POLTY SHORT NOTES

# Parliament.

## Rajya Sabha

Ministers may belong to either House of Parliament.

The Constitution does not make any distinction between the Houses in this regard. Every Minister has the right to speak and take part in the proceedings of either House but he is entitled to vote only in the House of which he is a member.

Similarly, with regard to powers, privileges and immunities of the Houses of Parliament, their members and committees thereof, the two Houses are placed absolutely on equal footing by the Constitution.

Elections:

The representatives of the States and of the Union Territories in the Rajya Sabha are elected by the method of indirect election

elected by the elected members of the Legislative Assembly of that State and by the members of the Electoral College for that Union Territory

Proportional representation by single transferrable vote

The Electoral College for the National Capital Territory of Delhi consists of the elected members of the Legislative Assembly of Delhi, and that for Puducherry consists of the elected members of the Puducherry Legislative Assembly.

Bye Elections:

Rajya Sabha is a permanent House and is not subject to dissolution.

However, one-third Members of Rajya Sabha retire after every second year.

A member who is elected for a full term serves for a period of six years.

The election held to fill a vacancy arising otherwise than by retirement of a member on the expiration of his term of office is called ‘Bye-election’

A member elected in a bye-election remains **member for the remainder of the term of the member who had resigned** or died or disqualified to be member of the House under the Tenth Schedule.

Chairman and deputy chairman

Chairman: vice president of India

Deputy Chairman:

Rajya Sabha also chooses from amongst its members, a Deputy Chairman

Panel of Vice-Chairmen in Rajya Sabha,

the members of which are nominated by the Chairman, Rajya Sabha. In the absence of the Chairman and Deputy Chairman, a member from the Panel of Vice-Chairmen presides over the proceedings of the House.

Secretary-General

The Secretary-General is appointed by the Chairman of Rajya Sabha and holds rank equivalent to the highest civil servant of the Union.

The Secretary-General works with anonymity and is readily available to the Presiding Officers for rendering advice on parliamentary matters.

Leader of the House:

PM is leader of the house or ny Minister who is a member of the House and is nominated by him to so function

Chairman is consulted by LOH for aby Private Members’ business on any day other than Friday

Leader of opposition

The office of Leader of the Opposition was given official recognition through the Salary and Allowances of Leaders of the Opposition in Parliament Act, 1977

Thus, the Leader of the Opposition should satisfy three conditions, namely,

1. he should be a member of the House
2. the Leader in Rajya Sabha of the party in opposition to the Government having the greatest numerical strength and
3. be recognized as such by the Chairman, Rajya Sabha

The role of the Leader of the Opposition, in fact, is more difficult as he has to criticize, find fault and present alternative proposals/policies with no power to implement them

**both Houses enjoy equal powers in**

election and impeachment of the President,

election of the Vice-President,

approving the Proclamation of Emergency,

the proclamation regarding failure of constitutional machinery in States and

financial emergency.

In respect of receiving reports and papers from various statutory authorities, etc., both Houses have equal powers

Financial Bill Category B and Ordinary Bills can be introduced in either House of Parliament.

Exception where LOK SABHA is powerful:

in the case of collective responsibility of the Council of Ministers and

certain financial matters, which fall in the domain of Lok Sabha only

**Council of Ministers**

**Under article 75(3) of the Constitution, the Council of Ministers is collectively responsible to Lok Sabha which means** Rajya Sabha cannot make or unmake the Government.

RS can, however, exercise control over the Government and this function becomes quite prominent, particularly when the Government does not enjoy majority in Rajya Sabha.

**Money Bill:**

Rajya Sabha has to return such a Bill to Lok Sabha within a period of fourteen days from its receipt.

If it is not returned to Lok Sabha within that time, the Bill is deemed to have been passed by both Houses at the expiration of the said period in the form in which it was passed by Lok Sabha.

Rajya Sabha cannot amend a Money Bill; it can only recommend amendments and **Lok Sabha may either accept or reject all or any of the recommendations made by Rajya Sabha**

**Other Finance Matters:**

Apart from a Money Bill, certain other categories of Financial Bills **also cannot be introduced in Rajya Sabha**

Rajya Sabha **does not vote on Demands for Grants of various Ministries** - a matter exclusively reserved for Lok Sabha –

no money, however, can be withdrawn from the Consolidated Fund of India unless the Appropriation Bill has been passed by both the Houses

the Finance Bill is also brought before Rajya Sabha.

Financial Bill Category A can only be introduced in the Lok Sabha on the recommendation of the President. However once it has been passed by the Lok Sabha, it is like an ordinary Bill and there is no restriction on the powers of the Rajya Sabha on such Bills.

the Department-related Parliamentary Standing Committees that examine the annual Demands for Grants of the Ministries/Departments are joint committees having ten members from Rajya Sabha.

**Exception Power only to Rajya sabha**

**Legislation on State List:**

if Rajya Sabha passes a resolution

by a majority of not less than two-thirds of members present (***i.e special majority as per article 249 ;example if out of the 245 members in Rajya Sabha, if only 150 are present and voting, then the special majority required as per article 249 would be 101*)**

and voting saying that it is “necessary or expedient in the national interest” that Parliament should make a law on a matter enumerated in the **State List**,

Parliament becomes empowered to make a law on the subject specified in the resolution, for the whole or any part of the territory of India.

Such a resolution remains in force **for a maximum period of one year but this period can be extended by one year at a time by passing a similar resolution further.**

**Creation of All India services:**

If Rajya Sabha passes a resolution

by a majority of **not less than two-thirds of the members present and voting** declaring that

it is necessary or expedient in the national interest **to create one or more All India Services common to the Union and the States**,

Parliament becomes empowered to create by law such services

**EMERGENCY POWERS:**

President’s proclamation in the event of national emergency, in the event of failure of constitutional machinery in a State, or in the case of financial emergency,

Every such proclamation has to be approved by both Houses of Parliament within a stipulated period

If a Proclamation is issued at a time when Lok Sabha has been dissolved or the dissolution of Lok Sabha takes place within the period allowed for its approval, then the proclamation remains effective, if the resolution approving it is passed by Rajya Sabha within the period specified in the Constitution under articles 352, 356 and 360

**Joint Session:**

**can be ordered by President of India**

**case of following reasons:**

A bill is passed by one house and is rejected by the other.

The amendments suggested by one house is not accepted by the house in which bill originated.

If the bill remains un passed for more than six months

**Exceptions:**

If the Lok Sabha dissolves before the President calls for joint sitting then **bill gets lapse and no joint sitting is held**

if President calls for joint sitting before the Lok Sabha dissolves then joint sitting will be held even after the Lok Sabha dissolves.

**For ordinary legislation only: Not for money bill,no constitutional amendment.**

To resolve a deadlock between the two Houses, in case of an ordinary legislation, the Constitution provides for the joint sitting of both Houses.

In fact, there have been three occasions in the past when the Houses of Parliament had met in joint sitting to resolve differences between them

Issues in joint sitting are decided by a majority of the total number of members of both Houses present and voting. The bill can be passed by a **simple majority** in a Joint Session

The joint sitting is held in the Central Hall of Parliament House presided over by the Speaker, Lok Sabha

In case of tie of votes: decision of speaker is final.

Last bill was POTA bill Prevention of Terrorism Act, 2002

**Nominated Members:**

12 are nominated members

They vote on bills as regular members.

They are not entitled to vote in the election of the President of India.

But in the election of the Vice-President of India, they have a right to vote.

