

Political Reservation for Women: The (Un)making and Futures of the Constitution (106th Amendment) Act, 2023

Social Change

54(1) 36–53, 2024

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DOI: 10.1177/00490857231222095

journals.sagepub.com/home/sch**Kalpana Kannabiran¹**

This article attempts to contextualise the issue of political reservation for women and trace the decadal shifts in articulation of this demand over 27 years, that is, since 1996, when it was first introduced as the 81st Amendment and defeated, until its passage as the Constitution (106th Amendment) Act, 2023. The wider contexts of the struggles for women's rights to voice, visibility, and equality; the implementation of reservation for women with internal reservation for women from Scheduled Castes and Scheduled Tribes in the 73rd and 74th Amendments; and the recommendations of the Mandal Commission and later the Sachar Committee guide us in historicising this moment and refusing its rhetorical appropriation by any particular political party. This context is examined through a close reading of parliamentary debates and reports of parliamentary committees in 1996–1997 and 2009–2010 and a brief glimpse at the other backward classes and Muslim feminist engagements within larger movements for equal citizenship.

Keywords

One-third reservation for women, Nari Shakti Vandan Adhiniyam, OBC reservation, Constitution (106th Amendment) Act, 2023, Constitution (81st Amendment) Bill, 1996, Constitution (108th Amendment) Bill, 2008

Introduction

When one applies the principle of democracy to a society characterised by tremendous inequalities, such special protections are only spearheads to pierce through the barriers of inequality. An unattainable goal is as meaningless as a right that cannot be exercised. Equality of opportunities cannot be achieved in the face of the tremendous disabilities and obstacles which the social system imposes on all those sections whom traditional India treated as second class or even third-class citizens. (Lotika Sarkar and Vina Mazumdar, quoted in Agnihotri, 2023b)

¹ Council for Social Development, New Delhi, India

Corresponding author

Kalpana Kannabiran, 10-3-30/8, Plot 314, Street 7, East Marredpally, Secunderabad 500026, Telangana, India.

Email kalpana@csdindia.org

The Parliament of India (henceforth called parliament) passed *The Constitution (One Hundred and Sixth Amendment) Act, 2023* (106th Amendment) in September 2023, providing one-third reservation of seats for women in parliament, the state legislative assemblies, and the legislative assembly of the National Capital Territory of Delhi. This near-unanimous vote in favour of one-third reservation for women in parliament—*Nari Shakti Vandan Adhiniyam*—cutting across party lines provides for a deferred implementation, linking it to the next census and delimitation (see Agnihotri, 2023a). While there were objections from the opposition to the deferral and the demands for internal reservation provisions for women of other backward classes (OBC) persisted (but remained unfulfilled yet again), this did not detract from support for political reservation for women. There were, however, significant shifts in official positions on the OBC reservation, notably by the Indian National Congress, followed by several others.

I attempt in this article to contextualise the issue of political reservation for women and trace the decadal shifts in articulation of this demand over 27 years, that is, since 1996, when it was first introduced as the 81st Amendment and defeated (see Agnihotri, 2023b). The wider contexts of the struggles for women's rights to voice, visibility, and equality in the face of extreme violence and discrimination; the implementation of reservation for women with internal reservation for women from the Scheduled Castes (SCs) and Scheduled Tribes (STs) in local bodies through the 73rd and 74th Amendments; and the recommendations of the Mandal Commission and later the Sachar Committee guide us in historicising this moment and refusing its rhetorical appropriation by any particular political party. I open out this context and examine the debates through a close reading of parliamentary debates, and reports of parliamentary committees in 1996–1997 and 2009–2010. While a detailed consideration of OBC reservation and political formations is outside the scope of this article, in the concluding section, I situate the need for political representation for OBC women in the current political context of Hindu majoritarianism, underscoring the importance of engaging with dalit-advansi-Bahujan and minority—especially Muslim—women's voices in understanding the situated futures of this law that is not fully one yet.

The fact that the bill for women's reservation has been unsuccessfully tabled in parliament during the terms of prime ministers from different parties and coalitions—I.K. Gujral, Deve Gowda, A.B. Vajpayee, and Manmohan Singh—and the fact that under Prime Minister Narendra Modi it has been passed with the same infirmities that defeated its passage for over two decades is instructive in the continuing, enduring hegemony of majoritarian (parliamentary) politics in independent India.

Towards Equality

Political status of Women can be defined as the degree of equality and freedom enjoyed by women in the shaping and sharing of power and in the value given by society to this role of women. (Government of India, 1974, p. 283)

The report of the Committee on the Status of Women in India, *Towards Equality* (Government of India, 1974), as early as 1974, outlined the need for reservation for women in legislative bodies if they were to move significantly beyond voting and assume voice, visibility, and leadership. The Committee recognised that the sociopolitical and cultural environment in India across social locations in the first two decades after independence barricaded women out of leadership, leading to their recommendation that reservation was necessary for women to assume political office and be equal partners in national legislation and policy (Government of India, 1974, pp. 283–305). The committee recommended ‘*statutory women’s panchayats at the village level to ensure greater participation by women in the political process*’ (Government of India, 1974, p. 304, italics in the original) and ‘*that political parties should adopt a definite policy regarding the percentage of women candidates to be sponsored by them for election to Parliament and State Assemblies*’ (1974, p. 305, italics in the original). This, they suggested, could begin at 15 per cent and be scaled up in relation to their population (Government of India, 1974).

