

Bill No. 90 of 2021

THE CONSTITUTION (AMENDMENT) BILL, 2021

By

DR. THOL. THIRUMAVALAVAN, M.P.

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 the Preamble to the Constitution:—

Amendment
of the
Preamble.

5 (a) for the words “DEMOCRATIC REPUBLIC”, the words “DEMOCRATIC
DIGITAL REPUBLIC reaffirming our adherence to HUMAN RIGHTS,
DEMOCRACY, RULE OF LAW and INTERNATIONAL ORDER OF JUSTICE”
shall be substituted;

(b) for the word "citizens", the word "people" shall be substituted;

(c) for the words, "JUSTICE, social, economic and political", the words "JUSTICE, social, economic, political and technological" shall be substituted;

(d) for the words "LIBERTY of thought, expression, belief faith and worship", the words "LIBERTY of thought, opinion, expression, conscience, belief, faith and worship," shall be substituted;

(e) for the words "EQUALITY of status and of opportunity", the words "EQUALITY of status, opportunity and of outcomes" shall be substituted;

(f) for the words "and to promote among them all", the words "and to protect and promote among them all" shall be substituted; and

(g) for the words "FRATERNITY assuring the dignity of the individual and the unity and integrity of the nation", the words "FRATERNITY guaranteeing the human rights and fundamental freedoms, the dignity of the individual and the unity and integrity of the nation" shall be substituted.

Amendment of heading to Part III.

3. In Part III of the Constitution, for the heading "FUNDAMENTAL RIGHTS", the heading "FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS" shall be substituted.

Substitution of new article for article 15.

4. For article 15 of the Constitution, the following article shall be substituted, namely:—

Prohibition of discrimination and promotion of equality.

"15. (1) The State shall not discriminate against any person on grounds of religion, or faith, opinion, descent, race, caste, colour, ethnic origin, national origin, sex, culture, language, social status, economic status, place of birth, physical or mental disability, genetic, technological or any other form of discrimination.

(2) The State shall take all positive measures required to abolish discrimination, exclusion, restriction, preference and fairly regulate the abuse of technology for realization of fundamental human rights and freedoms in the political, economic, social, cultural, digital, data, technological or any other field, in all walks of life.

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

(4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision and taking any affirmative actions for the promotion of equality and abolition of discrimination, exclusion, restriction or preference for the advancement of any socially and educationally backward class of citizens or for the Scheduled Castes, the Scheduled Tribes, the minorities and the other discriminated sections of people in all walks of life, be it public or private or otherwise.

(5) No person, group, organization or association shall disseminate ideas regarding propagation of caste, racial, religious, ethnic, gender, genetic or technological discrimination and any act of incitement of discrimination, violence or any other such act against any person or group of persons.

Explanation.— For the purposes of this article,—

(a) "special provision and affirmative action" shall include fair liabilities upon the concerned companies, organizations, establishments, undertakings, entities, institutions, juristic persons and religious endowments as laid by law and policies; and

(b) any reference to this article shall be constructed regarding prohibition of discrimination, exclusion, restrictions, preference and fairly regulate the abuses of technology as applicable to all persons, institutions, organizations, trusts, endowments, companies, establishments, undertakings and others, including the State."

5. For article 17 of the Constitution, the following article shall be substituted, namely:—

Substitution of new article for article 17.

“17. (1) “Untouchability” is hereby abolished and its practice in any form is prohibited.

Abolition of Untouchability.

5 (2) The State shall take effective measures to abolish “Untouchability” in all forms by proper laws, policies, special measures, institutions and code of practices.

(3) Any person who is a victim of or untouchability or atrocities shall be rehabilitated and paid compensation, in a just proportion of the social, psychological, economical, physical harm or other loss caused to such person.

10 (4) The enforcement of any disability arising out of dissemination of ideas and practices of untouchability or atrocities inflicted as a result of untouchability without any of period of limitation shall be treated as a crime against humanity.

15 17A. The State shall take special measures to prevent crimes against humanity and genocide by civilian or military armed groups or non-state actors and guarantee rehabilitation and welfare of victims and any crime against humanity and genocide irrespective of period of limitation shall be an offence punishable in accordance with law.”.

Crimes against humanity and genocide.

6. In article 19 of the Constitution,—

Amendment of article 19.

