

**Feminist Fundamentalism over Women's Reservation Bill:
Lessons from the Quota Debate in India**

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Presented at "When Women Gain, So Does the World," IWPR's Eighth International Women's
Policy Research Conference, June 2005

Abstract

The 73rd and 74th Amendments to the Constitution of India introduced 33% quota for women in local self-government institutions. These Amendments implemented in 1993, created 1,000,000 slots for elected women representatives. Subsequently, all major national political parties voiced their support for women's quotas in state legislatures and parliament and the Women's Reservation Bill to that effect was introduced in the Parliament in 1996. The Bill has become controversial for the last nine years. Due to the serious flaws in the Bill, even the pro-women's quota elements also find it difficult to support it. But some women's groups have adopted a very rigid position in support of the Bill, virtually treating it as sacrosanct and non-negotiable. This paper assesses the role of women's groups in the quota debate and suggests future strategy for successfully negotiating the issue.

Introduction

The question of a women's quota in India is distinct from any other nation because the Constitution of India has already provided for quotas for the 'Scheduled Castes' (SCs) formerly untouchable castes in the Hindu community and the 'Scheduled Tribes' (STs). It has provisions for similar measures for the socially and educationally backward classes now termed as the 'Other Backward Classes' (OBCs). These quotas are for admissions to educational institutions, public sector employment and political representation. The 73rd and 74th Constitutional Amendments provided for 33% quotas for women's representation in the local self-government institutions. These Amendments were implemented in 1993. They were enacted without any pressure or persistent demand from women or any other section. Prior to these Amendments the State of Karnataka had introduced 25% women's quota in Panchayat Raj Institutions.¹ First elections after the implementation of quotas were held in 1987 (Jain 1996). Later, State of Maharashtra passed a law providing for 30% reservation of seats for women in rural as well as urban local self-government institutions. It is curious that, in spite of over 1,000,000 elected women representatives flooding the local governments; the women's movement in India was totally silent over this issue till 1996.

The smooth passage of the 73rd and 74th Constitutional Amendments encouraged all major national political parties to commit themselves to extending 33% women's quota to state legislatures and Parliament. The 81st Constitutional Amendment Bill, popularly known as the Women's Reservation Bill (WRB), was introduced in the Parliament in 1996 to that effect. The women's movement had no role in bringing about this Bill. It did offer some inputs in the Committee hearings but it became vocal and visible on this issue only after its first debacle in XI Lok Sabha.² Even then, this visibility was in the form of demonstrations and sit-ins in front of the Parliament and not by way of proactive intervention in the electoral process by supporting women candidates or recruiting movement's spokespersons in elective roles on various levels.

Highlights of the Women's Reservation Bill:

1. As nearly as may be one-third of all seats in Lok Sabha and State Legislative Assemblies shall be reserved for women.
2. Reservation shall apply in case of seats reserved for Scheduled Castes (SCs) and Scheduled Tribes (STs) as well.
3. Seats to be reserved in rotation will be determined by draw of lots in such a way that a seat shall be reserved only once in three consecutive general elections.

Drawbacks of the Bill: (Latest version is the 85th Constitutional Amendment Bill):

1. Rotational reservation of one-third seats is the most serious flaw in the Bill. The pre-election nursing of a Lok Sabha or State Assembly constituency involves a very heavy investment on the part of the political parties and individual aspirants. Rotational reservation of one-third of the seats exclusively for women would lead to a grave uncertainty for sitting male MPs

¹ rural local self-government institutions

² Lower House of Indian Parliament

eroding their meticulously developed political base and leaving them no scope to pursue politics as a life-long mission or career.

2. This is harmful for the political career of an individual politician as well as for the process of the development of national level leaders with towering personalities. This would dwarf the popularly elected political leadership and strengthen the bureaucracy.
3. The Bill also ignores an important recommendation of the Joint Parliamentary Committee on the 81st Amendment Bill about extending reservation to Rajya Sabha¹ and Legislative Councils that was incorporated in the Clause 21 of its Report.²
4. The Bill turns women's quota into a zero sum game where women would get seats only if male MPs were removed from one third of the constituencies.

