

AS INTRODUCED IN THE RAJYA SABHA
ON 22ND JULY, 2022

Bill No. XXVI of 2022

THE CONSTITUTION (AMENDMENT) BILL, 2022

A

BILL

further to amend the Constitution of India.

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

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| | 1. (1) This Act may be called the Constitution (Amendment) Act, 2022. | Short title and commencement. |
| | (2) It shall come into force at once. | |
| 5 | 2. In article 4 of the Constitution, clause (2) shall be omitted. | Amendment of article 4. |
| | 3. In article 55 of the Constitution, in the proviso to the Explanation, for the figure "2026", the figure "2051" shall be substituted. | Amendment of article 55. |
| | 4. In article 81 of the Constitution, for the proviso to clause (3), the following proviso shall be substituted, namely: | Amendment of article 81. |

"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 2051 have been published, be construed,—

(i) for the purpose of sub-clause (a) of clause (2) and the proviso to that clause, as a reference to the 1971 census; and 5

(ii) for the purpose of sub-clause (b) of clause (2) as a reference to the 2011 census."

Amendment
of article 82.

5. In article 82 of the Constitution, for the third proviso, the following proviso shall be substituted, namely:

"Provided also that until the relevant figures for the first census taken after the year 2051 have been published, it shall not be necessary to readjust— 10

(i) the allocation of seats in the House of 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 2011 census, under this article." 15

Amendment
of article 170.

6. In article 170 of the Constitution,—

(a) in clause (2), in the proviso to the Explanation, for the figure "2026", the figure "2051" be substituted; and

(b) in the third proviso to clause (3), for the figure "2026", the figure "2051" shall be substituted. 20

Amendment
of article 330.

7. In article 330 of the Constitution, in the proviso to the Explanation, for the figures "2026" and "2001", the figure "2051" and "2011" shall respectively be substituted.

Amendment
of article 332.

8. In article 332 of the Constitution,

(a) in clause (3A), for the figure "2026, the figure "2051" shall be substituted; and

(b) in clause (3B), for the figure "2026", the figure "2051" shall be substituted. 25

Amendment
of article 368.

9. In article 368 of the Constitution, in clause (2), for sub-clause (a), the following sub-clause shall be substituted, namely:—

"(a) article 2, article 3, article 54, article 55, article 73, article 162, article 241 or article 279A or".

STATEMENT OF OBJECTS AND REASONS

India is called a Union of States and therefore the States are an indestructible and integral part of it. Most of the States have completed more than half a century of existence as stable political entities. The different States now present in India not only denote the particular territorial regions or the administrative divisions, but also represent a culturally integrated democratic community, which has become central to the lives of the people in the States.

2. India being a democratic country upholding federal principles, the States should not be altered without the consensus of the people of these States. Therefore, it is required that the existence of all the States should be protected from any alteration by law with a simple majority in the Parliament. Hence, any changes made to the States should have the protection of article 368 of the Constitution of India.

3. By the Constitution (Eighty-fourth Amendment) Act, 2001, the share of seats of the States in the Parliament was protected from change. This protection is only upto the year 2026. The rationale for undertaking this amendment was ensuring justice to the States who have lowered their population growth through consistent efforts.

4. Keeping in view of the difference in the degrees progress of family planning programmes in different parts of the country, there is a need to extend the current freeze on the number of representatives (Members of Parliament and Members of Legislative Assembly) by not undertaking fresh delimitation up to the year 2051 as a measure so that the States which have succeeded in the adoption of family planning methods are not affected adversely by the reduction in the respective seats allotted to them in the Parliament.

5. At the same time, in order to promote the empowerment of the marginalized sections there is a need to refix the number of seats reserved for the Scheduled Castes and Scheduled Tribes in the House of the People and the Legislative Assemblies of the States on the basis of the population ascertained at the census for the year 2011 in such a manner that the respective share of the States in the Parliaments is not altered.

6. The Bill seeks to achieve these objectives.

DR. V. SIVADASAN

ANNEXURE

EXTRACT FROM THE CONSTITUTION OF INDIA

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Laws made under articles 2 and 3 to provide for the amendment of the First and the Fourth Schedules and supplemental, incidental and consequential matters.

4. (1) Any law referred to in article 2 or article 3 shall contain such provisions for the amendment of the First Schedule and the Fourth Schedule as may be necessary to give effect to the provisions of the law and may also contain such supplemental, incidental and consequential provisions (including provisions as to representation in Parliament and in the Legislature or Legislatures of the State or States affected by such law) as Parliament may deem necessary.

