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# **COMPARATIVE ANALYSIS OF CONSTITUTIONAL AMENDMENT PROCESSES IN INDIA, UK AND USA**

AUTHORED BY: - ADV. MAITHILI KALE.

## **ABSTRACT**

Constitutional amendments play a crucial role in the evolution and adaptation of democratic governance systems. This Article presents a comprehensive comparative analysis of the constitutional amendment processes in three diverse democracies: India, the United Kingdom (UK), and the United States of America (USA).

The paper begins by delineating the distinct characteristics of each country's constitutional framework and the historical context that shaped their amendment processes. In India, the amendment process reflects a delicate balance between parliamentary sovereignty and federalism, requiring a special majority in Parliament and often involving state ratification. Conversely, the UK's unwritten constitution allows for relatively flexible amendments through Acts of Parliament, albeit constrained by practical and political considerations. Meanwhile, the USA's stringent amendment process, as detailed in Article V, emphasizes broad consensus through proposals by Congress or a national convention and subsequent ratification by state legislatures.

Drawing upon a wide range of legal, historical, and political sources, the paper conducts a comparative analysis of the strengths, weaknesses, and underlying principles of each country's amendment process. It examines factors such as the role of federalism, parliamentary sovereignty, judicial review, public participation, and historical precedent in shaping the amendment mechanisms. Additionally, the paper explores the implications of these processes on democratic governance, the balance of power between branches of government, and the protection of fundamental rights.

Through this comparative analysis, the article aims to contribute to a deeper understanding of constitutional governance in diverse democratic contexts. By highlighting similarities and differences in the amendment processes of India, the UK, and the USA, it provides valuable

insights for policymakers, scholars, and practitioners engaged in constitutional reform, democratic institution-building, and the protection of democratic values in the twenty-first century.

## I. INTRODUCTION

Constitutions serve as the foundational pillars of democratic governance, providing a framework for the distribution of power, protection of rights, and mechanisms for adaptation to societal change. A critical aspect of constitutional governance is the process of amending these foundational documents. This research article undertakes a comparative analysis of the constitutional amendment processes in three distinct democracies: India, the United Kingdom (UK), and the United States of America (USA).

India, the world's largest democracy, boasts a constitution characterized by its detailed provisions and extensive amendment history. The amendment process in India, enshrined in Article 368 of the Constitution, is marked by a combination of parliamentary supremacy and federalism. Amendments require a special majority in both houses of Parliament, with certain changes necessitating ratification by state legislatures. This intricate process reflects India's commitment to accommodating diverse regional interests within its federal structure.

In contrast, the United Kingdom operates under an unwritten constitution, relying on statutes, conventions, and judicial decisions. Constitutional amendments in the UK occur through Acts of Parliament, reflecting the principle of parliamentary sovereignty. While the UK Parliament possesses the authority to amend the constitution without specific procedural hurdles, practical and political constraints often influence the process. The flexible nature of the UK's constitutional framework allows for adaptability but raises questions about the stability of constitutional norms. The United States, renowned for its system of checks and balances, features a constitution with a deliberately complex amendment process outlined in Article V. Constitutional amendments in the USA require proposals by either Congress or a Through this comparative analysis, this research aims to elucidate the strengths, weaknesses, and underlying principles of constitutional amendment processes in India, the UK, and the USA. By examining the nuances of these diverse frameworks, it seeks to contribute to a deeper understanding of democratic governance, the balance of power between branches of government, and the mechanisms for accommodating societal change while upholding constitutional values.

## II. WHAT IS MEAN BY AMENDMENT UNDER THE CONSTITUTION: -

The amendment means nothing but it is an formal or official change made to a law or other legal documents. It is based on the verb to amend, which means to change for better. Amendments can add, remove, or update parts of these agreements. They are often used when it is better to change the document than to write a new one.<sup>1</sup> Only the legislative branch is involved in the amendment process.

It is a crucial process that allows the constitution to adapt to the evolving needs and aspirations of society while maintaining its foundational principles.<sup>2</sup>

## III. NATURE AND SCOPE OF AMENDING PROCESS-

The Constitution of a country is the fundamental law of the land— the basis on which all other laws are made and enforced. It has been described as a “superior or supreme law”<sup>3</sup> with “perhaps greater efficiency and authority”, and “higher sanctity”<sup>4</sup>, and more permanence than ordinary legislation. Nevertheless, an adequate provision of its amendment is considered implicit in the very nature of a Constitution. A democratic Constitution has to be particularly responsive to changing conditions, since a Government founded on the principle of popular sovereignty, “must make possible the fresh assertion of the popular will as that will change”<sup>5</sup>.

