

# **Unit-2**

**Powers of Indian Parliament Functions of Rajya Sabha, Functions of Lok Sabha, Powers and Functions of the President, Comparison of powers of Indian President with the United States, Powers and Functions of the Prime Minister, Judiciary – The Independence of the Supreme Court, Appointment of Judges, Judicial Review, Public Interest Litigation, Judicial Activism, LokPal, Lok Ayukta, The Lokpal and Lok ayuktas Act 2013, State Executives – Powers and Functions of the Governor, Powers and Functions of the Chief Minister, Functions of State Cabinet, Functions of State Legislature, Functions of High Court and Subordinate Courts.**

# Introduction

The Legislature, the Executive and the Judiciary are the three main organs of the government. These organs do not work in isolation to each other but are interdependent to ensure proper and systematic functioning of the government.

India has adopted a Parliamentary form of government from Britain. The Parliament or the legislature performs the function of making laws. The executive, executes or implements the laws enacted by the Parliament and the judiciary interprets these laws.

# Legislature

The legislature or the Parliament comprises of the Lok Sabha, Rajya Sabha and President. As stated earlier, its main function is to enact and formulate laws. It also imposes taxes, authorizes borrowing, and prepares and implements the budget, etc. The legislative powers have been given to the parliament. But the judiciary and executive aid the legislature in carrying out its functions. The judiciary interprets the Constitution and makes sure that the laws passed by the Parliament are constitutionally valid. It engages in judicial review of the acts of the Parliament and keeps a check on the Parliament's power.

# Executive

The executive, ie the Prime Minister and his Council of Ministers have the power to make laws through notices and ordinances to aid the Legislature.

The Executive has wide-ranging powers to refuse laws, command the military, make verdicts, ordinances and declarations, etc. But the executive is accountable to the legislature for its actions.

# Judiciary

The Constitution provides for the independence of the judiciary, a strong feature of our democracy. The primary role of the judiciary is the administration of justice. The judiciary comprises the Supreme Court, the High Courts and the district courts at the lower level. The judiciary is independent on the executive as it is the president that appoints the judges in the Supreme Court, and the Chief justices of the high court which in turn appoint the judges in the lower courts.

# Parliament – An Introduction

Meaning of the word ‘Parliament’ -- is a word derived from the French expression *parlement* which means ‘speaking’, and Latin word ‘*parliamentum*’ which means ‘talking’. It has come to mean ‘meeting for discussion’.

Different Names of Legislature: In India Parliament is known as *Sansad*.



# Parliament

India has borrowed this nomenclature from England and has adopted what is called as ‘Parliamentary system’.

The legislative powers of the federal government lie within the parliament of India. Thus, the laws that are framed by the parliament of India are enforced throughout the country.

India has a parliamentary system of government. The Union Parliament is the supreme legislative body in the country.

# Parliament

- Supreme Legislative body of a country
- Bicameral
- 2 houses –Lokshaba and Rajya Shabha
- Sansad Bhavan
- 911 million Indians registerd to vote in 2019 general elections

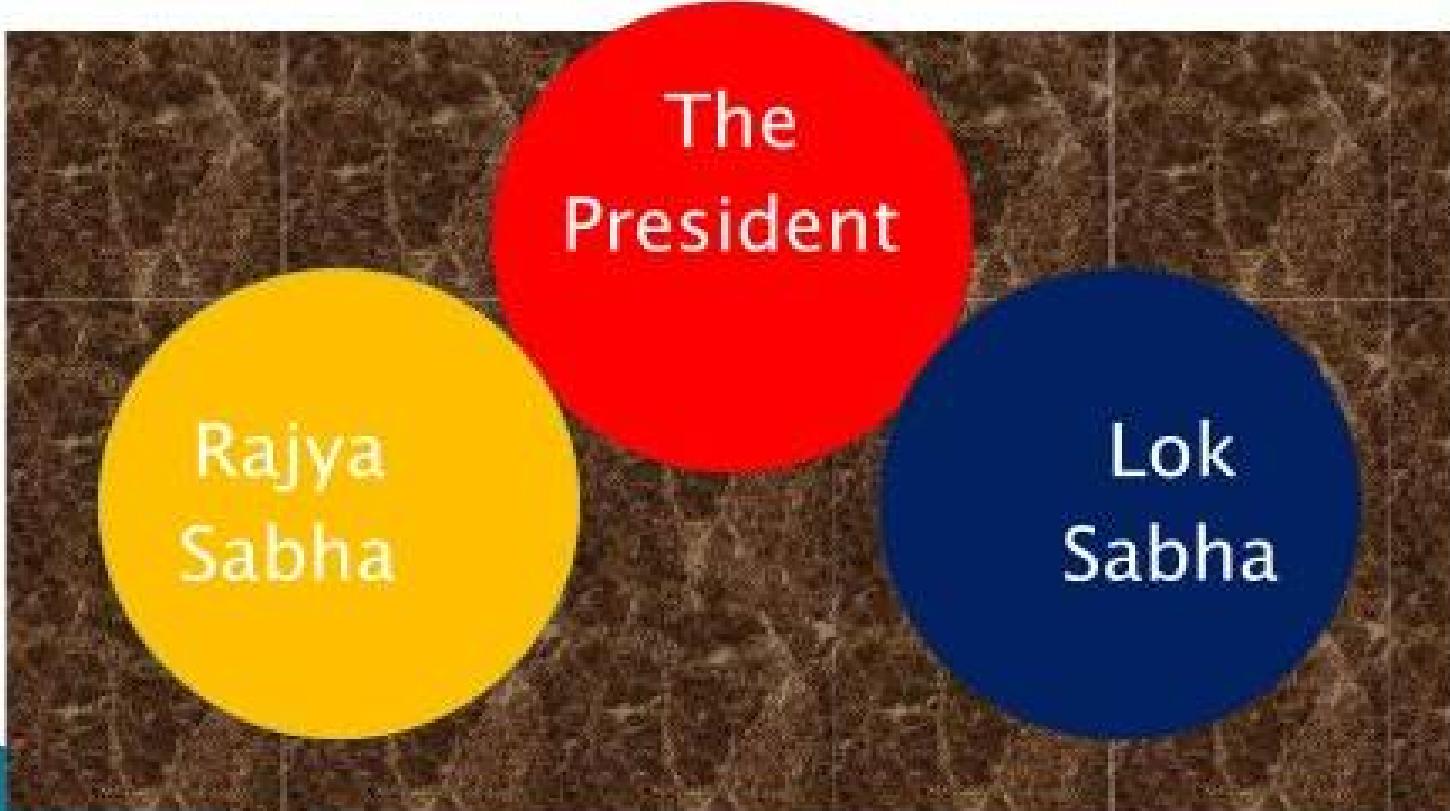
# Background

- Designed by Edwin Lutyens and Herbert Baker.
- Opening ceremony was performed on 18 January 1927 by the Governor-General of India, Lord Irwin.
- Construction Cost - Rs. 8.3 million
- 570 feet (170 meters) in diameter,Covers 6 acres
- Took 6 years in Construction

