

PARLIAMENT OF INDIA
RAJYA SABHA

**DEPARTMENT RELATED PARLIAMENTARY STANDING COMMITTEE ON
PERSONNEL, PUBLIC GRIEVANCES, LAW AND JUSTICE**

THIRTY SIXTH REPORT

ON

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

**(PRESENTED TO THE RAJYA SABHA ON 17TH DECEMBER, 2009)
(LAID ON THE TABLE OF THE LOK SABHA ON 17TH DECEMBER, 2009)**

**RAJYA SABHA SECRETARIAT
NEW DELHI
DECEMBER, 2009/ PAUSA (SAKA 1931)**

CS (P & L) -

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COMPOSITION OF THE COMMITTEE (2009-10)

1. Smt. Jayanthi Natarajan — *Chairperson*

RAJYA SABHA

2. Dr. Abhishek Manu Singhvi
3. Shri Shantaram Laxman Naik
4. Shri Balavant *alias* Bal Apte
5. Shri Parshottam Khodabhai Rupala
6. Shri Virendra Bhatia
7. Shri Tiruchi Siva
8. Sardar Tarlochan Singh
9. Shri Parimal Nathwani
10. Shri H.K. Dua

LOK SABHA

11. Shri Bhajan Lal
12. Shri N.S.V. Chitthan
13. Smt. Deepa Dasmunsi
14. Smt. Jyoti Dhurve
15. Shri D.B. Chandre Gowda
16. Dr. Monazir Hassan
17. Shri Syed Shahnawaz Hussain
18. Smt. Chandresh Kumari
19. Shri Lalu Prasad
20. Dr. Kirodi Lal Meena
21. Kumari Meenakshi Natrajan
22. Shri Devji M. Patel
23. Shri Harin Pathak
24. Shri S. Semmalai
25. Shri Shailendra Kumar
26. Shri Vijay Bahadur Singh
27. Dr. (Smt.) Prabha Kishor Taviad
28. Shri Manish Tewari
29. Shri R. Thamaraiselvan
30. Adv. P.T. Thomas (Idukki)

31. Vacant

SECRETARIAT

Shri Sham Sher Singh, Joint Secretary

Shri K.P. Singh, Director


Sh. K.N. Earendra Kumar, Joint Director

Smt. Niangkhanem Guite, Assistant Director

(i)

INTRODUCTION

I, the Chairperson of the Department Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, having been authorised by the Committee on its behalf, do hereby present the Thirty Sixth Report on the Constitution (One Hundred and Eighth Amendment) Bill, 2008. The Bill seeks to amend the Constitution of India, to reserve seats for women in the Lok Sabha and Legislative Assembly of every State.

2. In pursuance of the rules relating to the Department Related Parliamentary Standing Committee, the Hon'ble Chairman, Rajya Sabha referred  the Bill, as introduced in the Rajya Sabha on the 6th May, 2008 and pending therein, to this Committee on the 8th May, 2008, for examination and report.

3. Keeping in view the importance of the Bill, the Committee decided to issue a press communiqué to solicit views/suggestions from desirous individuals/organisations on the provisions of the Bill. Accordingly, a press communiqué was issued, in response to which memoranda containing suggestions were received, from various organizations/individuals experts, by the Committee.

4. The Committee considered the Bill in fourteen sittings and heard the oral evidence of the Secretary, Legislative Department, Ministry of Law and Justice in its meeting held on 27th May, 2008 and that of the Secretary, Ministry of Panchayati Raj in its meeting held on 10th June, 2008 . The Committee also recorded oral evidence of various Political Parties which are represented in Parliament and Non-Governmental Organisations who have had close association with the subject

matter of the Bill. During its Study Visits to Chennai, Kolkata, Mumbai, Lucknow, Patna, Bhopal, Bhubhaneshwar, Kochi, Bangaluru and Hyderabad, the Committee interacted with the respective State Governments, local Political Parties and stakeholders in particular women's organizations, social workers, Jurists etc. on the provisions of the Bill. Meanwhile the 14th Lok Sabha was dissolved and Committee became defunct. Thereafter, the 15th Lok Sabha was constituted and then the Committee was reconstituted on 31st August, 2009.

5. While considering the Bill, the Committee took note of the following documents/information placed before it : -

- (i) Background note on the Bill submitted by the Ministry of Law and Justice (Legislative Department);
- (ii) Views/suggestions contained in the memoranda received from State Governments, various Political Parties/organisations/institutions/ individuals/experts on the provisions of the Bill;
- (iii) The comments of the Legislative Department on the views/suggestions contained in the memoranda received from various Political Parties/organisations/ institutions/individuals/experts on the provisions of the Bill;
- (iv) Views expressed during the oral evidence tendered before the Committee; and
- (v) Other research material/ documents related to the Bill.

6. The Committee adopted the Report in its meeting held on the 14th December, 2009.

New Delhi;
14th December, 2009

JAYANTHI NATARAJAN
Chairperson
Committee on Personnel,
Public Grievances, Law and Justice

(iii)

REPORT

1. The Constitution (One Hundred and Eighth Amendment) Bill, 2008 (Annexure-

A) aims at eliminating gender inequality and discrimination against women, through political empowerment of women, so as to fulfill people's mandate of Women Empowerment as envisaged in the National Common Minimum Programme of the Union Government.

2. The Bill seeks:

- (i) to reserve, as nearly as may be, one third seats of the present strength of the House of People and Legislative Assembly of every State for women;
- (ii) to provide, as nearly as may be, one-third reservation for women including one-third the number of seats reserved for the Scheduled Castes and the Scheduled Tribes in the House of the People and in the Legislative Assembly of every State to be reserved for women of that category;
- (iii) to provide for reservation for women in respect of nominations of members of Anglo-Indian community in the House of the People and in the Legislative Assemblies of the States;
- (iv) to provide for reservation for women in the Legislative Assembly of the National Capital Territory of Delhi; and
- (v) to provide that reservation of seats for women should cease to have effect on the expiration of a period of fifteen years from the enactment of

the Bill.

3. To give effect to the above proposals, a Bill to amend the Constitution has been introduced in Parliament which provides for:

(a) amendment of articles 239AA, 331 and 333 and insertion of new articles 330A, 332A and 334A in the Constitution to provide for reservation for women in the House of the People and the Legislative Assemblies of the States; and

(b) consequential changes in certain other related enactments.

4. The Statement of Objects and Reasons, accompanying the Bill states about the object in the following words:

“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.....”

5. The Constitution (One Hundred and Eighth Amendment) Bill, 2008 was

introduced^{*} in the Rajya Sabha on 6th May, 2008. It was referred[♣] by the Chairman, Rajya Sabha to this Department Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice on 8th May, 2008 for examination and report.

6. The background note, furnished by the Ministry of Law and Justice on the Bill, stated as follows:

“During the years, a consistent demand has been made for giving adequate representation to women in Parliament and State Legislatures. Such a demand finds support in the 73rd and 74th Amendments to the Constitution made in the year 1992. There is a proposal to amend the Constitution and to provide for reservation in Parliament and State Legislatures. In the past, three Bills were introduced in Parliament in the years 1996, 1998 and 1999 respectively, but due to one reason or the other, the Bills could not be passed....The issue of providing reservation of seats for women in the Lok Sabha and the Legislative Assemblies of the States was first taken up by Parliament for deliberation through the introduction of the Constitution (Eighty-first Amendment) Bill, 1996 in the Eleventh Lok Sabha on the 12th September, 1996.....The Constitution (Eighty-first Amendment) Bill, 1996 was referred to the Joint Committee of the two Houses of Parliament under the Chairmanship of (late) Smt. Geeta Mukherjee, MP. The Committee presented its report to the Lok Sabha on the 9th December,

1996. The Constitution (Eighty-first Amendment) Bill, 1996, as reported by the Joint Committee of Parliament, lapsed with the dissolution of the Eleventh Lok Sabha. Thereafter, a similar Bill, namely, the Constitution (Eighty-fourth Amendment) Bill, 1998 was introduced in the Twelfth Lok Sabha, which also lapsed with dissolution of that House. Again, another Bill, namely, the Constitution (Eighty-Fifth Amendment) Bill, 1999, prepared on the lines of the earlier Bills and introduced in the Thirteenth Lok Sabha on 23.12.1999 could not be considered due to lack of political consensus. The Bill also lapsed on dissolution of that House.....”

7. The Committee also heard the presentation of the Secretary, Legislative Department of the Ministry of Law and Justice on 27th May, 2008. The Secretary, Ministry of Panchayati Raj deposed before the Committee on the Bill on 10th June, 2008. The Committee held in-house discussion on the Bill on 17th July, 2008.

8. In order to have a broader view on the Bill, the Committee decided to invite views/suggestions from desirous individuals/organisations on the Bill. Accordingly, a press release was issued inviting views/suggestions. In response to the press release published in major English and Hindi dailies and vernacular newspapers all over India on 18th May, 2008, a number of representations/memoranda were received.

