

S.J.RES30:

The Equal Representation

Act of 2011

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Abstract

We have reached a new age in gender equality. Our grandmothers recall times of discrimination and submission while their granddaughters have become world leaders in business, science and most importantly politics. But are the incredible achievements of women like Hillary Clinton and Condoleezza Rice, undermined by the lack of women coming up the political ranks? As a nation, fiercely proud of their stand on human rights, America is lagging behind on political gender equality. Enfranchisement is more than a right to vote and with women making up only 17% of Congress, America is placed 69th in the world for percentage of women in the national legislature. Women offer vital perspectives and experiences that are crucial in law making and governance. Yet despite years of grassroots gender equality work, they continue to be underrepresented in decision making bodies. As the momentum of grassroots organizing arguable fades, our current law makers must take more responsibility for ensuring women's political significance in the future. This paper proposes a legislative answer to the political gender divide. Positioned as a legislative to proposal to California Senator Barbara Boxer, this paper suggests political parties adopt a voluntary quota, to motivate, mentor and financially support potential female candidates in order to address the dismal representation of women in federal government. This paper looks at the political and social implications of this legislation, works from existing legislative structures both American and abroad and foresees the opposition and passage of legislation through the current Congress. The movement for gender equality needs a jump start, could that catalyst come from legislation itself?

Since women won the right to vote in 1920, there has been consistent discussion calling for the increase of women's active participation in politics, however, in recent years they have lacked legislative support. The following is a bill proposal for Senator Barbara Boxer (D-CA) to introduce legislative action that would impose a voluntary party based gender quota on political parties in recruiting and supporting candidates running for federal office. This legislation seeks to improve the voice and visibility of women in Congress by ensuring women are given equal opportunities in running for elected office. While quotas are often controversial pieces of legislation, the following proposal recommendations explain why this legislation is important, what aspects of the political and social climate support this legislation, and how this type of quota and its specific implementation plan will allow it to succeed. The proposal also acknowledges the work of five previous pieces of legislation achieved in the area of female political involvement, including analysis of successful party based quotas overseas and how this legislation seeks to model and improve on that. Finally, as with any piece of legislation, there are opponents to the bill. The final section of this proposal seeks to address potential counter-arguments to the legislation and acknowledges potential problems.

Where are the women?

Nearly 10 years ago Senator Boxer and three other women were elected to the US Senate in what was described as 'The Year of the Women.' In 1992, a record number of women ran for Congress¹ and for some time following, women's involvement in politics seemed to be increasing. Women such as Hillary Clinton, Nancy Pelosi, and Condoleezza Rice gave women huge visibility in the political realm, individually achieving political positions of distinguished honor and responsibility. Despite this, these women have become the exception rather than the rule. Recent statistics show a decline in women's presence on Capitol Hill and state legislatures. Since Senator Boxer's election in 1992 "only nine women in the Senate and 25 women in the House"² have been added to our Congressional makeup. Furthermore, after the 2010 elections "the number of women in Congress actually declined."³ Currently only 17.2% of members of Congress are women, 73 seats in the House, and 17 seats in the Senate.⁴ According to the Inter-Parliamentary Union, these statistics place America 69th in world rankings (86th when accounting for ties) for the number of women in the national legislature.⁵ The US is ranked well below countries that we have encouraged to elect women in their own governments, including Afghanistan and Iraq.⁶ Many of the countries ranked highly in the study haven't done so by accident. In most of the top 20 nations "there's been some form of robust, positive action," regarding the representation of

¹ Kunin, Madeline. *Pearls, Politics and Power – How Women Can Win and Lead*. Chelsea Green Publishing Company, Vermont: 2008, p. 7.

² Menin, J. "Do We Need More Women in Politics?" *HuffingtonPost Politics*, October 2009. http://www.huffingtonpost.com/julie-menin/do-we-need-more-women-in-b_70446.html.

³ Hernandez, Raymond. "Gillibrand Campaign: More Women in Politics." *The New York Times*, July 2011, p. 1. http://www.nytimes.com/2011/07/05/nyregion/gillibrand-wants-women-involved-in-politics.html?_r=2

⁴ Manning, E. Jennifer. "Membership of the 112th Congress: A Profile." CRS Report for Congress. Congressional Research Service. 20 September 2011. p.6.

⁵ Inter-Parliamentary Union, *Women in National Parliaments*, August 2011, <http://www.ipu.org/wmn-e/classif.htm>.

⁶ Ibid.,.

women.⁷ Although women make up over half of the population of the US, they are still dramatically underrepresented at the decision making table.

There has been much research and discussion invested into how women can and should positively contribute to government. Research acknowledges women's tendencies to lead through cooperation, "adopting a more participative and collaborative style than men typically favor,"⁸ and as better consensus builders; they are more readily seen working across party lines. Furthermore, the different life experiences, policy perspectives, and issue concerns women can offer to political discussions are undeniably noted. Indeed, women's increased involvement in politics is a highly topical part of our current political atmosphere. American politics already have the right rhetoric for gender equality; they simply lack the action to turn rhetoric into political representation. Consequently, this bill comes at an important time in the women's political movement. It comes at a time of much needed revitalization in women's political activity, to encourage women to transition from grassroots and community work to the national political stage and to begin closing the "democratic deficit."⁹

Aside from the need for more women in politics, this legislation also comes at an opportune time following the 2010 census. The opportunities created out of redistricting, as a consequence of the recent nationwide census, could provide for an increase in the promotion of the equal representation of women in politics. As every congressional and state legislative district in the country is being redrawn, and new and open seats are created. As a result, this "redistricting could allow for the subsequent exclusion of women from federal office or act as an opportunity to stimulate a growth in female representation."¹⁰ Redistricting can act as a prime opportunity for women to run competitively for open seats but how congressional lines are drawn, and the politics behind pressure to draw districts in certain ways, must be discussed with women's increased participation in mind. By ensuring that political parties have a vested interest in their potential female candidates, this legislation effects redistricting in a way that includes women in the conversation.

