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A Study on the Effectiveness of Election Laws and Systems Pertaining to Women's Political Representation

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Contents

I. Rationale and Objectives of this Study	1
II. Analysis of Details and Issues in the Election Laws and Systems Pertaining to Women's Representative	3
III. Analysis of the Effectiveness of Korea's Various Election Laws and Systems on Women's Political Representation: Simulation Analysis and Delphi Survey Analysis	6
1. Female Nomination Quota System	6
2. Proportional Representative System	7
3. Women's Political Development Fund	10
4. Expert Group Survey Result	10
IV. Conclusion and Policy Proposals: Measures to Reinforce and Act on the Constituency Quota System for Women	12
1. Conclusion:	12
2. Policy Proposals	14
References	19



Tables

<Table 1> Provisions in the Laws Pertaining to the Quota System for Women	4
<Table 2> Changes in the No. of Seats by Party and Region under the German Style Party-List System (based on 494 total seats)	9

A Study on the Effectiveness of Election Laws and Systems Pertaining to Women's Political Representation¹⁾

Won Hong Kim

I. Rationale and Objectives of this Study

There have been a variety of discussions and suggestions on the reform of election systems since the Constitutional Court of Korea ruled on Oct. 30, prior to the 20th General Elections, that the demographic deviation (of 3 to 1) in the demarcation of constituencies was in violation of the principle of equal voting. In the end, however, for reasons of realpolitik, the demarcation of constituencies was confirmed with just 42 days before the election date, without any particular change such as an expansion of the proportional representation system that had been discussed. As a result, the number of seats at the National Assembly was kept at 300, the same as before, but the number of constituencies went up by 7 to 253, whereas that of proportional representatives down by the same margin to 47. As of 2015, the representation of women in Korea stands at 15.7% in the National Assembly, 4.0% in the heads of local governments, 14.8% in metropolitan city councils, and 21.6% in local district councils. It

1) This paper is a summary of the Study on the Effectiveness of the Election Laws and Systems Pertaining to Women's Political Representation (Researchers: Won-Hong Kim, Bok-Tae Kim, Hye-Young Kim, Sun-Young Jeon, Eun-Joo Kim) done in 2015 as a basic initiative for the Korean Women's Development Institute.

has constantly grown over the years with the advent of the quota system and through the women's movement. However, this is still far below the critical mass of 30%. Therefore, various policy efforts need to be made in terms of legal and systemic reforms for the political representation of women to improve, which is to usher in the age of equally divided seats by gender going forward as well. There are many nations over the world such as in northern Europe, Germany, France, etc. where women's political representation is assured under the election systems and laws pertaining to politics, based on the understanding that it would contribute not only to the development of women but to the democratic improvement of the whole society. As such, assuring the political representation of women in the laws pertaining to politics or election systems is universally becoming a global trend. To live up to this global trend and to further utilize the female workforce, Korea faces the same challenge: to include women's political representation in the election laws and systems. Against this backdrop, this paper analyzes the effectiveness of women's political representation with focus on the laws pertaining to politics and tries to create a public sentiment in favor of enhancing women's political representation and come up with realistic measures by proposing ways to change election laws and systems to that end.

II. Analysis of Details and Issues in the Election Laws and Systems Pertaining to Women's Representative

Korea has witnessed a sharp increase in women's political representation since the quota system for women was introduced in 2000. Before the quota system, in the 15th National Assembly, there were only nine female lawmakers out of the total 299 legislators, accounting for merely 3%. In the 16th National Elections held in 2000 with the 30% quota applied in proportional seats for women, there were 16 (5.9%) women out of 273. Afterwards, the numbers have gone up to 39 (13%) in the 17th, 41 (13.7%) in the 18th, and 47 (15.7%) in the 19th. After 50% of proportional seats were allocated to women, the number of female lawmakers has seen a constant increase not only in proportional seats but in constituency seats as well. Nevertheless, the quota system for women in proportional seats at the National Assembly is simply a duty that lacks an enforcement rule. Without nullifying the registration or cutting election subsidies, there is no way its violation can be penalized. In addition, the quota system for women in constituency seats is merely a recommendation with no enforcement mechanism against any violation, thereby undermining its effect. In particular, the lack of laws to mandate and enforce the quota system for women in constituency seats hampers the efforts of self-regulated nomination of women candidates at the political party level.

