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DELIMITATION 2026: REDRAWING THE REPUBLIC **CONSTITUTIONAL NECESSITY, ELECTORAL** **EQUALITY, AND THE ARTICLE 14 IMPERATIVE**

AUTHORED BY - AKHIL S AND SANTOSH SUBRAMANIAM

Institution: SASTRA Deemed University

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ABSTRACT

A vote, at its most elementary level, is a claim of equal citizenship. Yet in India today, that claim is compromised in a structural and entrenched way: the electoral weight attached to a single ballot varies significantly depending on where the voter happens to live. A citizen in a constituency of two hundred thousand electors sends the same single representative to Parliament as a citizen in a constituency of eight hundred thousand. This is not an administrative anomaly. It flows directly from a constitutional freeze that has held India's electoral map anchored to 1971 demographic data for over five decades. The Indian Constitution's guarantee of equality before law and equal protection of laws, enshrined under Article 14, is not merely a civil rights provision. It is the constitutional bedrock of democratic participation.¹

Delimitation is the periodic process of redrawing the boundaries of parliamentary and state legislative assembly constituencies to reflect population change. It is the mechanism through which the Article 14 guarantee is given practical content in the domain of political representation. The prolonged freeze on seat reallocation, first imposed by the Forty-Second Constitutional Amendment of 1976 and extended through the Eighty-Fourth Amendment of 2001 until the first census following 2026, has generated a condition of systemic malapportionment that directly contravenes the equal protection obligation.²

This article examines the constitutional necessity of delimitation in 2026 through the twin lenses of socio-political urgency and equality jurisprudence. It makes three interlocking arguments. First, the continued freeze constitutes passive malapportionment that violates Article 14's arbitrariness doctrine as developed in *E.P. Royappa v. State of Tamil Nadu*. Second, Article 329(a)'s ouster of judicial review is procedural in nature and cannot, by operation of Article 13(2), shield delimitation orders that are manifestly unconstitutional. Third, the failure of the Constitution (131st Amendment) Bill, 2026 makes a calibrated middle path between the freeze and strict proportionality an immediate constitutional imperative. The article concludes with reform proposals designed to honour both electoral equality and federal balance.

Keywords: Delimitation, Article 14, Electoral Equality, Malapportionment, Article 329, Judicial Review, One Person One Vote, Degressive Proportionality, North-South Divide,

¹ INDIA CONST. art. 14.

² INDIA CONST. arts. 81(2), 82, 170.

Kishorchandra, Nari Shakti Vandan Adhiniyam.

INTRODUCTION

Every five years, India conducts the world's largest democratic exercise. Hundreds of millions of citizens step into polling booths to cast what the Constitution declares to be an equal vote. The scale is remarkable. But scale, on its own, does not secure equality. Beneath this democratic spectacle lies a structural problem of notable persistence: not every vote carries the same weight. A voter in an overrepresented southern constituency exercises an electoral voice that is, in quantitative terms, measurably more influential than that of a voter in an underrepresented northern constituency. This asymmetry is not incidental.³

Delimitation is the constitutionally mandated process of periodically redrawing the boundaries of parliamentary and state legislative assembly constituencies to keep pace with population change.⁴ Article 14's equal protection guarantee gives this obligation a substantive character: each constituency must represent roughly the same number of persons, so that the vote of a citizen in one part of India carries weight comparable to that of a citizen elsewhere. The Forty-Second Amendment of 1976, enacted during the Emergency, froze both inter-state seat allocation and constituency boundaries. The Eighty-Fourth Amendment of 2001 extended that embargo to the first census after 2026.⁵ The Eighty-Seventh Amendment of 2003 permitted internal boundary adjustment using 2001 Census data, yielding the Delimitation Order of 2008, but left the macro-level inter-state allocation unchanged. The result is an electoral architecture whose demographic premises belong to a country that India has long ceased to be.

The year 2026 marks the expiry of this freeze, triggering, for the first time in half a century, a genuine obligation to realign electoral geography with demographic fact. A population-proportional redistribution of seats would substantially increase representation for rapidly growing northern states while correspondingly reducing the relative share of southern states that followed national family planning guidelines. This creates a genuine tension between the democratic imperative of one person, one vote and the federal concern that responsible demographic governance should not carry political consequences. This article argues that

³ The Constitution (Forty-Second Amendment) Act, 1976 (India); The Constitution (Eighty-Fourth Amendment) Act, 2001 (India).

⁴ INDIA CONST. arts. 81(2), 82, 170.

⁵ The Constitution (Forty-Second Amendment) Act, 1976 (India); The Constitution (Eighty-Fourth Amendment) Act, 2001 (India).

