

CHAPTER 20

Prime Minister

In the scheme of parliamentary system of government provided by the constitution, the President is the nominal executive authority (*de jure* executive) and Prime Minister is the real executive authority (*de facto* executive). In other words, President is the head of the State while Prime Minister is the head of the government.

APPOINTMENT OF THE PRIME MINISTER

The Constitution does not contain any specific procedure for the selection and appointment of the Prime Minister. Article 75 says only that the Prime Minister shall be appointed by the President. However, this does not imply that the President is free to appoint any one as the Prime Minister. In accordance with the conventions of the parliamentary system of government, the President has to appoint the leader of the majority party in the Lok Sabha as the Prime Minister. But, when no party has a clear majority in the Lok Sabha, then the President may exercise his/her personal discretion in the selection and appointment of the Prime Minister. In such a situation, the President usually appoints the leader of the largest party or coalition in the Lok Sabha as the Prime Minister and asks him/her to seek a vote of confidence in the House within a month. This discretion was exercised by the President, for the first time in 1979, when Neelam Sanjiva Reddy (the then President) appointed Charan Singh (the coalition leader) as the Prime Minister

after the fall of the Janata Party government headed by Morarji Desai.

There is also one more situation when the President may have to exercise his/her individual judgement in the selection and appointment of the Prime Minister, that is, when the Prime Minister in office dies suddenly and there is no obvious successor. This is what happened when Indira Gandhi was assassinated in 1984. The then President Zail Singh appointed Rajiv Gandhi as the Prime Minister by ignoring the precedent of appointing a caretaker Prime Minister.¹ Later on, the Congress parliamentary party unanimously elected him as its leader. However, if, on the death of an incumbent Prime Minister, the ruling party elects a new leader, the President has no choice but to appoint him/her as Prime Minister.

In 1980, the Delhi High Court held that the Constitution does not require that a person must prove his/her majority in the Lok Sabha before he/she is appointed as the Prime Minister. The President may first appoint him/her as the Prime Minister and then ask him/her to prove his majority in the Lok Sabha within a reasonable period. For example, Charan Singh (1979), V.P. Singh (1989), Chandrasekhar (1990),

¹On the death of Jawaharlal Nehru and Lal Bahadur Shastri when the leadership was contested, the President made temporary arrangements by appointing the seniormost minister as the Prime Minister, until the formal election of the leader by the party. Both the times, it was Gulzari Lal Nanda who acted as the Prime Minister.



P.V. Narasimha Rao (1991), A.B. Vajyapee (1996), Deve Gowda (1996), I.K. Gujral (1997) and again A.B. Vajpayee (1998) were appointed as Prime Ministers in this way.

In 1997, the Supreme Court held that a person who is not a member of either House of Parliament can be appointed as Prime Minister for six months, within which, he/she should become a member of either House of Parliament; otherwise, he/she ceases to be the Prime Minister.

Constitutionally, the Prime Minister may be a member of any of the two Houses of parliament. For example, three Prime Ministers, Indira Gandhi (1966), Deve Gowda (1996) and Manmohan Singh (2004), were members of the Rajya Sabha. In Britain, on the other hand, the Prime Minister should definitely be a member of the Lower House (House of Commons).

OATH, TERM AND SALARY

Before the Prime Minister enters upon his/her office, the President administers to him/her the oaths of office and secrecy.² In his/her oath of office, the Prime Minister swears:

1. to bear true faith and allegiance to the Constitution of India,
2. to uphold the sovereignty and integrity of India,
3. to faithfully and conscientiously discharge the duties of his/her office, and
4. to do right to all manner of people in accordance with the Constitution and the law, without fear or favour, affection or ill will.

In his/her oath of secrecy, the Prime Minister swears that he/she will not directly or indirectly communicate or reveal to any person(s) any matter that is brought under his/her consideration or becomes known to him/her as a Union Minister except as may be required for the due discharge of his/her duties as such minister.

The term of the Prime Minister is not fixed and he/she holds office during the pleasure of the President. However, this does not mean

²The form of oath of office and secrecy for the Prime Minister is similar to that for any Union minister.

that the President can dismiss the Prime Minister at any time. So long as the Prime Minister enjoys the majority support in the Lok Sabha, he/she cannot be dismissed by the President. However, if he/she loses the confidence of the Lok Sabha, he/she must resign or the President can dismiss him/her.³

The salary and allowances of the Prime Minister are determined by the Parliament from time to time^{3a}. He/she gets the salary and allowances that are payable to a member of Parliament. Additionally, he/she gets a sumptuary allowance, free accommodation, travelling allowance, medical facilities, etc. In 2001, the Parliament increased the sumptuary allowance from ₹1,500 to ₹3,000 per month^{3b}.

