



THIRUTHANGAL NADAR COLLEGE

(Belongs to the Chennaivazh Thiruthangal Hindu Nadar Uravinmurai Dharma Fund)

Selavayal, Chennai-51.

A Self-Financing Co-educational College of Arts & Science

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NAME OF THE DEPARTMENT: Criminology & Police administration

SUBJECT : Criminal justice system

TOPIC : Legislative system

STAFF NAME : Mini N

Parliament

- ▶ Parliament is the supreme legislative body of India. The Indian Parliament comprises of the President and the two Houses - Rajya Sabha (Council of States) and Lok Sabha (House of the People).
- ▶ The President has the power to summon and prorogue either House of Parliament or to dissolve Lok Sabha.
- ▶ The Constitution of India came into force on January 26, 1950. The first general elections under the new Constitution were held during the year 1951-52 and the first elected Parliament came into existence in April, 1952

Constitution

- ▶ It is a Sovereign Socialist Secular Democratic Republic with a parliamentary system of government. The Republic is governed in terms of the Constitution of India which was adopted by the Constituent Assembly on 26th November, 1949 and came into force on 26th January, 1950.

Meaning of constitution

- ▶ The basic principles and laws of a nation, state, or social group that determine the powers and duties of the government and guarantee certain rights to the people in it
- ▶ a written instrument embodying the rules of a political or social organization

- ▶ **SOVEREIGN:-** Implies that India is neither dependent or nor a dominion of any other nation and is free to conduct its external or internal affairs on its own.
- ▶ **SOCIALIST :-** Wealth generated socially and can be shared equally by society. Indian socialism is “democratic socialism”
- ▶ **SECULAR:-** Means no official religion of the state and people have complete freedom to follow any religion .

- ▶ **DEMOCRATIC:**-People have some basic rights and they have rights to have elected representatives and hold them accountable. Democracy also includes social and economic democracy.
- ▶ **REPUBLIC:**-Head of the state is elected representative. In broader term he vests political sovereignty in the people and absence of all privileges.
- ▶ **JUSTICE:**- JUSTICE includes social, economic and political justice.
- ▶ **LIBERTY:**- Absence of restraints on the activities of the individuals and at the same time providing opportunities for the development of individual personality.
- ▶ **EQUALITY:**-All are equal before law and absence of special privileges to any section of the society.
- ▶ **FRATERNITY:**-We all have to behave as member of the one family. NO one should treat the fellow citizen as inferior.

- ▶ Article 74(1) of the Constitution provides that there shall be a Council of Ministers with the Prime Minister as its head to aid and advise the President, who shall exercise his/her functions in accordance to the advice. The real executive power is thus vested in the Council of Ministers with the Prime Minister as its head.

The two houses: powers and relationships

- ▶ Rajya Sabha which represents the states enjoy certain powers under the constitution
- ▶ Article 249 of the Constitution provides that Rajya Sabha may pass a resolution, by a majority of not less than two thirds of the members present and voting, to in the effect that it is necessary or expedient in the national interest that Parliament should make law with respect to any matter enumerated in the State List. Then, Parliament is empowered to make a law on the subject specified in the resolution for the whole or any part of the territory of India
- ▶ Such resolution remains into force for maximum one year
- ▶ Can be extended by one year at a time by passing further resolutions

- ▶ President is empowered to issue proclamation during national emergency (article 352)
- ▶ In the event of constitutional machinery in a state (article 356)
- ▶ In the case of financial emergency (article 360)
- ▶ Every approval has to be accepted by both the houses of parliament
- ▶ If a proclamation has been passed when a Lok Sabha is dissolved , the proclamation can remain effective if a resolution approving it is passed by Rajya Sabha

- ▶ Lok Sabha has powers in regard to the “collective responsibility” of the government and in financial matters
- ▶ Constitution provides that the council of ministers should be collectively responsible to the house of people (Lok Sabha)
- ▶ A money bill has to be introduced only in Lok Sabha
- ▶ It is passed to Rajya Sabha for its recommendations, they cannot directly change the bill
- ▶ The bill has to return to Lok Sabha with or without recommendations within the period of 14 days
- ▶ If not returned the bill is deemed to be passed by both the houses at the expiration of the said period

