

4 Parliament is the highest forum of discussion and debate on public issues and national policy in any country. Parliament can seek information about any matter.

Two Houses of Parliament

Since the Parliament plays a central role in modern democracies, most large countries divide the role and powers of the Parliament in two parts. They are called Chambers or Houses. One House is usually directly elected by the people and exercises the real power on behalf of the people. The second House is usually elected indirectly and performs some special functions. The most common work for the second House is to look after the interests of various states, regions or federal units.

In our country, the Parliament consists of two Houses. The two Houses are known as the Council of States (Rajya Sabha) and the House of the People (Lok Sabha). The President of India is a part of the Parliament, although she is not a member of either House. That is why all laws made in the Houses come into force only after they receive the assent of the President.

You have read about the Indian Parliament in earlier classes. From the Chapter Four you know how Lok Sabha elections take place. Let us recall some key differences between the composition of these two Houses of Parliament. Answer the following for the Lok Sabha and the Rajya Sabha:

- What is the total number of members? ...
- Who elects the members? ...
- What is the length of the term (in years)? ...
- Can the House be dissolved or is it permanent? ...

Which of the two Houses is more powerful? It might appear that the Rajya Sabha is more powerful, for sometimes it is called the 'Upper Chamber' and the Lok Sabha the 'Lower Chamber'. But this does not mean that Rajya Sabha is more powerful than Lok Sabha. This is just an old style of speaking and not the language used in our Constitution.

Our Constitution does give the Rajya Sabha some special powers over the states. But on most matters, the Lok Sabha exercises supreme power. Let us see how:

- 1** Any ordinary law needs to be passed by both the Houses. But if there is a difference between the two Houses, the final decision is taken in a joint session in which members of both the Houses sit together. Because of the larger number of members, the view of the Lok Sabha is likely to prevail in such a meeting.
- 2** Lok Sabha exercises more powers in money matters. Once the Lok Sabha passes the budget of the government or any other money related law, the Rajya Sabha cannot reject it. The Rajya Sabha can only delay it by 14 days or suggest changes in it. The Lok Sabha may or may not accept these changes.



A C T I V I T Y

When the Parliament is in session, there is a special programme everyday on Doordarshan about the proceedings in Lok Sabha and Rajya Sabha. Watch the proceedings or read about it in the newspapers and note the following:

- Powers of the two Houses of Parliament.
- Role of the Speaker.
- Role of the Opposition.



What is the point in having so much debate and discussion in the Parliament when we know that the view of the ruling party is going to prevail?

3 Most importantly, the Lok Sabha controls the Council of Ministers. Only a person who enjoys the support of the majority of the members in the Lok Sabha is appointed the Prime Minister. If the

majority of the Lok Sabha members say they have 'no confidence' in the Council of Ministers, all ministers including the Prime Minister, have to quit. The Rajya Sabha does not have this power.

A day in the life of the Lok Sabha

7 December 2004 was an ordinary day in the life of the Fourteenth Lok Sabha. Let us take a look at what happened in the course of that day. Identify the role and powers of the parliament on the basis of the proceedings for the day as given below. You can also enact this day in your classroom.



11:00 Various ministries gave written answers to about 250 questions that were asked by members. These included:

- What is the government's policy on talking to militant groups in Kashmir?
- What are the figures of atrocities against Scheduled Tribes, including those inflicted by the police?
- What is the government doing about overpricing of medicines by big companies?



12:00 A large number of official documents were presented and were available for discussion. These included:

- Recruitment rules for the Indo-Tibetan Border Police Force
- Annual Report of the Indian Institute of Technology, Kharagpur
- Report and accounts of Rashtriya Ispat Nigam Limited, Visakhapatnam



12:02 The Minister of Development of North Eastern Region made a statement regarding Revitalisation of the North Eastern Council.

The Minister of State for Railways presented a statement showing the grant needed by the

Railways in addition to that sanctioned in the Railway Budget.

The Minister of Human Resource Development introduced the National Commission for Minority Educational Institutions Bill, 2004. He also gave a statement explaining why the government had to bring an ordinance for this.



12:14 Several members highlighted some issues, including:

- The vindictiveness of the Central Bureau of Investigation (CBI) in registering cases against some leaders in the Tehelka case.
- Need to include Rajasthani as an official language in the Constitution.
- Need to renew the insurance policies of farmers and agricultural workers of Andhra Pradesh.



2:26 Two bills proposed by the government were considered and passed. These were:

- The Securities Laws (Amendment) Bill
- The Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Bill



4:00 Finally, there was a long discussion regarding the foreign policy of the government and the need to continue an independent foreign policy in the context of the situation in Iraq.



7:17 Discussion concluded. House adjourned for next day.

