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2027 EDITION

UPSC CIVIL SERVICES · PRELIMS & MAINS GS PAPER II

Indian Polity for UPSC

Compiled by Arvind KrS

Every sentence verified against the bare text · November 2026





FROM 1773 TO 2026 IN ONE BOOK

- 1773 — Regulating Act
- 1858 — Crown rule begins
- 1909 — Separate electorates
- 1919 — Dyarchy in provinces
- 1935 — Government of India Act
- 1946 — Constituent Assembly
- 1949 — Adopted on 26 November
- 1950 — Republic, 26 January
- 1951 — First Amendment
- 1973 — Basic structure
- 1976 — 42nd Amendment
- 1992 — 73rd and 74th Amendments
- 2019 — Article 370 changes
- 2026 — 106th Amendment in force

45	7	275	270	4
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IN THIS BOOK

I	The Constitutional Framework	II	The System of Government
III	The Central Government	IV	The State Government
V	Local Government	VI	Elections and Constitutional Bodies
VII	Revision Banks		

LOTUSARISE IAS

Indian Polity for UPSC

Notes for UPSC Civil Services Preliminary Examination and Mains General Studies Paper II

2027 Edition · Compiled November 2026 · Compiled by Arvind KrS

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UNIT I | 13 CHAPTERS

The Constitutional Framework

Indian Constitution—historical underpinnings, evolution, features, amendments, significant provisions and basic structure — from the Regulating Act of 1773 to the Constituent Assembly, the Preamble, citizenship, the Fundamental Rights, Directive Principles and Duties, amendment and the basic structure.

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INDIAN POLITY | PRELIMS · GS PAPER II

The Preamble: Philosophy of the Constitution

On 25 November 2024, the eve of Constitution Day, the Supreme Court dismissed petitions that sought to strike the words "socialist" and "secular" out of the Preamble. The challengers argued that words inserted in 1976 could not be added to a text adopted in 1949. The Court replied that the power of amendment is not frozen by a date. The debate did not end there: in 2025 some public figures called for a review, the Union Law Minister told Parliament the government had no such plan, and a private member's Bill to delete the words reached the Rajya Sabha. Few eighty-five-word passages have mattered so much.

The salient features summarised by the Preamble are in Chapter 3; secularism under Articles 25–28 in Chapter 9; the basic structure in Chapter 13.

SYLLABUS

PRELIMS — **Indian Polity and Governance – Constitution, Political System, Panchayati Raj, Public Policy, Rights Issues, etc**

MAINS · GS PAPER II — **Indian Constitution—historical underpinnings, evolution, features, amendments, significant provisions and basic structure**

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01 From Objectives Resolution to Preamble
02 The Text and Its Four Ingredients
03 Nature of the State: The Five Words
04 Objectives: Justice, Liberty, Equality, Fraternity
05 Is the Preamble Part of the Constitution?
06 Amendability and the 42nd Amendment
07 Significance and Assessment

01 From Objectives Resolution to Preamble

A **preamble** is the introduction to a constitution: it states the source of its authority and the ends it serves. The American Constitution (1787) was the first to open with one, beginning "We the People of the United

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States". India's Preamble descends from the **Objectives Resolution**, which Jawaharlal Nehru moved in the Constituent Assembly on 13 December 1946 and which the Assembly adopted unanimously on 22 January 1947. Nehru described it as more than a resolution: a declaration, a pledge and a dedication.

What the Objectives Resolution Said

- India would be an **independent sovereign republic**, a union of British India, the princely States and other territories willing to join.
- The units would be autonomous, with residuary powers, except for powers vested in the Union.
- All power and authority would be **derived from the people**.
- All people would be guaranteed justice (social, economic, political); equality of status, of opportunity and before the law; and freedom of thought, expression, belief, faith, worship, vocation, association and action, subject to law and public morality.
- Adequate safeguards would be provided for minorities, backward and tribal areas, and depressed and other backward classes.
- The integrity of the territory and its sovereign rights on land, sea and air would be maintained, and India would contribute to world peace and the welfare of mankind.

Two things changed between the Resolution and the final text. The idea of residuary powers with the units was dropped after Partition, when the Assembly chose a strong Centre (Chapter 15). And the Preamble was **adopted last**, on 17 October 1949, at the end of the second reading, so that it would conform to the Constitution already settled. That day the Assembly rejected every amendment to it: Maulana Hasrat Mohani's proposals for a "Union of Indian Socialistic Republics" and a federal republic, and H.V. Kamath's motion to open with "In the name of God", which fell by 41 votes to 68. Ambedkar's reply was that the Preamble already made clear that the Constitution came from the people.

02 The Text and Its Four Ingredients

As amended in 1976, the Preamble reads:

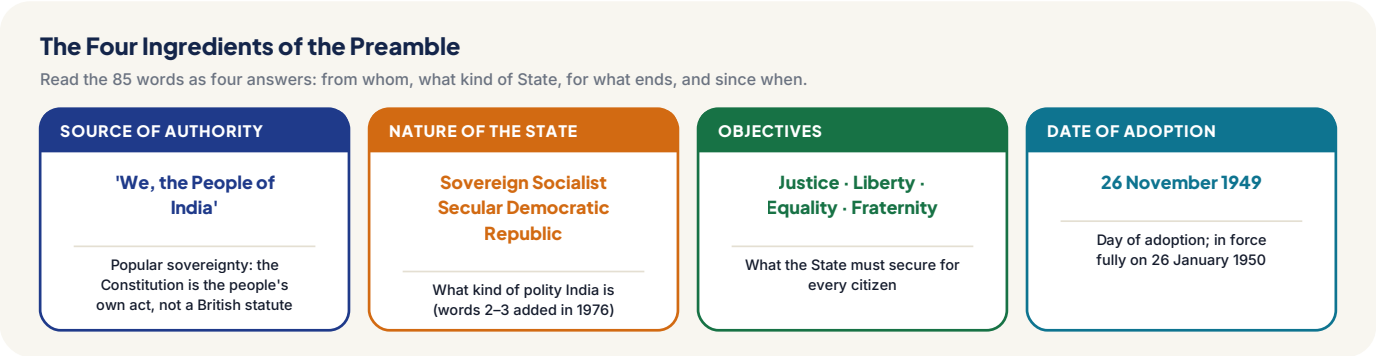


Fig. 4.1 The four ingredients of the Preamble: the source of authority, the nature of the State, the objectives, and the date of adoption.

> *WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens: JUSTICE, social, economic and political; LIBERTY of thought, expression,*

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> *belief, faith and worship; EQUALITY of status and of opportunity; and to promote among them all FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation; IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.*

The opening and closing words do legal work. "We, the people of India ... do hereby adopt, enact and give to ourselves" declares that the Constitution is **not a gift** of the British Parliament, as the Acts of 1919 and 1935 had been, but an act of the people through a sovereign Constituent Assembly. The date in the Preamble is **26** November **1949**, the day of adoption, **not** 26 January **1950**, the day the Constitution came fully into force. On 26 January **1950** India's exact status was a **Sovereign Democratic Republic**; "Socialist" and "Secular" came later.

03 Nature of the State: The Five Words

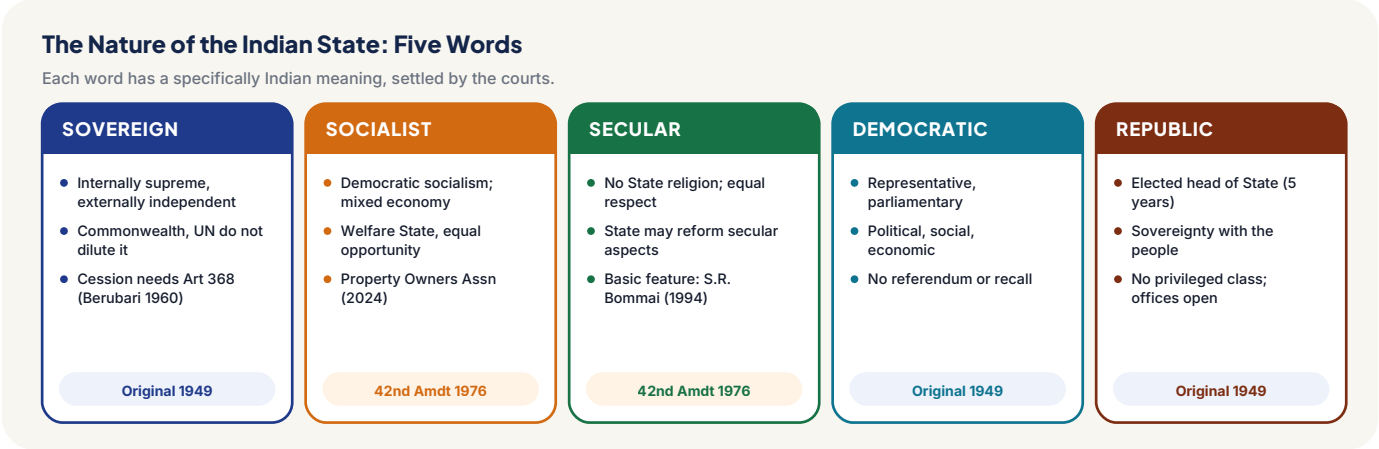


Fig. 4.2 Sovereign, socialist, secular, democratic, republic: what each word means in the Indian context, with the leading judgment on each.

Sovereign

India is neither a dependency nor a dominion of any other nation. It is **internally supreme**, with no authority above it within its territory, and **externally independent**, free to conduct its own relations. Until 15 August **1947** India was a British dependency; from then to 26 January **1950** it was a dominion; on that day it became a republic (Pakistan remained a dominion until **1956**). Two memberships do not dilute sovereignty:

- **The Commonwealth.** At the London conference of 22–27 April **1949** India agreed to continue as a full member and to accept the British monarch as the symbol of the free association and Head of the Commonwealth. The declaration is extra-constitutional; the monarch has no function in India and no claim on citizens' allegiance. Nehru called it an agreement by free will, to be ended by free will.
- **The United Nations**, of which India was a founding member in **1945**.

A sovereign State can acquire foreign territory or cede its own. India acquired Puducherry (de facto **1954**, de jure **1962**), Goa, Daman and Diu (**1961**) and Sikkim (**1975**). Cession is a constitutional matter: in the ***Berubari Union*** reference (**1960**) the Supreme Court advised that ceding territory needs an amendment under **Article**

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368, which is why the 9th Amendment (1960) and the 100th Amendment (2015, the land boundary agreement with Bangladesh) were passed.

Socialist

The word came with the 42nd Amendment, but the content was there from the start in the Directive Principles (Articles 38, 39, 41–43), and the Congress had adopted a "socialistic pattern of society" at its Avadi session in 1955. Indian socialism is democratic socialism, not communistic or State socialism with nationalisation of all means of production and abolition of private property. It accepts a mixed economy in which public and private sectors coexist. The Supreme Court has described it as a blend of Marxism and Gandhism, leaning towards Gandhian socialism (***D.S. Nakara v Union of India***, 1982), whose aim is to end poverty, ignorance, disease and inequality of opportunity (***G.B. Pant University***, 2000).

The economic reforms of 1991 moved policy towards liberalisation and privatisation, and critics asked whether the word still meant anything. The Court's answer has been consistent. In ***Excel Wear v Union of India*** (1978) it said the word might incline courts towards nationalisation but did not abolish private ownership. In ***Property Owners Association v State of Maharashtra*** (5 November 2024), a nine-judge Bench held by majority that not every privately owned resource is a "material resource of the community" under Article 39(b), and that the Constitution leaves elected governments free to choose their economic model. In ***Balram Singh*** (2024) it explained "socialist" as the State's commitment to be a welfare State that ensures equality of opportunity, without restricting private enterprise or the right to trade under Article 19(1)(g).

Secular

"Secular" was also added in 1976, but in 1974 the Supreme Court had already said that although the words "secular State" were not used, the framers clearly meant to create one (***Ahmedabad St. Xavier's College***). Indian secularism is a positive concept: the State has no religion of its own, treats all religions equally, protects each, and may intervene to reform secular aspects of religious practice. It differs from the Western idea of a strict wall between Church and State, and from theocratic States that adopt an official religion. ***S.R. Bommai v Union of India*** (1994) declared secularism a basic feature; ***Balram Singh*** (2024) called it one of the facets of the right to equality. The provisions that give it effect are in Articles 14–16, 25–30 and 44, and in the abolition of separate electorates.

Democratic

The polity rests on popular sovereignty, the possession of supreme power by the people. Democracy is direct (referendum, initiative, recall, plebiscite, as in Switzerland) or indirect, through elected representatives; indirect democracy is parliamentary or presidential. India chose representative parliamentary democracy, with the executive responsible to the legislature. The Constitution contains no device of direct democracy. Its democratic character shows in universal adult franchise, periodic elections, the rule of law, an independent judiciary and the absence of discrimination. The courts have deepened it: voters have a right to know candidates' antecedents (***Union of India v ADR***, 2002), sitting legislators convicted of specified offences are disqualified at once (***Lily Thomas***, 2013), and voters may reject all candidates through NOTA (***PUCL***, 2013).

The word is used in the broad sense: political, social and economic democracy. Ambedkar warned in his closing speech on 25 November 1949 that political democracy cannot last unless it rests on social

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democracy, a way of life that recognises liberty, equality and fraternity as a single trinity in which none can be divorced from the others.

Republic

A democracy may be a monarchy, with a hereditary head of State (Britain), or a **republic**, with a head of State elected directly or indirectly for a fixed term (the USA). India's President is elected indirectly for five years. A republic also means that political sovereignty is vested in the people, not in a king, and that there is no privileged class: every public office is open to every citizen.

04 Objectives: Justice, Liberty, Equality, Fraternity

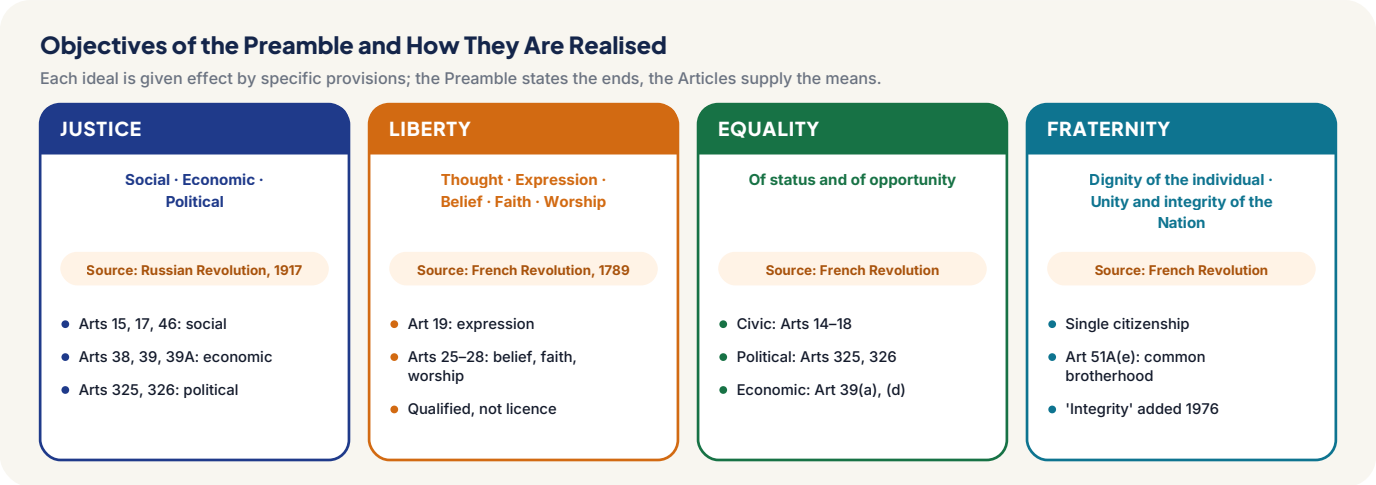


Fig. 4.3 The four objectives of the Preamble, their components, the provisions that give them effect, and the revolutions that inspired them.

