(c) may be removed from his office by a resolution of the House of the People passed by a majority of all the then members of the House:

Provided that no resolution for the purpose of clause (c) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution:

Provided further that, whenever the House of the People is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the House of the People after the dissolution.

The Constitution, under Article 94, lays down the conditions for the vacation, resignation and removal of the Speaker and the Deputy Speaker. It suggests that the Speaker or the Deputy Speaker must vacate office if they cease to be a member of Lok Sabha (PYQ 2018). They will have to vacate their office if they resign from their offices. If the Speaker intends to resign, the letter of her resignation must be addressed to the Deputy Speaker, and vice versa (PYQ 2012). If the post of Deputy Speaker is vacant, as was the case in the 17th Lok Sabha, the Secretary-General of the Lok Sabha receives the letter of resignation and informs the House about it.

The Speaker or the Deputy Speaker of the Lok Sabha can be removed from office through a resolution passed by an effective majority of the House, that is, a majority of all the then members. A notice of at least fourteen days must be given before such a resolution is taken up. The Constitution does not prescribe any grounds for removal, thereby placing the matter entirely within the discretion of the House. Article 96 provides that while such a resolution is under consideration, the concerned Speaker or Deputy Speaker cannot preside over the proceedings but may still participate, speak in debates, and exercise a vote in the first instance. However, in this situation, they are barred from using the casting vote which they ordinarily enjoy when presiding.

A distinction exists in the case of the Deputy Speaker. When functioning as an ordinary member, the Deputy Speaker can be removed like any other member of the House. However, when presiding as the Speaker, the same removal procedure as that of the Speaker applies. At the State level, the Constitution

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prescribes an identical process for the removal of the Speaker and Deputy Speaker of the Legislative Assembly, thereby ensuring consistency between the Union and the States.

### Speaker Pro Tem

When the Speaker of the last Lok Sabha vacates his office immediately before the first meeting of the newly elected LS, the President appoints a 'Speaker Pro Tem'. This office is a temporary office created majorly to administer oaths to the new members of the Lok Sabha so that they can elect a new Speaker. The oath to the Speaker Pro Tem is administered by the President and s/he presides over the House till the House elects a new Speaker.

Usually, one of the senior-most members of the Lok Sabha is appointed to this office. For instance, Virendra Kumar, a seven-time MP from Madhya Pradesh, was chosen as the Speaker Pro Tem of the 17th Lok Sabha. In 2024, President Murmu appointed Bhartruhari Mahtab, a seven-time MP from Cuttack, as the Speaker Pro Tem of the 18th Lok Sabha.

### Independence of the office of Speaker

The independence of the office of the Speaker is of paramount importance in a parliamentary democracy, given its central role in ensuring impartiality and fairness in legislative proceedings. To safeguard this independence, the Constitution has laid down several provisions, complemented by parliamentary conventions. The Speaker enjoys security of tenure, as removal is possible only through a resolution passed by an effective majority of the Lok Sabha, which insulates the position from routine political pressures. Further, to maintain neutrality, the Speaker does not vote in the first instance but exercises only a casting vote in case of a tie. The Speaker is also exempt from the anti-defection law in certain cases, which allows them to resign from their political party without inviting disqualification, thereby reinforcing impartiality.

Financial independence is ensured by drawing the salaries and allowances of the Speaker from the Consolidated Fund of India under Article 112, beyond the direct control of the executive. The Speaker's conduct in the House is shielded from routine criticism and can only be discussed through a substantive motion, which further strengthens their authority. These safeguards have enabled Speakers to rise above party affiliations and safeguard the dignity of the House. A notable example was seen in 2008, when Somnath Chatterjee upheld the integrity of the office by refusing to step down amidst the political controversy over the India-US Civil Nuclear Agreement, despite immense pressure from his party. Such instances illustrate how the Speaker, as custodian of the rights and privileges of members, the House, and its committees, ensures that Parliament functions as the true centrepiece of representative democracy, free from partisan or vested influences.

### Challenges & Controversies Associated with Speaker

The office of the Speaker, despite its pivotal role in parliamentary democracy, has periodically come under scrutiny owing to several challenges and controversies. A major concern stems from the fact that the Speaker is elected on a political party's ticket, creating an unsaid political liability to favour the ruling party. This often raises doubts about the impartiality of the chair. The controversy surrounding the Speaker's certification of the Aadhaar Bill (2016) as a Money Bill, thereby bypassing the scrutiny of the

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Rajya Sabha, is a prominent example of how discretionary powers may be exercised in a manner that benefits the government. The Supreme Court in *Rojer Mathew v. South Indian Bank* (2019) also questioned the broad interpretation of the Speaker's certification powers, though it stopped short of striking it down.

The Speaker's role in disqualification proceedings under the Tenth Schedule has also drawn criticism. Cases from Uttarakhand (2016), Arunachal Pradesh (2016), and most recently Maharashtra (2022), highlighted concerns that Speakers often delay decisions or act in a biased manner to benefit the ruling dispensation. In *Nabam Rebia v. Deputy Speaker* (2016), the Supreme Court emphasized the need for impartiality, holding that a Speaker facing a removal motion cannot decide on disqualification petitions. Similarly, in *Keisham Meghachandra Singh v. Speaker, Manipur Legislative Assembly* (2020), the Court directed Speakers to decide disqualification cases within a reasonable period, suggesting three months as a benchmark.

Another area of criticism relates to the allocation of House time. Speakers are often accused of granting disproportionate opportunities to ruling parties while limiting the voice of the opposition, thereby undermining the deliberative character of Parliament. The lack of a formal mechanism to review or appeal the Speaker's decisions compounds these concerns. Unlike the American system, where decisions of presiding officers can be appealed to a committee, the Speaker's rulings in India are final, subject only to judicial review.

Frequent disruptions in the House present further challenges. Critics allege that harsh punitive measures, such as mass suspensions of opposition members, are selectively applied, tilting the balance in favour of the ruling side. Committees such as the *Dinesh Goswami Committee on Electoral Reforms* (1990) and the *NCRWC* (2002) have recommended reforms to insulate the office from political pressures, including proposals to require consensus-based election of the Speaker and Deputy Speaker.

These challenges underscore the complexities of the office and the need for continual scrutiny and reform. Strengthening institutional safeguards around the Speaker's neutrality is essential to preserving the democratic spirit and ensuring fairness in parliamentary proceedings.

### Reforms needed

To safeguard the integrity of the Speaker's office and restore confidence in its impartiality, several reforms have been proposed. One significant step would be for the Speaker to resign from their political party upon assuming office, similar to the practice in Britain. This would help ensure neutrality by distancing the Speaker from partisan obligations. The Supreme Court, in *Shrimanth Balasaheb Patil v. Hon'ble Speaker, Karnataka* (2019), highlighted the importance of prioritizing constitutional duties over party loyalties, reinforcing this need for detachment.

Another reform relates to disqualification under the Tenth Schedule. The *National Commission to Review the Working of the Constitution* (2002), chaired by Justice M.N. Venkatachaliah, recommended that the power to decide such cases be transferred from the Speaker to the President or Governor, acting on the binding advice of the Election Commission of India. This was echoed in *Keisham Meghachandra Singh v. The*

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*Honourable Speaker, Manipur (2020)*, where the Supreme Court suggested vesting disqualification powers in an independent tribunal headed by former judges to avoid delays and political bias.

Further, adopting mechanisms from other democracies could strengthen accountability. For instance, emulating the American practice, decisions made by the Speaker could be subject to appeal before a designated parliamentary committee, thereby increasing transparency and limiting the possibility of arbitrary rulings. Alongside this, parliamentary rules and conventions must be refined to minimize discretionary ambiguities that often invite criticism of the office.

The symbolic placement of the *Sengol* beside the Speaker's chair in the new Lok Sabha chamber is a reminder that the office is not merely administrative but also moral in nature, representing fairness and righteousness in governance. Ultimately, beyond institutional reforms, it is the personal conduct of the individual holding the office that determines its sanctity. For the Speaker to remain a true custodian of parliamentary democracy, a conscious effort to uphold neutrality and constitutional morality is as important as any structural safeguard.

### Chairman and Deputy Chairman of the Rajya Sabha

The Constitution, under Article 89, provides provisions for the offices of the Chairman and the Deputy Chairman of the Rajya Sabha.

### Chairperson of the Rajya Sabha

#### Article 89: The Chairman and Deputy Chairman of the Council of States

(1) The Vice-President of India shall be ex-officio Chairman of the Council of States. (2) The Council of States shall, as soon as may be, choose a member of the Council to be Deputy Chairman thereof and, so often as the office of Deputy Chairman becomes vacant, the Council shall choose another member to be Deputy Chairman thereof.

The Constitution, under Articles 64 and 89, empowers the Vice-President to be the ex-officio Chairman of the Rajya Sabha. The Vice-President of India is the unchallenged guardian of the eminence and dignity of the House, as it represents the federal character of the Indian polity. Thus, there is no separate election for the office of the Chairman of Rajya Sabha. In the table of Precedence, the office of Vice- President stands at the second position.

It should be noted that when the Vice President is acting as the President or performing the functions of the President, s/he shall not perform the duties of the office of the Chairman of Rajya Sabha.

### Powers and Functions of the Chairman:

The Chairman of the Rajya Sabha holds powers and functions akin to those of the Speaker in the Lok Sabha, albeit with certain exceptions. Unlike the Speaker, the Chairman is not a member of the House, instead, the Vice-President of India serves as the ex-officio Chairman of the Rajya Sabha (PYQ 2013). Interestingly, unlike the Speaker of Lok Sabha, the Rajya Sabha Chairman cannot vote in any case when the resolution for his/her removal is being considered. The Chairman also lacks the authority to certify Money Bills or preside over joint sittings of the Houses of Parliament. In other cases, the Chairman, however, retains the prerogative to cast a deciding vote in the case of an equality of votes.

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### Deputy Chairman:

The Deputy Chairman presides over the sessions of the Rajya Sabha in the absence of the Chairman. This ensures the smooth functioning of the House even when the Chairman is unavailable. S/he is elected from among the members of the Rajya Sabha and, thus, is a member of the house (PYQ 2013). It should be noted here that the Deputy Chairman is not subordinate to the Chairman. S/he is directly responsible to the House. In the table of Precedence, the Deputy Chairman stands, with the Deputy Speaker, at the tenth position.

### Powers & Functions of the Deputy Chairman:

Under Article 91 of the Constitution, the Deputy Chairman of the Rajya Sabha performs the duties of the Chairman when the office is vacant or when the Vice-President, who is the ex-officio Chairman of the Rajya Sabha, is discharging the functions of the President. In case the office of the Deputy Chairman is also vacant, the President appoints a member of the Rajya Sabha to carry out the functions of the Chairman, and this responsibility is usually given to the senior-most member of the House.

The Deputy Chairman also presides over the sittings of the Rajya Sabha in the absence of the Chairman and can preside over a joint sitting of Parliament if both the Speaker and the Deputy Speaker of the Lok Sabha are unavailable. When both the Chairman and Deputy Chairman are absent, the Rules of Procedure empower the Chairman to nominate a Panel of Vice-Chairpersons to preside over the House. If all members of the panel are absent, the House itself determines a member to take the Chair.

In both situations, whether due to vacancy or temporary absence, the Deputy Chairman, while acting as Chairman, exercises all the powers of the office. The Deputy Chairman also enjoys one distinct privilege, whenever he or she is appointed to a parliamentary committee, they automatically serve as its chairperson. At other times, however, the Deputy Chairman functions as an ordinary member of the Rajya Sabha.

### Vacation, Resignation and Removal of the Chairperson and Deputy Chairman

#### Article 90. Vacation and resignation of, and removal from, the office of Deputy Chairman

A member holding office as Deputy Chairman of the Council of States--

- (a) shall vacate his office if he ceases to be a member of the Council;
- (b) may at any time, by writing under his hand addressed to the Chairman, resign his office; and
- (c) may be removed from his office by a resolution of the Council passed by a majority of all the then members of the Council:

Provided that no resolution for the purpose of clause (c) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution.

There is no specific procedure to remove the Chairperson of the Rajya Sabha. S/he can only be removed as the chairman of Rajya Sabha when he is removed from the office of the Vice-President of India. While the resolution for the removal of the Vice-President is under consideration, s/he cannot preside over the house as Chairman, although s/he has the right to be present, speak and take part in the proceedings of the house. On the other hand, the vacancy in the office of Deputy Chairman of Rajya Sabha, under Article

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90, can occur on similar grounds as for the office of Speaker or Deputy Speaker of the Lok Sabha, under Article 94.

### Salaries & Allowances of Speaker, Deputy Speaker, Chairman and Deputy Chairman

#### Article 97: Salaries and allowances of the Chairman and Deputy Chairman and the Speaker and Deputy Speaker

There shall be paid to the Chairman and the Deputy Chairman of the Council of States, and to the Speaker and the Deputy Speaker of the House of the People, such salaries and allowances as may be respectively fixed by Parliament by law and, until provision in that behalf is so made, such salaries and allowances as are specified in the Second Schedule.

According to Article 97, the office of Speaker, Deputy Speaker, Chairman and Deputy Chairman are entitled to a regular salary and allowance fixed by Parliament. Until fixed by the Parliament, Part C of Schedule 2 of the Constitution specified that the salaries & allowances of the-

- Speaker (Lok Sabha) and Chairman (Rajya Sabha) shall be similar to the Speaker of the Constituent Assembly and that of Deputy Speaker (Lok Sabha) and Deputy Chairman (Rajya Sabha) shall be similar to Deputy Speaker of the Constituent Assembly.
- Speaker & Deputy Speaker (Legislative Assembly) and Chairman & Deputy Chairman 361 (Legislative Council) shall be similar to what was paid to such offices in the corresponding Provinces before the commencement of the Constitution.
- Chairman & Deputy Chairman (Legislative Council) in Provinces which had no Legislative Council before the commencement of the Constitution, are to be determined by the Governor.

It is worth noting that the salaries and allowances of the Speaker, Deputy Speaker, Chairman and Deputy Chairman are charged on the Consolidated Fund of India, as explicitly outlined under Article 112. This means that they are not subjected to the annual vote of the Parliament.

#### Panel of Chairpersons (Lok Sabha) – Rules, Composition & Powers

- Rule-basis: Created under the Rules of Procedure and Conduct of Business in Lok Sabha, Rule 9, framed under Article 118(1) (each House makes its own rules).
- Nomination & Size: The Speaker nominates, at the commencement of the House or from time to time, a Panel of not more than 10 Chairpersons from among the members.
- When they preside: Any one from the Panel may preside over the House in the absence of the Speaker and the Deputy Speaker (generally on the Speaker's/Deputy Speaker's request).
- Powers while presiding: When in the Chair, the member exercises the same powers as the Speaker (maintenance of order, adjournment, putting questions to vote, etc.).
- Tenure on the Panel: Continues until a new Panel is nominated; ceases earlier if the member resigns from the Panel / becomes a Minister / is elected Deputy Speaker.
- Nature of office: Not a constitutional office; it's a procedural arrangement under House Rules (distinct from the constitutional office of Speaker/Deputy Speaker). (Inference from Art. 118(1) + Rule-making power.)

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### Panel of Vice-Chairpersons (Rajya Sabha) – Rules, Composition & Powers

- Rule-basis: Provided in the Rules of Procedure and Conduct of Business in the Council of States, Rule 8.
- Nomination & Size: The Chairman (Vice-President) nominates a panel of not more than 6 Vice-Chairpersons from among members; nominations may be made from time to time.
- When they preside: In the absence of both the Chairman and the Deputy Chairman, any one from the Panel may preside; if none is present, the House may choose another member to preside.
- Powers while presiding: The presiding Vice-Chairperson has the same powers as the Chairman during that sitting. Voting rule: the presiding officer does not vote in the first instance and may exercise casting vote only in case of equality.
- Tenure on the Panel: Members hold office until a new Panel is nominated (reconstituted periodically). Recent practice includes gender-balanced panels.
- Nature of office: Procedural (not constitutional); distinct from the Deputy Chairman (a constitutional office under Article 89). (Rule-based under Art. 118(1).)

### Leader of the House

The Leader of the House in the Indian Parliament plays a crucial role in representing the government's legislative agenda and ensuring the smooth functioning of parliamentary affairs. Under Rule 2 of the Lok Sabha, "Leader of the House" means the Prime Minister (PM), if the PM is a member of the House, or a Minister who is a member of the House and is nominated by the Prime Minister to function as the Leader of the House. Thus, the PM automatically becomes the Leader of the House of which s/he is a member. For instance, PM Modi was the Leader of the 17th Lok Sabha and PM Manmohan was Leader of the Rajya Sabha during his term. In the USA, the Leader of the House is known as 'Majority leader'.

### Roles & Responsibilities of the Leader of the House:

The Leader of the House serves as the primary link between the government and the Parliament. They communicate the government's policies, decisions, and legislative priorities to the members of Parliament (MPs) and facilitate dialogue between the executive and legislative branches.

Along with the presiding officer, the Leader of the House oversees the management of the floor of the House, i.e., giving inputs for parliamentary proceedings, like scheduling legislative business, allocating time for debates, organising a secret sitting, publication of proceedings of the House, etc. S/he articulates the government's position on various matters, defends government policies and participates in debates to build consensus on legislative matters and ensures the effective functioning of the Parliament.

### Leader of Opposition:

"There is, I suppose no position more difficult and in some ways more unrewarding than that of a leader of opposition – to criticize, to find fault and at the same time to develop his own proposals & policies without the power to implement them" – Harold Macmillan

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In a democratic setup, constructive criticism plays an important role. These criticisms are generally expected from the leader of opposition parties, the Leader of the Opposition (LoP). Thus, by acting as a key check and balance to the ruling party or coalition, the LoP serves as the lynchpin of Parliamentary democracy. In the Westminster setup, the LoP is known as shadow PM or the alternative PM.

In India, the position of LoP was first recognised in 1969 (PYQ 2018). Later, it was given statutory status under 'The Salary and Allowances of Leaders of Opposition in Parliament Act, 1977'. According to the Act, the person to be appointed as LoP in the Houses of Parliament shall be a member of the respective House and must be recognized as such by the Presiding Officer of the House. Thus, it gives the opposition a formal platform to challenge and criticize the government's policies and actions. It also provided for a special case when two or more opposition parties secure the same number of seats, the presiding officers of the Houses can recognise any one of the Leaders of such parties as the LoP, considering the status of the parties.

Though the Act calls for the 'Leader of the largest opposition party' but lays down no guidelines as to what constitutes an opposition party. Thus, a direction issued by the first Speaker G.V. Mavlankar, under Rule 389 of the Rules of Lok Sabha, became crucial for recognizing LoP. It laid down that the largest opposition party should secure at least 10% of total seats in the Lok Sabha to get the status of the LoP. This parliamentary convention, in the form of direction, formally recognized the opposition in the Lok Sabha and came to be known as "Mavlankar Rule." The rationale was to ensure that the main opposition party should have enough strength to at least run the House, i.e., secure a quorum (10%) by itself.

Hence, as per the present strength of the Lok Sabha (543), the largest opposition party should have at least 55 members in order to have an LoP. The Congress in the last two general elections was the second largest party but fell short of securing 55 seats (44 in 16th Lok Sabha and 52 in 17th Lok Sabha). Thus, despite multiple demands by the Congress, the post of LoP was not recognised by the Speaker. In the 18th Lok Sabha, as the Congress secured 99 seats, Rahul Gandhi was recognized as the LoP.

However, it is to be noted that according to the former Lok Sabha Secretary General PDT Achary, the law is clear that the Speaker is required to recognise the leader of the numerically largest party in opposition as the leader of opposition. There is no such rule, which requires a party to have at least 10% of the members of the House for recognising someone as the Leader of the Opposition.

### Roles & Responsibilities of the Leader of Opposition:

The Leader of the Opposition (LoP) represents the collective voice of the opposition in Parliament and plays a vital role in ensuring government accountability. By scrutinizing policies, questioning executive actions, and presenting alternative viewpoints on legislative matters, the LoP strengthens democratic checks and balances. At the same time, the LoP engages in constructive dialogue with the government on issues of national importance, promoting bipartisan cooperation whenever possible. In statutory terms, the office of the Leader of the Opposition is defined by the Salary and Allowances of Leaders of Opposition in Parliament Act, 1977, with recognition by the Speaker or the Chairman; the statute does not prescribe any ten per cent threshold.

A central responsibility of the LoP is to coordinate among opposition parties by mobilizing their MPs, framing common strategies for floor management, and uniting diverse voices on matters of mutual concern. During parliamentary debates and discussions, the LoP articulates a shared opposition stance and suggests alternative policy solutions to address pressing issues. Importantly, the LoP also serves on

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key parliamentary committees, ensuring opposition representation in crucial decision-making processes. For example, the LoP is part of the committee that selects the Chief Election Commissioner and other Election Commissioners.

In terms of protocol, the LoP of both Houses enjoys the status of a Cabinet Minister, holding the seventh rank in the Table of Precedence. Accordingly, the LoP is entitled to equivalent salaries, allowances, and facilities. More than a position of privilege, however, the office embodies the spirit of parliamentary democracy by safeguarding accountability, encouraging robust debate, and offering citizens an alternative vision of governance.

### Whip:

In parliamentary parlance, a whip refers to an official written directive issued by a political party to its legislators, requiring them to be present in the House, participate in debates, or vote in a particular manner. Although the Constitution of India, the Rules of Procedure, or any parliamentary statute does not explicitly mention the office of the Whip, its authority is firmly rooted in parliamentary conventions and traditions. The term itself is derived from the British practice of “whipping in” legislators to ensure adherence to the party line.

