CHAPTER VI
MERITS AND DEMERITS OF THE AMENDING PROCESS

As stated earlier, the procedure for amending the constitution differs from country to country, but normally there are two ways to amend the constitution.

First- The legislature which express the will of the people indirectly can amend any part of the constitution by specified procedure as provided in the constitution of U.S.A., U.S.S.R., West Germany, Canada, South Africa, Malaysia and India.

Second- The power of amendment of the constitution is vested in primary voters (electors) and thus such measures should be approved by the people directly as in the constitution of Switzerland, Australia and Nigeria.

The First type of Amendment, which is done by the legislative body is also divided in two categories;

First- Simple method of amending process.
Second- Special method of amending process.

In the First simple procedure of the amendment there is no difference between the procedure of the ordinary law and constitutional law. According to A.V. Dicey:
"A Flexible constitution is 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. A rigid constitution is one under which certain laws generally known as constitutional or fundamental laws can not be changed in the same manner as ordinary law." ¹

The merit of simple procedure of flexible constitution is that there is no necessity of following a long and complicated procedure of amendment. A same body with same procedure may amend the previous law though it is ordinary or constitutional law in the same manner and it can do in case of ordinary legislative process.

In flexible constitution there is no restriction, though it may be procedural or substantial. In the matter of procedure ordinary and constitutional both is same and on the other side there is no substantial restriction on the amending process. A.V. Dicey about the substantial amendability observed.

"The Flexibility of our constitution consists in the right of the crown and the two houses to modify or repeal and law whatever, they can alter the succession to the crown or repeal the acts of union in the same manner in which they can pass an Act enabling a company to make a new railway from Oxford to London". ²

1) Dicey, A.V : Law of the Constitution, 10th Ed. 1964 P.127
2. Ibid, P. 187.
The merit of simple procedure of amendment is its adaptiability and flexibility. Flexible constitution can be made to meet any emergency and necessity and the knowledge that the constitution can be altered without any extraordinary effort, serves as an effective check against revolution and fulfill the will of the people.

Two important attribute of flexible constitution adaptiability and flexibility. Constitution is the will of the people, mirror of the society, it can not function in a vacuum. No constitution can possibly retain its quality for very long unless, it can be changed to adopt with the changing times. No amount of drafting skill could be expected to eliminate the necessity of revision and development to adopt the constitution to the unforeseen and the unforeseenable. Flexibility is essential to the successful working of constitution. It can solve the problem without difficulty and makes it agreeable to the general sense of the people. On the flexibility and adoptivity Jennings observed:

"The real difficulty is that the problems of life and society are infinitely variable. A draftsman thinks of the problems that he can foresee, but he sees through a glass darkly. He can not know what problems will arise in ten, twenty fifty or
hundred years. Any restriction on legislative power may do harm, because the effect of that restriction in new conditions can not be foreseen." 3

Thus, according to Sir Ivor Jennings Flexibility is regarded as a merit and rigidity a defect because it is impossible for the framers of a constitution to foresee the conditions in which it would apply and the problems which will arise. They have not the gift of prophecy. A constitution has to work not only in the environments it was drafted, but also centuries later.

John Mary Mathews also appreciates flexibility and deny to rigid amendibility and said:

"More important, however was the idea that since people are the ultimate source of all political authority must be assumed to have the right to change their instrument of Government, it was unnecessary expressly to provide or this right in the constitution" 4

Great advantage of Flexibility is, it avoids the violence and revolution and enables the country to develop peacefully. According to A.V.Dicey, twelve unchangeable constitutions of France have each lasted on an average for less than ten years and have frequent perished by violence. To quote the words of A.V.Dicey. 5

"If the inflexibility of French constitutions has provoked revolution the flexibility of English constitutions has once at least saved them from violent overthrow... The rigidity, in short, of a constitution tends to check gradual innovation, but just because it impedes change, may under unfavourable circumstances occasion or provoke revolution" 5

On the other hand, Flexibility has its demerits and draw backs as well. It is generally said that the most fundamental changes and reforms may be effected by ordinary legislation. the whole fabric of the constitution may be destroyed by a single such enactment within a movement and there is no certainty and stability. So Robert Renow observed:

"Flexible constitution has no more permanancy of form than cloud patterns in the sky".6

