



- The term 'Cabinet' is used interchangeably with that of Council of Ministers. But they are different.
- The Council of Ministers, or the Ministry, consists of different categories of ministers.
- At the time of independence, there was no such institution as a cabinet in India.
- What existed then was the Executive Council.
- On 15 August 1947, the Executive Council was transformed into a Ministry or Council of Ministers that is responsible to the Parliament.
- The term 'Cabinet' was used thereafter as an alternative to the Council of Ministers.
- At this stage, all the members of the ministry except the Prime Minister had the same status.
- But the situation changed once junior ministers were appointed to the Council of Ministers.
- In 1950, based on the recommendations of the Gopalaswamy Ayyangar's report, a three-tier system of the ministry was established with the cabinet ministers at the top, ministers of the state at the middle, & deputy ministers in the lowest level.
- The Cabinet, composed of the 'senior-most ministers' whose responsibilities are extended to departmental functions into the field of administration
- It is a smaller and the most powerful body in the government.
- Three functions of cabinet: i) To determine govt policy for presentation to the Parliament, ii) To implementing government policy, iii) To carry out inter-departmental coordination & cooperation
- According to the Constitution (91st Amendment) Act, 2003 under article 75 1(a), the number of ministers in the Union council of ministers cannot exceed more than 15% of total Lok Sabha MPs.

#### CABINET COMMITTEES

- The cabinet meets regularly - assisted by the cabinet secretariat, headed by , the chief cabinet secretary.
- To manage the volumes & complexities of work , the cabinet members have developed standing & ad hoc committees.
- There are four Standing Committees which are permanent in nature : — the defence committee, economic committee, administrative organisation committee and parliamentary and legal affairs committee.
- Ad-hoc Committees are constituted from time to time.
- Union government released the composition of eight Cabinet Committees, including two new ones

- 1) Cabinet Committee on Investment, 2) Cabinet Committee on Employment and Skill Development.
- The executive works under the Govt of India Transaction of Business Rules, 1961. These Rules emerge out of Article 77(3) of the Constitution, which states: "The President shall make rules for the more convenient transaction of the business of the Government of India, and for the allocation among Ministers of the said business."
- The Rules mandate the minister-in-charge of a department (ministry) to dispose of "all business allotted to a department under" him or her.
- The Prime Minister constitutes Standing Committees of the Cabinet and sets out the specific functions assigned to them. He can add or reduce the number of committees.
- Ad hoc committees of ministers, including Groups of Ministers, may be appointed by the Cabinet or by the Prime Minister for specific matters.
- A policy paralysis had hit the UPA-II government because it had passed on numerous issues to Groups of Ministers.
- Cabinet Committee on Appointments - makes appointments to posts of the three service chiefs, Director General of Military Operations, chiefs of all Air and Army Commands, Director General of Defence Intelligence Agency, Scientific Advisor to the Defence Minister, Director General of Armed Forces Medical Services, Director General of Ordnance Factories, Director General of Defence Estates, Controller General of Defence Accounts, Director of Institute for Defence Studies and Analyses, Solicitor-General, Governor of the Reserve Bank of India, Chairman and Members of the Railway Board, Chief Vigilance Officers in Public Sector Undertakings and Secretariat posts of and above the rank of Joint Secretary in the Central Government. This Committee decides on all important empanelments and shift of officers serving on Central deputation.
- The Cabinet Committee on Accommodation determines the guidelines or rules with regard to the allotment of government accommodation.
- The Cabinet Committee on Economic Affairs- reviews economic trends, problems & prospects "for evolving a consistent & integrated economic policy" – coordinate all activities requiring policy decisions, deal with fixation of prices of agricultural produce & prices of essential commodities.
- It considers proposals for investment of more than Rs 1,000 crore, deal with industrial licensing policies and review rural development and the Public Distribution System.

