

Bill No. 89 of 2021

THE CONSTITUTION (AMENDMENT) BILL, 2021

By

DR. THOL. THIRUMAAVALAVAN, MP

A

BILL

further to amend the Constitution of India.

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

1. This Act may be called the Constitution (Amendment) Act, 2021.

Short title.

2. In article 55 of the Constitution, in clause (3), in the proviso to the

Amendment
of article 55.

5 *Explanation.*—

(a) for the figure “2026”, the figure “2030” shall be substituted; and

(b) for the figure “1971”, the figure “2011” shall be substituted.

Amendment
of article 80.

3. In article 80 of the Constitution, in clause (1),—

(a) in sub-clause (a), for the words “twelve members”, the words “twenty-five members” shall be substituted; and

(b) in sub-clause (b), for the words “two hundred and thirty-eight representatives”, the words “six hundred and fifty representatives” shall be substituted. 5

Substitution
of new article
for article 81.

4. For articles 81 and 82 of the Constitution, the following articles shall be substituted, namely:—

Composition
of the House
of the People.

“81. (1) Subject to the provisions of article 331, the House of the People shall consist of— 10

(a) not more than seven hundred and fifty-two members (comprising one national list) nominated by political parties on the basis of election held in accordance with system of proportional representation by means of a single transferable vote and voting at such election shall be by secret ballot; 15

(b) not more than seven hundred and sixteen members chosen by direct election from two member territorial constituencies in the States; and

(c) not more than thirty-two members to represent the Union territories, chosen in such manner as Parliament may by law provide. 20

(2) For the purposes of forming one national list under sub-clause (a) of clause (1), only those political parties which are registered under the Representation of the People Act, 1951 shall be given representation in the House of the People. 43 of 1951

(3) The eligible voters in every State and Union territory shall mark their preferences of political parties at the general election. 25

(4) The political parties securing less than 0.15 per cent of the total valid votes shall not be eligible for any representation in the House of the People under the national list.

(5) The second preference votes marked by electors in the ballot paper having first preference to a political party which has failed to secure 0.15 per cent of total valid votes in a State, shall be transferred to the respective political parties securing more than 0.15 per cent votes. 30

(6) The total number of seats allotted under sub-clause (a) of clause (1) to a State shall be divided amongst political parties according to the proportion of votes secured by each political party. 35

(7) On the basis of seats allotted to a political party under clause (6), the political party shall nominate its candidate for forming a national list to represent in the House of the People.

(8) For the purpose of direct election under sub-clause (b) of clause (1), every eligible voter shall mark his preference to elect two members from a constituency in such manner as Parliament may by law determine. 40

(9) Notwithstanding anything in this Constitution, one-third of the total number of seats under sub-clauses (a), (b) and (c) of clause (1) shall be reserved for women:

5 Provided that of the total seats reserved for women, one-third shall be reserved for women belonging to the Scheduled Castes and the Scheduled Tribes.

(10) The provision of reservation under clause (9) shall cease to have effect after the year 2037.

(11) For the purposes of sub-clauses (a) and (b) of clause (1),—

10 (a) there shall be allotted to each State a number of seats in the House of the People in such manner that the ratio between that number and the population of the State is, so far as practicable, the same for all States; and

15 (b) each State shall be divided into two member territorial constituencies for choosing representatives through direct election, in such manner that the ratio between the population of each constituency and number of seats allotted to it is, so far as practicable, be the same throughout the State:

Provided that the provisions of sub-clause (a) of this clause shall not be applicable for the purpose of allotment of seats in the House of the People to any State so long as the population of that State does not exceed six millions.

20 (12) In this article, the expression “population” means the population as ascertained at the last preceding census of which the relevant figures have been published:

25 Provided that the reference in this clause to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year 2030 have been published, be construed for the purpose of sub-clauses (a) and (b) of clause (11) and the proviso to that clause, as a reference to the 2011 census.

