

## CHAPTER—2

### Composition of Rajya Sabha

#### Constitutional provisions

Parliament consists of the President and the two Houses—the Council of States and the House of the People.<sup>1</sup> While the two Houses continue to be recognised by these names in the Constitution, they are in actual practice known respectively as the Rajya Sabha and the Lok Sabha.

On 14 May 1954, the Speaker, Lok Sabha, announced that the House of the People would thereafter be known as Lok Sabha.<sup>2</sup> On 23 August 1954, the Chairman, Rajya Sabha, made the following announcement:

With the concurrence of the Prime Minister and the Leader of the Council, I have decided that the Council of States will be called Rajya Sabha and its Secretariat the Rajya Sabha Secretariat.<sup>3</sup>

Dr. Radha Kumud Mookerji, an eminent historian and a member, however, suggested that the Council of States should be aptly called Rashtra Sabha.<sup>4</sup>

Article 80 of the Constitution deals with composition of the Council of States. Clause 1 of this article provides that the maximum strength of the Rajya Sabha is 250 out of which 12 members are nominated by the President and 238 are representatives of the States and of the Union territories.<sup>5</sup> Article 80(3) provides that members nominated by the President shall consist of persons having special knowledge or practical experience in respect of such matters as literature, science, art and social service.<sup>6</sup> The allocation of seats to be filled by representatives of States and the Union territories is laid down in the Fourth Schedule to the Constitution.<sup>7</sup> The representatives of each State in the Council of States are elected by the elected members of the Legislative Assemblies of the respective States in accordance with the system of proportional representation by means of the single transferable vote.<sup>8</sup> The representatives of the Union territories in the Council of States are chosen in such manner as Parliament may, by law, prescribe.<sup>9</sup>

Part IVA of the Representation of the People Act, 1950, provides for the manner of filling seats in the Rajya Sabha allocated to Union territories. Section 27A of that Act provides that for the purpose of filling any seat or

seats in the Council of States allotted to any Union territory in the Fourth Schedule to the Constitution, there shall be an electoral college for each such territory.<sup>10</sup> Prior to the enactment of the Government of National Capital Territory of Delhi Act, 1991 (1 of 1992), the electoral college for the Union territory of Delhi consisted of the elected members of the Metropolitan Council of Delhi constituted under the Delhi Administration Act, 1966 (19 of 1966). The electoral college for the Union territory of Delhi now consists of the elected members of the Delhi Legislative Assembly constituted under the Government of National Capital Territory of Delhi Act, 1991.<sup>11</sup> The electoral college for the Union territory of Puducherry consists of the elected members of the Puducherry Legislative Assembly constituted under the Government of Union Territory Act, 1963 (20 of 1963).<sup>12</sup> The Union territories of Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, Daman and Diu and Chandigarh do not have any representatives in the Rajya Sabha.

#### Fourth Schedule as on 26 November 1949

When the Constitution was adopted in 1949, the Rajya Sabha was to consist of 217 members of which 12 members were to be nominated by the President and the remaining 205 elected to represent the States. According to the original Fourth Schedule to the Constitution, the allocation of seats was as follows:

Part A States	Part B States	Part C States			
Assam	6 Hyderabad	11 Ajmer	} 1		
Bihar	21 Jammu and Kashmir	4 Coorg			
Bombay	17 Madhya Bharat	6 Bhopal	1		
Madhya Pradesh	12 Mysore	6 Bilaspur	} 1		
Madras	27 Patiala and East	} 3		Himachal Pradesh	
Orissa	9 Punjab States Union		Cooch-Behar	1	
Punjab	8 Rajasthan	9 Delhi	1		
United Provinces	31 Saurashtra	4 Kutch	1		
West Bengal	14 Travancore-Cochin	6 Manipur	} 1		
	Vindhya Pradesh	4 Tripura			
TOTAL	145	TOTAL	53	TOTAL	7

The allocation of seats was made on the basis of the population of each State ascertained from the census figures available at the time of passing of the Constitution. In the case of States having a population of

over five millions, the number of seats allotted to each State was determined according to the formula: “One seat per million for the first five millions and one seat for every additional two millions or part thereof exceeding one million.”<sup>13</sup>

