



75 Years of Supreme Court

For Prelims: [President](#), [Supreme Court](#), [Constitution](#), [Parliament](#), [Basic Structure Doctrine](#), [Article 21](#), [Emergency](#), [Public Interest Litigation \(PIL\)](#), [Collegium System](#), [Writ Petitions](#), [e-Courts Project](#), [Central Vigilance Commission](#).

For Mains: Role of Supreme Court in Strengthening Democracy and Promoting Individual rights Since its Formation.

Source: [PIB](#)

Why in News?

Recently, the [President](#) unveiled the new **flag and insignia** of the [Supreme Court](#) (established - 26th January 1950) to mark the 75th year of its establishment.

- The flag features the [Ashoka Chakra](#), the Supreme Court building and the book of the **Constitution of India**.
- Also, the Prime Minister released a **commemorative postage stamp** celebrating 75 years of the Supreme Court of India.

What are the Key Highlights of the Supreme Court's 75 Years Journey?

- **Role of Judiciary in Strengthening Democracy:** The judiciary in India has played a crucial role in safeguarding [democracy](#) and **liberal values** since independence.
 - It has acted as the **guardian of the [Constitution](#)**, a protector of the rights of the marginalised, and a **counter-majoritarian** institution of governance.
- **Evolution of Supreme Court (SC):** The journey of the SC and its role in strengthening democracy and protecting personal liberty can be classified into **four phases**.
 - **First Phase (1950- 1967):** It reflected adherence to **constitutional text and judicial restraint**.
 - **Focus on Judicial Review:** In the initial years post-independence, the judiciary maintained a **conservative approach**, limiting itself to interpreting the Constitution as written.
 - It exercised [judicial review](#) to check legislative actions **without overstepping** its boundaries.
 - **Avoidance of Ideological Influence:** The judiciary avoided being swayed by government ideologies like [socialism](#) and affirmative action.
 - For example, the **Kameshwar Singh case, 1952**, declared the abolition of [zamindari as illegal](#) but refrained from nullifying constitutional amendments passed by the Parliament.
 - **Respect for Legislative Supremacy:** Cases like the [Champakam Dorairajan case, 1951](#) show that while the judiciary struck down **reservations** in educational institutions as a violation of the right to equality, it avoided confrontation with [Parliament](#), adhering to a positivist interpretation of the Constitution.

- **Second Phase (1967-1976):** It exhibited **judicial activism** and confrontation with Parliament.
 - **Expansion of Fundamental Rights:** The [Golak Nath judgment, 1967](#) marked a shift towards a more **expansive interpretation of fundamental rights**, challenging the Parliament's legislative power and reasserting the power of judicial review.
 - In the [Golak Nath judgement, 1967](#) the Supreme Court ruled that the Parliament cannot take away or abridge any of the Fundamental Rights.
 - **Landmark Rulings on Constitutional Amendments:** The SC's decision in the [Keshavananda Bharati case, 1973](#) introduced the '[basic structure' doctrine](#), which limited Parliament's power to amend the Constitution, setting the stage for a confrontation between the judiciary and the executive.
 - **Impact of the Emergency on Judicial Independence:** The national emergency and the supersession of three senior-most judges to appoint **Justice AN Ray** as the [Chief Justice of India](#) majorly contributed to the judicial surrender in the [ADM Jabalpur vs. Shivkant Shukla, 1976 case](#) which supported the government's act of suspending the right to life under [Article 21](#) of the fundamental rights.
 - This **judgment marked a new low for Constitutional democracy** in the country besides exposing the institutional vulnerability of the higher judiciary.
- **Third Phase (1978- 2014):** It displayed judicial activism and expansion of [Public Interest Litigation \(PIL\)](#).
 - **Course Correction Post-Emergency:** After the [Emergency](#), the judiciary sought to regain its independence and credibility. The [Maneka Gandhi case, 1978](#) broadened the interpretation of [Article 21](#), expanding the scope of the **right to life and personal liberty**.
 - **Rise of Public Interest Litigation (PIL):** The judiciary, through cases like [Hussainara Khatoon case, 1979](#) expanded access to justice by allowing public-spirited individuals to file petitions on behalf of marginalised groups.
 - PILs became a tool for [judicial activism](#), addressing issues such as human rights, environmental protection, and governance.
 - **Collegium System:** The judiciary sought to maintain its autonomy by introducing the [collegium system](#) for the appointment of judges.
 - This system was later challenged by the [National Judicial Appointments Commission Act, 2014](#) which the judiciary struck down to protect its independence.
- **Fourth Phase (2014-Present):** It focussed on the **liberal interpretation** of the constitution and considering the Constitution as a living document.
 - **Liberal Interpretation:** The Supreme Court has upheld the **revocation of [Article 370](#)** for full integration of J&K to the Indian Union.
 - **Sustaining Judicial Activism:** Despite criticisms, the judiciary has continued to assert its role in protecting constitutional rights. E.g., the opaque [electoral bonds scheme](#) was held invalid by the Supreme Court.
 - In 2018, the Supreme Court struck down [Section 497](#) of the Indian Penal Code which criminalised adultery as being violative of **Articles 14**.

