



INDIAN CONSTITUTION



Topics:

**Basic philosophy of
Constitution,
federalism and
Indian Executive**



सत्यमेव जयते

**BA II
Course: Indian
Government and
Politics**

NEED OF THE CONSTITUTION

- Constitution plays a crucial role in laying out certain important guidelines that govern.
- The Right to Equality is one of the fundamental Rights, guaranteed by the Indian constitution.
- Ensures that a dominant group does not use its power against the minorities.
- Constitution is to save us from ourselves
- The Constitution helps to protect us against certain decisions that we might take that could have an adverse effect on the larger principles that the country believes in.



Indian Constitution Borrowed Features

1.	British Constitution	Parliamentary form of Government, Rule of Law, Law making procedure, Single Citizenship; Institution of Speaker, doctrine of pleasure tenure of civil servants.
2.	American Constitution	Judicial System, Fundamental Rights
3.	Canadian Constitution	Federal System with a strong central authority; Residual powers, Centre State Relation.
4.	Irish Constitution	Directive Principles, Election of the President of India
5.	Australian Constitution	Concurrent list; Freedom of Trade & Service within country
6.	Weimar Constitution	Emergency Provision
7.	Soviet Constitution	Five Year Plans; Fundamental duties
8.	Govt of India Act 1935	Office of the governor, powers of the federal jury.
9.	South African	Amendment of Constitution.

key features of indian constitution

- Salient **Features** of the **Indian Constitution**.
- The lengthiest **Constitution** in the world. ...
- Parliamentary form of Government. ...
- Unique blend of rigidity and flexibility. ...
- Fundamental Rights. ...
- Directive Principles of State policy (DPSP) ...
- A federation with strong centralising tendency.
...
- Adult Suffrage.



PREAMBLE

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a **SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC** and to secure to all its citizens:

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity and to promote among them all;

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this **twenty sixth day of November, 1949**, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

Preamble to the Constitution of India

- These are the opening words of the preamble to the Indian Constitution
- “WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens:
- **JUSTICE**, social, economic and political;
- **LIBERTY** of thought, expression, belief, faith and worship;
- **EQUALITY** of status and of opportunity;
- and to promote among them all
- **FRATERNITY** assuring the dignity of the individual and the unity and integrity of the Nation;
- **IN OUR CONSTITUENT ASSEMBLY** this twenty-sixth day of November, 1949, do **HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.**

FEDERALISM

Origin

- Latin word “Foedus” means ‘treaty’ or ‘covenant’

Meaning

- Federalism is a system of government in which the power is divided between a central authority and various constituent units of the country.

Component

- Distribution of powers (Dual-polity)
- Written-Constitution
- Supremacy of the Constitution
- Rigidity of the Constitution (Non unilateral change)
- Authority of the courts (Interpretation by Judiciary)

Federal Government

2 LEVEL of Government
[Central Government + States Governments]

POLITICAL POWERS SHARED
by 2 level of Government

The **Constitution is RIGID & CODIFIED**

2 DIFFERENT types of LAW
[Central + States Laws]

Unitary Government

ONLY 1 LEVEL of Government
[Central Government / National Government]