(a) for the sub-heading, the following sub-heading shall be substituted, namely:—

20 “Right to Fundamental Freedoms and Civil and Political Rights”;

(b) for the marginal heading, the following marginal heading shall be substituted, namely:—

“Guarantees to certain rights regarding fundamental freedoms and civil and political rights.”;

25 (c) for the word “conferred”, wherever they occur, the word “guaranteed” shall be substituted;

(d) in clause (1),—

(i) for sub-clause (c), the following sub-clause shall be substituted, namely:—

“(c) to form political party, associations or unions or co-operative societies.”;

30 (ii) after sub-clause (g), the following sub-clauses shall be inserted, namely:—

“(ga) to hold office on election;

(gb) to have information held by the State required for the exercise or protection of any fundamental right;

(gc) to safety and secrecy of personal data;

35 (gd) to petition against all public authorities and the State and receive redressal, replies and certifications;

(ge) to just and fair trial, public hearing, and administrative action within a reasonable time including fair compensation and restitution for miscarriage of justice;

(gf) to access to public service within a reasonable time;

40 (gg) to collective bargain;

(gh) to a fair ownership of employees in the companies and establishments of work and right to participate in their management and governance; and

(gi) to intellectual, artistic and scientific research.”.

(e) in clause (2), after the words “defamation or incitement to an offence”, the words “caste, racial, ethnic, gender or technological discrimination or hatred amongst persons or war”, shall be inserted;

(f) after clause (6), the following clauses shall be added, namely:—

“(6A) Nothing in sub-clause (ga) to (gi) of the clause (1) shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights guaranteed by the said sub-clauses in the interest of fair and just public order, decency or morality, the sovereignty and integrity of India and the security of the State.

(6B) The Parliament may make law to guarantee provisions of other rights to fundamental freedoms and civil and political rights with reasonable restrictions, within the meaning and scope of this article if not provided in the article.”.

Amendment of
article 20.

7. In article 20 of the Constitution,—

(a) for the marginal heading, the following marginal heading shall be substituted, namely:—

“Rights of arrested, detained, accused and convicted persons and protection in respect of conviction of offences.”;

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

“(2) No person shall be prosecuted and punished for the same offence more than once nor be tried again, except for cases when the adjudication of the case is decided by a High Court or the Supreme Court in a manner specified by law.”; and

(c) after clause (3), the following clause shall be inserted, namely:—

“(3A) Every person accused of an offence shall have the right to fair trial and right to appeal, if convicted, to higher courts.”.

Substitution of
new article for
article 21.

8. For article 21 of the Constitution, the following article shall be substituted, namely:—

Right to life
and personal
liberty.

“21. (1) Every person shall have right to life and no person shall be deprived of his life or personal liberty except according to procedure established by law.

(2) The ‘right to life’ under clause (1) includes the right –

(a) to live with human dignity, a decent and dignified life;

(b) to privacy, private life, digital lifeworld, honor, reputation and image including right to compensation, restitution, satisfaction and guarantee of non-recurrence;

(c) to a healthy environment , a just sustainable development and to digital lifeworld without abuse;

(d) to physical, mental and moral health and related scientific and technological aid;

(e) to livelihood;

(f) to housing and shelter;

(g) to water, air, food, emergency medical aid and confidentiality;

(h) to a fair and speedy trial and free legal aid;

(i) of not to be driven out of a State and territory of India;

(j) of the unborn and the mother or the pregnant women;

(k) of the undertrials and convicted persons;

(l) to seek pardon or communication of the sentence; and

(m) of not being forced to any scientific, genetic experiments without consent.

5 (3) The Parliament may make laws to guarantee other provisions of right to life and personal liberty within the meaning and scope of this article if it is not provided in this article.

(4) (a) Nothing in sub-clause (i) of clause (2) shall prevent the State to impose reasonable restrictions by law on the rights of those persons who are not citizens of India in the interests of sovereignty and integrity of India, the security of the State and friendly relations with foreign States.

(b) Nothing in sub-clause (b) and (k) of clause (2) shall prevent the State to impose reasonable restrictions by law in the interests of the sovereignty and integrity of India, the security of State, public order, decency or morality, defamation, respect of the rights and reputation of others or incitement to an offence.”.

15 9. For article 21A of the Constitution, the following article shall be substituted, namely:—

Substitution of new article for article 21A.

“21A. (1) The State shall provide free and compulsory education to all children of the age of four to sixteen years in such manner as the State may, by law, determine.

