

Gender and Economic Policy Discussion Forum

Gender and Affirmative Action

FORUM VI | 15 MARCH 2013

BRIEFING NOTE 6

HIGHLIGHTS / KEY POINTS

- Affirmative action is required in a differentiated society to reduce disparity.
- Affirmative action in the case of women is discussed mainly in terms of their political representation, which became a debatable topic with the Women's Reservation Bill (WRB), which proposes to reserve 33% of all seats in the Lower House (Lok Sabha) and in all state legislative assemblies for women.
- 33% is advocated on the basis of the 'Critical Mass Theory'. 33% represents the critical mass for the minority to begin to influence the culture of the group and to pursue interests outside role stereotypes.
- Those in favour of the WRB argue that it is required to break the patriarchy induced oppression and better representation of women's interests.
- Those against the WRB argue that a blanket reservation policy is not good enough to represent interests of women from minority groups. And 33% reservation would lead to confinement of women to only the reserved seats.
- Internal party quotas are a good alternative for increasing political representation of women
- Quotas by themselves cannot remove the barriers and so they should only be viewed as a means and not an end.

The Gender and Economic Policy Discussion Forum on Gender and Affirmative Action was organized on the 15th of March, 2013 at the Delhi School of Economics, University of Delhi. The key questions addressed at the forum were-

- ❖ Why affirmative action/ reservations?
- ❖ What has been the impact of political reservations?
- ❖ Should quotas be extended to the national parliament?
- ❖ Are sub-quotas needed to ensure diversity?
- ❖ Can quotas achieve transformative gender impact?

Contextualizing the debate

"Affirmative action refers to the positive steps taken to increase the representation of women and minorities in areas of employment, education, and business from which they have been historically excluded."¹ Mary John suggests that using the term 'affirmative action' for the Indian situation might miss the fact that Indian debate and history of reservations and quotas preceded the US style affirmative action model by several decades.²

According to Christophe Jaffrelot³, India was probably the first field for experimentation with positive discrimination policies; initiated by the Christian missionaries and the colonial authorities for the advancement of the underprivileged. The British initiated caste based quotas in the country and also established a nationwide legal system

with the norm of equality before the law. The untouchables were the first targets of colonial positive discrimination policy, which worked on three fields – education, employment and political representation. After independence positive discrimination for the untouchables, re-named the Scheduled Castes, was constitutionalized, additionally, it was extended to the tribal population- Scheduled Tribes.

It is argued that “neither growth nor strong market orientation alone reduces or eliminates inter-group disparity and discrimination”⁴, therefore, affirmative action becomes essential in a differentiated society such as that in India.

“However, in order to increase its efficacy, it has to be less mechanical: provision of quotas should be seen as the beginning of Affirmative Action, not as its end, as is the current practice.”⁵

Affirmative action with respect to women is discussed mainly in terms of political representation. Political representation of women, writes Mary E. John⁶, unlike the women-in-development debates, is not a discourse aimed at and about the third world. First world and second world countries, alike the third world ones, are grappling with issues of low representation of women in politics. (See Table 1 for representation of women in the parliaments in different countries).

Table 1: Proportion of Women in Parliament* ⁷

Rank	Country	Lower or Single House			Upper House or Senate		
		Seats**	Women	%	Seats**	Women	%
1	Rwanda	80	45	56.30%	26	10	38.50%
4	Sweden	349	156	44.70%	---	---	---
7	Finland	200	85	42.50%	---	---	---
8	South Africa	400	169	42.30%	53	17	32.10%
10	Iceland	63	25	39.70%	---	---	---
11	Norway	169	67	39.60%	---	---	---
13	Denmark	179	70	39.10%	---	---	---
24	Germany	620	204	32.90%	69	19	27.50%
57	Pakistan	342	77	22.50%	104	17	16.30%
57	United Kingdom	650	146	22.50%	760	172	22.60%
70	Bangladesh	350	69	19.70%	---	---	---
77	United States of America	433	77	17.80%	99	20	20.20%
107	India	545	60	11.00%	245	26	10.60%

*Data as of 1st February, 2013.

