

Commemorative Volume



सत्र SESSION  
2019

भारतीय संसदीय लोकतंत्र में राज्य सभा की भूमिका

ROLE OF RAJYA SABHA IN INDIAN  
PARLIAMENTARY DEMOCRACY



राज्य सभा सचिवालय  
RAJYA SABHA SECRETARIAT  
नई दिल्ली  
NEW DELHI  
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2019**

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## PREFACE

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, deliberative and oversight bodies have played a significant role in our nation building and in strengthening the roots of democracy in the country. We are justly proud that our parliamentary system has guided the destiny of our nation ever since we attained our independence.

The Rajya Sabha was constituted on 3<sup>rd</sup> April 1952 and held its first sitting on 13<sup>th</sup> 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 as also in shaping the Government's policies cannot be overemphasised. Success of bicameralism in India owes a lot to the way the Rajya Sabha has redeemed itself as an apex democratic institution with proven record of its relevance for the body polity 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.

The hallmark of the Rajya Sabha is the principle of continuity as a permanent House in our parliamentary setup. As such its Sessions are held in continuity. This Winter Session of Parliament is the 250<sup>th</sup> Session of Rajya Sabha, a milestone in the history of this august institution. We express our deep gratitude to the Hon'ble Chairman, Rajya Sabha, Shri M. Venkaiah Naidu who was kind enough to give his consent to commemorate this historic occasion in a befitting manner. A Core Committee of the 250<sup>th</sup> Session Celebrations consisting of the senior officers of the Secretariat was constituted to work out the details of the celebrations. It was *inter alia* decided that a Commemorative Volume on the theme 'Role of Rajya Sabha in Indian Parliamentary Democracy' may be brought out which would contain articles from the Hon'ble Members and other eminent personalities covering various aspects such as Rajya Sabha's role and

contribution in bringing social change and economic transformation, deepening the legislative scrutiny, strengthening federalism, debating issues of specific concerns to the States and other public issues, etc.

The sitting Members of Rajya Sabha were accordingly requested to send articles for inclusion in the Commemorative Volume *vide* the Parliamentary Bulletin Part-II. Besides, a few other eminent personalities were also requested to contribute articles for the publication. We received an enthusiastic and fairly good response to our request for articles for the Commemorative Volume. A total of 46 articles were received – 35 from sitting Members including 6 Union Ministers who are Members of Rajya Sabha; Deputy Chairman, Rajya Sabha; Leader of the House and Leader of the Opposition and 10 Party Leaders in the House; Minister of Parliamentary Affairs; 4 former Members of Rajya Sabha; one former Deputy Chairman; one former Secretary-General; and three eminent personalities from media *viz.* Chairman, Prasara Bharti, Chairman, Media Advisory Committee, Rajya Sabha and former Chairman, Media Advisory Committee, Rajya Sabha. Party-wise 35 sitting Members belonging to fifteen political parties represented in the Rajya Sabha have contributed articles.

Out of the total 46 articles received, 9 articles are in Hindi and 37 are in English. Shri Thaawar Chand Gehlot, Hon'ble Minister of Social Justice and Empowerment and the Leader of the House, Rajya Sabha sent his article both in English and Hindi. The articles received from the contributors reflect their perspectives on different aspects of the role, functions and relevance of the Rajya Sabha in Indian Parliamentary democracy including its role in strengthening federalism, its effectiveness as a revising chamber, its role in safeguarding the people's rights, etc. Some of them give insightful suggestions to improve the functioning of the institution and some are personal accounts of their experiences in the House. The articles have been edited minimally and a caption has been given in respect of those articles received without any caption/title/heading. This publication has two parts - Part A contains Hindi articles and Part B contains English articles. The Hon'ble Chairman, Rajya Sabha took the final decision in all aspects of the publication.

I take this opportunity to express my deep sense of gratitude to the Hon'ble Chairman, Rajya Sabha for his inspiring Foreword and also for his

valuable guidance to bring out this publication. I express my deep gratitude to all the distinguished personalities who have contributed articles and made this publication possible. I also place on record my appreciation for the assistance rendered to me by the officers belonging to the LARRDIS, Printing and Publications Service and the Editorial and Translation Service. I sincerely hope the varied perspectives and personal anecdotes contained in this publication will provide the readers a deeper insight into the role and relevance of the Rajya Sabha as a Second chamber in the functioning of our parliamentary democracy.

New Delhi,  
18 November, 2019

Desh Deepak Verma  
*Secretary-General*  
*Rajya Sabha*







सभापति राज्य सभा  
CHAIRMAN, RAJYA SABHA

## Foreword

The makers of our Constitution while establishing Rajya Sabha as second chamber of our Parliament had envisaged a distinct role for it in our parliamentary system. The Rajya Sabha was meant to provide a second look at the legislation passed by the other House as also to prevent hasty legislation and not to ‘prove a clog either to legislation or administration’. Besides, it aimed at providing opportunity to the seasoned and eminent persons who have distinguished themselves in diverse fields such as literature, science, art and social service to serve the country. It was designed to give representation to the States in the apex democratic decision making. Members of Rajya Sabha were expected to be more experienced and learned and less influenced by the ebb and flow of popular opinion. As House of Elders, it was expected to hold dignified and quality debates on issues of public importance and legislative proposals and to ensure the accountability of the executive to Parliament.

During the span of more than six decades of its existence, the Rajya Sabha has performed this expected role with distinction and success in our nation building. Its performance has strengthened the roots of democracy in the country. Rajya Sabha has stood the test of time as a legislative, deliberative and oversight body in our democratic polity and as a shining example of a supreme representative body. The Members of Rajya Sabha have made substantial and significant contributions by way of reasoned and dignified debates on issues concerning people’s welfare and development of the country. Indeed, the deliberations in the House have always been guided by long term vision and futuristic outlook for inclusive development of the country.

As we have the vision of making a New India, our parliamentary institutions will have to play a catalytic role in taking our country forward on the path of rapid development and to be more responsive to the rising aspirations of the people, especially youth, poor and disadvantaged sections. As House of Elders, Rajya Sabha has to give lead and set highest standards for other democratic bodies to

emulate. This would also inspire our younger generation and secure their participation in our development and governance process and the nation building. This will be the true tribute to our great parliamentarians who have painstakingly nurtured this institution and the democratic values over the years and to the people of the country who have abiding faith in democracy. On this historic occasion when Rajya Sabha is celebrating its 250<sup>th</sup> Session, let us rededicate ourselves to the task of nation building.

In the past, Rajya Sabha celebrated its 100<sup>th</sup> and 200<sup>th</sup> session in 1977 and 2003 respectively. Today, we have reached another landmark in our parliamentary journey as we are celebrating the 250<sup>th</sup> Session of Rajya Sabha. It is a matter of great honour for me to preside over the Upper House of Parliament on this momentous occasion. It has been my earnest endeavour to make the functioning of this august body more effective and productive taking it to greater heights as one of the best performing parliamentary institutions in the world. I am quite optimistic that our Parliament is capable of delivering the optimum output and the best performance.

I am very happy that the Rajya Sabha Secretariat under the guidance of the Secretary-General is bringing out a commemorative volume on the theme 'Role of Rajya Sabha in Indian Parliamentary Democracy' to mark this historic event. This volume seeks to highlight the role played by the House of Elders in strengthening the Indian Parliamentary System reflecting varied perspectives of the Members of the Rajya Sabha, both former and sitting, Minister of Parliamentary Affairs, former Presiding Officer of the Rajya Sabha and Secretary-General and eminent journalists. I hope that their rich experiences and thoughtful insights on various aspects of the functioning of Rajya Sabha would underscore Rajya Sabha's role in bringing about social change and economic transformation, deepening the legislative scrutiny, strengthening federalism and articulating the issues that are critical to the progress of our great nation.

I extend my deep appreciation to all those who have contributed articles for this commemorative volume and all those who have been involved in the task of editing and printing of this publication. I am sure those who are interested in the functioning of our parliamentary system will find the commemorative volume useful.

New Delhi  
18 November, 2019



(M. VENKAIAH NAIDU)

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## भाग - क

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# राज्य सभा - मित्र, दार्शनिक एवं मार्गदर्शक

—श्री थावरचंद गहलोत \*

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वरिष्ठ व्यक्ति जो-जो आचरण यानि जो-जो काम करते हैं उसका दूसरों द्वारा अनुसरण किया जाता है; उन्होंने (वरिष्ठ व्यक्ति) जो प्रमाण या उदाहरण प्रस्तुत किए हैं, उसका लोग अनुसरण करते हैं।

—भगवद् गीता, 3/21

नवम्बर-दिसम्बर माह में, ऊपरी सदन, राज्य सभा, अपने 250वें सत्र का शुभारंभ करेगी। इस अविराम विधान परिषद का पहला सत्र 13 मई, 1952 को आयोजित हुआ था। 23 अगस्त, 1954 को राज्य परिषद के अध्यक्ष डा. एस.राधाकृष्णन ने यह घोषणा की थी कि राज्य परिषद को अब 'राज्य सभा' के नाम से जाना जाएगा। राज्य सभा भारत की विविधता का प्रतिनिधित्व करती है और यह भारतवासियों के सांस्कृतिक मूल्यों को बनाए रखती है। यह कला, संस्कृति, प्रौद्योगिकी, खेल-कूद और शिक्षा से संबंधित विविध क्षेत्रों के बुद्धिजीवियों के लिए एक मंच के रूप में कार्य करती है। राज्य सभा का प्राथमिक कार्य संसद के एक मित्र, दार्शनिक और मार्गदर्शक के रूप में कार्य करना है। महाभारत से उद्धृत निम्नलिखित उदाहरण में ऊपरी सदन, राज्य सभा, की भारत के लोकतंत्र के कामकाज में अनिवार्य भूमिका का उल्लेख किया गया है:

'वह सभा नहीं है जहाँ कोई वरिष्ठ व्यक्ति नहीं हैं, वे वरिष्ठ व्यक्ति नहीं हैं जो न्यायसंगत बात नहीं करते हैं '

वैदिक काल के दौरान, समिति (बड़े लोगों का समूह) वही कार्य करती थी जो आज राज्य सभा कर रही है। भारत में आधुनिक लोकतंत्र का जन्म ब्रिटिश शासन के खिलाफ स्वतंत्रता आंदोलन के साथ प्रारंभ हुआ। प्रथम स्वतंत्रता संग्राम के तुरंत बाद,

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\* सदस्य, राज्य सभा; सदन के नेता, राज्य सभा; केन्द्रीय मंत्री, सामाजिक न्याय एवं अधिकारिता मंत्रालय; पूर्व सदस्य, ग्यारहवीं, बारहवीं, तेरहवीं और चौदहवीं लोक सभा

ब्रिटेन की महारानी ने भारत सरकार अधिनियम, 1858 के अंतर्गत ईस्ट इंडिया कंपनी से भारत का शासन अपने नियंत्रण में ले लिया था। उसके बाद के वर्षों में, भारत का शासन चलाने के लिए कई अधिनियम, जैसे भारतीय परिषद अधिनियम, 1862, भारतीय परिषद अधिनियम, 1892, भारतीय परिषद अधिनियम, 1909 में मार्ले-मिटो रिफार्म्स अधिनियमित किए गए थे। मॉटेग्यू-चेम्सफोर्ड रिफार्म्स भारतीय लोकतंत्र प्रक्रिया में एक ऐतिहासिक रिफार्म के रूप में उभरकर सामने आया। मॉटेग्यू-चेम्सफोर्ड रिफार्म्स को भारत सरकार अधिनियम, 1919 में शामिल किया गया था। इसमें सरकार के दोहरे रूप अथवा द्वितंत्र का प्रावधान किया गया था। भारत सरकार अधिनियम, 1919 के अंतर्गत भारतीय विधान मंडल में गवर्नर-जनरल और दो सदन अर्थात् ईम्पीरियल विधान सभा और राज्य परिषद का प्रावधान किया गया। राज्य परिषद में कुल 60 सदस्य थे, जिनमें से 34 भारतीय थे। परिषद का कार्यकाल 5 वर्ष निर्धारित किया गया था। भारत सरकार अधिनियम, 1935 के तहत राज्य परिषद को एक सतत निकाय के रूप में बनाया गया था, जिसका विघटन नहीं किया जा सकता था और इस परिषद ने सन् 1947 तक काम करना जारी रखा।

स्वतंत्रता के पश्चात, संविधान सभा को संविधान को तैयार करने का कार्य सौंपा गया था। संविधान सभा द्वारा 26 नवम्बर, 1949 को भारत का संविधान पारित किया गया और उसे 26 जनवरी, 1950 से लागू किया गया था। नए संविधान के अंतर्गत पहले आम चुनावों के पश्चात संसद के दोनों सदन सन् 1952 में अस्तित्व में आए।

दूसरे सदन के मुद्दे पर, श्री जवाहरलाल नेहरू की अध्यक्षता में एक केंद्रीय संविधान समिति गठित की गई थी। दूसरे सदन के संबंध में चर्चा का उत्तर देते हुए, श्री गोपालस्वामी अयंगर ने कहा था: "दूसरे सदन की आवश्यकता विश्वभर में जहां परिसंघ स्थापित किए गए हैं, व्यावहारिक रूप से महसूस की गई थी। आखिरकार, हमारे समक्ष यह प्रश्न उठा कि क्या यह कोई उपयोगी कार्य कर पाएगा। दूसरे सदन से हम यह आशा करते हैं कि वह महत्वपूर्ण मुद्दों पर सम्मानजनक तरीके से चर्चा करे और उन विधानों, जो क्षणिक घटनाओं का परिणाम है, को पारित करने में तब तक विलम्ब करे जब तक कि स्थिति सामान्य न हो जाए और संसद के दोनों सदन उस बारे में शांतिपूर्वक विचार कर सकें और जब कभी भी कोई महत्वपूर्ण मामला, विशेष रूप से वित्त से संबंधित, सामने आए जिस पर लोक सभा और राज्य सभा के बीच कोई मतभेद हो, संविधान के अनुसार कार्रवाई की जा सके, यह लोक सभा का भी मत है। अतः दूसरे सदन का गठन

करके हम वास्तव में किसी कार्य में विलम्ब कर सकते हैं जो जल्दबाजी में किया गया हो और हम उन लोगों को अवसर भी प्रदान कर रहे हैं जो राजनीतिक जीवन से अधिक जुड़े हुए नहीं हैं लेकिन जो अपनी योग्यता और महत्वपूर्ण योगदान की वजह से चर्चा में भाग लेने के इच्छुक हों, जिन्हें हम साधारण तौर पर लोक सभा में शामिल नहीं कर सकते हैं। हम दूसरे सदन के गठन का प्रस्ताव इस विचार से करते हैं। मेरे विचार में, अधिकांश सदस्य दूसरे सदन के गठन के पक्ष में हैं और इस बात का ध्यान रखा जाएगा कि यह सदन विधायी या प्रशासनिक कार्य में कोई बाधा उत्पन्न न करे।"

डा. अंबेडकर, जो समिति के एक सदस्य भी थे, ने संविधान सभा में शासन की द्विसदनीय प्रणाली के बारे में कहा था: "ब्रिटिश संसद में हाउस ऑफ लार्ड्स, हाउस ऑफ कॉमन द्वारा पारित वित्तीय प्रावधानों पर केवल अपनी सहमति देता है; जहां तक वित्त का संबंध है इसने स्वयं को इससे अलग किया हुआ है। हम ऐसी स्थिति से बाहर निकल रहे हैं और उच्च सदन को कर तथा वित्तीय प्रस्तावों को तैयार करने में अपनी सहमति देने की अनुमति प्रदान कर रहे हैं, जो निम्न सदन द्वारा आरंभ किए गए हैं। हम उच्च सदन को कुछ विशेषाधिकार प्रदान कर रहे हैं, जो सामान्य रूप से उन्हें प्राप्त नहीं हैं।"

संविधान के अनुच्छेद 79 के अंतर्गत, संसद में राष्ट्रपति, लोक सभा और राज्य सभा शामिल हैं। राज्य सभा अथवा उच्च सदन एक स्थायी सदन है, जिसे भंग नहीं किया जा सकता है, तथापि एक तिहाई सदस्य छह वर्ष का कार्यकाल पूरा करने पर प्रत्येक द्विवार्षिक व्यवस्था में सेवानिवृत्त होते हैं। राज्य सभा के कुल 245 सदस्य होते हैं, 233 सदस्य राज्यों और संघ राज्य क्षेत्रों का प्रतिनिधित्व करते हैं और 12 सदस्य भारत के राष्ट्रपति द्वारा नामित किए जाते हैं। राज्यों के प्रतिनिधि एकल हस्तांतरणीय मत द्वारा आनुपातिक प्रतिनिधित्व प्रणाली के अनुसार संबंधित विधान सभाओं द्वारा चुने जाते हैं।

राज्य सभा के पहले सभापति, श्री सर्वपल्ली राधाकृष्णन ने कहा था कि: "यह एक सामान्य अवधारणा है कि यह सदन न तो सरकार बना सकता है और न ही इसे गिरा सकता है और इसलिए यह एक निरर्थक सदन है। परंतु कुछ कार्य ऐसे हैं, जिन्हें यह सदन सार्थक रूप से पूरा कर सकता है। संसद न केवल वैधानिक निकाय है बल्कि यह एक विमर्शी सदन भी है। जहां तक इसके विमर्शी कार्यों का संबंध है, यह हमें बहुमूल्य



योगदान करने के लिए होगा और यह हमारे कार्य पर निर्भर होगा कि क्या हम इस दो सदनीय प्रणाली का औचित्य सिद्ध कर पाते हैं, जो अब हमारे संविधान का एक अभिन्न अंग है।"

स्थायी उच्च सदन एक बहुत छोटा सदन है, जो प्रमुख विधेयकों पर बेहतर रूप से विचार-विमर्श करने और निम्न सदन की रचना में किसी प्रकार के असंगत बदलावों की जांच करने तथा संतुलन बनाने में समर्थ है। यह राज्यों का प्रतिनिधित्व करता है और केंद्र को एकतरफा व्यवहार करने से भी रोकता है। चूंकि राज्य सभा को राज्यों की अप्रत्यक्ष आवाज के रूप में गठित किया गया है इसलिए राज्य सभा के सदस्य सीधे राज्य विधान सभाओं द्वारा चुने जाते हैं न कि लोगों द्वारा। राज्य सभा की सरकार बनाने और गिराने में कोई भूमिका नहीं होती है, क्योंकि मंत्रिपरिषद सामूहिक रूप से लोक सभा के प्रति उत्तरदायी होती है। सरकार में औपचारिक रूप से अविश्वास प्रकट करने की शक्ति लोक सभा में निहित है। परन्तु फिर भी राज्य सभा के पास कुछ विशेष अधिकार हैं जिसमें वह अपने दो-तिहाई सदस्यों के समर्थन से राज्य सूची के अंतर्गत आने वाले किसी विषय को सूची से हटा सकती है और राष्ट्रीय हित में घोषित भी कर सकती है तथा एक अथवा उससे अधिक नई अखिल भारतीय सेवाओं का गठन कर सकती है। राज्य सभा राज्यों और उनके लोगों के बड़े पैमाने पर अधिकारों की संरक्षक है। राज्य सभा अपने नियमों द्वारा विशेष समितियों का गठन कर सकती है, जो सदन का व्यापक प्रतिनिधित्व दर्शाता है। वर्तमान भारत के उपराष्ट्रपति और राज्य सभा के सभापति श्री एम. वेंकैया नायडु ने यह टिप्पणी की है कि "लोकतंत्र — विचार-विमर्श, परिचर्चा और निर्णय" का सार है। इसे अव्यवस्था, हंगामा और कानून बनाए जाने में विलम्ब द्वारा प्रतिस्थापित नहीं किया जा सकता, जो कि लोकतंत्र की भावना के विरुद्ध है।

राज्य सभा सदस्यों के लिए चुनाव की प्रक्रिया यह सुनिश्चित करती है कि विभिन्न राज्यों में उठने वाली राजनीतिक आवाज का संसद के उच्च सदन में भी पर्याप्त रूप से प्रतिनिधित्व हो। कई बार, लोक सभा चुनाव में व्यापक जीत के साथ केंद्र में सत्तारूढ़ "एक्स" राजनीतिक पार्टी हो सकती है और राज्य विधान सभा चुनाव के दौरान अपने राज्य चुनाव में बहुमत प्राप्त करके विभिन्न राज्यों में सत्तारूढ़ "वाई" अथवा "जेड" और कई अन्य राजनीतिक पार्टियां हो सकती हैं। ऐसे परिदृश्य में, राज्य सभा पर्याप्त रूप से उन राजनीतिक पार्टियों का प्रतिनिधित्व भी करती है जो लोक सभा में छोटे अथवा कम प्रतिनिधित्व वाले होते हैं परंतु संबंधित विधान सभाओं में उनका काफी

प्रतिनिधित्व होता है। यह राज्य सभा में पृथक राजनीति स्वर का एक न्यायोचित प्रतिनिधित्व करने में समर्थ होता है क्योंकि इसके सदस्य अप्रत्यक्ष रूप से राज्य मतदान के जरिए चुने जाते हैं अतः राज्य सभा प्रभावशाली, विविधतापूर्ण और न्यायसंगत वैधानिक कार्यवाही के मौकों पर सक्रिय रूप से एवं तटस्थ भाव से और अधिक संतुलित तथा निष्पक्ष रूप से कार्य करती है। भारत में, केंद्र में द्विसदनीय व्यवस्था प्रणाली है, जहां राज्यों के संघ के रूप में राज्य सभा है और संविधान निर्माताओं का आशय राज्य सभा द्वारा विधायी कार्यों में संतुलन की भूमिका अदा करना था।

राज्य सभा की अन्य अति महत्वपूर्ण विशेषता नामित सदस्य हैं। भारत के राष्ट्रपति द्वारा समाज की विविध पृष्ठभूमि से आने वाले व्यक्तियों में से 12 सदस्य छह वर्ष की अवधि के लिए नामित अथवा नियुक्त किए जाते हैं। नामित सदस्यों में उच्च सदन में मानवजाति, भाषाविद, सांस्कृतिक और प्रतिष्ठित व्यक्तियों का एक अनोखा सर्वोत्कृष्ट प्रतिनिधित्व है। ये 12 सदस्य विभिन्न क्षेत्रों से विशेष ज्ञान रखने वाले व्यक्ति होते हैं जैसे कवि, सिनेमा, कला-जगत, साहित्य, पत्रकारिता, अकादमी, विवेचक, वैज्ञानिक, समाज-सेवा, खेल जगत, अर्थशास्त्र। इस मनोनीत प्रतिनिधित्व में हमारे समाज के सभी वर्गों को शामिल किया जाता है। इस तरह से, राज्य सभा गैर-राजनीतिक वर्गों की आवाज बन जाती है, जो कि हमारे समाज के महत्वपूर्ण वर्ग हैं।

राज्य सभा की एक महत्वपूर्ण विशेषता उसके सदस्यों का चुनाव है। यद्यपि लोक सभा के सदस्य लोगों द्वारा सीधे चुने जाते हैं, राज्य सभा के सदस्यों का चुनाव राज्य की विधान सभा के सदस्यों द्वारा सीधे किया जाता है। राज्य सभा का प्रत्येक सदस्य छह वर्षों के लिए चुना जाता है और एक तिहाई सीटों का चुनाव प्रत्येक दो वर्ष के बाद किया जाता है। राज्य विधान सभा के सदस्य एकल हस्तांतरणीय वोट प्रणाली के साथ आनुपातिक प्रतिनिधित्व के द्वारा राज्य सभा चुनाव में वोट करते हैं और प्रत्येक वोट की गणना एक बार ही की जाती है। इस चुनाव में सदस्य किसी भी उम्मीदवार को वोट करने के लिए स्वतंत्र हैं, इस प्रकार वे किसी राजनीतिक दल के अनुसार वोट करने के लिए बाध्य नहीं हैं। राज्य विधान सभा के सदस्यों को सभी उम्मीदवारों के नामों के साथ एक पेपर दिया जाता है, उन्हें उनके नामों के सामने 1, 2 और 3 लिखते हुए प्रत्येक उम्मीदवार के लिए वरीयता क्रम देना होता है।

लोक सभा के निर्णय बहुमत वाली सरकार के पक्ष में लिए जा सकते हैं परन्तु राज्य सभा विधेयकों को विभिन्न समितियों को भेज कर इनकी गहराई से जांच करती है।

मोदी सरकार के दूसरे कार्यकाल के पहले संसद सत्र ने लगभग सात दशकों में सर्वाधिक उत्पादक संसदीय सत्र देखा, जिसमें न सिर्फ अनुच्छेद 370 का निरसन, तीन तलाक, मोटर वाहन संशोधन विधेयक, अंतर्राज्यीय नदी जल विवाद संशोधन विधेयक जैसे महत्वपूर्ण विधेयक पारित किए गए अपितु इसने विगत 70 वर्षों में अधिकतम संख्या में विधेयक पारित करने का रिकार्ड भी दर्ज किया। राज्य सभा का विधायी कार्य 51% था जबकि लोक सभा का विधायी कार्य 46% था। संसद में कुल 38 विधेयक पुरःस्थापित किए गए थे जिनमें से दोनों सदनों द्वारा 30 विधेयक पारित किए गए।

राज्य सभा ने लोकतांत्रिक प्रक्रिया के पिछले सात दशकों में एक महत्वपूर्ण भूमिका अदा की है और इसने प्रस्तुत मुद्दों पर चर्चा करने और इन्हें समझने की एक अनोखी परम्परा विकसित की है। इन सभी वर्षों में राज्य सभा राष्ट्र एवं इसके नागरिकों का एक संरक्षक साबित हुई है। यह वंचित एवं शोषित वर्ग का पथ-प्रदर्शक बनी है। राज्य सभा का 250वां सत्र राष्ट्र को दी गई उल्लेखनीय सेवाओं का एक उदाहरण है। राज्य सभा हमारे संविधान के निर्माताओं द्वारा परिकल्पित आशाओं और संकल्पों को पूरा कर रही है। इसने लोगों तथा राज्यों के पर्यवेक्षक एवं संदेशवाहक के रूप में कार्य किया है।

# लोक सभा देश का दिल है तो राज्य सभा देश का दिमाग

—श्री रामविलास पासवान\*

राज्य सभा को देश की संघीय व्यवस्था का सलाहकार कहा जाए तो कोई अतिशयोक्ति नहीं होगी। एक ऐसा सलाहकार, जो लोक सभा के प्रस्तावों की समीक्षा कर सके। अगर लोक सभा देश का दिल है तो राज्य सभा देश का दिमाग। देश के जोश और होश का संतुलन बनाए रखने वाला हृदय, जो लोक सभा का सही मायनों में मार्गदर्शन कर सके। दूसरे शब्दों में कहें तो यह देश के सभी राज्यों और उन राज्य के लोगों का प्रतिनिधित्व करने वाला सदन है।

स्वतंत्रता प्राप्ति के बाद देश के संविधान में राज्य सभा को उच्च सदन का दर्जा दिया गया। संविधान सभा ने 1950 तक केन्द्रीय विधानमंडल के रूप में कार्य किया। उसके बाद इसे अनंतिम संसद के रूप में परिवर्तित कर दिया गया। केन्द्रीय विधानमंडल यानी संविधान सभा (विधायी) को अनंतिम संसद कहा जाने लगा। वर्ष 1952 में पहले चुनाव कराये जाने तक देश में एक सदन की ही व्यवस्था जारी रही। संसद के दूसरे सदन के गठन से पहले इसकी उपयोगिता या अनुपयोगिता के संबंध में संविधान सभा में खासी बहस हो चुकी थी। राज्य सभा की अवधारणा, सन् 1919 के मोंटेग्यू-चेम्सफोर्ड सुधारों के तहत काउंसिल ऑफ स्टेट्स के रूप में दूसरे सदन की स्थापना से प्रेरित है। आखिरकार, स्वतंत्र भारत के लिए दो सदन युक्त विधानमंडल बनाने का फैसला लिया गया। तदुपरान्त, 3 अप्रैल, 1952 को राज्य सभा का गठन हुआ और 13 मई, 1952 को राज्य सभा की पहली बैठक आहूत की गई। 23 अगस्त, 1954 को राज्य सभा के तत्कालीन सभापति डा. सर्वपल्ली राधाकृष्णन ने सभा में एक घोषणा की कि काउंसिल ऑफ स्टेट्स को अब हिन्दी में 'राज्य सभा' कहा जाएगा।

भारत जैसे विशाल और विविधता वाले देश में दो सदन की व्यवस्था जरूरी भी थी। राज्य सभा राष्ट्रीय स्तर पर राज्यों का प्रतिनिधित्व करती है। इस सदन को उच्च-स्तरीय विचार-विमर्श का सदन भी माना जा सकता है। यह सदन लोक सभा में बहुमत

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\* सदस्य, राज्य सभा; केन्द्रीय मंत्री, उपभोक्ता कार्य, खाद्य एवं सार्वजनिक वितरण मंत्रालय; पूर्व सदस्य, छठी, सातवीं, नौवीं, दसवीं, ग्यारहवीं, बारहवीं, तेरहवीं, चौदहवीं और सोलहवीं लोक सभा

वाले दल की मनमानी पर भी अंकुश लगा सकता है। नागरिकों के अधिकारों, अल्पसंख्यकों, वंचितों, शोषितों और क्षेत्र-विशेष की समस्याओं पर असरदार ढंग से चिंतन के एक मंच के रूप में इस सदन की प्रासंगिकता को कम करके नहीं आँका जा सकता। राज्य सभा को परिपक्व भी माना जाता है और परिवर्तक भी, तार्किक भी और बौद्धिक भी, विचारशील भी और कर्मशील भी, निर्लिप्त भी और निर्विकार भी, समर्थ भी और कर्मठ भी, उच्च-पदस्थ भी और पथ-प्रदर्शक भी। कुल मिला कर यह सदन केन्द्र की किसी भी सरकार पर नजर रखने और संतुलन बनाए रखने के लिए एक अहम उपकरण की भूमिका निभाता है।

लोकतंत्र में राज्य सभा की भूमिका को परिभाषित करने से पहले इस बात पर भी विचार करना आवश्यक है कि संविधान निर्माताओं का राज्य सभा के गठन किए जाने के संदर्भ में आखिर मकसद क्या था? संविधान निर्माता यह चाहते थे कि भारत के राज्यों और संघ-शासित क्षेत्रों का प्रतिनिधित्व करने के लिए एक अलग सदन होना चाहिए, ताकि देश के सभी भागों के सुपात्र और विभिन्न क्षेत्रों के अनुभवी लोगों को प्रतिनिधित्व मिल सके। उनकी इच्छा यह भी थी कि राज्य सभा में निष्पक्ष रूप से प्रत्येक विषय पर गंभीरता से विचार हो। लोक सभा में पारित विधेयकों पर पुनर्विचार हो ताकि जनविरोधी कानून को नासूर बनने से पहले ही रोक लिया जाए।

संविधान सभा के सदस्य श्री गोपालस्वामी अयंगर ने संविधान सभा में कहा था: "राज्य सभा का काम ऐसे विधेयकों को पारित होने में देर करना है जिनकी रचना उत्तेजित भावनाओं के परिणामस्वरूप हुई हो। उन सभी कार्यों को कार्यान्वित होने से रोकना है, जिन पर उतावलेपन में विचार किया गया हो। मगर इस सदन का काम विधि के निर्माण या प्रशासनिक कार्यों में व्यवधान पैदा करना नहीं है।"

राज्य सभा ने 1962 तक लोक सभा से पारित 40 विधेयकों में संशोधन किया, जिसे लोक सभा ने स्वीकार भी किया। इससे विधि-निर्माण में राज्य सभा की अहमियत का अंदाजा आसानी से लगाया जा सकता है। लोक सभा और राज्य सभा में विरोध की परिस्थितियाँ भी कई बार उत्पन्न हुईं। वर्ष 1971-79 और 1980-82 में दोनों सदनों की दलीय संख्या के कारण विरोध के स्वर भी गूँजे।

राज्य सभा ने लोक सभा के बैंकिंग सेवा आयोग विधेयक पर विचार का जमकर विरोध किया था। इसके साथ ही सभा ने 1977-78 के वार्षिक बजट में भी संशोधन किया।

लेकिन राज्य सभा का विचार इन दोनों मामलों पर स्वीकार नहीं किया गया। इसके बाद 1978 में जब लोक सभा ने 45वाँ संशोधन विधेयक पारित कर राज्य सभा में भेजा तो राज्य सभा ने इसे पांच संशोधनों के साथ पारित कर दिया। नतीजतन लोक सभा को राज्य सभा के संशोधनों को स्वीकार करना पड़ा। इसी प्रकार, विशेष अदालत विधेयक के मामले में राज्य सभा के संशोधन को लोक सभा ने स्वीकार नहीं किया। इसी क्रम में 1996 से 2002 के बीच लोक सभा और राज्य सभा में कुछ विरोध की परिस्थितियाँ उपजीं। वर्ष 2002 के दौरान लोक सभा ने आतंकवाद निरोधक अध्यादेश 'पोटा' को स्वीकार किया। मगर राज्य सभा ने इसे अस्वीकार कर दिया। लिहाजा, इस अध्यादेश पर विचार के लिए एक संयुक्त अधिवेशन बुलाकर इसे सहमति दी गई।

ऐसे कई उदाहरण हैं, जब राज्य सभा ने परिस्थितियों के मद्देनजर विधेयकों को पारित करने में काफी तत्परता भी दिखायी है। मसलन 25 अगस्त, 1984 को राज्य सभा की एक ही बैठक में एक के बाद एक पांच संविधान संशोधन पारित कर दिए गए। विधायी कार्यों में राज्य सभा की भागीदारी हमेशा बराबर की रही है और सदन में हुए वाद-विवाद ने सरकार की नीतियों को प्रभावित भी किया है।

सदन में राज्यों का प्रतिनिधित्व करने वाली राज्य सभा ने अब तक विधायी प्रक्रिया में अपनी अहम भूमिका निभाई है। कई विधेयकों पर बौद्धिक चर्चा के अलावा कई अवसरों पर जनविरोधी कानूनों को पारित होने से रोका भी है। संवैधानिक प्रावधानों के पालन और स्वस्थ भारतीय लोकतंत्र को कायम रखने में राज्य सभा की महत्वपूर्ण भूमिका रही है। राज्य सूची के विषयों पर संसद द्वारा कानून बनाये जाने, नई अखिल भारतीय सेवाओं के सृजन जैसे विषयों में राज्य सभा का विशिष्ट योगदान रहा है। इसलिए, राजनीतिक दलों को अपनी जिम्मेदारियों को समझते हुए इस सदन के लिए सुपात्र व्यक्तियों का ही चुनाव करना चाहिए। इसके साथ ही जातिगत एवं धार्मिक अल्पसंख्यकों, महिलाओं, भाषायी और धार्मिक विविधता के साथ-साथ उत्तर-पूर्व, द्वीप राज्यों और जम्मू-कश्मीर आदि को उचित प्रतिनिधित्व दिया जाए, तभी देश के इस प्रबुद्ध सदन की प्रासंगिकता सुनिश्चित की जा सकती है। इस सदन की गरिमा और उच्च-स्तरीय क्षमता के बूते ही इस महान लोकतंत्र का विकास संभव है।

# शून्य काल का शोर - विधायी कार्य घनघोर

## राज्य सभा का सिरमौर

—श्री मुख्तार अब्बास नकवी\*

संसद की स्थायी सभा राज्य सभा देश की गौरवपूर्ण विधायी सेवा में अपने 250वें सत्र का शुभारंभ करने जा रही है। देश की संसदीय प्रजातंत्र प्रणाली में राज्य सभा की मूल्यवान भूमिका का स्मरण करते हुए उत्सव का आयोजन निश्चय ही भारतीय लोकतंत्र के शानदार पहलुओं का महत्वपूर्ण, गरिमामयी हिस्सा होगा। मुझे इस बात की खुशी भी है कि इस अवसर पर भारतीय संसदीय लोकतंत्र में राज्य सभा की भूमिका विषय पर स्मृति ग्रंथ प्रकाशित किया जा रहा है, जिससे शून्य काल के शोर से लेकर विधायी कार्य के घनघोर इतिहास से लोग रुबरू होंगे।

भारत में द्विसदनीय विधायिका की शुरुआत स्वतंत्रता से पूर्व ही हो गई थी। संविधान निर्माताओं ने स्वतंत्रता के पश्चात् लोकतंत्र के महत्व को समझते हुए देश में लोकतंत्रीय व्यवस्था को अंगीकार किया और हमारी लोकतंत्रीय व्यवस्था को अधिक पारदर्शी, जवाबदेही, उत्तरदायी एवं नियंत्रित बनाए रखने के लिए लोकतंत्र की श्रेष्ठ संसदीय व्यवस्था को स्वीकार किया और विधायिका में दो सदनों की व्यवस्था रखते हुए संविधान में राज्य सभा को उच्च सदन के रूप में संवैधानिक मान्यता दी।

संविधान निर्माताओं का यह विचार था कि भारत संघ के राज्यों तथा संघ शासित क्षेत्रों का प्रतिनिधित्व करने के लिए दूसरा सदन होना चाहिए ताकि देश के सभी भागों को उचित प्रतिनिधित्व प्राप्त हो तथा देश को योग्य एवं अनुभवी व्यक्तियों की सेवा उपलब्ध कराने का भी अवसर प्राप्त हो सके। सदन में राज्यों का प्रतिनिधित्व करते हुए राज्य सभा ने अब तक विधायी प्रक्रिया में महत्वपूर्ण एवं अग्रिम भूमिका निभाई है और विधेयकों पर बौद्धिक बहस के साथ ही महत्वपूर्ण विधायी फैसले लिये हैं।

अनेक महत्वपूर्ण विधेयकों का जन्म राज्य सभा में ही हुआ है और उन्हें लोक सभा द्वारा भी स्वीकार किया गया है और वे कानून बने। राज्य सभा ने अपनी भूमिका का

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\* सदस्य, राज्य सभा; केन्द्रीय मंत्री, अल्पसंख्यक कार्य मंत्रालय; पूर्व सदस्य, बारहवीं लोक सभा



निर्वहन करते हुए ही बहुत से विधेयकों में महत्वपूर्ण एवं ऐतिहासिक संशोधन किया और इन संशोधनों को लोक सभा द्वारा भी स्वीकार किया गया। राज्य सभा ने 25 अगस्त, 1984 को एक ही बैठक में एक के बाद एक पांच संविधान संशोधन विधेयक पारित किए। कभी-कभी अपने कार्यों के निर्वहन में राज्य सभा का लोक सभा के साथ विपरीत रुख भी रहा लेकिन सभी दृष्टियों से राज्य सभा हमारे संवैधानिक और संसदीय तंत्र के एक अत्यंत महत्वपूर्ण क्रियाशील अंग के रूप में सामने आई है।

पिछले कुछ समय से राज्य सभा की कार्य शैली में सकारात्मक प्रवृत्तियों की कमी भी महसूस की गई है जिससे राज्य सभा की प्रासंगिकता के संबंध में लोग आलोचना भी करने लगते हैं। मीडिया और लोग ये भी कहने लगे हैं कि कभी-कभी राज्य सभा बिना तर्कों एवं तथ्यों के सरकार के किसी विधेयक को रोकने या गतिरोध पैदा करने की ज़िद ज्यादा करती दिखी। राष्ट्रपति द्वारा विभिन्न क्षेत्रों में विशिष्टता प्राप्त व्यक्तियों को राज्य सभा का सदस्य नामित किया जाता है लेकिन कभी-कभी राज्य सभा में उनकी उपस्थिति और भूमिका को लेकर भी सवाल खड़े किए जाते हैं। विधेयकों पर बौद्धिक बहस की जगह कभी-कभी राज्य सभा में हंगामा और हुडदंग सभा की सार्थक कार्यवाही को हाईजैक करता दिखा। भारतीय लोकतंत्र में राज्य सभा की अपनी एक विशिष्ट भूमिका है और राज्य सभा के संबंध में सामने आई नकारात्मक बातों को दूर करते हुए इसे और अधिक कार्यशील बनाया जा सकता है। हमारे कार्यों के सुधार के संकल्प का यह शेर सार्थक है :-

न हमसफर न किसी हमनशीं से निकलेगा  
हमारे पांव का कांटा हम ही से निकलेगा।

सरकार के कार्यों पर निगरानी और संतुलन रखने के लिए राज्य सभा भारतीय संसद की रीढ़ है। संविधान निर्माता इसे बुद्धिजीवियों, अनुभवी, योग्य व्यक्तियों और राज्यों के चुने प्रतिनिधियों का सदन बनाना चाहते थे। अतः मेरा सुझाव भी है कि राज्य सभा की उपयोगिता, कार्यों, अधिकारों एवं शक्तियों के संबंध में समय-समय पर विश्व के अन्य सदनों से तुलना की जानी चाहिए और यदि अंतर्राष्ट्रीय स्तर पर कोई ऐसे महत्वपूर्ण परिवर्तन सामने आते हैं जो राज्य सभा की शक्ति में वृद्धि कर सकते हैं तो ऐसे संशोधनों को भारतीय संविधान में भी लागू किया जाना चाहिए।

# राज्य सभा : सुविचारित निष्कर्ष के लिए संवैधानिक संरचना

—डा. सत्यनारायण जटिया\*

महाभारत में कहा गया है कि जिस सभा में अनुभवी जन न हों, वह सभा नहीं, जो उचित बात न कहे वह अनुभवी जन नहीं, जिसमें सत्य नहीं वह धर्म नहीं और जो कपटपूर्ण हो वह सत्य नहीं।

"न सा सभा यत्र न सन्ति वृद्धा न ते ये न वदन्ति धर्मम्।  
धर्मः स नो यत्र न सत्यमस्ति, सत्यं न तद्यच्छलमभ्युपैति।।"

(महाभारत 5/35/58)

भारतीय संसदीय लोकतंत्र भारत के संविधान से पोषित और संरक्षित है। लोकतंत्र में अभिव्यक्ति की स्वतंत्रता का महत्वपूर्ण स्थान है। संविधान सभा में विस्तृत विचार-विमर्श के बाद स्वतंत्र भारत के लिए प्रत्यक्ष रूप से निर्वाचित लोक सभा को और गहन विचार-विस्तार देने के लिए राज्य सभा को आवश्यक समझा गया। संसद के दो सदन बनाने का निर्णय मुख्य रूप से इसलिए लिया गया कि भारत विशाल और विविधताओं वाला देश है। यहाँ विभिन्न भाषाओं, संस्कृतियों, सम्प्रदायों के लोग निवास करते हैं। संघीय प्रणाली को देश के लिए सर्वाधिक उपयोगी स्वीकार किया गया।

संविधान-सभा के सदस्य श्री गोपालस्वामी अयंगर के विचार में "विश्व में जहाँ कहीं भी किसी महत्व के कोई परिसंघ हैं, प्रायः सर्वत्र द्वितीय सदन की आवश्यकता का अनुभव किया गया है।"

देश के संविधान-निर्माता केन्द्र में निर्वाचित और अंशतः नाम-निर्देशित द्वितीय सदन के पक्ष में थे, क्योंकि उनका विचार था कि ऐसा करना देश की आवश्यकताओं को देखते हुए सर्वाधिक उपयुक्त होगा। द्वितीय सदन में सदस्यों की अधिकतम संख्या 250 है।

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\* सदस्य, राज्य सभा; अध्यक्ष, मानव संसाधन विकास संबंधी स्थायी समिति राज्य सभा; पूर्व सदस्य, सातवीं, नौवीं, दसवीं, ग्यारहवीं, बारहवीं, तेरहवीं और चौदहवीं लोक सभा; पूर्व केन्द्रीय मंत्री

इसमें नामित सदस्यों की संख्या 12 है। बाकी सदस्य राज्यों एवं संघ-शासित क्षेत्रों के प्रतिनिधि हैं। इस समय इनकी संख्या 233 है।

स्वतंत्र भारत में वर्ष 1951 में प्रथम लोक सभा एवं 1952 में प्रथम राज्य सभा के लिए निर्वाचन सम्पन्न हुए और 13 मई, 1952 को राज्य सभा की प्रथम बैठक आयोजित की गई। सभापीठ द्वारा 23 अगस्त, 1954 को काउंसिल ऑफ स्टेट्स को राज्य सभा का नाम दिया गया। प्रथम बैठक के कुछ दिन बाद ही यह स्पष्ट करने का अवसर आया कि राज्य सभा से किस प्रकार की भूमिका निभाने की आशा की जाती है। डा. सर्वपल्ली राधाकृष्णन को भारत के प्रथम उपराष्ट्रपति और राज्य सभा के प्रथम सभापति के रूप में चुने जाने पर बधाइयों का उत्तर देते हुए उन्होंने कहा था:

"हमें इस देश की जनता के समक्ष इस बात का औचित्य सिद्ध करने का भरसक प्रयास करना चाहिए कि किसी कानून को जल्दबाजी में बनने से रोकने के लिए द्वितीय सदन नितांत आवश्यक है।"

राज्य सभा और लोक सभा के समन्वित रूप को संसद कहते हैं। भारतीय लोकतंत्र में राज्य सभा और लोक सभा, इन दो सदनों के माध्यम से हमारी सभी संस्थाओं को संचालित करने के विधायी उपाय किये जाते हैं। संसद के द्वारा पारित विधेयक, कानूनों का स्वरूप लेकर समसामयिक, सामाजिक, आर्थिक, राजनैतिक, विधिक और शैक्षिक सरोकार का नियमन करते हैं। कानून और विधि का निर्माण किया जाता है और समसामयिक देशकाल और परिस्थितियों के संदर्भ में इसके उपाय सुझाये जाते हैं।

न्यूनाधिक रूप से कुछ बातें जो राज्य सभा में हैं, लोक सभा में नहीं हैं और जो लोक सभा में हैं, राज्य सभा में नहीं हैं। इसलिए अपने-अपने कार्यक्षेत्र में संसद के दोनों सदनों की महत्वपूर्ण भूमिका है।

लोक महत्व के विचार-विमर्श के लिये राज्य सभा की महत्वपूर्ण भूमिका है और उसका विस्तार हमारी संघीय प्रणाली को सशक्त आधार प्रदान करता है। चूंकि राज्य सभा में सदस्य राज्यों के प्रतिनिधि के रूप में चुनकर आते हैं, इसलिए संसद में उनके द्वारा उठाये गये मुद्दे लोक सभा क्षेत्र के ही नहीं वरन् सम्पूर्ण प्रदेश के हित के लिए होते हैं। लोक सभा और राज्य सभा के सदस्यों के कार्यक्षेत्र के अलग-अलग दायरे हैं। जहां लोक

सभा में प्रायः लोक सभा के संसदीय क्षेत्र पर विशेष जोर होता है, वहीं राज्य सभा के सदस्य के दायरे का विस्तार व्यापक होता है।

लोक सभा की तुलना में राज्य सभा आधे से भी कम संख्या का सदन है, जो विचार-विमर्श के लिये अनुकूलता प्रदान करता है।

राज्य सभा के सदस्यों का निर्वाचन राज्यों के विधानमंडल अर्थात् राज्य की विधानसभा के चुने हुए प्रतिनिधियों के माध्यम से किया जाता है। राज्य सभा के सदस्य का निर्वाचन विधानसभा के निर्धारित सदस्यों की संख्या के एक समूह के द्वारा किया जाता है। वह प्रदेश की जनसंख्या के बड़े भाग का प्रतिनिधित्व करता है।

जनता की समस्याओं के निराकरण के लिये सांसद की भूमिका और सहभागिता उसकी कुशलता पर निर्भर करती है। राज्य सभा के सदस्य प्रायः राजनैतिक दलों के अनुभवी जनप्रतिनिधि होते हैं। साथ ही राष्ट्रपति द्वारा नामित 12 सदस्य अपनी-अपनी विधाओं के श्रेष्ठ जानकार होते हैं। उनमें साहित्य, विज्ञान, कला और समाज-सेवा तथा ऐसे ही अन्य विषयों के संबंध में विशेष ज्ञान एवं व्यावहारिक अनुभव होता है।

इन सदस्यों की उपस्थिति और उनके वक्तव्य उन विषयों को व्यक्त करने में तथा नीतिगत निर्णयों में सहायक होते हैं। इससे राज्य सभा के काम में गुणवत्ता आती है। साथ ही, लोक सभा में जो महत्वपूर्ण विषय विचार-विमर्श में छूट जाते हैं, राज्य सभा में उन पर चर्चा की जा सकती है। लोक सभा संबंधित विषयों को जहाँ आवश्यक आधार प्रदान करती है, वहीं राज्य सभा उनका संशोधन और सुधार करती है।

समसामायिक विषयों को उठाने के लिये राज्य सभा के सदस्यों को भाग लेने के लिए विविध विधाओं में अवसर उपलब्ध हैं, जैसे: शून्यकाल अर्थात् समसामायिक लोक-महत्व के अति आवश्यक विषय; प्रश्नोत्तर काल प्रश्नों के उत्तर और उनसे उत्पन्न प्रतिप्रश्नों के उत्तर प्राप्त करने का अवसर उपलब्ध कराता है; अल्पकालिक चर्चा द्वारा आकस्मिक विषयों पर तात्कालिक चर्चा; ध्यानाकर्षण के माध्यम से परिस्थितिजन्य घटनाओं पर स्पष्टीकरण का प्रावधान; विशेष उल्लेख द्वारा नियमों के अंतर्गत लोक-महत्व के विषय पर सीमित शब्दों में वक्तव्य देने का अवसर प्रदान करता है।

इसके अतिरिक्त सरकारी विधेयक, निजी विधेयक, निजी प्रस्ताव पर भी सदन में चर्चा की जाती है। राज्य सभा सरकार की नीतियों के बारे में समर्थन और विरोध करने का एक खुला अवसर सदस्यों को प्रदान करती है।

संविधान-निर्माता डा. भीमराव अंबेडकर ने संविधान सभा में कहा था कि "ब्रिटेन की संसद में हाउस ऑफ लॉर्ड्स, हाउस ऑफ कॉमन्स द्वारा पारित वित्तीय उपबंधों पर केवल सहमति प्रकट करता है। हम यहाँ इस स्थिति में कुछ परिवर्तन कर रहे हैं और निम्न सदन द्वारा आरंभ किये गए कराधान संबंधी और वित्तीय प्रस्तावों को तैयार करने में उच्च सदन को कुछ अपनी बात भी रखने का अवसर दे रहे हैं। हम उसे ऐसा विशेषाधिकार दे रहे हैं जो उच्च सदन को सामान्यतः प्राप्त नहीं होता।"

राज्य सभा में बजट की चर्चाओं में वित्तीय मदों पर सरकार के कामकाज पर अपना मत व्यक्त करने के लिए चर्चायें की जाती हैं।

संसदीय स्थायी समितियों में 21(इक्कीस) सदस्य लोक सभा के और 10(दस) सदस्य राज्य सभा के होते हैं। ये समितियाँ सरकारी नीतियों सहित बजट की माँगों के बारे में समसामयिक विषयों पर विचार-विमर्श करती हैं और रिपोर्ट सदन में प्रस्तुत करती हैं। यह महत्वपूर्ण फोरम है, जिसमें विस्तार से विचार-विमर्श होता है और यह बहुत उपयोगी होता है। सरकार रिपोर्ट पर अपना अभिमत जारी करती है। इस प्रकार से हमारी संसदीय प्रणाली में संसदीय स्थायी समितियाँ महत्वपूर्ण भूमिका का निर्वहन करती हैं। उनके माध्यम से विधायिका और कार्यपालिका के परस्पर विमर्श द्वारा सरकार की नीतियों और उनके क्रियान्वयन में बड़ी सहायता मिलती है।

विभिन्न विषयों पर गहन विचार-विमर्श करके समितियाँ जो सुझाव सरकार को देती हैं, उनके माध्यम से विधायिका और कार्यपालिका के आपसी तालमेल का मार्ग प्रशस्त होता है।

समानो मन्त्रः समितिः समानी, समानं मनः सह चित्तेमेषां।

समानं मन्त्रमभि मन्त्रये वः समानेन वो हविषा जुहोमि॥

सं गच्छध्वं सं वदध्वं सं वो मनांसि जानतां।

देवा भागं यथा पूर्वे संजानाना उपसते॥

(अर्थात् हमारा संकल्प एक हो, हम निर्णय सर्व-सम्मति से लें, हमारी आशाओं-आकांक्षाओं में समानता हो, हमारी चेतना सद्भाव से भरी हो, हमारी प्रार्थना और आहुति सबके कल्याण के लिये हो। मिलकर आगे बढ़ें, एक स्वर में बोलें, सब समझें-जानें, पूर्वजों का अनुसरण करें, एकता से लक्ष्य तक पहुँचें।)

समय-समय पर विषय-विशेष पर प्रवर समिति की रचना की जाती है। जो सीमित समय में अपनी रिपोर्ट पेश करती है, जिसमें संसद और सरकार के बीच के विमर्श की कार्यवाहियों को समन्वित कर सम्पादित किया जाता है।

राज्य सभा इस मायने में राज्यों के प्रतिनिधि के रूप में संसदीय प्रणाली को पोषित एवं समृद्ध करती है। राज्य सभा अनन्तिम संसद के स्वरूप में है, जो निरन्तर चलती है। लोक सभा की अवधि 5 वर्ष है किन्तु राज्य सभा को कालावधि में नहीं बांधा गया है। प्रति दो वर्ष में एक तिहाई नये सदस्य चुनकर आते हैं। इस तरह यह अनवरत चलने वाली संसदीय परम्परा उपलब्ध कराती है।

अतः यह कहना उचित होगा कि राज्य सभा हर दृष्टि से स्वतंत्र भारत के नागरिकों की अपेक्षा के अनुरूप संविधान में प्रदत्त अधिकारों के तहत राष्ट्र निर्माण में, संवैधानिक और संसदीय कार्य के निष्पादन में महत्वपूर्ण भूमिका का निर्वहन करने में सफल हुई है। इसके सदस्यों ने केन्द्रीय मंत्री से लेकर प्रधान मंत्री तक के पद के कर्तव्यों का कुशलता से निर्वहन किया है। भारतीय लोकतंत्र को विश्व में उच्चतम स्थान दिलाने में इस उच्च सदन के कार्य और कर्तव्य-परायणता की प्रशंसा होती रही है। भारतीय लोकतंत्र को विश्व में जो गौरव प्राप्त हुआ है, उसमें राज्य सभा की महती भूमिका है। हम ऐसी लोकतांत्रिक व्यवस्था चाहते हैं जिसमें स्वतः व्यक्ति और समाज अपने दायित्व का निर्धारण कर 'धर्मचक्र प्रवर्तनाय' को सार्थक करे, जिसमें सब कुछ स्वयमेव इतना व्यवस्थित हो जाता है कि व्यवस्था ही अप्रासंगिक हो जाती है, जहाँ "धर्मेणैव प्रजाः सर्वाः रक्षन्ति परस्परम्" (अपने-अपने धार्मिक आचरण से नागरिक एक-दूसरे के हितों का संरक्षण करते हैं) की आदर्श संकल्पना साकार हो सके।

# राज्य सभा की प्रासंगिकता

—श्री विजय गोयल\*

अमेरिका में 'सीनेटोरियल सॉसर' की कहानी प्रसिद्ध है। 1872 में थॉमस जेफर्सन एवं जॉर्ज वाशिंगटन सुबह के नाश्ते पर चर्चा कर रहे थे। जेफर्सन ने वाशिंगटन से पूछा कि वह क्यों द्वितीय सदन (सीनेट) बनाने के प्रस्ताव पर सहमत हो गये हैं। जेफर्सन की दृष्टि में द्वितीय सदन अनावश्यक था। वाशिंगटन ने कहा, आपने अभी-अभी कॉफी को पीने से पहले प्याली में क्यों डाला? जेफर्सन ने जवाब दिया, इसे ठंडा करने के लिए, मेरा गला पीतल का बना हुआ नहीं है। इस पर वाशिंगटन ने तपाक से कहा, इसी तरह हम अपने कानूनों को ठंडा करने के लिए सीनेट की प्याली में डालते रहे हैं।

यह घटना बार-बार उद्धृत की जाती है, परंतु आज तक इसका कोई पक्का प्रमाण नहीं मिला है कि वाशिंगटन तथा जेफर्सन के बीच में ऐसा कोई वार्तालाप हुआ हो। यह संदेह इसलिए भी होता है क्योंकि जेफर्सन दो सदनों वाली विधायिका के विरुद्ध नहीं थे। बल्कि उन्होंने मार्किस द लाफायेट को 1789 में पत्र लिखा था कि अच्छे विधान के लिए दो सदनों का होना जरूरी है। जो भी हो, इतना स्पष्ट है कि विधान निर्माण में उच्च सदन की एक महत्वपूर्ण भूमिका हमेशा रही है। वैसे उच्च सदन को लेकर प्रायः सवाल खड़े किये जाते रहे हैं। फ्रांस में कहा जाता था कि यदि उच्च सदन निचली सदन से सहमत है तो यह गैर-जरूरी है और यदि असहमत है तो यह शरारत है। पर ऐसा कहना सरलीकरण होगा। सच्चाई इससे भिन्न है।

