

**Bill No. 95 of 2007**

THE CONSTITUTION (ONE HUNDRED AND SEVENTH  
AMENDMENT) BILL, 2007

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*further to amend the Constitution of India.*

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

**1.** This Act may be called the Constitution ( One Hundred and Seventh Amendment) Act, 2007. Short title.

**2.** In article 244 of the Constitution, in clauses (1) and (2), for the words “and Mizoram”, the words “Mizoram and the areas under the Gorkha Hill Council, Darjeeling in the State of West Bengal”, shall respectively be substituted. Amendment of article 244.

**3.** In article 332 of the Constitution, in clause (6), after the following clause shall be inserted, namely:— Amendment of article 332.

“(7) Subject to the provisions of clauses (1) and (3), in the Legislative Assembly of the State of West Bengal, the representation of the Scheduled Tribes and non-Scheduled Tribes in the constituencies included in the Gorkha Hill Council, Darjeeling, so notified, and existing prior to the constitution of the Gorkha Hill Council, Darjeeling, shall be maintained.”.

## STATEMENT OF OBJECTS AND REASONS

An 'In Principle' Memorandum of Settlement (MOS) was signed on 06.12.2005 between the Government of India, Government of West Bengal and Administrator, Darjeeling Gorkha Hill Council (DGHC) for creating an autonomous self governing Council under the Sixth Schedule to the Constitution for the hill areas of Darjeeling District within the State of West Bengal following due consultative, legislative and constitutional processes by the State and Central Government, so as to fulfill the economic, educational and linguistic aspirations, socio-cultural and ethnic identity of the hill people duly protecting the rights of the non-tribals, and to speed up the infrastructure development in the till areas of Darjeeling District. In terms of the MOS, the existing DGHC will be replaced by an autonomous self governing Council called the Gorkha Hill Council, Darjeeling (GHC) in the State of West Bengal under the Sixth Schedule to the Constitution. The State Government, at an appropriate time, will dissolve the DGHC and repeal the Darjeeling Gorkha Hill Council Act, 1988 to pave the way of creation of GHC.

2. Clause (2) of article 244 of the Constitution provides that the provisions of the Sixth Schedule shall apply to the administration of the tribal areas in the States of Assam, Meghalaya, Tripura and Mizoram. In pursuance of the MOS dated 06.12.2005, it is proposed to amend article 244 of the Constitution so as to bring the administration of the areas under the GHC in the State of West Bengal within its ambit.

3. Article 332 of the Constitution provides for reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States. For the autonomous districts in the State of Assam, a provision in clause (6) of article 332 has been made so as to protect the rights of non-tribals. Under clause (6), the then existing representation of the Scheduled Tribes and non-Scheduled Tribes in the Legislative Assembly of the State of Assam from the Bodoland Territorial Council Areas District was kept intact. Similarly, to protect the rights of non-tribals in the Gorkha Hill Council in Darjeeling, in pursuance of the MOS dated 6th December, 2005, the existing representation of the Scheduled Tribes and non-Scheduled Tribes in the Legislative Assembly of the State of West Bengal from the areas under the Gorkha Hill Council is proposed to be kept intact. It is, therefore, proposed to insert a new clause after the existing clause (6) of article 332 of the Constitution.

4. The Bill seeks to achieve the aforesaid objectives.

NEW DELHI;

SHIVRAJ V. PATIL.

*The 23rd November, 2007,*

*ANNEXURE*

EXTRACT FROM THE CONSTITUTION OF INDIA

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**PART X**

**THE SCHEDULED AND TRIBAL AREAS**

Administration  
of Scheduled  
Areas and  
Tribal Areas.

**244. (1)\*** \* \* \* \*

(2) The provisions of the Sixth Schedule shall apply to the administration of the tribal areas in the States of Assam, Meghalaya, Tripura and Mizoram.

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*(Shri Shivraj Vishwanath Patil, Minister of Home Affairs)*