UNIT 8: LEGISLATURE AT THE STATE LEVEL

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8.1 LEARNING OBJECTIVES

After going through this unit you will be able to:

- know about the Legislature at the State level
- explain the composition, powers and functions of the Legislative Assembly
- describe the composition, powers and functions of the Legislative Council.

8.2 INTRODUCTION

The Constitution of India has made a provision for a Legislature in every State. It plays an important role in the administration of a State. In other words, it is the real executive in the State. Here, we will discuss the composition, powers and functions of the Legislature at the State level. We will also discuss the composition, powers and functions of the Legislative Assembly or Vidhan Sabha and the Legislative Council or Vidhan Parishad.

8.3 STATE LEGISLATURE

In India, the state Legislature is composed of the Governor and one or two Houses. The Lower House is called Legislative Assembly and the Upper House is called Legislative Council.

8.3.1 The Legislative Assembly

In India, the State Legislature consists of the Governor and one or two Houses. The Lower House is called the Legislative Assembly or Vidhan Sabha while the Upper House is called the Legislative Council or Vidhan Parishad. The various aspects of the Legislative Assembly and the Legislative Council are discussed below.

8.3.2 Composition of the Legislative Assembly

The members of the Legislative Assembly are elected directly by the people. Some seats in the Legislative Assembly are reserved for Scheduled Castes and Scheduled Tribes. The Governor can nominate one or more members from the Anglo-Indian Community if no member is elected from that Community to the House. According to the Constitution, a Legislative Assembly cannot have more than 500 members and less than 60 members.

The members of the Legislative Assembly are elected for a term of five years. But the Governor can dissolve the House before the expiry of five years and can call for fresh elections if they fail to get majority support in the House.

The meetings of the Assembly are presided over by the Speaker who is elected from among the members of the Assembly. In his/her absence, the Deputy Speaker conducts its meetings.

8.3.3 Qualifications of the Members

To be a member of the Legislative Assembly, one must have the following qualifications namely he/she must-

a) be a citizen of India

b) have attained 25 years of age

c) possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

Thus, according to the Constitution, a person shall not be elected either to the Legislative Assembly or Legislative Council, unless he/she is himself/herself an elector for any Legislative Assembly Constituency in that State.



LET US KNOW

When State Emergency is declared under Article 356 of the Constitution in a State, the Legislative Assembly is kept either "suspended" or is dissolved.

8.3.4 Powers and Functions of the Legislative Assembly

The Constitution of India has entrusted enormous powers and functions in the hands of the Legislative Assembly. As the real executive of the State, it plays an important role in running the administrative machinery of the State. Among the important powers and functions of the Legislative Assembly, the following can be worth mentioning.

The main duty of the Legislative Assembly is to make laws for the State. It can make law on the subjects mentioned in the State list and the Concurrent list. However, during State Emergency, it cannot exercise its legislative power.

The assembly has control over the State Council of Ministers. The State Council of Ministers is responsible or answerable to the Assembly for its activities. The Assembly many pass a no- confidence motion against the Council of Ministers and bring its downfall if it is not satisfied with the performance of the Council of Ministers.

The Legislative Assembly has control over the finances of the State. A Money Bill can be introduced only on the floor of the Assembly. The

government cannot impose, increase, lower or withdraw any tax without the approval of the Assembly.

The elected members of the Legislative Assembly can take part in the election of the President of India and all members can take part in the election of the members of the Rajya Sabha from the State.

The Assembly also takes part in the amendment of the Constitution on certain matters.

It is thus clear from the above discussion that the Legislative Assembly enjoys wide range of powers and functions. The development of the State depends upon the effective administration of the Legislative Assembly.

8.4 LEGISLATIVE COUNCIL

The Legislative Council is the Upper House of the State Legislature. Its existence depends upon the will of the Legislative Assembly and the enactment of a law made by the Union Parliament for legalising its will. In other words, it depends upon the wishes of the people of each State whether they want a bi-cameral or unicameral Legislature.

8.4.1 Composition of the Legislative Council

The Constitution provides that the total strength of the Legislative Council must not be less than 40 and not more than 1/3rd of the total strength of the Legislative Assembly of the State. The strength of the State Legislative Councils differs from one State to another.

The members of the Legislative Council are elected indirectly. 1/3rd of its members are elected by the local government bodies like the Zila Parishad and Municipalities. Another 1/3rd are elected by the members of the Legislative Assembly. 1/12th are elected by the graduates of the constituency and another 1/12th by the teachers of secondary schools, colleges and universities. 1/6th of the members of the Legislative Council are nominated by the Governor of the State from amongst persons having distinguished themselves in art, science, literature, social service or corporate movement.

The Legislative Council is a continuing House. The Governor cannot dissolve this House. 1/3rd of its members retire after every two years and elections are held to fill the vacant seats. The members are elected for a term of six years.

The Chairman is the presiding officer of the Legislative Council. In his/her absence, the Deputy Chairman presides over its meetings. They are elected from among the members of that House.

8.4.2 Qualifications of the Members

To be a member of the Legislative Council, one must have the following qualifications namely he/she must-

a) be a citizen of India
b) have attained 30 years of age
c) possesses such other qualifications as may be prescribed on that behalf by or under any law made by Parliament.

Thus, according to the Constitution, a person shall not be elected either to the Legislative Assembly or Legislative Council, unless he/she is himself/herself an elector for any Legislative Assembly Constituency in that State.

