Gender and Executive Activism:  
Will the United States Elect a Female President in 2008?

Paula A. Monopoli  
Professor of Law  
University of Maryland School of Law

May 2007

Centre for Advancement of Women in Politics  
School of Politics, Queen’s University Belfast

Occasional Paper Series, no. 13

ISBN: 9780853899242

© Paula A. Monopoli
Introduction

I am very pleased to be here today and want to thank Yvonne Galligan very much for her invitation to speak here at Queen’s University. It is an honor to be here and I am very pleased to join you all during such a historic time for Northern Ireland. I wanted to share some of my personal history to give you a sense of why being here in Ireland is so special to me and how I came to be so concerned about women’s equality in my research and scholarship.

My grandmother, Johanna O’Connor, was born in County Kerry in 1903. She was one of eleven children of Patrick and Mary O’Connor and lived with her family on the family farm near the town of Cahirciveen. Like many of her generation, she emigrated to the United States in 1927 to join her older siblings who had already left Ireland. She left, in part, because life was very hard as she used to say. She had lived through the Easter Rising of 1916, the War of Independence and the Civil War during which she lost several relatives. I have always been so moved by the courage it took a young woman of twenty-four to leave her parents and her home, never to see them again. I wish that her life in America had proven to be easier than her early life in Ireland, but unfortunately it was not. It did, however, provide me lessons on why equality for women is such a matter of human rights.

When my grandmother arrived in New Haven, Connecticut, where her older brother Patrick had moved, she met my grandfather, William Ryan. He had left Dublin the year before. They met, married and had three children, my mother, Eileen Francis Ryan, being the eldest. Unfortunately, the marriage did not last and my grandmother raised three children on seventeen cents an hour working long hours in a Providence, Rhode Island factory. She had no child support. Laws in those days were few and enforcement non-existent. When it came close to retirement for her, she was injured on the job, just short of her twenty-year vesting in her pension. My grandmother was forced to stop working and received a pension of just a few dollars per month, only a fraction of the amount to which she would have been entitled if she had been physically able to work just a few months more.

These lessons did not escape my mother, who went on to graduate from college and received a masters degree in history from Brown University in Providence. She went to class inside the gates outside of which stood the very houses my grandmother worked in as a domestic. My mother passed these lessons on to me. I was able to attend Yale University in New Haven, where I walked daily past the houses of the wealthy upper class families where my grandmother had worked when she first arrived in the United States.

My grandmother’s life and struggle instilled in the women of my family a strong belief in both the need to be independent and a fierce desire to work toward equality through law for all women. My grandmother was still in Ireland when the United States
finally passed and ratified the Nineteenth Amendment in 1920. The promise of that Amendment has not yet been fulfilled, if one interprets the Nineteenth Amendment to promise more than simply the right to vote, but rather a full panoply of political rights, the right to stand for office and the right to equality of representation in the American political system. Unlike the Fourteenth and the Fifteenth Amendments which have been interpreted far more expansively in terms of race and voting rights, the Nineteenth has remained unextended and unexplored. As a result, women still lag behind and the United States is still a monosexual democracy in many ways.

For example, “[i]n 2007 women hold 86, or 16.1%, of the 535 seats in the 110th U.S. Congress; 16, or 16.0%, of the 100 seats in the Senate; and 70, or 16.1%, of the 435 seats in the House of Representatives. . . . In addition, three women serve as the Delegates to the House from Guam, the Virgin Islands and Washington, DC.” In 2007, women held 76, or 24.1% of the 315 available statewide elective executive offices across the country. “Among these women, 45 are Democrats, 28 are Republicans, and 3 were elected in nonpartisan races. . . . In 2007, 1,735, or 23.5%, of the 7,382 state legislators in the United States are women. Women hold 425, or 21.6%, of the 1,971 state senate seats and 1,310, or 24.2%, of the 5,411 state house seats. Since 1971, the number of women serving in state legislatures has more than quintupled.”

Twenty-nine women (18 Democrats and 11 Republicans) have served as governors in 22 states. In addition, one woman has served as governor in Puerto Rico. Arizona is the first state where a woman succeeded another woman as governor, and the first state to have had three women governors. Of the 28 women governors, 19 were first elected in their own right; 3 replaced their husbands, and 7 became governor by constitutional succession, two of whom subsequently won a full term. The record number of women serving simultaneously, set in 2004 and 2007, is 9.