## IV. RIGID OR FLEXIBLE CONSTITUTION –

Constitutions are usually classified as ‘flexible’ or ‘rigid’ depending upon the process through which they can be amended.<sup>6</sup> Prof. A.V. Dicey defines two types of Constitutions—the flexible as ‘one under which every law of every description can legally be changed with the same ease and in the same manner by one and the same body’, and the rigid Constitutions as ‘one under which certain laws generally known as constitutional or fundamental laws, cannot be changed in

<sup>1</sup> <https://www.merriam-webster.com/dictionary/amendment> last seen on 28th feb 2024

<sup>2</sup> See generally Loewenstein (1972, 174); Sartori (1962, 853); Murphy (1993A, 8-9); Law and Versteeg (2013, 863). Last seen on 28<sup>th</sup> feb 2024

<sup>3</sup> K.C. Wheare: *Modern Constitutions*, London, 1951, p. 91; Also see Haward Lee Mc. B. in: *The Living Constitution*, New York, 1948, pp. 7-10.

<sup>4</sup> J. Quick and B.R. Garran: *The Annotated Constitution of the Australian Commonwealth*, Sydney, 1991, p. 316.

<sup>5</sup> *Encyclopaedia of Social Sciences*, New York, 1951, Vol. II, p. 21.

<sup>6</sup> [https://books.google.co.in/books?hl=en&lr=&id=4yp0yhzdKWIC&oi=fnd&pg=PA1&dq=CONSTITUTION+OF+INDIA+LS&ots=UI4Bn5JcSn&sig=Bg7qQ5pjkKqdZCwpfHojfXsSUQ&redir\\_esc=y#v=onepage&q=CONSTITUTION%20OF%20INDIA%20LS&f=false](https://books.google.co.in/books?hl=en&lr=&id=4yp0yhzdKWIC&oi=fnd&pg=PA1&dq=CONSTITUTION+OF+INDIA+LS&ots=UI4Bn5JcSn&sig=Bg7qQ5pjkKqdZCwpfHojfXsSUQ&redir_esc=y#v=onepage&q=CONSTITUTION%20OF%20INDIA%20LS&f=false) last seen 1<sup>st</sup> march 2024

the same manner as ordinary laws<sup>7</sup>.

## V. CONSTITUTIONAL AMENDMENT PROCESS IN INDIA –

Law changes according to change of time. Constitutional law of the country should change according to the time. If it does not change, then it will be outdated, in the wake of social, economical and political development of the country.

Provision for amendment of the Constitution is necessary in view of the difficulties which may encounter in the future. So, in every Constitution it is desirable to provide a mechanism by which Constitution can be amended to serve the contemporary needs of the people.

In *Kesavananda Bharati v. State of Kerala*,<sup>8</sup> Court said that, it is necessary to change the Constitution as a fundamental law of the country with social changes. By this, the possible danger of the overthrow of our political institutions would be prevented.

### A) FORMAL METHODS

In India, the modes of amendment of the Constitution are synonymous with the formal method of amendment as provided for in Article 368 of the Indian Constitution. This article lays down the procedure for amending the Constitution and encompasses the following steps:

#### a) AMENDMENT BILL INTRODUCTION –

An amendment to the Constitution of India can be initiated only by the introduction of a bill in either house of Parliament. The bill may be introduced either by a minister or by any other member of Parliament. Once introduced, the bill undergoes the standard legislative process, including debates, committee scrutiny, and voting, as applicable to other bills.<sup>9</sup>

#### b) APPROVAL BY PARLIAMENT-

The approval by Parliament in the formal method of amendment procedure in India involves the passage of an amendment bill by both houses of Parliament, the Lok Sabha (House of the People) and the Rajya Sabha (Council of States). This approval process

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<sup>7</sup> A.V. Dicey: *Introduction to the Study of the Law of the Constitution*, London, 1952, p. 127.

<sup>8</sup> AIR 1973 SC 1461

<sup>9</sup> parliamentofindia.nic.in last seen 2<sup>nd</sup> march2024

generally requires a special majority, as specified in Article 368 of the Indian Constitution. The bill of amendment so initiated must be passed in each house by a majority of the total membership<sup>10</sup>

However, not all amendments require a special majority<sup>11</sup>. Some amendments may be passed by a simple majority of the members present and voting in each house.

