

Introduction to Democratic Institutions and Policy Making

Overview of Democratic Institutions

Democracy extends beyond merely electing rulers; it necessitates that these rulers adhere to specific rules and procedures, operating within established institutions. This foundational principle is explored by examining how major decisions are made, implemented, and how disputes are resolved within a democratic framework. Key institutions involved in these processes include the legislature, executive, and judiciary. The primary objective is to understand their interconnected functions in carrying out governmental work, often drawing comparisons with similar institutions in other democracies. The examples provided focus on the national-level government, also known as the Central Government, Union Government, or Government of India.

The Process of Taking a Major Policy Decision: The Mandal Commission Example

To illustrate how major policy decisions are taken, the text details the case of a significant Government Order issued on August 13, 1990. This order, known as Office Memorandum (O. M. No. 36012/31/90-Est (SCT)), announced a policy decision to reserve 27 percent of vacancies in civil posts and services under the Government of India for Socially and Educationally Backward Classes (SEBC). This introduced a new category for job reservation, previously only available to Scheduled Castes and Scheduled Tribes.

Decision Makers and Their Roles:

While a Joint Secretary signed the Office Memorandum, such a significant decision involved several key functionaries:

- **President:** As the head of the state, the President holds the highest formal authority.
- **Prime Minister:** The head of the government, the Prime Minister exercises most governmental powers and makes decisions in Cabinet meetings.
- **Parliament:** Comprising the President and two Houses (Lok Sabha and Rajya Sabha), the Prime Minister must maintain the support of a majority in the Lok Sabha.

Chain of Events Leading to the Decision:

- 1. Mandal Commission Appointment:** In 1979, the Government of India appointed the Second Backward Classes Commission, headed by B.P. Mandal. Its mandate was to identify socially and educationally backward classes and recommend measures for their advancement.
- 2. Commission's Report:** The Mandal Commission submitted its report in 1980, recommending, among other things, a 27 percent reservation of government jobs for SEBCs.
- 3. Parliamentary Discussion and Political Promise:** The report was debated in Parliament for several years. In its 1989 Lok Sabha election manifesto, the Janata Dal promised to implement the Mandal Commission report if voted to power.
- 4. Government Formation and Implementation:** After the Janata Dal formed the government, with V.P. Singh as Prime Minister, the process of implementation began.
 - The President of India formally announced the government's intention to implement the recommendations to Parliament.
 - On August 6, 1990, the Union Cabinet formally decided to implement the recommendations.
 - The following day, Prime Minister V.P. Singh informed Parliament of this decision.
 - The Cabinet's decision was then sent to the Department of Personnel and Training, where senior officers drafted the order, secured the minister's approval, and an officer signed it on behalf of the Union Government, leading to the issuance of the Office Memorandum on August 13, 1990.

Public Reaction and Dispute Resolution:

The decision sparked widespread debate, protests, and counter-protests across the country due to its impact on job opportunities. Some argued it was necessary to address existing inequalities and provide fair opportunities to underrepresented communities, while others contended it was unfair, denying equality of opportunity to those not belonging to backward communities and potentially perpetuating caste feelings.

The dispute was ultimately resolved by the Supreme Court of India. Numerous cases challenging the order were filed, which the Supreme Court consolidated into the 'Indira Sawhney and others Vs Union of India case'. In 1992, an eleven-judge bench of the Supreme Court, by a majority, declared the government's order valid. However, it also directed the government to modify the order to exclude well-to-do individuals from backward classes from receiving reservation benefits. Consequently, the Department of Personnel and Training issued

another Office Memorandum on September 8, 1993, incorporating this modification, thereby bringing the dispute to a close.

The Need for Political Institutions

Governing a country involves a multitude of activities, such as ensuring citizen security, providing education and health facilities, collecting taxes, and implementing welfare schemes. These tasks require a structured approach where specific individuals or bodies are responsible for decision-making, implementation, and dispute resolution. It is crucial for clarity on responsibilities and for these governmental functions to continue seamlessly, even with changes in leadership.

