

Special Article

Women Reservation Act, 2023 and Participation of Women in the Electoral Politics of India

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Abstract

Gender-deficient democracy is a result of a number of barriers and restraints that prevent women from joining the electoral process. With the passing of the Nari Shakti Vandan Adhiniyam (NSVA) 2023 (128th Constitutional Amendment Bill) i.e. Women Reservation Act, 2023 that promises women's reservation in the Parliament of India, Indian women have entered an era of stronger representation and agenda-setting power at a national level. Resistance to passing the Women's Reservation Bill for more than 37 years has led to grave injustice to women representatives and to the democratic process of the country. Despite making promises in their manifestos to provide reservation of seats to women, most political parties themselves shy away from giving seats to women candidates. In this context of gender deficit in democracy, it is important to enhance the capacity of women to contest elections for legislative assemblies of the states and union territories and the national parliament.

Keywords: Electoral empowerment, Capacity building, Gender-deficient democracy, Women's electoral participation, Women Reservation Act, 2023

Introduction

With the passing of the Nari Shakti Vandan Adhiniyam (NSVA) 2023 (128th Constitutional Amendment Bill) i.e. Women Reservation Act, 2023 that promises women's reservation in the Parliament of India, Indian women have entered an era of stronger representation and agenda-setting power at a national level. On 22-9-2023, the bill became an Act of the Parliament of India. The NSVA ensures 33% reservation of seats in the Lok Sabha and State Legislative Assemblies for women. The Act reserves one-third of the seats in Lok Sabha, State legislative assemblies and the Delhi assembly. This will also apply to the seats reserved for SCs (Scheduled

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Castes) and STs (Scheduled Tribes) in Lok Sabha and State Legislatures. In the seats reserved for SCs/STs, the act provides one-third of the seats to be reserved for women on a rotational basis. The NSVA introduced Article 332A, which mandates the reservation of seats for women in every state Legislative Assembly (Thakur, 2004).

From Toehold to Foothold: Indian Women's Journey in the Electoral Politics

Currently, There are 82 women Members of Parliaments in LS (15.2%) and 31 women in RS(13%). While the number has increased significantly since the 1st Lok Sabha (5%) but is still far lower than in many countries. Women candidates find it very difficult to win the legislative Assembly and Parliamentary elections due to the onslaught of money power, muscle power and misogyny. It can be countered only by affirmative action of women's quota. According to the Sweden-based International Institute for Democracy and Electoral Assistance (IDEA), besides 40 countries the countries which have mandated quotas for women, major political parties in more than 50 countries have voluntarily set out quota provisions in their own statutes. According to recent UN Women data, Rwanda in Africa (61%), Cuba (53%) and Nicaragua (52%) in Latin America are the top three countries in women representation in the parliament. Bangladesh (21%) and Pakistan (20%) as well are ahead of India in case of representation of women in the National Assembly. According to the report of the Election Commission of India (ECI), women represent 10.5% of all Members of Parliament as of October 2021 and for all the state assemblies, women MLAs' representation stands at an average of 9%.

Reservation for Women in Panchayati Raj Institutions (PRIS)

Since the 73rd and 74th constitutional amendments in 1994 granted 33% and over the last 30 years more than 18 states have granted 50 % reservation of seats for women in the urban and rural local self-government bodies, women have become a political constituency both as voters and as candidates (Patel, 2002). The reduction of the voting age to 18 has brought a huge number of young educated women to the voter's list. Voter education programmes conducted by NGOs and the Election Commissioner's office also make them aware of the importance of voting to nurture the democratic governance of India. Political parties have recognised women voters but when it comes to the selection of candidates they ignore dedicated, sincere women party workers who have devoted the best years of their life to the work of their respective parties. Till now, the selection of candidates is based on lineage, muscle power and money bag (Heredia, 2012).

