

GENDER EQUALITY AND WOMEN EMPOWERMENT: A CRITICAL ANALYSIS OF NARI SHAKTI VANDAN ADHINIYAM

ABSTRACT

The legislative odyssey of the Women's Reservation Bill began nearly thirty years ago, when it was first introduced in Parliament in September of 1996. Over the years, every subsequent government has made an effort to guarantee its passage. Unfortunately, lack of political will and consensus ultimately led to the failure of this significant endeavour. Ultimately, in September 2023, the Parliament passed the Women's Reservation Bill, also known as Nari Shakti Vandan Adhiniyam, making history in the process.

All political parties are now required to acknowledge the important role that woman plays in creating an inclusive society and thus put out a strong call to action for women to take charge of their own lives, acknowledge their agency, and embrace equal responsibilities as citizens. Therefore, it can be considered a significant achievement for the women's movement in the country. It is important to remember that the 73rd and 74th Constitutional Amendment Acts allocated one-third of the seats for female candidates. The Constitution also provided representation to Scheduled Castes (SCs) and Scheduled Tribes (STs) in the State Legislative Assemblies and Lok Sabha based on their demographic share. However, the Constitution did not guarantee women's reservation in the Lok Sabha and state legislative assemblies, despite the fact that they make up the majority of the marginalized population. Women are now able to participate in our country's policymaking process thanks to the passage of the Nari Shakti Vandan Adhiniyam. However, there are still important questions about how to carry out this important change.

In the light of the above facts the author in this article has traced the legal history behind Women Reservation Bill. Post this the author has analysed the Nari Shakti Vandan Adhiniyam. Lastly the author has highlighted the challenges around the successful implementation of this law and has come out with solutions for the same.

Keywords- Parliament, Women, Reservation, Equal, Policymaking.

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1. INTRODUCTION

Despite the presence of a few well-known women in Indian politics, women have generally played a minor role and had little influence in administration and governance. This is true even though every individual's political freedom and equality before the law are guaranteed under the Constitution. Gender bias dominated Indian politics at all levels of government before the 33 percent reservation for women in local government bodies was implemented in 1992. Since women in Indian politics are still marginalized, there has been a lot of attention lately to the proposal to reserve one-third of the seats in Parliament and Legislative Assemblies.ⁱ

The political empowerment of women stands as a crucial indicator of gender equality and plays a pivotal role in policymaking geared towards advancing the well-being of women and girls. The Sustainable Development Goal (SDG) 5.5 seeks to guarantee women's full and effective involvement in all levels of decision-making in the political, economic, and public domains, as well as equitable chances for leadership. The percentage of seats occupied by women in national parliaments and local governments is a crucial indicator of progress made toward this goal.ⁱⁱ

Eventually on September 20, 2023, the Women's Reservation Bill was passed by the Lok Sabha, a momentous day that came 27 years after it was originally tabled in parliament. Both Houses of Parliament have unanimously supported the Bill, which seeks to reserve 33 percent of seats for women in the Lok Sabha and state legislative assemblies. This suggests that the Bill has the potential to enhance women's lives and boost their participation in public affairs. India has made progress toward gender parity in school enrolment, according to the Global Gender Gap Report 2023, but its female equality in economic participation and opportunity is still far off at just 36.7%. The discrepancy in survival and health, where India is ranked poorly at 142 out of 146 countries, exacerbates this even further. Furthermore, India continues to score poorly in terms of political empowerment. In light of this, the Women's Reservation Bill's passing is crucial, particularly in light of the fact that women have never before represented more than 15% of the electorate in India.ⁱⁱⁱ

2. HISTORICAL PERSPECTIVE OF WOMEN RESERVATION IN INDIA

2.1 PRE-INDEPENDENCE INDIA

The call for women's reservation in legislative bodies has a rich history, dating back to discussions on constitutional reforms in the 1930s. During this period, legislative reservations for various groups were under consideration. The Government of India Acts of 1909, 1919, and 1935 provided separate electorates for Muslims, Sikhs, and Christians. Additionally, seats were allocated to the Depressed Classes through nomination in 1919 and 1925, and through elections in 1932. The Indian National Congress, opposing special electoral rights, argued against reserved seats, fearing it would permanently tie religious identity to political power. This stance influenced women's organizations such as the All-India Women's Congress, the National Council of Women of India, and the Women's India Association. These organizations, despite being at the forefront of advocating for female enfranchisement and civil rights, opposed legislative reservations for women. They believed that seeking preferential treatment would compromise the universal demand of Indian women for absolute equality in political status.^{iv}

