



Structure and Functioning of Government with special reference to Legislature

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ABSTRACT

The research offers a comprehensive analysis of the structure and functioning of the Indian government, with particular emphasis on the legislature as the central organ of democratic governance. It examines the bicameral framework comprising the Rajya Sabha and Lok Sabha under the Indian Parliament, highlighting their constitutional roles, composition, and legislative powers. The paper discusses legislative procedures such as bill readings, committee referrals, joint sittings, and presidential assent, with special attention to money and financial bills. It critically evaluates the use and abuse of Article 123 (ordinances) and Articles 105 and 194 (legislative privileges), emphasizing the tension between parliamentary autonomy and judicial accountability. The role of legislative committees and the quality of deliberations are scrutinized against the backdrop of increasing executive dominance and frequent disruptions in parliamentary proceedings. The article underscores the need for institutional reforms to reinforce procedural integrity, codify privileges, and strengthen deliberative democracy. Through an insightful blend of legal, constitutional, and political analysis, the paper contributes to understanding the strengths and shortcomings of India's legislative architecture and advocates for a more accountable and participatory legislative process. The study is grounded in key constitutional provisions, judicial interpretations, and scholarly discourse.



INTRODUCTION

The legislature plays a foundational role in the democratic architecture of any constitutional government, serving as the principal institution through which laws are made, executive authority is held accountable, and public interests are represented. In India, the Parliament embodies this legislative authority and is structured as a bicameral body comprising the President of India, the Rajya Sabha (Council of States), and the Lok Sabha (House of the People), as established under Article 79 of the Constitution. This dual-house framework is designed to strike a balance between federal representation and popular sovereignty, enabling both state interests and the democratic will of the people to find voice in the legislative process. While the Lok Sabha is directly elected and holds primacy in matters of finance and governance, the Rajya Sabha offers a forum for reflective deliberation and continuity. The functioning of Parliament is governed by constitutional provisions, procedural rules, and institutional norms that together uphold the principles of checks and balances. However, despite its robust structure, India's legislature faces challenges including declining debate quality, rising executive overreach, and misuse of legislative privileges. This study delves into the institutional design, legislative processes, and operational realities of the Indian Parliament, with a particular focus on the evolving role of the legislature in shaping democratic governance.

Objectives of the Study

- To examine the structural composition and constitutional framework of the Indian Parliament with a focus on its bicameral nature.
- To analyze the legislative process, including bill formulation, debate stages, and the role of committees in law-making.
- To evaluate the scope, application, and controversies surrounding legislative privileges under Articles 105 and 194.
- To assess the challenges affecting parliamentary functioning, including executive dominance, procedural disruptions, and judicial interventions.

Methodology

The study adopts a qualitative methodology based on doctrinal analysis of constitutional provisions, parliamentary procedures, and judicial interpretations. It relies on secondary sources including academic literature, constitutional commentaries, case law, and parliamentary reports. Comparative analysis is employed to assess the functioning of both Houses within the legislative process. The study also incorporates critical evaluation of recent trends impacting the effectiveness and accountability of the legislature.

FINDINGS

The Indian Parliament, established under Article 79 of the Constitution, constitutes the supreme legislative authority of the Union. Its structure reflects a bicameral system comprising the President of India and two Houses: the Rajya Sabha (Council of States) and the Lok Sabha (House of the People). This institutional framework seeks to balance democratic representation with federal stability by accommodating both population-based representation and state interests within the national legislative process.¹ The Rajya Sabha represents the federal character of the Constitution. It



consists of a maximum of 250 members, of whom 238 are elected by the legislative assemblies of the states and Union territories using the system of proportional representation by means of a single transferable vote, while 12 are nominated by the President under Article 80(1)(a) for their contributions to art, literature, science, and social services. The Rajya Sabha is a permanent body and is not subject to dissolution; however, one-third of its members retire every two years, ensuring continuity in legislative work.²

The upper house plays a critical role in reviewing and revising legislation passed by the Lok Sabha. Although it cannot initiate money bills, it may suggest amendments, which the Lok Sabha is free to accept or reject. Its consent is required for all non-financial legislation. The Rajya Sabha also has special powers under Article 249 to authorise Parliament to legislate on matters in the State List if it considers it necessary in the national interest. This arrangement preserves the voice of the states within the Union structure, thereby strengthening cooperative federalism.³

The Lok Sabha is the directly elected lower house of Parliament and the main body that makes laws. Article 81 says that it may have up to 552 members. 530 of these people are elected from the states, 20 from the Union territory, and two may be chosen by the President from the Anglo-Indian community. However, this last provision is no longer valid because of the 104th Constitutional Amendment. Members are chosen by adults voting in single-member districts using the first-past-the-post system. The Lok Sabha's duration is five years, however it may be cut short if necessary. Article 83 says that it can be prolonged during a national emergency.