**Figures correspond to the number of seats currently filled in Parliament.

Source : Inter Parliamentary Union

In India the debate following the Towards Equality Report (1974) prepared by the Committee on the Status of Women in India (CWSI), constituted by the Government of India, for the UN year of women in 1975, marks a

crucial point in the discussion on women’s political representation. Discussion on participation of women in politics, which seemed to have declined after independence, resurfaced with this report as it made demands

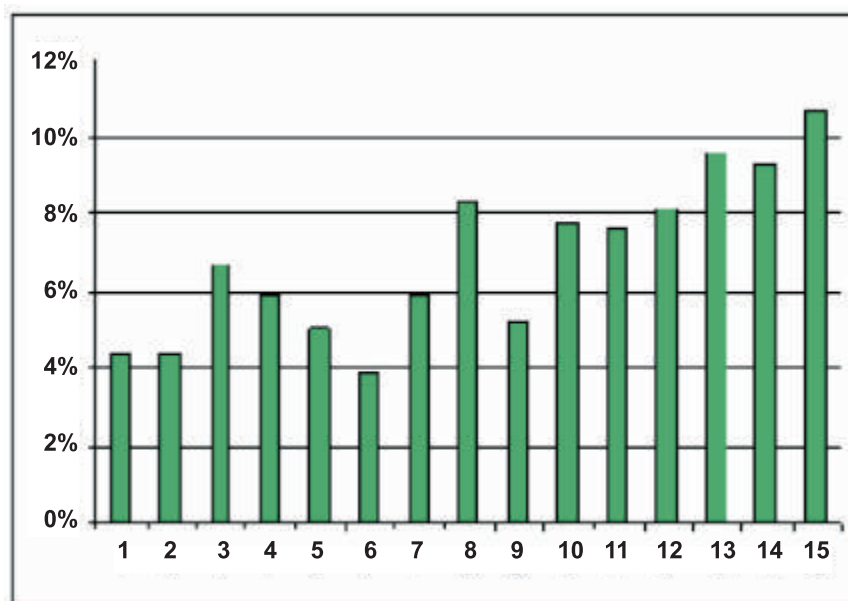
for women's representation at the grass roots level. The report, it is argued, served as an eye opener for the government, policy makers, experts and activists on the extremely low status of women and the wide gulf between the constitutional right to equality and the practices in reality. However, the writers of the report failed to notice the need for women's reservation in the parliament. As Lotika Sarkar and Vina Mazumdar acknowledge in their note of dissent on the report, special representation of any form was criticized as a legacy of the colonial period which institutionalized backwardness of certain sections. But as they noted, continuing under and narrow representation prevented women from proper participation in the decision making process in the country. Thus they recommended reservation for women in the decision making process as "the theoretical principle of equality in the context of unequal situations only intensifies inequalities"⁸. The committee, however, in light of such issues, only recommended constitution of women panchayats and reservation for women in municipalities.

In 1993 the 73rd and 74th Constitutional Amendment Acts were enacted, which aimed at progressive devolution of political powers to local bodies. Under these enactments one-third of the

total number of seats in the local bodies were to be reserved for women. Thus, "more than one million women for the first time in history enjoyed political power within local communities"⁹. However, women's reservation became a topic of debate with the appearance of the 81st amendment bill, the Women's Reservation Bill (WRB), proposing reservation of 33% of seats in the parliament for women. The WRB (now the 108th Amendment Bill) is a pending bill that proposes to reserve 33% of all seats in the Lower House (Lok Sabha) and in all state legislative assemblies for women. The bill has been passed by the Upper House (Rajya Sabha) but is yet to be voted on by the Lower House.

In addition to reservation of one-third of the total number of seats in the Lok Sabha and the state legislative assemblies, the bill also seeks to reserve one-third of the total number of seats reserved for the Scheduled Castes and Scheduled Tribes for women of these groups in the Lok Sabha and the state legislative assemblies. The reserved seats shall be allotted by rotation to different constituencies and reservation of seats shall cease to exist after 15 years of the commencement of this amending act.

