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STATE LEGISLATURE

India is a Union of States. It means that there is one Union Government and several State Governments. It also means that Union (Centre) is more powerful than States. At present there are 28 States in the Indian Union and each one of them has a Legislature. You have already read in lesson no.11 about the Parliament of India, which is the law making body at the Union level. The State Legislature is a law making body at state level. In this Lesson you will read about the composition of State Legislature, qualifications and election of their members, powers and functions of the Legislature, and comparison of the powers of two Houses of the Legislature.



Objectives

After studying this lesson, you will be able to

- describe the composition of Vidhan Sabha and Vidhan Parishad;
- recall qualifications of the Members of Legislature;
- explain powers and functions of State Legislature;
- examine relationship between both the Houses; and
- highlight that Vidhan Sabha is more powerful than Vidhan Parishad.

14.1 Composition of The State Legislature

In most of the States, the Legislature consists of the Governor and the Legislative Assembly (Vidhan Sabha). This means that these States have unicameral Legislature. In a few States, there are two Houses of the Legislature namely, Legislative Assembly (Vidhan Sabha) and Legislative Council (Vidhan Parishad) besides the Governor. Where there are two Houses, the Legislature, is known as bicameral.

Five States have the bicameral, legislature. The Legislative Assembly is known as lower House or popular House. The Legislative Council is known as upper House. Just as Lok Sabha has been made powerful at the Union level, the Legislative Assembly has been made a powerful body in the States.

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14.1.1 Legislative Assembly (Vidhan Sabha)

There is a Legislative Assembly (Vidhan Sabha) in every State. It represents the people of State. The members of Vidhan Sabha are directly elected by people on the basis of universal adult franchise. They are directly elected by all adult citizens registered as voters in the State. All men and women who are 18 years of age and above are eligible to be included in the voters' List. They vote to elect members of State Assembly. Members are elected from territorial constituencies. Every State is divided into as many (single member) constituencies as the number of members to be elected. As in case of Lok Sabha, certain number of seats are reserved for Scheduled Castes, and in some States for Scheduled Tribes also. This depends on population of these weaker sections in the State.

In order to become a Member of Vidhan Sabha a person must:

- be a citizen of India;
- have attained the age of 25 years;
- his/her name must be in voters' list;
- must not hold any office of profit i.e.;
- should not be a government servant.

The number of Vidhan Sabha members cannot be more than 500 and not less than 60. However, very small States have been allowed to have lesser number of members. Thus Goa has only 40 members in its Assembly. Uttar Pradesh (is a big state even after creation of Uttaranchal from this state in 2002) has 403 seats in the Assembly.

The Governor of the State has the power to nominate one member of Anglo-Indian community if this community is not adequately represented in the House. As in case of the Lok Sabha, some seats are reserved for the members of Scheduled Castes and Schedule Tribes. The tenure of Vidhan Sabha is five years, but the Governor can dissolve it before the completion of its term on the advice of Chief Minister. It may be dissolved by the President in case of constitutional emergency proclaimed under Article 356 of the Constitution.

In case of proclamation of national emergency (under Article 352) the Parliament can extend the term of the Legislative Assemblies for a period not exceeding one year at a time.

14.1.2 Presiding Officer (The Speaker)

The members of Vidhan Sabha elect their presiding officer. The Presiding officer is known as the Speaker. The Speaker presides over the meetings of the House and conducts its proceedings. He maintains order in the House, allows the members to ask questions and speak. He puts bills and other measures to vote and announces the result of voting. The Speaker does not ordinarily vote at the time of voting. However, he may exercise casting vote in case of a tie. The Deputy Speaker presides over the meeting during the absence of the Speaker. He is also elected by the Assembly from amongst its members.

A tie means that equal numbers of members have voted in favour and against a bill or resolution. To break the tie, casting vote is exercised by the presiding officer of the Legislative Assembly.