- ▶ If the Lok Sabha did not accept any recommendations said by Rajya Sabha , money bill will be deemed to pass by the both houses
- ▶ it was decided to have a bicameral legislature for independent India mainly because a federal system was considered to be most feasible form of Government for such a vast country with immense diversities.
- ▶ A second chamber known as the ‘Council of States’, therefore, was created with altogether different composition and method of election from that of the directly elected House of the People. It was conceived as another Chamber, with smaller membership than the Lok Sabha (House of the People). It was meant to be the federal chamber i.e., a House elected by the elected members of Assemblies of the States and two Union Territories

- ▶ Apart from the elected members, provision was also made for the nomination of twelve members to the House by the President.
- ▶ Article 80 of the Constitution lays down the maximum strength of Rajya Sabha as 250, out of which 12 members are nominated by the President and 238 are representatives of the States and of the two Union Territories.
- ▶ The members nominated by the President are persons having special knowledge or practical experience in respect of such matters as literature, science, art and social service.

allocation OF THE SEATS

- ▶ The Fourth Schedule to the Constitution provides for allocation of seats to the States and Union Territories in Rajya Sabha. The allocation of seats is made on the basis of the population of each State.
- ▶ Consequent on the reorganization of States and formation of new States, the number of elected seats in the Rajya Sabha allotted to States and Union Territories has changed from time to time since 1952.

Eligibility

- ▶ he must be a citizen of India
- ▶ he must be not less than 30 years of age;
- ▶ he must possess such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

Disqualification

- ▶ Article 102 of the Constitution lays down that a person shall be disqualified for being chosen as, and for being, a member of either House of Parliament -
- ▶ 1. if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder;
- ▶ 2. if he is of unsound mind and stands so declared by a competent court;
- ▶ 3. if he is an undischarged insolvent;
- ▶ 4. if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgement of allegiance or adherence to a foreign State;
- ▶ 5. if he is so disqualified by or under any law made by Parliament.

- ▶ the Tenth Schedule to Constitution provides for disqualification of the members on ground of defection. As per the provisions of the Tenth Schedule, a member may be disqualified as a member, if he voluntarily gives up the membership of his political party; or if he votes or abstains from voting in the House contrary to any direction issued by the political party to which he belongs, unless such voting or abstention has been condoned by the political party within fifteen days. A member elected as an independent candidate shall be disqualified if he joins any political party after his election.
- ▶ A member nominated to the House by the President, however, is allowed to join a political party if he/she does so within the first six months of taking seat in the House.
- ▶ A member shall not be disqualified on this account, if he voluntarily leaves the membership of his political party after he is elected Deputy Chairman, Rajya Sabha

Process for Election/Nomination

- ▶ The representatives of the States and of the Union Territories in the Rajya Sabha are elected by the method of indirect election.
- ▶ The representatives of each State and two Union territories are elected by the elected members of the Legislative Assembly of that State and by the members of the Electoral College for that Union Territory
- ▶ Rajya Sabha is a permanent House and is not subject to dissolution. However, one-third Members of Rajya Sabha retire after every second year. A member who is elected for a full term serves for a period of six years. The election held to fill a vacancy arising otherwise than by retirement of a member on the expiration of his term of office is called 'Bye-election'. A member elected in a bye-election remains member for the remainder of the term of the member who had resigned or died or disqualified to be member of the House under the Tenth Schedule.

Presiding Officers - Chairman and Deputy Chairman

- ▶ The Presiding Officers of Rajya Sabha have the responsibility to conduct the proceedings of the House. The Vice-President of India is ex-officio Chairman of Rajya Sabha. Rajya Sabha also chooses from amongst its members, a Deputy Chairman. There is also a Panel of Vice-Chairmen in Rajya Sabha, the members of which are nominated by the Chairman, Rajya Sabha. In the absence of the Chairman and Deputy Chairman, a member from the Panel of Vice-Chairmen presides over the proceedings of the House.

The Secretary-General

- ▶ The Secretary-General is appointed by the Chairman of Rajya Sabha and holds rank equivalent to the highest civil servant of the Union. The Secretary-General works with anonymity and is readily available to the Presiding Officers for rendering advice on parliamentary matters. The Secretary-General is also the administrative head of the Rajya Sabha Secretariat and the custodian of the records of the House. He works under the direction and control of the Chairman, Rajya Sabha.

