

Bicameralism in India

Overdue for Review

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The Rajya Sabha is a permanent house and is not subject to dissolution. The Government of India Act, 1919 provided for the creation of the Council of States. The Constituent Assembly discussed at length the need for a bicameral legislature for the country and opted in favour of continuing the Upper House. Article 80 of the constitution provides for a maximum of 250 members in the Rajya Sabha of which 12 to be nominated by the President. One third of the members retire at the end of two years. A member elected for a full term serves six years. Following the practices in various countries, the powers of the Rajya Sabha are limited as far as Money Bills are concerned. A Money Bill can be introduced only in the Lok Sabha. After it is passed by the Lok Sabha, it is transmitted to the Rajya Sabha for its concurrence or recommendation. It has to return the bill within 14 days of its receipt. It cannot reject the money bill but can make recommendations for changes which can be accepted or rejected by the Lok Sabha.

Over the years, the Rajya Sabha has played a constructive and effective role in our polity. It has worked in a spirit of co-operation with the Lok Sabha as per the constitutional mandate. It has prevented hasty legislations and acted as a dignified chamber of elders. It has worked for the unity and integrity of the nation and had reinforced the faith of the people in parliamentary democracy.

Despite the ruling party not enjoying majority in the Rajya Sabha, the functioning of the Government has always been smooth till the last decade and important legislations have sailed through in national interest. During UPA-II, the Rajya Sabha functioned with disruptions as several issues were raised by the BJP but the House was seldom brought to a grinding halt. The 2014 elections marked the beginning of voter rejection of Congress. Unable to accept the reality which was its own making, the Congress started using its majority in the Rajya Sabha to settle scores with the Government. Between 2015-16, the proceedings were disturbed to a great extent and even full washout took place in a few sessions. The voice of the people that was represented by the mandate in the Lower House was stifled by Rajya Sabha's non-functioning. The hostile environment which the Congress created saw several important legislations not seeing the light of the day easily. The Goods and Services Act (GST) which infact was originated by the Congress was derailed for a very long time in the Rajya Sabha and the Constitutional amendments could not be brought about. Several timelines given by the Government for implementation of GST were not met. On each occasion, Congress brought up lame excuses to disrupt the parliament day after day.

In the last five sessions of the Rajya Sabha, several working hours were lost.

Time Lost in Parliament : Last Five Sessions

Session*	Sixteenth Lok Sabha		Session	Rajya Sabha	
	Sitting Hours	Time Lost		Sitting Hours	Time Lost
First	23 hours 51 min	16 min	232	142 hours	34 hours
Second	167 hours	13 hours 51 min	233	76 hours	62 hours
Third	129 hours 21 min	3 hours 28 min	234	109 hours	17 hours
Fourth	242 hours 54 min	7 hours 4 min	235	72 hours	21 hours
Fifth	42 hours 27 min	34 hours 4 min	236	9 hours	72 hours

*Source: Lok Sabha, Rajya Sabha, *Sessions are numbered differently because the Lok Sabha gets dissolved and fresh elections are held, whereas Rajya Sabha members retire periodically.*

Regular disruptions are a loss to the exchequer. NDTV had estimated that it costs about Rs. 29000/- of tax payers money for one minute in Rajya Sabha. In the five sessions, tax payers money of about Rs. 35.85 crores was wasted by hours lost in the Rajya Sabha.

A serious discussion has now been initiated at several levels focusing on reforms that would give full expression to the mandate of the people. Elected governments are at the mercy of the Upper

House for a substantial part of their tenure and when they gain majority, they have to face the electorate again. If anti-incumbency weighs, the new government will have the same hurdle in sailing through with the various legislative businesses in the Rajya Sabha. There have been discussions as to whether the Rajya Sabha is at all required. A saner thought has been how to ensure working majority in the Rajya Sabha from Day 1 for a Government which assumes office. That calls for re-organisation of the Rajya Sabha itself. It

would no longer be then a Council of States in the present form and can be similar to the Upper Houses in most countries.