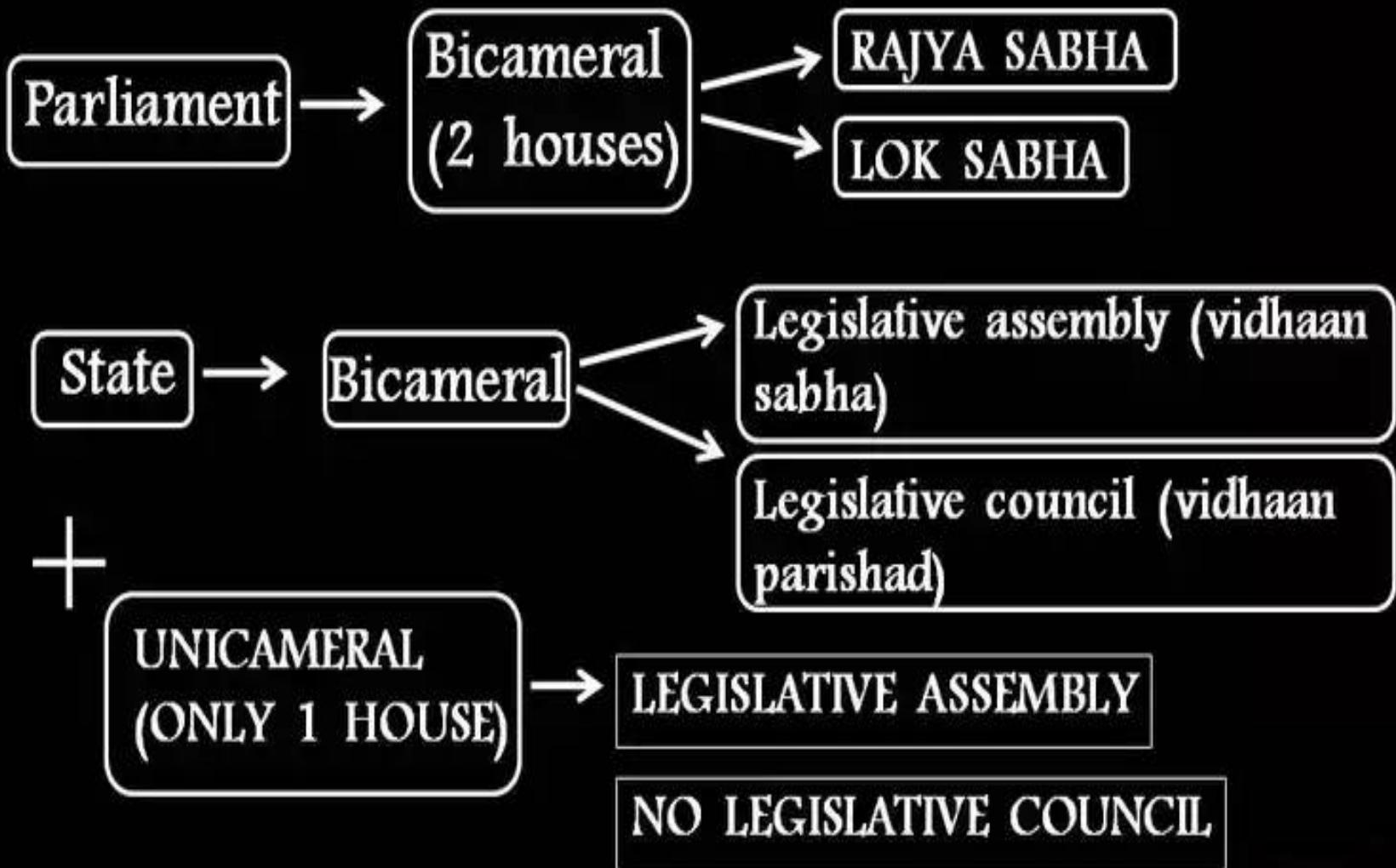
# Composition

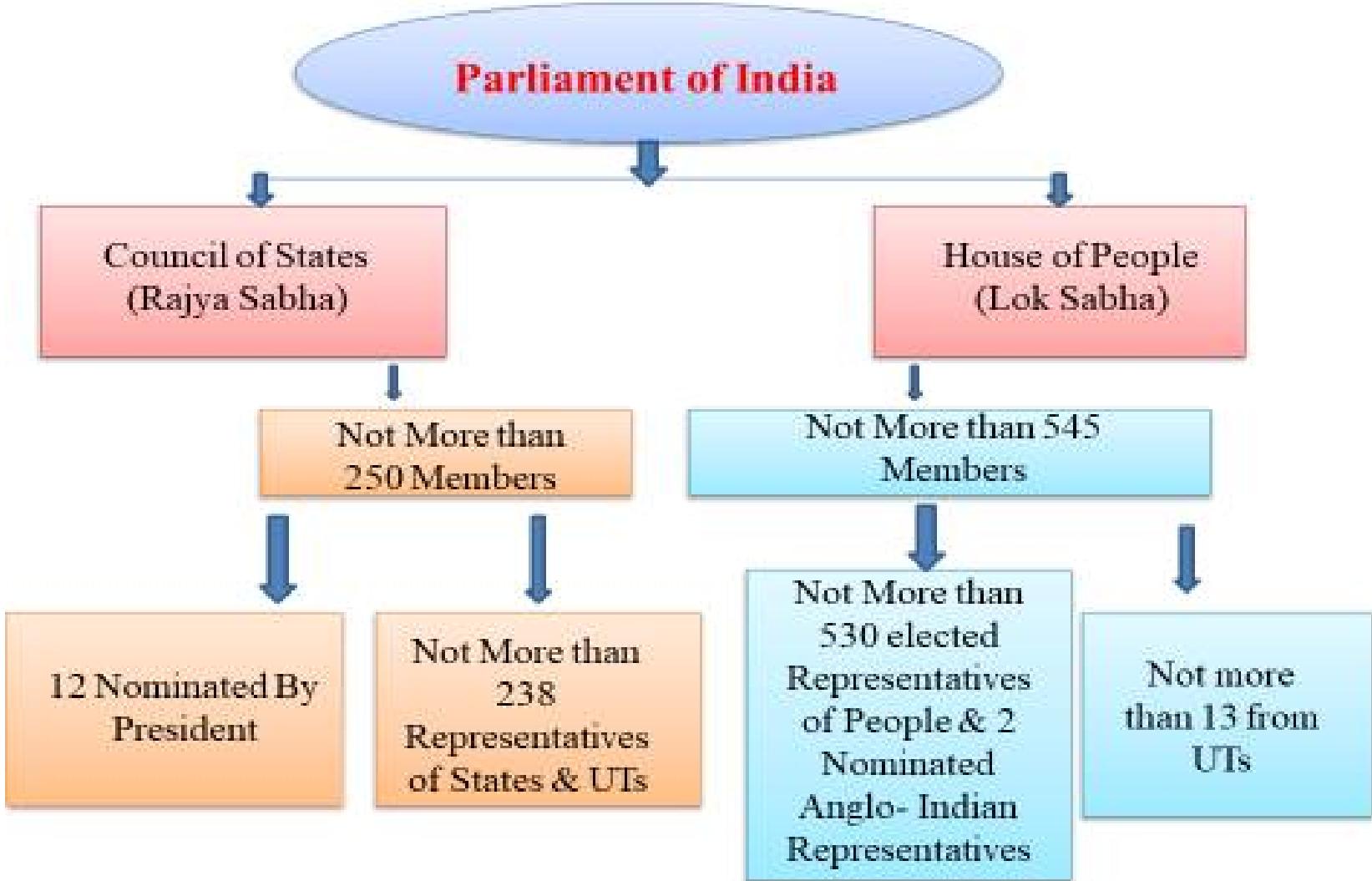


The Parliament of India consists of



# **LEGISLATIVE COUNCIL**





# Lok Sabha

1. Directly elected by people through Universal Adult Franchise.
2. India is divided into 543 constituencies. (530 States and 13 UTs) [Max. 552]
3. Eligibility:
  - Citizen of India
  - Minimum 25 years of age
  - Should not hold any office of profit
  - Not be insolvent
  - Should have his name in the electoral rolls in any part of the country.
  - Sound mind
  - Should not be proclaimed criminal

# Lok Sabha

Directive Principles of State Policy

## Vacation of Seat of LS:

- Absence of 60 days from sitting of parliament without the permission of House.
- Resignation to the Speaker.
- Tenure: 5 years when Lok Sabha is dissolved.

# Rajya Sabha

1. Permanent House: Never dissolve
2. Council of State: Every state has fixed number of seats in the Rajya Sabha on the basis of Population.
3. Term of Member: 6 years, one-third of member retire every two years.
4. Max. Membership: 250 members { 238 from States/ UTs} and 12 nominated by President in the field of arts, sports, music etc. [ present seat 245]
5. Eligibility: Same as Lok Sabha  
Minimum age: 30 years

# Special Powers of Rajya Sabha

- Under Article 249, It Can shift an item of the State List to the Union or Concurrent List
- Under Article 312, It can create an All- India Public Service
- Under the Article 354 or 356 or 360, It can extend the duration of emergency proclaimed by the President of India
- It can alone initiate a move for the removal of the Vice-President of India

# Difference Between LS and RS

## **Lok Sabha**

1. Directly elected by People
2. Not a permanent House
3. Tenure: 5 years
4. May be early or late dissolved in case of emergency
5. Min age : 25 years
6. Money bill and Financial bill can only be introduced in LS.