POWERS AND FUNCTIONS OF THE PRIME MINISTER

The powers and functions of Prime Minister can be studied under the following heads:

In Relation to Council of Ministers

The Prime Minister enjoys the following powers as head of the Union council of ministers:

1. He/she recommends persons who can be appointed as ministers by the President. The President can appoint only those persons as ministers who are recommended by the Prime Minister.
2. He/she allocates and reshuffles various portfolios among the ministers.
3. He/she can ask a minister to resign or advise the President to dismiss him/her in case of difference of opinion.
4. He/she presides over the meeting of council of ministers and influences its decisions.
5. He/she guides, directs, controls, and coordinates the activities of all the ministers.

³For example, V.P. Singh in 1990 and Deve Gowda in 1997 resigned after defeat in the Lok Sabha.

^{3a}The Salaries and Allowances of Ministers Act, 1952, has been passed for this purpose.

^{3b}The Salaries and Allowances of Ministers (Amendment) Act, 2001.

6. He/she can bring about the collapse of the council of ministers by resigning from office.

Since the Prime Minister stands at the head of the council of ministers, the other ministers cannot function when the Prime Minister resigns or dies. In other words, the resignation or death of an incumbent Prime Minister automatically dissolves the council of ministers and thereby generates a vacuum. The resignation or death of any other minister, on the other hand, merely creates a vacancy which the Prime Minister may or may not like to fill.

In Relation to the President

The Prime Minister enjoys the following powers in relation to the President:

1. He/she is the principal channel of communication between the President and the council of ministers.⁴ It is the duty of the prime minister:
 - (a) to communicate to the President all decisions of the council of ministers relating to the administration of the affairs of the Union and proposals for legislation;
 - (b) to furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for; and
 - (c) if the President so requires, to submit for the consideration of the council of ministers any matter on which a decision has been taken by a minister but which has not been considered by the council.
2. He/she advises the President with regard to the appointment of important officials like attorney general of India, Comptroller and Auditor General of India, chairman and members of the UPSC, election commissioners, chairman and members of the finance commission and so on.

⁴Article 78 specifically deals with this function of the Prime Minister.

In Relation to Parliament

The Prime Minister is the leader of the Lower House. In this capacity, he/she enjoys the following powers:

1. He/she advises the President with regard to summoning and proroguing of the sessions of the Parliament.
2. He/she can recommend dissolution of the Lok Sabha to President at any time.
3. He/she announces government policies on the floor of the House.

Other Powers & Functions

In addition to the above-mentioned three major roles, the Prime Minister has various other roles. These are:

1. He/she is the chairman of the NITI Aayog (which succeeded the planning commission), National Integration Council, Inter-State Council, National Water Resources Council and some other bodies.
2. He/she plays a significant role in shaping the foreign policy of the country.
3. He/she is the chief spokesman of the Union government.
4. He/she is the crisis manager-in-chief at the political level during emergencies.
5. As a leader of the nation, he/she meets various sections of people in different states and receives memoranda from them regarding their problems, and so on.
6. He/she is leader of the party in power.
7. He/she is political head of the services.

Thus, the Prime Minister plays a very significant and highly crucial role in the politico-administrative system of the country. Dr. B.R. Ambedkar stated, 'If any functionary under our constitution is to be compared with the US President, he is the Prime Minister and not the President of the Union'.

ROLE DESCRIPTIONS

The various comments made by the eminent political scientists and constitutional experts on the role of Prime Minister in Britain holds



good in the Indian context also. These are mentioned below:

Lord Morely He described Prime Minister as 'primus inter pares' (first among equals) and 'key stone of the cabinet arch'. He said, "The head of the cabinet is 'primus inter pares', and occupied a position which so long as it lasts, is one of exceptional and peculiar authority".

Herbert Morrison "As the head of the Government, he (prime minister) is 'primus inter pares'. But, it is today far too modest an appreciation of the Prime Minister's position".

Sir William Verner Harcourt He described Prime Minister as 'inter stellas luna minores' (a moon among lesser stars).

Jennings "He is, rather, a sun around which planets revolve. He is the key-stone of the constitution. All roads in the constitution lead to the Prime Minister."

H.J. Laski On the relationship between the Prime Minister and the cabinet, he said that the Prime Minister "is central to its formation, central to its life, and central to its death". He described him as "the pivot around which the entire governmental machinery revolves."

H.R.G. Greaves "The Government is the master of the country and he (Prime Minister) is the master of the Government."

Munro He called Prime Minister as "the captain of the ship of the state".

Ramsay Muir He described Prime Minister as "the steersman of steering wheel of the ship of the state."

The role of the Prime Minister in the British parliamentary government is so significant and crucial that observers like to call it a 'Prime Ministerial government'. Thus, R.H. Crossman says, 'The post-war epoch has been the final transformation of cabinet government into Prime Ministerial

government.' Similarly, Humphrey Berkely points out, 'Parliament is not, in practice, sovereign. The parliamentary democracy has now collapsed at Westminster. The basic defect in the British system of governing is the super-ministerial powers of the Prime Minister.' The same description holds good to the Indian context too.

RELATIONSHIP WITH THE PRESIDENT

The following provisions of the Constitution deal with the relationship between the President and the Prime Minister:

1. Article 74 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/her functions, act in accordance with such advice. However, the President may require the council of ministers to reconsider such advice and the President shall act in accordance with the advice tendered after such reconsideration.