So far, **none from them has been inducted into the Council of Ministers**.

A nominated member is allowed six months, should he decide to join a political party after he has taken his seat in the House in terms of article 99 of the Constitution.

A nominated member has also been exempted from filing his assets and liabilities under Section 75A of the Representation of the Peoples Act, 1951 which requires the elected member to do so within 90 days of his making or subscribing oath/affirmation

# Types of Majorities:

There is no explicit classification of majorities in Indian Constitution.

But a careful reading of different articles in Indian Constitution would provide an idea about four types of majorities.

They are Absolute Majority, Effective Majority, Simple Majority and Special Majority.

## Absolute majority

It refers to a majority of more than 50% of the total membership of the house.

For example, as the total membership of Lok Sabha is 545, an absolute majority in Lok Sabha means – 50% of 545 plus 1, ie. 273.

Cases, where the absolute majority is used:

In the normal business of the Parliament or State Legislature absolute majority, is not generally used.

But this majority is used during the general election, for the formation of government at Center and States.

## Effective Majority

Effective Majority of the house means more than 50% of the effective strength of the house. This implies that out of the total strength, we deduct the vacant seats.

When Indian Constitution mentions “all the then members”, that refers to the effective majority.

For example, in Rajya Sabha, out of the total strength of 245 members if there are 45 vacancies, then the effective strength of the house is 200. Then the effective majority is 50% of 200 plus 1, ie 101.

Cases where the effective majority is used:

Removal of Vice-president in RS – Article 67(b).

Removal of Speaker and Deputy Speaker of Lok Sabha and State Legislative Assembly.

## Simple Majority

This refers to the majority of more than 50% of the members present and voting.   
This is also known as **functional majority or working majority**.

The simple majority is the most frequently used form of majority in Parliamentary business. When the constitution or the laws do not specify the type of majority needed, the simple majority is considered for voting.

To understand simple majority, let us consider a situation in Lok Sabha.

On a particular day, out of the total strength of 545, 45 were absent and 100 abstained from voting on an issue. So only 400 members were present and voting.

Then the simple majority is 50% of 400 plus 1, ie. 201.

Ordinary bills need to be passed with a simple majority in both Houses of the Parliament before it is sent to Indian President for his assent.

Cases where the simple majority is used:

To pass Ordinary/Money/Financial bills.

To pass Non-Confidence Motion/Adjournment Motion/Censure Motion/Confidence Motion.

For the removal of Vice President majority required in Lok Sabha is simple majority – A67(b).

To declare a financial emergency.

To declare state emergency (—President’s rule).

Election of Speaker/Deputy Speaker of Lok Sabha and State legislatures.

Constitution Amendment Bill under Article 368 which needs to be ratified by states, require only simple majority at State Legislatures.

## Special Majority

All types of majorities other than the absolute, effective or simple majority is known as the special majority. A special majority are of 4 types, with different clauses.

Type 1 – Special Majority as Per Article 249.

Type 2 – Special Majority as per Article 368.

Type 3 – Special Majority as per Article 368 + 50 percent state ratification by simple majority.

Type 4 – Special Majority as per A61.

### Special Majority as Per Article 249

Special majority as per article 249 requires a majority of 2/3rd members present and voting.

For example, if out of the 245 members in Rajya Sabha,

if only 150 are present and voting, then the special majority required as per article 249 would be 101.

Cases where special majority as per article 249 is used:

To pass the Rajya Sabha resolution to empower the parliament to make laws in the state list. (valid up to 1 year, but can be extended any number of times).

### Special Majority as Per Article 368

Special majority as per article 368 requires a majority of 2/3rd members present and voting supported by more than 50% of the total strength of the house.

This type of majority is used for most of the Constitutional amendment bills.

To pass a constitution amendment bill in Rajya Sabha, in addition to getting the support of 123 members,

the bill should be favoured by more than 2/3rd of the members present and voting.

Cases where special majority as per article 368 is used:

To pass a constitutional amendment bill which does not affect federalism.

Removal of judges of SC/HC.

Removal of CEC/CAG.

Approval of national emergency requires special majority as per Article 368 in both houses.

Resolution by the state legislature for the creation/abolition of Legislative Council (Article 169).

### Special Majority as Per Article 368 plus State ratification

This type of special majority is required when a constitutional amendment bill try to change the federal structure.

Special majority as per article 368 plus state ratification requires a majority of 2/3rd members present and voting supported by more than 50% of the state legislatures by a simple majority.

A good example would be the bill which introduced the National Judicial Appointments Commission (NJAC). It required the support of at least 15 state legislatures out of the 29 states.

Cases where special majority as per article 368 plus state ratification is used:

To pass a constitutional amendment bill which affects federalism like the position of High Court Judges.

### Special Majority as Per Article 61

Special majority as per article 61 requires a majority of 2/3rd members of the total strength of the house.

In Lok Sabha, the special majority as per article 61 is 364 while in Rajya Sabha, the special majority as per article 61 is 164.

Cases where special majority as per article 61 is used:

For the impeachment of the Indian President.

# Constitutional bodies

## Election Commission of India

#### Quasi judicial

The Constitution of India has vested in the Election Commission of India the superintendence, direction and control of the entire process for conduct of elections to Parliament and Legislature of every State and to the offices of President and Vice-President of India.

The Election Commission was established in accordance with the Constitution on 25th January 1950

### Appointment & Tenure of Commissioners

The President appoints Chief Election Commissioner and Election Commissioners.

Tenure: They have tenure of six years, or up to the age of 65 years, whichever is earlier.

Salary: They enjoy the same status and receive salary and perks as available to Judges of the Supreme Court of India.

Removal: The Chief Election Commissioner can be removed from office only through impeachment by Parliament.

Originally the commission had only a Chief Election Commissioner. It currently consists of Chief Election Commissioner and two Election Commissioners.

### Working

At center Two or three Deputy Election Commissioners and Director Generals who are the senior most officers in the Secretariat assist the Commission.

They are generally appointed from the national civil service of the country and are selected and appointed by the Commission with tenure.

At State, the election work is supervised, subject to overall superintendence, direction and control of the Commission, by the **Chief Electoral Officer of the State,**

who is appointed by the Commission from amongst senior civil servants proposed by the concerned state government.

At the district and constituency levels, **the District Election Officers, Electoral Registration Officers and Returning Officers**, who are assisted by a large number of junior functionaries, perform election work.

### Political Parties & the Commission

Political parties are registered with the Election Commission under the law.

The Commission ensures inner party democracy in their functioning by insisting upon them to hold their organizational elections at periodic intervals.

Political Parties so registered with it are granted recognition at the State and National levels by the Election Commission on the basis of their poll performance at general elections according to criteria prescribed by it.

The Commission, as a part of its **quasi-judicial jurisdiction, also settles disputes between the splinter groups of such recognised parties.**

### Advisory Jurisdiction & Quasi-Judicial Functions

Under the Constitution, the Commission also has advisory jurisdiction in the matter of **post election disqualification of sitting members of Parliament and State Legislatures.**

Further, the cases of persons found guilty of corrupt practices at elections which come before the Supreme Court and High Courts are also referred to the Commission for its opinion on the question as to whether such person shall be disqualified and, if so, for what period.

The opinion of the Commission in all such matters **is binding on the President or, as the case may be, the Governor to whom such opinion is tendered.**

The Commission has the **power to disqualify a candidate who has failed to lodge an account of his election expenses within the time and in the manner prescribed by law.**

The Commission has also the power for removing or reducing the period of such disqualification as also other disqualification under the law.

