

Q.1) How effective is the Indian Parliament in holding the executive accountable within the framework of constitutional checks and balances? (150 words, 10 marks)

Introduction

The Constitution (**Art. 75**) provides a parliamentary system where the executive stays accountable to the legislature. Parliament ensures essential checks and balances. As **B.R. Ambedkar** said, "The daily assessment of responsibility is the very essence of parliamentary government."

Body

Parliament's Control Over the Executive

- 1. Question Hour & Zero Hour:** Mechanisms to seek immediate answers from ministers on pressing issues.
Example: In **2021**, MPs questioned the government on vaccine shortages and border security lapses with China.
- 2. Financial Powers (Art. 112–117):** Parliament approves and monitors government spending through the budget process.
Example: In **2020**, Parliament scrutinised supplementary pandemic-related expenditure through the Budget process.
- 3. Standing & Departmental Committees:** Ensure detailed examination of policies and spending across subjects.
Example: The **PAC report** on 2G spectrum allocation exposed serious lapses in oversight.
- 4. Motions and Debates:** Tools like no-confidence motions help challenge executive decisions and actions.
Example: The **Morarji Desai** government resigned in **1979** after losing majority support.
- 5. Legislative Control:** Law making provides a platform to question and alter executive proposals.
Example: The rollback of **farm laws in 2021** followed intense debate inside and outside Parliament.

Challenges in Effective Oversight

- 1. Disruptions:** Recurrent walkouts and sloganeering cut into valuable discussion time and weaken Parliament's ability to hold the executive to account.
Example: **PRS data (2023)** showed that over **30%** of Lok Sabha's time was lost due to disruptions.
- 2. Majoritarianism:** When the ruling party enjoys a brute majority, debate and dissent are often overridden by sheer numbers.
Example: The **RTI Amendment Bill (2019)** was passed with minimal scrutiny despite widespread concern.
- 3. Ordinance Route (Art. 123):** The executive bypasses legislative scrutiny by issuing ordinances, weakening democratic accountability.
Example: The three agriculture ordinances were introduced without prior parliamentary debate in **2020**.

4. **Decline in Bill Referrals:** Fewer bills are being sent to committees, reducing expert-driven scrutiny and bipartisan engagement.
Example: Only ~12% of bills in the 17th Lok Sabha were referred to committees.

Recommendations to Revive Parliamentary Oversight

1. **Fixed Parliamentary Calendar:** Sessions should be scheduled annually in advance to reduce executive discretion, as recommended by the NCRWC.
2. **Independent Summoning Mechanism:** The Punchhi Commission proposed reducing executive monopoly over summoning to strengthen parliamentary autonomy.
3. **Mandatory Committee Review:** The Rajya Sabha Secretariat has argued that important bills must be compulsorily referred to standing committees.
4. **Limit Scope of ADL:** The 170th Law Commission recommended restricting Anti-Defection Law to no-confidence and money bills to allow debate.
5. **Neutral Speaker Role:** The NCRWC advised transferring disqualification powers from the Speaker to an independent tribunal for impartiality.

Conclusion

Parliament is central to ensuring executive accountability, but it needs reforms to strengthen its role. As Paul Appleby said, "Accountability is the cornerstone of responsible government." A strong Parliament safeguards both Constitution and citizens.

Q.2) Indian secularism is based on the principle of principled distance, whereas French secularism emphasizes strict separation of religion and state. In this context, compare the two models and evaluate their implications for constitutional democracy. (150 words, 10 marks)

Introduction

Secularism means the state maintains **neutrality** towards religions to ensure equality and freedom. Indian secularism allows engagement with religions for reform, while French secularism, or *laïcité*, enforces a strict separation to protect individual liberty.

