

Union Executive

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Parliamentary System

- The Constitution of India provides for a parliamentary form of government also known as the cabinet government, both at the Centre and in the states borrowed from **Britain**.
- Art. 74 and 75 deal with the parliamentary system at the Centre, and Art. 163 and 164 in the states.
- Parliament consists of President, Prime Minister and Bicameral System i.e. Lok Sabha & Rajya Sabha.
- The President is the **nominal executive**(de jure) while the Prime Minister is the **real executive**(de facto).
- There is a Parliamentary system of Government in India because the Council of Ministers is responsible to Lok Sabha.
- The Indian parliamentary system is different from the British parliamentary system in respect of judicial review.

- Thus the President is head of the state, while the Prime Minister is head of the Government.
- Art. 74 provides for a council of ministers headed by Prime Minister to aid and advise the President in the exercise of his functions.

- **Federal System**

- A federal government is one in which powers are divided between the central government and the state government and both operate in their respective jurisdictions independently.

- The framers adopted the federal system due to two main reasons – the large size of the country and its socio cultural diversity.
- **Art. 1** of the Constitution describes India as Bharat as a '**Union of States**' This means a promise to stay together to rule as a Govt.
- **Federal Features :**
 - Dual Polity
 - Written Constitution
 - Division of Powers
 - Bicameralism
 - Supremacy of Constitution

President (Art. 52)

- Art. 52 to 78 in **Part V** of the constitution deal with the Union Executive.
- The Union executive consists of the President, the Vice President, the Prime Minister, the Council of ministers and the Attorney general of India.
- The **President** is the head of the Indian State. He is the first citizen of India and acts as the symbol of unity, integrity and solidarity of the nation.

■ Election of the President (Art. 54)

- The President is not elected directly by the people, he is elected by members of both the Houses of Parliament;
- The elected members of the legislative assemblies of the states;
- The elected members of the legislative assemblies of the Union Territories of Delhi and Puducherry.
- The election method of President is called as Electoral College system Or Proportional Representation (Single Transferable Vote)

Qualifications for Election as President

- He should be a Citizen of India.
- He should have completed **35** years of age.
- He should not hold any office of profit under the Union Government or any state government or any local authority or any other public authority.
- The term of the President is 5 years, he can hold office beyond his term of 5 years until his successor assumes charge. He is also eligible for re election to that office.
- He can resign from his office anytime by addressing the resignation letter to vice president.
- When the office of President falls vacant, then **Vice President** acts as the new president. If the office of Vice President is vacant, then the **Chief Justice of India** acts as President and discharges the function of President.
- The same must be filled up within **6 Months** of vacancy of Presidents office

■ Impeachment of President (Art. 61)

- This is the method used to remove President.
- The President can be removed from office by a process of impeachment for 'violation of the Constitution'. Proven misbehaviour, inefficiency, incapacity is the reason for impeachment. No President has so far been impeached. The impeachment is a quasi judicial procedure in the Parliament.
- The impeachment can be initiated by either house of parliament. These charges should be signed by **one-fourth** members of the house and a **14 days** notice should be given to the President. After the impeachment resolution is passed by a majority of **two-thirds** of the total membership of that house, it is sent to the other house which should investigate the charges.

■ Powers and Functions of the President

- **Executive Powers** : All executive actions of the Govt are formally taken in his name.
- **Legislative Powers** : He can summon parliament dissolve the Lok Sabha. He can also summon joint sitting of both the houses of Parliament, which is presided over by the Speaker of the Lok Sabha.
- **Financial Powers** : Money bill can be introduced in the Parliament only with his prior recommendation.
- **Judicial Powers** : He appoints the Chief Justice and the judges of SC and HC. He can seek advice from the Supreme Court on any question of law or fact.
- **Diplomatic Powers** : The international treaties and agreements are negotiated on behalf of the President.
- **Military Powers** : He is the supreme commander of the defence forces of India.
- **Emergency Powers** : National Emergency, State Emergency, Financial Emergency.

