

# The Legend IAS: Supreme Court – Traps

A comprehensive guide to 100 common misconceptions and traps about the Supreme Court of India, covering everything from basic establishment to contemporary issues.

Prepared by The Legend IAS



# The Legend IAS: Basics & Establishment (1–10)

1. **✗ Supreme Court was created by the Constitution in 1950 for the first time.**

It replaced the Federal Court (1937–50) & Privy Council; continuity in judicial structure.

2. **✗ Supreme Court is subordinate to Parliament.**

It is an independent constitutional authority under Part V, not subordinate.

3. **✗ SC is mentioned only in Article 32.**

Covered under Articles 124–147 (Chapter IV, Part V).

4. **✗ SC is only an appellate court.**

It has original, appellate & advisory jurisdiction.

5. **✗ Parliament can abolish SC by law.**

Only a Constitutional Amendment (Art. 368) can alter its status.

6. **✗ Supreme Court is located in Bombay (like High Courts were).**

Permanent seat at New Delhi (Art. 130).

7. **✗ SC can sit only in Delhi.**

Art. 130 allows Benches elsewhere, if approved by CJI & President.

8. **✗ SC started with 31 judges.**

Initially 8 judges (1950); strength has been raised by Acts to 34 (2019).

9. **✗ CJI is appointed by the President as per his wish.**

By constitutional convention (collegium), President appoints senior-most judge.

10. **✗ Supreme Court has a fixed retirement age of 65 for all judges.**

SC judges retire at 65; HC judges at 62 (Art. 124(2)).

# The Legend IAS: Composition & Appointment (11-20)

11. ~~Parliament~~ fixes SC judge qualifications.

Constitution itself (Art. 124(3)) specifies qualifications.

12. ~~Any citizen~~ can be a SC judge.

Must be HC judge for 5 yrs, or HC advocate for 10 yrs, or eminent jurist.

13. ~~SC~~ has representation quota for states.

No regional quota; appointments are merit-based.

14. ~~SC judges~~ are appointed by UPSC.

Appointed by President after collegium recommendation.

15. ~~Constitution~~ mentions "collegium system".

No mention; evolved via SC judgments (Second & Third Judges Cases).

16. ~~NJAC~~ (99th Amendment) is valid.

Struck down by SC (2015) as violative of judicial independence.

17. ~~Parliament~~ decides SC judge salaries.

Salaries charged on Consolidated Fund of India, fixed by law.

18. ~~Parliament~~ can reduce SC judge salaries anytime.

Cannot be reduced except during Financial Emergency (Art. 360).

19. ~~President~~ appoints SC judges but can remove them anytime.

Removal only by Parliamentary impeachment (Art. 124(4)).

20. ~~Judge~~ impeachment requires simple majority.

Requires special majority of both Houses (2/3rd present & voting + absolute majority).

# The Legend IAS: Independence of Judiciary (21–30)



21. **✗ SC** is controlled by executive in appointments.

**✓ Collegium** ensures judicial primacy.



22. **✗ Parliament** can discuss SC judgments in debates.

**✓ Judicial conduct** cannot be discussed except during impeachment (Art. 121).



23. **✗ Judges** can practice after retirement in any court.

**✓ Retired SC judges** cannot practice in any court of India (can serve in tribunals, ad hoc).



24. **✗ Judges' security of tenure** is weak.

**✓ Removal** is very strict; never successful in practice.



25. **✗ SC** is financially dependent on executive.

**✓ Expenditure** is charged on Consolidated Fund (not voted).



26. **✗ Judges' conduct** can be discussed freely in Parliament.

**✓** Barred under Art. 121.



27. **✗ CJI** is accountable only to the President.

**✓** Accountable to Constitution, law & impeachment provisions.



28. **✗ Parliament** can curtail SC jurisdiction anytime.

**✓** Only via constitutional amendment, not ordinary law.



29. **✗ SC** can be abolished by simple Act.

