

The Central Council of Ministers

- As the Constitution of India provides for a **parliamentary system of government** modelled on the British pattern, the **council of ministers headed by the prime minister is the real executive..**
- The **principles of the parliamentary system** of government are not detailed in the Constitution, but two **Articles (74 and 75)** deal with them in a broad, sketchy and general manner.

Article 74 deals with the status of the council of ministers i.e **Council of Ministers headed by PM to aid and advise President**

1. However, the President may require the Council of Ministers to **reconsider such advice** and the President shall act in accordance with the advice tendered after such reconsideration.
2. The **advice tendered by Ministers** to the President shall **not be inquired into in any court.**

Article 75-Other Provisions as to Ministers

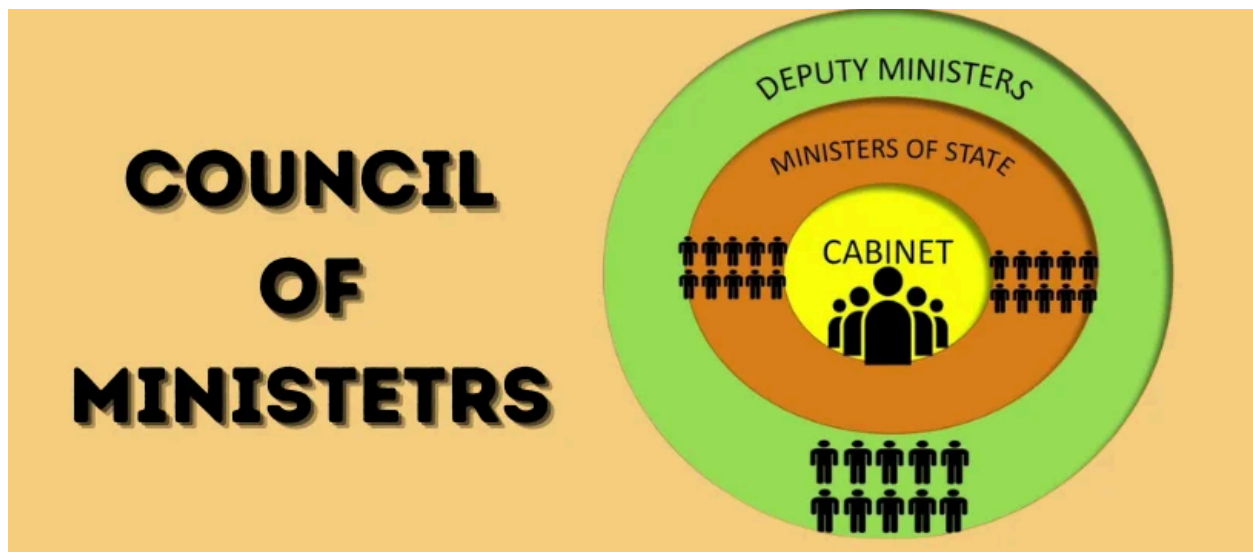
1. The **Prime Minister shall be appointed by the President** and the **other Ministers shall be appointed by the President on the advice of the Prime Minister.**
 2. The total number of ministers, including the Prime Minister, in the Council of Ministers **shall not exceed 15% of the total strength of the Lok Sabha.** This provision was added by the **91st Constitutional Amendment Act of 2003.**
- The ministers shall hold office during the **pleasure of the President.**
 - The council of ministers shall be **collectively responsible to the Lok Sabha.** |
 - The **President shall administer the oaths of office and secrecy to a minister as per 3rd schedule of the constitution.**
 - In **1990, the oath by Devi Lal as deputy prime minister** was challenged as being unconstitutional as the Constitution provides only for the Prime Minister and ministers. The **Supreme Court upheld the oath as valid and stated that describing a person as Deputy Prime Minister is descriptive only and such description does not confer on him any powers of Prime Minister.** It ruled that the description of a minister as Deputy Prime Minister or any other type of minister such as minister of state or deputy minister of which there is no mention in the Constitution does not vitiate the oath taken by him so long as
 - A minister who is not a member of the Parliament (either house) for a period of more than six consecutive months shall cease to be a minister. It means that any citizen of a nation can become a minister after fulfilling certain qualifications for **6 months without being a member of any house of parliament.**
 - The **salaries and allowances of ministers** shall be determined by the Parliament as per **2nd schedule of the constitution.**

The Rights of Ministers with Respect to the Houses

- Every minister as per **article 88** of the constitution shall have the right to speak and take part in the proceedings of either House, any joint sitting of the Houses and any Committee of Parliament of which he may be named a member. But he shall not be entitled to vote.

