



**The Women’s Reservation Act, 2023: Advancing Gender Equity in Legislative Representation**

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***Abstract***

*The Women’s Reservation Act, 2023, enacted as the Constitution (One Hundred and Sixth Amendment) Act, 2023, is a landmark step toward gender equity in India’s representative democracy. By reserving one-third of seats in the Lok Sabha, State Legislative Assemblies, and the Legislative Assembly of the National Capital Territory of Delhi for women, the amendment seeks to correct the persistent underrepresentation of women in political institutions. This paper examines the Act as a constitutional and democratic intervention aimed at advancing substantive equality rather than mere formal equality. It traces the historical struggle for women’s reservation, analyses the constitutional design of the amendment, and evaluates its likely impact on women’s descriptive and substantive representation. The paper also considers key concerns, including delayed implementation through the census-delimitation process, rotation of reserved seats, and the limitations of reservation as a standalone remedy for patriarchal barriers in politics. It argues that while the Act does not fully resolve the structural challenges faced by women in public life, it remains a significant constitutional milestone that can reshape political participation, policy priorities, and democratic legitimacy. The study concludes that the true success of the reform will depend on timely implementation and complementary institutional and social changes.*

**Keywords:** *Women’s Reservation Act, gender equity, substantive equality, political representation, constitutional reform, inclusive democracy.*

## 1. Introduction

Women's political representation in India has historically lagged far behind both their demographic presence and the constitutional promise of equality. Despite universal adult franchise and formal equality before law, women continue to remain underrepresented in Parliament and State Legislatures, revealing the gap between constitutional principle and political reality.<sup>1</sup> The persistence of this imbalance demonstrates that formal rights, though indispensable, are insufficient to correct deep structural exclusion.

The Women's Reservation Act, 2023, also known as the Nari Shakti Vandan Adhiniyam, represents the most significant constitutional effort to address this imbalance in independent India.<sup>2</sup> Enacted as the Constitution (One Hundred and Sixth Amendment) Act, 2023, it reserves one-third of seats for women in the Lok Sabha, State Legislative Assemblies, and the Delhi Legislative Assembly. The Amendment thus transforms a longstanding political demand into a constitutional mandate, elevating women's political presence from an aspiration to a legally recognised commitment.

This paper argues that the 2023 reform should be understood not merely as a reservation measure, but as a constitutional response to persistent democratic deficit. It explores the Act as an instrument of gender equity, substantive equality, and transformative constitutionalism. It also examines whether numerical inclusion can generate meaningful substantive representation and whether the design of the amendment is adequate to overcome the systemic barriers women face in electoral politics.

## 2. Historical and Constitutional Background

The demand for women's reservation in legislatures is not new. It has been an enduring feature of India's constitutional and political discourse since the early years of the Republic, gaining renewed force from the 1990s onwards. Successive efforts to enact a similar law repeatedly failed due to political disagreement, especially regarding rotation of seats, sub-quotas for marginalised women, and resistance from entrenched political interests.

At the local self-government level, however, India had already taken a decisive constitutional step. The 73rd and 74th Constitutional Amendments provided for one-third reservation for women in Panchayats and Municipalities, creating a significant pipeline of women's participation in grassroots

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<sup>1</sup> Constitution (One Hundred and Sixth Amendment) Act 2023.

<sup>2</sup> Constitution of India arts 14, 15 and 16.

governance.<sup>3</sup> These reforms produced visible gains in women's presence at the local level and generated evidence that reservation can expand political agency, enhance visibility, and influence public priorities.<sup>4</sup> Yet these gains were not extended to Parliament and State Assemblies for decades. The Women's Reservation Act, first introduced in 1996 and reintroduced in subsequent years, remained stalled in the legislative process for over two decades. The enactment of the 2023 Amendment marks the culmination of this long struggle. It reflects a constitutional transition from symbolic endorsement of women's empowerment to a formal recognition that representative democracy cannot be complete without women's equal presence in the political process.<sup>5</sup>

### 3. Legislative and Parliamentary Journey

The parliamentary journey of the Women's Reservation Act is itself significant. Earlier versions of the Act were introduced in the Lok Sabha in 1996, 1998, 1999, and 2008, but none could secure final legislative success.<sup>6</sup> Political contestation centred on whether reservation should be implemented immediately, whether it should include sub-reservation for OBC women, and whether rotation would undermine constituency continuity.<sup>7</sup>

In September 2023, Parliament passed the Constitution (One Hundred and Twenty-Eighth Amendment) Act, 2023, which was subsequently renamed and enacted as the Constitution (One Hundred and Sixth Amendment) Act, 2023 after presidential assent.<sup>8</sup> The measure was widely welcomed as historic, though the debate also revealed the persistence of unresolved concerns about implementation and representational justice. Parliamentary updates and official communication have since described the law as a key part of the broader vision of women-led development.

