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Amending Constitution Comparative Study of India, United Kingdom and the United States of America

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ABSTRACT

The Constitution may be defined as the country's constitutional rule which serves as the foundation for the development and enforcement of all other legislation. We should both agree that the Constitution is the mother of all rules that derive their legitimacy from it. It further establishes the framework, jurisdiction, and limitations for all legislation enacted by a country's legislative body. It's one thing to write a constitution, yet another to change it. Amendments are made in response to changed circumstances, the will of the people, or the vote of the people. All three of these nations are democratic in the world: India, the United States of America, and the United Kingdom. The researcher aims to understand the problems faced in amending any part of the constitution. The whole study of the research paper is based on the Qualitative research method and various comparisons are done by the authors of the paper to understand the current situation. Furthermore, the critical analysis by various other authors is also kept in notice in order to base the research on already existing facts. The project ends with a conclusion by critically analyzing the amendment procedure in all three countries and providing the best amendment procedure amongst them in relation to the needs of the changing society.

Keywords: Amendment, Constitution, India, United States, United Kingdom

I. INTRODUCTION

Constitution in most basic sense means accumulation. In simple words it is a set of rules, regulations and rights provided to the citizens of its country along with powers given to the government and people working under it. It is not only fundamental to a country but helps in forming a base for all other laws. Constitution of a country provides certain limitations for making up of laws which must be adhered to at any cost. For example – In Indian constitution, no law can be enforced if it violates the fundamental rights given to the citizens. It is not only applicable to a new law but to existing ones as well. Different countries have

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different constitutions but the objective of it remains same.

The main idea to introduce the concept of constitution was to remove disparities and to hold people who are representing the citizens accountable. Moreover, another reason of creating a constitution was to declare it as the supreme law. It not only limited the power of the government but very conveniently gave the power to the citizens. The founding fathers while making a constitution provided a remedy which could be used to change the law with changing times. This remedy was commonly known as an amendment. Constitutional amendments can be done when a law needs to be altered to keep up pace with the existing society. Amending the constitution is completely different from the concept of creating it. Every country has a detailed and different procedure of amending their constitution. India and United States of America are two democracies which are completely dependent on their constitution. The common factor is that they both have written constitutions. While United Kingdom, is largely dependent on the laws made by parliament due to absence of a written constitution. The idea behind making the amendment procedure difficult was to avoid political conflicts and to introduce a stable government. The reason behind doing a comparative study is to understand the discrepancies between different systems of governance. Furthermore, it can help to understand the advantages and disadvantages of introducing amendments into various acts and laws. Amendments were provided to safeguard the constitution if a dispute arises in relation to its validity. The scope and ambit of amendment has been discussed thoroughly by scholars and academicians. They have pointed out that such amendments are needed to establish a fair and just society for everyone.

Brief History of Constitutional Amendments

Makers of various constitutions felt the need to introduce a certain type of flexible system in Constitutional law. Constitutional amendments were first made by the constitution of United States in the year 1791. These were commonly known as Bill of Rights or the first ten Amendments. These became the basis for further constitutional amendments and introducing of various rights all over the world. However, Indian borrowed the procedure of amending the constitution from South Africa.

Importance of Introducing Amendments

Amendment commonly means correcting or making certain changes. Following the simple meaning, Constitutional amendments follow the same pattern. It is usually done to rectify or introduce changes³ to an existing law. Cass R Sunstein³, an American scholar of law who

³ DD Basu, Select Constitution of the World, Fourth Edition, Lexis Nexis.

deals in Constitutional law. He propounded that “the Central goal of a constitution is to create the preconditions for a well – functioning democratic order, one in which citizens are genuinely able to govern themselves.” Going by this definition, Constitution is the most important document in a country which is used to regulate laws and governing the nation in a just way. The procedure of amendment divided the constitution in two parts: 1) Rigid & 2) Flexible. Rigid constitution is usually extremely hard to amend due to strict procedure for amendment and overpowering of constitution over other laws. Rigid constitution provides a certain set of rules which have to be followed strictly before any amendment can be done. On the other hand, Flexible constitution can be amended easily through a simple legislative process. The constitution of Myanmar like that of United States has a rigid constitution. United Kingdom has a flexible constitution which can easily be amended by an act of the Parliament.