Last year I had the pleasure of being asked to give a paper at a Yale Law School symposium on executive activism, a phenomenon which seemed to be on the rise in the United States at both the federal and state levels. The call of the question for our panel was whether there was a balanced mid-point for executive power somewhere between lawless vigilantism and legislative supremacy when drawing those elusive constitutional boundary lines between the executive and the legislative branches. It struck me that there was a different question to be asked in terms of how women had not fared as well in the American political system as one might imagine since becoming full citizens in 1920. So I asked a slightly different question—was there any room for a woman in that space?

---

This is a significant question as we stand on the threshold of the first viable woman candidate for president in 2008 and as the progress of women being elected to public office has slowed.\(^4\) We still see 25% of Americans polled saying they would not vote for a woman for president and 30% of those say it’s because women are not up to the task emotionally or otherwise.\(^5\)

So while a number of panelists were asking whether a more or less divided executive was the most effective, efficient or constitutionally sound model, I asked what impact the choice of one or the other model might have in terms of creating a more or less gender diversified executive.

**How is the Allocation of Power Among the Branches of Government Affected by Gender Schemas?**

Leadership scholarship identifies the traits that Americans want in their public leaders as predominantly “masculine” traits—rather than “feminine” traits.\(^6\) In a recent study, respondents were presented with a list of four stereotypical “masculine” traits (self-confident, assertive, tough, aggressive) and four stereotypical “feminine” traits (compassionate, compromising, sensitive, and emotional). When asked to choose the four traits most important in political candidates and office-holders, respondents slotted “masculine” traits in three of the top four positions. Seventy percent of the respondents named self-confidence as one of the four most important qualities in an elected official.\(^7\) This was followed by assertiveness, compassion, and toughness. “‘[F]eminine’ characteristics were prioritized less frequently than ‘masculine’ traits. . . . Respondents . . .

---

\(^4\) The Center for American Women and Politics, a unit of the Eagleton Institute of Politics at Rutgers, concludes that excitement over the record number of women who serve as governors “may obscure a less optimistic trend for women seeking political office: the numbers of women serving in other statewide offices and in state legislatures actually fell as a result of the 2002 elections.” Joan Vennochi, Op-ed, *Lost Opportunity for Women in Politics*, BOSTON GLOBE, Jan. 9, 2003, at A11. Fewer women in the pipeline means fewer women in a position to run for statewide office; fewer women positioned to run for statewide office means fewer women in the pipeline for national office. *Id.* Vennochi’s column cites a report for the Center for American Women in Politics at Rutgers University, which was later published as Susan J. Carroll, *Women in State Government: Historical Overview and Current Trends*, in 36 COUNCIL OF STATE GOVERNMENTS, THE BOOK OF THE STATES 389 (2004).

\(^5\) WNPB/Marist College Institute for Public Opinion, National Poll: Campaign 2008, at 7-8 (Feb. 22, 2006), http://www.maristpoll.marist.edu/usapolls/HC060222.pdf. See also Susan Page, *Call Her Madame President*, USA TODAY, Oct. 11, 2005, at 1D. A USA Today/CNN/Gallup poll showed 86% said yes but 34% said most of their neighbors would not—and that may be a more accurate measure. *Id.* In 1937, two-thirds of voters said they would not. By the 1950s a bare majority said they would. In 1984, 75% said they would. But trend stalled in 1987 and for the past two decades has stayed the same. *Id.* Or perhaps declined. See Jennifer L. Lawless, *Women, War, and Winning Elections: Gender Stereotyping in the Post-September 11th Era*, 57 POL. RES. Q. 479, 485 (2004).

\(^6\) “Voters deem ‘masculine’ characteristics as more important than ‘feminine’ traits in politics, regardless of the level of office at stake.” Lawless, *supra* note 5, at 482.

\(^7\) *Id.*
rate[d] men as more likely to possess ‘masculine traits’ and women as more likely to possess ‘feminine traits.’”

