

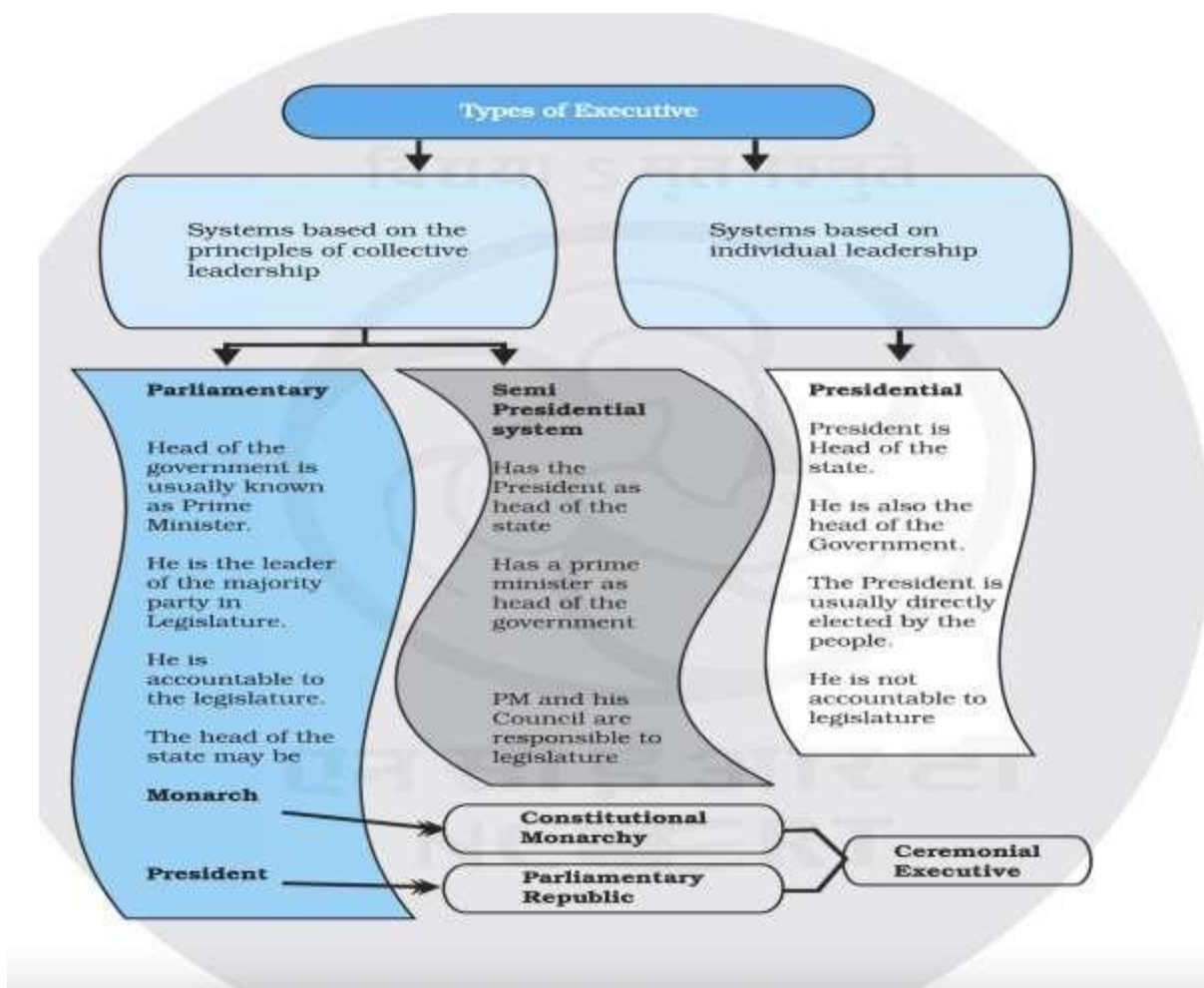
Legislature, executive and judiciary are the three organs of government. Together, they perform the functions of the government, maintain law and order and look after the welfare of the people. The Constitution ensures that they work in coordination with each other and maintain a balance among themselves. In a parliamentary system, executive and the legislature are interdependent: the legislature controls the executive, and, in turn, is controlled by the executive.

**Legislative body decide about rules and regulations, while the other one would be in charge of implementing those rules. The organ of government that primarily looks after the function of implementation and administration is called the executive.**

**Executive:** executive means a body of persons that looks after the implementation of rules and regulations in actual practice. The official designations of the executive vary from country to country. Some countries have presidents, while others have chancellors. It also extends to the administrative machinery (civil servants).