### Judicial Review

The decisions of the Commission can be challenged in the High Court and the Supreme Court of the India by appropriate petitions.

Commission cannot review any result on its own.

This can only be reviewed through the process of **an election petition**, which can be filed before the High Court, in respect of elections to the Parliament and State Legislatures.

In respect of elections for the offices of the President and Vice President, such petitions can only be filed before the Supreme Court.

# Delimitation commission

Delimitation means the act or process of fixing limits or boundaries of territorial constituencies in a country or a province having a legislative body.

The job of delimitation is assigned to a high power body. Such a body is known as Delimitation Commission or a Boundary Commission.

under Article 82 of the Constitution which has provision that the **Parliament by law enacts a Delimitation Act after every census.**

**Delimitation Commission is a statutory body and not a constitutional body established by Central government.**

The Constitution (Eighty-fourth Amendment) Act, 2001 and the Constitution (Eighty-seventh Amendment) Act, 2003 have, inter alia, amended Articles 81, 82, 170, 330 and 332 of the Constitution of India. The cumulative effect of these amendments to the Constitution is that –

1. the total number of existing seats as allocated to various states in the House of the People on the basis of 1971 census shall remain unaltered till the first census to be taken after the year 2026;
2. the total number of existing seats in the Legislative Assemblies of all states as fixed on the basis of 1971 census shall also remain unaltered till the first census to be taken after the year 2026;
3. the number of seats to be reserved for the Scheduled Castes (SCs) and Scheduled Tribes (STs) in the House of the People and State Legislative Assemblies shall be re-worked out on the basis of 2001 census;
4. each state shall be re-delimited into territorial parliamentary and assembly constituencies on the basis of 2001 census and the extent of such constituencies as delimited now shall remain frozen till the first census to be taken after the year 2026; and
5. the constituencies shall be so re-delimited that population (on the basis of 2001 census) of each parliamentary and assembly constituency in a state shall, so far as practicable, be the same throughout the state.

Some facts :

Delimitation in J&K is done under state Constitution.

Under 31st Amendment Act, delimitation exercise doesn’t apply to states and Union Territories having population less than 6 million.

Delimitation under 2002 Act, has increased Scheduled Caste (78 to 84) and Scheduled Tribe Constituencies(38 to 42)

# Finance Commission

Quasi judicial

Finance Commission is provided for in Article 280 of the Constitution

## Central Finance Commission

1. The President shall, within two years from the commencement of this Constitution and thereafter at the expiration of **every fifth year** or at such earlier time as the President considers necessary, by order constitute a Finance Commission which shall consist of a Chairman and four other members to be appointed by the President.
2. Parliament **may by law determine the qualifications which shall be requisite for appointment as members of the Commission** and the manner in which they shall be selected.
3. It shall be the duty of the Commission to make recommendations to the President as to-
   1. the distribution between the Union and the States of the net proceeds of taxes which are to be, or may be, divided between them under this Chapter and the allocation between the States of the respective shares of such proceeds;
   2. the principles which should govern the grants-in-aid of the revenues of the States out of the Consolidated Fund of India;
      1. [the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Panchayats in the State on the basis of the recommendations made by the Finance Commission of the State;]
      2. [ the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Municipalities in the State on the basis of the recommendations made by the Finance Commission of the State;]
      3. [ any other matter referred to the Commission by the President in the interests of sound finance.
4. The Commission shall determine their procedure and shall have such powers in the performance of their functions as Parliament may by law confer on them.

### The latest constitutional provisions of finance commission India

1. The President of India shall, within maximum of two years from the commencement of the draft and thereafter completion of every fifth year or at earlier time (as he deems necessary), by order should constitute a Finance Commission
2. The Finance Commission shall consist of a chairman and four other members, appointed by the President himself
3. The elected parliament may by formulating appropriate law determine the qualifications of such members of the Finance Commission and it may also determine the manner in which the members shall be selected
4. The duty of the Finance Commission shall entail recommendations to the President of India on -
5. Distribution of the income of the government (including central and provisions governments) as per proportion or according to the contribution made towards such collection of revenues by each such provisions governments or central government
6. Define the grounds on which the government should allocate the grants-in-aid of the revenues of the Indian provisionss out of the consolidated fund of India. The quantum of allocation of such funds need to compliment the requirements of the panchayat and resource of the Consolidated Fund of a provisions
7. The quantum of allocation of such funds need to compliment the requirements of the Municipalities in the provisions and the resources of the Finance Commission of the provisions
8. Any other matter referred to the Commission by the President in the interests of sound finance.
9. The Finance Commission of India shall also determine the operational process and is vested with such powers in the operation as per the provisions enacted by the parliament of India

Members:

Chairman

Judge of high court

Eminent economist

Person with knowledge of govt accounts

Person with working knowledge of administeration

## State Finance Commission

Article 243I of the Indian Constitution prescribes that the Governor of a State shall, as soon as may be within one year from the commencement of the Constitution (Seventy-third Amendment) Act, 1992, and thereafter at the expiration of every fifth year, **constitute a Finance Commission to review the financial position of the Panchayats and to make recommendations to the Governor** as to

The principles which should govern:

1. The distribution between the State and the Panchayats of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Panchayats at all levels of their respective shares of such proceeds;
2. The determination of the taxes, duties, tolls and fees which may be assigned as, or appropriated by, the Panchayats;
3. The grants-in-aid to the Panchayats from the Consolidated Fund of the State;
4. The measures needed to improve the financial position of the Panchayats;
5. Any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Panchayats.
6. Article 243Y of the Constitution further provides that the Finance Commission constituted under Article 243 I shall make similar recommendation vis-a-vis municipalities.

The Governor is required to cause every recommendation made by the State Finance Commission together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

## JPSC

They are not statutory nor constitutional

# Various Procedures

## Disqualification of Member of Parliament/MLA:

Article 102 deals with disqualification of member of parliament if he holds office of profit

Article 103 lays down that in case of dispute about disqualification about member of parliament It shall be referred to the President and he will take decision on the advice of Election commission of India(advice is binding) and his decision will be final.

And in case of disqualification in case of defection matter will be decided by **the speaker or chairman of the Rajya sabha.**

Article 191 1(a) deals with same matter in state legislative assembly. It also states that dispute regarding disqualification of MLA will be settled by Governor and his decision shall be Final. In this case opinion of State election commission shall be sought (Advice is binding on governor).

The representation of people act, 1951 also lays down certain conditions for disqualification of MPs and MLAs.

They are as follows

1. He must not have been convicted by a court of any offence and sentenced to imprisonment for a period of more than two years.

2. He must not have been found guilty by a court or on election tribunal of certain election or corrupt practices in the elections.

3. He must not have been dismissed for corruption or disloyalty from government services.

4. He must not have failed to lodge on his election expenses within time and in a manner prescribed by law.

5. He must not have any interest in government contracts, execution of government work or services.

He must not be a director or managing agent nor hold an office of profit under any corporation in which the government has any financial interest.

## Impeachment of Judge:

Impeachment procedure of Judge

Justice V. Ramaswami has the dubious distinction of being the first judge against whom impeachment proceedings were initiated. but it failed to secure the required two-thirds majority.

Till date no judje of supereme court has been impeached.