Modern democracies establish various arrangements, known as institutions, to manage these tasks. A democracy functions effectively when these institutions perform their assigned roles. The Constitution of any country outlines the fundamental rules governing the powers and functions of each institution. As seen in the reservation example:

- The **Prime Minister and the Cabinet** are institutions responsible for major policy decisions.
- **Civil Servants** implement the ministers' decisions.
- The **Supreme Court** resolves disputes between citizens and the government.

While working with institutions can sometimes be frustrating due to rules, regulations, meetings, and potential delays, these complexities are vital for democracy. They ensure that a wider range of people are consulted in decision-making, promoting transparency and accountability, and ultimately making the government's functioning more democratic. The delays and complications serve a useful purpose by allowing for thorough deliberation and broader input.

The Parliament: Structure, Functions, and Powers

In all democracies, an assembly of elected representatives exercises supreme political authority on behalf of the people. In India, this national assembly is called Parliament, while at the state level, it is known as the Legislature or Legislative Assembly. Though names vary, such an assembly is fundamental to every democracy.

Why Do We Need a Parliament?

Parliament exercises political authority in several critical ways:

- 1. Final Authority for Law Making:** Parliament is the ultimate body for creating laws in any country. This crucial task, known as legislation, is why these assemblies are often called legislatures. Parliaments globally can introduce new laws, modify existing ones, or repeal old laws and replace them with new legislation.
- 2. Control Over Government:** Parliaments exert control over those who govern. In countries like India, this control is direct and comprehensive. The government can only make decisions and remain in power as long as it retains the support of Parliament. As seen in the example of the Office Memorandum, even if a decision isn't directly taken by Parliament, parliamentary discussions can significantly influence and shape government decisions, exerting pressure and preventing the government from proceeding without its favor.
- 3. Control Over Public Finance:** Parliaments control all government finances. In most nations, public funds can only be spent after Parliament has sanctioned it.
- 4. Highest Forum for Discussion and Debate:** Parliament serves as the supreme platform for discussion and debate on public issues and national policy. It possesses the authority to seek information on any matter.

Two Houses of Parliament

Modern democracies, especially in large countries, often divide the roles and powers of Parliament into two parts, known as Chambers or Houses. Typically, one House is directly elected by the people and wields real power, while the second House is usually indirectly elected and performs specialized functions, often representing the interests of various states, regions, or federal units.

In India, Parliament comprises two Houses:

- **The Council of States (Rajya Sabha)**
- **The House of the People (Lok Sabha)**

The President of India is an integral part of Parliament, even though they are not a member of either House. Consequently, all laws passed by the Houses only come into force after receiving the President's assent.

Powers of the Two Houses: Lok Sabha vs. Rajya Sabha

While the Rajya Sabha is sometimes referred to as the 'Upper Chamber' and the Lok Sabha as the 'Lower Chamber,' this terminology is an old style of speaking and does not imply that the Rajya Sabha is more powerful. Our Constitution grants the Rajya Sabha some specific powers concerning the states, but on most matters, the Lok Sabha holds supreme power. Here's how:

1. **Ordinary Law Making:** Any ordinary law requires passage by both Houses. If a disagreement arises, a joint session is convened where members of both Houses deliberate together. Due to its significantly larger number of members, the Lok Sabha's view is highly likely to prevail in such a joint meeting.

2. **Money Matters:** The Lok Sabha possesses greater authority in financial matters. Once the Lok Sabha approves the government's budget or any other money-related legislation, the Rajya Sabha cannot reject it. The Rajya Sabha can only delay such a bill for a maximum of 14 days or propose amendments, which the Lok Sabha is not obligated to accept.

