



The Significance Of The 106th Constitutional Amendment Act, 2023: In The Realm Of Women's Empowerment

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“The Preamble to our Constitution states that all citizens have the right to political and social equality. Who constitutes the largest minority group in this country? It is women. They comprise approximately 48 percent of the population. This is, fundamentally, a matter of women's political equality.”
— Justice Nagaratna

Abstract: India, the world's largest democracy, has long lagged behind in the sphere of women's political participation. The number of women in both central and state legislatures has remained relatively very low compared to that of men. Against this backdrop, the demand for women's reservation has been raised continuously for decades. The 106th Constitutional Amendment Act, 2023, popularly known as the “Nari Shakti Vandan Adhiniyam,” was passed on Sept. 2023. It marked a major step in India's legislative history by strengthening women's political representation and promoting greater gender equality in governance. This Act is in line with the "Convention on the Elimination of All Forms of Discrimination against Women" (CEDAW), which requires States to guarantee equality in public and political participation. By increasing women's political rights and addressing gender gaps in political representation, this represents a major turning point in India's legislative history. CEDAW promotes equality in public and political life. It also encourages countries to adopt temporary special measures, such as gender quotas, to speed up equal representation. The ideas behind these measures are reflected in this Act, which aims to strengthen women's participation in politics.

Through this Act, women have been granted 33% reservation in the Lok Sabha and the State Legislative Assemblies. Although this Act represents a significant achievement in the direction of women's empowerment, its implementation has given rise to numerous constitutional and political challenges. This research paper analyzes various judicial decisions preceding the 2023 amendment and studies the inherent shortcomings of the legislation as well as the challenges anticipated in its actual implementation.

Keywords: Article 15(3); 106th Constitutional Amendment Act; 2023; Gender Equality; North vs. South India.

Introduction

In 1993, India became a signatory to the CEDAW with the aim of promoting equality for women. When certain groups are underrepresented in political institutions, their ability to shape policies and decision-making processes remains restricted. CEDAW emphasizes the elimination of discrimination against women in both public and political spheres.

Despite India's commitment to the Convention, women continue to face unequal representation in decision-making bodies. The share of women in Parliament has increased gradually, rising from only 5% in the first Lok Sabha to around 15% in the 17th Lok Sabha. However, this percentage is still relatively low. Similarly, women make up only about 9% of the total members in State Legislative Assemblies on average, highlighting the continuing gap in political representation. (Archives, 2015)

According to the GGG Report 2022, India ranked 135th among 146 countries on the Global Gender Inequality Index. (Hindu, 2022) The term "gender gap" refers to the differences between men and women in terms of social, political, economic, cultural, and intellectual opportunities and achievements. A 2003 study on women's reservation in Panchayats found that women elected through the reservation system were more likely to invest in public welfare projects and initiatives that directly addressed the needs and concerns of women. (Duflo, 2004) The Standing Committee on PPGLJ (2009) noted that the reservation of seats for women in local governing bodies has enabled them to play a meaningful and influential role in governance and public administration. Article 15(3) of the Constitution of India empowers the State to introduce special provisions for women and children, making women's reservation an important constitutional measure toward achieving gender equality.

In line with this objective, India enacted the *Nari Shakti Vandan Adhiniyam, 2023*. The legislation received Presidential assent on September 28, 2023, marking the outcome of decades of persistent advocacy and political efforts aimed at enhancing women's representation in legislative bodies.

Historically, debates surrounding women's political representation date back to the pre-independence period. In 1931, while submitting a joint memorandum on the status of women in the proposed Constitution to the British Prime Minister, prominent women leaders Begum Shah Nawaz and Sarojini Naidu argued that demanding special privileges or preferential treatment would undermine Indian women's broader demand for complete political equality. (Santhanam, 2023) In 1988, the National Perspective Plan for Women recommended the introduction of reservations for women at every level of governance, from Panchayats to Parliament. This recommendation laid the foundation for the landmark 73rd and 74th Constitutional Amendments, which made it compulsory for all state governments to reserve one-third of the seats for women in Panchayati Raj Institutions. The amendments also provided for the reservation of one-third of the positions of Chairpersons or Heads across all levels of Panchayati Raj Institutions and Urban Local Bodies.

NPEW, introduced in 2001, further emphasized the need to consider reservation for women in higher legislative bodies as a step toward strengthening their political participation and empowerment. (Development, 2001) In May 2013, MWCD constituted a committee to examine the status of women in India. The committee reviewed women's representation in local bodies, State Legislative Assemblies, Parliament, the Cabinet, and various government institutions. It recommended reserving at least 50% of seats for women across all decision-making bodies within the government.