Political Executive:

Permanent Executive:



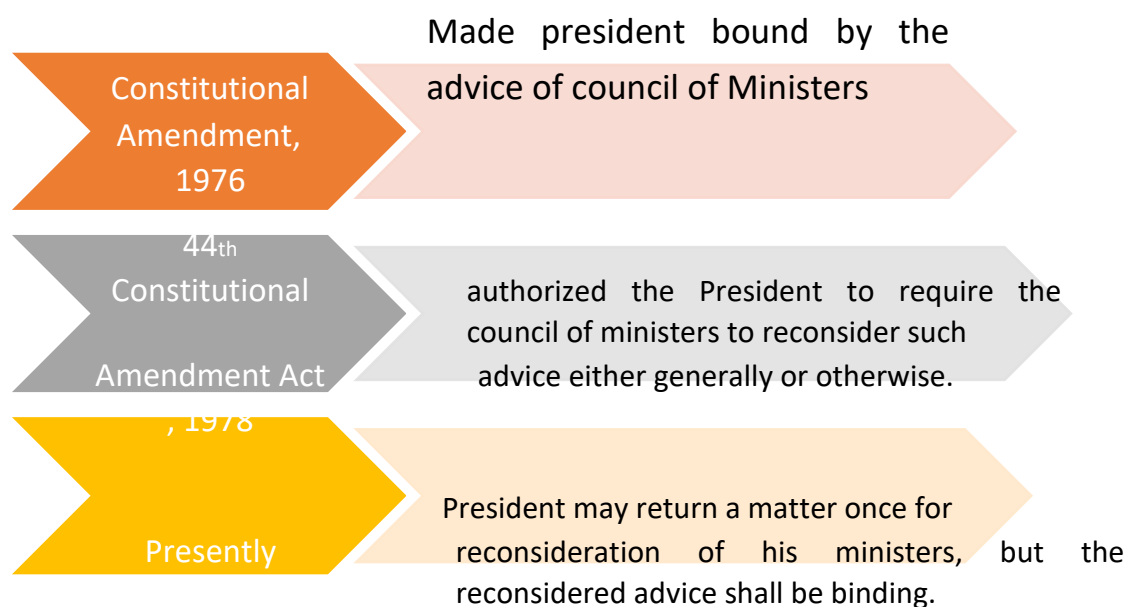
- The USA has a presidential system and executive powers are in the hands of the president.
- Canada has a **parliamentary democracy with a constitutional monarchy where Queen/King of Great Britain is the formal chief of state**, and the prime minister is the head of government.
- In France, both the president and the prime minister are a part of the **semi presidential system**.
- The **president appoints the prime minister as well as the ministers but cannot dismiss them as they are responsible to the parliament**.
- Japan has a parliamentary system **with the emperor as the head of the state and the prime minister as the head of government**.
- Italy has a parliamentary system with the president.

In a parliamentary system, the prime minister is the head of government. Most parliamentary systems have a president or a monarch who is the nominal Head of state. In such a system, the role of president or monarch is primarily ceremonial and prime minister along with the cabinet wields effective power.

The Constitution of India vests the executive power of the Union formally in the President. The President exercises these powers through the Council of Ministers headed by the Prime Minister.

Article 74 (1): *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 functions, act in accordance with such advice.***

*Provided that 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.*



**Discretionary Powers of the President:** Based on the above discussion can we infer that the President has no discretionary power under any circumstances? This will be an incorrect assessment. Constitutionally, the President has a right to be informed of all important matters and deliberations of the Council of Ministers. The Prime Minister is obliged to furnish all the information that the President may call for. The President often writes to the Prime Minister and expresses his views on matters confronting the country.

Besides this, there are at least three situations where the President can exercise the powers using his or her own discretion. In the first place, we have already noted that the President can send back the advice given by the Council of Ministers and ask the Council to reconsider the decision. In doing this, the President acts on his (or her) own discretion.

**Postal Amendment Bill Controversy:** In 1986, the Parliament passed a bill known as Indian Post office (amendment) bill. This bill was widely criticised by many for it sought to curtail the freedom of the press. The then President, Gyani Zail Singh, did not take any decision on this bill.

After his term was over, the next President, Venkataraman sent the bill finally back to the Parliament for reconsideration. By that time, the government that brought the bill before the Parliament had changed and a new government was elected in 1989. This government belonged to a different coalition and **did not bring the bill back before the Parliament.**


The President also has veto power by which he **can withhold or refuse to give assent to Bills** (other than Money Bill) passed by the Parliament. No mention in the Constitution about the time limit within which the President must send the bill back for reconsideration. **President can just keep the bill pending with him without any time limit.**

**Situational Discretion: Situation** when after an election, no leader has a clear majority in the Lok Sabha President has to decide whom to appoint as the Prime Minister. In such a situation, the President has to use his own discretion in judging who really may have the support of the majority or who can actually form and run the government.

