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Major Constitutional Amendment: Part 1

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Introduction

- Like any other written Constitution in the world, the Constitution of India also provides for its amendment in order to adjust itself according to the changing conditions and needs.
- Article 368 in Part XX of the Constitution deals with the powers of Parliament to amend the Constitution and its procedure. It states that the Parliament may amend the Constitution by way of addition, variation or repeal any provision in accordance with the procedure laid down for the purpose.
- However, the Parliament cannot amend those provisions which form the 'basic structure' of the Constitution. This was ruled by the Supreme Court in the Kesavananda Bharati case (1973).

Important Amendments

First Amendment Act, 1951

- **Reasons:**
 - To remove certain practical difficulties created by the court's decision in several cases such as Kameshwar Singh Case, Romesh Thapar Case, etc.
 - Issues involved in the cases included freedom of speech, acquisition of the Zamindari land, State monopoly of trade, etc

- **Amendments:**

- Empowered the state to make special provisions for the advancement of socially and economically backward classes.
- Provided for the saving of laws providing for acquisition of estates, etc.
- Added Ninth Schedule to protect the land reforms and other laws included in it from the judicial review. After Article 31, Articles 31A and 31B were inserted.
- Added three more grounds of restrictions on freedom of speech and expression: public order, friendly relations with foreign states and incitement to an offence. Also, it made the restrictions 'reasonable' and thus, justiciable in nature.
- Provided that state trading and nationalisation of any trade or business by the state is not to be invalid on the ground of violation of the right to trade or business.

Fourth Amendment Act, 1955

- **Amendments:**

- Made the scale of compensation given in lieu of compulsory acquisition of private property beyond the scrutiny of courts.
- Authorised the state to nationalise any trade.
- Included some more Acts in the Ninth Schedule.
- Extended the scope of Article 31 A (savings of laws).

Seventh Amendment Act, 1956

- **Reasons:**

To implement the recommendations of the State Reorganization Committee and to implement the State Reorganization Act, 1956.

- **Amendments:**

- Second and Seventh Schedules were amended
- Abolished the existing classification of states into four categories i.e., Part A, Part B, Part C, and Part D states, and reorganised them into 14 states and 6 union territories.
- Extended the jurisdiction of high courts to union territories.
- Provided for the establishment of a common high court for two or more states.
- Provided for the appointment of additional and acting judges of the high court.

Ninth Amendment Act, 1960

- **Reasons:**

After the Nehru-Noon agreement was signed between India and Pakistan to divide the territory of Berubari Union, the Government of West Bengal opposed it. After this Union referred the matter to SC which held that the power of Parliament to diminish the area of a state (under Article 3) does not cover cession of Indian territory to a foreign country. Hence, Indian territory can be ceded to a foreign state only by amending the Constitution under Article 368. Consequently, the 9th Constitutional Amendment Act (1960) was enacted.

- **Amendments:**

Facilitated the cession of the Indian territory of Berubari Union (located in West Bengal) to Pakistan as provided in the Indo-Pakistan Agreement (1958).

Tenth Amendment Act, 1961

Amendments:

Incorporation of Dadra, Nagar and Haveli as a Union Territory, consequent to acquisition from Portugal.

Eleventh Amendment Act, 1961

Amendments:

- Changed the procedure of election of the vice president by providing for an electoral college instead of a joint meeting of the two Houses of the Parliament.
- Provided that the election of the President or vice president cannot be challenged on the ground of any vacancy in the appropriate electoral college.

Twelfth Amendment Act, 1962

Amendments:

Incorporated Goa, Daman and Diu in the Indian Union.

Thirteenth Amendment Act, 1962

Amendments:

Gave the status of a state to Nagaland and made special provisions for it.

Fourteenth Amendment Act, 1962

Amendments:

- Incorporated Puducherry in the Indian Union.
- Provided for the creation of legislatures and council of ministers for the Union Territories of Himachal Pradesh, Manipur, Tripura, Goa, Daman and Diu, and Puducherry.

Seventeenth Amendment Act, 1964

Amendments:

- Prohibited the acquisition of land under personal cultivation unless the market value of the land is paid as compensation.
- Included 44 more Acts in the Ninth Schedule

Eighteenth Amendment Act, 1966

Amendments:

- Made it clear that the power of Parliament to form a new state also includes a power to form a new state or union territory by uniting a part of a state or a union territory to another state or union territory.
- It created new states namely, Punjab and Haryana

Twenty First Amendment Act, 1967

Amendments:

Included Sindhi as the 15th language in the Eighth Schedule.

Twenty Fourth Amendment Act, 1971

• Reasons:

Twenty Fourth Constitutional Amendment Act was brought in response to the Golaknath ruling (1967) of the Supreme Court which held that the Parliament does not have the power to take away any fundamental rights through amendment to the Constitution.

• Amendments:

- Affirmed the power of Parliament to amend any part of the Constitution including fundamental rights by amending Article 13 and 368.
- Made it compulsory for the President to give his assent to a Constitutional Amendment Bill.

Twenty-Fifth Amendment Act, 1971

Amendments:

- Curtailed the fundamental right to property.
- Provided that any law made to give effect to the Directive Principles contained in Article 39 (b) or (c) cannot be challenged on the ground of violation of the rights guaranteed by Articles 14, 19 and 31.

Twenty-Sixth Amendment Act, 1971

Amendments:

Abolished the privy purses and privileges of the former rulers of princely states.

Thirty First Amendment Act, 1973**• Reasons:**

An increase in the population of India revealed in the Census of 1971.

• Amendments:

Increased the number of Lok Sabha seats from 525 to 545.

Thirty Third Amendment Act, 1974**Amendments:**

Amended Articles 101 and 190 and provided that the resignation of the members of Parliament and the state legislatures may be accepted by the Speaker/Chairman only if he is satisfied that the resignation is voluntary or genuine

Thirty-Fifth Amendment Act, 1974**Amendments:**

Terminated the protectorate status of Sikkim and conferred the status of an associate state of the Indian Union. The Tenth Schedule was added laying down the terms and conditions of association of Sikkim with the Indian Union

Thirty Sixth Amendment Act, 1975**Amendments:**

Made Sikkim a full-fledged State of the Indian Union and omitted the Tenth Schedule.

Thirty-Eighth Amendment Act, 1975**Amendments:**

- Made the declaration of emergency by the President non-justiciable.
- Made the promulgation of ordinances by the President, governors and administrators of Union territories non-justiciable.
- Empowered the President to declare different proclamations of national emergency on different grounds simultaneously