8.1. The Committee forwarded the memoranda so received from the individuals and organisations to the Ministry of Law and Justice (Legislative Department) for their comments thereon. The list of these memoranda alongwith the gist of views and

suggestions is placed at Annexure-B.

8.2. The major points raised in the memoranda are summarized as follows:

- (i) Reservation for women should be same as nearly as may be, that of percentage of women out of the total population of India or States according to the census of 2001, of the seats of the present strength of the House of People and the Legislative Assembly of every State;
- (ii) Amongst the reserved constituencies, the reservation for women of SC/ST and OBC must also be made at the same percentage which is applicable in the case of reservations for employment to SC/ST and OBC category candidates;
- (iii) Muslim Women being weakest section of Indian society needs a separate reservation quota in legislative bodies;
- (iv) Special quota for physically challenged women for inclusion in the Bill;
- (v) One third reservation for women should be provided in both the Houses of Parliament;
- (vi) One third among the reserved seats for women should be provided to the SC/ST/OBC women in Parliament and State Legislatures;
- (vii) Reservation for women to be provided for not only 15 years, but should be continued to next 15 years also;
- (viii) Reservation of seats for the Neutral Gender in the House of the

People;

- (ix) It should be made compulsory for political parties to give at least 33% party tickets to women, as per Gill formula;
- (x) Dual member constituencies may be established, amending Articles 81 and 170 of the Constitution;
- (xi) Tri cameral legislature system;
- (xii) One third reservation for women both in Parliament and State Assemblies is a grave necessity with respect to the promotion of gender equality in all spheres of human endeavour and to do away with the general backwardness of women at all levels;
- (xiii) Quota is not an answer to women's problems and quota results in discrimination on the basis of gender, violation of the democratic right of people to choose their representatives and violation of the democratic right of people to contest elections. The reservation will only help elite women who are proxy of powerful men; women candidates may not get party ticket to contest from unreserved constituency etc. Therefore, there is no need for reservation for women in the Legislatures;
- (xiv) O.B.C. women will not be empowered without quota;
- (xv) There should be a quota within the women quota for SC, ST, OBC, Minority, Urban, Rural etc. for genuine empowerment of all the segments of women of our society;

(xvi) In view of the provision contained in Article 15(4) of the Constitution of India & Indian Panchayati Raj Act, 1994, 50% reservation (out of 33%) should be given to the women of Other Backward Classes on the basis of their population strength in each State of India, as per preceding decennial census. 50% share in democracy may be provided to women in the country which may play a big role to raise the status as well as benefit for the Other Backward Classes;

(xvii) Political parties should be made responsible to ensure distribution of tickets in such a manner that the various social and economic strata of society, especially marginalized and disadvantaged groups, get adequate representation;

(xviii) The policy of rotation of seats will prevent the candidates from nurturing their constituencies over a period of time;

(xix) With regard to the issue of terminating the reservation policy after a period of 15 years, after 15 years of enforcement, the policy of reservation should be assessed to gauge the impact it has had on the participation of women in politics in terms of numbers and roles. Whether it should be continued or terminated should be reviewed on the basis of considerations of this assessment; and

(xx) Nomination of transgenders as Members of Lok Sabha in the place of the Anglo Indian representatives should be considered since many Anglo

Indians have shifted to their place of origin and also since their population is insignificant in number.

8.3. The Legislative Department has responded on the comments/ suggestions contained in the memoranda as under:

“It is a matter of policy. On the basis of the report/recommendations of the Parliamentary Standing Committee, the Department will go to the Cabinet for taking a policy decision”.

8.4. A Questionnaire on the Bill was also prepared by the Secretariat and forwarded to the Ministry for their replies. The reply to the Questionnaire was furnished by the Ministry on 22nd July, 2008 and the same was considered by the Committee.

(Annexure 'C')

9.1. The Committee decided to seek the views of the Political Parties which are represented in the Parliament in writing and also to invite them for hearing before the Committee. Accordingly, the Chairman of the Committee wrote to the heads of these Political Parties (list of Political Parties is at Annexure ‘D’). In response, the Committee received written comments from the Political Parties (Memoranda are annexed at ‘E’) viz.:- Communist Party of India (Marxist), Indian National Lok Dal, Maharashtrawadi Gomantak Party, All India Anna Dravida Munnetra Kazhagam, Dravida Munnetra Kazhagam, Desiya Murpokku Dravida Kazhagam, All India Forward Bloc, Janata Dal (United), Marumalarchi Dravida Munnetra Kazhagam, Bhartiya Janta Party, Communist Party of India (Tamil Nadu State Council), Indigenous Party of Twipra, Pattali Makkal Katchi, Dravidar Kazhagam, Nationalist

Congress Party, Bahujan Samaj Party, Indian National Congress, Mizoram Peoples' Conference, Samajwadi Party, Rashtriya Janta Dal, Indian Union Muslim League, Swatantra Bharat Paksha and CPI (Marxist-Leninist).

9.2. The representatives of Political Parties appeared before the Committee on the Bill on 17th and 18th June, 2008 viz.:- Communist Party of India (Marxist), Communist Party of India, Indian National Congress, All India Anna Dravida Munnetra Kazhagam, Dravida Munnetra Kazhagam and All India Forward Bloc.

9.3. The Committee also heard the views of various NGOs viz. National Federation of Indian Women, All India Democratic Women's Association, Guild of Service (North India), Women Power Connect, Rakshak Foundation, Delhi Janwadi Mahila Samiti and Streebal on

the Bill in its meetings held on 3rd, 17th & 18th June, 2008 and 8th July, 2008. The Committee further held in-house discussion on the Bill on

1st August, 18th September, 7th October, 2008, 28th January, 16th February and 10th November, 2009.

9.4. The Committee heard the views of the State Governments of Tamil Nadu, West Bengal, Maharashtra, Uttar Pradesh, Bihar, Madhya Pradesh, Orissa, Kerala, Karnataka and Andhra Pradesh on the Constitution (One Hundred and Eighth) Amendment Bill, 2008 and held discussions with the representatives of Political Parties, NGOs, individuals and stakeholders on the Bill during the course of its Study Visits to Tamil Nadu, West Bengal, Maharashtra, Uttar Pradesh, Bihar, Madhya Pradesh Orissa, Kerala, Karnataka and Andhra Pradesh.

9.5. The Committee also interacted with the Political Parties at the State level during its Study Visits viz.:- Marumalarchi Dravida Munnetra Kazhagam, Indian Union Muslim League, Communist Party of India, Communist Party of India (Marxist), Bahujan Samaj Party, Nationalist Congress Party, All India Anna Dravida Munnetra Kazhagam, Bharatiya Janata Party, Indian National Congress, Dravida Munnetra Kazhagam, Desiya Murpokku Dravida Kazhagam, Samatwa Makkal Katchi, Dravida Kazhagam and Pattali Makkal Katchi at Chennai; Indigenous National Party of Twipra, Bharatiya Janata Party, Democratic Socialist Party, West Bengal Socialist Party, Revolutionary Socialist Party, Rashtriya Janta Dal, Communist Party of India, Communist Party of India (Marxist), Indian National Congress and All India Forward Bloc at Kolkata; and Bahujan Samaj Party, Nationalist Congress Party, Communist Party of India (Marxist) – Maharashtra State Committee, Shiv Sena, Bharatiya Communist Party, Bharatiya Communist Party (Marxwadi), Communist Party of India (Marxist) – Maharashtra State Council, Bhartiya Janata Party and Indian National Congress at Mumbai; Congress Party – U. P. Congress Committee, Samajwadi Party, Rashtriya Janata Dal, Janata Dal (United), Bahujan Samaj Party, Bharatiya Janata Party, Indian National Congress, Nationalist Congress Party and Communist Party (Marxist) State Committee at Lucknow; Communist Party of India, Bihar Pradesh Samajwadi Party, Janta Dal (United), Bahujan Samaj Party, Nationalist Congress Party, Bihar Pradesh Congress Committee, Communist Party of India (Marxist), Marxwadi Communist Party and

Communist Party of India (Marxist-Leninist) at Patna; Communist Party of India (Marxist), Nationalist Congress Party, Indian National Congress, Rashtriya Janata Dal and Communist Party of India at Bhopal; Bharatiya Janata Party, Biju Janata Dal, Communist Party of India, Communist Party of India (Marxist), Indian National Congress, Jharkhand Mukti Morcha and Nationalist Congress Party at Bhubhaneshwar; JSS, Indian National Congress, Kerala Congress (Jacob), Kerala Congress (Secular), NSP, Kerala Jan Congress, Indian Muslim League and Janata Dal at Kochi; Indian National Congress, Nationalist Congress Party, Bahujan Samaj Party and Bharatiya Janata Party at Bangaluru; and Bharatiya Janata Party, Communist Party of India (Marxist), A.P. Congress Committee, Telangana Rashtra Samiti, Telugu Desam Party, Indian National Congress and Bahujan Samaj Party at Hyderabad.

