



# System of government of India

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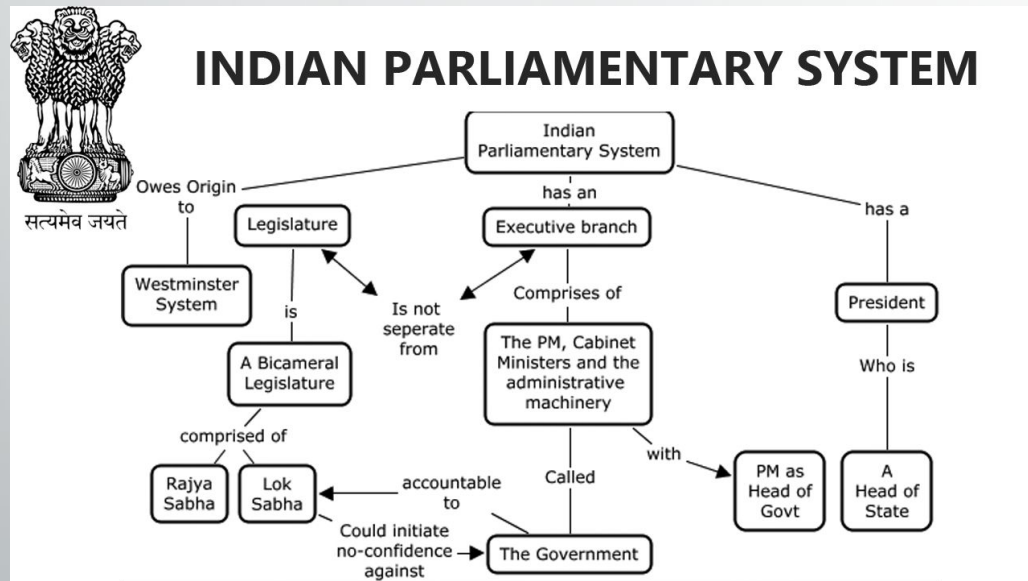
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# Introduction

- The government Of India (GOI) also known as the Union of India (According to Article 300 of Indian Constitution) is modelled after the Westminster system for governing the state, the Union government is mainly composed of the executive, the legislature, and the judiciary, in which all powers are vested by the constitution in the prime minister, parliament and the supreme court.

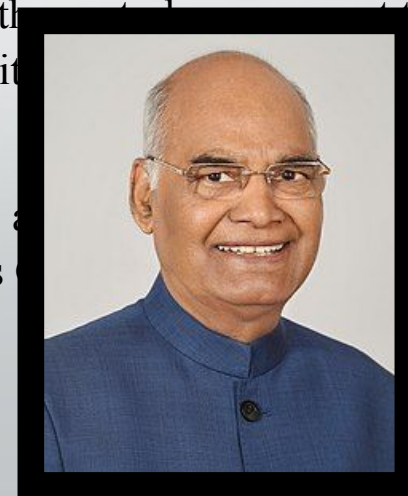
# Scheme of System of government



# The Head of the State

- The president of India is the head of state.
- The president of India (IAST: Bhāratīya Rāṣṭrapati), known officially as the president of the Republic of India, is the head of state of the Republic of India. The president is the nominal head of the executive,[a] as well as the commander-in-chief of the Indian Armed Forces.
- The office of president was created when India became a republic on 26 January 1950, when its constitution came into force. The president is indirectly elected by an electoral college comprising both houses of the Parliament of India and the legislative assemblies of each of India's states and territories, who themselves are all directly elected.
- Although Article 53 of the Constitution of India states that the president can exercise his powers directly or by subordinate authority, with few exceptions, all of the executive powers vested in the president are, in practice, exercised by the prime minister (a subordinate authority) with the help of the Council of Ministers.[3] The president is bound by the constitution to act on the advice of the prime minister and cabinet as long as the advice does not violate the constitution.
- Ram Nath Kovind is the 14th and current president, having assumed office since 25 July 2017.

