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8.0 OBJECTIVES

After going through this unit, you should be able to:

- Describe the powers of the President of India;
- Explain the procedure for the election of the President of India;
- Describe the composition and functions of the Council of Ministers;
- Identify the sources of power and influence of the Prime Minister; and
- Discuss the position of the President and Prime Minister in the Indian political system.

8.1 INTRODUCTION

The executive power of the government of India is vested in the President of India, who is both the formal head of the state and the symbol of the nation. The Constitution of India, however, bestows authority and dignity on the office of the President without providing adequate powers to rule. The President performs essentially a ceremonial role. The Prime Minister exercises real executive power. While the President is the head of the state, the Prime Minister is the head of the government. The President carries out the actual functions of the government only with the aid and advice of the Prime Minister. How are the incumbents of these two important offices of the executive elected or selected? What is the

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position of the President and the Prime Minister in the Indian political system? What is the relationship between the executive and legislature in a parliamentary system such as one prevailing in India? These are some of the questions that we seek to address in this unit.

8.2 PRESIDENT OF INDIA

The constitution has made detailed provisions to see that the President, the head of the state, is a ceremonial head and that he does not arrogate to himself any real power. The President is indirectly elected for a term of five years and can be removed on the basis of impeachment proceedings brought against him by the Parliament. The Constitution also provides for the post of a Vice-President. He/she is also indirectly elected, who would serve as head of the state in the event of the President’s resignation, removal by impeachment or death.

8.2.1 Qualifications

Articles 58 and 59 of the Constitution of India lay down the qualifications for the office of the President of India. A candidate for the office of the President should be a citizen of India, must have completed 35 years of age and possess other qualifications which are necessary to become a member of the Lok Sabha. He/she should not hold any office of profit under the Union, State or local governments at the time of his election, nor should he/she be a member of either House of Parliament or state legislature. Besides, the candidate should possess such other qualifications as may be prescribed by the Parliament from time to time.

8.2.2 Method of Election

The Constitution prescribes an indirect election through an electoral college (composed of the elected members of Parliament and the elected members of the state legislative assemblies) on the basis of proportional representation and by means of a single transferable vote. Based on the system of principles of uniformity among states and parity between the centre and the states, the election procedure is designed to ensure the election of a truly national candidate.

To ensure uniformity among states, the value of the votes of elected members of the state assemblies is calculated on the basis of the total population of the state. The value of a state elector’s vote is worked out by dividing the total population of the state, by the total number of elected members in the assembly. The quotient obtained is divided by 1000 to obtain the value of the vote of each member of the assembly in the presidential election. The value of the vote of a member of Parliament is obtained by dividing the total number of votes given to all the elected members of the States assemblies by the total number of elected members of both the houses of the Parliament.

Voting is by single transferable vote, with electors casting first and second preferences. A candidate who receives an absolute majority of votes cast by the Electoral College is declared the winner. In case no candidate secures an absolute majority in the first counting, the second preference votes of the lowest polling candidate are transferred to the other remaining candidates until one candidate crosses the threshold of 50 percent of the votes cast.

This method of election was intended to make the Presidential election broad-based to achieve a political balance between the Centre and the States.
Consequently, the President represents not only the Union but also the States and it shows the federal character of the Indian polity.

8.2.3 Term of Office and Removal of the President

The tenure of office of the President of India is five years. His/her term commences from the date on which he/she assumes office after taking an oath administered by the Chief Justice of India. However, the President can seek a second term. For instance, Rajendra Prasad was elected as the President twice despite not being favoured by the then Prime Minister Jawaharlal Nehru but strongly supported by a large number of Congress leaders.

The President remains in office until his/her successor enters the office. However, if the President wishes to resign, he can send his resignation letter to the Vice-President. If the post of the President falls vacant, the Vice-President takes over the charge. But the election for the post of President must be conducted within six months from the date of occurrence of the vacancy.

Articles 56 and 61 deal with the procedure for impeaching the President of India. In this regard, the constitution lays down ‘violation of the Constitution’ as the ground for removal. The process of impeachment can be initiated in either house of parliament and must be passed by not less than two-thirds of the total membership of the House in which it has been moved. If the other House investigates the charge and two-thirds majority of that house find him guilty, the President stands impeached from the office from the date of passing of the resolution. Thus, the procedure of removal of the President is difficult and has been made so to prevent misuse of this power by the Parliament. Till date, no President of India has been impeached.

