

# MGP 2024 (Cohort 4)

## Half Length Test #7 – Solution

### Instruction to Students

Answers provided in this booklet exceed the word limit so as to also act as source of goodnotes on the topic.

Candidates must focus on the keywords mentioned in the answers and build answers around them. Elaborate answers are given with the purpose that candidates understand the topic better.

We have also adopted a grey box approach to provide context wherever necessary, which is not to be considered a part of the answer.

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**Q.1) The issues of local self-governance are primarily the issues of autonomy, authority, and accountability. Analyze.**

**Approach:** Introduce the answer by defining institutions of local governance. In the body of the answer, discuss the challenges associated with local bodies under the head of autonomy, authority, and accountability. Next, discuss the measures required to make the PRIs more effective. Conclude the answer by advocating a stakeholder approach to make the PRIs voice of the people.

Local bodies are **institutions of self-governance** at local level, set up by **73rd and 74th Amendments to the constitution** to strengthen **grass root participatory democracy**. Called as the **third tier of democracy**, they are beset with several challenges:

1. **Autonomy:**

- a. **Limited devolution of subjects/powers** (11<sup>th</sup> and 12<sup>th</sup> schedule) by the state governments, resulted in halfhearted reforms.
- b. **Financial autonomy remains elusive:**
  - I. **Inordinate delays** in releasing bill payments, **hampering development**.
  - II. Financial woes **dampen the morale of elected representatives**. E.g., **rampant delays in payment of salaries** etc.
  - III. As per economic survey, PRIs **depend on devolved funds for 95%** of their revenues; PRIs are ineffective in **taxing their constituents** etc.
- c. **Absence of a clear demarcation of functions** (6<sup>th</sup> report of 2<sup>nd</sup> ARC) limits the efficacy.
- d. **Delay in realisation** of the **constitutional mandate**. E.g., as per reports, as of March 2023, only 9 states have formed the 6<sup>th</sup> SFC.
- e. Critics **question the independence and autonomy** of the State Election Commission (SEC). E.g., senior bureaucrats appointed as election commissioners.

2. **Authority:**

- a. **Lack of powers** to hold the **cutting-edge bureaucracy accountable** (Panchayat Secretaries) leads to **bureaucratic apathy**.
- b. Dominance by **parastatal bodies**. E.g., **SPVs under the smart cities mission**; District Rural Development Agency etc.
- c. The functioning of PRIs **smacks of ad-hocism**. E.g., **absence of a model code of conduct** for bureaucrats.
- d. The **Gram Sabhas**, especially powerful under the PESA, **have become cosmetic in nature**. E.g., Women, SC/ST etc., vulnerable members are not invited to Gram Sabha meetings.

3. **Accountability:**

- a. **Lack of accountability** has marred the objectives of PRIs. E.g., Mani Shankar Aiyer committee held that Panchayati Raj has become **Sarpanch Raj**.
- b. PRIs, DPCs & MPCs lack **wherewithal and capacity** to make **developmental plans**, conduct **social audit** etc.
- c. Stronghold of **patriarchal values**. E.g., prevalence of **"Panchayat Patis"**.
- d. Negation of **developmental/planning role of the Gram Sabha**. E.g., **Cleavages** in Gram Sabha on **caste/religious lines**.

Adequate **steps can be taken to make the Panchayats truly representative:**

1. Ensuring **political autonomy** by devolving powers under the **11<sup>th</sup> schedule and 12<sup>th</sup> schedule**.

2. Financial innovation (**Green Masala Bonds** by Indore Municipality); **City Economic Councils** (NITI Ayog) to attract investments; **monetisation of assets**; credit rating of PRIs; devolution of **untied funds from Union Finance Commission** etc., will strengthen local finances.
3. **Dedicated cadre** should be recruited for the PRIs.
4. **Training and capacity building** at the cutting-edge level. E.g., modules for **social auditing**.
5. **Timely conducting elections** and making the **constitutional bodies** like **SEC, SFC more autonomous**.
6. **Big Bang Reforms** (Kerala model):
  - a. Appointment of **Panchayati Ombudsman**.
  - b. Complete **activity and responsibility mapping** of panchayats.
  - c. Prescribe **objective conditions for the dissolution of Panchayats**.
  - d. Developing a **code of conduct for bureaucrats and officers**.