The most important reason for introducing amendments is to keep up with the changing times and needs of the society. Looking back at history, one can easily interpret that an old constitution cannot be used in the present form of society. Therefore, changing or amending it is an important part of governing it. For example – 42nd Amendment made in the constitution which provided that DPSP is above FR was revoked by another amendment known as 44th amendment which gave the Fundamental rights, a supreme status. This amendment was needed to avoid violations in the name of laws and to stop parliament from abusing powers given to it.

Objective of the Study

The aim of this project is to study the discussion of amending procedure in various constitutions over the world. The project aims to understand the basic process as to how a constitution of a country can be amended and if any discrepancy exists during such process. The project will discuss the historical perspective of Constitutional amendments. The research project will also discuss importance of amending the constitution with the changing pace of the world. It will also present a comparison between procedures available in UK, USA and India. Furthermore, the criticism of such amending procedure of the three countries will also be discussed in this project. Along with the criticism, the comparison of procedure of amending the constitution in USA, UK & India and which system is better will be critically analyzed as well. The project will end with the Conclusion of the project.

Hypothesis of the Study

To achieve the above said objectives following hypothesis has been framed:

- Each country follows a different set of amending procedure.
- The amending procedure is comparatively easy in India than the other countries.
- UK being a monarch state does not favor constitutional amendments.

Research Methodology

The research method will follow Qualitative research method. The main reason of following this is to provide a complete detailed description of constitutional amendment procedure. Furthermore, this type of research is more of an interpretation research which is the way this project will be researched and criticized. This will further deal with individual amending procedure of the above-mentioned states and then critically analyse the same, so as to understand which system is evolving to the needs of the society. The project will also deal with the criticism of amending procedure of each country.

Scope of the Research

The Research approach that was followed for the purposed of this research was the inductive one. The authors of this paper started with a specific observation which is that the amendment of constitution is needed with the fast-changing environment but the procedure to proceed with that is not an easy one. This helps in providing a generalized theory as to why such problem exists and making out reasons for the flawed system. The reason for using this approach is that it focuses on the important points of the research and helps in providing qualitative data in relation to the subject of the research.

Methods of data collection

In relation to the project both primary and secondary sources are used for the research. Primary Sources include the constitutional bare act and books. For the purpose of this research, online material and observations were noted and notes were subsequently made. The main reason of following this type of data collection is that it helps to take in note opinion of various authors and then comparing them to find a generalized theory of the research topic. The author aims to understand the subject of the study more personally and providing more accurate thesis on the research topic.

Research process

Research process of this particular project focused on researching extensively on the amending procedures available throughout the world. It focused on reading and making notes simultaneously in order to gather data for further analysis. The reading and making notes have helped the author in understanding the subject of the project better.

Type of data analysis

Content analysis was used to analyse the data gathered from various sources. Furthermore, the data gathered was divided into themes and sub themes for comparison. For example : Data in relation to amending procedure was gathered from different existing research in relation to UK, USA and India wherein the data was compared and the conclusion which was made out from such was used in critically analyzing the project. The main advantage in this type of data analysis is that it simplifies the procedure by dividing the vast content into different parts for the better understanding for the reader of the project.

Research Limitations

As it is for every study, this research project has following limitations: -

- There were fewer primary data available in this subject.
- Since, less information was available; the comparison was only between three countries.

II. INDIAN CONSTITUTION

The Indian constitution is the highest document in our country. It took precisely 2 years, 18 months and 11 days to finish the Indian Constitution. While making the constitution, the makers were adamant to introduce a document which could change with changing needs. They wanted a balance of power. The thought behind this was that, if a constitution is too flexible, there might be a possibility that the laws and regulations will be abused by those who have the power to do so. But if they make it too rigid, then it will not change as per the changing environment. As with every written constitution, the Indian Constitution allows for amendments to be made to it in order to adapt to changing situations and need. However, the method outlined in the amendment is neither as simple as in the United Kingdom nor as complicated as in the United States. In other words, the Indian constitution is a combination of both flexibility and rigidity.