- The Cabinet Committee on Parliamentary Affairs draws the schedule for Parliament sessions and monitors the progress of government business in Parliament. It scrutinises non-government business and decides which official Bills and resolutions are to be presented.
- The Cabinet Committee on Political Affairs addresses problems related to Centre-state relations. It also examines economic and political issues that require a wider perspective but have no internal or external security implications.
- The Cabinet Committee on Security deals with issues relating to law & order, internal security & policy matters concerning foreign affairs with internal or external security implications- economic and political issues related to national security - considers all cases involving capital defence expenditure more than Rs 1,000 crore – issues related to the Department of Defence Production & the Department of Defence Research and Development, Services Capital Acquisition plans and schemes for procurement of security-related equipment.
- The Cabinet Committee on Investment will “identify key projects required to be implemented on a time-bound basis”, involving investments of Rs 1,000 crore or more, or any other critical projects, as may be specified by it, with regard to infrastructure & manufacturing.
- It will prescribe time limits for giving requisite approvals & clearances by the ministries concerned in identified sectors. It will also monitor the progress of such projects.
- The Cabinet Committee on Employment & Skill Development - to provide “direction to all policies, programmes, schemes & initiatives for skill development aimed at increasing the employability.

#### MINISTER OF STATE

- The ministers of state holds independent charge of individual ministries & perform the same functions and exercise the same powers as a cabinet minister.
- The difference between a minister of state & a cabinet minister is that he/she is not a member of the cabinet, but attends cabinet meetings only when specially invited to do so in connection with the subject that he/she is given charge of.
- There are other ministers of state who work directly under cabinet ministers.
- At the bottom of the hierarchy are the deputy-ministers who do not have specific administrative responsibilities. However, their duties include:
  - i) Answering the questions in parliament on behalf of the ministers concerned & helping to pilot bills,
  - ii) Explaining policies & programmes to the general public & maintaining liaison with members of parliament, political parties and the press, and

iii) Undertaking special study or investigation of particular problems, which may be Executive assigned to them by particular minister.

- Cabinet is the nucleus of the Council of Ministers. Precisely because of this reason Walter Bagehot calls the Cabinet ‘the greatest committee of the legislature’. It is the ‘connecting link between the executive and legislative power’.

#### COLLECTIVE RESPONSIBILITY

- Under this principle, all ministers are equally responsible for each and every act of government. That is, under the collective leadership, each minister accepts & agrees to share responsibility for all decisions of the cabinet.
- Doubts & disagreements are confined to the privacy of the cabinet room. Once a decision has been taken, it has to be loyally supported & considered as the decisions of the whole government
- If any member of the Council of Ministers is unable to support government policy in the Parliament or the country at large, that member is morally bound to resign from the Council of Ministers.
- Even if the Council of Ministers is formed as a result of a coalition of various political parties, a minimum common programme becomes essential for maintaining the solidarity of the ministry, and the various political parties forming the coalition government have to stand behind that programme. Unless they do so, the Cabinet cannot survive.
- Unity within Council of Ministers is not only essential for its very survival but also necessary for its efficiency and efficacy, and it is also necessary to enjoy the confidence of the people.
- Open bickering between members of the Janata government on matters of public policy was the prelude to the collapse of the government in 1979.
- The core of the parliamentary government is the accountability of the Prime Minister and the Cabinet to the Parliament.
- The Parliament does not govern but critically examines the policies and acts of the government, and approves or disapproves of them as the representative of the people
- The very existence and survival of the Prime Minister and the Council of Ministers depend upon the support they receive in the Parliament.
- As the Council of Ministers is collectively responsible to the Parliament. Thus, the general feeling is that the Parliament controls the Executive. But in reality, the Prime Minister with his majority support controls the very working of the Parliament.
- Collective responsibility – means that every member of the Council of ministers accepts responsibility for each and every decision of the Cabinet.
- Members of the Council of Ministers swim & sink together

