



Chapter 5 - Law and Order

India became a Dominion with the passing of the Indian Independence Act, 1947, and the Dominion Legislature made laws from 1947 to 1949 under the provisions of Section 100 of the Government of India Act, 1935, as adapted by the India (Provisional Constitution) Order, 1947. Under the Constitution of India, which came into force on January 26, 1950, legislative power is vested in the Parliament.

Indian Legal System

- The Indian Legal System comprises four components, namely: the basic values and principles enshrined in the Constitution; the rights and obligations conferred by ordinary statutes; the organizational set-up to enforce these rights and obligations within the constitutional norms; and, lastly, the legal and judicial personnel.
- India, being a democratic country with a representative democracy, has a chain of accountability towards the sovereign, which lies among the people.

Sources of Law

- The main sources of law in India are the Constitution, statutes (legislation), customary law, and case law.

Enactment of Law

- Parliament is competent to make laws on matters enumerated in the Union List, while state legislatures can make laws on matters in the State List.
- On matters in the Concurrent List, both Parliament and state legislatures can legislate. However, in case of a conflict, the law made by Parliament prevails.

Judiciary

- At the apex of the entire judicial system is the Supreme Court of India, with a High Court for each state or group of states, and under the High Courts, there is a hierarchy of subordinate courts.
- The highest court in each district is the District and Sessions Court. This district court is the principal court of civil jurisdiction and can try all offences, including those punishable by death.
- Similarly, criminal courts comprise the Chief Judicial Magistrate and Judicial Magistrates of the First and Second Class.

Supreme Court

- The Federal Court of India, constituted under the Government of India Act, 1935, was replaced by the Supreme Court on January 26, 1950, under the new Constitution.
- Initially, the Constitution envisaged a Supreme Court with a Chief Justice and seven puisne judges, with Parliament authorized to increase this number.
 - Today, the Supreme Court consists of the Chief Justice and 33 other judges, appointed by the President of India, who retire upon reaching 65 years of age.
- To be appointed as a judge, a person must be a citizen of India and have either served for at least five years as a High Court judge or advocate, or be a distinguished jurist in the President's

opinion.

- Article 32 of the Constitution grants the Supreme Court extensive original jurisdiction to enforce fundamental rights through directions, orders, or writs, including habeas corpus, mandamus, prohibition, quo warranto, and certiorari.

High Courts

- Article 214 of the Constitution of India provides that "there shall be a High Court for each state."
- The High Court stands at the head of the state's judicial administration. There are 25 High Courts in the country, three of which have jurisdiction over more than one state.
- The Chief Justice of a High Court is appointed by the President in consultation with the Chief Justice of India and the Governor of the state. High Court judges hold office until the age of 62.
- To be eligible for appointment as a judge, one must be a citizen of India and should have held a judicial office in India for 10 years or must have practiced as an advocate of a High Court or of two or more such courts in succession for a similar period.

Gram Nyayalayas

- The Gram Nyayalayas Act, 2008, was enacted to provide doorstep justice to citizens and to establish Gram Nyayalayas for every panchayat at the intermediate level or for a group of contiguous panchayats.
- A Gram Nyayalaya is deemed to be a Court of Judicial Magistrate of the First Class and exercises both civil and criminal jurisdiction as per the Schedules.

Digitization Initiatives through eCourts

- The eCourts Project, launched in 2007 as a key element of the National eGovernance Plan, strives to improve the functioning of the Indian judiciary by implementing digital initiatives.
- **Access to Justice:** The Department of Justice has curated a unified pan-India scheme, namely "Designing Innovative Solutions on Holistic Access to Justice in India" (DISHA), for the period 2021–2026. It aims to provide comprehensive, integrated, technology-based, citizen-centric solutions for access to justice.
 - DISHA consolidates and merges various programmes, including Tele-Law, Nyaya Bandhu, Nyaya Mitra, and legal literacy and awareness initiatives being implemented by the Department.
 - The Nyaya Bandhu (Pro Bono Legal Services) programme aims to establish a framework for the dispensation of pro bono legal services across the country. The Pro Bono Club Scheme was initiated in 2020 to assist pro bono advocates by involving competent law students and to instill a pro bono culture in budding lawyers.
 - The Nyaya Mitra programme has been introduced in district courts to facilitate the reduction of more than decade-old pending court cases.

Alternate Dispute Resolution

- The traditional mode of dispute resolution—litigation—is a lengthy process, leading to unnecessary delays in the dispensation of justice and overburdening the judiciary.
- In this scenario, Alternate Dispute Resolution (ADR) mechanisms like arbitration, conciliation, and mediation assume significance.
- The Department of Legal Affairs oversees the implementation of the Arbitration and Conciliation Act, 1996, the India International Arbitration Centre Act, 2019, and the Mediation Act, 2023.
- The Mediation Act, 2023 paves the way for a standalone law on mediation, enabling the amicable settlement of disputes between parties.

