

THE SYSTEM OF STATE BODIES OF INDIA

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Basic structure

The government Of India (GOI) also known as the Union of India (According to Article 300 of Indian Constitution) [1] is modelled after the Westminster system for governing the state,[2] 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. The president of India is the head of state and the commander-in-chief of the Indian Armed Forces whilst the elected prime minister acts as the head of the executive, and is responsible for running the Union government. The parliament is bicameral in nature, with the Lok Sabha being the lower house, and the Rajya Sabha the upper house. The judiciary systematically contains an apex supreme court, 25 high courts, and several district courts, all inferior to the supreme court.

The basic civil and criminal laws governing the citizens of India are set down in major parliamentary legislation, such as the civil procedure code, the penal code, and the criminal procedure code. Similar to the Union government, individual State governments each consist of executive, legislative and judiciary. The legal system as applicable to the Union and individual State governments is based on the English Common and Statutory Law. The full name of the country is the Republic of India. India and Bharat are equally official short names for the Republic of India in the Constitution, and both names appears on legal banknotes, in treaties and in legal cases. The terms "Union government", "Central government" and "Bhārat Sarkār" are often used officially and unofficially to refer to the Government of India.[citation needed] The term New Delhi is commonly used as a metonym for the Union government,[citation needed] as the seat of the government is in New Delhi.

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.



Eligibility

Article 58 of the constitution sets the principal qualifications one must meet to be eligible to the office of the president. A president must be:

a citizen of India

of 35 years of age or above

qualified to become a member of the Lok Sabha

A person shall not be eligible for election as president if he holds any office of profit under the Government of India or the Government of any State or any local or other authority subject to the control of any of the said Governments.

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 (including prime minister and chief ministers)[19]:72

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.



A member of parliament or a State Legislature can seek election to the office of the president but if he is elected as president, he shall be deemed to have vacated his seat in parliament or State Legislature on the date on which he enters upon his office as President [Article 59(1)].

Article 57 provides that a person who holds, or who has held, office as president shall, subject to the other provisions of this constitution, be eligible for re-election to that office.

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. 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.



The primary duty of the president is to preserve, protect and defend the constitution and the law of India as made part of his oath (Article 60 of Indian constitution).[7] The president is the common head of all independent constitutional entities. All his actions, recommendations (Article 3, Article 111, Article 274, etc.) and supervisory powers (Article 74(2), Article 78C, Article 108, Article 111, etc.) over the executive and legislative entities of India shall be used in accordance to uphold the constitution.

Legislative power

It 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.[5]: 147

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.



MANNER OF ELECTION

Whenever the office becomes vacant, the new president is chosen by an electoral college consisting of the elected members of both houses of parliament (M.P.s), the elected members of the State Legislative Assemblies (Vidhan Sabha) of all States and the elected members of the legislative assemblies (MLAs) of union territories with legislatures, i.e., National Capital Territory (NCT) of Delhi, Jammu and Kashmir, and Puducherry. The election process of the president is a more extensive process than of the prime minister who is also elected indirectly (not elected by people directly) by the Lok Sabha members only. Whereas President being the constitutional head with duties to protect, defend and preserve the constitution and rule of law in a constitutional democracy with constitutional supremacy, is elected in an extensive manner by the members of Lok Sabha, Rajya Sabha and state legislative assemblies in a secret ballot procedure.

The election is held in accordance with the system of proportional representation (PR) by means of the instant-runoff voting (IRV) method. The voting takes place by a secret ballot system. The manner of election of President is provided by Article 55 of the constitution.[46]





Each elector casts a different number of votes. The general principle is that the total number of votes cast by Members of parliament equals the total number of votes cast by State Legislators. Also, legislators from larger states cast more votes than those from smaller states. Finally, the number of legislators in state matters; if a state has few legislators, then each legislator has more votes; if a state has many legislators, then each legislator has fewer votes.

The actual calculation for votes cast by a particular state is calculated by dividing the state's population by 1000, which is divided again by the number of legislators from the State voting in the electoral college. This number is the number of votes per legislator in a given state. Every elected member of the parliament enjoys the same number of votes, which may be obtained by dividing the total number of votes assigned to the members of legislative assemblies by the total number of elected representatives of the parliament.

Although Indian presidential elections involve actual voting by MPs and MLAs, they tend to vote for the candidate supported by their respective parties.



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.[13] 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.