#### c) RATIFICATION BY STATE <sup>12</sup>–

Ratification by States is a significant aspect of the formal method of amending the Constitution of India. It involves obtaining approval for certain amendments from the state legislatures in addition to the parliamentary process.

- Ratification Requirement:<sup>13</sup> - Article 368 14 outlines the procedure for amending the Constitution. While most amendments are passed through the parliamentary process, certain amendments require ratification by the state legislatures.
- Procedure for Ratification: - Once an amendment bill is passed by both houses of Parliament, it is sent to the state legislatures for ratification. The exact number of states required for ratification varies depending on the nature of the amendment.
- Required Majority for Ratification: - In most cases, ratification by a simple majority of the state legislatures is sufficient. However, for certain amendments, such as those affecting the representation of states in Parliament or the powers of the states, a special majority of the state legislatures may be required.

#### d) PRESIDENTIAL ASSENT –

After being passed by Parliament and, if necessary, ratified by states, the amendment bill is presented to the President for assent. The President's assent is mandatory for the bill to become law and amend the Constitution.<sup>15</sup>

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<sup>10</sup> Total membership in this context has been defined to mean the total number of members comprising the House irrespective of any vacancies or absentees on any account *vide* Explanation to Rule 159 of the Rules of Procedure and Conduct of Business in Lok Sabha.

<sup>11</sup> The term "special majority" typically refers to a majority of the total membership of each house as well as a two-thirds majority of the members present and voting. This ensures that any proposed amendment garners substantial support from the elected representatives in Parliament.

<sup>12</sup> RATIFICATION BY STATES – PROVISIO TO CLAUSE (2) OF ART 368.

<sup>13</sup> According to the j.n.pandey chap 39 last seen on 2<sup>nd</sup> march 2024

<sup>14</sup> ART 368 of constitution of india

<sup>15</sup> Introduction to the Constitution of India BY Durga Das Basu last seen 3<sup>rd</sup> march 2024

## B) INFORMAL METHODS-

The informal method of amending the Constitution of India refers to the process of bringing about changes or modifications to the Constitution without following the formal procedures laid down in the Constitution itself, such as those outlined in Article 368. Unlike the formal method, which involves a specific process of amendment requiring the consent of the Parliament and, in certain cases, the ratification by a specified number of state legislatures, the informal method involves changes that occur through judicial interpretation, conventions, practices, and societal developments.

### a) JUDICIAL INTERPRETATION –

In this case, the constitutional text does not change, but its interpretation undergoes a change<sup>16 17</sup>

In India, judicial interpretation plays a crucial role in understanding and applying the provisions of the Constitution, particularly in cases where informal methods of amendment are involved. The informal methods of amendment refer to those changes in the Constitution that occur through judicial interpretation, custom, conventions, and practices rather than through the formal amendment process outlined in Article 368 of the Indian Constitution.

The judiciary, particularly the Supreme Court, plays a significant role in interpreting the provisions of the Constitution. Through its judgments and interpretations, the Court may effectively alter the understanding or application of constitutional provisions, thereby bringing about changes in the constitutional framework.

One key aspect of judicial interpretation in the Indian context is the doctrine of judicial review<sup>18</sup>, which allows the judiciary to review the actions of the legislative and executive branches to ensure they are consistent with the constitution.

A landmark case illustrating this is *Kesavananda Bharati v. State of Kerala*<sup>19</sup> where the Supreme Court of India established the doctrine of the "basic structure" of the constitution. This doctrine holds that while the constitution can be amended, certain core

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<sup>16</sup> Constitutional interpretation, Ch XL., supra; WHEARE, MODERN CONSTITUTIONS, 146-77 (1964)

<sup>17</sup> BY M.P, JAIN chapter XLI – amendment of the constitution last seen 3<sup>rd</sup> march 2024

<sup>18</sup> Judicial review is the power of the courts to examine laws and executive acts and test their conformity with the constitution and strike them down if they are found to be inconsistent with it.

<sup>19</sup> AIR 1973 SC 1461

principles and features, termed the "basic structure," are beyond the amending power of the legislature. This decision effectively limits the power of the legislature to amend the constitution in a manner that would violate its basic structure.