It is imperative to reform PRIs, through stakeholder approach, to **reinstate their position as a planning body**, and the **voice of the people**. (455 words)

**Q.2) Describe the legislative powers of the governor. Do you think the dual role of governor is justified in a federal country? Give arguments in support of your view.**

**Approach:** Introduce the answer by defining the position of governor. In the body of the answer, discuss the legislative powers of the governor. In the next part, assess the dual role of governor, as it is in India's federal setup. Conclude the answer by stressing on the need for governors to function in line with constitutional morality.

Governor is **executive head of the state** and acts as a **representative of the center** in state. A governor of a state is an integral part of the legislature. In that capacity, the **governor enjoys important legislative powers, such as:**

1. Governor has the **power to summon or prorogue** the state legislature and **dissolve the state legislative assembly (Article 174)**, on the **aid and advice of the cabinet**.
2. Governor **addresses state legislature at the commencement of first session** after each general election and before the first session of each year (Article 176).
3. Governor can **promulgate, or withdraw, ordinances** when the state legislature is not in session (Article 213).
4. Governor nominates **one-sixth of the members of the state legislative council**; governor **decides on the question of disqualification of members** in consultation of the ECI.
5. Power to **decide on a bill passed by the state legislature**:
  - a. **Giving assent** to the bill.
  - b. **Withhold assent** to the bill.
  - c. **Return the bill**, except for money bill, for **reconsideration of the state legislature**.
  - d. Reserve for **President's consideration**.

**Justification of the dual role** of governor, as **constitutional head of the state and the representative of the government**, can be assessed from:

Justification of the dual role	Challenges arising from the dual role
1. <b>Historical context:</b> The <b>socio-politically turbulent conditions</b> during the inception of the country	1. As per critics, <b>dual role of Governor is misused in a partisan manner</b> . E.g., role of Governor of Maharashtra,

<p>necessitated <b>center's oversight through Governor</b>, thereby <b>leading to a dual role</b> for the Governor.</p> <p>2. The <b>dual role of Governor</b> is also required to carry out certain constitutional functions. E.g., In the event of a <b>breakdown of the constitutional machinery</b>, Governor, as a <b>neutral observer</b>, recommends the imposition of President's rule.</p> <p>3. <b>Governor's dual role</b> brings a rare convergence between the <b>state's interests</b> and the <b>national perspective</b>. E.g., <b>reserving bills</b> for the consideration of President.</p> <p>4. As a <b>vital cog in the wheel of cooperative federalism</b>, Governor ensures a seamless coordination between Union and the state.</p> <p>5. Dual role of governor is further necessitated in the <b>asymmetric model of federalism</b> followed in India. E.g., Governor's duty to establish development boards in Gujarat, Maharashtra, schedule 5 and schedule 6 regions etc.</p>	<p>calling for trust vote, questioned by the SC.</p> <p>2. Further, dual role often leads to <b>undermining constitutional punctuality</b>. E.g., Governors often sits on bills indefinitely.</p> <p>3. It is alleged that the dual role of Governor often leads to <b>politicization of the post</b>. E.g., <b>spoils system</b> in Governor's appointment.</p> <p>4. According to some experts, the dual role of Governor often <b>creates friction</b>. E.g., controversy associated with the address of Tamil Nadu governor in the assembly.</p> <p>5. Presence of an <b>appointed governor at the helm of an elected government</b> is an anomaly for a Republic.</p>
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Governor is the **lynchpin of federalism**; however, governors should **exercise their powers with caution** in line with **constitutional morality**. (460 Words)

**Q.3) What is the process for amending the Constitution of India? Discuss the significance of the Kesavananda Bharati case in relation to the power of Parliament to amend the Constitution.**

**Approach:** In the introduction, explain the meaning of the constitutional amendment. In the body of the answer, first give a step-by-step procedure for the constitutional amendment. Next, discuss the impact of Kesavananda Bharti's case on amending powers. Conclude by mentioning the basic structure doctrine as the bedrock of constitutionalism.

The constitution of India is structured with **a mixture of flexible and rigid features**. Many of its parts can be changed through a process akin to passing simple law, while others demand much stricter requirements as detailed in **article 368** of the constitution. The changes to the constitution under article 368 are called **the amendments to the constitution**.

The **process for amending the Constitution** is as follows:

1. An amendment to the Constitution is initiated through a bill for the same **by a minister** or by a **private member** in either house of parliament. If initiated by a private member, the bill needs recommendation from the **Committee on Private Members' Bills and Resolutions**.
2. The bill must be **passed by each house** of the parliament separately through a special majority, i.e., **>50% of the total membership** of the house as well as **2/3<sup>rd</sup> of the present** and voting members. **Joint sitting is not permitted** for Constitution Amendment Bills.
3. When any of the **federal provisions** must be amended, the bill needs an **additional ratification** through **simple majority** by **half of the total legislative assemblies** in the country.
4. After the bill is duly passed by both Houses of Parliament and ratified by the state legislatures, it is **sent to the President** for his assent. President is **bound to give his assent** to the bill.

