

Legislative Intervention for Women's Representation in the Mainstream Political System of India

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Abstract: *This paper seeks to provide a gist on the legislative intervention undertaken in India towards seat reservation to women in the mainstream political system comprising the Parliament and the State Legislative Assemblies. In cognizance of the success attained by granting seat reservation to women in the Local-Self-Governance through insertion of Articles 243D and 243T respectively for Panchayat and Municipality in the year 1992-1993, the 81st Constitutional Amendment Bill, 1996 was introduced with provision of at least one-third of the total number of seats to be allocated to women in the Lok Sabha and State Legislative Assemblies. Not only this, but other similar Bills of 1998, 1999 and 2008 could not get passed in the Parliament of India due to one or other reason. The period of a long deep silence thereafter was broken by the Public Interest Litigation (PIL) filed by the National Federation of Indian Women in the Supreme Court towards reintroduction of Women's Reservation Bill in the Parliament. However, pending decision and verdict of the Court on the PIL, the Constitution 128th Amendment Bill, 2023 was introduced during the Special session of the Parliament at New Parliament House. On this occasion, it was finally passed by the both Houses of the Parliament of India to bring amendments to the Constitution for bringing reservation of seats to women in the Lok Sabha and State Assemblies in India.*

Keywords: Lok Sabha, Parliament of India, Seat reservation, State Legislative Assemblies, Women Reservation Bill.

1. Introduction

In every democratic system, it is vital to make women as an equal partner in the decision-making process to ensure incorporation of their vital issues thereby eliminating gender disparities in the society. The studies have shown that greater representation of women at the highest levels of governance changed agendas related to gender and legislative framework. As per the constitutional provisions in India, the state should make necessary provision to combat gender inequality and protection of weaker sections of the society. Accordingly, in case of education, employment and host of social welfare benefits, the Constitution provides reservation to the persons of Scheduled Castes (SCs) and Scheduled Tribes (STs) communities in proportion to their number in the population. Their seats are also reserved in the Lok Sabha and State Legislative Assemblies. However, in respect of the women constituting half of the country's population, the provision for reservation of seats for women in the Panchayats and Municipalities were made from the year 1992-1993 but not in the Parliament and State Legislative Assemblies till recently. Despite of this, currently 14.36% of members in the Lower House of the Parliament (Lok Sabha) are women which is highest recorded so far. In the context of the Lok Sabha elections, the participation of women in the electoral politics has been increasing and reached nearly to an equal representation as compared to the men in last two elections held in the years 2014 and 2019 thereby creating a significant milestone. The efforts on legislative interventions for seat reservation to women in the Parliament and State Assemblies were undertaken since the year 1996 and the fight for the same finally concluded in the year 2023. As India ranked 48th out of 146 in the Global Gender Gap Report of 2022 for political empowerment including women's representation in the Parliament and Ministerial

positions, it is expected that seat reservation in the Parliament and Lok Sabha will improve the country's position in the future.

2. Essence for legislative interventions towards reservation of seats for the political representation of women in India

In addition to the principle of gender equality enshrined in its Preamble, the Constitution of India empowers the State to adopt measures of positive discrimination in favour of women towards neutralization of the cumulative socio-economic, educational and political disadvantages faced by them. Under its various Parts, the interests and benefits of women are secured with the provision of equality before the law and equal protection of law, prohibition of discrimination against any citizen on ground of religion, race, caste, sex, or place of birth and guarantees equality of opportunity to all citizens in matters relating to employment. Several Articles of the Constitution of India are either wholly or/and partially intended to protect the interest of women. The Fundamental Rights entitles equality of law, rights and opportunities to both men and women in the political, economic and social spheres, equal opportunity in public employment and prohibition of discrimination on the grounds of sex. Whereas, the Directive Principles of State Policy entitles not only equal means of livelihood, equal pay for equal work, secure good health and strength of workers, be it men or women, etc. In case of women, there are provisions to provide with maternity relief, nutrition and standard of living, special care for education and protection against all forms of exploitation. The Fundamental Duties goes to promote harmony in the society and to impose a fundamental duty to renounce those practices derogatory to the dignity of women.

Volume 12 Issue 12, December 2023

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In pursuance to principle of equality of sexes inscribed in Article-2 of the Constitutional of India, the state is required to make necessary provisions with enactment of legislative intervention. Accordingly, the reservation of seats for women in the Local-Self-Governance was provided upon assent of the President of India on the Constitution (Seventy-third) Amendment Act, 1992 on 24th April 1993 and the Constitution (Seventy-fourth) Amendment Act, 1992 on 1st June 1993, thereby adding two new Parts to the Constitution of India, namely, Part IX titled "The Panchayats" and Part IXA titled "The Municipalities." Consequent to which, the participation of women in the local-self-governance have adequately exhibited their ability and capacity in decision making process thereby bringing changes in political dynamics of the Panchayati Raj Institutions (PRIs) and the Urban Local Bodies in the country. It is with such success in the local bodies that twenty-three states and Union Territories of India have fixed reservation for women in PRIs moving ahead of minimum requirements.

