The Constitution of India: Procedure of Amendment and Some Important Amendments

The Constitution of India is a blend of rigidity and flexibility. In fact, we could say that it has neither the rigidity of the American Constitution nor the flexibility of the British Constitution. The Constitution of India can be amended in three ways.

Procedure of Amendment

First, certain provisions of the Constitution can be amended by Parliament by simple majority, in both Houses of Parliament. For instance, Parliament may, by ordinary law, form a new state out of an existing state(s), increase or decrease the area of any state, alter the name of any state, etc. Other examples are creation / abolition of Legislative Council in the states, qualifications and requisites for citizenship, etc.

Second, certain specific provisions of the Constitution can be amended by a special procedure. These provisions relate to the election of the President, representation of states in Parliament, the lists of subjects in the Seventh Schedule, the relationship between the Centre and the states, Supreme Court and High Courts, and the process of Constitutional amendment. Such provisions can be amended only if they are (a) passed by a majority of each House of Parliament and by a majority of not less than two-thirds of the members present and voting in each House, and (b) ratified by the Legislatures in half of the States. Only after the Bill is ratified by the states, the Bill is presented to the President for his assent.

Third, the rest of the Constitution can be amended by a special majority i.e. the Bill would have to be passed by the two Houses of Parliament by a majority of total membership and a two-thirds majority of members present and voting in each House. The Bill is then presented to the President for his assent.

Important Amendments to the Constitution of India

4th Amendment (1955): It amended Article 31. It provided that no property shall be compulsorily acquired or requisitioned except for a public purpose and except by the authority of a law which provides for compensation. No such law shall be called in question in any court on the ground that the compensation provided by that law is not adequate.

7th Amendment (1956): This amendment pertains to the establishment of new states and alterations in state boundaries. It abolished the distinction between Part A, Part B, and Part C states, and classified certain areas as Union Territories. Some other provisions of this amendment related to the allocation of seats to the states in the Rajya Sabha, creation of second chambers in certain states, etc.

8th Amendment (1959): The reservation of seats for Scheduled Castes and Scheduled Tribes and the nomination of Anglo-Indians to the legislatures of the states and Parliament were extended for a further period of 10 years, i.e. up to 26th January, 1970.

23rd Amendment (1970): It extended for a further period of ten years (up to 1980) the privileges and concessions granted to Scheduled Castes and scheduled Tribes under the Constitution.

24th Amendment (1971): It affirmed Parliament’s power to amend any part of the Constitution including Fundamental Rights. This neutralised the decision in famous Golaknath Case.

26th Amendment (1971): This Amendment deprived the Indian princes of their privy purses and privileges, which were guaranteed to them under the Constitution.

38th Amendment (1975): This Amendment put the Proclamation of Emergency and the Ordinances...
Learning Corner

issued by the President and the Governors beyond the jurisdiction of the Courts.

39th Amendment (1975): The Amendment placed beyond challenge in courts, the election to Parliament of a person holding the office of Prime Minister or Speaker and the election of the President and Vice-President. It also sought to render pending proceedings in respect of such election under the existing law null and void.

42nd Amendment (1976): The Amendment was carried out in 1976. It was the most comprehensive amendment carried out so far and made fundamental changes in the Constitutional structure. It incorporated the words ‘Socialist’, ‘Secular’ and ‘integrity’ in the Preamble; asserted the primacy of Directive Principles over Fundamental Rights; incorporated Fundamental Duties of the citizens in the Constitution; asserted Parliament’s supremacy regarding amendment of the Constitution; authorised the Supreme Court to transfer certain cases from one High Court to another High Court and redefined the writ-jurisdiction of the High Court; it provided administrative tribunals for speedy justice, empowered the Central Government to send armed or police force to the states to deal with grave law and order situations; authorised the President to make proclamation of Emergency either in respect of any part of the country or in the whole of India; made it obligatory for the President to act on the advice of the Council of Ministers.

43rd Amendment (1977): It restored to the High Courts and the Supreme Court their jurisdiction to consider the constitutional validity of Central or State laws. The special power conferred on Parliament to make laws in respect of anti-national activities was repealed. The 2/3 majority requirement (Art. 144-A and Art. 228-A) for invalidating any Central or State law was repealed.

44th Amendment (1978): A proclamation of Emergency can be issued only when the security of India or any part of its territory is threatened by war or armed rebellion. Fundamental rights to life and liberty cannot be suspended even during the Emergency. The Right to Property, a Fundamental Right, was deleted from the list, and now it is only a legal right. The President’s position, declared by the 42nd Amendment that he was bound by the advice of the Council of Ministers (Article 74), was not changed, but the President was given the option of asking council of Ministers to reconsider its advice.