भारतीय संसद भी दो सदनों वाली है। इसमें राज्य सभा उच्च सदन है जिसके सदस्यों का निर्वाचन राज्यों के विधायक करते हैं। यानी यह परोक्ष निर्वाचन है। भारत के संविधान निर्माताओं ने ब्रिटेन की संसदीय व्यवस्था को तो स्वीकार किया, परंतु उच्च सदन के मामले में यहां की व्यवस्था हाउस ऑफ लॉर्ड्स से अलग रखी गयी। ब्रिटेन के पार्लियामेंट एक्ट 1911 ने हाउस ऑफ लॉर्ड्स की शक्ति को इस कदर सीमित कर दिया

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\* सदस्य, राज्य सभा; पूर्व सदस्य, ग्यारहवीं, बारहवीं एवं तेरहवीं लोक सभा; पूर्व केन्द्रीय मंत्री



कि हाउस ऑफ लॉर्ड्स कुछ अपवादों को छोड़कर हाउस ऑफ कॉमन्स द्वारा बनाये गये कानून को रोक नहीं सकता है। 1911 के इस कानून को 1949 में संशोधित कर लॉर्ड्स की शक्ति को और कम कर दिया गया। पहले हाउस ऑफ लॉर्ड्स किसी विधेयक को दो वर्षों के लिए रोक सकता था। इस अवधि को घटाकर एक वर्ष कर दिया गया। 1911 से अब तक 7 बार हाउस ऑफ लॉर्ड्स की इच्छा के विरुद्ध अधिनियम बनाने के लिए पार्लियामेंट एक्ट 1911 एवं 1949 का इस्तेमाल किया गया है। बल्कि 1949 का अधिनियम भी 1911 वाले अधिनियम के तहत पारित किया गया। पार्लियामेंट एक्ट 1911 की पृष्ठभूमि में लिबरल सरकार एवं हाउस ऑफ लॉर्ड्स के बीच टकराव की स्थिति थी जिसकी परिणति 1909 में पीपुल्स बजट में हुई।

भारत की संविधान सभा में द्वितीय सदन की महत्ता पर गोपालस्वामी अयंगर ने कहा था, "पूरी दुनिया में जहाँ-जहाँ संघीय व्यवस्था है। वहाँ-वहाँ द्वितीय सदन की जरूरत महसूस की गयी है। आखिरकार हमारे लिए विचारणीय प्रश्न यह है कि क्या यह कोई उपयोगी काम करता है। अधिक से अधिक हम द्वितीय सदन से अपेक्षा रखते हैं कि यह तात्कालिक महत्वपूर्ण मुद्दों पर मर्यादित बहस करेगा और उन कानूनों को बनाने में तब तक देर करेगा जब तक कि जज्बात शांत न हो जाएं और उन पर शांति से विचार हों और हम लोग संविधान में यह प्रावधान करेंगे कि जब कभी किसी महत्वपूर्ण मुद्दे पर, खासकर वित्त से सम्बंधित, लोक सभा एवं राज्य सभा में टकराव हो तो लोक सभा का मत मान्य होना चाहिए।"

एक परिकल्पना यह भी थी कि राज्य सभा अवरोध का काम न करे। परंतु राज्य सभा को अंततः काफी अधिकार दिये गए। उच्च सदन की अपनी एक विशिष्ट भूमिका होती है। किंतु भारतीय लोकतंत्र के शुरुआती काल में एक पार्टी का केंद्र तथा राज्यों में वर्चस्व होने के कारण राज्य सभा एवं लोक सभा की भूमिका में ज्यादा फर्क नहीं रहा। माईकेल ब्रेचर ने गंभीर शोध के बाद निष्कर्ष निकाला कि 1950 के दशक में लोक सभा एवं राज्य सभा की भूमिका लगभग एक जैसी थी। अगर कोई फर्क था तो यह कि राज्य सभा के सदस्यों को लोक सभा सदस्यों की तुलना में बोलने के मौके अधिक मिलते थे क्योंकि राज्य सभा की संख्या लोक सभा की आधी से भी कम है। परंतु 1989 से स्थिति बिलकुल बदल गयी जब से विभिन्न राज्यों में क्षेत्रीय दलों का उभार हुआ। इसके बाद 25 वर्षों तक

केंद्र में गठबंधन सरकारों का दौर चला जिसने केंद्रीय शासन पद्धति को काफी प्रभावित किया।

राज्य सभा वरिष्ठ राजनेताओं का सदन है। इसके सदस्यों से गंभीर एवं विद्वतापूर्ण भाषणों एवं विमर्श की अपेक्षा है। दुर्भाग्य से राज्य सभा भी राजनीति का अखाड़ा बनती जा रही है। यहाँ भी विपक्ष का उपद्रव वैसा ही होता है जैसा लोक सभा में। पार्टी लाईन पर उच्च सदन में मतदान होता है। आम चुनाव के बाद जब केंद्र में सत्ता परिवर्तन होता है तो लोक सभा की तस्वीर तो बदल जाती है, किंतु राज्य सभा की शक्ल नहीं बदलती क्योंकि वह सतत् चलने वाला सदन है। इसलिए विपक्ष को लोक सभा में हुई हार का बदला राज्य सभा में लेने का अवसर कई बार मिलता है।

राज्य सभा में वरिष्ठ राजनेताओं से आशा की जाती है कि वे राष्ट्रहित में निर्णय करेंगे। हालाँकि पार्टी व्हिप का मामला इसमें भी है जिसके उल्लंघन से उनकी सदस्यता रद्द हो सकती है। ऐसी कुछ पेचीदगियाँ हैं जिन पर वास्तव में विचार करने की आवश्यकता है। राज्य सभा को कितना मर्यादित सदन माना गया यह इससे भी स्पष्ट है कि इसमें 12 नामजद सांसद होते हैं। साहित्य, कला, विज्ञान, विधि आदि क्षेत्रों की नामचीन हस्तियों को मनोनीत किया जाता है ताकि वैसे विद्वानों के विचारों का लाभ भी संसद को मिल सके जो राजनीति की उठापटक से अपने को दूर रखते हैं। प्रारंभिक दौर में ऐसी हस्तियों को मनोनीत किया भी गया जिनमें जाने-माने शिक्षाविद् ज़ाकिर हुसैन, इतिहासकार राधाकुमुद मुखर्जी एवं कालीदास नाग, राष्ट्रकवि मैथिलीशरण गुप्त, प्रतिष्ठित गांधीवादी काका कालेलकर, गांधीवादी अर्थशास्त्री जे.सी. कुमारप्पा, वैज्ञानिक सत्येंद्र बोस, नृत्यांगना रुक्मिणी देवी अरुंडेल, विधिवेत्ता अल्लादि कृष्णास्वामी अय्यर एवं फिल्मी हस्ती पृथ्वीराज कपूर आदि शामिल थे।

हाल के वर्षों में कुछ नामी-गिरामी हस्तियों को मनोनीत किया गया, इनमें से कईयों का कोई योगदान नहीं रहा। वे पूरे कार्यकाल में कुछ गिने-चुने दिन ही सदन में आए। इनमें स्वर सम्राज्ञी लता मंगेशकर, क्रिकेटर सचिन तेंदुलकर तथा अभिनेत्री रेखा शामिल हैं। श्री तेंदुलकर एवं रेखा की सदन से लगातार अनुपस्थिति पर तो राज्य सभा में सवाल भी उठे। 1 अगस्त 2017 को एक सदस्य ने कहा कि ये प्रसिद्ध हस्तियाँ विज्ञापन करती रहती हैं पर इन लोगों के पास सदन में आने का समय नहीं है। इनकी भूमिका

नगण्य होती है। उनकी विशिष्टता का कोई लाभ सदन को नहीं मिलता है। इसलिए सरकार को भी ध्यान रखना चाहिए कि ऐसे गंभीर विद्वानों को ही मनोनीत किया जाए जो संसद की कार्यवाही को भी गंभीरता से लें।

संसदीय व्यवस्था का सबसे बड़ा लाभ यह है कि इसमें सरकार की जवाबदेही दिन-प्रतिदिन सुनिश्चित की जाती है। इसमें दोनों सदनों की समान भूमिका है। फ्रांस के महान दार्शनिक ज्यॉ जैक्स रूसो ने प्रत्यक्ष लोकतंत्र (डाइरेक्ट डिमॉक्रेसी) को ही लोकतंत्र माना। उनका कहना था कि सार्वभौमिकता 'डेमोक्रेसी जनरल विल' (आम आदमी की इच्छा) में निहित है और उसका कोई प्रतिनिधित्व नहीं हो सकता; इसमें कोई माध्यम नहीं बन सकता है। परंतु करोड़ों-अरबों की आबादी वाले देश में सीधा लोकतंत्र तो संभव नहीं है, इसलिए प्रतिनिधित्व की जरूरत है जो परोक्ष रूप से राज्यों द्वारा चुनकर आते हैं उनकी जिम्मेदारी संघीय ढांचे में और अधिक हो जाती है कि उन्हें राज्यों के हितों की रक्षा करनी है। संघवाद को उच्चतम न्यायालय ने भी एस.आर. बोम्मई मामले में संविधान के मूल ढांचे का हिस्सा माना है।

# राज्य सभा - संसदीय प्रजातंत्र का महत्वपूर्ण स्तंभ

—प्रो. रामगोपाल यादव\*

संसदीय लोकतंत्र में राज्य सभा की भूमिका पर चर्चा करने से पहले मैं यह आवश्यक समझता हूँ कि आमजनों के मन में जो दो प्रश्न उठते हैं, एक उच्च सदन होते हुए भी राज्य सभा को द्वितीय सदन क्यों कहते हैं? और दूसरा राज्य सभा के पास वित्तीय शक्तियाँ क्यों नहीं हैं? इन प्रश्नों का जबाव जानना आवश्यक है।

दोनों ही प्रश्न स्वाभाविक हैं। इन्हें समझने के लिये हमें विश्व की प्रथम संसद और उसके उद्भव और विकास की तरफ जाना पड़ेगा। मेरा संकेत ब्रिटिश संसदीय शासन प्रणाली के विकास की तरफ है। एक समय था जब ब्रिटेन का राजा निरंकुश हुआ करता था- वही कार्यपालिका, वही विधायिका और वही न्यायपालिका के सारे अधिकारों का प्रयोग किया करता था। कालान्तर में शासन चलाने के लिये सलाहकारों की आवश्यकता पड़ी और जब इनकी संख्या ज्यादा हुई तो कई नामों से होते हुए उसे Parliament का नाम मिला। चूँकि Parliament के सभी सदस्य मनोनीत हुआ करते थे इसलिये वे सभी Lord और बैरन्स हुआ करते थे। लेकिन शासन चलाने के लिये जनता पर टैक्स लगाने की आवश्यकता पड़ी, तो एक आवाज उठी "No Taxation without Representation", और निरंकुश शासकों को भी आम जनता में से कुछ प्रतिनिधियों को मनोनीत करना पड़ा। अभी तक ब्रिटिश पार्लियामेंट एक सदनानुसार ही थी और जो आज की लार्ड सभा ही मूल संसद थी। लेकिन आम व्यक्तियों का प्रतिनिधित्व बढ़ने के बाद आम प्रतिनिधियों (Commoners) ने अलग बैठना शुरू कर दिया और ब्रिटिश संसद दो सदनों लार्ड सभा और कॉमन्स सभा में विभक्त हो गयी।

समय के साथ-साथ कॉमन्स सभा ने टैक्स लगाने के अधिकार अपने हाथ में ले लिये, यह तर्क देकर कि आम लोगों पर Tax लगाने का अधिकार उनके प्रतिनिधियों अर्थात् House of Commons को ही होना चाहिये। House of Lord ने कुछ आपत्तियाँ कीं

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\* सदस्य, राज्य सभा; अध्यक्ष, स्वास्थ्य और परिवार कल्याण संबंधी स्थायी समिति, राज्य सभा; पूर्व सदस्य, चौदहवीं लोक सभा

और अंततोगत्वा कॉमन सभा की बात को स्वीकार कर लिया। लार्ड सभा के बड़े लोग विधायी क्रियाकलापों में भी बहुत कम रुचि लेते थे। इसलिये धीरे-धीरे कॉमन्स सभा बहुत प्रभावशाली हो गयी और लार्ड सभा कमजोर।

जब भी कोई संस्था या व्यक्ति अपने अधिकारों का प्रयोग करना छोड़ देता है तो वह शक्तियाँ दूसरी संस्था या व्यक्ति के हाथ में चली जाती हैं। यही स्थिति लार्ड सभा की हुई और दुनिया की संसदों की जननी कही जाने वाली प्रथम विधायिका लार्ड सभा न केवल द्वितीय सदन के रूप में जानी जाने लगी बल्कि वित्तीय शक्तियों से भी हाथ धो बैठी।

हमारी संसदीय शासन प्रणाली ब्रिटिश संसदीय शासन प्रणाली के ही अनुरूप है। ब्रिटिश House of Commons के ही अनुरूप लोक सभा का अध्यक्ष Speaker कहलाता है और लोक सभा में बहुमत प्राप्त दल का नेता ही प्रधानमंत्री होता है। जिस तरह से उच्च सदन होते हुए भी Lord Sabha को द्वितीय सदन कहा जाने लगा और वित्तीय अधिकार कॉमन्स सभा को मिल गये। उसी तर्ज पर उच्च सदन होते हुए भी भारत की राज्य सभा को द्वितीय सदन कहते हैं और उसके पास वित्तीय अधिकार भी नहीं हैं। क्योंकि जिस विधेयक को स्पीकर मनी बिल घोषित कर देते हैं उस पर राज्य सभा का चर्चा करने के अलावा और कोई प्रभावी अधिकार नहीं होता है।

द्वितीय सदन के अस्तित्व पर भी कई बार प्रश्न उठ चुके हैं। फ्रांस के प्रसिद्ध राजनैतिक चिंतक और दार्शनिक Abbe Sieyes ने द्वितीय सदन के बारे में कहा था: "If it dissents from the first chamber it is mischievous and if agrees it is superfluous". इसी तरह से 1789 में फिलाडेल्फिया कन्वेंशन में अमेरिका के संविधान को अंगीकृत किये जाने के समय Jefferson ने जार्ज वांशिंगटन से पूछा कि "Why did you agree to a second chamber?" "Why" asked Washington, "did you just now pour that coffee into your saucer, before drinking?" "To cool it" "answered Jefferson. "Even so", rejoined Washington, "we pour our legislation into the senatorial saucer to cool it." विश्व के विभिन्न द्वितीय सदनों के बारे में समय-समय पर इसी तरह के प्रश्नचिह्न लगाये जाते रहे हैं। लेकिन द्वितीय सदनों की उपयोगिता को नकारा नहीं जा सकता।

भारतीय संसद का द्वितीय सदन राज्य सभा इस बात का प्रमाण है कि संसदीय लोकतंत्र में द्वितीय सदन की भूमिका कितनी महत्वपूर्ण होती है। ऐसे अनेकों विधेयक कानून बने हैं जिन्हें राज्य सभा में ही पहले लाया गया और यहाँ से पारित होने के बाद लोक सभा ने उन विधेयकों को बिना किसी संशोधन के पारित कर दिया और ऐसे अनेक विधेयक हैं जो लोक सभा से पारित होने के बाद राज्य सभा में आने पर संशोधित किये गये और लोक सभा ने उन विधेयकों को संशोधित रूप में ही पुनः पारित किया। अभी पिछले सत्र में ही नेशनल मेडिकल कमीशन विधेयक लोक सभा से पारित होने के बाद जब राज्य सभा में आया तो राज्य सभा ने उसमें कुछ संशोधन किये, जिन्हें लोक सभा ने स्वीकार किया। यही नहीं राज्य सभा में अनेक बार अत्यधिक महत्वपूर्ण विधेयक पहले लाये गये और वहाँ से पारित होने के बाद लोक सभा में भेजे गये। महिला आरक्षण विधेयक राज्य सभा में ही लाया गया और पारित भी हुआ लेकिन, लोक सभा में लम्बित है। अभी पिछले सत्र में ही संविधान से धारा 370 हटाने का विधेयक भी पहले राज्य सभा में ही प्रस्तुत हुआ था और पारित हुआ था। जिसे बाद में लोक सभा ने भी पारित किया और वह कानून बना।

कई ऐसे अवसर भी आये हैं जब बहुत महत्वपूर्ण विधेयकों पर राज्य सभा के पक्ष और विपक्ष ने सहमति से उन्हें पारित करके भारतीय लोकतंत्र की उच्च परम्पराओं का उदाहरण प्रस्तुत किया है। भारत की राज्य सभा कई क्षेत्रों में संसदीय लोकतंत्र अपनाने वाले देशों के द्वितीय सदनों से ज्यादा ताकतवर है। कुछ मामलों में तो जो अधिकार राज्य सभा को प्राप्त हैं वे लोक सभा को भी नहीं हैं। जैसे- राज्य सभा प्रस्ताव करके राज्य सूची के किसी विषय को राष्ट्रीय महत्व का घोषित करके एक निश्चित अवधि के लिये केन्द्रीय सूची में ला सकती है और संसद को उस पर कानून बनाने का अधिकार मिल जाता है। भारतीय प्रशासनिक सेवा जैसी अखिल भारतीय अन्य सेवाओं की रचना करने का अधिकार भी राज्य सभा को प्राप्त है। ये अधिकार लोक सभा को प्राप्त नहीं है।

भारत की राज्य सभा का गठन करते समय संविधान निर्माताओं के दिमाग में यह बात थी कि साहित्य, कला, विज्ञान और समाजसेवा से जुड़े व्यक्ति चुनाव के झंझट में नहीं पड़ना चाहेंगे, इसलिये उनकी योग्यता का लाभ संसद के माध्यम से समाज और देश को नहीं मिल सकेगा। इसलिये संविधान निर्माताओं ने इस श्रेणी के शीर्षस्थ 12 लोगों को राज्य सभा में मनोनीत करने का प्रावधान किया था। भारत की राज्य सभा में साहित्य के क्षेत्र से

सर्वश्री मैथिलीशरण गुप्त, हरिवंश राय बच्चन, रामधारी सिंह दिनकर, खुशवन्त सिंह, आर.के. नारायण, श्रीमती अमृता प्रीतम एवं इला भट्ट जैसे बहुत महत्वपूर्ण व्यक्ति नामित किये जा चुके हैं। इसी तरह से विज्ञान के क्षेत्र से डा. सत्येन्द्र नाथ बोस, डा. राजा रमन्ना और डा. एम.एस. स्वामीनाथन जैसे प्रसिद्ध वैज्ञानिक भी राज्य सभा के मनोनीत सदस्य रह चुके हैं। कला के क्षेत्र से सर्वश्री पृथ्वीराज कपूर, शिवाजी गणेशन, जावेद अख्तर, श्रीमती नरगिस दत्त, श्रीमती वैजयन्ती माला, श्रीमती शबाना आजमी, श्रीमती हेमा मालिनी, सुश्री लता मंगेशकर आदि अनेक यशस्वी कलाकार राज्य सभा को सुशोभित कर चुके हैं। कानून के क्षेत्र से भी अनेक विधिवेत्ता सर्वश्री राम जेटमलानी, फली एस. नरीमन, एम.सी. शीतलवाड जैसे प्रसिद्ध विधिवेत्ता राज्य सभा के मनोनीत सदस्य रह चुके हैं। सर्वश्री नानाजी देशमुख, काका कालेलकर, विशम्भर नाथ पाण्डेय जैसे प्रसिद्ध समाजसेवी राज्य सभा में अपना महत्वपूर्ण योगदान दे चुके हैं। खेल जगत के जाने-माने नाम भी जैसे- श्री सचिन तेंदुलकर और श्रीमती एम.सी. मैरीकॉम राज्य सभा के मनोनीत सदस्यों की सूची में हैं। भारत की राज्य सभा में इन विभिन्न क्षेत्रों के बेमिसाल व्यक्तित्वों का समावेश संभव ही नहीं होता, अगर हमारे संविधान निर्माताओं ने राज्य सभा की संरचना में इसकी व्यवस्था न की होती। उपरोक्त नामों के अलावा बहुत ऐसे नाम हैं जिनका मैंने यहाँ उल्लेख नहीं किया है। लेकिन वे सब भी इसी कोटि के मनोनीत सदस्य हैं।

विभिन्न राजनैतिक दलों से भी बहुत काबिल संविधान वेत्ता, उच्चकोटि के वक्ता और विधेयकों के स्वरूप को बेहतर बनाने में अपना योगदान देने वाले सैकड़ों राजनीतिज्ञ राज्य सभा के सदस्य रह चुके हैं और आज भी हैं।

राज्य सभा के सदस्य संसद की विभाग-संबंधित स्थायी समितियों के सदस्य और अध्यक्ष रहकर बहुत महत्वपूर्ण कार्य करते हैं। किन्हीं कारणों से राज्य सभा में कार्य हो या न हो, लेकिन यह समितियाँ दलगत स्वरूप से ऊपर उठकर जनहित में विधेयकों को बेहतर बनाने की सिफारिशें करती हैं और जन समस्याओं से जुड़े हुए बहुत महत्वपूर्ण विषयों पर गहन अध्ययन करके संसद के सामने रिपोर्ट प्रस्तुत करती हैं।

भारत की संसद में जो 24 विभाग-संबंधित स्थायी समितियाँ हैं उनमें से 8 समितियों के अध्यक्ष राज्य सभा से होते हैं। और हर समिति में राज्य सभा के 10 सदस्य होते हैं। इन सदस्यों का भारत की संसद में विधायन के क्षेत्र में शानदार योगदान रहा है।

देश की रक्षा से जुड़े हुए मामलों पर राज्य सभा के पक्ष और विपक्ष के सभी सदस्यों ने सदैव एकमत से सरकार का समर्थन किया है और सारी दुनिया को यह दिखा दिया है कि संसदीय लोकतंत्र को किस तरह सफलतापूर्वक जमीन पर उतारा जा सकता है।

अन्त में जो बात मैं कहना चाहता हूँ उसके बगैर राज्य सभा की महत्ता और गरिमा की बात अधूरी रह जाती और वह है राज्य सभा के सभापति का अति सम्माननीय पद। यह हम सब जानते हैं कि भारत के उपराष्ट्रपति राज्य सभा के सभापति होते हैं। सर्वपल्ली डा. राधाकृष्णन से लेकर श्री एम. वेंकैया नायडु तक जो सभापति रहे हैं उनके व्यक्तित्व की वजह से राज्य सभा का यश हमेशा बढ़ा है और अगर हम अन्य बातों को छोड़ भी दें तब भी केवल राज्य सभा के माननीय सभापति का पद ही पर्याप्त है भारत की राज्य सभा के महत्व को दर्शाने के लिये।

इसलिये हम कह सकते हैं कि भारत के संसदीय प्रजातंत्र को मजबूत बनाने में हमारी राज्य सभा का योगदान अत्यधिक महत्वपूर्ण रहा है।



# राज्य सभा की उपयोगिता एवं उपादेयता

—श्री रामनाथ ठाकुर\*

स्वतंत्र भारत के संविधान में राज्य सभा को संसद के उच्च सदन के रूप में प्रतिष्ठित किया गया है। संविधानवेत्ता इसे संसद का द्वितीय सदन भी कहते हैं परंतु यह ब्रिटिश हाउस ऑफ लॉर्ड्स की तरह नहीं है। भारत के संदर्भ में राज्य सभा की उपयोगिता एवं उपादेयता असंदिग्ध है। राज्य सभा का 2019 का शीतकालीन सत्र इसका 250वां सत्र होगा। इस सत्र को ऐतिहासिक और गौरवपूर्ण बनाने के लिए एक विशेष समारोह के रूप में मनाये जाने की योजना है। यह निश्चित रूप से जनतंत्रीय शासन प्रणाली में निष्ठा रखने वाले आम-आवाम के लिए अति आह्लादपूर्ण, उत्साहवर्द्धक और प्रेरणादायक क्षण होगा, जिसका साक्षी बनना गौरव की बात होगी।

मुझे इस सभा के एक सदस्य होने के नाते इसे राष्ट्र-निर्माण में अपना योगदान देते हुए देखने का सौभाग्य मिला है। 48 साल के सार्वजनिक एवं राजनैतिक जीवन के बाद सन 2014 अप्रैल में राज्य सभा के भव्य सभागार में मैंने प्रवेश किया था और एक महीने बाद एक बहुत बड़े राजनीतिक बदलाव को संसद परिसर में देखा। देश की जनता ने एक नयी विचारधारा के पक्ष में अपना मतदान किया लेकिन राज्य सभा में कांग्रेस पार्टी का बहुमत था। राष्ट्रीय जनतांत्रिक गठबंधन की सरकार का गठन 1998 में हुआ लेकिन उस समय इस गठबंधन के पास राज्य सभा में बहुमत नहीं था। 2014 में राष्ट्रीय जनतांत्रिक गठबंधन को अभूतपूर्व बहुमत मिला और भारतीय मतदाताओं ने एक नए विश्वास, एक नयी विचारधारा और एक नए नेतृत्व के पक्ष में जनादेश दिया। उस समय भी राष्ट्रीय जनतांत्रिक गठबंधन के पास राज्य सभा में बहुमत नहीं था और किसी भी बिल को पास कराने के लिए विपक्ष के समर्थन की जरूरत थी। जब प्रत्यक्ष चुनाव द्वारा चुने गए प्रतिनिधियों की सभा से पास किसी विधेयक पर राज्य सभा में चर्चा होती थी और उस विधेयक के प्रत्येक पहलू एवं अल्पकालिक और दीर्घकालिक प्रभाव के विश्लेषण के दौरान

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\* सदस्य, राज्य सभा

जब उस विधेयक की आलोचना एवं समालोचना की जाती थी तो मीडिया में उस विधेयक का देश एवं देश के नागरिकों पर असर और चर्चा के साथ-साथ राज्य सभा की संदर्भता भी चर्चा की विषय-वस्तु बन जाया करती थी। अब जब राज्य सभा 250वां सत्र मनाने की तैयारी कर रही है, मैं राज्य सभा की भूमिका को एक जनसाधारण की नजर से देख कर अपना मत रख रहा हूँ।

एक राजनीतिक दल जिसने कि जन आकांक्षाओं के सैलाब पर भारी जीत के साथ सरकार बनाई हो, उसके साथ लोगों की भारी अपेक्षा भी जुड़ी रहती है। एक राजनीतिक दल की जीत उसकी विचारधारा की भी जीत होती है। ऐसे में स्वाभाविक उम्मीद होती है कि सरकार, सरकार की नीति, नए कानून उस जीते हुए दल की विचारधारा को प्रदर्शित करे परन्तु लोक सभा की जीत का अर्थ यह नहीं है कि विजेता को राज करने की पूरी आजादी हो। प्रजातंत्र में राजनीतिक दलों की महत्वपूर्ण भूमिका है चाहे वह राजनीतिक दल सरकार में हो या विपक्ष में या तटस्थ। हर एक राजनीतिक दल अपनी अपनी तरह से देश की सेवा का लक्ष्य रखता है। कुछ दल ज्यादा सफल होते हैं, कुछ कम और कुछ असफल भी होते रहे हैं। देश की जनता कभी एक राजनीतिक दल को तो कभी किसी दूसरे दल को सत्ता पक्ष में रखती है और साथ में देश की जनता ही उनको भी चुनती है जो सत्ता पक्ष में नहीं बल्कि विपक्ष में रहेंगे। देश के कुछ नागरिकों का मत सदन के ट्रेजरी बेंच को भरने में उपयोग होता है तो कुछ विपक्षी बेंच को भरने में। किसी चुनाव में कभी एक दल नागरिकों का प्रिय होता है तो दूसरे चुनाव में दूसरा दल प्रिय होता है। इतिहास साक्षी है, कोई विचारधारा कभी भी अनंत काल तक हर नागरिक का पसंदीदा नहीं रही है। बीसवीं सदी के प्रारंभिक काल-खंड ने साम्यवादी व्यवस्था का उदय देखा तो बीसवीं सदी के अंतिम चरण ने उसी साम्यवादी व्यवस्था का अस्त भी देखा। पूंजीवादी व्यवस्था ने भी अपनी प्रासंगिकता को कायम रखने के लिए कई रूप धारण किये और आज उदार पूंजीवादी व्यवस्था के भविष्य पर प्रश्न चिह्न दिख रहे हैं। बीसवीं सदी का उत्तरार्द्ध वैश्वीकरण, उदारीकरण एवं अंतर्राष्ट्रीय शासन की परिकल्पना को प्रसारित कर विश्व को इस परिकल्पना पर आधारित करना चाहता था तो इसके विपरीत आज विश्व के कई देशों में राष्ट्रवाद सबसे महत्वपूर्ण दर्शन बन गया है। ब्रिटेन के यूरोपियन यूनियन से अलग होने के निर्णय ने यूरोप के एकीकरण पर प्रश्न चिह्न लगा दिया है।

भारत भी नए विचारों से अछूता नहीं रह सकता है। भारत की धरती कई नए विचारों की जननी रही है और आज विश्व के राजनीतिक एवं आर्थिक परिदृश्य को अपनी विचारधारा से प्रभावित कर रही है। यह शाश्वत सत्य है कि समय के साथ विचारधाराओं की प्रासंगिकता भी बदलती है और साथ में उन विचारधाराओं के अनुयायियों की भी। विचारधारा में बदलाव कभी काफी धीमा होता है तो कभी आकस्मिक।

राज्य सभा इसी आकस्मिक बदलाव के संवेग को संयमित करने हेतु निर्मित संस्थान है। प्रजातंत्र बहुमत को शासन करने की अनुमति देता है तो साथ में प्रजातंत्र का संविधान यह आगाह करता है कि बहुमत का अर्थ सर्वमत नहीं है और प्रजातंत्र में हर एक नागरिक महत्वपूर्ण है और हर एक विचारधारा जो हिंसा पर आधारित नहीं है, उसे बहुमत अस्तित्व विहीन नहीं कर सकता है। प्रजातंत्र बहुमत का राज नहीं वरन प्रजातंत्र का अर्थ है सबका साथ, सबका विकास एवं सबका विश्वास जो कि देश के लोकप्रिय माननीय प्रधानमंत्री जी द्वारा उद्घोषित आज का प्रमुख नारा है। राज्य सभा इसी विश्वास को कायम रखने का संस्थान है। देश, राष्ट्र, सरकार एवं प्रजातंत्र की परिकल्पना कुछ मूल्यों पर आधारित है। यह मूल्य काल एवं स्थान से स्वतंत्र नहीं हो सकते हैं लेकिन काल की तीव्र गति एवं भावनाओं के उफान में मूल्यों को बचाने का कार्य आदि काल से समाज के श्रेष्ठ एवं अग्रज करते आ रहे हैं। महाग्रंथ महाभारत में लिखा है :-

न सा सभा यत्र न सन्ति वृद्धा,  
वृद्धा न ते यो न वदन्ति धर्मत्र  
धर्मः स नो यत्र न सत्यमस्ति,  
सत्यं न तद्यच्छलमभ्युपैति ।

— महाभारत (5/35/58)

ऐसी कोई सभा नहीं है जहाँ कोई बुजुर्ग नहीं हैं। वे बुजुर्ग नहीं हैं, जो धार्मिकता के साथ नहीं बोलते हैं। ऐसी कोई धार्मिकता नहीं, जहाँ कोई सच्चाई नहीं है। वह सच्चाई नहीं है जो किसी को धोखा देने की ओर ले जाती है।

ईसा से 600 साल पूर्व बिहार के वैशाली में गणराज्य की स्थापना हो चुकी थी और उस समय भी श्रेष्ठ एवं अंग्रेजों की सभा समाज एवं गणराज्य के हित का निर्णय सभा में लिया करती थी। आज हमारे देश में प्रजातंत्र का आधुनिक रूप है और इस आधुनिक

प्रजातंत्र में राज्य सभा श्रेष्ठ एवं अंग्रेजों की सभा का आधुनिक रूप है इसीलिए इसे उच्च सदन कहा जाता है। भारत में प्रजातंत्र अपने आधुनिक रूप में स्वतंत्रता के बाद सन 1947 में आया और संविधान में द्विसदनीय संसद अर्थात् राज्य सभा एवं लोक सभा दोनों की परिकल्पना की गयी। हमारे देश में संविधान आने से पहले ही विश्व के सभी महत्वपूर्ण जनतांत्रिक देशों में दो सभायें थीं परन्तु संविधान सभा में दूसरी सभा की जरूरत पर एकमतता नहीं थी। कुछ सदस्यों का विचार था कि दूसरी सभा विकास चक्र को बाधित करने का कार्य करेगी और कुछ का मत था कि दूसरी सभा प्रजातंत्र के लिए अत्यंत जरूरी है। इस चर्चा में श्री गोपालस्वामी अयंगर ने बताया कि दुनिया भर में जहाँ भी किसी महत्व के संघ है द्वितीय चैंबर की आवश्यकता व्यावहारिक रूप से महसूस की गई थी। यह दूसरी सभा महत्वपूर्ण मुद्दों पर कानून बनाने से पहले उसके सारे पहलुओं को विद्वतापूर्वक जाँच करने के लिए एवं गरिमापूर्ण बहस करने के लिए है। यह सभा कानून बनाने में जरूरी देरी भी लगाएगी ताकि कोई कानून किसी जुनून या भावनात्मक उद्वेग से प्रभावित न हो।

श्री गोपालस्वामी अयंगर की अवधारणा कितनी सही उतरी है यह विचारणीय है। इस बात में कोई शक नहीं है कि राज्य सभा ने एक परिपक्व संस्था के रूप में अपनी भूमिका निभाई है। यह एक स्थायी संस्था है और इसने शासन में स्थायित्व लाने का कार्य किया है। अलग-अलग चुनाव में अलग-अलग पार्टियों ने जीत दर्ज की और नयी सरकार बनी। परन्तु इतिहास गवाह है कि भारत में नई सरकार का संक्रमण एक सौम्य घटना ही रही है। 1945 के बाद विश्व के कई देशों ने उपनिवेशवाद के चंगुल से मुक्त होकर प्रजातंत्र को अपनाया। लेकिन भारत के पड़ोस में और इसके साथ आजाद हुए अफ्रीका एवं दक्षिण अमेरिका के कई देश सत्ता हस्तांतरण की जटिल प्रक्रिया को नहीं संभाल पाए और उनका प्रजातंत्र खतरे में आ गया। सरकार एक निरंतरता है और सत्ता परिवर्तन इस निरंतर प्रक्रिया का अभिन्न अंग। राज्य सभा एक निरंतर चलने वाली संस्था के रूप में सरकार की निरंतरता को संभाल कर रखती है। भारतीय संविधान में उल्लिखित कई प्रावधान इसका सहज संकेत देते हुए दिखते हैं। वर्तमान प्रधानमंत्री श्री नरेंद्र मोदी जी की सरकार ने नई सरकार बनाने के बाद कई महत्वपूर्ण नीतिगत फैसले लिए और कई नए कानून बनाए। इन महत्वपूर्ण घटनाओं के इस देश पर दूरगामी प्रभाव होंगे। इन महत्वपूर्ण फैसलों में स्पेक्ट्रम और खानों की नीलामी, नोट-बंदी, आधार कार्ड, आर्थिक आधार पर आरक्षण,

आर्टिकल 370 का बदलाव आदि के प्रभाव का अध्ययन आने वाले समय में होगा और उस समय राज्य सभा में हुई विद्वतापूर्ण, तर्कपूर्ण और विवेकपूर्ण चर्चा आने वाली पीढ़ियों का मार्गदर्शन करेगी। आर्थिक आधार पर आरक्षण एवं आर्टिकल 370 के बदलाव में संविधान की धाराओं में परिवर्तन किया गया और सत्ता पक्ष ने बिना राज्य सभा में बहुमत के इन बदलावों को राज्य सभा से पास करा लिया। यह राज्य सभा की परिपक्वता एवं सत्ता दल की क्षमता का परिचायक है। साथ ही यह संसदीय लोकतंत्र की सफलता का द्योतक है।

लोक सभा में सत्ता पक्ष का बहुमत एवं राज्य सभा में विपक्ष का बहुमत एक दिलचस्प परिस्थिति पैदा करता है। सन 2014 के बाद राष्ट्रीय जनतांत्रिक गठबंधन की सरकार में लोक सभा एवं राज्य सभा में अलग अलग बहुमत की स्थिति कई बार टकराव की स्थिति पैदा कर रही थी और सभा को बार बार स्थगित किया जा रहा था। सन 2016 में राष्ट्रपति प्रणब मुखर्जी ने संसद में चल रहे गतिरोध पर चिंता जताई और कहा कि संसद में चल रहा गतिरोध मंजूर नहीं। यह स्वस्थ और सफल संसदीय प्रणाली के लिए अच्छा उदाहरण नहीं हो सकता। लोक सभा और राज्य सभा में अलग अलग बहुमत की स्थिति समय के साथ बदल जाने की संभावना है और कुछ माह में राज्य सभा एवं लोक सभा में सत्ता पक्ष का बहुमत होगा परंतु जब भी नए दल की सरकार आएगी दोनों सदनों में अलग-अलग बहुमत रहना स्वाभाविक है। देश के राजनीतिक दल इस मतभेद से कैसे निपटते हैं, इस सभा की भूमिका इस बात पर निर्भर करेगी।

देश को आगे बढ़ने एवं वैश्विक संरचना में प्रासंगिक रहने के लिए यह जरूरी है कि सरकारें लम्बे समय की योजना पर काम करे क्योंकि राज्य सभा इन लम्बे समय के हितों पर नजर रखने में सक्षम है। भारत एक विकसित राष्ट्र बनने की ओर अग्रसर है और सक्षम भी लेकिन, विकसित राष्ट्र बनने का मार्ग लंबा है। कोई भी राजनीतिक दल अपने पाँच साल के कार्यकाल में 125 करोड़ की जनसंख्या वाले देश को विकसित नहीं बना सकता है इसलिए दीर्घकालीन योजना सर्वांगीण विकास के लिए जरूरी है। राज्य सभा के सदस्य अप्रत्यक्ष चुनाव में जीतकर आते हैं और उनका कार्यकाल भी 6 साल का होता है इसलिए राज्य सभा के सदस्यों से ऐसी अपेक्षा की जाती है कि वे राजनैतिक हितों से उपर उठकर अल्पकालिक हित की बजाय देश एवं देश के नागरिकों के दीर्घकालिक हितों के

लिए कार्य करेंगे। राजनैतिक सुधार, प्रशासनिक सुधार, न्यायिक सुधार, चुनावी सुधार आदि देश के विकास के लिए एवं प्रजातंत्र को सुदृढ़ करने के लिए जरूरी हैं और इस कार्य में राज्य सभा की पहल अपेक्षित है। भारत ही नहीं, बल्कि पूरे विश्व को राज्य सभा से आशा है कि वह विश्व के सबसे बड़े जनतंत्र को और मजबूत बनाएगी और विश्व की 1/6 आबादी को सामाजिक, आर्थिक एवं राजनैतिक स्वतंत्रता वाले देश में अपने सपनों को पूरा करने का अवसर देगी।

# भारतीय लोकतंत्र की अवधारणाएं

—श्री आर.के. सिन्हा\*

भारत में लोकतंत्र की व्यवस्था तो वैदिक काल से ही है। भारतीय लोकतंत्र की कुछ विशेषताएं रही हैं। जैसे- लोकतंत्र, प्रतिनिधिक संस्थाएं, शासकों की स्वेच्छाचारी शक्तियों पर नियंत्रण और विधि का शासन। सच तो यह है कि भारत वर्ष को लोकतंत्र का पहला पालना भी कह सकते हैं। भारत में वैदिक काल (3000 से 1000 ईसा पूर्व) से ही देश के विभिन्न भागों में ग्रामों, पंचायतों, नगरों और राज्यों के निर्वाचित प्रधान, विचारात्मक संस्थाएं और लोकतंत्र तथा सुशासन पर आधारित इकाईयां फलती-फूलती रहीं हैं। यह सब यूनान के नगर राज्यों तथा रोम के गणराज्यों के इतिहास से काफी पहले की घटनायें हैं।

26 जनवरी, 1950 से भारत में लोकतंत्र का नया अध्याय प्रारंभ हुआ। यह एक संसदीय लोकतंत्र की व्यवस्था है। इसे पश्चिम के संसदीय लोकतंत्र का ही एक परिष्कृत रूप कह सकते हैं। हालांकि इन करीब 70 सालों में भारत के संसदीय लोकतंत्र में अनेकों प्रयोग हुए हैं। यह अनेकों उतार-चढ़ावों से गुजरा भी है।

जब भारत में संसदीय लोकतंत्र को अपनाया जा रहा था, तब यह बहस भी पैदा हुई कि यह भारतीय जनमानस के स्वभाव के अनुरूप नहीं है। ऐसा विचार व्यक्त करने वालों में राष्ट्रपिता महात्मा गांधी, महर्षि अरविंदो, चक्रवर्ती राजगोपालाचारी, मानवेन्द्र नाथ राय, श्री माधवराव सदाशिवराव गोलवलकर, उपाख्य श्री गुरुजी, लोकनायक जयप्रकाश नारायण और आचार्य विनोबा भावे आदि प्रमुख थे।

एक स्पेनिश कविता है - "यात्री, कोई पथ नहीं है। पथ बनता है चलने से।" भारत का लोकतंत्र अपनी यात्रा से नए पथ का निर्माण कर रहा है। गुरुदेव रवीन्द्रनाथ ठाकुर ने भी इस संबंध में कहा है- "जोदि डाक सुने कोनो ना आसे, ताले एकला चलो रे।"

भारतीय लोकतंत्र की जो आधारभूत अवधारणाएं हैं, वे समय, काल और परिस्थिति में नए रूप ग्रहण करती रहती हैं। लेकिन, उनका जीवन मूल्य नहीं बदलता। हमारे यहां धर्म

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\* सदस्य, राज्य सभा

के बारे में भी ऐसी ही धारणा है। धर्म ही सर्वोच्च है। इसीलिए धर्म-दंड को राज दंड से ऊपर माना गया है। पश्चिम में धर्म की कोई धारणा ही नहीं है। जो भी धारणाएं हैं, वे संप्रदायों की हैं।

भारत के संविधान में धर्म की धारणा को नया रूप मिला है। आज के दिन हम यह कह सकते हैं कि धर्म-दंड सुप्रीम कोर्ट के पास है। राज दंड संसद के पास है। कर्तव्य-दंड तो कार्यपालिका के पास होता ही है। इसे ही संविधान में विधि के शासन का स्थान मिला है जिसमें शक्तियों का संतुलन भी है और समन्वय भी।

संविधान के विशेषज्ञ ग्रेनविल आस्टिन ने भारतीय संविधान की प्रस्तावना को संविधान का मुकुट बताया है। प्रस्तावना में लोकतांत्रिक गणराज्य की अवधारणा है। न्याय, स्वतंत्रता, समानता और बंधुता को कायम करने का संकल्प है। किसी लोकतंत्र को इन्हीं आधारों पर जांचा परखा भी जा सकता है।

प्रश्न यह है कि आखिर लोकतंत्र है क्या? लोकतंत्र की एक प्रचलित परिभाषा अब्राहम लिंकन द्वारा दी गयी है। लेकिन भारत में लोकतंत्र सिर्फ शासन प्रणाली भर ही नहीं है। सही कहें तो यह जीवन जीने का एक ढंग है, जिसमें तर्क सम्मत आलोचना, निजता की रक्षा, राज्य का लोक कल्याणकारी होना, स्वेच्छा से सेवा भाव, विधि और न्याय का शासन, साधन की शुचिता, विचार पूर्वक सहमति और मानवीय संबंधों में समानता तो होनी ही चाहिए।

डा. भीमराव अंबेडकर ने विश्वभर की लोकतांत्रिक व्यवस्थाओं का गहरा अध्ययन किया है। वे संवैधानिक विधि वेत्ता थे। उनकी विचार प्रक्रिया को इसी बात से समझ सकते हैं कि उन्होंने स्वतंत्रता, समानता और बंधुत्व को फ्रेंच क्रांति से ग्रहण नहीं किया था, बल्कि अपने आध्यात्मिक गुरु भगवान बुद्ध के उपदेशों से सीखा था। उन्होंने लोकतंत्र की एक परिभाषा भी दी। उनके अनुसार "लोकतंत्र अपने आप में एक ऐसी शासन प्रणाली है, जिसमें साधारण लोगों के आर्थिक, सामाजिक और राजनीतिक जीवन को बिना रक्तपात के क्रांतिकारी ढंग से बदला जा सकता है।"

लोकतंत्र जीवन प्रणाली तभी बन सकती है जब उसका एक स्पष्ट सामाजिक आदर्श हो, जो परस्परता से संचालित हो। इस अर्थ में लोकतंत्र एक स्पष्ट सामाजिक प्रणाली है। यह भारतीय लोकतंत्र की बड़ी विशेषता है। सामाजिक लोकतंत्र के दो अंग हैं।



एक, सोचने का दृष्टिकोण ऐसा हो जिसमें दूसरे के प्रति आदर और समानता का भाव हो। दूसरा, सामाजिक प्रणाली ऐसी हो जिसमें कट्टरपन और सामाजिक बंदिशें न हों। वह किसी भी तरह की जकड़न से दूर हों।

संसदीय लोकतंत्र की यात्रा जब भारत ने पहले आम चुनाव से शुरू की तो पश्चिम के राजनीति शास्त्र के विद्वान गम्भीर रूप से आशंकित थे। वे भविष्यवाणी कर रहे थे कि भारत में संसदीय लोकतंत्र शीघ्र ही विफल हो जाएगा। उनके विचार और कल्पना में यह बात थी ही नहीं कि भारत के "जीन" में ही, भारतीयों के जीवन मूल्यों में ही, लोकतंत्र है। वे विद्वान समझते थे कि भारत में जिस प्रकार सामाजिक विषमता है उसके चलते हर नागरिक को बालिग मताधिकार देना खतरनाक होगा। इस बारे में संविधान सभा में भी खूब बहस हुई थी। संविधान निर्माताओं ने सही फैसला किया और बालिग मताधिकार का प्रावधान कर दुनिया को यह संदेश दिया और उन्हें याद दिलाया कि लोकतंत्र तो हमारे खून में है। इसीलिए हर बार के चुनावों ने दो बातें साबित की हैं। एक यह कि हर चुनाव के बाद लोकतंत्र की जड़ें गहरी ही हुई हैं। जो मुकाम पश्चिम का लोकतंत्र डेढ़ सौ साल में प्राप्त कर सका उसे भारत ने मात्र 70 साल में ही प्राप्त कर लिया। उसे लोकतंत्र को अपनाने में कोई अड़चन ही नहीं आई। सच तो यह है कि इंदिरा गांधी ने जब इमरजेंसी लगाई, देश पर तानाशाही थोपी, उसके बाद 1977 के चुनाव में गरीब और अनपढ़ समुदाय ने भी लोकतंत्र को बहाल करने में "हरावल-दस्ते" का काम किया। दूसरा यह, कि गरीब, पिछड़ा और शोषित समूहों ने लोकतंत्र में सही मायने में सामाजिक मुक्ति पाई। दुनिया के किसी अन्य लोकतंत्र में ऐसा उदाहरण नहीं मिलता।

यह बहस तो समय-समय पर उठती ही रही है कि संसदीय लोकतंत्र हमारे लिए अनुकूल है या नहीं? एक स्मारक व्याख्यान में पूर्व प्रधानमंत्री स्वर्गीय श्री अटल बिहारी वाजपेयी जी ने भी कहा था कि 'क्या यह आश्चर्य की बात नहीं है कि जब भारत के संविधान का निर्माण हो रहा था तो शासन की विविध पद्धतियों का सांगोपांग अध्ययन और विवेचन कर के हमने किसी एक पद्धति का चुनाव करने की जरूरत तक नहीं समझी? यहां तक कि संविधान के निर्माताओं में इस बात को लेकर कोई गंभीर बहस तक नहीं छिड़ी कि स्वतंत्र देश ब्रिटेन की संसदीय प्रणाली का अनुसरण करे या अमेरिका की राष्ट्रपति प्रणाली का अवलंबन करे या किसी तीसरी प्रणाली का अनुसंधान कर, भारत की अपेक्षाओं और आवश्यकताओं के अनुरूप अपने संविधान का गठन करे।'

संविधान सभा में राष्ट्रपति प्रणाली अपनाने का स्वर सुनाई तो पड़ा था पर वह एकाकी स्वर था। 10 दिसंबर 1948 को जब डा. एच.सी. मुखर्जी संविधान सभा की अस्थायी रूप से अध्यक्षता कर रहे थे तब प्रो. के.टी. शाह ने एक संशोधन के जरिए राष्ट्रपति प्रणाली अपनाने की वकालत की। लेकिन संविधान सभा का मिजाज अलग ही था। संशोधन प्रस्ताव भारी बहुमत से रिजेक्ट हो गया। संसदीय शासन प्रणाली पर सवाल तो समय-समय पर उठते ही रहे हैं। कांग्रेस ने भी जब सरदार स्वर्ण सिंह कमेटी बनाई थी तब यह बहस कांग्रेस के अंदर भी चल रही थी। 1979 में यह बहस एक बार फिर से उभरी। उसका कारण स्वर्गीय श्री मोरारजी देसाई के नेतृत्व की जनता सरकार के पतन में खोजा जा रहा था। तब राष्ट्रपति प्रणाली की हिमायत में जो लोग सामने आए उनमें महान विधि वेत्ता नानी पालकीवाला भी थे। यह बहस तो शाश्वत चलते रहने वाली ही है।

हमें यह स्वीकार करना चाहिए कि भारत में संसदीय लोकतंत्र का विकास यहां की परिस्थितियों के अनुरूप ही हो रहा है। इन 70 सालों में संसदीय लोकतंत्र के तीन चरण हम देख सकते हैं। पहले चरण में स्वाधीनता संग्राम के सपने की आभा थी। उसे पूरा करने का दायित्व तब के नेतृत्व पर था। दूसरे चरण में पहचान की राजनीति प्रारंभ हुई। वर्तमान का समय तीसरे चरण का है जिसका नेतृत्व प्रधानमंत्री श्री नरेन्द्र मोदी कर रहे हैं। यह चरण जन आकांक्षा की राजनीति का है।

जन आकांक्षा की राजनीति के पांच सूत्र हैं - पहला, हर नागरिक को बैंकिंग प्रणाली से जोड़ना। दूसरा, जो वंचित हैं उन्हें पर्याप्त अवसर देना। तीसरा, जो अभी पेंशन नहीं पा रहे हैं, उन्हें पेंशन प्रणाली में ले आना। चौथा, जो असुरक्षित हैं उन्हें सुरक्षा देना। पांचवां, जो हाशिए पर हैं उन्हें मुख्य धारा में लाना।

इस प्रकार, भारतीय लोकतंत्र की संसदीय प्रणाली दिन-ब-दिन सुदृढ़ और परिपक्व होती जा रही है।

# राज्य सभा : निरंतर एवं स्थायी सदन

—डा. अशोक बाजपेयी \*

स्वतंत्रता संघर्ष के मस्तिष्क पटल पर, लोकप्रिय सरकार का गठन और संसद जैसी प्रतिनिधि संस्था के निर्माण का सपना ही संघर्ष का केन्द्र बिन्दु रहा है। यूँ तो राज्य सभा नाम की औपचारिक उद्घोषणा 23 अगस्त, 1954 में हुई और महामहिम उप राष्ट्रपति डा. सर्वपल्ली राधाकृष्णन को प्रथम सभापति बनाया गया, परन्तु संसद के द्विसदनात्मक स्वरूप के विचार का उद्गम वर्ष 1919 के मांटेग्यू-चेम्सफोर्ड प्रतिवेदन में उल्लिखित है। द्वितीय सदन भारतीय प्रवृत्ति और लोकाचार के सर्वथा उपयुक्त तथा निचले सदन की अग्रगामी प्रवृत्ति को नियंत्रित एवं पुनरीक्षण करने में सक्षम तथा विघटन की संभावनाओं से सर्वथा मुक्त है। परिकल्पित रूप से यह राज्यों का प्रतिनिधित्व करते हुए राष्ट्र को लोकतांत्रिक परिपाटी से एकीकृत रखने की ऐतिहासिक जिम्मेदारी निभाता है। बुनियादी तौर पर गहनता के साथ देश की एकता, राज्यों की संस्कृतियों, धर्मों, भाषाओं, रिवाजों की विभिन्नताओं को भी प्रतिनिधित्व प्रदान करता है। विश्व के लगभग 90 देशों में संसद का द्विसदनात्मक स्वरूप लागू है। द्विसदनात्मक संसदीय प्रणाली वाले सभी देश लोकतांत्रिक रूप से समृद्ध एवं सत्ता में जनभागीदारी के पोषक हैं, संसद की दोहरी सदन व्यवस्था लोकतंत्र को सबल बनाती है तथा सत्ता दल या सत्ता दल के प्रमुखों की अग्रगामी प्रवृत्ति को नियंत्रित करती है। उच्च सदन निचले सदन की कार्यशैली को पुनरीक्षित करते हुए लोकतंत्र को सबलता तथा विघटन से मुक्त होने के कारण निरन्तरता एवं स्थायित्व प्रदान करता है।

राज्य सभा के सदस्यों की संख्या 250 से अधिक नहीं हो सकती जिसमें से 238 सदस्य विभिन्न राज्यों और संघ राज्यों का प्रतिनिधित्व करते हैं जिनका निर्वाचन एकल हस्तांतरणीय मत द्वारा आनुपातिक प्रतिनिधित्व प्रणाली के अनुसार संबन्धित राज्य की

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\* सदस्य, राज्य सभा

विधान सभाओं के निर्वाचित सदस्यों द्वारा किया जाता है। शेष 12 सदस्यों का नाम निर्देशन राष्ट्रपति द्वारा किया जाता है जो साहित्य, कला, विज्ञान, सामाजिक सेवा, खेल आदि क्षेत्रों में विशिष्ट ज्ञान या व्यावहारिक अनुभव रखते हैं। वर्तमान में राज्य सभा के कुल 245 सदस्य हैं, जबकि वर्ष 1952 में स्टेट काउन्सिल में 216 सदस्य थे जिन्हें समय-समय पर बढ़ाया गया। प्रथम बार गठित राज्य सभा के 1/3 सदस्यों को दो वर्षों के बाद लाटरी के द्वारा चयनित करके सेवानिवृत्त किया गया। उसके बाद दो वर्षों के अंतराल पर पुनः 1/3 सदस्यों को लाटरी द्वारा चयनित करके सेवानिवृत्त करने के उपरांत रिक्त स्थानों पर नए सदस्यों को निर्वाचित किया गया। इस प्रकार राज्य सभा नियमित रूप से हर दो वर्ष के कार्यकाल के बाद 1/3 सदस्यों को सेवानिवृत्त करते हुए सदैव पूर्ण विघटन से मुक्त रहती है। राज्य सभा ऐसे विलक्षण विद्वानों एवं अद्वितीय अनुभवशील व्यक्तियों को भी लोकतंत्र एवं देश सेवा करने का अवसर प्रदान करती है, जिनके लिए चुनाव लड़कर लोक सभा में जाना संभव नहीं होता है।

यद्यपि राज्य सभा की भूमिका सरकार बनाने या बिगाड़ने में नहीं होती है, परन्तु अनुच्छेद 75(3) के तहत सरकार राज्य सभा के प्रति समान रूप से उत्तरदायी है विशेषतया, जब सत्तारूढ़ दल राज्य सभा में अल्पमत में हो। ऐसी स्थिति में संकल्प पारण के गतिरोध को दूर करने के लिए संविधान के उपबन्ध के अनुसार अनुच्छेद 368 के अधीन दोनों सदनों की संयुक्त सभा में ऐसे विधेयक को विशिष्ट बहुमत से पारित किया जा सकता है, जिसे लोक सभा में पारित किया जा चुका हो परन्तु राज्य सभा में अल्पमत के चलते विधेयक को परास्त होना पड़ा हो। विगत में तीन अवसरों पर दोनों सदनों की संयुक्त बैठक आहूत की जा चुकी है। धन विधेयक केवल निचले सदन में पारित किये जाते हैं, जिन पर राज्य सभा में चर्चा तो होती है परन्तु उनका पारण अनिवार्य नहीं। संविधान के अनुच्छेद 87 के अधीन लोक सभा के प्रत्येक आम चुनाव के बाद प्रथम सत्र आहूत होने पर, तथा प्रत्येक वर्ष के प्रथम सत्र के आहूत होने पर राष्ट्रपति दोनों सदनों की संयुक्त बैठक को संबोधित करते हैं। तत्पश्चात् दोनों सदनों में राष्ट्रपति के अभिभाषण के धन्यवाद प्रस्ताव पर चर्चा होती है। उसके बाद प्रस्ताव पारित किया जाता है, जिसमें यदि संशोधन गृहीत होते हैं तथा यदि प्रस्ताव संशोधन के साथ पारित होता है तो यह दर्शाता