In India, every political party, whether in power or in opposition, appoints a Whip for its contingent in the House. Usually, there is a Chief Whip who is assisted by additional Whips, and they issue these instructions to members. The importance of a directive can be judged by the number of times it is underlined. A one-line whip generally indicates that members must be present in the House, a two-line whip requires participation in debates, while a three-line whip mandates compulsory voting on crucial issues such as no-confidence motions or constitutional amendments. Members are expected to obey these directions, and defiance may attract disqualification under the Tenth Schedule, also known as the Anti-Defection Law, if the whip was issued for an important vote.

The Whip system therefore plays a crucial role in maintaining party discipline, ensuring legislative unity, and facilitating the smooth functioning of parliamentary democracy in India.

### Sengol:

The term “Sengol” originates from the Tamil words - “semmai,” signifying righteousness, and “kol,” denoting a sceptre. Within Tamil culture, the Sengol is a royal emblem resembling a wand, traditionally carried by monarchs. In the Chola tradition, the Sengol was ceremonially bestowed upon the new king by the head priest during coronation rites, symbolizing the transfer of authority and embodying the principle of justice.

Crafted as a five-foot golden sceptre, adorned with intricate floral motifs and crowned by a Nandi, a sacred bull, symbolising justice, it was initially presented to Lord Mountbatten by a priest from Thiruvavaduthurai Adheenam, a non-Brahmin Saivaite mutt in Tamil Nadu. On the night of August 14, 1947, India’s first Prime Minister, Pandit Jawaharlal Nehru accepted the Sengol from the Adheenams (Priests) of the Thiruvavaduthurai Adheenam (Mutt) in Tamil Nadu as a symbol of the

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transfer of power from the British Government to India. The ceremony, attended by luminaries such as Dr. Rajendra Prasad, adhered to Chola customs and featured the rendition of a special composition. Now, the Sengol has been installed near the chair of the Speaker, in the new Parliament building. This sceptre, symbolizing authority and democracy while serving as a vivid reminder of India's rich heritage and vibrant culture, can deepen our appreciation for the journey towards independence. In the forthcoming 'Amrit Kaal', Sengol can become a witness of the glorious moment as New India takes its rightful place in the world.

### Privileges of the Legislature

#### **Article 105: Powers, privileges, etc., of the Houses of Parliament and of the members and committees thereof**

- (1) Subject to the provisions of this Constitution and the rules and standing orders regulating the procedure of Parliament, there shall be freedom of speech in Parliament.
- (2) No member of Parliament shall be liable to any proceedings in any court in respect of anything said or any vote given by him in Parliament or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings.
- (3) In other respects, the powers, privileges and immunities of each House of Parliament, and of the members and the committees of each House, shall be such as may from time to time be defined by Parliament by law, and, until so defined, shall be those of that House and of its members and committees immediately before the coming into force of section 15 of the Constitution (Forty-fourth Amendment) Act 1978.
- (4) The provisions of clauses (1), (2) and (3) shall apply in relation to persons who by virtue of this Constitution have the right to speak in, and otherwise to take part in the proceedings of, a House of Parliament or any committee thereof as they apply in relation to members of Parliament.

Under Article 88, every Minister and the Attorney-General of India has the right to speak in and otherwise take part in the proceedings of either House and its committees, but does not have a vote by virtue of this article unless he or she is a member.

Legislative privileges are the rights and immunities enjoyed by the Houses of Legislatures, their members, and committees to safeguard the independence of legislators, ensure smooth functioning of the legislative process, and uphold the dignity of the Houses. These privileges have their origins in historical precedents, constitutional provisions, laws, rules, conventions, and judicial interpretations. Under Article 105 of the Constitution, Members of Parliament enjoy such privileges, while Article 194 provides similar protection to members of State Legislatures. Initially, only two privileges were explicitly recognized: freedom of speech within the House and the right to publish its proceedings. Other privileges were to align with those of the British House of Commons as on 26 January 1950 until defined by Indian legislatures. The 44th Amendment of 1978 maintained these privileges but removed the explicit reference to the British House of Commons.

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Privileges extend beyond elected members to certain individuals entitled to participate in House proceedings, such as the Attorney General of India, but do not apply to the President or Governors. Despite their importance, no comprehensive legislation has been enacted to codify all privileges, leaving their scope dependent on constitutional provisions, statutory laws, House rules, conventions, and judicial interpretations. Rule 222 of the Lok Sabha and Rule 187 of the Rajya Sabha specifically govern the exercise of these privileges. Further, Article 88 expressly allows every Minister and the Attorney General to speak and otherwise take part in either House and in committees without a vote. (UPSC CSE Prelims 2022).

These provisions collectively ensure that legislators can perform their duties effectively without undue influence or fear of legal consequences, while maintaining the authority and decorum of the legislative process. The combination of constitutional safeguards, procedural rules, and judicial guidance continues to uphold the essential balance between legislative freedom and accountability.

### Classification of Privileges:

For ease of understanding, these privileges can be classified into Collective and Individual privileges.

1. **Collective privileges:** The collective privileges are enjoyed by the entire Legislature to effectively carry out its constitutional responsibilities. The collective privileges include:
  - a. **Right to Publish:** The legislatures 365 in India have the right to publish its reports, debates and proceedings. They can also prohibit others from publishing the same. The 44th Amendment, 1978, however, restored the freedom of the press to publish true reports of parliamentary proceedings without prior permission of the House. This, however, cannot be done in the case of a secret sitting of the House.
  - b. **Right to Punish:** The House can punish its members as well as outsiders for 'Breach of its privilege' or for the 'Contempt of the House'.
    - i. **Breach of privilege:** When an individual or authority undermines any of the privileges, individual or collective, it constitutes a Breach of Privilege that can be subjected to punishment by the House. A member, with the consent of the Presiding officer, may raise a question involving a breach of privilege.
    - ii. **Contempt of the House:** Any action or failure to act that hinders the functioning of a House, its members, or its officers, or that tends to undermine the dignity, authority, and honour of the House, is considered Contempt of the House. It is a wider term that, inter-alia, includes breach of privilege, i.e., every breach of privilege is a contempt of the House, but not every contempt is a breach of privilege;

Thus, the Presiding Officer can issue warrants for production without mentioning the reason and the House can collectively send the person to jail.

- c. **Right to regulate its own proceedings:** Legislatures have the right to regulate its own proceedings, including the power to conduct its business and where required, adjudicate on such matters.
- d. **Right to freedom from arrest:** The Presiding Officer's permission is required for any arrest or legal process, civil or criminal, to be conducted within the premises of the house, regardless of whether the individual is a member or an outsider.

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- e. **Right to receive information:** The House possesses the privilege to promptly receive information concerning the arrest, detention, conviction, imprisonment, and release of any of its members.
  - f. **Right to conduct 'Secret Sitting':** The House is entitled to prohibit non-members from its sessions and conduct secret sittings to deliberate on significant issues.
  - g. **Right to investigate and summon:** The House has the authority to initiate investigations, summon witnesses, and request pertinent documents and records.
  - h. **Exclusive Jurisdiction of Legislature:** Under Articles 122 and 212, the validity of any proceedings in the Parliament shall not be questioned on the ground of any alleged irregularity of procedure. The Supreme Court in the *Raja Rampal case (2007)*, however, declared that this does not apply to unconstitutional acts, but only to the Rules of Business.
2. **Individual privileges:** Individual privileges refer to the rights and immunities enjoyed by members of the Houses individually. The individual privileges include:
- a. **Right to Freedom of Speech:** The members of the House enjoy the privilege of freedom of speech and expression within the House. This privilege allows them to speak and vote freely on matters of public interest without fear of legal repercussions. It ensures robust debate and discussion on legislative matters. This provision is subject to provisions of the Constitution and to the rules of Parliament, reflecting a delicate balance between freedom and responsibility.
  - b. **Immune from arrest in civil cases:** The members of the House are immune from arrest during the session of the House and 40 days before and after the session. This privilege is available only in civil cases and not in criminal cases or preventive detention cases. It prevents the Executive from unduly harassing or detaining the members of the House.
  - c. **Exemption from Jury Service:** While the House is in session, the members of the House cannot be compelled to give evidence or be a witness in sub-judice cases. They can be a witness only with the permission of the House, allowing them to focus on their legislative duties.

### Role of Presiding Officer & Privileges Committee

The Presiding Officer is the first level of scrutiny of a privilege motion. S/he can decide on the privilege motion himself or herself or refer it to the Privileges Committee of the House. If s/he gives consent under Rule 222, the member concerned is given an opportunity to make a short statement.

In the Lok Sabha, a Committee of Privileges comprising 15 members is nominated by the Speaker, reflecting the proportional strengths of the respective parties. Following this, a report is submitted to the House for deliberation, during which the Speaker may allow for a thirty-minute debate. Subsequently, the Speaker can issue final orders or instruct that the report be presented to the House. Any resolution pertaining to a breach of Privilege must garner unanimous approval. Conversely, in the Rajya Sabha, the Deputy Chairperson oversees a Committee of Privileges comprising 10 members.



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### Significance of Legislative Privileges

Legislative privileges play a crucial role in safeguarding the democratic process by ensuring the independence and autonomy of the legislature. They protect the institution from external pressures, upholding the principles of separation of powers and allowing members to express their views freely without fear of legal consequences. This fosters open and transparent debates on issues of public importance, strengthening the quality of legislative deliberation.

By providing immunity from civil or criminal proceedings for actions and statements made in the course of their legislative duties, these privileges enable members to effectively scrutinize the government's policies and hold it accountable. They also help maintain order and discipline within the House, while preserving the dignity and authority of the Parliament as a central pillar of representative democracy.

### Critique of Legislative Privileges:

Criticism of legislative privileges in India centers on concerns about transparency and accountability. Critics argue that these privileges can sometimes shield members from public scrutiny, potentially concealing misconduct or decisions that should otherwise be open to examination. The reliance on conventions, precedents, and unwritten rules creates ambiguity, leading to inconsistencies in how privileges are interpreted and applied. This ambiguity, combined with the extensive protection provided to legislators, can act as a barrier to democratic accountability, making it harder to hold members responsible for their actions.

Some aspects of these privileges, rooted in historical practices, may no longer align with the values of a modern democratic society that emphasizes transparency and openness. Concerns also exist about potential misuse, where legislators may exploit the broad scope of privileges to avoid legal consequences or restrict freedom of speech and press, citing the need to protect legislative proceedings. A notable example is the Sita Soren case, which highlighted how privileges could be invoked in ways that raised questions about their limits and democratic appropriateness.

### Important Judgements related to Parliamentary Privileges

Several significant judgments have contributed to the evolution of legal interpretations surrounding privileges. In one of the most prominent cases regarding privileges, the P.V. Narasimha Rao vs State (CBI/SPE), 1998, the Supreme Court established a precedent and ruled that lawmakers who accepted bribes couldn't be prosecuted for corruption if they fulfilled their agreement by voting or speaking in the House. Later, in the State of Kerala vs. K. Ajith and Others, 2021, the Supreme Court underscored that parliamentary privileges and immunities do not serve as pathways for individuals to claim exemptions from the general laws applicable to all citizens.

In another case, Sita Soren, a member of the Jharkhand Assembly, was accused of accepting a bribe to vote in the Rajya Sabha elections of 2012. Soon, the CBI filed a chargesheet against her. She claimed she enjoyed legal immunity under Article 194. Recently, when the case went to the Supreme Court, Sita Soren Vs Union of India, 2024, a notable shift occurred when the Court reversed its stance from the

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1998 Narasimha Rao case, declaring that parliamentarians are not shielded by parliamentary immunity for acts of bribery.

### Should Legislative Privileges be codified?

Codification refers to the formal definition and legal outlining of legislative privileges. Articles 105 and 194 of the Constitution empower the Legislatures to undertake this process. Codifying privileges can bring clarity by defining their scope, specifying violations, and prescribing penalties, thereby reducing ambiguities. It can also strengthen accountability and oversight, ensuring privileges are exercised responsibly. Codification offers an opportunity to modernize privileges, aligning them with contemporary governance norms, and can introduce mechanisms to prevent misuse. The M.N. Venkatachaliah Committee has also recommended the codification of legislative privileges.

However, opponents raise concerns about potential risks. Codification could threaten legislative independence by increasing susceptibility to external oversight or judicial intervention. A rigid legal framework may limit flexibility, restricting the legislature's ability to respond to unique or emergent political situations. Constitutional provisions like Articles 122 and 212, which protect parliamentary autonomy, could also be impacted. Furthermore, the procedural complexity of codification requires coordination among multiple stakeholders, making implementation challenging.

International practices provide useful lessons. In Australia, legislative privileges are constitutionally guaranteed, allowing members to independently manage proceedings. Similarly, the Westminster system ensures internal autonomy for legislators. Adopting such models in India would require a participatory approach, including all political parties, to build consensus and balance legislative independence with accountability. Overall, codification presents both opportunities and challenges, demanding careful consideration of constitutional, practical, and democratic dimensions.

### Conduct of Business in Parliament Sessions of the Parliament

#### Article 85: Sessions of Parliament, prorogation and dissolution

- (1) The President shall from time to time summon each House of Parliament to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.
- (2) The President may from time to time--
- (a) prorogue the Houses or either House;
  - (b) dissolve the House of the People.

A parliamentary session is the period between the first sitting of a House and its prorogation (discontinuation) or dissolution. Under Article 85, the President of India shall summon a session of each House of Parliament at such a place as she thinks fit (PYQ 2020). The power to convene a session of the Parliament rests with the government. The decision is taken by the Cabinet Committee on Parliamentary Affairs and is formalised by the President, in whose name MPs are summoned to meet for a session. In

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the case of states, as outlined in Article 174, the Governor shall summon a session of each House of State Legislature.

India does not have a fixed parliamentary calendar for sittings. The Constitution only provides that six months shall not elapse between two Parliamentary sessions, i.e., each House must meet at least twice a year. Generally, by convention, three sessions of the Parliament are held each year- the Budget Session (January -April), the Monsoon Session (July-August) and the Winter Session (November -December). The Constitution does not mandate this (PYQ 2020). The Budget session also has a recess so that the Parliamentary Committees can discuss the budgetary proposals.

### Number of meetings of Parliament

There is no minimum number of days that the Parliament is required to meet in a year (PYQ 2020). In 1955, a Lok Sabha committee proposed a timetable for parliamentary sessions but was never implemented.

Before independence, according to the Government of India Act, 1935, the central legislature was mandated to convene at least once annually, with no more than a 12-month gap between sessions. Dr. Ambedkar suggested that this provision primarily aimed at convening the legislature solely for revenue collection, and the yearly meeting was intended to circumvent government scrutiny by the legislature.

Pre-independence, the central assembly convened for slightly over 60 days per year. This figure rose to 120 days annually in the initial two decades post-independence. However, there has been a decline in the number of sitting days for the Parliament since then. In the last two decades, the Lok Sabha averaged around 65 working days per year. This decline may be attributed to the decreased workload of Parliament, as its major functions are anchored around its Standing Committees. Despite this, numerous Committees, like the 'National Commission to Review the Working of the Constitution' have recommended that Parliament should assemble for a minimum of 120 days annually.

### Special Session of the Parliament

The Special Sessions are the extraordinary meetings convened by the government, outside the regular legislative schedule, to address specific urgent matters or crises or for specific occasions, like commemorating certain milestones. The Constitution does not use the term 'special session'. However, after the 44th Amendment, 1978, Article 352 does refer to a "special sitting of the House" that can be convened to disapprove the Emergency.

It is convened as per the provisions of Article 85 of the Constitution and its duration can vary depending on the urgency and complexity of the issues being addressed. For instance, the Union government called a special session of Parliament in September 2023, to pass the 106th Amendment, providing reservation to women in the Legislature. Interestingly, this was also the first session to be held in the newly constructed Parliament building.

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### Other important 'Special Sessions'

- 2017: to mark the rollout of the Goods and Services Tax (GST)
- 2015: to commemorate the 125th birth anniversary of Dr. B.R. Ambedkar
- 1997: to mark India's 50th anniversary of independence
- 1992: to mark the 50th anniversary of the Quit India Movement.
- 1972: to celebrate 25 years of India's independence
- 1962: to discuss the India-China war situation

### Adjournment

Adjournment is a tool with which a sitting (not a session) of the House is put off for a set period of time, such as a few days, weeks, or hours. A House might be adjourned due to reasons like the death of a member, disorder & disruption in the House, lack of quorum, etc. The power of adjournment lies with the Presiding officer, and it specifies the time of reassembly of the House. It does not affect the bills or any other business pending before the House and the same can be resumed when the House meets again.

### Adjournment Sine Die

The Presiding officer uses the 'Adjournment sine die' to terminate a sitting (not session) of the House for an indefinite period. In other words, when the House is adjourned without naming a day for reassembly, it is called adjournment sine die. The presiding officer, thus, can call a sitting of the House before the date or time to which it has been adjourned or at any time after the House has been adjourned sine die.

### Prorogation

Prorogation signifies the conclusion of a parliamentary session, i.e., the end of the sitting as well as the session. The President (not the Presiding officer) has the authority to adjourn either one or both Houses of Parliament, as stipulated in Article 85 of the Constitution. **(PYQ 2004). The President cannot unilaterally prorogue either House. It is the Union Cabinet (Council of Ministers headed by the Prime Minister) that advises the President regarding summoning, prorogation, and dissolution of the Lok Sabha. (PYQ 2024).**

Typically, the President issues a notification for prorogation shortly after the House is adjourned sine die by the presiding officer, although prorogation can also occur while the House is in session **(PYQ 2024)**. It should be noted that upon prorogation, all pending notices, excluding those for the introduction of a Bill, become null, necessitating the submission of fresh notices for the subsequent session. Bills do not lapse on prorogation; they carry over to the next session unless affected by dissolution.

### Recess:

The duration from the prorogation of a House to its reassembly in a new session is termed as the 'recess.' Essentially, it signifies the interval between two successive sessions. This interval operates within the constitutional ceiling that not more than six months shall elapse between the last sitting of one session and the first sitting of the next.



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### Dissolution:

The dissolution of the Lok Sabha is done by the President of India, who, except in rare or exceptional circumstances, acts on the advice of the Council of Ministers headed by the Prime Minister. (PYQ 2024). Unlike the Rajya Sabha, which is a permanent House, only the Lok Sabha is subject to dissolution. Dissolution marks the end of the existing House's tenure, leading to the formation of a new House through general elections. It's important to note that upon dissolution, all pending business, including bills, motions, resolutions, notices, petitions, and committee matters, are nullified. The dissolution of the Lok Sabha can occur in two ways:

- Automatically, upon the completion of its five-year tenure or as extended during a national emergency, or (PYQ 2004)
- By the President's order, authorized by the Council of Ministers, even before the end of its term, particularly if the Council of Ministers loses confidence and no party can form a government. Once dissolved prematurely, the Lok Sabha cannot be reinstated.

### Quorum in the Houses:

#### Article 100: Voting in Houses, power of Houses to act notwithstanding vacancies and quorum

- 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. The Chairman or Speaker, or person acting as such, shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.
- Either House of Parliament shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in Parliament shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled to do so or voted or otherwise took part in the proceedings.
- Until Parliament by law otherwise provides, the quorum to constitute a meeting of either House of Parliament shall be one-tenth of the total number of members of the House.
- If at any time during a meeting of a House there is no quorum, it shall be the duty of the Chairman or Speaker, or person acting as such, either to adjourn the House or to suspend the meeting until there is a quorum.

Quorum is the minimum attendance required for a meeting to proceed with official decisions. In Parliament, as defined in Article 100, the quorum is 10% of the total number of members of the House. Interestingly, at the state level, under Article 189, the quorum is established as a minimum of 10 members or one-tenth of the total strength of the House, whichever is higher.

The Constitution empowers the Parliament to amend this requirement through legislation. If the necessary quorum is not met, the Presiding officer has the authority to adjourn the House or suspend the meeting until there is a quorum.

### Voting in Parliament:

All matters in parliamentary democracy are generally decided by voting. The Constitution, under Article 100 and Article 189, provides that all questions in either House of Legislature or Joint sitting are to be

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determined by a simple majority (discussed later in this chapter). This does not include the Presiding officer or the person acting as such, as they cannot vote in the first instance, but can use the casting vote in the case of an equality of votes.

### Methods of voting

The rules of the Houses provide for the different methods of 'Division' in the House. The rules provide for four methods of voting in the Rajya Sabha. By some methods, the votes are recorded as a permanent record and by others, the votes are not recorded. These methods are described below:

1. Voice vote: Voice voting is the preferred method of decision-making by the Indian Legislature. It is an informal procedure in which the members in favour of a decision call out "Ayes" and those opposed to it say "Noes." The Presiding officer then takes a call on which voices were louder and conveys the decision of the House. Voice voting does not reveal the individual positions taken by MPs and does not record the votes.
2. Vote by division: The members also have the right to ask for the vote of every member to be recorded, in case the voice vote was unclear. In legislative parlance, this formal voting exercise is called a 'Division', i.e. dividing the House to decide a matter by majority vote. Members can vote in favour, oppose or abstain from the vote. Recording of votes is also mandated when there is a constitutional requirement for a special majority in the Parliament (for example a Constitutional Amendment), or after a No- Confidence Motion. However, MPs do not exercise their right to ask for recording of votes very frequently.

