

42nd Constitutional Amendment Act

Department of Political Science

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Paper- Constitution of India(2)

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Introduction

- The 42nd Constitutional amendment act of 1976 was enacted by Indian National Congress headed by Indira Gandhi. Due to the enormous level of changes it made in Indian Constitution, this act has been popularly known as “mini constitution”. This amendment amended the Preamble to the Constitution, 40 articles and the seventh schedule, and added 14 new articles and two new parts to the Constitution.

Purpose behind amendment

- This amendment attempted to reduce the power of Supreme Court and High Courts to pronounce upon the constitutional validity of laws. Apart from disempowering judiciary in Indian polity, this amendment aimed at bringing unitary features to Parliament. Additionally, it also altered with the basic features of Indian Constitution.

The Amendments

- It added 10 Fundamental Duties to the Constitution in Part 4th (A) on the recommendations of Swaran Singh Committee.
- It added three new words (i.e. socialist, secular and integrity) in the Preamble.
- It made the President bound by the advise of Cabinet.
- It froze the seats in Lok Sabha and State Legislative assemblies on the basis of 1971 census till 2001.
- It made the Constitutional amendments beyond judicial scrutiny.
- It provided for administrative tribunals and tribunals for other matters (Part 14th-A)

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- It curtailed the power of judicial review and writ jurisdiction of the Supreme Court and High Courts.
 - It raised the tenure of Lok Sabha and State Legislative assemblies from 5 to 6 years.
 - It provided that the laws made for the implementation of Directive Principles cannot be declared invalid by the courts on the ground of violation of some Fundamental Rights.
 - It led to the addition of three new Directive Principles.

- It empowered the Parliament to make laws to deal with anti-national activities and such laws are to take precedence over Fundamental Rights.
 - It facilitated the proclamation of national emergency in a part of territory of India
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- It extended the one time duration of President's rule in a State from 6 months to 1 year.
 - It empowered the centre to deploy its armed forces in any state to deal with a grave situation of law and order.
 - It shifted 5 subjects from State list to Concurrent list.
 - It did away with the requirement of quorum in the Parliament and State Legislature.
 - It provided for the creation of the All-India Judicial Services.

- It empowered the Parliament to decide from time to time the rights and privileges of its members and committees.
- It shortened the procedure for disciplinary actions by taking away the right of a civil servant to make representation at the second stage after the inquiry (i.e. on the penalty proposed).

Conclusion

- Many people considered this amendment as a draconian law. It outlined the evil strategy of the then government to remain in power by the introduction of centralising strategies . However, numerous provisions of this amendment were revoked two years later by 44th Constitutional Amendment Act of 1978 but it remained as a huge example of misuse of power.

Thanking You
