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The Union Executive : (a) The President and (b) The Vice-President

Scope of Syllabus

- (a) The President :
Qualifications for election, composition of Electoral College, reason for indirect election, term of office, procedure for impeachment.
Powers (executive, legislative, financial, judicial, discretionary and emergency).
- (b) The Vice-President :
Qualifications for election, term of office and powers.

IMPORTANT TERMS, EVENTS, PERSONS AND DATES

- **Money Bill** : A bill having financial bearing is called a money bill.
- **Ordinance** : It is an order of the President when both the Houses of the Parliament are not in session. The Ordinance should be laid down before both the Houses when they reassemble.
- **Electoral College** : It is a temporary body which elects the President of India. It consists of the elected members of the State Assemblies and the Parliament.
- **Impeachment** : It is a special procedure to remove the President before the expiry of his term.

(a) The President of India

The Indian Union Executive consists of the President, the Vice-President and the Council of Ministers headed by the Prime Minister.

In India, we have the President, but not the Presidential form of Government. The President of India is the Chief Executive. He/She is the Constitutional (nominal) head of the Republic of India under the Parliamentary system. The executive powers of the Union Government are exercised by him either **directly or through officers subordinate to him**. The **President of India** is the *Head of the State*. He/She is also the *first citizen of India*.

Qualifications for Elections

In order to qualify as a candidate for the Presidential election, a person

- (a) must be a citizen of India,
- (b) must have completed 35 years of age,
- (c) must be qualified for election as a member of the Lok Sabha.

(d) must not hold any office of profit under the Centre or a State Government. The Speaker of the Lok Sabha or of a State Assembly, the Governor of a State, a Minister at the Centre or in a State, the Vice-President or the President are not deemed to be holding an office of Profit. If an MP seeks election to the office of the President, he/she has to resign that seat before contesting.

Term of Office

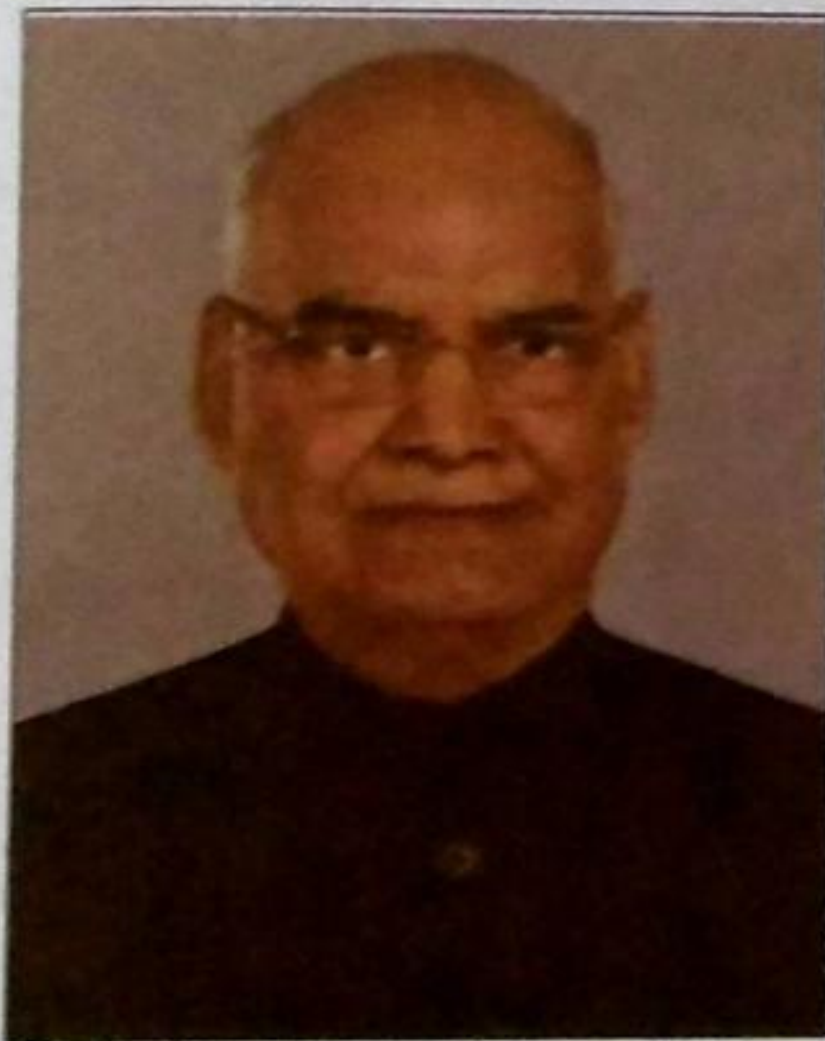
The President holds office for a term of five years. He/She is eligible for re-election.