The *Towards Equality* report was immediately followed by the UN Decade for Women (1976–1985) and a series of UN conferences, declarations, and conventions that recognised discrimination against women, especially in (but not limited to) political office. The UN World Conference on Women in Beijing in 1995, the Beijing Declaration, and the Platform for Action (PFA) especially served as catalysts for intensifying the demand for political reservation for women. A close look at the Strategic Objective G in the PFA, however, reveals how prescient the recommendations of the *Towards Equality* report were in terms of setting out a template for specific actions to be undertaken by governments. Addressing the need to enhance the presence of women in power and decision-making, the PFA underscored the need to ensure equal access in power structures and decision-making (G.1), and ‘increase women’s capacity to participate in decision-making and leadership’ (G. 2).¹

The emergence of civil society organisations, rights groups, and NGOs working for women’s rights during this period facilitated a wide-ranging political debate that at various points included state—non-state partnerships on working towards greater political participation and decision-making for women. Women across the board were (and are) underrepresented in political leadership. On the one hand, this was a time when arguments in favour of women’s rights to equality and non-discrimination were rather unproblematically posed in universal terms of the common good for *all* women—arguments that were made by a wide cross-section of groups, from small, urban, predominantly upper-caste women’s groups to larger grassroots organisations. There was also, at this time, a growing OBC political mobilisation on the ground, in which women played an important part in articulating positions that saw caste-gender-marginality as co-constitutive, but their voices did not cut across vernacular political formations (see Lata, 2019). The debates on intersectionality, difference, and cumulative discrimination as lenses to develop a granular understanding of women’s experience in graded hostile environments that were powered by majoritarian Hindu and dominant caste orders nationally, did not crystallise for almost a decade after.

‘Yeh Desh Gavaah Hai’² [This Country Is Witness]

The Constitution (81st Amendment) Bill, 1996 (81st Amendment) was championed by a cross-section of women in formal politics and NGOs that had been part of the UN system since the early 1980s, following up on the processes set in motion through the Beijing consultations across the country and the deliberations of the committee on the status of women in India in 1974. It was introduced by Janata Dal parliamentarian and socialist Pramila Dandavate (see Agnihotri, 2023b) and referred to a Joint Select Committee (JSC) of parliament with 30 members from both Houses (14 women) chaired by parliamentarian Geeta Mukherjee. The JSC, which ‘[s]ignificantly...included several women MPs who had campaigned actively in favour of such reservations’ (see Dhavan, 2008, p. 23), submitted its report in December 1996. Geeta Mukherjee’s motion of thanks to the then President of India SD Sharma’s speech in the Lok Sabha in February 1997, when the bill was under active consideration, is instructive.³ Ruining the fact that the Hon’ble President, in his address, made but a passing reference to the women’s reservation bill, she reminded her male colleagues of Mahatma Gandhi’s words:

Woman is the companion of man gifted with equal mental capacities. She has the right to participate in the minutest details of the activities of man and she has the same right of freedom of liberty as he. By sheer force of a vicious custom, even the most ignorant and worthless men have been enjoying a superiority over women which they do not deserve and ought not to have.⁴

She reminded the government and political parties that they were stepping back from their assurances in the Common Minimum Programme⁵ and that rather than stall the bill, parties should nominate OBC women to seats as necessary and, in the meanwhile, introduce a bill for constitutional amendment providing for OBC reservation, which would then be applied to the women’s quota as well. She implored her ‘male colleagues here to establish real partnership between men and women in the highest decision-making fora in order to hit out unitedly against the age-old discrimination against women and thereby let us help in the establishment of a joint leadership of men and women which can enrich our democracy and advance our society’—prompting Sharad Pawar to intervene, asking her to address the whole house, not just the men.⁶ It was clear that she was pursuing this cause with missionary zeal. When the bill was finally moved for consideration by the House in the Lok Sabha on 16 May 1997,⁷ Somnath Chatterjee observed, ‘Shrimati Geeta Mukherjee talks about it every day in B.A.C. and everywhere and she is saying that she is representing and articulating the views of our women colleagues here, our sisters.’⁸ The vote on the bill was deferred to the monsoon season after a heated debate. There have been several accounts of the raucous behaviour of members of parliament opposed to the bill in the popular media and in academic retellings of the jettisoning of the bill. Legal scholar Rajeev Dhavan, for instance, provides a detailed account. Parliament witnessed

ugly scenes during which a Janata Dal member physically tried to prevent the Law Minister from moving the Bill. It further led to unprecedented scenes in the parliamentary

history of India...eventually the Prime Minister walked out in anger. The working president of the Janata Dal party, Sharad Yadav, launched a savage attack on Speaker P. A. Sangma, and obliquely on the Prime Minister, by stating in the debate: 'Who do you think you are that you dare do this? We people in the middle (the castes between the forward and the scheduled) have come here without any reservation, sweating blood... do you think these women with short hair can speak for women, for our women... let them take out a rally, we'll match them, 1000 for everyone'. (Dhavan, 2008, p. 25)

