

Bill No. XXX of 2008

THE CONSTITUTION (ONE HUNDRED AND EIGHTH AMENDMENT) BILL, 2008

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BILL

further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (One Hundred and Eighth Amendment) Act, 2008.

Short title and commencement.

5 (2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

10 **2.** In article 80 of the Constitution,—

Amendment of article 80.

(a) in clause (2), after the word “seats”, the words “including those reserved for women” shall be inserted;

(b) in clause (3), the following proviso shall be added at the end, namely:—

“Provided that not less than one-third of such members shall be women.”.

15 **3.** In article 171 of the Constitution,—

Amendment of article 171.

(a) in clause (3), the following proviso shall be added at the end, namely:—

“Provided that as nearly as may be, not less than one-third of the seats of members referred to in sub-clauses (a), (b), (c) and (d) respectively as

immediately before the commencement of the Constitution (One Hundred and Eighth Amendment) Act, 2008 shall be reserved for women.”.

(b) in clause (5), the following proviso shall be added at the end, namely:—

“Provided that as nearly as may be not less than one-third of such members shall be women.”.

Amendment of article 239 AA.

4. In article 239AA of the Constitution, in clause (2), in sub-clause (b), for the words “Scheduled Castes”, the words “the Scheduled Castes and the women” shall be substituted.

Insertion of new articles 330A and 330B.

5. After article 330 of the Constitution, the following articles shall be inserted, namely:—

Reservation of seats for women in the House of the People.

“330A. (1) Seats shall be reserved for women in the House of the People.

(2) As nearly as may be, one-third of the total number of seats reserved under clause (2) of article 330 shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be:

Provided that where the seat reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be, in relation to a State or Union territory is one, then, in every block comprising of three general elections to the House of the People, the seat in the first general election shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes and no seat shall be so reserved in the other two general elections:

Provided further that where the seats reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be, in relation to a State or Union territory are two, then, in every block comprising of three general elections to the House of the People,—

(a) one seat shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes in the first two general elections in such a manner that the same constituency is not reserved for women in both the aforesaid elections; and

(b) no seat shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes in the third general election.

(3) As nearly as may be, one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election to the House of the People in a State or Union territory shall be reserved for women and such seats may be allotted by rotation to different constituencies in that State or Union territory in such manner, as Parliament may by law determine:

Provided that where the seat, not being a seat reserved for the Scheduled Castes or the Scheduled Tribes, in relation to a State or Union territory is one, then, in every block comprising of three general elections to the House of the People, the seat in the first general elections shall be reserved for women and no seat shall be so reserved for women in the other two general elections:

Provided further that where the seats, not being seats reserved for the Scheduled Castes or the Scheduled Tribes, in relation to a State or Union territory are two, then in every block comprising of three general elections to the House of the People,—

(a) one seat shall be reserved for women in the first two general elections in such a manner that the same constituency is not reserved for women in both the aforesaid elections; and

(b) no seat shall be reserved for women in the third general elections.

Procedure for determining the constituencies reserved for women.

330B. The allocation of seats reserved for women in the House of the People, the Legislative Assemblies of the States and the National Capital Territory of Delhi shall be decided by such authority and in such manner, as Parliament may by law determine.”.

6. In article 331 of the Constitution, the following proviso shall be inserted at the end, namely:—

Amendment of article 331.

5 “Provided that where such nominations are made, in relation to every block comprising of three general elections to the House, one seat shall be reserved for nomination of a woman of Anglo-Indian community to every House constituted after first two general elections and no seat shall be reserved for the women of that community in the House constituted after the third general elections.”.

7. After article 332 of the Constitution, the following article shall be inserted, namely:—

Insertion of new article 332A.

10 “332A. (1) Seats shall be reserved for women in the Legislative Assembly of every State.

Reservation of seats for women in Legislative Assemblies of the States.

(2) As nearly as may be, one-third of the total number of seats reserved under clause (3) of article 332 shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be:

15 Provided that where the seat reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be, in relation to a State is one, then, in every block comprising of three general elections to the Legislative Assembly of that State, the seat in the first general elections shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be:

20 Provided further that where the seats reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be, in relation to a State are two, then in every block comprising of three general elections to the Legislative Assembly of that State,—

25 (a) one seat shall be reserved for women belonging to the Schedule Castes or the Scheduled Tribes in the first two general elections in such a manner that the same constituency is not reserved for women in both the aforesaid elections; and

(b) no seat shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes in the third general elections.

30 (3) As nearly as may be, one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in the Legislative Assembly of every State shall be reserved for women and such seats may be allotted by rotation to different constituencies in that State in such manner, as Parliament may by law determine.”.

8. In article 333 of the Constitution, the following proviso shall be inserted at the end, namely:—

Amendment of article 333.

40 “Provided that where such nomination is made, in relation to every block comprising of three general elections to the Assembly, the seat in the Assembly constituted after the first general elections shall be reserved for nomination of a women of the Anglo-Indian community and no seat shall be reserved for the women of that community in the Assembly constituted after the second and the third general elections.”.

45 9. After article 334 of the Constitution, the following articles shall be inserted, namely:—

Insertion of new articles 334A and 334B.

50 “334A. Notwithstanding anything in the foregoing provisions of this Part or Part VIII, the provisions of the Constitution relating to the reservation of seats for women in the House of the People, the Council of the States, the Legislative Assembly of a State and the Legislative Councils where they are in existence and the Legislative Assembly of the National Capital Territory of Delhi shall cease to have effect on the expiration of a period of fifteen years from the commencement of the Constitution (One Hundred and Eighth Amendment) Act, 2008:

Reservation of seats for women to cease after fifteen years.

