

TARGET MAINS 2022

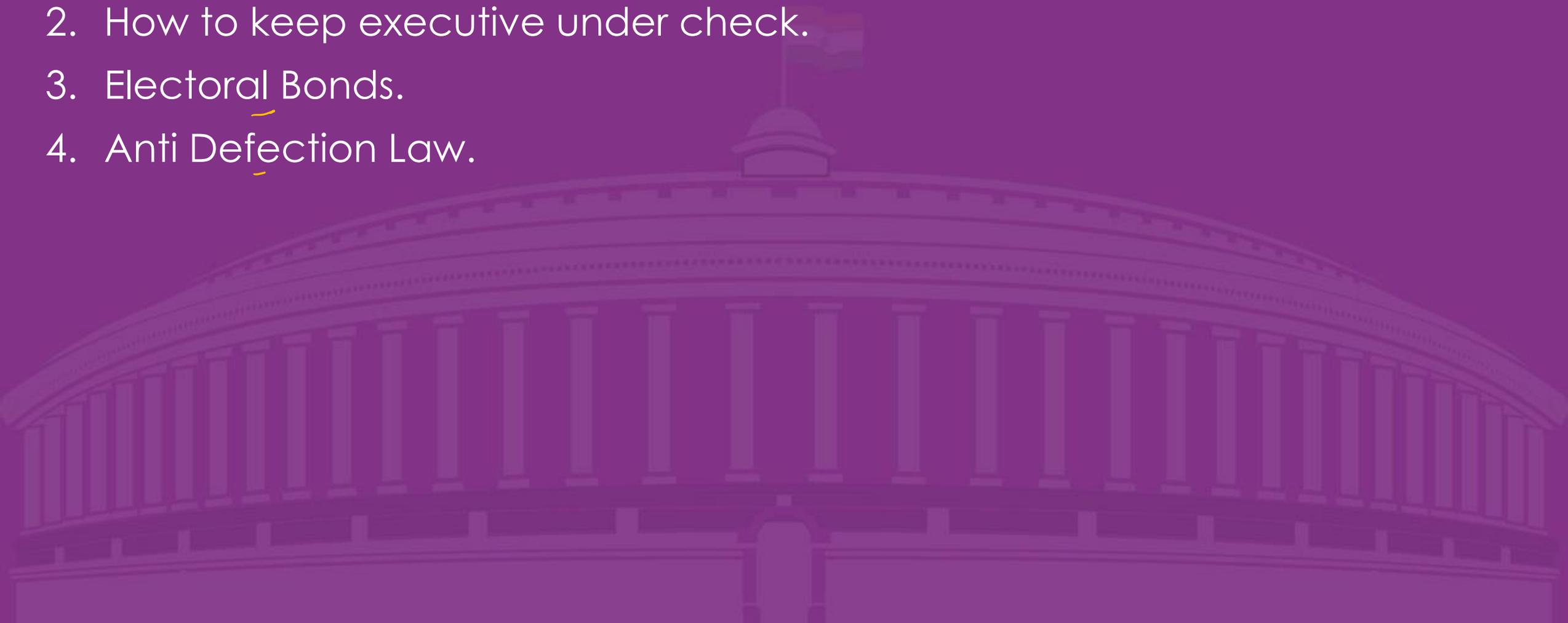
CURRENT AFFAIRS

POLITY-3



TOPICS:

- ✓ 1. Do we need a Rajya Sabha?
2. How to keep executive under check.
3. Electoral Bonds.
4. Anti Defection Law.





Do we need a Rajya Sabha?

Topic 1

2 Rep → Senate



The Rajya Sabha, it is often said, was modelled on the House of Lords, as an upper chamber that would not be elected by popular vote but consist of elder statesmen appointed on the basis of their stature and credentials.

But that was not the whole story, because it also partook of an essential feature of the Senate of the United States, which serves as a body reflecting the interests of the States in a federal polity. Yet there were key differences between the Rajya Sabha and both those foreign forerunners.