Intext Questions 14.1

Fill in the blanks :

1. The Union of India consists of _____ States. (18, 25, 28)
2. The minimum age for being a member of Vidhan Sabha is _____ years. (21, 25, 30)
3. The Governor of a State may nominate one member of in Vidhan Sabha belonging to _____. (Scheduled Caste, Scheduled Tribe, Anglo-Indian Community)
4. The Tenure of Vidhan Sabha is _____ years. (4, 5, 6)
5. In case of tie in the House casting vote is exercised by the _____. (Governor of the State, Chief Minister, Presiding Officer of the Legislature)



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14.1.3 Legislative Council (Vidhan Parishad)

Vidhan Parishad is the upper House of the State Legislature. It is not in existence in very State. Very few States have bicameral Legislature that means having two Houses. At present five states viz. Uttar Pradesh, Bihar, Karnataka, Maharashtra and Jammu & Kashmir have Vidhan Parishad while, remaining 23 States have one House, i.e. Vidhan Sabha. Legislative Councils are legacy of the British period. The Parliament can create Vidhan Parishad in a State where it does not exist, if the Legislative Assembly of the State passes a resolution to this effect by a majority of the total membership of the Assembly and by a majority of not less than two thirds of the members of the Assembly present and voting, and sends the resolution to the Parliament. Similarly, if a State has a Council and the Assembly wants it to be abolished, it may adopt a resolution by similar majority and send it to Parliament. In this situation Parliament resolves to abolish the concerned Legislative Council. Accordingly, Councils of Punjab, Andhra Pradesh, Tamil Nadu and West Bengal were abolished.

According to the Constitution, the total number of members in the Vidhan Parishad of a State should not exceed one-third of the total number of members of Vidhan Sabha but this number should not be less than 40. The Jammu & Kashmir is an exception where Vidhan Parishad has 36 members.

In order to be a member of the Legislative Council the person concerned should

- be a citizen of India;
- have attained the age of 30 years;
- be a registered voter in the State;
- not hold any office of profit.

The Vidhan Parishad is partly elected and partly nominated. Most of the members are indirectly elected in accordance with the principle of proportional representation by means of single transferable vote system. Different categories of members represent different interests. The composition of the Legislative Council is as follows:

- i. One-third members of the Council are elected by the members of the Vidhan Sabha.



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- ii. One-third of the members of the Vidhan Parishad are elected by the electorates consisting of members of Municipalities, District Boards and other local bodies in the State;
- iii. One-twelfth members are elected by the electorate consisting of graduates in the State with a standing of three years;
- iv. One-twelfth members are elected by the electorate consisting of teachers of educational institutions within the State not lower in standard than a secondary school who have teaching experience of at least three years;
- v. The remaining, i.e. about one-sixth members are nominated by the Governor from amongst the persons having special knowledge in the sphere of literature, science, arts, co-operative movement and social service.

The Vidhan Parishad, like Rajya Sabha is a permanent House. It is never dissolved. The tenure of its members is six years. One-third of its members retire after every two years. The retiring members are eligible for re-election. In case of vacancy arising out of resignation or death by-election is held for the remaining period of such members' tenure.

14.1.4 Chairman of the Legislative Council (Presiding Officer)

The presiding officer of the Vidhan Parishad (Legislative Council) is known as the Chairman, who is elected by its members. The business of Vidhan Parishad is conducted by the Chairman. He presides over the meetings and maintains discipline and order in the House. In addition to his vote as a member, he can exercise his casting vote in case of a tie. In his absence, Deputy Chairman presides over the House. He is also elected by the members of the Parishad from amongst themselves.

14.1.5 Sessions of The State Legislature

The State Legislature meets at least twice a year and the interval between two sessions cannot be more than six months.

The Governor summons and prorogues the sessions of State Legislature. He addresses the Vidhan Sabha or both Houses (if there is bi-cameral Legislature) at the commencement of the first session after each general election and at the commencement of the first session of the year. This address reflects the policy statement of the government which is to be discussed in the Legislature, and the privileges and immunities of the members of the State Legislature are similar to that of members of Parliament.