■ Main functions of the President

- He is the head of Republic of India
- He is the supreme Commander/Chief commander for Army forces
- He appoints PM, Judges of SC & HC
- All executive actions carried in his name
- He appoints the Chief Election Commissioner
- He appoints the Governors to all States
- He appoints ambassadors to foreign countries
- Union Territories directly administered by President
- President nominates 2 Anglo Indian Members to Lok Sabha and 12 Members to Rajya Sabha who have special knowledge or practical experience in art, literature, science, sports, social service.

■ Veto Power of the President

- A Bill passed by the Parliament can become an act only if it receives the assent of the President.
- Thus the President has the veto power over the bills passed by the Parliament, that is he can withhold his assent to the bills, to prevent hasty and ill-considered legislation by the Parliament and to prevent a legislation which may be unconstitutional.

- The veto power enjoyed by the executive can be classified into following three types :
 - **Absolute Veto** i.e. Withholding of assent to the bill passed by the legislature.
 - **Suspensive Veto** i.e. When he returns a bill for reconsideration of the Parliament. However, if the bill is passed again by the parliament with or without amendments and again presented to the President, it is obligatory to the President to give his assent to the bill.
 - **Pocket Veto** i.e. President neither ratifies nor rejects nor returns the bill, simply keeps the bill pending for an indefinite period.

- **Art. 123** of the Constitution empowers the President to promulgate Ordinances during the recess of Parliament.
- **Art. 72** of the Constitution empowers the President to grant pardons to persons who have been tried and convicted of any offence.
- The Pardoning powers of President includes the following :
 - **Pardon** - Removes both sentence & conviction.
 - **Commutation** - Substitution of one form of punishment for a lighter form.
 - **Remission** - It is reducing the period of sentence without changing its character. e.g. - 2 years rigorous imprisonment to one 1 year.
 - **Respite** - Awarding a lesser sentence in place of one originally awarded due to some special fact, such as physical disability of convict or pregnancy of a woman offender.
 - **Reprieve** - Temporary suspension of death sentence.

Vice President (Art. 63)

- He is elected by the members of an electoral college consisting of both Houses of Parliament. Term is for 5 years.
- The Vice President acts as **ex-officio chairman** i.e. to preside over Rajya Sabha.
- He acts as President when vacancy occurs in the office of the President due to his resignation, impeachment, death. He can act as President only for a maximum period of **six months** within which a new president has to be elected.
- M. Venkaiah Naidu is the present Vice President of India.

Prime Minister (Art. 75)

- PM shall be appointed by President.
- PM is the real executive authority, he is the head of the Government.
- PM is the chairman of NITI Aayog formerly planning commission, National Integration Council, Inter state council and some other bodies.
- He is the chief spokesman of the Union Govt.
- He guides, directs, controls, and coordinates the activities of all the ministers.
- He is the principal channel of communication between the President and the council of ministers. He advises the president with regard to the appointment of important officials like attorney general of India, chairman and members of UPSC, election commissioners and so on.
- He announces the government policies on the floor of the House. He can recommend dissolution of the Lok Sabha to President at any time.

Union Cabinet & Council of Ministers

- Union Cabinet is a smaller body consisting of 15 to 20 ministers. It includes cabinet ministers only.
- It is the highest decision making authority in our politico administrative system.
- It is the chief policy formulating body of the central government.
- It is the supreme executive authority of the central government.
- It directs the council of ministers by taking policy decisions which are binding on all ministers. It is a wider body it includes cabinet ministers, ministers of state. The total number of ministers, including the PM, in the Council of Ministers shall **not exceed 15%** of the total strength of the Lok Sabha.

