

## VICE-PRESIDENT OF INDIA

### Vice President of India

The post of Vice-President of India is modelled on the lines of American Vice-President. In India, Vice-President has a second-highest office in the country. Article 63 of the Indian Constitution mentions the post of Vice-President.

#### How the Vice President is elected in India?

There is no direct election for the Vice-President of India however, he/she is indirectly elected by an Electoral College. The election process is quite similar to that of the **President** of India but the Electoral College that elects President is different from the Electoral College responsible for the election of Vice-President of India.

The difference between the Electoral College that elects President and the one electing Vice-President of India is given below:

1. In Electoral College for Vice President, both elected and nominated members of both the Houses of Parliament take part. In presidential elections, nominated members are not a part of the Electoral College.
2. For Vice President's elections, states have no role to play unlike in President's elections where state legislative assemblies' elected members are a part of the Electoral College.

**Note:** The principle of election used in Vice President's elections is 'Proportional Representation' by means of a single transferable vote. (It is similar to that of President's.)

#### Who can be a Vice President of India?

An Indian citizen can qualify for the post of Vice President if he is 35 years old or more. Another qualification for a candidate to run for vice-presidential elections is to be qualified to be elected as Rajya Sabha member. An office of profit cannot be held by the Vice President of India. The qualifications of this post are on the same lines of Presidential qualifications.

#### Who participates in Vice President Election?

An electoral college comprising below-given categories of people elect the Vice President. The mode of election hence is termed as 'indirect election'. The principle of election used is Proportional Representation by means of Single Transferrable Vote.

1. Elected members of both Lok Sabha and Rajya Sabha.
2. Nominated members of both Lok Sabha and Rajya Sabha.

**Note:**

- There can be no more than 2 nominated members in Lok Sabha and 12 in Rajya Sabha.
- State Legislative Assemblies in case of unilateral legislatures and State legislative councils along with Assemblies in case of bilateral legislatures; don't participate in the election of Vice President

#### Who is qualified to become Vice President of India?

An Indian Citizen who has completed 35 years of age is qualified to become the Vice-President of India given, he is also qualified to be a Rajya Sabha member. However, he

should not be a member of either Lok Sabha or Rajya Sabha and if he is elected as Vice President when he has a seat in either of the house, he is deemed to have vacated that seat on his first day in the office. He also is not allowed to hold any office of profit under union government, state government, public authority and local authority.

**Note:** The following people are also qualified to become the Vice President of India:

- Sitting President of India
- Sitting Vice President of India
- Governor of State
- MPs/MLAs

**What is the term of office of Vice President?**

From the date, he enters his office, Vice President holds the position for five years. However, he can resign before five years by handing over his resignation to the President. The other ways where a vacancy is created in the office of Vice President are given below:

- When he completes his term of five years
- When he resigns
- When he is removed
- On his death
- When his election is declared void

**Is Vice President also impeached as President of India?**

No, unlike President of India who can be impeached formally; there is no formal impeachment for Vice President. Rajya Sabha simply can pass a resolution with a majority and Lok Sabha can pass it. Also, unlike President of India who can be impeached on the ground of 'Violation of Constitution,' there is no ground mentioned in the constitution for the removal of Vice President of India.

**Note:** Supreme Court decides election disputes related to the office of Vice President

**Questions related to the Vice President of India for UPSC**

Is Vice-President of India the Chairman of Rajya Sabha?	Yes, Vice President is the ex-officio Chairman of Rajya Sabha.
When can Vice President act as President?	When the President's office is vacant due to: <ul style="list-style-type: none"> <li>• Resignation</li> <li>• Removal</li> <li>• Death</li> <li>• Absence due to illness</li> </ul>
Can Vice President act as himself and as the President simultaneously?	No, when he acts as President, his seat as Vice President is taken over by Deputy Chairperson of Rajya Sabha
What is the maximum period till Vice President serves as	The maximum period of six months