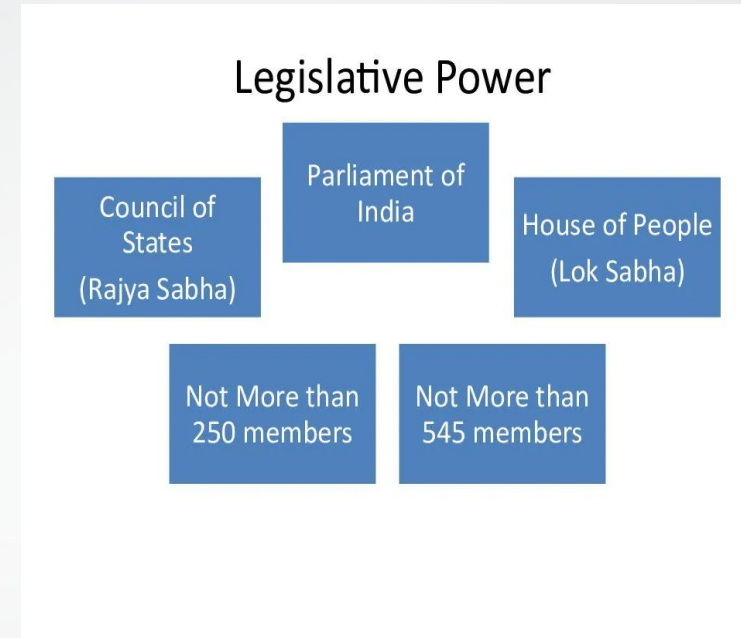
- Ram Nath Kovind (born 1 October 1945) is an Indian politician serving as the 14th and current President of India since 25 July 2017. He is also the first person from Uttar Pradesh to serve as President of India.[3] Prior to his presidency, he served as the 26th governor of Bihar from 2015 to 2017 and 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.
- He holds a bachelor's degree in commerce and an LLB from DAV College (affiliated with Kanpur University).
- 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.[when?] He also served as the national spokesperson of the party. He donated his ancestral home in Paraunkh to the Rashtriya Swayamsevak Sangh.[19] 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 government that had adverse effects on the SC/ST workers. Later, three amendments were made to the Constitution by the NDA government headed by Atal Bihari Vajpayee.
- He has served on the Board of management of Dr. B.R Ambedkar University, Lucknow, and the Indian Institute of Management Calcutta. He has also represented India at the UN and addressed the United Nations General Assembly in 2002.



# Legislative Power

- Legislative power is constitutionally vested in the Parliament of India of which the president is the head, to facilitate the lawmaking process per the constitution (Article 78, Article 86, etc.). The president summons both the houses (Lok Sabha and Rajya Sabha) of the parliament and prorogues them. He can dissolve the Lok Sabha.
- The president inaugurates parliament by addressing it after the general elections and also at the beginning of the first session every year per Article 87(1). The presidential address on these occasions is generally meant to outline the new policies of the government.
- All bills passed by the parliament can become laws only after receiving the assent of the president per Article 111. After a bill is presented to him, the president shall declare either that he assents to the Bill, or that he withholds his assent from it. As a third option, he can return a bill to parliament, if it is not a money bill, for reconsideration. President may be of the view that a particular bill passed under the legislative powers of parliament is violating the constitution, he can send back the bill with his recommendation to pass the bill under the constituent powers of parliament following the Article 368 procedure. When, after reconsideration, the bill is passed accordingly and presented to the president, with or without amendments, the president cannot withhold his assent from it. The president can also withhold his assent to a bill when it is initially presented to him (rather than return it to parliament) thereby exercising a pocket veto on the advice of the prime minister or council of ministers per Article 74 if it is inconsistent with the constitution.[11] Article 143 gives the president the power to consult the supreme court about the constitutional validity of an issue. The president shall assent to constitutional amendment bills without power to withhold the bills per Article 368 (2).

- When either of the two Houses of the Parliament of India is not in session, and if the government feels the need for an immediate procedure, the president can promulgate ordinances that have the same force and effect as an act passed by parliament under its legislative powers. These are in the nature of interim or temporary legislation and their continuance is subject to parliamentary approval. Ordinances remain valid for no more than six weeks from the date the parliament is convened unless approved by it earlier.
- Under Article 123, the president as the upholder of the constitution shall be satisfied that immediate action is mandatory as advised by the union cabinet and he is confident that the government commands majority support in the parliament needed for the passing of the ordinance into an act and parliament can be summoned to deliberate on the passing of the ordinance as soon as possible. The promulgated ordinance is treated as an act of parliament when in force and it is the responsibility of the president to withdraw the ordinance as soon as the reasons for the promulgation of the ordinance are no longer applicable.
- Bringing laws in the form of ordinances has become a routine matter by the government and president, but the provisions made in Article 123 are meant for mitigating unusual circumstances where immediate action is inevitable when the extant provisions of the law are inadequate. Re-promulgation of an ordinance after failing to get approval within the stipulated time of both houses of parliament is an unconstitutional act by the president.
- The president should not incorporate any matter in an ordinance which violates the constitution or requires an amendment to the constitution. The president should take moral responsibility when an ordinance elapses automatically or is not approved by the parliament or violates the constitution





# Executive power

- 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.

