



## Mains Practice Question

**Q.** Indian Constitution balances procedural norms and flexibility in adapting to changing needs of society. Discuss. (150 words)

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### Approach

- In introduction highlight the basis of amenability of the constitution and what the Indian Constitution entails in that respect.
- Highlight some of the rigid/procedural norms of the Indian Constitution with examples.
- Highlight some of the flexible features of the Indian Constitution with examples.
- Conclude by highlighting how such a balance makes the Indian Constitution a living document.

### Introduction

Constitutions could be rigid like that of the United States of America or flexible like that of the United Kingdom based on amendability. India's Constitution is a synthesis of both, adapting best features from prominent constitutions to suit the diverse needs of Indian pluralistic society. Such flexibility is important to keep Indian Constitution in sync with the changing social realities while retaining the basic social ideals like liberty, equality and fraternity.

### Body

#### Rigidity/Procedural Norms in Indian Constitution

- **Basic Structure:** It is a concept to retain the **fundamental spirit of the Constitution**. The provisions of the constitution under its ambit cannot be amended like the Parliamentary system, Judicial Independence, Fundamental Rights. This doctrine was propounded by the Supreme Court in **Kesavananda Bharati case**.
- **Special Majority Amendment:** Certain features that have effect on federal characteristics require amendment by special majority along with state's concurrence under article 368. Like **election of the President and Lists under Seventh Schedule**.
- **Separate Jurisdiction:** Indian polity being quasi federal, it has detailed polity and administrative principles to demarcate the roles and responsibilities of the legislature, judiciary and executive.
  - Such provisions for separation of powers have a rigid amendment process to avoid breach of jurisdictions.
  - Defiance of which could result in unconstitutional acts like prescribed age for elections, trying to subvert judicial independence leading to terming non-constitution even a majority backed law like NJAC.

#### Flexibility in Indian Constitution

- **Simple Majority Amendment:** Most parts of the Indian Constitution can be amended, without

special majority or concurrence of states, just by a simple majority in Parliament under article 368, to be able to cater to the emerging challenges of society like prohibition of triple talaq.

- Flexibility allows the Constitution to adjust as per changed socio-economic circumstances. Legislative adjustments like rational abrogation of Article 370, 24<sup>th</sup> and 25<sup>th</sup> amendment acts are examples of the same.
- Fluid amendment process allows for redesigning legal and constitutional measures like the reservation system according to changing socio economic status of different sections of society.

## Conclusion

Thus, such a balance makes Indian Constitution a living document that responds to changing time along with making it durable to protect the basic tenet of democracy, ideals on which the country was formed like those enshrined in the Preamble.

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