
INSTITUTIONAL DYNAMICS IN ELECTORAL DEMOCRACY: EXAMINING THE ROLES OF THE DELIMITATION COMMISSION AND THE ELECTION COMMISSION OF INDIA IN ENSURING FREE AND FAIR ELECTIONS

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ABSTRACT

With India nearing the 2026 census and resultant delimitation, the air is filled with debates of pros and cons of such vast exercise after almost more than two decades. The concerns are, primarily, two-fold. One, of transparency and gerrymandering and the other of federal equity. While these concerns are real and apparent, there is no denial to the fact that census and delimitation are both, a long due tasks to be undertaken to strengthen the democratic structure of India.

The idea of this paper is to explore the role and interaction of the two most important institutions, Delimitation and Election Commission, when it comes to undertaking the task of delimiting constituencies and conducting free and fair elections in the largest democracy of the world. While exploring the institutional dynamics the paper will seeks to address the key concerns regarding the exercises carried out by these two institutions, like transparency and gerrymandering, and how these two institutions can make the process more trustworthy for voters and people of India. The paper will use legal and constitutional analysis of laws, judgments, and official reports to study the roles of the Delimitation and Election Commissions for this purpose.

Alongside, another important aspect of upholding democracy i.e. the balancing of federal equity, will be discussed in the paper while proposing solutions to find the equilibrium to satisfy both the functional and philosophical aspect of constitutional principles.

INTRODUCTION

In a representative democracy, a fair electoral process is of critical importance. Such a fair electoral process would require transparency and equity on the part of institutions responsible for upholding public trust on the electoral process. India, is one of the largest democracies of the world and its electoral process is a vast exercise involving huge investment in terms of both human resource and money. In this paper, I am trying to address the two most important facets of a functional democracy. One, is equal representation of states and its people and the second, is transparency and trust in the electoral process. I have chosen these two issues in the light of on-going debates around the federal equity and delimitation exercise, and the obscurity around the role of Election Commission of India when conducting the electoral exercises. It is important to note that both these issues are vital for the states and individuals, both as a federal and functional unit of a democratic country which claims to uphold both group as well as individual rights.

The two critical responsible institutions under scrutiny in this paper are the Delimitation Commission and the Election Commission of India. Both these institutions are constitutionally mandated bodies or perform constitutionally mandated functions, which have their own niche but they do interact, and their interaction is of equal importance in a federal democracy, like India. It is both, their individual roles and interaction that will form the subject matter of the paper to study the efficacy of these institutions and the trust that they are able to forge in the people of India.

The exercise of delimitation of constituencies is long due and is set to be done after the census of 2026. In India, the exercise of delimitation, which is constitutionally mandated, is carried out by the Delimitation Commission constituted under an act of Parliament. Similarly, the Election Commission is responsible for the conduct of elections under the Constitution of India but the appointment of the Election Commission and their term is governed by an act of Parliament. Thus, both these bodies perform constitutionally mandated functions through an act of Parliament but their constitution and appointments are controlled by the ruling government through an act of Parliament. It is needles to point out the functioning bias these bodies have the potential to hold, nonetheless, 'we the people of India' repose trust in both the act of Parliaments and the resultant bodies. Hence, it is important that in situation of scepticism, these bodies are accountable to the voters of India more than any other body.

In comparison to the Delimitation Commission, which has rather crisp role for a certain duration, the role of Election Commission is wide and continuous. Some or other assembly election keeps taking place year after year and thus both the duty and accountability of Election Commission of India is unceasing towards the voters of this nation. Due to practical limitations, it will not be possible to discuss every intricacy of the ECI, but the one important for our discussion i.e. transparency in appointment of the Election Commissioners. The reason to choose this aspect is interwind in the appointment of members of Delimitation Commissioners, which I will be dealing in the later section of the paper.

