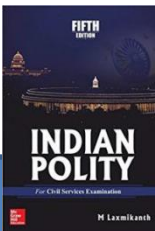


AMENDMENT TO CONSTITUTION – Part XX, Art. 368

- **To adjust to changing conditions & needs – add, variation or repeal**
- **Neither easy (UK) nor difficult (US)**

PROCEDURE

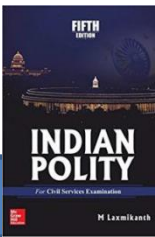
- 1. Bill initiation ONLY by either house of Parliament**
- 2. Introduced either by minister or a private member [a Member, other than a Minister]**
- 3. NOT require prior permission of the President**
- 4. Each house must pass bill by a special majority**
- 5. No joint sitting**
- 6. If federal procedures, ratification by legislatures of half of the states (simple majority)**
- 7. President must sign [24th Amendment] – NO withhold & NO reconsideration**
- 8. Bill to Act**



TYPES OF AMENDMENTS → 3

Art. 368 : two types

Some other articles : another type



Simple majority of Parliament – Outside the scope of Art. 368. These provisions

- 1. Use of official language**
 - 2. Citizenship – acquisition & termination**
-

- 1. Number of puisne judges [a judge of a superior court inferior in rank to chief justices] in the SC**
 - 2. Conferment of more jurisdiction on the S.C**
-

- 1. Elections to parliament & state legislatures**
 - 2. Delimitation of constituencies**
-

- 1. 2nd Schedule – Emoluments Allowances Privileges - EAP**
 - 2. 5th schedule**
 - 3. 6th schedule**
-

- 1. Admission or establishment of new states**
 - 2. Formation of new states and alteration of areas, boundaries or names of existing states**
 - 3. Abolition or creation of legislative councils in states**
 - 4. Union Territories**
-

- 1. Quorum in Parliament**
- 2. Salaries and allowances MPs**
- 3. Rules of Procedure in Parliament**
- 4. Privileges of Parliament, its members & its committees**
- 5. Use of English language in Parliament**



Special majority of Parliament – Majority Provisions amended including FRs, DPSP & residual

Note: Total = total number

IRRESPECTIVE of fact whether there are VACANCIES OR ABSENTEES

- 1. Majority of $2/3^{\text{rd}}$ of the members of each house present and voting**
- 2. Majority of the total membership of each house**

Strictly required in the 3^{rd} stage of bill passing but, followed before that also

Amendment by a simple majority

There are certain provisions in the Constitution like qualifications for citizenship, creation of new states, power to determine the limits of territorial waters, etc., that can be amended by the Parliament through a simple majority. This implies that when one more than half of those voting accept the amendment, then the Constitution stands altered.

Amendment by two-thirds majority

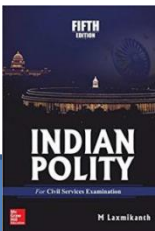
There are certain clauses which can be amended by a special majority. This is a partly rigid procedure. The Bill has to be passed by each House by a majority of more than 50 per cent of the total membership of the House and not less than two-thirds of the members present and voting.

Special majority of Parliament + CONSENT OF STATES

- ❑ Federal Provisions**
- ❑ In state legislatures simple majority required**
- ❑ NO time limit for states consent**
- ❑ Half of the states give consent → formality completed...No issue with other states**

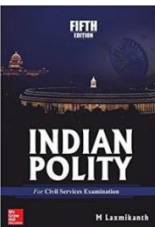
Provisions

- 1. Presidential Election**
- 2. Executive power of Union & states**
- 3. SC & H. Courts**
- 4. Legislative power distribution between Union & states**
- 5. 7th Schedule**
- 6. Representation of states in Parliament**
- 7. Art. 368**