Parliament

- It is the **legislative organ** of the union government. Our Parliamentary form of government, is also known as 'Westminister' model of government.
- Under the Constitution, the Parliament consists of 3 parts, the President, the Council of States and the House of the People.
- Art. 79 to 122 in **Part V** of the constitution deal with the Parliament.
- Maximum strength of the Rajya Sabha is fixed at **250**, out of which, 238 are to be the representatives of the states and union territories(elected indirectly) and **12** are nominated by the president.
- At present Rajya Sabha has **245** members. Of these, 229 members represent the states, 4 members represent the UT and 12 members are nominated by the president.
- **Fourth schedule** of the Constitution deals with allocation of seats in the Rajya Sabha to the states and union territories.

- Rajya Sabha is the **Permanent house** and upper house it is not subject to dissolution. However, **one third** of the members retire every **second** year and are replaced by newly elected members. Each member is elected for a term of **six years**.
- Minimum age to contest Rajya Sabha election is **30**
- Lok Sabha is the lower house & house of the people. Maximum strength of Lok Sabha is **552** members. Out of this, 530 members are to be the representatives of the states, 20 members to be the representatives of the UT's and 2 members are to be nominated by the president from the Anglo Indian Community.
- At present the Lok Sabha has **545** members. Of these, 530 members represent the states, 13 members represent the UT's and **2 Anglo Indian** members are nominated by the President.

- Minimum age to contest Lok Sabha election is 25.
- First session in the Lok Sabha is Budget Session. Session of the Lok Sabha is presided by Speaker of the House.
- As per the constitution two sessions compulsorily must be conducted in a year. The minimum gap between two sessions is not more than 6 months.
- If Parliament not in session, President can issue ordinance(order) and it should be ratified by parliament within a week.
- Lok Sabha term will be extended from 5 to 6 years during the time of emergency.
- Speaker will decide who is going to speak first in the assembly. Joint session of both houses of parliament is presided by Speaker of Lok Sabha.
- Om Birla is the current speaker of Lok Sabha .
- The Speaker is elected generally in the first meeting of the Lok Sabha following general elections. Serving for a term of five years, the speaker chosen from sitting members of the Lok Sabha i.e. elected members of Lok Sabha (House of People). Speaker is the chairperson of the Parliament.

Parliamentary Committees

■ Financial Committees

- Public Accounts Committee : This was set up in 1921. At present it consists of 22 members (15 from the LS and 7 from RS).
- Estimates Committee : It consists of 30 members from LS, RS has no representation,
- Committee on Public Undertakings : This committee was created in 1964 on the recommendation of the Krishna Menon Committee. It has total 22 members 15 from LS and 7 from RS.
- Departmental Standing Committees
- Department of Economic Affairs is responsible for the preparation and presentation of union budget of the parliament.

Important Parliamentary Terminologies

- 10 Major Parliamentary Terms used in Indian Parliament -
 - **Quorum** : It is the minimum number of members whose presence is essential to transact the business of the House i.e. **1/10th**.
 - **Question Hour** : The day's business usually starts with the question hour during which questions are asked by the members and answers are provided by the concerned Minister.

- **Zero Hour** : This period follows the question hour and generally begins at noon. Usually the time is used by members to raise various issues for discussions.
- **Starred Question** : It is one for which a oral answer is required to be given by the Minister on the floor of the House. One member can ask only one starred question a day.
- **Un-Starred Question** : It is for which the Minister lays on the table a written answer. A 10 day notice has to be given to ask such questions.
- **Short Notice** : It can be asked by members on matters of public importance of an urgent nature. It is for the speaker to decide whether the matter is of urgent nature or not.

- **Point of Order** : A member may raise a point of order if the proceedings of the House do not follow the normal rules.
- **Vote on Account** : As there is usually a gap between the presentation of the budget and its approval, the vote on account enables the government to draw some amount from the Consolidated Fund of India to meet the expenses in the intervening period.
- **Guillotine** : The act of putting all the demands for grant to vote, without discussion on the last day earmarked for the discussion of the budget.
- **Lame-duck Session** : This session is held when a new Parliament has been elected but the old Parliament meets for the last time before it is dissolved. The lame-ducks are the members of the Parliament who have not got re-elected.
- **No Confidence Motion** : A floor test to prove majority in the Lok Sabha.