The first recorded vote (division) in the Lok Sabha took place on the second day of its sitting in 1952, when the House was tasked with electing the Speaker. Among the two contenders for the position, G. V. Mavalankar and S. S. More, Mavalankar emerged victorious with 394 votes in his favour. Interestingly, voting records reveal that one of the votes cast in support of Mavalankar was from More, who voted for his opponent upholding the best traditions of parliamentary democracy.

### Various methods are used for voting by division:

- a) Distribution of slips: In this case, the voting slips are distributed, and members vote and sign on the slips. The division takes place by counting voting slips. As it is a manual process of voting, it was inefficient and consumed a lot of time for the legislature. This method was used in the very first case of 'division', as discussed above.
- b) Automated Vote Recording Equipment (AVRE): To improve the efficiency of voting, the Parliament, in 1957, adopted an Automated Vote Recording Equipment (AVRE). Here, each member is provided with an integrated microphone and voting console connected by cables. The Presiding officer holds the controls to the entire process, while the results are visible almost instantaneously on a display board.
- c) Counting: In this case of ordinary division, the Presiding officer may ask the members to stand in at their place and a headcount is made.
- d) Going into lobbies: If the Presiding officer decides that the votes shall be recorded by the members going into the Lobbies, he may direct the 'AYES' to go into the Right Lobby and the 'NOES' to go into the Left Lobby.

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In most mature democracies, recorded voting is the preferred mechanism for decision-making by Parliament. In India, the Anti-Defection Law has led to limiting the use of recorded voting in Parliament.

### Open ballot system

The term “open ballot system” is used to describe votes in which the voters’ choices are not confidential. Like most legislatures around the world, representatives in Indian Legislatures also vote on ordinary legislation using an open ballot system. It enables voters to hold their representatives to account on their choices. It is utilized for elections for the Rajya Sabha MPs.

### Secret ballot system

It is a closed voting system in which the choices of the voters are kept secret. Here, only the number and not the names of members voting for or against a question is recorded. According to the Supreme Court, the principle of secrecy of ballots is an important postulate of constitutional democracy and is the cornerstone of free and fair elections. Section 94 of the RPA, 1951, upholds the privilege of the voters to maintain confidentiality about their choice of vote. The law must protect the right of voters to the secrecy of the ballot. However, a voter can also voluntarily waive the privilege of non-disclosure. It is utilized in case of election to the office of President and Vice-President.

### Case of Rajya Sabha elections

In the case of election to Rajya Sabha, the secret ballot system was replaced with an open ballot system in 2003. This was done to curb the trend of cross-voting, which started in 1998. Later, in 2006, it was upheld by the Supreme Court stating, “If secrecy becomes a source for corruption, then sunlight and transparency have the capacity to remove it.” At present, the MLAs elect their state Rajya Sabha MPs and have to show the votes to their party’s representative. This however has not been able to fully curb-cross voting as observed recently during the Rajya Sabha elections in Himachal Pradesh Assembly, where six Congress MLAs voted for the BJP candidate.

### Types of Majorities:

In the Indian parliamentary system, there are four types of majorities that are required for decision-making and governance in the Legislature. These are:

1. **Simple Majority:** A simple majority refers to a majority in which more than half of the members present and voting support a particular decision or a Bill. The Constitution, under Article 100 and Article 189, provides that all questions in all Houses of Legislature are to be determined by a simple majority unless provided otherwise. This type of majority is also known as a functional or working majority. It is utilized for various Parliamentary procedures, like:
  - a. Passage of Ordinary, Money and Financial Bills.
  - b. Passage of Constitutional Amendment Bills, which require a simple majority, like creation of new states, alterations in the size of states, creation or abolition of Legislative Councils by the Parliament, under Article 169, making changes to Schedules like 1st, 5th,

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6th, etc. These changes are outside Article 368 and are effected by ordinary law; they are not Constitutional Amendment Bills (PYQ).

- c. Passage of resolutions by the State 375 Legislatures that need to ratify a Constitution Amendment Bill.
- d. Passage of motions like Adjournment Motion, Non-Confidence Motion, Censure Motion, or Confidence Motion.
- e. Electing the Speaker and Deputy Speaker of the Lok Sabha.
- f. Passage of resolutions such as the 'Removal of Vice-President' in the Lok Sabha.
- g. Declaration of Financial and State Emergencies, etc.

However, approval of a Proclamation of National Emergency under Article 352 now needs the special majority of each House after the Forty-fourth Amendment, 1978 (UPSC CSE Prelims 2018).

2. **Absolute Majority:** This type of majority requires the support of at least half of the total membership of the House. In Lok Sabha, it is 273 and for Rajya Sabha, it is 123. It is not used directly but used in certain cases of special majorities and during the general election, for the formation of government at the Center and the States.
3. **Effective Majority:** Effective Majority denotes a majority surpassing 50% of the effective strength of the House. The effective strength of the House is the total strength of the House minus vacancies, thus, encompassing all the then members of the House. For example, if the Upper House of Parliament has 23 vacancies, the effective majority in Rajya Sabha would be more than 50% of 222 {Total strength (245) - vacancies (23)}, i.e., 112 (not 111). This principle finds application in various scenarios, such as the removal of the Chairman and the Deputy Chairman of the Rajya Sabha and, the removal of the Speaker & the Deputy Speaker of the Lok Sabha and State Legislative Assembly. The Constitution phrases this threshold as "a majority of all the then members" for these offices, and for removal of the Vice-President, the Council of States must pass such a resolution which the House of the People then agrees to by a simple majority (UPSC CSE Prelims 2016).
4. **Special Majority:** All types of majorities other than the absolute, effective, or simple majority are known as the special majority. They are of four types:
  - a. Special Majority—As Per Article 249: It is a majority of not less than 2/3rd of the members present and voting. This is used to pass a Rajya Sabha resolution to empower the Parliament to make laws on the subject listed in the State List. This is also required in the Council of States to create an All India Service under Article 312 (UPSC CSE Prelims 2016).
  - b. Special Majority—As per Article 368: This refers to a majority of members present in addition to securing an absolute majority (more than 50% of the total strength of the House). It is required for the passage of a Constitutional Amendment Bill that which does not affect federalism (like making changes to the Fundamental Rights), removal of judges of higher judiciary, approval of National Emergency in both the houses, passage of a resolution by the state legislature to put forth its opinion to the Parliament for the creation or abolition of the Legislative Council, under Article 169. For removal of Supreme Court and High Court judges, the Constitution prescribes the same numerical majority as in Article 368 though the power flows from Articles 124(4) and 217 read with the Judges

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(Inquiry) Act, 1968 (UPSC CSE Prelims 2014). For approval of a National Emergency, the Forty-fourth Amendment, 1978 introduced the requirement of this special majority in each House (CAPF AC 2016).

- c. **Special Majority** - as per Article 368 with state ratification: This refers to a majority of members present in addition to securing an absolute majority (more than 50% of the total strength of the House). This Bill shall further be ratified by more than half of the State Legislatures, with a simple majority. It is needed for the passage of the Constitutional Amendment Bill in Parliament which affects the federal structure of the country. Article 368 itself specifies the cases where this is required. When a Bill amends:
  - i. Article 54, Article 55, Article 73, Article 162 or Article 241, or Article 279A, or
  - ii. Chapter IV (Part V), Chapter V (Part VI), or Chapter I (Part XI), or
  - iii. 7th Schedule, or
  - iv. Representation of states in the Parliament, or
  - v. Article 368 itself

**Note:** The expression “more than half” is reckoned with reference to the number of States existing at the time the Bill is passed, and Union Territories do not count towards this ratification requirement (UPSC CSE Prelims 2019).
- d. **Special Majority** - as per Article 61: This refers to a majority of 2/3rd of the total strength of the House. It is thus, the toughest majority in the Legislature. This is needed for the impeachment of the President of India. Each House considers the charge separately after a notice of at least fourteen days and the resolution must secure two-thirds of the total membership of that House to pass, followed by the other House, as mandated by Article 61 (UPSC CSE Prelims 2013).

### Process of lawmaking in India

As a diverse and vibrant democracy, India's legislative framework involves meticulous planning, rigorous deliberation and democratic consensus-building. From the conception of a bill to its enactment as a law, each stage in this process is imbued with significance, requiring careful scrutiny and adherence to procedural norms. But do you know what a 'Bill' and an 'Act' are that shape the country's legal landscape?

A 'Bill' is a draft act of the Legislature. In other words, a bill is a proposed law that needs to be discussed in the Legislature before it can become law. An 'Act' is a Bill that has been approved by the House(s) of the Legislature and has been given assent by the President or Governor. Thus, it creates a new law or makes changes to an existing law.

### Types of Bills

The legislative process in India is governed by a diverse array of bills, based on their nature, purpose and origin.

### Categorization according to the origin of the Bill

1. **Government Bill:** It is a bill introduced in a House by a Minister. A notice of 7 days is given to introduce such Bills. It is usually drafted by the Law Department. Its rejection in the Lower

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House signifies the loss of parliamentary confidence in the government and may lead to its resignation.

2. **Private Member's Bill:** A Private Member's Bill is a legislative proposal that is initiated by an individual member of the House, who is not a Minister (PYQ 2017). The purpose of a private member's bill is to draw the government's attention to what individual MPs see as issues and gaps in the existing legal framework, which require legislative intervention. Thus, it reflects the stand of the opposition party on public matters. A notice of 30 days is given to introduce such Bills.

It is drafted by the member concerned. The Parliamentary Committee on Private Members' Bills and Resolutions goes through all such Bills and classifies them based on their urgency and importance. Fridays are reserved for discussion on the Private Member bill. Its rejection by the House has no implication on the parliamentary confidence in the government.

The first Private Member Bill to be passed was the Muslim Waqfs Bill, introduced by Syed Mohammed Ahmad Kasmi in 1952. Till now, out of 14 private member bills only five of which were introduced in Rajya Sabha have been passed by the Parliament since independence (PYQ 2017). The last private member bill that became law was 'The Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Bill, 1970' (PYQ 2017). In 2014, the Rights of Transgender Persons Bill was introduced as a private member's Bill by the Dravida Munnetra Kazhagam MP Tiruchi Siva and was passed by the Rajya Sabha in 2015. But it was replaced by a Government Bill which later became the Transgender Persons (Protection of Rights) Act, 2019.

### Categorization according to the nature of the Bill

1. **Ordinary Bills:** Ordinary Bills cover a wide range of subjects that do not fall under the purview of other types of Bills. These Bills are governed by Article 107 and can be introduced in either House of Parliament, by any member. Such Bills need to be passed by a simple majority in both the Houses.

Regarding Ordinary Bills, both Houses of Parliament hold equal powers, with options to accept, reject, pass with amendments, or keep the bill pending for six months. In this six-month period, the period for prorogation or adjournment exceeding four consecutive days is not counted. If the Rajya Sabha/Lok Sabha rejects the bill or proposes amendments not accepted by the Lok Sabha/Rajya Sabha, a deadlock ensues. To resolve this deadlock, the President can convene a Joint Sitting under Article 108.

#### Article 111: Assent to Bills

When a Bill has been passed by the Houses of Parliament, it shall be presented to the President and the President shall declare either that he assents to the Bill, or that he withholds assent therefrom:

Provided that the President may, as soon as possible after the presentation to him of a Bill for assent, return the Bill if it is not a Money Bill to the Houses with a message requesting that they will reconsider

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the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message, and when a Bill is so returned, the Houses shall reconsider the Bill accordingly, and if the Bill is passed again by the Houses with or without amendment and presented to the President for assent, the President shall not withhold assent therefrom.

### Procedure in Respect of Money Bill:

#### Article 109: Special procedure in respect of Money Bills

- (1) A Money Bill shall not be introduced in the Council of States.
- (2) After a Money Bill has been passed by the House of the People it shall be transmitted to the Council of States for its recommendations and the Council of States shall within a period of fourteen days from the date of receipt of the Bill return the Bill to the House of the People with its recommendations and the House of the People may thereupon either accept or reject all or any of the recommendations of the Council of States.
- (3) If the House of the People accepts any of the recommendations of the Council of States, the Money Bill shall be deemed to have been passed by both Houses with the amendments recommended by the Council of States and accepted by the House of the People.
- (4) If the House of the People does not accept any of the recommendations of the Council of States, the Money Bill shall be deemed to have been passed by both Houses in the form in which it was passed by the House of the People without any of the amendments recommended by the Council of States.
- (5) If a Money Bill passed by the House of the People and transmitted to the Council of States for its recommendations is not returned to the House of the People within the said period of fourteen days, it shall be deemed to have been passed by both Houses at the expiration of the said period in the form in which it was passed by the House of the People.

The Constitution, under Article 109, lays out a special procedure for the passing of money bills in the Parliament [PYQ 2024]. They can only be introduced in the Lok Sabha, with the prior approval of the President. As these bills are considered government bills, they can only be introduced by a minister. After being passed by the Lok Sabha, it is transmitted to the Rajya Sabha for its consideration.

The Rajya Sabha has limited powers with regard to the money bills and can only make recommendations and cannot reject or amend the bill (PYQ 2015, 2023, 2024). It must return the Bill back to the Lok Sabha with or without recommendation for amendments within 14 days, otherwise, it is deemed to have been passed by both the Houses. The Lok Sabha can accept or reject any recommendations made by the Rajya Sabha. If a Money Bill is substantially amended by the Rajya Sabha, the Lok Sabha may still proceed with the bill, accepting or not accepting the recommendations of the Rajya Sabha (PYQ 2013). Thus, Amendments to a Money Bill suggested by the Rajya Sabha need not be accepted by the Lok Sabha (PYQ 2024). Under Article 111, the President has only two options: to give his assent or withhold the assent. The President, thus, cannot return a Money Bill for reconsideration.

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### 2. Money Bill

#### Article 110: Definition of “Money Bills”

(1) For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely:

- (a) the imposition, abolition, remission, alteration or regulation of any tax;
- (b) the regulation of the borrowing of money or the giving of any guarantee by the Government of India, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of India;
- (c) the custody of the Consolidated Fund or the Contingency Fund of India, the payment of moneys into or the withdrawal of moneys from any such Fund;
- (d) the appropriation of moneys out of the Consolidated Fund of India;
- (e) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of India or the increasing of the amount of any such expenditure;
- (f) the receipt of money on account of the Consolidated Fund of India or the public account of India or the custody or issue of such money or the audit of the accounts of the Union or of a State; or
- (g) any matter incidental to any of the matters specified in sub-clauses (a) to (f).

(2) A Bill shall not be deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) If any question arises whether a Bill is a Money Bill or not, the decision of the Speaker of the House of the People thereon shall be final.

(4) There shall be endorsed on every Money Bill when it is transmitted to the Council of States under article 109, and when it is presented to the President for assent under article 111, the certificate of the Speaker of the House of the People signed by him that it is a Money Bill.

Money Bills are typically related to financial matters such as taxation, public expenditure, and public debt. According to the Constitution, a bill is considered a Money Bill if it contains ‘ONLY’ provisions dealing with ‘ALL’ or ‘ANY’ of the matters listed in Article 110, namely:

- Imposition, abolition, remission, alteration or regulation of any tax (PYQ 2018). Note: Imposition of fees or penalties or fees for licenses or services rendered; and imposition, abolition or regulation of tax of any local authority do not come under its purview.
- Deals with the regulation of borrowing of money or giving of any guarantee by the Government of India or relates to an amendment to any law dealing with financial matters of the Union Government. (PYQ 2018)
- Custody of Consolidated Fund or Contingency Fund of India. This includes payment into and withdrawal of money from such funds (PYQ 2018).
- Appropriation of money from the Consolidated Fund of India. Thus, a money bill is not concerned with the appropriation of money out of the Contingency Fund of India (PYQ 2018).

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- Declaring expenditure charged on the Consolidated Fund of India.
- Receipt of money on account of the Consolidated Fund of India or the Public Account of India. This also entails custody or issue of such money or the audit of accounts of the Union or State.
- Matters incidental to such matters.

The decision of the Speaker to qualify a Bill as a Money Bill is final. Thus, the Speaker shall certify Money bills when they are presented to the President for his/her assent. The Speaker shall also endorse Money bills when transmitting them to the Rajya Sabha.

The issue of whether judicial review can be exercised over a decision of the Speaker had arisen subsequently before another Constitution Bench in *Rojer Mathew vs South Indian Bank Ltd.* This was in the context of whether some provisions of the Finance Act, 2017 (relating to appointments to tribunals and the conditions of service of members), could have been certified as a money Bill. That judgment had said that the Speaker's decision was not beyond judicial review though the scope was extremely restricted.

### Appropriation vs Withdrawal

Appropriation is the act of setting aside a specific amount of money for a designated purpose, while withdrawal is the act of removing funds from a deposit with no assigned purpose. In the context of government finances, appropriation is the legal authorization to withdraw funds from the Consolidated Fund of India for specified purposes.

### Issues related to the Money bill

Issues surrounding money bills have sparked controversy, particularly concerning their use to bypass scrutiny or legislative processes. The controversy around the passage of the Aadhaar Act of 2016 as a Money Bill exemplifies this. The opposition argued that matters such as equitable distribution of benefits don't fall under the purview of a Money Bill, as defined in Article 110, thus questioning the legality of the Aadhaar Bill's classification.

Concerns also arise regarding the role of the Speaker, who has sole discretion in certifying bills as money bills, potentially leading to accusations of partisanship. This was seen in the case of the Finance Act of 2017, passed as a money bill, which amended various acts to introduce new rules and appointments to tribunals like the National Green Tribunal. The question of which Bills can be designated as Money Bills was referred to a seven-judge Bench in November 2019 by a five-judge Bench led by then CJI Ranjan Gogoi in *Rojer Mathew vs South Indian Bank Ltd.*

## 3. Financial Bills

### Article 117: Special provisions as to financial Bills

(1) A Bill or amendment making provision for any of the matters specified in sub-clauses (a) to (f) of clause (1) of article 110 shall not be introduced or moved except on the recommendation of the

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President and a Bill making such provision shall not be introduced in the Council of States: Provided that no recommendation shall be required under this clause for the moving of an amendment making provision for the reduction or abolition of any tax.

(2) A Bill or amendment shall not be deemed to make provision for any of the matters aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes. (3) A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of India shall not be passed by either House of Parliament unless the President has recommended to that House the consideration of the Bill.

Financial bills are those bills that are concerned with financial problems but are not money bills, according to Article 117 of the Indian Constitution.

### Types of Financial Bills:

- Financial Bill Type I [Article 117 (1)]** It includes not only the subjects stated in Article 110 of the Constitution but also other legislative provisions. It is comparable to the money bill in two ways. Firstly, both of these bills can only originate in the Lok Sabha and not Rajya Sabha. Secondly, both bills can be introduced only on the President's advice. A finance bill (I) follows the same parliamentary process as an ordinary bill in all other respects.
- Financial Bill Type II [Article 117(3)]**: This type of Financial Bill does not contain any of the items listed in Article 110, but it does contain measures impacting the Consolidated Fund of India. The procedure for passing these bills is similar to that of an ordinary Bill except that it cannot be passed by either house unless the President has recommended consideration of the bill to that house.

In both cases, the President can give his assent or withhold his assent or return it for reconsideration.

Type of Bill	Prior recommendation of President	Introduction	Status of Rajya Sabha	Deadlock & Joint sitting	President's Assent
Ordinary Bill	Not required	LS or RS	Mandatory	Possible -> Joint sitting as per Article 108	Discretion of President

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Money Bill	Required	LS ONLY	Formal role	Not possible	Shall not return for re-consideration
Constitutional Amendment Bill	Not required	LS or RS	Mandatory	Possible -> Joint sitting NOT possible, both Houses must pass separately	Shall assent (after 24th CAA 1971) -> NO role for executive, therefore, legislative prerogative ONLY
Financial Bill - Type 1	Required	LS ONLY	Mandatory	Possible -> Joint sitting as per Article 108	Discretion of President
Financial Bill - Type 2	Not required	LS or RS	Mandatory prior recommendation of President is essential for consideration of the Bill by either House, cannot pass Bill until such recommendation	Possible -> Joint sitting as per Article 108	Discretion of President

### 4. Constitutional Amendment Bill

The Constitutional Amendment Bill can be introduced in any House of Parliament, by any member, be it

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a minister or a private member. An amendment to the Constitution of India can be initiated by the introduction of a Bill in either house, i.e., Lok Sabha or Rajya Sabha. The Constitution cannot be amended by way of the introduction of Bills in the state legislatures (PYQ 2013).

These bills must be passed separately by both the Houses by a special majority and there is no provision for joint sitting (PYQ 2022). Unlike other bills, a Constitution Amendment Bill does not require prior recommendation from the President of India (PYQ 2022). If the amendment affects federal provisions, it must be ratified by at least half of the state legislatures.

Once a Constitution Bill is presented to the President of India, it is mandatory for the President to grant assent, after the 24th Amendment Act. Notably, Constitutional Amendment Acts are not covered by Article 13. Special majority under Article 368 requires a majority of the total membership of each House and a majority of not less than two-thirds of the members present and voting (UPSC CSE Prelims 2016).

### Procedure for Passing the Bills

In the Bicameral Legislature, the Bill is introduced in the First House, and it undergoes three distinct stages of reading. The first stage, the Introduction stage involves a member seeking permission from the House. The details of the Bill are published in the official gazette, which serves as the legally authorized weekly bulletin of the Government.

Next comes the General discussion stage, a compulsory stage where the Bill is discussed in broad terms, considering its larger objectives rather than delving into its clauses. The Bill may then be referred to a Select Committee, or Joint Committee, or circulated for public opinion. Detailed consideration follows, during which amendments can be proposed. Finally, the voting stage involves debate on whether to pass or reject the Bill, culminating in a final vote.