Right to education.

(2) The State shall impose liabilities on the juristic person, private educational institution or company for the progressive realization of right to education in such manner as the State may, by law, determine.”.

10. In article 22 of the Constitution,—

Amendment of article 22.

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

25 “(2) Every person who is arrested for allegedly committing an offence shall have the right —

(a) to remain silent;

(b) to be informed promptly of the reason for his arrest and provisions of law under which he is being arrested;

30 (c) not to be compelled to make any confession or admission to the police that may be used in evidence against that person; and

(d) to be released from detention if the interests of justice permit, subject to reasonable conditions.

(2A) Every person who is detained, shall have the right—

35 (a) to be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate;

(b) to be informed properly of the reason for being detained;

40 (c) to choose, and to consult with, a legal practitioner and to be informed of such right promptly;

(d) to have a legal practitioner at the State expense, if he satisfies the criteria to receive legal aid under the appropriate law or if substantial injustice may otherwise result and to be informed of such right promptly;

(e) to challenge the lawfulness of the detention in person before a court and if the detention is unlawful, to be released; and

(f) to conditions of detention that are consistent with human dignity, including at State expense, of adequate accommodation, nutrition, exercise, reading material and medical treatment; and to communicate with, and be visited by that person's—

(i) spouse or partner;

(ii) next of kin;

(iii) chosen medical practitioner; and

(iv) chosen social, cultural or religious counsellor.”;

(g) after clause (7), the following clauses shall be inserted, namely:—

“(7A) The Parliament may by law provide the procedures to be followed by the authorities while putting a person under preventive detention and protection of right to life of persons in detention.

(7B) Any person who is wrongfully arrested or detained shall have right to compensation, restitution, rehabilitation, against any harm caused to such person by way of wrongful arrest or detention in such manner as the State may, by law, determine.”.

Amendment of
article 25.

11. In article 25 of the Constitution,—

(a) for the sub-heading, the following sub-heading shall be substituted, namely:—

“Right to Freedom of Religion, Belief, Faith, Thought or Opinion”;

(b) for the marginal heading, the following marginal heading shall be substituted, namely:—

“Freedom of conscience and free profession, practice and propagation of religion, belief, faith, thought or opinion.”

(c) in clause (1), for the words “freedom of conscience”, the words “freedom of conscience, belief, faith, thought or opinion” shall be substituted;

(d) in clause (2), for sub-clause (b), the following sub-clause shall be substituted, namely:—

“(b) providing for social welfare and reform or throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus and of all other religious institutions of a public character to all classes and sections of people of those religions.”; and

(e) For *Explanation II*, the following *Explanations* shall be substituted, namely:—

“Explanation II.— For the purpose of clause (2), sub clause (b),—

(a) the reference to Hindus shall be constructed as a reference to persons professing only Hindu religion, and the reference to Hindu religious institutions shall be constructed accordingly;

(b) the reference to other religious institutions shall be constructed as a reference to persons professing the Sikh, Jaina, Buddhist or any other religion.

Explanation IIA:— Reference to belief shall be constructed as reference to the beliefs of indigenous people or similar beliefs and faiths of people.”.

(f) after clause (2), the following clauses and *Explanation* thereto shall be inserted, namely:—

5 “(2A) Nothing in clauses (1) and (2) shall prevent any person from exercising the right to freely profess, practise and propagate his belief, faith, thought or opinion of being a atheist or non-religionist and such person shall have the right to state, and declare that he does not follow any religion.

(2B) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law for notifying non-religion.

10 (2C) The Right to freedom of conscience and to freely profess, practise and propagate of one’s religion, belief, faith, thought or opinion shall include right to convert by lawful means.

(2D) The right to freedom of conscience and right to freely profess, practise and propagate of one’s religion, belief, faith, thought or opinion shall be subject to the fundamental human rights and freedoms other citizens as provided in this Part.

15 (2E) The right to freedom of conscience and right to freely profess, practise and propagate of one’s religion, belief, faith, thought or opinion shall not include the right to preach, profess or practise the discrimination based on caste, varna, untouchability, descent, ethnicity, gender, geneticism, race, religion, creed or any such doctrine.

20 *Explanation.*—The reference to non-religionist in clause (2A) shall not be constructed as religion not stated, or other religions; but as any person professing, practising and propagating “no-religion”.

