



GENDER JUSTICE AND WOMEN QUOTA IN INDIA: ACHIEVEMENTS AND CHALLENGES

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Abstract

The paper explores the policy and practice of reservation for women in historical context. It is an accepted view that women are the historically disadvantaged groups in India. The Constitution of India guarantees certain rights and protection for women. The paper examines the contemporary experience of one-third reservation for women in the local self-governments which has been constitutionally mandated by the 73rd and 74th Amendment of the Indian Constitution, which came into effect in 1994. This paper also attempts to examine the demand for one-third reservation for women in the assemblies at the state level and in the Union Parliament, that is, the Eighty-Fourth Amendment Bill, which is due for discussion in the parliament. The paper also brings out also the policy and debates among policy-makers and the women's movement.

Keywords: *Women Quota, Reservation, Gender Justice, Social Justice.*

INTRODUCTION

The issue of gender justice remains a world-wide attraction. In general, the male-dominated patriarchal society and power structure would usually keep the position of women low. This powerless situation of women has itself made them to look for a way out and liberation. Reformation thinking, feminist movements, freedom struggle have all contributed in awakening their consciousness. The concept of gender justice has been given much attention all over the world. Debates and writings are proliferating at global, national and local levels. The State has abundance of policies that seek to achieve gender equality of women. The source of gender justice remains confined to the domain of government. A change in the social attitude towards woman is also required for a meaningful achievement of gender justice.

HISTORICAL OUTLOOK

Separate political reservation for women came up during the course of the nationalist movement in the 1920s. The principal reason for opposing the idea of reserved seats was that it deflected from the demand for universal adult franchise and to stand for elections on the same terms as men. In 1932, a Joint Memorandum on the Status of Indian Women from the all-India women's organizations to the Franchise Committee set up at the end of the Second Round Table Conference expressed their demand for universal adult franchise irrespective of any property or literacy qualification, with no expedients such as nomination or reservation of seats.

The women's organizations also endorsed the declaration of the Fundamental Rights to Citizenship in India made by the Karachi session of the Indian National Congress, 1931, which called for equality before the law, irrespective of religion, caste, creed or sex, universal adult franchise and women's right to vote, represent and hold public office.^[1] However, in the face of opposition from the British, the women's organizations agreed to a compromise which restricted the right to vote for women in the urban areas.

The opposition to the idea of reservation was not restricted to the question of women alone. The All-India Women's Conference in their resolution expressed their opposition to the Communal Award of 1932 which sought to provide separate electorates and reserved seats to Anglo-Indians, Christians, Muslims and Sikhs, and for the depressed classes. It is important to note, however, that the nationalist movement did arrive at a consensus on the issue of affirmative action or reservation for the depressed classes and this was given a constitutional status in 1950, when special provisions for the scheduled castes and scheduled tribes were written into the Constitution of India. The question of women's reservations came up once again in the Committee on the Status of Women in India in 1974. The Report noted that in spite of equal rights and universal adult suffrage guaranteed by the Indian constitution, women's presence in the state and central legislatures had been declining steadily over 25 years. While the Committee recorded arguments in favour of reservations, mainly by women activists, women legislators were of the opinion that women's reservation would be retrogressive and would contradict the principle of equality guaranteed in the constitution.^[2]

ARGUMENTS FOR RESERVATION

The arguments in favour of reservations dealt with: (a) the difficulties of women to gain entry into male-dominated political parties and hence the necessity of reservations; (b) that reservations for women would ensure a significant presence enabling women to act as an important pressure group; and (c) the presence of a critical mass of women would heighten the sense of responsibility among women and this would ensure that women's interests would be adequately represented.



ARGUMENTS AGAINST RESERVATION

The arguments against reservations were: (a) reservations for women would be a departure from the constitutional principle of equality; (b) women's interests cannot be isolated from the economic, social and political interests of groups, strata and classes in the society and linked to this was the notion that women are not a community, they are a category; and (c) systems of special representation for women may spiral into similar such demands from other groups and interests and thus threaten national integration. However, there was agreement on the need for reservations for women in the local bodies so as to ensure the interests of rural and poor women.

RESERVATION IN LOCAL GOVERNMENTS

The main reasons for dissenting with the majority opinion within the Committee also arise out of and are consistent with the findings of the Committee; that is, despite progressive legal changes, the actual situation of the mass of Indian women has not changed significantly and the continuing under-representation of women prevents them from participating in the decision-making process of the country. The recommendations of the Committee remained in cold storage till the early 1990s, when the Indian Parliament passed the Seventy-Third Amendment to the Indian Constitution with near unanimity in December 1992 and the Amendment came into effect from 24 April 1993. The purpose of this amendment was to revitalize local self-governing village councils. The Seventy-Third Amendment has been considered historic and one of the most significant attempts at transforming the Indian polity in the direction of greater democratization and decentralization of powers. It has also been regarded as an important instrument for drawing in the vast sections of marginalized people in the task of self-government.