The central political significance of the reform lies not only in its adoption, but also in the fact that it converts a long-debated reform into constitutional text. This is particularly important in India, where constitutional amendment has often been used to respond to deep social exclusion that ordinary legislation cannot adequately remedy.<sup>9</sup>

<sup>3</sup> The Constitution (Seventy-Third Amendment) Act 1992.

<sup>4</sup> The Constitution (Seventy-Fourth Amendment) Act 1992.

<sup>5</sup> Ministry of Law and Justice, *The Constitution (One Hundred and Sixth Amendment) Act, 2023* Gazette of India, Extraordinary, Part II, s 1 (28 September 2023).

<sup>6</sup> Lok Sabha Debates, Constitution (128th Amendment) Bill 2023, 20 September 2023.

<sup>7</sup> Rajya Sabha Debates, Constitution (128th Amendment) Bill 2023, 21 September 2023.

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<sup>9</sup> Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (OUP 1966).

#### 4. Constitutional Architecture of the Amendment

The amendment introduces Articles 330A, 332A, and 334A into the Constitution. Article 330A provides for reservation of one-third of seats in the Lok Sabha for women, including one-third of seats reserved for Scheduled Castes and Scheduled Tribes.<sup>10</sup> Article 332A provides the corresponding reservation for State Legislative Assemblies and the Delhi Legislative Assembly.<sup>11</sup> Article 334A states that the reservation will come into effect after a delimitation exercise conducted on the basis of the first census taken after the commencement of the Amendment and will remain in force for fifteen years, subject to parliamentary review.<sup>12</sup>

This constitutional design is both ambitious and cautious. It is ambitious because it directly embeds women's reservation into the constitutional framework of representative democracy. It is cautious because it defers implementation to a future census and delimitation process, thereby postponing immediate effects. The amendment thus combines symbolic commitment with procedural delay.<sup>13</sup>

The inclusion of SC/ST women within the reservation framework is important because it acknowledges the layered nature of exclusion. Yet the absence of a specific sub-quota for women from Other Backward Classes and other marginalised communities remains a subject of debate. This makes the amendment a significant but incomplete response to the complexities of intersectional representation.<sup>14</sup>

#### 5. Theoretical Framework: Formal Equality and Substantive Equality

The normative basis of the Women's Reservation Act lies in the distinction between formal equality and substantive equality. Formal equality treats all individuals as similarly situated and assumes that identical legal rights are sufficient to produce fairness. Substantive equality, by contrast, recognises that historical disadvantage, patriarchy, and social exclusion often prevent formally equal rights from producing equal outcomes.<sup>15</sup>

Women in India have long possessed the formal right to vote and contest elections. Yet their numerical representation in political institutions remains disproportionately low, demonstrating that formal legal equality has not translated into actual political equality. In such circumstances, affirmative measures become constitutionally justified as remedies for systemic exclusion.

<sup>10</sup> Constitution of India art 330A.

<sup>11</sup> Constitution of India art 332A.

<sup>12</sup> Constitution of India art 334A.

<sup>13</sup> Ministry of Women and Child Development, *Annual Report 2023–24* (Government of India 2024).

<sup>14</sup> National Crime Records Bureau, *Crime in India 2023* (Ministry of Home Affairs 2024).

<sup>15</sup> Election Commission of India, *Statistical Report on General Elections to Lok Sabha 2019* (ECI 2020).

Reservation is therefore not a privilege but a mechanism to correct structural disadvantage.

This understanding aligns with the constitutional commitment to justice, equality, and dignity. It also resonates with the logic of transformative constitutionalism, under which the Constitution is interpreted not as a static document but as a living instrument for social change.<sup>16</sup> The Women's Reservation Act is best seen within this framework.