I think this empirical work has implications for both how we view the rise of executive activism in the United States at the federal, state and local levels as well as for how the allocation of power between the executive and the legislative branches or among all three branches may affect the likelihood that a woman will ascend to executive office.

When I saw the call for papers for the Yale symposium, I had already begun to look at the disparate treatment of women candidates in several 2002 gubernatorial races around the country. In Maryland, the most recent woman who ran, Kathleen Kennedy Townsend, was derided by her own Democratic party leaders for lacking leadership skills. She was assailed as weak and indecisive as opposed to the presumably bold, powerful leadership of some of her fellow Democratic leaders in the state like executive activist and then Baltimore Mayor (now Maryland Governor) Martin O’Malley. O’Malley played in an Irish rock and roll band and is arguably a poster boy for the new executive activist typified by San Francisco Mayor Gavin Newsom, former New York Attorney General (now Governor) Eliot Spitzer, and even California Governor Arnold Schwarzenegger, who of course derides his legislative opponents as “girlie-men.”

\[8\] Id.

\[9\] Page, supra note 5. See Deborah Alexander & Kristi Andersen, Gender as a Factor in the Attribution of Leadership Traits, 46 POL. RES. Q. 527 (1993).

\[M\]any recent studies have found that voters are generally indifferent to a candidate’s sex in making their vote decision. The apparent lack of gender bias in the voting booth (at least as measured by aggregate voting statistics) should not lead us to assume that there are not differences in the way voters think about and evaluate male and female candidates and politicians. The fact that gender role stereotypes characterize and influence many decision-making domains suggests that voters might use stereotypes to attribute different skills and capabilities to men and women candidates.

\[Id.\] at 527-28 (citations omitted). Alexander and Andersen “confirm past findings that . . . candidates are attributed different skills (based on sex roles and accompanying skills and traits) . . . .” \[Id.\] at 528. This raises the possibility of a canceling out—some traits are positive and those that are negative for public office create a wash so vote decisions “look as if they are sex blind.” \[Id.\] at 529. Experimental research shows that voters may designate particular offices as appropriate for women or define certain political climates as more suitable for woman’s particular political skills. \[Id.\] at 530. See also Richard L. Fox & Zoe M. Oxley, Gender Stereotyping in State Elections: Candidate Selection and Success, 65 J. POL. 833, 835-36 (2003) (noting that the initial selection of a candidate to run for office is also skewed by gender stereotypes, with “male and female candidates [seeking] different types of elective office.” And once a candidate runs for office, that “many of the gender stereotypes continue to work to favor male candidates.”).


The governor [of California] used the ‘girlie-man’ reference twice in the span of a 16-minute speech aimed at pressuring the Legislature to pass his budget, now 17 days late. The remark is an apparent reference to an old Saturday Night Live skit parodying [Arnold] Schwarzenegger. Comedians Dana Carvey and Kevin Nealon played “pumped up” bodybuilders—Hans and Franz—with thick Austrian accents. Anyone without a muscled torso was dismissed as a “girlie-man.”
In the U.S. 2002 gubernatorial elections, we saw two women candidates who were favorites actually lose—Shannon O’Brien in Massachusetts and Kathleen Kennedy Townsend in Maryland. 11 We saw one woman win—Janet Napolitano. 12 I would argue that both of the losing candidates were associated with feminine traits—both were wives and mothers. The candidate who won, Janet Napolitano, is single and childless and was consistently described in more masculine terms in the press during the campaign. 13 She also recently “vetoed a bill that would have spent $10 million to station 100 National Guard troops at the [Arizona-Mexico] border, saying the measure would usurp her authority to command the Guard” and in so doing asserted her “constitutional role [as] commander-in-chief” of the Arizona National Guard. 14

In The Federalist No. 70, Alexander Hamilton argued that “energy” was an essential ingredient of a successful executive. 15 If ever there were someone who brought “energy to the executive” it would be Martin O’Malley. Hamilton would have loved O’Malley—he is the very model of the energetic executive and Hamilton’s unmistakably masculine language describing the president as the “organ of intercourse” between the US and foreign nations is clearly a masculine reference echoed in the press’s characterization of O’Malley as a “political stud.” 16