The amendment has mandated a wider representation for historically marginalized and excluded groups like the scheduled castes, the scheduled tribes and women thus deepening the roots of democracy. Following the amendment, people from the scheduled castes and tribes are now represented in proportion to their population in the area of the panchayat in its membership and in proportion to their population in each state in the positions of the chairpersons of these panchayats; one-third seats are reserved for women in general in each panchayat, that is, at the village cluster level, at the block level, and at the district level. Women from the scheduled castes and the scheduled tribes have similar one-third reservation in the positions reserved for these communities. Finally, there is one-third reservation for women among the positions of the chairpersons of these bodies.

The reservation is to be rotated among the various constituencies and panchayats to ensure the widest spread. Regular elections are to be held every five years and financial resources are to be devolved by the setting up of state finance commissions and central finance commissions. The states have been mandated to make the panchayats institutions of self-government and to give them responsibility for planning and implementation of schemes for economic development and social justice for which appropriate functions and responsibilities have to be devolved. The constitutional amendment was soon followed by state-level legislation, which brought their panchayat laws in conformity with the requirements of the constitution. The logic behind the system of reservations is that institutionalized inequalities require institutionalized countermeasures from above to ensure some semblance of genuine democracy.^[3]

THE WOMEN'S RESERVATION BILL

The women's reservation Bill is yet to mobilize the support and consensus. The Eighty-Fourth Constitution Amendment Bill meant to provide one-third reservation of seats to women in state and central legislative bodies and the current discussions and controversies around it mirror the contradictions of Indian society and the contestations in access to power and resources between those who have been traditionally excluded and the socially and politically dominant sections of Indian society.^[4] The Women's Reservation Bill once again throws up questions of certain kinds of identity, specifically caste and religious identity, the intermeshing of gender identity with caste and religion and their articulation in the public realm, in the field of politics. What is significant is the sea change in the attitude to the question of women's reservation among leading women's organizations and activists in key periods in the 1930s, 1970s and the 1990s.

The unanimous support for the Bill among national level women's organizations is premised on a certain understanding of the patriarchal forms of oppression and exclusion that characterize Indian society and the undeniable reality of declining participation of women in political life, specifically in the legislatures. And historically the suppression and exclusion of women has been extremely important in maintaining a Brahmanical and caste-dominated social order, and affirmative action for women will undoubtedly contribute towards the democratization of society.^[5]

CHALLENGES AND PREDICAMENTS

The protagonists of the Bill highlight the traditionally sanctioned exclusion of women from the public sphere as crucial.

However, emphasizing the dimension of gender oppression at the expense of other oppressions glosses over the complex and intricate ways in which gender oppression is embedded in these categories. Historically, women's suppression has no doubt been very important in maintaining upper-caste exclusivity and hegemony. Affirmative action for women would certainly play a role in undermining male and upper-caste dominance. Even so, certain recent developments suggest the need for addressing gender oppression in more subtle and nuanced ways, if access to power and resources to all categories of women is to be ensured.^[6]

The continued dominance of the upper castes in education, administration and structures of government is a reality that cannot be glossed over. This has been paralleled by an increasing presence and visibility of women from the upper-caste middle classes. On the other hand, the women from the subaltern communities and classes have largely been victims of development. Besides the neo-liberal paradigm combined with the ideology of a right wing, majoritarian, Hindutva nationalism has only exacerbated the caste, class, religious, ethnic, regional and gender divides with women being only more and not less embedded in their groups leading to much greater differentiation among women, which in turn has also meant a more diverse and varied political articulation.^[7]

The opponents of the bill in its present form point out that it is likely to exclude women from the other backward classes (OBCs) and the minorities. Almost all the political parties except the Communist Party of India and the Communist Party of India (Marxist) are deeply divided on this issue. The Hindu nationalist party in government, the Bharatiya Janata Party leadership, is in favour of the Bill in its present form, although one of its women members of parliament had expressed reservations to the Bill on the ground that OBC women were likely to get excluded.^[8] Needless to say, there is also a strong resistance on the part of a considerable number of political leaders to "encroachments" into what has been a traditionally male preserve. The media has trivialized the debate by often characterizing it as a battle between feminists and casteists.^[9]

Unfortunately so far, the statements of leaders of women's organizations that support the Bill have not revealed enough awareness about the complexity of the problem nor even enough critical reflection about the variegated nature of gender relations among the OBCs and the minority communities. The fact that the women and the men of these groups face the consequences of being at the lower rungs of a social hierarchy still principally dominated by upper castes and the reality and prospects of marginalization as groups must surely affect the texture of gender relations.^[10]

Women activists and scholars seriously question the efficacy of reservations as an instrument for the achievement of the goal of equality. These scholars focus on the fact that even the experience with women's reservations in the institutions of local self-government has not been entirely positive. They held that women need to traverse a long road before they reach the portals of parliament. They point out to the loopholes in the manner in which Panchayat Raj institutions have functioned; the crying need for training of women and the need for greater gender sensitivity among the administration. Besides, there is a feeling that if women want to be in national and state-level politics, they must fight their way up and as a first step they must fight for 33 per cent seats for women in the respective political parties. It is important to note that usually this reservation about quotas for women is also accompanied by a reservation about the whole question of quotas on the basis of caste. There is a fear that the question of women's reservations will raise the question of caste, religion and other divisive categories. The struggle for gender justice would continue in future as well.

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