



## Date – 26 July 2022

### Why the Rajya Sabha Matters

- The Rajya Sabha, which is constitutionally the Council of States, is the upper house of the bicameral Parliament of India. The origin of the Rajya Sabha can be traced back to the Montagu-Chelmsford Report of 1918 and the subsequent Government of India Act, 1919 (which provided for a Second Federal Chamber of Parliament).
- Emphasizing the federal nature of the Indian polity, the Rajya Sabha ensures a healthy bicameralism not only as a 'House for second thought' but also as a 'House of Reforms' as the custodian of the rights of the state.
- In view of the prevailing political scenario in the country, careful evaluation of the functions of the Rajya Sabha becomes all the more necessary to reinforce the fundamentals of our parliamentary democracy.

#### *How is Rajya Sabha relevant in Indian democracy?*

##### **Permanent body:**

- Unlike the Lok Sabha, the Rajya Sabha is never dissolved, rather one-third of its members retire after every second year.
- This ensures continuity and also provides an opportunity for fusion of new and old members in the House.
- This type of arrangement is designed to help secure representation of past as well as present opinions and help maintain consistency in public policy.

##### **Role of Review and Reevaluation:**

- Rajya Sabha helps in in-depth review of laws, as it complements the lower house or Lok Sabha in ensuring greater executive accountability.
- It tries to control the hasty and faulty and unresponsive legislations brought in by the Lok Sabha by proposing amendments and reconsideration.
- It also provides a platform for small and regional parties to present their views.

##### **House of 'Check and Balance':**

- Since the decisions of the Lok Sabha can be populist and can lead the members to go against the best decision, the Rajya Sabha exercises checks and balances over it.
- Unlike the 'House of Lords' in Britain, Rajya Sabha members do not have hereditary membership rights.

##### **Representation of States:**

- The process of indirect elections also has its place in the Indian parliamentary system where the members of the Rajya Sabha are elected by the members of the state legislatures on the basis of proportional representation through the single transferable vote.
- It acts as a conduit between the states, the people and the parliament, whereby giving an independent voice to the states, furthering the principles of decentralization.
- Provisions have been made in the Fourth Schedule of the Constitution for the allocation of seats in the Rajya Sabha to the States and Union Territories.

##### **Promote participatory democracy:**

- 12 members of the Rajya Sabha are nominated by the President of India for a term of 6 years for their contribution to the arts, literature, science and social services.
- This feature of the Rajya Sabha makes it even more democratic and participatory as it allows eminent people who make important contributions to the society their way to the highest echelons of Indian politics.

## **Special Powers of Rajya Sabha**

### **Legislation on the subjects of the State List:**

- Article 249 allows Parliament to make laws on subjects listed in the State List, if the Rajya Sabha passes a resolution to this effect by a two-thirds majority.

### **Creation of All India Services:**

- Article 312 allows Parliament to create All India Services for the Union and the States, if the Rajya Sabha passes a resolution to this effect.

### **President's Rule Declaration:**

- Usually such proclamations require the approval of both the Houses of Parliament.
- But if the Lok Sabha is dissolved at the time of proclamation, then the Rajya Sabha alone can approve the imposition of President's rule (Articles 352, 356 and 360).
- Rajya Sabha meeting was specially convened in the year 1977 to extend President's rule in Tamil Nadu and Nagaland and to impose President's rule in Haryana in the year 1991.

### **Removal of Vice President from office:**

- The Rajya Sabha can take the initiative to remove the Vice President from office.
- The implication is that the proposal for the removal of the Vice-President can be presented only in the Rajya Sabha and not in the Lok Sabha (Article 67).

## **Concerns related to Rajya Sabha**

### **Destroying the federal character of Rajya Sabha:**

- Through the Representation of the People (Amendment) Act, 2003, Parliament has deleted the word 'Domicile' from section 3 of the Representation of the People Act, 1951.
- This problem was further aggravated by the 'Kuldip Nayyar judgment' which removed the domicile condition.
- After the amendment, a person who is neither a resident nor a domicile of any state can contest the Rajya Sabha election from that state.
- Ruling parties have used Rajya Sabha seats on several occasions to propel their candidates to the Upper House, who were defeated in the Lok Sabha elections.

### **Limited Powers relating to Money Bills:**

- Money Bill can be introduced only in Lok Sabha and not in Rajya Sabha. The Rajya Sabha also does not have the power to amend or reject a money bill.
- For this it is mandatory to send the bill back to the Lok Sabha with or without its recommendations within 14 days.
- In this regard, the Lok Sabha has the autonomous right to accept or reject any recommendation or all the recommendations of the Rajya Sabha.
- In both the cases, the money bill is deemed to have been passed by both the houses.

