

AGENGA: Women's Reservation Bill, 2008

Do you know about the Constitution?

The Constitution of India is the most important legal document of our country. It lays down the basic principles based on which our country functions. It defines the functions and powers of the three important pillars of our democracy, namely the executive, the legislative and the judiciary. The document also guarantees human rights and freedoms to our citizens, and also defines our duties. No other law in the country is above the Constitution.

It is the Constitution which gives us rights like right to vote for whichever political party we like, gives judiciary the power to provide justice to the citizens or gives power to the legislature to make laws for the country. All citizens of India are expected to abide by the Constitution. Therefore, we must ensure that we make ourselves more aware about this document.

The leaders of our freedom struggle against the British Colonial Rule began to develop the Constitution after we achieved independence on 15th August, 1947. After years of extensive debates and discussions, the document came into power on the 26th January, 1950. The makers of the Constitution realized that as the country moves forward in future there will might be a need to make changes to parts of this document. Therefore, the Constitution gives provisions to the legislature, which includes the two houses of the Parliament and the legislative assemblies of states, to change parts of the document if deemed necessary. Any change to the Constitution is referred to as an **amendment**.

The Women Reservation Bill in fact has been proposed as an amendment to the Constitution. Therefore, it is also known as The Constitution (108th Amendment) Bill, 2008. We will shortly discuss about it more in detail. But first, let us try to understand the difference between a **bill** and an **act**.

What is a Bill? What is an Act?

There is a huge responsibility involved while formulating a law. A law can make the society either better from the current situation or potentially worse. Therefore, lawmakers ensure that whatever law they are planning to introduce in the society is accurate and well-thought. In order to do this, they have to first document it to make it as clear as possible. We cannot rely on the memory or lawmaker's understanding. We need it in a written form to make the debate on its benefits and deficiencies easier, and makes it easier for us cross check or verify it when in need.

We all know that laws are made in the Parliament for the entire country, and respective legislative assemblies for the states of our country. India has two houses in the Parliament – Lok Sabha and Rajya Sabha.

Whenever a new law is proposed in the Parliament or any of the legislative assemblies, it is known as a **bill**. A bill can both be a new law altogether, or an amendment to an existing law. In the Parliament, a bill can be introduced in any of the two houses, i.e. either Lok Sabha or in Rajya Sabha.

Now let's assume that a bill has been introduced in the Rajya Sabha. Then members of Rajya Sabha will debate it and then vote upon it. By voting, we mean that the members of Rajya Sabha will tell if they are in 'Favour' of the bill or 'Against' it by saying either 'Yes' or 'No'. If the bill has majority of votes, which means that 50% + 1 members said yes to the Bill, then it is considered to be passed in the Rajya Sabha. To ensure that the bill becomes a law, it needs to be passed in both the Houses of the Parliament and after that the President of India must approve it. Once it is passed in both Lok Sabha and Rajya Sabha, and approved by the President, then it is considered as an **act**. Not all bills require a simple majority of 50% + 1 votes in favour to become an act. Certain bills, like bills to propose amendment to the Constitution, require two-thirds majority, i.e. approximately 67% votes in favour of the bill in both the houses of the Parliament to become an act.

Women's Reservation Bill was passed by the Rajya Sabha on 9th March, 2010. And now as members of Lok Sabha we shall again discuss it to see if we can pass it or not.

What is Reservation? Why do we need Reservations?

Before we understand the term reservation, let us first read a few short stories to understand the need for reservation.

Imagine that there are four children living in a colony. Their names are Reenu, Zehra, Saumya and Dhruv. All of them belonged to different families and social background but everyone is of the same age. Let us see how their experiences are different.

Stories –

Reenu could not go to school in her early childhood as she had to clean houses of other people to earn money. Her family was discriminated because of the caste they belonged to as they were considered to be 'untouchables'. Nobody wanted to speak to them or wanted to help them. Reenu tried to go to school but she was forced to clean toilets and was humiliated within the school premises on a regular basis. She could not handle the pressure and stopped going to school.