SUPREME COURT OF INDIA

The Supreme Court of India is the apex judicial body under the Constitution of India.

HISTORY

Regulating Act established Supreme Court at Calcutta

1773

Supreme Court at Bombay

1800

1823

Supreme Court at Madras

High Courts Act created High Courts, abolished Supreme Courts

Government of India Act established Federal Court of India

1861

1935

1950

Establishment of Supreme Court of India (**Article 124**)

COMPOSITION

- **Strength:** 34 judges including CJI, appointed by the President
- **Eligibility:** Indian Citizen; High Court judge for 5 years/Advocate for 10 years/Distinguished jurist
- **Tenure:** Until age 65 (unless resigns/impeached by President)
- **Salaries:** Determined by Parliament
- **Impeachment:** By President on Parliament's approval with a special majority

JURISDICTION

Original, Writ, Appellate and Advisory Jurisdictions:

- **Original:** Disputes between Government and States (Article 131); Constitutional Remedies (Article 32)
- **Writ:** Powers to issue writs for enforcement of fundamental rights (Article 139)
- **Appeals From HCs:**
 - Constitutional Matters (Article 132)
 - Civil Matters (Article 133)
 - Criminal Matters (Article 134)
 - Special Leave (Article 136; Discretionary Power)
- **Advisory:** Presidential referrals (Article 143)

OTHER POWERS

Court of Record, Judicial Review, Constitutional Interpretation etc.

- **Articles 129:** Powers to punish for **contempt**
- **Article 137:** Supreme Court review of its judgments
- **Article 141:** Supreme Court's decisions are binding on all courts
- **Article 142:** Orders and decrees of the Supreme Court are enforceable
- **Article 147:** SC is the **ultimate interpreter of the Constitution**

Acting Chief Justice, Ad Hoc Judge, & Retired Judge of SC

- **Acting Chief Justice:** Appointed by the President as needed
- **Ad Hoc Judge:** Appointed temporarily by the CJI for quorum issues
- **Retired Judge:** Chief Justice can reappoint retired judges temporarily



What are the Key Challenges Facing the Supreme Court of India?

- **Volume of Pending Cases:** At the end of 2023, the Supreme Court was saddled with **80,439 pending cases**. This backlog contributes to substantial **delays in justice delivery** that

undermine the efficiency and credibility of the judiciary.

- **Dominance of Special Leave Petitions (SLPs):** [Special Leave Petitions](#) (preferred means for civil and criminal appeals) constitute the majority of the Supreme Court's case list, overshadowing other types of cases like [writ petitions](#) and constitutional challenges.
 - This concentration impacts the court's ability to address a diverse range of issues effectively.
- **Selective Prioritization of Cases:** The "**pick and choose model**" allows certain cases to be prioritised over others, leading to perceptions of **preferential treatment**. For example, a high-profile bail application was given swift attention compared to other significant cases.
- **Judicial Evasion:** The backlog has sometimes led to "**judicial evasion**," where important cases are **avoided or delayed**. Notable examples include delays in addressing the [Aadhaar biometric ID scheme](#) challenge and the **electoral bonds case**.
- **Conflict of Interest and Integrity:** Allegations of [corruption](#) within the judiciary, including the Supreme Court, pose challenges to its [integrity](#) and public confidence.
 - E.g. Justice **Abhijit Gangopadhyay of Calcutta High Court resigned as the Judge and soon after entered politics** highlighting a possible conflict of interest.
- **Concerns of Appointment of Judges:** The process of judicial appointments, particularly the role of the [Collegium system](#), has been a topic of contention.
 - There have been discussions on reforms like the [National Judicial Appointment Commission](#) to make the appointment process more transparent and accountable.

