

POWERS OF INDIAN PARLIAMENT

Chapter Outline

- Introduction to Parliamentary system of government
- Functions/Difference of Rajya Sabha/Lok Sabha
- Union and State Executives in India
- Union Executive
- State Executive

5.1 INTRODUCTION TO PARLIAMENTARY SYSTEM OF GOVERNMENT

Parliamentary System

The Parliamentary System is a democratic form of government in which the party (or a coalition of parties) with the greatest representation in the Parliament (Legislature) forms the government, its leader becoming the Prime Minister. Executive functions are exercised by the members of the Parliament appointed by the Prime Minister to the cabinet. The parties in minority serve in the opposition and their duty is to regularly challenge the majority party. Prime ministers may be removed from power whenever they lose the confidence of a majority of the ruling party or of the Parliament.

Countries around the world practice Democracy through different types of institutions. However, today most democracies in the world use the Parliamentary System as opposed to a Presidential System like that used in the United States. A few examples among the many Parliamentary Democracies are Canada, Great Britain, Italy, Japan, Latvia, the Netherlands, and New Zealand.

The defining characteristics of the Parliamentary System are the supremacy of the Legislative within the three functions of the government—Executive, Legislative, and Judiciary. The Legislative function is conducted through a Unicameral (one-chamber) or Bicameral (two-chamber) Parliament composed of members accountable to the people they represent. The Prime Minister and his council of Ministers carry out the Executive Function.

The political party or coalition of parties that make up a majority of the Parliament select the Prime Minister and department ministers. The Prime Minister usually is the

leader of the majority party, if there is one, or the leader of one of the parties in the ruling coalition.

In a Parliamentary System, laws are made by majority vote of the Legislature and signed by the head of state, who does not have an effective veto power. In most Parliamentary Democracies, the head of state can return a bill to the Legislative body to signify disagreement with it. But the Parliament can override this "veto" with a simple majority vote.

In most Parliamentary Systems, there is a special Constitutional court that can declare a law unconstitutional if it violates the provisions of the Constitution. In a few Parliamentary Systems, such as Great Britain, New Zealand, and the Netherlands, there is no provision for Constitutional or Judicial Review, and the people collectively possess the only check on the Legislature, which is to vote members of the majority party or parties out of office at the next election.

A Parliamentary Democracy is directly and immediately responsive through the electoral process. Members of Parliament may hold their positions during an established period between regularly scheduled elections. However, they can be turned out of office at any point between the periodic Parliamentary elections if the government formed by the majority party loses the support of the majority of the Legislative body. If the governing body, the Prime Minister and his cabinet of executive ministers suffers a "no confidence" vote against it in the Parliament, then it is dissolved and an election may be called immediately to establish a new parliamentary membership. A new Prime Minister and cabinet of executive ministers may be selected by the newly elected members of the parliament.

A few Parliamentary Democracies function as semi-presidential systems. They have a President, elected by direct vote of the people, who exercises significant foreign policy powers apart from the Prime Minister. They also have a Constitutional court with strong powers of Constitutional or Judicial Review. For example, the Constitutional Democracy of Lithuania is a Parliamentary System with characteristics of a Presidential System, such as the President of the republic who is directly elected by the people and who has significant powers regarding national defence, military command, and international relations.

Advocates of the Parliamentary System claim it is more efficient than the presidential alternative because it is not encumbered by checks and balances among power-sharing departments, which usually slow down the operations of the government and sometimes create paralyzing gridlocks. Further, in the Parliamentary System, a government that has lost favor with the people can be voted out of office immediately.

Advocates claim that by responding more readily to the will of the people the Parliamentary System is more Democratic than the Presidential alternative. However, both Parliamentary and Presidential Systems can be genuine democracies so long as they conform to the essential characteristics by which a Democracy is distinguished from a non-democracy, including constitutionalism, representation based on democratic elections, and guaranteed rights of liberty to all citizens.