I would argue that the “energy” Hamilton wanted in The Federalist No. 70 was actually synonymous with virility. His embrace of energy in the executive as an important policy rationale for a self-contained, unitary executive really contemplated a particularly

---

11 By “favorites,” I refer to candidates with factors which traditionally would indicate a likely win. For example, in Maryland, Kathleen Kennedy Townsend was the Democratic lieutenant governor for eight years with high name recognition in a heavily Democratic state. By all traditional measures and according to the media she was the heavy favorite to beat the Republican candidate who lacked those factors. See, e.g., Nichole M. Christian et al., The 2002 Elections: Northeast; Maryland, N.Y. TIMES, Nov. 6, 2002, at B10 (describing the “stunning” loss of “heavily favored Kathleen Kennedy Townsend” in the general election). Townsend was the Lieutenant Governor of Maryland for eight years prior to running. Ellen Goodman, Op-Ed, The Good and Bad News for Women, BOSTON GLOBE, Nov. 7, 2002, at A23. O’Brien was the State Treasurer when she ran. Napolitano was the State Attorney General when she ran. See Susan Baer, Women Vie for Governorships, BALTIMORE SUN, Nov. 6, 2002, at 22A.


13 See, e.g., Tom Squitieri, Democratic Attorney General Fought Hard in ‘Ugliest Race’, USA TODAY, Nov. 12, 2002, at 8A (noting Napolitano’s “reputation as a tough, tireless political fighter”); Chip Scutari et al., A Cliffhanger: Napolitano, Salmon in Mighty Duel, ARIZ. REPUBLIC, Nov. 6, 2002, at 1A (describing Napolitano as “equally feisty” as her opponent in the gubernatorial election).

14 Chip Scutari, GOP Anxious as Governor’s Vetoes Pile Up, ARIZ. REPUBLIC, May 8, 2006, at 1B.

15 The Federalist No. 70 (Alexander Hamilton).

masculine vision of energy and action as the only model that could protect the country from the risk of internal and external disintegration.

Political theorists in Hamilton’s time posited that the father should be the sole repository of authority in the family and its sole representative to the public sphere. This idea of both the masculine nature of and the indivisibility of power is echoed in the unitary executive model. It is also reflected in the notion that while the president perhaps should share power in the domestic sphere, that he should have to share far less in foreign relations, where he should be the singular representative to the outside world.

We now see a more contemporary model of the family with much more power sharing between mothers and fathers. In the corporate sphere, we see models of management that embrace power sharing and collaborative behavior as opposed to an authoritarian model of leading the organization. Perhaps the notion that the father and the CEO can share power and that families and corporations can still be as or perhaps more effective, efficient social organizations should inform our choices of an executive model as well. Perhaps the singular executive model should yield to a more contemporary approach that we see reflected in these other spheres in civil society. Such an executive may be more effective—using consensus and collaboration—than one who, in Hamilton’s vision, is more agentic.

**Does a More Expansive Model of Executive Power Affect the Likelihood that a Woman Will Ascend to the Presidency?**

I am also very interested in the question of how the allocation of power between the legislative and executive branches may affect the likelihood that women will be able to successfully ascend to the executive role—be it mayor, governor or president.

We do see in the political science literature that the progress of women as elected officials has slowed. My hypothesis is that the more masculine we make the executive in terms of either its actual legal powers or its perceived powers, the less likely voters are to place women in that role, particularly post 9/11, and this may extend to mayors and governors, given their increasing role in providing homeland security.

---


19 See Page, *supra* note 5. Americans 2-1 said a female president would be better able to handle domestic policy. But 2-1 said a man would be better able to handle national security. *Id.* “[A]bout 8 in 10 Americans said they would be ‘very comfortable’ with women as members of Congress, presidents of universities, editors of newspapers, heads of charities and CEOs of businesses. But only 55% said they would be very
A corollary hypothesis is that the less secure the American public, the more they will look for masculine traits associated with providing safety, especially in the post-9/11 era. In a recent study, political scientist Jennifer Lawless posited that in the post-9/11 era, the number of Americans who said they would vote for a woman for president was tied to their level of fear and need for security. In other words, post-9/11 voters would look more for character traits in their leaders that mirror their desire for security at home and abroad. Lawless found a statistically significant correlation between gender stereotyping and the willingness of voters to elect a woman in a post-9/11 environment. She argued that there was a relationship between voters increased desire for those masculine traits associated with security and a new reluctance to put women in charge.