8.3 Powers of the President

Article 53 deals with the executive powers of the President of India. The powers of the President are broadly divided into two types, namely, ordinary and emergency powers. The ordinary powers of the President can be defined as executive, legislative, financial and judicial powers.

The executive powers of the Union are vested in the President. Article 53 confers all executive powers in him and empowers him to exercise these powers directly by himself or through officers subordinate to him. Article 75 requires the Prime Minister to communicate to the President regarding all decisions of the Union Council of Ministers. Article 77 holds that all executive powers of the Union government shall be exercised in the name of the President.

The President has both administrative and military powers. The supreme command of the armed forces is vested in him/her and all appointments in the armed forces are made under the authority of the President as the supreme commander of the armed forces. The President appoints the Prime Minister and, on the latter’s advice, the council of ministers, the Attorney-General, the justices of the Supreme Court and High Courts, members of special commissions (such as the Union Public Service Commission and the Election Commission), and the governors of states. The choice of the Prime Minister is not a discretionary prerogative of the President but is usually dictated by the party commanding a majority following in the Lok Sabha.
The President of India is also the Commander-in-Chief of the Defence Forces. He appoints the Chiefs of the Army, the Navy and the Air Force. He has the power to declare war and conclude peace. But all these powers have to be exercised by him subject to the ratification of the Parliament. However, the President is not a member of either house of Parliament; Article 79 states that the President is an integral part of the Union Parliament. As we saw in Unit 7, the President has the power to summon both the Houses of Parliament, nominate twelve members to the Rajya Sabha, has the right to address either house or their joint session at any time and the power to dissolve the Lok Sabha. All money bills to be introduced in the Parliament have to obtain the recommendation of the President. Such a prior recommendation is also necessary for introducing bills regarding the formation of new states, alteration of areas, boundaries, names of the existing states, etc. Finally, when any bill is passed by the Parliament, it can become an Act only when it has the assent of the President. The President can withhold or return a non-money bill for the reconsideration of the Parliament. However, if the same is passed by both the houses with or without modifications and returned to the President, the latter is bound to give his assent.

When the Parliament is not in session, the President can promulgate ordinances in public interest. These ordinances have the same force and effect as the laws passed by the Parliament. However, they have to be placed before the Parliament within a period of six weeks from the day of the reassembling of Parliament. Without the Parliament’s approval, the ordinance will become invalid.

Article 254 empowers the President to remove inconsistencies between laws passed by the Parliament and State Legislatures and the subjects included in the concurrent list. There is another legislative function of the President which has a bearing on states; the Governor of a state can reserve certain bills passed by the State Legislatures for the consideration of the President.

The judicial powers of the President of India include the appointment of the justices of the Supreme Court and High Courts, and the power to grant pardon, reprieve, suspension, remission or commutation of punishment or sentence of the court. These powers of granting pardon are given to the President for removing the extreme rigidity in the criminal laws and for protecting the persons on humanitarian considerations. The President also has the right to seek the advice of the Supreme Court on some important constitutional, legal and diplomatic matters. In 1977, the President sought the advice of the Supreme Court for creating Special Courts to try the emergency excesses.

### 8.3.1 Emergency Power

With the intention of safeguarding the sovereignty, independence and integrity of Union of India, the constitution bestows emergency powers on the President of India. The President is empowered to declare three types of emergencies, namely, a) national emergency arising out of the war, external aggression or armed rebellion, b) emergency arising due to the breakdown of the constitutional machinery in the States, and c) financial emergency.

The President can make a proclamation of national emergency at any time if he is assured that the security of any part of India is threatened by war, external aggression or armed rebellion. This proclamation must be submitted to the
Parliament for its consideration and approval. It must be accepted within one month by both the Houses of Parliament by two-thirds of the members present and voting. If the Parliament fails to approve the proclamation bill, it ceases to operate. If approved, it can continue for a period of six months. However, it can continue for any length of time if the President approves the proclamation for every six months. The Parliament, however, has the power to revoke the emergency at any time by a resolution proposed by at least one-tenth of the total members of the Lok Sabha and accepted by a simple majority of the members present and voting. National emergency under Article 352 was proclaimed for the first time in 1962 when the Chinese aggression took place. The second proclamation was made in 1971 during the Bangladesh war. On 25 June 1975, for the first time, the President proclaimed, on the advice of the Prime Minister, emergency in the name of grave danger to internal security.

