

# The system of state bodies of india

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# Plan

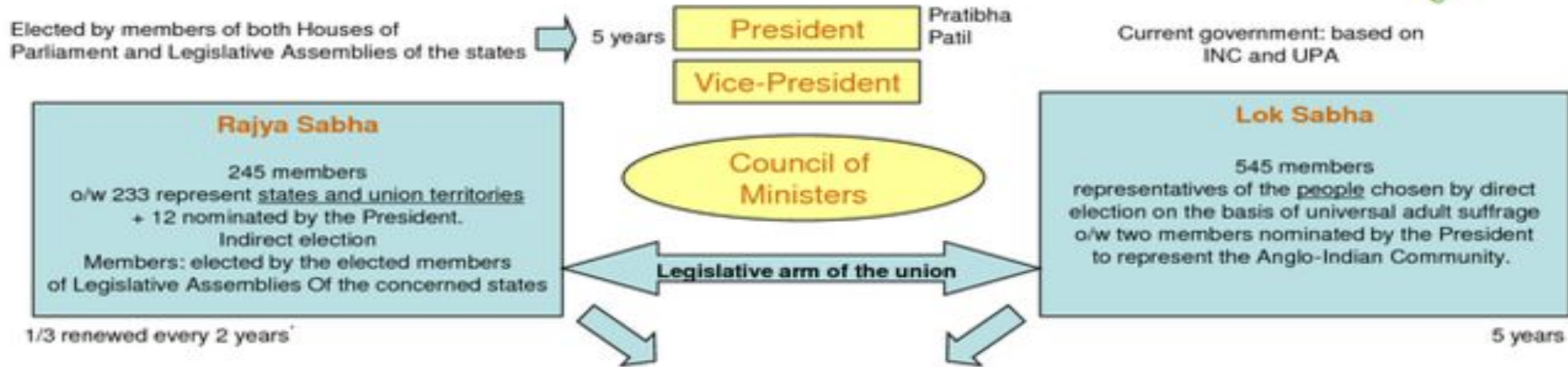
- The head of state president/king
- Legislative power
- Executive power
- Judicial power



# India: political system

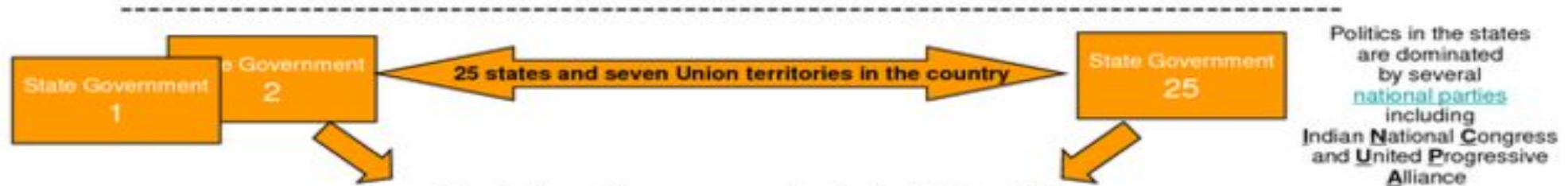


**Federal System:** India, a union of states, is a Sovereign, Secular, Democratic Republic with a Parliamentary system of Government. The Indian polity is governed in terms of the Constitution, which came into force on 26 November 1950.



## Laws for the whole of or any part of the territory of India:

Items of the "Union List": defense, foreign affairs, currency, income tax, excise duty, railways, shipping, posts and telegraphs, etc.



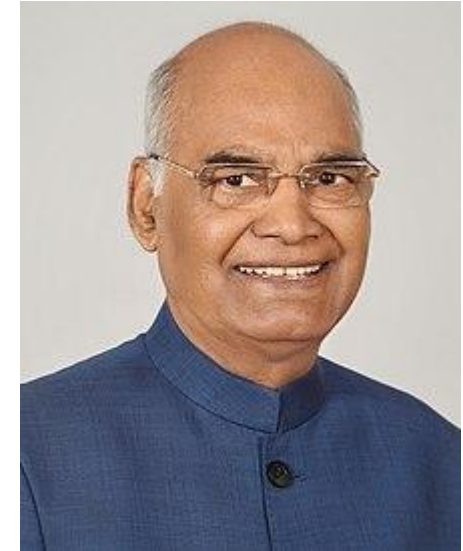
## Laws in relation to items appearing in the "State List":

public order, police, public health, communications, agriculture, lotteries, taxes on entertainment and wealth, sales tax and octroi, etc.

Both Parliament and the State Legislatures have the power to legislate in items appearing in the "Concurrent List".