Similarly, the *Report on the Status of Women in India (2015)* highlighted the extremely low representation of women in both State Legislative Assemblies and Parliament. The report strongly advocated for a minimum of 50% reservation for women in local bodies, legislative institutions, the Cabinet, and other important decision-making positions in order to promote greater gender equality and inclusive governance. (Report of the High Level Committee on the Status of Women (2015), 2015)

Methods of Study

This research paper is primarily based on descriptive and analytical study methodologies. This research utilizes secondary sources, including the 106th Constitutional Amendment Act, Parliamentary proceedings, Supreme Court judgments, government reports, research papers, newspapers, journals, and internet sources.

History of the Act

The first Women's Reservation Bill was introduced in 1996, proposing to reserve 33% of seats for women in the Lok Sabha and State Legislative Assemblies. However, due to a lack of consensus and opposition, it failed to receive approval. Between 1998 and 2008, the Bill was introduced four more times but consistently failed to get passed. In 2009, it was introduced once again. In 2010, it was successfully passed in the Rajya Sabha; however, it did not receive approval in the Lok Sabha. Finally, in 2023, the 128th Const. Amdt. Bill, 2023, was passed by both Houses and received the assent of President on 28.09.2023. However, the Act could not be implemented immediately because its enforcement depends on the completion of the next census and the delimitation process that follows. The 2021 census could not be conducted on schedule due to the COVID-19 pandemic, which, in turn, prevented the determination of new seats and reserved constituencies.

Current Status of the Act

In April 2026, the Central Government introduced three bills, with the objective of accelerating the implementation of the Nari Act. The move was intended to strengthen and expedite measures aimed at enhancing women's representation and participation in legislative and decision-making institutions. (Justice, 2026) The primary objective of these bills was to ensure the implementation of 33% reservation for women beginning with the 2029 Lok Sabha elections, without waiting for the completion of the 2027 Census and the prolonged delimitation process that would normally follow. This step was intended to accelerate women's political representation and ensure the earlier enforcement of reservation provisions. (Ministry of Law) To this end, the government introduced the Const. (131st Amdt.) Bill, 2026; the Delimitation Bill, 2026; and the Union Territories Laws (Amdt.) Bill, 2026. However, these bills could not be passed in the Lok Sabha as the requisite special majority required for a constitutional amendment was not secured. The primary reason for this failure was the linkage of women's reservation to the delimitation exercise. Opposition parties—particularly several leaders from South India—alleged that the government sought to derive political advantage by redrawing constituencies under the guise of women's reservation. States such as Tamil Nadu and Kerala harbored apprehensions that the proposed new population-based seat allocation system could diminish their political influence. (Mishra, 2026) Following the failure of this primary bill, the associated Delimitation Bill and other related bills also had to be withdrawn. Nevertheless, the 'Nari Shakti Act', originally passed in 2023, was formally brought into force by the Central Government on April 16, 2026. (Women's Reservation Act 2023 comes into force: Gazette notification, 2026)

Provisions Enshrined in the 2023 Act

In Article 239AA of the Constitution, within Clause (2), after Sub-clause (b), the sub-clauses (a), (bb), and (bc) have been inserted. (THE CONSTITUTION (ONE HUNDRED AND SIXTH AMENDMENT) ACT, 2023) Under this Act, one-third (33%) of the total seats in the Lok Sabha (Para 3) and in all State Legislative Assemblies are reserved for women. (Para 4) Furthermore, within the seats already reserved for Scheduled Castes (SCs) and Scheduled Tribes (STs), one-third of those seats are specifically reserved for women. This provision shall also be applicable to the Legislative Assembly of the National Capital Territory of Delhi. The seats reserved for women are subject to rotation after every delimitation exercise, ensuring that women from diverse regions are provided with opportunities for representation. This reservation will initially remain in force for a period of 15 years; however, Parliament may extend its

duration if deemed necessary. (Para 5) According to the Act, women's reservation will be implemented only after the completion of the next census and the subsequent delimitation exercise.

Advocate Shobha Gupta, representing petitioner, *Dr. Jaya Thakur* (Times, 2025), “stated that it is unfortunate that, even 75 years after the country's independence, women are still compelled to approach the courts to secure representation.” She noted that, based on statistical data, the Act reserves one-third of the total seats in the Lok Sabha and State Legislative Assemblies. The Bench observed that the implementation of laws falls within the exclusive prerogative of the Executive, and therefore, no writ of mandamus can be issued in such matters. Justice Nagaratna remarked, "Courts face certain limitations when it comes to intervening in such policy-related matters." The Court further noted that striking down the provisions linked to the census and delimitation process would be an extremely difficult task for the judiciary. Consequently, Thakur's petition was dismissed, having been deemed infructuous.

