

AMENDMENT OF THE INDIAN CONSTITUTION: LIMITS, POSSIBILITIES, AND POLITICAL REALITIES

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ABSTRACT

The Indian Constitution is a living and evolving document, equipped with a mechanism for amendment under Article 368. This adaptability ensures that the Constitution remains relevant amid changing socio-economic and political circumstances. However, the amending power of Parliament is not unfettered. It is subject to substantive limits as laid down by judicial pronouncements, procedural constraints within Article 368 itself, and the realities of India's dynamic political landscape. This paper examines the constitutional, legal, and political boundaries of amendment; identifies the possibilities for progressive transformation through amendments; and analyzes the political forces and motivations that often shape or hinder constitutional reform. By reviewing landmark amendments and court rulings, this study offers a critical understanding of the fine balance between change and continuity in India's constitutional scheme. It concludes by suggesting reforms to strengthen democratic accountability while preserving the core values of the Constitution.

Keywords: Constitutional Amendment, Article 368, Basic Structure, Judicial Review, Indian Constitution, Political Constraints, Federalism, Constitutional Morality

1. INTRODUCTION

The Constitution of India, adopted in 1950, was envisioned as both rigid and flexible—rigid enough to prevent arbitrary changes and flexible enough to adapt to evolving national needs. Article 368 of the Constitution empowers Parliament to amend the Constitution through a prescribed procedure. While this reflects the visionary intent of the Constitution's framers to allow for evolution, it also necessitates safeguards to prevent misuse. Over the decades, the power to amend has been exercised to enact progressive reforms and, at times, to serve political expediency. The purpose of this paper is to explore three vital dimensions of the constitutional amendment process: the **limits** imposed by law and jurisprudence, the **possibilities** for democratic and structural reform, and the **political realities** that influence the process.

2. REVIEW OF LITERATURE

Granville Austin emphasized that the Indian Constitution represents a seamless web of principles, integrating the goals of justice, liberty, equality, and fraternity. He argued that constitutional amendments are necessary tools to fulfill India's commitment to socio-economic transformation.

M.P. Jain's authoritative text on Indian Constitutional Law elaborates on the evolution of Article 368, explaining the classifications of amendments and their implications on federalism, fundamental rights, and separation of powers.

H.M. Seervai maintained that Parliament's power to amend is limited by the Constitution's foundational values. He supported judicial scrutiny as essential to preserving the core identity of the Constitution.

Upendra Baxi has been a vocal critic of constitutional amendments made for political gains, particularly those passed during the Emergency period. He called for greater democratic oversight and public involvement in constitutional changes.

LIMITS ON CONSTITUTIONAL AMENDMENTS

The amending power of Parliament, though substantial, is not absolute. Over the years, the judiciary has stepped in to define the substantive boundaries within which amendments must operate.

The **Basic Structure Doctrine**, established by the Supreme Court in *Kesavananda Bharati v. State of Kerala* (1973), asserts that while Parliament has wide powers to amend the Constitution, it cannot destroy or alter its basic structure. This includes principles such as the supremacy of the Constitution, secularism, democracy, separation of powers, judicial independence, federalism, and the protection of fundamental rights.

In *Indira Gandhi v. Raj Narain* (1975), the court reaffirmed that Parliament cannot use its amending power to bypass judicial scrutiny or undermine democratic principles. The attempt to exempt the Prime Minister's election from judicial review was declared unconstitutional.

In *Minerva Mills v. Union of India* (1980), the Supreme Court further ruled that limited amending power itself is a part of the basic structure. Thus, Parliament cannot claim unlimited authority over the Constitution.

Apart from substantive limits, procedural limits also exist. Certain amendments that affect federal features—such as representation of states, judiciary, or distribution of powers—require ratification by at least half of the state legislatures under Article 368(2). This ensures that states have a say in preserving the federal character of the Constitution.

Furthermore, the concept of **constitutional morality** acts as an ethical boundary. Although not explicitly codified, it implies that amendments must respect the spirit of the Constitution and should not serve narrow political interests.

Possibilities of Constitutional Amendments

Despite these limits, the Constitution offers vast potential for democratic innovation and reform through amendments.

One of the most significant possibilities is the facilitation of **progressive social reforms**. The **73rd and 74th Amendments** (1992) empowered Panchayati Raj and Urban Local Bodies, bringing governance closer to the people. The **86th Amendment** (2002) made education a fundamental right for children aged 6–14 years, advancing the right to education as a tool of empowerment.