However, in the passage of time period of 75 years after country's independence, the state has failed to provide reservation for participation and representation of women in the State Assemblies, Lok Sabha and Rajya Sabha.

3. Historical background on seat reservation for women in the Parliament and State Assemblies

The Constitution of India provides seat reservation for the Schedule Castes and Schedule Tribes in the Lok Sabha and State Legislative Assemblies at the rate of 15% and 7.5% respectively and also in the State Legislative Assemblies according to their population proportion in the respective States and Union Territories. Whereas, for the purpose of allocation of seats to women in the Parliament and State Legislative Assemblies, the amendments in the Constitution being necessary, Bills were introduced several times.

The first Bill for seat reservation to women in the Houses of Parliament or/and State Legislative Assemblies was introduced in the Parliament of India in the year 1996 and subsequently continued with similar Bills in the years 1998, 1999, 2008 and 2023. A brief description on every Bills introduced in the Parliament of India are discussed here-below:-

3.1 The Constitution (Eighty-First Amendment) Bill, 1996

It was introduced in the Lok Sabha on 12th September 1996 with following key provisions:-

- Reservation of one-third of the total number of seats for women to be filled by direct elections in the House of the People and Legislative Assemblies of the States;
- Reservation of one-third of seats for women belonging to the Scheduled Castes and the Scheduled Tribes under clause (1) of Article 330 and clause (1) of article 332 of the Constitution;
- No reservation of seats for women in the Lok Sabha from any state having less than three seats in the Lok Sabha;

- Reservation of seats for women by rotation in such a manner to be laid down by law of the Parliament.

The said Bill did not have time limit for reservation of seats for women. It also did not have provision for reservation of seats for women in the Rajya Sabha and the Legislative Councils of the States. Upon dissenting opinions and debate in the Parliament, the Bill was referred to a Joint Committee of Parliament. After the committee presented its report on 9th December 1996, it was not passed in either Houses of the Parliament.

3.2 The Constitution (Eighty-Four Amendment) Bill, 1998

In another attempt, the 84th Constitutional Amendment Bill, 1998 was introduced on 14th December 1998, which got lapsed on the dissolution of Twelfth Lok Sabha. It had provisions similar to that of the Constitution (Eighty-First Amendment) Bill of 1996.

3.3 The Constitution (Eighty-Five Amendment) Bill, 1999

In the following year, the 85th Constitutional Amendment Bill, 1999 was introduced in the Lok Sabha on 23rd December 1999 with key provision for reservation of one-third of seats for women in the Lok Sabha and State Legislative Assemblies inclusive of seats reservation for Scheduled Castes (SCs) and Scheduled Tribes (STs) with rotation to be determined in such a manner that a seat shall be reserved only once in a block of three general elections. Due to lack of consensus amongst the political parties, the said Bill was not pursued further.

3.4 The Constitution (One Hundred and Eighth Amendment) Bill, 2008

The Union Government started National Common Minimum Programme towards elimination of the gender inequality and discrimination against women, to bring a complete political empowerment of women and to fulfil people's mandate to fully empower women politically, educationally, economically and legally. In this backdrop, the 108th Constitutional Amendment Bill, 2008 was introduced in the Rajya Sabha on 6th May 2008 which was popularly known as "Women's Reservation Bill". It had the following key features and provisions:-

- One-third seats of the present strength of the House of the People and the Legislative Assembly of every State to be reserved for women;
- One-third seat reservation of women to be inclusive of reservation of one-third the number of seats for the Scheduled Castes and the Scheduled Tribes in the House of the People and in the Legislative Assembly of every State;
- Reservation for women nominations from Anglo-Indian community in the House of the People and in the Legislative Assemblies of the States;
- Reservation for women in the Legislative Assembly of the National Capital Territory of Delhi; and

- e) Seats reservations for women to be ceased on expiration of a period of fifteen years from the enactment of the Bill.

The Bill was referred to the Parliamentary Standing Committee, which examined, reviewed and submitted its report on 17th December 2009. Thereafter, it was placed in the Rajya Sabha and upon an extensive debates and obstacles, it got finally passed in the House on 9th March 2010. Prior to this, the Union Cabinet had approved Women's Reservation Bill on 25th February 2010. Unfortunately, this Bill got lapsed in the Lok Sabha.

