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# How India Chooses its Head of State

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*On July 19, 2012, India, the world's largest democracy, elected its 13th President, Pranab Mukherjee. This article outlines the history of the Indian presidency and the powers of the office. It explains the indirect election process whereby members of the national and state legislatures choose a Head of State.*

**T**he Office of the President is a symbol of the Indian Republic. The office has been a source of advice, counseling and guidance to the Governments of the day, especially in times of difficulty and crises. Such a role is particularly crucial in a country like India with its vast size, large populace and enormous diversities.

## **Brief Description of the Indian Political System**

The Constitution of India was adopted by the Constituent Assembly on November 26, 1949 and came into force on January 26, 1950. The parliamentary form of government is federal in structure with unitary features. There are now 28 States and seven Union Territories. The Union executive consists of the President, Vice-President and Council of Ministers with the Prime Minister as head to aid and advise the President. The Constitution makes it clear that the real executive power vests in the Council of Ministers with the Prime Minister as head. The Council of Ministers is collectively responsible to the House of the People (Lok Sabha).

Parliament consists of the President and two Houses, the Council of States (Rajya Sabha) and the House of the People (Lok Sabha). Rajya Sabha comprises 245 Members, of which 233 represent the States and Union Territories and 12 are nominated by the President from amongst persons having special knowledge or practical experience in such matters as literature, science, art and social service. Elections to the Rajya Sabha are indirect. Members are chosen by elected Members of legislative assemblies of the States in accordance with the system of proportional representation by means of the single transferable vote. The Rajya Sabha is not subject to dissolution and one-third of its Members retire biennially.

The Lok Sabha is composed of representatives chosen by direct election on the basis of adult suffrage. It comprises 545 Members, of which 530 are directly elected from the States and 13 from Union Territories, while two members of the Anglo-Indian community are nominated by the President. The term of the Lok Sabha, unless dissolved earlier, is five years. However, while a Proclamation of Emergency is in operation, this period may be extended by Parliament for a period not exceeding one year at a time and not extending in any case, beyond a period of six months after the Proclamation has ceased to operate.

The Constitution distributes legislative powers between Parliament and state legislatures and provides for vesting of residual powers in the Parliament. The distribution of powers emphasizes, in many ways, the general predominance of Parliament. Parliament has also been vested with the power to impeach the President and to remove the Judges of the Supreme Court and High Courts, the Chief Election Commissioner and the Comptroller and Auditor-General, in accordance with the procedure laid down in the Constitution. Besides the power to legislate, Parliament has also been vested with the power to initiate amendment of the Constitution.

The superintendence, direction and preparation of electoral rolls for elections to Parliament and State Legislatures and elections to the offices of the President and the Vice-President are vested in the Election Commission of India. The independence of the Election Commission is ensured by a specific provision under article 324(5) of the Constitution. The Election Commission at regular intervals, publishes notification specifying the names of recognized national and state parties. See Table on the following page for a current list of recognized national and state parties.