Finally, research shows that one of the largest barriers to the number of women running for Congress is that no one has "asked them to run."¹¹ This legislation would work alongside the extensive outreach programs of numerous nonprofits to ensure political parties are encouraging, supporting and preparing women for federal elections.

S.J.RES30: Legislation to Increase Women's Representation in Congress

S.J.Res30: The Equal Representation Act of 2011 is a joint resolution whereby Congress suggests that 30% of candidates who are actively recruited and financially supported by political parties for federally elected political positions are women. The second section of the bill sets up a Presidential Commission on the Political Status of Women that will review the status of women in politics nationwide and the federal government's efforts to promote political gender equality. This legislation will not be implemented through a penalty or incentive system; instead it operates on the good faith of political parties to ensure women

⁷ Cochrane, Kira. 'How can we get more women into top political jobs?' *The Guardian* May 2010. <http://www.guardian.co.uk/lifeandstyle/2010/may/14/getting-women-top-political-jobs>

⁸ Op, cit., Kunin, p. 65

⁹ Op, cit., Hernandez, p. 2

¹⁰ Stanwick, Kate. and Kleeman, Katherine. *Women Make a Difference*. Center for American Women and Politics at the Eagleton Institute of Politics, Rutgers, New Jersey; 2009.

¹¹ Lawless, J and Fox, R. *It Takes a Candidate: Why Women Don't Run for Office*. Cambridge University Press, New York; 2005. p. 5.

constitute at least a “critical minority”¹² of their candidate selection process. In addition, the Presidential Commission will oversee the implementation of this legislation within political parties and publicly report its findings to Congress at the end of each election cycle. This legislation offers a mechanism with which the speed of female representation in Congress will more efficiently increase in order to aid American democracy.

This legislation attempts to impact the involvement of women in politics at the party candidate level for a number of reasons. Firstly, evidence shows that a female candidate’s relationship with their political party is crucial to their decision to run. This legislation identifies parties as the gatekeepers to federal office and recognizes their crucially supportive role in encouraging candidates to run for election and their ultimate success. Non-profit organization programs such as She Should Run work off a similar premise -that women, more than men, need to be asked in order to seriously consider running for office. Research by the Center for American Women and Politics found that “women are more likely than men to say that party support was very important to their decision to run.”¹³ Because of this, political parties can be an obstacle or a solution to achieving more gender equality in politics. “The vast majority of women who are elected to office get there with the support of their political parties,”¹⁴ Catherine Whitney highlights, because of the support and money parties offer as critical components to confirming a female candidate’s credibility.¹⁵ Therefore, this legislation addresses the need for more “concerted efforts to forge stronger connections between potential women candidates and the parties.”¹⁶

Secondly, this legislation targets political parties as an avenue to increase women’s representation. This is because parties, as opposed to voters, have a large control over the nominations of candidates in primaries. Parties “dominate the recruitment and selection of candidates”¹⁷ in elections, therefore, targeting parties can have a great effect on the number of women initially recruited. The advantage of the quota system is that it forces the nominating bodies, to engage in an active recruitment process. In so doing it also focuses their attention on the actual working conditions and culture of politics, thus making the possibility of political participation more attractive to women.¹⁸

In addition, this legislation chooses to adopt a voluntary quota system in order to harvest the widest range of support and maintain the integrity of the representative democratic system. “Voluntary quota types are preferred in the Western World,”¹⁹ and many developed nations including the UK, Australia, Canada, and Norway use some form of a voluntary gender quota. Initially voluntary quotas may appear weak legislatively and lack strong implementation procedures. However, the voluntary appearance is imperative in producing support from both sides of aisle and allows for peer accountability from political parties and nonprofits alike. Introducing legislation for a sanction-backed gender quota would not only have a very small chance of gaining any Congressional approval but is also an

¹² Dahlerup, D. Using Quotas to Increase Women’s Political Representation. International IDEA Project, Stockholm; 2002. p. 1. Dahlerup determines that a “critical minority” is between 30 to 40%.

¹³ Sanbonmatsu, K. Carroll, S and Walsh, D. *Poised to Run – Women’s Pathways to the State Legislatures*. Center for American Women and Politics at the Eagleton Institute of Politics, Rutgers, New Jersey; 2009.p. 3

¹⁴ *Ibid.*, p. 27

¹⁵ Whitney, Catherine. *Nine and Counting, The Women of the Senate*. HarperCollins Publishers, New York; 2000. p. 57

¹⁶ *Op. cit.*, Sanbonmatsu, Carroll and Walsh, p. 27

¹⁷ *Op. cit.*, Dahlerup, p. 10

¹⁸ Dahlerup, Drude. “Women in Politics: Beyond the Numbers.” *International IDEA*.

<http://archive.idea.int/women/parl/ch4c.htm> Accessed on 22nd October 2011.

¹⁹ “Frequently Asked Questions” The Quota Project. <http://www.quotaproject.org/faq.cfm>. Accessed 22nd October 2011.

impeachment on democracy. This legislation, and the women's movement in general, aim to improve democracy by allowing for the presentation of all voices and views. Forcibly requiring this opportunity goes beyond political feasibility in the current political climate. Furthermore, to support the implementation of the quota, the bill set up a Presidential Commission on the Political Status of Women to oversee political party's recruitment and support of female candidates and to report progress or noncompliance back to Congress. The reports and findings of the Commission will be publicly recorded so that while the Commission would not be empowered to hold noncompliant political parties accountable, the media and supportive nonprofits organizations very well may.

