
DELIMITING THE PRACTICES OF DELIMITATION

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INTRODUCTION

With the decline of colonialism in the middle of the twentieth century, most of the newly formed nations which were former colonies of Britain adopted the Democratic system of government, and India was not an exception. The very first step towards establishing a system of representative democracy has been to allocate the voting population into spatial units, called 'electoral constituencies' or 'districts'. The word "Delimitation" literally means the act or process of fixing limits or boundaries of territorial constituencies in a country or a province having a legislative body. The job of delimitation is assigned to a high power body and this body is known as Delimitation Commission or a Boundary Commission. In India, such Commissions have been constituted four times – in 1952 under the Delimitation Commission Act, 1952; in 1963 under the Delimitation Commission Act, 1962; in 1973 under the Delimitation Act, 1972 and in 2002 under the Delimitation Act, 2002.^[1] This exercise is constitutionally mandated to ensure that the principle of "one person, one vote" is upheld, resulting in fair and equitable representation regardless of diversity throughout the legislative landscape.

The present study focuses on Delimitation activities throughout the history of India and majorly investigates the transparency and accountability of the Delimitation Commission by studying different controversies and debates.

This paper tries to analyze how effectively do the existing legal and institutional mechanisms ensure fair and equitable delimitation in India, while throwing light upon what are the strengths and weaknesses of the Delimitation Commission's structure and mandate and to what extent is there judicial oversight in the delimitation process, and what is its scope?

Simultaneously analysing what is the practical role of Parliament and State Legislatures in shaping and scrutinizing delimitation orders? The historical review of delimitation in India

¹ Delimitation Commission of India, VOLUME I, Changing Face of Electoral India: Delimitation 2008, p.no.1 , Delimitation Commission of India, Nirvachan Sadan, Ashoka Road, New Delhi, 2008

reveals a consistent effort to create an independent commission to carry out the tasks. Here we discuss the problem of transparency in the delimitation process, and the negative existence of meaningful avenues for meaningful public participation? While advocating for reforms and providing alternative provisions for enhancement of the existing laws.

Methodology

Legal-doctrinal research: Analysis of constitutional provisions, Delimitation Acts, relevant court judgments, and statutory instruments.

Institutional analysis: Examination of the functioning of the Delimitation Commission, Election Commission, Parliament, and State Legislatures.

Case study approach: In-depth analysis of specific controversies and litigations to illustrate practical challenges.

Qualitative analysis of expert opinions, committee reports, and academic literature.

Review of constitutional mandate

The process of delimitation operates in a formulated manner which is governed by the Section 9 of THE DELIMITATION ACT, 2002

(1) The Commission shall, in the manner herein provided, then, distribute the seats in the House of the People allocated to each State and the seats assigned to the Legislative Assembly of each State as readjusted on the basis of 2001 census to single-member territorial constituencies and delimit them on the basis of the census figures as ascertained, having regard to the provisions of the Constitution, the provisions of the Act specified in section 8 and the following provisions, namely:

(a) all constituencies shall, as far as practicable, be **geographically compact areas**, and in delimiting them regard shall be had to **physical features, existing boundaries of administrative units, facilities of communication and public convenience**;

(b) every assembly constituency shall be so delimited as to fall wholly within one parliamentary constituency;

(c) constituencies in which seats are reserved for the Scheduled Castes shall be distributed in different parts of the State and located, as far as practicable, in those areas where the proportion of their population to the total is comparatively large; and

(d) constituencies in which seats are reserved for the Scheduled Tribes shall, as far as practicable, be located in areas where the proportion of their population to the total is the largest.

(2) The Commission shall-

(a) publish its proposals for the delimitation of constituencies, together with the dissenting proposals, if any, of any associate member who desires publication thereof, in the Gazette of India and in the Official Gazettes of all the States concerned and also in such other manner as it thinks fit;

(b) specify a date on or after which the proposals shall be further considered by it;

(c) consider all objections and suggestions which may have been received by it before the date so specified, and for the purpose of such consideration, hold one or more public sittings at such place or places in each State as it thinks fit; and

(d) thereafter by one or more orders determine-

(i) the delimitation of parliamentary constituencies; and

(ii) the delimitation of assembly constituencies, of each State.^[2]

“One person, one vote” might on surface level appear as an individual opportunity but, Political equality in liberal democracies is not only about equality of opportunity to participate in the political decision-making process, but also about carrying a vote value that is equal to that of other members of the community. According to the legal scholar Pamela S. Karlan, the right to vote can be diluted quantitatively and qualitatively by redrawing the

boundaries of the constituency in an electoral system. Quantitative dilution happens when votes receive unequal weight due to huge deviations in the population among the constituencies.

² THE DELIMITATION ACT, 2002, s.9

Qualitative dilution happens when a voter's chance of electing a representative of their choice is reduced due to gerrymandering (redrawing of boundaries to favour a candidate/party). Thus, delimitation of constituencies plays a major role in strengthening or weakening democracy.^[3]

HISTORICAL CONJECTURE OF DELIMITATION IN INDIA

The first Delimitation Commission in India was constituted in 1952. It was established following the Delimitation of Parliamentary and Assembly Constituencies Order, 1951. The commission's primary function was to readjust the representation of territorial constituencies in the country.

Delimitation After 1951-census

After the 1951-census, delimitation of the constituencies became inevitable in all States as the delimitation of constituencies made by the President in 1951 was temporary in nature. The Election Commission observed in context of the delimitation exercise undertaken in 1950, the procedure followed for the purpose did not work out satisfactorily and left many parties and persons aggrieved. The Election Commission, therefore, recommended to the government that the future delimitation of constituencies should be made by an independent commission, and the decisions of such commission should be made final in law. The government accepted this suggestion and accordingly provided for the constitution of an independent Delimitation Commission under the Delimitation Act, 1952. The Delimitation Commission was constituted of three members. Under this Act, the orders of the Delimitation Commission were given as having the force of law and were not subject to any modification or review by Parliament or by any court of law. The Delimitation Commission hardly completed its task of re-adjusting the number of seats and the territorial extent of Parliamentary and Assembly Constituencies till July, 1956. The States Reorganization Act, 1956 and the Constitution (Seventh Amendment) Act, 1956 contemplated the setting up of a new Delimitation Commission for the purpose. However, the government re-appointed the same members as the members of the new Delimitation Commission which completed its task on 19th December, 1956. The constituencies delimited by the orders of the Delimitation Commission formed the basis for the second and third general elections to the House of the People and the State Legislative Assemblies held in 1957 and 1962 respectively.