3. **Control Over the Council of Ministers:** Most critically, the Lok Sabha controls the Council of Ministers. The Prime Minister is appointed only if they command the support of the majority of members in the Lok Sabha. If a majority of Lok Sabha members express 'no confidence' in the Council of Ministers, all ministers, including the Prime Minister, are compelled to resign. The Rajya Sabha does not possess this power.

A Glimpse into Lok Sabha Proceedings

An ordinary day in the Lok Sabha illustrates its diverse functions:

- **Question Hour:** Ministries provide written answers to numerous questions from members, covering topics from government policy on militant groups to atrocities against Scheduled Tribes and medicine pricing, demonstrating parliamentary oversight and the right to information.
- **Presentation of Documents:** Official documents, such as recruitment rules, annual reports of institutions, and company accounts, are presented for discussion.
- **Ministerial Statements:** Ministers make statements on various issues, including regional development, railway grants, and the introduction of new bills, sometimes explaining the need for ordinances.
- **Raising Public Issues:** Members highlight diverse concerns, such as alleged vindictiveness of investigative agencies, the demand for including regional languages as official languages,

and the need for farmer insurance renewals, showcasing Parliament as a platform for addressing public grievances.

- **Legislation:** Bills proposed by the government are considered and passed, fulfilling Parliament's primary law-making role.
- **Policy Debates:** Extensive discussions are held on national policies, such as foreign policy, underscoring Parliament's role as the highest forum for national debate.

The Political Executive: Prime Minister, Council of Ministers, and President

The Executive: Definition and Categories

At various levels of government, functionaries make day-to-day decisions but do not hold supreme power on behalf of the people. These individuals are collectively known as the **executive**. Their primary role is the 'execution' of government policies. When we refer to 'the government,' we typically mean this executive body.

In a democratic country, the executive is broadly divided into two categories:

1. **Political Executive:** This category comprises political leaders who are elected by the people for a specific period. They are responsible for making significant policy decisions. Examples include ministers and the Prime Minister.
2. **Permanent Executive (Civil Services):** These individuals are appointed on a long-term basis and are known as civil servants. They remain in office regardless of changes in the ruling party. Civil servants work under the political executive, assisting them in the day-to-day administration of the government.

Why the Political Executive Holds More Power

Despite civil servants often possessing greater education and expert knowledge in their respective fields (e.g., a Finance Ministry advisor knowing more about economics than the Finance Minister), the political executive holds more power. The fundamental reason, as explained in the text, is the supremacy of the people's will in a democracy. The minister, as an elected representative, is empowered to exercise this will on behalf of the people and is ultimately answerable to them for the consequences of their decisions. Therefore, the minister makes all final decisions, establishing the overall framework and objectives for policy. While ministers seek advice from experts on technical matters, they ultimately decide based on the

broader objectives, especially when experts present differing opinions or multiple options. This mirrors the functioning of any large organization where those with an understanding of the overall picture, rather than just the experts, make the most crucial decisions.

Prime Minister and Council of Ministers

The Prime Minister is the most significant political institution in India, despite there being no direct election for the post. The President appoints the Prime Minister. However, the President's choice is not arbitrary; they must appoint the leader of the majority party or a coalition of parties that commands a majority in the Lok Sabha. If no single party or alliance achieves a clear majority, the President appoints the person most likely to secure majority support. The Prime Minister's tenure is not fixed; they remain in power as long as they retain leadership of the majority party or coalition.

Appointment and Composition of the Council of Ministers

Following the Prime Minister's appointment, the President appoints other ministers based on the Prime Minister's advice. Ministers are typically drawn from the party or coalition holding the majority in the Lok Sabha. The Prime Minister has the discretion to choose ministers, provided they are members of Parliament. In exceptional cases, a non-member of Parliament can be appointed a minister, but they must get elected to either House of Parliament within six months of their appointment.