The Equal Representation Act of 2011 has the ability to positively increase the number of women represented in Congress. The adoption of similar legislation overseas, as in the UK for example, has "proven to be successful in terms of increasing the levels of female representation"²⁰ in national office. However, quotas are controversial pieces of legislation. In order for them to be successful, research shows that there must be extensive groundwork to facilitate women's entry into politics. This groundwork has already been laid in US politics. There is precedent for a voluntary quota in the Democratic National Convention of delegates, there are strong examples of successful, competent female legislators already in Congress and perhaps most importantly, there is a large and resourced network of nonprofit organizations dedicated to ensuring the political participation of women. Now is the right time for recognition from political parties, that they too will support not a 'women's agenda,' but an equality agenda, that attempts to make our democracy a more representative one. This legislation does not seek to undermine democracy; voters will still make the ultimate decision as to who represents them. Rather, it seeks to improve democracy by acknowledging the influential and crucial role parties play in the early stages of an election and the active participatory role women must play in politics if the US is to truly call itself a representative democracy.

Senator Boxer's Involvement

Alongside the merits of the bill mentioned above, this legislation also stands to politically benefit its sponsor Senator Boxer. Senator Boxer's existing positions on women's rights and political participation supports this legislation. Through her previous legislative and committee work, Senator Boxer has indicated support for this legislation's political passage. Senator Boxer's successful 1992 and subsequent elections have been largely supported by organizations that would benefit from the passing of the Equal Representation Act, in particular EMILY's List. EMILY's List, the largest fundraising interest group for women's issues in the country, contributed \$1,066,390 to Senator Boxer's election campaign in 2010.²¹ This was the largest contribution to any senator that year, over double what second recipient, Senator Patty Murray, received. EMILY's List and similar organizations play a crucial role in creating a socially supportive environment for this legislation and would not doubt gratefully respond to Senator Boxer's sponsoring of the Equal Representation Act. In fact, Senator Boxer's PAC introduced a campaign just this week called Win With Women 2012, that like EMILY's List is a coordinated fundraising effort for Democratic female

²⁰ Squires, Judith. *The Implementation of Gender Quotas in Britain*. International IDEA Project on Electoral Quotas for Women; March 2005. p. 16

²¹ Open Secrets. "Women's Issues: Money to Congress." <http://www.opensecrets.org/industries/summary.php?ind=Q08&recipdetail=S&sortorder=A&cycle=2010> Accessed 22nd October 2011.

candidates. This campaign lays the foundation of Senator Boxer's support of more aggressive legislative actions for women's political equality.

Senator Boxer is a member of the Foreign Relations Committee, chairing the Subcommittee on International Operations and Organizations, Human Rights, Democracy, and Global Women's Issues. Through this subcommittee, Senator Boxer has sponsored and co-sponsored legislation that supports political equality around the globe. Casey Trombley-Shapiro, a Legislative Research Assistant on Senator Boxer's foreign policy team, says, "Senator Boxer has been a strong and consistent advocate for the inclusion of women in all aspects of governance and society. As members of her legislative staff, we seek out the most effective ways for the Senator to work to support and promote the role of women in governments all around the world."²² These factors indicate willingness by Senator Boxer and her team to be involved in legislation to further the political equality of women both here and abroad.

Finally, in a time of bitter political polarization, research has shown that women govern in a much more collaborative manner than their male counterparts. "Research broadly finds that testosterone can make men more prone to competition and risk-taking. Women, on the other hand, seem to be wired for collaboration, caution and long-term results."²³ Therefore, in using this legislation for a political advantage, Senator Boxer can use this heightened period of polarization and the high public disapproval rate of Congress to argue that an increase in women's involvement in government would result in a more effective, efficient, and collaborative Congress. Ultimately, whether the bill passes successfully or not, this legislation will be of political advantage to Senator Boxer in motivating her female and Democratic base for her next Senate election campaign.

Political and Social Support of S.J.RES30

Support for this legislation will most likely come from the left. The Equal Representation Act engages liberal ideas of female empowerment and suggests government has a role in implementing gender equality. More specifically, while this proposal doesn't assume that women automatically form a united opinion on any issue, there are currently 17 female Senators and 30 female Representatives in Congress. A number of these women have shown special interests in increasing the number of women in Congress. Senator Mikulski (D-MA) is the longest sitting female Senator and the Dean of the Women in the Senate. Senator Gillibrand (D-NY) recently launched a campaign called Off the Sidelines that promotes the support, funding, and mentorship of potential female candidates. On the House side, Representatives like Susan Davis (D-CA), who chairs the Women's Congressional Caucus, and Representative Carolyn B. Maloney (D-NY) have consistently supported a full and vocal women's agenda. Furthermore, as a male member, Senator Robert Menendez (D-NJ) has a proactive legislative record of supporting women's increased visibility, most notably his introduction of legislation S.J.RES21 to amend the Constitution for equal rights between men and women.

In addition, 29 House Representatives and three Senators received substantial funding from the EMILY's List PAC in 2010. A further 32 House Representatives and four Senators received funding in 2008.²⁴ On the Republican side, contributions were made to an additional

²² Personal Interview with Casey Trombley-Shapiro. Washington DC, 3rd November 2011.

²³ She Should Run. <http://sheshouldrun.org>. Accessed 22nd October 2011.

²⁴ Open Secrets. "EMILY's List." <http://www.opensecrets.org/pacs/pacgot.php?cmte=C00193433&cycle=2008> Accessed 5th November 2011.

twelve House Representatives and four Senators by WISH List over the 2006 and 2008 election cycles.²⁵ These are just examples of members who have financially benefited from organizations who stand to support this legislation. Because of this, these members provide a foundation of congressional support for the bill.