Zehra went to a government school. She did not have access to a public or a private school as her family did not enough money to pay for the fee. Sometimes classes happened in the government school and sometimes it did not. Teacher's quality in was also not very high. They did not have access to many opportunities. She wanted to take Science as a stream in higher education, but she had pressure to pursue humanities. In the twelfth class board, she ended up scoring 67%. She could not get admission in a good college as her percentage is so low.

Saumya belongs to a middle-class family. She got education from a good school. She had access to different extra-curricular activity. Her parents ensured that she got timely tuition if she was facing difficulty in any subject. She participated in different inter-institution competition to gain exposure. Some tournaments were outside Delhi as well. She graduated from a good college and then she was asked to get married. She did not get a chance to build her career. She was asked to become a house-wife and not continue her studies.

Dhruv did not face any such obstacles in his life. He got the best education and was encouraged into all sorts of activities. He got a chance to explore different parts of the world through student exchange program. He did his bachelors from St. Stephen's and Masters from United States of

America. He built his career and became the manager of a company. He had no pressure of getting married until he settled himself professionally. Moreover, whatever assistance he needed he was able to get in his life. He had comfort and limited restriction.

Now think for a moment, if all these four people have to compete for a seat in college, or getting a job, or contesting for elections, who would a better chance of getting the spot? We can all guess that probably Dhruv has a better chance due to his privilege social and economic background.

Let us try and answer the following questions based on the stories:

1. Do you think that all of them started their careers at the same level? Will a competition between them be fair?
2. Do you feel that some people face difficulty just because they belong to a certain caste, sex or economic group? For instance, females face the pressure of getting married at an early age as compared to men. They have the pressure of becoming a house-wife, whereas men are considered to be breadwinners. And because of these reasons many people incorrectly prefer to have sons over daughters as their children.
3. Do you feel that every child should have equal access to quality education? Do you believe that Zehra should be at least given a chance to study in a reputed college even though she scored less?
4. Do you know that sometimes a person can face different types of discrimination at the same time? For example, imagine a woman who also belongs to a lower caste. Imagine that she is not only considered unequal to a man in the society, but she is also considered unequal to other women of a higher caste. On top of that, due to lack of opportunities, she may also face poverty.

Reservations tries to solve some of these problems to provide an equal start and access to various opportunities in our country. When we say ‘reservation’, we mean that some special opportunities are given to the disadvantaged groups in our society. For example, imagine that there are ten available seats to study in a classroom, then we can specially reserve two seats for women. So out of the total ten seats, two can only be occupied by a female and not a male. The other eight seats

may have both male and female candidates. Through this method we ensure that the two reserved seats out of ten only see a competition between females to get the opportunity to study, therefore making the competition relatively fairer.

Therefore, we have reservations in government jobs, colleges, schools and other institution to uplift a particular group that requires extra assistance. Otherwise, they would have been continued to be oppressed and discriminated against by other groups.

What is Women's Reservation Bill, 2008

The Constitution (108th Amendment) Bill, 2008 or the Women's Reservation Bill seeks to reserve one-third of all seats the available seats in the Lok Sabha and state legislative assemblies for women. For instance, Lok Sabha has 542 elected seats, out of which one-third will be reserved for women only if the bill passes.

It was introduced by the coalition government of the United Progressive Alliance (UPA) led by the Indian National Congress (INC) party in May, 2008. The bill has a further provision that one-third of the total number of seats that are already reserved for Scheduled Castes and Scheduled Tribes in the legislative bodies shall be reserved for women of these groups. These are the groups that have been discriminated against the most by other groups in our country.

The bill has been discussed before in the Lok Sabha, however due to difference of opinions between members from various political parties it has not passed yet.

Key features and highlights of the bill

1. The Constitution (One Hundred and Eighth Amendment) Bill, 2008 seeks to reserve one-third of all seats for women in the Lok Sabha and the state legislative assemblies (including Delhi). The allocation of reserved seats shall be determined by such authority as prescribed by parliament.