### **To 'Bypass' Rajya Sabha:**

- In some cases ordinary bills have been seen as Money Bills bypassing the Rajya Sabha, which calls into question the effectiveness of the Upper House of Parliament.

### **Problems related to the provision of joint sitting:**

- In the event of a deadlock, the President can call a joint sitting of both the Houses. In such a case the sitting is governed by the 'Rules of Procedure and Conduct of Business' of the Lok Sabha and not by the rules of the Rajya Sabha.
- Since the number of members of the Lok Sabha is usually more in a joint sitting, the will of the Lok Sabha prevails over the Rajya Sabha.

### **Other Limitations:**

- No-Confidence Motion cannot be initiated in Rajya Sabha.
- Furthermore, it has a limited role in the functioning of the Public Accounts Committee and has no role in the Estimates Committee.

### **Deadlock situations**

- In the event of a deadlock between the Lok Sabha and the Rajya Sabha, a joint sitting of the Parliament is called. A deadlock occurs in the following three situations:
- If the bill is rejected by the other house.
- If the Houses ultimately disagree about the amendments to be made to the Bill.
- If more than six months have elapsed from the date of receipt of the Bill without the Bill being passed by the other House.
- The Speaker of the Lok Sabha presides over the joint sitting of the Parliament.

- The provision of joint sitting is applicable only to Ordinary Bills or Financial Bills and not to Money Bills or Constitution Amendment Bills.
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# Abortion Laws: India

- The Supreme Court of India had allowed unmarried women to have an abortion at 24 weeks, but recently the Delhi High Court refused to allow abortion in such a case, citing the provisions of the Medical Termination of Pregnancy (MTP) Act.

## ***Delhi High Court Status***

- The Medical Termination of Pregnancy Act the Act only allowed married women to have an abortion after 20 weeks, so unmarried women would not be allowed to have an abortion.
- It refers to Rule 3B of the Medical Termination of Pregnancy Rules, 2003, as it seeks to change the marital status of the woman and excludes live-in relationships and unmarried women.

## ***Supreme Court decision***

- The bench said that the Explanation to Section 3 of the provisions of the MTP Act, as amended in 2021, includes the word "partner" instead of "husband", indicating the intention of Parliament to limit the conditions arising out of marital relations only.
- It also said that the petitioner cannot be denied the benefit of the law on the ground that she was unmarried and to do so would be contrary to the "purpose and spirit" of the law.
- Further, the bench directed the Director of All India Institute of Medical Sciences (AIIMS) to set up a medical board of two doctors to examine the woman (as per the provisions of the MTP Act) whose function is to determine whether it is safe. Whether or not and also to ensure that there is no danger to the life of the mother in case of abortion.
- If they are of the opinion that it is safe to do so, AIIMS may allow that process to go ahead.

## ***Abortion Laws in the Indian Context:***

### ***Historical perspective:***

- Abortion was illegal in India until the 1960s and a woman was subject to three years' imprisonment and/or fine under Section 312 of the Indian Penal Code (IPC).
- In the mid-1960s, the government formed the Shantilal Shah Committee and a group headed by Dr. Shantilal Shah was asked to investigate abortion and decide whether India needed a law for it.
- A Medical Termination Bill was introduced in Lok Sabha and Rajya Sabha based on the report of Shantilal Shah Committee and was passed by Parliament in August 1971.
- The Medical Termination of Pregnancy (MPT) Act, 1971 came into force on 1st April, 1972 which was applicable to the whole of India except the state of Jammu and Kashmir.
- Further, Section 312 of the Indian Penal Code, 1860, voluntarily causing an abortion with the consent of the pregnant woman is also an offense to "cause abortion", except when the abortion is performed to save the life of the woman.
- This means that the woman herself or any other person including the doctor can be prosecuted for abortion.

### ***Introduction:***

- The Medical Termination of Pregnancy Act (MTP) 1971, the Act allowed termination of pregnancy by a physician in two stages:
- A doctor's opinion was required for abortions up to 12 weeks after conception.
- According to this law, abortion can legally be performed only in special circumstances, such as when there is danger to the life of the woman, there is a danger to the physical and mental health of the woman, pregnancy has been caused by rape, The child has not developed properly in the womb and there is a fear of being disabled. In the context of pregnancies between 12 and 20 weeks, the opinion of two doctors was necessary to determine all these things.

