



## Reforming the Law Commission

The article is based on [Reforming the Law Commission](#) that was published in The Indian Express on 29<sup>th</sup> August. It talks about the needed reforms related to the law commission of India.

### Context

- [Law Commission of India](#) is a prominent advisory body to study, research and report on legal matters specified in their terms of reference.
- The Government of India established the First Law Commission of Independent India in 1955 with the then Attorney-General of India, Mr. M.C. Setalvad, as its Chairman. Since then twenty one more Law Commissions have been appointed, each with a three-year term and with different terms of reference.
- The Law Commission of India — the oldest amongst the national-level parastatal bodies — remains an odd one even in its 65<sup>th</sup> year. Unlike its sister organisations, it has **no fixed composition, no defined eligibility criteria for its chair and members, and no set functions** — everything rests on the government's will.
- The **terms of reference are specified afresh each time** it is reconstituted as if it were an ad hoc body.
- Three of the other national commissions, those for the Scheduled Castes, Scheduled Tribes and Backward Classes, are now regulated by the Constitution and there is a parliamentary charter for each of the national commissions for human rights, minorities, women, children and safai karamcharis.

### Role of Law Commission in Legal reforms

- It plays a crucial role—from suggesting new laws to changing outdated colonial laws and updating them to present times.
- It has worked to ensure the statutory obligations of India under many international treaties of which India is a signatory.
- Occasionally, the Commission also takes up matters **suo motu**. For example, the 20<sup>th</sup> Commission worked on leprosy affected persons and their treatment in society, which it recognised as a human rights issue.
- The various Law Commissions have been able to make important contributions towards the progressive development and codification of the laws of the country. The law commissions so far have submitted 277 reports on diverse range of topics.

### Reforms required to strengthen Law Commission

Justice A. P. Shah, chairman of the 20<sup>th</sup> law commission, advocated numerous reforms to strengthen the law commission.

- **Statutory status:** It must be a statutory commission. This is essential to ensure the strength and independence of the body.
  - In most countries, particularly western democracies, Law Commissions are statutory

bodies.

- If it becomes statutory, it must be answerable only to Parliament, and not to the Executive.
- **Continuity:** It is important to ensure continuity. Presently, every Commission has a three-year term, and every time, there is a gap in the constitution of the Commission. The three year term of the 21<sup>st</sup> Law commission ended on 31<sup>st</sup> August 2018, but 22<sup>nd</sup> Law Commission has still not been constituted.
- **Appointment:** The members of the Commission should be appointed only in consultation with the chairperson. Present system has drawn allegations of favouritism on numerous occasions.
- **Independence:** The presence of the law secretary and secretary, Legislative Department (who are presently ex-officio members of the Commission), affects its independence. They should not be a party to the Commission.
- **Funding:** It needs sufficient funding, proper resources, tie-ups with law institutions and more assistance and support.

## Recent attempts to Reform law commission

- In 2015, a proposal was mooted to make the law panel into a **permanent body** either through an Act of Parliament or an executive order (resolution of the Union Cabinet). The move was shelved after the Prime Minister's Office felt that the present system should continue.
- In 2010 also, the then UPA government had prepared a draft Cabinet note to give statutory status to the Law Commission, and the Law Ministry had mooted to bring the Law Commission of India Bill, 2010. But the idea was shelved.

## Way forward

- Law Commission of India, though an advisory body, has been a key instrumentality in the process of legal reforms in India.
- Law commission provides the intellectual depth to the law ministry as well as to other legal institutions including the Supreme Court. In a number of decisions the Supreme Court has referred to the work done by the Law Commission and followed its recommendations.
- It should be given a statutory status with sufficient funding and independence to work towards bringing bold and much needed legal reforms in the country.

### ***Drishti input***

“Discuss the role of the Law Commission of India in bringing legal reforms in the country. What reforms are required to strengthen the Law Commission of India?”