Article 14 supplies both the analytical framework and the judicial mechanism for resolving that tension.⁶

LITERATURE REVIEW

A. The Constitutional Mandate and Its Historical Interruption

The constitutional obligation of periodic delimitation is embedded in Articles 81(2), 82, and 170, which collectively require the readjustment of seat allocation and constituency boundaries following each decennial census.⁷ The mandate draws democratic legitimacy from Articles 325 and 326, which guarantee a single general electoral roll and adult suffrage as the foundation of elections.⁸⁹ Together, these provisions sketch a constitutional vision of democratic participation in which every adult citizen counts equally. Delimitation is the institutional mechanism that gives that vision practical content. India has conducted four comprehensive delimitation exercises, in 1952, 1963, 1973, and 2002. The last of these, operating under the Delimitation Commission Act, 2002 and producing the Delimitation of Parliamentary and Assembly Constituencies Order, 2008, redrew internal constituency boundaries and refixed reserved seats on the basis of the 2001 Census, while leaving the inter-state allocation of Lok Sabha seats frozen at 1971 figures.¹⁰¹¹

B. Malapportionment and the Democratic Deficit

Empirical scholarship has traced the representational costs of India's electoral freeze with mounting precision. Research by Patel and Sekher establishes statistically significant disparities in political representation attributable directly to the freeze: high-growth states are substantially under-represented in Parliament relative to their actual populations, while low-growth states retain political weight that no longer corresponds to their demographic share.¹² Ghosh and Kar have extended this empirical account to its doctrinal conclusion, characterising the resulting condition as passive malapportionment — systemic voter inequality arising from the State's sustained non-performance of its constitutional obligation — and arguing that this

⁶ INDIA CONST. art. 14.

⁷ INDIA CONST. arts. 81(2), 82, 170.

⁸ INDIA CONST. art. 326.

⁹ INDIA CONST. art. 325.

¹⁰ Delimitation of Parliamentary and Assembly Constituencies Order, 2008, Schedules I and II (Nirvaachan Sadan, Election Commission of India).

¹¹ Delimitation Commission Act, No. 33 of 2002, § 10(2) (India).

¹² Pankaj Kumar Patel & T.V. Sekher, Parliamentary Delimitation: A Study on India's Demographic Struggle for Political Representation, 58 *J. Biosoc. Sci.* 1 (2024).

condition fails fundamental rights scrutiny under Article 14.¹³ Quantitative modelling applying a degressive proportionality formula across four future delimitation cycles identifies a parameter value of 0.8 as the uniquely stable configuration: sufficiently responsive to population change to honour the equality principle, while avoiding the federal destabilisation that strict proportionality would produce.¹⁴

C. Regulatory and Judicial Shortcomings in Delimitation Governance

The literature converges on two structural failings in India's delimitation governance. The first is institutional: the Delimitation Commission, though constituted with judicial character, has no mechanism to compel the State to perform its delimitation obligation when Parliament repeatedly defers it. The second is judicial: the absolute bar established by *Meghraj Kothari v. Delimitation Commission* (1967) historically foreclosed constitutional courts from asking whether the State's failure to delimit was itself a fundamental rights violation.¹⁵ Francis et al., writing in *Lex Localis* (2025), identify a trifecta of transformation in recent Supreme Court jurisprudence — comprising *Dravida Munnetra Kazhagam v. State of Tamil Nadu* (2020), *State of Goa v. Fouziya Imtiaz Shaikh* (2021), and *Kishorchandra Chhanganlal Rathod v. Union of India* (2024) — that has progressively dismantled the absoluteness of that bar, carving out a constitutionally significant exception for manifestly arbitrary delimitation orders.¹⁶

THE FROZEN REPUBLIC

A. The Anatomy of the Delimitation Freeze

Why is India's electoral map still drawn from 1971 data? The answer begins in the Emergency. The Forty-Second Amendment, enacted in 1976, froze the allocation of Lok Sabha and Legislative Assembly seats to the 1971 Census figures. The rationale was a deliberate policy choice: states that had implemented national family planning directives and experienced slower population growth should not lose parliamentary representation to states with higher fertility rates.¹⁷ When this freeze was due to lapse following the 2001 Census, Parliament extended it a

¹³ Budhaditya Ghosh & Priyanshu Kar, All Equal but Some More Equal: Passive Malapportionment in India and Its Constitutional Justiciability, *NUJS L. Rev.* (2025).

¹⁴ A quantitative modelling study applying the degressive proportionality formula $S_i = k \cdot (P_i)^\alpha$ across four delimitation cycles (2026, 2036, 2046, 2056) finds that $\alpha = 0.8$ produces a stable Malapportionment Index of approximately 0.1443 across all four cycles. At strict proportionality ($\alpha = 1$), Uttar Pradesh projects approximately 93 Lok Sabha seats from its present 80, while Tamil Nadu falls below its current 39. See generally *Lex Localis* (2025) (Francis et al., supra note 16) (modelling post-2026 seat allocation under degressive proportionality).

¹⁵ *Meghraj Kothari v. Delimitation Commission*, AIR 1967 SC 669.

¹⁶ Peter Ladis Francis et al., Necessity of Judicial Review in Delimitation and the Shifting Regime of Restrictions: To Review or Not to Review, 23 *Lex Localis J. of Local Self-Gov't* S4 (2025).

