



# The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2026

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

---

## WOMEN'S RESERVATION BILL (NARI SHAKTI VANDAN ADHINIYAM 2023):

### A CRITICAL ANALYSIS OF THE WOMEN'S RESERVATION BILL AND ITS CONSTITUTIONAL IMPLICATIONS

~*Sakshi Soni*

#### I. ABSTRACT

The Indian Parliament in September 2023 approved the Constitution (106th Amendment) Act, 2023 known as the Nari Shakti Vandan Adhiniyam to provide a minimum of one-third of Lok Sabha seats as well as State Legislative Assemblies and National Capital Territory of Delhi for women. Whether through their historical origins or their legislative history, much remains to be learned with respect to this important legislative change, including socio-political considerations such as SC/ST sub-quotas, delimitation and census, OBC (Other Backward Castes) sub-quotas, and the fifteen year sunset provision. Ultimately, the author evaluates the potential for substantive political change that will come from this legislative enactment as it relates to gender equality within Indian politics and governance.

**KEYWORDS:** *Women's Reservation; Nari Shakti Vandan Adhiniyam; 106th Constitutional Amendment; Gender Representation; Political Participation; OBC Sub-Quota; Delimitation.*

#### II. INTRODUCTION

The underrepresentation of women in legislation is a structural deficit of democratic governance. India, the world's largest democracy, has had one of the lowest rates of female parliamentary representation of major democracies in history. As of the Seventeenth Lok Sabha (2019-2024), women comprised a paltry 14.36 percent of the total membership of the House

of the People, far below the global average of about 26 percent captured by the Inter-Parliamentary Union.<sup>1</sup>

This structural deficit has important policy implications. Empirical evidence reveals that legislative bodies with low female representation underinvest in gender-responsive public goods, such as maternal healthcare, primary education, and protection against gender-based violence. Against this backdrop, the enactment of the Constitution (One Hundred and Sixth Amendment) Act, 2023, also referred as the Nari Shakti Vandan Adhiniyam, assumes extraordinary constitutional and political significance.<sup>2</sup>

The Act amends the Constitution of India by adding Articles 330A and 332A to guarantee women not less than one-third of the seats in the Lok Sabha and the State Legislative Assemblies respectively. The article is a systematic analytical narrative of the historical antecedents, legislative mechanics, constitutional architecture, and potential impact of this landmark legislation. It is continued in five following sections and culminates in a critical evaluation of the potential for transformation of the Act and the attendant limitations.

### **III. HISTORICAL ANTECEDENTS AND LEGISLATIVE JOURNEY**

#### **3.1 EARLIER ATTEMPTS AT WOMEN'S RESERVATION LEGISLATION**

Political reservation for women is not a relatively new phenomenon. Its origins lie in the Eighty-First Constitutional Amendment Bill, 1996, introduced by the H.D. Deve Gowda-led United Front government, which sought reservation for one-third of parliamentary and assembly seats for women.<sup>3</sup> However, The Bill unable to pass the Lok Sabha owing to sustained opposition from several political formations, particularly those articulating the interests of backward classes, who demanded a sub-quota for OBC women within the reserved seats.<sup>4</sup>

There were unsuccessful attempts to legislate in 1998, 1999 and 2008. The Constitution (One Hundred and Eighth Amendment) Bill, 2008, was introduced during the United Progressive Alliance government and was passed by the Rajya Sabha in March 2010 but lapsed on the dissolution of the Fifteenth Lok Sabha. In legislative history of nearly 30 years, the major

---

<sup>1</sup> Inter-Parliamentary Union (IPU), *Women in National Parliaments: World Classification* (IPU, 2024) <https://www.ipu.org/women-in-parliament>

<sup>2</sup> Constitution (One Hundred and Sixth Amendment) Act 2023 (India), inserting Articles 330A and 332A into the Constitution of India 1950.

<sup>3</sup> The Constitution (Eighty-First Amendment) Bill 1996 (India) (Eleventh Lok Sabha, Bill No. 81 of 1996).

<sup>4</sup> Subhash Kashyap, *Constitutional Law of India* (Universal Law Publishing 2008) vol 2, 1845.

faultiness have been the same: demand for an OBC sub-quota, fears of constituency rotation and broader issues of political will.