According to Article 356, the President can impose emergency in a state when there is a breakdown of the constitutional machinery. However, imposition of President rule in a state has become more difficult after the supreme Court verdict in a case known as Bommai Case. According to this case the President can dismiss a state government only after the approval of the proclamation by the both houses of Parliament. If both houses of Parliament do not approve the proclamation, it lapses at the end of two months and the dismissed government is revived. In this case, in 1989, Nineteen letters from Council of Ministers were sent to the Governor of the State (Karnataka) for withdrawing support from the ruling party under the S.R. Bommai leadership (as Chief Minister). Following this the Governor dismissed the Bommai government. But within a short period, the defected MLAs promised to support back the Bommai government. But the governor did not give an opportunity to Bommai to produce his majority on the floor of house. The Governor dismissed the government on the plea that the Chief Minister lost majority in the house. S.R. Bommai challenged the Governor’s decision in the Supreme Court. The Supreme Court gave its verdict in 1994.

The proclamation of this type of emergency, popularly called as President Rule, which can remain in force for a period of six months. By the 44th Amendment, the Parliament can extend the duration of the state emergency for a period of six months at one instance. Ordinarily, the total period of such emergency cannot exceed one year unless there is a national emergency in force. However, the total period of state emergency cannot go beyond three years.

The President can impose financial emergency. Article 360 states that if the President is satisfied that a situation has arisen where the financial stability or credit of India or any part of the country is threatened, he may declare a financial emergency. Like the National emergency, such a proclamation has to be laid before the Parliament for its approval.

On its face value, one can say that the President enjoys formidable powers. In reality, however, he can exercise his powers only on the aid and advice of the Council of Ministers, headed by the Prime Minister. In this respect, the Presidents position is more like that of the British Monarch rather than that of the President of the United States of America. While the President of India may be the head of the state, the head of the government is the Prime Minister.
Check Your Progress Exercise 1

Note: i) Use the space below for your answers.

   i) Check your answers with the model answers given at the end of this unit.

1) How is the President of Indian Republic elected?

2) What are the legislative powers of the President of India?

8.4 THE PRIME MINISTER

The real executive power under the Constitution vests with the Union Council of Ministers with the Prime Minister as its head. The President is obliged to act according to the advice of the Council of Ministers which is responsible in the real sense of the term, not to the President but the Lok Sabha.

As in Britain, the Prime Minister in India is usually a member of the lower house of Parliament. When Indira Gandhi was selected as a Prime Minister in 1966, she was a member of the Rajya Sabha. By getting elected to the Lok Sabha, she strengthened the convention of the Prime Minister being a member of the lower house.

The Prime Minister is appointed by the President. However, the President has hardly any choice in selecting the Prime Minister. He can only invite the leader of the party in majority in the Lok Sabha or a person who is in a position to own the confidence of the majority in the house. The Prime Minister holds office during the pleasure of the President. The ‘pleasure’ of the President in this regard is related to the unwavering majority support which a Prime Minister receives in the Lok Sabha.

The President appoints the other members of the Council of Ministers on the advice of the Prime Minister. A minister may be chosen from either house and has a right to speak and take part in the proceedings of the other house, though he can vote only in the House to which he belongs. Even a person who is not a member of either house of Parliament can be appointed as a minister, but he has to qualify for it by being elected or nominated to either house within a period of six months.
8.4.1 The Council of Ministers and the Cabinet

The term ‘Cabinet’ is used interchangeably with that of Council of Ministers. But they are different. The Council of Ministers, or the Ministry, consists of different categories of ministers. At the time of independence, there was no such institution as a cabinet in India. What existed then was the Executive Council. On 15 August 1947, the Executive Council was transformed into a Ministry or Council of Ministers that is responsible to the Parliament.

The term ‘Cabinet’ was used thereafter as an alternative to the Council of Ministers. At this stage, all the members of the ministry or the Cabinet except the Prime Minister had the same status. But the situation changed once junior ministers were appointed to the Council of Ministers. In 1950, based on the recommendations of the Gopalswamy Ayyangar’s report, a three-tier system of the ministry was established with the cabinet ministers at the top, ministers of the state at the middle, and deputy ministers in the lowest rung. The Cabinet, composed of the ‘senior-most ministers’ whose responsibilities transcended departmental boundaries into the entire field of administration, is a smaller body and the most powerful body in the government. The Cabinet serves three major functions: i) It is the body which determines government policy for presentation to the Parliament, ii) It is responsible for implementing government policy, and iii) It carries out inter-departmental coordination and cooperation.