Justice: Social, Economic and Political

Social justice means equal treatment without distinctions of caste, colour, race, religion, sex and so on, the absence of privileges for any section, and the uplift of backward classes and women. **Economic justice** means no discrimination on economic grounds and the removal of glaring inequalities of wealth, income and property; social and economic justice together are called **distributive justice**. **Political justice** means equal political rights, equal access to political office and an equal voice in government. The ideal of the three kinds of justice is traced to the Russian Revolution of 1917. It is pursued through Fundamental Rights and, above all, the Directive Principles (**Articles 38, 39, 39A**). The Court has held social justice to be a fundamental right (***Ashok Kumar Gupta***, 1997).

Liberty of Thought, Expression, Belief, Faith and Worship

Liberty is the absence of restraints on individual activity together with the opportunity to develop one's personality. The Preamble names five liberties, secured mainly through **Article 19** and **Articles 25–28**. It is **not** licence: the liberty conceived by the Preamble is qualified, to be enjoyed within the limits the Constitution sets. Liberty, equality and fraternity together are taken from the French Revolution (1789–99).

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Equality of Status and of Opportunity

Equality means no special privileges for any section and adequate opportunities for all. It has three dimensions in the Constitution: **civic equality** (**Articles 14–18**: equality before law, non-discrimination, equal opportunity in public employment, abolition of untouchability and titles), **political equality** (no exclusion from electoral rolls on grounds of religion, race, caste or sex under **Article 325**; adult suffrage under **Article 326**) and **economic equality** (equal right to livelihood and equal pay for equal work for men and women, **Article 39(a) and (d)**).

Fraternity Assuring Dignity and Unity and Integrity

Fraternity is a sense of common brotherhood. The Constitution promotes it through single citizenship and the duty to promote harmony transcending religious, linguistic, regional or sectional diversities (**Article 51A(e)**). It must assure two things. The first is the **dignity of the individual**: K.M. Munshi explained that the phrase recognises the personality of every individual as sacred, beyond material welfare. The Supreme Court has made dignity the thread that ties **Articles 14, 19 and 21** together (***K.S. Puttaswamy***, **2017**). The second is the **unity and integrity of the Nation**, which covers both the psychological and the territorial sides of national integration; "integrity" was added in **1976**.

> **COMMON CONFUSION: WHAT IS AND IS NOT IN THE PREAMBLE**
>
> The Preamble promises liberty of thought, expression, belief, faith and worship, **not** "economic liberty" or liberty of vocation and association (the last two were in the Objectives Resolution and went into **Article 19**). It promises equality of status and of opportunity, **not** "equality before law" (that is **Article 14**). It speaks of "unity and integrity of the Nation"; the Fundamental Duty in **Article 51A(c)** is to uphold the "sovereignty, unity and integrity of India". It does **not** mention federalism, adult franchise or God. The order of the words is Sovereign, Socialist, Secular, Democratic, Republic. Justice comes from the Russian Revolution; liberty, equality and fraternity from the French; the republic from France as well; and "We the people" from the American preamble. Economic justice appears in both the Preamble and the Directive Principles.

05 Is the Preamble Part of the Constitution?

In the **Berubari Union** reference under **Article 143** (**1960**), the Supreme Court said the Preamble shows the general purposes behind the provisions and is "a key to open the mind of the makers", useful when an Article is ambiguous, but it held that the Preamble is **not** part of the Constitution. In **Kesavananda Bharati** (**1973**) the Court rejected that view, held that the Preamble **is part of the Constitution**, and said the Constitution must be read in the light of the vision it expresses. ***LIC of India v Consumer Education and Research Centre*** (**1995**) reaffirmed that it is an integral part. The current view matches the framers' intent: when the President of the Assembly put the Preamble to vote, the question was whether it should "stand part of the Constitution".

Two qualifications follow:

- The Preamble is **neither** a source of power to the legislature **nor** a prohibition on its powers.

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- It is **non-justiciable**: its provisions cannot be enforced in a court by themselves. Put precisely, it is part of the Constitution but has no legal effect independently of the other parts.

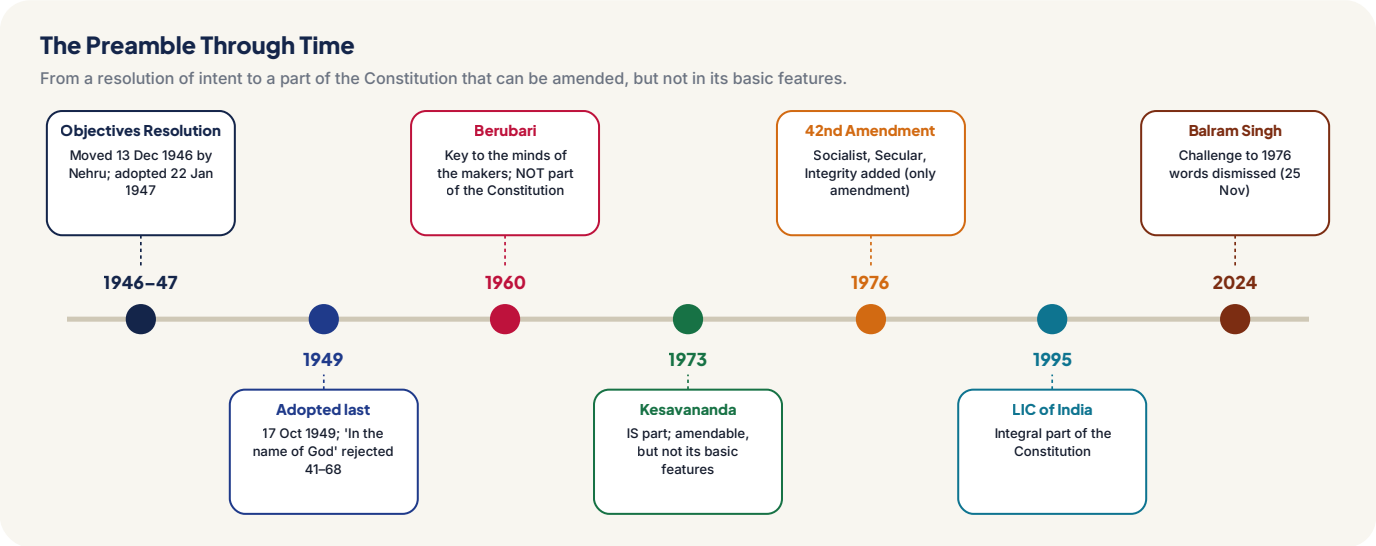


Fig. 4.4 The status of the Preamble, from the Objectives Resolution of 1946–47 to the Supreme Court's 2024 judgment.

Its real legal role is as an **aid to interpretation**. Courts have read **Article 21** through the Preamble's promise of dignity, **Articles 14 and 16** through its promise of social and economic justice, and the scope of **Article 356** through secularism in ***Bommai***.

06 Amendability and the 42nd Amendment

Whether the Preamble can be amended under **Article 368** first arose in ***Kesavananda Bharati***. The petitioners argued it could not be, since it was not part of the Constitution and since its basic elements could not be destroyed. The Court held that it is part of the Constitution and **can be amended**, but **not** so as to alter its basic features; the edifice of the Constitution rests on the elements in the Preamble, and removing them would destroy its identity.

The Preamble has been amended **only once**, by the **42nd Amendment Act, 1976**, which added "Socialist", "Secular" and "Integrity" (changing "unity of the Nation" to "unity and integrity of the Nation"). The **45th Amendment** Bill of **1978** (enacted as the **44th Amendment**) proposed to define "secular" and "socialist" in **Article 366**, but the Rajya Sabha did not accept that part, so the words remain undefined in the text.

Dr Balram Singh v Union of India (2024)

On 25 November **2024** a Bench led by Chief Justice Sanjiv Khanna dismissed petitions filed from **2020** onwards against the insertion of the two words. The main holdings:

- The power under **Article 368** extends to the Preamble; the date of adoption in the Preamble does **not** restrict it, and the "retrospectivity" argument would apply equally to every amendment.
- The Court did not accept that the amendment was vitiated because it was passed during the Emergency by a Lok Sabha sitting beyond its normal term; it noted that the post-Emergency Parliament had debated the words while enacting the **44th Amendment** and left them in place.

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- "Socialist" denotes a welfare State and equality of opportunity; it does not bind governments to any economic policy, left or right.
- "Secular" reflects equal respect for all religions and is a facet of the right to equality; the State neither supports any religion nor penalises any faith.
- Petitions filed forty-four years after the words became part of the Preamble, when "We, the people" understand them without doubt, did not merit detailed adjudication.

IN THE NEWS 2025–26: THE DEBATE OVER TWO WORDS

In mid-2025, around the fiftieth anniversary of the Emergency, some leaders called for the words "socialist" and "secular" to be reconsidered, arguing they were inserted without public mandate; others defended them as settled constitutional values. On 24 July 2025, in a written reply in the Rajya Sabha, the Union Law Minister said the government had no current plan or intention to reconsider or remove the words, citing the 2024 judgment. In December 2025 a member introduced a private member's Constitution (Amendment) Bill in the Rajya Sabha to delete them. Any such amendment would need a special majority and, after ***Kesavananda***, could be tested against the basic structure, of which the Court has held secularism to be a part.

07 Significance and Assessment

The Preamble embodies the philosophy and the fundamental values, political, moral and religious, on which the Constitution rests. Its admirers have described it in memorable terms.

WHO	DESCRIPTION OF THE PREAMBLE
N.A. Palkhivala	The "identity card of the Constitution"
K.M. Munshi	The "horoscope of our sovereign democratic republic"
Thakur Das Bhargava	The most precious part, the "soul", a key, a jewel and a yardstick of the Constitution
Alladi Krishnaswami Ayyar	Expressed what the framers had long thought and dreamt
Ernest Barker	The "key-note" of the Constitution; quoted it at the opening of ***Principles of Social and Political Theory*** (1951)
M. Hidayatullah (former CJI)	Resembles the American Declaration of Independence but is more; the soul of the Constitution
Supreme Court, Berubari (1960)	A key to the minds of the makers of the Constitution

Why It Matters Today

- **Source of authority.** It records that sovereignty rests with the people, which underpins the basic structure doctrine and the idea that no organ of the State is supreme.

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- **Interpretive compass.** It guides courts when the text is silent or ambiguous, as in the expansion of Article 21 and the reservation cases.
- **Yardstick for governments.** It sets goals against which laws and policies can be judged, from welfare schemes to the protection of minorities.
- **Civic education.** Constitution Day (26 November) has been observed since 2015, and the Preamble is read in schools and offices.

The Critical View

Critics note that its promises are not enforceable by themselves, that "socialist" sits uneasily with policy since 1991, and that leaving "secular" and "socialist" undefined has allowed both to be invoked for opposite purposes. The courts' answer is that the Preamble was never meant to be a code: it is a statement of ends, and its words acquire content through the provisions and judgments that give them effect.

USING THIS CHAPTER IN MAINS

A question on the Preamble usually turns on one of three issues: its status (trace Berubari, Kesavananda and LIC, and state the "aid to interpretation" role), its amendment (the 42nd, the Kesavananda limit, Balram Singh 2024) or the meaning of a word in practice (socialism after 1991 with Property Owners 2024; secularism with Bommai; dignity with Puttaswamy). Give each word an Indian meaning, not a dictionary one, and connect each objective to the Articles that realise it. A line from Ambedkar on the trinity of liberty, equality and fraternity makes a strong conclusion.

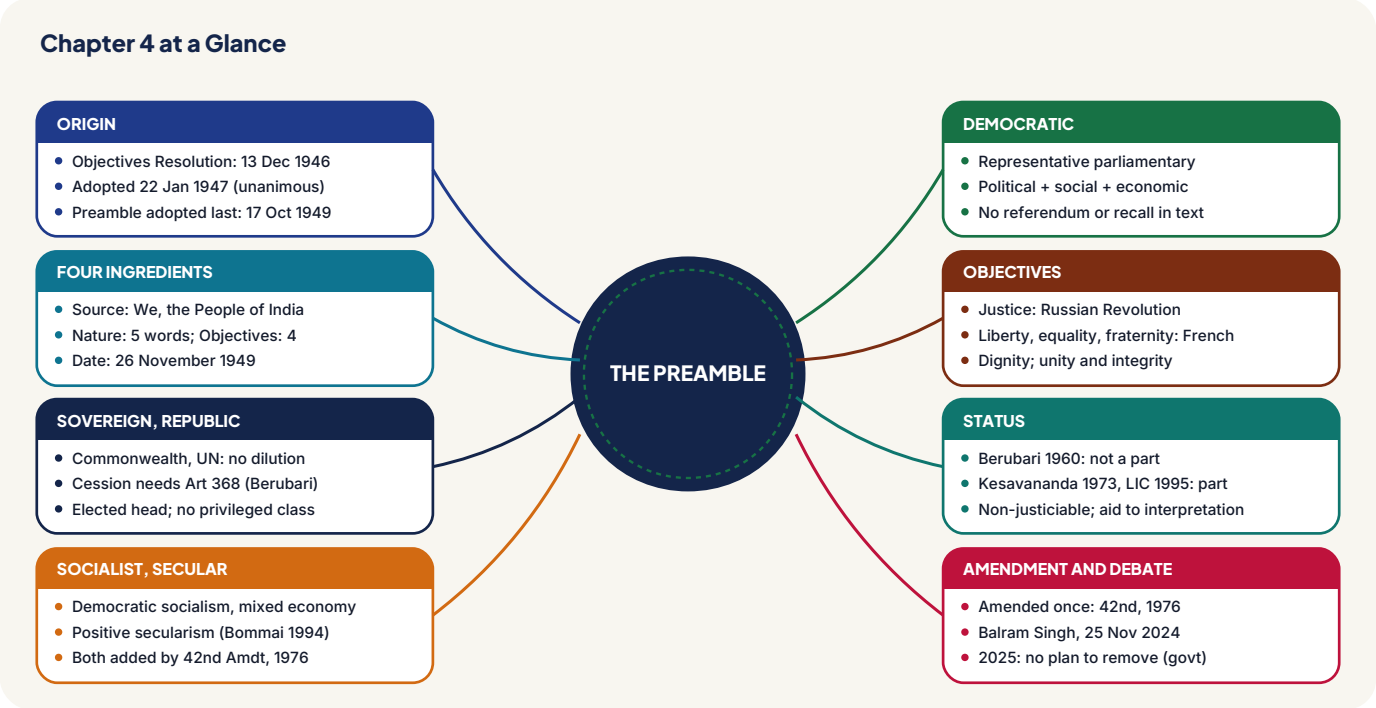


Fig. 4.5 Chapter 4 at a glance: the whole chapter on one page for quick revision.

