

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.

32. ❌ Writs can only be issued by HCs.

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

33. ❌ Art. 32 is ordinary legal remedy.

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

34. ❌ SC is the final interpreter of ordinary law only.

✅ It is the final interpreter of Constitution.

35. ❌ Advisory jurisdiction is binding.

✅ Advisory opinions (Art. 143) are non-binding.

36. ❌ SC cannot review its judgments.

✅ Review jurisdiction (Art. 137).

37. ❌ SC cannot overrule its past judgments.

✅ Overrules via larger benches (doctrine of precedent).

38. ❌ SC cannot punish for contempt.

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

39. ❌ Disputes between Centre & States go to President.

✅ SC has original jurisdiction (Art. 131).

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.

42. ❌ SC cannot hear cases on State laws.

✅ Can strike down state laws violating Constitution.

43. ❌ SC's curative petitions are unconstitutional.

✅ Recognised in Rupa Ashok Hurra case (2002).

44. ❌ SC cannot take up suo motu cases.

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

45. ❌ SC cannot issue continuing mandamus.

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

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

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

47. ❌ SC cannot interpret DPSPs.

✅ Uses DPSPs to expand FRs.

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

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

49. ❌ SC cannot hear election petitions for MPs.

✅ Election petitions go to HCs first, SC hears appeals.

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

✅ Advisory opinions are recommendatory only.

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

1

51. ✗ **PIL** is mentioned in **Constitution**.

✓ It evolved by **judicial interpretation** in **1980s**.

2

52. ✗ Any **foreigner** can file **PIL**.

✓ Any person (Indian/foreigner) can file if **public interest** is involved.

3

53. ✗ **PILs** can only be filed by **victims**.

✓ Filed by **public-spirited persons** on behalf of affected.

4

54. ✗ **SC** created **PIL** only for **environment**.

✓ Covers **bonded labour**, **prison reforms**, **slum dwellers**, **environment**, **women/child rights** etc.

5

55. ✗ **PILs** are **binding law**.

✓ **Judgments** under **PIL** have **full force** of **SC orders**.

6

56. ✗ **PIL** = **unlimited jurisdiction**.

✓ **SC** has warned against **frivolous PILs**.

7

57. ✗ **PILs** can only be filed under **Art. 32**.

✓ Also in **High Courts** under **Art. 226**.

8

58. ✗ **SC activism** undermines **democracy**.

✓ **SC activism** has been called **judicial creativity**; balance debated.

9

59. ✗ **PIL** cannot grant **compensation**.

✓ **Compensation** can be granted in **PILs** (e.g., custodial death).

10

60. ✗ **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.

✅ Upheld 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.

✅ Upheld 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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