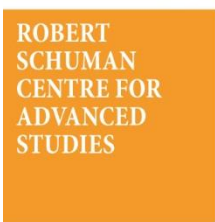




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RSCAS 2014/87
Robert Schuman Centre for Advanced Studies
Global Governance Programme-125

Rights, Equality, and Democracy:
The Shift from Quotas to Parity in Latin America

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EUI Working Paper **RSCAS** 2014/87

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ISSN 1028-3625

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Printed in Italy, September 2014

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Badia Fiesolana

I – 50014 San Domenico di Fiesole (FI)

Italy

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Abstract

Seven Latin American countries—Ecuador, Bolivia, Costa Rica, Honduras, Mexico, Nicaragua, and Panama—have recently shifted from quota laws to parity regimes. This paper offers the first scholarly examination of the discourses underlying this parity shift, exploring how proponents frame and justify the measure in these seven cases. I find that Latin America's parity advocates appeal to universal human rights and the equality of outcomes (rather than the equality of opportunities); in doing so, they establish parity as a prerequisite of the democratic state. This framing is further legitimated by court decisions validating the constitutionality of affirmative action. I conclude by arguing that these discourses have significant policy implications: parity will continue to diffuse rapidly across Latin America.

Keywords

Gender, equality, democracy, representation, parity, Latin America

Introduction

Beginning with Argentina in 1991, Latin American nations became global leaders in the adoption of quota laws, which mandate that political elites nominate specified percentages of women for national elections. Scholars have noted how quota laws are justified via normative discourses centered on justice for underrepresented groups, as well as consequentialist arguments premised on resultant feminist policy changes; these findings have generated a significant body of research that explores whether quotas in fact achieve these numerical and substantive effects (Dahlerup 2008; Franceschet, Krook, and Piscopo 2012). Overlooked in the extant research, however, is Latin America's recent shift from quotas to parity. As of May 2014, seven nations—Ecuador, Bolivia, Costa Rica, Honduras, Mexico, Nicaragua, and Panama—have adopted parity regimes, mandating the 50/50 representation of men and women in the legislature and, in some cases, the executive branch and other state institutions. While analysts have suggested that parity differs from quotas (Archenti 2011; Johnson 2013; Rodríguez Ruiz and Rubio-Marín 2008; Suk 2013), few researchers have explored this proposition in the Latin American case. This paper thus constitutes the first scholarly effort to both document and explain the region's parity shift. Taking the difference between quotas and parity as a point of departure, I argue that Latin America's parity proponents have succeeded in normalizing a new configuration of the democratic state.

I build this argument through an analysis of parity discourses throughout the region. Advocates justify parity—also known as gender balance—by appealing to universal human rights, the equality of *outcomes* (rather than the equality of opportunities), and the ideal that democratic states must reflect the demographics of the constituents. As such, parity proponents make normative and practical claims that differ from those used by quota proponents in the previous generation. First, advocates position parity laws not as technically superior quotas, but as fundamental principles. Second, proponents frame parity not as a temporary special measure that corrects for past discrimination, but as a permanent condition of governance that fulfills the prerequisites of democracy. Grasping these discourses remains critical, for as Bacchi notes, policy discourses simultaneously create problems and solutions: they demarcate some political agendas as desirable, and others as impossible or impermissible (1999: 2-3). Consequently, the framing of parity as essential for democracy has significant policy implications, suggesting that parity will continue to diffuse rapidly across the region.

To make this argument, I first summarize two decades of quota research in Latin America, exploring how quotas have shifted to parity. I then examine parity discourses in the seven adopting countries, drawing on an extensive, original database of primary sources comprised of the following: the texts of Latin America's parity laws, including committee records and plenary debate transcripts¹; the texts of court decisions related to the constitutionality of affirmative action; and newspaper articles surrounding the approval of parity in adopting countries and the push for parity in non-adopting countries.² I conclude by arguing that parity discourses, when combined with domestic jurisprudence that establishes states' obligations to guarantee rights and equality, will eventually re-shape the gendered norms and roles that underpin all state and non-state institutions.

¹ Plenary debates for Ecuador and Bolivia were not available, so I rely on summaries by Goyes Quelal (2013) and Choque Aldana (2013), respectively.

