

SUPPLEMENT

ICSE History & Civics - Class 9

6

The State Legislature

The Constitution of India has opted for a parliamentary form of Government, which is federal in structure with certain unitary features. Article 168 of the Constitution states that for every state there shall be a legislature which shall consist of the Governor, and the House/s of legislature. The states of Andhra Pradesh, Bihar, Karnataka, Maharashtra, Telangana, and Uttar Pradesh have two Houses, i.e. a **bicameral legislature**; while the other states have just one House, or a **unicameral legislature**.

States with a bicameral legislature have two Houses, the Legislative Assembly and Legislative Council, respectively, while states with a Unicameral legislature have one House known as the Legislative Council.

Delhi, the National Capital Territory, has a Legislative Assembly.

According to the Constitutional provisions of Article 169 and notwithstanding anything in Article 168, the Parliament of India by law can create and abolish the Legislative Council in states if the Legislative Assembly of the state passes a resolution to that effect by a majority of the total membership of the Assembly, with a majority of not less than two-thirds of the members of the Assembly present and voting.

THE LEGISLATIVE ASSEMBLY (VIDHAN SABHA)

Composition

The Legislative Assembly of each state shall be composed of members chosen by direct election on

the basis of universal adult franchise from territorial constituencies. The number of members of the Assembly shall be not more than 500, nor less than 60. The Legislative Assemblies of Mizoram and Goa have a special provision for 40 members each. Sikkim and Union Territory of Puducherry have 32 and 33 respectively. Puducherry's Legislative Assembly includes three members who are nominated by the central government. The actual strength of Vidhan Sabha is revised from time to time on the basis of the latest census. The Vidhan Sabha is the real centre of power in the state as its members are chosen by direct election.

Nomination and reservation

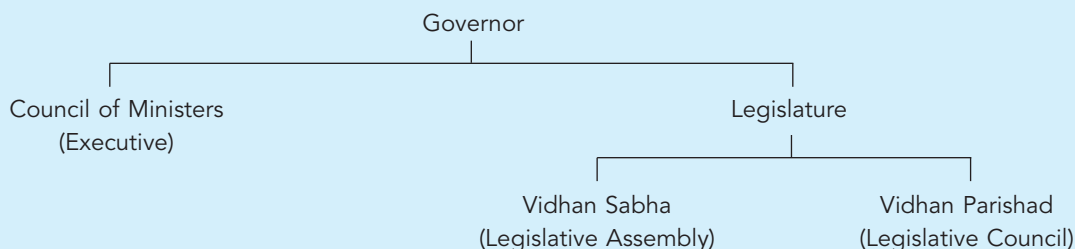
The 104th Constitutional Amendment Act of 2020 ended the power of the Governor to nominate one member of the Anglo-Indian community.

A certain number of seats are also reserved in each Legislative Assembly for the Scheduled Castes and

Rajasthan Vidhan Sabha building



GOVERNMENTAL STRUCTURE OF STATES



Scheduled Tribes to provide sufficient representation. These reservations are to continue up to the year 2030. The 104th Constitutional Amendment Act of 2020 extended the reservation for another 10 years.

Term

The Legislative Assembly is elected for a term of 5 years. It may be dissolved earlier by the Governor on the advice of the Chief Minister or if a resolution of no confidence is approved against a ruling majority or coalition. The state is then placed under President's Rule.

When a National Emergency is in operation, the life of the House may be extended but this extension shall not be for more than a year at a time. After the Emergency has been called off, the extension cannot continue for more than 6 months.

Sessions

The Governor summons the sessions of the State Legislature. There should be at least two sessions of the Legislative Assembly in a year. The intervening period between the two sessions cannot be more than six months. The Governor can also dissolve the Legislative Assembly if the situation so demands.

Quorum

Quorum refers to the minimum number of members required to hold a meeting. In this case, the requirement is either ten members or one-tenth of the total number of members of the Assembly, whichever is greater. In the absence of a quorum the Speaker adjourns the meeting till the required number of members are in attendance.

