

FACULTY OF JURIDICAL SCIENCES

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Lecture-10



Amending Procedure under UK Constitution

United Kingdom is not having a codified constitution, although many of the resources of the constitution are written and documented. It also does not have the federal structure like the US have. The UK Parliament has the power to change the Constitution by the ordinary process of Legislation. Under the UK Constitution, the right to make or unmake any law whatever; and, further that no person or body is recognized by the law of England as having a right to override or set aside the legislation of Parliament (Dicey 1915, 37-38) The another point of difference between US, India and UK is that US and India have the elected head of the State the President, whereas in UK monarch is the royal head of the state. The amending procedure is simple in UK as compared to the US and India. There is no special procedure provided under the UK Constitution for amending it and the

theory of Parliament Sovereignty' is applied in UK.

In this comparative study we have gone through the different amendment procedures provided

in the respective Country's constitution. We got to know that even though UK, US and India are

democratic countries but their way of functioning, making laws and amending power are different in as compared to each other. The Constitution of India is the younger one among all the three countries. We have even borrowed some features of our constitution from the other countries after testing their suitability to our country. But there are some many differences between the amending procedures among the compared countries that the similarities are less than the fingers. Like in US, there is no separate constituent body for the purpose of amendment of constitution in India

and UK. In UK and India, it's the Parliament that can amend the

Constitution. The role of the state in Constitutional amendment is limited in India but in US, states have major role to play and states in US can even initiate any proposal for amendment of the Constitution. But in India, states cannot initiate the proposal for amending the Constitution. Whereas in UK there is no question of states as it does not have the federal structure. In India, the amendment passed by the Parliament with due procedure as provided under Article 368 can become part of Constitution only after the assent of the President, whereas in UK its monarch whose assent is required to complete the procedure of amending the constitution. But in US, the President does not have such stat

us and no provision of President's assent is mentioned in US

Constitution. If we compare all the three constitutions, we will find that it is very difficult to amend the US Constitution as very easy to amend the UK constitution and India lies somewhere in between the US and UK, that is to say not so easy to amend and not so difficult to amend. Article 368 gives Indian Parliament supremacy in some matters to amend the constitution but .

then in some matters it requires ratification by not less than one-half of the states. The notable point is that both in Indian Constitution and US Constitution no time limit has been for ratification has been prescribed. In last I would to conclude that the Indian Constitution is more flexible than rigid. It is only few of amendments of the constitution that requires ratification by state legislatures and even then legislation by one

half states would suffice. The rest of the Constitution could be amended by a special majority by Indian Parliament. Whereas, the US has a rigid constitution and it can be amended by the US Congress by means of a special process provided by the US Constitution for that purpose. UK has the flexible constitution; it requires no special procedure for its amendment and can be amended by the Parliament in the same manner as ordinary laws are made.

MCQ

1. From which source India got the concept of Single order of court?

- (A) Government of India Act, 1935
- (B) Government of India Act, 1919
- (C) Pitts India Act, 1773
- (D) None of the following

2. Which of the following statement is not true about India's Supreme Court?

- (A) Article 124 to 147 and Part V of the Indian Constitution informs about the composition and powers of the Supreme Court?
- (B) The Supreme Court was inaugurated on January 28, 1950
- (C) At present, there are 35 judges in the Supreme Court
- (D) Judges of Supreme Court are appointed by the President of India

3. Which qualification is wrong for being a judge in the Supreme Court?

- (A) It is compulsory to be a citizen of India.
- (B) He should be a respected jurist in the eyes of Parliament
- (C) Must be a judge in the High Court for at least 5 years
- (D) He should be a lawyer in the High Court for at least 10 years

4. Which statement regarding the tenure of judges of the Supreme Court is not correct?

- (A) Judge of the Supreme Court can remain in office till the age of 65 years.
- (B) Judge of the Supreme Court gives his resignation letter to the Chief Justice
- (C) On the recommendation of Parliament, he can be removed by the President.
- (D) Supreme Court judge can be removed only in the condition of misconduct.

5. Who can remove the Judge of the Supreme Court?

- (A) Chief Justice of the Supreme Court
- (B) Only President
- (C) Only Parliament
- (D) Both Parliament and President