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# The Women Reservation Act 2023: The Skywalk of Equality

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## ABSTRACT

*The Women's Reservation Bill, 2023 marks a historic step towards gender equality in Indian politics by providing 33% reservation for women in the Lok Sabha and state legislative assemblies. The bill aims to ensure greater representation of women in decision-making roles and bridge the gender gap in political participation. Despite being a long-pending demand, its implementation is tied to the completion of delimitation and the census, raising concerns about further delays. This paper critically analyzes the key provisions, political implications, and the challenges surrounding its execution, while also exploring its potential to reshape India's democratic and social landscape.*

## I. INTRODUCTION

One of the essential aspects of democracy is gender equality, as it ensures individuals with equal rights, opportunities, and participation in the political, social, and economic walks of public life. India, being the largest democracy in the world, and after more than 70 years of independence, is yet to achieve equal and appropriate representation of women in the social, economic, and political spheres of the country. While women have begun to establish their presence in conventional male-dominated professions, their representation in decision-making is far less due to the social and economic barriers. Nevertheless, the introduction of the Women's Reservation Bill, officially referred to as the Constitution (One Hundred and Twenty-Eighth Amendment) Bill, 2023, represents a crucial advancement in India's social and political framework.

The idea of representation of women and their reservation in the political arena is not a new one and has been in discussions for several decades reflecting gender inequality. However, it gained momentum in the post-independence era when 73rd and 74th was embodied in the constitution of India., providing reservations of 1/3rd seats in local self-government bodies for women. This step enabled women at the grassroots level to occupy a prominent position in panchayats and nagarpalikas, which also allowed them to make decisions for their own lives and for the community they represent.

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Internationally, India is a signatory of several conventions that mandate gender equality in the political sphere. Article 3 of the International Covenant on Civil and Political Rights (ICCPR)<sup>3</sup> guarantees equal civil and political rights for both genders. Similarly, Article 7 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)<sup>4</sup> provides that the state must take measures to eliminate discrimination in political and public life. In this context, it becomes crucial for India to fulfill these international obligations through domestic laws.

From homegrown initiatives like the Beti Bachao Beti Padhao campaign, the Self Help Group movement, the Ujjwala Yojna, and many more aimed at empowerment and equitable representation to global initiatives like the UN's Sustainable Development Goals for achieving gender parity by 2030, UN Women's "Step it Up" and "She Should Run" have played significant roles to encourage women to take on leadership roles, pushing them to represent themselves and to establish gender equality amongst all.

The studies consistently show that countries with higher levels of representation by women in government perform better across social and economic spheres. The inclusion of women in the political arena allows the legislature to bring more empathetic perspectives to policymaking on pressing issues such as maternal health, reproductive rights, gender-based violence, and political exclusion, ensuring more inclusive solutions to these overlooked issues. As also stated by Dr. B.R. Ambedkar, *"the growth and progress of women in a society are the only indicators of measuring the development and progress of a community in a country, which is the real progress of the country that the country has accomplished."*

The passage of this bill also encourages broader participation by women across all the sectors of public life, and it will also disrupt the traditional narratives that have long confined women to certain roles in society. Despite the overwhelming support for the bill, it has still not escaped criticism because of its potential limitations. The actual empowerment of women leaders necessitates not just numerical representation but also a genuine shift in the mindset and power structures within these institutions. In essence, the Women's Reservation Bill is not merely a response to immediate calls for gender parity; it is a bold vision for the future of Indian democracy. It represents a long-overdue recognition that women's participation in politics is essential for a thriving, inclusive democracy.

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<sup>3</sup> International Covenant on Civil and Political Rights, art. 3, adopted Dec. 16, 1966, adopted Dec. 16, 1996.

<sup>4</sup> Convention on the Elimination of All Forms of Discrimination Against Women, art. 7, adopted Dec. 18, 1979.

## II. ABOUT THE WOMEN RESERVATION BILL, 2023

The Women Reservation Bill 2023, also named as 'Nari Shakti Vandan Adhiniyam', is a longstanding step that the Indian Government was expected to bring. After holding it back for many years, the President granted assent to the bill after Lok Sabha and Rajya Sabha passed the bill in the special session. This move definitely calls for a celebration and opens way forward for the women in the country. The key features of the bill seek:

- i) With the addition in Article 239AA of the Constitution<sup>5</sup>, nearly one third, i.e., 33%, seats for women in Lok Sabha and state legislative assemblies of each state as Parliament may by law determine.
- ii) Similarly, an amendment has been brought in Article 330<sup>6</sup>, wherein one-third of the seats reserved for women are reserved for women of Schedule castes and Schedule tribes.
- iii) The legislative assemblies of the states shall follow the same framework as mandated for the Parliament.
- iv) The applicability of this bill is transient and shall continue till such date that parliament may by law determine.

