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NIAS

CAN DUAL-MEMBER CONSTITUENCIES BE THE WAY
FORWARD FOR WOMEN'S RESERVATION?



NATIONAL INSTITUTE OF ADVANCED STUDIES

Bangalore, India

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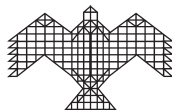
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EXECUTIVE SUMMARY

The long delay in the passing of the Women's Reservation Bill has contributed to a growing tendency to ask whether the existing Bill built around a 33 per cent reservation for women is the best way forward. There has been a demand to consider dual-member constituencies as a way forward by academics like Medha Patil and Meena Dhanda. The National Alliance of People's Movements too has called for a campaign on a number of issues including "Instead of demanding 33% reservation for women in parliamentary institutions, let there be representation of both sexes from each constituency at every level of governance."¹

This report seeks to evaluate the option of dual-member constituencies as a way forward for women's reservation, in

comparison to the existing option based on one-third reservation of seats for women. In order to do so it first arrives at a set of three criteria: the extent of reservation; the extent to which the proposed model minimizes exclusion; and the impact it will have on the quality of representation in the polity as a whole.

In the current Bill one-third of the seats in the Lok Sabha and the State Assemblies are to be reserved for women. The reserved seats will be chosen through a process of rotation by draw of lots in such a way that a seat shall be reserved only once in three consecutive elections. And the reservations for women will cease after 15 years.

In terms of the extent of reservation the Bill allows for 181 out of the current strength of 544 seats to be reserved for

¹ Mass mailer from National Alliance of Peoples' Movements calling for support for the Lokshakti Abhiyan's campaign at various centres across India. Mail received from napmindia@napm-india.org. (accessed on 16 December 2011)

women. It does so by excluding men from one third of the constituencies. It tries to reduce the effect of this exclusion through a rotation of seats. But this rotation implies that the men elected to seats that are to be reserved in the next round have no possibility of re-election. To the extent that women who have won in reserved seats would find it difficult to win when the seats are made general, they too have very limited scope for re-election. In other words members elected to two-thirds of the seats in the Lok Sabha and State Assemblies will have little or no scope for re-election. These members would have very little incentive to nurture their constituencies. This would in turn affect the levels of accountability and the quality of representation.

The alternative that this report explores advocates converting all the existing constituencies into dual member ones, with one male and one female representative. This simple mechanism raises the extent of reservation for women

to 50 per cent, from the 33 per cent in the existing Bill. It does so without excluding men from any constituency in the country. There are also several aspects of this transformation that can contribute to improving the quality of representation. It allows the electorate to compare the performance of two representatives. It halves the number of citizens to MP ratio, which in India is currently among the highest in the world. As it does not involve rotation it allows individual parliamentarians to build a career around their service to their constituencies. It does not require the reservation to be stopped at any point as it guarantees representation in proportion to the gender distribution of the population.

The creation of dual member constituencies of the kind elaborated above will require amendments to the Constitution of India and other statutes. A draft Bill that would bring about these changes has been presented in Chapters 5 and 6.

APPROACHES TO WOMEN'S RESERVATION

More than a decade and a half after the Women's Reservation Bill was first introduced in the Lok Sabha, in 1996, it is yet to become law. Despite the Bill being passed in the Rajya Sabha in 2010 and the formal approval of most political parties, there is still a fair degree of uncertainty about when it would be considered by the Lok Sabha. Much of this delay could be attributed to the deep-rooted gender bias within the Parliament. This bias is reflected in the fact that the proportion of women in the Indian Parliament has been consistently less than 10 per cent.² The passing of the Women's Reservation Bill would then require a significant proportion of the male members of the Parliament voting against the interests of their gender. It is tempting to then see the delay in the passing of the Women's Reservation Bill as

no more than an unavoidable part of the battle with vested interests in the Parliament. But this reality brings with it another question: Is there anything in the current form of the Bill that is making it more difficult to pass?

To ask such a question when a particular version of the Women's Reservation Bill is under consideration can open us to the charge of being disruptive. It could be said that the entire effort must be to pass the current version of the Bill, even if it has flaws. But with Bills that have been tabled in Parliament in the past having lapsed, we cannot rule out a similar fate for the current Bill. The way forward would then not be in simply expecting what has failed in the past to succeed now. What is needed is fresh thinking that would result from a genuine revival of momentum on the entire

² Rajya Sabha Secretariat (2008) "Reservation of Seats for Women in Legislative Bodies: Perspectives", *Occasional Paper Series* 1/2008.

issue of reservation for women. And such a revival will be easier if we acknowledge that there has not been complete unanimity on what an ideal Women's Reservation Bill should look like, even among the strongest advocates of women's reservation. More recently there has been a case made for dual-member constituencies as the way forward in women's reservation by Medha Patil and Meena Dhanda. Lokshakti Abhiyan, which is a part of the National Alliance of Peoples Movements too has called for a campaign on a number of issues including "Instead of demanding 33% reservation let there be representation of both sexes from each constituency at every level of governance."³ Is it time then to ask whether some of the other suggestions stand a better chance of success?

There is of course a danger that is built into this question as well. It is quite possible, even likely, that the easiest law to pass would be the one that offers only cosmetic change, if that. The ease with which a Bill becomes law cannot then be the sole criterion for deciding the value of a particular approach to women's reservation. We would need to also focus on what the Bill would actually

achieve and how it should go about doing so. And it is here that the debate reflects considerable diversity. There are differences over the ideal points of intervention, with some preferring to intervene within political parties at the time when candidates are chosen,⁴ while others prefer to step in at the point of the actual elections by reserving constituencies for women. Among those who focus on reserving constituencies too there is considerable difference between those who demand that a third of the existing constituencies be reserved for women⁵ and those who would like to find place for women in the Parliament through the device of multi-member constituencies.⁶ Each of these approaches will have different consequences for the composition of the Parliament. These consequences would have to be evaluated before we can decide whether the form of reservation in the Bill passed by the Rajya Sabha in 2010 is the best, and only, way forward.

In evaluating these consequences we will be influenced, implicitly if not explicitly, by our approach to the question of justice, in this case gender justice. If we formulate the issue in abstract without considering the

³ Mass mailer from National Alliance of Peoples Movements calling for support for the Lokshakti Abhiyan's campaign at various centres across India. Mail received from napmindia@napm-india.org. Accessed on 16th December 2011.

⁴ Narayan, J., D. Sheth, Y. Yadav and M. Kishwar (2000) 'Enhancing Women's Representation in the Legislatures: An Alternative to the Government Bill for Women's Reservation', *Manushi* 116: 5-9.

⁵ The Constitution (One Hundred and Eighth Amendment) Bill (2008) also called the Women's Reservation Bill (2008).

⁶ Nanivadekar, M. (2003) 'Dual-Member Constituencies: Resolving Deadlock on Women's Reservation', *Economic and Political Weekly* 38 (43): 4506-10.

conditions that exist on the ground we could come up with a system that we believe will be perfect and then worry about the process of implementing it later. Such a system would begin with the ideal and then compromise in the effort to get it implemented. Alternatively we could be much more sensitive to conditions on the ground. We would then be much more likely to come with a system of reservation that recognizes the various interconnections between reservation for women and the larger issue of reservations. The systems of reservation for women that arises from these two approaches are unlikely to be the same.

In putting the debate on women's reservation through this filter, it is useful, following Amartya Sen, to make a distinction between two broad approaches to intervention in favour of justice, including gender justice. The first approach, which Sen calls 'transcendental institutionalism', has two dimensions. "First, it concentrates its attention on what it identifies as perfect justice, rather than relative comparisons of justice and injustice. . . . Second, in searching for perfection, transcendental institutionalism concentrates primarily on getting the institutions right, and it is not focused on the actual societies that would ultimately emerge."⁷ The emphasis here is on the ideal, both in the prescriptions for reservations as well as in the institutions that

are to be used to ensure effective reservations for women in Parliament.

In contrast with transcendental institutionalism, there is the alternative approach which Sen calls, 'realization focused comparison'. This was the approach of a number of other Enlightenment thinkers who "took a variety of comparative approaches that were concerned with social realizations (resulting from actual institutions, actual behaviour and other influences). . . . Even though these authors, with their very different ideas of the demands of justice, proposed quite distinct ways of making social comparisons, it can be said, at the risk of only a slight exaggeration, that they were all involved in comparisons of societies that already existed or could feasibly emerge, rather than confining their analyses to transcendental searches for a perfectly just society."⁸ In this approach what matters is that the proposed change leads to a situation that is better than what exists, without being preoccupied with defining the ideal.

