

# International Journal of Law Research, Education and Social Sciences

Open Access Journal – Copyright © 2026 – ISSN 3048-7501  
Editor-in-Chief – Prof. (Dr.) Vageshwari Deswal; Publisher – Sakshi Batham



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## Delimitation After 2026: Constitutional Challenges and the Future of Political Representation in India

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Received 15 May 2026; Accepted 15 June 2026; Published 18 June 2026

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*India has witnessed a surge in its startup ecosystem, leading to economic growth, employment, and innovation. The government has supported startups under the Startup India initiative, but they have to navigate a complex array of legal and regulatory issues arising from business legislation. The paper undertakes a critical analysis of the legal regime governing startups in India, with a focus on the Companies Act, 2013, Limited Liability Partnership Act, 2008, and the role played by regulatory bodies like the Securities Exchange Board of India and the Ministry of Corporate Affairs. It identifies the key legal issues faced by startups, including incorporation, regulatory compliance, financial constraints, taxation, intellectual property rights protection, and corporate governance. The paper also focuses on the impact of recent legal and regulatory changes, which include changes to company legislation and making it easier to conduct business in the country. The Insolvency and Bankruptcy legislation, 2016, focuses on insolvency and bankruptcy procedures, which have given importance to the real-life issues faced by corporates while undergoing bankruptcy procedures. It compares the regulatory environment in India with what is in place in other countries across the globe, identifies the structural issues, and undertakes a critical analysis of the current legal regime. The paper offers suggestions on changes to the legal regime to create a conducive corporate legal environment in the country, which is supportive and flexible to startups. The paper concludes with an analysis that, despite the country having achieved milestones in the startup ecosystem, there is an urgent need to create a simple regulatory environment geared towards startups to address new issues effectively.*

**Keywords:** *start-ups, corporate law, regulatory compliance, corporate governance, insolvency, bankruptcy.*

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## **INTRODUCTION: REFRAMING DELIMITATION - POPULATION ARITHMETIC TO DEMOCRATIC MEANING**

India has traditionally perceived the issue of delimitation in terms of the technical language of census data, population percentages, and administrative mapping, whereas the process to be undertaken by 2026 will require a radically different rethink of what the concept of democratic representation entails. The constitutional freeze on seat reallocation imposed in 1976 and extended through the 84th and 87th Amendments suspended the updating of representation even as India experienced a profound demographic transformation. As Patel and Sekher demonstrate, this fifty-year freeze produced a ‘representational distortion’ that structurally benefited States with higher fertility rates while inadvertently penalising States that achieved demographic stabilisation through investments in health and education.<sup>1</sup> The result is a widening representation gap: MPs from slower-growing southern States represent far fewer people than MPs from high-growth northern States. The Primer on Delimitation explains that the freeze was not intended to permanently supersede population-based equity but created a temporary incentive for population control; 2026 is a constitutionally pre-programmed moment for recalibration rather than a political rupture. Yet, the democratic significance of this recalibration extends beyond statutory arithmetic in that it forces the nation to ask if representation can be anchored only in numerical equalisation or whether it must also capture the lived experience, vulnerabilities, and governance burdens of diverse Indian communities.

## **FEDERALISM, JUDICIAL REVIEW, AND CONSTITUTIONAL EQUALITY AT THE INTERSECTION**

Delimitation, according to the constitution, lies at the junction of equality, democracy, and federalism. Articles 82 and 170 mandate periodic redrawing of boundaries, and earlier Commissions were judicially shielded in *Meghraj Kothari v Delimitation Commission*, where the Supreme Court interpreted Article 329(a) to preclude routine judicial interference in delimitation orders.<sup>2</sup> However, this shield was influenced by the historical context of the 1960s

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<sup>1</sup> Pankaj Kumar Patel and T V Sekher, ‘Parliamentary Delimitation: A Study on India’s Demographic Struggle for Political Representation’ (2024) 61(1) *Journal of Asian and African Studies* <<https://doi.org/10.1177/00219096241295634>> accessed 10 May 2026

<sup>2</sup> *Meghraj Kothari v Delimitation Commission and Ors* AIR 1967 SC 669

and 70s, when demographic divergence was far less sharp than it is today. As federal inequalities sharpen, constitutional stipulations have to be read in concurrence with later seminal jurisprudence. In *S.R. Bommai v Union of India*, the Court ruled that federalism forms an intrinsic part of the Constitution, and must be shielded against political reconfiguration that devastates the balance of Union–State relations.<sup>3</sup> Similarly, in *Indira Gandhi v Raj Narain*, it was held that free and fair elections form an essential facet of democracy, which cannot be denuded even by constitutional amendments.<sup>4</sup> Together, these two decisions open up a jurisprudential space: although delimitation cannot be challenged as an election dispute simpliciter, it can fall within basic-structure review if it fundamentally distorts federal balance or electoral fairness. Comparative jurisprudence reinforces this view. The decision of the United States Supreme Court in *Rucho v Common Cause*, backing away from any adjudication of partisan gerrymandering, demonstrates the risks of excessive judicial abstention, showing how the absence of constitutional straitjackets allows structural distortions to concretise.<sup>5</sup> In contrast, India’s basic-structure doctrine arms courts with reasoned criteria to intervene in extremis, ensuring both democratic stability and institutional

**Accountability:** There is more to representation than numbers. Political scientists from Hanna Pitkin to Arend Lijphart have argued that in order to understand what democratic representation means, we have to understand its descriptive, symbolic and substantive elements. Pitkin’s distinction between formalistic and substantive representation frames India’s core challenge. According to Pitkin, delimitation must ensure that Parliament not only matches population numerically but also avoids over-concentrating power in demographically dominant regions.<sup>6</sup> Her distinction captures India’s regional, cultural, and social diversity. Lijphart’s warning about hyper-majoritarianism justifies a human-centric approach that builds representational fairness into socio-economic disadvantage, geographic hardship, administrative complexity, and cultural identity.<sup>7</sup> Representing a tribal constituency in Jharkhand, an ageing rural constituency in Tamil Nadu, and a hyperdense city constituency in Mumbai requires differing forms of engagement.