### ***Recent Revisions:***

- In the year 2021, Parliament changed the law to allow abortion on the basis of a doctor's advice for pregnancies up to 20 weeks.
- Under the amended law, the opinion of two doctors is required for pregnancy between 20 and 24 weeks.
- Further, for pregnancies between 20 and 24 weeks, the rules specify seven categories of women who would be eligible to seek termination under section 3B of the rules prescribed under the MTP Act.
  - In the event of sexual assault or rape
  - Minor
  - Widow and divorce circumstances ie pregnancy at the time of change in marital status
  - Women physically handicapped (major disability as per norms prescribed under the Rights of Persons with Disabilities Act, 2016)
  - Mentally ill women with mental retardation
  - fetal malformation that carries a substantial risk of being incompatible with life or, if the child is born, may be seriously handicapped, suffering from physical or mental abnormalities,

- Women with pregnancy on humanitarian grounds or in disasters or emergencies.

***Challenges related to MTP Act:***

- While the law recognizes changes in the marital status of a pregnant woman to divorce and widowhood with her spouse, it does not address the situation of unmarried women.
- It is a highly regulated process whereby the law transfers the decision-making power of the pregnant woman to the Accredited Medical Practitioner (RMP) and it is at the discretion of the RMP whether an abortion should be performed or not.

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# A New Global Standard for AI Ethics

Artificial intelligence (AI) is more present in our lives than ever but it cannot be said to always be beneficial.

## What is Artificial Intelligence (AI)?

- AI – AI refers to the simulation of human intelligence in machines that are programmed to think like humans and mimic their actions.
- The goals of artificial intelligence include learning, reasoning, and perception.
- Machine learning – Machine learning refers to the concept that computer programs can automatically learn from and adapt to new data without being assisted by humans.
- Deep learning – Deep learning techniques enable this automatic learning through the absorption of huge amounts of unstructured data such as text, images, or video.

## What about the application of AI?

- India is one of the world's largest markets for AI-related technologies valued at over 7.8 billion dollar in 2021.
- **Applications of AI**
  - Healthcare – AI is utilised for dosing drugs and different treatment in patients, and for surgical procedures.
  - Gaming – Artificial intelligence includes computers that play chess.
  - Automobiles – Self-driving cars utilize AI technology.
  - Finance – AI is used to detect and flag activities such as unusual debit card usage and large account deposits.
  - Agriculture – AIs are utilised for real-time insights from their fields, intelligent spraying, disease diagnosis, etc.
  - Assistance – Personal assistants such as Amazon's Alexa and Apple's Siri are included in the weak AI systems (designed to carry out one particular job).

The National Strategy on Artificial Intelligence released by NITI Aayog in 2018 highlights the massive potential of AI across areas such as agriculture, health, and education.

## What are the issues in AI?

- Biased outcomes – The data used to feed into AI often aren't representative of the diversity of our societies, producing biased or discriminatory outcomes.
  - For instance, while India and China together constitute around a third of the world's population, they form just 3% of images used in ImageNet.
- **Issue with facial recognition tech** – The scope for racial discrimination is increasing with increased usage of facial recognition technology.
  - For three programs released by major tech companies, the error rate was 1% for light-skinned men, but 19% for dark-skinned men, and up to 35% for dark-skinned women.
- Biases in facial recognition technologies have led to wrongful arrests.

## What is the global standard for AI ethics?

- In 2021, the Recommendation on the Ethics of Artificial Intelligence was adopted by UNESCO's General Conference at its 41st session.
- It aims to fundamentally shift the balance of power between people, and the businesses and governments developing AI.
- UNESCO members have agreed to use affirmative action to make sure that women and minority groups are fairly represented on AI design teams.
- The recommendation also underscores the importance of the proper management of data, privacy and access to information.
- It calls on member states to ensure that appropriate safeguards are devised for the processing of sensitive data and effective accountability and redress mechanisms are provided.
- The Recommendation takes a strong stance that
  - AI systems should not be used for social scoring or mass surveillance purposes
  - Attention must be paid to the psychological and cognitive impact that these systems can have on children
  - Member states should invest and promote not only digital, media and information literacy skills, but also socio-emotional and AI ethics skills.
- UNESCO is also in the process of developing tools to help assess the readiness in the implementation of the recommendations.

Finland's 2017 AI Strategy demonstrated how governments can effectively promote ethical AI use without compromising the desire to be on the cutting edge of new technologies.

## How to ensure the full potential of these technologies?

- The right incentives for ethical AI governance need to be established in national and sub-national policy.
- The recommendations must be put to use to guide governments and companies to develop and deploy AI technologies that conform to the commonly agreed principles.