# The head of state president/king

- The current head of state of India is **Ram Nath Kovind**, elected in 2017 after being nominated by BJP, the party run by Prime Minister Narendra Modi.
- **Ram Nath Kovind** is an Indian lawyer and politician serving as the 14th and current president of India since his inauguration in 2017. He is also the first person from Uttar Pradesh to serve as President of India. Prior to his presidency, he served as the 26th governor of Bihar from 2015 to 2017 and as a member of Parliament, Rajya Sabha from 1994 to 2006. Before entering politics, he was a lawyer for 16 years and practiced in the Delhi High Court and the Supreme Court of India until 1993.



Ram Nath  
Kovind

- Ram Nath Kovind was born to Maiku Lal and Kalawati on 1 October 1945, in Paraunkh village in the Kanpur Dehat district of Uttar Pradesh, as the youngest of five brothers and two sisters. His father ran a shop and was also a farmer and a local hvaidya. His mother was a homemaker. Kovind was born in a mud hut, which eventually collapsed. He was only five when his mother died of burns when their thatched dwelling caught fire. Kovind later donated the land to the community. He was born into the Koli family of Kanpur.
- After his elementary school education, he had to walk each day to Kanpur village, 8 km (5.0 mi) away, to attend junior school, as nobody in the village had a bicycle. He holds a bachelor's degree in commerce and an LLB from DAV College.
- After graduating in law from DAV College, Kanpur, Kovind went to Delhi to prepare for the civil services examination. He passed this exam on his third attempt, He scored high enough to work in an allied service rather than in IAS and thus started practicing law.
- He joined the Bhartiya Janata Party (BJP) in 1991. He was the president of the BJP Dalit Morcha between 1998 and 2002 and the president of the All-India Koli Samaj. He also served as the national spokesperson of the party. He donated his ancestral home in Paraunkh to the Rashtriya Swayamsevak Sangh. Soon after joining the BJP, he contested Ghatampur assembly constituency, but lost and later contested Bhognipur in 2007 elections (both in Uttar Pradesh) assembly constituency on the BJP ticket but lost again.
- In 1997, Kovind, being from Kori family, joined the protest against certain orders from the central government that had adverse effects on the SC/ST workers. Later, three amendments were made to the Constitution that revoked the orders, by the NDA government headed by Atal Bihari Vajpayee.

- He was elected and became a Rajya Sabha MP from the state of Uttar Pradesh in April 1994. He served a total of twelve years, two consecutive terms, until March 2006. As a member of parliament, he served on the Parliamentary Committee for Welfare of Scheduled Castes/Tribes, Home Affairs, Petroleum and Natural Gas, Social Justice and Empowerment, Law and Justice. He also served as the chairman of the Rajya Sabha House Committee. During his career as a parliamentarian, under the Members of Parliament Local Area Development Scheme, he focused on education in rural areas by helping in construction of school buildings in Uttar Pradesh and Uttarakhand. As a member of parliament, he visited Thailand, Nepal, Pakistan, Singapore, Germany, Switzerland, France, the United Kingdom, and the United States on study tours.
- He has served on the Board of management of Dr. B.R Ambedkar University, Lucknow, and on the Board of Governors of IIM Calcutta. He has also represented India at the UN and addressed the United Nations General Assembly in October 2002.
- After nomination for the post of 14th president of India, he resigned from his post as the governor of Bihar, and the President of India, Pranab Mukherjee, accepted his resignation on 20 June 2017. He won election on 20 July 2017.

- Kovind received 65.65% of the valid votes, against former Speaker of the Lok Sabha, Meira Kumar, the presidential candidate of the Opposition who received 34.35%. Kovind received 2,930 votes (From MPs and MLAs) amounting to Electoral College votes of 702,044 (65.65%) as compared to 1,844 votes with a value of 367,314 (34.35%) votes for Meira Kumar lagging far behind with 367,314 votes, and 77 votes were invalid. He became only the second Dalit representative to become president after K. R. Narayanan, and also is the first BJP candidate with RSS background to be elected to the post. The tally of votes (367,314) polled by Meira Kumar is only the second highest for a losing candidate, that of Neelam Sanjiva Reddy in the 1969 presidential elections being the highest ever; he received 405,427 votes as against 420,077 by V. V. Giri, the winner.
- Kovind took the oath as the 14th president of India on 25 July 2017.




