

PARLIAMENT vs STATE LEGISLATURE

India has a parliamentary system of government with a bicameral legislature at the Centre. Some states have a bicameral legislative system while others have a unicameral one.

Comparison of Parliament and State Legislature

The Parliament is a bicameral legislature comprising of two Houses and the Indian President:

Lok Sabha: The House of the People (Lower House).

Rajya Sabha: The Council of States (Upper House).

The functions of the Parliament are provided for in the Indian Constitution in Chapter II, Part V.

At the **state level**, the legislature is composed of the Legislative Assembly, the Legislative Council (only in 6 states currently), and the Governor of the State.

- In the Constitution, there are provisions for the creation of a second chamber (the Legislative Council) for states which do not have one. There are also provisions for the abolition of the Council for states. (Article 169).
- Currently, 6 states in India have the Legislative Council. They are:
 - Maharashtra
 - Karnataka
 - Andhra Pradesh
 - Telangana
 - Uttar Pradesh
 - Bihar
- There are proposals to abolish the Council in Andhra Pradesh.
- Until [Article 370](#) was in place, Jammu & Kashmir also had a Legislative Council under its own Constitution. Now, it is a Union Territory with a Legislative Assembly.
- Tamil Nadu abolished its Legislative Council (called Vidhan Parishad) in 1986.

State Legislature - Article 168 - 212

Chapter III of Part VI of the Constitution is concerned with the State Legislature. It comprises state legislature and executives. Articles 168 to 212 in Part VI of the Constitution deal with the organisation, composition, duration, officers, procedures, privileges, powers and so on of the state legislature.

Bicameral and Unicameral States

Though a uniform pattern of Government is prescribed for the States, it is not so in the matter of the composition of the Legislature. While the Legislature of every State shall consist of the Governor and the State Legislature, in some of the States, the Legislature shall consist of two Houses, namely, the Legislative Assembly and the Legislative Council, while in the rest, there shall be only one House, namely the legislative assembly.

The constitution provides for the abolition of the second chamber in a state where it exists as well as for the creation of such a chamber in a state where there is none at present. If a state Legislature passes a resolution by an absolute majority, together with not less than two-thirds of the members actually present and voting in favour of the creation of the second chamber and if Parliament gives concurrence to such a resolution, the concerned State can have two Houses in the Legislature. Similar is the procedure for the abolition of the Upper houses and the State of Punjab and West Bengal abolished the second chambers in 1969 and 1970 respectively.

Legislative Council in Tamil Nadu was abolished in 1986. The State Legislature which has only one House is known as the Legislative Assembly (Vidhan Sabha) and in the State which has two houses, the Upper House is known as the Legislative Council (Vidhan Parishad) and the lower House is known as the Legislative Assembly (Vidhan Sabha).

Owing to changes introduced since the inauguration of Constitution, in accordance with the procedure laid down in Article 169, the States having two Houses are Bihar, Maharashtra, Karnataka, Andhra Pradesh, Telangana and Uttar Pradesh.

State Legislature – Legislative Assembly

The Legislative Assembly is the popularly elected chamber and is the real Centre of power in a State. The maximum strength of an assembly must not exceed 500 or its minimum strength fall below 60. But some of the States have been allowed to have smaller Legislative Assemblies, e.g. Sikkim, Arunachal Pradesh, Goa, etc.

The territorial constituency's demarcation should be done as far as possible, such that the ratio between the population of each constituency and the number of seats allotted to it is the same all over the State. Apart from these general provisions, there are also special provisions with respect to the representation of SC and ST. In case the Governor feels that the Anglo-Indian community is not adequately represented, he can nominate one member of that community to the assembly.

State Legislature – Legislative Council

The Legislative Council of a State Comprises not more than one-third of the total number of members in the Legislative Assembly of the State and in no case less than 40 members. However, in Jammu and Kashmir, the strength is only 36. The system of the composition of the Council as provided for in the Constitution is not final. The final power is given to the Parliament of the Union. But until the Parliament legislates on the subject, it shall be as provided for in the Constitution, which is described below:

Duration of Legislative Assembly & Legislative Council

It will be a partly nominated and partly elected body, the election being an indirect one and in accordance with the principle of proportional representation by the single transferable vote. The members being drawn from various sources, the Council shall have a variegated composition. Broadly speaking 5/6 of the total number of members of the Council shall be indirectly elected and 1/6 will be nominated.

The duration of the Legislative Assembly is five years. The Governor has the power to dissolve the Assembly even before the expiry of its term. The period of five years, may, while a proclamation of emergency is in operation, be extended by the Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after proclamation has ceased to operate (Article 172(1)). Unlike the Legislative Assembly, the Legislative Council is not subject to dissolution. It is a permanent body unless abolished by the Legislative Assembly and Parliament by the due procedure. But no person can be a permanent member of the Council as one-third of the members of the Council retire on the expiry of every second year. It amounts to a term of six years for each member. There is no bar on a member getting re-elected on the expiry of his term.

- (a) one-third of the total number of members of the Council would be elected by electorates consisting of members of local bodies like the municipalities and the district boards.
- (b) one-twelfth of the members would be elected by electorates comprising of graduates of the standing of three years dwelling in that particular state.
- (c) one-twelfth of the members would be elected by electorates consisting of teachers who have been in the teaching profession for at least 3 years in educational institutes in that state, which are not lower than secondary schools in the standard.
- (d) one-third would be elected by members of the Legislative Assembly from amongst people who are not Assembly members.
- (e) The rest would be nominated by the Governor from persons having knowledge or practical experience in matters like science, literature, cooperative movement, art and social service. (The Courts can't question the propriety or bonafide of the Governor's nomination.)

Qualifications of Members of Legislative Assembly

A person shall not be qualified to be selected to occupy a seat in the Legislature of a State unless he/she

- (a) is an Indian citizen;
- (b) is 25 years or above for Legislative Assembly, and is 30 or above for Legislative Council, and
- (c) possess such other qualifications as may be prescribed by the Parliament.