Certain Judicial Enactments with respect to Council of Ministers

- In 1971, the Supreme Court held that **'even after the dissolution of the Lok Sabha, the council of ministers does not cease to hold office**. Article 74 is mandatory and, therefore, the president cannot exercise the executive power without the aid and advice of the council of ministers. **Any exercise of executive power without the aid and advice will be unconstitutional as being violative of Article 74'**.
- Again in 1974, the court held that 'wherever the Constitution requires the satisfaction of the President, the satisfaction is **not the personal satisfaction of the President but it is the satisfaction of the council of ministers** with whose aid and on whose advice the President exercises his powers and functions'.



Responsibility of ministers

1. Collective Responsibility

- The **principle of collective responsibility** is fundamental in the working of Parliamentary democracy worldwide. In Indian context, the principle of collective responsibility means followings:

1. **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**.
 - When the Lok Sabha passes a **no-confidence motion against the council of ministers**, all the ministers have to resign including those ministers who are from the Rajya Sabha.
 2. The principle of collective responsibility also means that the **Cabinet decisions bind all cabinet ministers (and other ministers) even if they differed in the cabinet meeting**.
 3. If any minister disagrees with a cabinet decision and is not prepared to defend it, he must resign.
 4. Several ministers have resigned in the past owing to their differences with the cabinet. For example, **Dr. B.R. Ambedkar resigned** because of his differences with his colleagues on the **Hindu Code Bill in 1953**.
- In **Karnataka v UOI case (1978)**, the SC held that 'for each decision taken by the Cabinet, each one of ministers is responsible to the Legislature concerned'. The Principle of Collective responsibility is both salutary and necessary.
 - In **S P Anand, Indor v. H D Deve Gowda case**, the Supreme Court held that even though the PM is not a member of either House of the Parliament but when once he is appointed, he along with the Council of Ministers is responsible to the Legislature. It is the principle that governs the democratic process in Parliamentary democracy.
 - In **UN Rao v. Indira Gandhi(1971)**, the SC held that the principle of collective responsibility is in full operation as long as the Lok Sabha is not dissolved.

2. Individual responsibility

1. **Article 75 also contains the principle of individual responsibility**. It states that the ministers hold office **during the pleasure of the president**.
 - which means that the President can remove a minister **even at a time when the council of ministers enjoys the confidence of the Lok Sabha**. However, the President removes a minister only on the advice of the Prime Minister.
 - In case of a **difference of opinion or dissatisfaction with the performance of a minister**, the Prime Minister can ask him to resign or advise the President to dismiss him.
 - By exercising this power, the **Prime Minister can ensure the realisation of the rule of collective responsibility**.
2. **Art. 77 (3)** envisage distribution of Business of the government among several Ministers.
 - In **Sanjeevi v. State of Madras (1970)**, the Supreme Court defines individual responsibility in following words 'The Cabinet is responsible to the legislature for every action in any of the ministries. That is the essence of joint responsibility. Similarly, an individual minister is responsible to the legislature for every action taken or omitted by his ministry.

3. No Legal Responsibility

- In Britain, every **order of the King for any public act is countersigned by a minister**. If the order is in violation of any law, the minister would be held responsible and would be liable in the court.
- The legally accepted phrase in Britain is, **“The king can do no wrong.”** Hence, he cannot be sued in any court.
- In India, on the other hand, there is no provision in the Constitution for the system of legal responsibility of a minister.
- Moreover, the courts are barred from enquiring into the nature of advice rendered by the ministers to the president.

The Role of a Cabinet

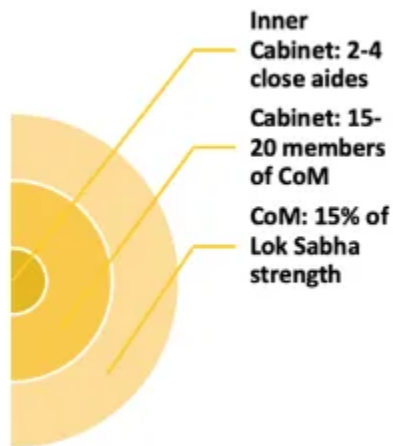
- It is the highest decision-making authority in our politico- administrative system.
- It is the chief policy formulating body of the Central government.
- It is the supreme executive authority of the Central government.
- It is chief coordinator of Central administration.
- It is an advisory body to the president and its advice is binding on him.
- It is the chief crisis manager and thus deals with all emergency situations.
- It deals with all major legislative and financial matters.
- It exercises control over higher appointments like constitutional authorities and senior secretariat administrators.

