Prime Minister & Council of Ministers - Power & Function of Prime Minister

**INTRODUCTION**- Article 75 of the Indian Constitution mentions that a Prime Minister is one who is appointed by the President. There is no specific procedure for his election or appointment. Article 74(1) states that there shall be a Council of Ministers with a Prime Minister at the head to aid and advise the President. Thus, the Indian Constitution itself recognizes a Council of Ministers., This article will mention in detail about Prime Minister and Council of Ministers who form an important part of the Union Executive.

## Is Prime Minister of India elected or appointed?

President of India appoints a person as the Prime Minister who is either the leader of the party which holds a majority of seats in the Lok Sabha or is a person who is able to win the confidence of the Lok Sabha by gaining the support of other political parties. All other ministers are appointed by the [President](https://byjus.com/free-ias-prep/president/) on the advice of the Prime Minister.

**Note**: President can also appoint Prime Minister on his own discretion but only when no party has a clear majority in the Lok Sabha.

## Power and Function of Prime Minister

Prime Minister of India serves the country by following various functions. He performs his functions taking responsibilities as:

* **The leader of Country:**The Prime Minister of India is the Head of the Government of India.
* **Portfolio allocation:**The Prime Minister has the authority to assign portfolios to the Ministers.
* **Chairman of the Cabinet:**The Prime Minister is the chairman of the cabinet and presides the meetings of the Cabinet. He can impose his decision if there is a crucial opinion difference among the members.
* **Official Representative of the country:**Prime minister represents the country for high-level international meetings
* **The link between the President and the Cabinet:**The Prime Minister acts as the link between President and cabinet. He communicates all decisions of the Cabinet to the President which is related to the administration of the affairs of the Union and proposals for legislation.
* **Head:**The Prime Minister is the head of Nuclear Command Authority, NITI Aayog, Appointments Committee of the Cabinet, Department of Atomic Energy, Department of Space and Ministry of Personnel, Public Grievances and Pensions.
* **Chief Advisor:**He acts as the chief advisor to the President

Like Prime Minister is the head of Union Parliament, the Chief Minister is the head of state parliament. Read more about the [Chief Minister & Council of Ministers](https://byjus.com/free-ias-prep/chief-minister-and-council-of-ministers/) in the linked article

### Executive powers

The prime minister leads the functioning and exercise of authority of the government of India. The president of India—subject to eligibility—invites a person who is commanding support of majority members of Lok Sabha to form the [government of India](https://en.wikipedia.org/wiki/Government_of_India)—also known as the central government or Union government—at the national level and exercise its powers.[[66]](https://en.wikipedia.org/wiki/Prime_Minister_of_India#cite_note-67) In practice the prime minister nominates the members of their [council of ministers](https://en.wikipedia.org/wiki/Union_Council_of_Ministers) to the president.[[67]](https://en.wikipedia.org/wiki/Prime_Minister_of_India#cite_note-cabinet-68)[[68]](https://en.wikipedia.org/wiki/Prime_Minister_of_India#cite_note-69)[[69]](https://en.wikipedia.org/wiki/Prime_Minister_of_India#cite_note-70) They also work upon to decide a core group of ministers (known as the cabinet),[[67]](https://en.wikipedia.org/wiki/Prime_Minister_of_India#cite_note-cabinet-68) as in charge of the important functions and ministries of the [government of India](https://en.wikipedia.org/wiki/Government_of_India).

The prime minister is responsible for aiding and advising the president in distribution of work of the government to various ministries and offices and in terms of the *Government of India (Allocation of Business) Rules, 1961*.[[70]](https://en.wikipedia.org/wiki/Prime_Minister_of_India#cite_note-71) The co-ordinating work is generally allocated to the [Cabinet Secretariat](https://en.wikipedia.org/wiki/Cabinet_Secretariat_%28India%29).[[71]](https://en.wikipedia.org/wiki/Prime_Minister_of_India#cite_note-72) While the work of the government is generally divided into various Ministries, the prime minister may retain certain portfolios if they are not allocated to any member of the cabinet.