Additionally, judicial decisions have often filled gaps in legislation or clarified ambiguous constitutional provisions through their interpretations. This process has helped in adapting the Constitution to changing societal norms and requirements without the need for formal amendments.<sup>20</sup>

#### b) CONSTITUTIONAL CONVENTIONS –

This is another process of slow metamorphosis, of imperceptible change, the operation of constitutional provisions may be modified by the growth of conventions, practices and observances.<sup>21</sup>

Constitutional conventions play a vital role in the informal method of amending the Indian Constitution. These conventions are unwritten rules and practices that have evolved over time and are followed by constitutional authorities, even though they are not legally enforceable. They often serve to supplement the formal provisions of the Constitution and contribute to its effective functioning. Here's a brief exploration of constitutional conventions in the context of informal constitutional change in India:

**1. Prime Ministerial Accountability to Parliament:** One significant constitutional convention in India is the principle of prime ministerial accountability to Parliament. While the Constitution provides for a parliamentary system of government, the exact nature of the relationship between the Prime Minister and Parliament is largely governed by convention rather than explicit constitutional provisions. Prime Ministers are expected to be accountable to Parliament for their actions, policies, and decisions, and they regularly participate in parliamentary debates and answer questions from Members of Parliament (MPs).

*S. R. Bommai v. Union of India*<sup>22</sup>: In this case, the Supreme Court of India reaffirmed the

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<sup>20</sup> Granville Austin, "The Indian Constitution: Cornerstone of a Nation" (1966).

<sup>21</sup> M.P.JAIN 7th ed., 2015

<sup>22</sup> AIR 1994 SC 1918

principle of parliamentary democracy and emphasized the importance of parliamentary accountability, highlighting the role of conventions in ensuring effective governance.

**2. Council of Ministers' Collective Responsibility:** Another constitutional convention is the principle of collective responsibility of the Council of Ministers to the Parliament. While Article 75 of the Indian Constitution outlines the collective responsibility of the Council of Ministers to the Lok Sabha (House of the People), the exact workings of this principle are largely determined by convention. Ministers are expected to act collectively, and decisions of individual ministers are considered decisions of the entire council.

**IN**, *Keshavananda Bharati v. State of Kerala*<sup>23</sup>: Although primarily known for establishing the basic structure doctrine, this case also underscored the principle of collective responsibility of the Council of Ministers as a fundamental feature of the Indian parliamentary system.

**3. Governor's Role in State Administration:** A convention exists regarding the role of Governors in state administration. While the Constitution outlines the appointment and powers of Governors in states, their actual functions and interactions with the state government are governed largely by convention. Governors are expected to act as constitutional heads of the state, exercising their powers impartially and in accordance with constitutional norms.

**IN**, *Nabam Rebia v. Deputy Speaker, Arunachal Pradesh Legislative Assembly*<sup>24</sup> In this case, the Supreme Court clarified the role and powers of Governors in state administration, reaffirming the importance of constitutional conventions in defining their functions.

- CONVENTIONS OPERATE IN FOLLOWING WAYS<sup>25</sup>—

One, a convention may nullify a constitutional provision in practice without formally abolishing it. A well known example of this is to be found in the fact that in some

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<sup>23</sup> AIR 1973 SC 1461

<sup>24</sup> AIR (2016) 8 SCC 1:

<sup>25</sup> M.P. Jain, 7<sup>th</sup> edition – chapter XLI- last seen 5<sup>th</sup> march 2024

countries, the legal power of the Head of the State to veto a bill passed by the Legislature is never exercised by him except on the advice of the Ministry.

Two, a convention may work by transferring powers granted to one authority in the constitution to another authority. This is what usually happens in a country with a parliamentary form of government where legal powers formally vested in the Head of the State are effectively exercised by the Ministry.

Three, a convention may affect a constitution by supplementing a provision therein<sup>26</sup>

These formal and informal methods interact and complement each other in shaping the process of constitutional amendment in India. While the formal process provides the legal framework for amending the Constitution, informal mechanisms such as judicial interpretation, political consensus, and public opinion contribute to its evolution and adaptation to changing socio-political realities.

## **C) MODES OF AMENDING THE PROVISIONS OF CONSTITUTION –**

The constitution provides three modes of amending its provisions, namely-

### **1) AMENDMENT BY SIMPLE MAJORITY –**

Several provisions of the Constitution can be amended by parliament by simple majority as that required for passing of any ordinary law. The amendments contemplated in Articles 5, 169, 239(a), 164(5), 186, 195 etc. can be amended by parliament by simple majority. A bill for this purpose may be initiated in either House of parliament at the instance of the Union government or at the behest of the State. The amendment of these provisions is expressly excluded from the purview of the procedure prescribed in Article 368 of the Constitution.