³ Editorial, "One Person, One Vote, One Value", The Hindu, December 18, 2023

Delimitation After 1961-Census

After the 1961 census, an independent Delimitation Commission was set up in January, 1963, under the Delimitation Commission Act, 1962. Again it consisted of three members. The Commission finished the task originally assigned to it by July, 1966, but it had to undertake additional work on the reorganisation of Punjab, Haryana and Himachal Pradesh and the creation of a new Union Territory of Chandigarh under the Punjab Reorganisation Act, 1966. At this stage, C.P. Sinha J. resigned his membership of the Delimitation Commission and a new member, R.C. Soni, J., a retired judge of the Punjab and Haryana High Court, was appointed in his place. The Delimitation Commission reconstituted as one of its members

resigned, then it completed its work in all respects. It was on the basis of the orders of this Commission that the fourth and fifth general elections to the House of the People were held in 1967 and 1971 respectively and a number of general elections and mid-term general elections were held to various States Legislative Assemblies in 1967, 1968, 1969, 1971 and 1972.

Delimitation After 1971-Census

Based on the 1971-census, Parliament enacted the necessary legislation under the nomenclature of Delimitation Act, 1972, instead of the earlier nomenclature of Delimitation Commission Acts which it had passed in 1952 and 1962. Under this new Act, the Delimitation Commission constituted in 1973 was a three member Commission. This Commission completed its task in October, 1975. Under the Delimitation Act, 1972, each Parliamentary Constituency was to comprise an integral number of assembly constituencies in a State and the total number of assembly constituencies in the State was to be an integral multiple of parliamentary constituencies in the State. However, there was no guideline provided in the Act as regards such integral multiple and it was left to the Delimitation Commission to determine such multiple having regard to the broad parameters laid down by the Constitution that a State Legislative Assembly shall not have less than 60 members and not more than 500 members. The Delimitation Commission had thus to see that the Legislative Assembly of a State was neither too big nor too small, keeping in view its population, size, geographical features, means of communication, etc. After determining the allocation of seats to every State in the House of the People and in the Legislative Assembly, the Delimitation Commission then worked out to determine the seats to be reserved for the Scheduled Castes and Scheduled Tribes in each State separately. Again, the next task which is more tedious is that the Commission was to determine

the territorial extent of parliamentary and assembly constituencies in each State. As far as territorial extent of the Assembly constituencies was concerned, the Delimitation Commission decided that if possible it should be co-terminus with the boundaries of the district within which such constituencies fall and, therefore, further decided to allot a full integral number of assembly constituencies to each district depending upon its population. Therefore, the total number of assembly constituencies in a State was divided among the several districts in the State in the ratio of their population to the total population of the State.

In every Delimitation Commission, there was a provision for associate members for the purpose of assisting the Commission in its duties in respect of each State. These members were to be nominated by the Speaker of the Lower House or, as the case may be, the Speaker of the Legislative Assembly concerned. Section 5 of the Delimitation Act, 1972, provides that, if the number of members of the House of the People representing any State was five or less, then all such members were to function as the aforesaid associate members. But, these associate members had no right to vote in the proceedings of the Delimitation Commission or to sign any decision of that Commission. Before undertaking the exercise of delimitation, any authority has to follow certain basic principles which have been laid down in the Constitution. These principles have been supplemented by Parliament whenever it provided for the setting up of an independent Delimitation Commission or entrusted this task to any other authority. According to Articles 81(1) and 170(1) of the Constitution, the maximum limits are laid down beyond which the total membership of the House of the People and of the State Legislative Assemblies cannot go. Additionally, the minimum membership limit of the State Legislative Assemblies is also laid down by the Constitution. These limits cannot be transgressed and every delimitation authority has to so fix the total number of seats in the House of the People and in the Legislative Assembly of each State that such numbers fall within the prescribed parameters. Under Article 81(2)(a), the Constitution has laid down the basic principle for the allocation of seats to various States in the House of the People. The number of seats in the House of the People shall be allotted to each State in such manner that the ratio between that number and the population of the State is, so far as practicable, is the same for all States, so that these seats are equitably distributed among all States. However, an exception has been made under Article 81(2), in the case of smaller States whose population does not exceed six millions, in order that their interests are duly safeguarded in the matter of their adequate representation in the House of the People. Article 330 of the Constitution provides that seats shall be reserved for the

Scheduled Castes and Scheduled Tribes in the House of the People and in the State Legislative Assemblies in proportion to their population in each State.

Articles 81(2)(b) and 170(2), says regarding the principles to be followed at the time of delimitation of parliamentary and assembly constituencies that each State shall be so divided into territorial parliamentary and assembly constituencies 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.^[4]

Delimitation After 2001 Census

The 30-year embargo seemed to have ended with the release of the 2001 Census. The delimitation process began with the passage of the Delimitation Act in 2002. Before that, a Constitutional Amendment Bill was moved in 2000, in favour of conducting the delimitation exercise on the basis of already published Census data of 1991 as it could be irrational to use the decade-old Census figures when the process of the 2001 Census was already in fore and the Census figures were about to come. For further discussion and agreement, the Bill was therefore referred to a Parliamentary Standing Committee, which was presided over by Shri Pranab Mukherjee. The bill was thoroughly considered by the committee. Since it was anticipated that the data, including that of the SC/ST population, would have been released no earlier than 2005, the Ministry of Law and Justice explained that using the 2001 data would have resulted in a significant delay in the delimitation process. Additionally, this would have significantly delayed the conduct of new elections. After much discussion and deliberation, the standing committee approved the bill in its original form, and it became the Constitution (Eighty fourth) Amendment Act after being ratified by more than half of the states. The parliament did, however, opt to prolong the moratorium until the first numbers following the 2026 Census were published by this Act. However, the same justification as in 1976 was restated, this time with higher hopes that the nation will attain consistent population growth by 2026.^[5]

⁴ Adv. Abhinav Prakansh and Adv. Vibha Arora, Law relating to elections Chapter 3, Universal law Publishing Co., New Delhi, 2nd edition/2010

⁵ Bhawana Kesar, "Boundaries of power: The role of delimitation in shaping democratic elections", 5(1), International Journal of Law Justice and Jurisprudence 123 (2025)

STRUCTURE AND MANDATE OF THE DELIMITATION COMMISSION

Legal Basis and Establishment

Provisos to articles 82 and 170 (3) of the Constitution provide that no fresh readjustment of constituencies can be undertaken until the figures of the first census taken after the year 2000 are published. These provisos were inserted by the Constitution (Forty-second Amendment) Act, 1976 as a measure to boost family planning norms. Since the first census to be taken after the year 2000 has already begun, the constitutional embargo on undertaking fresh delimitation will lapse as soon as the figures of this census are published. There have been consistent demands, both for and against undertaking the exercise of fresh delimitation. Keeping in view the progress of family planning programmes in different parts of the country, the Government, as part of the National Population Policy strategy, recently decided to extend the current freeze on undertaking fresh delimitation up to the year 2026 as a motivational measure to enable the State Government to pursue the agenda for population stabilisation.^[6]