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Directive Principles of State Policy

On 5 November 2024 nine judges of the Supreme Court settled a question that had divided the Court for almost fifty years: is every privately owned house, mill or field a "material resource of the community" that the State may redistribute under Article 39(b)? By a majority they said no. Within two years Gujarat, Assam and Madhya Pradesh passed uniform civil codes citing Article 44, and on 1 July 2026 a new rural employment law replaced MGNREGA. Part IV cannot be enforced in any court, yet it keeps setting the national agenda.

Fundamental Rights are in Chapters 7–9 (Article 31C and the Ninth Schedule in Chapter 9); the basic structure in Chapter 13; Panchayati Raj in Chapter 34; Fundamental Duties in Chapter 11.

SYLLABUS

PRELIMS — **Indian Polity and Governance – Constitution, Political System, Panchayati Raj, Public Policy, Rights Issues, etc**

MAINS · GS PAPER II — **Indian Constitution—historical underpinnings, evolution, features, amendments, significant provisions and basic structure**

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02 The Directives, Article by Article
03 New Directives by Amendment
04 Sanction and Non-Justiciability
05 Conflict With Fundamental Rights
06 Directives Through the Courts
07 Implementing the Directives
08 Article 44: Uniform Civil Code
09 Criticism, Utility and Other Directives

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01 Meaning, Origin and Features

The **Directive Principles of State Policy** (DPSPs) occupy **Part IV**, **Articles 36–51**. Strictly, the directives themselves are in **Articles 38–51**: **Article 36** says that "the State" has the same meaning as in **Part III** (governments and legislatures at the Union and State levels, local bodies and other authorities), and **Article 37** states their legal character. **Article 37** is the key to the whole Part: the provisions "shall not be enforceable by any court", but the principles are "nevertheless fundamental in the governance of the country", and the State has a **duty to apply them in making laws**.

Sources

The idea came from the **Irish Constitution of 1937**, whose "Directive Principles of Social Policy" were themselves modelled on the Spanish Republican Constitution of **1931**. The Indian roots are older: the Sapru Committee (**1945**) had suggested dividing rights into justiciable and non-justiciable groups, and **Sir B.N. Rau**, the Constitutional Adviser, recommended the same split, which the Drafting Committee accepted. Dr B.R. Ambedkar called the directives a **"novel feature"** and compared them to the **Instrument of Instructions** issued to the Governor-General and Governors under the Government of India Act, **1935**; the difference, he said, was that these instructions were addressed to the legislature and the executive of a free India. Granville Austin described the Fundamental Rights and the Directive Principles together as the **"conscience of the Constitution"**.

Features

- **Ideals and instructions**: they state goals the State should keep in mind in framing policy and laws, and guide legislative, executive and administrative action at every level, including local authorities.
- **A programme for a welfare State**: they aim at justice, liberty, equality and fraternity as promised in the Preamble, and replace the colonial **police State** (concerned mainly with order and defence, in the laissez-faire tradition) with a **welfare State**. In short, they seek **social and economic democracy**, while **Part III** secures political democracy.
- **Non-justiciable**: no court can compel the Union, a State or a local body to implement them, and no worker can sue for the "living wage" that **Article 43** promises until a law provides it.
- **Need legislation**: until a law gives effect to a directive, neither the State nor any person can override an existing law or right in its name.
- **An aid to judicial review**: a law that gives effect to a directive may be treated as a reasonable classification under **Article 14** or a reasonable restriction under **Article 19**, and so saved.
- **Mixed contents**: some are economic and social ideals, some tell the State how to use its powers, and some, such as the "right to work" in **Article 41**, describe rights of citizens that are not enforceable as such.

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CONCEPT: LIVING WAGE, FAIR WAGE, MINIMUM WAGE

Article 43 asks the State to secure a **living wage**, not merely a minimum wage. A **minimum wage** covers the bare needs of food, clothing and shelter. A **living wage** goes further and includes education, health, insurance and a decent standard of life. A **fair wage** lies between the two. The Minimum Wages Act, **1948** dealt only with the floor; the Code on Wages, **2019**, in force since 21 November **2025**, extends a statutory minimum wage to all employees and lets the Centre fix a national floor wage.

02 The Directives, Article by Article

The table gives every Article of **Part IV** with its subject and the category to which it is usually assigned.

ARTICLE	THE STATE SHALL…	CATEGORY
36	Definition: "State" as in **Part III**	–
37	Not enforceable by courts, but fundamental in governance; duty to apply in law-making	–
38(1)	Strive for a social order in which social, economic and political justice informs all institutions	Socialistic
38(2)	Minimise inequalities in income; eliminate inequalities of status, facilities, opportunities among individuals and groups (**44th Amendment**)	Socialistic
39(a)	Adequate means of livelihood for all citizens, men and women equally	Socialistic
39(b)	Ownership and control of material resources of the community distributed to subserve the common good	Socialistic
39(c)	Economic system not to concentrate wealth and means of production to the common detriment	Socialistic
39(d)	Equal pay for equal work for men and women	Socialistic
39(e)	Health and strength of workers and tender age of children not abused; citizens not forced by economic need into unsuitable work	Socialistic
39(f)	Children to develop healthily in freedom and dignity; childhood and youth protected from exploitation and abandonment (**42nd Amendment**)	Socialistic
39A	Equal justice and free legal aid (**42nd Amendment**)	Socialistic
40	Organise village panchayats as units of self-government	Gandhian
41	Within economic capacity: right to work, to education and to public assistance in unemployment, old age, sickness, disablement	Socialistic
42	Just and humane conditions of work and maternity relief	Socialistic
43	Living wage, decent standard of life, leisure, social and cultural opportunities; cottage industries in rural areas	Socialistic + Gandhian

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ARTICLE	THE STATE SHALL…	CATEGORY
43A	Workers' participation in management of industries (**42nd Amendment**)	Socialistic
43B	Voluntary formation, autonomous functioning, democratic control and professional management of co-operatives (**97th Amendment**)	Gandhian
44	Uniform civil code for citizens throughout India	Liberal-intellectual
45	Early childhood care and education until age six (**86th Amendment**)	Liberal-intellectual
46	Educational and economic interests of SCs, STs and weaker sections; protection from injustice and exploitation	Gandhian
47	Nutrition, standard of living, public health as primary duties; prohibition of intoxicating drinks and harmful drugs except for medicine	Socialistic + Gandhian
48	Agriculture and animal husbandry on modern, scientific lines; preserve breeds; prohibit slaughter of cows, calves, milch and draught cattle	Liberal + Gandhian
48A	Protect and improve the environment; safeguard forests and wildlife (**42nd Amendment**)	Liberal-intellectual
49	Protect monuments, places, objects of national importance (declared by or under Parliament's law)	Liberal-intellectual
50	Separate the judiciary from the executive in public services	Liberal-intellectual
51	International peace and security; just and honourable relations; respect for international law and treaties; arbitration of disputes	Liberal-intellectual

Three Conventional Groups

The Constitution itself does **not** classify the directives; the grouping below is a convenience based on content and ideology, and it is not watertight.

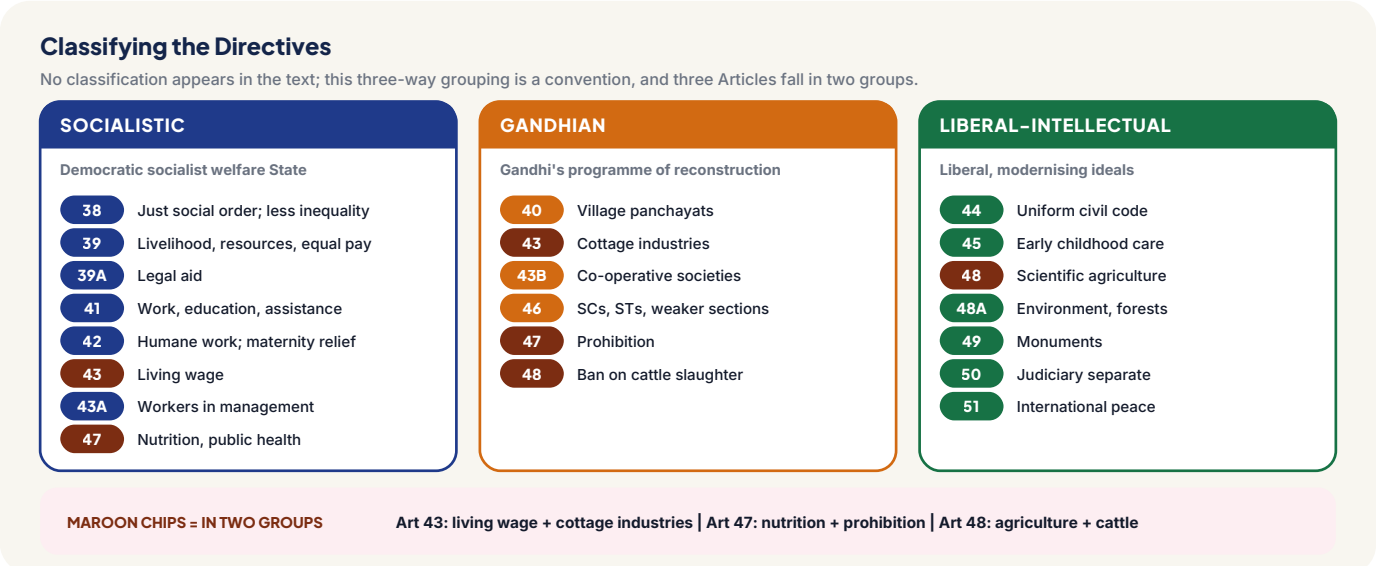


Fig. 10.1 The usual three-way grouping of the directives, with the Articles that straddle two groups.

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- **Socialistic principles** sketch a democratic socialist order aimed at social and economic justice and a welfare State (**Articles 38, 39, 39A, 41, 42, 43, 43A and 47**).
- **Gandhian principles** carry the programme of reconstruction Gandhi set out during the national movement: village panchayats (40), cottage industries (43), co-operatives (43B), the welfare of SCs, STs and weaker sections (46), prohibition (47) and protection of cattle (48).
- **Liberal-intellectual principles** reflect liberalism: a uniform civil code (44), early childhood care (45), modern agriculture (48), environment (48A), monuments (49), separation of the judiciary (50) and international peace (51).

03 New Directives by Amendment

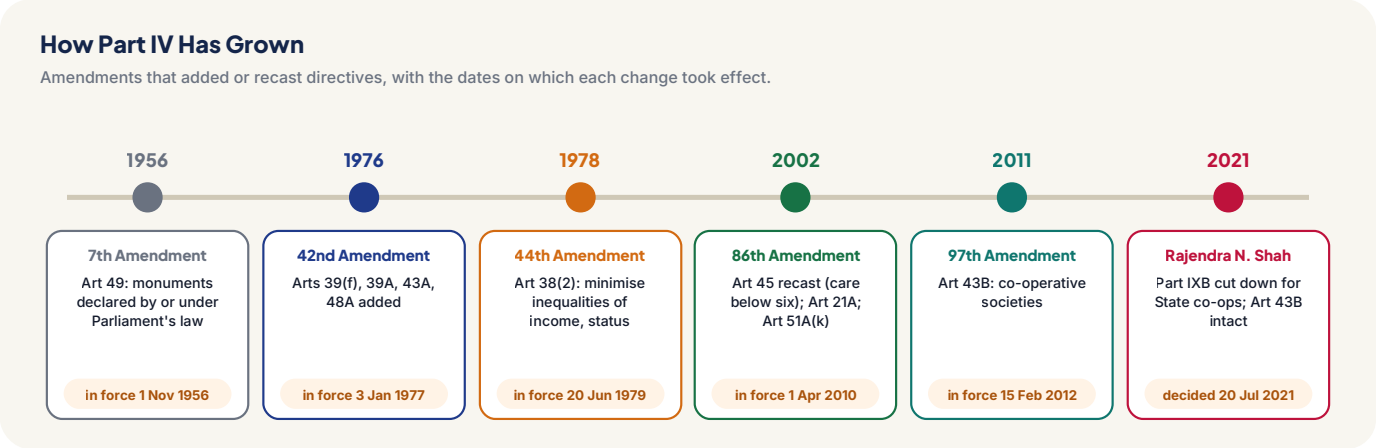


Fig. 10.2 Five amendments have changed Part IV, with the dates on which the changes took effect.

- **42nd Amendment (1976)**, effective 3 January 1977, added four: opportunities for the healthy development of children (**Article 39(f)** was substituted), equal justice and free legal aid (**39A**), workers' participation in management (**43A**), and protection of the environment, forests and wildlife (**48A**).
- **44th Amendment (1978)**, effective 20 June 1979, renumbered **Article 38** as clause (1) and added clause (2) on minimising inequalities. Read with the repeal of the right to property by the same Amendment, it gave the State room for redistributive taxation and wage policy without nationalisation.
- **86th Amendment (2002)**, effective 1 April 2010, replaced the original **Article 45** (free and compulsory education for children up to 14, to be achieved within ten years) with early childhood care and education until six, and moved elementary education to **Article 21A** as a Fundamental Right. It also added **Article 51A(k)**.
- **97th Amendment (2011)**, effective 15 February 2012, inserted **Article 43B** on co-operative societies, along with the right to form co-operatives in **Article 19(1)(c)** and **Part IXB**. In ***Union of India v Rajendra N. Shah*** (20 July 2021) the Supreme Court struck down **Part IXB** so far as it dealt with co-operatives under State control, because it had not been ratified by half the States; it survives for multi-State co-operatives. **Article 43B**, which needed no ratification, is untouched.

Earlier, the **7th Amendment** (1956) changed **Article 49** to cover monuments declared "by or under law made by Parliament".

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COMMON CONFUSION: WHICH DIRECTIVE CAME FROM WHERE?

The original Constitution already contained equal pay for equal work (39(d)), the right to work (41), humane conditions and maternity relief (42), the living wage (43), the uniform civil code (44), prohibition (47) and protection of cattle (48). The **42nd** Amendment added only 39(f), 39A, 43A and 48A; the **44th** added 38(2); the **97th** added 43B. Three Articles straddle two groups: 43 (living wage and cottage industries), 47 (nutrition and prohibition) and 48 (scientific agriculture and cattle). Keeping the judiciary apart from the executive is a **directive** (**Article 50**), not a Fundamental Right or a mere convention. Directives are **not** legal limits on legislative or executive power; they are positive instructions. Shielding weaker sections from social injustice is **Article 46**, **not** a Fundamental Duty.

04 Sanction and Non-Justiciability

The framers made the directives non-justiciable for practical reasons: the new State lacked the money to fulfil them; India's diversity and backwardness would obstruct uniform implementation; and a young State with many burdens had to remain free to decide the **order, time, place and manner** of fulfilling them. They preferred an awakened public opinion to court procedure as the final sanction.

The sanction is therefore **moral and political**. Ambedkar told the Constituent Assembly that a government resting on the popular vote could hardly ignore the directives, and that any government which did would have to answer to the electorate. Alladi Krishnaswami Ayyar made the same point: no ministry responsible to the people could treat **Part IV** lightly. The Opposition can attack a government for acting against them, and voters can measure policies by them. Some commentators have gone further and argued that because **Article 355** obliges the Union to ensure that every State is governed "in accordance with the provisions of this Constitution", the Union could direct a State to implement a directive and invoke **Article 365** if it refused; this has never been tried.