(2) No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of article 368.

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Manner of election of President.

55. (1) As far as practicable, there shall be uniformity in the scale of representation of the different States at the election of the President.

(2) For the purpose of securing such uniformity among the States *inter se* as well as parity between the States as a whole and the Union, the number of votes which each elected member of Parliament and of the Legislative Assembly of each State is entitled to cast at such election shall be determined in the following manner:—

(a) every elected member of the Legislative Assembly of a State shall have as many votes as there are multiples of one thousand in the quotient obtained by dividing the population of the State by the total number of the elected members of the Assembly;

(b) if, after taking the said multiples of one thousand, the remainder is not less than five hundred, then the vote of each member referred to in sub-clause (a) shall be further increased by one;

(c) each elected member of either House of Parliament shall have such number of votes as may be obtained by dividing the total number of votes assigned to the members of the Legislative Assemblies of the States under sub-clause (a) and (b) by the total number of the elected members of both Houses of Parliament, fractions exceeding one-half being counted as one and other fractions being disregarded.

(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.

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Composition of the House of the People.

81. * * * * *

(2) For the purposes of sub-clause (a) of clause (1),—

(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

(b) 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 is, so far as practicable, 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 million.

(3) 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 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 2026 have been published, be construed,—

(i) for the purposes of sub-clause (a) of clause (2) and the proviso to that clause, as a reference to the 1971 census; and

(ii) for the purposes of sub-clause (b) of clause (2) as a reference to the 2001 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:

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:

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.

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170. * * * * *

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.

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

330. (1) Seats shall be reserved in the House of the People for—

(a) the Scheduled Castes;

(b) the Scheduled Tribes except the Scheduled Tribes in the autonomous districts of Assam; and

(c) the Scheduled Tribes in the autonomous districts of Assam.

(2) The number of seats reserved in any State or Union territory for the Scheduled Castes or the Scheduled Tribes under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats allotted to that State or Union territory in the House of the People as the population of the Scheduled Castes in the State or Union territory or of the Scheduled Tribes in the State or Union territory or part of the State or Union territory, as the case may be, in respect of which seats are so reserved, bears to the total population of the State or Union territory.

(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.

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

332. (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes, except the Scheduled Tribes in the autonomous districts of Assam, in the Legislative Assembly of every State.

(2) Seats shall be reserved also for the autonomous districts in the Legislative Assembly of the State of Assam.

(3) The number of seats reserved for the Scheduled Castes or the Scheduled Tribes in the Legislative Assembly of any State under clause (1) 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 Castes in the State or of the Scheduled Tribes in the State or part of the State, as the case may be, in respect of which seats are so reserved, bears to the total population of the State.

(3A) Notwithstanding anything contained in clause (3), until the taking effect, under article 170, of the readjustment, 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.

(4) The number of seats reserved for an autonomous district in the Legislative Assembly of the State of Assam shall bear to the total number of seats in that Assembly a proportion not less than the population of the district bears to the total population of the State.

(5) The constituencies for the seats reserved for any autonomous district of Assam shall not comprise any area outside that district.

(6) No person who is not a member of a Scheduled Tribe of any autonomous district of the State of Assam shall be eligible for election to the Legislative Assembly of the State from any constituency of that district:

Provided that for elections to the Legislative Assembly of the State of Assam, the representation of the Scheduled Tribes and non-Scheduled Tribes in the constituencies included in the Bodoland Territorial Areas District, so notified, and existing prior to the constitution of Bodoland Territorial Areas District, shall be maintained.

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368. * * * * *

Power of Parliament to amend the Constitution and procedure therefor.

(2) An amendment of this Constitution may be initiated only by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting, it shall be presented to the President who shall give his assent to the Bill and thereupon the Constitution shall stand amended in accordance with the terms of the Bill:

Provided that if such amendment seeks to make any change in—

- (a) article 54, article 55, article 73, article 162, article 241 or article 279A or
- (b) Chapter IV of Part V, Chapter V of Part VI, or Chapter I of Part XI, or
- (c) any of the Lists in the Seventh Schedule, or
- (d) the representation of States in Parliament, or
- (e) the provisions of this article,

the amendment shall also require to be ratified by the Legislatures of not less than one-half of the States by resolutions to that effect passed by those legislatures before the Bill making provision for such amendment is presented to the President for assent.

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RAJYA SABHA

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further to amend the Constitution of India.

(Dr. V. Sivadasan, M.P.)