APPENDIX - III

Text of Constitution
(64th Amendment) Bill

The following is the text of the Constitution (64th Amendment) Bill 1989, which has been circulated to the members of Parliament:

Bill No. 50 of 1989

The Constitution (Sixty-fourth Amendment) Bill, 1989

A BILL further to amend the Constitution of India:
BE it enacted by Parliament in the Fortyeth Year of the Republic of India as follows:

Short title and commencement: 1. (1) This Act may be called the Constitution (Sixty-fourth Amendment) Act, 1989.
(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of new part IX: 2. After Part VIII of the Constitution, the following Part shall be inserted, namely:

PART IX
THE PANCHAYATS

Definitions: 243. In this Part, unless the context otherwise requires -

(a) "district" means a revenue district in a State;
(b) "intermediate level" means a level between the village and district levels specified by the Governor of a State by public notification to be intermediate level for the purposes of this Part;
(c) "Panchayat" means an institution (by whatever name called) of self-government for the rural areas at the village level or at the intermediate level or at the district level;
(d) "Panchayat area" means the territorial area of a Panchayat;
(e) "population" means the population as ascertained at the last preceding census of which the relevant figures have been published;
(f) "village" means a village specified by the Governor by public notification to be a village for the purposes of this Part.

Constitution of Panchayat: 243A. (1) There shall be constituted in every State, Panchayats at the village, intermediate and district levels in accordance with the provisions of this Part.

(2) Notwithstanding anything in clause (1), Panchayats at the intermediate level may not be constituted in a State having a population not exceeding twenty lakhs.

Composition of Panchayats: 243B. (1) Subject to the provisions of this Part, the Legislature of a State may, by law, make provision with respect to the composition of Panchayats:

Provided that the ratio between, the population of the territorial area of a Panchayat at any level and the number of seats in such Panchayat to be filled by election shall, so far as practicable, be the same throughout the State.

(2) Save as provided in clause (3), all the seats in a Panchayat shall be filled by persons chosen by direct election from territorial constituencies in the Panchayat area and, for this purpose, each Panchayat area shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the Panchayat area.

(3) The Legislature of a State may, by law, provide for the representation, in such manner and subject to such conditions as may be specified in such law -

(a) of the Chairpersons of the Panchayats at the village level in the Panchayats at the intermediate level, or in the case of a State not having Panchayats at the intermediate level, in the Panchayats at the district level;

(b) of the Chairpersons of the Panchayats at the intermediate level, in the Panchayats at the district level;
(c) of the members of the House of the People and the members of the Legislative Assembly of the State representing constituencies with comprise wholly or partly a Panchayat area at a level other than the village level, in such Panchayat.

(4) The Chairperson of a Panchayat and other members of a Panchayat chosen by direct election from territorial constituencies in the Panchayat area shall alone have the right to vote in the meeting of the Panchayat.

(5) The Chairperson of -
(a) a Panchayat at the village level shall be chosen by election in such manner as the Legislature of the State may, by law, provide, and
(b) a Panchayat at the intermediate or district level shall be elected by, and from amongst, the elected members thereof.

(5) Where the Chairperson of a Panchayat has been elected by, and from amongst, the elected members of the Panchayat, no resolution by the Panchayat for removing him from the office of the Chairperson shall be valid and effective unless such resolution has been passed by a majority of the total number of the elected members of the Panchayat and by a majority of not less than two-thirds of such members present and voting.

Reservation of seats: 243C. (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Panchayat and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Panchayat as the population of the Scheduled Castes in that Panchayat area or of the Scheduled Tribes in that Panchayat area bears to the total population of that area:

Provided that where the population of the Scheduled Castes or, as the case may be, the Scheduled Tribes in a Panchayat area is not sufficient for reservation of any seat, one seat for the Scheduled Castes or as the case may be, one seat for the Scheduled Tribes shall be reserved in that Panchayat.
(2) As nearly as may be, thirty per cent of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

Provided that where only two seats are reserved for the Scheduled Castes or, as the case may be, the Scheduled Tribes, one of the two seats shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(3) Nothing in this Part shall prevent the Legislature of a State from providing for the reservation of the office of Chairperson in the Panchayat for the Scheduled Castes, the Scheduled Tribes and women.

(4) The reservation of seats under clause (1), and clause (2) and the reservation of office of Chairpersons (other than the reservation for women) referred to in clause (3) if any, shall have effect till the expiration of the period specified in article 334 and the proviso thereto shall, so far as may be, apply to such reservations.

(5) As nearly as may be, thirty per cent, (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women and allotted by rotation to different constituencies in a Panchayat.

