

Issues for Consideration: The Constitution (128th Amendment) Bill, 2023 (Women's Reservation Bill)

The 73rd and 74th Amendments passed in 1993, which introduced panchayats and municipalities in the Constitution, reserve one-third of seats for women in these bodies.^{1,2} The Constitution also provides for reservation of seats in Lok Sabha and state legislative assemblies for Scheduled Castes (SCs) and Scheduled Tribes (STs) in proportion to their number in the population.^{3,4} The Constitution does not provide for reservation of seats for women in the Lok Sabha and state legislative assemblies. Some members of the Constituent Assembly had opposed reserving seats for women in legislatures.⁵

15% of the total members of the 17th Lok Sabha are women while in state legislative assemblies, women on average constitute 9% of the total members. In 2015, the Report on the Status of Women in India noted that the representation of women in state assemblies and Parliament continues to be dismal.⁶ It noted that decision making positions in political parties have negligible presence of women. It recommended reserving at least 50% seats for women in local bodies, state legislative assemblies, Parliament, ministerial levels, and all decision-making bodies of the government.⁶ The National Policy for the Empowerment of Women (2001) had stated that reservation will be considered in higher legislative bodies.⁷

Bills amending the Constitution to reserve seats for women in Parliament and state legislative assemblies have been introduced in 1996, 1998, 1999, and 2008.⁸ The first three Bills lapsed with dissolution of their respective Lok Sabhas. The 2008 Bill was introduced in and passed by Rajya Sabha but it also lapsed with the dissolution of the 15th Lok Sabha. The 1996 Bill had been examined by a Joint Committee of Parliament, while the 2008 Bill was examined by the Standing Committee on Personnel, Public Grievances, Law and Justice. Both Committees agreed with the proposal to reserve seats for women. Some of the recommendations given by the Committees include: (i) considering reservation for women belonging to other backward classes at an appropriate time, (ii) providing reservation for a period of 15 years and reviewing it thereafter, and (iii) working out the modalities to reserve seats for women in Rajya Sabha and state legislative councils.^{8,9}

The Constitution (One Hundred and Twenty-Eighth Amendment) Bill, 2023 was introduced in Lok Sabha on September 19, 2023. The Bill seeks to reserve one-third of the total number of seats in Lok Sabha and state legislative assemblies for women.

Key features of the Bill

- **Reservation for women:** The Bill reserves, as nearly as may be, one-third of all seats for women in Lok Sabha, state legislative assemblies, and the Legislative Assembly of the National Capital Territory of Delhi. This will also apply to the seats reserved for SCs and STs in Lok Sabha and states legislatures.
- **Commencement of reservation:** The reservation will be effective after the census conducted after the commencement of this Bill has been 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.

Issues to Consider

The issue of reservation of seats for women in legislatures can be examined from three perspectives: (i) whether the policy of reservation for women can act as an effective instrument for their empowerment, (ii) whether alternate methods of increasing representation of women in legislatures are feasible, and (iii) whether there are any issues with the proposed method for reservation in the Bill. The analysis in this section is largely based on our earlier Brief published on the 2008 Bill.¹⁰

Purpose of reservation

If a group is not represented proportionately in the political system, its ability to influence policy-making is limited.⁸ The Convention on the Elimination of All Forms of Discrimination Against Women provides that discrimination against women must be eliminated in political and public life.¹¹ While India is a signatory to the Convention, discrimination in matters of representation of women in decision-making bodies has continued.⁸ The number of women MPs has increased from 5% in the first Lok Sabha to 15% in the 17th Lok Sabha; but the number continues to be quite low. A 2003 study about the effect of reservation for women in panchayats showed that women elected under the reservation policy invest more in the public goods closely linked to women's concerns.¹² The Standing Committee on Personnel, Public Grievances, Law and Justice (2009) had noted that reservation of seats for women in local bodies has enabled them to make meaningful contributions.⁹ It also noted that concerns regarding women being proxies to men in local bodies have turned out to be baseless. The Inter-Parliamentary Union (2022) has noted that legislated quotas have been a decisive factor in women's representation.¹³

