

## Implementing Quotas: Legal Reform and Enforcement

### Overview of the Session

This session examined the challenge of implementing legislated quotas in the region, including the important role of enforcement mechanisms. Examples were drawn from Bosnia and Herzegovina, The Republic of Macedonia, Serbia and Montenegro, and Belgium.

### Bosnia and Herzegovina

Ms. Besima Borić provided an overview of the legislated quota in BiH and how it has affected women's representation in parliament.

The level of women's representation and the use of quota mechanisms in BiH have undergone several changes across time and between election cycles. Table 1 illustrates these dynamics.

Article 4.19 of the Election Law of BiH enforces a mandatory 30 percent quota for the under-represented gender on party electoral lists. It is required that at least three out of ten candidates on party lists be from the under-represented gender. The Constitution of BiH incorporates the CEDAW provisions granting women equal social, political and economic rights.

Borić explained that, in socialist times, the Communist Party provided representation for women. In the early multiparty elections, in 1990 and 1996, no reserved seats were secured and the percentage of women in decision-making bodies dropped dramatically. Because of these disappointing election outcomes, women in NGOs, together with a few women politicians, started a joint action. The result was a large campaign supported by international actors, such as the OSCE and the United States Agency for International Development (USAID) missions in BiH. Thirteen NGOs and some 14,000 women took part in the campaign aimed at educating women voters and demanding quotas. As a result, the first quota rules were adopted as part of the temporary electoral regulations for the 1998 polls.

Borić noted that the introduction of quotas provoked mixed responses from political parties.

Some parties thought they could ignore it. Others tried to manipulate the quota requirement by depriving strong women politicians of a presence on the lists and replacing them with inexperienced women or relatives of male party politicians. Yet, the OSCE-led Provisional Election Commission reacted with sanctions whenever there was a violation of the regulations.

The combined effect of a quota and closed party lists, plus enforcement to ensure compliance, led to a dramatic increase in women's representation. The next step was to incorporate the quota into the permanent electoral legislation. Borić maintained that the negotiations were somewhat strained by the unwillingness of members of the election law drafting committee of international experts to consider the permanent inclusion of quota provisions. Eventually, women activists successfully used the example of France, which at the time was adopting its constitutional parity principle, to convince the international experts of the utility of quotas. In 2002, BiH held its first general elections under the new electoral law, using quotas, as well as open lists. Some believe that the latter have had an adverse effect on women's electoral chances because they favour well-known politicians who tend to be male. The evidence

**Table 1. Percentage of women by election year and decision-making body**

Decision-Making Body	Parliamentary Assembly of BiH	Federation Parliament	Republika Srpska	Cantonal Assemblies
Election Year				
1986 group representation under Communist Party	24.1	N/A	N/A	17.3
1990 first multiparty elections (no measures)	2.92	N/A	N/A	5
1996 first post-war elections (no measures)	2.38	5	1.89	6.4
1998 elections (quota for party lists-closed lists)	30	15	2	18.2
2000 elections (quotas for party lists-open lists)	17	17	18	17.9
2002 first elections under new BiH election law (quota for party lists-open lists)	14.3	21	16.8	22

from BiH is mixed, given that the elections that utilized open lists saw a dramatic reduction in the number of women elected to the Parliamentary Assembly and an increase or slight decrease in other decision-making bodies.

### **The Republic of Macedonia**

Dr. Daniela Dimitrievska spoke about The Republic of Macedonia's democratic journey, characterized by low levels of women's representation in political parties, on electoral lists and in decision-making bodies. The demand for quotas in the 1990s was initiated by the awareness-raising activities of women's NGOs, supported by international donors, the GTF and the 'Women Can Do It' programme. By 1998, there was a genuine movement behind the demand for quotas, favoured by most ordinary people. Quotas were introduced for the first time prior to the 1998 election as part of a broader electoral reform package, as well as in some political parties. A Conservative majority parliament approved the legislative quota.

Dimitrievska highlighted several reasons for the adoption of the legislative quota: academics working on the electoral reform law supported it; women's NGOs lobbied for it; and women in political parties embraced it. It is important to note that the introduction of quotas cut across party lines; there was no divide between government and opposition parties on this issue. The Macedonian Women's Lobby initiated a series of meetings with political leaders, presenting them with lists of women who were prepared to be nominated. It used favourable public opinion to convince politicians to sign a declaration of support for the quota mechanism.

Yet, Dimitrievska pointed out that implementation of the legislative quota faced challenges. Political

parties tried to violate the spirit of the law by placing women only towards the bottom of the electoral lists, thus reducing their chances of election. Therefore, an amendment calling for a placement mandate was put forward. The proposal generated greater opposition than the initial legislative quota provision. However, active media support for, and internal party splits over, the amendment helped in securing its passage, although only by one parliamentary vote.

### **Serbia and Montenegro**

Dr. Zorica Mrsević provided an overview of Serbia and Montenegro, which is among the most recent countries to implement quotas. Serbia employs a 30 percent mandatory quota for the under-represented gender on electoral lists for local and parliamentary elections. The quota legislation for all municipalities in Serbia was first used in the local elections of September 2004 and helped women candidates to capture between 15 and 25 percent of the seats in local assemblies. The quota legislation for national-level elections exists in the amendments to the Law on Parliamentary Elections, adopted in April 2004.

The first quota provision was introduced for the 2002 local elections in three Albanian-majority municipalities in southern Serbia. In 2004 the local legislative quota was extended to other municipalities. Mrsević argued that the quota at the local level was implemented not out of explicit concern for women's representation but rather due to security worries and a desire for the country to be more politically stable. The legislative quota at

the national level was considered only after the December 2003 elections, when 90 percent of men and

BiH provides an example of a country where significant progress has been made in implementing a quota mechanism and raising the number of women in decision-making bodies. However, the representation of women remains low in high-profile political positions, government ministries and mayoral offices. Leading political parties still do not prioritize women's issues. An additional challenge is presented by the withdrawal of international donors. An important goal for the future, therefore, is to sustain regional cooperation and convince political parties to act on issues of gender equality.

Article 37 of the Law on Election of Members of Parliament of the Republic of Macedonia envisions a 30 percent quota for the under-represented gender on party electoral lists. An amendment of the law added the requirement of a 30 percent quota for the top half of the list. The State Electoral Commission is not to register parties that do not satisfy this stipulation.

100 percent of Serbs were elected to parliament. This resulted in much international attention being paid to the exclusion of minorities and in calls for the amendment of the electoral law in order to make the electoral process more legitimate. A new electoral law was thus elaborated; a gender quota was included, despite not being in the spotlight during the discussions. In Serbia, the quota regulation was not an independent political question, but was linked to issues of peace, security and minority representation.

Mrsević outlined some of the key challenges to implementing the quota in Serbia: perceptions of traditional gender roles are difficult to change; not all women automatically favour quotas; and there are some women politicians of clearly undemocratic orientation. Independent research conducted in Serbia shows that support for quotas is lowest among women students and is highest among women politicians, with women in NGOs taking the middle ground. In addition, conservative and nationalist political discourses present quotas as Western implants meant to weaken Serbia's ability to govern itself. The 'quota women' also face challenges in their own political parties, with men perceiving them as intruders. Women candidates are the first ones to be eliminated when parties face electoral crises. In the media, 'quota women' are often not taken seriously. A further difficulty concerns the occasional tensions between women politicians and the women's movement: the former being blamed for not representing women's interests and the latter belittled for not having an electoral constituency.

### **Belgium**

Petra Meier pointed out that, for decades, Belgium had experienced low levels of women's representation. This began to change in the 1990s, coinciding with the passage of two quota acts in 1994 and 2002. Table 2 summarizes the features of these two pieces of legislation.

The implementation of the legislative quota raised the level of women's representation in Macedonia from three percent to a high of 18 percent. The quota also allowed women from minorities to secure representation in the legislature for the first time. The Macedonian success story was made possible mostly by the public alliance behind quotas, the strong women's movement and the unusual merging of partisan interests. A future challenge is to increase women's representation at the local level, in light of ongoing processes of decentralization in the country.

