

Constitutional Amendment

[UPSC Notes]

History of Constitutional Amendment

After ratification, an amendment becomes law and applies to all states, including those that are not currently represented in Congress. The process of adding an amendment to the Constitution has been used since at least 1789, when George Washington proposed an amendment to his own Constitution.

- The Indian Constitution is a set of laws and rules that govern the country's government, society, and politics. It is also known as the "constitution of India".
- The Constitution is based on the Articles of Association of the Constitution of India. The Constitution was finalized by the nation in 1947.
- It received additions in 1988 and 1999. A number of clauses of the Indian Constitution are crucial for both Indians and outsiders.
- The Constitution lays down clear guidelines for the functioning of Indian democracy. It also highlights parameters for how they ought to be modeled and how elections ought to be operated.

Provisions for Constitutional Amendment

The power of Parliament to transmit a Constitutional Amendment and the mechanism for doing so are detailed in Part XX, Article 368. It inhibits the Indian Parliament's arbitrary jurisdiction.

1. The Bill is broadcasted to the President for prior consent after collecting a solid vote in both Houses and backing from the state legislatures.
2. A substantial majority must approve the Bill in each House.
3. There isn't a mechanism for a joint sitting in the event of revisions.
4. Updates to Article 368 provisions, such as changing federal features, require acceptance by at least half of the states.

Types Of Amendments

There are three ways to change the Constitution:

- Amendment approved by the Parliament with a simple majority.
- In some instances, a great majority of the Parliament amends a law.
- At least 50% of the state legislatures must ratify an amendment made by a special majority of the Parliament.

Important Constitutional Amendments of Indian Constitution

There are 104 amendments made till October 2021 since it was first acted upon in 1950.

First Constitutional Amendment Act 1951

- In the First Amendment act, the state was given due responsibility to make the advancement of the economically backward class people through various provisions and policies.
- The 9th schedule was also added that protected the land reform laws that included it from the judicial review.
- It added some restrictions on freedom of speech and expression, such as friendly relationships with foreign countries, support for an offense, and public orders. This also made the restriction justiciable and reasonable in nature.

Second Amendment Act, 1952

In the Second Amendment act, the representation scale of the Lok Sabha was altered, and it was readjusted it states that one member of the Lok Sabha can represent more than 7.5 Lac people.

Fourth Amendment Act, 1955

There were a few more acts included in the fourth amendment act's ninth schedule.

This law protects people's homes and possessions from arbitrary searches and seizures. Those searches were considered unreasonable under the law came under this act.

Seventh Amendment Act, 1956

- In the seventh amendment act, the union territories were introduced.
- The thought of having a single common High Court for two or even more states was also introduced in the seventh act.
- There was the abolition of A, B, C and D states.
- 14 States and six union territories were newly formed.

Ninth Amendment Act, 1960

- The Indo-Pak Accord of 1958, a treaty involving India and Pakistan, culminated in transformations to the Indian territory.

Tenth Amendment Act, 1961

- In the 10th amendment act, the incorporation of Dadar, Nagar and Haveli in the union of India was made as a union territory.

12th Amendment Act, 1962

- In this act, Goa, Daman and Diu were incorporated as union territories.

13th Amendment Act, 1962

- As a result of article 371A, Nagaland has been granted special status.

14th Amendment Act, 1962

- As a result of this act, Pondicherry was included in the Indian Union Territory.
- The Council of Ministers and the legislature were provided to union territories such as Himachal Pradesh, Manipur, Tripura, Daman and Diu, Goa, and Puducherry.

19th Amendment Act, 1966

- In this act the system of election tribunals was removed and the power to hear the election petition was in the hands of the high courts.

21st Amendment Act, 1967

- In this act Sindhi language was made a language into the 8th schedule of the Indian constitution.

24th Amendment Act, 1971

- In this act the president's assent was made mandatory to constitute the amendment Bill.

31st Amendment Act, 1972

- In this act, the seats of the Lok Sabha, which was earlier 525, increased to 545.

35th Amendment Act, 1974

- As a result, Sikkim's status as a protectorate state was terminated, and it was given that of an associate state.

36th Amendment Act, 1975

- India made Sikkim a full-fledged state.

42nd Amendment Act, 1976

- Known as the mini-constitution, this amendment is the most extensive in the Indian constitution.

44th Amendment Act, 1978

- The Janata government enacted this amendment to the Indian constitution, which is one of the most important changes.

61st amendment act , 1889

- This act, the voting age of the citizens was reduced from 21 to 18 in both the Lok Sabha and the legislative assembly elections.