FUNDAMENTAL RIGHTS (PART III)	DIRECTIVE PRINCIPLES (PART IV)
Negative: forbid the State to do certain things	Positive: require the State to do certain things
Justiciable; enforceable under **Articles 32 and 226**	Non-justiciable (**Article 37**)
Aim at political democracy	Aim at social and economic democracy
Legal sanction	Moral and political sanction
Promote individual welfare; personal and individualistic	Promote community welfare; societarian and socialistic
Need no legislation; operate automatically	Need legislation to take effect
Courts must strike down a law that violates them	Courts cannot strike down a law for violating them, but may uphold a law because it implements them

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05 Conflict With Fundamental Rights

Justiciable rights on one side and a constitutional duty to apply non-justiciable principles on the other made conflict inevitable. Its history is a dialogue between Parliament and the Court.

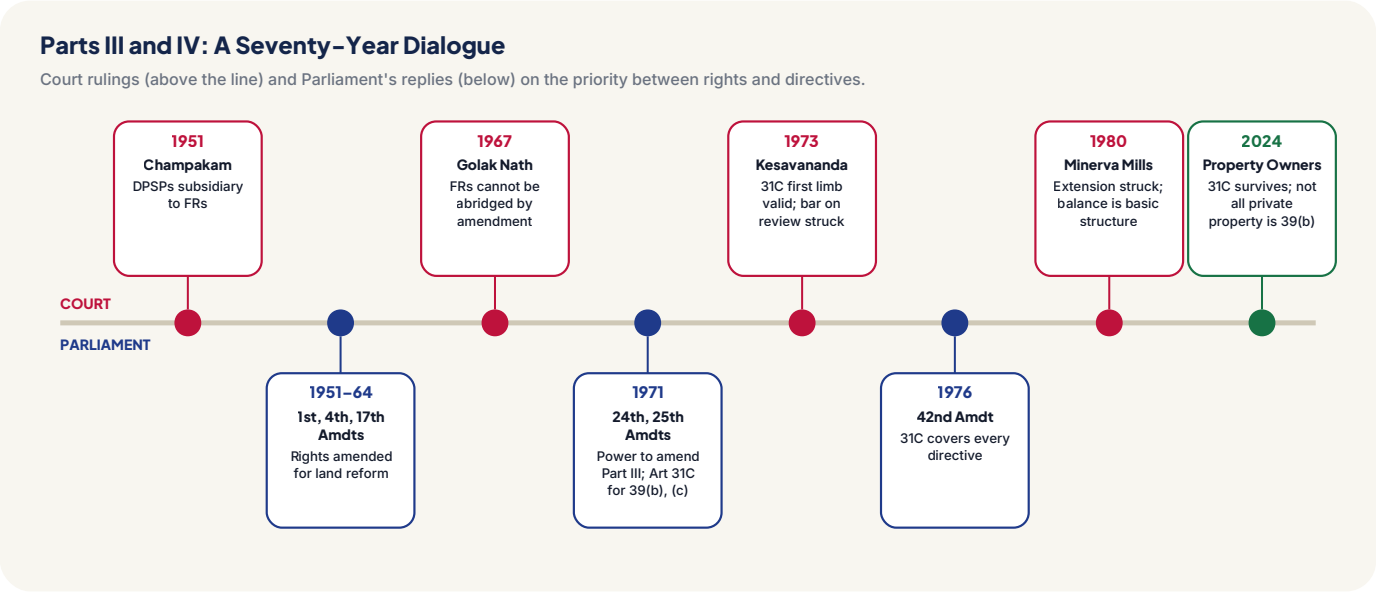


Fig. 10.3 Seventy years of dialogue between Parliament and the Supreme Court on Parts III and IV, from Champakam Dorairajan to Property Owners.

- **Primacy of rights (1951–67).** In ***State of Madras v Champakam Dorairajan*** (1951) the Court held that the directives must **conform to and run subsidiary to** Part III. In ***Shankari Prasad*** (1951) and ***Sajjan Singh*** (1964) the Court accepted, however, that Parliament could amend Fundamental Rights, and the 1st (1951), 4th (1955) and 17th (1964) Amendments were used to carry out land reform and other directives. In the ***Kerala Education Bill*** reference (1958) the Court added that courts should not ignore Part IV but read both Parts harmoniously, giving effect to each as far as possible; a law implementing Article 45 still could not override the minorities' right under Article 30(1).
- **Golak Nath and the reply (1967–73).** In ***Golak Nath v State of Punjab*** (1967) the Court ruled that Parliament could not take away or abridge Fundamental Rights, which were "sacrosanct", even to implement directives. The **24th Amendment (1971)** restored the power to amend Part III, and the **25th Amendment (1971)** inserted Article 31C: no law giving effect to Article 39(b) or (c) would be void for violating Articles 14, 19 or 31, and no law declaring that it gave effect to that policy could be questioned on the ground that it did not.
- **Kesavananda Bharati (1973)** upheld the first limb of Article 31C and struck down the second, because excluding judicial review damaged the basic structure (Chapter 13).
- **The 42nd Amendment (1976)** extended the first limb to laws implementing **any** directive, giving Part IV legal primacy over Articles 14, 19 and 31.
- **Minerva Mills v Union of India (1980)** struck down that extension. The Constitution, it said, rests on a **balance** between Parts III and IV, the "two wheels of a chariot"; giving absolute primacy to either would disturb that harmony, which is itself a basic feature. The goals of Part IV must be pursued without destroying the means in Part III.

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The present position: Fundamental Rights prevail over directives in general, but laws giving effect to Article 39(b) and (c) are immune from challenge under Articles 14 and 19 (Article 31 was repealed by the 44th Amendment Act, 1978), provided they genuinely implement those directives and, if made by a State, receive the President's assent. Parliament may amend Part III to carry out directives, so long as the basic structure is not damaged. Article 31C itself is discussed in Chapter 9.

Article 39(b) and Private Property

The scope of 31C depends on what "material resources of the community" means. In ***State of Karnataka v Ranganatha Reddy*** (1977), Justice Krishna Iyer, writing for three of seven judges, read the phrase to cover every resource, public or private, natural or man-made; the majority did not decide the point. ***Sanjeev Coke Manufacturing Co v Bharat Coking Coal*** (1982) adopted his reading, and a nine-judge Bench in ***Mafatlal Industries*** (1996) repeated it in a one-line remark. A reference on Maharashtra's housing law then travelled from three judges (1996) to five (2001), seven (2002) and finally nine.

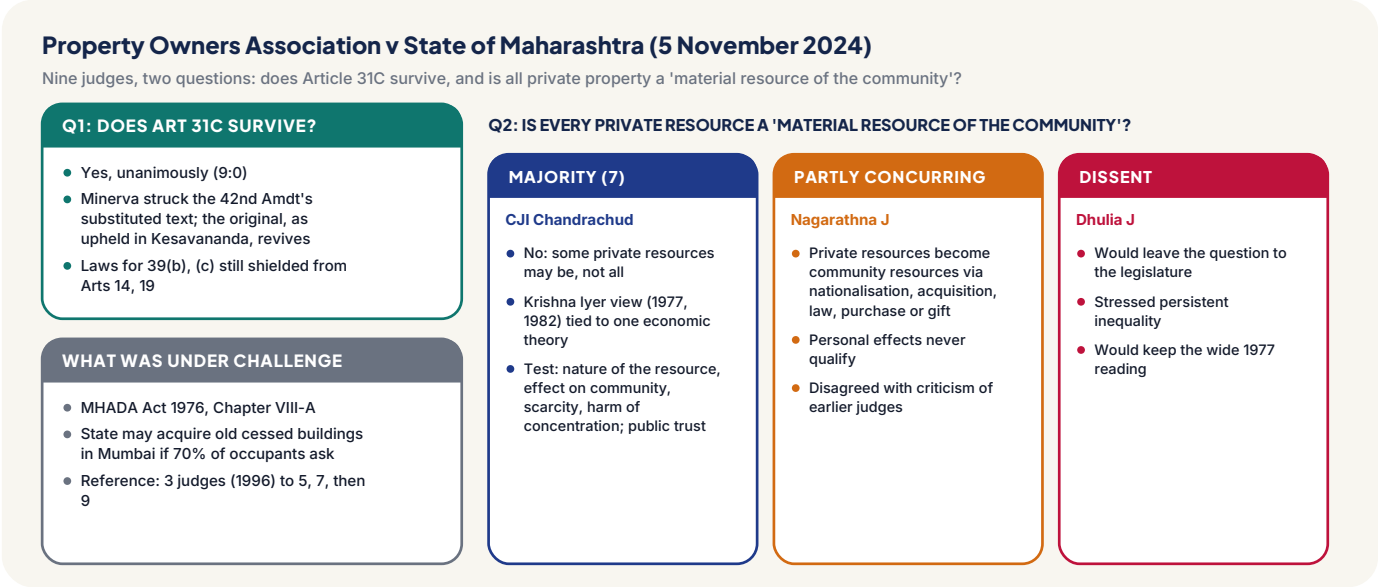


Fig. 10.4 Property Owners Association (2024): the two questions, the three opinions and the factors that decide whether a private resource belongs to the community.

CASE IN POINT: PROPERTY OWNERS ASSOCIATION V STATE OF MAHARASHTRA (2024)

Chapter VIII-A of the Maharashtra Housing and Area Development Act, 1976 allowed the State to acquire old "cessed" buildings in Mumbai if 70% of occupants sought it, and claimed Article 31C protection. On 5 November 2024 all nine judges held that Article 31C survives: when ***Minerva Mills*** struck down the 42nd Amendment's substituted text, the original text (as upheld in ***Kesavananda***) revived. On Article 39(b), Chief Justice D.Y. Chandrachud, writing for seven judges, held that private resources may be material resources of the community, but not all of them are. Courts must ask about the nature and characteristics of the resource, its effect on the community's well-being, its scarcity and the consequences of its concentration in private hands; the public trust doctrine also helps. The Krishna Iyer reading, said the majority, tied the Constitution to one economic theory, whereas the Constitution leaves elected governments free to choose their economic model. Justice B.V. Nagarathna agreed in part, holding that private resources become community resources through nationalisation, acquisition, operation of law, purchase or gift, and disagreed with the

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criticism of earlier judges. Justice Sudhanshu Dhulia dissented: he would keep the wide reading of 1977, leave the choice to the legislature, and pointed to persistent inequality.

06 Directives Through the Courts

The working of the Constitution has shown that non-justiciable does not mean useless in court. Judges have used the directives in six ways.

- **To uphold restrictions** under **Article 19**: prohibition, as a step towards **Article 47** (***State of Bombay v F.N. Balsara***, 1951); a ban on slaughter of useful cattle under **Article 48** (***Mohd. Hanif Quareshi***, 1958), extended to a total ban on slaughter of cow progeny in ***State of Gujarat v Mirzapur Moti Kureshi Kassab Jamat*** (2005, seven judges), read with **Articles 48A and 51A(g)**.
- **To find a reasonable classification** under **Article 14**, or a "public purpose" for acquisition (***State of Bihar v Kameshwar Singh***, 1952).
- **To interpret statutes**: in ***Chandra Bhavan Boarding and Lodging v State of Mysore*** (1969) the Court upheld minimum-wage fixing and said **Parts III and IV** are complementary, not in conflict.
- **To expand Article 21**, turning directives into enforceable rights (diagram below).
- **To issue positive directions** to governments, as in pension cases (***D.S. Nakara***, 1982) and the right-to-food orders of 2001 onwards in ***PUCL v Union of India***, which fed into the National Food Security Act, 2013.
- **To identify duties of the State** under **Article 21** itself: free legal aid and a free copy of the judgment for a prisoner who wishes to appeal (***M.H. Hoskot***, 1978, relying on **Article 39A**).

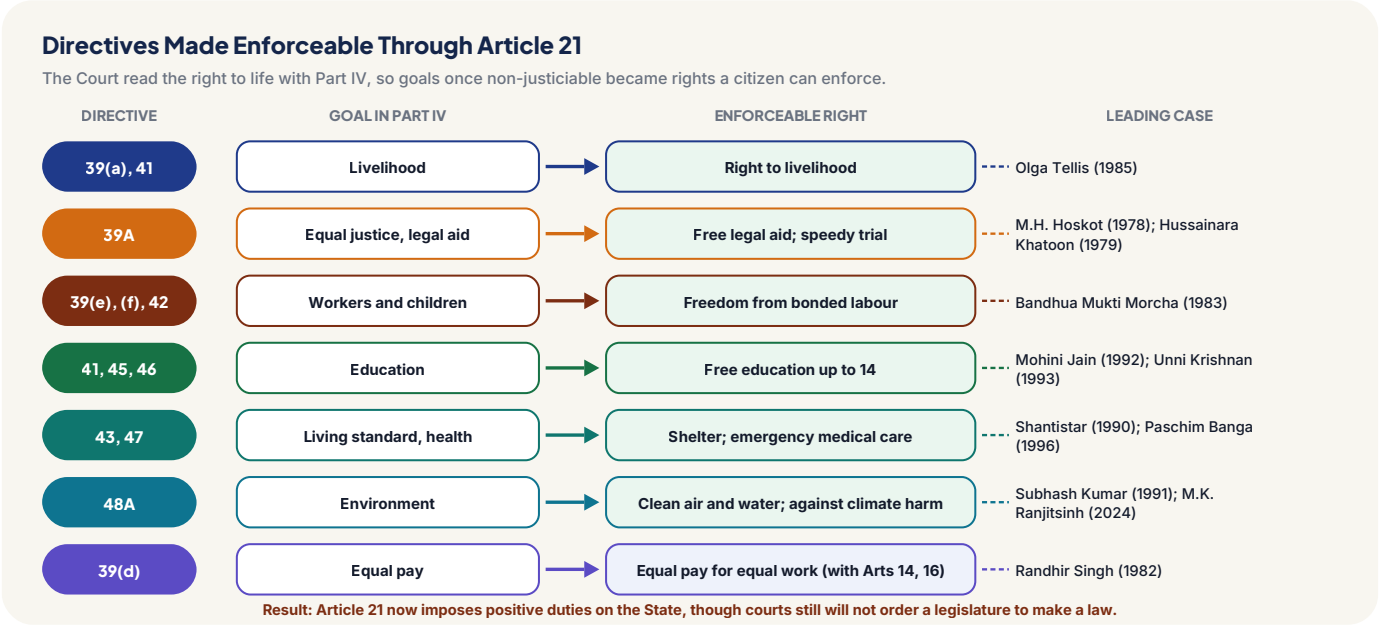


Fig. 10.5 Directives made enforceable through Article 21: each directive, the right the Court read into the right to life, and the leading judgment (the last row, equal pay, was enforced through Articles 14 and 16 rather than Article 21).

The Court has also said that **Article 21** now imposes **positive obligations** on the State, such as maintaining public health, removing pollution, improving rural roads and rehabilitating bonded labourers. Courts will not,

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however, issue a mandamus to make a legislature act: petitions seeking a uniform civil code or the striking down of personal laws were returned as matters of legislative policy (***Maharshi Avadhesh v Union of India***, 1993; ***Ahmedabad Women Action Group***, 1997).

From Article 45 to Article 21A

Education shows the whole cycle. The original Article 45 set a ten-year target that was missed. In ***Mohini Jain v State of Karnataka*** (1992) the Court derived a right to education from Article 21; in ***Unni Krishnan v State of Andhra Pradesh*** (1993) it limited the enforceable right to free education up to age 14, beyond which it depends on the State's economic capacity (Article 41). Parliament responded with the **86th Amendment (2002)** and the Right of Children to Free and Compulsory Education Act, 2009, both in force from 1 April 2010. A directive had become a Fundamental Right, a statutory entitlement and a parental duty under Article 51A(k).