5.2 FUNCTIONS/DIFFERENCE OF RAJYA SABHA/LOK SABHA

Rajya Sabha: Functions and Powers of the Rajya Sabha

The Rajya Sabha, i.e., the council of states, is the upper house of the union parliament. It gives representation to the Indian States. However, the States do not enjoy an equal representation in the Rajya Sabha. They have been given representations on the basis of the size of their populations.

1. Composition of the Rajya Sabha

The Rajya Sabha can have a maximum strength of 250 members; out of these 238 are representatives of the states and remaining 12 members are nominated by the President from amongst persons who have achieved distinctions in the fields of art, literature, science or social services.

At present, the Rajya Sabha has 245 members wherein 233 are elected and 12 nominated. Members of each state legislative assembly together elect their allotted number of member of parliaments while the President nominates 12 member of parliaments to the Rajya Sabha.

2. Method of Election

The members of the Rajya Sabha are elected indirectly by the people. The people of each state elect the members of their State Legislative Assembly who then elect the members of Rajya Sabha by a method of proportional representation through the single transferable vote system. Each state legislative assembly elects as many representatives as have been allocated to it by the constitution.

3. Qualifications to be a Member of Rajya Sabha

- He must be a citizen of India.
- He must be above the age of 30 years.
- He must possess all other qualifications as laid down by the parliament.
- He must not hold any office of profit under any government.
- He should not be insane or bankrupt.
- He should not have been disqualified under any law of the parliament.

Now any person residing in any part of India can contest election to the Rajya Sabha from any state. For this purpose residence of the concerned state is not essential.

4. Tenure

The Rajya Sabha is a quasi-permanent house. It is not subject to dissolution as a whole. One third of its members retire every two years and elections are held only for the vacant seats. The tenure of each member of the Rajya Sabha is six years.

5. Sessions

The President convenes the sessions of the Rajya Sabha usually along with the sessions of the Lok Sabha or whenever he feels it necessary. However, there cannot be a gap of more than six months within two sessions of the Rajya Sabha. The President can call a special

session of Rajya Sabha to get approval for an Emergency declaration when the Lok Sabha stands dissolved.

6. Quorum for the Meetings of Rajya Sabha

The quorum for the meetings of Rajya Sabha is 1/10th of its members. It means that at least 1/10th members of the Rajya Sabha must be present for carrying out the work of the House.

7. Privileges of Members

The members of the Rajya Sabha enjoy several privileges. They enjoy unrestricted freedom to express their views in the house. They cannot be arrested for any civil offence during and 40 days before and after the session of the Rajya Sabha. For protecting the privileges of the members of the house, the committee on privileges has been in existence since the inception of the Rajya Sabha.

8. Chairman and Deputy Chairman of the Rajya Sabha

The Vice-President of India is the ex-officio chairman of the Rajya Sabha. He is not a member of the house. However, he presides over its meetings and conducts its proceedings. During the absence of the Vice-President, the Deputy Chairman of the Rajya Sabha presides over the meetings. The Deputy Chairman is elected by the Rajya Sabha MPs from amongst themselves.

Powers of the Rajya Sabha

1. Legislative Powers

In the sphere of ordinary law-making the Rajya Sabha enjoys equal powers as the Lok Sabha. An Ordinary Bill can be introduced in the Rajya Sabha but it cannot become a law unless passed by it. In case of a deadlock between the two houses of parliament over an Ordinary Bill and if it remains unresolved for six months, the President can convene a joint sitting of the two houses for resolving the deadlock.

This joint sitting is presided over by the Speaker of the Lok Sabha. If the bill is passed in the joint sitting, it is sent to the President for his signatures. But if the deadlock is not resolved, the bill is deemed to have been killed.

2. Financial Powers

In the financial sphere, the Rajya Sabha is a weak house. A Money Bill cannot be introduced in the Rajya Sabha. It can be initiated only in the Lok Sabha. A Money Bill passed by the Lok Sabha comes before the Rajya Sabha for its consideration. However, if within a period of 14 days, the Rajya Sabha fails to pass the bill, it is taken to have been passed by the parliament irrespective of the fact whether the Rajya Sabha has passed it or not. If the Rajya Sabha proposes some amendments and the bill is returned to the Lok Sabha, it depends upon the Lok Sabha to accept or reject the proposed amendments.

