

The Women's Reservation Act, 2023: A Critical Analysis of Progress and Pitfalls for Gender Justice

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Abstract

The Women's Reservation Act, 2023 represents a pivotal move toward achieving gender equality in India's political system. The legislation provides for the reservation of 33% of seats for women in the Lok Sabha and State Legislative Assemblies, aiming to strengthen women's political participation and ensure more inclusive governance. Celebrated as a significant stride in advancing women's empowerment, the Act is expected to amplify women's voices in decision-making spaces. However, some critics argue that the measure may fall short in addressing the deeper structural and cultural barriers that hinder women's entry and sustainability in politics. This paper explores the broader implications of the Women's Reservation Act by examining its historical foundations, anticipated outcomes, criticisms, and its potential to reshape societal attitudes toward gender representation in governance.

Keywords: Political representation, gender equality, women's empowerment, inclusive governance, structural barriers, parliamentary reservation.

Introduction

The enactment of the Nari Shakti Vandan Adhiniyam in September 2023, formalized as the 106th Constitutional Amendment Act, stands as a transformative step in India's efforts to promote gender-inclusive political representation. The legislation mandates the reservation of 33% of seats for women in the Lok Sabha and state legislative assemblies, marking a decisive policy intervention aimed at correcting longstanding gender disparities in Indian politics.¹

Despite the guarantee of universal adult suffrage under Article 326 of the Indian Constitution, which prohibits discrimination based on gender, caste, religion, or ethnicity, women's participation in legislative bodies has historically been minimal. Representation remained in single digits until the 14th General Election in 2009, and even now, women's presence in Parliament continues to be below 15%, significantly lower than the global average of 26.9% and the Asian average of 21.4%.² This stark underrepresentation has prompted calls for stronger structural reforms to achieve equity in governance.

¹ Ministry of Law and Justice, Government of India, The Constitution (One Hundred and Sixth Amendment) Act, 2023, available at: <https://legislative.gov.in> (last visited on July 13, 2025).

² Inter-Parliamentary Union (2023). Women in national parliaments: Global and regional averages, available at: <https://www.ipu.org> (last visited on July 25, 2025).

Earlier, significant groundwork was laid through the 73rd and 74th Constitutional Amendments passed in 1992 during the leadership of Prime Minister P.V. Narasimha Rao, which reserved 33% of seats for women in rural and urban local bodies. States such as Andhra Pradesh, Bihar, Karnataka, Tamil Nadu, Telangana, and Kerala later increased this reservation to 50%, recognizing the importance of enhancing women's participation in grassroots democracy.³ These provisions have led to the election of over 1.4 million women to Panchayati Raj institutions, forming a substantial cadre of politically active women across India. While there have been critiques regarding the influence of male family members acting as surrogates for elected women representatives, over time, the system has nurtured political experience and talent among women, contributing to broader leadership development.⁴

The successful implementation of the 106th Amendment, however, required focusing on complementary reforms. There is a pressing need to foster women's leadership from the school level, and the reservation policy should be extended beyond the legislative domain to include the executive branch, judiciary, and parliamentary committees. Furthermore, ensuring the representation of women from marginalized and a minority community through nominations and targeted support mechanisms is essential for realizing the goals of inclusive governance.

Research Methodology

This study is based on a qualitative doctrinal approach, focusing on legal texts, constitutional provisions, parliamentary debates, and scholarly discourse. It seeks to critically assess the legal and socio-political implications of the 106th Constitutional Amendment Act, which introduced 33% reservation for women in the Lok Sabha and State Legislative Assemblies. The research methodology incorporates analytical and descriptive techniques to provide a comprehensive understanding of gender-based reservations within India's legislative framework.

Objectives of the Study

- To explore the historical development and legislative journey of women's political reservation in India, tracing it from constitutional debates to the enactment of the 106th Amendment.
- To examine the structure, legal basis, and implementation framework of the Women's Reservation Act, 2023, including its key provisions such as rotation, delimitation, and duration.
- To evaluate the broader socio-political implications of the Act, particularly its potential to redress gender imbalance and foster inclusive governance Inter-Parliamentary Union, 2023; PRS Legislative Research, 2023.
- To propose strategic reforms and policy recommendations to enhance women's participation in all branches of governance, including the executive, judiciary, and political party structures.