Intext Questions 14.2

Fill in the blanks :

1. The minimum age for membership of Vidhan Parishad is _____ years. (25, 30, 35)
2. The Tenure of members of Vidhan Parishad is _____ years. (4, 5, 6)
3. One-third members of the Vidhan Parishad retire after every _____ years. (2, 4, 6)
4. The _____ is empowered to create or abolish the Vidhan Parishad.

(President, Governor, Parliament)

5. The State of _____ has bi-cameral Legislature. (Punjab, Haryana, Uttar Pradesh)

14.2 Powers and Functions of The State Legislature

14.2.1 Law Making Function

The primary function of the State Legislature, like the Union Parliament, is law-making. The State Legislature is empowered to make laws on State List and Concurrent List. The Parliament and the Legislative Assemblies have the right to make the laws on the subjects mentioned in the Concurrent List. But in case of contradiction between the Union and State law on the subject the law made by the Parliament shall prevail.

Bills are of two types-Ordinary bills and Money bills. Ordinary bills can be introduced in either of the Houses (if the State Legislature is bicameral), but Money bill is first introduced in the Vidhan Sabha. After the bill is passed by both Houses, it is sent to the Governor for his assent. The Governor can send back the bill for reconsideration. When this bill is passed again by the Legislature, the Governor has to give his assent. You have read when the Parliament is not in session and if there is a necessity of certain law, the President issues Ordinance. Similarly, the Governor can issue an Ordinance on the State subjects when legislature is not in session. The Ordinances have the force of law. The Ordinances issued are laid before the State Legislature when it reassembles. It ceases to be in operation after the expiry of six weeks, unless rejected by the Legislature earlier.

The Legislature passes a regular bill, to become a law, to replace the ordinance. This is usually done within six weeks after reassembly of Legislature.

14.2.2 Financial Powers

The State Legislature keeps control over the finances of the State. A money bill is introduced first only in the Vidhan Sabha. The money bill includes authorisation of the expenditure to be incurred by the government, imposition or abolition of taxes, borrowing, etc. The bill is introduced by a Minister on the recommendations of the Governor. The money bill cannot be introduced by a private member. The Speaker of the Vidhan Sabha certifies that a particular bill is a money bill.

After a money bill is passed by the Vidhan Sabha, it is sent to the Vidhan Parishad. It has to return this bill within 14 days with, or without, its recommendations. The Vidhan Sabha may either accept or reject its recommendations. The bill is deemed to have been passed by both Houses. After this stage, the bill is sent to the Governor for his assent. The Governor cannot withhold his assent, as money bills are introduced with his prior approval.

14.2.3 Control over the Executive

Like the Union Legislature, the State Legislature keeps control over the executive. The Council of Ministers is responsible to Vidhan Sabha collectively and remains in the office so long as it enjoys the confidence of the Vidhan Sabha. The Council is removed if the Vidhan Sabha adopts a vote of no-confidence, or when it rejects a government bill.

In addition to the no-confidence motion, the Legislature keeps checks on the government

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by asking questions and supplementary questions, moving adjournment motions and calling attention notices.

14.2.4 Electoral Functions

The elected members of the Vidhan Sabha are members of the Electoral College for the election of the President of India. Thus they have say in the election of the President of the Republic (see Lesson No. 10) The members of the Vidhan Sabha also elect members of the Rajya Sabha from their respective States. One-third members of the Vidhan Parishad (if it is in existence in the State) are also elected by the members of the Vidhan Sabha.

In all these elections, members of the Vidhan Sabha (Assembly) cast their votes in accordance with single transferable vote system.

14.2.5 Constitutional Functions

You have learnt about the procedure of amendment of the Constitution. An Amendment requires special majority of each House of the Parliament and ratification by not less than half of the States relating to Federal subjects. The resolution for the ratification is passed by State Legislatures with simple majority. However, a constitutional amendment cannot be initiated in the State Legislature.