3. Executive Powers

The union council of ministers is collectively responsible before the Lok Sabha and not the Rajya Sabha. Lok Sabha alone can cause the fall of the council of ministers by passing a vote of no-confidence.

Although the Rajya Sabha cannot remove the ministry from its office yet the members of the Rajya Sabha can exercise some control over the ministers by criticising their policies, by asking questions and supplementary questions, and by moving adjournment motions. Some ministers are also from the Rajya Sabha. Now the Prime Minister can also be from Rajya Sabha if the majority party in the Lok Sabha elects/adopts him as its leader.

4. Amendment Powers

Rajya Sabha and Lok Sabha can together amend the Constitution by passing an Amendment Bill with 2/3 majority in each House.

5. Electoral Powers

The Rajya Sabha also has some electoral powers. The elected members of the Rajya Sabha along with the elected members of the Lok Sabha and all the state legislative assemblies together elect the President of India. The members of the Rajya Sabha and Lok Sabha together elect the Vice-President of India. Members of the Rajya Sabha also elect a deputy chairman from amongst themselves.

6. Judicial Powers

- The Rajya Sabha along with the Lok Sabha can impeach the President on charges of violation of the constitution.
- The Rajya Sabha can also pass a special address for causing the removal of a judge of the Supreme Court or of any high court.
- Charges against the Vice-President can be levelled only in the Rajya Sabha.
- The Rajya Sabha can pass a resolution for the removal of some high officers like the Attorney General of India, Comptroller and Auditor General and Chief Election Commissioner.

7. Miscellaneous Powers

The Rajya Sabha and Lok Sabha jointly perform the following functions:

- Approve Ordinances issued by the President,
- Ratification of an Emergency Proclamation,
- Making any change in the jurisdiction of the Supreme Court and the High Courts, and
- Making any change in the qualifications for the membership of the Lok Sabha and the Rajya Sabha.

Two Special Powers of Rajya Sabha

The Rajya Sabha enjoys two exclusive powers:

The power to declare a subject of state list as a subject of national importance

The Rajya Sabha can pass a resolution by 2/3rd majority of its members for declaring a state list subject as a subject of national importance. Such a resolution empowers the union parliament to legislate on a state subject for a period of one year. Such resolutions can repeatedly be passed by the Rajya Sabha.

Power to Create or Abolish an all India service

The Rajya Sabha has the power to create one or more new all India services. It can do so by passing a resolution supported by 2/3rd majority on the plea of national interest. In a similar way, the Rajya Sabha can also disband an existing all India Service.

Position of the Rajya Sabha

A study of the powers of the Rajya Sabha leads us to the conclusion that it is neither a weak house like the British House of Lords nor a powerful house as the American Senate. Its position is somewhat mid-way between the two. It is less powerful than the Lok Sabha but it has not been a very weak or insignificant House. Since 1950, the Rajya Sabha has been using its powers and functions in accordance with the provisions of the constitution and performing its role as the second House of the Union Parliament.

Lok Sabha: Functions and Position of the Lok Sabha

The House of the people popularly known as the Lok Sabha, is the lower and powerful house of the Union Parliament. It represents the people of India. The members are directly elected by the people of India. It is fully democratic, representative and a National House.

1. Composition

The present membership of the Lok Sabha is 545, out of which 523 are elected by the people of all Indian states and 20 by the people of the union territories. The President nominates two members from the Anglo-Indian community. The maximum membership of the Lok Sabha was fixed at 552 till the year 2010.

2. Method of Election of the Members of Lok Sabha

The members of the Lok Sabha are elected on the basis of the following Principles:

Universal Adult Franchise

Every citizen who has attained the minimum age of 18 years has the right to vote in the elections to the Lok Sabha. However, it is essential that his name should be included in the voters list of his constituency.