The debate on women's reservation reflects this dichotomy. At one end we have the approach of those who have worked out an ideal in abstract. For many of them actions that do not lead to the creation of that abstract ideal are often not worth pursuing. For instance, Menon claims that "the link between reservations in parliament

⁷ Sen, A. (2010) *The Idea of Justice*, New Delhi: Penguin Books, pp. 5-6.

⁸ Sen, A. (2010) *The Idea of Justice*, New Delhi: Penguin Books, pp. 7.

and “empowerment” of women is at best tenuous, may even be a way of closing off possibilities of further radicalization of Indian politics... If we attempt to recover feminist politics as subversion,we would need to move away from politics as merely seeking space within already defined boundaries of power”.⁹ Similarly Rai argues that “political representation would be a strategy of recognition rather than redistribution, thus limiting its transformative potential.”¹⁰ Even among those who are less dismissive of reservations, the precise details of what can be considered ideal has tended to vary quite considerably. But whatever the preferred ideal, they have typically been worked out in abstract with only minimal, if that, explicit analysis of the local reality within which they will have to work. The main focus has been on the abstract ideal and the effort to push this ideal through the most important institutions of a democracy, including and especially, parliament. This approach would be a good example of transcendental institutionalism.

At the other end, we have the approach of those who believe that in search of a perfect solution we are losing the forest for the trees. In Nanivadekar’s words:

“But we need not insist on a perfect solution as long as the one available is sufficiently satisfactory. We have been coping with so many imperfect systems and processes for all these years, be it our method of election based on the principle of ‘first past the post’ that elects or defeats the candidate with the margin of just one vote over her/his nearest rival, our undemocratic party structures, criminalization of politics, fragmented polity leading to unstable governments - all these issues easily qualify as red hot targets for perfectionism. If we really want perfection, let us not begin and end our perfectionism with the issue of women’s reservation alone.”¹¹

This approach of accepting the social realities and formulating solutions by learning from the existing experiences could also be associated with the effort to reserve seats for women in local bodies. These reservations have been introduced in the Panchayati Raj institutions of different states. In these cases the reservation of seats for women has been closely linked to other reservations, including those based on caste.¹²

⁹ Menon, N. (1997) ‘Reservations and Representation’, *Seminar*, Special Issue on ‘Empowering Women’, 457:41.

¹⁰ Rai, S. M. (1999) ‘Democratic institutions, political representation and women’s empowerment: The quota debate in India’, *Democratization* 6 (3):87.

¹¹ Nanivadekar, M. (2003) ‘Dual-Member Constituencies: Resolving Deadlock on Women’s Reservation’, *Economic and Political Weekly* 38 (43):4507.

¹² Karnataka is a good example of such reservations, with seats being reserved in Panchayati Raj Institutions not just for the Scheduled Castes and Scheduled Tribes, but also for Backward Castes and women.

This approach is much more sensitive to conditions on the ground, and to the possibility of ensuring that the reservations are implemented. Indeed, the reservation for women in Panchayati Raj bodies has been implemented in states where the local social dynamics are known to be dominated by a very strong gender bias against women. The focus here is on the working of the system, whether the resultant situation is better or worse than the earlier one. Thus, though it is widely known that husbands often take decisions on behalf of the wives holding an elected position in a panchayat, there is the possibility that the exposure of the women to political power will contribute to an improvement in their status over time. This approach would appear to be an example of 'realization focused comparison'.

In citing the example of reservations for women in panchayat institutions we must not give the impression that what works at the local level will necessarily work at the national level. Those who have closely followed the operation of reservation for women in rural local bodies have noticed that there is a distinction in the operation of reservation at the different levels of local bodies. The village panchayats, being concerned with local issues alone, tend to find a prominent place for caste in their decision making. As we move to the district level bigger players enter the field and class

becomes a more important factor.¹³ It would be natural then to expect that the stakes to be much higher at the national level. The models of reservation that can be implemented at the local level cannot then be simply replicated at the national level.

When we ask the question whether some of the models of reservation for women would have a better chance of success (both in terms of implementation as well as the impact on the role of women) than the one adopted in the Bill, we are in effect moving to a 'realization focused comparison'. We would like to compare what is, or can be, realized from each of the Bills. Implicit in such a comparison is what we consider to be a success. Any meaningful criteria of success would include both the possible effects of the proposals as well as likelihood of it moving towards the goal of gender equality and justice.

Subjecting the various prescriptions that have been made in the course of the debate on the Women's Reservation Bill to this test would be a time-consuming task. If we take into account the details of each suggestion, there are a very large number of options available. But to the extent that many of these suggestions share some broad characteristics such a detailed analysis would be repetitive. We would then be better off classifying the suggestions into broad

¹³ We are grateful to Nirmala Buch for pointing this out at the National Workshop on 'Can dual-member constituencies be the way forward for women's reservation?' National Institute of Advanced Studies, Bangalore, December 14, 2011.

categories and then evaluating a representative version of each of them.

At the risk of oversimplification we could argue that there are three broad options available. First, we could change the way political parties function so that they offer a greater number of seats for women. Second, we could reserve a certain proportion of the seats for women, as in the current Bill with rotation of the reserved constituencies being taken as the representative version. And third, we could consider the option of multimember constituencies, with dual membership with one from each gender being taken as the representative version.

In the interests of a more focused debate we may be better off reducing the options to two, by placing on the backburner the option of intervention in the functioning of political parties. For this option to be considered realistically, we would need to have political parties with credible mechanisms of internal democracy. In a situation where most parties get even their existing democratic institutions to simply pass resolutions leaving decisions to the

‘High Command’, the scope for meaningful intervention is very limited. Even the best intentioned initiatives could end up being distorted to suit the gender bias of the party. For instance, the suggestion that political parties must be required to give a certain proportion of their tickets to women could be easily distorted by offering seats to women where the party has no chance of victory. This report therefore focuses on comparing the existing Women’s Reservation Bill with an alternative that is based on dual-member constituencies.

In what follows, we begin by reviewing the literature on reservations to arrive at a set of criteria for success. We then go on to evaluate the current Bill in terms of those criteria. This is followed by the same exercise being carried out for reservations based on dual-member constituencies with one member of each gender. We then go on to identify the specific changes needed in the Constitution for dual-member constituencies to become reality. Finally, we have an alternative draft of the Women’s Reservation Bill prescribing dual-member constituencies.

CRITERIA TO EVALUATE A WOMEN'S RESERVATION BILL

It would be useful to begin our search for effective criteria to evaluate alternative women's reservation Bills with an explicit recognition of the role of abstraction. A version that is worked out entirely in the abstract may be very attractive theoretically, but it runs the risk of being an ivory tower approach to the issue. It could emphasise apparently major changes that do not have much of an effect on the ground. It could also choose to ignore interconnections – such as the ones with caste-based reservations – that are an unavoidable part of Indian reality. The effectiveness of such a prescription would only be decided when it is placed in the context of current reality. It may then be better to begin from the other end. We could remind ourselves of the aspects of the current reality that have made reservations for women in Parliament a dire

necessity. We can then explore the possible link between such reservations and the larger well-established approaches to reservations in India. This will help us arrive at the relevant theoretical criteria that would determine the quality of reservations in India.

THE EXTENT OF RESERVATION

The evidence of discrimination against women is so substantial and widespread that it does not need to be elaborately recounted here. Indicators ranging from protein intake to sex ratios all show a deep-rooted gender bias. The provisional results of the 2011 Census reveal a national sex-ratio in India of 940 women per every thousand men. The child sex-ratio, calculated for children in the age group 0-6 years, for the year 2011 is 914 girls per 1000 boys.¹⁴ This is the lowest recorded child sex-ratio in India after

¹⁴ Office of Registrar General and Census Commissioner, Ministry of Home Affairs, Government of India (2011) *Census 2011: Provisional Population Totals*. Available at: http://www.thehindu.com/multimedia/archive/00517/India_Census_2011517160a.pdf (accessed on 08 December 2011).

Independence. It is estimated that prenatal sex selective abortion and infanticide have resulted in half a million missing girls per year.¹⁵ The very large number of crimes against women has led women's rights activists like Ms Ranjana Kumari, President of Women Power Connect to speak of discrimination from 'womb to tomb'.¹⁶

To make matters worse, any faith that development and modernization would lead to a decline in discrimination is proving to be much too sanguine. Some of the worst child-sex ratios are to be found in the developed districts of Punjab and Haryana. Modern technologies have played a crucial role in the practice of female foeticide. And the movement from a rural agrarian society to an urban one also does not offer much relief. On the contrary the work participation rate of women, according to the 2001 Census, is substantially lower in urban areas, at 11.6 per cent, than in the rural areas where it is 31 per cent.¹⁷ There is also little evidence that urbanization leads to a decline in practices such as female foeticide and infanticide, differential access to food and medicine, child marriage and sexual or

psychological abuse, domestic violence, and elder violence. The case for a gender sensitive policy regime thus stares us in the face.

