

THE SYSTEM OF STATE BODIES OF INDIA

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- 2. Legislative power
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I.THE HEAD OF THE STATE

PRESIDENT

- Executive head of the state and first citizen of India
- The executive power vested in the president are to be exercised on the advice of the council of ministers responsible to the parliament.
- The 42nd amendment to the constitution has made it obligatory on the part of the president to accept the advice of the council of ministers.

QUALIFICATIONS

- Must be a citizen of India.
- Completed 35 years in age.
- Eligible to be a member of loksabha.
- Must not hold any government post.

ELECTION

- Article 54 and 55 lay down the procedure for electing the president.
- Indirectly elected through “electoral college”.
- According to the 70th amendment Act 1992 the expression states includes the national capital territory of delhi and the union territory of Pondicherry.

CONTINUE

- Members of legislative councils have no right to vote in the presidential election.
- The total voting strength of the parliament is equal to the total voting strength of all state assemblies together.

VACANCY

- In case of office falls vacant due to death, resignation or removal, the vice president act as president.
- The election is to be held within 6months of the vacancy.

POWERS

I. Executive power

- Appoints PM.
- Chief justice and judges of Supreme court
- Chairman and members of UPSC etc.

LEGISLATIVE POWERS

- Can summon and dissolve loksabha
- Address both the houses jointly or separately
- Can send messages to both the houses, with respect to a bill pending in the parliament.
- whetherNominates 12 members of Rajya Sabha.
- President has the power to veto with respect to bill passed by the parliament
- Three types of veto powers
- Absolute Veto
- Suspense Veto
- Pocket Veto

FINANCIAL POWERS

- All money bills can originate in parliament only on recommendation of president.
- No demand for a grant can be made except on his recommendation.
- Appoints finance commission (after every 5yrs) that recommends distribution of taxes between union and state governments.

2. LEGISLATIVE POWER

I. Parliament

The **Parliament of India** (*Bhāratīya Sansad*) 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.

QUALIFICATIONS FOR THE CANDIDATES

- Must be a citizen of India.
- Must not be less than 25 years of age.
- Must be a voter for any parliamentary constituency in India.
- Candidate of a recognised political party needs one proposer from his/her constituency for his/her nomination.

FUNCTIONS

- The main function of both the Houses is **to make laws**.
- Every Bill has to be passed by both the Houses and assented to by the President before it becomes law.
- The subjects over which Parliament can legislate are the subjects mentioned under the Union List in the Seventh Schedule of the Constitution of India.

MANNER OF FORMATION/ELECTION

- 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.^[7] The Parliament meets at Sansad Bhavan in New Delhi.

3. EXECUTIVE POWER

- The Union executive consists of the President,
- the Vice-President,
- and the Council of Ministers with the Prime Minister as the head to aid and advise the President.

PRESIDENT

The President is elected by members of an electoral college consisting of elected members of both Houses of Parliament and Legislative Assemblies of the states in accordance with the system of proportional representation, by means of single transferable vote. To secure uniformity among state inter se, as well as parity between the states as a whole, and the Union, suitable weightage is given to each vote.

CONTINUE

- The President must be a citizen of India, not less than 35 years of age, and qualified for election as member of the Lok Sabha. His term of office is five years, and he is eligible for re-election. His removal from office is to be in accordance with procedure prescribed in Article 61 of the Constitution. He may, by writing under his hand addressed to the Vice-President, resign his office.
- Executive power of the Union is vested in the President, and is exercised by him either directly or through officers subordinate to him in accordance with the Constitution. Supreme command of defence forces of the Union also vests in him.

VICE PRESIDENT

- The Vice-President is elected by members of an electoral college consisting of members of both Houses of Parliament in accordance with the system of proportional representation by means of single transferable vote. He must be a citizen of India, not less than 35 years of age, and eligible for election as a member of the Rajya Sabha. His term of office is five years, and he is eligible for re-election. His removal from office is to be in accordance with procedure prescribed in Article 67 b.