है कि सदन में सत्ता पक्ष के पास आवश्यक बहुमत नहीं है। विगत में तीन अवसरों पर राज्य सभा में राष्ट्रपति के अभिभाषण पर धन्यवाद प्रस्ताव संशोधनों सहित पारित कराना पड़ा। साधारण विधान के मामले में राज्य सभा की शक्तियां लोक सभा के समान हैं। कभी-कभी लोक सभा में पारित विधेयक पर राज्य सभा में सुझाए गए परिवर्तनों/ संशोधनों को लोक सभा में पुनः समावेशित किया गया है, तथा संशोधित विधेयक को ही क्रियान्वित किया गया। जैसे कि आयकर विधेयक 1961, राष्ट्र गौरव अपमान निवारण विधेयक 1971, दिल्ली प्रशासन विधेयक 1977 आदि।

लोक सभा के भंग होने पर राज्य सभा को कानून बनाने और संविधान संशोधन के अलावा कई अन्य शक्तियां लोक सभा के समान प्राप्त हैं, जैसे कि अनुच्छेद 352 के अधीन आपातकाल उद्घोषणा का अनुमोदन, अनुच्छेद 356 के अधीन किसी राज्य में राष्ट्रपति शासन लागू करना तथा उस दौरान राष्ट्रपति द्वारा जारी अन्य पश्चात्कर्ती उद्घोषणाओं के अनुमोदन में लोक सभा के समान ही शक्तियां प्राप्त हैं। जैसे कि तमिलनाडु और नागालैण्ड राज्यों में राष्ट्रपति शासन की समय सीमा बढ़ाने के लिए 28 फरवरी एवं 1 मार्च 1977 को राज्य सभा का सत्र बुलाया गया जबकि लोक सभा भंग थी। इसी प्रकार हरियाणा राज्य के लिए अनुच्छेद 356 के अधीन राष्ट्रपति शासन की उद्घोषणा के अनुमोदन के लिए 3 व 4 जून 1991 को संक्षिप्त सत्र बुलाया गया था। संविधान में उपबंध है कि केन्द्रीय सरकार का वार्षिक बजट वित्त मंत्री द्वारा क्रमशः दोनों सदनों में प्रस्तुत किया जाता है। तत्पश्चात् गहन चर्चा के बाद बजट एवं मंत्रालयों की अनुदान मांगों को लोक सभा में पारित किया जाता है। परन्तु इसे राज्य सभा में पारित नहीं किया जाता क्योंकि यह विषय लोक सभा के अधिकार क्षेत्र में आरक्षित है। भारत की संचित धन राशि से कोई धन तब तक निकाला नहीं जा सकता जब तक विनियोजन विधेयक दोनों सदनों से अनुमोदित न हो जाये। वित्त विधेयक पर राज्य सभा अपने संशोधन दे सकती है, परन्तु उसे स्वीकार या अस्वीकार करना लोक सभा के अधिकार क्षेत्र में आता है।

राज्य सभा को लोक सभा की भांति किसी भी संकल्प को पुरःस्थापित करने की शक्ति प्राप्त है। बहुधा सरकार लोक महत्व के विधेयक को राज्य सभा में पुरःस्थापित करके पारित कराने के उपरांत लोक सभा में पारित कराती है, जैसा कि अभी हाल में ही जम्मू कश्मीर के पुनर्गठन सम्बन्धी अति महत्वपूर्ण अनुच्छेद 370 एवं 35(ए) हटाने

सम्बन्धी

विधेयक को पहले राज्य सभा में पारित करके देश में ही नहीं बल्कि अंतर्राष्ट्रीय स्तर पर लोकतांत्रिक सकारात्मकता का संदेश दिया है। राज्य सभा में असाधारण ख्याति प्राप्त विद्वान, कलाकार, साहित्यकार, विधिवेत्ता, प्रशासक या सामाजिक कार्यकर्ताओं की शृंखला होती है। अतः इसका कार्यकलाप गरिमापूर्ण एवं अनूठी संवेदनशीलता का द्योतक रहता है। राज्य सभा को यह गौरव प्राप्त है कि भारत के दस राष्ट्रपतियों में से सात राज्य सभा के सभापति रह चुके थे, अधिकांशतः भारत के वित्त मंत्री राज्य सभा के सदस्य रहे हैं, जैसे कि श्री प्रणब मुखर्जी, श्री एस.बी. चट्टवाण, श्री एन.डी. तिवारी, श्री वी.पी सिंह, श्री मनमोहन सिंह, श्री यशवंत सिन्हा, श्री अरूण जेटली, श्रीमती निर्मला सीतारमण आदि।

राज्य सभा में समय-समय पर श्री भूपेश गुप्ता, प्रो. रामधारी सिंह दिनकर, श्री गुरुदास दासगुप्ता, श्री लक्ष्मीमल्ल सिंघवी, श्री हरिवंश राय बच्चन, श्री पृथ्वीराज कपूर, श्रीमती निर्मला देशपांडे, श्री नानाजी देशमुख, श्री कृष्णास्वामी कस्तूरीरंगन, श्री के. पराशरन, श्री फाली एस. नरीमन, श्रीमती कपिला वात्स्यायन, श्री अटल बिहारी वाजपेयी, श्री जनेश्वर मिश्र, श्री लालकृष्ण आडवाणी जैसे विद्वानों ने अपने अनुभवों एवं वक्तव्यों से राज्य सभा की कार्यवाही को समर्थ बनाने का काम किया है। इनके अभिभाषणों को पढ़कर संसदीय ज्ञान की जानकारी रखने वाले जिज्ञासु ज्ञान अर्जित करते हैं।

राज्य सभा में महिलाओं का योगदान सदस्य के रूप से लेकर पीठासीन अधिकारी के रूप तक, अनूठे वक्ताओं एवं संचालकों के रूप में अत्यन्त सराहनीय रहा है। महिला सदस्यों ने अपने कुशल वक्तव्यों से राज्य सभा की चर्चाओं को समृद्ध किया है, जैसे कि श्रीमती सीता परमानंद, श्रीमती (डा.) नजमा हेपतुल्ला, श्रीमती वायलेट अल्वा, श्रीमती लीलावती मुंशी, श्रीमती मारग्रेट अल्वा, श्रीमती जयंती नटराजन, श्रीमती इंदिरा गाँधी, श्रीमती सुषमा स्वराज, श्रीमती नरगिस दत्त, श्रीमती अमृता प्रीतम, श्रीमती शबाना आज़मी तथा तमाम महिला सदस्यों की लंबी शृंखला है जिन्होंने राज्य सभा की चर्चाओं को अपनी विद्वता से समृद्ध किया है। इस सदन की प्रथम महिला पीठासीन अधिकारी बनने का श्रेय श्रीमती वायलेट अल्वा को है, जिन्होंने अत्यन्त शालीनता, कुशलता एवं

निष्पक्षता से सदन की कार्यवाही संचालित कर एक नई सोच को जन्म दिया। श्रीमती (डा.) नजमा हेपतुल्ला को विश्व की सबसे लंबी अवधि तक सदन की पीठासीन अधिकारी के रूप में सदन संचालन का विलक्षण विशेषाधिकार प्राप्त है। श्रीमती प्रतिभा देवी सिंह पाटिल को सदन की तीसरी महिला उप सभापति बनने का सौभाग्य प्राप्त है। इस प्रकार भारतीय लोकतंत्र को भारतीय जनमानस की अपेक्षाओं के अनुरूप पल्लवित एवं पुष्पित करने में राज्य सभा की भूमिका को शब्दों में कहना कठिन है, बल्कि इसे हृदय से महसूस किया जा सकता है।

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## **PART - B**

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## **RAJYA SABHA : LEGITIMACY DEPENDS ON PERFORMANCE**

**—Shri Harivansh\***

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Parliament being the supreme representative body has the fundamental duty not only to fulfill the hopes and aspirations of the people and highlight their grievances but also to hold the Government accountable to it. It enjoys the power to make necessary laws and promote policies for achieving people's well-being. With the increase in population, people directly taking part in the decision-making was considered impracticable. Therefore, they elected their representatives to decide affairs of the State on their behalf. This marked, in other words, a shift from a system of direct democracy to the representative democracy, where the people at large delegated their inherent powers to govern themselves to the persons elected by them, who constitute Parliament. Be that as it may, the relationship between the people and their representative body is of mutual trust and confidence which must always remain unflinching and strong. Any dilution of this relationship will be antithetical to the very concept of representative body and its legitimacy. Since the legitimacy of a representative body *i.e.* Legislature depends upon its effectiveness and performance, therefore, there is a clear and direct connection between their effectiveness and performance and the satisfaction and well-being of the people. The trust and confidence of the people that their elected representatives will act in their best interest, is of crucial importance. In other words, more the people are satisfied with their representatives, more they will have trust in the institution of Parliament and *vice-versa*.

A study by the University of Gothenberg/ (2015) sought to explore the association between the subjective well-being (life satisfaction and happiness) and the importance of living in a democracy. In this study, well-being of the people was taken as one possible indicator of the likelihood of people's commitment to democracy and its institutions. It was found that there was an

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explicit relationship between the life satisfaction and the importance of living in a democracy. Countries with high levels of satisfaction tend to be better democracies, whereas those with lower levels of public satisfaction tend to encounter more political and economic challenges. The Fourth World Conference of Speakers of Parliament warned that ‘a lack of public confidence can undermine Parliament’s legitimacy to carry out its basic functions’. Furthermore, a comparative study of Parliaments conducted in 2006 by the Knesset Information Commission under the aegis of Parliament of Israel found that ‘there is a worldwide problem of low levels of trust in government institutions in general and Parliaments in particular’.

Similarly, in a parliamentary democracy if the people were more satisfied with their elected representatives with a higher level of trust in Parliament, they tend to have a better well-being. On the other hand, in such countries where the people's trust in their elected representatives was comparatively weaker, they were less satisfied with them overall.

India is one of the fast-growing economies with a predominantly inspirational young population. Things around us are changing at a very fast pace. The proportion of aspirational youth is growing in our population. These millennials in India are known to take risks, chase their dreams and take their ideas to the world. But, today our parliamentary democracy, the system that we have adopted for our success, appears to be at a crossroad. It is quite frightening to know that the trust between the people of India and our representative institutions *i.e.* Assemblies and Parliament has gradually deteriorated over the decades. A general feeling of cynicism about these institutions is becoming strong and pervasive. Never before in our parliamentary democracy has there been such a low trust and confidence in our representative institutions. These institutions, functioning as these are, will not be able to keep pace with the emerging changes and accompanying challenges, if they do not live up to the needs and aspirations of the coming generations. Decline of this trust needs to be arrested without delay. At a time when we, as a nation, are faced with difficult challenges in different areas of life, we all must stand shoulder to shoulder to face them with zeal and determination. If the people's trust in Parliament comes down beyond the expected limit, it does not augur well for the future of parliamentary democracy.

The Members of Parliament should realize that it is their prime responsibility to discuss and deliberate on the issues of public importance where all the opinions, for and against, are allowed to be freely expressed and they have to do so in the public interest. Besides, the core responsibility of Parliament is promoting policies and approving laws which it considers collectively to be in the best interest of the people who elect it. The Parliament also provides the most important and effective forum for highlighting the people's grievances by inviting Government's attention for their redressal.

It is a high time now that we should focus our attention towards major challenges and issues before the nation. Our endeavour should be to hold serious debates and discussions on those issues in Parliament. We also have to see that laws required to deal with these challenges are cleared in time. But unfortunately, the Parliament, as has been seen recently, was not functioning in the manner it was envisaged by our founding fathers in all aspects of its mandate. Keeping in view the enormity of the problems and challenges, domestic as well as global, in various walks of life, we will have to strive collectively in our march forward to make India modern and globally stronger. But our success will depend on how serious, responsive and prompt are our representative institutions in addressing the emerging needs and challenges of the people.

Unfortunately, the quality and performance of our Parliament has not been a matter of serious public discourse, neither in media nor on other fora whether our Parliament as the supreme legislative and deliberative body had lived up to the expectations of the people; how has it worked as a platform for highlighting people's grievances and for duly integrating their needs and preferences in the public policies; have the major and critical issues concerning the future of India as a strong and developed nation been seriously debated by it; and has it been able to maintain the required legislative supplies? If the answers to most of these are in affirmative then there is an urgent need for all of us to do a serious introspection on the reasons for the functional deficiency in the working of our Parliament and also on how to overcome them. Membership of Parliament is a matter of great honour and privilege with the power to espouse the people's cause in the highest *Panchayat* of the country. The portraits and statues installed in the Parliament building and its premises generate a feeling that destiny has given us a great opportunity to be a part of the glorious traditions set by our founding fathers and to follow their foot-prints. The *Niti Vakyas* engraved at

various places in the building keep inspiring us to fulfil our constitutional responsibilities with utmost honesty and sincerity.

Our founding fathers gave us not only great institutions and an excellent Constitution, they also cautioned us with certain do's and don'ts in running them. Gandhiji was of the firm opinion that success of parliamentary democracy in India will depend upon efficiency and efficacy of our legislatures. If legislatures were to adhere to high conduct of morality and ethics in having constructive debates and enacting legislations, it will reflect a highly successful and deep-rooted democracy. The deeper roots of discipline and decorum in Parliament, in fact, can be traced to what Mahatma Gandhi had said about “purity in public life” and his belief that indiscipline was a form of violence. It is time for us to introspect and do self-assessment on how sincere we have been in discharging our Parliamentary duties in fulfilment of the expectation of our founding fathers.

Let us sincerely look into the functioning of the Rajya Sabha, the Second Chamber of our Parliament, which has co-equal powers with the Lok Sabha, except in financial matters, and evaluate its performance. On the occasion of its 250<sup>th</sup> Session, it would be appropriate to go in for necessary course-correction for ensuring better deliberative and legislative output in the coming years.

In a few months of my entering the Rajya Sabha in 2014, I found that it was not working in the manner it was expected to by the founding fathers. As against their vision of serious and orderly debate on public issues, pandemonium and disruptions appeared to have become the norm than exception in this House. It was adjourned repeatedly without transacting any business, sometimes the entire Session being washed out. For example, the time lost during the 231<sup>st</sup> Session in 2014 was 4.81 per cent which went up to 15.70 per cent in 232<sup>nd</sup> Session and 35.41 per cent in 233<sup>rd</sup> Session. It further went up to 70.70 per cent in 236<sup>th</sup> Session in 2015, 71.50 per cent in 241<sup>st</sup> Session in 2016 and 69.23% in the 245<sup>th</sup> Session. Then, giving vent to my sense of exasperation and disappointment, I wrote an article ‘Does this Parliament Listen to our Voice?’ expressing my dismay about it in the ‘First Post’ on 7<sup>th</sup> December 2016.<sup>1</sup>

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<sup>1</sup> The facts and figures used in the article have been taken from Rajya Sabha Bulletin Part I and II, Valedictory addresses by the Hon'ble Chairman, statistical information (Rajya Sabha website) and Statistical Handbook 2019 of the Ministry of Parliamentary Affairs.

The tendency of disruptions and repeated adjournments appeared to have been rising leaving hardly any time for its deliberative and legislative functions. The comparative statement of the Bills passed, number of sittings held, and time used and lost in Rajya Sabha during 2004-19, is given below:-

<b>Period</b>	<b>Bills Passed by the House (Rajya Sabha)</b>	<b>No. of Sittings held (Rajya Sabha)</b>	<b>Total Time Available (Hrs.-Mins.)</b>	<b>Time Lost due to Interruptions/Adjournments (Hrs.-Mins.)</b>	<b>% Time Lost</b>
2004-2009	251	329	1645-00	398-28	23.67 %
2009-2014	188	345	1572-52	649-00	41.19 %
2014-2019	156	329	1881-12	726-12	38.60 %

It is evident from the above table that the legislative productivity of the Rajya Sabha during the periods coinciding with the terms of the 14<sup>th</sup>, 15<sup>th</sup> and 16<sup>th</sup> Lok Sabhas has consistently gone down. Not only have the number of Bills passed during this period declined, the time lost due to disruptions also increased drastically. As a result, the Indian Parliament appeared to have run into deliberative and legislative-deficit ultimately leading to people's trust deficit, because several social and economic laws required to be implemented urgently were held up, thanks to frequent disruptions and adjournments of the House. This situation of declining output is reflected by the relevant statistics. For example, as against 251 Bills passed by the Rajya Sabha during 2004-09 and 188 Bills during 2009-14, only 156 Bills could be passed during 2014-19. It may be pointed out that during the periods of comparison, there was not much variation in the number of sittings held but the number of Bills passed has come down. The output went to all time low when only one Bill each was passed in the Winter Session of 2016 and Budget Session of 2018.

The performance of the Rajya Sabha during its two Sessions (247<sup>th</sup> and 248<sup>th</sup>) held recently has been quite dismal. During 247<sup>th</sup> Session, the Rajya

Sabha was not able to transact any business due to disruptions for the first 13 days, out of total 16 working days, while three days were declared as holidays, with House's consent. All efforts made by the Chair to persuade the Members to let the House function did not evoke the desired response. This apart, a number of important and emergent issues such as damage caused by the cyclones *Gaja* and *Titli* in some States, issues relating to price rise and unemployment could not be taken up.

Similarly, the productivity of the Rajya Sabha during its 248<sup>th</sup> Session was at a all time low. Out of the 43 hours available, the House could function only for 3 hours due to frequent interruptions and as a result 93.02% of the available time was lost. This Session was described as a "wasted opportunity" with most of the time of the House lost due to disruptions. As regards number of Bills passed, only 4 Bills were passed during 247<sup>th</sup> Session and only 5 Bills during the 248<sup>th</sup> Session. In respect of deliberative function, while only one Calling Attention and no Short Duration Discussion could be taken up during 247<sup>th</sup> Session, no such discussion could be taken during 248<sup>th</sup> Session. Only 38 and 16 matters were raised during the 247<sup>th</sup> and 248<sup>th</sup> Session respectively as against more than an average of 150 matters in other Sessions.

As many as 55 Bills were pending in the Rajya Sabha at the conclusion of its 248<sup>th</sup> Session. The pending Bills that had significant bearing on the socio-economic life of the people were — 12 Bills pertaining to the issues related to health, family welfare, and women and child development; 9 Bills pertaining to law and justice; 5 Bills pertaining to labour and employment; 4 Bills pertaining to agriculture, farmers welfare and rural development; 3 Bills pertaining to housing and urban affairs; 3 Bills pertaining to tribal affairs; and 2 Bills pertaining to road and transport.

It may be pointed out that out of 55 pending Bills, 30 Bills were referred to the Committees - 27 to Department-related Standing Committees, 2 to Select Committees and one to Joint Committee; of which the Committees had given their Reports on 22 Bills. But it is a matter of great concern that the efforts made and time spent by the concerned Committees were wasted as these Bills could not be taken up and translated into law. Besides, 22 Bills, which were referred

by the Lok Sabha also could not be taken up mainly due to disruptions, and had lapsed on dissolution of the Sixteenth Lok Sabha. As a result, the efforts made and time spent by the Lok Sabha in discussing and passing these Bills did not evoke any result. Now, if all these Bills were to be reintroduced, fresh efforts will have to be made to examine, discuss and pass them.

Of the pending Bills, 9 Bills were pending ranging from 10 to 31 years which included the Indian Medical Council (Amendment) Bill (31 years and 10 months), The Telecom Regulatory Authority of India (Amendment) Bill (10 years and 6 months), The Delhi Rent (Amendment) Bill (21 years and 10 months), etc. Further, even after being reported upon by the Committees if the important Bills requiring urgent implementation are not passed, the Government is left with no option but to issue Ordinances sometimes repeatedly, which is against the very spirit of Ordinance-making power. This problem was recently underlined by the former President, Shri Pranab Mukherjee, when he cautioned that the Ordinance route to bring in a law should be avoided and used only in compelling circumstances. Besides, the nominated members being eminent persons and experts from different areas of life do not like to speak in the deafening din and ruckus happening in the House. This, in fact, defeats the very purpose for which they are nominated.

Another fall-out of the legislative backlog is that it provides opportunity to the Judiciary to enter into the legislative arena as the Court verdicts, having the force of the law, fill the legal vacuum for dealing with the matters yet to be regulated by the law. That being so, are we not abdicating our legislative responsibility and giving opportunity to the Judiciary to occupy the legislative space? In such a situation, how can we complain against the Judiciary interfering in Parliament's domain? Why can't we sit down and decide amongst ourselves, across all political hue, to clear the legislations timely and yet pursue our political points.

The scale of pendency of the Bills in the Rajya Sabha indicates that in the absence of the required legislations, the country could not move further on several areas where public interest was involved, thereby depriving a large section of our society of the benefits through the relevant policy decisions, schemes and programmes, which would have otherwise become a reality had all these Bills been passed timely.



Today, things have been changing at lightning speed. We have also witnessed fast changes in many areas of our national lives. In such a situation, our democratic institutions are expected to function with greater efficiency to cope up with the challenges of socio-economic transformations and fulfill the rising expectations of the people. Huge pendency of legislative work in our Parliament does not augur well for the future of a developed and competitive India. In this context, it may be appreciated that the old argument that ‘speed of change remains slow in a democracy’ does not show the problem with the system but with those at the helm of affairs.

A demand to increase the number of sitting days of the House is made from time to time as the duration of the Sessions was declining. In a scenario, when the House is not allowed to sit and transact its business, the demand for increasing the number of sittings or having a fixed annual calendar for the Parliament, otherwise a very good demand, becomes meaningless. No one can disagree with this demand as the Members would get time to express their views on important issues concerning the people. But, how can we justify it in the present situation if we are not making good use of the time available to us? Given this scenario, how can the demand for extending the Session be ethically justified? The need for all the political parties is, therefore, to ensure quality of debates on burning issues in a disciplined and orderly manner where free exchange of opinions takes place.

The slogan-shouting and creating din and pandemonium in the House is certainly not going to add to its prestige and dignity but when the House runs, bitter acrimony and hostility is reflected in the arguments of the members, unlike in the past when brilliant arguments for and against by both the ruling and the opposition sides used to take place without hurting anyone personally. Peaceful debates have become an exception rather than the norm in our present House. Shri B.G. Verghese who covered proceedings of Parliament in the initial years writes in this regard that it was an education to listen to the Rajya Sabha debate which “were lively and animated” and the House functioned on “the principle of mutual respect”. He further says that “morality was looked upon above party discipline”. Shri N. Gopalaswami Ayyangar had visualized this in the beginning itself when he had warned us in the Constituent Assembly in 1947 for “taking care to see that it does not prove a clog either to legislation or administration”. Proving the utility of the Upper House, is, therefore, our bounden duty.

No doubt, the House can give quality legislative output if its Members show sincerity and commitment to their parliamentary duties. The performance of Rajya Sabha during the 249<sup>th</sup> Session of the Rajya Sabha held from 20 June to 7 August 2019 has, in fact, proved this beyond doubt. This Session has been a rather productive Session as compared to its previous Sessions. It was possible because there were lesser number of interruptions and adjournments during the Session and members from all hues showed greater interest in the working of the House. Notably, the 249<sup>th</sup> Session proved to be the most productive in the last 20 years in various aspects of functioning of the House. In terms of legislative output in the 249<sup>th</sup> Session, 32 Bills were passed which is the best in the last 17 years. Before this, 35 Bills were passed during the 197<sup>th</sup> Session in 2002. It may be noted that only 33 Bills were passed during the last 5 Sessions *i.e.* 244<sup>th</sup> to 248<sup>th</sup> Session with a total of 88 sittings. Percentage utilisation of available time was 104.92 during the Session. While the House lost a total of 19 hours and 12 minutes of its time due to disruptions, it gained about 28 hours by sitting beyond the scheduled hours on 19 days. The Tables given below reveal a comparative picture in this regard.

Session	Bills Passed
249	32
248	5
247	4
246	14

	249 <sup>th</sup> Session	248 <sup>th</sup> Session	247 <sup>th</sup> Session	246 <sup>th</sup> Session
Calling Attention	3	-	1	1
Short Duration Discussion	3	-	-	2
Matters Raised during Zero Hour	326	16	38	120

Besides, we have had highly serious and orderly debates on different issues of public importance when MPs across the political parties - ruling and opposition - made a mark with their oratorial skill, informed and reasoned arguments. We have had several occasions to listen to captivating speeches made by the Members from all the political parties, ruling and opposition, big and small. Other notable aspect of this Session was that several new Members made their mark by putting across their views effectively on different issues, imbued with content, facts and practical suggestions. These new and not so well-known Members were found to be powerful speakers who earned accolades from all sections of the House as also from the Chair. Media also praised such Members. Besides, the speeches of nominated Members in their area of interest were also highly educative. Such a refreshing view in the House raised a question as to why the same House, with the same Rules of Procedures and almost same Members could produce such a spectacular performance in 249<sup>th</sup> Session as compared to those of 247<sup>th</sup> and 248<sup>th</sup> Sessions. The reasons are not quite far to seek. It is because the Members from all sides cooperated, leaders of all parties also thought that long pending works must proceed and not be held up further. Therefore, there was no disruptions and adjournments, and the business of the House went on unhindered during the Session. It gives a positive message that if the Members cooperate and come together irrespective of their political affiliations, quality debates can be ensured and the House can be made more productive.

The Rajya Sabha though a Second Chamber was never visualized to be a secondary Chamber of the Parliament. Being an indirectly elected House by the Members of the Legislative Assemblies, it has the additional responsibility of representing the States in the Parliament. What kind of people were expected to come to the Rajya Sabha is clearly reflected in the Constituent Assembly debates. The founding fathers had intended to provide in this House “opportunity to seasoned people who may not be in the thickest of the political fray, but who might be willing to participate in the debate with learning and importance” and to have “a sober and second look” at the legislations in a calmer atmosphere as against the directly elected House, the Lok Sabha. The Rajya Sabha was expected to be free from the compulsions of competitive politics and, therefore, less influenced by the transient political emotions. But today, it appears that this

House has not been able to live up to their expectations, neither as a 'House of Elders' nor as a 'Federal Chamber'. For a long time, there had not been any serious discussion on the Centre-State relations, problems of the States; how to remove regional disparity; increasing coordination between Centre and States in implementing the Central schemes, how to implement trilingual policy and other such issues having critical bearing on enhancing the national integration. For discussing all these issues, the Rajya Sabha is the right platform as visualized by our founding fathers. But unfortunately, we are shying away from discussing these issues in this Chamber. Shri N. Gopalaswami Ayyangar, while speaking in the Constituent Assembly, emphasized that the Rajya Sabha was expected to hold dignified debates on important issues and to delay legislations which might be the outcome of passions of the moment and hastily conceived.

I am reminded of Shri Lokanath Mishra who described this House in the Constituent Assembly as a sobering House, a reviewing House and a House standing for quality. After assuming the office of its Chairman in 1952, Dr. Radhakrishnan called upon the Members of the Rajya Sabha to do everything to justify to the people of this country the existence of the Rajya Sabha which was an integral part of our Constitution. He reiterated the same sentiments in 1955 and emphasized the need to maintain the good name and dignity of this House. He said:

I do not want it to be said that sometimes these discussions suggest that we are not behaving like serious, responsible Members of the Parliament but rather like irresponsible professional agitators. That impression, even all Members of this House, to whatever side they may belong, should avoid. We must be careful and preserve our good name and our dignity. That is what I am anxious about.

I am also reminded of what *Rishi*-like Professor Hiren Mukherjee, a ten-time Lok Sabha Member, has written in his Book, 'Portrait of Parliament' in 1978. He writes: "one hates to have to say it but deterioration in parliamentary functioning has gone on apace....most seem content with rumbustious Sessions that bring publicity to thick-skin rather than to sensitive performance in debates". He goes on to caution that "if Parliament did not prize its own dignity, its powers also will be imperilled". This year, we are celebrating the 150<sup>th</sup> Birth Anniversary of Mahatma Gandhi; it would be a befitting tribute to the great man to follow his ideals in our thinking and behaviour.

Similar sentiments have been expressed by renowned parliamentarians from time to time in the House and outside. In his Valedictory Remarks at the conclusion of the 248<sup>th</sup> Session of the Rajya Sabha, Shri Venkaiah Naidu expressed deep concern over the dysfunctional pattern of the House when he said:

It is time for all sections of the House to evolve a 'collective conscience' to enable effective functioning of the House and have deep introspection to prevent any further damage to the standing of this august House which is also known as the House of Elders. Elders are usually expected to show the way to others.

While releasing the selected speeches of the Vice-President and Chairman, Rajya Sabha, Shri M. Venkaiah Naidu on 15<sup>th</sup> February 2019, our former President, Shri Pranab Mukherjee was also been highly critical of the tendency of increasing disruptions in our Parliament. Only recently, he reminded us that "Parliament stands for the will and aspirations of the people which are concretized through the medium of discussions and deliberations... a very unfortunate trend of undermining the very purpose of Parliament has evolved during the past decade or so. Resorting to disruption as an established parliamentary practice and defining it as a constructive deliberative method has led to parliamentary subversion".

There is no denying that frequent disturbances during the House proceedings have thrown an unprecedented challenge before its Presiding Officers also. While they have been empowered by the Rules of the House to discipline a Member, but in case of the blatant defiance and disobedience of the Chair's directions by a large number of Members, using the penal powers itself becomes difficult. Strangely, many times, it has been seen that some Members who give Notices and are permitted, when called, disrupt the House instead of raising the issues as per the Notices. The Presiding Officers' helplessness is thus the worst thing to see in the House. I remember once Shri P. J. Kurien, while trying to bring order in the House when 40-50 MPs were in the Well, said, "to suspend them, there should be a Motion and that should be carried in the House. When majority of the Members are opposing, how can such a Motion be carried? If the Chair has power to *suo moto* suspend them, then they can use them. The Rules of the Rajya Sabha do not help us to proceed further. Therefore, when

nothing is audible due to pandemonium, adjournment of the House becomes the only option before the Presiding Officer. Ironically, the Presiding Officer, instead of running the House, is forced to repeatedly adjourn it.” Former Speaker of Lok Sabha, Shri Somnath Chatterjee echoed this dilemma of a Presiding Officer in controlling the House when he said: “If I do not take strong action, then I am criticised. If I take a mild action, that is also criticised”. Such helplessness was better expressed by our former Chairman, Rajya Sabha, Shri M. Hamid Ansari while delivering his farewell address in the House quoted an interesting advice given to him by an eminent leader, when he entered this office. I quote, *"kal ke baad, aap ko bahut takleeph hogi. Mujhe aap se hamdardi hai ki is takleeph ko aap jhail jaaen aur ek salah bhi hai ki hum log ketna bhi halla karain aap apne chehre par ghussa mut dekhaiye aur hamesha haste rahyega...."*

While dissent is the *sine qua non* of a democratic behaviour, disruption is certainly not. Differentiating between the two, Shri K.R. Narayanan, the then Chairman, Rajya Sabha once said:

In most cases, disorders in the House arise out of a sense of frustration felt by Members due to lack of opportunities to make their points, or clear their chests of grievances of the people that move them or out of the heat of the moment. They are perhaps easier to deal with. What is more difficult to tackle is planned parliamentary offences and deliberate disturbances for publicity or for political motives. Even more serious are disturbances caused by decisions taken by political parties to disrupt the functioning of the House to get a demand conceded by the Government or to ignite or support some political movement outside the Parliament or the Legislature.

Similarly on 23 September 1992, Shri K. R. Narayanan described indiscipline and disorder in the legislative bodies as "Infantile disorders or the measles of the middle-age" which "...are bound to pass, but pass they must, otherwise the system will be in mortal danger".

Disruption, no doubt, is in-built in the functioning of any Parliament. Its frequency and magnitude in India, however, remains alarmingly high as compared to those elsewhere. In the UK Parliament, Members have the right to be heard in silence and, therefore, are hardly interrupted without the permission of the Chair. Suspension of an erring MP and repeated short adjournments are

extremely rare. In the House of Lords, unworthy conduct by Members is still uncommon. In the entire history of the US Congress, only 20 odd Members have been expelled so far; mostly for political reasons, treason or scandals, hardly for bad behaviour or disrupting the Congressional proceedings. In the Australian Parliament, the Speaker can direct the disorderly members to withdraw which is generally complied with and if the Members fail to leave the Chamber when asked to do so and continue to behave in a disorderly manner, they may be named and the House can then suspend them. While the rules regulating the behaviour of the Members may be similar in these countries, the compliance by their Members is far better than in India. This is all because of the self-imposed discipline on the part of the Members in these countries.

Parliament of India being a political institution, the political parties play a central role in its functioning. Certain amount of political one-upmanship, therefore, is bound to be reflected in its working due to an interplay of competing interests and demands of the people belonging to different social, economic and cultural identities. In a supreme representative body of such a multifarious diversity, interplay of some kind of pull and pressure is in-built into it. While our system provides ample opportunities for the Opposition to have its say in the House, it also expects them to allow the Government of the day to have its way. Our founding fathers had suggested us to charter a middle path by adopting “a spirit of accommodation” and “consensus-building” so that issues concerning general public, instead of being blocked, are discussed and decided in Parliament. Shri M. Venkaiah Naidu aptly describes that in a parliamentary system “the government proposes, opposition opposes, the Parliament disposes”.

If the things are allowed to go as it is for a longer time, the cynicism about the Parliament and its Members, which has already set in the people’s minds, is certainly going to be further reinforced. This does not augur well for the future of the parliamentary institutions in our country. Such erosion in parliamentary working is a serious cause of concern for all of us. Pandit Jawahar lal Nehru echoed this concern in 1958 when he said that Parliament always sets some kind of an example to the rest of the country. As we behave here, others will behave elsewhere, whether in the State Legislatures, or down to the foundation of our democracy *i.e.* the Panchayats in villages. He said,

“Therefore, on all of us rests this great responsibility, not only to behave as we should behave, but to remember always that a million eyes are upon us and we may not do something that brings the slightest discredit on Parliament or set a wrong line before the people”.

Same sentiments were echoed by our former illustrious Chairman, Shri Bhairon Singh Shekhawat while responding to the felicitations of the Members in Rajya Sabha. He urged the Members to do a serious introspection and find out as to what in reality was the prevailing public perception about the "parliamentary institutions which are the moral fulcrum of our country. He called upon the Members to set standards for others to follow" because they "are watched and observed as role models by State Legislatures, *Zila Parishads* and other elected local bodies". He suggested that "...the Members should evaluate, at the end of every session, as to how relevant and effective the House proceedings have been from the view point of their contribution towards improving public governance and public welfare".

On another occasion, Nehru *ji* emphasized the need for legislators to maintain high standard of behaviour in the interest of democracy. He had always viewed the improper conduct of the Members with extreme disfavour and was of the opinion that no laxity should be shown to the erring Members. He believed that once the reputation of our legislatures goes down then democracy itself will be in peril. It needs to be directly guarded and any misbehaviour by a Member, whether inside the House or outside, should lead to inquiry and action. It was he who was instrumental in getting one MP, Shri H.G. Mudgal, expelled from the Lok Sabha as his behaviour as an MP was not found to be of the expected order.

Dr. B.R. Ambedkar said in the Constituent Assembly that if we were to maintain democracy, the first thing we must do is to hold fast to the constitutional methods for achieving our social and economic objectives. He echoed the same sentiments on 21 May 1952 in the Rajya Sabha when he said that:

If the results are not produced within a certain time, the people will become frustrated and disgusted. I suppose unless we in Parliament realise our



responsibilities and shoulder the task of looking after the welfare and good of the people within a reasonable time, I have not the slightest doubt in my own mind that this Parliament will be treated by the people outside with utter contempt. It would be a thing not wanted at all.

While we take pride in being a Member of the Rajya Sabha which is also described as a 'House of Elders' or 'Upper House', our behaviour in the House has to be commensurate with such a description. Will such a House be able to provide any direction to the nation which is its fundamental aim? Still, the greater cause for concern is the absence of any serious and collective effort to arrest this parliamentary erosion, having long term dangerous implications.

Gandhiji had set a Code of Conduct for political workers; and people's representatives are akin to political workers. They should have great respect for the rules of conduct and self-discipline set by our great leaders. There is a need to reach a national consensus on the people's issues. Only then, we can enhance the prestige of Parliament as visualized by our Constitution-makers.

Another noteworthy thing in the present context is what does the aspirational youth think about these disturbing aspects? They have been, in fact, born and brought up in a global and digital era; their values and approach to life is way different from yesteryears. Therefore, our legislature, to be more relevant, has to adjust and evolve itself to live upto their aspirations and expectations.

I am raising this issue at a time when the Rajya Sabha is holding its 250<sup>th</sup> Session and we, as a nation, are faced with varied and complex challenges of nation-building. A "dysfunctional Parliament" cannot maintain regular legislative supply required by the Government for the faster development of a nation faced with serious challenges in different areas - domestic and global. It is high time that we should make every effort for restoring the credibility and dignity of parliamentary institutions. Media has a special role to play in this regard. If the media can create an atmosphere for meaningful discussions in the Houses of Parliament, it would be a great service to the public life in our country, particularly when the whole nation is celebrating the 150<sup>th</sup> Birth Anniversary of the Father of the Nation. While doing so, the media may also bring out Gandhiji's thoughts on democracy and also on the character of the people's representatives.

The Parliament is an organic body which must adjust itself with the changing circumstances to evolve as a relevant and robust institution. It is the Parliamentarians who will have to change as people at large cannot be expected to adjust themselves with the Parliament. Evolution of Parliament as an effective and relevant body is a multidimensional process and the main stakeholders in its effective functioning, apart from the people at large, are : the Government, the Opposition, the Presiding Officers, Media and the Secretariats supporting the two Houses. As such, any attempt for improvement has to be a combined effort as effective governance is a joint responsibility of all. The structural and procedural dimensions also have an important bearing on this process for which efforts are already underway. More needs to be done for making the Committees more effective, which currently leaves a lot to be desired. Parliament, as we know, functions in a competitive context mainly between the Government and the Opposition where they are expected to have a mutual consensus, not confrontation. Therefore, in the functioning of our Parliament we must develop a culture where the Opposition is able to express their concerns on the issues before the Parliament and the work of the Government is allowed without being stalled. Similarly, the Government must always be ready to accommodate the concerns of the Opposition in a spirit of give and take. For doing so, the political parties are expected to keep issues on which there is national consensus above the petty political considerations.

Parliament is central to the very idea of democracy. If Parliament diminishes in stature and significance then the democracy itself will be in peril. Only a vibrant Parliament can make democracy well-functioning. But our decades' long experience of the working of our parliamentary institutions has not been very encouraging for various reasons. In this context, only recently, Shri M. Venkaiah Naidu, Chairman, Rajya Sabha, while delivering the first Arun Jaitely Memorial Lecture at the Delhi University, expressed serious concerns over the declining performance of our legislatures. Calling for a new political consciousness, he urged all stakeholders to review their mindset with regard to their roles and responsibilities in the functional dynamics of our parliamentary institutions. He rightly underlined the reasons for the decline in the functioning of our legislatures when he said:

The present pitfalls of our parliamentary democracy are too well known to be

elaborated. Briefly, these include the declining number of sittings of legislatures, persistent disruptions, declining quality of debates, growing number of legislators with criminal record, high degree of absenteeism, inadequate representation of women, rising money and muscle power in elections and lack of inner democracy in the functioning of the political parties.

As a highly diversified nation, our challenges of nation-building are varied and complex. As the elected representative body, the Parliament is critically positioned to drive forward people-centered development reflective of and responsive to the needs of the masses. It is high time for our parliamentarians to realise the enormity of the problems the people of this country are facing and the future challenges in diverse fields. By playing their designated roles in making laws; ensuring the accountability of the Government; and discussing the issues that concern the nation and the citizens, the parliamentarians have to become valuable partners in the process of nation-building. It is only through collective thinking and efforts can we address the monumental challenges that we have been facing today as a nation. We must, therefore, resolve to collectively strive to take forward the onerous task of nation-building and keep the dreams and visions of our Founding Fathers for a just and prosperous society. Only then can we arrest the problem of the people's growing trust deficit *vis-à-vis* the parliamentary institutions. In this context, the words of Shri M. Venkaiah Naidu are worth quoting:

While democracy has taken deep roots in our country, there is still a large set of concerns that need to be addressed. Trust of the people in Parliament and other legislatures based on the responsiveness of law-making bodies to the concerns of the people is critical for democracy and the conduct of legislatures. There are certainly some concerns about this much desired trust.

In the given scenario, the imperative necessity for the parliamentary institutions in the country is, therefore, to strive to give the best possible legislative output through quality parliamentary business in serving the nation, failing which we will not be able to realize the Indian dream of progress and prosperity involving the entire nation and the people from all walks of life.

# FULFILLING THE VISION OF THE FOUNDING FATHERS OF THE CONSTITUTION

—Shri Thaawar Chand Gehlot\*

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*What the elder person does is followed by others; what he demonstrates by action, that people follow.*

—Bhagwad Gita, 3/21

In the Winter Session of this year the Rajya Sabha, House of Elders will mark its 250<sup>th</sup> session. The very first session of the Council of States was held on 13 May 1952. On 23 August 1954, Dr. S. Radhakrishnan, Chairman of the Council of States made an announcement that the Council of States would henceforth be called as 'Rajya Sabha'. The Rajya Sabha represents the diversity of India and also upholds the cultural values of the people of India. It has been working as a platform for intellectual minds from diverse fields like arts, culture, technology, sports and academia. The primary function of the Rajya Sabha is to act as a friend, philosopher and guide of the Parliament. The following quote from the Mahabharata aptly advocates the indispensable role of the Rajya Sabha in the working of democracy in India:

That's not an assembly where there are no elder men, Those are not elders who do not speak with righteousness.

During the Vedic times, *Samiti* (a group of elders) played the similar role as that of today's Rajya Sabha. The evolution of modern democracy in India begins with the freedom movement against British rule. Soon after the first war of independence, the Queen of the British Empire took control of India from the East India Company under the Government of India Act, 1858. In the following years, many acts were constituted for governing India like the Indian Councils Act of 1862, Indian Councils Act of 1892, Morley-Minto Reforms in Indian Councils Act of 1909. The Montague-Chelmsford Reforms become the landmark reform of the evolving Indian Democratic process. The Montague-Chelmsford

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\* Member of Rajya Sabha; Leader of the House, Rajya Sabha; Union Minister of Social Justice and Empowerment; former Member, 11<sup>th</sup>, 12<sup>th</sup>, 13<sup>th</sup> and 14<sup>th</sup> Lok Sabha.

Reforms was embodied in the Government of India Act, 1919. It provided for a dual form of Government or Dyarchy. Under the Government of India Act, 1919, the Indian Legislature consisted of the Governor-General and two Houses, namely the Legislative Assembly and Council of States. The Council of States was made up of 60 members, in which 34 were Indian. The term of the Council was fixed at five years. The Government of India Act, 1935 made the Council of States a continuous body, not subject to dissolution which continued till 1947.

After independence, the Constituent Assembly was entrusted to frame the Constitution. The Constitution of India was passed by the Constituent Assembly on 26 November 1949 and came into effect on 26 January 1950. The two Houses of the Parliament came into being in 1952 after the first general election under the new Constitution.

The Union Constitution Committee of the Constituent Assembly under the Chairmanship of Shri Jawaharlal Nehru also looked into the need for the Second House. During the discussion on the Report of the Union Constitution Committee in the Constituent Assembly, Shri Gopalaswami Ayyangar said:

The need for the Second Chamber had been felt practically all over the world wherever there are federations of any importance. After all, the question for us to consider is whether it performs any useful function. The most that we expect the Second Chamber to do is perhaps to hold dignified debates on important issues and to delay legislation which might be the outcome of passions of the moment until the passions have subsided and calm consideration could be bestowed on the measures which will be before the Legislature; and we shall take care to provide in the Constitution that whenever on any important matter, particularly matters relating to finance, there is conflict between the House of the People and the Council of States, it is the view of the House of the People that shall prevail. Therefore, what we really achieve by the existence of this Second Chamber is only an instrument by which we delay action which might be hastily conceived, and we also give an opportunity, perhaps to seasoned people who may not be in the thickest of political fray, but who might be willing to participate in the debate with an amount of learning and importance which we do not ordinarily associate with a House of the People. That is all that is proposed regarding this Second Chamber. I think, on the whole, the balance of consideration is in favour of having such a Chamber and taking care to see that it does not prove a clog either to legislation or administration.

Dr. B. R. Ambedkar, also a member of the Committee, said in the Constituent Assembly on a bicameral system of governance:

In the British Parliament, the House of Lords merely concurs in the financial

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provisions passed by the House of Commons; it has completely abrogated itself so far as finance is concerned. We are here making a departure from that position and are allowing the Upper Chamber to have some voice in the formulation of the taxation and financial proposals which have been initiated by the Lower House. We are conferring a privilege which ordinarily the Upper Chamber does not possess.

Under article 79 of the Constitution, Parliament consists of the President, the Lok Sabha and the Rajya Sabha. The Rajya Sabha or House of Elders is a permanent body, which cannot be dissolved, however, one-third of members retire biennially after completing six years term. The Rajya Sabha consists of 245 members; 233 representing States and Union Territories and 12 members nominated by the President of India. The representatives of the States are elected by their respective Legislative Assemblies in accordance with the system of proportional representation by means of the single transferable vote.

The first Chairman of the Rajya Sabha, Dr. Sarvepalli Radhakrishnan said:

There is a general impression that this House cannot make or unmake Governments and, therefore, it is a superfluous body. But there are functions, which a revising chamber can fulfill fruitfully. Parliament is not only a legislative but a deliberative body. So far as its deliberative functions are concerned, it will be open to us to make very valuable contributions, and it will depend on our work whether we justify this two chamber system, which is now an integral part of our Constitution.

The permanent Upper House is a much smaller body that enables better discussion on key Bills and exercises check and balances against any abrupt changes in the composition of the Lower House. It represents the States and also prevents the Centre from behaving in a unilateral manner. As Rajya Sabha is constituted as the indirect voice of States, the Members of the Rajya Sabha are directly elected by the State Legislatures and not by the people. The Rajya Sabha has several exclusive powers. With the support of two-thirds of its Members it can delist a subject under the State List and allow the Centre to legislate on it. Rajya Sabha also has the special power to create one or more new All India

Services. The Rajya Sabha is the guardian of the rights of the States and the people at large. The Rajya Sabha by its rule may provide for the setting up of a special committee, which reflects a true cross-section of the House. The present Vice-President of India and Chairman of the Rajya Sabha, Shri M. Venkaiah Naidu has remarked:

Democracy is all about- Debate, Discussion and Decision. This can't be replaced by-Disorder, Disruption and Delay in legislation which is nothing but a negation of the spirit of democracy.

The process of election for Rajya Sabha ensures that the political voice reflected in various States is represented adequately in the Upper House of Parliament also. Many a times, there may be “X” political party ruling in the Centre through comprehensive victory in Lok Sabha elections and there may be “Y” or “Z” and many other political parties ruling different States by securing mandate of their State electorate during State Assembly elections. In such a scenario, Rajya Sabha would be adequately represented by those political parties also who have small or miniscule representation in Lok Sabha, but overwhelming representation in respective State Assemblies. This enables a fairer representation of distinct political voices in Rajya Sabha as its Members are indirectly elected through State electorate. Thus, Rajya Sabha proactively and objectively gives a more balanced and rational standpoint on occasions demanding cogent, diverse and equitable legislative action. India has a bicameral legislative system. The framers of our Constitution intended that Rajya Sabha as a representation of the States should play a balancing act in legislative affairs.

The other most important characteristic of the Rajya Sabha is the category of nominated members. 12 members nominated or appointed for the period of six years term by the President of India from various diverse backgrounds of the society. The nominated members, include the best of the best. It is a unique system which ensures ethnic, linguistic, cultural and eminent representation in the Upper House. These 12 members are ‘persons having special knowledge’ appointed from different fields such as poets, cinema, performing arts, literature, journalists, academia, critics, scientists, social service, sports, economics. In this nominative representation not a single section of our society is left out. In this way the Rajya Sabha becomes the voice of the non-political section of our society.

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Another important feature of the Rajya Sabha is the election of members of the Rajya Sabha. While Lok Sabha members are elected directly by the people, the Rajya Sabha members are elected directly by the State's Legislative Assembly Members. Every Member of the Rajya Sabha is elected for six years and elections to one-third seats are held every two years. State Legislative Assembly Members vote in the Rajya Sabha election by the system of proportional representation with the single transferable vote and each vote is counted only once. In this election, members are free to vote for any candidate and this way they are not bound to vote as per the political party. The Members of State Legislatures are given a paper with names of all the candidates. They have to give their order of preference for each candidate, marking 1, 2, and 3, against their names.

The Lok Sabha decision may go in favour of a majority Government but the Rajya Sabha keeps a close watch over the bills by sending it to different Committees. The first Parliament session of the second term of the Modi Government witnessed the most productive Parliamentary session in six decades; passing not only important landmark bills like repealing article 370, Triple *Talaq*, Motor Vehicles Amendment Bill, but also created record for maximum number of Bills passed in the last few decades. The legislative business of the Rajya Sabha was 51 per cent as compared to the Lok Sabha figure of 46 per cent. A total of 38 bills were introduced in the Parliament and 30 Bills were passed by both the Houses.

The Rajya Sabha has played a key role in the last seven decades of the democratic process and it has developed a unique tradition of debating and understanding the issues at hand. In all these years the Rajya Sabha has proven to be a guardian of the nation and its citizens. It has become the torchbearer of the underprivileged and oppressed class. The marking of the 250<sup>th</sup> Session of the Rajya Sabha is an example of exemplary services delivered to the citizens. The Rajya Sabha is fulfilling the expectations and purpose envisioned by the founding fathers of our Constitution. It has acted as an observer and messenger of the people and States.



# SIGNIFICANCE OF RAJYA SABHA IN INDIAN PARLIAMENTARY DEMOCRACY

—Shri Dharmendra Pradhan\*

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*This is the Upper House. When great people move, others follow them... Whatever happens in this House (Rajya Sabha), its impact is felt in Lok Sabha, Assemblies and Municipal Corporations. So we should think how to create an atmosphere by which democracy can be strengthened.*

—Hon'ble Prime Minister Shri Narendra Modi

Rajya Sabha is envisaged as an avenue for contemplation, consideration and emendation on legislations passed by Lok Sabha or the Lower House. As we proudly commemorate the 250<sup>th</sup> Session of Rajya Sabha, I would take this opportunity to assert the significance of this prestigious establishment, especially for the young generation of this country.

Dr. Sarvepalli Radhakrishnan, speaking as the first chairman of Rajya Sabha, said:

There is a general impression that this House cannot make or unmake Governments and, therefore, it is a superfluous body. But there are functions, which a revising chamber can fulfill fruitfully. Parliament is not only a legislative but a deliberative body. So far as its deliberative functions are concerned, it will be open to us to make very valuable contributions, and it will depend on our work whether we justify this two chamber system, which is now an integral part of our Constitution.

Dr. Radhakrishnan's vision stands vindicated as we celebrate the exemplary contributions of the Upper House to public discourse of India over the past 67 years. The Rajya Sabha has not only provided much needed balance in our parliamentary democracy but has often taken the lead in decisions that have set precedents and had a torch bearing impact on the legislative front. A second House with indirectly elected members, as representatives of States, creates a

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\*Member of Rajya Sabha; Union Minister of Petroleum and Natural Gas and Union Minister of Steel.

space for deeper deliberations expanding the scope and ambit for diversification of opinion.

India is a country which not only preaches but also abides by the motto of 'unity in diversity'. Rajya Sabha has been granted the honour of not only representing States but also honouring this *mantra* which holds the fabric of the nation together. The political, cultural as well as geographical diversity of this House has, time and again, established values of egalitarianism and synergy for India's legislative vanguard.

As I write about Rajya Sabha and its Members here, I am swarmed with memories of Late Shri Arun Jaitley *ji* who inspired and mentored me throughout my political journey. Although I have utmost regard and respect for all my fellow parliamentarians from today and the yesteryears, I connected most with Jaitley *ji*, who was an icon for many like me. His extraordinary capability as the first Leader of Opposition in Rajya Sabha and his charming ability to strike an equilibrium as the Leader of Rajya Sabha has been unparalleled. This article is also my tribute to Late Shri Arun Jaitley *ji*, an exemplar parliamentarian who contributed much to the rich traditions of Indian parliamentary democracy and became a role model for many a Member of Parliament.

The beauty of Indian Parliament lies in the vision of Parliamentarians and its power lies in their enriching and strong debates. These debates, in which all perspectives are discussed and every nuance is put to light provide Members, like me, with immense learning opportunities. Year on year, the Parliament of India has witnessed various perspectives, which have always widened the nation's horizons, be it the party or alliance that dominates the House or those in the Opposition. Parliamentarians have gone beyond their political ideologies and have represented the views of India and fellow Indians. This enriching culture of debates has played a crucial role in terms of elevating our democracy and lending voice to issues concerning common citizens of India. These debates, bills and actions have always been the will of India.

Here, I would like to mention some landmark decisions that touched upon different facets of our democratic traditions. These decisions were debated extensively but passed ultimately with a faith in the larger benefit of the Indian society. For instance, if the Muslim Women (Protection of Rights on

Marriage) Bill, also known as Triple *Talaq* bill, was a big step towards bringing in social reform, the GST Bill and the Insolvency and Bankruptcy Code Bill brought about an economic transformation in the country. Abrogation of article 370 and Jammu and Kashmir Reorganisation Bill passed by this august House will go a long way in fostering national unity and bringing in more development to the region. These legislations and many more showcased our overarching belief in inclusivity and national welfare by accommodating diverse views and opinions of Rajya Sabha Members.

The importance of Rajya Sabha lies in the basic premise that for each Act which becomes a law in this country, this Upper House ensures that it does not miss out in hearing every single voice of representatives from all corners of this country. The grace of this House is to be undoubtedly attributed to the fact that it is beyond political fragmentation as it encapsulates in itself the geography and the diversity of India.

As I write today in honour of the 250<sup>th</sup> Session of this prestigious temple of democracy, I would like to congratulate my fellow parliamentarians and the people of India for believing in the vision of this Government led by Hon'ble Prime Minister Shri Narendra Modi. People of India are not content with incremental changes anymore and aspire for transformational changes. The Rajya Sabha, as an institution known for furthering India's democratic spirit and we, as parliamentarians, must reinvent ourselves to meet the growing aspirations of Indian citizens while upholding the highest standards of democracy.

# **RAJYA SABHA : HALLOWED HOUSE OF THE INDIAN PARLIAMENT**

**—Shri Pralhad Joshi\***

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The Council of States is also known as the Second Chamber, the Upper Chamber or the Revising Chamber. Most Parliaments of the world have bicameral legislatures. Rajya Sabha represents the federal character of the country. The system of bicameral legislature in India comprising of the Council of State and the Legislative Assembly was first set up in 1921 under the Government of India Act, 1919. The Government of India Act, 1935 retained the bicameral legislature.

The need for having a Second Chamber was deliberated in the Constituent Assembly. The overwhelming view in the Constituent Assembly was for having the Second Chamber. Being a federal Chamber, not subject to dissolution and tenure of six years of individual Member as compared to five years tenure of Lok Sabha Members, the Council of States can counter and check the headstrong force of the House of the People. Rajya Sabha introduces an element of sobriety and second thought. It holds dignified debates on important issues and legislations for a meaningful deliberation on the various aspects.

Rajya Sabha represents the federal character of India. It is the representative and protector of the interests of the States. Being a representative body of the States, the Constitution empowers Parliament, under article 249, to legislate on a matter appearing in the State List on which only State legislature can make laws, if a resolution is passed by the Rajya Sabha with not less than two-thirds of the Members present and voting. Further, as provided in article 312, if the Rajya Sabha passes a resolution supported by not less than two-thirds of the Members present and voting that it is necessary or expedient in the national interest to do so, Parliament may provide for the creation of one or more All India Services common to the Union and the States.

Rajya Sabha gives opportunity to people keenly interested in politics but reluctant to join the electoral fray and the provision for nomination of

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\* Union Minister of Parliamentary Affairs; Union Minister of Coal and Union Minister of Mines; Member of 14<sup>th</sup>, 15<sup>th</sup>, 16<sup>th</sup> and 17<sup>th</sup> Lok Sabha.

12 members having special knowledge or practical experience in the field of 'literature, science, art and social service' [article 80(3)] is intended to fulfill that objective. The Constitution, however, takes care to ensure that the budgetary proposals (Money/financial matters) of the Government are not delayed, vetoed or rejected by the Council of States. The Rajya Sabha is required to return to the Lok Sabha a Money Bill within 14 days of its presentation to the House failing which the Money Bill is deemed to be passed by both the Houses of Parliament as per article 109. All legislative proposals barring Money Bills have to be passed by both the Houses of Parliament.

