



In-Depth: Relationship Between Executive, Judiciary & Legislature

For Prelims: [Constitution Day](#), [Executive](#), [Judiciary](#), [Legislature](#), [Lok Sabha](#), [General Elections](#), [Universal Adult Suffrage](#), [Rajya Sabha](#), [President Of India](#), [Council Of Ministers](#), [Union Public Service Commission \(UPSC\)](#), [Supreme Court](#), [High Courts](#), [Collegium System](#), [Seventh Schedule](#), [Doctrine Of Separation Of Power](#), [Parliamentary Committees](#), [Question Hours](#), [Public Accounts Committee \(PAC\)](#), [Chief Justice](#), [Pardons](#), [Reprieves](#), [Or Remissions of Punishment](#), [Delegated Legislation](#), [Kesavananda Bharati Case](#), [Judiciary's Efficiency](#), [Judicial Review](#), [Comptroller And Auditor General \(CAG\)](#), [Lokpal](#).

For Mains: Significance of Indian Polity and Governance, addressing key aspects of separation of powers, checks and balances, constitutional provisions, and interrelationships between the Executive, Legislature, and Judiciary.

Why in News?

Recently, [Constitution Day](#) was celebrated, marking the importance of the India constitution.

- One of its key provisions, [separation of power](#), plays a crucial role in regulating the relationships between the [Executive](#), [Judiciary](#), and [Legislature](#) in India.

What are the Three Branches of Government in India?

- **Legislature:** The Legislature is the **law-making body** tasked with drafting, amending, and repealing laws for the governance of the country.
 - The Legislature also represents the **will of the people**, ensuring that public concerns are addressed in national policies.
- **Composition and Election:** The [Lok Sabha](#), or the House of the People, consists of representatives **directly elected** by the citizens of India through [general elections](#) held under [universal adult suffrage \(Article 81\)](#).
 - The [Rajya Sabha](#), or the **Council of States**, comprises members elected by the legislative assemblies of the states and union territories (**Article 80**).
 - This ensures that the [federal structure of India](#) is preserved by providing states a voice at the national level.
 - Parliament's functioning is governed by **Articles 79-123**, which outline its **powers, privileges, and responsibilities**, ensuring it operates within constitutional boundaries.
- **Executive:** The Executive branch is responsible for **implementing laws**, formulating policies, and administering the daily affairs of the government.
 - It plays a crucial role in maintaining [law and order](#), executing [welfare schemes](#), and enforcing legislative directives.
- **Appointment:** The [President of India](#), the constitutional head of the Executive, is elected by an electoral college comprising elected members of Parliament and state legislatures (**Articles 52-54**).
 - **The Prime Minister**, who leads the [Council of Ministers](#), is appointed by the President

- under **Article 75**, based on the majority party or [coalition](#) in the Lok Sabha.
- The [91st Constitutional Amendment Act, 2003](#) in India restricted the total number of ministers in the Union and State governments to **15%** of the respective legislative bodies, aiming to reduce cabinet size.
 - Other ministers are appointed on the advice of the Prime Minister, ensuring cohesion in the Executive.
 - Under **Article 78** of the Indian Constitution, it is the duty of the Prime Minister to communicate to the President all decisions of the Council of Ministers relating to executive affairs.
 - The [Vice President of India](#), as per **Article 63** of the Constitution, serves as the ex-officio **Chairman of the Rajya Sabha** and plays a role in the Executive by assisting the President, especially in matters of constitutional duties and decision-making.
 - **Civil servants**, selected through competitive exams by the [Union Public Service Commission \(UPSC\)](#) under **Articles 309-311**, ensure competence and neutrality in governance through a merit-based system.
- **Judiciary:** The [Judiciary](#) upholds the Constitution as the supreme law of the land by interpreting laws, resolving disputes, and safeguarding [fundamental rights](#).
- It also acts as a check on the **Legislature and Executive** by declaring their actions unconstitutional if they violate constitutional provisions.
 - The **Indian Judiciary** is hierarchical, with the [Supreme Court](#) at the top, followed by [High Courts](#) at the state level, and lower courts like **District and Sessions Courts** handling local matters.
- **Appointment:** Judges of the **Supreme Court** and **High Courts** are appointed by the President based on the recommendations of the [Collegium system](#), as established in [Second Judges Case \(1993\)](#). This process ensures judicial independence while maintaining accountability.
- The Judiciary's independence is safeguarded by **Articles 124-147**, which provide security of tenure and bar judges from discussing their conduct in Parliament except under special procedures for impeachment.

What is Separation of Power and Its Necessity?

