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Delimitation of Electoral Constituencies in India: Constitutional Framework, Historical Evolution, Comparative Practice and Contemporary Judicial Review

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Abstract

Delimitation is the process of fixing or redrawing the boundaries of territorial constituencies for elections to representative legislative bodies. In a federal and highly populous democracy such as India, delimitation has profound consequences for political representation, electoral equality, federal balance, social justice and democratic legitimacy. India, however, has adopted a distinctive approach to delimitation. Although the Constitution originally contemplated periodic readjustment, the allocation of seats among States was frozen on the basis of the 1971 Census in order to encourage population stabilisation. The 84th Constitutional Amendment Act, 2001 extended this freeze until the first census after 2026, while the 87th Amendment Act, 2003 permitted readjustment of constituency boundaries using 2001 Census figures without altering the overall allocation of seats among States. The Delimitation Commission constituted under the Delimitation Act, 2002 subsequently carried out the principal nationwide delimitation exercise, culminating in the 2008 orders. In India, this exercise is constitutionally mandated under Articles 81 and 82, yet it has been frozen since 1976 through constitutional amendments that postponed readjustment of seat allocation until after the first census taken after 2026. The 2026 Delimitation Bill, introduced alongside the Constitution (131st Amendment) Bill, sought to operationalise this deferred exercise by expanding the Lok Sabha from 543 to 850 seats and redrawing constituencies on the basis of the 2011 Census. Both Bills were defeated in Parliament, with the constitutional amendment falling short of the required two-thirds majority. This paper examines India's constitutional and legal framework for delimitation, analyses the 2026 legislative proposals and their failure, and undertakes a comparative analysis of delimitation regimes

in the United States, the United Kingdom, Australia, Canada, and South Africa. It further examines contemporary Indian case law on judicial review of delimitation, including the Supreme Court's 2024 decision in *Kishorchandra Chhanganlal Rathod v. Union of India* and the 2025 ruling in *K. Purushottam Reddy*. The paper argues that while Article 329(a) imposes a near-absolute bar on judicial scrutiny of delimitation orders, recent jurisprudence has cautiously reopened avenues for review in cases of manifest arbitrariness or constitutional incompatibility. Comparative practice demonstrates that independent boundary commissions, transparent criteria, and limited judicial oversight are essential safeguards against gerrymandering and electoral manipulation. The paper concludes that India's failure to enact the 2026 Delimitation Bill represents both a constitutional crisis and an opportunity for principled reform.

Keywords: Delimitation in India; Electoral Representation; Constitutional Amendments; Federalism; Judicial Review; Comparative Electoral Systems; Electoral Boundary Reform.

I. Introduction

The word "delimitation" means the act of fixing or determining boundaries. In the electoral context, it means dividing a geographical area into electoral constituencies from which representatives are elected. 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. Such a body is known as Delimitation Commission or a Boundary Commission. In India, such Delimitation Commissions have been constituted 4 times – in 1952 under the Delimitation Commission Act, 1952, in 1963 under Delimitation Commission Act, 1962, in 1973 under Delimitation Act, 1972 and in 2002 under Delimitation Act, 2002. The Delimitation Commission in India is a high power body whose orders have the force of law and cannot be called in question before any court. For example, a State may be divided into a specified number of Assembly constituencies. Each constituency contains a defined geographical area and elects one representative. Parliamentary constituencies are similarly defined for elections to the Lok Sabha.

The delimitation of electoral constituencies is not a mere administrative exercise. It is the cartographic expression of a constitutional promise: that every citizen's vote shall carry equal weight, and that representation shall reflect the evolving distribution of the population. In India, this promise is embedded in Articles 81 and 82 of the Constitution, which mandate that the allocation of seats in the House of the People to the States, and the division of each State into territorial constituencies, shall be readjusted after each census. Yet for nearly five decades, this constitutional mandate has been suspended. The Constitution (Forty-second Amendment) Act, 1976 froze the allocation of seats based on the 1971 Census until after 2000, and the 84th and 85th Amendments extended this freeze until after the first census taken after 2026.

