

Q.1) “The Indian Constitution is not merely a legal text but a living, breathing document that evolves with societal needs.” Examine this statement with reference to the judicial interpretation of the ‘Right to Equality’ under Article 14. (150 words, 10 marks)

Introduction

The Indian Constitution was not meant to be static—it was designed to adapt to **changing societal needs**. **Article 14**, the Right to Equality, reflects this evolving nature through progressive judicial interpretation, making the Constitution a truly living document.

Body

Indian Constitution Is a Living Document

- 1. Flexible wording helps it grow:** The use of broad, open-ended terms allows for reinterpretation over time.
Example: Words like “liberty” and “equality” were given expansive meaning in ***Maneka Gandhi v. Union of India (1978)***.
- 2. Courts keep it updated:** The judiciary interprets the Constitution to respond to new challenges.
Example: In ***K.S. Puttaswamy v. Union of India (2017)***, the Supreme Court declared the Right to Privacy as a fundamental right.
- 3. Amendments allowed, but with limits:** The Constitution allows changes while safeguarding core values.
Example: ***Kesavananda Bharati v. State of Kerala (1973)*** established the Basic Structure doctrine.
- 4. PILs connect it with people:** Public Interest Litigations have brought social issues into constitutional discourse.
Example: In ***MC Mehta v. Union of India***, the court used PILs to enforce environmental rights.

Right to Equality

Article 14 guarantees equality before the law and equal protection of the laws. Courts have interpreted this to mean not just **formal equality**, but **substantive fairness**—recognising diverse needs and removing barriers that hinder real equality. This broader view has supported reservations, gender justice, and LGBTQ+ rights.

How Judiciary Interpreted Right to Equality Over Time

- 1. Laws must not be arbitrary:** Article 14 ensures that state actions must be fair, reasonable, and non-arbitrary.
Example: In ***E.P. Royappa v. State of Tamil Nadu (1974)***, the Court held that arbitrariness is antithetical to equality.
- 2. Different groups need different treatment:** The principle of reasonable classification allows positive discrimination for justice.
Example: In ***Indra Sawhney v. Union of India (1992)***, reservations for OBCs were upheld to achieve substantive equality.

3. Same work means same pay: The right to equality includes equal pay for equal work, regardless of job status.
*Example: In **Randhir Singh v. Union of India (1982)**, the Court extended equal pay to temporary employees.*

4. Women must be treated fairly: Any law or policy that reinforces gender stereotypes violates equality.

*Example: In **Anuj Garg v. Hotel Association of India (2008)**, the Court struck down a law barring women from working in bars.*

5. LGBTQ+ community has equal rights: Sexual orientation is protected under equality, dignity, and non-discrimination.

*Example: In **Navtej Singh Johar v. Union of India (2018)**, Section 377 was read down to decriminalize consensual homosexual acts.*

6. Transgender persons are equal citizens: The right to self-identify gender is integral to dignity and equality.

*Example: In **NALSA v. Union of India (2014)**, the Court recognized the third gender and affirmed their constitutional rights.*

Conclusion

Through **Article 14**, the Constitution shows its **living spirit**—adapting and evolving to serve justice. Judicial interpretations have made the Right to Equality a powerful weapon against injustice in a changing society.

Q.2) Article 44 of the Constitution envisions a Uniform Civil Code (UCC) as part of the Directive Principles of State Policy. Do you think the implementation of UCC is necessary in present-day India to ensure equality and national integration? Analyse in light of recent legislative and judicial developments. (150 words, 10 marks)

Introduction

Article 44 of the Indian Constitution envisions a Uniform Civil Code to provide **equal civil laws** for all citizens, regardless of religion, as a means to promote **national unity and equality**. Recent debates have renewed interest in its feasibility and desirability.