Let me present you a structure of how the paper will unfold itself in the sections to come. Following the introduction, will be the Constitutional and Legal Framework of the two institutions of our subject i.e. the Election Commission, and the Delimitation Commission. Next, (the concerns of gerrymandering and federal inequity) will be the Role of Delimitation Commission and Election Commission of India. After which I will discuss the Interaction of these two institutions. At last, the paper will discuss the challenges and solutions.

CONSTITUTIONAL AND LEGAL FRAMEWORK

Both, the Election Commission of India, and the Delimitation Commission are directly or indirectly, constitutionally mandated bodies. While the structure of Election Commission is directly provided by the Constitution of India under *Article 327*, the manner of appointment of chief Election Commissioner, other Election Commissioners, their tenure of service and other roles and responsibility are to be governed by an act of parliament. The constitution, however, secures the tenure and removal of the chief Election Commissioners and other Election Commissioner under the same article. Following this, an act parliament is in place, at present, i.e. *The Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Act, 2023*. This is obviously a latest substitution for an earlier act, *Election Commission (Conditions of Service of Election Commissioners and Transaction of Business) Act, 1991*. Before the act of 2023 came into effect there was no legal enactment governing the process of appointment of the Chief Election Commissioner and other Election Commissioners. The appointments were made conventionally, by the President of India obviously on the advice of Council of Ministers. The Act of 1991 only regulated the salaries of the members of commission and their terms of service. This same procedure went on until in 2015, a Public Interest Litigation (PIL) was filed which stated that the current system

of appointing the Election Commissioners was unconstitutional as it gave supreme power of appointment to the executive without any checks and balances. The PIL urged that Hon'ble the Supreme Court should lay down certain guidelines so that the election commissioners should be appointed in an impartial and independent manner.¹ The Hon'ble Supreme Court decided the matter and pronounced the judgement finally in 2023, whereby it directed for setting up of a committee comprising of three members: the Prime Minister, the Leader of Opposition in the House of the People and the Chief Justice of India. However soon after the Judgement, a bill was passed in the Parliament which brought "*The Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Act, 2023*" which lays down that the Chief Election Commissioner and the other election commissioners shall be appointed by a select committee comprising the Prime Minister, the Leader of Opposition in the House of the People, and a Union Cabinet Minister to be appointed by the Prime Minister. The act was passed in stark violation of the order passed by Hon'ble the Apex court of the country which clearly reflects that the appointment of the Chief Election Commissioner is of grave political advantage. If that was not the case, the government would not have made sure that the appointment be made solely on the whims and fancies of the ruling party.

All said and done, now the 2023 Act is also under challenge in the Supreme Court as it violates the earlier orders passed by the court.² However, as of now, a Division Bench refused to stay the application of Act and the matter is still under consideration. It has been a long journey of realization for the people of India that the Election Commission must be inviolable and independent from the political interferences, if we want to preserve the democracy in true sense. Irrespective of the ruling government, the Election Commission should uphold the faith of the people of India in their Constitution, as rightly said by *Mr. T.N. Seshan*, a former Chief Election Commissioner of India, "*I am not the Election Commissioner of the Government of India, I am Election Commissioner of India.*" This is not for the first time that this realization has occurred, instead the same concern has once been echoed in the Constituent Assembly while article 324 and the appointment of Election Commissioners was in debate.³ However, the assembly had, wrongly put, faith in the future political leaders and their integrity.

¹ *Anoop Barnwal v. Union of India* 2023 (6) SCC 161

² *Dr. Jaya Thakur & Ors. v Union of India & Anr.*

³ Constitutional Assembly Debates on June 15, 1949 available at: <https://www.constitutionofindia.net/debates/15-jun-1949/#103201> (last visited on August 27, 2025)

