

The Women's Reservation Act 2023: Opportunities and Challenges

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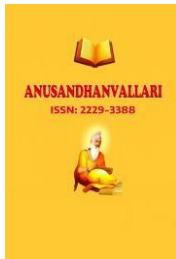
Abstract

The Women's Reservation Act, 2023, officially known as the One Hundred and Sixth Constitutional Amendment Act, marks a pivotal development in India's pursuit of gender equality in politics. The bill proposes to provide a 33% reservation for women in the State Legislative Assemblies and Lok Sabha, including in seats designated for SC/ST members. Addressing the persistent under-representation of women in legislative bodies and advancing inclusive governance are its two primary goals. After decades of debate, beginning with its initial proposal in 1996, the bill was finally passed. However, its impact may be delayed as its implementation is dependent on a subsequent delimitation process after the next census. There are still worries regarding the exclusion of OBC and minority women, despite the fact that it has the potential to empower women and increase policy diversity. This paper explores examines the bill's historical background, main features, importance, and the challenges it faces in achieving significant change.

Introduction

Women's participation in political decision-making is essential for the effective functioning of democratic governance and the advancement of the society. India is the world's largest democracy and by guaranteeing equal treatment and gender equity, the preamble of the Indian constitution enshrines the principles of equality, liberty, and justice, giving Indian women a sense of security. On the other hand, prejudice against women and girls are still prevalent in India. In other words, the constitutional guarantee and actual reality presents a paradoxical picture of women's status in India. Equal representation in decision-making institutions and political participation are recognized as significant indicators of women's status in society. A gender gap is becoming more noticeable at the level of contestation, political parties, and ministerial portfolio allocation, so a greater role for women in politics is seen as a major factor for gender equality. Political equality is not only the right to vote but also the right to have access to the formal institutionalized centers of power. However, the history of electoral representation in India displays that the proportion of women representation, particularly at the national legislature, has been low in comparison to the total strength of the parliament.

Reservation regulations were introduced in response to this discrepancy with the goal of boosting women's involvement in electoral politics. However the cultural norms, financial dependence, and deeply ingrained patriarchal structures have all been structural obstacles to women's political participation. Feminists describe the concept 'patriarchy' in terms of power relationship between men and women, which literally means 'rule by the father'. Feminists believe that the dominance of the father within the family symbolize male supremacy in all other institutions. In broader terms, patriarchy means 'rule by men', both within the family and outside. Kate Millet described 'patriarchal government' as an institution whereby 'that half of the populace which is female is controlled by that half which is male'. The face of the patriarchy they highlight is therefore the under-representation of women in senior positions in politics, business, the professions and public life.¹



In India, the main reasons behind the under-representation of the women in politics are the lack of national consensus, the unwillingness of political parties to provide more tickets to women, and the lack of seat reservations for women in the Parliament and state legislatures. The Baseline Report (1998) identifies the continuation of patriarchal political structure as a major obstacle for women to contest elections, along with caste, class, and gender subjugation. Women's prospects of contesting and winning elections are also significantly hindered by a lack of awareness and understanding of electoral politics as well as a lack of financial assistance from political parties and families. Although there are other contributing variables, it is evident that national and regional parties' gender discriminatory practices in assigning seats to women in elections are the primary cause of the under-representation of women in the Lower House.²

73rd and 74th constitutional amendment under the constitution of India reserved one third (33%) of all seats and chairperson posts for women in rural and urban local bodies. It was a significant step towards political participation and representation of women at grass root level.³ However, the women representation in Parliament and State Legislative assemblies is relatively low. Finally, the Women's Reservation Act officially known as the Constitution (One Hundred and Sixth Amendment) Act, 2023, marks a historic step toward gender equality in Indian politics passed by both houses of Parliament received the assent of the president on 28th September 2023. The law mandates that one-third of all seats in the Lok Sabha, state legislative assemblies and the Delhi legislative assembly be reserved for women, including within seats already designated for Scheduled Castes (SCs) and Scheduled Tribes (STs).⁴ This landmark legislation, also referred to as the *Nari Shakti Vandan Adhiniyam*, aims to enhance women's representation in decision-making roles, addressing the current underrepresentation of women in legislative bodies. However, its implementation is contingent upon the completion of the next census and subsequent delimitation exercise, meaning the earliest it could take effect is the 2029 general elections. The reservation is set to last for 15 years, with provisions for extension by parliamentary action. This reform is seen as a significant move to empower women politically and ensure their voices are more prominently heard in the governance of the country.