**✓** Only via constitutional amendment.



30. **✗ SC** is not bound by Basic Structure.

**✓** SC itself evolved the Basic Structure doctrine (Kesavananda Bharati, 1973).

# The Legend IAS: Jurisdiction (31–40)

31. **✗** SC has only appellate jurisdiction.

**✓** Has original, appellate, advisory, review & curative jurisdictions.

33. **✗** Art. 32 is ordinary legal remedy.

**✓** It is a Fundamental Right (Dr. Ambedkar: "heart & soul").

35. **✗** Advisory jurisdiction is binding.

**✓** Advisory opinions (Art. 143) are non-binding.

37. **✗** SC cannot overrule its past judgments.

**✓** Overrules via larger benches (doctrine of precedent).

39. **✗** Disputes between Centre & States go to President.

**✓** SC has original jurisdiction (Art. 131).

32. **✗** Writs can only be issued by HCs.

**✓** SC (Art. 32) & HCs (Art. 226) can issue writs.

34. **✗** SC is the final interpreter of ordinary law only.

**✓** It is the final interpreter of Constitution.

36. **✗** SC cannot review its judgments.

**✓** Review jurisdiction (Art. 137).

38. **✗** SC cannot punish for contempt.

**✓** Has constitutional power (Art. 129) to punish for contempt.

40. **✗** SC cannot hear appeals in criminal matters.

**✓** Has criminal appellate jurisdiction under law.

# The Legend IAS: Jurisdiction (41–50)

41. ~~SC~~ cannot decide on Presidential election disputes.

Art. 71: SC decides disputes of President/Vice President elections.

43. ~~SC's curative petitions~~ are unconstitutional.

Recognised in Rupa Ashok Hurra case (2002).

45. ~~SC~~ cannot issue continuing mandamus.

It can monitor cases through continuing mandamus (e.g., pollution).

47. ~~SC~~ cannot interpret DPSPs.

Uses DPSPs to expand FRs.

49. ~~SC~~ cannot hear election petitions for MPs.

Election petitions go to HCs first, SC hears appeals.

42. ~~SC~~ cannot hear cases on State laws.

Can strike down state laws violating Constitution.

44. ~~SC~~ cannot take up suo motu cases.

SC routinely takes suo motu cognisance (esp. PILs).

46. ~~SC~~ cannot deal with violation of Fundamental Duties.

Duties are not justiciable, but SC enforces via related FRs/DPSPs.

48. ~~SC's judgments~~ are advisory to HCs.

Binding on all courts in India (Art. 141).

50. ~~SC's advisory opinions~~ are binding on Parliament.

Advisory opinions are recommendatory only.

# The Legend IAS: PILs & Activism (51–60)

1

51. ~~X~~ PIL is mentioned in Constitution.  
 It evolved by judicial interpretation in 1980s.

2

52. ~~X~~ Any foreigner can file PIL.  
 Any person (Indian/foreigner) can file if public interest is involved.

3

53. ~~X~~ PILs can only be filed by victims.  
 Filed by public-spirited persons on behalf of affected.

4

54. ~~X~~ SC created PIL only for environment.  
 Covers bonded labour, prison reforms, slum dwellers, environment, women/child rights etc.

5

55. ~~X~~ PILs are binding law.  
 Judgments under PIL have full force of SC orders.

6

56. ~~X~~ PIL = unlimited jurisdiction.  
 SC has warned against frivolous PILs.

7

57. ~~X~~ PILs can only be filed under Art. 32.  
 Also in High Courts under Art. 226.

8

58. ~~X~~ SC activism undermines democracy.  
 SC activism has been called judicial creativity; balance debated.

9

59. ~~X~~ PIL cannot grant compensation.  
 Compensation can be granted in PILs (e.g., custodial death).

10

60. ~~X~~ PIL is always about poor people.  
 It is for public interest broadly, not limited to poor.

