

# Session 5: Union Executive

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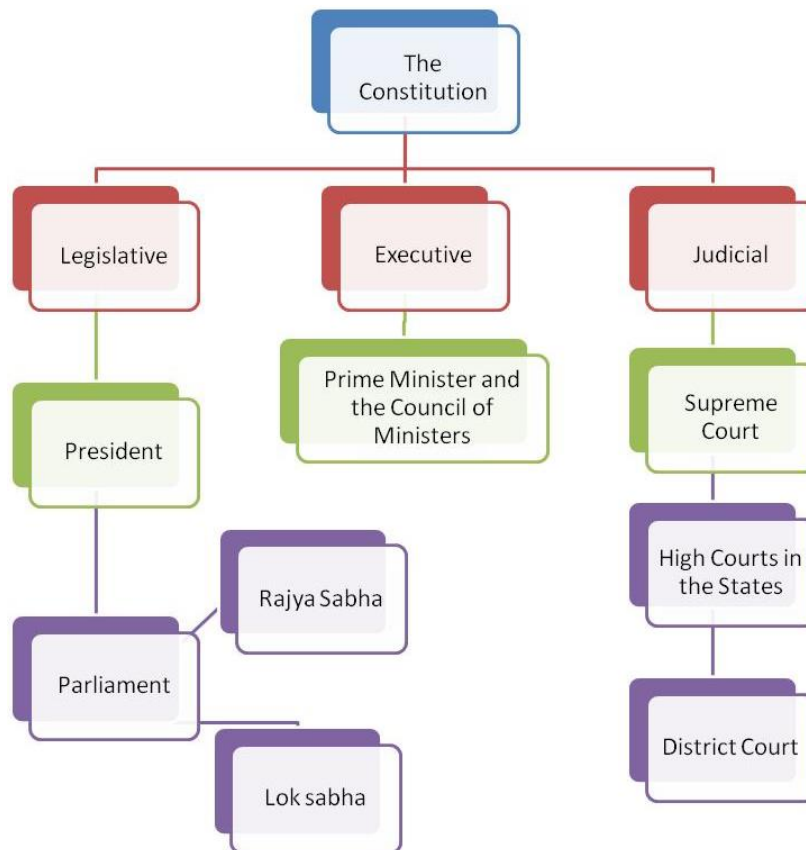
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## Parliamentary system of governance

**Government:** Government is a body of elected people (in democracy) who govern.

Organs of the government

- **The legislature** – Loka Sabha and Rajya Sabha at the union government
- **Executive** : President is the head of government and has the highest authority. But prime minister and council of ministers are the real executives
- **Judiciary**: It is independent and not affected by legislature or executive. It protects people's rights and interprets laws.



### The President

- The president is the constitutional head of the state.
- First citizen of the country
- S/he exercises **executive power**.
- His/her power extends both to the **Union** and the **state governments**.

## Qualifications prescribed to become the President of India

- There are three basic eligibility criteria for getting elected as a president:
  - The person must be a **citizen of India**.
  - S/he must have completed **35 years** of age,
  - S/he must be qualified to become the member of the Lok Sabha

A person shall **not be eligible** for election as President **if he/she holds any office of profit under the Government of India or the Government of any State** or under any local or other authority subject to the control of any of the said Governments.

## Electoral college for electing the President.

The president is elected in the indirect by certain group of elected representatives known as electoral college.

### Electoral college consists of

1. Lok Sabha
2. Rajya Sabha
3. State Assemblies of states (Legislative councils have no role)
4. Legislative assembly of Puducherry Union Territory

### Following members have NO ROLE in the election of the President.

1. Nominated members of Rajya Sabha
2. Nominated members of State Legislative assemblies & Union Territories
3. Legislative councils of bicameral Legislature

### How is vote-value calculated?

- The value of a vote cast by the MP and MLAs is calculated based on the population count of the 1961 census (Not current census), in accordance with the 84th amendment.
- The value of an MLA's vote is calculated by dividing the total population of the state or UT by 1000 multiplied by the total number of the elected members of the state legislative assembly.
- The value of an MP's vote is determined by dividing the sum of the vote value of all the elected MLAs by the sum of the elected members of both Rajya Sabha and Lok Sabha.