In theory it could be argued that an elected representative represents all who have voted him or her to power. As the electorate consists of both men and women, the elected representatives can be expected to represent the interests of both genders. But the conditions that exist sixty-four years after Independence suggest that this is far from being true. The magnitude of gender disparities points to elected representatives themselves being perpetrators of gender bias. It would seem to endorse the suggestion of Philips that one cannot expect from any other group the "degree of vigorous advocacy that people bring to their own concerns".¹⁸ It is now quite clear that women have very specific needs and expectations from their elected representatives; aspirations that are not being addressed by male elected representatives.

The fact that men do not take care of women's interests does not automatically imply that women will do so. It can be argued

¹⁵ United Nations Economic and Social Council for Asia and Pacific. (2007) *Violence Against Women: Harmful traditional and cultural practices in the Asia and Pacific Region*. Available at: http://www.unescap.org/ESID/GAD/Publication/Others/Publication_EGM-VAW.pdf. (accessed on 08 December 2011)

¹⁶ Cited in United Nations Economic and Social Council for Asia and Pacific. (2007) *Violence Against Women: Harmful traditional and cultural practices in the Asia and Pacific Region*. Available at: http://www.unescap.org/ESID/GAD/Publication/Others/Publication_EGM-VAW.pdf. (accessed on 08 December 2011)

¹⁷ Office of Registrar General and Census Commissioner, Ministry of Home Affairs, Government of India. (2001) Census 2001: Work Participation Rate. Available at http://censusindia.gov.in/Data_Products/Library/Post_Enumeration_link/eci6_page3.html. (accessed on 08 December 2011)

¹⁸ Phillips, A. (1995) *The Politics of Presence*, Oxford: Clarendon Press.

that gender bias is part of an overarching system of patriarchy which can dominate the mindsets of both men and women. The phenomenon of women representatives allowing their husbands to play a role in panchayats is well known. Stéphanie Tawa Lama-Rewal in fact reports that the agenda of the house did not change as a result of women's presence in Calcutta Municipal Council.¹⁹ But this is not a universal finding. There is also evidence of reservations for women playing a positive role in the functioning of elected bodies. Chattopadhyay and Duflo report from their village level research in two districts, Birbhum in West Bengal and Udaipur, in Rajasthan that "women invest more in goods that are relevant to the needs of local women" and also challenge the scepticism that women or Scheduled Castes (SCs) are not capable of being independent leaders.²⁰ According to their results, "Despite the handicaps they may face in terms of education and prior experience, and the preconception of weak leadership, women have a real impact on policy decisions". Duflo argues that although reservation "brings to power a group of relatively inexperienced and less-educated politicians, there is no evidence that this

comes at the expense of the quality of decision making".²¹ She recommends reservation as a 'powerful redistributive tool'. Thus while it may be much too sanguine to expect the mere act of reservation for women in elected bodies to completely destroy the patriarchal system, there is enough evidence to suggest that the greater presence of women in the Parliament and State Assemblies is needed to even begin the movement towards gender equality. It is no doubt useful to emphasise the distinction between presence and participation.²² We cannot take the mere presence of women in Parliament to mean that they would participate effectively in that institution. But it is obvious that if they are not even present the question of participation, effective or otherwise, does not arise. Goetz and Hassim consider to what extent increasing the numbers of women in elected legislatures will help to produce gender-sensitive policies and better accountability to women. They further identify three conditions that will help convert a 'descriptive' representation to a more substantive one. They say that the nature of the state, nature of the civil society and the nature of the political system are important factors that could ensure a more

¹⁹ Lama-Rewal, S. T. (2008) 'Women in the Calcutta Municipal Corporation' in M. Dhanda(ed) *Reservations for Women*, pp. 197-244. New Delhi: Women Unlimited.

²⁰ Chattopadhyay, R. and E. Duflo. (2003) 'The Impact of Reservation in the Panchayati Raj: Evidence from a Nationwide Randomised Experiment', *Economic and Political Weekly* 39(9): 979-86.

²¹ Duflo, E. (2005) 'Why Political Reservations?', *Journal of the European Economic Association* 3(2-3): 668-78.

²² We are grateful to Nirmala Buch and Gopal Guru for emphasising this fact at the National Workshop on 'Can Dual-Member Constituencies be the way forward for Women's Reservation?' National Institute of Advanced Studies, Bangalore, December 14, 2011.

substantive role for women in politics. They offer the example of Uganda to illustrate the limitations of quotas in specific contexts, pointing out how new seats were created for women, removing them from normal competition for ward councillor seats, making them ‘seem lesser politicians’.²³

The fact that patriarchal functioning is not the domain of men alone also influences the nature of reservations. If we believed that women alone could act on women’s issues and these issues were completely separate from the other issues involved in the process of democratic representation, the ideal response would be to have separate constituencies for women with women alone forming the electorate for those constituencies. But since the target is the larger system of patriarchy which involves the beliefs of both men and women, it is necessary for women to bring gender equality based worldviews into the larger process of policy making. Women would have to demonstrate that they are in elected bodies not to merely look after the grievances of their gender, but that they have an alternative worldview that, with its gender equality, would offer a more effective system of governance. Playing this larger role would require them to appeal to not just other women but also to men. The

meaningful form of reservation for women would then be in terms of seats rather than separate electorates.

Table 1: Number of Women Elected to Lok Sabha

General elections	No. of women elected	Percentage
First	22	4.40
Second	27	5.40
Third	34	6.70
Fourth	31	5.90
Fifth	22	4.20
Sixth	19	3.40
Seventh	28	5.10
Eighth	44	8.10
Ninth	28	5.29
Tenth	39	7.02
Eleventh	40	7.36
Twelfth	44	8.07
Thirteenth	49	9.02
Fourteenth	51	9.51

Source: Website of Inter-Parliamentary Union (as on 31st May, 2008) ²⁴

The need to immediately push for an increase in the presence of women in national elected bodies is further strengthened by the abysmal levels of representation of women in the Lok Sabha. Women have been grossly under-represented in Indian politics despite numerous efforts. In the first Lok Sabha, the women occupied only 4.4 per cent of the

²³ Goetz, A.M., Hassim, S. (eds.) (2003). No shortcuts to power: African women in politics and policy making. Cape Town: Zed Books, p.246.

²⁴ Cited in Rajya Sabha Secretariat (2008) ‘Reservation of Seats for Women in Legislative Bodies: Perspectives’, *Occasional Paper Series* 1/2008.

seats and even after sixty-four years of democratic rule, only 10 per cent of the seats in the Lok Sabha have been represented by women members as is evident in Table 1. A similar trend holds true for the status of women's representation in Rajya Sabha which has also never crossed 12 per cent in the last six decades. The scene is not different when it comes to the representation of women in the State Assemblies. The average percentage of women members in the State Assemblies was 6.94 in 2008.²⁵

In order to see just how abysmal this level of representation is we need to place this performance in the global context.

As can be seen from Table 2, India's performance in finding place for women in its Parliament is extremely poor. As is perhaps to be expected, it is well below other established democracies like Sweden,

Germany and United States of America. What is more striking and worrisome is that it is below other countries like Uganda, which has poorer records in democratic functioning as well as Pakistan, where women apparently have lesser freedom. The global pattern also further strengthens the argument against expecting the presence of women to improve as a consequence of development. There is no clear pattern of the presence of women in Parliaments across the world being directly related to levels of development. There are developed countries that have done less well in getting their women to Parliament than some poor countries. This contrast is most striking when we compare countries like United States of America and Germany with Rwanda.

It is also important to note that the poor presence of women in Parliament is not a

Table 2: Global Trends in Women in Parliament

Rank	Country	Year	Seats	Women	Percentage of women
1	Rwanda	2003	80	39	48.8
2	Sweden	2006	349	164	47.0
3	Cuba	2008	614	265	43.2
13	Nepal	2008	568	191	33.6
16	South Africa	2004	400	132	33.0
18	Germany	2005	613	194	31.6
19	Uganda	2006	332	102	30.7
44	Pakistan	2008	338	76	22.5
51	China	2008	2987	637	21.3
69	USA	2006	435	73	16.8
106	India	2004	541	49	9.1

Source: Website of Inter-Parliamentary Union (as on 31st May, 2008)²⁶

²⁵ Rajya Sabha Secretariat (2008) 'Reservation of Seats for Women in Legislative Bodies: Perspectives', *Occasional Paper Series 1/2008*.

