

1. Critically evaluate the significance of the amendment provisions in the Indian Constitution.

भारतीय संविधान में संशोधन प्रावधानों के महत्व का समालोचनात्मक मूल्यांकन करें।

Demand of the question:

It expects students to write about the significance of amendment provisions of Indian constitution along with critical evaluation about its ability to maintain constitution a living document.

Introduction:

Part XX of the Constitution under Article 368 deals with the amendment of the Constitution. Indian constitution provides for three kinds of amendment processes i.e., amendment by simple majority, amendment by special majority, and amendment by special majority and ratification by the States.

Body:

Significance of the amendment provisions of the constitution:

- The Constitution has to be amended at every interval of time. A Constitution which is a static document becomes a big hurdle in the path of the progress of the nation.
- As the time is not static; it goes on changing in the same way the political, economic and social conditions of the people also goes on changing so for that reason, provision of amendment of the Constitution is made with a view to overcome the difficulties which may encounter in future in the working of the Constitution.
- Technological changes create new fields of knowledge whose regulation becomes critical in the absence of amendment. E.g., need of constitutional status to upcoming institutions like Data protection authority of India.
- It maintains flexibility of constitution to accommodate new institutions, reform existing ones and accept international commitments within our own laws.
- Amendment provisions help to strengthen foundational principles of Indian constitution like cooperative federalism through GST council, constitutional status to National Commission for Backward Class to ensure equality.
- If there were no provision made for the amendment of the Constitution, people would have recourse to extra-Constitutional methods like revolution to change the same.

Even though, Parliament has unlimited power of amending constitution,

- Basic structure doctrine of Supreme Court acts as check on amending power of parliament. If Constitutional fathers wanted check on the amending power of parliament then they might have added those provisions in constitution. It can also be said that it has extra Constitutional origin as there is lack of basic

in the basic structure doctrine and what the Supreme Court has done is to assume to itself a power of veto on all Constitutional amendments. It is like the sovereign people through their representatives cannot bring about their desired change.

- It is also appeared from the few judicial pronouncements that the Supreme Court has assumed much power in the name of basic structure what may be termed as power of veto to every Constitutional amendment. This doctrine was meant for special use in times when Constitutional amendments threatened the basic framework of the Constitution. This doctrine is subjective and vague. As there is no clear cut list laid down by the judiciary that this constitutes the basic structure and has said that it will be decided on the case to case basis.
- Majoritarian process: Provisions of amendments makes easy to ignore minority voices while making important constitutional amendments.
- Inability of states to initiate constitutional amendment in Indian constitution does not represent matured cooperative federalism. There is skewed representation to states in Rajyasabha based on the population proportion rather than US like equality of representation.

However, Basic structure doctrine acts as legal compass for amendment provision executioners. It prevents parliamentarians from abuse of majoritarian power. There is need of some implied inherent limitation on the amending power of the Parliament as parliament is not sovereign in India.

Conclusion:

The provisions relating to the amendment procedure leave a wide scope for taking matters to the judiciary. Despite of this, flexibility of amendment provisions has succeeded in meeting the changing needs and conditions of society without losing spirit and values foreseen by constitutional makers.

2. The 'basic structure' doctrine has gone a long way in ensuring that the State doesn't circumvent the implicit foundational principles enshrined of the constitution. Critically comment

'मूल संरचना' का सिद्धांत यह सुनिश्चित करने के लिए एक लंबा रास्ता तय कर चुका है कि राज्य संविधान के निहित मूलभूत सिद्धांतों को दरकिनार नहीं कर सकता। समालोचनात्मक टिप्पणी करें

Demand of the question:

It expects students to write about role played by basic structure doctrine in ensuring implicit foundational principles of constitution in state action along with limitations of basic structure doctrine in such role.

Introduction:

Basic structure doctrine as evolved in the Keshavananda Bharti case (1973) seeks to resolve a legal conundrum which arises out of the interplay between those provisions of the Constitution which guarantees the fundamental rights and those which enable the Parliament to amend the Constitution.

Body:

There is no such exclusive definition of basic structure given by the judiciary. Judicial approach has been on case to case basis to define what basically includes in the doctrine of basic structure.