Figure 1: Percentage of women MPs from 1st to 15th Lok Sabha¹⁰



Source : PRS Legislative Research

Since the introduction of the bill, strong debates have ensued regarding reservation for women. Those in favour argue that such reservation is essential for breaking the patriarchal image of Indian politics and better representation of women's interests. Arguments made against women's reservation range from opposition to the notion of reservations in general, i.e. reservations negate the principle of equality, to questioning women's capability. What complicates the debate further is the 'quotas within quotas' position wherein it is argued that since women are not a socially homogeneous group such reservation would not guarantee representation to women from all social communities; it is feared that only the interests of the educated, the more vocal and middle-class women would be represented. Secondly, it is also suggested that instead of reservation of seats in the parliament, political parties should have internal quotas.

Why 33%?

Dominance of men in politics is a worldwide phenomenon. As on June 2008, women accounted for only 18% of the parliamentarians worldwide. (Figure 1 represents the percentage of women in the lower house of the Indian Parliament over the years). This is not due to any legal restriction; in most countries women have the right to vote, support, campaign and themselves run for office. In both rich and poor countries women's access to public office is restricted by voter and party bias in favour of male politicians. Also, development does not automatically pave the way for women in decision making. Hence, gender quotas play a very important role as there is no automatic

manner of instituting more women in decision making positions.¹¹

The Women's Reservation Bill, thus, proposes to reserve one-third or 33% of seats in the lower house of the parliament and the state legislatures. 33% reservation is advocated on the basis of 'critical mass theory', which stems from the seminal works of Rosabeth Moss Kanter (1977) and Drude Dahlerup (1988). Kanter studied an American corporation with socially and culturally diverse population in terms of sex, race and ethnicity. She found that in a 'skewed' group with the proportion 85:15, the numerically many – the 'dominants' – control the group's culture, while the numerically few – the 'tokens' – are reduced to symbolic representatives of their social category.

Additionally, in a 'titled' group with a proportion of 65:35, the minority is able to pursue interests outside role stereotypes.

Token representation, marginality, harassment, the Queen Bee Syndrome, exclusion from the informal network were some of the problems Dahlerup recognized that have been addressed in the literature on women as a minority. Taking Kanter's work further onto women in politics, she argued that minorities in proportion ranging from 15 to 40 are strong enough to begin to influence the culture of the group.

Notion of critical mass, borrowed from physics, Dahlerup writes, refers to the quantity needed to start an irreversible process. By analogy then, a large minority (such as 30% of a population) can make fundamental change, even if still a minority. Taking 30% as the 'critical mass' for a minority to make a difference, she studied its impact on the Scandinavian parliament, which at

the time of the study had 1/4th to 1/3rd of its seats occupied by women.

Women in great numbers, argues Dahlerup, help in changing politics at workplace. Also, women in great numbers encourage the participation of more women. However, the willingness and ability of the minority to mobilize the resources of the organization or institution to improve the situation for themselves and the whole minority group is more significant. Thus, she suggests that the concept of critical mass be replaced with the concept of critical act.

In 1990, the United Nation's Economic and Social Council endorsed the implementation of measures to reach a target of 30% women in national legislatures by 1995. Many countries therefore decided to implement this 'fast track' route to tackling structural discrimination and increasing female participation. However, Madhu Kishwar argues that there are inherent problems of applying the 'magic number' of 33% for reservation in the Indian context. Reservation quota for the minority groups – the scheduled castes and scheduled tribes- was determined on the basis of their proportion in the overall population. Extending the same logic to women's reservation would imply reservation of 49% seats as the proportion of women to men in India is a little less than 50%.

What has been the impact of political reservation?

Political participation along with education and employment are considered as significant contributors towards the attainment of United Nations Millenium Development Goal three- promote gender equality and empower women. Likewise, studies have shown how political

reservation for women at the local body level has benefitted them and the women in general.

