

In an ostensible bid to break the deadlock on the Women's Reservation Bill, the Congress Party has come up with a rather outlandish and I would say a very hypocritical proposal for enhancing women's membership in the Lok Sabha and state assemblies to 33 per cent. In order to allay the fears of the present seat holders, the Congress leaders have proposed to increase the number of seats in the Lok Sabha to 900 from its present strength of 545. The additional 30 per cent seats thus added are supposed to be reserved for women. They propose a similar 30 per cent increase in the strength of various state assemblies from 6000 to 9000. The additional 3000 assembly seats are likewise meant to be earmarked for women. It is heartbreaking that the Congress Party which led us to freedom and brought millions of women into the political domain under Mahatma Gandhi's leadership, has become incapable of thinking of a sensible measure to enhance the representation of women in our legislatures.

Logistical Problems

If this harebrained proposal is to be enacted as a law, it will require an amendment to the Indian Constitution involving a lengthy and torturous process. Firstly, two-thirds of MPs must vote in its favour in both the Lok and the Raja Sabha. Thereafter, the proposal has to be ratified by 50 per cent of all state legislatures because it

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Thoughtless or Hypocritical? Congress Party's New Brainwave for Women's Reservation

○ Madhu Purnima Kishwar

requires an amendment to the Constitution. The process can (and inevitably will be) stalled the Bill subjected to a slow death. In this age of unstable coalitions, commanding a two-third majority for any controversial legislation and getting it through numerous state legislatures has become well nigh impossible.

Even if by some miracle it got through the amending process, the new proposal of adding 33 per cent additional seats for women entails many more complicated exercises. The ongoing work of the Delimitation Commission will have to be brought to a halt since they are currently engaged in rationalising the uneven sizes of Parliamentary and Assembly constituencies as well as removing other glaring anomalies in the electoral system all over the country. They will have to start their job all over again to carve out 900 constituencies from 545 unevenly populated ones. This will take decades with every sitting MP and MLA having the right to raise objections to the criteria used for changing the size and contours of their constituency. In addition, every state Assembly as well as our Parliament will have to enlarge the size of the Assembly halls that house the legislatures. This too could take many more decades, given the appalling inefficiency and slowness with which even simple roads are built by the government agencies.

Clearly, Congress does not make a serious proposal, but simply pretends to introduce what appears

to be progressive legislation. The Party wants to be seen as a supporter of women's reservation, without actually implementing a workable law.

Basic Conceptual Flaws

Apart from the logistical difficulties, there are serious conceptual problems in this proposal. The underlying assumption is that the male leaders of our ruling establishment in general, and the Congress Party in particular, have come to believe that the existing seats and political offices are a male

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monopoly. Therefore, they are not willing to share power with women. That is why a new separate political universe has to be carved out to accommodate women's aspirations for a share in political power. If this is what our political system has done to men who have acquired control over the levers of power, then it is a sure sign of severe ill health of our democracy. It is in fact functioning more like a kleptocracy. Hence this do-or-die battle over political power

and government jobs and the unwillingness to share it with hitherto marginalised groups.

If we accept this as a *fait accompli*, then it is better to take the intent of this proposal to its logical conclusion, to get a full sense of its implications. If, under this proposal, women are to carve out a separate political universe, why should we do so in a cramped ghetto? Since we constitute half of this country's population, why enhance the strength of our legislative bodies by a mere 33 per cent? This law is being ostensibly brought about in the name of promoting gender equality. However, a 33 per cent quota does not pass the test of "equality". In fact, it makes women a permanent, though a substantial minority in our legislatures. Why not give women an equal number of seats, since the proposal is ostensibly intended to create a new sphere of power for them? Why not enlarge the Lok Sabha to 1,100 seats, and the state assemblies to 12,000? This will bring real parity in male-female representation.