²⁶ Cited in Rajya Sabha Secretariat (2008) 'Reservation of Seats for Women in Legislative Bodies: Perspectives', *Occasional Paper Series 1/2008*.

case of progressive political parties failing to convince a reluctant electorate. The gender bias within the political parties is reflected in the number of women contestants they have chosen. Table 3 makes it quite evident that political parties are quite reluctant to put up women candidates.

What is even more interesting is that this reluctance is despite the fact that women candidates appear to do relatively better than men when seen in terms of the proportion of contestants who win. As Table 4 tells us the percentage of seats won by women in Parliament is consistently

Table 3: Gender-wise break-up of Contestants to Lok Sabha in General Elections (Sixth to Fourteenth)

General Elections	Total contestants	Number of men contestants	Number of women contestants
Sixth	2439	2369	70
Seventh	4629	4486	143
Eighth	5492	5330	162
Ninth	6160	5962	198
Tenth	4831	4517	314
Eleventh	13952	13353	599
Twelfth	4750	4476	274
Thirteenth	4648	4364	284
Fourteenth	5435	5081	355

Source: Website of Inter-Parliamentary Union (as on 31st May, 2008) ²⁷

Table 4: Comparison of percentage of contestants and percentage of seats won by women (from Sixth Lok Sabha Elections)

General Elections	Percentage of women contestants	Percentage of seats won by women	Percentage of men contestants	Percentage of seats won by men
Sixth	1.84	3.4	97.13	96.6
Seventh	3.04	5.1	96.91	94.9
Eighth	2.95	8.1	97.05	91.9
Ninth	3.21	5.29	96.79	94.71
Tenth	6.50	7.02	93.50	92.98
Eleventh	4.29	7.36	95.71	92.64
Twelfth	5.77	8.07	94.23	91.93
Thirteenth	6.11	9.02	93.89	90.98
Fourteenth	6.53	9.51	93.49	90.49

Source: Website of Inter-Parliamentary Union (as on 31st May, 2008) ²⁸

²⁷ Cited in Rajya Sabha Secretariat (2008) 'Reservation of Seats for Women in Legislative Bodies: Perspectives', *Occasional Paper Series* 1/2008.

²⁸ Cited in Rajya Sabha Secretariat (2008) 'Reservation of Seats for Women in Legislative Bodies: Perspectives', *Occasional Paper Series* 1/2008.

higher than the percentage of women contestants.

Thus more than six decades after Independence gender disparities are not only severe but this severity also shows few signs of abating. This situation can be traced to the very low presence of women in Parliament. There is thus an urgent need to correct the gender imbalance in Parliament. *The first criteria for judging a Women's Reservation Bill must then be the **extent of reservation** it offers.*

USING EXCLUSION TO FIGHT EXCLUSION

One of the inevitable dimensions of the use of reservation as a means of affirmative action is that it uses exclusion as an instrument to fight exclusion. It is based on the understanding that a section of the population is being excluded from positions of entitlement or influence. There is then a case for correcting this pattern by excluding the dominant groups by reserving these positions for those who have been previously excluded. Thus since the Scheduled Castes and Scheduled Tribes have been excluded from positions in government through the normal functioning of society, there is a case for reserving positions for this group. A similar case was also made out in the

Mandal Commission for reservation for Backward Castes. In the case of women too we have seen there is a strong case for reservations in Parliament and the State Assemblies.

The use of exclusion to fight exclusion can also be a double edged weapon. While it excludes those who are currently dominant to make place for the oppressed, it does not necessarily fight the oppression itself. It has been noticed that those who have been oppressed in the past often become no less oppressive when they come to power. The formerly oppressed may not always empathize with others who are oppressed.²⁹ If we were to target oppression as a whole and not just the oppressed it would be necessary to also consider whether the levels of exclusion in the systems after reservation are lower as a whole and not just for those who are currently excluded.

The overall levels of exclusion are particularly important when the reservations used to overcome the exclusion of women has an impact on exclusion on the basis of class and caste. There is the fear that reservations for women will be used by upper class women at the cost of the poorer ones. Madhu Kishwar, Shetkari Mahila Aghadi and Gail Omvedt believe that reservation for women is only a symbol of

²⁹ We are grateful to Dr Rajalakshmi Kamath for raising this issue at the National Workshop on 'Can Dual-Member Constituencies be the way forward for Women's Reservation?' National Institute of Advanced Studies, Bangalore, December 14, 2011.

tokenism and that reservation is pushed by women who are in the 'creamy layer'.³⁰ The fears of an upper caste takeover are, if anything even greater. Menon argues that the concern among the upper castes caused by the growing presence of backward castes through successive elections is a major reason for the upper castes to support women's reservation and the backward castes to demand for a quota-within-quota system within the Women's Reservation Bill.³¹

Understanding the Women's Reservation Bill based solely on the attitudes to women is an incomplete analysis. As Menon points out, "we tease out the strands in the debate, we find two sets of arguments for and against. There are feminist (or at least, pro-women) arguments for and against reservations for women, and (implicitly or explicitly) caste-based arguments for and against." She elaborates that in terms of the caste based arguments, people who oppose Women's Reservation Bill based on caste do so as they express a legitimate fear that only women from the upper castes would be elected and this would alter the composition of the Parliament in

favour of the upper castes and classes.³² Moreover studies on the impact of women's reservation in local bodies in Gujarat and Karnataka have found that women's reservation has led to greater assertion of power by dominant classes.³³ It is alleged that the upper castes support quotas for women as it would limit the increasing presence of the deprived classes in the legislative bodies, while the lower castes/classes oppose the present format for quota allocation saying that it would lead to an urban/elite takeover of the Parliament. Thus, there is both an experienced and perceived fear among certain groups that reservation could alter the existing composition of political representation.

There is, however, scope for another response to the same challenge. This response would focus on having more than one representative for a constituency. In such a case there would be a distinction between seats and constituencies, with each constituency having more than one seat. The reservation of a seat then would exclude others from contesting that seat, but there would be another seat available in the constituency for them to contest. This

³⁰ Kishwar, M. (1996) 'Women and Politics: Beyond Quotas', *Economic and Political Weekly* 31 (43): 2867-74.

Aghadi, S. M. (1997) 'Reservation on Reservation', *Communalism Combat*, June, pp. 6.

Omvedt, G. (2000) 'Women and PR', *The Hindu*. <http://hindu.com/2000/09/12/stories/05122523.htm> (accessed on 08 December 2011)

³¹ Menon, N. (2000) 'Elusive 'Woman': Feminism and Women's Reservation Bill', *Economic and Political Weekly* 35 (43/44): 3836

³² Ibid

³³ Hirway, H. (1989) 'Panchayati Raj at the Crossroads', *Economic and Political Weekly* 24 (29): 1663-7.

approach would allow for an individual to contest from any constituency, though that individual would be excluded from contesting specific seats. The degree of exclusion in such a form of reservation would then be less.

The impact of exclusion could also be felt within a family. Women may get elected to reserved seats that were once held by the men in their household. This is usually accepted by the men when the women make it clear that they are only proxies for their husbands or other male members of their household. But when they begin to play the role they were expected to play it is not unknown for their husbands to turn against them.³⁴ A form of reservation that does not completely exclude men would then ensure that the elected women representatives are not expected to pay a high price in terms of relations within the family.

The second criterion we would need then is the approach of a suggested Women's Reservation Bill to the challenge of exclusion. A Bill that protects the rights of women to be elected to Parliament and the State Assemblies with as little exclusion as possible on the basis of caste, class, or for that matter even gender, would be preferable.

QUALITY OF REPRESENTATION

Implicit in the debate on exclusion within exclusion was the understanding that

the Women's Reservation Bill does not work in isolation. Its efforts to fight exclusion of women interact with initiatives to fight exclusions on other bases. The effects of Women's Reservation Bill on the overall quality of representation could in fact be even greater. The specific processes the Bill creates could itself impact the quality of representation. For instance, if there is a rotation of constituencies that are reserved there will be times when a representative of a constituency would not be able to contest the next election, as the constituency would then be reserved for a category to which the individual does not belong. The individual in such a situation, without the prospect of re-election, would have little reason to perform in a way that would appeal to his or her constituents. This would directly reduce the quality of representation of the constituents.

It must also be remembered that the relationship between reservations and the quality of representation is a dynamic one. A successful Women's Reservation Bill would provide women an opportunity to be effective political representatives. Effective representation would in turn improve their ability to be elected without the benefit of reservations. Ideally, reservations would be able to create a situation where further reservations are no longer necessary. The task then is to decide when this has happened, and to be able to stop reservations

³⁴ We are grateful to Ms Nirmala Buch for providing wide-ranging evidence of this trend at the National Workshop on 'Can Dual-Member Constituencies be the way forward for Women's Reservation?' National Institute of Advanced Studies, Bangalore, December 14, 2011.

at that time. The failure to carry out this task would create new distortions in the system of governance.