The bill also provides a sunset clause wherein the reservation of seats for women shall cease to have effect on the expiration of 15 years from the commencement, which makes it transient in nature. Article 334A (2)<sup>7</sup>, however, appears to allow Parliament to continue the provisions “till such date as the Parliament may by law determine.”<sup>8</sup> A similar time-barred clause was also mentioned in the reservation of the SCs and STs in Parliament and state assemblies, initially just for 10 years, but this provision has remained passive till date. It is for the time to see whether the sunset clause of 15 years in the 128th Constitutional Amendment Bill remains of any significance. Nevertheless, it is expected by various committees that after 15 years of enforcement, the policy of reservation will be assessed to observe the impact it has had on the participation of women in politics in terms of numbers and roles. On the basis of which the continuity or termination of the bill should be determined.

It is noteworthy that the quota for women of other backward classes (OBC), which constitutes the largest part of Indian households, accounting for about 42 percent,<sup>9</sup> has not been provided

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<sup>5</sup> Constitution of India, 1950, Art. 239 AA.

<sup>6</sup> Constitution of India, 1950, Art. 330.

<sup>7</sup> Constitution of India, 1950, Art. 334, cl. 2.

<sup>8</sup> India: Parliament Enacts 'Women's Reservation Bill', Taqi Ahmad, Library of Congress, Nov. 3, 2023, <https://www.loc.gov/item/global-legal-monitor/>

<sup>9</sup> Share of population by caste identity India 2019-2021, Maya Rathore, Statista, May 14, 2024 <https://www.statista.com/statistics/1001016/india-population>

in the bill. Without an OBC or economically backward class (EBC) sub-quota, the Act has been oblivious to a large section of society.

The Act has been given assent by the President in 2023, yet it is not enforced. With the insertion of Article 334A(1) regarding when the reservation of seats for women will take effect, and the provisions state that it shall come into effect after an exercise of delimitation is undertaken for this purpose. The seats in Lok Sabha are expected to sharply increase in number, from 543 to 753<sup>10</sup>. The act will reportedly be implemented in the 2029 national elections. The Bill in 2005 also proposed bringing in women's reservation through amendments in exactly the same way, but it did not mention delimitation as a condition for implementation.

The insertion of this condition is not reasonably addressed by the government and has been questioned all this while.<sup>11</sup> The reservation of one-third seats also being referred to as "quota within quota" for the scheduled castes and tribes under the amendment is a progressive step. Further, the rotation of seats reserved for women in different houses of parliament and state legislatures shall take effect after subsequent exercise of delimitation as the Parliament may by law direct.

The "**Nari Shakti Vandan Adhiniyam**" 2023 marks a progressive step toward gender equality in political representation. However, its key provisions, including the delayed implementation and lack of clarity on reservation for marginalized groups of women, need further modifications.

### **III. INTERNATIONAL MANDATE FOR WOMEN RESERVATION POLICIES**

When we take a glance at the statistics worldwide, women consist of 50% of the population. Although the past 20 years have witnessed an impressive rise in the share of women in national parliaments around the globe, women, who represent 50% of the world population, continue to be severely underrepresented globally. The SDG 2030 recognizes equal participation and leadership of women in political and public life as an essential goal, and all the regions are making substantial progress towards achieving this goal.<sup>12</sup> The Beijing Declaration and Platform for Action of 1995, which was the outcome of the Fourth World Conference on Women and one of the most essential international declarations, had made

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<sup>10</sup> A close look at the women's reservation bill: Legal aspects and debates, Aneesha Mathur and Sanjay Sharma, India Today, Sep 22, 2023, <https://www.indiatoday.in/law/story/>.

<sup>11</sup> Women's Reservation Act and its Unsettled Details, Rashmi Singh, The India Forum, Dec 05, 2023 <https://www.theindiaforum.in>.

<sup>12</sup> Facts and figures: Women's leadership and political participation, UN Women, 2 Oct 2024, <https://www.unwomen.org/en/>.

decision-making power for women one of the 12 critical concerns to be addressed and 189 countries are signatory to it.

