Beyond Women's Reservation: The Constitutional Stakes of Delimitation

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Parliament is scheduled to convene for an extended sitting of the Budget Session next week to consider amendments bringing forward the implementation of the Constitution (106th Amendment) Act, 2023 (also referred to as the 'Nari Shakti Vandan Adhiniyam' or the Women's Reservation Act').[2] The 106th Amendment, widely regarded as a historic and welcome step, provides for the reservation of one-third of seats in the Lok Sabha and State Legislative Assemblies for women. The normative case for this reform is well-established and commands broad consensus. However, the Amendment made its implementation contingent on the completion of the census (in 2027) and the subsequent delimitation exercise. This meant that the reservation would have come into effect, at the earliest, for the general elections scheduled in 2034.

The process of delimitation involves: (1) the reallocation of seats among States; and (2) the redrawing of constituency boundaries. This ensures that the size of Lok Sabha constituencies, both within a particular state, and across the country, contain, as far as possible, an equal number of voters based on contemporary population data derived from the census.

Recent statements by the Union Government, however, suggest that the forthcoming amendments **('Proposed Amendments')** may substantially alter the framework envisaged under the 106th Amendment. In particular, it is anticipated that the amendments will increase the size of the Lok Sabha and implement the women's reservation as per the 2011 Census instead of the 2027 Census mandated earlier.[3]

This note proceeds on the basis that the implementation of women's reservation is both necessary and widely supported. However, the Proposed Amendments' use of outdated Census data for delimitation and the proposed approach to allocating seats to States in Parliament raise complex constitutional questions that are important to scrutinise.

First, the note outlines the constitutional process governing delimitation and thereafter, the likely changes introduced by the Proposed Amendments. **Second,** it

[1] The authors would like to thank Aditya Prasanna Bhattacharya (LLM Candidate, University of Cambridge) and Lalit Panda (Specialist, Rights and Regulation, Vidhi Centre for Legal Policy) for their comments and suggestions.

[2] 'Cabinet clears draft amendment Bill to implement women's quota' *The Hindu* (8 April 2026) https://www.thehindu.com/news/national/cabinet-clears-draft-amendment-bill-to-implement-womens-quota/article70839861.ece accessed 10 April 2026

[3] Liz Mathew, 'Cabinet clears Bills for women's quota in Lok Sabha and Assemblies' *The Indian Express* (9 April 2026) https://indianexpress.com/article/india/cabinet-clears-bills-for-womens-quota-in-lok-sabha-and-assemblies-10626556/ accessed 10 April 2026.

discusses the constitutional issues that the Proposed Amendments raise, and the broader structural reforms that should ideally accompany the delimitation process.

1. Constitutional Process

The constitutional scheme governing the composition of the Lok Sabha and the delimitation of constituencies is principally governed by Articles 81 and 82, read with Articles 170, 327, 330, and 332 of the Constitution.

Article 81 lays down the basic framework for representation in the Lok Sabha. It prescribes both the outer limit on the number of seats (currently 543)[4] and the principle that seats are to be allocated among States on the basis of population. The provision requires that the ratio between the number of seats and the population of each State should, 'so far as practicable', be the same across States. Similarly, within each State, Parliamentary constituencies are to be drawn such that each constituency has, as far as possible, an equal population.[5] In addition, Articles 330 and 332 require that seats be reserved for Scheduled Castes and Scheduled Tribes in proportion to their population within each State. For all these exercises, the Constitution ties the determination of 'population' to the latest census figures.[6]

Article 82 operationalises this framework by providing that the allocation of seats to States and the division of each State into constituencies shall be readjusted by such authority and in such manner as Parliament may by law determine.[7] This readjustment process, commonly referred to as delimitation, is thus not a standalone exercise but a constitutionally mandated mechanism to periodically recalibrate political representation in line with demographic changes.[8] However, through a constitutional amendment, the redistribution of seats to States has been frozen on the basis of the 1971 Census data.

Under Article 327, Parliament has enacted delimitation laws from time to time, under which independent delimitation commissions are constituted. These commissions are responsible for allocating seats and drawing constituency boundaries. Their decisions are published as delimitation orders, which are binding and form the basis for subsequent elections.

