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The Indian Parliament: Structure, Powers, and Functions

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Abstract

The India parliament stands out as the supreme law-making organ and the primary foundation of constitutional democracy and federal principles of representation, discussion, and answerability. It comprises bicameral structures, thereby providing perfect federal balance and effective law production and executive answerability through legislative, financial, and constituent powers. Besides law production, the parliament acts as a venue for debate, dissent, and representation, thereby enhancing and enriching democracy with ethical behavior and effective parliamentary culture.

Parliament is the highest law-making body in India and the backbone of democracy in the country. Parliament, as conceived under the Indian Constitution, is the voice of people and a platform for law-making, deliberations, accountability, and control over the executive. ¹In a country such as India, where diversity abounds and people come from different backgrounds with different identities, making up a huge population with a multifaceted reality in terms of socio-economic aspects, Parliament stands out in a significant manner to accommodate people's urges with constitutional ideology. ²The Indian Parliament is not just a law-making agency; it is an institution where democratic dialogue, debate, and dissent exist. ³

¹ INDIA CONST. pmb1.

² M.P. JAIN, INDIAN CONSTITUTIONAL LAW 381–82 (8th ed. 2018)

³ Indira Nehru Gandhi v. Raj Narain, 1975 Supp. S.C.C. 1 (India)

The impetus for this constitutional provision can be traced to the influence of a bicameral parliament inherited from a British parliamentary tradition suitably modified in keeping with Indian requirements.⁴ The bicameral parliament provides representation both to the people and to the States, in addition to ensuring that rushed legislation is not enacted.⁵ With time, the Indian Parliament has developed into an institution which reacts to a series of evolving situations in the realm of politics, social realities, and economics. The Indian Parliament will be considered in this article in terms of structure, powers, and functions.

The Indian Constitution, under Article 79, says: "There shall be a Parliament for Union, which shall consist of the President and two Houses, namely, the Council of States and the House of the People."⁶ Therefore, it can be concluded that the Indian Parliament is a bicameral legislature and the President is a part of it.⁷

Although the President is not a part of both Houses, an important part of Parliament, they are a prerequisite in making a law. No bill can be passed without the assent of the President.⁸ The President summons and prorogues both Houses of Parliament, addresses both Houses at the beginning of the first sitting of each year, and can dissolve the Lok Sabha.⁹ In situations when Parliament is not in session, ordinances can be issued by the President under Article 123, which have the same status as laws passed by Parliament, but these ordinances are temporary in nature.¹⁰ The Lok Sabha is the lower house of Parliament and represents people in direct manner in India.¹¹ The members of Lok Sabha are chosen by people with a universal adult franchise.¹² A total of 552 members can be in Lok Sabha, with equal representation from States,

⁴D.D. BASU, INTRODUCTION TO THE CONSTITUTION OF INDIA 156 (25th ed. 2019)

⁵ Kihoto Hollohan v. Zachillhu, 1992 Supp. (2) S.C.C. 651 (India)

⁶ INDIA CONST. art. 79.

⁷ M.P. JAIN, INDIAN CONSTITUTIONAL LAW 395 (8th ed. 2018)

⁸ INDIA CONST. art. 111

⁹ INDIA CONST. arts. 85, 87

¹⁰ INDIA CONST. art. 123

¹¹ INDIA CONST. art. 79

¹² INDIA CONST. art. 326

Union Territories, and two Anglo-Indian members (which is an old provision not being used now).¹³

The life of a normal Lok Sabha is five years, but it can be dissolved before that. The Lok Sabha holds a preeminent place in the parliamentary system, more especially in financial matters and controlling the executive.¹⁴ The Council of Ministers is collectively responsible before the Lok Sabha, which is the main forum of political accountability.¹⁵

The Rajya Sabha is the upper house of Parliament and represents the states and Union Territories of India¹⁶. Unlike the Lok Sabha, the Rajya Sabha is a permanent body and is not subject to dissolution. One-third of its members retire every two years. ¹⁷Members of the Rajya Sabha are elected indirectly by the elected members of State Legislative Assemblies using the system of proportional representation by means of the single transferable vote.¹⁸

The Rajya Sabha may have as many as 250 members, of whom 238 represent the states and Union Territories, and 12 are selected by the President on the basis of special knowledge or practical experience in fields such as literature, science, art, and social service.¹⁹ It is meant to review the legislation, and through this process, protect the rights of the states within the federal paradigm. Drawing powers from the Constitution of India, the Indian Parliament works within the confines of constitutional supremacy. In general, the powers which the Parliament has can be divided into the following groups: legislative powers, executive powers, financial powers, constituent powers, judicial powers, and miscellaneous powers.²⁰

¹³ INDIA CONST. art. 81; Constitution (104th Amendment) Act, 2019.