In the flexible constitution there is supremacy of Parliament and there is no supremacy of constitution. If constitution may be changed by the Parliament in the ordinary way then it become the play thing of Parliament. In fact a cabinet which backed by a strong majority in the House of Common may, if it wills, twist and bend the political system according to its needs. The

5. Ibid, 171 - 172  
rights and liberties of the citizens, similarly in so far as are not protected by any clothed with special sanctity, lie at the mercy of a powerful ministry. The same view was expressed by Bryce on this point:

"Flexible constitution.... while the greatest changes can be brought about the guise of legal reform, the flexibility itself places the very constitution at mercy of momentary just of Parliamentary opinion". 7

Flexible constitution is criticized for its frequency and uncertainty. But some writer do not give credit to this criticism and think that flexibility is not only cause of frequency and uncertainty. Writer as Munroe said

"Frequency with which the constitutional methods and practices of a nation are changed does not defend wholly or even largely, upon the simplicity of the amending process.... The flexibility of a constitution depend upon two thing: first, the nature of its provision and Second, the attitude of the people towards constitutional amendments." 8

The Second method of amendment through legislative body is special procedure of amendment, which is called rigid method of amending process. The sole criterion of a rigid constitution is whether the

constituent assembly which drew up the constitution left any special direction as to how it was to be changed them the constitution is rigid constitution.

The outstanding merits of Rigid constitution are its definiteness, certainty and stability. It opposes obstacles to rash and hasty legislation and generates in the minds of citizens an instinctive reverence for the existing institutions and a zeal to protect their established rights and privileges.

A rigid constitution is one under which certain laws generally known as constitutional or fundamental laws, which can not be changed in the same manner as ordinary laws. The rigidity of the constitution consists in the absence of any right of the legislatures when acting in its ordinary capacity to modify or repeal definite laws termed constitutional or fundamental. In rigid constitution term 'constitution' means a particular enactment belonging to articles of the constitution which can not be legally changed with the same case and in the same manner as ordinary laws.

The special machinery for constitutional amendment is the limitation of the power of the legislature by greater law than by the law of the ordinary
legislation. The constituent Assembly knowing that it will disperse and leave the actual business of legislation to another body, attempts to bring into the constitution that it promulgates as many guides to future action as possible. It attempts to arrange for the recreation of a constituent assembly. Whenever such matters are in future to be considered, even though that assembly be nothing more than the ordinary legislature acting under certain restriction.

In rigid constitution the legislatures by reason of their well matured long and deliberately formed opinion represent the will of the undoubted majority. It imposes a check upon the rash and hasty legislation. The safeguards against radical changes thus represent a better way and a natural way of securing deliberation, maturity and clear consciousness of purpose without antagonising the actual source of powers in the democratic state. K.C. Markandan, on this point observed:

The flexibility of the above argument, however, soon became evident and various procedure began to be adopted for amending the constitution, care being taken at the same time to protect against hasty and ill-considered change."

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On the whole, therefore, as observed in the American Jurisprudence:

"A constitution is law which is intended to be for all time and is difficult to change so that it may not be subject to impulses of majority, temporary excitement and popular caprice or passion." 10

Rigid constitution through special rigid amending process imposes check upon the hasty and rash legislation and maintain the stability and permanence. So Bryce observed:

"It strengthens their conservative instinct their sense of the value of stability and permanence in political arrangement." 11

Rigidity is indispensible necessary for a federal government. Federal government is association of so many states which is totally defendant on the agreement of so many states. For where the terms of an agreement are so important, it is natural that it should be considered necessary. So far maintaining the agreement which is endorsed in the constitution "provision the constitution must be protected from the incroachment of the Parliament. Therefore in the federal constitution rigid amending process is adopted and in which both units of

10. See American Jurisprudence vol.II,Section 3.
Federal governments - Federal as well as Regional Government is associated. So K.C. Wheare said on this point:

"It is essential in federal government that if there be a power of amending the constitution that power, so far at least as concerns those provisions of the constitution which regulate the status and powers of the general and regional governments, should not be confided exclusively either to the general government or to the regional governments", 12

Thus, according to K.C. Wheare it is essential in Federal constitution that power of amendment should not be confined exclusively either to General government or to regional government. So in Federal constitution in the matter of amending process, state Governments are associated with the Federal Government as may be seen in the federal constitution of U.S.A., Australia, Switzerland, Canada, west Germany, Malaysia, Nizeria and India.