After the commencement of THE DELIMITATION ACT, 2002 the Central Government shall constitute a Commission to be called the Delimitation Commission which shall consist of three members as follows:- (a) one member, who shall be a person who is or has been a Judge of the Supreme Court, to be appointed by the Central Government who shall be the Chairperson of the Commission; (b) the Chief Election Commissioner or an Election Commissioner nominated by the Chief Election Commissioner, ex officio: Provided that after the nomination of an Election Commissioner as a member under this clause, no further nomination under this clause shall be made except to fill the casual vacancy of such member under section 6; and (c) the State Election Commissioner of concerned State, ex officio. 2 [Explanation.-For the purposes of clause (c), the State Election Commissioner of concerned State,-(i) in respect of the duties of the Commission relating to a State (other than the States of Meghalaya, Mizoram and Nagaland), means the State Election Commissioner appointed by the Governor of that State under clause (1) of article 243K; and (ii) in respect of the duties of the Commission relating to the State of Meghalaya or the State of Mizoram or the State of Nagaland, as the case may be, means a person nominated by the Governor of that State for such purposes].^[7]

⁶ The Constitution (Eighty-fourth Amendment) Act, 2001

⁷ Supra note [2], s.3

Independent nature and high-powered status

During the early days of India's first Lok Sabha, a Delimitation Commission Bill was considered as one of the first agenda items in 1952. The original version of the Bill gave the Delimitation Commission the 'force of law', which was later reviewed by a Joint Select Committee. The Committee found it necessary to add a clause to the Bill stating that the Commission's orders 'shall not be called in question in any Court'. There was, however, some discussion on whether Parliament should review them: In the Lok Sabha, R Velayudhan proposed that Parliament must discuss, amend if needed, and ratify the orders before they became law, but this was not accepted by the Assembly. Over at the Rajya Sabha, MP Akthar Hussain highlighted the conundrum that he discerned from the speeches of his fellow members: While some members were wary of granting unelected members of the Commission the authority to make final decisions on delimitation, others were opposed to giving parliament the final say due to concerns that dominant political parties could manipulate the orders to their advantage. In the end, Parliament passed the Delimitation Commission Act 1952 allowing the Commission to have the final say: the orders once published in the Gazette became law and Courts were not allowed to review them. The Constituent Assembly Debates and parliamentary proceedings of India's first Lok Sabha show that although there were apprehensions of the influence of dominant political groups and the executive in delimitation, there was never any consideration given to judicial review. In fact, there was a deliberate effort to exclude the courts from the process, which received widespread support. However, the reasoning behind this decision was not explicitly stated. Since then, the Supreme Court has invoked Article 329A and the Delimitation Act to set aside challenges to delimitation orders. In *Meghraj Kothari v. Delimitation Commission & Ors.*^[8] a 5-judge Constitution bench judgement in 1967, the Supreme Court supplied a rationale for why courts are kept out of the process:

"There seems to be a very good reason behind such a provision. If the orders made under Sections 8 and 9 were not to be treated as final, the effect would be that any voter, if he so wished, could hold up an election indefinitely by questioning the delimitation of the constituencies from court to court."^[9]

⁸ AIR 1967 SC 669

⁹ Should Courts Review Delimitation?, available at <https://www.constitutionofindia.net/blog/should-courts-review-delimitation/> (last visited on August 6, 2025)

Historically, Delimitation Commissions in India have consisted of a retired Supreme Court Judge, the Chief Election Commission (CEC) or an Election Commissioner appointed by the CEC, and the State Electoral Commissioner (SEC) for the concerned State. This composition raises three problems; (1) insufficient independence; (2) over-centralisation of power; and (3) limited human resources.

The Election Commission's independence is not what it used to be, most starkly demonstrated by the fact that the Union Government insisted on maintaining a monopoly over the appointment of Election Commissioners and decisions taken by the Commission and the Union Government jointly to limit citizens' scrutiny of information about the integrity of voting procedures. Thus, having the CEC or an EC on the Commission cannot be viewed as securing the Commission's independence. While the independence of retired Supreme Court Judges as a class cannot be questioned without making over-broad generalisations, the perceived independence of individual judges has certainly taken a battering in recent years. Thus, appointing a single judge, particularly one who is perceived as being lenient to the Union's point of view, would further undermine the credibility of the Delimitation Commission. Even assuming a judge of impeccable character and credentials, the framework would be entrusting one individual with securing the integrity of politically fraught exercise, creating the risk of a single point of failure. Finally, given the magnitude of the task, a three-member commission is laughably small, particularly where two members will have concurrent duties to organise state and local elections.

Procedural integrity of the delimitation process

The actual process of re-drawing constituency boundaries involves applying a mathematical formula (based on the methodology adopted for determining equally sized constituencies) to varied circumstances on the ground. Previous delimitation statutes have been silent on both the methodology to be adopted by the Commission and what variations in population are acceptable and what are not. Perfectly equal populations across constituencies are unrealistic but is a 5% variation permissible, is 10% or 15%? Historically, this has been left to individual commissions, which have promulgated guidelines, with the 2002 Commission finding that a 10% deviation was acceptable.

The real fear here is *gerrymandering*, i.e., the redrawing of constituencies to benefit one political party. This can be done in several ways, for example by concentrating large numbers

of opposition voters in a few constituencies (packing) or splitting opposition voters across multiple constituencies to ensure they are a perpetual minority in those constituencies (cracking). There is already troubling anecdotal evidence from the recent delimitation exercises in J&K and Assam that constituencies are being gerrymandered along communal lines.^[10]

According to THE DELIMITATION ACT, 2002 Section 10A. **Deferment of delimitation** can take place in certain cases.-

(1) Notwithstanding anything contained in sections 4, 8 and 9, if the President is satisfied that a situation has arisen whereby the unity and integrity of India is threatened or there is a serious threat to the peace and public order, he may, by order, defer the delimitation exercise in a State.

(2) Every order made under this section shall be laid before each House of Parliament ^[11]; this generates a loophole and can be used by the executive body to effectively pause or stop the Commission (which is supposed to be independent) to fulfill its statutory duty in a particular region. While the order has to be laid before each House of Parliament, this is a post-facto check. The initial decision to defer lies solely with the President (executive) who works on the advice of the Council of Ministers. Parliament can discuss it, but reversing such an executive order might be challenging if the government has a majority.

In essence, while the *internal working* and *decision-making* of the Delimitation Commission are designed to be independent, Section 10A introduces an external mechanism by which the

Initiation or continuation of its work can be halted or postponed by the executive branch, thereby potentially compromising the overall independence and timely execution of its crucial function.