In Article .124(4) of the indian constitution , the guidelines surrounding the Impeachment of Judges are provided on grounds of proved misbehaviour or incapacity

The Constitution, armed with **the Judges (Inquiry) Act, 1968 and the Judges (Inquiry) Rules, 1969** provides for the entire process of Impeachment

1. The impeachment is initiated with the presentation of a motion for impeachment in either of the houses of the Parliament which is then looked into by the Speaker/Chairman.

a. Under the said act, the process is initiated with presentation of a motion of impeachment by at least 50 members of the Rajya Sabha or 100 from the Lok Sabha

2. After that, a three member committee is formed by them to look into the charges framed against the Judge in question. At the end of the fact-finding by the committee, a report with the recommendations is submitted to them.

a. acting as a body with powers of a civil court

b. The Committee should consist of the Chief Justice or a judge of the Supreme Court, a chief justice of a high court and a distinguished jurist

3. In the event that the committee recommends that the judge be impeached,both the house of the Parliament will vote on the same and if a two third majority of at least half the strength concurs,

a. special majority of each House of Parliament (that is, a majority of the total membership of that House and a majority of not less than two thirds of the members of that house present and voting), has been presented to the President in the same session of Parliament for such a removal

b. Failed in case of justice ramaswami

4. then the motion of impeachment shall be placed before the President for his assent.

5. The process thus, involves the Judge being present before both houses of Parliament

## By election

Representation of the People Act that allows a candidate to contest elections from two constituencies.

When the candidate wins from both the constituencies, he/she has to vacate one of the seats. This triggers by-election as one of the seats that is rendered vacant.

It can also be due to a politician leaving a vacant position on various grounds

It can be for Both Rajya sabha ; L Sabha; Legislative assembly

# President

Indirect election

Oath: chief justice of India

Never sits in any house to attend meetings

Not a member of any house

Appoints judge of High court

Nominated Executive officer of cantonment boards is appointed by president of India

Remove **state public services commissioner** though appointed by governor

Remove **state** **human rights commissioner** though appointed by governor

Remove **CAG/Election commissioner** as same procedure a of SC judge

Takes advices from SC on removal of **UPSC chairman**/**SPSC commissioner/Chairman CVC**, and If SC says so He will remove him, SC advice is binding

Notify and change boundaries of Scheduled Area

Can appoint commission to look into administration of scheduled area

CM of Delhi appointed by President

Ordinance promulgated by Lt governor can be withdrawn after permission from president only.

In case of issue of Lt governor and minister matter has to be referred to president and he has to acts accordingly on it

# Governor

Appointed by President

Oath: chief justice of high court

He is nominee of center (based on Canadian model not american where governor is directly elected )

SC held that Office of governor is not employment under center; It is an independent office, not subordinate to center aslo cannot be considered as office of profit

Always there will be a governor of state,At no time state can be without a governot(interregnum)

In case of death of governor CJ of high court can be appointed temporarily

Oath:

By CJ of high court or senior most judge of High court

Removal

By president at any time , no definite procedure

Qualification

He should not be member of any house of Parliament or state legislature

His salary is decided by parliament

IN case of joint governor of 2 states salary is shared according to provision by president

He is immune to criminal proceedings during his office

Civil proceeding can only be instituted by giving 2 months of notice

Powers

Legislative

Prorogues a house of state which is in session or not in **seesion on advice of CM**

Summon house of state **on advice of cm**

Dissolve legislature **on advice of cm**

Acts as chancellor of universities

Discritionary

Recommend imposition of presidents rule/constitutional emergency in state(**Constituional discrition**)

During this he enjoys executive power as an agent of president

Reserve bill for president(**Constituional discrition**)

Seek info from CM about any issue(**Constituional discrition**)

Tribal council Mining royalty is decided by governor(**Constituional** **discrition)**

Can dissolve legislative assembly when it lost its majority**(situational discrition)**

Dismiss council of minister when it losses confidence in house**(situational discrition))**

Appoint CM in Hung assembly, or CM dies with no successor**(situational discrition))**

Ordinance

Promulgate ordinance when legislature not in session **on advice of council of minister**

In case only one house is in session(bi cameral legislature) then it can also make ordinance

Only on subjects on which state can make law

In some cases needs instruction from president for ordinance

Withdraw ordinance at any time

Ordinance remain till 6 weeks after resume of legislature

Legislature with passing a resolution can disapprove it before 6 weeks and is agreed to it by council.

Financial Powers

Money bill introduce prior recommendation of governor

No demand or grant can be made without his recommendation

Constitutes finance commission every 5 years

**Judicial**

Can pardon, remit, reprive, suspend or commute punishment or sentence according to state law

**Cannot pardon death sentence**

**Can remit, suspend or commute death sentence**

**Also cannot do same for military court punishments**

Executive

Appoint any member when speaker and deputy speaker are vacant to preside of assembly

Appoint any member when chairmen and deputy chairmen are vacant to preside over council

Appoints 1/6 member of state council

Nominate one member from anglo Indians

Decide on disqualification of members of assembly and council in consultation with EC

Advice of EC is binding

Appoints advocate general of state

Enjoys office uring pleasure of governor

Appoints state election commissioner

Removal only by procedure same as high court judge

Appoints state services commission chairmen and members

Only removed by president

Appoints District judge

Transfer and promotion also with consultation of high court

Appoints other lower judges

with consultation of state high court and state public service commission

Lt. Governor in UT can pass ordinance when any house is not in session (not when assembly is dissolved or suspended)

But can only be withdrawn with permission of **president only.**

**Tribal powers**

Notify and change boundaries and constitute new **autonomous districts**

Jurisdiction of court can be decided by governor in Tribal areas

i. e **autonomous districts**

Can appoint commission to look into working of **District Councils**

Governor can decide if certain act of parliament or assembly is applicable to scheduled area or not or in modified form

Tribal areas of Assam, Meghalaya, Tripura and Mizoram

Autonomous districts Consist of district councils

District councils try civil and criminal cases

D councils can levy tax on land also

Jurisdiction of high court can be decided by governor

Mining royalty is decide by governor(discrition)

# Vice president

# Speaker

## Lok sabha

## Rajya sabha

## Legislative assembly

Speaker and panel of Chairmen for assembly also selected(nominated by deputy speaker)

Resigns by writing to deputy speaker

Removal

By majority resolution of all members of assembly(absolute majority)

After 14 day notice

Vote in case of tie

His decision on money bill is final. **Speaker’s decision is not subject to judicial review.SC**

Appoints chairmen of all committees of assembly

Salary from consolidated fund of state ,not subject to annual vote by state legislature

Power

Adjourn the house for specific time day,week,month

Adjourn sine die , adjourn indefinitely(when business of house completes after that governor declare prorogation of session)

Governor prorogue house on advice of CM also for summon house on advice of CM

## Legislative council

Chairman and panel of deputy chairman also selected

Removal

By majority resolution of all members of council(absolute majority)

After 14 day notice

Salary from consolidated fund of state ,not subject to annual vote by state legislature

# Deputy speaker

## Lok sabha

## Rajya sabha

## Legislative assembly

Deputy speaker and panel of chairmen

Enjoy power of speaker while presiding

Nominates panel of chairmen to preside when both speaker and deputy speaker not there to preside

Resign by writing to speaker

Removal

By majority resolution of all members of assembly(absolute majority)

After 14 day notice

## Legislative council

Deputy Chairmen and Panel of vice chairmen

Nominates panel of vice chairmen to preside when both speaker and deputy speaker not there to preside

Removal

By majority resolution of all members of assembly(absolute majority)

After 14 day notice

# Urban local bodies

74th amendment

12th schedule added

1st MC was in Madras in 1687

Lord Rippon Agreement Magna Carta of local self government

Constitution provides for:

Nagar panchayat: transition area between village and city

Municipal council: smaller urban area

Municipal corporation: larger cities

Elections:

Each municipal area divided into wards

Direct election by State election commission

Chairperson is selected among the elected members

State finance commission also for municipality

Distribution of funds between state and municipality

Grants in aid

Nominated members based on law by state

Eminent personality

Member of Rajya Sabha/legislative council from that constituency

Member of Lok Sabha/legislative assembly from that constituency

Reservation

For SC/ST/Women 1/3rd

For chairperson for municipalities of SC/ST/women/obc by state law

Dissolution

If MC dissolved before 5 years then new MC work for remaining period only

If remaining period is less than 6 months then no need to re election.