Nationalists across India voiced their views, asserting that ensuring women's presence in legislatures was secondary to the primary objective of achieving freedom. They insisted on the right to stand for election to legislatures, advocating for equality without any special privileges. Sarojini Naidu, who took part in the Second Round Table Conference in 1931, opposed the idea of reserved seats for women. She emphasized that she represented all Indian women, including those from orthodox Hindu and Muslim backgrounds. The central debate revolved around the concepts of absolute equality versus preferential treatment, not only for women but also for other groups such as Muslims and the Depressed Classes.^v

However, several Muslim women associated with the Muslim League disagreed with the outright rejection of quotas. In contrast to Congresswomen, they were keen to secure reserved seats for Muslims. Despite the dissatisfaction among many within the Muslim League regarding the dilution of their quotas due to women's inclusion, Begum Shah Nawaz Khan argued that women needed special representation. Major women's organizations opposed reservations, but the Colonial Government ignored them. The Government of India Act of 1935 extended their dedication to group-based politics by granting women 41 reserved seats in provincial legislatures and restricted reservations in federal legislatures. However, the

administration proceeded to split the parliamentary seats along religious lines as women objected to the communal award that had split their ranks.^{vi}

Despite being at the forefront of opposition to the constitutional provisions, the All India Women Congress made use of the reservation clause. Fifty-six women were elected to the legislature in 1937; 41 of them held reserved seats, 10 held unreserved seats, and 5 had nominated seats. Scholar Gail Pearson correctly notes that the reserved seats did, in fact, create the foundation for women's involvement in politics and gave them a crucial foothold in legislatures.^{vii}

2.2 CONSTITUENT ASSEMBLY ON WOMEN RESERVATION

The members of the Constituent Assembly were tasked with creating a document that would overhaul Indian society politically, socially, and economically. Importantly, this document needed to not only redefine the legal relationship between the State and individuals but also the legal relationships among individuals themselves. Prior to independence, it wasn't just the colonial government that infringed upon citizens' rights; dominant caste groups and traditional authorities also oppressed marginalized sections for centuries. Therefore, for India to truly be a free country, it was imperative for Indians to break free from these traditional authorities' grasps.^{viii}

Indian nationalists understood the necessity of societal transformation. In his notable work *Samya*, Bankim Chandra Chattopadhyay promoted constitutional guarantees of equal protection under the law and equality before the law. Leaders of the women's movement in the late 19th and early 20th centuries demanded voting rights, gender equality and an end to child labour. Congressmen like Motilal Nehru and C.R. Das continuously battled for the rights of the Indian and fiercely opposed arbitrary actions of British Administration included. Furthermore Dr B.R. Ambedkar sought to end societal hierarchies through his writings such as *Annihilation of Caste* and other reformatory efforts. Mahatma Gandhi promoted civil liberties that would improve the lives of all Indians in addition to independence from British rule through his national movements and social service initiatives. The political, social, and economic disparities in Indian society were obviously well known to the country's freedom fighters. They were therefore committed to creating a constitution that would fundamentally alter Indian society on all fronts—politically, socially, and economically. The ideas of

parliamentary democracy and universal adult franchise were presented in an effort to construct a liberal democracy in India. During the colonial era, when Indians were merely subjects, universal adult franchise guaranteed that every Indian, regardless of sex, caste, or place of birth, had the right to vote.^{ix}

There were fifteen women representatives in the Constituent Assembly, who are frequently forgotten in talks about the Constitution's drafting, were crucial in representing a range of viewpoints in an Assembly presided over by men. Most of them took part in debates and they supported meritocracy over preferential treatment.^x The voice of Hansa Mehta rang loud and clear in this setting. Mehta stressed that Indian women did not want reserved seats or distinct electorates, but rather fairness in the social, economic, and political spheres, even as she acknowledged that they wanted equality of position and opportunity in free India. She emphasized the necessity for social, economic, and political justice as the cornerstone for gender equality and cooperation, highlighting the centuries-long injustices faced by Indian women as a result of laws, conventions, and societal practices. Renuka Ray, on the other side, was against women's reservations, arguing that women should be promoted on the basis of merit rather than gender and using Vijayalakshmi Pandit as an example.^{xi}