President?	
What are the major articles related to Vice President in the Indian Constitution?	The articles (63-71) are related to the Vice President.
Has any amendment made in the constitution in relation to the office of Vice President?	11th Constitutional Amendment changed the way of election of Vice President. Originally, Vice President has to be elected by the two houses that have to assemble in a joint-sitting
Can Vice President be re-elected?	Yes, he/she can be
What is the Vice President's salary?	Parliament is entitled to fix Vice President's salary. The current salary is Rs. 4 lakh which he/she draws as a chairperson of Rajya Sabha
Any Vice-President who has served two terms or more than two terms?	Dr S. Radhakrishnan (1952-1962) & Mohammad Hamid Ansari (2007-2017)

Part V of the Constitution of India under Chapter I (Executive) also discusses about the office of the Vice-President of India. The Vice-President of India is the second highest constitutional office in the country. He serves for a five-year term, but can continue to be in office, irrespective of the expiry of the term, until the successor assumes office. Let's see the articles 63-73 which deal with the qualifications, election and removal of Vice-President of India.

#### ARTICLE 63 : THE VICE-PRESIDENT OF INDIA

There shall be a Vice-President of India.

#### ARTICLE 64 : THE VICE-PRESIDENT TO BE EX-OFFICIO CHAIRMAN OF THE COUNCIL OF STATES

The Vice-President shall be ex-officio Chairman of the Council of States and shall not hold any other office of profit:

Provided that during any period when the Vice-President acts as President or discharges the functions of the President under article 65, he shall not perform the duties of the office of Chairman of the Council of States and shall not be entitled to any salary or allowance payable to the Chairman of the Council of States under article 97.

**ARTICLE 65 : THE VICE-PRESIDENT TO ACT AS PRESIDENT OR TO DISCHARGE HIS FUNCTIONS DURING CASUAL VACANCIES IN THE OFFICE, OR DURING THE ABSENCE, OF PRESIDENT**

(1) In the event of the occurrence of any vacancy in the office of the President by reason of this death, resignation or removal, or otherwise, the Vice-President shall act as President until the date on which a new President elected in accordance with the provisions of this Chapter to fill such vacancy enters upon his office.

(2) When the President is unable to discharge his functions owing to absence, illness or any other cause, the Vice-President shall discharge his functions until the date on which the President resumes his duties.

(3) The Vice-President shall, during, and in respect of, the period while he is so acting as, or discharging the functions of, President have all the powers and immunities of the President and be entitled to such emoluments, allowances and privileges as may be determined by Parliament by law and, until provision in that behalf is so made, such emoluments, allowances and privileges as are specified in the Second Schedule.

**ARTICLE 66 : ELECTION OF VICE-PRESIDENT**

(1) The Vice-President shall be elected by the members of an electoral college consisting of the members of both Houses of Parliament in accordance with the system of proportional representation by means of a single transferable vote and the voting at such election shall be by secret ballot.

(2) The Vice-President shall not be a member of either House of Parliament or of a House of the Legislature of any State, and if a member of either House of Parliament or of a House of the Legislature of any State be elected Vice-President, he shall be deemed to have vacated his seat in that House on the date on which he enters upon his office as Vice-President.

(3) No person shall be eligible for election as Vice-President unless he –

(a) is a citizen of India;

(b) has completed the age of thirty-five years; and

(c) is qualified for election as a member of the Council of States.

(4) A person shall not be eligible for election as Vice-President if he holds any office of profit under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments.

Explanation: For the purposes of this article, a person shall not be deemed to hold any office of profit by reason only that he is the President or Vice-President of the Union or the Governor of any State or is a Minister either for the Union or for any State.

**ARTICLE 67 : TERM OF OFFICE OF VICE-PRESIDENT**

The Vice-President shall hold office for a term of five years from the date on which he enters upon his office:

Provided that – (a) A Vice-President may, by writing under his hand addressed to the President, resign his office;

(b) a Vice-President may be removed from his office by a resolution of the Council of States passed by a majority of all the then members of the Council and agreed to by the House of the People; but no resolution for the purpose of this clause shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution;

(c) A Vice-President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

#### **ARTICLE 68 : TIME OF HOLDING ELECTION TO FILL VACANCY IN THE OFFICE OF VICE-PRESIDENT AND THE TERM OF OFFICE OF PERSON ELECTED TO FILL CASUAL VACANCY**

(1) An election to fill a vacancy caused by the expiration of the term of office of Vice-President shall be completed before the expiration of the term.