The merit of this method is that Federal legislature can not disturb the federal structure or basic norm without the consent of Federating units. If it is to be done than it may be done only by the consent of

all federating units. By this method check and restriction are imposed on the Federal legislature and they can be altered without the unanimous opinion of the federating units. Therefore no room of doubt leave between the both governments and there is no chance of conflict between them.

Prof. C.F. Strong appreciated to this method and he observed:

"This method is peculiar to federations. There is no Federation of course, whose constitution does not require in some form or other, the agreement of either a majority or all of the federating units, the voting on the proposed measure may be either or by legislatures of the states concerned."13

Bryce writing in the year 1888, was inclined to feel the existing rigid procedure under Article V of U.S.A. was to be prepared because 'Congress can not directly encroach' the rights of the federating units. See the whole matter in this own words:

"A swift and easy method would not only weaken the sense of security which the rigid constitution now gives, but would increase the troubles of current politics, by stimulating a majority in congress to frequently submit amendments to the states. The habit of mending would turn into the habit of tinkuring. There would be too little distinction between changes in the ordinary state law, which require the agreement of majorities in the two Houses and the President and changes in the more solemnly enacted fundamental law. And the rights of the states, upon which congressional legislation can not now directly encroach would be endangered".14

Among the demerits of the rigid procedure of amendment it is said that procedure under it is too slow and difficult. For the rigid constitution special majority is require which is not an easy thing, it takes too much time. The procedure of rigid constitution is very lengthy, difficult and complicated. In U.S.A. it requires the consent of the fourth States with the Two-Third majority of Federal assembly, which takes too much time and labour for passing an amending bill. So James Bryce observed:

"It is difficult to get Two-Thirds of two Assemblies and three-fourths of forty-eight common-wealths each of which acts by two Assemblies for the state legislatures are all double-chambered, to agree to the same practical proposition".15

He further said:

The process has been so difficult that it has been successfully applied only in three kinds of cases.

A) Matters of minor consequence involving no party interest.

B) In the course of Revolutionary Movement which has dislocated the union itself.

C) Matter in which there existed a general sentiment common to both parties desiring alteration.¹⁵

The same difficulties may be seen in the other Federal constitutions, as constitution of Switzerland, Australia, Canada and West Germany. In West Germany required the approval of Two-thirds of the members of the Bundestag and two thirds of the votes of the Bundesrat.

In Switzerland majority of Federal legislature, majority of Canton and approval by the citizen is required in the amending bill.

Similarly, in Australia a proposal for amending the constitution is passed by an absolute majority of each House of Australian Parliament and then submitted to referendum in each state to the electors qualified to vote for the election of members to the House of representatives. If it is accepted by majority of the
electors in a majority of states and by a majority of the total number of voters it becomes law.

About the Australian Amending Process Sir John Latham observed in this Article:

"....That parliament can not be itself take action to amend the constitution. section 128 of the constitution contains provisions for amendment. A proposed amendment must be passed by absolute majorities in each house of the Parliament (senate and House or Representative) or in a special case, by one House only and must be approved at a referendum by a majority of the electors voting and by a majority of the electors in a majority of the states. It will be seen that the amendment of the constitution is not made easy. More than twenty amendments have been submitted to the people but only four amendments have been approved."16

Amending Process of federal Constitution is also criticized on the ground that minority may control over the majority. Less populated small states may defeat an amending Bill duly passed by most populated states. A bill which is passed by federal legislature who represents the whole Federal territory could not go over through the small states. It may be seen in the constitution of Australia and U.S.A.

About the Australian amending Process in this context P.H. Lane observed:

"Four small states with less than half the Australian voting population would not be able to get through an amendment. Similarly the three most populated states even with more than half the number of voting Australians would still not get through an amendment." 17

The same criticism is added with the Article V of the constitution of United state. All States have equal vote though they are not equal in population. Thus minority prevails over the majority. It is wrong to quote here. F.A. Ogg and P.O. Ray who observed:

"The Amending Process has been criticized also because of the possible consequences of giving all states, regardless of numbers, an equal voice in ratification. Any combination of 36 could readily be found which among them would contain not much over one-third of the country's population and in the face of such a combination the other two-thirds would be helpless. Conversely, any 13 states can defeat an amendment, and 13 could be listed which together would have hardly one-twentieth of the total population. Such, unbalanced alignments, it is true, are quite unlikely to arise, except in the very improbable case of an amendment definitely harmful to small states as such, states both large and small will be found on both sides of every proposal." 18

17. Lane, P.H.: An Introduction to the Australian Constitution, 1974, P. 5.

Convention method is adopted in the constitution of U.S.A. the legislatures of two-thirds of states may require congress to summon a constitutional convention. Congress shall thereupon do so having no option to refuse and convention when called draft and submit aments. No provision is made as to the election and composition of the convention. Matters which would therefore appear to be left to the discretion of congress. No drafting conventions of the whole union or ratifying conventions in the several states have ever been summoned. The procedure by National and state conventions might be slower and would involve controversy over the method of electing those bodies.