12. In article 26 of the Constitution, for clause (b), the following clause shall be substituted, namely:—

Amendment
of article 26.

25 “(b) to manage its own affairs in matters of religion, belief, faith, thought or opinion;”.

13. Article 27 of the Constitution shall be renumbered as clause (1) thereof and after clause (1) as so renumbered, the following clause shall be inserted, namely:—

Amendment
of article 27.

30 “(1A) Nothing in clause (1) shall affect the operation of any existing law or prevent the State from making any law for levying reasonable taxes or charges for purposes as provided in this Part.”.

14. In article 29 of the Constitution,—

Amendment
of article 29.

(a) for the marginal heading, the following marginal heading shall be substituted, namely:—

35 **“Protection of rights of minorities.”**

(b) after clause (2), the following clause shall be added, namely:—

“(2A) The State shall make law and design other measures for the protection and promotion of language, script or culture of minorities.”.

15. In article 31C of the Constitution,—

Amendment of
article 31C.

40 (a) for the marginal heading, the following marginal heading shall be substituted, namely:—

“Saving of laws giving effect to certain fundamental human rights and freedoms or directive principles.”;

(b) for the words, "all or any of the principles laid down in Part IV shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by article 14 or article 19", the words "all or any of the rights guaranteed in Part III or principles laid down in Part IV shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges or violates any of the rights guaranteed by article 14 or 19 or 21" shall be substituted. 5

Amendment of article 33. 16. In article 33 of the Constitution, in the marginal heading, for the word "conferred", the word "guaranteed" shall be substituted.

Amendment of article 34. 17. In article 34 of the Constitution, in the marginal heading, for the word "conferred", the word "guaranteed" shall be substituted. 10

Amendment of article 164. 18. In article 164 of the Constitution:-

(a) for the proviso to clause (1), the following proviso shall be substituted, namely:-

"Provided that in the States of Assam, Chhattisgarh, Gujarat, Goa, Jharkhand, Madhya Pradesh, Maharashtra, Odisha, Telangana and West Bengal there shall be a Minister in charge of tribal rights and welfare who may in addition be in charge of the rights and welfare of the Scheduled Castes and Backward Classes or any other work." 15

Amendment of article 344. 19. In article 344 of the Constitution, in clause (3), for the words "persons belonging to the non-Hindi speaking areas", the words "persons belonging to indigenous people, minorities and to the non-Hindi speaking areas" shall be substituted. 20

Insertion of new Article 366A. 20. After article 366 of the Constitution, the following article shall be inserted, namely:-

National Human Rights Commission. **"366A. (1) There shall be a Commission for the protection, promotion, fulfilment and realisation of fundamental human rights and freedoms to be known as the National Human Rights Commission.** 25

(2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of:-

(a) a Chairperson, who has been a Chief Justice of the Supreme Court;

(b) two Vice-Chairpersons who shall either be the Chairperson of National Commission of the Scheduled Castes or National Commission of the Scheduled Tribes or the National Commission of Backward Classes or the National Commission of Women; 30

(c) six other Members to be appointed by the President may by rule determine. 35

(3) The terms and conditions of service of office of the Chairperson, Vice-Chairperson and other Members shall be such as the President may by rule determine.

(4) The Chairperson, Vice-Chairpersons and Members of the Commission shall be appointed by the President by warrant under his hand and seal. 40

(5) The Commission shall have the power to regulate its own procedure.

(6) It shall be the duty of the Commission -

(a) to protect, promote and report on the human rights and fundamental freedoms;

(b) to investigate, monitor and report on the commission, omission and observance of human rights and fundamental freedoms;

5 (c) to examine the violations of human rights and fundamental freedoms by public officials, juristic persons, public and private companies, establishments and undertakings, organisations, non-state actors and by individuals;

10 (d) to inquire *suo-motu* on a petition presented to it by a victim or any person on his behalf into complaint of violation of human rights or abetment thereof and filing complaints in respect thereof with the competent courts;

(e) to take steps to secure appropriate remedies where human rights and fundamental freedoms have been violated;

15 (f) to review and recommend on the provisions of the Constitution, laws, policies and institutions that protect, promote, abridge or violate the human rights and fundamental freedoms;

(g) to study treaties, other international instruments and declarations on human rights and fundamental freedoms and make recommendations for their effective implementation;

20 (h) to participate in all pre and post universal periodic reviews and recommend measures for their compliances;

(i) perform such functions as a National Human Rights Institution in consonance with the standards set out by United Nations;

25 (j) to participate and advice on the planning process of legislation, special measures for the fulfillment and realization of human rights and fundamental freedoms, including the socio-economic planning;

(k) to undertake and promote human rights education and research in the field of human rights and fundamental freedoms;

(l) to encourage the efforts of non-governmental organization and institutions working in the field of human rights;

30 (m) to present to the President annually and at such other times as the Commission may deem fit, reports upon the working of human rights and fundamental freedoms;

(n) to work on such other functions as it may consider necessary for the promotion of human rights.