### **3.2 THE 2023 SPECIAL SESSION AND PASSAGE OF THE ACT**

This Bill of 2023 was introduced by the National Democratic Alliance government during a Special Session of Parliament called to commence the legislative business in the new Parliament building. The Bill was passed by the Lok Sabha and Rajya Sabha, members voting in its favour and none against. This was assented to by the President.

The near-unanimous, bipartisan legislative support was a sea change from the years of sustained obstructionism that had marked earlier efforts. However, the passage was not without a controversy as some opposition members made simultaneous demands for the OBC sub-quota and immediate operationalization without the census and delimitation preconditions, concerns that are addressed in subsequent sections of this article.

## **IV. CONSTITUTIONAL FRAMEWORK AND KEY PROVISIONS**

### **4.1 STRUCTURAL AMENDMENTS TO THE CONSTITUTION**

The Act achieves its objective by inserting two main provisions in the Constitution of India. Article 330A provides for reservation of not less than one-third of the total number of seats filled by direct election in the Lok Sabha for women. Article 332A also provides for one-third reservation of seats for women in the Legislative Assembly of every State and in the Legislative Assembly of the NCT Delhi.<sup>5</sup>

The reservation operates on a system of rotational allotment. Reserved seats shall be allotted by rotation to different constituencies in the State or Union territory after each delimitation exercise.<sup>6</sup> The reason for this rotation mechanism is that constituencies do not become permanently frozen as reserved seats, thereby preserving electoral dynamism and ensuring that the benefits of reservation are geographically distributed over successive parliamentary terms.

### **4.2 RESERVATION WITHIN RESERVATION: THE SC/ST SUB-QUOTA**

A constitutionally significant feature of the Act is the embedded sub-quota for women belonging to Scheduled Castes and Scheduled Tribes. Within the seats reserved for women,

---

<sup>5</sup> Constitution of India 1950, Articles 330A(1) and 332A(1) as inserted by the Constitution (One Hundred and Sixth Amendment) Act 2023.

<sup>6</sup> Constitution (One Hundred and Sixth Amendment) Act 2023, Section 5.

one-third of such reserved seats shall be further reserved for SC/ST women in proportion to the existing SC/ST reservations in the respective legislative bodies. This provision ensures that the reservation does not operate exclusively to benefit women from historically privileged social strata, but extends its protective ambit to the most marginalised segments of the female population a crucial safeguard for substantive rather than merely formal equality.

#### **4.3 THE DELIMITATION AND CENSUS PRECONDITIONS**

Perhaps the most controversial aspect of the Act is the conditionality contained in its operative provisions. The reservation shall apply only after (i) a fresh national census is taken and (ii) a delimitation exercise is carried out on the basis of the population data obtained in such census and after the Central Government notifies the date on which it shall take effect. The decennial census originally scheduled for 2021 was postponed indefinitely due to the COVID-19 pandemic and had not taken place as of the date of this publication. The conditionality has been generally understood as a device of temporal deferral, making the Act's guarantees prospective and indeterminate. Several opposition formations have defined the preconditions as transforming a constitutional right into a contingent political promise, concern that carries constitutional legitimacy given the absence of any statutory timeline for census completion or delimitation.

#### **V. THE OBC SUB-QUOTA CONTROVERSY**

There is an ongoing debate regarding the women's reservation issue with respect to whether or not there should be a separate quota reserved for women who are OBCs (Other Backward Classes) within the overall women's reservation quotas. Samajwadi Party, Rashtriya Janata Dal, Biju Janata Dal, and other regional-based parties believe that if there is not a certain sub-quota for OBC women, the overall quotas will be primarily composed of women of higher caste and privileged backgrounds. As a result, these reservations will perpetuate existing social hierarchies that exist in Indian society, including in reserved spaces set aside for women.

The Act, passed in 2020, does not have a sub-quota for women belonging to OBC groups. The position of the government is that there is no constitutional basis for establishing a reservation of legislative bodies for OBC women similar to the reservations for Scheduled Castes and Scheduled Tribes under Articles 330 and 332, and any such reservation would require a larger and more fundamental review of the Constitution. The disputes related to the OBC women's sub-quota and related issues indicate a larger ongoing conflict in Indian affirmative action law regarding gender equality and social justice. This debate creates fundamental questions

concerning intersectional ties and how the cumulative disadvantages resulting from both caste and gender combine to create specific forms of marginalisation that cannot adequately be addressed by the use of only one dimension of reservation.<sup>7</sup>

It is submitted that a comprehensive resolution of this debate will require targeted legislative deliberation, potentially including a constitutional amendment analogous to those providing for SC/ST political reservation, if OBC women are to receive meaningful representation within the reserved quota.

