



# INDIAN POLITY BY- SUJEET BAJPAI SIR



# Question No: 1

निम्नलिखित कथनों में से सही चुनिए

10 → 11  
The Fundamental Duties of the Indian Citizens:

- (a) Formed a part of the original Constitution
- ☒ (b) Were added by the Forty-Second Amendment
- (c) Were added by the Forty-Fourth Amendment
- (d) Were defined by the Parliament through a law enacted during the emergency

42<sup>nd</sup> ⇒ 1976  
44<sup>th</sup> → USSR  
→ 44<sup>th</sup>  
निर्देश  
चुनिए

# Question No: 2

What is contained in the Eleventh Schedule to the Constitution of India?

(a) Forms of oath of affirmation

2142 - 2 10

(b) Provisions regarding disqualification on grounds of defection

~~(c)~~ Items in respect of which Panchayats shall have powers and authority to function as institutions of Self-Government

(d) Items on which Municipalities shall have powers and authority to function as institutions of Self-Government

4 (12)

# SCHEDULES OF CONSTITUTION

Trick - TEARS OF OLD PM

- |    |   |                                 |
|----|---|---------------------------------|
| 1  | T | - TERRITORIES & STATES          |
| 2  | E | - EMOLUMENTS                    |
| 3  | A | - AFFIRMATIONS & OATHS          |
| 4  | R | - RAJYA SABHA SEAT ALLOCATION   |
| 5  | S | - SCHEDULED AREAS               |
| 6  | O | - OTHER TRIBAL AREAS            |
| 7  | F | - FEDERAL LIST                  |
| 8  | O | - OFFICIAL LANGUAGES            |
| 9  | L | - LAND REFORMS                  |
| 10 | D | - DEFECTION [1985] [52nd Amend] |
| 11 | P | - PANCHAYATS [1992] [73rd]      |
| 12 | M | - MUNICIPALITIES [1993] [74th]  |

1992

# Question No: 3

The strength of the Council of Ministers:

(a) Has been fixed by the Constitution

~~(b)~~ Has been fixed by the Parliament under Representation of People's Act, 1950

~~(c)~~ Is determined by the Prime Minister keeping in view the requirement of the time

(d) Is determined by the President

15% (Limit)

2003 / 91<sup>st</sup> Amend

# Question No: 4

Art - 143

The advisory Powers of the Supreme Court of India imply that:

- (a) It renders advice to the Government of India on all constitutional matters
- (b) It renders advice to the President on question of law or fact which is of public importance
- (c) It renders advice to the President on question of law or fact which is of Public importance.
- (d) It has power to render advice to all the above persons



# Question No: 5

SLP

The provision under which the Supreme Court can grant 'special leave' to appeal against decisions of lower courts and tribunals is contained in:

- (a) Section 10 of Supreme Court Rules
- (b) Article 136 of Indian Constitution
- (c) Article 112 of Indian Constitution
- (d) Article 148 of Indian Constitution

CAG

Annual financial  
stmt



# Question No: 6

There were ..... Article and ..... Schedules in the draft of the Constitution of India.

~~(a) 395, eight~~

(b) 319, nine

(c) 327, ten

(d) 317, nine

# Question No: 7

The Indian National Congress asserted in ..... that India would not accept any constitution made by anyone other than people of India and without outside interference

(a) 1942

(b) 1936

(c) 1927

(d) 1935

LKO - J.L. Nehru

# Question No: 8

Almost all political parties participated and contributed their share in the formation of Indian Constitution. Which one of the following party was not associated with the Constituent Assembly?