35 (7) The President shall cause all such reports to be laid before each House of Parliament, along with a memorandum explaining the action taken or proposed to be taken on the recommendations and the reasons for non-acceptance, if any, of any such recommendations.

40 (8) The Commission shall, while investigating any matter referred to in sub-clause (b), (c), (d) and (e) of clause (6), have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

- (b) requiring the discovery and production of any documents;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public or copy thereof any court or office;
- (e) issuing commissions for the examination of witness and documents;
- (f) any other matter which the President may, by rule, determine.

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(9) The Union and every State Government shall consult the Commission on all major legislative, institutional and policy matters relating to human rights and fundamental freedoms.”.

STATEMENT OF OBJECTS AND REASONS

Having ratified the 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 there under]; 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 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 the provisions of human rights and fundamental freedoms an inalienable part of our Constitution

The proposed Bill seeks to amend the Preamble to the Constitution, expand the nature and scope of rights and remedies and incorporate human rights of the people and citizens primarily in Part III of the Constitution. It also seeks to constitute the National Human Rights Commission and confer a constitutional Status to the Commission. It further enlarges the relation of human rights and fundamental freedoms where ever applicable including the digital, data and other technological rights with a view to make a milestone in the journey of rights and freedoms of the individual and the citizens in the fifth decade after ratification of International Bill of Human Rights.

The Bill seeks to achieve the above objectives.

NEW DELHI;
February 10, 2020.

THOL. THIRUMAVALAVAN

FINANCIAL MEMORANDUM

Clause 8 of the Bill provides for the right to physical, mental and moral health and related scientific and technological aid; livelihood; housing and shelter; water, air, food and emergency medical aid the fundamental right of every citizen. Clause 21 provides for the constitution of a National Human Rights Commission. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that the recurring expenditure of about rupees five hundred crore per annum would involve from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one hundred crore is likely to be involved.

ANNEXURE

EXTRACT FROM THE CONSTITUTION OF INDIA

* * * * *

PREAMBLE

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens:

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity;

and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this Twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

* * * * *

PART III

FUNDAMENTAL RIGHTS

General

12. In this Part, unless the context otherwise requires, "the State" includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

Definition.

* * * * *

15. (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to—

(a) access to shops, public restaurants, hotels and places of public entertainment; or

(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

(4) Nothing in this article or in clause (2) of article 29 shall prevent the State from 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.

(5) Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30.

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Abolition of
Untouchability.

17. "Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "Untouchability" shall be an offence punishable in accordance with law.

* * * * *

Protection of
certain rights
regarding
freedom of
speech, etc.

19. (1) All citizens shall have the right —

- (a) to freedom of speech and expression;
- (b) to assemble peaceably and without arms;
- (c) to form associations or unions;
- (d) to move freely throughout the territory of India;
- (e) to reside and settle in any part of the territory of India; and
- (f) to practise any profession, or to carry on any occupation, trade or business.

(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.

(3) Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(4) Nothing in sub-clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(5) Nothing in sub-clauses (d) and (e) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe.

(6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,— (i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or (ii) the carrying on by the State, or by a corporation owned or

controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.

* * * * *

22. (1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.

Protection
against arrest
and detention
in certain
cases

(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

(3) Nothing in clauses (1) and (2) shall apply— (a) to any person who for the time being is an enemy alien; or (b) to any person who is arrested or detained under any law providing for preventive detention.

(4) No law providing for preventive detention shall authorise the detention of a person for a longer period than three months unless—

(a) an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention:

Provided that nothing in this sub-clause shall authorise the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (b) of clause (7); or

(b) such person is detained in accordance with the provisions of any law made by Parliament under sub-clauses (a) and (b) of clause (7).

(5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order.