The prime minister—in consultation with the cabinet—schedules and attends the sessions of the houses of parliament and is required to answer the question from the Members of Parliament to them as the in-charge of the portfolios in the capacity as prime minister of India.[[72]](https://en.wikipedia.org/wiki/Prime_Minister_of_India#cite_note-73)

Some specific ministries/department are not allocated to anyone in the cabinet but the prime minister themself. The prime minister is usually always in charge/head of:

* [Ministry of Personnel, Public Grievances and Pensions](https://en.wikipedia.org/wiki/Ministry_of_Personnel%2C_Public_Grievances_and_Pensions) (as [Minister of Personnel, Public Grievances and Pensions](https://en.wikipedia.org/wiki/Minister_of_Personnel%2C_Public_Grievances_and_Pensions))
* [Cabinet Secretariat](https://en.wikipedia.org/wiki/Cabinet_Secretariat_%28India%29)
* [Appointments Committee of the Cabinet](https://en.wikipedia.org/wiki/Appointments_Committee_of_the_Cabinet)
* [Cabinet Committee on Security](https://en.wikipedia.org/wiki/Cabinet_Committee_on_Security)
* [Cabinet Committee on Economic Affairs](https://en.wikipedia.org/w/index.php?title=Cabinet_Committee_on_Economic_Affairs&action=edit&redlink=1)
* [NITI Aayog](https://en.wikipedia.org/wiki/NITI_Aayog)
* [Department of Atomic Energy](https://en.wikipedia.org/wiki/Department_of_Atomic_Energy)
* [Department of Space](https://en.wikipedia.org/wiki/Department_of_Space)
* [Nuclear Command Authority](https://en.wikipedia.org/wiki/Nuclear_Command_Authority_%28India%29)

The prime minister represents the country in various delegations, high level meetings and international organisations that require the attendance of the highest government office,[[73]](https://en.wikipedia.org/wiki/Prime_Minister_of_India%22%20%5Cl%20%22cite_note-74) and also addresses to the nation on various issues of national or other importance.[[74]](https://en.wikipedia.org/wiki/Prime_Minister_of_India#cite_note-75)

Per [Article 78](https://en.wikisource.org/wiki/Constitution_of_India/Part_V) of the constitution, the official communication between the union cabinet and the president are through the prime minister. Other wise constitution recognises the prime minister as a member of the union cabinet only outside the sphere of union cabinet.

#### Administrative and appointment powers

The prime minister recommends to the president—among others—names for the appointment of:

* [Chief Election Commissioner of India](https://en.wikipedia.org/wiki/Chief_Election_Commissioner_of_India) (CEC) and other [Election Commissioners of India](https://en.wikipedia.org/wiki/Election_Commissioners_of_India) (ECs)
* [Comptroller and Auditor General of India](https://en.wikipedia.org/wiki/Comptroller_and_Auditor_General_of_India) (C&AG)
* Chairperson and members of the [Union Public Service Commission](https://en.wikipedia.org/wiki/Union_Public_Service_Commission) (UPSC)
* [Chief Information Commissioner of India](https://en.wikipedia.org/wiki/Chief_Information_Commissioner_of_India) (CIC) and [Information Commissioners of India](https://en.wikipedia.org/wiki/Information_Commissioner_of_India)
* Chairperson and members of the [finance commission](https://en.wikipedia.org/wiki/Finance_commission) (FC)
* [Attorney General of India](https://en.wikipedia.org/wiki/Attorney_General_of_India) (AG) and [Solicitor General of India](https://en.wikipedia.org/wiki/Solicitor_General_of_India) (SG)