JUDICIAL OVERSIGHT AND SCOPE FOR REVIEW

The Article 329(a) of the Indian Constitution poses a significant threat to the interference of judiciary in the electoral matters and creates a barrier by creating hindrance in challenging validity of laws relating to delimitation of constituencies made under Article 327 and 328. The

¹⁰ Thinking Through Delimitation Part V: Independence and Integrity of the Delimitation Exercise available at <https://indconlawphil.wordpress.com/2025/06/09/thinking-through-delimitation-part-v-independence-and-integrity-of-the-delimitation-exercise> (last visited on August 6, 2025)

¹¹ Supra note [2], s. 10A

inclusion of draft Article 291 A which later became Article 329(a) reflects the intent to minimize the disruptions in the electoral process.

The fear of litigation stalling elections is reasonable, but should it take precedence over the political rights of citizens, especially minority groups that may be negatively affected by a delimitation scheme designed to diminish their political agency?

In the United Kingdom, delimitation is conducted by independent Boundary Commissions, and courts have generally avoided involvement. However, in *R v Boundary Commission for England* (1983)^[12], the court emphasized that if institutions involved in the delimitation process exercise arbitrary power, then “*the courts can and will intervene in defense of the ordinary citizen.*” In the US, gerrymandering has been widely recognized as part of its political history, and courts have been relatively more proactive in addressing it. In *Shaw v. Reno* (1993)^[13], the court ruled that electoral districts whose boundaries cannot be explained except on the basis of race can be challenged as potential violations of the equal protection clause. Courts in these jurisdictions have acknowledged that the redrawing of electoral boundaries is primarily the responsibility of the legislature and executive. However, they have also firmly held that judicial intervention is warranted in cases of gerrymandering, particularly when it results in violations of fundamental rights. This is a balanced approach that Indian courts could consider adopting. India is due for a census in 2026, to be followed by a nationwide delimitation exercise. Although the Constitution expressly limits judicial involvement in the delimitation process, the courts can interpret constitutional provisions—such as their powers to do complete justice—to assert that when fundamental rights are at stake, judicial intervention is both justified and necessary.^[14]

Courts not to interfere in delimitation matter

The landmark case of *Meghraj Kothari v. Delimitation Commission & Others*^[15] was adjudicated by the Supreme Court of India on September 20, 1966. This case centered around the validity of a notification issued by the Delimitation Commission, which altered the status of the Ujjain City constituency from a general seat to a reserved seat for the Scheduled Castes. Meghraj Kothar was a resident and voter of Ujjain and he challenged this notification, on the

¹² R v Boundary Commission for England [1983] EWCA Civ J0125-3

¹³ Shaw v. Reno 509 U.S. 630 (1993)

¹⁴ Supra note 9

¹⁵ Supra note 8

basis that it deprived him of his right to contest elections from his constituency. The Supreme Court, in a decision delivered by Justice Mitter, dismissed Meghraj Kothari's appeal. The judgment affirmed that notifications issued by the Delimitation Commission under Sections 8 and 9 of the Delimitation Commission Act, 1962, and published under Section 10(1), hold the force of law. Consequently, such notifications are shielded from judicial scrutiny under Article 329(a) of the Constitution, which explicitly bars courts from questioning the validity of laws related to delimitation of constituencies and allotment of seats.

While judicial review is a recognised tenet of the Basic Structure of the Indian Constitution, ouster and finality clauses are instruments to maintain the delicate separation of powers among the various organs of the government. Ouster clauses refer to provisions that prevent judicial oversight of State actions by excluding the jurisdiction of the courts, entailing finality in the decisions of the administrative body. Blanket ouster clauses are often phrased in such a manner that they exclude the jurisdiction of all courts, including the High Courts and Supreme Court. Article 329 comprises a non-obstante provision, signifying that clauses (a) and (b) shall prevail over other Constitutional provisions. The Supreme Court has routinely adhered to a hands-off approach in this regard.^[16]

In *Election Commission Of India vs Ashok Kumar & Ors*,^[17] While exercising the powers conferred by Rule 59A of the Conduct of Election Rules, 1961, the Election Commission of India issued a notification published, according to which the areas where the voting was to be done by ballot paper, the counting of such votes were to be done by mixing the ballot papers and not station wise. Writ petitions were filed before the High court against this particular notification, claiming that the counting must be done station- wise. The High court ordered in favour of the petitioner. Aggrieved by this order, the ECI filed an SLP in the Supreme Court. The Supreme Court overturned the order of the High court, claiming that, according to Article 329(b), the elections couldn't be called in question until the process is finished.

The judicial review of an election process can't be done. But it doesn't mean it gives unfettered power to the ECI. The decision of the ECI could be challenged by the courts. Also, during the election process, judicial intervention couldn't be sought. This is to avoid any further delays of the election process, because in case the judicial intervention takes a long time to scrutinize the

¹⁶ Arohi Malpani & Simone Vaidya "To Review or Not to Review : Delimitation Dilemma in the Context of *Kishorchandra Changanlal Rathod v. Union of India*", Law School Policy Review, February 25 2025,

¹⁷ *Election Commission Of India vs Ashok Kumar & Ors* 2000 INSC 423

case and give its judgements. The courts are the peace keepers of our country, hence, there are times when the courts have directed the ECI to improve or to monitor the election processes and to make sure that the MCC is followed properly.^[18]

Despite such hardbound decision making with respect to Article 329 (a) In the *Dravida Munnetra Kazhagam (Dmk) vs Secretary Governors Secretariat And Ors.* ^[19] DMK claimed that the party -in- power at the State level, the AIADMK, has deliberately been postponing elections; unconstitutionally been altering constituencies and refusing to effect rotation with the object of gaining undue political advantage. They claimed that Articles 243-D and 243-T mandated that delimitation of constituencies be conducted after every decadal census and concomitant reservations be effected for Scheduled Castes and Scheduled Tribes on a 'rotation' basis. In so far as the Tamil Nadu Panchayats (Second Amendment) Act, 2016 allowed the next cycle of local elections in Tamil Nadu to be conducted as per the earlier 2001 Census, it contravened Constitutional provisions and was thus liable to be struck down. The aforesaid issues have, however, been rendered academic by constitution of a Delimitation Commission under the newly enacted Tamil Nadu Delimitation Commission Act, 2017. This Commission initiated an elaborate exercise of delimitation on 25th July, 2017 and eventually formulated a draft ward delimitation proposal on 20th September, 2017. Thereafter, written objections were invited from the public, various political parties and organisations between 20th December, 2017 and 18th January, 2018. After considering such objections/suggestions and the revised proposals received from District Delimitation Authorities, the Delimitation Commission sent its final recommendation to the State Government on 31st August, 2018. Thereafter, a notification was issued by the State Government on 14th December, 2018 whereby the wards newly delimited per the 2011 Census figures were notified. It is noteworthy that soon after on 12th November, 2019 the State Government issued a notification dividing four existing districts of Tamil Nadu to create nine new districts. Vellore district was trifurcated into the districts of Vellore, Tirupathur and Ranipet; Kancheepuram was bifurcated into Kancheepuram and Chengalpet;

