

**Bill No. 11 of 2020**

THE CONSTITUTION (AMENDMENT) BILL, 2020

By

SHRI SANTOKH SINGH CHAUDHARY, M.P.

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BILL

*further to amend the Constitution of India.*

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2020.

Short title and commencement.

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 124 of the Constitution, in clause (1), the following proviso shall be added at the end, namely:—

Amendment of article 124.

10 “Provided that such number of Judges, as is equal to the proportion of population in the country of the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes to the total population of the country, shall be appointed from amongst the persons belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes.

15 *Explanation.*—In this article, the expression “population” means the population as ascertained at the last preceding census of which the relevant figures have been published.”.

Amendment  
of article 216.

**3.** In article 216 of the Constitution, the following proviso shall be added at the end, namely:—

“Provided that such number of Judges, as is equal to the proportion of population in the State of the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes to the total population of the State, shall be appointed from amongst the persons belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes. 5

*Explanation.*—In this article, the expression ‘population’ means the population as ascertained at the last preceding census of which the relevant figures have been published.”. 10

Amendment  
of article 312.

**4.** In article 312 of the Constitution, after clause (4), the following clause shall be added, namely:—

“(5) The law providing for the creation of the all-India judicial service aforesaid shall specifically provide for reservation in appointment of Judges for the persons belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes in the same proportion, as the population of the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes bear to the total population of India.”. 15

## STATEMENT OF OBJECTS AND REASONS

There is a need for representation from the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes in higher judiciary. In the face of inadequate number of judges from backward classes in higher courts, it is imperative to have a reservation policy in this regard. This would ensure the well-being of all sections of society as the needs of the oppressed would be better understood, leading to social equity. Of the three pillars of democracy, Legislature and Executive have been brought under the ambit of constitutional reservation. Naturally, the Judiciary must also be covered by the same principle.

Judiciary comes under the definition of 'State' under article 12 of the Constitution. Articles 15(4) and 16(4) provide for special provision for advancement and reservation respectively in favour of any backward class which is not adequately represented in the services under the State. As our higher judiciary still has inadequate representation from the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes communities, this Bill aims to provide reservation for the same.

The Standing Committee on Personnel, Public Grievances, Law and Justice has recommended reservation for the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes communities in higher judiciary in its various Reports presented during the fourteenth Lok Sabha. The Parliamentary Committee on Welfare of the Scheduled Castes and the Scheduled Tribes also recommended reservation for backward classes in higher judiciary in its Report in the year 2000.

The nine Judge Supreme Court Bench in the case of *Indra Sawhney Vs. The Union of India* had upheld reservations for Other Backward Classes.

When the Parliament enacts a law to provide for the creation of an all-India judicial service, it is imperative that reservation is provided to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes as is provided for in other All India Services such as the Indian Administrative Services.

Hence this Bill.

NEW DELHI;  
*November 27, 2019*

SANTOKH SINGH CHAUDHARY

ANNEXURE

EXTRACT FROM THE CONSTITUTION OF INDIA

	*	*	*	*	*	*	*
Establishment and constitution of Supreme Court.		124. (1) There shall be a Supreme Court of India consisting of a Chief Justice of India and, until Parliament by law prescribes a larger number, of not more than seven other Judges.					
	*	*	*	*	*	*	*
Constitution of High Courts.		216. Every High Court shall consist of a Chief Justice and such other Judges as the President may from time to time deem it necessary to appoint.					
	*	*	*	*	*	*	*
All-India services.		312. (1) Notwithstanding anything in Chapter VI of Part VI or Part XI, if the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest so to do, Parliament may by law provide for the creation of one or more all India services (including an all-India judicial service) common to the Union and the States, and, subject to the other provisions of this Chapter, regulate the recruitment, and the conditions of service of persons appointed, to any such service.					
	(2)*	*	*	*	*	*	*
	(3)*	*	*	*	*	*	*
		(4) The law providing for the creation of the all-India judicial service aforesaid may contain such provisions for the amendment of Chapter VI of Part VI as may be necessary for giving effect to the provisions of that law and no such law shall be deemed to be an amendment of this Constitution for the purposes of article 368.					
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*(Shri Santokh Singh Chaudhary, M.P.)*