We all share gender schemas about leadership that scholars can now document. The gender schemas that we hold connect men positively with issues like military decision-making and foreign policy and women with domestic issues like alleviating poverty, enhancing education and health care. The research also indicates that voters evaluate political leaders differently based on gender. For example, recent articles in the wake of Hurricane Katrina contrasted Louisiana Governor Kathleen Babineaux Blanco’s leadership negatively with that of New York City Mayor Rudy Giuliani post-9/11.

Now it could be that the likelihood of women ascending to the presidency and other executive posts is simply contingent on the public’s feeling about how at risk they are. The more they desire security, the less likely they are to vote for a woman. However, perhaps

comfortable with a woman being president.” Id. Only “two occupations showed more discomfort . . . coach of professional sports team [and] a general in the military.” Id.

Lawless supra note 8, at 479.

Id. at 487.

See Kira Sanbonmatsu, Gender Stereotypes and Vote Choice, 46 AM. J. POL. SCI. 20, 23 (2002).

Alexander & Andersen, supra note 9.

Polls confirm that women candidates tend to be seen as more compassionate and honest while men are seen to be better suited emotionally for politics. Women are also attributed an expertise in health care, education and other “social” or “domestic” issues that male candidates don’t have. A Lou Harris poll in 1972 revealed distinctly different appraisals of the abilities of men and women in office. The public judged men better at directing the military, managing business and labor issues, strengthening the economy, and dealing with demonstrations and international diplomacy, while women were thought to be better on issues about children and family, education, the arts, health, poverty, and consumer issues.

Fifteen years later, voters in a national survey thought that women running for office were more compassionate, more caring, more honest and would do a better job handling social issues and holding down government spending, while male candidates were perceived to be more effective at dealing with military and trade issues. Women political leaders, candidates, and political consultants believe that their experiences confirm the endurance of voter stereotypes.

Id. at 530 (citations omitted).

Alexander & Andersen, supra note 9, at 527-45. Studies have shown that “gender has been associated with differential ratings of elected officials’ job performance of identical tasks at identical levels of achievement.” Id. at 529-30 (citing Michael Mend et al., Dynamics of Attitude Formation Regarding Women in Politics, 5 EXPERIMENTAL STUDY OF POL. 25 (1976)).
the interaction may be more nuanced than that—perhaps voter preferences are also affected by how we define the role of the executive itself. It is worth exploring the impact that defining the role as expansively male in the manner of the current executive activist model or the unitary executive model may have. It may be that the more we reinforce the male archetype envisioned by Hamilton in *The Federalist No. 70*—an energetic or virile male, whose decisive nature is guided by reason and not emotion, whose energy is not diluted by being split between womb and brain, who views collaboration or consensus as weakness, and who engages in a typically male version of leadership in the authoritarian vein—the less likely we are to see a woman president. One might predict that the more masculine voters perceive the role to be, the less likely a woman candidate is to either opt to run for executive office or be supported by party leaders or perhaps elected by voters.

We may decide that this impact, if it is measured and shown to exist, should not be the dominant consideration in our final policy decisions about where to draw the line between the executive and the legislative branches. However, it should at least be measured and factored in as a potential external effect or consequence of that decision-making process, if increasing the number of women in executive office is viewed as a desirable normative goal.

I would argue that Hamilton viewed energy in the executive in particularly masculine archetypal terms. It may be that adopting that vision of the presidency reinforces the gender schemas we all hold and it could be one of those subtle or even invisible barriers to women engaging in political behavior that many of us would argue is detrimental to the vitality of the republic. In terms of the question posed for the *Yale Law Journal* panel of which I was a member, i.e., is there space between the lawless vigilante and legislative supremacy, the question itself raises the male archetype of the lawless vigilante. We should consider whether the closer we come to that point on the spectrum in allocating power and defining the scope of power in the executive, the less likely we may be to have the voters see a match between a woman candidate and the office itself.