- (a) Communist Party of India
- (b) Indian National Congress
- (c) Hindu Mahasabha
- (d) Jan sangha

# Question No: 9

The 39th Amendment laid that election of any person to Lok Sabha holding, the office of Prime Minister cannot be challenged before a Court of Law, but only before an authority established by Parliament. This was declared unconstitutional by the Supreme Court in

- (a) Keshvananda Bharti Case
- (b) Menaka Gandhi Case
- (c) Indira Gandhi v. Raj Narain Case
- (d) None of the above

# Question No: 10

25 MC

The decision of a High Court is

- (a) Binding on other High Courts
- ☒ (b) No binding on other High Courts
- (c) Occasionally binding on other High Courts
- (d) Of no value for other High Courts

# Question No: 11

A death sentence by a lower court

- ~~(a)~~ Must be confirmed by High Court
- (b) Must be confirmed by Supreme Court
- (c) Is operational if no appeal is made to higher courts
- (d) Must be confirmed by the President

# Question No: 12



How many members are required to support the introduction of a No-Confidence Motion in the Lok Sabha?

(a) Two-thirds of the membership of the House

~~(b) 50 members~~

(c) 80 members

(d) 60 members

ONLY IN LS



# Question No: 13



**Mark the incorrect answer**

**The main purpose of the Law of Contract is**

- (a) The satisfaction of human desires in the highest practicable degree**
- (b) Where there are conflicting human interests and desires, by establishing a judicial and administrative system that acts with reasonable degree of uniformity**
- (c) To do something in accordance with the norm of prescribed law**
- (d) All of the above**

# Question No: 14

Which political party does Shashi Tharoor belong to?

- (a) Samajwadi Party
- (b) Bharatiya Janta Party
- ☒ (c) Congress
- (d) Bahujan Samaj Party

PM (Min) Age  $\Rightarrow$  25yr

## Qualifications for Election as President

A person to be eligible for election as President should fulfil the following qualifications:

1. He should be a citizen of India.
2. He should have completed 35 years of age.
3. He should be qualified for election as a member of the Lok Sabha.
4. He should not hold any office of profit under the Union government or any state government.

Governor

## **NOTE:**

A sitting President or Vice-President of the Union, the Governor of any state and a minister of the Union or any state is not deemed to hold any office of profit and hence qualified as a presidential candidate.

The nomination of a candidate for election to the office of President must be subscribed by at least 50 electors as proposers and 50 electors as seconders.

Every candidate has to make a security deposit of Rs 15,000 in the Reserve Bank of India.

**The security deposit is liable to be forfeited in case the candidate fails to secure one-sixth of the votes polled.**

**Before 1997, number of proposers and seconders was ten each and the amount of security deposit was Rs 2,500.**

**In 1997, they were increased to discourage the non-serious candidates.**

नेतिनिर्णय





**The President can be removed from office by a process of impeachment for ‘violation of the Constitution’.**

**However, the Constitution does not define the meaning of the phrase ‘violation of the Constitution’.**

Art- 61

# Procedure of Impeachment



1

- A written notice signed by more than  $\frac{1}{4}^{\text{th}}$  of the total number of members of the House (any) is submitted. Once it is received, after 14 days a Resolution is moved.

2

- The Resolution is passed by majority i.e. more than  $\frac{2}{3}^{\text{rd}}$  of the total members of the House.

3 & 4

- The charge is sent to the other house for investigation. President needs to be present for the investigation.
- After the investigation, if the charge is proved right and passed by  $\frac{2}{3}^{\text{rd}}$  of the total members of the house (which investigated) then the President is removed.

Not  
Quasi  
Judicial  
process



**In this context, two things should be noted:**

- (a) the nominated members of either House of Parliament can participate in the impeachment of the President though they do not participate in his election;**
- (b) the elected members of the legislative assemblies of states and the Union Territories of Delhi and Puducherry do not participate in the impeachment of the President though they participate in his election.**

Rtc

## **Vacancy in the President's Office**

**A vacancy in the President's office can occur in any of the following ways:**

- 1. On the expiry of his tenure of five years.**
- 2. By his resignation.**
- 3. On his removal by the process of impeachment.**

#### 4. By his death.

(So far two Presidents, (Dr Zakir Hussain) and Fakhruddin Ali Ahmed, have died during their term of office.)