5.3 POLITICAL EXECUTIVE

Do you remember the story of the Office Memorandum with which we started this chapter? We found out that the person who signed the document did not take this decision. He was only executing the policy decision taken by someone else. We noted the role of the Prime Minister in taking that decision. But we also know that he could not have taken that decision if he did not have support from the Lok Sabha. In that sense he was only executing the wishes of the Parliament.

Thus, at different levels of any government we find functionaries who take day-to-day decisions but do not exercise supreme power on behalf of the people. All those functionaries are collectively known as the **executive**. They are called executive because they are in charge of the 'execution' of the policies of the government. Thus, when we talk about 'the government' we usually mean the executive.

Political and Permanent Executive

In a democratic country, two categories make up the executive. One that is elected by the people for a specific period, is called the political executive. Political leaders who take the big decisions fall in this category. In the second category, people are appointed on a long-term basis. This is called the permanent executive or civil services. Persons working in civil services are called civil servants. They remain in office even when the ruling party changes. These officers work under political executive and assist them in carrying out the day-to-day administration. Can you recall the role of political and non-political

executive in the case of the Office Memorandum?

You might ask: Why does the political executive have more power than the non-political executive? Why is the minister more powerful than the civil servant? The civil servant is usually more educated and has more expert knowledge of the subject. The advisors working in the Finance Ministry know more about economics than the Finance Minister. Sometimes the ministers may know very little about the technical matters that come under their ministry. This could easily happen in ministries like Defence, Industry, Health, Science and Technology, Mining, etc. Why should the minister have the final say on these matters?

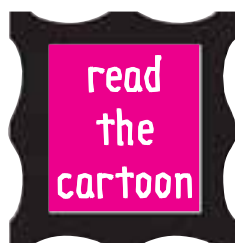
The reason is very simple. In a democracy the will of the people is supreme. The minister is elected by the people and thus empowered to exercise the will of the people on their behalf. She is finally answerable to the people for all the consequences of her decision. That is why the minister takes all the final decisions. The minister decides the overall framework and objectives in which decisions on policy should be made. The minister is not, and is not expected to be, an expert in the matters of her ministry. The minister takes the advice of experts on all technical matters. But very often experts hold different opinions or place before her more than one option. Depending on what the overall objective is, the minister decides.

Actually this happens in any large organisation. Those who understand the overall picture take the most important decisions, not the experts.

The experts can tell the route, but someone with a larger view decides the destination. In a democracy elected ministers perform this role.

Prime Minister and Council of Ministers

Prime Minister is the most important **political institution** in the country. Yet there is no direct election to the post of the Prime Minister. The President appoints the Prime Minister. But the President cannot appoint anyone she likes. The President appoints the leader of the majority party or the coalition of parties that commands a majority in the Lok Sabha, as Prime Minister. In case no single party or alliance gets a majority, the President appoints the person most likely to secure a majority support. The Prime Minister does not have a fixed tenure. He continues in power so long as he remains the leader of the majority party or coalition.



The race to become minister is not new. Here is a cartoon depicting ministerial aspirants waiting to get a berth in Nehru's Cabinet after the 1962 elections. Why do you think political leaders are so keen to become ministers?



After the appointment of the Prime Minister, the President appoints other ministers on the advice of the Prime Minister. The Ministers are usually from the party or the coalition that has the majority in the Lok Sabha. The Prime Minister is free to choose ministers, as long as they are members of Parliament. Sometimes, a person who is not a member of Parliament can also become a minister. But such a person has to get elected to one of the Houses of the Parliament within six months of appointment as minister.

Council of Ministers is the official name for the body that includes all the Ministers. It usually has 60 to 80 Ministers of different ranks.

- **Cabinet Ministers** are usually top-level leaders of the ruling party or parties who are in charge of the major ministries. Usually the Cabinet Ministers meet to take decisions in the name of the Council of Ministers. Cabinet is thus the inner ring of the Council of Ministers. It comprises about 20 ministers.
- **Ministers of State with independent charge** are usually in-charge of smaller Ministries. They participate in the Cabinet meetings only when specially invited.
- **Ministers of State** are attached to and required to assist Cabinet Ministers.

Since it is not practical for all ministers to meet regularly and discuss everything, the decisions are taken in Cabinet meetings. That is why parliamentary democracy in most countries is often known as the Cabinet form of government. The Cabinet works as a team. The ministers may have different views and opinions, but everyone has to own up to every decision of the Cabinet.

No minister can openly criticise any decision of the government, even if it is about another Ministry or Department. Every ministry has secretaries, who are civil servants. The secretaries provide the necessary background information to the ministers to take decisions. The Cabinet as a team is assisted by the Cabinet Secretariat. This includes many senior civil servants who try to coordinate the working of different ministries.