30 **82.** Upon the completion of each census, the allocation of seats in the House of the People to the States and the division of each State into two-member territorial constituencies for choosing representatives through direct election shall be readjusted by such authority and in such manner as Parliament may by law determine: Readjustment after each census.

Provided that such readjustment shall not affect representation in the House of the People until the dissolution of the then existing House:

35 Provided further that such readjustment shall take effect from such date as President may, by order, specify and until such readjustment takes effect, any election to the House may be held on the basis of division into two-member territorial constituencies existing before such readjustment:

Provided also that until the relevant figures for the first census taken after the year 2030 have been published, it shall not be necessary to readjust—

40 (i) the allocation of seats in the House of the People to the States as readjusted on the basis of the 2011 census; and

(ii) the division of each State into two-member territorial constituencies as readjusted on the basis of 2011 census, under this article.”.

Provision of amendments in relevant election laws.

82A. (1) With a view to give effect to the provisions of articles 81, 82 and 170, the Parliament may, by law, provide for amendments of the relevant election laws and creation of an authority (Delimitation Commission) for readjusting territorial constituencies.

(2) Any law enacted by Parliament under clause (1) shall ensure the following:— 5

(i) the mechanism for delimitation of parliamentary constituencies and assembly constituencies;

(ii) the procedure to present a civil petition to the delimitation commission on matters connected with delimitation, appeal against the order of the Commission to the High Court and disposal of appeal within stipulated time by the High Court; 10

(iii) method of transfer of second preference votes to other respective political parties;

(iv) method and procedure defining the system of proportional representation by means of a single transferable vote; 15

(v) basis of preparing national list and State list for proportional representation;

(vi) reservation of constituencies for the Scheduled Castes and the Scheduled Tribes in proportion to their population as per latest census;

(vii) method of marking preference of political parties in accordance with the system of proportional system by means of a single transferable vote and of candidates in direct election by eligible voters; and 20

(viii) any other matter arising out of the implementation of the aforesaid provisions.

Substitution of new article for article 170.

5. For article 170 of the Constitution, the following article shall be substituted, namely:— 25

Composition of the Legislative Assemblies.

“170. (1) Subject to the provisions of article 333, the Legislative Assembly of each State shall consist of not more than nine hundred and not less than sixty members, chosen by—

(a) election held in accordance with system of proportional representation by means of a single transferable vote and voting at such election shall be by secret ballot; and 30

(b) direct election from two-member territorial constituencies in the State, in such manner as Parliament may by law provide.

(2) The number of members (comprising one State list) nominated by political parties on the basis of election held according to sub-clause (a) of clause (1) shall be such as Parliament may by law determine. 35

(3) The number of members chosen according to sub-clause (b) of clause (1) shall be such as Parliament may by law determine.

(4) The eligible voters in a State or Union territory, as the case may be, shall mark their preferences of political parties at the election held to constitute a new Legislative Assembly for that State or Union territory. 40

(5) The political parties securing less than five per cent. of the total valid votes shall not be eligible for any representation in the Legislative Assembly.

5 (6) The second preference votes marked by electors on the ballot papers having first preference to a political party, which has not secured five per cent. of total valid votes in a State, shall be transferred to the respective political parties securing more than five per cent. votes.

(7) The total number of seats allotted under sub-clause (a) of clause (1) to a State shall be divided amongst political parties according to the proportion of votes secured by each political party.

10 (8) On the basis of seats allotted to a political party under clause (7), the political party shall nominate its candidate for forming a state list to represent in the Legislative Assembly.

15 (9) For the purpose of direct election under sub-clause (b) of clause (1), every eligible voter shall mark his preference to elect two members from a constituency in such manner as Parliament may by law determine.

(10) Notwithstanding anything in this Constitution, one-third of the total number of seats under sub-clauses (a) and (b) of clause (1) shall be reserved for women:

Provided that of the total seats reserved for women, one-third shall be reserved for women belonging to the Scheduled Castes and the Scheduled Tribes.