## **Rajya Sabha**

1. Indirectly elected by People.
2. Permanent House
3. Tenure: 6 years
4. Not Dissolved
5. Min age: 30 Years
6. Can only give Suggestions
7. Can create new “ All India Services”

# Types of Majority in Parliament

**A. Simple Majority:** More than 50% of members present and voting.

**Quorum:** Minimum members present to start proceedings.  
{10% of Total Membership}

**Bill:** is a Draft of Legislative Proposal which when passed by both Houses of Parliament and assented by the President, becomes an Act of the Parliament.

- Any Ordinary Bill
- Money bill
- Financial Bill
- Confidence Motion/No Confidence Motion
- Election of Speaker

# Types of Majority in Parliament

Directive Principles of State Policy

**B. Absolute Majority:** More than 50% of Total Strength of Parliament.

➤ Stable Government.

**C. Effective Majority:** More than 50% of Effective Strength. [ Effective Strength = Total Strength – Vacations]

➤ Removal of Speaker/ Deputy Speaker

➤ Removal of Chairman/ Vice-Chairman of Rajya Sabha

# **Types of Majority in Parliament**

## **D. Special Majority:**

(a) More than 2/3<sup>rd</sup> of members Present and Voting.

- When RS creates new All India Services
- When RS legislate in matter of State List

(b) Special Majority + Absolute Majority:

- Approval of National Emergency
- Removal of Judges of SC/HC
- Resolution of State Legislative Assembly to create or remove Legislative council
- Constitutional Amendment Bill which do not affect the Federalism.

# Types of Majority in Parliament

Directive Principles of State Policy

(c) Special Majority of 2/3<sup>rd</sup> members of Total Strength of House:

➤ Impeachment of President under Article 61

(d) Special Majority with Ratification by the States:  
It is 2/3<sup>rd</sup> of members present and voting in both the Houses + Passed by Legislative Assembly of more than half of the State by Simple Majority.

➤ Constitutional Amendment Bill which changes the Federal Structure of the Nation. Eg. GST

# Types of Bills in Parliament

Directive Principles of State Policy

A Bill is a draft of Legislative proposal which when passed by both Houses of Parliament and assented by the President became an Act of Parliament.

Types of Bill:

- Ordinary bill
- Money Bill
- Financial Bill
- Constitutional Amendment Bill

# Ordinary Bills

## Directive Principles of State Policy

Any bill which is not a Money bill, Financial bill or Constitutional Amendment bill is called an Ordinary Bill.

### **Procedure for passing Ordinary Bill:**

- Can be introduced by any House.
- It is passed in one House by Simple Majority and then sent to other House.
- After it is passed in both houses, it is sent to the President.

### **President have three options:**

- Give his assent to the Bill.
- Return the Bill for reconsideration with recommendations
- Hold the bill for any amount of time.

# Money Bills

## Directive Principles of State Policy

Any Bill which contains one or more matters given in Article 110 **only** is called a Money Bill.

### Procedure for passing Money Bill:

- Can only be introduced in Lok Sabha with prior recommendation of President.
- It is passed by Simple Majority in Lok Sabha then sent to Rajya Sabha.
- RS can only give recommendations which LS can accept or reject.
- RS can not hold the bill for more than 14 days
- The president then has to pass the Bill.

# **Financial Bill**

**Directive Principles of State Policy**

Any bill which contains one or more matters given in Article 110 and also some other non-monetary matter is called a Financial Bill.

## **Procedure for passing Financial Bill:**

- Can only be introduced in Lok Sabha with prior recommendation of President.
- After that the whole process is same as Ordinary Bill.

# **Constitutional Amendment Bills**

Any bill which suggest any change to the Constitution of India is called Constitutional Amendment Bill. It is mentioned in Article 368 that Constitution can be amended.

## **Procedure for passing CA Bill:**

**There may be 2 cases:**

### **A. If it does not affect the Federal Structure:**

- Can be introduced in any House
- Passed in both the House by Special Majority
- Goes to the president who has to pass the Bill after 24<sup>th</sup> CA Act 1971.

### **B. If it does affect the Federal Structure:**

- Can be introduced in any House
- Passed in both the House by Special Majority
- Then it has to ratified by more than half of state legislature by simple majority.
- Goes to the president who has to pass the Bill after 24<sup>th</sup> CA Act 1971.

# **Bills which are introduced on prior Draught Bill with the permission of President: Policy**

- Money Bill
- Financial Bill
- Ordinary Bill relating to Article 3 of the Constitution relating with changing name and boundary of the States.

# Sessions of Indian Parliament

Directive Principles of State Policy

The period during which the House meets to conduct its business is called a **Session**.

The President summons each House at such intervals that there should not be more than a 6 months gap between the two sessions.

There should be **minimum of two sessions** of parliament in a year.

# Sessions of Indian Parliament

Directive Principles of State Policy

According to “ Parliamentary Convention” there are 3 types of Sessions conducted:

- Budget Session
- Monsoon Session
- Winter Session

Apart from these “ A Special Session” can be conducted to transact any special business.

# **Sessions of Indian Parliament**

**Directive Principles of State Policy**

## **Budget Session (First Session):**

- Feb to May
- Longest Session
- Starts with address of the President
- Budget is presented and passed in this session.

## **Monsoon Session: July to August**

## **Winter Session:**

- Mid Nov to Mid Dec
- Shortest Session

# Functions of Parliament

The functions of parliament are divided based on the powers it has. These are

- Legislative powers
- Executive powers
- Financial powers
- Amending powers
- Electoral powers
- Judicial powers
- Other powers

# Legislative Powers

- The Parliament legislates on all matters mentioned in the Union List and the Concurrent List.

In the case of the Concurrent List, where the state legislatures and the Parliament have joint jurisdiction, the union law will prevail over the states.

- The Parliament can also pass laws on items in the **State List** under the following circumstances:

- If Emergency is in operation, or any state is placed under President's Rule (Article 356), the Parliament can enact laws on items in the State List as well.
- As per **Article 249**, the Parliament can make laws on items in the State List if the Rajya Sabha passes a resolution by  $\frac{2}{3}$  majority of its members present and voting, that it is necessary for the Parliament to make laws on any item enumerated in the State List, in the national interest.
- According to **Article 252**, if the legislatures of two or more states pass a resolution to the effect that it is desirable to have a parliamentary law on any item listed in the State List, the Parliament can make laws for those states.

## Executive Functions

In the parliamentary form of government, the executive is responsible to the legislature. Hence, the Parliament exercises control over the executive by several measures.

By a **vote of no-confidence**, the Parliament can remove the Cabinet (executive) out of power. It can reject a budget proposal or any other bill brought by the Cabinet. A motion of no-confidence is passed to remove a government from office.

**Adjournment Motion:** Allowed only in the Lok Sabha, the chief objective of the adjournment motion is to draw the attention of the Parliament to any recent issue of urgent public interest.

**Censure Motion:** A censure motion is moved by the opposition party members in the House to strongly disapprove any policy of the government. It can be moved only in the Lok Sabha. Immediately after a censure motion is passed, the government has to seek the confidence of the House.

# Executive Functions

- **Cut Motion:** A cut motion is used to oppose any demand in the financial bill brought by the government.
- **Interpellation:** The right of the members of the House to ask questions on matters of public interest to the government.
- **Question Hour:** The first hour on every working day of the House is reserved for asking Questions. Speaker can decide to cancel it, if required.
- **Zero Hour:** The period which begin at 12'o clock after the Question Hour and continues till Lunch Break. Member ask all types of questions without any permission or prior notice.

# Financial Functions

Parliament is the ultimate authority when it comes to finances. The Executive cannot spend a single pie without parliamentary approval.

