WOMEN RESERVATION BILL: A GENDER JUSTICE PERSPECTIVE

Anushka Agarwal, Christ (Deemed to be University), Bangalore

ABSTRACT

In the contemporary period, the underrepresentation of females in legislative assemblies has proved to be a major issue hindering the concept of gender justice. The major cause of underrepresentation is the exclusion of females from decision-making processes and the gender imbalance that continues to prevail. The study aims to assess the efficiency of the Women's Reservation Bill as a milestone in realizing gender justice. While the constitutional campaign for equality and elimination of discrimination continues, the proportion of females remains insignificant in the legislatures. There lies a huge gap between the concept of equality and the gender justice. The Bill proposes to address the structural hurdles which have traditionally excluded women from the legislatures in general, as opposed to generic representation. The bill, in terms of gender justice, proposes to address the power imbalance in political structures as well as representation. Using an analytical approach, this paper analyses the Women's Reservation Bill in the context of achieving true gender equity. The research highlights an attempt to understand the judicial framework and the social implications of this legislation and how women are faced with barriers while seeking involvement in politics. This approach allows assessment of the bill's potential to address structural inequalities and promote substantive gender equality. It allows for creating a space for women and shatters patriarchal power structures while promoting inclusive governance. It is revealed from the research that Women's Reservation Bill is a substantial advancement for bringing about gender justice because it not only enhances Women's participation at legislature level but shatters patriarchal politics. The study finds that even though the Women Reservation Bill increases women's representation and challenges patriarchal structures, its effectiveness is unpredictable on addressing social and economic inequalities, ensuring that reserved seats provide women with genuine political influence and meaningful participation across diverse backgrounds.

Keywords: Gender Justice, Inclusive Governance, Political Representation, Structural Inequality, Women Reservation Bill.

Introduction

Representation in politics is an essential aspect of equality and justice in a democratic country like India. In the Indian Constitution there is a provision for equality, yet women are severely under-represented in legislative assemblies such as Lok Sabha and State Legislative Assemblies. While women make up nearly half the population, their participation in leadership roles has been severely restricted by social, cultural and structural barriers. Gender justice is not equal, it means establishing conditions for providing allele and presence of women in society. The Constitution of India ensures equality before the law and does not discriminate on the basis of sex under Articles 14 and 15. However, the gap between promise and reality continues.

The recent enactment of the Women's Reservation Bill, also known as the Constitution (One Hundred and Sixth Amendment) Act, 2023, tries to secure 33% of the seats in the Lok Sabha and State Legislative Assemblies for women. The bill aims to counter the imbalance of representation of women in society. This paper will discuss the Women's Reservation Bill in relation to gender justice and its capacity to counter the imbalance in society.

The exclusion of women from the legislative arena means that their voices, experiences and concerns are more likely to remain quickly unheard when laws are being made. It is not just a numbers game; it's also about what politics is all about. The discussion ideas of health, education, security and social welfare had to be inclusive for both man and women. By reviewing the legal context, social environment, and potential implementation barriers, this paper attempts to evaluate whether the Women's Reservation Bill can really be a tool of gender justice or merely a symbolic reform legislation.

Meaning of Gender Justice and Substantive Equality

Gender justice refers to the equal treatment of all genders. Gender justice is not only the provision of equal rights to men and women. It is the elimination of all social, political, and economic barriers that impede women from becoming an integral part of society. In a legal sense, gender justice is directly associated with the idea of equality, as mentioned in the Constitution of India.

It is important to make a distinction between formal equality and substantive equality. Formal

equality is the equal treatment of all people, without any consideration of their different status in society. However, it fails to recognize the disadvantages that people have faced in the past. Substantive equality, on the other hand, recognizes that certain sections of society, such as women, have been discriminated against in the past, and therefore special treatment is necessary to treat them equally. The reservation policy is based on the idea of substantive equality.

The concept of equality under Article 14 espouses the principle that similarly situated person will be treated alike.[1] The Indian Constitution offers a robust basis for gender justice. the Article 14 provides equality within the judicial system, and the Article 15 prohibits discrimination on the grounds of sex, allowing the State to make special provisions for women. Article 16 ensures equality in the opportunity for employment in the public services, and Article 39A ensures equal justice. Article 243D, inserted by the 73rd Amendment Act, 1992, ensures women's reservation in Panchayati Raj Institutions, signifying the constitutional emphasis on enhancing women's participation in politics.