1. **Ramsay Muir:** “The Cabinet is the steering wheel of the ship of the state.”
2. **Lowell:** “The Cabinet is the keystone of the political arch”.
3. **Sir John Marriott:** “The Cabinet is the pivot around which the whole political machinery revolves”.

The Kitchen Cabinet

- The cabinet, a **small body consisting of the prime minister as its head and some 15 to 20 most important ministers**, is the highest decision-making body in the formal sense.
- However, a still smaller body called the **‘Inner Cabinet’ or ‘Kitchen Cabinet’** has become the real centre of power.
- This **informal body** consists of the Prime Minister and two to four influential colleagues in whom he has faith and with whom he can discuss every problem.
- It advises the prime minister on **important political and administrative issues and assists him in making crucial decisions**.
- It is composed of **not only cabinet ministers but also outsiders like friends and family members of the prime minister**.
- Every prime minister in India has had his ‘Inner Cabinet’-a circle within a circle. During the era of Indira Gandhi, the ‘Inner Cabinet’ which came to be called the ‘Kitchen Cabinet’ was particularly powerful.
- The prime ministers have resorted to the device of ‘inner cabinet’ (extra-constitutional body) due to its merits, namely.

1. It being a small unit, is a much more efficient decision-making body than a large cabinet.
 2. It can meet more often and deal with business much more expeditiously than the large cabinet.
 3. It helps the Prime Minister in maintaining secrecy in making decisions on important political issues.
- However, it has many demerits also.
 1. It reduces the authority and status of the cabinet as the highest decision-making body.
 2. It circumvents the legal process by allowing outside persons to play an influential role in the government functioning.
 - The phenomenon of '**kitchen cabinet**' (where decisions are cooked and placed before the cabinet for formal approval) is not unique to India. It also exists in the USA and Britain and is quite powerful in influencing government decisions there.



The Prime Minister

- In the scheme of parliamentary system, the **Prime Minister is the real executive** authority (de facto executive).
- In other words, the **president is the head of the State** while the Prime Minister is the head of the government. Also, the **PM is first among equals**.
- If the **council of ministers is the solar system**, then the **PM is the sun around which all ministers revolve**.

The Appointment Of The Prime Minister

- 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**. However, this does not imply that the president is free to appoint anyone as the Prime Minister.
- 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**.
- 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.
 1. 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.
 2. 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.
- In **1980, the Delhi High Court** held that the Constitution does not require that a person must prove his majority in the Lok Sabha before he is appointed as the Prime Minister.
- For example, Charan Singh (1979), V.P. Singh (1989), Chandrasekhar (1990), P.V. Narasimha Rao (1991), A.B. Vajpayee (1996), Deve Gowda (1996), I.K. Gujral (1997) and again A.B. Vajpayee (1998) was appointed as Prime Minister in this way.
- 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 lower house only.

The Powers And Functions Of The Prime Minister

The powers and functions of the Prime Minister can be studied under the following heads.

A In Relation to Council of Ministers

The Prime Minister enjoys the following powers **as head of the Union council of ministers**.

- He **recommends persons who can be appointed as ministers by the president**.
- He **allocates and reshuffles** various portfolios among the ministers.
- He **can ask a minister to resign or advise the President to dismiss** him in case of difference of opinion.
- He **presides over the meeting of the council of ministers** and influences its decisions.
- He **guides, directs, controls, and coordinates the activities of all the ministers**.
- He **can bring about the collapse of the council of ministers by resigning from office**. Since the Prime Minister stands at the head of the council of ministers, the other ministers cannot function when the Prime Minister resigns or dies. In other words, the resignation or death of an incumbent Prime Minister automatically dissolves the council of ministers and thereby generates a vacuum.

B In Relation to the President

The Prime Minister enjoys the following powers in relation to the President.