Villupuram was bifurcated into Villupuram and Kallakurichi; and Tirunelveli was bifurcated into Tirunelveli and Tenkasi districts. Resultantly, some talukas were also re-structured with certain revenue villages either being added or removed. Para 7 of the aforesaid notification

¹⁸ Scope of judicial review in the Election Commission, available at <https://blog.ipleaders.in/scope-of-judicial-review-in-the-election-commission/> (last visited August 6,2025)

¹⁹ *Dravida Munnetra Kazhagam (Dmk) vs Secretary Governors Secretariat And Ors.* 2019 SC 1786

then reads as follows:

The delimitation of the territorial wards of Village Panchayats, Panchayat Union and District Panchayats have already been notified under the Tamil Nadu Panchayats Act, 1994 (Tamil Nadu Act 21 of 1994) and thereby the delimitation exercise for the ensuing local body elections has already been completed. Notwithstanding the notification to bifurcate the Districts, the process started already to conduct the ensuing Local Body Elections will be continued as per the order of the Hon'ble Supreme Court dated 17.07.2019 in W.P. (C) No. 1267/2018. After the ensuing Local Body Elections, the process of modification, if any, with regard to local bodies will be taken up by the Government. Article 243-C requires the State, as far as is practicable, to maintain a similar ratio between the population residing within the territory of a particular panchayat and the number of seats allocated to it, across all panchayats in the State. Further, each panchayat must be divided into territorial constituencies and per Article 243-D, seats in proportion to their population must be reserved for Scheduled Castes and Scheduled Tribes in each panchayat. It is thus clear that the constitutional object of Part IX cannot be effectively achieved unless the delimitation exercise for constitution of local bodies at all levels is properly undertaken. Such exercise in the State of Tamil Nadu must keep in view the criteria for delimitation of wards prescribed under the Tamil Nadu Local Bodies Delimitation Regulations, 2017 (formulated under the Tamil Nadu Delimitation Commission Act, 2017), which criteria must itself not be contrary to Article 243-C read with Article 243-B(1) of the Constitution. For the reasons aforesaid, these applications are allowed in part and disposed of with the following directions:

a. The Respondent -authorities shall hold elections to all Panchayats at village, intermediate and district levels, except those in the following nine reconstituted districts:

i. Kancheepuram ii. Chengalpattu iii. Vellore iv. Thirupathur v. Ranipet vi. Villupuram vii. Kallakurichi viii. Tirunelveli ix. Tenkasi;

b. The Respondents (including the Delimitation Commission) are directed to delimit the nine newly- constituted districts in accordance with law and thereafter hold elections for their panchayats at the village, intermediate and district levels within a period of four months;

c. There shall be no legal impediment against holding elections for Panchayats at the village, intermediate and district levels for rest of the districts;

d. State Election Commission shall notify elections for the panchayats at village, intermediate and district levels in respect of all districts except the nine re-constituted districts as per the details given in direction 'a' above.

This judgement entails the judiciary's role in ensuring that electoral processes, even at the District level, adhere strictly to constitutional provisions. By intervening and directing the postponement of elections in the newly formed districts until a proper delimitation was completed, the Court demonstrated its authority to safeguard the integrity of the electoral system.

Even after remaining inside well constructed boundaries by the Constitution, scope of judicial activism for questioning malafide or arbitrary use of powers by statutory authorities during elections is interestingly surplus and thus effective in shielding fundamental rights of citizens and prospective electoral candidates.

A two-judge bench, comprising Surya Kant and Ujjal Bhuyan JJ., decided *Kishorchandra* ^[20] wherein the petitioner had challenged the reservation of the Bardoli Legislative Assembly Constituency for the Scheduled Caste community before the High Court of Gujarat. The High Court had consequently dismissed the petition on the grounds of the bar operating under Article 329(a). Aggrieved, the petitioner moved the Supreme Court, which partially allowed the appeal. It was held that there was nothing precluding the Courts from examining the validity of any law relating to the delimitation of seats in the Lower House or Legislative Assemblies. The Court could grant relief to the petitioner if they are found to be manifestly arbitrary or irreconcilable to Constitutional values.

Kishorchandra is a seminal ruling, marking the Apex Court's departure from its general principle. While it has examined delimitation matters on merits in the past, it has never expressly carved out an exception to Article 329(a) pertaining to the Lok Sabha and State Legislative Assemblies.

While the concern that litigation may impede the electoral process is indeed legitimate, it should not overshadow the paramount constitutional values and fundamental rights of citizens. Recognising this proposition of law, the United Kingdom allows for judicial intervention in the

²⁰ *Kishorchandra Chhanganlal Rathod v. Union of India*, (2024) 7 SCR 1124

delimitation process if the institutions involved exercise arbitrary power and thus violate these rights. An example of such displays of arbitrary power is gerrymandering of electoral districts.

In the United States, where gerrymandering has deeply influenced political history, the Supreme Court ruled in 1993 that electoral districts with boundaries seemingly based solely on race may be challenged under the Equal Protection Clause. Following suit, the Indian Supreme Court has also recognised gerrymandering as a threat to the delimitation process in the case of *State of Madhya Pradesh & Ors, v. Devilal*^[21]. The Court addressed the concern of gerrymandering, stating that if proven, the order would be deemed invalid.

Hence the judiciary reserves the power to intervene when delimitation actions are arbitrary or motivated by mala fides. In doing so, the courts recognise a carefully crafted exception to Article 329(a), affirming that electoral boundaries must serve public interest and uphold fundamental rights. The *Kishorchandra* decision solidifies this exception.^[22]

The Indian Supreme Court has, through recent rulings, carved out grounds for judicial review of Delimitation Commission orders, despite the traditional bar under Article 329(a) of the Constitution.

The key grounds for judicial intervention are:

- Manifest arbitrariness: If a delimitation exercise is deemed to be arbitrary in nature which means it is irrational or lacks an adequate determining principle, the courts can intervene.
- Irreconcilability with constitutional values: When a delimitation order is irreconcilable with constitutional values such as equality and fairness, it becomes subject to judicial scrutiny. This determines that the process aligns with the broader principles enshrined in the constitution.
- Violations of Fundamental rights: Delimitation orders can be challenged if they infringe upon fundamental rights, such as the right to equality.

