

# WOMEN'S RESERVATION BILL – INCREASING THE ROLE OF WOMEN IN DEMOCRATIZATION OF THE COUNTRY

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## ABSTRACT

Achieving the target of fair involvement of women and men in decision-making would provide a balance that more adequately represents society's nature and is required to improve democracy and society's proper functioning. Without the active participation of women and the inclusion of women's viewpoints at all levels of decision-making, the goals of equity, growth and peace cannot be accomplished. Such specific remarks correctly present the theme as to what exactly lawmakers want from the Women's Reservation Bill (WRB), which is spinning like a pendulum in Parliament's galleries.

## INTRODUCTORY REMARKS

*"We all know that women are half the world and hold up half the sky, but where are they when it comes to equality?"*

– Leela Seth

A closer look at the facts and conditions that currently prevail shows that women are disadvantaged not by choice but by systemic exclusion from policy decisions and protective measures in every sphere of development. In this regard, neither social legislation nor landmark judgments have had a significant effect on gender justice.<sup>1</sup> In a global setting, India performs

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<sup>1</sup> 36<sup>th</sup> Report on The Constitution (One Hundred and Eighth Amendment) Bill, 2008, Rajya Sabha Secretariat New Delhi December, 2009/ PAUSA (SAKA 1931).

even worse than the worldwide average of 24% (as of 2014)<sup>2</sup>, with just 11.42% of females in its national assembly (2014-19).<sup>3</sup> India has the benefit of learning from international expertise as long as it is lagging. It has the advantage of improving both the design and implementation of such a quota to achieve better results.

The effort to increase the women's participation in Lower House (LH) and State Legislative Assemblies (SLA) has often been marked with frayed tempera, and a war of words that often became physical as the battle for women's political rights in independent India has been the longest in history. But since 1996 successive governments had postponed the proposed bill many times. In 2010 the Upper House approved the Constitution (108th Amendment) Bill<sup>4</sup> on the advice of the Parliament Standing Committee on Law and Justice.<sup>5</sup> Since then, it has been repeatedly postponed for lack of political consensus and remains in a limbo state.<sup>6</sup>

#### **UNDERSCORING THE NEED FOR RESERVATION OF WOMEN**

Women still do not enjoy equal rights,<sup>7</sup> even though they have been agreed in principle. Countries around the world that do not share India's heritage of Reservation for oppressed groups have adopted quotas for women.<sup>8</sup> It is crucial, considering the global experiences, that concerted action is codified for women's political advancement. The NPEW (2001) claimed that reservation is to be considered in higher legislative bodies.<sup>9</sup> The UPA- NCMP also requires

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<sup>2</sup> Proportion of seats held by women in national parliaments (%) Inter-Parliamentary Union, World Bank Data.

<sup>3</sup> Participation of Women candidates in Poll, Election Commission of India, August 10, 2018.

<sup>4</sup> The Constitution (One Hundred And Eighth Amendment) Bill, 2008, Bill No. XXX-C of 2008.

<sup>5</sup> Supra 1.

<sup>6</sup> Himanshi Dhawan, Women's reservation bill in limbo, TOI, Jun 30, 2019.

<sup>7</sup> Lok Sabha Speaker Meira Kumar calls for women's empowerment, TOI, Mar 09, 2013.

<sup>8</sup> Vicky Randall, Legislative Gender Quotas and Indian Exceptionalism: The Travails of the Women's Reservation Bill, *Comparative Politics* Vol. 39, No. 1 (Oct., 2006), pp. 63-82.

<sup>9</sup> National Policy For The Empowerment of Women (2001), Ministry of Women and Child Development, Government of India.

quotas of 1/3 seats for women in Parliament.<sup>10</sup> Currently, women are only 11% of all members of the LH, and their representation in state-level assemblies is no different.<sup>11</sup>

The national discourse and attempts to include institutional and legislative frameworks to increase women's participation in legislatures are long overdue despite this pessimistic scenario. The Standing Committee is of the opinion that there is a need for the hour to reserve seats for women.<sup>12</sup> This feels that women's inclusion in the system of decision making is crucial to the cycle of nation-building. Besides, it is strongly believed that 'Reservation' is a sociological term that has developed to bring about social reengineering. Thus, Reservation for women is required to make the democratic process inclusive.

#### **CREATION OF A LEVELLED PLAYING FIELD**

Hegemonic masculinity is harder to shift than the rock of Oedipus. Human experience has proven that whoever profits from the hierarchical matrix of power would never let the oppressed destroy it. Against this custom, the Constitution stands firm as a sentinel. It is a democratic law that provides equal rights for both sexes<sup>13</sup> and allows women to enjoy political rights on the same basis with men. It continues to recognize the correct use of legislation to address discrimination and to avoid further abuses of fundamental democratic freedoms and human rights of women. In addition, pursuant to Article 15(3)<sup>14</sup>, the State is thus empowered to make 'special arrangements', statutory or otherwise, to ensure socio-political empowerment for women.

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<sup>10</sup> Reservation of Seats For Women In Legislative Bodies: Perspectives, Occasional Paper Series—1/2008, Rajya Sabha Secretariat New Delhi (2008).