Vacancy

The President may resign from his office before the expiry of his term. For this purpose, the President has to send his written resignation to the Vice-President, who will communicate the same to the Speaker of the Lok Sabha.

Before his/her term expires, a successor must be elected to the office of the President. However the President continues to hold office until his successor enters upon his office. In case of death, resignation or removal by impeachment, this vacancy must be filled up as soon as possible, and in no case later than six months from the date of the occurrence of such vacancy. During the vacancy period, the Vice-President of India officiates as the President till a new incumbent takes Oath. The person elected is entitled to hold office for a full term of five years.

President of India



Name	: Ram Nath Kovind
Position	: President of India
Elected by :	: Electoral college – A joint body of MPs and MLAs
Tenure	: 5 years
Elected on	: 25th July 2017
Salary	: ₹ 1,50,000 per month
Election Dispute	: The Supreme Court

Procedure for Impeachment

The Parliament can remove the President through impeachment for violation of the Constitution, misusing his/her status or position, incapacity, treason or bribery.

USA - Upper House - Senate
Lower House - The House of Representatives

The procedure for impeachment is as under :

1. The resolution to impeach the President may be moved in either House of the Parliament after a notice of 14 days has been given. A list of charges must be supported by one-fourth ($\frac{1}{4}^{\text{th}}$) of the total members of the House.
2. Such a resolution must be passed by a two-third ($\frac{2}{3}^{\text{rd}}$) of the total majority of the members of that House.
3. Then the charges levelled against the President are investigated by the other House. The President can appear in person or through a counsel to defend himself.
4. If the charges are approved by $\frac{2}{3}^{\text{rd}}$ of the total majority, the impeachment is finalised and the President is removed from his/her office, the day the impeachment resolution is passed.

Emoluments

The President is entitled to the following emoluments :

1. A salary of ₹1.50 Lakh per month (raised since Sep. 11, 2008).
2. A well furnished official residence i.e. the Rashtrapati Bhavan free of rental charges.
3. His/Her emoluments cannot to be decreased during his office of tenure.
4. His/Her salary is charged on the Consolidated Fund of India. So it is not subject to Parliamentary vote.
5. The President also receives a monthly pension of ₹75,000/- after retirement and ₹1000/- per month for secretarial assistance.

Presidential Election

The President is elected indirectly by a single transferable vote. Ordinary citizens play no part in this election.

Electoral College

(The joint body of elected MPs and MLAs (i.e., elected members of both the Houses of the

UK: Upper House - House of Lords -
Lower House - House of Representatives

Parliament and elected members of the Legislative Assemblies of States) which elects the President, is known as the **Electoral College**. It is a *temporary body* which is dissolved immediately after the election of the President is over. **Nominated MPs and nominated MLAs have no hand in electing the President.** The name of a Presidential candidate must be proposed by 50 members and seconded by another 50 members of the Electoral College. The candidate must deposit a security of ₹15000/- as laid down in the ordinance promulgated in June, 1997.

Need for Indirect Elections

(i) The State Assemblies are included in order to make the President more truly representative of the choice of the nation. As the population of the states and the strength of the Legislative Assembly is not uniform, the system of one man, one vote cannot be adopted.