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States	Members of Rajya Sabha	Members of Lok Sabha	State Parties Recognised by the Electoral ECI*
Andhra Pradesh	18	42	1. Praja Rajyam Party, 2. Telangana Rashtra Samithi, 3. Telugu Desam
Arunachal Pradesh	1	2	Arunachal Congress
Assam	7	14	1. All India United Democratic Front, 2. Asom Gana Parishad, 3. Bodoland Peoples Front
Bihar	16	40	1. Janata Dal (United), 2. Lok Ajan Shakti Party
Chhattisgarh	5	11	
Goa	1	2	1. Maharashtrawadi Gomantak, 2. Save Goa Front
Gujarat	11	26	
Haryana	5	10	1. Haryana Janhit Congress (BL), 2. Indian National Lok Dal
Himachal Pradesh	3	4	
Jammu & Kashmir	4	6	1. Jammu & Kashmir National Conference, 2. Jammu & Kashmir National Panthers Party, 3. Jammu & Kashmir Peoples Democratic Party
Jharkhand	6	14	1. Janata Dal (United), 2. Jharkhand Mukti Morcha, 3. Jharkhand Vikas Morcha (Prajanatrik)
Karnataka	12	28	Janata Dal (Secular)
Kerala	9	20	1. Janata Dal (Secular), 2. Kerala Congress, 3. Kerala Congress (M), 4. Muslim League Kerala State Committee
Madhya Pradesh	11	29	Samajwadi Party
Maharashtra	19	48	Shiv Sena
Manipur	1	2	1. Manipur People's Party, 2. National People's Party
Meghalaya	1	2	1. All India Trinamool Congress, 2. United Democratic Party
Mizoram	1	1	1. Mizo National Front, 2. Mizoram People's Conference, 3. Zoram Nationalist Party
Nagaland	1	1	Nagaland Peoples Front
Odisha	10	21	1. Biju Janata Dal, 2. Jharkhand Mukti Morcha
Punjab	7	13	Shiromani Akali Dal
Rajasthan	10	25	
Sikkim	1	1	Sikkim Democratic Front
Tamil Nadu	18	39	1. All India Anna Dravida Munnetra Kazhagam, 2. Dravida Munnetra Kazhagam, 3. Marumalarchi Dravida Munnetra Kazhagam, 4. Pattali Makkal Katchi
Tripura	1	2	
Uttarakhand	3	5	1. Samajwadi Party, 2. Uttarakhand Kranti Dal
Uttar Pradesh	31	80	1. Rashtriya Lok Dal, 2. Samajwadi Party
West Bengal	16	42	1. All India Forward Bloc, 2. All India Trinamool Congress, 3. Revolutionary Socialist Party
Nominated	12	2	
<b>Union Territories</b>			
Andaman & Nicobar Islands	-	1	
Chandigarh	-	1	
Dadra & Nagar Haveli	-	1	
Daman & Diu	-	1	
Lakshadweep	-	1	
National Capital Territory of Delhi	3	7	
Puducherry	1	1	1. All India Anna Dravida Munnetra Kazhagam, 2. Dravida Munnetra Kazhagam, 3. Pattali Makkal Katchi, 4. Puducherry Munnetra Congress
Total	245	545	

\*National Parties registered by the Election Commission of India are:

- |                             |                                       |                           |
|-----------------------------|---------------------------------------|---------------------------|
| 1. Bahujan Samaj Party      | 4. Communist Party of India (Marxist) | 7. Rashtriya Janata Party |
| 2. Bharatiya Janata Party   | 5. Indian National Congress           |                           |
| 3. Communist Party of India | 6. Nationalist Congress Party         |                           |

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## **Parliamentary democracy has a strong foundation in India.**

In the 2009 General Elections to the Lok Sabha, a total of 417 million people voted out of a total electorate of about 716 million in about 834,000 polling stations spread across widely varying geographic and climatic zones. The Election Commission employed almost 4.6 million people to conduct the election. A vast number of civilian police and security forces were deployed to ensure that the elections were carried out peacefully. Polling stations were located in the snow-clad mountains in the Himalayas, the deserts of the Rajasthan and in sparsely populated islands in the Indian Ocean.

### **Historical Context**

The framers of the Constitution pondered two challenging issues, namely, the nature of the executive and its relation to the legislature. While introducing the Draft Constitution on November 4, 1948, Dr. B.R. Ambedkar, Chairman of the Drafting Committee, stated:

A student of Constitutional Law, if a copy of a Constitution is placed in his hands, is sure to ask two questions. Firstly what is the form of Government that is envisaged in the Constitution; and secondly what is the form of the Constitution? For these are the two crucial matters which every Constitution has to deal with.<sup>1</sup>

The decision of the Constituent Assembly regarding the form of government in India was considerably influenced by the political background of the country and the practices and traditions evolved during the British rule. The Central Government in India was carried on by the Governor-General in Council, consisting of the Governor-General and members of his Executive Council. All of them were appointed by the Crown and they functioned under the overall control and compliance of the Secretary of State, who was responsible to the British Parliament. In the series of Acts enacted by the British Parliament, such as the *Act for the Good Government of India* of 1858, the *Government of India Act* of 1919 and of 1935, the underlying theme remained the same. The structure of government continued to be unitary and centralized with the Governor-General in Council as the linchpin of the whole constitutional edifice. The legislative assemblies, both at the centre and the provinces, were granted very limited powers. The Governor-General at the centre and the Governors in the provinces commanded discretionary powers, such as power to veto legislation, regulation of matters relating to

defence, external affairs, etc. The Governor-General had independent powers of legislation, concurrently with those of the legislature, apart from his power to promulgate Ordinances during the recess of the legislature.