However, in this and several other accounts, the retelling is not quite complete. Apologising on the floor of the House for his conduct later that day during the debate on the bill, Sharad Yadav said,

Respected Speaker, I seek your forgiveness. I just burst out in frustration. I apologise profusely.⁹

And again, towards the end of his speech,

When we keep approaching you with folded hands, abiding by your laws and rules, and decency and decorum and you keep pushing us against a wall, what other option are we left with? I beg [your] pardon if my words have hurt the feelings of any friends, but the reason why I stated my views openly was to point out that it is fifty years since the country became independent, don't meddle with it. If you do, the future of the country will not be bright.¹⁰

I attempt in this section to present the contentious issues in the debate that took place—acrimonious as it was—in order to point out the close interconnections between women's reservation and the practice of politics, the latter not devoid of women's agency, as I hope to point out briefly in the concluding section. In doing this, I step away from reducing the debate to acrimony or the 'dignity of the House', and instead examine the substantive concerns it speaks to, which were critical to Indian politics at the time and continue to be. Most importantly, in my view, this is an early moment in the deployment of arguments on intersectionality as a social justice construct. Recalling it at some length, given the ongoing discussions on the necessity of caste censuses in all states, might help build a way forward.

This was a formative period of OBC consolidation in national politics following the recommendations of the Mandal Commission and the judgment of the Supreme Court of India in *Indra Sawhney v. Union of India*.¹¹ Debates around *political* reservation for OBCs were at a nascent stage. Deliberations focussed primarily on developing indices of 'backwardness' especially on the basis of cumulative discrimination endemic to caste orders (see Anandhi & Kannabiran, 2023), challenging the 'creamy layer' labelling that disqualified claimants to reservation beyond the first generation (see Kannabiran, 2012, pp. 163–205), and on enumerating the castes that constituted this inter-religious category (see Lata, 2019).

It was in this context that Nitish Kumar and Sharad Yadav insisted on deferring consideration of one-third reservation for women in parliament till provisions were made for OBC women, arguing forcefully for the de-linking of this provision from the larger question of reservation for OBCs via a constitutional amendment.

To Somnath Chatterjee's remark that '[h]eavens would not have fallen' if the prime minister had been permitted to speak, Nitish Kumar retorted that heavens would not fall if the matter was deferred to the monsoon session, thereby allowing time for detailed deliberations on the ways in which social justice might be written into the agenda of political empowerment for women.¹²

Arguing that he supports women's reservation and his primary objective is to enlarge its scope, Nitish Kumar underscored the following facts: only four of the 39 women members of the House belonged to the OBCs; the National Commission for Women had no provision for an OBC woman member, nor was a single OBC woman appointed to the Commission through the unreserved nominations; and, although the justification for women's reservation was (and continues to be) that women constitute 50 per cent of the population, it could not be forgotten that 60 per cent of that 50 per cent were OBC women. The frequent argument of the votaries of the bill, including the Ministry of Law, was that (a) once the legislation was in place, graded representation would follow; and (b) once vertical reservation for OBCs was brought in through constitutional amendment, OBC women would also benefit. His question remains pertinent: what was the harm if OBC women got their due first? What was wrong with ensuring that the interests of OBC women were safeguarded? Although the message being relayed to the country was that those demanding reservation for OBC women were against the women's reservation bill, Nitish Kumar stressed that 'we are not against the bill... [T]his bill is a revolutionary one. The basic concept... is very radical'.¹³ However, he reminded the House of the aftermath of the Mandal Commission recommendations and 'the turmoil which gripped the country'.¹⁴ Opening up the legislation to make provisions for reservation for OBC women at a later stage he felt, will 'shake the entire country' and it will be 'put on fire'¹⁵—as the Mandal moment had made clear. His suggestion was that a consensus in favour of internal reservation at the draft stage is the only democratic and harmonious route out of divisive politics.¹⁶

Sharad Yadav repeatedly stated that he was not against the bill. He was in favour of a 50 per cent reservation for women, even 55 per cent. However, he stressed the need to contextualise this demand by placing it in relation to the constitutional significance of the Poona Pact (1932), which speaks of representation for people who are backward and most backward socially and economically; he described Indian society as one that is dominated by men; and he spoke of the caste system, which survives through the institution of marriage. He framed the issue of women's reservation within the oppressive practices of caste, which subordinated women, reduced the toiling castes to servitude and slavery, and treated them savagely. Any movement for the emancipation of women, he argued, would need to liberate them from the caste system.