RS



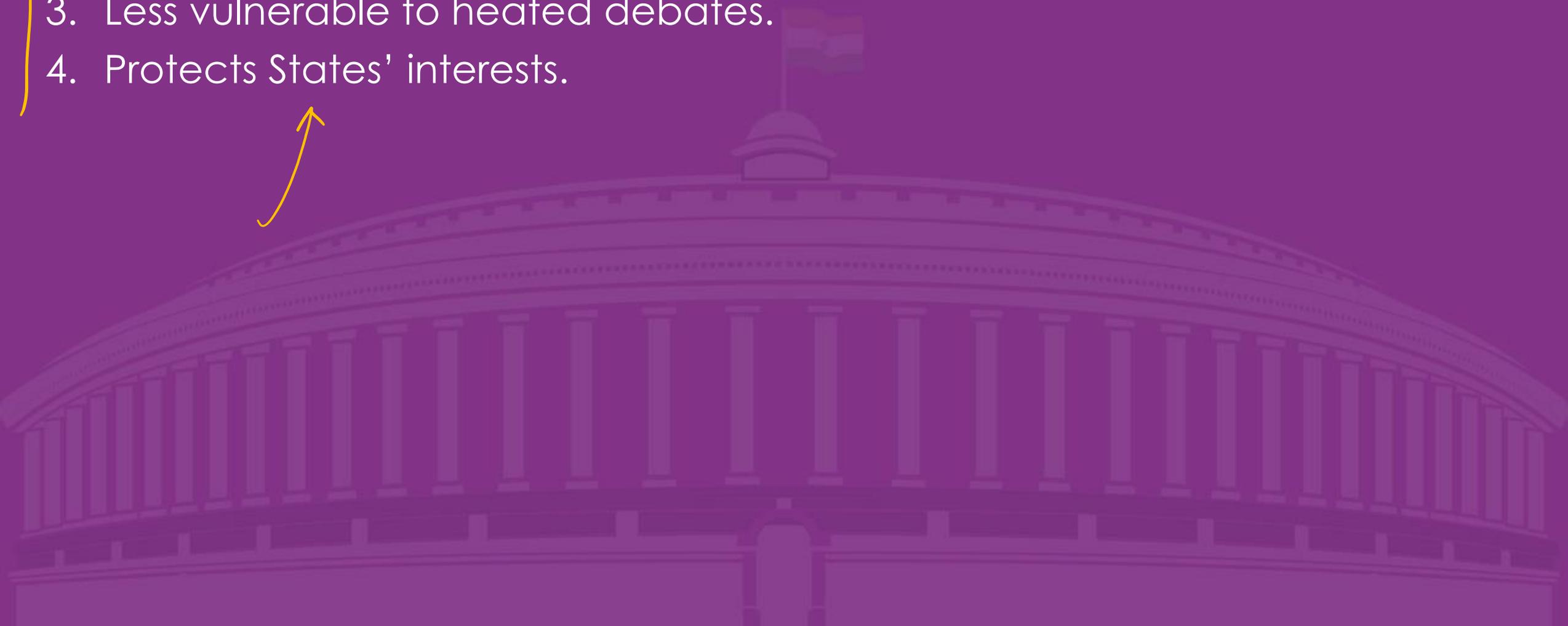
12 Nominated MPs

- Most of the British Lords were inheritors of their positions as hereditary peers of the realm; the equivalent might have been to convert our British-era Chamber of Princes into the Rajya Sabha, giving the seats to the newly-dispossessed maharajahs, nawabs and assorted princelings.
- But our democratically-minded Founding Fathers and mothers balked at the idea of enshrining hereditary privilege in this way and vetoed the idea, preferring instead a Rajya Sabha elected by the state Assemblies. The US Senate ensures an equal number of Senators for each state irrespective of population, so that populous California has the same two Senators as tiny Delaware or Rhode Island.

1. Council of elders.
2. Sober debates.
3. Less vulnerable to heated debates.
4. Protects States' interests.

Lok Sabha

↳ popular Chamber



None of these assumptions have been fulfilled.

Refuge for politicians who have lost elections to the lower house.

Disruptions and heated debates.

2003 amendments.

Represents the interests of parties and not the states.

Who do not want to contest elections

PP's

RPA, 1951

- Lokenath Mishra – waste of public money and so much waste of time.
 - States with unicameral legislatures electing members to a bicameral legislature – Odd.
 - Bicameralism – part of the basic structure?
- 75th Year of India's Independence needs to introspect and revisit the idea and existence of the Rajya Sabha.