- qualifications for election as President
- According to Article 58 of the Constitution, no person shall be eligible for election as President unless he is a citizen of India, has completed the age of thirty-five years and is qualified for election as a member of the House of the People. A person shall not be eligible if he holds any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Government.
- manner of election
- According to Article 55 of the Constitution, as far as practicable, there has to be uniformity in the scale of representation of the different states at the election of the President. For the purpose of securing such uniformity among the States, the number of votes to which each State is entitled is determined as follows:- (a) every elected member of the legislative assembly of a State shall have as many votes as there are multiples of one thousand in the quotient obtained by dividing the population of the state by the total number of elected members of the Assembly; (b) If after taking the said multiples of one thousand, the remainder is not less than five hundred, then the vote of each member shall be further increased by one;



- (c) each elected member of either House of Parliament shall have such number of votes as may be obtained by dividing the total number of votes assigned to the members of the State Legislation Assemblies by the total number of elected members of both the House of Parliament fractions exceeding one-half being counted as one and & other fractions being disregarded. The election of the President shall be held in accordance with the system of proportional representation by means of the single transferable vote and the voting shall be by secret ballot.
- term of office
- . The President shall hold office for a term of five years from the date on which he enters upon his office.
- Function
- The primary duty of the president is **to preserve, protect and defend the constitution and the law of India** per Article 60. The president appoints the Chief Justice of India and other judges on the advice of the chief justice. The President may dismiss a judge with a two-thirds vote of the two Houses of the parliament.

# Legislative power

- 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. In India, the parliament is divided into two categories, Rajya Sabha and Lok Sabha.
- The **Parliament of India** is the supreme legislative body of the Republic of India. It is a bicameral legislature composed of the President of India and two houses: the Rajya Sabha (Council of States) and the Lok Sabha (House of the People). The President in his role as head of legislature has full powers to summon and prorogue either House of Parliament or to dissolve the Lok Sabha. The President can exercise these powers only upon the advice of the Prime Minister and his Union Council of Ministers.
- Those elected or nominated (by the President) to either house of Parliament are referred to as Members of Parliament (MP). The Members of Parliament, Lok Sabha are directly elected by the Indian public voting in single-member districts and the Members of Parliament, Rajya Sabha are elected by the members of all State Legislative Assemblies by proportional representation. The Parliament has a sanctioned strength of 543 in Lok Sabha and 245 in Rajya Sabha including 12 nominees from the expertise of different fields of literature, art, science, and social service.  The Parliament meets at Sansad Bhavan in New Delhi.

- The Indian Parliament consists of two houses called the Lok Sabha and the Rajya Sabha with the President of India acting as their head.
- The President of India, the head of state, is a component of Parliament. Under Article 60 and Article 111, the President's responsibility is to ensure that laws passed by the Parliament are in accordance with the constitutional mandate and that the stipulated procedure is followed before according his/her approval to the bills. The President of India is elected by the elected members of Parliament of India and the state legislatures and serves for a term of 5 years.
- Lok Sabha (House of the People) or the lower house has 543 members. 543 members are directly elected by citizens of India on the basis of universal adult franchise representing Parliamentary constituencies across the country. Between 1952 and 2020, 2 additional members of the Anglo-Indian community were also nominated by the President of India on the advice of Government of India, which was abolished in January 2020 by the 104th Constitutional Amendment Act, 2019. Every citizen of India who is over 18 years of age, irrespective of gender, caste, religion, or race and is otherwise not disqualified, is eligible to vote for the Lok Sabha. The Constitution provides that the maximum strength of the House be 552 members. It has a term of five years. To be eligible for membership in the Lok Sabha, a person must be a citizen of India and must be 25 years of age or older, mentally sound, should not be bankrupt, and should not be criminally convicted. The total elective membership is distributed among the states in such a way that the ratio between the number of seats allotted to each state and the population of the state is, so far as practicable, the same for all states.

- The qualifications to become a member of the Legislative Assembly are largely similar to the qualifications to be a member of Parliament.
  1. The person should be a citizen of India.
  2. Not less than 25 years of age to be a member of the Legislative Assembly and not less than 30 years (as per Article 173 of Indian Constitution) to be a member of the Legislative Council.
  3. No person can become a member of the Legislative Assembly or the Legislative Council of any state unless the individual is a voter from any constituency of the state. Those who cannot become members of Parliament also cannot become members of the state legislature.
  4. The person should not be convicted of any offense and sentenced to imprisonment of 2 years or more.

- The functions of parliament are divided based on the powers it has. These are
  - Executive powers
  - Legislative powers
  - Constituent powers
  - Judicial powers
  - Financial powers
  - Electoral powers
  - Executive powers
- The executive is responsible for the acts and policies of the parliament. This enacted by the parliament form of the government. Thus, there are various measures that the parliament uses to control.
- These are questioned hour, committees, zero hours, etc. Furthermore, ministers are also collectively responsible for the measures taken in the parliament.