**Table 2. Gender Quota Laws in Belgium**

Quota laws	1994 Quota acts	2002 Quota acts
Characteristics		
Quota provision	Electoral lists not to comprise more than two-thirds of candidates of the same sex	Equal number of female and male candidates on the lists
Double quota	No	Yes, candidates from the same sex cannot occupy the first two positions on the list
Scope	Applicable to all elections	Not applicable to local and provincial elections; the regions will continue to use the 1994 quota unless they adopt their own legislation
Temporary measures	Yes, between 1996 and 1999 lists comprised a maximum of three-quarters of candidates of the same sex	Yes, at the time of the first elections with the new quota, the first three positions could not be occupied by candidates of the same sex. The double quota will be applicable in future elections

Meier showed that the gender quota laws were made possible by the opening of rare windows of opportunity in the 1990s. In 1991, the women's movement managed to slip a commitment to gender equality into a Government Declaration on the need for consultation with civil society, despite significant opposition within the governing coalition. In 1999, a historic change occurred, with the Christian-Democrats losing power after 40 years in government and being replaced by a new coalition of Liberals, Social-Democrats and Greens. Politicians from the new coalition embraced the gender equality issue after receiving a lot of criticism from the feminist movement for not doing so. The 2002 quota law was adopted because the 1994 provisions were increasingly seen as being both

unfair (ensuring only 30 percent of women on the lists when the goal was 'gender equality') and insufficient (not targeting eligible positions). The 2002 legislative quotas, however, did not make parties abandon their own quota provisions. Furthermore, some parties even increased their requirements, driven by competition with other parties and the desire to profile themselves as gender equality friendly in the eyes of voters. Thus, the legislative quotas served as a minimum benchmark and many political parties opted for wider-reaching special measures.

Notwithstanding the stimulating impact of the quota as a minimum standard for political parties, Meier contended that it would be wrong to conclude that quota laws alone were responsible for the increase in women's representation in Belgium. The net effect of the quota needs to be questioned because it was not sufficiently tailored to the features of the electoral system. Two major deficiencies have been identified. First, due to an electoral reform that occurred at the same time as the 2002 quota acts, many constituencies were merged. The increased district size often resulted in increased party magnitude. Once parties were able to win more seats in a district, this in itself improved the electoral chances of women. Second, the quota provision targeting eligible positions requires relatively closed lists. Yet, in Belgium, the lists are not entirely closed since the system allows for multiple preferential voting, and the electoral reform reduced the impact of quotas on the list order by making it easier for candidates to win on the basis of preferential votes. In addition, parties strategically placed well-known candidates towards the bottom of the list, confident that they would be able to defy the list order and leapfrog the top two candidates. The 2003 and 2004 elections provided considerable evidence of men climbing up the list to the detriment of women. Although the level of women's representation increased substantially, peculiar elements of the electoral system undermined the effective working of the quota mechanism.

### ***Discussions from the floor***

The discussion focused on the factors that facilitate or hinder successful implementation of legislative quotas. In some countries, constitutions and courts play a vital role in defining and interpreting electoral laws. In nations like Argentina, Costa Rica and Mexico, the

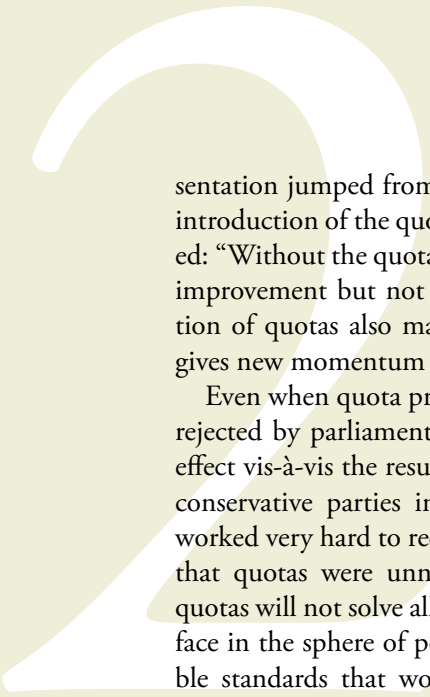
courts were instrumental in forcing political parties to use a placement mandate when compiling party lists, which defines where women should be placed to have a realistic chance of election, such as every third slot. The Constitutional Court in Costa Rica, for instance, has reinterpreted the 40 percent quota provision in the electoral law and concluded that women should be placed in positions with a realistic chance of election. Although they are not a guarantee of equal representation, constitutional provisions supporting gender equality may be preferable because legislation and regulations are easier to 'strike down'.

The effects of electoral reform and the use of gender quotas were also discussed. The case of Bosnia and Herzegovina pointed to the fact that the introduction of open lists resulted in the election of fewer women from all political parties.

Light was shed on the part played by international donors. On the one hand, there was successful interaction between international donors and women's organizations in the Balkans. Donors have been particularly important in providing material support. On the other hand, the Balkan countries are witnessing the withdrawal of donors from the region. To avoid a backlash against gender quotas, it is important to sustain regional 'peer pressure' and the exchange of information, as well as to generate a sense of 'local ownership' of the gender equality issue.

The discussion also highlighted the different approaches towards legislative quotas among political parties. In BiH, not a single party nominated more women than required by law, whereas in Belgium, many political parties exceeded the threshold of the legal quota. In all case studies, the conservative parties were less sympathetic to gender quotas. In Macedonia, parties that employ an internal party quota achieved greater representation of women than those using only the legislative quota. The effectiveness of the Belgian gender quota has served to inspire political parties to act on the basis of 'good faith' compliance and to prove to an increasingly supportive electorate that the law is not just symbolic.

In addition, the quota law has forced the parties to be aggressive in their pursuit and recruitment of qualified women. The discussion demonstrated that quotas have yielded varied rates of effectiveness, depending on the country and the electoral system. With regard to Macedonia, where women's repre-



sentation jumped from three to 18 percent after the introduction of the quota, one participant commented: “Without the quota we could have achieved some improvement but not to that extent. The introduction of quotas also makes women more visible and gives new momentum for women in politics”.

Even when quota proposals are questioned or bills rejected by parliaments, they still have a significant effect vis-à-vis the resulting discussion. For example, conservative parties in the Scandinavian countries worked very hard to recruit women in order to prove that quotas were unnecessary. Although legislative quotas will not solve all of the challenges that women face in the sphere of politics and overcome the double standards that women confront in public life, they are still incredibly important because they force political parties to recruit more women.



# Application of Quotas: Legal Reforms and Implementation in Bosnia and Herzegovina

BESIMA BORIĆ

NATIONAL GENDER TASK FORCE OFFICE, BOSNIA & HERZEGOVINA

The ramifications of a long conflict and massive human displacement continue to shape the post-war reconstruction of Bosnia and Herzegovina (BiH). The situation of women in BiH and the evolution of their political rights—and, therefore, the observations of this paper—must be viewed in the context of a country transitioning from the ravages of war to sustainable peace and democratization. This case study examines the political participation of women in BiH and the use of electoral quotas.

## Background to Women's Political Participation

Women in BiH were granted full suffrage in 1946 immediately after the World War, in the Federative People's Republic of Yugoslavia. Today, the Constitution of BiH and the Constitutions of the two entities—the Federation of Bosnia and Herzegovina and the Republika Srpska—accord women equal social, political and economic rights, including the right to vote and to stand for election. The latter are recognized in the 1979 international Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). According to Articles 7 and 8 of CEDAW, the state is obliged to respect and protect women's political rights and to introduce special measures to ensure that they can exercise them fully. Such measures include positive discrimination, mandatory election quotas for women and reserved seats in the legislature.

Owing to the egalitarian principles of communist ideology, women in BiH were well-positioned to participate in traditionally male spheres, including the political arena. The Former Socialist Federal Republic of Bosnia and Herzegovina even had a system of reserved seats for women officials. In fact, at different points in time, women constituted 20 percent (1968–1975) or 27 percent (during the 1980s) of the Communist Party membership. They were also well-represented in other political organizations, such as the Socialist League (50 percent) and the unions (35 percent).

Due to the system of reserved seats adopted by the Communist Party to support women's representation, in 1986, women made up 24.1 percent of the People's Assembly of the Republic of BiH and 17.3 percent of local or municipal assemblies. However, the relatively large number of women in elected of-

fice did not actually translate into real political power. Many of them were elected as a consequence of their political connections, as opposed to political commitments to different issues, such as gender equality, or their name recognition. The male–female dynamic in the political sphere corresponded to traditional gender roles in the family. Essentially, influences associated with the patriarchal culture were transferred to the domain of public life and perpetuated.

The first free multiparty elections in the early 1990s highlighted the tenuousness of Bosnian women's real political empowerment. The loss of reserved seats in these elections resulted in the disappearance of women from elected political bodies and state institutions. Of the 240 elected representatives in the People's Assembly of the Republic of BiH, only seven were women (2.9 percent). In the municipal assemblies, women secured 315 of 6,299 seats (5 percent).

