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Q1). 52nd constitutional amendment act 1985 brought anti-defection law which made defection a ground for disqualification. It was launched to provide stability to the government.

→ various issues in functioning of anti-defection law :-

① Discretion of speaker to disqualify candidates have seen biases in the past

eg defection in karnataka assembly.

② Disqualification v/s defection debate :-

→ Disqualification from the parliament still falters the government stability which defeats the point of defection.

③ Courts can intervene only after the final decision by speaker has been made - kihoto hollohan vs zachillu case

→ Sometimes defection also leads to suppression of intraparty debates :-

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(1) whips forcefully impose the party decision on candidates even in matters not related to stability.

eg even in passing of ordinary bill like farmers laws many allies of BJP could not vote against it even when they themselves didn't support

(2) Accountability to the respective constituencies also decreases as representatives are unable to voice their concerns.

In order for antidefection to work it should only be used in extreme cases such as No confidence motion (Law commission report) to strike a balance between defection and freedom of speech.

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Q2) Indian constitution is a living document as it constantly evolves as per the needs of the society. It provides a blend between rigidity and flexibility.

Rigidity:

→ Requires special majority in majority of cases to amend constitution.

→ Sometimes ratification of 50% states is also required.

→ This ensures that values which have enough support gets represented in constitution.

Flexibility:

→ Judicial interpretation

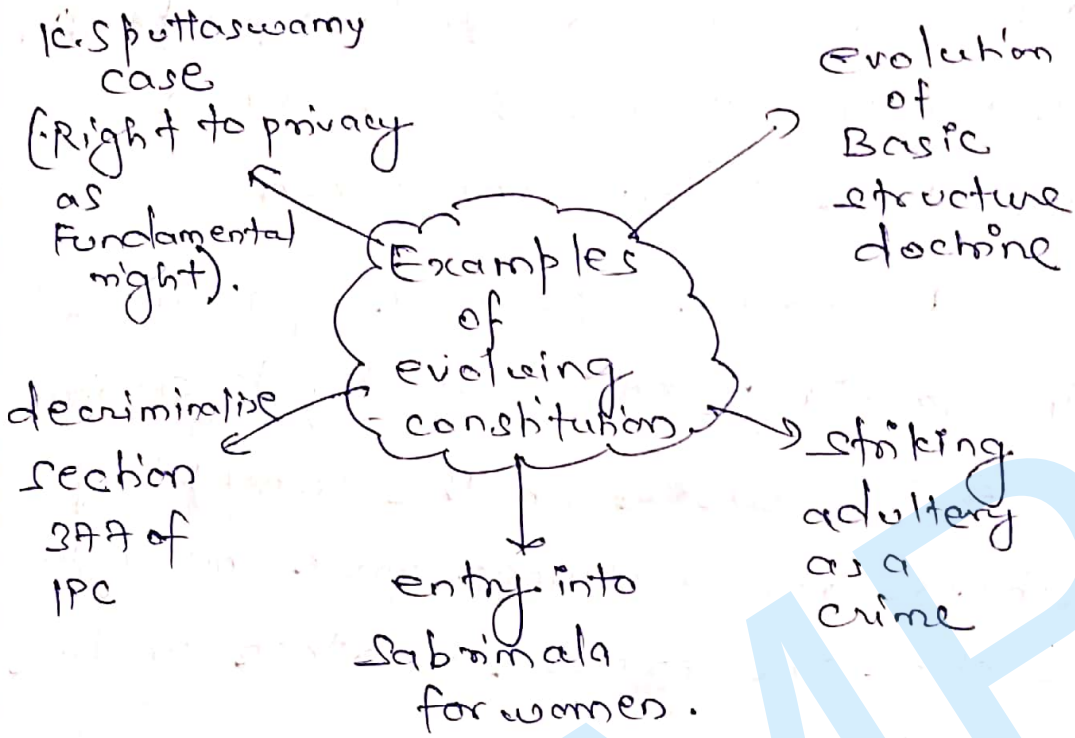
Eg Section 377 struck down by Supreme court

→ Many amendments to constitution only require simple majority in parliament.