Leader of the House

- ▶ Apart from the Chairman and the Deputy Chairman, Leader of the House is another functionary who plays important role in the efficient and smooth conduct of the business in the House. The Leader of the House in Rajya Sabha is normally the Prime Minister, if he is its member or any Minister who is a member of the House and is nominated by him to so function. His primary responsibility is to maintain coordination amongst all sections of the House for a harmonious and meaningful debate in the House. For this purpose, he remains in close contact not only with the Government but also with the Opposition, individual ministers and the Presiding Officer. He occupies the first seat in the Chamber in first row at right the side of the Chair so that he is easily available to the Presiding Officer for consultation.

- ▶ Under the rules, the Leader of the House is consulted by the Chairman in regard to the arrangement of Government business in the House, allotment of days or allocation of time for discussion on the President's Address, Private Members' business on any day other than Friday, discussion on No Day-Yet-Named Motions, Short Duration Discussions and consideration and return of a Money Bill. He is also consulted by the Chairman in the matter of adjournment or otherwise of the House for the day in case of death of an outstanding personality, national leader or international dignitary.

Lok Sabha

- ▶ Lok Sabha is composed of representatives of the people chosen by direct election
- ▶ The maximum strength of the House envisaged by the Constitution is 552, which is made up by election of upto 530 members to represent the States, upto 20 members to represent the Union Territories and not more than two members of the Anglo-Indian Community to be nominated by the Hon'ble President

- ▶ in his/her opinion, that community is not adequately represented in the House. The total elective membership is distributed among the States in such a way that the ratio between the number of seats allotted to each State and the population of the State is, so far as practicable, the same for all States.

Term of lok sabha

- ▶ the Lok Sabha continues for five years from the date appointed for its first meeting and no longer, as the expiration of the period of five years operates as a dissolution of the House. However, while a Proclamation of Emergency is in operation, this period may be extended by Parliament by law for a period not exceeding one year at a time and not exceeding in any case beyond a period of six months after the Proclamation has ceased to operate.

- ▶ In the case of Bills other than Money Bills and Constitution Amendment Bills, a disagreement between the two Houses may arise when a Bill passed by one 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 have elapsed from the date of receipt of the Bill by the other House without the Bill being passed by it.

- ▶ mechanism for resolving such a deadlock between the two Houses

A joint sitting of both Houses is convened by the President for this purpose. [Article 108]

The Speaker of the Lok Sabha presides over the joint sitting of the two Houses. [Article 118(4)]

The Speaker has a casting vote in the event of a tie. It is customary for the Presiding Officer to exercise the casting vote in such a manner as to maintain the status quo

Sessions of lok sabha

- ▶ Normally three Sessions of the Lok Sabha are held in a year
- ▶ Budget Session - February - May
- ▶ Autumn or Monsoon Session - July - August
- ▶ Winter Session - November - December

- ▶ "Adjournment" is a postponement of the sitting or proceedings of the House from one time to another specified for the reassembling of the House. During the course of a Session, the Lok Sabha may be adjourned from day to day or for more than a day.

- ▶ Prorogation" means the termination of a Session of the House by an order made by the President under article 85(2)(a) of the Constitution. The Prorogation of the House may take place any time, even while the House is sitting. However, usually, prorogation follows the adjournment of the sitting of the House sine die.
- ▶ sine die which means the termination of a sitting of the House without any definite date being fixed for its next sitting.

- ▶ "Dissolution" of the House means the end of the life of the Lok Sabha either by an order made by the President under article 85 (2) (b) of the Constitution or on the expiration of the period of five years from the date appointed for its first meeting. Dissolution puts an end to the representative character of the individuals who at the time compose the Lok Sabha.

Parliamentary committees

- ▶ Broadly, the Parliamentary Committees may be classified into the following categories:
 - ▶ (a) Financial Committees
 - ▶ (b) Departmentally Related Standing Committees;
 - ▶ (c) Other Parliamentary Standing Committees; and
 - ▶ (d) Ad hoc Committees.