² To construct the database of newspaper articles, research assistants searched the on-line archives of each Spanish-speaking Latin American country's top five newspapers, as determined by AllYouCanRead (<http://www.allyoucanread.com/newspapers/>). Assistants searched for the following terms: parity, quotas, women and electoral reforms, and women and representation, from 2008 to present. Newspaper articles were then saved if they contained quotes from parity proponents, defined as a legislator, party leader, or other public official with influence over the policy process.

Researching Gender Quotas in Latin America

Presently in Latin America, only Chile, Guatemala, and Venezuela lack quota laws for the national legislature. The causal factors underlying this process have been well-studied and do not require further elaboration, with scholars recognizing the joint importance of international spotlighting through the United Nations' world conferences on women, particularly the 1995 Beijing Conference; the domestic mobilization of quota proponents, typically female party activists, female legislators, and other women's groups; supportive chief executives; and the moments of institutional flux created by democratization, combined with a debt owed to female activists for their role in destabilizing authoritarian regimes (Crocker 2011; Krook 2009; Sacchet 2008).

Important, however, are the discourses that international and domestic actors used to legitimize quotas. The 1979 United Nations Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) stated in its preamble that state parties agreed to take "all appropriate measures, including legislation and temporary special measures, so that women can enjoy all their human rights and fundamental freedoms."³ CEDAW's emphasis on "special temporary measures" proved critical in Latin America's quota debates: quota laws across the region were regarded as positive actions with implicit expiration dates (Peschard 2002; García Quesada 2011). In Argentina, for instance, the quota law contained no official sunset clause but ministers and legislators spoke of its transitory nature (Towns 2012: 192, 196). Likewise, legislators debating quota laws in Brazil underlined the mechanism's transitory character (Araujo 2003: 4). Quota laws, in offering a "fast track" to improving women's legislative representation (Dahlerup and Freidenvall 2005), were necessary for Latin America's transition to democracy and modernity (Baldez 2004, Towns 2012)—but this necessity would dissipate with time. Discrimination and prejudice would inevitably erode as women conquered more public spaces. As Htun writes, "Most politicians regard quotas as a temporary measure. As more women gain power, they will break down the obstacles holding others back. Over time, the quota will become obsolete" (2004: 445).

Yet only three quota laws actually contained sunset clauses. First, the 1996 Costa Rican law allowed for the 40 percent quota's cancellation by the nation's electoral institute, if and when political parties attained a participation of women in proportion to their presence among registered voters (García Quesada 2011: 122). Second, the 33 percent quota bill in Uruguay, passed in 2009, applies only to the 2014 legislative elections (Johnson and Pérez 2011).⁴ Third, the 30 percent quota in El Salvador only applies for five legislative elections, meaning through 2027.⁵ Costa Rica's cancellation provision was removed by subsequent reforms; El Salvador's expiration date remains quite far away; and female legislators have introduced bills to extend or remove Uruguay's sunset clause.⁶

Consequently, Latin America's quota laws have become permanent mechanisms in practice, if not in discourse. Quotas even returned in the two countries where courts repealed the initial laws on the grounds of unconstitutionality. In Colombia, constitutional reforms enabled the re-adoption of a 30 percent legislative quota in 2011 (Piscopo 2013). In Venezuela, quota laws remain unconstitutional, but the electoral institute has circumvented the Supreme Court by demanding a 50 percent quota in parties' electoral lists since 2005 (Archenti 2011). No Latin American country, then, has completely eliminated its quota. In fact, most Latin American countries have expanded them: most countries adopted their quota laws in the 1990s or early 2000s, setting thresholds at 20 or 30 percent, and reforms throughout the 2000s raised quotas' thresholds to 40 or 50 percent while introducing measures to improve performance.

³ CEDAW convention, December 18, 1979: <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>.

⁴ The quota's application to parties' internal elections is permanent.

⁵ 2012 Law of Political Parties, Article 88.

⁶ See the activities summarized by Uruguayan Blog EnReDenSe: http://www.enredense.com/2014/04/mas-mujeres-por-una-democracia-paritaria_16.html (accessed May 30, 2014).