Appeals

No question can not be raised in any court about election

Except by the form of election petition in front of designated authority

District planning committee

Constitutional

Each district must have one

Complies plans of panchayats and Mc’s

**Elected members**: The DPCs are to have at least 4/5 elected members as Article 243ZD. Members should be **elected by and from amongst, the elected members of the panchayat at the district level and of the municipalities in the district** in proportion to the ration between the population ofthe rural areas and ofthe urban areas in the district

Nominated members:

Metropolitan planning committee

Constitutional

Compiles development plan for corporations

**2/3 members are elected among the elected person of Muncipalities and panchayats in Metropolitan area.**

Rest nominated members

Audits of ULB’s

Can be done by state govt if it wants

Municipal Revenue

Devolution

By states

Grants

By center and states

Taxes

Like water tax, professional tax,octroy,market tax,pilgrimtax etc

Non tax

Royalty, dividends etc

Loans

Only after approval from state

**Central council for local govt.**

**Constitutional body** under art 273 by president

Advisory body

Minister of urban development at center

Minister of local governments at states

Municipal corporation

Constitutional body

For larger Urban area

Est. by law of state

Est by law of center in UT

3 units

Council:

Consist of councilors

Head Mayor🡪 normally elected for one year in majority of states

Members Directly elected

Nominated as well

Reservation of seats to SC ST Women

Municipal Commissioner:

For implementation of plans

Appointed by state govt.

Normally an IAS

Standing committees:

Help in functioning of MC

###### Municipalities

**Constitutional body**

Est by state law

For smaller area than Municipal corporation

3 units

Council:

Consist of councilors

Head chairman

Members Directly elected

Reservation of seats to SC ST Women

CEO:

For implementation of plans

Appointed by state govt.

Standing committees:

Help in functioning of MC

Notifies area committee

For towns for which no municipality is established **but considered important by state govt**

##### Est by state govt

**All members are nominated** by state govt.

##### Not a statutory or elected body

Town area committee

Administration of small town

**By act of state**

Can be elected or nominated

Cantonment board

**By center act**

Administration of civillians in cantonment areas

Under Defence ministry

Both elected and nominated members

5 years office term

President of board is ex-officio commanding officer of cantonment

Vice president from elected members

**Executive officer of board is appointed by president of India**

Township

Est by enterprises around plants

It has no elected members

Like Talwara around DAM.

Port trust

**By an act of center**

In port areas

Elected and nominated members

Manage and protect ports

Special purpose agency

Function based not area based

**Statutory bodies by state act or by departments**

Work independently from municipal bodies

Eg: water supply board, electricity board, city transport board etc

# Panchayati Raj

Committees

Balwant rai Mehta committee 1957:

Recommended 3 tier system

Gram panchayat: village

Panchayat Samiti: Block

Zila parishad: District

Rajasthan first to implement panchayat raj in 1959

Gadgil committee 1988:

Formed basis of 73rd amendment act

73rd amendment;

Under the then PM PV Narsimha rao

Added part 9 to constitution and schedule 11

Constitutional status to panchayats

Est of State election commissions

State election commissioner: Appointed by governor

State election commissioner: only removed on grounds as for state high court judge.

State finance commission:

After every 5 years

Distribution of funds b/w state and panchayat

Grants in aid to panchayats

Taxes that panchayat may charge

Audit:

As per state law

Panchayat in UT:

If president directs.

Application to Tribal areas

PESA act: Parliament can apply this system in tribal and scheduled areas after modifications

Compulsory Provisions:

Gram sabha

3 tier system

Gram panchayat: village

Panchayat Samiti: Block , If total population of state greater than 20 lac,other wise optional

Zila parishad: District

Election

Min 21 age to contest

All three tier election are direct election

Chairperson at middle and district level selected indirectly

Chairperson at village level by state law

State election commission.

State election commissioner: only removed on grounds as for state high court judge

Cannot go to any court except by election petition as per state law

Reservation

For SC and ST at each panchayat level based on their population

Also for selection of chairperson

1/3 seats for women

For BC by state law(optional)

Duration

5 years

If dissolved before 5 years, re-election and new will work for remainder term

If remainder term less than 6 months then no need of re-election

Disqualification:

As per state law

Voluntary provisions:

Making them autonomous

Giving representation to MP and MLA’s

Reservation of seats for backward classes

Devolution of power

Devolution of financial power: collection and appropriation of taxes

PESA act

Provision of Panchayat(Extension to Scheduled areas) PESA act1996

Provide self rule to tribals

Extension of panchayat to tribal areas

Safeguard and preserve culture and customs of tribes

Provision:

All seats for chairperson at all levels reserved for ST

Panchayat should obtain certification from gram Sabha for utilizing funds

Recommendation of Gram Sabha mandatory for Mining

# Judiciary

## Supreme court

Single system of court adopted after govt of india act 1935 under name Federal court

Succeeded Federal court in 1950

Replaced British Privy councils highest court of appeal

31 judges at present

Appointment

CJI

is always senior most judge of Supreme court

Appointed by president

Other Judge’s

Appointed by president after consultation/concurrence of CJI

CJI consults collegium of 4 senior most judges before passing on name to president

Even if 2 judges give adverse opinion he should not send name to president

Qualification

Judge of high court for 5 years

Advocate f High court for 10 years

Distinguished jurist in opinion of president

Oath

By president

Tenure

Until 65 years

Removal

By president

Same procedure as in case of high court judge as prescribed in judges enquiry act

Acting CJI

President can appoint it

When office of CJI is vacant, absent or not bale to perform duty

Ad hoc Judge

CJI can appoint judge of high court with consent of president and CJ of high court

If quorum is not there

Temporary period

Retired Judge

CJI can request any retired judge of SC or High court

Previous consent of president

For temporary period

Constituional cases should be decided by bench of at least 5 SC judges

Jurisdiction

Parliament can extend the jurisdiction but not curtail it

Original

Dispute between center and states

Between states

No case by private against state can be heard under this jurisdiction

No case under arises due to treaty,agreement,inter state water dispute, finance disputes,recovery of damges

Writ

Only in case of FR’s

Appellate

By way of appeal from high court

Appeal by special leave

At it’s discretion can hear appeal of Any judgement passed by any court or tribunal in country except military tribunal

Constitutional matters from high court

Advisory

President seeks advice

On fact of public importance(can give or donot give any advice)

Dispute due to any pre constitution treaty or agreement(must give an advice)