## The 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. As per Article 142, it is the duty of the president to enforce the decrees of the supreme court. The President of the United States can dismiss any Secretary at any time. The President of the Indian Union has no power to do so long as his Ministers command a majority in Parliament

## The Vice President:

- 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.[18] 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:

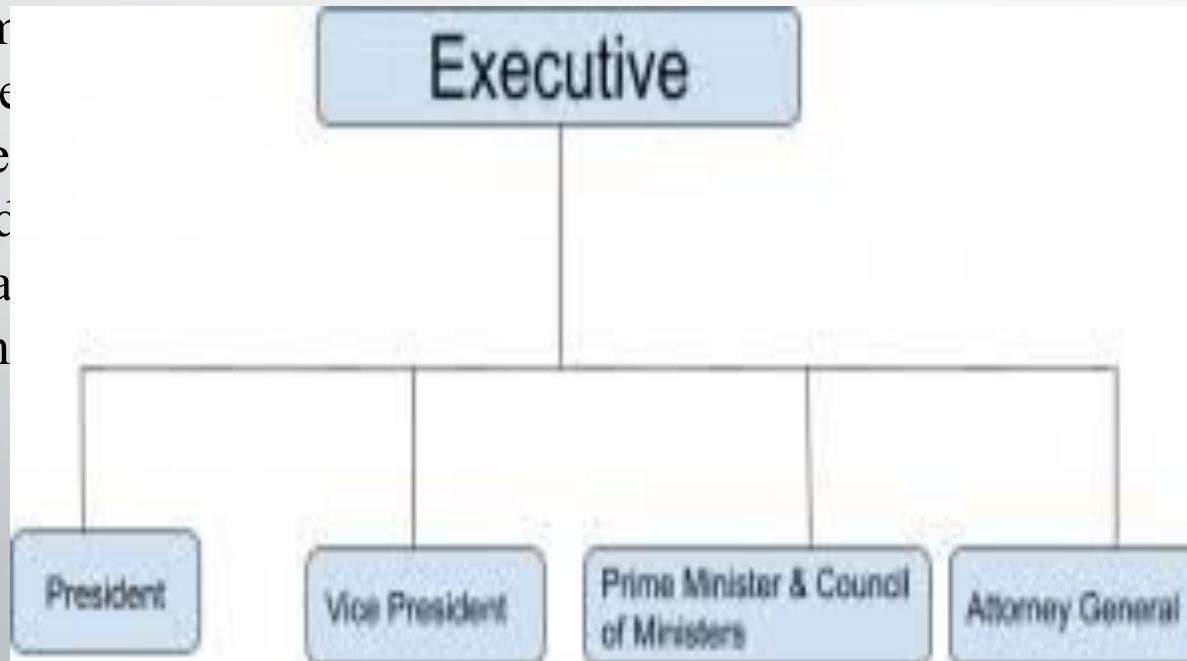
- The Prime Minister of India, as addressed in the Constitution of India, is the chief of the government, chief adviser to the president, head of the council of ministers and the leader of the majority party in the parliament. The prime minister leads the executive of the Government of India.
- The prime 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 Cabinet Ministers and Agencies:

- The Union Council of Ministers includes the prime minister, Cabinet Ministers and Ministers of State (MoS).[19] 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.

## Secretaries:

- 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 relating to the department. Secretaries to the Government of India at the higher level are assisted by joint secretaries. At the middle level, there are under secretaries. At the lower level, there are divisional officers, divisional clerks and other staff.



