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Indian Constitution: Chief Minister & Council of Ministers

Chief Minister:

- The Chief Minister is the real executive authority (de facto executive). He is the head of the government.
- The total strength of the number of ministers, including the C.M, in the state's CoM, should not exceed 15 per cent of the total strength of the legislative assembly of that state. However, the number of ministers, including the C.M, in a state should also not be less than 12. This provision was added by the 91st Amendment Act of 2003.
- A member of either House of state legislature belonging to any political party who is disqualified on the ground of defection shall also be disqualified to be appointed as a minister. The provision was also added by the 91st Amendment Act of 2003.

The State Legislature

Organization of the State Legislature

- Most of the states in India have a Unicameral Legislature. Six States have Bicameral Legislature, that is-Telangana, Andhra Pradesh, Maharashtra, Bihar, U.P and Karnataka.
- The Legislative Council (Vidhan Parishad) is the upper house (second chamber or house of elders), while the Legislative Assembly (Vidhan Sabha) is the lower house (first chamber or popular house). Delhi and Puducherry are the only two UTs that have a Legislative Assembly.

Composition of the State Legislature

- The legislative assembly consists of representatives directly elected by the people on the basis
- of universal adult franchise. Its maximum strength is fixed at 500 and minimum strength at 60 depending on the population size of the state. However, in the case of Sikkim it is 32; and Goa and Mizoram it's 40.
- The members of the Legislative council are indirectly elected. The maximum strength of the legislative council is fixed at 1/3rd of the total strength of the corresponding assembly and the minimum strength is fixed at 40. But an exception being Jammu and Kashmir has 36 members.
- Manner of Election Of the total number of members of a legislative council:
 - 1/3 are elected by the members of local bodies in the state such as municipalities etc.,

- 1/12 are elected by graduates of three years standing and residing within the state,
- 1/12 are elected by teachers of three years standing in the state, not lower in standard than secondary school,
- 1/3 are elected by the members of the legislative assembly of the state from amongst persons who are not members of the assembly, and
- The remainder is nominated by the governor from amongst the persons who have special knowledge or practical experience of literature, science, art, cooperative movement, and social service.

Thus, 5/6 of the total number of members of a legislative council is indirectly nominated by the governor. The members are elected in accordance with the system of proportional representation by means of a single transferable vote.

Duration of the two Houses

- Analogous to the Lok Sabha, the legislative assembly is also not a permanent chamber. The term of the assembly is five years from the date of its first meeting after the general elections.
- Analogous to the Rajya Sabha, the legislative council is a continuing chamber, that is, it is a permanent body and is not subject to dissolution. But, one-third of its members retire on the expiration of every second year.

Membership of the State Legislature

- The Constitution lays down the following qualifications for a person to be chosen as a member of the State legislature.
 - Citizen of India.
 - He must be not less than 30 years of age in the case of the legislative council and not less than 25 years of age in the case of the legislative assembly.
- He should not have been found guilty as per the provisions of RPA, 1951. In defection case also a member is liable to be disqualified as per the Anti-Defection Act (10th Schedule).
- Also, he should not be of unsound mind, he should not hold any office of profit; he isn't declared an undischarged insolvent etc.

Presiding Officers of State Legislature

- Each House of the state legislature has its own presiding officer. There is a Speaker and a Deputy Speaker for the legislative assembly and Chairman and a Deputy Chairman for

the legislative council. A panel of chairmen for the assembly and a panel of vice-chairman for the council are also appointed.

- The Speaker is elected by the assembly itself from amongst its members.
- Like the Speaker, the Deputy Speaker is also elected by the assembly itself from amongst its members. He is elected after the election of the Speaker has taken place.
- The Chairman is elected by the council itself from amongst its members.
- The Speaker decides whether a bill is a Money Bill or not and his decision on this question is final.

Important points related to the State Legislature

- The maximum gap between the two sessions of the state legislature cannot be more than six months, that is, the state legislature should meet at least twice a year.
- Quorum is the minimum number of members required to be present in the House before it can transact any business. Either its 10 or 1/10th of the total number of members in that particular House (including the presiding officer).
- In addition to the members of a House, every minister and the advocate general of the state have the right to speak and take part in the proceedings of either House or any of its committees of which he is named a member, but the Advocate General can't vote.
- A Money Bill cannot be introduced in the legislative council. It can be introduced in the legislative assembly only and that too on the recommendation of the governor. Every such bill is considered to be a government bill and can be introduced only by a minister.



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