(2) An election to fill a vacancy in the office of Vice-President occurring by reason of his death, resignation or removal, or otherwise shall be held as soon as possible after the occurrence of the vacancy, and the person elected to fill the vacancy shall, subject to the provisions of article 67, be entitled to hold office for the full term of five years from the date on which he enters upon his office.

#### **ARTICLE 69 : OATH OR AFFIRMATION BY THE VICE-PRESIDENT**

Every Vice-President shall, before entering upon his office, make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation in the following form, that is to say – “I, A.B., do swear in the name of God /solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and that I will discharge the duty upon which I am about to enter.”

#### **ARTICLE 70: DISCHARGE OF PRESIDENT’S FUNCTIONS IN OTHER CONTINGENCIES**

Parliament may make such provision as it thinks fit for the discharge of the functions of the President in any contingency not provided for in this Chapter.

#### **ARTICLE 71 : MATTERS RELATING TO, OR CONNECTED WITH, THE ELECTION OF A PRESIDENT OR VICE-PRESIDENT**

(1) All doubts and disputes arising out of or in connection with the election of a President or Vice-President shall be inquired into and decided by the Supreme Court whose decision shall be final.

(2) If the election of a person as President or Vice-President is declared void by the Supreme Court, acts done by him in the exercise and performance of the powers and duties of the office of President or Vice-President, as the case may be, on or before the date of the decision of the Supreme Court shall not be invalidated by reason of that declaration.

(3) Subject to the provisions of this Constitution, Parliament may by law regulate any matter relating to or connected with the election of a President or Vice-President.

(4) The election of a person as President or Vice-President shall not be called in question on the ground of the existence of any vacancy for whatever reason among the members of the Electoral College electing him.

#### **ARTICLE 72 : POWER OF PRESIDENT TO GRANT PARDONS, ETC., AND TO SUSPEND, REMIT OR COMMUTE SENTENCES IN CERTAIN CASES**

(1) The President shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any persons convicted of any offence – (a) in all cases where the punishment of sentence is by a Court Martial;

(b) in all cases where the punishment or sentence is for an offence against any law relating to



a matter to which the executive power of the Union extends;

(c) in all cases where the sentence is a sentence of death.

(2) Nothing in sub-clause (a) of clause (1) shall affect the power conferred by law on any officer of the Armed Forces of the Union to suspend, remit or commute a sentence passed by a Court martial.

(3) Nothing in sub-clause (c) of clause (1) shall affect the power to suspend, remit or commute a sentence of death exercisable by the Governor of a State under any law for the time being in force.

#### ARTICLE 73 : EXTENT OF EXECUTIVE POWER OF THE UNION\*

(1) Subject to the provisions of this Constitution, the executive power of the Union shall extend—

(a) to the matters with respect to which Parliament has power to make laws; and

(b) to the exercise of such rights, authority and jurisdiction as are exercisable by the Government of India by virtue of any treaty or agreement:

Provided that the executive power referred to in sub-clause (a) shall not, save as expressly provided in this Constitution or in any law made by Parliament, extend in any State to matters with respect to which the Legislature of the State has also power to make laws.

(2) Until otherwise provided by Parliament, a State and any officer or authority of a State may, notwithstanding anything in this article, continue to exercise in matters with respect to which Parliament has power to make laws for that State such executive power or functions as the State or officer or authority thereof could exercise immediately before the commencement of this Constitution.