- The Union Budget prepared by the Cabinet is submitted for approval by the Parliament. All proposals to impose taxes should also be approved by the Parliament.
- There are two standing committees (Public Accounts Committee and Estimates Committee) of the Parliament to keep a check on how the executive spends the money granted to it by the legislature.
- Money Bills.

## **Amending Powers**

The Parliament has the power to amend the Constitution of India. Both Houses of the Parliament have equal powers as far as amending the Constitution is concerned. Amendments will have to be passed in both the Lok Sabha and the Rajya Sabha for them to be effective.

## **Electoral Functions**

The Parliament takes part in the election of the President and the Vice President. The electoral college that elects the President comprises of, among others, the elected members of both Houses.

# Judicial Power

In case of breach of privilege by members of the House, the Parliament has punitive powers to punish them. A breach of privilege is when there is an infringement of any of the privileges enjoyed by the MPs.

A privilege motion is moved by a member when he feels that a minister or any member has committed a breach of privilege of the House or one or more of its members by withholding facts of a case or by giving wrong or distorted facts.

Other judicial functions of the Parliament include the power to impeach the President, the Vice President, the judges of the Supreme Court, High Courts, Auditor-General, etc.

# Other powers/functions of the Parliament

- Issues of national and international importance are discussed in the Parliament. The opposition plays an important role in this regard and ensures that the country is aware of alternate viewpoints.
- A Parliament is sometimes talked of as a ‘nation in miniature’.
- In a democracy, the Parliament plays the vital function of deliberating matters of importance before laws or resolutions are passed.
- The Parliament has the power to alter, decrease or increase the boundaries of states/UTs.
- The Parliament also functions as an organ of information. The ministers are bound to provide information in the Houses when demanded by the members.

# Powers and Functions of Lok Sabha

## Legislative Powers:

An ordinary bill can become law only after it has been passed by both the Houses of Parliament. It can be introduced either in the Lok Sabha or the Rajya Sabha. When a bill is introduced and passed by the Lok Sabha, it is sent to the Rajya Sabha. After it has secured the approval of Rajya Sabha, it goes to the President for his signature.

In case the Rajya Sabha rejects a bill passed by the Lok Sabha and returns it with or without some amendments, the Lok Sabha reconsiders the bill.

If the Lok Sabha re-passes it and the Rajya Sabha is still not prepared to pass it, a deadlock occurs. If this deadlock remains unresolved for six months, the President summons a joint sitting of the two Houses. The decision of the joint sitting is accepted by both the Houses.

# Powers and Functions of Lok Sabha

## **Executive Functions:**

For all its work, the Council of Ministers is collectively responsible before the Lok Sabha. The leader of the majority in the Lok Sabha becomes the Prime Minister. The ministers remain in office so long as they enjoy the confidence of majority in the Lok Sabha.

The Lok Sabha can remove the ministry from office by passing a vote of no- confidence against it.

# **Powers and Functions of Lok Sabha**

## **Financial Powers:**

The Lok Sabha has vast financial powers. A money bill can be introduced only in the Lok Sabha. After having been passed by it, the money bill goes to the Rajya Sabha. Such a bill can be delayed by the Rajya Sabha for a maximum period of 14 days.

If the Rajya Sabha fails to pass a money bill and 14 days elapse from the date of the submission of the bill to it, the money bill is deemed to have been passed by both the houses of Parliament. It is sent to the President for his signature.

In case of any dispute as to whether a particular bill is a money bill or not, the Speaker of the Lok Sabha gives the decision. His decision is final and it cannot be challenged in any court or even in the Rajya Sabha or the Lok Sabha.

No tax can be levied or collected or changed or abolished without the approval of the Lok Sabha. The fiscal policies of the government cannot be implemented without the consent of the Lok Sabha.

# Powers and Functions of Lok Sabha

## Judicial Powers:

The Lok Sabha also performs some judicial functions. The impeachment proceedings can be taken up against the President either in the Lok Sabha or the Rajya Sabha. The President can be removed from office only when an impeachment resolution is adopted by each of the two Houses with a 2/3 majority of its members.

The Lok Sabha also investigates the charges prepared by the Rajya Sabha against the Vice-President of India. The Lok Sabha and the Rajya Sabha can together pass a resolution for the removal of any judge of the Supreme Court or of a State High Court.

Both the Houses can jointly pass a special address and present it to the President for the removal of some high officers of the state like the Attorney General, the Chief Election Commissioner and the Comptroller and Auditor General of India.

# Powers and Functions of Lok Sabha

## **Electoral Powers:**

The Lok Sabha also performs some electoral functions. The elected members of the Lok Sabha take part in the election of the President. Members of the Lok Sabha and the Rajya Sabha together elect the Vice-President of India. The members of the Lok Sabha also elect a Speaker and a Deputy Speaker from amongst themselves.

# Speakers of Lok Sabha

- Presides the meeting and sessions of Lok Sabha
- Speaker and Deputy Speaker are elected among the members of Lok Sabha
- Resigns by writing to the Deputy Speaker
- Do not vacate office on the dissolution of Lok Sabha
- Maintain decorum in the House and do the proceedings of the House.

## **Special Powers:**

- Presides the Joint Session of the Parliament
- Decides whether a bill is Money Bill.
- Right for “ Casting Vote” in case of equal number of votes of any bill resolution.
- Appoints the Chairman of different Parliamentary Committees.

# Chairman of Rajya Sabha

- The Vice-President is the ex-officio chairman of Rajya Sabha
- Presides over the Session and meetings of Rajya Sabha
- In his absence, Deputy Chairman does his work who is elected among the members of Rajya Sabha.

The background of the image features a dark, abstract space-like composition. It includes swirling patterns of orange and red on the left, transitioning into green and blue on the right. A prominent feature is a bright, glowing green energy field or stream that originates from the bottom right and curves upwards towards the center. The overall texture is grainy and has a futuristic, high-energy feel.

THANK YOU

# **Union Executive**

**Introduction: (Article 52-78) (Part V of Indian Constitution)**

The Executive is the branch of Government accountable for the implementation of Laws and Policies legislated by the Legislature.

Union Executive consists of:

- President
- Vice President
- Prime Minister
- Council of Ministers
- Attorney General of India

# Parliamentary Form of Government

- System of government in which there is a close relationship between Executive and the Legislature.
- The Head of the State is usually different person than the Head of the Government.
- A President is Head of the State.
- The Function of the Head of the State is chiefly Formal or Ceremonial.
- The Council of Ministers or the Cabinet exercises the Real executive powers and authority to run the government.

# The President

- Article 52 says “ There shall be a President of India”.
- The President is the First Citizen of India.
- The President is the Supreme commander of Defense Forces.

Indian President is the head of the state. He is the first citizen of India and is a symbol of unity and integrity of the nation. He is a part of Union Executive along with Vice-President, Prime Minister, Council of Ministers and Attorney-General of India.

# Qualifications to become President of India

- Citizen of India
- Completed 35 years of age
- Qualified for the election as a member of the Lok Sabha
- Not hold any office of profit under the govt. of India, state govt. or any local authority.
- Shall not be a member of either House of People or House of legislature of any state

# How is President elected?

There is no direct election for the Indian President. An electoral college elects him. The Electoral College responsible for President's elections comprises **elected members of:**

1. Lok Sabha and Rajya Sabha
2. Legislative Assemblies of the states (Legislative Councils have no role)
3. Legislative Assemblies of the Union Territories of Delhi and Puducherry

## Who does not take part in the President's elections?

The following group of people are not involved in electing the President of India:

1. Nominated Members of Lok Sabha (2) and Rajya Sabha (12)
2. Nominated Members of State Legislative Assemblies
3. Members of Legislative Councils (Both elected and nominated) in bicameral legislatures
4. Nominated Members of union territories of Delhi and Puducherry

# Term of Office

- 5 years from the date on which he enters upon his office
- Eligible for re-election
- His office can be terminated in either of two ways:-
  - By resignation in writing under his hand addressed to the Vice-President of India
  - By removal of violation of the constitution by the process of impeachment
- In case if president dies or resigns, the VP will act as the President of India.
- If President is sick or unable to perform his duty, the VP will only perform his duty

# Impeachment

- Article 61 deals with impeachment of President.
- He can removed on only one ground of violating the Constitution.
- A resolution can introduced in either House of Parliament.
- At the time of introduction at least 25% of the members of House must be supporting it.
- 14 days notice period is given to the president.