With the *Indian Independence Act, 1947*, the suzerainty of the British Crown over the Indian States lapsed, and the Governor-General was made the constitutional head, who would act on the advice of a Council of Ministers having the confidence of the Legislature. The Drafting Committee entrusted with the task of preparing a Constitution in accordance with the decisions of the Constituent Assembly, was appointed by a Resolution passed by the Constituent Assembly on August 29, 1947. The Draft Constitution was presented to the Constituent Assembly on November 4, 1948 and after discussions and consideration of various clauses, the Constitution was passed. The Constituent Assembly accomplished the daunting task of framing the Constitution in less than three years. The Constitution was drawn from a number of sources and reflects an amalgamation of various principles and practices of governance.

The political class in India had, by this time, become accustomed to the functioning of some semblance of parliamentary government. At the time of discussion on the new Constitution, opinion was overwhelmingly in favour of adopting an executive responsible to the Legislature in accordance with the British tradition.<sup>2</sup> However, conferment of certain special powers on the President was also contemplated at the initial stage, drawing from the powers of the Governor-General as per the *Government of India Act, 1935*. But, the Constituent Assembly decided in support of the parliamentary type of government with the President having no special powers vested personally in him but would exercise all his functions, including the dissolution of the lower chamber of Parliament, only on the advice of his Ministers.<sup>3</sup> It accepted the principle of a parliamentary executive, collectively responsible to the Lower House of the Legislature.

### **Constitutional Provisions**

During the proceedings of the Constituent Assembly, Dr. B.R. Ambedkar made an exhaustive statement regarding the position of the President and the Council of Ministers and the general character of the executive that the Constitution envisaged:

In the Draft Constitution there is placed at the head of the Indian Union a functionary who is called the President of the Union... the President occupies the same position as the King under the English Constitution. He is the head of the State

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but not of the Executive. He represents the Nation but does not rule the nation. ... His place in the administration is that of a ceremonial device on a seal by which the nation's decisions are made known. The President of the Indian Union will be generally bound by the advice of his Ministers. He can do nothing contrary to their advice nor can he do anything without their advice. In England, where the parliamentary system prevails, the assessment of the responsibility of the Executive is both daily and periodic. The daily assessment is done by members of Parliament, through Questions, Resolutions, No-confidence motions, Adjournment motions and Debates on Addresses. Periodic assessment is done by the Electorate at the time of the election which may take place every five years or earlier. The daily assessment of responsibility ... is felt to be far more effective than the periodic assessment and far more necessary in a country like India.<sup>4</sup>

It was against this background that various provisions relating to the office of the President, such as the procedure for his election, term of his office, eligibility for re-election, qualifications, and other related matters were framed.

### **Powers of the President**

The President, apart from being the Head of the State representing its executive power, takes the oath of office to preserve, protect and defend the Constitution and the law and devotes himself/herself to the service and well-being of the people.

Executive power is vested in the President and exercised by him either directly or through officers subordinate to him in accordance with the Constitution. Supreme command of the Defence Forces of the Union also vests in him. The President appoints the Prime Minister and on his advice other ministers, summons, prorogues, addresses, sends messages to Parliament and dissolves the House of the People; promulgates Ordinances at any time, except when both Houses of Parliament are in session; makes recommendation for introducing financial and money Bills and gives assent to Bills; grants pardons, reprieves, respites or remission of punishment or suspends, remits or commutes sentences in certain cases. When there is a failure of constitutional machinery in a state, he can assume to himself all or any of the functions of the government of that state. The President can proclaim emergency in the country if he is satisfied that a grave emergency exists whereby security of India or any part of its territory is threatened whether by war or external aggression or armed rebellion.