- After the President's assent, the Constitutional Amendment Act is **published in the official gazette**.

**Significance of the Kesavananda Bharati Case** for the Parliament's power to amend the constitution is as follows:

- It freed the parliament's powers under article 368 from **limitations of article 13**. The court **overruled the Golaknath judgement** and declared that amendment are not laws.
- The case established the **supremacy of the constitution** through the **basic structure doctrine**. It held that certain features of the constitution are **beyond the amending power** of the parliament.
- The verdict preserved the **judicial review of the constitutional amendment acts** on grounds of violating the basic structure. E.g., SC in **the Minerva Mills case** struck down provisions in the 42<sup>nd</sup> amendment arguing that parliament's **power to amend is limited**.
- It declared **secularism** as the basic feature of the constitution before the word was added to the preamble. It reduced **the scope for majoritarianism**.
- Being **dynamic** in nature, this judgement is open to **progressive changes over time**. Thus, the court has **outlined various basic features** over the years. E.g., in **SR Bommai case (federalism)**, Indira Gandhi case (**rule of law, judicial review**) etc.

The **Kesavanand Bharti case** has checked the parliament's power to amend the constitution. In this process, it has made the basic structure doctrine **the bedrock of constitutionalism** in India. (445 words)

**Q.4) Enumerate the challenges to cooperative federalism and critically examine the efficacy of various constitutional mechanisms for redressal of federal disputes.**

**Approach:** Introduce the answer by defining cooperative federalism. In the body of the answer, enumerate some of the important challenges to cooperative federalism. In the next part, examine the efficacy of constitutional means to redress the federal disputes. Conclude the answer by impressing on the need to take proactive steps in line with the principle of federalism.

Cooperative federalism refers to an **interdependent model of governance** in which the center and the state governments **work overlappingly on a variety of issues and programs**. Though SC in **State of Rajasthan vs. UOI (1977)** observed that Indian model of federalism is cooperative in nature, there exist some challenges:

- States often perceive **governor as an agent of the Centre**. E.g., ongoing tussle between LG and elected government of NCT of Delhi; role of governor of Maharashtra in calling for a trust vote questioned by SC.
- Under Article 356, the Centre can **impose state emergency** and even dismiss a state government. Moreover, during Covid-19, Centre used the **Disaster Management Act** to effectively bypass States and assume complete control of public order and public health.
- Centre controls the GST corpus and **devolution of funds is delayed** which has **financial implications for the states**. E.g., in the past, GST compensation was not paid to states in a timely manner.
- Critics have highlighted the **lack of deliberation and unilateral use of central agencies** as a major reason for **federal rapture**. E.g., **CBI, ED** targeting state functionaries; **extension of the jurisdiction of BSF** etc.

5. Inter-state challenges such as **border dispute, river dispute, non-uniformity of laws between states**. E.g., dispute between Maharashtra and Karnataka over Belgaum; SYL Canal b/w Punjab and Haryana.

**The efficacy of constitutional measures** to tackle these challenges can be seen from:

Efficient	Limitations
1. <b>Inter State Councils (Article 263)</b> are empowered to investigate those matters that interest <b>both the Centre and states</b> .	1. State governments have <b>flagged the irregular meetings</b> of Inter State Councils. E.g., Last meeting of the ISC was held after a gap of about 6 years.
2. <b>Original jurisdiction</b> (Article 131) enables the SC to adjudicate on federal disputes.	2. According to experts, <b>increasing pendency at the apex court</b> may mire its ability to deliver judgements of federal import in a timely manner.
3. GST Councils (Article 279A) ensures that <b>federal disputes</b> are ironed out through a democratic process of weighted voting.	3. The <b>voting structure of GST council</b> has been a <b>bone of contention</b> . E.g., voting structure disregard the population of states.
4. <b>Finance Commission</b> ensures that <b>fiscal federalism</b> happens in a seamless manner.	4. Some terms of references of the Finance commission have <b>created political/federal ripples</b> . E.g., use of 2011 census data.
5. Constitution <b>empowers parliament (article 262)</b> to provide for <b>adjudication of inter-state water disputes</b> .	5. The water/river dispute tribunals have had <b>limited success in resolving the water disputes amicably</b> . E.g., many tribunals take years to reach a decision.