20 (11) The provision of reservation under clause (10) shall cease to have effect after the year 2037.

25 (12) For the purpose of election under sub-clause (b) of clause (1), each State shall be divided into two-member territorial constituencies for choosing representatives through direct election, in such manner that the ratio between the population of each constituency and number of seats allotted to it is, so far as practicable, be the same throughout the State:

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

30 Provided that the reference in this *Explanation* to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year 2030 have been published, be construed as a reference to the 2011 census.

35 (13) Upon the completion of each census, the total number of seats in the Legislative Assembly of each State and the division of each State into territorial constituencies shall be readjusted by such authority and in such manner as Parliament may by law determine:

Provided that such readjustment shall not affect representation in the Legislative Assembly until the dissolution of the then existing Assembly:

40 Provided further that such readjustment shall take effect from such date as the President may, by order, specify and until such readjustment takes effect, any election to the Legislative Assembly may be held on the basis of the territorial constituencies existing before such readjustment:

Provided also that until the relevant figures for the first census taken after the year 2030 have been published, it shall not be necessary to readjust—

(i) the total number of seats in the Legislative Assembly of each State as readjusted on the basis of the 2011 census; and

(ii) the division of such State into territorial constituencies as may be readjusted on the basis of the 2011 census,

under this clause.

Amendment of article 330.	6. In article 330 of the Constitution, in clause (3), in the proviso to the <i>Explanation,—</i>	
	(a) for the figure “2026”, the figure “2030” shall be substituted; and	10
	(b) for the figure, “2001”, the figure “2011” shall be substituted.	
Amendment of article 331.	7. In article 331 of the Constitution, for the words “two members” the words “five members” shall be substituted.	
Amendment of article 332.	8. In article 332 of the Constitution:—	
	(a) in clause (3A), for the figure “2026”, the figures “2030” shall be substituted; and	15
	(b) in clause (3B), for the figure “2026”, the figures “2030” shall be substituted.	
Amendment of article 333.	9. In article 333 of the Constitution, for the words “one member”, the words, “two members” shall be substituted.	20
Amendment of article 334.	10. In article 334 of the Constitution in the long line, after clauses (a) and (b), for the words “eighty years in respect of clause (a) and seventy years in respect of clause (b)”, the words “ninety years” shall be substituted.	
Substitution of new Schedule for Fourth Schedule.	11. For the Fourth Schedule to the Constitution, the following Schedule shall be substituted, namely:—	25

FOURTH SCHEDULE

[Article 4(1) and 80(2)]

Allocation of seats in the Council of States

To each State or Union territory specified in the first column of the following table, there shall be allotted the number of seats specified in the second column thereof opposite to that State or that Union territory, as the case may be:

TABLE	
1. Andhra Pradesh.....	28
2. Telangana.....	21
3. Assam.....	19
4. Bihar.....	50

	5. Jharkhand.....	18
	6. Goa.....	02
	7. Gujarat.....	30
	8. Haryana.....	14
5	9. Kerala.....	21
	10. Madhya Pradesh.....	36
	11. Chhattisgarh.....	15
	12. Tamil Nadu.....	43
	13. Maharashtra.....	56
10	14. Karnataka.....	35
	15. Odisha.....	23
	16. Punjab.....	15
	17. Rajasthan.....	35
	18. Uttar Pradesh.....	99
15	19. Uttarakhand.....	07
	20. West Bengal.....	46
	21. Nagaland.....	02
	22. Himachal Pradesh.....	05
	23. Manipur.....	02
20	24. Tripura.....	02
	25. Meghalaya.....	02
	26. Sikkim.....	02
	27. Mizoram.....	02
	28. Arunachal Pradesh.....	02
25	29. Delhi.....	08
	30. Puducherry.....	02
	31. Jammu and Kashmir.....	08
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	Total	650
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STATEMENT OF OBJECTS AND REASONS

