

## Was the 42nd Amendment to the Indian Constitution the most controversial amendment?

On this Independence Day, let us examine, why the 42nd amendment in 1976 was the most controversial and also called a 'mini constitution'.

1. It attempted to limit Supreme Court's and the High Court's power while curtailing several other socio-political rights. Article 131A, provided only Supreme court exclusive jurisdiction to determine the question relating to central legislation. Article 226A and Article 228A restricted the high courts.
2. It was also added through Article 144A and 228A that at least seven judge bench would sit to decide a question of the constitutional validity of Central Law and the legislation can be held unconstitutional only with a two-thirds majority.
3. The Preamble added three terms. These were - "Socialist", "Integrity", and "Secular"
4. The government added Article 51A to the Constitution, which consists of ten Fundamental Duties, based on the recommendations of the Swaran Singh Committee.
5. Clause 5 of Article of 368 stated that the Parliament had no limitation on what part of the constitution which they wished to amend (including the basic tenets).

### **Note:**

1. Judiciary was stripped of the right to make judicial review of the Emergency, by way of the 38th amendment in 1976
2. The 43rd and 44th constitutional amendments were introduced to remove all the harmful provisions introduced through 42nd Amendment.
3. Clause 5 of Article 368 was held to be unconstitutional by the Supreme Court in *Minerva Mills Ltd. & Ors vs Union of India* in 1980