



## Supreme Court Calls for Legislative Reviews

**For Prelims:** [Supreme Court of India](#), [Cybercrimes](#), [IT Act, 2000](#), [National Green Tribunal \(NGT\)](#)

**For Mains:** Need for Period Review of Laws, Measures to Make Laws more effective in India, Challenges in Law Making, Way Forward

**Source:** [IE](#)

### Why in News?

Recently, the [Supreme Court \(SC\)](#), while hearing a plea regarding the 45-day limitation under **Section 81** of the [Representation of the People Act, 1951](#), emphasized the necessity of **periodic legislative reviews to assess the effectiveness of laws**.

- It highlighted the **need for an expert mechanism to evaluate laws and identify deficiencies or bottlenecks**, proposing reviews every 20, 25, or 50 years.

### Representation of the People Act, 1951 (RPA 1951)

- **RPA 1951** aims to **regulate the electoral system** at both the national and state levels.
- **Key Provisions of RPA Act:**
  - It outlines the allocation of seats for the **Lok Sabha, State Legislative Assemblies, and State Legislative Councils**.
  - The Act governs the [delimitation of constituencies](#) for the purpose of elections.
  - It specifies the **qualifications and disqualifications for voters** and provides the framework for the **preparation of electoral rolls**.
- **Section 81 of the Act 1951** stipulates that an **election petition** challenging the result must be filed within **45 days** from the declaration of results.
  - It can be based on grounds such as **illegal practices, corruption, or electoral law violations** and must be filed in the [High Court](#) with jurisdiction over the election area.

### Why is there a Need for Periodic Review of Laws by the Legislature?

- **Identifying Deficiencies:** Since **laws may lose relevance over time due to evolving circumstances**, regular reviews are essential to ensure **they serve their intended purpose** and allow for necessary modifications or repeal.
  - **Example:** The [IT Act, 2000](#), underwent amendments to address [cybercrimes](#) that were not prevalent earlier.
- **Ensuring Relevance of Legislation:** Periodic reviews ensure that law remains relevant, effective, and aligned with societal needs. They also **address laws enacted hastily or driven**

by political motives, ensuring a **focus on legal efficacy and public interest**.

- **Example:** Enactment of **Anti-liquor law in Bihar** led to a surge in bail applications and strained the state's judiciary.
- Similarly, **Rajasthan's law** authorizing civil society organizations to raid institutions to prevent cow slaughter raised concerns about the **potential misuse of power and violation of institutional integrity**.
- **Addressing Unintended Consequences:** Periodic reviews can identify areas where **laws inadvertently hinder justice or create inefficiencies**.
  - For instance, **Section 81 of RPA, 1951's** 45-day limit may preclude valid election disputes due to procedural constraints.
- **Improving Accountability:** Regular reviews ensure that **laws remain aligned with their original objectives** and democratic principles.
  - For instance, **Section 498A of the IPC**, originally intended **to protect women from cruelty** and harassment by their husbands or in-laws, has been **criticized for misuse**.
- **Global Standards:** Many democratic nations **conduct routine legislative reviews** to ensure laws align with international best practices and human rights norms.
  - For example, the **US PATRIOT Act** has been **periodically amended** to address concerns over privacy and civil liberties.

## Periodic Revision of Laws in Other Democratic Countries

- **United Kingdom:** The **Law Commission of England and Wales** is tasked with conducting regular reviews of existing laws.
  - Its recommendations have led to significant legal reforms, such as the **repeal of the Witchcraft Act, 1735**, demonstrating its role in modernizing archaic laws.
- **Australia:** The Australian Law Reform Commission regularly conducts **systematic reviews of the legal framework and submits detailed** reports with recommendations for legislative amendments.
  - This process ensures that laws remain relevant and effective in addressing contemporary issues.

## What are the Challenges in Periodically Reviewing Laws?

- **Lack of Political Will:** Legislative reviews are sometimes **influenced by political agendas**, leading to biased amendments, which might **serve electoral interests rather than public welfare**, undermining the objectivity of the review process.
  - **Example:** **Farm Laws (2020)** were criticized for **favoring corporate interests over the concerns of farmers** rather than reforming India's agricultural market to address root causes of distress.
- **Judicial Overreach:**
  - Sometimes, the judiciary may be accused of overstepping its boundaries while reviewing laws and affecting the smooth functioning of the review process.
  - **Example:** in the **National Judicial Appointments Commission (NJAC) case (2015)**, where the **Supreme Court** struck down the **NJAC Act**, which aimed to reform judicial appointments by including the executive.
- **Legal Complexity:**
  - Many laws are **interdependent**, and **isolated amendments can lead to unintended consequences or conflicts** with existing legislation, complicating the review process.
  - **Example:** **Anomalies in the legal provisions** related to child pornography under the **POCSO Act** and the **IPC**.
- **Limited Public Participation:**
  - Public understanding of legislative processes and legal nuances **is low** and often not encouraging which limits and reduces the impact of the review process.
  - **Example:** The **Ranbir Singh Committee** to Reforms Criminal Laws had very **limited public participation** in the consultation process for legal reforms, which raised concerns about inclusivity and comprehensiveness of the reforms.

## Institutions Related to Legal Reform in India

- [Administrative Reforms Commission \(ARC\)](#)
- **National Commission to Review the Working of the Constitution** (NCRWC) chaired by Justice M.N. Venkatachaliah
- [Committee for Reforms in Criminal Laws \(2020\) under Dr. Ranbir Singh.](#)
- [Law Commission of India](#)

## Way Forward

- **Strengthening Law Commission of India:** As India lacks dedicated bodies for periodic legislative reviews, strengthening institutions like the [Law Commission of India](#) with greater independence and resources could enhance the quality and consistency of legal reforms.
- **Leveraging Technology:** Technology can enhance the review process.
  - Platforms like **MyGov** for public consultations and tools like [AI](#) for evaluating law effectiveness can **improve efficiency and citizen engagement in lawmaking.**
- **Resource Allocation:** The government should allocate **dedicated budgets** for legal reforms, reviews and **capacity-building programs** for civil servants, judges, and law enforcement to improve implementation.
- **Engaging with International Best Practices:** India should align its laws with international standards, as seen with the [National Green Tribunal \(NGT\)](#), to enhance effectiveness in areas like environmental law and technology governance.

## Law Commission of India

- It is a **non-statutory advisory body** to **research and recommend legal reforms.**
- It operates for a **fixed tenure**, advising the government on legal matters.
- The first Law Commission was created in **1834** under the [Charter Act of 1833](#), chaired by **Lord Macaulay**, which recommended the codification of the [Indian Penal Code \(IPC\)](#) and the [Criminal Procedure Code \(CrPC\)](#).
- The first Law Commission of Independent India was set up in **1955**, with **M.C. Setalvad** as Chairman.
- In September 2024, [23rd Law Commission](#) was constituted for a three-year term, from 1st September 2024 to 31st August 2027.
- It **reviews and recommends** the repeal of outdated laws, proposes new legislation to implement the Directive Principles of State Policy, and **addresses judicial administration issues**, offering recommendations to the government.

## Conclusion

By institutionalizing periodic legislative reviews, India can foster a dynamic legal framework that remains responsive to societal needs, democratic ideals, and global standards. Judicial pronouncements and international practices serve as guiding benchmarks in this endeavor.

### **Drishti Mains Question:**

Why are periodic legislative reviews necessary in India, and what challenges hinder their implementation?

**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 44<sup>th</sup> 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 99<sup>th</sup> 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)**

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## **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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