According to Article 368 of the Constitution, the Parliament has the right to alter and change procedures. There is a clause in the constitution stating that the parliament has the right to add to, modify, or abolish any provision of it in line with the method provided forth for that purpose. However, the Supreme Court decided in *Kesavananda Bharti* that the parliament could not change the constitution's fundamental principles. The court has not precisely defined the elements of fundamental structure. According to certain interpretations however, the prologue contains elements that cannot be changed, such as secularism and equality in the

preamble as well as federalism and the separation of powers.

Procedure of Amendment

The procedure for amending a certain provision in the constitution is stated in Article 368 of the Indian Constitution. The first step towards initiating amendment is by introduction of a bill which can be introduced by either of the Houses. (Lok Sabha or Rajya Sabha) not in the state legislature. The bill for amendment has to be introduced by a minister of either house or by a private member and does not require prior permission of the president. The basic requirement i.e. Special majority should be there in both the houses for the Bill to be considered as passed. Both the houses will then pass the bill individually as well. If by any chance, one of the houses disagrees with passing of bill, then no joint session can be conducted for discussing it. Once it is rejected, it stands rejected. After all this is achieved, ratification by states is important. Once ratification is done and both the houses accept the bill, then it goes to President for his assent. He does not have the power to withhold it or return it for consideration. After the bill is accepted by the president, it becomes an act; commonly known as Constitutional Amendment Act. After this the provision which was raised for amendment gets amended by the process.

Three types of Amendments under the Indian Constitution

1. Amendment by Simple Majority

This amendment is not dealt under Article 368⁴ of the Indian constitution. An amendment can take place when 50 percent of the members are present on a particular day and are voting on any kind of issue. There are various bills and motions which can be passed by simple majority by the two houses of the parliament. Some of which are:-

- Altering the boundary of a state, establishment of new state or admission of a new state can be achieved by just a simple majority which comes under Article 3 of Indian constitution.
- Power of the parliament to introduce a law regarding the citizenship can be done by simple majority which is given under Article 11 of Indian constitution.
- Abolishment or formation of new legislative councils in states.
- Salaries of various members of parliament can also be amended through a simple majority.

⁴The Constitution of India, 1950.

2. Amendment by Special Majority

Most provision present in the constitution can only be amended by attaining a special majority in both the houses. In basic terms, it means more than 50 percent and 2/3rd members in both houses of Parliament who should be present and voting. Some of which are –

- If a president needs to be impeached, a special majority is required under Article 61 of the Indian constitution.
- It is further important for declaring national emergency.
- Fundamental rights can also be amended by Special majority.

3. Amendment by Special Majority and Ratification By States

Some provisions in the Indian constitution can be amended only by special majority along with ratification by half of the state legislatures. This is done because in certain amendments, states play an important role in some matters. Some of the situations where special majority along with ratification is needed are mentioned below –

Article 54 & 55⁵ which deals with Election of the president

- Article 124 – 147, Art 214-231 & Art 241 which deals with powers of SC, HCs and courts in Union territories need special majority + ratification by states.
- Even in Article 368 both the conditions are necessary.
- States Representation in Parliament.

Criticism of Amendment Procedure in India

Pandit Jawaharlal Nehru said in the Constituent Assembly, “While we want this Constitution to be as solid and permanent as we can make it, there is no permanence in a Constitution. There should be certain flexibility. If you make any Constitution rigid and permanent, you stop the nation's growth, the growth of a living, vital, organic people.”