## After the Conflict

Between 1990 and 1996—the years leading up to the war and its conclusion—women withdrew to the margins of political power and influence. In extreme situations of war, where existence is in jeopardy, gender identities became maximally polarized at the man/warrior and woman/mother levels, reversing power dynamics and reinforcing traditional gender roles.

In 1996, in accordance with Annex 3 of the General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Peace Accords), the first post-war elections were conducted by the Provisional Election Commission—formed by the Organization for Security and Co-operation in Europe (OSCE) Mission to Bosnia and Herzegovina—which developed provisional election commission rules and regulations.<sup>1</sup>

Following these elections, women remained powerless and under-represented. With regard to the 42-seat House of Representatives of the Parliamentary Assembly (representing both BiH Entities), there were only 9.4 percent women candidates and only one woman was elected (2.4 percent). As for the 140-seat Federation Parliament, 10.5 percent women candidates ran and only seven women were elected (five percent). And of the 106 seats at that time in the People's Assembly of the Republika Srpska, only

two were won by women (1.9 percent) of the 7.6 percent female candidates. At the canton level in BiH, women secured 6.4 percent of the elected seats. A similar trend was observed following the 1997 municipal elections: in the Federation, women won 6.15 percent of the seats; and in the Republika Srpska, women captured 2.4 percent of the seats.

This unfavourable situation and the deep marginalization of women from decision-making institutions prompted women's non-governmental organizations (NGOs), in coordination with various women politicians, to campaign for the introduction of a quota in the electoral law between 1997 and 1998. Their nationwide campaign was supported by the OSCE Democratization Unit in BiH and funded by the United States Agency for International Development (USAID). The initiative led to the emergence of the League of Women Voters, founded by 13 NGOs, focusing on women's issues, human rights and democracy. The message of the League's voter education campaign, 'There are More of Us', was widely publicized on posters and in leaflets distributed throughout the country. Public outreach projects were conducted in cities and villages in both Entities of BiH and reached 14,000 women. They were mobilized to take part in the 1998 elections, to exercise their right to vote and to demand quotas for women candidates. Women were also encouraged to vote on political programmes and not to be swayed by nationalistic fervour.

## The Electoral Quota for Women

### *The 1998 national and regional elections*

As a result of the women's campaign, in 1998 the Provisional Election Commission adopted Article 7.50, the gender rule instituting a 30 percent quota of women on every party list. This meant that, for the first time, there had to be three women among the first ten candidates on any electoral list submitted by political parties to contest the election. This represented a turning point for Bosnian women in politics. The quota system, combined with closed electoral lists, also employed in the 1998 general election, dramatically increased women's representation at all legislative levels. Accordingly in the 1998 elections, women made up 30 percent of officials (13 of 42) elected to the House of Representatives of the BiH Parliamentary Assembly. Women captured 15 percent of the seats in the Federation Parliament and two percent in the National Assembly of the Republika Srpska. They also made

significant gains in the cantonal assemblies: their representation surged to 18.2 percent.

There were, nevertheless, problems even in the application of the quotas. Some international election monitors reported manipulations by political parties. These ranged from ignoring the rules to depriving experienced women politicians of quota seats and replacing them on the candidate list with younger, less experienced politicians who could be more easily influenced or replaced by male colleagues after the election. Likewise, among the 'smaller' parties, so-called alibi candidates—wives and daughters of male politicians—were placed on the list. Wherever rules were violated, though, the Provisional Election Commission (OSCE) responded with sanctions.

Although the temporary gender rule increased the number of women in political office, there was growing resistance to the incorporation of quotas into the new Election Law of BiH from political parties and the international and local experts who were drafting the legislation. Francois Froement-Meurice of France, Chairman of the Election Law drafting commission, argued that quotas were non-democratic. It was only after a series of contentious debates with the women's delegation that the quota system was allowed to stay in place. Bosnian women stressed (decisively) that, at the same time as these questions were being raised in BiH, the Constitution in France was being modified to ensure equal access and parity between the sexes. Ultimately this was how Article 4.19 came to be included in the Election Law of the BiH, establishing a quota formula for gender representation.<sup>2</sup>

### *The 2000 national and municipal elections*

A mandatory quota stipulating one-third representation of women was applied to all party lists in the 2000 election. However, the open-list proportional representation electoral system also applied in this poll. Open lists are, in theory, disadvantageous to women in that voters may be able to 'demote' the women on the party lists if they so choose. Open lists also work to the advantage of more popular and well-known candidates, who are usually men. Accordingly, the election results demonstrated that the electors largely supported male candidates, even though 49.4 percent of voters were women. There was a drastic reduction in women's representation at the state level compared to 1998. Only three women (17 percent) were elected to the BiH House of Representatives in contrast to 39 men. Women captured 18 percent and 17 percent respectively of seats in the People's Assembly of Repub-

lika Srpska and the House of Representatives of the Federation Parliament. In the municipal assemblies, where quotas were applied for the first time, women acquired 17.9 percent of the seats.

In August 2001, the Parliamentary Assembly of BiH adopted the Election Law of BiH—approving various changes and amendments in 2002 and 2004. Hence, the general elections that followed in 2002 became the first polls since the signing of the Dayton Peace Accords to be administered and conducted completely by local authorities.

### ***The 2002 national elections***

The results of the general election of 2002 (utilizing the quota and open lists) indicate progress, as some voters opted to back women candidates. In the cantonal assemblies, the Federation Parliament and the House of Representatives of BiH, the number of women increased—while the number decreased in the National Assembly of Republika Srpska. A total of 63 women (21.9 percent) were elected to the cantonal assemblies. Twenty-one women (21 percent) were elected to the House of Representatives of the Federation Parliament, while six women (14.3 percent) were elected to the House of Representatives of the Parliamentary Assembly of BiH. Two women were elected to the National Assembly of the Republika Srpska (16.9 percent).

### ***The 2004 municipal elections***

In the 2004 local elections, all of the country's political parties struggled to meet the mandatory quota, although some of the lists did include enough women to satisfy legal requirements. As a result, parties were sanctioned, and some male candidates were removed from the lists. By ensuring that candidates of both genders are placed in specific places on party lists, quotas have led to greater representation of women on municipal councils. However, their impact has again been somewhat diminished by the open-list proportional representation system, which tends to lower the number of women actually elected.

These polls were also the first opportunity to directly elect municipal mayors in BiH. Of 860 mayoral candidates, only 30 were women. Only one woman, from the SNSD party, was elected mayor of Drvar municipality. Interestingly, the three main ethnic/nationalist parties in power—the Party of Democratic Action (SDA), the Serbian Democratic Party (SDS) and the Croatian Democratic Union (HDZ)—did not nominate a single woman candidate.

In short, across the nation, time and again, election results have highlighted that the participation of wom-

en in political party structures is low. It is increasingly evident that very few women hold influential positions within party hierarchies.

### **Women in Parliament: Moving Beyond Numbers**

Even with a quota system in place to ensure some degree of political participation, women have struggled to become equal partners in decision-making. Real distribution of power means access to influence in that process. Although women have made modest strides with respect to representation within legislative bodies, they are still excluded from high-ranking positions in other branches of government.

A woman has never been elected head of state and thus represented BiH in the tripartite presidency. There has never been a woman prime minister and only three women have served on the Council of Ministers. The two entities of BiH have never had a woman prime minister. Generally, women ministers are a rare breed. Of 100 cantonal ministers, only eight have been women, and typically, they have been awarded the 'feminine' portfolios of housing, social welfare, healthcare, labour and education.

It is instructive too, that men dominate almost all the high ranking and decision making positions in the executive and judicial branches of government. Gender based discrimination is, in fact, evident in high-ranking posts in all public administrative structures and even diplomatic appointments.

In 2003, the Parliamentary Assembly of BiH adopted the Law on Gender Equality in BiH, guaranteeing women in public service full and equal rights. In actualizing its objectives, however, a stalemate has been reached. For this reason, a powerful network of 28 women's NGOs adopted a 'Platform for Action' in 2003, making concrete implementation proposals on how to apply the law via an initiative entitled 'Through Law to Real Equality'. To become effective the Law on Gender Equality in BiH must be integrated into the Election Law of BiH to ensure gender equality in all organs of political power.

There is almost no public discussion on the need to reconcile these two pieces of legislation. Only low-profile debates have been convened on this topic involving networks of women politicians in the social-democratic-orientated parties, including the Social Democratic Party of Bosnia and Herzegovina (SDP BiH) and the Alliance of Independent Social Democrats (SNSD).

