

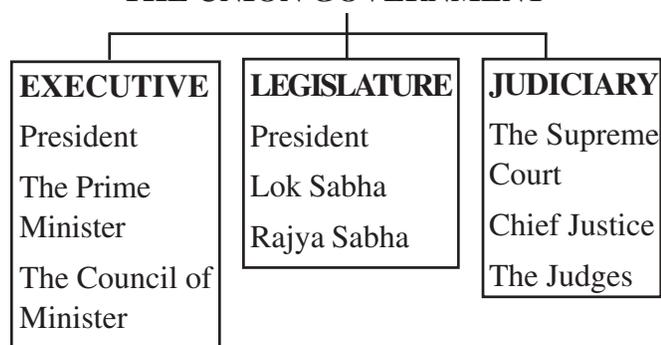
GOVERNANCE AT THE UNION LEVEL

| L.No | Title of Lesson | SKILLS | Activity |
|------|-------------------------------|---|---|
| 20 | Governance at the Union Level | Critical Thinking, Problem Solving, Effective Communication, Self Awareness | To Understand the Governance at the Central Level |

Meaning

The Constitution of India has made alternate provision for the structure and functioning of all the three branches of the government i.e. executive, legislature and judiciary, The President, the Council of Ministers with Prime Minister constitute the executive branch of the Government, the Parliament with its two houses- House of the People or Lok Sabha and Council of States i.e. Rajya Sabha is the legislative branch and the Supreme Court heads the judicial branch.

THE UNION GOVERNMENT



The President

In the Preamble of Indian Constitution it has been said that India is a Sovereign, Democratic, Socialist, Secular, Republic. A Republic is a government where the head of the State is an elected person. He/She is indirectly elected by an electoral college which consists of the elected members of both the houses of Parliament as well as State Legislative Assemblies including Union Territories of Delhi and Pudduchery (earlier known as Pondichery). The voting is by secret ballot. He/She is elected according to the system of proportional representation by means of single transferable vote.

Powers of the President

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. Following are the powers of the President:

- **Executive Powers :** President of India has the power to appoint Prime Minister, Council of Ministers, the Attorney General of India, the Comptroller and the Auditor General of India, Chief justice of Supreme court and other judges, heads of the three wings of forces etc.
- **Legislative power :** President is part of the Parliament. He/she summons and prorogue the sessions of the Parliament. No bill can become law without his/her consent. He/she can issue an Ordinance.
- **Financial powers :** No Money Bill can be introduced in Lok Sabha without his/her consent. Annual Budget is introduced on his/her recommendation. Appoints Finance Commission after every five years.
- **Judicial Power:** President of India has the powers to grant pardon or to reduce the punishment of a convict.

Position of the President

- According to the Constitution of India all executive powers vest in the President. Moreover, he/she has extensive emergency powers.
- Does this mean that the President is all powerful?
- In parliamentary system the President is a Nominal Executive or a Constitutional Head of the State.

The Prime Minister

The Prime Minister is the most important functionary at the Central Government. In the Constitution of India, it has been mentioned that there shall be a Council of Ministers with the Prime Minister at the Head to aid and advice the President who shall act according to that advice. The Prime Minister is the real head of the Union Government.

- 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 party or coalition in the Lok Sabha.
- 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 may invite the person who is the leader elected by the political party that has the largest number of seats in the Lok Sabha
- He/she must be a member either of Lok Sabha or Rajya Sabha
- If he/she is not a member of any house, he/she has to acquire it within six months from the date of his/her appointment as PM.

Functions of the Prime Minister

- President exercises his/her powers on the aid and advice of the Council of Ministers with the Prime Minister as the head, and that advice will be binding.
- 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.
- He/She acts as the link between the President and the Council of Ministers.
- He/she is the leader not only of Parliament but also of the Nation.
- He/she is Ex-officio Chairman of the Planning Commission and of the National Development Council.

The Union Council of Ministers

- The 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.
- Ministers are responsible collectively as well as individually to the Lok Sabha.
- The Council of Ministers swim and sink together.
- The decision of the cabinet or council of ministers are kept secret.
- The cabinet meeting is attended by cabinet ministers, however, if need be, Minister of state may also be invited to attend such meetings.

Position of the Prime Minister

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.
- All international agreements and treaties with other countries are concluded with the consent of the Prime Minister.
- The experience of coalition governments during the last 10 years has shown that the Prime minister should not only be accommodative but vigilant and diplomatic also.
- He/she should prove that he/she is the pivot around which the Government machinery revolves.