The main motive behind introducing the concept of amendment was to give power in the hands of people and make government responsible for their actions; but if we look at the procedure given in India, the main power to amend lies with the Parliament. If we look at some provisions in the constitution, they can be amended by simple majority and special majority without taking the view of the legislature of states. This gives limited power to the states in decision making process and the whole constituent power is vested in the parliament and only in few cases in the state legislature. There is no provision for special body like constitutional convention as

⁵ The Constitution of India, 1950.

in USA or constitutional assembly for amending the constitution.

Furthermore, the main flaw in this procedure is that there is no scope for a joint meeting to resolve the dispute because of which a proposed amendment is rejected. Once the amendment is rejected by either of the house, it cannot be passed and the whole process starting from the introduction of the bill has to be repeated again. Another discrepancy is that, there is no time frame provided to the houses in which they have to give their assent to the bill or reject it. The process for amending it is similar to the legislative process. Indian constitution is silent on the issue whether the state can withdraw their approval after according the same.

The provision related to the amendment procedure are too sketchy. Hence, they leave a wide scope for taking a matter to the judiciary.

Despite all the criticisms, one cannot deny that the current procedure for amending the constitution has proved to be beneficial for the society. The procedure is not too flexible which will make it easy for ruling parties to change it as per their convenience and it is not too rigid to make it difficult to change⁶.

III. UNITED KINGDOM

The United Kingdom does not have a codified constitution, however many of its resources are written and published. It also lacks the governmental framework that the United States has. The UK Parliament has the authority to amend the Constitution through the usual legislative procedure. The right to create or unmake any law, according to the UK Constitution; and, moreover, no individual or body is recognized by English law as having the authority to override or set aside Parliamentary legislation. United States, India, and the United Kingdom all have elected heads of state (presidents), although in Britain it is a monarch that holds the position.

There is no particular legal mechanism for modifying (amending) the constitution, which implies, for example, that Parliament might change House of Lords composition by adopting 1999 Act, and the Judiciary would have no ability to dispute that action. As a result of this, the UK's government may be modified to meet the demands of the present society, if the need arises. The British constitution is unitary as well. This means that the central government can choose to delegate powers and local councils, but that it can revoke such powers at any moment, as they are not guaranteed by the constitution. Stormont's government was

⁶ Mohanty, Deba Prasad. "THE PROCEDURE FOR CONSTITUTIONAL AMENDMENTS IN THE COMMONWEALTH." *Journal of the Indian Law Institute*, vol. 11, no. 1, 1969, pp. 87–99. JSTOR, www.jstor.org/stable/43950011. Accessed 15th April 2021.

suspended because Nationalists and Unionists couldn't agree on power sharing. Like the USA and Germany, authority is split between a central (federal) government and numerous state governments under a federal system (shared sovereignty).

The UK has a straightforward amending procedure compared to the US and India. United Kingdom Constitution sets the framework for political government in the United Kingdom of Great Britain and Northern Ireland. Most countries' constitutions have been codified into a single document, but not the United Kingdom's. Although the UK's Supreme Court recognizes constitutional concepts such as the rule of law, parliamentary sovereignty, democracy and respecting international law, it does not define them.

Certain parliamentary acts have a unique constitutional character, which is also recognized by the UK Supreme Court. In 1215, the King was required to call a 'common council,' now known as Parliament, to represent the people, guarantee fair trials, hold courts in a fixed location, ensure free movement of people, and protect the land rights of 'common' people. The church was also freed by Magna Carta from the state. Act of 1689 establishing Parliament's authority over monarchy, church, and other institutions. The courts, after the English Civil War and the Glorious Revolution and said that the "election of members of parliament ought to be free".

The Representation of the People (Equal Franchise) Act of 1928 in the United Kingdom ensures that every adult has the right to vote after a long democratic reform process. In the United Kingdom's constitution, there are four major institutions:

- The Parliament.
- The Judiciary.
- The Executive.
- The Regional or the Local Government.

Adult voters are represented in Parliament, which is the ultimate law-making body in the country. It consists of two houses, which are listed below:

- The House of Commons – It is elected by a democratic vote in the country's 650 constituencies.
- The House of Lords – It is mostly appointed by cross-political party groups from the House of Commons.

