

Chapter 5

The President of China

The 1954 Constitution of China, the first Constitution of the Republic provided for the Office of the Chairman of the People's Republic of China. Mao Zedong, the supreme leader of the Communist Party of China, was elected the first Chairman of the Republic. In the early sixties he resigned in favour of Lin Shaoqi who became the Chairman of China. In 1967 when the Cultural Revolution led by Mao Zedong was underway, Lin was removed from that office by Mao's Red Guards. Since then the office of the Chairman of the Chinese Republic remained vacant. The 1975 Constitution abolished the office of the Chairman of the Republic. The new Constitution has created the Office of the President of the People's Republic of China.

1 President of China

The President of the People's Republic of China occupies a distinctive position in the governmental system of the country. He is like the President of India and the British monarch, the constitutional head of State.

Qualifications and Term

The qualifications laid down in the Constitution are as follows. The candidate for the office of the President (i) must be 45 years of age; (ii) must have the right to vote and to stand for election.

The term of the office of the President is 5 years. But no person shall be elected for more than twice.

Election and Removal

The President is elected by the National People's Congress. He may be removed by the National People's Congress.

Powers and Position

The President of the Chinese People's Republic possesses many formal powers. He appoints and removes the Premier, Vice-Premiers and other ministers of China. He also appoints and removes the Auditor General and the Secretary General of the State Council of China. These powers, however, are nominal because the Premier, Vice-Premiers and all others are responsible to the National People's Congress and not to the President. Moreover, the President himself can be removed by the NPC.

In accordance with the decisions of the NPC and its Standing Committee, the President promulgates laws passed by the NPC, proclaims martial law, proclaims a state of war, and issues mobilisation orders. On the decisions of the NPC and its Standing Committee, he confers State medals and titles of honour.

The President has also some powers in foreign affairs of the country. He receives foreign diplomats, heads of State and heads of Governments on behalf of the People's Republic of China. He appoints and removes Chinese ambassadors to foreign countries, ratifies and abrogates treaties and important agreements concluded with foreign states. But all such actions are taken on the decisions of the Standing Committee of the NPC.

It is clear from the above that the President of China is, like the British Monarch and the Indian President, **the nominal head of the State**. As contrasted with President of the old Soviet Union, he has been given some special powers and functions like the head of State of bourgeois countries. The powers vested in him by the Constitution can be exercised only in accordance with the decisions and instructions of the National People's Congress and its Standing Committee. His assent is not necessary to validate laws by the NPC. He does not play any role in the formation of the Government. The NPC elects the Premier and his colleagues on the nomination by the President. But the President's nomination is a mere formality for the person chosen by the Communist Party of China is appointed the Prime Minister. In international affairs he acts as a symbol of the nation.

However, there has been a change in the position and role of the President in the governmental system of the country. The office of the President is now occupied by Ziang Zemin, the topmost leader of the Communist Party and the Chairman of the Central Military Commission. As a result, the President of China has become the most powerful person in the country. He is now the principal actor in the decision-making process of the government and plays the decisive role in the conduct of foreign policy.

Chapter 6

The State Council

1 Composition, Powers and Position of the State Council

According to the Constitution, the State Council is "the Central People's Government". It has been described as the executive body of the highest organ of state power (i.e. of the National People's Congress). It is the "supreme organ of state administration".

Composition and Term

The State Council is composed of (a) the ^{Prime Minister} Premier, (b) several Vice-Premiers, (c) other Ministers, and (d) Ministers heading the commission, (e) State Councillors, (f) Auditor-General, and (g) the Secretary-General. The Premier presides over the work of the State Council and the Vice-Premiers assist the Premier in the discharge of his functions.

The number of members of the State Council vary from 45 to 53. Since such a large body cannot conduct day-to-day activities effectively, an inner circle called the "Cabinet" has developed. This Cabinet which consists of the Premier and the Vice-Premiers is the real Government of the country.

The Premier is elected by the National People's Congress upon the nomination by the President of China. Other members of the State Council are also elected by the National People's Congress upon the nomination of the Premier.

The term of office of the State Council is five years. But before its term expires, the President can remove the Premier and other members of the State Council if the National People's Congress and its Standing Committee so decide.

The Premier, Vice-Premiers, and State Councillors may be elected for the second term. But they cannot serve more than two consecutive terms.

Powers and Functions

The State Council is the chief administrative organ of government. It has considerable powers which are of great constitutional significance. These powers and functions are :

(1) It formulates administrative measures, takes decisions and issues orders and verify their execution, in accordance with the Constitution, laws and decrees.

(2) It initiates legislative proposals to the NPC or the Standing Committee.

(3) It exercises unified leadership over the work of the ministries and commissions and other organisations under it.

(4) It exercises unified leadership over the work of local organs of state

administration at various levels throughout the country.

(5) It draws up and implements the national economic plan and the state budgets; it guides the national economy.

(6) It takes measures to protect state interests, maintain public order and to safeguard the rights of the citizens.

(7) It confirms proposals for administrative provisions throughout the country.

(8) It appoints and removes administrative personnel according to the provisions of the law.

(9) It conducts foreign affairs and concludes treaties with foreign states.