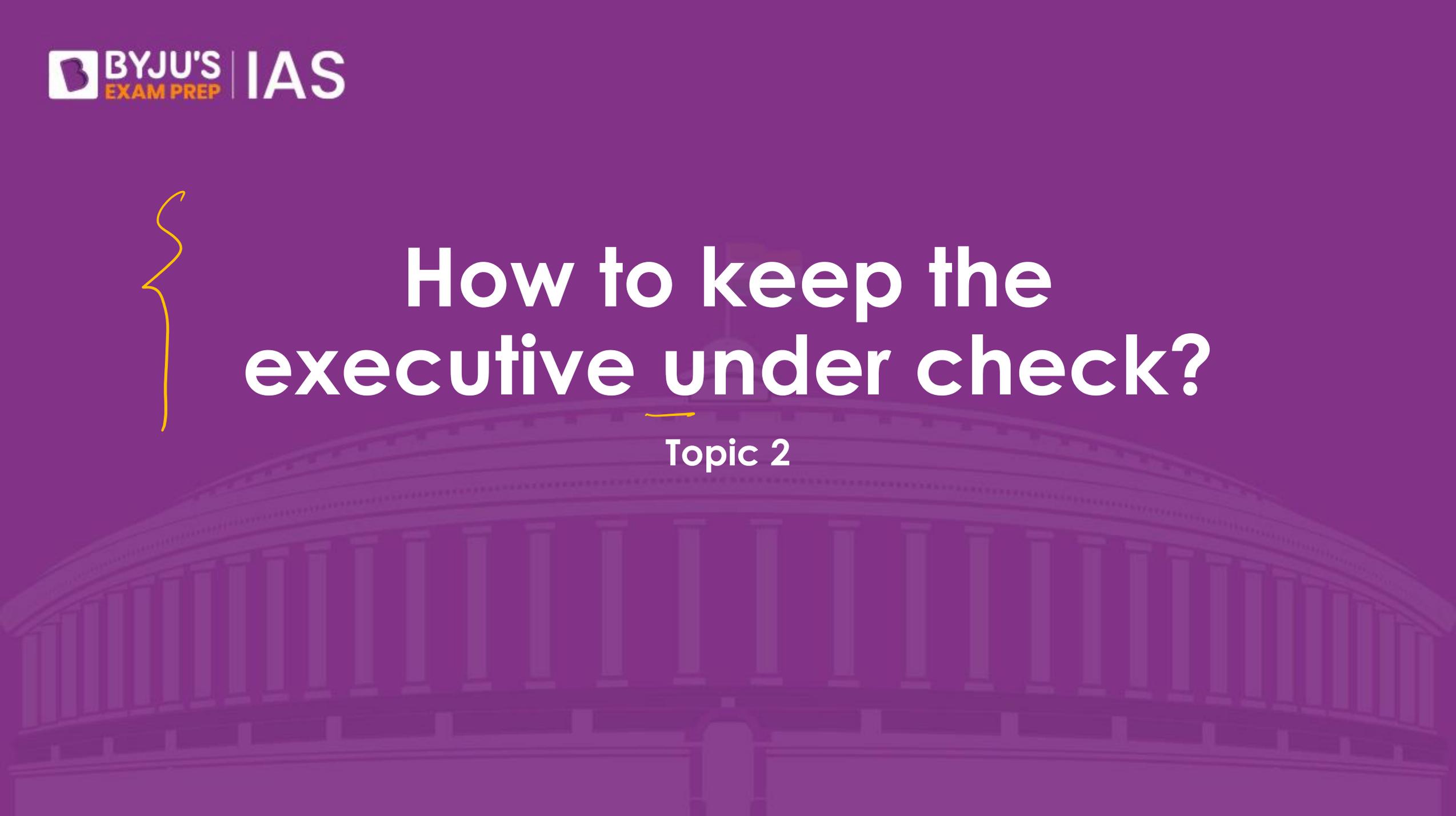
BICAMERAL

K, A, T,
M, B, U



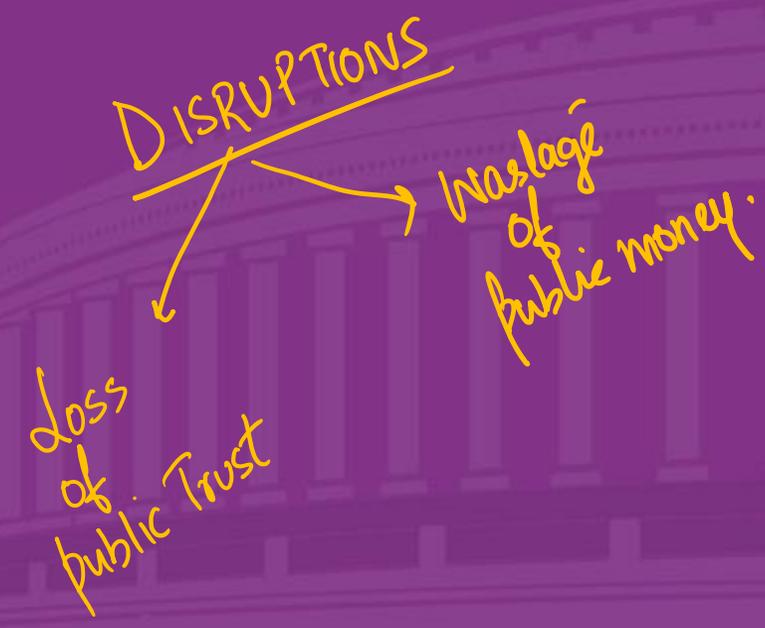
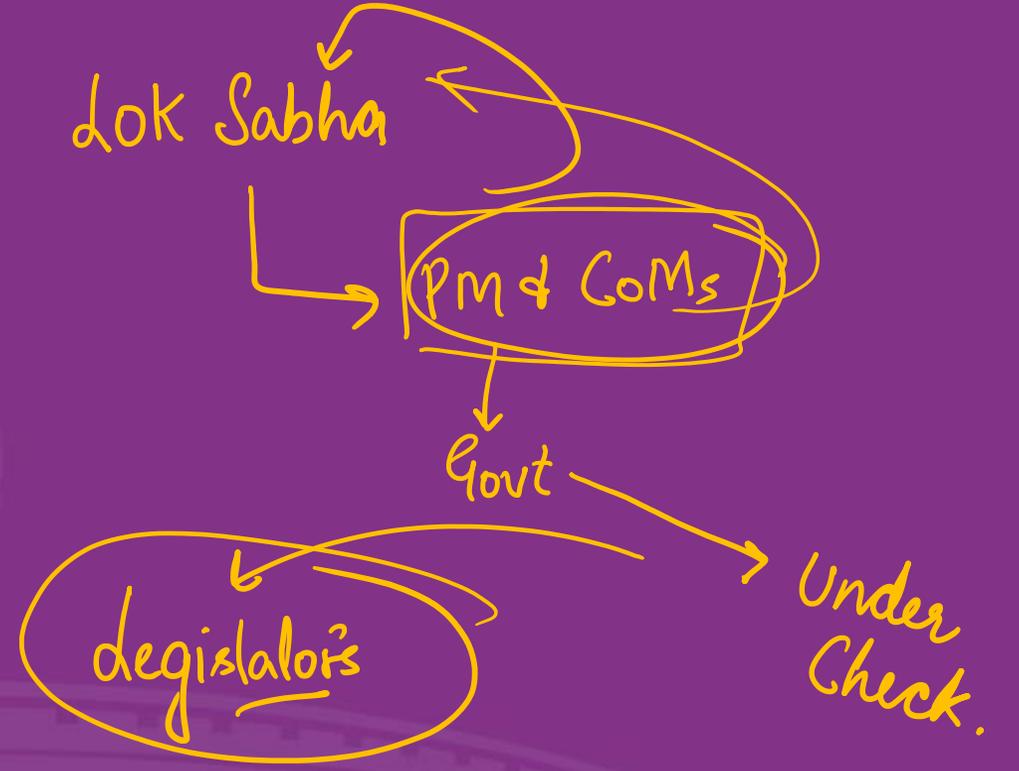
How to keep the executive under check?