# Impeachment

- The resolution then has to be passed by 2/3<sup>rd</sup> of total strength of that House.
- Then the resolution will move to the Second House. (Investigating House)
- The other House then can constitute a committee or the whole house can look into the allegation.
- The President has the right to defend himself.
- If the other House then passes a resolution by 2/3<sup>rd</sup> majority of total strength of the house, the president is impeached.

**Lok Sabha initiates an impeachment charge (s)**

- The impeachment charges are signed by one-fourth of the members of the Lok Sabha
- 14 days' notice is given to the President of India

**Lok Sabha passes the impeachment charges with two-third majority and sends it to Rajya Sabha**

- Lok Sabha after signing the charges, passes them to Rajya Sabha for investigation

**Rajya Sabha investigates the charges**

- While Rajya Sabha is investigating the charges, President has the right to sit in the proceedings

**Rajya Sabha agrees to the charges and passes it with two-third majority and President stands removed**

# Can the President's office be vacant?

Yes, his office can be vacant in the following ways:

- When President of India completes his term of five years in the office
- If the President resigns by putting forward his resignation to the Vice-President of India
- If Lok Sabha/Rajya Sabha initiates an impeachment charge and they stand valid, he is removed
- If he dies in the office
- If Supreme Court declares his election invalid

# What are the powers and functions of President of India?

## Executive Powers of President

- For every executive action that the Indian government takes, is to be taken in his name
- He appoints the attorney general of India and determines his remuneration
- He appoints the following people:
  - Prime Minister and other minister on the advice of PM.
  - The Chief Justice and Judges of SC and all HC.
  - Comptroller and Auditor General of India (CAG)
  - Chief Election Commissioner and other Election Commissioners
  - Chairman and members of the Union Public Service Commission
  - State Governors
- He seeks administrative information from Union government

# Legislative Powers of President

- He summons or prorogues Parliament and dissolve the Lok Sabha
- He summons a joint sitting of Lok Sabha and Rajya Sabha in case of deadlock
- He addresses the Indian Parliament at the commencement of the first Session after every general election
- He appoints speaker, deputy speaker of Lok Sabha and chairman/deputy chairman of Rajya Sabha when the seats fall vacant. He nominates 12 members of the Rajya Sabha
- He can nominate two members to the Lok Sabha from the Anglo-Indian Community
- He consults Election Commission of India on questions of disqualifications of MPs.
- He recommends/ permits the introduction of certain types of bills .

# Financial Powers of President

## Directive Principles of State Policy

- To introduce the money bill and Financial Bill his prior recommendation is a must
- He causes Union Budget to be laid before the Parliament
- To make a demand for grants, his recommendation is a pre-requisite
- Contingency Fund of India is under his control
- He constitutes the Finance Commission every five year

# Judicial/Diplomatic Powers

## Judicial Powers of President

- Appointment of Chief Justice and Supreme Court/High Court Judges are on Him
- He takes advises from Supreme Court however, those advises are not Binding on him
- He has pardoning power.

## Diplomatic Powers of President

- International Treaties and agreements that are approved by the Parliament are negotiated and concluded in his name
- He is the representative of India in international forums and affairs

# **Military/Emergency Powers**

## **Military Powers of President**

He is the commander of defense forces of India. He appoints:

- Chief of the Army
- Chief of the Navy, and
- Chief of the Air Force

## **Emergency Powers of President**

He deals with three types of emergencies given in the Indian Constitution:

- National Emergency (Article 352)
- President's Rule (Article 356 & 365); and
- Financial Emergency (Article 360)

# Vice- President

- Article 63 says that “ There shall be a Vice-President of India.
- Holds the Second Highest Office in the Country.
- Is also the Ex-officio Chairman of Rajya Sabha

## **Qualification:**

- Citizen of India
- 35 years
- Qualified to become a member of Rajya Sabha
- Not hold any office of Profit
- Should not be a member of either Parliament or State Legislature.

## **Election of VP:**

Done by Electoral College consisting of:

- All members of LS & RS

# Vice- President

Directive Principles of State Policy

Voting is done through Proportional Representation through Single Transferable Vote.

## Term of Office:

- 5 Years
- Resign any time before his term by writing to the President
- Can be elected for any number of turns.

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**THANK YOU**

# History Project

## Rising Royals Successor

### KA

Topic: DIFFERENCE  
BETWEEN  
PARLIAMENTARY &  
PRESIDENTIAL TYPE  
GOVERNMENT

## INTRODUCTION TO THE TOPIC

- Presidential and Parliamentary forms of Govt are two different systems of Government, which are available in all countries of the world. These two systems are for good governance and these two are efficient in their tasks. For example, Presidential form of government is prevalent in countries like USA, France, Argentina, etc. and Parliamentary form of government is prevalent in countries like India, UK, etc.
- In this PPT we will explain these two systems of governance in brief

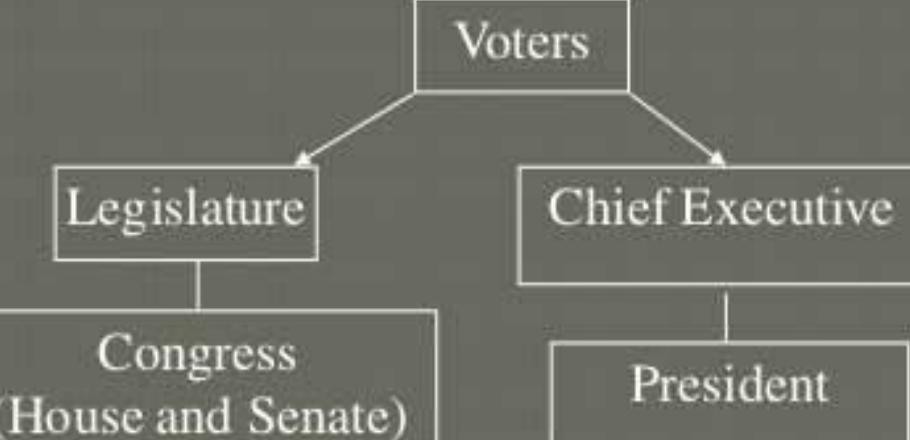
# Presidential form of government

- A **presidential system** is a system of government where a head of government is also head of state and leads an executive branch that is separate from the legislative branch. The United States, for instance, has a presidential system.



# Presidential Democracy

The voters elect the members of the Executive Branch separately from the legislative branch.

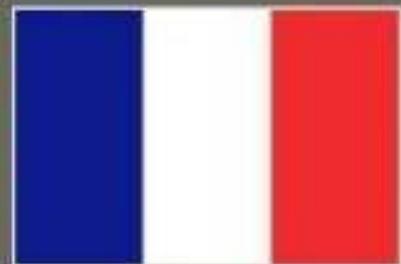


## Examples

United States



France



Argentina



Kenya



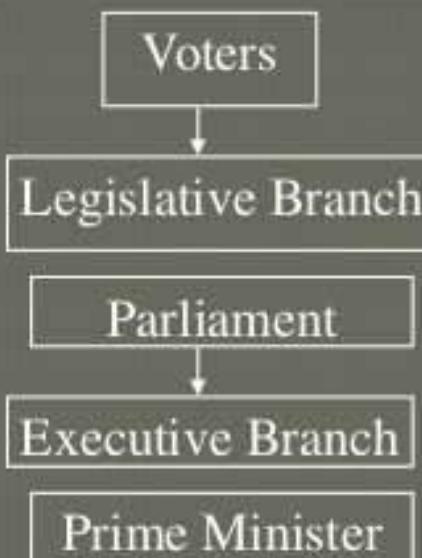
# Parliamentary form of government

- A **parliamentary system** of government, as prevalent in UK, is a system of democratic governance of a state where the executive branch gets its democratic legitimacy from the legislature (parliament) and is also held accountable to that legislature. In a parliamentary system, the head of state is normally a different person from the head of government.



# Parliamentary Democracy

The voters elect the members of Parliament who then choose the Prime Minister who is head of the Executive Branch.