In the line of the recommendations of **Sarkaria and Punchhi commissions**, proactive steps should be taken to resolve them in the spirit of federalism, a **basic structure of the constitution**. (445 words)

**Q.5) "The Indian Independence Act 1947 changed the existing constitutional position, root and branch." Discuss the changes introduced by the Indian Independence Act 1947 and the immediate challenges that emerged as a result.**

**Approach:** Introduce the answer by defining the Indian Independence Act, 1947. In the body of the answer, discuss the changes brought forth by the Indian Independence act. In the next part, discuss how this legislation also inadvertently created challenges for the country. Conclude the answer by highlighting how the legacy of this legislation continue to impact the nation.

The Indian Independence Act, 1947, a legislation of the British Parliament, created two new dominions viz. India, and Pakistan. The **changes introduced by the Indian Independence Act, 1947** can be seen as:

1. It **ended the British rule in India** and paved the way for creation of an **independent and sovereign state**.
2. The independence act **proclaimed the lapse of British paramountcy** over the Indian princely states; it granted **freedom to Indian princely states** either to join the Dominion of India or Dominion of Pakistan or to remain independent.
3. It provisioned for the **partition of India**, creating two independent dominions of India and Pakistan, with the **right to secede from the British Commonwealth**.
4. The **office of Viceroy was abolished**, and parallelly the Act called for the **post of governor general**, to be appointed by the British Monarch.

5. It empowered the constituent assembly of the country to **frame and adopt a constitution of its own volition**.
6. **Other relevant changes:**
  - a. It made the constituent assembly a **legislating body**. It empowered the constituent assembly to legislate for the country till such time the new constitutions were drafted and enforced.
  - b. It **dropped the title of Emperor of India** from the **royal titles of the King of England**.
  - c. It **discontinued the appointment to civil services** and reservation of posts by the secretary of state for India.

Though the Indian Independence Act, 1947 was a **watershed moment for India**, it also created significant challenges, such as:

1. **Partition**: The partition of the subcontinent into two dominions created **not only political turbulence** but also a **communal crisis**. E.g., communal riots; refugee crisis etc.
2. **Integration of the country**: **Lapse of paramountcy** opened the **Pandora's box**, wherein the princely states **desired autonomy**. Integration of the country came at a huge diplomatic, economic, and political expense. E.g., **operation Polo** for integration of Hyderabad; the case of Kashmir was internationalised etc.
3. **Administrative challenges**:
  - a. In the absence of any **transitional institutional structures**, tackling partition became more challenging. E.g., division of administrative/civil and military staff; logistical challenges etc.
  - b. **Different governor general** for India (Mountbatten) and Pakistan (Jinnah) further frustrated the possibility for a seamless transfer of men and resources.
4. **Economic challenges**: Creation of two dominions in addition to the **political strife** created **economic drags** for the country. E.g., partition **unsettled the established economic linkages** like **cotton and jute growing areas; food shortages** etc.
5. Delay in the **announcement of the boundary award** (Radcliffe), and the unscientific way in which the boundary commission conducted its work left **cultural/social cleavages**.
6. Constituent assembly, after the passage of Indian Independence Act, 1947, had to **function as a legislative body also**.

Indian Independence Act, 1947 was the **culmination of a long-drawn struggle** against the colonial rule; however, the legacy of the **ensuing partition** continues to **impact the region** even to this day. (455 words)

**Q.6) What are the key differences between a federal and a unitary system of government? Can the Indian constitution be considered federal in nature despite its unitary features? Critically examine.**

**Approach:** Introduce the answer with description of federal and unitary systems as major government systems. In the body of the answer, differentiate between the unitary and federal systems in a table. Next, list the unitary provisions of the Indian constitution. Conclude by describing the Indian system as uniquely federal.

The **nature and structure of a government system** play a crucial role in shaping the governance architecture within a country. **Two prominent systems** of government that exist worldwide are federal and unitary systems.