Advisory in nature

Court of record

Judicial review

Other

Disputes in election of president and vice president

Decision is binding

Conduct of members of UPSC on refrence made by president

Can recommend removal of UPSC member

Advice is binding in nature

Orders are binding on all courts in country

Advocates in SC

3 types

Senior Advocates

Designated by SC or HC

Always accompanied with advocate on record

Advocate on record

Only advocates that can file any matter in SC

Other advocates

On roll of any state bar council

Can argue on behalf or party in SC

Cannot file any document or matter in SC

## Judicial review

Developed in USA

Basic feature of constitution

No where mentioned in constitution

JR for Ninth schedule after 1973 laws applicable

## PIL

Exception to locus standi

Locus standi i.eOnly agrrieved person can go to court

PIL is outcome of judicial activism

PIL can be logged on behalf of aggrieved person in public interest only not ondividual interest

When FR or Legal right of community are abriged only then pil can be filled

Individua PIL only fro

Boded labour

Neglected children

Jail harassment

Non payment of wage

Police harassement

Harassment of SC S b any person

Environmental pollution

High court by way of PIL should not entertain cases regarding constitutional validity of state law

## High courts

Originated in 1862 high court at calcutta, madras and bombay

1866 allahabad high court established

Delhi only UT with High court

Parliament can extend jurisdiction of any High court to any UT and exclude also

Appointment of judge

Appointed by President

Chief Justice high court

Consultation of Chief justice india and governor of concerned state

CJI should consult 2 senior most judges in supreme court(Collegium)

Other judge’s

CJI ,Governor and CJ high court

CJI should consult 2 senior most judges in supreme court

**Qualification**

Held judicial office for 10 years

Advocate of high court for 10 years

No option of appointment of distinguished jurist here as in case of supreme court

Oath

Given by governor

Tenure

62 years

Removal

By resign

By President on parliament’s approval

Governed by justice enquiry act

Procedure

Removal motion

Either house

should be signed by 100 MP in Lok sabha

In case of Rajya Sabha 50 MP

Speaker may admit or reject it

If accepted 3 member committee set up

CJI or judge of Supreme court

CJ of high court

Distinguished jurist

If proved guilty, Motion is taken in either house

Motion should pass in both houses with special majority

i.e 2/3 present and voting

if passed it is sent to president who passes order of removal

Transfer of judge

President can transfer judge after consulting CJI

CJI should consult Collegium of 4 judges and also CJ of both high courts.

Judicial review allowed but can only filed by the transferred judge.

Acting CJ of high court

President can appoint existing judge of high court as acting CJ

When CJI office is vacant ,absent or unable to perform his duty

Cannot hold office after attaining 62 years age

Additional Judge

President can appoint qualified person for this post

For max 2 years

When too much work is there.

Retired Judge

CJ of High court can request a retired judge of high court

For temporary period

Appoint him only after consultation with president

Jurisdiction

Jurisdiction mentioned in constitution cannot be altered by parliament or state legislature in other matters it can be changes by Parliament or state legislature

Original

Can be heard in first instance , not by way of appeal

Marriage, Divorce, contempt of court

Regarding FR’s

Disputes relating to election of MP’s and MLA’s

Writ

Can issue writs in case of FR’s

Part of basic structure of Constitution

Can also issue writs in case of ordinary legal rights

An issue writ to any person, authority, govt within it’s jurisdiction or outside jurisdiction also

Appellate Jurisdiction

By way of appeal

Judgement of district courts

Inter court appeal available in Madras, Bombay and Calcutta courts

**Appeal from Tribunals also heard first at high court** then at supreme court

Criminal appeal from sessions court or additional sessions court if sentence is more than 7 years

Capitol punishment must be certified by high court

Supervisory

Supervise subordinate courts and tribunals

Except military court or tribunal.

Posting, leave of judicial services other than district judges

District judge promotion and posting is consulted by Governor

Court of record

Judicial review

For both center and state legislation

## Subordinate courts

District judge:

Appointed by governor

Qualification

Recommended by high court

Advocate for 7 years

Not a govt. servant already

Jusrisdiction

Original

Appellate

Civil:

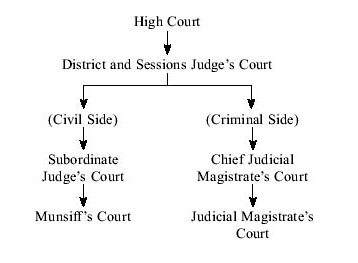
Criminal: As sessions judge

Can sentence life imprisonment and capitol also

Capitol only after certification of high court even if no appeal is made

Other judges

Governor after consultation with high court and state public service commission



## National legal services authority

Statutory

Legal aid programme

To aid poor and weaker section of society

Every state must have state legal services authority

Every high court has one

Supreme court also has one

Every district has one

Taluk legal service committee at this level

Duties:

Organize Lok Adalats

Free legal aid to poor and those with less than 1 lac income,women,sc,st,disabled,industrial workers etc

Legal awareness camps

## Lok adalats

Ancient system

Statutory body in 1987

Based on Gandhian principles

No winners or losers

**No court FEE**

Disputes Settled outside courts

Can be organized by any legal service authority at any level even by supreme court at any place

Members:

Retired or serving judicial officer

Advocate

Social worker

Jurisdiction

Same power of civil court(can summon and witness examine,oath)

On any case pending before any court can be referred to it if court thinks so

Any matter in jurisdiction which is not yet brought in front of court

Matrimonial

Criminal(compundable offences)

Land

Labour

Telecom Cellular matter

Electricity

Consumer court etc

Appeals

It’s decision is binding

No appeal to any court if dispute is resolved by Lok adalat

## Permanent Lok Adalat

Chairman who is serving or retired district judje or judicial officer higher than district judge

2 other memebers with experience in utility services

Jurisdiction

10 lacs.

Compoundable cases only

Appeal

Decision is binding and final and not appealable

## Family courts

Est in 1984

by act of state after consultation with high court

mandatory to setup if population of city or town is above one million or 10 lac

Exclusively deal with family matters

Validity of marraige

Property disputes

Guardianship of minor

To develop mechanism of conciliation of family disputes

Appeals

One right to appeal to high court

## Gram Nayalayas

Justice at doorstep

At grassroot level

Est under Gram Nayalayas Act

Court of judicial magistrate of first class

Mobile court with civil and criminal jurisdiction

Presiding officer Nayayadhikari (will be a judicial officer )by state govt after consultation with high court

Established at every panchayat at middle level

Not bound by evidence act, Guided by principles of Natural justice

Appeals

Civil in district court

Criminal in Sessions court

# Legislature

## Center

### Parliament

Westminister model of govt

Rajya sabha and lok sabha adopted in 1954

Works on interdependence of legislature and excutive organs

We have “President-in Parliament”

### Rajya sabha

Max 250

Elected 238 (indirectly)(Represent states)

Nominated 12(No nominated in USA Senate)

#### Election

Indirectly by the elected members of state legislative assemblies

Only 2 UT have representation in Rajya sabha Delhi and puducherry

On basis of **Proportional representation on single tranferrable vote**

**(means allocation of seats on basis of population**)

In USA each state is given equal seat in Senate.