Overall, political parties have not shown any interest in defending and promoting gender equality.

Only the SDP BiH clearly stipulates that all party functions should be equally accessible to both genders and that its Executive Board should comprise at least 30 percent of women and that they must be equally distributed on candidate lists.

Most political parties have not gone beyond the formalities associated with statutes and public relation campaigns; regardless of political orientation, women are discriminated against even within their own parties. They are not promoted to the leadership or awarded high-profile positions and their candidacies are not pushed during an election. Indeed, they are not part of policymaking circles within the party hierarchy and there is little strategic thinking on women's rights or discrimination. Gender sensitivity is also not necessarily part of the consciousness of women politicians: they rarely refer to gender equity or its value in a democratic society.

## Final Analysis

The discrimination that Bosnian women have experienced in seeking access to influence and the equitable distribution of power is a reflection of traditional views, which were further entrenched during the war. Bosnia and Herzegovina is similar to other post-conflict states where political, social and economic reconstruction appears to create opportunities for men and women to work together. Yet, as elsewhere, the negotiation of peace and reconstruction strategies in BiH quickly became the domain of men.

Nevertheless, rhetoric on the promotion of gender equality is promising, and new structural and legal institutions have been created to reinforce women's representation. The Constitution of BiH contains provisions to include women, an open-minded quota system has been instituted, and governmental gender centres have been established to aid women's integration into the political process. While women have made great strides in BiH, a glass ceiling and a resistant cultural heritage continue to deny them influential positions of power.

An analysis of election results sheds light on the participation and representation of women in the political sphere. But quantitative data do not reveal the real impact (minimal) of women and their influence (negligible) in shaping decision-making in the legislative, executive and judicial branches of government. Likewise, to evaluate the national commitment to gender equality, one needs to look beyond the surface mechanisms of quotas, constitutions and governmental gender centres. This is an area where a vibrant Bosnian civil society can provide valuable input, including 'checks and balances', to ensure non-partisan implementation of gender policies.

The combined leadership of civil society and women at all levels can enable gender equity in the political sphere. However their success requires that women at all levels of society speak from a shared position of concern and interest to become agents of social change.

Without quotas women would have remained on the margins of political and public life—a situation evident with respect to the executive branch where quotas are non-existent. Quotas have had a positive impact on election rules and have enabled women to enjoy their rights to political power. As a group, though, women remain too far removed from political influence.

An imbalance in the distribution of power exists on all levels. While the state's efforts to ensure equality between the sexes is encouraging, it is difficult to have complete faith in a system that has experimented with closed and open lists at such an important juncture in the history of women in Bosnian politics.

## Political parties

Changes can be made in the short term that will have a lasting effect and will create opportunities even in the current political climate:

- Political parties must begin to promote women and women candidates.
- Political parties should be encouraged to place women representatives in visible positions of power within the party.
- Women's forums within political parties must become more high profile and influential.
- Politicians of both sexes should receive training at workshops on the importance of female representation, non-discrimination, human rights and other related issues.
- Stronger networks need to be established between women politicians and grassroots civil society organizations in BiH and across the Balkans, to share best practices and lessons learned.
- Elected officials, particularly women, must be sensitized to socio-economic and political struggles at the local level.

At a time when resources are limited, it is difficult to convince political parties to prioritize funding for these issues. Without the necessary resources, however, it is virtually impossible to meet these concerns. Increasingly, the donor community is looking at targeted areas to spend its resources. If money is not in-

vested in ensuring gender equity vis-à-vis all aspects of Bosnia's political and economic development, it will become increasingly difficult for women to maintain their struggle and even the fragile gains of recent years could be eradicated.

### ***Supporting women's networks***

The influence and support of women's networks within the European Union (EU) are integral to the stability and political and economic development of BiH. Their support is key to the Balkan region's progress and achievements in areas of gender equality, and the equitable distribution of power. While Bosnian women must be engaged and committed to implementing change from within, outside support ensures solid backing for the women's movement as it seeks to create opportunities for gender equality at all levels in Bosnia and Herzegovina.

The EU has already demonstrated a commitment to women's issues. However, additional resources and expertise are needed to build on the modest accomplishments to date and to ensure the continuation of important national and regional support projects, such as the Working Group of Stability Pact Gender Task Force. Likewise, the support of the international community is essential to develop the capacity of local women's NGOs—the building blocks on the road to civil society and democracy in a region still threatened by destabilizing economies and negative political sentiment. Much work remains to be done by European women collectively to ensure the participation of Bosnian women in politics.

### **Endnotes**

- 1 Controversy and the failure of the local authorities to agree on a permanent election law led to the provisional regulations and standards set forth by the OSCE being extended to the elections in 1997, 1998 and 2000.
- 2 The Article states: 'The candidates of the less represented gender shall be distributed on the list of candidates in the following manner: at least (1) one candidate of the less represented gender out of the first (2) two candidates, (2) two candidates of the less represented gender out of the first (5) five candidates, or (3) three candidates of the less represented gender out of the first (8) eight candidates. The number of candidates of the less represented gender shall be at least equal to the total number of candidates on the list, divided by (3) three, rounded up to the closest full number'.



# Quotas: The Case of Macedonia

DANIELA DIMITRIEVSKA  
MACEDONIAN WOMEN'S LOBBY, MACEDONIA

At the start of the 1990s, women confronted a new set of challenges as a result of the introduction of a multi-party system as part of the democracy-building process in the Republic of Macedonia. They faced up to them with a great deal of energy, hoping to construct a society that would continue to advance equality. This case study focuses on the political participation of women in Macedonia, and the implementation of the law on quotas.

## Political Background

In the first post-transition general election of 1990, five women (four percent) were elected to parliament (out of 120 representatives). For many this was not unusual; few were surprised by the fact that 95 percent of the candidates were men and, therefore, that only five percent were women.

These were the years when everyone was learning about the new society, about democracy. In these circumstances, no one was asking questions about the representation of women or minority groups. If someone did pose such a question, the standard response was: 'The time when everybody needs to be officially represented as happened in Socialist times is over, equality and individualism are now the main symbols of democracy'.

In the second democratic parliamentary elections, in 1994, four women were elected to parliament (out of 120 representatives). With three percent female representation in parliament, Macedonia was placed at the bottom of the list of European countries in terms of women's participation in politics. Women stressed that they wanted to be treated the same as men—without special measures—and started to think more seriously about what they could do to change the situation.

## Electoral Quotas for Women

The more progressive women in politics realized that the presence of women in the political arena was going to continue to decline, no matter how capable and qualified they are or how loyal to the party they are. Thus they emphasized the need to address hidden forms of discrimination and other domination techniques—which are very difficult to tackle if you do not have the necessary skills and capacities.

Women from non-governmental organizations

(NGOs) initiated a debate on the lack of women in politics, especially in decision-making forums. There was much discussion about the obstacles and about ways of improving the situation. Among the solutions, the quota was highlighted as an instrument that could produce tangible and immediate results. Women's NGOs realized that one of the ways to improve the status of women was by ensuring that women were represented in decision-making bodies. Consequently they proposed:

- to develop relationships with women from political parties;
- to raise awareness of the need for quotas; and
- to lobby for quotas.

A very important point made by women's NGOs was that there is not sufficient time to wait for equality to evolve naturally—this could take hundreds of years.

Public awareness strategies highlighted to the general public the importance of having women in power, of what representation means and of what quotas stand for. It was very important that the public recognize that parliament is dominated by men, that government is dominated by men and that party leaderships are dominated by men, and to ask why, and what is the solution. To have more than 90 percent of men in parliament does not make for balanced decision-making posts, and is based on discrimination.

A number of campaigns were launched to eradicate stereotypes and prejudices, involving, for example, the distribution of leaflets and posters. Women used every opportunity to stress that: 'It is hard to imagine a world with 97% of Romeos and 3% of Juliets'. When members of the public acknowledged the problem of the representation of women in politics, women from political parties and women's NGOs told them that a possible solution was to implement quotas.

## *Political parties and quotas*

Evidence from other countries in Europe, and indeed globally, show that the implementation of voluntary party quotas can be an extremely effective policy to

increase the representation of women. These types of quota are adopted voluntarily by political parties, and are most common in centre-left leaning parties. Prior to the adoption of legislated quotas in FYROM, some political parties had adopted voluntary quotas.