Thus, the Representation of the People Act, 1951, has provided that a person shall not be elected either to the Legislative Assembly or the Council unless he is himself an elector for any Legislative Assembly constituency in that State. A person can be disqualified for being selected as and for being a member of the Legislative Assembly or Legislative Council of a State if he/she

- (a) holds an office of profit under GOI or any State Government, other than that of a Minister at the centre or

any state or an office declared by a law of the State not to disqualify its holder (many States have passed such laws declaring certain offices to be offices the holding of which does not disqualify its holder for being a member of the Legislature of that States)

(b) is mentally unsound as declared by a competent Court

(c) is an undischarged insolvent

(d) is not an Indian citizen or has voluntarily got the citizenship of a foreign State or is under any acknowledgement of adherence/allegiance to a foreign nation

(e) is so disqualified by or under any law made by Parliament

Thus, the Representation of the People Act, 1951, has laid down some grounds of disqualification, like conviction by a Court, having been found guilty of electoral malpractice, being a manager or director of a corporation in which Government possesses a financial interest. Article 192 says that if any question arises as to whether a member of a House of the Legislature of a State has become subject to any of the disqualifications mentioned above, the matter will be referred to the Governor of the state who has to act in accordance with the opinion of the Election Commission. His decision is final and not liable to be questioned in Court.

Who are the officers of the state legislature?

Facts about Speaker & Deputy Speaker:

1. A Speaker vacates his office if he ceases to be a member of the Assembly.
2. He may also resign his office at any time.
3. A speaker may be removed from office by a resolution of the Assembly passed by a majority of all the then members of the Assembly after fourteen days' notice of the intention to move such a resolution.
4. Speaker does not vacate his office on the dissolution of the Assembly.
5. He continues to be the Speaker until immediately before the first sitting of the Assembly after the dissolution.
6. While the office of the Speaker is vacant, the Deputy Speaker performs his duties.
7. The duties and powers of the Speaker are, broadly speaking the same as those of the Speaker of the House of the People (Lok Sabha).

Facts about Chairman & Deputy Chairman:

1. The Council chooses from amongst its members a Chairman and a Deputy Chairman.
2. Both vacate their offices if they cease to be members of the Council or resign from its membership.
3. They can also be removed by a resolution of the Council passed by a majority of all the then members of the Council, provided fourteen days' notice to move such resolution of removal has been given.
4. When the resolution for removal is under discussion against the Chairman or the Deputy Chairman, the concerned person shall not preside at the sitting of the Council, although he may be present at such a sitting and has the right to speak in, and otherwise to take part in the proceedings of the Council.
5. He shall be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings.
6. In case of an equality of votes, he does not exercise a casting vote to which he is otherwise entitled under Article 189.
7. The Chairman presides at all sittings of the Council and in his absence the Deputy Chairman.
8. During the absence of both the Chairman and the Deputy Chairman, such other person as may be determined by the rules of procedure of the Council shall preside; or, if no such person is present, such other person as may be determined by the Council shall act as Chairman.
9. While the office of the Chairman is vacant, the duties of his office are performed by the Deputy Chairman. If the office of the Deputy Chairman is also vacant, such member of the Council as the Governor may appoint shall perform all such duties connected with the office of the Chairman.

Powers & Functions of State Legislature

The functions of the states' Legislative Council are only advisory in nature. If any Bill is passed by the Legislative Assembly and sent to the Council, and the Council refuses to give its approval, then the Assembly has the right to reconsider it. The assembly may pass it with or without the amendments proposed by the Council, and again send it to the Council. When a bill approved by the Assembly is sent to the Council for the first time, it may retain it for three months, but in the case when it is sent for the second time and is kept in the Council for one month only, the bill is deemed as having been passed. This evidently demonstrates the Assembly's absolute superiority over the LC. In the case of Money Bills, the State Assembly's powers are the same as those of the Lok Sabha. It is evident that the position of the Vidhan

Parishad is haplessly weak. Even, in theory, it cannot be compared to the Rajya Sabha that, in spite of being the upper chamber of the Union Legislature, has some effective powers.

(1) All the LC can do is delay the passing of a money bill by 14 days, a non-money bill by 3 months or a non-money bill that is sent back to it with recommendations by 1 month.

(2) There is no provision in the Constitution for a joint sitting of the State Legislature. It is to be noted that while the Vidhan Sabha can override the Vidhan Parishad, the vice versa is never possible. A non-money bill that is passed by the Vidhan Parishad can be rejected by the Vidhan Sabha more than once.

(3) The LC members do not participate in the election of the President of the country. Apart from that, they do not have any meaningful role in any bill's rectification nor in a constitutional amendment.

In practical terms, the Legislature of a State implies its Legislative Assembly which possesses the following major powers and functions:

(1) It can create laws on any subject in the State List; it can also create laws on the Concurrent List provided the law does not contradict or conflict any law already made by the Parliament.

(2) The Assembly asserts control over the Council of Ministers. Assembly members can question the ministers, move motions and resolutions, and also pass a vote of censure in order to dismiss the state government. The government ministry is collectively accountable to the Legislative Assembly. If the ministry is defeated in the Assembly, it amounts to the passing of a no-confidence vote against the government.

(3) The assembly controls the State's finances. A money Bill can emerge from the Assembly and it is considered passed by the LC after a lapse of fourteen days after reference made to it by the Sabha. It could reject or pass the grants or reduce their amount indicating rejection or adoption of the budget and hence, implying victory or defeat of the State Government. Therefore, no tax can be levied or withdrawn without the consent of the Vidhan Sabha.

(4) The Assembly has constituent powers. With reference to Article 368, certain Bills of Constitutional amendment after being passed by the Parliament would be referred to the States for the process of ratification. In these cases, the Vidhan Sabha has a role to play. It should give its judgement by passing a resolution by a simple majority indicating approval or disapproval of the said Bill. There is a provision wherein the President shall refer to the state assembly of a state before he recommends the introduction of a bill which concerns with the alteration of the concerned state's boundary lines or its reorganisation in such a manner that its territory is increased or decreased.

(5) Some other powers of the State Assembly are as under:

(a) It elects its Speaker as well as Deputy Speaker. It can also remove them by a no-confidence vote.

(b) It participates in the election of India's President.

(c) It also considers reports presented by agencies such as the Auditor-General, State Public Service Commission, and others.