Hence, representation is intertwined to justice. If women lack representation in decision-making structures, their concerns may not be addressed, making it challenging to attain substantive equality.

Historical Background of the Women's Reservation Bill

The issue of reservations for women had come up in the Constituent Assembly but had been rejected by women representatives as it was felt to be unnecessary, since the working of democracy in the normal course would ensure the representation of all sections of Indian society.[2] The idea of women being allotted seats in the Parliament and State Legislative Assemblies was first introduced in 1996 through the Constitution (81st Amendment) Bill. The Bill received strong political opposition and was allowed to lapse several times due to the absence of a consensus among the political parties. The suggestion was also seen to underestimate the strength of women to compete as equals.[3] Early, Involvement in Lawmaking

[1] Dr.C B Naveen Chandra, CONCEPT OF GENDER JUSTICE IN INDIA: A CONSTITUTIONAL PERSPECTIVE, International Journal of Creative Research Thoughts (IJCRT) www.ijcrt.org
[2] Elusive 'Woman': Feminism and Women's Reservation Bill, Nivedita Menon, Economic and Political Weekly Oct. 21 - Nov. 3, 2000, Vol. 35, No. 43/44
[3] Elusive 'Woman': Feminism and Women's Reservation Bill, Nivedita Menon, Economic and Political Weekly Oct. 21 - Nov. 3, 2000, Vol. 35, No. 43/44

Some women managed to join but mostly it was a male-dominated world in politics, even though there were not many chances provided for them to do so.[4]

Later, in 2008, this idea was introduced through the Constitution (One Hundred and Eighth Amendment) Bill, 2008. The key points of opposition against the Bill were linked to the demand for sub-quota seats for women from the Other Backward Classes (OBC) communities. The Bill was originally introduced not only as a political move, but as a feminist initiative as well. It was thought that a balance between the sexes in Parliament might result in an improvement of women's causes as a whole.[5]

Finally, after so many years of debate, the Bill was given the status of an Act in 2023 as the Constitution (One Hundred and Sixth Amendment) Act, 2023, also known as the Nari Shakti Vandan Adhiniyam. This Act clearly states that 33% of the total number of seats in the Lok Sabha and State Legislative Assemblies shall be reserved for women, including those already reserved for Scheduled Castes (SC) and Scheduled Tribes (ST). The passing of this Act is a historic moment in the constitutional and political history of India.

Women's Reservation Bill as a Tool for Gender Justice

The Women's Reservation Bill is a powerful means for achieving gender justice as an attempt to correct the deep rooted historical imbalance in the Indian political framework and society.

Politics has always been seen as a man's world because of the gendered stereotype that is entrenched in the society.

The State tries to make sure that women are brought into law-making domains through this bill. This is a step towards substantive equality and not formal equality. The Women's Reservation Bill is also a step towards descriptive and substantive representation. Descriptive representation is the increase in the number of women in the legislative bodies. Whereas, the step towards substantive representation is where women representatives make an effort to focus on issues related to women's rights, security, health, education, and social welfare. More participation will ensure that policies are more representative and inclusive of women's realities. "Policy should not be adopted as an 'end' in itself; rather it should be seen as a tool

[4] TANNU JOLLY AND AMBAR SRIVASTAVA, Women Reservation in India, International Journal of Law Management & Humanities, [Vol. 7 Iss 3; 3202]
[5] See Women's Bill: The Hypocrisy Behind the Equal Voice, THE STATESMAN (India), July 16, 1998

to an end. It needs to be understood that quotas per se do not guarantee effective participation of women. In addition to women's electoral quotas, some other supportive measures must be initiated in order to make women's representation sustainable."[6]

The Bill also challenges the patriarchal norms that are prominent in the society from decades by introducing a larger female presence into politics. Women in Indian politics have had a secondary role for too long. The Reservation System breaks this tradition by providing women access to power through the Constitution. It alters the idea that politics is a man's domain and also helps political parties to understand the capacity of women in leadership roles.

The Bill also helps in ensuring inclusive governance by ushering decision-making structures that represent the diversity of our society. The symbolic importance of the Bill should also not be overlooked. The presence of women in Parliament can act as a inspiration for future generations and assist women in gaining confidence to participate in public life. Thus, the Bill has the capability to change representation and the very fabric of political power.

