

Prime Minister & Council of Ministers - Power & Function of Prime Minister

Article 75 of the Indian Constitution mentions that a Prime Minister is one who is appointed by the President. There is no specific procedure for his election or appointment. Article 74(1) states that there shall be a Council of Ministers with a Prime Minister at the head to aid and advise the President. Thus, the Indian Constitution itself recognizes a Council of Ministers.

Is Prime Minister of India elected or appointed?

President of India **appoints** a person as the Prime Minister **who is either the leader of the party which holds a majority of seats in the Lok Sabha** or is a person who is able to **win the confidence** of the Lok Sabha by gaining the support of other political parties. **All other ministers are appointed by the President on the advice of the Prime Minister.**

Note: President can also appoint Prime Minister on his own discretion but only when no party has a clear majority in the LoK sabha.

Power and Function of Prime Minister

Prime Minister of India serves the country by following various functions. He performs his functions taking responsibilities as:

- **The leader of Country:** The Prime Minister of India is the Head of the Government of India.

- **Portfolio allocation:** The Prime Minister has the authority to assign portfolios to the Ministers.
- **Chairman of the Cabinet:** The Prime Minister is the chairman of the cabinet and presides the meetings of the Cabinet. He can impose his decision if there is a crucial opinion difference among the members.
- **Official Representative of the country:** Prime minister represents the country for high-level international meetings
- **The link between the President and the Cabinet:** The Prime Minister acts as the link between President and cabinet. He communicates all decisions of the Cabinet to the President which is related to the administration of the affairs of the Union and proposals for legislation.
- **Head:** The Prime Minister is the head of Nuclear Command Authority, NITI Aayog, Appointments Committee of the Cabinet, Department of Atomic Energy, Department of Space and Ministry of Personnel, Public Grievances and Pensions.
- **Chief Advisor:** He acts as the chief advisor to the President

Like Prime Minister is the head of Union Parliament, the Chief Minister is the head of state parliament.

\Who is eligible to be a Prime Minister?

To become an Indian prime minister, one has to be

- A citizen of India.

- A member of either Rajya Sabha or Lok Sabha
- He should have completed his 30 years if he is a member of the Rajya Sabha or can be 25 years of age if he is a member of the Lok Sabha

Position of the Prime Minister

Right from the days of the first Prime Minister Pandit Jawaharlal Nehru, the Prime Minister is treated **at a much higher pedestal**. His pre-eminence rests on his **commanding position in the Cabinet**, coupled with fact that **he is the leader of the majority party**.

During the period of the Congress rule, the Prime Minister was usually the President of his party and the major campaigner in the elections. All these positions of power when combined in one person make him rank much above an ordinary Minister. The death or resignation of the Prime Minister automatically brings about the dissolution of the Council of Ministers. It generates a vacuum. The demise, resignation or dismissal of a Minister creates only a vacancy which the Prime Minister may or may not like to fill. The Government cannot function without a Prime Minister but the absence of a Minister is easily tolerated and compensated.

Relationship between the Prime Minister and the President of India

There are a few articles in the Indian Constitution that deal with the relationship both Prime Minister and the President share with each other. The articles are:

- Article 74
- Article 75
- Article 78

Articles	Relationship between Prime Minister and the President
74	Mentions how Prime Minister and President are both connected with council of ministers. The Council with PM as head advise President on various issues.
75	Mentions three things: <ul style="list-style-type: none">• President appoints PM and other ministers are appointed by the President on the advice of the PM.• Ministers hold their office during the pleasure of the President.

	<ul style="list-style-type: none"> • Council of Ministers is collectively responsible to the Lok Sabha.
78	PM communicates all decisions made by the council of members to the President. President can also refer issues for the consideration of the council of members.

Council of Ministers

Which articles in the Constitution deal with the Council of Ministers?

Two articles – Article 74 and Article 75 of the Indian Constitution deal with the Council of Ministers. Where article 74 mentions that the council will be headed by the Prime Minister of India and will aid and advise the President, article 75 mentions the following things:

- They are appointed by the President on the advice of Prime Minister
- They along with the Prime Minister of India form 15% of the total strength of the lower house i.e. Lok Sabha. (The number cannot exceed 15%)
- 91st Amendment Act provided for the disqualification of the minister when he stands disqualified as a member

- A Minister ceased to exist as one if he is not a member of either house of Parliament for six consecutive months.
- Parliament decides the salary and allowances of the council of ministers.

Is the advice tendered by the Council of Ministers' binding on the President?

Yes, the advice is binding on the President and this provision was introduced by the 42nd Amendment Act 1976 and 44th Amendment Act 1978. The acts also mentioned that the advice given by the council cannot be inquired into by any court.

Collective Responsibility of the Council of Ministers

In England, the Cabinet system is based on conventions. The framers of our Constitution considered it fit to incorporate the system in the Constitution. The principle of collective responsibility finds a place in **Art. 75(3)** where it is stated that the Council of Ministers shall be collectively responsible to the Lok Sabha. In other words, this provision means that a Ministry which loses confidence in the Lok Sabha is obliged to resign. The loss of confidence is expressed by rejecting a Money Bill or Finance Bill or any other important policy measure or by passing a motion of no-confidence or rejecting a motion expressing confidence in the Ministry. When a Ministry loses the confidence of the Lok Sabha the whole of the Ministry has to resign including those Ministers who are from the Rajya Sabha. The Ministers fall and stand together. In certain

cases, the Ministry may advise the President to dissolve Lok Sabha and call for fresh elections.

Types of Ministers

The Indian Constitution does not categorize ministers into ranks, however, in practice seen in India, ministers are of four types:

1. **Cabinet Ministers**—He is present and he participates in every meeting of the Cabinet.
2. **Minister of State with independent charge**—He is a Minister of State who does not work under a Cabinet Minister. When any matter concerning his Department is on the agenda of the Cabinet, he is invited to attend the meeting.
3. **Minister of State**—He is a Minister who does not have independent charge of any Department and works under a Cabinet Minister. The work to such Minister is allotted by his Cabinet Minister.
4. **Deputy Minister**—He is a Minister who works under a Cabinet Minister or a Minister of State with independent charge. His work is allotted by the Minister under whom he is working.