

PRESIDENT OF INDIA:

The president is indirectly elected by an electoral college comprising the Parliament of India (both houses) and the legislative assemblies of each of India's states and territories, who themselves are all directly elected.

Although the 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.^[2] The president is bound by the constitution to act on the advice of the prime minister and cabinet as long as the advice is not violating the constitution.

Powers and duties

Under the draft constitution the President occupies the same position as the King under the English Constitution. He is the head of the state but not of the Executive. He represents the Nation but does not rule the Nation. He is the symbol of the Nation. His place in the administration is that of a ceremonial device on a seal by which the nation's decisions are made known.

Duty

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).^[6] 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.^[8] There is no bar on the actions of the president to contest in the court of law.^[9]

Legislative powers

Legislative power is constitutionally vested by 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.^{[10]:145}

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 prime minister or council of ministers per Article 74 if it is inconsistent to the constitution.^[9] Article 143 gave power to the president 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 which 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.^[11] 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 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.^[12] 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.^[13]

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

Per Article 142, it is the duty of the president to enforce the decrees of the Supreme Court.

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. He dismisses the judges if and only if the two Houses of the parliament pass resolutions to that effect by a two-thirds majority of the members present.^[15]

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.^[16]

Appointment powers

The president appoints as prime minister, the person most likely to command the support of the majority in the Lok Sabha (usually the leader of the majority party or coalition). the president then appoints the other members of the Council of Ministers, distributing portfolios to them on the advice of the prime minister.^{[17]:72} The Council of Ministers remains in power at the 'pleasure' of the president.

The president appoints 12 members of the Rajya Sabha from amongst persons who have special knowledge or practical experience in respect of such matters as literature, science, art and social service. The president may nominate not more than two members of Anglo Indian community as Lok Sabha members per Article 331

Governors of states are also appointed by the president who shall work at the pleasure of the president. Per Article 156, the president is empowered to dismiss a governor who has violated the constitution in his acts.

The president is responsible for making a wide variety of appointments. These include:

The chief justice and other judges of the Supreme Court of India and state/union territory high courts.

Financial powers

- A money bill can be introduced in the parliament only with the president's recommendation.
- The president lays the Annual Financial Statement, i.e. the Union budget, before the parliament.
- The president can take advances out of the Contingency Fund of India to meet unforeseen expenses.

- The president constitutes a Finance commission after every five years to recommend the distribution of the taxes between the centre and the States.

Diplomatic powers

All international treaties and agreements are negotiated and concluded on behalf of the president. However, in practice, such negotiations are usually carried out by the prime minister along with his Cabinet. Also, such treaties are subject to the approval of the parliament. The president represents India in international forums and affairs where such a function is chiefly ceremonial.

Military powers

The president is the Supreme Commander of the Indian Armed Forces. The president can declare war or conclude peace, on the advice of the Union Council of Ministers headed by the prime minister. All important treaties and contracts are made in the president's name

Pardoning powers

As mentioned in Article 72 of the Indian constitution, the president is empowered with the powers to grant pardons in the following situations

- Punishment is for an offence against Union law.
- Punishment is by a military court.
- A sentence that is 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.

National emergency

A national emergency can be declared in the whole of India or a part of its territory for causes of war or armed rebellion or an external aggression. Such an emergency was declared in India in 1962 (Indo-China war), 1971 (Indo-Pakistan war),^[25] and 1975 to 1977 (declared by Indira Gandhi)

Under Article 352 of the India constitution, the president can declare such an emergency only on the basis of a written request by the cabinet of ministers headed

by the prime minister. Such a proclamation must be approved by the parliament with an at least two-thirds majority within one month. Such an emergency can be imposed for six months. It can be extended by six months by repeated parliamentary approval-there is no maximum duration

In such an emergency, Fundamental Rights of Indian citizens can be suspended. The six freedoms under Right to Freedom are automatically suspended. However, the Right to Life and Personal Liberty cannot be suspended (Article 21).