The **Council of Ministers** is the official body encompassing all ministers, typically comprising 60 to 80 ministers of various ranks:

- **Cabinet Ministers:** These are usually top-level leaders of the ruling party or parties, in charge of major ministries. The Cabinet Ministers meet to make decisions on behalf of the Council of Ministers. The Cabinet is considered the 'inner ring' of the Council of Ministers, usually consisting of about 25 ministers.
- **Ministers of State with Independent Charge:** These ministers are typically in charge of smaller ministries and only participate in Cabinet meetings when specifically invited.
- **Ministers of State:** These ministers are attached to Cabinet Ministers and are tasked with assisting them.

Given the impracticality of all ministers meeting regularly, decisions are primarily made in Cabinet meetings. This is why parliamentary democracies are often referred to as the 'Cabinet form of government.' The Cabinet operates as a cohesive team; while individual ministers may

hold different views, every member must collectively own every decision made by the Cabinet. No minister can publicly criticize any government decision, even if it pertains to another ministry. Each ministry is supported by secretaries (civil servants) who provide essential background information for decision-making. The Cabinet as a whole is assisted by the Cabinet Secretariat, which includes senior civil servants who coordinate the work of different ministries.

Powers of the Prime Minister

Although the Constitution does not extensively detail the Prime Minister's powers or their relationship with other ministers, the Prime Minister, as the head of government, wields wide-ranging authority. Key powers include:

- Chairing Cabinet meetings.
- Coordinating the work of various departments.
- Making final decisions in cases of inter-departmental disagreements.
- Exercising general supervision over different ministries.
- Leading all ministers, who work under his leadership.
- Distributing and redistributing work among ministers.
- The power to dismiss ministers.
- The resignation or quitting of the Prime Minister leads to the resignation of the entire ministry.

The Prime Minister is the most powerful figure within the Cabinet, which itself is the most powerful institution in India. In recent decades, the powers of Prime Ministers in parliamentary democracies have grown significantly, leading some to describe them as 'Prime Ministerial forms of government.' This trend is partly due to the increasing role of political parties, through which the Prime Minister controls the Cabinet and Parliament, and media focus on top leaders. Historically, figures like Jawaharlal Nehru and Indira Gandhi exercised immense authority due to their public influence and strong personalities.

However, the rise of coalition politics in recent years has introduced constraints on the Prime Minister's power. A Prime Minister leading a coalition government cannot make unilateral decisions. They must accommodate various groups and factions within their own party and among alliance partners, and heed the views of coalition partners and other supporting parties, as the government's survival depends on their backing.

The President

While the Prime Minister heads the government, the **President** is the head of the State. In India's political system, the President exercises only nominal powers, much like the Queen of Britain, whose functions are largely ceremonial. The President's role is to supervise the overall functioning of all political institutions to ensure they operate harmoniously towards state objectives.

Election and Nominal Powers

The President is not directly elected by the people. Instead, they are elected by an electoral college comprising elected Members of Parliament (MPs) and elected Members of the Legislative Assemblies (MLAs). A candidate must secure a majority of votes to win, ensuring they represent the entire nation. However, this indirect election prevents the President from claiming the direct popular mandate that the Prime Minister enjoys, reinforcing their role as a nominal executive.

Despite appearing to have extensive powers when casually reading the Constitution, the President's authority is largely nominal. All governmental activities, laws, and major policy decisions are issued in the President's name. Major appointments, such as the Chief Justice of India, Supreme and High Court judges, state Governors, Election Commissioners, and ambassadors, are made in the President's name. International treaties and agreements are also made in the President's name, and the President is the supreme commander of India's defence forces.

Crucially, the President exercises all these powers only on the advice of the Council of Ministers. The President can ask the Council of Ministers to reconsider its advice, but if the same advice is reiterated, the President is constitutionally bound to act according to it. Similarly, a bill passed by Parliament becomes law only after the President's assent. The President can delay a bill by sending it back for reconsideration, but if Parliament passes it again, the President must sign it into law.