Hence, it is evident that the Vidhan Sabha is the powerful and popular chamber of the State Legislature. In theory, it is somewhat parallel to the Lok Sabha.

Limitations on the powers of State Legislature

- (i) Certain types of Bills cannot be moved in the State Legislature without the previous sanction of the President of India;
- (ii) Certain Bills passed by the State Legislature cannot become operative until they receive the President's assent after having been reserved for his consideration by the Governor;
- (iii) The Constitution empowers Parliament to frame laws on subjects included in the State List if the Council of States declares that it is necessary and expedient in the national interest that Parliament should Legislate on these subjects;
- (iv) Parliament can exercise the power to make laws for the whole or any part of the territory of India with respect to any of the matters enumerated in the State List, while a Proclamation of emergency is in operation;
- (v) The Legislative competence of Parliament can also extend to the subjects enumerated in the State List during the operation of a proclamation of the breakdown of the Constitutional machinery.

Legislative Procedure

The Parliamentary procedure followed in the Assembly and the Council is the same as in Parliament.

1. The State Legislature must meet at least twice a year and the interval between any two sessions should not be more than six months.
2. The Governor delivers the opening address at the beginning of a new session in which he outlines the policy of the State Government.
3. Any Bill may be introduced in either House of the Legislature except a Money Bill, which can be introduced only in the Assembly. It has to go through three readings, after which it goes to the Governor for his assent. The Governor may send it back for reconsideration but once it is passed again by the Legislature, he cannot withhold his assent.
4. He may reserve certain Bills for the consideration of the President, who may ask him to place it before the Legislature for reconsideration. When it is passed again with or without amendment it goes to the President for his consideration.
5. The President is not bound to give his assent even though the Bill has been considered and passed for a second time by the State Legislature. In case the Assembly is dissolved before a Bill is passed, or it is passed by the Assembly but is pending before the Council, it will lapse.
6. But in case of Bills which have been duly passed by the Assembly, if there is only one House in the State, and by the Assembly and the Council where there are two House, and is awaiting the assent of the Governor or the President it does not lapse.
7. A bill which has been returned either by the Governor or the President for reconsideration can be considered and passed by the newly constituted Assembly, even though the Bill was originally passed by the dissolved House.

Tabular Comparison of Parliament and State Legislature

<u>UNION PARLIAMENT</u>	<u>STATE LEGISLATURES</u>
Bicameral	Mostly unicameral – only 6 states are bicameral
Article 79 to 122 in Part V of the Constitution	Articles 168 to 212 in Part VI of the Constitution
<p>If a bill is introduced in a House, and it passes it, then the other House can:</p> <ol style="list-style-type: none"> 1. Pass the bill as it is. 2. Reject the bill altogether. 3. Pass the bill with some modifications and return it to the first House for reconsideration. 4. Nothing is done to the bill for 6 months, which means both Houses are in disagreement. <p>In this case, a joint sitting of both the Houses is convened and made, to break the constitutional deadlock.</p> <p>Note: In the case of <u>Money Bills</u>, which are to be introduced only in the Lok Sabha, the Rajya Sabha has restricted powers.</p>	<p>The Legislative Councils (LC) have only advisory powers by and large.</p> <p>They have lesser powers when it comes to law-making.</p> <p>If a bill is introduced in the LC, which is passed by it, and it goes on to the Assembly:</p> <ol style="list-style-type: none"> 1. The Assembly rejects the bill. 2. It passes the bill with some modifications which are unacceptable to the LC. <p>In both the above cases, the bill comes to an end. However, if the bill originates in the Assembly, and it is either rejected or passed with modifications not acceptable by the LC, it does not come to an end.</p> <p>There is no provision for a joint sitting of the Council and the Assembly. In the case of a disagreement, the decision of the Assembly is deemed final.</p> <p>Note: Money bills can originate only in the Legislative Assembly.</p>
Members: Lok Sabha: 552 (Max.) Rajya Sabha: 250 (Max.)	Members: Legislative Assembly: Between 40 and 500 Legislative Council: Not more than one-third of the membership of the State Legislative Assembly, and

	cannot be under 40.
<p>Election to the Rajya Sabha: Members are elected by the elected members of the State Legislative Assemblies by means of proportional representation by means of a single transferable vote.</p>	<p>Election to the Legislative Councils: Members are elected by five different constituencies through a process of the single transferable vote system.</p> <ol style="list-style-type: none"> 1. $\frac{1}{3}$ of the members are elected by the local authorities' representatives (Gram Panchayats, Municipalities, Block Parishads, etc.) 2. $\frac{1}{3}$ of the members by the MLAs. 3. $\frac{1}{12}$ of the members are elected by the teachers (of secondary schools, colleges, and universities) in the state. 4. $\frac{1}{12}$ are elected by the graduates in the state. 5. The remaining $\frac{1}{6}$th are nominated by the Governor from persons having experience or knowledge in the fields of science, art, literature, social service, or cooperative movement.

LOK SABHA:

Lok Sabha is the lower house of the parliament and is termed as the popular chamber of the Indian Parliament.

What is Lok Sabha and who are Lok Sabha members?

Indian Parliament is bicameral in nature i.e. that it has two houses. Lok Sabha is one of those two houses. The other house is the Rajya Sabha. Lok Sabha is the first chamber of the parliament and represents the people of India as a whole. The members elected by universal adult suffrage are part of Lok Sabha.

Composition of Lok Sabha:

Composition of Lok Sabha	
Maximum Strength – 552	530 represent the States
	20 are the representatives of Union Territories
	2 are nominated by the President from Anglo-Indian Community
Current Strength – 545	530 represent States
	13 represent Union Territories
	2 are nominated from the President from Anglo-Indian Community

LOK SABHA ELECTIONS

The members of Parliament (MPs) are elected/appointed from states, union territories or are appointed from a field of particular expertise. The elections to Lok Sabha occur every 5 years in the name of general

elections. The Indian Constitution has adopted **universal adult franchise** as a basis of elections to the Lok Sabha and the state legislative assemblies.