There are also a number of reasons why this piece of legislation could gather bipartisan support from men and women. The ‘female vote’ has become a large and competitive part of modern election campaigns. Making up over 50% of the country’s population, women, if mobilized, have the capacity to change electoral outcomes. It has been evidential in other countries that parties that have actively supported the recruitment of women into politics, have done so in the interest of targeting female voters and have succeeded. Judith Squires highlights the use of a gender quota adopted by the UK’s Labour Party in 1992 as an attempt to “regain power after a long period out of office, coupled with statistics that indicated the women’s vote would be central to electoral success.”²⁶ Female voters have tended to lean towards the Democratic party in the US; often a large cause of the Party’s appeal to female voters is their support of female politicians. Support of this legislation from either party could help to secure female voters in the coming year.

Aside from Capitol Hill support, one of the strongest factors behind the passage of this legislation is the notable work of a large and diverse group of nonprofits, dedicated to helping women get elected to political office. One of the largest groups, EMILY’s List, was started in 1985 by founder Ellen Malcolm. The name is an acronym for “Early Money Is Like Yeast,” and suggests the importance of early financial and political support to female candidates in elections. EMILY’s List is primarily a Democratic, pro-choice, women’s fundraising group that has been responsible, at least in part, for the election of over 80 female congressional members since 1985.²⁷ The WISH List, an acronym for “Women In the Senate and House” is the Republican, pro-life counterpart to EMILY’s List that has raised over \$3.5 million worth of contributions for Republican female candidates since its founding in 1992.²⁸ These two organizations lead a large group of female candidate focused fundraising organizations including: the 2012 Project, the White House Project, the Women’s Campaign Forum, the National Women’s Political Caucus, She Should Run, Emerge America, the Susan B Anthony List, Women Count, the National Organization of Women (NOW) and Senator Boxer’s Win With Women. One of the largest aspects of these groups is raising campaign contributions for their candidates. The groups play a crucial role in providing political training, media workshops, and mentoring facilities. While these groups focus mainly on supporting women already running for elected office, the Equal Representation Act is focused more on encouraging women to make the transition from active community leaders to fully fledged members of Congress. The legislation and existing nonprofit programs work towards a similar political objective; achieving stronger female representation in Congress. Social and community support of female candidates act as a foundation of support for the Equal Representation Act. Dahlerup notes that “pressure from women’s organizations and other groups is necessary for the successful implementation of quotas.”²⁹ Their advocacy work, alongside the findings and oversight of the Presidential Commission, would play an important role in keeping political parties accountable to Congress and the American people.

²⁵ Open Secrets. “WISH List Contributions to Federal Candidates” <http://www.opensecrets.org/pacs/pacgot.php?cmte=C00258277&cycle=2008> Accessed 5th November 2011.

²⁶ Op. cit., Squires, p. 2

²⁷ EMILY’s List. “Our History” <http://emilyslist.org/who/history/> Accessed 5th November 2011.

²⁸ The WISH List. <http://www.thewishlist.org/> Accessed 5th November 2011.

²⁹ Op. cit., Dahlerup, p. 6

Building On Previous Legislation

Previous legislative work on women's participation in politics has varied in objectives, content, and success. While there has been much legislative work done on commemorating female political pioneers and encouraging political gender equality abroad, there have been few examples of legislation that directly demands the increase of women's involvement in domestic politics. A proposed gender quota is relatively unprecedented in American domestic politics, so there is little previous legislation to work from. There is however, one area of domestic party politics that has invoked some form of a gender quota. That is in the Democratic Party's National Delegation Convention and committees. An analysis of this strategy and other legislation concerned with the role women play in national politics can be a source of foundation and inspiration for the Equal Representation Act. Other legislative examples including, commemorative legislation, resolutions regarding foreign nation's treatment of women and previous attempts to establish a Presidential Commission on the status of women, also provide background for this proposal. Furthermore because party based gender quotas are a growing trend internationally, this analysis draws from experience and legislation in overseas party politics as a model for a gender party based quota system here.

Commemorative

Commemorative legislation most often comes in the form of a simple or concurrent resolution to honor and recognize the achievements of female suffragists. These pieces of legislation may present a Congressional gold medal to a particular woman and simultaneously is an expression by the House or Senate, that women play an important role in political life. The most recent example of this type of legislation is S.1745: The Alice Paul Congressional Gold Medal Act. Senator Robert Menendez, introduced this bill on the 20th of October 2011. As the title indicates, it is a bill to "posthumously award a Congressional gold medal to Alice Paul in recognition of her role in the women's suffrage movement and in advancing equal rights for women." Alice Paul was instrumental in the drafting of the 'Lucretia Mott Amendment' and subsequently the 'Alice Paul Amendment,' which identifies the equal rights of men and women in all areas of society under the Constitution. While the Alice Paul Amendment to the Constitution has never been successfully, it continues to be introduced to Congress every year by supportive members, most recently by Senator Menendez. Regardless of their success, amendments like these and the leaders who pursued these amendments, have undoubtedly played crucial roles in the way women's equality and subsequent legislation are viewed and discussed in Congress.

The Alice Paul Congressional Gold Medal Act currently has 11 co-sponsors including Senator Boxer, and a companion bill, H.R.2970 introduced by Representative Joe Baca (D-CA) carrying 20 co-sponsors on the House side. Both bills had been referred to committee at the time of writing although this type of legislation generally achieves support from both sides of the aisle and is passed without amendment. This bill is part of a larger cohort of legislation that commemorates female political pioneers. Other examples of commemorative legislation include S.RES.114, honoring Congresswoman Geraldine A. Ferraro, the first woman selected by a major political party as its candidate for Vice President of the United States, H.R. 1303, authorizing the presentation of a Congressional Gold Medal to Shirley Chisholm, the first African-American woman elected to Congress, and S.RES.96, expressing the sense of the Senate that Harriett Woods will be remembered as a pioneer in women's

politics. Practically, these bills do nothing to assure women's equality or rights to fully participate in politics they simply acknowledge the work done in this area by women like Alice Paul.