**Will the United States Elect a Woman President in 2008?**

Now what do these observations tell us about the likelihood that the United States, unlike France this time around, will elect a woman? I think it is likely that Hillary Clinton

---


26 Richard L. Fox & Jennifer L. Lawless, *Entering the Arena?: Gender and the Decision to Run for Office*, 48 AM. J. POL. SCI. 264 (2004) (documenting that women are less likely to run for office than men at all levels). “For 2008, 10 of the 86 male senators have taken steps [to run for President]; Clinton is the only 1 of 14 female senators” to take steps. Page, supra note 5. Six of 42 male governors taken steps; none of 8 female governors have. *Id. See also* Fox & Oxley, *supra* note 9 (“Since women are less likely to run for ‘masculine’ offices, a majority of executive office elections do not contain female candidates.”).
will be the Democratic nominee. However, if the work of political scientists like Jennifer Lawless holds true, Americans will still not be comfortable with a woman holding the highest executive office in a post-9/11 world when security concerns are ascendant and the American presidency also encompasses the Commander-in-Chief role. Thus one might predict that Senator Clinton will not win. According to internal polls in the Democratic party, she is unlikely to forge a coalition of Democrats and swing the independents necessary to do so.

Now this prediction is clearly not aligned with the recent ascension of female heads of state in Germany, Chile, Liberia, and Jamaica. However, if one looks closely at the women who have ascended to these positions, e.g., the new President of Chile, many voters stated that they voted for her because they were looking for a different, more compassionate approach. Thus, they voted for a woman because of the perceived gender difference. The likelihood that female candidates will prevail is a function of context and issue preferences among voters.

So, I have one interesting theory about a possible Hillary Clinton victory. Much like Michelle Bachelet in Chile, whom voters said they chose because they wanted change and a more compassionate government, gender schemas might work in favor of Senator Clinton if the war weariness of the American voters as evidenced in the polls is stronger than their gender bias.

I have learned much talking with Dr. Galligan about the perception of my own country in this regard. I do not think of the United States as a conservative nation but such a perception does explain the clinging to gender schemas in “issue competency” that we see in the polls. A striking example of this is Massachusetts—my home state. Shannon O’Brien, a strong favorite in the 2003 gubernatorial election and a Democrat in a very Catholic, Democratic state—lost in the end to Mitt Romney who was not a Massachusetts native and who is a Mormon. Romney, however, is a particularly agentic male candidate. I have always attributed Massachusetts voters’ reluctance to elect women to the governor’s office (the Republican woman candidate lost this time around in 2007) to a deep-seated

\[\text{Lawless, supra note 5, at 479.}\]
\[\text{See Crinkle in Hillary’s Coattails, HARTFORD COURANT, Aug. 13, 2007, at A2.}\]
\[\text{See Page, supra note 5. “[W]omen have been more likely to reach the pinnacle of power in countries with parliamentary systems of government where legislators, not voters, choose their leader. And the fact that the US President is commander in chief of the world’s dominant military continues to raise concerns among voters . . . .” Id. “[T]here’s still an inherent nervousness on the part of voters to put women in as the ultimate decision-maker. Control of the National Guard and border security, those sorts of traditionally male jobs . . . voters consciously or unconsciously have difficulties with women candidates.” Id. (quoting Amy Walter, a campaign analyst with the Cook Political Report). Recent women leaders include: Michelle Bachelet (President of Chile), Angela Merkel (Chancellor of Germany), Ellen Johnson-Sirleaf (President of Liberia), Portia Simpson Miller (Prime Minister of Jamaica), Helen Clark (Prime Minister of New Zealand), Gloria Macapagal-Arroyo (President of the Philippines) Mary McAleese (President of Ireland). See Vicki Haddock, Are We Ready for a Woman President?, SAN FRAN. CHRON., Apr. 29, 2007, at E1.}\]
\[\text{Trudy Rubin, Editorial, Will Women Show a New Way?, PHILA. INQUIRER, Jan. 18, 2006, at A11.}\]
\[\text{Lawless, supra note 5, at 480.}\]
conservative social streak. While politically liberal, many Massachusetts voters are Catholics and they share a paradigmatic view of the separate spheres of men and women that is deeply ingrained.

