

Constitutional System in France



France also referred to as the French Republic or the Republic of France, is the fourth most populous country in the world and the third-largest country in Europe after Russia and Ukraine. One of the oldest nations in the West is France.

- About its first occupants, one cannot say. Its past is quite old. They lived under oppressive kings like **Henry IV and Louis XIV** before the **French Revolution of 1789**.
- Napoleon Bonaparte acquired authority and founded an Empire.
- Following Bonaparte's military loss in 1815, France united against him, and democracy was reinstated.
- The monarchy was once more overthrown in the Revolution of 1848, and Napoleon III's new Empire was established in 1858.
- The monarch was replaced by a President chosen by a bicameral legislature and Parliament, and a cabinet that answered to the Parliament and carried out legislative duties.
- When World War II came to a close in 1946, French voters accepted the Fourth Republic's constitution, which included various modifications "**designed to ensure a government.**"
- An invitation to form a new government and create a new Constitutional System in France was sent to General Charles de Gaulle, a leader of the French resistance during World War II.
- De Gaulle chose a presidential system with a powerful and stable executive at the centre of authority.
- His constitution was ratified by a popular vote and served as the Fifth Republic's governing document (1962).
- The First President of the Fifth Republic was De Gaulle.
- He established France's independence, particularly in its foreign policy, and as a result, France has played a significant role in the European Union.

French Constitution - Laboratory of Political experiment

The constitutional System in France has a reputation for being a "**Laboratory of the Political experiment.**"

- Its form of government is unitary, and its style of government is referred to as semi-presidential.
- It possesses both presidential system and parliamentary systems characteristics.
- Even in enacting laws, the French Parliament lacks supremacy. There is a list of things that the legislature is allowed to pass laws on, and the president handles the rest of the issues (i.e. he makes the laws).
- Political instability was a problem for France. Thus, the Constitutional System in France of the Fifth Republic establishes a strong President who has a fixed tenure of five years and a wide range of authority.

Read more about [French Revolution](#) here.

Constitutional system in France

The Fifth Republic

- The Declaration of the Rights of Man and the Citizen is incorporated into the Constitution by way of a mention in the preamble, and the Constitution also takes influence from the first French Constitution.
- The Fifth Republic of France was created on October 4, 1958, with the approval of a new constitution, and direct presidential elections were instituted in 1962. General de Gaulle, the country's first president, and Michel Debre, his prime minister, were significantly responsible for the establishment of the fifth republic in 1958. It was noted that 17 changes have been made to it.
- The France Constitution is parliamentary, but it gives the executive branch to the President and Ministers with broad powers.

The Legislative Branch

- The Senate and National Assembly make up the bicameral French parliament.
- The National Assembly is chosen by all eligible voters for a five-year term.
- The National Assembly, is the lower and most important house of parliament. The Sénat, or Senate, is the upper chamber.
- [Elections](#) legislative, or general elections, are held every five years to choose the members of parliament, known as Deputes.

The Judicial Branch

- The Code Civil is the official guide of French civil law.
- In France, there are several ultimate courts, each with its unique authority.
- A jurisdictional court makes decisions where there is a disagreement between the civil and administrative systems of justice, the Council of State hears appeals on criminal and civil matters, and the Court of Cassation hears appeals on administrative issues.
- The Council of State also serves as an advisory body, considering executive orders, delegated laws, and bills before they are presented to parliament.

The Constitutional Council

- Constitutional matters are dealt with by the Constitutional Council.
- Every three years, the President, the President of the Senate, or the President of the National Assembly appoints nine regular members to serve nine-year terms that are not renewable.
- Furthermore, members of the Constitutional Council by birthright include past presidents of the Republic (currently there are three such members).

Promulgation of Laws

- Prior to promulgation, the Council must ex ante ratify the legality of all regular laws that are being contested by the President, the Prime Minister, or the house of the President.
- When a matter involving basic rights emerges in the midst of legal proceedings, the Council's authority to assess the legality of legislation after its publication.

Salient Features of the French Constitution

A dangerous and dire condition was present in 1958 in France. The Fourth Republic came to an end on June 1st, 1958. General De Gaulle received the authority to make laws from the National Assembly, which thereafter disbanded. One of the duties given to De Gaulle's administration by the French Parliament was the creation of the [constitution](#). A tiny cabinet committee was established to develop a constitution, and it completed the task in under two months. A Consultative Committee with 39 members reviewed the proposal. The revised Constitution's text was given the committee's approval. On September 29, 1958, it was put to the people in a referendum for approval. It was overwhelmingly approved, and went into effect on October 4, 1958, marking the end of the Fourth Republic and the start of the Fifth. The 1958 France Constitution's key characteristics are listed below.

A Written Constitution

- The Fifth Republic's Constitution is a written document that spans around 15 printed pages and has 92 Articles grouped into 15 Titles.
- It isn't very well written as a document.