- **Concept of Separation of Power:** The principle of [separation of power](#) refers to the division of powers among three distinct branches- **Executive, Legislature, and Judiciary**.
- Each branch is designed to perform specific functions without interfering in the domain of the other, thereby preventing the concentration of authority.
 - This concept, introduced by **Montesquieu**, is crucial for maintaining democratic governance and safeguarding liberty.

Balance of Power



- **Necessity:** Preventing **abuse of power** reduces the risk of **authoritarian rule** or **misuse of power** by distributing **authority** among different branches of government.
 - Ensuring **checks and balances** allows each branch to **monitor** the others, preventing any organ from acting beyond its **constitutional mandate**.
 - Promoting **efficiency** through **specialization** ensures that each branch can focus on its **core competencies**, leading to more effective **administration**.
 - Protecting **rights** is achieved through **judicial independence**, which guarantees the protection of **individual freedoms** by providing remedies against **excesses** by the legislature and executive.
 - In [S.R. Bommai v. Union of India \(1994\)](#), the Supreme Court limited the arbitrary use of **President's Rule**, while in [Keshavananda Bharati v. State of Kerala \(1973\)](#), it ruled that Parliament cannot alter the Constitution's **basic structure**, highlighting the need for checks on both Executive and Legislative powers.
- **Constitutional Provisions:**
 - **Article 50** explicitly mandates the separation of the judiciary from the executive in public services, ensuring impartial administration of justice.
 - **Article 121** prohibits discussion on judges' conduct in Parliament; **Article 211** applies similarly to state legislatures.
 - **Article 122** restricts courts from questioning Parliament proceedings; **Article 212** applies similarly to state legislature proceedings.
 - **Articles 245 and 246** provide a clear division of legislative powers between the **Union and states**, maintaining federalism while limiting legislative overreach.
 - The [Seventh Schedule](#) of the Constitution clearly demarcates the subjects on which the Union and state legislatures can legislate, reducing conflicts between different levels of government.
 - **Article 361** provides immunity to the President and Governors from civil and criminal proceedings during their term.
 - The [doctrine of separation of power](#) has been upheld in landmark judgments such as **Indira Nehru Gandhi v. Raj Narain (1975)**, where the **Supreme Court** struck down legislative attempts to bypass judicial authority.

What is Interrelationship Between the Three Branches of Government?

▪ Areas of Cooperation:

- **Law-Making and Execution:** The Legislature drafts and passes laws, which are implemented by the Executive.
 - For instance, the [Goods and Services Tax \(GST\)](#) legislation was enacted by Parliament and implemented nationwide through the Executive's administrative framework.
- **Judicial Guidance for Legislation:** The Judiciary often provides guidelines that lead to legislative reforms.
 - For example, the [Vishaka Guidelines \(1997\)](#) laid down by the Supreme Court to address workplace harassment were later formalized into the [Sexual Harassment of Women at Workplace Act, 2013](#).
- **Emergency Collaboration:** During emergencies, the three branches work in unison to protect public welfare.
 - During the [Covid-19](#) pandemic, the Executive enforced lockdowns under legislative provisions, while the Judiciary monitored the government's adherence to constitutional rights.

▪ Overlapping Powers of the Legislature

- **With the Judiciary:** The Legislature can impeach and remove judges of the **Supreme Court and High Courts** under **Articles 124(4) and 217(1)**.
 - This process allows Parliament to hold judges accountable for serious misconduct, thus ensuring judicial integrity.
 - If the Judiciary declares a **law unconstitutional**, the Legislature has the power to amend the law to bring it in compliance with the Constitution, effectively revalidating it.
 - The Legislature can punish individuals for breaching its privileges or for contempt of Parliament, a role typically associated with the Judiciary, thus ensuring legislative authority is respected.
- **With the Executive:** The heads of ministries, including the **Prime Minister and Cabinet Ministers**, are members of the **Legislature**.
 - This dual membership creates a direct link between the **Executive** and the **Legislature**, fostering **accountability**.
 - Through a no-confidence vote, the Legislature can compel the resignation of the Executive, holding it accountable to the people.
 - The Legislature can scrutinize and assess the work of the Executive through debates, [parliamentary committees](#), and [question hours](#), influencing government policy.
 - For instance, the [Public Accounts Committee \(PAC\)](#) of Parliament, chaired by the opposition leader exemplifies how legislative committees scrutinize executive financial actions and expenditures.
 - The Legislature can impeach the **President for Constitutional** violations under **Article 61**, ensuring a check on the highest office in the Executive.
 - The **Council of Ministers**, consisting of elected members of the Legislature, advises the President and Governor, further strengthening the overlap between the two branches.