The **101st Amendment** (2016) introduced the Goods and Services Tax (GST), streamlining indirect taxation and promoting economic unification of the country. This amendment required coordination between the Union and states, showcasing cooperative federalism.

Amendments have also been used to expand the scope of rights. The **103rd Amendment** (2019) introduced a 10% quota for Economically Weaker Sections (EWS), marking a shift from caste-based to income-based affirmative action.

Constitutional amendments provide a legitimate and structured avenue to respond to **emerging global and national challenges**, including climate change, digital governance, privacy, and electoral transparency.

They can also be used to address longstanding issues such as **judicial accountability**, **electoral reform**, and **institutional strengthening**, ensuring that constitutional governance remains robust and relevant.

POLITICAL REALITIES OF THE AMENDMENT PROCESS

In practice, constitutional amendments are deeply influenced by political factors. These **political realities** often determine what gets amended, how, and when.

One of the most defining features is the influence of **political majorities**. A government with a strong parliamentary majority can initiate and pass amendments quickly. While this can be beneficial for urgent reforms, it also poses the risk of partisan or authoritarian amendments. The **42nd Amendment (1976)**, passed during the Emergency, sought to curb judicial powers and over-centralize authority. Many of its provisions were later reversed by the **44th Amendment (1978)**.

Federal tensions also impact amendments. Any amendment that affects the distribution of power between the Union and states requires not only political negotiation but also legal ratification by at least half of the states. This often delays crucial reforms, such as those related to women's reservation or police reforms.

The **use of amendments for electoral or political gains** is another concerning trend. Some amendments are introduced close to elections, aiming to appeal to specific vote banks rather than addressing genuine constitutional needs.

Unlike some democracies where constitutional changes are subject to **public referendums**, India's process is entirely legislative. The **lack of direct public participation** in constitutional reform makes the process susceptible to elite capture, with little room for civil society or citizen feedback.

Finally, the **judiciary acts as a balancing force**, but its role is also contested. While courts have protected the Constitution's core values, they have been criticized for inconsistent rulings or perceived overreach in constitutional matters.

CHALLENGES IN THE AMENDMENT PROCESS

Several challenges arise in the context of constitutional amendments:

Firstly, the **ambiguity in defining the "basic structure"** leads to uncertainty. Since the Supreme Court has not given an exhaustive list, each case becomes a new interpretation, leading to legal unpredictability.

Secondly, **political polarization** makes consensus difficult, especially in amendments requiring state ratification or broad support across party lines.

Thirdly, some amendments have been used to **centralize power**, thereby undermining the federal balance. For example, the reorganization of states or imposition of President's Rule has at times been politically motivated.

The **risk of undermining civil liberties** through regressive amendments is a constant concern. Without strong checks, this power can be abused to dilute rights and dissent.

Additionally, the **lack of awareness among the general public** and limited engagement by civil society weakens democratic scrutiny over the amendment process.

SUGGESTIONS

To strengthen the amendment process while safeguarding constitutional values, the following steps are suggested:

There should be efforts to **codify the elements of the basic structure** through a constitutional declaration or legislation. This would reduce ambiguity and limit misuse.

Establishing an **independent Constitutional Reform Commission** would ensure expert evaluation of proposed amendments and reduce the influence of short-term political motives.

Public consultations and debates should be institutionalized before introducing major amendments. Civil society, academia, and legal experts must be involved in the process.

Amendments affecting federal features must ensure **stronger participation of state legislatures**, reinforcing cooperative federalism.

There should be a requirement of a **supermajority** (e.g., two-thirds of the total membership of each House, not just those present and voting) for amendments altering key provisions.

Finally, civic education campaigns and university-level programs on constitutional values and amendment procedures should be promoted to foster a more informed electorate.

CONCLUSION

The Indian Constitution stands as a testament to the nation's democratic spirit, visionary ideals, and institutional resilience. Article 368 empowers Parliament to adapt the Constitution to contemporary needs, but this power must be exercised with responsibility and restraint. The **limits**—as set by the judiciary and constitutional morality—ensure that core values are preserved. The **possibilities** of amendment open the door to reform and innovation in governance, rights, and institutional frameworks. Yet, the **political realities**—marked by centralization, opportunism, and lack of public involvement—highlight the need for greater vigilance and reform. As India navigates the challenges of the 21st century, a balanced and transparent amendment process will be key to sustaining the spirit of the Constitution while allowing it to evolve with the times.

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