A Rigid Document

- The French Constitution is inflexible by nature since it has unusual procedures for modification.
- There are two approaches used in Article-89. One option is for the President to present the proposed modification to both Houses of [Parliament](#).
- It becomes a law if the "Parliament" approves it with a 2/5ths or 3/5ths majority.
- Second, any modification bill can be introduced by parliamentarians themselves or by the President of the Republic at the Prime Minister's suggestion.
- If the proposed amendment is adopted by a simple majority, the President may put it to a referendum - if the amendment is supported by a majority of voters, it is incorporated into Constitution and become a part of the Constitutional System in France.

Combination of the Presidential and Parliamentary Systems

- The Constitutional System in France combines aspects of both the Presidential and Parliamentary systems.
- The National Assembly is the Council of Ministers' superior.
- Through a motion of censure, the Assembly may question the government's accountability.
- The premier must offer the resignation of the government to the President when the National Assembly passes a vote of censure or rejects the government's programme or statement of general policy.
- On the other hand, the President is in charge of both the government and the state.
- He has significant legislative, financial, and judicial authority.
- The meetings of the Defence Committee and the [Council of Ministers](#) are presided over by him.
- He is the military's chief of staff. He has the power to oust the National Assembly.
- He now has emergency powers under Article 16 that effectively turn him into a despotic ruler.

Fundamental Democratic Principles

- The Constitutional System in France includes the fundamental tenets of democracy.
- According to Article 2, France is an independent republic that is secular, democratic, and social.
- It will ensure that all citizens are treated equally under the law, regardless of where they were born, their race, or their religion.

- It must respect all worldviews. The Republic's slogan is "Liberty, Equality, and Fraternity."

A Powerful Presidency

- The Constitution of France establishes a powerful President. Under the earlier Republics, the President's position was precarious. He did not reign or dominate.
- But the President is in a very good position right now. He oversees the Council of Ministers' sessions and ratifies the council's decisions on decrees and ordinances.
- He oversees the top councils and committees of the national defence as the Supreme Commander of the armed forces.
- The National Assembly may be dissolved by him. In a crisis, he might assume exceptional abilities.

Parliamentary Powers Are Limited

- The new Constitutional System in France establishes a Parliament with restricted authority.
- On the subjects listed in the Constitution, Parliament can pass legislation.
- By simple proclamation, the government has the power to enact laws on any other subject.
- "Matters, other than those which fall within the jurisdiction of law, shall be of a regulating character," declares **Article-37**.
- It implies that Parliament is not the top legislative body. It only has a small range of legislative authority.
- The executive has been given legislative authority by the Constitution itself.

Bicameral Legislature

- There is a bicameral legislature.
- The National Assembly, the lower house of parliament, is composed of 577 members who are directly elected to serve terms of five years, and the Senate, the upper house, is composed of 283 members who are indirectly elected by "grand electors" to serve terms of nine years, with each member retiring in thirds after three years.
- As a result of being stripped of many of its powers, the Parliament is no longer a supreme body and is now subject to the President of the Republic.

- But since General de Gaulle, the man credited with creating the Constitutional System in France left the political scene, the Parliament has primarily regained its authority.

Council of the Constitution

- The Constitution of France establishes the Council of the Constitution.
- They are chosen for a non-renewable term of 9 years, making up its 9-member body.
- President of the Republic, President of the National Assembly, and President of the Senate are each responsible for appointing three of them.
- Assuring the regularity of elections is one of its key responsibilities examining the legality of organic legislation prior to its dissemination, and the President of the Republic.
- Disputes between the legislative and the executive branch are also resolved by it.

High Court of Justice

- The Constitution of France establishes a High Court of Justice in **Article 67**.
- It is made up of lawmakers chosen in an equal number by the National Assembly and the Senate following each full or partial election for those chambers.
- From among the group's members, the chairman is chosen.
- Its primary duty is to prosecute the President of the Republic for high treason and the members of the executive branch for crimes and misdemeanors committed while performing their official duties.

High Council of Judiciary

- The Constitution of France stipulates that the President of the Republic must be the one to guarantee the independence of the judiciary, according to the High Council of the [Judiciary](#).
- It stipulates that the High Council of Justice will offer support.
- There are 9 people who make up this group, and its president is the president of the Republic.
- As its Vice-President, the Minister of Justice serves.

- The role of the Council is to propose candidates for the Supreme Court of Appeal and to express an opinion on the Ministers of Justice's suggestions for the nomination of other judges. On matters pertaining to pardon, it is also consulted.

Economic and Social Council

An economic and social council will be established in accordance with the Constitution of France, and it will have the responsibility of expressing its opinion on all bills, orders, and decrees issued by the administration as well as any proposed legislation by the Parliament.