9.6. The Committee also sought the views of all the State Governments on the provisions of the Bill. The Governments of NCT of Delhi, Himachal Pradesh, Meghalaya, Andaman & Nicobar Administration, Rajasthan, Dadra & Nagar Haveli Administration, Union Territory of Lakshadweep Administration, Haryana, Union Territory of Chandigarh Administration, Assam, Jammu & Kashmir, Orissa, Chattisgarh, Nagaland, Mizoram, Gujarat and Punjab submitted their written comments thereon.

9.7. The Government of National Capital Territory of Delhi has stated that “the Bill is acceptable to this Government”. The Government of Himachal Pradesh has stated

that “this State Government is of the considered view that the above Bill which provides for one-third reservation of seats for women in the House of People and Legislative Assemblies (including seats reserved for Scheduled Castes and Scheduled Tribes) is a forward step to achieve the objective of eliminating gender inequality and ensuring political empowerment of women. Thus, this Government conveys its approval on the said Bill.”

9.8. The Government of Meghalaya has stated that “as far as the State of Meghalaya is concerned, the proposed amendment is not agreeable as presently women are not banned from contesting election alongwith men from the reserved seats for Scheduled Tribe.” The Andaman & Nicobar Administration has stated that “since this Union Territory is without a legislature, all Bills, Acts, Policy decisions adopted by the Central Government are implemented here and hence this Union Territory Administration has no specific comments to offer on the Women Reservation Bill”.

9.9. The Government of Rajasthan has stated that “the Bill under question should be brought in at an early date as the same shall provide legal opportunities of adequate representation in Parliament, Rajya Sabha and also in State Assemblies.” The Dadra & Nagar Haveli Administration has stated that “this U.T. Administration is a centrally administered territory having no legislature. All the instructions/guidelines with respect to the electioneering including Reservation Policy as issued by the Election Commission are implemented by the U.T. Administration. As such, this U.T.

Administration has no comments to offer on the proposed enactment.”

9.10. The Administration of the Union Territory of Lakshadweep has stated that “..... there is only one Lok Sabha seat reserved for Lakshadweep for the present. This Union Territory Administration has therefore no any specific comments in the proposed Bill.” The Government of Haryana has stated that “..... State Government is fully supportive of the Bill introduced by the Government of India.”

9.11. The Administration of Union Territory of Chandigarh has stated that “..... the U.T. Chandigarh is without legislature. U.T. Chandigarh constitutes one constituency in the House of the People. Though the issue is not of much relevance to the U.T., there being no State Legislature yet a perusal of the Bill reveal that this seeks to empower the women and eliminate gender inequalities and discrimination. There is already a provision of reservation for women in the Urban Local Bodies/PRI as provided under Part IX and Part IX-A of the Constitution of India. The purpose of providing such reservation at the grass root level in the institutions of local self governance has been fulfilled to a large extent though the same may not be visible/ apparent as of now. Provision of reservation for women in the Assemblies/ Lok Sabha would be another step in the direction”.

9.12. The Government of Mizoram has stated that “.....this State Government has objected the above stated Amendment 'Women Reservation Bill' as it would result as many as thirteen seats out of only forty seats in the State Legislature.” The Government of Assam has stated that “.....the Government of Assam is in agreement

with the different provisions contained in the Constitution (One Hundred and Eighth Amendment) Bill, 2008 subject however to inclusion of a suitable provision that for both the Lok Sabha and Legislative Assembly, the seats once reserved for women should continue to be so reserved for a period of two terms of such Lok Sabha or Legislative Assembly. This it felt was necessary to suitably empower the women. This provision would however not apply to cases of single or double seats in which case the procedure as provided in the Constitution (One Hundred and Eighth Amendment) Bill, 2008 should be followed”.

9.13. The Government of Jammu and Kashmir has stated that “.....The purpose of the Bill is laudable so far as providing of reservation of women is concerned. State of Jammu and Kashmir has its own Constitution and attempts have been made for providing 20% reservation of seats to women by enhancing the strength of number of seats in the State Legislative Assembly. However, the said Bill could not see the light of the day and was deferred as no national consensus had been arrived at the national level. The passing of the Bill was also deferred because 2/3rd majority was required for passage of the Bill in both the Houses. The State Government is committed in providing reservation to the women and will follow suit as and when reservation is provided to the women at the national level. With regard to amendment of providing reservation to the women in Parliament is concerned, the said amendment shall not apply to the State of J&K automatically in view of peculiar constitutional position the State is enjoying under the Constitution of India, in its application to the State of

Jammu and Kashmir. The said amendment shall have to be extended to State of Jammu and Kashmir in terms of provisions of Article 370 of the Constitution of India”.

9.14. The Government of Orissa has stated that ".....The State Government is in agreement with the suggestions regarding the reservation of seats in Lok Sabha and Legislative Assemblies of the States in favour of women". The Government of Chhattisgarh has stated that "Reservation of woman in the House of People and in the Legislative Assemblies of the States would eliminate gender inequality and discrimination in order to achieve empowerment of woman in the society. State of Chattisgarh is agreed with the proposed 108th Constitution Amendment Bill".

9.15. The Government of Nagaland has stated that ".....The All Political Party Consultative Committee after a thorough deliberation took a decision not to accept the Bill on the Women's Reservation." The Government of Gujarat has stated that ".....the proposed amendments are proper." The Government of Punjab has stated that ".....the State Government is agreed with the proposal regarding reservation for women in the House of People and in the Legislative Assembly of the State."

CHAPTER II

Deliberations of the Committee on various provisions of the Bill

Rationale behind reservation for women

10.1. Clause 3 of the Bill proposes to insert Article 330A(1) in the Constitution which

provides for reservation of seats for women in Lok Sabha.

10.2. Clause 5 of the Bill proposes to insert Article 332A (1) in the Constitution, which provides for reservation of seats for women in the Legislative Assembly of every State.

10.3. The Committee notes that as per the latest statistics from NIPCCD (National Institute of Public Co-operation and Child Development) published in 2007, women represented 8.2% in the Lok Sabha and 11.4% in Rajya Sabha in the year 2004. Equally their representation in Central Council of Ministers in the year 2004 has been extremely low at 10.29%. Also the participation of women in executive position in IAS, was only 10.42% in the year 2002 and IPS 4.44% in the year 2005. Women hardly occupied 4.5% in the year 2005 of total number of judges in Supreme Court and 3.31% in the High Court as on 2003 statistics.

10.3.1. One of the Members of the Committee, while deliberating upon the Bill, opined that “.....the present Constitutional Amendment has been brought in the context of political and social justice to be given to women. We fully agree that women should be given their due representation so that we are able to render justice, at least, after six decades of our independence.....”

10.3.2. The representative of AIADMK, while tendering oral evidence before the Committee on the Bill, stated that “.....the study done by the International Labour Organisation shows that while women represent 50 percent of the world’s adult population and a third of the official labour force, they perform nearly two-third of all

working hours, receive a tenth of world's income and own less than one percent of the world's property. So, reservation for women is not a bounty but it is an honest recognition of their contribution to social development and to the society at large.....”

10.3.3. The representative of the All India Forward Bloc, while deposing before the Committee on the Bill, stated thus :

“.....When 50 percent of the sky is covered with women, they must have their legitimate say in determining/ establishing their own rights in the society and the State. It is shameful for a country with over 50 crores women not even 10 percent of the total number of legislators in the Parliament and the State Assemblies come from women. Hence, their problems, sufferings and aspirations are not properly reflected in the deliberations of the law-making houses. It is true that women are not debarred from contesting Assembly or Parliamentary elections, but due to age-old traditions of our male dominated society the women generally do not or cannot come out of the family restrictions or natural shyness to contest the elections in proportionate numbers along with their male counterparts. As a result of which women are compelled to miss the proportionate representation and they are only obliged to follow the male members of the family in the matters of public interest. There is no logic in saying that women are deficient in physical, mental and intellectual capabilities. Still, they have been forced to be earmarked as the weaker

sections of the society. In fact, by keeping 50 percent of the society weaker we have made the whole society weak. In such a situation, some compulsory legislative measures need to be taken for proportionate representation of the women in the House of People.....”

10.3.4. In its written memorandum on the Bill, the All India Forward Bloc has further stated that “.....women need additional support for their upliftment and provisions must be made in the Constitution for women reservation, which only can ensure much talked about empowerment of the women.....”

10.3.5. The Nationalist Congress Party, in its memorandum submitted before the Committee, has stated that “.....Women are being denied of their due share in the highest democratic institution of our country and in running the administration of the country.....”.

10.3.6. The Dravidar Kazhagam, in its memorandum has opined that “.....when half of the world population remains permanently weak and does not have a voice and the right to make a choice of its own in public sphere, the loser is the whole human race.....”