In case of ordinary legislation if there is an impasse, and if the Government of the day feels such urgency, it may convene a Joint Sitting of the two Houses for passing the legislation. A Joint Sitting of the two Houses can be held in respect of Bills, under the provision of article 108, if after a Bill passed by one House and transmitted to the other House, is rejected by the other House; or the Houses have finally disagreed as to the amendments to be made in the Bill, or more than six months elapse from the date of its receipt by the other House without the Bill being passed by it. However, in the case of the Constitution Amendment Bills, the legislation has to be passed separately by both the Houses and as per the special majority required for different types of constitutional amendments.

Dr. S. Radhakrishnan, the then Chairman of Rajya Sabha observed that, "Parliament is not only a legislative but a deliberative body. So far as its deliberative functions are concerned, it will be open to us to make very valuable contributions, and it will depend on our work whether we justify this two Chamber system, which is now an integral part of our Constitution. So, it is a test to which we are submitted".

One of the objectives of setting up of a Second Chamber was to provide opportunity for representation of seasoned and eminent people and thus facilitate a higher standard of debate. Since its inception, the functioning of Rajya Sabha has been marked by dignity and remarkable sensitiveness to public opinion. It has succeeded in combining dignity with intense activity. This is facilitated by providing opportunities to persons having special knowledge and experience in various fields of activity, who have contributed towards nation-building and socio-economic reconstruction of the society. Many eminent persons from different walks of life have served as Members of Rajya Sabha. Among them, we find a galaxy of scholars, educationists, historians, scientists, artists, poets,

litterateurs, jurists, engineers, economists, administrators and social workers of outstanding eminence.<sup>1</sup>

A constitutional caravan that goes on continuously and ceaselessly unlike the other House, the Council has distinguished itself in India and in the world through its manifold activities. Its lively Question Hour, scintillating debates interspersed with wit and humour, serious discussions in the House on issues of national and international importance and the legislative initiatives taken by it within the parameters of its constitutional authority have all contributed in fashioning the position of Rajya Sabha as a hallowed House of the Indian Parliament. People cutting across social positions look up to this august body with admiration and fascination. Prominent personalities, despite their elevated status in our country always look forward to spending tenure in this Council not only to give a sense of fulfilment to themselves but also to be part of the mainstream of public life, which this Council so wonderfully represents. Our former Prime Minister Shri Atal Bihari Vajpayee had once said that the career of no public figure would be complete without a stint in the Council of States. People hold this House with great esteem and expect that its revered traditions are carried forward so that the momentum of democratic advancement of our country is further galvanized.<sup>2</sup>

I would like to conclude with a quote of 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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<sup>1</sup> Sixty Years of Rajya Sabha (1952-2012), Rajya Sabha Secretariat, 2012, p. 27.

<sup>2</sup> *Ibid*, pp. 32-33.

# **249<sup>TH</sup> SESSION OF THE RAJYA SABHA – A TEMPLATE FOR THE FUTURE**

**—Shri Hardeep Singh Puri\***

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The Rajya Sabha, also known as the Council of States, occupies a unique place in the functioning of India's parliamentary democracy. It is the conduit through which State level representatives participate in the central governance process, making the unhindered functioning of the Rajya Sabha an integral part of India's federal structure.

At the end of the 249<sup>th</sup> Session of the Rajya Sabha in August 2019, the Honourable Vice-President and Chairman, Rajya Sabha, Shri M. Venkaiah Naidu, detailed the progress made by the august House, in what became its most productive session in 17 years. Previously, as reported by the Honourable Vice-President, the House regularly lost nearly 40 per cent of its time to disruptions. This meant from 2014 to 2019, only 154 Bills were passed in the House. More worryingly, important legislative steps such as amending the Land Acquisition Act (passed by the Lok Sabha) had to be withdrawn due to partisan politicking.

In the first Session following the General Election of 2019, with 32 Bills passed in just 35 sittings, the House achieved a productivity rate of nearly 104.92 per cent, which was an improvement over 7.44 per cent to 65.60 per cent of productivity between the 244<sup>th</sup> to 248<sup>th</sup> Sessions. This trajectory constitutes a welcome change. All the more important, this change should not be a one-off occurrence. In line with the rise in productivity, Bills such as the Jammu and Kashmir Reorganisation Bill, 2019, the Airports Economic Regulatory Authority of India, AERA (Amendment) Bill-2019 and the Muslim Women (Protection of Rights on Marriage) Bill, 2019, were passed in the Rajya Sabha, showcasing the potential and strength of non-partisan functioning and its impact on economic transformation and social reform.

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\* Member of Rajya Sabha; Union Minister of State (Independent Charge) of the Ministry of Housing and Urban Affairs; Union Minister of State (Independent Charge) of the Ministry of Civil Aviation; and Union Minister of State in the Ministry of Commerce and Industry.

The procedural and electoral structure of the Rajya Sabha was designed with the purpose of encouraging serious, relevant and cerebral debate among legislators, away from the din of politics. Three features that affirm these values of the House are (i) an emphasis on non-partisan cooperation; (ii) representation of India's States; and (iii) nomination of members for exemplary achievements in public life.

First, the more cooperative nature of the Upper House emphasises the importance of tackling social, economic and national security concerns. This in turn can be facilitated through procedural provisions such as 'Special Mentions', which make it possible for a Member of the House to discuss any issue that has an impact on the country. In the first Session of the Rajya Sabha after the 2019 General Elections, a total of 194 'Special Mentions' or topics of concern were raised, surpassing the cumulative total of 145 for the previous five sessions of the House. This movement towards focusing on issues that require action and away from the political barriers created by affiliation to parties is a step in the right direction and should be conserved as well as promoted.

Second, the federal structure as mandated by the Indian Constitution is upheld and promoted by means of the Rajya Sabha. To gain a majority in the Rajya Sabha becomes just that much more difficult given the nature of its electoral process. The number of seats available from a State is directly proportional to the population residing in it. As a result, the Rajya Sabha is able to garner diversity amongst the seated. Furthermore, the procedural apparatus in place promotes discussion and inclusion of State perspectives to legislate on critical issues like agriculture, land revenue, and commerce and trade within a State. The 249<sup>th</sup> Session gave a fillip to State integration into the central policy making, as evident by the empowered status of State Governments in the newly formed National Medical Commission Bill; and the cancellation of the Postal Examination in Tamil Nadu. These instances reflect the culture of mutual understanding and accommodation practiced by the House.

Third, is the role of Members of the Rajya Sabha nominated by the President of India. Nominated individuals are recognized for their contribution in the area of arts, literature, science and social service. This crucial factor has helped enhance the outreach, capacity and accountability of the Rajya Sabha. The presence of such eminent individuals provide a much needed holistic perspective and expertise to the legislative arm. Adding to the diversity present in the Rajya



Sabha, there have been a total of 137 members nominated by the President since 1952. Some of the notable members include Mary Kom (Sportswoman, 2016-2022); Sonal Mansingh (Classical Dancer, 2018-2024); and Raghunath Mohapatra (Architect, 2018-2024).

The three paths discussed above are essential for a productive Rajya Sabha. As seen during the 249<sup>th</sup> Session, the focus of the House is shifting towards executing legislation that benefits different States as well as provide a platform to deliberate upon State specific issues and resolve them with minimum tardiness caused by political divides. The Session has also shown that State level representation at the Centre helps smoothen out the edges on national policies. These pathways are consequently going to be essential in not only laying the track for India towards its journey of becoming a US \$ 5 trillion economy, but also bring forth development across the board for all the States, in resonance with the Prime Minister Modi's motto of "*Sabka Saath, Sabka Vikas, Sabka Vishwas*".

# **RAJYA SABHA : ADVOCATING SOCIAL DEMOCRACY**

**—Shri Ramdas Athawale\***

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Parliamentary democracy, which is more popular but not really the best Government, is Government by discussion. In addition, it is a responsible Government. Rajya Sabha was created to serve as a check and balance on the directly elected Lok Sabha. Therefore, it has a great responsibility to perform this function of checks and balances and strengthen the parliamentary democracy in India.

When a Bill is passed by the Lok Sabha, it goes to the Rajya Sabha where the Bill is discussed further by a body of more experienced and matured members of the Rajya Sabha. Since the simplest definition of democracy is a Government by discussion, the Rajya Sabha plays a positive role in parliamentary democracy. In other words, an ordinary Bill cannot become a law unless it is also passed by the Rajya Sabha. However, many times, Members particularly from Opposition are discouraged to discuss issues at hand by shouting, heckling or talking over the speaker. This is not only against the dignity of the House but obstructs the very purpose of the existence of Rajya Sabha.

Dr. Ambedkar played a pivotal role in giving India parliamentary democracy as a mode of Government. Dr. Ambedkar's view about the need of a strong two party system in a parliamentary democracy synchronised with that of Rajaji looking to the older and more stable democracies in the West. In an essay written in August 1957, Shri C. Rajaji argued that a strong two party system was also needed in India. Dr. Ambedkar argued the same thing much before. Rule of a single party is fatal to a popular Government. In fact it is negation of a popular Government. A party is necessary to run the Government, but two parties are necessary to keep the Government from going to despotism. For a long time India looked at this important ingredient of parliamentary democracy.

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\* Member of Rajya Sabha; Union Minister of State in the Ministry of Social Justice and Empowerment; former Member, 12<sup>th</sup>, 13<sup>th</sup> and 14<sup>th</sup> Lok Sabha.

The general perception of the masses is that the moneyed and influential people like the Bollywood or cricket stars should play more proactive role in resolving issues faced by the people in an appropriate manner. In that way, their Membership of Rajya Sabha would strengthen parliamentary democracy, as democracy must combine the wisdom of the few with the responsibility of many, as believed by John Stuart Mill, well known British philosopher and political economist.

Since parliamentary democracy is better suited for nations that are ethnically, racially or ideologically divided, our founding fathers chose parliamentary democracy as a form of Government. Besides, it is less prone to authoritarian collapse, according to constitutional scholars such as Joanna Ling, Fred W. Riggs, Bruce Ackerman and Robert Dahl. The principles of parliamentary democracy may be violated when a Government enjoys a brute majority in the Parliament. This was pointed out by Dr. Ambedkar in his resignation letter as the Union Law Minister. Thus a more stable Government is more prone to misrule in a parliamentary democracy. To remedy this situation is beyond the scope of Rajya Sabha. This requires action by entire polity and Nation.

For successful working of a parliamentary democracy, it is, therefore, necessary to have a two party system and a broad measure of agreement among all classes of citizens about the objective of the Government. Rajya Sabha Members have to keep in mind the second objective, mentioned above, while deliberating and debating over a Bill. For the success of parliamentary democracy, it is essential that freedom is integrally combined with Social Justice. If Rajya Sabha follows this principle while conducting its business, it would help in the success of parliamentary democracy. The ultimate test of a successful parliamentary democracy would be whether it has fulfilled the aspirations of the people. Since Indian society still remains affected by hierarchy and inequality which are not compatible with aspirations of the Indian people, there is still a lot to be done by the Rajya Sabha to fulfill the aspirations of the people.

Independent thinking among citizens is an essence of democracy. Does Rajya Sabha encourage independent thinking by members who have to follow

party line? On any issue, loyalty to the leader becomes a party's core philosophy. Because of this, Samuel E. Bassey has recommended a "no-party parliamentary democracy".

In the light of David Beetham's discourse on relationship between democracy and human rights, democracy is ultimately related to human rights. That means more the protection of human rights greater is the success of democracy. In view of this, more emphasis on the protection of Human Rights in the course of discussion on violation of human rights in the Rajya Sabha is needed if democracy is to be strengthened in India. This is exactly what Dr. Ambedkar, an indefatigable and impassioned advocate of democracy, did as a Member of Rajya Sabha when he criticized the Nehru Government while commenting on socio-economic issues and untouchability in India .

Dr. Ambedkar's concern for socio-economic issues in India finds reflection in his definition of democracy. "Democracy is a form of Government, where by revolutionary changes in the economic and social life of the people are brought about without bloodshed". Dr. Ambedkar's other definition of democracy is "Democracy is primarily a mode of associated living". Thus, democracy is about how a citizen behaves with his fellow citizens in a society. He perceived that democracy is not only about accepting the majority view, but it is also about respecting the minority view. If these different socio- economic nuances in Dr. Ambedkar's definitions of democracy are observed by the Rajya Sabha in the conduct of its business, it would be a true tribute to parliamentary democracy in India.

Further, Dr. Ambedkar not only desired parliamentary democracy in India but also a reformed Parliament, responsible to the needs and aspirations of the common citizens.

Dr. Ambedkar's caveat to Indians was that unless social democracy is at the base of political democracy, democracy will not survive. How this can be achieved depends largely on the broad policy of the Government of the day rather than only on Rajya Sabha *per se*. Thus, the caveat is paramount, as the very survival of parliamentary democracy is dependent on it. This is why

Dr. Ambedkar like Justice Shri M.G. Ranade, emphasized social democracy along with political democracy.

Since the Rajya Sabha represents the interest of the States and Union Territories, it should play a better role in preserving the federal structure mandated by the Constitution. In conclusion, although it is a fact that India is a stable and the largest democracy, yet Alistair Macmillan calls Indian democracy a "deviant" democracy. Should Indians be complacent about the democratic deficits in Indian polity? The Question Hour is repeatedly hijacked, many Members of Parliament don't consider scrutiny of governance seriously, many Indians are still denied preambular promises, our representatives, instead of presenting our views in Parliament, represent the views that party wants and there is absence of political morality.

## **LESSONS FROM CHAMPARAN : RAJYA SABHA AND LEGISLATIVE SCRUTINY**

**—Shri Ghulam Nabi Azad\***

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It is a historic coincidence that when the 150<sup>th</sup> birth anniversary of Mahatma Gandhi, the father of our nation, is being commemorated we are also celebrating the 250<sup>th</sup> Session of the Rajya Sabha. It is extremely instructive and educative to recall the Champaran Satyagraha of 1917, the first Satyagraha launched by Gandhiji in India for the cause of farmers, who were forced to plant indigo in the most fertile portion of their cultivable land. That Satyagraha had a legislative dimension. It began when Gandhiji defied colonial law and pleaded guilty in the court that he had willfully breached the law because he was attuned to the higher law of conscience, and submitted to the penalty of disobedience. The colonial authorities, including the judiciary, were stunned by Gandhiji's courage in violating an unjust law and submitting himself to penalty of disobedience. Eventually all the cases against him were dropped by the colonial authorities and he was allowed to investigate the exploitation of the farmers through a process of consultation and engagement with all stakeholders - farmers, British planters, colonial bureaucracy and the police. Such engagement and consultation led to preparation of a report which led the British Government to frame a legislation titled 'Champaran Agrarian Bill.' When that legislation was introduced in the Bihar-Orissa Legislative Assembly, the Members of that House demanded that it should be referred to its Select Committee for examination and report. The British Government readily agreed and it was sent to the Select Committee which examined it and submitted its report to the House. Meanwhile, the British Government also sent a copy of that Bill to Mahatma Gandhi so that he could study its provisions and recommend his suggestions for improving its contents. Gandhiji examined all its clauses and submitted his detailed suggestions to fine tune it. The British Government accepted most of his suggestions and incorporated them in the Bill. That was how Gandhiji scrutinized the Champaran Agrarian Bill, which was enacted in 1918 by incorporating his suggestions, and that law eventually abolished the centuries old exploitative practice of forcing farmers to plant indigo.

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Thus, more than a hundred years back Mahatma Gandhi was asked to examine a legislation proposed by the British Government and he pointed out its flaws and suggested remedial measures which were incorporated in the final legislation. It is tragic that hundred and two years after the Champaran Satyagraha, the culture of scrutiny and examination of a legislation associated with the life and work of Mahatma Gandhi is not being observed. When we are celebrating his 150<sup>th</sup> birth anniversary as also the 250<sup>th</sup> Session of the Rajya Sabha let us ask if we are living up to the culture of scrutiny and examination of legislations in the twenty-first century in India. If the British Government was amenable to the suggestion of the Members of the Bihar-Orissa legislature to send a draft Bill to a Select Committee of the House, then why is the Government of India unwilling, after more than seven decades of our independence, to subject legislative proposals to detailed scrutiny of legislatures on a bipartisan basis?

I wish that the celebration to mark the 250<sup>th</sup> Session of the Rajya Sabha would have been the celebration of thorough scrutiny and examination of the functioning of the Government and its legislative proposals on the floor of the House and its Committees. Such a celebration would have been a fitting tribute to the Father of our Nation and to the vision and legislative intent of the Constituent Assembly, which set up the Rajya Sabha, the Council of States, to not only frame laws, hold the Government to account and deliberate on the issues affecting the people and the nation but also to engage itself in deeply studying, analysing and critically evaluating the legislations before they are passed by the House.

While the celebration of the 250<sup>th</sup> Session of the Rajya Sabha is a joyous occasion representing a major landmark in the evolution of our Parliament, it sadly reminds us of the worrisome and unpromising trend to deny the opportunities to Rajya Sabha to closely study and assess legislations and recommend necessary changes and amendments, which are very important for improving the contents of law framed by the Parliament.

The Rajya Sabha is also called the Second Chamber, First Chamber being the Lok Sabha, representing the supreme will of the people. The foundational proposition governing the establishment of the Second Chamber is that it acts as a revising chamber and engages itself in revisiting the legislations which might have been passed in haste by the other House. Rajya Sabha deserves

adequate opportunities to examine legislations so as to discharge its seminal role as the ‘revising chamber’ of our Parliament.

In the House of Lords of the British Parliament it is said that scrutiny of legislation by the House of Lords can be characterised as an exercise in “quality control”. What is valid for the House of Lords is more valid for the Rajya Sabha. In the absence of scrutiny of legislation by the Rajya Sabha, the quality of legislation suffers. Not referring of the Bills to the Department-related Parliamentary Standing Committees or the Select Committee of the Rajya Sabha for examination and scrutiny may result in inferior quality of laws. It, therefore, does not serve the cause of democracy.

Law making is a deliberative, collective and consultative process. In the process of deliberation and consultation, legislations are assessed and their contents are fine-tuned. All these are indispensable components of good governance. In fact, the report of the British Parliament on ‘Modernization of the House of Commons’, very appropriately observed that better scrutiny leads to better governance. By employing the same logic one can safely state that avoiding the scrutiny of legislations in the Parliament does not serve the cause of good governance.

In the 249<sup>th</sup> Session of the Rajya Sabha, some of the opposition parties fervently appealed to the Government to get some of its Bills, examined by the Select Committees of the House. Dr. Ambedkar who had said in the Constituent Assembly that Parliament belongs to the Opposition. Not subjecting the Bills to scrutiny and examination, would amount to giving a go-by to the vision of Dr. Ambedkar. The Opposition would like the Government to refer more and more Bills to the Committees for scrutiny.

When Mr. Shivraj Patil was the Speaker of Lok Sabha and I was the Minister for Parliamentary Affairs, on his initiative we took a decision to introduce the Department-related Parliamentary Standing Committee system. Hence as Minister for Parliamentary Affairs, I took this proposal to the Cabinet which was unanimously passed in 1993. Since then these Committees heralded a new era for scrutiny and examination of Government policies as also legislations. A convention was established to send all the major Bills to these Committees for examination and report. These Committees, which functioned on bipartisan basis, generated reports and recommendations beyond party considerations and



ideologies. Such healthy parliamentary traditions and conventions need to be enriched and deepened. It was Mahatma Gandhi who had said in 1917 that India was fighting for Parliamentary *Swaraj*. After 73 years of our independence, the Parliamentary *Swaraj* is in danger.

On 13<sup>th</sup> December 1946, the Constituent Assembly took up the Objectives Resolution for discussion. It was apprehended by some Members of the Assembly that brute majority might be employed to push through some amendments. Dr. Ambedkar cautioned against it and said:

It may be that you have the right to do so. The question I am asking is this. Is it prudent for you to do so? Is it wise for you to do so? Power is one thing; wisdom is quite a different thing and I want this House to consider this matter from the point of view, not of what authority is vested in this Constituent Assembly, I want this House to consider the matter from another point of view, namely, whether it would be wise, whether it would be statesmanlike, whether it would be prudent to do so at this stage.

It is hoped that on the occasion of the 250<sup>th</sup> Session of the Rajya Sabha, power would be exercised with prudence and in a statesmanlike manner. It would mean that the wisdom of deep consultation and engagement with all sides of the House would be exercised in the making of law. Only in tempering power with prudence and wisdom, can the Government of the day ensure the legitimate role and functioning of Parliament in our body polity, based on adequate scrutiny and examination of the work of the Government and the numerous legislations it introduces in the highest legislature of our country.

## **RAJYA SABHA : PILLAR OF FEDERALISM**

**—Dr. Najma Heptulla\***

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Rajya Sabha was modelled along the lines of the House of Lords, the Second Chamber in the Westminster System but not exactly so in composition and functioning. The House of Lords has only Members who are nominated by virtue of their Lordship and hereditary Lordship. The House of Lords in England, therefore, is not federal in character. In India, the Rajya Sabha follows a federal system. Rajya Sabha is also known as the Council of States comprised of representatives from the States on the basis of indirect election through proportionate representation depending on population. They look at the entire State as their area of interest. On the other hand, the Lok Sabha is composed of representatives elected from specific constituencies in the State and their area of interest also remaining limited, focused mostly on their constituencies.

I have spent 36 years in the Rajya Sabha, out of which 17 years were as Deputy Chairman. My overall experience has been very enriching and rewarding. There were debates of standard on various issues. The members were at loggerheads on many issues along party lines and there were difficult moments like the spirited discussion on Bofors. Slogan shouting and division of the House happened every so often. Serious arguments took place but once over, the Members crossed the well and mixed freely forgetting the heated arguments. Members would voice their concern and commitments on the floor and once done with, would sit on the same bench and discuss with unabashed camaraderie. While serving in the Rajya Sabha, I also noticed that Members deliberated on important issues of States cutting across the party lines or geographical boundaries. A case in point was the issue of Cauvery water sharing. The discussion on Cauvery threw up a division not on party lines but a division State-wise. This is the beauty of our Indian democracy.

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\* Hon'ble Governor of Manipur; former Deputy Chairman, Rajya Sabha; former Member of Rajya Sabha for six terms; former Union Minister of Minority Affairs, May 2014 - August 2016.

Many a time, people feel that Rajya Sabha is not important as it has no significant role to play. Nothing could be more wrong. The Rajya Sabha plays the sterling role of reviewing every resolution that has been debated/ voted in the Lok Sabha. It gives a considered opinion regarding every legislation. Every legislation even the Constitutional Amendment has to be debated and voted by Rajya Sabha. So, the Members have their own opinion as far as the various issues placed before it are concerned. Some call it 'House of Elders' not because of the age of the Members of Parliament but as the senior House in the sense, where debates and discussions are more sober and keeping in view its effect on the States. Some people have even coined the moniker 'Raja Sabha' but it is truly 'Rajya Sabha' in a federal system. The key word is co-operative federalism and it strengthens the fabric of Indian democracy despite diversity of caste, creed, religion or language. In respect of budgetary matters, the Rajya Sabha holds discussion and gives views which may or may not be accepted by the Lok Sabha. If the Rajya Sabha had the authority to vote on the budget, it would have created bottlenecks for the ruling dispensation many a time. During my time in Rajya Sabha, I had seen that the ruling party never had a majority and if there was an irresponsible Opposition, it could have blocked the passing of budget and the country would have landed in the unsavoury situation of facing a financial crisis. The way the Rajya Sabha is elected, one-third of the Rajya Sabha Members retire every two years and so, the structure of Rajya Sabha keeps changing as far as the representation of various political parties is concerned, depending on the States from where the Members of Parliament are elected.

I presided over the Rajya Sabha as Deputy Chairperson for almost 17 prolific years. One discussion on the floor, which left a deep mark on me was that related to the Constitutional Amendment for 33 per cent women reservation. There was a long and exhaustive debate when the Bill was introduced in the House, evenly balanced between those for and against the amendment. The Bill was finally put to vote at midnight and it was defeated by a single vote. I felt very sad and disappointed as it would have been a landmark legislation for the cause of women. I came back to my Chamber and almost cried with helplessness. I called some senior Members to my Chamber and expressed my unhappiness saying that they could have defeated any other Bill but not this one. But I also knew in my heart that they were not happy with the defeat of the Bill and they

did it only to impress the Government. I called Shri Rajiv Gandhi and expressed my sentiment on the failure to pass the Bill. He consoled me not to worry as the Amendment Bill would be passed later on. The failure of the House to pass the legislation, however, remained as one of the saddest memories with me.

The Rajya Sabha had its lighter moments and laughter too though most of the time sober, sometimes with very fierce debates. Once there was a debate about which language should get priority – Hindi or English. A Member from the South was taking up the cause for English while a very senior Member from Bihar was opposing him in favour of Hindi. I noticed that both of them were speaking in English. I pointed out to the Hon'ble Member from Bihar that if he took up the issue of Hindi, at least he should speak in Hindi. He then immediately switched over to Hindi language.

One thing which was noticeable those days pertained to the House running much longer. We used to have sittings late into the night. Nowadays, the House generally adjourns at 5 or 5.30 p.m. I remember on many occasions, I went home at midnight. One particular incident stands out where Shri Buta Singh who was a Minister had to make a Statement in the Rajya Sabha at late night but the Opposition Members objected to making the Statement. When I noticed that it would be difficult for Shri Buta Singh to make the Statement, I asked him to lay his Statement on the Table of the House. It would have been sufficient for him to say 'Madam, I lay my Statement on the Table of the House'. But he literally came to the Table to lay the Statement. Opposition Members snatched his Statement and tore it into pieces. I immediately adjourned the House and went to my Chamber. Shri Buta Singh had a great sense of humour. When I told him that actual laying on the Table of the House was not required, he laughed aloud and pointed at the clock. It was 12 o'clock midnight. I reciprocated his humour and light heartedly asked him if it happened in the night also.

I learnt a lot because I used to sit for long hours and listened to the debates. There were learned Members who spoke on important issues. Bhupesh Gupta, Kalyan Roy, Piloo Mody were some of them. When these erudite Members spoke, Members from the Lok Sabha even joined us to listen. There are 12 nominated members in Rajya Sabha who excel in their different fields such as

arts, education, sports etc. We had film personalities, musicians, scientists amongst them. Lata Mangeskar, M.F. Hussain, Ravi Shanker, R.K. Narayanan, Salim Ali, Dilip Kumar were some of them. They might not have spoken regularly in the House but whatever they spoke brought expertise and enriched the House. Thus, the Rajya Sabha plays a multifarious role in the Indian Parliamentary system of democracy. The House of Elders is an invaluable institution and it contributes towards social change and economic transformation, legislative scrutiny, strengthening federalism while also debating issues of specific concern to the States and other public issues.

# THE ROLE OF RAJYA SABHA IN STRENGTHENING INDIAN FEDERALISM

—Shri Sharad Pawar\*

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*That's not an Assembly, where there are no elder men,  
Those are not elders, who do not speak with righteousness,  
That's no righteousness where there is no truth,  
That's not the truth which leads one to deceit.*

—Mahabharata

The history of bicameralism in India can be traced back to the Government of India Act, 1919, which is also known as Montague-Chelmsford Reforms. This Act came into effect on 23 December 1919 and contained, among other things, the provision for a Second Chamber. It is interesting to note that the leaders of our freedom movement opposed the provision vehemently; however, after having been able to achieve freedom from the British Rule, the same leaders fought a pitched battle to have a Second Chamber. The rationale for having a Second Chamber for our Parliament and its role in our national body politic has not been congenial and smooth, but rather vexed in the history of democratic governance of India.

Extensive debate and discussion took place in the Constituent Assembly regarding the need for a Second Chamber in Independent India. Views and opinions were sharply divided. The protagonists of the Second Chamber stressed that having a Second Chamber is essential as a safeguard against the tyranny of the Lok Sabha, while the critics dismissed it as undemocratic, superfluous and subversive. Opposing a motion to abolish the Rajya Sabha in the Constituent Assembly, Naziruddin Ahmed from West Bengal argued, “We have to consider the entry of the States into the federation and Second Chamber would be an absolute necessity without which it would be difficult to fit in the representatives

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\* Member of Rajya Sabha; Leader of Nationalist Congress Party (NCP) in Rajya Sabha; former Union Minister; former Member, 8<sup>th</sup>, 10<sup>th</sup>, 11<sup>th</sup>, 12<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup> and 15<sup>th</sup> Lok Sabha; former Chief Minister, Maharashtra.

of the States in the scheme of things.” But K. T. Shah was very poignant in his criticism to the necessity of a Second Chamber and termed it as unrepresentative and a burden on the State exchequer. Emphasizing that neither House of the Indian Parliament was superior to the other and that each House has to perform the specific functions allotted to it by the Constitution, Nehru observed: “to call either of these Houses an Upper House or a Lower House is not correct. Each House has full authority to regulate its own procedure within the limits of the Constitution. Neither House, by itself, constitutes Parliament. It is the two Houses together that are the Parliament of India. There can be no constitutional differences between the two Houses because the final authority is the Constitution itself”. Nevertheless, irrespective of the merits and demerits of a Second Chamber, the fact remains that now we have a Second Chamber for our Parliament as Rajya Sabha.

Ultimately, it was decided to have a bicameral legislature because a federal system was considered to be most feasible form of Government for such a vast country with immense diversities. A single directly elected House, in fact, was considered inadequate to meet the challenges before free India. The idea of having a Second Chamber for the Parliament stands justified for several reasons. For instance, a Second Chamber provides an opportunity for a second look and scrutiny of legislations that may be the result of purely political compulsions of the ruling party, opens new area of people’s aspirations, presents opportunity for better scrutiny, can have discussions on wide ranging public issues, which may have been overlooked in the Lok Sabha. But the most important aspect is that in a federation like India, a Second Chamber is able and entitled to provide representation to the component units *i.e.* States. It would not be an exaggeration to say that the Second Chamber, in fact, is the guardian of the interests of the States in Indian federal system. Most of the justifications for a Second Chamber are relevant in the case of Indian Second Chamber as well. The vast diversities of languages, cultures, perceptions and interests in India necessitated an institutional structure for reflecting pluralism. Those diversities have been best accommodated through the Second Chamber. Its nomenclature as the ‘Council of States’ rather than the ‘Senate’ appropriately justifies its federal importance. It can be said in the most unambiguous terms that Rajya Sabha represents the federal character and ethos of India. The federal ethos of India has unfolded itself

over the years after the Constitution was adopted. We know that there were very strong centralizing tendencies in the Constitution but then came a period when the States and their rights came to the fore. Reorganization of Indian States on linguistic basis had to be conceded and the idea of small States had to be accepted despite political misgivings, apprehensions and reservations.

If we look at the roles played by the Rajya Sabha in the near past, we observe that it has proved its utility beyond any doubt. The conclusion of the Budget Session of Parliament led to the lapsing of certain contentious Bills such as the Citizenship (Amendment) Bill, 2016 and the so called ‘Triple *Talaq*’ Bill. While the former sought to make it easier for non-Muslim persecuted minorities from certain neighbouring countries to apply for citizenship, the latter criminalised the practice of instant divorce amongst Muslims. Both Bills had been passed by the Lok Sabha, which is the directly elected House of People, but were pending before the indirectly elected Rajya Sabha, or Council of States (elected by Members of State Legislative Assemblies). Bills that are pending in the Rajya Sabha which have been passed by the Lok Sabha lapse upon the dissolution of the latter. Since the term of the 16<sup>th</sup> Lok Sabha ended in May 2019, these Bills effectively lapsed. That Bills passed in the Lok Sabha lapsed during their pendency in the Council of States is indicative of the fact that the Upper House acts as a safety valve of the federal fabric of our country.

The Lok Sabha is often characterised as an embodiment of the will of the people, as against the indirectly elected Rajya Sabha – which has been criticised as an impediment to the democratic expression. Some of these arguments can be found in the Constituent Assembly debates as well, and post-independence, there have been multiple Resolutions and Private Member Bills moved in Lok Sabha seeking to abolish Rajya Sabha altogether. This view, however, proceeds from a skewed understanding of the Constitution, which attempts to maintain a fine balance between elected majorities in the Lower House and federal interests through proportional representation in the Upper House.

The design of the Constitution contains many instances where a balance is sought to be struck between equally significant, but often competing values. While some of these design elements are apparent in the text itself, almost



70 years of constitutional practice has brought certain structural features to the fore. The Rajya Sabha is one example of such a structural design choice. From the discussions in the Constituent Assembly, it emerges that Rajya Sabha was intended to play certain roles as a permanent house (one-third of its Members retire every two years). These included providing a forum for more experienced legislators, reconsidering Bills passed by Lok Sabha and offering a degree of continuity in the underlying policies of laws passed by the Parliament. Most importantly, however, it was conceived as a means to institutionalise the federal principle of power-sharing between the Centre and States.

As explained by Dr. B.R. Ambedkar in the Constituent Assembly, a federation envisages a dual polity or two levels of government. The government at the Centre and at the States are co-equal, in the sense that they derive their legitimacy and authority from a common source – the Constitution itself. The Upper House in Parliament, fashioned as a Council of States, can be understood as an institutional arrangement through which constituent units become part of the decision-making process at the Central level itself.

The Rajya Sabha thus represents a crucial component of the constitutional checks and balances scheme, in addition to the commonly identified examples of responsible government and judicial review. While checks and balances usually operate between the executive, legislature and judiciary, the Council of States acts as a safety valve within the legislature itself, easing federal tensions. Comparatively, the Rajya Sabha is more analogous to the Upper Houses of the American and Australian legislatures, since these are federal countries. In fact, these countries institutionalise the principle of federalism more strongly than India, by providing equal representation to all States in their Upper Houses. This is in contrast with the Rajya Sabha, where States are represented proportional to their relative populations.

Until the State Legislative Assembly elections of 1967, the Congress was the singular dominant force in Indian politics – both at the Centre and the State levels. However, this changed with the emergence of regional parties, which formed Governments in several States including Kerala, erstwhile Madras and West Bengal. For the first time, opposition parties had significant representation in the Upper House. This trend has continued ever since.

An example of how Rajya Sabha has operated as a safety valve can be illustrated by the fate of a Local Self-government Bill passed by Rajiv Gandhi government in the Lok Sabha in 1989. It was defeated in the Rajya Sabha due to the fact that the Opposition (non-Congress) parties in the Upper House saw it as an attempt to create a direct connection between the Central and Local Governments by bypassing the State Governments. Leaving aside the question of whether or not this particular intervention was desirable (the 73<sup>rd</sup> and 74<sup>th</sup> amendments gave constitutional recognition to local self-government in the 1990s), the incident highlights how the Upper House can operate as an effective tool for articulating the State interests at the heart of central decision-making.

The Citizenship (Amendment) Bill, for instance, was widely condemned by political parties in the North-east, and the possibility of it passing through Parliament had sparked protests across the region. Concerns surrounding the grant of citizenship to refugees touched upon core issues of safeguarding local identities and maintaining the delicate demographic balance in the area with a long history of violence and insurgency. Even the local units of the ruling party at the Centre had protested against the Bill, underlining the deeply divisive nature of the proposal. While it was perhaps possible that, even if it is passed, the law may have been subjected to judicial review, it is significant that it did not reach that stage at all. Instead, a checks and balances role was played within Parliament itself, through the Upper House. This demonstrates the accuracy of the following observation made in the Punchhi Commission Report (2010): “the principle of equality and equal representation in institutions of governance is as much relevant to States as to individuals in a multi-party diverse polity”.

The former President of India, Mr. V.V. Giri rightly said that “as a federal chamber in the developing federal structure of our country, Rajya Sabha has a greater role to play in the future. From the rich diversity of representative opinion we have here, from the daily dialogues we will be having on matters of moment, will, I am sure, emerge a greater unity, a more lasting national consensus”. Another significant role of the Rajya Sabha was guided by the need for giving a representation to the States in the federal legislature. Rajya Sabha is a federal chamber where the representatives of each State are elected by the elected members of the Legislative Assembly of the State.

As a federal chamber, it has been assigned some special powers, impacting the federal interests. The Rajya Sabha being the representative forum

of the States, endeavours to remain ever concerned and sensitive to the aspirations of the States. In the process, it strengthens the country's federal fabric and promotes national interests. As a chamber for ventilating public grievances, Rajya Sabha is the reflecting surface of the problems faced by different States. Its Members, being the representatives of States, articulate the concerns of respective States and their people. It has, through well established procedural devices such as Questions, Calling Attention, Special Mentions, Short Duration Discussion, Half-an-Hour Discussion, Motions, Resolutions, etc., raised issues of public importance, focused attention on matters affecting policies of the Government and provided a forum for ventilation of public grievances. Through these devices, it has managed not only to elicit information but also put pressure on the Government to re-orient its policies for serving larger public interests.

The very composition of Rajya Sabha reflects the federal nature of our polity. The strength of the Rajya Sabha has been fixed at the maximum of 250 members – two hundred and thirty-eight members from the States and Union Territories and twelve members having special knowledge or practical experience in literature, science, art and social service to be nominated by the President. This arrangement makes our Parliament more inclusive and federalism more robust. The representatives of the States are elected by the elected members of State Assemblies in accordance with the system of proportional representation by means of the single transferable vote. The representatives of the Union Territories in Rajya Sabha are chosen in accordance with law enacted by the Parliament. At present, two Union Territories, namely, the National Capital Territory of Delhi and Puducherry are represented in Rajya Sabha. Unlike the Lok Sabha, the Rajya Sabha is a permanent body and is not subject to dissolution, but one-third of its members retire every two years and their place is taken by new members.

The Constitution vests some special powers in Rajya Sabha to exercise its federal mandate as it represents the States and Union Territories in the Parliament. Such special powers lend credence to its status as an Upper House *vis-à-vis* the Lok Sabha. As a federal chamber, it can initiate Central intervention in the State legislative field. Article 249 of the Constitution provides that the Rajya Sabha may pass resolution, by a majority of not less than two-thirds of the Members present and voting, to the effect that it is necessary or expedient in the national interest that Parliament should make laws with respect to any matter

enumerated in the State List. If such a resolution is adopted, Parliament will be authorised, to make laws on the subject specified in the resolution, for the whole or any part of the territory of India. Such a resolution will remain in force for such period, not exceeding one year, as may be specified therein, but this period can be extended by one year at a time by passing further resolution.

Another exclusive power of the Rajya Sabha is contained in article 312 of the Constitution wherein if the 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 will have the power to create such services by law. The importance of the Rajya Sabha as a federal safety valve – a carefully framed constitutional design choice – thus cannot be overstated. Being a former member of this House, I further visualize a greater role for Rajya Sabha in making the Indian Federalism stronger and more resilient.

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# **RAJYA SABHA : EFFECTIVE SECOND CHAMBER IN LAW MAKING PROCESS**

**—Shri Anand Sharma\***

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India has the pride of being the largest democracy in the world. It is important to remember that it was a conscious choice made by the leaders of India's freedom struggle, in particular, Mahatma Gandhi, Jawaharlal Nehru, Sardar Patel and others to make free India a Parliamentary democracy, with a principle of universal suffrage. The right to vote granted to all citizens – men and women, without any discrimination of religion, caste or status was perhaps the most empowering tool that the Constitution gave to the people of free India.

Democracy was a commitment given by the leaders of the national movement. The quest had begun in right earnest in 1929 with the declaration of “*Poorna Swaraj*” at the Lahore Session of Indian National Congress presided by Jawaharlal Nehru. That was reaffirmed in subsequent years. Leaders of the national movement, dedicated to free India from the yoke of colonialism, centuries of subjugation and bondage, were firm and clear in their resolve. They deliberated upon the structure of the Government and the architecture of a democracy, that will ensure that it is both inclusive and representative of the composition and complexities of our country that was rich in its diversity – multi-religious and multi-lingual spread from the Himalayas to the Indian Ocean.

This found expression in the deliberations of the Constituent Assembly and its recommendations making India a Parliamentary Democracy and a Republic. It was not only political freedom but also equality, justice – social and economic, and the empowerment of people, who for long, were oppressed and exploited. These ideals found expression in the Objective Resolution moved by Pandit Jawaharlal Nehru in the Constituent Assembly on 13 December 1946 and is now firmly inscribed in the Preamble of India's Constitution.

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\*Member of Rajya Sabha (4<sup>th</sup> term); Deputy Leader of Indian National Congress in Rajya Sabha; Chairman, Department-related Parliamentary Standing Committee on Home Affairs; former Union Minister.

India chose a bicameral legislature. The Parliament consists of the Lok Sabha – House of the People and the Council of States – Rajya Sabha. A bicameral legislature was envisaged during the days of the freedom struggle when attempts were made to set-up the Second Chamber. It was in 1928 that a Committee chaired by Motilal Nehru, gave the first outline of the future Constitution of India. It recommended the adoption of Parliamentary Democracy and sharply focused attention on the necessity of a bicameral legislature in India.

The Constituent Assembly seriously deliberated upon this concept. It established a Committee called the “Union Constitution Committee” under the chairmanship of Jawaharlal Nehru, to submit a report on the structure and functioning of Indian Parliament. It was this Committee which discussed the question in detail and not the Constituent Assembly as a whole which dealt with this question.

It is important to recall the words of Gopalaswami Ayyangar who had advanced three reasons in support of bicameralism viz. “it will (a) hold dignified debates; (b) delay legislation which might be the outcome of passions of the moment; and (c) provide opportunity to the seasoned people who might not be in the thickest of political fray but who might be willing to participate in the debates with the amount of learning and importance which we do not ordinarily associate with the House of the People.”

It needs to be mentioned that when British Parliament passed the “Union of India Act”, creating the dominions of India and Pakistan, there were 565 Princely States. It had created the instrument of accession for lawful merger of the Princely States with either of the two dominions.

India, therefore, is a Union of States with a federal character. Each constituent State has its own distinct identity and equal constitutional rights. Dr. B.R. Ambedkar, the Chairman of the Drafting Committee of the Constitution had clarified in the Constituent Assembly about the role of the Council of States acknowledging that “...*ex hypothesi*” it represented the States. The Council representing the units of federation, in fact, also represented in a more fundamental and deeper sense the unity of our country as expressed through its

many States and diversities of cultures, religions, languages and customs. In fact, the establishment of the Council of States and its functioning for the last five decades must be seen in a much more broader and deeper context than is usually understood.\*

The Rajya Sabha, therefore, can be seen as representing the unity of India and its rich diversities. Both the Houses together constitute the Parliament and have equal powers in law making and constitutional amendments except the money bills where the powers are vested in the Lok Sabha. As Jawaharlal Nehru emphasised “neither House of the Indian Parliament was superior to the other and that each House had to perform the specific functions allotted to it by the Constitution. To call either of these Houses an Upper House or a Lower House is not correct. Each House has full authority to regulate its own procedure within the limits of the Constitution. Neither House, by itself, constitutes Parliament. It is the two Houses together that are the Parliament of India... There can be no constitutional differences between the two Houses because the final authority is the Constitution itself. The Constitution treats the two Houses equally except in financial matters which are to be the sole purview of the House of the People. In regard to what these are, the Speaker is the final authority.”

He had also emphasised that the “harmonious working of the two Houses was a *sine qua non* for the success of Parliamentary Democracy in India and that any lack of understanding or cooperation between them would lead to difficulties and would come in the way of the smooth functioning of the Constitution.”

Besides the enactment of laws, the Parliament plays an important role in keeping an effective check on the Executive and ensuring the accountability of the Government to the people as is required in a democracy through their elected representatives.

As the Rajya Sabha meets for the 250<sup>th</sup> Session, the commemorative volume provides an opportunity to analyse the functioning of the House in a

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\* Fifty years of Rajya Sabha (1952-2002), Rajya Sabha Secretariat, p. 3.

broader context and its acknowledged contribution in protecting the rights of the States and strengthening the Constitutional structure of Indian Democracy. Over the years, it has ensured that the social objectives of the Constitution are achieved through enactment of laws which are passed. The Rajya Sabha has acted as an effective check in the law making process ensuring legislative scrutiny that has assured that the enactment of laws is not flawed or trapped in haste or determined by strong majority of the Government in the Lok Sabha.

People and communities are directly affected by the laws passed by the Parliament. It is therefore an imperative that the process is both inclusive and consultative. The Rajya Sabha has ensured this by referring 21 important bills passed by the Lok Sabha to a Select Committee of the Rajya Sabha and another 45 bills that were introduced in the Rajya Sabha, and were referred to the Joint Committee of both the Houses for legislative scrutiny and stakeholders' consultations.

The people of India are, therefore, assured that their voice and suggestions matter in the making of the laws and get reflected in the report and recommendations of the Joint Committees or the Select Committee of the Rajya Sabha. This improves the original drafts of the Bills and endeavours to address the concerns of the people and the society.

The Parliament is the highest forum of deliberation, discussion and debate in our Democracy. Many a times over the decades, the Rajya Sabha has risen to the occasion through illuminating and educative debates on matters of national and global importance.

In its 67 years, the Rajya Sabha has made a notable and historic contribution which is universally lauded in securing the rights of the States and the people of India thereby strengthening the national unity. The 250<sup>th</sup> Session is the occasion to rededicate ourselves to preserve the pristine glory of this august House and to defend the foundational values of India's Constitution.



# **RAJYA SABHA : SAFEGUARDING THE FEDERAL SPIRIT**

**-Shri Digvijaya Singh\***

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## ***India: An audacious Experiment in Self Governance***

For the longest time human societies have aspired towards and experimented with democratic forms of governing their polities with differing degrees of success. The 250<sup>th</sup> Session of the Rajya Sabha presents an opportune moment to reflect upon the seven decades of our experiments with parliamentary democracy and the role that the Rajya Sabha has played in it. 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.

## ***The Idea of the Rajya Sabha***

In line with this view to nurture diversity and deliberation within the polity, the idea of the Second Chamber or the Rajya Sabha was mooted in the

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\* Member of Rajya Sabha; former Member, 8<sup>th</sup> and 10<sup>th</sup> Lok Sabha; former Chief Minister of Madhya Pradesh.

Constituent Assembly. 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.

In the Indian context, the Rajya Sabha was to perform three major functions. Firstly, it would provide a space for reasoned and rational deliberation away from the intemperate pulls of the Lok Sabha. Lokanath Mishra, described it as: “a sobering House, a reviewing House, a House standing for quality ... the Members will be exercising their right to be heard on the merits of what they say, for their sobriety and knowledge of special problems; quantity, that is, their number, is not much of moment.”

Jawaharlal Nehru made a similar argument in favour of the Rajya Sabha, calling it a necessary precaution, given the existence of communal feelings in India. Secondly, borrowing from the American experience, Rajya Sabha was envisaged as a House that would perform the function of checks and balances; and hold the Government of the day accountable. Thirdly, and most importantly, it was to act as a side which reflects the federal ethos of India. In the words of L.M. Singhvi:

It should be the grand inquest of the nation, reflecting the diversities of languages, of culture, perception and diversities of interest. It should be the House of wisdom and understanding.

### *Attempts at Safeguarding the Federal Spirit*

In 1946, India was envisaged as a classical federal polity in the Objectives Resolution; however, in the aftermath of partition, the Kashmir imbroglio, the secessionist threats in the North-East and the intransigence displayed by the Princely States – we developed a federal structure with a decided bias towards the **Centre**. This was seen to be essential to safeguard the social and political unity of the nation.

In this context, the Rajya Sabha's role assumed greater importance. As a result, unlike the US or the UK, representation in Rajya Sabha was made

incumbent upon State legislatures. This enabled the States to have a substantial influence on the entire process of sending representatives to the Rajya Sabha. Furthermore, in keeping with the federal ethos, the Representation of the People Act, 1951 mandated that in order for a person to qualify as a representative in the Rajya Sabha, he or she should be an elector from a Parliamentary constituency from that very State or Union Territory.

However, this principle was diluted at the altar of political exigencies and many members from across parties were sent to the Rajya Sabha who did not necessarily represent the interests of the State which they formally represented. In 2003, the criterion of mandatory State domicile was done away with altogether. As a result, the House failed in its objective of reflecting the nation through the States as "a differentiated whole."

Apart from this, the pernicious effects of big money and the rise of the politics of communal majoritarianism have harmed our democracy in general; and by extension, the Rajya Sabha as well. While money power has allowed the rich to buy access to the House, thereby, decreasing its esteem in the eyes of the public; communal majoritarianism has defiled our democracy and hollowed it out from within.

### ***In Lieu of a Conclusion***

Tony Benn, the famous Labour Parliamentarian of Britain, once said:

Every generation has to fight the same battles as their ancestors had to fight, again and again, for there is no final victory and no final defeat.

As we reflect on our parliamentary democracy and the role of Rajya Sabha, we will do well to pay heed to his wise words. Maybe, now seven decades down the line, a more confident India can perhaps think of reworking our federal design to devolve more powers to the States? The idea of increasing the representation of smaller States in the Rajya Sabha can be mooted? Influence of money power in our political process needs to be addressed urgently in order to replenish the faith of the common public in our institutions including the Rajya Sabha. But most importantly, we must fight the evil of communal

majoritarianism, for it threatens to fundamentally alter the nature of our democracy and give it a majoritarian character.

Our founding fathers always envisaged democracy as rule by consent and deliberation and not merely rule of the majority. That was the primary reason they decided in favour of the Rajya Sabha and made it a permanent body to check the potential excesses of the Lok Sabha. They knew that if democracy was to be safeguarded, it must ensure a space where rational deliberation triumphs over emotion and the nation's majority is forced into a dialogue with its diversity.

Let us vow to uphold the principles of our founding fathers and the federal spirit of our Constitution.

## MY REMINISCENCES OF RAJYA SABHA

—Shri Vaiko\*

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I had been a Member of the Rajya Sabha, from 1978 to 1996 and now I have been elected again in 2019, thanks to Kalaigñar Karunanidhi and Thalapathi Stalin. In addition, I had been a Member of the Lok Sabha twice in 1989 and 1999. The membership that I had in both the Houses has provided me with enormous experience; and therefore I can articulate on “the role of Rajya Sabha in the parliamentary system” with profound conviction.

My long tenure of eighteen years in the Rajya Sabha has given me an opportunity to meet, listen, interact, and learn from exceptionally brilliant parliamentarians, like Bhupesh Gupta, Atal Bihari Vajpayee, Murasoli Maran, Era Sezhiyan, M. Kalyanasundaram, P. Ramamoorthy, N. G. Ranga and Piloo Mody to name a few for which I will ever remain thankful to the Rajya Sabha.

The ready alertness of Bhupesh Gupta during discussions and debates, the versatility of Atal Bihari Vajpayee, the erudition of my mentor, Murasoli Maran, the scholarship of Era Sezhiyan, the satire, wit and humour of Piloo Mody, the ardent championing of agriculturists and their problems by N.G. Ranga, and bringing to the forefront the problems of the workers and labour class by Communist Leaders had a lasting impact on me in my early days in Rajya Sabha.

The debates and interventions by the above-mentioned and other stalwarts — a galaxy of scholars, educationists, historians, scientists, artists, poets, litterateurs, jurists, engineers, social workers — with which Rajya Sabha was replete, added lustre to the contents of the debates and deliberations in the Rajya Sabha from which I learnt a lot.

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\* Member of Rajya Sabha (4<sup>th</sup> term); Leader of Marumalarchi Dravida Munetra Kazhagam (MDMK) in Rajya Sabha; former Member, 12<sup>th</sup> and 13<sup>th</sup> Lok Sabha.

It is a matter of pride that it is from Rajya Sabha, the intellectual treasure house, emerged eminent Prime Ministers of this great nation - Smt. Indira Gandhi, Shri H. D. Deve Gowda, Shri I. K. Gujral and Shri Manmohan Singh.

Though the role of Rajya Sabha is limited in financial matters, it has produced brilliant Finance Ministers. Shri Pranab Mukherjee, Shri S.B. Chavan, Shri N.D. Tiwari, Shri V.P. Singh, Dr. Manmohan Singh, Shri Yashwant Sinha were all from Rajya Sabha.

Many a time, questions have been raised about the need of a star studded Rajya Sabha in our parliamentary structure. Several people have denounced it in their writings and wished that it might be done away with as it performs little in the act of governance, it does not have a decisive role in Money Bills etc. They further insinuate that this Chamber is a distant cousin of Anglo Saxon times and an off-spring of Montague-Chelmsford Act of 1919 with little relevance in free India. In fact, on several occasions Private Members have brought Bills (1971, 1972, 1975, and 1981) and Resolutions (1954 and 1973) in Lok Sabha to abolish the Rajya Sabha, but legislators in Lok Sabha have in their infinite and abundant wisdom trashed such attempts.

It should be remembered that Rajya Sabha is a permanent body, unlike the Lok Sabha which has a five year term; and it has representatives of States and Union Territories and also has persons from the fields of culture, literature, art, science etc as nominated Members. It effectively projects the federal character of our Constitution.

The Rajya Sabha also functions as an instrument to check and balance effectively whenever controversial Bills are pushed through Lok Sabha in haste. Such deadlocks have however been solved by joint sitting of both the Houses which indicate that the Rajya Sabha, though it is a Second Chamber is not necessarily a secondary house.

The Rajya Sabha has performed the role of a revisory chamber - not only has it defeated few Bills but it has also amended the clauses of many Bills which have been agreed to by the Lok Sabha. It has gone a step further in introducing

amendments to the Constitution. The Forty-fourth Amendment Act of 1978 is an example.

Hailing from South India, I have to briefly mention important politicians associated with Rajya Sabha. They are Arignar Anna and Dr. Sarvepalli Radhakrishnan, who was the philosopher Chairman of Rajya Sabha.

Arignar Anna, the founder of DMK, in his maiden speech in Rajya Sabha said, "I claim that I belong to the Dravidian stock. I am proud to call myself a Dravidian. This does not mean that I am against a Bengali, or a Maharashtrian or a Gujarati... We need self determination." He shook the Rajya Sabha, out of its wit, by this separatist assertion forcing even mild Atalji to answer in chaste Hindi. Though Arignar Anna, in the wake of Chinese aggression suspended this separatist call, with a nationalist spirit, he diplomatically stated the reasons for the call subsists and continues.

Speaking to Members of the Council of States in May 1952, Dr. Radhakrishnan said:

There is an impression that the House cannot make or unmake Governments and therefore it is a superfluous body. Parliament is not only a legislative body but also a deliberative body. It will depend on our work whether we justify this two chamber system. It is a test to us. We are for the first time starting under the parliamentary system with a Second Chamber in the centre. And we should do everything in our power to justify to the public that a second chamber is essential to prevent hasty legislation.

I had also initiated a Private Member Bill demanding deletion of section 5(1) d of Indian Telegraphic Act which empowers the Government to intercept communication in the interest of national security. Though the Bill had not resulted in the abrogation of the Section, it has placed considerable restrictions on authorities who covertly intercept anyone's communication and my Bill was applauded by Justice Krishna Iyer and A.G. Noorani.

Taking the cue, the DMK, especially my mentor, Murasoli Maran got on heels of the Justice Rajamannar Committee on Centre and State relations. It may

not be hyperbole if one has to assert that the separatist call in the sixties by Arignar Anna is the keg that ignited the Government at the Centre to think of Sarkaria Commission on Centre-State relations. Arignar Anna's assertion has indeed paved the way, giving a clarion call to keep the torch of federalism lit in order to strengthen the foundation of democracy.

Speaking of experiences in Rajya Sabha, revered Atal Bihari Vajpayee once said, "the career of no public figure would be complete without a stint in the Council of States." When I recall this, I feel how fortunate I am, a person from remote corner of Tamil Nadu — to breathe the intellectual air for eighteen years at a stretch and now once again.



# THE UPPER HOUSE AS GUARDIAN OF FEDERALISM, CONSCIENCE KEEPER OF PARLIAMENT

—Dr. Abhishek Manu Singhvi\*

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I have always been mystified and deeply saddened by the casual (and clearly uninformed) comments from diverse quarters regarding the superfluity of an Upper House, the supposed dictatorship of the unelected, the so-called Salisbury doctrine, the treatment of an Upper House concept as a subsidiary adjunct to the Lower House or as a necessary and unavoidable evil. Fortunately, both in conception and in operational reality, the Indian Upper House (Rajya Sabha) has always been the gold standard to prove the invalidity and unsustainability of such baseless criticism.

## **Federalism**

The fundamental constitutional concerns of our founding fathers' regarding conception, form, content and nature of Indian democracy (and of the Indian polity) would be betrayed if the federal principle was cast aside, ignored or diluted. It is one of the most lasting and fulsome compliments to the wisdom and sagacity of our founders, nay to their commitment to basic principles, that despite serious and legitimate apprehensions arising from mankind's biggest (and one of its bloodiest) migrations, leading to understandable fears about fissiparous tendencies of a young and emerging Republic on planet earth's most diverse spot, they nevertheless rejected a unitary constitutional model and designed a constitution with significant federal principles. Ignoring the prophets of doom who raised the ghosts of communalism, divided sovereignties, lack of focus and consequent political, legal and economic chaos, our founders, nevertheless remained steadfast and created one of the most sophisticated models with three lists of legislative powers and a complex system of checks and balances between Central and State governing entities.