Judicial restraint should be the guiding light in testing the validity of plenary legislation. The

²¹ State of Madhya Pradesh & Ors, v. Devilal 1986 AIR 434

²² Supra note 16

wisdom of Parliament or State Legislatures ought not to be substituted by the judiciary. In this regard, the profound statement of Justice Frankfurter ^[23] is apposite to reproduce:

“For the highest exercise of judicial duty is to subordinate one's personal pulls and one's private views to the law of which we are all guardians—those impersonal convictions that make a society a civilized community, and not the victims of personal rule.”

ROLE OF PARLIAMENT AND STATE LEGISLATURES

In India, Parliament plays a crucial and foundational role in setting the legal framework and parameters for delimitation. This is primarily achieved through:

1. **Constitutional Authority:** The Indian Constitution itself vests Parliament with the power to enact laws for the readjustment of the allocation of seats in the House of the People (Lok Sabha) to the States, and the division of each State into territorial constituencies. Specifically, Articles 82 and 170 empower Parliament to undertake delimitation after every census.
2. **Enacting Delimitation Acts:** Parliament exercises this authority by enacting specific Delimitation Acts. These Acts are the primary legal instruments that lay down the detailed procedure and guidelines for the delimitation process.
3. **Setting the Basis for Delimitation:** Parliament, through these Acts, determines the census year on which the delimitation exercise will be based. For instance, the Delimitation Act, 2002, mandated the use of the 2001 census figures for delimitation. It's important to note that the Constitution was amended to freeze the total number of seats in the Lok Sabha and State Legislative Assemblies based on the 1971 census until the first census after 2026. This parliamentary decision has significant implications for representation.
4. **Laying Down Principles and Guidelines:** The Delimitation Acts and subsequent amendments, passed by Parliament, also establish the core principles and guidelines that the Delimitation Commission must follow. These include:

²³ Justice Frankfurter – “A Heritage for all Who Love the Law”, 51 ABAJ 330 at p. 332 (1965)

- Ensuring, as far as practicable, that all constituencies within a state have nearly the same population.
 - Considering geographical features, contiguity of areas, means of communication, and public convenience.
 - Reserving seats for Scheduled Castes and Scheduled Tribes in proportion to their population.
5. **No Modification of Orders:** While the Delimitation Commission's orders have the force of law and cannot be challenged in any court, copies of its orders are laid before both the House of the People (Lok Sabha) and the concerned State Legislative Assembly. However, no modifications are permissible by them. This highlights Parliament's role in creating a framework that gives autonomy to the Delimitation.
6. Commission once it's constituted and starts its work based on the laws enacted by Parliament.

In essence, Parliament's role is to create the legislative blueprint for delimitation, establish the independent body (Delimitation Commission) to carry out the process, and define the rules and principles that govern its functioning. While the actual drawing of boundaries is done by the Commission, the fundamental legal and procedural parameters within which it operates are set by Parliament.

A. General Principles of Laying Papers Before Parliament/State Legislatures

In parliamentary procedure, particularly within the Westminster system adopted by India, the phrase "laid before the house" or "laid on the Table of the House" signifies that a document has been formally recognized and made available for members of the deliberative assembly to read and examine.

In the Indian Parliament, the "laying of papers" is a routine and formal item of business. In the Lok Sabha, it often takes place at the beginning of the "Zero Hour". Similarly, in the Rajya Sabha, it is typically the first item of business taken up at 11:00 a.m.. Delimitation orders, like other significant official documents, are usually published in the Gazette of India either prior to or concurrently with their formal laying before the Houses.

B. Specific Procedure for Laying Delimitation Orders in Lok Sabha

Copies of the Delimitation Commission's final orders are formally laid before the House of the People (Lok Sabha). As previously established, the Lok Sabha, despite receiving these orders, is legally prohibited from making any modifications to them. The Lok Sabha has a dedicated "Committee on Papers Laid on the Table." This Committee plays a crucial role in scrutinizing the laid papers, including Delimitation Orders, to ensure compliance with the provisions of the Constitution, relevant Acts of Parliament, or any other rules or regulations under which the paper has been laid. It also examines whether there has been any unreasonable delay in laying the paper and if a satisfactory explanation for such delay has been provided. Furthermore, it checks if the paper has been laid in both English and Hindi, and if not, whether valid reasons for the omission have been furnished. This Committee comprises 15 members^[24] who are nominated by the Speaker of the Lok Sabha. While the Lok Sabha is explicitly barred from modifying the content of these orders, the act of laying them, coupled with the Committee's scrutiny, ensures a degree of transparency and allows for parliamentary review of the *process* by which these orders are presented. This includes checking for procedural adherence, timeliness, and linguistic compliance. This mechanism means that while the "what" (the substance of the delimitation decisions) is final and beyond legislative alteration, the "how" (the procedural aspects of their presentation and legality of the laying process) remains subject to parliamentary scrutiny, reinforcing the accountability of the executive and the Commission in procedural matters.

C. Specific Procedure for Laying Delimitation Orders in Rajya Sabha

Analogous to the Lok Sabha, copies of the Delimitation Commission's orders are also formally laid before the Rajya Sabha (Council of States). Consistent with the principle of finality, the Rajya Sabha is also precluded from making any modifications to these orders. The Rajya Sabha maintains its own "Committee on Papers Laid on the Table". This Committee is composed of ten members^[25], who are nominated by the Chairman of the Rajya Sabha. A specific procedural rule in the Rajya Sabha dictates that any member wishing to raise matters concerning papers

²⁴ *Committee On Papers Laid On The Table (COPLAT) Lok Sabha* available at <https://sansad.in/getFile/LSSCOMMITTEE/Papers%20Laid%20on%20the%20Table/Introduction/introduction%20new.pdf?source=loksabhadocs> (last visited on August 6, 2025)

²⁵ *COMMITTEE ON PAPERS LAID ON THE TABLE* available at https://cms.rajyasabha.nic.in/UploadedFiles/CommitteeSection/CommitteeRules/1626362293380.3_CommitteeOnPapersLaidOnTheTable.pdf (last visited on August 6, 2025)

that have been laid on the Table must communicate those concerns directly to this Committee, rather than raising them directly in the main Council chamber. The establishment of a dedicated Committee on Papers Laid on the Table in the Rajya Sabha, along with the procedural rule requiring members to channel concerns about laid papers through this Committee, points to a deliberate parliamentary strategy. This mechanism facilitates specialized, in-depth scrutiny of the procedural aspects of documents like Delimitation Orders, without allowing such issues to consume the general legislative agenda through broader, potentially disruptive debates on the floor of the House. It enforces a degree of procedural discipline, ensuring that any questions regarding the legality, timeliness, or format of the laid documents are addressed by an appropriate oversight body, thereby further reinforcing the non-modifiable nature of the orders' substantive content.