➤ **Reservation of Seats for scheduled castes and scheduled tribes**

Some constituencies are reserved for scheduled castes and scheduled tribes. These are called reserved constituencies. From each reserved constituency only the candidates belonging to scheduled castes and scheduled tribes can contest the elections. However, all the voters of each such constituency can exercise their right to vote for electing one candidate belonging to scheduled castes and scheduled tribes as their representative. Presently 131 seats stand reserved (84 for scheduled castes and 47 for scheduled tribes).

➤ **Single Member Territorial Constituencies**

The whole country is divided into as many territorial constituencies as is the number of the members of the Lok Sabha to be elected. One member of parliament is elected from each constituency.

➤ **Secret Ballot**

The members of the Lok Sabha are elected by Secret Ballot and no one knows his voting decision. Now EVMs are being used to record votes.

➤ **Direct Election and Simple Majority Vote Victory system**

All the members of the Lok Sabha are directly elected by the people. Any voter can cast his vote to elect any candidate of his choice from his constituency. A candidate securing the largest number of votes from all the contestants of a constituency gets elected as the representative of the people of his constituency in the Lok Sabha.

3. Qualifications for Membership of the Lok Sabha

- He must be a citizen of India.
- He must not be less than 25 years of age.
- He must not hold any office of profit in the government.
- He should not have an unsound mind or be bankrupt.
- He should not be a declared offender of a grave crime by any court.
- He should possess all qualifications prescribed by the parliament.

4. Tenure

The normal term of the Lok Sabha is five years. This term can be extended for one year during an Emergency. But fresh elections to the Lok Sabha must be held within six months by the end of Emergency. Further, the President can dissolve the Lok Sabha at any time when the Prime Minister may advise him to do so or when no party is in a position to form a government. In this case also a new Lok Sabha has to be elected within six months.

5. Sessions

The President can call a session of parliament at any time but the gap between two meetings of the parliament cannot be more than six months. It means in one year, a minimum of two sessions of the Lok Sabha are essential.

6. Quorum

For a meeting of the Lok Sabha the presence of at least 1/10th of its total members is essential. If 1/10th of the members are not present, the Speaker of the House can adjourn the meeting for lack of quorum.

7. Presiding Officers of Lok Sabha: Speaker and Deputy Speaker

The Speaker is the Chairman and Presiding Officer of the Lok Sabha. In its first meeting, every new Lok Sabha elects one of its members as the Speaker and another as the Deputy Speaker. The Speaker presides over the meetings of the Lok Sabha, conducts its proceedings and maintains discipline and decorum in the House. His authority in the house is supreme.

The speaker acts as a neutral Chairman in the House. In his absence these functions are performed by the Deputy Speaker. When both the Speaker and Deputy Speaker are not present in the House, then one member from the panel of chairmen (List of some veteran and experienced member of parliaments of the House) presides over the meeting.

8. Privileges of Members

Lok Sabha member of parliaments enjoy several privileges. They enjoy unrestricted freedom to express their views in the House. No action can be taken against them for anything said in the House. They cannot be detained for any civil offence during and 40 days before and after the session of the Lok Sabha. Their arrest in criminal cases can be made only after the Speaker has been informed of it.

Legislative Powers

An Ordinary Bill can become law only after it has been passed by both the Houses of Parliament. It can be introduced either in the Lok Sabha or the Rajya Sabha. When a bill is introduced and passed by the Lok Sabha, it is sent to the Rajya Sabha. After it has secured the approval of Rajya Sabha, it goes to the President for his signature.

After this it becomes a law. Although Ordinary Bills can be introduced in either of the two Houses of Parliament, almost 90% of the bills are actually introduced in the Lok Sabha. In case the Rajya Sabha rejects a bill passed by the Lok Sabha and returns it with or without some amendments, the Lok Sabha reconsiders the bill.