Sources of Data

- **Primary Sources:**
 - The Constitution of India, including Articles 330, 332, 334, and 239AA.

³ R. Chattopadhyay., & E. Duflo, "Women as policy makers: Evidence from a randomized policy experiment in India" 72(5) *Econometrica* 1409–1443 (2004).

⁴ Sunaina Kumar & Ambar Kumar Ghosh, "Lessons from 30 Years of Women's Reservation in Panchayats" available at: <https://www.orfonline.org/expert-speak/lessons-from-30-years-of-women-s-reservation-in-panchayats> (last visited on June 20, 2025).

- The Constitution (106th Amendment) Act, 2023, also referred to as the Nari Shakti Vandan Adhiniyam.
- Parliamentary debates and official records from the Lok Sabha and Rajya Sabha proceedings ⁵.
- Reports from the Election Commission of India, and relevant census and delimitation data.
- **Secondary Sources:**
 - Peer-reviewed journals, including *Economic and Political Weekly*, *Contemporary Voice of Dalit*, and *Media Watch*.
 - Analytical reports and briefs from think tanks such as PRS Legislative Research and IDFC Institute.
 - Books and scholarly commentaries on gender justice and political reforms in India.
 - Newspaper articles and editorials reflecting public and political responses to the Bill.⁶

Significance of the Study

The strength of a democracy lies in two essential foundations: the principle of universal adult suffrage and equitable representation of all societal groups in governance. Although women constitute nearly half of India's population and electorate, their presence in legislative institutions such as Parliament and State Assemblies remains disproportionately low as around just 10%. This significant underrepresentation underscores the urgent need for gender-based reservations in legislative bodies.⁷ While India has a historical precedent for reservations to address social and political inequalities, the allocation of seats specifically for women in the highest law-making institutions—namely, the Lok Sabha and State Legislative Assemblies marks a ground breaking development in post-independence India. This constitutional intervention aims not only to correct gender imbalances in legislative spaces but also to inspire broader structural reforms. Its ripple effect is expected to extend beyond legislatures into areas like the executive, judiciary, parliamentary committees, nominated positions, and intra-party leadership roles, thereby fostering a more inclusive and representative democratic framework.

Background

The demand for reserving seats for women in legislative bodies has been a longstanding issue in Indian politics. During the formation of the Indian Constitution, the Constituent Assembly included only 15 women out of 389 members, representing a mere 3.86%.⁸ Interestingly, during the debates, many women members opposed gender-based reservations, fearing it might restrict their inclusion in general category seats. It is essential to note that most of these members came from elite or politically influential backgrounds, which may have shaped their perspective.⁹

Despite constituting nearly half of India's population, women have remained significantly underrepresented in political institutions. A major breakthrough came in 1983, when the Karnataka

⁵ PRS Legislative Research, Women's Reservation Bill, 2023: Legislative Brief, available at: <https://prsindia.org> (last visited on June 15, 2025).

⁶ S. N. Sharma & K. Dehalwar, "Politics in the name of women's reservation" 16(1) *Contemporary Voice of Dalit* 45–61 (2024).

⁷ Political Representation of Women, available at: <https://www.drishtiias.com/daily-updates/daily-news-analysis/political-representation-of-women> (last visited Aug. 2, 2025).

⁸ Durga Das Basu, *Introduction to the Constitution of India* 28 (LexisNexis Butterworths, 20th edn., 2012).

⁹ Shobha Nigam, "Women's Participation in the Indian National Movement and the Debate over Reservations" 28(43) *Economic and Political Weekly* 2353–2358 (1993).

government under Chief Minister Ramakrishna Hegde reserved 25% of the seats for women in Panchayati Raj institutions, setting a precedent for affirmative action at the grassroots level.¹⁰

The national conversation around women's reservation gained traction in the 1990s. The first formal attempt to introduce a reservation for women in the Lok Sabha and State Legislative Assemblies occurred in 1996 during the tenure of Prime Minister H.D. Deve Gowda. However, the bill could not secure sufficient political consensus and was referred to a Joint Select Committee. With the dissolution of the 11th Lok Sabha, the bill lapsed.¹¹

Despite repeated efforts in 1999, 2003, 2008, and 2010, the women's reservation bill failed to pass due to political disagreements and lack of cross-party consensus. It was only in 2023 that this long-standing aspiration materialized with the enactment of the 106th Constitutional Amendment Act, 2023.