James Bryce, about the convention method said:

"No drafting conventions of the whole union or ratifying conventions in the several states have ever been summoned..... Moreover, the procedure by National and State Conventions might be slower, and would involve controversy over the method of electing those body".19

Convention system could not get success in its own soil and it could not attract to other country. So it is not followed by the other country.

Demerits of amending process of American Federal Constitution may be given in the words of F.A. Ogg and P.O. Ray:\textsuperscript{20}

"Many times later it has been criticized sharply on one or another of four principal grounds:"

1) That procedures under it are too slow and difficult;

2) That, on the contrary, they are too easy;

3) That, they are too far removed from direct action by the people; and

4) That, they afford too much opportunity for decisions by minorities.

Other method of amending process of Federal constitution is Referendum. According to C.F. Strong:\textsuperscript{21}

"The plebiscite, the Referendum, the popular initiative and recall are four direct democratic check are connected in the sense that they are designed to give to the voting mass of the people a direct control of their political destiny by granting them the power to approve or reject measures for this well-being to institute legislation and to remove unsatisfactory representatives".\textsuperscript{21}

\textsuperscript{20} Ogg F.A. and Ray P.O. : Introduction to American Government XII Ed. 41.

\textsuperscript{21} Strong C.F. : Modern Political Constitution, P. 275.
Generally, in the all constitutions though it may be unitary or federal, amending powers have been given in the hands of legislative body. Sovereignty of people is protected through the representatives of their electors and people has to direct voice in the amending process. But these representatives could not perform their duties properly therefore concept of referendum has grown out of a keen sense of dissatisfaction with the conduct of representative bodies, and through the provision of referendum direct voice of people is associate with the federal legislature in the amending process.

In the Federal Constitution for instance in Switzerland, Australia and more recently Nigeria (1979), Method of referendum is adopted in the amending process and direct voice of people is associate with the legislative bodies.

In the method of Referendum, a proposal for amending the constitution is passed by the each House of the Parliament then it is submitted to referendum in each state to the electors, qualified to vote for the election of members to the house of representatives. If the people approve it then it become law of the constitution. If they do not approve it then it can not take as a shape of law of the constitution.
The merit of method of Referendum is that it maintain the Sovereignty of the people and put check upon the misuse of amending power. So C.F. Strong rightly observed:

"While the referendum protects the people against legislature's sins of commission, the initiative offers them a remedy for its sins of omission." 22

The method of Referendum adopted in the federal constitution of Switzerland, Australia and recently in Nigeria. But this method has been criticized bitterly on the ground that it require double majority which is a high obstacle in the amending process.

Prof. Hughes said about the Swiss constitution:

"... The double majority rule is a high obstacle in the Swiss constitution." 23

Colin Howard expressed the same view about the Australian Constitution:

"However liberal S.128 may appear to be comparison with even more circumscribed power of amendment, in practice it has proved a formidable obstacle to surmount." 24

For the reason of long difficult complicated double majority process of amendment make it impossible to pass a single bill of amendment, so prof. Sawyer said:

Constitutionally speaking Australia is frozen continent.”

It is also said about the method of Referendum that in the referendum will of people do not work, actually the will of party plays a very vital role behind it. In the amending process party has a very important place. It not only affect to referendum method it also effect to the legislative method also. Amendment generally comes before the legislative body through the party, though it may be initiated by the Federal Legislative body or state legislative body or through the people directly. So may amendments have been taken place only due to implication of party manifesto not for the welfare of the people. One party supports to amendment bill then other party opposes it only for party sake, though it thinks in reality that it should be passed by its party but it could not do so because only its party ego. Opposition is for the sake of opposition thus an important issue of society can not be solved due to party system.