Lack of gender perspective is a marked feature of the Party Manifestos of major political parties. For the past two decades, every National Level Party has been offering lip services to promote women's agenda due to pressure from the National

Alliance of Women's Organisations and united efforts of 8 All India Women's organizations such as All India Women's Conference (AIWC), National Federation of Women (NFIW), All India Democratic Women's Association (AIDWA), Mahila Daxata Samiti (MDS), Joint Women's Programmes (JWP), Forum for Child Care Services (FORCES), Centre for Women's Development Studies (CWDS) and Young Women Christian Association (YWCA), in actual reality all political parties have betrayed women's cause. Its glaring example is the absence of a concerted effort to pass the bill for 33% reservation for women in the parliament that was introduced in the Parliament of India after 14 failed attempts between 1996 and 2011.

Since the year 2000 women's groups have been giving memorandums to all political parties to fulfil their charter of demand and not to give tickets to men with criminal records and past histories of violence against women in their personal or public life. But none of them have included this demand in their election manifesto or political practice.

Historic Legacy of Lobbying for the Women's Reservation in India

The Women's Reservation Bill was first introduced in the Lok Sabha as the 81st Amendment Bill in September 1996 by the Deve Gowda-led United Front government. Though the bill was introduced in Parliament several times, it was not taken up for consideration and put to vote. Successive governments had shelved it on the pretext of what they call 'lack of political consensus'. India taking presidency in G20 and raising the lead slogan of 'women-led development' and 27 years of hard work and dedication by the women's rights movement have finally materialized into a historic win in the parliament of India. This opens the way ahead for our enduring struggle to achieve political equality (Jain, 2000).

Women's Reservation Bill: A Timeline

- ◆ First introduced in Parliament in 1996 under Prime Minister HD Deve Gowda; no government has passed the bill yet
- ◆ In its current version, called the 108th Constitution Amendment Bill, it reserves one-third (33%) of all seats for women in the Lok Sabha and the State legislative assemblies
- ◆ Reserves 1/3rd of total number of seats for Scheduled Castes and Scheduled Tribes for women of those groups
- ◆ In the Lok Sabha, 1/3rd of all constituencies will be reserved for women on rotation basis
- ◆ Reservation will cease to exist 15 years after the commencement of the Amendment Act
- ◆ The Rajya Sabha passed this bill on March 9, 2010, but the Lok Sabha never voted on it

SOURCE 'Women legislators and economic performance' paper by the United Nations (UN) University World Institute for Development Economics Research, 2018

Why Women in Legislation Matter

- ◆ **Better Economic Performance:** Women legislators raise economic performance by about 1.8 percentage points per year
- ◆ **Fewer Criminal Charges:** Women are only one-third as likely as men to be carrying pending criminal charges while entering office
- ◆ **Less Corrupt:** Their material assets grow by 10 percentage points lesser than male counterparts, indicating that women are less likely to be corrupt
- ◆ **Get Work Done:** Share of incomplete road infrastructure projects is 22 percentage points lower for women than male legislators
- ◆ **Conscientious:** Women are more efficacious and less vulnerable to political opportunism

Geeta Mukherjee (8 January 1924-4 March 2000) was a veteran political activist, social worker and a four-time MLA from Panskura Purba constituency in West Bengal, from 1967 to 1977. As a Member of Parliament, she was elected seven times from the Panskura constituency, from 1980 to 2000; who led the demand for the legislature of 1/3rd reservation for women in parliamentary elections in India. She also Chaired the Joint Parliamentary Committee (JPC) which examined the 1996 Bill and made seven recommendations.

As the then Government lacked a majority, the Bill could not have been approved.