Opponents of the reservation policy argue that separate constituencies for women would not only narrow their outlook but lead to perpetuation of unequal status because they would be seen as not competing on merit. For instance, in the Constituent Assembly, Renuka Ray argued against reserving seats for women: "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."⁵ Opponents also argue that reservation would not lead to political empowerment of women because larger issues of electoral reforms such as measures to check criminalisation of politics, internal democracy in political parties, and influence of black money have not been addressed.¹⁴

Alternate methods of representation

Reservation of one-third of seats for women in Parliament would restrict the choice of voters in the reserved constituencies.¹⁴ Two alternatives have been suggested by some experts: reservation for candidates within political parties (as some countries do, see Table 1); and dual member constituencies where some constituencies shall have two candidates, one being a woman (see Table 2). Initially, India had multi-member constituencies which included an SC/ST member. A 1961 Act converted all constituencies into single member constituencies.¹⁵ The reasoning was that the constituencies were too large and SC/ST members felt that they would gain in importance in single-member reserved constituencies.¹⁶

Table 1: Country data on political representation of women (as of September 2023)

Country	% of elected women	Quota in Parliament	Quota in political parties
Sweden	46%	No	Yes
Norway	46%	No	Yes
South Africa	45%	No	Yes
Australia	38%	No	Yes
France	38%	No	Yes
Germany	35%	No	Yes
UK House of Commons	35%	No	Yes
Canada	31%	No	Yes
US House of Representatives	29%	No	No
US Senate	25%	No	No
Bangladesh	21%	Yes	No
Brazil	18%	No	Yes
Japan	10%	No	No

Note: In several countries, there is no law mandating quotas for women but some political parties reserve seats for women. Sources: Inter-Parliamentary Union; PRS.

Table 2: Pros and cons of reservation in political parties and dual member constituencies¹⁷

	Advantages	Disadvantages
Political parties	<ul style="list-style-type: none"> ▪ Provide more democratic choice to voters ▪ Allow more flexibility to parties to choose candidates and constituencies depending on local political and social factors ▪ Can nominate women from minority communities in areas where this will be an electoral advantage ▪ Allow flexibility in the number of women in Parliament 	<ul style="list-style-type: none"> ▪ No guarantee that a significant number of women would get elected ▪ Political parties may assign women candidates to constituencies where they are weak ▪ Might lead to resentment if a woman is accommodated to the disadvantage of a stronger male candidate
Dual- member constituencies	<ul style="list-style-type: none"> ▪ Does not decrease the democratic choice for voters ▪ Does not discriminate against male candidates ▪ Might make it easier for members to nurture constituencies whose average size is about 2.5 million people 	<ul style="list-style-type: none"> ▪ Sitting members may have to share their political base ▪ 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

Sources: Compiled by PRS based on sources listed in endnotes in 14 and 17.

Rotating constituencies

The Bill states that reserved seats shall be allotted by rotation after every delimitation exercise. This implies rotation approximately every 10 years as after 2026 delimitation is mandated to take place after every census.¹⁸ Rotation of reserved seats may reduce the incentive for MPs to work for their constituencies as they could be ineligible to seek re-election from that constituency.¹⁹ A study by the Ministry of Panchayati Raj recommended that rotation of constituencies should be discontinued at the panchayat level because almost 85% women were first-timers and only 15% women could get re-elected because the seats they were elected from were de-reserved.

Key changes between 2008 and 2023 Bills

The table below captures certain key changes between the 2008 Bill as passed by Rajya Sabha and the Bill introduced in 2023.

Table 3: Key changes between 2008 Bill and Bill introduced in 2023

	Bill introduced in 2008 as passed by Rajya Sabha	Bill introduced in 2023
Reservation in Lok Sabha	One-third of Lok Sabha seats <i>in each state/UT</i> to be reserved for women	One-third seats to be reserved for women
Rotation of Seats	Reserved seats to be rotated after every general election to Parliament/legislative assembly	Reserved seats to be rotated after every delimitation exercise

Sources: The Constitution (One Hundred and Eighth Amendment) Bill, 2008; The Constitution (One Hundred and Twenty-Eighth Amendment) Bill, 2023; PRS.

¹ Article 243D (3), The Constitution of India, <https://cdnbbsr.s3waas.gov.in/s380537a945c7aaa788ccfcdf1b99b5d8f/uploads/2023/05/2023050195.pdf>.