In comparison to the Election Commission, the Delimitation Commission is rather more a result of an act of parliament than a constitutional body. However, it performs a constitutionally mandated function of utmost significance. It carries out the delimitation of constituencies which simply means that it fixes or limits the boundaries of territorial constituencies in a country or a state having legislative body.⁴ *Article 82* of the Constitution of India lays down provision for readjustment of seats after each census. The same Article froze the seat allocation for House of the People as per the census of 1971 and the division of each state into territorial constituencies, as per the census of 2001. A similar provision is made under *Article 170 (3)* for the Legislative Assemblies of all the States. Now, while *Article 82* or *170*⁵ makes readjustment of seats, a constitutional mandate after each census, *Article 327*⁶ empowers Parliament to make laws relating to elections to either House of Parliament or to the either House of Legislature of a State and such power includes making law with respect to “delimitation of constituencies and all matters necessary for due constitution of such House or Houses.” Additionally, *Article 330* and *332* mandate the reservation of seats for Schedule Caste and Schedule tribes in House of the People and Legislative assemblies respectively and the reserving of those seats is again done because of delimitation exercise. It is in consequence of these provisions of the constitution that the Delimitation Commission comes to take shape. These Delimitation Commissions are not permanent bodies with permanent administrative staff instead every time need be, they are created by a fresh act of Parliament. Until now, these commissions have been constituted four times in India in 1952, 1963, 1973 and 2002, every time by an act of Parliament repealing the earlier ones.⁷ The first three Parliamentary Acts i.e. The Delimitation Commission Act, 1952, that of 1962 and that 1972, are in essence same. There is a little variation in between the last-mentioned Acts, however, the Act of 2002 varies the composition of the members of the Delimitation Commission and adds another provision with respect to deferment of delimitation in certain cases.⁸

It is pertinent to note that the Chief Election Commissioner has been made an ex-officio member of the Delimitation Commission in each of the acts constituted since 1952 till 2002. This fact marks the beginning of the realization that even though these bodies seem to be constituted under two different acts and provisions of the Constitution but their interaction is

⁴ Election Commission of India, available at: <https://www.eci.gov.in/delimitation> (last visited August 29, 2025)

⁵ The Constitution of India

⁶ *Ibid.*

⁷ *Supra* note 4

⁸ The Delimitation Act, 2002, s. 10A

inevitable towards the common goal of securing free and fair elections in India. This is not the only time that we will see the Election Commission or its members being part of delimitation exercise. In fact, since the Delimitation Commission does not function full time, mostly the Election Commission takes up the task of minor reorganisation of the boundaries and allocation of reserved seats, in case a new State is formed.

CONCERNS

A. Gerrymandering & Transparency

‘Gerrymandering’ means such political redrawing of the boundaries of electoral constituencies so that it is skewed in favour of one party. The term originates from American political scene in 1812 when the Democratic-Republican party had redrawn the electoral boundary of the State of Massachusetts. This redrawing was done under the governorship of one, Elbridge Gerry. The redrawn boundary was damaging to the political ambitions of the opposition, the Federalist Party. Later, a map of the State of Massachusetts was published in a newspaper which compared it to a mythical character ‘salamander’ and hence the term ‘Gerrymander’ came into existence.⁹ So, even though the practice might have been more ancient, the history of providing a nomenclature can be traced to this incident.

If we go by the understanding of the American author, Leroy Hardy, silent gerrymandering by legislative inaction has been going on for a long time.¹⁰ The legislative move of freezing the representation in the House of the People as per the 1971 census is nothing but a gerrymandering of a kind. From 1951 to 1971, each decade seat readjustments were done based on census. However, the 42nd Constitutional Amendment froze the readjustment of seats till 2001 which was further extended for a period of 30 years by the 84th Constitutional Amendment Act. The right of people of India, for equal representation, has since been compromised by the freezing of the census figures and the consequential inaction on delimitation procedures. Similarly, gerrymandering has been practiced in readjusting boundaries in the state assemblies. But as it is evident, India has moved passed these events of injustice with exemplary

⁹ Leroy Hardy, *The Gerrymander: Origin, Concept and Resurgence* 3 (Rose Institute of State and Local Government, Columbia, 1990).

