

**Bill No. 286 of 2019**

THE CONSTITUTION (AMENDMENT) BILL, 2019

By

SHRI KULDEEP RAI SHARMA, M.P.

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*further to amend the Constitution of India.*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called Constitution (Amendment) Act, 2019.

Short title.

2. After article 239B of the Constitution, the following article shall be inserted, namely:—

Insertion of new article 239C.

5 **239C. (1) There shall be a Legislative Assembly for the Union territory of Andaman and Nicobar Islands and the total number of seats in the Legislative Assembly shall be filled by members chosen by direct election from territorial constituencies in the Union territory of A & NI.**

Special provisions with respect to Andaman and Nicobar Islands.

(2) The total number of seats in the Legislative Assembly shall be forty.

(3) For the purposes of election to the Legislative Assembly, the Union territory of Andaman and Nicobar Islands shall be divided into single-member assembly constituencies in such manner that the population of each of the constituencies shall, so far as practicable, be the same throughout the Union territory.

(4) Seats shall be reserved for the Scheduled Tribes in the Legislative Assembly, and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats in the Assembly as the population of the Scheduled Tribes in the Union territory bears to the total population of the Union territory and the provisions of article 334 shall apply to such reservation. 5

*Explanation.*— For the purpose of clause (4), the expression "population," means the population as ascertained in the last preceding census of which the relevant figures have been published: 10

Provided that where such figures have not been published, then for the purpose of election for the constitution of the first Legislative Assembly under this Act, the provisional figures of the population of the Union territory as published in relation to the 2011 census shall be deemed to be the population of the Union territory. 15

(5) The provisions of article 324 to 327 and 329 shall apply in relation to the Union Territory of Andaman and Nicobar Islands, the Legislative Assembly of Andaman and Nicobar Islands and the members thereof as they apply, in relation to a State, the Legislative Assembly of a State and the members thereof respectively. 20

(6) (a) Subject to the provisions of this Constitution, the Legislative Assembly shall have power to make laws for the whole or any part of the Union Territory of Andaman and Nicobar Islands with respect to any of the matters enumerated in the State List or in the Concurrent List in so far as any such matter is applicable to Union territories.

(b) Nothing in sub-clause (a) shall derogate from the powers of Parliament under this Constitution to make laws with respect to any matter for a Union territory or any part thereof. 25

(c) If any provision of a law made by the Legislative Assembly with respect to any matter is repugnant to any provision of a law made by Parliament with respect to that matter, whether passed before or after the law made by the Legislative Assembly, or of an earlier law, other than a law made by the Legislative Assembly, then, in either case, the law made by Parliament, or, as the case may be, such earlier law, shall prevail and the law made by the Legislative Assembly shall, to the extent of the repugnancy, be void: 30

Provided that if any such law made by the Legislative Assembly has been reserved for the consideration of the President and has received his assent, such law shall prevail in the Union territory: 35

Provided further that nothing in this sub-clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislative Assembly.

**(7) There shall be a Council of Ministers consisting of not more than fifteen per cent. of the total number of members in the Legislative Assembly, with the Chief Minister at the head to aid and advise the Lieutenant Governor in the exercise of his functions in relation to matters with respect to which the Legislative Assembly has power to make laws, except in so far as he is, by or under any law, required to act in his discretion:** 40

Provided that in the case of difference of opinion between the Lieutenant Governor and his Ministers on any matter, the Lieutenant Governor shall refer it to the President for decision and act according to the decision given thereon by the President and pending such decision it shall be competent for the Lieutenant Governor in any case where the matter, in his opinion, is so urgent that it is necessary for him to take immediate action, to take such action or to give such direction in the matter as he deems necessary. 50

(8) The Chief Minister shall be appointed by the President and the other Ministers shall be appointed by the President on the advice of the Chief Minister and the Ministers shall hold office during the pleasure of the President.

(9) The Council of Ministers shall be collectively responsible to the Legislative  
5 Assembly.

(10) Parliament may, by law, make provisions for giving effect to, or supplementing provisions contained in the foregoing clauses and for all matter incidental or consequential thereto.

(11) Any such law as is referred to in sub-clause (a) shall not be deemed to be an  
10 amendment of this constitution for the purposes of article 368 notwithstanding that it contains any provision which amends or has the effect of amending this constitution.

## STATEMENT OF OBJECTS AND REASONS

The Andaman and Nicobar Administration currently works under the Lt. Governor who is appointed by the President of India. Andaman and Nicobar Islands currently have only one Member of Parliament in House of the People and no representation in the Council of States. The creation of a Legislature in Andaman and Nicobar Islands has been a long standing demand and was also raised during the Home Ministry Advisory Committee meeting for Andaman and Nicobar Islands on 28th July, 2017.

The Andaman and Nicobar Islands are situated in the middle of the Bay of Bengal and have been appropriately described by a Roman geographer in the second century as the Islands of Good Fortune. Andaman and Nicobar Islands have been blessed with exotic fauna and flora-brilliant tropical flowers, orchids, hundreds of species of birds, mammals, reptiles and the like-the place also came to be known as a living museum on earth. Some of the inhabitants are the oldest tribal communities in the world, their antiquities said to be going back to Paleolithic times.

The population of these islands in 1971 was 1.15 lakh but now estimated population is about 4.2 lakh. Andaman and Nicobar Islands also occupies a unique place from the point of view of defence. Andaman and Nicobar Islands is a place of pilgrimage for every Indian. During the freedom struggle also people were deported.

This Bill is in furtherance of the demand for a separate Legislature for Andaman and Nicobar Islands to achieve national integrity which can fulfilled after considering the local aspirations, reasonable and legitimate aspirations of the people of Andaman and Nicobar Islands. There is an imminent need to take cognizance of the growing demands and aspirations of the people of Andaman and Nicobar Islands. Due to increasing population, the people of Andaman need to have a proper forum to express themselves or to have a rule of their own through the people's mandate. Their demand for a forum to express themselves and to have a rule of their own is a highly justified demand.

So, through this Bill a democratic setup in the form of a Legislature for Union territory with constitutional powers is proposed. Having a Legislature, Chief Minister & Council of Ministers for Andaman and Nicobar Islands. The need of the hour is to give a voice to the people of Andaman and Nicobar Islands and accept their long pending demand. The creation of a Legislature will be a right step to lay the foundation of democracy and rule of law in the Andaman and Nicobar Islands.

Hence this Bill.

NEW DELHI;  
*October 31, 2019.*

KULDEEPRAI SHARMA

#### FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for creation of Legislative Assembly for the Union territory of Andaman and Nicobar Islands. It further provides for appointment of Council of Ministers to be headed by a Chief Minister to aid and advise the Lieutenant Governor. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. At this stage, it is not possible to give exact estimate of expenditure, both recurring and non-recurring, which will be involved from the Consolidated Fund of India.

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*(Shri Kuldeep Rai Sharma, M.P.)*