- When a decision has been taken by the Cabinet, every Minister has to stand by it without any hesitation.
- If a Minister does not agree with the Cabinet decision, the only alternative left to him/her is to resign from the Council of Ministers.
- The essence of collective responsibility means that, 'the Minister must vote with the government, speak in defence of it, if the Prime Minister insists, and he/she cannot afterwards reject criticism of his act, either in Parliament or in the constituencies, on the ground that he/she did not agree with the decision.'
- The vote of no-confidence against the Prime Minister is a vote against the whole Council of Ministers.
- Similarly, adverse vote in the Lok Sabha on any government bill or budget implies lack of confidence in the entire Council of Ministers, not only the mover of the bill.
- It also means that the ministers must not speak in public in different voices.
- All the ministers of the government are expected to be unanimous in support of policies on all public occasions and issues.
- Individual responsibility is enforced when an action taken by a Minister without the concurrence of the Cabinet, or the Prime Minister, is criticised and not approved by the Parliament.
- Similarly if personal conduct of a Minister is questionable and unbecoming he may have to resign without affecting the fate of the Government.
- If a Minister becomes a liability or embarrassment to the Prime Minister, he may be asked to quit.
- Constitutionally the Ministers hold office during the pleasure of the President. But, in fact, they are responsible to, and removable by the Lok Sabha.
- Actually the Constitution has itself declared that the Council of Ministers shall be responsible to the Lok Sabha (not to both the Houses).
- Ministerial responsibility is the essential feature of parliamentary form of government.
- The principle of ministerial responsibility has two dimensions: collective responsibility and individual responsibility.
- Article 74th of the Constitution lays down that there shall be a council of ministers with the Prime Minister as the head to aid and advise the President, who shall in the exercise of his functions, act in accordance with the advice of the council of ministers
- The Council of Ministers consists of three categories of ministers, namely, cabinet ministers, ministers of state and deputy ministers.
- While the Cabinet ministers are involved in policy decision making, the other two categories have mere administrative responsibilities.

#### UNION CABINET

- Prior to 44th Amendment of the Constitution, the word 'Cabinet' was not mentioned in the Constitution.
- The Council of Ministers consists of all category of Ministers i.e., Cabinet Ministers, Ministers of State & deputy ministers.
- The Cabinet consists of Senior Ministers only.
- Its number varies from 15 to 30 while the entire Council of Ministers can consist of even more than 70.
- The Council of Ministers as a whole rarely meets.
- The Cabinet on the other hand meets as frequently as possible.
- Cabinet determines the policies & programmes of the Govt & not the Council of Ministers. Thus, 'Cabinet is an inner body within the Council of Ministers'.
- It acts in the name of the Council of Ministers & exercises all powers on its behalf
- The Cabinet determines & formulates the internal and external policies of the country. It takes all major decisions regarding defence and security of the country.
- It has also to formulate policies so as to provide better living conditions for the people.
- Cabinet has control over national finance.
- The Cabinet is responsible for whole of the expenditure of the govt & raising necessary revenues.
- It is the Cabinet that prepares the text of President's address to the Parliament.
- The Cabinet is also responsible for the issuance of Ordinances by the President when the Parliament is not in session.
- The sessions of the Parliament are convened by the President on the advice of the Cabinet conveyed through the Prime Minister.
- The Cabinet prepares the agenda of the sessions of the Parliament.
- A Cabinet is the council consisting of ministers of Cabinet rank. It is the inner body within the council of ministers
- It is an extra constitutional authority created out of the council of ministers.
- The Cabinet is the highest decision making executive body which looks after the administrative affairs of the Govt.
- It is the nucleus of the council of ministers
- It deals with all major legislative, financial and foreign policy matters.
- It exercises control over higher appointments like constitutional authorities and senior secretariat administrators.
- It recommends ordinances, when the parliament is not in session and supervises the implementation of policies.

- It appoints enquiry commissions & resolves interdepartmental disputes.
- It is entitled to recommend to the President declaration of emergencies, dissolution of the Lok Sabha, proroguing and adjourning the parliament sessions
- Every cabinet minister is assisted by a cabinet secretary. Among them the cabinet chief secretary is given a top place among the civil servants in the official ladder
- Chief cabinet secretary acts as the link between Prime Minister's Office & various administrative agencies and also between civil service and the political system

#### KITCHEN CABINET

- The Kitchen Cabinet was a mocking term applied to an official circle of advisers to President Andrew Jackson(1829-37).
- The term has endured through many decades, and now generally refers to a politician's informal circle of advisers.
- The Kitchen Cabinet included newspaper editors, political supporters, and old friends of Jackson's.
- A Kitchen Cabinet is a still smaller body or a cabinet within a cabinet.
- It is an informal body and the real centre of power.
- In the 20th century, a good example of a kitchen cabinet would be the circle of advisers President John F. Kennedy would call upon
- Over time, prime ministers have become increasingly dominant.
- Every Prime Minister in India had a Kitchen Cabinet or Inner Cabinet.
- A circle within a circle. It helps the Prime Minister in maintaining secrecy in making decisions on important political issues.