When I speak like this, people all around me make fun of me. If you want this country to really become great, bring forward a revolutionary proposal for the annihilation of the caste system. This will bring liberation to the women of India.¹⁷

Touching caste in India could have dangerous consequences: 'Lord Buddha was thrown out across the sea. Bajrang Bali stayed on and Buddha had to leave. If you

must open this Pandora's box, do justice to it.'¹⁸ Adivasis in India, primarily matricultural in an environment where Hindu culture is patriarchal, ought to be of primary concern, he argued, and any bill introduced must be able to break this patriarchy. Reiterating his stand that he was not against the bill, he asked for a census of the four segments of the population: the first are the dalit-atishudras; the second are the cultivating peasant castes and the shudras who form part of this segment; the third are the upper castes; and the fourth are the Indian minorities—Sikh, Muslim, and Christian.¹⁹ Once this was done, he asked for reservations for women in each tier in proportion to their population—this, in his view, was the only way justice could be done to women. For, '[t]his is a constitutional amendment. It is no ordinary matter, it is a question of our future. We will not allow the struggles waged by our ancestors from Kabir till the present time to be wiped out'.²⁰ Yadav's articulation of four segments destabilises the traditional sociological approach to understanding the caste system through varna categories.

Addressing A.B. Vajpayee, Yadav described the graded caste-gender order—through lives lived in labour and the gradations of culture:

We want that our women should enter here. Are we committing a wrong? Do you understand the difference between our women and their women? Our women can work in the fields, they can cut grass, they can strip grass, they can break stones and mud, they can bravely and courageously walk through the jungles at night. Our lives are full of work, toil, and fortitude, but there is no self-respect. Women of the higher classes are clever, they have [a good] life, wisdom, and respect. They play the sitar, they play the guitar, they sing and they play instruments. We sing birha, aalha and people of the higher classes sing Bhimpalasi and Raag Darbari.²¹

The rhetorical juxtaposition of different classes (castes) of women, while stark (and reductionist, especially in the description of performative cultures), brings into sharp relief the realities of graded inequalities that were constitutive of the caste system that he believed must be annihilated for women to be free. In the entire parliamentary debate on one-third reservation for women, Sharad Yadav stands out as the singular Ambedkarite voice that insists on an inter-reading of the caste-gender complex as a foundational step, notwithstanding his undisguised displeasure over the overwhelming presence of upper-caste women in parliament. His belief that annihilation of caste must be the goal and that women's freedom holds the key foregrounds the question of citizenship rooted in anti-caste philosophy, a point Jodhka (2023) has underscored in the context of the 2022 Bihar caste census.

The demolition of the Babri Masjid in 1992, the mass violence against Muslims in Bombay (now Mumbai) that followed, and the *Justice Srikrishna Committee Report*²² as well as the independent Citizens' Tribunal on Ayodhya (1994) noted with concern the heightened violence and politics of hate that targetted Muslims across the country led by the Bharatiya Janata Party (BJP) and the Sangh Parivar and underscored the suffering this imposed on economically and socially vulnerable Muslims. However, while Imtiaz Ahmad's (1978) pathbreaking work on stratification among Muslims clearly pointed towards the marginality and vulnerability of large sections of Indian Muslims, the mobilisation around

‘backwardness’ or the identification of Muslim OBCs had to wait more than a decade to enter deliberations on the backward classes and the most backward classes (Alam, 2003; Krishnan, 2007). One, however, witnesses the early stirrings of this articulation in the context of women’s reservation in 1997.

G.M. Banatwala and Shafiqur Rahman Barq spoke of the need to take Muslims into confidence and to ensure their representation. They pointed out that in the entire discussion on addressing the OBC issue and in the deliberations of the JSC, the rights of minorities to representation had not been raised.²³

The 81st Amendment Bill lapsed with the dissolution of the 11th *Lok Sabha*. There were a few weak attempts to table similar bills that followed and failed (Dhavan, 2008).

A Decade Later: The Jayanthi Natarajan Committee Report, 2009

A decade later, when the Constitution (108th Amendment) Bill was introduced in 2008, the political context in the country had undergone unimaginable churning where women were concerned. Bhanwari Devi’s historic struggle against sexual violence had resulted in the decision of the Supreme Court of India in *Vishakha v. State of Rajasthan* (1997)²⁴ that had a ripple effect in bringing sexual harassment to the centre of public discourse on issues women faced in their everyday travels in the public domains of education and employment. Political and judicial offices, however, remained out of the reckoning then, as they still do today. The arrest, rape, and murder of Manipuri activist Thangjam Manorama by personnel of the Assam Rifles in 2004 crystallised the protest in the northeastern states for the repeal of the Armed Forces Special Powers Act (AFSPA)—the peaceful resistance by Irom Sharmila is well known (Kannabiran & Menon, 2007; Mehrotra, 2009). The Protection of Women from Domestic Violence Act, 2005, a result of concerted feminist campaigns and litigation over three decades, finally provided civil protections for women and rights to matrimonial homes and assets, besides protections against violence. Parveena Ahangar’s work over decades in the Association of Parents of Disappeared Persons in Kashmir (APDPK) against enforced disappearances and against AFSPA also belonged to this moment, and Kashmiri women were at the centre of this movement (Chatterji et al., 2009). A full decade after the enactment of the Panchayat (Extension to Scheduled Areas) Act, 1995, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, afforded space for adivasi women to take an active part in self-government in scheduled areas (Ramdas, 2014).