The key **differences between a federal and a unitary system** of government are as follows:

Federal system	Unitary System
1. <b>Power is divided</b> between the central government and states.	1. <b>Power is concentrated</b> in the hands of the central government.
2. <b>Dual government</b> systems exist such as separate legislature, separate judiciary etc.	2. There is <b>single government</b> apparatus, such as legislature, executive, judiciary etc.
3. Both levels of government have <b>exclusive jurisdictions</b> that cannot be infringed upon.	3. The units derive their authority from the centre by way of <b>delegation</b> .
4. <b>Units have representation</b> and a voice in the decision-making process at the national level.	4. <b>Units do not have a say</b> in the decisions of the centre.
5. States take <b>initiatives to cooperate</b> among themselves and with the centre. E.g., to <b>implement policies</b> and schemes.	5. Units have <b>limited agency</b> . The central government is primarily responsible for <b>delivery of services</b> and governance to citizens.
6. Federal units enjoy their own <b>constitutions as well as citizenships</b> .	6. <b>Single constitution</b> and <b>single citizenship</b> are the norm.

The **Indian Constitution** has the following **federal features**:

- Written constitution:**
  - The **federal features are rigid** and cannot be changed without the **consent of half of the state assemblies**. It, thus, **limits the sovereignty of Parliament**.
  - It provides **mechanisms for resolution of federal disputes** such as **inter-state council**, supreme court's exclusive jurisdiction under **Article 131** etc.
- Schedule 7** of Indian constitution provides **exclusive legislative domains** for state and centre in the form of **state list and central list**.
- Indian parliament is having **bicameral legislature** with **Council of states**. It is designed to protect the **interests of states** as its members are elected by members of state legislature.
- India has an **independent judiciary**. Protections from executive influence is given in **appointment and removal** process. E.g., **collegium system** for appointment, the **impeachment** process under article 124.
- Federalism is a **basic feature of the constitution** as per SC judgement in **SR Bommai case**.

However, India's constitution also has the following **unitary features**:

- Strong Center:**
  - The central government has **residual legislative powers** as well as powers to make **laws on subjects in the State List** under certain circumstances.
  - The power to **alter states' boundaries** provides for an **indestructible union of destructible states**.
- Single Constitution and citizenship:** In purely federal systems, states have their own separate constitutions (such as USA). India has **a single constitution** and the central government has the **power to amend** the constitution (flexible). Further, India has single citizenship.
- Control over State Finances:** The central government's control over important aspects of state finances **limits fiscal autonomy** of the states. E.g., the power to collect taxes and distribute financial resources among states.
- Governors:** The governors act as **representatives of the central government**. They are **appointed and removed by the President**.<sup>8</sup>

5. **Emergency Provisions:** The Indian Constitution empowers the central government to declare a state of emergency. The centre gets extensive powers to override state authority and **centralize decision-making**.
6. Presence of **All India Services** and an **integrated judiciary** also give a unitary bias to the Indian constitution.

The Indian constitution has **both federal and unitary features**. While the Constitution establishes a **federal structure** with a division of powers between the central government and the state governments, the unitary features establish **a strong unitary bias**. However, the overall scheme remains **uniquely federal**. (558 words)

**Q.7) "Judicial activism is an effective way to promote democratic values and social justice, especially when the other two branches of the government fail to act." Critically examine.**

**Approach:** Introduce the answer by explaining judicial activism. In the body of the answer, discuss how judicial activism can be seen as an effective way to promote democratic values and social justice. In the next part of answer, discuss the issues surrounding judicial activism. Conclude the answer by emphasizing on both the importance of judicial interventions as well as the necessity of judicial restraint.

Judicial activism is a **judicial philosophy** which prescribes that Courts can go **beyond the strict separation of powers** in the **protection** of the **rights** of citizens and the promotion of **justice** in society. Judicial activism can be seen as an effective way to promote democratic values and social justice:

1. Judicial activism **restores the public faith and confidence** in the political system, **bridging the gaps** of **policy paralysis** and **legislative inefficiency**. E.g., role of various High Courts in fighting Covid-19 pandemic by **improving oxygen management**.
2. **Promoting democratic values:** main
  - a. In **Media One Judgement** (2023), the supreme court put a **judicial fiat against the sealed cover approach** of the government.
  - b. In the **Anoop Baranwal case (2023)**, the SC **devised a collegium for the appointment of the ECI**, thereby making the process more democratic and broad-based.
  - c. In **Keshwanand Bharti case**, the SC laid down the **doctrine of Basic Structure**, limiting the power of legislature to **undermine constitutional values like federalism, secularism** etc.
  - d. In **Maneka Gandhi case (1978)**, supreme court emphasized on the **"due process of law"**, **broadening the arc of democratic values**.
  - e. In **Lily Thomas vs UOI** (2013), the SC took active steps to **decriminalise the electoral politics**.
  - f. In **UOI vs ADR**, SC recognized that the **right to know about the election applicants** falls within the broader right of **freedom of speech and expression**.
3. **Interest of justice (social justice):**
  - a. **Broadening the umbrella of social rights** for **LGBTQ+ community**. E.g., In **Navtej Singh Johar case**, the SC decriminalised homosexuality.
  - b. **Safai karamchari Andolan (2014)** judgement called for **rehabilitation, skilling, financial inclusion** etc., of slum dwellers.
  - c. In **Consumer Education Research Centre vs UOI case (1995)**, the SC held that the state must ensure minimum standard of health, economic security, and civilized living to workmen.