¹⁷ The Constitution (Forty-Second Amendment) Act, 1976 (India).

further quarter-century through the Eighty-Fourth Amendment of 2001, pushing the deadline to the first census after 2026.¹⁸ The Eighty-Seventh Amendment of 2003 subsequently permitted boundary adjustment within states on the basis of the 2001 Census, yielding the Delimitation Order of 2008.¹⁹ What it did not authorise was any change to the number of Lok Sabha seats allocated to each state. The cumulative weight of these amendments is a national legislature whose compositional framework reflects a demographic reality that no longer exists.

B. The North-South Divide: Democracy's Demographic Fault Line

The divergence between North and South at the heart of the delimitation controversy is real, documented, and politically combustible. Southern states — Tamil Nadu, Kerala, Andhra Pradesh, Telangana, and Karnataka — achieved substantial fertility decline across the same decades during which Uttar Pradesh, Bihar, Rajasthan, and Madhya Pradesh recorded considerably higher population growth. Under any population-proportional seat reallocation, this divergence would translate into a significant northward shift of parliamentary power: modelling indicates that Uttar Pradesh could gain substantially from its current 80 seats, while Tamil Nadu might fall below its present 39.²⁰ Southern political leaders have argued, with considerable force, that such an outcome would amount to a penalty for successful demographic governance — a perverse structural signal that rewards population growth and punishes states for complying with national policy directives. That argument carries genuine constitutional weight. So does its counterpart: Article 14's equal protection guarantee requires that each citizen's vote carry roughly equivalent political force, and the current freeze systematically compromises that requirement in favour of low-growth states.

C. India's Socio-Political and Demographic Realities in 2026

India in 2026 is a country of striking demographic contrasts. With a population exceeding 1.4 billion, it is the world's most populous democracy — yet the electoral framework governing how that population translates into representation has not been substantively recalibrated for over five decades. The 2011 Census documented sharp regional disparities: Uttar Pradesh's population had grown to approximately 199.8 million, while Kerala's stood at 33.4 million.²²

¹⁸ The Constitution (Eighty-Fourth Amendment) Act, 2001 (India).

¹⁹ Delimitation of Parliamentary and Assembly Constituencies Order, 2008 (Election Commission of India).

²⁰ Pankaj Kumar Patel & T.V. Sekher, Parliamentary Delimitation: A Study on India's Demographic Struggle for Political Representation, 58 *J. Biosoc. Sci.* 1 (2024).

²¹ Budhaditya Ghosh & Priyanshu Kar, All Equal but Some More Equal: Passive Malapportionment in India and Its Constitutional Justiciability, *NUJS L. Rev.* (2025).

²² Census of India 2011, Primary Census Abstract (Office of the Registrar General & Census Commissioner, India, 2013).

These figures, held frozen against a 1971 baseline, produce a measurable distortion in the weight each citizen's vote carries. These are not statistical abstractions. They represent real people whose voices count for less — or more — in the parliamentary processes that shape national budgets, welfare architecture, infrastructure allocation, and legislative priorities. The constitutional promise of equal citizenship is, in this domain, structurally unmet.

Rapid urbanisation has sharpened these imbalances further. Metropolitan agglomerations across the country have absorbed millions of internal migrants, swelling urban constituencies to sizes that neither the 1971 nor the 2001 Census frames anticipated.²³ Economically, southern and western states contribute a disproportionate share of direct tax revenue and GDP, yet find themselves with diminishing parliamentary leverage in the chamber that determines fiscal priorities. The socio-political upshot is a deepening regional grievance that is simultaneously constitutionally articulable and politically volatile. This is the human context of the Article 14 argument — delimitation bears directly on whose needs inform national policy, whose voices count in the federal bargain, and whether the foundational promise of equal citizenship can be honoured in the sphere of political representation.²⁴

D. The 2026 Legislative Flashpoint and its Aftermath

The government's legislative response to the 2026 delimitation threshold, the Constitution (131st Amendment) Bill, 2026, proposed expanding the Lok Sabha from 543 to approximately 850 elected seats and basing the reallocation on the 2011 Census rather than the anticipated post-2026 data.²⁵ The design was intended partly as a political bridge across the North-South divide: by expanding the House, the proposal sought to ensure that no state lost seats in absolute terms even as northern states gained proportionally. The Bill also sought to amend Article 334A to delink women's reservation from the census cycle, targeting implementation before 2029.

The Bill failed. It secured a simple majority in the Lok Sabha but not the two-thirds special majority required under Article 368 of the Constitution.²⁶ Its defeat has complicated rather than resolved the constitutional position. The underlying obligation to delimit has not evaporated; the constitutional clock runs regardless of parliamentary consensus. Without a legislative framework, any future delimitation exercise will proceed against the default mandate of population-proportionality, with all the federal tensions that entails. The aftermath of the Bill's

²³ Registrar General of India, Population Projection Report 2011–2036 (Office of the Registrar General & Census Commissioner, India, 2020).