- He is the **principal channel of communication** between the President and the council of ministers.
- It is the duty of the prime minister **as per article 78 of the constitution**, to 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;
- to furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for; and
- 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.
- He advises the president with regard to the appointment of important officials like attorney general of India, Comptroller and Auditor General of India, chairman and members of the UPSC, election commissioners, chairman and members of the finance commission and so on.

C In Relation to Parliament

The Prime Minister is the leader of the Lower House. In this capacity, he enjoys the following powers.

- He advises the President with regard to summoning and proroguing of the sessions of the Parliament.
- He can recommend dissolution of the Lok Sabha to the President at any time.
- He announces government policies on the floor of the House.

D Other Powers & Functions

In addition to the above-mentioned three major roles, the Prime Minister has various other roles. These are.

- He is the chairman of the NITI Ayog (which succeeded the planning commission), National Integration Council, Interstate Council, National Water Resources Council and some other bodies.
- He plays a significant role in shaping the domestic and foreign policy of the country.
- He is the chief spokesman of the Union government.
- He is the crisis manager-in-chief at the political level during emergencies.
- As a leader of the nation, he meets various sections of people in different states and receives memoranda from them regarding their problems, and so on.
- He is the leader of the party in power.
- He is the political head of the services.

Thus, the Prime Minister plays a very significant and highly crucial role in the politico-administrative system of the country. Dr. B.R. Ambedkar stated, **'If any functionary under our constitution is to be compared with the US president, he is the Prime Minister and not the president of the Union'**.

Some important facts:

1. The **Chief Ministers Who Became Prime Ministers**
 - Six people-Morarji Desai, Charan Singh, V.P. Singh, P.V. Narasimha Rao, H.D. Deve Gowda and Narendra Modi-became Prime Ministers after being Chief Ministers of their respective States.
2. **Morarji Desai**, Chief Minister of the erstwhile Bombay State during 1952-56, became the **first non-Congress Prime Minister in March 1977**.
3. **P.V. Narasimha Rao**, the **first Prime Minister from South India**, who held the post from 1991-1996, was Chief Minister of Andhra Pradesh between 1971-1973.

The Cabinet Committees

- The Union cabinet committees are generally defined as **groups of members of cabinet**.

The Features Of Cabinet Committees

1. They are extra-constitutional in emergence. In other words, they are not mentioned in the Constitution. However, the **Rules of Business** provide for their establishment.
2. They are of **two types-standing and ad hoc**. The former are of a **permanent nature** while the latter are of a temporary nature. The ad hoc committees are constituted from time to time to deal with special problems. They are disbanded after their task is completed.
3. They are **set up by the Prime Minister** according to the exigencies of the time and requirements of the situation. Hence, their number, nomenclature, and composition varies from time to time.
4. Their **membership varies from three to eight**.
5. They **usually include only Cabinet Ministers**. However, the non-cabinet Ministers are not debarred from their membership.
6. They are **mostly headed by the Prime Minister**. Sometimes other Cabinet Ministers, particularly the Home Minister or the Finance Minister, also acts as their Chairman.
7. But, **in case the Prime Minister is a member of a committee**, he invariably presides over it.
8. They **not only sort out issues and formulate proposals for the consideration of the Cabinet**, but also take decisions. However, the **Cabinet can review their decisions**.
9. They are an **organisational device to reduce the enormous workload of the Cabinet**.
10. They also facilitate **in-depth examination of policy issues and effective coordination**. They are based on the principles of division of labour and effective delegation.

The Present Number of Cabinet Committees

At present (2019), the following 8 Cabinet Committees are functional.

1. **Cabinet Committee on Political Affairs:**The Political Affairs Committee deals with all policy matters pertaining to domestic and foreign affairs. It is the most powerful cabinet committee often described as a **“super cabinet”**.

2. **Cabinet Committee on Economic Affairs:** directs and coordinates the governmental activities in the economic sphere.
3. **Appointments Committee of the Cabinet:** Appointments Committee decides all higher-level appointments in the Central Secretariat, Public Enterprises, Banks and Financial Institutions.
4. **Cabinet Committee on Security:**
5. **Cabinet Committee on Parliamentary Affairs:** Parliamentary Affairs Committee looks after the progress of government business in the Parliament.
6. **Cabinet Committee on Accommodation:**
7. **Cabinet Committee on Investment and Growth:**
8. **Cabinet Committee on Employment and Skill Development:**