Beyond quota adoption, then, most quota research in Latin America has followed two strands: understanding how quotas interact with electoral systems to increase women's numerical representation, and delineating quotas' effects on feminist policy passage. For the first strand, scholars have signaled the importance of well-designed laws, including the inclusion of enforcement and sanction mechanisms, as well as quotas' superior performance in closed-list proportional representation systems with rank-order rules (placement mandates) for women's names (Jones 2009; Schwindt-Bayer 2009).⁷ The second research strand explores the catchphrase used by Argentine quota proponents: "with few women in politics, women change, but with many women in politics, politics changes" (Marx, Borner, and Caminotti 2007: 61). On the one hand, scholars have linked female legislators' presence to the introduction of bills related to women's interests (Franceschet and Piscopo 2008; Sacchet 2008; Schwindt-Bayer 2010). On the other hand, scholars have suggested that female legislators, as elites, will not support a feminist agenda (Sagot 2010). Others conclude that congresswomen remain marginalized: female legislators work on softer, less-prestigious policy areas (Miguel 2012), confront intimidation (Htun and Ossa 2013), and generally face sexist and discriminatory work environments (Franceschet and Piscopo 2008).

Taken together, both research strands emphasize quotas' effects on electoral and policy outcomes. These studies have identified quotas' shortcomings, often emphasizing the numerous ways political parties avoid or subvert quotas, such as running token women or illegally altering electoral lists (Hinojosa 2012: 140-148). Consequently, scholarly work has treated parity as simply another quota improvement. For example, Htun and Ossa (2013) discuss the adoption of parity in Bolivia, but use quotas and parity as interchangeable terms, and Piscopo (2013) views parity as a more robust quota. How parity differs from quotas has not yet been tackled by quota researchers in the region.

From Quotas to Parity

Franceschet and Piscopo acknowledge that the shift towards parity has signaled an acknowledgement by Latin American states that "the gendering of public space and leadership must transcend tokenism" (2013: 312). Specifically, legislative quotas of 30 and even 40 percent are now seen as insufficient. Yet Archenti (2011) argues that parity—unlike quotas—constitutes a principle, not a measure. That is, parity and quotas are normatively and practically distinct: quotas constitute technical, temporary, special measures that political parties often exploit, but parity captures a democratic ideal that political parties cannot manipulate. As Rodríguez Ruiz and Rubio-Marín conclude in their analysis of Europe's parity laws, the equal representation of men and women in public office is not about matching quota laws to electoral institutions, but about achieving "a structural prerequisite of the democratic state" (2008: 289). Suk reflects similarly on the European cases, stating that "gender balance is not merely a means of eradicating women's past disadvantage or current societal discrimination, but a permanent feature of good governance" (2013: 1129). Falling short of parity means falling short of democracy.

Parity in Latin America has been framed in similar ways, as a shift away from engineering electoral rules and towards reiterating democratic principles. Motivated by the shortcomings of quota laws identified above, parity crystallized as a policy option for the Latin American region with the Quito Consensus in 2007. This document, adopted by the United Nations Economic Council for Latin America and the Caribbean (ECLAC) at its 10th Regional Conference on Women, established parity as a "principle determinant of democracy" (Article 17). Moreover, the Quito Consensus recognized parity not just as a principle governing legislative elections, but as a "policy of the state" in its entirety (Article 25.1.vii).⁸ The Brasilia Consensus of 2010, adopted at the 11th Regional Conference on Women, reaffirmed parity as signifying the "elimination of the structural exclusion of women" and

⁷ Though Schmidt (2011) notes that quotas perform equally well in Peru's preferential vote system.

⁸ The Quito Consensus, April 14, 2007: <http://www.eclac.cl/publicaciones/xml/5/29555/dsc1i.pdf>.

constituting “the key condition for democracy” (preamble). Brasilia further reiterated Quito’s request for all necessary measures to achieve these ends (Article 3b).⁹

These international instruments thus advanced the modest call for temporary special measures found in the 1995 Platform for Action adopted at the UN Beijing Conference. The Platform for Action advocated “setting specific targets and implementing measures...with a view to achieving equal representation of women and men, if necessary through positive action” (Article 190a).¹⁰ The Quito Consensus, by contrast, used stronger terms, calling for “parity in the institutional structure of the State (executive, legislative, and judicial branches, as well as special and autonomous regimes) and at the national and local levels” (Article 25.1.ii). The Brasilia Consensus went even further, requesting measures to “ensure parity of outcomes” (Article 3d, emphasis added). Fifteen years after Beijing, the discourse had shifted: once optional and transitory, affirmative action had become mandatory and comprehensive, *with* results guaranteed.