Body

Comparison of Indian and French Secularism

1. **State-Religion Engagement:** Indian secularism allows state intervention; French secularism mandates complete separation.
Example: India reformed religious practices like untouchability; France avoids any legal interference.
2. **Approach to Religious Freedom:** Indian model permits public faith expression; French model restricts it.
Example: **Hijab** allowed in Indian schools; banned in French public spaces.
3. **Treatment of Minorities:** Indian secularism accommodates group rights; French model emphasizes uniform citizenship.
Example: India protects minority institutions; France applies one law to all.
4. **Legal Constitutional Basis:** Indian secularism is constitutionally embedded; French secularism is based on legislation.

Example: Indian Constitution (**Articles 25–28**); French **1905 Law on Separation**.

5. **Cultural Context:** Indian secularism arose in a multi-faith society; French secularism responded to Church dominance.

Example: India seeks religious harmony; France asserts state neutrality.

Implications for Constitutional Democracy

1. **Pluralism vs. Homogeneity:** Indian secularism promotes diversity; French secularism aims for assimilation.

Example: India supports religious processions; France restricts overt religious expressions.

2. **Social Cohesion:** Indian flexibility helps mediate tensions; French rigidity sometimes fuels unrest.

Example: France witnessed protests over **Abaya ban in 2024**.

3. **Judicial Role:** Indian judiciary balances rights and reform; French courts largely uphold secular uniformity.

Example: Indian SC upheld **Triple Talaq** ban for equality; French courts upheld religious symbol bans.

4. **Political Use:** Indian secularism is subject to electoral debates; French secularism shapes national identity discourse.

Example: In India, secularism linked with minority welfare; in France, tied to citizenship debates.

5. **Democratic Challenge:** India struggles with politicisation of religion; France faces backlash for perceived exclusion.

Example: Indian parties use religion for vote banks; France sees alienation among Muslim youth.

Conclusion

Both models aim to uphold democracy, but India promotes religious coexistence while France ensures strict neutrality. Their success depends on balancing liberty, equality, and social harmony within their constitutions.

Q.3) Compare the Fundamental Rights in the Indian Constitution with the Bill of Rights in the US Constitution. What do these frameworks reflect about the nature of democracy in both countries? (150 words, 10 marks)

Introduction

Fundamental Rights, enshrined in **Articles 12–35** of the Indian Constitution, and the US Bill of Rights (first ten amendments) guarantee essential freedoms to individuals. Comparing them reveals how each nation conceptualizes democracy, liberty, and the role of the state.

Body

Comparison of Fundamental Rights and Bill of Rights

Factor	Indian Constitution	US Constitution
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Philosophical Basis	Rooted in liberal and socialist ideals; influenced by the Directive Principles (Part IV).	Based on natural rights and Enlightenment philosophy.
Scope of Rights	Covers civil, political, and socio-economic rights (e.g., Article 21A – Right to Education).	Focused mainly on civil and political rights.
Nature of Rights	Subject to reasonable restrictions (Articles 19(2)–(6)) for public order, morality, etc.	Mostly absolute; restrictions require strict scrutiny by courts.
Enforceability	Enforceable under Article 32 (Right to Constitutional Remedies); some rights suspended during emergencies (Art. 359).	Fully enforceable; very limited scope for suspension, even in emergencies.
Amendability	Can be amended but not to violate the basic structure (Kesavananda Bharati case).	Very rigid; requires 2/3rd majority in Congress and ratification by 3/4 states.
Application	Applies to the state and, in some cases, private actors (e.g., Article 15(2)).	Applies only against the state.
Judicial Interpretation	Expansive and evolving (e.g., Right to Privacy, 2017 verdict under Article 21).	Tends to follow originalist or textualist interpretations.

Implications for Democratic Nature

US Model – Individual-Centric Democracy:

- Emphasizes personal liberty, limited government, and judicial supremacy.
- Protects civil liberties through strong constitutional safeguards and activism.
Example: Strong free speech protections upheld even in controversial contexts.