² Article 243T (3), The Constitution of India, <https://cdnbbsr.s3waas.gov.in/s380537a945c7aaa788ccfcdf1b99b5d8f/uploads/2023/05/2023050195.pdf>.

³ Article 330, The Constitution of India, <https://cdnbbsr.s3waas.gov.in/s380537a945c7aaa788ccfcdf1b99b5d8f/uploads/2023/05/2023050195.pdf>.

⁴ Article 332, The Constitution of India, <https://cdnbbsr.s3waas.gov.in/s380537a945c7aaa788ccfcdf1b99b5d8f/uploads/2023/05/2023050195.pdf>.

⁵ Friday, 18th July 1947, Constituent Assembly Debates (Proceedings) – Volume IV, as accessed on September 19, 2023, <https://loksabha.nic.in/writereaddata/cadebatefiles/vol4.html>.

⁶ Executive Summary, Report of the Status of Women in India, Ministry for Women and Child Development, https://wcd.nic.in/sites/default/files/Executive%20Summary_HLC_0.pdf.

⁷ National Policy for the Empowerment of Women (2001), Ministry of Women and Child Development, as accessed on September 19, 2023, <https://wcd.nic.in/womendevlopment/national-policy-women-empowerment>.

⁸ Reservation of Seats for Women in Legislative Bodies: Perspectives, Rajya Sabha Secretariat, July 2008, http://164.100.213.102/RSCMSNew/UploadedFiles/ElectronicPublications/reserv_women_pers2008.pdf.

⁹ 36th Report: The Constitution (One Hundred and Eighth Amendment) Bill, 2008, Standing Committee on Personnel, Public Grievances, Law and Justice, December 2009, https://prsindia.org/files/bills_acts/bills_parliament/2008/scr_Women_Reservation_Bill_2009.pdf.

¹⁰ Legislative Brief, The Constitution (One Hundred and Eighth Amendment) Bill, 2008, PRS Legislative Research, September 23, 2008, https://prsindia.org/files/bills_acts/bills_parliament/2008/bill184_20080923184_Legislative_Brief_Womens_reservation_Bill_final.pdf.

¹¹ Convention on the Elimination of All Forms of Discrimination against Women, United Nations, December 18, 1979, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>.

¹² The Impact of Reservation in the Panchayati Raj: Evidence from a Nationwide Randomised Experiment, Raghavendra Chattopadhyay and Esther Duflo, November 2003.

¹³ Women in Parliament in 2022, Inter-Parliamentary Union.

¹⁴ “Enhancing Women’s Representation in Legislatures: An Alternative to the Government Bill for Women’s Representation,” Forum for Democratic Reforms – Dr Jayaprakash Narayan, Dhirubhai Sheth, Yogendra Yadav, Madhu Kishwar, Manushi, Issue 116, <https://ckcenter.fdrindia.org/sites/default/files/AdvocacyPapers/Enhancing%20Women%27s%20Representation%20in%20Legislatures%20-%20to%20update.pdf>.

¹⁵ The Two-Member Constituencies (Abolition) Act, 1961, https://www.indiacode.nic.in/repealed-act/repealed_act_documents/A1961-1.pdf.

¹⁶ India’s Living Constitution: Ideas, Practices, Controversies, ed. by Zoya Hasan, E. Sridharan, R. Sudarshan, Anthem Press, 2005.

¹⁷ “Do a double take on women’s quota,” Rami Chhabra, Indian Express, Aug 8, 2003; “Women’s Reservation: Another Approach,” Mukesh Dalal, Manushi, Issue no. 120; “Alternative as Dilution,” Brinda Karat, Outlook, May 17, 2003; “Role of Women in Legislature,” Report of Joint Session by National Commission for Women and Parliamentary Committee on the Empowerment of Women, Aug 21, 2003; and Reservation of Seats for Women in Legislative Bodies: Perspectives, Occasional Paper Series, Rajya Sabha Secretariat, July 2008.

¹⁸ Articles 81 and 82, The Constitution of India, <https://cdnbbsr.s3waas.gov.in/s380537a945c7aaa788ccfcdf1b99b5d8f/uploads/2023/05/2023050195.pdf>.

¹⁹ “Dual-Member Constituencies: Resolving Deadlock on Women’s Reservation,” Medha Nanivadekar, Economic and Political Weekly, October 25, 2003.

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