However, opposition to quotas is pronounced. Some political party members consider quotas to be a 'gift', in the sense that women are afforded a place as a candidate simply because they are women. This reflects the male/female power dynamic within political parties. Some women believe that by winning a seat on a quota ticket they will be viewed as lacking capacities and qualifications. Others believe that woman who have relevant qualities and capacities will be able to develop their political careers.

But the reality was different. Women who were capable, educated, loyal and hard working found many challenges to getting involved in decision-making. Women organized forums and groups within political parties to press for the introduction of quotas. As a result, party quotas have focussed on the participation of women in party decision-making bodies and the representation of women on lists of candidates. Some accepted the quota in order to be part of an international alliance based on party affiliation. Parties, which have voluntarily adopted the quotas, include the Social Democratic Union of Macedonia, the Liberal Democratic Party, and the Liberal Party.

For the parties that adopted the quota, it meant recognizing the under-representation of women; building women's capacities within the party; and considering the needs of women in society. The quota brought women's issues to the surface in political parties and helped to strengthen organized women's bodies within political parties. The quota also increased the number of women in politics.

It is important to reiterate, though, that this quota applied only to women who belonged to political parties that accepted it. In reality, one of the problems with party quotas is that they are voluntary and implementation is not always obligatory. Not all political parties accepted the quota—some argued that this was due to party ideology. For the rest it was necessary to establish quotas in electoral law.

### ***Legislated quotas in general elections***

The commission in charge of drafting the electoral law included two members of the women's lobby, university professors and experts in law and elections. They analyzed the issue of quotas and electoral law, concentrating, in particular, on whether the introduction of quotas

in electoral law would breach constitutional law.

Article 9, of the Constitution of the Republic of Macedonia, states that all citizens of Macedonia have equal rights and freedoms regardless of their sex, race, skin colour, national and social background, political and religious beliefs and social status. If women were singled out, the quota would be rejected by the Constitutional Court on the grounds that quotas are discriminatory based on sex. The solution was to introduce a quota, into the election law, that applies to the 'under-represented sex'. The final wording was as follows: a '[m]inimum 30% obligatory presence of the under-represented sex on the candidate lists'. However, there is no placement mandate specifying that women should be placed in winnable positions.

A vigorous campaign to support quotas in the election law focused on political party leaders and was strengthened by the participation of women within political parties. The efforts of the campaign bore fruit when the election law was passed by parliament with very little opposition. The law was approved by the Parliament, governed by a conservative majority, on 25 June, 2002.

The law is very clear: those political parties that do not meet the 30 percent criterion will not be registered for elections. The penalty, therefore, is that the party will not have an opportunity to win any seats in parliament.

The candidate lists for the 2002 general election show that all of Macedonia's political parties respected the law. However, the extent of their commitment to women's participation in politics is illustrated by the fact there were only 32.2 percent women on the candidate lists of all of the political parties. Macedonia employed a proportional closed-list system in the 2002 general election. Hence it was very important that women were placed in a position in which they could win (that is, towards the top of the list). However, the female candidates were distributed as follows:

- positions one to five (4.53 percent);
- positions six to ten (7.81 percent); and
- positions 11 to 20 (19.84 percent).

As a result, 18.3 percent of women were elected to parliament in 2002. By contrast, in 1990, 1994 and 1998, 4.1 percent, 3.3 percent and 6.6 percent of women, respectively, were elected. The increase can be attributed to use of the PR electoral system, the introduction of the law on quotas and the enormous amount of work done by the women's movement.

### **Legislated quotas in local elections**

Given the experience that we gained and the lessons that we learned with respect to the introduction of quotas in the electoral law (general elections), and the new political situation—decentralization of power and more responsibility for local government—we found that the issue of women's under-representation at the local level was very important to tackle. The solution was to introduce quotas in law for local elections. The opportunity presented itself with the restructuring - decentralization and new division of local districts – and the amendments to the law for local elections. A proportional closed-list system is employed for local elections (city councillors) in Macedonia.

The quota that was adopted was the same as the one outlined above for general elections, but with one important difference: it fixes positions for women on the lists. There was much debate on the content of the amendment, and a great deal of information was compiled on the situation in other countries and regions. The amendment was proposed on 26 June, 2004, and for the first time parliament was divided by the issue and not by political affiliation. After a great deal of discussion, the amendment was approved with 41 votes (the minimum necessary).

The amendment stipulates that a: 'Minimum of 30% of [the] under-represented sex [is] to be on the first half of the list for the local elections and 30% of [the] under-represented sex [is] to be on the second half of the list'.

### **Conclusion**

The lessons learned from Macedonia are the following:

- Quotas are extremely important in kick-starting the process that can lead to parity.
- Quotas need to be obligatory and enforceable to generate tangible results.
- Quotas have allowed Macedonian women to become 'visible' in the political sphere.
- Quotas have made history: the first ethnic Albanian woman has been elected to the Macedonian parliament.
- Quotas have resulted in political parties paying more attention to their women members. Even women from rural areas are being listed as candidates.

All of this would not have been possible, though, if women from political parties, from NGOs, from trade unions, from the media and elsewhere had not worked togeth-

er to exert pressure to adopt quotas to ensure women's rightful place in decision-making.



# Implementing Quotas: Legal Reform and Enforcement in Serbia and Montenegro

ZORICA MRSEVI

INSTITUTE FOR SOCIAL SCIENCE RESEARCH, BELGRADE, SERBIA AND MONTENEGRO

## Women's Political Participation

There are numerous mechanisms to increase women's participation in political life which have met with varying degrees of success. They include reform of political parties, quotas and other forms of positive action, training to develop women's skills and to heighten gender sensitivity, working with the women's sections of political parties, supporting institutions focused on gender equality and the creation of women's political organizations.

Quotas have so far been used in Serbia to increase women's representation in political party leadership and on parties' lists of electoral candidates. Quotas may be the only way to ensure a degree of representation for women in countries where the rate of participation is very low. They can also be effective in countries where women already have some political power, as in the Nordic countries.

Increasing the level of political participation of women, however, is not just about increasing the number of women in formal politics. Women in politics may be members of the social elite; they may hold certain positions because of their personal connections with male politicians and consequently may be unable to represent the interests of women at the grassroots. It is important, therefore, to 'feminize the power spaces effectively', meaning that it is necessary to strengthen simultaneously the women's movement and local institutions focussed on gender equality, so that they are able to initiate a dialogue with political power structures. This case study examines the use of electoral quotas in the Republic of Serbia and how they have affected the political representation of women. There is no quota regulation in Macedonia or in the Federal Parliament of Serbia and Montenegro.

## The Introduction of Quotas in Serbia

Only 1.7 percent of women were elected in the first multiparty elections for the Serbian Parliament in 1992. Under the regime of President Slobodan Milosevic, the largest proportion of women in parliament was 5.5 percent. Following the democratic changes of 2000 and subsequent elections, the representation of women stands at around 11 percent and between six and seven percent in the national parliament and the local assemblies, respectively.

## Local-level elections

Local (and national) elections were held in most of Serbia in September 2000, introducing overall, sweeping democratic changes. Elections were, however, delayed in three municipalities in southern Serbia—Bujanovac, Medvedja and Presevo—where instability due to ethnic conflict prevented conditions for the holding of democratic elections. Later on, when the situation was improved and the armed incidents stopped, in December 2001 the question of local elections and electoral legislation was raised.

In 2000, none of the electoral laws included quotas. It was since proposed that a new law for local elections be drafted that included mechanisms to guarantee fair representation for the majority of the population (as opposed just for privileged Serbs). In addition, a quota system for the under-represented gender was introduced. The Law on Local Elections of 2002 included a 30 percent of the less-represented gender on all local election candidates' lists. Without a quota system, it would probably be the case that no women would be represented in the three municipalities of southern Serbia. This is an economically and politically backward area, with patriarchal and militaristic traditions.

The main reason for introducing the quota, therefore, was not to provide women with better mechanisms to secure political representation and access to decision-making positions, but rather to establish a more peaceful and cooperative atmosphere in future local representative bodies. This was to be done by increasing the number of women in these fora who were believed to be less belligerent and less revengeful.

While the new law on local elections, which included quota provisions, was prepared principally for the local elections in three aforementioned post-conflict municipalities of southern Serbia, it was stressed that it would also be applied to all future local elections in Serbia, the first of which were scheduled for September 2004. The fragile political situation, common in many Serbian municipalities, resulted in the holding of extraordinary—and early—local elections in 16 municipalities prior to the regularly scheduled elections in September 2004. In all 16 municipalities, the new quota provisions were applied.