Qualifications for membership

In order to become a member of the Vidhan Sabha a person must be:

- ♦ A citizen of India.
- ♦ Not less than 25 years of age.
- ♦ Qualified as may be prescribed in that behalf by or under any law made by the Parliament.

A candidate shall not be elected to the Assembly unless they are a registered voter with any of the assembly constituencies within that state.

Disqualifications for membership

A person shall be disqualified from being a member of the State Legislature if they:

- ♦ Hold any office of profit under the Government of India or the government of any state.
- ♦ Are of unsound mind as declared by a competent court.
- ♦ Are an undischarged insolvent.
- ♦ Have voluntarily acquired the citizenship of a foreign country or acknowledged their allegiance or adherence to a foreign State.
- ♦ Are so disqualified under any law made by the Parliament.
- ♦ Are elected on a ticket of a particular political party, voluntarily give up the membership of that party or disobey the directives of the party leadership on a vote.

No candidate can be a member of both the Houses of legislature at the same time. Neither can they be a member of the Parliament and of the State Legislature simultaneously.

Oath by members

Every member of the State Legislature shall take an oath before taking their seat, before the Governor or a person appointed by them. The member will promise to bear true allegiance to the Constitution of India, uphold the sovereignty of the nation and discharge their duties faithfully and honestly.

Vacation of seats

The seat of a member of the State Legislature falls vacant if:

- ♦ A member resigns from their seat by writing a letter to the Speaker or Chairman as the case may be.
- ♦ A member is absent from the meetings of the Assembly for a period of 60 days without prior permission.
- ♦ A member is otherwise disqualified because of any of the reasons laid down in the Constitution.
- ♦ A member falls under the Anti-Defection Law as stated in the Tenth Schedule of the Constitution.

Salary and allowances

The members of the Legislative Assembly and the Legislative Council receive such salaries and allowances as may be determined from time to time by the State Legislatures.

Privileges

The privileges enjoyed by the members of each House can be divided into:

- a. those which are enjoyed by the members individually and
- b. those which belong to each House of the State Legislature as a collective body.

The privileges enjoyed by the members individually are:

- a. Freedom from arrest.
- b. Exemption from attendance as jurors and witnesses.
- c. Freedom of speech on the floor of the House.

The collective privileges enjoyed by the members of the House are:

- a. The right to publish debates and proceedings, and the right to restrain publication.
- b. The right to regulate internal matters of the House.
- c. The right to publish parliamentary misbehaviour.
- d. The right to punish members and outsiders for breach of its privileges.

Leader of the Opposition

For a democracy to function smoothly it must have a constructive and progressive Opposition. The Opposition thus plays an extremely important role in a democracy. The Leader of the Opposition is chosen from the largest opposition party in either House of the State Legislature. The leader enjoys the same status and facilities as those of a Cabinet Minister and occupies a position of responsibility.

The Speaker

The Speaker is generally elected unanimously by all the parties as they are the guardian of the House and are above petty politics.

As in the Lok Sabha, the Legislative Assembly chooses the Speaker and the Deputy Speaker from amongst its members. Both the Speaker and the Deputy Speaker are elected when the newly-elected House meets for the first time.

A Speaker vacates their office as soon as they ceases to be a member of the House. The Deputy Speaker functions as the Speaker when the latter is absent or the post has fallen vacant.

It is to be remembered that even if the House is dissolved, the Speaker does not vacate their office. They continue in office till a new Speaker is elected or a Speaker Pro-tem is appointed. The Speaker and the Deputy Speaker's salaries and allowances are 'charged on' the Consolidated Fund of India.

Powers and functions

- ♦ The Speaker presides over the meetings of the Assembly. All speeches are addressed to them. They decide which members are to be allowed to have the floor.