The Second House follows identical procedures to the first. It either passes the Bill as received, or rejects it, or passes it with amendments. In cases of rejection or amendment, if the first House disagrees, the bill proceeds to a Joint sitting for further deliberation. Additionally, if no action is taken on the bill within six months, it automatically proceeds to a Joint sitting, without considering the days when the House was prorogued or adjourned for more than four consecutive days.

**Note:** A Gazette-extraordinary is published midweek to include information on issues of urgent importance. The Gazetted officers are typically Class I and II officers whose appointments, transfers, suspensions, etc., are published in the Gazette.

### Joint Sitting of Parliament

#### Article 108: Joint sitting of both Houses in certain cases

(1) If after a Bill has been passed by one House and transmitted to the other House--

- (a) the Bill is rejected by the other House; or
- (b) the Houses have finally disagreed as to the amendments to be made in the Bill; or
- (c) more than six months elapse from the date of the reception of the Bill by the other House without the Bill being passed by it. The President may, unless the Bill has lapsed by reason of a dissolution of the House of the People, notify to the Houses by message if they are sitting or by public notification if they are not sitting, his intention to summon them to meet in a joint sitting for the purpose of

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deliberating and voting on the Bill: Provided that nothing in this clause shall apply to a Money Bill.

(2) In reckoning any such period of six months as is referred to in clause (1), no account shall be taken of any period during which the House referred to in sub-clause (c) of that clause is prorogued or adjourned for more than four consecutive days.

(3) Where the President has under clause (1), notified his intention of summoning the Houses to meet in a joint sitting, neither House shall proceed further with the Bill, but the President may at any time after the date of his notification summon the Houses to meet in a joint sitting for the purpose specified in the notification and, if he does so, the Houses shall meet accordingly.

(4) If at the joint sitting of the two Houses the Bill, with such amendments, if any, as are agreed to in joint sitting, is passed by a majority of the total number of members of both Houses present and voting, it shall be deemed for the purposes of this Constitution to have been passed by both Houses: Provided that at a joint sitting--

(a) if the Bill, having been passed by one House, has not been passed by the other House with amendments and returned to the House in which it originated, no amendment shall be proposed to the Bill other than such amendments (if any) as are made necessary by the delay in the passage of the Bill;

(b) if the Bill has been so passed and returned, only such amendments as aforesaid shall be proposed to the Bill and such other amendments as are relevant to the matters with respect to which the Houses have not agreed; and the decision of the person presiding as to the amendments which are admissible under this clause shall be final.

(5) A joint sitting may be held under this article and a Bill passed thereat, notwithstanding that a dissolution of the House of the People has intervened since the President notified his intention to summon the Houses to meet therein.

The legislative procedure of Joint Sitting has been derived from the Australian Constitution. It serves as a tool to resolve deadlocks between the two Houses of Parliament. The President, under Article 108, can convene a Joint Sitting under three conditions:

- a) When six months have elapsed from the date of reception of the Bill by the second House, without passing the bill, or
- b) When there's a final disagreement on amendments between the Houses, or
- c) When the bill is rejected by the other House.

The Speaker of the Lok Sabha presides over the sitting, or in their absence, the Deputy Speaker, and in his absence, the Deputy Chairperson of the Rajya Sabha presides. Should none be available, a member decided by the Houses takes charge. Notably, the Chairman of the Rajya Sabha never presides over a Joint Sitting, as s/he is not a member of either House.

The proceedings of the joint sitting are governed by the Rules of Procedure of the Lok Sabha. During a joint sitting, the bill requires a simple majority of the members present and voting to be enacted (PYQ 2015). If the Lok Sabha is dissolved before a joint sitting is called by the President, the Bill lapses, i.e., if a Bill is lapsed due to dissolution of the Lok Sabha, no joint sitting can be summoned. Additionally, if the Lok Sabha is dissolved after the calls for joint-sitting by the President, then the joint-sitting will be held,

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and the dissolved Lok Sabha will participate. In any case, if the call for the Joint sitting has been made by the President, neither House can proceed further with the Bill.

The Constitution has detailed the amendments that can be made to the bill in the joint sitting. It suggests:

(a) If the Bill has been passed by the first House but not passed by the second House with amendments and returned, ONLY those amendments made necessary due to delay in passage will be allowed; (b) If deadlock is created due to amendment by revisionary House, amendment only to those provisions which created deadlock is allowed. In any case, the decision of the Presiding Officer will be final.

The provision of Joint sitting applies only to the Ordinary and Financial bills, not to the Money bills or Constitutional Amendments Bills (PYQ 2012). In the past, the Joint Sitting provision has been utilized thrice – the Dowry Prohibition Bill 1960, the Banking Service Commission Bill 1977 and the Prevention of Terrorism Bill 2002. Interestingly, it is not applicable to bicameral state legislatures as there cannot be a situation of a deadlock, rather a Bill can only be delayed for a maximum period of four months by the Legislative Council.

### Lapsing of Bill

#### Article 107: Provisions as to introduction and passing of Bills

(1) Subject to the provisions of articles 109 and 117 with respect to Money Bills and other financial Bills, a Bill may originate in either House of Parliament.

(2) Subject to the provisions of articles 108 and 109, a Bill shall not be deemed to have been passed by the Houses of Parliament unless it has been agreed to by both Houses, either without amendment or with such amendments only as are agreed by both Houses.

(3) A Bill pending in Parliament shall not lapse by reason of the prorogation of the Houses.

(4) A Bill pending in the Council of States which has not been passed by the House of the People shall not lapse on a dissolution of the House of the People.

(5) A Bill which is pending in the House of the People, or which having been passed by the House of the People is pending in the Council of States, shall subject to the provisions of article 108, lapse on a dissolution of the House of the People.

When the Lok Sabha is dissolved, all business including bills, motions, resolutions, notices, and petitions pending before it or its committees lapses. Articles 107 and 108 of the Indian Constitution deal with these provisions. A Bill pending In the Lok Sabha does not lapse on its prorogation (PYQ 2016).

#### Status of a Bill in Case of dissolution of Lok Sabha:

Bills that lapse	Bills that do not lapse
<ul style="list-style-type: none"> <li>A Bill that originates in the Lok Sabha and remains pending in the Lok Sabha (PYQ 2024)</li> <li>A Bill that originates and is passed by the Rajya Sabha but is pending in the Lok</li> </ul>	<ul style="list-style-type: none"> <li>A Bill that is pending in the Rajya Sabha but is not passed by the Lok Sabha.</li> <li>Bills that have cleared both the Houses but are pending assent from the President.</li> <li>If the president has notified the holding of</li> </ul>

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<p>Sabha.</p> <ul style="list-style-type: none"> <li>• Bills that originate and are passed in the Lok Sabha but are pending in the Rajya Sabha. (PYQ 2024)</li> <li>• Bill that originates and is passed in the Rajya Sabha but is returned with amendments to the Upper House by the Lok Sabha and then does not get the clearance of the Rajya Sabha</li> </ul>	<p>a joint sitting before the dissolution of Lok Sabha. (PYQ 2024)</p> <ul style="list-style-type: none"> <li>• A bill passed by both Houses but returned by the president for reconsideration of the Rajya Sabha.</li> <li>• Pending bills and all pending assurances that are to be examined by the Committee on Government Assurances.</li> </ul>
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### Devices for exercising Parliamentary Control

Parliamentary control encompasses various mechanisms through which legislative bodies ensure oversight and influence over government actions. The Parliament of India exercises control over the functioning of the Council of Ministers through Question hour, Adjournment motion, Supplementary questions, etc. (PYQ 2017).

### Question Hour

Question Hour, stipulated in the Rules of Procedure, marks the initial hour of each parliamentary session, typically from 11 am to 12 pm. It serves as a regulated platform for parliamentary inquiries. Questions posed during this period must be concise, limited to 150 words, and focused, with final approval for answering left to the presiding officers of both Houses. Ministries receive these questions 15 days prior to the session to facilitate ministerial preparation. Private members can also be questioned during this session. However, ministers reserve the right to refuse to respond, with the presiding officer's decision being final.

This is not held during two specific occasions: when the President addresses both Houses and during the Finance Minister's Budget presentation. Additionally, it was also suspended during the Monsoon Session of 2020 due to the COVID-19 pandemic, marking the first such suspension for a regular session. Questions during this hour can be categorized as (a) starred - seeking oral responses with possible supplementary questions, (b) un-starred - written question seeking written replies with no scope of supplementary questions, and (c) short-notice questions - which can be either starred or un-starred and need a notice of at least 10 days. Interestingly, With the broadcasting of Question Hour since 1991, Question Hour has become one the most visible aspects of parliamentary functioning.

### Do You Know?

- At the beginning of Parliament in 1952, Lok Sabha rules provided for Question Hour to be held every day. Rajya Sabha, on the other hand, had a provision for Question Hour for two days a week. Then from 1964, Question Hour was taking place in Rajya Sabha on every day of the session.
- There is no Question Hour on the day the President addresses MPs from both Houses in the Central Hall.
- Question Hour is not scheduled either on the day the Finance Minister presents the Budget.

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### Zero Hour

Zero Hour is an informal parliamentary practice that commences immediately after the Question Hour and extends until the day's agenda is taken up. Although not formally recognized in the rules of procedure, it has been a part of Indian parliamentary proceedings since 1962. It is an Indian innovation that allows members to bring forth issues of urgent public concern. A notice to take up questions must be given by the same morning.

### Motions

In parliamentary procedure, a motion is a proposal put forth by any member of a legislative body, suggesting a specific action or to elicit a decision or opinion of the House. Essentially, a motion is a formal proposition aimed at initiating discussion and deliberation among parliament members. Its primary objective is to facilitate a systematic and democratic process for members to voice their opinions and address matters of public importance.

These motions can originate from individual members or groups and may encompass a broad spectrum of issues, including policy concerns, legislative initiatives, or matters of public interest. Typically, the rules and protocols governing the introduction and debate of motions within parliament adhere to the regulations established by the respective parliamentary body.

### Adjournment Motion

In the Parliament of India, the purpose of an adjournment motion is to allow a discussion on a definite matter of urgent public importance. (PYQ 2012). It seeks to draw the attention of the government on a matter of immediate concern, with the Speaker's consent. It requires the backing of 50 members and a notice must be given on the same day.

The adjournment motion has its origins in the House of Commons in the United Kingdom and was first introduced in India under the Government of India Act, 1919. At that time, members of the Central Legislative Assembly and the Council of States were allowed to move such motions. In independent India, the adjournment motion was formalised in 1952 under the Rules of Procedure of the Lok Sabha, following the establishment of collective responsibility of the Council of Ministers to the House.

For an adjournment motion to be admitted in the Lok Sabha, certain strict conditions must be satisfied. The issue raised must be urgent, definite, and of national importance, and it should relate directly to the responsibility of the Government of India. Further, the motion cannot deal with matters of privilege, revive discussions already concluded in the same session, or pertain to sub-judice issues pending before a court of law. These safeguards are intended to prevent misuse of the motion and to ensure that it remains a tool for addressing only pressing and substantive matters of public concern.

It is deemed to be an extraordinary measure as the agenda of the day is suspended. While accessible in the Lok Sabha, it is not applicable in the Rajya Sabha. The minimum time for debating such motions should be two and a half hours. Notably, the passage of such a motion does not mandate the government's resignation; however, it signifies a significant censure of the government's actions or policies. For example- The adjournment motion moved in the Lok Sabha in 1996 over the Hawala scam led to intense scrutiny of the government's handling of corruption cases, highlighting the motion's utility in raising high-impact issues.

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### What about Rajya Sabha?

The Rajya Sabha does not have a provision for adjournment motions. Instead, over the years, its members have used Rule 267 to suspend business and discuss urgent matters. Introduced in 1952, Rule 267 allowed any member, with the Chairman's consent, to move for suspension of any rule to discuss a matter of importance.

### No-Confidence Motion

As we know that in a parliamentary democracy, a government can be in power only if it commands a majority in the directly elected House. Article 75(3) of our Constitution embodies this rule by specifying that the Council of Ministers are collectively responsible to the Lok Sabha. For testing this collective responsibility, the rules of Lok Sabha provide a particular mechanism i.e. a motion of no-confidence.

The No-Confidence motion serves as a test regarding the confidence of the House in the government. Although not explicitly mentioned in the Indian Constitution, Rule 198 of the Rules of Procedure and Conduct of Lok Sabha outlines the procedural aspects of such motions (PYQ 2014). According to this rule, a no-confidence motion can only be introduced in the Lok Sabha, usually, once per session (PYQ 2014). These motions are introduced against the entire council of ministers, rather than the individual ministers. There is no need to specify reasons for introducing such motions. The admission of such a motion requires the support of at least 50 members of the House. It requires a simple majority for its passage. The rules of procedure of Lok Sabha specify that after the no-confidence motion is admitted, the Speaker shall specify the date on which the debate will begin. This date should be within 10 days from the date the motion was accepted in the House.

Typically triggered by a perceived loss of majority support, these motions are significant political events. If the government fails to prove its majority, it must resign. Often misquoted, but to date, no No-Confidence motion has been successfully passed.

### Do You Know?

- It was during the third Lok Sabha in 1963 that the first motion of no confidence was moved by Acharya J B Kripalani against the government headed by Prime Minister Jawaharlal Nehru.
- The highest number of no-confidence motions - 15 - in the history of independent India was moved against governments led by Indira Gandhi.
- The Atal Bihari Vajpayee government lost the no-confidence motion by a margin of one vote (269-270) in April 1999.

### Confidence Motion:

A Confidence Motion, also known as a trust vote, is a mechanism through which the government demonstrates its majority support in the Lok Sabha. It is moved by the ruling party or coalition to establish the confidence of the House, particularly when directed by the President or during situations of political uncertainty. Although there is no explicit provision for it in the Rules of Business, such a motion is generally introduced under Rule 184 of the Lok Sabha, which provides for discussion followed by voting.

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Several Prime Ministers have lost trust votes in parliamentary history, including Charan Singh (1979), V.P. Singh (1990), Atal Bihari Vajpayee (1996 and 1999), and H.D. Deve Gowda (1997). These instances highlight its significance in testing the legitimacy of a government, especially during its formation or when it commands a fragile majority. The passage of a Confidence Motion reaffirms the government's mandate to govern, while its defeat leads to resignation or the fall of the government.

### Privilege Motion

A Privilege Motion is moved when a member alleges a breach of parliamentary privileges by another member or a minister. It is often directed against ministers for hiding facts or misleading the House. Its purpose is to safeguard the dignity of the legislature by enabling censure or disciplinary action. For example, a privilege motion was moved against Indira Gandhi in 1978 and against P. Chidambaram in 2013. It remains an important tool to uphold accountability and transparency in parliamentary proceedings.

### Motion of Thanks

The Motion of Thanks is a significant parliamentary procedure through which members of Parliament collectively express gratitude for the President's Address at the commencement of the first session each year and after general elections. The discussion on the motion provides an opportunity for members to critically evaluate the government's policies and programmes outlined in the address. At the conclusion of the debate, the motion is put to vote in the Lok Sabha. Its passage reaffirms the government's majority, while its rejection amounts to a loss of confidence in the government.

### Censure Motion

A censure motion is a formal expression of severe disapproval, primarily targeting the government or a specific minister within it. This motion is exclusively introduced in the Lok Sabha and requires specific reasons to be provided. If passed, it does not necessitate the resignation of the targeted minister or the government.

### Cut Motion

A Cut Motion, presented in parliament, seeks to reduce the demands in the budget. Its approval by the Lok Sabha signifies a lack of parliamentary confidence in the government and may lead to its resignation. These motions serve as tools for Members of Parliament to contest government requests for funds, thus enabling them to express dissent or advocate for fiscal restraint. It seeks a reduction of the amount of demands of grants on the grounds of economy, policy cut and token cut.

1. **Economy cut motion** - demands reduction of a specified amount from the Demand for a grant to rationalise the expenditure and seek the welfare of the economy. It represents the economy that can be affected by the proposed expenditure.
2. **Policy cut motion** - demand for a grant is reduced to Re.1, representing the disapproval of the policy underlying the demand. A member giving such notice should indicate precise terms and the particulars of the policy which he proposes to discuss. It is open to the members to advocate an alternative policy. It practically amounts to a vote of no-confidence.

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3. **Token cut motion** - used to highlight grievance on the record of the House. In token cut, the amount of the Demand for Grant is reduced by Rs.100 in order to express a specific grievance.

Cut motions are subject to specific conditions to ensure their procedural integrity and relevance. A cut motion must avoid raising questions of privilege, maintaining focus on the substantive issue at hand. It should pertain to a single demand within the budget. Importantly, cut motions cannot pertain to expenditures charged on the Consolidated Fund of India. This motion is only available during the Voting on Demands for grants while enacting the Budget.

### Calling Attention Motion

A Calling Attention Motion, an Indian innovation, is a parliamentary procedure utilized by Members of Parliament to draw the attention of a relevant minister to pressing matters of public significance, thereby eliciting an authoritative statement from them.

#### Other Motions:

- **Dilatory motion:** This motion is used to postpone the action of the House on a particular issue.
- **No-Day-Yet-Named Motion:** It is a motion that has been admitted but no time has been designated to take it up.

### Resolution

A Resolution is a formal expression of the opinion or decision of Parliament or its committees, adopted through a voting process. Unlike motions, which may only initiate discussions, a resolution records the definitive stance of the House on a particular issue. Both private members and ministers can introduce resolutions, providing a structured mechanism to articulate the collective will of the legislature. The essential distinction lies in the fact that resolutions always require a vote, thereby giving them greater weight as instruments of parliamentary expression.

They are categorized into (a) Government resolutions, introduced by ministers, (b) Private-Member resolutions, proposed by individual members, and (c) Statutory resolutions, mandated by law or constitution, such as those concerning the removal of Supreme Court judges. Thus, resolutions primarily underscore procedural formality over substantive content, embodying the House's formal expression of will or opinion.

Motions	Resolution
<ul style="list-style-type: none"> <li>The House expresses its decision or opinions on various issues through the adoption or rejection of Motions.</li> <li>It can be moved by both ministers and private members.</li> <li>All motions need not be substantive and need not be voted upon.</li> </ul>	<ul style="list-style-type: none"> <li>The members can move resolutions to draw the attention of the house to matters of general interest.</li> <li>It can be moved by both ministers and private members.</li> <li>All resolutions are substantive motions and need to be voted upon.</li> </ul>

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### Other Tools:

1. **Half-hour Discussions:** Half-hour discussions, typically permitted up to three times per week, offer a platform to engage in debates on matters of public significance, provided they haven't been recently discussed in the House.
2. **Short Duration Discussion:** provided under Rule 193 of the Lok Sabha and Rule 176 of the Rajya Sabha, allow Members of Parliament to deliberate on matters of urgent public importance within a limited timeframe, usually not exceeding two hours. These discussions are purely deliberative in nature, as they do not culminate in voting or formal resolutions. Their primary purpose is to highlight significant issues, encourage constructive debate, and provide a platform for diverse perspectives, thereby enriching parliamentary discourse without binding the House to a specific decision.
3. **Naming a Member:** When a Member of Parliament exhibits unruly behaviour, the Presiding Officer intervenes by naming the member, signalling the need for corrective action. In the Lok Sabha, Rule 373 empowers the Speaker to direct the member to withdraw for the remainder of the day, while in the Rajya Sabha, Rule 255 grants the Chairperson similar authority. If the misconduct persists, the Rajya Sabha may collectively pass a motion to suspend the member, with the possibility of revocation through a subsequent motion.

Additionally, in the Lok Sabha, Rule 374A, introduced in 2001, stipulates automatic suspension for five consecutive sittings or the remainder of the session, whichever is shorter, upon naming a member. However, the power to revoke such suspension lies with the House through a collective motion. Recently, there has been an observed increase in the frequency of Presiding officers utilizing this measure, particularly in the Lok Sabha.

### Annual Financial Statement

According to the Constitution, under Article 112, a Budget is a statement of the estimated receipts and expenditures of the Government of India in a financial year. The term 'Budget' is not mentioned in the Constitution, instead, it uses the term 'Annual Financial Statement'. The Department of Economic Affairs is responsible for the preparation of the Union Budget that is presented to the Parliament (PYQ 2010, 2015). Since 2016, the Railway Budget has been merged with the General Budget. When the Annual Union Budget is not passed by the Lok Sabha, then the Prime Minister submits the resignation of the Council of Ministers. (PYQ 2011). The budget is a comprehensive financial statement that serves as the government's blueprint for fiscal planning and governance. It contains taxation proposals to generate revenue, along with projections of anticipated income. On the expenditure side, it specifies how funds will be allocated across sectors, including the launch of new schemes and projects to address emerging priorities.

In addition, the budget provides a detailed account of the previous year's receipts and expenditures, offering an assessment of past financial performance. It also outlines strategies for resource mobilization through revenue and capital receipts, and sets out estimates of expenditure under different heads. Together, these components create a structured framework for financial management, policy direction, and economic decision-making.

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### Constitutional Provisions for Budget

#### Article 112: Annual financial statement

- (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.

The Indian Constitution outlines several key provisions regarding budgetary matters. Firstly, as outlined under Article 112, the Annual Financial Statement must be presented by the President before both houses of Parliament every fiscal year. No taxes can be levied or collected without a law (Article 265). Furthermore, bills imposing taxes, known as Money Bills, require the President's recommendation for their introduction.