Referendum

- The President of the Republic's ability to put specific topics to the people in a referendum is another significant element.
- Article II of the Constitution in France states that the President of the Republic may submit any bill that deals with the structure of the governmental authorities, entails approving a community agreement, or grants authority to ratify a treaty that may have an impact on the operation of current institutions without violating the Constitution in France, on the recommendations of the government or on a joint motion of the assemblies.

Multiple Party System

- There is a multiple-party system in France.
- People now have the constitutional right to start their own political organizations or to join any existing ones.
- Parties and political organizations "play a part in exercising the right to vote," according to Article 4 of the Constitution of France.
- Parties have complete freedom of organization and movement.
- They must adhere to the democratic and national sovereignty principles.

Parliamentary composition and functions

The National Assembly (Assemblée Nationale) and the Senate (Senat) make up the bicameral French Parliament (French - Parlement français), which is the legislative body of the French Republic. The Senate meets at the Palais du Luxembourg, while the National Assembly meets at the Palais Bourbon, where each assembly holds its legislative sessions.

There are rules and procedures specific to each house. For the purpose of revising and amending the Constitution of France, they may, on occasion, gather as a single body known as the Congress of the French Parliament (Congres du Parlement francais), which is held at the Palace of Versailles.

Composition

- The higher Senate (French - le Senat) and the lower National Assembly, which each has **348 and 577 members**, respectively, make up the two chambers of the current parliament.
- In two rounds of first past the post voting, deputies who sit in the National Assembly are chosen for terms of five years, regardless of whether the Assembly is dissolved.

Functions & Power

- The Parliament typically meets Nine months of Session each year, although in exceptional cases, the French President may call for an additional session.
- Despite the Fourth Republic's limitations on parliamentary authority, the National Assembly still has the ability to topple a government with a simple majority of its members supporting a resolution of no confidence.
- Because of this, the administration often comprises representatives from the dominant political party in the Assembly, and it needs their support in order to avoid a **no-confidence vote**.
- The President appoints the Prime Minister and other government ministers.

Note - Cohabitation is the term typically used to describe the infrequent occurrences when the president and prime minister are not affiliated with the same political party. Instead of the Prime Minister, the President is in charge of the Cabinet of Ministers.

- The cabinet, or the government, has a significant impact on the agenda of Parliament when it meets every Wednesday.
- **Parliamentary immunity** is available to legislators.
- Reports on a range of subjects are written by committees in both assemblies.
- They can create parliamentary committees of inquiry with extensive investigative authority if necessary.

Main objectives of the French constitution of 1791

The Preamble of the Constitution of France, which was enacted on **September 3, 1791**, eventually derived from the Declaration of the Rights of Man, which was adopted on

August 26, 1789. The adoption of **constitutionality and the establishment of popular sovereignty** were two of the fundamental principles of the French Revolution. The following mentioned are its key objectives of it.

- This Constitutional System in France's primary goal was to **curtail the monarch's authority.**
- Instead of being concentrated in the hands of a single individual, these powers were now divided among the **legislative, executive, and judicial branches of government.**
- It was decided that certain rights were "**natural and inalienable,**" such as the right to life, freedom of speech, freedom of opinion, and equality before the law. The king's authority was constrained by the end of the **feudal system.**
- France transitioned to a **constitutional monarchy** when the king came under the control of the executive branch.
- They were deprived of their privileges, including the **clergy and nobility.**
- The church's ability to collect **taxes was eliminated,** and the lands it possessed were taken.
- The national assembly had the authority to **enact laws.**
- The court, the **executive branch,** and the legislature each received a certain amount of authority.

Similarities between the Indian constitution and the French constitution

- India and France both have **written constitutions.**
- It has been noted that **governments elect heads** during their separate mandates in both the French and Indian constitutions.
- Under the terms of the French and Indian Constitutions, the amendments may be passed with a **60 percent majority.**
- India and France both have **elected heads of state and are republics.**
- The constitutions of France and India both contain provisions for the **imposition of emergency power.**

Download the [world history](#) notes here.

As of 2020, the La Republique En Marche party governs France, and Emmanuel Macron serves as president.

The biggest political parties in France right now are La Republique En Marche! ,Socialist Party (Parti Socialiste), Les Republicains, or The Republicans, Democratic Movement (Mouvement démocrate, or MoDem), (UDI) Union of Democrats and Independents, Insoumise France, French Communist Party (PCF), National Rally (National Assembly), Left Party (Parti de Gauche), Europe Ecologie Les Verts (also known as Europe Ecology).

Conclusion

The fifth Constitutional System in France is the one in effect today. A written constitution governs France. The Constitutional System in France is frequently altered as a result of instability. Governments chose their leaders throughout the duration of their separate administrations in both France and India. The Constitution of France requires a 60 percent majority to pass amendments. The Constitutional System in France served as a model for the Indian Constitution in promoting equality, liberty, and fraternity.

UPSC Mains Practice Questions

Q 1. Which factors led to the French Revolution? Consider the effects it has had on both French society and the wider world. (250 words)

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