The genocidal violence against Muslims in Gujarat under the watch of the BJP—sexual assault and public sexual humiliation of women were weapons used by mobs with impunity—had resulted in the *Report of the High-Level Committee to Inquire into the Social, Economic and Educational Status of Muslims in India* led by Justice Rajinder Sachar (Sachar Committee) being tabled in parliament in November 2006 (Sachar, 2006). Of importance is the fact that Muslim women survivors of the genocidal violence mobilised themselves to seek judicial redress

and justice in an environment weighted heavily against them. The Sachar Committee found stark disparities in the provision of basic amenities and employment and identified 90 minority concentration districts and 338 towns and cities in the country that were backward on several development indicators and in need of targetted interventions for betterment of educational and employment status and the provision of basic civic amenities. Two expert groups—one that drafted legislation for the setting up of an Equal Opportunity Commission²⁵ and the second that prepared a Diversity Index (Reddy, 2009)—completed their tasks outlined by the Sachar Committee. Alongside this, right from the mid-1980s, Muslim women in different parts of the country were building collectives to campaign for rights in the family and community—several of these initiatives locally drew working-class Muslim women into negotiating for democratic spaces within the community (see Kannabiran, 2019).

The discussion on the OBCs by the mid-2000s included Muslim backward classes with significant official documentation on the evidence of backwardness. The enumeration of backward classes as part of the census was now seen as imperative for the formulation of public policy on affirmative action, and more importantly on reservation—in education, employment, and political office.

Importantly, in every one of these developments, women were key political actors across the country in leadership positions and as active cadre mobilising and educating local communities—especially on the need for adequate legal representation, the urgency of seeking legal redress against the heaviest political odds and risk, for resisting military and corporate occupation and ‘spatiocide’ (Hanafi, 2004), and setting out claims for ‘spatial justice’ (Philippopoulos-Mihalopoulos, 2015) as an indispensable part of the way forward. The theorising of intersectionality within resistance movements had gained ground, especially evident in the work of the National Federation of Dalit Women (Kannabiran, 2006) but also of several other intellectuals and activists.

Against this background, the Constitution (108th Amendment) Bill, 2008, for reservation for women in parliament was introduced in the parliament’s upper chamber, known as the Rajya Sabha or the Council of States, in May 2008²⁶ and was referred to a 30-member Standing Committee (six women), led by Jayanthi Natarajan, which tabled its report in both houses of parliament in December 2009.²⁷ The deliberations of the Standing Committee built upon the process initiated by the first cohort on this bill in 1996 and attempted to take it forward, demonstrating significant shifts in the discourse on women’s empowerment and the place of political empowerment within the larger scheme of equal partnership in nation-building.

Also, by this time, there were very few who opposed internal quotas within the bill—the discussion focussed on the modalities of securing the maximum and most effective representation.

The Standing Committee invited recommendations through consultations in different states and through memoranda from a wide cross-section of people, parties, and organisations. Significant among the recommendations were the removal of a 15-year limit for reservation as suggested in the 81st Amendment; the introduction of reservation for women from SCs, STs, OBCs (in the same proportion as that guaranteed in employment), Muslims (‘being the weakest

section of Indian society'), persons with disabilities and transgender persons; 50 per cent of the one-third reservation be made in favour of the OBCs 'on the basis of their population strength in each State of India, as per preceding decennial census'; political parties be made responsible for distribution of tickets in a representative and equitable manner; and the establishment of dual member constituencies. There were also a few who opposed internal quotas altogether, but these were the exception.

The general view placed before the Standing Committee was in favour of quotas for various vulnerable sections in proportion to population (para 8). Twenty-three political parties submitted written statements to the Committee, of which seven were from Tamil Nadu; 10 state governments presented their position; and 18 states submitted written statements—Nagaland, Mizoram, and Meghalaya opposed the bill, while Assam recommended the reservation of such seats for two consecutive terms to enable consolidation of work in the constituency by the women so elected; in its visits to various states, the Committee met with representatives of parties at the state level (para 9). The debate was wide-ranging. Parties generally agreed on the fact that this was a measure long overdue (para 10). The Dravida Munnetra Kazhagam pointed out that India was lagging far behind Afghanistan—30 per cent, Pakistan—17 per cent, Argentina—30 per cent, and South Africa—30 per cent (the actual share at the time was 34.8 per cent) (para 10.3.10).

Reflecting on this entire consultative process, the Committee was of the view that

reservation for women is needed to compensate for the social barriers that have prevented women from participating in politics and thus making their voices heard. It is of the opinion that this Bill is a crucial affirmative step in the right direction of enhancing the participation of women in the State legislatures and Parliament and increasing the role of women in democratization of the country... (para 10.3.20, emphasis in the original).

...that in true democratic spirit, no class/community should be excluded from the decision making due to the social and economic barriers placed upon that gender as a whole, and merely hypothetical tokenism or symbolic participation should be avoided. It is of the firm opinion that 'Reservation' is a sociological concept evolved to bring about social reengineering and that reservation for women is therefore needed to make the democratic process inclusive. (para 10.3.25, emphasis in the original)

The Standing Committee underscored the fact that reservation would ensure 'political empowerment' and 'political justice' for women in independent India 'as promised in Preamble and Article 38 of the Constitution of India' (para 10.4.1.1, emphasis in the original).²⁸ It was meant to counter the 'deleterious effects of social and economic barriers...and...to instill a new harmonious social order promoting genuine fraternity between both the sexes' (para 10.4.1.3, emphasis added). On prescribing a time limit of 15 years for reservation, the Committee felt that

reservation is certainly needed to enable women to cross the socio-gender hurdles and to give them a level playing ground/equal opportunities as their male counterparts. Once this "equalisation" process is done and "adequate" political representation of

women is achieved, then the time prescribed for reservation may be reconsidered. (para 12.8, emphasis in original)

Holding the view that rotation of seats is a democratic approach to elections, not contingent on future electoral outcomes, the Committee wrapped up the discussion on the Gill Formula (para 16)²⁹ by holding unequivocally that the issue of reservation cannot be left to political parties and must be constitutionally mandated and enforced (para 16.11; see Dhavan, 2008, pp. 14–15).