Many countries have provided reservations for women in decision-making positions to encourage their participation in the process of policy formation. According to the outcome of the twenty-third special session of the General Assembly entitled "*Women 2000: Gender Equality, Development, and Peace for the Twenty-First Century*,"<sup>13</sup> an increasing number of countries have applied positive affirmative actions like introducing quotas for women in decision-making positions with the aim to bring gender parity and women at the forefront.

In as many as 195 countries in the world only six nations worldwide have 50% or more female members in the lower houses of parliament. Rwanda being the highest among them with 61.3 percent, 53.3 percent from Cuba, 52.5 percent from Nicaragua, and 50 percent from Mexico, New Zealand and United Arab Emirates.<sup>14</sup> Further 23 more nations either attained or surpassed the 40 percent mark.

India as of 2022 was not far away from this margin and has remained in the lowest quartile for women's representation; neither the Upper House nor the Lower House have ever exceeded 15 percent women. As per the data the gender parity of legislative bodies may not be achieved by 2063. And for that purpose a number of African countries have set a 30% quota for women to empower women and to bring substantial development in the country.

When we look at America, the share of women in parliaments has doubled between 1995 and 2015, where women have taken historic steps by entering into politics like Hillary Clinton, Nancy Pelosi, Michael Bachomman, etc.<sup>15</sup> According to the IPU report 2017 numbers, Sweden has the largest percentage of women represented at 43.6 percent, making it the top country in Europe for women's status, followed by the United States and then when we look at the overall development of these countries, they are among the top in the list.

Women in Asia, the largest continent in the world, are ready to be active in their country's political and decision-making activities. A democracy like India being ranked 149th globally in a report published by the IPU in terms of representation of women in parliament becomes a

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<sup>13</sup>United Nations General Assembly Special Session "Women 2000: Gender Equality, Development and Peace for the Twenty-first Century" New York, 5-9 June 2000, UN Women, May 2000, <https://www.un.org/womenwatch>.

<sup>14</sup> *Id.*

<sup>15</sup> Kumar, Dr. Pankaj, Participation of Women in Politics: Worldwide experience (2017). IOSR Journal Of Humanities And Social Science (IOSR-JHSS), Volume 22, Issue 12, Ver. 6 , PP 77-88, e-ISSN: 2279-0837, p-ISSN: 2279-0845 (2017), Available at SSRN: <https://ssrn.com/abstract=3399829>

major concern. According to the Global Gender Gap Report 2023<sup>16</sup> by the World Economic Forum, India has less than 7% ministers who are women. To another side, India has registered 25.3 percent parity, with women representing 15.1 percent of parliamentarians. However, this is still an unsatisfactory statistic when it comes to women's political participation, and a lot of work remains to be done on this front.<sup>17</sup>

#### IV. DOES RESERVATION SOLVE THE REAL PROBLEM?

India has a long-standing history of advancing women's political rights, India is one among the first countries to grant women the right to vote and hold political office. Introduction of this Reservation Bill can mark another turning point in the development of the world's largest democracy. While greater women's representation is a worthy goal, reservation alone might not fully address the deep-rooted inequalities and discrimination that women face in Indian society.

The structural indifference that has kept women out of the decision-making institutions for years is expected to be addressed by the 2023 Women's Reservation Act, which has been hailed as a step toward empowering "Nari Shashaktikaran" as it is in the act. The success of this step hinges not only on its implementation but also on the response of the political parties, whether they seek or sabotage its potential.

One of the key challenges with the bill is to ensure that women's representation is not reduced to tokenism.<sup>18</sup> It is necessary to create institutional structures that enable women to act autonomously, bypass the patriarchal forms of patronage and gain substantive representation. The Reservation in Local Bodies by virtue of the 73rd and 74th amendments in the constitution shows how many women's leaders were originally *eclipsed* by male relatives. But it is also evident that many female leaders started to stand up for themselves and did a commendable job. This positive trend shows the reservation system's potential but also emphasizes how crucial institutional support is to ensuring that it results in actual empowerment.

Furthermore, the bill cannot change the deeply ingrained social norms that prevent women from entering the workforce, require them to perform unpaid domestic chores, and expose them to oppression and abuse. According to a study on Political Violence Targeting Women,

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<sup>16</sup>Benchmarking gender gaps, 2023, Global Gender Gap Report 2023, World Economic Forum, 20 June 2023, <https://www.weforum.org/publications/global>.

