

Bill No. 71 of 2020

THE CONSTITUTION (AMENDMENT) BILL, 2020

By

DR. THOL. THIRUMAAVALAVAN, 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.

(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 (2), after the existing proviso, the following proviso shall be added, namely:—

Amendment of article 124.

“Provided further that the President shall ensure fair representation of backward classes, minorities, women and different regions in making appointment of Judges other than the Chief Justice of India.”

3. In article 145 of the Constitution, in clause (1),—

Amendment of article 145.

(a) in sub-clause (c), for the word "conferred", the word "guaranteed" shall be substituted; and

(b) after sub-clause (i), the following sub-clauses shall be inserted, namely:—

“(ia) rules as to the rights of litigants;

(ib) rules as to the extraordinary relief or payment of compensation for inordinate delays of the court.”.

Amendment
of article 217.

4. In article 217 of the Constitution, in clause (1), before the existing proviso, the following proviso shall be inserted, namely:— 5

“Provided that the President shall ensure fair representation of backward classes, minorities, women and different regions in making appointment of Judge of a High Court other than the Chief Justice of a High Court:”.

STATEMENT OF OBJECTS AND REASONS

Having ratified THE CHARTER OF THE UNITED NATIONS, and the ratification of International Bill of Human Rights viz. Universal Declaration of Human Rights, 1948; International Covenant on Civil and Political Rights, 1966; International Covenant on Economic, Social and Cultural Rights, 1966; and other treaties like International Convention on the Elimination of All Forms of Racial Discrimination, 1965; Convention on the Elimination of All Forms of Discrimination Against Women, 1979; Convention on The Rights of the Child, 1989 [and optional protocol 25 May, 2000 thereunder]; Convention on the Rights of Persons with Disabilities, 2006. Also ILO Convention No. 107 concerning Indigenous Tribal Populations Convention, 1957 and other Conventions No. 29, 100, 105, 111, 138, 182 as ratified by Indian State, it has become necessary in view of the principles of *Jus Cogens*, *Jus Strictum* and *Pacta Sunt Servanda* of international law and scope of Article 51(c), 263 and entries 12 and 13 of Union List of Seventh Schedule to make the provisions of human rights and fundamental freedoms an inalienable part of our Constitution.

This Bill seeks to amend articles 124, 145 and 217 of the Constitution with a view to—

(a) providing for representation of backward classes, minorities and women etc. in appointment of Judges of Supreme Court;

(b) imposing an obligation on the Supreme Court to make rules as to the rights of litigants and extraordinary relief or payment of compensation for inordinate delays of the Court; and

(c) providing for representation of backward classes, minorities and women etc. in appointment of Judges of High Court.

Hence this Bill.

NEW DELHI;
February 11, 2020.

THOL. THIRUMAVALAVAN

ANNEXURE

EXTRACT FROM THE CONSTITUTION OF INDIA

	*	*	*	*
Establishment and constitution of Supreme Court.	124. (1) *		*	*
	(2) Every Judge of the Supreme Court shall be appointed by the President by warrant under his hand and seal after consultation with such of the Judges of the Supreme Court and of the High Courts in the States as the President may deem necessary for the purpose and shall hold office until he attains the age of sixty-five years:			
	Provided that in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of India shall always be consulted:			
	Provided further that—			
	(a) a Judge may, by writing under his hand addressed to the President, resign his office;			
	(b) a Judge may be removed from his office in the manner provided in clause (4).			
	*	*	*	*
Rules of Court, etc.	145. (1) Subject to the provisions of any law made by Parliament, the Supreme Court may from time to time, with the approval of the President, make rules for regulating generally the practice and procedure of the Court including—			
	(i) rules providing for the summary determination of any appeal which appears to the Court to be frivolous or vexatious or brought for the purpose of delay;			
	*	*	*	*
Appointment and conditions of the office of a Judge of a High Court.	217. (1) Every Judge of a High Court shall be appointed by the President by warrant under his hand and seal after consultation with the Chief Justice of India, the Governor of the State, and, in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of the High Court, and shall hold office, in the case of an additional or acting Judge, as provided in article 224, and in any other case, until he attains the age of sixty two years:			
	Provided that—			
	(a) a Judge may, by writing under his hand addressed to the President, resign his office;			
	(b) a Judge may be removed from his office by the President in the manner provided in clause (4) of article 124 for the removal of a Judge of the Supreme Court;			
	(c) the office of a Judge shall be vacated by his being appointed by the President to be a Judge of the Supreme Court or by his being transferred by the President to any other High Court within the territory of India.			
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(Dr. Thol. Thirumaavalavan, M.P.)