Citing the position of the Geeta Mukherjee Committee that OBC reservation for women should be provided as and when a constitutional amendment for OBC reservation is carried out, the Committee recorded that *‘[t]he question of reservation within reservation for OBC women and some minorities generated great discussion in the Committee’* and left it to the government to take necessary steps at the appropriate time (para 19.4, emphasis in the original). The Ministry of Panchayati Raj pointed out to the Committee that 17 states out of 24 that come under its purview had provided for one-third reservation for women from OBCs in local bodies (para 18.12).

Finally, on the ingenious suggestion of some parties that women’s reservations could be provided through double-member constituencies, the Committee refused to endorse this suggestion, pointing out that this move could reduce women to a *‘subservient status’* and is *‘discriminatory to women’*, stressing that *‘elected women representatives should be granted the same opportunities/status as their male counterparts’* (para 20.1, emphasis in the original).

The 36th Report of Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice chaired by Jayanthi Natarajan, discussed at length above, led to the Constitution (108th Amendment) Bill being tabled and passed in the Rajya Sabha on 9th March 2010 during Prime Minister Manmohan Singh’s term.³⁰ Although there was a debate in the Rajya Sabha, the terms of the debate did not attempt to build on the broad framework of the Natarajan Committee report. The question of OBC reservation and reservation for minorities within the women’s quota remained unaddressed, despite the fact that it was raised in the course of the deliberations of the Standing Committee. The House in this case rolled back to the position that once the bill is passed by both houses and comes into effect, it could be further amended to accommodate the demands of OBCs—the perils of this move outlined in the interventions of Sharad Yadav and Nitish Kumar in 1997 were forgotten.³¹ This attempt also proved infructuous, and the bill that was debated and passed by the Rajya Sabha lapsed without being taken up in the Lok Sabha.

Contextualising the *Constitution (106th Amendment) Act, 2023*

The passage of the Constitution (106th Amendment) Act, 2023, is marked yet again by tumultuous upheavals in the political context in the decade prior: Witness the farmers’ struggle against the three farm laws (Krishnan, 2022) that would have dealt a death blow to the rural sector, of which women were a huge part; the escalation in sexual violence and assault against dalit women—the case of

Manisha Valmiki in Hathras and its aftermath is by itself telling;³² the passage of the Citizenship Amendment Act, 2019, and the stellar resistance by Muslim women against this dispossession from citizenship (Jamil, 2023); the abrogation of Article 370 and the escalated, everyday struggles in Kashmir (Bhasin, 2022); the resistance of the women wrestlers to sexual violence by a sitting parliamentarian of the ruling party who was part of the passage of this legislation (see Ugra, 2023); the sexually violent hate speech by another ruling party parliamentarian against a Muslim parliamentarian during official deliberations;³³ demonetisation and the brutal COVID lockdown that destroyed well-being and livelihoods of entire communities pushing them over the edge (Reddy, 2021); the remission granted to persons convicted of aggravated rape and mass murder in the case of Bilkis Bano;³⁴ and the aggravated violence we witnessed in Manipur in 2023 (see Rangad et al., 2023), where sexual violence and sexual humiliation were weapons of assault and weapons of justification for grave assault, both. During the four years preceding the introduction of the bill that was to put women up on a pedestal of political office, the term ‘hostile environments’—introduced into public discourse in India through the struggles of Bhanwari Devi—had crystallised into technologies of bulldozers and barbed barricades, the new methods of carceral governance that were added to the escalating prison complex (see Liang, 2023). This was while citizens (women, importantly) were deeply engaged in resistance.

The speeches of the sections of parliament introducing the bill extolled Indian women for their ‘*matrushakti*’ (the power of motherhood)—an exact repeat of the speech made by a member from All India Anna Dravida Munnetra Kazhagam (AIADMK) in the Rajya Sabha Debate in 2010.³⁵

After five decades of cascading movements for equal rights under the constitution and democratic deliberation as women from different social and regional locations, women were once again parcelled out by majoritarian, patriarchal rhetorical devices that separated claimants on the basis of graded citizenship, with the ones that made the grade being hustled back into tending their wombs.

The Challenge of Women’s Representation

43. The Committee calls upon the State party to speed up its efforts to forge consensus on the constitutional amendment reserving one third of the seats in Parliament and state legislatures... The Committee invites the State party to provide information in its next periodic report about the... measures taken to increase the representation of women in public and political life. (CEDAW, 2007)³⁶

24. While noting that there are six women Ministers in the 23-member cabinet of the new Government, the Committee remains concerned about the low representation of women in political and public life, for instance in the Lok Sabha (Lower House of Parliament), where only 62 out of the 543 Members of Parliament are women...