While commemorative bills contribute to the wider discussion of women in politics, the proposed Equal Representation Act seeks to improve on the status quo by offering specific and substantive action to increase the representation of women. The women that these bills commemorate were fierce advocates and pioneers in women's access to political life. All of them, through their "actions and leadership inspired hundreds of women nationwide to participate in the political process and to break gender barriers at every level of government."³⁰ The Equal Representation Act takes that participation one step further by employing techniques that would assure for the positioning of women at the political decision making table.

US Recommendations to Women Abroad

Through her membership on the Foreign Relations Committee, Senator Boxer has been involved in previous legislation that have expressed Congress' support of foreign states who have included women in their political process. Alongside her position as Chairwoman of the first ever Subcommittee on International Operations and Organizations, Human Rights, Democracy, and Global Women's Issues, Senator Boxer has sponsored legislation that commends Afghanistan's decision (S.RES.191) and encourages Saudi Arabia's actions (S.RES.216) to include more women in the political process. The Senate agreed to both legislations and they passed by unanimous consent. Senator Boxer's most recent legislation regarding foreign democracies, S.RES 209, is a resolution "honouring and supporting the women in North Africa and the Middle East who have worked to ensure that women are guaranteed equality and basic human rights."³¹ This bill explicitly acknowledges that "the empowerment of women is inextricably linked to the potential of nations to generate economic growth and sustainable democracy."³² This bill was supported by 13 cosponsors from both sides of the aisle and gender divide. After minor amendments by Senator Kerry to the wording of the preamble, the resolution was agreed to and passed by unanimous consent on the 29th of July 2011.

In a hearing chaired by Senator Boxer and dedicated to Women and the Arab Spring, Manal Omar from the US Institute of Peace recommended that Libya be encouraged to "implement a quota to bolster the representation of women for current transitional government formation as well as for future parliamentary elections."³³ This policy recommendation and the subsequent legislation are examples of the rhetoric employed by American officials and government for international situations but not employed at home.

These previous bills are important when discussing the future of America's domestic policy regarding women's political equality because of the global context that the US operates within. The US is seen as an "international leader on human rights"³⁴ and yet it is

³⁰ Senator Reid's Introduction of S.RES.96 on the Senate Floor February 29 2008. Thomas.gov.loc

³¹ Bill Summary and Status, 112th Congress, S.RES.109, Latest Title. Thomas.gov.loc

³² Ibid. Summary as of 4/14/2011.

³³ Omar, Manal. *Written Testimony on Women and the Arab Spring*. Hearing before the Subcommittee on International Operations, Human Rights, Democracy and Global Women's Issues. Dirksen Senate Office Building, Washington DC; 2 November 2011.

³⁴ Boxer, Barbara. *Opening Statements on Women and the Arab Spring*. Hearing before the Subcommittee on International Operations, Human Rights, Democracy and Global Women's Issues. Dirksen Senate Office Building, Washington DC; 2 November 2011.

one of only seven countries, alongside Iran and Somalia, that have not ratified the U.N Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). While this policy proposal seeks to stay close to the representational equality of women domestically, America's role as an international women's rights advocate is important to consider. The debate surrounding the ratification of CEDAW has a number of different elements including abortion, which are too diverse to fully acknowledge in this paper. However, the passing of the Equal Representation Act would provide evidential support to America's international standing on women's representation in politics that CEDAW otherwise stands for. "The legitimacy of a democratic, representative system is open to challenge and question when half of the electorate is not equally presented."³⁵ This legislation sends a clear signal to transforming governments and democracies that the US does take its own gender representation in politics seriously and strengthens any argument of the US for developing countries to do the same.

Quotas Overseas

Approximately 40 countries worldwide have introduced constitutional gender quotas in elections for national parliaments. In more than 50 other countries major political parties have voluntarily set out quota provisions for their candidate lists or elections.³⁶ Of the 22 countries where women constitute more than 30 percent of the national assembly, 18 have some form of quota, either voluntary or by constitutional amendment.³⁷ The UK, Australia and Canada have voluntary party based quotas set at 40%.³⁸ This has left many women's rights activists wondering whether this type of representational strategy could also be applied in the US.

The United Kingdom is an example of a country operating with 'soft quotas.' This means that the aim to increase women's representation is achieved "indirectly through internal party quotas or more directly through informal targets and recommendations."³⁹ In this voluntary quota system, political parties willingly participate to target the first level of the candidate nomination process, the pool of potential candidates. In this system, the quota is designed to "enlarge the pool of aspirants willing to pursue a political career."⁴⁰ In the UK this impacts the parties short list of candidates, ensuring that at least the self-imposed target of 40% of candidates sent forward by the party as nominees in the election are women. The first legislation that called for quotas on party shortlists was in 1981 when the Social Democratic Party approved a resolution requiring at least one woman is included on every candidate shortlist.⁴¹ The Labour Party followed suit in 1987. After many years of diverse response and reactions to quotas, in 2002, the Sex Discrimination Act officially produced legislation that "allowed but not required parties to pursue quotas to increase women's selection as candidates for political office."⁴² The use of quotas has statistically demonstrated results in increasing women's representation in parliament. After the 1997 elections the

³⁵ Op, cit. Asia Pacific Forum 2001 cited in Dahlerup p. 38.

³⁶ Dahlerup, D (Ed). *Women, Quotas and Politics*. Routledge Research in Comparative Politics. New York, 2006. p. 3.

³⁷ Macfarquahr, Neil. "UN Study Finds More Women in Politics." *The New York Times*. September 2008. <http://www.nytimes.com/2008/09/19/world/19nations.html>

³⁸ Op, cit. Quota Project

³⁹ Op, cit. Dahlerup p. 212

⁴⁰ Op. cit., Quota Project.