¹⁰ *Id.* at 8

endurance because perhaps the political leaders across the country were satisfied with this arrangement. However, currently as the political dynamics has shifted, the issue gains importance in the political streets of the Parliament.

In the light of the recent Special Intensive Revision (SIR) exercise by the Election Commission of India for the assembly polls of the upcoming Bihar Assembly elections which will be then followed, hopefully, by the census exercise in 2026 and delimitation of constituencies thereafter, it gets significant to discuss the possibility of gerrymandering of various forms that may be peculiar to political concerns of India. Elections in India are influenced not only by ideologies but also religion, caste, and gender. Candidates are chosen influenced by these factors by all the contesting parties to ensure their win. Thus, while the census will provide the data on all these diverse factors such as religion, caste, and gender, it can always be apprehended that the delimitation exercise can be carried out in such a manner that these factors can be so used as to favour of the ruling government. As already being seen that the opposition political parties are accusing the Election Commission of preparing voters list in Bihar using such sociological hierarchies for targeting a certain class of voters which may vote to the disadvantage of the ruling government, it will not be a surprise that similar atmosphere of distrust may be built around the proposed census and the delimitation exercise. Behind the various accusations against the intentions of the Election Commission is one important claim that there is an attempt to manipulate the voters list to undermine the principle of *universal adult franchise*.¹¹ The problem is not the accusations but that if the Election Commission does not make the process seamless and transparent, these allegations are bound to arise in all upcoming electoral projects. What needs to be derived from the above discussion is that accusations take shape only under obscure circumstances and since both the Election Commission and Delimitation Commission are functioning under constitutional mandate their primary responsibility lies towards the people of India, that goes without saying that they are obviously answerable to the President and the Parliament of India.

¹¹ Yogendra Yadav, "Bihar's SIR exercise is a threat to right to vote-across India", *Indian Express*, July, 15 2025, available at: <https://indianexpress.com/article/opinion/columns/yogendra-yadav-writes-bihars-sir-exercise-is-a-threat-to-right-to-vote-across-india-10126554/> (last visited on August 29, 2025)

B. Federal Equity

The process of delimitation of parliamentary constituencies is due long and so is the expansion of the seat share of each State in the House of the People. The Constitution allows maximum 550 seats in the House of the People and at present, there are total 543 elected members in the House. However, this seat distribution is based on the population census of 1971 after which a census exercise was carried out in 2001 but the Parliament by the 84th Constitutional Amendment Act extended this freeze upon the seat distribution until after the year 2026. It has been reasoned that the Southern States that have relatively less population compared to the Northern States will feel punished for faring well on the parameters such as population growth and literacy. However, such reasoning interferes with principle of '*equal representation*'¹² in our Constitution under Article 81(2)(a) which states that:

*“there shall be allotted to each State a number of seats in the House of the People in such manner that the ration between that number and the population of the State is, so far as practicable, the same for all States”*¹³

The solution to the problem of regional population imbalance and equal representation of votes does not lie in evading the constitutional principles of democracy. It will further exacerbate the problems and dissatisfactions, and create a gap of expectations and delivery that will be hard to meet by any government. It will also put the principles of federalism at test and create an atmosphere of tension amongst the States in north and south. Tensions already prevail between the northern and southern States on issues of language and migration and a straight-jacket formula for all will not suffice the situation without satisfying the concerns of the States at disadvantage.

To see how the number of seats have not changed in since 1971 but the population has increased manifold, as per the last census data of 2011, I prepared a data and graph set to study how it affects the proportional representation of all the States. That goes without saying that the data is not sufficient for studying the status of population in 2025. However, studying the pattern may help to predict the increase and decrease in

¹² Verma, A.K. “Issues and Problems in India’s Delimitation Exercise.” 63 *The Indian Journal of Political* 37188 (2002), available at: <http://www.jstor.org/stable/42753697>

¹³ *Supra* note 5

population trend which in all probability hold itself in the positively increasing direction.

Let us look at the present allocation of seats to some of the major States in Lok Sabha and compare it with seats in 1971.