#### Tenure

Unlimited never dissolved

Each member 6 years(according to RPA act not constituion)

1/3 member retire every 2 years

Re -election of members unlimited times

#### Chairman

Ex officio Vice president of India

Cannot vote in first instance but in tie only i.e casting vote

Removal

Same as for vice president

Can not vote first time while process of removal is in progress(LS speaker can vote while in process of removal)

Cannot do caste vote

Panel of vice chairperson

Chairman nominates amon Rs members

When both chairmen and deputy are absent they preside over RS

Cannot preside if **Office of Chairman and Deputy is vacant** ,in that case RS presided by member chosen by **President**

**Salary charged from consolidated fund of India**

#### Deputy Chairman

In absence of chaiman presides the RS

Removal

Same as in LS speaker

14 days notice

Cannot preside while motion is in progress

Cannot vote

Salary charged from consolidated fund of India

Presides Joint session if Speaker and deputy speaker are absent

Convention Cannot present questions and bills

Member of Business advisory committee and genereal purpose committee

When he is appointed in any committee he is automatically chairman of that committee

#### Chairman Pro term

When both Chaiman and Depty are vacant

President chooses Pro term chairman

#### RS secretariat

Secretary general appointed by Chiarman

### Lok Sabha

Max 552

UT 20

Nominated 2

States Elected 530

Current

545

UT 13

Nominated 2

States Elected 530

#### Election

Direct elections based on [**universal adult franchise(feature of constitution),right to vote is constitutional right via art 326 and legal also via RPA Act]UPSC question**

UT elections held under Union territories direct election Act1965

#### Constituency

Territory

Seats allocated so that ratio between number of seats and population is same for all state (if population is > 6million)

Each state divided into constituency so that ratio between seats allocated to each constituency and population is same for all constituencies in state

**Delimitation of constituency**

Parliament empowers an authority Delimitation commission.

84th amendment has frozen number of seats in Lok sabha till 2026

Boundaries of constituencies were changed but not seats in lok sabha By 87th amendment on basis of 2001 census

Constituencies are also reserved for SC and ST on basis of 2001 census

#### FPTP

First past the post system

#### Reservation

SC and ST on basis of population 2001 census

#### Tenure

5 years

Can be dissolved earlier

Can be extended in emergency to 1year at a time to any lenght of years By law of parliament

Cannot extend beyond 6 months after revocation of emergency

Total extended time**(emergency years+ 6months)**

#### Qualification

Age at least 25 years

Must be citizen of India

Under RPA

Must be registered as elector in parliamentary constituency

Must be member of SC and ST if contesting from reserved seat

SC and ST can also contest from normal seat

#### Disqualifications

Holding any office of profit

Unsound mind

Undischarged insolvent

Not a citizen of India.

Under RPA

Not found guilty of corrupt

Not convicted to prison for an offence with punishment of 2 or more years

Preventive detention not ground for disqualification

Failed to lodge election expenses

Must not be director of corporation in which there is 25% share of Govt.

Decision regarding disqualification

President decision is final

He should obtain opinion of EC

Advice of EC is Binding

**Judicial review is possible as in case of AAP MLA’s disqualification was set aside by Delhi high court**

Under defection

Decision regarding question of disqualification is with Speaker of lok sabha

His decision final

Decision can be Judicial reviewed

#### Vacation of seats

Double membership not allowed

If he is member of both house, must intimate president within 10 days about which seat he wants to be in other wise by default seat in rajya sabha becomes vacant

If he won 2 seats in house he should opt for one otherwise both will become vacant

Must resign seat in state legislature in 14 days

Absent

For 60 days without permission

No account for days for which house is adjourned or prorogued for consecutive 4 days

Other

Election declared void by high court (Under RPA act, not under constitution)

Can go to SC

#### Oath

Before election in front of officer selected by Election commission

After election Presidential oath(without oath cannot vote and participate)

500 penalty per day if votes without oath

#### Salary

By act of parliament

No provision of pension in Constitution

#### Speaker

Presiding officer

A panel of chairperson

Vithal bai Patel first speaker in 1925

GV Mavalankar fist speaker after independence

Selected among members of LS

Date of election declared by president

Remains till LS dissolves(after LS dissolves he remains speaker until new LS comes)

Removal

Resolution signed by 51 members 1

4 days notice for resolution

15th day Resolution must be passed by 50% members of House(Absolute majority)

He cannot preside proceedings of house and

also vote in first instance but not in case of tie

Salary charged from consolidated fund of india

Panel of Chairpersons

Formed by speaker nominated

Preside when both Speaker and deputy speaker not resent

Cannot preside when seat of speaker and deputy speaker is **vacant in that case President chooses among members .**

**Powers**

Cannot vote in first instance but in tie only i.e casting vote

His decision on matters of Money bill is final

Decides on disqualification on the basis of defection

Presides over joint session

#### Pro-term speaker

For newly elected LS, **President** chooses mostly senior most person to preside till speaker election is complete

#### Deputy Speaker

Act as speaker when he is not present

Annathswami Ayyangar first DS after independence

Automatically Become chairman of committee in which he is selected

Cannot vote in first instance but can do a casting vote

Removal

Same as speaker

He cannot preside while motion of removal is in process.

Salary charged from consolidated fund of India

Convention deputy speaker from opposition

#### LS secretariat

Secretary general appointed by Speaker

#### Leader of House

PM is leader of house if he is member of LS

If not he nominates any member of LS

statutory

#### Leader of opposition

Largest party with not less than 1/10 seats

Statutory

Shadow cabinet in Britain:

formed by LOO to prepare member for future

#### Whip

Neither Constitutional nor statutory

Conventional

Party members follow whip

Vote according to whip

#### Summoning

Gap between sessions cannot be more than 6 months

President summons the house

Time between prorogation and new session is called Recess

#### Adjournment

By speaker for specific time, day, week etc.

No effect on bills and notices

#### Adjournment sine die

Terminate sitting for indefinite time

#### Prorogation

President prorogue while in session also on advice of PM

After adjournment sine die president prorogues a house on advice of PM

Pending notices lapse

No effect on bills

#### Dissolution

President dissolves LS on advice of PM or when five years are over

Lapse Bills

Pending in Lok Sabha lapse

Passed by LS and pending in RS lapse

Not lapse

In case of president has called joint session then not lapse

Pending in RS and not passed by LS

Pending for assent of president not lapse

Returned by president for reconsideration not lapse

#### Quorum

Minimum 1/10 members including speaker or chairman

#### Lame duck session

Last session of existing LS after new LS has been elected

Members of existing LS which could not get elected are called **LAME DUCKS**

## Parliamentary Proceedings

### Question hour

First hour of every sitting

Question types

Starred : requires oral answers ,can have follow up ques.

Unstarred : requires written answer,no follow up ques

Short notice :answered orally, notice of 10 days

### Zero hour

Not mention in rules

After question hour

Informal questions without notice

Indian innovation

### Motions

#### Substantive

Self contained independent proposal

Like impeachement of president etc

#### Substitute

Moved in substitution of original motion

#### Subsidiary

Ancilliary

Regular business of motion

Superseding

Supersede original motion

Amendment

Amend original motion

#### Closure Motion

To cut short debate on matter before house

Simple closure

Matter has been thoroughly discussed now put it to vote

Closure by compartment

When lengthy discussion on bills is grouped into parts of bill

Entire part discussed is put to vote

Kangaroo closure

When important clauses are discussed and put to vote

Others are skipped and taken as passed

Guillotine Closure

Undiscussed parts are put to vote along with discussed part **due to shortage of time**

#### Privilege Motion

Breach of parliamentary rule by minister

Provided wrong facts etc

#### Calling attention motion

Call attention of minister to a important public issue

To seek authoritative statement from him

#### Adjournment motion

It interrupts normal business of house

Need 50 members to support it

To discuss matter of urgent public importance

Extra ordinary device

**Type of Censure motion**

**RS cannot raise this motion**

Have an element of censure against govt.

At most 2.5 hours

#### No confidence motion

No need to state reason for it

Need 50 members to support it

Constitution does not mention either a confidence motion or a no-confidence motion

If passed **ministry** or govt has to resign.

