

Explained | On the size of Council of Ministers

What has been the composition of the Council of Ministers at the Centre and in States since India became a democracy? What were the instances when the council became too large and unwieldy? How were the laws brought in to rein in this trend?

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Prime Minister Narendra Modi, left, with his Council of Ministers at the Rashtrapati Bhavan in New Delhi on June 9. | Photo Credit: AFP

The story so far:

The **Union Council of Ministers (COM) headed by Prime Minister Narendra Modi was sworn in on June 9, 2024.** The present COM consists of the Prime Minister, 30 Cabinet Ministers, 5 Ministers of State (MoS) with independent charge and 36 MoS.

Who constitutes the Council of Ministers?

India is a parliamentary democracy with the President as its nominal head. Article 74 of the Constitution provides that there shall be a COM headed by the Prime Minister (PM) to aid and advise the President. The real executive powers lie with the COM. A Minister should be a member of either the Lok Sabha or the Rajya Sabha and if not, should become one within six months of his/her appointment. A similar setup prevails in States with a COM headed by the Chief Minister (CM).

The COM consists of a Cabinet minister, MoS with independent charge, MoS and a Deputy Minister. The Constitution does not classify the members of the COM into different ranks. All this has been done informally, following the British practice. Cabinet Ministers are higher in rank and handle large portfolios while MoS assist the Cabinet Ministers and work under them. MoS with independent charge directly reports to the Prime Minister for their respective ministries.

What is the constitutional limit?

The first COM at the time of independence had only 15 Ministers headed by Prime Minister Jawaharlal Nehru. After the first general elections in 1952, Nehru inducted around 30 Ministers into his COM. Over the years, the size of the COM had gradually increased to around 50-60. Interestingly, it is the United Front governments led by Deve Gowda (June 1996) and I.K. Gujral (April 1997) that were sworn in with just 21 and 34 Ministers respectively. In 1999, when Atal Bihari Vajpayee became Prime Minister, his COM had 74 Ministers. However, the size of COM was becoming unwieldy in some of the larger States. For instance, in 2002 when Mayawati was the Chief Minister of Uttar Pradesh, she had 79 Ministers.

The National Commission to review the working of the Constitution under the Chairmanship of Justice Venkatachaliah set up in February 2000, had suggested a ceiling of 10% of the total strength of Lok Sabha/Legislative Assembly for the number of Ministers at the Centre/State level. Finally, through the 91st Constitutional amendment in 2003, the total number of Ministers including PM/CM in the COM was limited to 15% of the total strength of the Lok Sabha/State Legislative Assembly. There is no minimum requirement at the Central level whereas even the smaller States should have a minimum of 12

Ministers. For Union Territories of NCT of Delhi and Jammu & Kashmir (J&K), the maximum limit is 10% of the total strength of its Assembly.

What are the issues?

A thorny issue even after the limit on the number of ministers is the appointment of Parliamentary Secretaries in various States. The office of Parliamentary Secretary (PS) also has its origin in the British system. In India, the post of PS was first created in 1951. They have not been a regular feature in the Central governments thereafter and the last PS at the Centre was appointed in 1990. However, various States have continued with their appointment to circumvent the limit on COM placed by the 91st Amendment. High Courts of Punjab & Haryana, Rajasthan, Bombay, Calcutta, Telangana, Karnataka etc. have quashed or questioned the appointment of PS in the States under their jurisdiction for indirectly violating the maximum limit on COM. The Supreme Court in July 2017 had also declared a law passed by Assam in 2004 for the appointment of PS as unconstitutional. The most recent instance is the order of the Himachal Pradesh High Court in January 2024 that restrained six PS appointed in the State from functioning as Ministers or availing facilities provided to Ministers. Appointing MLAs to the position of ministers under the guise of PS to circumvent constitutional limits should be strictly prohibited and discontinued.

It is also pertinent to note that States like Sikkim, Goa and smaller States in the northeastern region with a current estimated population ranging from seven to forty lakhs have a minimum of twelve Ministers. However, Union territories of NCT of Delhi and J&K with estimated populations of over 2 crores and 1.5 crores, can have only a maximum of seven and nine Ministers respectively. The administration of public order, police and land in Delhi is not with the Delhi government. Similarly, public order and the police of Jammu and Kashmir will not be with its government. Nevertheless, considering the population of these Union Territories, the 10% limit for their COM may be reconsidered.

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