### Terms of office of the president

- The president holds office for a **term of five years**, which starts from the day of his/her taking the oath of office.
- **Oath** of office is administered by the **Chief Justice of India**
- As per the provisions of our Constitution, there is **no limitation on the number of terms** for which s/he can hold office.

- But as a matter of **convention, no president contests for a third term.** (Babu Rajendra Prasad was an exception. He held the office three times.)
- S/he is **eligible for re-election** and **can also resign** before the term of five years by submitting a resignation letter to the vice-president.
- In case of resignation, He/She **gives resignation letter to the Vice President** who takes over the charge of the President.
- In case president resigns/dies, new president must be elected within 6 months.
- S/he can also be removed from office by the process of **Impeachment.**

### **Impeachment procedure to remove a president – Article 61**

- Only condition for impeachment of the President is the **Violation of the Constitution**
- The impeachment is a Quasi-judicial process as it done by the Parliament. (Other than a court)
- A resolution for impeachment is moved in either houses of the parliament (The impeachment charges are signed by minimum 1/4<sup>th</sup> members of the house)
- Both houses should investigate the charge pass the impeachment motion by 2/3<sup>rd</sup> majority separately.
- The president will have the right to appear and defend himself or being represented.

### **Power and Position of President of India**

1. Executive powers
2. Legislative powers
3. Judicial powers
4. Financial powers
5. Diplomatic Powers
6. Military Powers
7. Emergency Powers

## **Executive powers**

- **Executive Powers:** Article 53 of the Constitution states that the executive power of the Union is vested in the president.
- S/he is the **highest executive** of the state.
- S/he appoints the prime minister and, on the latter's advice, the council of ministers. The president can, on the advice of the prime minister, remove a minister from his/her post.
- S/he can seek any information from the government. Besides, s/he also appoints the auditor general, the attorney general, the chief election commissioner and the chief vigilance commissioners of India.
- The **judges of the Supreme Court and high courts are appointed** by the president. The members of Union Public Service Commission, National Human Rights Commission and Backward Class Commission are also appointed by the President.

## **Legislative powers**

- The president of India has powers to summon and prorogue Parliament and dissolve the Lok Sabha.
- No Bill becomes a law without his/her assent.
- Money Bills are introduced in the Lok Sabha with the president's consent. The consent of the president is essential to introduce Bills relating to the formation of new states, changing boundaries, etc.
- S/he has the power to enact a legal order (Ordinance) when the parliament is not in session.
- S/he also has the power to nominate two members of Anglo-Indian community to Lok Sabha and 12 members to the Rajya Sabha

## **Judicial Powers**

- The president has the power to grant pardon or reduce the punishment sentenced by the courts.
- S/he is not answerable to any court for the exercise of the powers which includes duties of his/her office.
- S/He has the power to seek advice from the Supreme Court on constitutional matters but is not bound to follow them. (Article 143)

## Financial Powers

- A money Bill cannot be introduced in Parliament without the consent of the president.
- A statement of the estimated income and expenditure of the Government of India, known as budget, is placed before Parliament with the consent of the president.
- The president appoints the members of the Finance Commission and Planning Commission

## Diplomatic Powers

- The president has the power to appoint ambassadors who represent our country abroad.
- S/he receives ambassadors, high commissioners, and diplomatic envoys from other countries. S/he represents the country in international forums and affairs.
- All treaties and international agreements are concluded in the name of the president.

## Military Powers

- The president is the supreme commander of the defense forces.
- S/he has the power to declare war or peace with the approval of the Cabinet.
- S/he appoints the chiefs to the defense wings, i.e., general, admiral, air chief marshal and other high posts.

## Emergency Powers

- The president is vested with emergency powers. S/he can declare three kinds of emergencies: National emergency, state emergency and financial emergency.
- Under Article 352, the president, on the recommendation of the Union Cabinet, can declare national emergency if there is a threat to India's security from external attack or aggression.

## Veto Powers of the president

The president can prevent a legislative by using his veto power. Following are the veto power available to the President.