QUALIFICATIONS FOR THE CANDIDATES

- * He must be a citizen of India.
- * He must make and subscribe to an oath or affirmation before the person authorised by the election commission for this purpose. In his oath, he swears (a) To uphold the sovereignty and integrity of India (b) To bear true faith and allegiance to the Constitution of India.
- * He must possess other qualifications in the Representation of People Act (1951).
- * He must be registered as an elector for a parliamentary constituency of both, the Rajya Sabha and the Lok Sabha. This requirement for Rajya Sabha, was dispensed with in 2003. In 2006, the SC upheld the constitutional validity of this change.
- * He must be a member of a SC/ST in any state or UT, if he wishes to contest a seat reserved for them. However, a member of SC/STs can also contest a seat not reserved for them.
- * He must be not less than 30 years of age in the case of the Rajya Sabha and not less than 25 years of age in the case of the Lok Sabha. OR

Executive powers

The President of the Indian Union will be generally bound by the advice of his Ministers. ... He can do nothing contrary to their advice nor can do anything without their advice. 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

As per Article 53, the executive power of the country is vested in the president and is exercised by the president either directly or through officers subordinate to him in accordance with the constitution. When parliament thinks fit it may accord additional executive powers to the president per Article 70 which may be further delegated by the president to the governors of states per Article 160. Union cabinet with prime minister as its head, should aid and advise the president in performing his functions. Per Article 74 (2), the council of ministers or prime minister are not accountable legally to the advice tendered to the president but it is the sole responsibility of the president to ensure compliance with the constitution in performing his duties. President or his subordinate officers is bound by the provisions of the constitution notwithstanding any advice by the union cabinet.

As per Article 142, it is the duty of the president to enforce the decrees of the supreme court.





The Executive Power works interdependently with the other powers, Legislative and Judicial. It is not possible for one power to pass over another, the three must act in a coordinated manner at the expense of what the Constitution of each country supports. The functions of the Executive Branch can be divided into three facets: regulatory, political and administrative.

Regulatory: It is a set of tasks that must be developed through rules and rights.

Policy: It consists of attracting citizens who allow them to satisfy their own interests in an adequate way. Therefore, it is necessary to take measures that arise according to the needs, without being developed by the previous laws and regulations. This facet can include commercial exchanges with countries, the appointment of ministers, approval or not of international treaties, etc.

Administrative: This section includes the work carried out in the different ministries and the rest of the bodies, including State companies. They also cover the tasks carried out by governments, delegations, state secretaries or municipalities.



The Government of India has three different independent branches namely the Executive, the Legislative and the Judiciary.

The **Indian judicial system** was formed by the British during their colonial rule in the country. This system is known as the Common Law System in which the judges develop the laws with their judgments, orders and decisions. The different types of courts form the different levels of judiciary in the country. The apex court of India is the Supreme Court, located in New Delhi, followed by the high courts in different states. The high courts are followed by the district courts and subordinate courts which are also known as the lower courts.

Supreme Court of India

The Supreme Court of India came into being on 28 January 1950 and substituted the Judicial Committee of the Privy Council and the Federal Court of India which were the apex legal system under the colonial rule in India. There is one Chief Justice and 30 other judges in the Supreme Court who are appointed by the Indian President. These judges retire after the attainment of the age of 65 years.



High Courts

The supreme judicial powers at the state level lie with the high courts of India. There are 24 high courts in the country which hold jurisdiction over a state, union territory or a group of union territories or states. Being established in 1862, Calcutta High Court is the oldest high court in India. Being the appellate authority of state or group of states, the high courts have similar authorities and powers like that of the apex court, except for the difference of territorial jurisdiction of high courts which is varied.

Judicial powers

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 Indian government's chief legal adviser, Attorney General of India, is appointed by the president of India under Article 76(1) and holds office during the pleasure of the president. If the president considers a question of law or a matter of public importance has arisen, he can also ask for the advisory opinion of the supreme court per Article 143. Per Article 88, the president can ask the attorney general to attend the parliamentary proceedings and report to him any unlawful functioning if any.



The judicial system or court system is also known as the judiciary system. The court has the power to decide and enforce the law, resolve disputes. The judicial system or judiciary consists of judges and other magistrates; they form the bench or core of the judiciary system.

The judiciary (also known as the judicial system, judicial branch, and court or judiciary system) is the system of courts that adjudicates legal disputes and interprets, defends and applies law in legal cases.



THANK YOU