Indian Model – Balancing Liberty and Social Justice:

- Aims to create a just social order through affirmative action and welfare provisions.
- Prioritizes community rights and state-led reforms alongside individual freedoms.
Example: Reservation policies and the right to education empower the disadvantaged.

Conclusion

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Q.4) "Judicial independence is vital not just in form but in substance to preserve the constitutional balance." In this light, critically evaluate the constitutional safeguards and emerging challenges to judicial autonomy in India. Suggest measures to enhance its credibility and effectiveness. (15 marks, 250 words)

Introduction

Judicial independence, enshrined in **Articles 50 and 124–147**, is central to India's separation of powers. It is not just a constitutional feature but a living principle—though one that continues to face persistent institutional and political challenges.

Body

Judicial Autonomy: Constitutional and Functional Safeguards

1. **Security of Tenure & Service (Art. 124–125):** Judges of the higher judiciary enjoy protection from arbitrary removal or demotion.
Example: The impeachment process, as seen in **Justice Ramaswami's case**, is rigorous and rare.
2. **Financial Autonomy:** Salaries and expenses are charged on the Consolidated Fund and are not subject to executive discretion.
Example: Parliament cannot reduce judges' salaries to exert pressure (**Art. 125**).
3. **Contempt Power & Judicial Review (Art. 129 & 32/226):** The judiciary can enforce compliance and strike down unconstitutional acts.
Example: In *Kesavananda Bharati v. State of Kerala*, it protected the basic structure doctrine.
4. **Collegium System:** Judicial appointments are managed by the judiciary itself to insulate from executive influence.
Example: The **2015 NJAC** verdict reaffirmed judicial primacy in appointments.

Challenges to Judicial Independence

1. **Opaque Collegium Process:** Lack of transparency in appointments has raised questions of credibility and internal bias.
Example: **Justice Kaul's judgment** called for public disclosure of reasons in collegium resolutions.
2. **Executive Non-Compliance:** Delay or selective clearance of names recommended by the collegium undermines judicial autonomy.
Example: Centre delayed appointing judges despite reiterated recommendations in **2023**.
3. **Lack of Uniform Recusal Standards:** Absence of codified norms results in ad hoc recusal practices.
Example: A SC judge faced criticism for hearing a matter previously dealt with.
4. **Political Pressures & Media Trials:** Politicisation and media commentary erode judicial neutrality and public trust.
Example: Public statements by political leaders questioning court verdicts.
5. **Allegations of Corruption:** Emerging integrity issues risk eroding public confidence.
Example: In **2025**, a **Delhi High Court judge** faced allegations after cash was found at their residence.
6. **Post-Retirement Appointments:** Anticipation of government posts after retirement can give rise to conflicts of interest.
Example: A **former CJI** accepted a Rajya Sabha nomination shortly after demitting office.

7. **NJAC Judgement & Pending MOP:** Supreme Court struck down NJAC fearing judicial primacy erosion, while the revised Memorandum of Procedure remains pending.
- Recommendations to Strengthen Autonomy**
1. **Transparent Appointment Norms:** Introduce public criteria and maintain written collegium resolutions to ensure accountability. (Second Administrative Reforms Commission)
 2. **Independent Appointments Commission:** Establish a balanced panel including members from the judiciary, executive, and civil society. (Punchhi Commission)
 3. **Time-bound Appointments:** Impose deadlines on the executive to act on recommendations and avoid delays. (Law Commission of India)
 4. **Infrastructure Authority:** Create a separate body to manage court infrastructure and budget allocation efficiently. (NITI Aayog)
 5. **Ethical Code of Conduct:** Adopt a collegium-backed ethical charter to uphold judicial integrity.
 6. **Finalize Revised MOP:** Institutionalize a clear Memorandum of Procedure to minimize informal lobbying and standardize appointments.

Conclusion

Though the judiciary has resisted many encroachments, protecting its independence requires transparency and accountability. As **Justice Chandrachud** said, "Independence is not a privilege but a responsibility to the people."