If the Lok Sabha re-passes it and Rajya Sabha is still not prepared to pass it, a deadlock occurs. If this deadlock remains unresolved for six months, the President summons a joint sitting of the two Houses. The decision of the joint sitting is accepted by both the Houses.

Executive Powers

The Council of Ministers is collectively responsible for all its work before the Lok Sabha. The leader of the majority in the Lok Sabha becomes the Prime Minister. Most of the ministers are from the Lok Sabha. The ministers remain in office as long as they enjoy the confidence of the majority in the Lok Sabha.

The Lok Sabha can remove the ministry from office by passing a vote of "no-confidence" against it. Thus, the life and death of the ministry depends upon the Lok Sabha who maintains a continuous control over the council of ministers.

MPs can ask questions from ministers about their policies and activities of administration. They can criticise their policies. They can move and adopt several types of resolutions and motions (adjournment motion, call attention motion, censure motion and no-confidence motion) and can reject any bill of the government.

If the Lok Sabha:

- Rejects any policy or decision of the cabinet,
- Or disapproves the budget or a bill of the government, or
- Passes a vote of no-confidence against the Prime Minister, it is taken to be a vote of no-confidence against the entire council of ministers and it resigns en masse.

Financial Powers

The Lok Sabha has vast financial powers. A Money Bill can be introduced only in the Lok Sabha. After being passed by it, the Money Bill goes to the Rajya Sabha. Such a bill can be delayed by the Rajya Sabha for a maximum period of 14 days.

If the Rajya Sabha fails to pass a Money Bill and 14 days elapse from the date of its submission of the bill, the Money Bill is deemed to have been passed by both the Houses of Parliament. It is sent to the President for his signature.

In case of any dispute as to whether a particular bill is a Money Bill or not, the Speaker of the Lok Sabha gives the decision which is final and cannot be challenged in any court or even in the Rajya Sabha or the Lok Sabha. Thus, we can say that the Lok Sabha has the final control over the finances of state. No tax can be levied or collected or changed.

or abolished without the approval of the Lok Sabha. The financial policies of the Government cannot be implemented without the consent of the Lok Sabha.

Judicial Powers

The Lok Sabha also performs some judicial functions. The impeachment proceedings can be taken up against the President either in the Lok Sabha or the Rajya Sabha. The President can be removed from office only when an impeachment resolution is adopted by each of the two houses with a 2/3 majority of its members.

The Lok Sabha also investigates the charges prepared by the Rajya Sabha against the Vice-President of India. The Lok Sabha and the Rajya Sabha can together pass a resolution for the removal of any judge of the Supreme Court or of a state high court.

Both the houses can jointly pass a special address and present it to the President for the removal of some high officers of the state like the Attorney General, the Chief Election Commissioner and the Comptroller and Auditor General of India. Lok Sabha can also take action against any member or any citizen who is held guilty of committing contempt of the house.

Electoral Functions

The Lok Sabha also performs some electoral functions. The elected members of the Lok Sabha take part in the election of the President. Members of the Lok Sabha and the Rajya Sabha together elect the Vice-President of India. The members of the Lok Sabha also elect a Speaker and a Deputy Speaker from amongst themselves.

Some Other Powers of Lok Sabha

The Lok Sabha and the Rajya Sabha jointly perform the following functions:

- Approve Ordinances issued by the President.
- Change of boundaries of the States, Creation of new states and change in the name of any state.
- Changes in the jurisdiction of the Supreme Court and the high courts.
- Changes in the qualifications of the members of the parliament and state legislatures.
- Revising the salary and allowances of the members of parliament.
- The setting up of joint public service commission for two or more states.
- Passing of a resolution for abolishing or creating the upper chamber of a State Legislature.
- Approval of a declaration of emergency.

Position of the Lok Sabha

After studying the powers and functions of the Lok Sabha, we can say that the Lok Sabha is a very powerful house. The council of ministers is responsible to the Lok Sabha and not to the Rajya Sabha. It remains in office as long as it enjoys the confidence of the majority in the Lok Sabha.

