

## CONSTITUTION AS A LIVING DOCUMENT

Q1: Choose the correct statement from the following.

- ❖ A constitution needs to be amended from time to time because
- ❖ Circumstances change and require suitable changes in the constitution.
- ❖ A document written at one point of time becomes outdated after some time.
- ❖ Every generation should have a constitution of its own liking.
- ❖ It must reflect the philosophy of the existing government.

Q2: Write True / False against the following statements.

- a. The President cannot send back an amendment bill for reconsideration of the Parliament.
- b. Elected representatives alone have the power to amend the Constitution.
- c. The Judiciary cannot initiate the process of constitutional amendment but can effectively change the Constitution by interpreting it differently.
- d. The Parliament can amend any section of the Constitution.

Q3: You have read in this chapter that the 42nd amendment was one of the most controversial amendments so far. Which of the following were the reasons for this controversy?

- a. It was made during national emergency, and the declaration of that emergency was itself controversial.
- b. It was made without the support of special majority.
- c. It was made without ratification by State legislatures.
- d. It contained provisions, which were controversial.

Q4: Which of the following is not a reasonable explanation of the conflict between the legislature and the judiciary over different amendments?

- a. Different interpretations of the Constitution are possible.
- b. In a democracy, debates and differences are natural.
- c. Constitution has given higher importance to certain rules and principles and also allowed for amendment by special majority.
- d. Legislature cannot be entrusted to protect the rights of the citizens.
- e. Judiciary can only decide the constitutionality of a particular law; cannot resolve political debates about its need.

Q5: Identify the correct statements about the theory of basic structure.

Correct the incorrect statements.

- a. Constitution specifies the basic tenets.
- b. Legislature can amend all parts of the Constitution except the basic structure.
- c. Judiciary has defined which aspects of the Constitution can be termed as the basic structure and which cannot.

- d. This theory found its first expression in the Kesavananda Bharati case and has been discussed in subsequent judgments.
- e. This theory has increased the powers of the judiciary and has come to be accepted by different political parties and the government.

Q6: From the information that many amendments were made during 2000-2003, which of the following conclusions would you draw?

- a. Judiciary did not interfere in the amendments made during this period.
- b. One political party had a strong majority during this period.
- c. There was strong pressure from the public in favour of certain amendments.
- d. There were no real differences among the parties during this time.
- e. The amendments were of a non-controversial nature and parties had an agreement on the subject of amendments.

Q7: Explain the reason for requiring special majority for amending the Constitution.

Q8: Many amendments to the Constitution of India have been made due to different interpretations upheld by the Judiciary and the Parliament. Explain with examples.

Q9: If amending power is with the elected representatives, judiciary should NOT have the power to decide the validity of amendments. Do you agree? Give your reasons in 100 words.

## **CONSTITUTION AS A LIVING DOCUMENT**

Answer 1:

A constitution needs to be amended from time to time because circumstances change and require suitable changes in the constitution.

Answer 2:

- a. True
- b. True
- c. False
- d. True

Answer 3:

- a. It was made during national emergency, and the declaration of that emergency was itself controversial.
- d. It contained provisions, which were controversial.

Answer 4:

- d. Legislature cannot be entrusted to protect the rights of the citizens.

Answer 5:

- a. Incorrect. The Constitution does not specify the basic tenets as it does not mention anywhere about the basic structure. This theory is given by the judiciary of India that looks into the spirit rather than the letter.
- b. Correct
- c. Incorrect. The judiciary has not explicitly defined the basic structure of the Indian Constitution. However, it has given various interpretations from time to time in its judgments.
- d. Correct
- e. Correct

Answer 6:

- e. The amendments were of a non-controversial nature and parties had an agreement on the subject of amendments.

Answer 7:

Special majority is required for amending the Constitution to make the process of amendment difficult. This is done to ensure that political parties do not pass amendments arbitrarily and any proposed amendment has the support of more than half the number of members of the actual strength of the house and not simply those that are present in the house. Special majority is inclined towards building a broad support among parliamentarians on issues of amendment.

Answer 8:

Any answer supported with argument or explanation would solve the purpose. It is strongly recommended that you prepare the solution on your own. However, one sample solution has been provided for your reference:

Certain amendments to the Constitution have been made as a result of the different interpretations upheld by the Judiciary and the Parliament. The most prominent among them was related to the basic structure of the Constitution. It led to the 42nd amendment to the Constitution that took place during the period of emergency. Prior to this, in its judgment in the Kesavananda Bharati case in 1973, the Supreme Court had upheld certain features of the Constitution to be fundamental in nature and making up the basic structure of the Constitution. It also placed the judiciary as the final authority in interpreting the Constitution and its basic structure and prohibited the legislature from passing any amendments that were contrary to this. Thus, the judiciary was concerned more about the spirit of the Constitution. The 42nd amendment in 1976 reduced the power of the judiciary and sought to restore the legislature to a pre-eminent position. It made changes in the preamble, the seventh schedule and 53 articles of the Constitution.

Answer 9:

Any answer supported with argument or explanation would solve the purpose. It is strongly recommended that you prepare the solution on your own. However, one sample solution has been provided for your reference:

I do not agree with the statement that the judiciary should not have the power to decide the validity of amendments. The judiciary is authorised to interpret the Constitution. Judiciary as an institution is involved in actively interpreting the provisions of the Constitution while pronouncing its judgments. It is more acquainted with the fundamentals of the Constitution than any other body. This power of judiciary checks the inappropriate and arbitrary use of the amendments by any political party that is in the power and also defends the fundamental rights of the people.