James Bryce observed:

"If an amendment comes to the legislatures recommended by the general voice of their party, they will be quick to adopt it. But in that case it may probably encounter the hostility of the opposite party and parties are in many states pretty evenly balanced. It is seldom that a two-thirds majority in either House of Congress can be secured on a party issue and of course such majorities in both houses and a three-fourths majority of state legislatures on a party issue, are still less probable. Now, in country pervaded by the spirit of party, most questions either are at starting or soon become controversial. A change in the constitution, however useful its ultimate consequences, is likely to be for the moment deemed more advantageous to one party than to the other and this is enough to make the other party oppose it. The mere fact that a proposal comes from one side rouses the suspicion of the other".  

The illustration of party system in reference to amending process may be seen in Indian constitution. Through the 42nd Amendment Act 1976 India Government sought to subordinate the Fundamental Rights to Directive Principles and established the Supremacy of Parliament and curtailed the powers of Judiciary. The Act was first of its kind. It was the most comprehensive Act and it touches almost all the sensitive area of the Constitution.

It introduced changes in Preamble, as many as 53 articles as well as the 7th schedules. It drew enormous criticism particularly for it was pushed through dury emergency.

In the Lok Sabha Election March 1977, the newly form Janta Party received massive electoral support. the janta Party manifes to pledged to repeal the 42nd constitutional Amendment Act. But soon it realized that the 42nd Amendment could not be repealed lock stock and barrel. Nevertheless, it succeed in deleting many clauses of 42nd Amendment Act, which is did in two instalment through the 43rd and 44th constitutional amendment Acts.

On the point D.D.Basu, correctly observed:

"The question of rigidity or Flexibility of the procedure for amendment prescribed by Article 368 was so long clouded by the fact that the congress party had a monolithic control over the legislatures both at the union and in states. It was this extra ordinary fact that enabled them to overcome the double majority safeguard in Article 368(2) and to bring 52 Amendments in 34 years. The rigidity of the double majority requirement has on the other hand been demonstrated by the difficulties which the Janta Government 1977-78 had to face to obtain the passage of an amendment bill to do away with the
undemocratic features of the 42nd amendment, on which they had the support of the consensus of enlightened public opinion.27

The same view, in reference to U.S.A. was expressed by the C. Herman Pritchett in the following way:

"Following the civil war amendments, there was period of over forty years during which the constitution appeared unamendable. This was an area of agrarian discontent, industrial unrest and growing interest in political and economic reforms. Under these circumstances there was much talk about the necessity of easing the amending process. In 1913, however, the long liberal campaign for income tax and direct election of senators succeeded and the women's suffrage amendment followed shortly thereafter. Also adopted of Eighteenth amendment revealed the possibility of a small but dedicated 'Pressure group exploiting the amending machinery successfully,'With Six Amendments added to the constitution between 1913 and 1933, the amending process no longer seemed so formidable."28

Similar, in Switzerland Amendment took place in the influence of party. Though amending process of Switzerland is not only more difficult, but unduly difficult. But in constitution of Switzerland more amendments had been done then to constitution of U.S.A. which is less rigid in comparison of Switzerland. So K.C. Wheare rightly said:

"To this question no generalized answer can be given. Federal Governments have had different experiences. In Switzerland, where amendment of constitution requires always the consent of a majority of the electors voting in a referendum, and of a majority of the electors voting in a majority of the cantons, and on some occasions, the consent of the general legislature also, the process has been used frequent and successfully." 29

Thus, it may be seen that Amending process is influenced by the spirit of the party and rigid amending process cannot check the path of the majority of the people. Influence of party may be seen upon the representatives of the people because they are directly related with the one party or to other party and they reach in the legislative chamber through the support of the parties.

Party does not influence to legislative body only it also attract to general people. In the method of the referendum party, diverts the mind of the general electors in the favour or opposition of the amending Bill.

In such situation question arises that who is impartial and above the party? Answer is simple, it is only executive head who is above the party and impartial in all the constitution though it may be unitary or federal, flexible or rigid. So executive head must be associated with the amending process.

In some Federal Constitutions Executive Heads are associated with the amending process as in the constitution of Australia, Canada, India and U.S.S.R. etc. In these constitutions the assent of the Executive Heads are necessary at the time of constitutional amendment. On the other side in constitution like U.S.A. there is no necessity of assent of the Executive Head.

The merit of this method is that Executive Head is a head of the institution, policy maker of the country, representative of the people and above the party. So he can do justice with amending bill and may give right direction to the bill and impose restriction upon the hasty and rash moment of the legislative body.