The April 2026 introduction of three legislative proposals—the Constitution (131st Amendment) Bill, the Delimitation Bill, and the Union Territories Laws (Amendment) Bill—brought this deferred question before Parliament with unprecedented urgency. The proposals sought to expand the Lok Sabha from 543 to 850 seats, redraw constituency boundaries using 2011 Census data, and implement women's reservation in time for the 2029 general election. The constitutional amendment was defeated by a united Opposition, falling short of the two-thirds majority required, and the allied Bills were subsequently withdrawn.

This paper undertakes a comprehensive analysis of the legal framework governing electoral boundary redrawing in India, situating it within a comparative constitutional context. Part II examines India's constitutional and statutory framework. Part III analyses the 2026 Delimitation Bill and the reasons for its failure. Part IV undertakes a comparative analysis of delimitation regimes in five jurisdictions. Part V examines contemporary case law on judicial review of delimitation. Part VI concludes with recommendations for reform.

II. India's Constitutional and Legal Framework for Delimitation

A. Constitutional Provisions: Articles 81, 82, and 170

Article 81 of the Constitution provides that the House of the People shall consist of not more than 550 (530+20) members chosen by direct election from territorial constituencies in the States. Article 81(3) requires that the ratio between the number of seats allotted to each State and the population of the State shall, so far as practicable, be the same for all States. Article 82 mandates that upon the completion of each census, the allocation

of seats in the House of the People to the States and the division of each State into territorial constituencies shall be readjusted by such authority and in such manner as Parliament may by law determine.

Article 170 makes parallel provision for the State Legislative Assemblies, requiring readjustment of territorial constituencies after each census. Article 330 provides for the reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People, and Article 332 makes similar provision for State Legislative Assemblies. These reservation provisions are directly linked to the delimitation exercise, as the boundaries of reserved constituencies must be redrawn to reflect the geographic distribution of SC and ST populations.

B. The Freeze: The 42nd, 84th, and 85th Amendments

The Constitution (Forty-second Amendment) Act, 1976, enacted during the Emergency, inserted a proviso to Article 82 that froze the allocation of seats in the Lok Sabha based on the 1971 Census until after 2000. It further provided that readjustment of territorial constituencies and reallocation of seats would take effect only from such date as the President may by order fix. This freeze was motivated by concerns that States which had successfully implemented population control measures would be penalised with reduced representation if seats were reallocated on the basis of current population figures.

The Constitution (Eighty-fourth Amendment) Act, 2001, extended the freeze until 2026, while permitting readjustment of constituency boundaries within States based on the 2001 Census without altering the total number of seats allocated to each State. The Constitution (Eighty-fifth Amendment) Act, 2003, substituted the figure "2001" for "1991" in Articles 81, 82, 170, and 330, enabling the Delimitation Commission constituted under the Delimitation Act, 2002, to undertake readjustment based on the 2001 Census.

The practical effect of these amendments was that the last full-fledged delimitation exercise—one that altered the allocation of seats among States—was conducted on the basis of the 1971 Census. The 2002–2008 delimitation exercise redrew constituency boundaries within States based on the 2001 Census but did not change the number of seats allocated to each State.

C. The Delimitation Act, 2002 and the Role of the Election Commission

The Delimitation Act, 2002, provided for the constitution of a Delimitation Commission consisting of a retired Supreme Court judge as Chairperson, the Chief Election Commissioner or an Election Commissioner, and the State Election Commissioner concerned. The Commission was tasked with readjusting the division of each State into territorial constituencies for the purpose of allocation of seats to the House of the People and the State Legislative Assemblies. The Commission's orders, once published in the Gazette of India, were to have the force of law and were not to be called in question before any court—a provision reinforced by Article 329(a) of the Constitution.

III. The 2026 Delimitation Bill: Proposals and Failure

A. The Legislative Package

In April 2026, the Government introduced three Bills in Parliament. The Constitution (131st Amendment) Bill sought to amend Articles 81, 82, 170, and 330 to facilitate delimitation and the implementation of women's reservation. The Delimitation Bill, 2026, sought to repeal and replace the Delimitation Act, 2002, and establish a new Delimitation Commission empowered to reallocate seats, redraw constituency boundaries, and determine reservations. The Union Territories Laws (Amendment) Bill made consequential amendments to laws governing Union Territories.