〈Table 1〉 Provisions in the Laws Pertaining to the Quota System for Women

Date	Relevant Clause	Key Points	Applied to/in
Feb. 16, 2000	• Article 31, Political Parties Act	- Must recommend women for 30% of proportional seats at the National Assembly and metropolitan city councils	General Elections in 2000
Mar. 7, 2002	• Article 31, Political Parties Act • Articles 47, 52, Public Official Election Act	- Introduce the nomination of 50% female proportional representatives for metropolitan city councils and the recommendation of one woman for every two seats - Recommend the nomination of 30% female constituency representatives for metropolitan city councils Nullify the registration if in violation of nominating 50% female proportional representatives for metropolitan city councils and recommending one woman for every two seats	Local Elections in 2002
Mar. 12, 2004	• Article 31, Political Parties Act • Article 47, Public Official Election Act	- Expand to 50% the nomination of female proportional representatives for the National Assembly - Recommend female candidates for 30% of the National Assembly constituencies	General Elections in 2004
Aug. 4, 2005	• Articles 47, 49, 52, Public Official Election Act	- Assign odd numbers to proportional representatives for the National Assembly - Introduce proportional representatives for local district councils - Allocate 50% of proportional representatives for local district councils to women and assign odd numbers - Recommend to assign 30% to women in the elections for constituency seats at the National Assembly and constituency seats at local district councils - Introduce mid-size constituencies for local district councils	Local Elections in 2006
Oct. 4, 2006	• Articles 47, 52, Public Official Election Act	- Expand to the metropolitan city councils and local district councils the scope of refusal to process and nullification of registration if in violation of assigning 50% women for proportional representatives and odd numbers thereto	2006
Mar. 12, 2010	• Articles 47, 52, Public Official Election Act	- Recommend one or more female candidates in each constituency for the National Assembly at local elections. If in violation, nullify the registration (except for Gun-districts). But, does not apply if the total number of candidates is under 50% of the seats in total.	Local Elections in 2010

There are also other systems related to the political representation of women: the women's political development fund and the subsidy for recommending female candidates to sit in public offices. The former was introduced in 2004 under the Political Funds Act to help the routinization of targeted recruiting and fostering of female politicians within political parties. Despite the provision in the Political Funds Act stating that 10% of government subsidies shall be spent on the development of politics for women, there is no specific rule or guideline entailed, and the subsidies are often appropriated against their purpose. In particular, the biggest problem is that political parties' labor cost in operating female organizations is paid off with the women's political development fund. The state subsidy system to help female candidates' nomination for public office was introduced to support the election campaign costs of female candidates running for metropolitan city councils prior to the 2002 Local Elections as a measure to expand the participation of women in politics, and was further applied to the National Assembly Member Elections in 2004 and to the Si/Gun/Gu Council Elections in 2006 with the amendment of the Political Funds Act. It is encouraging to note that the system can help female candidates with weak funding abilities as subsidies are provided for them to cover campaign costs. Because it does not take into account at all the number of female candidates nominated by the political parties for the elections of various levels, however, there are serious problems in the allocation methods to live up to its goal of promoting the nomination of female candidates.

III. Analysis of the Effectiveness of Korea's Various Election Laws and Systems on Women's Political Representation: Simulation Analysis and Delphi Survey Analysis

1. Female Nomination Quota System

Since the female nomination quota system was introduced in 2000, the political representation of women has gone up to a significant extent. However, the female nomination quota system for the National Assembly proportional representation is defined as a simple obligation with no enforcement rules attached, leaving no means to impose sanctions such as nullification of registration or cuts in election subsidies even if it was violated. In addition, the female nomination quota system for the National Assembly constituencies is a recommendation with no enforcement mechanism. Especially since there is a lack of legal means to make the female nomination quota system for local constituencies obligatory and enforceable, it hampers the efforts of self-regulated nomination of female candidates at the party level. Upon simulation analysis on the effect of obligating the 30% allocation of female candidates to constituency seats, it is expected that female members at the National Assembly will rise up to 30% in 2056 with the introduction of the quota system for women, but in 2064 without²⁾.

