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## IS THE WOMEN'S RESERVATION AMENDMENT BILL 2023 A RIGHT OR A LEGACY!

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### ABSTRACT :

Today in India, Democratic decentralization and women's rights to representation are hotly debated topics. There are two main reasons for this debate. One is to make women partners in the sovereignty of the state and break the shackles of traditional feudalism. Two, the strengthening of women's right to equality through this political process. It means making women of all categories, including Scheduled, Backward and Minority women, partners in political supremacy and ensuring access to all kinds of rights, power, status and opportunities. In today's day and age it is more appropriate to make women the partners in the power of dominion. Constitutional Acts have been enacted to eliminate caste, religion, class, color, gender inequality. Women are also seen to be empowered partners in national and state governments.

India is a parliamentary democratic and republican state. It has mainly two forms. One, democratic decentralization. Another form of decentralization. these two forms complement each other and run in parallel. The sovereign power of the nation is derived from the people. In India sovereign power is not centralized, it is shared among the governments. The people of India, having sovereign power, are directly or indirectly participating in the process of government administration. That means, every citizen of India has the right to vote and contest elections equally without any discrimination like religion, caste, class, race, sex, language and place of birth. Articles 14, 15, 84, 190, 330, 332 and 326 of the Constitution are seen as proof of these rights. As a democratic wish, the constitution has upheld gender, caste and class equality. Today, women have gained political rights to participate equally (directly and indirectly) in the governance of all levels of government. In a democratic system, people's participation is allowed more in the local self of governance, which are very close to the people. Here, administrative rights and powers are more decentralized. The 73rd and 74th constitutional amendments have given wide rights and opportunities to socially backward and neglected women to participate in local governance and decision-making process.

If women get political representation in the federal system of India, their rights and freedoms will be established. The 128th Amendment Bill to the Constitution is one of the many laws and opportunities that have come with the objective of eliminating caste, religion, class inequality with gender inequality in Indian society. Accordingly, Parliament passed the "Women's Reservation Bill 2023" or "Nari Shakti Vandan Adhinyam". This amendment bill has got the President's signature and become to be a law. It has got the President's signature and become to be a law. This amendment law has hopes to expand women's political representation uniformly across the country. This law upholds gender equality by reserving one-



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*third of the representation in the Lok Sabha and state assemblies for women, who constitute 49 per cent of the nation's population. As such, it laid a solid foundation for democratic decentralization.*

**KEYWORDS :** Higher education , global world , peacefully coexist.

### **INTRODUCTION :**

Since the first general election in 1952, women have been constitutionally given the right to vote and contest for election on an equal footing with men. But In the Indian hierarchical society, especially women do not have opportunities to vote and contest elections freely and according to their own will. Feudalism, priesthood and patriarchal system are responsible for this. Seven and a half decades after the establishment of a democratic republic system in India, the central government passed the 128th amendment to the constitution and passed the "Women's Reservation Bill, 2023" or the "Nari Shakti Vandan Act". The Bill to provide reservation for one-third of the seats in Parliament and State Assemblies for women has been passed by both the Houses of Parliament<sup>1</sup> and got the assent of the President.

The 128th Amendment Bill passed for the proper representation of women is a right of women. But it should not be legacy. Women should voluntarily show interest and come forward to contest elections. Otherwise, men with political interests who accept the necessity of reservation will force women to contest elections. Then they are participate in political processes under direct control and restriction of men. Are there opportunities for women to be freed from inequalities and participate in decision-making processes in a hierarchical society? Are there freedoms to contest or vote in elections of their own free will, rejecting male dominance? Is it possible for women today to come out of the reservation policy and gain representation? The Constitutional Amendment Bill 2023 should succeed in protecting and upholding the rights of all sections of women including Scheduled and Backward Women. In this regard the purpose of this essay is to analyze the reservation of women in national and state politics.

Democracy and decentralization are basic principles of democracy. After seven decades of constitutional rule, the Central Government is moving towards realizing democratic decentralization. It is a complement to the country's women who are living as second-class citizens in the Indian hierarchical society to get equal representation and participation in politics. The civilizational development of a society is determined by the status of women in that society. In the history of governance in India, there have been many transitions from the days of kings to the present day democratic regime. Along with the change of regime there have been many transitions and changes in the social, economic and political life styles of women. The main aim of the article is to introduce the various stages of women's representation in the system of administrative decentralization implemented in the country in the post-independence days.