Duration of Panchayats, etc: 243D. (1) Every Panchayat, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer and the expiration of the said period of five years shall operate as a dissolution of that Panchayat.

(2) Where a Panchayat is dissolved before the expiration of its duration, an election to constitute the Panchayat shall be completed, as soon as may be, and in any case before the expiration of a period of six months from the date of such dissolution.

(3) A Panchayat constituted upon the dissolution of a Panchayat before the expiration of its duration shall continue only
for the remainder of the period for which the dissolved Panchayat would have continued under clause (1) had it not been so dissolved and, if such period is less than six months, it shall not be necessary to hold any election under clause (2) for constituting the Panchayat.

**Powers, authority and responsibilities of Panchayats: 243E.**

Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow the Panchayat with such powers and authority as may be necessary to enable them to function as Institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at the appropriate level, subject to such conditions as may be specified therein, with respect to -

1. the preparation of plans for economic development and social justice;
2. the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.

**Power to impose taxes by, and Funds of, the Panchayats: 243F.**

The Legislature of a State may, by law, -

1. authorise a Panchayat to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;
2. assign to a Panchayat such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;
3. provide for making such grants-in-aid to the Panchayats from the Consolidated Fund of the State; and
4. provide for constitution of such Funds for crediting all moneys received respectively by or on behalf of the Panchayats and also for the withdrawal of such moneys therefrom, as may be specified in the law.
Appointment of Finance Commission to review financial position: 243G. (1) The Governor of a State shall as soon as may be within two years from the commencement of the Constitution (Sixty-fourth Amendment) Act, 1989, and thereafter at the expiration of every fifth year, constitute a Finance Commission to review the financial position of the Panchayats and to make recommendations to the Governor as to-

(a) The principles which should govern -

(i) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Panchayats,

(ii) the distribution between the State and the Panchayats of the net proceeds of the taxes, duties, tolls and fees which are to be, or may be, divided between them under this Part and the allocation between the Panchayats at all levels of their respective shares of such proceeds;

(iii) the grants-in-aid to the Panchayats from the Consolidated Fund of the State.

(b) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Panchayats.

(2) The Legislature of a State may by law, determine the qualifications which shall be requisite for appointment as members of the Commission and the manner in which they shall be selected.

(3) The Commission shall determine their procedure and shall have such powers in the performance of their functions as the Legislature of the State may, by law, confer on them.

(4) The Governor shall cause every recommendation made by the Finance Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.
Form of accounts of Panchayats and audit of accounts of
Panchayats: 243H. (1) The accounts of the Panchayats shall be kept
in such form as the Governor may, on the advice of the Comptroller
and Auditor-General of India, prescribe.

(2) The Comptroller and Auditor-General of India shall
cause the accounts of the Panchayats to be audited in such manner
as he may deem fit and the reports of the Comptroller and
Auditor-General shall be submitted to the Governor of the State, who
shall cause them to be laid before the Legislature of the State.

Superintendence, direction and control of elections to the
Panchayats to be vested in the Election Commission: 243 I. The
Superintendence, direction and control of the preparation of electoral
rolls for, and the conduct of, all elections to the Panchayats shall
be vested in the Election Commission.

Powers of Legislature of a State to make provisions with
respect to elections to Panchayats: 243J. Subject to the provisions
of this Part, the Legislature of a State may from time to time, by
law, make provisions with respect to all matters relating to, or in
connection with, elections to the Panchayats including the
preparation of electoral rolls, the manner in which the electoral
rolls for the time being in force for the territorial constituencies
referred to in article 325 may be used for such preparation, the
delimitation of constituencies and all other matters necessary for
securing the due constitution of such Panchayats.

Application to Union territories: 243K. (1) The provisions of
this Part shall apply to the Union territories and shall, in their
application to a Union territory, have effect as if the references to
the Governor of a State were references to the Administrator of the
Union territory appointed under article 239 and reference to the
Legislature or the Legislative Assembly of a State were reference,
in relation to a Union territory having a Legislative Assembly, to
that Legislative Assembly.

(2) Notwithstanding anything in clause (1), the President
may, by public notification, direct that the provisions of this Part
shall not apply to any Union territory or any part thereof or shall
apply to any Union territory on part thereof subject to such exception and modifications as he may specify in the notification.

Part not to apply to certain States and areas: 243L.

(1) Nothing in this Part shall apply to-

(a) the States of Nagaland, Meghalaya and Mizoram,
(b) the Scheduled Areas referred to in clause (1), and the tribal areas referred to in clause (2), of article 244,
(c) the Hill Areas in the State of Manipur for which District Councils exist, and the Hill Areas of the District of Darjeeling Gorkha Hill Council exists, under any law for the time being in force.