➤ **Criticism**

- **No special body like constitutional convention as in USA – largely process is like legislative**
- **Except formation of legislative council states cannot initiate amendment**
- **Major amendments by parliament, states role minimum, that also half of the states but, in US 3/4th**
- **NO time limit for states consent**
- **Whether states can withdraw consent – constitution silent**
- **Deadlock-no joint sitting**
- **Procedures too sketchy – scope for matters to judiciary**



Appreciation

**Strikes a good balance between
flexibility & rigidity**

-K.C. Wheare

...No solid...flexible...nation's growth

-Nehru

**...Assembly ...refrained
from...finality...provided facile
procedure for amendment**

-B.R. Amedkar

**...most ably conceived aspects of the
constitution**

-Granville Austin

Important Amendments

1st – 1950 – restrictions in Art 19, inserted new articles 31A, 31B & 9th schedule

7th – 1956 – states reorganisation

9th – 1960 – this was because of Re Berubari Union case – SC amendment needed to cede territory

10th – 1961 - Dadra & Nagar Haveli as UT

15th – 1963 - Art 226 was enlarged

21st – 1967 - Sindhi in 8th schedule

24th – 1971 – After Golaknath case

25th – 1971 – After Bank Nationalisation case

31st – 1973 – Lok Sabha seats: states → 520 to 525 & UTs → 25 to 20

36th – 1975 – Sikkim full fledged state

40th – 1976 – Union has rights in TW, CS or EEZ

42nd – 1976 –

- ✓ **expressed the ideals socialism, secularism and integrity of the nation**
- ✓ **Precedence for DPSP over FRs**
- ✓ **Inserted FDs- S.Singh recommendation**
- ✓ **Created administrative tribunals**
- ✓ **Amended judiciary**

43rd – 1977 – restoration of judiciary

44th – 1978 –

- ✓ **for emergency ‘armed rebellion’ in the place of internal disturbance**
- ✓ **Advisory board for preventive detention**

- 52nd – 1985 - MP/MLA defection**
- 53rd – 1986 – Mizoram**
- 55th – 1986 – Arunachal Pradesh**
- 56th – 1987 – Goa**
- 58th – 1987 – authoritative text of constitution in Hindi**
- 61st – 1989 – Age 21 to 18 in Art. 326 for voting**
- 69th – Assembly for Delhi**
- 70th – 1992 – Assembly of UTs in the part of electoral college for Presidential election**
- 71st – 1992 – Konkani, Manipuri & Nepali in 8th schedule**
- 73rd – 1993 – Panchayat, PART IX**
- 74th – 1993 – Urban Local Bodies, PART IX-A**

- 76th - 1994 - 69% reservation in TN, 1992 S.Court in Indira Sawhney Case no more than 50% under Art. 16(4)**
- 77th - 1995 - Art. 16(4A) reservation in promotion for SCs & STs**
- 80th - 2000 - New scheme of devolution of revenue between Centre & states**
- 81st - 2000 - SCs & STs's Backlog vacancies as separate vacancies**
- 82nd - 2000 - Art 335 provisions shall not prevent relaxation in qualifying marks/ lowering standards for promotion to SCs & STs**
- 86th - 2002 - Inserted Art 21A, Substituted Art.45 & Art. 51A (j) added - education**
- 88th - 2003 - Inserted Art. 268 A : Taxes on services, in Union list 92C Taxes on services inserted**
- 89th - 2003 - 338 A NCSTs**
- 91st - 2003 - Art 75/164 (1A) Council of ministers not exceed 15% of the total member of the house of people/Assembly, but in state not less than 12, Art 75/164 (1B) disqualified under 10th schedule member not to be minister, inserted 316B disqualified under 10th schedule member not to hold remunerative political post**
- 92nd - 2003 - 8th Schedule Bodo, Dogri, Maithili & Santhali**
- 93rd - 2006 - Art. 15(5) reservation of seats in private unaided institutions except minority institutions**
- 95th - 2006 - SCs & STs Lok Sabha & Assemblies seats reservation extension**
- 97th - 2011 - Added co-operative societies in 19(i)C and inserted 43 B, Part IXB**