

**1. The Basic Structure has maintained the integrity of Indian constitution.
Elucidate**

Approach:

As the directive in the question is elucidate it is important to explain the doctrine of basic structure clearly and then explain, how it has maintained integrity of the Indian constitution over the period of time, also question demands to highlight important court judgements which have followed subsequently.

Introduction:

The constitution empowers the Parliament and the State Legislatures to make laws within their respective jurisdiction. Bills to amend the constitution can only be introduced in the Parliament, but this power is not absolute. If the Supreme Court finds any law made by the Parliament inconsistent with the constitution, it has the power to declare that law to be invalid. Thus, to preserve the ideals and philosophy of the original constitution, the Supreme Court has laid down the basic structure doctrine. According to the doctrine, the Parliament cannot destroy or alter the basic structure of the constitution.

Body:

Origin-

- The origins of the basic structure doctrine are found in the German Constitution which, after the Nazi regime, was amended to protect some basic laws. The original Weimar Constitution, which gave Parliament to amend the Constitution with a two-thirds majority, was in fact used by Hitler to his advantage to make radical changes. Learning from that experience, the new German Constitution introduced substantive limits on Parliament's powers to amend certain parts of the Constitution which it considered 'basic law'.
 - The Supreme Court recognized the Basic 'Structure concept' for the first time in the historic 'Kesavananda Bharati' case in 1973. Ever since the Supreme Court has been the interpreter of the Constitution and the arbiter of all amendments made by parliament. In this case validity of the 25th Amendment act was challenged along with the Twenty-fourth and Twenty-ninth Amendments. The court by majority overruled the 'Golak Nath' case which denied parliament the power to amend fundamental rights of the citizens. The majority held that article 368 even before the 24th Amendment contained the power as well as the procedure of amendment. The Supreme Court declared that Article 368 did not enable Parliament to alter the basic structure or framework of the Constitution and parliament could not use its amending powers under Article 368 to 'damage', 'emasculate', 'destroy', 'abrogate', 'change' or 'alter' the 'basic structure' or framework of the

constitution. This decision is not just a landmark in the evolution of constitutional law, but a turning point in constitutional history.

Maintaining Integrity-

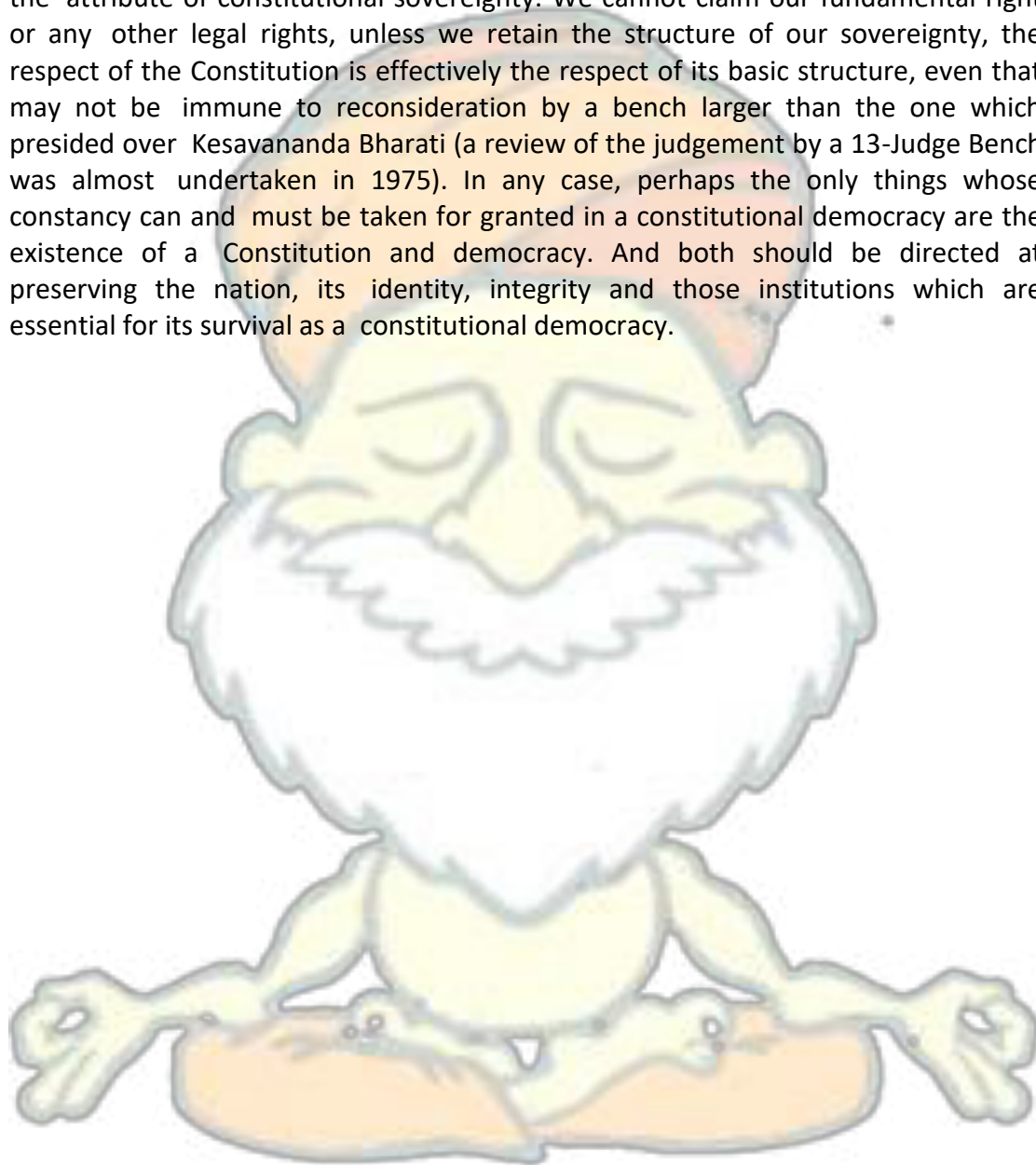
The essence of the constitution lies in its values like justice, equality, rule of law, separation of powers, secular character, a unique form of federalism etc. Basic Structure plays an important role in cementing these values as the base of constitutionalism in India.

