BLOGS

Important Constitutional Amendments

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The Indian Constitution, adopted on January 26, 1950, is one of the most detailed and comprehensive written constitutions in the world. Its framers ensured that it was not static but a dynamic document that could evolve with time.

To this end, **Article 368** of the Constitution empowers the Parliament to amend the Constitution. Since its inception, the Constitution has been amended over 100 times.

Among these, several amendments stand out as particularly significant, either because they changed the structure of governance, clarified ambiguities, or responded to landmark judicial decisions.

This article outlines some of the most important constitutional amendments that have shaped modern India.

The 1st Amendment Act, 1951

This amendment was introduced to address issues raised by judicial decisions that struck down certain land reform laws and restrictions on freedom of speech. In ***Romesh Thappar v. State of Madras***, the Supreme Court held that a law restricting free speech was unconstitutional, prompting the government to redefine the scope of Article 19(2).

The amendment inserted Articles 31A and 31B to validate land reform laws and introduced the Ninth Schedule to protect such laws from judicial scrutiny. Additionally, it amended Article 19(2) to enable the state to impose reasonable restrictions on the freedom of speech and expression, particularly in the interests of public order and incitement to offenses.

This marked the first major legislative response to judicial review and illustrated the balance between individual freedoms and social reforms.

The 7th Amendment Act, 1956

Following the recommendations of the States Reorganization Commission, this amendment reorganized Indian states on a linguistic basis. It replaced the classification of states into Parts A, B, C, and D with a uniform structure and provided for the establishment of union territories. It also enabled the creation of common high courts for two or more states.

This amendment was a crucial step in acknowledging and incorporating India's linguistic and cultural diversity within a federal framework. The political map of India was redrawn, and it laid the foundation for a more cohesive federal structure that balanced unity with regional identity.

The 24th Amendment Act, 1971

This amendment was enacted in response to the Supreme Court's judgment in ***Golaknath v. State of Punjab***, which held that Parliament could not amend Fundamental Rights. The amendment clarified that Parliament had the power to amend any part of the Constitution, including Part III, and made it obligatory for the President to give assent to constitutional amendment bills.

In the Kesavananda Bharati v. State of Kerala case, the doctrine of the Basic Structure was introduced, which put real limits on Parliament's power to change the constitution. This reassertion of parliamentary supremacy over constitutional amendments was later looked at more closely.

The 42nd Amendment Act, 1976

Often referred to as the "Mini-Constitution," this amendment underwent extensive changes during the Emergency. It added the words "Socialist," "Secular," and "Integrity" to the preamble, thus formally declaring the ideological character of the state.

It gave primacy to directive principles over fundamental rights, curtailed the power of judicial review, and made the Constitution virtually unamendable by inserting Articles 368(4) and (5).

It also introduced fundamental duties under Article 51A and significantly enhanced the powers of the central government. This amendment was widely criticized for disturbing the balance of power and eroding democratic values. Many of its provisions were subsequently repealed or modified by later amendments.

The 44th Amendment Act, 1978

Passed after the emergency, this amendment aimed to restore democratic values. It repealed many provisions of the 42nd Amendment. Most notably, it removed the right to property from the list of fundamental rights, making it a constitutional right under Article 300A.

It also made it more difficult to declare a national emergency by requiring that such a declaration be based on armed rebellion rather than internal disturbance. Furthermore, it protected the rights under Articles 20 and 21 from suspension during emergencies.

This amendment reaffirmed the importance of individual liberties and limited the misuse of emergency powers.

The 52nd Amendment Act, 1985 (Anti-Defection Law)

This amendment added the Tenth Schedule to the Constitution to curb political defections. The amendment established the procedure for disqualifying legislators for defecting to a different political party.

The Speaker or Chairman of the House was given the authority to make decisions under this law. While it aimed to bring stability to governments and prevent horse-trading, the role of the Speaker in disqualification proceedings has often been contentious and raised questions about impartiality. The law was further refined in later amendments.

The 73rd and 74th Amendments, 1992

These amendments provided constitutional status to Panchayati Raj institutions and urban local bodies, respectively. They introduced Parts IX and IXA into the Constitution, along with the Eleventh and Twelfth Schedules, listing the functions of these institutions.

The amendments mandated regular elections, reservation of seats for Scheduled Castes, Scheduled Tribes, and women, and the creation of State Election Commissions and State Finance Commissions.

These amendments marked a significant milestone in Indian democracy, institutionalizing grassroots governance and facilitating increased participation in decision-making processes.

The 86th Amendment Act, 2002

This amendment made education a fundamental right. It inserted Article 21A, which mandates free and compulsory education for all children aged 6 to 14 years. It also modified Article 45 to provide early childhood care and education and added a fundamental duty under Article 51A for parents to provide education to their children. The amendment laid the constitutional foundation for the Right to Education Act, 2009, and reflected a shift in the state's approach to inclusive development and human capital formation.

The 91st Amendment Act, 2003

This amendment aimed to strengthen the anti-defection laws and limit the size of the Council of Ministers. It restricted the total number of ministers in the central and state governments to 15% of the strength of the legislature and disqualified defectors from holding any ministerial position. It addressed concerns over bloated cabinets and unprincipled defections that were destabilizing the political environment.

The 101st Amendment Act, 2016 (Goods and Services Tax)

This amendment introduced the Goods and Services Tax (GST), a major indirect tax reform. It inserted Article 246A, giving concurrent powers to both the Parliament and state legislatures to make laws on GST.

It also established the GST Council under Article 279A to recommend rates, exemptions, and model laws. The amendment replaced multiple indirect taxes with a single unified tax, thereby simplifying the tax structure and promoting economic integration across the country.

The 103rd Amendment Act, 2019

This amendment provided for a 10% reservation in government jobs and educational institutions for economically weaker sections (EWS) among the unreserved categories. It amended Articles 15 and 16 to include special provisions for the advancement of EWS.

The amendment represented a shift in the affirmative action policy by including economic criteria alongside social and educational backwardness. It was upheld by the Supreme Court in 2022 in the case of *Janhit Abhiyan v. Union of India*.

The 104th Amendment Act, 2020

This amendment discontinued the provision for the nomination of Anglo-Indian representatives in the Lok Sabha and state legislative assemblies. It also extended the reservation for Scheduled Castes and Scheduled Tribes in the legislatures for another ten years, until 2030. This amendment marked the end of a historical safeguard for a small community while continuing affirmative action for historically disadvantaged groups.

The 105th Constitutional Amendment, 2021

The amendment reaffirms the right of states and Union Territories to maintain their own lists of SEBCs, which are separate from the Central List.

Amendments to Articles 338B, 342A, and 366:

- ◦ Article 338B: Establishes the National Commission for Backward Classes (NCBC) to examine issues related to SEBCs.
  - ◦ Article 342A: Clarifies that both the Central and State governments can maintain separate lists of SEBCs.
  - ◦ Article 366(26C): Provides a clear definition of SEBCs.