

Session6

Roles and positions of President, PM, Council of union ministers Cabinet and Central Secretariat

The president of India

- To preserve, protect and defend the constitution and the law of India.
- The common head of all independent constitutional entities.
- There is no bar on the actions of the President to contest in the court of law.
- Facilitates the law-making process per the constitution.
- Summons both the Houses of the Parliament and prorogues them.
- Can dissolve the Lok Sabha.
- Inaugurates Parliament by addressing it after the general elections and also at the beginning of the first session every year.
- All bills passed by the Parliament can become laws only after receiving the assent of the President.
- President shall declare either that he assents to the Bill, or that he withholds his assent from it.
- President to ensure compliance with the constitution in performing his duties.
- Appoints the Chief Justice of the Union Judiciary and other judges on the advice of the Chief Justice.
- Attorney General for India who is the Indian government's chief legal advisor, is appointed by the President.
- The President appoints, as Prime Minister.
- A money bill can be introduced in the Parliament only with the President's recommendation.
- The President lays the Annual Financial Statement, i.e. the Union budget, before the Parliament.
- All international treaties and agreements are negotiated and concluded on behalf of the President. The President represents India in international forums and affairs where such a function is chiefly ceremonial.
- The President may also send and receive diplomats, i.e. the officers from the Indian Foreign Service. The President is the first citizen of the country.
- The President is the Supreme Commander of the Indian Armed Forces. The President can declare war or conclude peace, on the advice of the Union Council of Ministers headed by the Prime Minister.
- President is empowered with the powers to grant pardons in the cases of offence against Union Law, Military Court, and Sentence is that of death.

Question 1: Explain the procedure of election and removal of the President of India.

Ans: Article 52 of the Indian constitution says that there shall be a **president of India**. The President of India is the head of state and first

citizen of India. The President is also the Commander-in-Chief of the Indian Armed Forces. There have been 13 presidents of India since the introduction of the post in 1950. Dr Rajendra Prasad was the first president of India. He is liable to act on the advice of the council of ministers who are responsible to the legislature i.e. parliament. The executive power of the union vested in the president.

-----System of Election-----

1. The system of Election to the office of the President of India is Proportional Representation by Means of Single Transferable Vote.
2. In this system, each voter will have only one vote but voter can indicate his preference for as many contesting candidates as he likes in order of his/her preference or choice.
3. President is elected by the electoral college of
 - (i) elected members of both house of the parliament
 - (ii) elected members of state legislatures
 - (iii) elected members of the legislative assemblies of the Delhi and Puducherry.

Tenure: Elected for five years but eligible for immediate re- election and can serve any number of terms.

---Procedure of Impeachment of President of India---

Impeachment is the first of two stages in a specific process for a legislative body to remove a Government official without that official's agreement. The second stage is conviction.

Under Article 61, the President of India can be removed from the office by a process of impeachment for the violation of the Constitution.

The impeachment is to be *initiated* by either House of Parliament. The charges are to be framed in the form of resolution, signed at least by 1/4 th members of the total members of the House. The President has to be given a notice of 14 days in advance. The resolution is to be passed by

2/3 rd majority of the total members of the House and then it is to be sent to other House for investigation and decision. If the other House after investigation sustains the charges and passes the identical resolution with 2/3 rd majority of the total membership, the President ceases to hold office from the date such resolution is passed.

Question 2: Write in detail about ordinance making power and pardoning powers of the president.

Ans: ----Ordinance making power of the president----

Ordinances are like a law but not enacted by the Parliament but rather promulgated by **President of India** *when Lok Sabha and Rajya Sabha or either of those is not in session*. Union Cabinet's recommendation is a must for an ordinance to be promulgated. Using ordinances, immediate legislative actions can be taken.

For an ordinance to exist, it should be approved by the Parliament within six weeks of it being introduced. Parliament is required to sit within 6 weeks from when Ordinance was introduced.

Article 123 of the Indian Constitution grants the President of India the power to promulgate ordinances when either of the two Houses of the Parliament are not in session.

☐ **When legislature is not in session:** The President can only promulgate an ordinance when either of the House of Parliament is not in session.

☐ **Immediate action is needed:** The President though has the power of promulgating the ordinances but the same cannot be done unless he is satisfied that there are circumstances that require him to take immediate action.

☐ **Parliamentary approval:** After the ordinance has been passed, it is required to be approved by the parliament within six weeks of reassembling. The same will cease to operate if disapproved by either House.

☐ **Ordinances** cannot be promulgated to make any provision which the parliament would not under this constitution be competent to enact and also cannot be promulgated to amend the constitution.

---Pardoning powers of the President of India---

Pardoning is an act of kindness that reduces the punishment conferred under the law for the offence and restores the rights and privileges lost on account of the offence. Indian Constitution under Article 72 empowers the President to grant pardons and Article 161 grants powers to the governor to pardon the sentence except in a few cases. It can be granted to individuals who have been convicted of any offence against a law or sentenced by a court martial (military court) and for sentence of death. The object of pardoning power is to correct possible judicial errors, for no human system of judicial administration can be free from imperfections.

The pardoning power of the President includes the following:

1. **Pardon:** It removes both the sentence and the conviction and completely absolves the convict from all sentences, punishments and disqualifications.
 2. **Commutation:** It denotes the substitution of one form of punishment for a lighter form. For example, a death sentence may be commuted to rigorous imprisonment, which in turn may be commuted to a simple imprisonment.
 3. **Remission:** It implies reducing the period of sentence without changing its character. For example, a sentence of rigorous imprisonment for two years may be remitted to rigorous imprisonment for one year.
 4. **Respite:** It denotes awarding a lesser sentence in place of one originally awarded due to some special fact, such as the physical disability of a convict or the pregnancy of a woman offender.
 5. **Reprieve:** It implies a stay of the execution of a sentence (especially that of death) for a temporary period. Its purpose is to enable the convict to have time to seek pardon or commutation from the President.
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