

NARI SHAKTI VANDAN ADHINIYAM, 2023: WOMEN'S RESERVATION AND THE POLITICS OF DEFERRED IMPLEMENTATION IN INDIAN DEMOCRACY

DR. VEENA K
Associate Professor
Department of Political Science
Government Arts College
Bengaluru -560001
drveenapolsc20@gmail.com

Abstract

The Constitution (One Hundred and Sixth Amendment) Act, 2023, also known as the Nari Shakti Vandan Adhiniyam, allocates one-third of seats in the Lok Sabha, State Legislative Assemblies, and the Delhi Legislative Assembly for women, including within the existing sub-quota for Scheduled Castes and Scheduled Tribes. Passed with unusual cross-party support in September 2023 after nearly 30 years of legislative deadlock since the 1996 Women's Reservation Bill, this Act marks a significant milestone in India's constitutional history regarding gender and representation. However, its implementation is explicitly postponed: the Act states that women's reservation will only become operational after a new delimitation process following the first Census after the Act's commencement. This sequencing makes the formal issue of women's descriptive representation practically dependent on the timing and politics of the delimitation process itself. This paper reviews the legislative history of the Act, analyzes its key provisions, compares it with women's reservation in Panchayati Raj institutions under the 73rd and 74th Amendments, and critically examines main controversies, including the lack of an OBC sub-quota, the rotation mechanism for reserved constituencies, and the deferral clause.

Key words: *Nari Shakti Vandan Adhiniyam, Women's reservation, Constitution 106th Amendment, Delimitation, Descriptive representation, Gender and politics, Panchayati Raj*

Introduction: Women make up nearly half of India's electorate but have historically held only a small percentage of legislative seats. In the 2024 Lok Sabha elections, women occupied about 13-14 percent of seats, reflecting slow progress that remains well below their population share and figures in many other democracies. In this context, the passage of the Constitution (One Hundred and Sixth Amendment) Act, 2023—also known as the Nari Shakti Vandan Adhiniyam—was seen as a landmark event. It was approved by both houses of

Parliament in September 2023 during a special session in the new Parliament building, garnering cross-party support despite the country's highly polarized political climate.

The importance of the Adhiniyam extends beyond its mere passage. While constitutional amendments are often judged by their normative aims, their implementation mechanics are equally crucial. The Adhiniyam's most debated feature is a mechanism: the reservation it establishes only takes effect following a delimitation exercise based on the first Census after the Act's start. This article explores the Adhiniyam's legislative history, its constitutional text, and its role in ongoing political debates to determine the type of representational benefit it offers and the timeline for its realization.

Objectives: This paper examines the legislative history of the Nari Shakti Vandan Adhiniyam, highlighting its main constitutional provisions and the specific process through which its implementation has been postponed. Additionally, it places the Adhiniyam within the broader context of India's history of women's reservation in local governance and reviews the major debates surrounding the law since its enactment.

The study's scope is focused on the Nari Shakti Vandan Adhiniyam as a constitutional law, examining its provisions and the public debate about its implementation timeline. It does not include an empirical assessment of women legislators' performance after the reservation becomes active, as that reservation has not yet been implemented.

Methodology: The study depends solely on secondary sources such as the text of the Constitution (One Hundred and Sixth Amendment) Act, 2023, parliamentary debates, statements of objects and reasons, and existing scholarly literature on women's political representation in India, especially the reservation experience in Panchayati Raj institutions.

Legislative history: three decades in the making

The concept of reserving legislative seats for women in India's national and state assemblies is not new. The first Women's Reservation Bill was introduced in the Lok Sabha in 1996 by the H.D. Deve Gowda government, proposing to reserve one-third of seats for women in both the Lok Sabha and State Legislative Assemblies. This aimed to mirror the existing reservations for women in Panchayati Raj institutions and Urban Local Bodies, established under the 73rd and 74th Constitutional Amendments of 1992-93. The Bill lapsed when the eleventh Lok Sabha was dissolved and was reintroduced in similar form in 1998, 1999, and 2008. Each time, it faced resistance, primarily from parties representing Other Backward Class interests, who argued that reserving seats for women without a specific sub-quota for OBC women would mainly benefit women from the upper castes and landowning classes.

The 2008 version of the Bill was approved by the Rajya Sabha in March 2010 but was never debated in the Lok Sabha and lapsed when the fifteenth Lok Sabha was dissolved in 2014. The Bill then remained inactive for nearly ten years before being reintroduced and passed as the Constitution (One Hundred and Twenty-Eighth Amendment) Bill, 2023, in September 2023. Therefore, the enactment of the Adhiniyam should be

seen less as an abrupt legislative achievement and more as the result of a twenty-seven-year effort, during which key debates on the reservation's substantive structure, including unresolved issues from this version, had already taken place.

Key provisions of the Adhiniyam

The Constitution (One Hundred and Sixth Amendment) Act, 2023, introduces new Articles 330A and 332A and amends Article 239AA concerning the National Capital Territory of Delhi. It mandates that at least one-third of the seats in the Lok Sabha, all State Legislative Assemblies, and the Delhi Legislative Assembly are reserved for women. Additionally, one-third of the reserved seats for Scheduled Castes and Scheduled Tribes in the Lok Sabha and State Assemblies are further reserved for women from those categories, creating a compounded reservation for SC and ST women. These reserved seats are to be rotated after each delimitation, based on laws enacted by Parliament, to prevent permanent reservation in the same constituencies. The reservation scheme is set to expire after fifteen years from the Act's commencement, with Parliament having the authority to extend this period. This reservation applies solely to directly elected seats in the Lok Sabha, State Assemblies, and the Delhi Assembly; it does not include the Rajya Sabha or State Legislative Councils.

