



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.

[Source: TH](#)

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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