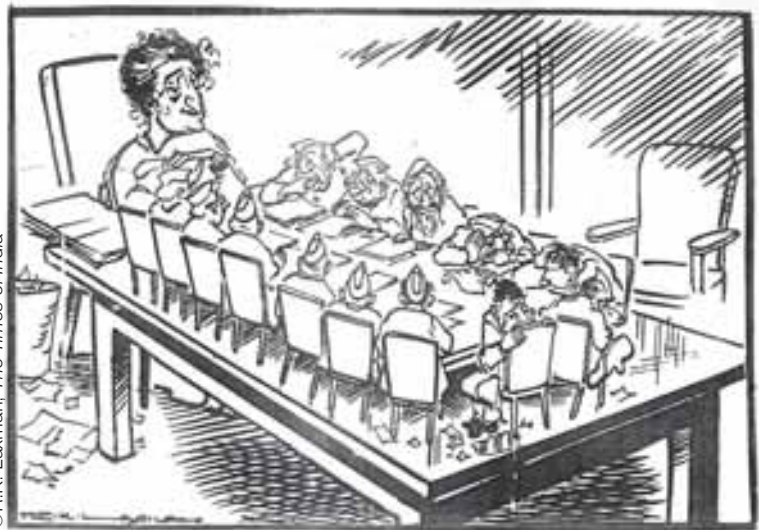
ACTIVITY

- List the names of five Cabinet Ministers and their ministries each at the Union level and in your state.
- Meet the Mayor or Municipal Chairperson of your town or the President of Zila Parishad of your district and ask him or her about how the city, town or district is administered.

Powers of the Prime Minister

The Constitution does not say very much about the powers of the Prime Minister or the ministers or their relationship with each other. But as head of the government, the Prime Minister has wide ranging powers. He chairs Cabinet meetings. He coordinates the work of different Departments. His decisions are final in case disagreements arise between Departments. He exercises general supervision of different ministries. All ministers work under his leadership. The Prime Minister distributes and redistributes work to the ministers. He also has the power to dismiss ministers. When the Prime Minister quits, the entire ministry quits.

Thus, if the Cabinet is the most powerful institution in India, within the Cabinet it is the Prime Minister



© R.K. Laxman, The Times of India

who is the most powerful. The powers of the Prime Minister in all parliamentary democracies of the world have increased so much in recent decades that parliamentary democracies are some times seen as Prime Ministerial form of government. As political parties have come to play a major role in politics, the Prime Minister controls the Cabinet and Parliament through the party. The media also contributes to this trend by making politics and elections as a competition between top leaders of parties. In India too we have seen such a tendency towards the concentration of powers in the hands of the Prime Minister. Jawaharlal Nehru, the first Prime Minister of India, exercised enormous authority because he had great influence over the public. Indira Gandhi was also a very powerful leader compared to her colleagues in the Cabinet. Of course, the extent of power wielded by a Prime Minister also depends on the personality of the person holding that position.

However, in recent years the rise of coalition politics has imposed certain constraints on the power of the Prime Minister. The Prime

read
the
cartoon

This cartoon depicts a cabinet meeting chaired by Prime Minister Indira Gandhi in early 1970s, at the peak of her popularity. Do you think similar cartoons could be drawn about other prime ministers who followed her?



Why does this book refer to the President as 'she'? Have we ever had a woman President in our country?



Did you protest when the book referred to the Prime Minister as 'he'? Have we not had a woman Prime Minister? Why should we assume that all the important positions are held by men?

Minister of a **coalition government** cannot take decisions as he likes. He has to accommodate different groups and factions in his party as well as among alliance partners. He also has to heed to the views and positions of the coalition partners and other parties, on whose support the survival of the government depends.

The President

While the Prime Minister is the head of the government, the President is the head of the State. In our political system the head of the State exercises only nominal powers. The President of India is like the Queen of Britain whose functions are to a large extent ceremonial. The President supervises the overall functioning of all the political institutions in the country so that they operate in harmony to achieve the objectives of the State.

The President is not elected directly

by the people. The elected Members of Parliament (MPs) and the elected Members of the Legislative Assemblies (MLAs) elect her. A candidate standing for President's post has to get a majority of votes to win the election. This ensures that the President can be seen to represent the entire nation. At the same time the President can never claim the kind of direct popular mandate that the Prime Minister can. This ensures that she remains only a nominal executive.

The same is true of the powers of the President. If you casually read the Constitution you would think that there is nothing that she cannot do. All governmental activities take place in the name of the President. All laws and major policy decisions of the government are issued in her name. All major appointments are made in the name of the President. These include the appointment of

Press Information Bureau



The President, Shri Pranab Mukherjee administering the oath of office of the Prime Minister to Shri Narendra Modi, at a Swearing-in Ceremony, at Rashtrapati Bhavan on 26 May 2014.

the Chief Justice of India, the Judges of the Supreme Court and the High Courts of the states, the Governors of the states, the Election Commissioners, ambassadors to other countries, etc. All international treaties and agreements are made in the name of the President. The President is the supreme commander of the defence forces of India.