Topic 2

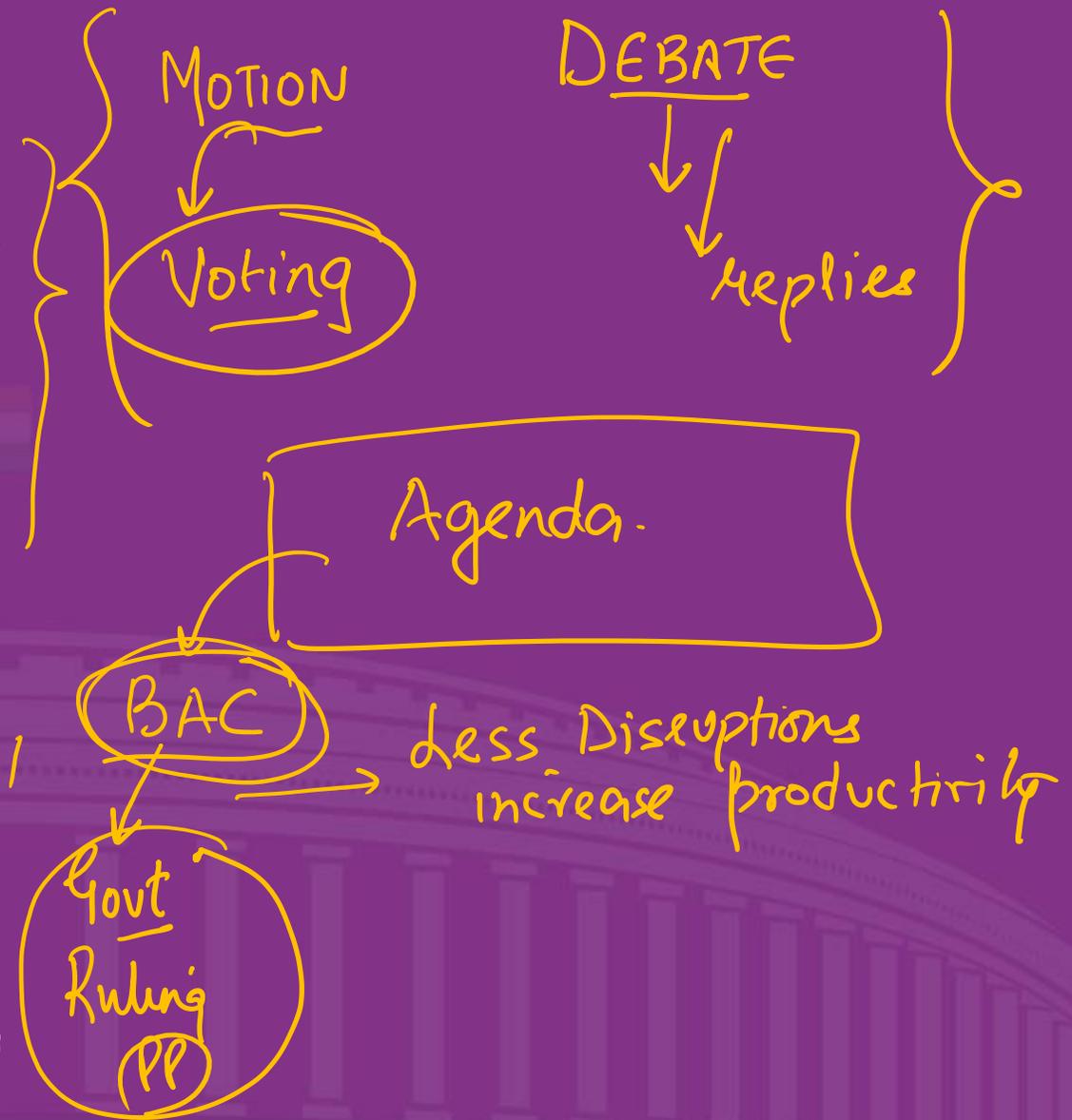


The primary function of Parliament is to hold the government accountable. The Constitution states that the Council of Ministers (Executive) will be collectively responsible to the Lok Sabha.

There have been instances in the past where the Parliament has been unable to carry out this responsibility effectively.



- MPs may raise issues in Parliament through debates or motions. Debates elicit a reply and motions entail voting. A motion may be moved in Parliament to discuss important policies of the government and topical concerns. (sometimes not taken up due to repeated disruptions).
- This alludes to the larger underlying problem of lack of avenues for the Opposition to voice its concerns. One of the ways to resolve this gap is to give the Opposition a forum to discuss its concerns. In the United Kingdom, for instance, 20 days in a session are reserved for discussion on subjects chosen by the Opposition. **This type of agenda-setting by the Opposition on fixed days may yield to greater productivity in Parliament.**