[4] Article 81(1)(a), Constitution of India.
[5] Article 81(2), Constitution of India.
[6] Article 81(3), Constitution of India.
[7] Article 82, Constitution of India.
[8] A similar framework applies to State Legislative Assemblies.

Step by Step Process of Increasing Seats in Lok Sabha

First, the limit on the number of seats under Article 81 is revised through a Constitutional Amendment.

Second, the relevant population figures are identified on the basis of the latest published census, subject to any constitutional freeze on the use of updated data.

Third, Parliament, in exercise of its powers under Article 327 enacts a delimitation law creating a Delimitation Commission and providing the manner in which the exercise is to be carried out.

Fourth, the Delimitation Commission determines the allocation of seats among States in accordance with the principle of population-based representation, and redraws constituency boundaries within each State.

Finally, the Commission's determinations are published as Delimitation Orders, which fix the composition and territorial configuration of constituencies for subsequent elections.

The 106th Amendment introduced an additional layer to this framework by providing for the reservation of seats for women in the Lok Sabha and State Legislative Assemblies. Article 330A mandates that, as nearly as may be possible, one-third of the total number of seats to be filled by direct election to the Lok Sabha shall be reserved for women, including within seats already reserved for Scheduled Castes and Scheduled Tribes.[9] Further, as discussed above, Article 334A provides that this reservation will come into effect only after a fresh delimitation exercise, to be carried out following the publication of figures from the next census,[10] i.e., the 2027 census.

The Proposed Amendment is expected to alter this sequence in three material respects. First, it would provide for an increase in the total number of seats in the Lok Sabha for the stated purpose of accommodating the reservation for women.[11] Second, it would delink the implementation of reservation from the 2027 census and instead link it to the 2011 census. Third, it would mean that delimitation of constituencies for women's reservation, and consequently the whole country, could proceed immediately. These

[9] Article 330A, Constitution of India.
[10] Article 334A(1), Constitution of India.
[11] The Hindu, (n) 1.

changes could have the effect of advancing the implementation of reservation to the general elections scheduled in 2029.

2. Constitutional concerns with the current approach

a. Use of outdated demographic data

The reliance on the 2011 Census would mean that constituencies are redrawn based on outdated demographic data. An electoral map constructed on this basis would fail to reflect population changes over the past fifteen years, thereby affecting the fair redistribution of constituencies. This problem will affect not only parliamentary constituencies but also state assembly constituencies, which will also be redrawn on the basis of this outdated data.

This concern is not new. The use of 1991 census data under the Delimitation Act, 2002 for intra-State delimitation attracted significant criticism, leading the Government to amend the law to permit the use of 2001 census figures.[12] The underlying objection was straightforward: representation must, as far as practicable, be grounded in contemporaneous population data.

The reliance on outdated data is also in tension with the constitutional scheme itself. Articles 81 and 82 reflect a clear design choice that representation in the Lok Sabha must be periodically readjusted to reflect changes in population.

The text of Article 82 (as it originally stood) expressly contemplate the readjustment of parliamentary seats, 'upon the completion of each Census'. This makes clear that the constitutional moment for readjustment of seats is when updated population data is available. The emphasis is not merely on population as a principle, but on updated and published population data as the basis for representation.

Hence, any proposal to undertake delimitation on the basis of significantly outdated census figures raises a deeper constitutional concern. It is not only a question of delay or administrative convenience, but of whether the resulting structure of representation continues to reflect the underlying principle that representation in Parliament must, as far as practicable, track population. Proceeding with delimitation on the basis of 2011 census data will produce a representational structure that, from its very creation, fails to reflect true populations on the ground.

