

# RAJYA SABHA: INDIA'S EXPERIENCE WITH SECOND CHAMBER.

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## Abstract

*For the longest time human societies have aspired towards and experimented with democratic forms of governing their polities with differing degrees of success. Our founding fathers had immense faith in the ideals of democratic governance and the wisdom of the Indian people to successfully sustain it. This is borne out by the fact that around the time of our independence, there were only 22 democracies accounting for only 31 per cent of the population in the entire world which ensured universal adult franchise to their citizens. The United States of America had yet not given African Americans the right to vote. At birth, India was part of a minority of nations who were audacious enough to embrace democracy. At the time, many western experts did not give India a chance to survive as a democracy. They said that India was too diverse, too impoverished and too uneducated to be able to sustain a democracy. However, seventy years down the line all those voices have been silenced and India has gone on to assume its rightful place among the leaders of democratic nations in the world. We succeeded because our founding fathers treated difference and diversity as a source of strength and not weakness and designed institutions so as to ensure spaces of representation and deliberation among as many diverse voices as possible. Principles of diversity and deliberation were the cornerstone of our democratic experiment. However, by that time, across the world, Second Chambers like the Rajya Sabha, were the exception rather than the norm. The House of Lords in Britain had been effectively stripped off its power and reduced to an advisory role. Second Chambers formed constituent units of*

***the federations only in the United States of America and Australia.***

**Keyword: Rajya Sabha, Constituent Assembly, Parliament, Second Chamber, House of lords, Senate**

## 1.INTRODUCTION

The Founding Fathers of our Republic envisaged a bicameral Parliament consisting of the Rajya Sabha and the Lok Sabha to address the challenges of development and governance faced by the country at the time of its independence. Over the years, both Houses of Parliament as legislative and deliberative bodies have played a significant role in our nation building and in strengthening the roots of democracy in the country. We are proud that our parliamentary system has guided the destiny of our nation ever since we attained our independence. The Rajya Sabha was constituted on 3rd April 1952 and held its first sitting on 13th May 1952. Ever since its inception, Rajya Sabha has played a significant role in strengthening our parliamentary democracy and has secured a distinct place in our democratic polity. Its remarkable contribution in the legislative field has helped also in shaping the Government's policies. Success of bicameralism in India owes a lot to the way the Rajya Sabha has redeemed itself as an apex democratic institution with proved record of its relevance for the body politic and socio-economic transformation of the country. As a nation's apex parliamentary institution, it has stood the test of time and has strived to promote and foster national unity and integrity. Over the years, with the splendid performance of its multifarious roles, it has reinforced the need for a bicameral Parliament and has amply proved the wisdom of the makers of our Constitution.

## **2. RATIONALE FOR HAVING SECOND CHAMBER IN OUR PARLIAMENT.**

The distribution of power in a bicameral legislature is a long-standing subject of discussion and study for political scientists. Indicated as the Lower and the Upper Houses of the Indian Parliament, the question of positioning between the Lok Sabha and the Rajya Sabha is often posed. Several scholars of democracy and the Indian Parliament have held opinions that consider the Rajya Sabha to be a mere appendage to the Lok Sabha. Others have criticized the bicameralism itself as a purveyor of inefficiency. But keen observers of the parliamentary functioning in India have tended to differ with such opinions. Many commentators have pointed out matters in which the Lok Sabha reigns supreme while otherwise the Rajya Sabha has equal powers as those of the Lok Sabha. Along with the nature of execution power of the Upper House, there are other equally important aspects to take into consideration. The role that the Rajya Sabha can play to make our democracy more healthy and nuanced, needs to be understood through a different angle altogether. Rajya Sabha which is essentially a Council of States acts as a gatekeeper of the federal relationship between the Centre and the States. The Parliament can only venture into the realm of State subjects when the Rajya Sabha, using the powers given to it in the Article 249, resolves so in the national interest by a Two-Third majority. The powers of the Rajya Sabha are decidedly curtailed on the Money Bills which can only be initiated in the Lok Sabha. These cannot be rejected or amended by the Rajya Sabha. Critics have opined that for a stronger practice of federalism, economic reforms and fiscal responsibility must also be brought under the purview of the Rajya Sabha, so that the specific interests of the States are also reflected in these matters as well. The limited role of the Rajya Sabha in the Public Accounts Committee and no role in the Estimates Committee is understood as complete authority of the Lok Sabha on financial matters, but can also be read as indicative that the founders of the republic meant the Rajya Sabha to be more deliberative than just legislate the will of the majority. It should be evaluated from experience and history of the finance legislations whether this deliberative function may even be beneficial in some form in financial matters.