Strengthening and Promoting Mediation as an ADR Mechanism

- The Arbitration and Conciliation (Amendment) Act, 2019, *inter alia*, provides for the establishment of the Arbitration Council of India (ACI), which will enable the accreditation of arbitrators by professional institutes and the grading of arbitral institutions, thereby assisting in capacity building

and enhancing the quality of arbitrators and arbitral institutions.

- Presently, steps are underway to establish the ACI, and the relevant rules have been published.
- The Mediation Act, 2023, a proposed standalone law on mediation, is under consideration in Parliament. The objectives of the Act are to promote and facilitate mediation, particularly institutional mediation, for dispute resolution—commercial or otherwise—and to enforce mediated settlement agreements.

Other Legal Entities

Law Commission of India

- The Law Commission of India is constituted every three years by a notification of the Department of Legal Affairs.
- The Commission makes recommendations to the Government according to its mandate.
- The 22nd Law Commission was constituted for a term of three years under the chair of Justice Ritu Raj Awasthi (Retired Chief Justice of the Karnataka High Court).

Bar Council of India (BCI)

- The Bar Council of India is the statutory regulator of legal education and the legal profession, entrusted with maintaining and improving their standards.
- It acts as the appellate authority in disciplinary matters related to the conduct of advocates, while the primary authority in such matters is the concerned State Bar Council.

Election Laws and Electoral Reforms

- The country's electoral system, also called the first-past-the-post system, has completed over seventy years.
- The Conduct of Elections (Amendment) Rules, 2022, increased the maximum limit of expenditure by a candidate for parliamentary and assembly constituencies.
- The Election Laws (Amendment) Act, 2021 envisages the following measures:
 - Linking of the electoral roll with the Aadhaar system to curb the menace of multiple enrolments of the same person in different places.
 - Providing multiple qualifying dates for enrolment in the electoral roll to expand the voter base.
 - Making statutes gender-neutral in line with the policy of gender equality and inclusiveness in the conduct of elections.

Delimitation of Constituencies

- Electoral boundaries are drawn according to Articles 82 and 170 of the Constitution.
- The first Delimitation Commission in the country was constituted in 1952, followed by the second in 1962, the third in 1973, and the fourth in 2002. As part of its Population Policy strategy, the Government decided to extend the current constitutional freeze on undertaking fresh delimitation until 2026.

Electronic Voting Machines and Voter Verifiable Paper Audit Trail

- Electronic Voting Machines (EVMs) and Voter Verifiable Paper Audit Trail (VVPAT) systems, used by the Election Commission of India (ECI) to conduct parliamentary and assembly elections, are manufactured by two public sector undertakings: Bharat Electronics Limited and Electronics Corporation of India Limited.
- The Conduct of Elections Rules, 1961, was amended to enable the ECI to use VVPATs alongside EVMs.
- VVPATs were first used in the by-election for the 51-Noksen Assembly Constituency of Nagaland in 2013.
- The design and application of EVMs in elections are considered significant achievements in global

democracy. They have brought greater transparency, speed, and acceptability to the system.

Electors' Photo Identity Cards

- The Election Commission began using Electors' Photo Identity Cards (EPICs) in 1993 to prevent bogus voting and impersonation.
- Efforts to issue EPICs to all eligible voters include organizing special photography campaigns, allowing voters to submit photographs for scanning, appointing Booth Level Officers (BLOs) to collect photographs, and declaring 25th January as National Voters' Day to focus on voter enrolment and EPIC issuance.
- Special publicity campaigns inform electors about the EPIC preparation process, and once allotted, the EPIC number remains valid for a lifetime, even if the voter's address changes.

Women's Reservation

- The **Women's Reservation Bill** became law through the 106th Constitutional Amendment Act. It provides for the reservation of one-third of seats in the Parliament, state legislatures, and the Legislative Assembly of the National Capital Territory of Delhi.
- Within the 33% quota, there is sub-reservation for Scheduled Castes, Scheduled Tribes, and the Anglo-Indian communities.
- An innovative feature of the Act is the provision for the rotation of seats reserved for women. After each delimitation exercise, a new set of constituencies will be reserved, ensuring that women from different backgrounds and regions have the opportunity to represent their constituencies.

Political Representation of SC and ST

- The reservation of seats for Scheduled Castes and Scheduled Tribes in the Lok Sabha and State Legislative Assemblies is provided under Articles 330 and 332 of the Constitution.
- The Constitution (One Hundred and Twenty-Sixth Amendment) Bill, 2019, extended this reservation for an additional ten years.

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