Constitutional System In Switzerland: Notes for UPSC

Switzerland has one of the most unique Constitutional Systems in the world . This article will help you understand about the the National Council, the Council of States and elaborate upon how the legislation process in Switzerland functions

Aspirants would find this article very helpful while preparing for the IAS Exam.

The Parliament of Switzerland

Switzerland is a federal state consisting of 26 cantons (member states). The Government, parliament and courts are organized on three levels: federal, cantonal and communal. The federal constitution defines the areas where federal legislation defines standardised solutions, sets guidelines only or leaves things to cantonal autonomy.

Switzerland has - like most other democratic nations - a two-chamber parliament on national level:

The National Council, consisting of 200 members elected under the Proportional Representation System while the Council of States (46 members) represents the cantons.

Both chambers of parliament form several commissions - some to control the work of the administration, some to debate new laws in depth. Specialists in fields like health, military and many more are elected to represent their party in these commissions.

All parties of minimal size (5 members of parliament) are represented at least in a few commissions and smaller parties may join to form a fraction giving them the right to work (and have influence) in commissions.

National Council

The National Council is Switzerland's "house of representatives". The 200 members are elected every four years according to a refined proportional representation system in principle, but since every canton forms a constituency and cantons have extremely different numbers of inhabitants, five smaller cantons may only send one deputy to the national council, which results in majority elections for these deputies.

Council of States

The Council of States represents the cantons (like the U.S. senate). Most cantons may send two members. For historical reasons, six cantons are considered half-cantons and may send only, giving a total of 46 members. The rules how to elect the members are made under cantonal legislation, so they may differ from canton to canton. A majority of cantons does elect their members of the Council of States every four years on the same day as the members of the National Council, however.

The National Assembly

While new or modified laws are to be discussed in both chambers of parliament seperately, they unite in common sessions on special occasions, namely for the purpose of elections (government members, judges of the federal court).

Switzerland's Legislation Process

In Switzerland, laws are created in four steps:

1. Draft by the administration

2. Consultation of federal states, political parties, entrepreneurs, unions and other interested groups

3. Parliamentary debate and final version passed

4. Possibility of a referendum.

Normally they are made public so that the electorate is informed what is going on and what the pros and cons of the new law are. If a strong party or lobby threatens to call for a referendum in a later stage if their demands are not met, a new law may be completely reworked by the administration after the consultation. Commissions of both chambers of parliament study and discuss the proposal as well as the arguments put forward during consultation in detail behind closed doors and prepare a recommendation to their chamber. Sometimes the commissions find a compromise, sometimes they don't.

A speaker for the commission (or one each for the majority and the minority of the commission) presents the new law to the parliament chamber to start the public debate. Both chambers discuss new laws separately. Sometimes they have to repeat a discussion if the other chamber has passed a different version of a law. Which chamber is discussing a new proposal first is not determined by the constitution but results from the time the chambers spend discussing each law.

If the National Council and Council of States pass the same version of a change to the constitution or decide to join an international union (like the EU or NATO) a date will be fixed for the mandatory referendum. In case of all other laws and international treaties citizens have three months time to collect 50,000 signatures among the electorate to demand for a referendum. The result of a referendum is binding. The constitution may only be changed if both a majority of the votes and a majority of the results in the cantons favour it. Thus, smaller cantons may block changes to the constitution with relatively few votes.