At the domestic level, parity as a principle governing state composition appeared in the new governments created by Rafael Correa in Ecuador and Evo Morales in Bolivia in the late 2000s. Both leaders attained power as outsiders following long periods of political instability; both drew their support from mass-based, left-leaning, indigenous movements; and both developed an “ethnopolitist” leadership style that united indigenous and non-indigenous constituents (Madrid 2012). In both, constitutional assemblies (themselves elected under quota laws) sat down to create new representative institutions in contexts where previous democratic arrangements were viewed as discriminatory, corrupt, and deeply flawed (Choque Aldana 2013; Goyes Quelal 2013; Madrid 2012). In the context of founding new, multinational, and pluriethnic states, parity represented one way to reinvent democracy.

Consequently, the 2008 Ecuadorian constitution establishes that political participation “on the basis of gender equity and parity” constitutes a fundamental right (Article 61). The subsequent 2009 electoral law, known as the “Code of Democracy,” declares that the electoral system will “conform to the principles of proportionality, equality of the vote, equity, parity, and alternation between men and women” and that candidate lists must maintain “strict equity, parity, alternation, and sequential ordering between men and women.”¹¹ Importantly, parity had appeared previously in Ecuador: the 1997 quota law, set at 30 percent, increased by 5 percent for each election thereafter. By the 2007 elections—which selected the constitutional assembly—the quota was 50 percent (Goyes Quelal 2013). Yet whereas the 1997 quota law relied on Ecuador’s electoral institute to issue the appropriate regulations for each election, the 2009 electoral law established that parity, alternation, and sequencing applied with no additional regulations needed (Goyes Quelal 2013: 85). Similarly, the 2009 Bolivian Constitution establishes that democracy and political participation will unfold with “equivalence of conditions between men and women” (Articles 11 and 26). This language is reiterated in Bolivia’s 2010 electoral law, which establishes the principle of “equivalence” as the “application of parity and alternation.”¹²

These laws illustrate a normative and practical shift away from quotas in Latin America. Though the language varies slightly—the Quito Consensus frames parity as state policy, Ecuador invokes parity as a right and a principle, and Bolivia defines parity as equivalence of conditions—the logic is the same: parity underlies democracy. As of June 2014, seven Latin American countries have laws or constitutional amendments implementing parity: Ecuador, Bolivia, Costa Rica, Honduras, Mexico,

⁹ The Brasilia Consensus, July 16, 2010: http://www.eclac.cl/mujer/noticias/paginas/6/40236/ConsensoBrasilia_ING.pdf.

¹⁰ Beijing Platform for Action, September 15, 1995: <http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf>.

¹¹ Ley Orgánica Electoral, Código de la Democracia, Articles 4.1 and 105.

¹² *Ley del Régimen Electoral*, Articles 2(h) and 11; Law #026/2010.

Nicaragua, and Panama, as shown in Table 1.¹³ Costa Rica, which adopted parity around the same time as Ecuador and Bolivia, also connects parity to democracy: the 2009 Electoral Code stipulates that “men’s and women’s political participation is a human right recognized in a democratic society...and this participation will depend on the principle of parity” (Article 2).¹⁴ Similarly, the 2014 reforms to the Mexican Constitution identify the political parties as objects of public interest, organized to promote democratic participation, and therefore functioning under the rules of gender parity (Article 41).¹⁵

Moreover, with the exceptions of Bolivia and Nicaragua, all parity countries first passed through a quota law of 40 percent. This evolution demonstrates how a 40/60 sex division among legislators falls within “the perimeters of parity” (Goyes Quelal 2013: 55), suggesting that a 40 percent quota law constitutes a gateway to parity. Indeed, 40 percent quotas have disappeared from the Latin American landscape, with countries now dividing into two groups: those with parity laws and those with quota laws of 33 percent or less.

Countries in the latter group—including Colombia, El Salvador, Uruguay, Paraguay, and Peru—also face parity movements. Party leaders in Uruguay, for instance, have demanded a shift from the temporary 33 percent quota towards a permanent parity measure, stating that “we have to move towards the objectives of equality and parity.”¹⁶ Uruguayan women’s groups have likewise described the 33 percent quota law “as a first step towards parity.”¹⁷ Similarly, commentators in Chile have decried President Michelle Bachelet’s still-pending April 2014 proposal of a 40 percent legislative quota: a journalist noted that “the quota should be fixed at 50 percent.... It could be considered useful and valid to fix this initial quota at a lower rate, but that doesn’t make it [40 percent] any less arbitrary.”¹⁸ Chilean legislators also heard this argument, with Claudia Pascual, the director of Chile’s national women’s agency, testifying before congress that “if women are half the population, then the quota should be 50 percent, but it [the proposal] advances towards an aspect of parity, using intermediate figures.”¹⁹ These evocations of forward movement portray parity as logical and inevitable. Targets short of 50 percent become painted as absurd rejections of demographic realities.