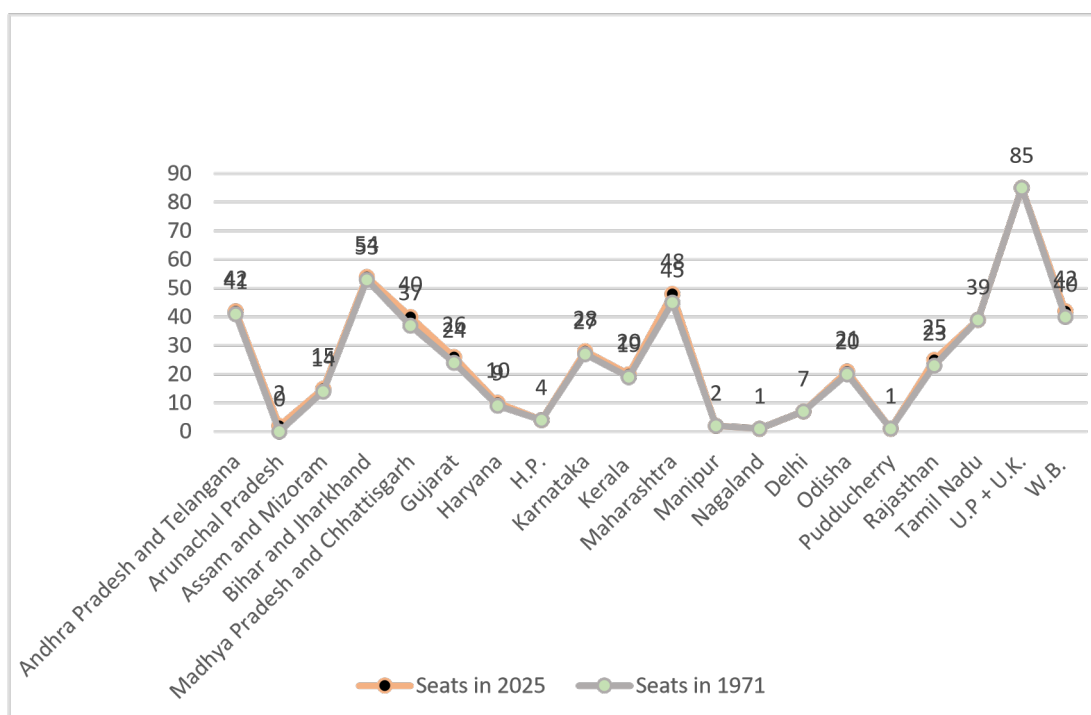
MAJOR STATES	SEATS IN 2025	SEATS IN 1971
ANDHRA PRADESH	25	41 (including Telangana)
ARUNACHAL PRADESH	02	-
ASSAM	14	14 (including Mizoram)
BIHAR	40	53 (including Jharkhand)
CHHATTISGARH	11	-
GOA	02	02
GUJARAT	26	24
HARYANA	10	09
HIMACHAL PRADESH	04	04
JHARKHAND	14	-
KARNATAK	28	27
KERALA	20	19
MADHYA PRADESH	29	37 (including Chhattisgarh)
MAHARASHTRA	48	45
MANIPUR	02	02
MEGHALAYA	02	-
MIZZROAM	01	-
NAGALAND	01	01
NCT OF DELHI	07	07

ODISHA	21	20
PUDDUCHERY	01	01
PUNJAB	13	13
RAJASTHAN	25	23
SIKKIM	01	-
TAMILNADU	39	39
TELANGANA	17	-
TRIPURA	02	02
UTTAR PRADESH	80	85 (including Uttarakhand)
UTTARAKHAND	05	-
WEST BENGAL	42	40

Source: Election Commission of India, <https://www.eci.gov.in/term-of-the-houses>, India Votes, https://www.indiavotes.com/pc/party/statewise_seats_breakup/5

The data here compares seat allocation in the House of the People in the year 1971 and in the year 2025. The seat allocation in 1971 in many of the States in the undivided States.