If passed **Council of minister must resign**

Used to ascertain confidence of Lok Sabha in council of ministers

**RS cannot raise this motion**

Against entire council of minsiters

#### Censure motion

Against council of minister against specific policy

**RS cannot raise this motion**

Council of minister not resign

Need to state reasons before taking up.

Can be against single minister or group or entire council of minister

#### Motion of Thanks

By president on first day of LS

By president first day of financial year

If not passed government defeats

#### No day yet named motion

Motion has been accepted by speaker

But day of discussion yet to be assigned

### Resolutions

Different form motions

All motions are not substantive

All resolutions are type of substantive motion

All resolutions must be put to vote

Types

Govt.: moved by minister

Private member moved by Private member(other than minister) on Friday

Statutory : moved by either of two

### Legislation procedures

Passage of bill

Public and

Private bills: opposition party stand reflected

Ordinary bill

Need simple majority

Constitutional bill

Need special majority

Finance bill

simple

Money bill

simple

#### Ordinary Bill

##### First reading

Can be introduced in any house

Only objectives and heading is read

No discussion

##### Second reading

Detailed scrutiny

General discussion:

Provisions are discussed generally

Details of bill are not discussed

4 Actions available

House can consider it immediately or on some fixed date

Refer bill to select committee

Can refer to joint committee of 2 houses

Can circulate bill to elicit public opinion

Committee stage

Refered to select committee

Committee reports back

Consideration stage

After report of select committee

Discusses bill clause by clause

Each clause is voted separately

Members can move amendments,

##### Third reading

No amendment allowed

Put to vote as whole

Authenticated by presiding officer and send to second house

##### Bill in second house

Passes via 3 stages first second and third reading

Second house can

Reject bill

Make amendemnets

With hold the bill at most 6 months after which joint session called

Pass the bill without amendments

##### Assent of president

Last stage

President can

Give assent

Withhold assent

Return it for reconsideration🡪 if bill again is assed in both houses and returned then president has to assent it it is called **suspensive veto**

**Joint session allowed in ordinary bills**

#### Money Bills Art 110

**Speaker’s decision is not subject to judicial review.**

Bills deal with consolidated fund of India

Deal with govt borrowing

imposition abolition alteration of any tax

Not a money bill

if it only provide for imposition abolition alteration of any tax by local authority

impose fines or pecuniary penalties

payment of fees for services rendered

Introduced with prior recommendation of president

Introduced in LS only

No joint sessions

Rs can only make recommendations and must return within 14 days

LS can reject them and pass the bill

President can give his assent or withhold his assent but not return it

#### Financial bills

Bills deal with fiscal matters or revenue and expenditure

Joint sessions allowed

Financial bill 1

Conatains matter of money bill + other legislation

Introduced Only in lok sabha

Prior recommendation of president

Passage is same as ordinary bill

Can be rejected accepted or amended by RS

Financial bill 2

Expenditure from Consolidated fund of india

But not conatain any matter of art 110

Introduced in either house

No recommendation of president reauired

#### Joint session

After 6 months of bill pending in RS or LS

Chairman of RS cannot preside over it

Speaker 🡪 deputy speaker🡪deputy chaiman can preside

Any member can preside if all are absent

Bill passes via majority of members present and voting

Only three time it has been used

Last was in 2002 in prevention of terrorism bill

#### Constitutional bills

No joint session allowed

Special majority required

## State

Parliament can create or abolish council if state legislature passes a resolution on this matter

This act of parliament will **not be an Constitutional amendment** and will be passed via simple majority

### Legislative assembly

Max strength 500(Fixed on basis of 1971 census; revised in 2026)

Min strength in case of Goa, Arunachal and Sikkim is 30;Mizoram and Nagaland 40,46

#### Membership

Elected

Direct election

Some members in Arunachal and Sikkim elected indirectly

Nominated

Governor can nominate one Anglo Indian

Reservation

For SC ST

#### Constituency

Delimitation fixed as per 2001 census

#### Tenure

5 years

Extended by 1 year at time in emergency(Indefinitely/to any amount of time)

\*After end of emergency re-election within 6 months

#### Dissolution

By governor

By end of tenure

#### Qualification

Not less than 25 years of age

#### Oath

Before a person selected by election commissioner

After election before governor

#### Disqualifications

Hold office of profit

Unsound mind

RPA act

Imprison for 2 or more years

Preventive detention no ground for disqualification

If he is director of company/corporation in which 25% govt share

s Disputes regarding disqualification

#### Governor decision is Final

He should consult election commission on this matter

Election commission **advice is binding**

**Judicial review is possible as in case of AAP MLA’s disqualification was set aside by Delhi high court**

On grounds of Defection

As per schedule 10

#### Decision by speaker or chairman

Judicial review allowed

Vacation of seat

No double membership

Absent for 60 days without permission

#### Quorum

10 members or 1/10 srength

#### Right to vote

Vote by members only /can participate in either house

Advocate general cannot vote but can participate in either house

#### Bills

Passage of bill

Ordinary bill

By simple majority

1st reading

2nd reading

3rd reading

After that passed on to second house

Bill in second house/council

By simple majority

1st reading

2nd reading

3rd reading

Alternatives

Pass a bill

Pass a bill with amendments

Reject bill

Take no action

If council rejects bill or take no action for 3 months or assembly rejects amendments by council

And Then assembly may pass bill again

And again if council rejects

Or do not pass within a month

Bill is deemed to be passed by both houses

**Ultimate power of passing bill lies in Assembly, council can only delay it for max 4 months**

Dead Bill

bill passed by council and transmitted to assembly dies if assembly rejects it

Assembly is subject to dissolution

Bill lapses on dissolution if:

Any pending bill in assembly(weather originated in assembly or transmtted to it by council)

Bill passed by assembly , Pending in council

Bill do not lapse:

Bill pending in council but not passed by assembly

Bill pending for assent of governor or President

Bill passed by assembly or both houses but returned by president for reconsideration

**No provision of Joint Sitting**

**Power of governor**

Can give assent

Can reserve it for president(**discretion**)

Can withhold his assent 🡪 Bill dies

Can resend to assembly for reconsideration(not money bill) 🡪 must give assent when agin passed by assembly. This power is called **Suspensive veto power.**

**Power of president**

Can give his assent

Can with hold his assent

Can re send for reconsideration(not money bill) 🡪assembly have to reconsider it between 6 months

And then repass it and send to president; Here nothing is written in constitution about

Whether it is obligatory for president to give assent or not

### Legislative council

Strength: 1/3 size of assembly

Min 40

Membership

1/3 by members of boards and municipalities etc.

1/3 by members of assembly who are not member of assembly

1/12 by graduates of state

1/12 by teachers secondary school and above

Remaining Nominated by governor

This composition can be altered by law of parliament

Tenure

1/3 members retire every 2 years

Total 6 year term

Retired members can be re nominated any number of times

Qualification

Not less than 30 years

Oath

Before a person selected by election commissioner

After election before governor

Disqualifications

Hold office of profit

Unsound mind

RPA act

Imprison for 2 or more years

Preventive detention no ground for disqualification

If he is director of company/corporation in which 25% govt share

Disputes regarding disqualification

#### Governor decision is Final

He should consult election commission on this matter

Election commission **advice is binding**

JR allowed

Judicial review is possible as in case of AAP MLA’s disqualification was set aside by Delhi high court

On grounds of Defection

As per schedule 10

Decision by speaker or chairman

Judicial review allowed

Vacation of seat

No double membership

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