#### **Fourth Schedule as on 26 January 1950**

Article 391<sup>14</sup> read with article 392(3) of the Constitution, provided that if at any time between the passing of the Constitution and its commencement any action was taken under the provisions of the Government of India Act, 1935, which required any amendment in the Fourth Schedule, the Governor-General of the Dominion of India was empowered to make by order such amendments in the said Schedule and further, when the Fourth Schedule was so amended, any reference to that Schedule in the Constitution would be construed as a reference to such Schedule as so amended. Accordingly, the Governor-General made the Constitution (Amendment of the First and Fourth Schedules) Order, 1950, making *inter alia*, the following amendments in the Fourth Schedule:

- (a) in Part A of the Schedule, the name “United Provinces” was changed to “Uttar Pradesh”;
- (b) in Part B, entry relating to “Vindhya Pradesh” was omitted (bringing down the total under that Part from 53 to 49);
- (c) in Part C—(i) the entry relating to Cooch-Bihar was omitted; (ii) the entry relating to Vindhya Pradesh was inserted (increasing the total under that Part from 7 to 10); and
- (d) the total figure at the end of the Schedule was reduced from 205 to 204.<sup>15</sup>

Thus when the Constitution came into force on 26 January 1950, the Rajya Sabha was to consist of 216 members of which 12 members were to be nominated by the President and the remaining 204 to be elected to represent the States.

#### **Rajya Sabha—initial constitution**

The Representation of the People Act, 1951 (43 of 1951) was enacted by the Provisional Parliament, in exercise of the powers under article 379 of the Constitution, for securing, *inter alia*, the due constitution of the two Houses of Parliament and the State Legislatures as also elections to them.

Article 80(4), as it then stood, provided that the elected members of the Legislative Assemblies of Part A or Part B States would elect their representatives in the Council of States; while article 80(5) empowered

Parliament to prescribe by law the manner in which Part C States were to choose their representatives in the Council of States. The Representation of the People Act, 1950 (sections 27A to 27K) created an electoral college for each Part C State for the purpose. That Act also stipulated that where there was a Legislative Assembly, the members of such Assembly constituted the electoral college. The Government of Part C States Act, 1951 (49 of 1951) provided for the constitution of Legislative Assemblies in the Part C States of Ajmer, Bhopal, Coorg, Delhi, Himachal Pradesh and Vindhya Pradesh. Members of these Legislative Assemblies therefore formed the electoral colleges for electing their representatives in the Council of States. As regards the remaining three Part C States, namely, Kutch, Manipur and Tripura, there were no Legislative Assemblies. Hence, the Act of 1950 provided constitution of electoral colleges of 30 members each elected by adult franchise from the territorial constituencies, by an Order made under section 27C of that Act, for the purpose of filling seats allocated to them in the Council of States.

Elections were held for the House of the People and various State Legislative Assemblies, etc. during December 1951 and January 1952.

On 4 March 1952, the elected members of all the Legislative Assemblies and of the electoral colleges of Kutch and Tripura were called upon to elect representatives to the Council of States. As indicated earlier, two seats were allotted to groups of States—one to the group formed by Ajmer and Coorg and the other to the second group formed by Manipur and Tripura. At the initial constitution, the seat allotted to the Ajmer-Coorg group was filled by Ajmer and to the Manipur-Tripura group by Tripura. The dates for various stages of the election to the Council of States were:

- (a) 13 March 1952—as the last date for making nominations;
- (b) 14 March 1952—as the last date for scrutiny of nominations;
- (c) 17 March 1952—as the last date for withdrawal of candidatures;
- (d) 27 March 1952—as the date for taking poll; and
- (e) 1 April 1952—date before which elections were to be completed.<sup>16</sup>

As per the time schedule mentioned above, elections were held and completed by the end of March 1952, in accordance with the system of proportional representation by means of the single transferable vote.<sup>17</sup>

The four representatives of Jammu and Kashmir were chosen by the President on the recommendation of the State Government as required by the Constitution (Application to Jammu and Kashmir) Order, 1950 (C.O. 10).