# Executive power

- Under the Constitution of India, the head of the Executive is the President. **All executive power is vested in him and all executive actions are taken in his name.** He is, however, only a Constitutional Head of State acting on the aid and advice of the Council of Ministers and as such only the formal Executive.
- The executive of government is the one that has sole authority and responsibility for the daily administration of the state bureaucracy. The division of power into separate branches of government is central to the republican idea of the separation of powers.
- **President**
- The executive power is vested mainly in the President of India, as per Article 53(1) of the constitution. The president has all constitutional powers and exercises them directly or through subordinate officers as per the aforesaid Article 53(1). The president is to act in accordance with aid and advice tendered by the Prime Minister, who leads the Council of Ministers as described in Article 74 of the Constitution.
- The council of ministers remains in power during the 'pleasure' of the president. However, in practice, the council of ministers must retain the support of the Lok Sabha. If a president were to dismiss the council of ministers on his or her own initiative, it might trigger a constitutional crisis. Thus, in practice, the Council of Ministers cannot be dismissed as long as it holds the support of a majority in the Lok Sabha.

- The President is responsible for appointing many high officials in India. These high officials include the governors of the 28 states; the chief justice; other judges of the supreme court and high courts on the advice of other judges; the attorney general; the comptroller and auditor general; the chief election commissioner and other election commissioners; the chairman and members of the Union Public Service Commission; the officers of the All India Services and Central Civil Services in group 'A'; and the ambassadors and high commissioners to other countries on the recommendations of the Council of Ministers. The President, as the head of state, also receives the credentials of ambassadors from other countries, whilst the prime minister, as head of government, receives credentials of high commissioners from other members of the Commonwealth, in line with historical tradition.
- The President is the commander-in-chief of the Indian Armed Forces.
- The President of India can grant a pardon to or reduce the sentence of a convicted person once, particularly in cases involving punishment of death. The decisions involving pardoning and other rights by the president are independent of the opinion of the prime minister or the Lok Sabha majority. In most other cases, however, the president exercises his or her executive powers on the advice of the prime minister. Presently, the President of India is.



- The vice president
- is the second highest constitutional position in India after the president. The vice president represents the nation in the absence of the president and takes charge as acting president in the incident of resignation impeachment or removal of the president. The vice president also has the legislative function of acting as the chairman of the Rajya Sabha. The vice president is elected indirectly by members of an electoral college consisting of the members of both the houses of the parliament in accordance with the system of proportional representation by means of the single transferable vote and the voting is by secret ballot conducted by the election commission.
- The Prime Minister of India
- as addressed in the Constitution of India, is the chief of the government, chief adviser to the president, head of the council of ministers and the leader of the majority party in the parliament. The prime minister leads the executive of the Government of India.

- The prime minister is the senior member of cabinet in the executive of government in a parliamentary system. The prime minister selects and can dismiss other members of the cabinet; allocates posts to members within the Government; is the presiding member and chairman of the cabinet and is responsible for bringing a proposal of legislation. The resignation or death of the prime minister dissolves the cabinet.
- The prime minister is appointed by the president to assist the latter in the administration of the affairs of the executive.
- The Union Council of Ministers includes the prime minister, Cabinet Ministers and Ministers of State (MoS). Each minister must be a member of one of the houses of the parliament. The cabinet is headed by the prime minister, and is advised by the cabinet secretary, who also acts as the head of the Indian Administrative Service and other civil services. Other members of the council are either union cabinet ministers, who are heads of various ministries; or ministers of state, who are junior members who report directly to one of the cabinet ministers, often overseeing a specific aspect of government; or ministers of state (independent charges), who do not report to a cabinet minister. As per article 88 of the constitution, every minister shall have the right to speak in, and to take part in the proceedings of, either house, any joint sitting of the houses, and any committee of parliament of which he may be named a member, but shall *not* be entitled to a vote in the house where he is not a member.

