

THE NEED FOR A SECOND CHAMBER

Relevant for: Indian Polity | Topic: Issues and Challenges Pertaining to the Federal Structure, Dispute Redressal Mechanisms, and the Centre-State Relations

The Rajya Sabha came into being on April 3, 1952 and held its first session on May 13 the same year. The second chamber underwent severe prenatal scrutiny in the Constituent Assembly. The proposal for a bicameral central legislature for the country was discussed at length, with deep divisions between the proponents and opponents. From this churning that went on for eight days with the participation of leading members of the Constituent Assembly finally emerged the Council of States and its mandate. After 68 years, it is instructive to revisit the debates on the need for a Council of States and its performance since then.

The central legislature that came into being under the Government of India Act, 1919 was bicameral with a Council of States comprising 60 members and a Legislative Assembly comprising 145 members. The membership and voting norms for the Council of States were so restrictive that only wealthy land owners, merchants and those with legislative experience could enter it. Women could neither vote nor seek membership. The Government of India Act, 1935 proposed an elaborate and improved version of the second chamber, but this never materialised. The Constituent Assembly, which was formed in 1947, after adoption of the Constitution became the Provisional Parliament and made laws till 1952.

Bicameralism is a principle that requires the consent of two differently constituted chambers of Parliament for making or changing laws. This principle came into operation in 1787 with the adoption of the U.S. Constitution. Its appeal grew in strength from time to time. At present, 79 Parliaments of the world (41% of the total number) are bicameral.

Federalism has been in vogue since ancient times when some states got together to confer the power of law-making on a central authority. But modern federalism is entirely different given the complexity of geographical, regional, social and economic diversities marking the constituent units of a federation or a union. It is more so in India. The U.S. is a union of constituent states and so is India — each unit has a set of unique features.

In *The Federalist*, the famous essays written in 1787-88 by James Madison, Alexander Hamilton and John Jay to explain the U.S. Constitution, it was stated that the second chamber enables a second and reflective expression of representative opinion besides checking the propensity to yield to the impulse of sudden and violent passions. The U.S. Constitution-makers were influenced by the proposition of the renowned French philosopher Montesquieu who said, “The legislative body being composed of two parts, they check one another by the mutual privilege of rejecting”. Walter Bagehot later noted that the retarding chamber will impede minor instances of parliamentary tyranny, though it will not prevent or really impede revolution.

Federalism and bicameralism are linked because the federal character of a nation comprising constituent units can be reflected in, and secured by, a bicameral legislature. Despite being conscious of the huge degree of diversities and attendant inequalities that marked British India, and aware of the emergence of independent India as a Union of States, the proposal for the Rajya Sabha as a second chamber had no easy sailing in the Constituent Assembly. It was subjected to serious argumentation and had a narrow escape.

As an illustration, a member of the Constituent Assembly, Mohd. Tahir, asserted that an Upper House was not essential and viewed it as a creation of imperialism. Professor Shibban Lal Saksena went further and warned that such a chamber would only prove to be a “clog in the

wheel of progress” of the nation. The need of the hour was quick law-making, he said, which the second chamber would obstruct. He was perhaps referring to the role of the House of Lords in the British Parliament whose powers to veto the expenditure proposed was removed, and its ability to obstruct the laws made by the House of Commons was later severely curtailed in the early 20th century. Lokanath Misra vehemently opposed parity of powers in law-making for the Upper House.

Proponents of the second chamber such as Naziruddin Ahmad felt that it would introduce an element of sobriety and second thought besides lending voice to the constituent units in the legislative scheme of things. M. Ananthasayanam Ayyangar argued that a second chamber would enable the genius of the people to have full play besides checking hasty legislation. It fell upon N. Gopalaswami Ayyangar to make a strong case for the second chamber. Replying to the debate on the motion, he argued that “the most that we expect the Second Chamber to do is perhaps to hold dignified debates on important issues and to delay legislations 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.”

As the differences over the need for a second chamber persisted even after adoption of the Constitution of India in 1950, Dr. Sarvepalli Radhakrishnan, the first Chairman of the Rajya Sabha, while replying to the felicitations on becoming the Chairman, said that Parliament is not only a legislative body but also a deliberative one which enables the members to debate major issues of public importance. He echoed what James Madison, one of the authors of *The Federalist*, said about 165 years earlier in an essay: that the role of the Upper House is to be a deliberative body besides balancing the “fickleness and passion” of the elected House.

So, what follows from the above discussion is that the House elected directly by the people is susceptible to passions of the moment and electoral considerations. Their imprint on legislation needs to be checked by the second chamber whose members are expected to be sober, wise and well-informed with domain knowledge. The mandate of the Rajya Sabha, as can be gleaned from the Constituent Assembly debates and the experiences of other Parliaments, is legislation — to revise or delay legislation without proving a clog in the wheel of the progress; to represent the interests of the States as a federal chamber; and be a deliberative body holding high-quality debates on important issues.

Against this mandate of 1949, it is in order to examine the functioning of the Rajya Sabha since its first sitting on May 13, 1952; assess whether it is either obstructionist or disruptive with governments of the day not having the required numbers; and assess its evolving nature. (This will be in the next part, which will be published tomorrow.)

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