07 Implementing the Directives

Since 1950 the Union and the States have passed many laws and schemes that carry out Part IV. The list below includes the major changes of 2025–26.

DIRECTIVE	LAWS, BODIES AND PROGRAMMES
38, 39 (planning)	Planning Commission (1950), replaced by NITI Aayog on 1 January 2015
39(b), (c)	Land reform: abolition of zamindars, jagirdars and inamdars; tenancy reform; ceilings; distribution of surplus land; co-operative farming. Nationalisation of life insurance (1956), 14 banks (1969), general insurance (1972); abolition of privy purses (**26th Amendment**, 1971)
39(d), (e), 42, 43	Minimum Wages, Payment of Wages, Payment of Bonus, Factories, Mines, Industrial Disputes, Trade Unions, Contract Labour, Workmen's Compensation, Maternity Benefit (1961) and Equal Remuneration (1976) Acts; most now merged in four Labour Codes, in force from 21 November 2025
39(e), (f)	Bonded Labour System (Abolition) Act 1976; Child and Adolescent Labour Act (1986, renamed 2016); Juvenile Justice Act 2015; POCSO Act 2012
39A	Legal Services Authorities Act 1987: NALSA, State and district authorities; Lok Adalats with the status of a civil court, whose awards are final with no appeal
40	Three-tier Panchayati Raj; **73rd Amendment** (1992)
41	Community Development Programme (1952), IRDP (1978), Jawahar Rozgar Yojana (1989), MGNREGA (2005); VB-G RAM G Act 2025, in force 1 July 2026 (125 days of work); old-age pensions
43, 43B	KVIC; Handloom, Handicrafts, Coir, Silk and Small-Scale Industries Boards; NSIC; Ministry of Cooperation (2021); National Cooperation Policy (July 2025)
45, 47	ICDS and anganwadis; National Food Security Act 2013; mid-day meals; primary health centres and disease-control programmes; total or partial prohibition in some States
46	Reservation; Protection of Civil Rights Act (1955, renamed 1976); SC/ST (Prevention of Atrocities) Act 1989; NCSC and NCST (65th and **89th Amendment**s); NCBC (constitutional by the 102nd, 2018); 10% EWS quota (103rd, 2019); NCW, NCM, NCPCR

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DIRECTIVE	LAWS, BODIES AND PROGRAMMES
48	Cattle-slaughter laws in most States; modern inputs, seeds, irrigation, animal husbandry
48A	Wild Life (Protection) Act 1972; Water (1974) and Air (1981) Acts with pollution control boards; Forest (Conservation) Act 1980; Environment (Protection) Act 1986; National Forest Policy 1988; National Green Tribunal 2010
49	Monuments of national importance declared by a 1951 Act; Ancient Monuments and Archaeological Sites and Remains Act 1958
50	Code of Criminal Procedure 1973 (judicial magistrates under the High Court), continued by the Bharatiya Nagarik Suraksha Sanhita from 1 July 2024
51	Non-alignment and Panchsheel

Implementation remains uneven because of limited finances, adverse social and economic conditions, population growth and strained Centre–State relations. Prohibition, in particular, has been tried and abandoned in several States. The National Commission to Review the Working of the Constitution (2002) proposed that every ministry report annually on the directives it administers, with the shortfalls, for scrutiny by parliamentary committees.

08 Article 44: Uniform Civil Code

Article 44 asks the State to endeavour to secure for citizens a **uniform civil code**: one set of civil laws on marriage, divorce, maintenance, adoption, guardianship and succession, in place of laws that vary with religion. Since "marriage and divorce" and "wills, intestacy and succession" are in **Entry 5 of the Concurrent List**, both Parliament and the States can legislate. Partial steps came early: the Hindu Code laws of 1955–56 and the Special Marriage Act, 1954; **Goa** has applied a common civil law of Portuguese origin since before its liberation.

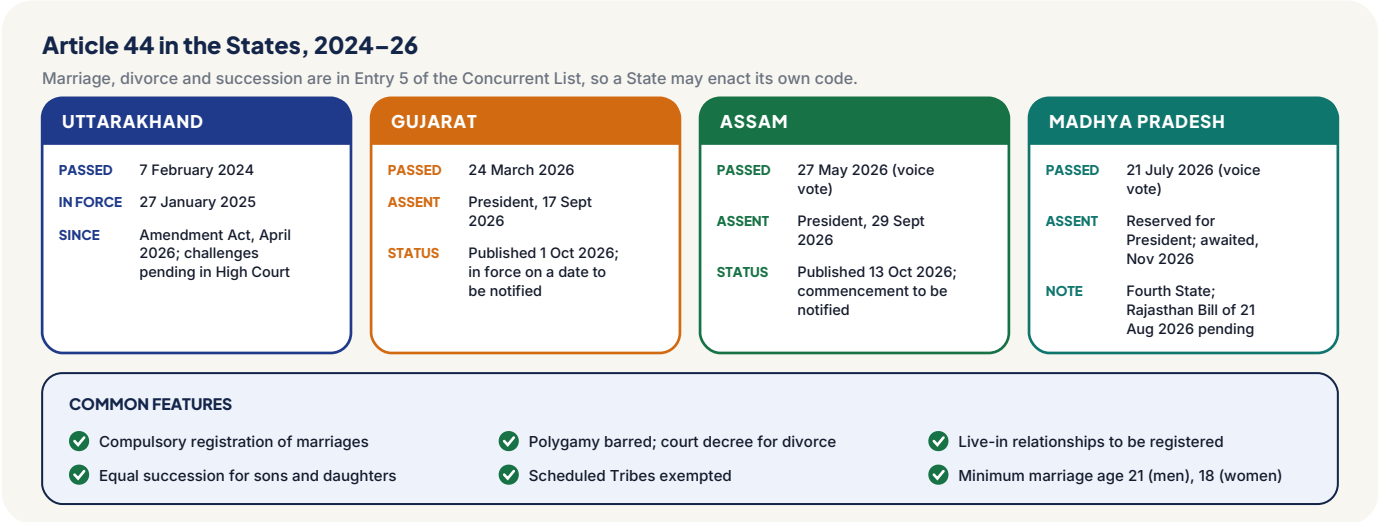


Fig. 10.6 Article 44 in the States, 2024–26: what the four State codes contain, and where each stood in November 2026.

The Supreme Court has repeatedly urged action: ***Mohd. Ahmed Khan v Shah Bano Begum*** (1985) regretted that Article 44 had remained a dead letter; ***Sarla Mudgal*** (1995) and ***John Vallamattom*** (2003) repeated the call; ***Jose Paulo Coutinho*** (2019) cited Goa as a model. The 21st Law Commission's consultation paper

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(August 2018) found a uniform code "neither necessary nor desirable" at that stage and favoured reform within each personal law; the 22nd Law Commission invited fresh public views in June 2023.

Supporters argue that a common code advances equality and gender justice, simplifies law and strengthens national integration. Critics argue that it may override religious and cultural diversity protected by Articles 25–29, that tribal customary law needs protection, and that the State codes regulate private life, especially live-in relationships, too closely. All four State codes exempt Scheduled Tribes.

IN THE NEWS 2026: UNIFORM CIVIL CODES IN FOUR STATES

Uttarakhand was first: its code, passed in February 2024, came into force on 27 January 2025, requiring registration of marriages and live-in relationships and giving sons and daughters equal shares in succession; an amending ordinance of 26 January 2026 was replaced by an Amendment Act in April 2026, and challenges are pending in the High Court. The Gujarat Assembly passed its code on 24 March 2026 after a committee chaired by Justice Ranjana Desai reported; it received the President's assent on 17 September and was published on 1 October 2026, and will apply from a date to be notified. The Assam Assembly passed its code on 27 May 2026; it received the President's assent on 29 September 2026 and also awaits a commencement notification. The Madhya Pradesh Assembly passed its code on 21 July 2026; reserved for the President, it still awaited assent in November 2026, when Rajasthan's Bill, introduced on 21 August 2026, was also pending. Each bans polygamy and makes registration compulsory. The governments present them as fulfilling Article 44; opposition parties and some legal scholars question their effect on privacy and on minority personal law.

09 Criticism, Utility and Other Directives

Criticism

CRITIC	OBJECTION
K.T. Shah	"Pious superfluities"; a cheque the bank will honour only when it has the funds
Nasiruddin	Like New Year resolutions, broken on 2 January
T.T. Krishnamachari	"A veritable dustbin of sentiments"
K.C. Wheare	A "manifesto of aims and aspirations"; a mere "moral homily" that may bring the Constitution and courts into disrepute
Ivor Jennings	"Pious aspirations"; no consistent philosophy; "Fabian socialism without the socialism"; may be outmoded in the twenty-first century
N. Srinivasan	Neither properly classified nor logically arranged; mixes trivial and vital, modern and old, reason and sentiment

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CRITIC	OBJECTION
K. Santhanam	Conflict between Centre and States, President and Prime Minister, Governor and Chief Minister (e.g. assent refused to a Bill said to violate Part IV); never yet tested

Utility

The defenders are equally distinguished. L.M. Singhvi called the directives the life-giving provisions of the Constitution; M.C. Chagla said their full implementation would make India a heaven on earth; Ambedkar saw them as fixing **economic democracy** as the goal, beyond the political democracy of "one man, one vote"; Austin saw them as furthering the **social revolution**; B.N. Rau described them as moral precepts with at least an educative value. M.C. Setalvad listed four uses: a general instrument of instructions to all authorities, a beacon for courts exercising judicial review, a background to all State action, and an amplification of the Preamble. They also give policy continuity whichever party rules, supply the social and economic rights missing from Part III, create conditions for enjoying Fundamental Rights, arm the Opposition, offer a test of performance and act as a common manifesto, a "guide, philosopher and friend" to every government.

Directives Outside Part IV

Three non-justiciable directives sit elsewhere: Article 335 (Part XVI), on considering the claims of SCs and STs to services consistently with administrative efficiency; Article 350A (Part XVII), on instruction in the mother tongue at the primary stage for children of linguistic minorities; and Article 351 (Part XVII), on the Union's duty to promote Hindi as a medium of expression of India's composite culture. Courts give them the same weight as Part IV, since the Constitution must be read as a whole.

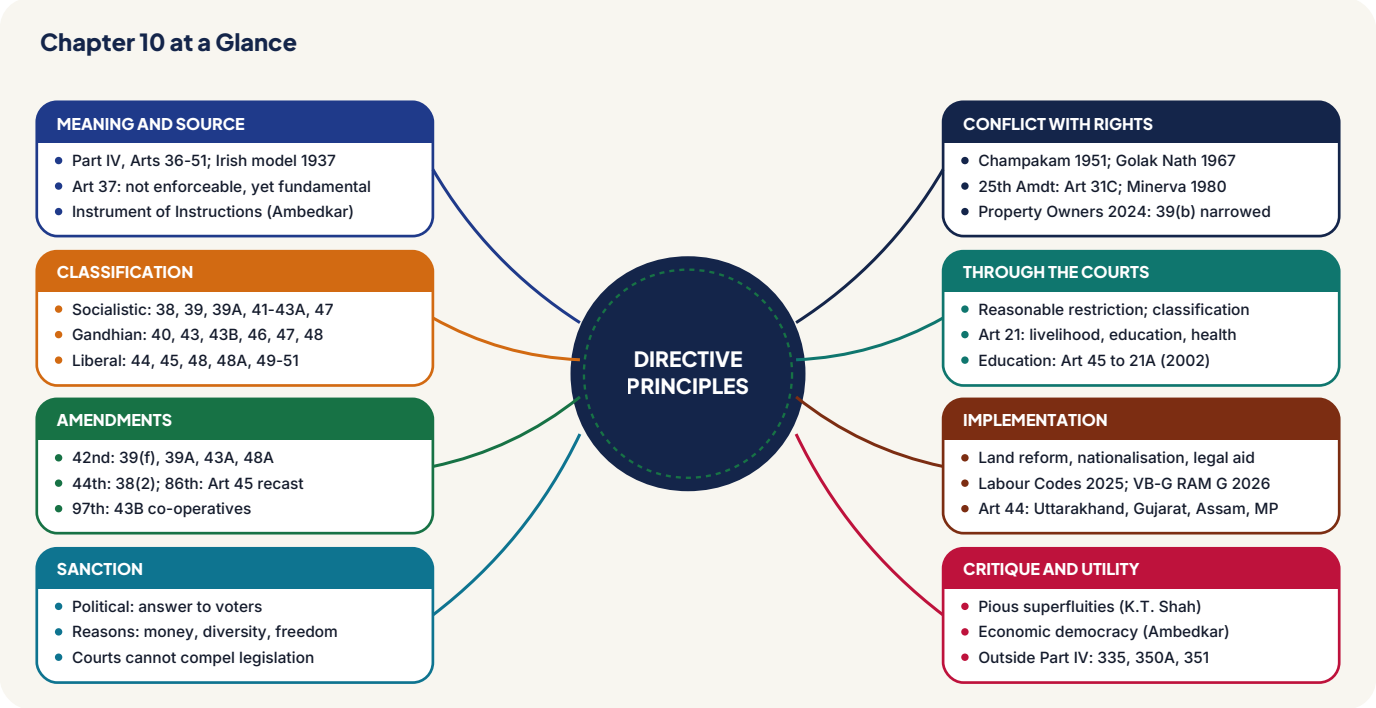


Fig. 10.7 Chapter 10 at a glance: the whole chapter on one page for quick review.

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USING THIS CHAPTER IN MAINS

On "non-justiciable yet fundamental", pair **Article 37** with the political sanction (Ambedkar) and then show the judicial life of the directives: reasonableness, harmonious construction, **Article 21** and the education story. On the conflict with rights, trace the dialogue from Champakam to Minerva Mills and end with Property Owners (2024) on **Article 39(b)**. For implementation, give one law per directive and a current example (Labour Codes 2025, the 2025 rural jobs Act, State codes under **Article 44**), treating the code debate evenly. Close with balance: **Part IV** states ends, **Part III** guards means.

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UNIT III | 8 CHAPTERS

The Central Government

Structure, organization and functioning of the Executive and the Judiciary; Parliament—structure, functioning, conduct of business, powers and privileges — the President, Vice-President, Prime Minister and Council of Ministers, Parliament and its committees, the Supreme Court and judicial review.

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INDIAN POLITY
PRELIMS · GS PAPER II

The President

On 20 November 2025 a five-judge Constitution Bench delivered its advisory opinion on fourteen questions referred by President Droupadi Murmu under Article 143(1), returning two unanswered. On 8 April a two-judge Bench had prescribed deadlines for Governors and the President to act on State Bills, and had treated ten Tamil Nadu Bills as having received "deemed assent". The Constitution Bench advised that courts can neither prescribe such deadlines nor deem assent, though they may order a decision when inaction is prolonged and unexplained. An office often called ceremonial sits at a contested meeting point of law-making, federalism and judicial power.

The Vice-President is in Chapter 20; the Prime Minister and Council of Ministers in Chapter 21; Parliament's law-making in Chapter 23; emergencies in Chapter 18; the Governor in Chapter 27; the Attorney General in Chapter 39.