Representation of States in Lok Sabha:

- Members are directly elected by the people from the territorial constituencies in the states
- Election Principle used – Universal Adult Franchise
- Eligibility to Vote: Any Indian Citizen of/above 18 years of age

Note: Voting age was reduced from 21 to 18 years by the 61st Constitutional Amendment Act, 1988.

Representation of Union Territories in Lok Sabha:

- Parliament is empowered to choose the members from the UTs in any manner as it desires
- Election Principle used – **Direct Election**

Note: **Union Territories (Direct Election to the House of the People) Act, 1965**, has been enacted by which the members of Lok Sabha from the union territories are chosen by direct election.

Representation of Nominated Members in Lok Sabha:

President nominates 2 members from Anglo-Indian Community if they are not adequately represented.

Note: The provision to nominate Anglo-Indians was extended till 2020 by 95th Amendment Act, 2009.

Facts about Lok Sabha elections for UPSC

- 1st Lok Sabha Election took place in 1952. There were 489 seats elected. Congress won 364 out of 489 seats. Jawaharlal Nehru became the first Prime Minister.
- 2019 Lok Sabha elections were country's 17th General Elections. Elections took place for 552 seats. BJP won 303 seats out of 552. Narendra Modi is the Prime Minister.
- In 1952, only 22 women were elected while in 2014, IN 2019, 49 women candidates were elected.
- Elections to Lok Sabha are carried out using a first-past-the-post electoral system.

FIRST PAST THE POST SYSTEM

About

- India adopted the First Past the Post (FPTP) voting method for elections in Lok Sabha and State Assemblies after Independence which continues to be used till date.
- Despite its various advantages, there are also several issues associated with this voting method.
- In 2014, the National Democratic Alliance won 336 seats with only 38.5% of the popular vote. In contrast, the Bahujan Samaj Party (BSP) recorded the third-largest share of votes (4.2%) across the country, but didn't win a single seat.
- In this context, other methods of voting such as proportional representation and Instant run off system should also be considered to make elections more representative.

What is First Past the Post System?electionelection

- First past the post or FPTP, also known as Simple Majority Voting, Winner-takes-all voting or Plurality voting is the most basic form of voting system.
- In this voting method, the candidate with the highest number of votes in a constituency is declared the winner.
- There is no minimum threshold limit to cross. Even a margin of one vote results in victory.
- Thus, the FPTP system allows the candidate to win despite securing less than half the votes in a contest.
- Also, smaller parties representing specific groups have a lower chance of being elected in FPTP.

Why India Adopted the First Past the Post System?

- The system is straightforward and easy to understand. Electors are not required to choose from vast lists of candidates or to exercise preferences they may not have.
- The system is uncomplicated and produces a speedy outcome. It is fairly quick to count the votes and work out who has won; meaning results can be declared relatively quickly after the polls close.
- It enables voters to clearly express a view on which party they think should form the next government.
- FPTP is ideally suited to a two-party system and generally produces single-party governments.
- It encourages centrist policies and discourages extremist points of view.
- It provides for a direct relationship between the member of the legislature and the local constituency.
- It provides for local control over the party's choice of candidate, and parties must take some account of the constituency's wishes when selecting a candidate.

- The system elects the candidate who receives the largest number of votes. Candidates cannot be elected as a result of the transfer of a third or fourth preference, thus defeating the candidate with the largest number of first preference votes.
- The system allows electors to directly choose the government and not be subject to backroom dealings that can occur when a large number of parties are elected to the legislature.
- It provides for a greater possibility of electing outstanding candidates regardless of party support as elections are contested at the constituency level.

Issues with the FPTP Systems

- Representatives can get elected with small amounts of public support, as the size of the winning margin is irrelevant: what matters is only that they get more votes than other candidates.
- FPTP encourages tactical voting, as voters often vote not for the candidate they most prefer, but against the candidate they most dislike.
- FPTP is regarded as wasteful, as votes cast in a constituency for losing candidates, or for the winning candidate above the level they need to win that seat, count for nothing.
- FPTP can severely restrict voter choice. If the preferred-party candidate in a constituency has views with which a voter doesn't agree, he or she doesn't have a means of expressing that at the ballot box.
- Rather than allocating seats in line with actual support, FPTP rewards parties with what is often termed 'lumpy' support; that is, with just enough votes to win in each particular area. With smaller parties, this works in favour of those with centralised support.
- Because FPTP restricts a constituency's choice of candidates, the representation of minorities and women suffers, as the 'safest' looking candidate is the one most likely to be offered the chance to stand for election.
- It cannot be relied upon to provide a legislature reflecting the various shades of opinion expressed at the election and it does not necessarily place in power a government supported by the majority of the electorate.

Other Voting System

I. Proportional Representation System

- It attempts to allocate seats as closely as possible to the distribution of votes.
- Multi-member constituencies where there is more than one vacancy are necessary for proportional representation to work well.
- Proportional Representation systems can be broadly grouped into two categories: List System and Single Transferable Vote System.
- **List System:** Under List system, a voter chooses between party lists each containing as many names as there are representatives to be chosen. The number of candidates declared elected from each list is determined by the percentage cast for each list out of the total vote.
- **Single Transferable Vote System:** The Single Transferable Vote (STV) is a form of proportional representation voting system which uses preferential voting, usually in multi-member constituencies. Candidates don't need a majority of votes to be elected; all they require is a known 'quota', or share of the votes, determined by dividing the number of valid votes cast by the number of positions to be filled, plus one.

Advantages of PR System

- It gives minority parties and independent candidates a better chance of winning seats in Parliament.
- Under PR system, fewer votes are 'wasted' as more people's preferences are taken into account.
- It potentially offers greater and more-representative choice for voters.
- It rarely produces an absolute majority for one party, however, it could be argued that PR ensures greater continuity of government and requires greater consensus in policy-making.

Disadvantages of PR System

- The proliferation of minor parties in legislatures as a result of proportional representation systems can result in unstable government.
- It can potentially provide a route for extremists to force their way into the political mainstream: under a FPTP electoral system this would be unlikely to happen.
- It can also reduce accountability to voters, as an ousted party of government can retain office by finding new coalition partners after an election.

- The adoption of PR list systems weakens the link between the elected representative and his or her constituency.
- The greater complexity and choice that PR allows can put voters off voting, by requiring them to have a greater knowledge of individual and party positions.