- A secretary to the Government of India, a civil servant, generally an Indian Administrative Service (IAS) officer, is the administrative head of the ministry or department, and is the principal adviser to the minister on all matters of policy and administration within the ministry/department. Secretaries to the Government of India rank 23rd on Indian order of precedence. Secretaries at the higher level are assisted by one or many additional secretaries, who are further assisted by joint secretaries. At the middle they are assisted by directors/deputy secretaries and under secretaries.<sup>[25]</sup> At the lower level, there are section officers, assistant section officers, upper division clerks, lower division clerks and other secretarial staff.
- The Executive remains responsible and the administration accountable to Parliament. It is the function of Parliament **to exercise political and financial control over the Executive and to ensure parliamentary surveillance of administration.**

# Judicial power

- **The Indian judicial system is a single integrated system.** The Constitution of India divides the Indian judiciary into superior judiciary (the Supreme Court and the High Courts) and the subordinate judiciary (the lower courts under the control of the High Courts).
- **Supreme Court of India**
- The supreme court is the highest court of the country established by the Constitution. The Constitution states that the Supreme Court is a federal court, guardian of the Constitution, and the highest court of appeal. Articles 124 to 147 of the Constitution lay down the composition and jurisdiction of the court. Primarily, it is an appellate court which takes up appeals against judgments of the High Courts of the states and territories. However, it also takes writ petitions in cases of serious human rights violations or any petition filed under Article 32, which is the right to constitutional remedies, or if a case involves a serious issue that needs immediate resolution.
- The proceedings of the Supreme Court are conducted in English only. The Supreme Court Rules of 1966 were framed under Article 145 of the Constitution, which exists to regulate the practices and procedures of the Supreme Court.

- **High courts**

- There are 27 High Courts at the state level. Article 141 of the Constitution of India mandates that they are bound by the judgements and orders of the Supreme Court of India by precedence. These courts have jurisdiction over a state, a union territory or a group of states and union territories. Below the High Courts are a hierarchy of subordinate courts, such as the civil courts, family courts, criminal courts, and various other district courts. High courts were instituted as constitutional courts under Part VI, Chapter V, Article 214 of the Constitution of India.
- The High Courts are the principal civil courts of original jurisdiction in the state (along with the subordinate District Courts). However, High Courts exercise their original civil and criminal jurisdiction only if subordinate courts in the state are not competent (not authorised by law) to try matters for lack of pecuniary or territorial jurisdiction. High Courts may also enjoy original jurisdiction in certain matters if so designated specifically in a state or federal law. For example, company law cases are instituted only in a high court.
- However, the primary work of most High Courts consists of appeals from lower courts, and writ petitions in terms of Article 226 of the Constitution of India. Writ jurisdiction is also original jurisdiction of a High Court. The precise territorial jurisdiction of each High Court varies by province.
- Judges in these courts are appointed by the President after consultation with the Chief Justice of India, Chief Justice of the High Court, and the governor of the state. The number of judges in a court is decided by dividing the average institution of main cases during the last five years by the national average, or the average rate of disposal of main cases per judge per year in that High Court, whichever is higher.
- The Calcutta High Court is the oldest High Court in the country, established on 2 July 1862, and the Allahabad High Court is the largest, having a sanctioned strength of 160 judges.
- High Courts which handle a large number of cases of a particular region have permanent *benches* (or a branch of the court) established there. For litigants of remote regions, 'circuit benches' are set up, which work for those days in a month when judges visit.

- **District / Subordinate courts**

- The District Courts of India are established by the State governments of India for every district or for one or more districts together taking into account the number of cases and population distribution in the district. They administer justice in India at a district level. These courts are under administrative control of the High Court of the State to which the district concerned belongs. The decisions of District court are subject to the appellate jurisdiction of the concerned High Court.
- The district court is presided over by one District Judge appointed by the Governor with the consultation of High Court. In addition to the district judge there may be a number of Additional District Judges and Assistant District Judges depending on the workload. The Additional District Judge and the court presiding have equivalent jurisdiction as the District Judge and his district court. The district judge is also called a "Metropolitan session judge" when he is presiding over a district court in a city which is designated a "Metropolitan area" by the state government.
- The district court has appellate jurisdiction over all subordinate courts situated in the district on both civil and criminal matters. Subordinate courts, on the civil side (in ascending order) are, Junior Civil Judge Court, Principal Junior Civil Judge Court, Senior Civil Judge Court (also called sub-court). Subordinate courts, on the criminal side (in ascending order) are, Second Class Judicial Magistrate Court, First Class Judicial Magistrate Court, Chief Judicial Magistrate Court. In addition 'Family Courts' are established to deal with matrimonial disputes alone.
- The family court & Mahila Court matter deal by the Principal Judge. The Judges appointed to this post from the pool of District Judge rank. In few states like Maharashtra, Andhra Pradesh, it has separate (ex) cadre post means the judges are not appointed from the continue service but from the pool of retired judicial officer either directly or through exam.

# Conclusion

- Corresponding to these three activities are three organs of the government, namely **the legislature, the executive and the judiciary**. The legislative organ of the state makes laws, the executive enforces them and the judiciary applies them to the specific cases arising out of the breach of law.