

Crossing the Sacred Line: The 128th Amendment Act

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ABSTRACT

Women's Political rights encompass their ability to participate fully and equally in political processes of a society. Ensuring women's political rights is essential for achieving gender equality. Upholding women's rights strengthens democracy for fostering diverse representation and inclusive governance structure. This article examines the significance of 128th Amendment Act in the context of women's political empowerment in India. 128th constitutional amendment represents crucial step towards advancing gender equality and promoting women's rights in India's political arena. However, effective implementation and enforcement mechanism are essential to overcome existing barriers.

Key Words : Sacred line, Women's political rights

INTRODUCTION

In India the political power structure is monopolised by men. Despite their struggle for a long period Women have not yet been able to attain a rightful position in the arena of politics. Their participation in the formal political system is insignificant. It is a global experience. That in any political system right from the developed to the developing countries women's presence in the political process is marginal and low. Attaining gender parity in political leadership at all levels of decision-making globally remains a distant goal. As of 10 January 2024, there are 26 countries where 28 women serve as heads of the state and or government. Just 15 countries have a women Head of States and 16 countries have a woman head of government. Only 13 countries have achieved gender parity in cabinet positions, with women holding 50 per cent or more of the roles leading policy areas. Globally, there are 22 States in which women account for less than 10 per cent of parliamentarians in single or lower houses including a lower chamber with no women at all. According to calculations by UN Women in 2023, if progress continues at the current rate, gender parity in national legislative bodies will not be realized until 2063

(UN Women Calculations: year, 2023).

The participation of women in formal political institutions and processes has been severely restricted by gender consideration. The socio-cultural norms still restrict the women to participate in decision making. Despite all the changes, women's behaviour is restricted by the private female and publicly male dichotomy. Aristotle, Rousseau, Hobbes stated in their political philosophy that the exclusion of women from the formal political structure. Historically in democracy preference has been given to men over women. Women's domestic roles as a mother and wives limits their place in politics. The public private divide remains of the various forms of world democracies.

The article deals with the reason for the gap and through an empirical investigation tries to find out the reasons for the gap.

Theory and Practice of women empowerment:

Normative political theory considered the private sphere as non-political and did not make any effort to explore the political nature of the private life. The both ancient and modern democracies overlooked the recognition of women as citizens. In democracy women

are side-lined and their concerns in its theory and practice remain (Bathla, 1998:39).

Only in liberal political philosophy the demand for the right for the first time has been made. The feminist theorists also made their arguments in support of a gender-neutral society in which women play a significant role in shaping up the future of the world.

In political parties' structures males are in majority from top to bottom, which hinders women's involvement in the political sphere. Male dominated political parties generally do not address issues related to females. They just provide symbolic representation for the electoral gain. In real sense the women are not empowered despite being representatives of their electoral constituency. To fill this gender gap more women should come out with a vision to participate in active politics. To achieve such goals many countries have provided reservation for women in decision making bodies from the local to national and international levels. Gender quota is an effective way to attract more females in formal politics. Gender quotas are implemented to address gender disparities. There is established and growing evidence of women's participation in political activities to improve their social, economic and political conditions. In several studies conducted in India's rural areas it has been observed that the number of drinking water projects in the area with women led councils was 62 per cent higher than in those with men-led councils.

If we look at the data of India's lower house Lok Sabha has 78 elected women MPs out of the total 543 seats – 14.3% of the total number of MPs are women. On the other hand, total number of Rajya Sabha -24, out of 102 in present parliament.

As per the latest Election Commission's report across all the state assemblies, the women representation in state assemblies is even worse, with the national average of 9 per cent only (As per the latest Election Commissioner of India Year October, 2021.)

Women Representation Bill and its critique:

Women's Reservation Bill seeking 33% representation of women in Parliament and State Assemblies introduced twenty-seven years ago, was passed in September 2023 with near unanimity to amend the constitution and provide 1/3rd reservation to women in the Lok Sabha and State Assemblies. Prime minister Narendra Modi called it a landmark bill for women empowerment of women through political participation.

The proposed legislation defines the 33 per cent women reservation to continue for 15 years. Additionally, it mandates that a quota for individuals belonging to schedule castes and schedule tribes be established within the reserved seats designated for women in parliament and legislative assemblies. "Typically achieving a critical mass of 30 per cent is known to yield positive outcomes for women empowerment", Susan Fergus, a representative said in a statement (Fergus, UN Women" India passes law to reserve seats for Women legislators, 4th October 2023).

At the time of passage of the bill about 14 per cent were women legislators. While that represents Indians highest proportion since independence. It was far below the global average of 26.5 per cent.