[12] The Delimitation (Amendment) Act 2003, s 2. Also see, Sanjay Kumar, 'Fourth Delimitation of Electoral Constituencies' in Mohd. Sanjeer Alam and K.C. Sivaramakrishnan (eds), *Fixing Electoral Boundaries in India: Laws, Processes, Outcomes, and Implications for Political Representation*, 114 (Oxford University Press 2015).

b. The allocation of seats to States

Since the Constitution requires that seats in the Lok Sabha should be allocated among States on the basis of population, the proposal to increase the total number of seats, followed by a delimitation exercise, has raised concerns about its differential impact across States. Population growth has not been uniform across the country and states such as Uttar Pradesh and Bihar have experienced significantly higher population growth compared to States such as Kerala and Tamil Nadu, where growth has been slower.

The Hon'ble Prime Minister has publicly stated that States which have 'controlled population' growth will not lose seats in the Lok Sabha. He observed, "*There are States — be it Kerala, Tamil Nadu, or others — that have done exemplary work in the field of population control…We intend to provide a definitive guarantee regarding this matter in Parliament during this session. We wish to formally seal this assurance through legislation — ensuring that in no State — be it Kerala, Tamil Nadu, Karnataka, Andhra Pradesh, Goa, or Telangana — will the number of Lok Sabha seats be reduced.*"[13] He has reiterated this position in subsequent statements, remarking that the share of each State in Parliament will remain protected.[14]

It is reported that the government may seek to achieve this by retaining the existing proportion of seats allocated to each State by increasing the total number of seats on a pro-rata basis.[15] Under such an approach, each State would receive additional seats in proportion to its current share, thereby preserving the existing inter se distribution of representation. For instance, if the strength of the Lok Sabha is increased from 543 to 816, Uttar Pradesh would see its seats increase from 80 to 120, Maharashtra from 48 to 72, West Bengal from 42 to 63, and Bihar from 40 to 60. In Tamil Nadu, the number of seats would increase from 39 to 59, while Madhya Pradesh would see an increase from 29 to 44.[16] This approach would ensure that no State loses seats in absolute terms and the existing proportional distribution of representation across States, notwithstanding underlying differences in population growth, will be preserved.

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[13] Varghese K George, 'States That Stabilised Population Will Not Lose Lok Sabha Seats: Modi' *The Hindu* (4 April 2026) <www.thehindu.com/news/national/states-that-stabilised-population-will-not-lose-lok-sabha-seats-modi/article70824178.ece> accessed 8 April 2026

[14] 'PM Modi's speech during a public meeting in Cooch Bihar, West Bengal', *Narendra Modi* (5 April 2026) https://www.youtube.com/watch?v=JiiZu7euBj0

[15] Liz Mathew, 'For women's quota, govt looking at increasing Lok Sabha seats based on Census 2011: "816 in Lok Sabha, 273 for women"' *The Indian Express* (25 March 2026) https://indianexpress.com/article/political-pulse/womens-quota-lok-sabha-seats-census-2011-816-in-lok-sabha-273-for-women-10596777/ accessed 10 April 2026.

[16] Anjishnu Das, 'As govt considers expanding Lok Sabha to 816 MPs, how states' seat count will change' *The Indian Express* (24 March 2026) https://indianexpress.com/article/political-pulse/as-govt-considers-expanding-lok-sabha-to-816-mps-how-states-seat-count-will-change-10597365/ accessed 10 April 2026.

However, adding seats on a pro-rata basis is arguably in tension with the Constitution's design. As discussed earlier, the current proportion of seats allocated to States in the Lok Sabha reflects a freeze anchored in the 1971 Census.[17] This departure from the principle of population-based representation was introduced by Parliament in 1976 through a proviso to Article 81, which clarified that "population" for the purposes of ensuring ratio between seats and population across States would be determined with reference to the 1971 Census. The stated purpose for this amendment was to address concerns that States which had controlled population growth—particularly in the South—should not be disadvantaged by a fresh delimitation.[18] The continued use of state population proportions from 1971 thus reflects a politically negotiated bargain agreed to by multiple governments over the decades.

While this bargain is understandable, it sits uneasily with the essence of Article 81(2), which requires that the ratio between the number of seats and the population of each State be, "so far as practicable", uniform across States.[19] The proposed amendments, rather than realigning the distribution of seats to States on the basis of population as originally intended by the Constitution, extends the freeze adopted in 1976. While there is merit in such a policy choice, if this is to be the continued method to distribute seats in Parliament, it ought to be publicly debated and transparently articulated through amendments to Articles 81-82, rather than a continued reliance on a clarificatory proviso.