SYLLABUS

PRELIMS — **Indian Polity and Governance – Constitution, Political System, Panchayati Raj, Public Policy, Rights Issues, etc**

MAINS · GS PAPER II — **Structure, organization and functioning of the Executive and the Judiciary—Ministries and Departments of the Government; Appointment to various Constitutional posts, powers, functions and responsibilities of various Constitutional Bodies**

CONTENTS

01 The Office and the Electoral College
02 Vote Value and the 2022 Arithmetic
03 Qualifications, Term and Removal
04 Executive, Financial and Other Powers
05 Legislative Powers and the Veto
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01 The Office and the Electoral College

Articles 52–78 in Part V set up the Union executive: the President, the Vice-President, the Prime Minister, the Council of Ministers and the Attorney General. Article 53 vests the executive power of the Union in the President, to be exercised directly or through subordinate officers in accordance with the Constitution. The President heads the Indian State (head of State) and is the first citizen and the symbol of the nation's unity, integrity and solidarity: the nominal (de jure) executive, while the Prime Minister and the Council of Ministers are the real (de facto) executive.

Who Elects the President (Article 54)

The people do not choose the President directly; an electoral college does. It comprises:

- the elected members of both Houses of Parliament;
- the elected members of the Legislative Assemblies of the States; and
- the elected members of the Assemblies of the National Capital Territory of Delhi and Puducherry, which the 70th Amendment (1992) brought in, with effect from 1 June 1995, by declaring that "State" in Articles 54 and 55 includes them.

Left out are nominated members of both Houses and of the Assemblies (Puducherry has some; Delhi none), and all members of State Legislative Councils. The 104th Amendment (2019) ended Anglo-Indian nomination from 25 January 2020. Members of a dissolved Assembly cease to be electors even if fresh polls are pending: in the *Presidential Election reference* (1974) the Court advised that the election must be held on time despite the dissolved Gujarat Assembly.

MEMBER	VOTES IN THE ELECTION	VOTES IN IMPEACHMENT
Elected MPs (both Houses)	Yes	Yes
Nominated MPs	No	Yes
Elected MLAs (States, Delhi, Puducherry)	Yes	No
Nominated MLAs	No	No
Members of Legislative Councils	No	No

Why an Indirect Election

Some Constituent Assembly members wanted a popular vote. The framers chose indirect election because a directly elected head without real power would be anomalous in a parliamentary system, and a nationwide poll for a symbolic office would waste time, money and energy. They rejected election by Parliament alone, which a single dominant party would control and in which the States would have no voice; the present college makes the President the choice of the Union and the States alike.

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02 Vote Value and the 2022 Arithmetic

Article 55 requires, as far as practicable, **uniformity** in the scale of representation among the States and **parity** between the States as a whole and the Union. Two formulas achieve this.

The Value of an MLA's Vote

Divide the State's **population** by the number of elected members of its Assembly; each MLA gets as many votes as there are whole thousands in the quotient, plus one if the remainder is 500 or more (Article 55(2)(a), (b)). "Population" means the **1971 census** until figures of the first census after 2026 are published (frozen by the **42nd Amendment**, 1976, and extended by the 84th, 2001). Uttar Pradesh: 8,38,49,905 ÷ 403 = 2,08,064, so 208. Sikkim: 2,09,843 ÷ 32 = 6,557; the remainder 557 adds one, so 7. The value thus varies from State to State.

The Value of an MP's Vote

Divide the total of all MLAs' votes by the number of elected MPs of both Houses, a fraction above one-half counting as one (Article 55(2)(c)). Every elected MP, of either House, carries the **same** value. In 2022 the 4,033 MLAs held 5,43,231 votes; divided by 776 MPs (543 in the Lok Sabha, 233 in the Rajya Sabha) this gave 700 per MP and 5,43,200 for all MPs. The college of 4,809 electors held 10,86,431 votes. The MP's value had been 708 in 2017; it fell because Jammu and Kashmir, a Union Territory since 2019, had no Assembly.

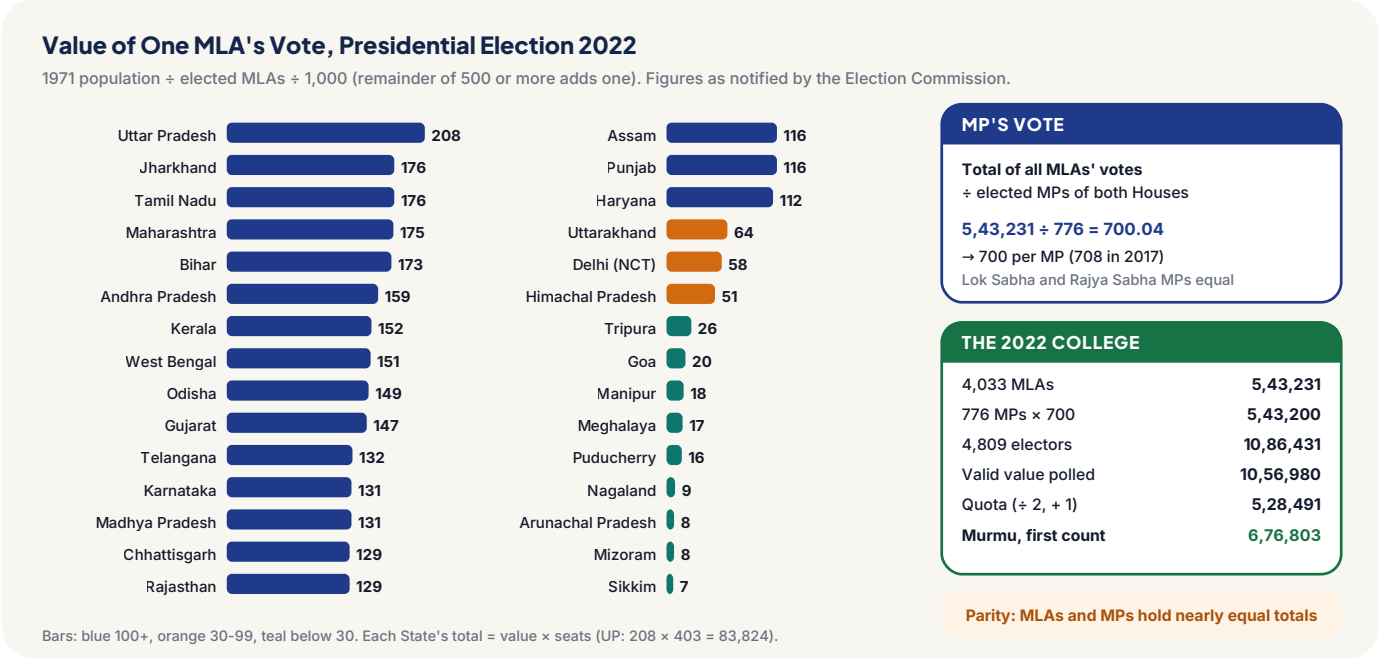


Fig. 19.1 The value of one MLA's vote in each State and Union Territory in the 2022 election, and how the MLAs' total fixes the value of an MP's vote.

Single Transferable Vote and the Quota

The election is by **proportional representation by means of the single transferable vote**, by **secret ballot** (Article 55(3)). Each elector marks preferences 1, 2, 3 and so on. A candidate needs the **quota**: the value of

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valid votes divided by two, plus one. If no one reaches it on first preferences, the lowest candidate is eliminated and those ballots pass to their next preference, until someone does; the winner always has an **absolute majority**.

In 2022, 4,754 ballots were cast (4,701 valid, 53 invalid), with a valid value of 10,56,980 and a quota of 5,28,491. **Droupadi Murmu** won on the first count with 2,824 ballots worth 6,76,803 (64.03%), against Yashwant Sinha's 1,877 worth 3,80,177. She took office on 25 July 2022 as the 15th President, the first from a Scheduled Tribe; the election of her successor must be completed before her term expires on 24 July 2027 (Article 62(1)).

Constituent Assembly members noted that "proportional representation" fits only the filling of several seats; for a single office the system is really a **preferential** or **alternative vote** that guarantees a majority. "Single transferable vote" is also loose, since each elector casts a bundle of votes whose value depends on the State or House.

YEAR	ELECTED (VALUE OF VOTES, %)	MAIN RIVAL (VALUE, %)
1952	Rajendra Prasad: 5,07,400 (83.81)	K.T. Shah: 92,827 (15.3)
1957	Rajendra Prasad: 4,59,698 (98.99)	Chowdhry Hari Ram: 2,672 (0.58)
1962	S. Radhakrishnan: 5,53,067 (98.24)	Chowdhry Hari Ram: 6,341 (1.1)
1967	Zakir Husain: 4,71,244 (56.23)	K. Subba Rao: 3,63,971 (43.4)
1969	V.V. Giri: 4,20,077 (50.22)	N. Sanjiva Reddy: 4,05,427 (48.5)
1974	Fakhruddin Ali Ahmed: 7,65,587 (80.18)	Tridib Chaudhuri: 1,89,196 (19.82)
1977	N. Sanjiva Reddy: elected unopposed	None
1982	Giani Zail Singh: 7,54,113 (72.73)	H.R. Khanna: 2,82,685 (27.27)
1987	R. Venkataraman: 7,40,148 (72.29)	V.R. Krishna Iyer: 2,81,550 (27.50)
1992	Shankar Dayal Sharma: 6,75,864 (65.86)	George Gilbert Swell: 3,46,485 (33.76)
1997	K.R. Narayanan: 9,56,290 (94.97)	T.N. Seshan: 50,631 (5.03)
2002	A.P.J. Abdul Kalam: 9,22,884 (89.58)	Lakshmi Sahgal: 1,07,366 (10.42)
2007	Pratibha Patil: 6,38,116 (65.82)	B.S. Shekhawat: 3,31,306 (34.18)
2012	Pranab Mukherjee: 7,13,763 (69.31)	P.A. Sangma: 3,15,987 (30.69)
2017	Ram Nath Kovind: 7,02,044 (65.65)	Meira Kumar: 3,67,314 (34.35)
2022	Droupadi Murmu: 6,76,803 (64.03)	Yashwant Sinha: 3,80,177 (35.97)

Nomination and Election Disputes

Under the Presidential and Vice-Presidential Elections Act, 1952, a nomination needs 50 **proposers** and 50 **seconders** and a **deposit** of ₹15,000 in the Reserve Bank, forfeited if a losing candidate polls no more than one-sixth of the quota needed to win (section 20A; until 1997: ten, ten and ₹2,500; raised to deter non-serious candidates). The Election Commission conducts the poll (Article 324). Under Article 71:

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- all doubts and disputes about the election are decided by the **Supreme Court**, whose decision is final;
- if the election is declared void, acts done by the President before that decision remain **valid**;
- the election cannot be questioned because of any **vacancy in the electoral college** (a rule first added by the **11th Amendment**, 1961);
- Parliament may regulate other matters by law. The **39th Amendment** (1975) had moved these disputes to a forum to be set up by Parliament; the **44th Amendment** (1978) restored the Court's jurisdiction.

In ***Charan Lal Sahu v Neelam Sanjeeva Reddy*** (1978) the Court upheld these nomination conditions as reasonable: **Article 58** lays down only eligibility, and nomination is left to the law that Parliament makes under **Article 71(1)**.

CASE IN POINT: 1969, A YEAR OF THREE PRESIDENTS

Zakir Husain died in office on 3 May 1969 and Vice-President V.V. Giri acted as President until he resigned in July to contest. Chief Justice M. Hidayatullah then discharged the functions from 20 July to 24 August 1969. No candidate reached the quota on first preferences; Giri won on transferred preferences after the lower candidates were excluded, 4,20,077 to N. Sanjiva Reddy's 4,05,427, the only election not settled on the first count. A petition against his election failed; Giri appeared before the Court in person as a witness.

03 Qualifications, Term and Removal

Qualifications and Oath (Articles 58, 60)

A candidate must be a **citizen of India** (by birth or naturalisation, unlike the American natural-born rule), aged at least 35, qualified for election to the **Lok Sabha**, and must **not** hold an office of profit under the Union, a State, a local or other authority they control. A sitting President, Vice-President, Governor or Minister is deemed **not** to hold one. Before the Chief Justice of India (or the senior-most available judge), the President swears or affirms to **faithfully execute** the office, to **preserve, protect and defend the Constitution and the law**, and to serve the people's well-being; anyone acting as President takes the same oath.

Conditions, Emoluments and Immunities (Articles 59, 361)

- Not a member of Parliament or a State Legislature (a member elected vacates the seat on taking office); no other office of profit.
- Rent-free official residence (Rashtrapati Bhavan) and emoluments fixed by Parliament (until then, the Second Schedule). The Finance Act, 2018 raised the salary from ₹1.5 lakh to ₹5 lakh a month from 1 January 2016. Emoluments are charged on the Consolidated Fund and cannot be **diminished** during the term.
- Since the 2008 amendment (with effect from 1 January 2006) the pension is 50% of salary, with residence, car, staff and other facilities and office expenses up to ₹1 lakh a year (raised in 2018); a deceased President's spouse gets half that pension (office expenses up to ₹20,000).

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- **Immunities**: not answerable to any court for official acts (impeachment apart); no criminal proceedings, arrest or imprisonment during the term; civil suits for personal acts only after **two** months' notice.

Term and Re-election (Articles 56, 57)

The term is **five years** from entering office. The President resigns by writing to the **Vice-President**, who at once informs the Speaker, and stays on after the term until a successor takes over, so there is no interregnum. Re-election is allowed any number of times (only Rajendra Prasad was elected twice); the United States allows two terms.

Impeachment (Article 61)

The only ground is **"violation of the Constitution"**, left undefined, and impeachment is the only way to remove a President. Either House may frame the charge by a resolution moved after **14** days' written notice signed by **one-fourth** of its total members and passed by **two-thirds of its total membership**. The other House investigates, with the President entitled to appear and be represented; if it too upholds the charge by a two-thirds majority of its total membership, the removal takes effect from that date. The process is **quasi-judicial**; no President has been impeached.

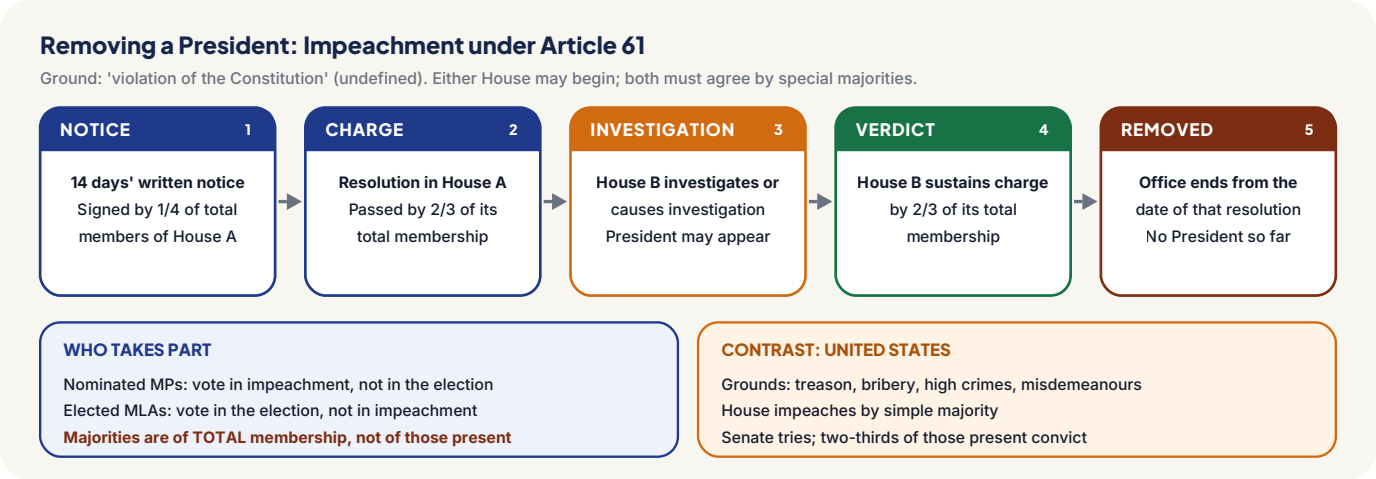


Fig. 19.2 Impeachment under Article 61: two Houses, two special majorities and an investigation, with the American procedure for comparison.