(10) It directs and administers the building of national defence.

(11) It exercises such other functions and powers as may be vested in it by NPC or its Standing Committee.

Role and Position of the State Council

From the above it follows that the State Council occupies a position of great importance in the governmental system of China. It is the Government of People's Republic of China and remains responsible and accountable to the National People's Congress and, when the latter is not in session, to the Standing Committee of the NPC.

Its importance lies, first, in the fact that it is the apex of administrative control over the country's economic resources. Secondly, it is the centre from which the country's economy is planned. It directs the national economy and heads the whole system of management in industry, construction and agriculture. The range of its powers is so vast that it administers and guides the country's socialist reconstruction. Its competence extends to every sphere of the nation's social and political life. This explains why the State Council is easily integrated with the leadership of the Communist Party.

According to Western critics, however, the importance of the State Council in the governmental system of China is nominal. In the first place, the State Council composed of 45 to 53 members is too large a body for effective decision making. Consequently, an inner cabinet consisting of the Premier and Vice-Premiers and State Councillors make important policy-making decisions. This criticism can also be made against British Government in which the effective decision-making is made by the Cabinet and not by the full Council of Ministers. The position of Indian Council of Ministers is the same.

Secondly, since the nation's basic policies are laid down by the Communist Party, the State Council's role in decision-making is purely formal. The State Council is an instrument in implementing the policies and directions of the Party. The position is same in other countries. In Britain as well as in India, the Cabinet is composed of leaders of the majority party in the Parliament and the Cabinet implements the policy of the party.

Thirdly, since the State Council remains responsible to the Standing

Committee, when the NPC is not in session, the Standing Committee is more powerful than the State Council. But this view is not warranted by facts. First, the Premier of the State Council is the head of the Chinese Government, roughly in the sense in which the British Prime Minister heads the Government of Great Britain or the Indian Premier heads the Indian Government. Secondly, the Premier and Vice-Premiers and several other ministers holding important portfolios belong to the top leadership of the Chinese Communist Party. Till 1975 Zhou Enlai, whose position in the party was second to Mao Zedong, was the premier of China. After the death of Mao and till 1980, the Chairman of the Communist Party Hua Guofeng was the Premier; the first Vice-Chairman of the Party, Deng Xiaoping, was the Vice-Premier, and other Vice-Premiers were also top ranking party leaders. Today also, the State Council is composed of most of the front-line leaders of the party. Fourthly, the State Council's responsibility to the Standing Committee is formal. The latter can never remove the former. The Standing Committee can remove an individual minister only on the advice of the Prime Minister. Finally, the role of the State Council in preparing and drafting almost all legislations laid before the National People's Congress refutes the idea of subordination of the State Council to the Standing Committee.

Hence it would not be unreasonable to conclude that the **State Council is the government of the People's Republic of China**. To quote B. Womack and James R. Townshend, "As translatory of party decisions into state decrees, with administrative control over government action at all levels, it is the true center of state power."

2 The Prime Minister :

Position and Role

The Premier of the People's Republic of China is the head of the Central People's Government (State Council) of the country. He is the key man in the whole government. Like Prime Ministers of other states, he possesses wide powers.

Under the Constitution, the Prime Minister "has overall responsibility for the State Council". He directs the work of the State Council. The Vice-Premiers and State Councillors assist him in the exercise of his functions. According to the Constitution, decisions of the State Council are made in executive meetings of the State Council. The Prime Minister convenes and presides over such meetings in which the Vice-Premiers, the State Councillors and the Secretary General participate. Since the State Council is a large body, he constitutes a smaller body, i.e. the Cabinet in which the Vice-Premiers are included. He coordinates the activities of different ministries and provides leadership. It is on his recommendation that the National People's Congress appoints ministers. Again, it is on his recommendation

that the Standing Committee of the NPC can remove an individual minister when the NPC is not in session. This shows that the constitutional **position of the Prime Minister is superior to all others in the government.**

It should, however, be stressed that the power and **position of the Prime Minister of China is dependent upon the position he occupies in the Party leadership.** Since the establishment of the People's Republic of China and until he died, Zhou Enlai held the office of the Premier. In China's political and social life and in popular mind, Zhou Enlai's position was next to Mao Zedong. He was the Chinese people's beloved leader. It was he who rehabilitated Deng Xiaoping, a victim of the 1966 Cultural Revolution, as the Deputy Prime Minister. After Zhou's death, Deng was again removed from all government and party positions. Deng was replaced, under Mao Zedong's instruction, by Hua Guofeng. Since Mao's death, Hua Guofeng was holding the office of the Chairman of the Party and the office of the Premier of the State Council. Then Zhao Ziyang, a topmost leader of the Communist Party, became the Prime Minister of China. In 1984 Hu Yao Bang, a topmost leader of the party became the premier and held the office until 1987 when he was replaced by Li Peng, a member of the Party Politburo. It follows that the position of the Chinese Prime Minister is determined by his position in the Communist Party. When the Chairman of the Party was also the Prime Minister the office of the Prime Minister had become of crucial importance in the governmental system of the country. This importance was further enhanced by the fact that the party Chairman was also the supreme commander of China's Armed Forces.