²⁴ M.P. Jain, *Indian Constitutional Law* (LexisNexis, 8th ed., 2018) 894–896.

²⁵ The Constitution (One Hundred and Thirty-First Amendment) Bill, 2026 (India); LiveLaw, *Lok Sabha Rejects Constitution (131st Amendment) Bill, 2026 on Delimitation* (2026).

²⁶ INDIA CONST. art. 368.

failure makes the doctrinal analysis that follows more rather than less urgent.

ARTICLE 14 AND THE EQUALITY OF THE BALLOT

A. The Doctrinal Architecture of Article 14

Article 14 of the Constitution carries two interlocking guarantees.²⁷ The first, equality before law, is negative in character: derived from Dicey's classical conception of the rule of law, it holds that no person is exempt from legal accountability and that like cases receive like treatment.²⁸ The second, equal protection of laws, is positive: it requires the State to ensure that persons in analogous circumstances receive analogous treatment — a formulation drawn in part from the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.²⁹ In its early jurisprudence, the Supreme Court interpreted Article 14 primarily through the reasonable classification doctrine articulated in *Ram Krishna Dalmia v. Justice S.R. Tendolkar*: a classification passes constitutional scrutiny if it rests on an intelligible differentia and that differentia bears a rational nexus to the object of the legislation.³⁰ V.N. Shukla's commentary treats these two limbs as complementary rather than competing: the first ensures formal legal consistency; the second demands substantive equity in outcomes — and it is substantive equity that the electoral domain most directly engages.³¹

The doctrinal landscape shifted materially with *E.P. Royappa v. State of Tamil Nadu*. Justice Bhagwati's influential concurrence displaced the classification test as the exclusive mode of Article 14 review, articulating the arbitrariness doctrine in terms that have since governed the field: equality is a dynamic concept and where an act is arbitrary, it is unequal both according to political logic and constitutional law and therefore violates Article 14.³² This restatement extended Article 14's reach to cover arbitrary state action in all its forms, not merely the drawing of unreasonable distinctions. *Maneka Gandhi v. Union of India* anchored this development in a broader constitutional matrix, holding that Articles 14, 19, and 21 form an integrated code: any state action affecting rights must satisfy standards of fairness, justness,

²⁷ INDIA CONST. art. 14.

²⁸ *State of W. Bengal v. Anwar Ali Sarkar*, AIR 1952 SC 75 (establishing the foundational two-limb reading of Art. 14 in Indian constitutional jurisprudence).

²⁹ *Ram Krishna Dalmia v. Justice S.R. Tendolkar*, AIR 1958 SC 538 (noting the analogical relationship between Art. 14's equal protection limb and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution).

³⁰ *Ram Krishna Dalmia v. Justice S.R. Tendolkar*, AIR 1958 SC 538 (articulating the reasonable classification test: a classification is valid only if it rests on an intelligible differentia bearing a rational nexus to the object of the legislation).

³¹ V.N. Shukla, *Constitution of India* (Eastern Book Company, 14th ed., 2019) 52–54.

³² *E.P. Royappa v. State of Tamil Nadu*, AIR 1974 SC 555, ¶ 85 (Bhagwati, J., concurring).

and reasonableness.³³ M.P. Jain identifies the arbitrariness doctrine as the most consequential development in post-independence equality jurisprudence precisely because it converts Article 14 from a formal guarantee into a substantive check on state power.³⁴

B. Malapportionment as an Article 14 Violation

Malapportionment — the condition in which constituencies contain substantially unequal numbers of voters so that ballots carry materially different electoral force — sits squarely in opposition to the equal protection guarantee. It places citizens in unequal positions with respect to their most fundamental democratic act, and does so on no basis other than the geographic accident of their residence. There is no intelligible differentia between a citizen in one constituency and a citizen in another that explains or justifies the difference in the influence each vote commands. This imbalance is not the product of a rational legislative classification; it is the cumulative product of the State's sustained failure to honour a constitutional obligation. Under the *Royappa* arbitrariness doctrine, this failure is exactly the kind of state conduct Article 14 prohibits: arbitrary, without rational justification, and yielding outcomes that are systematically unequal.^{35,36}

The *Ajay Hasia* formulation presses the point further: the absence of objective standards governing the exercise of state power is itself a form of arbitrariness.³⁷ A legislative framework that permits the State to defer its delimitation obligation indefinitely — with no enforceable standard governing the duration, conditions, or constitutional limits of that deferral — lacks the objective rationality that Article 14 requires. Seervai's commentary reinforces this view: constitutional duties cannot be rendered aspirational through inaction, and where that inaction produces a demonstrable imbalance in fundamental rights, courts cannot simply look away.³⁸

C. The Women's Reservation Dimension: A Compound Inequality

The Nari Shakti Vandan Adhiniyam of 2023, enacted as the Constitution (One Hundred and Sixth Amendment) Act, mandates a thirty-three percent reservation for women in the Lok Sabha and state legislative assemblies.³⁹ The Act, however, explicitly conditions the operationalisation of this reservation on the completion of a delimitation exercise following the

³³ *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

³⁴ M.P. Jain, *Indian Constitutional Law* (LexisNexis, 8th ed., 2018) 894–896.

