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Who Guards the Guardians: The Custodians of the Constitution

 **DOWN TO EARTH**

25 July 2026

POLITY**GS2**

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GS2

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THE LIFT LINE

A Constitution is only ink until someone chooses to defend it. The document does not enforce itself; it survives because a chain of guardians, and finally an alert citizenry, refuse to let it lapse into a dead letter.

WHY THIS EDITORIAL MATTERS FOR YOUR EXAM

The question “who guards the Constitution” looks abstract but sits at the centre of GS2. It gathers the **basic structure doctrine**, constitutional morality, checks and balances and the role of independent institutions into a single frame. An aspirant who can answer it can handle a wide range of polity questions, from judicial review to the autonomy of the Election Commission, with one coherent argument rather than scattered facts.

GS Paper 2: The Indian Constitution and its features, separation of powers and checks and balances, the roles of the judiciary, legislature and executive, and **statutory** and constitutional bodies (ECI, CAG, CIC and commissions) and their accountability.

For **Prelims**, hold the specifics: the **basic structure doctrine**, laid down in **Kesavananda Bharati v. State of Kerala (1973)**, limits Parliament’s amending power under **Article 368**; **constitutional morality** was invoked by B.R. Ambedkar and later applied in judgments such as the decriminalisation of consensual same-sex relations; the **Election Commission** is a constitutional body under **Article 324**, the **CAG** under **Article 148**, and the **Central Information Commission** is a statutory body under the **Right to Information Act, 2005**; and the **public trust doctrine** was affirmed in **M.C. Mehta v. Kamal Nath (1997)**. For **Mains**, argue that guardianship is plural and layered, and that its ultimate anchor is an informed public.

BACKGROUND AND CONTEXT

The framers did not entrust the Constitution to any single custodian. They dispersed power deliberately, giving the **judiciary** the duty of interpretation and review, the **legislature** the power to make and amend law within limits, the **executive** the task of implementation, and a set of **independent institutions** the job of holding the system honest. The design assumes that no organ is infallible, so each is meant to check the others, and the friction between them is a feature, not a fault.

This dispersal is what makes the guardianship question interesting. Power that guards can also **overreach**. A judiciary that protects rights can be accused of encroaching on policy; a legislature that expresses the popular will can pass laws that wound the document's core; independent bodies can be captured. The Constitution therefore relies less on any one perfect guardian than on a balance among imperfect ones, and on a public willing to notice when the balance tips.

THE CORE ARGUMENT / ISSUE

The argument is that constitutional guardianship in India is a shared, multi-layered custodianship, and that its **resilience** comes precisely from the fact that no single institution holds the final word.

The judiciary as sentinel, and the basic structure

The judiciary is the most visible guardian, armed with **judicial review** and the power to strike down laws that violate fundamental rights. Its most enduring contribution is the **basic structure doctrine** from **Kesavananda Bharati (1973)**, which holds that Parliament may amend the Constitution but not destroy its essential features, such as democracy, secularism, the rule of law and judicial review. This is the safety catch that prevents a transient majority from rewriting the republic's foundations. Yet the court is a guardian that must guard itself against overreach, which is why its legitimacy rests on reasoned, restrained judgment.

The legislature, the executive and the balance between them

The legislature guards the Constitution by debate, by law-making within constitutional limits, and by holding the executive to account through questions, committees and the power of the purse. The executive guards it by faithful implementation and by respecting the rule of law. The tension between the two, and between both and the courts, is the working of **checks and balances**. Guardianship here is not a title held by one branch but a discipline each branch imposes on the others.

The independent institutions and civil society

GUARDIAN	BASIS	GUARDIANSHIP ROLE
Judiciary	Articles 32, 226; basic structure	Reviews laws, protects rights
Election Commission	Article 324	Free and fair elections
CAG	Article 148	Audits public money, enforces accountability
Central Information Commission	RTI Act, 2005	Transparency, citizen access to information
Statutory commissions	Various statutes	Protect specific rights and groups
Citizenry and civil society	Rights and duties, free press	Vigilance, dissent, participation

Independent institutions translate constitutional promises into daily practice, but they too can be weakened by capture or under-funding. Their strength ultimately depends on public support and a free press willing to defend their autonomy.

HOW TO THINK ABOUT THIS (ANALYTICAL FRAME)

Use a **layered-custodianship frame**: think of guardianship as concentric rings rather than a single fortress. The outer ring is the citizen, the next is a free press and civil society, then the independent institutions, then the three organs of state, with the basic structure doctrine as the innermost lock. A threat can breach one ring, but the others hold. The deepest layer is **constitutional morality**, the shared habit of respecting the spirit and not merely the letter of the document, without which every formal safeguard can be hollowed out from within.

THE DIAGRAM IN WORDS

Constitutional text -> interpreted and shielded by the judiciary (basic structure) -> balanced by legislature and executive (checks and balances) -> operationalised by ECI, CAG, CIC and commissions -> watched by a free press and civil society -> ultimately guarded by an informed, vigilant citizenry practising constitutional morality

WAY FORWARD

- ❶ **Protect institutional autonomy.** Secure the independence, funding and appointment integrity of the ECI, CAG, CIC and statutory commissions, so the guardians of the system cannot be quietly captured or starved.
- ❷ **Cultivate constitutional morality.** Strengthen civic and constitutional literacy in education and public life, so respect for the document's spirit becomes a shared habit rather than a courtroom afterthought.
- ❸ **Keep transparency alive.** Safeguard the Right to Information, a free press and open institutions, since an informed citizenry can only guard what it can actually see.
- ❹ **Balance, do not centralise.** Preserve the friction of checks and balances rather than seeking a single all-powerful custodian, because the Constitution is safest when guardianship is shared and no organ holds the last word.

PYQ LINKAGE AND PRACTICE

UPSC has repeatedly examined the basic structure doctrine, constitutional morality, separation of powers and the role and accountability of independent institutions such as the Election Commission and CAG. The custodianship theme is a natural umbrella for all of these, and it lets an aspirant argue that the ultimate

guardian of the Constitution is the citizen.

Practice question (Mains, GS2, 15 marks): “The Constitution is guarded not by a single institution but by a shared custodianship anchored, finally, in an informed citizenry.” Examine the roles of the judiciary, independent institutions and civil society in the light of this statement. (250 words)

Sources: Down To Earth, Supreme Court of India

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