⁴¹ Op. cit., Krook et al cited in Dahlerup p. 202

⁴² Op. cit., Childs 2002 cited in Dahlerup p. 204

proportion of women in parliament doubled to 18.4%.⁴³ Currently only the Labour Party has a goal of electing at least 35% women through incumbent retiring seats, while the Liberal Democrats have chosen to target 40% female candidates in winnable districts. The Conservative Party largely rejects all quota strategies, instead choosing to more effectively persuade constituencies to select women in winnable seats. The parties approach to quotas and the election of women has developed since the introduction of quotas since 1981. The UK model allows for each party to deal with the problem of women's underrepresentation in elected politics individually and within each party's ideologies of equality and opportunity. In a similar cultural ideology to the US, the UK largely sees restriction on candidate selection as undemocratic, but has adopted quotas to effect the shortlist selection of candidates. Using the UK's model, the US could similarly introduce quotas to ensure women are given opportunity at the primary stage of election.

Previous Presidential Commissions

The second section of the Equal Representation Act, the establishment of a Presidential Commission on the Political Status of Women, is inspired by previous Presidential Commissions. The first Presidential Commission on the Status of Women was created by President Kennedy in 1961. Using executive order, President Kennedy established the Commission to "examine the discrimination against women and recommend ways to eliminate it."⁴⁴ The Commission explored issues relating to women in areas like employment policy, education, federal Social Security, and tax laws. The Commission then produced proposals to promote gender equality in these areas. The Commission was dissolved after its final report in 1963,⁴⁵ although its legacy continues through states and universities around the country who have adopted the idea.

In 2009, Representative Jackie Speier introduced H.R.1887 that attempted to establish the second Presidential Commission on Women. The support and inspiration for this legislation originally came from the women's fundraising nonprofit, WomenCount, who urged Representative Speier to sponsor the legislation.⁴⁶ The Presidential Commission on Women Act 2009 was introduced in June of the 111th Congress and gathered the support of 30 co-sponsors on the House side, 26 of who were women.⁴⁷ There was no Senate version and the bill died in committee at the end of the 111th Congress. The legislation called for the establishment of a Commission to:

- (1) review the status of women nationwide;
- (2) review the role of the federal government in aid to, and the promotion of, women;
- (3) review data collection procedures with regard to women federal initiatives and procurement; and
- (4) hold a conference to assist in those reviews.⁴⁸

Opponents of the bill commented on the extended scope of issues affecting women that the Commission would oversee, as well as reluctance towards another permanent federal commission. Furthermore, the legislation was introduced just after President Obama had announced his own White House Council on Women and Girls. This, alongside the existing

⁴³ Op. cit., Krook et al cited in Dahlerup p. 204

⁴⁴ Leuchtenberg, William. *President's Commission on the Status of Women*. Research Collections in American Politics. University Publications of America. LexisNexis.

⁴⁵ Ibid.

⁴⁶ Nedeau, Jen. 'It's Time to Demand A Presidential Commission on Women.' *Change.org*. April 2009. <http://news.change.org/stories/its-time-to-demand-a-presidential-commission-on-women>

⁴⁷ Bill Summary and Status 111th Congress H.R.1887, Co-sponsors, Thomas.loc.gov.

⁴⁸ Bill Summary and Status 111th Congress H.R.1887 Summary As Of 4/2/2009. Thomas.loc.gov

and fragmented community of other Commissions on Women, caused many to question the effectiveness and need for the legislation. The Equal Representation Act of 2011 seeks to improve on Representative Speier's legislation by narrowing the scope of the Commission to only look at women's equal representation in federal politics. In addition the Commission will work alongside political parties to effectively adopt and implement gender quotas. This way the legislation does not conflict with the work of other Presidential Commissions and would less likely receive criticism from opponents against the expansion of government.

Party Delegation Quotas

While there has never been a gender quota in any aspect of elected US politics, there is one area of party politics that has shown previous support for a quota system. In the 1970s, under pressure from the National Women's Political caucus and from feminist supporters inside the party, the Democratic Party reformed its presidential nomination rules to increase women's presence as convention delegates. Less than a decade later, it adopted the "50-50" rule in regards to its party committee membership, ensuring equal representation of men and women at both national and state level party committees.⁴⁹ Similarly, the Republican Party in 1924 adopted the practice of ensuring gender equality among its national and state committees. While it didn't adopt the mandate of delegation equality, their delegate selection continues to be increasingly diverse.⁵⁰ These practices appear to be both well established and popular within each party and calls to abolish gender equal delegation and committee membership selection merits little discussion.⁵¹ Despite these efforts at the party level to include more women in politics, women's involvement has not had a subsequent effect in federal politics. Many women have become "disenchanted with the 50-50 rule,"⁵² identifying that the significant decisions are still made by a small number of men operating outside of the committee. Therefore, although the use of soft quotas by parties acts as a precedent for the Equal Representation Act, it clearly identifies a need for much greater lengths to be taken by political parties to increase the volume and effectiveness of women in political positions. While "neither party has supported such a reform with respect to candidacy,"⁵³ evidence of strong international trending and increasing volumes of domestic nonprofit work on the issue could promote a change in attitude.

Opponent Arguments

As with any piece of legislation, there are opponents for whom the Equal Representation Act does not offer a viable solution to the problem at hand. Understandably, such a controversial topic as gender quotas comes with its own unique problems, and resistance will particularly come from the right. The Republican Party's conservative and traditional ideology extends to its understanding of women's roles and limited participation in politics; already Democratic women outnumber Republican women, 61 to 39 percent.⁵⁴ The following section anticipates arguments that will be used against this legislation to enact a voluntary party based gender quota.

⁴⁹ Sanbonmatsu, Kira. *Where Women Run: gender and party in the American States*. University of Michigan Press. 2006. p.9.