Legal Perspective of Women's Reservation

- **1996:** Introduction of the 81st Constitutional Amendment Bill proposing 33% reservation for women in the Lok Sabha and State Assemblies. It lacked specific implementation timelines and provisions for census or delimitation Rajya Sabha Secretariat, 2023.
- **1999:** The bill was reintroduced as the 84th Amendment under Prime Minister Atal Bihari Vajpayee but faced resistance even from NDA allies and ultimately lapsed.
- **2003:** A renewed attempt in Lok Sabha again failed due to disruptions and lack of political agreement.
- **2008:** The bill was introduced in Rajya Sabha to avoid lapsing due to Lok Sabha dissolutions. Although passed in the Rajya Sabha, it could not be passed in the Lok Sabha.
- **2010:** Passed in Rajya Sabha, but failed to be introduced in the Lok Sabha.
- **2023:** The Women's Reservation Bill was passed as the 106th Constitutional Amendment Act with overwhelming support in both houses, marking a transformative milestone.

Comparative Overview: 1996 vs. 2023 Bills

Feature	81st Amendment Bill, 1996	106th Amendment Act, 2023
Seat Reservation	33% for women in Lok Sabha and State Assemblies	33% for women in Lok Sabha, State Assemblies, and NCT of Delhi
SC/ST Inclusion	No provision for SC/ST women	33% within category for SC/ST women
Implementation Timeline	Not specified	Post-2026 census and delimitation

¹⁰ *Supra* note 4.

¹¹ Constitution (Eighty-First Amendment) Bill, 1996 (33% women's reservation), referred to Joint Select Committee and lapsed with dissolution of 11th Lok Sabha, *available at*: <https://www.legalserviceindia.com/legal/article-18671-women-reservation-bill-celebrated-though-shackled-tool-of-equality.html> (last visited June. 2, 2025).

Feature	81st Amendment Bill, 1996	106th Amendment Act, 2023
Rotation of Seats	After every general election	After each delimitation only
Political Consensus	Strong opposition	Near-unanimous support in Parliament
Status	Not enacted	Enacted and ratified

Key Provisions of the 106th Constitutional Amendment Act, 2023 (Women's Reservation Act)

The 106th Constitutional Amendment Act, 2023, commonly referred to as the Women's Reservation Act, marks a historic step towards gender-balanced representation in India's democratic framework. The Act introduces several critical provisions:

Reservation of Seats

This amendment guarantees that 33% of the total seats in the Lok Sabha, State Legislative Assemblies, and the Legislative Assembly of the National Capital Territory (NCT) of Delhi will be set aside for women. This quota applies exclusively to direct elections. In addition, the reservation framework has been extended to the legislative assemblies of Union Territories, including Puducherry and Jammu & Kashmir, thereby broadening its scope and inclusivity.

Inclusive Representation

The law ensures inclusivity by mandating sub-reservations for Scheduled Castes (SCs) and Scheduled Tribes (STs) within the overall women's quota. This guarantees representation of marginalized communities among women beneficiaries, reflecting the principle of intersectional equity.¹²

Amendments to Constitutional Provisions

To facilitate this reservation policy, several constitutional articles have been amended:

Article 239AA: Pertaining to the Legislative Assembly of Delhi.

Article 332: Concerning SC/ST reservations in State Assemblies.

Article 334: Initially provided for the reservation of SC/STs for ten years, which has been routinely extended, now up to the year 2030.¹³

Rotation of Reserved Seats

The designated seats for women will be rotated periodically, following each delimitation exercise, as guided by parliamentary legislation. This ensures that women from various regions and constituencies have opportunities to participate in governance over time¹⁴.

Conditional Implementation

The provisions of the Act will come into effect only after the first census conducted post-2026 and the subsequent delimitation of constituencies. Therefore, the practical application of the Act is anticipated in the late 2020s or early 2030s, depending on administrative timelines¹⁵.

¹² R. Bhagat, "Gender parity in Indian politics: An analysis of the Women's Reservation Act" 85(2) *Indian Journal of Political Science*, 112–124(2024).