## Examples

United Kingdom



Japan



Canada



India



# Comparison of parliamentary and presidential form of government

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## **1. SIMILARITIES**

The major similarity between a presidential democracy and a parliamentary democracy is that both of these types of governments are democracies.

Both of these forms of democracy allow people to vote for their leaders. This makes them superior to other forms of government that do not allow their people to enjoy popular sovereignty.

## Comparison of parliamentary and presidential form of government - DIFFERENCES

- One of the main differences between the presidential and parliamentary system is that in presidential system the legislative and executive branches are separated from each other. In the parliamentary system the executive branch is led by the PM and his council of ministers. They are all members of the legislative branch. In the presidential system, there is no such thing as the PM. The secretaries of the departments are answerable to the president only.

- In the parliamentary form of government there are two heads. One is the nominal head, while other is the real head. For example, in UK president is the nominal head and the prime minister is the real head. The president of UK is the head of the state where as the prime minister is the head of the government. But in the presidential form of government, there is only one head. As in USA, the president is the head of not only of the states, but also of the government.
- There is no strict separation of powers in the parliamentary form of government as in UK and India. The ministers are also the part of the legislature. But presidential form of government strictly follows the principle of separation of powers. In the USA, the president and his ministers are not the part of the congress.

- The major difference between these two systems is that in a Presidential system, the President is directly voted upon by the people. He is answerable to the voters rather than the legislature.

While in a parliamentary system, the legislature holds supreme power. The prime minister is chosen by members of the legislature and in practice is the leader of the majority party in the legislature.

- In the parliamentary system of government, the prime minister is fully free to choose his ministers among the members of the parliament. But in Presidential form of government, the president enjoys much more freedom in selecting his ministers. He selects them from much wider field taking into account their experience and expertise.

- In the Presidential form of government , both houses of the legislature – i.e. the Senate and the House of Representatives in USA- are directly elected. In the parliamentary form of government , one of the house is directly elected and the second house is nominated i.e. the House of Commons is directly elected and the House of Lords is indirectly appointed as in UK.
- The biggest difference is in terms of the powers of the president. In the parliamentary system , the president acts as a ceremonial figure and the head of the state who appoints the ministers and the PM, but has no powers in terms of foreign or domestic policy as in UK. In the presidential system as in USA, the president is the key actor in foreign and domestic policy and also a representative of constitutional authority.

# IN SHORT TO EXPLAIN THE TOPIC

2 people clipped this slide

## Comparison of Parliamentary and Presidential Systems

Clip slide

Differences	Presidential	Parliamentary
<b>Structure of the executive</b>	Single-headed	Double-headed
<b>Source of the executive</b>	People	Parliament
<b>Responsibility of the executive to parliament</b>	No	Yes
<b>Cancel of parliament by the executive</b>	No	Yes
<b>Same person be part of legislative and executive</b>	Not possible	Possible
<b>Take part in the works of parliament by executive</b>	Not possible	Possible

## **How the office of the US President is different from that of the Indian President?**

### **Manner of election**

US president is more or less directly elected whereas the Indian president is indirectly elected. The advantage of the directly elected head of the government is the stability of the government.

### **Head of the State**

The US President is both the *Head of the State and Head of the Government*, whereas the Indian president is only the head of the State. President of the US is the *real executive*.

## **How the office of the US President is different from that of the Indian President?**

### **Term of office**

American President holds the office for 4 years and he can seek re-election only once, while the Indian president holds the office for 5 years and is eligible for re-election any number of times.

### **Responsibility to Legislature**

The US president is *not* part of any legislature and is not responsible to the legislatures. In India, the Parliament includes the President and the two houses- Lok Sabha and Rajya Sabha.

## How the office of the US President is different from that of the Indian President?

### **Removal process**

Both the American and Indian Presidents can only be removed from the office through *impeachment*. In India either house can initiate impeachment proceedings against the president and with the concurrence of the other house can impeach the President. In US the power to impeach solely lies with the Senate (upper house).

## **How the office of the US President is different from that of the Indian President?**

### **Emergency powers**

Indian President wields huge powers during emergency situations. He can proclaim both external and internal emergencies. Indian President can declare emergency in a state, dissolve state legislature and dismiss the state council of ministers. During financial emergency, he has the power to reduce the salaries of all the government officials including that of the Supreme Court and High Court judges. He has a formidable list of executive, financial and legislative powers which he can exercise on the advice of the cabinet during emergency.

## **How the office of the US President is different from that of the Indian President?**

### **Independence of office**

The Indian President needs to act as per the advice of the Council of Ministers (CoM) while discharging his duties. The CoM takes all the decisions pertaining to the affairs of the country and executes them under the President's name.

In the US, the members of the cabinet are not members of the Congress and are not responsible to it. The American President has the power to determine the policy of his government independently without any external interference.

## **How the office of the US President is different from that of the Indian President?**

### **Veto power**

Indian President has comparatively lesser veto power than the President of US. The President of US can veto a bill passed by the Congress. He needs to sign the bill if it is once again passed by *two-thirds majority* of both the houses.

The Indian President on the other hand can send the bill for reconsideration only once. If the bill is passed again even by a simple majority in the Parliament he is obliged to sign the bill.

## **How the office of the US President is different from that of the Indian President?**

### **Pocket veto**

US President can exercise his pocket veto power by not signing the bill for *10 days* if he knows the session of the congress will end within 10 days. In such cases the bill dies.

Indian President can keep the bill for *indefinite period* as there is no constitutionally prescribed time limit to give his assent. The President can use his pocket veto if the fall of the government appears imminent. Pocket veto was first exercised by the President Giani Zail Singh with respect to the *Indian Postal Bill* which was passed by the Rajiv Gandhi government. Subsequently, the new government withdrew the bill in 1989.

## **How the office of the US President is different from that of the Indian President?**

### **State bills**

Certain state bills need the previous consent of the president and he possess absolute veto power with respect to some types of state bills. The US President does not have such powers.

### **Dissolving the legislature**

The Indian President can dissolve the Parliament while the US President does not have such powers.

# **Union Executive**

**Introduction: (Article 52-78) (Part V of Indian Constitution)**

The Executive is the branch of Government accountable for the implementation of Laws and Policies legislated by the Legislature.

Union Executive consists of:

- President
- Vice President
- Prime Minister
- Council of Ministers
- Attorney General of India

# Prime Minister and Council of Ministers

- The Prime Minister & the Council of Ministers collectively is the Government.
- They are real Policy Makers.
- They are collectively responsible towards the Lok Sabha
- As soon as they lose the confidence of the Lok Sabha, the Government dissolves.

# Is Prime Minister of India elected or appointed?

Article 75 says that 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.

# Role of Indian 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.

# Role of Indian Prime Minister

- ⌚ **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

## 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

## **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
Article 74	<b>Mentions how Prime Minister and President are both connected with council of ministers. The Council with PM as head, advises President on various issues.</b>
Article 75	<p><b>Mentions three things:</b></p> <ul style="list-style-type: none"> <li>➤ President appoints PM and other ministers are appointed by the President on the advice of the PM.</li> <li>➤ Ministers hold their office during the pleasure of the President.</li> <li>➤ Council of Ministers is collectively responsible to the Lok Sabha.</li> </ul>
Article 78	<ul style="list-style-type: none"> <li>• 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.</li> </ul>

# Council of Ministers

Two articles - Article 74 and Article 75 of the Indian Constitution deal with the Council of Ministers.

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%)
- ⌚ Parliament decides the salary and allowances of the council of ministers.
- ⌚ There is a collective responsibility of COM to the Lok Sabha
- The PM decides the Portfolios of the Ministers, he can shuffle their Portfolios
- When the PM resigns the whole government dissolves.

# Types of Ministers

1. **Cabinet Ministers**—Top Tier Ministers holding important individual Portfolio. He has a right to present and participate 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 without individual charge**--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.

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# **State Legislature**

Chapter III of Part VI of the Constitution is concerned with the State Legislature.

Articles 168 to 212 in Part VI of the Constitution deal with the organization, composition, duration, officers, procedures, privileges, powers and so on of the state legislature.