Earlier Attempts at Reserving Seats for Women:

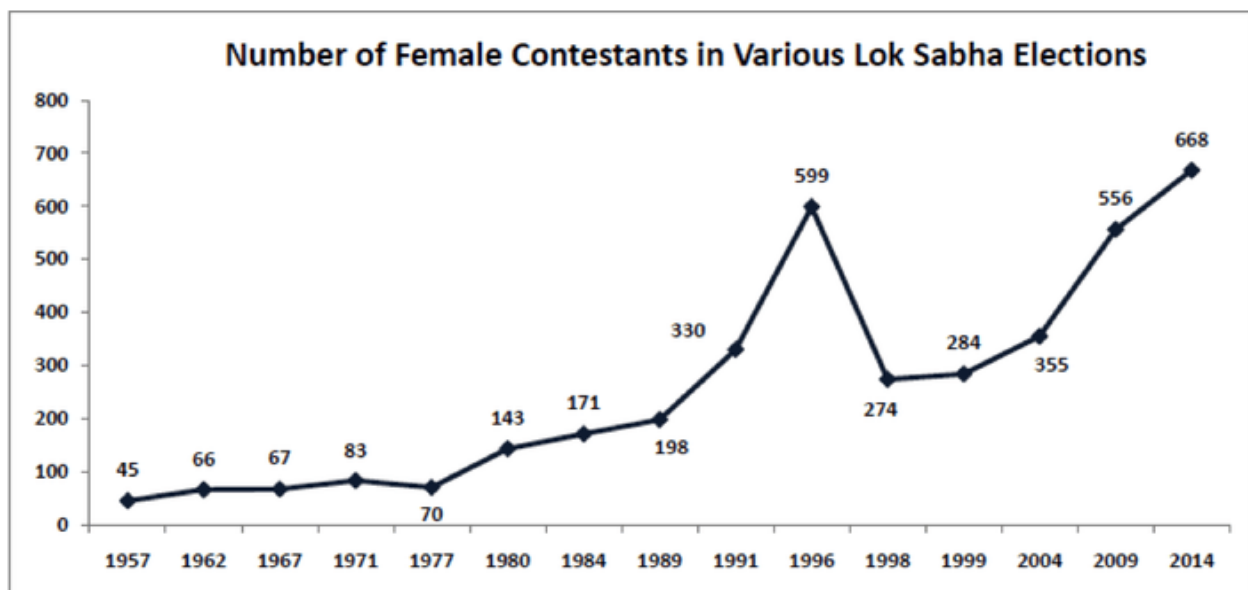
1996: First Women Reservation Bill was introduced in the Parliament.

1998 - 2003: The government tabled the Bill on 4 occasions but failed.