Both the Scheduled Castes and the Scheduled Tribes have a quota in proportion to their share in the population. The same principle should be applied for women. To make this task simple, we could have a system of dual member constituencies whereby every constituency will be represented by a man and a woman which will create a full fledged *zanana* train rather than add a few *zenana dabbas* (ladies compartments) to the existing male-occupied, male-driven train.

The Logic of Separatism

Let us take the logic further and make the "zenana train" of our legislatures fully autonomous from the "mardana train" by bringing about necessary changes in the law and the Constitution to mandate that the entire electorate of India be divided on gender lines – with women voting only for women and men likewise allowed to elect only male

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representatives. Thus, we would have dual member constituencies whereby even the electorate is divided on gender lines into separate political spheres.

Since the entire rationale behind the Reservation Bill, mooted but stalled since 1996, as well as the latest proposal for adding extra seats for women, is that male politicians are not going to allow a level playing field for women and that women do not have the capacity to fight as equals with men, why don't we propose two separate legislative chambers – one for men, another for women – in the Lok Sabha as well as in the state assemblies?

There is a good reason for it: women are not as good at hurling abuses, chairs and other missiles at their opponents. Women find it hard to indulge in fisticuffs. They are less likely to yell, and scream and use rowdiness in the House to force adjournments. They cannot manage

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to make as much of a nuisance of themselves as often as men do. Therefore, they are finding it increasingly hard to get a hearing in our legislatures.

Many women MLAs and MPs feel so unsafe among their male counterparts that they bring male family members as escorts when they have to stay in the state capitals or in Delhi to attend the Assembly or Lok Sabha sessions. If the male and female legislatures are separated, women's participation, confidence and safety levels are likely to witness a quantum leap upwards.

Those who think my proposals are absurd ought to consider seriously whether it is not equally absurd for the Government to present a scheme of reservations for women whereby certain constituencies will be sanitised of male presence and where only women will be allowed to stand for elections. In all such reserved constituencies women will fight elections only against other women, thus declaring to the world that they are unfit to stand against men. This manner of reserving pre-selected territorial constituencies for women will also mean that in one-third of constituencies voters will have no choice but to elect women, whereas in the other two-thirds voters will be permanently denied the right to elect women. This puts needless, artificial restraints on the democratic rights of voters.

If we also count the already reserved constituencies for SCs and STs, in over 50 percent of our total constituencies the voters' choices will be narrowly restricted. Such restrictions distort democratic institutions.

New Bars on Women

There are several more unsavoury consequences of this proposal. Among others, it will debar women living in two-thirds of India outside the "reserved" constituencies to contest elections. For example, if the

town a woman lives in is not declared a reserved constituency, her chances of contesting elections are reduced to just about zero. Thus, two-thirds of India's female population will be denied the right to aspire for a political career. If today male politicians gang up so effectively against women getting tickets when they constitute a tiny minority in our legislatures, it would be foolish to expect that they will allow women to get tickets outside the reserved quota, once 33 per cent seats are declared as women's exclusive domain.

A similar pattern is evident with SCs and STs who have been permanently ghettoised to "reserved" seats. There is hardly any SC/ST candidate who has managed to get a ticket for a general constituency. Thus, the representation of women will be artificially frozen at 33 per cent in perpetuity with hardly any scope for enhancement.

Such a freeze may be justified for SCs and STs on grounds that their reserved seats were created in proportion to their share of the population. However, in the case of women, this proposal neither meets the criterion of proportionality nor of open-ended opportunities.

Women who come to parliament through the quota are not likely to be taken seriously because they will be seen as incapable of competing at a par with men. Leadership acquired in such a manner will be seen as artificially imposed. These women would not only lack legitimacy in the eyes of the voters but also have relatively low confidence vis a vis their male colleagues.

Need for Sensible Measures

My criticism of the 1996 Reservation Bill and its new *avatar* of August 2005 should not be interpreted to mean that I am opposed to affirmative action in favour of women. On the contrary, I strongly believe that

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"special" measures are sorely needed to enhance our representation in our legislatures because extraordinary forces are at work to exclude women from getting their due share of political power. However, these special measures ought to be appropriate and effective in removing the actual bottlenecks in our political system that prevent women from achieving their full potential.