As the chairperson of [Appointments Committee of the Cabinet](https://en.wikipedia.org/wiki/Appointments_Committee_of_the_Cabinet) (ACC), the prime minister—on the non-binding advice of the [Cabinet Secretary of India](https://en.wikipedia.org/wiki/Cabinet_Secretary_of_India) led-Senior Selection Board (SSB)—decides the postings of top civil servants, such as, [secretaries](https://en.wikipedia.org/wiki/Secretary_to_Government_of_India), [additional secretaries](https://en.wikipedia.org/wiki/Additional_secretary_to_Government_of_India) and joint secretaries in the government of India.[[75]](https://en.wikipedia.org/wiki/Prime_Minister_of_India#cite_note-Governance_in_India2-76)[[76]](https://en.wikipedia.org/wiki/Prime_Minister_of_India#cite_note-:12-77)[[77]](https://en.wikipedia.org/wiki/Prime_Minister_of_India#cite_note-:22-78) Further, in the same capacity, the PM decides the assignments of top military personnel such as the [Chief of the Army Staff](https://en.wikipedia.org/wiki/Chief_of_the_Army_Staff_%28India%29), [Chief of the Air Staff](https://en.wikipedia.org/wiki/Chief_of_the_Air_Staff_%28India%29), [Chief of the Naval Staff](https://en.wikipedia.org/wiki/Chief_of_the_Naval_Staff_%28India%29) and commanders of operational and training commands.[[78]](https://en.wikipedia.org/wiki/Prime_Minister_of_India#cite_note-79) In addition, the ACC also decides the posting of [Indian Police Service](https://en.wikipedia.org/wiki/Indian_Police_Service) officers—the [All India Service](https://en.wikipedia.org/wiki/All_India_Services) for policing, which staffs most of the higher level law enforcement positions at federal and state level—in the [government of India](https://en.wikipedia.org/wiki/Government_of_India).

Also, as the [Minister of Personnel, Public Grievances and Pensions](https://en.wikipedia.org/wiki/Minister_of_Personnel%2C_Public_Grievances_and_Pensions), the PM also exercises control over the [Indian Administrative Service](https://en.wikipedia.org/wiki/Indian_Administrative_Service) (IAS),[[79]](https://en.wikipedia.org/wiki/Prime_Minister_of_India#cite_note-Governance_in_India-80) the country's premier civil service,[[80]](https://en.wikipedia.org/wiki/Prime_Minister_of_India#cite_note-Profile_IAS-81)[[81]](https://en.wikipedia.org/wiki/Prime_Minister_of_India#cite_note-:19-82) which staffs most of the senior civil service positions;[[80]](https://en.wikipedia.org/wiki/Prime_Minister_of_India#cite_note-Profile_IAS-81)[[81]](https://en.wikipedia.org/wiki/Prime_Minister_of_India#cite_note-:19-82) the Public Enterprises Selection Board (PESB);[[82]](https://en.wikipedia.org/wiki/Prime_Minister_of_India#cite_note-Governance_in_India23-83)[[83]](https://en.wikipedia.org/wiki/Prime_Minister_of_India#cite_note-:6-84) and the [Central Bureau of Investigation](https://en.wikipedia.org/wiki/Central_Bureau_of_Investigation) (CBI),[[82]](https://en.wikipedia.org/wiki/Prime_Minister_of_India#cite_note-Governance_in_India23-83)[[83]](https://en.wikipedia.org/wiki/Prime_Minister_of_India#cite_note-:6-84) except for the selection of its director, who is chosen by a committee of: (a) the prime minister, as chairperson; (b) the [leader of the opposition](https://en.wikipedia.org/wiki/Leader_of_the_Opposition_%28India%29) in Lok Sabha; and (c) the [chief justice](https://en.wikipedia.org/wiki/Chief_Justice_of_India).[[84]](https://en.wikipedia.org/wiki/Prime_Minister_of_India#cite_note-85)