5. Otherwise, for example, when he becomes disqualified to hold office or when his election is declared void.

ONLY - SC

People's  
Pres.  
Calam

**If the office falls vacant by resignation, removal, death or otherwise, then election to fill the vacancy should be held within six months from the date of the occurrence of such a vacancy.**

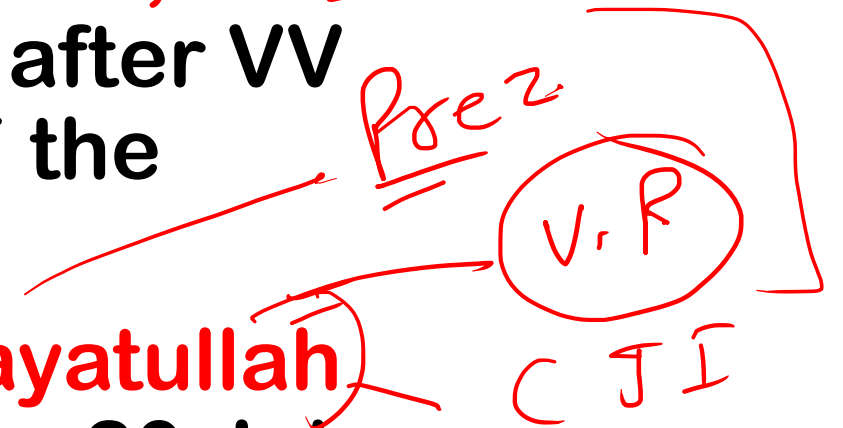
**When the sitting President is unable to discharge his functions due to absence, illness or any other cause, the Vice-President discharges his functions until the President resumes his office.**



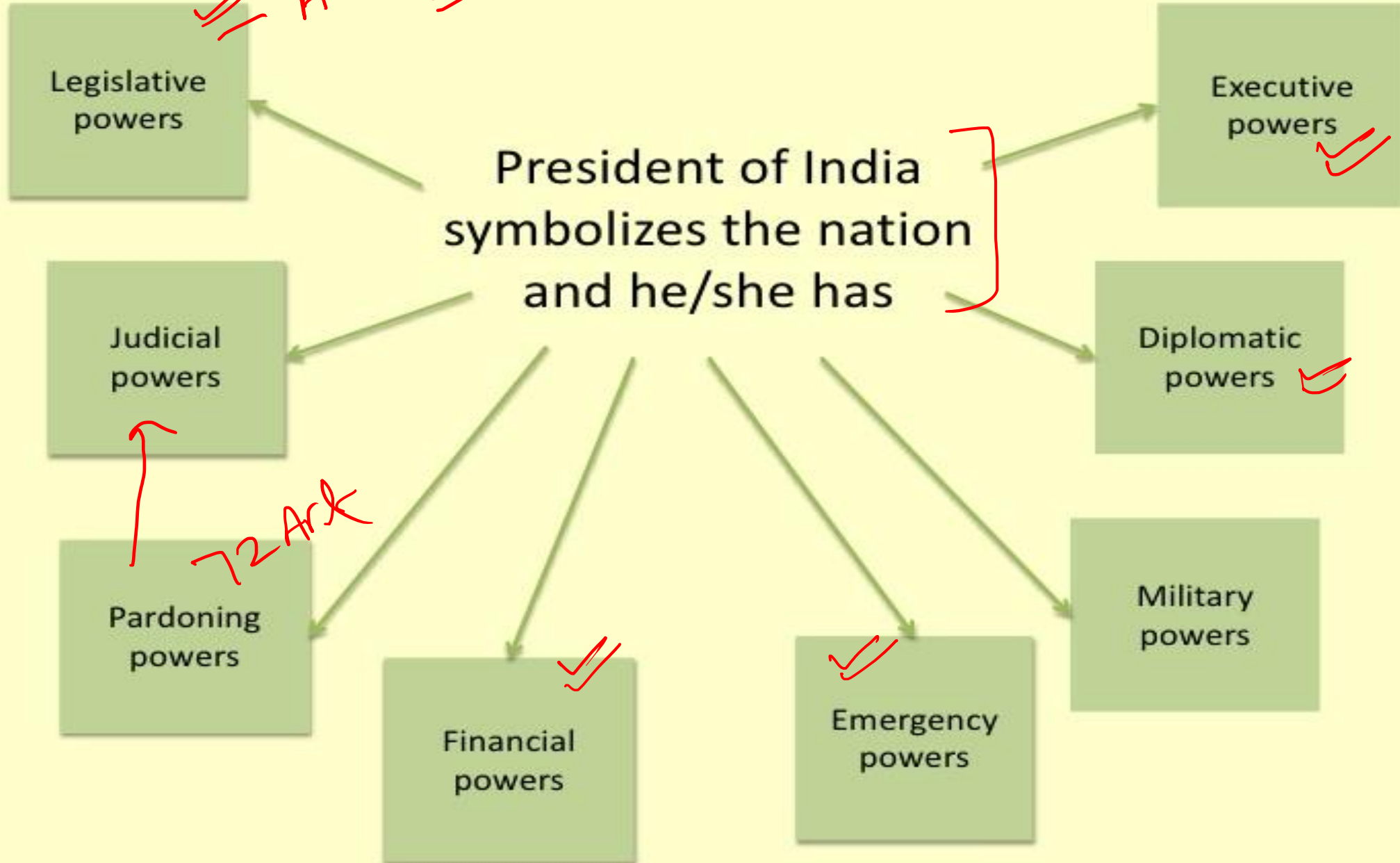
✓ In case the office of Vice-President is vacant, the Chief Justice of India (or if his office is also vacant, the seniormost judge of the Supreme Court available) acts as the President or discharges the functions of the President.