2. Article 75 (a) The Prime Minister shall be appointed by the President and the other ministers shall be appointed by the President on the advice of the Prime Minister; (b) The ministers shall hold office during the pleasure of the President; and (c) The council of ministers shall be collectively responsible to the House of the People.

3. Article 78 It shall be the duty of the Prime Minister:

(a) to communicate to the President all decisions of the council of ministers relating to the administration of the affairs of the Union and proposals for legislation;

(b) to furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for; and

(c) if the President so requires, to submit for the consideration of the council of ministers any matter on which a decision has been taken by a minister but which has not been considered by the council.

CHIEF MINISTERS WHO BECAME PRIME MINISTERS

Six people—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. Morarji Desai, Chief Minister of the erstwhile Bombay State during 1952–56, became the first non-Congress Prime Minister in March 1977. Charan Singh, who succeeded him, was the Chief Minister of the undivided Uttar Pradesh in 1967–1968 and again in 1970. V.P. Singh, also from U.P., became Prime Minister in the short lived National Front government (December 1989–November 1990). P.V. Narasimha Rao, the first Prime Minister from South India, who held the post from 1991–1996, was Chief Minister of Andhra Pradesh between 1971–1973. H.D. Deve Gowda was Chief Minister of Karnataka when he was chosen to lead the United Front government in June 1996⁵.

Narendra Modi (BJP) was the Chief Minister of Gujarat when he became the Prime Minister in May 2014. He served as the Chief Minister of Gujarat for four times during 2001 to 2014.

CARETAKER GOVERNMENT

The Constitution of India does not contain any provision for a caretaker government. It is only a situational arrangement and a functional necessity.

Meaning

The following points clearly bring out the meaning of a caretaker government:

1. The creation of a caretaker government after the dissolution of the popular chamber of the Parliament and its termination with the induction of a new ministry after the general election is an essential feature of the parliamentary system of government in operation.

⁵The Hindu, April 6, 2009.

Such a government is enjoined upon to hold free and fair polls so that a new popular government comes into being⁶.

2. The term (caretaker government) has come to be used in common parlance to describe the status of a council of ministers that has resigned on having lost the confidence of the Lok Sabha or otherwise but is asked by the President to continue till alternative arrangements are made. If an alternative government cannot be formed immediately and general elections have to be held, the outgoing council of ministers may have to hold charge till the conclusion of elections and formation of new government⁷.

Limited Role

Unlike a regular government, a caretaker government is meant for only managing the routine activities of the government. Hence, it is not expected to make any significant policy decisions or initiate new measures and schemes except those relating to national security or national interest.

The following comments and observations highlight the limited role of a caretaker government in the governance of the country:

1. The Tarkunde Committee (1974–75) recommended that a caretaker government should not: (i) initiate and announce new policies, (ii) promise or start new projects, (iii) grant allowances or loans, salary increases, and (iv) hold official functions attended by ministers⁸.

⁶J.C. Johari, Indian Government and Policies, Vishal Publications, Volume II, Thirteenth Edition, 2001, p. 729.

⁷Subhash C. Kashyap, Our Constitution, National Book Trust, Fifth Edition, 2011, p. 203.

⁸This committee on electoral reforms was appointed in 1974 by Jayaprakash Narayan (JP) during his "Total Revolution" movement. It was headed by Justice Vithal Mahadeo Tarkunde. This unofficial committee submitted its report in 1975. It was also known as J P Committee.



2. In August 1979, the then President N. Sanjeeva Reddy, while dissolving the Lok Sabha, issued a communique stating that the President had consultations with the Prime Minister and some of his cabinet colleagues who assured that:

- (i) Elections will be peaceful, free and fair. The revision of the electoral rolls will begin immediately and the election time-table will commence in November 1979 and will be completed by December 1979.
- (ii) The Government will not take decisions during this period which set new policies or involve new spending of a significant order or constitute measures of administrative or executive decisions. However, work of an urgent nature involving the national interest will not be held up.

- 3. The Calcutta High Court in a judgement delivered in December 1979 observed that there is no mention of a caretaker government as such in our constitution, but such an extraordinary situation calls for a caretaker government and, therefore, the Prime Minister and the Council of Ministers can, in such a situation only carry on day-to-day administration in office, which are necessary for carrying on for the sake of making an alternative arrangement.
- 4. The caretaker Prime Ministers are constrained for two reasons: first, the normal channel of accountability through Parliament does not exist; second, the government does not abuse its position to gain electoral advantage⁹.

⁹Rajeev Dhavan, Caretaker Despotism: Is the President Meddling? The Sunday Times of India, New Delhi, August 15, 1999, p. 16.

Table 20.1 Articles Related to Prime Minister at a Glance

Article No.	Subject Matter
74.	Council of Ministers to aid and advise President
75.	Other provisions as to Ministers
77.	Conduct of business of the Government of India
78.	Duties of Prime Minister as respects the furnishing of information to the President, etc.
88.	Rights of Ministers as respects the Houses