

**Bill No. 179 of 2022**

THE CONSTITUTION (AMENDMENT) BILL, 2022

By

SHRI MANISH TEWARI, M.P.

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BILL

*further to amend the Constitution of India*

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

1. (1) This Act may be called the Constitution (Amendment) Act, 2022.

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 324 of the Constitution,—

Amendment of  
article 324.

(a) for clause (2), the following clauses shall be substituted, namely:—

10 “(2) The Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the President, may, in consultation with the Committee of Appointments, from time to time, fix.

(2A) The appointment of Chief Election Commissioner, Election Commissioners and Regional Commissioners shall, subject to the provisions of any law made in that behalf by Parliament, be made by the President on the recommendations of a Committee consisting of,—

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|--|---|--------------|----|
| (i) the Prime Minister                                       | — | Chairperson; | 5  |
| (ii) The Union Home Minister                                 | — | Member;      |    |
| (iii) the Leader of the Opposition in the Council of States  | — | Member;      |    |
| (iv) the Leader of the Opposition in the House of the People | — | Member;      |    |
| (v) the Chief Justice of Supreme Court                       | — | Member;      |    |
| (vi) two senior most puisne judges of Supreme Court of India |   |              | 10 |
| to be nominated by the Chief Justice of India                | — | Member;      |    |

*Explanation.*—For the purposes of this clause, “the Leader of the Opposition in the House of the People” or “the Leader of the Opposition in the Council of States” shall, when no such leader has been so recognized, include the Leader of the single largest group in Opposition of the Government in the House of the People or the Council of States, as the case may be. 15

(2B) Notwithstanding any law made in that behalf by the Parliament, the term of office of the Chief Election Commissioner and Election Commissioners under clause (2) and Regional Commissioners under clause (4) shall be six years and three years from the date of assuming office, respectively: 20

Provided that after their retirement the Chief Election Commissioner, Election Commissioners or the Regional Commissioners shall not be eligible for appointment to any office under the Government of India, State Governments or under the Constitution;”.

(b) in clause (4), for the words, "after consultation with Election Commission", the words "on the recommendation of the Committee " shall be substituted; and 25

(c) for clause (5), the following clause shall be substituted, namely:—

“(5) Subject to the provisions of any law made by Parliament, the conditions of service of the Election Commissioners and the Regional Commissioners shall be such as the President may by rule determine:

Provided that the Chief Election Commissioner, Election Commissioners and Regional Commissioners shall not be removed from his office except in like manner and on the like grounds as a Judge of the Supreme Court and the conditions of service of the Chief Election Commissioner, Election Commissioners and Regional Commissioners shall not be varied to their disadvantage after their appointment.”. 30

Insertion of new article 328A.

3. After article 328 of the Constitution, the following article shall be inserted, namely:— 35

Election Commission to regulate, monitor and superintend the election of registered political parties.

“328A. (1) The regulation, monitoring and superintendence of internal functioning including but not limited to internal election of all registered political parties under the Representation of the People Act, 1951 shall be vested in the Election Commission. 43 of 1951

(2) The Election Commission shall regulate, monitor and superintend the internal election of registered political parties under clause(1) in accordance with their respective constitutions until a Model Internal Code is prescribed by the Election Commission: 40

Provided that it shall incumbent on all registered political parties to incorporate Model Election Code into their respective constitutions after formulation by the Election Commission. 45

(3) If any registered political party fails to comply with the advisories, duration and instructions issued by the Election Commission with regard to their internal functions, the recognition of such political party as a State or National may be withdrawn including any other action as the Election Commission deems fit under section 16A of the Election Symbols (Reservation and Allotment Order), 1968, as the case may be.”.

## STATEMENT OF OBJECTS AND REASONS

The framers of the Constitution of India made a giant leap of faith when they incorporated universal adult suffrage into the design of India's founding document and enshrined it in article 326 of the Constitution.

In 1947 India's literacy rate was only twelve per cent. in other words eighty-eight per cent. of India was illiterate. What this decision meant was that all Indian citizen's irrespective of caste, colour, creed, sex, place of birth or any other disability including illiteracy would henceforth be qualified to participate in the great Indian democratic experiment that was set to unfold in 1952.