10.3.7. The Pattali Makkal Katchi (PMK), has submitted in its memorandum on the Bill that “..... A nation’s development hinges on the development of its people and not on its Gross Domestic Product or per-capita income alone. However, People’s development revolves round the equitable and balanced development of people belonging to all sections of the society, especially in a country like India,

where heterogeneity and diversity is rule rather than an exception. In a vast country like India with a population of about 112 crores, women constitute half of the population. Therefore, a comprehensive development of Indians is possible, if only half of the Indian population viz. women population register equitable development on par with men.....”

10.3.8. The Marumalarchi Dravida Munnetra Kazhagam (MDMK), has opined in its written submission that “.....The democracy cannot exist unless all citizens, men and women, have the equal right to participate in the affairs of the country.....”

Parliamentary democracy is a part of the basic structure of our Constitution. The true democracy is meaningless unless women are there to represent.....The special reservation in favour of women in the House of People and State Legislature are the need of hour.....”

10.3.9. The representatives of CPI, while tendering oral evidence before the Committee, stated that “.....we think that one-third of the seats in Parliament and State Assemblies should be reserved for women. It is not a favour that we are doing; I think it is their right. After all, they are half the society. I am always fond of quoting Mao Zedong on this issue that, after all, they too hold up half the sky. They should normally be half, but I think, it will take some time before we reach that stage. So, let us begin with the concept of one-third.....”

10.3.10. The representative of DMK, while deposing before the Committee on the Bill, stated that “.....in Afghanistan, 30 percent reservation is provided for women

in their Legislative bodies. In Pakistan, 17 percent seats in the Legislatures are reserved for women. In Argentina, 30 percent quota is there for women. Nepal will soon enact 30 percent reservation for women in its National Assembly. South Africa has 30 percent reservation and the present women representation in their Parliament comes to 34.8 percent.....”

10.3.11. The Mizoram Peoples’ Conference, in its written memorandum has stated that “.....That the Mizoram Peoples’ Conference (Party) whole – heartedly supports the Women’s Reservation Bill, which was introduced to the Parliament (Rajya Sabha) on the 6th May, 2008 to become the Constitution (One Hundred and Eighth) Amendment Bill, 2008.....”

10.3.12. In its written submission, the Indian National Congress, has stated that “.....The Congress party supports the Bill as it has been introduced in the Rajya Sabha. However, we are also willing to go with the consensus that may evolve amongst the various political parties represented in the Standing Committee regarding certain other aspects, in order to facilitate early passage of the Bill.....”

10.3.13. The Committee takes into account the abovementioned views on the Bill. It notes that Article 15 (3) of the Constitution of India explicitly provides that the State can make any special provision for women. Furthermore, social and political justice; and equality of status and opportunity are adumbrated in the Preamble of the Constitution.

10.3.14. The Committee is of the firm opinion that there is no adequate

representation of women in the social, economic and political life of the country even after more than 60 years of independence. It notes that though women have made their presence felt in many male dominated professions, their representation in the decision making bodies/processes is far less than that of men. The Committee acknowledges that there has been a historical social exclusion of women from polity due to various social and cultural reasons and patriarchal traditions. The Committee feels that meaningful empowerment of women can be achieved only with adequate participation by women in legislative bodies or Parliamentary machinery, as inadequate representation of women in Parliament and State legislature is a primary factor behind the general backwardness of women at all levels.

10.3.15. The Committee is of the unanimous opinion that reservation of seats for women is a valid and necessary strategy to enhance women's participation in the decision/policy making process. It feels that representation of women in policy making machineries is critical to the nation building process.

10.3.16. The Committee further takes note of the opinion of the representatives of the National Federation of Indian Women, who tendered oral evidence before the Committee on the Bill, that “political empowerment of women is also an equally essential tool for strengthening democracy.....We are having this opinion because we believe that women's participation in decision making process is very much essential for meaningful democracy..... ”

10.3.17. A closer look at the facts and circumstances which prevail at present, reveal that women are impoverished in every sphere of activity not by choice but by systematic exclusions from policy options and protective measures. Neither social legislations nor landmark judgments on these have had major effect to render gender justice on this count.

10.3.18. The Committee takes note that in all walks of life, women who acquired the necessary skills and education have proved themselves capable of holding of their own. But unfortunately they have failed to gain the requisite ground in the field of politics. All these trends indicate that women's representation in politics requires special attention and positive action.

10.3.19. The delegates of the All India Democratic Women's Association, while placing its views before the Committee, stated that ".....India has a very proud record of Parliamentary democracy – our Government representatives always speak about the fact that there are more elected women representatives in India than any other country; that is, there are more than a million women representative. This is naturally something that we are very proud of. But we often forget that these more than a million Members are at the level of the Panchayati Raj Institutions and the local bodies, and they have been elected because a Statutory Provision has been provided for their election. Now, more than one-thirds of the seats in many of the States are actually reserved for women, and even in those States where only one-third are reserved at that level, because of their good work and their good performance,

there are now actually more than 33 percent. In some places, there are 42 percent of them; at other places, they are more in number. This has come about because a statutory provision has been made to that effect.....”

10.3.20. The Committee is of the considered 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.

10.3.21. In their presentation on the Bill, the Delhi Janwadi Mahila Samiti informed the Committee that women’s representation in the Legislative Assembly of Delhi has witnessed a decline from the 2nd to the 3rd Assembly after an increase from the 1st to the 2nd as under:

<u>Delhi Assembly</u>	Total MLAs	Women MLAs	% Share of Women
1st Assembly (1993-1998)	70	3	4.3%
2 nd Assembly (1998-2003)	70	9	12.9%
3 rd Assembly (2003-)	70	6	8.6%

10.3.22. In the memorandum submitted by the DMK , the following figures were given with respect to the Legislative Assembly Elections in Tamil Nadu between 1989 and 2006 :-

Year	Total Women Contestants	Total Elected
1989	70	9
1991	102	32
1996	156	9
2001	112	25
2006	156	22

10.3.23. The abovementioned figures reveal that out of the 234 seats in the Tamil Nadu Legislative Assembly, the highest number of women elected in one election during the last four elections are only 32, which amounts to a mere 14 percent. **This underlines a clear need for a Constitutional provision to ensure a minimum representation of women in the Parliament and State Legislatures.**

10.3.24. One of the Members of the Committee, while deliberating on the Bill, stated thus:

“.....we are not seeking charity here. We are representing 51% of the population of this largest democracy of the world. It is our basic right. We are contributing to the society. We are contributing to the culture, family, State, nation and human resources development.....”

10.3.25. The Committee is of the firm opinion that reservation is needed to ensure the participation of women who constitute a traditionally neglected section of the society. The Committee feels that in the 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.

10.3.26. One of the landmark events in history during the women’s movement particularly in the late 80s was the vision of former Prime Minister Shri Rajiv Gandhi who incorporated the 73rd and 74th Amendments in the Constitution of India providing reservation of 1/3rd seats in the Panchayats and Nagarpalikas for women. The Committee feels that such reservation ensured that women at the grassroot level, occupying prominent position in the Panchayats and Nagarpalikas, take decisions for their own life and for their rural/urban communities on many issues of concern. It also imparted a gender perspective to issues concerning social and economic life of women.

10.3.27. The representative of DMK, while deposing before the Committee on the Bill, stated that “.....The denial of equal right of representation to half of the population is not only injustice to women, but, we believe, it weakens the democratic process itself. India set a record to be proud of with the largest number of women of over one million in decision-making bodies at the Panchayat and Municipal level. Unfortunately, the correct lessons from this historic achievement, however, have not been learned.....”

10.3.28. The delegates of the Guild of Service (North India), while tendering oral

evidence before the Committee on the Bill, also stated that women in the Panchayati Raj systems have done a tremendously good job.

10.3.29. The Committee notes that reservation of the seats for women in Panchayati Raj institutions was a pioneering step as far as political empowerment of women is concerned. It feels that the Panchayati Raj amendment was more effective than expected in energising women and it is the major reason to legitimize the demand for reservation in higher bodies such as State Legislatures and Parliament.

10.3.29.1. Taking into account the abovementioned facts and opinions, the Committee is of the firm view that reservation of seats for women in Panchayati Raj institutions through the Constitution (73rd and 74th Amendment) was a pioneering step as far as political empowerment of women is concerned. It feels that the reservation in Panchayati Raj institutions was more effective than expected in energising women and has underscored the need for reservation in higher bodies such as State Legislatures and Parliament.

10.3.30. The Ministry of Panchayati Raj, in its written reply furnished to the Committee, has stated that “.....the study on elected women representatives (EWRs) in Panchayati Raj Institutions provides several insights into the performance of EWRs over three round of elections. The study showed that elected representatives are deeply involved in development efforts as well as social issues in the village community. The study of EWRs in PRIs shows that women participate freely in Gram Sabha meetings and are able to raise issues relating to the development of the community. The level of acceptance of EWRs and their voice in the Gram Panchayats

has also been assessed in the study. A sizeable proportion (94%) stated that they could freely raise issues during Gram Sabha meeting and only 20% felt that their views were not considered by Panchayat/Gram Sabha.....”