#### MINISTER OF STATE & MINISTER OF STATE INCHARGE

- Cabinet Minister is the highest authority of a particular Department, Minister of State (MoS), in simple terms, assists the Cabinet Minister & is the Junior of the Cabinet Minister.
- Unlike Minister of State, the MoS with Independent Charge has its own ministry to look after and don't assist a Cabinet Minister. However, this post isn't considered equal to the cabinet minister.
- MoS(independent) could be considered as a Junior Minister with an independent portfolio.
- MoS Independent Charge is the intermediate post in between Cabinet Minister & Minister of state.
- MoS doesn't have an overseeing Cabinet Minister above her- can directly report to the PM.
- The MoS with Independent Charge called for specific matters related to his/her respective department & not for regular day to day affair discussion with the PM
- MoS is given independent charge of ministries, which don't have a Cabinet Minister to oversee the functions of that particular department.

#### OFFICE OF PROFIT

- It is a position in the government which cannot be held by an MLA or an MP.
- The post can yield salaries, perquisites and other benefits.
- The origin of this term can be found in the English Act of Settlement, 1701.
- Under this law, "no person who has an office or place of profit under the King, or receives a pension from the Crown, shall be capable of serving as a member of the House of Commons
- It was instituted so that there wouldn't be any undue influence from the royal household in administrative affairs.
- According to Art 102(1)(a) & 191(1)(a) of the Constitution, an MP or MLA is barred from holding an office of profit as it can put them in a position to gain a financial benefit.
- Under the Representation of People Act too, holding an office of profit is grounds for disqualification.
- The Govt of India Act, 1935, made a clear & precise statement in this direction. Sub-section (1) of section 26 of the Government of India act.
- Act of 1935 provided disqualification for membership of the Federal Legislature
- The expression "office of profit" has not been defined in the Constitution or in the Representation of People Act 1951.
- The word 'profit' does not necessarily mean any remuneration in cash.
- But it certainly means some kind of patronage or gain which is tangible or which can be perceived."
- In Rajasthan, the State passes a Bill in October 2017 to make the posts constitutional, but the validity of this law has been challenged.
- Odisha too has appointed MLAs as chairpersons of district planning committees by amending an Act.
- The Supreme Court struck down The Assam Parliamentary Secretaries (Appointment, Salaries, Allowances and Miscellaneous Provisions) Act, 2004 in July 2017 leading to a wave of resignations in Northeastern states.
- An office of profit is an office which is capable of yielding a profit or pecuniary gain.
- Holding an office under the Central or State government, to which some pay, salary, emolument, remuneration or non-compensatory allowance is attached, is "holding an office of profit" for the purpose of Art 102
- The ECI enlisted three determinative tests for office of profit — test of pecuniary gain, executive nature of office, test of exercise of constitutional/ executive powers while functioning as parliamentary secretary.
- The Supreme Court in its seminal decision in the Jaya Bachchan v. Union of India case developed the

doctrine of 'potential effect of an office' to ascertain the nature of office,

- According to the Supreme Court, Nature of the payment must be considered as a matter of substance rather than of form. Nomenclature is not important
- In fact, mere use of the word "honorarium" cannot take the payment out of the purview of profit, if there is pecuniary gain for the recipient
- Payment of honorarium, in addition to daily allowances in the nature of compensatory allowances, rent free accommodation and chauffeur driven car at State expense, are clearly in the nature of remuneration and a source of pecuniary gain and hence constitute profit.
- If the "pecuniary gain" is "receivable" in connection with the office then it becomes an office of profit,

irrespective of whether such pecuniary gain is actually received or not

- If the office carries with it, or entitles the holder to, any pecuniary gain other than reimbursement of out of pocket/actual expenses, then the office will be an office of profit for the purpose of Article 102(1)(a)."
- Too much reliance on the 'potential doctrine' by the ECI makes it more susceptible for challenge on that account alone.
- All four conditions have to be satisfied before an MP and MLA can be disqualified. a) An office; b) An office of profit; c) An office under the union or state govt; d) An office exempt by law from purview of disqualification provisions.
- The EC was of the opinion that reimbursement of mere out-of-pocket expenses should not be held as profit



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