

Unit- II Structure & Functioning of the Indian Government

Introduction

The Indian government operates under a **parliamentary system** as per the **Constitution of India**. It is structured into **three organs**:

1. **Legislature** (Makes laws)
2. **Executive** (Implements laws)
3. **Judiciary** (Interprets laws)

The system is based on the principles of **federalism, separation of powers, and constitutional supremacy**.

I. Structure of the Indian Government

1. Legislature (Law-Making Body)

Parliament (Bicameral) – Article 79-122

The **Parliament of India** consists of:

- **Lok Sabha (House of the People) – Lower House**
- **Rajya Sabha (Council of States) – Upper House**
- **President of India**

Lok Sabha (Lower House)

Feature	Details
Members	543 elected members + 2 nominated Anglo-Indian members (till 2019)
Term	5 years (can be dissolved earlier by the President)
Elections	Direct elections based on universal adult suffrage
Speaker	Presides over sessions, maintains order
Powers	Controls government (No-confidence motion), initiates Money Bills

Rajya Sabha (Upper House)

Feature	Details
Members	250 (238 elected by State Legislatures + 12 nominated by the President)
Term	Permanent body (1/3rd members retire every 2 years)
Chairperson	Vice-President of India
Powers	Reviews and suggests amendments to Bills, cannot be dissolved

Case Study: Kihoto Hollohan v. Zachillhu (1992) – The Supreme Court upheld the **Tenth Schedule (Anti-Defection Law)** to prevent political defections.

2. Executive (Law Implementation Body)

The **Executive branch** comprises the **President, Prime Minister, Council of Ministers, and Civil Services**.

President of India (Article 52-62)

Feature	Details
Head of State	Symbolic head; acts on the advice of the PM & Cabinet
Elected by	Electoral College (MPs & MLAs)
Term	5 years
Powers	<ul style="list-style-type: none"> - Appoints PM, Governors, Supreme Court judges, and diplomats - Grants pardons (Article 72) - Declares emergency (Article 352, 356, 360)

Case Study: Kesavananda Bharati v. State of Kerala (1973) – Limited Parliament's power to amend the Constitution under **Basic Structure Doctrine**.

Prime Minister & Council of Ministers

Feature	Details
Head of Government	Real executive authority
Appointment	Appointed by the President, must be leader of the majority in Lok Sabha
Council of Ministers	PM + Cabinet Ministers + Ministers of State
Collective Responsibility	Ministers are collectively responsible to Lok Sabha (Article 75)

Case Study: S.R. Bommai v. Union of India (1994) – The Supreme Court ruled that **President's Rule (Article 356)** should not be misused.

3. Judiciary (Law Interpretation Body)

Feature	Details
Independent Judiciary	Ensures rule of law, prevents abuse of power
Supreme Court (Article 124-147)	Highest judicial authority
High Courts (Article 214-231)	Operates at state level
District & Subordinate Courts	Handles civil & criminal cases at local levels

Powers of Supreme Court

1. **Judicial Review (Article 13)** – Can strike down unconstitutional laws.
2. **Writ Jurisdiction (Article 32)** – Protects Fundamental Rights.
3. **Advisory Role (Article 143)** – President can seek advice on legal matters.

Case Study: Golaknath v. State of Punjab (1967) – The SC ruled that Parliament **cannot** amend Fundamental Rights.

II. Functioning of the Indian Government

1. Law-Making Process

Step 1: Introduction of Bill (Lok Sabha or Rajya Sabha)

Step 2: Debate & Committee Review

Step 3: Voting in Both Houses

Step 4: President's Assent → Becomes Law

Case Study: Shah Bano Case (1985) – Parliament enacted **Muslim Women (Protection of Rights on Divorce) Act, 1986**, overriding the Supreme Court's ruling.

2. Financial Functioning

Annual Budget (Article 112)

- **Union Budget** presented by the Finance Minister.
- **Money Bills** (Article 110) originate only in Lok Sabha.

Case Study: R.K. Garg v. Union of India (1981) – The SC upheld **economic laws** if they serve public interest.

3. Federalism & Centre-State Relations

- **Union List (97 Subjects)** – Defence, foreign affairs, atomic energy.
- **State List (66 Subjects)** – Police, health, agriculture.
- **Concurrent List (47 Subjects)** – Education, criminal law, environmental protection.

Case Study: State of West Bengal v. Union of India (1963) – SC ruled **Parliament** can acquire state land for national interest.

4. Emergency Provisions

National Emergency (Article 352)

- Invoked during **war, external aggression, or armed rebellion**.
- Fundamental Rights (except Article 20, 21) can be suspended.
- Example: **1975 Emergency** declared by **Indira Gandhi**.

President's Rule (Article 356)

- Invoked when **state government** fails to function as per the Constitution.
- Example: **Bihar (2005)** – **Supreme Court** ruled against misuse of **Article 356**.

Financial Emergency (Article 360)

- Declared when **financial stability of the country is threatened** (Never declared so far).

Case Study: Minerva Mills v. Union of India (1980) – SC ruled **Fundamental Rights** cannot be destroyed even during emergencies.

5. Public Administration & Civil Services

Feature	Details
All India Services	IAS, IPS, IFS (Union-controlled but serves states)
State Public Services	PCS, State Police Officers

Feature	Details
Role of Bureaucracy	Policy execution, advising ministers, welfare schemes implementation
Case Study: Vineet Narain v. Union of India (1998) – SC ruled bureaucrats must be free from political pressure .	

Conclusion

The **Indian government functions on the principles of democracy, separation of powers, and constitutional supremacy**. While it has successfully balanced **federalism and centralization**, challenges like **corruption, judicial delays, and political interference** remain.