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\* Member of Rajya Sabha (Third term); National Spokesperson of the Congress Party; Former Chairman, Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice; Former Additional Solicitor General of India; and Senior Advocate, Supreme Court of India.

It is, of course, true that constitutional India was not preceded by independent States who ceded sovereignty to create a new Union (the ‘true federal model’ as the USA) nor a 100% centrist nation (as in the UK or several European nations, reflecting very ‘limited’, federal features if any). India has adopted Aristotle’s dictum, which says that ‘virtue almost always lies in the middle (mean) between two extremes, each of which is a vice’. However, given the recent and fearsome experience of partition, while starting with a greater federal intention, the Constituent Assembly did end up diluting many federal principles (e.g. insertion of Article 356; the takeover of even List 2-State List of the 7<sup>th</sup> Schedule in certain emergency situations etc.), but still created, at least in theory, a “quasi-federal” structure, so described by the Australian jurist Kenneth Wheare, by which he intended to say that ‘it was a federal constitution, heavily biased in favour of unitary features or, conversely, a unitary constitution with some ( not enough) federal features’.

It is another (and fascinating) story, which I have had the privilege of recounting elsewhere, that though originally designed as a quasi-federal constitution, the Indian Constitution has in operational reality become a much more federal creature, thereby rightly described by some eminent commentators as an India having achieved “inadvertent” or “unintended” federalism. Since the Upper House in India symbolizes this federal spirit, it would be apposite to examine a little more closely the contours of this concept of federalism.

In a positive sense, federalism is necessary for managing diversities. It is a fundamental and inalienable component of shared and participatory democracy. Just as fundamental rights represent the bulwark of individual rights against both state transgression as also majority oppression, federalism provides a shared identity without which governance—legislative, executive, administrative or fiscal—becomes monopolistic and unilateral. Federalism operates as a safety valve for dissent, discomfort, and dissatisfaction. It channels these three D’s into relatively far more manageable outlets of constitutional structures, whether they are provincial legislatures, district level autonomous councils or local self-government models like Panchayati Raj. Commentators have therefore rightly concluded that Indian federalism, even though quasi-federal in

conception, has effectively quarantined conflicts within States or sub-state units and thus successfully prevented a national conflagration.

Statistical studies of fiscal federalism have shown that better governance, more efficient delivery mechanisms and enhanced responsiveness, apart from a heightened sense of shared responsibility, are present much more in federal systems in comparison to other systems. No country seeking to give itself a new constitution can afford to ignore or jettison the federal principle. Indeed if federalism did not exist, contemporary conflicts and historical aspirations would necessitate its invention.

The story of how this quasi-federal Indian entity has over the last almost 75 years of independence become increasingly more federal, considerably more decentralised, and progressively less “quasi-federal”, is both fascinating and in many ways, reflected in the character and functioning of the Rajya Sabha. Experts have identified six “federating” influences which have led to this “inadvertent” and unintended federalism. Most of them have a connection and resonance with India’s Upper House, validating the most important *raison d’etre* for its existence.

### **Linguistic Federalism**

The first liberalising influence on the Indian Constitution’s relatively more unitary structure was the reorganisation of several Indian states along linguistic lines between 1953 and 1956. Ultimately, after a fair amount of chaos and disorder, the three-language formula, entrenched later by a legislative amendment to the Official Languages Act in 1967, put a quietus on a fractious issue and has withstood the test of time, happily consigning the language riots of the 1960s to the dustbin of history.

Linguistic federalism has resonated throughout in the Rajya Sabha. The debates about the forcible imposition of a single national language started in the Rajya Sabha. The House has witnessed some of the best speeches and solutions on the matter and also saw the balancing of diverse stakeholders within the three prongs of the three-language formula. Even today, more than the Lower House,

speeches in regional languages showing the pride in the vernacular of the State and the colourful display of diverse attires representing the different regions of India during oath-taking, is a simple example of Rajya Sabha's commitment towards upholding the federal principle.

### **Judicial Review of Article 356 Excursions**

The second diluting effect on the excessively unitary structure of the Indian Constitution has been the vigorous judicial activism by the Indian judiciary, especially regarding the incursions into State autonomy by use (or misuse) of article 356. From the State of Rajasthan (1977) to S.R. Bommai (1994) to the Bihar dissolution case, (Rameshwar Prasad 2006), to the Uttarakhand, Arunachal and Karnataka orders/ judgments of the Indian Apex Court and High Courts, the judiciary has become a zealous watchdog of State autonomy, Central intrusion and violation of constitutional letter and spirit. Not only is the use of emergency power to dismiss a State Government fully subjected to judicial review but also the last two mentioned judgments and others have frequently declared the actual exercise of such powers to be unconstitutional and recognised the right to consequential orders restoring *status quo ante*. Through such activism, courts have slowly nudged the imposition of President's Rule into a highly infrequent occurrence, albeit nowhere near Ambedkar's hope of being a "rarest of rare occurrence". Such judicial review has undoubtedly acted at least as a partial brake on the hasty or irresponsible abuse of discretion in imposing the President's Rule.

In all these cases, the apex Court has acted as a pillar of the federal principle. Its most vital contribution in this sphere has undoubtedly been the recognition, as far back as the Rajasthan case (1977), and many times thereafter, that federalism and the federal character of India is part of the basic structure of the Constitution, thereby rendering the latter unamendable and non-deletable.

Here also the Rajya Sabha has played a pivotal role in checking executive excesses or majoritarian fiat, frequently exercised by the Government through the Lower House. Article 356(3) of the Constitution renders any proclamation under article 356 inoperative after two months, unless approved by resolutions of both Houses of Parliament. Historically, the Rajya Sabha has, at

different times, acted as a legitimate brake against routine and automatic continuance of such powers. On such issues, the most vigorous opposition seeking to protect State autonomy has invariably emerged from the Upper House, underlining its identity as a true “Council of States”.

### **Panchayati Raj & Local Self Government**

The third significant federating influence upon the Indian Constitution over the last, nearly 75 years is the creation, operationalisation and imbibing of the culture of local self-government, including municipal self-administration. The Indian irony - some would rightly call it tragedy — was that although Panchayati Raj had been an integral part of rural India and although panchayats had played a key role for centuries in maintaining social order in Indian villages, the institution had virtually died during centuries of colonial rule and existed only on paper in an anaemic condition till the late Rajiv Gandhi decided to revitalise, reinvigorate, and reinstall ancient India's established forms of self-governance. He not only personally set up a high powered apex Committee for the revitalisation of Panchayati Raj but zealously followed up its recommendations to ensure their implementation. His untiring commitment to the cause had led to the enactment of the 73<sup>rd</sup> and 74<sup>th</sup> Constitution (Amendment) Act in 1992, respectively for rural and urban areas.

Despite its many imperfections, the result of this constitutional impulse has been electrifying. India has approximately 2,50,000 elected panchayats involving around 3 million elected representatives *i.e.* more than the population of countries like Qatar and Mongolia. Within the relatively short span of the last decade, over 1.4 million (approx.) women have secured elected positions in the panchayat. Scheduled Castes and Scheduled Tribes which had experienced participatory democracy only in name or on paper or inside mega government reports have found real empowerment and real grassroots participation in the decision making.

As the Minister for Panchayati Raj (a new ministry created after the 1992 constitutional amendment) put it evocatively “This is truly devolution of three F’s-Functions, Functionaries, and Finances to achieve three E’s-Empowerment, Entitlement, and Enrichment (of rural poor)”.

The Rajya Sabha has played the role of nudging periodically for a progressive increase in the list of subjects that should be entrusted to Panchayati Raj institutions by the State legislature, which list, generally speaking, remains woefully inadequate. The Upper House should do more in this regard since the Eleventh Schedule to the Constitution (relating to Panchayats) lists only 29 subjects which may be entrusted by the State legislature whereas the Twelfth Schedule (relating to urban local bodies) lists 18 such subjects. Not only is the scope and size of the subjects allotted are limited but the entrustment of these subjects to the panchayat or municipalities by the State legislature are also permissive and dependent on the absolute discretion of the State legislature. This has rightly been described as a continuing “culture of centrality” and “an inverted pyramid”.

Unless the Rajya Sabha exerts more in this direction, Justice Sarkaria’s description of the dilemma of Indian federalism as “blood pressure at the Centre with anaemia at the periphery” may acquire increasing validity.

### **Regionalism & Regional Parties**

The fourth significant federating influence reflected most vividly in the Rajya Sabha is one of the most oft-criticised factors of Indian politics - regionalism and the unchecked proliferation of countless regional parties. No doubt, more than 50 state recognised political parties and around 2300 odd small and regional parties (as per 2019 elections) with only eight national parties, leads to a degree of cacophony and chaos which Indians frequently feel they can do without.

Yet interestingly, this very proliferation has promoted the federal spirit deeply and significantly. If federalism is an euphemism for managing diversities, regional parties have done it admirably. They have become vehicles for the expression of regional identity. They have acted as shock absorbers for regional frustration and they have transmitted regional aspirations through themselves at the national level. This mere transmission, even in cases where no solution of individual issues is achieved, has acted as a significant safety valve. The presence of these regional parties, even in minute numbers in the national Parliament or in the central cabinet has fulfilled long-suppressed regional

aspirations in more ways than those residing in large cities can imagine. In an insightful article, Nirja Jayal has rightly said, “These federalism effects can qualitatively be described as inadvertent or unintended federalism because this was not legislated or created by constitutional design.” In the ultimate analysis, the intersection of federalism and democracy reflects the ideal paradigm of inclusive democracy. The severe condemnation of regionalism by general Indian civil society often ignores or gives misleadingly little weight to this pluralistic inclusive paradigm of participatory democracy which has evolved as the unintended consequence of regionalism.

The nation's search for uniformity, stability, single identity and less diverse political paradigms at an intuitive or psychological level is understandable. But, a closer second look would show that regionalism and regional parties, in a country which may rightly be called the world's most diverse spot, cannot be underestimated. Indeed, this seeming chaos and bewildering multiplicity may well be India's strongest bulwark against dictatorship and a *sine qua non* for a vibrant and vigorous democracy. In all of this, the Rajya Sabha as the principal representative of this diversity and regionalism plays a pivotal and organic role.

### **Economic Reforms**

The fifth significantly federating influence in India has been the economic reforms of 1991 followed by consequential second and third-generation reforms. The reforms have led to the inevitable loosening of straight-jacketed central control over State-level decision making with significant licensing, tariff and manufacturing liberalisation at the central level. Over the last thirty years, States have far greater autonomy and control over the formulation and even more so, over the implementation of economic and industrial policy. This increased autonomy and economic empowerment of States has seen corresponding aggressive assertion from regional quarters in the Upper House in raising State-level public interest issues.

### **Fiscal Federalism**

The sixth area with significant improvement on the federalism front in India has been the area of fiscal devolution. For some years now, unlike the

previous regulatory regime, all revenues of the Union government are now divisible (Article 270 deals with sharing of tax revenue). Over 30% of the tax revenues are, in fact, transferred from the Centre to the States. Adding to this approximately 13% of Central grants transfer (see Article 275) yields a total of 42-43% of central money being transferred to the States. Though not the 50% demanded by the States, this is a respectable enough figure.

An inevitable consequence of regionalism and the birth of regional political parties have been the “stepmother syndrome”. Within a fragmented political environment, frequently having rival political groups in power at the Centre and at the States, allegations of discriminatory treatment are easy to make both in respect of alleged arbitrary lower allocation of planned funds by the Planning Commission as also allegedly lesser transfers under Central schemes. Nevertheless, fiscal federalism has to find a new non-discriminatory equilibrium amidst the new phenomenon of rival political parties enjoying power at the Centre and at the States.

As with economic liberalisation, fiscal federalism has made India’s Upper House more assertive, more federal, more diverse, and more ready to engage with or oppose inroads into the federal spirit.

The aforesaid six federating principles are the spinal bedrock of the Rajya Sabha’s identity and the very rationale for its existence. As the degree, nature, direction and momentum of such federating influences increase over time, I do not doubt that India’s Upper House will radiate even a greater glow and effulgence than before.

Although emanating from distinct quarters, the reference to doctrines like the “Salisbury Doctrine” is not only inapposite but fundamentally misplaced. The Salisbury doctrine owes its origin to the British constitutional convention under which the House of Lords will not oppose the second or third reading of any government legislation promised in its election manifesto. It would be absurd to apply such a principle to the Indian context. It would mean that any party forming the government, whether through an absolute majority or through a coalition, would be able to get through any legislation without opposition from the Upper House in the name of manifesto implementation. Governed as India is



by one of the most detailed constitutional texts in the world, this would be a dangerous distortion of our Constitution and an implied rewriting of it if provisos and caveats are grafted into it, which are not found in the Constitutional text and which our founding fathers, with wisdom far transcending transient majorities, chose to eschew.

To give a striking example, Article 109 of the Indian Constitution already provides a special procedure in respect of money bills and in particular, does not allow its origination in the Upper House; it merely allows the Upper House to return the Bill to the Lower House with its recommendations within fourteen days; it provides for its deeming passage despite non-agreement by the Upper House and imparts (in Article 110) a certain degree of finality regarding what is a Money Bill by clarifying that “the decision of the Speaker of the House of the People thereon shall be final” (Article 110(3)).

To expand and to insert (that too by implication) principles like the Salisbury doctrine on to such a precise constitutional text is worse than driving a square peg into a round hole (or *vice-versa*) and throwing the Indian polity and constitutional jurisprudence on to the choppy and uncharted seas of vague subjectivity based upon manifesto rhetoric. It should also not be forgotten that even the aforesaid precision of article 109 and 110 of the Indian Constitution has led to serious charges of erroneous exercise of discretion by mis-characterising non-money bills as Money Bills to evade and avoid Rajya Sabha scrutiny, with petitions on this subject already pending in the Apex Court. Indeed, although a dissent, there is already a detailed judgment by Justice Chandrachud holding that the characterisation of the **Aadhaar** act as a Money Bill was a fraud on power, not protected by the purported conclusivity clause in article 110(3) of the Indian Constitution (para 117, page 179).

No one can grudge any political party for its glorious victory twice in a row in becoming the ruling party in Government in India since 2014 and, even more creditably, with an enhanced majority. Just as there can be no grudging acceptance of this by the Opposition, the ruling dispensation also has to stop seeing the dissent and dissonance in India's Upper House from the Opposition quarters as obstruction and *malafide* resistance. Both the ruling and opposition

regimes should, in fact, celebrate the availability of a countervailing viewpoint in the Rajya Sabha which should be seen as a friend, philosopher and guide to the sometimes errant majority of the Lower House. If this perspective is understood and this viewpoint is absorbed, India's Rajya Sabha will be seen for truly what it is: a vital conscience keeper of Parliament, a necessary sounding board for democracy and an inbuilt balancer of angularities emanating from the Lower House where majority considerations will necessarily continue to play a predominant role, sometimes good and sometimes not so good.

In the end, let me say that having enjoyed the vibrancy and camaraderie, the joy and spirit, the thrust and parry of the Rajya Sabha for almost fourteen years, I hope and trust that the true role of the Rajya Sabha in Indian parliamentary democracy as envisioned by me herein shall be fully realised in letter and spirit, sooner rather than later.

# PARLIAMENT MUST OVERSEE GOVERNMENT AND ENSURE GOOD GOVERNANCE

—Shri Rajeev Chandrasekhar\*

न सा सभा यत्र न सन्ति वृद्धा,  
वृद्धा न ते यो न वदन्ति धर्मत्र  
धर्मः स नो यत्र न सत्यमस्ति,  
सत्यं न तद्यच्छलमभ्युपैति ।

—Udyoga Parva, Mahabharata

*That is not an assembly where wise old men are not there. They are not wise old men who do not preach dharma. That is not dharma where there is no Truth. That is not Truth which is covered over with deceit.*

It is indisputable that the Indian Parliamentary democracy has been a success and a beacon to countries and people all over the world over the last seven decades. The will of the people has prevailed for all these seven decades in electing and choosing the ones to lead and govern them.

However, equally indisputable is the reality that several times over the last seven decades, politics in general and Parliament in particular has not delivered on expectations of our people. It is only in recent years, that a revival of the spirit and commitment to serve our nation has been seen in the hallowed corridors of our Parliament.

As Members of Parliament, it should be our endeavor to build on this newly energized sense of service and Governance – and to make our citizens true believers and participants in the vision for a New India – where prosperity for all is not merely a political slogan but a real outcome of Good Governance.

We all know Parliament has two very important functions. Firstly, to deliberate and legislate, and secondly, to ensure oversight of the executive, and

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\* Member of Rajya Sabha.

its accountability and transparency in Governance. The current debate about the relevance of Rajya Sabha is an important one. India definitely needs a strong Council of States, perhaps even more so today, when there is so much attention being paid to the principle of cooperative federalism. The Rajya Sabha is part of the institutional architecture of Indian federalism but that shouldn't stop us from debating its reforms.

### **Rethinking the role of Rajya Sabha**

There are two issues that are important here. First, should the Rajya Sabha have a *veto* over the Lok Sabha on issues, especially when the Lok Sabha represents the present-day popular mandate of the people and the Rajya Sabha reflects either a mandate of the States or at the very least a lag mandate. This is an important issue, especially when the popular mandate for change and transformation can sometimes get tripped by the Rajya Sabha – a process that can then seem like going against the popular will of the people.

The structure of the Rajya Sabha was meant to give some stability to polity, but the experience of recent years shows that the lack of alignment between the two Houses of Parliament is merely an opportunity for the Opposition parties of the day to block the Government. But how to get a House of States to reflect the most recent political preferences of Indians is a tough problem, given that elections are not held at the same time across India and that political mandates in the Centre and the States could be very different (even when elections are held simultaneously). This is not just an academic dichotomy. This is a real issue that needs to be debated and perhaps a new role and powers for the Rajya Sabha evolved.

### **Perception of Parliament in the public mind**

Parliament ideally is a deliberative body where all the considerations relevant to legislation are aired and discussed and outcomes reflect the weight of the stronger arguments. However, the perception of Parliament in the public mind is essentially a site for adversarial combat rather than of deliberative clarity. It is for this reason, that disruptive adjournments have become main tools of parliamentary opposition rather than reasoned argument.

In May 2012, when Parliament celebrated its 60<sup>th</sup> anniversary I had suggested a solution to this. This perception of Parliament in the minds of the people can be changed if we can have a few Special Sessions of Parliament every year that are dedicated to deliberations on issues of national priority that are bipartisan in nature – security, poverty, institutional performance – and where Parliamentarians are seen being earnestly involved in discussing solutions to some of these common challenges. Such Sessions will serve to get the attention of the media and the people of India to focus on the real challenges facing us and reassure them that we are sincerely engaged in this process of finding solutions and a way.

The current form of oversight through Parliament and Standing Committees should be given more respect and space. Let Standing Committee reports and deliberations be made available to the public as written or video transcripts. That will give people confidence that Parliament is indeed playing a role in keeping Governments honest and accountable.

**Technology is the way to empower the citizen and transform Parliament for the future**

I had the opportunity to represent the Indian Delegation at the IPU World e-Parliament conference held at Geneva in 2018.

We all know that technology, especially the internet, is a major force that is changing everything and turning every model, known and unknown, on its head. At a basic level, it is connecting the average citizen to information and data and empowering him/her in an unprecedented way – in both good and bad ways. This puts all institutions, particularly the Parliament and the parliamentary representatives, under pressure to change and adapt to constantly changing technology.

Seventy years since its independence India has emerged as the world's largest and most successful democracy. It is not only a vibrant democracy but is also one of the leading hubs for technological innovation, research and development. So, it's inevitable that we use technology to further transform legislatures and make them more effective, responsive, transparent and accountable.

We must bypass the temptation to make this transformation a debate only about what the latest cutting-edge technology is and rather focus on the outcomes in terms of:

- (i) Increased efficiency, capacity and capability for MPs – in responding to citizens, legislation and executive oversight,
- (ii) Increased participation of the citizens, and;
- (iii) Increased trust, transparency, responsiveness of Parliament as an institution.

To make Parliament an effective institution to deliver good governance, we must focus on the following:

- (1) First, enabling representatives and citizens – making the public representative an agent of technology and innovation rather than conforming to the conventional image of the public representative as a laggard in innovation. That approach starts with every public representative being technology-enabled with tools and training. Digitally enabling Parliament is only fully effective if citizens are also online. So, while India is one of the world's largest connected countries, ironically it still has one of the largest unconnected citizenry.

In the last five years or so, we have rapidly grown to about 400 million internet-connected citizens, and hopefully by 2022, which would be our 75<sup>th</sup> Independence year, we will have close to a billion Indians connected to the internet and, therefore, connected to their representative, government and legislature – seeking out information, services and accountability.

- (2) So, flowing from that, transforming the connect between representative and constituents and creating visibility and reporting of a MP's work in Parliament has become the second part of our strategy. Every Member has a portal with all their Work updated, for his or her constituents to see and critique. This has a major impact on quality of

debates and interventions and indeed in the interaction between constituents and the parliamentarian.

(3) The third goal is of Parliament as an institution. The cynicism about politics and Parliaments among the youth is a global problem and indeed a big risk as future generations are increasingly tuning out of democracy and politics and more so for us because of our unique and large youth demographic. Getting them to believe and trust politics and Parliament is important for our democracy.

We have already created parliamentary portals and search engines that have digitized the archives and current work of Parliament and parliamentarians – and made them easily accessible. The future would be to include public e-consultation of legislations directly through the Parliament portal and platform and thereby address the issue of representation and participation. We must take these portals and platforms out to the youth in a way that they tune into politics and find Parliament an institution they can relate to.

(4) The fourth goal is Parliament as an institution for oversight of the executive where Parliamentary Questions (PQs) are being digitized and made available. In a country where legislatures – Centre and State – have to deliver important goals on poverty, security and other social services – debates and oversights that are based on data and facts are very important to review the performance of the executive. While Budget documents and other financial data are already on online databases, we must also publish data online regarding the spending and performance of social security programmes.

One example of Technology is a net-enabled Geographic Information System (GIS), which provides up-to-date information about important projects funded and spearheaded by the executive. This enables MPs to sharpen their oversight roles.

In the future, we should enable Parliament platform gatewaying and interfacing with the MyGov governance platform, which is the way technology can be embedded and can transform decades-old way of governance in India.

The Narendra Modi Government believes technology is the way to empower the citizen and transform Parliament and democracy for the future. It's not a choice but an absolute need to remain relevant. Parliament must also embrace and realize this. All parliamentarians should support each other for this transformation of our parliamentary institutions by digitally enabling them. This digital enabling once successful, can set an example for the two other tiers of our democracy – State legislatures and legislators and city/ village councils and councillors – that is over 700,000 mini and micro legislatures with elected representatives.

My entry into politics was neither by design nor planned. But being an MP has been honour and privilege, coming as it does with the opportunity to serve and impact peoples and communities' lives positively. It is this spirit of transformation and change that Parliament was meant to deliver and I hope will deliver in the coming years and decades to the people of our great country.



# LET US SAFEGUARD THE SACRED ROLE OF RAJYA SABHA

—Shri T.K. Rangarajan\*

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I am glad that I am part of this august House when it celebrates its 250<sup>th</sup> Session. Since I joined the Rajya Sabha in April 2008 till now I enjoyed every moment of its proceedings. It is this journey that has prompted me to write a few lines about the House that I have enjoyed for the past eleven and half years.

It was on 13 May 1952, the first Session of Rajya Sabha was held and it was presided over by the eminent philosopher Dr. Sarvepalli Radhakrishnan. He observed:

We are for the first time starting, under the new parliamentary system, with a Second Chamber in the Centre, and we should try to do everything in our power to justify to the public of this country that a Second Chamber is essential to prevent hasty legislation. We should discuss with dispassion and detachment proposals put before us.

Sixty-seven years have passed since the start of the Second Chamber and we have to introspect whether we have proved our worth to what our predecessors have said.

It will be worthwhile to go through the observation of Shri N. Gopalaswami Ayyangar, a member of the Constituent Assembly who championed for the establishment of Second Chamber. He said :

What we really achieve by the existence of this Second Chamber is only an instrument by which we delay action which might be hastily conceived and we also give an opportunity, perhaps to seasoned people who may not be in the thickest of political fray, but who might be willing to participate in the debate with an amount of learning and importance which we do not ordinarily associate with a House of People.

The above observation of Shri N. Gopalaswami Ayyangar in fact sets the standard for discussion in the Rajya Sabha; it has to be in-depth discussion,

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\* Member of Rajya Sabha; Member, Nominated to the Panel of Vice-Chairmen since October 2017; Leader of CPI (M) in Rajya Sabha.

mature, sober and in the interest of the country and its people. Considering what is happening in the Rajya Sabha, we are far away from the vision of our predecessors. The challenge before every one of us is whether we are prepared to move forward to fulfill their expectations by our conduct.

### **Standing Committees**

Parliament has structured a method for an in-depth study of the Bills - the examination and scrutiny of the Bills by the Standing Committees before they are passed. These committees thoroughly examine the Bills before being passed and make its recommendations to make the Bill more comprehensive and acceptable. Recently, there is a tendency to overlook this safeguard which does not augur well for the Parliamentary system. The system of examination of the Bills by the Standing Committees must be brought back at the earliest.

The Rajya Sabha in its superior wisdom has suggested changes many times in the Bills passed by Lok Sabha, which were agreed upon by the Lok Sabha and were later enacted as laws of the country. There were times also when the Bills could not be accepted by Rajya Sabha and returned. All these instances show that the bicameral system has been put in place as a safety mechanism so that the people of the country will not be put into difficulties by certain hasty legislations.

### **Federal Character**

The Members of Rajya Sabha are elected by the elected members of State Assemblies. This has given a federal character to Rajya Sabha which is essential for a country like ours which has different languages and cultures. Thus the existence of Rajya Sabha further cements the unity of the people of different regions. The Members keenly observe the proceedings to safeguard their States, rights and privileges. We witness competitive arguments in the fray when two States are against one another with regard to one issue. But in the spirit of give and take many such issues are solved; these acts strengthen our democracy.

However, the powers as defined originally between the States and the Centre in article 245 of the Constitution have been slowly eroded. Many subjects in which the States need to have their autonomy to suit the plurality and regional aspirations are being slowly eroded for instance in education, National Medical Commission Act, etc. Such erosion of power ultimately results in legislations being enacted which will not suit the regional aspirations of the people. This may set a trend for causing disunity, and voices may arise for autonomy and disaffiliation. Hence it is all the more necessary that whosoever comes to power needs to take this as a caution not to erode the power of the States but contemplate to give more powers to the States to keep the people of India together.

In this connection, the latest move of the present Chairman of Rajya Sabha allowing Members to speak in the House in their regional languages is commendable. Even though it is a small step, the move augurs well for the unity of the country.

### **Competitive politics**

The nature of election to Rajya Sabha is made in such a way to avoid competitive politics. Rajya Sabha is a perpetual House. Of late, competitive politics is often resulting in causing disruption in the House. While we cannot name or blame anybody for this state of affairs, we should find out ways to put an end to these unfortunate events.

### **More days and more time**

The Whips meeting held in Goa in 2014 has suggested for increasing the number of days of functioning of the Parliament. The suggestion if implemented will give more time for Members to discuss the legislations thoroughly. Further, smaller parties could contribute richly in the discussions. But in view of their numbers, their time for discussion is very limited. The allotment of time for smaller parties needs to be revised in order to enable them to participate in the discussion effectively. This will give the Members of smaller parties an opportunity for their voices to be heard without discrimination.

**Conclusion**

The bicameral system as envisaged by our forefathers should continue for all times to come and must contribute towards strengthening our country's unity and democracy. The pride of Rajya Sabha should be guarded and the proceedings that are taking place should always remain as a model for the world to perceive.

This is the dream I visualize and hope it will eventually happen. I truly wish that the vision of our Constitution Makers will come true within the remaining five months of my term in Rajya Sabha.

# SIX LESSONS I'VE LEARNT AS AN MP

—Shri Derek O'Brien\*

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I entered Parliament in 2011 with a wealth of professional and political experience. And yet I came as a rookie. At the time, I described Parliament as a university where you never stop learning. With the support of my party and my leader, I have moved from the back benches and from my first question—on the higher education exodus of Indian students who go abroad after school—to the front row of the Rajya Sabha and speeches on a range of subjects. From Jammu and Kashmir to Internet neutrality; from the passage of the Goods and Services Tax (GST) legislation to the state of the Indian Railways; from federalism to the safety of women. It has been a heady and educative experience. I am forever grateful.

Listening to stalwarts across political parties has been an exhilarating experience. It has taught me a great deal. My years in Parliament have taught me something new almost every day.

Here are six lessons from my first six years:

1. *Stick to issues, don't get personal:* It's easy to call an individual Member of Parliament (MP) or a Minister names and attract attention. This is a short-term gimmick. If you want to be taken seriously and respected as a parliamentarian, stick to issues. A government can get away by calling one or two individuals names. It can divert attention, pretend to be outraged and turn the tables on the abuser.

If the government is interrogated on serious policy and administrative lapses, however, it will find it difficult to get away. This is a commonsensical observation, but is unfortunately not very common in our politics. Too many parliamentary interventions are aimed at the next hour's television headlines, rather than at genuinely raising an issue and putting the government on the defensive.

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2. *Distinguish strategy from tactics:* A party must have a considered and well- debated view on a particular policy matter. It must discuss and think about this internally and in the privacy of its in-house forums before it is brought up in Parliament. Too many parties ‘try and wing it’ on the floor of the House. This is not done and it sometimes shows up non-serious MPs and parties. One or two parties seem to take policy calls on a day-to-day basis, depending on the deal of the day. This makes them underperform in Parliament, despite having many MPs.

Decide your strategy in advance and improvise the tactics; the cues you will follow and the opportunities you can exploit on the floor of the House.

3. *Research, research, research:* While deciding on a strategy, there is no alternative to the old quizmaster maxim of ‘research, research, research’. When setting questions for a quiz, researching by reading books, newspapers and a variety of literature; validating thoughts and facts you have in mind by checking sources; and even meeting interesting people who trigger ideas and potential questions with their conversations become important. It is one thing to be curious, it is another thing to channel and institutionalize your curiosity.

Preparing for Parliament and taking a nuanced position on an upcoming Bill requires similar preparation. You must read literature and documents, as well as meet people—practitioners, activists, academics and intellectuals, legal and economic minds—who represent a wide variety of stakeholders. Then you can formulate a policy response after weighing your political interests and philosophy and asking yourself whether what you believe is for the greater common good. There are no shortcuts in this process.

4. *Grass roots, not Khan Market:* Your research and quest for feedback must take you to the grass roots for both personally felt experiences as well as the voices and inputs of those actually affected by a Bill or a policy—whether in rural or urban India. There is no point limiting your research to the two dozen know- alls permanently hanging around in the capital’s Khan Market.

5. *Build a team:* Sitting in the first row is not a reward; it is a responsibility. Party legislative leaders in consultation with the party chairperson have to decide who will speak on which subject. How does one use the former civil servant, an authority on land and labour issues or the legal eagle; the

eminent artist; or the former principal secretary in the party line-up? Who should speak when? Who should take the lead on which matter? Who will have the most impact and at which stage?

The best parties think as teams. The most disappointing parties are collections of individuals who are uncoordinated.

6. *Be an LIP, not a VIP:* Mamata Banerjee likes to call herself a Less Important Person (LIP) and not a Very Important Person (VIP). MPs in all parties should adopt this motto, especially in public places. A handful of us don't use the special- entry gates for MPs at airports—they are being phased out now, thank God—we stand in a queue to check in or go past security, carry our own bags and refuse help from airline or airport staff. I, for one, don't do this to make a statement. Frankly, this is the way I've always done it. This is what my parents taught me. And I'd be embarrassed to have it any other way.

At airports, I avoid the 'VIP lounge' and am happier browsing at a bookshop or sipping a coffee. But then there is an example to follow: in all her years in public life, Mamata Banerjee has been simplicity personified. Parliamentary office is temporary. It is a phase of one's life, not life itself. Don't get married to the perks.

### **A Student in the University that is Parliament**

In my eight years in the Rajya Sabha, I have come to love, appreciate and learn from parliamentary practice and procedure. This has been an enormously educative experience, teaching me so much about our country, the challenges that it faces and the layered mechanism of governance. I have absorbed the wisdom of the old saying that it is the job of Parliament to discuss, debate, deliberate and legislate.

My attendance record has been very good, and I am a diligent 'student' in the 'university' that is Parliament.

In the three or four weeks before a Session of Parliament starts, MPs send in their questions—hundreds of MPs send in thousands of questions. These

are answered in two ways: some are slotted for oral replies during Question Hour; the rest see written answers being placed on the Table of the House. Each day, there is a Question Hour in Parliament. Sometimes, Question Hour is suspended due to disruption or some urgent issue, and on that day no questions are asked or answered verbally.

Even when Question Hour proceeds as planned, only about six or seven questions can be asked and satisfactorily answered— often after impromptu supplementary questions by MPs—in sixty minutes. If your question is listed at number eight or nine on that particular day, you could be unlucky and miss out.

Over the past eight years, I have been fortunate to be able to ask many questions. An MP is allowed to submit only seven written questions every day. This restriction has been made so that the system doesn't get clogged and every member gets a chance. The questions are not selected objectively by a panel or any authority. It is a matter of pure luck. All the questions are balloted to be asked either as 'starred questions' (where the answers are given orally) or 'unstarred questions' (where the answers are provided in writing by the Minister). Most times I have had to make do with written answers. Sometimes, Lady Luck has shone on me. My questions have been listed.

There has been one occasion when my question was listed to be answered, and I couldn't make it to the Rajya Sabha. Earlier, the rule was that the question would be skipped. However, under former Vice President Hamid Ansari's stewardship, the rule was changed. Even if an MP is not present in the House, the question is still taken up. This change is good. It prevents MPs from backing off on a question they've asked just by being absent on the day. Also, under the new rule, supplementary questions can be asked by other MPs even when the original questioner is absent.

M. Hamid Ansari, former Chairman of the Rajya Sabha, must be credited for introducing other innovations too:

1. For decades, the Rajya Sabha functioned only until 5 p.m. Now, both Houses run until 6 p.m.



2. Zero Hour never had a time limit. Members would go on and on speaking on a subject, so only four or five MPs would get a chance in sixty minutes. Now, Zero Hour has a time limit. The microphone is automatically turned off at the end of three minutes. As a result, at least a dozen members get an opportunity to express themselves on a dozen different subjects when Zero Hour runs smoothly.
3. For more than fifty years, the Rajya Sabha took up Question Hour from 11 A.M. to noon, followed by important current issues in Zero Hour between noon and 1 P.M. This has now been flipped around. Zero Hour precedes Question Hour. Even old-timers agree that the new system is working well, as it gives Members a chance to let off steam on important issues in Zero Hour before settling into the more sombre Question Hour.

Rajya Sabha TV and its online avatar are also comparatively recent innovations. These go a long way in delivering messages beyond the walls of Parliament.

# **RAJYA SABHA : A BEACON OF HOPE**

**—Shri Prasanna Acharya\***

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I have the rare opportunity to be a Member of State Legislative Assembly, Lok Sabha and Rajya Sabha. I started my political journey from my student days back in the seventies and I was also imprisoned during the emergency. I got the opportunity in 1990-95 to be a Minister under Late Shri Biju Patnaik, who lives in the hearts of millions of Odias. I was a keen observer of both Houses of Parliament because learning is a life-long process which starts from mother's womb and ends in the tomb. My entry into politics was not sudden, rather it was predestined and deliberate and yes, of course, the philosophy and culture of my family created a fertile ground for my political dreams to germinate and grow. The interaction of my father with freedom fighters, social workers and every common man created within me zeal and interest towards public life, which ultimately landed me in this august House.

Before going to discuss about the role of Rajya Sabha in Indian Parliamentary democracy, it would be fit to quote what Dr. B. R. Ambedkar said during the making of our Constitution. On 4<sup>th</sup> November 1948, Dr. Ambedkar said:

A student of Constitutional Law, if a copy of Constitution is placed in his hands is sure to ask two questions. Firstly, what is the form of Government that is envisaged in the Constitution; and secondly what is the form of the Constitution?

We all know the answer, but there is a need to introspect, diagnose, evaluate and conclude what role the Rajya Sabha has played over the years to strengthen the Indian parliamentary democracy with respect to social change and transformation.

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\* Member of Rajya Sabha; Leader of Biju Janata Dal (BJD) in Rajya Sabha: Chairman, Committee on Petitions

Social change takes place in two forms. One is vertical social change and the other one is horizontal social change. The Rajya Sabha has played a significant role in both fronts. It is a common belief that Rajya Sabha is just the Council of States. However, if we look back, its remarkable contributions have left an indelible mark in the annals of history. When any legislation is passed out of passion in the Lok Sabha, Rajya Sabha works as a safety valve. It has worked to give a space for the voice of the other side of the Treasury Bench.

Checks and balance is the key to a vibrant democracy, and Rajya Sabha has never failed to contribute to it. Rajya Sabha had played an equal and important role in the past on decisions which had direct repercussions on the society. Nationalization of Banks, Abolition of Privy Purse, Protection of weaker sections of our society are few examples. In recent years, Bills on Lokpal, Right to Information and Protection of Children Against Sexual Offences (POSCO) after the infamous Nirbhaya incident and the Triple Talaq Bill are examples of legislations on social change and transformation. The most important among them all, which is a milestone in our journey as a nation, is the Right to Education Act.

As I have earlier mentioned, Rajya Sabha acts as a safety valve. Let me recall the statement of our Hon'ble Home Minister while introducing the Bill for abrogation of article 370. He stated that he was not sure that the Bill would sail so smoothly because the ruling party has no majority in the Rajya Sabha. The Rajya Sabha was given the first privilege to debate on the Bill which was going to change the course of Indian history, rather than the Lok Sabha. Here we can assess the importance of the Rajya Sabha in our democracy.

In the past, Rajya Sabha has had the opportunity to be enlightened by great personalities from literature, press, social service, politics and cinema. They have contributed as much as they can and now the onus is on the present Members of this august House. The whole world is now facing new challenges which were not predicted in the past. They are climate change and terrorism. Can we play a significant role to face the above challenges? That being said climate change is more alarming than terrorism. Time has already run out of our hands. We will have to dedicate ourselves immediately to address the global challenges

as well as the challenges that our nation is going to face in the coming years. The aspirations and dreams of our people must be realised and Rajya Sabha could play a significant role in bringing the issues to the center stage in a national debate. As earlier stated, I believe that legislation is the pathway to effect major social changes and transformation. Development of democratic spirit and identification of common man with national goals can be realised by this august House. Concluding my article, I would like to state that Rajya Sabha had always acted as a lifeguard to our vibrant democracy.

# **PARLIAMENT SHOULD BE THE FORTRESS OF PEOPLE'S INTERESTS**

**—Shri Binoy Viswam\***

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While appointing the Montague-Chelmsford Reforms Committee, the foreign masters had their own intentions in mind. Following the Reforms Committee Report, in 1919 when the Government of India Act was passed, their ulterior motives were unveiled. Reforms in the true sense were nowhere in their plans, but to create an illusion that they are doing something good for their colonial subjects. Such ill motivated cunningness prompted them to come forward with the proposal of bi-cameralism in India as it existed in some other parts of the world. It was the period when national liberation movement was attaining new momentum and masses in large numbers were attracted to the call of freedom. With the pretext of reforms, the British plan was to diffuse the popular anger against foreign rule. The idea to have a separate representative body for the Indian State was first mooted in this background through the Government of India Act 1919. Though it was named as 'Council of States' the purpose was not to serve the interests of the States or their people. It was designed in such a manner so as to belittle the Central- Assembly, which was the nominal representative body of the people, elected through a limited form of adult franchise. This narration of history of bi-cameralism in the present context has only academic importance. Rajya Sabha of the 'sovereign, democratic, secular, socialist' India is not at all a continuation of the Council of States in British India. In fact, the Upper House or House of Elders, as it is often called, is not supposed to be and cannot be the successor of the colonial Council of States.

Rajya Sabha, the inseparable part of the Indian parliamentary system has got a prestigious task to accomplish. Being the Council of States of free India, it is duty bound to uphold the interest of people of each and every State. Rajya Sabha started its voyage in 1952 and is to hold its 250<sup>th</sup> session. Naturally it is an occasion for evaluating its record of achievements and shortcomings during the

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\* Member of Rajya Sabha and Leader of Communist Party of India in Rajya Sabha.

past decades. Rajya Sabha, the Council of States is often called as the Upper House and House of Elders. Often, Rajya Sabha gets mistakenly and mechanically compared with the House of Lords. That comparison is politically and historically incorrect. The Rajya Sabha of sovereign, democratic, secular, socialist' India cannot be allowed to become a replica of House of Lords. True, it is not the House of the People, but it is the people's will that the Rajya Sabha has to uphold ultimately. The Council of States in a democratic framework is not allowed even to imagine about forgetting the people, under any circumstances. That is the challenge the Rajya Sabha has to face throughout its existence.

The Constitution of India has envisaged a meaningful democracy built on the three pillars of Legislature, Executive and Judiciary. The right to free and fearless expression ensured by the freedom of media is also vital to its robust growth. Among all the institutions, given birth by the Constitution, Parliament is placed at a glorious pedestal. That is why our republic is called a parliamentary democracy. In every system where power is handled, checks and balances are unavoidable to prevent the possible danger of crossing barriers. Parliamentary scrutiny will only add vitality to democracy. Rajya Sabha by its very nature of composition has proven its strength in this direction. While it holds a decisive say in legislative process as a whole, it has only a minimal role in matters related to money bills. The founding fathers of the Constitution might have their own reasons for this but it is high time to have a rethinking on this issue. Democracy and its institutions are not expected to stand still in the narrow corridor of conventionalism. They have to grow in tune with the changing times and changing needs. In this light, I believe that the 250<sup>th</sup> session of Rajya Sabha is an appropriate occasion to start a much-needed discussion touching upon the correlation between Rajya Sabha and money bills.

In the so-called 'era of LPG', which is liberalization, privatization and globalization, human civilization is passing through a new phase. Markets and its values have captured the control of the chariot of human development. It attempts to undermine the basic edifices of human equality and justice. They are not hesitant to call it market fundamentalism and to swear by it. Socio-political structures of the contemporary times are under the shadow of attack from the

prophets of profit. Parliamentary system also is not secured from this onslaught. 'Profit or people' is the crucial question posed before policy framers and law makers. India that taught the world about '*Loka Samastha Sukhino Bhavanthu*' should have only one answer. That is people and people alone are the masters. The Parliament of India, especially Rajya Sabha should stand as a fortress to protect the people's interest and their dreams of a new India where the last drop of tears from the eyes of the poor and the needy are wiped out.

# **FROM THE FAR NORTH-EAST CORNER TO SANSAD BHAWAN : MY JOURNEY AS A PARLIAMENTARIAN**

**—Shri Ronald Sapa Tlau\***

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It makes me excited to be a Member of the Rajya Sabha representing the small Hill State of Mizoram at a time when the Upper House of the Indian Parliament is celebrating its 250<sup>th</sup> Session. Rajya Sabha has been a strong edifice of Indian legislature and its constitutional mandate to scrutinise and check hasty legislation makes it relevant for all times in the Indian polity.

This special occasion makes me reminisce about my humble experiences in this august House and reflect on a few issues. Coincidentally, my life as a Parliamentarian began in 2014 at a time when the Bharatiya Janata Party came to power at the Centre, albeit 3 months ahead. As I look back at the last five years in the final year of my term as a Member of Parliament, I am very grateful for the opportunity I received, to not only observe at close quarters but participate in the process of law-making, discussions, questions and debates in this apex legislative institution.

It has been an exhilarating learning experience for me from Day One. My journey to Sansad Bhavan reminds me of a quote by the Danish philosopher, Søren Kierkegaard who once famously said, “Life can only be understood backwards; but it must be lived forwards.” In the first place, let me honestly admit that becoming a Member of Parliament never crossed my mind! After an interesting tryst with local politics for some years, I landed in New Delhi to take up new challenges in a new environment. I had spent 10 years of my life studying in the USA. Even then, I had apprehensions about coming to live in the capital. But, the sight of lush Jamun trees in and around the Parliament House complex and the streets of Delhi transported me back to my boyhood years in the Hualtu village in Serchhip District and warmed me to this city.

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\* Member of Rajya Sabha.



As a new Member of Parliament, many things impressed me but what impressed me most was the erudition and the eloquence of the experienced Members as they deftly conducted themselves through the debates and procedures of the House. On a lighter vein, having never worn a kurta before, I was fascinated by my fellow Member colleagues dressed in stylish Bandhgala collars and Kurtas but soon they became a familiar and admired sight.

When it came to work, I found my inability to communicate in Hindi restrictive in situations where I could have built better rapport with people. The *lingua franca* which in my mind was English was easily outdone by Hindi, a language for which I never felt the need to learn in my teenage years. It was how most Mizo teens felt then - in the 1960s and 70s - owing to its association with 'mainland India' and the twenty year insurgency in my State. Ironically, much later I found the need to have at least a working knowledge of the very language (Hindi) I had tried to shun in my youth. In my opinion, the language barrier had come to nurture apathy on one side and a sense of alienation on the other. I feel that one way of turning this apathy around into empathy; and alienation into affinity is by learning the language spoken by the larger community in the country you are living in, without diminishing the importance of regional languages in any manner. As a matter of fact, good communication builds bridges. Knowing full well the difficulties I have faced time and again because of my poor knowledge of Hindi, I have encouraged the promotion of Hindi at every opportunity in the Northeast in general and my state Mizoram in particular, even raising the issue of employment of Hindi teachers through Questions in the House. I am impressed with the initiative of the Hon'ble Chairman, Shri M. Venkaiah Naidu who while promoting Hindi has also introduced a simultaneous interpretation facility in all 22 scheduled languages for the first time in the House. I'm sure it will encourage many Members to speak in their mother-tongue in the House besides giving an impetus to national integration.

In the first year, I was challenged by the urgent need to get quickly acquainted with the Rules of Procedure and Parliamentary practices - the Zero Hour, the Question Hour, the afternoon Short Duration Discussion & Private Member Bills, the Special Mentions, the bewildering interpretation of Rules –

and need for preparation on issues that were listed for discussions, etc. The oath I had taken to uphold my responsibilities as a Member weighed heavily upon me. I had to match the information I acquired from reading with the speed of my practical exposure to the real issues. Fortunately, I found my rhythm and my experience in mass media and at the grassroots level helped me understand the finer points and nuances of debates in the House. It has also taught me that though we come from different regions, our problems are more alike than we would care to admit.

The Constitution has provided for a single Member to represent my State in the Upper House. In practice, this was another challenge for me. I have found myself trying to work around the limitations of being the lone representative of my State to effectively raise State concerns to the best of my ability. Fair enough there are a variety of procedural methods to choose from and each Member has to learn how to deliver substance in a clear manner within a given time frame. But the fact remains that even within the allotted party time, there simply isn't enough time to say all that I'm expected to say by my State. There have been times when I am reminded of what Plato had said about democracy: "Democracy is a charming form of government, full of variety and disorder; and dispensing a sort of equality to equals and unequals alike".

A vibrant democracy is always in a continual quest to strengthen its parliamentary institutions. I have often wondered if we could find ways to create more opportunities for back-benchers and sole representatives of States to participate in the debates of the House.

Let me narrate my personal experience to prove my point on the perils of being a sole representative of a State in the House: There was a person from my State who urgently needed my help. I had obliged to meet him one morning and asked him to meet me in my residence at 10am sharp as I did not want to be late for the Session. Being unfamiliar with the city traffic, he was late by 45 minutes. As he had travelled from far and had no one else to turn to, I patiently listened to his problem till I realized that it was already 15 minutes into the Session. By the time I reached the House, it was 20 minutes past the hour. The business of the House went on as usual and it was not until the lunch break at 1pm that I came to

know that a fellow Member of Parliament from Bangalore had risen up during the Zero hour and supposedly raised an issue on an incident that had occurred in my Capital city of Aizawl just the day before, concerning student protests wherein a group of students had felt severely discriminated. Some bloodshed was reported. Back home in the evening news, much to my dismay, the Opposition Party in the State had taken full advantage and highlighted my absence and non-reaction to the issue raised by the MP from Bangalore. It is such times that make me feel temporarily helpless. Not to mention the subtle party competition while tackling burning issues, I only wished at that time, there had been another MP from my State (preferably from my own Party), to explain the actual incident to the august House. That would have prevented things from being hugely blown out of proportion.

I could offer statistics to those who may have judged me based on my absence during that particular incident. PRS Legislative Research, India, which regularly brings out performance statistics of Parliamentarians, has given me a score of 83 percent on attendance. However, my participation in debates is found more than wanting. How do I ensure I get adequate time to raise issues given the limited allotted party time, Session days and working hours? However, through one procedure or the other like Questions and Special Mentions, I have barely managed to draw attention to various matters like education; communication and connectivity; secure border fencing; illegal migration; Special Economic zones in the Northeast; environment, matters of sustenance through agricultural practices, etc. In the remaining days of my term, I look forward to finding opportunities to take my State's performance at least a notch higher.

Strategically located in the Northeast of India, Mizoram shares an international border with a South Asian neighbour and a Southeast Asian country. It has a population of just 14.5 lakhs, 280 times smaller than the population of Uttar Pradesh but we stand out for our unique linguistic identity, religion and culture. Whatever the odds, I am determined to give voice to the people of my State and the Northeast region. Two things I am very sure of: one, my love for the people that I represent; and two, my willingness to go the extra mile in order for their issues and concerns to be heard by the august House and the nation.

With time, I have acquired a network of friends and colleagues on both sides of the bench. My friends have helped me raise issues concerning my State, sometimes with better leverage. I have learnt however, that the best way to raise your concerns is to raise them yourself. I've learnt to take bold initiatives, to be a 'go-getter' and 'a feisty warrior', all within democratic exercises though. What an education! What a privilege it has been!

# **RAJYA SABHA : A SUCCESSFUL EXPERIMENT AS A SECOND CHAMBER**

**—Shri V. Vijayasai Reddy\***

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At the outset, I would like to congratulate everyone on the completion of 250 historic sessions of the Rajya Sabha. This milestone could be achieved only because of the combined effort of each individual associated with the Rajya Sabha and the people of this country who had faith in this institution. Everyone, from the Chairman to the staff of the Secretariat have put in their time and effort to make this institution successful and fulfill the purpose for which it was formed. These 250 Sessions, which we are celebrating, has not come easy. The House has seen its highs and lows, moments which have gone down in history as watershed moments as well as those not so memorable. However, they have made us into what we are today. The Rajya Sabha as we see it today is the result of these 250 Sessions where we have debated, framed policy, differed and agreed for the country's benefit.

At the time of framing the Constitution, there was a heated debate on whether there was a need for a Second Chamber; a House which was not elected directly by the people and a House which can in most matters stop a law passed by the elected Lok Sabha. The Constituent Assembly went ahead with the proposal of having a Second House with the intention that this Second House will not only raise the quality of discussions in the Parliament, but will also give a non-political perspective to law making. The Second House would also allow people with varied experience and from different walks of life to have a direct say in the lawmaking process. I am sure that today if we look back after 67 years and 249 complete Sessions, there will be no iota of doubt that the experiment of Rajya Sabha has been very successful in fulfilling all that and more than what it was envisaged for.

Having mentioned this, one should understand that the Rajya Sabha has faced and also continues to face challenges questioning its existence. The latest

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ongoing debate is on whether the Rajya Sabha should have a say equal to that of a *veto* on subjects which are totally under the purview of the Centre. Also, should the Rajya Sabha be discussing issues on which the States shouldn't be bothered at all? All these challenges do not hold water. There is a tendency to forget or take lightly the importance of having a Second House in the Parliament. The Rajya Sabha, as an institution is imperative for a democratic federal structure. It serves as a platform where the representatives of the States air their views and ensure that the specific needs of their region are looked into. I would go ahead to the extent of saying that if India has been able to successfully maintain its integrity and avoid a possible balkanisation, a lot of it has to do with the Rajya Sabha.

The Rajya Sabha owes much to the brilliance of Dr. B.R. Ambedkar. The House has been very fortunate to have Dr. B.R. Ambedkar as its Member till his death. It was his idea to have a separate Secretariat for the Rajya Sabha, have 12 nominated Members, and keep the eligible age for membership to the Rajya Sabha higher than that of Lok Sabha. Having said that, I don't believe that there exists a perfect institution. Therefore, perfection can never be a parameter to check how credible an institution is, because then there will be no credible institution. It is not important to be a perfect institution. What is important is whether the institution is willing to change to keep itself updated and thereby effective. The Rajya Sabha does very well here. It has in more ways than one in the course of these 250 Sessions changed and adopted some innovative methods to make itself more effective. These changes include the immediate availability of printed answers to the Questions raised by the MPs and that of setting up Rajya Sabha (Select) Committees, as and when required.

The Rajya Sabha is where the interests of the States and the authority of the Centre converge and from this *manthan*, a lot of *amrit* has been produced. This *amrit* in the form of revolutionary ideas have led to many laws and schemes, and continues to inspire governance in the country. The Rajya Sabha has been forward looking and has truly proven to be the deliberative body of the Parliament. Dr. Sita Parmanand, in as early as 1952 had talked on a system similar to the Mid-Day-Meal scheme. Another Rajya Sabha Member, T.S. Pattabiraman in the same year had stressed on climate change and its harmful effects in Southern India. Member Krishnamoorthy Rao had also around the

same time spoken of the negative effects of industrial and river valley projects on nature. The Rajya Sabha could successfully foresee the issues that the nation would be grappling 67 years later in the future. This truly reflects upon the brilliance of the Rajya Sabha.

The Rajya Sabha, like every institution has its shortcomings too, which leaves a couple of things to be desired. At times when there is a commotion in the House, the smaller parties are made to pay the price in terms of lesser time to speak. Therefore, there is a need to set a minimum time for the smaller parties to express their views. Also, there is a need to have a provision which allows for more women members in the House. The number of women in the Rajya Sabha is abysmally low. I am sure that these gaps will also be filled like the other ones in due course.

It shall also be worth mentioning that everywhere in the world wherever democracy exists, there is always a need for a Second House. The Second House serves as the primary house of discussion of important issues without hurry. It also provides an opportunity for experienced people who are not in the political arena but who can bring a lot to the table when contributing to the debates in the Parliament. No one House can be called the Parliament, it takes both the houses together to form the Parliament and the success of democracy lies in the cooperative functioning of both the Houses. With this, I would again like to congratulate everyone for this success and wish for many more to come.

# **THE IMPORTANT ROLES OF RAJYA SABHA : DELIBERATING, COUNSELLING AND BALANCING OF POWER**

**—Prof. Manoj Kumar Jha \***

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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 considered the Rajya Sabha to be a mere appendage to the Lok Sabha. Others have critiqued 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.

As such, the 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 thirds majority of the members present and voting. 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 such that the specific interests of the States are also reflected in these matters as well. The limited role of the Rajya Sabha in the

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\*Member of Rajya Sabha.



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.

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 interstate 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, if they concur. 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 legitimised merely as a way of waiving off the objections to the whims or fancy 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 inquire into all the possible social and moral impact any legislative action can have on the people. Any law making body should never overlook its pros and cons as the end user (or sufferer) of it will be the common people. The root of failure of a given policy does not always lie in its proper execution or implementation; rather we should also look at the lapses in the very design or rationale of a policy. The Rajya Sabha has the potential to ponder upon these aspects of laws as well as on the determinants of implementation.

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 (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.

It would be pertinent to move towards concluding this piece by highlighting a feature of the Rajya Sabha that is at once its most unique feature and also the one most ignored. 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 advise 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 law or constitutional amendments have to be gone through from many different viewpoints as it can be. 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.

# THE UNIQUENESS AND IMPORTANCE OF RAJYA SABHA

—Shri Kumar Ketkar\*

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Many constitutional *pundits* have compared the Rajya Sabha with the House of Lords in UK or the Senate in the *United States*. There may be some features which are similar, but I feel, it is necessary to recognise 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, academic economists, literateurs, scientists, and so on. These people, however, perform a very significant role in keeping the society aware and alert, enlightened and 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. The Rajya Sabha in Indian Parliamentary System is not based on “status”, aristocratic or social as in UK and also is not directly elected body like the Senate in the United States.

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\*Member of Rajya Sabha.

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.

Over the years, the Rajya Sabha has proved that it keeps the Government on its toes, prevents excesses of the State, restrains the governing authorities from hasty decisions and debates the proposed legislations from many other multiple aspects, which often get missed in the Lok Sabha.