Significance

- Women's participation in politics will increase.
- Women's voices in the policy-making process will be strengthened.
- Women's empowerment and gender equality will receive a significant boost.
- This initiative will place India alongside nations that have already implemented gender quotas, thereby enhancing India's global standing.
- Increased participation of women is widely believed to have the potential to reduce corruption in India, as numerous studies have indicated that female representatives tend to prioritize transparency, accountability, and issues concerning the public interest.

In the case of *Dattatraya Motiram More* (1952), the Bombay HC upheld the reservation of seats for women in municipal elections. The Court recognised such reservations as a valid step to encourage women's participation in public offices.

In the case of *Government of A.P. vs. P.B. Vijayakumar* (1995), the Supreme Court emphasized that Article 15(3) serves as a complement to, rather than a derogation of, the guarantees provided under Article 16. It held that both reservation and affirmative action under Article 15(3) are permissible in the context of employment under the State.

Key Challenges

The challenges anticipated in the effective implementation of this Act are as follows:

Reliance on Census and Delimitation

The operationalization of the Act is contingent upon the completion of a new census and subsequent delimitation. The 2021 Census in India has not yet been completed. Furthermore, the delimitation process is inherently time-consuming. Consequently, the actual realization of the benefits of reservation for women could be delayed by several years.

Rotation of Seats

Reserved seats are liable to change after every delimitation exercise. This may lead MPs and MLAs to take less interest in undertaking long-term developmental projects within their constituencies. Political stability could also be compromised, and the enduring bond between the electorate and their representatives may be weakened.

The Threat of "Proxy Politics"

In many instances, the husbands or family members of elected female representatives may end up making the actual decisions on their behalf. This phenomenon is often linked to the "Sarpanch Pati" (husband of the village head) trend, which has previously been observed at the Panchayat level.

North India vs. South India

The issue of "North India vs. South India" is also being perceived as a significant political and federal challenge regarding the implementation of the 2023 Act, particularly in the context of delimitation. Southern states have achieved relatively greater success in population control. Conversely, the populations of certain northern states, such as Uttar Pradesh and Bihar, have grown at a much faster pace. If delimitation is conducted solely on the basis of current population figures, the proportional share of seats allocated to the southern states could potentially decline.

Electoral Violence and Security

With the increasing participation of women in politics, apprehensions have also been raised regarding their security, as well as the potential for a rise in cases of online trolling, political violence, and harassment.

Work Culture in Parliament and Legislative Assemblies

Despite the growing number of women in politics, if the environment within Parliament and legislative assemblies does not become safe, respectful, and inclusive, their effective participation could be hindered.

Socio-Economic Barriers

Women from rural and backward regions face a lack of education, economic resources, political training, and social support. This can make it difficult for them to develop effective leadership skills.

Constitutional and Judicial Challenges

According to some experts, disputes may arise in the courts regarding the delimitation of constituencies and the allocation of seats during the implementation of reservation policies. This could lead to further delays in the process.

There have also been reports of physical assaults on women leaders—including Members of Parliament—during election campaigns and constituency tours, highlighting the dangers and threats these women face.

Criticisms

1. There is a lack of separate reservation quotas for women belonging to OBCs; consequently, women from relatively affluent or influential sections of society may stand to benefit the most. 2. Apprehension regarding benefits accruing to women from "influential groups"

Women belonging to prominent political families, the urban upper class, and influential groups are more likely to secure tickets. Consequently, the representation of women at the grassroots level may remain limited.

3. Non-immediate implementation

The implementation of this measure has been deferred by attaching conditions regarding the completion of the census and the delimitation exercise.

According to Article 7 of the CEDAW, women should receive adequate representation in all public institutions and bodies. However, the Women's Reservation Act, 2023 limits reservation primarily to the national and state legislatures.

The legislation does not specifically address women's participation in international affairs or global decision-making platforms. It remains silent on issues such as representation in international diplomacy,

official delegations, economic negotiations, and military diplomacy, focusing mainly on women's political participation within domestic governance structures.