Parliamentary committees

- ▶ Parliamentary Committees of the Rajya Sabha may be categorized as ad hoc Committees and Standing Committees.
- ▶ An Ad hoc committee is a group of people assembled to address a specific issue. A committee formed for a specific task or objective and dissolved after the completion of the task or achievement of the objective.
- ▶ Most committees (other than the standing committees) are of the ad hoc variety

- ▶ A Parliamentary Committee can either be a Standing Committees or an Ad hoc Committee. Standing Committees are permanent committees and are constituted for a fixed tenure.
- ▶ Ad hoc Committees are appointed for a specific purpose and they cease to exist when they finish the task assigned to them after submitting the report. These committees include Advisory Committees and Inquiry Committees.
- ▶ Advisory Committees include committees on Select and Joint Committees on Bills which are appointed to consider and report on a particular bill.
- ▶ The Inquiry Committees are constituted to inquire into a specific issue and report on that, for example, Committee on 2G Scam, Joint committee on Bofors Contract, etc.

- ▶ In the Indian Parliament, a Standing committee is a committee consisting of Members of Parliament or MPs . It is a permanent and regular committee which is constituted from time to time according to the provisions of an Act of Parliament or Rules of Procedure and Conduct of Business.
- ▶ Standing Committees are permanent Committees whose members are either elected by the House or nominated by the Chairman every year or from time to time. These are: Business Advisory Committee, General Purposes Committee, Committee on Government assurances, House Committee, Committee on Petitions, Committee on Subordinate Legislation, Committee on Papers Laid on the Table, Committee of Privileges, Committee on Rules, Committee on Ethics, Committee on Provision of Computers to Members of Rajya Sabha, Committee on Member of Parliament Local Area Development Scheme and the Department-related Standing Committees.

Department-related Standing Committees

- ▶ DRSCs were set up in 1993 to scrutinize the functioning of the various Ministries/ Departments of the Union Government assigned to them in order to further strengthen the accountability of the Government to Parliament.
- ▶ Twenty-four DRSCs have been constituted consisting of not more than thirty-one members, out of which twenty-one members are nominated by the Speaker, Lok Sabha and ten members are nominated by the Chairman, Rajya Sabha.
- ▶ main functions of the DRSC
- ▶ These Committees are entrusted with the following functions
- ▶ I to consider the Demands for Grants of the related Ministries/ Departments and report thereon;
- ▶ II to examine Bills, pertaining to the related Ministries/Departments, referred to the Committee and report thereon;
- ▶ III to consider the annual reports of the Ministries/ Departments and report thereon; and
- ▶ IV to consider national basic long term policy documents and report thereon.

- ▶ How many DRSCs are there under the jurisdiction of Rajya Sabha and Lok Sabha?
- ▶ Eight DRSCs function under the control and direction of the Chairman, Rajya Sabha, while sixteen such Committees function under the control and direction of the Speaker, Lok Sabha.

- ▶ 1. Committee on Commerce
- ▶ 2. Committee on Home Affairs
- ▶ 3. Committee on Human Resource Development
- ▶ 4. Committee on Industry
- ▶ 5. Committee on Science & Technology and Environment & Forests
- ▶ 6. Committee on Transport, Tourism and Culture
- ▶ 7. Committee on Health and Family Welfare
- ▶ 8. Committee on Personnel, Public Grievances, Law and Justice
- ▶ 9. Committee on Agriculture
- ▶ 10. Committee on Information Technology
- ▶ 11. Committee on Defense
- ▶ 12. Committee on Energy
- ▶ 13. Committee on External Affairs
- ▶ 14. Committee on Finance
- ▶ 15. Committee on Food, Consumer Affairs and Public Distribution

- ▶ 16. Committee on Labour
- ▶ 17. Committee on Petroleum and Natural Gas
- ▶ 18. Committee on Railways
- ▶ 19. Committee on Urban Development
- ▶ 20. Committee on Water Resources
- ▶ 21. Committee on Chemicals and Fertilizers
- ▶ 22. Committee on Rural Development
- ▶ 23. Committee on Coal and Steel
- ▶ 24. Committee on Social Justice and Empowerment
- ▶ Out of 24 Committees, 8 Committees (Sl. No. 1 to 8) are serviced by the Rajya Sabha Secretariat and 16 Committees (Sl. No. 9 to 24) by the Lok Sabha Secretariat.