In order to make a new Act of Parliament that is regarded as the highest form of law, both the

Houses must read, amend, or approve proposed legislation three times in order to form a new act parliament. After the acts of parliament are formed, the judiciary interprets and develops the law. And above all is the highest court, which is the twelve people UK Supreme Court, as it is decides appeals from the courts of Appeal in England, Wales, and Northern Ireland or the Court of Session in Scotland.

Amendment in UK Constitution

There being no written constitution in the United Kingdom, thus parliament (the legislature) has the ultimate say on all quasi-constitutional issues by a simple majority. There can be no entrenchment provision or special procedure that prevents the legislature from making constitutional amendments, such as changes to the government's apparatus. Although the Parliament is the sole and final authority on all kinds of quasi-constitutional matters, a consideration is given to the Human Rights Act which supersedes all legislation; the act can itself be abolished or amended by a simple majority of Parliament. When it comes to the Scotland Act 2016, it contains clauses that proclaim that Scotland's developed government cannot be abolished except by a referendum; on other hand the Parliament of the United Kingdom may set aside such a requirement of referendum by a simple majority. Hence, such clauses or entrenchment clauses to be precise are bit more than expressions of hope and sentiment on the part of a Parliament.

Similarly, the Fixed-term Parliaments Act 2011 prevents a Prime Minister from dissolving Parliament and calling general elections, as was the case before. With the passage of the Early Parliamentary General Election Act 2019, this restriction on the Prime Minister's ability to call a general election was removed. This power that is given to the parliament in the UK can be seen as a weak loop hole in the constitution or the British System by some people and as a representation of an unbridled democratic power of the electorate to effect rapid and dramatic change. Hence, due to such provisions in the British system, no parliament can bind its successor. Apart from not being able to bind a successor the parliament in the British system can also not pass any effective entrenchment clause with can restrict the upcoming future governments.

Criticism of the UK Amendment Procedure

- **Uncertainty** - The UK constitution is uncertain as it is sometimes difficult to interpret the constitution. It is particularly applied to unwritten elements. For instance, as per the convention of individual ministerial responsibility, it states that the ministers are responsible for blunders made by their own departments, but does this imply or means

that they should resign when a civil servant makes mistakes or only when the minister themselves makes the Mistake. And further what is the extent of such a situation? Does the minister or anyone needs to resign or just the minister must provide answers and put the mistake right? This is kind of confusion that might occur as the constitution is uncertain in nature.

- **Elective Dictatorship** - Once the government is elected, it can more or less act as they please until the government comes up with re-election. The parliament is vested with the sovereign powers. The government in power routinely controls the parliament and even dominates. Anything in the constitution that creates the impression that the UK does not have a constitution, the government could change it in the constitution.
- **Centralization** - The prime minister in the UK tends to dominate the cabinet. Usually, the executive controls the powers and workings of the parliament. Moreover, the central government controls the local government, and the house of commons is more of a power holder than the House of Lords.

IV. UNITED STATES

The Constitution of United States is supreme law like that of India. Originally it only had only 7 articles. It came into force in the year 1789 and has been amended almost 27 times since its enforcement. The starting period of amendments which were a collection of 10 amendments collectively came to be known as Bill of Rights; after these 10 amendments, another 17 amendments came into picture which focused on expanding of civil rights protections. The constitution of US starts with “We the people” which strongly give the message that the government of US exists to serve the citizens of the country. Amendment of the US constitution is provided under the Article V. Amendment under this Article can be done by: -

- i. Amendments proposed by Congress.
- ii. Amendments proposed by Convention.

Amendments Proposed By Congress

The first step towards amending the constitution is to introduce the amendment by a joint resolution. This amendment is treated like any other resolution but the most important step is to get it approved by a 2/3rd majority of both the houses. This amendment is proposed by Congress and remains valid if approved and accepted by the houses. The majority approval

should be by the members who are present and voting. Once this is completed, the proposed bill is sent to the states. Once it is sent, a majority of 3/4th states have to ratify the proposed amendment bill. Herein, the option for ratification is also provided by Article V of the US constitution. Ratification of the amendment can either be done by vote of the state legislators or ratification conventions. Once it is ratified, the proposed amendments is accepted and enforced.