**Prime Minister and Council of Minister:** Roles and Responsibility in a nutshell.

India follows a parliamentary system of government wherein the PM acts as the head of government and is also accountable towards Lok Sabha (Popular House). Hence it is essential that the Prime Minister has the support of the majority in the Lok Sabha and it is this popular support which makes PM most powerful person in the government. Formally, a leader who has the support of the majority is appointed by the President as Prime Minister.

The Prime Minister allocates ranks and portfolios to the ministers. Depending upon seniority and status in the government the ministers are given the ranks of cabinet minister, minister



of State or deputy minister. The Prime Minister and all the ministers have to be members of the Parliament. If someone becomes a minister or Prime Minister without being an MP, such a person has to get elected to the Parliament within six months.

**Concept of Collective responsibility:** The Council of Ministers is collectively responsible to the Lok Sabha. Collective responsibility is based on the **principle of the solidarity of the cabinet**. It implies that a **vote of no confidence even against a single minister leads to the resignation of the entire Council of Ministers**. It also indicates that if a **minister does not agree with a policy or decision of the cabinet, he or she must either accept the decision or resign**. It is binding on all ministers to pursue or agree to a policy for which there is collective responsibility.

#### **PM Vis-à-vis Council of Minister:**

- The Council of Ministers cannot exist without the Prime Minister.
- The Council comes into existence only after the Prime Minister has taken the oath of office.
- The death or resignation of the Prime Minister automatically brings about the dissolution of the Council of Ministers, but the demise, dismissal or resignation of a minister only creates a ministerial vacancy. PM acts as a link between the Council of Ministers on the one hand and the President as well as the Parliament on the other.

#### **How has post of PM become so influential?**

This enormous authority wielded by the Prime Minister flows from various sources:

- His control over the Council of Ministers and allocation of portfolios
- leadership of the Lok Sabha,
- command over the bureaucratic machine,
- access to media, projection of personalities during elections,
- projection as national leader during international summitry as well as foreign visits.

However, this is not the case always. Role and status of PM has been found to get diminished if the government is not enjoying full majority and depending on the coalition partners. Political parties of different ideologies come together both as pre-poll and post-poll allies to form a government. Policies are framed after a lot of negotiations and compromises among the allies. **In this entire process, the Prime Minister must act more as a negotiator than as leader of the government.**

- In the first place, these developments have resulted in a growing discretionary role of the President in the selection of Prime Ministers or the same goes with selection of chief minister by the governor.
- Secondly, coalitional nature of Indian politics in this period has necessitated much more consultation between political partners, leading to erosion of prime ministerial authority.

	President	Vice president	Prime minister	Council of minister
<b>Mode of appointment</b>	Elected indirectly	Indirectly elected	Appointed by president	Appointed by president.
<b>Method of appointment</b>	Proportional representation single transferable vote secret ballot	Pr – STV- SB	PR open ballot	PR open ballot
<b>Qualification</b>	Citizen of India 35-year age Should be equal to MP and Lok Sabha	Citizen of India 35-year age Should be equal to MP and Rajya Sabha	No qualification. 6 months should become member of house	No qualification. 6 months should become member of house
<b>Resign</b>	By write to vp	By write to president	By the written resignation to president	Write to president.
<b>Tenure</b>	5 year	5	Pleasure of president	Pleasure of president

**Q) It has been said all roads in the constitution lead to prime minister in this context highlight the importance of prime minister in Indian constitutional scheme**

Under the constitution of India prime minister has been said to be real head of executive at union level. The composition of prime minister greater power influence and prestige he is one who keeps the fabric of parliamentary system in working order. Constitution along with other parliamentary convention various roles and responsibilities such as

- 1) he is leader of majority party in the Lok Sabha
- 2) he is head of council of ministers upon whose advice the president has to discharge function.
- 3) HE IS responsible for appointment of ministers by recommending them to president and allocating portfolio among them.
- 4) in principle minister holds office till the pleasure of president but prime minister can compel any minister to resign and invoke this pleasure of president.

Hence in practice minister enjoys office in the pleasure of president

- 5) he coordinates the policy of government and acts as principle spoke person and defender of cabinet in parliament.
- 6) he convinces and preside over meeting of cabinet and communicate the president about all the decision of the cabinet. Hance he acts as link between cabinet and president.
- 7) he can even obtain the dissolution of Lok Sabha by recommending to the president can call for press election.



**Question 26.** In parliamentary System the Prime minister enjoys real powers while president has ceremonial or titular powers. Analyse