In Parliamentary form of Government assent of President on the amending bill is put like a formality and he has not do with the bill. It is bad. There must be some voice of the President in the amending process. In support it is said ; in the Parliamentary form of Government Executive Head performs his function on the advice of cabinet, which takes part in amending process.
because members of cabinet also members of parliament, so there is no necessity of special voice of Executive Head.

In the Presidential form of government, Executive has no direct relation with legislative body as may be seen in the Parliamentary Form of Government and President is not responsible to legislative body. His veto over the legislative bill is only Negation and has no value. due to all these circumstances in the constitution of U.S.A. No veto is given over the Amending Bill. But it is wrong, there must be voice of President in the Amending Bill. It is right if voice of president is given it has no meaning, but it must be, because it will check the hasty and rash movement of the legislative body and will create the public opinion which is the key of the democratic machinery.

After seeing the merits and demerits of various mode of Amending process it may be submitted that Flexibility as well as Rigidity both have their own merits and demerits, but it does not mean that there should be no amending process. If no provision for amendment is provided there shall be constant danger of Revolution. If the method of amendment is too easy, the danger of too hasty action shall present all the time. On the other
hand if the method of amendment is made too difficult then the danger of delay and negation of the demand of society and constitution may not run with the will of the society and it will be treated as out dated. In order to avoid all the difficulties Prof. J.W. Garner Correctly observed:

"The provision for amendment should be neither so rigid as to make needed changes practically impossible nor so flexible as to encourage frequent and unnecessary change and thereby lower the authority of the constitution" \[30\]

Formimately this middle path has been adopted in the Indian constitution. The distinctive feature of the Indian constitution is that it seeks to impart flexibility to a written constitution. It is only the amendment of a few of the provisions of the constitution that requires ratification by the state legislatures and even then ratification by only one half of them would suffice when the American constitution requires ratification by Three-Fourth of the states and Switzerland and Australia requires referendum with majority of states. The rest of the constitution may be amended by a special majority of the union parliament that is a majority of not less than Two-Thirds of the

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members of each present and voting which against must be a majority of the total membership of the House. On the other hand, Parliament has been given power to alter or modify many of the provisions of the constitution by a simple majority as is required for general legislation, by laying down in the constitution that such changes shall not be deemed to be amendments of the constitution. Instances to the point are (a) changes in names, boundaries areas of and amalgamation and separation of states\textsuperscript{31} (b) abolition of creation of second chamber of the state legislature\textsuperscript{32} (c) administration of scheduled areas and scheduled tribe.\textsuperscript{33}

This nature of amending process envisaged by the makers of our constitution can be best explained by referring to the observation of Pandit Jawaharlal Nehru:

"... There should be a certain flexibility. If you make anything rigid and permanent, you stop the nation's growth, the growth of living vital, organic people.... In any event, we would not make this constitution as rigid that it can be adopted to changing conditions. When the world is in turmoil and we are passing through a very wist period of transition, what are many do to day may not be wholly capable tomorrow."\textsuperscript{34}

31. See Article 4 Constitution of India.
32. Ibid Article 169.
33. Ibid Article Para 7 of the 5th Sch. and para 21 of 6th Sch.
34. Pandit Jawaharlal Nehru : C.A.D date 8.11.1948, P. 322.
Sukhcharan K. Bhatia also observed:

"The constitution of India is a document of necessity and realistic compromises. It makes peculiar balance between the British parliament system and the American Presidential system, between the British Parliamentary Supremacy and the American Judicial supremacy between the British Unitary system of Government and the American Federalism. It is also strikes a balance between the British Flexible and American Rigidity in terms of its amendability." 35

Similarly, seeing the simple amending process with the Article 368, avoiding the rigidity of U.S.A. constitution and rejecting the provision of Referendum of Australian and Switzerland Indian constitution becomes more flexible from other Federal Constitution. So D.D. Basu rightly said:

"Another distinctive feature of the Indian constitution is that it seeks to impart flexible to a written federal constitution." 36

In the same way, Prof. K.C. Wheare seeing the variety of Amending Process in the Indian constitution correctly observed that mixed nature of amending process of the Indian constitution is working more satisfactorily rather than those constitutions which are purely flexible or purely rigid and he said:

"This variety in the Amending Process in wise but is rarely found". 37