With every election since 1952 our democracy has deepened and got more broad based. In 1988 the voting age was lowered to eighteen years. By the 73rd and 74th amendment to the Indian Constitution, Parliament institutionalized democracy at the third tier or at the grass root level.

However there remains a very serious infirmity in the functioning of India's democratic model and that is the functioning of political parties that underpin our democratic edifice. The internal functioning and structures of an overwhelming number of these political parties are very opaque and ossified. There is a need to make their functioning transparent, accountable and rule based. At the last count there are 2858 political parties registered with the Election Commission of India. Out of these 8 are national parties, 54 are State parties and 2797 are unrecognised parties. On the 13th of August, 1996 the Election Commission had issued a circular to all political parties registered with it whether national, State or unrecognised that they must hold regular elections in accordance with their respective constitution. Under Section 29-A of the Representation of People's Act 1951 the Commission has the powers to register a political party but not deregister it.

While the Election Commission of India has superintendence, direction and control of elections under Part XV of the Constitution of India it has repeatedly argued before various Courts of Law that this does not extend to the supervision or superintendence of internal elections and functioning of political parties. This bill seeks to provide the Election Commission of India with the necessary wherewithal to regulate, monitor and superintend the internal functioning of all political parties registered with and withdraw recognition as national or State parties and to take such appropriate action under section 16-A of the Election Symbols (Reservation and allotment order) 1968 if they fail to comply with the directions of the Commission with regard to their internal functioning.

There is growing concern with regard to the independence and autonomy of the Election Commission. To maintain the impartiality and integrity of the Commission, it has become imperative that the Chief Election Commission and such other Election Commissioners as are deemed necessary be appointed by a Panel consisting of the Prime Minister of India, Union Home Minister, Leader of Opposition or Floor Leader in Lok Sabha, Leader of Opposition or Floor Leader in Rajya Sabha and Chief Justice of India and two senior most puisne judges of the Supreme Court of India.

It is also pertinent that the Chief Election Commissioner, Election Commissioners shall be given a fixed term of six years and the Regional Commissioners fixed term of three years from the dates of their respective appointments. They should not be removed from office except in accordance with the procedure laid down for the removal of a Supreme Court Judge. Also, after retirement they should not be eligible for any reappointment to any office under the Government of India, State Governments and the Constitution.

This is the second wave of Democratic Reforms that India requires.

The Bill seeks to achieve the above objectives.

Hence this Bill.

NEW DELHI;  
4 *July*, 2022

MANISH TEWARI

*ANNEXURE*

EXTRACTS FROM THE CONSTITUTION OF INDIA

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Superintendence,  
direction and  
control of  
elections to  
be vested in an  
Election  
Commission.

324.(1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice-President held under this Constitution shall be vested in a Commission (referred to in this Constitution as the Election Commission).

(2) The Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may from time to time fix and the appointment of the Chief Election Commissioner and other Election Commissioners shall, subject to the provisions of any law made in that behalf by Parliament, be made by the President.

(3) When any other Election Commissioner is so appointed the Chief Election Commissioner shall act as the Chairman of the Election Commission.

(4) Before each general election to the House of the People and to the Legislative Assembly of each State, and before the first general election and thereafter before each biennial election to the Legislative Council of each State having such Council, the President may also appoint after consultation with the Election Commission such Regional Commissioners as he may consider necessary to assist the Election Commission in the performance of the functions conferred on the Commission by clause (1).

(5) Subject to the provisions of any law made by Parliament, the conditions of service and tenure of office of the Election Commissioners and the Regional Commissioners shall be such as the President may by rule determine:

Provided that the Chief Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of the Supreme Court and the conditions of service of the Chief Election Commissioner shall not be varied to his disadvantage after his appointment:

Provided further that any other Election Commissioner or a Regional Commissioner shall not be removed from office except on the recommendation of the Chief Election Commissioner.

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*(Shri Manish Tewari, M.P.)*