25. The Committee recommends that the State party:

(a) Enact the Women’s Reservation in Services Bill, to reserve at least 33 per cent of the seats in the state and central legislative bodies for women candidates, as stated in its previous concluding observations (CEDAW/C/IND/CO/3, 2007), and ensure that

political parties increase women's representation in their decision-making bodies at all levels. (CEDAW, 2014)³⁷

In a manner of speaking, we have political representation for women. The UN Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW committee) in 2014, reiterating its 2007 recommendation for political representation for women, underscored the need to effectively address 'intersectional discrimination' and situated the importance of political representation within the larger context of escalating gender-based violence against women and LGBTQIA+ communities and communal violence against Muslim women, especially in and after the violence in Gujarat in 2002.

Taking stock, therefore, the deferral is, in my view, a blessing in disguise. It is time now to consolidate the hard-won gains by women across this period, to remember their painful individual and collective losses—especially as Muslim, dalit-bahujan, and adivasi women in a stridently majoritarian environment—and to re-negotiate the terms of implementation of this law, which is not yet one.

The Routledge Handbook on the Other Backward Classes in India (Somanaboina & Ramagoud, 2022) provides a historical view of the development and politics of the OBCs, drawing on a wide scholarship. We cannot forget the voices of women in the crafting of OBC politics from its originary moment in the work of Savitribai Phule (1831–1897) and Fatima Sheikh (1831–1900), and others like them from different regions—work that continues to illuminate the pathways to ongoing and future struggles, mixed as their immediate results may be (Lata, 2019). Muslim women, led by the elder women of Shaheen Bagh, have altered our terms of comprehension of democratic politics radically, and indeed the deep meanings of justice and democratic citizenship. The OBC Conclave cutting across party lines in 2021 put out the 'Delhi Declaration,' which demanded proportional political representation for the OBCs not to be confined within the 50 per cent cap, among its other demands, and underscored the need for 'appropriate' or 'special' provisions for women, within parties and in elected bodies at all levels.³⁸ The enumeration of the OBCs in the caste census in Bihar in 2022 connects us back to Nitish Kumar's assertion in Parliament in 1997 that a caste enumeration and proportional representation for women are the only fair way forward. However, as Jodhka (2023) cautions us, it is important to build this on an understanding of caste as a dynamic 'developmental variable', locally specific and rooted in regional histories of political mobilisations around entitlements and social pluralism that have challenged intergenerational inequality, concentration of privilege, and social capital.

There is an urgent need to count and be counted. In the deliberations on how the Constitution (106th Amendment) Act is to be layered further, men must cede space to women and non-binary persons from the different social groups and political formations to represent their interests democratically, moving the conversation beyond paternalistic tokenism, eulogy, and nepotism to substantive, representative equality and proportional representation: *Jitni abadi, utna haq*—to each their share to match their numbers—a count that draws on the negative consequences of discrimination based on ascribed status and stratification *within* groups in determining the terms of reservation.

It has been exactly five decades since the 1974 *Towards Equality* report. The month of March adds significance—it marks Savitribai Phule’s passing (10 March 1897) and International Women’s Day (8 March 1917). As we take stock of feminist organising for justice and equal fellowship on the Indian subcontinent and in independent India, we are now armed with the cumulative, collective experience of organising around women’s rights and gender justice using and honing rights frameworks. We have been forced by the circumstances of history to revisit it from time to time, deepening the ways in which we think through intersectionality, difference, agency, and political mobilisation. The challenge before us is to shift the terms of the debate from a majoritarian, homogenising narrative that sacralises women-as-mothers in essentially ahistorical terms to confront and resist a social order that is based on graded, segregationist inequality, and deep exclusions—crafting in its place articulations grounded in the material and political contexts of gender justice, equality, and rights for women in independent India.

Acknowledgements

The author is grateful to S. Anandhi and Lata P.M. for their close reading and comments on an early draft of this article. The usual disclaimers apply.

Declaration of Conflicting Interests

The author declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

Funding

The author received no financial support for the research, authorship, and/or publication of this article.

Notes

Note: English and Hindi versions of *Lok Sabha Debates* (16 May 1997) have been referred to. Where Hindi versions have been cited, translations into English are by the author. Endnotes indicate the version used.

1. <https://www.un.org/womenwatch/daw/beijing/platform/decision.htm>
2. Sharad Yadav in Lok Sabha Debates, Eleventh Lok Sabha, Fourth Session, Vol. XIV, No. 12, 16 May 1997, Hindi version, p. 517.
3. Lok Sabha Debates, Fourth Session, Eleventh Lok Sabha, Eleventh Series, Vol. IX, No. 4, 25 February 1997, pp. 315-320.
4. Lok Sabha Debates, Fourth Session, Eleventh Lok Sabha, Eleventh Series, Vol. IX, No. 4, 25 February 1997, p. 318.
5. In 1996, the 13-party United Front government formulated the Common Approach to Major Policy Matters and a Minimum Programme, commonly referred to as the

Common Minimum Programme (CMP), which was consensual statement on the terms of governance. One-third reservation for women in parliament and state legislatures was part of the CMP.