(ii) Direct election would involve tremendous work, time and heavy expenditure. Moreover, directly elected President cannot become a *constitutional or a nominal head*.

(iii) It would be difficult to provide an electoral machinery for an election in which millions of people would have to participate. Moreover, it would place too much of power in the hands of masses with a high percentage of illiterates among them.

(iv) If the President is elected directly by the people, he can become a rival at the Centre to the Council of Ministers as the power is resided in the Council of Ministers headed by the Prime Minister and the Union Parliament. This would be against the parliamentary system if the President is elected directly by the people and is not given any real power.

Oath of Office

Before holding the office, the President takes an oath in the presence of the Chief Justice of India (or in his absence, a seniormost judge of the Supreme Court) to :

1. discharge the functions of the President of India.

2. preserve, protect and defend the Constitution and the law, and

3. devote himself to the service and well-being of the people of India.

Election Disputes

All the disputes in connection with the election of the President and Vice-President are inquired into and decided by the Supreme Court, whose decision shall be final. The election may be questioned on ground of bribery or undue influence or non-compliance with the laws governing the Presidential election.

Powers of the President

President's powers can be studied under following broad heads, i.e.,

(1) Executive Powers :

The Constitution lays down that "the Executive Powers of the Union shall be vested in the President". His/Her executive powers extend to all the subjects on which the Parliament can make laws. It includes the following :

(i) **Administrative Head** : The administration of the country runs in his name. All orders are issued in his name. All officials are his subordinates. He/She is the head of the Union administration.

(ii) **Appoints and dismisses the Prime Minister and the Council of Ministers** : The President appoints the leader of the majority party in the Lok Sabha as the Prime Minister and on his advice, he/she appoints other ministers in the Council of Ministers and distribute their portfolios. The Prime Minister and the Ministers submit their resignation to the President, if required.

(iii) **Appoints and dismisses high officials** : The President appoints and removes dignitaries like the *Attorney General of India, the Comptroller and the Auditor General of India, the Judges of the Supreme Court and the High Courts, the State Governors, the Ambassadors and the High Commissioners*. The President also appoints the Chairman and members

of the Union Public Service Commission, Planning Commission, Finance Commission, and the Election Commission of India.

(iv) **Controls State Governments** : The President has the power to issue such directions to the State Governments as he may think necessary from time to time. During an emergency on account of failure of Constitutional machinery in a State, the control of the President upon that State is complete through the Governor, who is appointed by the President, and to whom he/she is responsible.

(v) **Power to Administer Union Territories** : Every Union Territory in India is under the President and it is administered by him. He/She exercises this power through an administrator, appointed by the President.

(2) Legislative Powers :

The President is an integral part of the Parliament. He/She possesses the following legislative powers :

(i) **Power to summon and prorogue Parliament and dissolve the Lok Sabha** : The President has the power to summon and prorogue the Houses of Parliament and to dissolve the Lok Sabha. The power to summon the Parliament is subject to the condition that six months shall not intervene between the last sitting in one session and the first sitting in the next session. The President has the power to dissolve the Lok Sabha, on the advice of the Prime Minister, before the expiry of its full term. The Rajya Sabha is a permanent body, not subject to dissolution.

When the Lok Sabha completes its full term of five years, the President announces the dissolution of the Lok Sabha.

(ii) **Nomination of Members of the Parliament (MPs)** : The President nominates 12 MPs to the Rajya Sabha from amongst the outstanding contributors in *literature, science, social service or art*. He/She may also nominate two MPs of the Anglo-Indian community to the Lok Sabha, if this community is not adequately represented.

(iii) **Prior sanction before introducing certain Bills** : The President grants prior sanction for the introduction of certain Bills, a Money Bill, a Bill for the creation of a new State or a Bill for alteration in the territories of States.

(iv) **To Address Parliament** : The President addresses both the Houses of the Parliament together at the first session after the general election, and on the commencement of the first session each year.