There is then a need to be sensitive to the possibility of the process of reservation having an impact on the quality of representation. Defining the appropriate or desirable quality of representation is of course a matter of considerable debate. It is an issue that is subject to a variety of interpretations influenced by the diversity of worldviews. But it should be possible to come up with a working definition that would enable us to decide whether a bill adds or detracts from the quality of representation. Hanna Pitkin provides, perhaps, one of the most straightforward definitions: to represent is simply to “make present again”.³⁵ On this definition, political representation is the activity of making citizens’ voices, opinions, and perspectives “present” in the public policy making

processes. Political representation occurs when political actors speak, advocate, symbolize, and act on the behalf of others in the political arena. The different options for reservation for women must then also be judged by the overall quality of representation that can be expected after the bill comes into force. *Thus the third criterion to compare different versions of the Women’s Reservation Bill should then be the likely impact a particular Bill will have on the quality of representation.*

In short, we can use three criteria to evaluate different conceptions of the Women’s Reservation Bill:

1. The extent of reservation a Bill offers.
2. The degree of exclusion on the basis of caste, class, or for that matter even gender, that is built into the Bill.
3. The impact of the Bill on the quality of representation.

³⁵ Pitkin, H. F. (1967) *The Concept of Representation*, Los Angeles: University of California Press.

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

The debate on the issue of women's reservation in India has been a longstanding one and can be traced back to as early as 1930 when Sarojini Naidu and Begum Shah Nawaz wrote a letter to the Prime Minister of Britain opposing the inclusion of a clause on reserving seats for women in Legislatures. The letter claimed to be a representation of the women in India and said that they would oppose any kind of sex discrimination be it in favour or against women.³⁶ But post-independence, persistence of discrimination against women and inadequate representation of women in

the legislative bodies was highlighted in a Government of India report in 1974. Several women, including Lotika Sarkar and Vina Majumdar responded to the report by saying that "a political system cannot be based on ideology alone but must keep in touch with the actualities of the social situation and so adjust its operations as to achieve the desired goals of the society".³⁷ They reiterated the fact that while applying the principle of democracy to a society that is characterised by inequality, special provisions like reservation are tools to make the environment ready for a desired change.

³⁶ Naidu, S. , B.S. Nawaz, B.S and others (1931) 'Women Challenges to Reservation in Pre-Independence India' in M. Dhanda (ed) *Reservations for Women*, pp. 3-11. New Delhi: Women Unlimited.

³⁷ Sarkar, L. & V. Mazumdar,. (1974) 'Dissenting Voices' in M. Dhanda (ed) *Reservations for Women*, pp. 11-17. New Delhi: Women Unlimited.

In 1988, the first draft of the National Perspective Plan (NPP) for women suggested that the problem of under-representation of women in politics could be resolved by providing 30 per cent reservation of seats in all elected bodies and the allotment of reserved seats in the initial years would be through nomination/co-option.³⁸ The nomination/co-option method of filling up seats was faced with huge protests. The final draft of NPP had two major changes. First, it suggested reservation of seats for women at the Panchayat and municipalities level and, second, it recommended that the seats shall be filled up through direct election. These changes were then reflected in the 64th Constitutional Amendment Bill (1989) which was later enacted as the 73rd and 74th Constitutional Amendment Acts in 1993.³⁹

After, a fairly impressive success of the reservation of seats for women in the local bodies, the demand to have seats reserved for women in the Parliament and State Legislative Assemblies gained momentum. After a long battle, the Women's Reservation Bill was first tabled in Parliament in 1996 and later on in 1998 and 1999 without being passed. The most recent attempt in these lines

was the introduction of Women's Reservation Bill, which was introduced in 2008 in the Rajya Sabha and later passed with a majority support in 2010. However due to a deadlock on the issue in the Lok Sabha, the Bill has not yet been enacted. These repeated failures were however not without a silver lining. The experience revealed a change in the perception of political leaders. From questioning the need for women's reservation the focus shifted to questioning only the nature and form of women's reservation while accepting a need for it. This shift in focus allows us to take a closer look at the Women's Reservation Bill (2008)⁴⁰; evaluating it in terms of the criteria we had listed in the previous chapter.

WOMEN'S RESERVATION BILL (2008)

The One Hundred and Eighth Amendment Bill (2008) aimed at addressing issues of gender inequality and gender discrimination through the means of women's political empowerment. This was to be done by reserving a third of the seats for women, with the reserved seats being rotated in a way that all seats would be reserved for one term in every block of three terms.

³⁸ Government of India, (1988). *National perspective plan for women, 1988-2000 A.D.*, Report of the core group set up by the Department of Women & Child Development, Ministry of Human Resource Development.

³⁹ Rajya Sabha Secretariat (2008) 'Reservation of Seats for Women in Legislative Bodies: Perspectives', *Occasional Paper Series* 1/2008.

⁴⁰ The Constitution (One Hundred and Eighth Amendment) Bill, 2008. Available at: <http://www.silverinnings.com/docs/Elder%20Law/Other%20laws/Women%20Reservation%20Bill%20-%20India%202008.pdf>

The key characteristics of the Bill⁴¹ include:

- ◆ Reservation for women, as nearly as may be, one-third seats of the present strength of the Lok Sabha and State Legislative Assemblies.
- ◆ As nearly as may be one-third of the seats reserved for Scheduled Castes and Schedule Tribes shall be reserved for women.
- ◆ Seats to be reserved for women shall be determined through a process of rotation by draw of lots in such a way that a seat shall be reserved only once in three consecutive elections.
- ◆ Reservation for women in respect of nominations of members of Anglo-Indian Community in Lok Sabha and State Legislative Assemblies.
- ◆ As nearly as may be one-third of the seats shall be reserved for women in the Legislative Assembly of National Capital Territory of Delhi.
- ◆ Reservation of seats for women shall cease after 15 years of the enactment of the Bill.

This Bill is undoubtedly radical in terms of its likely effects on the representation of women in Parliament, but when these effects are evaluated in terms of the three broad criteria we had identified, the picture is more mixed.

EXTENT OF RESERVATION

The idea of reserving a third of the seats for women has emerged as some kind of a magic number for the entire debate on women's reservation. Madhu Kishwar argues that

“There are several problems inherent in this particular scheme. To begin with, why a 33% quota? What is the significance of this number?? Why not 13 or 43 per cent or even 73 per cent? The reservation quota for all other groups such as the Scheduled castes and tribes has been determined on the basis of their numerical strength in the overall population. Not so for women. In India the proportion of women as compared to men is a little less than 50 per cent. So why not 49 per cent reservation for women? Does the magical figure of 33 per cent represent some near-future scenario of our declining sex ratio? Are our policy makers anticipating the advent of all kinds of new technologies to bring down the already low sex-ratio to the one-third of the population? This is not at all to suggest that 33 per cent is a small figure, especially when offered in a silver platter, as is happening in our case.”

She quotes examples of women's political under-representation in countries like UK, US, France and Canada (where

⁴¹ Ibid

women occupy only less than 10 per cent of the seats in the Parliament), to appreciate that reserving one-third of the seats in legislatures would mean that India will have 180 women in the Lok Sabha which according to her is a quantum leap.⁴² There is widespread acceptance of this number apparently because this is seen as critical mass⁴³ that is needed for the voice of the elected women to be heard. It could be argued, on a more coldly logical basis, that seats should be equally divided between the genders, so that a 50 per cent target would appear reasonable. We could argue that since women currently win 10 per cent of the general seats the effective representation for women in Parliament after the reservation be 43 per cent. But it could be just as easily argued that in elections when the ten per cent of seats normally won by women are reserved, the additional effect of reservations will only be 23 per cent. More than any simple rational argument then the figure of one third can be attributed to the rhetoric of the debate on reservations. It began as some sort of a minimum number of seats for reservations. But the Joint Committee of Parliament that reviewed the Bill that was introduced in 1996 recommended that the words 'not less than one-third' should be

replaced by 'as nearly as may be, one-third'.

Be that as it may, there is no getting away from the fact that one-third of the seats is a significant number. This is particularly so when we consider the role women parliamentarians have played in the past. Kumari and Dubey in their study on women MPs in the tenth Lok Sabha found that a majority of the issues raised by women MPs were related to women issues and that there was a unity among these MPs and took a common stand on women related issues and on the indifference of male MPs to women issues.⁴⁴ Reservation of a third of the seats in Parliament for women would then make a significant difference to the character of Parliament.