- ◆ The Speaker decides the questions to be admitted and the resolutions to be passed.
- ◆ The Speaker decides whether a Bill is a Money Bill or an Ordinary one. Their decision is final in this regard.
- ◆ They interpret the rules of the House and also puts relevant questions to vote. They vote only in case of a tie to resolve the issue. Their casting vote is of great value.
- ◆ No Bill can be sent to the Legislative Council or to the Governor unless the Speaker signs them.
- ◆ The Speaker also maintains order and decorum in the House. A member disturbing the proceedings may be asked to leave by the Speaker.
- ◆ The Speaker may name a member for suspension if they disregards the authority of the Chair.
- ◆ The Speaker decides if there are any cases of contempt of the House.
- ◆ The Speaker receives all documents addressed to the House. They also communicate the decisions of the House to the concerned authorities.
- ◆ They permit the entry of outsiders and the Press to the galleries of the House.
- ◆ The Speaker being the ex-officio Chairman of some of the Committees of the House, has to appoint the chairpersons of these Committees, issue directions to them, and advise and instruct whenever necessary.
- ◆ The Speaker presides over the joint sitting of both the Houses. They also nominate personnel for parliamentary delegations to various countries.
- ◆ If a member stands disqualified under the Anti-Defection Act of 1985, the Speaker gives the final decision.

The position of the Speaker is one of honour and dignity. They have enormous responsibility to conduct the smooth working of the Legislative Assembly. They are expected to be impartial and just in all his dealings.

Section Review

1. Define the terms: a. Bicameral Legislature.
b. Unicameral Legislature. Name one Indian state that subscribes to each of them.

2. Name the two Houses of the State Legislature.
3. What is the maximum strength of a Legislative Assembly? How are the members elected?
4. How are the interests of the minorities protected by the Constitution?
5. What happens to the term of the Assembly, if an Emergency is in operation?
6. What is a quorum?
7. State two qualifications and two disqualifications with regard to the membership of the State Legislature.
8. Mention any two privileges that the members of the State Legislature enjoy.
9. What is the position given to the leader of the main opposition party in the House?
10. State any two functions of the Speaker.

THE LEGISLATIVE COUNCIL (VIDHAN PARISHAD)

A state opting for a bicameral legislature has a Legislative Council or Vidhan Parishad as the **Upper House**. This House is similar to the Rajya Sabha, though it does not enjoy as many powers.

Composition

The size of the Legislative Council varies with that of the Legislative Assembly. The number of members of the Council should not be more than one-third of the membership of the Legislative Assembly but not less than 40. This is to ensure that the Council does not get predominance in the legislature.

The composition, however, is not final. The final authority of deciding the composition of the Council is given to the Union Parliament.

The Vidhan Parishad is a part-nominated and part-elected body. This is because the election is indirect and in accordance with the principle of proportional representation and a single transferable vote. The Council thus has a varied composition.

In general fifth-sixth of the total number of members of the Council should be indirectly elected and remaining one-sixth will be nominated by the Governor.

- ◆ One-third of the total number of members of the Legislative Council shall be elected by members

of local bodies like municipalities, district boards, and others.

- ♦ One-twelfth shall be elected by electorates consisting of persons engaged in teaching in educational institutions not lower in standard than secondary schools for at least three years.
- ♦ One-twelfth shall be elected by electorates consisting of graduates who have been staying in the state for at least three years.
- ♦ One-third shall be elected by members of the Legislative Assembly from persons who are not members of the Assembly.
- ♦ One-sixth shall be appointed by the Governor from persons having knowledge in literature, science, art, social service, and cooperative movements.

Term

The Vidhan Parishad members are elected for a six-year term. The Legislative Council, like the Rajya Sabha, is not subject to dissolution. But one-third of its members retire every 2 years.

Qualifications

Any person to become a member of the Vidhan Parishad should be:

- ♦ A citizen of India.
- ♦ Not less than 30 years of age.
- ♦ Qualified as may be prescribed under any law made by the Parliament.

Presiding officer

The Council elects its Chairman and Deputy Chairman from amongst its members. The functions of the Chairman are similar to those of the Speaker of the Legislative Assembly.

Provisions with regard to the disqualification, quorum, salaries, and allowances of the Members of the Legislative Council (MLCs) are the same as those of the Members of Legislative Assembly (MLAs).