II. Instant Runoff Method/ Alternative Voting System

- This is a voting method used in a single seat-election in which there is not just a choice of candidates, but also a preferential ranking of them.
- Ballots are initially counted for each voter's top choice.
- If a candidate has more than half of the votes, she wins.
- If no candidate secures 50% of the votes, the candidate with the fewest first choices is eliminated and a second round of counting takes place.
- The votes of supporters of the eliminated candidate are not "wasted".
- Instead, their vote counts for their next favourite candidate as indicated on their ranked ballot.
- In each round of voting, a voter's ballot counts for whichever remaining candidate is ranked highest on the ballot.
- Eventually one candidate emerges as a majority winner.
- This system has been used to elect Australia's Lower House, The Republic of Ireland's President and a number of official bodies.

Advantages

- It requires the winning candidate to obtain a majority of vote.
- The system also overcomes the problem of vote splitting: Voters can exercise a choice between two similar candidates without the fear that a third, unacceptable, candidate may be elected.

Disadvantages

- It has a more complicated ballot, potentially confusing some voters, and a much more complicated counting process than FPTP system.
- It is much more difficult to implement and verify because the votes cannot be summed as in most other election methods.
- It doesn't actually eliminate the wasted-vote problem but it may reduce it only a little bit.

Way Ahead

- According to some scholars, India really ought to reconsider its electoral system.
- This is because the first-past-the-post system in really requires two principal parties. In India, with the decline of Indian National Congress, voters have restricted choice.
- One possibility would be proportional representation, though that could fragment the system even more.
- But the reform that's gaining the most interest now is something called the instant runoff.
- It would ensure that in districts across India, whoever was elected in a district was at least minimally acceptable to a majority of the voters.
- Nobel laureate Amartya Sen has also touted Instant runoff voting system as ideal for democracies as it always allows for a majority vote which is closer to the preferences of the electorate. • It's time for India to at least talk about it.

WHO IS LOK SABHA SPEAKER?

The speaker of Lok Sabha is a member who elected from amongst the members of the house. He chairs the house and no proceedings in the house take place in his absence.

Facts about Lok Sabha Speaker for UPSC:

- 1st Lok Sabha Speaker – Ganesh Vasudev Mavalankar (1952-1956) (died in the office)
 - Ananthasayanam Ayyanagar was elected as Lok Sabha Speaker in 1956 who worked till 1957
- After 16th Lok Sabha elections, Ms Sumitra Mahajan was elected as the Lok Sabha speaker
- Following 17th Lok Sabha elections (2019 General Elections), Om Birla is the speaker of Lok Sabha.

LOK SABHA SPEAKER: ROLES AND RESPONSIBILITY:

CURRENT AFFAIR:-What's in the news?

- Members of the 17th Lok Sabha have taken the oath.
- The House will now elect its Speaker on 19th June 2019.
- The NDA has named two-time BJP MP Om Birla as its nominee for the post.
- Birla, who won from the Kota-Bundi parliamentary seat in Rajasthan, will easily become the speaker as the National Democratic Alliance has a clear majority in the lower house.
- This edition of 'In-Depth' will look at the election process, role and responsibilities of the Speaker. It will also look at the powers vested in the Lok Sabha Speaker, who is the highest authority in the House and also the custodian of the Parliament building.

Note on Om Birla:

- Om Birla has been an MLA in Rajasthan thrice and an MP twice. Birla is a commerce post-graduate, educated at the Government Commerce College, Kota.
- His political career started with student's politics. He was the President of the Student's Union in 1979.
- Birla won his first assembly election from Kota South in 2003. He was elected twice more in 2008 and 2013. He has also served as a Minister of State (MoS) in the Vasundhara Raje Government.
- Birla is a quintessential party worker and quite active in the BJP's youth wing, the Bhartiya Janta Yuva Morcha.
- He is also associated with the cooperative movement in Rajasthan and helped launch the Super Bazaar scheme while serving as the Vice-Chairman of the **National Cooperative Consumer Association Limited**.
- In the Lok Sabha, both the speaker and the deputy speaker are elected from among its members by a simple majority of members present and voting in the house. Therefore, no specific qualifications are prescribed for elected as the speaker of the house.
- The Constitution of India only requires that **the Speaker should be a member of the house**.
- In fact, one of the first Acts of a newly constituted house is to elect the speaker of the house.
- The Speaker is the Chairman of the Presiding officer of the Lok Sabha. The House elects its presiding officer and a deputy speaker by a simple majority of members.
- The Constitution states that the Speaker must be a member of the house.

Removal of the Speaker:

- The House can remove the Speaker through a resolution passed by an effective majority which means more than 50% of the total strength needs to vote for removing the Speaker. This is done as per Articles 94 and 96.
- The Speaker can also be removed on getting disqualified from being a Lok Sabha member under sections 7 and 8 of the Representation of the People Act, 1951.
- A Speaker can also tender his resignation to the Deputy Speaker.
- Dr Neelam Sanjiva Reddy is the only Speaker to have resigned from office.
- Dr Neelam Sanjiva Reddy also has the distinction of having been a Speaker who was later elected as the President of India.
- Since the Indian system of government follows the Westminster model, the Parliamentary proceedings of the country are headed by a presiding officer who is called the Speaker.
- The Lok Sabha which is the highest legislative body in the country chooses its Speaker who presides over the day to day functioning of the House.

How is the new Speaker chosen?

- Any member may give notice of a motion that another Member is chosen as the Speaker of the House. The motions are then moved and voted upon. After the results are announced, the Speaker-elect is felicitated by leaders of all political parties, including the Prime Minister and Leader of the Opposition. From then on, the new Speaker takes over the proceedings of the House.
- An understanding of the Constitution, the Rules of Procedure, and conventions of Parliament are considered a major asset for the Speaker. While this might indicate that a Speaker is one of the senior-most members of the House, this has not always been the norm. There have been occasions in the past where the Speaker of the House was a first-time MP. For instance, Mr K.S. Hegde, the

Speaker of the sixth Lok Sabha and Mr Bal Ram Jakhar, the Speaker of the seventh Lok Sabha were both first time MPs

What is the role of the Speaker in the House?