▪ Overlapping Powers of the Executive

- **With the Judiciary:** The President, as head of the Executive, appoints the [Chief Justice](#) and other judges under **Article 124**.
 - This power affects the Judiciary's independence, particularly through the **collegium system**, where judicial recommendations play a significant role.
 - The Executive has the authority to grant [pardons, reprieves, or remissions of punishment](#) under **Articles 72 and 161**, which can directly impact judicial decisions.
 - The Executive sets up tribunals and **quasi-judicial bodies** that perform judicial functions, overlapping with the Judiciary's role in legal adjudication.

- **With the Legislature:** The President can promulgate ordinances under **Article 123**, giving them the force of law and allowing the Executive to bypass the Legislature in urgent situations.
 - The Executive has the authority to regulate its internal procedures through rules made under **Articles 77 and 166**, subject to constitutional provisions.
 - Through [delegated legislation](#), the Executive can exercise legislative functions, where the Legislature delegates law-making power on specific issues, facilitating administrative efficiency.
 - For instance, [The Food Safety and Standards Act, 2006](#) empowered the [Food Safety and Standards Authority of India \(FSSAI\)](#), an Executive body, to create detailed regulations, demonstrating the delegation of law-making powers from the Legislature to the Executive.
- **Overlapping Powers of the Judiciary**
 - **With the Executive:** Under [Article 142](#), the **Supreme Court** can issue orders for "**complete justice**," allowing it to assume certain executive functions, such as directing authorities to act when the Executive has failed.
 - [Judicial review](#) allows the **Judiciary** to examine Executive actions to ensure they align with the Constitution, checking any potential overreach.
 - **With the Legislature:** The **Judiciary** ensures the unamendability of the Constitution's basic structure, as established in the **Kesavananda Bharati case**, enabling it to strike down amendments by the Legislature that violate core constitutional principles.
 - The Judiciary also exercises judicial review over laws passed by the Legislature, invalidating any law found to be unconstitutional under **Article 13**.

Way Forward

- **Strengthening Separation of Power:** Judicial appointments must be reformed by codifying the **Collegium system** and ensuring transparency.
 - Fixed timelines for appointments can reduce delays and maintain the [Judiciary's efficiency](#).
 - Legislative boundaries should be clarified to address the issue of [judicial overreach](#), particularly in areas of [judicial review](#), to reduce conflicts and maintain harmony between the branches.
- **Enhancing Checks and Balances:** Post-legislative scrutiny mechanisms should be institutionalized to monitor the implementation of laws and assess their effectiveness.
 - Oversight bodies like the [Comptroller and Auditor General \(CAG\)](#) and [Lokpal](#) must be given greater autonomy and authority to hold the Executive accountable.
 - **Ordinance-making powers** should be limited to prevent the Executive from bypassing the Legislative mandates.
 - Empower **legislative committees** to scrutinize executive actions more effectively through training and resources, fostering a robust system of checks and balances.
- **Citizen Engagement and Public Welfare:** Public consultations should be institutionalized in the legislative process through draft bills and feedback mechanisms to enhance **transparency and accountability**.
 - **Legal literacy programs** can empower citizens to understand and protect their rights, ensuring that all branches remain accountable to the public.
 - **Digitize legislative, executive, and judicial processes** to enhance transparency, accountability, and efficiency, ensuring public access to information.
- **Inter-Branch Coordination:** Regular dialogue and consultation between the branches can address conflicts and foster cooperation.
 - National conferences involving the **Executive, Legislature, and Judiciary** can serve as platforms to resolve disputes and promote harmonious governance.
 - A robust democratic system requires **balance, accountability, and the safeguarding** of rights through adherence to constitutional principles.

UPSC Civil Services Examination, Previous Year Question (PYQ)

Prelims:

Q1. The main advantage of the parliamentary form of government is that (2017)

- (a) the executive and legislature work independently.
- (b) it provides continuity of policy and is more efficient.
- (c) the executive remains responsible to the legislature.
- (d) the head of the government cannot be changed without election.

Ans: C

Q2. What is the provision to safeguard the autonomy of the Supreme Court of India? (2012)

1. While appointing the Supreme Court Judges, the President of India has to consult the Chief Justice of India.
2. The Supreme Court Judges can be removed by the Chief Justice of India only.
3. The salaries of the Judges are charged on the Consolidated Fund of India to which the legislature does not have to vote.
4. All appointment of officers and staffs of the Supreme Court of India are made by the Government only after consulting the Chief Justice of India.

Which of the statements given above is/are correct?

- (a) 1 and 3 only
- (b) 3 and 4 only
- (c) 4 only
- (d) 1, 2, 3 and 4

Ans: (a)

Mains:

Q. 'The Supreme Court of India keeps a check on arbitrary power of the Parliament in amending the Constitution.' Discuss critically.(2013)