³⁵ *E.P. Royappa v. State of Tamil Nadu*, AIR 1974 SC 555, ¶ 85 (Bhagwati, J., concurring).

³⁶ Budhaditya Ghosh & Priyanshu Kar, All Equal but Some More Equal: Passive Malapportionment in India and Its Constitutional Justiciability, *NUJS L. Rev.* (2025).

³⁷ *Ajay Hasia v. Khalid Mujib Sehravardi*, (1981) 1 SCC 722, ¶¶ 14–16 (India).

³⁸ H.M. Seervai, *Constitutional Law of India* (Universal Law Publishing, 4th ed., Vol. III) 2841–2848.

³⁹ The Constitution (One Hundred and Sixth Amendment) Act, 2023 (Nari Shakti Vandan Adhiniyam) (India).

first census taken after the Act's commencement. The constitutional interaction between this provision and the seat-freeze is stark: because the freeze remains operative until census figures post-dating 2026 are published — anticipated only after the 2031 Census — the thirty-three percent reservation cannot take legal effect until the early 2030s at the earliest. The failure of the 131st Amendment Bill, which had sought to sever this linkage, has made the deferral more entrenched, not less.

What this structural entanglement produces, in practice, is a layered deprivation under Article 14. The seat-freeze, by deferring delimitation, simultaneously defers the realisation of gender equality in political representation. Women citizens face a double disadvantage: their votes already carry unequal weight by reason of malapportionment, and the statutory guarantee of proportionate representation is rendered unenforceable by the same structural inaction. Durga Das Basu's commentary treats the non-implementation of constitutional mandates as a form of constitutional failure distinct from active violation but no less damaging to constitutional integrity.⁴⁰⁴¹

THE JUDICIAL CROSSROADS

A. The Article 329 Bar and Its Constitutional Rationale

Article 329(a) of the Constitution provides, through a non-obstante clause, that the validity of any law relating to the delimitation of constituencies or the allotment of seats made or purporting to be made under Article 327 or Article 328 shall not be called in question in any court.⁴² Section 10(2) of the Delimitation Commission Act, 2002 reinforces this protection, treating Commission orders as having the force of law once published.⁴³ The foundational judicial elaboration of this bar came in *Meghraj Kothari v. Delimitation Commission*. A five-judge Constitution Bench upheld an absolute bar, reasoning that allowing challenges to delimitation orders would enable any voter to hold up an election indefinitely by moving from court to court.⁴⁴

The structural difficulty with this absolute position is its tension with Article 13(2), which declares that the State shall not make any law abridging Part III rights, and that any such law shall be void to the extent of the contravention.⁴⁵ If a delimitation order, as a law made under

⁴⁰ Durga Das Basu, *Introduction to the Constitution of India* (LexisNexis, 25th ed.) 418.

⁴¹ Arohi Malpani & Simone Vaidya, To Review or Not to Review: Delimitation Dilemma in the Context of *Kishorchandra Changanlal Rathod v. Union of India*, *Law Sch. Pol'y Rev.* (Feb. 25, 2025).

⁴² INDIA CONST. art. 329(a).

⁴³ Delimitation Commission Act, No. 33 of 2002, § 10(2) (India).

⁴⁴ *Meghraj Kothari v. Delimitation Commission*, AIR 1967 SC 669, ¶ 20.

⁴⁵ INDIA CONST. art. 13(2).

Article 327, produces consequences that violate the equal protection guarantee, Article 13(2) would render it void. The resolution lies in the opening words of Article 327 itself: Parliament's power to legislate on delimitation is expressly made subject to the provisions of this Constitution.⁴⁶ Seervai regards this phrase as importing a substantive constraint that no non-obstante clause in Article 329 can override, since both provisions must be read within the overall constitutional framework that includes Part III.⁴⁷ Nandan D and Archana B have argued persuasively that Article 329(a) bars challenges to the institutional validity of delimitation as a process but cannot protect orders that are manifestly unconstitutional from all scrutiny, since such blanket immunity would itself contravene Article 13(2).⁴⁸

B. The Trifecta of Transformation: Judicial Evolution

The cautious judicial posture inaugurated by *Meghraj Kothari* has been progressively qualified by three Supreme Court decisions that, read together, mark a fundamental shift in the relationship between Article 329 and Part III. The first of these, *Dravida Munnetra Kazhagam v. State of Tamil Nadu* (2020), arose in the context of analogous anti-review provisions governing local body delimitation under Articles 243O and 243ZG. The Court held that a constitutional court may intervene where a case for mala fide or arbitrary exercise of power is established, or where the statutory body has acted in breach of the law.⁴⁹ Anti-review clauses, on this reading, are designed to protect a valid process from disruption — not to insulate an unlawful one from accountability.