Body

Arguments in Support of UCC

1. Promotes Gender Justice: UCC can remove discriminatory personal laws, especially against women.

*Example: Triple talaq was struck down in **Shayara Bano v. Union of India (2017)** for violating women's rights under Article 14.*

2. Upholds Secularism: It separates religion from personal law, aligning with India's secular ideals.

*Example: Supreme Court in **Sarla Mudgal v. Union of India (1995)** urged for UCC to avoid misuse of religion in marriage and divorce.*

3. **Makes Laws Simpler:** Uniform laws reduce legal confusion for citizens and courts. Example: A **common code** would ease adjudication in matters of marriage, divorce, inheritance, and adoption.
4. **Unifies the Nation:** A single civil code fosters civic unity and reduces communal divides. Example: **Goa's UCC**, in place since Portuguese rule, serves as a working example of legal uniformity in a diverse society.
5. **Backed by Legal Reforms:** Recent moves show increasing support for UCC implementation. Example: **Uttarakhand** passed the first state-level UCC in 2024; the **Law Commission (2023)** also advocated for wider reforms.

Criticism and Counterarguments

1. **May Violate Religious Freedom:** Critics argue UCC could infringe on **Article 25** (freedom of religion) and **Article 29** (cultural rights). Example: Communities fear losing their right to practice personal laws tied to religion.
2. **Threat to Cultural Diversity:** Uniformity may overlook India's vast cultural and traditional pluralism, sparking resistance. Example: **Diverse customs** in marriage, inheritance, and adoption may not be adequately addressed under a single code.
3. **Potential Political Misuse:** UCC could be used as a political tool to target minorities, leading to further polarization. Example: The communal nature of UCC debates during elections has raised questions about its true intent.
4. **Implementation Challenges:** Legal and federal complexities make nationwide implementation difficult, especially when personal laws fall under the **Concurrent List**. Example: **State-Centre disputes** could arise over legislative competence.
5. **Law Commission Observations:** The **21st Law Commission (2018)** stated that UCC is "**neither necessary nor desirable**" at this stage; reforms within communities are preferable.

Way Forward

1. **Gradual Reform in Personal Laws:** Step-by-step amendments to eliminate discrimination can help bridge gaps without abrupt imposition.
2. **Inclusive and Consultative Approach:** Broad engagement with religious and cultural groups is essential for consensus and peaceful implementation.
3. **Pilot UCC at State Level and Promote Awareness:** Encouraging states to experiment with UCC and building legal literacy can increase acceptability. Example: **Goa and Uttarakhand's UCC models** can guide other states, while awareness campaigns reduce misinformation.

Conclusion

While UCC is necessary for ensuring gender justice and national unity, its implementation must be gradual and inclusive, respecting India's pluralism. **As Dr. Ambedkar said, "We must begin by acknowledging the equal worth of all citizens."**

Q.3) 'Constitutional Morality' is rooted in the constitution itself and is founded on its essential facets. Explain the doctrine of Constitutional Morality' with the help of relevant judicial decisions. (150words, 10 marks)

Introduction

Constitutional morality refers to the commitment to uphold the core principles of the Constitution—**justice, liberty, equality, and fraternity**—beyond the literal interpretation of laws. It ensures governance guided by ethical reasoning and constitutional values.

Body

Constitutional morality is grounded in the core values of the Constitution.

- 1. Preamble:** It enshrines core ideals like justice, liberty, and equality that form the moral bedrock of the Constitution.
- 2. Fundamental Rights:** These ensure dignity and freedom through enforceable moral guarantees.
Example: **Articles 14, 19, and 21** uphold equality, liberty, and personal dignity Respectively.
- 3. Directive Principles:** They reflect moral goals for governance aimed at social justice and equity.
Example: **Articles 38, 39(b), and 41** promote welfare and fairness.
- 4. Rule of Law:** It ensures fairness and non-arbitrariness, forming a key ethical principle in governance.
Example: **Article 14** upholds equality before the law.
- 5. Duties of Authorities:** Constitutional posts imply accountability and restraint in public conduct.
Example: **Articles 75, 164, and 142** establish norms for responsible functioning.
- 6. Separation of Powers:** It prevents abuse by enforcing balance and institutional ethics.
Example: **Articles 50, 122, and 211** promote independent functioning.

Constitutional Morality Through Key Supreme Court Decisions

- 1. Ensures Decentralisation and Cooperative Federalism**
Example: **Lt. Governor of Delhi v. Union of India (2023)** – The Court said that states must have real powers and coordination with the Centre is essential.
- 2. Protects Individual Autonomy over Social Morality**
Example: **Navtej Singh Johar v. Union of India (2018)** – The Court decriminalised homosexuality, saying individual rights matter more than social norms.
- 3. Upholds Equality over Religious Practices**
Example: **Sabarimala Case (2018)** – The Court allowed women into the temple, holding that equality is above religious customs.
- 4. Strengthens Democratic Federalism**
Example: **NCT of Delhi v. Union of India (2018)** – The Court said elected governments must be respected and allowed to function.

