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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](#)



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