According to Vidhu Verma, reservation has led to questioning of four myths – that woman are disinterested in local politics; that only the elite-well to do women participate; that private, kinship and feudal ties impinge on the role of women as representatives and that they serve only as proxy leaders. Verma further adds that local body reservation has been able to provide wider representation to diverse socio-economic groups: it has given rise to many new leaders and visibility to women from weaker sections. Additionally, it has given women access to a non-material political resource- leadership. Likewise, political representation has increased the status of women leaders within the family and the community.¹²

On the basis of her study of two villages in Orissa, Evelyn Hust¹³ argued that the most notable gains that women made from local body reservation was that of increased mobility, the right to mix with other people, enhanced status and increased self confidence. She viewed "... the most important aspects of empowerment in the symbolic recognitions of women's political role and in fact, that women in general had a new access to their elected representatives."¹⁴

However, local body reservation is also not free of limitations. Mary John argues that there is no denying the democratic potential of these reservations as it brought in some of the most disenfranchised rural population into local governance. "On the one hand, women have been genuinely empowered to re-examine their lives, recognize the sources and structures of power and their own subordination; but this is

rarely brought into alignment with the fundamental shortcoming in the very structure of the panchayats themselves, conceived as a mere extension of the centrally constructed vision of development, and, in fact, the last cog in the big administrative machine of each state.”¹⁵

Vidhu Verma points out that several of the shortcomings associated with women’s participation in local governance are limitations of the larger social framework and structure. For instance, it is argued that women leaders are unable to participate like their male counterparts: their absence from panchayat proceedings has often been noted. This arises from the expectations of their social role of taking care of household chores. Additionally, although such reservation has given rise to many new women leaders but rarely have these leaders been able to rise up the ladder. Such structural constraints along with gender insensitive state bureaucracy and blatant sexual harassment work against women in their role as local leaders.

Argument for gender quotas: Results from econometric studies¹⁶

Rotational constituency for women under the 73rd and the 74th Constitutional Amendment Acts has provided the right setting to conduct econometrics experiments. Several of such experiments have indicated why one must choose women leaders over men. Behavioural studies in a variety of cultural contexts have shown that men are more individually oriented (selfish) than women. Women, on the other hand, exhibit helping behavior, vote based on social issues, score more highly on integrity tests, take stronger stances on ethical behaviour and behave more generously when faced with economic decisions.

David Dollar, Raymond Fishman and Roberta Gatti (1999) examine the relationship between female participation in government legislatures and the level of perceived corruption in a sample of more than 100 countries and find a strong, negative, and statistically significant relationship between the proportion of women in a country’s legislature and the level of corruption. In addition to promoting gender equality, their results indicate that bringing more women into government may have significant benefits for society in general.

According to the study of Raghavendra Chattopadhyay and Esther Duflo (2004), the nature of public goods provision changes depending on the gender of the elected representative. Using data from 265 village councils in West Bengal and Rajasthan they find that women elected as leaders under quotas invest more in the public goods more closely linked to women’s over men’s concerns; such as drinking water and roads over education in West Bengal and drinking water over roads in Rajasthan.

Radu Ban and Vijayendra Rao (2006) on the basis of data collected from panchayats in South India test the argument that quotas result in token appointments whereby the women who are appointed by the elites are poorly educated and aged. They do not find evidence in favour of this argument. However, they do find that women perform better than men in situations where they have more political experience, live in villages less dominated by upper castes, and in states where the panchayat system is more mature.

Lori Beaman, Raghavendra Chattopadhyay, Esther Duflo, Rohini Pande and Petia Topalova (2009) test in their study if the presence of

women representatives reduce the bias against women. They found that villagers who had never had a female leader preferred male leaders and perceived hypothetical female leaders as less effective. Exposure to a female leader though did not alter villagers' preference but it weakened stereotypes about gender role and effectiveness as a leader. They note that over time the bias against women leaders is likely to go down.

Sonia Bhalotra, Irma Clots-Figueras and Lakshmi Iyer (2012) studied whether women's electoral success at the village level induced greater female political participation in subsequent state elections. Using data on state-level elections between 1980-2007, they showed that electoral victory for a woman led to a large and significant increase in the share of female candidates from major political parties in the subsequent elections, almost half of whom were new female candidates.