⁵⁰ Kunin, M. *Pearls, Politics and Power*. p. 204.

⁵¹ Sanbonmatsu, Kira. *Where Women Run: gender and party in the American States*. p. 10

⁵² Dahlerup, p. 216

⁵³ *Ibid.* p. 10

⁵⁴ *Op. cit.*, p. 91

For some, the idea of a quota system infringes on the very foundation of the democratic process. That is, that it unduly affects the relationship voters have to independently choose their representative. However, this notion of the democratic process does not realistically account for the role and power political parties have in propping up favored candidates. This legislation acknowledges the crucial influence political parties have over the early stages of an election, particularly in their ability to support candidates during the primary election. While voters have influence over the outcome of primaries, much of the work to get candidates in positions to outlast the primary election is accomplished through political party support. While some opponents to a party quota would argue that quotas contradict the principles of democracy and corrupt the relationship between the voter and the candidate, this argument ignores the strong relationship of party leadership and successful party nominees. Dahlerup argues that “political parties normally control who is nominated and where (in more or less safe seats), so one may ask whether the limits imposed by quotas do not restrict the free scope of the party leadership more than that of the voters.”⁵⁵ Parties, more so than voters, are central to the selection and success of a candidate, therefore, a party quota doesn’t impact on democratic principles of public participation.

The second argument against the implementation of a party based gender quota in politics is the question of what else can be and will be privileged to quota treatment? If a quota exists insuring political representation for women, then it creates a Pandora’s Box complex in which one could ask for similar preferential treatment of different race, religion, sexual orientation, and even age. With such an extensive Civil Rights history, this argument holds some ground and will likely cause discussion among Democrats and Republicans alike. Each special interest group attempts to influence its opportunities in different ways. Women, at more than 50% of the population, constitute more than a special interest group; therefore, this legislation prioritizes their political equality. It is up to the members of each Congress and the pressure from the American people to decide which groups should be given similar legislative treatment.

The success and effectiveness of quotas is varied because of the large number of specific variables unique to each country, political system, party, and social environment. One concern from feminist groups in particular, is that a quota system would create a “ceiling not a floor.”⁵⁶ In some countries in Central and Eastern Europe, gender quotas have led to the development of a political culture whereby women are indeed present, but remain at a limited representation or play token female roles in government. In addition, some have argued that quotas are “demeaning to women and undermine merit as a central criterion of candidate selections.”⁵⁷ This argument was particularly used by the Conservative Party in the UK and is anticipated by the American right. However, the women’s movement has already achieved great success throughout American history and unlike other countries, this party quota is not attempted within a newly formed democracy but within a country proud of its achievement in equality. Because of the tradition of democracy and the history of the American women’s movement, this legislation would be a final push to political equality, not a democratic handout to women unqualified or unwilling. The legislation specially calls for the active recruitment of women and that includes political training and mentorship. This legislation is about empowering women in representing the nation politically, not about fulfilling a simple democratic requirement.

⁵⁵ Op. cit., Dahlerup p. 11

⁵⁶ ACE the Electoral Knowledge Network. “Advantages and Disadvantages to Legislative Quotas for Women’s Representation.” <http://aceproject.org/ace-en/topics/pc/pca/pca03/pca03a/pca03a1>. Accessed 5th November 2011.

⁵⁷ Op. cit., Squires 1996 cited in Dahlerup p. 203

Finally, a discussion surrounding this legislation that will be paramount among both Democratic and Republican parties is the problem of dealing with male incumbents. Part of the resistance to quotas, undoubtedly, comes from incumbents' fear of losing their seats. Examples of quota implementation in the UK and other western democracies indicate that there were problems if a party had to dismiss a male incumbent in order to include a woman. This would also be problematic in the US and would create resistance from the people needed to create the legislation in the first place. Consequently, vacant seats are women's best chances at running and winning. Open seats can most readily come available from redistricting and by including a phase in the timeline for the party quota. Redistricting creates opportunities for women to capitalize on the reconstruction of districts and the availability of open seats while the quota experience in Norway revealed that phasing in a quota system over three elections cycles appears to be effective while minimizing resistance.

Political Strategy for Passage of Legislation

Catherine Whitney accurately notes that, "bills rarely get passed without undergoing a series of defeats and revisions."⁵⁸ It takes a combination of an individual's tenacity, supportive party leadership, the right political, social and economic environment, as well as a tremendous amount of compromise and redrafting to successfully pass legislation through Congress. With this in mind, this proposal of the Equal Representation Act may have a series of outcomes ranging from passed, to not passed, to amended, to broken up, and more. Judy Schneider says that in order for legislation to be successful, it must have three things perfectly in line, "policy, politics and procedure."⁵⁹ This policy's merits and drawbacks have been discussed in the previous segments, therefore the procedure, or particular pathway of the legislation is particularly important.

Once legislation is introduced to Congress it is directed towards one or more committees depending on its issue area. In this case, the legislation would be taken up the Committee on Homeland Security and Governmental Affairs in the Senate, or more specifically, the Subcommittee on Oversight of Government Management. On the House side, the Committee on Oversight and Government Reform would handle its passage. Three women have membership on the Senate Committee including Ranking Member Senator Collins (R-MN), who has consistently supported a "left-centrist" agenda and been endorsed by moderate and civil rights organizations such as WISH List the Human Rights Campaign.⁶⁰ Senator Claire MacCaskill (D-MO) also sits on the main committee while only Senator Mary Landrieu (D-LA) sits on the subcommittee. The House Oversight Committee has only one female Republican member, Representative Ann Marie Buerkle (R-NY) and three female Democrats, including women's advocates Representative Jackie Speier (CA-12) and Representative Carolyn Maloney (D-NY). Considering the committee and congressional make-up, the Equal Representation Act would suffer tremendous resistance in the House. Senator Boxer has a close working relationship with Majority Leader Senator Harry Reid and combined with individual female support on the Senate side, which the more intimate chamber often allows for, the Equal Representation Act would at the very least gather some support. However, the Republican and male dominated controlled House, lead by Speaker John Boehner (R-OH) offers a great obstacle to passing this legislation. Considering the congressional make-up, there are options to amend the legislation that would increase its

⁵⁸ Op. cit., p.24

⁵⁹ Judy Schiender, CRS Specialist Government Division. Intern Workshop Lecture Series. October 2011.