¹³ Parity in Venezuela is a regulation of the electoral tribunal, which requires a 50 percent *quota*. Since parity is not implemented via constitutional reform or legislative act, I depart from Archenti (2011) and do not count Venezuela as a parity case.

¹⁴ *Código Electoral*, Article 2, Law #8765/2009.

¹⁵ *Diario Oficial de la Federación*, February 10, 2014.

¹⁶ “Los partidos políticos de Uruguay plantean una Ley de Cuotas para promover la paridad de la mujer.” *La Celosía* April 11, 2014.

¹⁷ *Cotidiano Mujer*, “Mujeres Listas para las.” December 10, 2013 (<http://www.cotidianomujer.org.uy/sitio/index.php/participacion-politica/813-2013-12-05-14-40-56>).

¹⁸ “La cuota debe alcanzar 50%.” *Prensa Libre* September 25, 2013.

¹⁹ Chamber of Deputies, Chile, Press Release 13 May 2013: http://www.camara.cl/prensa/noticias_detalle.aspx?prmId=98625 (accessed May 25, 2014).

Table 1. Latin America’s Parity Laws for the National Legislature, By Adoption

Country	Law	Articles	Adopted*	Effective
Ecuador	Constitution	61, 116	October 2008	
	Electoral and Political Parties Law	4, 94, 105	April 2009	2009
Bolivia	Constitution	11, 26	February 2009	
	Electoral Law (#26/2010)	2, 11, 60, 107	June 2010	2009
Costa Rica	Electoral Code (#8765)	2	September 2009	2016
Honduras	Electoral and Political Parties Law (<i>Decree</i> #54/2012)	105	May 2012	2016
Nicaragua	Law Reforming Electoral Law #331 (#790/2012)	82	May 2012	2016
Panama	Electoral Code (#54/2012)	6	September 2012	2014
Mexico	Constitution	41	February 2014	
	Law of Political Parties	2, 25	May 2014	2015

* Date reflects law’s official publication or promulgation.

Author’s elaboration based on each country’s legislative record.

Parity Discourses: Human Rights and the Equality of Outcomes

A closer look at the discourses surrounding the successful adoption of Latin America's parity laws builds on parity activists' claims that parity constitutes the most logical, permanent solution to women's underrepresentation. In framing parity as constitutive of democracy, proponents have distinguished parity from quotas and evoked parity as a human right and a mechanism of equality. Most importantly, the rhetoric of equality echoes the Brasilia Consensus's emphasis on the equality of results.

Parity, not Quotas

Proponents see parity as essentially different from quotas (Archenti 2011). Choque Aldana, in her summary of the Bolivian parity debates during the 2009-2010 transition, reports, "The discussion about parity resulted from the perception of these [quotas'] deficits, given how the discussion on quotas had always centered around the deception of the electoral results" (2013: 138). In other words, in Bolivia (and elsewhere), quota advocates framed revisions to quota laws as correcting for past practices, including the tendency of parties to place women in unelectable spots on electoral lists or run female candidates as the substitute, rather than titular, candidates (Hinojosa 2012: 141). Parity debates, however, have framed 50/50 representation as different from quotas, for two reasons: first, parity principles are neither transitory nor compensatory, and second, parity cannot be exploited.

On the first point, proponents see quotas as correctives for past struggles, but parity as crucial for actual politics. Goyes Quelal summarizes the Ecuadorian parity debate as follows:

Parity is a declaration of permanent real equality, that leaves behind the criteria of compensation and temporality that justified quotas as affirmative action measures, and thus uses these principles to distinguish between the former [quotas] and the latter [parity]. (2013: 81)

Mexican female senators, during the constitutional reform's plenary debate, similarly framed parity as different from quotas. Drawing on language frequently used to criticize quota laws, Senator Marcela Torres Peimbert of the conservative PAN party argued that "parity does not mean a gift or concession; it means making Mexico a more just country."²⁰ Her copartisan, Senator Adriana Díaz Lizama, explained that parity "is not making space [for women], it is not implementing a quota, it is sharing in decision-making so that together we [men and women] can be co-responsible in the true development and advance of democracy."²¹ Both Torres Peimbert and Díaz Lizama construed parity not as a benefit accruing to individual female candidates, but as a restructuring of government and society. For this reason, Senator Dolores Padierna Luna, of the leftist PRD party, justified giving parity constitutional status, which would make the principle foundational and permanent: "To mandate parity as a transitory measure would reflect the culture of patriarchy, machismo, and anti-democracy."²²