If the Lok Sabha tries to bulldoze any legislation, because the Government has the numbers on its side, the Rajya Sabha can put a brake to the bulldozer or ideally it should. Sometimes, we have seen that even the Rajya Sabha fails to stop the bulldozer. Indeed, that is why, as I stated above, sometimes this House too has fallen prey to the brute majorities.

Democratic pattern must have system of checks and balances. No person, no leader, no party, no group or no religion, no caste should be able to dominate society. To maintain plural, liberal and secular political culture such checks and balances are necessary. Independent and fearless judiciary, media without fear or favour, dedicated bureaucracy and military without political interference are essential for the functioning of a modern democracy.

The Rajya Sabha is one such House which contributes to this progressive cause. This is India’s contribution to global democratic movement and that is why it is different from the House of Lords and the American Senate. Our great founding fathers of the Constitution, particularly, Dr. Babasaheb Ambedkar, Pandit Jawaharlal Nehru and Abdul Kalam Azad, working in the overall spirit of Mahatma Gandhi and his vision have enriched India’s parliamentary democracy by creation of this unique institution.

# DECODING THE FIRST DEBATE IN THE RAJYA SABHA

—Shri Rakesh Sinha\*

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The journey of post independent India is a uniquely combined consolidation of parliamentary democracy, with the evolution of inclusive politics based on the party-system. Most of the post-colonial states have faced problems in holding uninterrupted elections and managing democratic institutions and have solicited the help of their ex-masters or faced internal conflict in their struggle for democracy. However, India's case has been altogether different. Its democratic polity sheltered the pluralism of ideologies and political parties without any sign of fragmentation. The maturity of any political leadership, and concomitantly their organic link with the people yielded a positive result. The Constitution of India which was framed by a protracted discourse has inherited our age-old historic tradition of democracy based on two essential ingredients; mutual cooperation and contestation. These dynamic elements have kept democracy as a vibrant way of life. Cooperation does not mean the end of pluralism; and contestation also does not mean its fragmentation. Both the characteristics paved the way for the blossoming of the highest democratic institution of the land, the Parliament, for it to blossom in the midst of a multi-party system and social movements.

Since its inception, the post independent Indian Parliamentary democracy has exhibited two unique features: one, maturity of the contemporary leadership. They groomed themselves not merely as resisters and protesters of imperialism but acquired an ideological and futuristic vision for India in the course of the freedom movement. This gave the world a definite message of the stability of democracy in India. And, second, the parliamentarians' world view was not just restricted to local issues but they had a consciousness for a new world- order based on equality and fraternity. They stood as enlightened leaders on the floors of both the Houses of Indian Parliament. India has not solicited support or sought help from any country to manage her democratic institutions.

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\* Nominated Member of Rajya Sabha.

Indian Parliamentary traditions and rules are based on the best practices of parliaments of other countries but its originality remains undiluted. This can be seen in the case of the second chamber, the Rajya Sabha. The fathers of the Indian Constitution gave it a genuine representative character. Unlike the House of Lords, it is absolutely free from feudal or hereditary features. It is one of the reasons that it has been playing not merely the role of a legislative body but has helped shape the Indian discourse, social and cultural evolutions due to its frequent interventions. This has been well recognised.

When N. Gopalaswami Ayyangar, addressed Dr. B. R. Ambedkar as ‘Honourable’, the latter immediately contradicted him saying “nobody is ‘Honourable’ in this House any longer.”\*

The study of the first session of the Rajya Sabha gives a very enlightening picture of its strong foundation. The level of discourse and participation, cross views, parallel march of cooperation and contestations between the powerful ruling party and small but effective opposition, free and frank expressions showed a high index of institutional and democratic consciousness.

The first Session of the Rajya Sabha commenced on May 13, 1952. After the oath-taking, the debate on the President’s Address was taken up, which lasted for three days. The debate demonstrated the collective consciousness of the House to preserve the nation’s unity and integrity and many important issues were eloquently debated upon, which included decolonisation of the Indian mind and polity, emerging world order and feuds among the nations, food crisis in India, etc. In his address, the President of India, aptly described the Members of Parliament as ‘Pilgrims’ on whom, he said, ‘rests a unique privilege and a heavy responsibility.’ Further the President, through his Address sent a message to both the world community and our people, that India was not a new nation with a

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\*C.S. Deb., 19.5.1952, Col. 83.



history of colonialism or an intellectually barren land but had the history of thousands of years with an undiminished quest for intellectualism. He said:

As I speak to you on this historic occasion, I have a feeling of the high destiny of our ancient land and the vast numbers of men and women who live in it. Destiny beckons us and it is for us to respond to its call. That call is for the service of this great land of India, which has passed through good fortune and ill fortune alike since its story began many thousands of years ago, at the dawn of history. During these many years, greatness has come to our land and tragedy has also been our fate. Now that we stand on the threshold of another phase of India's long story, we have to determine afresh how best to serve her.\*

The entire House applauded the President for his candid and defining portrayal of India which had been under the yoke of British imperialism for more than two and a half centuries. The very first Session of the Rajya Sabha had vouched to regain the lost glory of India and demonstrated a great sense of history and unity. Chaman Lall who initiated the debate on the address said:

It is well known that in the pageant of the history of our country whenever our nation has been divided, that moment in our history has been a moment of our weakness. In fact, division has often destroyed this great and noble and ancient land of ours, but when unity has been observed, it has been a source of strength and greatness for this nation.†

Chaman Lall's concern for unity and fighting evil forces which weakened the nation's integrity was endorsed by all sections of the Rajya Sabha. In fact, Member after Member vouched to learn from history to maintain the unity and integrity of the nation above narrow and sectional interests.

Another important point made by Dr. Rajendra Prasad was concerning the future role of the Members of the Parliament. He argued that the mission of the democratic leadership of India was not only to serve local issues and the people but also to accomplish historical tasks which have been present in our sub

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\* C.S. Deb., 16.5.1952, Col. 22.

† C.S. Deb., 19.5.1952, Col. 52.

consciousness. He described them as “certain other urges of the human spirit” which India “has represented throughout her history.” This was indicative of the role of democratic leadership of India as not being confined only to increase the material glory of the people and cater to immediate socio-economic challenges but also to fulfil the call of destiny, *i.e.*, our World Mission. The debate on the address witnessed the common quest for a world order based on peace, equality and justice. In a span of three days, which was allowed for the debate, a substantial part of the allotted hours were devoted to world affairs. The Rajya Sabha has not disguised its potential and ambition to understand world affairs and express its opinion in a legitimate manner. It had sown the seed for our assertive political role in international politics.

The third important point which the President made which found absolute endorsement of the House was about the spirit of democracy. The structure of democracy cannot succeed unless there are spirited people who celebrate debates and discourse. The President aptly outlined the fundamentals of democratic behaviour :

...Opinions will and must differ in regard to many political and economic matters, but if the good of India and her people is our dominant urge, and we realise, as we must, that this good can only be achieved through the methods of peaceful cooperation and democratic processes, then these differences can only add to the richness of our public life.\*

His philosophical urge for a democratic way of legislative progress was undoubtedly experienced in the first few days of the Rajya Sabha. There were heated but uninterrupted, logical but not abusive, critical but unassuming debates on the content of the President’s Address. Both the ruling party and opposition Members exchanged their views on it. Dr. B. R. Ambedkar argued that any matter which a Member thought pertinent must be allowed to be raised during the debate on the Address. He said:

...The purport of a debate on the address is this. Government is pleased to inform the House, through the Address of the President, the subjects to which they allot what may be called priority or urgency... The purport of the Debate

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\* C.S. Deb., 16.5.1952, Col. 23.

on the Address is to let the Opposition tell the Government what are the purposes which they ought to have included.

Further he purposed that: "...any subject which is not included in the Address of the President, for that very reason becomes a matter of urgency, because Members of the Opposition may feel that the Government has given priority and urgency to matters which they think important but which, in the opinion of the opposition, are less important than other matters."<sup>\*</sup>

Finally, N. Gopalaswami Ayyangar, the Leader of the House, presented the Government's argument:

... but we have got to take the Government as a Government, anxious always to place before the House, what it considers to be the most important things that the President ought to refer to in his Address. And that is why in the Constitution and the rules that have been framed under it a restriction has been placed that, instead of allowing the debate to range over from China to Peru, it should be confined to matters which are referred to in the President's Address.

Addressing the Chairman of the House, he said: "it would not be quite right to allow the debate to range over matters not referred to in the Address."<sup>†</sup>

H. N. Kunzru found the logic of the Leader of the House as untenable. He said: "if our business here were to consider only matters referred to in the President's Address, then all we should have to do would be to pass a formal Resolution of thanks and disperse;...A debate can arise only when the address is not regarded as adequate by some Members of the House."

He cited the procedure followed in the Provisional Parliament of India and reminded him that he "never got up there to protest so vehemently against the procedure followed by the Speaker".. "I don't think that anyone in the Constituent Assembly thought for a moment that Article 87 would be so rigidly interpreted as to exclude any debate on topics not included in the President's Speech..<sup>‡</sup>

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<sup>\*</sup> C.S. Deb., 19.5.1952, Col. 82.

<sup>†</sup> C.S. Deb., 19.5.1952, Col. 83.

<sup>‡</sup> C.S. Deb., 19.5.1952, Col. 84-85.

Alladi Krishnaswami (nominated) supported the views expressed by N. Gopalaswami and said: "...the House cannot deviate from the expressed provision of the Constitution and my own feeling is that it has been advisedly inserted to check a good deal of public discussion over all sundry topics in which any Member may be interested."\*

When the Members mentioned the prevalent practices in the British Parliament, it received strong contestation from B. G. Kher who sounded the House: "...the point is that we should not do what is being done in other Parliaments and under other constitutions. We should grow our own conventions in the light of our own needs and our own rules."

At this stage, Kher narrated the history of the King's Speech in the British Parliament and drew a very sharp line between that and the President's Address. It was also a demonstration of a critical thinking and great intellectualism in the House whilst drawing a line between the British Parliament which minimised the importance of the King's Speech and The President's Address, which reflected the democratic journey and policies of the government of the day.

He quoted Harry Graham, the author of 'The Mother of Parliaments':

The King's speech is not usually a very remarkable production, either from a literary, or any other point of view...Macaulay has described it as 'that most unmeaningly evasive of human compositions'.... Lord Randolph Churchill once declared that the cabinet had spent some fifteen hours eliminating from it anything that might possibly have any meaning.

Graham quoted conversations of King George III and Lord Chancellor Lord Eldon. The former asked the latter, "Did I deliver the speech well?" The latter replied "Very well Sire." The King ended the conversation saying "I am glad of it for there was nothing in it."†

King George IV, when Prince Regent, is said to have bet Sheridan a hundred guineas, that he would introduce the words 'Baa- baa- black- sheep' into the King's speech, without arousing comment or surprise. He won his bet and

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\* C.S. Deb., 19.5.1952, Col. 86.

† C.S. Deb., 19.5.1952, Col. 88.

afterwards, Sheridan asked Canning whether he did not think it extraordinary that no one should have noticed so strange an interpolation: "Did you not hear His Royal Highness say, Baa baa black sheep?" Canning replied, "Yes, but as he was looking straight in your direction at that moment, I deemed it merely a personal allusion, and thought no more about it."<sup>\*</sup>

Kher demolished a popular perception among a class of people, that Indian parliamentary practices must take the British parliamentary practices as its authoritative reference point. It was a reaffirmation of the Members to evolve our own parliamentary practices, based on our practical experiences and requirements, as and when needed.

P. Sundarayya, from the Communist Party of India (CPI), was on another extreme when he unequivocally said: "Members can bring in amendments and discuss the whole policy of the Government from A to Z."<sup>†</sup> The importance of the issue could be understood by the fact that despite the counter arguments by the Leader of the House, N. Gopalaswami; the Prime Minister, Jawaharlal Nehru, had to make an intervention. He defined the importance of the President's Address on broader issues concerning the nation and outside the country. It was not a micro-detailing of policies, programmes, expectations, successes and failures but a presentation of the outlook of the Government. He said, 'The President's Address is meant for the people of this country, of course. It is also meant for the people of other countries.'<sup>‡</sup>

This issue remained unsettled not only in the first session of the Rajya Sabha but has become a perennial agenda of mutual conflict between the ruling party and the opposition. Both have inevitably clashed and contested against each other in successive debates on the President's Address. The following observation made by H. D. Rajah (Madras) shows that democracy is an article of faith in our political life. He said:

I am at liberty to speak with the fullest freedom that is commanded by me in this House and I shall express in no unequivocal terms as to what I feel about the

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<sup>\*</sup> C.S. Deb., 19.5.1952, Col. 88.

<sup>†</sup> C.S. Deb., 19.5.1952, Col. 90.

<sup>‡</sup> C.S. Deb., 21.5.1952, Col. 283.

way in which things are being done, the way in which the liberty and freedom of this House are being threatened and curtailed, the way in which we are being treated like school boys from the Secretary onwards to the Leader of the House on the Government side. Therefore, I have come here to voice the opinion of the dumb millions of this country and to say that we shall have the liberty, we shall have the freedom, we shall have the constitutional method of ventilating our feelings in this House without being taught what we should say and what we should not say. Therefore Mr. Chairman, I thank you once again for upholding the privilege and the freedom of this House.\*

This exhibited faith in the august office of the Chairman of the Rajya Sabha, and also confidence of a Member who represented the same political group and also no tyranny of majority inside the House. This spirit has been maintained by the House in its journey of over six decades.

Interestingly, the President's Address witnessed not less than thirty amendments by the Members. Maximum amendments were related to the food policy, famine and land reforms and other related issues. Later, twenty eight amendments were withdrawn and two amendments were negatived. Only the first amendment relating to food crisis in the country led the division of the House. While thirty five Members supported, one hundred forty two opposed it. The Amendments proposed by the Members covered wide range of issues. On some of the issues the ruling bench seemed defensive.

One of the amendments significantly questioned the government's declined zeal to free India from other colonialists who had still controlled some parts of the country. The amendment (No. 6) given by P. C. Bhanj Deo (Orissa) wanted that at the end of the motion the following be added, namely: "but regret that no mention has been made about the elimination of microscopic foreign pockets in the Republic of India by integrating minute Portugese and French possessions in a firm and determined manner, essential to the prestige and

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\* C.S. Deb., 19.5.1952, Col. 131-32.

integrity of this historic Commonwealth.”\* Although this amendment was withdrawn, the issue was raised by other Members too. C.G.K. Reddy, disputed India’s Foreign Minister’s claim that these micro colonies were just ‘pimples on the face of India’ and said, “Probably the Foreign Minister does not know that pimples are very annoying and are very difficult to get rid of” and that they were being used by ‘high power centres of vested interests.’† He raised a popular question before the Nehru Government:

Two or three years ago the people of these pockets put up a very good fight and they very nearly succeeded in expelling foreign influence from some parts. What did the Government do? What did the Party in power do? Did they give timely assistance? No. Such a situation will arise again, and it is the duty of the Government to see that assistance is given to the people who are trying their best to see that foreign influence is finally exterminated from a part of our own soil.‡

Another important issue which saw a clash between the opposition and the Government was India’s acceptance of the membership of the Commonwealth of Nations. S. Banerjee (West Bengal) while castigating the Commonwealth said:

The continued association of India with the Commonwealth of Nations is galling to India’s self respect, precisely when one of its Members, I mean the Union of South Africa, is pursuing an aggressive policy of racialism, precisely when England is pursuing a policy of ruthless, barbarous, inhuman oppression of the freedom movement of the people in Malaya and elsewhere. What is the Commonwealth of Nations? It is the old British empire that has only changed its name but not its spots. The history of the British Empire is still the history of wickedness which has served to corrupt and brutalise mankind.§

Another Member Bhupesh Gupta, made a scathing attack on Nehru government’s soft attitude towards Britain. He said:

Commonwealth of Nations, which is after all nothing but the British Empire... the British built in this country through their years of colonial plunder and loot,

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\* C.S. Deb., 19.5.1952, Col. 97.

† C.S. Deb., 19.5.1952, Col. 121.

‡ C.S. Deb., 19.5.1952, Col. 121-22.

§ C.S. Deb., 20.5.1952, Col. 169.

a regime.” He gave an instance of the British investment of five to six hundred crores of British capital- “money that was invested by the Lord Clives, by that unspeakable gang of imperialist plunderers... every year no less than Rs. 100 crores is drained out of our country on account of this British investment. In Bengal there are managing agencies, Andrew Yule and others, which control between four to five hundred companies, and carry on their plunder unchecked..... during a short period of time, as we know Rs. 30 crore have been spent by this government for paying pensions to the British officials who retired from this country. It is an insult to Bhagat Singh and Chandrashekhar Azad who was killed in Allahabad. It is an insult to our countless martyrs that the assassins of the British imperialism should have been paid pensions..\*.

Now it was Nehru’s turn and he strongly defended India’s presence in the Commonwealth. He said: “...this association is of a most peculiar type, that is to say, it is so tenuous, it is so little binding in its character, in fact it is not binding at all. It is a willing association of two countries or more, to consult each other. That is all that it is.” On the question of South Africa, he said: “..it has nothing to do with our being in the Commonwealth. As matter of fact to put it in diplomatic language, we have no diplomatic relations with South Africa. We have no direct relations with each other. We have no diplomatic representative there, and they have none here... This trouble about people of Indian origin in South Africa has nothing to do with our being in Commonwealth.”† Nehru’s defence was inconsistent to his own philosophy and perspectives during the freedom struggle where he vociferously condemned apartheid and also attended the World Anti-Apartheid Conference.

It was not merely a debate on whether the Commonwealth was good or bad, effective or ineffective, binding or not binding but a clash of two opposing ideas. One favoured presence in the Commonwealth as a good gesture to Britain, the other saw it as a perpetuation of the colonial legacies, mental domination of those who were responsible for plunder, coercion and all kinds of immoral acts.

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\* C.S. Deb., 21.5.1952, Col. 306-309. Shri Bhupesh Gupta while strongly pleading the case to break away from the Commonwealth reminded the Congress leadership of the pledge they had taken in the Ramgarh Congress session which was presided by Dr. Rajendra Prasad: Indian Freedom cannot exist within the orbit of imperialism and Dominion or any other status within the imperialist structure, is wholly inapplicable to India, is not in keeping with the dignity of a great nation and would bind India in many ways to the British policies and economic structure.”

† C.S. Deb., 21.5.1952, Col. 292-294.



The Rajya Sabha debate was not free from the shadow of polemics and clash of political ideologies. However, the extreme political views and criticisms were heard by the Members with utmost patience and without provocation. This is like a lamp post for the inheritors of this great House. For instance, two divergent views were expressed on the character of the Constitution of India. The Communist leader S. Banerjee contemptuously stated, "The Constitution of India framed by a fake representative so called Constituent Assembly which set the seal of approval to this (Mountbatten) plan (of vivisection) is, therefore, a monument of that betrayal."\* B. G. Kher, in response argued that, "constitution was made by the true representatives of the people and that it will be a beacon light to other people who are struggling for independence."† The Communists' opinion on the Constituent Assembly was neither given heed to nor was considered serious.

The Indian Parliament also witnessed disturbances imposed on our nascent democratic polity in some parts of the country and the Rajya Sabha debated contrary views on the subject. In Telangana area, the Communists had formed a parallel government and confronted the Indian state. P. Sundarayya, the leader of the CPI, blamed the government for suppressing democratic rights and civil liberties. But on this issue, the Communists faced complete isolation. Gopalaswami Ayyangar made a scathing attack on the Communist Party of India:

As everybody knows at the end of the police action in Hyderabad, the Razkaras were liquidated, their mischiefs were put an end to, but the Communists, their allies previously, were left free to carry on with their own activities...The methods adopted by Communists in this Telangana area were those of threats, intimidation and violence. They moved about in organised gangs, *dalams* as they are called, and went about intimidating villagers, committed murders, extorted from the village folk the funds they required for their own warfare as they conceive it to be. They murdered in all about 1026 persons including 250 Congress workers and sympathisers...they destroyed crops ripe for harvest; they destroyed other village property. The total value of the loss has been estimated at several crores of rupees.‡

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\* C.S. Deb., 20.5.1952, Col. 167.

† C.S. Deb., 20.5.1952, Col. 220.

‡ C.S. Deb., 21.5.1952, Col. 320-21.

Patience and respect for each others' dignity and equal status in the House, found expression in some lighter remarks on each other. The intent however, was to hit but not to hurt. When a Member reminded Dr. Ambedkar that he was once part of the same government whose policies he was criticising, he promptly replied, "Don't you recollect my past? I am now a divorcee."\*

Prithviraj Kapoor (nominated) detested criticisms to the President's Address and compared it to a dialogue between a deaf and a sick man. He said:

...From the contents of those speeches it appeared that most of them were prepared long before the President's Address was heard...It is like a deaf man going to a sick person. ...the deaf man who went to the sick man prepared his questions and anticipating the replies had prepared the answers also. The deaf man asked a question, and the sick man replied contrary to his expectations. But he went on his own way- with his prepared speech much to the chagrin of the sick man. That is what I saw yesterday and today too.<sup>†</sup>

C.G.K. Reddy narrated an interesting story to attack the government policy: "There was a middle-aged man who was partly grey. As he did not have any children, he married again. The first wife was afraid that people would think she had married a young man, as he still had some black hair. So she started plucking off the black hair. The young second wife naturally thought that her friends would jeer at her and say that her husband was an old man because of the grey hair. So she started plucking off the grey hair. That is exactly what this government is trying to do. It is trying to serve conflicting interests not only at home but also outside of the country at one and the same time."<sup>‡</sup>

He reminded the House of how he had always been criticised "I am always accused of being a destructively critical person."<sup>§</sup>

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\* C.S. Deb., 21.5.1952, Col. 268.

† C.S. Deb., 20.5.1952, Col. 182.

‡ C.S. Deb., 19.5.1952, Col. 115-116.

§ C.S. Deb., 19.5.1952, Col. 123.

Govind Reddy (Mysore) used the story narrated by C.G.K. Reddy in his speech in a different context, to criticise both Communists and Socialists. Govind Reddy said: “Well there are two women here who are plucking the hair of the Government: one wife is the Socialist and other wife is the Communist.”\*

The House witnessed some thought provoking debates on the language issue.

Bhai Raghuvira (Madhya Pradesh) said something on the issue of language which is more relevant today:

Hindi has become our national language but this does not mean other languages are not our national language. Tamil literature is our literature, literature of the country. Malayalam is our country’s literature. This is moral duty of Hindi speaking people to own other literature as their own and also understand them. This is a bounden duty of the education department to make us aware of Bengali literature, Gujarati literature or the literature of all 13 languages, which have found their place in the Constitution. Do we need to know our languages through English which came from distance of thousands of miles? This should be understood by all nationalists.†

He advocated inter languages translations of literature from all Indian languages.

Ramdhari Singh Dinkar, Poet laureate, went ahead to show his solidarity with Bhai Raghuvira. He said:

“This is a matter of regret that our people do not read literature of their neighbours languages. Honestly speaking Europeans still continue to be our intellectual neighbour. This is also equally true, that we too, have become their intellectual neighbour. But there is a big difference. They (Europeans) read our translations and we read their original works. Therefore their impact on our personality is far more than what we make on them. We (of Indian languages) have common history therefore we should have been and must be intellectual neighbours of each other first.”‡

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\* C.S. Deb., 20.5.1952, Col. 238.

† C.S. Deb., 19.5.1952, Col. 129 (spoke in Hindi)

‡ C.S. Deb., 20.5.1952, Col. 164-165 (spoke in Hindi)

But the forthright self-criticism of Prithviraj Kapoor showed how the English dominated the political leadership of India in its early years of parliamentary democracy :

I will first express my thoughts in Hindi and then I would speak in English. I want to speak in Hindi but the Chairman knows well as he has also seen in the House how some Members like Leelaji (Leelavati Munshi), *Rashtrakavi* Dinkarji expressed their ideas so beautifully in Hindi but many of the Members gaped at them as if they were not following them. This is a matter of regret but it is not their fault. Slavery of centuries made us indifferent to our own language.\*

The proceedings and debates in the Rajya Sabha's first Session is a landmark to understand the depth of democracy which remained firmly ingrained in our consciousness which can be called the undying democratic spirit and zeal. It was also indicative that divergent views should not lead to the decline of mutual respect. The Rajya Sabha debates reflected the Indian creed to give space to extreme outer narratives and to address them with politely construed perspectives. The challenge of the present and future is not to match the greatness of the past but to leap forward. We may say, without exaggeration, that the 250 successive Sessions of the Rajya Sabha is a glorious march of democracy and have contributed in enhancing both the national consciousness and the Indian discourse. The first debate of Rajya Sabha in 1952 had assertively proved before the democratic world that it had carved its own identity, its own procedures and role to shape the destiny of India and the world.

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\* C.S. Deb., 20.5.1952, Col. 178 (spoke in Hindi)

# **RAJYA SABHA : A SUCCESSFUL LEGISLATIVE AND DELIBERATIVE BODY**

**—Dr. L. Hanumanthaiah\***

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In India, a second chamber was envisaged for the first time under the Montague Chelmsford Reforms. The Government of India Act, 1919, provided that the Indian Legislature shall consist of two chambers and Governor-General was supposed to be the chief executive authority. Under the Government of India Act 1935, the Council of State was made a continuous body, not subject to dissolution.

The Constituent Assembly debates considered the proposal of a second chamber for the Indian Parliament. The Rajya Sabha and the Lok Sabha with the President of India constitute the Parliament of India. Unlike the Lok Sabha, the Rajya Sabha is not dissolved as a body, but one-third of its Members retire every two years and new Members will occupy their place. The Vice President of India is the *ex-officio* Chairman of the Rajya Sabha. The Deputy Chairman is elected by the Members of Rajya Sabha from amongst themselves.

The Union Constitution Committee, set up by the Constituent Assembly under the Chairmanship of Pandit Jawaharlal Nehru, presented a report to the Assembly on 21<sup>st</sup> July 1947. In this report, he made certain proposals about the Second Chamber.

The report of the Committee was also discussed in the Constituent Assembly on 28<sup>th</sup> July 1947 and certain observations were made. During the discussion some Members opined that a Second Chamber was not essential. One Member expressed that the experience about the Second Chamber in the last so many years was that the Upper House acted as a “clog in the wheel of progress”. On the other hand, another Member felt that the Second Chamber was absolutely necessary and to have this was a wise decision. Replying to the divergent opinions, Shri Gopalaswami Ayyangar observed that, “the need for a Second

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\* Member of Rajya Sabha.

Chamber has been felt practically all over the world wherever there are federations of any importance... I think, on the whole, the balance of consideration is in favour of having such a chamber and taking care to see that it does not prove a clog either to legislation or administration". The Report was adopted by the Constitution Assembly on 28<sup>th</sup> July 1947.

With regard to the status of the Rajya Sabha in Indian polity, Pandit Jawaharlal Nehru said "To call either of these Houses an Upper House or a Lower House is not correct. Each House has full authority to regulate its own procedure within the limits of the Constitution. Neither House, by itself, constitutes the Parliament. It is the two Houses together that are the Parliament of India. The successful working of our Constitution as of any democratic structure, demands the closest cooperation between the two Houses." The very composition and the manner in which the Rajya Sabha has functioned so far goes to prove that it is not an ordinary Second Chamber.

With regard to the amendment of the Constitution, article 368 confers powers of amendment. The Rajya Sabha possesses equal authority and power with regard to the amendment of the Constitution. A Constitution Amendment Bill can be introduced in either House of the Parliament and has to be passed by each House of Parliament separately. In case one House fails to do so, the Bill falls through. There is no provision for a joint sitting of both Houses to resolve the deadlock on a Constitution Amendment Bill.

In case of ordinary legislation, to resolve a deadlock between the two Houses, a provision has been made in Article 108 of the Constitution for the joint sitting of both the Houses. The President can call the joint sitting of both the Houses to resolve and sort out the differences. So far three such joint sittings have taken place: in 1961 joint sitting was held to resolve the deadlock over the Dowry Prohibition Bill, 1959 and in 1978 and 2002 to resolve deadlock over the Banking Service Commission (Repeal) Bill, 1977 and the Prevention of Terrorism Bill, 2002 respectively, both of which were passed by Lok Sabha and rejected by Rajya Sabha. However, the Bills were passed in a joint sitting of both the Houses.

A Money Bill cannot be introduced in the Rajya Sabha. It has to be introduced only in the Lok Sabha and passed by it before being transmitted to the Rajya Sabha for its recommendations. The Lok Sabha has the power either to accept or to reject the recommendations of the Upper House. If the Money Bill is not returned within fourteen days of its receipt, it is deemed to have been passed by both the Houses. A certain category of financial bills also cannot be introduced in the Rajya Sabha, but there is no other limitation on the power of the Rajya Sabha and it has full powers to reject or amend in respect of any Bill other than financial bill.

In addition, the Rajya Sabha has special powers under article 249 of the Constitution which provides that Parliament can legislate with respect to matter enumerated in the State List after the Rajya Sabha passes a resolution by a majority of not less than two-thirds of the Members present and voting. Yet another special power of the Rajya Sabha under article 312 is that Parliament can, in the national interest create one or more All India Services common to the Union and States, if the Rajya Sabha passes the requisite resolution.

There is a general impression that the Upper House cannot make or unmake Government and, therefore, it is a superfluous body. But as a revising chamber, the Rajya Sabha has revised a number of Bills. Among the important Bills revised in the Rajya Sabha are the Income Tax (Amendment) Bill, 1961, the Urban Land (Ceiling and Regulation) Bill, 1976, the Prevention of Corruption Bill, 1988, the Commissions of Enquiry (Amendment) Bill, 1990, the Code of Criminal Procedure (Amendment) Bill, 1990 and the Constitution (Scheduled Tribes) Order (Amendment) Bill, 1991.

A Bill which is pending in the Rajya Sabha and has not been passed by the Lok Sabha, will not lapse on the dissolution of the Lok Sabha. This continuity of the Rajya Sabha ensures a significant measure of legislative continuity.

Finally, the Rajya Sabha takes pride in the quality of debates it has held ever since its inception. Dr. S. Radhakrishnan said, "Parliament is not only a legislative but also a deliberative body. So far as its deliberative functions are

concerned, it will be open to us to make very valuable contributions, and it will depend on our work whether we justify this two chamber system, which is now an integral part of our Constitution. So, it is a test to which we are submitted". The high traditions and standard of debates in the House have guided the Members of the Rajya Sabha not only to hold informed debates but also make proceedings relevant to public welfare. Its performance in the legislative field and in the formulation and influencing of the Government policies has been very significant. Many Members of the Rajya Sabha are in the Council of Ministers and the Constitution does not make any difference between the two Houses. In this regard, ever since its inception, the role played by the Rajya Sabha for strengthening parliamentary democracy justifies the wisdom of the founding fathers of our Republic. The success of bicameralism in India by way of Rajya Sabha is proven beyond doubt.



# **IMPORTANCE OF THE RAJYA SABHA IN DEMOCRATIC PARLIAMENT**

**—Shri Narain Dass Gupta\***

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Scepticism regarding a multilingual, impoverished and largely illiterate India's survival as a democratic nation at the time of our Independence wasn't without merit. Timely proclamations before every election denouncing it as the last, have been addressed through history. However, it wasn't mere miracle that India flourished under democracy or that democracy flourished in India. It was the structural stability of the democratic process in India that has led it into the 70<sup>th</sup> year of post independence democracy.

Today it is unimaginable to envision India's legislature without the Second Chamber of Parliament. However, the Constituent Assembly or the provisional Parliament functioned as the Central Legislature till 1950 in unicameral capacity until the first elections in 1952. The Union Constitution Committee under Jawaharlal Nehru in 1936 had emphasised on the need for Council of States or a Second Chamber to "check any forward tendencies in the Lower House". The first session of the Rajya Sabha was held on 13<sup>th</sup> May, 1952 and with time, the House's scope of work and influence has amplified.

41% of the countries in the world have a bicameral system with two Houses or Chambers of the legislature. In India we have the Lok Sabha and the Rajya Sabha. As Lok Sabha became the House of directly elected representatives, the Rajya Sabha was devised with an altogether different procedure of membership and composition to make up for the deficiencies of the prevailing system. It has since evolved to internalise its role as a House of deliberation and a revision Chamber for the legislation passed in the Lower House.

The ever expanding scope of legislation in the modern world has rendered a single House inadequate in addressing the problems of our society and thus the Rajya Sabha today is indispensable. Apart from its advisory role, it has also

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\* Member of Rajya Sabha.

secured executive accountability through 24 Department-related Parliamentary Standing Committees in the Parliament, out of which eight are functioning under the direction and control of the Chairman, Rajya Sabha. Procedural devices such as Questions, Special Mentions, Short Duration Discussion, Calling Attention Motions, Resolutions, etc. have enabled the Rajya Sabha to raise regional problems in the highest temple of democracy.

An indirectly constituted Rajya Sabha is of particular significance today, as we welcomed the 17<sup>th</sup> Lok Sabha with a single party with complete majority. It stands to mitigate the adverse effects of a populist majoritarianism. Even today, apart from local issues, India is consumed by the long standing traditions of voting per caste and religious lines, lingual familiarities, dynastic loyalties. Furthermore, with an estimated front-end expense of Rs.60,000 Crore in the Lok Sabha elections 2019, India hosted the world's most expensive elections. While muscle and money power have always plagued Indian elections, this unprecedented feature of money has severely disbalanced the 'level playing field' in electoral politics. Passionate politicians who are voted to power by citizens stake loyalty towards their constituencies and tend to be emotionally charged.

On the other hand, Rajya Sabha Members of Parliament are distinguished individuals of the society and are indirectly elected by State legislatures. Proportional representation and requirement of temporal and spatial dominance makes it almost impossible for any political party to become a dominant majority in the House. Rajya Sabha acts as a team of elders that helps navigate through the rhetoric, ruckus and oversight of the Lower House by preventing hasty legislation and providing reasonable reconsiderations. The Rajya Sabha's duty of ascertaining adherence to the Constitution is its top most commitment of service.

Another strength of Rajya Sabha lies in the limited numbers, with membership contained at 250 with 12 nominated Members of eminence from various fields. The compact nature of the House has been a great facilitator of debates and mutual cross party camaraderie. Nuanced debates in the Rajya Sabha have been successful at halting Bills in legal constitutional grey area and have used multiple tools at its disposal to safeguard federal and holistic objectives of the nation.

Consider, the 2019 Budget Session saw 36 Bills passed in 37 days by the Lok Sabha, none of which were recommended to any Select Committees for review, a drastic decline compared to 71% Bills that were recommended in the previous Session. Public sentiment coupled with brute majority breeds the kind of aggression that could be counterproductive to democratic ideals. The only humbling intervention from bulldozing Bills in the latest session remained the sobriety offered by a dispassionate and objective Rajya Sabha.

It serves as a reminder that our founding forefathers created an institution for checks and balances against the potential of their own tyranny. Yet again, it is time for a gentle reminder that the Rajya Sabha and its esteemed Members are accountable to the Constitution. As we continue the legacy of visionaries like P. V. Narasimha Rao, I.K. Gujral, H.D. Deve Gowda, Lal Bahadur Shastri, Dr. Manmohan Singh, we may contribute towards “outlook of mature, dispassionate and sensitive contemplation in consonance with the lofty idealism of the stalwarts in our nation’s history.” The House, thus, has a “vital responsibility to fulfil *vis-a-vis* the past, the present and the future as envisioned by personalities like Dr. Shanker Dayal Sharma.

# RELEVANCE OF RAJYA SABHA IN INDIAN PARLIAMENTARY DEMOCRACY

—Shri Sushil Kumar Gupta\*

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*It is an honour and privilege to write on the role of Rajya Sabha in the functioning of Parliamentary Democracy in India.*

Rajya Sabha comprises of representatives from States and Union Territories (UTs) in contrast to the people's representatives constituting Lok Sabha. Thus, it has an obligation imposed upon it by the Constitution to view, discuss and decide on issues brought before it from the perspective of the States they belong to. This view may not always be the same as that of the MPs of Lok Sabha who rightly feel a greater sense of accountability to the people of the constituency which has elected them. The Rajya Sabha MPs have a broader vision of the concerned States and UTs. This imparts on Rajya Sabha a distinct identity; it is not an adjunct to the Lower House. It keeps, maintains and strengthens the federal structure of the country which is the very basis of the organization of our States and UTs. It detects and corrects any oversight by the Lok Sabha if the Bill has already been passed by the latter. In the event of a deadlock between the Houses over an ordinary Bill, the Rajya Sabha can make the Lok Sabha listen to its views on the subject. The Rajya Sabha can also pass a resolution by two-third majority allowing the Centre to legislate on a State subject.

The Rajya Sabha not only deepens the legislative scrutiny but also extends the spectrum by putting the viewpoint of the States and UTs. It is the source of mature advice born out of experience in public affairs which is well protected from needless and counter-productive pressures, which a Member of Lok Sabha has to bear on account of being a people's representative. The Rajya

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\* Member of Rajya Sabha.

Sabha provides a platform at the highest level to debate issues concerning the entire nation or any part of it. The Rajya Sabha has the unique and crucial responsibility of striking a balance between strong federalism and the basic oneness and integrity of the nation.

However, the Rajya Sabha, along with other institutions, should take initiative to redress some basic issues affecting the freedom and happiness of the people such as the delay in judicial pronouncements, difficult access to justice, authoritarianism, denial of fundamental rights, worsening of environment and uncontrolled rise in population.

The Monsoon Session of Parliament of this year, 2019, has been a highly productive Session. The whole credit for this achievement goes to our present Chairman, Hon'ble M. Venkaiah Naidu *Ji*, who, with his statesman like skills, was able to convince the Members on all sides of the House to adhere to the democratic tradition of debating, disposing and finally devoting our energies and intellect towards those principles which strengthen our democracy and our people's belief in our parliamentary system. The leaders of various political parties also played an important role, by advising and inspiring their Members to take active part in the proceedings of Rajya Sabha. It has paved a path for making valuable contribution towards raising the issues of people and impressing upon the Government to do everything possible for the welfare of the people thus reaffirming their faith and commitment towards democracy.

If we can continue this performance in future too, it will be a rich tribute to our democracy by Rajya Sabha.

Jai Hind.

# HAS BICAMERALISM STRENGTHENED INDIAN DEMOCRACY?

—Dr. Amar Patnaik\*

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When one speaks in relation to the Rajya Sabha, or the Upper House of Parliament, one must first contend with the concept of ‘Bicameralism’ as applied to a representational democracy. This is a form of legislature where deliberations take place in two distinct assemblies. The duality created within the supreme lawmaking institution of a country certainly results in a more elaborate lawmaking process. Usually there are also differences in the roles played by these two assemblies.

## (I) Origins and Theory of Bicameralism

The origins of ‘bicameralism’ relate back to the Ancient Roman Senate. In this system, the Second Chamber, with its conservative predisposition, fulfilled a slightly ‘restrictive and damping’ function for more measured legislation.<sup>#</sup> Debate on its advantages over a unicameral legislature has continued ever since.

Bicameralism is intended to compel deliberation and prevent the legislature from being swept by a wave of unreasonable emotions.<sup>†</sup> Its existence provides scope for second thought and revision. However, abstract discussions on the utility of an Upper House are of limited value. In fact, it is rather interesting to note that theorists have struggled to arrive at a common framework of analysis for bicameralism.<sup>‡</sup> As a consequence, the functioning of Upper Houses in democracies across the world cannot be viewed as a monolith. For example, in Australia, the Upper House is selected through direct election, whereas, Canada, another former British colony, requires members to be appointed by a Governor-General. These variations across the world allow us the

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\* Member of Rajya Sabha.

<sup>#</sup> Csaba Cservak, *Bicameral Parliaments-Then and Now*, 50 Zbornik Radova (2016) p. 1015 – 1016.

<sup>†</sup> W.F. Willoughby, *Principles of Legislative Organization and Administration*, Washington, Brookings Institution, p. 226.

<sup>‡</sup> George Tsebelis, Jeannette Money, *Bicameralism*, Cambridge University Press (1997), p. 14.

opportunity to explore the nuances of our own Council of States and how it has been able to shape other institutions of governance.

India's modern take on bicameralism reflects the British framework closely. In the place of 'the Crown', the 'House of Lords' and the 'House of Commons'; we adopted the 'President', the 'Rajya Sabha' and the 'Lok Sabha', respectively. This trinity constituting the Parliament of India results in close ties between the Executive and Legislature of the country. Our first Prime Minister, Jawaharlal Nehru, felt that the reference to an 'Upper House' and a 'Lower House' in the Indian context was erroneous and felt that our Constitution alone should be the guide to understanding these two bodies of Parliament.\*

Unlike the British Parliamentary system, the two Houses do not represent the interests of two distinct classes of citizens. At the time of independence, a large number of leaders of the freedom struggle became members in both Houses, as did eminent social workers, lawyers, and artists.† Like the Lok Sabha, most of the Members of the Upper House are also Members of political parties. Many are members of the very same parties represented in the Lok Sabha. We shall return to the implications of this fact at a later stage.

## **(II) Role of Our 'The Council of States' in Indian Parliamentary Democracy**

According to theoretical framework, the two Houses of a bicameral system may vary on a spectrum of symmetry in relation to one another. In India, the Lok Sabha and the Rajya Sabha are neither identical in character nor asymmetrical according to the Constitution Makers. While analyzing the differences between the Houses, two major characteristics are emphasized: (i) the mode of selection of representatives, and (ii) the relative power between the two Houses.‡

The mode of selection for the Upper House is as per article 80 of the Constitution of India. This makes it explicit that the representatives of each State shall be elected by the members of the Legislative Assembly of the State.

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\* Council of States Debates, 6 May 1953, col. 5039.

† *Socio-Economic Profile Of Members Of Rajya Sabha (1952-2002)*, Rajya Sabha Secretariat, (2003), p. 14.

‡ George Tsebelis & Jeannette Money, *Bicameralism*, Cambridge University Press, (1997), p. 44.

Whereas, under the dictates of article 81, the House of the People is to consist of the Members directly elected from the territorial constituencies.

With respect to the relative power, although both Houses are able to affect legislative outcomes, a stalemate between the two Houses of Parliament is resolved through a joint sitting. Due to its overwhelming numerical superiority, the will of the Lok Sabha would likely prevail in such a scenario. The power asymmetry also extends to 'Money Bills', where the Upper House has restricted scope for intervention.

In light of this overall asymmetry in power distribution between the Houses of Parliament, one must look beyond the purely legislative function of the Rajya Sabha to appreciate the full extent of its role in our democracy. On the 60<sup>th</sup> anniversary of the Parliament of India, our former Prime Minister, Dr. Manmohan Singh, stated that the Upper House was 'both a Council of States and a House of Elders.' It provided a unique platform for every region of this diverse country. The House also patiently reflects and guides the nation on challenging issues.\*

The other name for the Rajya Sabha is the 'Council of States'. Unlike the Members of the Lok Sabha who represent their individual constituencies, a Rajya Sabha Member represents the State in its entirety as they are elected from the various State Legislative Assemblies. However, the founding Members of our Republic were not in favour of providing for equal representation to the constituent States of the Union of India.<sup>†</sup> Part of the reason was that the Indian Republic did not emerge from a contract among member states which would have promise an equal position to each one in the decision making process. With large variances in population sizes across States, this would not have been viable. It is also important to acknowledge that many of India's States are equivalent to other countries in terms of their size and diversity. The challenges in governance

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\*R.S. Debates, 13 May 2012, p. 1.

<sup>†</sup>R.C. Tripathi, *Second Chambers: Bicameralism Today*, Rajya Sabha Secretariat, (2002), p. 116; Giving equal representation at this platform to all States would have allowed a large number of smaller States to prevail over the larger ones. This is observed to occur in the jurisdictions of United States and Australia.



that they face are equally diversified. The Upper House has the ability to transcend myopic barriers that may take hold of a Union Government based out of Lutyen's Delhi. It is well placed to perform a deliberative function at the national level and offer a platform for the scrutinizing of important regional issues.

In the absence of provisions for an adjournment motion, Members of the Upper House have innovated, utilising the 'Calling Attention Motion' to the best effect. It has become an opportunity for various political parties to register their perspective on relevant issues concerning the nation. For example, in 1983, the House discussed a Calling Attention Motion on the re-promulgation of Ordinances in some States. Subsequently, in 1985, the motion was used to discuss the delay in assenting to Bills passed by the State Legislatures which were reserved for the consideration of the President.\*

The Rajya Sabha has also been an originator of Bills throughout its history. In the early years of independence, the Hindu Law enactments were introduced in the Upper House. Socially relevant legislation introduced such as the Hindu Marriage and Divorce Bill, 1952, the Indian Succession (Amendment) Bill, 1991 and the Marriage Laws (Amendment) Bill, 1999, indicate a focus on the problems associated with the sufferings of women in our society. Even the historic Women's Reservation Bill or Constitution (108<sup>th</sup> Amendment) Bill, 2008 was passed by the Upper House in 2010.† The House has made contribution to a host of other important issues through the introduction of Bills on food adulteration (the Prevention of Food Adulteration (Amendment) Bill, 1974), abolition of bonded labour (the Bonded Labour System (Abolition) Bill, 1976), and the prevention of child marriage (the Prohibition of Child Marriage Bill, 2006).

By making use of its power to revise Bills, the Rajya Sabha has on multiple occasions called for a deeper level of scrutiny. For example, the Dowry Prohibition Bill was introduced in the Lok Sabha in 1959. However, Members of

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\*Rajya Sabha - Its Contribution To Indian Polity, Rajya Sabha Secretariat (2018), p. 21.

†Sixty Years of Rajya Sabha (1952-2012), Rajya Sabha Secretariat, (2012), p. 13.

the Upper House were dissatisfied with the Bill and called for major alterations to be made.\* The Lok Sabha recommended a Joint Committee of the two Houses to study the Bill. But the Rajya Sabha's insistence on its amendments led to the convening of Joint Sitting of the two Houses. One of the amendments suggested by the Rajya Sabha was unanimously adopted in the sitting and the Bill eventually became law in 1961.† Other important legislations revised by the House were the Income Tax (Amendment) Bill, 1961 and the National Honour Bill, 1971, where very substantial changes were accepted by the Lok Sabha to the original Bill. More recently, the Fiscal Responsibility and Budget Management Bill, 2003, the Central Vigilance Commission Bill, 2003 and the Lokpal and Lokayuktas Bill, 2013 were important legislations amended by the Rajya Sabha. The Lokpal Bill was also referred to a Select Committee of the House.

Perhaps the most conclusive endorsement of the relevance of the Rajya Sabha as an institution came in the form of a Bill introduced in its 249<sup>th</sup> Session, the Jammu and Kashmir Reorganisation Bill, 2019 alongside a Statutory Resolution. Upon the introduction of this historic legislation, the Rajya Sabha found itself at the cusp of a decision to bring about a paradigm shift in the administration of the troubled State. Public discourse revolved around the debate that took place in the Upper House.

Another recent example of the House's impacting legislation is the Bill on transgender rights. In 2015, the Rights of Transgender Persons Bill, introduced as a Private Member Bill by a Rajya Sabha Member, was passed by the Upper House. This spurred the Union Government to introduce its own legislation on the matter. Although the odds of enacting a private member legislation is low, Members have utilised this mechanism effectively to inform debate, inspire future enactments and spark social reform. These examples bring to light the larger role of the Rajya Sabha as a forum for deliberation and discussion crucial to the democratization of governance.

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\*Council of States Debates, 21 August 1959, col.1450.

†Rajya Sabha - Its Contribution To Indian Polity, Rajya Sabha Secretariat, (2018), p. 15.

### **(III) Present Challenges to Enhancing the Rajya Sabha's Role In Our Democracy**

In spite of all this, certain systemic challenges remain in the way of full usage of the Upper House's utility. Primary among them is the nature of the anti-defection laws currently in place. Although the laws were rightfully introduced in 1985 in response to rampant defections, they have also negatively impacted the deliberative process within the House.

Firstly, it must be noted that anti-defection laws of this nature are rare. They exist in no major country in North America or Western Europe.\* They are not merely limited in application to party defections, but to all voting activity. This includes the passage of all the Bills in the House, although the Members of a party may hold differing opinions on specific issues. To maximise their potential as parliamentarians, the Members of the Upper House require a certain degree of independence in the method of their functioning. They must be able to question legislation and policy by bringing their individual perspective to the floor of the House and arrive at a consensus through deliberation. The power to vote on an issue is a vital element of this independence. At present, the scope to vote against the directions of the party is limited. In turn, the scope for independent and diverse positions is limited as well. As mentioned earlier, many of the political parties finding representation in the House of the People do so in the Council of States as well. With positions on legislation controlled by party whips, the incentive for deliberations in the Rajya Sabha taking a different route is greatly diminished. This jeopardizes the most significant quality attributed to a bicameral legislature.

Another significant challenge was observed in the most recent Session of the Council of States. In the absence of Department-related Standing Committees on various subject matters, there were attempts by Members of the House to refer certain important Bills to a Select Committee, such as the Right to Information (Amendment) Bill, 2019 and the Protection of Children from Sexual Offences (Amendment) Bill, 2019. A Committee's recommendations on a Bill may not be

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\* Devesh Kapur, Pratap Bhanu Mehta, Milan, & Vaishnav (eds.), *Rethinking Public Institutions in India*, Chapter 2: Parliament (M.R. Madhavan), Oxford University Press, (2017), p. 97.

binding, but provide the Members with valuable inputs while considering a new Bill.<sup>\*</sup> They also allow time for the public at large to examine and debate the merits of a new legislation. This contributes additional perspectives which are vital to a comprehensive discussion. The failure to refer these Bills to the Committee runs counter to the Upper House's objective of enhancing legislative scrutiny.

Such instances have not gone unnoticed. The report of the National Commission to Review the Working of the Constitution made a mention of the absence of adequate parliamentary scrutiny. It noted that Bills are often rushed through Parliament with unbelievable speed and then found wanting in one respect or another and recommended a more systematic approach to the planning of legislation.<sup>†</sup> It called for providing adequate time for consideration in Committees and on the floor of the house. Reform of this nature would certainly augment the Rajya Sabha's legislative role.

In the words of Dr. S. Radhakrishnan, while addressing the House, 'So far as its deliberative functions are concerned it will be open to us [Rajya Sabha Members] to make very valuable contributions and it will depend on our work whether we justify this two-Chamber system, which is now an integral part of our Constitution so it is a test to which we are submitted.'<sup>‡</sup> Late Shri Arun Jaitley, former Member of the House, very aptly remarked that 'the people look upon both the Houses of Parliament to improve the quality of politics and governance. The power of politics is immense.'<sup>§</sup> The superfluity of the Upper House is not contingent on its ability to make Governments, but its ability to function as a deliberative body.

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<sup>\*</sup>Devesh Kapur, Pratap Bhanu Mehta, Milan, & Vaishnav (eds.), *Rethinking Public Institutions in India*, Chapter 2: Parliament (M.R. Madhavan), Oxford University Press, (2017), p. 88.

<sup>†</sup>*Chapter 5, Volume I*, Report of The National Commission To Review The Working of The Constitution, 2002.

<sup>‡</sup>Council of States Debates, 16 May 1952, col.43.

<sup>§</sup>R.S. Debates, 13 May 2012, p. 4.

# **RAJYA SABHA MORE RELEVANT NOW THAN EVER BEFORE**

**—Dr. Sasmit Patra\***

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The fact that the Rajya Sabha would be holding its 250<sup>th</sup> Session during the Winter Session of 2019 itself signifies the richness of the debates, discourse and discussions that would have been heard in its hallowed portals over the decades as India evolved and matured into the world's largest democracy. I would like to approach this theme from the perspective of a newcomer, a young Member of this august House, who took oath on the 4<sup>th</sup> of July in 2019; all but forty years old. I hope my perspective helps you to get a ringside view of the Rajya Sabha's role and contribution in bringing about social change and economic transformation, deepening the legislative scrutiny, strengthening federalism and the importance of debating issues of specific concerns to the States and other public issues.

## **Rajya Sabha and Transformation**

Transformation is radical, rapid and at times disruptive. I watched, participated in debates and did floor management for my party in the House as the Jammu and Kashmir Reorganisation Bill walked in. The RTI Amendment Bill, the National Medical Commission Bill, the Motor Vehicles Bill with stricter penalties and stringent action as well as the Code of Wages Bill which subsumed four major labour laws into itself were some of the Bills where I participated in the discussions and, therefore, personally felt how transformative Rajya Sabha has been and is with the changing times. Not to mention the Bill on Triple Talaq. Each of these Bills were transformative and some of them changed the course of history, some processes and some new life-style choices and preferences for the people of India. Many would argue that these Bills are transformative, but the question is what was the greatness of Rajya Sabha in the passage of these Bills.

Let me draw your memories to those fateful days when some of these Bills came on the floor of the Rajya Sabha for debates and passing. On one hand

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\* Member of Rajya Sabha.

is the Lok Sabha with a brute majority of the ruling party, where with a whip in force, the party running the Government for the nation can walk through with the passage of each Bill as it chooses. The Opposition at times has to watch quietly despite vociferous protests as the ruling party with its three hundred plus Members of Parliament in Lok Sabha smoothly keeps asking for division (voting) and wins hands down. In this scenario comes in the Rajya Sabha. It is a House where the ruling party of India does not have majority and therefore it has to engage with the Opposition to run the House, irrespective of whether it wants to or not. It simply couldn't have passed the various transformative Bills that I mentioned above without the support of the Opposition parties, parties who are not a part of its National Democratic Alliance (NDA). The Rajya Sabha, with its checks and balances in terms of number, is able to draw back and force the ruling party and, through it, the Government to engage with the opposition and ensure that for such Bills to be passed, greater cooperation and wider support is necessitated. Therein lies the true strength of the Rajya Sabha. When on one hand, due to the overwhelming majority in the Lok Sabha, the ruling party does not have to bother engaging with the Opposition, on the other hand due to lack of numbers in Rajya Sabha the ruling party has to explain, collaborate and build relationships with clarifications provided before its Bills can be passed. The relevance of the Rajya Sabha in transforming India should not only be seen through the prism of passing of Bills but rather from its role in the present-day context, where it acts as a strong guardian and custodian of people's interests in case a party gets brute majority in the Lok Sabha. The Rajya Sabha pulls back that party and ensures that transformation is welcome but at what cost, how and when are also questions that the Lok Sabha needs to answer for.

### **Rajya Sabha in deepening the legislative scrutiny**

I specifically remember speaking on the RTI Amendment Bill when it came for discussion in July, 2019, a few days after my swearing in and that became my maiden speech, though I had already spoken to a specific extent on the POCSO Amendment Bill. The RTI Amendment Bill is extremely important from the perspective of Rajya Sabha and legislative scrutiny. On the one hand legislative scrutiny is thought to be a traditional form of engagement, but the day RTI Amendment Bill came for passing in the Rajya Sabha, I realised then that legislative scrutiny is not only in letter, but also in spirit and words, provided

political parties knew the approach to ensuring legislative scrutiny. With reference to the RTI Amendment Bill, the party had given a proposal to send it to a Select Committee. We had specific questions and we wanted specific clarifications from the Government. Having placed that proposal, as I stood to stand speaking on the Bill, I drew the attention of the Hon'ble Union Minister piloting the Bill on the reservations and issues that my party had with this Bill. They were in reference to the taking away of the powers of the States and giving it to the Centre, diluting the federal structure and the RTI Act in itself. The Hon'ble Union Minister piloting this Bill sought me out during his reply at the end of the debate and while personally mentioning me as my party's representative, clarified on all the aspects mentioned by me relating to the RTI Amendment Bill. This shows how the Rajya Sabha, despite being considered by some as a place which does not hold relevance, is actually the place which ensures legislative scrutiny and forces the hand of the Union Ministers to respond and clarify on various issues on the floor of the House.

### **Rajya Sabha in strengthening federalism and State issues resonating in Parliament**

India is unitary in spirit but federal in structure. This maxim was taught to me in my first few classes of Civics subject lessons in school. I have held dear to it since I come from a regional party in Odisha which has been serving the people of Odisha for five consecutive electoral terms headed by the dynamic Chief Minister, Shri Naveen Patnaik. Federalism is at the core of ensuring fair play and distributive justice for the States of India with special reference to the Centre or Union Government. Coming from Odisha there are several issues which needs prompt and urgent attention. Whether its railways or civil aviation or highways to the Union Government funding for State welfare, each of these aspects has been perpetually raised by the Chief Minister of Odisha at various times. After having taken oath on 4<sup>th</sup> July this year in the Rajya Sabha, I had opportunities to take part in several Special Mentions and Zero Hour discussions, where I was able to draw the attention of the House to issues of state's interest. Many issues ranging from the raising of Kalinga Regiment, Coal Royalty revision, status of railway projects in Odisha to neglect to Odisha in

identification of iconic tourist sites by the Centre laid at large the opportunity to bring State issues into the Parliament and lay it before the Government with full public view so that the state voices are heard and not lost in the huge maze of Luyten's Delhi. Federalism in India needs to be strengthened. It can only be strengthened when voices from Odisha, West Bengal, Andhra Pradesh, Punjab, Maharashtra and other states resonate in the Parliament. With the Lok Sabha having more than double the number of Members than the Rajya Sabha, it is not possible within the limited time for the voices of all the States to find space. But with lesser number of Members and more space and scope for expression, Rajya Sabha is extremely relevant for raising state issues and strengthening federalism.