⁶⁰ Newton-Small, J and Tumulty, K. "How Maine's GOP Senators Are Key to Obama's Agenda. *Time Magazine*. 12 Feb 2009. <http://www.time.com/time/magazine/article/0,9171,1879183,00.html>

chance of passing in limited form. One of those options includes changing the legislation to a simple resolution, expressing the sense of the Senate to encourage parties to more actively recruit female candidates.

The idea of political parties supporting women candidates is not new or controversial. In fact, both the Democratic and Republican parties already have the right rhetoric in their platforms. As Madeline Kunin highlights, Democrats endorse “full and equal access of women and minorities to elective office,” and Republicans support “vigorous recruitment and training and campaign support for women candidates at all levels to give women an equal role.”⁶¹ The problem is that statistics show that there isn’t enough action behind this rhetoric. This legislation doesn’t seek to penalize parties, or corrupt the democratic process. Above all, citizens’ voice in electing their representatives is paramount. What this legislation does is provide a target that parties can look to when practicing their rhetoric and to allow public discussion of this issue so that parties, nonprofits and media alike, are able to hold one another accountable for women’s equal political representation.

Quotas are often disfavored because of the liberal citizenship model employed in the United States. Like many other western countries, the US tends to operate under the concept of equal opportunity as opposed to equal outcome.⁶² Because of this, voluntary or ‘soft’⁶³ quotas are most likely to be successful in gathering support from political parties and the public. Still, quotas are controversial even among women, so the political reality of passing this legislation into law is limited. Regardless of its passage, it’s important to reconsider the problem this legislation attempts to address low female representation in federal politics. This legislation offers one strategy for achieving that objective, but it is by no means the only way. If this legislation cannot gather enough congressional support, the objective is not necessarily lost. The discussion has still been raised and brought more awareness to the problem at the Congressional level. In addition, there are possible amendments that could assist with the passing of this legislation, including the use of a sunset clause and a phase in period. Other western democracies that have success in using voluntary party based quotas have done so using these techniques, most notable the Norwegian’s three election cycle phase in and the quota provision of the UK’s Sex Discrimination Act, which has a sunset clause of 2015.⁶⁴

Secondly, breaking up the sections of the bill could be a more effective way at making a legislative impact. The second section, which establishes the Presidential Commission, while having arguably even less impact than the voluntary quota, still makes progress towards achieving the legislative objective. The Commission’s ability to report to Congress and the public on the status of women politically, stands as a long term factor of accountability, pressuring political parties and officials to continually consider the role of women at the decision making table. Furthermore, civil rights movements, whether they are gender, race or sexual orientation based have always been about long-term goals and short-term successes. Therefore, if the legislation garners some support but not enough to pass as is, changing the phrasing of the legislation and taking away the quota benchmark still contributes to the cause. By introducing a simple resolution that expresses the sense of the Senate “to encourage political parties to actively recruit and support more women in to political positions,” Senator Boxer is still able to give attention to the problem and call on political parties to respond. This resolution is in direct agreement with both the Democratic

⁶¹ Op. cit., Kunin p. 204

⁶² Squires, J. The Implementation of Gender Quotas in Britain. University of Bristol, International IDEA project on Electoral Quotas for Women March 2005. p. 3.

⁶³ Op. cit., Krook cited in Dahlrup p. 196

⁶⁴ Op. cit., Squires, p. 6.

and Republican platforms regarding female candidates and offers no threat to party leadership or attempts to influence party rules.

It is important to remember that “progress is a weighted continuum, with each progressive act adding its impact to the next.”⁶⁵ Congress is set up to be an arena of discussion and compromise and therefore clear passage of any bill is subject to high levels of scrutiny and criticism. While the wording and initial objectives of the original legislation may be diluted, ultimately any legislation that addresses the critical role women must play in a successful democracy, is still at some level, a small success.

Conclusion

S.J.RES30, The Equal Representation Act of 2011, attempts to create a mechanism and inspire a shift in party attitudes to address the low number of women represented in the national legislature. Dr. Tamara Wittes, Deputy Assistant Secretary of Near East Affairs at the US Department of State, said on November 2nd 2011 at a Foreign Relations hearing chaired by Senator Boxer that “the full participation of women is an essential ingredient to any democracy.”⁶⁶ Our understanding of this full participation must be more than just women’s presence at the voting booths. Our democratic institutions must actively “reflect the face of America,”⁶⁷ and in doing so our democratic integrity will be strengthened here and abroad. Quota proposals are controversial and varying in effectiveness. Nevertheless this legislative proposal attempts to highlight the reasons for why this voluntary, gender, party based quota can be successful in this current political and social environment. The proposal builds on the much larger discussion describing the need for more women in decision making positions in our democracy and attempts to use previous legislation, overseas quota experience, and the analysis of amendments that could make this legislation more successful to create a solution to the representative gender inequality in Congress.

⁶⁵ Op. cit., Whitney p. 13

⁶⁶ Wittes, Tamara. *Written Testimony on Women and the Arab Spring*. Hearing before the Subcommittee on International Operations, Human Rights, Democracy and Global Women’s Issues. Dirksen Senate Office Building, Washington DC; 2 November 2011.

⁶⁷ Op. cit., Kunin. p. x

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