6. Lok Sabha Debates, Fourth Session, Eleventh Lok Sabha, Eleventh Series, Vol. IX, No. 4, 25 February 1997, p. 319.
7. Lok Sabha Debates, Eleventh Lok Sabha, Fourth Session, Vol. XIV, No. 12, 16 May 1997. English Version.
8. Lok Sabha Debates, Eleventh Lok Sabha, Fourth Session, Vol. XIV, No. 12, 16 May 1997. English Version, p. 462. B.A.C. refers to Business Advisory Committee.
9. Lok Sabha Debates, Eleventh Lok Sabha, Fourth Session, Vol. XIV, No. 12, 16 May 1997, Hindi version, p. 517.
10. Lok Sabha Debates, Eleventh Lok Sabha, Fourth Session, Vol. XIV, No. 12, 16 May 1997, Hindi version, p. 519.
11. *Indra Sawhney v. Union of India*, AIR 1993 SC 477.
12. Lok Sabha Debates, Eleventh Lok Sabha, Fourth Session, Vol. XIV, No. 12, 16 May 1997. English Version, pp. 462–463.
13. Lok Sabha Debates, Eleventh Lok Sabha, Fourth Session, Vol. XIV, No. 12, 16 May 1997. English Version, pp. 464–465.
14. Lok Sabha Debates, Eleventh Lok Sabha, Fourth Session, Vol. XIV, No. 12, 16 May 1997. English Version, p. 465.
15. Lok Sabha Debates, Eleventh Lok Sabha, Fourth Session, Vol. XIV, No. 12, 16 May 1997. English Version, p. 465.
16. Lok Sabha Debates, Eleventh Lok Sabha, Fourth Session, Vol. XIV, No. 12, 16 May 1997. English Version, pp. 464–465.
17. Lok Sabha Debates, Eleventh Lok Sabha, Fourth Session, Vol. XIV, No. 12, 16 May 1997, Hindi version, pp. 516–517.
18. Lok Sabha Debates, Eleventh Lok Sabha, Fourth Session, Vol. XIV, No. 12, 16 May 1997, Hindi version, p. 518.
19. Lok Sabha Debates, Eleventh Lok Sabha, Fourth Session, Vol. XIV, No. 12, 16 May 1997, Hindi version, p. 517.
20. Lok Sabha Debates, Eleventh Lok Sabha, Fourth Session, Vol. XIV, No. 12, 16 May 1997, Hindi version, p. 518.
21. Lok Sabha Debates, Eleventh Lok Sabha, Fourth Session, Vol. XIV, No. 12, 16 May 1997, Hindi version, p. 518.
22. <https://www.indiatoday.in/magazine/indiascope/story/19930831-bombay-violence-srikrishna-commission-report-indicts-police-and-political-parties-811493-1993-08-30>
23. Lok Sabha Debates, Eleventh Lok Sabha, Fourth Session, Vol. XIV, No. 12, 16 May 1997. English Version. G.M. Banatwala at p. 472; Shafiqur Rahman Barq at p. 475.
24. *Vishakha v. State of Rajasthan* (1997) 6 SCC 241.
25. <https://www.minorityaffairs.gov.in/WriteReadData/RTF1984/1658385481.pdf>
26. For the bill introduced in 2008 in the Rajya Sabha, see https://prsindia.org/files/bills_acts/bills_parliament/2008/1211455181_The_Constitution_One_Hundred_and_Eighth_Amendment_Bill_2008.pdf
27. Department Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, 2009. There were a few weak attempts to table similar bills that followed and failed—the 84th and 85th Amendment Bills for instance in 1998 and 1999. All para references in-text in this section are from this report.
28. Article 38, Constitution of India: 38. (1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic, and political, shall inform all the institutions of the national

- life. (2) The State shall, in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities, and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.
29. A proposal of the Election Commission of India ‘to make it mandatory for the recognised Political Parties to ensure putting of minimum agreed per centage for women in State Assembly and Parliamentary election so as to allow them to retain the recognition with the Election Commission as Political Parties’ (para 16.1).
 30. https://prsindia.org/files/bills_acts/bills_parliament/2008/1211455181_The_Constitution_One_Hundred_and_Eighth_Amendment_Bill_2008.pdf
 31. Rajya Sabha Debate (2008).
 32. <https://www.livemint.com/news/india/hathras-gang-rape-case-a-look-at-the-timeline-as-up-court-sets-3-accused-free-11677748908293.html>
 33. <https://indianexpress.com/article/opinion/editorials/express-view-on-hate-speech-in-parliament-quote-unquote-bidhuri-8951710/>
 34. <https://thewire.in/law/bilkis-bano-convicts-remission-supreme-court-reserve-order>
 35. Dr. Maitreya, Rajya Sabha Debate on The Constitution (One Hundred and Eighth Amendment) Bill, 2008, p. 189.
 36. CEDAW (2007, para 43).
 37. CEDAW (2014, paras 24–25).
 38. https://www.samruddhabharat.in/OBC_Convention_Delhi_Declaration.pdf

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