<sup>17</sup>Women's Reservation Act of 2023: A Symbolic Gesture or a Significant Stride Towards Empowerment?, Tiya Singh, EPW Engage, 20 Mar. 2024, <https://www.epw.in/engage/article/womens-reservation-act-2023>.

<sup>18</sup> Women's Reservation Bill Is Significant, but Concerted Efforts Needed to Realise Full Potential, Divya Pradeep and Roopa Patavardhan, The Wire, 03 Oct. 2023, <https://thewire.in/women>

female politicians face 12% of violence worldwide, female candidates for office face up to 8% of it and women voters face 2%. The reason behind these actions is that it is very uncanny for the masses to see women in power.

Another question is whether all women will gain from the reserve or if only a few elites will benefit. There is a concern that powerful women may profit from the Women's Reservation Bill, marginalizing other women, especially those from OBCs, as they are not included in the bill unlike SCs and STs, just as a privileged group among Dalits has monopolized the benefits of caste-based reservations.

India consists of a bicameral parliament, and both houses hold important functions. The non-extension of the act to Rajya Sabha limits the scope of the legislation and the potential for further systematic reforms. As the data states women in Rajya Sabha represent only 11%, which is less than the lower house, this skewed application of the act would further widen this gap.

The most essential challenge that will be faced by the government is in the just and fair implementation of the Act. The Act itself does not adequately suggest the implementation process of the reservation. Further delay in its implementation won't bring immediate action for it, which will lead to subsiding the real purpose. Although the Bill represents a ray of light for women's emancipation, realizing its full potential will need a deliberate effort to get past these societal and historical barriers.

## **V. RECOMMENDATIONS**

The passage of “**Nari Shakti Vandan Adhiniyam**”, 2023 bill marks a key milestone in addressing the underrepresentation of women in the Indian political arena. However, its successful implementation and enforcement will require a multi-faceted approach for a substantial change. One aspect would be the introduction of the training and mentorship programs for women entering public settings. This would help them to equip new skills, building their knowledge and confidence, and allowing them to better understand governance.

Another aspect is the rationale of tokenism that has been long since in the reservation debate. To ensure that the Women's Reservation Bill works well, it is critical that the reservation system goes beyond just filling the quotas and empowering women in reality. It is crucial that the political parties take strong steps for meaningful integration of women, entrusting them with more deep-rooted roles and responsibilities.

Furthermore, some structural changes should be made simultaneously to make the



environment conducive for women in politics, which also includes addressing gender-based violence and intimidation that women encounter in workplaces. The creation of a safe and supportive infrastructure for women leaders, including legal protection, access to resources, and safe working environments, will encourage more women to enter politics and remain engaged.

In the long run, the reservation system should act as a catalyst for more comprehensive gender reforms across all sectors, not just politics. Increasing women's representation in governance should be seen as part of a broader effort to ensure gender parity in corporate leadership, judiciary roles, academia, and other critical fields. Nordic countries like Sweden, Norway, and Denmark have enforced these provisions for the overall betterment of the society.

Lastly, there is also a need to create awareness at the national level of the need for gender equity and women's leadership in the society. The media, the civil society, and the educational institutions have to actively assist in creating awareness about the significance of women's engagement in the political arena. By normalising the idea of women in leadership roles and highlighting their contributions, society can help dismantle the deep-rooted gender biases that have historically limited women's entry into public life and ensure that gender-based reservations lead to lasting and transformative changes in Indian democracy.

## **VI. CONCLUSION**

The Women's Reservation Bill, 2023, marks a significant milestone in the journey toward gender parity for India in the political landscape. By reserving one-third of the seats in the Lok Sabha and state assemblies for women, the Act promises and will bring much-needed representation and diversity to decision-making bodies by inclusion of women. The passage of the Bill is a beacon of hope, but realising its full potential requires concerted efforts to overcome socio-economic hurdles and create a more inclusive and equitable political landscape for women in India. Considering the long history of patriarchy entrenched in the society, it would be deceiving to consider it as the ultimate solution to the deep-rooted problem of gender inequality and discrimination. The actual empowerment would require more than just Tokenism in Indian politics but it must be accompanied by broader structural changes, including elimination of socio-economic and cultural barriers that have limited women's participation in public life for years. Furthermore, global examples show that reservation and quotas are impactful but they need to be coupled with sustained educational, social, and economic reforms to ensure long-term inclusivity. Therefore, the Act serves as a promising beginning, but the road ahead remains long and demands persistent efforts to

realize the true potential of gender equality in governance.

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