Provided that nothing in this article shall affect any representation in the House of the People, the Legislative Assembly of a State and the Legislative Assembly of the National Capital Territory of Delhi until the dissolution of the then exiting House, Legislative Assembly of a State or the Legislative Assembly of the National Capital Territory of Delhi, as the case may be:

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Provided further that nothing in this article shall affect any representation in the Council of States and the Legislative Councils of a State where they are in existence, as the case may be, until the members elected or nominated to the council of States or Legislative Councils retire on the expiration of their respective tenure.

Amendment
not to affect
representa-
tion in the
House of the
People or
Legislative
Assembly of a
State or
Legislative
Assembly of
the National
Capital
Territory of
Delhi.

334B. The amendments made to the Constitution by the Constitution (One Hundred and Eighth Amendment) Act, 2008 shall not affect any representation in the House of the People, the Legislative Assembly of a State or the Legislative Assembly of the National Capital Territory of Delhi until the dissolution of the House, the Legislative Assembly of a State or the Legislative Assembly of the National Capital Territory of Delhi, as the case may be, in existence at the commencement of the said Act.”.

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STATEMENT OF OBJECTS AND REASONS

The issue of empowerment of women has been raised in different fora in the country from time to time. Political empowerment of women is rightly perceived as a powerful and indispensable tool for eliminating gender inequality and discrimination. The Government in its National Common Minimum Programme has stated that it will take lead to introduce legislation for one-third reservation of seats for women in Vidhan Sabhas and in the Lok Sabha. The aforesaid idea followed by debate amongst the political parties and in intellectuals has paved way in getting the insight in the matter.

2. As a first step to achieve the aforesaid objective, reservation for women in Panchayats and Municipalities was provided by insertion of articles 243D and 243T in the Constitution *vide* the Constitution (Seventy-third Amendment) Act, 1992 and the Constitution (Seventy-fourth Amendment) Act, 1992, respectively. The next step towards this direction was the introduction of the Constitution (Eighty-first Amendment) Bill, 1996 in the Eleventh Lok Sabha on 12th September, 1996 which sought to reserve not less than one-third of total number of seats filled by direct election in the House of the People and in the Legislative Assemblies of the States for women. The said Bill was referred to the Joint Committee of Parliament which further strengthened some of the provisions of the Bill by extending the provision of reservation for women even in those cases where number of seats was less than three in a State or a Union territory. The Constitution (Eighty-first Amendment) Bill, 1996, as reported by the Joint Committee, however, lapsed with the dissolution of the Eleventh Lok Sabha.

3. Again attempt was made to provide reservation for women in Lok Sabha and the State Assemblies and in the Legislative Assembly of the National Capital Territory of Delhi for a period of fifteen years from the commencement of the proposed enactment, by introducing the Constitution (Eighty-fourth Amendment) Bill, 1998 in Lok Sabha on 14th December, 1998. The said Bill lapsed on the dissolution of the Twelfth Lok Sabha. Yet, another attempt was made by introducing the Constitution (Eighty-fifth Amendment) Bill, 1999 in Lok Sabha on 23rd December, 1999. But this Bill also had not been pursued due to lack of consensus amongst the political parties.

4. With the objective of evolving a consensus on Women Reservation Bill, a meeting was called on 22nd August, 2005 by the United Progressive Alliance followed by another meeting with the Leaders of the constituent political parties of the National Democratic Alliance and other Leaders on 24th August, 2005. However, no consensus could be evolved on the issue of reservation in these meetings. In 2005, the Home Minister interacted with the Leaders of various political parties and accordingly a proposal was prepared to provide for reservation for women in all Legislative Bodies including the Rajya Sabha and State Legislative Councils. Again, on 13th October, 2006 an All Party Meeting took place to consider the issues of delimitation and the women reservation aspect. In the said All Party Meeting a consensus had emerged to the effect that the issue of reservation of seats for women in Legislative bodies should be de-linked from the then ongoing delimitation exercise. Several political parties expressed their concern for having reservation for women. The Government having taken note of the concerns expressed in this regard decided to reintroduce a Bill on the lines of the aforesaid Bill seeking to provide for reservation for women in all legislative bodies including Rajya Sabha and State Legislative Council. This is in fulfillment of the people's mandate.

5. The Bill seeks to achieve the aforesaid objectives.

NEW DELHI;
The 5th May, 2008.

HANS RAJ BHARDWAJ.

ANNEXURE

EXTRACTS FROM THE CONSTITUTION OF INDIA

	*	*	*	*	*
Composition of the Council of States.	80.(1)*	*	*	*	*
	(2) The allocation of seats in the Council of States to be filled by representatives of the States and of the Union territories shall be in accordance with the provisions in that behalf contained in the Fourth Schedule.				
	*	*	*	*	*
Special provisions with respect to Delhi.	239AA.*	*	*	*	*
	(2)(a)*	*	*	*	*
	(b) The total number of seats in the Legislative Assembly, the number of seats reserved for Scheduled Castes, the division of the National Capital Territory into territorial constituencies (including the basis for such division) and all other matters relating to the functioning of the Legislative Assembly shall be regulated by law made by Parliament.				
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RAJYASABHA

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further to amend the Constitution of India.

(Shri Hans Raj Bhardwaj, Minister of Law and Justice.)