10.3.31. The data further shows that through 1/3rd reservation of seats for women in Panchayats and Nagarpalikas, they have been able to make meaningful contributions and that the actual representation of women in Panchayati Raj institutions has gone upto 42.3% i.e., beyond the reservation percentage.

10.3.31.1. The Committee, therefore, notes that the concerns raised earlier that women will be only proxy to men, after reservation was given to women in Panchayats and Nagarpalikas, often leading to misuse of their position, have in time turned out to be baseless and that the track record of most of the elected women representatives has been proved commendable. This has led the Government to make 50 percent reservation for women in local bodies. This further augments the imminent need to give reservation for women in State Assemblies and Parliament.

10.3.32. The Ministry of Panchayati Raj, in its detailed Status Note on the subject 'Empowerment of women through Panchayati Raj Institutions & Reservations for Other Backward Classes in Panchayats', has stated that ".....The last fifteen years of Panchayati Raj in India have contributed significantly not only to the political but also the social empowerment of women as is evident from the findings of the study on EWRs in PRIs. Earlier notions of women being mere proxies for male relatives have gradually ceded space to the recognition that given the opportunity to participate in the political system, women are as capable as their male counterparts. The impact of

women's participation in the Panchayats is seen in the development priorities identified by them. EWRs have used their office to not only mainstream gender issues but also address the developmental needs of the community as a whole. The positive contribution made by EWRs needs to be sustained by ensuring the continued participation of women in the political process....."

10.3.33. The Committee is of the opinion that it was through 1/3rd reservation of seats for women in Panchayats and Nagarpalikas that women were enabled to make meaningful contributions in these bodies. It notes that the actual representation of women in Panchayati Raj institutions has gone upto 42.3% i.e., beyond the mandatory reservation percentage which is proposed to be further raised to 50%. The Committee feels that this proves that strategic empowering measures are the need of the hour for the upliftment of women.

10.3.34. The Committee acknowledges the definite and positive impact that the reservation of 1/3rd seats at the grassroot level for women has had, on the participation of women at the grassroot levels.

10.4. The representatives of an NGO, Rakshak Foundation who deposed before the Committee stated that since women have been granted equal political rights in India by the Constitution, there is no need for reservation for women, as it will discriminate against men. In support of their stand, they stated that large number of women have made meaningful contributions in India's Panchayati Raj System and apprised the Committee of the progress made by women in various fields.

10.4.1. One of the views presented before the Committee was that the provisions of

the Bill discriminate against men. Another argument that was put forward was that reservation of seats for women alone cannot solve the complex problem of gender injustice.

10.4.1.1. The Committee feels that the various policies and programmes adopted by the Central and State Governments have mainly been responsible for the astounding rate of growth of opportunities in education and employment for women in India. It is of the view that what is lacking at present is the political empowerment of women in its true sense. The commendable representation and performance of women in Panchayats is largely due to statutory reservation of seats for them. Therefore, the Committee strongly feels that reservation would ensure considerable political empowerment of women and pave the way to the achievement of political justice to women as promised in Preamble and Article 38 of the Constitution of India.

10.4.1.2. Taking into account the increase in the interest shown by women in the political process in the country as substantiated by various studies and data supplied to the Committee, the Committee feels that this is furthermore reason to enable women to have greater participation in the decision/policy making process. It is of the view that the reservation proposed in the Bill is an affirmative step in this direction.

10.4.1.3. A view was expressed before the Committee that consequent upon reservation of 1/3rd of seats in State Assemblies and Lok Sabha, the sitting members in case they happen to be male members who have nurtured their constituencies will suffer injustice, as will other males who might wish to contest

from the reserved constituency. The propounders of this view opined that if at all the reservation is to grant to the women it should be done by increasing the seats in Assemblies and Parliament. In this context, the Committee wishes to place on record that the rationale behind reservation for women, is to mitigate the deleterious effects of social and economic barriers that have prevented the political empowerment of women, and not to discriminate against men through the process of reservation, but to instill a new harmonious social order promoting genuine fraternity between both the sexes.

10.4.1.4. The Committee is of the considered opinion that the pertinent question at this juncture is not whether there is necessity of reservation of seats for women in Parliament and State Assemblies. It is of the view that the recommendations of the Geeta Mukherjee Committee which had examined this issue earlier make it amply clear that the reservation for women is the need of the hour. Since this matter is well settled, the Committee is of the considered view that taking into consideration the Report of the Geeta Mukherjee Committee, views of the Political Parties, NGOs and individuals, other provisions of the Bill should be deliberated upon.

Reservation of 1/3rd seats for women

11.1. The representatives of the Communist Party of India (Marxist), while deposing before the Committee on the Bill, stated that “.....We are fully in favour of reservation of 33 percent of seats in Parliament and State Legislatures. We consider this the minimum number required to make an effective impact on increasing

women's role in elected decision-making bodies. There should not be any dilution in the number of seats reserved. Sir, 1/3rd reservation of seats in Panchayat institutions and municipalities is working very well.....”

11.2. The CPI (M), in its written memorandum, has stated that “.....We are in favour of reservation of thirty-three percent seats in Parliament and State Assemblies. We believe that the one-third seat reservations have worked well in the Panchayati Raj system as well as in local bodies. It has been seen that this is the minimum number required to make an impact on increasing women's role in elected decision making bodies, therefore, there should be no dilution of the number of seats to be reserved.....”

11.3. The representative of the Indian National Congress, while tendering oral evidence before the Committee, stated that “.....Thirty-three percent reservation for women has been our demand. This has been considered by the U.N. agencies and others as the critical mass to influence the decision-making process in any Body. It is not that it is a sacrosanct thing which has been calculated on computers or whatever it is. But this is what has been our demand all along, though we are fifty percent of population.....”

11.4. In its written submission, the PMK has stated that “.....Since woman population is almost half of the Indian population, reservation of seats to women in State Legislatures and Parliament should be in proportion to the population of women in total population i.e. about 50 percent. Therefore, reservation of 33% falls short of 50% of the seats as required by the canon of social justice. However, we do not

dispute this proportion of 33% at this juncture for various issues and also of the necessity to provide for reservation to women immediately.....”

11.5. In this regard, the Committee notes that 33% reservation of seats for women in Panchayats and Municipalities has had the desired effect on the empowerment of women. It is of the considered view that 1/3rd reservation of seats in Assemblies and Lok Sabha would ensure a certain level of presence of women that cannot be overlooked by Political Parties. Therefore, it is of the opinion that dilution of the 1/3rd reservation of seats for women is not called for at this juncture.

Time period for reservation

12.1. Clause 7 of the Bill provides that the reservation of seats for women shall cease to have effect on the expiration of 15 years from the commencement of the Constitution (One Hundred and Eighth Amendment) Act, 2008.

12.2. One of the Members of the Committee, opined during the discussions of the Committee on the Bill that “.....Of course, the reservation is not a rule of perpetuity. It will have to end at a particular period.....”

12.3. The representatives of Women Power Connect, while tendering oral evidence before the Committee on the Bill, stated that “.....An in-depth review of the policy and its impact upon completion of 15 years will display the results of reservation based on the same as informed decision of success or failure of the policy and further continuation of the policy can be taken. Such a process will also identify and plug

gaps in policy and implementation which will enhance the effects of policy if it is to continue.....”

12.4. In one of the memoranda submitted to the Committee, it was stated that with regard to the issue of terminating the reservation policy after a period of 15 years, once it has completed 15 years of enforcement, the policy of reservation should be assessed to gauge the impact it has had on the participation of women in politics – in terms of number and roles and that whether it should be continued or terminated should be reviewed on the basis of considerations raised by this assessment.

12.5. In its written memorandum, the PMK has submitted that “.....We are taking a deliberate decision to provide for reservation for women in political decision-making bodies after 60 years of India’s Independence and to withdraw this after 15 years would not help the long term representation of women in State Assemblies and Parliament.....”

12.6. The Indigenous Nationalist Party of Twipra, has expressed its written view that “.....In the proposed new Article 334A cessation of effect of the Act should be only after the year 2026 i.e. after the census conducted, conforming to the direction of clause (3B) of Article 332.....”

12.7. In this regard, the Geeta Mukherjee Committee had recommended that “the provisions governing the reservation of seats for women in the House of the People or the Legislative Assemblies of the States should be in the first instance for a period of 15 years from the date of commencement of the Act and may be reviewed after a

period of 15 years to decide whether the reservation for women is to be continued thereafter.”

12.8. Taking into account the abovementioned views, the Committee recommends that the Government may consider this proposal as and when the need arises. The Committee feels 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.