The Lok Sabha has more authority than the Rajya Sabha when it comes to money and trust. The Lok Sabha is the only place where money bills may be submitted. The Rajya Sabha must return them within 14 days, and it can't change or reject them. Under Article 75(3), the Lok Sabha is in charge of the Council of Ministers as a whole. The Council of Ministers may only stay in power if the majority of the House trusts them. In practice, the lower house is the main body that holds executive power responsible. Article 79 says that the President of India is an important part of Parliament, even though he or she is not a member of either House. Article 111 says that no measure may become law without the President's approval. The President also has the power to call, prorogue, and dissolve the houses, as well as issue ordinances under Article 123 while Parliament is not in session. The President is the constitutional leader of the legislative branch, although he or she operates on the advice and help of the Council of Ministers.⁴

The bicameral arrangement is meant to bring together responsiveness and careful thought. Because people directly elect the Lok Sabha, it better represents what people want right away and responds faster to what they want. The Rajya Sabha has staggered terms and indirect elections, which makes it a better place for discussion and keeps ideas going. This duality lets Parliament serve as both a place for people to hold their representatives accountable and a place to change and improve proposed laws. Parliament's structure allows for a wide range of interests, including geographical, cultural, demographic, and ideological ones, to coexist. It makes sure that laws are looked at by many people before they become laws. But frequent interruptions, poor attendance, and less time for discussion have made many worry about how well both Houses are working. The formal framework lets lawmakers make tough decisions, but it only works if the rules are followed and the issues are



discussed in depth. The Indian Parliament uses an organised method to make laws that is based on constitutional protections, clear procedures, and institutional checks. Articles 107 to 111 of the Constitution and the Rules of Procedure and Conduct of Business in both Houses are the main rules that regulate how laws are made. These steps are not just for show; they are ways to make sure that proposed laws are discussed, looked at, and checked by institutions.⁵

The legislative process starts with a bill. There are numerous sorts of bills, such as regular bills, money bills, financial bills, constitutional amendment bills, and appropriation bills. Each type has its own set of rules on how to handle them. Any House of Parliament may introduce regular legislation. A government bill is one that a minister introduces, while a private member's bill is one that a private member introduces. Even though they both follow the same steps, private member bills don't often become laws since there isn't enough support or time. After being presented, a measure is read three times in each House. There is no argument during the first reading, which is a formal introduction. There are two parts to the second reading: a broad discussion and a clause-by-clause review. At this point, the bill might be sent to a standing committee or a select committee, which looks at what it means and suggests amendments. Committees are very important for looking at legislative ideas from all sides. The third reading is when the law is spoken about one last time and voted on as a whole. If one House passes the measure, it goes to the other House, where the same process happens.

According to Article 111, a measure that both Houses have approved in the same form is transmitted to the President for approval. The President may either agree with the measure, disagree with it, or send it back with a request for further thought (save for money legislation). The President must sign the law if both Houses approve it again, with or without changes. The process is different for money bills, which only deal with taxes, borrowing, spending from the Consolidated Fund of India, or other relevant issues as described in Article 110. The President must suggest that these kinds of laws be filed in the Lok Sabha. After the Lok Sabha passes them, they go to the Rajya Sabha, which may offer suggestions within 14 days. The Lok Sabha may say yes or no to these ideas.⁶ The law is considered passed if the Rajya Sabha does not react within the time limit. The Rajya Sabha's little position in money problems shows that the directly elected House is the most important body for financial responsibility.

Financial bills, although addressing income and spending, vary from money bills in that they include additional elements beyond those specified in Article 110. These need to be approved by both Houses and go through the whole legislative procedure. If the legislature can't agree on anything, Article 108 says that both Houses should meet together. The President calls such a meeting, and the Speaker of the Lok Sabha runs it. Joint sittings happen very seldom. They have only happened when the Dowry Prohibition Act (1961), the Banking Service Commission (Repeal) Bill (1977), and the Prevention of Terrorism Act (2002) were passed. These sessions usually happen when the Rajya Sabha turns down a measure or doesn't do anything about it within six months. Article 123 of the Constitution also lets ordinances make laws while Parliament is not in session. The President, following the counsel of the Council of Ministers, may issue an ordinance, which has equivalent



authority to a parliamentary act. But ordinances must be presented to both Houses and will no longer be in effect six weeks after Parliament reconvenes unless they are accepted. Judicial review of ordinances, especially in *D.C. Wadhwa v. State of Bihar* (1987), has shown that this authority is intended for exceptional circumstances, rather than ordinary administration.⁷

The goal of the legislative process is to combine speed with careful review. But how well it works depends on how Parliament works in real life. Concerns about the quality of legislation have grown because of disruptions, lack of discussion, and the frequent use of the guillotine process during budget sessions. The growing use of ordinances and the decreasing number of standing committee referrals suggest that the executive branch is taking over more and more of the legislative branch's duties. Even with procedural protections, the results of legislation sometimes show political considerations instead of thorough policy examination. The legal structure allows Parliament to have a deliberative role, but the actual results depend on how strong the institutional norms are and how eager members are to talk about things that aren't just party lines.⁸ The Indian Constitution acknowledges that a legislature cannot operate with autonomy and effectiveness if its members are shielded from extraneous influences and legal actions that might hinder their responsibilities. Articles 105 and 194 provide Members of Parliament (MPs) and Members of State Legislatures (MLAs) certain rights and functions. These clauses are not meant to provide individuals rights, but rather to protect institutions so that legislative tasks may be carried out freely and without interference. The privileges are both individual and social, and they are based on the necessity to protect the independence of the legislative branch in a constitutional democracy.⁹