Amendments Proposed By Convention

Another amendment procedure is through National Constitution Convention wherein 2/3rd majority of states can file a petition for establishment of National Constitution Convention which will further propose amendments. However, there is no set of rules which govern the working of this Convention. This method of amending the constitution has not been successful and only 1 amendment has been successfully accepted.

If we look at the constitution of US, it can be seen as a rigid constitution since the procedure of the amendment is comparatively tougher than that of India and UK.

Criticism of US Constitution Amendment Procedure

The process of amendment in US is not flexible. The procedure for amendment is comparatively tougher. For example- Almost 10,000 amendments were proposed in the constitution, out of which both the houses only accepted 33. When these 33 amendments went to states only 27 of them were finally ratified and accepted. Taking this into consideration, it is very difficult to make an amendment in the US constitution. Furthermore, if we look at the division of power, states have been given a lot of power in terms of amending the constitution.

Comparative Analysis of Amending Procedures in India, UK and the USA

All the three countries although democratic follow completely different procedures for amending their respective constitution. India followed a neutral ground; it is not completely rigid and not completely flexible. On the other hand, amending the constitution of UK is an easy task since they do not have a written constitution. But if we look at USA, the process becomes difficult and the procedure through which they have to go is highly criticized. In India after both the houses have accepted the proposed amendment bill, president cannot deny his assent. That means the power to amend rests with the houses of the Parliament. Some provisions can be changed even by attaining a simple majority. Furthermore, ratification by the states which is an important step for passing of any Amendment in US is only applicable to some provisions in the Indian constitution. In addition to this, the power of constitutional head in India is restricted to allow all the amendments accepted by both the

houses to be enforced. The head does not have a say in passing or enforcement or withholding the amendment bill. Contrary to UK & US, the royal head has to give assent and the states have to ratify the bill respectively. One similarity between UK & INDIA is that after the bill has been proposed, it is sent to the head of country. In USA, president is just a congressman who is given the power to vote. In India, the head of the constitution is elected whereas if we look at the Constitution of UK, the head is the monarch. Lastly, amendment in India can be done by 3 ways whereas in USA it can be done by two ways, out of which one has not been very successful and has been used only once. Therefore, comparing all the countries, one can see that the procedure provided under Indian constitution is comparatively better because it holds a neutral ground by not giving more power to the parties elected and at the same time giving them enough to meet the needs of the Changing times.

The United Kingdom, the United States, and India are all democratic nations in the world. The United States is the world's longest democratic republic, with a constitution dating back to 1789. Whereas India was a British colony until 1947, and the Indian Constitution was ratified in 1950. The case in the United Kingdom, on the other hand, is very different. Since the United Kingdom is a democratic country, the ruler is the head of state. Aside from that, the UK constitution is unusual in that it is not codified, as the US and India's constitutions are. Any legislation or change may be passed by the UK Parliament by a simple majority vote, and only submitted to the king for his assent, which is merely a formality. Another distinction between all three countries is that the United States is a true federal republic, with each state having its own constitution; India is a quasi-federal country with only one constitution for the whole country, but the Union and State governments operate in different areas. While the United Kingdom does not have a territorial arrangement, it does have a unitary government. State governments have a hand in amending the constitution in a federal form of government, but in a unitary system, only the Parliament has supremacy over amending the constitution. The British parliament has the authority to amend the constitution by the normal legislative procedure. In contrast to the United Kingdom, the United States and India have published constitutions that include amendments to the constitution. Its significance grows as the scheme is federal. Additional provisions, such as the participation of state legislatures, are included in the Federal framework to guarantee that the Federal set-up does not change solely according to the will of the Federal Legislature.