Parity further distinguishes itself from quotas because—in theory—it contains no loopholes for political parties to exploit. For instance, in Mexico, Senator Diva Hadamira Gastélum Bajo claimed in the plenary that, with parity, "No more will there be *juanitas* [women who renounce their seats so their male alternates can enter congress] nor will there be the possibility for women's political participation to be eliminated."²³ Outside the Congress, Mexican President Enrique Peña Nieto likewise asserted that parity "avoid[s] the dissimulation by parties that prevents political equality."²⁴ Similarly, in Costa

²⁰ Mexican Senate, plenary transcript, December 3, 2013.

²¹ Ibid.

²² Ibid.

²³ Ibid.

²⁴ "Presidente mexicano propone cuota de 50% para mujeres en listas electorales." *Terra* October 11, 2013.

Rica, Deputy Lesvia Villalobos Salas stated in the plenary that “the only thing quotas gave us was the result of making women’s political participation more difficult... which is nothing short of restricting women’s rights.”²⁵ Panamanian Deputy Jorge Iván Arrocha likewise commented that the principle of parity differed from the principle of percentages.²⁶

Proponents believe that quotas’ shortcomings are avoided because parity derives legitimacy not from well-written electoral rules, but from essential human rights. Costa Rican Deputy Hilda González Ramírez’s plenary speech captures this sentiment: “Parity is not a quota in favor of the participation of women, but the widest expression of the universality of human rights.”²⁷ Likewise, her colleague Olivier Ibo Jiménez Rojas observed that “parity and alternation are not mechanisms [quotas], but an integral part of political rights.”²⁸ In Mexico, Díaz Lizama likewise described parity as “a fundamental right.”²⁹

The specific human right invoked across plenary debates is that of women’s numerical equality, given their composition as half the population. In Costa Rica, González Ramírez remarked, “The importance of parity lies with its status as an instrument to assert the right of equality, as stated in our Constitution... democracy should reflect half the population.”³⁰ Likewise, Villalobos Salas explained that “parity is a principle of real equality...if women represent half the population, this should be reflected in the positions of decision-making.”³¹ A similar emphasis appeared in Mexico, where Senator Angelica de la Peña Gomez noted how parity signifies women’s and men’s equal share of decision-making.³² This framing also appeared in Ecuador, when female delegates to the 2008 constitutional assembly, in partnership with non-governmental organizations, presented a “Women’s Agenda for the New Constitution”: this document called for a “new democracy” based on “parity as a mechanism for real and effective equality” (Goyes Quelal 2013: 78). Across Latin America, parity discourses connect demographics to decision-making: equality—and thus democracy—has been achieved when the composition of the decision-makers reflects the gender composition of the citizenry.

Equality of Results

The connection that parity proponents draw between demographics and decision-making, and its association with “real” or “effective” equality (*igualdad real*, in Spanish), merits further exploration. Mexican feminist Marta Lamas, in a newspaper opinion piece defending parity, offers the most cogent articulation of effective or real equality, which merits quoting at length:

Parity is the way the most advanced democracies have guaranteed proportionality between men and women in the spaces of decision making.... Substantive equality does not only require equal opportunities and treatment, but implies equality of results.... [it means] ensuring that the results of the election yields a similar number of women and men. ‘But don’t women want it all,’ some men exclaim furiously. ‘No,’ the women respond, ‘we only want what corresponds to us. We are half the population, so half of the representation falls to us.’³³

²⁵ Costa Rican Assembly, plenary transcript, October 8, 2009.

²⁶ Panamanian Assembly, plenary transcript, September 3, 2012.

²⁷ Costa Rican Assembly, plenary transcript, October 8, 2009.

²⁸ Ibid.

²⁹ Mexican Senate, plenary transcript, December 3, 2013.

³⁰ Costa Rican Assembly, plenary transcript, October 8, 2009.

³¹ Ibid.

³² Mexican Senate, plenary transcript, December 3, 2013.