It may be argued that the pro-rata arrangement preserves the interests of the Southern states, however, this approach is short sighted as it fails to address the structural flaws in the design of Parliament, which ultimately keeps the states dependent on their population alone for representation in Parliament.

3. The structural problem in the design of Parliament

In its current form, the Constitution recognises states as the territorial, fiscal, and administrative units of the Indian Union, allocating state governments with responsibilities over vast domains of governance such as health and policing. However, the distribution of seats in Parliament does not recognise states as distinct units of the Union and thus fails to secure their interests. Seats in both the Lok Sabha and the Rajya Sabha are allocated to states according to *population*, with the latter offering marginal concessions in seat allocation to smaller states. Thus, as the current delimitation dilemma illustrates, the effectiveness of a state's representation in Parliament is

[17] Proviso (i) to Article 81(3), Constitution of India.
[18] K.C. Sivaramakrishnan, 'Delimitation in India: A Politico-historical Overview' in Mohd. Sanjeer Alam and K.C. Sivaramakrishnan (eds), *Fixing Electoral Boundaries in India: Laws, Processes, Outcomes, and Implications for Political Representation* 66 (Oxford University Press 2015).
[19] Article 81(2), Constitution of India.

ultimately a function of how many people reside within its territory, a figure beyond control.

Although the Rajya Sabha is elected by Members of the state assemblies, the upper house has no power over budgetary legislation, state borrowing limits, or fiscal devolutions to states. This leaves the states without an effective parliamentary forum to protect their financial interests. While states can influence the passage of other legislation in the Rajya Sabha, they have no legal or political control over executive action by the Union Government which affects states' interests. For example, states have no role in appointments to the Election Commission of India, the Supreme Court of India, the Finance Commission, or national investigative agencies. Likewise, states cannot influence the conduct of national regulatory bodies on Concurrent List subjects such as education (regulated by the University Grants Commission) or electricity (by the Central Electricity Regulatory Commission).

The Proposed Amendments and the delimitation exercise will focus public and political attention on the question of parliamentary design. However, simply expanding the Lok Sabha, without addressing how states are represented in Parliament or what power they wield there, does not address the structural problem inherent in our parliamentary system. Therefore, the current moment also presents an opportunity to consider more fundamental solutions.

4. A more durable solution

Certain commentators, including a Member of Parliament, have proposed securing state representation by reforming the existing proportion of seats in the Lok Sabha.[20] This could be done by guaranteeing every state a minimum number of seats (a floor) and capping the maximum (a ceiling), or by adopting a degressive proportionality formula under which more populous states would receive fewer additional seats than their population would strictly warrant.

The problem with these suggestions is that they lack any principled legal or constitutional justification. The framers of the Constitution expressly designed Articles 81 and 82 to secure the principle of 'one person, one vote',[21] and both of the above discussed approaches would violate the principle. Populations in larger states would be systematically and intentionally underrepresented, and those in smaller states

[20] Shashi Tharoor, 'Beyond the Rhetoric of the North-South Divide' *The Hindu* (28 March 2026) <https://www.thehindu.com/opinion/lead/beyond-the-rhetoric-of-the-north-south-divide/article70793560.ece> accessed 9 April 2026; Santosh Mehrotra, 'Reimagining Delimitation' *The Hindu* (12 January 2026) <https://www.thehindu.com/opinion/op-ed/reimagining-delimitation/article70498597.ece> accessed 9 April 2026.

[21] For a detailed discussion, see: 'The States in Parliament: Delimitation and Reconciling Political Equality with Indian Federalism' (Vidhi Centre for Legal Policy, 4 September 2024) https://vidhilegalpolicy.in/research/the-states-in-parliament/ accessed 10 April 2026.

overrepresented. This diminishes the democratic legitimacy of the Lok Sabha as the primary representative chamber.