D. Procedure for Laying Orders in State Legislative Assemblies

In line with the practice at the Union level, copies of the Delimitation Commission's orders are also formally laid before the respective State Legislative Assemblies. Crucially, similar to the Union Parliament, the State Legislative Assemblies are also prohibited from effecting any modifications to these orders. Under Article 208 of the Constitution, each House of the Legislature of a State is empowered to make its own rules for regulating its procedure and the conduct of its business. While the provided information does not detail the specific rules for "laying" papers in every State Legislative Assembly, it can be reasonably inferred that the general principles of laying for information and record, without the power of modification, would apply, mirroring the established practice at the central level.

The consistent treatment of Delimitation Commission orders across both Union and State legislatures – specifically, their being laid for informational purposes but remaining impervious to modification – highlights a fundamental principle of India's constitutional framework regarding electoral boundary determination. This uniformity ensures a coherent and consistent application of delimitation outcomes throughout the federal structure, preventing individual states from unilaterally altering their electoral maps based on localized political considerations. This reinforces the national character and independent authority of the Delimitation Commission's work, which is derived from a central Act of Parliament, thereby contributing to federal cohesion in electoral matters.

E. Role of Committees on Papers Laid on the Table

These specialized parliamentary committees, existing in both the Lok Sabha and the Rajya Sabha, are vested with specific responsibilities concerning papers laid before the respective Houses. Their primary functions include:

- Assessing whether there has been full compliance with the provisions of the Constitution, the relevant Act of Parliament, or any other law, rule, or regulation under which the paper has been laid.
- Investigating any unreasonable delay in laying the paper before the House and determining whether the reasons provided for such delay are satisfactory.
- Verifying if the paper has been laid in both English and Hindi, and if not, evaluating the adequacy of the explanations provided for the omission.

The detailed mandate and functions of the Committees on Papers Laid on the Table illuminate a crucial aspect of parliamentary oversight: it is primarily focused on procedural accountability rather than substantive challenge regarding Delimitation Orders. While these committees ensure that the Executive and independent bodies like the Delimitation Commission adhere to due process in presenting documents, their role does not extend to questioning the merits or content of the delimitation decisions themselves.

TRANSPARENCY AND PUBLIC PARTICIPATION IN THE PROCESS

Statutory provisions for transparency

Publication of orders and their date of operation.—(1) The Commission shall cause each of its orders made under section 8 or section 9 to be published in the Gazette of India and in the Official Gazettes of the States concerned and simultaneously cause such orders to be published at least in two vernacular newspapers and publicise on radio, television and other possible media available to the public and after such publication in the Official Gazettes of the States concerned, every District Election Officer shall cause to be affixed, the Gazette version of such orders relating to the area under his jurisdiction, on a conspicuous part of his office for public notice. (2) Upon publication in the Gazette of India, every such order shall have the force of law and shall not be called in question in any court. (3) As soon as may be after such

publication, every such order shall be laid before the House of the People and the Legislative Assemblies of the States concerned.^[26]

The publication of the orders is to keep in faith in cognizance with the Right to Information of the citizens. The preliminary step to being transparent about the process is to bestow the knowledge about the steps taking place.

Mechanisms for public engagement

Draft Proposals :-

Before the commencement of the orders given by the Delimitation Commission an official draft proposal is submitted in the Gazette of India and objections and suggestions in relation to the same are invited from the general public, as can be seen in:

“The Delimitation Commission has published in the Gazette of India, Extraordinary and in the NCT of Delhi Gazette both dated 27th January, 2006 its proposals for the delimitation of Parliamentary and Assembly Constituencies in the NCT of Delhi for the purpose of the elections to the House of the People and the Legislative Assembly of the NCT of Delhi. The Commission invites objections and suggestions in relation to the same. 2. Copies of the gazette are available for reference, with the Chief Electoral Officer, NCT of Delhi and the Deputy Commissioners in the NCT of Delhi. 3. Any objections and suggestions to the proposals should reach the Secretary, Delimitation Commission, Nirvachan Sadan, Ashoka Road, New Delhi-110001 on or before 1700 hours on 10th February, 2006 (Friday).”^[27]

Public hearings:-

The public hearings are part of the consultative exercise by the Commission during the process of delimitation. The Commission has prepared detailed guidelines and methodology for the draft delimitation proposal keeping in view the constitutional and legal provisions, physical features, density of population, existing boundaries of administrative units, facilities of communication and public convenience and suggestions received in the representations after the consultative exercise as can be seen during three days of public hearings on draft

²⁶ Supra note 2, s.10

²⁷ No. 282/DL/2006, Gazette of India, ORDER NO. 17, Pg. 3

Delimitation proposal for Assam at Guwahati:

“The Commission comprising Chief Election Commissioner Shri Rajiv Kumar and Election Commissioners Shri Anup Chandra Pandey and Shri Arun Goel held hearings from representatives of political parties, civil society organisations and members of public on the draft Delimitation proposal during the last three days. The public hearings are part of the consultative exercise by the Commission during the process of delimitation. During the last three days, the Commission heard over 1200 representations from 31 districts and held meetings with over 20 political parties. In total, more than 6000 persons participated in the public hearings over the last three days. In marathon sittings, on July 20, hearings lasted more than 20 hours, cumulatively, as the three Commissioners conducted parallel hearings at 3 venues. Similar was for July 19 and July 21. The screening of the gist of the 1000 odd representations received prior to the sittings, facilitated an on-the-spot confirmation of vital facts and identity of the stakeholder participation in this important exercise. Representatives from National Parties - Aam Aadmi Party, Indian National Congress, Communist Party of India (Marxist), Bhartiya Janata Party; State Parties - All India United Democratic Front, Asom Gana Parishad, United Peoples Party Liberal and Bodoland People's Front shared their feedback and suggestions before the Commission. United Opposition Forum Assam (Assam Pradesh Congress, Assam Jatiya Parishad, CPM, Rajbor Dal, CPI, Jatiya Dal Assam, NCP, RJD, Janata Dal (U), TMC, CPI (ML) & others) and several Registered Unrecognized Political Parties (RUPPs) also participated.”^[28]

CONTROVERSIES AND LITIGATIONS: Disputes over Misrepresentation

Freeze on the exercise

The 42nd Constitutional Amendment Act of 1976, not only had frozen the population figures to that of the 1971 census but had also put a 30-year long moratorium on the further delimitation exercise, till the publication of 2001 Census figures. The reasoning provided by the government was, as the National Population Policy (NPP) was in force, some states esp. the southern states