2) The dependent variable was the ratio of female members from constituencies and the independent variable was the expected ratio of female members tied with the change in the ratio of female candidates put in a regression analysis model. This technique was used to predict the impact of the female candidate ratio on the female representation with a linear model based on the assumption that all other factors are controlled. To do this, we first analyzed the impact of the year factor from the results of the

2. Proportional Representative System

Proportional representation can improve the fairness in the representation by expanding the representation of minority groups, and boost the political representation of women through the institutional combination of the proportional representation system and the quota system for women. In the 17th National Assembly Member Elections in 2004, for example, a party-list type proportional representative system was introduced with two votes for each electorate to cast. As a result, the Democratic Labor Party was able to enter institutional politics and thus a new era began in Korean politics on the ideological front. In addition, in the 17th National Assembly Member Elections when the party-list type proportional representation system with two votes per person and the 50% female quota system were

16th to the 19th General Elections on the ratio of female candidates, and it turned out that the size of the impact was 0.011 on the ratio of female candidates with $P < .001$. We analyzed the difference in years when reaching 30% in the ratio of female members at the National Assembly, dependent on the adoption of the 30% female quota system, by using the regression formula on the ratio of female candidates. For example, the ratio of female members in 2016 was 9.365%. First of all, it was predicted that, without the quota system, the time when the ratio of female members elected from constituencies would reach 30% to be at the General Elections in 2064. Next, to have the quota system applied, the calculation formula for 2016 presented earlier as an example was used to calculate the size of allocation, and then the incremental regression coefficient to predict the year of reaching 30%. 30% was assigned as the ratio needed for female members. To reach 30%, about 10%p was added to the 20% of 2016. Afterwards, the same incremental regression coefficient could be used in calculation formulas to predict, and in doing so, it was predicted that the ratio of female members elected from constituencies could reach 30% at the General Elections in 2056. However, the sample size is too small for the current model analysis, which poses a limitation in the prediction with this model. Therefore, it is necessary to increase the sample size in the future for a more accurate prediction of female representation.

introduced, the number of female lawmakers more than doubled from 5.9% in the 16th to 13%. The benefits of the proportional representation quota system for women were not limited to the increase of proportional representative National Assembly members only. The experience of having more women as proportional representatives may lead to the expectation that they can move on to constituency seats and continue their career. In the past, from the 17th to the 19th General Elections, more than half of the female lawmakers elected from constituencies were proportional representatives before. In other words, it was proven that the proportional representation quota system for women served as a political recruitment channel of importance for female candidates to run in a local constituency.

What is next is the result of simulation analysis on the effect of the increasing number of proportional representative seats.

- * In line with the National Election Commission-proposed ratio of 2:1 between members elected from regional constituencies and proportional representatives, we simulated starting from 300, the total number of seats at present, with 200 elected from constituencies and 100 proportional representatives, resulting in 15 women lawmakers elected from constituencies and 50 women proportional representatives(The ratio of female lawmakers stands at 21.7%).
- * The simulation following the suggestion made by Sang-Jeong Shim, Representative of the Justice Party to increase the total number of seats to 360 with 240 elected from constituencies and 120 proportional representatives, resulted in 19 women lawmakers being elected from constituencies and 60 women

proportional representatives. (The ratio of female lawmakers stands at 21.9%.)

* cf. Simulation on the change of seats in case the German style party-list system is introduced

〈Table 2〉 Changes in the No. of Seats by Party and Region under the German Style Party-List System (based on 494 total seats)

(Unit: persons)

		Seoul	Incheon, Gyeonggi + Gangwon	Chungcheong Area + Sejong	Honam Area + Cheju	Gyeongbuk Area	Gyeongnam Area	Total
Saenuri Party	Assigned (Seats)	48	71	19	6	37	45	226
	Constituencies (Seats)	16	36	12	0	27	36	127
	Proportional Representatives (Seats)	32	35	7	6	10	9	99
Democratic United Party	Assigned (Seats)	43	61	18	39	8	25	194
	Constituencies (Seats)	30	35	10	28	0	3	106
	Proportional Representatives (Seats)	13	26	8	11	8	22	88
Liberal Advancement Party	Assigned (Seats)	2	4	8	1	0	2	17
	Constituencies (Seats)	0	0	3	0	0	0	3
	Proportional Representatives (Seats)	2	4	5	1	0	2	14
United Progressive Party	Assigned (Seats)	12	17	3	9	4	9	54
	Constituencies (Seats)	2	2	0	3	0	0	7
	Proportional Representatives (Seats)	10	15	3	6	4	9	47
Independent / Other	Assigned (Seats)	0	0	0	2	0	1	3
	Constituencies (Seats)	0	0	0	2	0	1	3
	Proportional Representatives (Seats)	0	0	0	0	0	0	0

3. Women's Political Development Fund

The women's political development fund was introduced under the Political Funds Act in 2004. Despite the provision in the Political Funds Act stating that 10% of government subsidies shall be spent on the development of politics for women, no specific rule or guideline is entailed, and thus the subsidies are often appropriated against their purpose. In particular, the biggest problem is that political parties' labor cost in operating female organizations is paid off with the women's political development fund.