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- The Vice-President is ex-officio Chairman of the Rajya Sabha and acts as President when the latter is unable to discharge his functions due to absence, illness or any other cause, or till the election of a new President (to be held within six months when a vacancy is caused by death, resignation or removal or otherwise of President).
 - While so acting, he ceases to perform the function of the Chairman of the Rajya Sabha.

COUNCIL OF MINISTERS

- There is a Council of Ministers headed by the Prime Minister to aid and advise the President in exercise of his functions. The Prime Minister is appointed by the President, who also appoints other ministers on the advice of Prime Minister. The Council is collectively responsible to the Lok Sabha.
- It is the duty of the Prime Minister to communicate to the President all decisions of Council of Ministers relating to administration of affairs of the Union and proposals for legislation and information relating to them.

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- The Council of Ministers comprises Ministers who are members of Cabinet, Ministers of State (independent charge), Ministers of State and Deputy Ministers.

4. JUDICIAL POWER

- There are 3 types of Courts in india

1. Supreme court
2. High court
3. District court

SUPREME COURT

- The Indian Judicial System has the Supreme Court of India at its helm. which at present is located only in the capital city of Delhi, without any benches in any part of the nation, and is presided by the Chief Justice of India. The Supreme Court of India has many Benches for the litigation, and this apex court is not only the final court of permissible Appeal, but also deals with interstate matters, and matters comprising of more than one state, and the matters between the Union Government and any one or more states, as the matters on its original side. The President of India can always seek consultation and guidance including the opinion of the apex court and its judges. This court also has powers to punish anybody for its own contempt. The largest bench of the Supreme Court of India is called the Constitution Bench and comprises of 5 or 7 judges, depending on the importance attached of the matters before it, as well as the work load of the court. The recent chief justice of India is K. G. Balakrishnan.

HIGH COURT

- Every State has a High Court, which works under the direct guidance and supervision of the Supreme Court of India, and is the uppermost court in that state, and generally the last court of regular appeals. Though generally the High Courts are only the courts of Appeal. however in the three presidency towns (As the British had then termed) of Mumbai [Bombay], Chennai (Madras) and Kolkata (Calcutta), the High Courts also have powers of the original Side beyond a certain financial limit. The High Courts are also termed as the courts of original jurisdiction, and can be approached in writs not only for violation of fundamental rights under the provisions of Article 32 of the Indian constitution, but also for any other rights under Article 226 of the Constitution, and under its powers to supervise over all its subordinate courts falling within the physical jurisdiction of the state under Article 227 of the Constitution. In fact, when apparently there is no effective remedy available to a person in equity, it can always move the High Court in an appropriate writ. High Courts frame their own rules, and arrange to implement them under certain provisions of Law, the High Courts have the ordinary original civil jurisdiction. Many times the High Courts have concurrent jurisdiction along with its subordinate courts, for effective remedy at the earliest. All the High Courts have different divisions/benches in different parts of the respective states for speedier cheaper and effective dispensing of justice.

DISTRICT COURT

- The highest court in each district is that of the District and Sessions Judge. This is the principal court of original civil jurisdiction besides High Court of the State and which derives its jurisdiction in civil matters primarily from the code of civil procedure. The district court is also a court of Sessions when it exercises its jurisdiction on criminal matters under Code of Criminal procedure. The district court is presided over by one District Judge appointed by the state Government. In addition to the district judge there may be number of Additional District Judges and Assistant District Judges depending on the workload. However, the district judge has supervisory control over Additional and Assistant District Judges, including decisions on allocation of work among them. The District and Sessions judge is often referred to as "district judge when he presides over civil matters and sessions judge when he presides over criminal matters .

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- The district judge is also called "Metropolitan session judge" when he is presiding over a district court in a city which is designated Metropolitan area by the state Government. Other courts subordinate to district court in the Metropolitan area are all referred to with "metropolitan" prefixed to the usual designation. An area is designated a metropolitan area by the concerned state Government if population of the area exceeds one million. Appointment of district judge and other Additional and Assistant district judges is done by the state Government in consultation with the High court of the state. A minimum of seven years of practice as a lawyer at bar is a necessary qualification. District judges are also appointed by way of elevation of judges from courts subordinate to district courts provided they fulfill the minimum years of service.

- Thank you