Why are there so few women in politics in India and why is their representation so low? In most elections, the success rate of women candidates has been uniformly higher than that of male candidates, with females claiming an average success rate of 17.16 per cent as against 10.32 per cent for males. Even if we count only the data for "recognised" parties the average success rate of women candidates of recognised political parties has been 32.53 per cent, since 1984 while the success rate of male candidates is only 26.50 per cent.

Women do not suffer gender discrimination at the hands of voters. In most elections, the success rate of women candidates has been uniformly higher than that of male candidates

Voters, in fact, show a preference for women candidates wherever they are presented with a serious and viable contender because of a general feeling that women leaders tend to be more accessible and are relatively less corrupt. Women fail to be elected because the parties do not field many as candidates. Men dominate parties and women are poorly represented in their decision-making forums. Therefore, women fare poorly when it comes to the allotment of tickets by party bosses.

It stands to reason that the door that is closed should be broken open. If women are wronged at the stage of ticket allocation, then that is where redressal is needed. The Reservation Bill does the very opposite. Instead of finding ways to ensure that women are allowed to enter the electoral fray in adequate numbers by institutionalising fair mechanisms at the party level, the proposed reservation scheme forces pre-determined gender choices on the voters in each constituency, thus interfering with their democratic freedom.

Far from showing aversion to elect female candidates, Indian voters – both men and women – show a marked preference in favour of women. Why then are they being coerced to elect only women in one-third of constituencies while voters in the other two-thirds will be denied the opportunity to elect female candidates? This ham-handed approach is bound to discredit the very idea of affirmative action in the eyes of the people, and generate resentment against women as it will appear as if women are taking unfair advantage and making a back-door entry into legislatures.

Why Follow Negative Models?

The consequences of mechanical systems of reservation are evident in the erstwhile socialist bloc countries. They all had opted for reserved quotas for women in their legislatures, just

so that they would look progressive in the eyes of the world. However, the parliaments of these countries during the Soviet domination period had no power. Therefore, the Communist Party would just fill them with whomever they thought looked good in a photo they could show the world. Thus, relatively high quotas for women in parliament (30 per cent was fashionable) were often implemented. But since parliaments were irrelevant to decision-making, so were these token women. On the other hand, in the Communist Party Central Committee, and especially the Politburo, there were very few women.

After the break-up of the Soviet system, when parliaments began to have political powers and quotas were abolished, the number of women elected to the parliaments of former Soviet bloc countries, in Eastern and Central Europe and Russia fell dramatically. Quotas are very unpopular in these countries and hence discarded. Most women are vehemently opposed to them because it reminds people of the “forced emancipation” of the Soviet rule.

By contrast, many Northern European Countries, as well as New Zealand and Australia, have demonstrated the best results in this regard by opting for party based quotas not just in the allocation of tickets to women for fighting elections but also in giving them representation in decision-making forums of the parties.

Our Alternative Proposal

Given the fact that women in India have consistently out-performed men in electoral results, once they are allowed to contest elections, the Alternative Bill we propose will allow women the opportunity of even crossing the 50 percent mark, all on merit, once they are nominated to adequate numbers of seats, and not confined to *zenana* constituencies.

We suggest that a law should be

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enacted amending the Representation of the Peoples Act, 1951, to make it mandatory for every recognised political party to nominate women candidates for election at least in one-third of the constituencies where that party is fielding candidates.

A major misgiving expressed about our Alternative Bill is that if the whole enterprise rests on due share in ticket allocation, party bosses will make sure that women are allotted tickets only or mainly in those constituencies which are considered unwinnable by the party. Our Alternative Bill provides an effective remedy for attempts at such a sabotage.