Passing the Bill in its present form would mean a political suicide for the sitting male Members of Parliament but in spite of all its drawbacks many women's organizations are treating it as non-negotiable and are refusing to consider alternate proposals. A proposal emphasizing nomination of 33% women candidates instead of reserving the constituencies for women is being advocated by a senior feminist activist scholar Madhu Kishwar (Narayan and Kishwar: 2000) and a proposal for converting 50% constituencies into dual-member constituencies is being advocated by Rami Chhabra (Chhabra 2000). But the former has grave drawbacks and the latter is more expensive than the July 2003 proposal of dual-member constituencies discussed below.

Proposal for Dual-member Constituencies:

On 15th July 2003, Manohar Joshi, then Speaker of Lok Sabha convened a four-party³ meeting to discuss a proposal of dual-member constituencies. Afterwards, on 19th July 2003 at the National Executive meeting at Raipur the BJP passed a resolution to that effect and called upon the government to bring a Constitutional Amendment, to convert one-third of the Lok Sabha constituencies into dual-member constituencies⁴. The highlights of this proposal are:

1. Current 543 Lok Sabha constituencies would be grouped into three lots of 181 each. In each election, one of these lots would be converted into dual-member constituencies, each electing two Members of Parliament - a male and a female.
2. This would increase the number of elected Lok Sabha members⁵ to 724 (362 + 181 + 181) from 543 Lok Sabha constituencies.
3. The dual-membership would rotate after each election to the next lot of 181 constituencies.
4. The proposal would also apply to State Assemblies and to SC and ST constituencies.

The greatest strengths of this proposal are:

1. Without lifting the current freeze on delimitation of constituencies¹ it will be possible create wider opportunities to address the needs of representation of people, who have grown in

¹ Council of States, Upper House of Indian Parliament

² Report of the Joint Committee on 81st Constitutional Amendment Bill, Lok Sabha Secretariat, Dec 1996.

³ Bharatiya Janata Party, Indian National Congress (I), Communist Party of India (Marxist), Samajwadi Party

⁴ The Hindu July 20, 2003

⁵ Lok Sabha has 545 members of which, 534 are elected and the President nominates two members from Anglo-Indian community.

numbers from 300 million to over 1080 million without an increase in the number of representatives.

2. It proposes a win-win solution to the issue of women's quota by providing greater representation to women without depriving men of their existing representation.
3. It will not rupture the process of leadership development, which is a risk involved in the Women's Reservation Bill.

Due to its win-win nature the chances of its smooth passage in the Parliament are much higher than those of the WRB. But some women's groups are not even willing to discuss the proposal, treating the present draft of the Women's Reservation Bill as non-negotiable and sacrosanct. This 'fundamentalism' over the Women's Reservation Bill and intolerance towards the proposal for the dual-member constituencies has become detrimental in negotiating women's quota in Parliament. As the author also is an activist herself, in a way, this paper is a kind of self-assessment and self-critiquing.

Rotational reservation coupled with conversion of reserved constituencies into dual-member constituencies is not harmful like the provision in the WRB. Rotation in WRB would uproot the sitting male-members when their constituencies get reserved for women. I foresee that this would also affect sitting women MPs because there will be immense pressure from male politicians that women be nominated from women-reserved constituencies alone. There were some such instances in Municipal elections where the sitting woman councilor was asked to vacate her open-for-all seat and contest from a neighboring constituency reserved for women (Nanivadekar: 1997). The proposal for Dual-Member Constituencies is inclusive and WRB is undesirably exclusion. Some women's groups are opposing it on the grounds that the parties opposing WRB are supporting Dual-Member Constituencies. This 'change of color' questions the authenticity of their claims (Ranjana Kumari: 2003). I think this is classic evidence of the tactical blunder and the negative approach of the women's groups in negotiating the quota issue. If parties opposing WRB are now supporting Dual-member constituencies, it is something to welcome and celebrate; not something to complain about! After all, the ultimate goal is gender equality, quotas are the strategy for reaching that goal and the Bills are simply a mechanism that spells out the modality for implementing quotas.