45th Amendment (1980): It extended reservation of seats for Scheduled Castes and Scheduled Tribes and representation of Anglo-Indians in the Lok Sabha for a further period of 10 years i.e. up to 1990.

52nd Amendment (1985): It put a ban on defections from one political party to another and gave for the first time legal recognition to political parties.

59th Amendment (1988): It empowered the government to extend President’s rule and impose emergency along with suspending operation of Article 21 in Punjab. It also reintroduced internal disturbance in any part of the country on grounds for imposition of emergency which had been removed by the 44th Amendment during Janata Party rule, but now stands repealed.

61st Amendment (1989): It reduced voting age from 21 years to 18 years for the Lok Sabha and Assembly elections.

62nd Amendment (1989): It provided for reservation for another ten years to the members of the Scheduled Castes and Scheduled Tribes in Parliament and State Assemblies and for reservation for the Anglo-Indian community by nomination.

71st Amendment (1992): The amendment included Konkani, Manipuri and Nepalese languages in the Eighth Schedule, thus raising the number of languages in that Schedule from 15 to 18.

73rd Amendment (1992): The amendment which got presidential assent on April 25, 1993 after ratification of the required number of states, provided constitutional of guarantee for
formation of Panchayats, inserted Part IX and the Eleventh Schedule in the Constitution.

74th Amendment (1992): Inserted Part IX A containing Articles 243P to 243Z, and the Twelfth Schedule. It provided for three types of Municipalities with devolution of powers and responsibilities by the State legislatures regarding levy of taxes and duties to be performed by them.

76th Amendment (1994): Sought to include the Tamil Nadu Reservation Act (providing for 69 per cent reservation for educational institutions and jobs in the State) in the Ninth Schedule, so that it will be outside judicial law.

77th Amendment (1995): Added a new clause 4(a) to Article 16 of the Constitution by which the state is authorised to make provisions for reservation in promotions in Government jobs in favour of Scheduled Castes and Scheduled Tribes.

79th Amendment (1999): Extended the reservation for the Scheduled Castes and Scheduled Tribes and the representation of the Anglo-Indian community by nomination in the Lok Sabha and the State Assemblies to another ten years i.e. till January 2010.

81st Amendment (2000): Removed limitation of 50 per cent reservation on total reservation imposed by the Supreme Court to enable the Government to fill the backlog in vacancies for Scheduled Castes and Scheduled Tribes.

84th Amendment (2002): Lifted the freeze on the delimitation of constituencies imposed by the 42nd Amendment and allowed delimitation within states on the basis of the 1991 census. However, the allocation of seats in Lok Sabha and State Assemblies has been frozen up to 2026.

86th Amendment (2002): Made free and compulsory primary education a Fundamental Right. As per the amendment to Article 21 of the Constitution, the “Government shall provide free and compulsory education to all children from the age of six to 14 in such a manner as the State may by law determine”. The Act also seeks to compel parents to send their children to school by including it as a Fundamental Duty (Article 51A); and amends Article 45 of the Constitution to make the state “endeavour to provide early childhood care and education for all children until they complete six years of age”.

Do You Know?

BUDDHIST COUNCILS

<table>
<thead>
<tr>
<th>No.</th>
<th>Venue</th>
<th>Presiding priest</th>
<th>Major outcomes</th>
</tr>
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<tbody>
<tr>
<td>First</td>
<td>Saptaparni (Rajagriha), in 483 BC, during Ajatasatru’s reign</td>
<td>Mahakassapa</td>
<td>Vinay Pitaka (containing the rules of Buddhist monastic discipline) and Sutta Pitaka (containing religious discourses and sayings of Buddha) were compiled. Permanent split of the Buddhist order into Sthaviravadins and Mahasanghikas. Philosophical interpretations of the doctrines of Buddha were collected into Abhidhamma Pitaka. Three commentaries (Vibhasas) of the three Pitakas were compiled.</td>
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<tr>
<td>Second</td>
<td>Vaishali, in 383 BC</td>
<td>Sahakami (probably)</td>
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<tr>
<td>Third</td>
<td>Pataliputra, during Asoka’s reign (around 250 BC)</td>
<td>Moggaliputta Tissa (also known as Upaguta)</td>
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<tr>
<td>Fourth</td>
<td>Kashmir, during Kanishka’s reign (first century AD)</td>
<td>Vasumitra</td>
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