Which leads me to my comments on another corollary issue of deep concern and one I hope will be corrected if we do elect a woman president. This is the fact that twenty-five years after the first woman, Justice Sandra Day O’Connor, was appointed to the United States Supreme Court, we once again only have one woman on the United States Supreme Court, Justice Ruth Bader Ginsburg. In the recent case of Gonzales v. Carhart,\(^\text{32}\) that one woman wrote a stinging rebuke to the majority’s opinion upholding a Congressional statute banning a specific kind of abortion procedure. Regardless of how one feels about abortion, in reading the majority opinion against the dissent, one is struck by the adherence to reason and precedent in the dissent as contrasted with the rather loose analysis of the majority opinion and its failure to follow precedent. I might note that this is a twist on the traditional gender schema about women being emotional and men being rational. And I would argue that the vote would have gone the other way had Harriet Miers been appointed to the court rather than Samuel Alito.

As an interesting footnote, this case has created a firestorm about the fact that it was the five Catholics on the court who voted in the majority. The criticism has come from distinguished legal scholars like Geoff Stone at the University of Chicago.\(^\text{33}\) While it pains many of us who are Catholic and who are aware of the deep strain of anti-Catholicism in our political, social and legal systems in the United States, I must say it is a legitimate question.

However, I would suggest that more than a decision based on religious beliefs, this is a case where if we had more women on the court, we would have had a different result. Women judges like Sandra Day O’Connor, who tended to vote in favor of women’s autonomy in those cases that came before her, demonstrate how their unique understanding of the female experience and the central role that autonomy plays in ensuring full citizenship and equality under the law, can make a profound difference.\(^\text{34}\)

---

\(^{34}\) Diane Lowenthal & Barbara Palmer, Justice Sandra Day O’Connor: The World’s Most Powerful Jurist?, 4 U. MD. J. RACE, RELIGION, GENDER & CLASS, 211, 215 n.28 (2004). But see Sarah Westergren, Note, Gender Effects in the Courts of Appeals Revisited: The Data Since 1994, 92 GEO. L.J. 689 (2004) (“Although this study finds that male and female judges do show some differences in their voting behavior and decisionmaking patterns, . . . the results are not statistically significant, nor is it clear that gender’s effect on behavior is separate from the effect of political party affiliation.”).
A number of other countries have adopted legislative parity provisions. There is a lack of support for such an approach in the Unites States, premised in part on what some argue is an anti-democratic view that such provisions violate neutrality principles embedded in our liberal democratic ideals. However, the lack of parity is not only of concern in Congress but is of deep concern in institutions like the United States Supreme Court. The imposition of de facto qualifications like years on the federal appellate bench and “brilliance” tend to exclude women from the universe of potential nominees. This lack of gender balance imposes significant costs upon the institution and the country. While judges may not judge differently based on gender, the system risks losing legitimacy and the expressive and symbolic function that women judges fulfill. This symbolic function, in particular, has an impact on women and girls to ascending to political leadership. While the United States embraces a view of neutrality that many would argue is contrary to parity provisions, like the concept of universalism in France, there is great irony in the fact that the United States supported the inclusion of a parity provision in the Iraqi Constitution and is clearly comfortable with the concept when exporting democracy.

In conclusion, I want to return to the story of my grandmother and her struggle. Her life would have been made immeasurably better and easier had the framework of equality laws we have today been in place for her. That framework came about in large part because women began to participate in politics and to represent the interests of their gender in state houses and legislatures around the country. Thus, I see it as my obligation to my grandmother, that courageous, young Irish woman who sailed off into the unknown, and to the women we now see in the United States who are immigrants from Mexico and Central America for example, to keep those gains intact and to push forward. A vibrant democracy that ensures representation for women at all levels, including the legislative, the judicial and the executive branch at the federal, state and local levels, is the best mechanism to ensure that we do not lose all we have fought so hard to put into place.

Thank you very much.
Other papers published by the Centre for Advancement of Women in Politics include:

#12 Cera Murtagh (2005) A Transient Transition: the cultural and institutional obstacles Impeding the Northern Ireland Women’s Coalition in its progression from informal to formal politics.