2. One-third of the total number of seats reserved for Scheduled Castes and Scheduled Tribes shall be reserved for women of those groups in the Lok Sabha and the legislative assemblies.
3. Reserved seats may be allotted by rotation to different constituencies in the state or union territory. Seats to be reserved in the rotation will be determined by draw of lots in such a way that a seat shall be reserved only once in three consecutive general elections.
4. Reservation of seats for women shall cease to exist 15 years after the commencement of this Amendment Act.

Background of the issue

The question of reservation for women in representative institutions has long been debated in India. The issue of reservations for women had come up even during the making of our Constitution, but it was rejected by women leaders at that time. It was felt to be unnecessary, since the working of democracy in the normal course would have ensured fair representation of women in these important institutions. The suggestion was also seen to underestimate the strength of women to compete as equals.

However, over 25 years later, the Committee on the Status of Women in India considered the same issue. They realized that women have continued to be discriminated against in our society, that their representation in these institutions has continued to be low in comparison to their actual share in the population. It was further agreed that rural women's experience and problems had remained undervalued and invisible in discussions about empowering women.

In the following section, we will see the salient features of the debate emerging out of this bill.

Some arguments in FAVOUR of reservation for women:

1. The people who are in favour of the policy of reservation state that although equality of the sexes is stated in the Constitution, but it is not the reality. Rinchen Norbu Wangchuk mentions that "although women are nearly half the population, they make up a mere 11.6%

of the total 542 members in Lok Sabha and 11% of the total 245 members in Rajya Sabha.¹ This shows the lack of women representation in both the houses of the Parliament. Therefore, progressive action is required to improve the condition and representation of women in legislature to ensure we empower them. It is also argued that women are able to understand issues related to women empowerment better than men. Lack of representation of women to voice their concerns and put forward bills in Parliament in favour are putting the females behind in our society. This explains us two points that:

- a. Reservations will increase the number of women in parliament all at once and they will be able to act as a strong voice in law making. At present, having a small minority of representation inhibits their effective participation in the interests of all women.
 - b. The presence of more women in the Parliament will lead to a change in the direction of debates and policy towards women empowerment.
2. The other arguments made in favour of reservation is that political parties because of their generally patriarchal character are reluctant to sponsor women candidates in elections, and therefore reservations are necessary. In a patriarchal society, people feel that men are better than female in doing some of the task like making laws or earning money. It is usually said that women are home-makers and therefore, should take care of the house only. The setback that women is not only that political parties will not give them chances to female candidates to fight elections, but also that many citizens will prefer to vote for a male candidate over a female candidate because of these existing biases. This will ensure disparity and to remove that we need reservation to improve the conditions of the women's participation in the parliament.
 3. There is evidence that political reservation for certain groups has increased redistribution of resources in favour of these groups, benefiting them in getting more social and economic opportunities. A study about the effect of existing reservation for women at the panchayat level shows that women elected under the reservation policy invest more in the public

¹ <https://www.thebetterindia.com/143745/one-third-reservation-parliament-indian-women-bill/>

goods closely linked to women's concerns. In the local level governance, through 73rd and 74th Amendment, women got reservation in Panchayati Raj system. A 2008 study, commissioned by the Ministry of Panchayati Raj, reveals that a sizeable proportion of women representatives perceive an enhancement in their self-esteem, confidence and decision-making ability.

