

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 6 | Issue 4

2023

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42nd Amendment: The Miniature of Indian Constitution

VANSHIKA JAIN¹

ABSTRACT

The constitution is a document that should only be amended with great caution. For good nurture and education implant good constitution. As Indian culture is dynamic and not stagnant, it is necessary to make changes as needed to meet the needs of the people and then develop laws suitably. This may be done by adding to, changing, or repealing the legislation. As some time recently the laws were made as per the requirement that time Be that as it may, how as time is changing considering is changing hence it's important to bring the alter in-laws. That's why alterations are essential to managing the world happening Alterations are presented within the structure so that structure can make a alter and bring alter as per the requirements of the society. As At the time of 1950 our social, temperate and political situations were not a few that's why it is vital. To annihilate the issues concerning laws by correcting them able to rid of it. The meaning of the Amendment isn't given in Indian structure but revisions are said beneath article 368 of Indian structure. As revisions are the amalgamation of adaptability and rigidity however, it is neither rigid not flexible .moreover it is partial rigid and flexible. An inflexible structure can't be corrected effectively, i.e., the US Structure. An adaptable structure can be revised easily. Indian structure is more adaptable than unbending. After the plethora sum of amendments one of the foremost imperative corrections to the Indian Structure took birth namely the 42nd Correction Act, of 1976. The Indian National Congress, which at the time was led by Indira Gandhi, approved it. It is often referred to as the "Mini-Constitution" because of the numerous changes it has made to the Indian Constitution. Its size has earned it the moniker "Mini-Constitution." The 42nd Alteration made several changes to the Structure, including the Preface and the structure modifying clause itself, as well as including a few more contemporary articles and sections.

Keywords: Rigid, Flexible, Alterations, Addition, Variation, Repeal, Mini Constitution.

I. INTRODUCTION

An amendment, according to the Oxford Dictionary of Law, is a modification made to a piece of law with the intention of enhancing, improving, or changing its purpose.

¹ Author is a student at University of Petroleum and Energy Studies, Dehradun, India.

"A formal alteration or addition suggested or made to a legislation, Constitution, pleading, order, or other instrument," according to Black's Law Dictionary In terms of parliamentary legislation, it refers to a motion that changes the language of another motion by deleting words, adding new material, or changing the topic.

However, *Keshavananda Bharti v. State of Kerela* presented the most comprehensive clarification of the scope and definition of the term Amendment. It change. When used in connection with the Constitution, the term amendment claimed that a broad definition of the term Amendment would embrace any modification or may refer to the addition of a provision on a new and independent subject, complete in itself and wholly disconnected from other provisions, or to some specific article or clause, and is then used to indicate an addition to, the striking out of, or some change in that specific article or clause." The 42nd Amendment Act of 1976 constituted one of the most significant amendments to the Indian Constitution. It was passed at the time by the Indian National Congress, led by Indira Gandhi. Because of the various amendments it has made to the Indian Constitution, it is often referred to as the "Mini-Constitution." This literature review has been mostly engaged with how amendments originate in our Indian constitution, what amending responsibilities and privileges are bestowed in a parliament, and the mini constitution of our Indian constitution. The 42nd Amendment Act, which revised the Seventh Amendment in 1976, ensured that matters from the State list, such as weights and measures, forestry, wildlife and bird conservation, and the administration of justice, were moved to the Concurrent List.

The 42nd Amendment Act, which materially changed the Indian Constitution, is often referred to as the "Mini-Constitution." It sought to alter the foundational structure of the Indian Constitution.

The Indian Constitution allows for amendments, primarily in Article 368 and in a few other places as indicated.

II. THREE AMENDMENT PROCEDURES

1. Amendment by simple majority
2. Special Majority Amendment
3. Ratification and Amendment by Special Majority State by State

The provisions for amending the Indian Constitution are found in Article 368. The Constitution allows for three methods of amendment.

368. Power of Parliament to amend the Constitution and procedure for them:

(1) Notwithstanding anything in this Constitution, Parliament may, in the exercise of its constituent power, amend by addition, change or repeal any provision of this Constitution in accordance with the procedure set out in this Article.

(2) An amendment to this Constitution may only be initiated by the introduction of a Bill for that purpose in either House of Parliament, and if the Bill is passed in each House by a majority of all the members of that House and by a majority of not less than two-thirds of the members of that House present and voting, it shall be presented to the President, who expresses his assent to the bill, and then the Constitution remains amended in accordance with the terms of the bill:

Provided that if such amendment seeks to make any change in—

- (a) section 54, section 55, section 73, section 162, section 241 or section 279A or
- (b) Chapter IV of Part V, Chapter V of Part VI or Chapter I of Part XI, or
- (c) any of the Schedules in the Seventh Schedule, or
- (d) the States' representation in Parliament, or
- (e) the provisions of this Article,

The amendment also requires that it be ratified by the legislatures of at least one-half of the states by resolutions adopted to that effect by those legislatures before a bill making such amendment is submitted to the President for approval.

(3) Nothing in section 13 applies to any changes made under this section.