But we should remember that the President exercises all these powers only on the advice of the Council of Ministers. The President can ask the Council of Ministers to reconsider its advice. But if the same advice is given again, she is bound to act according to it. Similarly, a bill passed by the Parliament becomes a law only after the President gives assent to it. If the President wants, she can delay this for some time and send the bill back to the Parliament for reconsideration. But if the Parliament passes the bill again, she has to sign it.

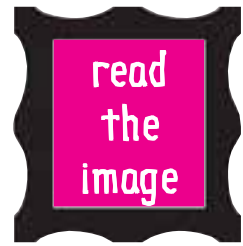
So you may wonder what does the President really do? Can she do anything on her own at all? There is one very important thing she should do on her own: appoint the Prime Minister. When a party or coalition of parties secures a clear majority in the elections, the President, has to appoint the leader of the majority party or the coalition that enjoys

majority support in the Lok Sabha. When no party or coalition gets a majority in the Lok Sabha, the President exercises her discretion. The President appoints a leader who in her opinion can muster majority support in the Lok Sabha. In such a case, the President can ask the newly appointed Prime Minister to prove majority support in the Lok Sabha within a specified time.

The Presidential System

Presidents all over the world are not always nominal executives like the President of India. In many countries of the world, the President is both the head of the state and the head of the government. The President of the United States of America is the most well known example of this kind of President. The US President is directly elected by the people. He personally chooses and appoints all Ministers. The law making is still done by the legislature (called the Congress in the US), but the president can veto any law. Most importantly, the president does not need the support of the majority of members in the Congress and neither is he answerable to them. He has a fixed tenure of four years and completes it even if his party does not have a majority in the Congress.

This model is followed in most of the countries of Latin America and many of the ex-Soviet Union countries. Given the centrality of the President, this system of government is called the Presidential form of government. In countries like ours that follow the British model, the parliament is supreme. Therefore our system is called the parliamentary system of government.



What is better for a democracy: A Prime Minister who can do whatever he wishes or a Prime Minister who needs to consult other leaders and parties?

Eliamma, Annakutti and Marymol read the section on the President. Each of them had a question. Can you help them in answering these questions?

Eliamma: What happens if the President and the Prime Minister disagree about some policy? Does the view of the Prime Minister always prevail?

Annakutti: I find it funny that the President is the Supreme Commander of Armed Forces. I doubt if the President can even lift a heavy gun. What is the point in making the President the Commander?

Marymol: I would say, what is the point in having a President at all if all the real powers are with the Prime Minister?



It is quite common in the US for judges to be nominated on the basis of well-known political opinions and affiliations. This fictitious advertisement appeared in the US in 2005 when President Bush was considering various candidates for nomination to the US supreme court. What does this cartoon say about the independence of the judiciary? Why do such cartoons not appear in our country? Does this demonstrate the independence of our judiciary?

5.4 THE JUDICIARY

Let us return, one final time, to the story of Office Memorandum that we started with. This time let us not recall the story, but imagine how different the story could have been. Remember, the story came to a satisfactory end because the Supreme Court gave a verdict that was accepted by everyone. Imagine what would have happened in the following situations:

- If there was nothing like a Supreme Court in the country.
- Even if there was a Supreme Court, if it had no power to judge actions of the government.
- Even if it had the power, if no one trusted the Supreme Court to give a fair verdict.
- Even if it gave a fair judgement, if those who appealed against the Government Order did not accept the judgement.

©M.E. Cohen, National, Cagle Cartoons Inc.



A C T I V I T Y

Follow the news about any major court case in a High Court or the Supreme Court. What was the original verdict? Did the High Court or the Supreme Court change it? What was the reason?

This is why an independent and powerful **judiciary** is considered essential for democracies. All the courts at different levels in a country put together are called the judiciary. The Indian judiciary consists of a Supreme Court for the entire nation, High Courts in the states, District Courts and the courts at local level. India has an integrated judiciary. It means the Supreme Court controls the judicial administration in the country. Its decisions are binding on all other courts of the country. It can take up any dispute

- Between citizens of the country;
- Between citizens and government;
- Between two or more state governments; and
- Between governments at the union and state level.

It is the highest court of appeal in civil and criminal cases. It can hear appeals against the decisions of the High Courts.

Independence of the judiciary means that it is not under the control of the legislature or the executive. The judges do not act on the direction of the government or according to the wishes of the party in power. That is why all modern democracies have courts that are independent of the legislature and the executive. India has achieved this. The judges of the Supreme Court and the High Courts are appointed by the President on the