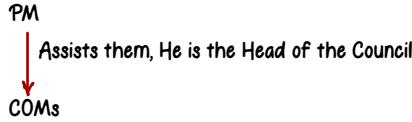


# PRIME MINISTER AND Council of Ministers, Governor



- Part V: The PM + COMs
- Part VI: The Governor

**PRIME MINISTER**



Classification of different ministers → not mentioned in the Constitution



\* The full term of the PM is five years, which coincides with normal life of Lok Sabha. However, if he/she loses the confidence of Lok Sabha, he/she must resign, or the President can dismiss him/her.

PM of India is Chairman of:

- NITI AAYOG
- Interstate Council
- NDC (not in existence now)
- National Disaster Management Authority

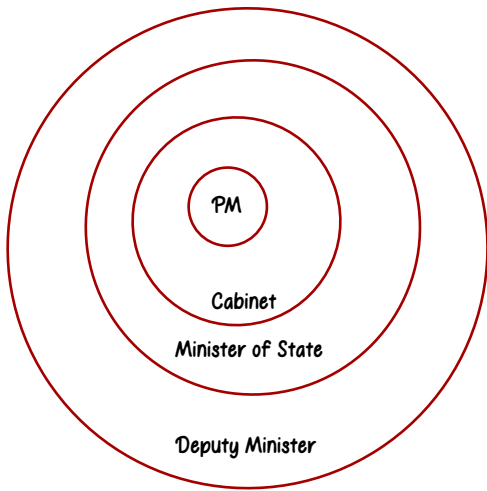
**Art 74: Council of Ministers to aid and advise President**

1 There shall be a Council of Ministers with the PM at the head to aid and advise the President who shall, in the exercise of his functions, act in accordance with the advice

Provided that the President may require the COMs to reconsider such advice, either generally, or otherwise, and the President shall act in accordance with the advice standard after such reconsideration — 44th CA

- The PM: Real Head/de facto/Head of Govt.
- The President: Nominal Head/de jure head/Head of the country/Elected head





Art 352 (3)

'Cabinet'

44 CA 1978

Not originally mentioned in the Constitution

- 2 The question, whether any, and if so, what, advice was standard by ministers to the President, not be enquired into any court

#### Art 75: Other provisions as to Ministers

- 1 Appointing authority  
PM appointed by President  
COMs appointed by President (on advice of the PM)  
Head of any party in majority in LS
- 1A 91st CA  
COMs + PM strength shall not increase by 15% (total number of members of the House of the People)
- 1B 91st CA  
If any member disqualifies on the grounds of deflection — They cannot become Minister
- 2 Ministers are individually responsible to the President
- 3 COMs are collectively responsible to the House of the People (LS)
- 4 Oath of Ministers administered by the President
- 5 A Minister who for any period of 6 consecutive months is not a member of either House of the Parliament, shall at the expiration of that period cease to become a minister  
\* PM can be a member of either House of the Parliament (RS/LS)
- 6 Salaries and Allowances → Decided by Parliament



COMs — Resign/Death/Removed

PM — Death/Resigns

Vacancy is created

COMs is dissolved  
Another party leader becomes the PM

Ex: Nehru died in 1964 (longest served PM: 16 years 286 days)

Gulzarilal Nanda became the PM (senior most)

13 days later

Lal Bahadur Shastri became the PM

Death

Gulzarilal Nanda (again PM for 13 days)

Indira Gandhi (next PM)

No confidence motion raised against him

• Atal Bihari Vajpayee has served a term of 13 days as PM

• Leader: Monitor

• Presiding Officer: Class Teacher

Lok Sabha

Indira Gandhi

HD Devegowda

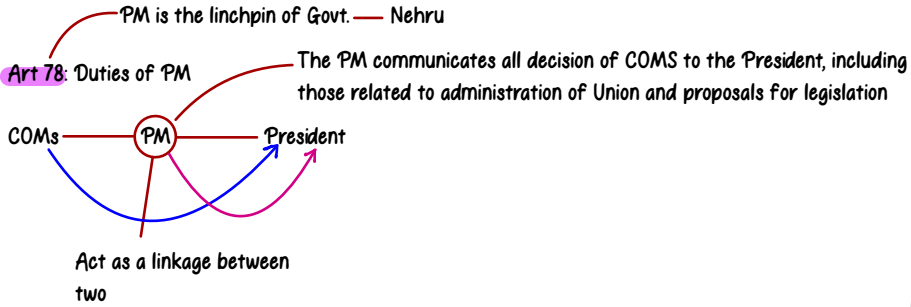
Manmohan Singh

He became the PM of India without becoming a Union Cabinet Minister

RS members (only 3 till now)