THE CHALLENGE OF EXCLUSION

The exclusion in the current Women's Reservation Bill takes two distinct forms. The first form is in terms of the reservation for women having the effect of excluding the Backward Castes. There is evidence from the working of women's reservation at the Panchayat level that the seats reserved for women are prone to 'elite capture'. D'Lima, for instance, notes that the experience of women's reservation at the local bodies' level in Maharashtra has resulted in the strengthening of upper caste dominance in

⁴² Buch, N. (2000) 'Women's Experience in New Panchayats: The Emerging Leadership of Rural Women', CWDS, Occasional Paper No. 35

⁴³ Kumari, R. & A. Dubey. (1994) *Women Parliamentarians: a Study in the Indian Context*, New Delhi: Har-Anand Publications.

⁴⁴ D'Lima, H. (1983) *Women in Local Government: A Study of Maharashtra*, New Delhi: Concept Publications.

these bodies.⁴⁵ The phenomenon of the women who win reserved seats being typically from the dominant castes has been noted in other states as well. In such cases the reservation for women becomes, in effect, a reservation for the dominant castes. This could lead to the legislative bodies at both the centre and the states becoming skewed in favour of the dominant castes. This has led to a strong demand for a quota for the Backward Castes within the quota for women. This demand for a quota within quota has become the major stumbling block for the passage of the Women's Reservation Bill.

The second form of exclusion is the more obvious one of men being excluded from the reserved seats. When seen in a purely gender perspective this fact can be dismissed as a mere corrective to the deeply entrenched phenomenon of the exclusion of women. But when we move from the theoretical realm to the practice of politics, another dimension arises that cannot be easily brushed aside: the possibility that the reserved constituencies will be chosen in a way that targets individual male politicians. An established male politician who has nurtured his constituency could find the ground beneath his feet slipping away if his constituency is suddenly reserved for women. In order to address this very real difficulty the Women's Reservation Bill (2008), as indeed some of the earlier versions, prescribes a rotation of reserved seats. Taking a block of three general elections together, it

requires that a different third of the seats be reserved for women in each general election. Consequently each seat will be reserved for women once in every three general elections. This approach spreads the exclusion of male politicians evenly across all constituencies. But this is not without its consequences for the quality of representation in our democracy.

QUALITY OF REPRESENTATION

Effective representation of their constituents is the cornerstone on which a politician builds his or her career. This representation can take two forms. First, it involves advocating policies and legislation that help the constituents, and second, it requires a more direct nursing of a constituency in terms of dealing with the immediate concerns of the constituents. The balance between these two requirements would ideally vary according to the level of the elected body, with the local bodies taking care of the immediate service and other local requirements, leaving the state and national level bodies to focus on legislation. These roles of elected representatives in different bodies has however been altered by two developments in the functioning of Indian Parliament and Legislative bodies. The anti-defection law has meant that the elected members of Parliament and the legislative bodies have to vote along with their party whip, even if they personally believe that a particular piece of legislation

⁴⁵ Nanivadekar, M. (2003) 'Dual-Member Constituencies: Resolving Deadlock on Women's Reservation', *Economic and Political Weekly* 38 (43): 4506-10.

goes against the interests of their constituents. This effectively takes the legislative aspect of their functioning out of the picture, leaving them only with the task of nursing their constituencies through local area development. In this task they are aided by the MPs Local Area Development Fund and its equivalents at the level of the state assembly. The success or failure of an elected representative is then seen in terms of what is done for his or her constituency. And those that do well get the prize of re-election.

The policy of rotation has a direct impact on this prize. In each round of general elections there will be one-third of the constituencies that will be reserved in the next round of general elections. The male members representing these constituencies then lose the possible prize of re-election. No matter how well they perform they will not be able to get re-elected as they will not be allowed to stand for elections in the next round. They will then have no incentive to focus on the all-round development of their constituencies. It is then quite possible that the funds for local area development will be used in a way that supports their personal interests rather than that of the constituency as a whole. Again, evidence from reservation at the Panchayat level suggests that women who win from a reserved constituency typically do not win the same seat when it is made a general constituency. They too can then choose to behave in a manner not different from that of

the male representatives whose constituencies will be reserved in the next round. Thus around two-thirds of the elected representatives would not have any chance of being re-elected. The sitting representatives MLAs will have to forgo the political base and the investments in terms of time, energy and efforts that they make on their constituencies. And since the specific seats that constitute this two-thirds will keep changing, the entire system would be one devoid of a long-term perspective. As Nanivadekar points out, this would imply that no one in politics can see it as a full time career option and leading to a 'political culture' that is based on short-term gains and unaccountability.⁴⁶

The uncertainty about individual political careers is given another dimension by the effective uncertainty about the Women's Reservation Bill itself. It is not quite certain how long the provisions of the Bill will hold. The Women Reservation Bill (2008) envisions the closure of the reservation of seats for women in Lok Sabha and the State Legislative Assemblies in fifteen years. That is to say, the Bill is only supposed to be for one cycle of three full parliamentary terms. But the experience with other reservations suggests that once they are introduced, removing them can be very difficult. We could then see the recycling of the entire debate once again after fifteen years. And since every constituency is affected by this process, this is an uncertainty we could do without.

⁴⁶ Nanivadekar, M. (2003) 'Dual-Member Constituencies: Resolving Deadlock on Women's Reservation', *Economic and Political Weekly* 38 (43): 4506-10.

DUAL-MEMBER CONSTITUENCIES

A large part of the debate on reservation of seats for women has, understandably, revolved around the official formats, whether it was the reservation mandated by the 73rd and 74th Constitutional Amendments or the Women's Reservation Bills tabled in the Parliament in 1996, 1998, 1999 and 2008. The focus on the official versions must not however give the impression that there was a dearth of alternatives available. An Alternative Women's Reservation Bill was proposed by the Forum for Democratic Reforms in the year 2000.⁴⁷ According to that proposal, a law should be enacted to amend the Representation of People Act 1950, making it mandatory for every recognized political party to nominate women candidates for election in one-third of constituencies. It also mandated the political parties to nominate

women candidates in one-third of the constituencies reserved for Scheduled Castes and Scheduled Tribes. This was based on the rationale that the root cause for the lack of political empowerment of women is the patriarchic structure of the political parties which do not give tickets to women to contest in elections. The proposal suggested that each political party could decide which constituencies it would like to field women from. In order to avoid clustering women candidates in states where the chances of political parties winning the elections were weak, the proposal also laid down that the unit for consideration for a Lok Sabha would be a State or Union Territory and for the State Legislative Assembly, the unit for consideration should be three contiguous Lok Sabha constituencies. The most controversial section of this proposed Bill was its penalty

⁴⁷ Narayan, J., D. Sheth, Y. Yadav and M. Kishwar (2000) 'Enhancing Women's Representation in the Legislatures: An Alternative to the Government Bill for Women's Reservation', *Manushi* 116: 5-9.

clause which suggested that in the case of failure of the political parties to nominate one-third women candidates, two male candidates from the party would lose their party symbol, affiliation and related advantages, for a shortfall of every one woman candidate. This stringent penalty clause overlooked the prevalent system of party oligarchy. In most of the parties, nomination of candidates was decided by the 'Party High Command' and the individual members had a very limited or no role to play in this process. In such situations, penalizing male members who have no real role in nomination process was unfair.⁴⁸ The proposal also could not escape the charge of tokenism. It did try to address this issue by insisting that the reserved seat should be within a predefined region. But given the fact that the influence of most political parties is not evenly spread even within a state or parts of a state, the possibility of giving the weakest seat to the woman candidate was very real. Owing to its rather extreme penalties combined with the possibility of leaving the seats that were least likely to be won for women, the Bill did not get sufficient support. Though the Bill got the status of a Private Member Bill and received support from some high profile political leaders and the then Chief Election Commissioner, the proposal was on the whole not well received.

Another alternative that has been on the board in different forms for a long time is that of multi-member constituencies. This approach makes a distinction between constituencies and seats with each constituency having more than one seat. Following the fall-out over the 73rd and 74th Constitutional Amendment Acts in 1993 that mandates 33 per cent reservation of seats for women at the local body level, Shetkari Sangathana in Maharashtra proposed having multiple members representing a constituency.⁴⁹ The proposal involved clubbing together of three constituencies to form one constituency and the newly formed constituency to be represented by three members, of whom one shall be a woman. According to this proposal the first two seats could go to two candidates who poll the highest number of votes, whether male or female. The third seat would be reserved for women and the candidate who got the highest votes among the women candidates, but was not among the top two candidates overall, would be elected as the women's representative. This proposal seemed acceptable to many groups as it ensured that every constituency would have a woman representative. Since the other two seats were open for a fair competition, the multi-member constituency proposal did not take away the right to contest from men in any constituency ensuring a more inclusive way of empowering

⁴⁸ Rajan, I. and J. Retnakumar (2005) 'Women's reservation Bill: Some Emerging Issues', *Economic and Political Weekly* 40 (39): 4190-92.