The line graph below compares the share of seats in the year 1971 and the year 2025 and for the sake of convenience the undivided Status of the States and their cumulative seat share has been considered for the year 2025. It is quite evident that the in these 54 years little to no change has taken place in the seat allocation in the House of People. The Changes in many of the States is a result of many States being divided and their state boundaries being redrawn, like in the case of Bihar and Jharkhand, Madhya Pradesh, and Chhattisgarh. This has also been a reason that the total number of seats in the House of the People has gone up from 518 in 1971 to 550 at present.

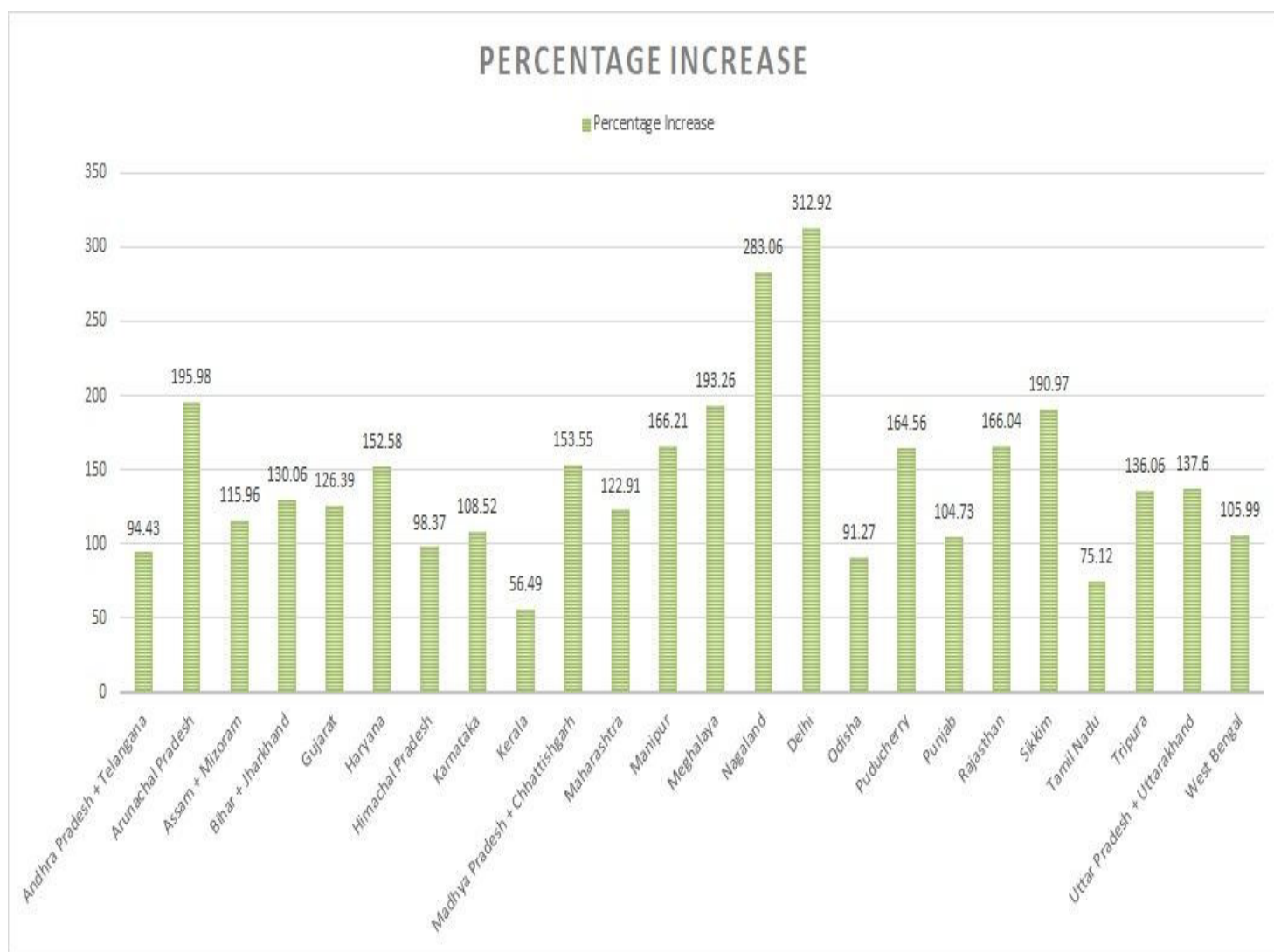


A line graph representing the number of seats in Lok Sabha in some of the major States in the year 1971 and 2025.

In contrast to the change in number of seats, there has been a rapid and large shift in populations across states. Since 2011 census data is the latest formal census data available, I have compared the same with year of the freeze i.e. 1971. In the table below, census figures of both 1971 and 2011 have been compared. For the States which were not divided in 1971, I have taken their total figures with the divided States even for 2011 and also their individual data for 2011 census, for the ease of comparison.

	MAJOR STATES	TOTAL POPULATION IN 1971	TOTAL POPULATION IN 2011
1	ANDHRA PRADESH (+TELANGANA)	4,35,02,708	8,45,80,777
2	ARUNACHAL PRADESH	4,67,511	13,83,727
3	ASSAM + MIZORAM	14957542	32302782
4	BIHAR + JHARKHAND	56353369	129644650
5	CHHATISGARH		25545198

6	GUJARAT	26697475	60439692
7	HARYANA	10036808	25351462
8	HIMACHAL PRADESH	3460434	6864602
9	JHARKHAND		32988134
10	KARNATAKA	29299014	61095297
11	KERALA	21347375	33406061
12	MADHYA PRADESH + CHHATTISGARH	41654119	105614943
13	MAHARASHTRA	50412235	112374333
14	MANIPUR	1072753	2855794
15	MEGHALAYA	1011699	2966889
16	MIZZROAM		1097206
17	NAGALAND	516499	1978502
18	NCT OF DELHI	4065698	16787941
19	ODISHA	21944615	41974218
20	PUDDUCHERY	471707	1247953
21	PUNJAB	13551060	27743338
22	RAJASTHAN	25765806	68548437
23	SIKKIM	209843	610577
24	TAMILNADU	41199168	72147030
25	TRIPURA	1556342	3673917
26	UTTAR PRADESH + UTTARAKHAND	88341144	209898639
27	UTTARAKHAND		10086292
28	WEST BENGAL	44312011	91276115



Bar graph representing percentage increase in number of population form 1971 till 2011 census.