The second case, *State of Goa v. Fouziya Imtiaz Shaikh* (2021), affirmed this position and introduced a significant temporal qualification: the bar to judicial review operates only during an election process. Since delimitation precedes and is procedurally distinct from any election, challenges to illegal delimitation orders may properly be heard before the election process commences.⁵⁰ The implication is important — the finality that Article 329(a) confers on delimitation orders is not unconditional. It is contingent on those orders not being products of arbitrary or unlawful conduct.

Before examining the third and most consequential step in this evolution, it is worth pausing to acknowledge, with candour, the institutional and constitutional concerns that have historically counselled restraint. Delimitation touches the architecture of representative

⁴⁶ INDIA CONST. art. 327.

⁴⁷ H.M. Seervai, *Constitutional Law of India* (Universal Law Publishing, 4th ed., Vol. III) 2841–2848.

⁴⁸ Nandan D & Archana B, Dissecting the Intent of Article 329(A): Judicial Review on Unconstitutional Delimitation Orders to Facilitate Lawful Elections, *Law and Other Things* (Jan. 16, 2025).

⁴⁹ *Dravida Munnetra Kazhagam v. State of Tamil Nadu*, (2020) 6 SCC 548 (India).

⁵⁰ *State of Goa v. Fouziya Imtiaz Shaikh*, (2021) 8 SCC 401, ¶ 67 (India).

government at its most sensitive point — the distribution of political power among states and regions. Courts that intervene too readily in apportionment controversies risk substituting judicial preference for the democratic judgement of elected legislatures, a substitution that the separation of powers ordinarily forecloses. Federal sensitivity is not a rhetorical concern: any judicial standard that fails to account for the asymmetric demographic and developmental histories of India's states risks converting the equality guarantee into a lever that advantages some regions at the systematic expense of others. There is also a serious question of institutional competence. A constitutional court's capacity to supervise complex nationwide electoral remapping is structurally limited by its access to demographic data, geographic surveys, and technical expertise that the Delimitation Commission specifically exists to supply. These concerns are genuine, and the caution they inspire is not misplaced in ordinary circumstances. The critical distinction, however, is between appropriate judicial deference in close or contested cases and indefinite abdication in the face of demonstrable and systemic constitutional non-compliance. It is precisely that distinction — between restraint and abdication — that *Kishorchandra* engaged directly and declined to paper over.

The decisive third step arrived in *Kishorchandra Chhanganlal Rathod v. Union of India* (2024). A Division Bench comprising Surya Kant and Ujjal Bhuyan JJ. addressed a challenge against a Commission order reserving a Gujarat legislative assembly constituency for Scheduled Castes. The Supreme Court set aside the High Court's dismissal on the basis of Article 329(a), holding that if judicial intervention is deemed completely barred, citizens would not have any forum to plead their grievances, leaving them solely at the mercy of the Delimitation Commission. As a constitutional court and guardian of public interest, permitting such a scenario would be contrary to the Court's duties and the principle of separation of powers.⁵¹ Courts may examine delimitation orders against the Constitution's requirements, and where an order is manifestly arbitrary and irreconcilable with constitutional values, an appropriate remedy may be granted. *Kishorchandra* vindicates the principle that *Kuldip Nayar v. Union of India* had earlier approached — that delimitation is a constitutional obligation rather than a discretionary legislative choice.^{52,53}

⁵¹ *Kishorchandra Chhanganlal Rathod v. Union of India*, 2024 INSC 579, ¶¶ 7–9 (India).

⁵² *Kuldip Nayar v. Union of India*, (2006) 7 SCC 1, ¶¶ 358–363 (India).

⁵³ *Kishorchandra Chhanganlal Rathod v. Union of India*, 2024 INSC 579 (India). The Court further clarified that judicial intervention is appropriate where 'mala fide or arbitrary exercise of power is made out' — a threshold that aligns the delimitation domain with the broader arbitrariness standard under Art. 14.

C. The Comparative Lens: *Baker v. Carr* and the American Parallel

The constitutional challenge India confronts has a well-documented American analogue. Prior to *Baker v. Carr* (1962), United States federal courts declined to adjudicate legislative apportionment disputes, classifying them as non-justiciable political questions. *Baker* overturned this position, holding that the Equal Protection Clause of the Fourteenth Amendment furnishes a judicially manageable standard for apportionment disputes and that the doctrine of political non-justiciability does not extend to claims of constitutional inequality in representation.⁵⁴ *Reynolds v. Sims* then supplied the operative constitutional standard: legislative districts must be apportioned substantially on a population basis, since legislators represent people, not trees or acres.⁵⁵ In *Gray v. Sanders*, the Court reduced this standard to its most concise formulation: political equality can mean only one thing — one person, one vote.⁵⁶ *Gomillion v. Lightfoot* reinforced the position that deliberate manipulation of electoral boundaries to dilute the franchise of identifiable communities constitutes a constitutional violation.⁵⁷