Discretionary Power

The President's most significant discretionary power lies in the appointment of the Prime Minister. When a party or coalition secures a clear majority in elections, the President must appoint the leader of that majority. However, if no party or coalition achieves a clear majority in the Lok Sabha, the President exercises discretion to appoint a leader who, in their opinion, can

muster majority support. In such a scenario, the President can ask the newly appointed Prime Minister to prove their majority support in the Lok Sabha within a specified timeframe.

Presidential vs. Parliamentary Systems

It's important to distinguish India's parliamentary system from presidential systems found in other countries, such as the United States. In a presidential system, the President is both the head of state and head of government, directly elected by the people, and personally chooses and appoints all ministers. While the legislature (e.g., the US Congress) makes laws, the President can veto them and does not require the support of the legislative majority, nor is directly answerable to them. The US President has a fixed four-year tenure. In contrast, India follows the British model, where Parliament is supreme, hence it is called a parliamentary system of government, with the President as a nominal executive.

The Judiciary: Independence, Structure, and Powers

The judiciary in India is recognized as one of the most powerful globally, largely due to its robust independence, well-defined structure, and extensive powers. This section delves into how these aspects contribute to its vital role in Indian democracy.

Independence of the Judiciary

The Indian judiciary is designed to operate with significant independence from the political executive, ensuring impartiality and fairness. This independence is primarily secured through the processes of appointment and removal of judges.

Appointment of Judges

As explained in the text, the appointment process for judges in the Supreme Court and High Courts minimizes political interference. In practice, senior judges of the Supreme Court are responsible for selecting new judges for both the Supreme Court and the High Courts. The senior-most judge of the Supreme Court is typically appointed as the Chief Justice, further reinforcing the judiciary's internal control over its leadership.

Removal of Judges

Removing a judge from the Supreme Court or a High Court is an exceptionally difficult process, comparable to the removal of the President of India. A judge can only be removed through an impeachment motion. This motion must be passed separately by a two-thirds majority of members in both Houses of the Parliament. Historically, this stringent requirement has meant

that such a removal has never occurred in the history of Indian democracy, underscoring the security of tenure for judges and, by extension, the judiciary's independence.

Structure of the Judiciary

The Indian judicial system is hierarchical, with the Supreme Court at its apex, followed by the High Courts. The glossary defines the 'judiciary' as the collective term for all courts in the country, indicating a comprehensive system designed to administer justice and resolve legal disputes.

Powers of the Judiciary

The powers vested in the Indian judiciary are extensive and crucial for upholding the Constitution and protecting citizens' rights.

Interpretation of the Constitution

The Supreme Court and the High Courts possess the authority to interpret the Constitution of the country. This power is fundamental to their role as guardians of the constitutional framework.

Judicial Review

One of the most significant powers is 'judicial review'. This allows the Supreme Court and High Courts to declare any law passed by the legislature or any action taken by the executive (at both Union and state levels) as invalid if they find it to be against the Constitution. This mechanism enables the judiciary to determine the constitutional validity of any legislation or executive action when it is challenged before them.

Protection of Basic Principles

Beyond striking down unconstitutional laws, the Supreme Court of India has also ruled that the core or basic principles of the Constitution cannot be altered or changed by the Parliament. This doctrine ensures the enduring integrity of the foundational tenets of the Constitution.

Guardian of Fundamental Rights

The independence and powers of the Indian judiciary enable it to act as the guardian of Fundamental Rights. Citizens have the right to approach the courts to seek remedy in cases where their rights have been violated. This provides a crucial avenue for justice and protection against infringements on individual liberties.

Public Interest Litigation (PIL)

In recent years, the courts have actively protected public interest and human rights through various judgments and directives. Any individual can approach the courts if public interest is harmed by government actions, a mechanism known as Public Interest Litigation (PIL). This allows the judiciary to intervene, prevent the misuse of government power in decision-making, and check malpractices by public officials. This proactive role in safeguarding public welfare is a key reason why the judiciary commands a high level of confidence among the people.