In actual practice, the State Government acted upon a unanimous resolution of the Constituent Assembly of that State in recommending the names of the persons to be chosen by the President.<sup>18</sup>

According to the terms of the Constitution (Application to Jammu and Kashmir) Order, 1954, dated 14 May 1954, all future vacancies in the Council of States arising in the State of Jammu and Kashmir were to be filled by the elected members of that Assembly. The first such election took place in November 1954.<sup>19</sup>

The declarations containing names of candidates elected to fill the seats at the elections were published under section 67 of the Representation of the People Act, 1951, on 31 March 1952. The names of members elected by the elected members of the Legislative Assemblies of Part A and Part B States, by members of the electoral colleges for Part C States, nominated members of Jammu and Kashmir and 12 members nominated by the President under article 80 of the Constitution, were published under section 71 of that Act on 3 April 1952.<sup>20</sup> Thus the Rajya Sabha was initially constituted under the Constitution on that day.

#### Fourth Schedule as amended in 1956

The Fourth Schedule was amended by the Andhra State Act, 1953, States Reorganisation Act, 1956, and the Bihar and West Bengal (Transfer of Territories) Act, 1956. The Schedule, as amended, was replaced by the following Schedule in its entirety, by the Constitution (Seventh Amendment) Act, 1956.<sup>21</sup> The new allocation of seats amongst various States and Union territories was as follows:

States and Union territories	Allocation of Seats
1. Andhra Pradesh	18
2. Assam	7
3. Bihar	22
4. Bombay	27
5. Kerala	9
6. Madhya Pradesh	16
7. Madras	17
8. Mysore	12
9. Orissa	10
10. Punjab	11

States and Union territories	Allocation of Seats
11. Rajasthan	10
12. Uttar Pradesh	34
13. West Bengal	16
14. Jammu and Kashmir	4
15. Delhi	3
16. Himachal Pradesh	2
17. Manipur	1
18. Tripura	1
TOTAL	220

#### Changes in the composition

Consequent on the reorganisation of States and formation of new States, the number of elected seats in the Rajya Sabha allotted to States and Union territories has increased from time to time since 1952, as indicated below:

TABLE-I

Year	Total number of elective seats
1952	As initially provided in the Constitution. 204
1954	Increase of three seats by the Andhra State Act, 1953 (30 of 1953), s. 6. 207
1956	Increase of thirteen seats as follows: 220
	(a) one seat due to reorganisation of States under the States Reorganisation Act, 1956 (37 of 1956), s. 23.
	(b) three seats by the Bihar and West Bengal (Transfer of Territories) Act, 1956 (40 of 1956), s. 5.
	(c) nine seats by the Constitution (Seventh Amendment) Act, 1956, s. 3; one additional seat was given each to Assam, Orissa and Himachal Pradesh; Uttar Pradesh and Delhi were given additional three and two seats respectively; Manipur and Tripura were given one seat each instead of one seat for both previously.

Year		Total number of elective seats
1960	Increase of four seats – one seat to Madras by the Andhra Pradesh and Madras (Alteration of Boundaries) Act, 1959 (56 of 1959), s. 8 and three seats amongst Maharashtra and Gujarat by the Bombay Reorganisation Act, 1960 (11 of 1960), s. 6.	224
1964	Increase of two seats – one for Nagaland by the State of Nagaland Act, 1962 (27 of 1962), s. 6 and one for Pondicherry by the Constitution (Fourteenth Amendment) Act, 1962, s. 6.	226
1966	Increase of two seats by the Punjab Reorganisation Act, 1966 (31 of 1966), s. 9 amongst Punjab, Haryana and Himachal Pradesh.	228
1972	Increase of three seats one seat each allocated to Meghalaya, Mizoram and Arunachal Pradesh by the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971), s. 10.	231
1976	Increase of one seat allocated to Sikkim by the Constitution (Thirty-sixth Amendment) Act, 1975, s. 4.	232
1987	Increase of one seat allocated to Goa by the Goa, Daman and Diu Reorganisation Act, 1987 (18 of 1987), s. 6.	233