This blend allows it to be used effectively not casually.

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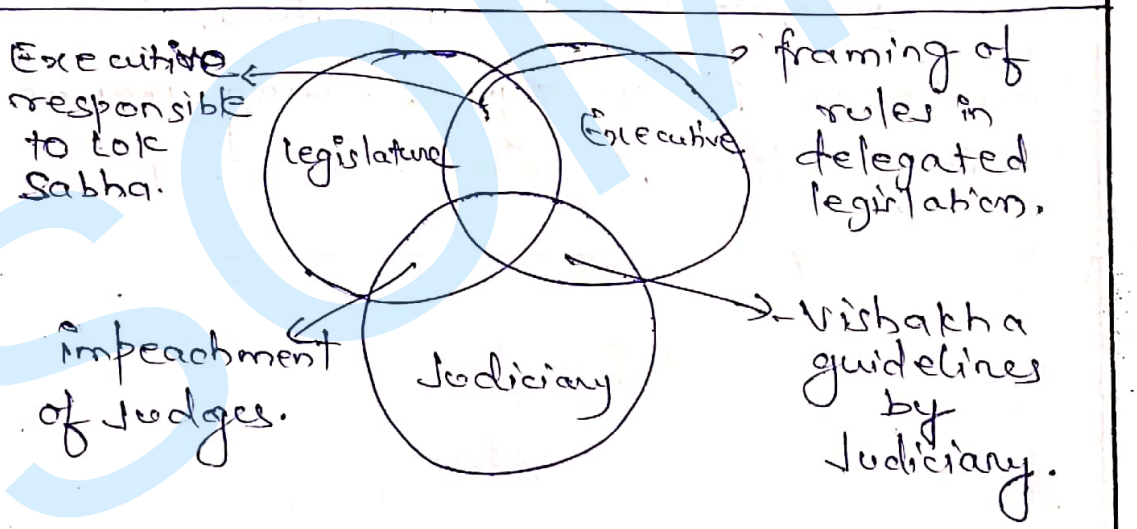
Due to this evolving nature of constitution the tag of living document is justified.

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Q3) Supreme court has declared seperation of power as one of the basic structure of the constitution.

However seperation of power in India is not watertight as in USA, it is based on the concept of checks and balances. with one organ keeping the excesses of other under control.



Examples of checks and balances.

① Judiciary and executive:-

→ Judiciary from time to time giving instructions to executive to act or restraints.

eg. Vishakha guidelines.

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(2) Executive and legislature:-

→ The council of minister is drawn from parliament and is responsible for their action to lok sabha.

→ aleglated legislation

(3) Judiciary and legislature:-

→ Judicial activism is seen by judiciary to plug loopholes in law.

Eg Liquor ban case.

→ Interpretation of laws by judiciary.

The system of checks and balances ensures and increases the accountability of one towards society and upholds the spirit of democracy.

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Q4) President of India is the head of the state and PM is the head of government under constitution of India. However sometimes the non-independent role of president leads to the tag of ceremonial head.

President as ceremonial head :-

→ He has to act as per the advise of council of minister.

→ Compulsion of giving assent to money bill - cannot send it for recommendations

→ only acts as rubber stamp in matters of appointment whereas the finalising is done by govt.

President not as ceremonial head :-

→ He also enjoys discretion in case of following.

- use of pocket veto.
- selecting the PM in case of hung assembly

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प्रश्न संख्या (Question No.)

इस भाग में कुछ न लिखें (Don't write anything in this part)

: President acts as ceremonial head is justified to some extent as he is not directly elected by people. Giving too much discretion can lead to tussle with govt. and leads to unstability.

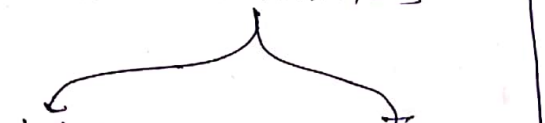
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Q5) parliamentary committee are the group of selected MPs which scrutinises the bills in detail due to lack of time in parliament.

parliamentary Committees



Ad-hoc + fora specific purpose.