Political Power held by Central Government ONLY

The **Constitution is FLEXIBLE & UNCODIFIED**

ONLY 1 set of law (uniform)
for whole country

CONCEPT OF FEDERALISM AND INDIAN CONSTITUTION

- ▶ The Government of India (referred to as the *Union Government*) was established by the Constitution of India, and is the governing authority of a *federal union* of 29 states and 7 union territories.
- ▶ The government of India is based on a tiered system, in which the Constitution of India delineates the subjects on which each tier of government has executive powers. The Constitution originally provided for a two-tier system of government, the Union Government (also known as the Central Government), representing the Union of India, and the State governments. Later, a third tier was added in the form of Panchayats and Municipalities. In the current arrangement, The Seventh Schedule of the Indian Constitution delimits the subjects of each level of governmental jurisdiction, dividing them into three lists:
- ▶ Union List includes subjects of national importance such as defense of the country, foreign affairs, banking, communications and currency. The Union Government alone can make laws relating to the subjects mentioned in the Union List.
- ▶ State List contains subjects of State and local importance such as police, trade, commerce, agriculture and irrigation. The State Governments alone can make laws relating to the subjects mentioned in the State List.
- ▶ Concurrent List includes subjects of common interest to both the Union Government as well as the State Governments, such as education, forest, trade unions, marriage, adoption and succession. Both the Union as well as the State Governments can make laws on the subjects mentioned in this list. If their laws conflict with each other, the law made by the Union Government will prevail.

Part 3: Fundamental rights

DEFINITION

- **Fundamental Rights** are essential human rights that are offered to every citizen irrespective of caste, race, creed, place of birth, religion or gender. These are equal to freedoms and these rights are essential for *personal good* and the *society* at large.



The Fundamental Rights

The **six** Fundamental Rights of Indian citizens as declared in the Constitution of India are:

1. **Right to Equality**
2. **Right to Freedom**
3. **Right against Exploitation**
4. **Cultural and Educational Rights**
5. **Right to Freedom of Religion**
6. **Right to Constitutional Remedies**

Initially there were seven fundamental rights but **Right to Property** was later converted into legal right by the **44th amendment** of the Constitution in 1978

Know Your Fundamental Rights & Learn To Use Them

Right to Equality	<p>Article 14 :- Equality before law and equal protection of law</p> <p>Article 15 :- Prohibition of discrimination on grounds only of religion, race, caste, sex or place of birth.</p> <p>Article 16 :- Equality of opportunity in matters of public employment</p> <p>Article 17 :- End of untouchability</p> <p>Article 18 :- Abolition of titles, Military and academic distinctions are, however, exempted</p>
Right to Freedom	<p>Article 19 :- It guarantees the citizens of India the following six fundamentals freedoms:-</p> <ul style="list-style-type: none"> Freedom of Speech and Expression Freedom of Assembly Freedom of form Associations Freedom of Movement Freedom of Residence and Settlement Freedom of Profession, Occupation, Trade and Bussiness <p>Article 20 :- Protection in respect of conviction for offences</p> <p>Article 21 :- Protection of life and personal liberty</p> <p>Article 22 :- Protection against arrest and detention in certain cases</p>
Right Against Exploitation	<p>Article 23 :- Traffic in human beings prohibited</p> <p>Article 24 :- No child below the age of 14 can be employed</p>
Right to freedom of Religion	<p>Article 25 :- Freedom of conscience and free profession, practice and propagation of religion</p> <p>Article 26 :- Freedom to manage religious affairs</p> <p>Article 27 :- Prohibits taxes on religious grounds</p> <p>Article 28 :- Freedom as to attendance at religious ceremonies in certain educational institutions</p>
Cultural and Educational Rights	<p>Article 29 :- Protection of interests of minorities</p> <p>Article 30 :- Right of minorities to establish and administer educational institutions</p> <p>Article 31 :- Omitted by the 44th Amendment Act</p>
Right to Constitutional Remedies	<p>Article 32 :- The right to move the Supreme Court in case of their violation (called Soul and heart of the Constitution by BR Ambedkar)</p> <p>Forms of Writ check</p> <p>Habeas Corpus :- Equality before law and equal protection of law</p>



Distinction between Fundamental Rights and Directive Principles

Fundamental Rights

These are negative as they prohibit the state from doing certain things.

These are **justiciable**, i.e., they are legally enforceable by the courts in case of their violation.

They aim at establishing political democracy in the country.

These have legal sanctions.

They promote the **welfare of the individual**. Hence, they are personal and individualistic.

The courts are bound to declare a law **violative** of any of the Fundamental Rights as unconstitutional and invalid.