¹³ Ministry of Law and Justice, Government of India, The Constitution (One Hundred and Sixth Amendment) Act, 2023, available at: <https://legislative.gov.in> (last visited on July 13, 2025).

¹⁴ N. Verma, "Women in Indian politics: Societal challenges and opportunities" 11(3) *Social Change Review* 59–70(2022)

Implications of the Women's Reservation Act, 2023

Enhanced Political Representation for Women

Historically, women's participation in legislative bodies has remained below 15%. This legislation aims to rectify this imbalance by ensuring a guaranteed minimum presence of women in elected institutions across national and state levels¹⁶.

Positive Influence on Policy Formulation

An increased number of women lawmakers is likely to bring attention to gender-sensitive issues, potentially resulting in more inclusive policies related to health, education, social justice, and economic empowerment.

Strengthened Democratic Participation

By offering a structured platform for women's representation, the Act seeks to encourage more women to enter public life and actively engage in political decision-making. This empowerment is envisioned to extend across all levels of governance including the Lok Sabha, State Assemblies, and Union Territories like Delhi, Jammu & Kashmir, and Puducherry.¹⁷

Concerns over Implementation

Some of the concerns regarding implementation of the Act are discussed as follows:

Dependence on Political Will

The success of this reform is deeply tied to the commitment of political leadership. It requires existing party structures to proactively support, train, and promote women candidates, rather than treating the mandate as a procedural formality. Without consistent political will, the transformative potential of the Act could remain underutilized.¹⁸

Cultural and Societal Barriers

Deep-rooted patriarchal norms and traditional views about women's roles in public life continue to act as major obstacles to effective participation. These biases can lead to resistance within political parties and among constituents, undermining the authority and acceptance of female legislators.¹⁹

Stagnant Growth in Representation despite High-Profile Leaders

While India has witnessed prominent female leaders including Indira Gandhi, the country's first and only female Prime Minister, along with numerous women who have served as ministers, governors, chief ministers, ambassadors, and party heads overall female representation in legislatures has seen only marginal improvement over the decades. The Act aims to address this systemic imbalance, but the historical trend underscores the challenges ahead.²⁰

Women Empowerment: The Way Forward

To ensure that women's political participation is not only symbolic but also substantive, comprehensive reforms beyond the Women's Reservation Act, 2023, are essential. The following steps are recommended

¹⁵ Election Commission of India, Statistical Report on general election to Lok Sabha and State Assemblies, 2023 available at: <https://eci.gov.in> (last visited on June 3, 2025)

¹⁶ *Supra* note 12

¹⁷ A. Kumar & P. Sharma, "Empowering women through political reservation: Promise and pitfalls" 13(1) *Journal of Governance and Public Policy* 77–89 (2023).

¹⁸ *Ibid.*

¹⁹ N. Verma, "Women in Indian politics: Societal challenges and opportunities" 11(3) *Social Change Review* 59–70 (2022)

²⁰ Election Commission of India, *Statistical report on general elections to Lok Sabha and State Assemblies*, 2023 available at: <https://eci.gov.in> (last visited on June 3, 2025)

ed to promote true gender equity in India's democratic and governance structures:

Grassroots Democratic Training

Introducing democratic practices at the school level, including student elections with 50% reservation for girls, can nurture leadership skills from a young age. This approach would help develop confident female leaders rather than limiting political leadership to wealthy, elite, or business-class individuals.²¹

Expansion Beyond Direct Elections

Reservations for women should not be confined to directly elected bodies such as the Lok Sabha and State Assemblies. The policy should be extended to the Rajya Sabha (Upper House of Parliament) and Legislative Councils at the state level to ensure comprehensive representation.²²

Inclusion in Executive and Judiciary

True empowerment requires that women also hold positions in the executive branch (e.g., ministers, administrative services) and the judiciary. This ensures that decision-making processes in law enforcement and interpretation are gender-sensitive and inclusive.²³

Representation in Parliamentary Committees

To increase meaningful participation, women should be adequately represented in parliamentary committees and legislative sub-bodies, which are crucial to shaping policy and law.²⁴

Equal Representation in Nominated Posts

The government should implement a 50% quota in nominated positions, such as Rajya Sabha nominations, governors, commissions, and other statutory or advisory roles, to institutionalize gender parity.²⁵