Rotation of seats

13.1. Clause 3 of the Bill proposes to insert Article 330A(3) in the Constitution, which provides for rotation of seats reserved for women in Lok Sabha.

13.2. Clause 5 of the Bill proposes to insert proviso to Article 332A (3) of the Constitution, which provides for rotation of seats reserved for women in State Assemblies.

13.3. One argument raised against rotation of seats is that it will lead to lack of accountability and that rotation of seats will prevent the incumbent from nurturing her constituency.

13.4. The representative of CPI (M), while tendering oral evidence before the Committee on the Bill, opined that “.....We also agree with the proposal of rotation of seats. Rotation of seats also helps horizontal spread of women’s

involvement in the political affairs of the country. We do not subscribe to the argument that this may cause a change over of experienced MPs and MLAs and, therefore, may adversely affect the political discourse. The experienced members can seek acceptance from any other constituency. It is also a fact that women elected from these constituencies are as efficient, or, more efficient than the present incumbents..... In a vibrant democratic system, it is the State and national interest and policies that should have precedence over constituency interest.....”

13.5. In its written memorandum, CPI (M) has stated that “.....We cannot base our democracy on a no-change approach which may lead to political monopolies and entrenched interests which are an anathema to democratic processes. Rotation of women reserved seats also helps horizontal spread of women’s involvement..... Since all seats will be rotated at some point or the other this will “affect” all in equal measure. The reservation of seats may be done in such a way so that the road map for reservation is known in advance for the next three terms so as to eliminate uncertainty and allow for planning.....”

13.6. The representatives of the Communist Party of India, while deposing before the Committee on the Bill, stated that “.....It has to be on rotation basis. How should it be decided by you so that there is no arbitrariness about it. At the same time, there should be some principle or basis according to which it will be done, so that we could know which seats will become reserved and when.....As far as the question of rotation is concerned, we are of the view that there should be two terms. I

am saying two terms advisedly. There is something which is known as MPLAD. Once she is elected, she should have the opportunity to do some good work also. And, once she has done it, she should be able to take advantage of the good work she has done in her constituency and to be able to stand again. So, if the two-term principle is followed, then, it will be possible to see all the seats, by turn, becoming reserved in the course of a few years.....”

13.7. The Rashtriya Janta Dal, in its written submission, has opined that “.....The selection of Parliamentary reserved constituencies for women should be decided by the political party itself. No specific Parliamentary constituency should be marked for women candidates only. The number of reserved Parliamentary constituencies should be provided to the political parties for their decision to contest women candidates on such number of seats.....”

13.8. The Pattali Makkal Katchi, in its written memorandum, has tendered its views that “.....finally, women seatsshould rotate once in 15 years so as to enable women to contribute substantially to the development of their respective constituencies. This would provide a reasonable stability to the political career of woman and improve horizontal spread of the influence of woman in other constituencies as well.....”

13.9. The Swatantra Bharat Paksha, has tendered its written views on the issue, as “..... if the Bill is passed in the present form it will seriously affect the servicing of the constituency by the elected members of the legislature. It would further adversely

affect the quality of the legislatures in as much as the legislatures are unlikely to contain more than 33% second-termers.....”

13.10. The Committee is of the opinion that rotation is in the interest of democracy and that it is the duty of the incumbent to work towards the welfare of the constituency, irrespective of whether she would be elected next time or not.

13.11. The PMK, in its written submission, has opined that “.....the procedure for determining the constituencies reserved for women is not clearly laid down in the Act and is left to the Parliament to decide. In our view, this should be categorically provided in the Act itself.....”

13.12. The Committee desires that the Government may consider this proposal appropriately.

Reservation for women belonging to Scheduled Castes and Scheduled Tribes

14.1. Clause 3 of the Bill proposes to insert Article 330A(2) in the Constitution, which provides for reservation of 1/3rd of the total number of seats reserved for women, for women belonging to the Scheduled Castes or the Scheduled Tribes, in the elections to Lok Sabha.

14.2. Clause 5 of the Bill proposes to insert proviso to Article 332A (2) of the Constitution, which provides for reservation of 1/3rd of the total number of seats reserved for women, for women belonging to the Scheduled Castes or the Scheduled

Tribes, in the elections to the Legislative Assembly of every State.

14.3. The Bahujan Samaj Party, in its written views on the Bill, has stated that “..... This Bill should be passed only when the Separate one third reservation for the women belonging to Scheduled Caste and Scheduled Tribe. In addition to the existing reservation provided as per the Part XVI of Article 330 “Reservation of seats for Scheduled Caste and Scheduled Tribe in the House of the People. This Bill should be passed only when the separate one third reservation for the women belonging to SC and ST in addition to existing reservation provided as per the Part XVI of Article 332. “Reservation of seats for Scheduled Caste and Scheduled Tribe in the Legislative Assemblies of the States as under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats in the Assembly as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State or Part of the State, as the case may be, in respect of which seats are so reserved, bears to the total population of the State.....”

14.4. The Committee is aware that this is a Constitutionally mandated requirement. In addition, the Committee strongly feels that political equality cannot be realized without social and economic equality. It feels that reservation is needed for women belonging to the SC/ST communities to enable them to have fair competition with women belonging to the forward classes. It is of the firm view that reservation as provided in Clauses 3 and 5 of the Bill is necessary for their political, economic and social advancement.

Anglo Indian nomination

15.1. Clause 4 of the Bill proposes to insert proviso to Article 331 of the Constitution, which would provide for reservation of nomination of a woman of Anglo-Indian community to the House of People.

15.2. Clause 6 of the Bill proposes to insert proviso to Article 333 of the Constitution, which would provide for reservation of nomination of a woman of Anglo-Indian community to the Legislative Assembly of a State.

15.3. Article 331 of the Constitution provides as follows:-

“Notwithstanding anything in article 81, the President may, if he is of opinion that the Anglo-Indian community is not adequately represented in the House of the People, nominate not more than two members of that community to the House of the People.”

15.4. Article 333 of the Constitution provides as follows:-

“Notwithstanding anything in Article 170, the Governor of a State may, if he is of opinion that the Anglo-Indian community needs representation in the Legislative Assembly of the State and is not adequately represented therein, nominate one member of that community to the Assembly.”

15.5. The representative of the Legislative Department, Ministry of Law and Justice, while deposing before the Committee stated as follows:

“.....there are two provisions in the Constitution, Article 331 and 333,

which provide for nomination of Anglo-Indians. Just to ensure that one of the seat is reserved for women, a proviso is being added so that formula is applicable in the case of nomination also.”

15.6. The provision relating to Anglo-Indians is mandated in the Constitution, and hence the Committee recommends the inclusion of this clause in the Bill. The Committee also took note of the demand to include nomination of neuter gender/transgenders and nomination of blind/handicapped people who can contribute in the decision making process, as Members of Lok Sabha.

15.7. The Committee’s attention was drawn to the political empowerment of visually impaired and other physically challenged citizens. In one of the memoranda submitted to the Committee, it was highlighted that in United Kingdom, a visually impaired person, Mr. Blunkett was elected Member of Parliament for Sheffield Brightside with a large majority.

15.8. The Committee’s attention was also drawn to the need for equal rights and representation in policy making, for individuals who are transgender/neuter gender. It was submitted that their grievances are generally ignored by MPs/MLAs and that since they are marginalized groups, their representative should be nominated as Member of Lok Sabha and State Assemblies.

15.9. Although some of the memoranda received expressed the view that Anglo-Indians were too small in number to have seats reserved for them, and that seats should instead be reserved for other marginalized sections including physically

challenged citizens, the Committee is of the view that since Anglo-Indian reservation is mandated in the Constitution, it need not be disturbed while Government may appropriately consider, reservation for other marginalized sections.

CHAPTER III

Other issues examined by the Committee

Reservation of seats for women by Political Parties

16.1. One of the points which came up for discussion before the Committee was the Gill Formula, which was a proposal of the Election Commission of India to make it mandatory for the recognised Political Parties to ensure putting of minimum agreed percentage for women in State Assembly and Parliamentary election so as to allow them to retain the recognition with the Election Commission as Political Parties.

16.2. Majority of the memoranda received by the Committee rejected the Gill's formula on the ground that it might lead to political parties giving seats to women, which they perceive are not winning seats, thereby negating actual representation of women in elected bodies.

16.3. In its written memorandum, the Samajwadi Party, however has stated that "..... Our party fully supports the Election Commission's proposal for women's

reservation.....”

16.4. The Bharatiya Janata Party has tendered its written views on the issue that “.....We are ready to accept the consensus view on the Election Commission’s proposal pertaining to the issue women reservation.....”

16.5. The Dravidar Kazhagam, in its written submission, has opined on this issue that “.....The parties, usually dominated by male office bearers, will tend to field women candidates in constituencies where they are weak. That will defeat the purpose of electing 33% of women representatives.....”

