

Consolidated Response

Experiences in implementing parity laws to improve women's political representation

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Introduction

Despite comprising more than 50 percent of the world's population, women continue to lack access to political leadership opportunities and resources at all levels of government. Women's equal participation in decision-making is not only a demand for simple justice or democracy, but a necessary pre-condition for women's interests to be taken into account. Governance structures which do not result in the equal participation of men and women, or their equal enjoyment of benefits from state interventions are by definition neither inclusive nor democratic.

In 2007, recognizing that over the last century women's gains in the political arena have been slow and insufficient, five international organizations came together to enhance women's political participation and devise a strategy that would fall in each of the organization's efforts to foster gender equality in politics:

- International Institute for Democracy and Electoral Assistance (IDEA)
- Inter-Parliamentary Union (IPU)
- National Democratic Institute (NDI)
- United Nations Development Programme (UNDP)
- United Nations Entity for Gender Equality and the Empowerment of Women (UN Women)

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Consolidated Response on Parity Laws

This consolidated response is based on research conducted by iKNOW Politics staff and contributions submitted by Erika Brockmann, Head of the International Relations Commission of the Women's Political Forum in Bolivia, Charmaine Rodriguez, Regional Legislative Strengthening Expert at UNDP Pacific, Alessandra Pellizeri, Governance Programme Officer at UNDP, Mauritania, Sonja Lokar, international gender expert, Haydeé Hernández Pérez, National Assembly of Costa Rica, Fatima Sadiqi, Professor of Linguistics and Gender Studies, and Audrey McLaughlin, international gender expert.

Question

'The Republic of Senegal has recently adopted a parity law under which political parties will have to present electoral lists comprising 50% male and 50% female candidates (each male candidate will be followed by a female candidate). I would like to know some examples of how similar laws have been implemented in other countries around the world.'

Introduction

The adoption of the parity law in Senegal is an important step on the way to increased political participation and equal political representation of women. Senegal's women were rightfully proud of this landmark achievement, but other countries' experiences with parity laws show that there is long road between the adoption of such laws and their effective implementation. This consolidated response will detail how parity laws have been implemented elsewhere, what aspects of their implementation bring most difficulties, and how such potential stumbling blocks could be overcome. It will focus in particular on current developments in the Arab states, where the recent revolutions have led to the revision of certain political and electoral systems.

1. PARITY LAWS: A DEFINITION

Gender quotas are a mechanism used to increase women's participation in politics and power-sharing positions. As Erika Brockmann points out, "quotas are founded in the principle that in the face of unequal realities, there are demands that need the application of unequal measures"¹. Over the years, gender quotas have become increasingly popular as a means to promote the equal representation of women in politics. They exist in various shapes and sizes, ranging from voluntary party quotas to the official quota laws that are currently in place in many parliaments².

Quota laws require, quite basically, that a certain number of seats are filled by women. When it comes to the effective implementation of such laws, it is generally agreed that the proportional representation (PR) electoral system is more favourable. Charmaine Rodriguez suggests that the relative success of gender quota in the Pacific region may be related to the fact that most countries in this part of the world have proportional representation systems, enabling the use of party and/or list quotas to improve women's presentation³. Similarly, Alessandra Pellizeri points out that

*"the mainly majoritarian electoral system in Mauritania does not facilitate female access to electoral functions. Therefore, women candidates have to be placed at strategic points in their lists (1st or 2nd, 6th, 11th, etc) in order to be sure to be elected. Proportional electoral systems are in general more suitable to guarantee an easier access to the legislative posts for women."*⁴

Parity laws move beyond this type of 'percentage' quota to a firm 50/50 representation. Regardless of the nature of the electoral system - proportional or majoritarian - parity laws demand equal numbers of men and women. In Senegal, this will be done through the 'zipper' system whereby men and women alternate on party lists. This ensures that women are not just represented equally in numbers, but also in their electoral strength; they are not

¹ iKNOW Politics E-discussion "Gender Quotas as a Mechanism for Promoting Women in Politics", comment by Erika Brockmann, <http://www.iknowpolitics.org/node/6276>

² For more information on the use of quota worldwide, please visit The Quota Project at <http://www.quotaproject.org/>

³ iKNOW Politics E-discussion "Gender Quotas as a Mechanism for Promoting Women in Politics", comment by Charmaine Rodriguez <http://www.iknowpolitics.org/node/6276>

⁴ iKNOW Politics E-discussion "Gender Quotas as a Mechanism for Promoting Women in Politics", comment by Alessandra Pellizeri <http://www.iknowpolitics.org/node/6276>

merely inserted at the bottom of the list. Are parity laws an efficient way to ensure the equal representation of men and women in representative institutions?