The President and Emergency Provisions

The above mentioned powers are exercised by the President during normal times. However, 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 are:

- (i) war or external aggression or armed rebellion (Article 352); National Emergency
- (ii) failure of the constitutional machinery in any State (Article 356; President's Rule in the State
- (iii) deep financial crisis (Article 360); Financial Emergency

The Union Parliament

The legislative branch of the Union Government is called the Parliament which consists of the President and the two houses known as the House of the People (Lok Sabha) and the Council of States (Rajya Sabha). The House of the People is the lower house and the Council of States is the upper house.

COMPOSITION

Lok Sabha

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. If the Anglo-Indian Community is not represented, the President can nominate two persons of this community as members.

Rajya Sabha

The maximum number of members of this house cannot exceed 250. Out of these, 238 members represent the States and Union Territories and 12 members are nominated by the President of India. These nominated members are distinguished persons in the field of literature, art, science and social service. The elected members of Rajya Sabha are elected by the State Legislative Assemblies, according to the system of proportional representation the method of single transferable vote.

The tenure of Lok Sabha is 5 years where as that of member of Rajya Sabha is 6 years. 1/3 members of Rajya Sabha retire every two years and new members are elected. The retiring members can be re-elected. It is a permanent house.

Functions of the Parliament

The Parliament is the supreme legislative body. It performs different kinds of functions. These are:

Legislative Functions

- Parliament is a law making body. It legislates on the subjects mentioned in the Union List and the Concurrent List.

Executive Functions

- Council of Ministers is the real executive which implements different laws and policies of the government.

Financial Functions

- The Parliament is the custodian of the public money. It controls the entire purse of the Union government.
- 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.

Judicial Functions

The Parliament is empowered to prescribe the number of Judges of the Supreme Court by law. It is also authorised to establish a common High Court for two or more States; or even to constitute a High Court even for a Union Territory.

Miscellaneous Functions

- (i) The Parliament has the power to remove the President and the Vice President by a special majority of votes. (This process is called Impeachment)
- (ii) It has the power to amend the Constitution

Comparative Position of Both the Houses of the Parliament

In a bicameral parliamentary system the lower house always plays a more important role than the upper house. In India also Lok Sabha is more powerful than Rajya Sabha. It is through a comparative study that we can assess which house is more effective and powerful.

- Lok Sabha is directly elected i.e. true representative of the people of India. On the other hand Rajya Sabha is indirectly elected.
- Lok Sabha is elected for a definite period i.e. 5 years whereas Rajya Sabha is a permanent body.
- In case of an ordinary bill, both the Houses have equal powers. However, in case of a conflict between the two, Lok Sabha with 550 members has an upper hand.
- As regards the control over the Council of Ministers, Lok Sabha is more effective. Lok Sabha through the vote of 'no confidence' can dislodge the Council of Ministers. Rajya Sabha can check Council of Ministers through questions and adopting various motions.
- Lok Sabha and Rajya Sabha have almost similar powers in relation to election of President and Vice President, impeachment or removal of the President, Vice President, Chief Justice and Judges of Supreme Court and High Court.
- So far as the financial matters are concerned, Lok Sabha again has an upper hand. Rajya Sabha can only delay the passage of money bill or can only debate on the Annual Budget. But it cannot stop it from becoming law.
- Rajya Sabha may create a new All India Service or declare a subject of the State list to be of national importance consequently transferring it to Union List.

The Supreme Court

India has a unified judiciary, wherein the Supreme Court is the Apex Court.

The Jurisdiction of the Supreme Court

Original Jurisdiction

The Supreme Court has the authority to hear directly certain cases. These are like the:

- (a) Disputes between the Union Government and one or more State Governments.
- (b) Disputes between two or more States.

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.

Advisory Jurisdiction

- The Supreme Court has a special advisory jurisdiction in matters which may specifically be referred to it by the President of India.
- 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.

Guardian of the Constitution

- As the interpreter of the Constitution, the Supreme Court has the power to protect and defend the Constitution.
- If any law or executive order is against the Constitution, the same can be declared unconstitutional or invalid by the Supreme Court..

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'.

Judicial Activism and Public Interest Litigation

'Judicial Activism' has been defined as 'innovative interpretation' of the Constitution. In India it has enjoyed support from the public, because it has concentrated on giving the disadvantaged the access to justice. Public Interest Litigation 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 unauthorised buildings, stopping child labour in dangerous occupations, and on any other issues.

Evaluate Yourself

- Q. What are the executive powers of the President of India?
- Q. List any four major functions of the Indian Parliament.
- Q. Rajya Sabha is not only a second chamber but a secondary chamber also" Do you agree? Give any three arguments in support of your answer.