For example, when President **Dr Zakir Hussain** died in May, 1969, the then **Vice-President, VV Giri** was acting as the President. Soon after VV Giri resigned to contest the election of the President.

Then the Chief Justice of India, **(M Hidayatullah)** worked as the officiating President from 20 July, 1969 to 24 August, 1969.



✓✓ Art-123



# Executive Powers

**The executive powers and functions of the President are:**

**1. All executive actions of the Government of India are formally taken in his name.**

**2. He appoints the prime minister and the other ministers. They hold office during his pleasure.**

**3. He appoints the attorney general of India and determines his remuneration.**

**The attorney general holds office during the pleasure of the President.**

**4. He appoints the comptroller and auditor general of India, the chief election commissioner and other election commissioners, the chairman and members of the Union Public Service Commission, the governors of states, the chairman and members of finance commission, and so on.**

**5. He can appoint a commission to investigate into the conditions of SCs, STs and other backward classes.**

**6. He can appoint an inter-state council to promote Centre–state and inter-state cooperation.**

**7. He directly administers the union territories through administrators appointed by him.**

**8. He can declare any area as scheduled area and has powers with respect to the administration of scheduled areas and tribal areas.**



## Legislative Powers

1. He can summon or prorogue the Parliament and dissolve the Lok Sabha. He can also summon a joint sitting of both the Houses of Parliament, which is presided over by the Speaker of the Lok Sabha.

**2. He can address the Parliament at the commencement of the first session after each general election and the first session of each year.**

**3. He nominates 12 members of the Rajya Sabha from amongst persons having special knowledge or practical experience in literature, science, art and social service.**

# Financial Powers

ONLY IULS

The financial powers and functions of the President are:

1. Money bills can be introduced in the Parliament only with his prior recommendation.
2. He causes to be laid before the Parliament the annual financial statement (ie, the Union Budget).

अनुच्छेद 358 (अनुच्छेद)

