

24.01.21

## Impact of Emergency on Fundamental Rights

Art. 358 }  
Art. 359 } Ref. Laxmikant for explanation.

Rajya Sabha → Article 80

R.S

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Rajya  
Sabha

The constitutional framework of Indian Polity establish R.S as an institutional framework to protect values, aspirations demands & interests of states through constitutional means. It is a chamber that manages federalism by curtailing tendencies like Regionalism, Separatism, parochialism etc. It is also a safety valve or buffer in which the grievances & dissatisfactions of federal units are released through constitutional means.

## Features of Rajya Sabha :-

### • Federal Chamber :-

In Indian Constitutional framework Rajya Sabha is designated as a federal chamber where the members of Rajya Sabha are elected from the states on the principle of proportionality with the purpose to protect the interests of states at the Union level. In "Kuldip Nayar Case (2006)", Supreme Court also ascertained this federal feature of Rajya Sabha saying that the main purpose of establishing R.S. is to invite constructive Debates & Deliberations.

Subsequently, Residential Qualification & Secret ballot is not an essential feature of Indian Democratic System.

R.S. in our Parliamentary Democracy is also characterised by several federal & non-federal features.



under Art. 249 & 312, a parliamentary law could be enacted on the state list & a new All India Services is created by the resolution of R.S. passed by the majority of  $\frac{2}{3}$ rd members present & voting. However, if  $\frac{2}{3}$  states rejects such proposals then also the resolution could be passed in the house because R.S. is configured based on the principle of proportionality & not equality.

Apart from this, there are several members of R.S. which are not elected by states

- Rajya Sabha as an upper house but 2nd chamber of Parliament. R.S. is a house which is not the subject of dissolution. It is because there is no fixed tenure for Rajya Sabha although its members are having the fixed tenure of 6 years. It is not a subject of dissolution by the simple

reason that election of all the members does not take simultaneously &  $\frac{1}{3}$  member out of total membership have to vacate their membership after every 2 years. However, R.S. is not a sovereign chamber like the British house of lords. It is regarded as a 2nd chamber by the reason that Lok Sabha is a much more popular democratic chamber that represents the notion of "we the people of India".

At the same time, under Art 75(3), GOI (Council of ministers) is only responsible to Lok Sabha.

- Decision Making chamber on behalf of States

The members of R.S. are entitled to occupy any portfolio under Govt. of India. It is an inherent part of COM, (Council of ministers) they are also involved in the decision making process at the Union level. By their representation, States are also involved in the



decision making process of Govt. of India.

- Impartial & Reviewing Chamber

R.S. is a much more neutral Chamber of Parliament since Govt. is normally not having the majority in R.S. The proposals, policy prerogatives, executive decisions & bills are impartially reviewed by the chamber of R.S.

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Lok Sabha (Ref. Lokmitant for provisions)

Delimitation :-

Delimitation is a legislative function performed by a legislative body created by a legislative enactment with the purpose to readjust the legislative constituencies of Lok Sabha & legislative assemblies.

It is an intra-state pronouncement conducted with the purpose to ~~has~~ secure uniform population base for different constituencies within a state.

The process of <sup>delimitation</sup> ~~deregulation~~ is regulated by a high powered legislative body i.e. Delimitation Commission chaired by a former judge of Supreme Court & members of Election Commission of India & the ~~members of~~ State Election Commissioner <sup>also</sup> remain the incumbant of Delimitation Commission. Apart from these ex-officio members there are total 10 associated members which are nominated by the speaker of Lok Sabha & Vidhan Sabha. The commission will take the regard of several factors like administrative <sup>convenience</sup>, lines of communication, geographical features, modes of transport etc. before conducting Delimitation.