### Stages in the Enactment of Budget

The enactment of the budget in the Indian Parliament involves several stages, each playing a crucial role in the formulation and approval process. Let's have a look at each stage:

1. **Presentation of Budget:** The budget is presented in the Parliament by the Finance Minister on a specified date, usually at the beginning of the budget session. From 2017 onwards, the Budget has been presented on the first working day of February. The presentation of the Budget is always preceded by the launch of the Economic Survey, typically on January 31.
2. **General Discussion:** After the budget presentation, both houses of Parliament engage in a general discussion on the budget proposals. Members of Parliament have the opportunity to scrutinize and debate various aspects of the budget, including taxation policies, charged expenditures, and overall economic priorities & strategies. Thus, the government foretaste the sentiment of the House on the Budget and prepares for upcoming stages. In this stage, no cut motions can be moved, nor can the budget be submitted to vote.
3. **Committee Stage:** Since 1993, the budget is then referred to the various Department-related Standing Committees, ministry wise, for detailed examination and scrutiny. These committees, such as the Standing Committees on Finance, thoroughly review different aspects of the budget and make recommendations for improvements or changes. Such committees are to scrutinize and report within a stipulated time, i.e., during the recess of Parliament.

#### Article 113: Procedure in Parliament with respect to estimates

- (1) So much of the estimates as relates to expenditure charged upon the Consolidated Fund of India shall not be submitted to the vote of Parliament, but nothing in this clause shall be construed as preventing the discussion in either House of Parliament of any of those estimates.
- (2) So much of the said estimates as relates to other expenditure shall be submitted in the form of

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demands for grants to the House of the People, and the House of the People shall have power to assent, or to refuse to assent, to any demand, or to assent to any demand subject to a reduction of the amount specified therein.

(3) No demand for a grant shall be made except on the recommendation of the President.

4. **Voting on Demands for grants:** According to the Parliamentary procedure, as laid down under Article 113, the demands for grants are put forward by the government to request funds to be allocated to different ministries and departments for their functioning and implementation of various programs. These Demands for Grant shall be made only on the prior recommendation of the President.

The Demands of individual Ministries are voted upon in the Lok Sabha, as it has the exclusive power to vote on the demands for grants presented in the budget. The charged expenditure is not voted upon. In this stage, invasive questioning is done by the opposition about budgetary layout and on specific issues, schemes, policies, etc. Opposition MPs can utilize Cut Motions as they are available only at this stage. Demand when approved by the Lok Sabha vote becomes Grant.

For voting on Demands for grants, a period of around 26 days is allotted for this stage. Citing paucity of time, most of the budget is passed through guillotine motion, i.e., cutting short discussion and the undiscussed parts are also put to vote without discussion. It can be said that the idea of budgetary accountability has become a hollow concept.

5. **Appropriation Bill Stage:** Once the demands for grants are approved by the Lok Sabha, the government introduces the Appropriation Bill, as outlined under Article 114. The Constitution mandates that the funds from the Consolidated Fund of India can only be withdrawn according to appropriations made by law.

The Appropriation Bill, thus, clubs all grants together along with the charged expenditure to formulate a total outlay of the Budget. It authorizes the government to withdraw funds from the Consolidated Fund of India to meet its expenditure requirements as outlined in the budget. It is, thus, said that the Appropriation Bill looks after the Payment side. The Bill can be either accepted or rejected but cannot be amended. If rejected, it amounts to a vote of no-confidence.

### Article 114: Appropriation Bills

(1) As soon as may be after the grants under article 113 have been made by the House of the People, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of India of all moneys required to meet--

- (a) the grants so made by the House of the People; and
- (b) the expenditure charged on the Consolidated Fund of India but not exceeding in any case the amount shown in the statement previously laid before Parliament.

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(2) No amendment shall be proposed to any such Bill in either House of Parliament which will have the effect of varying the amount or altering the destination of any grant so made or of varying the amount of any expenditure charged on the Consolidated Fund of India, and the decision of the person presiding as to whether an amendment is inadmissible under this clause shall be final.

(3) Subject to the provisions of articles 115 and 116, no money shall be withdrawn from the Consolidated Fund of India except under appropriation made by law passed in accordance with the provisions of this article.

6. **Finance Bill Stage:** The Finance Bill is introduced to enact the taxation proposals outlined in the budget. It is, thus, said that the Finance Bill looks after the Income side. This bill includes provisions related to income tax, customs duties, excise duties, and other tax measures proposed by the government. It requires the approval of both houses of Parliament.

The Parliament cannot ask the government to enhance the tax rates proposed by it, though it can reduce or reject a tax. Interestingly, the indirect taxes become applicable from the midnight of the day they are announced, even though they might be approved later. The Provisional Collection of Taxes Act, 1931, authorises the government to collect indirect taxes at the proposed rate for a period of 75 days, pending approval by the Parliament. Thus, the Finance Bill must be passed within 75 days.

When the Appropriation Bill and the Finance Bill are passed by the Parliament and receive the assent of the President, they become a law. These two laws together, are known as the Fiscal laws of the country for that year.

### Structure and Heads of the Budget

The budget is structured into three main sectors: (a) General services - encompassing defence, fiscal services, and others; (b) Social/community services - covering health, education, and related areas; and (c) Economic services involving industry and similar sectors.

It follows a six-tier classification for the management of accounts, which facilitates the presentation, approval, and implementation of the budget. This classification includes (a) major heads at the ministry level, (b) sub-major heads at the department level, (c) minor heads, (d) sub-heads for specific schemes, (e) detailed sub-heads for sub-schemes, and (f) object heads specifying the nature of expenditure.

### Expenditure charged upon the Consolidated Fund of India

**Article 112(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

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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 exercises jurisdiction in relation to any area included in 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.

Expenditure made upon the Consolidated Fund of India can be discussed as well as voted upon. In contrast, certain expenditures are charged on the Consolidated Fund of India, i.e., such expenditures cannot be subjected to a vote of Parliament. Such expenditures can only be discussed in either House of the Parliament. Such charged expenditures have been majorly outlined under Article 112, namely:

- a) Emoluments of the President and his office
- b) Salaries and allowances of Chairman and Deputy Chairman of the Rajya Sabha; Speaker and Deputy Speaker of the Lok Sabha
- c) Debt Charges of the Government
- d) Salaries, allowances and pensions payable to the Judges of the Supreme Court (PYQ 2012), and pensions payable in case of Judges of the High Courts
- e) Salary, allowances and pension of CAG
- f) Sums required to satisfy a judgment; Decree of any award of any Court
- g) Any other Expenditure declared by law of Parliament (or) the Constitution

Additionally, administrative expenses of the Supreme Court (Article 146), CAG (Article 148) and UPSC (Article 322), the expenditure on the Statutory Grants under Article 275, are charged on the Consolidated Fund of India. These expenses also include the salaries, allowances and pensions of persons serving in these offices. Interestingly, Salaries and Allowances of the High Court Judges are charged upon the Consolidated Fund of the States (PYQ 2002)

### Other Grants and Terminologies Associated with Budget

#### Article 115. Supplementary, additional or excess grants

(1) The President shall--

- (a) If the amount authorised by any law made in accordance with the provisions of article 114 to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year, or
- (b) If any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year, cause to be laid before both the Houses of Parliament another statement showing the estimated amount of that expenditure or cause to be presented to the House of

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the People a demand for such excess, as the case may be.

(2) The provisions of articles 112, 113 and 114 shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of moneys out of the Consolidated Fund of India to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet such expenditure or grant.

1. **Supplementary grant:** A supplementary grant, as outlined in Article 115, addresses situations where the allocated funds for a specific service are deemed insufficient for that year. This typically occurs when there is an anticipation of exceeding the budget. In such cases, supplementary funds are requested and subsequently approved to meet the required expenses.
2. **Additional Grant:** The Additional Grant, governed by Article 115, pertains to extra expenses incurred for a new service that was not initially included in the Budget for the year. This typically involves funding for a novel item or service that is anticipated to persist in the future.
3. **Excess grant:** The Excess Grant, as outlined under Article 115, pertains to funds expended on a service in excess of the allocated amount during a fiscal year. The expenditure made in excess, without prior approval from the Lok Sabha, is subsequently ratified by the Lok Sabha through an Excess grant.

### Article 116. Votes on account, votes of credit and exceptional grants

(1) Notwithstanding anything in the foregoing provisions of this Chapter, the House of the People shall have power--

- (a) to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in article 113 for the voting of such grant and the passing of the law in accordance with the provisions of article 114 in relation to that expenditure;
- (b) to make a grant for meeting an unexpected demand upon the resources of India when on account of the magnitude or the indefinite character of the service the demand cannot be stated with the details ordinarily given in an annual financial statement;
- (c) to make an exceptional grant which forms no part of the current service of any financial year; and Parliament shall have power to authorise by law the withdrawal of money from the Consolidated Fund of India for the purposes for which the said grants are made.

(2) The provisions of articles 113 and 114 shall have effect in relation to the making of any grant under clause (1) and to any law to be made under that clause as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet such expenditure.

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4. **Exceptional Grant:** An Exceptional Grant, under Article 116, involves the provision for extraordinary circumstances for funding an exceptional item, i.e., a new one-time item, unaccounted for in the budget.
5. **Token Grant:** It is granted when funds to meet the proposed expenditure on a new service can be made available by re- appropriation. A Demand for a Grant of a token sum (of Re 1) is submitted to the vote of Lok Sabha and it does not involve any additional expenditure. Re-appropriation of money from one- head to another-head of the Budget is facilitated by a token grant.
6. **Votes on Account:** A Vote on Account, under Article 116, allows for an advance allocation of funds for estimated expenditures for a period when the procedure for enactment of the Budget is being undertaken. It is generally granted for two months for an amount equivalent to one-sixth of the total estimation. The government cannot change the tax regime using this tool, under any circumstances. A vote on Account is obtained from Parliament through an Appropriation (Vote on Account) Bill.
7. **Votes of Credit:** Votes of Credit, under Article 116, is granted to address unforeseen demands on India's resources, characterized by their indefinite nature and magnitude. These funds are designated for expenditures where precise estimates are unattainable, such as during times of war or emergency vaccine development, etc. Essentially, it provides a blanket authorization for expenditure, akin to a blank cheque. This, however, will have to be ratified by Parliament later.

### Interim Budget:

An Interim Budget is typically presented during a government's transition phase or in its final year before the general elections. This budgetary measure spans a specified timeframe, often a few months, bridging the gap until a comprehensive budget is presented by the new government. It, thus, serves the crucial function of maintaining the flow of government spending and essential services, facilitating the smooth transition between administrations.

Though both the Vote on Account and the Interim Budget are used by regular governments, there lies a distinction between the two. Interestingly, the Interim Budget includes both expenditures and receipts while the Vote on Account only deals with the expenditure in the Government's Budget. For instance, as the general elections were due in 2024, the finance minister did not present a full-fledged Budget for the financial year 2024-25. Instead, she presented an interim budget.

### Role of Lok Sabha & Rajya Sabha in Budget

With regard to the Budget, distinct roles and powers have been allocated to the Lok Sabha and the Rajya Sabha. Notably, only the Lok Sabha holds the authority to vote on demands for grants, crucial for the budgetary process. The Lok Sabha has the power to assent, refuse to assent and even to reduce the amount of the Demands for Grants. In the Rajya Sabha, there is only a general discussion of the budget. The upper house does not vote on the Demands for Grants. Moreover, the Bills concerning taxation, such as Money Bills or finance bills, are exclusively introduced in the Lok Sabha. Additionally, if a Money Bill is presented, the Rajya Sabha must return it to the Lok Sabha within 14 days, further delineating the parliamentary roles and responsibilities between the two houses.

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## Chapter 16 - Legislative Bodies

### Types of Reserves:

#### 1. Consolidated Fund of India:

##### Article 266. Consolidated Funds and Public accounts of India and of the States

- (1) Subject to the provisions of article 267 and to the provisions of this Chapter with respect to the assignment of the whole or part of the net proceeds of certain taxes and duties to States, all revenues received by the Government of India, all loans raised by that Government by the issue of treasury bills, loans or ways and money advances and all moneys received by that Government in repayment of loans shall form one consolidated fund to be entitled "the Consolidated Fund of India", and all revenues received by the Government of a State, all loans raised by that Government by the issue of treasury bills, loans or ways and money advances and all moneys received by that Government in repayment of loans shall form one consolidated fund to be entitled "the Consolidated Fund of the State".
- (2) All other public money received by or on behalf of the Government of India or the Government of a State shall be credited to the Public Account of India or the public account of the State, as the case may be.
- (3) No money out of the Consolidated Fund of India or the Consolidated Fund of a State shall be appropriated except in accordance with law and for the purposes and in the manner provided in this Constitution.

The Consolidated Fund of India, as mandated by Article 266(1), functions as the central repository wherein all government receipts and expenditures are credited and debited. It entails financial transactions, including

- a) Credit of funds: from - all the revenues received by the Union Government by way of taxes and other receipts for the conduct of Government (PYQ 2011); loans raised by the Government from other nations and international organisations, etc.; repayment of loans to the Government, etc.
- b) Debit of funds: All legally authorized payments on behalf of the Government.

No Amount can be withdrawn from the Consolidated Fund of India without authorization from the Parliament of India, ensuring strict financial accountability (PYQ 2015). Notably, expenditures designated as 'charged' against the Consolidated Fund are categorized as non-votable charges.

**2. Public Account of India:** Established by Article 266(2) of the Indian Constitution, the Public Account of India serves as a repository for funds entrusted to the government. It includes financial transactions:

- a) Credit of funds: All public money, other than those credited to the Consolidated Fund, received by the Government is credited to this Fund. This includes funds from Provident fund deposits; Judicial deposits; Savings bank deposits; Departmental deposits; Remittances, etc.
- b) Debit of funds: This includes payment mostly of banking transaction type.

Essentially as a custodian, the government holds these funds temporarily, with the ultimate obligation to return them to their rightful owners. Consequently, expenditures from the Public Account are done by Executive action, i.e., Payment can be made without parliamentary appropriation (PYQ 2015).

#### 3. Contingency Fund of India

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### Article 267: Contingency Fund

(1) Parliament may by law establish a Contingency Fund in the nature of an imprest to be entitled “the Contingency Fund of India” into which shall be paid from time to time such sums as may be determined by such law, and the said Fund shall be placed at the disposal of the President to enable advances to be made by him out of such Fund for the purposes of meeting unforeseen expenditure pending authorisation of such expenditure by Parliament by law under article 115 or article 116.

(2) The Legislature of a State may by law establish a Contingency Fund in the nature of an imprest to be entitled “the Contingency Fund of the State” into which shall be paid from time to time such sums as may be determined by such law, and the said Fund shall be placed at the disposal of the Governor of the State to enable advances to be made by him out of such Fund for the purposes of meeting unforeseen expenditure pending authorisation of such expenditure by the Legislature of the State by law under article 205 or article 206.

The Contingency Fund of India was created by the Parliament, as outlined in Article 267, through the Contingency Fund of India Act, 1950. The primary purpose of this fund is to provide financial resources for unforeseen expenditures. It is held by the Finance Secretary on behalf of the President, who has the discretion over its disbursement. Money can be withdrawn from this Fund pending authorization from the Parliament, ensuring timely responses to emergent financial needs. Additionally, it's noteworthy that Article 267(2) also allows for the establishment of a Contingency Fund at the state level.

### Note:

There is no parliamentary budget office to review programs of Government (PYQ 2012). There is an Estimate Committee of Parliament to review policies and for continuous examination of estimates from time to time throughout the year.

### Comparative Status of Two Houses:

The Constitution envisages equal status between the two Houses. But some exceptions are made so as to give special powers to both Houses for fulfilling their duties.

#### Equal Status of the Houses

1. Selection and appointment of Ministers.
2. Both Houses have equal power to approve ordinances issued by the President.
3. The procedure for the passage of ordinary Bills and Constitutional Amendment Bill (PYQ 2020).
4. Both Lok Sabha and Rajya Sabha ratify declaration of emergency with 2/3 majority of members present and voting. The special majority provision was introduced by the 44th Amendment act of 1978 (PYQ 2022).
5. Both Houses participate equally in the Election and Impeachment of the President. These charges should be signed by one-fourth members of the house that framed the charges and 14-day notice should be given to the President of India (PYQ 2022).

### Exclusive power with Lok Sabha:

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1. The Union Council of Ministers are directly responsible to the Lok Sabha, under Article 75 (3).
2. Money Bills can only be introduced and the Rajya Sabha only has a dilatory role. Moreover, it is the Speaker of Lok Sabha who has the power to certify such Bills.
3. The demands for grants can be introduced and voted upon in the Lok Sabha only. Rajya Sabha can only discuss the Budget but cannot vote on it.
4. It is the exclusive power of Lok Sabha to pass a No-Confidence motion against the Council of Ministers (PYQ 2022).
5. In a Joint Sitting of the Houses, the presiding officer is the Speaker of the Lok Sabha. In his absence, the deputy speaker takes up the role. If both are absent, then the Deputy Chairman of the Rajya Sabha gets an opportunity to preside. Also due to its numerical strength, Lok Sabha has an advantageous position in terms of the simple majority needed to pass a Bill during a joint sitting.
6. Joint Parliamentary Committees and Departmental Committees are numerically dominated by Lok Sabha members.
7. Premature withdrawal of National Emergency, under Article 352, can be done by the Lok Sabha only.

### Special powers of the Rajya Sabha:

- It is not subjected to dissolution. There is a greater continuity in the House as the internal make-up of Rajya Sabha changes gradually.
- It provides for a larger tenure of members than provided to the members of Lok Sabha.
- Resolutions seeking to remove the Vice- President can only be initiated in Rajya Sabha.
- Article 249 – Parliament to legislate on state list; provided Rajya Sabha passes resolution to that effect by special Majority (special majority – 2/3 of its members present and voting).
- Article 312 – Power of Parliament to create new All India Service (PYQ 2020); provided Rajya Sabha passes a resolution; Special Majority (2/3rd Members Present and voting).

### Role of Rajya Sabha in Indian Democracy:

The Rajya Sabha, or Council of States, plays a crucial role in India's democracy, complementing the Lok Sabha and ensuring healthy bicameralism. It strengthens accountability in the lawmaking process, offering a check and balance to the legislation passed in the lower house.

A key feature of the Rajya Sabha is its system of indirect elections, where members are chosen by elected representatives through proportional representation. This ensures fair representation of states, reflecting India's federal structure and acting as a conduit between states and Parliament. The Rajya Sabha also serves a deliberative function, offering a platform for careful debate and scrutiny of legislation. It allows for thoughtful examination, preventing hasty decision-making and promoting informed policy discussions.

Additionally, the Rajya Sabha reflects regional issues, giving voice to the challenges faced by different states. It ensures that concerns from all parts of the country are heard and addressed in national policymaking. The Rajya Sabha contributes to securing executive accountability by holding the

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government accountable through debates and questioning. Its non-elected membership plays an important role in ensuring transparency and responsibility from the executive branch.

Finally, the Rajya Sabha's permanence—unlike the Lok Sabha, which dissolves after each election—ensures stability and continuity in the legislative process, providing long-term planning and uninterrupted governance.

While its powers are between the weak British House of Lords and the strong American Senate, the Rajya Sabha remains indispensable to India's democratic and federal processes. Its role in federal representation, accountability, and legislative continuity is vital to the functioning of India's parliamentary system.

### State Legislature:

State legislatures in India play a crucial role in the country's federal structure, serving as the legislative bodies for individual states, responsible for making laws, shaping policies, and addressing regional issues within its jurisdiction. Articles 168 to 212 in Part VI of the Constitution deal with the organisation, composition, duration, officers, procedures, privileges, powers and so on of the state legislatures.

They are vital in ensuring that regional interests are represented and addressed, contributing to the decentralized governance structure of India while addressing local needs and challenges while working within the broader framework of the Indian Union.

### Constitution of State Legislatures

#### Article 168: Constitution of Legislatures in States

- (1) For every State there shall be a Legislature which shall consist of the Governor, and
  - (a) in the States of Andhra Pradesh, Bihar, Maharashtra, Karnataka, Telangana and Uttar Pradesh, two houses:
  - (b) in other States, one House.
- (2) Where there are two Houses of the Legislature of a State, one shall be known as the Legislative Assembly and the other as the Legislative Council, and where there is only one House, it shall be known as the Legislative Assembly.

The Constitution, under Article 168, makes a distinction between the States, effectively adopting a mixed pattern of Unicameralism and Bicameralism in the organisation of state legislatures. The Legislature in the States having a unicameral system consists of the – Governor and Legislative Assembly. Presently, there are a total of 22 such states. The Legislative Assembly (Vidhan Sabha/First Chamber/Popular House) is the lower house of the State legislature.

On the other hand, the Legislature in the States having a bicameral system consists of the–Governor, Legislative Assembly and Legislative Council. There are only 6 states that follow bicameralism, namely Andhra Pradesh, Bihar, Maharashtra, Karnataka, Telangana and Uttar Pradesh. Notably, the 7th Amendment, 1956, provided for a Legislative Council in Madhya Pradesh, but it has not been notified by the President yet (PYQ 1995). The Legislative Council in the state of Jammu and Kashmir was abolished

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by the Jammu and Kashmir Reorganisation Act, 2019. The Legislative Council (Vidhan Parishad/Second Chamber/House of Elders) is the upper house of the State legislature.

