

The President is not a mere rubber stamp

(GS Paper 2, Polity and Constitution)

Context:

- India is going to elect its new President. Choosing the presidential candidate is an intensely political exercise.
- It is true that the nominee of the ruling alliance is going to be the next President. Still, the **stature, the moral standing and the level of acceptability of the person** are important considerations when the country chooses a new President.

Constituent Assembly debate on whether directly elected or not?

- There was a great deal of debate in the Constituent Assembly on the President. The main question debated therein was **whether India should have a directly elected President or an indirectly elected one.** The Assembly opted for an indirectly elected President.
- There were members such as **Professor K.T. Shah who strongly argued for a directly elected President.** He asked a rhetorical question, which was whether the Assembly wanted the president to be a **“sort of mere gramophone of the Prime Minister.”**
- Dr. B.R. Ambedkar said: “Our President is merely a nominal figurehead. He has no discretion; he has no powers of administration at all.”



Is the President of India a mere figurehead?

- Article 53 of the Constitution says that “the executive power of the Union shall be vested in the President and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution.”
- It means the President exercises these powers only on the aid and the advice of the Council of Ministers. So, it makes sense for the people to ask **why we should have a President who signs on the dotted line.**
- The way some of Presidents have acted in the past reinforces that public perception. But some of the Presidents did live up to the implications of the office of the President of the Republic.

Poll method, people's role:

- The election of the President is an indirect election in the sense that the people do not directly elect the President.
- Under **Article 54, the President is elected by an electoral college** consisting of only the elected members of both Houses of Parliament and the elected members of the State and Union Territory Assemblies.

Vote value of MLAs:

- However, a matter of importance in this context is the **vote value of Members of the Legislative Assemblies (MLAs) and the formula for its computation.**
- The vote of an MLA, though one, is assigned a certain higher value. This value is calculated by first dividing the total population of the State (as per the 1971 Census) by the total strength of the Assembly, and then the quotient is divided by one thousand. The result is the value of a vote. Calculated this way, the vote value of an MLA in the State of Uttar Pradesh, for example, is 208.
- The point is that **in the computation of the value**, the population of the State figures in a significant way. In other words, the **population of the country is a crucial factor in the election of the President**, which means the people's presence in the process of electing the President is very much visible.
- This gives a wider base to the President than a mere vote by the legislators on the basis of one member, one vote. This also gives the President a greater moral authority.

Not a rubber stamp:

- So, **the Indian President is not and cannot be a mere rubber stamp.** He does not directly exercise the executive authority of the Union, but **he can disagree with the decision of the Council of Ministers**, caution them, counsel them, and so on. The President can ask the Cabinet to reconsider its decisions.
- It is another matter that if the Cabinet, after such reconsideration, sends the same proposal back without any change, the President will have to sign it. That is because under the Cabinet system of government, it is the Cabinet which is responsible for the government's decisions. **The President is in no way personally responsible for those decisions which he or she approves.**
- But the point to note is that the **President can disagree with the decisions of the Cabinet** and ask the Cabinet to reconsider them.

Oath to preserve, protect and defend the Constitution:

- The **Constitution of India wants the President to be vigilant and responsive**, and gives the freedom to him or her to take a broader view of things uninfluenced by the narrow political view of the executive.
- This point becomes clearer when looked at the oath the President takes before entering office. The oath contains two solemn promises.
- First, the President **shall preserve, protect and defend the Constitution.**
- Second, the **President shall devote himself or herself to the service** and the well-being of the people of India. A President who makes the above promises under oath to the people cannot act, in the words of Professor K.T. Shah, as a gramophone of the Prime Minister.
- Experience shows that our Presidents do not normally think about their oath when the executive moves to bulldoze the rights and the liberties of citizens.
- There are very few democratic countries in the world where the executive has concentrated so much power in itself as in India. This trend started in the 1970s, and over the years the executive has grown into a behemoth.

Conclusion:

- So, when the omnipotent executive moves to crush the liberty of citizens, the people do not, in the normal course, think of approaching the President who is otherwise oath-bound to preserve, protect and defend the Constitution.
- The reason is that **Presidents are not normally found interceding on behalf of aggrieved citizens** even when there is a stark violation of the rule of law and constitutional guarantees given to the citizens. There were **Presidents such as Rajendra Prasad and Sarvepalli Radhakrishnan who openly differed with the government** on certain policy issues and could exert tremendous influence on the government.
- Thus, it is possible for a President to disagree with the government or intervene on behalf of the citizenry against the tyranny of the executive and persuade it to give up its ways. The solemn oath the President takes requires him or her to do it.

- Such persons alone can rise to the level of the President; others can only be presidential office holders. India needs Presidents, not presidential office holders.