- While members of Parliament represent individual constituencies, the Speaker represents the whole authority of the House itself.
- He or she symbolizes the dignity and power of the House over which he or she is presiding. Therefore, it is expected that the holder of this office, acts as a true guardian of the traditions of Parliamentary democracy.
- According to the Constitution of India, a Speaker is vested with immense administrative and discretionary powers. These include: Presiding over the meetings of the House (In other words, the Speaker conducts the business of the house by ensuring discipline and decorum among the members).
- He/she guards the rights and privileges of the members of the two Houses (deciding who should speak at what time; the questions to be asked; the order of proceedings to be followed, among others).
- A Speaker uses his/her power to vote in order to resolve a deadlock, i.e. when a House initiates a voting procedure, the Speaker doesn't cast a vote in the first instance. It is only when the two sides receive an equal number of votes, that the Speaker's vote breaks the deadlock, making his/her position impartial.
- In the absence of a quorum in the House, it is the duty of the Speaker to adjourn the House or to suspend any meeting until the quorum is met. The Speaker decides the agenda that must be discussed in a meeting of the MPs.
- The Speaker is invested with immense powers to interpret the Rules of Procedure, i.e. since he/she is a member of the House, as well as the Presiding Officer, he/she ensures the discipline of the House.
- The Speaker ensures that MPs are punished for unruly behaviour.
- A Speaker can also disqualify a Member of Parliament from the House on the grounds of defection. He/she also permits various Parliamentary procedures, like the motion of adjournment, the motion of no confidence, and the motion of censure among others. The Speaker presides over the joint sitting of the two Houses of Parliament. Once a money bill is transmitted from the lower House to the upper House, the Speaker is solely responsible for endorsing his/her certificate on the Bill. In other words, **he/she is given the pivotal power to decide whether any bill is a Money Bill. This decision is considered final.**
- The Speaker has under his/her jurisdiction, a number of Parliamentary Committees such as the Rules Committee, the Business Advisory Committee and the General Purposes Committee.
- The Speaker nominates the various Chairmen of these committees and also looks into the procedural hindrances of the workings of these Committees.
- The Speaker is also the chair of the Business Advisory Committee, which is responsible for deciding the business of the House and allocating time for the same. The Speaker also chairs the General Purposes Committee and the Rules Committee of the Lok Sabha and appoints the chairpersons of other committees amongst the members. In the past, Speakers have also been instrumental in strengthening the Committee system. Mr Shivraj Patil, the Speaker of the 10th Lok Sabha, played a key role in the initiation of 17 Departmental Standing Committees, therefore strengthening Parliament's control over the functioning of different ministries of the government.
- Since the Speaker represents the entire House, the office of the Speaker is vested with impartiality and independence. The Constitution and the Rules of Procedure have prescribed guidelines for the Speaker's office to ensure such impartiality and independence. Dr N. Sanjiva Reddy, the Speaker of the fourth Lok Sabha, formally resigned from his political party as he was of the opinion that the Speaker belongs to the whole House and should, therefore, remain impartial. As per Article 100 of the Constitution, the Speaker does not exercise a vote on any matter being voted upon, in the first instance. However, in case there's a tie during the voting, the Speaker exercises her vote.

Lok Sabha Constituencies

There are 543 constituencies in India that take part in Lok Sabha elections.

Which is the largest constituency (area-wise)?	Ladakh (173266.37 sq.km)
Which is the smallest constituency (area-wise)?	Chandni Chowk (10.59 sq.km)
Which is the largest constituency (electors-wise)	Malkajgiri (29,53,915)
Which is the smallest constituency (electors-wise)	Lakshadweep (47972)

Lok Sabha and important articles of the Indian Constitution

The following are important articles of the Indian Constitution in relation to Lok Sabha:

Articles	Provision
Article 326 (Part XV)	Elections to Lok Sabha shall be on the basis of adult suffrage
Article 83 (2)	Lok Sabha will continue for 5 years, unless sooner dissolved, from the date appointed for its first meeting and no longer and the expiration of the said period of five years shall operate as a dissolution of the House
Article 75	Council of Ministers are collectively responsible to Lok Sabha
<u>Article 324</u>	Power, superintendence of Election Commission w.r.t. Lok Sabha elections and more

What are the important amendments acts related to Lok Sabha?

The following table provides the list of important amendment acts and their relationship with Lok Sabha:

Amendment Act	Amended Provisions w.r.t. Lok Sabha
2nd Amendment Act, 1952	Readjusted the scale of representation in the Lok Sabha
23rd Amendment Act, 1969	Extended the reservation of seats for the SCs and STs, and special representation for the Anglo-Indians in the Lok Sabha for a further period of ten years (i.e., up to 1980)
31st Amendment Act, 1972	Increased the number of Lok Sabha seats from 525 to 545
41st Amendment Act, 1976	<ul style="list-style-type: none"> Froze the seats in the Lok Sabha and state legislative assemblies on the basis of 1971 census till 2001 Raised the tenure of Lok Sabha and state legislative assemblies from 5 to 6 years

44th Amendment Act, 1978	<ul style="list-style-type: none"> Restored the original term of the Lok Sabha and the state legislative assemblies (i.e., 5 years) Omitted the provisions which took away the power of the court to decide the election disputes of the Lok Sabha Speaker
45th Amendment Act, 1980	Extended the reservation of seats for the SCs and STs and special representation for the Anglo-Indians in the Lok Sabha
51st Amendment Act, 1984	Provided for reservation of seats in the Lok Sabha for STs in Meghalaya, Arunachal Pradesh, Nagaland and Mizoram
61st Amendment Act, 1989	Reduced the voting age from 21 years to 18 years for the Lok Sabha
62nd Amendment Act, 1989	Extended the reservation of seats for the SCs and STs and special representation for the Anglo-Indians in the Lok Sabha
79th Amendment Act, 1999	Extended the reservation of seats for the SCs and STs and special representation for the Anglo-Indians in the Lok Sabha
84th Amendment Act, 2001	Extended the ban on the readjustment of seats in the Lok Sabha for another 25 years (i.e., up to 2026) with the same objective of encouraging population limiting measures
91st Amendment Act, 2003	Article 75(1A): The total number of ministers, including the Prime Minister, in the Central Council of Ministers, shall not exceed 15% of the total strength of the Lok Sabha
95th Amendment Act, 2009	Article 334: Extended the reservation of seats for the SCs and STs and special representation for the Anglo-Indians in the Lok Sabha for a further period of ten years i.e., up to 2020

RAJYA SABHA:

Rajya Sabha is the upper house of the parliament and is termed as House of Elders in Indian Parliament.