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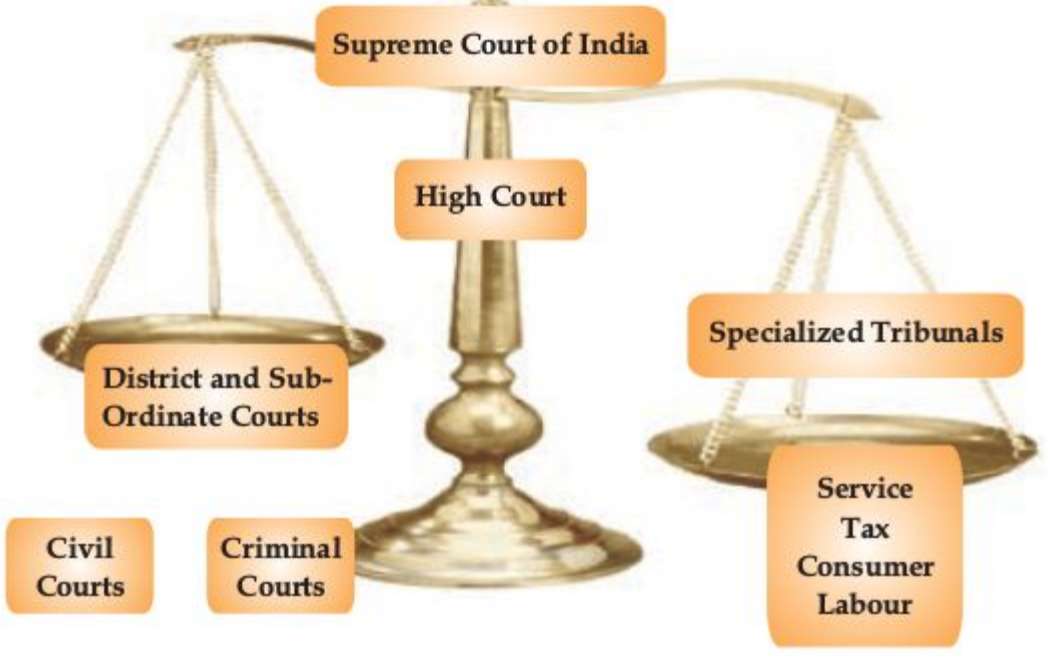
# Judicial Power

- India's independent union judicial system began under the British, and its concepts and procedures resemble those of Anglo-Saxon countries. The Supreme Court of India consists of the chief justice and 33 associate justices, all appointed by the president on the advice of the Chief Justice of India. The jury trials were abolished in India in the early 1960s, after the famous case *KM Nanavati v. State of Maharashtra*, for reasons of being vulnerable to media and public pressure, as well as to being misled.
- Unlike its United States counterpart, the Indian justice system consists of a unitary system at both state and union level. The judiciary consists of the Supreme Court of India, high courts at the state level, and district courts and Sessions Courts at the district level.
- The Supreme Court of India is situated in New Delhi, the capital region of India.
- The Supreme Court is the highest judicial forum and final court of appeal under the Constitution of India, the highest constitutional court, with the power of constitutional review. Consisting of the Chief Justice of India and 33 sanctioned other judges, it has extensive powers in the form of original, appellate and advisory jurisdictions.

- 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.

- The President, under Article 61, appoints and dismisses the Chief Justice of India and other judges on the recommendation of the Supreme Court. The President also appoints and dismisses the Justices of the High Courts and the Justices of the District Courts. The President also appoints and dismisses the Judges of the Tribunals and the Judges of the Service Courts.

The Chief Justice of India, is appointed by the President during the pleasure of the president. If the President is satisfied that a Judge is of public importance, he may refer the case to the President under Article 143. Personal and public affairs, the President may refer the cases to the President for the President's reference and reference.



Building of the Supreme Court of India.

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# Conclusion

- On the basis of the above-mentioned analysis, the concluding remarks are given in this chapter. The adoption of federal form of government with strong central tendencies seems to be a feasible solution for this vast democratic country. Every urge for autonomy is not divisive but most probably a complementary force; it would not lead to disintegration but a re-integration of Indian federal union.
- Practically, therefore, what is needed is a strategy and ethos of tolerance, goodwill and mutual trust from the central government to the states. Although there may be some amendments which are not necessary to be restored, there are some other important matters like the Article 35A and other relevant issues which are necessary to be restored to the state of Jammu and Kashmir.
- Thus, there is a need for reappraisal and review of Article 370 of the Indian Constitution in order to strengthen and reinforce the centre-state relations.
- Constitution of India is a complete blend of all the provisions, and thus the provisions and articles in itself make it the apex law of the state.