- **Absolute Veto:** The power of the President to withhold the assent to the bill is termed as his absolute veto. The bill never sees the day of light (uses this in case of private member bill, or cabinet resigns before he could give assent to the bill)
- **Suspensive Veto:** The power of the President to return the bill to the Parliament with or without consideration is called suspensive veto. (Returns bill for reconsideration but has to give assent if the parliament re-sends the bill. Can not be used for money bills)
- **Pocket veto:** The power of the President to not act upon the bill is termed as a pocket veto. (Constitution does not specify any time limit for the president, so keeps pending: Not accepting, not rejecting or not sending for reconsideration. President Zail Singh used in 1986)

## **Power of the President to pardon sentences – Article 72**

- Under **Article 72 of the Constitution**, the President shall have the power to grant pardons, reprieves, respites or remissions of punishment.
- or to suspend, remit or commute the sentence of any person convicted of any offence where the sentence is a sentence of death.
- This power extends to sentences through Court Marshal also.
- **Limitation:** President has to act in this matter on the advice of the council of ministers.

(Note: Under article 161, the Governor also has similar powers. But that does not include sentences of Court Marshall or Death sentence)

## **Article 340**

- **Article 340** empowers the President to appoint a commission to investigate the condition of backward classes in general and suggest ameliorative measures.

## **The Vice-President**

- The vice-president is elected by an electoral college consisting of the members of both Houses of Parliament.
- The term of office of the vice-president is five years.
- The normal function of the vice-president is to act as the chairperson of the Rajya Sabha.
- S/he can take over the office of the president in the case of the death, resignation or removal of the president

## **The Prime Minister**

- As per the Indian constitution, the president is the head of the state, but the prime minister is the head of the government.
- The real executive powers are vested in the prime minister. The success and the credit of a government largely depend upon the prime minister.

## **Appointment of prime minister**

- The prime minister is the **leader of the majority party of the Lok Sabha**. S/he is appointed by the president.

## **The Powers and Functions of the Prime Minister**

- The prime minister is the link between the Cabinet and the president.
- The council of ministers is appointed by the president on the advice of the prime minister.
- On the advice of the prime minister, the president summons and prorogates Parliament and dissolves the Lok Sabha.
- S/he is mainly responsible for forming the Cabinet.
- S/he presides over Cabinet meetings.
- S/he allots the portfolios of the council of ministers.
- The president removes the ministers from the council on the recommendation of the prime minister.
- All the important policies and decisions are announced by the prime minister, The prime minister coordinates the work of different departments and supervises their work to bring efficiency in administration.
- S/he recommends the names of persons to be appointed to the highest constitutional positions to the president,
- S/he also represents the country at international conferences.

## **The Council of Minister**

- The prime minister is guided and assisted by a team of ministers called the council ministers. The prime minister is free to select any member of Parliament to be a minister and recommend such names to the president of India.
- If the person chosen for the post of a minister is not a member of Parliament, he must get elected to either of House of Parliament within the next six months.
- Ministers have individual responsibilities relating to their portfolios or departments and collective responsibilities as members of the council of ministers.
- The prime minister has the powers to allot and change the portfolios of ministers.
- All ministers do not belong to the same rank. Usually, there are three categories of ministers:
  - Cabinet ministers,
  - ministers of state
  - and deputy ministers.
- Cabinet ministers are the members of the Cabinet. A Cabinet is an inner body within the council of ministers. Important decisions and policies of the government are taken by the Cabinet.
- State ministers, and deputy ministers do not attend the cabinet meetings, unless they are invited to do so.



## **Leader of opposition**

### **Role of the Leader of the Opposition in the Parliament**

Both Houses of Parliament have a Leader of the Opposition, who is chosen from the largest opposition party. The position is recognized by the Chairman of the Rajya Sabha and the Speaker of the Lok Sabha. The Leader of the Opposition is accorded certain privileges including a separate room in Parliament with Secretariat and other facilities.

- The incumbent has to offer constructive criticism of government policies.
- He/she has to ensure that the House proceeds expeditiously and holds adequate debate on pressing issues.
- The Leader of the Opposition is expected to apprise the government of the party's stand on certain legislations even before the Bill is tabled in parliament. This gives government the scope for considering the suggestions and work towards suggested amendments.