The proposals contemplated an increase in the sanctioned strength of the Lok Sabha from 550 to 850 members. The Bill provided that the Commission would readjust the allocation of seats based on the "latest published Census figures," which, at the time of introduction, meant the 2011 Census—even though the 2027 Census counting exercise was already underway.

B. The Constitutional Amendment: Defeat in the Lok Sabha

On 17 April 2026, the Constitution (131st Amendment) Bill was put to vote in the Lok Sabha. A total of 298 members voted in favour and 230 against, with the House strength at 528. The Bill fell short of the two-thirds majority mark of 352 required for a Constitution Amendment Bill to pass. Following the defeat, the Government withdrew the Delimitation Bill and the Union Territories Laws (Amendment) Bill.

Leader of the Opposition alleged that the proposed amendments were an attempt to redraw India's electoral map under the guise of women's empowerment, stating: "This has nothing to do with empowering women. It is an attempt to change the country's electoral map, using and hiding behind India's women."

C. The 1976 Settlement and Its Alteration

The 2026 Bill, had it been enacted, would have fundamentally altered the "1976 settlement" on delimitation. As legal scholars have observed, the Bill marked a structural shift by converting delimitation from a mandatory to a discretionary exercise, removing the mandate for readjustment under Articles 82 and 170 and leaving delimitation to be undertaken only when Parliament so provides by law. It also redefined "population" as that recorded in any Census determined by law, rendering the population base indeterminate in principle. The Bill's failure means that the existing framework continues: delimitation must be conducted on the basis of the next published Census, which will be the 2027 Census.

IV Historical Evolution of Delimitation in India

India has conducted several major delimitation exercises since Independence.

A. First Delimitation: 1952

The first Delimitation Commission was established under the Delimitation Commission Act, 1952. Justice N. Chandrasekhara Aiyar, a retired justice of the Supreme Court, was its chairman in 1953. The commission recommended the increase of the seats in the Lok Sabha from 489 to 494. It operated during the early years of the Republic when India was constructing its first electoral system. The primary task was to translate constitutional arrangements into territorial constituencies for India's parliamentary and state elections. The first exercise was particularly challenging because of the enormous geographical diversity and the administrative re-organisation of the country.

B. Second Delimitation: 1962

A second Delimitation Commission was constituted under the Delimitation Commission Act, 1962. The exercise responded to changes in population and the electoral map following India's first decade of democratic development. The commission recommended the increase of the seats in the Lok Sabha from 494 to 522.

C. Third Delimitation: 1972

A third major Delimitation Commission was established under the Delimitation Act, 1972 was chaired by Justice J. L. Kapur, a retired justice of the Supreme Court. This period was important because it occurred before the constitutional freeze on inter-State allocation of seats was introduced. It also recommended an increase in the total number of assembly seats across all states and Union Territories in the country from 3771 to 3997.

D. Fourth Nationwide Delimitation: 2002

The fourth major nationwide Delimitation Commission was established under the Delimitation Act, 2002 was chaired Justice Kuldip Singh, a retired Judge of the Supreme Court. The Election Commission identifies the 1952, 1962, 1972 and 2002 commissions as India's four principal Delimitation Commissions. Election Commission of India The 2002 Commission was headed by a retired Supreme Court judge and included the Election Commissioner and State Election Commissioners as relevant members. Its procedure involved draft proposals, consultation with associate members and public hearings.

V. Comparative Analysis of Delimitation Regimes

A. United States: Legislative Redistricting and Judicial Intervention

The United States presents a paradox in comparative delimitation law. Unlike India, the US Constitution requires a decennial census and apportionment of seats in the House of Representatives, but it does not mandate an independent body to draw district lines. Redistricting is primarily the responsibility of State legislatures, subject to constitutional constraints of population equality and the Voting Rights Act of 1965.

