

## General Studies-2; Topic– Parliament and State Legislatures – structure, functioning, conduct of business, powers & privileges

### Odisha plans for a Legislative Council

#### 1) Introduction

- Odisha wants to join the group of States that have an Upper House.
- The State Cabinet has approved a 49-member Legislative Council.
- It has accepted the report of a committee set up in 2015.

#### 2) Creating a Legislative Council

- Our constitution does not force a bicameral legislature on states. It gives states the option of having a second House.
- The process of creating an Upper House is lengthy.
- Under Article 169 of the constitution, Parliament may by law create or abolish the second chamber in a state if the Legislative Assembly of that state passes a resolution to that effect by a special majority.
- As per article 171 (1), the total number of members in the legislative council of a state shall not exceed one third of the total number of the members in the legislative Assembly of that state.
- Also the total number of members in the legislative council of a state shall in no case be less than 40.
- As of today, seven states have Legislative Councils. These are Jammu and Kashmir, Bihar, Uttar Pradesh, Maharashtra, Karnataka, Andhra Pradesh and Telangana.

#### 3) Advantages of having Legislative Council

- It widens the space for representative democracy.
- The Upper house act as a check on hasty actions by Legislative Assembly.
- They provide a forum for academicians and intellectuals to contribute to the legislative process.
- Academicians and intellectuals may not be suitable for the nature of electoral politics in Legislative Assembly.
- It provides a mechanism for a more serious appraisal of legislation.
- It would allow for more debate and sharing of work between the Houses.

#### 4) Criticism

- Opinion in the Constituent Assembly was divided on the question of having a Legislative Council.
- Legislative Councils are subject to varied discussions around their creation, revival and abolishment.
- If there was any real benefit in having a Legislative Council, all States in the country would have a second chamber.
- Having only seven such Councils suggests the lack of any real advantage, apart from the absence of a broad political consensus on the issue.
- Two Bills introduced in the Rajya Sabha in 2013 for establishing Legislative Councils in Assam and Rajasthan are still pending, indicating the lack of support for such a move.
- The forum is likely to be used to accommodate party functionaries who fail to get elected.
- Experience suggests that even Chief Ministers choose the Legislative Council route.
- What is the need of another house when the assembly could not function properly in many cases.
- It is also an unnecessary drain on the exchequer.
- They can delay progressive legislations.

- A graduate degree is no guarantee of any real intellectual help.
- The creation and abolition of the Councils at the whims of parties in power especially in Tamil Nadu shows the lack of wider consultations across political spectrum.

### 5) Do Rajya Sabha and Legislative Councils have similar powers?

- The constitution gives Councils limited legislative powers.
- Unlike Rajya Sabha which has substantial powers to shape non-financial legislation, Legislative Councils lack the constitutional mandate to do so.
- Legislative Assemblies have the power to override suggestions/amendments made by the Council.
- Also, while Rajya Sabha MPs can vote in the election of the President and Vice-President, members of Legislative Councils can't.
- MLCs also can't vote in the elections of Rajya Sabha members.

### 6) Way Forward

- A parliamentary committee recommended a national policy on having an Upper House in State legislatures to be framed by the Union government.
- It also favoured a review of the provision in the law for Councils to have seats for graduates and teachers.
- 2nd ARC recommended that role of teachers and graduates should be decreased or done away with and more say should be given to local bodies in order to strengthen the voice of local bodies.
- Odisha's proposal may give the country at large an opportunity to evolve a national consensus on Legislative Councils.