In September 2004, the quota system, specifying that 30 percent of the under-represented gender must be in-

cluded on candidate lists, was introduced nationwide. As a result, women won between 15 and 25 percent of the seats in local assemblies.

### **National-level elections**

While a national-level electoral quota is among the recently adopted amendments to the law on parliamentary elections ('Act Amending and Modifying the Act on the Election of Deputies'), adopted on 25 February 2004, it has not been put into practice to date. A quota for the under-represented gender, along with some other affirmative action measures to protect minority interests, was included in the law because only Serbs (90 percent men) were elected to the National Assembly of Republic of Serbia in the last parliamentary elections held in November 2003. This is despite the fact that more than one-third of the population of the Republic of Serbia is not ethnic Serb and women make up 52 percent of the electorate.

### **Quota Enforcement Mechanisms in Serbia**

The law not only provides for a 30 percent quota, but also defines placement so that women are not relegated to the bottom of party lists for both local and national elections. If a candidate list does not comprise 30 percent of the under-represented gender, placed in at least every fourth position, it is to be returned to the respective party for correction. If it still does not satisfy the 30 percent criterion after being revised, the list will not be approved by the Electoral Commission. The Election Law states:

'For every four candidates on the electoral list (first group of four places, second group of four places and so on until the end of the list) there shall be one candidate of the gender less represented on the list, and the number of candidates of the gender less represented on the list shall be at least 30% of the total number.

'If an electoral list should not meet the conditions set forth in Paragraph 1 of this Article, it shall be deemed incomplete for proclamation, and the submitter of the list shall be called to remedy the deficiencies of the list, in accordance with the present Act.

'If the submitter of the list should not remedy the deficiencies described in Paragraph 2 of this Article, the Republic Electoral Commission shall refuse to proclaim the electoral list, in accordance with the present Act'.<sup>1</sup>

## **The Consequences of the Law on Quotas**

### **Discourse and debate**

Despite quotas being included in the Election Law, debate about the quotas and uncertainty about their implementation persisted in the run up to the September 2004 municipal elections. Rumours circulated that the law would be changed and the quota system would not be employed. Leaders of many parties argued that women were not interested in being candidates or that there would simply not be enough women to meet a 30 percent quota on the candidate lists. This argument was supported by evidence that some women candidates were added to party lists at the last minute, many of whom were relatives or friends of male party leaders and activists. In reality, however, political parties did little to support genuine women candidates and neglected their political—and legal—obligations to foster an inclusive process.

Some popular individuals from the sport and culture sectors issued statements to the media in which they argued that the quota system had been imposed on Serbia by the international community in order to humiliate it further. They said that the intention was also to diminish Serbia's decision-making capacity by pushing for the inclusion of 'incapable women' instead of 'capable men'. As a result, there would be fewer people who could take 'proper care' of national interests. Furthermore, it was asserted (wrongly and maliciously) that the quota system demanded representation for 30 percent of women and 30 percent of homosexuals—allegedly a 'European standard, which obviously cannot be accepted in Serbia'.<sup>2</sup>

### **The numbers**

The mandatory quota has led to a significant increase in the number of elected women in all municipalities in Serbia. After the local elections on 19 September 2004, women's participation at the local level rose to between 15 and 25 percent. Only a few municipalities achieved 30 percent, however.

The law states that smaller political parties, with less than four seats in local assemblies, are not legally obliged to nominate women candidates. Additionally, the replacement of women, once they are both nominated and elected, is not regulated by law; it is possible that men might eventually replace women in the assembly. Given these legal gaps, and the reluctance of political parties to promote women, one should not be surprised by the anecdotal public statement made by a senior party official from Zajecar in

which he boasted that his party ‘invested maximum efforts to keep the number of women minimal’.

### ***Political parties***

It has also been noted that women candidates were not endorsed by their own political parties. The defeat of independent women has led to the conclusion that, in the current political environment, women can only succeed if they are candidates of popular political parties and if a legally binding quota system is in operation. Hence it has been recommended that political parties should be the main focus of organizations engaged in gender activities. The ‘Women can do it 2’ training module, developed for members of political parties by the Gender Task force of the Stability Pact, has been highlighted as a possible tool. Cross-party networking with respect to common issues is seen as essential to achieving gender-related objectives. Most political parties agree, but some see networking as a disloyal (and hence unacceptable) form of behaviour.

### ***Professional conduct***

Other creative solutions, which have been raised in the debate on quotas in Serbia, include the introduction of an ethical code of conduct for members of political parties, demanding professional treatment of women, and introducing penalties for harassment, could improve the position of women and the work of political parties. A lack of basic knowledge among members of the public and, particularly the media, about gender-based discrimination, and its importance vis-à-vis the building of democratic institutions, should be addressed by enhancing the capacities of media representatives. Finally, newly elected representatives in local assemblies, woman and men, should receive gender-awareness training.

## **Key Lessons Learned From Serbia**

### ***The involvement of civil society***

Women’s non-governmental organizations (NGOs) and other civil society actors consistently promote the quota as a positive action measure to achieve a more equitable gender balance in representative bodies. They help to generate political support for the quota system. While the law was being drafted and debated however, they were not allowed to participate in the procedure. Instead, some prominent women parliamentarians engaged in lobbying behind the scenes, pushing the amendment forward.

### ***Empowerment of women***

The empowerment of women is one of the four essential components of the human development paradigm—the others are productivity, equity and sustainability. Empowerment is defined as people fully participating in decision-making and the processes that shape their lives.

Women’s empowerment not only comprises gaining access to decision-making, but also to the processes that lead women to perceive themselves as being able and entitled to representation in the decision-making space. Awareness-raising initiatives, including civil and political education, should be launched, therefore, to encourage women to participate in politics and to assist those who are elected in fulfilling their political duties. The government, the parliament, political parties and organizations, trade unions, NGOs and the media could contribute to this process. There is a great deal of scope for women’s NGOs to engage in various kinds of public activities.

Efforts to promote the empowerment of women should concentrate on: encouraging the participation of women in policy and decision-making processes and bodies; establishing income-generating programmes for women; and providing women with access to education and all kinds of training.

### ***Political parties and quotas***

Political parties’ programmes should pay special attention to the principle of equality between men and women. They should focus on the benefits to be derived from active partnership between men and women, recognizing differences and similarities. Also, political parties should eliminate from their programmes any language that could directly or indirectly give the impression that men are superior to women. It has been suggested that measures should be introduced to allow equally qualified men and women to become members of decision-making bodies at all levels of a party (local, provincial and national). Whenever a quota system is chosen, it is recommended that it does not refer to women, but instead to the ‘under-represented gender’.

It has been suggested that the key documents of a political party are reviewed in order to eliminate any regulations that explicitly contribute to or justify the discrimination against women, such as those defining the basic policies of the party, its hierarchy, and its rules of procedure.

### **Participation of women and men in executive bodies**

The equal participation of women in government should be one of the rules of democracy. All governments that are committed to the principle of shared political responsibility should include a certain number of women in all government structures. Men and women are equally competent to serve in government or to work in any of its sectors. Women should not be confined to special sectors, therefore, but rather they should be present in every area, including finance, foreign affairs and defence.

### **Legal empowerment of women**

Indicators of the legal empowerment of women include: the approval of gender-sensitive legislation, particularly with regard to family protection, antidiscrimination, protection against violence and labour relations; the enforcement of legislation related to the protection of women's human rights; the number of cases related to women's rights that are heard in local courts, and the results of these cases; the number of cases related to the legal rights of divorced and widowed women that are heard in local courts, and the results of these cases; the effect of legislation on the treatment of offenders; the increase/decrease in violence against women; the rate at which the number of local justices/prosecutors/lawyers who are women/men is increasing/decreasing; and the rate at which the number of women/men in the local police force is increasing/decreasing.

### **Perceptions about the quota system for women<sup>3</sup>**

A minor survey of Serbian women prior to the 2004 municipal elections demonstrates that over half of all women support gender quotas.<sup>4</sup> In interviews, however, younger and politically less experienced women are less supportive of the quota system than women politicians and women belonging to an institution, for instance. The latter are more willing to accept political nominations achieved via the quota system.

## **Conclusion**

### **Questions that need to be answered:**

- Is the quota issue to be advanced as an independent political issue or as part of some other issue (concerning minorities, state security or European Union integration, for instance)?

**Table 1: Response to Question**

Do you think that the quota system for the under-represented gender is politically justified?