The absence of independent commissions has made the United States particularly vulnerable to gerrymandering—the manipulation of district boundaries for partisan advantage. However, judicial intervention has been more robust than in India. In *Allen v. Milligan* (2023), the Supreme Court held that Alabama's congressional map violated Section 2 of the Voting Rights Act by diluting Black voting power, requiring the creation of a second majority-Black district. More recently, in 2025 and 2026, the Supreme Court repeatedly blocked Republican gerrymanders in Missouri, with the Court stating that "ordering reversion to the 2025 map in the midst of an ongoing election would usher in electoral chaos."

The US experience demonstrates that while legislative redistricting is inherently political, courts can and do intervene to prevent racial vote dilution and procedural irregularities. Approximately seven independent redistricting commissions exist across the States, but the majority of States continue to rely on legislative redistricting.

B. United Kingdom: Independent Boundary Commissions

The United Kingdom has one of the oldest and most established systems of independent boundary delimitation. Four permanent Boundary Commissions—for England, Scotland, Wales, and Northern Ireland—were established under the House of Commons (Redistribution of Seats) Act 1944 and continue under the Parliamentary Constituencies Act 1986. The Commissions are independent, non-political, and impartial bodies that periodically review constituency boundaries to reflect population changes.

The UK system is notable for its explicit exclusion of political considerations. The Commissions do not consider existing voting patterns in their decision-making, and their recommendations are subject to ratification by Parliament, which almost always grants approval without debate. The Rules of Redistribution impose strict criteria, including a 5% tolerance for electorate size variation, ensuring near-equal representation. The UK model demonstrates that independent commissions, insulated from partisan pressure and guided by transparent statutory criteria, can achieve both electoral equality and public confidence.

C. Australia: The Electoral Commission and Regular Redistribution

Australia's federal redistribution process is governed by Part IV of the Commonwealth Electoral Act 1918. Redistributions are conducted by the Australian Electoral Commission (AEC) and its state-based counterparts, which are independent statutory authorities. A redistribution is triggered by changes in population distribution, ascertained during the tenth month of the life of each House of Representatives, and must ensure, as close as practicable, an equal number of voters in each electoral division within a State or Territory.

The Australian model is notable for its regularity and speed. Redistributions are required at least every seven years, and the process typically takes six to twelve months to complete—significantly faster than in the UK or the US. The AEC's Redistribution Committee considers factors such as community of interest, means of communication and travel, and physical features, but is prohibited from considering political factors. The Australian experience demonstrates that independent, professional electoral management bodies can conduct delimitation efficiently and impartially.

D. Canada: Electoral Boundaries Commissions with Judicial Involvement

Canada's Electoral Boundaries Readjustment Act requires the revision of seat allocation and constituency boundaries after each decennial census. Each province has an independent Electoral Boundaries Commission, typically chaired by a judge, which conducts public hearings and prepares reports recommending boundary changes. The 1964 Act removed the responsibility for redistricting from Parliament and gave it to these independent commissions, representing a significant shift away from legislative control.

Canadian commissions are required to consider "community of interest" and "effective representation" alongside population equality. The deviation tolerance is generally 25%, except in extraordinary circumstances, reflecting Canada's vast geography and sparse population in many regions. In 2026, the Supreme Court of Canada confirmed that a law delaying the redrawing of Quebec's voting boundaries constituted an unjustified infringement of voting rights, underscoring the justiciable nature of delimitation delays.

E. South Africa: The Municipal Demarcation Board and Constitutional Independence

South Africa's delimitation framework is distinctive for its constitutional entrenchment of independence. Section 155(3) of the 1996 Constitution mandates that municipal boundaries must be determined by an independent authority, and Section 157(4) provides that ward delimitation must be done by an independent authority appointed in terms of national legislation.