The acrimonious debates on the Bill have raised hosts of issues:

1. Political commitment to gender equality and underrepresentation of women. Women's representation in Parliament has never gone beyond 11%;
2. Interest-group politics and the political inclusion of (SC, ST and OBCs) and exclusion of certain identifiable group interest;
3. Notion of participatory democracy and the relation between women's political representation and further democratisation of representative institutions.
4. Gender quotas within the context of gender disparities which are both systematic and structural.
5. How the deliberation takes place among the political actors within the boundaries of Socio-Economic structures that are reflected of increasing social equality
6. Whether the 'politics of presence' will lead to effective participation of women in deliberative democracy? These issues need to be explained in the context of exclusion of women from the public space.

Women's political exclusion stems from:

- a. Nature of representation democracy, political structures and institutions – women within the hierarchy of political parties – and male dominant politics, political parties and political culture of formal political systems.
- b. Socio-cultural and functional constraints that put limits to women's agency in politics.

- c. Ideological factors (patriarchy as a system of male domination) which shape women's participation in politics.
- d. Nature of multi-party competitive politics and factors of inclusion and exclusion of women in politics.

The debate on political representation of women must be placed within the larger historical context of 'reservation debate', taking into account the debate on reservation on caste basis and the emergence of coalition politics in India. The women's movement during the freedom struggle movement had rejected the policy of reservation. However, looking at the ground reality of male dominated public sphere, gradually they realised women remained at the margin of political process. Feminist scholars and activists have preferred to use the term "empowerment" rather than power. It focuses on "power to" rather than assumption of "power over" that insists on power as an enabling condition rather than power as determinant for their manipulation by others.

Recognition also needs to be taken up by the demand for reservation from the women's movement and their engagement with political institutions. The issue also needs to be placed within the context of the history of women's movement and perspectives on the state, democracy and notion of gender equality. Reservation issue has been on the agenda of women's movement for long and was focussed with the publication of 'Towards Equality' – The Report of Committee on the Status of Women in India (1974). Towards Equality questioned the meaning of 'equality of opportunity' and argued for the 'need for more vigorous advocacy and positive interventions on behalf of women.'

Quotas or reservation are seen as a 'fast track' strategy to redress historic exclusions of the majority of women from formal politics. Gender quotas are argued within the context of gender disparities which are both systematic and structural. This can only be part of a multi-dimensional strategy of addressing women's lack of effective civil, political and economic rights. Gender is mediated through caste, class, religion and ethnicity that determine women's access to resources and opportunities.

There have been acrimonious debates on political quotas for women in parliament and State Assemblies, despite encouraging and positive response to reservation for women in panchayats. Political participation and representation are an exercise in power and the threat

of losing 1/3rd seats to women is real. Many studies undertaken by institutes such as ISS, National Commission for Women have documented the change and development brought by the women participation in panchayats. One example is during covid the women headed panchayats handled the covid and migrants more efficiently than male headed panchayats. The percentage of girls getting educated has increased substantially. The women have been successfully able to create critical mass in politics. Now panchayats have more than 50 per cent women members.

The women now want to be active at state and national level, but they do not get the opportunities as the political parties are male dominated so women are ignored during the ticket distribution in elections. So, there was a need for reservation of seats for them in state assemblies and parliament.

Controversies also centre around the effectiveness of women's presence in political structures and who gets elected (issues like elitism and Bibi-Beti brigade). Reservation is also questioned on the basis of universalisation of women as a social category and thereby ignoring the divisions along the caste, class, religion and other factors. It is also argued that gender-based quotas reinforce female stereotypes.

Could there be a fair competition when gender disparity exists? Affirmative action on behalf of any category has consistently been subject to contestation as they pose a threat to entrenched interests. The 'policy of tokenism' or having a few vocal women emerging as leaders (there are a few honourable exceptions) and spokesperson of women's issues in representative bodies.

Conclusion:

The issue of the outcome of political reservation cannot be addressed without a supportive mechanism and an enabling environment (investing in women's education, health and building their capacities). Patriarchal relations and other loyalties make it difficult for women to transform 'sexual politics' and are many a times forced to exercise their political rights on male terms. We need to shift from gender-neutral citizenship to a gender-differentiated model and from a numeric argument to the need for a more substantive representation of women. Reservation of seats in representative bodies is only the first step in women's struggle to equality. This law will now enable great participation of women in policy making and equitable governance at the state and national level.

Similar legislation has been passed in other countries like Rwanda, Belgium. Rwanda has since become the world leader for gender equality in politics, with women occupying 64 per cent of parliamentary seats. The prime minister Narendra Modi has called the bill “the Nari Shakti Vandan Adhiniyam” a historic legislation, which will further boost women’s empowerment and will enable greater participation of women in the political processes.

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