The proposal of Dual-Member Constituencies makes up only to 25% as opposed to the 33% promise of the WRB. This reduction from 33% to 25% can be compensated by way of women's reservation in Rajya Sabha and Legislative Councils. I had testified in front of the Joint Committee on the 81st Constitution Amendment Bill. My testimony on behalf of Rambhau Mhalgi Prabodhini² had suggested that the reservation of seats for women be extended to Rajya Sabha and Legislative Assemblies as well (Medha Nanivadekar: 1997). This suggestion was accepted by the Committee and got included in its Report³ as the Clause 21, but was not included in the 84th Amendment Bill and its subsequent versions. Sushma Swaraj, an esteemed member of the Joint Committee, had said that the Committee agreed with this in principle but needs

¹ This freeze was imposed by the 91st Constitutional Amendment Bill 2000, which got enacted as the 84th Amendment Act 2002.

² A Research and Training institute based in Mumbai. The delegation consisted of two more members- Vinay Sahasrabuddhe and Sharayu Anantram.

³ Report of the Joint Committee on 81st Constitution Amendment Bill, Lok Sabha Secretariat, Dec 1996 P. vii

suggestions about the modality for implementing this. I have described the detailed modality in my previous research paper (Nanivadekar: 2003).

There have been two major lapses on the part of women's groups over this women's quota issue. In their fanatic support for the WRB, women's groups ignored that the Bill has ignored the major recommendation of the Joint Parliamentary Committee about providing quotas not simply to the Lower Houses of Parliament and State Legislatures, but also to the Upper Houses. Similarly, while opposing the Dual-Member Constituency proposal, they have failed to point out its most serious drawback: If parties nominate a man and a woman even from the constituencies of the sitting women MPs, *it would amount to a reservation for men in a hitherto woman-held constituency*. It would shatter the political base of the sitting woman MP at its very root. I have a solution to offset this drawback. The risk of shattering the base of sitting women MPs can be covered by treating their constituencies as *Dual-Women-Member Constituencies*. More elaborate modality for implementing this proposal can be found in Nanivadekar (2003). (http://www.quotaproject.org/papers_other.htm)

Dual-member constituencies do not undermine the importance of the members. Autonomy of each Member in dual-member constituencies can be guaranteed by ensuring the same MP Local Area Development Fund¹ for each of them. This would also mean that the dual-member constituencies would get double development fund than single-member constituencies, for one term.

The proposal for dual-member constituencies is in no sense a perfect proposal. But it is workable. And if we really want perfection, let us not begin and end our perfectionism with the issue of women's reservation alone. The proposal deserves more serious consideration than it has been accorded so far by women's groups and political parties. As this proposal assures men their existing share of the Parliamentary pie while increasing the size of the pie to give women their due share, if improved on the lines of above-mentioned suggestions, it seemingly holds a much-needed promise for resolving the deadlock over women's reservation.

However, it needs to be underscored that quotas per se do not guarantee effective participation of women. In addition to women's electoral quotas, some other supportive measures must be initiated in order to make women's representation sustainable. It should be made obligatory for all political parties to provide 33 % organizational representation to women. Women's quota in party organizations, right from the enrolment of members to the National Executives and Parliamentary Boards would increase the pool of eligible women candidates, reduce the element of proxies and would eventually lead to a much higher representation of women even from open constituencies.

¹ At present this fund for development of the constituency of a Member stands at Rupees 20,000,000 per annum. Members of Lok Sabha enjoy a five-year term and Members of Rajya Sabha have a six-year term.

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