4. Expert Group Survey Result

A survey was held with about 30 subjects: they were former or incumbent lawmakers, party members, political scientists, politics-related women's organization officers, etc., and were questioned on ways to improve election laws and systems for women's political representation at the General Elections in 2016. It was a Delphi survey for expert groups (in 3 rounds); from Jun. 22 to Jul. 10, 2015 for Round 1, Jul. 20 to Aug. 7, 2015 for Round 2, and from Aug. 17 to Sep. 4, 2015 for Round 3. The results show as high as 80.5% in favor of an equal gender divide at the National Assembly. However, the subjects expected that it would take about 20 years at an average of 19.9 to reach the equilibrium. Among various election-related systems being considered to boost the representation of women before the 20th General Elections slated for 2016, they chose 'demarcation of constituencies (90.2%),' 'increase in the number of proportional representatives versus the number of seats elected from constituencies (75.6%),' 'introduction of rules to mandate the quota system for nomination of female candidates to run in constituencies

(87.8%),’ and ‘nullification of registration if in violation of the female quota system (97.6%).’ With regard to the subsidy for nomination of female candidates, they were in support of budget increase (87.8%), improvement in payment practice (87.8%), cuts in the provision of political funds by party if the allocation ratio for female nomination is violated (90.2%).

IV. Conclusion and Policy Proposals:

Measures to Reinforce and Act on the Constituency Quota System for Women

1. Conclusion:

Since the implementation of proportional representation quota system for women in 2000, the ratio of female lawmakers went up from 2-3% to 15%. This increase in the representation of women is mainly attributed to the proportional representation quota system for women, but in essence, the representation of women elected from constituencies is still in limbo. This raises an urgent need for the introduction of mandatory 30% recommendation from among women to expand the representation of women in constituencies. The reasons why the quota system for women to run in constituencies should be mandatory include, first of all, the need for improving representation by gender of local residents. The mandatory 30% assignment of constituencies to women is a mechanism that can bring up the female representation in the constituencies hovering in the range of 7% now to that of 30%, even if it is not for 50% representation. Not just because half of the electorate in constituencies are women, but to secure the representation of voting value by gender, the female representation in constituencies must improve. Second, the mandatory quota system for women in constituencies will strengthen the political power of women. Unlike proportional representatives, constituency representatives require more political capabilities in terms of contact with the electorate, resolution of local issues, etc. Therefore, it will be possible to help more female candidates improve their political capabilities as a representative of local residents as

well as an expert by obligating the quota system for women in constituencies. Third, the mandatory quota system for women in constituencies is for female proportional representatives to maintain their career. ① Customarily, sitting as a proportional representative is limited to one term, and thus many female lawmakers equipped with expertise and experience unable to continue their career as a politician. ② From among female proportional representatives in the 17th National Assembly, 17 ran for constituency elections in the 18th, which accounted for as high as 52%, and from among female proportional representatives in the 18th, just seven ran for constituency elections in the 19th, which accounted for 26%, half the level of proportional representatives in the 17th. ③ The reason was that the nomination of candidates was done bottom-up in the 18th, but top-down as well as bottom-up in the 19th, and thus most female proportional representatives failed to pass primary elections. Therefore, if the quota system for women in constituencies becomes mandatory, the likelihood of female proportional representatives running for constituency elections goes up. Fourth, as it was learned from experience that with the female quota system for proportional representatives, the quota system for women in constituencies will be effective only if it becomes mandatory because a simple obligation rule does not assure real effects. Therefore, it must come with enforcement measures providing penalties if the 30% quota for female candidates in constituency elections is violated. It requires punitive measures such as nullification of registration or cuts in election subsidies. It is also necessary to come up with systems to support female candidates running in primary elections held at the party level under the top-down nomination approach, thereby putting into action the 30% quota for female candidates in constituencies.

2. Policy Proposals

Proposal 1) Amendment of Articles 47 and 52, the Public Official Election Act

- Article 47, Paragraph ④ of the Public Official Election Act that states, “When any political party intends to recommend its members as candidates to run in the election for National Assembly members of local constituency and in the election for local council members of local constituency after their term of office expires, such political party shall work to recommend not less than 30/100 of the total number of the candidates to run in the election for nationwide constituencies from among women.” should be amended to ‘shall recommend’ to make the duty obligatory.
- Furthermore, Article 52 of the Public Official Election Act should be inserted with new provisions such as nullifying of registration or cuts in election subsidies as an enforcement measure in case the quota system for women is violated. In addition, the cuts in election subsidies as penalty for non-compliance with the relevant law should be set at a high level.