- Subsequent to the evolution of Basic Structure in 1973 Supreme Court in its various rulings tried to protect the integral features as mentioned in the Keshvananda Bharti case by striking down laws which are in contravention to the Basic Structure of the Constitution. For example, in *Minerva Mills Vs Union of India* the Supreme Court used the Basic Structure doctrine to strike down the 39th Amendment and the parts of 42nd amendment respectively and paved the way for restoration of Indian democracy.
- In *I. Coelho Vs State of Tamil Nadu*, the Supreme Court held that all laws were subject to the test of being consistent with fundamental rights which are the part of Basic Structure thus giving primacy to the fundamental rights as an integral feature and its importance in upholding the essence and values of the constitution because rights are the base of any constitution if it has to succeed in principle.
- Basic Structure paved the way for executive and parliament to follow certain ideologies and principles such as socialism and secularism in letter and spirit. Thus, allowed political dispensation to play an important role in the socio economic justice.
- If the majority of the Supreme Court had held (as six judges indeed did) that Parliament could alter any part of the Constitution, India would most certainly have degenerated into a totalitarian State or had one-party rule. At any rate, the Constitution would have lost its supremacy. One has to only examine the amendments that were made during the Emergency. The 39th Amendment prohibited any challenge to the election of the President, Vice-President, Speaker and Prime Minister, irrespective of the electoral malpractice. The 41st Amendment prohibited any case, civil or criminal, being filed against the President, Vice-President, Prime Minister or the Governors, not only during their term of office but forever. Thus, if a person was a governor for just one day, he acquired immunity from any legal proceedings for life. If parliament were indeed supreme, these shocking amendments would have become part of the Constitution.
- Supreme Court fairly relied on the Basic Structure to strike down the 99th constitutional amendment act which sought to set up NJAC (National Judicial Appointments Commission) to replace the appointment of judges by the collegium system. This, despite the bill being passed by the two-third majorities of both houses of the parliament and 20 state legislatures. Thus, prohibiting the

influence of executive interference in the judicial appointments which comes under the basic structure of the constitution.

Conclusion:

In a country governed by a written Constitution, the democratic right flows from the attribute of constitutional sovereignty. We cannot claim our fundamental right or any other legal rights, unless we retain the structure of our sovereignty, the respect of the Constitution is effectively the respect of its basic structure, even that may not be immune to reconsideration by a bench larger than the one which presided over Kesavananda Bharati (a review of the judgement by a 13-Judge Bench was almost undertaken in 1975). In any case, perhaps the only things whose constancy can and must be taken for granted in a constitutional democracy are the existence of a Constitution and democracy. And both should be directed at preserving the nation, its identity, integrity and those institutions which are essential for its survival as a constitutional democracy.