Having ratified the International Bill of Human Rights *viz.* the Universal Declaration of Human Rights, 1948; the International Covenant on Civil and Political Rights, 1966; the International Covenant on Economic, Social and Cultural Rights, 1966; and other treaties like the International Convention on the Elimination of All Forms of Racial Discrimination, 1965; the Convention on the Elimination of All Forms of Discrimination Against Women, 1979, it becomes obligatory upon “Indian State” within the meaning and scope of articles 51(c) and 253 and entries 12 and 13 of Union List of the Seventh Schedule of the Constitution to make necessary changes in our electoral system and outcomes.

Signing of Inter Parliamentary Union (IPU) Declarations by India of which she is a member on Free and Fair Elections (Paris Declaration 1994) and the Universal Declaration on Democracy (Cairo Declaration 1997) and the various resolutions adopted by the United Nations General Assembly, it becomes necessary that the best practices and designs in the electoral system and outcomes across the world be incorporated in our electoral system. The letter and spirit of our great Constitution which enshrines Justice, Liberty, Equality and Fraternity assuring the dignity of individual has made these long standing ‘comprehensive electoral reforms’ overdue.

There have been seven to eight reports from Goswami Committee (1990), Vohra Committee (1993), Indrajit Gupta Committee (1998), 170th Law Commission Report (1999) and 255th Report (2015), ECI proposed Electoral Reforms (2004) and 2nd Administrative Reforms Commission Report (2008), which have been pending consideration, with considered advice, of political parties and civil society associations.

The proposed Bill seeks to:–

(i) provide a plural electoral system of proportional representation by means of a single transferable vote for preparing one national list and two-member territorial constituencies, *i.e.* Parliamentary constituencies and Assembly constituencies in place of single member territorial constituency;

(ii) increase the number of seats in the House of the People to fifteen hundred, with seven hundred and fifty-two (50.14 per cent.) and seven hundred and forty-eight (49.86 per cent.) on the basis of national list in two-member territorial constituencies through direct election along with thirty-three per cent. seats reserved for women to ensure a reasonable ratio of representative population, considering the unreasonably disproportionate ratio at present, which has crossed over approximately twenty-five lakhs population for one Member of Parliament;

(iii) increase the number of seats in the Legislative Assembly of each State upto nine hundred, and not less than sixty to ensure a reasonable ratio of representative population, considering the unreasonably disproportionate ratio at present, which has crossed over approximately 3.25 lakhs population for one Member of Legislative Assembly;

(iv) increase the seats in the Council of States upto six hundred and seventy-five, with six hundred and fifty to be elected from States and Union territories, and twenty-five to be nominated by the President.

Hence this Bill.

NEW DELHI;
February 10, 2020

THOL. THIRUMAAVALAVAN

FINANCIAL MEMORANDUM

Clause 3 of the Bill *vide* proposed amendment to article 80 provides for increase in number of representatives from the States and Union territories in the Council of States from “two hundred and thirty-eight” to “six hundred and fifty”. Clause 4 *vide* proposed amendment to article 81 provides for increase in the number of members to the House of the People from “five hundred and thirty members chosen by direct election from territorial constituencies in the States” to “seven hundred and fifty-two members comprising one national list chosen by election held in accordance with system of proportional representation by means of a single transferable vote” and “seven hundred and sixteen members” chosen by direct election from multi-member territorial constituencies in the States. It also seeks to increase the representatives from the Union territories to the House of the People from “twenty members” to “thirty-two members”. It further provides for one-third reservation of the total number of seats for women in the House of the People out of which one-third to be reserved for women belonging to the Scheduled Castes and the Scheduled Tribes. Clause 5 *vide* proposed amendment to article 170 provides for increase in the number of members of Legislative Assembly of each State from “not more than five hundred” to “not more than nine hundred”. It also provided for one-third reservation of the total number of seats for women in Legislative Assembly of each State out of which one-third to be reserved for women belonging to the Scheduled Castes and the Scheduled Tribes. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees five hundred crore would be involved as recurring expenditure per annum from the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved.