### **2) AMENDMENT BY SPECIAL MAJORITY –**

Articles of the Constitution which can be amended by parliament by special majority has

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<sup>26</sup> WHERE, MODERN CONSTITUTIONS, 178-201(1964); COLIN R. MUNRO, laws & conventions distinguished, 91 LQR 218; K.J. KEITH courts and conventions of the const., 16 int& comp LQ 542 (1967); O. HOOD PHILLIPS, CONSTITUTIONAL LAW, 77-91 (1973); G. MARSHALL, CONSTITUTIONAL CONVENTIONS (1984).

been laid down in Article 368 of the Constitution. All constitutional amendments other than referred to above come within this category and must be effected by a majority of the total membership of each House of parliament as well as by a majority not less than 2/3 of the members of that House present and voting. It is to be noted that it is obligatory for the President to give his assent to an Amendment Bill having been passed by the House of parliament. After receiving the assent of the President, the Constitution stands amended in accordance with the terms of the Bill.

- 3) AMENDMENT BY SPECIAL MAJORITY AND RATIFICATION BY THE STATE –
- Proviso to clause (2) of Article 368 provides that, if the amending bill mentioned above seeks to make any change in the following provisions, then such a bill having been passed by special majority in each House of parliament, shall not be presented to the President for his assent to it, until the bill has been ratified by the legislatures of not less than one half of the States by passing resolutions to that effect. These provisions are –
- A) Articles 54 and 55<sup>27</sup>
  - B) Articles 73 and 162<sup>28</sup>
  - C) Articles 124 to 147<sup>29</sup>
  - D) Articles 214 to 231<sup>30</sup>
  - E) Article 241<sup>31</sup>
  - F) Articles 245 to 255<sup>32</sup>
  - G) Any of the three Lists as mentioned in the seventh Schedule
  - H) Provisions contained in fourth Schedule providing for allocation of seats in the Council of State among the States.
  - I) Article 368 itself which deals with procedure for the amendment of the Constitution.

## VI. CONSTITUTIONAL AMENDMENT PROCESS IN UK –

It is often noted that the UK does not have a 'written' or 'codified' constitution. It is true that most countries have a document with special legal status that contains some of the key features

<sup>27</sup> relating to the election of the President

<sup>28</sup> dealing with the extent of the executive power of the Union and the States, respectively

<sup>29</sup> contained Chapter-IV of Part-V, dealing with Constitution, power and jurisdiction of the Supreme Court

<sup>30</sup> contained Chapter V of Part VI which provides for the Constitution, powers and jurisdiction of the High Courts in the State

<sup>31</sup> dealing with the High Courts in the union territories

<sup>32</sup> contained Chapter-I of Part-XI, regulating legislative relations between Union and States

of their constitution. The UK, however, does not possess a single constitutional document of this nature. Nevertheless, it does have a constitution. The UK's constitution is spread across a number of places. This dispersal can make it more difficult to identify and understand. It is found in places including some specific Acts of Parliament; particular understandings of how the system should operate (known as constitutional conventions); and various decisions made by judges that help determine how the system works.<sup>33</sup>

The United Kingdom's constitution is unique, primarily unwritten, and evolves through various mechanisms, including statute law, conventions, and judicial decisions. Unlike some other countries with codified constitutions, the UK's constitution can be amended through a flexible and evolutionary process. This pointwise analysis examines the constitutional amendment process in the UK, highlighting its key features and mechanisms.

#### **A) PARLIAMENTARY SOVEREIGNTY –**

- 1) **Fundamental Principle:** Parliamentary sovereignty is a cornerstone of the UK constitution, signifying that Parliament holds the supreme legal authority.
- 2) **Amendment Authority:** Since Parliament is sovereign, it possesses the authority to amend the constitution through the enactment of ordinary legislation.<sup>34</sup>

#### **B) STATUTE LAW –**

- 1) **Primary Mechanism:** Amendments to the UK constitution primarily occur through the enactment of statutes by Parliament.
- 2) **Flexibility:** Parliament can amend or repeal any existing law, including constitutional statutes, through the same legislative process.
- 3) **Example:** The Human Rights Act 1998 incorporated the European Convention on Human Rights into UK law, altering the constitutional landscape<sup>35</sup>

#### **C) CONVENTIONS –**

- 1) **Informal Rules:** Conventions are non-legal rules that govern constitutional behaviour and practice.
- 2) **Evolutionary Role:** Conventions can evolve over time, influencing the interpretation and

<sup>33</sup> <https://consoc.org.uk/the-constitution-explained/the-uk-constitution/> last seen 16<sup>th</sup> march2024

<sup>34</sup> "Parliamentary sovereignty is the most important part of the UK constitution" (Bradley & Ewing, 2018).