Statistics

The World Economic Forum's "Global Gender Gap Report 2023" claims that "countries like India, Turkey, and China have less than 7% ministers who are women." Positively, the report states that "India has registered 25.3 percent parity, with women representing 15.1 percent of parliamentarians — the highest for the country since the inaugural report in 2006." This statistic is still insufficient, though, particularly as caste, class, and demographic disparities have not yet been taken into consideration when discussing women's political engagement. Much more needs to be done in this area.⁵ Table 1 depicts the women representation in Lok Sabha that is increased from 4.50% in the first Lok Sabha to 14.39 % in the 17th Lok Sabha. However, only 78 women MPs were elected in the 17th Lok Sabha. On the other hand, women's representation in Central Council of Ministers has been wavering around 12% reaching its peak in 2015 (17.8%). After 2019 Lok Sabha elections roughly 10% women representation has been recorded in union council of ministers. Women representation in state assemblies is also very low as Chhattisgarh has recorded highest percentage with 21% and Himachal at the bottom with only 1% of women in State assembly.⁶

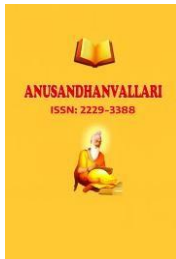
Table-1: Representation of Women in Lok Sabha Elections 1952-2019

Lok Sabha Election	Year	Number of seats available for election	No. of Women elected in Lok Sabha	% of Total women in Lok Sabha
1 st	1952	489	22	4.50
2 nd	1957	494	27	5.47
3 rd	1962	494	34	6.88
4 th	1967	523	31	5.93
5 th	1971	521	22	4.22
6 th	1977	544	19	3.49
7 th	1980	544	28	5.15
8 th	1984	544	44	8.09
9 th	1989	529	28	5.29
10 th	1991	509	36	7.07
11 th	1996	541	40	7.37
12 th	1998	545	44	8.10
13 th	1999	543	44	8.10
14 th	2004	543	47	8.66
15 th	2009	543	59	10.87
16 th	2014	543	62	11.42
17 th	2019	542	78	14.39

Source: Election Commission of India, New Delhi

Historical Background of the Act

Bills amending the Constitution to reserve seats for women in Parliament and State Legislative Assemblies have been introduced in 1996, 1998, 1999, and 2008. It was during the second session of the 11th Lok Sabha on July 18, 1996, Smt. Krishna Bose, who was then a Member of Parliament INC, officially asked for the reservation of seats for women in Parliament and State Legislatures. The demand was backed by Smt. Sumitra Mahajan, the current speaker of the Lok Sabha, who recommended that the bill reserving seats for women be introduced and approved during this session only.⁷ However, that session didn't witness the introduction of the Bill. After a lot of effort, the central government, led by H. D. Deve Gowda, initially proposed in 1996 to reserve one-third of the seats in the Lok Sabha and State Assemblies for women. The Women Reservation Bill (WRB) was first presented by then-prime minister H. D. Deve Gowda on September