Vidhan Parishads in West Bengal, Punjab, Tamil Nadu and Andhra Pradesh were abolished post independence after creation. Andhra Pradesh revived it in 2006 after abolishing it in 1985. Both Telangana and Seemandhra which were carved out of the unified Andhra Pradesh today have only unicameral system of legislature. The abolition of the Vidya Parishads were for several reasons. The Tamil Nadu legislative council was abolished in 1986 by the Anna Dravida Munnetra Kazhagam (ADMK) government of M.G. Ramachandran (MGR). MGR had nominated a Tamil film actress, Vennira Aadai Nirmala (aka A. B. Shanthi) to the Council. Her swearing in ceremony was scheduled for 23 April 1986. Nirmala had earlier declared insolvency and according to Article 102-(1)(c) of the Indian Constitution, an insolvent person cannot serve as a

member of parliament or state legislature. The Governor of Tamil Nadu, Sundar Lal Khurana asked MGR to explain how Nirmala's nomination was proposed without proper vetting. Miffed with this incident, he abolished the Upper House in Tamil Nadu on 1st November 1986.

Bicameralism around the world

There is a significant resurgence in bicameralism amongst contemporary parliaments. Only China and South Korea with high GDP have unicameral parliament. In the 1970's, Scandinavian nations abandoned the bicameral system. Of the 75 existing bicameral parliaments 36 have a second chamber in which all the members are elected. In 22 countries, the election is by direct suffrage. Methods of nomination of the world's senates and second chambers are as under :

Fully Elected Senates			Partially elected / partially appointed Senates		Appointed Senates
Direct Suffrage	Indirect Suffrage	Mixed Suffrage	Direct Suffrage	Indirect Suffrage	Appointed Senates
Argentina	Austria	Belgium	Italy	Afghanistan	Antigua and Barbuda
Australia	Bosnia-Herzegovina	Spain	Zimbabwe	Algeria	Bahamas
Bolivia	Congo			Belarus	Barbados
Brazil	Ethiopia			Botswana	Barhein
Chile	France			Burundi	Belize
Colombia	Gabon			Cambodia	Canada
Czech Republic	Germany			Egypt	Democratic Republic of Congo
Dominican Republic	Morocco			India	Fiji (Isles)
Haiti	Namibia			Ireland	Grenada
Japan	Netherlands			Kazakhstan	Jamaica
Liberia	Pakistan			Madagascar	Jordan
Mexico	Slovenia			Malaysia	Lesotho
Nigeria	South Africa			Russian Federation	Oman
Palau	Sudan			Rwanda	Saint Lucia
Paraguay				Swaziland	Trinidad and Tobago
Philippines				Tajikistan	United Kingdom
Poland				Tunisia	Yemen
Romania				Uzbekistan	
Switzerland					
Thailand					
United States					
Uruguay					
22	14	2	2	18	17

Of the five members of the Security Council, except China, all others, USA, UK, Russia and France have a bicameral legislature, each with its own features of tenure, powers and election / nomination. The position in respect of each of these countries and since India is part of BRICS, countries like Brazil and South Africa are also included.

SENATE – USA

It is the upper house of the United States Congress, comprising of 2 members elected from each of the 50 states. **The powers and functions of the Senate prove beyond any shadow of doubt that not only it is more powerful than the House of Representatives, it is also the most powerful second chamber in the world.** It enjoys some direct executive powers. No treaty or agreement with a foreign state concluded by the President is valid without the prior ratification of the Senate. The House of Representative has 438 members. Senators are elected for a term of 6 years. Members of the House of Representatives are elected only for 2 years. US Senators are directly elected by the people. The senate enjoys equal powers in the legislative and financial spheres with the House both in theory and practice.

HOUSE OF LORDS, UK

It is the Upper Chamber of Great Britain's bicameral legislature. Members of the House of Lords are appointed by the Queen on the advice of the Prime Minister. Some non-party political members are recommended by an independent body, the House of Lords Appointments Commission. It comprises :

The Lords Spiritual including the Archbishops of Canterbury and York and the Bishops of Durham, London, Winchester as well as 21 other bishops holding sees in England.
92 hereditary Peers

All public bills, under the 1949 Act except bills to extend the maximum duration of parliament not receiving the approval of the House of Lords becomes law provided that they are passed by two successive parliamentary sessions and that a period of one year has elapsed between the bills second reading in the first session and its third reading in the second session.