(v) **Assent to Legislation** : President's assent on a Bill is necessary to become a law. He/She may refuse to give his/her assent or send it back for reconsideration, if it is not a Money Bill. If this Bill is again passed by the Parliament, with or without amendments, the President must give his/her assent to it.

(vi) **To Issue Ordinances** : The President can promulgate an ordinance, under two conditions, (*i.e.*, even if one House is in session, there is no bar to issuing ordinances).

(a) When the Parliament is not in session,

(b) When the President is satisfied that immediate necessary legislative action is required.

(c) However, the ordinance has to be placed before the Parliament within six weeks from its re-assembly. If approved by the Parliament, it becomes a law, otherwise it automatically ceases after the expiry of six weeks.

An Ordinance is a Presidential decree having authority of law. In other words, it is a temporary law which has the same status as an Act of Parliament.

(vii) **Assent to State Bills** : The State Governor may reserve a Bill passed by the State Legislature for the consideration of the President. He/She can refuse to give his/her assent, or he/she can return it for reconsideration.

(3) Financial Powers :

The President's Financial Powers include the following :

(i) **Grant of money** : No money can be granted to the Government without the President's approval.

(ii) **Introduction of Money Bill** : A Money Bill can be introduced in the Lok Sabha only with the prior recommendation of the President.

(iii) **Contingency Fund** : The Contingency Fund is at the President's disposal. He/She can make advances out of it to meet any unforeseen expenditure. It must be approved by the Parliament.

Contingency Fund : An amount kept in reserve to guard against possible losses. In India, this fund is created and kept under **The Contingency Fund of India Act – 1950**.

(iv) **Finance Commission** : The President appoints a Finance Commission after every five years. It consists of a Chairman and four members. It submits its recommendations to the President on specific financial matters, e.g., distribution of the income from the central taxes between the Union and the State governments.

(4) **Judicial Powers** :

The President possesses the following judicial powers :

(i) **To modify punishment** : He/She can grant pardon, reprieve or remission of punishment passed by any court, in three cases e.g.,

(a) in case of a sentence of death.

(b) where the punishment is given by a Court Martial and

(c) where the punishment is for an offence against the Union Law. It may be noted that to modify punishment is a matter of grace or mercy on the convict's appeal to the President. It is not a right of the convicted person. A pardon may be absolute as well as conditional.

(ii) **Power to consult the Supreme Court** : The President can seek legal advice of the Supreme Court on any question of law. It is bound to give its opinion on a point of law. Similarly, the President can refer a dispute between the Union and State or the State and a State to it, and the Supreme Court is bound to give its opinion. But the opinion of the Supreme Court is not binding on the President.

(iii) **No criminal proceedings against the President** : No criminal proceedings can be instituted against the President in any court of law during his/her term of office. The President is not answerable to any court for the exercise of his/her powers and duties of his/her office.

(5) **Military Powers** :

(i) The President is the *Supreme Commander of the Armed Forces of India*. In this capacity, he/she appoints the Chiefs of the Staff of the Army, Navy and the Air Force, and other defence services in accordance with the laws made by the Parliament.

(ii) As the Supreme Commander of the Armed Forces, he/she also has the power to declare war or to conclude peace with any foreign country on the advice of the Council of Ministers.

(6) **Diplomatic Powers** :

(i) As the Executive head of the Union, he/she appoints and sends Ambassadors, High Commissioners and other diplomatic envoys to foreign countries, and receives those from the foreign countries along with the letters of credence.

(ii) He/She also asks foreign diplomats to leave India by declaring them **persona non grata**, i.e., person not acceptable.

(iii) All international treaties and agreements are concluded by India on behalf of the President, and all these are subject to his/her final approval.

(iv) The President represents India in International Conferences.

Answer the following :

1. Mention the procedure for the impeachment of the President of India.
2. Give all the reasons for the indirect election of our President.
3. Regarding the powers and functions of the President of India, discuss the following :
 - i) Executive Powers.
 - ii) Legislative Powers.
 - iii) Diplomatic Powers.