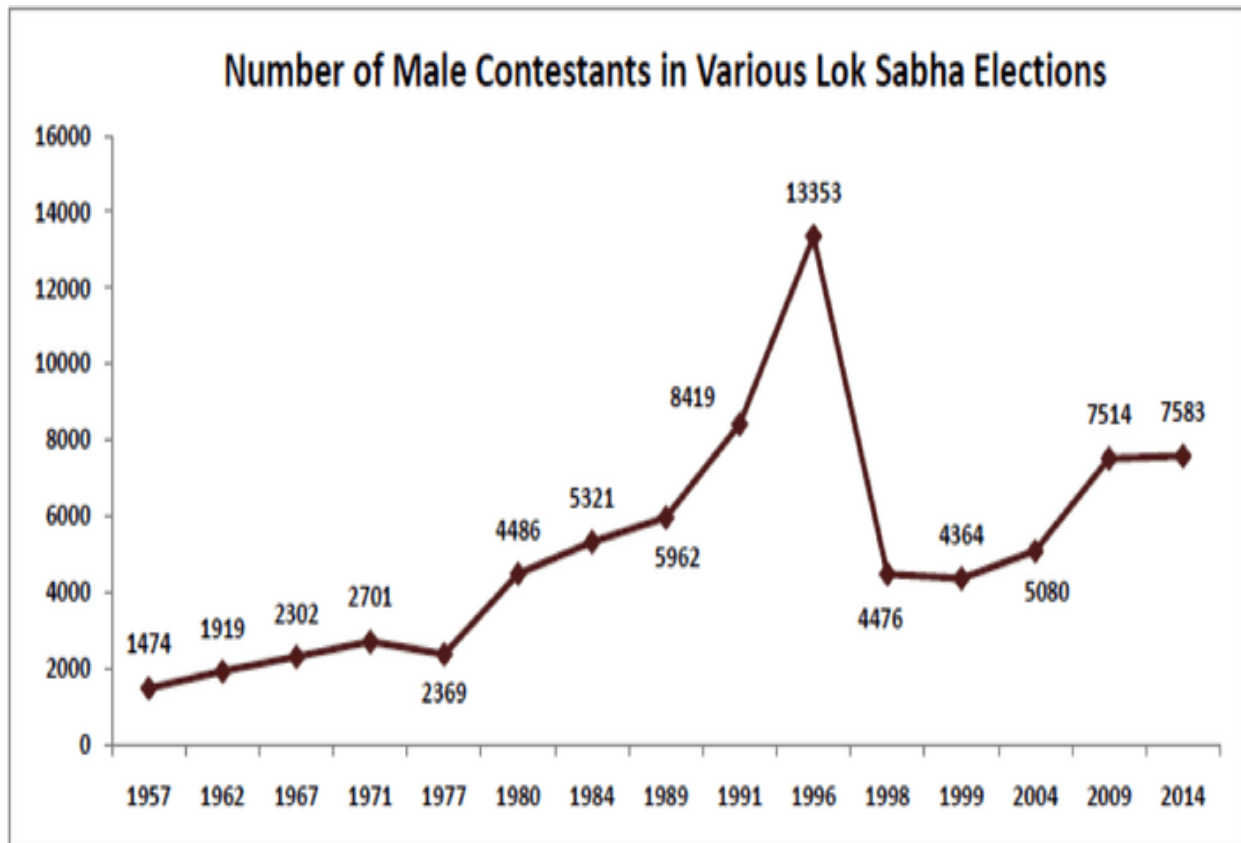
2009: The government tabled the bill amid protests.

2010: The Union Cabinet passed the Bill and Rajya Sabha passed it.

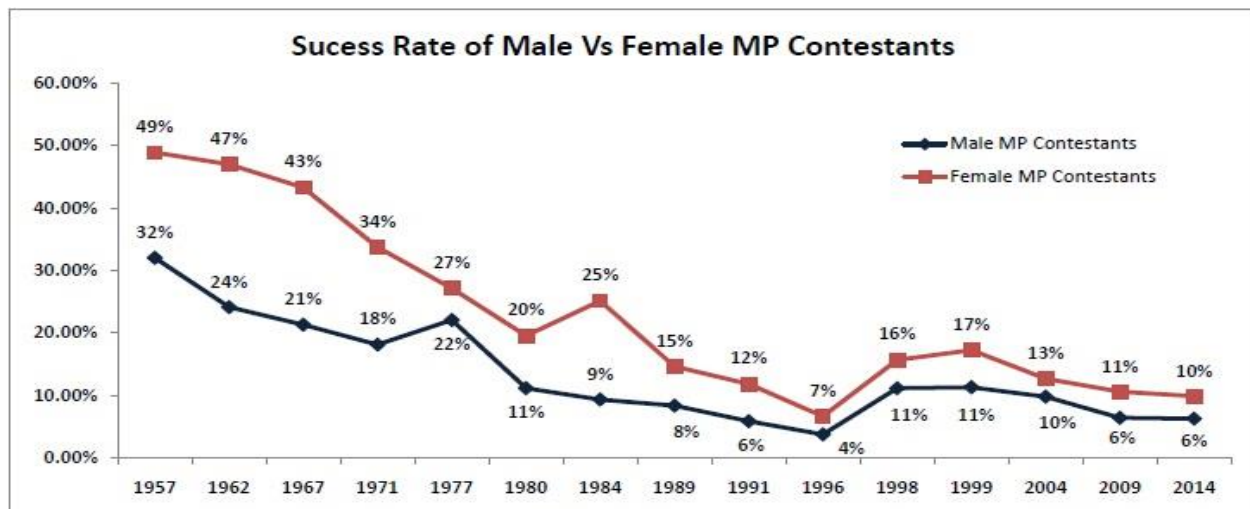
2014: The Bill was expected to be tabled in Lok Sabha which did not happen.