The house comprises of

Men	597	74%
Women	207	26%
	804	100%

House of Lords can reject a bill for two years over three successive parliamentary sessions. After that it becomes a law inspite of their objections. The House of Lords discharges a valuable function by providing a national forum of debate free from the constraints of party discipline.

THE FRENCH SENATE

'Sénat' is the Upper House of the French Parliament. It has 348 seats. Voting is by indirect election. The tenure of office is 6 years. Indirectly elected by elected officials it represents territorial collectivities of the Republic and French citizens living abroad. The lower house is the National Assembly. Until September 2004, the Senate had 321 senators elected to a nine year term. The term was reduced to six years in 2004. By 2011 the number of senators increased to 348. Senators are elected – one half of them every three years. They are elected by about 1,50,000 officials comprising regional councillors, mayors, city councillors and members of the National Assembly. 90% of the electors are delegates appointed by Councillors. The Senate thus has a rural bias.

THE UPPERHOUSE IN JAPAN

The National Diet has 722 seats of which 242 are from the House of Councillors and 475 from the House of Representatives. The House of Councillors is the Upper House. It is elected under a parallel voting system. In matters of budget, treaties or designation of the Prime Minister, the House of Representatives can insist on its decision. In other decisions, the House of Representatives can override a vote of the House of Councillors by a two thirds majority voting in the Lower House. The Upper House has a 6 year term. The House cannot be dissolved, as only 50% is elected at each election of the 121 members subject to election each time. 73 are elected from 47 prefectural districts (by a single nontransferable vote) and 48 from a nationwide list by proportional representation with open lists.

	Life Peers++	Hereditary Peers+	Bishops	Total
Bishops	0	-	26	26
Conservative	204	48	-	252
Cross Bench	145	32	-	177
Labour	198	4	-	202
Liberal Democrats	98	4	-	102
Non affiliated	30	1	-	31
Others	13	1	-	14
	688	90		804

++ Made up of life peers under the Appellate Jurisdiction Act, 1876 and Life Peerage Act, 1958.

+ Elected by Parties and Groups or by the Whole House.

NCOP OF SOUTH AFRICA

This Upper House of the parliament of South Africa was constituted in 1910 and abolished on 1.1.1981 and again revived between 1994 – 1997. It is referred to as NCOP, the National Council of Provinces (NCOP). It has 90 seats of which 54 are permanent and 36 special. Voting is by indirect proportional representation of provincial legislatures. Each of the 9 provinces legislature nominates 10 members to the NCOP. Each province delegation consists of 6 permanent delegates who are nominated for a term that lasts until a new provincial legislature is elected and four special delegates. One of the special delegates is the province's premier or another member designated by the premier. The party representation must proportionally reflect the party representation in the provincial legislature. Delegates from local Government Association which represents the municipalities can attend sittings of NCOP but may not vote. NCOP has legislative powers in functional areas where the parliament and NCOP have concurrent legislative powers.

FEDERAL SENATE OF BRAZIL

The Federal Senate is the Upper House of the National Congress of Brazil. The Chamber of Deputies is the Lower House. While there are 513 deputies, the Federal Senate has 87 members. The voting system is plurality voting, alternating every four years between single member elections (FPTP) and dual member elections (Block voting). Three senators from each of the 26 states and three senators from the federal districts are elected on a majority basis to serve an eight year term. 2/3rd of the elections are at one time and the remaining 1/3rd four years later. It can propose and vote on laws, it can approve foreign financial transactions, approve constitutional authorities appointed by the President and establish limits for public debt.