The Lok Sabha has full control over the finances of the state. It dominates ordinary law-making bills as nearly 90% of the bills are introduced in the Lok Sabha. The joint sitting to resolve the deadlocks between the two houses tends to favour the Lok Sabha. It also controls the Executive.

The leader of the majority in the Lok Sabha becomes the Prime Minister. Lok Sabha can cause the dismissal of the council of ministers by passing a vote of no-confidence or by rejecting a policy or law of the government. Hence, the Lok Sabha is a very powerful house of the union parliament.

Difference between Lok Sabha and Rajya Sabha

S. No.	Basis of comparison	Lok Sabha	Rajya Sabha
1.	Other names	Lower House House of Commons First House Temporary House	Upper House House of States Second House Permanent House
2.	Structure/Members	Mentioned in Article 81 Max members: 252 From States: 230 (Article 81-1-a) From Union Territories: 20 Nominated: 02 (Anglo Indians, nominated by President)	Mentioned in Article 80 Max Members: 250 From States & Union Territories: 238 (Article 80-1-b) Nominated: 12 (From Art. Culture, Science, Social Service etc)
3.	Presently working	543: Elected (through legislation) + 2 Nominated = 545	233: Elected (Through legislation) + 2 Nominated = 245
4.	Election Procedure	<ul style="list-style-type: none"> • Direct Election • By Adult Franchise Voting (Common citizen voting) • Age for Voting: 18 years (For citizens) 	<ul style="list-style-type: none"> • Indirect Election • Single Transferable voting system of proportional representatives
5.	Minimum Age to become a member	25 years	30 years
6.	Tenure	5 years	6 years
7.	Dissolution	May be done by President (on recommendation of Prime Minister)	Can not be done (Permanent house)
8.	Leadership/Head/ Sanchalak	Speaker & Deputy Speaker (Article 93)	Chairman & Deputy Chairman (Article 89) Chairman: Vice-President Deputy Chairman
9.	Elections	By majority of members (Article 93)	By majority of members (Article 89-2)

10.	Powers	<ul style="list-style-type: none"> • Presides over the Sessions and conducts business of the House • Decides about a bill: Money bill or not • Maintains Discipline & Decorum & also punishes MPs who obstruct • Permits the No confidence Motion, Adjournment Motion etc. • Decides the Agenda of the Meetings 	<ul style="list-style-type: none"> • Union-State relations • Creation of All India Services
11.	Quorum (Minimum members required to take decisions)	1/10	1/10
12.	States with maximum seats	Uttar Pradesh: 80 Maharashtra: 48 West Bengal: 42 Bihar: 40 Tamil Nadu: 39	Uttar Pradesh: 31 Maharashtra: 19 Tamil Nadu: 18 West Bengal: 16 Bihar: 16 Karnataka: 12

5.3 UNION AND STATE EXECUTIVES IN INDIA

First of all we need to understand, what is the meaning of Executive. The three major pillars of Indian Constitution are legislature, Executive and judiciary. Where Legislature has the responsibility of making laws, the Executive has the responsibility to implement the laws and the Judiciary has the responsibility of maintaining laws. All the three pillars are important but the role of the Executives is more important as it is related to execution.

The Executives are members of government who provide leadership. Formally, supremacy may rest with the Legislature but in practice, it is the Executive which is more important as it executes the policies and the ministries and other departments help in running the government successfully along with the bureaucracy and the Legislature.

There are two types of Executives—the Union Executives and the State Executives. Union Executives are related to the Central Government and the State Executives are related with the State Government.

Union Executive (Articles 52-78): The Union Executive of Indian polity is a part of the political executive, that comprises three important posts:

- President (Articles 52-62)
- Prime Minister & Council of Ministers (Articles 74-75 & Article 78)
- Attorney-General of India (Article 76)

State Executive (Articles 153-167): The State Executive of Indian polity is also a part of the political executive that comprises three important posts: