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GOVERNANCE AT THE UNION LEVEL

We quite often discuss about the President of India, the Prime Minister, Ministers, bureaucrats, politicians and others. These interactions happen in our homes, at our offices, tea-stalls, canteens and even on street corners. Have you ever pondered over it and wondered why do we discuss these people so often? It is because being key functionaries of the government their views and actions, in one way or the other, affect us. The government plays a critical role in shaping the development and quality of life of the people of a country. That is why, we want to know more about them. Since our country is a federation, we have governments at the union and the state levels, besides having local governments at the grassroot level, villages, cities and towns. Both the Union and the State governments are organized and function based on the principles of parliamentary system of government. Accordingly, the Constitution of India has made elaborate provisions for the structure and functioning of all the three branches of the government, executive, legislature and judiciary. The President and the Council of Ministers with the Prime Minister at its head constitute the executive branch of the Union government. The Parliament is the legislative branch and the Supreme Court constitutes the judicial branch. In this lesson, we shall discuss the structure and functioning of these branches of the government.



OBJECTIVES

After studying this lesson, you will be able to:

- explain the process of election, tenure and powers, and the functions of the President of India;
- analyse the appointment of the Prime Minister and the composition, powers and functions of the Council of Ministers;
- examine the powers and position of the Prime Ministers as well as his/her relationship with the Council of Ministers;

- explain the composition, powers and functions of the Parliament and compare the position of Rajya Sabha and Lok Sabha; and
- appreciate the role of the Supreme Court of India by explaining its organisation and jurisdictions, its power of Judicial Review and the impact of Public Interest Litigation (PIL) and judicial activism on our day to day life.



Notes

20.1 THE PRESIDENT

The illustration below is showing the Republic Day Parade. We celebrate 26 January as Republic Day every year. India is known as a Republic. Do you know why? It is because our Head of the State, the President of India is elected. It is not so in Great Britain where the Head of State happens to be either the King or the Queen. The office there is hereditary.



Figure 20.1 Republic Day Parade

20.1.1 Process of Election of the President

The President is indirectly elected by an Electoral College which consists of the elected members of both the Houses of Parliament as well as of State Legislative Assemblies. Moreover, the elected members of the Legislative Assemblies of the Union Territories of Delhi and Puducherry (earlier known as Pondicherry) also participate in this election. The voting is by secret ballot. She/he is elected according to the system of proportional representation by means of the single transferable vote.

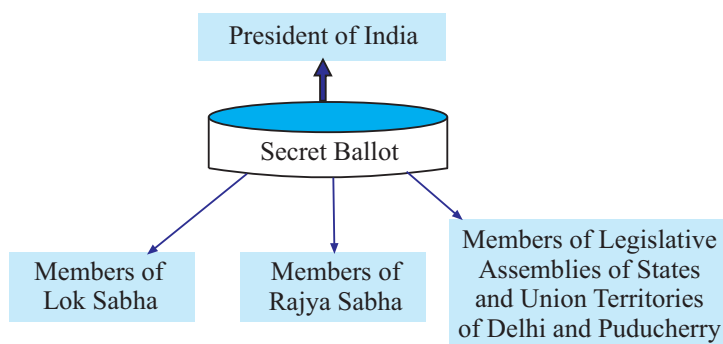


Figure 20.2 *Process of Election of the President*

Qualifications for election as President

In order to be qualified for election as President, a person must:

- (i) be a citizen of India;
- (ii) have completed the age of 35 years;
- (iii) be qualified for being elected as a member of the House of the People (Lok Sabha); and
- (iv) not hold any office of profit under the government of India, any State government or under any local authority or any other authority of the said government.

Term of Office

The President is elected for a term of five years, but even after the expiry of the term, he/she may continue to hold office until his/her successor enters the office. There is a provision for the re-election of a person who is holding or who has held the office as President. A vacancy in the office of the President may be caused in any of the following ways:

- (i) in the event of his/her death;
- (ii) if he/she resigns;
- (iii) if he/she is removed from office by impeachment. Impeachment (a resolution to remove the President for his/her unconstitutional act need) to be adopted by a special majority of votes in both the Houses of Parliament.

As provided in the Constitution, in the event of the occurrence of any vacancy in the office of the President, the Vice President acts as President until the date on which a new President is elected and enters upon his/her office. But the Vice-President can act as the President for not more than six months.

The emoluments, allowances and privileges of the President are determined by a law passed by the Parliament. The President used to get a monthly pay of Rs. 10,000 as per the Constitution. It was raised to Rs. 50,000 in 1998 and again to Rs. 1,50,000 in 2008. He/She also has other perks and allowances and lives in an official residence popularly known as Rashtrapati Bhawan in New Delhi.

**Notes**

Figure 20.3 *Rashtrapati Bhawan*

**Do you know**

- (i) Dr. Rajendra Prasad was elected as the first President of India and held the office for two consecutive terms.
- (ii) Smt. Pratibha Devisingh Patil is the first woman to be elected as the President of India. She is the 12th President of India.
- (iii) Till date only two Presidents who died in office were Dr. Zakir Hussain and Mr. Fakhruddin Ali Ahmed. Mr. V. V. Giri and Mr. B. D. Jatti who also died in office were Acting Presidents.

20.1.2 Powers of the President

As we have seen earlier, the President is Head of the State. It is the highest public office in the country. All executive actions of the government of India are carried out in his/her name. The President has the following powers:



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- (a) **Executive Powers:** The Constitution of India vests the executive powers of the Union in the President. He/She appoints the Prime Minister, who is the leader of the majority party or group of parties having majority in the lower house, the Lok Sabha. He/She also appoints other members of the Council of Ministers on the recommendations of the Prime Minister. Since the President is the formal head of the administration, all executive actions of the Union must be expressed to be taken in the name of the President. The executive power of the President includes the power of appointment of Governors in the States, the Attorney General of India, the Comptroller and the Auditor General of India, the Ambassadors and High Commissioners as well as the Administrators of the Union Territories. He/She also appoints the Chairman and Members of the Union Public Service Commission as well as the Chief Justice and Judges of the Supreme Court and the High Courts. Moreover, the President is the supreme commander of the Armed Forces and appoints the Chiefs of the three wings, Army, Airforce and Navy.

The President has the power to remove: (a) a Minister; (ii) the Attorney General of India (iii) Governors of the States; (iv) the Chairman and Members of the Union Public Service Commission (on the report of the Supreme Court) (v) the Chief Justice And Judges of the Supreme Court and High Courts and (vi) the Chief Election Commissioner and the Election Commissioners on an address of parliament. All diplomatic work is conducted and all international treaties and agreements are negotiated and concluded in his/her name.

- (b) **Legislative Powers:** The President is an integral part of the Parliament and in this capacity he/she enjoys many legislative powers. The President addresses the Parliament every year at the commencement of the first session and after each general election to the Lok Sabha. He/She summons and prorogues the sessions of Parliament and can dissolve the Lok Sabha on the advice of the Council of Ministers. Without his/her assent no bill can become a law or an Act. If the Lok Sabha and the Rajya Sabha fail to agree on the passage of any bill, the President can call a joint session to resolve the issue. Whenever Parliament is not in session, the President on the request of the Prime Minister, can issue an ordinance, which has the force of a law.
- (c) **Financial Powers:** In addition to the above mentioned executive and legislative powers, the President enjoys certain financial powers. No money bill can be introduced in the Lok Sabha without his/her prior recommendation. In other words, all the money bills are initiated in the Lok Sabha only with the assent of the President. You must have heard about the Budget. It is a document which contains the details of annual income and expenditure of the Indian government. The President gives his consent for it to be laid before the Lok Sabha before the beginning of every financial year.



Do you know

What do the words, ‘summon’, ‘prorogue’, ‘dissolve’ and ‘ordinance’ used while discussing legislative powers mean?

Summons the Parliament – The President gives a formal notice to the Members of Parliament that the Lok Sabha/the Rajya Sabha will begin its meetings on a particular date and continue to do so up to a particular date.

Prorogues the Parliament – The President issues a formal notice to the Members of Parliament that the Lok Sabha/the Rajya Sabha will discontinue its meetings on a particular date.

Dissolves the Lok Sabha – When the President dissolves the Lok Sabha, it means that the House ceases to exist till it is reconstituted after the next elections.

Ordinance – If there is immediate need of a law when the Parliament is not in session, it is done through an Ordinance which is issued by the President on the advice of the Council of Ministers headed by the Prime Minister. It has all the effectiveness of a law. But as soon as the Parliament comes in to session, the ordinance has to be approved by it. In any case, if it is not approved by the Parliament within six weeks, the ordinance comes to an end.



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- (d) **Judicial Powers:** The President of India, as Head of the State, possesses certain special judicial prerogatives. He/She has the power to grant pardon or reduce sentence of a person convicted of offence. For example, he/she can suspend, commit or reprieve the sentence of a criminal convicted by a court of law, or even by a military court.



INTEXT QUESTIONS 20.1

1. How is the President of India elected?
2. Fill in the blanks:
 - (i) The President is Head
 - (ii) In order to be qualified for election as President, a person must:
 - (a) (b) (c)
 - (iii) In the event of a vacancy in the office of the President, shall act as the President of India
 - (iv) The four major categories of powers of the President are (a) (b) (c) and (d)
3. How many times does the President convene the sessions of Parliament in a year? What are the names of the sessions? (Gather this information through books on Indian Constitution, or through Internet, or by consulting your teachers, classmates and friends.)



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20.1.3 The President and Emergency Provisions

We have discussed so far the powers of the President of India that are exercised during normal period. Over and above these powers, he/she has important powers that are exercised during abnormal situations. These are known as emergency powers. The Constitution has made provisions for these powers to meet three specific extraordinary or abnormal situations arising in the country. These situations may be: (a) war or external aggression or armed rebellion; (b) failure of the constitutional machinery in any State; and (c) Deep financial crisis.

- (i) **War, External Aggression or Armed rebellion:** A ‘proclamation of emergency’ is made by the President, if he/she is satisfied that the security of India or any part thereof is threatened by war, external aggression or armed rebellion. However, the President issues such a proclamation, only when a decision of the Union Cabinet, (the Prime Minister and the Ministers of the Cabinet rank,) to that effect is communicated to him/her in writing. Every proclamation is to be laid before two Houses of Parliament and if it is not approved within one month, it automatically ceases to operate. With the proclamation of emergency, the Union government can give directions to the State governments in respect of their executive powers and the Parliament may assume legislative powers of State legislatures. The President may also order the suspension of the enforcement of fundamental rights.



ACTIVITY 20.1

In 1975, an emergency was declared by the President because of the threat to internal security when Indira Gandhi was the Prime Minister. It has continued to be very controversial, and even now many people consider it as a **black** period in the history of democratic India. Collect information about the reasons for declaration of that emergency from books or through internet, your teachers and other informed adults.

- (a) Based on the collected information, do you think the declaration was justified? Please provide at least two reasons.
- (b) Based on your conversation with an adult who has been through this emergency, write at least 2 ways in which the emergency impacted the lives of ordinary citizens.
- (ii) The second type of emergency relates to the situation in State. It may be proclaimed when the constitutional machinery of any State breaks down. If the President is satisfied on the basis of the report of the Governor or otherwise that the State cannot be administered in accordance with the provisions of the



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Constitution, he/she can proclaim emergency. This is known as *President's Rule*. Such a proclamation must be approved by both the Houses of Parliament within two months. If the Parliament's approval is not obtained, it ceases to operate at the expiry of two months. After Parliament's approval it may continue for not more than six months at a time and by no means for more than three years. During this period the concerned State Assembly is either dissolved or remains suspended. The Governor of the State performs all the executive functions in the name of the President. The Parliament assumes legislative powers for that particular State.



ACTIVITY 20.2

Collect information about any one time that the President's Rule was imposed in the State to which you belong? If President's Rule has never been imposed in your State, collect information about any other State. For getting information consult books or your teachers/tutors or internet. **Write 2-3 reasons for imposition of President's Rule. Did the government that was dismissed come back to power after elections?**

(iii) The third type of emergency, which is called 'financial emergency' is declared when a situation arises whereby the financial stability or credit of India or of any part of the country is threatened. Like the other two emergencies, this proclamation also must be approved by Parliament within two months. Once it is approved by the Parliament, it may continue indefinitely until it is revoked. In this situation, the President can reduce the salaries of all the government officials including the judges of the Supreme Court and the High Courts. The financial emergency has not been proclaimed in India so far.



Do you know

- (i) The first category of emergency was declared in India for the first time in 1962 due to conflict and war between China and India; the second time it was done on account of Indo-Pak War in 1965. The third national emergency was declared in 1971 when India helped Eastern Pakistan to become an independent nation known as Bangladesh and for the 4th time, in 1975 when the Cabinet headed by the then Prime Minister, Indira Gandhi recommended to the President on account of 'internal disturbances'.
- (ii) The imposition of the second category of emergency is considered to have provided extra-ordinary power to the Union government. The first such



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emergency was proclaimed in 1951 in the State of Punjab, and then in Kerala in 1959. With the passage of time, this power has been used with increasing frequency. It has been alleged that President’s Rule has been used to dislodge the State governments of parties other than the party in power at the Centre. Article 356 deals with this type of emergency, which includes the imposition of President’s Rule over a State of India. When a State is under President’s Rule, the elected State government is suspended, and administration is conducted directly by the Governor of the State. Article 356 is controversial because some people consider it undemocratic, as it provides too much power to the Centre over the State governments. After the landmark case of *S. R. Bommai v. Union of India* (1994), the misuse of Article 356 was curtailed by the Supreme Court, which established strict guidelines for imposing President’s Rule.

20.1.4 Position of the President

Have you observed that when the functioning of Union government is discussed either in the Parliament or in the newspapers or on television, the roles of the Prime Minister and the Ministers are often discussed? But we have seen earlier that the Constitution vests all executive powers in the President. He/She also has extensive emergency powers. Does this mean that the President is all powerful? No! In reality, the President is a nominal executive or a constitutional Head of the State. No doubt the government is run in his/her name, but according to the Indian Constitution, the President has to exercise his/her powers on the aid and advise of the Council of Ministers headed by the Prime Minister. And that is not a simple advice, but is binding. This indicates that the Prime Minister and the Council of Ministers are the real rulers in the government. All decisions are taken by the Council of Ministers headed by the Prime Minister. The President has the right to be informed of those decisions. Similarly, the emergency provisions also do not grant any real powers to the President.

“Under the Constitution of India the President occupies the same position as the King/Queen under the British Constitution. He is head of the state but not 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 head on whose seal the nation’s decisions are made known.”

— Dr. B. R. Ambedkar (in the Constituent Assembly)



In the light of the above statement, some constitutional experts believe that the President can be compared with a ‘rubber stamp’. But this conclusion is also not

true. The President has been given the task of preserving, protecting and defending the Constitution. He/She is the custodian of the democratic process as enshrined in the Constitution. In uncertain political situations, the President can play a decisive role in the formation of government. There have been some occasions when the President has asserted his/her position. However, in practice the President acts as a nominal or constitutional head. It has rightly been stated that in our constitutional system the President enjoys the highest honour, dignity and prestige but not the real authority.



Notes



Do you know

Some Facts about the Vice President:

As we have seen earlier, the Vice President acts as the President, if a vacancy is caused because of resignation or removal or death of the President. According to the Constitution, the Vice President functions as ex-officio Chairman of Rajya Sabha. Being ex-officio Chairman means that he/she is the Chairman in the capacity of being the Vice President. He/She is elected by an electoral college which consists of the members of both Houses of the Parliament. He/She is elected according to the system of proportional representation by means of a single transferrable vote, and the voting is by secret ballot. The qualifications for being a Vice President are the same as prescribed for the office of the President. His/Her main function is to preside over the meetings of Rajya Sabha, as is done by the Speaker in the Lok Sabha.

**INTEXT QUESTIONS 20.2**

- (i) How is the second category of emergency proclaimed? What is its impact on the State?
- (ii) What is the role of the Cabinet headed by the Prime minister in the proclamation of emergency?
- (iii) Do you agree that during the period of coalition governments the position of the President is very effective? Give reasons.
- (iv) Which of the following statements are true and which are false?
 - (a) President is the real head of government.
 - (b) The President is just a 'rubber stamp'.
 - (c) The President neither rules nor reigns.
 - (d) The President preserves, protects and defends the Constitution.



Notes

20.2 THE PRIME MINISTER

Do you know who was the first Prime Minister of India? Yes, it was Chacha Nehru, that is, Jawahar Lal Nehru. How do you think he felt when taking up this important post? Remember that India at that time had just gained Independence from British rule. What were the challenges he faced? Let us see, from his own words (written in his book *The Discovery of India*): “India is not a poor country. She is abundantly supplied with everything that makes a country rich, and yet her people are very poor.... India has the resources as well as the intelligence, skill and capacity to advance rapidly.” He added, “We must aim at equality.... Not only must equal opportunities be given to all, but special opportunities for educational, economic and cultural growth must be given to backward groups so as to enable them to catch up with those ahead of them. Any such attempt to open the doors of opportunity to all in India will release enormous energy and ability to transform the country with amazing speed.” Nehru felt a great sense of responsibility to take the country forward because, as Prime Minister, he had a major role to play.

If you listen to the news on television or radio, you will find even today that we hear about the Prime Minister, much more frequently than any other office under the Union government. In fact, the Prime Minister is the most important functionary at the Centre. If you go through the Constitution, you may get a different impression, because all the powers are mentioned as powers of the President. But one provision turns the situation. According to the Constitution, there shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President who shall act according to that advice. In fact, the President is bound to exercise all the powers exactly according to the advice of the Council of Ministers, which is headed by the Prime Minister. It is the Prime Minister who is the real head of the Union executive.

The Prime Minister is appointed by the President, but the President has to invite only that person to be the Prime Minister, who is the leader of the majority in the Lok Sabha. Earlier the person to be invited used to be the leader of only one political party commanding absolute majority in the Lok Sabha. But with the initiation of the phase of coalitions, he/she may be the leader of a group of more than one political party. In the changed situation, the President invites the person who is the leader elected by the political party that has the largest number of seats in the Lok Sabha and who receives the support of other political parties to manage the needed majority. Besides being the leader of the majority in Lok Sabha, to be the Prime Minister, the person has to be a Member of Parliament. If he/she is not a Member at the time of appointment, he/she has to acquire it within six months from the state of his appointment as PM.



Do you know

The government which is formed by members of the legislature belonging to more than one political party is known as **coalition government**. The phase of coalition governments in India began after the 1967 general elections when coalition governments, primarily of anti-Congress political parties, were formed in a number of States. At the Centre, this phase began with the formation of Janata Party government after the 1977 elections. The following coalition governments have been formed (identified here by the Prime Ministers' names):

First - Morarji Desai	1977-1979	Second - Chowdhary Charan Singh	1979-1980
Third - V. P. Singh	1989-1990	Fourth - Chandrashekhar	1990-1991
Fifth - A. B. Vajpayee	1996-1996	Sixth - H. D. Deve Gowda	1996-1997
Seventh- I. K. Gujral	1997-1998	Eighth - A. B. Vajpayee	1998-1999
Ninth - A. B. Vajpayee	1999-2004	Tenth - Man Mohan Singh	2004-2009
Eleventh - Man Mohan Singh	2009-...		

(NDA) and (UPA) are the main coalitions of political parties headed by BJP and Congress respectively.



Notes

20.2.1 Functions of the Prime Minister

Is it not interesting to note that the Constitution does not make any specific provision for the powers of the Prime Minister, though he/she is the most powerful functionary of the Union government? The only provision in the Constitution is that the President shall exercise his/her powers on the aid and advise of the Council of Ministers with the Prime Minister at the head, and that advice will be binding. But in practice, it is the Prime Minister who makes and unmakes the Council of Ministers. It is on his/her recommendations that the President appoints the members of the Council of Ministers and distributes portfolios among them. He/She presides over the meetings of the Cabinet and communicates its decisions to the President. The Prime Minister acts as the link between the President and the Council of Ministers. If, due to any reason, he/she submits his/her resignation, the entire Council of Ministers stands dissolved. As and when the necessity arises, he/she may recommend to the President that the Lok Sabha be dissolved and fresh general elections be held. In fact, the Prime Minister is not only the leader of the majority party, or the leader of the Parliament but he/she is also the leader of the nation. His/Her office is the office of power, while that of the President is the office of honour, respect and dignity. The Prime Minister is the Ex-officio Chairman of the Planning Commission as well as of the National Development Council. He/She represents the nation at the international conferences as the head of the government.



Figure 20.4 *Members of the Union Council of Ministers after Taking Oath (2009)*

20.2.2 The Union Council of Ministers

As you have noted above, the Constitution of India states that, “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, either generally or otherwise, and the President shall act in accordance with the advice tendered after such consideration.”

The members of the Council of Ministers are appointed by the President on the recommendations of the Prime Minister. The Council of Ministers has three categories of Ministers – Cabinet Ministers, Ministers of State and Deputy Ministers. These Ministers work as a team under the leadership of the Prime Minister. The Ministers hold office during the pleasure of the President, but they cannot be removed so long as they have the support of the majority in the Lok Sabha. In fact, according to the Constitution, Ministers are collectively responsible to the Lok Sabha. If the Lok Sabha passes a ‘no-confidence motion’, the entire Council of Ministers including PM has to resign. A **no-confidence motion** is a legislative motion brought by the members of the Lok Sabha, expressing lack of trust in the Council of Ministers. That is why, it is said that the ministers swim and sink together.

Regarding the functions of the Council of Ministers, these are the same as those of the Prime Minister. The proceedings of the Cabinet or Council of Ministers are kept secret. The Council of Ministers is a large body of Ministers. We have seen during recent years, the top category, known as the Ministers of Cabinet rank are about 20 to 25 and they hold the charge of important departments. Then there is a group of ministers, called Ministers of State, some of them hold independent charges of ministries while others are attached to Cabinet Ministers. Yet another category of ministers known as Deputy Ministers are attached to Cabinet Ministers or Ministers of State. The Cabinet meeting is attended only by the Ministers of Cabinet rank, but if need be the Ministers of State also may be invited to attend such meetings.

20.2.3 Position of the Prime Minister

In the background of the above discussion, it is obvious that the Prime Minister occupies a key position in the Union government. He/She is the 'principal spokesperson' and defender of the policies of the government in the Parliament. The Council of Ministers functions as his/her team. The nation looks to him/her for needed policies and programmes and required actions. All international agreements and treaties with other countries are concluded with the consent of the Prime Minister. He/She has a special status both in the government and in the Parliament. The Prime Minister chooses his team (Council of Ministers) very carefully and gets willing co-operation from them. However, it is true that in a coalition government the Prime Minister has to seek help from like-minded political parties. The experience of the last ten to twelve years has shown that in such a scenario he/she has to be very vigilant and diplomatic. He/She has to take major decisions regarding defence and security of the country. He/She has to formulate policies not only for providing better living conditions but also to maintain peace, friendly relations with the neighbouring countries. It is because of the facts mentioned above that the Prime Minister is keystone of the cabinet arch.

**Notes****ACTIVITY 20.3**

Go through the newspapers of the last week or two, or recollect some of the discussions held on TV about the political, social and economic situations in the country. Think and write down the answers of the following:

- (i) What are the two major problems that have been the subject of discussion in newspapers or/and on TV?
- (ii) Are you satisfied with the views expressed by the Prime Minister/Ministers or the spokesperson of the government on those problems? Give reasons.
- (iii) What according to you should the Prime Minister do to solve those problems?

**INTEXT QUESTIONS 20.3**

1. Fill in the blanks:

- (a) The Council of Ministers headed by the Prime Minister is the
- (b) The President should invite the person who is elected as of the to become the Prime Minister.



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- (c) The Prime Minister is the head of the
- (d) The Ministers are appointed by the President on the recommendations of the

2. Answer the following questions:

- (a) How are the Prime Minister and the Council of Ministers dislodged before the completion of their term?
- (b) Who acts as a link between the Council of Ministers and the President?
- (c) What are the three categories of the Ministers in the Council of Ministers?
- (d) Who presides over the meetings of the Cabinet?



ACTIVITY 20.4

The Prime Minister of a country must have many leadership qualities. What do you think are the qualities of a good leader? Check whether you think the present Prime Minister of India has these qualities. Also observe which leadership qualities do you have?

Qualities of a good leader	Tick mark () against the qualities of the present PM	Tick mark () against the qualities you have

20.3 THE UNION PARLIAMENT

Do you recognise the institution in the illustration given below? Yes, it is the Parliament House. The legislative branch of the Union government is called the Parliament that consists of the President and two Houses known as the House of the People (Lok Sabha) and the Council of States (Rajya Sabha). It is important to appreciate that making the President a part of the Parliament is in conformity with the principles and traditions of the parliamentary form of government. We shall now discuss the composition, powers and functions of both the Houses of the Parliament.



Figure 20.5 Parliament House, India

20.3.1 Lok Sabha

Lok Sabha or the House of the People is the lower house. It is the people's representative body. The members of the Lok Sabha are directly elected by the people of India. The number of its members cannot exceed 550. Out of these, 530 are directly elected by the people of the States, and the remaining 20 members are elected from the Union Territories. All the citizens who are 18 years of age and above have the right to vote and elect the members of the Lok Sabha. According to the Constitution if there is no member of the Anglo-Indian Community in the Lok Sabha, the President can nominate two persons of this community as members. When the elections are announced, each State and Union Territory is divided into various territorial constituencies based on population. These are known as Parliamentary Constituencies. One representative to Lok Sabha is elected from each of the constituencies

The term of the Lok Sabha is *five* years. However, it can be dissolved even earlier by the President. During an emergency, its term can be extended for a period of one year. Those who want to be a member of the Lok Sabha must (i) be a citizen of India, (ii) be of at least of 25 years of age, and (iii) not hold an office of profit under the central, state or local governments. He/She should possess such other qualifications as may be specified by law made by Parliament from time to time.

20.3.2 Rajya Sabha

Rajya Sabha (the Council of States) is the upper house of Parliament. The maximum number of members of this house cannot exceed 250. Out of these, 238 members represent the States and Union Territories and 12 are nominated by the President of India. The nominated members are distinguished persons in the field of literature, art, science and social service. The elected representatives are elected by the State Legislative Assemblies according to the system of proportional representation by means of single transferable vote. The number of members from each State depends on the population of that State.





The Rajya Sabha is not subject to dissolution. The members of the Rajya Sabha are elected for 6 years. But there is an arrangement according to which one-third of the members retire every two years and new members are elected. The retiring member can be re-elected. To be eligible to be a member of the Rajya Sabha, a person must (a) be a citizen of India, and (b) be at least 30 years of age. Other qualifications are the same as those for the members of the Lok Sabha. The sessions of the Parliament are summoned by the President. There should not be a gap of more than six months between the two sessions. The President has the right to prorogue the sessions. Lok Sabha can be dissolved by the President but not the Rajya Sabha, as it is a permanent house of the Parliament.

20.3.3 Presiding Officers

Lok Sabha is presided over by the Speaker and in his/her absence by the Deputy Speaker. Members of the Lok Sabha elect the Speaker and the Deputy Speaker from among themselves. He/She maintains order and discipline in the lower house as well as supervises its proceedings. He/She decides who will speak and for how long. He/She normally does not cast his/her vote but can vote in case of a tie. The Speaker decides whether a bill is an ordinary or a money bill and his/her decision is final. Besides, he/she is the custodian of the rights and privileges of the members. In case of a joint sitting of the Lok Sabha and the Rajya Sabha, the Speaker of the Lok Sabha, presides over such meetings.



Figure 20.6 *Session of Lok Sabha*

Rajya Sabha is presided over by the Vice President of India who is its ex-officio Chairman. The Chairman (Vice-President) is not a member of the Rajya Sabha. He/She is elected by an electoral college consisting of the members of both the Houses of Parliament. During his/her absence, the House is presided over by the Deputy Chairman. Like the Speaker of Lok Sabha, the Chairman of the Rajya Sabha also does not normally vote but in case of a tie, he/she may exercise the casting of vote.



Notes

20.3.4 Functions of Parliament

The Parliament is the supreme legislative body. It performs functions that may be categorized as follows:

- (i) **Legislative Functions:** Parliament is a law making body. It legislates on the subjects mentioned in the Union List and the Concurrent List by the Constitution. If there is a clash between the Union government and the State government regarding any concurrent subject, the central law will prevail. Besides, if there is any subject not mentioned in any list, known as residuary subjects, it comes under the jurisdiction of the Parliament. An ordinary bill can be introduced in any of the two houses. If a bill is passed by the Lok Sabha, it is sent to Rajya Sabha which may pass the same or may suggest amendments in the bill. If the disagreement between the two Houses continues, it has to be resolved in a joint sitting of the two Houses. In the joint sitting, Lok Sabha has an upper hand with 550 members over the Rajya Sabha which has only a maximum of 250 members. Till date there have been only three 'joint sittings' of both the Houses. Once the bill is passed by both the Houses, it is sent to the President for his/her assent and with his/her assent it becomes a law or an act.
- (ii) **Executive Functions:** In a parliamentary system, there is a close relationship between the legislature and the executive. As discussed above, the real executive i.e. the Council of Ministers is collectively responsible to the Lok Sabha which can dislodge a ministry by passing a no confidence motion against it. In 1999 Atal Bihari Vajpayee's government lost the confidence motion in the Lok Sabha and it resigned.

However, both the Houses of Parliament maintain their control over the Council of Ministers through several other ways such as:

- (a) *By asking questions and supplementary questions:* The first hour of every working day of Parliament relates to Question Hour in which the Ministers have to answer the questions raised by the members.
- (b) *By discussing and passing motions:* Calling Attention Motion, Adjournment Motion or Censure Motion can be moved and policies of the government can be debated and criticized.



(c) *By expressing lack of confidence:* The Lok Sabha can express its lack of confidence in the executive by disapproving the budget or money bill or even an ordinary bill.

(iii) Financial Functions: The Parliament of India has been entrusted with the performance of important financial functions. It is the custodian of the public money. It controls the entire purse of the Union government. It sanctions, from time to time, money to the government to enable it to run the administration effectively and successfully. The Parliament may pass, reduce or reject the demands for grants presented to it by the government. No taxes can be collected and no expenditure can be made without the approval of the Parliament. There are, however, certain limitations on the Rajya Sabha. These are: (a) a money bill cannot be introduced in the Rajya Sabha. It has no power either to reject or amend a money bill. It can only make recommendations on the money bill. If the Rajya Sabha along with its recommendations (if any) does not return it to Lok Sabha within 14 days, the bill is deemed to have been passed by both the Houses. As regards the Annual Budget (Annual Financial Statement), it is presented in the Lok Sabha and the Rajya Sabha may only discuss it but can not stop it from becoming law.

(iv) Judicial Functions: The Parliament is empowered to prescribe the number of Judges of the Supreme Court by law. It is also authorized to establish a common High Court for two or more States as well as to constitute a High Court even for a Union Territory. A Chief Justice or Judge of the Supreme Court or of any High Court can be removed from his/her office by the President only after an impeachment process by both the Houses of Parliament.

(v) Miscellaneous Functions: The Parliament has the power to remove the President and the Vice President by a special majority of votes. This process is called as Impeachment. It has the power to amend the Constitution. Certain parts of the Constitution can be amended by a simple majority and certain others require two-thirds majority. Some other parts of the Constitution can be amended with special majority of the Parliament and the approval of the Legislatures of half of the States.

20.3.5 Comparative Position of Both the Houses of Parliament

In a parliamentary system the lower house always plays a more important role. Accordingly, in our country also, the Lok Sabha is more powerful and effective. The following points are important for understanding the comparative position of both the Houses:

(i) Lok Sabha is directly elected and the true representative of the people of India. Rajya Sabha on the other hand is indirectly elected. Moreover, Rajya Sabha is a permanent body, whereas the Lok Sabha is elected for a definite period

**Notes**

of 5 years. Its tenure can be increased and it can be dissolved even earlier than the expiry of the term.

- (ii) In case of an ordinary bill, both the Houses have equal powers. But if the differences between both houses continue and a joint session is convened, the Lok Sabha gets an upper hand, as its membership is more than double of that of the Rajya Sabha.
- (iii) In respect of having control over the Council of Ministers, once again the Lok Sabha is more effective. Rajya Sabha can have some control by debating on the policies and programmes and criticizing the government. But only the Lok Sabha has the power to pass a no-confidence motion which if done, the Council of Minister resigns.
- (iv) With regard to the constitutional amendments, election of the President and the Vice-President and impeachment or removal of President, Vice President, Chief Justice and Judges of the Supreme Court and High Courts, both the Lok Sabha and the Rajya Sabha have almost similar powers.
- (v) Whereas in financial matters, the Lok Sabha has an upper hand, it is only Rajya Sabha that may create a new All India Service and declare a subject in the State List to be of national importance.

In view of the above comparison, Lok Sabha is definitely more powerful than the Rajya Sabha. But it will not be appropriate to state that the Rajya Sabha is not only the second chamber, but also a secondary chamber. We have seen how important a role Rajya Sabha also plays and there are certain functions which only Rajya Sabha can perform.

20.3.6 Impact of Union Government on Citizens and their Daily Life

The Union government formulates and implements many national level programs and schemes which have an impact upon our quality of life. These programs include many in education and childcare, such as the Integrated Child Development Scheme (ICDS), providing anganwadis for child nutrition and care, Sarva Shiksha Abhiyan (SSA) for universalizing elementary education, and Rashtriya Madhyamik Shiksha Abhiyan (RMSA), for universalization of secondary education. Some other Union government programs are the National Rural Health Mission, Total Sanitation Campaign, and MNREGA (Mahatma Gandhi National Rural Employment Guarantee Act), Indira Awas Yojana etc.



INTEXT QUESTIONS 20.4

1. Answer the following questions:
 - (i) What is the maximum strength of the Lok Sabha?

**Notes**

- (ii) What is the tenure of the members of Rajya Sabha?
 - (iii) Which house of Parliament is a permanent body?
 - (iv) Who is the Chairman of Rajya Sabha?
 - (v) What are the functions of the Speaker of Lok Sabha?
 - (vi) What are the qualifications for being a candidate in the Lok Sabha elections?
2. Fill in the blanks:
- (i) An Ordinary Bill can be introduced in
 - (ii) If the differences between both the Houses continue, the President convenes a session of Parliament.
 - (iii) A money bill can be introduced only in the
 - (iv) For having a control over the Council of Ministers, both Houses can
 - (i) and (ii) move motions.
3. Which of the following statements is true and which is false:
- (i) Ordinary bill cannot be introduced in the Rajya Sabha.
 - (ii) Money bill can be introduced only in the Lok Sabha.
 - (iii) No bill can become a law unless it is signed by the President.
 - (iv) In the joint session convened on account of the differences between two houses on a bill, Lok Sabha has an upper hand over the Rajya Sabha.
4. What qualities would you like to see in Members/Ministers when they participate in the proceedings of the Houses of Parliament?

**ACTIVITY 20.5**

Go through recent newspapers, and magazines. Also watch the debates being telecast through Lok Sabha/Rajya Sabha Channels or other News Channels and based on your observation answer the following questions:

- (i) Identify one Member of Parliament (M.P) whose participation in the Parliament you liked the most. Give 2 reasons.
- (ii) Have you observed unruly behavior of any MP in the Parliament. Identify atleast two such behaviours. How does it affect the functioning of the Parliament?.

20.4 THE SUPREME COURT

We have mentioned in the beginning of this lesson that the Supreme Court represents the Union judiciary. But the structure and functioning of the judicial branch is different

from those of the executive and the legislative branches. Do you have some idea or experience of judicial actions? You may have heard at some point of time that a case that began in the lower court was considered by the courts at the district level, then by the High Court and ultimately by the Supreme Court. This happens because India has a unified judiciary. It means that there is a hierarchy of Courts, at the highest level of which is the Supreme Court, then at the state level there are High Courts and at the district and still lower levels there are subordinate courts.

**Notes**

Figure 20.7 *The Supreme Court of India*

As provided in the Constitution, the Supreme Court of India consists of the Chief Justice and other Judges whose number is prescribed by the Parliament from time to time. In 1950 there was a Chief Justice and there were 7 Judges. But the number of Judges continued increasing as per the need. The Supreme Court, at present, consists of the Chief Justice and 30 Judges.

The Chief Justice and other Judges of the Supreme Court are appointed by the President of India.

For appointing the Chief Justice of India, the other Judges of the Supreme or High Courts may be consulted. Usually, the senior-most Judge in the Supreme Court is appointed as the Chief Justice. For the appointment of other Judges of the Supreme Court, the Chief Justice has to be consulted. Usually, the Chief Justice himself consults a *collegium* of the four senior-most Judges, and all of them need to agree for any candidate to be recommended for the appointment of a judge.

A person can be appointed as a Judge of the Supreme Court only if he/she:

- (i) is a citizen of India;
- (ii) must have been at least a Judge of a High Court or of two or more such Courts in succession for at least five years; or



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- (iii) must have been an advocate of a High Court or of two or more such Courts in succession for at least ten years; or
- (iv) is, in the opinion of the President, a distinguished jurist.

Judges of the Supreme Court hold office till they attain the age of 65 years. But they may be removed from office by an order of the President, passed after an address by each House of Parliament supported by a special majority on the ground of proved misbehaviour or incapacity. This is known as impeachment procedure. No Chief Justice or Judge of the Supreme Court has been impeached so far. A Judge who has served in the Supreme Court is barred from pleading in any court within the territory of India after retirement.

20.4.1 The Jurisdiction of the Supreme Court

The Supreme Court has three types of jurisdiction — Original, Appellate and Advisory.

- (i) **Original Jurisdiction:** The Supreme Court alone has the authority to hear directly certain cases. These are :
 - (a) Disputes between the Union government and one or more State governments,
 - (b) Disputes between two or more States,
 - (c) Disputes between the Government of India and one or more States on the one side and one or more States on the other side.
- (ii) **Appellate Jurisdiction:** The power of a superior or higher court to hear and decide appeals against the judgment of the lower court is called appellate jurisdiction. The Supreme Court is a court of appeal for constitutional, civil and criminal cases. It can hear appeals against the judgments of the High Courts. It also has the power to review its own judgment. It may in its own discretion grant special leave to appeal against any judgment or order delivered or passed by any court or tribunal within the territory of India.

Moreover, an Appeal may come to the Supreme Court in any criminal case, if the High Court certifies that the case is fit for appeal to the Supreme Court. The special appellate power has become a handy weapon in the hands of the Court to review the decisions pertaining to elections and Labour and Industrial Tribunals.

- (iii) **Advisory Jurisdiction:** The Supreme Court has a special advisory jurisdiction in matters which may specifically be referred to it by the President of India. If at any time, it appears to the President that a question of law or fact has arisen or is likely to arise, which is of such public importance that it is urgent to obtain the opinion of the Supreme Court on it, he/she may refer it to the Supreme Court. The Supreme Court may, after such hearing as it thinks fit,

report to the President its opinion thereon. The report or the opinion of the Supreme Court is of course, not binding on the President. Similarly, there is no compulsion for the Court to give its advice.

The Supreme Court is a *court of record*. The records of the Supreme Court, in matters of interpretation of the law or of the constitution, have to be accepted when produced before the lower courts. Besides the above mentioned jurisdictions there are a few more special functions of the Supreme Court of India. These are:

- (i) **Guardian of the Constitution:** As the interpreter of the Constitution, the Supreme Court has the power to protect and defend the Constitution. If the Court finds that any law or executive order is against the Constitution, the same can be declared unconstitutional or invalid. Similarly the Supreme Court also acts as the custodian and protector of Fundamental Rights. If any citizen feels that his/her fundamental rights have been infringed, he/she may move to the Supreme Court directly for the protection of his/her fundamental rights. The Right to Constitutional Remedies empowers the Supreme Court to act as the guardian of the Constitution.
- (ii) **Judicial Review:** The Supreme Court of India has the power to examine the validity of laws or executive orders. The Supreme Court has the powers to interpret the Constitution, and through this it has assumed the power of judicial review.



Do you know

Judicial Review is a process through which the judiciary examines the constitutionality of a legislative act or executive order. If on examination it is found that there has been a violation of the Constitution, the judiciary declares it to be null and void or unconstitutional.

20.4.2 Judicial Activism

Judicial activism has been defined as ‘innovative interpretation’ of the Constitution by the Court. This has often been criticized as the judiciary taking over the powers of the legislature. But in India it has enjoyed support from the public, because it has concentrated on giving the disadvantaged the access to justice. It uses the instrument of **Public Interest Litigation (PIL)**. With public interest litigation, any person can bring a petition about a problem before the court, and not just the person affected by the problem. PIL has often been used on behalf of people who are poor or disadvantaged and do not have the means to approach the court. With judicial activism and PIL, courts have given judgments on pollution, the need for a uniform civil code, eviction of unauthorized buildings, stopping child labour in dangerous occupations, and other issues.



Notes

**Notes****INTEXT QUESTIONS 20.5**

1. Fill in the blanks:
 - (i) India has a judiciary.
 - (ii) The Chief Justice and Judges of the Supreme Court are appointed by
 - (iii) A Judge of the Supreme Court can be removed through the process of
 - (iv) The ultimate power of interpreting the Indian Constitution lies with the
2. Which of the following statements is true and which one false?
 - (i) The Judges of the Supreme Court are appointed by the Chief Justice of India
 - (ii) The Supreme Court has a Chief Justice and 30 Judges.
 - (iii) Judges of Supreme Court hold office till they attain the age of 65 years.
 - (iv) Judicial activism has concentrated on giving the disadvantaged the access to justice.
 - (v) The President of India must accept the advice given by the Supreme Court on the matter that was referred to it by the President for advice.

**WHAT YOU HAVE LEARNT?**

- The structure and functioning of Union government is based on the principles and conventions of the parliamentary form of government. The President and the Council of Ministers headed by the Prime Minister constitute the executive, the two houses of Parliament constitute the legislature and the Supreme Court is the highest judiciary.
- The Constitution vests executive powers in the President who is the Head of the State. He/She is indirectly elected by an Electoral College consisting of the elected members of both the Houses of the Parliament and the State Legislative Assemblies. His/Her term of office is for five years, though he/she can be removed even before through impeachment. He/She has executive, legislative, financial and judicial powers, as well as emergency powers.
- The Prime Minister is the real executive head of the Union government. He is appointed by the President who also appoints other members of the Council of Ministers on the recommendations of the Prime Minister. The President exercises

his/her powers on the aid and advice of the Council of Ministers headed by the Prime Minister, and their advice is binding. The Council of Ministers is collectively responsible to the Lok Sabha. It means that if they lose the confidence of the Lok Sabha, the Council of Ministers is dislodged with the resignation of the Prime Minister.

- The Parliament which consists of the Lok Sabha and the Rajya Sabha, is the legislative body. The Lok Sabha is directly elected by the citizens, whereas the Rajya Sabha is elected indirectly. The Lok Sabha has a term of five years, while the Rajya Sabha is a permanent body which is never dissolved. Besides making laws and passing annual budget, the Parliament controls the government in its day-to-day functioning. It participates in the election of the President and elects the Vice President of India.
- The Supreme Court is at the apex of the unified judiciary of India. The Chief Justice and other Judges are appointed by the President. It has Original, Appellate and Advisory Jurisdictions. It is also a court of record. It functions as the guardian of the Constitution. Its judicial activism, especially through Public Interest Litigation (PIL) has often been used on behalf of people who are poor or disadvantaged and do not have the means to approach the court.

**Notes****TERMINAL EXERCISES**

- (i) How is the President of India elected? How can he/she be removed from office?
- (ii) What are the powers and functions of the President of India? In spite of so much powers given by the Constitution, why is it said that President does not rule but represents the nation?
- (iii) Examine and evaluate the role of the Prime Minister in India.
- (iv) Is it appropriate to say that 'Rajya Sabha is not only the second chamber but also a secondary chamber'? Justify your answer.
- (v) How is the Supreme Court constituted? What is its jurisdiction?
- (vi) Is judicial activism a boon or a bane of Indian democracy? Justify your answer with three reasons.

**ANSWERS TO INTEXT QUESTIONS****20.1**

1. The President is indirectly elected by an Electoral College which consists of the elected members of the two Houses of the Parliament as well as of the State

**Notes**

Legislative Assemblies. Moreover, the elected members of the Legislative Assemblies of the Union Territories of Delhi and Puducherry (earlier known as Pondicherry) also participate in this election. The voting is by secret ballot. He/She is elected according to the system of proportional representation by means of the single transferable vote.

2. (i) of the State
(ii) (a) be a citizen of India (b) have completed the age of 35 years (c) be qualified for being elected as a Member of Lok Sabha (d) not hold any office of profit
(iii) the Vice President of India
(iv) (a) Executive Powers (b) Legislative Powers (c) Financial Powers (d) Judicial Powers
3. Gather this information through books on Indian Constitution, or through Internet, or by consulting your teachers, classmates and friends.

20.2

1. The second type of emergency is proclaimed when the constitutional machinery of any State breaks down and the President is satisfied on the basis of the report of the Governor or otherwise that the State cannot be administered in accordance with the provisions of the Constitution. During this period the concerned State Assembly is either dissolved or remains suspended. The Governor of the State performs all the executive functions in the name of the President.
2. The Cabinet headed by the Prime Minister plays an important role in the proclamation of emergency. The President can issue a proclamation only when such a decision has been communicated to him/her in writing by the Union Cabinet headed by the Prime Minister.
4. Write your answer on the basis of your understanding.
5. (a) false (b) true (c) true (d) true

20.3

1. (a) real executive
(b) leader, majority
(c) real, government
(d) Prime Minister
2. (a) If Lok Sabha passes a no-confidence motion against the Council of Ministers
(b) the Prime Minister

- (c) Cabinet Minister, Minister of State, Deputy Minister
- (d) the Prime Minister

20.4

1.
 - (i) 550
 - (ii) 6 years
 - (iii) Rajya Sabha
 - (iv) the Vice President of India
 - (v) to preside over the sessions, maintain order and discipline, to allow members to speak, to decide if a bill is a money bill and to preside over the joint session of Parliament
 - (vi) (i) a citizen of India (ii) of at least 25 years of age (iii) not hold an office of profit
2.
 - (a) any House of Parliament
 - (b) joint
 - (c) Lok Sabha
 - (d) (i) ask questions and supplementary questions, (ii) adjournment motion and calling attention
3. (a) false (b) true (c) true (d) true
4. Answer based on your own understanding of what the good qualities should be.

20.5

1.
 - (i) unified
 - (ii) the President of India
 - (iii) impeachment
 - (iv) the Supreme Court
2.
 - (i) false
 - (ii) true
 - (iii) true
 - (iv) true
 - (v) true

