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# EXECUTIVE OF THE UNION

## Introduction

- Article 74 (1) of the Indian Constitution states that “there shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President who shall in the exercise of his functions, act in accordance with such advice.”
- The President has a wide range of power including executive, legislative, judicial, and emergency powers. However, in a parliamentary system (e.g. India), these powers are in reality used by the President only on the advice of the Council of Ministers.
- The Prime Minister and the Council of Ministers have support of the majority in the Lok Sabha and they are the real executive.
- The President is the formal head of the government.
- The Prime Minister is obliged to furnish all the information that the President may call for.
- The Council of Ministers is headed by the Prime Minister.
- In the parliamentary form of executive, it is essential that the Prime Minister has the support of the majority in the Lok Sabha. And the moment the Prime Minister loses this support of the majority; he or she loses the office.
- In case no party is in majority, a few parties can form government ‘**in coalition.**’
- A Prime Minister has to be a Member of Parliament (MP); however, if someone becomes the Prime Minister without being an MP; in such a case, he or she has to get elected to the Parliament within **six** months of period.
- The Council of Ministers constitutes not more than 15 percent of a total number of members of the House of the People (91st Amendment).
- Persons selected by the Union Public Service Commission for Indian Administrative Service (IAS) and Indian Police Service (IPS) constitute the backbone of the higher level bureaucracy in the States.

## President

- The Union executive consists of the President, the Vice-President, the Prime Minister, the council of ministers and the attorney general of India.
- The **President** is the head of the Indian State. He is the **supreme commander of the armed forces.**
- He is the **First Citizen of India** and acts as the symbol of Unity, Integrity and Solidarity of the Nation.
- According to **Article 53** of the constitution, the **executive power of the Union shall be vested in the President** which shall be exercised by him directly or through officers subordinate to him in accordance with Constitution.
- A **person to be eligible for election as President** should fulfill the following qualifications:
  - He should be a citizen of India.
  - He should have completed 35 years of age.
  - He should be qualified for election as a member of the Lok Sabha.
  - He should not hold any office of profit under the Union government or any state government or any local authority or any other public authority.

- The President is elected by an electoral college in accordance with the **system of proportional representation** by means of **single transferable vote**.
- The President is elected not directly by the people but by members of electoral college consisting of:
  - The elected members of both the Houses of Parliament;
  - The elected members of the legislative assemblies of the states;
  - The elected members of the legislative assemblies of the Union Territories of Delhi and Puducherry.
- The President holds office for a **term of five years**.
- The **oath of office to the President** is administered by the **Chief Justice of India** and in his absence in the presence of the **senior most judge of the Supreme Court**.
- The **President can resign** from his office at any time by addressing the **resignation letter to the Vice- President**.
- When a **vacancy occurs in the office of the President** due to his resignation, removal, death or otherwise, the **Vice-President acts as the President** until a new President is elected.
- In case the office of **Vice-President** is **vacant**, the **Chief Justice of India** or if his office is also vacant, the **senior most judge of the Supreme Court acts as the President** or discharges the functions of the President.
- He can declare war or conclude peace, subject to the approval of the Parliament.
- **Article 123** of the Constitution empowers the President to promulgate ordinances during the recess of Parliament.
- The **President** has been made only a **nominal Executive**, the real executive being the council of ministers headed by the prime minister.

## Functions And Powers of the President

### Executive Powers

- Article 77 requires that every executive action of the Union shall be taken in the name of the President.
- He appoints the Prime Minister and the other members of the Council of Ministers, distributing portfolios to them on the advice of the Prime Minister.
- He is **responsible** for making a wide **variety of appointments**. These include the appointment of Governors of States, the Chief Justice and other Judges of the Supreme Court and high Courts, the Attorney General, the Comptroller and Auditor General, the Chief Election Commissioner and other Election Commissioners the Chairman and other Members of the Union Public Service Commission, Ambassadors and High Commissioners to other countries.
- He can declare any area as scheduled area and has powers with respect to the administration of scheduled areas and tribal areas.

### Legislative Powers

- He inaugurates the session of the Parliament by addressing it after the general election and also at the beginning of the first session each year.

- He may send messages to either House of the Parliament with respect to a bill pending in the House.
- A bill passed by the Parliament can become an act only if it receives the assent of the President.
- President terminates the sessions of both or any of the Houses of Parliament. He can even dissolve the Lok Sabha before the expiry of the term of the House.
- He nominates 12 persons who are eminent in literature, science, sports, art and social service to the Rajya Sabha. He can also nominate two persons belonging to Anglo-Indian Community to the Lok Sabha.
- He can promulgate ordinances when the Parliament is not in session. These ordinances must be approved by the Parliament within six weeks from its reassembly. He can also withdraw an ordinance at any time.