Directive Principles

These are positive as they require the state to do certain things.

These are **non-justiciable**, i.e., they are not legally enforceable by the courts for their violation.

They aim at establishing social and economic democracy in the country.

These have moral and political sanctions.

They promote the **welfare of the community**. Hence, they are societarian and socialistic.

The courts cannot declare a law **violative** of any of the Directive Principles as unconstitutional and invalid. However, they can uphold the validity of a law on the ground that it was enacted to give effect to a directive.

Article Related to DPSP

36: Definition of State	43B: Promotion of co-operative societies
37: Application of the principles contained in this part	44: Uniform civil code for the citizens
38: State to secure a social order for the promotion of welfare of the people	45: Provision for early childhood care and education to children below the age of six years
39: Certain principles of policy to be followed by the State	46: Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections
39A: Equal justice and free legal aid	47: Duty of the State to raise the level of nutrition and the standard of living and to improve public health
40: Organisation of village panchayats	48: Organisation of agriculture and animal husbandry
41: Right to work, to education and to public assistance in certain cases	48A: Protection and improvement of environment and safeguarding of forests and wildlife
42: Provision for just and humane conditions of work and maternity relief	49: Protection of monuments and places and objects of national importance
43: Living wage, etc., for workers	50: Separation of judiciary from executive
43A: Participation of workers in management of industries	51: Promotion of international peace and security



FUNDAMENTAL DUTIES

Another salient feature of the Indian Constitution is the incorporation of the Fundamental duties of citizens. The 42nd amendment of 1976 added Article 51-A to the Constitution requiring all citizens to fulfill 10 duties. Failure to perform these duties does not carry any penalty, yet the citizens are expected to follow them. These are:

- defend the country and render national service when called upon to do so.

Eighty sixth constitutional amendment added one more duty to the the list of the indian constitution

Difference between fundamental rights and duties

▶ FUNDAMENTAL RIGHTS

- ▶ Fundamental Right applies to both citizens & foreigners
- ▶ Fundamental Rights are justiciable in nature i.e. they can be taken to court of law if they are not followed.
- ▶ Fundamental Rights are legal sanction & direct enforcement. But Parliament can Suspend its if these are not warranted through proper legislation.
- ▶ Fundamental Rights have impact on the government.
- ▶ Rights are what we want others to do for us.

FUNDAMENTAL DUTIES

- ▶ Fundamental duties apply only to citizens.
- ▶ Fundamental duties are non-justiciable in nature i.e. they can't be taken to court of law if they are not followed.
- ▶ Fundamental duties lack legal sanction & direct enforcement. But Parliament can enforce it if it wants via proper legislation.
- ▶ Fundamental Duties have impact on the Citizens.
- ▶ The duties are those acts which we should perform for others.

PART IVA

FUNDAMENTAL DUTIES

51A. Fundamental duties.—It shall be the duty of every citizen of India—

(a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;

(b) to cherish and follow the noble ideals which inspired our national struggle for freedom;

(c) to uphold and protect the sovereignty, unity and integrity of India;

(d) to defend the country and render national service when called upon to do so;

(e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;

(f) to value and preserve the rich heritage of our composite culture;

(g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;

(h) to develop the scientific temper, humanism and the spirit of inquiry and reform;

(i) to safeguard public property and to abjure violence;

(j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement;

(k) who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.

Government of India (GOI)
Central/ Union government

Executive

Consists of:

1. President,
2. Vice President, &
3. Cabinet Ministers.

Responsibility:

To pass the laws made by
the Legislature

Legislature of Parliament

Consists of:

1. Lok Sabha, &
2. Rajya Sabha

Responsibility:

To make laws

Judiciary

Consists of:

Supreme Court of India

Responsibility:

To solve conflicts between
executive and Legislature
Other public related matters
or conflicts

President of India

“We have not given him any real power, but we have made his position one of great authority and dignity.” – Jawaharlal Nehru

➤ **Nominal Executive Head:** Head of the state but not of the executive; represents the nation, but does not rule the nation

Elected Head: It is for this reason that India is known as a republic

➤ **Qualification:**

A citizen of India who is of 35 years of age or above may be a Presidential candidate. The Presidential candidate should be qualified to become a member of the Lok Sabha and should not hold any office of profit under the government.