FEDERATION COUNCIL – RUSSIA

Chosen by territorial politicians, the Upper House has 170 seats. Each of the 85 federal subjects of Russia consisting of 22 republics, 46 oblasts, 9 krais, 3 federal cities, 4 autonomous okrugs and 1 autonomous oblast send two senators to the Council. The Chairman of the federation council is the third highest position after the President and the Prime Minister. The Federation Council is a more formal chamber of the federal Assembly. All laws are considered by the Federation Council after they have been adopted by the State Duma (Lower House) where most legislation is introduced. Special Powers that are allowed only to the federation council are approval of changes in borders between the subjects of the Russian Federation, approval of a decree of the President on the introduction of Martial Law and using Armed Forces outside the territory of Russian Federation, declaring of elections of the President, his/her impeachment and approving the President's nomination of Judges of the constitutional court, Supreme Court and Supreme Arbitration Court, Prosecutor General etc. If the Federation Council vetoes a law passed by the State Duma, the two chambers are mandated to form a Conciliation Committee in order to form a compromise document which would go back for voting in

both the houses. The vote of federation council can be overcome by two thirds majority in the Duma. The current council was formed for an unlimited term on 23rd January 1966.

While ensuring the permanency of the Rajya Sabha like in most countries, the lower house which is the direct voice of the people can have a representation in the Rajya Sabha which will not alter substantially the present characteristics of the house as council of states. While several schemes of election to the Rajya Sabha are possible, each state can have a representation of 1/3rd of the seats in the Rajya Sabha from the Lok Sabha quota subject to each state having a minimum of one seat. The states quota to be nominated by the Lok Sabha is the ratio of no. of Lok Sabha seats to the total strength of Lok Sabha i.e. 543 as bears to 1/3rd strength of the Rajya Sabha i.e. 82. Only registered political parties can avail this quota. Independents, unattached and nominated are excluded. The balance seats would be filled by the Rajya Sabha in the usual manner as done now. The term of Lok Sabha originated MPs would be coterminous with that of Lok Sabha and that of the states would be 6 years, 1/3rd retiring every two years. This would give the composition of Rajya Sabha as under :

	Present Strength	From the States	From Lok Sabha by the parties
Arunachal Pradesh	1	1	-
Assam	7	5	2
Bihar	16	10	6
Chhattisgarh	5	3	2
Goa	1	1	-
Gujarat	11	7	4
Haryana	5	3	2
Himachal Pradesh	3	2	1
Jammu & Kashmir	4	3	1
Jharkhand	6	4	2
Karnataka	12	8	4
Kerala	9	6	3
Madhya Pradesh	11	7	4
Maharashtra	19	12	7
Manipur	1	1	-
Meghalaya	1	1	-
Mizoram	1	1	-
Nagaland	1	1	-
Odisha	10	7	3
Puducherry	1	1	-
Punjab	7	5	2
Rajasthan	10	6	4
Seemandhra	11	7	4
Sikkim	1	1	-
Tamil Nadu	18	12	6
Tripura	1	1	-
Telangana	7	5	2
Uttarakhand	3	2	1
Uttar Pradesh	31	19	12

West Bengal	16	10	6
New Delhi	3	2	1
	233	154	79
From the Lok Sabha for no representa- tion states / Union territories by lottery one each.		-	3
	233	154	82
Nominated	12	12	-
	++245	166	82
TOTAL	248	166	82

++ present strength including vacancies (2)

In the present scenario, NDA with 339 seats in the Lok Sabha, with this composition pattern of Rajya Sabha could have nominated from various states 51 persons giving it a working majority in the Upper House as soon as it formed the Union Government in 2014.

The 12 members nominated by the President too can elect to join any party within six months of their appointment. Since political

parties get to nominate their choice based on the strength of Lok Sabha under this scheme, nominations by the President should be strictly as per the constitution and expressly exclude politicians. Instead of acting on the advice of the Union Cabinet, a Separate Selection Committee comprising of Prime Minister, Leader of Opposition in the Lok Sabha, Speaker of the Lok Sabha, Dy. Chairman of the Rajya Sabha can recommend to the President, the 12 nominations through the Union Cabinet.

The new found vigour in BJP with landslide victory in Uttar Pradesh and Uttarakhand and possibility of continued momentum in the Assembly elections in 2018 and 2019 provides the best opportunity for it to seek Constitutional amendments that can align the various provisions in the Indian Constitution with contemporary needs and provide a framework for all round growth and development. The elections to the Rajya Sabha and the nominations can be part of that reform process.

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