However, all these powers vested in the office of the President are constrained by the parliamentary form of government based on the cabinet system. The President can exercise his powers only on the 'aid and advice' of

the Council of Ministers. This clause has given rise to controversies since the initial days of the Republic. The Supreme Court had explained the position thus:

Under article 53(1) of our Constitution, the executive power of the Union is vested in the President but under article 74 there is to be a Council of Ministers with the Prime Minister at the head to aid and advise the President in the exercise of his functions. The President has thus been made a formal or constitutional head of the executive and the real executive powers are vested in the Ministers or the Cabinet.<sup>5</sup>

The Constitution divides all legislative powers between the Union and the States, by the three Lists in Schedule VII and the extent of the executive power of the Union and the States roughly follows that division. The executive power of the Union is co-extensive with the legislative power of Parliament, which consists of the President and the two Houses. Thus, on the one hand the President is the Head of the executive, and on the other, he is a constituent part of the Parliament.<sup>6</sup>

The Constitution (Forty Second Amendment) Act<sup>7</sup> placed the issue regarding the exercise of the powers by the President beyond any doubt by making it obligatory for the President to act in accordance with the advice of the Council of Ministers.<sup>8</sup> However, this provision was partly diluted by the Constitution (Forty-fourth Amendment) Act<sup>9</sup>, according to which the President may require the Council of Ministers to reconsider the advice, either generally or otherwise, but he shall act in accordance with the advice tendered after such reconsideration. Thus, as per the constitutional provision, along with conventions, practices and usages, the President is a constitutional head and it is the Council of Ministers and not the President which is responsible for all executive action. The nature of the Presidency was summed up aptly by the first President of the Indian republic, Dr. Rajendra Prasad. He said:

Whatever the strictly correct legal and constitutional position may be, there is no doubt that in the case of an elected President people do look upon him also as a person having some authority in the governance of the country, and he can justify his position only by tendering such advice and giving such suggestions as he considers necessary to the Cabinet before it takes any decision. Once a decision has been taken, whether with or without his suggestions or even against his suggestions, he has to act according to that decision.<sup>10</sup>

This would depend on who the incumbent of the office of the President is and more so, on the degree of trust which the Prime Minister has in the President.<sup>11</sup>

Even though the Constitution makes it obligatory



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for the President to act on the advice of the Council of Ministers as mentioned above, there are some occasions when the President may be called upon to use his judgement and wisdom for the appointment of the Prime Minister in a situation where no single party secures the majority support in the Lok Sabha; and for the dissolution of the Lok Sabha on the advice of the Council of Ministers which may have lost the majority support in the Lok Sabha or against which a vote of no confidence may have been passed. In such instances, the role of the President becomes very crucial and decisive. Besides, article 78 of the Constitution casts on the Prime Minister the duty to keep the President informed of all the decisions of the Council of Ministers relating to the administration of the affairs of the Union and proposals for legislation and to furnish information asked for by the President in that regard. He may require the Council of Ministers to consider any matter on which a decision has been taken by a Minister but which has not been considered by the Council of Ministers. The Bills passed by the Parliament are presented to the President, who may either assent to the Bill or withhold his/her assent. There is no time limit prescribed for the President for giving his assent or declaring his decision to withhold it. The President may, however, return the Bill, if it is not a Money Bill, for reconsideration to the Parliament. When, after reconsideration, the Bill is passed with or without amendments and is presented to the President again, he shall not withhold his/her assent.

### **Election of the President**

Article 54 states that the President shall be elected by the members of an electoral college consisting of (a) the elected members of both the Houses of Parliament; and (b) the elected members of the Legislative Assemblies of the States. The nominated members of both the Houses of Parliament are not entitled to vote in the election of the President nor are members of the Legislative Councils in the States. While discussing the draft article in the Constituent Assembly, Dr. Ambedkar moved an amendment in this regard that the expression "State Legislature" as used in this and the succeeding articles meant, where the Legislature was bicameral, the Lower House of the Legislature, i.e., only members elected by popular vote would be entitled to take part in the election of the President.