In her plea for Sarojini Naidu, Vijayalakshmi Pandit, and Malati Chaudhuri's vacant seats to be filled, Purnima Banerji stressed that the appointments should be made on the basis of qualifications, not gender. A common objection to women's suitability for government roles was raised, one that was backed by H.V. Kamath, who expressed a willingness to see more women in the House. The concern was that women might make decisions that are more emotionally driven than rational, which could have a negative impact on governance. He admitted that there has been much discussion on this issue, but he decided not to go into further detail.^{xii}

Dr Ambedkar fought bravely to secure women's economic freedom as well as their social rights. His topmost ambition was the complete development of women, and he would stop at nothing to achieve it. As chairman of the Constitution Drafting Committee, Ambedkar made an effort to adequately include women's rights into India's political vocabulary and constitution. With several Articles in the Constitution that gave women the rights they rightfully deserved—many more legislations were later enacted due to the social visionary Dr Ambedkar.^{xiii}

2.3 LEGAL HISTORY OF WOMEN RESERVATION IN POST-INDEPENDENT INDIA

The Constitution Amendment Bill, which would have granted women a one-third reservation in both rural and urban local governments, was introduced by former Prime Minister Rajiv Gandhi in May 1989. This marked the beginning of the implementation of women's reservations in elected offices. The Bill was passed by the Lok Sabha in September 1989, but not by the Rajya Sabha. In 1992 and 1993, the then-prime minister P.V. Narasimha Rao submitted Constitution Amendment Bills 72 and 73, which gave women a one-third (33%) of all seats and chairperson positions in both rural and urban local councils. After being accepted by both houses, the bills went on to become a landmark law.^{xiv}

On September 12, 1996, the United Front government, led by Deve Gowda, first presented the 81st Constitution Amendment Bill in the Lok Sabha, which would have set aside seats for women in the legislature. After the Lok Sabha rejected the bill, it was referred to a Joint Parliamentary Committee under the direction of Geeta Mukherjee. The Mukherjee Committee submitted eventually its report in December 1996. However, when the Lok Sabha dissolved, the Bill lapsed.^{xv}

Two years later, in 1998, the NDA government under Atal Bihari Vajpayee introduced the Women Reservation Bill in the 12th Lok Sabha. Again, however, the Bill failed to gain traction and lapsed. It was later revived in 1999, 2002, and 2003 under the Vajpayee government, but to no avail. Five years later, under the UPA government-1 led by Manmohan Singh, the Women Reservation Bill again gained significant support. The government incorporated it into its Common Minimum Programme in 2004 to prevent it from collapsing again, and on May 6, 2008, it was finally presented to the Rajya Sabha. Five of the seven suggestions made by the Geeta Mukherjee Committee in 1996 were included in this version of the bill. The Bill was referred to the Standing Committee on May 9, 2008. The Standing Committee presented its report on December 17, 2009. The Union Cabinet approved it in February 2010. With 186 votes in favour, the Rajya Sabha eventually adopted the Bill on March 9, 2010. However, when the Lok Sabha was dissolved in 2014, the Bill finally expired without ever being discussed in the legislature. The Women's Reservation Bill, also known as Nari Shakti Vandan Adhiniyam, was eventually approved by the Parliament in September 2023, making history.^{xvi}

3. NARI SHAKTI VANDAN ADHINIYAM: A CONCEPTUAL DISCUSSION

According to the Nari Shakti Vandan Adhiniyam, women are given as close to one-third of all seats in the Lok Sabha, state legislatures, and the Legislative Assembly of the National Capital Territory of Delhi. Additionally, the Bill stipulates a quota for SCs and STs in the seats designated for women. The reservation shall take effect following the census that is performed following the publication of this bill. Seats for women will be reserved by delimitation based on the results of the census. The 15-year reservation period will be offered. Furthermore, following each delimitation, seats reserved for women will be rotated out in accordance with a law passed by Parliament.^{xvii}