16.6. The Indian National Lok Dal, has stated in its memorandum, that “..... It would be in the fitness of things if all the parties, particularly the National Parties and the Regional Parties recognized by Election Commission of India, adopt the formula that all the parties will be giving at least 1/3 of the party tickets at various levels to women candidates. This will avoid unnecessarily controversies being raised on various reservations made for other groups/categories.....”

16.7. The Communist Party of India (Marxist-Leninist), in its written submission on the Bill, has opined that “.....the proposal of some political parties that instead of promulgating law on women's reservation, the Election Commission should force the political parties to have quota for women candidates is fully objectionable and it is against the basic spirit of guarantee of assured participation of women in Parliament and Legislative Assemblies.....”

16.8. On this issue, the representatives of the National Federation of Indian Women, while tendering oral evidence before the Committee stated that “.....one of the

alternatives that was mooted even by the Election Commission also has been much talked about by various foras – not so by the women’s organisations – they have unanimously rejected it – and leaving it to the parties to bring 33 percent reservation. Now, we have gone into almost the mechanics of how actually it will work. Surely, you know, given the patriarchal attitudes,Now you will find, if you give the opportunities, they will come up. But, overnight, things will not change. It is quite clear that in a competitive politics, when winning a seat is absolutely uppermost, if women are not already working in a constituency or being prominent or known, they won’t make a winning seat. Therefore, winning seats will be given to the male candidates and it will be the losing seats for women.....”

16.9. The representatives of CPI (M) while tendering oral evidence before the Committee on the Bill, opined that “.....One proposal is that the political party should reserve 1/3rd of the candidates belonging to women. This will not ensure representation of women in Parliament or Legislative Assemblies. This will only ensure the presence of names of women in the list of political parties. What we need is their actual representation in the elected bodies. This sort of system may work in a country where the proportional representation system is in existence. Ours is entirely a different system. We have the First Past the Post System. This will only ensure existence of women name in the list. That will not serve the purpose.....”

16.10. The representative of the All India Anna Dravida Munnetra Kazhagam, while deposing before the Committee, stated that “.....With regard to another point

which had been mentioned in the political arena that instead of passing a Bill like this, it may be prudent on the part of the political parties themselves to reserve some amount of seats for women to contest elections on their own. That is something which my party considers as a flawed concept, and, in an era where every party aspires to come to power, they will always allot only the weak seats of their Party to their women candidates. We do not accept that concept and we feel that this Bill is an absolute essentiality and it has to be passed at the earliest.....”

16.11. The Committee is of the firm opinion that reserving seats for women in Assemblies and Lok Sabha should not be left to the discretion of Political Parties, rather it should be guaranteed in the Constitution itself and enforced by all means.

Reservation for women in Rajya Sabha and Legislative Councils

17.1. During the deliberations of the Committee, the need for providing reservation for women in Rajya Sabha and Legislative Councils was also highlighted.

17.2. The PMK, in its written memorandum, has stated that “.....This Bill provides for reservation of women only in State Assemblies and Lok Sabha, and reservation is not provided in the Rajya Sabha and Legislative Councils of various States. The above deficiencies, in our view, should be rectified in the proposed Act itself.....”

17.3. The Committee recommends that the demand for extending reservation for women in Rajya Sabha and the Legislative Councils needs to be examined thoroughly as the upper Houses of the Parliament and State Legislatures play

equally important role under the Constitution and by applying the principle of equality women should also get their due share in the second or upper chamber of Parliament and State Legislatures.

Reservation for women belonging to Other Backward Classes

18.1. In its written memorandum, the Rashtriya Janta Dal has stated that “.....In case of providing reservation to women, there must be a quota for OBC, Minorities including Muslims, Christians and others, and Dalits (SC/ST) within it. There must be a quota within quota for these sections of women proportionate to their population in the country.....”

18.2. The Samajwadi Party, in its written submission, has stated that “.....if reservation is to be given to women, there must be a quota for OBC and Muslim women within it.....”

18.3. In its written views submitted before the Committee, the Nationalist Congress Party has opined that “.....we don’t find any need for reasons for special quota for OBC within the women’s quota as suggested from certain quarters. Now there are 429 seats excluding reserved seats for SC/ST category in the Parliament. There is no reservation for OBC in the abovementioned existing unreserved seats. But still there is good representation for OBC category in the Parliament at present. Same is the case of OBC category in the State Assemblies as well.....”

18.4. The Dravidar Kazhagam, has stated in its written submission, that “.....Our submission is Women’s Reservation Bill when finally passed should include

provisions for sub-reservation for STs, SCs, OBCs and Minority communities within the 33 percent quota. If this provision is not included there is the real danger of the promotion of gender justice defeating social justice regarding women's representation. Social Justice is adumbrated in the Preamble of the Constitution and this principle should be given practical shape through all the constitutional and government bodies. In the prevailing social scenario, it is obvious that the women of lower castes or minority communities cannot politically compete with the upper caste women. So special provision should be made to reserve seats within the quota.....”

18.5. On this issue, the PMK has given its written views that “.....this means that within seats reserved for Scheduled Castes men one third seats will be reserved for SC women. This implies that other women belonging to Backward Classes, Minorities and other weaker sections of the society, who now enjoy benefits under various Government programmes such as education, employment, development programmes are deprived of political reservation. This is against the concept of equality and runs contrary to Constitutional provisions. It discriminates between women of different groups and will enable increased representation of only women from upper castes, which would perpetuate the already raging disparities among women. This unjust situation has to be remedied.....”

18.6. The Desiya Murpokku Dravida Kazhagam, in its written memorandum, has stated that “.....We strongly feel that real social justice will be rendered only if the women of backward classes and other backward classes are given reservation in this

Bill. But on account of this, this bill need not be delayed.....”

18.7. In its written memorandum, the Bhartiya Janata Party has stated that “..... Bharatiya Janata Party supports the proposed Women Reservation Bill. We firmly reject the demand of Quota within Quota.....”

18.8. The representatives of the National Federation of Indian Women, while tendering oral evidence before the Committee on the Bill, stated that “.....on the issue of OBC reservation, our organisation, would like to make it very, very clear that we are for reservation for OBC or any other section of the society. We want reservation for women, they may belong to upper castes or lower castes or middle castes. We won't mind, but women should be represented equally or adequately..... we cannot reject the Bill on any of these issues that are being raised and sought to be solved within the ambit of the Bill”.

18.9. The representatives of CPI (M), while deposing before the Committee, stated that “.....we support the provision for reservation of 1/3rd of seats for women from SC/ST, from amongst the seats reserved for women. There is a demand that this facility should be extended to the OBCs. We do not agree with that, because there is no Constitutional provision for reservation for OBCs. So, this will not stand for scrutiny. There is also a demand that a similar provision should also be made with regard to minorities. There is also no provision for reservation of minorities.....As far as OBCs are concerned, at present, there is no constitutional provision for reservation to OBCs. This is, as the Chairman said, only with regard to Panchayati

Raj institutions and this option is also left to the States. The States, after taking into consideration the situation prevalent there, can take a decision whether that can be extended to the OBCs in the Panchayati Raj institutions or not.....”

18.10. One of the Members of the Committee, while expressing his views on this provision of the Bill in writing, has stated that “.....In view of larger interest of OBC community, I suggest that it should be incorporated in the Constitution as under:

“Nothing in this part shall prevent the Parliament from making any provision for reservation of seats in Parliament and State Legislature in favour of backward class of citizens in accordance with their population in the State”.

18.11. In response to a query on reservation for women belonging to Other Backward Classes/ minorities, the Legislative Department has stated that “the several alternatives have been explored by the Government and for this purpose two meetings of all political parties had been convened on 22nd and 24th August, 2005 to sort out the difference of opinion and formulate modalities for providing reservation for women in Parliament and State Legislature but no consensus could be arrived at in these meetings.”

18.12. The Ministry of Panchayati Raj, in its detailed Status Note on the subject 'Empowerment of women through Panchayati Raj Institutions & Reservations for Other Backward Classes in Panchayats', has stated that as on June, 2008 as per available information, 17 States out of 24 which come under the purview of Part IX of

the Constitution have provided for reservations for Backward Classes/Other Backward Classes (OBCs) in Panchayati Raj Institutions. These States are the following:-

Sl. No.	Name of the State	Sl. No.	Name of the State
1.	Andhra Pradesh	2.	Bihar
3.	Chhatisgarh	4.	Gujarat
5.	Goa	6.	Himachal Pradesh
7.	Haryana	8.	Jharkhand
9.	Karnataka	10.	Maharashtra
11.	Madhya Pradesh	12.	Orissa
13.	Punjab	14.	Rajasthan
15.	Sikkim	16.	Uttar Pradesh
17.	Uttarakhand		

18.13. In one of the submissions made before the Committee, it was opined that subdivisions as regards reservation for women, have to be considered on a case to case basis depending on the actual constituents in a given constituency. If it is dominated by SC/ST and Other Backward Classes, it has to be taken care of, as it will be actually a promotion of the socially backward groups and there will be several women among them who will make themselves eligible to be elected to the Parliament.