Standing committees

Role of parliamentary committee in ensuring financial accountability.

→ The report of the CAG gets scrutinised by PAC (Public accounts committee)

→ Estimates committee checks the spendings of the government and report irregularities.

→ Recommendations of parliamentary committees gets a centre stage in parliament which ensures accountability.

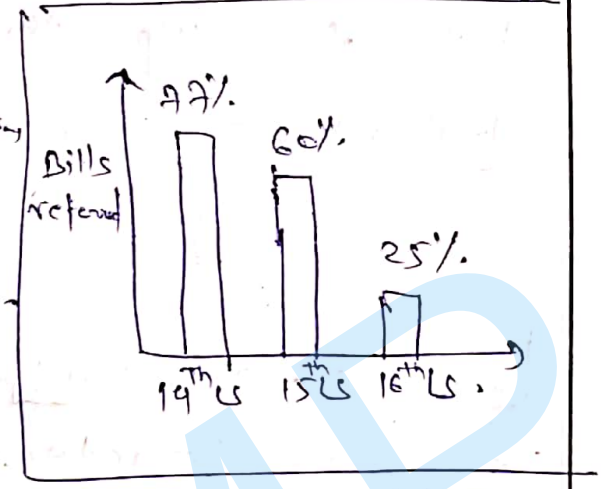
However lately there are many issues

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(1) 16th Lok Sabha: only 25% bills were referred to Parliamentary SC.

(2) The recommendations are not binding on the parliament



Thus, standing committees have little say. Despite this they are an effective tool to ensure accountability and increase effectiveness.

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Q6).

Judicial review: It examines the constitutionality of the laws and procedure by the judiciary.

eg. NJAC was held unconstitutional under judicial review.

Judicial activism: refers to the necessity to intervene in the matters of executive and legislature in case of loopholes or absence of law

eg Vishakha guidelines which later on transformed to prevention of sexual harassment act 2013.

Judicial overreach: refers to unnecessary intervention of judiciary in the domains of executive or legislature which violates the doctrine of seperation of power.

eg Liquor ban case got converted from Judicial activism to Judicial overreach real quick.

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Judicial review and activism are necessary tools at the disposal of Judiciary to exert adequate checks and balances.

Article 142 gives judiciary enormous power to decide a case and take a decision to carry out "complete justice"

This extraordinary power at the hands of Judiciary sometimes leads to judicial overreach. when the domain involves :-

→ multidimensionality :- involves various sections of people for which lawmaking is required for which parliament hav the expertise.

→ Commanding a particular authority to work as per judicial wits which bypasses the hierarchical structure.

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In such case judicial restraint is required which keeps seperation of power intact

eg Justice Thakur refused to act on petition to bring kohinoor back to India as it is not in their domain.

Article 142 is a double edged sword which should be cautiously used to carry out judicial activism only not overreach.

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Q7) Due to unprecedented situation of covid many centre-state issues has come to light due to lack of resources:

(1) Legal issues:

→ use of NDMA to impose nationwide lockdown without taking states into confidence.

→ Imposition of many Centrally sponsored scheme for which states has to face the brunt

(2) Financial issues:

→ GST compensation cess was denied to state due to shortfall and was designated as 'Act of God' by Finance minister.

→ issue of horizontal and vertical distribution of funds under the finance commission.

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(3) Other Issues:-

(i) Governor vs State tussle seen in west bengal, Rajasthan (delay in constituting state assembly).

(ii) Shortfall of resources under Centre's domain such as Vaccines, supply of oxygen etc.

(iii) Issue of convening elections during pandemic upsurge.

Eg west bengal election

(iv) Many laws passed during pandemic

Eg Farm laws were opposed by punjab, Rajasthan and haryana,

(v) Issue of imposing restrictions in states like Jammu and kashmir.
→ use of Article 356.

(vi) Rise in fuel prices to fund schemes.

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Healthy debate among centre and states is a necessity. However if it impedes democratic functioning it becomes an issue. Thus it is important to act in the spirit of cooperative federalism to deal with such issues

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