

## Constitutional Review - Overview of Key Reform Sectors

Sector	Reforms Needed	Constitutional Change	Change of Law /Procedures
<b>Political Parties</b>	Democratization and accountability to Public <ul style="list-style-type: none"> <li>▪ Membership</li> <li>▪ Leadership</li> <li>▪ Funding</li> <li>▪ Choice of candidates</li> </ul>	<ul style="list-style-type: none"> <li>➤ Similar to Article 21 of German constitution</li> </ul>	<ul style="list-style-type: none"> <li>➤ A law regulating the internal functioning of parties</li> </ul>
<b>Elections</b>	<ul style="list-style-type: none"> <li>➤ Decriminalization</li> <li>➤ Accountable expenditure</li> <li>➤ Electoral rolls improvement</li> <li>➤ Elimination of rigging and impersonation</li> </ul>	Nil	<ul style="list-style-type: none"> <li>➤ A law to prohibit persons facing criminal charges and listed as rowdy sheeters or history sheeters (with judicial scrutiny)</li> <li>➤ A law providing for mandatory disclosure, statutory audit and making records public; Exemption from income tax subject to ceiling – severe penalties for violation including removal, disqualification, fine and imprisonment</li> <li>➤ Post offices to be made nodal centres for easy access to electoral rolls and applications</li> <li>➤ Mandatory Voter ID cards</li> <li>➤ Electronic voting</li> <li>➤ Mandatory re-polling if tendered votes exceed 1 %</li> </ul>

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<b>Federalism</b>	<ul style="list-style-type: none"> <li>➤ Significant devolution and clearer separation of powers</li> <li>➤ Special powers to union to preserve unity &amp; National Integrity</li> <li>➤ Fiscal devolution</li> <li>➤ Fusion of authority and accountability</li> <li>➤ Political autonomy</li> <li>➤ Legislative Jurisdiction</li> </ul>	<ul style="list-style-type: none"> <li>➤ Schedule 7-review</li> <li>➤ Periodic review of Schedule – 7.</li> <li>➤ Split concurrent subjects to give exclusive jurisdiction to Union and States</li> <li>➤ Union’s responsibility over terrorist offences, Inter-state trade, Inter-state water resources, protection of linguistic minorities, job and educational opportunities to all</li> <li>➤ All fiscal devolution to be non-discretionary and through the Finance Commission mechanism (centrally sponsored schemes and planning commission grants to cease)</li> <li>➤ All India services to be under states — full and exclusive control</li> <li>➤ Repeal of Article 356 and abolish governors or have elected constitutional governors.</li> <li>➤ Removal of Governor’s powers of reserving a Bill for President's assent under Article 200, or severely limit the power and fix a time limit of 60 days for President's assent or otherwise</li> </ul>	<ul style="list-style-type: none"> <li>➤ Corresponding laws</li> </ul>

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<b>Stability and Cohesion - Union Government</b>	<ul style="list-style-type: none"> <li>➤ Remove deadlock between both houses of parliament</li> <li>➤ Provide for greater stability</li> <li>➤ Remove anomalies of Tenth Schedule (Anti-defection Act)</li> <li>➤ Remove incentives for midnight legislative 'coups' and 'splits'</li> </ul>	<ul style="list-style-type: none"> <li>➤ Restrict legislative powers of Rajya Sabha — only delaying power &amp; forcing reconsideration, not veto.</li> <li>➤ Constructive no-confidence similar to Articles 67 &amp; 68 of German Basic Law.</li> <li>➤ Amendment of the Tenth Schedule (Anti-defection Act) on the following lines               <ul style="list-style-type: none"> <li>(a) Any voting on a finance bill or confidence motion or no-confidence motion against party whip to incur automatic disqualification irrespective of the number of members defying party whip</li> <li>(b) Party splits recognized only after due process in the actual party fora and one month's notice; split in legislature party shall not precede a party split, but shall only be a later consequence</li> <li>(c) In case of such legitimate and recognized split, the persons who form the splinter group shall not be eligible for ministerial office for a period of one year</li> <li>(d) Whip shall not apply to Rajya Sabha or Legislative Council</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>➤ Convention               <ul style="list-style-type: none"> <li>▪ Parliament to elect the Prime Minister</li> </ul> </li> </ul>

