

Bill No. 160 of 2025

THE CONSTITUTION (AMENDMENT) BILL, 2025

By

Ms. S. JOTHIMANI, M.P.

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further to amend the Constitution of India.

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

1. (1) This Act may be called the Constitution (Amendment) Act, 2025.

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.

Amendment of
article 15.

2. In article 15 of the Constitution,—

(i) in the marginal heading, after the words, “religion, race, caste, sex”, the word “disability” shall be inserted;

(ii) in clause (1), after the words, “religion, race, caste, sex”, the word “disability” shall be inserted;

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(iii) in clause (2), after the words, “religion, race, caste, sex”, the word “disability” shall be inserted.

(iv) in clause (4), after the words “the Scheduled Tribes”, the words “or the persons with disabilities” shall be inserted.

(v) in clause (5), after the words “the Scheduled Tribes”, the words “or for persons with disabilities” shall be inserted.

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Amendment of
article 16.

3. In clause (2) of article 16 of the Constitution, after the words, "religion, race, caste, sex, descent", the word "disability" shall be inserted.

Amendment of
article 80.

4. In article 80 of the Constitution, after clause (3), the following proviso shall be inserted,:

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“Provided that amongst the person nominated by the President under sub-clause (a) of clause (1) at least one person shall be a person with disability.”.

Amendment of
article 171.

5. In article 171 of the Constitution, after clause (5) the following proviso shall be inserted,:

“Provided that amongst the person nominated by the Governor under sub-section (e) of clause (3) at least one person shall be a person with disability.”.

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STATEMENT OF OBJECTS AND REASONS

Persons with disabilities make up the world's largest minority community. According to the 2011 Census of India, they comprised 2.21% of the Indian population. However, this estimate was based on just seven disabilities that were recognised at the time. After the enactment of the Rights of Persons with Disabilities Act (RPwDA), 2016, there are now 21 recognised disabilities, and hence the number of persons with disabilities is significantly higher than estimated in the 2011 Census. In recognition of the exclusion faced by the disabled community, India promptly ratified the UNCRPD in 2007. The UNCRPD marked a shift in viewing disability from a social – rather than a medical – lens. This was followed by the enactment of the RPwDA, 2016. Despite these important steps, persons with disabilities continue to face barriers in access to resources, opportunities and public goods. They are routinely discriminated against and lack representation in high offices, preventing their meaningful participation in society.

Given India's contentious history with discrimination, the anti-discrimination law was enshrined in the Constitution as a fundamental right by our founding fathers. Professor K.T. Shah, in the Constituent Assembly debates, had said that all public places must be made open and accessible to all citizens of the country. The underlying motivation behind anti-discrimination laws was to provide safeguards to marginalised groups, and allow for their social and economic integration into society. While India's anti-discrimination provisions account for discrimination based on the grounds of horizontal inequalities such as religion, race, caste etc., it strikingly misses discrimination based on disability. Profiling persons with disabilities and/or denying them access to public places, infrastructure, and transport by design, stands in contravention to our constitutional values.

Those who are subject to horizontal, status-based inequalities are also more likely to be represented among those living in poverty. In the case of persons with disabilities, their lack of access to education and employment further limits them to this eventuality. According to the World Report on Disability, 2011, the share of disabled children not enrolled in school at more than five times the national rate. A report by MOSPI in 2018 stated that among persons with disabilities of age 15 years and above, Labour Force Participation Rate in usual status was 23.8 per cent, significantly lower than the able-bodied population. This, despite the fact that the RPwDA provides for reservations in education and employment. In the State of Kerala v. Leesamma Joseph, the Hon'ble Supreme Court held that achieving the purpose of the RPwDA requires taking affirmative action. As it stands today, this position has not been reflected in the Constitution.

The disability rights movement was spearheaded by the reverberating sentiment of "nothing about us, without us". To truly realise this sentiment, it is imperative to increase political representation of persons with disabilities such that they can set the agenda for their own empowerment. Persons with disabilities have displayed excellence in all professions, and deserve an equitable chance at displaying their prowess in political offices as well. In recognition of this, the Baharul Islam Committee report of 1988 recommended that the Constitution be amended to provide for reservation of disabled people in Parliament. As a first step to achieving this, the Constitution must mandate their inclusion in the league of nominated members to the Upper Houses of the Central and State Legislatures.

The curb cut effect posits that laws designed to help persons with disabilities can have a ripple effect in terms of benefiting society at large. We cannot achieve our constitutional goal of social justice while leaving them behind. While it is true that some of these provisions have been accounted for through statute and interpretations of the law, it is important that they are also reflected in the letter of our Constitution. This is because our constitutional text informs and influences the social fabric of our country. Amending the Constitution to this effect will fulfil our international obligations, as well as foster our Constitutional spirit.

Hence this Bill.

NEW DELHI;
November 8, 2024.

S. JOTHIMANI

ANNEXURE

[EXTRACTS FROM THE CONSTITUTION OF INDIA]

	*		*		*		*	
15(I).	*		*		*		Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.	
(2)	*		*		*			
(3)	*		*		*			
(4) Nothing in this article or in clause (2) of article 29 shall prevent the State making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.								
	*		*		*			
16(I)	*		*		*		Equality of opportunity in matters of public employment.	
(2)	*		*		*			
(3)	*		*		*			
(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.								
	*		*		*			
80.(I) The Council of States shall consist of—								
(3) The members to be nominated by the President under sub-clause (a) of clause (I) shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely:—								
Literature, science, art and social service.								
	*		*		*		Composition of the Council of States.	
171. (5) The members to be nominated by the Governor under sub-clause (e) of clause (3) shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely:—								
Literature, science, art, co-operative movement and social service.								
	*		*		*		Composition of the Legislative Councils.	

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further to amend the Constitution of India.

(Ms. S. Jothimani, M.P.)