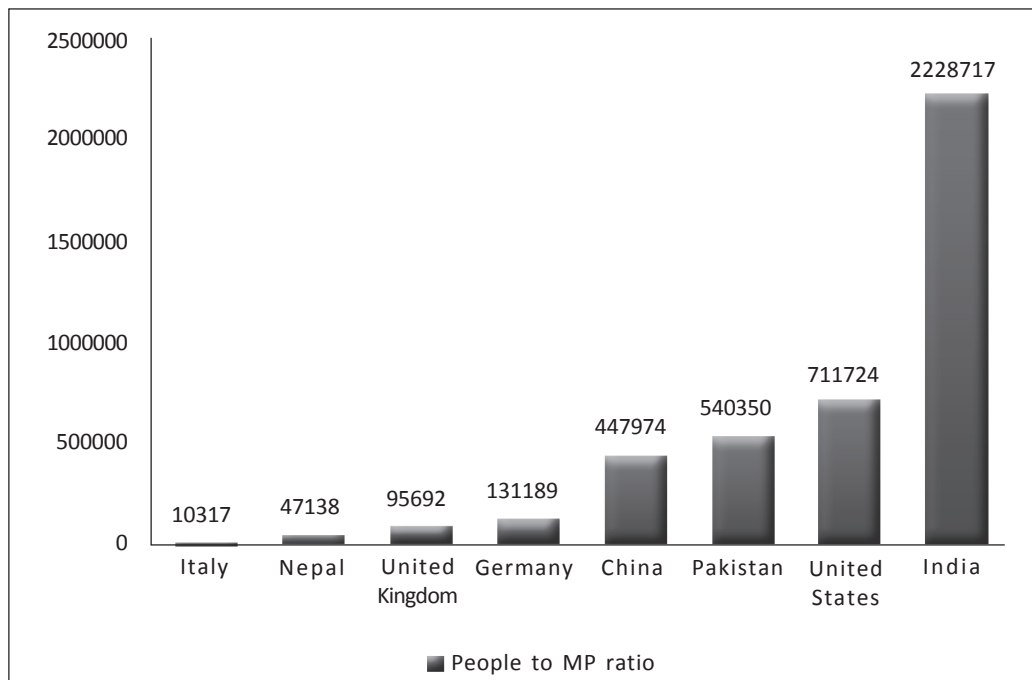
⁴⁹ Kishwar, M. (1996) 'Women and Politics: Beyond Quotas', *Economic and Political Weekly* 31 (43): 2867-74.

women. This measure also addressed issues related to the rights of voters as it did not restrict the right of the voter to choose the best candidate available irrespective of gender, even as it ensured election of women representatives. However, the proposal created very large constituencies. And this would be a serious constraint in the current Indian context. Figure 1 tells us that Indian constituencies are already among the largest in the world in terms of the number of constituents, far more than that of other functioning democracies. Clubbing three such already huge

constituencies to form a new constituency would create an unmanageable entity that neither the Election Commission nor the political parties would be able to manage.

It is in this context that the proposal for dual-member constituencies gains significance. The proposal has been proposed in different forms. In 2003 Medha Nanivadekar proposed an alternative that involved the conversion of 181 constituencies in the Lok Sabha – a third of the total constituencies, into dual-member constituencies.⁵⁰ If the Parliament was

Figure 1: Country wise number of persons represented by a member of parliament



Source: Website of Inter-Parliamentary Union (as on 31 October 2011). Accessed on 9 December 2011.

⁵⁰ Nanivadekar, M. (2003) 'Dual-Member Constituencies: Resolving Deadlock on Women's Reservation', *Economic and Political Weekly* 38 (43): 4506-10.

divided into three sets of 181 constituencies, one set would be converted into dual-member constituencies while the other two sets would remain single-member constituencies. This would take the total strength of the Lok Sabha to 724 members. The decision on which 181 constituencies would be converted into dual-member constituencies, according to the proposal, would be based on system of draw of lots. Within the selected dual-member constituencies, she proposed that the constituencies with sitting women members be converted to dual-women-member constituencies. The main problem with the proposal in this form was that it made a significant difference in the pattern of representation between the constituencies that were chosen to be double member constituencies and the rest. A constituency that had two Members of Parliament would have greater representation in Parliament than a constituency that had only one Member of Parliament. This would create an unacceptable imbalance in the functioning of Parliament.

This difficulty was apparently recognized when in 2009, as a part of campaign to realize women's political empowerment, Medha Nanivadekar and other women's organizations demanded the conversion of all the constituencies into dual-member constituencies. There was now no distinction between one set of 181

constituencies and the rest. Under this proposal all the constituencies of the Lok Sabha and State Legislative Assemblies would have two representatives – one male member and one female member. This would double the members of the Lok Sabha to 1088, even as the number of constituencies remained the same at 544. Each voter would be entitled to two ballots one consisting of only male candidates and the other of only female candidates. The first-past-the-post system would then operate in both the ballots.

The main argument against this proposal has been one of costs. But when we consider the fact that the number of people represented by each Member of Parliament in India is among the highest in the world, there is a significant case for increasing the number of Members of Parliament. The additional cost could be easily justified as a legitimate cost of a functioning democracy. The magnitude of the increase in costs could also be kept in check through other measures such as the two members sharing the Local Area Development fund for the constituency. Another advocate of dual-member constituencies is Meena Dhanda who argues for the conversion of all the territorial constituencies into dual member ones as she believes that, considering the representative to people ratio, India is grossly under-represented.⁵¹

⁵¹ Dhanda, M. (2008) 'Making Room by Adding Seats', *Seminar* 586 http://www.india-seminar.com/2008/586/586_meena_dhanda.htm (accessed on 09 December 2011)

With the instinctive argument about costs out of the way we could subject the dual-member constituency proposal to the same three criteria we used to evaluate the Women's Reservation Bill that was passed in the Rajya Sabha in 2010.

EXTENT OF RESERVATION

By reserving 50 per cent of the seats in Parliament and Legislative Assemblies for women, this proposal clearly goes a step beyond the current commonly accepted number of one-third of the seats. It explicitly recognizes that women must get a share of the seats in Parliament that is consistent with their share of the population. Equally important, it also addresses the problem of women only winning from a limited set of constituencies. This proposal ensures that every constituency in the country, both for Parliament and the State Assemblies, would have a woman representative. Thus both in terms of number as well as the geographical spread of representation the proposal for dual-member constituencies with one male and one female representative is in line with the presence of women in the population.

CHALLENGE OF EXCLUSION

As we have stated earlier all forms of reservation bring with them some form of exclusion. By reserving a seat for those who are oppressed we are excluding those who are not. Such exclusion is perfectly justified. But it also does limit the choice of voters. Ideally then we would need a system of reservations that provides the desired levels

of representation for those who are oppressed while simultaneously keeping the levels of exclusion to the lowest levels possible. The proposal for dual-member constituencies goes a long way towards meeting this requirement. It increases the level of reservation for women in Parliament to 50 per cent, five times the highest achieved so far. At the same time it does so in a way that does not prevent men from contesting in any constituency in the country.

The reservation for women without excluding men must also be seen in the context of the dominance of the family in Indian politics. As the woman does not take the place of the man there is scope for greater acceptance within the family. At the same time this does raise the possibility of both the male and the female members in a constituency belonging to the same family, typically the husband and the wife. This would increase the dominance of the family in the constituency. The possibility of the dominance of a single family is undoubtedly a serious concern in the Indian context. But the relevant question here is whether the dual-member constituency increases the dominance of the family compared to a system of reserving a third of the seats for women. On the face of it this may seem to be the case as it increases the number of seats the family can hold in the elected body. In terms of the percentage of seats in Parliament, though, there would be no change even if both seats are won by the same family. Instead of one member of the family representing the entire constituency

in the case of single-member constituencies, the constituency can be represented by two members of the same family. On the contrary the fact that there are two seats available to the electorate could make it difficult for a family to win both, as the electorate may decide to share its loyalties between contending families. In such cases the dual-member constituency will offer an opportunity to be represented by more than one family, while the single-member constituency by definition will have only one family representing it.