The cabinet meets regularly, as it is a decision-making body. It is assisted by the cabinet secretariat, headed by a senior member of the civil services, the cabinet secretary. To manage the volumes and complexities of work that comes before it, the cabinet members have developed standing and ad hoc committees. There are four Standing Committees which are permanent in nature. These are the defence committee, economic committee, administrative organisation committee and parliamentary and legal affairs committee. Ad-hoc Committees are constituted from time to time.

Next in rank are the ministers of state who hold independent charge of individual ministries and perform the same functions and exercise the same powers as a cabinet minister. The only difference between a minister of state and a cabinet minister is that he/she is not a member of the cabinet, but attends cabinet meetings only when specially invited to do so in connection with the subject that he/she is given charge of. There are other ministers of state who work directly under cabinet ministers.

At the bottom of the hierarchy are the deputy-ministers who do not have specific administrative responsibilities. However, their duties include: i) Answering the questions in parliament on behalf of the ministers concerned and helping to pilot bills, ii) Explaining policies and programmes to the general public and maintaining liaison with members of parliament, political parties and the press, and iii) Undertaking special study or investigation of particular problems, which may be assigned to them by particular minister.

From the above, it is clear that the Cabinet is the nucleus of the Council of Ministers. Precisely because of this reason Walter Bagehot calls the Cabinet ‘the greatest committee of the legislature’. It is the ‘connecting link between the executive and legislative power’.
8.4.2 Collective Responsibility

The Council of Ministers functions on the principle of collective responsibility. Under this principle, all ministers are equally responsible for each and every act of government. That is, under the collective leadership, each minister accepts and agrees to share responsibility for all decisions of the cabinet. Doubts and disagreements are confined to the privacy of the cabinet room. Once a decision has been taken, it has to be loyally supported and considered as the decisions of the whole government. If any member of the Council of Ministers is unable to support government policy in the Parliament or the country at large, that member is morally bound to resign from the Council of Ministers.

Even if the Council of Ministers is formed as a result of a coalition of various political parties, a minimum common programme becomes essential for maintaining the solidarity of the ministry, and the various political parties forming the coalition government have to stand behind that programme. Unless they do so, the Cabinet cannot survive. Unity within Council of Ministers is not only essential for its very survival but also necessary for its efficiency and efficacy, and it is also necessary to enjoy the confidence of the people. Open bickering between members of the Janata government on matters of public policy was the prelude to the collapse of the government in 1979.

8.5 THE CABINET AND THE PARLIAMENT

The core of the parliamentary government is the accountability of the Prime Minister and the Cabinet to the Parliament. The Parliament does not govern but critically examines the policies and acts of the government, and approves or disapproves of them as the representative of the people. The very existence and survival of the Prime Minister and the Council of Ministers depend upon the support they receive in the Parliament. As we observed, the Council of Ministers is collectively responsible to the Parliament. Thus, the general feeling is that the Parliament controls the Executive. But in reality, the Prime Minister with his majority support controls the very working of the Parliament.

8.5.1 Sources of Prime Minister’s Power and Influence

Though the Constitution does not enumerate the powers and functions of the Prime Minister, in practice he/she enjoys a wide range of powers as a leader of the Council of Ministers and the Lok Sabha.

The Prime Minister’s prerogative of constituting, reconstituting and reshuffling the Ministry as well as chairing the meetings vests the office with considerable influence over the members of Parliament. It must, however, be noted that the Prime Minister’s has the freedom to select his colleagues and it is subjected to his/her own position within the party. For example, India’s first Prime Minister, Jawaharlal Nehru, could not ignore Sardar Patel who was very powerful in the Congress party. He was, therefore, appointed as the Deputy Prime Minister and Home Minister. Some of Patel’s followers were also made members of the ministry. Similarly, Indira Gandhi in the early years of her office had to accommodate powerful leaders of her party in the ministry. Emerging as an all-powerful leader after the 1971 mid-term elections, she had complete freedom in choosing and reshuffling ministers. In coalition governments, the Prime Ministers
do not have much choice in choosing ministerial colleagues. In the Janata government, Morarji Desai had many ministers whom he never knew before. In H.D. Deve Gowda’s and later I.K. Gujral’s governments, the ministers were selected not by the Prime Minister but by the leaders of the 14 regional parties that formed the United Front.