These American authorities carry no binding force in Indian courts, and the article does not invoke them as such. Their value lies in demonstrating a workable model: an equal protection guarantee, whether in the Fourteenth Amendment or in Article 14, is structurally capable of sustaining judicial oversight of legislative apportionment without destabilising the electoral process. The Indian constitutional materials independently support the same conclusion: Article 327 is expressly subject to the Constitution; Article 14 is part of the basic structure that no amendment may abrogate;⁵⁸ and Article 13(2) renders void any law that abridges fundamental rights. *R.C. Poudyal v. Union of India* recognised that measured deviations from strict population parity may be constitutionally tolerable for reasons of political integration and federal stability — but not indefinite, unchecked deviation unsupported by any judicially enforceable standard.⁵⁹

⁵⁴ *Baker v. Carr*, 369 U.S. 186 (1962).

⁵⁵ *Reynolds v. Sims*, 377 U.S. 533, 568 (1964).

⁵⁶ *Gray v. Sanders*, 372 U.S. 368, 381 (1963).

⁵⁷ *Gomillion v. Lightfoot*, 364 U.S. 339 (1960).

⁵⁸ *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225 (establishing the basic structure doctrine and confirming fundamental rights, including equality under Art. 14, as core constitutional values that no amendment may abrogate); *S.R. Bommai v. Union of India*, (1994) 3 SCC 1 (India) (reaffirming democracy and federalism as basic structure components).

⁵⁹ *R.C. Poudyal v. Union of India*, 1994 Supp (1) SCC 324, ¶¶ 120–128 (India).

SUGGESTIONS

The collapse of the 131st Amendment Bill in 2026 does not close the door on reform. It forces the search for a more durable constitutional path — one capable of securing the broad parliamentary consensus that a constitutional amendment requires. The four proposals set out below are calibrated to respect the equality mandate of Article 14, to acknowledge the federal sensitivities that originally motivated the freeze, and to draw on both doctrinal analysis and quantitative evidence.

A. A Calibrated Seat Allocation Model

Perhaps the most important insight from recent scholarship on post-2026 delimitation is that the choice between the freeze and strict proportionality is a false binary. In many established federal democracies, representation is structured along a continuum where population shapes parliamentary weight without determining it absolutely. The degressive proportionality formula $S_i = k * (P_i)^\alpha$ — where $\alpha \in [0,1]$ represents population responsiveness and k ensures total seats match the target — provides a mathematically principled framework for this calibration.⁶⁰

Modelling across four delimitation cycles shows that a value of $\alpha = 0.8$ is the uniquely stable configuration. It maintains a low Malapportionment Index across all four projected cycles while preventing any region from accumulating Lok Sabha strength sufficient for unilateral constitutional amendment.⁶¹ At $\alpha = 0.8$, states with growing populations gain fairer representation than the freeze currently provides, while the steep seat reductions feared by southern states are moderated to manageable proportions. Implementing this formula requires amending Articles 81(2) and 82 to introduce the calibrated parameter, and amending the Delimitation Act to specify the parameter value and its procedural application. It is a constitutional amendment — it demands political will — but it offers something meaningful to every stakeholder and thus creates the conditions for the consensus the current legislative landscape has not yet produced.

B. Separating Women's Reservation from Delimitation

The constitutional linkage between women's reservation and post-2026 delimitation is legally unnecessary and practically damaging. Nothing in Article 14 requires the deferral of gender

⁶⁰ Peter Ladis Francis et al., Necessity of Judicial Review in Delimitation and the Shifting Regime of Restrictions: To Review or Not to Review, 23 *Lex Localis J. of Local Self-Gov't* S4 (2025).

⁶¹ INDIA CONST. art. 368.

equality in political representation while constituency boundary disputes remain unresolved. A principled alternative is the implementation of rotational thirty-three percent reservation within the existing 543 Lok Sabha seats through an amendment to Article 334A, severing the gender equality obligation from the delimitation timeline.⁶² This approach gives the Nari Shakti Vandan Adhiniyam genuine immediate effect, addresses the layered deprivation identified above, and removes from the political field the perception — well-grounded or otherwise — that women's representation is being held as leverage in a larger constitutional negotiation between the Centre and the states.

C. Strengthening Judicial Oversight

The manifest arbitrariness exception established in *Kishorchandra* is a beginning, not a settled equilibrium. Constitutional courts should, through successive adjudication, develop a graduated standard of review calibrated to the nature of the delimitation decision under challenge: ordinary Commission decisions attracting high deference to technical expertise; freeze-extending constitutional amendments attracting intermediate scrutiny for consistency with Article 14; and the State's systemic failure to perform its delimitation obligation attracting closer examination as a positive constitutional duty under the equality guarantee.⁶³ A complementary institutional reform would require the Delimitation Commission to publish, before finalising any order, a public equity audit: a documented assessment of constituency-level voter-population ratios, the demographic basis for reserved seat placements, and the Commission's own evaluation of its compliance with the equal protection standard. Such an audit serves transparency and creates the evidential record against which *Kishorchandra*-style judicial review can be exercised with precision.