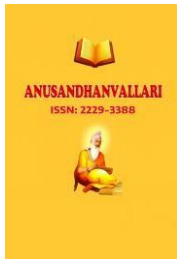
12, 1996, during Session II of the Eleventh Lok Sabha as the Constitution (Eighty-First Amendment) Bill, 1996.⁸ Due to lack of agreement, the H. D. Deve Gowda administration did not encourage the Bill to be discussed in the Lok Sabha. H. D. Deve Gowda was succeeded as prime minister of the United Front Government on April 21, 1997, by I.K. Gujral. The Women Reservation Bill in the Lok Sabha never proceeded under Gujral's leadership, and it finally expired in March 1998 when the Eleventh Lok Sabha was dissolved. The BJP gained more seats and managed to form a majority by allying with many parties in the 1998 general elections. In March 1998, A B Vajpayee was appointed head of the government. The Women Reservation Bill was another attempt by his government to pass legislation. The WRB was successfully submitted as the Constitution (Eighty-Fourth Amendment) Bill, 1998, on December 14, 1998, during Session III of the 12th Lok Sabha, after receiving the House's approval through a vote. But, this Constitution (Eighty Fourth Amendment) Bill, 1998 was never discussed in the House and met the fate of the previous Bill and lapsed with the dissolution of 12th Lok Sabha in 1999. The 13th Lok Sabha (XIIIth) was now in a position to approve the bill. Following the 1999 General Elections, the BJP was able to form a majority once again by bringing together a number of parties. Once more, Atal Bihari Vajpayee led a government that lasted till May 2004 and served its entire five-year tenure. The Constitution (Eighty-Fifth Amendment) Bill, 1999 was introduced on December 23, 1999, marking the government of A B Vajpayee's second attempt to pass the Women Reservation Bill. Immediately after it was introduced Mulayam Singh Yadav raised objection on the procedure of its introduction and called the procedure improper and insisted for division of votes as demanded by the House.⁹ Consequently the bill was again lapsed. During the 15th Lok Sabha the Women Reservation Bill was successfully introduced as the Constitution (One Hundred and Eighth Amendment) Bill, 2008 on May 06, 2008 in the last day of 213th Session of Rajya Sabha.⁸⁶ Finally after many hurdles the Bill was passed by the House on 9 March 2010 (The details of the debates in Rajya Sabha is given in Chapter-4). After getting passed from Rajya Sabha the WRB was never introduced in the Lok Sabha to get the consent thereof and it also lapsed when the 15th Lok Sabha dissolved.¹⁰

Key Features of Women Reservation Act 2023

- **Reservation for women:** The Bill reserves, as nearly as may be, one-third of all seats for women in Lok Sabha, State Legislative assemblies, and the Legislative Assembly of the National Capital Territory of Delhi. This will also apply to the seats reserved for SCs and STs in Lok Sabha and states Assembly.
- **Commencement of reservation:** The reservation will be effective after the census conducted after the commencement of this Bill has been published. Based on the census, delimitation will be undertaken to reserve seats for women. The reservation will be provided for a period of 15 years. However, it shall continue till such date as determined by a law made by Parliament.
- **Rotation of seats:** Seats reserved for women in Lok Sabha, Legislative Assembly of a State and the Legislative Assembly of the National Capital Territory of Delhi will be rotated after each delimitation as determined by a law made by the Parliament.
- **Articles to be amended:** To Achieve the goal of women's reservation, the bill proposed amendment to the constitutional provisions with respect to the NCT of Delhi. Article 239 AA
- **New Articles to be inserted:** The women's reservation Bill Also introduced three new articles namely articles 330A, 332A and 334A. The articles 330 A and 332A newly proposed articles want to establish women reservation in the Lok Sabha and state legislative assemblies. Article 334 A included a sunset provision that would gradually end this affirmative action policy after 15 years.¹¹

Significance

- The Women Reservation Act will solve the problem of under-representation of women in the politics. However the number of women MPs has increased from 5% in the first Lok Sabha to 14.39 % in the 17th Lok Sabha, but the number continues to be quite low.



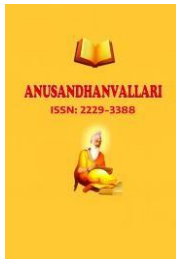
- The Women Reservation Bill will ensure the gender equality in India as the bill aims to reserve 33% of seats for women, which would significantly increase their representation in politics.
- The bill promotes the political empowerment of women by ensuring that they have a participation in decision making process. This is very crucial for addressing issues that affect women directly, such as health, education and safety.
- It will promote women's right to self-representation and self determination.
- It will encourage the women to aspire to leadership positions and they will serve as a role model for young girls. Their representation in politics can break stereotypes and inspire future generation.
- Socio-economic status of the women will be improved and they can play their constructive role in nation-building and good governance.