Way Forward

- **All India Judicial Recruitment:** Recently, the **President** called for Judicial Recruitment at all India level. Establishing a national standard for judicial recruitment ensures **consistency and quality** across states, improving efficiency.
 - Judicial recruitments to district courts should not be restricted anymore by the narrow domestic walls of **regionalism** and confines of **State-centred selections**.
- **Case Management Reforms:** Implement advanced case management techniques to streamline processes.
 - For example, the [e-Courts Project](#) aims to digitise and automate court operations, which can help in managing and reducing case backlog.
 - Expand the use of the [Supreme Court's Case Management System \(CMS\)](#) to enhance tracking and management of cases.
- **Promote Alternate Dispute Resolution (ADR):** Encourage the use of ADR mechanisms for cases that do not require Supreme Court intervention, as outlined in the [Arbitration and Conciliation Act, 1996](#).
- **Transparent Case Listing:** Develop a transparent case listing and prioritisation protocol.
 - The **Supreme Court Portal** could include a feature to publicly track case statuses and priorities, ensuring transparency.
- **Clarify Institutional Goals:** Define and communicate clear institutional goals. The **Judicial Performance Evaluation** framework could be adapted to assess and realign the court's goals.
 - The **Supreme Court's Research and Training Institute** can play a role in supporting this focus.
- **Strengthen Accountability Mechanisms:** Implement stricter accountability measures for judges. For example, establish an **Independent Judicial Accountability Commission** similar to the [Central Vigilance Commission](#) for government officials.

Drishti Mains Question:

Discuss the Supreme Court's 75-year evolution while promoting democracy and personal liberty. Discuss strategies for overcoming current challenges to ensure effective justice?

UPSC Civil Services Examination Previous Year Question (PYQ)

Prelims

Q. With reference to the Indian judiciary, consider the following statements: (2021)

1. Any retired judge of the Supreme Court of India can be called back to sit and act as a Supreme Court judge by the Chief Justice of India with the prior permission of the President of India.
2. A High Court in India has the power to review its own judgement as the Supreme Court does.

Which of the statements given above is/are correct?

- (a) 1 only
(b) 2 only
(c) Both 1 and 2
(d) Neither 1 nor 2

Ans: (c)

Q. Consider the following statements: (2019)

1. The 44th Amendment to the Constitution of India introduced an Article placing the election of the Prime Minister beyond judicial review.
2. The Supreme Court of India struck down the 99th Amendment to the Constitution of India as being violative of the independence of judiciary.

Which of the statements given above is/are correct?

- (a) 1 only
(b) 2 only
(c) Both 1 and 2
(d) Neither 1 nor 2

Ans: (b)

Q. With reference to the Constitution of India, consider the following statements: (2019)

1. No High Court shall have the jurisdiction to declare any central law to be constitutionally invalid.
2. An amendment to the Constitution of India cannot be called into question by the Supreme Court of India.

Which of the statements given above is/are correct?

- (a) 1 only
(b) 2 only
(c) Both 1 and 2
(d) Neither 1 nor 2

Ans: (d)

Mains

Q. Constitutional Morality' is rooted in the Constitution itself and is founded on its essential facets. Explain

the doctrine of 'Constitutional Morality' with the help of relevant judicial decisions. **(2021)**

Q. Judicial Legislation is antithetical to the doctrine of separation of powers as envisaged in the Indian Constitution. In this context justify the filing of large number of public interest petitions praying for issuing guidelines to executive authorities. **(2020)**

Q. Critically examine the Supreme Court's Judgement on 'National Judicial Appointments Commission Act, 2014' with reference to appointment of judges of higher judiciary in India. **(2017)**

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