■ Centre State Relations

- **Legislative Relations** : The legislative ties between the centre and state are governed by Art. 245 to 255 of Part XI of the Constitution. This has been categorized into 3 lists. Union list(97)subjects, State list(66)subjects, Concurrent list(47)subjects.
- **Administrative Relations** : It is stated under Art. 256 to 263. The administrative jurisdiction of the union and the state Governments extends to the subjects in the union list and state list respectively, which establishes the superiority of the Union Government in the administrative sphere.
- **Financial Relations** : It is stated under Art. 264 to 293. The constitution gives a detailed scheme of distribution of financial resources between union and states. The constitution grants the union parliament exclusive power to levy taxes on several items.

Supreme Court of India (Art. 124)

- Supreme court of India was established in 1950 at New Delhi. Article 124 to 147 in **Part V** of the constitution deal with the organisation, independence, jurisdiction, powers, procedures of Supreme Court.
- Supreme court consists of **thirty four judges (one chief justice and thirty three judges)**
- The judges of the Supreme Court are appointed by the President. The Chief Justice is appointed by the president after consultation with such judges of Supreme Court and high courts as he deems necessary.
- To appoint as a SC judge he should have been a **judge of a High Court for five years** or he should have been an **advocate of a High Court for ten years** or he should be **distinguished jurist in opinion of President**.
- The retirement age for Supreme Court judges is 65. He can resign his office by writing to president.
- The Salaries of the Supreme Court judges are determined by the **Parliament**.

- Final interpreter to the Constitution of India is **Supreme Court**.
- The method used to remove Supreme Court judge is **Impeachment**. A judge of the Supreme Court or C.J.I can be removed from his office by an order of the president. The president can issue the removal order only after an address by Parliament has been presented to him.
- The address must be supported by a special majority of each House of Parliament i.e. a majority of the total membership of that House and a majority of not less than **(2/3rd)** two thirds of the members of that house present and voting.
- A removal motion signed by 100 members in the case of Lok Sabha or 50 members in the case of Rajya Sabha is to be given to the Speaker/Chairman. Prior notice period for impeachment is **14** days
- Justice **N.V. Ramana** is the present Chief Justice of India. He is the **48th** Chief Justice of India.

■ Jurisdiction and Powers Of Supreme Court

1. **Original Jurisdiction** : Supreme Court decides the disputes between the Centre and one or more states, between two or more states.
2. **Writ Jurisdiction** : Supreme court as the guarantor and defender of Fundamental Rights.
3. **Appellate Jurisdiction** : Supreme as a court of appeal and hears appeal against the judgements of the lower court.
4. **Advisory Jurisdiction** : Authorises the President to seek opinion of the Supreme Court on any question of law or fact of public importance or any dispute arising out of agreement, pre constitution treaty. The advice of the Supreme Court is **not binding on the President** and it is not law within Art. 141.
5. **A Court of Record** : The judgements, proceedings and acts of the Supreme Court are recorded for perpetual memory and testimony.
6. **Power of Judicial Review** : Judicial review is the power of the Supreme court to examine the constitutionality of legislative enactments and executive orders of both the central and state governments. On examination, if they are found to be violative of the constitution they can be declared as illegal, unconstitutional and invalid by the Supreme court.

- **Judicial Review** : This doctrine originated and developed in U.S.A. Judicial Review is **reviewing** the **laws passed by the legislature**.
- **Judicial Activism** : This doctrine originated and developed in U.S.A, this denotes the **proactive role played by the judiciary** in the protection of the rights of citizens and in the promotion of justice in society. It is the assertive role played by the judiciary to force the other two organs of the government (legislature and executive) to discharge their constitutional duties.

Presented by
Neelesh Jadhav, B.Com LL.M
Assistant Professor in Law