

## UPSCprep Free Daily Answer Writing Initiative

**Subject:** GS 2

**Syllabus:** Indian Polity and Constitution

### Questions

Q1. Philosophical undertone of the Indian constitution resonates with the French constitution but there are many differences between the two. Discuss.

(150 words)

10

Q2. Basic structure of the constitution is an important premise on which many ideals of the constitution rest. Discuss the historical development of basic structure in India.

(150 words)

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### Model Structures

**Q1. Philosophical undertone of the Indian constitution resonates with the French constitution but there are many differences between the two. Discuss. (10 marks)**

#### Introduction

- Indian constitution is partly borrowed and partly original with many features and ideals developing during the freedom struggle. Ideals of liberty, equality and fraternity were taken from the French revolution and the ensuing constitution.

#### Main Body

Similarities between Indian and French Constitution:

- Written constitutions,
- Elected heads,
- Emergency and amendment process.

But there are many differences also. These differences include -

- There is a semi-presidential system in France with the President being de facto head and having more power than the Prime Minister. India went for a parliamentary form of government with the Prime Minister being the de facto head and having more powers.
- Head of the government in India is the prime minister with tenure of 5 years but the French President has tenure of 7 years.
- Indian constitution has a provision for procedure established by law and has due process of law introduced by judiciary. There is no such provision in the French Constitution.
- Both countries have secularism but the French adopted complete separation of state from religion while India has provided for distance between state and religion but not complete separation.
- India follows federal polity whereas France has more of a unitary structure.
- Elections in India are conducted by the election commission with no role of the judiciary whereas in France the judiciary plays a role in elections.
- India is a written constitution whereas the French constitution is based on the principle of Executive supremacy and is the only Democratic constitution that way.
- The constitution of India is flexible and changes can be easily done at the time of need. On the contrary, the constitution of France has a rigid constitution that requires a resolution to be passed by a 60% majority in two houses of Parliament.
- The Indian constitution does not allow the President to have an upper hand in the country's management whereas the President of France has complete power here and the Prime Minister works as his assistant.
- France allows dual citizenship in comparison to India which provides for single citizenship.

## Conclusion

- India borrowed many features from mature democracies of that time but in comparison, there are more differences than similarities which shows the indigenous nature of our constitution.
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**Q2. Basic structure of the constitution is an important premise on which many ideals of the constitution rest. Discuss the historical development of basic structure in India. (10 marks)**

## Introduction

- Basic structure is an ever evolving concept with features getting added in subsequent court judgments even today. But it first found its shape in Kesavananda Bharati vs State of Kerala case of 1973.

## Main Body

- Amendment powers of the parliament was the main thing which led to its origin because these powers were absolute initially as evident in Shankari Prasad case 1951 and Sajjan Singh case 1965.
- Here, Parliament had power to amend any part of the constitution including Fundamental rights.
- Later in the Golaknath case of 1967, the Supreme Court reversed its earlier verdict to take away the power of Parliament to amend Fundamental Rights. This was done by reinterpreting articles 368 and 13 of the Constitution.
- To bypass these judgments, 24<sup>th</sup>, 25<sup>th</sup>, 26<sup>th</sup> and 29<sup>th</sup> amendments to the Constitution were passed. These amendments were challenged in the Kesavananda Bharati case.
- In this case, relief against restrictions on supervision of religious property was sought under Article 26. The bench ruled by a 7-6 majority that Parliament could amend any part of the Constitution without altering basic structure.
- The term 'basic structure' was not defined in this judgment and has evolved since to include federalism, separation of powers, secularism, democracy, independence of the judiciary, rule of law, welfare state, etc.
- But there are some arguments against the basic structure like undemocratic, unelected judges having authority to cancel a constitutional amendment.

## Conclusion

- Indian democracy works on the premise of checks and balances between parliament, executive and judiciary. Thus the basic structure is seen as a safety valve against authoritarian and majoritarian tendencies of the parliament.



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