Article 105(1) gives members of Parliament the right to free expression in the House, as long as they follow the norms of procedure and behaviour. This guarantee is stronger than the right to free expression under Article 19(1)(a) since it is absolute in the setting of Parliament. Members are not responsible for any legal action taken against them for whatever they say or vote on in Parliament or any of its committees. This immunity lets lawmakers say what they think, make charges, or share information that may get them in trouble with the law outside of the House. The idea is not to protect dishonesty, but to stop fear of punishment from stopping discussion and disagreement. In *P.V. Narasimha Rao v. State (CBI/SPE)* (1998), the Supreme Court expanded this privilege to include protection from criminal prosecution, even in bribery instances associated with parliamentary voting. The majority ruled that Article 105(2) prevented MPs from being charged with any statement or vote, even if it was influenced by bribery. The ruling was contentious because it seemed to allow lawmakers to break the law while claiming constitutional protection. Critics said that this kind of interpretation may lead to a legal cover for wrongdoing. The judgement showed how hard it is to find a balance between the need for public accountability and the need for legislative independence.¹⁰

Article 105(3) states that the powers, privileges, and immunities of each House and its members shall be the same as those of the House of Commons of the United Kingdom, until defined by law. No comprehensive legislation has yet codified these privileges, leaving much of their content to constitutional convention and judicial interpretation. This lack of codification has allowed legislatures to claim privileges broadly, sometimes in ways that conflict with transparency and judicial review.¹¹ The arrest of a member without prior intimation to the Speaker or Chairman has



often been considered a breach of privilege. The legislature has the power to summon erring officials and demand explanations, though this has raised questions about its encroachment into executive functioning. Similarly, attempts to interfere with the attendance or functioning of a member during a session may attract privilege proceedings, as such interference disrupts the House's ability to conduct its work effectively.¹²

The legislature also claims the power to punish for contempt. This includes acts or publications that lower the authority of the House or obstruct its functioning. In *Searchlight v. State of Bihar* (1961), the Supreme Court upheld the Bihar Legislative Assembly's action to punish a newspaper editor for publishing a report deemed to distort House proceedings. The judgment reaffirmed that legislative privileges override fundamental rights such as freedom of expression under Article 19(1)(a) in matters relating to parliamentary conduct.¹³

However, courts have increasingly asserted their power to review privilege claims. In *Raja Ram Pal v. Lok Sabha* (2007), the Supreme Court upheld the expulsion of MPs involved in the “cash-for-query” scam but made it clear that legislative privilege cannot be used as a cover for procedural irregularities or arbitrary action. The Court held that although legislatures are the sole judges of their privileges, judicial review is permitted when there is a violation of constitutional limitations, abuse of power, or denial of natural justice.¹⁴ The privileges under Article 105 are mirrored by Article 194 for state legislatures. State legislators enjoy the same freedom of speech and immunity from judicial proceedings for actions within the House. However, state legislatures have even less institutional capacity to regulate privilege claims with consistency, often resulting in politically motivated actions under the guise of privilege.¹⁵

The scope of legislative privilege continues to generate friction between the judiciary and legislature. Legislators defend their autonomy as essential to representative democracy, whereas the courts insist that no power under the Constitution is absolute. In the absence of codified privilege law, ambiguity persists over what constitutes breach or contempt. This ambiguity has sometimes led to the misuse of privilege to suppress dissenting voices, journalists, or civil servants.¹⁶ Legislative privileges serve an essential constitutional function when exercised to protect the dignity and independence of the House. However, when invoked to shield members from legitimate scrutiny or accountability, they risk undermining the rule of law. The future of legislative privilege in India requires either codification through statute or consistent constitutional interpretation that respects institutional autonomy while curbing arbitrariness.

CONCLUSION

The Indian legislature, as structured under the Constitution, represents a carefully balanced system designed to reflect both the federal nature of the state and the democratic will of the people. The bicameral Parliament—comprising the Lok Sabha and Rajya Sabha—ensures a dual-layered approach to law-making that promotes both responsiveness and deliberation. While the Lok Sabha articulates the immediate voice of the electorate, the Rajya Sabha offers continuity and a platform for state representation. However, despite its strong constitutional foundation, the functioning of Parliament often falls short of its intended role. Disruptions, reduced deliberation, the rising influence



of the executive, and underuse of legislative committees have weakened the quality of law-making. Moreover, the unchecked use of ordinances and the ambiguity surrounding legislative privileges under Articles 105 and 194 pose challenges to transparency and accountability. Judicial interventions, though necessary at times, also reflect institutional tensions within the democratic framework. For Parliament to serve its deliberative and oversight functions effectively, reforms are needed—particularly in codifying privileges, strengthening committee systems, and ensuring procedural integrity.

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