3.5 The Constitution (One Hundred and Twenty-Eighth Amendment) Bill, 2023

The National Federation of Indian Women in the year 2021 filed a PIL petition in the Hon'ble Supreme Court seeking reintroduction of a Bill for the reservation of one third of total seats for women in the Lok Sabha and State Legislative Assemblies. Pending decision of the Court in the PIL, the 128th Constitutional Amendment Bill, 2023 (Bill No. 124 of 2023), also known as 'Women's Reservation Bill' was introduced in the Lok Sabha on 19th September 2023 by the Minister of State for Law and Justice, Government of India. The Bill has following key provisions:-

- Seat reservation for women: Bill seeks to provide at least one-third of the total number of seats to be reserved for women in (i) the Lok Sabha, (ii) all State Legislative Assemblies and (iii) the Legislative Assembly of the National Capital Territory (NCT) of Delhi. It had provisions of seats reservation for a specified period of fifteen years from the date of commencement of the Act.
- Commencement of reservation: The reservation will be applicable only after delimitation upon publication of results of 1st Census conducted after the year 2023. Alternatively, reservation for women is tentatively to be applicable from 2029 general elections thereby avoiding its implication in the Lok Sabha election scheduled to be held in year 2024.
- Rotation of seats: The Bill provides to make rotation of seats after every delimitation of the constituencies, as determined by a law made by the Parliament.

The Lok Sabha passed the said Bill with 454 members in its favor on 20th September 2023 and on the following day, the Rajya Sabha also approved the Bill unanimously. Therefore, during the recently concluded Special Session, the Parliament of India finally passed the Bill for one-third of seat reservation to women in the Lok Sabha and State Legislative Assemblies inclusive of the NCT of Delhi. Consequent to this, it was endorsed by the Vice President of India (also the Chairman of Rajya Sabha) and then sent to the President of India for approval.

3.6 Comparison of 2023 Bill with previous ones

The Women Reservation Bill of 2023 can be considered as a replication but modified version of all the related Bills introduced in either House of the Parliament at different years. However, the Bill of 2023 as compared to the

Women's Reservation Bill of 2018 had two key changes as shown in the table below:-

Table 1: Key changes between the Women's Reservation Bills of 2008 and 2023.

Sr	Parameters	Women's Reservation Bill, 2008	Women's Reservation Bill, 2023
1	Reservation of seats	One-third of the Lok Sabha seats in each state/UT to be reserved for women	One-third of total seats of Lok Sabha, State Legislative Assembly of every state and Legislative Assembly of the NCT of Delhi to be reserved for women
2	Rotation of Seats	Reserved seats to be rotated after every general election to Parliament/Legislative Assembly	Reserved seats to be rotated after every exercises undertaken on delimitation of the constituencies

Source: <https://prsindia.org/billtrack/the-constitution-one-hundred-twenty-eighth-amendment-bill-2023> retrieved on 16th November 2023 from PRS (prsindia.org)

The Women's Reservation Bill of 2023 intends to come into effect only after a process of delimitation of the constituencies is carried out upon publication of reports of first Census conducted after 2023. However, such conditional provision was not available in all the similar Bills of 1996, 1998, 1999 and 2008 introduced in the Parliament of India.

4. Legislative provision for representation of women in the House of the People and State Legislative Assemblies in India by the Constitution (106th Amendment) Act, 2023:

Upon assent of the President of India, Smt. Draupadi Murmu to the Constitution (128th Amendment) Bill, 2023 on 28th September 2023, it became an Act to be known by the name the Constitution (One Hundred and Sixth Amendment) Act, 2023. This Act provides for insertion of clauses under Articles 239AA, 330 and 332 of the Constitution thereby making provisions for one-third of the total seats to be filled by direct election in the Legislative Assembly of the National Capital Territory of Delhi; the House of the People (Lok Sabha); and the Legislative Assembly of every States to be reserved for women. The insertion of Article 334A in the Constitution further provided that such provisions for reservation of seats to women shall come into effect after an exercise of delimitation is undertaken for this purpose, upon publication of report on the first census conducted after the year 2023. Such provision shall cease to have effect on the expiration of a period of fifteen years from date of commencement of the Act. It was also provided that such amendment will come into effect on a designated date fixed by the Central Government through an official notification in the Gazette of India.