The Prime Minister also derives power and influence from the fact that he/she is the leader of the majority party in the legislature, and sometimes even the leader of the parliamentary wing of the party. As a leader of the Lok Sabha, the Prime Minister has enormous control over parliamentary activities. He/she advises the President on summoning and prorogation of the sessions of Parliament. The Speaker consults the Prime Minister in finalising the agenda of the Lok Sabha. The Prime Minister enjoys enormous legislative power in the form of recommending Ordinances to the President for promulgation when the Parliament is not in session. But the most important power of the Prime Minister regarding Parliament is to recommend dissolution of Lok Sabha. The President has to accept the advice of the Prime Minister. It is the power by which the Prime Minister controls even the opposition.

As the head of the government, the Prime Minister enjoys the power of patronage. All the major appointments of the Central government are made by the Prime Minister in the name of the President, which include Chief Justice and judges of the Supreme Court and High Courts, the Attorney-General, the Chiefs of the Army, the Navy and the Air Force, Governors, Ambassadors and High Commissioners, the Chief and members of the Election Commission, etc. Further, the Prime Minister’s control over the administration, including the intelligence agencies and other administrative wings of the government enhances his/her influence over other members of parliament and administration. Apart from these structural factors, there are other features that increase the power and authority of the Prime Minister. In several instances, the general elections in most democratic systems virtually become an election of the leader, and it is interpreted as a popular mandate. Sometimes a leader derives strength from his/her charisma. Jawaharlal Nehru, Indira Gandhi and Narendra Modi present examples of charismatic leaders.

**Check Your Progress Exercise 2**

**Note:** i) Use the space below for your answers.

ii) Check your answers with the model answers given at the end of this unit.

1) What are the three most important functions of a Cabinet?

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8.6 THE PRESIDENT AND THE PRIME MINISTER

Article 78 enumerates the duties of the Prime Minister. The Prime Minister is to: a) communicate to the President all decisions of the Council of Ministers relating to the administration of the affairs of the Union and proposals for legislation; b) furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for; and c) if the President so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council. These duties of the Prime Minister seem to suggest that the President is the real executive with vast power. But as we saw, the President can exercise his powers only with the aid and advice of the Council of Ministers. The Prime Minister, heading the Council of Ministers, is, therefore, the real executive. However, there have been occasions when the President had differences of opinion with the Prime Minister on the policies of the government.

The first President of India, Rajendra Prasad, tried to break from the British convention that the head of the state is always bound by the advice of the Prime Minister and the Cabinet. For instance, he was unhappy with the Nehru government’s attempt to reform Hindu personal law. In 1987, President Zail Singh withheld his assent to the Indian Postal (Amendment) Bill, despite its having been passed by both the Houses of Parliament. This was a reflection of differences between the President and the Prime Minister Rajiv Gandhi.

8.7 LET US SUM UP

Following the pattern of British Westminster model, India evolved its system of the parliamentary form of government in which the executive is responsible to the legislature. The executive power of the government of India is vested in the President of India, who is both the formal head of the state and the symbol of the nation. The President is endowed with authority and dignity without adequate powers. The President can exercise his/her authority only with the aid and advice of the Council of Ministers headed by the Prime Minister. It is the Prime Minister who exercises real executive power in the Indian political system. As the head of the Council of Ministers, the leader of the majority party in the Lok Sabha and often the leader of the Parliament, the Prime Minister enjoys considerable power and authority. Though the Prime Minister is appointed by the President and holds office during the pleasure of the President, the Prime Minister is in reality responsible to the Parliament. The Council of Ministers and the informal cabinet headed by the Prime Minister work on the principle of collective responsibility. Sometimes here have been differences between the President and the Prime Minister. But these did not assume serious proportions culminating in any constitutional crisis.
8.8 REFERENCES


8.9 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress Exercise 1

1) The President is elected by the members of the Electoral College, in accordance with the system of proportional representation and by means of a single transferable vote. The Electoral College comprises of the elected members of the Union Parliament and State Assemblies.

2) To summon and prorogue the Parliaments; to dissolve the Lok Sabha-power to promulgate Ordinances; to summon and address the joint sitting of the two houses of Parliament; to veto of non-money bills-powers; to nominate members to the Parliament, etc.

Check Your Progress Exercise 2

1) The Council of Ministers functions on this principle. Each member accepts and agrees to share responsibility for all decisions of the cabinet. It’s necessary for efficiency and efficacy but also for the very survival of the cabinet system of government.

2) In a parliamentary system, the Prime Minister is the head of the Council of Ministers, leader of the majority party in the Lower House and head of the government.