Vacancy and Acting President (Articles 62, 65, 70)

A vacancy arises on expiry of the term, death, resignation, removal, or otherwise (disqualification, or a void election). For an expiring term the election must be **completed before** it ends; if delayed, the incumbent continues and the Vice-President does **not** act. Any other vacancy must be filled **within six months**, and the person elected gets a **full five-year term**. Meanwhile the **Vice-President acts as President**, and also discharges the functions during absence, illness or other inability (first in June **1960**). If both offices are vacant, the Chief Justice, or failing him the senior-most available judge, steps in (President (Discharge of Functions) Act, **1969**, under **Article 70**). Whoever acts has all the President's powers, immunities and emoluments; an acting Vice-President stops presiding over the Rajya Sabha. Zakir Husain (**1969**) and Fakhruddin Ali Ahmed (**1977**) died in office.

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04 Executive, Financial and Other Powers

The President's powers fall under seven heads: executive, legislative, financial, judicial, diplomatic, military and emergency. Almost all are exercised on ministerial advice.

Executive Powers

- All executive action is taken in the President's name; the President makes rules to **authenticate** orders and for the **transaction and allocation of business** among Ministers (Article 77). Union contracts are made in the President's name (Article 299).
- **Appoints** the Prime Minister and Ministers (at pleasure); the Attorney General (at pleasure, on a remuneration the President fixes); the CAG; the Chief Election Commissioner and Election Commissioners; UPSC members; Governors; the Finance Commission; judges; and commissions on Scheduled Tribes (Article 339), backward classes (Article 340) and official language (Article 344).
- **Removes** Ministers, the Attorney General and Governors at pleasure; judges and the CEC only on an address of Parliament.
- May call for information from the Prime Minister and require a single Minister's decision to be placed before the Council (Article 78); may set up an **Inter-State Council** (Article 263); administers **Union Territories** through administrators (Article 239); declares Scheduled Areas; notifies Scheduled Caste and Tribe lists (Articles 341, 342).

There is **no** general patronage: consultation with the UPSC (Article 320) and Article 311 shield the civil service from an American-style "spoils system".

Financial and Judicial Powers

Money Bills need the President's **recommendation**, as do demands for grants; the President lays the **annual financial statement** before Parliament (Article 112), makes advances from the **Contingency Fund of India**, and constitutes a **Finance Commission** every five years (Article 280). The President appoints the Chief Justice and judges of the Supreme Court and High Courts, grants pardons (Article 72), and may seek the Supreme Court's **advisory opinion** on a question of law or fact of public importance (Article 143). The opinion does **not** bind, and the Court may decline questions, as it partly did in the 2012 reference after the 2G spectrum judgment.

Diplomatic, Military and Emergency Powers

Treaties are negotiated and concluded in the President's name, subject to Parliament; the President represents India abroad and sends and receives envoys. As **supreme commander** the President appoints the service chiefs and may declare war or conclude peace, but Article 53(2) subjects this command to regulation by law, and Parliament must vote the money for the forces, so it is narrower than the American President's. The **emergency powers** (Articles 352, 356 and 360) let the President alter Centre–State finances, suspend the enforcement of rights other than Articles 20 and 21, take over a State's government, and cut salaries, including judges' (Chapter 18).

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05 Legislative Powers and the Veto

Parliament consists of the President and the two Houses (Article 79), so the President is an **integral part of Parliament**, unlike the American President. The President:

- summons and prorogues the Houses, **dissolves the Lok Sabha** (Article 85) and summons a **joint sitting**, chaired by the Speaker (Article 108);
- **addresses** both Houses at the first session after each general election and of each year (Article 87), and may address or send **messages** to either House (Article 86), a right never used beyond the special addresses;
- appoints a member to preside when both presiding offices of a House are vacant, and **nominates 12 members** to the Rajya Sabha for literature, science, art and social service (two Anglo-Indians to the Lok Sabha until 2020);
- decides the **disqualification of MPs**, acting on the Election Commission's opinion (Article 103);
- gives **prior recommendation** for Bills involving expenditure from the Consolidated Fund, altering State boundaries or creating States, Money Bills, taxes in which States are interested, changes in the meaning of "agricultural income", in the principles of distributing money to States, and Union surcharges; and **previous sanction** for State Bills restricting trade (Article 304(b));
- assents to Bills, promulgates **ordinances**, lays the reports of the CAG, UPSC and Finance Commission before Parliament, and makes **regulations** for the Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli and Daman and Diu, and Ladakh (Puducherry only when its Assembly is suspended or dissolved).

Assent to Union Bills (Article 111)

The President may **assent**, **withhold assent**, or return a Bill that is **not** a Money Bill "as soon as possible" for reconsideration; if the Houses pass it again, with or without amendment, assent **cannot** be withheld. The veto (Latin for "I forbid") exists to check hasty legislation and Bills that may be unconstitutional. Of the four kinds of executive veto, absolute, **qualified** (overridable only by a special majority), suspensive and pocket, the Indian President has three; the qualified veto belongs to the American President, whom Congress overrides by two-thirds.

- **Absolute veto** kills the Bill. It is used for private members' Bills, or for government Bills when a new Cabinet advises against Bills its predecessor passed. Rajendra Prasad refused the PEPSU Appropriation Bill in 1954 (passed by Parliament while the Patiala and East Punjab States Union, merged with Punjab in 1956, was under President's Rule, which had ended by the time the Bill reached him); R. Venkataraman refused a 1991 Bill on MPs' salaries and pensions passed without his prior recommendation just before the Lok Sabha's dissolution.
- **Suspensive veto**: a returned Bill re-passed by an **ordinary majority** must be signed. It does **not** apply to Money Bills. In 2006 A.P.J. Abdul Kalam returned the "office of profit" Bill; Parliament re-passed it and he signed.
- **Pocket veto**: the Constitution sets **no** time limit, while the American President must act within ten days, so the Indian President's "pocket" is bigger. Zail Singh held back the Indian Post Office (Amendment) Bill, 1986, criticised as curbing press freedom; in January 1990 R. Venkataraman returned it on the new

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government's advice; it was never taken up again and was formally withdrawn in 2002. A Bill awaiting assent does not lapse on dissolution (*Purushothaman Nambudiri v State of Kerala*, 1961).

There is no veto over a Constitution Amendment Bill: the 24th Amendment (1971) made assent obligatory.

Four Kinds of Veto: Which the Indian President Holds

Ticks show where each veto exists; notes give the limits.

VETO	UNION BILLS	STATE BILLS	UNITED STATES	BRITAIN	NOTE
Absolute Withhold assent; Bill dies	✓	✓	✗	obsolete	Private members' Bills; PEPSU 1954, 1991 UK: unused since 1708
Qualified Overridden only by a special majority	✗	✗	✓	✗	US Congress: two-thirds of each House
Suspensive Overridden by an ordinary majority	✓	✗	✗	✗	Not for Money Bills; Kalam 2006 State legislature cannot override
Pocket No action on the Bill	✓	✓	✓	✗	India: no time limit; Zail Singh 1986 US: 10 days, Congress adjourned

No veto over Constitution Amendment Bills (24th Amdt, 1971)

Money Bills: assent or refuse, never return

Fig. 19.3 The President's three vetoes over Union and State Bills, how each can be overcome, and how they compare with the British and American models.

COMMON CONFUSION: VETO TRAPS

The Constitution prescribes no deadline for assent, either to Union Bills (Article 111) or to reserved State Bills (Article 201); the 2025 opinion held that courts cannot add one. A Money Bill can be refused but never returned. Parliament can override a returned Union Bill by a simple majority, but a State legislature can never override the President's refusal of a reserved Bill. Assent to a Constitution Amendment Bill is compulsory, and a State legislature cannot even introduce one. The President's assent itself cannot be challenged in court (*Hoechst Pharmaceuticals v State of Bihar*, 1983).

06 State Bills and the 2025 Reference

Under Article 200 the Governor may assent, withhold assent and return a Bill, or reserve it for the President; reservation is compulsory for a Bill derogating from the High Court's powers, and is needed for protection under Articles 31A, 31C and 254(2). Under Article 201 the President may assent, withhold assent, or direct the Governor to return a non-Money Bill, which the legislature must reconsider within six months; even if it is passed again, the President is not bound to assent.

KIND OF BILL	UNION BILL (ARTICLE 111)	RESERVED STATE BILL (ARTICLE 201)
Ordinary Bill	Assent, withhold or return; must assent if re-passed	Assent, withhold or direct return; need not assent if re-passed
Money Bill	Assent or withhold; cannot return	Assent or withhold; cannot return

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KIND OF BILL	UNION BILL (ARTICLE 111)	RESERVED STATE BILL (ARTICLE 201)
Constitution Amendment Bill	Must assent	Cannot be introduced in a State legislature

Unlike the United States or Australia, India follows the Canadian pattern of reservation, though without Canada's direct disallowance; as the Governor is the President's nominee, this gives the Union a firm hold over State legislation.

The Tamil Nadu Judgment (8 April 2025)

Governor R.N. Ravi withheld assent to ten Bills; after the Assembly re-passed them in November 2023 he reserved them for the President. In ***State of Tamil Nadu v Governor of Tamil Nadu*** Justices J.B. Pardiwala and R. Mahadevan held the reservation illegal, denied the Governor any absolute or pocket veto, and used Article 142 to declare the Bills assented. They set **timelines**: one month for a Governor acting on advice, three months against advice, one month for re-passed Bills, and three months for the President on reserved Bills.

The Reference and the Opinion (20 November 2025)

On 13 May 2025 the President referred fourteen questions under Article 143(1). Chief Justice B.R. Gavai and Justices Surya Kant, Vikram Nath, P.S. Narasimha and A.S. Chandurkar gave the opinion (***In re Assent, Withholding or Reservation of Bills***):

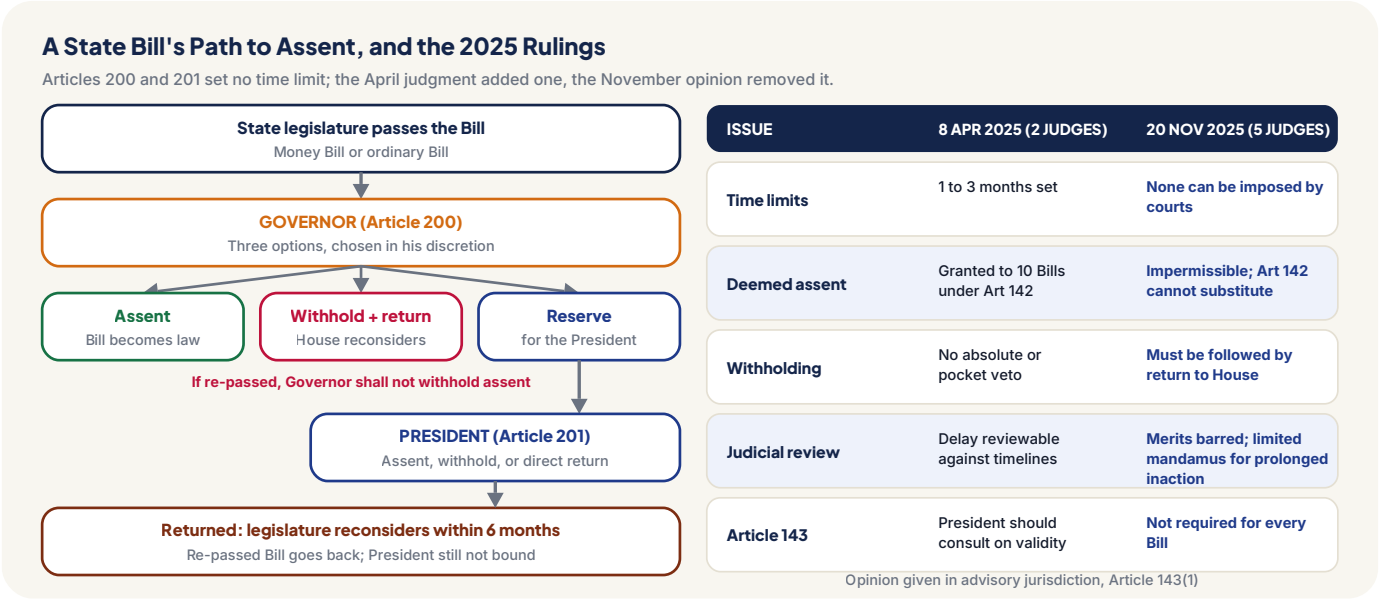


Fig. 19.4 The path of a State Bill under Articles 200 and 201, and what changed between the April 2025 judgment and the November 2025 opinion.

- A Governor has **three options**: assent, reserve, or withhold and return to the House; withholding **must** be accompanied by a return, since outright withholding would defeat federalism.
- In choosing to return or reserve, the Governor acts in **discretion**, not on ministerial advice.
- Decisions are **not** justiciable on merits, but **prolonged, unexplained and indefinite inaction** invites a **limited mandamus** to decide within a reasonable time; Article 361 shields the person, not the office.

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- Courts **cannot** impose **timelines** on the Governor or the President; the April timelines were "erroneous" and those for the President obiter. Decisions under **Article 201** are non-justiciable, and the President need **not** consult the Court on every reserved Bill.
- Bills cannot be challenged before they become law; **Article 142** cannot replace the Governor or President; there is **no "deemed assent"**.

Supporters see the opinion as restoring the separation of powers; critics, including several States, say that without deadlines Bills can still be stalled, leaving States to seek a mandamus case by case.

07 The Ordinance-Making Power

Article 123 lets the President promulgate **ordinances** during the recess of Parliament for unforeseen or urgent matters. It carries the force of a parliamentary statute, but only for a limited time. It is the President's most important legislative power, with four limits:

- **Only in recess**, when either House is not sitting. An ordinance made while both sit is void; it is **not** a parallel power of legislation.
- **Satisfaction that immediate action is needed.** In ***R.C. Cooper v Union of India*** (1970) the Court indicated that the satisfaction could be challenged as mala fide, for example if Parliament were prorogued to bypass it. The **38th Amendment** (1975) made it final; the 44th (1978) deleted that clause.
- **Same limits as an Act**: only on subjects within Parliament's competence, and it **cannot** abridge Fundamental Rights, since **Article 13(3)(a)** includes ordinances in "law".
- **Parliamentary control**: laid before both Houses on reassembly, it lapses six weeks later (counted from the later date if the Houses meet on different dates), or earlier if both Houses disapprove it. With a six-month maximum gap between sessions, its longest life without approval is **six months and six weeks**.