Proposal 2) Setting the rules on cuts in election subsidies for political parties and the adjustment and stipulation of reduction rates

- To set up the rules for reduction of election subsidies for political parties instead of nullification of registration as an enforcement measure, it is necessary to insert Article 52-1 (Reduction in Election Subsidies) anew and stipulate the details in the Political Funds Act.

- With regard to the reduction rates for election subsidies, if the expert group's opinion is taken into account, it seems reasonable to cut 40% if the party recommends less than 10% from among women, cut 20% if 10% or over but less than 20%, and cut 10% if 20% or over but less than 30%.

Proposal 3) Mandatory nomination of women for new constituencies created from the reshuffling of constituencies

- As much as the demographic equivalence of voting value is important in the demarcation of constituencies, so is the gender-wise equivalence of voting value.
 - Half of the population is women and so is the number of voters. As the voting right is granted to both men and women, the right to become a representative of citizens should be granted equally to both men and women.
- In the equivalence of voting value, the gender of the electorate must be reflected in the representation by gender of the election result. So, to put that into action, it is reasonable to recommend women for a constituency newly created from the reshuffling of constituencies.
- Moreover, until the 30% representation of female lawmakers is realized, the mandatory nomination of women for a constituency newly created from the reshuffling of constituencies should be stipulated in the Public Official Election Act.

Proposal 4) Legislation of granting additional points to female candidates in primary elections at political parties

- It is agreed that holding primaries is a key alternative to

democratization of political parties, but it works against women in the political climate of Korea with weak showings in women's activities within political parties and participation in politics.

- In the 17th and the 19th National Assembly Member Elections, female candidates from the Saenuri Party (Grand National Party) and the Democratic Unified Party (Uri Party) showed very negative results in primaries.
- If comparing the constituencies where women participated in the primaries, the Grand National Party had 13.3% with two out of 15 and the Uri Party had 9.5% with eight out of 84 in the 17th., whereas the Saenuri Party 8.5% with four out of 47 and the Democratic United Party 13% with nine out of 68 in the 19th. As such, there were too few female candidates that participate in primary elections. The ratio of women who won primaries was none for the Grand National Party in the 17th and the 19th with two and four contested by female candidates respectively. In case of the Democratic United Party, there were just two and three female candidates passing the primary elections in the 17th and the 19th respectively.
- Accordingly, a systematic support mechanism at the level of political parties is needed for women who participate in primary elections.
- As a way of providing a systemic support for women running in primaries at the political party level, each party operates a system to add points to female candidates in the race.
- However, political parties' additional point system has two problems at the moment. First, the base of additional points is the number of votes that an individual female candidate won,

and second, the validity of primaries where such additional points are given is questionable.

- Therefore, the additional point system for female candidates in primary elections must address the two aforementioned problems. It needs an improvement to the effect of resolving the issues in the base and ratio of additional points and the validity of primary elections with additional points granted. In other words, the legislation of the additional points system is necessary to make it legally binding and effective so that it can give an advantage to women and rookies, and bring down the barriers for them to enter politics.

Proposal 5) Introduction of 20% quota recommending candidates from among women as a strategic move (with priority)

- Both the ruling and opposite parties feel the need to reform political parties' recommendation system and are reviewing whether to introduce the open primary system. The rationale is to prevent corruption and fraud in the process of political parties' recommendation by encouraging public participation in the screenings. With the new system, if adopted, however, it is expected that the participation of socially disadvantaged people or women in politics will become even harder because they are less capable of organizing people and raising funds.
- The public participating in primaries may turn into organization-mobilized campaigns and popularity votes and repeat corrupt elections. Moreover, as often seen in the previous elections, they are highly unfavorable to women or rookie politicians.
- Therefore, when expanding the scope of primaries within a

political party in a top-down approach to make the recommendation process more transparent within the party, the strategic recommendation (with priority) of women and other socially disadvantaged people must be kept intact.

- Strategic recommendation (or priority recommendation) is a system that can support the quota system for female candidates and should be exercised in earnest as a channel for politically disadvantaged people such as women, rookies, and the disabled to advance to the finals.
- Additionally, in case of strategic recommendation (with priority), it is necessary to make it obligatory to recommend a certain percentage of women to run in the constituencies where the political party has the lead. If it is in regions subject to top-down recommendation, the number of contending candidates in the primaries should be equal by gender as well.

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