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<b>Stability and Cohesion - Union Government</b>		<p>(e) Whip shall not apply to impeachment motion on constitutional functionaries</p> <p>(f) Violation of party whip on matters other than finance bill and confidence / no-confidence motion shall not invite disqualification, though it may entail disciplinary action by the party</p>	
<b>Stability and Cohesion - State Governments</b>	<ul style="list-style-type: none"> <li>➤ Remove legislative deadlock</li> <li>➤ Clearer separation of Powers</li> <li>➤ Honesty and Political survival to be compatible</li> <li>➤ Elections to represent public opinion</li> <li>➤ Legislature not to function as unaccountable executive</li> <li>➤ Authority and accountability to fuse</li> <li>➤ Remove anomalies of Tenth Schedule (Anti-defection Act)</li> </ul>	<ul style="list-style-type: none"> <li>➤ Unicameral legislature</li> <li>➤ Directly elected head of government</li> <li>➤ All India services to be under exclusive control of states (except recruitment and training)</li> <li>➤ Amendment of Tenth Schedule as suggested under 'Stability and Cohesion - Union Government'</li> </ul>	

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<b>State Governments</b>	<ul style="list-style-type: none"> <li>➤ Remove incentives for midnight legislative 'coups' and 'splits'</li> </ul>		
<b>Local Self-Governance</b>	<p>Adequate Devolution of</p> <ul style="list-style-type: none"> <li>➤ Funds</li> <li>➤ Functions</li> <li>➤ Functionaries</li> <li>➤ Removal of Anomalies</li> </ul>	<ul style="list-style-type: none"> <li>➤ State Finance Commission to have substantive powers</li> <li>➤ Schedules 11 &amp; 12 to have the same force as Schedule 7</li> <li>➤ Control of functionaries to vest in local governments fully - Articles 243 G &amp; 243 W to be tightened</li> <li>➤ Proposed 84th amendment for removal of anomalies to be enacted</li> </ul>	<ul style="list-style-type: none"> <li>➤ Corresponding changes in State laws</li> </ul>
<b>Bureaucracy</b>	<ul style="list-style-type: none"> <li>➤ Accountability</li> <li>➤ Non-arbitrary placements</li> <li>➤ Tenure</li> </ul>	<ul style="list-style-type: none"> <li>➤ All India Services under States' control</li> <li>➤ Article 311 to apply only for removals &amp; dismissals; Prohibition on courts jurisdiction (except on grounds of enforcement of equality before law)</li> </ul>	<ul style="list-style-type: none"> <li>➤ Civil Service Boards</li> <li>➤ Provisions for panels of suitable persons (including serving officials) to be drawn up by government for appointment to key public offices</li> <li>➤ Appointments &amp; confirmation by a legislative committee</li> <li>➤ Fixed Term</li> </ul>

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<b>Judiciary</b>	<ul style="list-style-type: none"> <li>➤ Higher Judiciary appointments &amp; removal</li> <li>➤ Focused Writ Jurisdiction</li> <li>➤ Limited appeals to higher courts</li> <li>➤ Timely Justice</li> <li>➤ Increase in the number of courts</li> <li>➤ Rural courts for speedy justice with specific and exclusive jurisdiction (under judicial control)</li> <li>➤ Separation of crime investigation</li> </ul>	<ul style="list-style-type: none"> <li>➤ Judicial Commission with powers of appointment and removal.</li> <li>➤ Repeal of Article 124(4) and 217(1)(b) relating to impeachment of Judges, as the present provisions failed and as Judicial Commission will be vested with the power of removal</li> <li>➤ Writ to be limited to life, liberty &amp; equality before law</li> <li>➤ Only constitutional matters and writs to be heard by High Courts and Supreme Court</li> <li>➤ Guaranteed right to time bound Justice - say, 1 year in criminal cases and 2 years in civil cases</li> <li>➤ Appeals: 3 months in criminal cases and 1 year in civil cases</li> <li>➤ Independent Prosecutors under quasi-judicial supervision as a</li> </ul>	<ul style="list-style-type: none"> <li>➤ Appropriate Changes in CrPC, CPC and Evidence Act</li> <li>➤ Executive decision</li> <li>➤ A law similar to Gram Nyayalaya Act proposed in the 114th report of the Law Commission</li> <li>➤ CrPC amendments</li> </ul>