<sup>11</sup> Sana Fazili, As Women Reservation Bill Makes a Comeback in Congress Manifesto, Are Parties Walking the Talk?, News18, Apr 04, 2019.

<sup>12</sup> Legislative Synopsis, The Constitution (One Hundred And Eighth Amendment) Bill, 2008, Committee Section (Committee on Personnel, Public Grievances, Law and Justice) Rajya Sabha Secretariat New Delhi.

<sup>13</sup> Article 325 in The Constitution of India 1950.

<sup>14</sup> Article 15(3) in The Constitution of India 1950.

Added to this, India is a signatory to a number of international agreements that advocate constructive state initiatives for women's political progress. CEDAW<sup>15</sup> and the Beijing Declaration<sup>16</sup> place on the State the duty to take active steps to eliminate gender discrimination. It is worth noting that the purpose of reservation is to build a level playing field so that women can increase their share in politics and society and then pursue equal status. Capable women are found to have been deliberately kept out of the political system by special interest groups.

The WRB will contribute to common gender equity, and this will affect women's empowerment as a whole by raising women's political participation. The 73<sup>rd</sup> and 74<sup>th</sup> Amendment was an unprecedented move in actively empowering women as decision-makers as regards women's political empowerment. In energizing women, this was more successful than anticipated and highlighted the need for reservation in higher bodies.

#### **NON-MERIT BASED SELECTION PROVES NOTEWORTHY RESULTS**

Reservations may seem unjust because they may deprive the meritorious and worthy candidates of the right caste or social class. Opponents claim that it would reinforce the unfair status of women because they would not be considered to compete on merit. Though recent studies on panchayats have shown the positive impact of the quota on the empowerment of women and on the allocation of resources, as 33% of the reserve for women in Panchayats put real issues on the grassroots agenda.<sup>17</sup> This has enhanced their role in village internal matters and added to their strength in combating sexual bias in opposition. In conclusion, women elected under the reservation policy invest more in the public goods closely linked to the

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<sup>15</sup> Convention on the Elimination of All Forms of Discrimination against Women, 1979.

<sup>16</sup> Beijing Declaration and Platform for Action, 1995.

<sup>17</sup> Supra 1.

concerns of women.<sup>18</sup> This made growth much more dynamic than a top-down approach would ever have been.

According to comparative studies, the bill should bring the number of women to a critical level that will enable them to make a real difference in political decisions.<sup>19</sup> According to a study by UNU-WIDER<sup>20</sup>, women legislators raised economic performance in their constituencies by about 1.8% points p.a. more than male legislators; women legislators raise luminosity growth in their constituencies by about 15% points p.a. more than male legislators. There is also evidence that political reservations have increased wealth allocation for groups benefiting from reservations.<sup>21</sup> Those findings indicate how women made incremental progress in the field of political empowerment with the introduction of affirmative action.

#### **CO-RELATION OF EQUALISATION PROCESS AND 15-YEAR PERIOD**

The Judiciary observed that the scope and substance of the fundamental rights are of ample amplitude to cover all the evidence of gender equality.<sup>22</sup> There is a need for reservation to allow women to cross the socio-gender barriers and give them a level playing field / equal opportunities as their male peers. If this phase of 'equalization' is completed, and women's 'adequate' political representation is achieved, the reservation period may be reconsidered. The Women Power Connect claimed that. "... An in-depth analysis of the policy and its effect upon completion of 15 years will display the effects of the reservation based on the same as

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<sup>18</sup> Raghavendra Chattopadhyay and Esther Duflo *Econometrica*, Women as Policy Makers: Evidence from a Randomized Policy Experiment in India, Vol. 72, No. 5 (Sep., 2004), pp. 1409-1443.

<sup>19</sup> Drude Dahlerup & Lenita Freidenvall, Quotas as a 'fast track' to equal representation for women, *International Feminist Journal of Politics*, pp. 26-48 (2006).

<sup>20</sup> Women legislators and economic performance, United Nations University World Institute for Development Economics Research (2018).

<sup>21</sup> Rohini Pande, Can Mandated Political Representation Increase Policy Influence for Disadvantaged Minorities? Theory and Evidence from India, *American Economic Review*, Vol. 93, no. 4, pp. 1132-1151 (2003).

<sup>22</sup> Vishaka & Ors. v. State of Rajasthan AIR 1997 SC 3011.

the informed decision of policy progress or failure and further continuation of the policy can be made. Such a method also recognizes and addresses lacunas in policy and implementation, that boost the impact of policy to ....”

#### **CONCLUDING REMARKS**

There is a revolution that is slowly underway. The law will not only empower women but will, in many ways, change the social structure of the country. There is an immediate need to pass and implement the WRB after decades of delays. However, with just one female in every ten male leaders, the gender gap at the State and the central level is too severe for an amending draft to jeopardize more confrontations and stalemates. Reasons for blocking and revising the bill do not hold given the massive gender inequality. Notably, the local-level reservation statistics must sweep aside remaining resistances. Arguably, if it's worth debating the particulars of the current document, the above points drive home the end that 15 years of reservation would both address and reform deeply ingrained gender differences. There is a multi-pronged path forward: establishing women voters as a bloc, encouraging political parties and engaging women in elections. Thus, Women's political empowerment is required to achieve a prosperous and inclusive society.