Role of Basic structure doctrine in protection of founding principles of Indian constitution:

- This doctrine has an anti-majoritarian flavour and is of prime importance as it prevents the Parliament from abusing its majoritarian power. This doctrine protects our basic rights and every acts of the Parliament is now subject to this doctrine, and puts a full stop on the unconstitutional Constitutional amendments.
- Judiciary came forward with this theory of 'implied limitation' in the form of basic structure that the Parliament can amend whatever it wants to, but cannot amend the basic structure of the Constitution as Article 368 itself says that the Constitution shall stand amended in accordance with the Bill.
- Minerva Mills (1980) case observed that the Indian Constitution is founded on the bedrock of the balance between Parts III (fundamental rights) and Part IV (directive principles). To give absolute primacy to one over the other is to disturb the harmony of the Constitution. This harmony and balance between fundamental rights and directive principles is an essential feature of the basic structure of the Constitution.
- The rule of law and judicial review was held as basic structure in Waman Rao(1981), Sampath Kumar (1986), and Sambamurthy (1986) cases. Effective access to Justice is part of the basic Structure, according to the ruling in Central Coal Fields case(1980).
- In Kihoto Hollohon (1992), the Supreme Court has declared that democracy is a basic feature of the Constitution and election conducted at regular prescribed intervals is essential to the democratic system envisaged in the Constitution. So is the need of protect and sustain the purity of the electoral process that may take within it the quality, efficiency and adequacy of the machinery for resolution of electoral disputes.
- Bommai case (1994) have observed: Democracy and Federalism are essential features of our Constitution and are part of its basic structure. In the same case, the Supreme Court has ruled that secularism is a basic or an essential feature of the Constitution.
- In M. Nagraj v. Union of India case (2006) the court observed that the amendment should not destroy Constitutional identity and it is the theory of

Basic Structure only to judge the validity of Constitutional amendment. Doctrine of equality is the essence of democracy accordingly it was held as a Basic Structure of the Constitution.

- In *I. R. Coelho v. State of Tamil Nadu* (2007), the Supreme Court applied this doctrine and held that: All amendments to the Constitution made on or after 24th April, 1973, even though an Act is put in the Ninth Schedule by a Constitutional amendment, its provision would be open to attack on the ground that they destroy or damage the Basic Structure if the fundamental right or rights taken away or abrogated pertains or pertain to the Basic Structure.

However, this doctrine is not the result of an extra judicial effort but what actually led was the attempts which were made by the Parliament many times to bring changes in the Constitution in exercise of its constituent power, then only judiciary came forward with this theory of 'implied limitations' in the form of basic structure that the Parliament can amend whatever it wants to, but cannot amend the basic structure of the Constitution.

Limitations of basic structure doctrine in protecting foundational principles:

- Basic structure doctrine not always helped to ensure constitutional founding values as it acted as shield to resist judicial transparency and accountability in the name of independence of judiciary due to which judiciary remains accountable to none but themselves.
- Basic structure doctrine remains ineffective to reduce threats to federalism despite of *S. R. Bommai* judgement of 1994. Though use of article 356 has reduced it has not ended altogether. It is often circumvented by using the institution of governor to create troubles for state governments, which defeats the founding value of constitution.
- Pressure on judiciary itself is increasing, unprecedented press conference of judges couple of year back, appointments of judges after retirement increases questions of integrity of judges, which also goes against the separation of power as basic feature.
- Despite of parliamentary democracy being one of the principles of basic structure, there is consistent decline in the importance of parliament as number of bills referred to the standing committee drastically reduced in 16th Lok Sabha and further in 17th Lok Sabha. It is true that parliamentary structures remain intact formally but on weak grounds.

Day by day it is becoming difficult to maintain basic structure doctrine as check on the instincts of majoritarian executives and legislatures. Recent laws like Citizenship amendment act questions secular characteristics of Indian constitution however it remains sub-judice issue.

Conclusion:

Basic structure is an open ending document without definition and codification which maintains it fluid and ready tool against state initiatives of unconstitutional features. There is need of constant vigil and proactive measures by the judiciary at the same time equal insistence in reforming itself is also critical.