Intext Questions 14.3

(A) Fill in the blanks :

1. State Legislature cannot make laws on the subjects listed in the _____ List. (Union, State, Concurrent).
2. Money bill is introduced in the State Legislature on the recommendation of the _____. (President, Governor, Chief Minister)
3. The Vidhan Parishad has to return the money bill within _____ days. (14, 30, 90)
4. The Council of Ministers remains in office so long as it enjoys the confidence of the _____ (Governor, Vidhan Sabha, Vidhan Parishad).

(B) Answer the following questions:

1. Who certifies a bill to be a money bill in the State?
2. Who has the power to issue an Ordinance in the State?
3. In whose election do the members of State Assembly vote?

14.3 Limitation of The Powers of the State Legislature

The powers of law-making by the Legislature are limited in the following manner:

As explained above, State Legislature can make a law on the subjects listed in the State List and also the Concurrent List. But in case, the State law on a subject in the Concurrent list is in conflict with the Union law, the law made by the Parliament shall prevail.

The Governor of the State may reserve his assent to a bill passed by the State Legislature



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and send it for the consideration of the President. It is compulsory in case the powers of the High Court are being curtailed. In some other cases, prior approval of the President for introducing the bill in the Legislature is essential such as, for imposition of restriction on the freedom of trade and commerce within the State or with other States.

The Parliament has the complete control on the entire State List at the time when the national emergency has been declared (under Art. 352), although the State Legislature remains in existence and continues to perform its functions. In case of breakdown of constitutional machinery (under Art. 356) after fall of popular Government in the State, the President's rule is imposed. The Parliament then acquires the power to make laws for that State, for the period of constitutional emergency.

The Parliament can also make laws on a subject of the State list in order to carry on its international responsibility. If the Rajya Sabha adopts a resolution by two-thirds majority to this effect, on its own or at the request of two or more States, the Parliament can enact laws on a specified subject of the State list.

Fundamental rights also impose limitations on the powers of the State Legislature. It cannot make laws which violate the rights of the people. Any law passed by the State Legislature can be declared void by the High Court or Supreme Court if it is found unconstitutional as violate of the fundamental rights.

14.4 Comparison of the two Houses of the State Legislature

Legislative Assembly (Vidhan Sabha) like the Lok Sabha, occupies a dominant position. Legislative Council (Vidhan Parishad) enjoys much less powers as compared to the powers of Vidhan Sabha even in relation to ordinary bills. The Rajya Sabha at the Centre enjoys equal powers in consideration of bills other than money bills; but Vidhan Parishad enjoys much lesser powers as compared to the Rajya Sabha.

The relative position of the Vidhan Sabha and Vidhan Parishad is as under:

14.4.1 In Relation to Ordinary Bills

In case of the Parliament, if there is disagreement between the two Houses over an ordinary bill, the President summons a joint sitting of both the Houses and if the bill is passed there by the majority of votes, the bill is taken as passed by both Houses of the Parliament. But this provision of the joint sitting does not exist in the States.

Although an ordinary bill can originate in either House of the State Legislature, yet both Houses have unequal powers. If a bill is passed in the Vidhan Sabha, it is transmitted to the Vidhan Parishad for consideration. When it is passed by Vidhan Parishad without any amendment, the bill is sent to the Governor for his assent. In case, the bill is (a) rejected by the Parishad or (b) more than three months elapsed without the bill being passed by the Parishad, or (c) bill is passed with amendment to which the Vidhan Sabha does not agree, the Vidhan Sabha may pass the bill again in the same or in the subsequent session. After that the bill is again sent to the Vidhan Parishad. If the Vidhan Parishad does not return the bill within a period of one month, the bill is deemed to have been passed by both Houses of the State Legislature and is sent to Governor for his assent. Thus the Vidhan Parishad can delay the bill for a maximum period of four months. On the other hand, if the bill is first passed by the Vidhan Parishad and rejected by the Vidhan Sabha, the bill is rejected and cannot become a law.