- Judicial activism **acts as an antidote to the executive inaction**. E.g., SC took an **unprecedented step** and used its power to do **complete justice** (Article 142) in order to **appoint the Lokayukta of UP**, after prolonged executive delays.
- Judicial activism has played an active role in **widening the canvas of rights**, in the process **protecting individual dignity**. E.g., Vishakha guidelines **recognized sexual harassment at the workplace** as a violation of the fundamental right to gender justice.
- Judicial activism often **facilitates necessary but unpopular decisions** giving primacy to **social good**. E.g., In 2018, **M C Mehta vs UOI case**, SC necessitated the **use of BSVI fuel** in all vehicles post March, 2020.

Even though judicial activism has **bridged the gaps** left behind by the executive and the legislature, critics point towards **various issues associated with judicial activism**:

- As per experts, excessive judicial activism may lead to the **"tyranny of the unelected"**. E.g., SC putting a blanket ban on the use of non-green firecrackers (Arun Gopal case).
- Transgression of the judiciary** in the matters of **day-to-day governance** negates **separation of powers**. E.g., SC banning the sale of liquor in the National High Ways.
- Judiciary forays into domains where it lacks both the **capacity and competency**. E.g., High courts venturing into management of covid-19 crisis; former judge of SC, Markandey Katju, cautioned the judiciary against **policy prescriptions** by saying **"tell where there is one, don't make where there is none"**.
- It takes away focus from issues plaguing the judiciary. E.g., **burgeoning number of motivated PILs** leading to **high judicial pendency** in SC and HCs.
- Judicial activism, pursued over-zealously, may become **antithetical to the principles of democracy**. E.g., SC's direction to **mandatorily play national anthem** in the cinema halls.

Judicial activism puts a **check on unbridled executive/legislative actions** by **circumscribing them within constitutional limits**. However, **judicial restraint is equally important** for seamless functioning of the **parliamentary democracy**. (555 words)

**Q.8) "Fraternity means a sense of brotherhood of all Indians - a feeling of oneness and commonness - despite the diversities of caste, creed, language or religion." Discuss the significance of the concept of fraternity in the Indian Constitution. How do the various constitutional provisions promote fraternity among all citizens?**

**Approach:** In the introduction, briefly explain the concept of fraternity as prescribed in the preamble of the constitution. In the body of the answer, list points and arguments that highlight the significance of fraternity in the Indian context. Next, list various constitutional provisions that promote fraternity. Conclude by contextualizing the need to promote fraternity amidst the present-day challenges.

**Establishing and reinforcing fraternity** among all Indians transcending differences of caste, creed, language, or religion is **one of the basic objectives of the Constitution** of India as outlined in its **preamble**.

The concept of fraternity in the constitution is **significant for the following reasons**:

- Overcoming barriers to unity**: Fraternity among Indians promotes **patriotism** and a commitment towards the **unity and integrity of the nation**. It militates **against communalism, regionalism, and separatism**.

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2. **Social democracy:** Fraternity becomes a **way of life** for socially responsible people who undertake **social activism** for public causes. E.g., the **2012 Nirbhaya protests, RTI movement** by MKSS etc.
3. **Constitutional morality:** Fraternity is key to overcome **regressive social attitudes** that blind the people towards **social injustice**. E.g., **annihilation of caste, gender justice** etc.
4. **Inclusive Development:**
  - a) Sense of fraternity goads **responsible citizenry** to pay its **taxes** honestly. It enables the **welfare state** to work for the upliftment of the proverbial last man of **Gandhi's Talisman**.
  - b) Fraternity is key to move towards the goals of **rapid economic growth** and **prosperity**. It broadens the social base of growth by **utilizing the demographic dividend**, such as through greater participation of women in public life, better education, and health etc.