Certain office-holders, however, are permitted to stand as Presidential candidates. These are:

- The current Vice President.
- The Governor of any State.
- A Minister of the Union or of any State.

In the event that the Vice President, a State Governor or a Minister is elected President, they are considered to have vacated their previous office on the date they begin serving as President.

➤ **The manner of election of President is provided by**

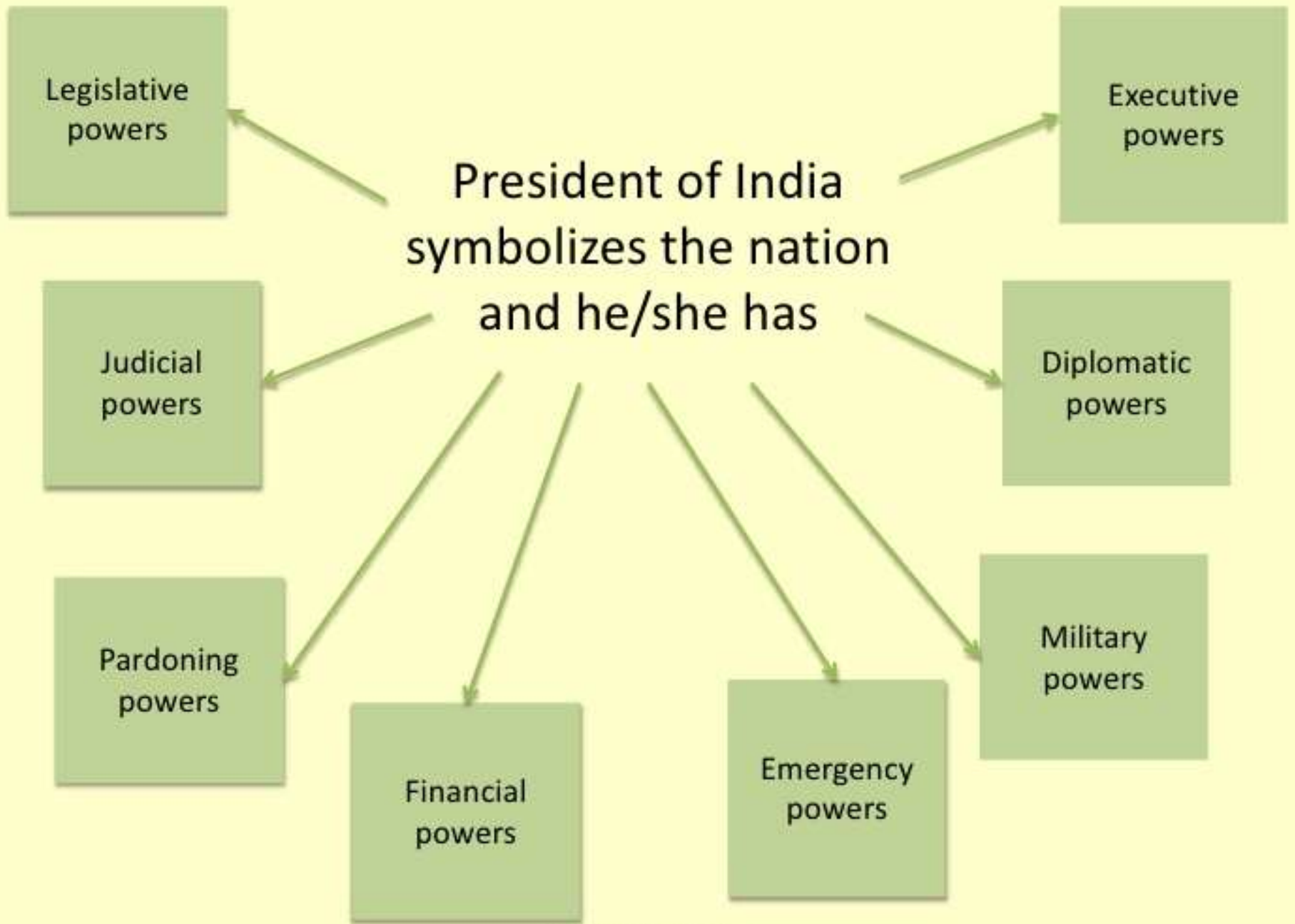
Article 55. The following principles are involved in the election of the President of India:

Indirect Election

The system of Proportional Representation by Single Transferable Vote method.

Secret Ballot system.

Uniformity of Representation of Different States and the Union



Executive Powers

- Executive Powers are vested in President
- Exercise the powers directly or through his subordinates
- Supreme command of Defence Forces
- Art.72, Power to grant pardons, reprieves, respites or remission for punishment
- To remit or commute the sentences of any person convicted of any offence

The Legislative Powers

- *The President can summon or end a session of the Parliament and dissolve the Lok Sabha.
- *He can address the Parliament at the commencement of the first session after the general election and the first session of each year.
- *He can also summon a joint sitting of both the houses of Parliament which is presided over by the Speaker of the Lok Sabha.
- *The President can appoint a member of the Lok Sabha to preside over its proceedings the positions of Speaker as well as Deputy Speaker are vacant.

The Judicial Powers

Art.124(2):

The President appoints the Chief Justice and other Judges of the Supreme Court.

Art.126:

The President may appoint an acting chief Justice when the office of the chief Justice of India is vacant or he is absent or otherwise unable to perform the duties of office.

Art.143:

The President can seek advice from the Supreme Court on any question of law or fact. Such advice is not binding on the President.

Discretionary Power

Article 53 : The executive power of the Union shall be vested in the President and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution

Article 74: 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, either generally or otherwise, and the President shall act in accordance with the advice tendered after such reconsideration

Article 75:The Prime Minister shall be appointed by the President and the other Ministers shall be appointed by the President on the advice of the Prime Minister

The Minister shall hold office during the pleasure of the President

As per the articles 352, 356 and 360 in the Constitution of India, President of India have been given extraordinary power to declare an emergency to meet any threat to the country.

National Emergency (Article 352):

If the president of the state is not satisfied with a grave emergency exists whereby the security of India or any part is threatened whether by war or external aggression or an armed rebellion, then he may proclaim a state of national emergency for the whole of India or a part of India.

Such a proclamation of emergency may be revoked by the president subsequently.

The proclamation of emergency made under **article 352** may be subjected to the judicial review and it's constitutionally can be questioned in a court of law on the grounds of malafide.

The proclamation made must be approved by both the houses of parliament within one month after the proclamation.

The effect of the proclamation of emergency is the emergence of the full-fledged Unitary Government.

State Emergency (Article 356)

Article 356 provides that if the President, on receipt of a report from the Government of a state or otherwise, is satisfied that a situation has arisen in which the Government of the State cannot be carried on by the provisions of the Constitution, the President may issue a proclamation.

By that proclamation, the president may assume to himself all or any of the powers vested in the Governor and may declare that the powers of the legislature of the State shall be exercisable by the Parliament.

The proclamation issued under Article 356 must be laid before each House of the Parliament. If the proclamation is not approved by both Houses, it will expire in two months.

The Proclamation is so approved by Parliament (by simple majority) shall be in operation for six months. However, it may be revoked in between or extended further by the Parliament.