The Constitution (One Hundred and Sixth Amendment) Act, 2023 which received assent of the President of India on the 28th September 2023, got published for general information in the Gazette of India bearing No. 36 dated: 28th September 2023. The purpose of such amendments in the Constitution

of India is indented to increase women's participation in the country's apex decision and policymaking processes. It is a significant legislative intervention for gender justice and gender equality. However, it is also important to note that such reservation will be enforced in the country only after a delimitation exercise is conducted following the first census to be held after such amendments in the Constitution. The women's reservation is scheduled to remain in force only for a period of fifteen years from its commencement thereby covering maximum of three terms of the general elections to be held after 2024 election.

In the nutshell, the Constitution (One Hundred and Sixth Amendment) Act, 2023 brought an amendment to Article 239AA (special provisions related to the NCT of Delhi) and addition of three new Articles, namely Articles 330A, 332A, and 334A. The introduction of the first two Articles in Constitution of India brings out one-third of seats reservations to women in the House of the People (Lok Sabha) and the State Legislative Assemblies respectively. However, such reservation is set to be enforced following a delimitation exercise conducted for this purpose only after enactment of Act.

5. Impact of the Constitution (106th Amendment) Act, 2023 in the Constitution of India

The Constitution (One Hundred and Sixth Amendment) Act, 2023 shall bring changes as listed but not limited to followings:-

- 1) Reservation of seats for women in the House of the People:
 - (a) Insertion of new Article 330A in the Constitution of India for one-third of the total number of seats (i.e., 181 out of 543 seats) to be filled by direct election to the House of the People (Lok Sabha) to be reserved for women;
 - (b) Provided that one-third of the total number of seats reserved for women in the House of People to be reserved for women belonging to the Scheduled Castes or/and the Scheduled Tribes .
- 2) Reservation of seats for women in the State Legislative Assemblies:
 - (a) Insertion of new Article 332A in the Constitution of India for one-third of the total number of seats to be filled by direct election in the Legislative Assembly of every State to be reserved for women;
 - (b) Provided that one-third of the total number of seats reserved for women in the State Assembly to be reserved for women belonging to the Scheduled Castes or/and the Scheduled Tribes in such manner as the Parliament of India may by law determine.
- 3) Reservation of seats for women in the Legislative Assembly of the National Capital Territory of Delhi:
 - (a) Insertion of new sub-clauses in the Clause (2) under Article 239AA in the Constitution of India for one-third of the total number of seats to be filled by direct election in the Legislative

- Assembly of the National Capital Territory of Delhi to be reserved for women;
 - (b) Provided that one-third of the total number of seats reserved for women in the Legislative Assembly of the National Capital Territory of Delhi shall be reserved for women belonging to the Scheduled Castes or/and the Scheduled Tribes.
- 4) Insertion of new Article 334A for commencement date of Act and window period of seats reservation to women in the House of the People, the Legislative Assemblies of every State and the Legislative Assembly of the National Capital Territory of Delhi.
 - (a) Insertion of clause (1) under new Article 334A in the Constitution of India provides that reservation of seats for women under Articles 239AA, 330A and 332A shall come into effect only upon delimitation of constituencies undertaken after publication of first census conducted after 28.09.2023;
 - (b) Provided that such reservation shall be limited to a period of fifteen years from the commencement of Act.
 - (c) Clause (2) states that such reservation shall continue till such date as the Parliament may by law determine.
 - (d) Clause (4) states that such reservation shall not affect any representation in the existing House of the People (Lok Sabha), the Legislative Assemblies of every States and the Legislative Assembly of the National Capital Territory of Delhi until their dissolution.
 - 5) Rotation of seats reserved for women under Articles 239AA, 330A and 332A of the Constitution: Introduction of Clause (3) under new Article 334A provides that there shall be rotation in the seats reserved for women in the House of the People, the Legislative Assemblies of every States and the Legislative Assembly of the National Capital Territory of Delhi after every subsequent exercise of delimitation as the Parliament of India may determine by suitable law.

Besides, the Constitution (One Hundred and Sixth Amendment) Act, 2023 provided that it shall come into force only from such date as the Central Government may appoint and notify in the Official Gazette.

6. Advantages and criticism of the Constitution (106th Amendment) Act, 2023

The positive impact and advantages expected from the Constitution (One Hundred and Sixth Amendment) Act, 2023 can be outlined as listed but not limited to the followings:

- a) Increase in political representation of women at the House of the People from current 14.36% (highest recorded till date) to a secured minimum of 33% of the total seats thereby raising their numbers from 78 at present to minimum of 181 members.
- b) Fixing political representation of women at the Legislative Assemblies of every states and NCT of Delhi to a secured minimum of 33% of the total seats.
- c) As the percentage of women in the electoral politics have reached marginally equal to that of their male

counterparts in general elections to Lok Sabha held in 2014 and 2019, the provision for seat reservation of women could substantially increase in their voting percentages.

