

Supreme Court of India

The Supreme Court of India was established on January 28, 1950. It replaced the Federal Court of India, established under the Government of India Act of 1935. Articles 124 to 147 in Part V of the Constitution deals with the independence, authority, procedures, and other aspects of the Supreme Court. The Indian Constitution designates the Supreme Court of India as the last resort court of appeal and the country's highest judicial body. It is also the highest constitutional court with the authority to conduct judicial review.

The Supreme Court is one of the most important topics for the exam. Every year questions are asked in prelims and the main UPSC exam. It covers a significant part of

Recent Update

The Supreme Court emphasised the significance of the principle "Bail over Jail" in a historic decision and provided numerous suggestions to minimise excessive imprisonment.

- In the ruling in the matter of *Satender Kumar Antil v. Central Bureau of Investigation, Justices Sanjay Kishan Kaul and MM Sundersh* recognised the overcrowding of undertrials in Indian prisons.
- Through the Court's repeated rulings, the idea that bail is the norm and imprisonment is the exception has gained wide acceptance. One aspect of Article 21 of the Constitution is this. An further fundamental concept of criminal law is the presumption of innocence until proven guilty.

Supreme Court Of India- Historical Background

- The Supreme Court of Calcutta was established as a Court of Record with full jurisdiction and authority with the enactment of the [Regulating Act of 1773](#).
- It was established to entertain, hear, and decide on all criminal accusations as well as all cases and proceedings in Bengal, Bihar, and Orissa.
- In 1800 and 1823, respectively, King George III founded the Supreme Courts of Madras and Bombay.
- The Supreme Courts in Calcutta, Madras, and Bombay, as well as the Sadar Adalats in Presidency towns, were abolished by the India High Courts Act of 1861, which also established High Courts in several provinces.
- These High Courts held the distinction of being the highest courts in all cases prior to the establishment of the Federal Court of India under the 1935 Government of India Act.
- The Federal Court was entrusted with handling appeals from decisions made by the High Court as well as resolving disputes between provinces and federal states.

- After India acquired independence in 1947, the Constitution of India was adopted on January 26, 1950. Also, the Supreme Court of India was established, which convened for the first time on January 28, 1950

Constitutional Provisions

- The Indian constitution's Chapter 6 and Part V (The Union) permit the Supreme Court to make a provision (The Union Judiciary).
- Articles 124 to 147 in Part V of the Constitution deal with the independence, authority, procedures, and other aspects of the Supreme Court.
- According to Article 124(1) of the Indian Constitution, the Supreme Court of India must have a Chief Justice of India (CJI) and a maximum of seven additional justices unless Parliament specifies a higher number through a statute.
- Original jurisdiction, appellate jurisdiction, and advisory jurisdiction are the three divisions of the Supreme Court of India's jurisdiction. It also possesses a variety of powers.
- All courts inside India must abide by the Supreme Court judgements.
- It has the power of judicial review, which enables it to invalidate legislative and executive actions that transgress the Constitution's provisions and framework, the Union's and the States' power relations, or the fundamental rights it protects.

Study in detail about [Doctrine of Proportionality](#) here!

Composition Of The Supreme Court Of India

At present, 34 judges are there in the Supreme Court (one chief justice and thirty-three other judges). A notification from the centre in 2019 increased the number of Supreme Court judges from 31 to 34, including the Chief Justice of India. This followed the enactment of the Supreme Court (Number of Judges) Amendment Act, 2019.

Seat Of Supreme Court

- The Constitution designates Delhi as the seat of the Supreme Court. However, it also gives the Chief Justice of India the power to choose another location or location as the Supreme Court's home.
- Only with the President's consent is he able to make a decision in this regard. Only optional and not required, this clause.
- This means that no court can order the President or Chief Justice to choose another location to serve as the Supreme Court's seat.

Study in detail about [Major Amendment of Indian Constitution](#) here!