The Legislature of every State shall consist of the Governor and the State Legislature, in some of the States, the Legislature shall consist of two Houses, namely, the Legislative Assembly and the Legislative Council, while in the rest, there shall be only one House, namely the legislative assembly.

## **State Legislature - Legislative Assembly**

The Legislative Assembly is the popularly elected chamber and is the real Centre of power in a State. The maximum strength of an assembly must not exceed 500 or its minimum strength fall below 60.

## **State Legislature - Legislative Council**

The Legislative Council of a State Comprises not more than one-third of the total number of members in the Legislative Assembly of the State and in no case less than 40 members.

## **Duration of Legislative Assembly & Legislative Council**

The duration of the Legislative Assembly is five years. The Governor has the power to dissolve the Assembly even before the expiry of its term. The period of five years, may, while a proclamation of emergency is in operation, be extended by the Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after proclamation has ceased to operate.

The Legislative Council is not subject to dissolution. It is a permanent body unless abolished by the Legislative Assembly and Parliament by the due procedure. But no person can be a permanent member of the Council as one-third of the members of the Council retire on the expiry of every second year. It amounts to a term of six years for each member. There is no bar on a member getting re-elected on the expiry of his term.

# **Powers & Functions of State Legislative Council**

The functions of the States Legislative Council are only advisory in nature.

All the LC can do is delay the passing of a money bill by 14 days, a non-money bill by 3 months or a non-money bill that is sent back to it with recommendations by 1 month.

There is no provision in the Constitution for a joint sitting of the State Legislature.

The LC members do not participate in the election of the President of the country.

They do not have any meaningful role in any bill's rectification nor in a constitutional amendment.

# **Powers & Functions of Legislative Assembly**

- (1) It can create laws on any subject in the State List; it can also create laws on the Concurrent List provided the law does not contradict or conflict any law already made by the Parliament.
- (2) The Assembly asserts control over the Council of Ministers. Assembly members can question the ministers, move motions and resolutions, and also pass a vote of censure in order to dismiss the state government. The government ministry is collectively accountable to the Legislative Assembly. If the ministry is defeated in the Assembly, it amounts to the passing of a no-confidence vote against the government.
- (3) The assembly controls the State's finances. A money Bill can emerge from the Assembly and it is considered passed by the LC after a lapse of fourteen days after reference made to it by the Sabha. It could reject or pass the grants or reduce their amount indicating rejection or adoption of the budget and hence, implying victory or defeat of the State Government. Therefore, no tax can be levied or withdrawn without the consent of the Vidhan Sabha.

## Powers & Functions of Legislative Assembly

The Assembly has constituent powers. With reference to Article 368, certain Bills of Constitutional amendment after being passed by the Parliament would be referred to the States for the process of ratification.

It elects its Speaker as well as Deputy Speaker. It can also remove them by a no-confidence vote.

It participates in the election of India's President.

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## **Chief Minister & Council of Ministers**

As a real executive authority, the Chief Minister is called the head of the government. He is assisted by his council of ministers who are a part of state executive along with Governor and Advocate-General of State. Similar to Prime Minister who is the head of the government at the centre, the Chief Minister is the head of the government at the state level.

## Who is called a Chief Minister?

He is the head of the state government. While the governor is the nominal executive of the state government, the person who becomes the chief minister is the real executive of the government.

# **What is the main function of the Chief Minister?**

## **In Relation to the Council of Ministers**

The Chief Minister is the head of state Council of Ministers.

He performs the following functions:

1. He recommends to the governor on who to appoint as ministers
2. He designates or reshuffles the portfolios of the ministers
3. He can ask a minister to resign
4. Meeting of the council of ministers is headed by him
5. All activities of the ministers are guided and controlled by the Chief Minister
6. If he resigns, the entire council of ministers collapses.

# What is the main function of the Chief Minister?

## In Relation to the Governor

The Chief Minister performs the following functions:

1. All the activities, decisions that are taken up by the council of ministers are communicated to the governor by the chief minister
2. To report to the governor, information about the administrative affairs if and when asked by the governor
3. If any minister has decided on any issue, the same has to be reported to the Governor by the Chief Minister
4. He gives his advice to the governor for the appointment of the following persons:
  - a. Advocate-General
  - b. Chairman of state public service commission
  - c. The state election commission, etc

# What is the main function of the Chief Minister?

## In Relation to the State Legislature

He is the leader of the house and holding this position, he performs the following functions:

1. Before a governor prorogues and summons the sessions of the state legislature, Chief Minister's advice is a must
2. Legislative Assembly can be dissolved at any time on his recommendation to the governor
3. All government policies are announced by him on the floor of the house.

# Who are State Council of Ministers?

**State Council of Ministers** are similar to Central Council of Ministers. The state council is headed by the Chief Minister. The council comprises ministers appointed by the governor on the recommendation of the CM.

**Composition of Council of Ministers** The size of the council is not mentioned in the Indian Constitution. Chief Minister decides the size and the rank of the ministers as per the requirement in the State Legislature. There are three categories of Council of Ministers:

1. Cabinet Ministers
2. Ministers of State
3. Deputy Ministers

**Collective Responsibility** The provision of collective responsibility is dealt by the Article 164. The Article mentions that the council of ministers are collectively responsible to the state legislature.

The background of the image features a dark, abstract space-like composition. It includes a large, glowing orange and red energy field on the left side, a bright green energy field on the right side, and a central, translucent blue energy core where the two fields intersect. The overall effect is dynamic and futuristic.

**THANK YOU**

# Indian Judiciary

Judiciary, legislature and executive are the three branches of the State. In India, we have an independent judiciary. The other organs of the government cannot interfere with the functioning of the judiciary.

## Judiciary

The judiciary is that branch of the government that interprets law, settles disputes and administers justice to all citizens. The judiciary is considered the watchdog of democracy, and also the guardian of the Constitution. For democracy to function effectively, it is imperative to have an impartial and independent judiciary.

# Independent Judiciary

## What is the meaning of independent judiciary?

- It means that the other branches of the government, namely, the executive and the legislature, does not interfere with the judiciary's functioning.
- The judiciary's decision is respected and not interfered with by the other organs.
- It also means that judges can perform their duties without fear or favour.

Independence of the judiciary also does not mean that the judiciary functions arbitrarily and without any accountability. It is accountable to the Constitution of the country.

# Independence of Judiciary

**The Constitution has many provisions to ensure the judiciary's independence. They are discussed below:**

1. **Security of tenure:** The judges of the SC are given security of tenure. Once appointed, they will retain their office until the age of 65 years. They can be removed only by a presidential order on grounds of proven mis behaviour and/or incapacity. This requires a Special Majority according to Article 368.
2. **Salaries and allowances:** The judges of the SC enjoy good salaries and allowances and these cannot be decreased except in the case of a financial emergency.
3. **Powers and Jurisdiction:** The SC's powers and jurisdiction can only be added by the Parliament and not be curtailed.
4. The SC has the power to punish any person for its contempt, as per Article 129.

## Judiciary Structure

India has a single integrated judicial system. The judiciary in India has a pyramidal structure with the Supreme Court (SC) at the top. High Courts are below the SC, and below them are the district and subordinate courts. The lower courts function under the direct superintendence of the higher courts.

### **Supreme Court of India**

- ❖ Its decisions are binding on all courts.
- ❖ Can transfer Judges of High Courts.
- ❖ Can move cases from any court to itself.
- ❖ Can transfer cases from one High Court to another.

### **High Court**

- ❖ Can hear appeals from lower courts.
- ❖ Can issue writs for restoring Fundamental Rights.
- ❖ Can deal with cases within the jurisdiction of the State.
- ❖ Exercises superintendence and control over courts below it.

### **District Court**

- ❖ Deals with cases arising in the District.
- ❖ Considers appeals on decisions given by lower courts.
- ❖ Decides cases involving serious criminal offences.

### **Subordinate Courts**

- ❖ Consider cases of civil and criminal nature

# Supreme Court of India

The Supreme Court of India is the country's highest judicial court. It is the final court of appeal in the country.