Financial Emergency (Article 360):

Article 360 states that if the President is satisfied that a situation has arisen whereby the financial stability or the credit of India or any part thereof is threatened, President may declare a state of financial emergency.

During the period such Proclamation is in operation, the executive authority of the Union extends to the giving of directions to any State to observe such canons of financial propriety as may be specified in the directions, any such directions may also include:

A Proclamation issued under Article 360 will remain in force for two months unless before the expiry of the period it is approved by both the Houses of the Parliament.

A proclamation issued under Article 360 will remain in force for two months unless before the expiry of the period it is approved by both the Houses of the Parliament. Once approved it remains in force till revoked by the President.



Ram Nath
Kovind
2017-



Pranab
Mukherjee
2012-2017



Pratibha Patil
2007-2012



A. P. J. Abdul
Kalam
2002-2007



K. R.
Narayanan
1997-2002



Shankar
Dayal Sharma
1992-1997



R.
Venkataraman
1987-1992



Zail Singh
1982-1987



Neelam
Sanjiva Reddy
1977-1982



Fakhruddin
Ali Ahmed
1974-1977



V. V. Giri
1969-1974



Zakir Husain
1967-1969



Sarvepalli
Radhakrishnan
1962-1967



Rajendra
Prasad
1950-1962

Qualifications to be Vice- President:

- **Citizen of India**
- Completed **35** years of age
- Is qualified for election as a member of **Rajya Sabha.**
- Shouldn't hold any office of profit under Government of India

Composition of Electoral College

- President is indirectly elected by the members of Electoral College (few **MPs**)

It consists of:

- Elected members of both the houses.



Term of Office

- o **5 years** from the date on which he enters upon his office.

Oath of Office

- o **President** administers Vice-President's oath of office.

Powers of Vice-President

A) Takes over the office of President in the following cases:

- a) Death of the President.
- b) Resignation of the President.
- c) Removal/Impeachment of the President.
- d) When President is unable to discharge his duties owing to absence, illness or any other cause.

When Vice-President takes over the office of the President then the **Deputy Chairman of Rajya Sabha** heads the Rajya Sabha.

Powers of Vice-President

B) As a Ex-Officio Chairman of Rajya Sabha he conducts the following functions:

- a) He regulates proceedings and debates of the House.
- b) He decides the order of the speech.
- c) He decides the admissibility of resolutions or questions.
- d) He may adjourn or suspend the business of the House.
- e) He gives directions to the chairmen of various committees.



Mohammad
Hamid Ansari
2007-2017



Bhairon Singh
Shekhawat
2002-2007



Krishan Kant
1997-2002



K. R.
Narayanan
1992-1997



Shankar
Dayal Sharma
1987-1992



R.
Venkataraman
1984-1987



Mohammad
Hidayatullah
1979-1984



B. D. Jatti
1974-1979



Gopal Swarup
Pathak
1969-1974



V. V. Giri
1967-1969



Zakir Husain
1962-1967



Sarvepalli
Radhakrishnan
1952-1962



Venkaiah
Naidu
2017-

Prime Minister of India and Council of Ministers

Key Highlights

- **Article 74(1)** states that there shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President.
- The Constitution itself recognizes a Council of Ministers.
- The Prime Minister is appointed by the President. He necessarily appoints a person as the Prime Minister who is either the leader of the party, which holds majority of seats in the Lok Sabha or is able to prove his majority by gaining support of other political parties.
- The President on the advice of the Prime Minister appoints all other ministers. It is the Prime Minister who allocates portfolios to the other ministers.
- The Prime Minister may call for the resignation of any minister at any time and in case of refusal he may advise the President to dismiss the minister.

Key Highlights

- In a parliamentary form of government in India, the post of the Prime Minister is considered the most important constitutional post. The Prime Minister plays a very significant and highly crucial role in the politico-administrative system of the country. Dr B R Ambedkar stated, 'If any functionary under our constitution is to be compared with the US President, he is the Prime Minister and not the President of the Union'.
- Prime Minister is the real executive authority (de facto executive).
- Is the head of the government
- He wields the real executive powers heading the entire Council of Ministers.