Critics also argue that the creation of separate reserved constituencies for women may unintentionally reinforce perceptions of inequality. Such measures, they contend, could limit broader political exposure and create an impression that women are unable to compete equally with men on the basis of merit and capability. (Women's Reservation Bill: The Issues to Consider, 2023)

Suggestions

First and foremost, the government must complete the census and delimitation processes in a time-bound manner to ensure the speedy implementation of women's reservation. The provision of separate sub-reservations for OBC women should also be considered to ensure equitable representation for women from all sections of society. Political parties should allocate tickets to a greater number of women—not merely for reserved seats, but for general seats as well. Arrangements should be made to provide political, administrative, and legal training to elected women representatives to enable them to exercise independent and effective leadership. Strict laws and an effective grievance redressal mechanism must be developed to curb political violence and harassment directed against women. To prevent "proxy politics," it is essential to strengthen women's genuine participation and decision-making capabilities. Special programs should be initiated to foster leadership among tribal, Dalit, rural, and minority women, thereby ensuring inclusive representation. A gender-sensitive environment should be cultivated within Parliament and State Assemblies to facilitate women's independent and effective participation. An independent commission or committee should be constituted to periodically assess the impact of the Act and the challenges associated with its implementation. Finally, attention must also be directed toward the holistic empowerment of women by promoting education, economic self-reliance, and social awareness. Only then will this Act be able to successfully fulfill its true objective.

Conclusion

Women constitute the backbone of society and are in dire need of adequate representation; this representation is ensured through Act, 2023, stands as a historic and significant constitutional initiative aimed at enhancing women's participation in Indian democracy. Its success is not limited merely to granting reservations to women, but rather lies in ensuring their autonomy and facilitating their effective political engagement. However, linking its implementation to complex processes such as the census and delimitation has given rise to numerous constitutional and practical challenges. If social and institutional reforms are undertaken alongside the legal provisions, this Act has the potential to bring about a historic transformation in the democratic landscape.

References

1. Archives, F. L. (2015). Executive Summary – Report On The Status Of Women In India. Retrieved 05 05, 2026, from https://feministlawarchives.pldindia.org/wp-content/uploads/Executive-Summary_HLC.pdf??
2. Development, D. o. (2001). *National Policy For The Empowerment Of Women (2001)*. Retrieved May 06, 2026, from https://prsindia.org/files/bills_acts/bills_parliament/2008/bill184_20080923184_National_policy_for_empowerment_of_women.pdf
3. Duflo, R. C. (2004, Feb 28). The Impact of Reservation in the Panchayati Raj: Evidence from a Nationwide Randomized Experiment . *Economic and Political Weekly*.
4. Hindu, T. (2022, July 14). India ranks 135 out of 146 in Global Gender Gap Index .

5. Justice, M. L. (2026, April 16). *The Constitution (131st Amendment) Bill, 2026* . Retrieved May 07, 2026, from <https://prsindia.org/billtrack/the-constitution-131st-amendment-bill-2026>
6. Ministry of Law. (n.d.). The Constitution (One Hundred And Thirty-First Amendment) Bill, 2026. (*Bill No. 107 of 2026*). Retrieved May 07, 2026, from [https://prsindia.org/files/bills_acts/bills_parliament/2026/Constitution_\(131st_Amendment\)_Bill,2026.pdf](https://prsindia.org/files/bills_acts/bills_parliament/2026/Constitution_(131st_Amendment)_Bill,2026.pdf)
7. Mishra, S. (2026, April 22). What is the controversy between the Women's Reservation Bill and the Delimitation Bill? Retrieved May 07, 2026, from : <https://www.dw.com/hi/why-the-women-reservation-bill-failed-politics-delimitation-and-debate/a-76894856>
8. Para 3. (n.d.).
9. Para 4. (n.d.).
10. Para 5. (n.d.).
11. (2015). *Report of the High Level Committee on the Status of Women (2015)*. Feminist Law Archives. Retrieved May 06, 2026, from <https://feministlawarchives.pldindia.org/category/towards-equality/hlc2015/>
12. Santhanam, R. (2023, March 16). Explained | On reservation for women in politics. *The Hindu*. Retrieved 05 06, 2026, from <https://www.thehindu.com/news/national/explained-on-reservation-for-women-in-politics/article66624358.ece>
13. The Constitution (One Hundred And Sixth Amendment) Act, 2023. (n.d.).
14. Times, T. E. (2025, Nov 10). SC seeks Centre's reply on plea for implementation of 2023 women reservation Act.
15. Women's Reservation Act 2023 comes into force: Gazette notification. (2026, April 17). *The Hindu*. Retrieved May 06, 2026, from <https://www.thehindu.com/news/national/womens-reservation-act-2023-comes-into-force-gazette-notification/article70870961.ece>
16. Women's Reservation Bill: The Issues to Consider. (2023, Sep 20). *Research, PRS legislative*. The Wire .