D. Constitutional Sunset Clauses and Periodic Review

The most persistent structural vulnerability in India's delimitation architecture is its susceptibility to open-ended deferral through constitutional amendment. The Forty-Second and Eighty-Fourth Amendments demonstrate that a sufficiently large parliamentary majority can extend a demographically outdated freeze without triggering any constitutional accountability mechanism. *Kishorchandra* has partially corrected this for individual arbitrary orders, but the aggregate arbitrariness produced by prolonged non-performance remains beyond the reach of

⁶² The Constitution (One Hundred and Sixth Amendment) Act, 2023 (Nari Shakti Vandan Adhiniyam) (India).

⁶³ Peter Ladis Francis et al., Necessity of Judicial Review in Delimitation and the Shifting Regime of Restrictions: To Review or Not to Review, 23 *Lex Localis J. of Local Self-Gov't* S4 (2025).

the existing judicial framework.⁶⁴

A principled corrective is the incorporation of a sunset clause in any future delimitation-related constitutional amendment: a provision automatically subjecting the freeze to parliamentary reconsideration at a defined interval, accompanied by a mandatory audit of the freeze's equality effects. No Parliament should be constitutionally permitted to bind its successors indefinitely to a representational structure that may, over time, diverge materially from the equality guarantee. Alongside this, a reform of the Rajya Sabha to adopt equal-state representation in the upper chamber — alongside the calibrated formula in the Lok Sabha — would provide an institutional counterweight that protects smaller states' constitutional leverage in amendment proceedings without sacrificing the democratising potential of a reformed lower chamber.⁶⁵⁶⁶

CONCLUSION

The delimitation question is, at its core, a question about what equal citizenship means within a constitutional democracy. Consider the concrete reality. A voter in an overrepresented southern constituency has a parliamentary voice that carries measurably greater weight than that of a voter in an underrepresented northern constituency. Both are Indian citizens. Both pay taxes, comply with law, and contribute to the national project. Yet one vote matters more than another — not because of contribution, capability, or standing, but solely because of where each person was born. Article 14 was designed to foreclose precisely this kind of structural inequality. It represents the constitutional commitment that the State will treat its citizens as equals not only in formal legal terms but in the practical organisation of the institutions through which they govern themselves.

This article has traced the case for enforcing that commitment in the delimitation domain along three lines of argument. Through the *Royappa* and *Maneka Gandhi* arbitrariness doctrine, the prolonged freeze is state action that is constitutionally indefensible — producing foreseeable, documented inequality without rational justification proportionate to its duration. Through the judicial evolution from *DMK v. Tamil Nadu* through *Fouziya Imtiaz Shaikh* to *Kishorchandra*, the Supreme Court has confirmed that Article 329(a)'s finality protection is procedural in character, not absolute, and that manifestly arbitrary delimitation conduct invites constitutional scrutiny. And through the American experience in *Baker v. Carr* and *Reynolds v. Sims*, it has

⁶⁴ *Kishorchandra Chhanganlal Rathod v. Union of India*, 2024 INSC 579 (India).

⁶⁵ *S.R. Bommai v. Union of India*, (1994) 3 SCC 1 (India).

⁶⁶ *Kuldip Nayar v. Union of India*, (2006) 7 SCC 1, ¶¶ 358–363 (India).

been shown that constitutional courts are institutionally capable of adjudicating electoral equality claims without paralysing democratic processes — provided they do so within clear, principled limits.

The collapse of the 131st Amendment Bill has not made the constitutional question go away. It has sharpened it. The doctrinal foundation is firmly laid: Article 327 operates subject to the Constitution; Article 14 is part of the basic structure no amendment may destroy; Article 13(2) voids laws that abridge fundamental rights; and *Kishorchandra* has confirmed that courts may act as the Constitution's guardians within the delimitation domain. What is now required is the political resolve and institutional creativity to translate that foundation into a workable framework — through the calibrated proportionality formula, the delinkage of women's reservation, graduated judicial oversight, and constitutional sunset provisions — that resolves the tension between democratic equality and federal stability not by choosing one at the expense of the other, but by designing a representational structure that can sustain both.⁶⁷⁶⁸

India's founding promise was a republic in which every adult citizen counts as an equal. Six decades of a frozen electoral map have deferred that promise for tens of millions of voters. The constitutional tools to honour it now exist. The question that remains is one of will.

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⁶⁷ M.P. Jain, *Indian Constitutional Law* (LexisNexis, 8th ed., 2018) 894–896.

⁶⁸ Budhaditya Ghosh & Priyanshu Kar, All Equal but Some More Equal: Passive Malapportionment in India and Its Constitutional Justiciability, *NUJS L. Rev.* (2025).

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