Source: Bhanupriya Rao. Available at: <https://factly.in/women-mps-in-lok-sabha-how-have-the-numbers-changed>



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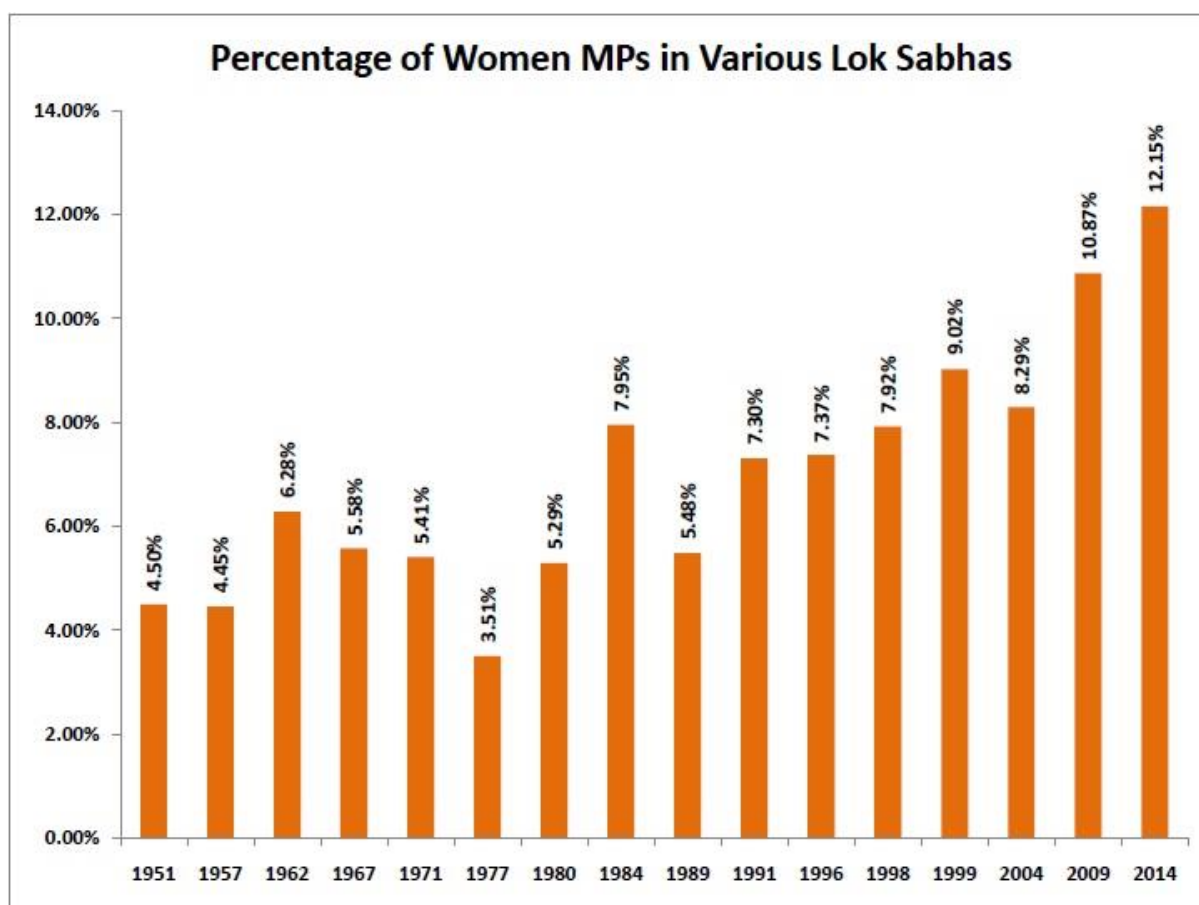


Source: Bhanupriya Rao. Available at: <https://factly.in/women-mps-in-lok-sabha-how-have-the-numbers-changed>

What were the Hurdles?