The Municipal Demarcation Board (MDB), established under the Local Government: Municipal Demarcation Act 27 of 1998, is a juristic person that is independent, must be impartial, and must perform its functions "without fear, favour, or prejudice." The MDB's mandate includes addressing historical inequalities and spatial deficiencies through boundary demarcation, reflecting South Africa's transition from apartheid-era geographic segregation. For local government elections, the MDB must delimit wards such that the number of registered voters in each ward may not vary by more than fifteen per cent from the norm. The South African model demonstrates how delimitation can be constitutionally insulated from political interference and directed toward transformative objectives.

VI. Contemporary Indian Case Law on Judicial Review of Delimitation

A. The Traditional Bar: Meghraj Kothari (1967)

The leading authority on judicial review of delimitation in India is *Meghraj Kothari v. Delimitation Commission* (1967), in which a Constitution Bench of the Supreme Court held that once orders of delimitation had been made and published in the official gazette, they could not be questioned in any court. The Court reasoned that if delimitation orders were treated as non-final and subject to review, a litigant "could hold up an election indefinitely by questioning the delimitation of the constituencies from court to court." The Court emphasised that Section 10(2) of the Delimitation Act, 1962, clearly demonstrated the legislature's intention that orders under Sections 8 and 9, published under Section 10(1), were to be treated as law which was not to be questioned in any court.

This holding was reinforced by Article 329(a) of the Constitution, which provides that the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies shall not be called in question in any court. For decades, this provision was interpreted as imposing an almost absolute bar on judicial scrutiny of delimitation orders.

B. The Shift: Kishorchandra Chhanganlal Rathod (2024)

The Supreme Court's 2024 decision in *Kishorchandra Chhanganlal Rathod v. Union of India* marked a cautious but significant departure from the rigid "hands-off" approach of *Meghraj Kothari*. The case involved a challenge to the reservation of the Bardoli Legislative Assembly constituency in Gujarat for the Scheduled Caste community by the Delimitation Commission in exercise of its powers under the Delimitation Act, 2002.

The Supreme Court asserted the power of judicial review over the Delimitation Commission's orders, holding that constitutional courts retain a limited power to test Commission orders for manifest arbitrariness or incompatibility with constitutional values. The Court reasoned that where citizens lack alternative remedies, the bar under Article 329(a) cannot be absolute, and judicial intervention is justified in cases of demonstrable illegality or mala fides.

The *Kishorchandra Rathod* judgment has been both praised and criticised. Supporters argue that it provides the strongest justification for limited review where citizens would otherwise be left without remedy. Critics contend that it disregards binding precedent, engages in flawed reasoning, and perpetuates a results-oriented approach that creates uncertainty in electoral administration.

C. The 2025 Verdict: K. Purushottam Reddy

In 2025, the Supreme Court had occasion to address the broader constitutional implications of delimitation in K. Purushottam Reddy. The Court warned that delimitation conducted before the post-2026 census data must not "destabilise the uniform electoral framework" envisaged by the Constitution and blur the clear demarcation between constitutional prescription and political discretion.

The Court was dealing with a plea for the conduct of delimitation and readjustment of Legislative Assembly seats in Andhra Pradesh and Telangana, following the delimitation of constituencies in the Union Territory of Jammu and Kashmir in 2022. The petitioner argued that the selective conduct of delimitation in Jammu and Kashmir while denying parity to other States constituted discrimination. While the Court did not grant relief, its observations signal a growing judicial awareness of the federal and constitutional dimensions of delimitation.

D. The Assam Delimitation Litigation (2023)

The 2023 Assam delimitation exercise generated significant litigation. In Hirendranath Gohain v. Union of India, the Supreme Court refused to stay the ongoing delimitation but agreed to examine the validity of Section 8A of the Representation of the People Act, 1950, which empowered the Election Commission to conduct delimitation without a Delimitation Commission headed by a retired Supreme Court judge.

Senior Advocate Kapil Sibal argued that the delimitation in Assam was being carried out "with scant regard to the rules" and that the process was "dehors the underlying basic feature of the constitution and this is the heart of democracy." The Court issued notice to the Union and Assam governments, indicating that the constitutional validity of Section 8A merits scrutiny. The case remains pending and may provide further guidance on the permissible scope of executive-led delimitation.