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<b>Judiciary</b>	<p>from the executive</p> <ul style="list-style-type: none"> <li>➤ Improving competence, integrity &amp; uniformity in sub-ordinate judiciary &amp; improve quality of appointees to High Courts</li> </ul>	<p>constitutional institution</p> <ul style="list-style-type: none"> <li>➤ Creation of an Indian Judicial Service as a new All India Service (Article 311)</li> </ul>	<ul style="list-style-type: none"> <li>➤ Appropriate changes in laws and rules relating to appointment of Sub-ordinate judiciary and High Court Judges</li> </ul>
<b>Self-correcting Institutional Mechanisms</b>	<ul style="list-style-type: none"> <li>➤ Right to Information</li> <li>➤ Ombudsman</li> <li>➤ Independent appointment of constitutional functionaries</li> <li>➤ Separation of crime investigation</li> <li>➤ Prevent perpetuation on elective office and dynastic impulses</li> <li>➤ Check against abuse of constitutional offices</li> <li>➤ Check against corruption</li> </ul>	<ul style="list-style-type: none"> <li>➤ A Lok Pal with autonomy &amp; substantive Powers</li> <li>➤ Appropriate constitutional mechanism (collegium) for appointment and removal (similar to the proposed Judicial Commission)</li> <li>➤ Independent constitutional mechanism as suggested in 'Judiciary'.</li> <li>➤ Limitation of terms (say 2 terms &amp; 10 years) for elective office at any particular level.</li> <li>➤ A category of constitutional offences with penalties to be specified.</li> <li>➤ Lokpal's directives mandatory</li> </ul>	<ul style="list-style-type: none"> <li>➤ An appropriate law.</li> <li>➤ Tighter anti-corruption law</li> </ul>

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<b>Self-correcting Institutional Mechanisms</b>	<ul style="list-style-type: none"> <li>➤ Greater citizens' empowerment</li> </ul>		<ul style="list-style-type: none"> <li>➤ Independent prosecution</li> <li>➤ Time bound adjudication</li> <li>➤ Tougher provisions for confiscation, removal &amp; jail terms</li> <li>➤ Citizen's Charters with force of law and legally enforceable penalties for non-performance</li> </ul>
<b>Miscellaneous</b>	<ul style="list-style-type: none"> <li>➤ Women's Reservation Bill</li> <li>➤ Fixed terms for legislatures</li> <li>➤ Proportional representation</li> </ul>	<ul style="list-style-type: none"> <li>➤ Amendment to Article 80 and Article 171 &amp; providing for reservations for women in upper houses</li> <li>➤ Fixed term for legislatures not feasible in parliamentary model; However fixed term will be effective automatically if there is a directly elected head of government in the states</li> <li>➤ Proportional representation to parties with 50% of seats elected from territorial constituencies; A 5% voting requirement for proportional representation; safeguards to protect interests of regional and small parties.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Alternative model amending RP Act compelling political parties to nominate 1/3 women candidates</li> </ul>



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<b>Miscellaneous</b>	<ul style="list-style-type: none"> <li>➤ Rotation of seats reserved for SC's &amp; ST's</li> <li>➤ Strength of Lok Sabha or delimitation of constituencies</li> </ul>	<ul style="list-style-type: none"> <li>➤ Rotation of seats for SCs and STs - desirable to enact suitable constitutional amendments to articles 330 and 332</li> <li>➤ Amendment of Articles 81 &amp; 82 to freeze the strength of Lok Sabha and representation from various states for 25 more years</li> <li>➤ Delimitation within a state for Parliament and Assembly constituencies may be permitted</li> </ul>	<ul style="list-style-type: none"> <li>➤ Changes in RP Act to provide for rotation of seats reserved for SCs and STs</li> <li>➤ Suitable changes in RP Act to provide for delimitation of constituencies within a state</li> </ul>

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