Presumption of "Win-ability"

All political parties ignore women foot-soldiers who have dedicated 20-30-40 best years of their lives to party work- mobilisation on issues of regional or national importance, door-to-door campaigning for party rallies, public meetings, demonstrations, jail Bharo, picketing, day-to-day activities of organization, community work, networking, writing press releases-leaflets- pamphlets- circulars, in short from writing to fighting; when selection of candidates for Legislative Assemblies or parliamentary seats are done. What women party workers lack is not 'win-ability' but the backing of money and muscle power! (Patel, 1987).



Source: Bhanupriya Rao. Available at: <https://factly.in/women-mps-in-lok-sabha-how-have-the-numbers-changed>

Women politicians of all national parties were jubilant when the Bill on 33% reservation of seats in the parliament was introduced on 9-3-2010 in Rajya Sabha and also got passed. But Loksabha did not pass it. Not only that, but their own political parties, even when headed by women did not give party tickets to veteran/seasoned women political workers for the 16th Lok Sabha Election in 2014. For the 17th Lok Sabha election, only All India Trinamul Congress and Biju Janata Dal have given more than 1/3rd tickets to their women candidates. The major national parties have not kept their promise as the table below reveals.

Table 1: Distribution of Party Candidature to Men and Women by Political Parties in India for the Lok Sabha Election in 2019

Name of Political Party	Number of Men Candidates	Number of Women Candidates	% of women candidates
All India Trinamul Congress	42	17	40.47 %
Biju Janata Dal	19	7	36.84 %
Rashtriya Janata Dal	17	3	17.64 %
Samajwadi Party	29	5	17.24 %
Indian National Congress	344	47	13.66 %
Amma Makkal Munnetra Kazhagam	23	3	13.04 %
Bharatiya Janata Party	374	45	12.03 %
Telangana Rashtra Samithy	17	2	11.76 %
Nationalist Congress Party	18	2	11.11 %
<i>Dravida Munnetra Kazhagam</i>	20	2	10.00 %
Praja Socialist Party	35	3	08.57 %

Bahujan Samaj Party	12	1	08.33 %
Janata Dal (United)	17	1	05.88 %
<i>All India Anna Dravida Munnetra Kazhagam (AIADMK)</i>	21	1	04.76 %
Shiv Sena	22	1	04.54 %

Source: Compiled from the press releases of the above-mentioned political parties

Toxic Patriarchy and Criminalisation of Politics

Women Activists of Social Movements are politically articulate and have the courage of conviction to fight for their agenda. They command credibility and social respectability for their sincere, Spartan lifestyle and solidarity towards the marginalised sections. But most of them shun electoral politics as they find it too murky and under the control of toxic and misogynistic patriarchs (Dhanmanjari Sathe, Stephen Klasen, Jan Priebe, Mithila Biniwale, 2013). Enormous use of money and muscle power to win elections also makes political life difficult for women. It is in this context that the demand of 33% reservation of seats for women in the Parliament and State Assemblies becomes extremely important for the deepening of democracy for which passage of the Women's Reservation Bill by Parliament and State Legislative Assemblies and at least 1/3rd of reserved seats for women in all internal committees of political parties are imperative (Patel, 1988).

Reservation for Women in Lower House

It is in this context, that we need to reflect on NSVA.