	Yes	No	Total
1. Women students in their final year in the law and political science schools of the University of Belgrade	45 (62.5%)	27 (37.5%)	72
2. Women senior managers and programme officers in municipal administrations	49 (79.0%)	13 (21.0%)	72
3. Women NGO activists and leaders	65 (85.5%)	11 (14.5%)	76
4. Women members of political parties	35 (94.6%)	2 (5.4%)	37
<b>Total</b>	<b>194(78.5%)</b>	<b>53 (21.54%)</b>	<b>247</b>

**Table 2: Response to Question**

Would you accept a position acquired as a consequence of a quota election system?

	Yes	No	Do Not Know	Total
1. Women students in their final year in the law and political science schools of the University of Belgrade	31 (43.1%)	35 (48.6%)	6 (8.3%)	72
2. Women senior managers and programme officers in municipal administrations	38 (61.3%)	11 (17.7%)	13 (21.0%)	62
3. Women NGO activists and leaders	31 (40.8%)	19 (25.0%)	26 (34.2%)	76
4. Women members of political parties	33 (89.2%)	1 (2.7%)	3 (8.1%)	37
<b>Total</b>	<b>133 (53.8%)</b>	<b>66 (26.7%)</b>	<b>48 (19.5%)</b>	<b>247</b>

- Who needs women politicians? Their male colleagues, who may manipulate them and exploit their political inexperience? International organizations which implement gender programmes to empower women politically? In other words, what needs to be done to allow women, citizens, political parties and other interested stakeholders to claim political ownership of the quota system?
- What will be the effect of the quota in the Serbian parliament elections? What role should women politicians play who have been elected via the quota system?

There are many challenges and unanswered questions as the quota debate continues in Serbia. Some believe that women candidates do not receive sufficient support from their parties. Others believe that women are

exploiting legal provisions in order to occupy places earned by men. Many proponents of the quota recognise the weaknesses of the current system where, although women comprise 30 percent of party lists, the representation of women in Serbian national and local assemblies is less than 30 percent. These challenges demonstrate that, although Serbia has begun the journey to increased representation of women in political life, there is still some way to go before arriving at the final destination.

## Endnotes

- 1 Republic of Serbia. 'Act Amending and Modifying the Act on the Election of Deputies'. 25 February 2004. Quota for the under-represented gender (women) at candidacy lists (art. 8 and a new Article 40a are added).
- 2 This comment is attributed to Dusan Savic, popular former football player and in the time of the statement, a high official of the Red Star Football Club, during a popular TV talk show at the beginning of September 2004.
- 3 Telephone interviews conducted at the end of August 2004—in advance of the local, municipal elections held on 19 September 2004. This was the first time that the quota electoral system was employed throughout the whole of Serbia. The research was carried out by the Institute of Social Science, Belgrade, and was managed by Zorica Mrsevic.
- 4 The 247 interviewees included: 72 female students in their final year in the law and political science schools of the University of Belgrade, 62 female senior managers and programme officers in municipal administrations, 76 women NGO activists and leaders and 37 female members of political parties.



# Implementing Gender Quotas in Belgium: Legal Enforcement Lessons

PETRA MEIER

DEPARTMENT OF POLITICAL SCIENCE, VRIJE UNIVERSITEIT BRUSSELS, BELGIUM

## Introduction

In light of the extremely small number of women who have gained access to Belgian politics over the decades, feminists have long invoked gender-related thresholds and called for the introduction of quotas. During the 1990s, several members of parliament (MPs) submitted bills in order to establish gender quotas in law, both for the legislature and later for the executive. The underlying notion was that only legally binding gender quotas would make party leaders act, since party quotas have proven not to be far-reaching and have not always been strictly adhered to. None of these bills were passed. This case study traces the development and implementation of the laws on quotas that finally were adopted in Belgium.

## Legislating Quotas

After the 1991 elections, the feminist movement managed to include a point about the position of women in politics in the government declaration. This resulted in the federal government itself having to take the lead on such matters.

## *The Gender Quotas Act 1994*

In 1994, the government proposed the gender quotas act<sup>1</sup> intended 'to promote a balanced representation of men and women on electoral lists'.

The act stipulated that electoral lists must not comprise more than two-thirds of candidates of the same sex and that, in the event of non-compliance, public authorities would not accept the lists for election. Parties would have to submit incomplete lists if they could not identify the required number of candidates, but even these would have to respect the gender criterion.

The act entered into force in 1996 with exception of the 1994 local and provincial elections. For those elections and between 1996 and 1999, however, lists were allowed to comprise a maximum of three-quarters of candidates of the same sex. In practice, though, the 1994 local and provincial elections were the only ones to apply the temporary quotas. The 1995 elections were excluded from the quotas act and no elections were held between 1996 and the end of 1998. From 1999 onwards, electoral lists have had to respect the two-thirds provision.

However, the act had constantly been criticized for being both unfair and insufficient:

- (1) It was considered unfair because it did not insist on an equal number of male and female candidates on electoral lists. That is, it was not based on a parity principle.
- (2) It was deemed insufficient because it did not impose double quotas, that is, quotas that apply not only to the electoral list but also have a 'placement mandate' to ensure that women are placed in eligible positions.

## *Revisions to the Quotas Law 2002*

In 2002, a series of new gender quotas acts were approved.<sup>2</sup> The new acts compel parties to put forward an equal number of male and female candidates. Furthermore, candidates of the same sex may not occupy the top two positions on a list. Again, non-compliance will result in rejection of the list by the public authorities. This provision, however, is to be gradually reached by the second election to take place after the acts entered into force in 2002.

In the first election, after entry into force, in 2003 (federal elections) and in 2004 (regional and European elections), the first three positions on the electoral lists could not be occupied by candidates of the same sex. In the subsequent election after that, the final quotas will grant women at least the second position on a list, replacing the temporary provision guaranteeing women only the third spot. In addition, it is important to note that, while the 1994 act applied to all elections, the 2002 acts do not apply to local and provincial polls, since their organization has become the responsibility of the regions. Hence, regions that do not adopt their own legislation will continue to observe the provisions of the 1994 quotas act.

## **Political Party Quotas**

Various political parties had introduced gender quotas or set targets for the selection of candidates prior to the 1994 act coming into being. Interestingly, parties did not scale back their quotas following the introduction of the federal legislation. Most parties adapted their existing quotas or targets in order to go beyond the

federal legislation; some even established their own quotas once gender quotas had been legally imposed.

The issue at stake was one of contagion, with a symbiotic relationship between political party quotas and legal quotas. Party quotas opened the way for legally imposed ones designed to impact on parties reluctant to enact gender quotas. But legal measures serve as a benchmark. The law raises the obligation of parties from having no measures regarding sex-balanced electoral lists to a minimum standard of inclusiveness. Parties that desire to be seen as gender aware and more progressive than others have no alternative than to surpass the law. This logic of a contagion effect also explains why legal measures lag behind party measures. Measures adopted at the legislative level are a compromise and not every political party is in favour of such measures. Finally, parties are reluctant to let any political actor intervene in their selection of candidates.

### **The Quotas in Practice**

The application of legally binding gender quotas did not lead to an automatic rise in the number of women entering Belgian politics. Belgium has traditionally been a laggard when it comes to the presence of women in political decision-making forums. Until the second half of the 1970s, women made up approximately five percent of the membership of the House of Representatives and of the Senate. From then until the middle of the 1990s the figure was around ten percent. On the whole, there was never much of a difference between the two assemblies in terms of the number of women elected.

#### ***The parliament***

Following the 1995 federal elections, however, the number of women Senators doubled to 24 percent, while the number of MPs remained constant at 12 percent. In 1999, the proportion of women elected to the House of Representatives climbed to 19 percent; the proportion of women Senators rose to 28 percent. In the federal elections of May 2003, 35 percent of women were elected to the House of Representatives and 38 percent to the Senate. The spectacular result with respect to the House of Representatives has meant that the gap between the lower chamber and the Senate, which has existed since 1995, has been closed significantly. Moreover, the increase in the number of women elected in the last three federal polls has resulted in Belgium joining the top ten countries with the highest number of women in the national legislature.