In the Constituent Assembly, it was argued by many members that the electoral college consisting of the elected members of Central Legislature as well as those of the Legislative Assemblies of the States was not sufficiently representative of the will of the people. A number of members favoured the system of direct

election of the President by the people as this would be more democratic by making the President the direct choice of the nation. However, the position of the President in the Constitution was cited to rule out direct election of the President by adult suffrage. It was argued that in a parliamentary form of democracy, following the Cabinet system of Government, the office of the Chief Executive was a titular one. Its duties were largely prescribed by other authorities. Very few voters would be able to judge wisely the technical abilities of the candidates for any particular office of this type, having specific, limited and defined functions. Further, it was argued that a directly elected Chief Executive might not be content with his position as a mere constitutional head and could claim to derive his authority directly from the people. So, if he wanted to assume real power, it would lead to constitutional deadlock or inevitably a clash with the Cabinet or the real executive.<sup>12</sup>

***In normal circumstances as well as in situations of crisis, the President, if he so chooses, is able to advise his Council of Ministers and may prove to be a source of influence and guidance for the government.***

It was further added that, in case, the method of direct election of the President was adopted, it would be very difficult for the presidential candidates to forego party affiliations. Some members were of the view that the President should be elected only by the members of both Houses of Parliament. However, in such a system, the majority party in the Parliament would play the deciding role in electing the President which would diminish the dignity and independence of his position. Finally, it was decided that the electoral college, would consist of the elected members of State Assemblies all over India, which would imply that the President was chosen by the nation as a whole indirectly, through the elected representatives of the people, and thus, he would be the symbol of the nation and not only of any particular constituency.

The subsequent article in the Constitution, i.e., article 55, specifies the manner or the procedure of the election of the President, which would in accordance with the system of proportional representation be by means of a single transferable vote and the voting at such election shall be by secret ballot. The Constitution also provides for weighting of votes based on two fundamental principles. First, to secure as far as possible, uniformity in the scale of representation of

**Table 2: Value of Votes of Members at Presidential Elections**

(a) Name of State	(b) No. of Assembly Seats (Elected MLAs)	(c) 1971 Census Population	(d) Value of votes per Member $d = \frac{c}{b \times 1,000}$	(e) Total Votes of the States (b x d)
Andhra Pradesh	294	43,502,708	148	43,512
Arunachal Pradesh	60	467,511	8	480
Assam	126	14,625,152	116	14,616
Bihar	243	42,126,236	173	42,039
Chhattisgarh	90	11,637,494	129	11,610
Goa	40	795,120	20	800
Gujarat	182	26,697,475	147	26,754
Haryana	90	10,036,808	112	10,080
Himachal Pradesh	68	3,460,434	51	3,468
Jammu & Kashmir	87	6,300,000	72	6,264
Jharkhand	81	14,227,133	176	14,256
Karnataka	224	29,299,014	131	29,344
Kerala	140	21,347,375	152	21,280
Madhya Pradesh	230	30,016,625	131	30,130
Maharashtra	288	50,412,235	175	50,400
Manipur	60	1,072,753	18	1,080
Meghalaya	60	1,011,699	17	1,020
Mizoram	40	332,390	8	320
Nagaland	60	516,449	9	540
Odisha	147	21,944,615	149	21,903
Punjab	117	13,551,060	116	13,572
Rajasthan	200	25,765,806	129	25,800
Sikkim	32	209,843	7	224
Tamil Nadu	234	41,199,168	176	41,184
Tripura	60	1,556,342	26	1,560
Uttarakhand	70	4,491,239	64	4,480
Uttar Pradesh	403	83,849,905	208	83,824
West Bengal	294	44,312,011	151	44,394
NCT of Delhi	70	4,065,698	58	4,060
Puducherry	30	471,707	16	480
<b>Total for MLAs</b>	<b>4120</b>	<b>549,302,005</b>		<b>549,474</b>
<b>*Total for MPs</b>	<b>776</b>		<b>708</b>	<b>549,408</b>
<b>Total Electoral College</b>	<b>4,896</b>			<b>1,098,882</b>