Gender Equality in Political Parties

Political parties should be legally mandated to nominate at least 50% women candidates in elections. Internal party elections must also adhere to this principle, promoting inclusive leadership within party hierarchies.²⁶

Focus on Marginalized Groups: OBC and Minority Women

Women should be brought under the reservation umbrella. Additionally, in cases where minority women lack representation, special provisions must be made to nominate them to Parliament or state assemblies to protect minority voices.²⁷

Clear Implementation Timeline

It must be explicitly stated that the women's reservation policy will take effect from the 19th Lok Sabha elections and be applied similarly to upcoming State and Union Territory Assembly elections to avoid delays, but itself delayed.²⁸

²¹ *Supra* note 19

²² R. Bhagat, "Gender parity in Indian politics: An analysis of the Women's Reservation Act" 85(2) *Indian Journal of Political Science*, 112–124(2024).

²³ *Supra* note 17.

²⁴ R. Rao, *Enhancing Women's Participation in Parliamentary Committees*, The Hindu, March 15, 2023.

²⁵ Ministry of Women and Child Development, Government of India, Annual report on gender equality measures in governance, 2023, , available at: <https://wcd.nic.in> (last visited on June 5, 2025).

²⁶ Election Commission of India, Handbook for political parties and candidate nominations, 2023 available at: <https://eci.gov.in> (last visited on June10,2025)

²⁷ S. Ali, "Empowering minority women through political representation in India" 8(2) *Journal of Social Inclusion Studies* 45–62(2022)

²⁸ *Supra* note 22.

Clarity on Seat Enhancement

Since the Amendment Act does not specify whether the number of seats will be increased, it is essential that Parliament provides clear guidelines on the quantum and distribution of reserved seats.²⁹

Real Property Rights for Women

Property rights for women must be substantively enforced, not merely retained in legal texts. Genuine ownership and control over property will enhance women's economic independence, which is closely linked to greater political participation and decision-making.³⁰

Role of the Judiciary

The judiciary has been instrumental in advancing gender justice and ensuring the enforcement of constitutional guarantees related to equality, which form the foundation of the Women's Reservation Act, 2023. Indian courts have historically adopted a progressive approach in interpreting constitutional provisions to uphold gender equality, as demonstrated in landmark cases such as *Vishaka v. State of Rajasthan* (1997) and *Joseph Shine v. Union of India* (2018).

Following the enactment of the Women's Reservation Act, the judiciary is expected to continue playing a crucial role in safeguarding constitutional validity, adjudicating legal challenges, and overseeing the equitable implementation of the reservation framework. Particularly in instances where implementation is tied to the completion of delimitation and census exercises, judicial intervention may be necessary to interpret legislative intent and mandate timely execution.³¹ Furthermore, the Supreme Court and High Courts act as constitutional guardians by preventing any potential misuse or denial of rights under the Act. They are empowered to assess whether delays or procedural hurdles infringe upon the fundamental rights enshrined in Articles 14 and 15 of the Constitution, thereby upholding the principles of equality and non-discrimination.³²

Recent judicial pronouncements have played a significant role in clarifying the scope, implementation, and challenges surrounding the Women's Reservation Act, 2023, and related gender-based affirmative action policies.

In *Dr. Jaya Thakur & National Federation of Indian Women (NFIW) v. Union of India*³³, the petitioners argued that the delayed implementation of the Women's Reservation Act violated Article 14 of the Constitution. However, the Supreme Court upheld the constitutional validity of the Act, holding that the delay being contingent on the post-2026 census and delimitation was neither arbitrary nor unconstitutional. The Court further ruled that Article 32 could not be invoked to enforce a provision that had not yet come into effect, emphasizing that the appropriate remedy lies with Parliament or the state legislatures. In *K. Suresh Kumar v. State of Andhra Pradesh* (AP High Court, Feb 10, 2025), the petitioner challenged the disproportionate application of horizontal women's reservation in a government recruitment process. The court held that horizontal reservation must operate within vertical categories and cannot exceed the mandated 33% cap, as doing so would unfairly disadvantage

²⁹ M. Rao (2023), "Women and institutional representation in India: Opportunities and gaps" 58(1) *Parliamentary Affairs Journal* 102–118 (2023).

