

A LIVING CONSTITUTION FOR A LIVING POLITY

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A living Constitution is one that evolves, changes over time, and adapts to new circumstances, without being formally amended. Meanwhile, the world has changed in incalculable ways. The nation has grown in territory and its population has multiplied several times over. When the constitution was written, technology, the global environment, the economy and social mores have changed in ways that no one could have predicted. Furthermore, it is just unrealistic to anticipate that the onerous amendment procedure will adapt to these developments.

Therefore, it seems like with change of time constitution will change too. It is also a good thing, because an unchanging Constitution would fit our society very badly.

Either it would be ignored or, worse, it would be a hindrance, a relic that keeps us from making progress and prevents our society from working in the way it should.

Living constitutionalism emerged as a reaction against Originalism. Originalism means that the text of the constitution has a set meaning and that constitutional actors should be bound by it. Originalists say that the text of any Constitution is fixed at the time it is drafted, hence, its interpretation should follow the original intention of the framers.

While, the theory of Living Constitutionalism provides that constitution needs to be interpreted in consonance of the current socio-economic circumstances in a society.

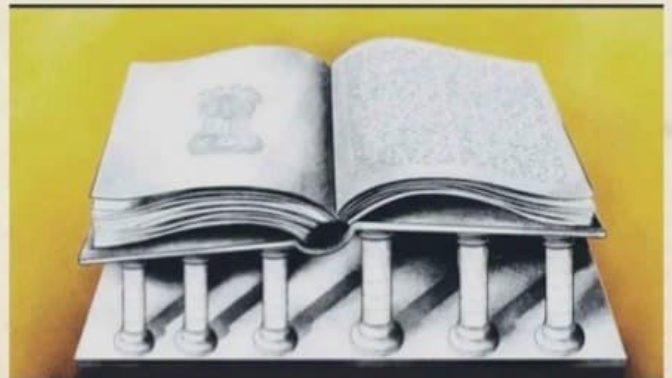
In the Constitution of India, the Indian Judiciary has played a crucial role by constructing its provisions in the interest of people of the nation.

This article discusses the role of Indian judiciary in making the Constitution of India, a living document.

The idea of a living Constitution rests on the understanding that a constitution is not merely a legal document but a social and political instrument. It is intended to last for many generations, addressing issues that its founders did not anticipate. We can see this in our Indian constitution.

It was drafted in the years following colonial control and partition, it was meant to serve as a dynamic framework that could guide a vastly diverse and changing society rather than a static document.

Amendments, judicial interpretation, custom and democratic practices have all contributed to India's growth. Together, these procedures enable the constitution to adapt and change, keeping it in line with the goals of the people it rules.



FLEXIBILITY

One of the most important characteristics that gives a constitution life rather than death is flexibility. The Indian constitution founders purposefully avoided being overly strict. They understood that social change, economic growth, political rivalry, and identity-based disputes would be unforeseen obstacles for a recently established country.

The constitution has to be amendable in order to handle issues.

The constitution has never been a frozen document, and it has always had multiple authors.

Notwithstanding the sterling role played by the drafting committee and Babasaheb Ambedkar, the constitution as it exists today is a product of interactions between three elements: the text, the courts and above all, 'the people'.

The amendment procedure under Article 368 strikes a careful balance. It is neither too flexible, like unwritten systems nor too strict, like some written constitutions. A special majority in parliament is necessary for some clauses, and states must also ratify others. Changes are conceivable but not arbitrary thanks to this graded rigidity.

Flexibility does not, however equate to vulnerability. Fundamental constitutional principles are protected by judicial concepts like the fundamental structural doctrine. the polity's constitutional pulse is maintained by this harmony between protection and flexibility.

JUDICIAL INTERPRETATION

A living constitution is equally influenced by interpretation as it is by text. In Indian judiciary, giving life to the constitutional provisions has been made possible particularly by supreme court of India. The judiciary has expanded the meaning of fundamental rights through creative and forward-thinking interpretation.

Ideas like a clean environment, privacy, dignity have been read into the constitution even though they were not included in the original text. The idea that constitutional rights must change to meet societal demands is reflected in this type of interpretation.