2. The 42nd amendment is considered a watershed in India's constitutional history. Why? Justify.

Approach

A simple and straightforward question where in you need to justify with reasons why the 42nd constitutional amendment act is considered a watershed in India's constitutional history.

Introduction

The year 1976 is remembered as a landmark for the Indian Constitution, because of the sweeping 42nd Constitutional Amendment Act (CAA). It was majorly based on the proposals made by Swaran Committee. The amendment amended the Preamble of the Constitution, 40 Articles, Seventh Schedule and added 14 New Articles to the Constitution.

Body

The 42nd CAA had brought about widespread changes to the Constitution, whose effects can still be felt to this day. Overall, the 42nd amendment is considered a watershed in India's constitutional history, this is evident from the following details –

- **Preamble** – The characterization of India as “Sovereign Democratic Republic” was changed to “Sovereign Socialist Secular Democratic Republic”. The words ‘unity of Nation’ replaced with ‘unity and integrity of Nation’.
- **Directive Principle of State Policy** - Four new directive principles were added
 - To secure opportunities for healthy development of children (Article 39)
 - Enabling free legal aid Article 39A
 - Protection of workers in factories Article 43A
 - Protection of environment and to safeguard Forest and Wildlife Article 48A
- **Fundamental Duties** - Part IVA was added to the Constitution enabling Fundamental Duties to the citizens.
- **Federal** - Insertion of Article 257A, to enable the Centre to deploy armed forces to deal with any grave situation of law and order arising in any State.
- **Emergency** - It authorized the President to declare emergency in any part of the country.
- **Legislature** - Life of Lok Sabha and State Legislative Assembly was extended from 5 to 6 years.
- **Executive** - Article 74(1) was added, which stated that President shall act in accordance to the council of ministers.

Judiciary - Insertion of Article 32A in order to deny Supreme Court the power to consider the Constitutional validity of a State law. Another new Article

- 131A, gave the Supreme Court an exclusive jurisdiction to determine question relating to the Constitutional validity of a central law.

The 42nd amendment is also sometimes called ‘mini-Constitution’ or ‘Constitution of Indira’, and was the most comprehensive amendment carried out during internal emergency (1975-1977). This background of being enacted during an emergency also makes the amendments controversial, even to this day.

- As it was undertaken at the time of Emergency, when most of the opposition leaders were detained in preventive detention, so it became more or less a party affair. The Act introduced several changes, most of which sought to tilt the power in the favour of executive away from the Judiciary.
- History often takes note of the introduction of the words secular and socialist to the Preamble. But although the original Preamble did not contain these specific words, several provisions in the Constitution, especially those relating to “Fundamental Rights” and “Directive Principles of State Policy” entrenched particular variations of secularism and socialism in keeping with the vision of the framers.
- The 42nd amendment to the constitution is seen in the context of efforts towards a growing global consciousness for the protection of the environment in the seventies. This is evident from Article 48A, part of the Directive Principles of State Policy and Article 51A (g), part of the Fundamental Duties, added through this amendment.

The 42nd amendment was also watershed for its aftermath where for the first time in Indian history, a non-congress led government was formed in India after elections post emergency. Under the leadership of Morarji Desai, Janta Party Government started the work of reforming the Constitution.

- The powers of the Supreme Court and High Courts were provided back to them through the 43rd Amendment.
- Along with the strengthening of the Judiciary and removing the 42nd amendment, the 44th Amendment has also done the task of strengthening the Constitution even more than ever.
- This amendment did many changes to escape the situation like the 42nd Amendment in the future. The term “Armed Rebellion” was added in the place of “Internal Unrest” in Emergency related provisions. Along with this, this amendment also strengthened the fundamental rights.

Conclusion

A Constitution to be living must be growing. Using Article 368, the 42nd Constitutional Amendment Act of 1976 has touched upon almost all the parts of the Constitution, disturbing the balance between various organs of government as well as the federal structure but Indian democracy and constitution proved to be resilient and were further strengthened from this shock in the future.

**3. How does the principle of checks and balances operate in the Indian polity?
Explain in the light of constitutional provisions.**

Approach

Students are expected to write about the checks and balance in the Indian polity and how it operates in the light of constitutional provisions.

Introduction

There is a system of checks and balances wherein the various organs impose checks on one another by certain provisions. The aim of checks and balances is to safeguard that different branches of government control each other internally (checks) and serve as counter weights to the power possessed by the other branches (balances).