On the third working day from the day of my oath, I gave my first submission as a Special Mention in the Rajya Sabha on the Women's Reservation Bill. My last Zero Hour submission in the same 249<sup>th</sup> Session of the Rajya Sabha was also on the Women's Reservation Bill. Does the Lok Sabha provide such a space for a Member to be able to bring about such matters with the permission of the Chair repeatedly, especially a Member who is in his maiden Session? Might be. But as one of the younger Members in the Rajya Sabha and not having the simultaneous work of a Lok Sabha constituency which a Member of the Lok Sabha has to perform, I believe it gave me the space, time and energy to research, articulate and bring to the forth issues felt appropriate and relevant from the country and State's perspective. Before and after stepping into the Rajya Sabha, I strongly believe that in these present times when brute majorities in Lok Sabha effectively reduce the Opposition to vehement voices but which is not as effective when division (voting) takes place, it is the Rajya Sabha which rises to the occasion and is followed more closely than the Lok Sabha by the nation. Case in point, the day Rajya Sabha debated the Jammu and Kashmir Reorganisation Bill. I rest my case.



# REFORMING RAJYA SABHA FOR IMPROVING ITS IMPORTANCE AND FUNCTIONALITY

—Dr. Sasikala Pushpa Ramaswamy\*

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## Major Roles of Rajya Sabha: An Introductory Overview

It is a well-established fact that bicameralism has been one of the most important features of India's parliamentary democracy. The essence of democracy is participatory governance. Experiences around the world have shown that this ensures responsiveness and transparency. Ever since the coming into force of the Constitution, both the Chambers of Indian Parliament have been complementing each other in more ways than one. The ever-increasing activities of the Upper House, Rajya Sabha (Council of States) have reinforced the expectations of the founding fathers for a bicameral legislature.

Rajya Sabha has equal legislative powers with the Lok Sabha except in the case of Money Bills. It is a permanent body not subject to dissolution. One third of its members retire every second year, and are replaced by newly elected Members. Each Member is elected for a term of six years. The Members are indirectly elected by Members of the legislative bodies of the States. The Rajya Sabha can have a maximum of 250 Members. It currently has a sanctioned strength of 245 Members, of which 233 are elected from States and Union Territories and 12 are nominated by the President. The number of members represented from a State depends on its population. The minimum age for a person to become a Member of Rajya Sabha is 30 years.

Over the years, the Rajya Sabha has proved to be an effective deliberative and revisory Chamber. The Constitution of India has assigned a unique role to the Rajya Sabha. Through performance of varied roles, the Rajya Sabha has secured a distinct place in our polity as also in the Constitution. It serves an important role in preserving the federal structure as mandated by the

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\* Member of Rajya Sabha.

Constitution. In sum, the makers of our Constitution envisaged the role of the Rajya Sabha along three axis\* :

- I. as a legislative Chamber of Elders discussing, revising or delaying legislation as per need;
- II. as an institution where interests of the States of the Indian Union could be projected and safeguarded; and
- III. as a deliberative Chamber where greater and diverse experience is brought to bear on questions of significance.

### **Role of Rajya Sabha in Strengthening Federalism**

The Rajya Sabha is not only the best constituted Second Chamber in the world, it is also the most well-balanced in its power to fit in modern democracy and to serve the constitutional purpose which a Second Chamber in a democracy is required to perform in the best possible manner. The Rajya Sabha represents the States of the Indian Federation. The Rajya Sabha (even though a less powerful Chamber) is required to conserve the federal stability by protecting the interests of the States against the uncalled-for interference of the Centre. As per Dr. S. C. Dash, “The Indian Parliament has maintained a balance between the two Houses and it is not possible for the Lower Chamber to over-ride the Council of States in any matter other than financial legislation”<sup>†</sup>.

### **Role of Rajya Sabha in Debating Issues of Specific Concerns to the States**

The Rajya Sabha serves the purpose of a federal Second Chamber. It protects the interests of the States. Relation between the two Houses is not usually marked with animosity and rivalry. The Legislative Assemblies of India can do much to help the Rajya Sabha to play its role effectively as a Second Chamber by sending good men of ability, integrity and character.

### **Significance of Rajya Sabha**

For India, it is important to reconcile the parliamentary and federal principles of Government in a more harmonious balance. With the ever-fluctuating political scenario and transformation of the party system at both the

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\* Second Chamber in Indian Parliament: Role and Status of Rajya Sabha, pg. 4

<sup>†</sup> <https://unlocking-the-future.com/essay-on-the-rajya-sabha-composition-functions-and-powers/>

Centre and State levels, the role of the Rajya Sabha as a representative platform for the States has become even more significant. It is imperative to expand its electoral college to include local bodies in addition to the State legislatures in order to strengthen its federal relevance. This would be compatible with current efforts to put local self-governing institutions on a more secure constitutional footing. If the suggestion made by Rajni Kothari to reconstitute it as a Pradesh Sabha with some representation to the local bodies is implemented, the Rajya Sabha will crucially impart substance to the rhetoric of multilevel federalism, which for all practical purposes, is a bi-level affair. The lower levels of our polity will get their due voice in legislation affecting them in this reconstituted Rajya Sabha. Further, if the twelve nominated members of the Rajya Sabha, (until 2003, 105 of whom have sat in the Upper Chamber) are nominated in a non-partisan way by presidential discretion rather than on the advice of the Government of the day, the Chamber of Elders could be made more representative of the civil society.

No doubt, the Rajya Sabha has played a constructive and effective role in our polity. Its performance in the legislative field and in influencing the Government policies has been quite significant. The Rajya Sabha has, in fact, worked in a spirit of cooperation with Lok Sabha as per the Constitutional mandate\*. It has prevented hasty legislation and has served as a dignified Chamber representing the federal principle. As a federal Chamber, it has worked for the unity and integrity of the nation and has reinforced the faith of the people in parliamentary democracy. However, a restructured Rajya Sabha that represents sub-State national communities equally could increase the ability of these communities to participate meaningfully in their own rule, while remaining within the idea of proportional representation. The Rajya Sabha can be a worthy representative platform of citizen rights and for those living on the margins of exclusion. It can constitutionally uphold both the rule of law and public institutions. It has ensured for itself significant role at various critical junctures.

### **Structural Reforms: Need for a more effective Rajya Sabha**

Rajya Sabha reforms have now become inevitable. Time has come to rise above the calculations of political profit and loss, and undertake necessary constitutional amendments in line with the basic sentiments of federalism and parliamentary democracy. Ever since the Sarkaria Commission submitted its

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\* [https://rajyasabha.nic.in/rsnew/council\\_state/council\\_state.asp](https://rajyasabha.nic.in/rsnew/council_state/council_state.asp)

report in 1988, the reformation of the Rajya Sabha has been on the cards. A plethora of memorandums aimed at improving the Rajya Sabha as the federal Second Chamber, were submitted to the Commission. The M.M. Punchhi Commission Report on Centre-State Relations in 2010 proposed varied changes in the existing arrangement\*. It suggested that the domiciliary clause be retained and give equal representation to the States, Panchayats and Municipalities in the Rajya Sabha to redress the federal imbalance in the political system. In order to strengthen the role of the Rajya Sabha, the commission counselled for strengthening its Committees with expert aides.

The Rajya Sabha has been functioning for 67 years. During this time, governance has become rather complicated and the subjects of laws a bit more technical. However, the rules governing the functioning of the Rajya Sabha have not been able to keep pace with the rapidly changing times. Individual goals have started to obstruct a highly needed mandate quite often. Therefore, there is a need to enforce new rules which can be helpful in implementing legislative sanctions.

Another important factor which needs to be taken care of is the waste of time during sessions in Rajya Sabha. By adopting a fast track methodology for arriving at unanimous decisions, the Rajya Sabha can help in moving the national economy forward. Also, there is an urgent need to save the Rajya Sabha from turning into an institutional tool for offering patronage. In the recent years, the smooth functioning of the Rajya Sabha has been frequently weighed down by other deficiencies, such as, indiscipline, unwanted ruckus, and absenteeism.

There is an urgent need to have more responsible and independent Rajya Sabha Members who can contribute meaningfully to the purpose for which they have been elected or nominated and thereby help in bringing a changed perspective for an efficiently functioning Rajya Sabha. Furthermore, a responsible and independent Rajya Sabha Member should not be biased in terms of party-oriented or politics-oriented considerations. During times when the Lok Sabha Members are unable to come up with a meaningful discussion while passing a Bill, the Rajya Sabha can play a crucial role by exploring and exposing the more refined intricacies in the proposed Bill before the Bill under discussion becomes a law. Rajya Sabha needs to play its role by clearly placing the pluses and minuses of proposed Bills before the common man.

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\* <http://interstatecouncil.nic.in/wp-content/uploads/2015/06/volume1.pdf>

The Constitution, through article 118(1), gives the two Houses of Parliament, the Rajya Sabha and the Lok Sabha, the power to make rules to regulate their functioning. Article 118(2) of the Constitution, which provided an interim mechanism exclusively for the Rajya Sabha rules, also gave the Chairman of Rajya Sabha the power to modify and adopt rules that were in place before the commencement of the Constitution. Recently, the Vice President of India, Mr. Venkaiah Naidu, has appointed a two-member Committee to make recommendations for revising the rules of the Rajya Sabha. Mr. V K Agnihotri, former Secretary General of the Rajya Sabha, is heading the Committee. The Agnihotri Committee has been set up at a time when the Rajya Sabha is facing such structural challenges\*.

Reforms in Rajya Sabha are much needed for the democratic growth of the country. In order to ensure the relevance of the Rajya Sabha today, the following two institutional reforms seem to be very pertinent:

- (i) enhancing its powers in line with those of the Lok Sabha. This would uplift its position in Parliament, making it indispensable with respect to consent in areas like finance and foreign affairs.
- (ii) making it truly representative of States' interests by democratizing seat allocation for smaller States.

Furthermore, the following two key structural changes may be essential for the effective functioning of the House:

- (i) The MPs who are elected by Members of State legislatures, there has to be a limitation that at least one-half, i.e. 50%, of them must be persons of eminence, not belonging to any political party. These eminent non-political Rajya Sabha MPs elected by State legislators can operate uniformly across the country, henceforth striking a careful balance with the other 50% capable legislators belonging to political parties. A provision, therefore, need to be introduced in article 80 of the Constitution, in order to undertake this reform.
- (ii) The Rajya Sabha need to be restored to its original primary function, i.e. ensuring full care of States' interests at the federal

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\* <https://indianexpress.com/article/opinion/columns/rajya-sabha-rules-venkaiah-naidu-v-k-agnihotri-5193535/>

level. This can be done if the domicile/residency requirements of elected MPs are made a necessary precondition. In other words, such MPs should be elected from the States where they were born and brought up or currently reside, or have resided in that State for a period of at least 5 years prior to their election. This will certainly help create greater accountability among such MPs to raise state-specific concerns.

In sum, the Rajya Sabha was designed for the purpose of representing the interests of States and as a guardian of State's rights. In its role as a watchdog, it must assert itself as a House of correction. Its function is to improve legislation passed by the Lok Sabha and to provide the required checks and balances by providing a forum for more experienced legislators and offering a degree of continuity in the underlying policies of laws passed by the Parliament. Most importantly, however, it was conceived as a means to institutionalize the federal principle of power-sharing between the Centre and States. Hence, the Rajya Sabha in Parliament, fashioned as a Council of States, can be understood as an institutional arrangement through which constituent units become part of the decision-making process at the central level itself. The Rajya Sabha thus represents a crucial component of the constitutional checks and balances scheme, in addition to the commonly identified examples of responsible government and judicial review. While checks and balances usually operate between the executive, legislature and judiciary, the Council of States acts as a safety valve within the legislature itself, easing federal tensions\*.

For the Rajya Sabha to be more effective, certain steps need to be taken. All States must be given an equal number of seats. Most importantly, it needs to be seen as a House brimming with talented policymakers. There has to be a mechanism to ensure that qualified people reflecting the diversity of our country are represented in the Rajya Sabha. At best, the Rajya Sabha can facilitate the smooth functioning of our democracy and be the spokespersons for the marginalized†.

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\* <https://vidhilegalpolicy.in/2019/03/08/2019-3-8-rajya-sabha-the-safety-valve-of-indian-federalism/>

† <https://www.thehindu.com/opinion/letters/Relevance-of-the-Rajya-Sabha/article14395296.ece>

# SOJOURN OF A NOMINATED MEMBER IN THE RAJYA SABHA

—Shri Fali S. Nariman\*

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1. The best way that a former member of Rajya Sabha can project “*The Role of the Rajya Sabha in Indian Parliamentary Democracy*” is to describe his own experience.

2. But first we must know what the experts say (they are the text book writers and our Judges):

(I) In Durgadas Basu’s famous Commentary on the Constitution of India\* the author has elegantly described the utility of the Rajya Sabha (the Upper House) in a vibrant democracy like India:

(i) Whatever may be said as to the utility of a Second Chamber in a unitary Constitution, there is a virtual agreement amongst publicists and political scientists, that it is a necessity in a federal Constitution in order to give proper representation to the units of the federation, while the Lower House is elected on a territorial and population basis. It is agreed that the Second Chamber checks the centrifugal sentiments by offering the representatives of the States to have their say in the national legislature. As Mr. Gopalaswami Ayyanagar had said in the Constituent Assembly:

“The need has been felt (for a Second Chamber) practically all over the world wherever there are federations of importance.”

India, having a federal Constitution, could not, accordingly, dispense with a Second Chamber.

(ii) Next in importance to the federal function is the *revising* function of Second Chamber.

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\* Nominated Member of Rajya Sabha (1999-2005).

\* 8<sup>th</sup> Ed. 2008.

It has already been pointed out how this function has been admirably performed by the House of Lords in England, and how the House of Commons has accepted the amendments made in the Upper House, notwithstanding its power to override that latter. The composition of almost every Second Chamber in the world ensures a more aged and experienced personnel for the Second Chamber so that –

all legislative measures may receive a second consideration by a body different in character from the primary representative assembly, and, if possible, superior or supplementary in intellectual qualification.\*

(iii) Another important function of Second Chamber is the interposition of so much delay (and not more) in the passing of a Bill into law as may be needed to enable the opinion of the nation to be adequately expressed upon it.<sup>†</sup>

(iv) While as a revising Chamber, the Upper House serves to eliminate the errors of the Lower House it does a complementary function by initiating bills of a comparatively non-controversial matter and sending to the Lower House a fully discussed measure so that it may have an easier or quicker disposal in the Lower House.<sup>‡</sup> In this respect, the Council of States resembles the House of Lords. In India, the Council of States has equal power to initiate any Bill other than Money or financial Bills. As a result, a large number of Bills, including controversial measures such as the reform of the Hindu law of succession, marriage and the like, have been initiated in the Council.<sup>§</sup>

“(v) A Second Chamber serves an important function by enabling full and free discussion of large and important questions, at times when the lower House is otherwise occupied. It is also possible to have a freer

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\* Sidgwick, Henry: *Elements of Politics*.

† Report of the Bryce Conference, 1918.

‡ Lord Chorley, "*The House of Lords Controversy*", 1958 Public Law, 216 (227).

§ During the quinquennium 1952-56, the Council dealt with 363 Bills of which 101 had been initiated in the Council.



discussion of such questions in the Second Chamber whereas in England or India, a defeat of the Government does not lead to a fall of the Cabinet. At the same time, a debate in the Second Chamber would often oblige the Government to make a statement as to its policy upon some particular matter, to defend its action.\*

(II) In the above description the following may be added:

Article 108 of the Constitution ensures that the Upper House cannot and must not be permitted to needlessly stall legislation passed by the elected Members of the Lok Sabha. Article 108 empowers the President (who always acts with the aid and advice of his Council of Ministers of the Government-in-Office) to summon both Houses of Parliament to a joint sitting – which obviates any deadlock occasioned by a Bill being passed by the Lok Sabha but being rejected by the Rajya Sabha – it is ultimately decided expeditiously at a joint session of the both Houses.

(III) The Judges have expressed the role of the Rajya Sabha a little differently. In *Kuldip Nayar vs. Union of India*<sup>†</sup> a prominent journalist as well as a former Member of Parliament, Late Mr. Inderjit, challenged the Representation of Peoples (Amendment) Act No. 40 of 2003, by which the requirement of domicile in the State for getting elected to the Council of States was deleted – the petitioners contended that it violated the principle of federalism—a part of the basic structure of the Constitution, but a Constitution Bench of 5 Judges disagreed; and this is what they said about the Rajya Sabha:

“45. India's Parliament is bicameral. The two Houses along with the President constitute Parliament [Article 79]. The Houses differ from each other in many respects. They are constituted on different principles, and, from a functional point of view, they

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\* Durgadas Basu, Commentary on the Constitution of India, Vol. 4, pp. 4834 to 4839.

<sup>†</sup> 2006 (7) SCC 2.

do not enjoy a co-equal status. Lok Sabha is a democratic chamber elected directly by the people on the basis of adult suffrage. It reflects popular will. It has the last word in matters of taxation and expenditure. The Council of Ministers is responsible to the Lok Sabha.”

“46. The Rajya Sabha, on the other hand, is constituted by indirect elections. The Council of Ministers is not responsible to the Rajya Sabha. Therefore, the role of the Rajya Sabha is somewhat secondary to that of the Lok Sabha, barring a few powers in the arena of Centre-State relationship.”

“47. The Rajya Sabha is a forum to which experienced public figures get access without going through the din and bustle of a general election which is inevitable in the case of Lok Sabha. It acts as a revising Chamber over the Lok Sabha. The existence of two debating Chambers means that all proposals and programmes of the Government are discussed twice. As a revising Chamber, the Rajya Sabha helps in improving Bills passed by the Lok Sabha. Although the Rajya Sabha is designed to serve as a Chamber where the States and the Union of India are represented, in practice, the Rajya Sabha does not act as a champion of local interests. Even though elected by the State Legislatures, the Members of the Rajya Sabha vote not at the dictate of the State concerned, but according to their own views and party affiliation. In fact, at one point of time in 1973, a private member's resolution was to the effect that the Rajya Sabha be abolished.”\*

“48. The maximum strength of Rajya Sabha is fixed at 250 Members, 238 of whom are elected representatives of the States and the Union Territories and 12 are nominated by the President. The seats in the Upper House are allotted among the

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\* Chief Justice Y.K. Sabharwal along with the other Judges of the Bench (viz. K.G.Balakrishnan, S.H.Kapadia, C.K.Thakker, P.K.Balasubramanyan, J.) in the case of *Kuldip Nayar vs. Union of India* reported in 2006 (7) SCC 1 p. 47.

various States and Union Territories on the basis of population, the formula being one seat for each million of population for the first five million and thereafter one seat for every two million population. A slight advantage is, therefore, given to States with small population over the States with bigger population. This is called "weighted proportional representation". The system of proportional representation helps in giving due representation to minority groups. The representatives of a State in Rajya Sabha are elected by the elected members of the State Legislative Assembly in accordance with the system of proportional representation by means of a single transferable vote [article 80(1)(b) and article 80(4)]. The Rajya Sabha is a continuing body. It has nominated members. They are nominated by the President on the advice of Council of Ministers. There is no difference in status between elected and nominated members of Rajya Sabha except that the elected members can participate in the election of the President whereas the nominated members cannot do so. One-third of its members retire every two years and their seats are filled by fresh elections and nominations."

"87. The unequal yet weighed proportional representation method adopted for Rajya Sabha elections was a consequence of the analysis of representation in other federal bicameral legislatures. Even though it was recognized that smaller States required safeguards in terms of representation, it was further observed that enforcing equal representation for States like in the U.S.A. would create immense asymmetry in the representation of equally divided segments of the electorate. Furthermore, the formation and re-organisation of States in India since independence has largely been on linguistic lines and other factors of cultural homogeneity among groups, where the sizes of these communities vary tremendously in comparison to each other. Hence, allocating seats to the states in the Rajya Sabha, either on equal terms or absolutely in accordance with population distribution would have been extreme solutions. Hence, the formula applied for the purposes

of allocation of seats in the Fourth schedule seems to be a justifiable solution. This point can be illustrated with the trend that between 1962 and 1987, six new States were carved out of Assam. If India had followed the equal representation model, these new states, containing barely 1% of India's population, would have had to be given 25% of all the votes in the Upper Chamber. Hypothetically, the more populous States would never have allowed this. Thus an essential feature of the working of federalism in India *i.e.* the creation of new States, some of which had violent separatist tendencies, would have been difficult under the U.S. principle of representation for each state equally.”

“88. The Irish Constitution like the Indian Constitution does not have strict federalism. Residence is not insisted upon under the Irish Constitution\*. Similarly, in the case of Japanese Constitution, qualifications are prescribed by the statute and not by the Constitution. The various constitutions of other countries show that residence, in the matter of qualifications, becomes a constitutional requirement only if it is so expressly stated in the Constitution. Residence is not the essence of the structure of the Upper House. The Upper House will not collapse if residence as an element is removed. Therefore, it is not a prerequisite of federalism.”

3. The following paragraphs describe my own experience as a Nominated Member of the Rajya Sabha from 1999 to 2005.

I greatly enjoyed my sojourn in the Rajya Sabha for the full, six-year term. During the first two years, I continued to spend more time on my law practice in the Supreme Court, and was not able to contribute much to the deliberations in the Upper House. But then in the third year, I realized that one could not do two jobs well, namely, pursue one's law practice and at the same time be an effective Member of Parliament. So I decided that law practice must give way.

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\* *Constitution of India*, D.D. Basu, 6th Ed. Vol. F.

Since then I became a fixture in the House – always in my seat at 11 A.M. during the sessions. I not only attended all sittings of the House but fully participated in the deliberations – and also in various Committees of Parliament. For my regularity and attention, the Vice-President of India and Hon'ble Chairman, Rajya Sabha, the late Shri Bhairon Singh Shekhawat appointed me – when my six-year term was nearly over – as one of the Vice-Chairmen. And, in the absence of the Chairman and Deputy Chairman, I even got an opportunity to sit in the Chairman's chair and conduct some of the proceedings of the House!

During my term as Member, noisy walkouts were fewer than they were later, and the House 'worked' for about 100 days in a year. I am quite proud of some of the speeches I made in the House in support or in opposition of Bills and resolutions.

On 23 December 2003 during the debate on the Salary & Allowances and Pension of Member of Parliament Bill, 2003, I had said:

Madam Deputy Chairman, in this happy mood of the House, I am sorry to strike a slight note of caution. Whenever we provide more perks and facilities for the members of Parliament, we are always criticised. Often, I believe, and rightly, our performance is assessed at the bar of public opinion and at the bar of public opinion our performance in Parliament, as members of Parliament, sometimes, leaves much to be desired. So, I respectfully suggest that we should honestly face it. At times like this, we should, I believe, be critical of ourselves. Why do we not provide, for instance, if necessary by a resolution, as unanimously as we are going to pass this Bill, that, if for any reason, the proceedings of the House, on any day, are not held, the members are not entitled to their daily wage? No work, no pay. The Bhagavad Gita says, 'Whatever the important people do, others follow.' Why can't we set an example? The people, I believe, expect us to do that. If we show we are responsive to genuine public opinion, I am sure public opinion will not grudge our perks, pay and privileges. We must, I suggest, by example not by preachings, show to the people that parliamentary democracy is the best form of government, and, as a start, I humbly believe, we should adopt rules implementing the three reports of the Ethics Committee which have already been unanimously adopted by this House. Thank you.

But to no avail. The bill was passed by voice vote and soon became law. Our salaries, perks and allowances stood increased.

I am particularly proud of what I look upon as *my* bill – Private Members Bill No.: XXXIX of 2004 – drafted and introduced by me in the Rajya Sabha on 3 December 2004. It was called ‘The Disruption of Proceedings of Parliament (Disentitlement of Allowances to Members) Bill, 2004’, and was introduced to disentitle Members of Parliament from drawing allowances during the days on which proceedings of Parliament were adjourned ‘due to disruptions caused by Members of Parliament individually or collectively’, whatever be the reason. The main clauses were clauses 3 and 4 which read as follows:

3. Where the proceedings of either House of Parliament are disrupted by Members of Parliament either individually or collectively and the House has to be adjourned with or without transacting any business for the substantial part of the day, and the Speaker or the Chairman (as the case may be) certifies to that effect, then notwithstanding anything contained in section 3 of the Salary, Allowances and Pension of Members of Parliament Act, 1954, no member shall be entitled to any allowance for the day so adjourned even if he has, on that day, signed the register referred to in the proviso to that section, and such adjournment shall not be taken into account for the purpose of calculating the period of residence on duty during that session.

4. At the end of every session of Parliament, the Speaker or the Chairman (as the case may be) shall certify the dates on which either House had to be adjourned due to disruption caused by Members of Parliament either individually or collectively.

The ‘Statement of Objects and Reasons’ of this Bill which is required to be appended to every bill introduced in the House whether by Ministers or Private Members, whose names had to be indicated at the end, read as follows:

The office of Member of Parliament is a prestigious office and one of trust. Members of Parliament are representatives of the people and are responsible to them. Their attendance and participation in the

proceedings of the House is a public duty. Accordingly, they must at all times be conscious of their responsibilities and endeavour to maintain the public trust reposed in them by performing their duties not only with honesty and integrity, but also with regularity; they must respect the Constitution and the conventions evolved there under, the rules of procedure and the conduct of business of Parliament and abide by the rulings of the presiding officers in each House.

Parliamentary democracy is based on the assumption that the Executive is accountable to Parliament and that Members of Parliament will exercise vigilant control over the actions of the executive and hold the executive accountable for its actions. This is the essence of good governance. Members of Parliament are expected to take keen interest in attending the sittings of Parliament with regularity and also to take active part in the deliberations of the Parliament. Literally, crores of rupees are spent in convening and holding Sessions of Parliament each year. If the proceedings of either House is disrupted and the House is not permitted to function and transact the notified business of the day, adjournments become inevitable and vast amounts of public money are needlessly thrown away. Besides, actions of all branches of the Executive also escape vigilant legislative scrutiny due to valuable Parliamentary time being lost and wasted in adjournments. In order to arrest this tendency and to restore the credibility and prestige of each of the Houses of Parliament, it is proposed to disentitle sitting Members of Parliament from receiving any allowance during those days when Parliament has been adjourned due to disruptions caused by Members of Parliament either individually or collectively.

The Bill seeks to achieve the above object.

I received warm congratulations on the introduction of this Bill – from my colleagues in the House. But there was no one to ‘bell the cat’. My favourite Private Member’s Bill lapsed, when I ceased to be a Member of the House after My six-Year term. And the Bill – as so many Private Members’ Bills do – went into oblivion.

On 20 April 2005, Dr Karan Singh, Chairman of the Ethics Committee, had moved the following motion:

That the Fourth Report of the Committee on Ethics presented to the Rajya Sabha on 14<sup>th</sup> March, 2005, be taken into consideration. Also to move: 'This House agrees with the recommendations contained in the Fourth Report of the Committee on Ethics presented to the Rajya Sabha on the 14<sup>th</sup> March 2005.'

On the same day, I spoke in support of the motion and said:

I, along with the Chairman of our Committee commend the Report for acceptance of this House. The Report laid on the table is about *transparency and accountability*. Two weeks ago Sir, the Vice-President of India was to declare open a National Convention on 'Transparency and Accountability of Public Governance'. But he could not deliver his address since he was called away on a state visit to Rome. In the printed speech which was circulated he mentioned, 'A lot has been said on the subject of transparency and accountability for so many years,' and he quoted Andre Gide, the French Philosopher who said: 'Everything has been said already, but as no one listens, we must always begin again.' The Vice-President who is our Chairman is absolutely right. The importance of speaking on the same subject even when 'no one listens' (*i.e.*, no one of any consequence listens) is sometimes good because it might click. In a dictionary of the English Language – not the *Oxford* or the *Cambridge* dictionary – but what is known as the *Doubter's Dictionary* – ethics is defined as 'a matter of daily practical concern described glowingly by those who intend to ignore it'. But, Sir, we cannot afford to ignore ethics at all, not in this chamber. And the basic point about ethics is that it fixes a sense of responsibility, something external to ourselves. Sitting here, privileged as we are, we need to convince those in the outside world that all that we say and do is motivated by objective criteria, not by any sense of personal motivation. That is why as Dr Karan Singh said, the register of interests, a code of conduct and sanctions for the breach. But, Sir, I would like to draw particular attention to one of the recommendations of our Committee



which is in para 4.7. While expressing deep concern over frequent disruptions of the Rajya Sabha, we unanimously expressed the view that it is important in a parliamentary democracy to understand and appreciate one another's point of view and be tolerant of dissent. I must confess, Sir, that I was very sad yesterday – the day our Report was tabled. The parliamentary delegation from Jordan was witnessing the proceedings in this House and the Deputy Chairman in his very fine welcome speech expressed the hope that they would learn something of our parliamentary system. They were here for ten minutes and the only thing they heard and learnt from our parliamentary system was that there were continuous disruptions and no one could hear what anyone else was saying. That is a very poor exhibition of our parliamentary democracy to the world. And I, Sir, personally feel very ashamed of it.

It does not matter who is to blame and who is not to blame. I think, the leaders of both the sides should have anticipated this visit, suspended their protests and counter protests and gone on with the business of the House, at least, whilst the delegation was in our midst.

Coming as they do from a very nascent parliamentary democracy, the members of the parliamentary delegation from Jordan, who don't often visit India, must have thought that this is certainly not the form of government that they would like to choose. Therefore, I do appeal to the Hon'ble Members that the image of this House is as important as the proceedings that take place in this House.

With these words, I commend the report for acceptance.

All of us – Members of Parliament – were very pleased with ourselves when we passed the Prevention of Money-Laundering Bill, 2002, to prevent money laundering and to provide for confiscation of property derived from or involved in money laundering, and for matters connected therewith or incidental thereto. The Bill introduced by the then Congress Government had become necessary to implement the political declaration adopted by the Special Session of the United Nations General Assembly held from 8 to 10 June 1999 which called upon the member states to adopt national money-laundering legislation and programme. But after the Bill was passed into law and received the

President's assent, it was (unknown to MPs) never brought into force – until a few years later a new bill, innocuously called the 'Prevention of Money-Laundering Amendment Bill, 2005', was introduced when the then Finance Minister first told the House that the '2002 Act' had not been brought into force.

A Bill in Parliament, when passed by both Houses and when it receives presidential assent, becomes enacted law but it is not law-in-force until the government notifies the date on which the Act is to come into force, unless Parliament has declared that it shall come into force at once. When the Prevention of Money-Laundering Amendment Bill, 2005, was introduced and it was revealed to the Members of Parliament for the first time that the '2002 Act', which had been already passed, had not been brought into force, my comment in the Raya Sabha, as recorded in the proceedings of 11 May 2005 was as follows:

Mr. Deputy Chairman, Sir, years ago when I was in college, we had a book in politics called *How India Is Governed* by Mr. Appadurai. And I am reflecting today on how poorly India is governed. My chagrin is due to this, and I share Mr. Jairam Ramesh's concern that I happened to be present, Sir, when this Bill was passed into an Act in 2002. And the enormity of the problems of not bringing this Act into force is quite obvious. I only rise to speak and mention one fact to the hon'ble Members. I don't know whether all of them know, that a Bill which is passed by this House and ultimately becomes an Act after being passed by the Lok Sabha, if it is not brought into force, it cannot be enforced, and no one, not even the Supreme Court can compel the Government to bring it into force. That is the decision of the Supreme Court. So, the Government may choose to bring in a law, we all debate it, we all become very happy that it has been passed, but if it is not implemented and not brought into force, nothing at all can be done about it. Just see the enormity of the problems that has arisen, Sir. If you see the offence of money-laundering, it is apparent that, it was not brought into force only because of the enormous expenses that would be incurred by setting up a new machinery for bringing it into force. But, see, what all has happened in the meanwhile. The proceeds of crime are sought to be tackled with this Bill. One of the proceeds of the crime, and the source of the proceeds of crime is from offences established under the

Prevention of Corruption Act. It is as simple as that. How many millions

of rupees have been passed from 2002 to now, and how many people have been convicted or in the course of being convicted under the Prevention of Corruption Act? Crores of money has been found. You will not be able to trace this money, you will not be able to confiscate anything because this Act was simply not brought into force. Sir, I have a suggestion for the Hon'ble Finance Minister, it is also a suggestion to other Hon'ble Ministers and to all of us who take part in the debates on these Bills that one important thing to do the moment an Act is passed and has received the Presidential assent is to, at least, bring into force section 1(1) of the Act, because, then there is no retrospective operation of the Act.

When the rest of the provisions are brought into force "the Act comes into force on the day when it is said that it comes into force even if the other provisions are not."

We didn't know that this Act that we solemnly passed in this House in 2002 after great debate was such an important thing. This was done pursuant to a UN Resolution, which had sanctions behind it, saying, 'if you do not pass the Money-Laundering legislation' – if you remember, it was a part of terrorist and crime business – 'it would be taken with extraordinary seriousness'. But this is how successive Governments have treated it. They have not treated it seriously at all. This is a very, very great problem, Sir, which I find. All Governments, including the present and the past, move even slower than glaciers in the Himalayas. Therefore, Sir, this is a very, very serious matter, and I would require some explanation from the hon'ble Minister and also from various other Groups of Ministers.

We keep passing Bills. We are so happy to pass Bills. Tomorrow we will pass something else. The day after tomorrow we would pass something else. But since it is not brought into force, strictly speaking, it cannot be implemented. And, if it cannot be implemented, certainly criminal sanctions cannot be taken. We have all this great paraphernalia of criminal sanctions. Special courts have been set up under the principal Act. *There is no court functioning from 2002 under this Act. What is happening in the meanwhile to the money laundering? Money*

*laundering is going scot-free. Let us face it. This is the tragedy of legislation in this country. This is the problem and someone must look into it."*

I would earnestly request the Hon'ble Finance Minister, who has very candidly and frankly told us that since 2002 this Act has not been brought into force. That was probably because the infrastructure was not there, although it was required to be there. So, it was just on paper. It is just a meaningless law. There is no law at all. It is there just in order to conform to some UN Resolution, whereas, as Mr Jairam Ramesh rightly pointed out, we have crores of rupees in money laundering going on. No one knows what it is all about; there is no intelligence about it. Therefore, I am glad, at least, the Minister has applied his mind to this legislation and has taken it in hand and made some amendments. But, when are we going to have the special courts? When are we going to have the tribunals? When are people going to be hauled up for the proceeds of crime? Proceeds of crime are being used for offences established under the Prevention of Corruption Act, which we all know about. I am not talking of Arms Act and all those other aspects, which are there.

Therefore, Sir, I would like to make an earnest request to the Hon'ble Finance Minister. Of course, this is a perfectly innocuous Bill and we would, of course, pass it unanimously. But it raises a very, very serious problem in the passing of these measures. We get from the Lok Sabha a Bill; immediately, the next day, we pass it. We all think that it is a great law that we have passed. But it is nothing. The President gives his assent, thinking that everything would be done, but nothing is done. No one can enforce this. No one can compel any Government in this country to bring a law into force. In fact, I do not know if hon'ble Members know that article 22 of the Constitution, which provides for an advisory board for preventive detention to consist of sitting judges, was enacted way back in the year 1978. It has still not been brought into force. Nothing has happened about that.

During my six-year stint I had also drafted and introduced in the House several other Bills – as Private Members' Bills. They were:

- (a) The Judicial Statistics Bill, 2004, to provide for the collection and publication of judicial statistics which our judges were reluctant to

reveal. I was of the view that collecting empirical data would help legal scholars and that setting up a legal database and publishing an Annual Judicial Statistics Report, already in vogue in many countries like the UK and USA would help the media and general public to assess the performance of judicial institutions and keep them accountable. It would also go a long way in demystifying the law and the administration of justice.

(b) The Constitution (One Hundred and Third Amendment) Bill, 2004, to amend the Constitution to provide for the raising of the retirement age of judges of High Courts from 62 to 65 years, *as recommended first by the Law Commission of India in its fourteenth report on judicial reforms and also next recommended by the National Commission for Reviewing the Working of the Constitution (the Justice Venkatchaliah Commission)*. There had been (there still is) a tendency on the part of some High Court judges to curry favour with judges of the Supreme Court including the Chief Justice of India, in order to seek elevation as quickly as possible to the highest court so as to ensure a longer judicial tenure (of 65 years). The Private Member's Bill if its provisions had been accepted by government would have put an end to 'cronyism' which has adversely effected the functioning of the High Courts.

(c) The Representation of the People (Amendment) Bill, 2004, was to ensure avoidance of persons with criminal antecedents from entering Parliament and State legislatures. To prevent persons charged in a court of law, after investigation, of heinous criminal offences from exploring the delays in the judicial process, I proposed to make the framing of charges (after investigation) by a competent court as a ground of disqualification for standing for election to Parliament and State legislatures (under the existing law, disqualification attaches only on conviction for major offences). The Bill was in keeping with the recommendations made by the Law Commission in its 170<sup>th</sup> report on reform of electoral laws, as well as in keeping with the recommendation of the Justice Venkatachaliah Commission (2002). This was also the view of the Election Commission – *but no government at the centre was bold enough to act on their recommendations*.

Private Members' Bills are introduced only on Friday afternoons – since the business of the House from Monday to Thursday and the first half of Friday

is official business. Friday afternoons are for Private Members' Bills and Private Members' Resolutions. Many members had orally supported my Bills – including the Disruption of Proceedings in Parliament Bill, 2004 – but then, since my term came to an end in November 2005, whilst all these Bills were still pending consideration, they lapsed upon my retirement from the House. A pity, but so be it. However the point about introducing these Bills had been made.

I have written in my Memoirs\* that the happiest years of my professional life were in Bombay in the chambers of Sir Jamshedji Kanga. Well, next to those years were my six years (1999–2005) in New Delhi in Parliament. I enjoyed the confidence of all Members on all sides of the House and they always listened to me, though they did not always accept what I said.

I remember one instance when there were excessive floods in Mumbai due to incessant rains in the monsoons of 2005, and civic amenities totally failed. People were stranded in their cars for as much as 24 hours. Tempers ran high in the House, including mine. And I had the temerity to stand up and say that it was time that Mumbai was made a Union Territory. What a storm of protest broke loose. Not only the Maharashtra lobby in the Congress but its representatives in the BJP, as well – all members around the House were vociferous in denouncing my suggestion – all, except the Deputy Chairman who was presiding. I quote the following extract from the official proceedings:

SHRI FALI S. NARIMAN (Nominated): Sir, I entirely agree with what was just said. I have two suggestions, concrete suggestions, for the Minister because we are only at the stage of suggestions. My suggestion is, please leave the people of Mumbai alone. Take politics out of Mumbai. If you take politics out of Mumbai and leave it as a commercial capital of India, which it is, leaving aside the political capital, which is Delhi, I think we will have much to gain even by this terrible tragedy. The way to do it is a Constitutional way. You please make it a Union Territory. You make Mumbai a Union Territory. (Interruptions)

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\* Before Memory Fades published by Hay House India now in the Fourteenth Reprint Edition.

SHRI PRAMOD MAHAJAN: Sir, I totally and completely oppose this suggestion and any effort to take away Mumbai from Maharashtra will not be tolerated. (Interruptions) SHRI FALI S. NARIMAN: If it is not possible or tolerated, then administer it. (Interruptions) I am sorry. Just listen. My suggestion to the Minister is this. Take the example of Jamshedpur. Jamshedpur was an old zamindari which has been abolished. It is now leased. Jamshedpur in the State of Bihar is, perhaps, one of the best administered areas in the country and it so remains. You evolve a solution, Mr Mahajan, as to how best you can administer Mumbai. I would respectfully suggest that there has to be some depoliticisation of Mumbai. People are fed up with your Ministers – your Ministers and these Ministers of Mumbai. They all go in cars – they have five cars each – with great flags and in a great flurry. Who went in boats or anything else to support them? Who went? (Interruptions)

SHRI JANARDHANA POOJARY: Sir, we do not agree with this suggestion. Nobody agrees with this suggestion. (Interruptions)

DEPUTY CHAIRMAN: Don't agree. Who is asking you to agree with this suggestion? (Interruptions) ... Mr Poojary ... (Interruptions)

SHRI C. RAMACHANDRAIAH: This suggestion may not be acceptable to us. But let him express his view. (Interruptions)

DEPUTY CHAIRMAN: The hon. Member has right to make a suggestion. But you may not like it. (Interruptions)

SHRI FALI S. NARIMAN: You may not like it. (Interruptions)

SHRI JANARDHANA POOJARY: I am sorry to say that we do not agree with this suggestion. There should not be any controversy about it. (Interruptions) I am sorry to say this, Mr Nariman. (Interruptions)

SHRI FALI S. NARIMAN: Sir, I respectfully suggest for your consideration that please consider how best your Ministers can also contribute – whichever Government is there – to maintaining and letting Mumbai remain the Financial Capital of India which it is. Thank you.

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SHRI C. RAMACHANDRAIAH: This is bad tendency. Sir, Hon. Members have got the right to express their opinions. We may not accept it. But their right should not be suppressed here. It should not be allowed. (Interruptions)

DEPUTY CHAIRMAN: This is the forum where you can express your views. (Interruptions)

SHRI JANARDHANA POOJARY: Sir, we do not agree with his suggestion. (Interruptions)

My days as a Parliamentarian, I can quite frankly say, have been a rich experience – and I have learnt a lot. People often used to ask me how I fared as a member: ‘How could a lawyer like you fit in with a host of others who were not?’ I always responded to this impertinent, unfair comment with the reply that the Rajya Sabha was a microcosm of the nation and representatives from various sections of society mingled together, spoke about problems that concerned them and were generally tolerant of one another, though this spirit of tolerance was not necessarily reflected in the rest of the country.

It was with much sadness then that I demitted my office when my six-year term came to an end. It ended, not with a bang but a whimper! I had been nominated to the House by the President of India on 22 November 1999 during the session commencing in October 1999 (*i.e.*, mid-session). The monsoon session of 2005 had ended in August 2005. Since the next session of the House was only from 23 November 2005 and since in between I retired on 21 November 2005, the customary farewell speech remained unspoken.

I consoled myself with the reflection of an old friend and colleague, G. Ramaswami or GR, who is alas no more. When GR ceased to be Attorney General of India in November 1992, he said that when the government took away from him the title of “Attorney General of India” (and conferred it on another) this was one of the occupational hazards of holding high constitutional office. ‘But,’ he went on in his inimitable manner, “*no one – Fali – no one can ever take away from me at any time the title of ex-Attorney General of India.*”

Well said. No one can take away from me at any time the appellation “Ex - M.P.”



# **RAJYA SABHA : A PERSONAL PERSPECTIVE**

**—Shri T.N. Chaturvedi\***

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The role and relevance of the Second Chamber and a bicameral legislative system in the constitutional scheme of governance has been, and still continues to be the subject of debate, discussion and controversy in legislative and constitutional history. Abbe Sieyes, who had an important role in drafting the two constitutions of Revolutionary France, put the matter in a pithy epigram: “If a Second Chamber dissents from the first, it is mischievous; if it agrees, it is superfluous.” This is perhaps an extreme view, for sure, but both parts of the epigram have over the last few centuries been used by the opponents and supporters of bicameralism.

The matter again became a matter for intense discussion when the American Constitution was being hammered out. Fresh from a revolution against a non-representative governmental system, it was decided to create a bicameral system, with powers divided in such a way as to ensure that neither chamber became all-powerful or tyrannical. A large number of political thinkers have also expressed their view on the subject. For the English Liberal thinker John Stuart Mill, the issue was a touchstone which distinguishes the partisans of limited government from those of uncontrolled democracy. According to Sir Henry Maine, “almost any sort of Second Chamber is better than none”; while Benjamin Franklin, one of the most prominent figures of the American Revolution, was a strong opponent of the Second Chamber. At the same time, it may be significant to note that in the light of the experience of the events in the state of Pennsylvania, US Constitution framer James Madison wrote to the author of the US Declaration of Independence, Thomas Jefferson, that “the executive power in our Government is not the only, perhaps not even the principal object of my solicitude. The tyranny of the Legislature is really the danger most to be feared and will continue to be so for many years to come.”

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\* Former Member of Rajya Sabha; former Comptroller & Auditor-General of India; former Governor, Karnataka and Kerala.

In more recent times, Harold Laski, a prominent English socialist political thinker and activist, did not favour the Second Chamber. He was of the view that “a single chamber answers the needs of the modern State”. On the other hand, Sir Winston Churchill, who cut his political teeth in the House of Commons, the Lower House of the British Parliament, stoutly came out in defence of the Second Chamber when, in his inimitable style, he posed the query: “Show me a powerful state which has adopted the principle of a single chamber government.” One can go on quoting the differing views and opinions of political thinkers, jurists and statesmen in favour of, or against, the existence of a Second Chamber. But in the end, such a debate is futile. The fact is that most countries, whether federal or unitary, presidential or parliamentary, big or small, have adopted the concept and system of two chambers. Even the former USSR till its dissolution had two chambers.

In earlier days when democracy was in its infancy and slowly developing, some thinkers, jurists, and politicians had legitimate fears and apprehensions that the reactionary and vested interests may stage a comeback and nullify the gains of democratic freedoms which had been won through prolonged struggle, through the backdoor—a Second Chamber. Their primary concern was that popular will should not get muffled or nullified.

On the other hand, those theoreticians who backed a second chamber felt that, however well-intentioned, untrammelled power had a tendency to degenerate into despotic behaviour. Hence, there is a need for having a countervailing mechanism of checks and balances. They were of the view that at least a pause for some time is needed for passions to cool down, and that the exigencies of the moment should not overpower rational decision-making. As Dr. S. Radhakrishnan, the first Chairman of the Rajya Sabha, the Second Chamber of independent India, noted, “Parliament is not only a legislative but also a deliberative body. So far as its deliberative functions are concerned, it will be open to us to make very valuable contributions, and it will depend on our work whether we justify this two- chamber system.”

### **The Historical Background**

Before the independence of India and the creation of its Constitution, most of the leading lights, barring a few moderates and liberals, of the national movement were strongly against a second chamber. Mahatma Gandhi opposed it

during the Second Round Table Conference in England. So did stalwarts such as Madan Mohan Malaviya and Muhammad Ali Jinnah, to mention a few. Gandhiji opposed it even when the Motilal Nehru Report on a possible future constitution for India, proposed two Houses. The reason for this opposition probably lay in the unhappy experience of the working of the Councils at the provincial and central level following the Montague-Chelmsford Reforms. But what was overlooked by them was the fact that the Council of States was so conceived and constructed by the then alien masters so as to provide for a polite show of public participation, but one in which the final decision-making continued to rest in their own (British) hands. This naturally caused discontent and resentment. The apprehension of and opposition to a second chamber needs to be construed and comprehended in that specific historical context. The fact that the same restrictive elements in the changed circumstances need not be present in a democratic context, with a dynamic bicameral Parliament, was probably not understood clearly.

We see echoes of this legacy of apprehension and distrust during the course of the debates on the issue in the Constituent Assembly. This we find when we glance through the pages of the volumes of debates as brought out by the Indian Parliament. The succinct presentation of the main issues and points can be seen in the series of volumes on *The Framing of India's Constitution*, edited by B. Shiv Rao. The origin of the Council of States dates back to the Government of India Act passed by the British Parliament in 1919. The nationalist public opinion was very much opposed to its creation. Sir Sankaran Nair was of the opinion that the Council of States as envisaged was an "Unreal Council", and it would only hinder the reforms process. He stated, "its avowed purpose was to carry the will of the executive government." Thus, the Council of States did not have a happy start.

The Government of India Act, 1935 devised another scheme for the Council of States. The possibility of Indian States joining the federation arose, and the federal part of the scheme met with vehement opposition from Indian nationalists. There were many reasons and grounds for this opposition which we need not go into here, as they occurred in a specific historical context. After the Second World War began, the federal part of the 1935 Act went into limbo, and only the provincial part of the 1935 Act was ever put in operation. Events overtook. As India was dragged into the war without any consultation with the

Indian leadership, Congress governments in the provinces resigned. A stalemate in Indian politics ensued. The Council of States as established under the Government of India Act, 1919 continued.

### **The Constitutional Framework**

The clichés and catchphrases that had been in vogue over the years to justify or criticize the system of a Second Chamber were dug up again and freely used during the debates and intellectual clashes of members in the Constituent Assembly. But I do not think that they had much relevance to the Council of States, as it finally emerged in the Constitution of independent India that was framed by our Founding Fathers. It is not a replica of any other Second Chamber. It is a product of Indian conditions and compulsions. It might have borrowed some practices and form from other Constitutions, but has been adapted and conditioned to our specific needs, requirements as well as possibilities. I do not think it was deliberately designed as any kind of countervailing power or institution. Some delay does take place if there are elaborate deliberations and consultations on any complex matter. The parliamentary system of government, by its very nature, implies an element of delay. It is not as rapid as a presidential system, where decision-making is the prerogative of a single person.

I look upon the Council of States in its present form as the Rajya Sabha, an institution founded to carry out and assist in the attainment of the objectives laid down by the Indian Constitution and to carry out the mandate envisaged in the Preamble of the Constitution. I look upon it as an institution to ensure the deepening and broadening of the democratic foundation of the India of the future, in harmony and partnership with its sister institution, the House of the People, called the Lok Sabha. The assumption or presumption of superior wisdom by one House, considering itself as a revising or delaying body, is not conducive to a harmonious relationship. It only generates a veiled feeling of hostility and resistance. When mutual interaction occurs in a cooperative atmosphere, the rough angles are smoothened out without hurting anyone's sense of honour and pride. Not as rivals, but as co-partners in fulfilling the dreams of the freedom struggle through the instrumentality of the Indian Constitution. From the very outset, the Founding Fathers were cognizant of the formidable challenge of devising a Constitution for a vast country with such a geographical spread,

differing terrain, and much more, the wide and varied ethnic, racial, and religious, and linguistic diversities. They showed remarkable ingenuity in devising a mechanism to meet this reality. Clashes of views are inevitable in any such conciliatory exercise, but they get softened, and annihilated, if not altogether subsumed in this joint and cooperative endeavour. That is the basic design as identified by the Founding Fathers. That is why, when some teething troubles emerged after the promulgation and operation of our Constitution, they were quickly and amicably sorted out and resolved, with goodwill. The two Houses are co-equal. The members have the same facilities. As Prime Minister Jawaharlal Nehru pointed out, "To call either of these Houses as Upper House or Lower House is not correct. Each House has full authority to regulate its own procedure within the limits of the Constitution, Neither House, by itself, constitutes Parliament. It is the two Houses together that are the Parliament of India. The successful working of our Constitution, as of any democratic structure, demands the closest cooperation between the two Houses." The two Houses have been designed differently on purpose, and they have been accorded their own separate powers and functions, rules and regulations. They share some powers in common, but each also has some specific authority. This should not come in the way of developing mutuality and a cooperative relationship.

The Constitution of India in article 79 provides, "There shall be a Parliament for the Union which shall consist of the President and two Houses to be known respectively as the Council of States and the House of the People." The nomenclature has changed. The Council of States is now called, the Rajya Sabha and the House of the People, the Lok Sabha. In the Constitution we do not find phrases or expressions such as 'Second Chamber', First Chamber, 'Upper House' or 'Lower House'. There is no reference to any 'revising chamber'. Again, the Constitution does not talk of 'federation'. It speaks of India as a 'Union' of States. The American federation is often described as the classic example of Federalism. In America, there were separate independent States. When it became necessary for them to come together for their survival and future, there was much haggling and bargaining on which powers were to be retained and which ceded to a central or federal government. It was a system created through compromise, and the minimum of powers were ceded by the federating States. In India, we had a highly centralized government under the British rule. The provincial governments were at the mercy of the Central government, despite some loosening under the Government of India Acts of 1919 and 1935. There were

also princely States which were supposedly autonomous in their internal affairs, and more could join in future.

The Indian Constitution not only changed the nomenclature from Provinces to States, but gave them substantial autonomy through specific allocation of powers in certain areas of operation. Subjects were divided into three lists—Central list, where the Union Government has exclusive jurisdiction to make laws; State list, where they had the authority to make laws; and the Concurrent list where both States and Union Government could legislate, but the Union Law would prevail over the State law in the event of a conflict. Thus, in India it was a case of the Central and the highly-centralized government shedding its powers to the States. There was also the reverse process of the Indian princely States, which, thanks to the efforts of Deputy Prime Minister, Sardar Patel, joined the newly formed Union of India. We simultaneously had a centripetal and centrifugal process in operation. The States joined of their own accord, and became autonomous units to a great extent. There is also another aspect which is frequently overlooked. The draft Constitution that B.N. Rau crafted was comparatively more liberal. But then there was a radical transformation in the political situation. When the Partition of India became inevitable and fissiparous tendencies gained ground, the Constituent Assembly naturally became more cautious. The Union Government acquired prime importance as centrifugal forces were abroad, and had to be kept in check. This was reflected in the Constitution as finally framed by the Founding Fathers. The integrity of the country, its security and political stability became of paramount importance. This aspect is often ignored by those who today, in the name of cooperative federalism clamour for greater state autonomy, and become oblivious to the manifold challenges and hazards to the country's security and integrity.

### **The Working of the System**

The Rajya Sabha was first constituted in April 1952 and held its first Session on May 13, 1952. As it should be under a democratic constitution, the Council of Ministers are collectively responsible to the Lok Sabha, which is directly elected by the people. If the Government loses the confidence of the Lok Sabha it has to go. As such the Government is not accountable to the Rajya Sabha. The President is required to exercise his functions upon the advice of the Council of Ministers. Again, the powers of the Rajya Sabha in relation to Money

Bills and financial matters are limited. It is for the Speaker of the Lok Sabha to decide what constitutes a Money Bill. A Money Bill is not introduced in the Rajya Sabha. A Money Bill once passed by the Lok Sabha is transmitted to the Rajya Sabha which, after discussion is supposed to send its recommendations. The Annual Financial Statement or Budget is required to be laid before both Houses of Parliament. It is discussed in the Rajya Sabha threadbare, but its suggestions and recommendations are not mandatory. This does not, however, mean that the Rajya Sabha has no influence. The discussion on financial matters is also keenly noted by the government and the public. As the Rajya Sabha is represented in the Public Accounts Committee and the Committee on Public Undertakings, its impact and influence flows from the contribution of its members, which has been quite significant over the years. Any other Bill, barring a Money Bill, can originate in either of the two Houses.

The shortcomings in the working of the Council of Scientific and Industrial Research, affairs of certain Industrial houses, and many financial scandals were first exposed in the Rajya Sabha. The Rajya Sabha also virtually forced the Government to refer charges of corruption against family members of Morarji Desai and Charan Singh for investigation. What came to be known as the Dharma Teja and Jayanti Shipping Company affair was also first raised in the Rajya Sabha. There have been quite a few cases taken up in Rajya Sabha in later years which displayed its concern with regards to the misuse of the financial resources of the country. It is vigilance that counts, and Rajya Sabha has been quite effective in this respect.

The Constitution confers certain special powers on the Rajya Sabha. According to article 249 of the Constitution, Parliament is empowered to legislate on a matter in the State List if the Rajya Sabha declares it by resolution, supported by not less than two-thirds of the members present and voting, that it is necessary and expedient to do so in national interest. Similarly, the power to create All India Services is within the purview of the Rajya Sabha. This forms a part of its constitutional dispensation since the Rajya Sabha is the Council of States. The interest and views of the States can be better appreciated by the Rajya Sabha, whose members are indirectly elected by the State legislatures, whose members are elected directly by the people.

In the context of some apprehensions during early years, Prime Minister Nehru said, "...Under our Constitution, Parliament consists of two Houses, each

functioning in the allotted sphere – the successful working of the Constitution as of any democratic structure, demands the closest cooperation between the two Houses.” Fortunately, a smooth working relationship was worked out and put in place in the early stages, when it was felt that in financial matters because of the prerogative of the House of the People, the members of the Council of States felt a sense of deprivation, at being just silent spectators. A way out was found, and every year the Lok Sabha invites the association of members from the Rajya Sabha to the Public Accounts Committee and the Committee on Public Enterprises. Probably, the time has come when this practice can be adopted in respect of the Estimates Committee also. A system of Standing Committees has since been introduced and members of both Houses participate in them, keeping in view the numerical strength of the two Houses. This ensures its uninterrupted role as the watchdog of administration and governance, and scrutiny of various Ministries by Parliamentarians.

