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Q14

"The Attorney-General is the chief legal adviser and lawyer of the Government of India." Discuss.(15).

UPSC Civil Services Mains 2019 · GS II · 15 marks · Governance and Policy

Government policies and interventions for development in various sectors and issues arising out of their design and implementation.

Core demand of the question

- "The Attorney-General is the chief legal adviser and lawyer of the Government of India." Discuss

Revision summary

Article 76 creates the Attorney-General as the Union's highest law officer, qualified to be a Supreme Court judge.

The office advises the government and represents it in major litigation; **Article 88** gives a voice in Parliament without a vote.

Tenure is during the President's pleasure; private practice is allowed subject to no conflict with the Union.

The Solicitor-General and Additional Solicitors-General share court work; Advocates-General serve States under **Article 165**.

The quoted statement is right on function and incomplete on independence, tenure and the duty to the Court.

Introduction

- **Article 76 of the Constitution creates the Attorney-General for India:** the Union's highest law officer, appointed by the President, qualified to be a Supreme Court judge. The quoted statement is accurate as a description of function. It is incomplete as a description of status, because the Attorney-General is not a minister, not a full-time government servant in the ordinary sense, and not the government's only lawyer.

Body**Constitutional office and advice**

- **Article 76(2)** requires the Attorney-General to give advice on legal matters referred by the President, and to perform other legal duties that the President assigns, and to discharge functions conferred by the Constitution or any other law.
- In practice the reference comes through the Union government; the Attorney-General is therefore the chief legal adviser of the Government of India, not a personal counsel of the President in a political sense.
- **Article 88** gives the Attorney-General the right to speak and to take part in the proceedings of either House, a joint sitting, and any parliamentary committee of which he may be named a member, but without a vote. That is how the government's lawyer enters the legislature without

becoming a member.

The government's lawyer in court

- The Attorney-General appears for the Union in the Supreme Court and in High Courts in cases of constitutional importance; the office is the Union's first brief when the Republic is a party.
- The Solicitor-General and Additional Solicitors-General, created by executive arrangement rather than by **Article 76**, share the litigation load. The Law Officers (Conditions of Service) Rules and the Allocation of Business Rules locate them in the Department of Legal Affairs.
- The Attorney-General may take private practice, with the convention that it must not conflict with the government's interest, and may not advise or hold a brief against the Union. That private-practice space is why the office is "lawyer of the government" without being a salaried department counsel in the ordinary civil-service sense.
- Removal is at the pleasure of the President (**Article 76(4)**); there is no impeachment. Independence is therefore professional convention plus the dignity of a constitutional office, not security of tenure like a judge.

What the statement gets right

- No other Union law officer outranks the Attorney-General in the Constitution.
- Advice on bills, treaties, interstate disputes, and Presidential references under **Article 143** often goes through this office, even when the Ministry of Law and Justice does the daily drafting.

What the statement must not hide

- The Attorney-General does not control the government's political decisions; ministers may still reject advice, as they may reject any professional opinion.
- **Public interest and the Constitution bind the office:** in some hearings the Court has reminded law officers that they assist the Court as well as the client, especially where liberty and federalism are at stake.
- State Advocates-General under **Article 165** are the parallel for States; they are not subordinates of the Attorney-General. Federal litigation can therefore see two constitutional law officers on opposite sides.
- The Comptroller and Auditor General, the **Election Commission**, and other constitutional bodies take their own counsel; the Attorney-General is the Union government's lawyer, not the lawyer of every constitutional authority.

Discussion

- **The statement is correct:** **Article 76** designs a chief adviser and a lead advocate for the Union.
- A full discussion adds **Article 88**, pleasure-doctrine tenure, co-existence with the Solicitor-General, limited private practice, and the duty to the Court.

Flow diagram

Article 76 AG -> Advice to Union
 Article 76 AG -> Lead counsel in Court
 Article 88 -> Right of audience in Houses
 Solicitor-General -> Lead counsel in Court
 Article 76 AG -> Convention no brief against Union

Conclusion

The Attorney-General is, under **Article 76**, the chief legal adviser and the leading lawyer of the Government of India, with a voice in Parliament under **Article 88**. The office is constitutional, not ministerial; it advises and represents, it does not govern, and it shares the brief with other law officers while remaining first in rank.

Facts & figures

Article 76

Attorney-General for India: appointment by the President, duties of advice and assigned legal work, pleasure-doctrine tenure.

Article 88

Right of the Attorney-General to speak in either House and in committees, without voting.

Article 143

Presidential reference to the Supreme Court on questions of law or fact; the Attorney-General commonly appears for the Union.

Article 165

Advocate-General for a State; a parallel constitutional law officer, not a subordinate of the Attorney-General.

Solicitor-General of India

Statutory-executive second law officer who shares Union litigation; not created by **Article 76**.

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