



Dynamic Nature of the Indian Constitution

For Prelims: [Chief Justice of India](#), [Constitution](#), [Privacy](#), [Article 368](#), [Types of Majority](#), [Parliament](#), [Fundamental rights](#), [Supreme Court](#)

For Mains: Constitution as a Living Document, Constitutional Amendments, Changing Social Contexts on Constitutional Interpretation.

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Why in News?

Recently, the [Chief Justice of India \(CJI\) D.Y. Chandrachud](#) emphasised the **dynamic nature of the Constitution**, asserting that **no single generation can claim a monopoly over its interpretation**.

- CJI emphasised the **Constitution's relevance in its ability to adapt** to changing social, legal, and economic contexts, contrasting this with the **United States doctrine of originalism**.

Why Must Constitutional Doctrine Evolve with Society?

- **Constitution as a Living Document:** CJI highlighted the concept of a "living Constitution," which means the interpretation of the document must change with **evolving societal norms**.
 - This allows constitutional courts to **find solutions for new and novel problems that arise over time**, keeping the document relevant.
- **Different Social Contexts:** According to CJI, **no two generations** read the Constitution in the same social, legal, or economic context.
 - As society evolves, new challenges arise that require fresh interpretations of the Constitution to address contemporary needs, such as [legalising adultery](#).
- **Contrast with Originalism:** CJI Chandrachud referenced the **2022 Dobbs v. Jackson Women's Health Organisation** ruling by the US Supreme Court as an example of originalism, where the right to [abortion](#) was denied because it is not explicitly mentioned in the US Constitution.
 - He contrasted this with India's evolving approach, noting that originalism can lead to a **rigid and restrictive interpretation of citizens' rights**.
- **Inflexibility:** CJI Chandrachud pointed out that rigid adherence to the framers' original intent makes the Constitution inflexible. He emphasised that it was meant as broad, **not iron-clad rules, which should evolve with the times**.
 - Over-reliance on subjective interpretations can lead to **conservative readings, limiting future generations' ability** to address new challenges.

What Role Does Constitutional Flexibility Play in Governance?

- **Support for Progressive Reform:** The Constitution's adaptability allows for reforms that meet current societal demands, from **technological advancements to evolving human rights standards like data protection laws, such as [data protection laws](#)**.
- **Fostering Innovation in Law:** A living Constitution creates room for **innovative legal**

- interpretations** that can address emerging challenges, such as [privacy concerns in a digital age](#).
- **Safeguarding Citizens' Rights:** A dynamic interpretation of the Constitution helps safeguard rights against conservative readings that could otherwise restrict freedoms.
 - **Adaptability:** A flexible constitutional doctrine ensures **institutions remain relevant in a rapidly evolving world**, particularly in a growing **knowledge economy**.
 - **Inclusion of New Realities:** The living Constitution doctrine allows the courts to incorporate **new social, economic, and legal contexts** into their interpretations, ensuring that rights evolve with societal advancements.

What is the Nature of the Indian Constitution?

- **Hybrid Structure:** The Indian Constitution **incorporates features of both rigid and flexible constitutions**. This hybrid nature allows for **adaptability while maintaining stability** in the fundamental structure of the Constitution.
 - **Protecting Fundamental Values:** Rigidity ensures the protection of [fundamental rights and basic structure](#) against arbitrary changes.
 - **Preserving Federalism:** While the federal structure is rigidly defined, necessary changes can be made to adapt to new realities, such as the [concurrent list](#).
 - **Balancing Welfare:** The combination of rigid rights and flexible [Directive Principles of State Policy \(DPSP\)](#) helps balance individual liberties with collective welfare.
 - **Ensuring Stability:** Rigidity fosters stability by requiring consensus for significant changes, preventing hasty amendments.
 - **Fostering Democracy:** Flexibility in legislative processes promotes democratic governance by allowing elected representatives to respond to public needs while adhering to constitutional limits.
- **Amendment Procedures:**
 - [Article 368 Delineates Two Main Methods of Amendment:](#)
 - **Special Majority of Parliament:** Certain provisions like amending Fundamental Rights require a [special majority of Parliament](#) for amendment, which entails a **two-thirds majority of the members present and voting in each House**, along with a majority of the total membership of each House.
 - This ensures that significant changes garner substantial parliamentary support.
 - **State Ratification:** Other provisions like [election of the President and its manner](#) necessitate both a **special majority in Parliament and ratification by at least half of the total states**.
 - This process underscores the **federal structure of India, ensuring that states have a voice in substantial constitutional changes** that affect their governance.
 - **Simple Majority Amendments:** Some provisions like [formation of new states](#) can be amended by a simple majority in Parliament, following the same procedure as ordinary laws.
 - These amendments **do not fall under the purview of Article 368**, indicating that certain aspects of the Constitution can be altered with relative ease.

Cases Related to the Flexibility of the Indian Constitution

- **Golak Nath vs. State Of Punjab Case, 1967:** The [Supreme Court of India](#) ruled that Article 368 only lays down the procedure for amending the Constitution, stating that Parliament **cannot curtail the fundamental rights of citizens and that all amendments are subject to judicial review**.
- **Kesavananda Bharati v. State of Kerala Case, 1973:** The Supreme Court ruled that while Parliament has the power to amend the Constitution, it cannot alter its **basic structure**.
 - This case exemplifies flexibility as it allows for amendments while ensuring that **fundamental principles**, like democracy and secularism, **remain intact**.

What are the Differences Between Flexible and Rigid Constitutions?

| Aspect | Flexible Constitutions | Rigid Constitutions |
|----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|
| Amendment Procedures | Amendments may become more easy and similar to passing ordinary laws as seen in the United Kingdom's constitution. | Amendments require a complex, specialised procedure, as seen in the United States. |
| Adjustability to Changing Needs | Easily adapts to societal changes and evolving circumstances. It is viewed as a living document that evolves with societal progress | Resists changes, prioritising stability over adaptability |
| Reflection of Public Opinion | Reflects changing public opinion and societal perspectives. | More likely to reflect the framers' views, less responsive to changes. |
| Assumption of Perfection | Assumes no constitution is perfect and open to change. | Assumes the constitution is a perfect guide for all times. |
| Adaptability in Federal Systems | Accommodates the diverse needs of federal units, fostering cooperation. | Provides stability and checks to maintain balance in federal systems. |
| Protection of Minority Rights | Frequent changes, sometimes influenced by mobocracy (domination by the masses), can negatively impact minority rights. | Offers stronger protection, ensuring minority rights are safeguarded. |

Conclusion

The **balance between a rigid and flexible constitution is crucial** for fostering a dynamic legal framework that remains **relevant and responsive** to contemporary challenges. Ultimately, embracing constitutional flexibility is essential for promoting justice, equality, and democratic governance in an ever-changing society.

Drishti Mains Question:

Q. Assess the balance of flexibility and rigidity in the Indian Constitution and its significance in addressing contemporary societal issues.

UPSC Civil Services Examination Previous Year Question (PYQ)

Prelims:

Q. What was the exact constitutional status of India on 26th January, 1950? (2021)

- (a) A Democratic Republic
- (b) A Sovereign Democratic Republic
- (c) A Sovereign Secular Democratic Republic

(d) A Sovereign Socialist Secular Democratic Republic

Ans: (b)

Mains:

Q. What can France learn from the Indian Constitution's approach to secularism? **(2019)**

Q. Examine the scope of Fundamental Rights in the light of the latest judgement of the Supreme Court on Right to Privacy. **(2017)**

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