3. He can make advances out of the contingency fund of India to meet any unforeseen expenditure.

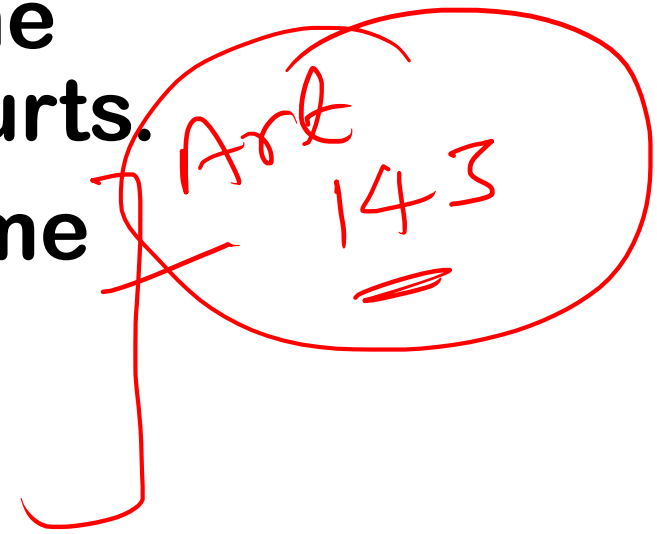
Art - 280

4. He constitutes a finance commission after every five years to recommend the distribution of revenues between the Centre and the states.

## Judicial Powers

1. He appoints the Chief Justice and the judges of Supreme Court and high courts.

2. He can seek advice from the Supreme Court on any question of law or fact. However, the advice tendered by the Supreme Court is not binding on the President.



**3. He can grant pardon, reprieve, respite and remission of punishment, or suspend, remit or commute the sentence of any person convicted of any offence.**

## Diplomatic Powers ✓✓

**The international treaties and agreements are negotiated and concluded on behalf of the President.**



## Military Powers

**He is the supreme commander of the defence forces of India. In that capacity, he appoints the chiefs of the Army, the Navy and the Air Force. He can declare war or conclude peace, subject to the approval of the Parliament.**



## Emergency Powers ✓✓

In addition to the normal powers mentioned above, the Constitution confers extraordinary powers on the President to deal with the following three types of emergencies:

(a) National Emergency (Article 352);

(b) President's Rule (Article 356 & 365); and

(c) Financial Emergency (Article 360)

law &  
order  
fail



# **National Emergency in India**

**The Emergency provisions are contained in Part XVIII of the Constitution, from Articles 352 to 360.**

**These provisions enable the Central government to meet any abnormal situation effectively.**

1. An emergency due to war, external aggression or armed rebellion (Article 352).  
This is popularly known as 'National Emergency'.

However, the Constitution employs the expression 'proclamation of emergency' to denote an emergency of this type.

odd → Internal  
disturbance

Originally, the Constitution mentioned 'internal disturbance' as the third ground for the proclamation of a National Emergency, but the expression was too vague and had a wider connotation. Hence, the 44th Amendment Act of 1978 substituted the words 'armed rebellion' for 'internal disturbance'.

**Thus, it is no longer possible to declare a National Emergency on the ground of 'internal disturbance' as was done in 1975 by the Congress government headed by Indira Gandhi.**

## Parliamentary Approval and Duration

The proclamation of Emergency must be approved by both the Houses of Parliament within one month from the date of its issue. Originally, the period allowed for approval by the Parliament was two months, but was reduced by the 44th Amendment Act of 1978.

**If approved by both the Houses of Parliament, the emergency continues for six months, and can be extended to an indefinite period with an approval of the Parliament for every six months.**



**Every resolution approving the proclamation of emergency or its continuance must be passed by either House of Parliament by a special majority, that is, (a) a majority of the total membership of that house, and (b) a majority of not less than two-thirds of the members of that house present and voting.**

## Effect on the Fundamental Rights

Articles 358 and 359 describe the effect of a National Emergency on the Fundamental Rights.

Article 358 deals with the suspension of the Fundamental Rights guaranteed by Article 19, while Article 359 deals with the suspension of other Fundamental Rights (except those guaranteed by Articles 20 and 21).

**Declarations Made So Far This type of  
Emergency has been proclaimed three times so  
far—in 1962, 1971 and 1975.**

**2. An Emergency due to the failure of the constitutional machinery in the states (Article 356). This is popularly known as ‘President’s Rule’. It is also known by two other names—‘State Emergency’ or ‘constitutional Emergency’. However, the Constitution does not use the word ‘emergency’ for this situation.**

### **3. Financial Emergency due to a threat to the financial stability or credit of India (Article 360).**

## **Veto Power of the President**

(Art - 111)  
Bill → Act

A bill passed by the Parliament can become an act only if it receives the assent of the President. When such a bill is presented to the President for his assent, he has three alternatives (under Article 111 of the Constitution):

1. He may give his assent to the bill, or
2. He may withhold his assent to the bill, or
3. He may return the bill (if it is not a Money bill) for reconsideration of the Parliament.