Union Executive of India

Introduction

The **Union Executive** is responsible for implementing laws and administering the country. It functions under the **parliamentary system** as per the Indian Constitution.

Articles Governing the Union Executive

- **Article 52-78** of the Indian Constitution
 - Comprises:
 1. **President of India** (Head of State)
 2. **Vice-President of India**
 3. **Prime Minister & Council of Ministers** (Real Executive)
 4. **Attorney General of India**
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I. President of India (Articles 52-62)

The **President is the ceremonial head of state and supreme commander of the armed forces**, but acts on the advice of the Prime Minister and Council of Ministers.

Election (Article 54)

- **Elected by an Electoral College** → MPs (Parliament) + MLAs (State Assemblies).
- **Voting System: Proportional Representation by Single Transferable Vote.**
- **Tenure:** 5 years (can be re-elected).

Powers & Functions

Type of Power	Details
Executive Powers	Appoints PM, Governors, CAG, Supreme Court Judges, Election Commissioners
Legislative Powers	Summons & dissolves Parliament, Nominates 12 Rajya Sabha MPs & 2 Anglo-Indians (until 2019)
Judicial Powers	Grants pardons (Article 72)
Financial Powers	Signs Union Budget , Money Bills need prior approval
Emergency Powers	Declares National Emergency (Article 352), State Emergency (Article 356), Financial Emergency (Article 360)

Case Study: Keshavananda Bharati v. State of Kerala (1973) → The **President's assent to Constitutional Amendments** is subject to **Judicial Review** under the **Basic Structure Doctrine**.

II. Vice-President of India (Articles 63-71)

- **Second-highest constitutional authority** after the President.
- **Ex-officio Chairman of Rajya Sabha** (Only votes in case of a tie).
- **Acts as President in case of vacancy (Article 65).**

Election

- **Elected by MPs of both Houses (Electoral College).**
- **Voting System:** Proportional Representation by **Single Transferable Vote.**
- **Term:** 5 years.

Case Study: Krishna Kant's Role (1997-2002) – Acted as **Vice-President** during major Parliamentary deadlocks and maintained neutrality in Rajya Sabha.

III. Prime Minister & Council of Ministers (Articles 74-78)

Prime Minister (Article 75)

Feature	Details
Head of Government	Real Executive Authority
Appointment	Appointed by the President , must be leader of the majority party in Lok Sabha
Term	5 years, but holds office at the pleasure of the President
Resignation	Must resign if loses majority in Lok Sabha
Removal	Can be removed by a No-confidence motion in Lok Sabha

Powers of Prime Minister

Type	Functions
Executive Power	Heads the government, allocates ministries
Legislative Power	Advises the President on summoning/dissolving Parliament
Financial Power	Guides budget formation
Diplomatic Power	Represents India in global forums (e.g., UN, G20)

Case Study: Indira Gandhi's Emergency (1975-77) → Supreme Court in **Minerva Mills Case (1980)** ruled that the **PM cannot override constitutional principles**.

Council of Ministers (Article 74)

- The **PM leads the Council of Ministers**, which is **collectively responsible to the Lok Sabha**.
- Ministers **hold office during the pleasure of the President**, but in reality, they are accountable to the **Prime Minister and Parliament**.

Categories of Ministers

Type	Role
Cabinet Ministers	Handle key ministries (Home, Finance, Defence, External Affairs)
Ministers of State (Independent)	Handle specific ministries without Cabinet supervision

Charge)	Type	Role
Ministers of State		Assist Cabinet Ministers

Case Study: S.R. Bommai v. Union of India (1994) → Supreme Court ruled that **President's Rule under Article 356** cannot be imposed arbitrarily and the **Council of Ministers must be accountable**.

IV. Attorney General of India (Article 76)

- **Highest Law Officer of the Country.**
- Appointed by the **President on PM's advice.**
- Gives legal advice to the **Union Government.**
- **Right to speak in Parliament but not vote.**

Case Study: Kesavananda Bharati Case (1973) → Attorney General defended **Parliament's right to amend the Constitution**, but SC ruled that **Basic Structure cannot be changed**.

V. Emergency Powers of the Union Executive

1. National Emergency (Article 352)

- Declared during **war, external aggression, or armed rebellion.**
- **Effects:**
 - **Fundamental Rights (except Article 20 & 21) suspended.**
 - Centre gains **complete control over states.**
 - **Example: 1975 Emergency declared by Indira Gandhi.**

Case Study: ADM Jabalpur v. Shivkant Shukla (1976) – SC upheld that **Fundamental Rights could be suspended during Emergency** (later overturned in 2017).

2. President's Rule (Article 356)

- Declared when a **state government fails to function properly.**
- **Effects:**
 - **State Assembly dissolved.**
 - President rules via **Governor.**
 - **Example: Bihar (2005)** – SC ruled against misuse of Article 356.

3. Financial Emergency (Article 360)

- Declared if **financial stability of India is threatened** (Never imposed yet).

Case Study: Rameshwar Prasad v. Union of India (2006) – SC ruled **dissolution of Bihar Assembly in 2005 was unconstitutional**.

VI. Checks & Balances on Union Executive

Institution	Check on Executive
Parliament	No-confidence motion (removes government)
Supreme Court	Judicial review (strikes down unconstitutional actions)
CAG (Comptroller & Auditor General)	Audits government expenditure
Election Commission	Ensures free & fair elections

Case Study: Golaknath v. State of Punjab (1967) – SC ruled that the **government cannot amend Fundamental Rights** arbitrarily.

Conclusion

- The **Union Executive is powerful but operates within constitutional limits**.
- **Checks & balances** ensure that power is not **misused or concentrated**.
- The **President is a symbolic head**, while the **Prime Minister and Cabinet hold real power**.
- **Judicial review and parliamentary accountability** prevent executive overreach.