<sup>35</sup> Lester, A., & Pannick, D. (2018). Human Rights Law and Practice. Oxford University Press.

application of constitutional principles.

- 3) Illustration: The convention of ministerial responsibility has adapted to changes in executive accountability and transparency.<sup>36</sup>

#### **D) REFERENDUMS –**

- 1) Direct Democracy Tool: Referendums allow for direct public participation in constitutional decision-making.
- 2) Non-binding Nature: Referendums in the UK are typically advisory rather than legally binding, but their outcomes can carry significant political weight.
- 3) Case Study: The 2016 EU Referendum resulted in a decision to leave the European Union, triggering constitutional and legal changes.<sup>37</sup>

#### **E) DEVOLUTION –**

- 1) Regional Variation: Devolution has granted varying degrees of legislative powers to Scotland, Wales, and Northern Ireland.
- 2) Constitutional Impact: Changes to devolution arrangements require legislative consent from the devolved parliaments or assemblies, adding complexity to the amendment process.
- 3) Reference: The Sewel Convention outlines the principle of legislative consent in devolved matters.<sup>38</sup>

#### **F) JUDICIAL REVIEW –**

- 1) Constitutional Oversight: Courts play a crucial role in interpreting and upholding constitutional principles.
- 2) Limits on Amendment: Courts can declare legislation incompatible with constitutional norms, providing a check on parliamentary power.
- 3) Precedent: The case of *Miller v. Secretary of State for Exiting the European Union* affirmed the role of the judiciary in scrutinizing constitutional changes.<sup>39</sup>

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<sup>36</sup> Blick, A. (2016). *Democratic politics and the constitution*. Routledge.

<sup>37</sup> Lynch, P. (2018). *The Brexit referendum: An anatomy of a political earthquake*. Cambridge University Press.

<sup>38</sup> Mitchell, J., Bennister, M., & Johns, R. (2020). *The UK's changing democracy: The 2018 democratic audit*. Springer.

<sup>39</sup> Elliott, M., & Thomas, R. (2020). *Public Law*. Oxford University Press.

The constitutional amendment process in the United Kingdom is characterized by its flexibility, reflecting the principles of parliamentary sovereignty and evolutionary development. Through mechanisms such as statute law, conventions, referendums, devolution, and judicial review, the UK constitution adapts to societal changes while maintaining its foundational principles. Understanding these processes is essential for comprehending the dynamic nature of the UK's constitutional framework.

## VII. CONSTITUTIONAL AMENDMENT PROCESS IN USA –

The US Constitution is one of the shortest Constitutions and the first Written Constitution around the globe. The US Constitution is rigid in its format and consists of only 7 articles and 27 amendments.

### A) PROPOSAL STAGE –

- 1) **Congressional Proposal:** Amendments can be proposed by a two-thirds majority vote in both the House of Representatives and the Senate. This method is the most common way amendments are proposed and has been used for all 27 amendments to date.

The following steps must be completed for an amendment proposed by Congress to be added to the United States Constitution<sup>40</sup>.

**Step 1. Passage by Congress.** Proposed amendment language must be approved by a two-thirds vote of both houses.

**Step 2. Notification of the states.** The national archivist sends notification and materials to the governor of each state.

**Step 3. Ratification by three-fourths of the states.** Ratification of the amendment language adopted by Congress is an up-or-down vote in each legislative chamber. A state legislature cannot change the language. If it does, its ratification is invalid. A governor's signature on the ratification bill or resolution is not necessary.

**Step 4. Tracking state actions.** Proposed amendments must be ratified by three-fourths of the

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<sup>40</sup> <https://www.ncsl.org/about-state-legislatures/amending-the-us-constitution>

states in order to take effect. Congress may set a time limit for state action. The official count is kept by Office of the Federal Register at the National Archives. Legislatures must return specific materials to show proof of ratification.

