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# RECONFIGURING REPRESENTATION: CASTE CENSUS, DELIMITATION & WOMEN'S RESERVATION – WHERE ARE WE HEADED?

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## ABSTRACT

This paper examines the intersection of three imminent constitutional and political developments in India: the 2027 caste census, the planned constituency delineation in 2026, and the introduction of a one-third reservation for women in Parliament and State Assemblies under the 128th Constitutional Amendment Act, 2023. These are the three impending constitutional and political developments in India that are examined in this paper. Even though each measure has important democratic and representational ramifications on its own, when they combine, they produce difficult political and legal conundrums. The constitutional framework governing representation and the historical freeze on delimitation imposed by the 42nd, 84th, and 87th Amendments are the first topics of analysis. From the final official census in 1931 to the contentious Socio-Economic and Caste Census of 2011 and current state-level surveys, it then charts the development of the caste census. The paper also assesses how the Supreme Court's rulings—specifically, *Indra Sawhney v. Union of India*, *R.C. Poudyal v. Union of India*, and *Kuldip Nayar v. Union of India*—may affect the possibility of expanding reservations beyond Scheduled Castes and Scheduled Tribes. This includes potential calls for OBC quotas in legislatures and private sector reservations. In order to place India's distinctive model of caste-based representation in a global context, Comparisons between the US Voting Rights Act of 1965 and Malaysia's Bumiputera policies are considered. The study concludes that the concurrent implementation of the census, delimitation, and women's reservation poses a constitutional challenge as well as a chance to realign India's democratic system with respect to equality, federal balance, and constitutional morality.

**Keywords:** Caste Census, Delimitation, Women's Reservation, Indian Constitution, Representation, 42nd Amendment, 84th Amendment, 87th Amendment, 128th Amendment, *Indra Sawhney*, Federalism, Electoral Reform, Affirmative Action, Constitutional Morality.

## Introduction

India's democracy is entering a crucial phase of transformation. The Union Government's recent announcement that the upcoming **2027 Census** will include caste enumeration marks a historic shift; the first full-scale caste census since 1931.<sup>1</sup> It is not just an exercise in data collection; it is a restructuring of our representational framework. With **delimitation of constituencies scheduled for 2026**, and the implementation of **33% women's reservation** in Parliament and State Assemblies pending this census, the alignment of these three events has legal, political, and constitutional consequences that demand attention.

The current regime's initial agenda did not include the decision to include caste enumeration. Following the 2024 Lok Sabha elections, when opposition parties; especially those from the INDIA bloc, brought the issue to the public's attention, it came into being under democratic pressure.<sup>2</sup> The ruling class was forced to comply with this demand due to a shift in parliamentary math, which may indicate that Indian democracy is still adaptable.

Yet, this moment is also full of contradictions. Since independence, India has maintained a 10year census cycle, which has now been disrupted — first due to COVID-19, and then due to institutional delays and indecision.<sup>3</sup> The last delimitation was based on **1971 Census** data.<sup>4</sup> That delimitation will expire in 2026. And now, the census - whose data is constitutionally required for any redrawing of boundaries or implementation of women's reservation ; will take place **after** that. It's a rare constitutional catch-22, raising serious legal and political dilemmas.

## I. Constitutional Background: Representation, Census & Reservation

Representation in India is governed by key provisions of the Constitution:

- **Article 82** mandates the readjustment of Lok Sabha seats after each census via a Delimitation Commission.<sup>5</sup>

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<sup>1</sup> Government of India, Ministry of Home Affairs, Census of India 2027: Inclusion of Caste Enumeration, Press Release (2024)

<sup>2</sup> The Hindu, Opposition Push Forces Govt to Agree on Caste Census, June 2024.

<sup>3</sup> Registrar General & Census Commissioner of India, Census of India Postponed Due to COVID-19 Pandemic, Notification (2021).

<sup>4</sup> Constitution of India, Article 82; Delimitation Act, 2002 (based on 1971 Census)

<sup>5</sup> Constitution of India, Article 82.

- **Article 170** provides for a similar exercise for State Legislative Assemblies.<sup>6</sup>
- **Articles 330 and 332** mandate reservation for Scheduled Castes and Scheduled Tribes in Parliament and State Assemblies.<sup>7</sup>
- **Articles 243D and 243T** allow for reservation of seats for Scheduled Castes, Scheduled Tribes, and OBCs in Panchayats and Municipalities.
- **Article 368** was recently used to pass the **128th Constitutional Amendment**, reserving **33% of seats for women**, but only after the next delimitation.<sup>8</sup>

The Constitution originally required constituency boundaries to be revised after every census.