### ***Regional and local assemblies***

Similar successes have been achieved at other levels of government. With the federalisation of the Belgian state from the 1970s onwards, three Regional Councils—for the Walloon region, Flemish region and the region of Brussels and three Councils of the Communities—for the Flemish community, the Francophone community and the German-speaking community—have been created. The Council of the German-speaking community was the first to be directly elected. In 1986, four percent of women entered the assembly. Subsequently, the number of women elected has risen from 12 percent in 1990, to 20 percent in 1995, to 32 percent in 1999 and 2004. The first Council of Brussels Capital Region had 24 percent of elected women in 1989, increasing to 29 percent in 1995, 36 percent in 1999 and 45 percent in 2004. The first Flemish Council (the Flemings merged their institutions) started out in 1995 with 17 percent of women, rising to 20 percent in 1999 and 31 percent in 2004. The main exception is the Walloon Council, which began with 12 percent of women in 1995, decreasing to 11 percent in 1999, before rising to 19 percent in 2004.<sup>3</sup>

At the provincial and the local level, too, ten percent of women were elected by the end of the 1980s. Women's representation at these levels approached 20 percent after the 1994 elections. Following the local and provincial elections of 2000, the proportion of women provincial councillors rose to 31 percent, while that of women local councillors increased to 27 percent. On the whole, both levels show a considerable growth of the number of women elected during the 1990s.

#### ***It is not just quotas...***

It would be wrong however, to conclude that the gender quotas acts are responsible for these gains, although they have undoubtedly played a part. As mentioned above, they served as a benchmark for the promotion of equality. Being applied in a highly proportional system under which parties have to compete for votes because of an increased electoral volatility, on the one hand, and where there is a growing public voice in favour of gender equality on the other, these gender quotas acts stimulated a process whereby political parties sought to 'outbid' each other in terms of commitment to gender-sensitivity.

Indicators of this are not only the aforementioned gender quotas adopted voluntarily by parties. Another interesting phenomenon is the fact that parties have tended to 'stay ahead' of the stipulations of the gender quotas acts, often surpassing the requirements

of the quotas laws in terms of numbers of women candidates, and their placement on the party lists.

In this respect, the quotas laws have had an impact. But they can only do so as long as gender balance in politics remains an important issue and parties try to outbid one another. As a legal instrument, however, gender quotas have not had any effect at all. In themselves, they have not led to the realization of the targets that were set. While the 1994 act was supposed to promote balanced representation of men and women on electoral lists it merely led to a minimum number of female candidates without specifying their position on the lists. The 2002 acts, meanwhile, speaks of equal representation of both sexes, but only stipulates an equal presence of female and male candidates in the top positions on the lists.

## **Quotas and the Electoral System**

A further reason why gender quotas have not been entirely effective relates to the features of the electoral system in which they have been applied.

### ***Preferential voting***

Belgium has a proportional representation system utilizing what could be termed semi-closed party lists. The system allows for multiple preferential voting, but seats are mainly awarded to candidates in the order in which they appear on the list. This is because candidates need a large number of preferential votes in order to modify the order of the list. Additionally, voters tend to make little use of their right to cast a vote for several candidates on the same list. Rather, they vote for the top candidate, thereby reinforcing the list order. This applies to federal elections, as well as elections to the councils at the region and community levels. At the local and provincial levels, multiple preferential voting not only has a longer tradition, but it is also better exploited in terms of modifying the order of the list.

Particularly important from the standpoint of placement mandate gender quotas, is the relatively closed character of candidate lists. This implies that, to a large extent, the order in which candidates are ranked determines their prospects for election. Empirical evidence suggests that the number of women in eligible positions matters more than the number of women on a candidate list. In Belgium, women have traditionally been under-represented with regard to eligible positions, even after the number of women candidates started to rise in the 1990s. The first gender quotas act of 1994 did not alter this situation, since it did not contain any provisions concerning eligible positions on a list. The 2004 revisions, with

the 'double quotas' requiring that women are placed among the first three candidates (and later among the first two candidates), should make a difference to the number of women elected.

### ***Increased weight of preferential votes and increase of district magnitude***

At the same time as the 2002 gender quotas acts came into effect, however, the electoral system was reformed for the election of assemblies at the federal, community and regional levels. The changes cut in half the number of preferential votes needed by candidates to move up the party's list. The impact of the list vote was, therefore, halved, a claim the Liberals had since long insisted on. They argue that it gives voters more weight in the decision on who gets elected. In the case of the House of Representatives and the Council of the Flemish Community, reforms also meant that the size of the electoral districts was increased with the introduction of provincial districts. Furthermore, the number of seats in the Council of Brussels Capital Region was raised from 75 to 89 prior to the 2004 polls, in order to satisfy Flemish and Francophone requests. Both aspects of electoral reform undermined the potential effect of the new double quotas.

### ***Party magnitude***

Double quotas will have maximum effect if they apply to all eligible positions. The placement mandate of the 2002 quotas acts only applies to the first three (and in a later stage two) candidates and does not apply to the remainder of the list. But the electoral reform considerably increased the number of cases where parties can expect to capture four or more seats. In other words, the increased size of electoral districts involved an increase in party magnitude, the number of seats a party wins per district. This increased size of electoral districts resulted in the new gender quotas losing their impact because the subsequent increase in party magnitude made the new gender quotas law less effective in large constituencies.

However, increasing the size of electoral districts facilitates women's chances of being elected. The largest number of women with legislative power is found in those assemblies with sizeable electoral districts. In Belgium, an increase in district size has generally been accompanied by an exceptional rise in the number of women elected. This explains the phenomenal increase in the number of women elected to the Senate in 1995, to the House of Representatives in 2003, and in Brussels and Flanders in 2004. But the point remains that the details of the quotas

law, and its placement mandate, need to ‘fit’ with the electoral system. Currently the Belgian law has little impact in large constituencies.

### **Safe seats**

The halving of the impact of the list vote, where votes are cast for a list of candidates and not for individual candidates on that list, is at odds with the new double quotas, too. This is because the added weight, given to preferential votes, strengthens the open character of the candidate lists, while double quotas require closed lists in order to have the maximum impact. The increased weight of preferential votes combined with the strategic placing of well-known candidates towards the bottom of the lists increases the likelihood that these candidates will be elected at the expense of less-known candidates figuring at the top of the list. The traditionally safe seats at the top of electoral lists lose their safe character. Well-known candidates at the bottom of the list are meant to attract a lot of votes for the party. By and large, they have no intention of getting elected or taking up their mandate. But even if they refuse their mandate, someone from the list of succeeding candidates will take up their mandate while the candidates in theoretically eligible positions will not get elected. The elections in May 2003 and June 2004 showed that the increased weight of preferential votes did not really disadvantage women in the case of the House of Representatives or of the Council of Brussels Capital Region, but that it did in the case of all other assemblies. In the Senate, in Flanders, in the German-speaking Community and in Wallonia, more men than women were elected.

### **Conclusion**

The Belgian experience with gender quotas sends out contrary signals. There is a lacuna between official discourse, which is very much in favour of gender equality, and measures taken, which are more ambivalent in terms of their objectives. This gap provides the perception that the federal government is actually trying to prevent gender quotas from being efficient. The most important lesson to be learnt from the Belgian experience is that gender quotas acts, in order to have an impact, must be tailored to the features of the electoral system.

### **Endnotes**

- 1 Wet van 24 mei 1994 ter bevordering van een evenwichtige verdeling van mannen en vrouwen op de kandidatenlijsten voor de verkiezingen. Belgisch Staatsblad. 1 July 1994.

- 2 ‘Wet van 17 juni 2002 tot waarborging van een gelijke vertegenwoordiging van mannen en vrouwen op de kandidatenlijsten voor de verkiezingen van het Europees Parlement’. Belgisch Staatsblad. 28 August 2002; ‘Wet van 18 juli 2002 tot waarborging van een gelijke vertegenwoordiging van mannen en vrouwen op de kandidatenlijsten van de kandidaturen voor de verkiezingen van de federale Wetgevende Kamers en van de Raad van de Duitstalige Gemeenschap’. Belgisch Staatsblad. 28 August 2002; ‘Bijzondere wet van 18 juli 2002 tot waarborging van een gelijke vertegenwoordiging van mannen en vrouwen op de kandidatenlijsten van de kandidaturen voor de verkiezingen van de Waalse Gewestraad, de Vlaamse Raad en de Brusselse Hoofdstedelijke Raad’. Belgisch Staatsblad. 13 September 2002; ‘Wet van 13 december 2002 houdende verschillende wijzigingen van de kieswetgeving. Belgisch Staatsblad. 10 January 2003.
- 3 The Council of the French-speaking Community is indirectly elected of members of the Council of Brussels Capital Region and of the Walloon Council. Hence the number of women members of the Council of the French-speaking Community is dependent on these other institutions.