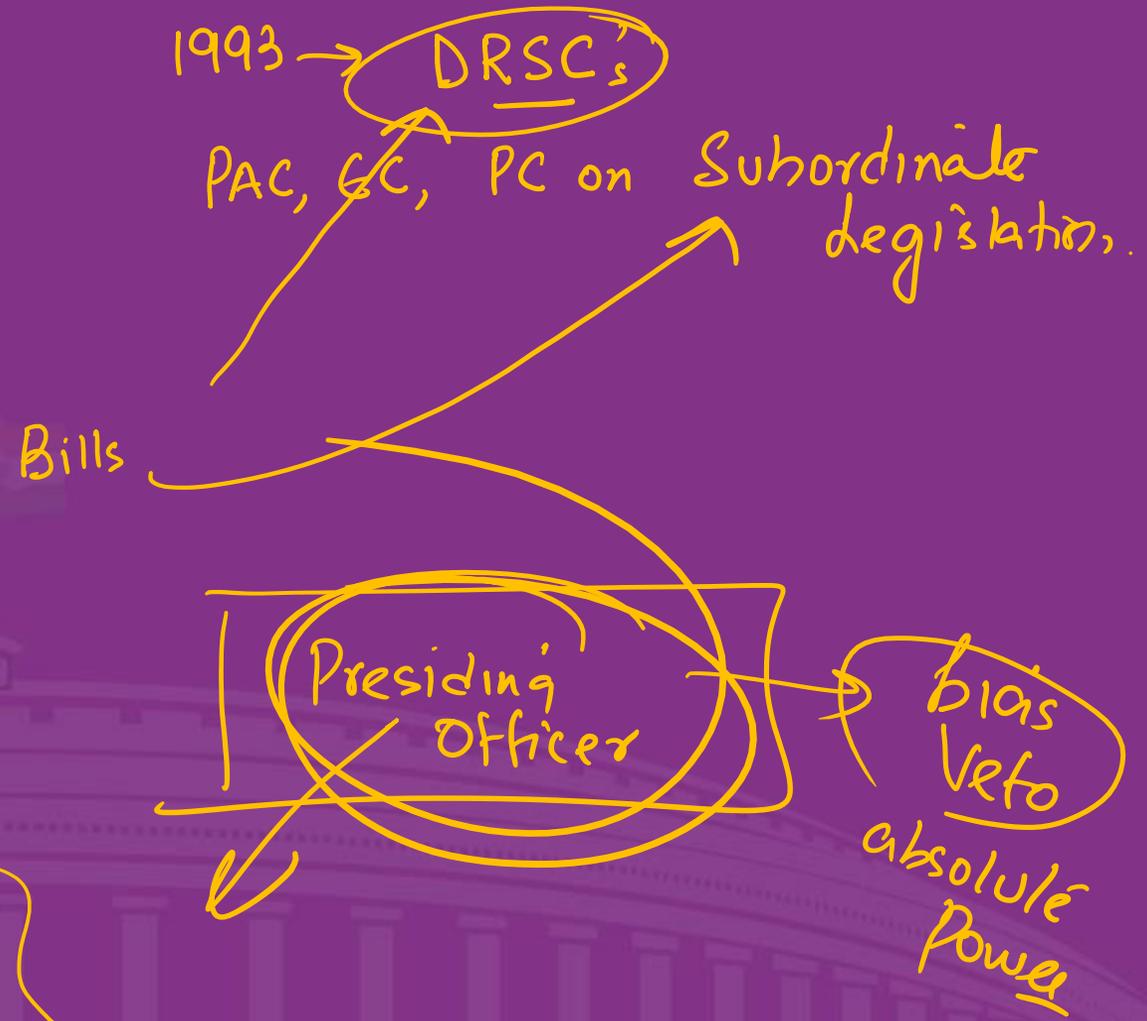


- Various issues may also be debated in Parliament to discuss the functioning of the government. In the past, such discussions have included topics such as the agrarian crisis, rise in prices, corruption, etc.
- In order to improve government accountability in Parliament, in the UK and Australia, the Opposition forms a shadow cabinet. Under such a system, Opposition MPs track a certain portfolio, scrutinise its performance and suggest alternative programs. This allows for detailed tracking and scrutiny of ministries and assists MPs in making constructive suggestions.

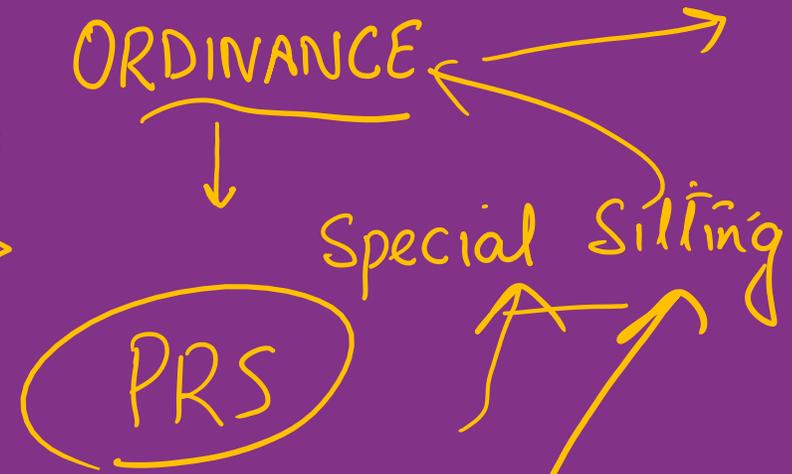
COMMITTEES →

SHADOW CABINET

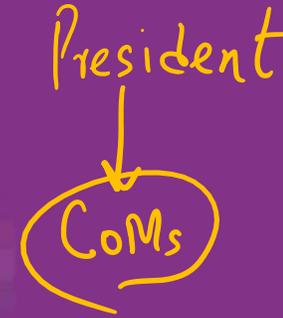
- Parliamentary Committees are constituted to scrutinise the actions and policies of the government in greater detail. Since Parliament has limited time for discussing a legislation or issues, these committees provide a platform for detailed deliberation and discussion. They examine finances, legislation, and working of ministries. The recommendations of these committees are not binding on the House.
- However, in the past, several bills, such as the constitutional amendment to levy GST was referred to a committee and its recommendations served to strengthen the provisions of the Bill. In the 16th Lok Sabha, 27 percent of Bills introduced in Parliament have been referred to a committee, which is low when compared to earlier Lok Sabhas.
- In countries such as the UK, Bills are mandatorily referred to committees of both Houses of Parliament. These committees have the power to amend Bills. However, their amendments may be overturned by MPs during a discussion on the Bill. In contrast, in India, the Speaker or Chairman decides whether to refer a Bill to a parliamentary committee. **The National Commission to review the working of the Constitution (NCRWC) has recommended that all Bills should be referred to committees.**



- The President of India has been given certain legislative powers, such as promulgating ordinances on the recommendation of the Council of Ministers. The Supreme Court held in 1986 that the power to promulgate ordinance is a tool meant to be used in extraordinary circumstances, and not as a substitute for the law-making powers of the Legislature.
- In the 16th Lok Sabha, 33 ordinances have been promulgated. In some cases, the government has re-promulgated lapsed Ordinance. For example, the Enemy Property (Amendment) Ordinance has been re-promulgated five times. Other countries such as the US, Canada and the UK do not confer such legislative powers upon the Executive. **In case of an urgent requirement, an emergency session of the Parliament may be convened.**



- In India, even though the Parliament is entrusted with examining the functioning of the policies and actions of the government and holding it accountable, it does not have the power to convene itself.



