

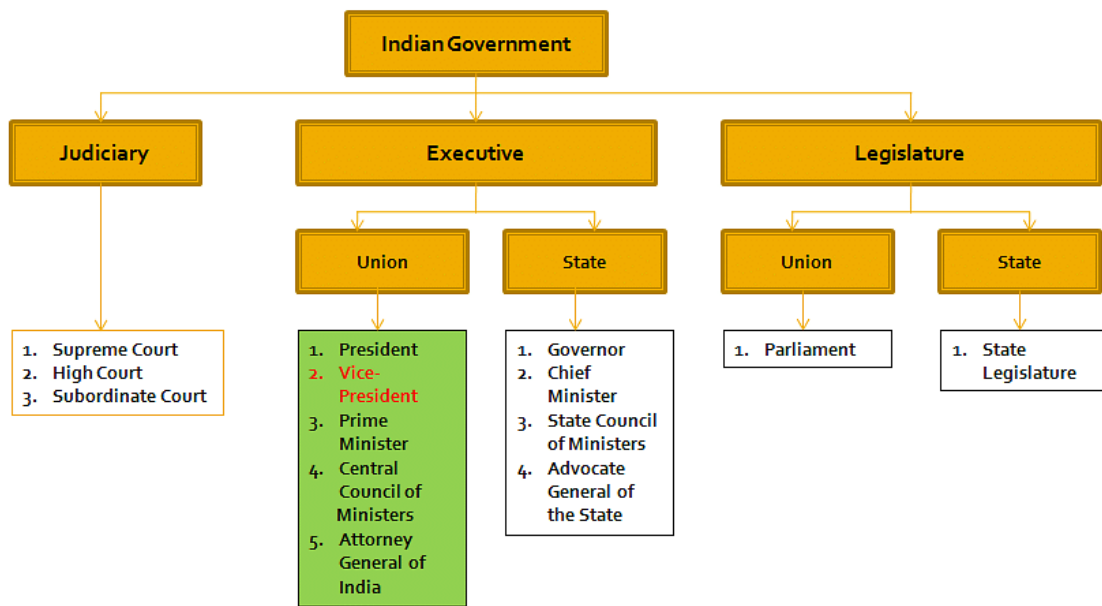
UPSC
NCERT Summary
Executive – 1

Functioning of a Government

- For excellent functioning, in a democracy, the Government is divided into three organs:
 - The Legislative
 - The Executive
 - The Judiciary

Administration in an Organization

- In any organization, some office holder has to take decisions and implement those decisions. We call this activity administration or management. But administration requires a body at the top that will take policy decisions or the big decisions and supervise and coordinate the routine administrative functioning.
- **Executives in an Organization:** You may have heard about the executives of big companies, banks, or industrial units. Every formal group has a body of those who function as the chief administrators or the executives of that organization. Some officeholders decide the policies and rules and regulations and then some officeholders implement those decisions in the actual day-to-day functioning of the organization.
- The word executive means a body of persons that look after the implementation of rules and regulations in actual practice.



Administration in Government







- **The Legislature in Government:** In the case of government also, one body may take policy decisions and decide about rules and regulations, while the other one would be in charge of implementing those rules. The organ government primarily looks after the function of implementation and policies adopted by the legislature.
- **The Executive in Government:** The executive is often involved in the framing of policy. The official designations of the executive vary from country to country. Some countries have presidents, while others have chancellors.
- The executive branch is not just about presidents, prime ministers, and ministers. It also extends to the administrative machinery (civil servants). While the heads of government and their ministers, saddled with the overall responsibility of government policy, altogether known as the political executive, those responsible for the day-to-day administration are called the permanent executive.
- **The Judiciary in Government:** It has the responsibility to apply the laws to specific cases and settle all disputes. The real 'meaning of law' is what the judges decision during the course of giving their judgments in various cases.

Types of Executives

- Every country may not have the same type of executive. You may have heard about the President of the USA and the Queen of England. But the

powers and functions of the President of the USA are very different from the powers of the President of India. Similarly, the powers of the Queen of England are different from the powers of the King of Nepal. Both India and France have prime ministers, but their roles are different from each other.

Executive type

	Presidential
	Semi-presidential (premier-presidential)
	Semi-presidential (president-parliamentary)
	Parliamentary
	Assembly-independent
	Monarchy

- The USA has a presidential system and executive powers are in the hands of the president. Canada has a parliamentary democracy with a constitutional monarchy where Queen Elizabeth II is the formal chief of state and the Prime Minister is the head of government. In France, both the president and the prime minister are a part of the semi-presidential system.
- The president appoints the prime minister as well as the ministers but cannot dismiss them as they are responsible to the parliament. Japan has a parliamentary system with the Emperor as the head of the state and the prime minister as the head of government. Italy has a parliamentary system with the president as the formal head of state and the prime minister as the head of government.
- Russia has a semi-presidential system where the president is the head of state and the prime minister, who is appointed by the president, is the head of government. Germany has a parliamentary system in which the president is the ceremonial head of state and the chancellor is the head of government. In a presidential system, the president is the Head of the state as well as the head of Government. In this system, the office of the president is very powerful, both in theory and practice. Countries with

such a system include the United States, Brazil, and most nations in Latin America.

- In a parliamentary system, the prime minister is the head of government. Most parliamentary systems have a president or a monarch who is the nominal Head of state. In such a system, the role of the president or monarch is primarily ceremonial and the prime minister along with the cabinet wields effective power.
- Countries with such a system include Germany, Italy, Japan, United Kingdom as well as Portugal. A semi-presidential system has both a president and a prime minister but unlike the parliamentary system, the president may possess significant day-to-day powers. In this system, it is possible that sometimes the president and the prime minister may belong to the same party and at times they may belong to two different parties and thus, would be opposed to each other. Countries with such a system include France, Russia, Sri Lanka, etc.

Parliamentary Executive in India



- When the Constitution of India was written, India already had some experience of running the parliamentary system under the Acts of 1919 and 1935. This experience had shown that in the parliamentary system, the executive can be effectively controlled by the representatives of the people. The makers of the Indian Constitution wanted to ensure that the government would be sensitive to public expectations and would be responsible and accountable.
- The other alternative to the parliamentary executive was the presidential form of government. But the presidential executive puts much emphasis on the president as the chief executive and as source of all executive

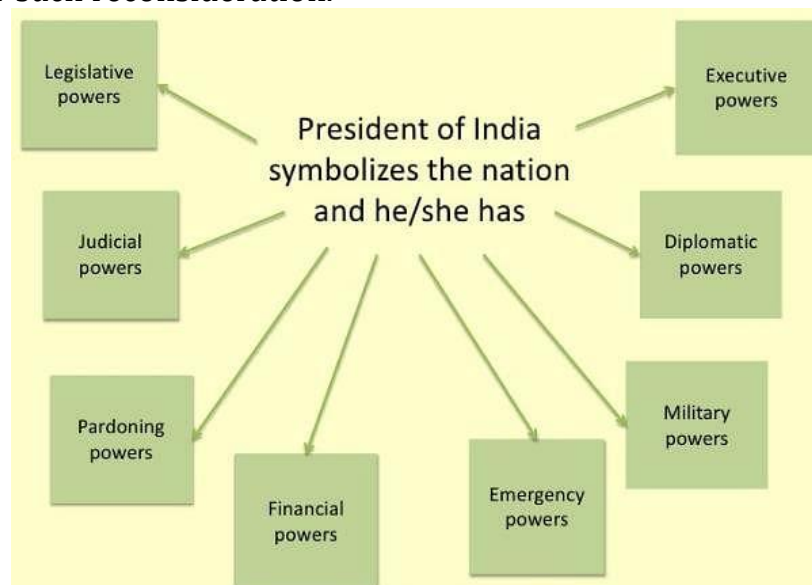
power. There is always the danger of personality cult in presidential executive. The makers of the Indian Constitution wanted a government that would have a strong executive branch, but at the same time, enough safeguards should be there to check against the personality cult.

- In the parliamentary form there are many mechanisms that ensure that the executive will be answerable to and controlled by the legislature or people's representatives. So the Constitution adopted the parliamentary system of executive for the governments both at the national and State levels.

Powers and Position of President

Article 74 (1)

There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President who shall in the exercise of his functions, act in accordance with such advice. Provided that the President may require the Council of Ministers to reconsider such advice and the President shall act in accordance with the advice tendered after such reconsideration.



- According to this system, there is a President who is the formal Head of the state of India and the Prime Minister and the Council of Ministers, which run the government at the national level.
- At the State level, the executive comprises the Governor and the Chief Minister and the Council of Ministers. The Constitution of India vests the executive power of the Union formally in the President.
- In reality, the President exercises these powers through the Council of Ministers headed by the Prime Minister. The President is elected for a

period of five years. But there is no direct election by the people for the office of President. The President is elected indirectly. This means that the president is elected not by ordinary citizens but by elected MLAs and MPs. This election takes place in accordance with the principle of proportional representation with the single transferable vote.

- The President can be removed from office only by Parliament by following the procedure for impeachment. The only ground for impeachment is a violation of the Constitution.
- Do you know what the word shall means here? It indicates that the advice is binding on the President. In view of the controversy about the scope of the President's powers, a specific mention was made in the Constitution by an amendment that the advice of the Council of Ministers will be binding on the President. By a not her amendment made later, it was decided that the President can ask the Council of Ministers to reconsider its advice but, has to accept the reconsidered advice of the Council of Ministers.
- We have already seen that President is the formal head of the government. In this formal sense, the President has wide-ranging executive, legislative, judicial, and emergency powers. In a parliamentary system, these powers are in reality used by the President only on the advice of the Council of Ministers. The Prime Minister and the Council of Ministers have the support of the majority in the Lok-Sabha and they are the real executive. In most cases, the President has to follow the advice of the Council of Ministers.
- "We did not give him any real power but we have made his position one of authority and dignity. The constitution wants to create neither a real executive nor a mere figurehead, but ahead that neither reigns nor governs, it wants to create a great figurehead."
- The President has no discretionary power under any circumstances. This will be an incorrect assessment. Constitutionally, the President has a right to be informed of all important matters and deliberations of the Council of Ministers. The Prime Minister is obliged to furnish all the information that the President may call for. The President often writes to the Prime Minister and expresses his views on matters confronting the country.

President's role in Choosing the Prime Minister

- After 1977, party politics in India became more competitive and there have been many instances when no party had a clear majority in the Lok-Sabha. What does the President do in such situations? No political

party or coalition secured a majority in the elections held in March 1998. The BJP and its allies secured 251 seats, 21 short of a majority.

- President Narayanan adopted an elaborate procedure. He asked the leader of the alliance, Atal Behari Vajpayee, “to furnish documents in support of his claim from concerned political parties.” Not stopping at this, the President also advised Vajpayee to secure a vote of confidence within ten days of being sworn in.
- Besides this, there are at least three situations where the President can exercise the powers using his or her own discretion. In the first place, we have already noted that the President can send back the advice given by the Council of Ministers and ask the Council to reconsider the decision.
- In doing this, the President acts on his (or her) own discretion. When the President thinks that the advice has certain flaws or legal lacunae, or that it is not in the best interests of the country, the President can ask the Council to reconsider the decision. Although the Council can still send back the same advice and the President would then be bound by that advice, such a request by the President to reconsider the decision, would naturally carry a lot of weight. So, this is one way in which the president can act at his own discretion.
- Secondly, the President also has veto power by which he can withhold or refuse to give assent to Bills (other than Money Bill) passed by the Parliament. Every bill passed by the Parliament goes to the President for his assent before it becomes a law. The President can send the bill back to the Parliament asking it to reconsider the bill.
- This ‘veto’ power is limited because, if the Parliament passes the same bill again and sends it back to the President, then, the President has to give assent to that bill. However, there is no mention in the Constitution about the time limit within which the President must send the bill back for reconsideration. This means that the President can just keep the bill pending with him without any time limit. This gives the ‘President an informal power to use the veto in a very effective manner. This is sometimes referred to as ‘pocket veto’.
- We saw that there is no time limit on the President for giving his assent to a bill. Do you know that such a thing has already happened? In 1986, the Parliament passed a bill known as Indian Post office (amendment) bill. This bill was widely criticised by many for it sought to curtail the freedom of the press.
- The then President, Gyani Zail Singh, did not take any decision on this bill. After his term was over, the next President, Venkataraman sent the bill finally back to the Parliament for reconsideration. By that time, the government that brought the bill before the Parliament had changed and

a new government was elected in 1989. This government belonged to a different coalition and did not bring the bill back before the Parliament. Thus, Zail Singh's decision to postpone giving assent to the bill effectively meant that the bill could never become a law!