### **EVOLUTION OF WOMEN'S REPRESENTATION IN INDIA**

Women are subjected to social, economic and political inequality in India's hierarchical society. Even though local administration was in place during the reign of the Kings, women had no representation in the administration. It was a dream come true during Muslim rule. The colonial government introduced local institutions from 1858 to facilitate administration. An opportunity was created for these organizations to select most of the members through elections. Only those paying a certain amount of land revenue were allowed to contest and vote in elections. This allowed only the land-lords of that area to contest and vote in local bodies. Women especially could not participate in the colonial political process.<sup>2</sup>

Women entered politics during the freedom struggle in India. A number of women who actively participated in the freedom struggle against the British entered politics in 1917. At that time there was a unanimous demand that women should be given priority in the organization.<sup>3</sup> In 1918, the Indian National Congress agreed to the demand that women be given the right to vote. The British Parliament appointed the 'South Barrow Committee' in 1919 to look into this demand.<sup>4</sup> This committee demands

this. The committee dismissed the demand as unreasonable. But women's organization in India continued its struggle. By that time the Government of India Act of 1919 came into force. Women's organizations petitioned the provincial legislatures, urging women to be given political representation in local governments.

The British government formed a 'Franchise Committee' to decide on women's right to vote. It empowered provincial legislative courts to decide on women's suffrage according to local culture and sensitivities. All the provincial governors met in Madras and passed legislation extending the right to vote to women. But the Government of India Act of 1919 did not allow women to contest in panchayats. This Act empowered the Provincial Governments to determine the constitution and powers of Gram Panchayats. The Provincial Governments established Gram Panchayats under the Central Provinces Village Panchayat Act of 1920. However, women did not have the right to vote and contest in panchayat elections. Krishna Nair moved a resolution in the Madras Legislative Assembly in March 1921 demanding the right to vote for women. This resolution was accepted by majority. This resolution was passed by the Bombay Legislative Assembly in August 1921 and by the Bengal Legislative Assembly in 1925.<sup>5</sup> It was the biggest political success for an Indian woman.

In independent India, the Constitution gave equal political rights and freedom to women with men at all level of governments. But this was limited to voting and not equal political representation. Political representation is not only the right to vote, but also the ability to formulate policies, make decisions and influence the community as a representative of the people. Women did not get adequate representation in politics during the initial period when the Constitution came into force. The reason was that inequality was rampant in the social system of that time. Social life was dominated by the feudalistic and the local upper class. In the priestly society of India the life of women was like that of *Shudras*. Inequality, unfree women's lives were under the direct control of men. Therefore, the upper class and upper caste men got the lion's share of political representation at all levels of government. Dr. Ambedkar perceived that in such an environment the weak, the lower castes and especially women were vulnerable to exploitation.

The Constitution of India provides certain special rights and privileges to women with the aim of empowering them and giving them political representation. In Parts III and IV of the Constitution like men, women are given to social, economic and political equality and equal justice. It was for this reason that the Balwantrao Mehta Committee in 1957 and the Ashoka Mehta Committee in 1978 recommended revisions in women's representation. However, due to the competitive political rivalry of various political parties, women could not get the benefit of this reservation.

After the assassination of Indira Gandhi in 1984, women voters participated in the general elections in large numbers. As a result, Rajiv Gandhi got a bigger majority and the women's vote got more importance and recognition. Since then all political parties started speaking in favor of women's development politically, economically and socially. They opened women's units in their party organizations. At the same time, the Government of Karnataka enacted the Panchayat Raj Act, 1983 in 1985. Through this Act, in the local governments 25 percentage of reservation was given to women. Influenced by this, the Central Government introduced the 64th Constitution Amendment Bill in the Lok Sabha on May 15, 1985, wanting to provide women's reservation at higher levels of government. Although this amendment bill was passed in the Lok Sabha, it failed to get a majority in the Rajya Sabha. But if any social and economic change is to be brought in the society, it needs constitutional and statutory support.<sup>6</sup> In 1991, the Congress government that came to power under the leadership of P. V. Narasimha Rao enacted the 73rd and 74th Amendments to the Constitution in 1992 and 1993 respectively. Through these amendments, 33% of reservation was given to women in membership and posts in urban and rural local governments. Today, over 15 lakh women are represented in local governments across the country. Deve Gowda's United Front government first time introduced the 81st Constitution Amendment Bill on September 12, 1996 for women's reservation in Parliament. The bill failed to get approved in the Lok Sabha. In 1998, the NDA government led by Atal Bihari Vajpayee introduced the Women's Reservation Bill in the Lok Sabha. But this bill failed to get majority. Also, this government reintroduced this bill in 1999, 2002 and 2003. But did not succeed in getting majority.