In the event a Bill is passed by the Lok Sabha but not agreed upon by the Rajya Sabha, or *vice versa*, there is a provision under the Constitution to resolve the deadlock through a Joint Session of the two Houses, to be convened by the President. The Lok Sabha has 544 members, while the Rajya Sabha has only 250. Thus, the common impression is that the viewpoint of the Lok Sabha will prevail. However, this may not always be the case. In May 1961, when both Houses met in Joint Session to resolve the deadlock on the Dowry Prohibition Bill, an important amendment suggested by the Rajya Sabha was accepted and adopted. One is not sure if it will be repeated in the future in view of the increasing rigidity of the political party system. In 1978, when a Joint Session was convened to resolve the statements over the Banking Service Commission (Repeal) Bill, the Lok Sabha carried the day. In the third Joint Session of the two Houses held in 2002 to resolve the stalemate regarding Prevention of Terrorism Bill (POTA), the Lok Sabha prevailed. Along with the Speaker of the Lok Sabha and his team of members, I had the rare opportunity to be on the panel of two members from the Rajya Sabha, the Deputy Chairperson, Dr. Najma Heptulla and myself to preside over the Joint Session. In the Rajya Sabha, I was placed by the Chairman on the Panel of Vice-Chairmen, and was re-nominated. It was certainly a good learning experience.

### **The Composition of the House**

As regards the composition of Rajya Sabha, the President nominates 12 Members to the Rajya Sabha from amongst persons having special knowledge or practical experience in respect of such matters as literature, science, art, social



service, etc. This is a healthy provision. The Rajya Sabha is often called the House of Elders, and a person eligible for membership to the Rajya Sabha must be at least 30 years of age. This nomenclature is just a sham. In most of the cases, nominated persons have been of great eminence and wide experience. Dr. Zakir Hussain, Dr. Radhakamal Mukherjee, Maithili Sharan Gupt, Kaka Kalelkar, Prof. S. N. Bose, Rukmini Devi Arundale, Dr. J. M. Kumarappa, Dr. P. V. Kane, Dr. Tara Chand, K. M. Panikkar, M. C. Setalvad, C. K. Daphtary, Prof. A. R. Wadia, Dr. Salim Ali and in later years, Fali S. Nariman, Dr. K. Kasturirangan, Lata Mangeshkar, K. Parasaran, Sonal Mansingh, Mary Kom, etc., have made significant contributions in their respective fields and also in other matters. The quality of nominated members in the recent past, with few exceptions, has become diluted and politicized. If too much politicization takes place, or the persons nominated are active political workers of a party, the very purpose of nomination will largely be defeated. Besides, some artists and sportspersons, however popular or prominent, sometimes are not able to spare time from their professional engagements, and only make an occasional appearance without any interaction or participation. It becomes necessary to rethink if such nominations are worthwhile.

This is indicative of a supercilious attitude towards the significance of their responsibilities as a Member of the Rajya Sabha. There are also occasional murmurings that political parties now prefer to propose for nomination, individuals with big pockets, and not their own workers who have shared common ideology and principles. If this is true, the matter does merit consideration. The decorative, ceremonial, and rare presence of such members also does not make any sense. The Rajya Sabha was intended to be an active and vibrant institution, not a sleepy one.

Members also move from one House to the other due to political exigencies. I do not see anything wrong in it as it facilitates better understanding and mutuality of relationship between the two Houses and thus enriches them. Many of our political leaders began their political careers in the Rajya Sabha, and went on to become Prime Ministers and Presidents of the country. Indira Gandhi was a member of the Rajya Sabha when she became Prime Minister, and moved to the Lok Sabha in a by-election. H. D. Deve Gowda was already Prime Minister when he was elected to the Rajya Sabha, and he spent his entire period in office as a member of the House. Inder Kumar Gujral was a member of the House when he became Prime Minister, and continued to be so. Dr. Manmohan Singh, too, was already a member of the House when he became Prime Minister. Upon

demitting office, he still continues to be a Member of the Upper House. The veteran communist leader Bhupesh Gupta, preferred to be a member of the Rajya Sabha and continued as a Member, till he passed away, even though he could have won a seat in the Lok Sabha from any constituency of his choice in his State, such was his standing.

As the numerical strength in the Rajya Sabha is less, there is greater bonhomie and opportunities for interaction and friendly informal exchange among members. In the House, a member has a greater opportunity to speak and participate in debates, or give vent to public grievances. Moreover, in comparison to the position during the beginning of the institution under the Indian Constitution, when it was in search of its identity and role, it has grown into a confident and conscious institution fully aware of its responsibilities and potential in legislative and deliberative matters, as well as in raising issues of public importance, or when identifying lacunae or shortcomings in governance. While the Rajya Sabha may not be strictly federal in character, the member ensures that the interests or demands of the State from where he is elected, are met. Under the Indian Constitution, the strength of the representatives is not the same, the consciousness of what is good for the State is gaining more and more clarity. In the beginning, the Rajya Sabha met at times for only two days a week. Today, during Sessions, it meets on all five days of the week, but still quite a bit of business remains pending. The Rajya Sabha has developed its own procedures, rules and regulations. It is an evolving process, and they continue to be revised or retranslated.

An important responsibility entrusted to Rajya Sabha as a continuing Constitutional body, is that in the event of dissolution of the Lok Sabha, any urgent matter requiring Parliamentary sanction will be disposed of by the Rajya Sabha. This is a feature unique to the Rajya Sabha, as it is a permanent body, with one-third of its members retiring every second year. Thus, the Rajya Sabha prevents a constitutional vacuum in the country's governance. Occasionally, we come across the view that the Rajya Sabha is redundant and may be abolished. But I think this is a futile debate. Earlier any such proposal would have been sent to the Rajya Sabha for its approval and even politically it would not have been feasible then. Now of course, the existence of the Rajya Sabha may be deemed to be part of the basic structure of the Constitution, through the process of judicial interpretation.

The Vice-President of India is the *ex-officio* Chairman of the Rajya Sabha. In protocol, he ranks second to the President. This very provision imparts dignity to the Rajya Sabha. It also highlights its uniqueness as envisaged by the Founding Fathers. But it is self-evident that greater gravitas, better application of Parliamentary responsibilities and decency in the conduct of members is necessary as the functioning of the House is more transparent with the advent of live telecast of the House proceedings. The conduct of the members, in the House and outside, is now invariably linked with the standing, reputation and effectiveness of the Rajya Sabha. Hence, frequent disruption during the Sessions, that has begun to occur, does not meet the approval of the people. This aspect merits serious consideration of the members, cutting across the political spectrum.

The Rajya Sabha has been particularly fortunate in having as its Chairmen, persons of mettle, having a wide range of experience in governance and knowledge of Indian parliamentary system, and who are persons of intellectual integrity commanding the confidence and respect of all.

### **The Working of Committees**

The Rajya Sabha has its own Committees, but with the introduction of the long-awaited Standing-Committee system in Parliament, members have greater opportunities to ensure transparency and openness in government functioning. I found Committee meetings to be very informative and useful. There was a lot of material to read and ponder over when I was nominated as the Chairman of a Select Committee of both Houses to advise the Ministry of Commerce regarding the impact of WTO policies on Indian pharmaceuticals. It was quite a learning experience. The Committee consisted of stalwarts from different parties. The advice of some experts who gave evidence were enlightening. The same was my experience when I chaired the Standing-Committee on Industry. The sober and businesslike atmosphere, quite different from ideological, party affiliations in the Chamber, provided the right atmosphere to discuss sensitive issues. Shortly after I came to the Rajya Sabha, I was made a Member of a high-level Joint Committee of both Houses with R.N. Mirdha as Chairman to look into the stock markets scandal, better known as the Harshad Mehta scam, which had created quite a stir. The Committee consisted of the brightest from different political parties. The Reserve Bank Governor, Deputy Governor and even the then Finance Minister, Dr. Manmohan Singh,

among others, appeared as witnesses. There were grueling cross-examinations, and one could learn about the many intricacies of the economy. My point is that members can learn much and contribute similarly. A Member can be more effective in the House, if he applies himself seriously to work in Committees.

### Personal Memories

I would like to mention one or two interesting matters that I witnessed in the Rajya Sabha. There was a *suo moto* statement by the then Prime Minister, Late Shri Atal Bihari Vajpayee, in the Rajya Sabha. K. Natwar Singh, who was a Member of the Rajya Sabha and had a wide experience of foreign affairs, made some very caustic remarks while asking questions. Prime Minister Vajpayee, without showing any sign of annoyance, while replying, in his prefatory remarks stated: "Natwar Singhji, while endowing you with all wisdom nature did leave some for others too." The entire House burst into laughter. The tension vanished and Natwar Singh kept quiet. Another piquant situation I found myself in was when I was presiding as Vice-Chairman. An old and senior political leader, who had himself been the Chairman of Maharashtra Legislative Council earlier, was so offended by a book written by Dr. Arun Shourie, he went on fulminating, cutting into the speaking time of others. I tried to control the situation with some humorous banter. He sought my permission to tear the book and burn it, but I said that would not be allowed. He was greatly agitated and made a show of it. He asked me to throw him out. I patiently went on listening to his remarks. He actually wanted me to order the marshal to show him the door. Dr. Manmohan Singh, and Satyadev Pachauri walked upto the podium and requested me not to ask him to leave the House, as he was a member of their party. I knew that he wanted to show himself as a strongman in the factional politics of his party. Ultimately, his game failed as it was quite late and I adjourned the House. He came to see me and asked why I did not order him to leave the House. I explained that as he was a very senior leader, it would not have been proper of me to have done so. He kept his peace and did not raise the matter again.

Another episode relates to Shri Lalu Prasad Yadav and his stint in the Rajya Sabha. One was not sure as to how he would react in a particular situation. Once he got annoyed as the Presiding Officer did not accede to his placing his *angocha* (towel of a sort) on the floor, and began speaking. The business of the House came to a halt. Ultimately, the House was adjourned. I felt jittery as I was in the Chair and Lalu-ji asked for time to speak. I told him that there was no problem and gave him five minutes, but he would have to give his word that after

he had spoken, he would not sit on the floor and start speaking again. He argued and started to harangue. Instead of five minutes, I allowed him another three minutes. I felt relieved that after the final bell and order, he stopped without any antics.

During my tenure in the Rajya Sabha, I felt quite at home and comfortable. I had friends across all parties, though occasional bantering would be there, but there was never any unpleasantness. Many members, while in Bengaluru when I was the Governor, would come to see me, and we would make a trip down memory lane.

### **In Retrospect**

In retrospect, we may say with confidence that during the five decades of its services to the country, the Rajya Sabha has exceeded the expectations of the people, be it in the legislative sphere or as a deliberative body. In giving voice to public grievances, suggesting policy measures, influencing programmers and policies in different areas, and holding the government accountable, in the widest sense of the term, it has served its purpose well. The quality of debate on various matters, both national and international, has, in general, been of a high character. Those who articulated their apprehensions that the Second Chamber would be retrograde, reactionary, and a repository of vested interests which might undermine and weaken popular will and progressive measures, have been shown to be false prophets. It may, however, suffice to say that the initiative taken and support extended by the Rajya Sabha to a plethora of social and economic reforms, labour legislation and varied progressive measures has been commendable and in-line with the rising expectations of the people. It may be worthwhile if the Rajya Sabha sponsored some research about its working and achievements in different spheres and from various angles, so that the full and comprehensive success story emerges.

Over the years the Rajya Sabha has developed a personality of its own, acquired an identity, status and standing which stands out prominently, when we survey the Second Chambers of other countries. It may, however, also help to take remedial or corrective measures, where something is found to be lacking. A periodical and critical look does provide vitality and dynamism to any public institution in a fast changing and complex national and international environment.

# HOW THE RAJYA SABHA HAS STRENGTHENED INDIAN DEMOCRACY

—Smt. Shobhana Bhartia\*

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India is a proud democracy. And there is no institution that represents and reflects the vibrancy and the richness of Indian democracy better than Parliament. It is here that laws are made and robust debates, conducted. It is here that political contestation over issues is most intense. And it is here that the will of sovereign people of India is expressed. Within the parliamentary structure, the Rajya Sabha holds a special place, for it is the House which has historically strengthened democratic accountability, Indian federalism, ushered in progressive legislation with a strong welfare orientation, and been home to leaders who have contributed to improving the quality of Indian public life.

As the House convenes for its 250<sup>th</sup> Session, it is a good moment to both look back at the various roles the Rajya Sabha has performed, and look forward to its importance in the future. For me, the most important element of the Rajya Sabha is its role in enhancing the quality of India's democratic functioning. While some commentators have spoken of its unelected nature, this is what precisely gives it the distance required from the exigencies of populism in shaping laws and intervening in matters of public importance. Our political system is based on checks and balances; the role of the legislature is to ensure that the executive is accountable for every decision. And that is where I would argue that the Rajya Sabha has sometimes been even more effective than the Lok Sabha — for a government that enjoys a majority in the Lower House may not command the same influence in the Upper House. At the same time, the Rajya Sabha has always recognised its own boundaries. And so, while working as a check, it has also recognised the power of a democratic mandate that a government with a majority in the Lok Sabha enjoys. It is by striking this balance that the Rajya Sabha has both fulfilled its role and established a harmonious working relationship with the Lok Sabha.

The Rajya Sabha has also strengthened Indian federalism. Our founders envisaged the House as a Council of States. And I would argue that the House

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\* Nominated Member of Rajya Sabha (2006-2012); Chairperson and Editorial Director of HT Media Limited.

has fulfilled this vision. The honourable members represent distinct States; they ensure that the voices and concerns of States are heard. There can often be a temptation for the Central Government in Delhi to push through legislative changes without thinking through the implications for India's federal structure and concerns of the States. This is where the Rajya Sabha comes in. Both members of national parties, as well as those from distinct regional parties, have found in this House an avenue to express their views, without being tied to their political allegiances.

The Rajya Sabha is, of course, at its very core, a legislative body. A glance at legislations over our seven decade long history shows that the House has been at the forefront in shepherding legislations of political, social, educational, legal, and commercial importance. It has also played the role of revising Bills, and sending them back to the Lok Sabha — and in many cases, these revisions have been incorporated to give laws a more refined flavour. It has also intervened on issues of constitutional importance, and shaped amendments with both sensitivity to changing public opinion and needs, without undermining our constitutional design and principles.

The House has been the site of raising issues of public importance through various procedures. The Question Hour has been effectively used by Members to raise pressing concerns and force the Government to pay heed to issues that pertain to citizens. The Calling Attention Motion, the Special Mention, Half-an-Hour discussions have all been important instruments to articulate public grievances and institute accountability.

The Rajya Sabha has also given this country its top leaders. Indira Gandhi was a member of the House when she became Prime Minister; I. K. Gujral and Manmohan Singh served as members of the House during their terms as Prime Ministers. A range of Presidents — Zakir Husain, Fakhruddin Ali Ahmed, Neelam Sanjiva Reddy, Giani Zail Singh, Pratibha Devisingh Patil, Pranab Mukherjee and now Ram Nath Kovind — have been former members of Rajya Sabha. This is significant, for it shows that this House has groomed leaders for the future, made them familiar with the intricacies of the constitutional and political design of the country, and equipped them for higher positions. This House has also had illustrious members from various walks of life, beyond the confines of politics. They have brought in their own expertise and experience, and enriched both legislations and discussions.

On a personal note, I have had the privilege of serving as a member of the House. My years in Rajya Sabha have been among the most significant years of my life. I learnt every day, listening to distinguished members; my understanding of India's complex political, social and economic issues grew; I forged friendships across political boundaries; and I saw, first hand, how every debate, every discussion in this house is serious, rigorous and of high quality, with implications for the country. I also grew in awe of this House. My father, K. K. Birla, served for three terms in the Rajya Sabha, from 1986 to 2002 — and he always cherished being a part of this House. I remember how carefully he prepared for each speech with details and facts, for the Committees that he was a part of, and when I entered the House, it was something I sought to emulate.

Looking forward, I would like to flag two issues. The first is of disruptions. Every party and every member in the House has the legitimate right to raise issues, and even vocally express views. But I do think it is important that this should not happen at the cost of parliamentary business. The onus rests on the treasury benches to ensure that they carefully listen to the Opposition, and on the Opposition benches to ensure that the process of raising issues does not descent into obstructions. This erodes the image and dignity of the House. I would also like to highlight here the importance of the Committee system in Parliament. Beyond the public speeches inside the House, it is in the Committees that legislations are analysed in great detail; where the executive can be held accountable for its actions; and where, outside the framework of party loyalties, laws are made more robust. We must continue to strengthen this process.

The Rajya Sabha is among the most powerful Upper Chambers in the world. The bicameral system has added to the strength of Indian democracy. I would like to congratulate all members, and the Chairman of the House, on this historic occasion. Let us all continue to contribute in upholding India's parliamentary traditions and strengthening the role of the Rajya Sabha.



## FROM THE PRESS GALLERY TO THE HOUSE

—Shri H. K. Dua\*

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“What is the difference between your previous assignment as a newspaper editor and now as a member of the Rajya Sabha?” asked the Rajya Sabha TV interviewer, just a few days after my becoming a member of the Rajya Sabha. “Essentially, there is no difference. As an editor I was writing editorials and columns; in the Rajya Sabha now I am speaking editorials and columns”, I replied. “In both positions, my duty is to defend public interest”. So ended the interview.

I began covering the Rajya Sabha way back in 1964 as a young correspondent in UNI, a fledgling news agency then. I didn’t visualise at that time that decades later I will be crossing a distance of 30 yards in the high-domed chamber from the press gallery to the floor of the House and have the honour of becoming a Member of the Rajya Sabha, nominated by the President of India for six years as one of the select band of people whose independent opinion, the Founding Fathers of the Constitution thought, would be important.

The several years I spent in journalism widened my experience in commenting on public affairs and inculcated in me a sort of questioning spirit that came handy as a Member of Parliament. I am grateful to the House that there were no interruptions when I spoke. I moved two Constitution Amendment Bills which were supported by Members from across the party lines. The Government assured that in both cases they would bring forward substantive Bills on the issues involved.

The Rajya Sabha is not just a Council of States. It is a regular second Chamber of Parliament, elected by the members of the State Legislative Assemblies. While electing Rajya Sabha Members, the State Legislative Assemblies are most likely to keep in mind the States’ interests while participating in the Rajya Sabha debates. To that extent, the Rajya Sabha promotes the idea of cooperative federalism in India.

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\*Nominated Member of Rajya Sabha (2009-2015). He was formerly Editor of Hindustan Times, Indian Express and the Tribune, Editorial Advisor to Times of India, Media Advisor to Prime Minister and an Ambassador to Denmark.

As most of its members are of national political parties they represent the views of the national parties, as also of the regional parties which are able to secure some seats in the Upper House. In a way, the composition of the Rajya Sabha promotes the idea of unity in diversity. Even from the Press gallery and from the floor of the House one gets to feel the idea of India in all its flavours and colours.

It is not an un-elected House as some political leaders try to contend. Only, electors of the two Houses are different. The Rajya Sabha is elected by all members of the State Assemblies, excepting the 12 members who are nominated by the President of India, generally on the advice of the Prime Minister. The Founding Fathers of the Constitution were keen to have a dozen of nominated band of men and women in the Upper House who have served the nation and distinguished themselves in varied fields such as literature, science, art, and social service or in public life. In general, such people are those who cannot go through the rigours of fighting elections but are considered wise and who can give non-partisan guidance on vital issues to Parliament.

Some of the luminaries who have sat on the benches meant for the nominated members are outstanding men and women and are an asset to the nation. Their contribution has often been of seminal importance in the deliberations.

The Rajya Sabha does not have the power to pass a general budget. It cannot pass a no-confidence motion against the Government of the day. It cannot pass a Money bill which requires allocation of money from the Consolidated Fund. This power remains within the tight control of the Lok Sabha as it is elected directly by the people. That is why it is called the House of the People.

Popular pressures often sway the attitude of the Lok Sabha members before the elections. But the Rajya Sabha being a continuing House where one-third of the members retire every two years provide a sort of stability in the parliamentary process. The Upper House thus remains unaffected by fluctuating public mood or of other rash legislations passed by the Lower House in the heat of the moment on emotional issues.

Earlier, the members were elected to the Rajya Sabha from their own States where they are domiciled. The statute has been amended by removing the domiciliary clause for the election of the members to facilitate citizens' right to be elected to the Rajya Sabha from any State in the country.

The Rajya Sabha is a Council of States but its aim is not just to sustain federalism in the country. In its own right, the Upper House is an important part of Parliament. Excepting the Budget and Money bills, the Rajya Sabha has all the powers equal to those of the Lok Sabha.

On 5 September 1970, the Rajya Sabha even rejected the Indira Gandhi Government's important Constitution Amendment Bill seeking abolition of privy purses by just a fraction of one vote. The Ruling Party whips were in jitters and did not know for some time what to make out of the crisis. There were no computers at that time in Parliament. The Chairman got the counting done again and again lest there should be a mistake, even by a fraction of a vote. After repeated counts, the House rejected the Bill by the narrowest margin – one-third of a single vote. It was sheer assertion by the Upper House of its sense of independence and legislative power under the constitutional scheme of things, making it clear that the Rajya Sabha cannot be kept out of reckoning in the parliamentary form of Government.

Like the Lok Sabha, the Rajya Sabha can also, following the due process, initiate and pass a Motion to impeach a judge. It did so in the case of a Calcutta High Court judge. As an accused, the judge spoke for over two hours in his defence. A special enclosure was put up for the accused judge to defend himself against the impeachment motion. The House passed the Impeachment Motion by over two-thirds required majority against him. However, before the Impeachment Motion could reach to the Lok Sabha, the judge, in a clever move resigned from the Calcutta High Court. If passed by both Houses, this would have been the first impeachment ever passed by Parliament against a Sitting Judge.

On the whole, the Rajya Sabha has been a more sober of the two Houses. Those who plead for a unicameral system have been proved wrong as the Rajya Sabha is more compact and serious. This House has ably done its duty to the Constitution and to the nation. It is not just a revisionary House but it can initiate legislative measures on its own. Some of the scintillating debates that took place during my time included those concerned security of the country, terrorism and naxal activities and price rise, besides the Impeachment Motion against a Calcutta High Court judge. The passage of the National Judicial Appointments Commission Bill was a landmark in Parliament's history, but the Supreme Court later declared it *ultra vires* retaining with itself the power to appoint Judges of the Supreme Court and the High Courts.

On appointment of Judges to the Supreme Court and the High Courts, tension between the Judiciary and the Executive continues unabated. Essentially, it is a conflict between the Executive and Parliament on the basic structure of the Constitution. The Executive is not accepting the spirit of the judgement in the *Kesavananda Bharati v. State of Kerala* case which had decided that the Parliament has no right to amend the Basic Structure of the Constitution, which involves independence of the judiciary. The Supreme Court has, however, not defined what falls within the purview of the Basic Structure. May be over the years constitutional lines will become clearer between the three organs - The Parliament, the Judiciary and the Executive.

From the galaxy of political leaders from different parties or persuasions, who have adorned Treasury and Opposition benches, have emerged eminent Indians who were elected Vice-Presidents of India and in that capacity became the Chairperson of the Rajya Sabha. Among them were Dr. S. Radhakrishnan, Dr. Zakir Husain, V.V. Giri, G.S. Pathak, B.D. Jatti, R. Venkataraman, former Chief Justice M. Hidayatullah, Dr. Shanker Dayal Sharma, K. R. Narayanan, Krishan Kant, Bhairon Singh Shekhawat, M. Hamid Ansari and M. Venkaiah Naidu.

Some of the Rajya Sabha Chairmen who went on to become President of India are: Dr S. Radhakrishnan, Dr Zakir Husain, V.V. Giri., Dr. Shanker Dayal Sharma, R. Venkataraman and K.R. Narayanan. Some of the members who became the Prime Minister via the Rajya Sabha route include Mrs. Indira Gandhi, H.D. Deve Gowda, I.K. Gujral and Dr. Manmohan Singh. Some of the Deputy Chairpersons who made a name include S.V. Krishnamoorthy Rao, Mrs. Violet Alva, Ram Niwas Mirdha, K. Rahman Khan, Dr. Najma Heptulla, Smt. Pratibha Devisingh Patil and Prof. P.J. Kurien.

Some of the Rajya Sabha Members who sat on benches meant for nominated members include scientists like Dr. M.S. Swaminathan, Dr. Raja Ramanna, Dr. Kasturirangan and Satyendra Nath Bose; poets and writers like Maithalisharan Gupta, Harivansh Rai Bachchan, Bhagwati Charan Verma, R.K. Narayan and Amrita Pritam; and film personalities like Prithviraj Kapoor, Nargis Dutt, Lata Mangeshkar, V.C. Ganesan, Shyam Benegal and Shabana Azmi.

Among legal luminaries, the names of C.K. Daphtary, Fali S. Nariman and K. Parasaran come to the fore while noted journalists like Abu Abraham, Khushwant Singh and Kuldip Nayyar are some of the eminent names that were nominated to the Upper House.

# IS RAJYA SABHA RELEVANT TODAY?

—Dr. Vivek K. Agnihotri\*

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The 250<sup>th</sup> Session of the Rajya Sabha is an appropriate occasion to sit back and think over the journey traversed by the distinguished Upper House of the Indian Parliament and its future course of action.

Hon'ble Chairman, Rajya Sabha, Shri M. Venkaiah Naidu, at the start of the 249<sup>th</sup> Session of the Council, the first after the formation of the 17<sup>th</sup> Lok Sabha, made the following observations on 21 June 2019:

Hon. Members, you are all representatives of the people who have reposed their faith in you. When you enter the portals of this hallowed building, you bring with you millions of hopes and expectations from your respective Constituencies or areas. We have, therefore, a collective responsibility to live up to these expectations. We have, now, yet another opportunity to redeem our pledges to the people and the nation by debating issues of public importance, seeking solutions to intractable challenges and formulating laws that improve governance and quality of polity as well as transform the lives of people.

Hon'ble Chairman, in his Valedictory Address to the Council of States at the end of the 249<sup>th</sup> Session, complimented the Members as follows:

I am happy to go on record that this Council of States has lived up to its mandate of defending the federal spirit of our polity by standing up for the rights of the States.

However, the Hon'ble Chairman, in his opening remarks in the Council on 21 June 2019 had also observed:

Hon. Members, since my assumption of the Office of the Chairman of this august House, I have been expressing, time and again, my concern about disruptions of the proceedings of the House and the negative public perception arising out of this dysfunctional state of affairs. Substantial loss of functional

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\* Former Secretary-General, Rajya Sabha (29.10.2007 – 30.9.2012)

time results in very low productivity, pendency of crucial legislation and the resultant lapse of some of the Bills on dissolution of the Lok Sabha.

Some time ago, against the backdrop of prolonged obstructions to Goods and Services Bill in the Rajya Sabha, late Shri Arun Jaitley, the then Finance Minister and the Leader of the House, had wondered that "till what extent can the indirectly-elected House hold [up] reform proposals passed by the directly elected House which represents will of the people? Time has come to debate on this crucial question, to find out a conventional answer to this problem."

The debate regarding relevance of the Second Chamber is perhaps as old as the Second Chamber itself. The story goes that in the late 18<sup>th</sup> century, when the American constitutional framework was on the anvil, Thomas Jefferson one day protested to George Washington at the breakfast table against the establishment of two Houses in the legislature.

Washington asked him, "Why do you pour that coffee into your saucer?"

"To cool it," replied Jefferson.

"Even so," said Washington, "we pour legislation into the senatorial saucer to cool it."

The Second Chamber was established in India as a consequence of the Montague Chelmsford Reform (1918) and the ensuing Government of India Act, 1919 came to statutorily provide for it.

There was much debate among the framers of the Indian Constitution on the role and functions of the Upper House. The debates of the Constituent Assembly are witness to the fact that despite opposition in certain quarters, most members favoured a Second Chamber because they felt that erudite members of the Rajya Sabha, who are not trapped in the political thicket like the members of the Lok Sabha, would view legislation more dispassionately. The most vociferous supporter of the idea of the Second Chamber was Shri N. Gopalaswami Ayyangar, who while replying to the discussion to the Report of the Union Constitution Committee in the Constituent Assembly on 28<sup>th</sup> July 1947 said that the Second Chamber would ensure "dignified debates", and it would "delay legislation" until "the passions of the moment have subsided". He added that the Second Chamber is "an instrument by which we delay action" and also give an opportunity to the "seasoned people", who bring their learning to the House. Shri Lok Nath Mishra described it as "a sobering House, a reviewing

House, a House standing for quality and the Members will be exercising their right to be heard on the merits of what they say, for their sobriety and knowledge of special problems...” Shri M. Ananthsayanam Ayyangar thought that in such a platform of reflective consideration “the genius of people may have full play”, and it can make place for people “who may not be able to win popular mandate”.

On the other hand, Shri Mohd. Tahir was of the view that the idea of an Upper House was thought of by the British as an imperialist tool to impede the work of a democratically elected House. Prof. Shibban Lal Saxena said that in no country had the Upper House helped progress.

The Rajya Sabha, as finally incorporated in the Constitution of India, has been given some special and exclusive powers *vis-à-vis* the Lok Sabha. To begin with, unlike the Lok Sabha, it is never dissolved; it is thus a House of continuity. Further, it has been endowed with the power to enable the Parliament to make laws in respect of matters enumerated in the State List (of the Seventh Schedule) for a specified period (article 249); to take the initiative to create new All India Services (article 312); and to endorse the state of emergency for a limited period when the Lok Sabha remains dissolved (article 352). However, in terms of article 75 (3), the collective responsibility of the Council of Ministers is only to the Lok Sabha. The Rajya Sabha, again, has limited powers with respect to Money Bills.

The Rajya Sabha may be a Second Chamber, but it is not necessarily secondary in character. It has revised a number of Bills and provided a ‘sober thought’. However, the controversy regarding the role and relevance of the Rajya Sabha under the present constitution is not new. The symptoms of it were discernible as early as in 1969, when, for the first time, the ruling party failed to get a majority in the Upper House. In particular, it became an important platform of resistance to the majoritarianism of the Lok Sabha during the Janata regime (1977-79), National Democratic Alliance Rule (1998-2004) and UPA-II (2009-14), and even later. It came into focus, ostensibly because of the inability of the Government to push certain key legislations through the Upper House. Even though, with the passage of time, it has subsided, with the ruling coalition gaining working majority, it is bound to crop up again and again as discussed later.

The Second Chamber has been in the news in certain other countries too. As pointed out by late Shri Jaitley, “In Australia, the debate is on, the UK has gone through this debate a while ago, and Italy is having the same debate, because ultimately the weight of a directly elected House will always have to be maintained”. Each of the countries has found or is trying to find a solution in the context of its own peculiar political imperatives. In India too time is ripe to find our own solution.

In the Indian context, it must be noted that, over time, we have somehow moved away considerably from the original vision and design of the Rajya Sabha, in letter as well as spirit. The Rajya Sabha, as envisioned by the framers of the constitution, has been materially modified by removal of the domicile requirement mandated by the Representation of the People Act, 1951. In permitting anyone to contest the elections to the Rajya Sabha irrespective of the domicile, the diversity, which was the hallmark of the Upper House, has been watered down and it has become a House somewhat akin to the Lok Sabha. It is no more the Council of States, and has rather become a council of politicians or ‘nominees’. Moreover, all the persons elected to the Rajya Sabha are not uniformly “seasoned” persons, who add value to parliamentary proceedings. Having thus meddled with the scheme of the Constitution, we cannot expect the Rajya Sabha to deliver its original mandate. This is something to ponder over and requires introspection on the part of all the stakeholders.

Rajya Sabha enjoys some leverage when the ruling party does not have a majority in both the Houses. In such times, Rajya Sabha is often seen as an irritant and withholder of legislation. Politicians see Rajya Sabha as democratic when they are in opposition, and as a painful appendage to Lok Sabha when they are in power and lack the numbers in the Rajya Sabha.

Rajya Sabha has also been a source of embarrassment to the Government by passing amendments to the Motion of Thanks to President’s Address to both Houses of Parliament assembled together (article 87). In the past there were only three such instances (1980, 1989 and 2001). However, in recent times, it happened twice in succession (2015 and 2016).

Having said this, there is also need for caution. Let us not shoot the messenger. Legislation is being hampered not because of any inherent flaw in the structure, but on account of disruptions, a malaise that has been with us for



quite some time now. On certain occasions it has been defended as 'strategic disruptions'. There may be need for reforming the system; but, certainly, there is no case for abolition of the Rajya Sabha.

I have a few suggestions to make in this regard. However, I would like to predicate them with certain observations. These suggestions are a result of certain out-of-the-box thinking. Their consideration and implementation would require tremendous political will, a massive mandate, and an uncommon consensus among and gargantuan effort by all stakeholders. The need for a fresh constituent assembly cannot be ruled out.

First and foremost is the issue of providing seats in the Rajya Sabha to various States on the basis of their population. This, in effect, amounts to making the Rajya Sabha somewhat of a clone of the Lok Sabha and hinders capturing the diversity of the country in all its hues. When we consider all States in the country as equal for certain legislative purposes; why then this discrimination in their representation in the Rajya Sabha? Is a modified adaptation of the US Senate system possible, by making two or three categories of States, on the basis of population and by providing equal representation to the States in each category? This question needs to be discussed and debated.

Another problem, on a more practical plane, is the indefinite delay in the passing of legislations by the Rajya Sabha. One solution to this could be fixing a time-limit for the consideration and passing or rejection of a Bill by the Rajya Sabha. Article 108 of the Constitution of India provides that the President may order a joint sitting of the two Houses *inter alia* if a Bill passed by one House is kept pending in the other House for more than six months. However, the period of six months is broadly to be counted in terms of the sittings of the House where the Bill is pending. This translates into roughly 180 sittings. Given the fact that the total number of sittings of the two Houses rarely exceed 70 days in a calendar year these days, it would take more than two years before the eventuality mentioned in Article 108 would arise to warrant President's intervention. The suggestion, therefore, is that the time-limit may be fixed in terms of one or two sessions or one calendar year for the House where the Bill is pending, after having been passed by the other House, for it to take a final call, one way or the other. A decision by the Government to withdraw the Bill may also be treated as a decision in this regard.

Further, in order to restore the original character and status of the Rajya Sabha, the domicile requirement of its member needs to be brought back. It is actually quite surprising as to why the Supreme Court has not found the change inconsistent with the basic structure of the Constitution. Moreover, in view of the 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendments, representation to the third tier of Government (local bodies) needs to be provided in the Rajya Sabha, as is already the case with the Legislative Councils in the States.

One of the reasons for the obstructionism we witness in the Upper House is the current constitutional provision which mandates that elections to the Rajya Sabha shall be held on a biennial basis, when one-third of the members of the House retire. This scheme has been considerably altered, and elections to the Rajya Sabha are held on more than three times in a time span of six years. This has come about on account of the imposition of the President's Rule and dissolution of the State Assemblies from time to time over the past several years. In any case, in view of the staggered elections the State Assemblies as well to the Rajya Sabha, latter's composition does not capture the mood of the electorate immediately after the General Elections. Thus, most of the time, only after completion of the cycle of four or six year period, the Rajya Sabha gets to reflect, and that too only roughly, the changes in the political composition of the State Assemblies.

The suggestion is that the term of the Rajya Sabha may be reduced to five years and elections to all the seat of the Rajya Sabha should be held at one go (one nation, one election), immediately after the simultaneous direct elections have been held for the State Assemblies. Thus, the Rajya Sabha would get to reflect the current choice and aspirations of the people. Some other permutations and combinations too have been suggested.

To get the ball rolling, the suggestions mentioned above along with others proposed by the civil society may be placed before a Joint Committee of Parliament comprising Members of the Rajya Sabha and the Lok Sabha in the ratio of 2:1. The Report of the Joint Committee may then be discussed and debated in the two Houses as well as put out for comments and suggestions from the citizens of India. The Government of the day may decide the future course of actions based on the outcome of these consultations.

In conclusion, however, it must be said that there are many good points about having a second chamber. It takes a second look at legislations and thus provides a check on hurried legislation. It shares the burden of legislation with the Lok Sabha. It ensures the accountability of the executive through various joint as well as stand-alone parliamentary committees. It is a chamber of continuity. Being a House which is not concerned with Government formation or its downfall, it is relatively free of hurly-burly of day to day politics. The 12 nominated members, who have special knowledge or practical experience in various fields, add richness to the parliamentary debates.

Most of the problems that the critics associate with the Rajya Sabha are often about the functioning of the Indian Parliament as such. It would, therefore, be wrong to blame the Rajya Sabha for all the parliamentary disruptions and declining legislative work. Indian Parliament has a splendid blend of continuity (Rajya Sabha) and change (Lok Sabha), in the true Indian tradition.

# **NATION'S DIVERSITY DEMANDS CONSENSUS IN THE RAJYA SABHA**

—Shri A. Surya Prakash\*

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During a discussion among American constitution-makers, George Washington was strongly in favour of having a Second Chamber – the Senate, but Thomas Jefferson was bitterly opposed to the idea. Subsequently, while the two were having breakfast, Washington noticed Jefferson pouring coffee into his saucer. Here is what followed:

Washington: Why, Mr. Jefferson, why are you pouring the coffee into your saucer?

Jefferson: To cool it.

Washington: Even so, we want to cool legislation by putting it into the saucer of the senatorial chamber.\*\*

This may sound anecdotal, but it says a lot about the philosophy behind the idea of having bicameral legislatures and the general popularity of this idea across the world. That is why, despite occasional criticism by parliamentarians who are directly elected by the people, democratic nations have found merit in bicameralism and in having a Second Chamber which is often filled through indirect elections and the composition of which is distinct from that of the other House. This distinction is also predicated on the assumption that the Second Chamber comprises of 'wiser' men and women who will examine policy and law-making in a more deliberative manner and thus provide much needed balance when Parliament carries out its responsibilities. That is why this House is called the Upper House around the world. Members of the Constituent Assembly, who drafted India's Constitution, were also influenced by the arguments in favour of a Second Chamber and therefore eventually voted for the establishment of the Rajya Sabha. But, this was preceded by an animated debate on the need for a

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\* Chairman, Prasar Bharati - the Broadcasting Corporation of India.

\*\* Constituent Assembly Debates (CAD), 6.1.1949, p.1308.

Second Chamber. Some members like Mohd. Tahir argued that the idea of an Upper House was thought of by the British just to impede the work of the democratically elected House and that it was nothing more than an 'imperialist tool'.\* Prof. Shibban Lal Saksena argued that an Upper House would only impede legislation and national progress and eventually just become a cog in the wheel. "I wish to point out that our experience in the last so many years has been that the Upper House acts as a clog in the wheel of progress. ...In no country the Upper House has helped progress. It has always acted as a sort of hindrance to quick progress".†

However, a majority of the Members in the Constituent Assembly were not impressed by these arguments and they were strongly in favour of having an Upper House. The most vociferous supporter of the idea of a Second Chamber was Shri N. Gopalaswami Ayyangar, who had moved the resolution in this regard. He said that the Second Chamber would ensure 'dignified debates' and it would 'delay legislation' until 'the passions of the moment have subsided'. He said that the Second Chamber is 'an instrument by which we delay action' and also give 'seasoned people' who would bring their learning to the House. He, however, assured the skeptics that he and his colleagues in the Committee which drafted this provision had taken care to ensure that the Upper House 'does not prove a clog either to legislation or administration'. In other words, by stripping the Second Chamber of the power to *veto* a Money Bill, the Constitution-makers felt that they had struck a balance and that the Upper House would not be a hindrance to governance.‡

Mr. Ananthasayanam Ayyangar said the Constituent Assembly must find ways to ensure that 'various people' take part in politics. He said, "Therefore, it is necessary that we should have another House where the genius of the people may have full play. Secondly, whenever 'hasty legislation' is passed by the Lower House, it can be 'checkmated' by the go-slow movement of the Upper House. These are some of the reasons why, constituted as we are at

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\* CAD, 28.7.1947, p. 874.

† *Ibid.*, p. 875.

‡ *Ibid.*, p. 876

present, it is necessary that in the interests of the progress of this country we should have a Second House.”\*

The Indian constitution-makers had sufficient evidence of the advantages and disadvantages of having a Second Chamber from the U.K., the USA and several other nations in the West. In the U.K., the House of Lords complements the work of the House of Commons and performs its legislative and oversight duties like the other House. However, “the House of Commons alone is responsible for making decisions on financial Bills, such as the proposed new taxes. The Lords can consider these Bills but cannot block or amend them”.† This is more or less the position in India as well and this is what Shri Gopalaswamy Ayyangar was referring to, when he said that the Upper House would not prove to be a clog either to legislation or to administration.

As regards the Second Chamber in the USA – the Senate – a major difference between that House and the Rajya Sabha is that all American States have equal representation in the Senate, whereas in India, by and large, the allocation of seats to each House depends on the population of the State.

While one can see such minor variations in different nations, the central idea appears to be to have a Second Chamber with a different composition, so that the voices of ‘learned’, ‘seasoned’ people would also be heard in Parliament. This view was so overwhelming in the Constituent Assembly that its members wanted additional provisions to induct experts after they agreed to the establishment of the Rajya Sabha. They were keen to ensure that lay men who entered legislative bodies had the advice of experts while dealing with policy and law-making in specialised areas.

Prof. K.T. Shah, a member of the assembly, wanted establishment of a council of experts on which the Government could rely, when it needed the advice of specialists in areas like agriculture, industry, commerce etc. He said these experts would not be lawmakers themselves but would be called in to give advice in their area of expertise whenever Parliament took up legislation in such specialised fields. Once the bill was passed, the consultant’s tenure would end. He called it “a body of disinterested advisers chosen with an eye only to their

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\* CAD, 3.1.1949, p. 1198.

† <https://www.parliament.uk/about/how/role/system/>.

experience, training and qualification, and not burdened with any other duties as our ministers are, and not charged with any other administrative or executive functions and remunerated sufficiently to be beyond any influence other than the interests of the country.”\*

Dr. B.R. Ambedkar, the Chairman of the Drafting Committee said that the Government proposed to handle this differently. Instead of a permanent council of experts, he said a constitutional amendment would be brought to enable the President to nominate three persons either to the Council of States or to the House of the People, who would be experts in regard to any proposal or legislation brought before Parliament by the Government. Such a person would be a Member of the House to which he is appointed until the Bill is disposed off. Such a member would also have the right to address the House but would not have the right to vote. The Drafting Committee was working on the draft of this amendment “to introduce into the House such expert knowledge as the legislature at any particular moment may require”.<sup>†</sup> However, at a later stage this proposal was dropped. It was felt that the provision to enable the President to nominate 12 members to the 245-member Rajya Sabha with “special knowledge or practical experience” in literature, science, art and social service, was adequate to provide some seats for experts.<sup>‡</sup>

By limiting the powers of the Rajya Sabha *vis-a-vis* passage of Money Bills, India’s constitution-makers appear to have struck a balance between the need for a Second Chamber with a different category of MPs who would, through ‘dignified debates’, add value to the process of law-making and policy, and the need to ensure that the will of the Lok Sabha, which comprises of directly elected MPs, prevails where it matters the most – financial legislation. It must be said that barring some stray occasions, this arrangement has worked well and the two Houses have functioned in such a manner that the overall responsibility of Parliament is carried out as contemplated by the founding fathers.

However, there is an issue when it comes to passage of Bills other than Money Bills, because here, the two Houses are on an equal footing. In other

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\* CAD, 3.1.1949, p. 1211.

<sup>†</sup> *Ibid.*, p. 1228.

<sup>‡</sup> Art. 80(4), Constitution of India.

words, unless both the Houses agree, no Bill can become law and when there is a deadlock, the Government has to take the extraordinary step of calling a Joint Session of Parliament, which is always the last resort. This did not pose a problem in the initial decades after the two Houses came into being because of one-party rule when the Indian National Congress enjoyed comfortable majorities in both the Lok Sabha and Rajya Sabha and in a majority of the State Assemblies which biennially elect members to the Upper House. However, with the decline of the Congress Party and the emergence of many caste and region-based political parties in many States since the 1980s, the first thing that a ruling party or coalition realises on winning the Lok Sabha election is that it does not enjoy a majority in the Upper House. In other words, in a bicameral situation, victory in a parliamentary election does not necessarily translate into requisite parliamentary strength for the winning party to fulfill the promises that have been made to the people.

Many Prime Ministers since 1989 have realised the harsh truth that while the people have given them a mandate in the Lok Sabha, their adversaries control the Rajya Sabha. This reality dawns on them soon after the victory celebrations are over and they begin thinking of ways and means to take the Upper House along while wondering how they can replenish their strength in that House. The latter can happen only if the party or coalition which has won the Lok Sabha election can also win a series of elections to State Assemblies so as to enable their candidates to win the Rajya Sabha election from these States, which is held once in two years.

Several parties or coalitions achieve some success in this regard in two rounds of biennial polls, but before the issue is clinched, they find that it is time for the next Lok Sabha election. They need to win that election too and also do well in the State Assembly Elections if they are to attain majority in both the Houses. For most Prime Ministers, it is like the futile effort of Sisyphus to push a boulder up a mountain. Every time Sisyphus got to the top, the boulder tumbled down. Ever since the two Houses were constituted in 1952, the Governments run by the Congress have enjoyed clear majority in the Rajya Sabha for most part of their tenures. Three Prime Ministers — Jawaharlal Nehru, Indira Gandhi and Rajiv Gandhi — all from the same family — have commanded majority in the Rajya Sabha for much of their years in office. Nehru enjoyed a majority throughout his tenure, Indira Gandhi and Rajiv Gandhi had a majority for much of their time in office. Another Prime Minister, who had the requisite numbers in the Upper House, was Lal Bahadur Shastri, who succeeded Nehru. He inherited the 166 MPs the party had in this House at the time of Nehru's death. On the other hand, Governments formed by other Prime Ministers or political parties and coalitions have not been so lucky.



The Congress Party had 146 members in a 216-Member Rajya Sabha in 1952. Later, its strength went up to 186. Prime Minister Indira Gandhi too could bank on a majority when she entered office in 1966. She fell short of a majority for about three years after the great Congress split in 1969. However, in the election to State Assemblies in 1972, her party trounced the Opposition in a majority of the States. Consequently, it got a good crop of seats in the biennial elections to the Rajya Sabha, which ensured a clear majority in that House. Prime Minister Rajiv Gandhi also enjoyed a comfortable majority in the Upper House for most part of his tenure from 1984-1989. Another Prime Minister from the Congress Party, P.V. Narasimha Rao, was unique because he not only had a minority in the Rajya Sabha where his party's strength hovered between 85 and 99, but also had a minority (232 MPs) in the Lok Sabha.

The Bharatiya Janata Party (BJP) has not been so lucky. When the coalition headed by the party ruled India between 1998 and 2004, it had just 45 MPs in this House and around 80 from the entire coalition. This number rose to about 90 in the final year of the Atal Bihari Vajpayee Government. Prime Minister Narendra Modi began his innings with 47 BJP MPs and the support of about 30 others from the coalition. However, there is a silver lining here after the Lok Sabha election in 2019. The BJP with Mr. Narendra Modi as Prime Minister is the first party to have won a clear majority on its own in two successive Lok Sabha elections after 1984. If it continues its winning run in State Assembly elections, this party will have the first chance of securing a majority in both Houses after three decades.

So, what does one do when a party or coalition gets a decisive mandate in a Lok Sabha election, but finds that all its plans are stymied in the Rajya Sabha, where it is in a hopeless minority. Going by the debates in the Constituent Assembly, it is clear that the constitution-makers did not anticipate that the Upper House could become an impediment to law-making and governance. They also did not visualise a situation where, some decades after the Constitution came into being, the country's polity would become so fractured as to squeeze and marginalise national parties and nurture dozens of regional, denominational and caste-based parties in the States, leading to representation of a plethora of these parties in the Upper House. In 1952, there were just six recognised political parties in the Rajya Sabha. Today, there are 31. So, where do we go from here?

The answer lies in consensual politics. In a diverse nation like India, it is imperative that every political party, whatever be its ideology or core focus, stands committed to a consensual approach when it comes to national issues. In other words, all parties must respect the spirit in which the constitution-makers decided on a bicameral Parliament and work towards keeping that spirit alive.

## **RAJYA SABHA : CUSTODIAN OF STATES' INTERESTS**

**—Ms. Neerja Chowdhury\***

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Soon after Narendra Modi came to power in 2014, many had felt that a clear majority in the Lok Sabha would enable the Government to do all it had promised. But, suddenly, bills could not go through Parliament because of opposition in the Rajya Sabha where the BJP and its allies did not have majority. People in the finance world in Mumbai, otherwise educated and well informed, for instance, would express surprise that the Rajya Sabha could exercise such a check on a policy or a law.

When our Constitution-makers opted to go for a second house, they had several reasons in mind. The idea was to provide checks and balances in case the power of the Centre became unfettered. There was also the belief that the Upper House would be peopled by “elders”—that is why it was called a House of Elders—whose experience would ensure that adequate thought was given to an issue, in the wider national interest.

Though there are elders in the house today, over the years the Rajya Sabha has also become a house for “parking people” who need to be accommodated for reasons other than their erudition, political stature or experience. It could be someone who had lost the Lok Sabha election and had to be compensated. It could be for reasons of proximity to those who wielded power at that point of time. Or it could be for other extraneous considerations. But it has had a bearing on the level of debates in the upper house, as also on the character of the Rajya Sabha.

The second reason for having the Upper House was to protect the polity’s federal character and provide a voice to the States in the formation of national policy. This is of supreme importance in a country as diverse as India. Hence the Rajya Sabha was called the Council of States where states indirectly elected members of the Upper House.

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\* Senior journalist and political commentator; former Chairperson, Media Advisory Committee, Rajya Sabha.

A debate which has surfaced from time to time –and was a live one in the Constituent Assembly—is about the number of representatives each State should send to the Rajya Sabha. It was finally decided that this would be based on the State’s population but not all members in the Constituent Assembly were of this view. Many still believe that it led to a skewed power balance in favour of the larger States, like Uttar Pradesh, allowing it to send as many as 31 members, and the smaller States only 1 each. The US Senate for instance has an equal number of representatives from each State of the country.

Though the Rajya Sabha has rejected bills passed by the Lok Sabha time and again, it was the states’ concerns which had led the Rajya Sabha to reject Rajiv Gandhi’s famous—and in many ways landmark-- bills to empower Panchayati Raj institutions in 1989. Many states saw it as an attempt to dilute their powers and an effort by the Centre to strengthen local governments over their heads and at their cost. The bills were defeated by only 5 votes in the Upper House when Rajiv Gandhi had an unprecedented 404 Congress MPs in the Lok Sabha, not even clocked by his grandfather Jawaharlal Nehru. This instance is remembered by many a journalist who covered the Rajya Sabha at the time.

Later, the 73<sup>rd</sup> and 74<sup>th</sup> Constitution Amendments bills, which incidentally also provided one third reservations to women in local bodies, were finally passed by Parliament and came into force in 1993 during PV Narasimha Rao’s premiership.

The Rajya Sabha’s role as the custodian of the states’ interest helps in some way to maintain the delicate balance between the states and the Centre, which underpins the country’s unity and integrity. This role has to be constantly nurtured for the sake of the country’s diversity without which India would not be India.

Parliamentary reforms are the need of the hour today. The most important reform however is to enable the two houses to function without constant disruption, without members rushing into the well of the house, or holding placards, or stalling the house by shouting slogans. Sound and fury is becoming the lexicon of parliamentary functioning, not the cut and thrust of parliamentary debate, for which the Rajya Sabha—and indeed the Lok Sabha—used to be known at one time.

It is true that our politics has become increasingly contentious. It is true that the Opposition has been considerably weakened. That is all the more reason

why the Opposition must be allowed its say, even more so when the ruling side has a huge majority.

There is a place for street protests in a democratic polity. But the Rajya Sabha —or for that matter the Lok Sabha—cannot become a political ‘*akhara*’. And every party has been guilty of this, when in opposition. Above all, Parliament must remain a forum for passing legislations, for highlighting people’s problems, and for holding the Government to account, but through a debate, vigorous but civilised.

## THREE DEBATES THAT STAND OUT

—Shri K. V. Prasad\*

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Debates in the Rajya Sabha on issues of contemporary relevance and emerging challenges always attract attention both on account of clarity with which its members perused the platform to articulate diverse viewpoints in the society and for the searching questions seeking a response from the Government of the day.

Over the past 249 sessions, there are many occasions the House of Elders discussed threadbare issues agitating the people, reflecting those aspirations and expectations in the House.

The challenges, the Republic faced across the spectrum since 1952 has changed over the past seven decades from catering to necessities of providing food, clothing and shelter to its teeming, undernourished and underprivileged citizens to those cropping up in its transition the country made. From an under-developed to a developing economy and re-adjustments the society made to this changing landscape.

In the last 25 years, I witnessed many a proceedings of the Rajya Sabha and among those important debates, there are at least three that can be characterised as ones having made a lasting contribution to public discourse, nudging policy planners and lawmakers to adopt course correction.

These include the debates in the run-up to India joining the World Trade Organisation (WTO), the Indo-US Nuclear Deal and its follow-up legislation on Civil Nuclear Liability and the recent Goods and Service Tax Constitution Amendment. Incidentally, each of these issues came up for detailed scrutiny in a gap of about a decade each.

Why are these debates milestones in the history of the Rajya Sabha, or the Council of States? Two of these – the WTO (1993-94) and Indo-US Nuclear

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Deal (2006-08) reflect the changing times, stiff resistance by the existing political thought and the determination of the Government with less than comfortable majority to stay the course. The recent GST Amendment (2017) came in a different backdrop of a Government elected with its own majority yet adjusting to the competing pulls and pressures of States reluctant to give up a portion of revenues under the new arrangement.

## **WTO**

In the early 1990s, began a major attempt to re-plan the existing world trade order with then existing General Agreement on Trade and Tariffs, with a multilateral trade agreement that eventually created the World Trade Organisation. The complex negotiations by countries across continents went on for years on the basis of the Arthur Dunkel draft which the then P.V. Narasimha Rao Government signed at Maarakesh, Morocco in 1994 to come into effect from January 1, 1985.

It was a hot-button issue with domain experts, policy makers, and informed sections of the society holding divergent views including how the WTO could eventually affect the Indian farmers and play out on ground zero with the States left to tackle its after-effects. There were several interventions on the issue, questions, statements and discussions, both in the run-up to the finalisation of the highly technical agreement and after the Government through the then Commerce Minister Pranab Mukherjee signed it.

The debates were an excellent rendition of the perceptions of the stakeholders, weaving around the apprehensions of what the future could hold for everyone and the larger cost-benefit analysis for the country. The Government on its part asserted it did everything to safeguard the interest of its people. The key takeaway was it triggered a healthy debate on the Executive's authority to enter into binding economic contracts that affected every State.

## **Indo-US Nuclear Deal**

This signature move of the Manmohan Singh Government to pull India out of the nuclear pariah status had more share of criticism. Though unlike the WTO, the issue did not quite ruffle the feathers of the person on the street, parties opposed to the move were vehement that the agreement could push New Delhi into a closer embrace by Washington with some equating the ties with India becoming an American ally.

Sharp interventions by the Members of the Rajya Sabha in the Opposition led by the Bharatiya Janata Party with those from the Left parties

dissecting the nuclear deal provided much fodder for it to be a high-octane debate that went on for days and on several occasions. It was a rare occasion since an issue of foreign policy became a matter of intense tussle between those on either side of the aisle. The contentious issue resulted in the Left parties withdrawing crucial support to the United Progressive Alliance Government that survived to take the deal to its logical conclusion. Yet, the fallout of these could be seen later when the Opposition exerted intense pressure on the Manmohan Singh Government by inserting clauses in the Civil Liability for Nuclear Damage Act that entailed risk of unlimited liabilities in the event of a Fukushima kind of incident. The pressure led to a determined impact on the final outcome that the Government of the day was forced to accept.

### **Goods and Services Tax**

This remains the single most major tax reform undertaken by the country concluding a work that began rolling in mid 1980s through introduction of indirect taxation and progressed at a slow pace overcoming stiff resistance from States ever wary of giving up its share of scarce revenues. The debate on the Bill continued even after the Lok Sabha passed it in May 2015, the Rajya Sabha Members insisted and sent the proposed legislation to a Select Committee. The Government conceded to do away with a provision of 1 per cent tax on Inter-State movement paving the way for its final approval. Perhaps, wiser by experience backed by groundwork done by the Central Government and the State Governments in meetings smoothened the passage. The debates before referral to the Committee and at the passage reflected the amount of work that went into it. Yet, some of the apprehensions on multiple slab rates of taxation flagged by Members came true as did the issues around the compliance mechanism. While these remain a work in progress, the larger takeaway is that the Rajya Sabha debate contributed to highlight the emerging bipartisanship on issue of reform, missing when the country embarked on the path of economic liberalisation in 1991.

These three instances also reinforced the vision of the founding fathers on the importance of the Rajya Sabha as a deliberative Chamber.