However, the 42nd Amendment froze delimitation until 2000, and the 84th and 87th

Amendments further extended this freeze to 2026.<sup>9</sup> As a result, India has been operating on **data from 1971** for over five decades ; a gross mismatch with demographic realities.

This legal stagnation has had political consequences, especially in rapidly growing states where population growth has not translated into proportional representation

## II. The Caste Census Conundrum: History, Delay, and Recent Push

The 2011 Socio-Economic and Caste Census (SECC) made an effort to gather data on caste, but India hasn't had an official caste-based census since 1931.<sup>10</sup> However, due to political sensitivities and inconsistencies, the caste component of that survey was never made public. In recent years, state governments have taken the lead:

- The **Karnataka government** carried out a caste survey in 2015, but the results were still viewed with controversy.<sup>11</sup>
- To gather thorough income and caste data, the Telangana Government launched the

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<sup>6</sup> Constitution of India, Article 170.

<sup>7</sup> Constitution of India, Articles 330 & 332.

<sup>8</sup> The Constitution (128th Amendment) Act, 2023, Gazette of India.

<sup>9</sup> The Constitution (42nd Amendment) Act, 1976; The Constitution (84th Amendment) Act, 2001; The Constitution (87th Amendment) Act, 2003.

<sup>10</sup> Government of India, Ministry of Rural Development, Socio-Economic and Caste Census 2011: Final Report.

<sup>11</sup> Government of Karnataka, Socio-Economic and Educational Survey Report (2015).

Telangana 2024 Social Educational Employment Economic Caste Survey.<sup>12</sup>

• **Bihar** was the **first state to formally release a complete caste count in 2023** after conducting the most recent caste-based survey.<sup>13</sup>

The call for a national caste census was rekindled by these initiatives. Under pressure from the opposition and local claims, the ruling government declared following the 2024 elections that caste enumeration would be a part of the **2027 Census**.

Such a census has political ramifications even though it is a tool for precise policymaking. Similar to SC/ST provisions, it might result in calls for **OBC reservation in legislatures**. Additionally, it might lead to calls to **raise the current 50% cap** established by the Supreme Court in *Indra Sawhney v. Union of India*, 1992 Supp. (3) SCC 217<sup>14</sup>, or to **extend reservations to the private sector**.

### III. The Delimitation Debate and Post-2026 Realities

Delimitation is more than just a technical task. Political power is at issue, as is the distribution of each state's parliamentary seats. There is currently no census data available past 2011 ; but the next delimitation is scheduled for 2026. This implies that any attempt to implement delimitation in 2026 will be predicated on erroneous population estimates.<sup>15</sup> This leaves a political and legal void. Delimitation runs the risk of going against the constitutional intent of using new population data if it takes place prior to the 2027 Census. The timeline will be missed if it waits for the census, which might necessitate another constitutional amendment.<sup>16</sup>

Additionally, there are federal concerns. States with stable population growth ; especially in the south , fear losing representation to states with high population growth. This was the very reason the freeze was introduced in the first place. The end of that freeze will reopen that tension.<sup>17</sup>

In addition to highlighting Parliament's authority to control electoral representation, case laws

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<sup>12</sup> Government of Telangana 2024 Social Educational Employment Economic Caste Survey

<sup>13</sup> Government of Bihar, Bihar Caste Survey Report, 2023.

<sup>14</sup> *Indra Sawhney v. Union of India*, 1992 Supp. (3) SCC 217

<sup>15</sup> Registrar General & Census Commissioner of India, Census of India: Population Data 2011.

<sup>16</sup> Constitution of India, Article 82 (read with Delimitation Act, 2002).

<sup>17</sup> Election Commission of India, Delimitation in India: Historical Background and Constitutional Freeze, 2022

like **R.C. Poudyal v. Union of India**, (1993) Supp. 1 SCC 324, and **Kuldip Nayar v. Union of India**, (2006) 7 SCC 1 also highlight the necessity of striking a balance between federalism and equality.<sup>18</sup>

Case laws such as **R.C. Poudyal v. Union of India**, (1993) Supp. 1 SCC 324, and **Kuldip Nayar v. Union of India**, (2006) 7 SCC 1, emphasize Parliament's power to regulate electoral representation, but also the need to balance federalism and equality.

#### IV. Women's Reservation: Waiting for the Numbers

Women now have a 33% reservation in Parliament and State Assemblies thanks to the 128th Constitutional Amendment Act of 2023. It is expressly stated, nevertheless, that it will only become operative following the subsequent census and delineation.<sup>19</sup>

The 128th Constitutional Amendment Act, 2023 introduced 33% reservation for women in Parliament and State Assemblies. However, it is clearly worded to take effect only after the next census and delimitation.<sup>20</sup>

Thus, while legally passed, the policy is functionally deferred. In other words, women's political reservation is now tied to two separate but delayed events; the 2027 Census and post-2026 Delimitation. Until both happen, the law remains dormant.