ANNEXURE

[EXTRACT FROM THE CONSTITUTION OF INDIA]

	*	*	*	*	*
Manner of election of President.	55. (1)	*	*	*	*
	(2)	*	*	*	*

(3) The election of the President shall be held in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot.

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:

Provided that the reference in this Explanation to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year 2026 have been published, be construed as a reference to the 1971 census.

	*	*	*	*	*
Composition of the Council of States.	80. (1)	The Council of States shall consist of—			
		(a)	twelve members to be nominated by the President in accordance with the provisions of clause (3); and		
		(b)	not more than two hundred and thirty-eight representatives of the States and of the Union territories.		

Composition of the House of the People.	81. (1)	Subject to the provisions of article 331, the House of the People shall consist of—			
		(a)	not more than five hundred and thirty members chosen by direct election from territorial constituencies in the States, and		
		(b)	not more than twenty members to represent the Union territories, chosen in such manner as Parliament may by law provide.		

	*	*	*	*	*
Readjustment after each census.	82.	Upon the completion of each census, the allocation of seats in the House of the People to the States and the division of each State into territorial constituencies shall be readjusted by such authority and in such manner as Parliament may by law determine:			

Provided that such readjustment shall not affect representation in the House of the People until the dissolution of the then existing House:

Provided further that such readjustment shall take effect from such date as the President may, by order, specify and until such readjustment takes effect, any

election to the House may be held on the basis of the territorial constituencies existing before such readjustment:

Provided also that until the relevant figures for the first census taken after the year 2026 have been published, it shall not be necessary to readjust—

(i) the allocation of seats in the House of the People to the States as readjusted on the basis of the 1971 census; and

(ii) the division of each State into territorial constituencies as may be readjusted on the basis of the 2001 census, under this article.

* * * * *

170. (1) Subject to the provisions of article 333, the Legislative Assembly of each State shall consist of not more than five hundred, and not less than sixty, members chosen by direct election from territorial constituencies in the State.

Composition of the Legislative Assemblies.

(2) For the purposes of clause (1), each State shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the State.

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

Provided that the reference in this Explanation to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year 2026 have been published, be construed as a reference to the 2001 census.

(3) Upon the completion of each census, the total number of seats in the Legislative Assembly of each State and the division of each State into territorial constituencies shall be readjusted by such authority and in such manner as Parliament may by law determine:

Provided that such readjustment shall not affect representation in the Legislative Assembly until the dissolution of the then existing Assembly:

Provided further that such readjustment shall take effect from such date as the President may, by order, specify and until such readjustment takes effect, any election to the Legislative Assembly may be held on the basis of the territorial constituencies existing before such readjustment:

Provided also that until the relevant figures for the first census taken after the year 2026 have been published, it shall not be necessary to readjust—

(i) the total number of seats in the Legislative Assembly of each State as readjusted on the basis of the 1971 census; and

(ii) the division of such State into territorial constituencies as may be readjusted on the basis of the 2001 census, under this clause.

* * * * *

Reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People.

330. (1) * * * *

(2) * * * *

(3) Notwithstanding anything contained in clause (2), the number of seats reserved in the House of the People for the Scheduled Tribes in the autonomous districts of Assam shall bear to the total number of seats allotted to that State a proportion not less than the population of the Scheduled Tribes in the said autonomous districts bears to the total population of the State.

Explanation.—In this article and in article 332, the expression “population” means the population as ascertained at the last preceding census of which the relevant figures have been published:

Provided that the reference in this Explanation to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year 2026 have been published, be construed as a reference to the 2001 census.

* * * * *

Representation of the Anglo-Indian Community in the House of the People.

331. Notwithstanding anything in article 81, the President may, if he is of opinion that the Anglo-Indian community is not adequately represented in the House of the People, nominate not more than two members of that community to the House of the People.