The various constitutional provisions that promote fraternity among all citizens in India are as follows:

1. **Preamble:** The Preamble of the Indian Constitution emphasizes fraternity as **one of its core values**. It outlines among its objectives securing to all citizens, fraternity assuring the **dignity of the individual** and the **unity and integrity** of the Nation.
2. **Citizenship:** Articles 5-11 (Part II) of the Constitution promotes the feeling of fraternity through a single citizenship system.
3. **Fundamental Rights:** The fundamental rights enshrined in the Constitution, such as the right to equality, **freedom of religion**, and the **prohibition of untouchability** promote fraternity. These rights ensure that every citizen is treated with dignity and respect, irrespective of their identity.
4. The **Directive Principles of State Policy** provide guidance to the government in achieving social and economic justice to **overcome social inequality**. E.g., minimizing inequalities in income, status, facilities, and opportunity (**article 38**)
5. **Fundamental duty:** Article 51A(e) of the Indian constitution prescribes the duty for every citizen to **promote harmony** and the **spirit of common brotherhood** amongst all the people of India transcending religious, linguistic, and regional or sectional diversities.
6. **Schedule V and VI** of the Indian Constitution are instrumental in fostering fraternity by **addressing the development gaps** in tribal areas. These schedules recognize the unique **socio-cultural identity** and autonomy of tribal communities while simultaneously striving for their **integration** into the larger national framework.

Fraternity is **one of the three principles of the French Revolution** and remains ever so relevant in an era of **hate speech, communal violence, vote-bank politics** etc. Without a sense of fraternity, the nation cannot advance towards goals of **development and prosperity**. Thus, it is incumbent upon the government, civil society, and individuals to engage in promotion of **constitutional fraternity** for a harmonious society. (498 words)

**Q.9) "The Indian Constitution is not a mere lawyer's document, it is a vehicle of life, and its spirit is always the spirit of the age." How has the constitution of India adapted to changing socio-economic and political circumstances over the decades?**

**Approach:** In the introduction, describe the nature of the constitution as dynamic. In the body of the answer, first list various ways in which the constitution has adapted to changing socio-economic and political circumstances. Next, list limitation in adapting to certain changes. Conclude with need for periodic review and reforms to keep pace with emerging changes.

The **dynamic nature of the Indian Constitution** has been highlighted by Dr BR Ambedkar in the given statement on the spirit of the constitution. The constitution has exhibited an **ability to adapt** to **changing socio-economic and political circumstances** in the following ways:

1. **Amendments to the constitution**, such as:
  - a) **1st amendment** was introduced to implement **land reforms**. It added **schedule 9** to shield land reform laws from judicial review.
  - b) **73<sup>rd</sup> and 74<sup>th</sup> amendments** gave constitutional status to local bodies.
  - c) **44<sup>th</sup> amendment** changed the words '**internal disturbance**' to '**armed rebellion**' to prevent a recourse to national emergency after the experience of the 1975 emergency.
  - d) **86th Amendment** (2002) made **right to education** a fundamental right to realize the **demographic dividend** after a decade of **economic liberalization**.
2. **Judicial interpretations** have ensured **progressive realisation of rights** by adapting constitutional principles to changing circumstances. E.g., the **Maneka Gandhi judgement** opened the arena for **judicial activism** by interpreting **due process of law in article 21**.
3. **Commissions**: The government has constituted various commission from time to time to keep apace with changing needs. E.g., 1<sup>st</sup> and 2<sup>nd</sup> **Administrative Reforms Commission** (ARC), **Mandal** Commission, **Sarkaria** Commission, **Punchhi** Commission etc.
4. **Constitutional Bodies** such as **National Commission for Backward Classes** and **Finance Commission** etc., take notice of changing circumstances and contemporary challenges in their recommendations to the government. E.g., **share of states in divisible pool of taxes**.
5. **Social movements** and **public pressure** for change influence the reading of the constitution. E.g., decriminalisation of homosexuality in **Navtej Singh Jauhar case**; allowing the entry of women in **Sabrimala** on grounds of **constitutional morality**.

However, the constitution has **also shown inability to adapt** to some of the emerging needs as discussed below:

1. There are some social changes and issues that constitution does not fully address, such as giving legal identity to **same-sex marriages**. It leads to challenges in ensuring equal rights for the LGBTQ+ community.
2. Despite various amendments, some political issues have not received comprehensive coverage in the Constitution, revealing a **need for clearer constitutional provisions**. E.g., the **role of the Speaker's office** and preventing its politicization is a matter of concern. Similarly, the appointment and removal of **Governors** and role of **constitutional conventions** have been subject to political controversies.
3. **Judicial Overreach**: Critics argue that the judiciary, through **expansive interpretations**, has at times encroached upon the domain of the executive and legislative. This raises questions about the **balance of power** and the potential **impact on policy-making** processes.
4. The **process of amending** the Constitution can be **time-consuming** and complex. This can result in delays in addressing emerging needs and adapting to changing circumstances. In some cases, the amendment process **may hinder swift and effective responses** to critical issues. E.g., it took 17 years for implementation of GST since being first proposed in 2000.
5. **Evolving technological realities**: The Constitution, being a product of its time, may face struggle to keep pace with advancements which fundamentally affect the governance principles. E.g., **emergence of AI**.