Should reservations be introduced into the National Parliament: Women's Reservation Bill - The Debate

The Swadeshi movement (1905-08) in Bengal is said to have marked the beginning of participation of women in nationalist activities in India bringing along the demand for suffrage. Although women's suffrage in India is argued to have been achieved much earlier and easily as compared to the west, it was accused of being very limited in scope, restricted to the literate, propertied or married to a propertied man - in urban areas.

Demand for reservation of seats and special electorates for women, on the other hand, from the very beginning saw opposition on the

grounds of such demands being anti-nationalist. In spite of such opposition, the Government of India Act of 1935 granted reservation to women in the provincial and central legislatures. There were thus 80 women legislators after the 1937 elections making India the country with the third highest number of female legislators, after the United States and the Soviet Union.

The demand for political representation of women in parliament was raised in 1996 with the appearance of the Women's Reservation Bill (WRB) and debates on it continue. The arguments made in favour of the WRB are that such reservation is essential for breaking the patriarchal image of Indian politics and better representation of women's interests. Reservation, it is argued, would create equality of opportunity in order to make real the formal equality as given by the Constitution¹⁷. Menon quotes Vasanth and Kalpana Kannabiran, who argue that women's participation in the political process is required for strengthening democratic traditions as well as to fight oppression. The various levels of power relations operating in the society, from the most personal to the highly public, obstruct women's participation, hence, it becomes necessary to appropriate spaces in mainstream political arenas in order for them to be able to participate unhindered.

Menon highlights that the women's movement activists who had rejected women's reservation in parliament on nation-building grounds in the 1975 report prepared for the UN year of women, were the ones to demand for it in 1996. The reason for this change in attitude in the interim period, as per Menon, can be attributed to the emergence of women as a significant force in

politics; emergence of vocal and visible autonomous women's groups around the emergency, protesting against corruption to violence against women. Another reason for the support to women's reservation in the parliament, she opines, was the upper-caste unease with the changing caste composition of the parliament with the growing presence of the backward castes. This primarily upper caste support for the WRB as it exists, without the sub-quotas, according to Menon, reflects the concerns of the same interest group which ironically opposes the WRB as it opposes reservation in general.

Do we need sub-quotas?

The main opposition to women's reservation in parliament, however, has been made on the grounds of sub-quotas for women from the OBCs and the Muslims, and additional quotas for Dalit. It is argued that a blanket reservation policy would only bring in the privileged upper class and upper caste women.¹⁸ However, this caste based opposition (as labeled by Menon) stemming particularly from politicians and writers writing on the backward castes, argues John, has frequently been mislabeled by the media as patriarchal opposition. However, what is interesting about the debate on the WRB is not only the overt opposition from the advocates of the backward classes but also the reluctance of the same political parties that had earlier supported reservation for women in the local bodies. John argues that the silence of the supporters rather than the protest of those who oppose the bill has done more to stall it. "It is the silent sub-version of the 'ayes' - and not the noisy disruption of the 'nays' - that has been most responsible for the fourteen years of exile endured by this Bill".¹⁹ This

silent inaction of the political parties can, as some have argued, be attributed to the potential threat of the bill to the gendered status quo within the party thus bringing to the forefront "...the unspoken patriarchies that are at work behind the scenes in every political party"²⁰. John further argues that interlocking structures of exclusion prevent the emergence of representative women politicians. Patriarchies are diverse and unequal and OBC women are particularly trapped within low levels of education, absence of property rights and powerful ideologies of domesticity.²¹ Thus sub-quotas are required for their greater political presence.

Vidhu Verma highlights that the demand for sub-quotas for OBCs and Muslims is not within the original mandate of the Constitution. Thus it needs to be accompanied with demand for constitutional modifications in this regard. She states that the OBC community in general is not politically and electorally marginalized. Thus, while there has been demand for their reservation in education and employment, there has not been any for their representation in legislature as they are fairly well represented politically. The demand for political reservation for only OBC women, she adds, thus needs to have sound factual details of who the OBC women are, as it is a diverse category. She further states that "the arguments over sub-quotas prove that gender as a legitimate political category is less than religion, caste, class and tribe and these group identities would have to be negotiated before pressing for reservations for women..."²². However, women must be

considered as another social category that is politically relevant; they share discursive marginalities. And an argument for sub-quotas loses the larger appeal of bringing in 50% of the population that is outside either power or influence.