\*To calculate the vote value for Members of the National Parliament, the value of MLA votes (549,474) is divided by the number of members in the Lok Sabha (543) plus the Rajya Sabha (233). This gives a per vote value of 708. The total value of votes for all members of the National Parliament is therefore 708 x 776 = 549,408.

different States of the Union, which emphasizes the similarity in the status of the States. And, secondly, to secure parity between the States as a whole and the Union in order to work up the idea of a federal compact. As per article 55, a formula has been evolved to calculate the value of votes of each member present in the electoral college.

### Formula to Calculate Value of Votes

Each member of the electoral college who is a member of a State Legislative Assembly will have a number of votes calculated as follows:

Total population of the State divided by 1000  
total number of elected members in the Assembly

For assigning value to the vote of a member of Parliament,

Total number of votes assigned to the elected members of the State Assemblies divided by the total number of elected members of both Houses of Parliament

A recent illustration<sup>13</sup> would further clarify the scenario.

The value of vote of an MLA from the most populous state in India, Uttar Pradesh, was fixed at 208 in the 2002 Presidential election by dividing 83,849,905 (the total population of the State according to 1971 census) by 403 (no. of elected members of Legislative Assembly) and further divided by one thousand:

$$\frac{83,849,905}{403 \times 1000} = 208.06 = 208$$

Similarly, the value of vote of each MLA from the least populous state in India, Sikkim, was:

$$\frac{209,843}{32 \times 1000} = 6.55 = 7$$

Thereafter, in order to secure parity between the States as a whole and the Union, the total value of all the votes thus assigned to the elected members of the Legislative Assemblies was divided equally among 776 elected members of Parliament.

The total value of votes assigned to the elected members of the Legislative Assemblies of the twenty-eight States and the two Union Territories, namely, National Capital Territory of Delhi and Puducherry in the 2002 Presidential election came to 549,474. This number was divided equally among the 776 elected members of Parliament (543 in Lok Sabha and 233 in Rajya Sabha). The value of vote of a Member of Parliament was thus ascertained to be 708.08, i.e., 708.

Table 2 shows the value of votes of MPs and members of Legislative Assemblies of different States in the Presidential Election held in 2007.

### Counting the Votes

The method used for the election of the President is generally known as the 'alternative vote in a single member constituency'.<sup>14</sup>

Under this system in the context of the Presidential election, any member who secures the necessary quota of votes is declared elected. 'Quota' is arrived at by dividing the total number of valid votes cast by the total number of seats in the constituency plus one and adding one to the quotient.

$$\text{Quota} = \frac{\text{Total number of votes cast} + 1}{\text{Total number of seats to be filled} + 1}$$

The procedure has been explained in detail in the following illustration<sup>15</sup>:

The total number of valid votes is 15,000 and there are four candidates.

A	5250
B	4800
C	2700
D	2250

In this case, the Quota will be

$$\text{Quota} = \frac{15,000}{1+1} + 1 = 7501$$

If a candidate is able to secure 7,501 or more first preference votes in his favour, he is declared elected and there is no need to take a second or subsequent count.

Since no one in the illustration above secured the Quota, as per Rules, D will be the first to be eliminated, and the second preferences recorded in the 2250 ballot papers on which he has obtained the first preference will be transferred to the remaining candidates, namely A, B and C. Supposing in these 2250 ballot papers the second preferences are recorded as:

A	300
B	1050
C	900

These will be transferred and added to the first preferences in favour of A, B and C as follows:

A	5250 + 300 = 5550
B	4800 + 1050 = 5850
C	2700 + 900 = 3600

Here, C will be eliminated and 3600 votes secured by him are transferred to A and B in the order of third preferences recorded thereon. Suppose the third preferences on the 3600 ballot papers recorded in favour of A and B are 1700 and 1900 respectively:

A	5550 + 1700 = 7250
B	5850 + 1900 = 7750

Although, B had secured lesser number of first preference votes as compared to A, yet B is elected by virtue of the second and third

preferences obtained by him. This apparently anomalous result is justified on the reasoning that if the views of the electors are assessed through the doctrine of proportional representation it is clearly revealed that B is preferred and supported by a numerically larger number of electors than A and as such he is the one elected by a majority.