3. Agriculture and rural industry could be India's strength post COVID-19. Do you agree? Substantiate your response.

कृषि और ग्रामीण उद्योग COVID-19 के बाद भारत की ताकत हो सकते हैं। क्या आप सहमत हैं? आपकी प्रतिक्रिया को सारगर्भित करें।

Demand of the question:

It expects students to write about whether agriculture and rural industry will be India's strength in economic revival or it will play marginal role in post COVID-19 India with examples and appropriate data.

Introduction:

India is predominantly a rural country. As per the 2011 Census, 68.8 per cent of country's population and 72.4 per cent of workforce resided in rural areas. Rural economy constitutes 46 per cent of national income. Despite the rise of urbanization more than half of India's population is projected to be rural by 2050. Thus growth and development of rural economy and population is a key to overall growth and inclusive development of the country in post COVID-19 India.

Body:

Criticality of the rural sector in the economy:

- As per NITI Aayog report, more than half of Indian industrial production comes from the rural areas. Rural construction also accounts for nearly half of the total building activity in the country. The value of rural services is about a quarter of the total services output.
- Agriculture has accounted for less than half of total rural output since the turn of the century. On the other hand, National Sample Survey Office (NSSO) data shows that more than one-fifth of rural households with self-employment in agriculture have income less than the poverty line.
- Agriculture labour productivity in terms of gross value added (GVA) in India is less than a third of that in China and 1% of that in the US. Rural sector is net importer vis-e-vis urban areas which indicate outward flow of money.

Agriculture and Rural industry as engine of economic recovery:

- Renewed focus on NREGA: The government's commitment to provide an additional Rs. 40,000 crore allocation for the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) for FY21 will help to spur rural demand.

- Investment in farm infrastructure: NABARD will facilitate Rs 1 lakh crore finance for funding Agriculture Infrastructure Projects at farm-gate and aggregation points like Primary Agricultural Cooperative Societies, Farmers Producer Organizations, Agriculture entrepreneurs, Startups, etc. Local initiative for building community infrastructure, like water harvesting, canal irrigation network, huts for community market centers etc. may generate employment opportunities.
- Opportunity for Indian agriculture to tap world markets: As the global supply chains for agricultural products remains paralyzed in global market, Indian product can make headways as Indian rural sector is not as badly affected as the North American or European rural sector.
- If there is no universal access to a Covid-19 vaccine for another 18-24 months, then businesses in safer sectors and locations are likely to do well, here rural sector might act as net gainer.
- In rural India, where it is naturally easier to have physical distancing and outdoor work. This may shift the focus from urban markets to rural markets, for both demand and production.
- Surplus labour: Livestock, fisheries, dairy, vegetables, fruit and food processing are more labour-intensive and high value-yielding. After many decades of neglect in research and development, lack of market access, on-off policies for exports, and market distortions, the present adversity may be a timely opportunity for this sector. Recently, Finance Minister informed allocation of Rs 20,000 crore for fishermen through Pradhan Mantri Matsya Sampada Yojana (PMMSY). This will include Rs 11,000 crore for activities in marine, inland fisheries and aquaculture while Rs. 9000 crore to be spent on developing fishing Harbours, cold chain, markets etc.
- Self reliant rural sector: Local production of items of local requirement, the local weavers, artisans and craftsmen may establish micro enterprises and form local community marketing cooperatives. Finance minister announced Rs 10,000 crore scheme for the formalization of Micro Food Enterprises (MFE). This will help nearly 2 lakh MFEs to achieve technical up-gradation to attain FSSAI food standards, build brands and marketing.
- There may be community campaigns for buying local products, as far as possible, replacing some of the items coming from urban industrial sectors.

However, rural employment has shrunk after 2005 while the urban areas have not been able to absorb the millions who are leaving the farm. Rural India is incapable of absorbing the estimated 23 million interstate and intrastate migrant labours who might return home from urban areas due to the COVID-19 lockdown.

It would need support of a suitable policy framework and reforms in pricing policy, tax, market access, credit and rural infrastructure, like warehouses and cold storage. The next two years or so of how we learn to live with corona virus can redesign the economy towards safer and more sustainable production and consumption, with agriculture and the rural economy as its strength, rather than its weakness.

Conclusion:

In this economic pandemic, the lifeline of Indian economy lies in the transformation of the rural sector into a matrix of local economies, striking a balance between their diversified local production for local needs and surplus trading.