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<sup>3</sup> *S.R. Bommai and Ors v Union of India and Ors* (1994) 3 SCC 1

<sup>4</sup> *Indira Nehru Gandhi v Raj Narain and Anr* AIR 1975 SC 2299

<sup>5</sup> *Rucho v Common Cause* [2019] 588 US 684

<sup>6</sup> Hanna Fenichel Pitkin, *The Concept of Representation* (University of California Press 1967)

<sup>7</sup> Arend Lijphart, *Patterns of Democracy* (2nd edn, Yale University Press 2012)

## INTERNATIONAL BEST PRACTICES IN DELIMITATION: INDIA LESSONS

Comparative foreign models may thus be used to design a fair and credible post-2026 framework. International IDEA lays down four pillars of credible boundary delimitation: independence, transparency, population equality, and public participation. These partly exist in India's historical practice.<sup>8</sup> The notion that delimitation must be performed in accordance with clear and quantifiable norms is further reinforced by the objective criteria of the ACE Electoral Knowledge Network, namely compactness, contiguity, communities of interest, and acceptable levels of population deviation.<sup>9</sup> Flaws in previous Indian exercises, such as uneven criteria, reliance on outdated census data, and lack of adequate public input, are underlined as reasons for reform in the EPW report by A.K. Verma.<sup>10</sup>

Several countries offer India attractive models. To strike a careful balance between population equality and community identity, Canada's independent commissions employ written

objections, public hearings, and detailed reasoning. In the interest of transparency and public trust, Australia's AEC mandates the publication of draft maps, allows for formal objections, and undertakes inquiries.<sup>11</sup> New Zealand's dual-roll system ensures the structural safeguarding of Māori representation; this approach is relevant to safeguarding Scheduled Tribe representation in India's Scheduled Areas. South Africa's Municipal Demarcation Board is one example of how boundary redress can cancel historical injustice, especially to the deprived party. Combined, these models demonstrate the great moral and democratic importance of delimitation.<sup>12</sup>

## WAY FORWARD: THE NEW INDIAN SPIRIT OF DELIMITATION

Unless institutional reform is pursued, India cannot have a smooth transition beyond 2026 without undermining federal trust. The judgment in *Kuldip Nayar v Union of India* upheld an

<sup>8</sup> 'Electoral Boundary Delimitation' (*International IDEA*, 27 July 2022) <<https://www.idea.int/news-media/multimedia-reports/electoral-boundary-delimitation>> accessed 11 May 2026

<sup>9</sup> 'Boundary Delimitation' (*ACE Electoral*) <[https://aceproject.org/ace-en/topics/bd/explore\\_topic\\_new](https://aceproject.org/ace-en/topics/bd/explore_topic_new)> accessed 11 May 2026

<sup>10</sup> A K Verma, 'Delimitation in India' (2006) 41(9) *Economic & Political Weekly* <<https://www.epw.in/journal/2006/09/perspectives/delimitation-india.html>> accessed 11 May 2026

<sup>11</sup> 'Federal redistributions' (*Australian Electoral Commission*, 18 February 2026) <<https://www.aec.gov.au/redistributions/>> accessed 11 May 2026

<sup>12</sup> Marianne Williamson, *MUNICIPAL BOUNDARY DEMARCATION PROCESS: A PROCESS MAP FOR THE DETERMINATION AND RE-DETERMINATION OF MUNICIPAL BOUNDARIES* (Municipal Demarcation Board 2022)

unfettered power of the Parliament to modify electoral systems, showing constitutional flexibility in devising novel representational mechanisms.<sup>13</sup> It would contribute to better procedural justice and legitimacy if the Election Commission had a permanent, independent Delimitation Secretariat with GIS competence and mandates for public hearings. Rather than merely reshuffling the current number of Lok Sabha seats, increasing the overall number of seats will permit population growth without affecting the relative balance among the States, or indeed introducing zero-sum conflicts between high-growth and low-growth areas.

Numerical equality and substantive fairness can be reconciled by a weighted representation method that considers not only population but also socioeconomic and geographic hardship characteristics. This approach reflects the fact that communities necessarily have proportionately responsive representation, for they bear disproportionate governance responsibilities. The emerging 2026 delimitation is thus a constitutional moment given that, beyond being a demographic correction, it calls on India to reaffirm its commitment to democratic equality and federal dignity. A human-centred, transparent, internationally coordinated approach could make what might otherwise be a divisive exercise a kind of democratic rebirth—one that ensures boundaries reflect lived realities, not simply numbers.

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<sup>13</sup> *Kuldip Nayar v Union of India and Ors* (2006) 7 SCC 1