VII. Challenges and Recommendations

A. The Federal Dimension: North–South Representation

The most politically charged dimension of the 2026 delimitation debate is the potential transfer of political power from the southern States—which have successfully reduced fertility rates—to the northern States, which continue to experience higher population growth. If seats were reallocated on the basis of the 2011 Census, Uttar Pradesh's representation in the Lok Sabha could rise from 80 to approximately 143 seats, while Tamil Nadu's could increase only marginally. The southern States fear that strict adherence to population-based proportionality would permanently diminish their influence in national politics.

The 2026 Bill sought to address this concern by increasing the total number of seats to 850, which would allow all States to gain seats while maintaining their relative shares. However, the Opposition demanded an explicit constitutional guarantee that no State's representation would be reduced, and the Government's offer to move an amendment incorporating this assurance was ultimately rejected by the Opposition.

B. The Gerrymandering Risk

The absence of an independent boundary commission with constitutionally guaranteed independence creates a risk of gerrymandering—the manipulation of constituency boundaries for partisan advantage. While India has no documented history of systematic partisan gerrymandering comparable to the United States, the risk is not theoretical. The 2023 Assam delimitation was criticised for allegedly reducing the political influence of Muslim and other minority communities through boundary manipulation.

Comparative practice demonstrates that independent commissions are the most effective safeguard against gerrymandering. The UK, Australia, and Canada have all transferred responsibility for boundary delimitation to neutral or cross-party bodies, with members appointed from apolitical sources such as retired judges or senior civil servants, and with explicit prohibitions on considering political factors or voting patterns.

C. Recommendations for Reform

First, India should establish a permanent, constitutionally entrenched Delimitation Commission with guaranteed independence, composed of retired Supreme Court judges, the Chief Election Commissioner, and

independent experts in demography and geography. The Commission should be required to conduct delimitation after each census, with no discretionary power to postpone the exercise.

Second, the criteria for delimitation should be codified in statute, prioritising population equality within a permissible tolerance (e.g., 10%), while also considering administrative convenience, physical features, and community of interest. Political considerations, including the location of incumbent legislators and partisan voting patterns, should be expressly prohibited.

Third, the bar under Article 329(a) should be qualified to permit limited judicial review on grounds of manifest arbitrariness, mala fide exercise of power, or violation of constitutional values. The Supreme Court's Kishorchandra Rathod judgment provides a principled foundation for such review, but legislative amendment would provide greater clarity and consistency.

Fourth, the constitutional guarantee against reduction in State representation should be expressly incorporated into Article 82, ensuring that no State loses seats in the Lok Sabha as a result of delimitation. This would address the legitimate federal concerns of southern States while preserving the principle of electoral equality.

VIII. Conclusion

The redrawing of India's electoral map is not merely a technical exercise in cartography. It is a constitutional moment that tests the balance between electoral equality and federal trust, between population and representation, between democratic principle and political pragmatism. The failure of the 2026 Delimitation Bill reflects the depth of these tensions and the difficulty of achieving consensus on an issue that redistributes political power on a national scale.

The comparative analysis reveals that India's current framework—an executive-led Delimitation Commission with limited judicial oversight and no permanent constitutional guarantee of independence—departs from best practice in mature democracies. The United Kingdom, Australia, Canada, and South Africa have all established independent boundary commissions with transparent criteria and robust safeguards against political manipulation. India would benefit from adopting similar institutional arrangements.

The 2025 and 2026 judicial decisions, particularly Kishorchandra Rathod and K. Purushottam Reddy, signal that the Supreme Court is willing to move beyond the rigid formalism of Meghraj Kothari toward a more nuanced approach that recognises both the necessity of finality in electoral administration and the imperative of constitutional accountability. A larger Constitution Bench should clarify and consolidate this emerging jurisprudence, providing clear guidance on the circumstances in which judicial intervention is justified.

As the 2027 Census approaches, the delimitation question will return to the centre of national politics. The choices made in the coming years will shape India's democratic architecture for decades. The opportunity for principled reform must not be squandered.

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