(2) Notwithstanding anything in this Constitution-
(a) the Legislature of a State referred to in sub-clause (a) of clause (1) may, by law, extend this Part to that State, except the tribal areas, if any, referred to in sub-clause (b) of clause (1), if the Legislative Assembly of that State passes a resolution to that effect by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting,
(b) the Governor of a State may, in his discretion and subject to such exceptions and modifications as he may specify by public notification, extend this Part to the Scheduled Areas, referred to in clause (1) of article 241 comprised within that State.

Continuance of existing laws and Panchayats: 243M.
Notwithstanding anything in this Part, any provisions of any law relating to Panchayats in force immediately before the commencement of the Constitution (Sixty-Fourth Amendment) Act, 1989, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repeated by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier:
Provided that all the Panchayats existing immediately before such commencement shall continue till the expiration of their
duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having a Legislative Council, by each House of the Legislature of that State.

**Addition of Eleventh Schedule**: After the Tenth Schedule to the Constitution, the following Schedule shall be added namely:

**"ELEVENTH SCHEDULE**

(Article 243E)

1. Agriculture, including agricultural extension.
2. Land improvement and soil conservation.
3. Minor irrigation, water management and watershed development.
4. Animal husbandry, dairying and poultry.
5. Fisheries.
6. Social forestry and farm forestry.
7. Minor forest produce.
8. Small scale industries, including food processing industries.
10. Rural housing.
11. Drinking water.
12. Fuel and fodder.
13. Road, culverts, bridges, ferries, waterways and other means of communication.
14. Rural electrification, including distribution of electricity.
15. Non-conventional energy sources.
17. Education, including primary and secondary schools.
18. Technical training and vocational education.
19. Adult and non-formal education.
21. Cultural activities.
22. Markets and fairs.
STATEMENT OF OBJECTS AND REASONS

A review of the working of Panchayati Raj Institutions has shown that in many states they have become weak and ineffective owing to a variety of reasons, including the failure to hold regular and periodical elections, prolonged supersessions, inadequate representation to the weaker sections like the Scheduled Castes, the Scheduled Tribes and women, lack of financial resources and inadequate devolution of powers and responsibilities on them.

2. Having regard to the inadequacies in the existing system, and keeping in view the Directive Principle of State Policy enshrined in article 40 which aims at endowing Panchayats with such powers and authority as are necessary to enable them to function as units of self-government, it is proposed to add a new Part to the Constitution relating to the Panchayats.

3. The Bill proposes, inter alia, to -

(a) make it obligatory for all States to establish a three-tier system of Panchayats at the village, intermediate and district levels; however, States having a population of less than 20 lakhs would not be obliged to establish Panchayats at the intermediate level;

(b) provide for all seats in Panchayats at all levels to be filled by direct election; however, the State Legislatures may provide for the representation in
Panchayats without voting rights of Members of the House of the People and the Legislative Assembly and Chairpersons of Panchayats at the immediately lower level,

(c) provide for reservations to ensure the due representation in the Panchayats of the Scheduled Castes, Scheduled Tribes and women,

(d) ensure a fixed tenure of five years for the Panchayats. However, if a Panchayat is dissolved before the expiry of its term, provision is made for the conduct of elections within a period of six months of the dissolution to reconstitute the Panchayat for the remainder of the term;

(e) provide for the devolution by the State Legislature of powers and responsibilities upon the Panchayats with respect to the preparation of plans for economic development and social justice and for the implementation of development schemes;

(f) provide for the sound finance of the Panchayats by securing authorisation from State Legislatures for grants-in-aid to the Panchayats from the Consolidated Fund of the State, as also assignment to, or appropriation by, the Panchayats of the revenues of designated taxes, duties, tolls and fees;

(g) provide for the constitution of Finance Commission in the States every five years to review the finances of the Panchayats and recommend principles, on the basis of which State Legislatures may determine the taxes to be appropriated by, or assigned to the Panchayats, as also grants-in-aid to the Panchayats from the Consolidated Fund of the State;

(h) vest in the Election Commission the superintendence, direction and control of elections to the Panchayats at all three levels;

(i) empower the Comptroller and Auditor-General of India to cause the accounts of the Panchayats audited in such manner as he may deem fit; and

(j) exempt certain States and tribal areas and other territories from the application of the provisions of Part
IX or empower the President and the Governor to modify them in their application to Union territories and Scheduled Areas, respectively.

4. The Bill seeks to achieve the aforesaid objectives.

New Delhi
The 12th May, 1989

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