Critical Analysis and Limitations of the Bill

Although the Women's Reservation Bill is a historic step, its implementation is mainly dependent on its proper execution. Implementing the new bill without making compromises could be a herculean task, given the timeframe for delimitation and political consensus on redrawing constituencies or adding new ones.[7]

One of the constraints is related to the rotation of the reserved seats. According to the Women's Reservation Bill, the reserved seats for women will rotate after every delimitation. This rotation is important in order to prevent one section of people being favored over another section but may lead to under development in a given constituency. The representatives would not get enough a chance to that build strong rapport with the people as well as won't gain adequate experience, which may cloud/affect appropriate governance. reservation is only features/benefits women politicians from politically deep-rooted/rich families which further limit the advantages for marginalized sections' women. The absence of a separate sub- quota for women from BackwardClasses is contentious. While women from Scheduled Castes (SC)

[6] Suman Ojha, RESERVATION OF WOMEN IN THE INDIAN PARLIAMENT: Lessons from other countries, The Indian Journal of Political Science, APR.-JUNE, 2009, Vol. 70, No. 2 (APR.- JUNE, 2009

[7] Women Reservation in India, Tannu Jolly and Amber Srivastava, International journal of Law Management & Humanities Vol. 7 Issue 3, pp. 3202-3211

and Scheduled Tribes (ST) have reserved seats within the existing quotas, women from OBC communities do not have a separate arrangement. Moreover, having more numbers does not automatically translate to having more power. Women representatives can still be dominated by male party leaders or kin, which is sometimes termed as "proxy representation." Thus, while the Bill will improve representation in theory, its potential to bring about practical implementation is yet to be determined.

Conclusion

In this paper, the need for specific intervention against underrepresentation of women in legislative bodies has been discussed and the reservation system as a remedy to this problem leading to inequality proposed through Constitution (One Hundred and Sixth Amendment) Act, 2023 critically evaluated. The women's reservation bill is a form of substantive equality, which means that men and women need to be treated differently when it comes to access because the two were not born with equal opportunities in terms of political inclusion.

The Women Reservation Bill has a potential to double up on representation or descriptive representation, as the research indicates and change the patriarchal political order, which has thus far excluded women from power. This will ensure that the policy-making process becomes more representative and inclusive by considering the needs of women, who are directly affected by many policies. Nevertheless, the utility of the Bill is still a matter of various considerations.

Decisions on delay over implementation of the Bill, matter of seat rotation, exclusion of OBC sub-quota and proxy representation can also impact its effectiveness. Reservation is not the answer to the serious and deep-rooted social and economic injustices in society.

Hence, the legislation can be successfully implemented in tandem with other determinants, such as the growth of political parties' support for women leaders, educational activities to bring out their talents and ambitions & development of society at large. If the Bill is successfully implemented, then the Women's Reservation Bill can be an effective measure in the quest for gender justice in Indian society.

REFERENCES:

1. Women Reservation in India, Tannu Jolly and Amber Srivastava, International journal of Law Management & Humanities Vol. 7 Issue 3, pp. 3202-3211 (HEINONLINE) https://heinonline-org-christuniversity.knimbus.com/HOL/Page?handle=hein.journals/ijlmhs29&id=3232

2. THE WOMEN'S RESERVATION BILL OF INDIA: A POLITICAL MOVEMENTTOWARDS EQUALITY FOR WOMEN, Sumita Ray, Temple International & Comparative Law Journal (HEINONLINE) https://heinonline-org-christuniversity.knimbus.com/HOL/Page?handle=hein.journals/tclj13&id=495

3. Elusive 'Woman': Feminism and Women's Reservation Bill, Nivedita Menon, Economic and Political Weekly Oct. 21 - Nov. 3, 2000, Vol. 35, No. 43/44 (JSTOR) https://www.jstor.org/stable/4409891

4. Women and Politics: Beyond Quotas, Madhu Kishwar, Economic and Political Weekly October 26,1996 Vol. 31, No. 43 (JSTOR) https://www.jstor.org/stable/4404714

5. RESERVATION OF WOMEN IN THE INDIAN PARLIAMENT: Lessons from other countries, Suman Ojha, The Indian Journal of Political Science, APR.-JUNE, 2009, Vol. 70, No. 2 (JSTOR) https://www.jstor.org/stable/42743910

6. CONCEPT OF GENDER JUSTICE IN INDIA: A CONSTITUTIONAL PERSPECTIVE, Dr.C B Naveen Chandra, Volume 11, Issue 12 December 2023 https://ijcrt.org/papers/IJCRT2312695.pdf