2. WHAT KIND OF PARITY?

The design of parity laws is crucial, as poorly designed laws may act as ‘rubberstamps’ for gender equality where in reality nothing has fundamentally changed. Sonja Lokar explains the dilemma as follows:

“It is important whether the candidate lists are closed or open. If they are closed, this is really ideal from the point of view of the chances of women to get elected. The problem would be who decides about the women’s names on the eligible places of the lists. If the lists are open, voters can use their preferential vote. In that case, however, the problem again becomes more complicated, as even women voters may then give their preferential votes to the better known male candidates and we would lose parity in parliament.”

Ms Lokar touches upon a number of sensitive issues. The first and most important one with respect to the electoral legislation itself is how electoral lists are composed. Who is in charge? How are decisions made, and how transparent is the selection process? What oversight mechanisms exist, and should this process be public? These and other questions will determine what names make it on to a party list, and how representative and ‘truly’ gender-neutral this list is.

Ms Lokar also points out to the fact that electing women figureheads in order to meet quota is a tried and tested tactic. Many states that have gender quota in place are not as gender-sensitive as their legislation would seem to indicate, and offer little room for those who make gender a priority. In such cases, electing women does not always amount to the creation of more gender-sensitive legislation. Therefore, while quota may help to get more women in parliament or government, they are not always a guarantee for success when it comes to the actual output and work of either of these institutions.

ELECTORAL LISTS: THE OPEN VS CLOSED DEBATE

The issue of open versus close lists remains. In a closed system, votes are ‘list votes’, meaning they will be distributed according to the order presented on the list. This entails that a lower ranked candidate cannot be ‘moved up’ and that a highly ranked candidate

cannot be 'skipped'. In an open system, however, where voters can indicate a preferential candidate, candidates may be elected over higher listed ones if they have won a larger number of preferential votes. In these cases, women still have no guarantee of electoral success, despite their 'favourable' positioning.

The open versus close list debates continues, with valid arguments on both sides. Open lists are by far the most common approach and are generally said to be more democratic. Ms Lokar's point that it makes it difficult to translate gender quota into results, however, is a strong one. On the other hand, closed list systems place considerable (arguably too much) power in the hands of the party leadership, as they get to determine candidate placement on the list, and erode the free choice of voters.

The closed party list system is currently in place in Italy, Ukraine, the Philippines, South-Africa and Argentina, among others. Interestingly, Argentina also employs a quota system whereby at least 30% of candidates on each list must be women – essentially, this translates into a guaranteed 30% or more women being elected to parliament every election⁵.

PARITY AND THE ARAB SPRING

While it seems unlikely that existing open lists system will move in that direction, many in Egypt are advocating for this system following the recent fall of Mubarak and the revision of the electoral system. This stems, in no small part, from the disappointment with the former quota system. As Maha Al Aswad explains:

"It is a first in history (correct me if I am wrong) to formulate a quota law that adds new seats to the parliament ordinary seats. The Egyptian parliament has 444 seats for 222 constituencies, in addition to other 10 appointed MPs. The quota law didn't define women's seats from those 444 seats, it added whole new 60 seats. The total number of MPs turned out to be 504 + 10 appointed MPs. If the main reason to have quota is for people to know and trust women leadership and their 'ability' to represent them in the parliament (the thing I think doesn't need to be proved!), then why weren't the seats taken from the original 444 seats? It gives the impression that women are even more segregated and require a special treatment to the extent of adding

⁵ Argentina's current parliament has 39% of women among its representatives. The Quota Project – Argentina; <http://www.quotaproject.org/uid/countryview.cfm?country=12>

new seats, because they can't take part in the parliament with its ordinary formation."⁶

The coming months will tell if and how the post-revolution Arab states, in their zeal for democratic reform, will integrate gender quota into their revised electoral legislation. As Ms Al Aswad points out, the 'anything will do' approach will no longer be viewed as an acceptable solution. It remains highly unlikely, however, that Egypt will be ready to adopt a parity law in the near future.

Tunisia, on the other hand, has taken some very concrete steps in this direction:

*"On April 11, 2011, the transitional authorities in Tunisia passed a revolutionary law, which institutes total parity and provides that all candidate lists must include alternating male and female candidates for the upcoming Constituent Assembly election, to be held on October 23, 2011. The Constituent Assembly will have 218 members whose mandate is to draw up a new constitution. They will also have the power to either appoint a new government or extend the term of the current government until the general elections, originally scheduled for July, but which have been postponed."*⁷

Tunisia's progress with respect to women's electoral participation should be applauded, but experience suggests that the events of October 23rd may not be as straightforward as these new procedures indicate. Radhia Bel Hak Zekri, President of the Association of Tunisian Women for Research and Development (AFTURD), warns that even if all goes smoothly October 23rd, the struggle for women's (political) equality will not be at an end:

"The path towards equality is still strewn with obstacles and women's struggle to consolidate their rights should continue regardless of the outcome of these elections. The newfound freedom of expression in Tunisia has resulted in once-stifled voices emerging and demanding individual freedoms and more rights for women. However, it has also allowed regressive forces to emerge that question the achievements of Tunisian women, and who are beginning to

6 Maha al Aswad: Time To Think Ahead: Women In the Egyptian Constitution <http://mahaalasad.wordpress.com/2011/03/25/time-to-think-ahead-women-in-the-egyptian-constitution/>

7 AWID: Tunisia: New Electoral Law Prescribes Gender Parity In Upcoming Constituent Assembly Elections <http://awid.org/eng/News-Analysis/Friday-Files/Tunisia-New-Electoral-Law-Prescribes-Gender-Parity-in-Upcoming-Constituent-Assembly-Elections>

take action and organize a dangerous offensive that takes advantage of the current precarious situation in the country.”⁸

As Ms Zekri underlines, it is indeed of crucial importance to understand that such laws are merely one (if a very important) step. Still, the advances made here by Tunisia could be decisive in putting the Arab region on track in the field of women’s political and electoral equality. As Tunisia’s October elections draw near, the Arab world (and far beyond) waits to see how these events will unfold, and what effect they will have on the rest of this region.

3. IMPLEMENTATION

Implementing gender quotas is a long and difficult process. While it takes great effort and patience to adopt parity laws, translating these laws into reality is even more challenging and has – to various extents – proved unsuccessful.

A striking example of failed parity legislation is France, where – at the national level – parties consistently opt to pay the imposed fine rather than giving 50-50 candidatures to men and women. The first country in the world to adopt parity legislation, France’s case suggests that only severe sanctions can counter the issue of non-compliance in societies where women are still strongly underrepresented. When looking at the successful case of Argentina, for example, non-compliance with the 30% quota results in non-approval of the list – a much stronger sanction that appears to have been very successful.

The example of Costa Rica indicates that between adoption of such laws and their proposed implementation, a whole set of issues arise with respect to the ‘interpretation’ of the accepted clauses. As Haydeé Hernández Pérez recalls:

“Let me tell you: regarding legal changes for women to have parity in decision-making groups and for men and women to be aware of gender issues, we already have (at least de jure) an Electoral Law. How great! What an excellent step! But since its inception, there have been problems. [...]”

Ms Hernandez-Perez cites a number of examples, from the positioning of women on electoral lists to party structures and advisable mechanisms, that illustrate just how difficult the implementation of these laws is in Costa Rica. Concerning the agreed upon training

⁸ AWID: Tunisia: New Electoral Law Prescribes Gender Parity In Upcoming Constituent Assembly Elections <http://awid.org/eng/News-Analysis/Friday-Files/Tunisia-New-Electoral-Law-Prescribes-Gender-Parity-in-Upcoming-Constituent-Assembly-Elections>

budget, for example: *“The SEC interpreted that the resources to form and train both men and women in the issues stipulated (knowledge of human rights, ideology, gender equality, leadership incentive, political participation, empowerment, candidacy, exercise of office, etc.) would be used only after the next elections – in other words, after 2014”* – so after many more years of waiting. With regards to the latest elections for city mayor, the liberal interpretations of the electoral code by the SEC meant that *“only 15 percent of the registered candidates for mayor are women and there is a high percentage of women listed for deputy mayor.”* Hernandez Perez concludes her review of the Costa Rica experience by wondering just how much these laws have truly impacted the political landscape: *“Is this fear or is this more discrimination that we women are suffering at the hand of decision-making structures?”*

Countering this largely negative experience, Erika Brockmann presents the case of Bolivia, where parity laws have made great strides over the past 15 years:

“In Bolivia there has been remarkable “legal progress” in terms of policies for political inclusion and pro-gender equality. In less than 15 years, the debate on quotas to include women in candidate lists has translated into the adoption of a national law founded on the principles of egalitarianism, parity and alternation. Beginning with the elections for Constituent Assembly in 2006, the principle of parity has gained ground, social legitimacy and more policies. This progress has been encouraged by the approval of a new constitution and laws that expanded rights in Bolivia. Its four branches and levels of sub-national governments must build their respective governments on the principle of gender parity.”

This principle now translates into, among others:

“A quota of no less than 50% for women in all candidacies for elected office, with due alternation. The Electoral Body Law makes explicit reference to the electoral policy of parity and alternation, as follows: “This consists in the obligatory application of parity and alternation in the election and designation of all government authorities and representatives; in parties’ internal elections and candidacies; and in the election, designation and nomination of authorities, candidacies and representatives of native indigenous peoples and nations through norms and procedures. [...] Additionally, in accordance with the Constitution, since January 2010 gender parity has been used for the ministerial cabinet, the president being the person who designates the ministers.”