Madhu Kishwar provides a different angle to the caste criticism of the WRB. She argues that within the backward caste based parties the automatic beneficiaries would be the few upper caste women “but the chances are that we will be saddled with more ‘biwi-beti’ brigades because OBC leaders are likely to resort to fielding their mothers or sisters or wives to ensure that the women’s quota stays within their caste control and women legislators do not pose any challenge to their power”.²³ However, it is argued that dynastic politics is not limited to women; many male political leaders are in power due to their dynastic affiliations.²⁴

Kishwar also opposes the WRB on the grounds that it would lead to confinement of women to only the reserved number of seats in the Parliament, and not more. Women’s representation, she argues, is likely to be ghettoized to the reserved constituencies which as per the bill would be determined by way of draw of lots. An unpredictable and rotating constituency on the other hand, Kishwar argues, would result in killing the incentive of the elected representative to responsibly serve the constituency as in the next term the constituency may not be reserved. Nivedita Menon categorizes such an opposition to the WRB as a feminist or a pro-women critique as it focuses on the interests of women.

Can quotas be transformative?

The alternatives suggested to the WRB include the argument that instead of state implemented reservation in the parliament, political parties should have internal reservation for women candidates. Further, instead of rotational constituencies, there should be multi-seat constituencies. These recommendations are viewed to be more rational and democratic alternatives.

With 41.4% female parliamentarians, the high performing Nordic countries have an alternate method of ensuring high political representation of women - internal quotas. Here quotas were first introduced in the 1980s, when women already occupied a significant proportion of 20-30% seats in the parliament. These quota provisions were only voluntarily implemented, within some political parties, and not legally or constitutionally mandated, in an electoral system based on proportional representation (which by itself is also considered better at ensuring women’s representation than majority system). The incremental track of gradual increase in women’s political representation in these countries took around seventy years to cross the 30% threshold. But for this change to have happened they needed to have a strong power base: if women did not already have a strong power base it would have been impossible to introduce quotas.²⁵ The incremental track model is opposed to quotas as fast track i.e. in countries where women constitute only a small minority, gender quotas serve the purpose of kick-starting their entry into politics.

Even if a single party implements internal quotas

for women, it can have lasting effect on women's political participation. For instance, in Germany, the Greens pioneered the use of gender quotas in the 1980s, requiring at least 50% of electoral list places to go to women, with the top slot reserved for a female candidate. "As increasing numbers of their female voters began defecting to the Greens, the Social Democrats quickly adopted a gender quota too. They now require both men and women to have no less than 40% and no more than 60% of the slots on their electoral lists."²⁶

Politics is, however, one of the several spheres of decision-making where women are under-represented. Gender quotas are required in the corporate boardrooms as well, especially with the curtailment in the role of the state in the economy. But it must be noted that implementation of quotas for women by itself cannot guarantee transformation and the

removal of all obstacles in way of women's equality. Quotas can only be so effective as long as the broader social and structural constraints don't dilute its gains. It certainly guarantees representation to some women who would not only encourage more women to participate and thereby increase female leadership, influence policy outcomes, provide new access points to those not in power and reduce gender discrimination in the long term. There is, however, a need to internalize gender equality in all spheres, starting with equal pay for equal work as well as equal share of work to reduce the double burden of women. The design of a particular policy such as gender quotas is also significant in determining its success. Therefore, it becomes important to distinguish between implementation of quotas as a goal in itself and quotas as a means to an end.

Endnotes

¹ Stanford Encyclopedia of Philosophy

² Dr. Mary E. John, GEPD forum VI, March 2013

³ Christophe Jaffrelot, "The Impact of Affirmative Action in India: More Political than Socioeconomic," *India Review*, Vol. 5, No. 2 (April, 2006)

⁴ Ashwini Deshpande, "Quest for Equality: Affirmative Action in India," *IJIR*, Vol. 44, No. 2 (October 2008): 161

⁵ *Ibid.*

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