4. It was published in *The Print* on 30th May that “an academic paper by the United Nations University World Institute for Development Economic Research (UNU-WIDER) published the impact of women politicians on economic performance in India's state legislative assemblies. The research finds that women legislators in India raise economic performance in their constituencies by about 1.8 percentage points per year more than male legislators. The researchers examined data for 4,265 state assembly constituencies for the 1992–2012 period which, in most states, spans four elections.” This statistics show that women are capable of leading.
5. Aruna Roy quotes in a 2016 column for *The Hindu* that “poor participation of women in Parliament has a direct impact on the priorities and assumptions of policies and legislation. There will be a qualitative change in governance with the inclusion of women in decision-making processes. Political parties will have to, or will soon be forced to, recognise that if Parliament does not reflect contemporary trends in women's education and excellence in varied fields, they will face a crisis of credibility.
6. A feminist case for reservation is made in terms of the need for affirmative action to redress the situation of women. Vasanth and Kalpana Kannabiran quotes that “women's participation in the political process is critical both to the strengthening of democratic traditions and to their struggle against oppression.” But they are obstructed in such participation by “power relations that operate at many levels of society from the most personal to the highly public.” It is necessary therefore to appropriate spaces in mainstream political arenas and reshapes them. (Kannabiran 1997). For instance, most women might not be able to even compete because they do not have required qualifications to be eligible. If we impose reservation, then this might encourage people to ensure that they are letting women complete their education.

7. A Communist Party of India (Marxist) Member of Parliament has argued that while reservations policy per se is not equal for all, it is nevertheless necessary to rectify existing imbalances. Thus, it is a partial measure, but one that is unavoidable if women are to participate effectively in politics (Bhattacharya: 1997). Similarly, an editorial of ML Update, the weekly bulletin of CPI (Marxist Leninist) – Liberation, states while ‘formal equality is law hardly brings equality in society’ the women’s reservation bill is important as “the moot point at this stage is to recognize women in their entirety as an oppressed category in an otherwise male-dominated society.” More importantly, the Bill “may prove catalytic to the larger entry of women from backward and Dalit castes in the political arena” (ML Update 1998). The feminist argument for reservation is thus in terms of creating equality of opportunity in order to make real the formal equality given by the constitution.
8. Uma Bharati of the Bharatiya Janata Party (BJP) has made an argument in favour reservation while asserting that a backward caste or Dalit woman is doubly oppressed, and so should have a place within the quota. We can relate this statement to the story we read about Reenu above. She was triply oppressed because of her gender, economic status and caste. So within women, not everyone is at same standings and therefore we need further reservation as well for the oppressed groups.

Some arguments AGAINST reservation for women:

1. Some argue that separate reserved seats for women would not only narrow their outlook but lead to the perpetuation of unequal status because they would be seen as not competing based on merit. It is a general understanding of people that if someone is getting a seat because of reservation then that person is not that capable enough. For instance, during the making of the Constituion, Mrs Renuka Ray argued against reserving seats for women by stating that, “When there is reservation of seats for women, the question of their consideration for general seats, however competent they may be, does not usually arise. We feel that women will get more chances if the consideration is of ability alone.”

2. Those who are against this bill also contend that reservation would not lead to political empowerment of women because
 - a. larger issues of electoral reforms such as measures to check criminalisation of politics, internal democracy in political parties, influence of black money, etc. have not been addressed first, and
 - b. it could lead to election of “proxies” or relatives of male candidates. This basically means that male politicians will make their female relatives occupy a seat of power and dictate them what to do on their behalf. So fathers or husbands will send their daughters or wives to occupy the reserved seats for them. Once a seat is occupied, it will be males ultimately who are against taking the decisions by imposing what needs to be done. Females will not have much power to do anything. The argument, presented by Shetkari Mahila Aghadi (SMA), has to do with the concern that reservations will only bring to the fore the ‘biwi-beti brigade’.
3. Other arguments made against reservations are mainly that (a) this will run counter to the principle of equality in the Constitution; and (b) women cannot be equated to socially backward communities or groups like ST/SCs as women are not a socially homogeneous group. As we have seen, within women as well there are women who belong to different social backgrounds that puts them into a hierarchy.
4. Some argue that if we have reservations for women then such a system would lead to similar demands from other groups and communities, thus posing a threat to national integration. For instance, right now only Scheduled Castes and Scheduled Tribes (ST/SC) have been given reservation. Then even Other Backward Castes (OBCs) and other minority religions would want to have reservation as they do not get seats easily as well. So how many categories of reservation can we afford to make?
5. Those against the bill argue that in a representative democracy, where 131 of 543 Lok Sabha seats are already reserved for SC/ST candidates, an additional 33 per cent reservation for women may not be a true reflection of the people’s wishes because so many seats are now already reserved.