- **The NSVA has provided for inserting Article 330A into the constitution:** It is borrowed from the provisions of Article 330, which provides for the reservation of seats to SCs/STs in the Lok Sabha. The NSVA provided that reserved seats for women may be allotted by rotation to different constituencies in states or Union Territories. In the seats reserved for SCs/STs, the Bill sought to provide one-third of the seats to be reserved for women on a rotational basis.
- **Reservation for Women in State Legislative Assemblies:** The NSVA introduces Article 332A, which mandates the reservation of seats for women in every state Legislative Assembly. Additionally, one-third of the seats reserved for SCs and

STs must be allocated for women, and one-third of the total seats filled through direct elections to the Legislative Assemblies shall also be reserved for women.

- **Reservation for Women in NCT of Delhi (New clause in 239AA):** Article 239AA to the constitution grants special status to the Union Territory of Delhi as the national capital with regards to its administrative and legislative functioning. Article 239AA(2)(b) was amended by the NSVA accordingly to add that the laws framed by Parliament shall apply to the National Capital Territory of Delhi.

Commencement of Reservation (New Article - 334a)

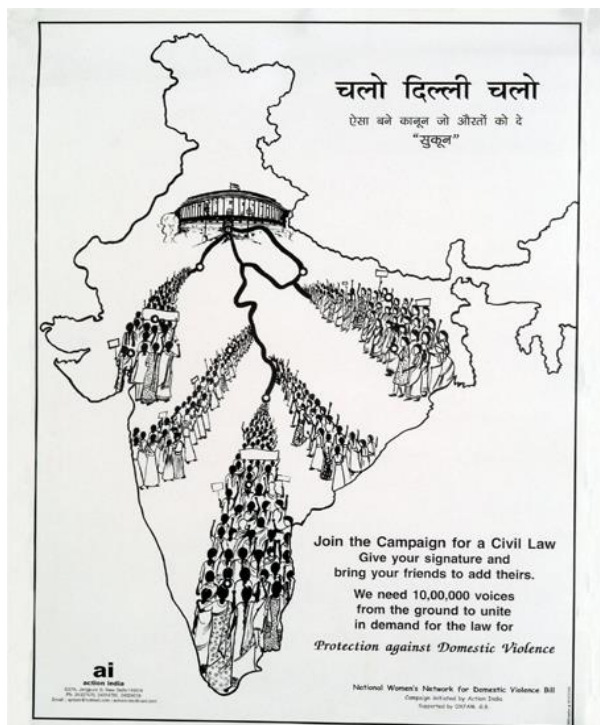
The reservation will be effective after the census conducted after the commencement of this Act is published. Based on the census, delimitation will be undertaken to reserve seats for women. The reservation will be provided for a period of 15 years. However, it shall continue till such date as determined by a law made by Parliament.

Rotation of Seats: Seats reserved for women will be rotated after each delimitation, as determined by a law made by Parliament.

Criticism of the Women's Movement

The women's rights movement is unhappy about the fact that NSVA merely reads that it shall come into effect after an exercise of delimitation is undertaken for this purpose after the relevant figures for the first Census taken after the commencement of the NSVA is undertaken. It doesn't specify the cycle of elections from which women will get their due share. Another contestation comes from the feature of the NSVA that **does not provide** women's reservation in the Rajya Sabha and State Legislative Councils. The Rajya Sabha currently has a lower representation of women than the Lok Sabha. Women's organisations aver that representation is an ideal that must be reflected in both the Lower and Upper Houses. They pointed out that NSVA also borrowed from the provisions of Article 334 of the Constitution of India which mandated the parliament to review the provisions of reservation after 70 years of the laws coming into existence. But in the case of the women's reservation, the NSVA provided for the sunset clause of 15 years for the reservation provisions for the women to get reviewed by the parliament.

Contribution of Women in Political Decision Making and Governance



Women's Leadership in political governance prioritises human development action agenda, with a quota of 33% seats in the parliament and legislative assembly, women's weight in the decision-making will be a critical minimum (ICRW, 2012). Experiences of elected women representatives in the rural and urban local self-government bodies since 1994 have revealed that given the opportunity for collective efforts, they have nurtured their constituencies with efficiency and honesty of purpose (Ghosh, 2002). Their record for executing pulse polio campaign, provisioning of water- electricity- road construction, schools, health centres, and minor irrigation has been recognised in a national-level study by NIRD-UNDP (2002).