In order to pre-empt the possibility of women being nominated only in weak constituencies, we suggest that the state or union territory be treated as a unit of calculation for the Lok Sabha election. Thus each party will be required to allot at least one-third tickets to women candidates in each state and union territory that the party is fighting elections. For example, it is likely that a national

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party has a very weak presence in five states. Therefore, they field women candidates only in those five states. To pre-empt that mischief, our Alternative Bill mandates that each party will have to put up one-third women candidates in every state that they are contesting elections rather than be judged on this score only on an all India basis.

Similarly, regional parties like the Akali Dal of Punjab, Shiv Sena of Maharashtra, AIDMK of Tamil Nadu, or AGP of Assam will have to ensure that women get one-third nominations in their own state rather than fill their women’s quota in states where they have no presence. Thus Akali Dal will not be able to make a pretence of qualifying under the quota clause by assigning women candidates to fight elections in Tamil Nadu where they have no presence and therefore no chance of winning.

The unit for consideration for state assemblies will be a cluster of three contiguous Lok Sabha constituencies which are roughly equivalent to 21 assembly constituencies. Thus, out of each such cluster of 21 constituencies, parties contesting elections in that particular state will have to give tickets to at least seven female candidates. This will ensure an even spread of women candidates all over the state.

Penalty for Non-Compliance

To insure compliance of these provisions by the political parties, our Alternative Bill mandates that, in the event of any recognised party failing to nominate one-third women candidates, for the shortfall of every single woman candidate two male candidates of the party shall lose the party symbol, affiliation and all the other benefits granted by the Election Commission to candidates of “recognised” political parties.

Thus parties will be compelled to nominate women in an evenly spread

manner in all states and regions where they are contending for power. No serious party seeking power can afford to deliberately undermine its own chances of election by fielding non-winnable women candidates in one-third of all their contested constituencies. Also since, for every female candidate not given a required ticket, two males will lose a lot of perks and advantages, each male candidate will have a strong stake in ensuring that party nurture women candidates and help them win elections.

The argument marshalled against the party based quota is that it will not guarantee that 33 per cent are elected to our parliament and state legislatures. This way of thinking is not only short-sighted but also undemocratic. Women need, and must be ensured, genuine equality of opportunity — not guaranteed equality of results. It is far better to go for a legislation that allows women's representation to keep increasing as women gain more strength than to go for a short-sighted quick-fix which puts a permanent ceiling of 33 per cent confining women to ghettoised existence.

The Election Commission adopted our Alternative Bill in 2001. Knowledgeable people within every major party have expressed support for it since it is found to be the most expeditious and effective way of redressing the gender imbalance in our legislatures. All it requires is an amendment in the Representation of People's Act of 1951 that can easily be passed by a simple majority in Parliament.

Unfortunately, the left parties do not let the stalemate be broken because they themselves are not ready to yield power to women. The stalemate created by a seriously flawed Bill suits them fine because they can then pretend to be the only consistent champions of women's

reservations while ensuring that they are never called upon to live up to their rhetoric.

Overall Electoral Reforms

In the ultimate analysis, the fate of women in our political system is dependent on our ability to cleanse our politics of corruption, violence, crime and nepotism. At the moment, our parties function more like mafia gangs. Acquiring a political office has come to be seen as acquiring a loot license. Winning elections through honest means has become very very difficult, if not impossible. In such an atmosphere, marginalisation of women is inevitable.

It is sad indeed that women politicians and feminist organisations who demand an increased role for women in political decision-making have so far not thought it fit to engage with, leave alone lead the initiatives for electoral reforms. They must take this task seriously if they want a meaningful and dignified space for women in a dignified polity. The following general measures of electoral reform would go a long way towards making politics less hostile to women.

Checking Criminalisation of Politics:

(a) The list of offences where a conviction leads to disqualification

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from contesting election should be expanded as per the recommendations of the Law Commission.