## **6. Expected Impact on Gender Equity**

### **6.1 Descriptive Representation**

The most immediate effect of the amendment is expected to be a rise in the number of women in elected legislatures. Once operational, the reservation may substantially increase women's share of seats in the Lok Sabha and State Assemblies. This increase in descriptive representation matters because legislators are not merely individuals; they also symbolize who is entitled to govern and whose voices matter in the public sphere.

The presence of more women in legislatures can influence norms inside political institutions, alter the composition of committees, and change the tone of deliberation. In a polity where politics has been heavily masculinized, this shift carries both practical and symbolic weight.

### **6.2 Substantive Representation**

Reservation may also affect substantive representation, meaning the likelihood that women legislators will raise issues affecting women's lived realities. Empirical studies from local governance in India and comparative research from other jurisdictions suggest that women's political presence often correlates with increased policy attention to health, sanitation, education, family welfare, and violence against women. The relationship is not automatic, however. A woman legislator does not always represent "women's interests" in a simplistic sense, and men may sometimes support gender-just reforms. Still, greater numerical presence can expand the range of perspectives within legislatures and reduce the risk that women's concerns remain marginal.<sup>17</sup>

### **6.3 Symbolic and Social Effects**

The reform also has an important symbolic dimension. It may normalize women's leadership, generate role models for younger women, and challenge the stereotype that politics is a male domain. Over time, this could encourage broader social acceptance of women in public life and strengthen the

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<sup>16</sup> United Nations, *Convention on the Elimination of All Forms of Discrimination against Women* (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13.

<sup>17</sup> UN Committee on the Elimination of Discrimination against Women, *General Recommendation No 23: Political and Public Life* (1997).

legitimacy of representative institutions.

## **7. Major Concerns and Critiques**

### **7.1 Delayed Implementation**

One of the most important criticisms of the amendment is that it does not operate immediately. Implementation is linked to the first census after commencement and the delimitation exercise that follows. As the census process has itself faced delay, there is a real risk that the reform's practical effects may be deferred for several years.

This delay weakens the immediacy of the constitutional promise. A reform hailed as historic may thus remain partially prospective, leaving women underrepresented in the meantime. From a gender equity perspective, such postponement raises serious concerns about the sincerity and urgency of implementation.

### **7.2 Rotation of Seats**

The rotation of reserved constituencies after delimitation is intended to distribute opportunities widely. However, it may also disrupt constituency continuity and weaken the accountability relationship between elected representatives and their local electorate. Some scholars argue that rotation can make political careers less stable and reduce incentives for sustained constituency work. This issue is particularly relevant in Indian politics, where personal networks, local identity, and repeated electoral engagement matter significantly. If women's reserved seats are frequently rotated, women representatives may face additional barriers to long-term political consolidation.

### **7.3 Structural Barriers Beyond Reservation**

Reservation alone cannot dismantle patriarchy, money power, or gatekeeping by political parties. Women candidates still face discriminatory ticket distribution, limited access to campaign resources, family pressures, gendered violence, and media stereotyping.<sup>18</sup> Without institutional reform inside political parties and stronger protections for women in politics, reservation may remain only a partial remedy.<sup>19</sup>

This critique does not diminish the value of the reform. Rather, it highlights the need to understand reservation as one component of a broader strategy for political equality. Capacity-building, party reform, safe campaign environments, and stronger legal remedies against political harassment are all

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<sup>18</sup> Aparna Chandra and Mrinal Satish, 'Empirical Analysis of Gender Justice and Constitutional Reform in India' (2016) 8(2) *NUJS Law Review* 189.

<sup>19</sup> PRS Legislative Research, 'The Constitution (128th Amendment) Bill, 2023' (PRS Legislative Brief, September 2023).

necessary complements.<sup>20</sup>

### 8. Recent Case Law and Constitutional Relevance

Although there is limited direct judicial scrutiny of the Women’s Reservation Act itself as of now, recent constitutional jurisprudence is relevant to understanding the Act’s normative significance. The Supreme Court’s broader equality jurisprudence has increasingly emphasised dignity, non-discrimination, substantive equality, and the need to dismantle entrenched patriarchal structures.