The president can make laws on the 66 subjects of the State List (which contains subjects on which the state governments can make laws). Also, all money bills are referred to the president for approval. The term of the Lok Sabha can be extended by a period of up to one year, but not so as to extend the term of parliament beyond six months after the end of the declared emergency.

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 under any local or other authority subject to the control of any of the said Governments.

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 of 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 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.

PRIME MINISTER:

The **Prime Minister of India** the leader of the executive of the Government of India. The prime minister is also the chief adviser to the president of India and head of the Council of Ministers. They can be a member of any of the two houses of the Parliament of India—the Lok Sabha (House of the People) and the Rajya Sabha (Council of the States)—but has to be a member of the political party or coalition, having a majority in the Lok Saba.

The prime minister is the senior-most member of cabinet in the executive of government in a parliamentary system. The prime minister selects and can dismiss members of the cabinet; allocates posts to members within the government; and is the presiding member and chairperson of the cabinet.

The Union Cabinet headed by the prime minister is appointed by the president of India to assist the latter in the administration of the affairs of the executive. Union cabinet is collectively responsible to the Lok Sabha as per article 75(3) of the Constitution of India. The prime minister has to enjoy the confidence of a majority in the Lok Sabha and shall resign if they are unable to prove majority when instructed by the president.

Appointment, tenure and removal

Eligibility

According to Article 84 of the Constitution of India, which sets the principle qualification for member of Parliament, and Article 75 of the Constitution of India, which sets the qualifications for the minister in the Union Council of Ministers. be a citizen of India.

be a member of the Lok Sabha or the Rajya Sabha. If the person chosen as the prime minister is neither a member of the Lok Sabha nor the Rajya Sabha at the

time of selection, they must become a member of either of the houses within six months.

be above 25 years of age if they are a member of the Lok Sabha, or, above 30 years of age if they are a member of the Rajya Sabha.

not hold 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 governments.

If however a candidate is elected as the prime minister they must vacate their post from any private or government company and may take up the post only on completion of their term.

Tenure and removal from office

The prime minister serves on 'the pleasure of the president', hence, a prime minister may remain in office indefinitely, so long as the president has confidence in him/her. However, a prime minister must have the confidence of Lok Sabha, the lower house of the Parliament of India.

Also, as the Minister of Personnel, Public Grievances and Pensions, the PM also exercises control over the Indian Administrative Service (IAS), the country's premier civil service, which staffs most of the senior civil service positions; the Public Enterprises Selection Board (PESB) and the Central Bureau of Investigation (CBI) except for the selection of its director, who is chosen by a committee of: (a) the prime minister, as chairperson; (b) the leader of the opposition in Lok Sabha; and (c) the chief justice

Unlike most other countries, the prime minister does not have much influence over the selection of judges, that is done by a collegium of judges consisting of the Chief Justice of India, four senior most judges of the Supreme Court of India and the chief justice—or the senior-most judge—of the concerned state high court. The executive as a whole, however, has the right to send back a recommended name to the collegium for reconsideration, this, however, is not a full Veto power, and the collegiums can still put forward rejected name.

Legislative powers

The prime minister acts as the leader of the house of the chamber of parliament—generally the [Lok Sabha](#)—he/she belongs to. In this role, the prime minister is tasked with representing the executive in the legislature, he/she is also expected to announce important legislation, and is further expected to respond to the [opposition's](#) concerns.^[90] Article 85 of the [Indian constitution](#) confers the president with the power to convene and end extraordinary sessions of the parliament, this power, however, is exercised only on the advise of the prime minister and his/her council, so, in practice, the prime minister does exercise some control over affairs of the parliament.

Compensation and benefits

Article 75 of the Constitution of India confers the parliament with the power to decide the remuneration and other benefits of the prime minister and other ministers are to be decided by the Parliament and is renewed from time to time. The original remuneration for the prime minister and other ministers were specified in the Part B of the second schedule of the constitution, which was later removed by an amendment.

Prime Minister monthly pay and allowances ^[11]	
Date	Salary
October 2009	₹100,000 (US\$1,400)
October 2010	₹135,000 (US\$1,900)
July 2012	₹160,000 (US\$2,200)