Bolivia's case appears to be a success, but as this paper has illustrated, many challenges exist beyond the adoption of such laws. In the aftermath of elections, as Audrey McLaughlin points out, women may step down and be replaced by men. Ideally, provisions are made to ensure that a woman stepping down must be replaced by a woman. Ms McLaughlin also warns that employing the quota is an important first step, but is not sufficient to really achieve change:

"In my experience, it is necessary to implement training for parties and women's groups on implementing this reform. In every country in which I have worked, I have heard the same plaint: 'there just aren't enough experienced women...'. This is, of course, totally incorrect, but the attitude persists."

Further underlining this point, Aminata Mbyengue Ndiaye, the socialist mayor of Louga in northwest Senegal, understands the challenge ahead for her country:

"The battle is only starting because we have to convince all the skeptics. But we will also have to educate women, provide them with training, build their capacity and even change behaviours and attitudes."⁹

4. MORE THAN WORDS

The end goal of parity laws is equal representation of men and women in politics, sustainable without gender quota. To achieve this, legislation is essential but, more is needed than legislation alone; social customs and political reforms and empowerment need to back up these mechanisms so that, in the end, they will no longer be needed. In light of this, Fatima Sadiqi paints a 'bigger picture' that calls for caution:

"I believe that a gradual but sure way of parity quota application in Muslim majority countries is better than radical change. I know from experience that 50% parity quota without a priori sensitization and gradual preparatory work towards this parity won't work. In Morocco, the 10% quota was not easy to apply but now democratic men and women reclaim more. The socio-political and overall context should also be taken into serious consideration: is there a political will? Is there enough trained civil society that can back up such a project? Are there enough women who can take the parity project to fruition?"

⁹ Moussa B. Diallo "Door to Political Office Opens for Senegalese Women"
<http://ipsnews.net/news.asp?idnews=51739>

Ms Sadiqi's concerns are shared by many if not most who have been consulted on this topic. It illustrates, moreover, the intricacies of parity laws (and quota systems in general) as they touch upon ethic, moral, political, socio-logical, religious, legal and technical questions, few of which are easily answered.

CONCLUSION

Parity laws are no quick fix for the underrepresentation of women in politics. Although they may be a promising first step towards gender equality, the design and implementation of such laws need constant and careful follow-up if they are to be successful. Current cases such as France and Costa Rica, for example, suggest that severe sanctions must form an integral part of the electoral legislation and that 'free interpretation' of these laws must be kept at an absolute minimum.

While experts and practitioners alike applaud the ideals and efforts behind these initiatives, they are quick to warn for challenges that are not always easily overcome. The larger question at hand here is whether gender parity should be ambitioned through a top-down approach - by legally enforcing it through quotas - or by a slower, but plausibly more sustainable, bottom-up approach that embraces civil society and gradual change as its pillars. Global experiences so far exist that a middle way, investing in strengthening the social, economic and political support for gender equality while implementing gender quota, may be a more feasible, sustainable option. In time, then, these quotas may be raised to meet parity standards. Unless it is carefully timed, however, attempts at gender equality through parity laws appear to have many pitfalls.

Bibliographic References

Argentina, The Quota Project ;

<http://www.quotaproject.org/uid/countryview.cfm?country=12>

Audrey McLaughlin, Expert Opinion

AWID: "Tunisia: New Electoral Law Prescribes Gender Parity In Upcoming Constituent Assembly Elections" <http://awid.org/eng/News-Analysis/Friday-Files/Tunisia-New-Electoral-Law-Prescribes-Gender-Parity-in-Upcoming-Constituent-Assembly-Elections>

E-Discussion Forum on Gender Quotas as a Mechanism to Promote Women in Politics.

iKNOW Politics. 2008 <http://www.iknowpolitics.org/mayediscussionen>

Erika Brockmann, Head of the International Relations Commission of the Women's Political Forum in Bolivia, Expert Opinion

Fatima Sadiqi, Professor of Linguistics and Gender Studies, Expert Opinion

Haydeé Hernández Pérez, National Assembly of Costa Rica, Expert Opinion

Pellizeri, Alessandra. Resistance to Quotas and How to Overcome It. (Comment on EDiscussion Forum on Gender Quotas as a Mechanism to Promote Women in Politics.)

<http://www.iknowpolitics.org/en/node/5936#comment-1867>

Moussa B. Diallo "Door to Political Office Opens for Senegalese Women"

<http://ipsnews.net/news.asp?idnews=51739>

Quotas by Country. Quota Project

<http://www.quotaproject.org/country.cfm>

Rodrigues, Charmaine. Comment on the Affirmative Action Measure in the Pacific Region. 2008.

<http://www.iknowpolitics.org/en/node/5827#comment-2119>

Sonja Lokar, international gender expert, Expert Opinion