POWERS AND FUNCTIONS OF THE STATE LEGISLATURE

Legislative powers

The State Legislature is the state's law-making body. It has exclusive power to make and pass laws pertaining to the 37 subjects mentioned in the State List. It also enjoys the right to frame laws pertaining to the 38 subjects of the Concurrent List. But in case of a conflict between the laws passed by the Union and those passed by the state, the Union laws shall prevail. All laws passed by the State Legislature are operative within the boundaries of that particular state.

Any Bill, other than a Money Bill can originate in either House of the State Legislature, i.e., wherever there is a bicameral legislature.

Control over the executive

As India is a parliamentary democracy, the ministers of the State Legislature, like their counterparts at the centre are collectively and individually responsible to the Legislative Assembly. The Chief Minister and his Council of Ministers continue in office as long as they enjoy the confidence of the Assembly. The State Legislature can control the executive through a variety of measures such as:

- ♦ Interpellation or the right to ask questions
- ♦ Adjournment motions
- ♦ Cut motions
- ♦ No-confidence motion
- ♦ Debates and discussions

The ministers are duty bound to answer all the questions that they are asked in course of the debate. The general discussion on the debate proposals of the various departments provides ample opportunity for the legislature to keep the Executive in check.

Financial powers

The State Legislature exercises control over the state finances. The Budget, which contains the estimate of income and expenditure of the state, is passed by the State Legislature. No taxes can be imposed and no expenditure can be incurred without the prior approval of the State Legislature.

The Legislative Assembly, like the Lok Sabha, enjoys full authority when it comes to Money Bills.

Constituent powers

An amendment to the Constitution is usually initiated by the Parliament. But there are certain subjects, which need a very rigid method of amendment like the election of the President or the Union Judiciary. These subjects have to be passed by the Union Parliament by a two-thirds majority and then ratified by at least one-half of the State Legislatures.

Elective power

The President of India is elected by an electoral college comprising the elected members of both the Houses of

Parliament and the elected members of the Legislative Assemblies of the states.

Limitations on the powers of the State Legislature

The Constitution has imposed certain restrictions on the law-making authority of the State Legislature.

- ♦ Certain Bills cannot be moved in the legislature without the prior approval of the President. Bills that seek to impose restrictions on the freedom of inter-state trade fall within this category.
- ♦ Bills relating to acquisition of private property for public purposes, and the powers of the High Court have to be referred to the President by the Governor for final approval.

RELATIONSHIP BETWEEN LEGISLATIVE ASSEMBLY AND LEGISLATIVE COUNCIL

SUBJECT	LEGISLATIVE ASSEMBLY	LEGISLATIVE COUNCIL
Money Bill	Can only be introduced in this House. The Bill is passed to the other House for approval, which is a mere constitutional formality.	Has no authority over a Money Bill. When the Bill comes from the other House it is obligatory for the Council to pass it within 14 days. If it is not passed, then the Assembly assumes that it has been passed. The part played by this House is a constitutional formality.
Ordinary Bill	A Bill passed by this House is sent to the other. If the Bill with amendments is sent back, the Assembly may or may not accept them and send it back. The Bill may or may not be returned but in both cases it is passed as framed by this House. There is no provision for a joint sitting to resolve a deadlock.	This House may pass the Bill without any change and so it goes to the Governor for assent. A Bill could be kept back for a maximum period of 3 months, when if it is neither passed nor rejected it is deemed to have been passed. If a Bill is sent back with or without the amendments it has to be passed.
Executive Matters	The Council of Ministers is collectively responsible to this House. A vote of no-confidence can be passed only in this House.	This House can exercise control only through questions and debates. Resolutions can also be passed but the Legislative Council cannot vote a government out of power.
Elective Matters	The members form a part of the electoral college which elects the President of the country.	The members are not a part of the electoral college.
Others	With regard to ordinances and amendments, the two Houses share equal powers.	The House of Elders or the Second Chamber is the more experienced body and its maturity serves a very good function in the administrative arena.