Dual-member constituencies can also offer greater flexibility in the functioning of existing reservations. Members of the Scheduled Castes and Scheduled Tribes are today typically elected from constituencies reserved for them. Though they can also stand from general constituencies, their ability to win from the general constituencies is even today very limited. Members of the Scheduled Castes and Scheduled Tribes who belong to the constituency that is reserved for them would then have an advantage in terms of being able to stand from their home constituencies. This is an advantage that members of the Scheduled Castes and Scheduled Tribes belonging to other constituencies do not share. This disparity between the SC/ST members of reserved constituencies and the SC/ST voters of other constituencies could be reduced if the reserved seats were spread over a larger number of constituencies. Dual-member constituencies allow this to be done. As the number of seats doubles so would the number

of seats reserved for the Scheduled Castes and Scheduled Tribes. If both the seats in a constituency that is currently reserved for the SC/ST are reserved for these groups, the spread of reservation would be the same. But the SC/ST seats could also be spread over a larger number of constituencies. For instance, in the 84 existing constituencies reserved for Scheduled Castes, one of the seats could continue being reserved for Scheduled Castes men, the other being for general category women. The additional 84 seats that would be reserved for the Scheduled Castes due to the doubling of seats kept for Scheduled Castes women in other constituencies. The reservation for Scheduled Castes as a whole, both men and women, could then be spread over 168 constituencies, around 30 per cent of the total constituencies. This would spread the opportunity for a member of the Scheduled Castes to be elected over a much wider region. The same would apply to Scheduled Tribes as well.

QUALITY OF REPRESENTATION

There are several reasons to believe that a dual-member constituency would improve the quality of representation. It would allow voters in each constituency to compare the performance of their two representatives. It would give them the option of approaching the other representative in the case of one representative being inaccessible. They would also be able to compare the spending of the Local Area Development fund by the two representatives.

This pressure would of course exist only if the representative was able to seek re-election. Dual-member constituencies allow for this to happen, as there is no need for rotation of reserved constituencies. Individual politicians would be able to build political careers on the basis of their performance when they are elected. Women politicians too would have the benefit of nurturing the same constituency instead of having to move to another constituency to tap the benefit of reservations.

This sense of permanence also extends to the process of reservations itself. In any reservations for the oppressed based on the complete exclusion of others, there will always be the question of when do those who benefit from reservation cease to be

oppressed. The usual response to this question is to place a timeframe for reservations. The Women's Reservation Bill (2008) expects reservation for women to last just 15 years after which women would presumably have overcome the gender divide. This does appear to be a rather optimistic assumption, leading to the possibility of further debate when this period comes to an end. In the case of dual-member constituencies on the other hand this problem does not arise. Since both men and women are given representation in line with their share of the population, there is no need for any closure clause. The system of dual-member constituencies with one male and one female member could be a permanent one.

AMENDMENTS TO THE LAWS TO PROVIDE FOR DUAL-MEMBER CONSTITUENCIES

I. CONSTITUTION OF INDIA, 1950

A. COMPOSITION OF THE LEGISLATIVE BODIES

The Constitution of India provides for constitution of the Union Parliament and the State Legislatures, particularly in Articles 80, 81 and 170 respectively. These provisions providing for the maximum number of representatives to the various legislative bodies envisage constituencies that will be represented by a single member. Several provisions need to be amended to enable dual-member constituencies.

Union Territories are largely under the supervision of the Central Government. Delhi and Pondicherry are the only Union Territories that have legislative bodies; Article 239AA that deals with Legislative Assembly for Delhi needs to be amended.

Fourth Schedule of the Constitution that lists out the number of representatives from

each State to the Council of States is also to be amended.

B. RESERVATIONS

Part XVI of the Constitution deals with special provisions for certain groups: Scheduled castes, Scheduled tribes, Anglo-Indians etc. Articles 330 to 333 pertaining to reservations to the legislative bodies need to be amended to facilitate dual-member constituencies.

C. PROCEDURE FOR AMENDMENT

According to Article 368 of the Constitution, provisions may be generally amended with a “Bill introduced in either House of Parliament and when the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting”. Upon its passing, the Bill should receive the

assent of the President for the amendment to be effectual.

However, in case of amendments pertaining to representation of the States in Parliament, the amendment shall also “require to be ratified by the Legislatures of not less than one-half of the states by resolution to that effect passed by those Legislatures before the Bill making provision for such amendment is presented to the President for assent”. Thus, amendments to Articles 80, 81 and the Fourth Schedule pertaining to composition of the

Lok Sabha and the Rajya Sabha would require ratification of the State Legislatures as well.

II. STATUTES

In addition to the Constitution of India, statutes such as the Representation of Peoples Act provide for composition and reservations to legislative bodies which need to be amended to reflect the constitutional changes and implement dual-member constituencies. The changes that are required are listed below:

Table 5: List of Statutes and the specific Provisions to be amended

No.	Statute	Provisions to be amended
1.	Representation of the People Act 1950	Section 4(3), 7(2), 7A(2) (total number), insert a non-obstante overriding provision providing for dual-member constituencies, First Schedule, Second Schedule and Third Schedule (number of seats).
2.	Representation of the People Act 1951	Insert a non-obstante overriding provision providing for dual-member constituencies. First Schedule on the allocation of seats in the Lok Sabha, Second Schedule on the total number of seats in the Legislative Assemblies, Third Schedule on the allocation of seats in the Legislative Councils.
3.	Government of National Capital Territory of Delhi Act 1991	Section 3 (composition), Section 38 (delimitation)
4.	Government of Union Territories Act 1963	Section 3 (composition), Section 39 (delimitation), Section 40 (representation of Pondicherry in the Lok Sabha), Section 43A (delimitation in Mizoram), Section 43C (delimitation in Arunachal Pradesh)

Source: Authors' Compilation

DRAFT BILL TO IMPLEMENT DUAL-MEMBER CONSTITUENCIES

Bill No. _____

THE CONSTITUTION (ONE HUNDRED
AND _____ AMENDMENT) BILL, 2011

A BILL

Further to amend the Constitution of India to provide for dual-member constituencies.

BE it enacted by the Parliament in the Sixty-second year of the republic of India as follows:-

1. (1) This Act may be called the Constitution(____Amendment) Act, 2012.
(2) It shall come into force on such date, as the central government may, by the notification in the Official Gazette, appoint.
2. In article 80 of the Constitution, in clause (1), in sub-clause (a), for the words “twelve members”, the words

“twelve male members and twelve female members” shall be substituted.

3. In article 80 of the Constitution, in clause (1), in sub-clause (b), for the words “two hundred and thirty eight representatives”, the words “two hundred and thirty eight male representatives and two hundred and thirty eight female representatives” shall be substituted.
4. In article 81 of the Constitution, in clause (1), in sub-clause (a), for the words “five hundred and thirty members”, the words “five hundred and thirty male members and five hundred and thirty female members”.
5. In article 81 of the Constitution, in clause (1), in sub-clause (a) the following provision shall be inserted at the end namely:-
“Provided that each territorial constituency shall be allotted two seats in such a manner that one seat is

- allotted to a male member and the other seat is allotted to a female member”.
6. In article 81 of the constitution, in clause (1), in sub-clause (b), for the words “twenty members”, the words “twenty male members and twenty female members” shall be substituted.
 7. In article 170 of the Constitution, in clause (1), for the words “five hundred members”, the words “five hundred male members and five hundred female members” shall be substituted.
 8. In article 170 of the Constitution, in clause (1), the following provision shall be inserted at the end namely:-
“Provided that each territorial constituency shall be allotted two seats in such a manner that one seat is allotted to a male member and the other seat is allotted to a female member”.
 9. In article 239AA of the Constitution, in clause (2), in sub-clause (a), the following provision shall be inserted at the end namely:-
“Provided that each territorial constituency shall be allotted two seats in such a manner that one seat is allotted to a male member and the other seat is allotted to a female member”.
 10. In article 331 of the Constitution, for the words “two members”, the words “two male members and two female members” shall be substituted.
 11. In article 333 of the Constitution, for the words “one member”, the words “one male member and one female member” shall be substituted.
- In the Fourth Schedule of the Constitution the allocation of the seats in the Council of States shall be reallocated to:

Andhra Pradesh	36	Chhattisgarh	10	West Bengal	32
Assam	14	Tamil Nadu	36	Jammu and Kashmir	8
Bihar	32	Maharashtra	38	Nagaland	2
Jharkhand	12	Karnataka	24	Himachal Pradesh	6
Goa	2	Orissa	20	Manipur	2
Gujarat	22	Punjab	14	Tripura	2
Haryana	10	Rajasthan	20	Meghalaya	2
Kerala	18	Uttar Pradesh	62	Sikkim	2
Madhya Pradesh	22	Uttarakhand	6	Mizoram	2

Source: Authors' Compilation

