

## Rajya Sabha Elections

### Why in news?

The recent Rajya Sabha election in several States raised concerns about the sanctity of election process as it witnessed cross-voting by MLAs.

### Rajya Sabha

- **Parliament of India**- It consists of three parts namely the President, the Council of States and the House of the People.
- **Rajya Sabha**- It is the upper house which represents the States and Union Territories of the Indian Union.
- **Article 80**- It deals with the composition of Rajya Sabha with a maximum strength of 250 members.
- **Current strength**- It currently has 245 members representing States and Union Territories.
- **Nominated members**- Out of the total, 12 are directly nominated by the President from the fields of art, literature, sports, science, etc.,
- **UT representation**- Out of 8 UTs Delhi, Puducherry and Jammu and Kashmir have representation in Rajya Sabha.
- **Permanent house**- It is a continuing chamber and not subject to dissolution.
- **Tenure**- Rajya Sabha members serve 6 year term, with one-third of the members retiring every two years to ensure continuity.
- **Fourth Schedule**- It is related to the allocation of seats in the Council of States or Rajya Sabha.

### How are Rajya Sabha elections held?

- **Indirect election**- As per Article 80, the members of Rajya Sabha elected indirectly by the elected members of the Legislative Assembly of each State and the respective Union Territories.
- **Proportional Representation System**- Each MLA's vote is counted only once (Single Transferable Vote) with members casting their votes in order of preference.
- **Preference Voting**- MLAs submit a list of candidates based on their preferences. The first preference carries the most weight.
- **Quota requirement**- A candidate must secure a certain number of votes (the "quota") to be elected.
- **Elimination process**- If no candidate reaches the quota, the candidate with the fewest votes is eliminated. Their votes are redistributed based on subsequent preferences.
- **By-elections**- In case of a member's death, disqualification, or resignation, by-elections are held to fill the vacant seat.

## What are the issues with the Rajya Sabha elections?

- **Cross voting**- It occurs when members vote for a candidate from a party different from the one to which they belong which questions the integrity of election process.
- **Open ballot system**- To prevent cross-voting, an amendment to the Representation of the People Act, 1951 in 2003 introduced an open ballot system for Rajya Sabha elections.
- Members are required to show their ballot paper to the authorized agent of their party. Failure to do so may result in disqualification of the vote.

*Independent MLAs are barred from showing their ballots to anyone.*

- **Outside the purview of anti-defection law**- The Tenth Schedule of the Constitution, introduced in 1985, contains the [anti-defection law](#), but this law is not applicable to Rajya Sabha elections.
- **Election Commission's stand**- It drew reference to Supreme Court judgments and specified that the provisions of the Tenth Schedule, with respect to voting against the instruction of the party, will not be applicable for a Rajya Sabha election.
- It also specified that the political parties cannot issue any 'whip' to its members for such elections.

### Judiciary ruling on Rajya Sabha election

- **Kuldip Nayar versus Union of India (2006)**- The Supreme Court upheld the system of open ballot for Rajya Sabha elections.
- The court is of the view that if secrecy in voting became a source of corruption, transparency had the potential to eliminate it.
- The court clarified that an elected MLA of a political party would not face disqualification under the Tenth Schedule for voting against their party's candidate.
- **Ravi Naik case, 1994**-The Supreme Court clarified that voluntarily giving up membership under the Tenth Schedule is not confined to formal resignation from the political party to which the member belongs.
- The conduct of a member both inside and outside the legislative house can be examined to determine if it qualifies as voluntarily giving up party membership.
- **Disqualification of MLAs in Himachal Pradesh**- 6 Congress MLAs who engaged in cross-voting in Himachal Pradesh were disqualified under the Tenth Schedule for defying party whip and being absent during the passage of Budget in the Assembly.

## What lies ahead?

- There is a need to bring in amendments and strengthen the Constitution against such voting practices since ruling parties benefit from cross voting.
- The Supreme Court can take proactive measure by initiating a suo motto Public Interest Litigation (PIL) in response to the threat posed by cross voting.

## References

1. [The Hindu- Cross voting in Rajya Sabha elections](#)
2. [Economic Times- Peculiar rules in Rajya Sabha elections](#)