(b) Disqualification should not be conditional upon final conviction. It should come into operation as soon as the judge has framed charges with references to offences specified above.

(c) A candidate should be required to make a declaration of all the cases pending against him or her, involving charges of criminal conduct or corruption, at the time of filing nominations. This declaration should be made public. False declaration should be a ground for disqualification.

Measures to Democratised Parties: All the recognised (national or state) political parties should be required to include in their respective constitutions:

(a) Rules governing the membership of the party and a Register of Current Members that is open for inspection by any member or the representatives of the Election Commission of India.

(b) Provisions for a periodic and democratic election of all the office bearers and the highest executive body by the members of the party.

(c) Procedures for the selection of party's candidates for elections to legislatures.

(d) Procedures for deciding upon various policy documents including the party's election manifesto.

(e) Internal mechanism for adjudicating any dispute, including those concerning the interpretation of the party constitution.

(f) The Election Commission shall review the party constitutions for their compliance with the above-mentioned requirements, and also serve as a court of final appeal against any decision of the internal adjudicating authority in every party.

(g) The failure to comply with the Election Commission's instructions or decisions will invite de-recognition of the party.

Curbing Influence of Black Money:

(a) Every candidate shall make a declaration of his/her income and property at the time of nomination. False or incomplete declaration shall invite disqualification. At the moment, candidates are expected to make a disclosure of their income and assets, action has so far been taken for false declarations or for owning assets disproportionate to known sources of income.

(b) All citizens and corporations shall be exempted, upto a certain limit, from paying income tax on donations made to registered political parties.

(c) The candidates and political parties shall be required, after the completion of election, to file a detailed statement of account. Non-disclosure or false declaration should result in disqualification for candidates and de-registration for political parties.

(d) While the current ceiling on electoral expenses needs to be revised, certain items of expenditure (direct inducements in cash or kind to the voter, or expenditure to bribe officials or hire hoodlums) shall be considered illegal.

(e) Every candidate who secures two percent or more of the valid votes polled in a constituency shall be reimbursed a reasonable sum of, say Rs.10 for each vote secured.

(f) It shall be compulsory for all registered political parties to get a statement of income and expenditure audited annually. The statement shall be a public document.

Curbing Electoral Malpractices:

(a) The local post-office shall be in charge of maintaining and revising electoral rolls on a regular basis. At present most citizens have no access to electoral rolls, and the procedure for additions, elections and corrections are ineffective in reality, though the law is eminently sensible. There is evidence to suggest that in

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urban areas the electoral rolls are flawed up to 40 percent. This needs to be corrected with urgency.

(b) It should be mandatory for the Election Commission to provide Voter Identity Cards to every citizen who figures on the electoral rolls. Once this process is completed, the Voter Identity Card or other means of identification should be made compulsory for voting.

(c) If the proportion of "tendered" votes in a polling booth is greater than one per cent of the total electorate, a re-poll shall be ordered in the booth. A tendered ballot is given to a voter in whose name a false vote was already cast, and who establishes identity. Therefore, a tendered vote is indisputable proof of impersonation and rigging. At present a tendered ballot is kept in

a separate cover and is not counted, while the false vote cast is counted! If this re-poll provision is incorporated and publicised, people will then avail the facility of tendered vote, and rigging will be self-limiting for fear of a re-poll.

The Ultimate Challenge

The numerical position and power weightage of women in political parties is very weak in India, despite the existence of several high profile women leaders in India, some of whom are presiding over state governments as chief ministers. Unless women leaders recruit huge numbers of women members who become active workers, acquire a strong foothold in the decision-making forums of their parties, and begin to influence party decisions through determined lobbying in favour of their women colleagues, women will remain a marginalised group in politics.

Today, all parties lack sincere cadres willing to strengthen party organisations through honest, hard work. If women leaders can begin to recruit large numbers of women in their respective parties and make them indispensable to the party through sheer honest and committed work, women will not need to beg for quotas anymore, but men might! □

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