The **spirit of the constitution** has shown **great adaptability** with the spirit of the age and continues to guide the nation in its pursuit of a just, inclusive, and progressive society. However, certain limitations highlight the need for **periodic review** and **reforms** for addressing emerging needs and challenges to

ensure that the Constitution remains relevant and effective in the face of evolving socio-economic and political circumstances. (549 words)

**Q.10) In a democratic society, individual rights and freedoms are always balanced against the larger interests of society and the state. To what extent do the constitutional restrictions on fundamental rights strike a balance between individual liberty and societal interests? What factors are considered in evaluating the reasonableness of such restrictions? Refer to the case laws.**

**Approach:** Introduce the answer with provision of rights and restrictions under the constitution. In the body of the answer, list various constitutional restrictions that balance the rights with relevant public interest. In next section, list various grounds for evaluation of reasonableness of restrictions as per various case laws. Conclude with the need for a fine balance between individual liberty and social interests.

The Constitution of India provides several rights and **freedoms that empower the individual**. However, it also balances these freedoms with prescribed **restrictions in the larger public interest**. The courts have interpreted and applied these provisions to balance the individual rights and social interests.

The **constitutional restrictions** on fundamental rights strike a **balance between individual interests and societal interests** in the following ways:

1. While Article 15 **exhorts the state to be neutral** and not discriminate on the grounds of religion, race, caste, sex, or place of birth, it does make an **exception to accommodate larger good of vulnerable communities**. E.g., reservation of seats for women in local bodies; provision of free education for children etc.
2. **Article 16** guarantees **equality of opportunity** in matters of public employment. However, there are **exceptions for the implementation of affirmative action** for the benefit of any backward class of citizens to ensure adequate representation in public service.
3. **Article 19** of the Constitution guarantees **six fundamental freedoms** to citizens, including the right to freedom of speech and expression. However, these rights are subject to certain **reasonable restrictions** in the interest of the **sovereignty and integrity** of India, **security** of the state, **friendly relations** with foreign states, **public order, decency**, morality, **contempt** of court, **defamation**, and **incitement** to an offence.
4. **Article 21** of the Constitution guarantees the **right to life** and personal liberty, but it **is not absolute**. The state can deprive a person of his life or personal liberty through **procedure established by law**.
5. **Article 25** guarantees all persons the **freedom of conscience** and the right to preach, practice and propagate any religion of their choice. This right is, however, **subject to public order, morality and health**, and the power of the State to take measures for social welfare and reform. It also **does not include the right to convert**.

The **Supreme court** in India has the power to judge the reasonableness of restrictions in question. The judiciary looks at the facts and circumstances of each case to arrive at any conclusion. **There are certain guidelines**, which the courts should follow to determine whether the restrictions imposed are reasonable or not.

The following factors are considered in evaluating the reasonableness of restrictions on fundamental rights

1. **Proportionate Nexus:** The restrictions to be imposed should **not be excessive** and beyond what is needed in the larger interest of the society. E.g., In **Shreya Singhal** v. Union of India, the Supreme Court struck down Section 66-A of the IT Act on the ground that it gave **unfettered discretion** to the executive.
2. The restrictions can be imposed **only through law** and not through some departmental instructions or executive order (**Chintanman Rao vs State of MP**).
3. **Administrative discretion** is exercised in accordance with **the principles of justice, reason and evidence** to differentiate between right and wrong. The decision **cannot be based on the private opinion** or **whims and fancies** of the government.
4. Compliance with **procedural and substantive** reasonableness is required (**NB Khare vs State of Punjab**).
5. The reasonableness is to be determined by **an objective standard** and not subjective one i.e., the viewpoint of the normal reasonable man must be considered (**State of Madras v. V.G. Row**).

Reasonable restrictions are necessary to keep the **fine balance between individual liberty and social interests**. The courts have interpreted and applied these provisions to maintain this fine balance as per the cases in contention. (565 words)