The Procedure Of The Supreme Court

- The president's approval is required before the Supreme Court can establish rules that will govern the Court's general practice and procedure.
- A Bench of at least five judges decides the constitutional cases or references brought by the President under Article 143.
- All other cases are resolved by division benches and single judges. The court renders its decisions in public.
- All decisions are made by majority vote, however, judges may express dissenting views if they are in disagreement.

Appointment of Supreme Court Judge

- The judges of the Supreme Court is appointed by the president.
- The chief justice is appointed by the president after consultation with such judges of the Supreme Court and high courts as he deems necessary.
- The other judges are appointed by the president after consultation with the chief justice and such other judges of the Supreme Court and the high courts as he deems necessary.
- The consultation with the chief justice is obligatory in the case of the appointment of a judge other than the Chief justice.

Eligibility of Supreme Court Judge

A person to be appointed as a judge of the Supreme Court should have the following qualifications:

1. He should be a citizen of India.
2. He should have been a judge of a High Court (or high courts in succession) for five years; or
3. He should have been an advocate of a High Court (or High Courts in succession) for ten years; or
4. He should be a distinguished jurist in the opinion of the president.
5. The Constitution has not prescribed minimum age for appointment as a judge of the Supreme Court.

Collegium System Of Supreme Court Of India

Under the Collegium System, the Chief Justice of India and the four senior-most judges of the Supreme Court hold a forum to decide on appointments of judges and lawyers to the Supreme Court as well as transfers of judges to the High Courts and Apex Court.

Read more about [Collegium System](#) here!

Oath And Tenure Of Supreme Court Judges

- Before beginning their duties, Supreme Court judges are required to take an oath or affirmation before the President or a representative he has designated for this purpose.
- The tenure of a Supreme Court judge is not specified by the Constitution. In this regard, it does, however, make the following three provisions:
 1. He holds office until he attains the age of 65 years. Any question regarding his age is to be determined by such authority and in such a manner as provided by Parliament.
 2. He can resign his office by writing to the president.
 3. He can be removed from his office by the President on the recommendation of the Parliament.

Also, check out the article on [High Court of India](#) here!

Ad Hoc Judges And Retired Judges Of Supreme Court

Ad Hoc Judges	Retired Judges
<ul style="list-style-type: none">• The Chief Justice of India may appoint a judge of a High Court as an ad hoc judge of the Supreme Court for a limited time when a quorum of the permanent judges is required to	<ul style="list-style-type: none">• A retired judge of the Supreme Court or a retired judge of a high court who is suitably qualified for appointment as a judge of the Supreme Court may at any time be asked to fill in as a judge of the

<p>hold or continue any session of the Supreme Court.</p> <ul style="list-style-type: none"> • He can take such action only after speaking with the relevant High Court's top justice and receiving the president's prior approval. • The judge so appointed should be qualified for appointment as a judge of the Supreme Court 	<p>Supreme Court for a temporary period by the Chief Justice of India.</p> <ul style="list-style-type: none"> • He can only do this with the prior approval of both the president and the person who will be making the appointment. • A judge of this type is entitled to whatever benefits the president decides. • He will also have access to all of the Supreme Court judge's authority, rights, and privileges.
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Removal of Judges

Removal of Judges	A presidential order is required to remove a Supreme Court justice from office. Only after receiving a Parliamentary address for such removal during the same session may the President issue the removal order.
Majority for Removal	The address must be supported by a special majority of each House of Parliament (ie, a majority of the total membership of that House and a majority of not less than two-thirds of the members of that House present and voting).
Grounds for Removal	Proved misbehaviour or incapacity.
Judges Enquiry Act (1968)	The Judges Enquiry Act (1968) regulates the procedure relating to the removal of a judge from the Supreme Court by the process of impeachment.
Judges impeached so far	No judge of the Supreme Court has been impeached so far. The first case of impeachment is that of Justice V. Ramaswami of the Supreme Court (1991–1993). Though the enquiry Committee found him guilty of misbehaviour, he could not be removed as the impeachment motion was defeated in the Lok Sabha.