However, if the bill is passed again by the Parliament with or without amendments and again presented to the President, **the President must give his assent to the bill.**

The veto power enjoyed by the executive in modern states can be classified into the following four types:

1. Absolute veto, that is, withholding of assent to the bill passed by the legislature.
2. Qualified veto, which can be overridden by the legislature with a higher majority.

X |  $(N+1)$   
Indig  
 $(\infty)$



3. Suspensive veto, which can be over ridden by the legislature with an ordinary majority.

4. Pocket veto, that is, taking no action on the bill passed by the legislature.

Of the above four, the President of India is vested with three—absolute veto, suspensive veto and pocket veto. ✓

IS — No Action

→ max - 6 m + 6 weeks

## Ordinance-making Power of the President

Article 123 of the Constitution empowers the President to promulgate ordinances during the recess of Parliament. These ordinances have the same force and effect as an act of Parliament, but are in the nature of temporary laws.



# POWER OF PARDON

Diff/B Pardoning power of  
President and Governor



# Pardoning Power of the President (Article-72)

1. **Pardon** It removes both the sentence and the conviction and completely absolves the convict from all sentences, punishments and disqualifications.

2. **Commutation** It denotes the substitution of one form of punishment for a lighter form.

For example, a death sentence may be commuted to rigorous imprisonment, which in turn may be commuted to a simple imprisonment.

**3. Remission** It implies reducing the period of sentence without changing its character.

For example, a sentence of rigorous imprisonment for two years may be remitted to rigorous imprisonment for one year.

**4. Respite** It denotes awarding a lesser sentence in place of one originally awarded due to some special fact, such as the physical disability of a convict or the pregnancy of a woman offender.

**5. Reprieve** It implies a stay of the **execution** of a sentence (especially that of death) for a temporary period.

Its purpose is to enable the convict to have time to seek pardon or commutation from the President.

**Under Article 161 of the Constitution, the governor of a state also possesses the pardoning power.**

**Hence, the governor can also grant pardons, reprieves, respites and remissions of punishment or suspend, remit and commute the sentence of any person convicted of any offence against a state law.**



**But, the pardoning power of the governor differs from that of the President in following two respects:**

**1. The President can pardon sentences inflicted by court martial (military courts) while the governor cannot.**

**2. The President can pardon death sentence while governor cannot. Even if a state law prescribes death sentence, the power to grant pardon lies with the President and not the governor.**



✓

In the scheme of parliamentary system of government provided by the constitution, the President is the nominal executive authority (de jure executive) and Prime Minister is the real executive authority (de facto executive).

Real

Nominal

## Appointment of the Prime Minister

↳ Not Elected

The Constitution does not contain any specific procedure for the selection and appointment of the Prime Minister. Article 75 says only that the Prime Minister shall be appointed by the president.

**In accordance with the conventions of the parliamentary system of government, the President has to appoint the leader of the majority party in the Lok Sabha as the Prime Minister.**

CONG —

**But, when no party has a clear majority in the Lok Sabha, then the President may exercise his personal discretion in the selection and appointment of the Prime Minister.**

**In such a situation, the President usually appoints the leader of the largest party or coalition in the Lok Sabha as the Prime Minister and asks him to seek a vote of confidence in the House within a month.**



**This discretion was exercised by the President, for the first time in 1979, when Neelam Sanjiva Reddy (the then President) appointed Charan Singh (the coalition leader) as the Prime Minister after the fall of the Janata Party government headed by Morarji Desai.**

**However, if, on the death of an incumbent Prime Minister, the ruling party elects a new leader, the President has no choice but to appoint him as Prime Minister.**

**In 1997, the Supreme Court held that a person who is not a member of either House of Parliament can be appointed as Prime Minister for six months, within which, he should become a member of either House of Parliament; otherwise, he ceases to be the Prime Minister.**