LET US KNOW



At present, only seven States in India have bi-cameral Legislature i.e. Legislative Council in their Legislature. They are– Andhra Pradesh, Bihar, Jammu & Kashmir, Karnataka, Uttar Pradesh, Maharashtra and Telangana.

8.4.3 Powers and Functions of the Legislative Council

Ordinary bills can be introduced in the Council on any matter of the State List and the Concurrent List. A Money Bill cannot be introduced in the Legislative Council. A Money Bill passed by the Legislative Assembly must be adopted by the Legislative Council within a period

of 14 days. If a Money Bill is not adopted within that period, then it is regarded as passed by both the Houses of the State Legislature.

The Legislative Council exercises control over the Council of Ministers. The members can ask questions to the Ministers on various matters and can introduce motions against the ministers. However, it cannot pass a no- confidence motion against the Council of Ministers.

The Legislative Council also takes part in the amendment of the Constitution along with the Legislative Assembly.

The existence of the Legislative Council is criticized as purposeless. It is not only less powerful than that of the Legislative Assembly, but also cannot be compared with the Rajya Sabha of the Union Parliament. The Rajya Sabha, which is an Upper House like that of the Legislative Council, is not as powerless as the Legislative Council. The Legislative Council is often regarded as ornamental in terms of powers and functions as compared to the Legislative Assembly.



LET US KNOW

The State Legislature follows the same procedure for passing an Ordinary or a Money Bill like that of the Parliament. In State Legislatures also, the Legislative Assembly which is the Lower House is more powerful than the Legislative Council which is the Upper House.



ACTIVITY 8.1

1. Find out how many States are there in India at present.
2. How many members are there in the Assam Legislative Assembly?



CHECK YOUR PROGRESS

Q. 1: Name the two Houses of the State Legislature?

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Q. 2: Write the qualifications of the members of the Legislative Assembly?

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Q. 3: Write a note on the strength of the Legislative Council.

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Q. 4: Write a note on the strength of the Legislative Assembly.

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Q. 5: Write the qualifications of the members of the Legislative Council?

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8.5 LET US SUM UP

- The Constitution of India has made a provision for a Legislature in every State.
- The State Legislature consists of the Governor and one or two Houses. The Lower House is called the Legislative Assembly or Vidhan Sabha while the Upper House is called the Legislative Council or Vidhan Parishad.
- The Governor is only a nominal head like that of the President of India. His/her Powers are exercised by the Council of Ministers headed by the Chief Minister.
- The members of the Legislative Assembly are elected directly by the people for a period of five years.

- The Legislative Assembly enjoys wide range of powers and functions. The development of the State depends upon the effective administration of the Legislative Assembly.
- The Constitution provides that the total strength of the Legislative Council must not be less than 40 and not more than 1/3rd of the total strength of the Legislative Assembly of the State.
- The strengths of the State Legislative Councils differ from one State to another. The members are elected for a term of six years.
- The Legislative Council is often regarded as ornamental in terms of powers and functions as compared to the Legislative Assembly.
- In case of the State Legislature, in the States where there are two Houses, the Legislative Assembly is more powerful than the Legislative Council. The Council of Ministers is responsible to the Legislative Assembly for its activities.



8.6 FURTHER READING

1) Chander, Prakash. (2000). *Indian Government and Politics.* New Delhi: Cosmos Bookhive Pvt. Ltd.
2) Ghai, K.K. (2007). *Indian Government and Politics.* New Delhi: Kalyani Publishers.
3) Pylee, M.V. (2006). *Constitutional Government in India.* New Delhi: S. Chand and Company.



8.7 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No 1: Legislative Assembly or Vidhan Sabha and the Legislative Council or Vidhan Parishad.

Ans to Q No 2: To be a member of the Legislative Assembly one must be a citizen of India and should have attained 25 years of age. He cannot

be a member of both the Houses of the State Legislature or a member of the Union Parliament at the same time.

Ans to Q No 3: The Constitution provides that the total strength of the Legislative Council must not be less than 40 and not more than 1/3 of the total strength of the Legislative Assembly of the State.

Ans to Q No 4: According to the Constitution, a Legislative Assembly cannot have more than 500 members and less than 60 members.

Ans to Q No 5: To be a member of the Legislative Council one must have the following qualifications namely he/she must-

a) be a citizen of India

b) have attained 30 years of age

c) possess such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

Thus, according to the Constitution, a person shall not be elected either to the Legislative Assembly or Legislative Council, unless he/she is himself/herself an elector for any Legislative Assembly Constituency in that State.



8.8 MODEL QUESTIONS

A. Very Short Questions

Q.1: Who is the constitutional head of a State in India?

Q.2: Who is the leader of the State Council of Ministers?

Q.3: "The members of the Legislative Council are elected indirectly". (True/False)

Q.4: What is the maximum number of members of the State Legislative Assembly?

Q.5: How many members can be nominated by the Governor to the Legislative Council?

Q.6: Who is the presiding officer of the Legislative Assembly?

B. Short Questions (Answer each in about 150-200 words)

Q.1: Explain in brief about the composition of the Legislature at the State level.

Q.2: Write the qualifications to be a Member of the Legislative Assembly of a State.

Q.3: Write a note on the powers and functions of the Legislative Council.

C. Long Questions (Answer each in about 300-500 words):

Q.1: Discuss the powers and functions of the State Legislature.

Q.2: Discuss the composition, powers and functions of the Legislative Assembly.

Q.3: Examine the role of the Legislative Council in the administration of a State.

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