# PILs & Activism (61–65) + Landmark Cases (66–75)

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### PILs & Activism (61–65)

- 61. ~~SC activism is unconstitutional.~~  
 Activism stems from interpretation of judicial review powers.
- 62. ~~PIL jurisdiction is unlimited~~ in scope.  
 SC maintains self-restraint doctrine; not every issue is admitted.
- 63. ~~PILs have declined~~ today.  
 Still widely used, though SC is cautious now.
- 64. ~~PILs cannot be filed by NGOs.~~  
 NGOs often file PILs.
- 65. ~~SC activism peaked in emergency.~~  
 Activism rose after Emergency (1980s onwards).

### Landmark Cases (66–75)

- 66. ~~Kesavananda Bharati~~ (1973) upheld unlimited Parliament power.  
 Laid down Basic Structure doctrine.
- 67. ~~Golaknath~~ (1967) upheld unlimited amending power.  
 Held FRs cannot be amended (later modified).
- 68. ~~Minerva Mills~~ (1980) killed DPSPs.  
 Restored balance between FRs & DPSPs.
- 69. ~~Indira Gandhi vs Raj Narain~~ upheld PM's election.  
 SC struck down her election, leading to Emergency.
- 70. ~~ADM Jabalpur~~ (1976) upheld liberty during Emergency.  
 SC denied habeas corpus, later admitted mistake.
- 71. ~~S.R. Bommai~~ (1994) upheld arbitrary Article 356 use.  
 Laid down judicial limits on Art. 356.
- 72. ~~Maneka Gandhi~~ (1978) restricted Art. 21.  
 Expanded Art. 21 to "due process + fairness".
- 73. ~~Olga Tellis~~ (1985) denied right to livelihood.  
 Recognised right to livelihood under Art. 21.
- 74. ~~Vishaka~~ (1997) was only advisory.  
 Vishaka guidelines = binding till law enacted.
- 75. ~~Kesavananda~~ was decided unanimously.  
 Decided 7-6 majority.

# The Legend IAS: Landmark Cases & Doctrines (76–80) + Oddball Traps (81–90)

## Landmark Cases (76–80)

76. ~~✗ Shah Bano~~ (1985) denied Muslim women maintenance.

Upheled maintenance under CrPC.

77. ~~✗ Navtej Singh Johar~~ (2018) upheld S.377.

Struck down S.377 (gay rights).

78. ~~✗ Puttaswamy~~ (2017) denied right to privacy.

Held privacy is fundamental right.

79. ~~✗ Indira Sawhney~~ (1992) struck down reservations.

Upheled OBC reservations with 50% cap.

80. ~~✗ NJAC~~ (2015) upheld 99th Amendment.

Struck down NJAC as unconstitutional.

## Oddball Traps (81–90)

81. ~~✗ SC~~ is not a court of record.

SC is a court of record (Art. 129).

82. ~~✗ SC's decisions~~ are advisory.

Binding on all courts (Art. 141).

83. ~~✗ SC judges~~ are appointed via UPSC exam.

Appointment is by President on collegium advice.

84. ~~✗ SC has power of pardon~~.

President (Art. 72) & Governor (Art. 161) have clemency; SC only reviews.

85. ~~✗ SC cannot direct states~~.

SC routinely issues mandamus to states.

86. ~~✗ SC is outside RTI~~.

SC is subject to RTI (2019 judgment).

87. ~~✗ SC cannot monitor CBI~~.

SC monitors CBI investigations in special cases.

88. ~~✗ SC is outside Constitution~~.

It is a constitutional body.

89. ~~✗ SC Chief Justice~~ can be removed by President alone.

Requires Parliamentary impeachment.

90. ~~✗ SC has no say in environmental protection~~.

SC pioneered environmental jurisprudence.

# The Legend IAS: Contemporary Traps (91–100)



91. **✗** SC never apologised for past errors.  
 SC admitted error in ADM Jabalpur (2017 Puttaswamy judgment).