Body

Principle of Checks and balance in the Indian polity:

The doctrine of separation of powers is a part of the basic structure of the Indian Constitution even though it is not specifically mentioned in it. Hence, no law and amendment can be passed violating it. The system of checks and balances is essential for the proper functioning of three organs of the government. Different organs of the state impose checks and balances on the other.

The following examples illustrate the checks and balances:

- Judiciary exercises judicial review over legislative and executive actions. Judiciary has the power to void laws passed by the Parliament. Similarly, it can declare the unconstitutional executive actions as void.
- Legislatures review the functioning of the executive.
- Executive appoints the judges.
- Legislative branch removes the judges. It can also alter the basis of the judgment while adhering to the constitutional limitation.

Some of Indian constitution provisions which emphasizes the checks and balance are the following:

- The judiciary has the power to strike down any law passed by the legislature if it is unconstitutional or arbitrary as per Article 13 (if it violates Fundamental Rights). A system of checks and balances has been embedded so much so that the courts are competent to strike down the unconstitutional amendments made by the legislature.
- Article 50 This article puts an obligation over the State to separate the judiciary from the executive. But, since this falls under the Directive Principles of State Policy, it is not enforceable.
- Articles 121 and 211 The legislatures cannot discuss the conduct of a judge of the High Court or Supreme Court. They can do so only in matters of impeachment. It, in a way, provides for the separation of the legislature and the judiciary. This article states that the conduct of justice or the way a judge

discharges his duties of any Court cannot be discussed in the legislature (state or union).

- Articles 122 and 212 The courts cannot inquire the validity of the proceedings of the legislatures. This article is aimed at keeping the judiciary (the law interpreting body) and the legislature (the law-making body) separated. It does so by stripping the judiciary of any power to review and question the validity of proceedings that take in a legislature or the Parliament.
- Articles 53 and 154 respectively, provide that the executive power of the Union and the State shall be vested with the President and the Governor and they enjoy immunity from civil and criminal liability.
- Article 361 This article separates the judiciary and the executive. It states that the President or any governor of any state is not answerable to any court in the country for actions and activities are taken in performance/exercise of the powers and duties of their office.

Weakening System of Checks & Balances:

- **Judicial Activism:** In many recent judgments, the Supreme Court has become hyper-activist in making judgements that are deemed as laws and rules. This transgresses the domain of legislature and executive.
- **Executive Excesses:** Executive in India is alleged of over-centralisation of power, weakening of public institutions like CIC & RTI and passing laws to strengthen law, order & security of the state but curbs freedom of expression as well like UAPA.
- **Weakened Legislature Scrutiny:** According to data by PRS Legislative Research, while 60% of the Bills in the 14th Lok Sabha and 71% in the 15th Lok Sabha were referred to Department-related Standing Committees (DRSCs) concerned, this proportion came down to 27% in the 16th Lok Sabha.

Conclusion

For a democratic polity and diverse society like India, a Constitutional system with strict separation of powers is undesirable and impracticable. However judicious and calculated constitutional functional overlapping makes way for democratic collaboration of the three organs of the government. Such mutual cooperation bridges the executive, legislative and judicial gap facilitating smooth functioning of government.

4. What is vaccine diplomacy? How is it shaping India's image and stature in the world? Examine.

Approach-

Candidate is required to define vaccine diplomacy, give current stature of India in pharmaceutical industry. How India overcame covid-19 challenges and developed vaccine. In the latter half geopolitics of south Asia and vaccine diplomacy of India with new dynamics can be given.

Introduction

India is known as pharmacy of the world. It is the largest producer of generic medicines, accounting for 20 percent of their global production. It meets 62 percent of the global demand for vaccines. Since the coronavirus pandemic began, the country has been at the forefront of supplying medicines and generic drugs to others.

Body

India received requests from more than 100 countries for hydroxychloroquine (once thought to help treat COVID-19) and paracetamol (a painkiller), and sent supplies to Brazil, the United States, and Israel. By May 2020, India was spending \$16 million on pharmaceuticals, test kits, and other medical equipment for about 90 countries.

What is vaccine diplomacy?

Vaccine diplomacy is the use of vaccines to increase a country's diplomatic relationship and influence of other countries.

