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Q8(c)

Do you agree that over the years the Supreme Court has become a forum for policy evolution? Justify your answer

UPSC Civil Services Mains 2023 · PSIR GS 1 · 15 marks · Principal Organs of the Union Government

Principal Organs of the Union Government: Envisaged role and actual working of the Executive, Legislature and Supreme Court.

Core demand of the question

- Do you agree that over the years the Supreme Court has become a forum for policy evolution? Justify your answer. (15 marks)

Revision summary

Maneka Gandhi and PIL made the Supreme Court a place where social and environmental policy is often first written as rights.

Vishaka guidelines, pollution and food orders, and federal cases such as **Bommai** are policy evolution by judgment.

The Court fills vacuums left by the executive and legislature; that is the empirical basis of the statement.

Electoral democracy still assigns general policy to removable legislatures.

Agreement is therefore yes for rights-based gap-filling, and no for the Court as a general policy government.

Introduction

The Supreme Court of India has become, in important areas, a forum where public policy is shaped through rights litigation, continuing mandamus, and guidelines that operate until Parliament acts. Agreement with the statement should be partial: the Court has evolved policy in gaps, and it is not the authorised legislature.

Body

Why the statement is largely true

- After **Maneka Gandhi v. Union of India** (1978), **Article 21** became a due-process style clause, which opened health, livelihood, environment, and privacy as judicial policy fields.
- Public interest litigation under Justices P. N. Bhagwati and V. R. Krishna Iyer lowered standing and let the Court hear collective injuries.
- **Vishaka v. State of Rajasthan** (1997) laid down workplace sexual-harassment guidelines as law until the 2013 statute, which is policy evolution in a vacuum.
- Environment benches, the right-to-food litigation in PUCL, vehicle and pollution orders, and forest-governance orders have set detailed regimes that look like departmental policy.
- **Kesavananda** and **S. R. Bommai** evolved the policy of constitutional identity and of federal emergency, which bind later governments.

- **Foucault's** governmentality is a warning: courts that manage rations, emissions, and asylums become part of the administrative state, not only its checker.

Why the statement must be qualified

- Policy evolution in a democracy belongs first to legislatures that **Dahl's** polyarchy can remove. Judges are not removable by the same electoral test.
- The Court often acts because the executive left a gap; that is residual policy, not a claim that the Court should write the annual budget.
- Separation of powers, the political-question habit, and later benches that have stepped back on some economic matters show self-check.
- **Austin's** social-revolution Constitution invited judicial partnership with Parts III and IV; it did not repeal **Article 245**.
- **Rawls's** basic structure is a set of liberties and fair procedures, not a licence for the judiciary to choose every distributive scheme.

Justified answer

- Yes, over the years the Supreme Court has become a forum for policy evolution in rights, environment, gender workplace rules, and constitutional federal limits.
- No, it has not lawfully become the only or the best forum for ordinary economic and administrative policy.
- The justified position is a rights-protecting, gap-filling court inside a parliamentary federation, not a third government of general policy.

Flow diagram

Supreme Court -> Article 21 expansion
 Supreme Court -> PIL and continuing mandamus and continuing mandamus
 Supreme Court -> Guidelines Vishaka
 Parliament -> Statutes and budgets
 Supreme Court -> Not a substitute parliament

Conclusion

The Supreme Court has become a forum for policy evolution where rights and institutional vacuums required rules, as in Maneka, **Vishaka**, environment, and food litigation. Justification stops at general legislation and budgets, which remain Parliament's. The Court is a constitutional policy forum, not a substitute parliament.

Facts & figures

Maneka Gandhi (1978)

Fair, just and reasonable procedure under **Article 21**; the opening of later socio-economic rights cases.

Vishaka (1997)

Binding workplace sexual-harassment guidelines until the 2013 Act.

PUCL right-to-food

Continuing mandamus on food schemes, a model of judicial policy supervision.

S. R. Bommai (1994)

Judicial policy on **Article 356** and floor tests, shaping Union-State emergency practice.

Kesavananda (1973)

Basic structure as a limit on amending policy that would destroy constitutional identity.

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