92. **✗** SC cannot strike down constitutional amendments.  
 Strikes down if violating **Basic Structure**.



93. **✗** SC is directly elected by people.  
 Judges are **appointed**, not elected.



94. **✗** SC is bound by Parliament's interpretation.  
 SC is **final interpreter** of Constitution.



95. **✗** SC decides by majority always.  
 Sometimes **unanimous** or **split decisions**; majority prevails.



96. **✗** SC decisions cannot be overruled.  
 Overruled by **larger SC benches** or constitutional amendments (within **Basic Structure**).



97. **✗** SC cannot entertain Article 32 for private matters.  
 Art. 32 applies to **State action**, not private disputes.



98. **✗** SC is only for elite litigants.  
 **PILs, writs** and **suo motu** ensure access for poor and vulnerable.



99. **✗** SC is a foreign model imposed in India.  
 India's SC is a **hybrid**: US model + Federal Court legacy + constitutional design.



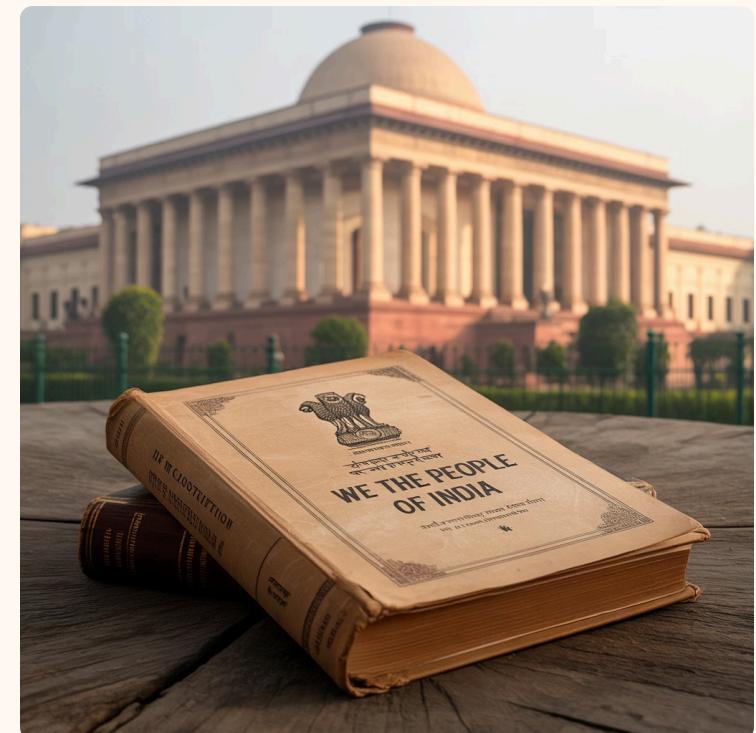
100. **✗** SC is static and unchanging.  
 SC is a **living institution**, evolving **doctrines** (privacy, environment, equality).

# The Legend IAS: Key Takeaways

## Master These Concepts

- **The Supreme Court** is an **independent constitutional authority**, not subordinate to Parliament
- It has **multiple jurisdictions**: original, appellate, advisory, review, and curative
- The **collegium system** ensures **judicial independence** in appointments
- **Article 32** is the **"heart and soul"** of the **Constitution**
- The **Basic Structure doctrine** limits **Parliament's amending power**
- **PILs** evolved through **judicial interpretation**, not constitutional text
- Landmark cases like **Kesavananda Bharati** shaped constitutional law
- The **SC** is a **living institution** that evolves with time

**Remember:** These 100 traps cover the most common misconceptions. Understanding the correct position will help you avoid pitfalls in examinations and develop a nuanced understanding of **India's apex court**.



"The **Constitution** is not a mere lawyer's document, it is a **vehicle of Life**, and its spirit is always the **spirit of Age**."

Understanding these traps ensures you grasp the true nature and evolution of **India's Supreme Court**.

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