**Art 77:** Conduct of business of Govt. of India

- 1 On executive actions of GOI shall be expressed to be taken in the name of the President
- 2 Orders and other instruments made and executed in the name of the President shall be authenticated in such manner as may be specified in rules to be made by the President
- 3 The President shall make rules for more convenient transaction of the business of GOI and for allocation among Ministers of said business



The first Indian PM to resign from office: Morji Desai

“Collective responsibility can be achieved only through the instrumentality of the Prime Minister” said by: Dr B R Ambedkar

### COUNCIL OF MINISTERS (in State Legislature)

The Governor's decision in their discretion are final, and the validity of anything done by the governor will not be called in question on the ground that they ought or ought not to have acted in the discussion

**Art 163:** COMs to aid and advise Governor

- 1 — There shall be a Council of Ministers with the Chief Minister at the head to aid and advise the Governor who shall, in the exercise of his functions, act in accordance with the advice
- 3 — The question, whether any, and if so, what, advice was standard by Ministers to the Governor, not be enquired into any court

**Art 164:** Other provisions as to Ministers

- 1 — Appointing authority
  - Chief Minister appointed by the Governor
  - COMs appointed by Governor (on advice of the CM)

Shall hold office during the pleasure of the Governor
- 1A — 91st CA
  - COMs + CM strength shall not increase by 15% (total number of members of Legislative Assembly of the State)

Maximum limit

Minimum limit: 12 members in LA only
- 1B — If any member disqualifies on the grounds of deflection — They cannot become Minister

- 2 — COMs shall be collectively responsible to the LA of the state
- 3 — Oath of Ministers administered by the Governor
- 4 — A Minister who for any period of 6 consecutive months is not a member of LA of the State, shall at the expiration of that period cease to become a minister
- 5 — Salaries and Allowances — Determined by Parliament

**Art 165:** Establishes the office of Advocate General for each state, who is the state's highest law officer and is appointed by the Governor of each state

**Art 167:** Duties of COMs as respects, the furnishing of information to Governor, etc.

- a — To communicate to the Governor of the State, all decisions of COMs relating to administration of the affairs of state and proposals for legislation
- b — To furnish such information relating to the administration of the affairs of the state and proposals for legislation as the Governor may call for; and
- c — If the Governor so requires, to submit for the consideration of the COMs, any matter on which a decision has been taken by a Minister, but which has not been considered by the council

### GOVERNOR

**Part VI:** State Executive

**Art 153:** There shall be Governor of the State

**Art 154:** Executive power of the State

**Art 155:** Appointment of Governor by the President

**Art 156:** Term of Governor — 5 yrs (serves until the pleasure of the President)

**Art 157:** Qualification of Governor

- Citizen of India
- 35 yrs of age

- Titular Head of the State
- Nominee of Central Govt./Agent of the Central Govt.
- **Supreme Court:** Governor of a State is not employment under Central Govt.
- Entitled to such emoluments — as decided by Parliament

\* Any person can be appointed as Governor of two or more States — 7th CA 1956

**Art 158:** Condition of Governor's Office

Provisions same as President

**Art 159:** Oath by Chief Justice of High Court

\* No removal of Governor (serves until the pleasure of President)

**Art 160:** Discharge of functions of Governor in some exigencies

**Art 161:** Pardoning power of Governor

**Art 162:** Extent of executive power of the State

- Raising of National Flag at Red Fort on Independence Day by: Prime Minister
- On 26 Jan-Republic Day, the flag is unfurled by the President of India
- Green Ministry: Ministry of New and Renewable Energy
- The first woman to become PM of a country (in the World): Sirimavo Bhandharnaike in 1975 (Sri Lanka)
- The first Foreign Minister of free India: J L Nehru



Only female in first cabinet that was formed

- The first woman, Governor of a state in free India: Sarojini Naidu