(6) Nothing in clause (5) shall require the authority making any such order as is referred to in that clause to disclose facts which such authority considers to be against the public interest to disclose.

(7) Parliament may by law prescribe—

(a) the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause (4);

(b) the maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention; and

(c) the procedure to be followed by an Advisory Board in an inquiry under sub-clause (a) of clause (4).

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25. Freedom of conscience and free profession, practice and propagation of religion.—

Right to
Freedom of
Religion

(1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

Explanation I.—The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion.

Explanation II.—In sub-clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

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Freedom to manage religious affairs. 26. Subject to public order, morality and health, every religious denomination or any section thereof shall have the right—

(a) to establish and maintain institutions for religious and charitable purposes;

(b) to manage its own affairs in matters of religion;

(c) to own and acquire movable and immovable property; and

(d) to administer such property in accordance with law.

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Freedom as to payment of taxes for promotion of any particular religion. 27. No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

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Power of Parliament to modify the rights conferred by this Part in their application to Forces, etc. 33. Parliament may, by law, determine to what extent any of the rights conferred by this Part shall, in their application to,—

(a) the members of the Armed Forces; or

(b) the members of the Forces charged with the maintenance of public order; or

(c) persons employed in any bureau or other organisation established by the State for purposes of intelligence or counter intelligence; or

(d) person employed in, or in connection with, the telecommunication systems set up for the purposes of any Force, bureau or organisation referred to in clauses (a) to (c), be restricted or abrogated so as to ensure the proper discharge of their duties and the maintenance of discipline among them.

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Restriction on rights conferred by this Part while martial law is in force in any area. 34. Notwithstanding anything in the foregoing provisions of this Part, Parliament may by law indemnify any person in the service of the Union or of a State or any other person in respect of any act done by him in connection with the maintenance or restoration of order in any area within the territory of India where martial law was in force or validate any sentence passed, punishment inflicted, forfeiture ordered or other act done under martial law in such area.

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Other provisions as to Ministers. 164. (1) The Chief Minister shall be appointed by the Governor and the other Ministers shall be appointed by the Governor on the advice of the Chief Minister, and the Ministers shall hold office during the pleasure of the Governor:

Provided that in the States of Chhattisgarh, Jharkhand, Madhya Pradesh and Odisha, there shall be a Minister in charge of tribal welfare who may in addition be in charge of the welfare of the Scheduled Castes and backward classes or any other work.

(1A) The total number of Ministers, including the Chief Minister, in the Council of Ministers in a State shall not exceed fifteen per cent. of the total number of members of the Legislative Assembly of that State:

Provided that the number of Ministers, including the Chief Minister in a State shall not be less than twelve:

Provided further that where the total number of Ministers including the Chief Minister in the Council of Ministers in any State at the commencement of the Constitution (Ninety-first Amendment) Act, 2003 exceeds the said fifteen per cent. or the number specified in the first proviso, as the case may be, then the total number of Ministers in that State shall be brought in conformity with the provisions of this clause within six months from such date as the President may by public notification appoint.

(1B) A member of the Legislative Assembly of a State or either House of the Legislature of a State having Legislative Council belonging to any political party who is disqualified for being a member of that House under paragraph 2 of the Tenth Schedule shall also be disqualified to be appointed as a Minister under clause (1) for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or where he contests any election to the Legislative Assembly of a State or either House of the Legislature of a State having Legislative Council, as the case may be, before the expiry of such period, till the date on which he is declared elected, whichever is earlier.

(2) The Council of Ministers shall be collectively responsible to the Legislative Assembly of the State.

(3) Before a Minister enters upon his office, the Governor shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule.

(4) A Minister who for any period of six consecutive months is not a member of the Legislature of the State shall at the expiration of that period cease to be a Minister.

(5) The salaries and allowances of Ministers shall be such as the Legislature of the State may from time to time by law determine and, until the Legislature of the State so determines, shall be as specified in the Second Schedule.

* * * * *

344. (1) *	*	*	*	*	*	*	
(2) *	*	*	*	*	*	*	Commission and Committee of Parliament on official language.

(3) In making their recommendations under clause (2), the Commission shall have due regard to the industrial, cultural and scientific advancement of India, and the just claims and the interests of persons belonging to the non-Hindi speaking areas in regard to the public services.

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LOK SABHA

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BILL

further to amend the Constitution of India

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