Rajya Sabha – Rajya Sabha Members

Indian Parliament is bicameral in nature i.e. that it has two houses. Rajya Sabha is one of those two houses, i.e. the upper house of the Parliament. The other house is the Lok Sabha (Lower House of the Parliament.)

Rajya Sabha is the second chamber of the parliament and represents the states and union territories of the nation. It is empowered to protect the interests of the states and union territories if there is an interference by the centre in their work.

Composition of Rajya Sabha:

Composition of Rajya Sabha	
Maximum Strength – 250	230 represent States & Union Territories
	12 are nominated by the president
Current Strength – 245	229 members represent the states

4 members represent the union territories

12 members are nominated by the president

Note: Fourth Schedule of Indian Constitution deals with allocation of seats in Rajya Sabha

How are the Rajya Sabha members elected?

Rajya Sabha Members are elected by the elected members of state legislative assemblies using a method of proportional representation.

Note: Representation of States in Rajya Sabha is not equal. It depends on its population. State with a larger population will have more number of seats in Rajya Sabha than those with a lesser population.

Rajya Sabha Elections

There are three types of representation in Rajya Sabha :

Representation of States in Rajya Sabha:

- Members are **elected by the elected members of state legislative assemblies**
- Election Principle used – Proportional Representation by means of Single Transferable Vote
- The population of the state is a factor that decides the representation of states in Rajya Sabha

Representation of Union Territories in Rajya Sabha:

- Members of Rajya Sabha belonging to Union Territories are **indirectly elected by members of an electoral college**, that is constituted for this purpose
- Election Principle used – Proportional Representation by means of Single Transferable Vote

Note: Out of 7 union territories, only Delhi and Puducherry have representation in Rajya Sabha.

Representation of Nominated Members in Rajya Sabha:

12 people are nominated by the President in Rajya Sabha for their contribution and expertise in the fields of:

- Art
- Literature
- Science
- Social Service

Facts related to Rajya Sabha elections in UPSC:

Two changes were made to Rajya Sabha election in 2003:

1. To be elected as a Rajya Sabha member from a particular state, the requirement to be an elector from that state was removed.
2. System of the open ballot was introduced in place of secret ballot system.

Can Rajya Sabha get dissolved?

Rajya Sabha is a permanent body and also called a ‘continuing chamber.’ Unlike Lok Sabha which usually runs for 5 years and the fresh elections are taken up, Rajya Sabha has no specific tenure and it keeps on running. Therefore, it is never dissolved.

Note:

- Every second year, one-third of its members retire. For the vacant seats, fresh elections take place. However, nominations are taken up in the beginning of the third year.
- Representation of the People Act, 1951 authorizes the President to make provisions to govern the order of retirement of the members of the Rajya Sabha.

Who is Rajya Sabha Chairman & Deputy Chairman?

Indian Vice-President is an ex-officio chairman of Rajya Sabha while the deputy chairman of Rajya Sabha is one who is elected from amongst Rajya Sabha members. The details on Rajya Sabha Chairman and Deputy Chairman are given in the table below:

Details	Rajya Sabha Chairman	Rajya Sabha Deputy Chairman
Role	He presides the upper house	He presides the upper house whenever given-

		<p>below conditions arise:</p> <ul style="list-style-type: none"> • Seat of chairman falls vacant • When Chairman/Vice-President has to act as President • When Chairman is absent from the sitting <p>Note: In all three cases, Deputy Chairman of Rajya Sabha has all the powers of Chairman of Rajya Sabha</p>
Removal	<p>He can be removed as the chairman of Rajya Sabha only when he is removed from the seat of Vice-President of India</p> <p>Note: While the resolution is moved, he can't preside the house as chairman, though he can be a part of the house, speak in the house</p>	<p>He can be removed by a resolution passed by a majority of all the members of the Rajya Sabha</p> <p>Note: The resolution to remove him can be moved only after giving 14 days' advance notice</p>
Is he a member of the house?	No	Yes
Can he vote in the house?	<p>He cannot vote in the first instance</p> <p>Note: He can vote in the case of an equality of votes</p>	<p>When he presides as the chairman, he too cannot vote in the first instance but can exercise casting vote in case of a tie</p> <p>Note: When Chairman is present in the house, Deputy Chairman is an ordinary member in the house and can speak, participate in proceedings and even vote in the questions of house</p>
Salary	<p>Fixed by Parliament</p> <p>Note: His salary is charged on the Consolidated Fund of India.</p> <p>Note: When Chairman of the house has to act as President of India, he is not entitled to a salary of Chairman of Rajya Sabha but of President of India</p>	<p>Fixed by Parliament</p> <p>Note: His salary is charged on Consolidated Fund of India</p>

Questions related to Rajya Sabha for UPSC

Check below the important questions that are related to the topic 'Rajya Sabha' in the table below:

What is the principle of the election in Rajya Sabha?	Proportional Representation with the means of Single Transferable Vote
How many Department Related Standing Committees (DRSC) are	There are 8 Standing Committees in Rajya Sabha.

there in Rajya Sabha?	
What is the role of Rajya Sabha in the passage of Money Bill?	Rajya Sabha cannot introduce, reject or amend the <u>Money Bill</u> but has to return the bill with or without amendments
Who is the leader of Rajya Sabha?	Like Lok Sabha, Rajya Sabha also has a leader who is a minister and a member of the house and is nominated by the prime minister to function as such
What is the qualification of Rajya Sabha members?	<ul style="list-style-type: none"> • Must be an Indian Citizen • Must be not less than 30 years of age • Must be registered as an elector for a parliamentary constituency