Challenges

- There are no seats reserved for OBC women, which is another issue with the women's reservation system. It is explicitly mentioned in the Mandal Commission report from 1980 that over 52% of Indian women are OBC. Therefore, it is reasonable to assume that, given the current circumstances, India's OBC women population rate may have risen to 60%.
- Another problem that can discourage women to not get involved in politics is the lack of family support and the patriarchal norms of the society.
- Criminalization is a further barrier that keeps women away from participating in politics in modern India.¹²
- Contesting in parliamentary and state legislative assembly elections is very expensive in India, while many women depend on their families for financial help. It is an additional barrier for women to finance election campaigns.
- The effectiveness of this bill is one question that has yet to be addressed. The informal role of "Pati Pradhan/Sarpanch Pati," or literally "Sarpanch's husband," has resulted from the reservation even at the Panchayati Raj level. This person makes important decisions and frequently serves as the de facto head while his elected women is just a nominal head. Therefore, it wouldn't be shocking if the Women's Reservation Bill had a similar outcome after it was put into effect.
- The implementation will take place after a delimitation phase specifically conducted for this purpose, according to the current legislation, after the relevant data from the first census conducted under the Constitution (One Hundred and Twenty-Eighth Amendment Act, 2023) is made public. This process could take anywhere from ten to fifteen years. So delay in implementation is further a challenge.
- The political will of current leaders to back and guide female candidates is essential to the success of the act.
- The way society perceives women in leadership positions may make it difficult for them to effectively participate in and be accepted in political arenas.

Conclusion

The Women's Reservation Act 2023 is a historic initiative aimed at ensuring greater political representation for women by reserving one-third of seats in the Lok Sabha and state assemblies. One of its key features is the inclusion of sub-reservations for SC/ST women, promoting inclusivity across social groups. The act is designed to be in effect for 15 years, with provisions for extension by the Parliament. Among its benefits, it is expected to empower women, promote gender equality, and bring diverse perspectives into policymaking and governance. It may also encourage more women to actively participate in politics and public life. However, the act also faces significant challenges. Its implementation is linked to the next census and delimitation exercise, which may delay its enforcement until 2029. There are concerns about the temporary nature of the reservation and the absence of quotas for women from OBC categories. Additionally, critics



argue that real empowerment requires not just reserved seats but also structural changes in political parties and institutions. Despite these challenges, the act is a progressive step toward a more representative and inclusive democracy, laying the groundwork for long-term social and political transformation.

References

- [1] Andrew Heywood, *Political Ideologies*, Palgrave Macmillan, UK, 2014, p. 231-232.
- [2] Parveen Rai, "Women's Participation in Electoral Politics in India: Silent Feminisation", *Sage Journals*, Volume 37, Issue 1, p.65. <https://journals.sagepub.com/doi/abs/10.1177/0262728016675529>
- [3] P. Srivasta, "Political Empowerment of Women and Panchayati Raj", *Yojana*, http://yojana.gov.in/public-account_2016sep.asp
- [4] The Constitution (one hundred and sixth amendment) Act, 2023, Retrieved from <https://egazette.gov.in>
- [5] <https://www.epw.in/engage/article/womens-reservation-act-2023-symbolic-gesture-or-0>
- [6] https://www.mospi.gov.in/sites/default/files/reports_and_publication/statistical_publication/Women_Men/mw23/DecisionMaking.pdf
- [7] XI Lok Sabha Debates, Session II, July 18, 1996.
- [8] Reservation of Seats for Women in Legislative Bodies: Perspectives, Rajya Sabha Secretariat, New Delhi, 2008, pp. 10-11.
- [9] Thirteenth Lok Sabha Debates, Session 2, December 23, 1999, <http://164.100.47.194%20/Loksabha/Debates/Result13.aspx?dbsl=6790>
- [10] Rajya Sabha Official Debates, Session No. 213, May 06, 2008, pp. 293-296, <https://rsdebate.nic.in/handle/123456789/104076>
- [11] The Constitution (one hundred and sixth amendment) Act, 2023, <https://egazette.gov.in/WriteReadData/2023/249053.pdf>.
- [12] Nitish Kumar N.P, Golul B., Arunkumar N and Vishal, "Analysing the challenges of Women Reservation", *International Journal of Law Management and Humanities*, Vol.6, Issue. 6, 2023, p. 1107. [Analysing the Challenges of Women Reservation - International Journal of Law Management & Humanities](https://www.ijlma.com/analysis-of-women-reservation-challenges)