The President, on the advice of the Council of Ministers, is responsible for summoning Parliament, and therefore, indirectly deciding when Parliament should exercise its oversight functions over the government.

• In certain countries such as the UK and Australia, the number of sittings is calendared in advance at the beginning of the year. In Pakistan, the Speaker is required to summon Parliament if one-fourth of the members requisition in writing. This allows for greater business to **be transacted within the Parliament itself.** The NCRWC has recommended fixing the minimum number of working days for Lok Sabha and Rajya Sabha at 120 and 100 days respectively.

Marshall's

• There are safeguards built into the parliamentary system to protect against disruptions. In places where there are institutional lacunae to fill, our Parliament may borrow from the established norms of other parliamentary systems. Only then can Parliament hold the government accountable and effectively scrutinise its functioning.

ED NIA
CBI

FINANCE ACT, 2017

X

Govt

A

Electoral Bonds

Topic 3

Bearer Bond.

CASH

Digital transaction.

SBI

RBI

PP

15 days

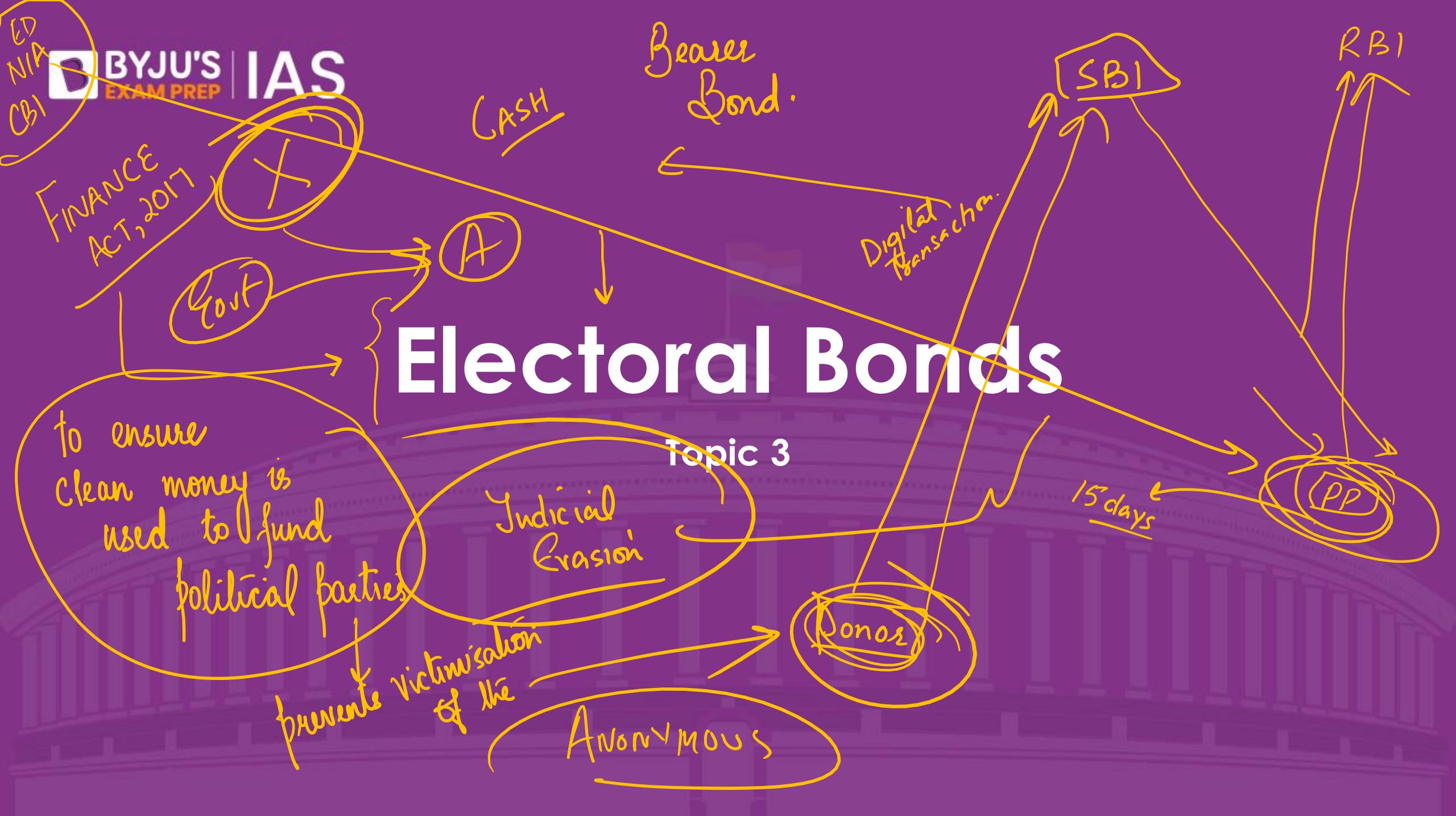
Donor

Anonymous

to ensure clean money is used to fund political parties

Judicial Erosion

prevents victimisation of the



ONE DOLLAR, ONE NOTE

Electoral bonds are interest-free banking instruments, which can be bought from specified branches of State Bank of India in multiples of ₹1,000, ₹1 lakh, ₹10 lakh or ₹1 crore. These can be purchased by individuals and companies who have to disclose their identity through know your customer (KYC) norms to SBI, while political parties can encash these bonds within 15 days only in their specified bank accounts. Only those parties, which have got 1% of all votes polled in the last Lok Sabha or state assembly polls, are eligible for funding through these bonds. This makes it possible to give political contributions through a legitimate channel with tax-paid funds, while who gave how much to which party remains anonymous.

free & fair elections.
→ tilted in favour of the ruling party.
→ violates voters' right to know & thereby right to make an informed choice.