## **3. ROLE AND PERFORMANCE OF RAJYA SABHA.**

In our experience of parliamentary democracy we have overcome several hurdles but the balance of power between the Centre and the States, and the relations among the States remains one of the main concerns in our federal polity. This provides the Rajya Sabha with the responsibilities to course correction as pointed out in the Justice R.S.Sarkaria's report (1987) on inter-state relations which highlighted that the Parliament must remedy the distortions that have taken place in our federal structure over the years. Several other measures have been advocated by political scientists to enhance the role of the Rajya Sabha as the Council of States. Some have argued for the States to have equal representation in the Rajya Sabha and proportionate representation in the Lok Sabha. In my opinion, the role and importance of the Rajya Sabha lies not only in the consideration of representation but in the value or quality of deliberations. The very nature of tenure and membership of the Rajya Sabha makes it an appropriate body to deliberate on the quality of legislations beyond the immediate pressures of elections or other populist considerations. On all bills other than money bills there is a balance of powers between the two Houses, Such bills may be raised in either of the two Houses and then ratified in the other. It is often said that in case of a disagreement the will of the Lok Sabha prevails because such a situation is dealt with a joint sitting of the two Houses. And since the numerical strength of the Lok Sabha is more it is the will of the Lok Sabha that seems to acquire the legislative force.

In situations such as these, question has been raised whether the role of the Rajya Sabha was only ornamental and inessential. Instead of being seen as an arithmetic equation, the relationship between the two Houses must be seen in a qualitative manner. It is the deliberative and cooling off function of the Rajya Sabha that is the most valuable here. The joint sessions of the Parliament should not be legitimized merely as a way of waiving off the objections to the whims and fancies of the party in power or the numerical majority. Rather, they should be treated as opportunities to build consensus through soliciting and addressing the concerns of the Members of the Opposition. It is important to understand that, while numbers do matter in modern electoral democracy, the Parliament of a country like us cannot reduce itself to numbers

approach. Numbers and quantity can never supersede quality of anything, be it a law or any other item.

Considering the dissent of the Opposition and different viewpoints for any particular proceeding or cause reflects a healthy democracy. Many a times, though, in the perception of the legal machinery the Lok Sabha dominates as the primary stakeholder but in the popular common psyche, the hope from the Rajya Sabha is to be reflective and engaging on issues which touch upon the deep concerns of masses especially when it comes to ordinary bills and Constitutional Amendment Bills. The Rajya Sabha, by virtue of its nature, can go in depth and enquire into all the possible social and moral impact any legislative action can have on the people. .

It would serve us well to remember that this was the spirit in which the Constituent Assembly designed the architecture of the Indian Parliament as bicameral. The Constituent Assembly debated the relevance of the Second Chamber of the Parliament on July 28, 1947. During this debate a few Members like Mohd. Tahir from Bihar and Prof. Shibban Lal Saksena from the United Province, opposed having an Upper House and argued that it would impede progress. However, others such as Naziruddin Ahmad of West Bengal and N.Gopalaswami Ayyangar convinced that this Second Chamber would introduce an element of sobriety and second thought. They envisaged that the Rajya Sabha would be able to escape influences, pressures and the passion of a directly elected Lok Sabha. In the same discussion Sarvapalli Radhakrishnan underlined the deliberative aspect of the Upper House of the Parliament. While questions regarding efficiency are raised all too often in the present context, it should be highlighted that the decision of the Constituent Assembly to introduce the Rajya Sabha as a measure to safeguard the legislative and administrative function of the Parliament was reflective of its own deliberative nature. We should never be in hurry to forget or surpass the historicity and philosophy of any institution. So too with Rajya Sabha, which has a philosophical base. The perpetuity of the Rajya Sabha makes it the most appropriate body for consultation by a caretaker Government and advising the President in the interregnum between suspension of the Lok Sabha upon reaching the end of its term and the swearing in of the new Government. While the bureaucracy as a wing of the executive is also available to advice on the matters of policy implementation, it is