5. **Rejects Patriarchy and Upholds Gender Equality**
Example: *Joseph Shine v. Union of India (2018)* – The Court struck down adultery law as it treated women unequally.
6. **Aligns Personal Laws with Gender Justice**
Example: *Triple Talaq Case (2017)* – The Court held that instant triple talaq was unconstitutional and unfair to women.
7. **Expands Freedoms in the Digital Age**
Example: *Puttaswamy Case (2017)* – The Court declared privacy a fundamental right in today's digital world.

Conclusion

Constitutional morality ensures the **spirit of the Constitution** prevails over mere majoritarian rule. It upholds liberty, dignity, and justice as guiding principles in a diverse and evolving democracy.

Q.4) The Indian Constitution does not provide for a strict separation of powers, but recent events show growing tensions among the three state organs. Is the institutional balance being disrupted? Critically examine. (250 words, 15 marks)

Introduction

Separation of powers means dividing duties among the legislature, executive, and judiciary to **avoid power concentration** and **ensure checks and balances**. The Indian Constitution follows this in spirit, aiming for balance over strict division.

Body

Constitutional Basis of the Doctrine

The Constitution does not lay down a strict separation of powers but adopts a **functional separation**—distinguishing roles while enabling **pragmatic overlaps** to ensure efficient governance and checks and balances.

Provisions enabling separation:

- **Article 50:** Separation of judiciary from executive in public services.
- **Articles 121 & 211:** Legislature barred from discussing judicial conduct.
- **Articles 122 & 212:** Courts barred from inquiring into legislative procedures.
- **Article 361:** Immunity for President and Governors from judicial proceedings.

Provisions enabling functional overlap:

- **Article 123:** Executive ordinance-making powers.
- **Article 124(4):** Legislature's role in removing judges.
- Judiciary often issues guidelines, filling legislative voids (e.g., Vishaka case).
- Delegated legislation empowers executive to make subordinate laws.

Therefore, India follows a **separation of functions**, not of personnel or absolute powers, emphasizing **coordination** over isolation.

Growing Tensions Among Organs

Executive vs Legislature

1. **Misuse of Money Bill:** Aadhaar Act (2016) bypassed Rajya Sabha—later questioned in *Rojer Mathew Case 2020*.
2. **Ordinance overreach:** Excessive ordinance use during COVID diluted legislative scrutiny.

Legislature vs Judiciary

1. **Post-verdict legislation:** Laws passed to nullify court decisions (e.g., NJAC Act after SC Collegium verdict).
2. **Judicial overreach:** Courts entering policy domain (e.g., Pegasus spyware case directions).

Judiciary vs Executive

1. **Stalled judicial appointments:** Delay in Collegium recommendations, leading to ~30% vacancies.
2. **Surveillance allegations:** Alleged claims of Pegasus targeting judges may compromise judicial independence.

Is the Balance Being Disrupted?

1. **Lack of accountability:** Overlap is blurring responsibility in some cases. (e.g., judicial cancellations in 2G, Coal cases).
2. **Erosion of faith:** Repeated encroachments reduce public confidence in institutions.
3. **Power accumulation:** Executive actions often unchecked, tilting balance (e.g., use of ordinances).
4. **Hindered governance:** Prolonged stand-offs (e.g., appointment delays) affect service delivery.

Why Balance Still Endures

1. **Judicial review as check:** SC struck down Section 66A in *Shreya Singhal (2015)*, protecting free speech.
2. **Legislative oversight continues:** Parliamentary Committees examine key policies (e.g., **Data Protection Bill**).
3. **Cooperation aids governance:** Executive and courts collaborated in COVID response (vaccine policy, oxygen supply).
4. **Rule of law upheld:** SC upheld electoral disqualification in *Lily Thomas v. Union of India 2013*.

Way Forward

1. **Limit ordinance and Money Bill misuse:** Adopt stricter norms, as suggested by **Sarkaria Commission** and **Punchhi Commission**.
2. **Judicial appointment reforms:** Establish a transparent Memorandum of Procedure.
3. **Institutional dialogue:** Create formal platforms for executive-judiciary-legislature communication.