Importantly, none of these provisions activate automatically when the Act begins. Article 334A, added through the Amendment, states that the reservation will only take effect following a delimitation exercise, which must be based on the first Census conducted after the Act's start. This single clause is central to the Act's practical effects.

The delimitation-census linkage and the politics of deferral

India's parliamentary and assembly constituencies have not been redrawn since the 1971 Census due to the 42nd Constitutional Amendment of 1976, which froze the total number of seats for each State. This freeze was extended by the 84th Amendment of 2001 to remain in effect until after the 2026 Census. Originally, this policy aimed to incentivize population control by preventing States that reduced growth from losing legislative seats. However, as a result, India's legislative boundaries have remained unchanged for over fifty years, despite the population more than doubling and shifting unevenly across regions.

The implementation of the Adhiniyam hinges on two sequential and uncertain steps: conducting and publishing a Census, then carrying out a full delimitation based on that Census. Only after both are completed does women's reservation become legally effective. Since the delimitation freeze remains until after the first Census post-2026, and such exercises typically take years, projections at the Act's passage suggested that women's reservation might not begin before the 2029 general election at the earliest. Some experts also warned of potential longer delays due to the political sensitivity involved in reallocating seats among States. Opposition parties and women's rights organizations have repeatedly criticized this delay, arguing that linking reservation to an indefinitely delayed delimitation turns a constitutional guarantee into a vague promise, redeemable at an uncertain time.

The absence of an OBC sub-quota

Another controversy involves the Adhiniyam's omission of a specific sub-quota for OBC women, echoing objections that previously halted earlier versions of the Bill in the 1990s and 2000s. Critics contend that a uniform one-third reservation for women, without a dedicated reserve for OBC women, tends to favor women from politically and socially privileged backgrounds. These women generally have greater access to financial resources, family political ties, and social capital, which are crucial for contesting and winning elections, compared to women from marginalized communities. The 2023 Adhiniyam lacks such a sub-quota, which connects to the larger, separate political debate over conducting a caste census in India. Currently, the caste census does not provide the precise OBC population data needed to implement such a sub-quota.

Comparative context: the Panchayati Raj precedent

The Adhiniyam incorporates a principle that has been part of India's local governance for thirty years, extending it to the national and state legislatures. The 73rd and 74th Constitutional Amendments of 1992-93 required at least one-third reservation for women in Panchayati Raj institutions and Urban Local Bodies, including the position of chairperson. Several states, such as Karnataka, Bihar, Madhya Pradesh, and Odisha, later increased this quota to fifty percent through state laws. The extensive experience of women's reservation at the local level provides the most direct empirical evidence in India to predict the impact of the Adhiniyam, though the findings are mixed. Studies on reserved Gram Panchayats, especially by Chattopadhyay and Duflo, show that reservation can influence local policy priorities, boosting focus on public goods important to women, like drinking water infrastructure. However, the common occurrence of proxy representation—where elected women serve in nominal roles while male relatives handle key decisions—cautions against assuming that just increasing women's descriptive presence ensures meaningful substantive change.

Descriptive representation and its limits

The theoretical literature on political representation separates descriptive representation—the extent to which a legislature's makeup reflects the population's demographics—from substantive representation, which involves actively promoting the interests of a group through policy and legislation. The Adhiniyam focuses primarily on descriptive representation by ensuring a specific number of seats for certain groups, without guaranteeing particular policy outcomes. Supporters argue that descriptive representation is a necessary, though not sufficient, condition for substantive representation. Critics, however, warn that initial descriptive measures like reservations can remain superficial unless accompanied by efforts to build women's political capacity, such as improving access to campaign funds, reforming candidate selection processes at the party level, and safeguarding against gendered political harassment—none of which the Adhiniyam directly addresses.

Conclusion: The Nari Shakti Vandan Adhiniyam is a significant constitutional milestone, finally securing women's reservation after four failed attempts over twenty-seven years. Its approval indicates a broad political agreement on the importance of increasing descriptive representation for women in India's national and state

legislatures. However, the practical impact of the Adhiniyam shouldn't be judged solely on its passage. The link between delimitation and the Census in Article 334A postpones the reservation's implementation to an unspecified future, intertwined with the larger issue of reallocating parliamentary seats among Indian States once the longstanding delimitation freeze ends. The lack of an OBC sub-quota leaves a key distributional issue unresolved, one that has influenced this debate since 1996. Moreover, three decades of women's reservation in Panchayati Raj institutions show that descriptive representation alone may not lead to substantive policy changes or improved political influence for women. A comprehensive evaluation of the Adhiniyam's impact on Indian democracy can only occur after the prescribed process—Census, delimitation, and elections—has been completed.

References:

1. Constitution (One Hundred and Sixth Amendment) Act, 2023. Government of India, Ministry of Law and Justice.
2. Lok Sabha Secretariat (2023). Constitution (One Hundred and Twenty-Eighth Amendment) Bill, 2023 - Statement of Objects and Reasons.
3. Chattopadhyay, R., and Duflo, E. (2004). Women as Policy Makers: Evidence from a Randomised Policy Experiment in India. *Econometrica*, 72(5), 1409-1443.
4. Pitkin, H. F. (1967). *The Concept of Representation*. University of California Press.
5. Rai, P. (2017). Women's Political Representation in India: Rejecting the Notion of a 'Well-Timed' Strategy for Electoral Reservations. *Asian Survey*, 57(4), 613-636.
6. Government of India (1976). *The Constitution (Forty-Second Amendment) Act, 1976*.
7. Government of India (2001). *The Constitution (Eighty-Fourth Amendment) Act, 2001*.

Copyright & License:

© Authors retain the copyright of this article. This work is published under the Creative Commons Attribution 4.0 International License (CC BY 4.0), permitting unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.