### **Financial Power**

- Annual Budget of the Central Government is presented before the Lok Sabha by the Union Finance Minister only with the permission of the President. He causes to be laid before the Parliament the annual financial statement (the Union Budget).
- Money bills can be introduced in the Parliament only with his prior recommendation.
- He constitutes a finance commission after every five years.
- The Constitution of India places the Contingency Fund of India at the disposal of the President. No demand for a grant can be made except on his recommendation. He can make advances out of the contingency fund of India to meet any unexpected expenditure.

### **Judicial Powers**

- Article 72 confers on the President power to grant pardons, reprieves, respites or remissions of punishment, or to commute the sentence of any person convicted of an offence.
- He appoints the Chief Justice and the judges of Supreme Court and high courts.

### **Military Powers**

- Article 53(2) lays down that “the supreme command of the Defence Force of the Union shall be vested in the President and the exercise thereof shall be regulated by law”.

### **Diplomatic Powers**

- The international treaties and agreements are negotiated and concluded on behalf of the President.
- The President appoints Indian diplomats to other countries and receives foreign diplomats posted to India.

### **Emergency Powers**

- The President has been empowered by the Constitution to proclaim National Emergency under Article 352, State Emergency under Article 356 and Financial Emergency under Article 360.
- The emergency powers of the President of India are specified in Part XVIII of the Indian Constitution.

## Removal of the President

- Article 61 of the Constitution lays down a detailed procedure for the impeachment of the President.
- The impeachment charges can be initiated by **either House of Parliament**. These charges should be signed by one-fourth members of the House (that framed the charges), and a **14 days' notice** should be given to the President.

## Vice-President

- Article 63 of the constitution provides for a Vice President of India. This office has been created to maintain the political continuity of the state.
- The Vice-President of India occupies the second highest office in the country.
- Qualification for the election as Vice President:
  - He should be a citizen of India.
  - He must have completed the age of 35 years.
  - He must not hold any office of profit under the Union, State or local Government.
  - He should have the other qualifications required to become a member of the Rajya Sabha.
- The Vice-President of India is elected by the elected members of both Houses of Parliament by secret ballot on the basis of proportional representation system, by means of the single transferable vote.
- The term of office of the Vice President is five years. He is eligible for re-election.
- The Vice-President is the ex-officio Chairman of the Rajya Sabha (Article 64 of the Indian Constitution). He presides over the meetings of the Rajya Sabha.
- He acts as President when a vacancy occurs in the office of the President due to his resignation, removal, and death or otherwise.

## Prime Minister and Council of Ministers

- Article 75 says only that the Prime Minister shall be appointed by the president.
- Prime Minister may be a member of any of the two Houses of parliament Lok Sabha or Rajya Sabha.
- Morarji Desai, Charan Singh, V.P. Singh, P.V. Narasimha Rao, H.D. Deve Gowda and Narendra Modi— became Prime Ministers after being Chief Ministers of their respective States.
- The **council of ministers headed by the prime minister**.
- The Prime Minister is appointed by the President, while the other ministers are appointed by the President on the advice of the Prime Minister.
- A person who is **not a member of the Parliament can be appointed as a minister** but he has to get himself elected to the Parliament within **six months**.
- A minister who is a member of one House of Parliament has the right to speak and to take part in the proceedings of the other House also, but he **can vote only in the House** of which he is a member.

- The total number of ministers, including the Prime Minister, in the **Council of Ministers shall not exceed 15% of the total strength of the Lok Sabha**. This provision was added by the **91st Amendment Act of 2003**.
- **Article 75** clearly states that the council of ministers is collectively responsible to the **Lok Sabha**.
- All the Ministers collectively in a group are officially called as Council of Ministers; however, the Ministers have different ranks and portfolio.
- The different categories of the ministers are –
  - **Cabinet Ministers** are the most experienced and top-level leaders of the ruling party. They usually hold the charge of the major ministries like Finance, Defense, Home, External Affairs, Food and Supply, etc. The decisions of the government are generally taken up in the meeting of the Cabinet Ministers headed by the Prime Minister. Thus, the Cabinet is the core group of ministers within the Council of Ministers.
  - **Ministers of State** with independent charge usually hold independent charge of smaller Ministries. They generally do not participate in the Cabinet meetings but may participate when specially invited.
  - Ministers of State are generally appointed to assist Cabinet Ministers.





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