- The Covid-19 pandemic has thus far afflicted around 96 million people worldwide. The death toll has crossed 2 million.
- The 1918 'pneumonic' pandemic led to the death of an estimated 50 to 100 million people worldwide. An estimated 17-18 million people died in India. There has, in present times, been a global effort since April 2020, to jointly address the challenges posed by the Covid-19 virus.
- The pandemic is now at a stage where the largest number of cases and casualties are in some of the most advanced countries. The US has suffered the largest number of fatalities in the world, with over 24 million cases and 4 lakh deaths.
- The affluent western world, notably the US and Europeans, are focused almost exclusively on their own problems. There appears to be relatively little interest or intent in helping developing countries
- New Delhi has set itself the target of immunising 300 million of its citizens by July, from both its AstraZeneca and Bharat Biotech Industries.
- While initial exports were scheduled for Bangladesh, Saudi Arabia and Morocco, commitments have also been made for larger supplies to SAARC neighbours like the Maldives, Sri Lanka, Bangladesh, Myanmar, Bhutan and

Nepal. This is an occasion for India to earn the long-term goodwill of its immediate neighbours.

- One hopes this exercise is carried out imaginatively, for also strengthening our relations with other countries in our extended neighbourhood, across the Indian Ocean.
- Even before multilateral organizations got on board, New Delhi also consistently supported measures to temporarily suspend COVID-19 vaccine intellectual property rights—which would mean it could produce generic versions at lightning speed whenever a vaccine was created—and sponsored a WHO resolution calling for international cooperation to ensure global access to the vaccine.
- While commercial overseas shipments are likely to start around March, India has already sent 3.2 million free doses of the vaccine Bangladesh, Nepal, Bhutan, and the Maldives.
- India’s vaccine diplomacy puts it in direct competition with China—which has made no secret that vaccine distribution is wrapped up in its broader geopolitical ambitions.
- It has even explicitly included vaccine distribution in its broader Health Silk Road initiative, which aims to bolster China’s international soft power.
- Vaccines are the single most powerful health interventions developed by modern medicine. Universal, equitable, and affordable supply of vaccines for low- and middle-income countries are needed more than ever.

Conclusion

India is guiding vaccine efforts worldwide while developed nations are struggling India can become a leading example of not using vulnerable times to further its own narrow interests but to help global community overcome this crisis. India has no doubt has earned the goodwill of international community but has improved its stature in south asia.

**5. Bailing out distressed airlines is a bad economic precedent. Do you agree?
Critically comment.**

Approach

Since question is asking you to Critically comment so it demands forming opinion on main points but in the end, you have to provide a fair judgement.

Introduction

Last year several airlines told the Treasury Department they would take funds from a \$25 billion bailout as the industry faces the looming threat of bankruptcy amid global travel limitations due to the coronavirus pandemic. That bailout is sparking an inevitable debate about moral hazard—when a business engages in riskier behaviour because it's protected from the consequences—and the future of the airline industry.

Body

BAILING OUT DISTRESSED AIRLINES IS A BAD ECONOMIC PRECEDENT

- While the airline industry is always fast to request a bailout, such a bailout is rarely appropriate.
- As far as bailouts go, it is preferable to extend loans to firms than outright grants.
- To give the big carriers tens of billions with no strings is to subsidize capital that was very well-compensated and imposes that cost on our kids and grandkids.
- Nevertheless, before the government considers any sort of bailout for the airlines, airlines should always first go through the bankruptcy process.
- It's investors who are powerful and want to be bailed out. Investors knew when they made their investments that they would have to weather a storm or two.

BAILING OUT DISTRESSED AIRLINES IS NOT A BAD ECONOMIC PRECEDENT

- The concessions are greater than some airlines were hoping to make, but the industry is struggling and access to cash is crucial as passengers avoid flying and demand refunds on previously booked flights.

- Airlines would still operate in bankruptcy, but the question is: What will they look like after bankruptcy. Plus, the airline industry has a big problem even if it comes out of this pandemic financially unscathed. How will it convince passengers—or even its own employees—that it's safe to fly again?

Conclusion

The COVID-19 pandemic is undoubtedly hurting the airline industry. The hardship is the product of both direct government action prohibiting or restricting flights and consumers' unwillingness to fly owing to their fears of being infected by the virus or infecting others. Cancelled and postponed flights mean sharp declines in revenues but not a reduction in fixed costs. Passengers aren't booking many new flights, so there's little revenue coming in. Further, as airlines cancel flights, the costs of refunding tickets that have already been purchased also mount. However, even if one is sympathetic to the idea of helping industries in times of crisis, the critical question to ask is, are there more effective ways to resolve a company's financial problems than a taxpayer-funded bailout?