Unlike most other countries, the prime minister does not have much influence over the selection of judges, that is done by a collegium of judges consisting of the [Chief Justice of India](https://en.wikipedia.org/wiki/Chief_Justice_of_India), four senior most [judges](https://en.wikipedia.org/wiki/List_of_sitting_judges_of_the_Supreme_Court_of_India) of the [Supreme Court of India](https://en.wikipedia.org/wiki/Supreme_Court_of_India) and the [chief justice](https://en.wikipedia.org/wiki/List_of_current_Indian_chief_justices)—or the senior-most judge—of the concerned [state high court](https://en.wikipedia.org/wiki/List_of_high_courts_in_India).[[85]](https://en.wikipedia.org/wiki/Prime_Minister_of_India#cite_note-Where_Angles_Fear_to_Tread-86)[[86]](https://en.wikipedia.org/wiki/Prime_Minister_of_India#cite_note-87) The executive as a whole, however, has the right to send back a recommended name to the collegium for reconsideration,[[87]](https://en.wikipedia.org/wiki/Prime_Minister_of_India#cite_note-88) this, however, is not a full Veto power, and the collegium can still put forward rejected name.[[88]](https://en.wikipedia.org/wiki/Prime_Minister_of_India#cite_note-89)[[89]](https://en.wikipedia.org/wiki/Prime_Minister_of_India#cite_note-90)

### Legislative powers

The prime minister acts as the leader of the house of the chamber of parliament—generally the [Lok Sabha](https://en.wikipedia.org/wiki/Lok_Sabha%22%20%5Co%20%22Lok%20Sabha)—he/she belongs to. In this role, the prime minister is tasked with representing the executive in the legislature, he/she is also expected to announce important legislation, and is further expected to respond to the [opposition's](https://en.wikipedia.org/wiki/Official_Opposition_%28India%29) concerns.[[90]](https://en.wikipedia.org/wiki/Prime_Minister_of_India#cite_note-91) Article 85 of the [Indian constitution](https://en.wikipedia.org/wiki/Constitution_of_India) confers the president with the power to convene and end extraordinary sessions of the parliament, this power, however, is exercised only on the advise of the prime minister and his/her council, so, in practice, the prime minister does exercise some control over affairs of the parliamen

### Who is eligible to be a Prime Minister?

To become an Indian prime minister one has to be

* A citizen of India.
* A member of either Rajya Sabha or Lok Sabha
* He should have completed his 30 years if he is a member of the Rajya Sabha or can be 25 years of age if he is a member of the Lok Sabha

### Position of the Prime Minister

Right from the days of the first Prime Minister Pandit Jawaharlal Nehru, the Prime Minister is treated at a much higher pedestal. His preeminence rests on his commanding position in the Cabinet, coupled with fact that he is the leader of the majority party.

During the period of the Congress rule, the Prime Minister was usually the President of his party and the major campaigner in the elections. All these positions of power when combined in one person make him rank much above an ordinary Minister. The death or resignation of the Prime Minister automatically brings about the dissolution of the Council of Ministers. It generates a vacuum. The demise, resignation or dismissal of a Minister creates only a vacancy which the Prime Minister may or may not like to fill. The Government cannot function without a Prime Minister but the absence of a Minister is easily tolerated and compensated.

### Relationship between the Prime Minister and the President of India

There are a few articles in the Indian Constitution that deal with the relationship both Prime Minister and the President share with each other. The articles are:

* Article 74
* Article 75
* Article 78

|  |  |
| --- | --- |
| **Articles** | **Relationship between Prime Minister and the President** |
|  74 | Mentions how Prime Minister and President are both connected with council of ministers. The Council with PM as head advise President on various issues. |
| 75 | Mentions three things:* President appoints PM and other ministers are appointed by the President on the advice of the PM.
* Ministers hold their office during the pleasure of the President.
* Council of Ministers is collectively responsible to the Lok Sabha.
 |
| 78 | PM communicates all decisions made by the council of members to the President. President can also refer issues for the consideration of the council of members. |