This delay has drawn criticism, especially since women already have reservation in local bodies under Articles 243D and 243T.<sup>21</sup> The delay at the highest levels of representation thus appears contradictory.

#### V. The Pandora's Box: Reservation, OBC Seats, and Private Sector Demands

Currently, **only SC/ST seats are reserved** in legislatures. But with caste data on the record, there will likely be increased demands to extend **legislative reservation to OBCs**, just as has been done in Panchayats and Urban Local Bodies.<sup>22</sup>

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<sup>18</sup> R.C. Poudyal v. Union of India, (1993) Supp. 1 SCC 324; Kuldip Nayar v. Union of India, (2006) 7 SCC 1.

<sup>19</sup> The Constitution (128th Amendment) Act, 2023, Gazette of India

<sup>20</sup> Statement of Objects and Reasons, The Constitution (128th Amendment) Bill, 2023.

<sup>21</sup> Constitution of India, Articles 243D & 243T.

<sup>22</sup> Constitution of India, Articles 243D & 243T (providing OBC reservation in Panchayats and Municipalities).

In a country where affirmative action is critical for representation, this may appear justified. But from a legal standpoint, it confronts two obstacles:

1. The **50% cap on reservation**, reaffirmed in **Indra Sawhney**.<sup>23</sup>
2. The absence of a clear constitutional mandate for OBC seat reservation in legislatures.

The Supreme Court may consider challenges to extending reservation, especially in light of the **basic structure doctrine**, which upholds equality and the democratic system.<sup>24</sup>

Additionally, there may be **calls for reservations in the private sector**. This sparks contentious discussions in a liberalizing economy regarding economic liberty, government regulation, and the place of social justice in private enterprise.<sup>25</sup>

Therefore, even though a caste census has a progressive spirit, it could open a **Pandora's box** of endless policy demands, legal disputes, and political contests.

## VI. Comparative Perspective: What Do Other Democracies Do?

Affirmative action based on caste is unique in India. Other criteria are used for representation in the majority of democracies:

- **Malaysia** has a system of Bumiputera privileges, which face criticism for creating economic and social divisions.<sup>26</sup>
- Although the **United States** does not reserve seats, it does use racial data for redistricting and affirmative action (Voting Rights Act, 1965).<sup>27</sup>
- The Bumiputera privilege system in Malaysia is criticized for causing social and economic divisions.<sup>28</sup>

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<sup>23</sup> Indra Sawhney v. Union of India, 1992 Supp. (3) SCC 217.

<sup>24</sup> Kesavananda Bharati v. State of Kerala, (1973) 4 SCC 225 (basic structure doctrine).

<sup>25</sup> National Commission for Backward Classes, Report on OBC Reservation in Private Sector Employment, 2005.

<sup>26</sup> Shamsul A.B., Bumiputera Policies in Malaysia: Myths and Realities, Journal of Malaysian Studies, 2013.

<sup>27</sup> Voting Rights Act of 1965, Public Law 89-110, United States Congress.

<sup>28</sup> Gomez, E.T., Affirmative Action, Ethnic Inequalities and Social Justice in Malaysia, Routledge, 2014.

Although these systems demonstrate the importance of **identities on a global scale, India's model of formalized reservations in legislatures is unique**. Because of this, it is even more crucial to move cautiously in order to maintain cohesiveness and inclusivity.<sup>29</sup>

## VII. Conclusion: What Lies Ahead for Indian Democracy

India is about to undergo a constitutional overhaul. It is not merely a coincidence that the 2027 Caste Census, the 2026 Delimitation, and the Women's Reservation coincide; rather, it is a test of the republic's capacity to strike a balance between equality, justice, and federalism.<sup>30</sup>

The circumstances are complicated. There was a delay in the census. Delimitation is planned without new information. The reservation for women is passed but paused. A fresh round of legal, social, and political arguments ranging from OBC representation to reservation ceilings and private sector demands may also be uncovered by the caste census. However, there are also opportunities. This stage has the potential to reaffirm our constitutional values, democratize representation, and right historical injustices if managed carefully.

As a law student, I believe **constitutional morality must guide political urgency**. Representation is not just a number game. It's about dignity, participation, and voice. And that, ultimately, is what the Constitution of India promises not just governance, but **justice in all spheres**: social, economic, and political.

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<sup>29</sup> Marc Galanter, *Competing Equalities: Law and the Backward Classes in India*, Oxford University Press, 1984.

<sup>30</sup> Granville Austin, *The Indian Constitution: Cornerstone of a Nation*, Oxford University Press, 1999