



Mains Practice Question

Q. The 42nd Constitutional Amendment is often referred to as a "mini-constitution." Examine its impact on transforming the original constitutional framework. **(150 words)**

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Approach

- Introduce the answer by highlighting the background and key features of 42nd Amendment Act of 1976
- Highlight Key Changes Introduced by the 42nd Amendment
- Give Positive and Negative Impact on Constitutional Framework:
- Delve into Later Reversals and Modifications
- Conclude in a balanced manner.

Introduction

The **42nd Amendment Act of 1976**, a significant constitutional amendment, was enacted during the **Emergency period**. It aimed to **centralize power, reduce judicial oversight**, and introduce several changes to the Indian Constitution. This amendment, often referred to as a "**mini-constitution**," had a profound impact on India's political landscape.

Body

Key Changes Introduced by the 42nd Amendment:

- **Centralization of Power:**
 - **Strengthened Directive Principles (DPSPs):** Made DPSPs superior to Fundamental Rights in cases of conflict.
 - **Restriction on Judiciary:** Amendments to **Articles 32, 131, 226, and 368** curtailed the authority of the Supreme Court and High Courts to examine the constitutionality of laws, thereby **limiting judicial involvement in legislative affairs**.
 - **Increased Power of the Central Government:** It moved key subjects from the State List to the Concurrent List like **Education, Forests, Protection of Wild Animals and Birds, and Weights and Measures**.
- **Strengthening the Role of Parliament:**
 - **Extended Tenure of Parliament and State Legislatures:**
 - Increased the tenure from **5 years to 6 years**.
 - Example: The Fifth Lok Sabha (1971-77) benefited from this provision.
 - **Protection of Certain Laws from Judicial Review:**
 - Added **Article 31C**, ensuring laws made to implement certain DPSPs could not be challenged for violating Fundamental Rights.
- **Introduction of Fundamental Duties:** Added **Part IVA (Article 51A)** to the Constitution, introducing 10 **Fundamental Duties** for citizens.
- **Preamble Amendments:** Added the terms "**Socialist**," "**Secular**," and "**Integrity**" to the Preamble.

- **Institutional Changes:** It led to the formation of **Administrative Tribunals** to address service disputes outside regular courts.

Impact on Constitutional Framework:

- **Positive:**
 - **Recognition of Fundamental Duties:** The introduction of Fundamental Duties fostered a **sense of responsibility among citizens**, complementing their rights.
 - **Preamble Enrichment:** Adding "Socialist," "Secular," and "Integrity" strengthened the **constitutional vision of an inclusive, equitable, and united India.**
 - **Administrative Efficiency:** Creation of Administrative Tribunals helped **reduce the burden on regular courts**, promoting faster resolution of service disputes.
- **Negative:**
 - **Transformation of Federalism:** Shifted India towards a **unitary bias** by reducing the autonomy of states.
 - **Central dominance** over state subjects like education weakened cooperative federalism.
 - **Weakening of Fundamental Rights:** Judicial independence and the role of Fundamental Rights were diluted.
 - **Kesavananda Bharati case (1973)** was overridden in part, until restored by later amendments.
 - **Enhanced Role of Directive Principles:** Laws like **Urban Land Ceiling Act (1976)** were given protection under **Article 31C.**

Conclusion

The 42nd Amendment, while ambitious in scope, faced significant backlash for undermining the democratic and federal ethos of the Constitution. Although some provisions like **Fundamental Duties and the emphasis on a welfare state remain impactful**, the subsequent 44th Amendment restored the balance.

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