Q.5) Alternative Dispute Resolution (ADR) mechanisms offer a viable alternative to traditional litigation in India. In light of the Mediation Act, 2023, examine the potential of ADR in strengthening access to justice. Also highlight key challenges in its implementation. (15 marks, 250 words)

Introduction

Alternative Dispute Resolution (ADR) includes mediation, arbitration, conciliation, negotiation, and Lok Adalats. With rising pendency, the **Mediation Act, 2023** strengthens court-annexed ADR to ensure faster, inclusive, and less adversarial justice.

Body

Major Types of ADR in India

- **Mediation:** A neutral mediator facilitates voluntary settlement between parties.
- **Arbitration:** A binding decision by an arbitrator substitutes formal court judgment.
- **Conciliation:** A conciliator proposes solutions, which parties may voluntarily adopt.
- **Negotiation:** Parties engage directly to find a mutually agreeable resolution.

Key Provisions of the Mediation Act, 2023

- Mandates *pre-litigation mediation* for civil and commercial disputes.
- Establishes the **Mediation Council of India** to regulate the profession.

- Provides *enforceability of mediated settlements* as if they were court decrees.

Transformative Potential of ADR

1. **Statutory Backing via the Mediation Act:** The Act enforces pre-litigation mediation, sets up a Mediation Council, and introduces a **180-day resolution limit**.
Example: Court-annexed community mediation gains legal credibility and structure.
2. **Eases Judicial Burden:** ADR diverts routine and compoundable cases from courts, reducing pendency.
Example: Over 1.27 crore cases were settled by Lok Adalats in 2023.
3. **Improves Access to Justice:** Cost-effective, informal, and less intimidating than courts, ADR empowers vulnerable groups.
Example: Gram Nyayalayas use trained mediators to resolve local disputes.
4. **Fosters Consensus and Reconciliation:** Unlike adversarial litigation, ADR promotes healing and constructive dialogue.
Example: Family court mediations help resolve child custody and divorce disputes.
5. **Maintains Judicial Oversight:** Courts retain supervisory powers under Section 89 CPC, ensuring ADR aligns with legal standards.
Example: High Court mediation centres function under judicial scrutiny.

Challenges in ADR Implementation

1. **Lack of Legal Literacy and Awareness:** A large section of the population remains unaware of ADR mechanisms or doubts their legitimacy.
Example: Participation in mediation remains low in rural and semi-urban areas.
2. **Inadequate Institutional Framework:** The absence of a robust, uniform ADR infrastructure across states hampers effectiveness.
Example: Many district courts lack functional mediation centres.
3. **Poor Quality Control and Accreditation:** Unregulated mediator training leads to inconsistent outcomes and diminished public trust.
Example: Mediator certification and capacity vary significantly between states.
4. **Delayed Enforcement of Settlements (pre-Mediation Act):** Before 2023, ADR lacked a clear statutory mechanism for direct enforceability.
Example: Mediated agreements often required judicial approval for execution.
5. **Restricted Scope of Applicability:** Certain high-stakes, criminal, or constitutional issues remain outside the ambit of ADR.
Example: Matters involving sexual offences or constitutional validity are excluded.

Recommendations

1. **Strengthen Institutional Capacity:** Following the Sri Krishna Committee's call for efficiency in arbitration, training programs and a national ADR grid must be implemented.
2. **Expand Digital Infrastructure for ODR:** NITI Aayog's push for Online Dispute Resolution should translate into tech-enabled platforms for rural and small-value disputes.
Example: AI-assisted ODR portals can speed up resolution of contractual conflicts.
3. **Ensure Global Alignment:** India should ratify the Singapore Convention on Mediation to boost cross-border enforceability and build on the **Arbitration and Conciliation Act, 1996**.

Conclusion

The Mediation Act anchors ADR in law, promoting a participatory and less adversarial justice model. Its success depends on awareness, digital tools, and global alignment to complement, not compete with, the courts.

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