Duties

- The Prime Minister does not have specific powers and duties.
- Instead, the position has powers in three areas:
 1. recommending the appointment of individuals to key positions (senators, ministers, judges, ambassadors,)
 2. organizing Cabinet (number and appointment of ministers, sets agenda for meetings)
 3. providing leadership and direction to the government (participates in House of Commons debates and daily Question Period)

PRIME MINISTERS OF INDIA



Jawaharlal Nehru
Aug 15, 1947-
May 27, 1964



Gulzari Lal Nanda*
May 27-Jun 9,
1964



Lal Bahadur Shastri
Jun 9, 1964-
Jan 11, 1966



Gulzari Lal Nanda*
Jan 11-Jan 24,
1966



Indira Gandhi
Jan 24, 1966-
Mar 24, 1977



Morarji Desai
Mar 24, 1977-
July 28, 1979



Charan Singh
July 28, 1979-
Jan 14, 1980



Indira Gandhi
Jan 14, 1980-
Oct 31, 1984



Rajiv Gandhi
Oct 31, 1984-
Dec 2, 1989



Vishwanath Pratap Singh
Dec 2, 1989-
Nov 10, 1990



Chandra Shekhar
Nov 10, 1990-
June 21, 1991



P. V. Narasimha Rao
June 21, 1991-
May 16, 1996



Atal Bihari Vajpayee
May 16-June 1,
1996



H. D. Deve Gowda
June 1, 1996-
Apr 21, 1997



Inder Kumar Gujral
Apr 21, 1997-
Mar 19, 1998



Atal Bihari Vajpayee
Mar 19, 1998 -
May 22, 2004



Manmohan Singh
May 22, 2004-
May 26, 2014



Narendra Modi
Sworn in on
May 26, 2014

(*Gulzari Lal Nanda was interim PM on both occasions)

COUNCIL OF MINISTERS

- He plays a vital role in controlling the finances of the country & extends useful advice in preparing the annual budget for the nation.
- He is the chairman of the planning commission which frames economic policies of the government & supervise their implementation.
- The prime minister represents India in relation to other nation of the world.

Distinction between the cabinet & the council of ministers

- (A) The council of the ministers consists of all the three categories of Ministers-cabinet Ministers, Ministers of state & deputy Ministers. The cabinet consists of a small group of senior Ministers. All cabinet ministers are the members of the council of ministers, while all ministers are not members of the cabinet.
- (B) The cabinet meet as a body, periodical, to shape national policies & transact government business. The council of minister does not meet as a body to transact a government business.
- (C) The prime minister consults the cabinet while he may or may not consult the other ministers before taking an important decision.
- (D) The cabinet consists of party leaders holding important portfolio called ministries. Other minister plays a secondary role in various ministries.
- (E) The cabinet takes over the functions assigned by the constitution to the council of ministers.

Functions of the cabinet today

- **Settling disputes between ministers**
- **Making decisions that cannot be made elsewhere – gain cabinet support, to save the PM embarrassment**
- **Dealing with domestic emergencies – it is good to have full cabinet backing at times of national security**
- **Determining presentation of policy**
- **Legitimising decisions taken elsewhere -such as in cabinet committees or**

CONSTITUTION OF INDIA

WE THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN DEMOCRATIC REPUBLIC and to secure to all its citizens:

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity; and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity of the Nation.

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

THE ORIGINAL



सत्यमेव जयते

CONSTITUTION OF INDIA

Preamble

WE THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a Sovereign Socialist Secular Democratic Republic and to secure to all its citizens:

JUSTICE Social, economic and political;

LIBERTY of thought, expression, belief, faith and worship

EQUALITY of status and of opportunity; and to promote among them all

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THE LATER

Thank you!