**Step 5. Announcement.** When the requisite number of states ratify a proposed amendment, the archivist of the United States proclaims it as a new amendment to the U.S. Constitution. Actual certification is published immediately in the Federal Register and eventually in the United States Statutes-at-Large.

State legislatures often call upon Congress to propose constitutional amendments. While these calls may bring some political pressure to bear, Congress is under no constitutional obligation to respond. The U.S. Constitution does not contain a provision requiring Congress to submit a proposed amendment upon request by some requisite number of states

- 2) **Convention of States:** Alternatively, if two-thirds of state legislatures call for it, a convention can be convened to propose amendments. However, this method has never been used to propose an amendment.

## **B) RATIFICATION STAGE –**

- 1) **Congressional Ratification:** Once an amendment is proposed, it must be ratified by three-fourths (38 out of 50) of the state legislatures. Congress determines the method of ratification, which can either be through state legislatures or state conventions.
- 2) **State Ratification Conventions:** Congress can choose to bypass state legislatures and instead require special conventions in each state to ratify amendments. This method was used only once for the 21st Amendment, which repealed Prohibition.

## **C) TIME LIMITATIONS-**

- 1) **No Constitutional Time Limit:** The Constitution does not explicitly provide a time limit for ratification. However, Congress has set specific time limits for ratification for some amendments, which vary in length.
- 2) **Validity of Time Limits:** The validity of time limits imposed by Congress has been debated. In some cases, amendments have been ratified after the expiration of Congressionally imposed time limits, leading to uncertainty over their legality.

**D) JUDICIAL INTERPRETATION-**

- 1) **Role of the Courts:** The Supreme Court has the authority to interpret the Constitution and its amendment process. While the Court generally defers to Congress on procedural matters, it has the final say on constitutional interpretation.
- 2) **Judicial Review:** The Court's power of judicial review allows it to strike down amendments or parts of amendments that violate the Constitution's original principles, as demonstrated in cases like *Marbury v. Madison* (1803).

the amendment process outlined in Article V of the United States Constitution provides a deliberate and rigorous mechanism for modifying the nation's fundamental law. By requiring broad consensus among both the federal government and the states, the process ensures that any amendments reflect the will of the people and are unlikely to be hastily enacted or overturned. This stability has been instrumental in preserving the integrity and endurance of the Constitution over more than two centuries of American history.

## **VIII. COMPARATIVE ANALYSIS OF AMENDMENT PROCESS OF INDIA, UK AND USA CONSTITUTION .**

The amendment processes of the constitutions of India, the United Kingdom (UK), and the United States of America (USA) exhibit notable differences reflecting their respective historical, political, and legal contexts.

India's constitution, adopted in 1950, follows a rigid amendment procedure. Amendments require a two-thirds majority in both houses of Parliament, followed by ratification by at least half of the state legislatures. This stringent process aims to maintain the constitution's stability while accommodating necessary changes over time.

Conversely, the UK lacks a codified constitution, relying instead on parliamentary sovereignty. Amendments can be made through ordinary legislation, requiring a simple majority in Parliament. The flexibility of this process allows for swift adaptation to changing circumstances, yet it also raises concerns about potential abuse of power.

The USA's constitution, established in 1789, employs a hybrid system combining rigidity and flexibility. Amendments necessitate a two-thirds majority in both houses of Congress or a

constitutional convention called by two-thirds of state legislatures, followed by ratification by three-fourths of state legislatures or special conventions. This balance between federal and state involvement ensures that amendments reflect national consensus while safeguarding state interests.

In summary, India's rigid process emphasizes stability, the UK's flexible approach prioritizes parliamentary authority, and the USA's hybrid method seeks to balance federal and state interests in constitutional amendments.

## **IX. CONCLUSION-**

In conclusion, the comparative analysis of the amendment processes of the Indian, UK, and US constitutions underscores the intricate balance between stability and adaptability in governance. India's flexible yet rigorous process allows for timely adjustments, reflecting its diverse and evolving society. The UK's unwritten constitution permits fluid amendments through parliamentary supremacy, facilitating responsiveness to changing needs. Conversely, the US's arduous process, rooted in checks and balances, prioritizes stability over rapid change, guarding against hasty decisions. Each system reflects its respective historical, cultural, and political contexts, showcasing diverse approaches to constitutional evolution while striving to uphold democratic principles and ensure effective governance