¹⁴ INDIA CONST. arts. 109–110

¹⁵ INDIA CONST. art. 75(3)

¹⁶ INDIA CONST. art. 80

¹⁷ INDIA CONST. art. 80(4)

¹⁸ INDIA CONST. art. 80(4)

¹⁹ INDIA CONST. art. 80(1)(a), (3)

²⁰ Kesavananda Bharati v. State of Kerala, (1973) 4 S.C.C. 225 (India)

The primary function of the Parliament is to enact laws for the whole or any part of the territory of India. Under certain conditions, the Parliament can legally enact laws concerning matters enumerated in the State List as well as those in the Union List. For instance, during a national emergency, Parliament assumes the right to enact legislation on state subjects. So, in like manner, if the Rajya Sabha passes a resolution declaring that it is essential in the national interest for the Parliament to enact legislation on a matter in the State List, then the Parliament may do so.²¹

In the Concurrent List, both Parliament and the state legislatures might competently make laws. In case of conflict, however, the law made by Parliament prevails.²² Further, Parliament can enact laws to implement international treaties and agreements, even when the subject matter of the treaties comes within the State List.²³

In a parliamentary system, the executive is drawn from the legislature and remains accountable to it.²⁴ However, through various mechanisms such as question hour, zero hour, motions, debates, and parliamentary committees, Parliament exercises control over the executive.²⁵ The members of Parliament may ask questions in order to obtain information or to hold the ministers responsible for their actions.

No-confidence motion against the Council of Ministers can be moved in the Lok Sabha, and once it is passed, it results in the removal of the Council of Ministers.²⁶ This power preserves responsibility to the elected representatives of the people. Such parliamentary committees as standing committees and select committees make a very significant contribution to assessing the work of ministries and departments.²⁷

²¹INDIA CONST. arts. 249, 250

²² INDIA CONST. art. 254

²³ . INDIA CONST. art. 253

²⁴ H.M. SEERVAI, CONSTITUTIONAL LAW OF INDIA vol. 2, at 1201 (4th ed. 2013)

²⁵ Raja Ram Pal v. Hon'ble Speaker, Lok Sabha, (2007) 3 S.C.C. 184 (India)

²⁶ INDIA CONST. art. 75(3)

²⁷ M.P. JAIN, INDIAN CONSTITUTIONAL LAW 423 (8th ed. 2018)

The Union's finances are fully controlled by Parliament. No tax may be levied or collected except by authority of law, and similarly, no expenditure can be incurred from the Consolidated Fund of India without the approval of Parliament.²⁸ The annual budget is presented before Parliament by the Finance Minister. Both Houses discuss and vote upon it. No money bill can be initiated except in the Lok Sabha, and the Rajya Sabha has restricted powers in respect of money bills. ²⁹The Lok Sabha is supreme in matters relating to finance and adds to its representative character as the popular chamber.³⁰

Power to amend the Constitution is with Parliament under article 368.³¹ Through this constituent power, Parliament can modify or adjust the Constitution to meet a different need. However, this power is not unlimited. The Supreme Court in basic structure cases holds that Parliament lacks power to affect change in the basic structure of Constitution such as democracy, secularism, and the rule of law.³²

Parliament possesses powers of impeaching the President and judges of the Supreme Courts and High Courts on grounds of proved misbehaviour or inability. ³³Parliament can also punish a member for violating the privilege or contempt of the House³⁴. Further, the powers of creating a new state, delimiting territories of existing states, dealing with matters of citizenship and elections fall under the regulation of Parliament.³⁵The role of parliament is not limited to making laws but rather involves other roles such as representation, debating, and being accountable.³⁶

²⁸ INDIA CONST. arts. 265, 266

²⁹ INDIA CONST. arts. 109–110

³⁰ D.D. BASU, INTRODUCTION TO THE CONSTITUTION OF INDIA 262 (25th ed. 2019)

³¹ INDIA CONST. art. 368

³² Kesavananda Bharati v. State of Kerala, (1973) 4 S.C.C. 225 (India)

³³ INDIA CONST. arts. 61, 124(4), 217(1)(b)

³⁴ INDIA CONST. arts. 105(3), 194(3)