- d) The policy of seat reservation is expected to bring changes in the pattern of male dominance in the political parties and their leadership together with changes in the country's apex decision-making institutions.
- e) Enhancement in the political representation of women shall enable to amplify the nation building initiatives with more focused on the women-led developments.
- f) The secured political representation shall not only bring reduction in the gender inequality in the political system and politics but changes in the patriarchal mindset of the society in general.
- g) The women's empowerment and women led development could result in substantial improvement in the overall position of women in the society.
- h) The greater representation of women in the decision-making process could enrich the quality of legislative debates in the Parliament of India and State Assemblies thereby bringing different perspectives in policy making at State and national level
- i) Increased representation of women in the politics could also facilitate increase in participation of women in other arenas too.

Despite of being a landmark legislation for the political representation of women in the Indian political system, the Constitution (One Hundred and Sixth Amendment) Act, 2023 has been criticized for the reasons listed but not limited to the followings:

- a) The Act does not provide seat reservation to women either in the Rajya Sabha or/and Legislative Councils of the States in the India.
- b) The reservation of seats for women is dependent on the Census and delimitation of the Constitutions to be undertaken after 28.09.2023. This process unnecessarily delays and defers implementation of law brought for women's reservation in the Lok Sabha and Legislative Assemblies of every States and the NCT of Delhi. It appears to be a tactics for making delay in decision undertaken granting benefits of seat reservation and skip the grant of such benefit to women in the general election scheduled to be held in the year 2024.
- c) The seat reservation of women is scheduled to remain in effect for a limited period of fifteen years from date of commencement of Act. In terms of time period, it appears to be a temporary provision but not permanent solution for gender equality in the political system.

As the global crises created by Covid-19 pandemics had deferred the scheduled Census of 2021 in India, the possibilities of next Census is expected only after 2024-25 general election of the Lok Sabha and State Assemblies. Whereas, in order to ensure timely implementation of Act, timely conduct and publication of census data is necessary. Any delay in the Census will further delay in delimitation of the Constituencies, which is necessary for appointment of date for implementation of Act. Though the Lok Sabha currently comprised of 78 women members comprising 14.36% of total seats, the Act assured to raise the number to

a minimum of 181 out of total 543 seats. However, it does not provide seat reservation to women in the Rajya Sabha or/and State Legislative Councils.

7. Conclusion

All four attempts for the constitutional provision on reservation of seats to women in the Lok Sabha and the State Assemblies with Bills introduced in the Parliament of India in the years 1996, 1998, 1999 and 2008 did not got passed due to lack of consensus and wills of the political parties, such efforts undertaken could not be successful. However, the period from year 1996 to 2008 can be considered as years of silence and introspection towards political empowerment of women to country's highest levels of decision-making institutions and governance. The aged old prevailing patriarchal mindsets can be stated to have continued influencing majority of the decision-makers at the state's top-level institution for governance thereby delaying attempts made for constitutional provision, to ensure active participation of women at the mainstream politics in India.

The passage of hibernated mode of fourteen years of time period between the 2008 and 2022 with no presence of Bill tabled in the Parliament of India can be termed as either 'time taken for consideration' or 'time for looking into or bearing in mind'. However, the Women's Reservation Bill of 2023 tuned into an Act is a historical legislation aimed to enable greater political representation of women in the country's highest policy making process and governance.

For the first time in the political scenario of India, a landmark statutory legislative intervention was made with the 73rd and 74th Constitutional Amendments for seat reservation to women at the Panchayats and Municipalities respectively which substantiated that women could fulfil their duties and responsibilities not only efficiently but effectively as well. In fact, it brought a revolution for political empowerment of women at the Local-Self-Governance in India. Whereas, the passage of the Women's Reservation Bill into Act is expected to bring another revolution in the political participation and empowerment of women at the highest level of political system of the country. This is a major step forward to bring gender equality in the Parliament and State Assemblies with increased political representation and participation of women in mainstream politics.

It is expected to bring a significant sea-wave changes in socio-cultural environment and a complete changeover on parameters for the political empowerment of women in India. The participation of women at the local level have been promoting political consciousness, socio-cultural development and training for their participation in the mainstream politics at the state and national level. However, minimum of 33% seat reservation to women at the Lok Sabha and all the State Legislative Assemblies in India not only assures for the representation and participation of women but to equally influence in the decision-making process at the apex levels. It is also anticipated to bring greater transformation in governance for all round development in the country.

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Author Profile



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