- Then, the third kind of discretion arises more out of political circumstances. Formally, the President appoints the Prime Minister.
- Normally, in the parliamentary system, a leader who has the support of the majority in the Lok-Sabha would be appointed as Prime Minister and the question of discretion would not arise. But imagine a situation when after an election, no leader has a clear majority in the Lok-Sabha.
- Imagine further that after attempts to forge alliances, two or three leaders are claiming that they have the support of the majority in the house. Now, the President has to decide whom to appoint as the Prime Minister. In such a situation, the President has to use his own discretion in judging who really may have the support of the majority or who can actually form and run the government.

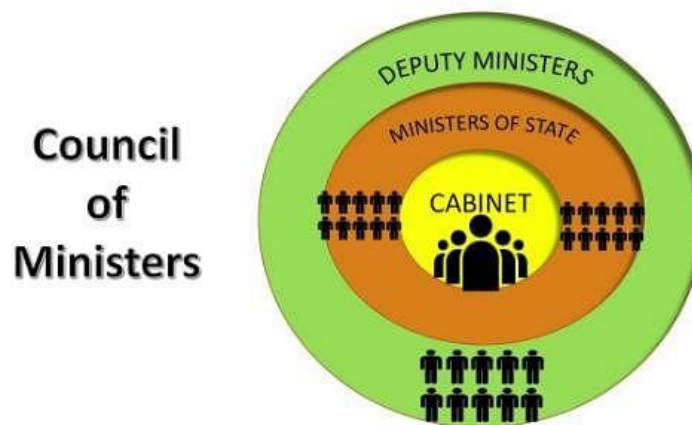
The Vice President of India

- The Vice President is elected for five years. His election method is similar to that of the President, the only difference is that members of State legislatures are not part of the electoral college.
- The Vice President may be removed from his office by a resolution of the Rajya Sabha passed by a majority and agreed to by the Lok-Sabha.
- The Vice President acts as the ex-officio considerably increased the importance of the Chairman of the Rajya Sabha and takes over the office of the President when there is a vacancy by reasons of death, resignation, removal by impeachment or otherwise.
- The Vice President only until a new President is elected, B.D. Jatti acted as President on the death of Fakhruddin Ali Ahmed until a new President was elected.
- Since 1989 major political changes have presidential office. In the four parliamentary elections held from 1989 to 1998, no single party or coalition attained a majority in the Lok acts as the President Sabha.
- These situations demanded presidential intervention either in order to constitute governments or to grant a request for dissolution of Lok-Sabha a Prime Minister who could not prove majority in the House. It may thus be said that presidential discretion is related to political conditions. There is greater scope for presidential assertiveness when governments are not stable and coalitions occupy power.
- For the most part, the President is a formal power holder and a ceremonial head of the nation. You may wonder why then do we need a

President? In a parliamentary system, the Council of Ministers is dependent on the support of the majority in the legislature. This also means that the Council of Ministers may be removed at any time and a new Council of Ministers will have to be put in place.

- Such a situation requires a Head of the state who has a fixed term, who may be empowered to appoint the Prime Minister and who may symbolically represent the entire country. This is exactly the role of the President in ordinary circumstances. Besides, when no party has a clear majority, the President has the additional responsibility of making a choice and appointing the Prime Minister to run the government of the country.

Size of the Council of Ministers



- Before the 91st Amendment Act (2003), the size of the Council of Minister was determined according to exigencies of time and requirements of the situation. But this led to the very large size of the Council of Ministers.
- Besides, when no party had a clear majority, there was a temptation to win over the support of the members of the Parliament by giving them ministerial positions as there was no restriction on the number of members of the Council of Ministers. This was happening in many States also.
- Therefore, an amendment was made that the Council of Ministers shall not exceed 15 percent of a total number of members of the House of People (or Assembly the case of the States).