- ♦ A two-thirds majority decision by the Rajya Sabha empowers the Union Parliament to legislate on any matter on the State List.
- ♦ The Union Parliament can make laws on any matter on the State List when a General Emergency is in operation.
- ♦ When the President's Rule is declared in a state, the government is dissolved and the Union Parliament makes laws for that state. Even the State Budget is passed by the Union Parliament.
- ♦ If two or more states agree that the Parliament should legislate on a particular matter listed in the State List, then they can request the Parliament to do so. Laws thus made will be applicable to only those states.

Relationship between the Legislative Assembly and the Legislative Council

In a state having a bicameral legislature, it is the Legislative Assembly that occupies a predominant position. For a better understanding of the relationship between the two Houses, look at the table on Page 6.

Section Review

1. What does the Constitution state about the size of the Legislative Council?
2. Which body has the final authority with regard to the composition of the Legislative Council?

3. Discuss the composition of the Legislative Council.
4. What is the role of the Governor in the composition of the Legislative Council?
5. How is the term of the Council different from that of the Assembly?
6. Name the Presiding Officer of the Legislative Council. What happens during his absence?
7. How many subjects are there in the State List over which the Assembly has full authority?
8. What does the Constitution state in case of a conflict in the law passed by the Union and the state on a matter of the Concurrent List?
9. List two ways by which the State Legislature exercises control over the Executive.
10. How does the State Legislature control the financial matters of the state?
11. State any two limitations put on the State Legislature with regard to Bills.
12. What happens to the State Legislature when a General Emergency is in operation?
13. What electoral duty do the State Legislatures perform? In this regard is the authority of both the Houses same? Give reasons for your answer.
14. Mention any two ways by which the Legislative Assembly is more powerful than the Legislative Council.
15. What is the role of the Legislative Council with regard to: a. Money Bill b. Ordinary Bill?
16. Define 'Budget'.
17. How important is the Legislative Council in the sphere of state administration? Give at least two reasons to justify your answer.

To Remember

Introduction – Our Constitution has provided for a uniform pattern of government for the states. States like Andhra Pradesh, Bihar, Karnataka, Maharashtra, Telangana and Uttar Pradesh have a bicameral legislature, i.e., the Legislative Assembly and the Legislative Council, while other states have a unicameral legislature.

Vidhan Sabha – Composition: Not more than 500 and not less than 60 members who are directly elected. Some seats are reserved for SCs and STs, Term: 5 years, can be extended during Emergencies. The Speaker is the Presiding Officer of the Vidhan Sabha. They are the guardian of the House and are above petty politics.

Vidhan Parishad – It is the Upper House, similar to the Rajya Sabha, Composition: Should not be more than one-third of the membership of the Legislative Assembly, composition not final, real authority rests with the Parliament, members are part-nominated and part-elected, Term: 6 years, but not subject to dissolution, the Council elects its Chairman and Deputy Chairman.

Powers of the State Legislature – Legislative powers: Power to make laws on subjects listed in the State List and the Concurrent List, Executive powers: the Chief Minister and his Council of Ministers are individually and collectively responsible to the State Legislature, Financial powers: The Budget is passed by the State Legislature, Constituent powers: Subjects like the President's election have to be ratified by one-half of the State Legislature, Elective powers: Elected members of the Legislative Assemblies form a part of the electoral college to elect the President.

Relationship between Vidhan Sabha and Vidhan Parishad – The Vidhan Sabha occupies a predominant position.

Questions

1. With reference to the Legislative Assembly, answer the following:

- Mention three important functions of the Speaker. [3]
- Mention any three limitations on the power of the State Legislature. [3]
- Mention any four privileges enjoyed by the members individually. [4]

2. With regard to the law-making powers of the State Legislature, answer the following questions:

- Under what conditions does the Union Parliament make laws in regard to matters included in the State List? [4]
- What happens when an Ordinary Bill passed by the Legislative Assembly is turned down by the Legislative Council? [4]