the Rajya Sabha and its consultative instruments that must take precedent due to their representative nature. The Rajya Sabha must not be used by political parties to accommodate candidates who fail to win mass elections, instead parties should select their Rajya Sabha candidates with the specific role of the Upper House in mind. The Rajya Sabha, as the Upper House, the House of Elders, and the Council of States is a legislative body which is a representative forum for stability, sage counsel, course correction and balancing conflicting interests of States, communities and groups. The provision of nomination of eminent persons from the fields like arts and sports is a testament to the original intention of expanding the horizons of this advice beyond electoral calculations.

Any bill or constitutional amendments have to go through many different viewpoints before it becomes an act. Laws that are formulated and enacted with less or no reflectivity and deliberations, not only dampen the integrity of such bodies but also invite criticism from every corner of public sphere, and fail its people in delivering the procedural justice. It is the constitutional duty of the Rajya Sabha to scrutinize each and every item tabled in its House. It is not difficult to see why the august body that deliberated on a foundational document such as the Constitution of India would think that the legislations passed after detailed scrutiny, consideration and compromise would be better legislations. Deliberations make laws more rational and robust to stand the constitutional test and the principles of natural justice, be sensitive to the needs of a complex and diverse country such as ours and, in the final analysis be most efficient.

Many constitutional pundits have compared the Rajya Sabha with the House of Lords in United Kingdom or the Senate in the United States. There may be some features which are similar, but I feel, it is necessary to recognize an important dimension, which distinguishes Rajya Sabha from Senate and the House of Lords. The original idea of this House was to have some important sections of society to participate in the democratic discourse (which got distorted over the years). There are many people in the society who remain aloof or are away from direct political action, electoral or otherwise, because of their profession or field of activity, like art and music, etc. or are historians, geographers, strategic thinkers, academicians, economists, litterateurs, scientists, and so on. These people however perform a very significant role

in keeping the society aware, alert, enlightened, culturally enriched, educated and informed even entertained. Our life would be barren and without any meaning or even purpose, if we ignore this dimension of life.

The political process and the governance of the state apparatus, does not necessarily take into account the profound role such people play. Our first Prime Minister and creative sculptor of modern India, Pandit Jawaharlal Nehru was extremely sensitive to art, science, scholarship and music. During his tenure, by and large, giants from these fields of social life, were chosen to come to Rajya Sabha. This kind of socio-cultural inclusiveness in the political process and governance provides attributes, otherwise not found in run of the mill politics.

The House of Lords and the Senate are not therefore comparable to our Second Chamber. The Rajya Sabha in Indian Parliamentary System is not based on status, aristocratic or social as in United Kingdom and also is not directly elected body like the Senate in the United States. This House, sometimes, has become very controversial and occasionally questions have been raised as to whether it has any purpose or reason, There were also demands that the Rajya Sabha be abolished altogether. The abolishers used to say that the Rajya Sabha members are not elected directly by the people and hence they should have no role in the democratic-political process of governance. This argument is not completely absent even today. But our parliamentary foundation is so strong that such "nihilists" have remained in the margins.

#### 4. CONCLUSION

Ever since its inception, the role played by the Rajya Sabha for strengthening parliamentary democracy amply proves the wisdom of the founding fathers of our Republic. Success of bicameralism in India owes a lot to the way the Rajya Sabha has redeemed itself as a democratic institution with proven record of its relevance not only for the body politic but also for our society and people. Its performance in the legislative field and in the formulation and influencing the Government policies has been quite significant. Rajya Sabha is rightly described as a Constitutional caravan that goes on continuously and ceaselessly unlike the other House. the Rajya Sabha has distinguished itself. I

would like to end this write up with a quote of our Hon'ble Prime Minister, Shri Narendra Modi.

*"The importance of a journey is not measured by the distance covered,  
but by the destination reached."*

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