An ordinance may be **retrospective**, may amend or repeal an Act or ordinance and alter a tax law, but **cannot** amend the Constitution. It is made and withdrawn only on ministerial advice, unlike the Governor-General's "individual judgment" under the 1935 Act. Ambedkar justified it for situations arising suddenly when Parliament is not in session; it needs **no** emergency. A Bill replacing an ordinance must carry a statement explaining why immediate legislation was necessary (Lok Sabha rules).

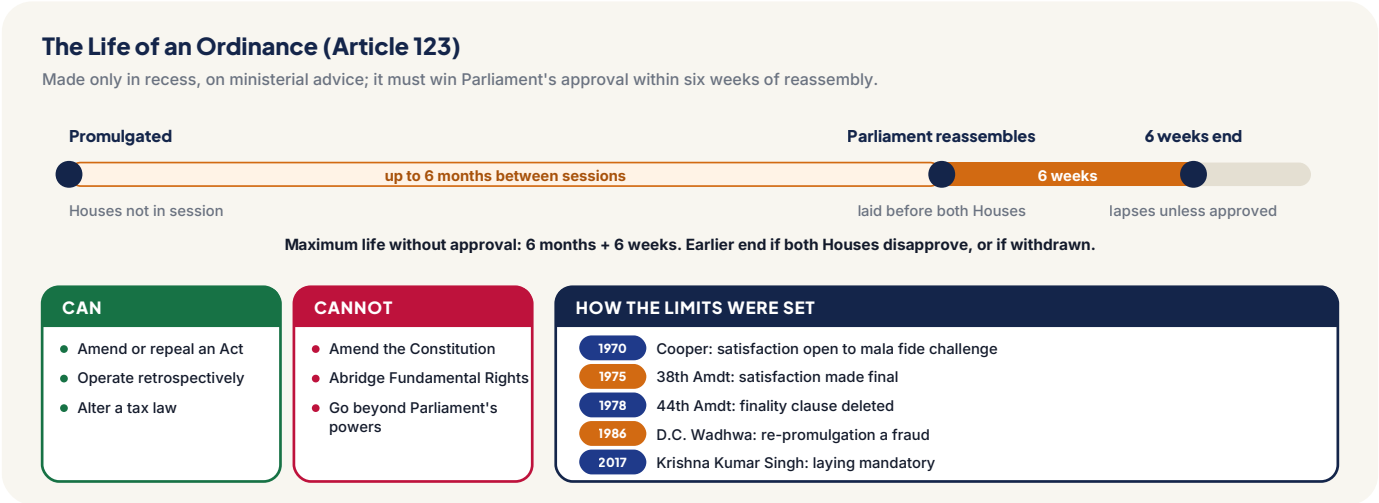


Fig. 19.5 The life of an ordinance from promulgation to lapse or replacement, and the judgments and amendments that fixed its limits.

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- ***A.K. Roy v Union of India*** (1981): ordinance-making is legislative power; an ordinance is "law". ***T. Venkata Reddy*** (1985): it cannot be struck down for want of necessity, any more than an Act.
- ***D.C. Wadhwa v State of Bihar*** (1986): Bihar's Governor issued 256 ordinances in 1967–81, kept alive for one to fourteen years by re-promulgation. Repeated re-promulgation without seeking a law is a **fraud on the Constitution**.
- **Krishna Kumar Singh v State of Bihar** (2017, seven judges): laying before the legislature is **mandatory**; re-promulgation is a fraud on the Constitution; the satisfaction is open to limited review; and rights under a lapsed ordinance survive only where public interest and constitutional necessity so require.

08 The Pardoning Power

Article 72 empowers the President to grant pardons, reprieves, respites or remissions, or to suspend, remit or commute the sentence of a convict where the sentence is by a **court martial**, where the offence is against a **law within the Union's executive power**, and in every **sentence of death**. It leaves intact the statutory powers of armed forces officers and a Governor's power under law to suspend, remit or commute a death sentence. The power is independent of the judiciary; the President does **not** sit in appeal, but corrects possible judicial error and relieves unduly harsh sentences.

FORM	EFFECT
Pardon	Wipes out both sentence and conviction; frees from all punishment and disqualification
Commutation	Substitutes a lighter form of punishment (death to rigorous to simple imprisonment)
Remission	Shortens the sentence without changing its nature (two years' rigorous to one year's rigorous)
Respite	A lesser sentence for a special reason, such as disability or a woman offender's pregnancy
Reprieve	Temporary stay of execution, especially of death, to allow time to seek pardon or commutation

A Governor's power under **Article 161** covers offences against State laws, but a Governor **cannot** touch court-martial sentences or pardon a death sentence, even under a State law, though he may suspend, remit or commute one. For Concurrent List laws the two powers overlap.

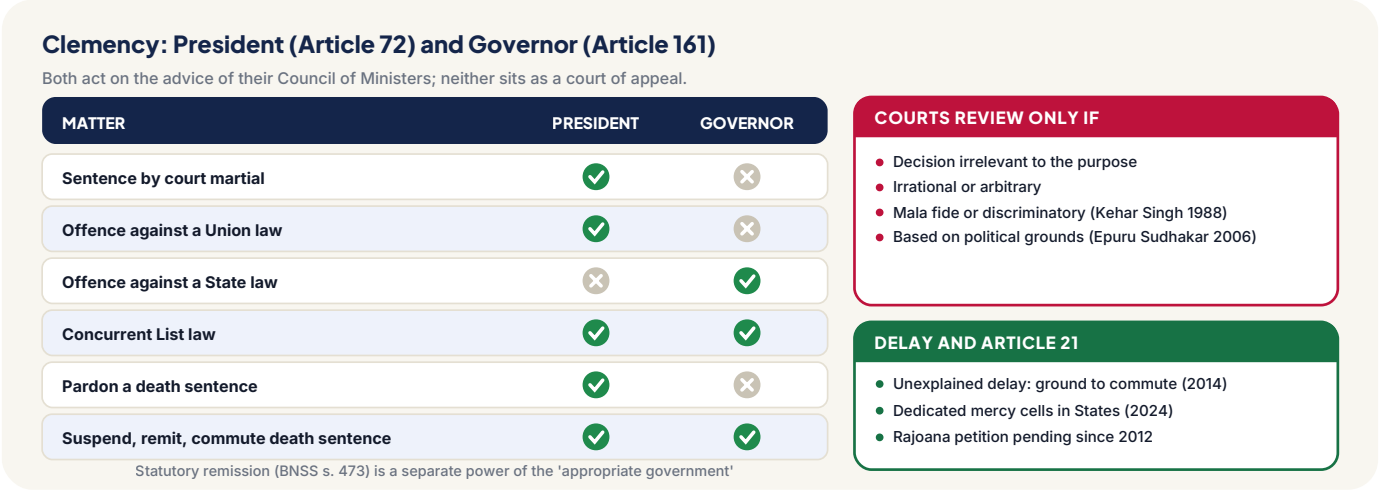


Fig. 19.6 Clemency under Articles 72 and 161: who can do what, and the limits that the courts have placed on the power.

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The Case Law

- ***Maru Ram v Union of India*** (1980) and **Kehar Singh v Union of India** (1988): the power is exercised on the advice of the Union Cabinet; there is no right to an oral hearing; the President may examine the evidence afresh and differ from the court; no guidelines are needed; and courts intervene only if the decision is mala fide, discriminatory, irrational or wholly irrelevant to the purpose.
- ***Epuru Sudhakar*** (2006): a Governor's remission granted on political, irrelevant grounds was quashed.
- ***Shatrughan Chauhan v Union of India*** (2014): unexplained delay in deciding a mercy petition is a ground for commutation; 14 days must separate rejection and execution. On 8 October 2025 the Court rejected the Union's plea to modify these guidelines.
- ***V. Sriharan*** (2015) and ***A.G. Perarivalan*** (2022): the power is untouched by statutory limits but follows ministerial advice; a Governor cannot pass Article 161 advice on to the President.
- ***State of Maharashtra v Pradeep Yashwant Kokade*** (9 December 2024): commutation for delay upheld; every State and Union Territory to set up a **dedicated cell** for mercy petitions.

COMMON CONFUSION: CLEMENCY AND STATUTORY REMISSION

Articles 72 and 161 are **constitutional** powers. Remission under section 473 of the Bharatiya Nagarik Suraksha Sanhita (formerly section 432 CrPC) is a separate **statutory** power of the "appropriate government". In ***Bilkis Yakub Rasul*** (8 January 2024) the Court quashed Gujarat's remission of eleven convicts because Maharashtra, where the trial was held, was the appropriate government. On 18 February 2025 it held that eligible convicts must be considered under a remission policy even without applying.

IN THE NEWS 2026: A MERCY PETITION PENDING SINCE 2012

A mercy petition for Balwant Singh Rajoana, sentenced to death for the 1995 assassination of Punjab Chief Minister Beant Singh, has been pending since March 2012; a 2019 decision to commute was never implemented. In October 2026 the Union opposed his plea for commutation on grounds of delay, citing conditions in Punjab, and the Supreme Court listed it for hearing on merits on 18 November 2026.

09 Constitutional Position

The President heads the State, **not the government**; Ambedkar likened the office to the English King, a symbol who represents the nation but does not rule it. Article 53 vests executive power in the President; Article 74(1) provides a Council of Ministers headed by the Prime Minister to aid and advise the President, who "shall" act on that advice; and Article 75(3) makes the Council collectively responsible to the Lok Sabha, the foundation of the system.

The original Article 74 did not say in terms that advice was binding; in 1960 Rajendra Prasad publicly raised the point. The courts were clear: ***Ram Jawaya Kapur*** (1955) called the President a formal head; ***U.N.R. Rao v Indira Gandhi*** (1971) held that a Council of Ministers must always exist, even after dissolution; and ***Shamsher***

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Singh v State of Punjab (1974, seven judges) held that the President and Governors act on advice save in a few exceptional situations. The **42nd Amendment** (1976) wrote "shall act in accordance with such advice" into **Article 74(1)**. The **44th Amendment** (1978) added a proviso letting the President send advice back **once** for reconsideration; the reconsidered advice binds. Under **Article 74(2)** no court may inquire whether, or what, advice was tendered, though the material behind a decision can be examined (Chapter 18).

K.R. Narayanan returned a recommendation for President's Rule in Uttar Pradesh in October 1997, which the Cabinet dropped, and one for Bihar in September 1998, which it renewed, so President's Rule followed in February 1999. The President also keeps a constitutional head's rights to be informed (**Article 78**), to encourage and to warn.

> REMEMBER: SITUATIONAL, NOT CONSTITUTIONAL, DISCRETION
>
> The President has **no** constitutional discretion, but circumstances can create some: **choosing a Prime Minister** when no party has a majority or when a Prime Minister dies with no obvious successor; **dismissing a Council of Ministers** that cannot prove its majority; and **dissolving the Lok Sabha** when the Council has lost its majority. In 1979 N. Sanjiva Reddy dissolved the House on the advice of Charan Singh, who never faced it; since 1989 Presidents facing hung Houses have invited the leader likeliest to win support and required a floor test.

FEATURE	PRESIDENT OF INDIA	PRESIDENT OF THE US	BRITISH CROWN
Choice	Indirectly elected, five years	Indirectly elected (electoral college), four years	Hereditary
Real power	Nominal; acts on advice	Real executive	Nominal; acts on advice
Ministers	From Parliament, responsible to Lok Sabha	Secretaries outside Congress, responsible to President	From Parliament, responsible to Commons
Terms	No limit	Two terms at most	Life
Removal	Impeachment for violation of the Constitution	Impeachment for treason, bribery, high crimes	None
Veto	Absolute, suspensive, pocket	Qualified and pocket	Absolute in theory, unused since 1708
Ordinances	Yes, during recess	No	No

ARTICLE	SUBJECT
52–55	The President; executive power; election and its manner
56–60	Term; re-election; qualifications; conditions; oath
61–71	Impeachment; vacancy; acting President; disputes (63–69 on Vice-President)
72	Pardoning power

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ARTICLE	SUBJECT
74–78	Council of Ministers; Attorney General; business; duty to inform
85–87	Sessions and dissolution; addresses and messages to Parliament
111, 112, 123	Assent to Bills; annual financial statement; ordinances
143, 201, 361	Consulting the Supreme Court; reserved State Bills; immunities

USING THIS CHAPTER IN MAINS

To test whether the President is a "rubber stamp", start from **Articles 53, 74 and 75**, trace the 42nd and **44th Amendment**s and Shamsher Singh, then show the real levers: the power to return advice once, to return Bills, situational discretion and the moral authority to warn, with Narayanan and Kalam as examples. On assent, contrast the April 2025 judgment with the November 2025 opinion and weigh federal autonomy against the separation of powers, stating both sides fairly. On ordinances and pardons, use D.C. Wadhwa, Krishna Kumar Singh, Kehar Singh and the mercy-delay cases.

Chapter 19 at a Glance

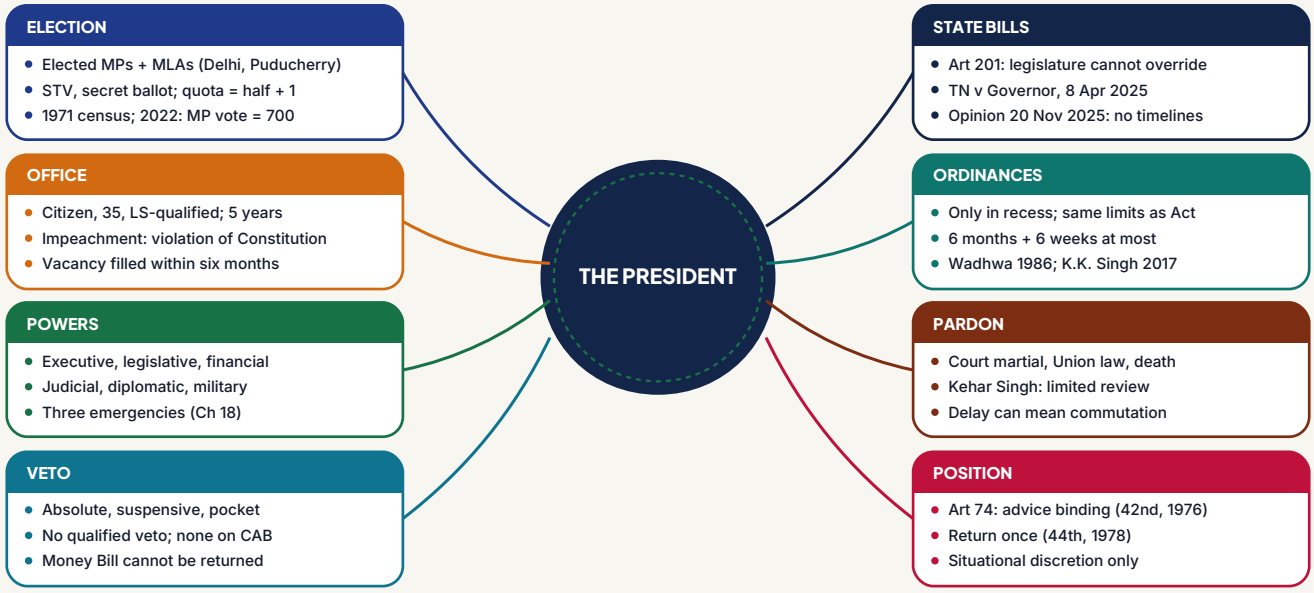


Fig. 19.7 Chapter 19 at a glance: the whole chapter on one page for quick review.

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