## Supreme Court of India Functions

- .It takes up appeals against the verdicts of the High Courts, other courts and tribunals.
- .It settles disputes between various government authorities, between state governments, and between the centre and any state government.
- .It also hears matters which the President refers to it, in its advisory role.
- .The law that SC declares is binding on all the courts in India and on the Union as well as the state governments.

## Supreme Court Composition

Including the Chief Justice of India, there are maximum 31 judges in the Supreme Court.

## **Eligibility of SC Judges**

As per Article 124, an Indian citizen who is below 65 years of age is eligible to be recommended for appointment as a judge of the SC if:

1. he/she has been a judge of one or more High Courts, for at least 5 years, or
2. he/she has been an advocate in one or more High Courts for at least 10 years, or
3. he/she is in the opinion of the President, a distinguished jurist.

## **Appointment of Judges:**

1. The judges of SC are appointed by President.
2. The CJI is appointed by President by consultation with other Judges of SC.
3. When appointment of other judges of SC, CJI is consulted by President.

### **4. Collegium System:**

- CJI and 4 senior most judges of SC
- It gives recommendation to President regarding appointment and transfer of judges of SC and HC.

# Jurisdiction of Supreme Court

**Original Jurisdiction:** All the matters or disputes concerned with Indian Federalism is resolved by the SC of India.

**Appellate Jurisdiction:** is the Power by which if a person not satisfied with the decision of a Lower Court, he may appeal in a Higher Court.

**Advisory Jurisdiction:** President can seek advice from SC when required.

**Revisory Jurisdiction:** It can review and change its own decision as time and circumstances changes.

**Court of Record:** SC is the Court of Record.

It shall Powers to Punish for contempt of court.

# Judicial Review

**Judicial Review:** Article 13: Any Law or Act which violates Fundamental Rights shall be null and void.

- To guard the rights of public and implement the fundamental rights are the main objects of Judicial Review.
- Judicial Review is the power of the Courts to determine the constitutionality of Legislative act in a case instituted by aggrieved person.
- It is the power of the Court to declare a legislative Act void on the grounds of unconstitutionality.
- Judicial Review is the power and duty of the courts to disallow all legislative or executive acts of either the central or the State governments, which in the Court's opinion transgresses the Constitution.

# High Courts

- Total HC: 25
- First HC: Calcutta (1862)
- Meghalaya, Manipur, Tripura HC in 2013 and AP in 2019.
- Delhi only UT having separate HC.

## **Composition and Appointment of Judges:**

- 1 CJ of HC and some other Judges
- Number of Judges not fixed
- Judges and CJ of HC are appointed by President.
- CJ of HC is appointed by President by consultation with CJI and Governor of State.
- When appointment of Judges of HC - CJI, Governor, CJ of HC are consulted by President.
- Term of Office: 62 years

# **Subordinate Courts**

- 1. Court of District Judge** ( Civil Court: Land, Property, Money Transactions)
  - a. Subordinate Judge Court
  - b. Munsif Court
  - c. Small Court
- 2. Court of Session Judge** (Criminal Court: Murder, Loot, Rapes, Dacoit, Theft)
  - a. Court of Judicial Magistrate of 1<sup>st</sup> class
  - b. Court of Judicial Magistrate of 2<sup>nd</sup> class
  - c. Court of Judicial Magistrate of 3<sup>rd</sup> class
- 3. Revenue Court** ( Board of Revenue: Land revenue, Agricultural Land Revenue, Property Tax)
  - a. Commissioner Court
  - b. Collector Court
  - c. Tehsildar Court

# Judicial Activism

The judiciary plays an important role in upholding and promoting the rights of citizens in a country. The active role of the judiciary in upholding the rights of citizens and preserving the constitutional and legal system of the country is known as judicial activism.

## Judicial Activism Methods

There are various methods of judicial activism which are followed in India. They are:

1. **Judicial review** (power of the judiciary to interpret the constitution and to declare any such law or order of the legislature and executive void, if it finds them in conflict with the Constitution)
2. **PIL** (The person filing the petition must not have any personal interest in the litigation, this petition is accepted by the court only if there is an interest of large public involved; the aggrieved party does not file the petition).
3. Supervisory power of the higher courts on the lower courts

# Significance of Judicial Activism

- It is an effective tool for upholding citizens' rights and implementing constitutional principles when the executive and legislature fails to do so.
- Citizens have the judiciary as the last hope for protecting their rights when all other doors are closed. Indian judiciary has been considered as the guardian and protector of the Indian Constitution.
- There are provisions in the constitution itself for the judiciary to adopt a proactive role. **Article 13 read with Articles 32 and 226 of the Constitution** provides the power of judicial review to the higher judiciary to declare any executive, legislative or administrative action void if it is in contravention with the Constitution.
- Public Interest Litigation made the judicial process more participatory and democratic.
- Judicial activism counters the opinion that the judiciary is a mere spectator.

# Public Interest Litigation

What is Public interest litigation (PIL), in simple words, is litigation for any public interest. Public interest litigation is a litigation which can be filed in any court of law by any public-spirited person for the protection of “public interest”.

PILs have achieved a place of great importance in our legal system. In India, the first PIL was filed in the year 1976 – Mumbai Kamgar Sabha v. M/s Abdulbhai Faizullabhai and others [1976 (3) SCC 832]. The seed of the PIL was sown by **Justice Krishna Iyer** through this landmark judgement. Soon thereafter, with the efforts of **Justice Bhagwati**, the concept of the PIL evolved and developed to a great extent

# Lokpal and Lokayukta Act, 2013

What are Lokpal and Lokayukta?

- The **Lokpal and Lokayukta Act, 2013** provided for the establishment of Lokpal for the Union and Lokayukta for States.
- These institutions are **statutory bodies** without any constitutional status.
- They perform the function of an "ombudsman" and inquire into allegations of corruption against certain public functionaries and for related matters.

**Why do we need such institutions?**

Maladministration is like a termite which slowly erodes the foundation of a nation and hinders administration from completing its task. Corruption is the root cause of this problem.

# Background

- In 1809, the institution of ombudsman was inaugurated officially in Sweden.
- New Zealand and Norway adopted this system in the year 1962 and it proved to be of great significance in spreading the concept of the ombudsman.
- In India, the concept of constitutional ombudsman was first proposed by the then law minister Ashok Kumar Sen in parliament in the early 1960s.
- The term Lokpal and Lokayukta were coined by **Dr. L. M. Singhvi**.
- In 1968, Lokpal bill was passed in Lok Sabha but lapsed with the dissolution of Lok Sabha and since then it has lapsed in the Lok Sabha many times.

## Background

- Till 2011 eight attempts were made to pass the Bill, but all met with failure.
- "India Against Corruption movement" led by Anna Hazare put pressure on the United Progressive Alliance (UPA) government at the Centre and resulted in the passing of the Lokpal and Lokayuktas Bill, 2013, in both the Houses of Parliament.
- It received assent from President on 1 January 2014 and came into force on 16 January 2014.

# **Structure of Lokpal**

- Lokpal is a multi-member body, that consists of one chairperson and a maximum of 8 members.
- Chairperson of the Lokpal should be either the former Chief Justice of India or the former Judge of Supreme Court or an eminent person with impeccable integrity and outstanding ability, having special knowledge and expertise of minimum 25 years in the matters relating to anti-corruption policy, public administration, vigilance, finance including insurance and banking, law and management.
- Out of the maximum eight members, half will be judicial members and minimum 50% of the Members will be from SC/ ST/ OBC/ Minorities and women.

# Structure of Lokpal

- The judicial member of the Lokpal either a former Judge of the Supreme Court or a former Chief Justice of a High Court.
- The non-judicial member should be an eminent person with impeccable integrity and outstanding ability, having special knowledge and expertise of minimum 25 years in the matters relating to anti-corruption policy, public administration, vigilance, finance including insurance and banking, law and management.
- The term of office for Lokpal Chairman and Members is 5 years or till the age of 70 years.**
- The members are appointed by the president on the recommendation of a Selection Committee.**
- The selection committee is composed of the Prime Minister, Speaker of Lok Sabha, Leader of Opposition in Lok Sabha, Chief Justice of India or a Judge nominated by him/her and One eminent jurist.