### Abolition & Creation of the Legislative Council

#### Article 169: Abolition or creation of Legislative Councils in States

- (1) Notwithstanding anything in article 168, Parliament may by law provide for the abolition of the Legislative Council of a State having such a Council or for the creation of such a Council in a state having no such Council, if the Legislative Assembly of the State passes a resolution to that effect by a majority of the total membership of the Assembly and by a majority of not less than two-thirds of the members of the Assembly present and voting.
- (2) Any law referred to in clause (1) shall contain such provisions for the amendment of this Constitution as may be necessary to give effect to the provisions of the law and may also contain such supplemental, incidental and consequential provisions as Parliament may deem necessary.
- (3) No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of article 368.

Parliament has the authority to either abolish an existing Legislative Council or establish one where it does not currently exist after the Legislative Assembly of the relevant state passes a resolution with a special majority in favour. Such changes made by the Parliament do not amount to a Constitutional Amendment under Article 368 and are enacted as regular legislation with a simple majority. Like the Rajya Sabha, the Legislative Council is also a permanent body, i.e., it is not subject to dissolution but can be abolished by the Parliament.

### Composition & Territorial Constituencies of Legislative Assembly

#### Article 170: Composition of the Legislative Assemblies

- (1) Subject to the provisions of Article 333, the Legislative Assembly of each State shall consist of not more than five hundred, and not less than sixty, members chosen by direct election from territorial constituencies in the State.
- (2) For the purposes of clause (1), each State shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the State.  
\*[Explanation.—In this clause, the expression “population” means the population as ascertained at the last preceding census of which the relevant figures have been published: Provided that the reference in this Explanation to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year \*\*2026 have been published, be construed as a reference to the \*\*\*2001 census.]
- (3) Upon the completion of each census, the total number of seats in the Legislative Assembly of each State and the division of each State into territorial constituencies shall be readjusted by such authority and in such manner as Parliament may by law determine:

Provided that such readjustment shall not affect representation in the Legislative Assembly until the

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dissolution of the then existing Assembly:

Provided further that such readjustment shall take effect from such date as the President may, by order, specify and until such readjustment takes effect, any election to the Legislative Assembly may be held on the basis of the territorial constituencies existing before such readjustment: Provided also that until the relevant figures for the first census taken after the year \*\*2026 have been published, it shall not be necessary to readjust –

(i) the total number of seats in the Legislative Assembly of each State as readjusted on the basis of the 1971 census; and

(ii) the division of such State into territorial constituencies as may be readjusted on the basis of the \*\*\*2001 census, under this clause.

\* Added by 42nd Amendment, 1976

\*\*Substituted by 84th Amendment, 2001 (earlier - 2000)

\*\*\* Substituted by 87th Amendment, 2003 (earlier - 1991)

The Legislative Assembly of a state is composed of members directly elected by the people on the basis of universal adult suffrage. The Constitution fixes the size of an Assembly between 60 and 500 members, with certain exceptions. Smaller states have lower minimum requirements: Arunachal Pradesh, Sikkim, and Goa have 30 seats; Mizoram has 40; and Nagaland has 46. Additionally, in Sikkim and Nagaland, a few members are elected indirectly, reflecting their unique political and social contexts.

For fair representation, each state is divided into territorial constituencies so that the ratio of population to seats remains broadly uniform. After every census, adjustments are required in the number of seats and the boundaries of constituencies. Parliament exercises the power to determine this process and, for this purpose, has enacted the Delimitation Commission Acts of 1952, 1962, 1972, and 2002.

Over time, constitutional amendments have shaped this framework. The 42nd Amendment (1976) froze the total number of seats and the division of constituencies at the 1971 census level until 2000, a measure later extended until 2026 by the 84th Amendment (2001) to encourage population control. The 87th Amendment (2003) required delimitation to be based on the 2001 census. As a result, while the total number of seats in Legislative Assemblies continues to be fixed according to the 1971 census, the readjustment of constituency boundaries is based on the 2001 census.

### Reservation in State Legislative Assembly

After moving away from communal representation, the Constitution instead opted for the reservation of seats for Scheduled Castes (SC) and Scheduled Tribes (ST) in each State's Legislative Assembly on the basis of population. In 2023, the 106th Amendment reserved one-third of all seats for women in State Legislative Assemblies, including those reserved for SCs and STs. The reservation will be effective after the publication of the census conducted following the Act's commencement and endures for a 15- year period, with potential extension to be determined by parliamentary action.

### Composition of Legislative Council

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### Article 171: Composition of the Legislative Councils

(1) The total number of members in the Legislative Council of a State having such a Council shall not exceed \*[one third] of the total number of members in the Legislative Assembly of that State: Provided that the total number of members in the Legislative Council of a State shall in no case be less than forty.

(2) Until Parliament by law otherwise provides, the composition of the Legislative Council of a State shall be as provided in clause (3).

(3) Of the total number of members of the Legislative Council of a State –

(a) as nearly as may be, one-third shall be elected by electorates consisting of members of municipalities, district boards and such other local authorities in the State as Parliament may by law specify;

(b) as nearly as may be, one-twelfth shall be elected by electorates consisting of persons residing in the State who have been for at least three years graduates of any university in the territory of India or have been for at least three years in possession of qualifications prescribed by or under any law made by Parliament as equivalent to that of a graduate of any such university;

(c) as nearly as may be, one-twelfth shall be elected by electorates consisting of persons who have been for at least three years engaged in teaching in such educational institutions within the State, not lower in standard than that of a secondary school, as may be prescribed by or under any law made by Parliament;

(d) as nearly as may be, one-third shall be elected by the members of the Legislative Assembly of the State from amongst persons who are not members of the Assembly; (e) the remainder shall be nominated by the Governor in accordance with the provisions of clause (5).

(4) The members to be elected under sub-clauses (a), (b) and (c) of clause (3) shall be chosen in such territorial constituencies as may be prescribed by or under any law made by Parliament, and the elections under the said sub-clauses and under sub-clause (d) of the said clause shall be held in accordance with the system of proportional representation by means of the single transferable vote.

(5) The members to be nominated by the Governor under sub-clause (e) of clause (3) shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely: – Literature, science, art, co-operative movement and social service. \* Substituted by the 7th Amendment, 1956 (earlier: one-fourth)

The Constitution, under Article 171, has fixed the strength of the Legislative Council at a minimum of 40 to a maximum of one-third that of the Legislative Assembly of that State (PYQ 2015). This ensures that the directly elected Legislative Assembly remains the dominant chamber in state legislative affairs. While the Constitution specifies these limits, the actual number of members in the Legislative Council is determined by Parliament. Of the total number of members of a Legislative Council –

1. 1/3 Members are elected by the members of the legislative assembly of the state from amongst persons who are not members of the assembly. The election is held in accordance with the system of proportional representation by means of the single transferable vote.

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2. 1/3 Members are elected by the members of local bodies in the state like municipalities, district boards, and such other local authorities in the State as Parliament may by law specify. The members shall be chosen in such territorial constituencies as may be prescribed by the Parliament.
3. 1/12 Members are elected by persons residing in the State who have been for at least three years - (a) graduates of any university in the territory of India, or (b) in possession of qualifications prescribed by or under any law made by Parliament. The members shall be chosen in such territorial constituencies as may be prescribed by the Parliament.
4. 1/12 Members are elected by persons who have for at least three years engaged in teaching within the State, in institutions not lower in standard than secondary school. The members shall be chosen in such territorial constituencies as may be prescribed by the Parliament.
5. 1/6 Members are nominated by the Governor from amongst the persons who have a special knowledge or practical experience of the cooperative movement, literature, art, science and social service (CLASS).

Thus, 5/6 of the total number of members of a legislative council are indirectly elected and 1/6 are nominated by the governor. This scheme of composition of a legislative council as laid down in the Constitution is tentative and the Parliament is authorised to modify or replace the same.

### Duration - State Legislature

The Legislative Assembly of a state typically has a term of 5 years from the date of the first session. However, the Governor has the authority to dissolve it at any time. During the emergency its term can be extended by one year at a time. But not beyond a period of 6 months after the emergency is revoked. The Legislative Council, on the other hand, is a permanent body. Every two years, one-third of its members retire, with vacancies filled at the beginning of the third year. Each member serves a term of 6 years and may be re-elected or re-nominated any number of times.

### Membership of State Legislature

**Qualifications Under the Constitution:** Article 173 specifies the qualifications for membership of the State Legislature:

1. The candidate must be a citizen of India.
2. The candidate must be at least 25 years old for the Legislative Assembly and at least 30 years old for the Legislative Council.
3. The candidate seeking membership of the State Legislature must subscribe to an oath or affirmation before someone authorized by the Election Commission. The oath or affirmation must be made as per the form set out in the Third Schedule.
4. Possess such other qualifications as may be prescribed by the Parliament.

### Additional Qualifications under RPA (1951)

1. A person to be elected to the legislative assembly must be an elector for an assembly constituency in the concerned state

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2. A person to be elected to the legislative council must be registered as a voter for an assembly constituency in the concerned state and to be qualified for the governor's nomination, he must be a resident in the concerned state.
3. He must be a member of a SC or ST if he wants to contest a seat reserved for them. However, a member of SC or ST can also contest a seat not reserved for them.

### Disqualification - State Legislature

According to Article 191 of the Constitution, a person shall be disqualified for being chosen as, and for being, a member of the State Legislature if:

1. A person is not a citizen of India
2. A person holds any office of profit.
3. A person is declared to be of unsound mind by a competent court.
4. A person is an undischarged insolvent.
5. A person can be disqualified under the Anti-Defection Law
6. A person is disqualified by or under any law made by Parliament.

### Disqualification under RPA, 1951

1. He must not have been found guilty of certain election offences or corrupt practices in the elections.
2. He must not have been convicted for any offence resulting in imprisonment for two or more years. The detention of a person under a preventive detention law is not a disqualification.
3. He must not have failed to lodge an account of his election expenses within the time. He must not have any interest in government contracts, works or services.
4. He must not be a director or managing agent nor hold an office of profit in a corporation in which the government has at least 25 % share.
5. He must not have been dismissed from government service for corruption or disloyalty to the state.
6. He must not have been convicted for promoting enmity between different groups or for the offence of bribery.
7. He must not have been punished for preaching and practising social crimes such as untouchability, dowry and sati.
8. Section 8(3) of the Act states that if an MP or MLA is convicted for any other crime and is sent to jail for 2 years or more, he/she will be disqualified for 6 years from the time of release.

### Vacation of Seats:

In the following cases, a member of the state legislature vacates his seat:

1. **Double Membership:** A person cannot be a member of both Houses of the state legislature at one and the same time.
2. **Disqualification:** If a member of the state legislature becomes subject to any of the disqualifications, his seat becomes vacant.
3. **Resignation:** A member may resign his seat by writing to the Chairman of the Legislative Council or Speaker of the Legislative Assembly, as the case may be. The seat falls vacant when the resignation is accepted.

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4. **Absence:** A House of the state legislature can declare the seat of a member vacant if he absents himself from all its meetings for a period of sixty days without its permission
5. **Other Cases:** If his election is declared void by the Court; If he is expelled by the house; if he is elected to the office of President or office of Vice-President; if he is appointed to the office of governor of a state.

### Oath or Affirmation & Salary & Allowances

Article 164(3) states that before a Minister enters his office, the Governor shall administer to him the oaths of office and of secrecy according to the forms set out in the Third Schedule. Members of a state legislature are entitled to receive such salaries and allowances as may from time to time be determined by the state legislature.

### Presiding Officers of State Legislature

Each House of state legislature has its own presiding officer. There is a Legislative Assembly presided over by the Speaker and in case of absence or vacancy the Deputy Speaker performs the duties of the office. The Legislative Council is presided over by the Chairman and in his absence the Deputy Chairman presides. Unlike the Chairman Rajya Sabha, the Chairman of the Legislative Council is elected by the members from amongst themselves (PYQ 2015).

The salaries and allowances of the presiding officers of the state legislature are fixed by the state legislature. They are charged on the Consolidated Fund of the State and thus are not subject to the annual vote of the state legislature.

### Sessions of the State Legislature:

1. **Summons:** The Governor of State summons the two Houses of the legislature which must meet at least twice a year.
2. **Adjournment:** The presiding officer of the House suspends the sitting of the house for a specified time that may be hours, days or weeks. If the meeting is postponed for an indefinite time without stating a fixed time for the next meeting, it is called Adjournment sine die.
3. **Prorogation:** It means the session of the House has been terminated by an order made by the Governor after the presiding officer declares the House adjourns sine die. The Governor can also prorogue the House in session. It terminates both the sitting and session of the House whereas adjournment just postpones a sitting.
4. **Recess:** The time between the Prorogation and Reassembly of the Houses. **Dissolution:** The Legislative Council is a permanent house; therefore, the term dissolution is used in the context of the Legislative Assembly.
5. The Assembly gets dissolved at the completion of the term of 5 years from the date appointed for its first meeting. The outgoing State Cabinet recommends the Governor to dissolve the Legislative assembly to pave the way for the newly constituted Legislative Assembly after the general election.
6. The Assembly gets dissolved when the ruling party loses the majority. In that case, the Council of Ministers must resign and the prerogative to dissolve the Legislative Assembly is transferred to the Governor. S/he may ask other parties to prove its majority, failing which fresh elections need to be held.

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### Law-Making In The State Legislature

#### Introduction of the Bill

A Bill follows the same legislative procedure as in the Centre. It can be introduced by a minister or any other member in the Legislative Assembly in the case of a unicameral legislature or in either house in the case of a bicameral legislature. In the case of the bicameral legislature, the Bill is transferred to the other house after being passed by the house where the bill originated.

#### **Article 197: Restriction on powers of Legislative Council as to Bills other than Money Bills**

(1) If after a Bill has been passed by the Legislative Assembly of a State having a Legislative Council and transmitted to the Legislative Council –

- (a) the Bill is rejected by the Council; or
- (b) more than three months elapse from the date on which the Bill is laid before the Council without the Bill being passed by it; or
- (c) the Bill is passed by the Council with amendments to which the Legislative Assembly does not agree; the Legislative Assembly may, subject to the rules regulating its procedure, pass the Bill again in the same or in any subsequent session with or without such amendments, if any, as have been made, suggested or agreed to by the Legislative Council and then transmit the Bill as so passed to the Legislative Council.

(2) If after a Bill has been so passed for the second time by the Legislative Assembly and transmitted to the Legislative Council

- (a) the Bill is rejected by the Council; or
- (b) more than one month elapses from the date on which the Bill is laid before the Council without the Bill being passed by it; or
- (c) the Bill is passed by the Council with amendments to which the Legislative Assembly does not agree; the Bill shall be deemed to have been passed by the Houses of the Legislature of the State in the form in which it was passed by the Legislative Assembly for the second time with such amendments, if any, as have been made or suggested by the Legislative Council and agreed to by the Legislative Assembly.

#### Passage of the Bills

The Legislative Assembly can pass the Bill with or without implementing recommendations suggested by the Legislative Council. The Legislative Council can reject the Bill or keep the bill for three months without taking any action. But if the Legislative Assembly passes the Bill again and transfers it to the Council, the Council can keep the bill for one month again, not passing it, rejecting it or passing it with amendments not acceptable or acceptable to the Legislative Assembly. In all of the cases mentioned above, the Legislative Assembly will pass the bill after the expiry of one month. Notably, there is no provision for joint sitting in the state legislature.

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### Assent to the Bills

Under Article 200 of the Constitution, when a bill is passed by both Houses of the State Legislature and presented to the Governor, the Governor has three constitutional options. The Governor may (a) give assent to the bill, after which it becomes an Act; (b) withhold assent and return the bill to the Legislature with a message requesting reconsideration; or (c) reserve the bill for the consideration of the President. Importantly, if the Governor returns the bill for reconsideration and the Legislature passes it again, either with or without amendments, the Governor is constitutionally bound to give assent to the bill. The recent Supreme Court judgment in **State of Tamil Nadu vs. Governor (2025)** has clarified that the Governor cannot reserve the bill for the President after it has been reconsidered and passed again by the Legislature. Furthermore, the Court has emphasized that the Governor must act on the bill within three months of its presentation. Failure to do so may invite judicial intervention, thereby preventing the Governor from indefinitely withholding assent or delaying the process.

When a bill is reserved by the Governor for the President's consideration under Article 201, the President has three options: (a) grant assent to the bill; (b) withhold assent, with reasons recorded; or (c) return the bill to the State Legislature for reconsideration. If the bill is returned and reconsidered by the Legislature within six months, and then passed again, it is presented once more to the President for assent. Unlike the Governor, the President is not constitutionally obligated to give assent to the bill after reconsideration. The President may either grant or withhold assent, but any decision to withhold assent must be accompanied by clear and recorded reasons. The Supreme Court has also mandated that the President must decide on reserved bills within three months, ensuring timely action and preventing indefinite delays.

### Lapsing of bills – State Legislature

The position concerning the lapsing of bills on the dissolution of the Assembly is mentioned below:

1. Bill pending in the Assembly lapses, whether originating in the Assembly or transmitted to it by the Council.
2. A Bill passed by the Assembly but pending in the Council lapses.
3. A Bill pending in the Council but not passed by the Assembly does not lapse.
4. A Bill passed by the Assembly (in a unicameral state) or passed by both houses (in a bicameral state) but pending assent of the Governor or the President does not lapse.
5. A Bill passed by the Assembly (in a unicameral state) or passed by both the Houses (in a bicameral state) but returned by the President for reconsideration of House (s) does not lapse

### Money Bill:

As is the case in the Parliament, no Money Bill can be introduced without the Governor's recommendation (Article 199). It is a government bill and can be introduced only by a minister in the Legislative Assembly. If passed, the Bill goes to the Legislative Council. The Council can only discuss and must return the bill with or without recommendations within 14 days. The Assembly may reject or accept such recommendations. The bill is then given to the Governor for assent. The Governor may give or withhold it or send it for the consideration of the President, who may give or withhold assent. But neither the Governor nor the President can return the bill for reconsideration.

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### Position of Legislative Council w.r.t Legislative Assembly

#### A. Equal position

1. Introduction & passage of Ordinary Bills.
2. Approval of ordinances issued by the Governor.
3. Selection of Ministers including CM.
4. Consideration of reports of the Constitutional Bodies e.g. – State Finance Commission (SFC), State Public Service Commission (SPSC), and Comptroller and Auditor General of India (CAG).
5. Expansion of jurisdiction of State Public Service Commission (SPSC).

#### B. Unequal position

1. The final power of passing an Ordinary Bill lies with the Assembly.
2. The Council can delay for a maximum of 4 months. The Assembly has more powers with respect to the Money Bills – (a) Only introduced in the Assembly. (b) The final call to certify a Bill as a Money Bill lies with the Assembly Speaker, (c) the Council has no right to amend or reject the Money Bill, (d) the Council should return the bill with or without recommendation within 14 days, and (e) Assembly may accept or reject the recommendations of the Council.
3. The Council does not participate in the election of President and State Representatives of Rajya Sabha. The Council has no effective say in the ratification of a Constitutional Amendment Bill. The very existence of the Council depends on the will of the Assembly.

[Note—certain provisions for the states are similar to those at the central level. These include - the roles and responsibilities of the presiding officers, rights of ministers and advocate general, voting in the Legislature, whip, privileges of state legislature etc.]

### Comparison between Rajya Sabha and Legislative Council

In the bicameral political system, the Rajya Sabha is the second chamber at the central level and the Legislative Council is the second house at the state level. Rajya Sabha acts as a revising body as its legislative capacity is largely at par with that of Lok Sabha, except for Money Bills and Budgets. Legislative Council, however, is often referred to as a secondary or dilatory (delaying) chamber due to its weaker position in comparison with the Rajya Sabha.

Firstly, the Legislative Council are subordinate to the State Legislative Assemblies as it can detain or delay a regular bill only for up to four months and the Assembly can override LC's recommendations on bills. Secondly, unlike members of the Rajya Sabha, the members of the Council are not part of the Electoral College for the election of the President. Thirdly, the Council has no role in the amendment of the Constitution. Finally, the Council's existence is contingent on the Assembly's decision, as Parliament can create or abolish the Legislative Council based on a resolution from the Legislative Assembly.

### Legislative Council – an analytical perspective

#### Significance

The creation of a Legislative Council in a state offers a valuable mechanism for ensuring more thoughtful and deliberative decision-making. One of its key roles is acting as a check on hasty and defective legislation. By providing an additional layer of scrutiny, the council can prevent poorly crafted laws from being passed, ultimately fostering better legislative outcomes. Furthermore, it serves as a forum for

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intellectuals, academicians, and professionals, creating a space where expert opinions can be heard, and policies can be shaped by informed perspectives.

Another significant advantage of a Legislative Council is its potential for sober reflection. While the Legislative Assembly may work under the pressure of quick political responses, the council can deliberate on complex issues with greater calm, allowing for reasoned analysis and careful consideration. This slower pace can result in more refined legislation, providing more time to assess the virtues of a bill rather than being swayed by populist pressures. In this way, the council offers a counterbalance to the impulsive nature of day-to-day politics.

### Key Issues:

Despite these potential advantages, there are several key issues associated with the creation and functioning of Legislative Councils. A common criticism is that they can serve as a backdoor entry for politicians who have failed to get elected to the Legislative Assembly. This raises concerns about the legitimacy of the council and its potential to serve as a political tool for those who cannot secure direct popular mandate.

Additionally, Legislative Councils are often seen as an economic burden, with critics referring to them as a 'white elephant'. The costs of maintaining these bodies can be high, especially if their legislative impact is not significant. This brings into question whether the financial resources devoted to these councils could be better utilized elsewhere.

