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Q5

"The Attorney General of India plays a crucial role in guiding the legal framework of the Union Government and ensuring sound governance through legal counsel." Discuss his responsibilities, rights and limitations in this regard.

UPSC Civil Services Mains 2025 · GS II · 10 marks · Constitutional Bodies

Appointment to various Constitutional posts, powers, functions and responsibilities of various Constitutional Bodies.

Core demand of the question

- State the Attorney General's constitutional office
- Set out responsibilities, rights in court and in Parliament, and limits
- Show how the office guides the Union without becoming a ministry

Revision summary

Article 76 creates the Attorney General as the Union's highest law officer.

- **Duties:** advise the Government of India, appear in court, and perform assigned legal work, including **Article 143** references.
- **Rights:** audience in all courts; **Article 88** right to speak in Parliament without a vote.
- **Limits:** pleasure tenure, no vote, no executive department, convention on conflicting private briefs.

The office improves governance only if it is consulted early and allowed to disagree.

Introduction

The Attorney General of India is the **Union's first law officer**, created by **Article 76**. The office exists so that the Government of India can take advice and fight cases from a person who is **not** a department secretary and **not** a minister, yet is heard at the highest bar. Sound governance here means **candid legal counsel**, not a second political spokesman.

Body**Responsibilities**

The AG **advises** the Government of India on legal matters referred by the President. In practice the reference comes through the Ministry of Law. The AG **appears** for the Union in the Supreme Court and other courts. The office is used for the gravest constitutional files - federal disputes, Presidential references under **Article 143**, and defences of statutes. The AG also performs duties of a legal character that the President may assign. Unlike the Advocate General in a State (**Article 165**), there is only one AG for the Union.

Counsel must be **independent enough to warn**. If the AG becomes only a defender of every ordinance, the Union loses the very filter the Constitution paid for.

Rights

Article 76(3) gives the AG **right of audience in all Indian courts**. **Article 88** lets the AG **speak in Parliament** and in any joint sitting, and to sit on a parliamentary committee if named, **without a vote**. The AG is not a member of either House. Convention allows private practice, with the limit that the AG should not advise against the Union or take criminal defence work that collides with the office. In court the AG is not a witness for the government; the AG is an **officer of the court** who happens to represent the Union.

Limitations

The AG **holds office during the President's pleasure** and is not a constitutional court. The AG **cannot vote** in Parliament and **does not run a ministry**. Aid and advice to the President in the **Article 74** sense belongs to the Council of Ministers; the AG is not a fourth forum of political authority. The AG has **no power to sanction prosecution** (that is the government's and the statutory agencies'). **Subramanian Swamy** and other appointment cases remind us that law officers are not a substitute for a full-time, tenured Director of Public Prosecutions.

- **A further limit is workload and specialisation:** additional solicitors and a large Law Ministry mean the AG is a peak counsel, not the drafter of every bill. Governance is "sound" when the AG is asked **before** a constitutionally risky step, not only to defend it after the notification.

Flow diagram

Article 76 Article 76 AG -> Counsel to Union
Article 76 AG -> Audience all courts
Article 76 AG -> Speak in Parliament no vote
Article 76 AG -> No ministry / no vote / pleasure

Conclusion

The Attorney General advises and represents the Union, may address Parliament without voting, and appears in every court. The office has no ministry, no vote, and no tenure beyond pleasure. It guides the legal framework only when the Union is willing to hear a lawyer rather than a cheerleader.

Facts & figures

Article 76

The President appoints a person qualified to be a Supreme Court judge as Attorney General of India.

Article 88

The AG may take part in parliamentary proceedings and committees without being a member and without voting.

Article 165

Creates the Advocate General for each State, the federal counterpart of the AG's advising role.

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