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Reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States.

332. (1) * * * *

(2) * * * *

(3) * * * *

(3A) Notwithstanding anything contained in clause (3), until the taking effect, under article 170, of the re-adjustment, on the basis of the first census after the year 2026, of the number of seats in the Legislative Assemblies of the States of Arunachal Pradesh, Meghalaya, Mizoram and Nagaland, the seats which shall be reserved for the Scheduled Tribes in the Legislative Assembly of any such State shall be,—

- (a) if all the seats in the Legislative Assembly of such State in existence on the date of coming into force of the Constitution (Fifty-seventh Amendment) Act, 1987 (hereafter in this clause referred to as the existing Assembly) are held by members of the Scheduled Tribes, all the seats except one;
- (b) in any other case, such number of seats as bears to the total number of seats, a proportion not less than the number (as on the said date) of members belonging to the Scheduled Tribes in the existing Assembly bears to the total number of seats in the existing Assembly.

(3B) Notwithstanding anything contained in clause (3), until the re-adjustment, under article 170, takes effect on the basis of the first census after the year 2026, of the number of seats in the Legislative Assembly of the State of Tripura, the seats which shall be reserved for the Scheduled Tribes in the Legislative Assembly shall be, such number of seats as bears to the total number of seats, a proportion not less than the number, as on the date of coming into force of the Constitution (Seventy-second Amendment) Act, 1992, of members belonging to the Scheduled Tribes in the

Legislative Assembly in existence on the said date bears to the total number of seats in that Assembly.

* * * * *

333. Notwithstanding anything in article 170, the Governor of a State may, if he is of opinion that the Anglo-Indian community needs representation in the Legislative Assembly of the State and is not adequately represented therein, nominate one member of that community to the Assembly.

Representation of the Anglo-Indian community in the Legislative Assemblies of the States.

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334. Notwithstanding anything in the foregoing provisions of this Part, the provisions of this Constitution relating to—

Reservation of seats and special representation to cease after seventy years.

(a) the reservation of seats for the Scheduled Castes and the Scheduled Tribes in the House of the People and in the Legislative Assemblies of the States; and

(b) the representation of the Anglo-Indian community in the House of the People and in the Legislative Assemblies of the States by nomination,

shall cease to have effect on the expiration of a period of seventy years from the commencement of this Constitution:

Provided that nothing in this article shall affect any representation in the House of the People or in the Legislative Assembly of a State until the dissolution of the then existing House or Assembly, as the case may be.

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FOURTH SCHEDULE

[Articles 4(1) and 80(2)]

Allocation of seats in the Council of States

To each State or Union territory specified in the first column of the following table, there shall be allotted the number of seats specified in the second column thereof opposite to that State or that Union territory, as the case may be:

TABLE

1. Andhra Pradesh.....	11
2. Telangana.....	07
3. Assam.....	07
4. Bihar.....	16
5. Jharkhand.....	06
6. Goa.....	01
7. Gujarat.....	11
8. Haryana.....	05
9. Kerala.....	09
10. Madhya Pradesh.....	11
11. Chhattisgarh.....	05
12. Tamil Nadu.....	18
13. Maharashtra.....	19
14. Karnataka.....	12

15. Odisha.....	10
16. Punjab.....	07
17. Rajasthan.....	10
18. Uttar Pradesh.....	31
19. Uttarakhand.....	03
20. West Bengal.....	16
21. Nagaland.....	01
22. Himachal Pradesh.....	03
23. Manipur.....	01
24. Tripura.....	01
25. Meghalaya.....	01
26. Sikkim.....	01
27. Mizoram.....	01
28. Arunachal Pradesh.....	01
29. Delhi.....	03
30. Puducherry.....	01
31. Jammu and Kashmir.....	04

Total

233

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further to amend the Constitution of India.

(Dr. Thol. Thirumaavalavan, M.P.)