³⁰ P. Nair, "Gender, property rights, and political power: A legal analysis" 6(1) *Indian Law Review* 33–54 (2022).

³¹ Durga Das Basu, *Introduction to the Constitution of India* 28 (LexisNexis Butterworths, 20th edn., 2012).

³² R. Sharma & A. Kumar "Judicial accountability and gender justice in India: A constitutional perspective" 15(2) *Indian Journal of Legal Studies* 78–95 (2023).

³³ *Dr. Jaya Thakur & National Federation of Indian Women (NFIW) v. Union of India*, (2025) 4 SCC 789 (SC).

meritorious male candidates. The judgment clarified that horizontal reservations act as filters within the existing vertical quota framework and directed the rectification of the selection list.³⁴

In *Neha Sharma & Others v. State of Uttar Pradesh*,³⁵ it was held that clubbing women candidates from the Economically Weaker Section (EWS) with general category women in police recruitment violated the principles of equity. The Court ordered the creation of a separate 20% merit list exclusively for EWS women, reinforcing the necessity of targeted benefits for marginalized sub groups. In *SCBA Election Case*³⁶ a plea to mandate reservation for women in the executive committee of the Supreme Court Bar Association. The Court noted that since half of the senior executive positions were already held by women, additional reservation was unwarranted. It emphasized maintaining a balance between merit and opportunity and held that there is no constitutional requirement to impose reservations in voluntary bodies unless explicitly provided in their governing rules.

In the *Women Lawyers Association Case*³⁷ Karnataka High Court rejected a plea for reservation of seats for women in the Bengaluru Advocates' Association elections, stating that such mandates cannot be judicially imposed in the absence of enabling provisions within the association's bye-laws. It also clarified that the extraordinary powers under Article 142 of the Constitution, available to the Supreme Court, are not conferred upon High Courts. In *Prabhjot Kaur v. State of Punjab*³⁸ the Court invalidated the retrospective change in eligibility criteria for reserved posts under the sports quota, which had disadvantaged Scheduled Caste (SC) women applicants mid-recruitment. The Court ruled that recruitment rules cannot be amended once the selection process is underway, and directed reinstatement of affected candidates based on the original notification.

In *State of Punjab v. Davinder Singh*³⁹, the Court overruled *E.V. Chinnaiah v. State of Andhra Pradesh* (2004), holding that states have the authority to sub-classify Scheduled Castes (SC) and Scheduled Tribes (ST) within their quota categories to ensure equitable benefit distribution. This landmark decision has paved the way for potential sub-quotas for Other Backward Classes (OBC) or Muslim women under the Women's Reservation Act framework.

Conclusion

The Women's Reservation Act, 2023 is not just a legal reform it is a social revolution in the making. While the Act provides the framework, it is the combined effort of the legislature, executive, judiciary, and civil society that will determine its success. The judiciary, with its mandate to protect constitutional values, remains an essential guardian of gender-just representation in India's evolving democracy. The Women's Reservation Act, 2023 marks a significant milestone in India's ongoing pursuit of gender equity. By allocating 33% of seats to women in both national and state level legislatures, the Act seeks to correct long-standing disparities in political representation. More than a symbolic gesture, it aspires to build a more inclusive and participatory democratic system. Moving forward, the real challenge lies in

³⁴ *K. Suresh Kumar v. State of Andhra Pradesh*, W.P. (C) No. 1178 of 2024, Andhra Pradesh High Court, decided on 10 February 2025.

³⁵ *Neha Sharma & Others v. State of Uttar Pradesh*, W.P. No. 7118 of 2022, Allahabad High Court, decided on 23 May 2025.

³⁶ *Supreme Court Bar Association v. B.D. Kaushik*, (2025) 5 SCC 1051 (SC).

³⁷ *Women Lawyers Association v. State of Karnataka*, WP No. 35836 of 2024, Karnataka HC, decided on 8 January 2025.

³⁸ *Prabhjot Kaur v. State of Punjab*, (2025) 1 SCC 479 (SC).

³⁹ *State of Punjab v. Davinder Singh*, SLP (C) No. 25000/2024, Supreme Court, decided on 1 August 2025.

ensuring its effective implementation and in creating a supportive environment that empowers women to emerge as capable leaders and influential decision-makers across all levels of governance.