Another concern is the potential for delayed decision-making. With the Legislative Council acting as an additional layer of scrutiny, it may slow down the legislative process, particularly when urgent decisions are needed. This could hinder the timely passage of critical laws and reforms. Over time, the relevance of the Legislative Council has also been questioned. The original rationale for its creation, such as reserving seats for graduates, has become outdated, as the educational landscape has evolved significantly. With widespread access to education, the justification for such reserved seats has diminished, raising questions about the continuing necessity of this provision.

Moreover, the existence of the Legislative Council has been seen as redundant by some, given that professionals and intellectuals are already represented in the Legislative Assemblies. The fact that individuals with expertise are already involved in the legislative process calls into question the need for an additional body to fulfill a similar role. The heterogeneous composition of the Legislative Council also leads to concerns about weak lobbying and ineffective representation. The differing interests and backgrounds of its members can result in a lack of cohesive influence, making it harder for the council to advocate for specific issues or groups effectively.

Lastly, a major drawback is that the Legislative Assembly can effectively override any legislative decision made by the Legislative Council. This limits the council's power and raises doubts about its effectiveness in influencing significant policy changes.

### Observations and Recommendations by Committees

Various committees have made observations and recommendations regarding the establishment and functioning of Legislative Councils. In 2000, the National Commission to Review the Working of the

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Constitution (NCRWC) and a Parliamentary Committee report both emphasized the need for a uniform national policy on the establishment of Legislative Councils. These reports suggested that frequent creation and abolition of such councils should be avoided, proposing a more consistent and structured approach to their formation.

### Special Provision for Delhi

The 69th Amendment, 1991, granted a special status to the Union Territory of Delhi, redesignating it as the National Capital Territory of Delhi and appointing the Lieutenant Governor (LG) as its administrator. This amendment established a Legislative Assembly and a Council of Ministers for Delhi, replacing the previous metropolitan council and executive council. The Assembly is comprised of 70 members, all of whom are directly elected by the people, with elections conducted by the ECI. The Council of Ministers is limited to 10 % of the Assembly's total strength, allowing for a maximum of seven ministers.

### Comparison Between Delhi and a State

In Delhi, the Chief Minister is appointed by the President, while the other ministers are appointed by the President based on the Chief Minister's advice. These ministers hold their positions at the pleasure of the President. The Legislative Assembly has the authority to create laws on all matters in the state list and the concurrent list, with the exception of three state list matters: public order, police, and land. Importantly, laws passed by Parliament take precedence over those enacted by the Assembly. Should a disagreement arise between the LG and the ministers, the LG must refer the issue to the President for resolution and act accordingly.

### Comparison Between Delhi and Other Union Territories

Only Delhi and Puducherry possess a Legislative Assembly and a Council of Ministers led by a Chief Minister. This means that the Administrators of these two UTs are required to act on the advice of their respective Councils of Ministers. Notably, Delhi is unique among Union Territories in that it has its own High Court. In light of these distinctions, the Delhi government is actively pursuing its demand for full statehood through a public campaign, seeking to elevate its status and governance.

### Parliamentary Committees

"The Parliamentary Committees are the workshops of the Parliament, where the real work is done." - Lord Bryce

A Parliamentary democracy, like India, functions through an institutionalized system of checks and balances to secure good governance practices. The Parliament is a large and complex body with numerous responsibilities. Given the variety and complexity of issues that come before it, along with the vast volume of work, it is challenging for the Parliament to effectively deliberate on every matter. This is due to both time constraints and a lack of specialized expertise among its members. To address these challenges, Parliament relies on various Committees to assist in its work.

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These Parliamentary Committees are smaller groups of members who focus on specific areas, allowing for more detailed scrutiny and discussion of legislative measures and other matters. The Indian Constitution mentions these committees at different points, but it doesn't provide detailed guidelines on their composition, tenure or functions. Instead, these details are determined by the rules of the Houses of Parliament.

### Features of Parliamentary Committees

A Parliamentary Committee in India can be broadly defined by the following characteristics:

1. **Appointment:** The committee is either appointed or elected by the House or nominated by the Speaker (for Lok Sabha) or the Chairman (for Rajya Sabha).
2. **Direction:** The committee works under the guidance and direction of the Speaker or Chairman.
3. **Reporting:** The committee is responsible for presenting its report to the House or directly to the Speaker or Chairman.
4. **Secretariat Support:** The committee is provided with a secretariat to support it as an administrative office.

As Consultative Committees, which also include members of Parliament, do not meet all four of the above conditions, these are not considered Parliamentary Committees. While they may provide advice and discuss policies, they do not have the same formal status or function as Parliamentary Committees.

### Classification of Parliamentary Committees

Parliamentary committees can be broadly classified into two types: Ad Hoc Committees and Standing Committees

#### A. Ad Hoc Committees

These are temporary committees formed for a specific purpose and are dissolved once their task is completed. Their existence is tied to the completion of the assignment given to them. They can be divided into two categories based on their functions: Inquiry Committees and Advisory committees.

1. **Inquiry Committees:** These committees are established to investigate specific matters, gather relevant information and submit a detailed report with findings and recommendations. They are usually formed by either House of Parliament through a motion or by the Speaker/ Chairman. Some examples are:
  - a. Joint Committee on Bofors Contract, which was established to investigate allegations related to the Bofors gun deal.
  - b. Joint Committee to Enquire into Irregularities in Securities and Banking Transactions focused on investigating irregularities and malpractices within the banking and securities sectors.
  - c. The Joint Committee on Stock Market Scam was formed in response to the stock market scams.
2. **Advisory Committee:** Advisory Committees, specifically select or joint committees, are groups appointed to focus on and provide reports about specific Bills in the legislature. Their main role is to carefully review Bills, offering recommendations and insights. The process they follow is clearly defined in the official rules set by the Speaker or Chairman, ensuring a structured approach to their work.

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When a Bill is introduced in either House of Parliament, it may be referred to a Select Committee or a Joint Committee for closer scrutiny. This process begins with a motion in the originating House. If the motion calls for a Joint Committee, the decision is communicated to the other House, which then nominates its own members to participate. The committee examines the Bill clause by clause, much like the procedure followed in the Houses themselves. During this stage, members may propose amendments, and the committee may also invite evidence from experts, public bodies, or stakeholders to ensure that the provisions of the Bill serve their intended purpose.

After completing its examination, the committee submits a report to the House. This report can include recommendations and proposed changes. Members who disagree with the majority opinion are permitted to record their dissent separately. Importantly, the committee's report is advisory in nature, which means the government is not bound to accept its recommendations, though they often influence the final shape of the Bill.

### B. Standing Committees

Standing committees are permanent bodies established within the Parliament to perform various functions essential for legislative oversight and governance. They are either constituted every year or at regular intervals and continue their work on an ongoing basis. They can be categorized into six main types based on their functions:

1. **Financial Committees:** This category includes the Public Accounts Committee, Estimates Committee, and the Committee on Public Undertakings.
2. **Departmental Standing Committees:** There are 24 such committees, with 16 in the Lok Sabha and 8 in the Rajya Sabha, that focus on the Demands for Grants from their respective ministries, examine bills, and review annual reports and policy documents.
3. **Committees to Inquire:** This group includes the Committee on Petitions, the Committee of Privileges and the Ethics Committee.
4. **Committees to Scrutinize and Control:** This category encompasses several committees, such as the Committee on Government Assurances, the Committee on Subordinate Legislation and others focused on the welfare of specific groups and legislative oversight.
5. **Committees relating to the Day-to-Day Business of the House:** These include the Business Advisory Committee, the Committee on Private Members' Bills and Resolutions, the Rules Committee and the Committee on Absence of Members.
6. **House-Keeping Committees or Service Committees:** They include the General Purposes Committee, the House Committee, the Library Committee and the Joint Committee on Salaries and Allowances of Members.

### Financial Committees

They play a crucial role in scrutinizing government expenditures and ensuring accountability. These committees are part of the broader framework of Parliamentary Committees, which facilitate detailed examination of various legislative and financial matters.

In our system, parliamentary control over public finance is exercised in two stages. First, at the time of making appropriations through the Annual Budget and secondly, after the actual expenditure has been incurred to examine if it was in conformity with the approved appropriations. The control in the second

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stage represents the actual interface between the Legislature and Audit. This is primarily exercised through Financial Committees, consisting of the- Public Accounts Committee, Estimates Committee and Committee on Public Undertakings.

### Public Accounts Committee

The Welby Commission 1895, officially known as the “Royal Commission on the Administration of Expenditure of India,” highlighted the need for an accounts committee to identify financial irregularities. Based on the suggestions of the Montague-Chelmsford reforms of 1919, the Public Accounts Committees (PAC) was first set up in (1921). It was modelled after the one established by the British House of Commons in 1861, which acquired the power to ascertain how money had been spent.

Initially, the Finance Member of the Executive Council served as the Chairman and this arrangement lasted until 1949, when the Interim Government’s Finance Minister took over as the Chairman. After India’s independence in 1947, the Finance Minister continued in this role, which limited the Committee’s ability to critique the Executive freely. A significant transformation occurred with the adoption of the Constitution as the PAC became a Parliamentary Committee under the Speaker’s authority, with a non-official Chairman appointed from among the Lok Sabha members.

### Composition of PAC

The PAC consists of up to 22 members, 15 from the Lok Sabha and 7 from the Rajya Sabha, elected using a system of proportional representation by means of a single transferable vote. Initially, the PAC had only members from the Lok Sabha, but in 1954-55, members from the Rajya Sabha were also included. The Chairman of the committee is appointed by the Speaker of Lok Sabha from among the committee members. (PYQ 2007) Prior to 1966-67, a senior member of the ruling party was appointed as Chairman, but since then, a member from the Opposition has been appointed, a practice that continues even today. The term of office of members of the Committee does not exceed one year at a time. A Minister cannot be elected as a member and if a member of the PAC is appointed as a Minister after their election, they automatically cease to be a member of the Committee from the date of their appointment.

### Scope and Functions of PAC

The PAC is guided by the Rules of Procedure and Conduct of Business in the Lok Sabha. Its main functions include examining the accounts that show how the funds granted by Parliament for government expenses have been utilized, reviewing the Government of India’s annual finance accounts, and any other accounts presented before the House that the Committee deems necessary. The PAC carries out the examination of the Appropriation Accounts and Finance Accounts relating to the Railways, Defence Services, P&T Department, and other Civil Ministries of the Government of India (PYQ 2013). Also, it carries out the examination of reports of the Comptroller and Auditor-General of India (PYQ 2013).

When reviewing the Appropriation Accounts of the Government of India and the Comptroller & Auditor General’s (CAG) report on them, the PAC must ensure:

1. The funds were legally available and appropriately used for the intended services or purposes.
2. The expenditure adheres to the relevant authority governing it.
3. Any re-appropriation of funds has been made according to the rules set by a competent authority.



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The PAC is also responsible for examining the accounts showing the income and expenditure of state corporations, trading and manufacturing schemes, projects, and the corresponding balance sheets and profit and loss statements, along with the CAG's report on these. It reviews the accounts showing the income and expenditure of autonomous and semi-autonomous bodies, where the audit may be conducted by the CAG, either under the President's direction or as mandated by a parliamentary statute. PAC also considers the CAG's report in cases where the President has requested an audit of any receipts or an examination of the accounts of stores and stocks.

A convention has developed where the recommendations made by the Committee are generally accepted by the Government. However, there are times when these recommendations are sent back for further consideration. This process allows for discussions and open exchanges of views to resolve any issues.

### PAC – an analytical perspective

The PAC plays a crucial role in examining the financial transactions of the government. It conducts a thorough review of the Public Accounts, which can be likened to a post-mortem analysis. To quote the first Speaker of the Lok Sabha, G.V. Mavlankar- "The very fact of consciousness that there is someone who will scrutinize what has been done is a great check on the slackness or negligence of the executive." When the committee conducts its examination properly, it can lead to improved efficiency in the administration. Additionally, the insights gained from the committee's review can help guide future budget estimates and policy decisions.

The Public Accounts Committee (PAC), Parliament's audit watchdog, has ensured more paise out of every rupee of public spending reach the people – Ramnath Kovind, former President of India

The control that the Public Accounts Committee exercises is quite important. Its oversight focuses on financial matters and has a quasi-judicial nature. Acting as a watchdog, the committee helps prevent any excesses or misuse of power by the executive. However, there are certain shortcomings.

The PAC faces several limitations that affect its effectiveness in overseeing government finances. Firstly, one key issue is the lack of policy oversight. The PAC primarily focuses on financial accountability and the examination of expenditures that have already occurred, rather than engaging with broader policy questions. This limitation restricts its ability to influence or guide policy decisions based on financial implications, as it does not assess the appropriateness or effectiveness of government policies themselves. Secondly, it is also said that the PAC's post-mortem examination of accounts, i.e., reviewing expenditures after they have been incurred, reflects a reactive approach that limits its capacity to prevent financial inefficiencies. As a result, the PAC cannot intervene in real-time financial decision-making, which reduces its ability to prevent issues before they arise. The PAC is also restricted by its inability to intervene in the day-to-day administration of government ministries. While it can highlight issues after they have occurred, the committee is not authorized to take proactive measures to address ongoing administrative challenges or inefficiencies. This lack of intervention power means that the PAC's role is largely retrospective, focusing on past actions rather than current or future improvements.

Thirdly, as a non-executive body, the PAC cannot issue orders or directives. Its findings and recommendations must be taken up by the Parliament for further action, which can delay or dilute the

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impact of its work. The final decisions regarding the PAC's findings rest solely with the Parliament, limiting the committee's ability to effect immediate changes. The recommendations made by the PAC are advisory and not binding on the ministries. This means that even if the PAC identifies significant issues or suggests corrective actions, the government is not obligated to implement these recommendations. This lack of enforceability can undermine the committee's influence and effectiveness. While it can scrutinize and report on financial irregularities, the PAC cannot enforce any changes or restrictions on spending practices, further limiting its impact on financial management.

These limitations highlight the challenges faced by the PAC in fulfilling its role as a financial watchdog. While it plays a crucial role in promoting accountability and transparency in government spending, its effectiveness is often curtailed by the structural and functional constraints inherent in its design.

### Estimates Committee

The Estimates Committee was first constituted in 1950, replacing the earlier Standing Finance Committee, which had been established in 1921 under the Finance Department of the Government of India. It originally had 25 members, which was later increased to 30 in 1956. Members are elected only from the Lok Sabha using the principle of proportionate representation by means of a single transferable vote. The term of office of the Committee is one year. Thus, the Estimates Committee is the largest committee of the Parliament (PYQ 2014).

The Chairperson of the Committee is appointed by the Speaker from amongst its members (usually from the ruling party). A Minister cannot be elected as a member of the Committee and if a member after selection to the Committee is appointed a Minister, the member ceases to be a Member of the Committee from the date of such appointment. The first Estimates Committee in the post-independence era was constituted following the recommendations of Finance Minister John Mathai, who emphasized its role in scrutinizing government expenditures and promoting efficiency in public spending.

**Functions of the Estimates Committee:** Its other important functions are:

1. To report what economies, improvements in organization, efficiency and administrative reform consistent with the policy underlying the estimates, can be affected To suggest alternative policies in order to bring about efficiency and economy in administration
2. To examine whether the money is well laid out within the limits of the policy implied in the estimates.
3. To suggest the form in which the estimates are to be presented to Parliament

Notably, the Committee does not exercise its functions in relation to such Public Undertakings as are allotted to the Committee on Public Undertakings by the Rules of Procedure and Conduct of Business of the Lok Sabha or by the Speaker.

### Estimates Committee - an analytical perspective

The Estimates Committee plays a crucial role in improving the fiscal accountability of the government and ensuring that public resources are managed prudently. It provides a dedicated forum for detailed examination of budget estimates, allowing for an in-depth analysis of how public funds are allocated and spent. This focused scrutiny helps in ensuring that government expenditures align with legislative

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priorities and are used efficiently. The committee promotes transparency by making recommendations on financial allocations, which can lead to more informed and responsible budgeting decisions.

It helps in identifying potential inefficiencies or misallocations by reviewing the expenditures of various ministries and departments, thereby contributing to better financial management. Its recommendations can influence budgetary practices and encourage ministries to justify their spending decisions. Moreover, the committee's approach to examining budget estimates fosters a greater understanding of financial processes among legislators, enhancing their ability to oversee public finances effectively.

However, the Estimates Committee faces several limitations that hinder its effectiveness in scrutinizing government expenditures and promoting financial accountability. It can only review budget estimates after they have been approved by the Parliament, limiting its proactive influence. The committee cannot question or alter Parliament's policy decisions, undermining its ability to effect meaningful changes. Its recommendations are advisory and not binding, meaning ministries can choose to ignore them.

Additionally, the committee examines only a few ministries each year, leading to gaps in oversight. Unlike the Public Accounts Committee, it lacks expert assistance from the Comptroller and Auditor General (CAG), which can impact the depth of its analysis. Lastly, the committee's work is often retrospective, assessing expenditures after they have occurred rather than providing real-time oversight.

Financial Committees	Strength	Tenure	Election of members
Estimates Committee	30 (Only Lok Sabha)	1 Year	Elected by Lok Sabha
Public Accounts Committee	22 (Lok Sabha + Rajya Sabha)	1 Year	Elected by Both Houses
Committee on Public Undertakings	22 (Lok Sabha + Rajya Sabha)	1 Year	Elected by Both Houses

### Committee on Public Undertakings

Before April 1964, the oversight of public enterprises in India was managed by two main committees: the Estimates Committee and the Public Accounts Committee. However, due to significant investments and the growing number of public enterprises, there was a recognized need for a dedicated body to monitor their operations more closely and report their findings to the Parliament. In response to this need, the Krishna Menon Committee recommended the establishment of a separate committee specifically for public undertakings. This led to the formation of the Committee on Public Undertakings in 1964. The new committee was tasked with evaluating the performance and functioning of public enterprises, ensuring accountability and efficiency in their operations.

It consists of 22 members, 15 of whom are elected by the Lok Sabha every year from amongst its members according to the principle of proportional representation by means of a single transferable vote and 7 members are to be nominated by the Rajya Sabha to participate in the committee. Their term of office is one year. The Chairman of the Committee is appointed by the Speaker of the Lok Sabha from among its members. A Minister is ineligible to become a member of the Committee. If a member after his election to

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the Committee is appointed a Minister, he ceases to be a member of the Committee from the date of such appointment.

The functions of the committee are:

1. To examine the reports and accounts of public undertakings
2. To examine the reports of the Comptroller and Auditor General on public undertakings
3. To examine (in the context of autonomy and efficiency of public undertakings) whether the affairs of the public undertakings are being managed in accordance with sound business principles and prudent commercial practices
4. To exercise other functions vested in the Public Accounts Committee and the Estimates Committee in relation to public undertakings which are allotted to it by the Speaker sometimes.

The Committee is, however, barred from examining and investigating matters of major Government policy as distinct from business or commercial functions of public undertakings, matters of day-to-day administration and matters for the consideration of which machinery is established by any special statute under which a particular undertaking is established.

### Department-related Standing Committees

The Department-related Parliamentary Standing Committees (DRSCs) were established to enhance the accountability of the Executive to the Parliament, especially in light of the increasing governmental activities over the years. The concept was first discussed at the Presiding Officers' Conference in Bhubaneswar in 1978, leading to the formation of a committee on the "Committee System." This initiative culminated in the establishment of three Standing Committees in 1985, focusing on Agriculture, Science and Technology, and Environment and Forests, with representation from both the Lok Sabha and the Rajya Sabha.

A significant development occurred in 1993 when 17 DRSCs were constituted. The establishment of these committees emphasized that these committees would ensure more detailed consideration of measures and strengthen the administration by investing it with more meaningful Parliamentary support. In July 2004, seven more such committees were added, albeit with a reduced membership of 10 from the Rajya Sabha and 21 from the Lok Sabha. This brought the total number of DRSCs to 24, with 8 under the jurisdiction of the Chairman of the Rajya Sabha and 16 under the Speaker of the Lok Sabha. It may be noted here that the creation of DRSCs coincided with the rise of coalition politics, increasing disruptions in Houses, declining parliamentary oversight, and the 'guillotine' of legislation.

#### DRSCs under Lok Sabha (16) and Rajya Sabha (8)

- DRSCs in Lok Sabha – Agriculture, Chemicals and Fertilizers, Coal and Steel, Defense, Energy, External Affairs, Finance, Food, Consumer Affairs and Public Distribution, Information Technology, Labor, Petroleum and Natural Gas, Railways, Rural Development, Social Justice and empowerment, Urban Development, Water Resources.
- DRSCs in Rajya Sabha – Commerce, Health and Family Welfare, Home Affairs, Human Resource Development, Industry, Personnel, Public Grievance, Law and Justice, Science and Technology, Environment, Forest and Climate Change, Transport, Tourism and Culture

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The nomination process is crucial as the Speaker of the Lok Sabha selects members from its own ranks, while the Chairman of the Rajya Sabha does the same for his chamber. This structure ensures that both houses of Parliament are represented in the oversight process. Notably, ministers are excluded from membership, which helps maintain the independence of the committees. If a member is appointed as a minister after their nomination, they must resign from the committee, reinforcing the principle of separation between the legislative and executive branches. The term of each standing committee is limited to one year.

### Function & Working of the DRSCs

The primary function of the DRSCs is to facilitate a more rigorous examination of government expenditures and policies. They play a critical role in the budgetary process by assisting Parliament in debating financial allocations more effectively. The committees are tasked with reviewing demands for grants, scrutinizing bills, and conducting inquiries into various subjects, thereby contributing to a more informed legislative process. Their work not only enhances transparency but also fosters a culture of accountability within the government, as evidenced by the significant percentage of recommendations made by the committees that are accepted by the government.