For the purpose of elections to the Office of the President, it has been an established practice that the Secretary-General of the Lok Sabha or the Rajya Sabha is appointed as the Returning Officer along with one or more Assistant Returning Officers. For the 2012 Presidential Election, the Secretary-General, Rajya Sabha has been appointed as the Returning Officer. Two other senior officers of Rajya Sabha Secretariat

and the Secretaries and one more senior officer of Legislative Assemblies of all States including NCT of Delhi and Union Territory of Puducherry have also been appointed as the Assistant Returning Officers.

### Disputes regarding Presidential Election

Disputes relating to election of President are left to the Supreme Court. A petition calling in question a Presidential election may be presented to the Supreme Court by any candidate at such election, or by twenty or more electors joined together as petitioners. Any such petition may be presented at any time after the date of publication of the result but not later than thirty days from the date of such publication. The grounds for declaring the election of a candidate void are specified in the *Presidential and Vice-Presidential Elections (Amendment) Act, 1977*.

Further, as per article 71(4), the election of a person as President cannot be called in question on the ground of any vacancy in the electoral college. The Legislative Assembly of the State of Gujarat was dissolved by the Governor on March 15, 1974. A question arose whether in the absence of the said Assembly, an election to the office of the President could be validly held or not. In a Presidential reference, the Supreme Court was of the view that the election to the office of the President must be held before the expiration of the term of the President notwithstanding the fact that at the time of such election, the Legislative Assembly of a State was dissolved.<sup>16</sup>

### Conclusion

It is generally agreed that the Presidential office can be kept above political wrangling only if the majority party at the centre willingly consults minority parties before a nomination is announced. There is a possibility that State Legislatures, at a given point of time, may be dominated by parties other than the party in power at the Centre and in such a case they might be able to defeat a nominee of the majority party at the Centre.

Normally, votes are cast along political party lines. The volatility of the political situation and the arithmetic involved in garnering support by political parties to get their preferred nominees to the office of the President, decide whether the Presidential election would be a contested one or consensus emerges among the various political parties regarding a particular candidate.

It has been suggested by some political analysts that the Presidential elections are probably an opportunity to really promote the multiparty system and to put certain positions above party politics. Some Presidential

**Table 3: Presidential Election Results 1952-2012 (Top 3 Candidates)**

	Year Elected	Candidates	Votes Polled
1	1952	<b>Dr. Rajendra Prasad</b> Sh. K.T. Shah Sh. Thatte Lakshman Ganesh	507,400 92,827 2,672
2	1957	<b>Dr. Rajendra Prasad</b> Sh. Nagendra Narayan Das Chowdhry Hari Ram	459,698 2,000 2,672
3	1962	<b>Dr. Saravpalli Radhakrishnan</b> Chowdhry Hari Ram Sh. Yamuna Prasad Trisulia	553,067 6,341 3,537
4	1967	<b>Dr. Zakir Hussain</b> Sh. Kota Subbarao Sh. Khubi Ram	471,244 363,971 1,369
5	1969	<b>Sh. V.V. Giri</b> Sh. Neelam Sanjeeva Reddy Sh. C.D. Deshmukh	401,515 313,548 112,769
6	1974	<b>Sh. Fakhruddin Ali Ahmed</b> Sh. Tridib Chaudhuri	765,587 189,196
7	1977	<b>Sh. Neelam Sanjiva Reddy</b>	unopposed
8	1982	<b>Gyani Zail Singh</b> Shri H.R. Khanna	754,113 282,685
9	1987	<b>Sh. R. Venkataraman</b> Sh. V. R. Krishna Iyer Sh. Mithilesh Kumar	740,148 281,550 2,223
10	1992	<b>Dr. Shanker Dayal Sharma</b> Sh. G.G. Swell Sh. Ram Jethmalani	675,804 346,485 2,704
11	1997	<b>Sh. K.R. Narayanan</b> Sh. T.N. Seshan	956,290 50,631
12	2002	<b>Dr. A.P.J. Abdul Kalam</b> Smt. Lakshmi Sahgal	922,884 107,366
13	2007	<b>Smt. Pratibha Devisingh Patil</b> Sh. Bhairon Singh Shekhawat	638,116 331,306
14	2012	<b>Shri Pranab Mukherjee</b> Shri Purno A. Sangma	713,763 315,987