Conclusion

Institutional balance is vital to democratic health. It must be protected through reforms, restraint, and mutual respect. ***"Power is safest in a system where it is checked by power."*** – **Montesquieu**

Q.5) The Basic Structure doctrine acts as both a limitation on parliamentary sovereignty and a guarantor of constitutional continuity. Critically examine the relevance of this doctrine in contemporary India with reference to recent constitutional amendments and judicial pronouncements. (250 words, 15 marks)

Introduction

The Basic Structure doctrine, propounded in the ***Kesavananda Bharati (1973)*** case, protects core constitutional values like **rule of law and judicial review** from amendment, ensuring a balance between constitutional flexibility and preserving its essential identity.

Body

As a Check on Unrestrained Power

1. **Restrains unlimited amending power:** Parliament cannot destroy foundational values. Example: ***Minerva Mills (1980)*** – Struck down 42nd Amendment for violating basic structure.
2. **Preserves judicial review:** Even constitutional amendments can be reviewed by courts. Example: ***Waman Rao (1981)*** – Reaffirmed judicial review as part of basic structure.
3. **Checks majoritarianism:** Prevents brute majorities from overriding constitutional morality. Example: ***NJAC Case (2015)*** – NJAC struck down to protect judicial independence.
4. **Guards against constitutional subversion:** Shields democratic institutions from dismantling. Example: *Post-Emergency phase* – Doctrine invoked to uphold democracy.

As a Guarantor of Constitutional Continuity

1. **Upholds the spirit of the Constitution** – Preserves its soul beyond the text. Example: ***I.R. Coelho (2007)*** – Ninth Schedule laws subject to basic structure.
2. **Promotes constitutional resilience** – Protects essential principles from damage. Example: ***NJAC Case (2015)*** – Secured judiciary's independence.
3. **Maintains balance among organs** – Stops power concentration in any one organ. Example: ***S.R. Bommai (1994)*** – Reaffirmed federalism and democratic governance.
4. **Guides constitutional interpretation** – Serves as a reference point for courts. Example: ***NJAC Case*** – Called the "North Star" by Justice **R.F. Nariman**.

Relevance in Contemporary India: Judicial Pronouncements & Amendments

1. **NJAC struck down to protect judiciary:** Judicial appointments were kept within the judiciary to preserve separation of powers. Example: In ***Supreme Court Advocates-on-Record Association v. Union of India (2015)***, the 99th Amendment and NJAC Act were invalidated.
2. **Article 370 abrogation raised federal concerns:** The special status of Jammu & Kashmir raised concerns regarding basic structure principles like democracy and federalism. Example: In ***Re Article 370 (2023)***, the Court upheld the abrogation, but federal implications were hotly debated.

3. Electoral bonds violated transparency: Opaque funding was held unconstitutional for undermining electoral transparency.

Example: In *ADR v. Union of India (2024)*, the Court struck down the scheme for hurting free and fair elections.

4. Delhi Ordinance case upheld state powers: Central overreach on services was struck down to preserve federal balance.

Example: In *Government of NCT of Delhi v. Union of India (2023)*, the Supreme Court upheld the elected government's control over administrative services.

5. Pepsi Foods case upheld fairness in taxation: Arbitrary taxation actions were invalidated under the principle of fairness and judicial review.

Example: In *CIT v. M/s Pepsi Foods Ltd. (2020)*, rule of law was upheld as part of basic structure.

6. SEBC Amendment reinforced state autonomy: The constitutional power of states in maintaining their own OBC list was preserved.

Example: In the *105th Constitutional Amendment case (2021)*, federal structure was reaffirmed.

Limitations of the Doctrine

1. Lacks textual basis: The Constitution does not explicitly mention the term “basic structure,” leading to criticism of judicial creativity.

2. Subjective application: The scope of the doctrine is not clearly defined, leaving it open to varying judicial interpretation.

3. Tensions with Parliament: Frequent invocation may undermine legislative supremacy and lead to institutional conflict.

Conclusion

The doctrine is rightly called the “*North Star of constitutional interpretation*”—a guiding light that must be handled with care to preserve constitutional identity without inviting judicial overreach or legislative excess.