### Present allocation of seats

The maximum membership of Rajya Sabha as laid down in the Constitution is 250. The present strength, however, is 245 members of whom 233 are representatives of the States and Union territories and 12 are nominated by the President. The allocation of seats to be filled by representatives of the States and Union territories as presently laid down in the Fourth Schedule to the Constitution is as follows:

TABLE-II

States	No. of Members
1. Andhra Pradesh	11 <sup>22</sup>
2. Arunachal Pradesh	1

States		No. of Members
3.	Assam	7
4.	Bihar	16 <sup>23</sup>
5.	Chhattisgarh <sup>24</sup>	5
6.	Goa	1
7.	Gujarat	11
8.	Haryana	5
9.	Himachal Pradesh	3
10.	Jammu and Kashmir	4
11.	Jharkhand <sup>24</sup>	6
12.	Karnataka	12
13.	Kerala	9
14.	Madhya Pradesh	11 <sup>23</sup>
15.	Maharashtra	19
16.	Manipur	1
17.	Meghalaya	1
18.	Mizoram	1
19.	Nagaland	1
20.	Odisha <sup>25</sup>	10
21.	Punjab	7
22.	Rajasthan	10
23.	Sikkim	1
24.	Tamil Nadu	18
25.	Telangana <sup>26</sup>	7
26.	Tripura	1
27.	Uttarakhand <sup>24</sup>	3
28.	Uttar Pradesh	31 <sup>23</sup>
29.	West Bengal	16
<b>Union Territories</b>		
30.	Delhi	3
31.	Puducherry <sup>27</sup>	1
TOTAL		233

## NOTES AND REFERENCES

1. Art. 79.
2. H.P. Deb., 14.5.1954, c. 7388-89.
3. R.S. Deb., 23.8.1954, c. 36-37.
4. *Ibid.*
5. Art. 80(1).
6. Art. 80(3).
7. Art. 80(2).
8. Art. 80(4).
9. Art. 80(5).
10. R.P. Act, 1950, s. 27A(1).
11. *Ibid.*, s. 27A(3) as amended by s. 55 of the Government of National Capital Territory of Delhi Act, 1991 (1 of 1992).
12. *Ibid.*, s. 27A(4).
13. B. Shiva Rao, *Framing of India's Constitution—A Study* (1968), p. 422.
14. Since repealed by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Schedule.
15. Not. No. C.O.3, Gaz. Ext., 25.1.1950.
16. See Report on the First General Elections in India, 1951-52, Vol. I, p. 107.
17. For details regarding number of first preference votes secured by the various candidates at the Council of States elections held in 1952, see Report on the First General Elections in India, 1951-52, Vol. II, pp. 170-79.
18. Report on the First General Elections in India, 1951-52, Vol. I, p. 149.
19. *Ibid.*, p. 14.
20. Min. of Law Not. No. F. 24(4)/52-C, 31.3.1952; and F. 10(15)/52-C, 3.4.1952, Gaz. Ext. [I(i)] of that date.
21. Constitution (Seventh Amendment) Act, 1956, s. 3.
22. See, Section 12(a), Part III of the Andhra Pradesh Reorganisation Act, 2014.
23. See, Section 7 of the Bihar Reorganisation Act, 2000, section 7 of the Madhya Pradesh Reorganisation Act, 2000 and section 7 of the Uttar Pradesh Reorganisation Act, 2000.
24. Three States, namely, Chhattisgarh, Jharkhand and Uttaranchal were created by the Madhya Pradesh Reorganisation Act, 2000, the Bihar Reorganisation Act, 2000 and the Uttar Pradesh Reorganisation Act, 2000, respectively. Subsequently, the Uttaranchal (Alteration of Name) Act, 2006 altered the name of the State as "Uttarakhand".
25. The Orissa (Alteration of Name) Act, 2011 altered the name of the State as "Odisha".
26. Telangana State has been created by the Andhra Pradesh Reorganisation Act, 2014. (See, Section 3, Part II of the Act).
27. The Pondicherry (Alteration of Name) Act, 2006 altered the name of the Union Territory as "Puducherry".