74th Amendment Act, 1992

- The urban local bodies were granted constitutional status.
- In addition, part 9A and schedule 12 of the Indian constitution were added.

86th Amendment Act, 2002

- It made elementary education free and compulsory for children between 6 and 14 years of age.

92nd Amendment Act, 2003

- The number of official languages was increased from 18 to 22.
- Bodo, Dogri, Maithili and Santhali were officially added in the Eighth schedule.

97th amendment act, 2011

- In this act, constitution status was given to the cooperative societies.
- They had the complete freedom to form cooperative societies.

101st Amendment Act, 2016

- For the first time, the goods and services tax was introduced in society in this act.

102nd Amendment Act, 2018

- In this act, the National Commission for the backward classes of the society was granted constitutional status.

103rd Amendment Act, 2019

- This act provided a maximum of 10% reservation for the weaker and backward class of citizens other than the classes that are mentioned in clauses four and five of article 15.

104th Amendment Act, 2020

- This act was passed to extend the seat reservation of the scheduled tribe and scheduled caste in the Lok Sabha.
- This was set to expire on 26th January 2020, but it was extended for another ten years for valid reasons.

105th Amendment act, 2021

Under the 105 Constitutional Amendment Act, state governments have been given the power to prepare the SEBC list.

Latest Constitutional Amendment

The latest Indian Constitutional Amendment is the "Amendment to the Constitution of India," approved by the lower House of the Parliament on 22nd March 2017.

The amendment, which was made by a vote of 403-3 in favor and 62-6 against, clarifies that Article 15 of the Constitution states that "The people have a right to self-determination."

It also clarifies that Article 15 is not just for Indians but also applies to everyone in India, or we can say that the amendment of Article 15 applies to all citizens regardless of their religion or caste, or language.

There have been some changes made to land tenure laws, but these laws are still in force. Likewise, certain tweaks have been made to other laws regarding religious freedom.

The operation of revising the Constitution is specified in Article 368 Part XX and deals as follows:

1. State legislatures cannot begin the process of amending the Constitution; only the introduction of a bill in one of the Houses can do so.
2. The Bill doesn't need the President's previous approval to be introduced, and either a minister or a private member may do so.
3. The Bill requires separate passage in each House. There is no mechanism for having a joint session of the two houses in the event of a disagreement.
4. A simple plurality of the state legislatures in half the states must also adopt the Bill if it strives to transform the federal provisions of the Constitution.
5. The President must sign the law; he cannot refuse to do so or send it back to Parliament for a second reading.
6. When the Bill becomes enforceable after the President signs it(CAA).

The Flexibility Of The Indian Constitution

There are countless distinct kinds of changes that the Constitution can accommodate. For example, it allows for amendments to be made at any time so that it can adapt to changing circumstances.

- A handful of clauses in the Constitution are also supposed to deter civil liberties and guarantee that people have the opportunity to pursue their rights without being afraid of retribution without worrying about punishment.
- It also protects privacy rights and ensures that people have access to information about their private lives.
- The Constitution is also one of the few legal documents that have survived the ravages of time.
- It has survived many changes in its form over time, including changes to its wording and content.
- This makes it a priceless source of knowledge for people around the world who want to understand how the Indian government works and what types of changes are possible under different circumstances.

Criticism Faced During The Inauguration Indian Constitution

In 1947, India's constitution was formulated. It was the fruit of countless democratic innovations that had been executed in the nation. The fundamental privileges and rights of Indians were articulated in the Constitution. Additionally, it gave individuals the sovereign power to choose their government and propose laws.

As one of the first constitutions to be crafted through a democratic process, the Constitution was a tremendous milestone for India. It also laid out a series of fundamental tenets for Indian society. The Constitution did, however, face some criticisms, not all of which were productive.

1. One of these objections was that it did not apply to all Indians, and as an outcome, people were prohibited from enlisting or running for office themselves.
2. Another issue was that Indians were not handed the authority to modify their respective laws or democratic accountability.
3. Parliament alone has the power to amend the majority of the Constitution with either a particular majority or a simple majority. Only a few situations—and even in those—require the state legislature's approval, and even then, only half of them.
4. The state legislatures have no authority to accept or reject an amendment that is put forth to them under the Constitution. Furthermore, it gives no indication of whether countries can revoke authorization they have already granted.
5. There is no provision for a combined session of the two Houses of Parliament in the event that a constitutional reform measure cannot be passed.
6. The process for enacting legislation is similar to the process of changing a document. Except for the unique majority requirement, the Constitutional Amendment legislation must be approved by Parliament in the same manner as other laws.
7. They allow the courts a lot of leeways to get involved.