In *Supriyo @ Supriya Chakraborty v. Union of India*<sup>21</sup>, the Court recognised the importance of dignity and equal citizenship while simultaneously cautioning that social reform questions often require democratic and legislative resolution. Although the case concerned marriage equality, its reasoning is relevant because it reflects the Court’s evolving engagement with equality beyond formalism.

Similarly, in *Aparna Bhat v. State of Madhya Pradesh*, the Court disapproved gender stereotypical assumptions and stressed the need for judicial sensitivity to women’s dignity.<sup>22</sup> This case is important because it reflects the Court’s willingness to challenge patriarchal assumptions in public law. The same constitutional spirit underlies support for women’s political representation.

The Court has also repeatedly interpreted equality as a transformative principle rather than a merely textual guarantee. This jurisprudence supports the view that affirmative measures like women’s reservation are constitutionally legitimate tools for achieving real equality. The Women’s Reservation Act therefore aligns with the trajectory of contemporary constitutional adjudication, even if no direct judicial pronouncement has yet settled all its implementation questions.

### 9. Parliamentary Updates and Policy Context

The 2023 reform has been presented by the political executive as part of a wider developmental narrative centred on “Nari Shakti” and women-led development. Official communications have framed the legislation as a landmark step toward inclusive governance and greater women’s participation in public life.<sup>23</sup> Parliamentary debate also reflected cross-party recognition that the underrepresentation of women in legislatures is a long-standing democratic deficit.

At the same time, policy discussions have continued regarding the sequencing of the census, delimitation, and the law’s operationalisation. These administrative steps are not mere technicalities; they will determine when and how the reform produces measurable results. The absence of

<sup>20</sup> Catharine A MacKinnon, *Toward a Feminist Theory of the State* (Harvard University Press 1989).

<sup>21</sup> *Supriyo @ Supriya Chakraborty v Union of India* (2023) 16 SCC 1.

<sup>22</sup> *Aparna Bhat v State of Madhya Pradesh* (2021) 3 SCC 247.

<sup>23</sup> National Commission for Women, *Annual Report 2023–24*.

immediate implementation means that scholars and practitioners must continue monitoring the parliamentary and executive process closely.

Recent parliamentary discourse also suggests that women's reservation is increasingly being linked to broader reforms such as improved ticket distribution, digital outreach, and capacity-building for women leaders. These developments suggest that the reform may influence political culture even before full formal implementation.

### **10. Comparative and Policy Perspective**

A comparative perspective strengthens the case for women's reservation. Across jurisdictions, quota systems have often been used to accelerate women's political representation where social inequality has otherwise proved resistant to change. Comparative scholarship shows that numerical inclusion can be a powerful first step toward substantive change, though it works best when combined with broader institutional reform.<sup>24</sup> Within India, the experience of reservations in Panchayats and Municipalities offers an important laboratory. Women's participation at the local level has shown that reserved seats can produce new leadership patterns, enhance confidence, and shift policy attention toward everyday governance issues. While these effects are not universal and should not be romanticised, they indicate that reservation can alter the terms of democratic participation. The Women's Reservation Act should therefore be viewed not as an isolated measure but as part of a larger architecture of inclusion. If supported by internal party reform, political training, and social empowerment, it can contribute meaningfully to a more equitable democracy.<sup>25</sup>

### **11. Conclusion**

The Women's Reservation Act, 2023 is a landmark in India's constitutional history and a significant step toward gender equity in political representation. It acknowledges that democratic equality cannot remain purely formal when structural exclusion persists in practice. By reserving one-third of seats for women in major legislative bodies, the Constitution (One Hundred and Sixth Amendment) Act, 2023 creates a pathway for more inclusive and representative governance.

Yet the reform's success will depend on implementation and complementary transformation. Delayed commencement, seat rotation, and the persistence of patriarchal political culture may limit its immediate impact. For this reason, the Act must be understood as a necessary beginning rather than a final destination. Its true promise lies in its ability to redraw the boundaries of political participation and encourage a constitutional culture in which women are not exceptions in public life

<sup>24</sup> Constitution of India art 51A(e).

<sup>25</sup> Rajeev Bhargava (ed), *Politics and Ethics of the Indian Constitution* (OUP 2008).

but equal participants in shaping the nation's future.

In that sense, the Women's Reservation Act, 2023 is more than a legal reform. It is a democratic statement: gender equity is not a favour granted to women, but a constitutional necessity for a just republic.

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