Functions Of The Supreme Court

- It accepts appeals from decisions made by the High Courts and other tribunals and courts.
- It resolves conflicts between different state governments, the centre, and any state government. It also resolves conflicts between federal and state governments.
- In its consultative capacity, it also hears cases that the President refers to.
- The SC may also pursue cases on its own.
- All Indian courts, the Union government, and state governments must abide by the legislation that the Supreme Court declares.

Check out the article on [All India Judicial Service](#) here!

Jurisdiction and Powers of the Supreme Court

The Supreme Court has been given a very wide range of jurisdictional power by the Constitution. It is a final court of appeal and also the final interpreter and guardian of the Constitution and guarantor of the fundamental rights of the citizens.

The jurisdiction and powers of the Supreme Court can be classified into the following:

S.No	Jurisdiction	Description
1	<u>Original Jurisdiction</u>	<p>Article 131 deals with original jurisdiction.</p> <p>To study in detail, check out the article on Original Jurisdiction here!</p>
2	<u>Writ Jurisdiction</u>	<ul style="list-style-type: none"> • The Supreme Court is empowered to issue writs. • The Supreme Court has original jurisdiction which means that an aggrieved citizen can directly go to the Supreme Court, not necessarily by way of appeal. • The writ jurisdiction of the Supreme Court is not exclusive. • The Supreme Court can issue writs only for the enforcement of the Fundamental Rights and not for other purposes. <p>Study in detail about Types of Writs in Indian Constitution here!</p>
3	<u>Appellate Jurisdiction</u>	<ul style="list-style-type: none"> • The Supreme Court is primarily a court of appeal and hears appeals against the judgements of the lower courts. • It enjoys a wide appellate jurisdiction which can be classified as follows: <ul style="list-style-type: none"> a. Appeals in constitutional matters b. Appeals in civil matters c. Appeals in criminal matters
4	<u>Advisory Jurisdiction</u>	<p>Article 143 of the Indian constitution authorises the president to request the Supreme Court's opinion in the two kinds of cases.:</p> <ol style="list-style-type: none"> a. On any question of law or fact of public importance which has arisen or which is likely to arise. b. On any dispute arising out of any pre-constitution treaty, agreement, covenant, engagement, or other similar instruments. <p>Study in detail about Advisory Jurisdiction here!</p>
5	<u>Appeal By Special Leave</u>	<ul style="list-style-type: none"> • When a matter of justice is at risk, the Supreme Court may occasionally intervene in court decisions made by the High Court or other tribunals. • The Supreme Court is granted this residual authority provided under Article 136.

6	<p>Court Of Record</p>	<p>As a Court of Record, the Supreme Court possess two powers:</p> <ol style="list-style-type: none"> The Supreme Court's decisions, actions, and procedures are documented for historical reference and testimony. It has the power to punish for contempt of court, either with simple imprisonment for a term up to six months or with a fine up to ₹2,000 or both. <p>Study in detail about Contempt of Court here!</p>
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Study in detail about [Doctrine of Power of Separation](#) here!

Independence Of The Supreme Court Of India

The Constitution has made the following provisions to safeguard and ensure the independent and impartial functioning of the Supreme Court:

- Mode of Appointment:** The judges of the Supreme Court are appointed by the President after consulting with the members of the judiciary itself.
- Its authority Cannot be Limited:** The Supreme Court's authority and powers cannot be restricted by the Parliament. The Supreme Court is guaranteed a variety of jurisdictions under the Constitution.
- Separation from Executive:** The State is required by the Constitution to take action to demarcate the Judiciary and Executive branches of government. This means that the judicial powers shouldn't be held by the executive authority.
- Fixed Service Conditions:** The salaries, allowances, privileges, leave and pension of the judges of the Supreme Court are determined from time to time by the Parliament.
- Expenses Charged on Consolidated Fund:** The salaries, allowances and pensions of the judges and the staff as well as all the administrative expenses of the Supreme Court are charged to the Consolidated Fund of India.
- Non Discussion of Conduct of Judges:** Except when the Parliament is debating an impeachment resolution, the Constitution forbids discussion of the conduct of Supreme Court justices in the course of their responsibilities in either the Parliament or a State Legislature.
- Power to Punish for its Contempt:** The Supreme Court can punish any person for its contempt. This power is vested in the Supreme Court to maintain its authority, dignity and honour.
- Security of Tenure:** The judges of the Supreme Court are provided with the Security of Tenure. They can be removed from office by the President only in the manner and on the grounds mentioned in the Constitution.
- Freedom to Appoint its Staff:** The Chief Justice of India can appoint officers and servants of the Supreme Court without any interference from the executive.
- Ban on Practice after Retirement:** The retired judges of the Supreme Court are prohibited from pleading or acting in any Court or before any authority within the territory of India. This ensures that they do not favour anyone in the hope of future favour.

Check out the article on [Pendency of Cases in Courts](#) here!

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DIFFERENCE BETWEEN SUPREME COURT & HIGH COURT



	SUPREME COURT	HIGH COURT
ABOUT	Principal Court of Justice in the country.	Highest judicial body of a state that regulates state law & order.
HEAD	Chief Justice of India.	Chief Justice of the State.
NO. OF COURTS	There is only one Supreme Court in India.	There are 24 High Courts in India, three of which have jurisdiction in more than one state.
CONTROL	Superintendence over all law courts & tribunals of the country.	Superintendence over all courts under its jurisdiction .
APPOINTED BY	President of India.	President of India after consulting the Chief Justice of India and Governor of the respective state.
RETIREMENT	Age of 65 years .	Age of 62 years .
PLEA	Cannot plead before any court during his or her tenure or after his or her retirement.	Cannot plead before any court during his or her tenure and after retirement cannot plead in a court below the high court .

Also check out the article on [Supreme Court Verdict on Aadhar Act](#) here!

Recent Issues in the Supreme Court

Master of Roster

- It makes reference to the Chief Justice's power to organise benches to hear cases.

- A discussion about the Chief Justice's undisputed authority over judicial administration has arisen in the Supreme Court.
- The Chief Justice of India or the Chief Justice of any high court is in charge of the administrative aspect. This also holds true for how cases are assigned to judges.
- No Judge can therefore take the matter on his own until the Chief Justice of India assigns it to him.

Collegium System

- The collegium system of choosing judges was recently supported by Chief Justice of India NV Ramana, who claimed that the selection procedure "could possibly be more democratic than this."
- The system was put in place to reinforce and enhance the appointment-making process.
- The CJI's opinion is determined collectively by a group of individuals at the highest level of the judiciary, not only by him or her individually

Articles: Supreme Court of India (124-147)	
124. Establishment and Constitution of Supreme Court	
124B. Functions of Commission	124C. Power of Parliament to make law
125. Salaries, etc., of Judges	126. Appointment of acting Chief Justice
127. Appointment of ad hoc Judges	128. Attendance of retired Judges at sittings of the Supreme Court
129. Supreme Court to be a court of record	130. Seat of Supreme Court
131. Original jurisdiction of the Supreme Court	132. Appellate jurisdiction of Supreme Court in appeals from High Courts in certain cases
133. Appellate jurisdiction of Supreme Court in appeals from High Courts in regard to civil matters	134. Appellate jurisdiction of Supreme Court in regard to criminal matters
134A. Certificate for appeal to the Supreme Court	135. Jurisdiction and powers of the Federal Court under existing law to be exercisable by the
Supreme Court	136. Special leave to appeal by the Supreme Court
137. Review of judgments or orders by the Supreme Court	138. Enlargement of the jurisdiction of the Supreme Court
139. Conferment on the Supreme Court of powers to issue certain writs	139A. Transfer of certain cases
140. Ancillary powers of Supreme Court	141. Law declared by Supreme Court to be binding on all courts
142. Enforcement of decrees and orders of Supreme Court and orders as to discovery, etc.	143. Power of President to consult Supreme Court
144. Civil and judicial authorities to act in aid of the Supreme Court	145. Rules of court, etc.
146. Officers and servants and the expenses of the Supreme Court	147. Interpretation