6. The proposed Women's Reservation Bill states that the 33 per cent reservation will cease to exist after 15 years of its commencement. This means after 15 years this amendment will have to end. But this provision seems implausible, considering our past and present political attitudes – once a reservation has been imposed, no government, yet, has shown the courage to reduce or remove existing reservations.

Alternate methods of representation

Reservation of one-third of seats for women in Parliament restricts the choice of voters in the reserved constituencies to women candidates. Therefore, some experts have suggested alternate methods such as:

1. Reservation in Political Parties: This means that some tickets in the political parties are reserved for female candidates.
2. Dual Member Constituencies: This means that some constituencies will have two candidates, out of which one will be a woman. This will also mean that more seats shall be added in the total number of existing seats in both the houses of the parliament.

Let us now examine some of the advantages and disadvantages of both the alternate methods of representation.

Advantages of Reservation in the Political Parties:

- It will provide more democratic choice to voters.
- It will allow more flexibility to parties to choose candidates and constituencies depending on local political and social factors.
- It can nominate women from minority communities in areas where this will be an electoral advantage
- It will allow flexibility in the number of women in Parliament.

Disadvantages of Reservation in Political Parties:

- There will be no guarantee that a significant number of women would get elected.
- Political parties may assign women candidates to constituencies where they are weak.
- It might lead to resentment if a woman is accommodated to the disadvantage of a stronger male candidate.

Advantages of Dual-Member Constituencies:

- It does not decrease the democratic choice for voters.
- It does not discriminate against male candidates.
- It might make it easier for members to nurture constituencies whose average size is about 2 million people

Disadvantages of Dual-Member Constituencies:

- Sitting members will have to share their political base which can create resentment.
- Women may become secondary persons or add-ons.
- To fulfil criteria of 33% women, half of the seats need to be dual constituencies. This would increase the total number of MPs by 50%, which could make deliberation in Parliament more difficult.

Key recommendations of the Joint Parliamentary Committee

A similar bill was introduced in 1996 and examined by a Joint Committee on the Constitution (Eighty-First Amendment) Bill, 1996 (Chairperson: Smt. Geeta Mukherjee). Whereas many of its recommendations have been included in the current bill, recommendations on reservations for OBCs and in the upper Houses have not been included.

Key Recommendations of the Joint Committee on the Constitution (81st Amendment) Bill, 1996	
Reservation should be extended to Rajya Sabha and the Legislative Councils.	No
The reservation should be extended in the first instance for 15 years then reviewed to decide whether it should be continued.	Yes (no provision for review)
Reservation should be provided for women from Other Backward Classes after the Constitution extends reservation to OBCs.	No
Reservation to be extended to women of the Anglo-Indian community.	Yes
Provision should be made to reserve seats in cases where a state has less than three seats in the Lok Sabha or less than three seats are reserved for SC/STs.	Yes
Legislative Assembly of Delhi should be included. (Reservation in Puducherry Assembly requires only an ordinary Act).	Yes
Substitute the words 'not less than one-third' with 'as nearly as may be, one-third'.	Yes

Conclusion

Reservation of women in parliament still remains a mirage in spite of the commitment affirmed by all political parties towards women's empowerment. All political parties in principal say that we need to increase the representation of women but not much improvement has been achieved over the years. The debacle that is enacted in parliament each time the bill is tabled suggests that the Women's Reservation Bill requires a deeper debate, and perhaps even debates on alternatives to arrive at a solution to this problem.

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Please feel free to reach out in case there are any queries. Looking forward to a productive debate!

Regards

Harsh Vardhan Yadav

harshyadav1818@gmail.com