V. CONCLUSION

Interpreting all the information mentioned above, it can be seen that amendment is the most

important pillar of a democracy. It not only helps a nation to keep up with evolving world but also helps to maintain a just and equal environment for everyone. Constitution is known to be of 2 types i.e. Rigid and Flexible. While the US constitution can be considered as a rigid one, UK is completely opposite to it. The power to amend any provision in US is equally divided. The houses as well as the states have an equal responsibility to accept the proposition to ultimately turn it into a bill; whereas, the whole power in India lies between the houses. If one house does not accept the bill, it cannot be passed since there is no provision for conducting a joint meeting to settle out the disputes. UK Constitution gives all its powers in the hands of the parliament as there is no written constitution which will govern the rules or the procedure. After analyzing all the procedures, it is safe to say that India lies between the two, making it comparatively easier to amend the constitution by providing powers with limits. Therefore, considering and comparing all the three countries, the procedure given under the constitution of India is the best amongst all.

The researchers have also gone through the various modification procedures given in each country's constitution in this comparative review. Even though the United Kingdom, the United States, and India are democratic nations, their ways of working, creating rules, and amending authority are all distinct. India's constitution is the most recent of the three nations. We've also borrowed several elements of other countries' constitutions after determining their suitability for our republic. However, there are so many variations in the amending procedures among the compared countries that there are less parallels than there are fingers. In India and the United Kingdom, there is no independent constituent body for the intent of amending the constitution, like there is in the United States. The Parliament in the United Kingdom and India has the power to change the Constitution. In India, the state's position in constitutional amendment is small, but in the United States, states have a larger role to play, and states may also propose constitutional amendments. States, on the other hand, are unable to propose constitutional amendments in India. The United Kingdom, on the other hand, has no states and it lacks a territorial system. In India, an amendment enacted by Parliament in accordance with Article 368 will only become part of the Constitution after the President's assent, while in the United Kingdom; it is the monarch's assent that is necessary to complete the process of amending the constitution. However, in the United States, the President would not have any authority, and the US Constitution makes no allowance for the President's assent. When we equate the three constitutions, we can see that the US Constitution is very difficult to amend, while the UK constitution is very simple to amend, and India falls right in the middle, that is, not so easy to amend but not so difficult to amend. Article 368 grants the

Indian Parliament the power to change the constitution in certain cases, however in certain cases, approval by at least half of the states is needed. The important thing to note is that neither the Indian nor the US constitutions provide a time period for ratification. Finally, I'd claim that the Indian Constitution is more fluid than rigid. Just a few constitutional changes need passage by state governments, and even then, bills by one-half of the states will suffice. The Indian Parliament may change the remainder of the Constitution with a special majority vote. The United States, on the other hand, has a strict constitution that can only be revised by the US Congress by a special mechanism established by the US Constitution for that reason. The United Kingdom has a flexible constitution that does not include specific procedures for modification and may be changed by Parliament in the same way that ordinary laws are.

VI. BIBLIOGRAPHY AND REFERENCE

Primary Source -

Books

- DD Basu, *Selective Constitutions of the World*, 4th edition, Lexis Nexis.
- *Constitution* by J.N PANDEY.
- *The constitution of India*, 1950.

Secondary Sources -

Articles

- *Amending the constitution* by Erwin Chemirinsky.

Websites

- Massey, I. P. "THE PROCESS OF AMENDMENT AND THE CONSTITUTION A STUDY IN COMPARATIVES." *Journal of the Indian Law Institute*, vol. 14, no. 3, 1972, pp. 407–419. JSTOR, www.jstor.org/stable/43950146. Accessed 12 Nov. 2020.
- Mohanty, Deba Prasad. "THE PROCEDURE FOR CONSTITUTIONAL AMENDMENTS IN THE COMMONWEALTH." *Journal of the Indian Law Institute*, vol. 11, no. 1, 1969, pp. 87–99. JSTOR, www.jstor.org/stable/43950011. Accessed 12 Nov. 2020