This decision is anticipated to significantly impact the country's political landscape, as women will form the largest group of elected representatives in the House due to this affirmative action. Political parties will be compelled to cultivate and support new female leaders to occupy 181 seats in the Lok Sabha out of a total of 543. Presently, the Lok Sabha, with 82 female members, boasts the highest number of elected women, comprising approximately 15% of the total membership. However, it is pertinent to note the actual implementation of this law will be delayed, as the government has stipulated that the law will take effect after the completion of the delimitation process, which is scheduled to be on hold until 2026. Prior to delimitation, a census must be conducted, potentially resulting in an increase in the total number of seats, including those reserved for women. Consequently, the implementation of women's reservation is deferred until the 2029 elections due to the delimitation process, somewhat diminishing the impact of this significant legislation. However, despite the initial limitations it can rightly be said that this Constitutional Amendment is a significant piece of law in fostering social democracy in our country.^{xviii}

4. WAY AHEAD

With the adoption of the Indian Constitution on January 26, 1950, colonial subjects became free citizens of a republic. India was freed from the British Empire's domination as a result. But in India, unlike in Western nation-states, the State was not the only centre of power. In Indian society, a number of other elements, including major caste groupings and gender dynamics, possessed considerable influence. As a result, the Indian Constitution was given

two very important tasks: the first was to change the political standing of Indians, and the second was to change the social structures that were in place at the time. The envisaged role of fundamental rights in this socio-political revolution was to be central. But it soon became clear that the rights and liberties of marginalized groups in society were still being violated by powerful rural caste groups and other organizations, even in the face of the Constitution and its enshrined Fundamental Rights. Realizing this, it became clear that strong local government frameworks were required to guarantee that fundamental rights were ingrained in the lower echelons of society.^{xix}

It is interesting to note that two revolutions occurred simultaneously in Colonial India. The first was the Indian National Revolution, which was led by freedom fighters and nationalists who sought independence from British authority. The second, supported by nationalists as well, was the Social Revolution; unlike the National Revolution, whose objectives continued after the nation attained freedom and went beyond independence. When would this Social Revolution take place became the urgent question. The Social Revolution can only come to pass if every Indian is given the chance to develop to the best of their abilities and realize their full potential. This meant redefining society on contemporary foundations based on the values of law, individual merit, and secular education, and overcoming medieval societal standards based on variables like birth, religion, gender, caste, and community. The framers of the Constitution were acutely aware that any delay in achieving these objectives would render the Constitution ineffective and purposeless. Consequently, the members of the Constituent Assembly were entrusted with the task of drafting a Citizen's Charter aimed at catalysing socio-economic revolution across India.^{xx}

The Women's Reservation Bill began its legislative journey about thirty years ago when it was first introduced in Parliament in September 1996. Over the years, every succeeding administration has made an effort to guarantee its passage. Unfortunately, a lack of political will and unity caused this significant endeavour to fail in the end. The 106th Constitutional Amendment Act, which sought to provide women a third of all seats in the Lok Sabha and state legislative assemblies, was passed in September of last year with nearly unanimous support. This law aims to attain gender equity in politics by promoting more women to enter the field. There are still a lot of unsolved questions, though. The Women's Reservation Act provides for reservation to the women from Scheduled Castes and Scheduled Tribes Community. However, opponents have noted that the Act does not include sub-quotas for the

Other Backward Classes (OBCs) and Economically Backward Classes (EBCs), which are groups defined by particular social and economic disadvantages.^{xxi}

It's also noteworthy that the Local Self-Government's introduction of reservation has led to the establishment of an unofficial position called "Pati Pradhan/Sarpanch Pati," which means "Sarpanch's husband." This individual makes the crucial choices and acts as the de facto leader in some circumstances. It wouldn't be shocking, then, if the Women's Reservation Act had a similar effect when it was implemented. Another dangerous and troubling trend is the dynastic succession of MPs, MLAs, political families, and leaders who send their wives, daughters, or mothers to serve as MPs or MLAs in order to grant them tickets and continue their purported political heritage and political parties. There would be no significance if this wasn't stopped at all costs.^{xxii}

There is ample documentation of the animosity, resistance, and sometimes acts of violence aimed toward female panchayat members belonging to marginalized castes. It is a sign of the misogyny and casteism aimed at all powerful women. The Women's Reservation Act will have to address the apathy that has historically weakened women's status in Indian politics. It will be interesting to see that how will political parties adhere to it when the law is put into practice without attempting to undermine its potential. It might surprise us all if it interacts with India's democratic potential and provides political possibilities for women from diverse backgrounds.^{xxiii}

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