19(1)(a)

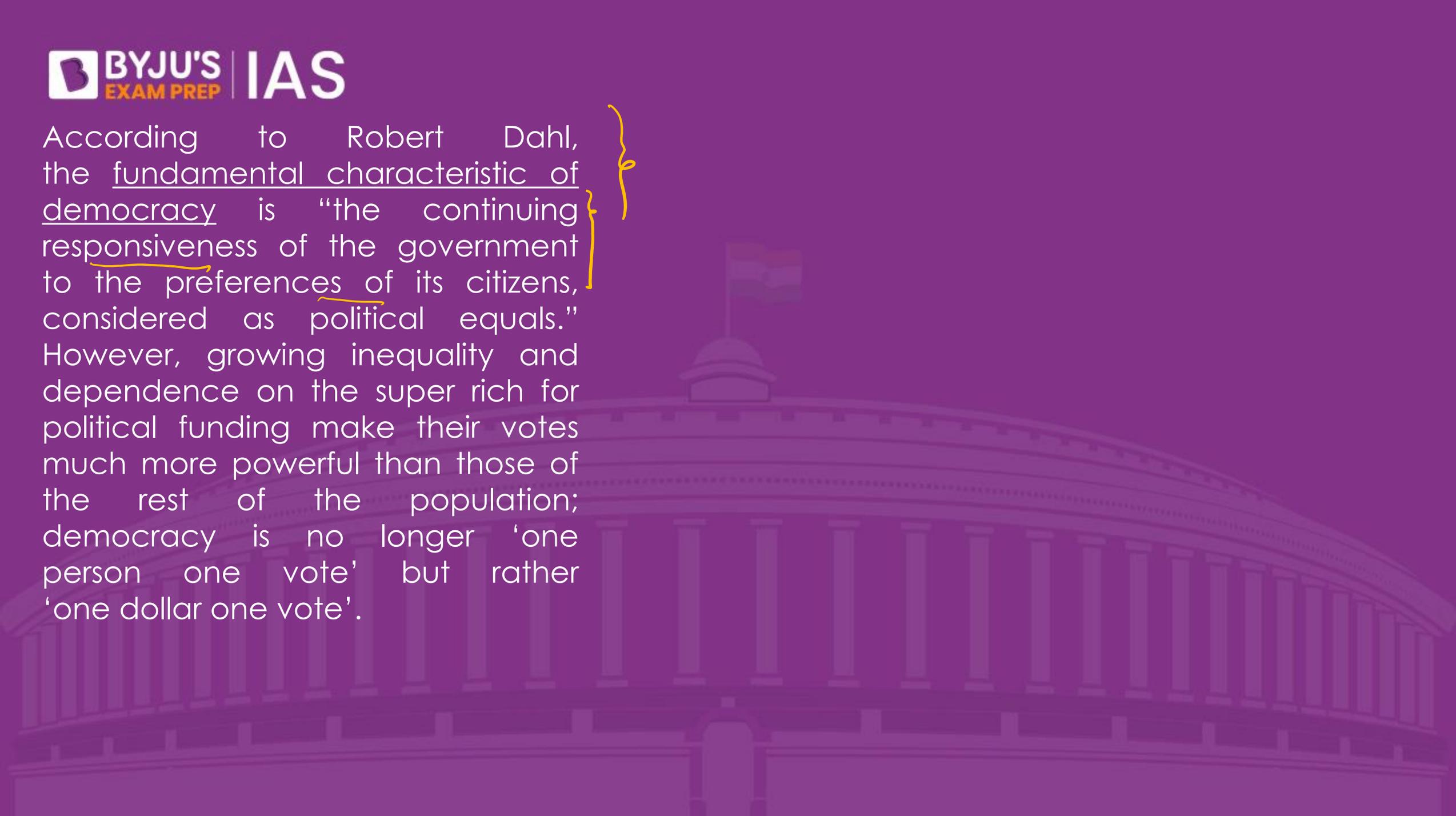
1%

- “We can have democracy in this country, or we can have great wealth concentrated in the hands of a few, but we cannot have both,” American Supreme Court judge Justice Louis Brandeis wrote once. The growth of economic inequality fuels the growth of political inequalities and vice versa, resulting in a dangerous vicious cycle.
- Democracy across the world is being undermined by money, most worryingly so in India. With the introduction of electoral bonds, India is currently the most unregulated country with regards to electoral funding in comparison with other similar democracies. The greater the inequality of political funding, the greater the chances that public policy is tilted towards the interest of the super rich, ignoring the interests of the majority, particularly the poor and the vulnerable.

Free & fair elections

Democracy

According to Robert Dahl, the fundamental characteristic of democracy is “the continuing responsiveness of the government to the preferences of its citizens, considered as political equals.” However, growing inequality and dependence on the super rich for political funding make their votes much more powerful than those of the rest of the population; democracy is no longer ‘one person one vote’ but rather ‘one dollar one vote’.



Electoral bonds lead to information asymmetry; only the ruling government has information on who lends and to whom, leading to issues of moral hazard and adverse selection.



Recently, Yasmine Bekkouche and Julia Cagé (2018), based on extensive research on electoral funding, concluded that there is a direct correlation between electoral spending and electoral success.

European countries such as France and Belgium have curtailed private spending on elections through a series of legislations since the 1990s, thereby successfully negating the influence of the super rich in elections. In fact, France banned all forms of corporate funding in 1995 and capped individual donations at 6,000 Euros.