The UPA government that came to power under Manmohan Singh in 2004 introduced the 108th Amendment Bill in the Rajya Sabha on May 6, 2008 for reservation for women in higher level governments. This amendment bill was referred to the Standing Committee on May 9, 2008. This Standing Committee submitted its report to the Government on December 17, 2009. The Union Cabinet gave its approval in February 2010. Finally the 108th Amendment Bill was passed in the Rajya Sabha on March 9, 2010 with 186 votes in favor. However, the bill could not be tabled in the Lok Sabha due to conflict of interest among political parties. But bills presented and approved in the Rajya Sabha are not void. So the Women's Reservation Bill will be active.

### **128TH CONSTITUTIONAL AMENDMENT BILL**

Arjun Ram Meghwal, Law and Justice Minister of the Narendra Modi-led NDA government, first introduced the 128th Amendment Bill in the Lok Sabha on September 19, 2023, during a special session of the new Parliament. The Women's Reservation Bill of 2023 or the Nari Shakti Vandan Act included a proposal to reserve one-third of the seats for women in the Lok Sabha, the state assemblies and the Delhi Assembly.<sup>7</sup> Among the one-third seats reserved for women, the provision of reservation of 15 per cent seats for Scheduled Caste women and 7.5 per cent seats for Scheduled Caste women was included in this constitutional amendment. 2023 Women's Reservation Amendment Bill, which was debated in the Lok Sabha on September 20, 2023, was passed by a majority of 454 votes and 2 votes against. Later on September 21, 2023, this bill was presented in the Rajya Sabha and was passed by a majority of the total 214 members present in the House without any opposition. Finally, the Bill became law on September 30, 2023 with the assent of the President.

### **FEATURES OF 128TH CONSTITUTIONAL AMENDMENT**

The 128th Constitutional Amendment Bill, which carried one-third reservation for women in the Lok Sabha, State Assemblies and the Delhi Assembly, has the following features.

1. One-third of the total seats to be filled by direct election to Lok Sabha and Assemblies shall be reserved for women.
2. Sub-article 330A was added to Article 330 to ensure reservation for Scheduled Castes and Scheduled Tribes women in the Lok Sabha.
3. Article 332A was added to Article 332 to make reservation for Scheduled Caste and Scheduled Tribe women mandatory in the State Legislative Assembly.
4. Women's reserved seats in different sectors of the States or Union Territories may be allocated through rotation policy.
5. Reservation is provided for women belonging to Scheduled Castes and Scheduled Tribes in one-third of women's seats on a rotational basis.
6. Reservation for women will be implemented on the basis of census conducted after the enactment of this Bill and steps will be taken to reserve seats for women after delimitation. The seats reserved for women are changed through frequency policy after each constituency-redistricting as determined by an Act of Parliament.
7. This women's reservation is provided for a period of 15 years. However, this reservation can be extended up to a specified date by an Act of Parliament.
8. This Amendment Bill inserted Article 239AA(2)(b) which states that laws made by the Parliament shall apply to 239AA of the Constitution which gives special status to the administrative and legislative functioning of Delhi, the capital of the country and Union Territory.

According to the 2011 census, in the total population of India more or less 50 percent women are there. But from the first Parliament in 1952 to the Seventeenth Parliament, it appears that there was no representation of women. In the first Lok Sabha, there was 5 per cent women representation, which increased to 15 per cent in the 17th Lok Sabha. Today in Rajya Sabha, there is 13 percent female representation. It can be said to be very low. It means, in the Lok Sabha 35% and 37% of women in Rajya Sabha are clearly lost their representation. Also, gender disparity is strong in state assemblies, with women's representation at less than 10 per cent.<sup>8</sup> Compared to other countries in the world, India

has very low representation of women. For example, according to the latest United Nations Women's Representation data, in Rwanda, 61 percent and in Cuba 53 percent is there female representation. These countries are in the top two positions respectively in terms of women representation in the world. In neighboring countries such as Bangladesh percent 21 percent and in Pakistan 20 percent there is female representation. But in India the representation of women is there only 15 percent. Neighboring countries are ahead of India in terms of women representation. After the 2011 census, the 2021 census was not conducted due to Covid-19. The 128th Amendment states that a fresh census will be conducted after the 2024 Lok Sabha elections and reservation for women will be implemented after the delimitation process is completed. This delimitation process includes revision of the boundaries of constituencies related to Lok Sabha and State Assemblies. Also, approval of at least half (50%) of the states is required for this to be fully ratified.<sup>9</sup>

Even after seven and a half decades of independence, Priesthood and patriarchal family systems are the main reasons for very low women's representation at the top level of governments in India. Likewise, 73 years after the Constitution came into force, in Parliament the 33 per cent reservation for women has been implemented for a period of 15 years. This reservation can be extended for further periods by the Parliament by its Act. Similarly, there are arguments for and against the Women's Reservation Bill 2023.