**Constitutionally, the Prime Minister may be a member of any of the two Houses of parliament.**

**For example, three Prime Ministers, Indira Gandhi (1966), Deve Gowda (1996) and Manmohan Singh (2004), were members of the Rajya Sabha. In Britain, on the other hand, the Prime Minister should definitely be a member of the Lower House (House of Commons).**

**The term of the Prime Minister is not fixed and he holds office during the pleasure of the president.**

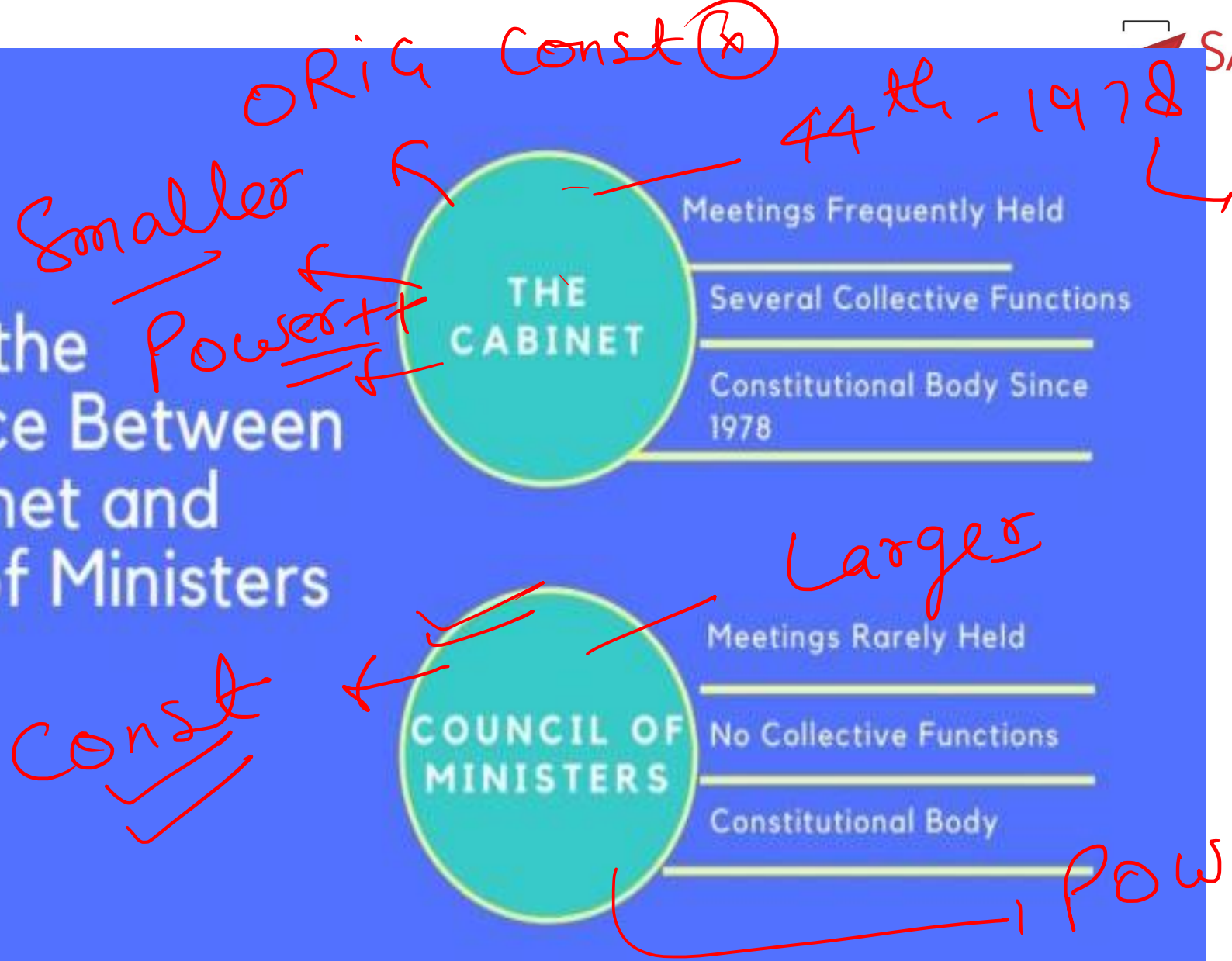
**However, this does not mean that the president can dismiss the Prime Minister at any time. So long as the Prime Minister enjoys the majority support in the Lok Sabha, he cannot be dismissed by the President.**