The bar graph above shows the percentage increase in population in some major States. It is evidently clear from the simple reading of the graph that some Northern States like Delhi, Haryana, and Uttar Pradesh show a drastic increase in population as per 2011 census, however, the Southern States like Kerala, Tamil Nadu, and Andhra Pradesh show a steady and slow increase in their population. This makes both the two things clear, one how the population increase since 1971 is not being projected in the number of seats in House of the People and two, how there are regional imbalances in the population growth that might not do justice with the many Southern States when it will come to distribution of seats in the House of the People after the much anticipated 2026 freeze in the census figures.

NEED FOR CHECKS AND BALANCES

a) Appointments

The Delimitation Commission and Election Commission are both constituted by the President of India. The procedure for the appointment of the members of the commissions are governed by individual acts. I have discussed above about the constitution of both the bodies under the Constitution of India, and their respective legislations. I have also mentioned how the appointment of the Chief Election Commissioner is of political significance and his ex officio membership in the Delimitation Commission in all the Commissions constituted until now. As far as these two commissions are concerned, the appointments hold the key to the trust that they build. It means that the more we strengthen and secure the positions of these commissions, the more likely they are to earn public trust in upholding the representative democracy in the country. The appointments more specifically need to be apolitical. Currently, the appointments are made by the executive on their whims and fancies which raises suspicion that either such appointments are a result of some past or future gratification.

b) Judicial Review

Additionally, judicial intervention in delimitation exercises and other electoral matters is specifically barred in India under Article 329(a) which states

“the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 327 or article 328, shall not be called in question in any court”¹⁴

This gives the legislature an exclusive control over the exercise of delimitation and thus prospectives of influencing and interfering in the process for their own benefit i.e. gerrymandering.