²⁸ ECI concludes three days of public hearings on draft Delimitation proposal for Assam at Guwahati, Election Commission, in PIB Delhi, available at <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1941414> (last visited on August 6, 2025)

were more successful in controlling the population growth than their northern counterparts. The freeze was to 'ensure that the states following the NPP and keeping the growth of population low are not put to any loss of representation in the national parliament'. Continuance of further delimitation exercise as according to the Constitution might result in **loss of representation of Southern states** in the House of the People on the cost of **gaining representation of northern states who failed to put a check on their population growth.**

The upper house of the Indian Parliament is composed of representatives of the states. In theory, members of Rajya Sabha are responsible for advocating the interests of their respective states. Presently, the constitution has fixed the numbers of seats in the Rajya Sabha at 250, with seats allocated to states in proportion to their population. The freeze on the apportionment of seats in the Lok Sabha and State Legislative Assemblies was defended by arguing that the **freeze would maintain the federal balance of the country**, the same was also reiterated by the National Population Policy 2000. However, it is not the prerogative of the House of the People to maintain the federal balance but the Council of States. Hence, the freeze on the seats of the Lok Sabha will not be detrimental to the federal balance. It can be maintained by reforming the composition and overall functioning of Rajya Sabha^[29]

Complications with Southern states

The issue of parliamentary constituency delimitation has sparked significant debate, particularly in **Tamil Nadu and Kerala**. Both states have voiced strong opposition to what they term a "unilateral move" by the central government to redraw constituency boundaries. Tamil Nadu Chief Minister M K Stalin and Kerala Chief Minister Pinarayi Vijayan have united under the banner of **"Constituency Delimitation: Unity Against the Unilateral Move,"** extending mutual support for a conference organised by Tamil Nadu to address this contentious issue.

The proposed delimitation exercise, which aims to adjust Lok Sabha constituencies based on population, has raised concerns among southern states. They argue that such measures disproportionately favour northern states with higher population growth, potentially reducing the political representation of southern states that have successfully implemented population control measures. This has been perceived as a threat to the principles of democracy and

²⁹ Aditi, Vikrant Singh, Aman Ashesh; "Redrawing the Electoral Boundaries: Debunking the Doxas of Delimitation" Samanvaya Research Series, Vol. 1. 2020

federalism.^[30]

ANALYSIS AND RECOMMENDATIONS

Gaps and weaknesses

Limited judicial review:-

Surrounding the debates on delimitation has been the question of whether the judiciary should intervene and review delimitation. This has surfaced at various points in the history of post-independent India. While the original Draft Constitution of India, 1948, had no provision, the subsequent draft of 1949, presented by Dr. B.R. Ambedkar, proposed the inclusion of Article 329A as an addition to the Constitution's chapter on 'Elections'. Various prominent voices like Hukum Singh, Akthar Hussain, and R Velayudhan at various junctures highlighted the critical nature of delimitation and suggested that the Parliament be given the powers to discuss, amend wherever needed, and ratify the orders before they became law (Constituent Assembly of India, 1949). None of these were accepted, and finally, when the Delimitation Commission Act 1952 was passed, it gave the commission the final say and also exemption from the judicial review.^[31]

Potential for political influence:-

The delimitation process may be manipulated for partisan gains. Allegations of biased boundary adjustments such as those seen in Jammu & Kashmir highlight the risk of gerrymandering. Political pushback has repeatedly delayed delimitation in India in the past, with stakeholders opposing seat loss and fearing shifts in influence. Outdated constituency boundaries based on older census data may distort reservation allocations under SC/ST and women's reservation laws, delaying equitable representation.

Population vs. Development Trade-off:-

Conducting surveys in conflict-prone or geographically challenging areas—especially in the

³⁰ Constituency Delimitation and Language Policy: A Federal Debate, available at <https://www.heralldgoa.in/edit/constituency-delimitation-and-language-policy-a-federal-debate/420770> (last visited on August 6, 2025)

³¹ Dr. Khushboo Srivastava and Pr. Ashwani Kumar, "Boundary Lines and Ballots: Exploring Delimitation, Electoral Dynamics, and Reservation in India", Motwane grant 2023-24

Northeast—poses logistical difficulty, fosters public distrust, and could fuel unrest.

Delimitation based solely on population growth may penalize states that have succeeded in family planning. PMFIAS notes southern states with low fertility rates (e.g. Tamil Nadu, Kerala) risk losing representation compared to high-population states like Uttar Pradesh and Bihar.^[32]

Suggestions for reforms

Periodical and Judicial reviews :-

Judiciary is the only directly accessible branch of the government by general citizens and a direct way for remedies. Barring any courts from questioning the validity of laws related to delimitation of constituencies and allotment of seats closes any scope for fair expression of confusion, including provisions where judiciary can provide suggestions without altering independence of the Commission can make the mechanism of delimitation fairer.

Nuanced Formula Beyond Population:-

Delimitation exercises in India mainly focus on physical attributes such as demographics and topographics which might have worked previously but as we can notice different regions have different developmental curves, Delimitation formula that also considers development indices, health, education, economic output, and governance performance-not just population figures is required. The Delimitation Commission of India must balance population equity with federal fairness, ensuring that success in social development (like family planning) is not penalized unduly, while also upholding “one vote, one value” across the nation.

Strengthening the independence:-

The Chief Election Commissioner and other Election Commissioners shall be appointed by the President on the recommendation of a Selection Committee consisting of--

(a) the Prime Minister---Chairperson;

³² Delimitation in India, Delimitation Commission, Mandate, Impact on Southern States & Challenges, available at <https://padhai.ai/blogs-padhai/delimitation-in-india-delimitation-commission-upsc-exam> (last visited August 5, 2025)

(b) the Leader of Opposition in the House of the People---Member;

(c) a Union Cabinet Minister to be nominated by the Prime Minister---Member^[33];

who heads the delimitation commission hence it cannot be said that the Commission is an independent body as having an influence by executive is feasible and likely. Therefore, either appointing an officer free of executive body's influence or creating provisions which makes CEC (or EC) in actuality independent of any undue influence or coercion.

CONCLUSION- REFORMING INDIA'S DELIMITATION PROCESS

An examination of due process of delimitation reveals a fundamental dichotomy between the constitutional mandate to uphold "one person, one vote" and the political complexities inherent in its implementation. While the Delimitation Commission is presented as an autonomous body, its functional efficacy is undermined by several factors, including a formula predominantly based on demographics, the potential for executive body's influence and the controversial power to defer exercises. The impending 2026 delimitation exercise poses a critical juncture for Indian democracy, as the process must reconcile population-based representation with the imperative of federal equity, particularly for states that have achieved demographic stabilization.

³³ THE CHIEF ELECTION COMMISSIONER AND OTHER ELECTION COMMISSIONERS (APPOINTMENT, CONDITIONS OF SERVICE AND TERM OF OFFICE) BILL, 2023, S.7