**However, if he loses the confidence of the Lok Sabha, he must resign or the President can dismiss him.**

**Lord Morely He described Prime Minister as ‘primus inter pares’ (first among equals) and ‘key stone of the cabinet arch’. He said, “The head of the cabinet is ‘primus inter pares’, and occupied a position which so long as it lasts, is one of exceptional and peculiar authority”.**

<b><u>ARTICLE</u></b>	<b><u>PROVISIONS</u></b>
<b>Art. 74</b>	<b>Council of Ministers to aid and advise the President</b>
<b>Art. 75</b>	<b>Other provisions as to ministers</b>
<b>Art. 77</b>	<b>Conduct of business of the Government of India</b>
<b>Art. 78</b>	<b>Duties of PM as respects the furnishing of information to the President etc.</b>

# Analyze the Difference Between the Cabinet and Council of Ministers





## **Collective Responsibility**

HM

The fundamental principle underlying the working of parliamentary system of government is the principle of collective responsibility. Article 75 clearly states that the council of ministers is collectively responsible to the Lok Sabha.

**This means that all the ministers own joint responsibility to the Lok Sabha for all their acts of omission and commission. They work as a team and swim or sink together.**



# The Governor

## Appointment, Functions and Powers



**Articles 153 to 167 in Part VI of the Constitution deal with the state executive.**

## **Appointment of Governor**

**The governor is neither directly elected by the people nor indirectly elected by a specially constituted electoral college as is the case with the president.**

**He is appointed by the president by warrant under his hand and seal.**

**In a way, he is a nominee of the Central government.**

**But, as held by the Supreme Court in 1979, the office of governor of a state is not an employment under the Central government.**

**It is an independent constitutional office and is not under the control of or subordinate to the Central government.**

## Term of Governor's Office

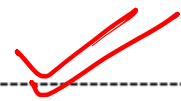
A governor holds office for a term of five years from the date on which he enters upon his office.

However, this term of five years is subject to the pleasure of the President. Further, he can resign at any time by addressing a resignation letter to the President.



He nominates one-sixth of the members of the state legislative council from amongst persons having special knowledge or practical experience in literature, science, art, cooperative movement and social service.

He can nominate one member to the state legislature assembly from the Anglo-Indian Community.




153.	Governors of states
154.	Executive power of state
155.	Appointment of Governor
156.	Term of office of Governor
157.	Qualifications for appointment as Governor
158.	Conditions of Governor's office
159.	Oath or affirmation by the Governor
160.	Discharge of the functions of the Governor in certain contingencies

161.	Power of the Governor to grant pardons and others
162.	Extent of executive power of state
163.	Council of ministers to aid and advise the Governor
164.	Other provisions as to ministers like appointments, term, salaries, and others
165.	Advocate-General for the state
166.	Conduct of business of the government of a state
167.	Duties of the Chief Minister regarding furnishing of information to the Governor, and so on

174.	Sessions of the state <u>legislature</u> , <u>prorogation</u> and dissolution
175.	Right of the Governor to address and send messages to the house or houses of state legislature
176.	Special address by the Governor
200.	Assent to bills (i.e. assent of the Governor to the bills passed by the state legislature)
201.	Bills reserved by the Governor for consideration of the President
213.	Power of Governor to promulgate ordinances

217.	Governor being consulted by the President in the matter of the appointments of the judges of the High Courts
233.	Appointment of district judges by the Governor
234.	Appointments of persons (other than district judges) to the judicial service of the state by the Governor.

<b>Article No.</b>	<b>Subject-matter</b> 
163.	Council of Ministers to aid and advise Governor
164.	Other provisions as to Ministers
166.	Conduct of business of the Government of a State
167.	Duties of Chief Minister as respects the furnishing of information to Governor, etc.