Brazil and Chile also recently banned corporate donations after a series of corruption scandals related to corporate funding – particularly Petrobras – and introduced the public financing of elections.

To sum up, electoral bonds can be considered an improvement over the previous system as it has helped formalise that part of the election funding hitherto made through cash. But the absence of a provision to disclose donor details flies in the face of complete transparency.

→ OPAQUE



Anti Defection Law

Topic 4



- In a deliberative democracy, debate and discussion are key to framing strong laws. Debates on the floor of the House are an opportunity for legislators to raise their concerns and voice their opinions on an issue. It is expected that in this capacity he must be able to determine public interest and contribute to the lawmaking process. By weighing upon various factors he should determine his position on an issue and form an informed opinion. These factors could be a combination of his ideologies, voters' preferences and his political affiliation.

As per the law, a legislator could be disqualified if he votes against or abstains from voting, contrary to his party's direction. This means that if a legislator defies the party whip on any issue he is deemed to have defected and will lose his membership to the House. A whip can be issued to all votes on bills, motions and resolutions.

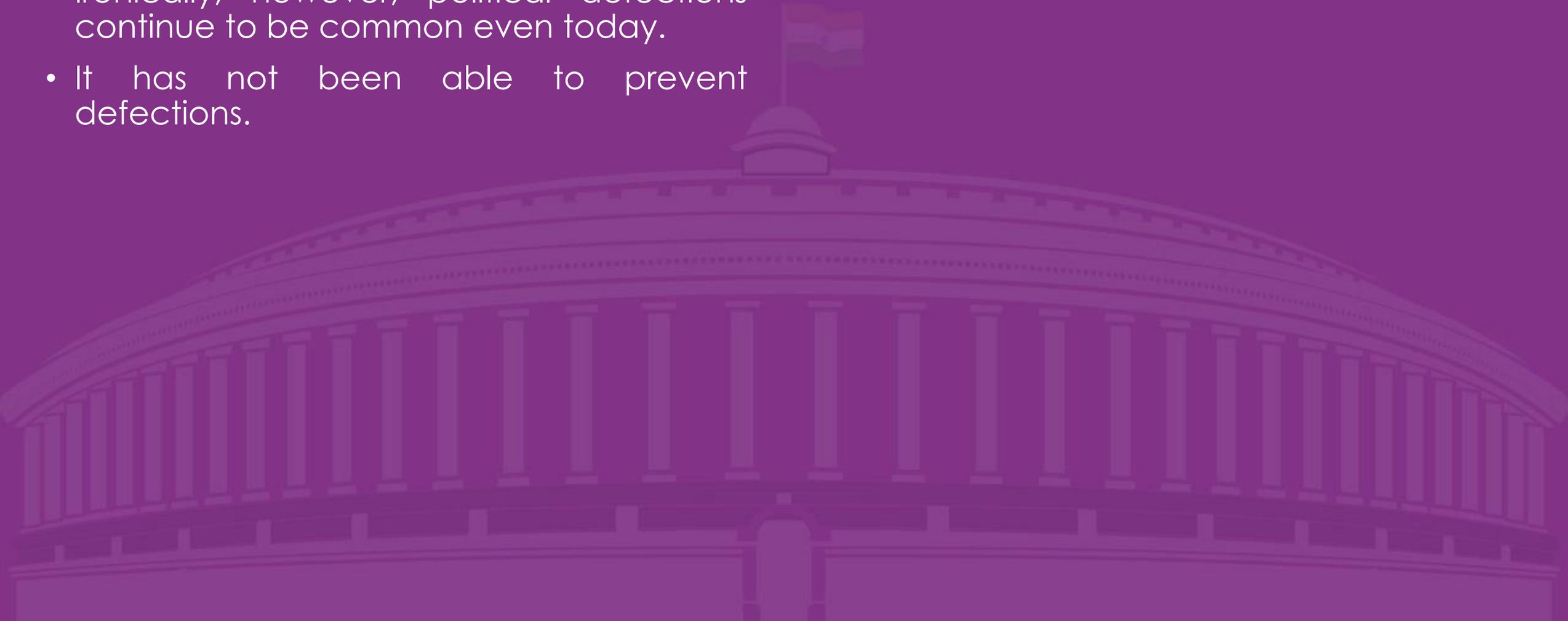
The Law does not provide sufficient incentive for an MP or MLA to examine an issue in depth and think through it to participate in the debate. With the issuance of a whip, a member of the legislature is in effect reduced to a mere voting number in House. He will finally have to obey the position determined by his party leadership. A free exchange of ideas, debate and dissent within political parties is curtailed. We have often seen Members of Parliament opposing a bill on the floor of the House during their speech, but falling in line to vote according to the party whip.



- After being voted to office, the elected representative is accountable to his voters. He is held accountable by his constituents for his decisions and actions during his re-election bid for the next term. The Anti-Defection Law weakens this accountability as all his actions and decisions can simply be justified on the grounds of following party diktat. It breaks the link between the elected legislator and his electors.
- In sharp contrast, in other democracies, the individual candidate's position on issues, and past legislative voting patterns have to be justified to the voters and are central to electoral campaign and debate. For instance, there have been several instances during Congressional elections when the individual voting information of a member has been used to analyse their record as a legislator.



- The Anti-Defection Law was introduced with the intention to curb 'evils of political defections' and promote party discipline. Ironically, however, political defections continue to be common even today.
- It has not been able to prevent defections.



Going forward, one of the immediate reforms needed to strengthen our legislature is to limit the Anti-Defection Law to votes which affect the stability of a government. These would include votes on No-Confidence Motions or Money Bills. A balance between ensuring party discipline and maintaining government stability on one hand; and empowering our legislators to exercise their judgement and vote as per their conscience, on the other, must be determined. This would be a starting point to a larger public debate about the need at all for such a law.