A more direct solution would be to reform the Rajya Sabha into a forum for states' governance. The Constitution already allocates seats in the Rajya Sabha to states as constitutional units.[22] However, the Rajya Sabha is an outlier among democratic federal upper houses worldwide in having no meaningful power over national budgets or fiscal devolutions to states.[23] Therefore, a reformed Rajya Sabha should be granted powers of budgetary legislation and fiscal devolutions, at least where they impact states' interests.

The allocation of Rajya Sabha seats to States could also be rebalanced to achieve greater equality amongst states. The original formula of allocating seats in the Rajya Sabha was one seat per million people up to five million, and one additional seat for every two million thereafter.[24] This was a form of degressive proportionality which gave a modest structural advantage to smaller states. However, despite new states being formed and populations within existing states having diverged, the allocation of Rajya Sabha has never been comprehensively rationalised with this original formula. The result is that today, the Rajya Sabha effectively distributes seats on the basis of population. A more aggressive degressive proportionality formula would significantly reduce the gap in seats between the largest and smallest states, making the Rajya Sabha represent states rather than people.

Reforming the Rajya Sabha presents a more durable solution to address the representation of States in Parliament, one that will remain unaffected by, and thus more likely to withstand, the demographic changes over the coming decades. However, this is not a straightforward task. The possibilities outlined above require careful and dedicated study before any conclusions can be drawn about what is appropriate for the Indian context.

5. A fair and transparent delimitation process

As discussed earlier, the Proposed Amendments will result in delimitation. The manner in which delimitation is carried out is integral to its legitimacy, however, historically delimitation in India has been an opaque process. Previous Delimitation Commissions have failed to make available their working papers, even after requests under the Right to Information Act, 2005.[25] These papers contain the Commission's methodology and granular information on district-wise population, seat entitlements, and proposed

[22] Fourth Schedule, Constitution of India.
[23] RC Tripathy (ed), Second Chambers: *Bicamerlism Today* (Rajya Sabha Secretariat 2002).
[24] Shiva Rao, *The Framing of India's Constitution (Vol II)* (Indian Institute of Public Administration, 1967) 542.
[25] 'Where do we draw the line: A primer on the delimitation process' 12 (Vidhi Centre for Legal Policy, 4 March 2025), https://vidhilegalpolicy.in/research/where-do-we-draw-the-line/

constituencies.[26] They also document the internal reasoning, principles, data, and decisions that shape the final outcome of the exercise. The absence of these papers makes it impossible to scrutinise the functioning of the Commission, reducing its accountability.

The need for transparency in the process is especially crucial because past delimitation processes have been executive driven. The Delimitation Acts of 1952, 1962, 1972, and 2002, constituted a Delimitation Commission consisting of three members, of which the Chairperson was appointed by the Union government.[27] Further, Article 329(a) of the Constitution prohibits challenging a delimitation order before the courts.[28] Thus any new law to operationalise delimitation must address these deficiencies and ensure the independence of the Commission and the transparency of its operation.

Conclusion

The proposed amendments pursue the laudable objective of advancing the implementation of women's reservation. However, they appear to raise significant constitutional concerns regarding the use of outdated census data and the apportionment of seats in Parliament, without adequately addressing the deeper structural issues in the design of Parliament and Union–State relations.

Some of these concerns may be clarified, qualified, or addressed in the text of the amendment itself, which is not yet in the public domain. A fuller assessment will be undertaken once the proposed text is available.

[26] Delimitation Commission 2002, Procedure (Guidelines and Methodology), part IX <www.eci.gov.in/eci-backend/public/all_files/delimitation/Procedure(English).pdf> accessed 08 April 2026.

[27] Under the Delimitation Acts, 1952, 1962 and 1972, the Delimitation Commission consisted of two members appointed by the Central Government who must be or have been a Judge of the Supreme Court or a High Court; and the Chief Election Commissioner [Section 3(1)]. Under the Delimitation Act, 2002, the composition was changed to include one member appointed by the Central Government who must be or has been a Judge of the Supreme Court, the Chief Election Commissioner or an Election Commissioner nominated by the CEC, and the State Election Commissioner of the concerned State.

[28] Article 329(a), Constitution of India.