# The Constitution Benches of Supreme Court

## Why in news?

As several Constitution Bench matters were long pending, the CJI has promised that the SC would strive to have at least one Constitution Bench functioning throughout the year.

## What is a Constitution Bench?

> *Article 145(3) says a minimum 5 judges are needed to decide a case involving a "substantial question of law as to the interpretation of the Constitution", or for hearing any reference under Article 143.*

- The Supreme Court is at the apex of the Indian judicial system.
- As the guardian of the Constitution, it is the primary duty of the SC to uphold the fundamental rights of citizens and protect their liberties.
- A constitution bench is a bench consisting of **5 or more judges** of the Supreme Court that is set up to decide a case based on the interpretation of the Constitution.
- **Conditions**- **Article 143** of the Indian Constitution defines the conditions in which a constitution bench can be formed.
    - If a case involves a substantial question of law related to the interpretation of the Constitution.
    - If the President seeks SC's opinion on law or fact. In this case, the apex court's decision is not binding on the President.
    - If a two-judge bench and later a three-judge bench deliver conflicting judgements on the same issue.
    - If a three-judge bench delivers a judgement that is different from the judgement delivered by a previous three-judge bench on an issue.
- In India, these benches are temporary and are dissolved once a legal question or issue is resolved.
- A larger Bench can overrule the pronouncement of a five-judge Constitution Bench.

> *Cases heard by a bench with two or three judges- Division bench.*

## How are constitutional benches formed?

- The **Chief Justice of India**, who is the master of the roster, decides
    - which cases will be heard by a Constitution Bench,
    - the number of judges on the bench
    - its composition

- There are no clear guidelines and the sole discretion lies with the CJI.
- It is not binding on the CJI to be a part of a Constitution Bench.
- To date, the largest-ever Constitution Bench was that of 13 judges in the case *Kesavananda Bharati v. State of Kerala*.

## What are the current challenges?

- **Backlogs-** About 13% of the court's decisions were from a five-or-larger Bench in the 1950s, but soon there was a decline in the number of Constitution Benches because of backlogs.
- **Pendency**- The cases awaiting the Constitution Bench were pending for almost five years, with an average of 3 years of pendency.
- The pending cases include the challenges to the abrogation of Article 370, electoral bonds, constitutionality of the UAPA amendment and the Sabarimala review petition.
- **Connected matters**- There is an increase in the number of connected matters stating that more cases have been tagged with the main matters pending before these courts.
- **Others**- Also the judgments have become longer, more prone to split decisions, increasingly delayed, and more likely to have been brought under both appellate and writ jurisdictions.

### References


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## Quick facts

- Constitution Benches have decided some of India's most significant cases over the years

| Case | Reason | Judgement |
|---|---|---|
| *Maneka Gandhi v. Union of India* | The Centre impounded Maneka Gandhi's passport in the interest of general public | Expanded the scope of Article 21 and ruled that personal liberty covers a variety of rights |
| *Justice K.S. Puttaswamy (retd) v. Union of India* | Challenged the constitutional validity of Aadhaar scheme | While the right to privacy is intrinsic to an individual's ability to exercise bodily autonomy, it is still not an absolute right |

| | | |
|---|---|---|
| *The Berubari Union and Exchange of Enclaves* | West Bengal did not want to give any territory of Berubari to Pakistan | Parliament doesn't have the power to cede a State's territory to another country unless it chooses to give effect to the same through an amendment to Article 368 |
| *Kedar Nath Singh v. State of Bihar* | Kedar Nath Singh had been convicted for sedition for criticising the government | Upheld the constitutional validity of Section 124A of the Indian Penal Code which penalises sedition and restricted its scope for misuse |

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