## **VI. SOCIO-POLITICAL IMPLICATIONS AND TRANSFORMATIVE POTENTIAL**

### **6.1 ADVANCING SUBSTANTIVE GENDER EQUALITY IN POLITICAL GOVERNANCE**

The Act is expected to add more than double the number of women Members of Parliament in the Lok Sabha from approximately 82 in 2024 to approximately 181 (543 total seats) after implementation of the Act.<sup>8</sup> Studies of the impact of Panchayati Raj institutions' women reservers have routinely found that investment in public resources for women has increased significantly. Chattopadhyay and Duflo's findings (2004) showed that elected women leaders cause an increase in public investment by relating it to increases in water infrastructure and primary education in West Bengal and Rajasthan.

The provisions of one-third woman reservation in Panchayati Raj institutions, via the Constitution (Seventy-Third and Seventy-Fourth Amendment) Acts 1992, were the legislative framework of the Act. The economic and other evidence generated by decades of Panchayati Raj provide a substantial empirical basis that similar benefits will be seen at both the state and federal legislative levels; although it should be noted that due to differences between local self-government in Panchayati Raj and parliamentary governments, the magnitude of benefits may vary.

### **6.2 LIMITATIONS, RISKS, AND THE PROXY REPRESENTATION CONCERN**

---

<sup>7</sup> Kimberle Crenshaw, 'Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics' (1989) *University of Chicago Legal Forum*

<sup>8</sup> Rohini Pande and Deanna Ford, 'Gender Quotas and Female Leadership' (World Bank Background Paper for the World Development Report on Gender and Development, 2011)

The Act has great potential to change things for the better, but there are still some limitations to it. One issue raised by commentators is the potential for proxy representation, which is a phenomenon that occurs in Panchayati Raj and involves male relatives exercising formal authority over female elected representatives.<sup>9</sup> This phenomenon is commonly referred to as Sarpanch Pati or Pati Raj.<sup>10</sup> In order for the reservation to produce real female political agency, there must also be investments in women's political education and capacity-building, along with a strong institutional support base.

The fifteen-year time period that the Act will be effective for also needs to be taken into consideration.<sup>11</sup> On one hand, the time-limited nature of the reservation reflects a view of affirmative action as a short-term solution to problems. At the same time, however, this raises questions about how long the initial gains from the reservation can last, given the fact that women continue to face many structural and attitudinal barriers to political representation in India.

## VII. CONCLUSION

Nari Shakti Vandan Adhiniyam, 2023, represents a major change with regard to gender and political representation. Almost thirty years to enact this legislation indicates that there has now been a political consensus on the need for women's representation on a systematic basis in democratic governance. The Act's constitutional architecture incorporating mandatory SC/ST sub-quotas, rotational seat allocation, and a sunset clause demonstrates a sophisticated legislative design informed by decades of parliamentary deliberation and empirical evidence from Panchayati Raj institutions.

The Act's actual potentiality can only be realised once the census and delimitation processes have been done promptly and further legislative or constitutional action to clarify the situation on the OBC sub quota and also that proactive legislation is put in place to help protect against the use of proxy representation. The delay and indefinite deferral in completing the census has created a lack of clarity regarding the confidence that the Act will soon be implementable as a constitutional right. It will require an ongoing commitment by the State, political parties, civil society and the judiciary to develop an enabling environment in which the fundamental

---

<sup>9</sup> Ministry of Panchayati Raj, Government of India, *Study on Elected Women Representatives in Panchayati Raj Institutions* (2008).

<sup>10</sup> Bina Agarwal, *A Field of One's Own: Gender and Land Rights in South Asia* (Cambridge University Press 1994).

<sup>11</sup> *M. Nagaraj v Union of India* (2006) 8 SCC 212 (SC)

democratic value of political participation is supported and fostered by creating a situation in which women are able to participate in political life. The Adhinyam will be viewed as a critical turning point in the Indian constitutional journey toward substantial gender equality of political participation.