(4) No amendment of this Constitution (including the provisions of Part III) made or deemed to have been made under this Article, whether before or after the commencement of section 55 of the Constitution (Forty-second Amendment) Act 1976, shall be challenged . in any court for any reason.

(5) For the avoidance of doubt, it is hereby declared that there is no limitation on the constituent power of Parliament to alter by addition, amendment or repeal the provisions of this Constitution under this Article.

The contentious additions and modifications made by the 42nd Amendment to the Indian Constitution are widely known. The changes were made in line with the Swaran Singh Committee's recommendations, which were put out by Shri H.R. Gokhale, the then-law minister under the Congress administration, and constituted by the then-Indian Prime Minister Mrs. Indira Gandhi for the same purpose. This Amendment's introduction during the Emergency era, when the majority of opposition leaders were behind bars, is one of its most intriguing facts. In

1977 and 1978, respectively, the 43rd and 44th Amendments were passed, which invalidated the majority of the 42nd Amendment's clauses. The Indian Constitution is the most important living law in the nation. The Constitution is the most fundamental thing there is. India is governed by the Constitution. However, as it is a living document, changes and alterations may be made. The constitution had many revisions before the 42nd amendment. This amendment is special in that it changed the foundational elements of the Indian Constitution. The original Indian Constitution gave the Supreme Court of India certain authority; the 42nd Constitutional Amendment aimed to curtail these powers. The terms The preamble of the Indian Constitution now includes the words "Socialist, Secular, and Integrity". The Basic Responsibilities of Citizens were created by the 42nd Amendment. The Indian Constitution is significant because it establishes the framework for the functioning of the government. Second, it granted authority to several State organs. The document concludes by outlining the nation's goals, which include democracy, integration, and secularism. Additionally, it defends individuals' fundamental rights, which are necessary for survival. "Socialist, Secular, and Integrity" were added to the Indian Constitution's preamble. Our constitution is a beacon of light: H for harmony, O for opportunity, P for people's participation and E for equality.

The modifications are succinctly described here.

1. THE CITIZENS WERE IMPLIED WITH FUNDAMENTAL DUTIES.

The government's justification was that only citizens could exercise their fundamental rights. If they are exercising their constitutional rights, they must also fulfil their basic responsibilities to the country.

2. IDENTIFIED INDIA AS A SECURITY STATE

The terms "SOCIALIST SECULAR" and "DEMOCRATIC REPUBLIC" were substituted in the preamble of the Indian constitution.

3. A SPECIFIC PART CAN NOW BE MADE AN EMERGENCY.

It implicitly permitted the government to declare an emergency anywhere in the nation by enabling the President of India to do so.

4. GRANTED THE CENTRAL GOVERNMENT CONTROL OVER STATE LAW & ORDER

This amendment gave the union government the power to send armed troops into the states to uphold the rule of law.

5. REDUCED THE POWER OF SUPREME COURT JUDICIAL REVIEW

It made an effort to curtail the supreme court's ability to conduct judicial review. Following this, judges were unable to determine whether the measure approved by the parliament was constitutional. constitutionality of the legislation approved by the legislature.

III. WHY IS 42ND AMENDMENT CALLED THE MINI CONSTITUTION?

The 42nd Amendment is widely considered to be the most contentious constitutional amendment in history. This amendment authorized the union government to deploy armed troops in the states to maintain law and order. It established Indian citizens' Fundamental Duties to the Nation.

Administrative initiatives, judiciary verdicts, and legislation passed by the legislature largely affect a country's progress and future. Each of them is governed by the Constitution of the country in question. The Constitution served as a supporting structure by articulating the guiding principles for how the country would be managed. Without it, a country's entire hierarchy and categorization structure would be easily dissolved. The 42nd Amendment Act is known as the Little Constitution because it tries to alter the fundamental framework of the Indian Constitution. The 42nd Amendment was a wide amendment that had an impact on many elements of the Constitution, including:

It attempted to overturn the judgement of the Supreme Court in the Keshvananda Bharti case.

- The term of the Lok Sabha was increased from five to six years.
- This provision restricted the judiciary's review authority.
- The 42nd Amendment Act altered the Preamble, the Seventh Schedule of the Constitution, and 53 Articles of the Constitution.

In brief, the 42nd Amendment is characterized as a Little Constitution because of the considerable revisions it made to the Constitution.

The 42nd amendment, which changed the core framework or key components of the Indian Constitution, was dubbed the "Little Constitution of India" for this reason. The Preamble, which is seen to be the core of the constitution, was changed. Additionally, it included Fundamental Duties, redefined how the courts handled legislative issues, changed how the President of India conducts himself, and so forth.

The 42nd Amendment amended - What was amended?

Preamble - Incorporating the phrases "socialist," "secular," and "integrity".

7th Schedule

Five topics are being moved from the state list to the concurrent list:

Justice Administration Forests Wild animal and bird protection

Measures & Weights in Education.

Article 51A outlined the 10 Core Duties of Citizens. This adjustment complied with the changes made by the Swaran Singh Committee.

Parliament- The Indian Cabinet of Ministers was forced to bind the President. The Central Government may deploy Central Forces in states experiencing law and order problems in accordance with Article 257A. The Speaker of the Lok Sabha and the Prime Minister were given extraordinary discretionary powers under Article 329A.