FUNCTIONS OF THE PARLIAMENT

The functions of the Parliament are mentioned in the Indian Constitution in Chapter II of Part V. The functions of the Parliament can be classified under several heads. They are discussed below:

Legislative Functions

- The Parliament legislates on all matters mentioned in the Union List and the Concurrent List.
- In the case of the Concurrent List, where the state legislatures and the Parliament have joint jurisdiction, the union law will prevail over the states unless the state law had received the earlier presidential assent. However, the Parliament can any time, enact a law adding to, amending, varying or repealing a law made by a state legislature.
- The Parliament can also pass laws on items in the **State List** under the following circumstances:
 - If Emergency is in operation, or any state is placed under President's Rule (Article 356), the Parliament can enact laws on items in the State List as well.
 - As per **Article 249**, the Parliament can make laws on items in the State List if the Rajya Sabha passes a resolution by $\frac{2}{3}$ majority of its members present and voting, that it is necessary for the Parliament to make laws on any item enumerated in the State List, in the national interest.
 - As per **Article 253**, it can pass laws on the State List items if it is required for the implementation of international agreements or treaties with foreign powers.
 - According to **Article 252**, if the legislatures of two or more states pass a resolution to the effect that it is desirable to have a parliamentary law on any item listed in the State List, the Parliament can make laws for those states.

Executive Functions (Control over the Executive)

In the parliamentary form of government, the executive is responsible to the legislature. Hence, the Parliament exercises control over the executive by several measures.

- By a **vote of no-confidence**, the Parliament can remove the Cabinet (executive) out of power. It can reject a budget proposal or any other bill brought by the Cabinet. A motion of no-confidence is passed to remove a government from office.
- The MPs (Members of Parliament) can ask questions to the ministers on their omissions and commissions. Any lapses on the part of the government can be exposed in the Parliament.
- **Adjournment Motion:** Allowed only in the Lok Sabha, the chief objective of the adjournment motion is to draw the attention of the Parliament to any recent issue of urgent public interest. It is considered an extraordinary tool in Parliament as the normal business is affected.
- The Parliament appoints a **Committee on Ministerial Assurances** that sees whether the promises made by the ministers to the Parliament are fulfilled or not.

- **Censure Motion:** A censure motion is moved by the opposition party members in the House to strongly disapprove any policy of the government. It can be moved only in the Lok Sabha. Immediately after a censure motion is passed, the government has to seek the confidence of the House. Unlike in the case of the no-confidence motion, the Council of Ministers need not resign if the censure motion is passed.
- **Cut Motion:** A cut motion is used to oppose any demand in the financial bill brought by the government.

Financial Functions

Parliament is the ultimate authority when it comes to finances. The Executive cannot spend a single pie without parliamentary approval.

- The Union Budget prepared by the Cabinet is submitted for approval by the Parliament. All proposals to impose taxes should also be approved by the Parliament.
- There are two standing committees (Public Accounts Committee and Estimates Committee) of the Parliament to keep a check on how the executive spends the money granted to it by the legislature.

Amending Powers

The Parliament has the power to amend the Constitution of India. Both Houses of the Parliament have equal powers as far as amending the Constitution is concerned. Amendments will have to be passed in both the Lok Sabha and the Rajya Sabha for them to be effective.

Electoral Functions

The Parliament takes part in the election of the President and the Vice President. The electoral college that elects the President comprises of, among others, the elected members of both Houses. The President can be removed by a resolution passed by the Rajya Sabha agreed to by the Lok Sabha.

Judicial Functions

In case of breach of privilege by members of the House, the Parliament has punitive powers to punish them. A breach of privilege is when there is an infringement of any of the privileges enjoyed by the MPs.

- A privilege motion is moved by a member when he feels that a minister or any member has committed a breach of privilege of the House or one or more of its members by withholding facts of a case or by giving wrong or distorted facts.
- In the parliamentary system, legislative privileges are immune to judicial control.
- The power of the Parliament to punish its members is also generally not subject to judicial review.
- Other judicial functions of the Parliament include the power to impeach the President, the Vice President, the judges of the Supreme Court, High Courts, Auditor-General, etc.

Other powers/functions of the Parliament

- Issues of national and international importance are discussed in the Parliament. The opposition plays an important role in this regard and ensures that the country is aware of alternate viewpoints.
- A Parliament is sometimes talked of as a ‘nation in miniature’.
- In a democracy, the Parliament plays the vital function of deliberating matters of importance before laws or resolutions are passed.
- The Parliament has the power to alter, decrease or increase the boundaries of states/UTs.
- The Parliament also functions as an organ of information. The ministers are bound to provide information in the Houses when demanded by the members.

MODEL QUESTION:

Bring out the differences between First Past the Post (FPTP) system and Proportional Representation system of elections. Analyse the limitations in FPTP system and suggest options for ensuring a true democracy.

MODEL ANSWER

Comparison of FPTP and PR system of election

FPTP	PR
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The country is divided into small geographical Units called constituencies or district.	Large geographical areas are demarcated as constituencies. The entire country may be a single constituency
Every constituency elects one representative	More than one representative may be elected from one constituency
Voter votes for a candidate	Voter votes for the party
A party may get more seats than votes in the legislature	Every party gets seats in the legislature in proportion to the percentage of votes that it gets
Candidate who wins the election may not get of majority (50%+1) votes	Candidate who wins the elections gets majority votes.
Examples: U.K., India	Examples: Israel, Netherlands

- (i) **Demerits of FPTP** - Excludes smaller parties, minorities, and womens' from fair representation.
- (ii) A party with even 20% share does not get a single seat, while a party with 28% can get disproportionately large number of seats because of a division of votes.
- (iii) Encourage the development of political parties based on clan, ethnicity or region.
- (iv) It is not suitable for multi party democracy representing multiple interests.
- (v) It doesn't reflect the true aspirations of majority people.
- (vi) True democracy couldn't exist without reflection of majority aspirations.
- (vii) **Solutions** - Recommendations of the Law Commission's 170th and 255th report should be implemented. (i.e.) A mix of both first-past-the-post and proportional representation should be tried (Hybrid Electoral System)
- (viii) The past experiences of other countries which have been following the system of proportional representation in addition to direct election should be studied to devise an effective system.