³⁵ INDIA CONST. arts. 3, 11, 327

³⁶ H.M. SEERVAI, CONSTITUTIONAL LAW OF INDIA vol. 2, at 1205 (4th ed. 2013)

Law-Making Function which include deliberations and passage of bills. Bills can be classified into an ordinary bill, a money bill, or an amendment bill for a constitutional amendment.³⁷ The parliament ensures a debate, hence improving the nature of laws passed. Deliberative Function Parliament is a platform where deliberations take place concerning issues of public significance. The debates in Parliament are a reflection of different perspectives and a platform for the opposition.³⁸ Representative Function Members of Parliament represent the views of their constituents. They do so through debates, questions, and motions in which they present matters of interest to the public and demand action from the government.³⁹ Accountability Function which gives power through questioning ministers and assessing the actions of the executive, Parliament holds people accountable. Such a role enhances democracy and ensures that powers are not abused.⁴⁰

The Indian Parliament remains the lifeline of the constitutional democracy established in India. The Parliament remains the major platform where the will of the people is articulated and translated into legislation.⁴¹ The significance of this institution not only arises from its role in creating laws but rather from being a platform where representation, accountability, and deliberation are conducted.⁴² The bicameral nature of this institution, which comprises both the Lok Sabha and Rajya Sabha, along with the critical role of the President, symbolizes both representation and federalism.⁴³ The broad powers of Parliament—the legislative, executive, financial, and constituent powers—are sufficient to make it an effective institution to cope with the intricate requirements of a plural and dynamic society.⁴⁴ Its legislative power enables it to make laws on matters of national significance, and its financial power ensures a democratic grasp over public finances. No less important is its power to amend the Constitution, which

³⁷ INDIA CONST. arts. 107–111

³⁸ M.P. JAIN, INDIAN CONSTITUTIONAL LAW 430–31 (8th ed. 2018)

³⁹ INDIA CONST. art. 105

⁴⁰ *Indira Nehru Gandhi v. Raj Narain*, 1975 Supp. S.C.C. 1 (India)

⁴¹ INDIA CONST. pmb1.

⁴² H..M. SEERVAI, CONSTITUTIONAL LAW OF INDIA vol. 2, at 1205 (4th ed. 2013)

⁴³ D.D. BASU, INTRODUCTION TO THE CONSTITUTION OF INDIA 158 (25th ed. 2019)

⁴⁴ M.P. JAIN, INDIAN CONSTITUTIONAL LAW 438 (8th ed. 2018)

provides for constitutional flexibility but in a manner controlled by the basic structure doctrine.⁴⁵ Apart from these powers, it is in its functions where the real strength of parliament actually lies.⁴⁶ As a deliberative assembly, parliament offers opportunities for debate, dissent, and dialogue, which are considered vital requirements in a healthy democracy.⁴⁷ Debates in parliament offer an opportunity for different views to be heard, thus ensuring a richer quality of legislation. Parliament holds the government accountable through such devices as question hour, motions, and parliamentary committees. In this way, parliament limits the doctrine of collective responsibility.⁴⁸ However, the level of effectiveness of Parliament is inextricably tied to performance and commitment levels among parliamentarians.⁴⁹ Disruptions in Parliament, poor standards in debating, and lower levels of parliamentary scrutiny of legislation can undermine parliamentary power and credibility. Improving parliamentary ethics standards, promoting well-informed participation, and strengthening committee systems would have to be part of efforts to make Parliament function better. A strong Parliament serves to keep in check a situation where government powers are overbearing, making governance responsive to people's concerns.

In conclusion, the Indian Parliament is not simply a constitutional body but a living institution which symbolizes the ideology of democracy in the country. To remain relevant, it is important for this institution to function in accordance with constitutional ideology, with its participation being mindful of democratic principles. As soon as it is able to function with integrity and in a responsible manner, this institution will continue to be an important part of a democratic setup in a country called India, an agency which will work towards achieving justice, liberty, equality, and fraternity among all Indians.⁵⁰

⁴⁵ *Minerva Mills Ltd. v. Union of India*, (1980) 3 S.C.C. 625 (India)

⁴⁶ H.M. SEERVAI, *CONSTITUTIONAL LAW OF INDIA* vol. 2, at 1212 (4th ed. 2013)

⁴⁷ Second Administrative Reforms Commission, 14th Report (2009)

⁴⁸ INDIA CONST. arts. 75(3), 105.

⁴⁹ Second Administrative Reforms Commission, 14th Report (2009)

⁵⁰ INDIA CONST. pmb1.