To translate the constitutional guarantee of equality into substantive equality, the nation needs to ensure equality of opportunity, equality of treatment, equality of space in public life for nation-building, and, women's quota as affirmative action is a measure in this direction. It is also a win-win formula for the community, region and the nation (IAWS, 2002).

Nurturing women's leadership to compensate for historical neglect and channelising talented and motivated women's ability for community development and human development efforts with a focus on education, skill building, health and combating gender-based violence is the urgent need for gender-inclusive nation-

building efforts. Elected women with mandated power as a result of the 1/3 quota, will also bring transformative change in the cultural milieu in public life (ISST, 2001). It will encourage more participation of women not only in politics but also in the economic, educational, diplomatic, trade and commerce, governance and criminal justice system (Moghe, 2004). On the whole, 33% of women in the upper echelons of political structures will result in more humane policies for children, elderly, persons with disabilities and official recognition of unpaid and paid care work performed for the care of children, elderly and sick members of the family and society (John, 2000). Research by UNDP and NIRD has shown that women-elected representatives have been judicious in implementing gender Responsive Budgeting that is directed at the reduction of the gender gap in health, education, skill, and employment, and at the promotion of women's decision-making power through capacity building (Panchayati Raj Update, 2004). Women's Leadership also results in instituting structures and systems to reduce gender-based violence (Raunak Jahan, 1987).

Given the opportunity, as a collective, women decision-makers have promoted a policy of transformative finances for gender equality. e.g. Campaign started by elected women in Gram Panchayats "Alcohol-free villages in Maharashtra"; forcing political leaders to stop the diversion of wheat for the production of beer in Punjab and distribution of the same wheat through PDS among the poverty groups; using Panchayat funds for the installation of *gobar* gas plant, Kanya Shala, piped water in the homes, toilet blocks for women in the rural and urban community, the building of schools-shelter homes, hostels and health centres for the community (Patel, 1993).

Experiences of Rwanda (65% of parliamentarians are women) and, the European Parliament (40% of parliamentarians are women) have proved that 'critical minimum' representation of women in public institutions brings professionalism, use of decent language, improved time management and check on corrupt practices and criminal activities.

Conclusion

Women political workers of all political parties have a mind of their own, but the political bosses, while allocating seats to contest elections, do not promote veteran women political activists of their own party. Most of the political parties have used their women workers only as foot soldiers (Patel, 2002). Women's reservation in the parliament legislative Assembly and legislative Councils of the state governments as an affirmative action for the historical injustices faced by women is the only way to ensure a level playing field for women in electoral politics which is dominated by money-mafia-misogyny and muscle power (Thakkar & Gawankar, 2004).

Keeping all these factors into consideration, the women's rights movement concludes that while there is a rider in the NSVA regarding the implementation time

frame, it's essential to recognize that this is a significant step forward. Now, as we look ahead, political parties have no more excuses. The 2024 elections provide a golden opportunity to take decisive action and allocate the seats to contest elections to aspiring women candidates as needed.

Let's continue this journey with hope and determination, knowing that our collective efforts have brought us closer to a more inclusive and equitable political landscape and due share in representative democracy. The gender justice proposed by the Nari Shakti Vandan Adhiniyam in the legislative domain will provide impetus to balanced policy formulation.

Defying police degradation,

Tossing aside tradition,

We have come!

Dalit, Battered woman, worker, farmer

In an army together,

We have come!

To end dowry, rape, misused authority,

To stop wife-beating and cruelty,

We have come!

To wipe women's suppression,

To remove class oppression,

To free this humanity-

In a Morcha, we have come!

From Hill, Dock and Railway Shed,

In spite of the owner's threat and dread

We have come!

Look! Look! You blind exploiter tyrant-

Our army has come!

To destroy Injustice, our army has come!

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