### Arguments for the Bill

1. Due to Vedic and patriarchal traits inherent in political parties, reservation is a strong measure for adequate representation of women in Parliament and State Assemblies.
2. Like men, if women get adequate representation in parliament and state assemblies, women's issues such as gender ratio, malnutrition, women's crime, feminicide and other social evils can be seen to be debated effectively.
3. Adequate representation of women in Parliament and State Assemblies can reduce the gender inequality.
4. There is a revolutionary development in political representation even though women are seen as rubber stamps of their husbands or fathers in central and state governments like local governments.

### Arguments against the Bill

1. Women's reservation is against the principle of equality enshrined in the Constitution.
2. This Bill does not provide for reservation for women in Rajya Sabha and State Legislative Councils. Currently, the Rajya Sabha has less women representation than the Lok Sabha. Since representation is an ideal in a democracy, women's representation should be reflected in the lower house and the upper house equally.
3. This bill aims to empower women. However, there is an argument that this will no doubt only benefit upper class, educated and urban women.
4. The bill is seen to be opposed by leaders of patriarchal political parties. Because, they realized that men's power would be curtailed if women had significant representation.
5. This Bill does not guarantee reservation of backward and minority women as it guarantees reservation of scheduled women.
6. Political parties may encourage women to contest unwinnable constituencies or may not win from constituencies they contested. This may set back their political empowerment.
7. It has been argued that women have gained political representation which may harm the concept of ideal family.

### CONCLUSION

Growing up in the shadow of *Zamindari* and Vedic heritage, the male dominated community was not mentally prepared to accept this change brought about by women's reservation in domestic administration. Yet there were changes in community life as well. Even if women gain representation due to pressure and coercion, or even if governance is transferred from men to women, the man's hand

is still behind the power.<sup>10</sup> 33 per cent reservation for women in Parliament and State Assemblies has provided further justice to the system of democratic decentralization. The 128th amendment of the Constitution, which has agreed that men and women are equal, can 33 per cent women's reservation be their right in a democratic system or can it be a legacy to political representation? There may be dozens of such questions before us. But Lohia said, "Women are the most exploited of the oppressed". Women's reservation is not only limited to their representation. It is related to their representation in social, economic, political and other spheres. Women's rights are determined based on women's self-determination to be represented in these arenas and participate in decision-making processes. Women's rights are seen based on the degree of representation and participation in decision-making processes that women receive as self-determination in various dimensions of society. It helps the woman to have control over her life and the life of the community. Representation must be a right if the benefits of reservation are to accrue to women in the stratified Indian society. Here women's representation is not about giving reservation if it is a right. It's about getting it. Also the ability to seize the reservation given.

### REFERENCE

1. Jump up to: a b "India: 5 key takeaways from Women's Reservation Bill aka 'Nari Shakti Vandan Adhiniyam'". WION. Retrieved 20 September 2023.
2. M. Chandra Pujari, Five Year Plans of Karnataka, Hampi: Prasaranga, Kannada University, 2010, p.25-26.
3. Omkara Kakade & others., "Panchayatraj: Women's Empowerment and Media, Planning, Bangalore: Ministry of Information and Publicity, Government of India, February, 2011, p.32-33.
4. Ashok V, Problems and Processes of Empowerment of the Weaker Sections: The Role of the Representative of Weaker Sense in Gram Panchayat in Rural Karnataka, Bangalore: PhD Thesis Presented to Department of Sociology, Bangalore University, 2008, p.1-2 .
5. Ibid.
6. Prof. Hanumantu et al., Empowerment of the Karnataka Panchayatraj System: A Call for People's Movement, Ranebennur: Gramrajya Forum, 2004, p.20.
7. Lok Sabha unanimously passes historic Nari Shakti Vandan Adhiniyam 2023". Business Standard. Retrieved 22 September 2023.
8. Profile of the newly elected 17th Lok Sabha". PRS Legislative Research. Retrieved 20 September 2023.
9. India: 5 key takeaways from Women's Reservation Bill aka 'Nari Shakti Vandan Adhiniyam'". WION. Retrieved 20 September 2023.
10. M. Chandra Pujari, op. cit., p.6.