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elections have been contested more vigorously, but the general trend has been that, following attempts to obtain consensual support from the opposition parties, the candidate of the Union government in power gets elected.

It may be concluded the office of the President of India has become profoundly linked with the working of the parliamentary democracy in the country. It has evolved over the years, often reflecting the personality of the individual occupying the office. Shri K. R. Narayanan, former President of India, in an interview to one of the Indian dailies<sup>17</sup>, on the occasion of 50 years of Indian independence, asserted that the position of the Indian President is that of a working President.

My image of a President before I came here, and before I had any hope of coming here, was that of a rubber-stamp President, to be frank....But having come here, I find that the image is not quite correct... my image of a President is not an executive President but a working President and working within the four corners of the Constitution. It gives very little direct power or influence to him to interfere in matters or affect the course of events, but there is a subtle influence of the office of the President on the executive and the other arms of the government and on the public as a whole. It is a position which has to be used with a philosophy of indirect approach. There are one or two things, which you can directly do in very critical times. But otherwise, this indirect influence that you can exercise on the affairs of the State is the most important role he can play. And, he can play it successfully only if he is, his ideas and his nature of functioning are seen by the public in tune with their standards... there must be some equation between the people and the President, and if some advice or something is to be given to the executive, it would be received with grace, it would be sometimes accepted, if it is known that the public opinion is on the side of the kind of advice the President is giving. Otherwise, he cannot exercise much influence.... It is to be in tune with the popular expectations.

## Notes

- 1 Constituent Assembly, *C.A. Debate*, Vol. VII, pages 31-2.
- 2 *C.A. Debate*, Vol. VII, page 984-85.
- 3 B. Shiva Rao, *The Framing of India's Constitution A Study*, 1968, page 338.
- 4 *C.A. Debate* Vol. VII, pages 32-33.
- 5 D.D. Basu, *Basu's Commentary on the Constitution of India*, sixth edition, Vol. E, 1981, page 167.
- 6 Yogendra Narain, ed. *Rajya Sabha at Work*, 2006, page 128.
- 7 P.D.T. Achary, ed., *Constitution Amendment in India*, Lok Sabha Secretariat, New Delhi, 2008.
- 8 "There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President who shall, in the exercise of his functions, act in accordance with such advice".
- 9 *The Constitution (Forty-Fourth Amendment) Act*, 1978 .
- 10 As quoted in, President K.R. Narayanan, *Selected Speeches*, 2003, Publications Division, Ministry of Information & Broadcasting, Government of India, page 102.
- 11 P.C. Alexander, *The Perils of Democracy*, Somaiya Publications Pvt. Ltd., Bombay, 1995.
- 12 *C.A. Debate* Vol IV, pages 713-14.
- 13 Yogendra Narain, ed. *Rajya Sabha at Work*, 2006, pages 129-30.
- 14 D.D. Basu, *Basu's Commentary on the Constitution of India*, sixth edition, volume E, 1981, page 223.
- 15 R.N. Misra, *The President of the Indian Republic*, 1965, pages 24-26.
- 16 A.I.R. 1974 S.C. 1682. See also, M.N. Kaul & S.L. Shaktiher, *Practice and Procedure of Parliament*, sixth edition, 2009, page 49.
- 17 Shri K.R. Narayanan in conversation with N. Ram on Doordarshan and All India Radio, New Delhi, August 14, 1998; <http://www.hindu.com/thehindu/nic/narayanankr.pdf>.