¹⁴ *Supra* note 5

c) Maintaining Federal Equity

The defreezing of the census and consequently the delimitation exercise is a muchneeded exercise. This will help upholding the principle of proportional representation in true sense. Additionally, the serious concern of regional imbalance must be investigated seriously as the north-south divide may cause harm to the federal structure of the country.¹⁵

SOLUTIONS AND CONCLUSION

First, the appointment of members of, both, the delimitation commission and the election commission must be made transparent, apolitical, and inclusive all at the same time. The most efficient way to do this will be constituting a multi-member select committee encompassing the political leaders of all the parties on the national and state levels. The ruling parties of Centre and all States and the opposition of Centre and the States should both propose two names each for consideration. A voting shall be done with majority of all the members present and voting and the resultant candidate must be proposed to be the Chairman of the Commissions. The same procedure can hold true for both the commissions.

Second, judicial checks and balances is a necessary step, in my opinion, to cure the chances of biasness in any of the exercises of either the Delimitation Commission or the Election Commission of India. The Courts in past have refrained from interfering in the process of delimitation exercise citing the bar by Article 329 and have given reasoned decision as to the necessity of the exercise being free from judicial intervention. This kind of restraint is also seen to be practised by the courts in America and Britain, however, at times interventions have been made by these courts as well, citing that in case any kind of gerrymandering results in violation of constitutional and legal rights of citizens, the courts will have to protect it.¹⁶

Third, the maintaining of federal equity needs two simultaneous things one, that defreezing of the census figures and consequent delimitation and two, to bridge the divide between the southern and northern States. Some argue that seats in the Lok Sabha should be distributed

¹⁵ Mohd. Sanjeer Alam, "India's Delimitation Dilemma: Challenges and Consequences," *The India Forum*, October 16, 2024, available at: <https://www.theindiaforum.in/politics/indias-delimitation-dilemma-challengesand-consequences>

¹⁶ Vineeth Krishna, "Should Courts Review Delimitation," *Constitution of India*, June 19, 2025, available at <https://www.constitutionofindia.net/blog/should-courts-review-delimitation/>

strictly by population proportions, in line with the constitutional principle of “*one person, one vote, one value*.” While fair, this approach disregards the concerns of states—particularly in the South—that face losing representation despite successfully controlling population growth.

Southern states instead advocate delaying reapportionment until population growth rates converge across states or exempting smaller states and Union Territories from the population principle. They argue that if federalism already allows exceptions, broader flexibility should be permitted. Yet, as seen in other democracies like the UK and Canada, seat allocation is not always tied strictly to population. Still, such approaches risk perpetuating inequality, undermining fair representation, and requiring repeated constitutional changes—contradicting democratic principles.

One partial solution is to expand the size of the Lok Sabha so that no state loses seats during redistribution. However, this does not address the underlying power imbalance that arises from disproportionate growth in representation for larger states. An alternative lies in reforming the Rajya Sabha, the upper house meant to represent states. By either creating a weighted formula that factors in demographic and non-demographic elements, or allocating seats equally across states—as in the US, South Africa, or Nigeria—the loss of power in the Lok Sabha could be offset.¹⁷

A combined solution involves both expanding the Lok Sabha and redistributing Rajya Sabha seats on new terms, striking a balance between fairness and federalism. Compared to indefinite postponement of delimitation, restructuring the Rajya Sabha requires fewer constitutional amendments and has precedent in other federal systems, making it a politically less costly and more sustainable compromise.

¹⁷ *Supra* note 15