### Facts about Indian Prime Ministers for UPSC

Aspirants may like to read a few facts about Prime Ministers which can come useful in [UPSC 2020](https://byjus.com/free-ias-prep/upsc-2020/) while writing answers in UPSC Mains. The facts are given in the table below:

|  |  |
| --- | --- |
| Longest-Serving Indian Prime Minister | Jawaharlal Nehru (1947 – 1964) |
| Second Longest-Serving Indian Prime Minister | Dr. Manmohan Singh |
| Acting Prime Minister Twice | Gulzari Lal Nanda |
| The first woman Prime Minister to receive the Bharat Ratna | Indira Gandhi |
| First Non-Congress Prime Minister of India | Morarji Desai |
| Indian Prime Minister received Pakistan’s highest civilian award | Morarji Desai |
| Youngest Indian Prime Minister | Rajiv Gandhi |
| First Prime Minister from South India | P.V. Narasimha Rao |
| First Prime Minister of India who was a member of the Rajya Sabha | H.D. Deve Gowda |

## Council of Ministers

### Which articles in the Constitution deal with the Council of Ministers?

Two articles – Article 74 and Article 75 of the Indian Constitution deal with the Council of Ministers. Where article 74 mentions that the council will be headed by the Prime Minister of India and will aid and advise the President, article 75 mentions the following things:

* They are appointed by the President on the advice of Prime Minister
* They along with the Prime Minister of India form 15% of the total strength of the lower house i.e. Lok Sabha. (The number cannot exceed 15%)
* 91st Amendment Act provided for the disqualification of the minister when he stands disqualified as a member of Parliament. ([Difference between Lok Sabha and Rajya Sabha](https://byjus.com/free-ias-prep/difference-lok-sabha-rajya-sabha/) can be referred to in the linked article.)
* A Minister ceased to exist as one if he is not a member of either house of Parliament for six consecutive months.
* Parliament decides the salary and allowances of the council of ministers.

### Is the advice tendered by the Council of Ministers’ binding on the President?

Yes, the advice is binding on the President and this provision was introduced by the 42nd Amendment Act 1976 and 44th Amendment Act 1978. The acts also mentioned that the advice given by the council cannot be inquired into by any court. Read about the 42nd Amendment Act and the 44th Amendment Act in the linked articles given below:

* [42nd Amendment Act](https://byjus.com/free-ias-prep/42nd-amendment-act/)
* [44th Amendment Act](https://byjus.com/free-ias-prep/44th-amendment-act/)

### Collective Responsibility of the Council of Ministers

In England, the Cabinet system is based on conventions. The framers of our Constitution considered it fit to incorporate the system in the Constitution. The principle of collective responsibility finds a place in Art. 75(3) where it is stated that the Council of Ministers shall be collectively responsible to the Lok Sabha. In other words, this provision means that a Ministry which loses confidence in the Lok Sabha is obliged to resign. The loss of confidence is expressed by rejecting a Money Bill or Finance Bill or any other important policy measure or by passing a motion of no-confidence or rejecting a motion expressing confidence in the Ministry. When a Ministry loses the confidence of the Lok Sabha the whole of the Ministry has to resign including those Ministers who are from the Rajya Sabha. The Ministers fall and stand together. In certain cases, the Ministry may advise the President to dissolve Lok Sabha and call for fresh elections.

### Types of Ministers

The Indian Constitution does not categorize ministers into ranks, however, in practice seen in India, ministers are of four types:

1. **Cabinet Ministers—**He is present and he participates in every meeting of the Cabinet.
2. **Minister of State with independent charge—**He is a Minister of State who does not work under a Cabinet Minister. When any matter concerning his Department is on the agenda of the Cabinet, he is invited to attend the meeting.
3. **Minister of State—**He is a Minister who does not have independent charge of any Department and works under a Cabinet Minister. The work to such Minister is allotted by his Cabinet Minister.
4. **Deputy Minister—**He is a Minister who works under a Cabinet Minister or a Minister of State with independent charge. His work is allotted by the Minister under whom he is working.