## Chapter 21: VICE PRESIDENT

### Introduction

- The election of the Vice-President, like that of the President, shall be indirect and in accordance with the system of proportional representation by means of the single transferable vote.
- But his election shall be different from that of the President Inasmuch as the State Legislatures Shall have no part in It
- While in order to be a President, a person must be qualified for election as a member of the House of the People, in order to be Vice President, he must be qualified for election as a member of the Council of States. **The reason for this difference is obvious, namely, that the Vice- President is normally to act as the Chairman of the Council of States.**
- Though there is **no specific provision (corresponding to Art. 57) making a Vice-President eligible for re-election**, the Explanation to Art. 66 suggests that a **sitting Vice-President is eligible for re-election** and Dr. S. Radhakrishnan was, in fact, elected for a second term in 1957
- The Vice-President is the highest dignitary of India, coming next after the President. **No functions are, however, attached to the office of the Vice-President as such.**

- **No machinery having been prescribed by the Constitution** to determine when the President is unable to discharge his duties owing to absence from India or a like cause, it becomes a somewhat delicate matter as to who should move in the matter on the any particular occasion.
- **It is to be noted that this provision of the Constitution has not been put into use** prior to 20th June, 1960, though President, Dr. Rajendra Prasad had been absent from India for a considerable period during his foreign tour in the year 1958.
- It was during the 15-day visit of Dr. Rajendra Prasad to the Soviet Union in June 1960. that for the first time, the Vice-President, Dr. Radhakrishnan was given the opportunity of acting as the President owing to the 'inability' of the President to discharge his duties.
- The second occasion took place in May, 1961, when President Rajendra Prasad become seriously ill and incapable of discharging his functions.
- After a few days of crisis, the President himself suggested that the Vice-President should discharge the functions of the President until he resumed his duties.
- It appears that the power to determine when the President is unable to discharge his duties or when he should resume his duties has been **understood to belong to the President himself.**

In the event of occurrence of vacancy in the office of both the President and the Vice-President by reason of death. Resignation, removal etc. the Chief Justice of India or in his absence the **senior most Judge of the Supreme Court** available shall discharge the functions until a new President is elected.

- In 1969 when on the death of Dr. Zakir Hussain, the Vice-President Shri V. V. Giri resigned, the **Chief Justice Shri HIDYATULLAH** discharged the functions.
- When the Vice-President acts as, or discharges the functions of the President, he gets the emolument of the President; otherwise; **he gets the salary of the chairman of the Council of States**
- When the Vice-President thus acts as, or discharges the functions of the President he shall cease to perform the duties of the Chairman of the Council of States and then the **Deputy Chairman of the Council of States shall acts as it Chairman**

Determination of doubts and disputes relating to the election of a President or Vice-President

- Determination of doubts and disputes relating to the election of a President or Vice-President is dealt with in Art. 71, as follows-
- Such disputes shall be decided by the Supreme Court whose jurisdiction shall be exclusive and final.
- No such dispute can be raised on the ground of any vacancy in the electoral college which elected the President or Vice-President
- If the election of a President or Vice-President is declared void by the Supreme Court, acts done by him prior to the date of such decision of the Supreme Court shall not be invalidated.

- Barring the decision of such disputes, other matters relating to the election of President or Vice-President may be regulated by law made by Parliament

It is the second highest position in the country.

Election:

He is elected by all MP's of parliament [nominated + elected]. It is held in accordance with the system of proportional representation.

Re-election is allowed any number of times.

He cannot be an MP / MLA; if such a person is elected he may have to vacate his position in that house on joining office of vice president.

Terms and Conditions of Office:

He holds office for a term of 5 years but can continue even further till his successor joins. He can resign in writing to the president.

Rajya Sabha can remove him an absolute majority which needs to be agreed by Lok Sabha with simple majority.

Since no grounds for removal are mentioned in the constitution he can be removed for any reason. No formal impeachment needed.

**All electoral disputes are resolved by the Supreme Court whose decision is final. If the election is declared void then decisions made till then aren't invalidated.**

Qualifications:

1. Citizen of India
2. 35 and above yrs of age
3. Qualified to be member of Rajya Sabha
4. Doesn't hold office of profit in India under any government or public authority.

Powers and functions:

Vice president is the ex-officio chairman of the Rajya Sabha and has powers and functions similar to the speaker of the Lok Sabha.

In the event of the presidents inability to work due to any reasons or a vacancy in the office of the president due to any reason he can act as the president.

**However this is only for 6 months till the next president is elected.** Thus the office was created to maintain continuity in the Indian state.

**WRITE A SHORT NOTE ON VICE-PRESIDENT**