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14.4.2 In Relation to Money Bills

Like in the Lok Sabha, money bill is introduced first in Vidhan Sabha. It cannot be initiated in the Vidhan Parishad. The Speaker of the Vidhan Sabha certifies whether a particular bill is a money bill. After the bill is passed in the Vidhan Sabha, it is sent to the Vidhan Parishad. The Vidhan Parishad gets 14 days time to consider the bill. If the Parishad passes the bill, it is sent to the Governor for his assent. If the bill is not returned by the Vidhan Parishad within 14 days, it is deemed to have been passed by the Vidhan Parishad. If it suggests certain changes in the bill and sends to Vidhan Sabha, the Vidhan Sabha may accept or reject the changes suggested by the Parishad. The bill is then sent to the Governor for his assent who is bound to give his assent.

14.4.3 Control Over the Executive

The Council of Ministers of the State is responsible to the Vidhan Sabha only and remains in the office so long as it enjoys the confidence of the Assembly (Vidhan Sabha). Although members in the Vidhan Parishad can ask questions, introduce adjournment motions, calling attention notices, etc. yet the Vidhan Parishad cannot remove the government.

14.4.4 Electoral Functions

Only the elected members of the Vidhan Sabha are entitled to participate in the election of the President of India. The members of the Vidhan Sabha do so in their capacity as the members of the Electoral College. But the members of the Vidhan Parishad are not entitled to vote in the election of the President. Members of the Rajya Sabha from each State are elected only by the members of Assembly and not of the Council.

The above discussion makes it clear that the Vidhan Parishad is powerless and non-influential House. It has become a secondary House. Thus many States prefer to have unicameral Legislature. But the Vidhan Parishad is not superfluous. It serves as a check on hasty Legislation made by Vidhan Sabha by highlighting the short bills coming or defects of the bill. It lessens the burden of the Vidhan Sabha, as some bill are initiated in the Vidhan Parishad.

**What You Have Learnt**

The State Legislature consists of the Governor, the Legislative Council (Vidhan Parishad) and the Legislative Assembly (Vidhan Sabha). In most of the States there are unicameral Legislatures. These State Legislatures consist of the Governor and the Legislative Assembly. The Parliament is empowered to set up or abolish the Vidhan Parishad in a State. The Vidhan Parishad is partly indirectly elected and partly nominated. It is permanent House like the Rajya Sabha. It is never dissolved. The tenure of its members is six year. One third members retire after every two years.

The minimum age for the membership of the Vidhan Parishad is 30 years, it is 25 years for Vidhan Sabha. Member of the Vidhan Sabha are directly elected by the people of the State on the basis of universal adult franchise. Its tenure is five years, but the Governor can dissolve it earlier on the advice of the Chief Minister. In case of constitutional breakdown it may be dissolved by the President. The powers of the State Legislature are law-making, control over the finances, and the executive, electoral functions and constitutional functions.

The Vidhan Sabha occupies a dominant position. The Vidhan Parishad enjoys less powers as compared to the Vidhan Sabha in relation to ordinary bills, money bills, control over the executive and powers in regard to the election of the President, etc.

**Terminal Exercises**

1. Describe the composition of Vidhan Sabha (Legislative Assembly)
2. Describe the powers and functions of the State Legislature.
3. Mention the limitations of the powers of the State Legislature.

**Answers to Intext Questions****14.1**

1. 28 States
2. 25 years
3. Anglo-Indian
4. 5 year
5. Presiding Officer of the Legislature

14.2

1. 30 years
2. 6 years
3. 2 years
4. Parliament
5. Uttar Pradesh

14.3

- (A)
1. Union
 2. Governor
 3. 14 days
 4. Vidhan Sabha
- (B)
1. Speaker of the State Assembly
 2. State Governor
 3. The President, members of Rajya Sabha and 1/3 members of Legislative Council.

Hints for Terminal Exercises

1. Refer to Section 14.1.1
2. Refer to Section 14.2
3. Refer to Section 14.3

**Notes**