Judicial review is an essential instrument for upholding constitutional values and preventing majoritarian abuses. Additionally, it enables constitution to change to accommodate new forms of social interaction, power and governance. The judiciary maintains the constitution's social relevance and normative strength by interpreting its principles in light of modern circumstances. The idea of judicial review grants courts the power to determine whether legislative and executive actions are constitutional. Judicial review ensures that all state activities remain within the parameters of the constitution and that fundamental rights are not merely assurance on paper. This authority has enhanced the constitution's reputation as a flexible document.

The development of the basic structure doctrine proved that although the constitution is flexible, it is not infinitely malleable, marked a turning point in India's constitutional history. The famous Kesavananda Bharti vs state of Kerala in 1973 ruled that parliament's authority to change the constitution under article 368 did not include changing its basic structure. This ruling achieved a balance between constitutional flexibility. It made it possible for the constitution to change while maintaining the inviolability of its core principles, which include democracy, secularism, rule of law, separation of power and judicial independence.

The court allowed for modification while maintaining the fundamental character of the constitution, as opposed to keeping it in its original form. This theory was further defined and reinforced by other decisions like Indira Gandhi vs Raj Narain, Minerva mills vs union of India.

BORROWED FEATURES

Another reason why the Constitution remains living is its openness to global constitutional wisdom. The Indian Constitution is often described as a “borrowed Constitution,” but this borrowing was neither blind nor mechanical. Instead, it was a conscious act of comparative learning.

The framers adapted judicial review, federal concepts, legislative traditions, directive principles, and fundamental rights from other nations to Indian circumstances. This comparative approach enhanced the constitutional foundation inspired by other constitutional systems;

India was able to avoid rigid ideological commitments. It creates a hybrid constitutional paradigm capable of managing democratic governance, diversity, and decentralization all at once. Because of its adaptability, India has been able to respond to foreign pressures, internal conflicts, and regional aspirations over the years without suffering a constitutional breakdown. After 1950, constitutional borrowing persisted. The judiciary reiterated in these judgments that judicial scrutiny might be applied to constitutional amendments, presidential overreach and abuse of federal power. The courts have prioritized constitutional morality over political expedience by overturning legislation that violate equality, liberty or federal balance. This function becomes particularly important when majority rights or institutional autonomy are threatened by populist pressures. The constitution is still in effect because its fundamental ideas are upheld even as its application changes, not because it may be changed indefinitely. The constitution is a framework that can adapt to shifting social conditions without losing its normative compass thanks to this jurisprudence.

Through judicial interpretation and legislative reforms, Indian constitutional practice continues to connect with international ideals, such as digital freedoms and human rights.

DEMOCRATIC LEGITIMACY

Public trust is one of the key factor in the polity of a country. A constitution that takes social realities into account is legitimate; one that opposes change runs the risk of alienating people. A living constitution supports democratic legitimacy.

Over the time, movements for civil freedoms, gender equality, social justice have all found constitutional expression.

The state citizen connection is strengthened by this responsiveness. A living constitution also promotes constitutional culture, respect for institutions, norms and procedures. It encourages civic participation and upholds the notion that democracy is a continuous endeavour rather than a finished product.

CHALLENGES TO THE LIVING CONSTITUTION

This concept of a living document is not without difficulties, despite its advantages. Constitutional integrity may be weakened by excessive modifications, politicization of institutions and selective constitutional interpretation.

When flexibility is abused, it can lead to constitutional loss.

Thus, the difficulty is in upholding the fundamental principles of the constitution while permitting essential modification. This calls for active citizenship, constitutional morality and institutional constraint. Constitutional ethics must direct constitutional flexibility during division and populism. if not, the pulse of polity runs the risk of becoming unpredictable rather than steady.

CONCLUSION

A static constitution cannot rule a living democracy. Global interdependence and social change necessitate a constitutional framework that changes without losing its essence.

The Indian constitutional history shows how democratic administration can be sustained over time through judicial interpretation, flexibility and comparative openness.

Because it is flexible and enduring the constitution continues to be the beating heart of the political system. It lives through democratic practice, talks through rulings, and breathes through amendments. The constitution will continue to be not only a governing instrument but also the lifeblood of a living polity as long as it upholds fundamental principles and reflects the aspirations of the people.

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