Conclusion

In the area of legal and judicial jurisprudence, the Supreme Court of India has established a solid reputation for itself. The Court is a tribute to the writers of the Constitution. The court has functioned wonderfully, and Indians have every right to claim that the institution's independence is sufficient evidence of the nation's democratic success.

UPSC Prelims Previous Year Question

Q1. Consider the following statements: (UPSC 2022)

1. Pursuant to the report of the H.N. Sanyal Committee, the Contempt of Courts Act, 1971 was passed.
2. The Constitution of India empowers the Supreme Court and the High Courts to punish for contempt of themselves.
3. The Constitution of India defines Civil Contempt and Criminal Contempt.

In India, the Parliament is vested with the powers to make laws on Contempt of Court.

Which of the statements given above is/are correct?

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

Q2. With reference to the Indian Judiciary, consider the following statements. (UPSC 2021)

1. Any retired judge of the Supreme Court of India can be called back to sit 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 judgment 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

For a detailed explanation, [click here!](#)

Q3. Consider the following statements: (UPSC 2019)

1. The- motion to impeach a Judge of the Supreme Court of India cannot be rejected by the Speaker of the Lok Sabha as per the Judges (Inquiry) Act, 1968.
2. The Constitution of India defines and gives details of what Constitutes ‘incapacity and proved misbehaviour’ of the Judges of the Supreme Court of India.
3. The details of the process of impeachment of the Judges of the Supreme Court of India are given in the Judges (Inquiry) Act, 1968.
4. If the motion for the impeachment of a Judge is taken up for voting, the law requires the motion to be backed by each House of the Parliament and supported by a majority of the total membership of that House and by not less than two-thirds of total members of that House present and voting.

Which of the statements given above is/are correct?

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

For a detailed explanation, [click here!](#)

Q4. Who/Which of the following is the Custodian of the Constitution of India? (UPSC 2015)

- (a) The President of India
- (b) The Prime Minister of India
- (c) The Lok Sabha Secretariat
- (d) The Supreme Court of India**

For a detailed explanation, [click here!](#)

- Q5. The power to increase the number of judges in the Supreme Court of India is vested in (UPSC 2014)
- (a) the President of India
 - (b) the Parliament**
 - (c) the Chief Justice of India
 - (d) the Law Commission

For a detailed explanation, [click here!](#)

- Q6. The power of the Supreme Court of India to decide disputes between the Centre and the States falls under its (UPSC 2014)
- (a) advisory jurisdiction
 - (b) appellate jurisdiction.
 - (c) original jurisdiction**
 - (d) writ jurisdiction

For a detailed explanation, [click here!](#)

UPSC Mains Previous Year Questions

Year	Question
2018	Whether the Supreme Court Judgment (July 2018) can settle the political tussle between the Lt. Governor and elected government of Delhi? Examine
2017	Critically examine the Supreme Court’s judgment on ‘National Judicial Appointments Commission Act, 2014’ with reference to the appointment of judges of higher judiciary in India. (150 words)
2017	Examine the scope of Fundamental Rights in the light of the latest judgment of the Supreme Court on Right to Privacy. (250 words)
2015	Resorting to ordinances has always raised concern on violation of the spirit of separation of powers doctrine. While noting the rationales justifying the power to promulgate ordinances, analyze whether the decisions of the Supreme Court on the issue have further facilitated resorting to this power. Should the power to promulgate ordinances be repealed?
2013	The Supreme Court of India keeps a check on the arbitrary power of the Parliament in amending the Constitution. Discuss critically.

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