Fundamental/Human Rights were maintained above Directive Principles. Any law that has received the approval of the Parliament is immune from the Court's judicial scrutiny.

Judicial Powers of HC The High Courts' ability to conduct judicial reviews has been limited.

Articles 323A and 323B, Part XIV-A Part XIV-A now includes "Tribunals for Other Matters" and "Tribunals dealing with Administrative Matters."

DPSPs The list of DPSPs (Directive Principles of State Policy) has expanded by three and been modified by one. To ensure that children have opportunity for a healthy growth (Article 39) To advance equal justice and offer the poor free legal assistance (Article 39 A) to ensure that employees are involved in the administration of industries (Article 43 A) To maintain woods and animals, develop the environment, and protect it (Article 48 A).

The country was significantly affected by this substantial modification to the constitution. The constitution was altered to the point where it earned the moniker "mini-constitution of India." The amendment significantly altered how much authority state institutions and courts held. The Centre, the Council of Ministers, and the Prime Minister removed many of the authority previously granted to these groups. Although the Constitution had already been altered, this Amendment Act shattered all prior records and altered the Constitution's core principles. It changed the term of a member of parliament from four to six years, which might have significantly altered the nation's electoral system. Additionally, it made it necessary to be a Member of the Legislative Assembly (MLA) or Member of Parliament (MP). (Member of Legislature) cannot be disqualified or challenged in court; the President of India is the only person who has the authority to do so after consulting the Election Commission.

In the post-emergency elections, Indira Gandhi suffered her most humbling loss. In India, a

government headed by a different party than the Congress was established for the first time ever. The Janta Party Cabinet, under the direction of Morarji Desai, started work on the Constitutional Amendments. The administration believed that the Constitution needed more changes since the amendments had damaged it. The 43rd Amendment restored the authority of the Supreme Court and the High Courts. By strengthening the judiciary and eliminating the 42nd Amendment, the 44th Amendment has strengthened the Constitution more than ever before. To prevent a future circumstance comparable to the 42nd Amendment, this amendment made various adjustments. "Armed Rebellion" was added to the Emergency provisions in place of "Internal Unrest." This amendment increased basic rights as well.

1. The 42nd Amendment to the Indian Constitution received harsh criticism for restricting basic liberties and mistreating the ultimate authority granted by the Central government. This law was passed by the Central Government under Indira Gandhi, and it was also inspired by the National Emergency.

2. Police repression of common people and their leaders sparked widespread social unrest.

3. This amendment led to the overthrow of the administration led by Indira Gandhi. People supported the Janata Party because it promised to restore the Constitution to its pre-Emergency state. The new administration, however, was unable to fully complete this work.

IV. AMENDMENT LEGAL CHALLENGES

"Minerva Mills v. The constitutionality of Articles 4 and 55 of the 42nd Amendment was contested in Union of India. At the time, Charan Singh served as the interim prime minister. In order to establish guiding principles of state supremacy, Article 4 of the 42nd Amendment modified Article 31C of the Constitution. The fundamental rights of every person are guaranteed in Part III above, according to the concept outlined in Part IV of the Constitution. Any constitutional alteration that was "called into question in any court on any ground" was prohibited under Article 55. Additionally, it specified that there would be no limitations on Parliament's ability to change the Constitution. The Supreme Court declared that Sections 4 and 55 of the 42nd Amendment were invalid during the general election in India in 1980. He understood and advanced the theory behind the constitution's fundamental design.

V. CONCLUSION

A state has a dynamic life and regularly undergoes economic, social, and political changes to accommodate the continual developments and needs of society. Consequently, a Constitution crafted in one environment during one era might not be sufficient in another. Every constitution

contains an amendment process that enables provisions to be added, removed, or changed to keep up with modern requirements. Provisions for amending the Constitution are incorporated to remove any potential obstacles to its effective execution. The framers of the Constitution intended it to be somewhat flexible so as not to become unduly rigid. They wanted a constitution that could grow along with a rising nation and meet the populace's continually changing requirements. A state has a dynamic life and regularly undergoes economic, social, and political changes to accommodate the continual developments and needs of society. Consequently, a Constitution crafted in one environment during one era might not be sufficient in another. Every constitution contains an amendment process that enables provisions to be added, removed, or changed to keep up with modern requirements. To eliminate any potential barriers to the Constitution's effective implementation, provisions for modifying it have been inserted. In order to prevent it from becoming overly rigid, the Constitution's founders intended for it to be somewhat flexible. They want a constitution that could develop along with a developing country and accommodate the needs of a citizenry that was ever-evolving. It has the potential to totally alter the Indian Constitution and is the most controversial amendment in its history. The Preamble underwent permanent modifications. Numerous modifications and amendments to the Constitution attracted attention and criticism. The judiciary's authority to weigh in on legislative affairs was restricted, the Central Government was granted unrestricted power, and additional measures that were roundly decried as eroding democracy were added. We hope that this information has made the Constitution (42nd Amendment) Act of 1976 easier for you to understand.