1. Procedure relating to consideration of Demands for Grants: After the general discussion on the Budget in the House is over, the Lok Sabha is adjourned for a fixed period. The Committee considers the Demands for Grants (DFGs) of the Ministries/Departments under its jurisdiction during the aforesaid period and presents/lays Reports. There is a separate Report on the Demands for Grants of each Ministry/ Department. The Report on Demands for Grants does not suggest anything of the nature of cut motions. The demands for grants are considered by the House in the light of the Reports of the Committee.
2. Procedure relating to consideration of Bills: The Committee considers only such Bills introduced in either of the Houses as are referred to it by the Speaker, Lok Sabha or the Chairman, Rajya Sabha as the case may be. The Committee considers the general principles and clauses of the Bills referred to it and makes Reports thereon within the given time.

### DRSCs – an analytical perspective

Enhanced legislative scrutiny is facilitated by DRSCs, which play a critical role in the detailed examination of Bills. These committees provide a platform for in-depth discussions, allowing MPs to delve into the intricate details of proposed legislation, a process that may not be adequately addressed during full House sessions due to time constraints. DRSCs can summon subject matter experts and stakeholders to provide valuable insights, which helps MPs better understand the technical aspects of complex bills. For instance, committees have previously consulted with health professionals and legal experts when discussing bills related to health and family welfare.

The closed-door nature of committee meetings fosters an environment where MPs can engage in candid discussions without the pressures of party politics. This often leads to consensus-building. Moreover, the less formal setting of committee discussions reduces the need for political posturing, allowing for more genuine dialogue and collaboration. Operating throughout the year, these committees provide continuous monitoring, which allows them to oversee the implementation of laws and government schemes more effectively than the sporadic sessions of Parliament.

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These committees function as a microcosm of Parliament, representing a cross-section of political parties and ensuring that diverse viewpoints are considered, thus enriching the legislative process. DRSCs improve the efficiency of legislative business by managing time effectively. Given the limited time available for discussions in the full House, these committees handle multiple issues simultaneously, ensuring that important matters are not sidelined due to time constraints during parliamentary sessions. The ability to process bills and issues outside of the main parliamentary sessions also increases legislative output, which is essential in a rapidly changing socio- economic landscape.

Though DRSCs play a crucial role, they face several limitations that hinder their effectiveness. The government is not obliged to refer bills to DRSCs. For instance, during the course of the 17th Lok Sabha, only 14 Bills have been referred for further examination, a significant decline from previous sessions where the referral rates were much higher (60% in the 14th Lok Sabha and 71% in the 15th Lok Sabha). Several important legislations like Chief Election Commission and Other Election Commissioners Bill, 2023, abrogation of Article 370 of the Indian Constitution, and four farmers bills in 2020 were passed without referring them to committees concerned. The recommendations made by the DRSCs are not binding on the government. In fact, only 13% of cases result in an action-taken report being submitted by the government in response to DRSCs' recommendations.

The Venkatachaliah Commission (2000) found that parliamentary committees are suffering from issues like lack of resources, inadequate staff strength, and absence of expert advisers. These issues continue to permeate the functioning of the committee system even today. This limits their ability to conduct thorough analyses of the bills and issues they are tasked with reviewing. This absence of dedicated researchers handicaps their effectiveness. Each DRSC has a tenure of only one year, which is insufficient for members to gain in-depth knowledge or expertise in their designated areas. This short duration can lead to a lack of continuity in oversight and analysis. There is a notable lack of transparency in how DRSCs operate. This can lead to questions about accountability and the decision-making processes within the committees. Attendance of Members of Parliament (MPs) at DRSC meetings is often low, which can affect the quality of discussions and the thoroughness of the scrutiny of bills and issues.

### Committee on Petitions

The Committee on Petitions examine petitions submitted by individuals or groups concerning various matters in the Union List, affecting them. These petitions can relate to a wide range of issues, including administrative grievances, public services, or any other concerns that require parliamentary intervention. Each House of Parliament has its own Committee on Petitions. The Lok Sabha committee consists of 15 members, while the Rajya Sabha committee consists of 10 members. The Chairperson of the Committee on Petitions in each House is elected by the members of the respective committee. It is supported by a secretariat provided by the Parliament, which helps in administrative and procedural functions. The committee reviews the petitions and may call for evidence or seek responses from the relevant authorities. After examining the petitions, the committee prepares a report with its findings and recommendations.

The committee serves as a formal mechanism for citizens to voice their concerns and seek redressal. It promotes democratic engagement, transparency and accountability within the government through legislative oversight on various issues raised in the public interest. Thus, this aligns with Article 350, which grants every citizen the right to submit representations for the redressal of grievances.

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### Committee of Privileges

The primary focus of the Committee of Privileges is on safeguarding the parliamentary privileges of the House and its members. The Committee of Privileges in Lok Sabha consists of 15 members, while in Rajya Sabha, it has 10 members. The Chairperson is appointed by the presiding officer. In the Lok Sabha, members are nominated by the Speaker, while in the Rajya Sabha, the Chairman appoints the members, with the Deputy Chairperson typically heading the committee.

Privilege issues can be raised by members through formal motions or complaints. The presiding officer can refer these issues to the Committee on Privileges for an investigation. Its functions are semi-judicial, as it investigates any alleged breaches of privilege or contempt of the House. It assesses whether a breach has occurred based on the facts of each case and then makes suitable recommendations. After investigation, the committee prepares a report detailing its findings and recommendations, which can include admonitions, reprimands, suspensions, or even expulsions in severe cases. The committee, thus, plays a crucial role in maintaining the decorum & dignity of the Parliament and parliamentary institution and helps in maintaining the effectiveness of the parliamentary processes.

### Ethics Committee

The Ethics Committee of Parliament was established to oversee the ethical behaviour of members and to ensure that they adhere to established norms. It was constituted in Rajya Sabha in 1997 and in Lok Sabha in 2000 and became a permanent part of it in 2015. The Ethics Committee, thus, plays a crucial role in maintaining the integrity of Parliament and ensuring that members of Parliament are accountable for their actions and conduct. Promoting ethical practices within Parliament contributes to the overall strength and trustworthiness of democratic institutions.

- **Composition:**
  - **LS: 15 Members, nominated by the Speaker; Chairperson appointed by the Speaker** from among them; **RS: 10 Members, nominated by the Chairman (Vice-President);** parties' Leaders/Deputy Leaders/Chief Whips are commonly included.)
- **Mandate:**
  - (i) **Oversee moral & ethical standards** of Members;
  - (ii) **examine cases** of alleged unethical/other misconduct;
  - (iii) **consider/prepare a Code of Conduct** and advise on ethical norms;
  - (iv) **present reports** to the House.

#### Cash for Query Case - 2005 & 2023

In 2023, a complaint was filed alleging that MP Mahua Moitra had received financial benefits to pose questions critical of the government. It was referred to the Ethics Committee for investigation. The Ethics Committee conducted the investigation by summoning & hearing both parties. During the investigation, Moitra acknowledged sharing her parliamentary login credentials to post questions on her behalf. She, however, denied any allegations of bribery or any corrupt arrangement. The committee submitted a report recommending Moitra's expulsion from the Lok Sabha for engaging in unethical conduct. The Lok Sabha took up the Ethics Committee's report and voted in favour of Mahua Moitra's expulsion.

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In a similar case, in 2005, a sting operation exposed 11 MPs (10 from Lok Sabha and one from Rajya Sabha) accepting bribes in exchange for posing questions in the Parliament. After the respective Ethics Committees of the Houses found them guilty, all MPs were expelled from Parliament, marking an unprecedented move in Indian parliamentary history. The suspended MPs challenged the decision, but the Supreme Court upheld the expulsion in 2007.

### Committee on Government Assurances

This committee examines the assurances, promises and undertakings given by ministers from time to time on the floor of the House and reports on the extent to which they have been carried through. In the Lok Sabha, it consists of 15 members, while in the Rajya Sabha, it consists of 10 members. The committee was first constituted in 1953 in the Lok Sabha and in 1972 in the Rajya Sabha.

### Committee on Subordinate Legislation

Subordinate legislation refers to laws made by entities other than the primary legislative body (parliament or legislature). These include rules, regulations, bylaws, etc., created by executive authorities or other delegated bodies. The Committee's primary role is to scrutinize subordinate legislation to ensure that they are enacted within the powers delegated by the Constitution or Parliament. It was constituted in 1953 and consists of 15 members in both houses.

### Delegated Legislation in India

Delegated legislation refers to law-making by executive or administrative authorities under powers granted by the legislature. It enables the executive to make detailed provisions for the implementation of laws, without requiring the legislature to legislate on every specific issue.

In India, delegated legislation is executed through rules, regulations, orders, notifications, and bylaws. These mechanisms allow the executive to swiftly implement laws and make technical provisions. Delegated legislation is vital due to the increasing complexities of governance, the need for specialized expertise, and the ability to act efficiently without waiting for legislative processes.

While delegated legislation is essential for modern governance, it has potential downsides. The lack of direct legislative scrutiny can dilute accountability, and decisions made by the executive may not always reflect public interests. Moreover, inconsistent application of rules and limited public involvement can undermine trust in the legal system.

### Key Legal Judgments:

Several judgments have addressed the scope and limitations of delegated legislation. In *Hamdard Dawakhana v. Union of India* (1959), the Supreme Court set boundaries to ensure the legislature doesn't entirely relinquish its law-making power. The *Indian Express Newspapers case* (1962) further examined the extent of delegated powers, while the 1973 ruling emphasized clear guidelines to avoid misuse. More recently, the *Demonetisation case* raised questions about the broad use of executive orders.

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### Committee on Papers Laid on the Table

It was established in 1975 to enhance parliamentary oversight and accountability by examining the documents presented by ministers in both Lok Sabha and Rajya Sabha. The Lok Sabha committee comprises 15 members, while the Rajya Sabha committee has 10 members. Their primary function is to ensure that the laid papers comply with constitutional provisions and relevant laws. This includes assessing whether there has been any unreasonable delay in presenting the documents and whether they have been made available in both English and Hindi.

### Committee on Welfare of SCs and STs

This committee is tasked with examining various issues related to the social, economic, and educational development of SCs and STs, as well as monitoring the implementation of policies and programs aimed at their upliftment. It conducts inquiries, gathers evidence, and produces reports that include recommendations for the government to enhance the welfare of these groups. It consists of 30 members (20 from Lok Sabha and 10 from Rajya Sabha).

### Committee on Empowerment of Women

The committee examines matters related to the social, economic and political empowerment of women, and reviews the work of the National Commission for Women and state commissions for women. It was constituted in 1997 and has since then published regular reports containing its findings and recommendations to the government. It consists of 30 members, 20 from the Lok Sabha and 10 from the Rajya Sabha, nominated by the presiding officers of each House.

### Joint Committee on Offices of Profit

This committee is tasked with examining issues related to the concept of “offices of profit” held by the members of Parliament. Its primary role is to recommend what constitutes an office of profit and to ensure that legislators do not hold positions that could create a conflict of interest with their duties. It consists of 15 members: 10 from the Lok Sabha and 5 from the Rajya Sabha. It was established to address concerns that holding an office of profit could compromise a member’s ability to perform their legislative responsibilities impartially. The Constitution of India, under Articles 102 and 191, empowers Parliament and state legislatures to disqualify members from holding such offices to maintain the separation of powers between the legislature and the executive.

### Committees Relating to the Day-To- Day Business of the House

#### Business Advisory Committee

It is responsible for managing the legislative schedule of the Parliament. It determines the time allocated for government bills, discussions, and other business within the Lok Sabha and the Rajya Sabha. The committee is chaired by the Speaker in the Lok Sabha and the Chairman in the Rajya Sabha. In the Lok Sabha, it is composed of 15 members, while in the Rajya Sabha, it has 11 members.

### Committee on Private Members’ Bills and Resolutions

It is a Lok Sabha committee responsible for managing bills and resolutions introduced by individual MPs. It prioritizes these proposals, allocates debate time, and ensures they receive adequate attention. The committee is chaired by the Deputy Speaker of the Lok Sabha and comprises 15 members, who are nominated by the Speaker of the Lok Sabha. Unlike the Lok Sabha, the Rajya Sabha does not have a

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separate committee for private members' business. Instead, it manages these matters through its Business Advisory Committee, which handles both government and private member business.

### Rules Committee

The Rules Committee plays a crucial role in the legislative process of the Indian Parliament, focusing on the procedures and conduct of business within the House. Its primary responsibility is to review and recommend necessary amendments or additions to the rules governing the House's operations. In Lok Sabha, the committee is composed of 15 members, including the Speaker, who serves as the ex-officio chairman. Similarly, the Rajya Sabha's Rules Committee consists of 16 members, with the Chairman of the Rajya Sabha also acting as the ex-officio chairman.

### Committee on Absence of Members

It is a specialized body within the Lok Sabha, consisting of 15 members. Its primary function is to review applications from members seeking leave of absence from the House sittings. Additionally, it investigates cases of members who have been absent for 60 days or more without prior permission of the house. The count of 60 days includes only the days when the House is in session, excluding any recess periods or days when the House is not convened. In contrast, the Rajya Sabha does not have a similar committee; instead, it addresses absence matters directly within the House.

### House Keeping Committees

#### General Purposes Committee

The General Purposes Committee addresses various issues not covered by the other committees. Its primary role is to provide advice and consideration on matters concerning the House's affairs, ensuring that all relevant issues are discussed and managed effectively. In each House, this committee consists of the presiding officer (Speaker/Chairman) as its ex-officio chairman, Deputy Speaker (Deputy Chairman in the case of Rajya Sabha), members of the panel of chairpersons (panel of vice-chairpersons in the case of Rajya Sabha), chairpersons of all the departmental standing committees of the House, leaders of recognised parties and groups in the House and such other members as nominated by the presiding officer.

### House Committee

It is responsible for managing the residential accommodations and amenities provided to Members of Parliament (MPs) in Delhi. This includes overseeing facilities such as food, medical aid, and housing arrangements in hostels and residences. Both the Houses have their respective House Committees. In Lok Sabha, the 12-member committee is nominated by the Speaker for one year.

### Library Committee

This committee plays a role in overseeing and enhancing the use of library services by its members. Established in 1921, the committee consists of nine members: six from the Lok Sabha and three from the Rajya Sabha.

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### Joint Committee on Salaries and Allowances of Members

It was formed under the Salary, Allowances and Pensions of Members of Parliament Act, 1954. It consists of 15 members where 10 are from the Lok Sabha (the lower house) and 5 are from the Rajya Sabha (the upper house). This committee is responsible for creating rules that govern the salaries, allowances, and pensions of MPs. It reviews and suggests changes to these financial entitlements, ensuring that they reflect current economic conditions.

### Consultative Committees

Consultative Committees play a significant role in the Indian parliamentary system by facilitating informal discussions between Members of Parliament (MPs) and government ministers. These discussions focus on government policies and their implementation, fostering a collaborative environment for dialogue and feedback.

These Committees are established by the Ministry of Parliamentary Affairs after a new Lok Sabha is formed. Each committee includes members from both Lok Sabha and Rajya Sabha, ensuring representation from both Houses of Parliament. Membership is voluntary, allowing MPs to choose whether to participate, and the committees can have a maximum of 30 members and a minimum of 10. The Minister or Minister of State responsible for the relevant ministry chairs these committees, providing leadership and direction during discussions.

The primary function of Consultative Committees is to serve as a platform for informal discussions regarding various ministries and departments of the central government. These committees enable MPs to engage directly with ministers, discussing government policies, programs, and their implementation. The Ministry of Parliamentary Affairs is responsible for creating guidelines that govern the composition, functions, and procedures of these committees. Additionally, the ministry organizes meetings during both session and inter-session periods of Parliament, ensuring ongoing dialogue between the government and Parliament.

In addition to general Consultative Committees, separate informal committees are formed for each railway zone. These committees consist of MPs representing areas within a specific railway zone, allowing for focused discussions on regional railway issues. Unlike the broader ministry committees, these Railway Zone committees typically convene only during the session periods of Parliament, reflecting their specialized focus on railway matters.

### Concluding remarks - Parliamentary Committees

The Parliamentary Committees work as an effective instrument of executive accountability. Unlike Parliament, which is adjourned after a session, these committees function on a continuous basis. They work away from the public/media glare and can devote more time towards deeper scrutiny rather than to political pomp and show. The members of the committee are generally elected through a system of proportional representation, thus ensuring due participation of opposition members. Also, as the Ministers are devoid of membership of these committees, there is a scope for free and fair assessment of the executive.

To further improve the efficacy of committees, certain steps are needed. Firstly, the committees should be provided with adequate secretarial staff to provide administrative support. Secondly, expert guidance on technical matters must be made available. Thirdly, if the reports of the committees are mandatorily tabled before the parliament on a timely basis, the potency of Parliamentary Committees can improve. Fourthly,

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extending the committees' duration beyond a year and setting a fixed schedule will facilitate more detailed scrutiny of public expenditure and ensure that crucial public issues receive the focused attention they deserve.

Further, India may seek to benefit from later developments in parliamentary models across the world. For instance, the British House of Commons has Select Committees for each government department in the areas of spending, policies, and administration. The government usually has 60 days to respond to the recommendations of the committees. This approach will enhance the effectiveness and impact of the committees' oversight functions.

### Decline of Parliament

"In a democracy, there are bound to be differences among political parties, and there is bound to be vigorous debate among divergent viewpoints in Parliament. Differences and their well-researched, articulate expression both inside and outside Parliament is the very stuff of democracy." - Former PM AB Vajpayee

Recent times have witnessed growing apprehensions about the significant decline in both the quantity and quality of the functioning of Parliament, exemplified by several alarming trends. Notably, the absence of substantial deliberation has become commonplace, with a staggering 79% of the budget passed without any significant discussion in the last seven years. Moreover, the 16th Lok Sabha saw 34% of bills introduced and passed on the same day, contrasting sharply with the 15th Lok Sabha's 16%.

Concurrently, there has been a notable surge in the issuance of ordinances, with the 16th and the initial two years of the 17th Lok Sabha surpassing the total count of ordinances issued during the 14th and 15th Lok Sabha combined. Furthermore, disruptions have led to a drastic decline in the average number of Lok Sabha meeting days to less than 55 annually, significantly down from around 120 in the 1980s. Only four previous Lok Sabhas have had fewer sittings, all of which were dissolved before completing their five-year term. Moreover, the 17th Lok Sabha was the first time when the Lok Sabha did not elect the Deputy Speaker for its entire duration.

Critics highlight concerns over the misuse of the Money Bill provision to circumvent scrutiny by the Upper House. Additionally, the efficacy of Parliamentary Committees has been undermined, evidenced by a reduction in the referral of bills for detailed examination, dropping from 71% in the 15th Lok Sabha and 25% in the 16th Lok Sabha to a mere 16% in the 17th Lok Sabha. Interestingly, 58% of the Bills were passed within two weeks of their introduction and 35% of Bills were passed with less than an hour of discussion in the Lok Sabha. This erosion of parliamentary scrutiny extends to the dilution of mechanisms holding the executive accountable, as reflected by the paltry number of short-duration discussions held in the 17th Lok Sabha — merely 11, along with one half-an-hour discussion. On top of it, MPs were suspended on 206 instances, across both the Houses of Parliament. In Winter Session 2023, 146 MPs were suspended for serious misconduct in the House.

### Factors contributing to the decline of Parliament:

Multiple factors contribute to the downturn in parliamentary efficacy, each playing a significant role in diminishing its functionality. Foremost among these are the frequent disruptions and adjournments, with the time lost due to such interruptions soaring from 5.28% in the 11th Lok Sabha to a staggering 41.6% in

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the 15th Lok Sabha. Secondly, the opposition's failure to foster constructive debates has exacerbated the situation, with instances of unruly behaviour becoming increasingly prevalent in recent sessions. Thirdly, reports of unethical conduct by members within the parliamentary premises, such as the viewing of pornographic content, have surfaced, tarnishing the institution's integrity. Fourthly, the politicization of the Speaker's role has further compounded matters, with critics highlighting instances where the opposition's voice is stifled, particularly concerning money bills, raising questions about the Speaker's impartiality. Fifthly, inadequate access to information and outdated technological interventions have hindered effective parliamentary discourse, as many members still rely on obsolete published materials, as per critics' observations.

### Way Forward

Transforming Parliament into an effective platform for policy deliberations necessitates several key reforms. Firstly, in line with the recommendations of the National Commission to Review the Working of the Constitution (NCRWC), it should be obligatory for both Houses to convene for a minimum number of days annually, ensuring consistent legislative activity. Secondly, amendments to the Anti-Defection Law are imperative to afford members the freedom to express their opinions without fear of repercussions, fostering a more dynamic and diverse discourse.

Thirdly, the passage of the 'Disruption of the Proceedings of Parliament (Disentitlement of Allowances) Bill' is crucial to penalize members who intentionally disrupt proceedings, thereby promoting accountability and decorum. Fourthly, the efforts should be directed towards facilitating more informed debates through initiatives such as allocating funds for research teams for MPs and establishing a national information reservoir. Fifthly, instituting designated days of the week for opposition-led discussions would provide a structured platform for diverse viewpoints, balancing the parliamentary agenda away from government dominance, which could enrich deliberations and enhance democratic engagement. As the Parliament is the most sacrosanct symbol of democracy, it is the responsibility of all stakeholders to protect its dignity and make it a platform for deepening the roots of a healthy democracy.