18.14. The Committee notes that the Geeta Mukherjee Committee had recommended that the Government may consider the issue of extending the benefit of reservation to Other Backward Classes also at the appropriate time so that the women belonging to Other Backward Classes will also get the benefit of reservation.

18.15. The Committee feels that the Bill in itself is not an entirety, rather it is a formula to achieve Political Empowerment of women. The Committee is of

the considered view that this Bill only lays down the principle/ basic framework for reservation of women in State Assemblies and Lok Sabha. It is of paramount importance that women reach a goal of adequate representation in Parliament and the State Legislatures and all other issues may be considered at an appropriate time by Government without any further delay at the present time in the passage of the Bill.

19.1. Reservation for Other Backward Classes citizens in the educational institutions and jobs and Services as per the Constitutional provisions Articles 15 & 16 already exists in the Constitution.

19.2. By the 73rd amendment of the Constitution, reservation in the political elected posts for the other Backward Class citizens in Panchayats were provided in Article 243D(6) :

“Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Panchayat or offices of Chairpersons in the Panchayats at any level in favour of backward class of citizens”

and in Nagarpalikas in 243T(7) :

“Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Municipality or offices of Chairpersons in the Municipalities in favour of backward class of citizens”.

19.3. The Geeta Mukherjee Committee Report had also observed that “such reservation of seats has not been provided for in the Bill for women belonging to Other Backward Classes because there is no reservation for Other Backward Classes at present under the Constitution as it exists for Scheduled Castes and Scheduled Tribes”. The Committee, therefore, recommended that the Government may consider the issue of extending the benefit of reservation to Other Backward Classes also at the appropriate time so that the women belonging to Other Backward Classes will also get the benefit of reservation.

19.4. The question of reservation within reservation for OBC women & some minorities generated great discussion in the Committee, with one section of opinion strongly of the view that such OBC reservation within reservation should be provided. The Committee is of the view, that this matter should be considered by Government and action on this taken at the appropriate time.

Double-Member constituencies and Increasing the number of seats in Lok Sabha and Legislative Assemblies

20.0. During the in-house deliberations of the Committee and interactions with National and regional Political Parties, the Committee could sense an undercurrent among Members of Parliament regarding setting apart seats which might be occupied by them or presently occupied by them, so that they can be reserved for women. The Committee also takes note of the suggestions which came up from various quarters that dual Member constituencies or

increasing the number of seats in Lok Sabha and Legislative Assemblies can address this concern.

20.1. As regards this suggestion, the proposal is to increase 1/3rd seats in Parliament and Legislative Assemblies and to make 1/3rd constituencies as double-member constituencies wherein seats will be reserved for women.

20.1.1. During the discussions of the Committee on the Bill, one Member observed that “.....we are having 543 Members in Lok Sabha at present. This figure was fixed some sixty years back. At that time, our population was only thirty crores. Now, it is more than one hundred crores. Why have we not raised the number of seats? If we can raise another two hundred fifty seats, we can easily give reservation to women. We can also make double-Member constituencies.....”

20.1.2. The delegate of Streebal, while speaking on the issue of double-Member constituencies, stated that “.....The double-Member constituency also has a constitutional, historical legacy in our country. If you look back at the elections of 1952 and 1957, one-third of the MPs were coming from multi-member constituencies because 20 percent of the constituencies were double member or treble member ones, until 1962.....”

20.1.3. She further opined that “.....We have found, with experience of the rotation principle in the Panchayat level and local tier things, that it is unsatisfactory. In fact, the appeal is being made not to use rotation there. You also find, perhaps, stated or unstated, the hidden insecurity with which this Bill has been jeopardized all

these years. And you have also the point that you have reached a stage in your population where, really, you are being undemocratic to keep your sizes as small as you are doing so that it becomes such an extensive club that the constituents are denied their democratic rights to be represented with the kind of a personal contact that should occur between those that represent them and those that vote for them, and that you will get more and more into this issue as the years go by because you have now extended the freeze for 25 years. So, we are offering you an alternative that looks at all issues and sorts them out, does not delay because it can be done very fast as was done when the two-member constituencies were destroyed. At that time, it was done very fast....."

20.1.4. The representatives of CPI (M), while deposing before the Committee, stated that ".....There is another suggestion – to increase 1/3rd seats in Parliament and Legislative Assemblies so that women get the representation. Here is a case where the delimitation process has already been over. Delimitation will take a lot of time..... It is only to delay the process....."

20.1.5. The representative of the Indian National Congress, while tendering evidence before the Committee, stated that ".....About increasing seats, this has been debated repeatedly. Delimitation has just been finished, and going in again for adding seats, new seats, is going to take you another 15 years and it is going to push the entire process backwards. It cannot be done in one day by redrawing map. It will take another 10 years. This delimitation process itself was going through so many

roadblocks and so many problems. Therefore, I think now, again taking it back to new increased seats is unfair.....”

20.1.6. The delegates of All India Democratic Women’s Association, while expressing its views on this issue before the Committee, stated that “.....This will also mean that women, who are independents and who do not belong to any political party, also will have the trouble of getting elected.....”

20.1.7. In this regard, the Committee takes note of the view submitted by the representatives of CPI (M) that “.....this will make unnecessary tension and conflict in a particular constituency, because MP and MLAs belong to different political parties. This also may not serve the purpose. It is not only that, this will also create two types of MLAs and MPs – one with sole responsibility and another with double responsibility.....”

20.1.8. Concern was also voiced before the Committee that elected women representatives will be forced to be granted a second class status. The representative of the Indian National Congress, while tendering oral evidence before the Committee, stated that “.....For instance, if I had to be one, as a woman, representing a double-Member constituency with a man, I would consider it very humiliating and demeaning because we can’t represent a constituency when we need a man along either to guide, support or help us. After all, we are capable of representing our constituencies. I think it is not fair to club women into double-Member constituencies. It would make us second class MPs in Parliament.....”

20.1.9. The Dravidar Kazhagam, in its written memorandum, has stated that “.....
Our firm view in this context is, when the number of seats is increased, the proportion of their allocation to States like Kerala and Tamil Nadu that have been successfully implementing family planning programme should not get reduced. Otherwise it will amount to punishing them for sincerely carrying out a vital programme of the Union as well as the State Governments.....”

20.1.10. In its reply to the questionnaire sent by the Secretariat, with regard to the issue of increasing the number of seats in Lok Sabha and State Assemblies, the Ministry has stated that “..... if it is proposed to increase the seats, there will be need of delimitation of constituencies. Further, so far as the time is concerned the Delimitation Commission was constituted in July, 2002 and it took almost 6 years to complete its task, though initially, it was given 2 years to complete the work. Therefore, it would be difficult to have any speculative time frame for completion of fresh delimitation.”

20.1.11. The Committee, after taking into account the abovementioned views and the reply of the Ministry, does not endorse the concept of double-Member constituencies. It feels that elected women representatives should be granted the same opportunities/status as their male counterparts. Providing for double-Member constituencies might result in women being reduced to a subservient status, which will defeat the very purpose of the Bill. Therefore, the Committee feels that this concept is discriminatory to women. The Committee strongly feels

that further delay in enactment of this Bill would further hamper the concept of Political Empowerment of women.

20.2. The Committee feels that already more than twelve years have elapsed after the Geeta Mukherjee Committee Report and still the much required reservation has not reached 50 per cent of the population of the nation, namely women. It strongly feels that further time should not be wasted; rather the Women's Reservation Bill should be passed in Parliament and put in action without further delay.

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**MINUTES OF DISSENT SUBMITTED BY
SHRI VIRENDRA BHATIA, MEMBER, RAJYA SABHA AND
SHRI SHAILENDRA KUMAR, MEMBER, LOK SABHA**

We take this opportunity to record our protest against the manner in which the draft bill pertaining to Women's Reservation Bill has been prepared. We wish to state that our party is not against providing reservation to the Women of this country but it is against the current form in which the abovementioned bill has been drafted and is proposed to be implemented.

The views of our party and ourselves are as follows:-

- (a) Every political party shall distribute at least 20% of their party tickets to women in their party.
- (b) Even in its current form the reservation should not be more than 20%.
- (c) A very important point to be noted is that under the proposed form of reservation for women there should also be a quota for the women belonging to the

Other Backward Class and minorities as it has been proposed for the women belonging to the Scheduled Caste and Schedule Tribe. Women have been provided reservation in the elections for local bodies and a similar provision should be enacted for providing reservation to women belonging to the Other Backward Class and minorities.


Sd-
(VIRENDRA BHATIA)
Member, Rajya Sabha

Sd-
(SHAILENDRA KUMAR)
Member, Lok Sabha

[* To be appended at printing stage.](#)

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