³³ “Guerra de concepciones.” *Proceso* April 2, 2012.

In this excerpt, Lamas uses “substantive” rather than “real” or “effective,” though all three adjectives are equivalent: parity means the *equality of results*, the achievement of 50/50 balance between men and women in elected office. This understanding also dominates in the international arena, appearing not just in the Brasilia Consensus, but in the technical guides released by United Nations Development Program in partnership with UN Women (UNDP 2008). For example, following parity’s adoption in Mexico, UN Women celebrated the nation for “finally achieving the equality of results.”³⁴

Whereas gender quotas hold the promise of women’s electoral victory, equality of results provides no alternatives *but* victory. Goyes Quelal finds this principle in the 2008 Ecuadorian Constitution, nothing that Article 66 recognizes “material equality” and material equality—like its real/effective/substantive brethren—is “the equality of results” (2013: 80). Indeed, a female delegate to Ecuador’s constitutional assembly noted that parity does not refer simply to an individual’s exercise of a right, but the state’s obligations to ensure that right (Goyes Quelal 2013: 82). Similarly, a Honduran newspaper editorial supporting the nation’s parity principle described equality as “the end goal.”³⁵ An initial parity bill in Mexico (prior to its inclusion in the constitutional reforms) emphasized a critical verb change: the electoral code should not say that it would “promote” women’s political rights, but that it would “guarantee” them.³⁶ Under parity, electoral outcomes are pre-determined. Democracy entails achieving a specific, non-negotiable configuration of the state.

Costa Rica’s recent effort to adopt horizontal parity—stalled only by the closure of the 2010-2014 legislative term—clearly illustrates the new emphasis on equality of results. Costa Rica elects its unicameral assembly via closed-list proportional representation with seven provincial-level districts. The 2010 elections, the first since parity, resulted in women attaining only 22 of 57 assembly seats—38.6 percent, exactly the same proportion as women attained prior to parity (Torres García 2013: 194). This shortfall resulted from political parties’ practice of assigning the first list position to male candidates: of the 50 electoral lists presented in 2010, female candidates received the first spot in 17 (26 percent).³⁷ Female legislators on the Women’s Committee responded by proposing *horizontal parity*: whereas vertical parity describes women’s and men’s alternation on a single list, horizontal parity means women’s and men’s alternation *across* lists. Horizontal parity would require each party to nominate women to the first list position in at least three of the seven provinces, thus guaranteeing gender balance in electoral results.

On the one hand, the distinction between vertical parity and horizontal parity reveals a gap between parity discourses and electoral realities: despite proponents’ claims that parity cannot be exploited, Costa Rica’s political parties complied as minimally with parity as they had complied with quotas. On the other hand, female legislators framed horizontal parity not as a fixing an electoral technicality, but as deepening the democratic principle: the Women’s Committee explained that the 2009 Electoral Code’s phrase “parity in totality” [*paridad en las totalidades*] meant the parity of results.³⁸ In its unanimous decision forwarding horizontal parity to the floor, the Women’s Committee justified the measure because “parity norms remain insufficient unless they obtain the foreseen result.”³⁹

The plenary debate in Panama also centered on the necessity of achieving equality of results. In Panama, the 1997 quota law applied only to primary elections, explaining its consistently negligible impact on women’s numerical representation (Peñalba Ordóñez 2008). The 2012 electoral reforms introduced parity, but still applied to primary elections only. More broadly, opposition parties viewed

³⁴ “Con la paridad electoral, México avanza hacia la igualdad entre mujeres y hombres.” Boletín ONU #14/022, January 31, 2014.

³⁵ “Equidad política, en busca de la igualdad.” *La Tribuna* March 14, 2014.

³⁶ Mexican Senate, Initiative to Reform the Electoral Code, October 1, 2013.

³⁷ Diario Oficial (La Gaceta), March 24, 2014.

³⁸ Ibid.

³⁹ Ibid.

the ruling party's electoral reforms as shallow, symbolic efforts to curry voter support. Consequently, most Panamanian deputies opposed parity because they saw its application to primaries as betraying the equality of results. Deputies framed parity in primary elections as a token concession to women, one that masked the ruling party's lack of commitment to guaranteeing women's election.

For example, Deputy Jorge Alberto Rosas characterized the reforms as “throwing in the trash the agreed-upon norms that guarantee parity” and “giving candy to the participatory women of our country, who will think we are against them [if we vote against this reform], which is false.”⁴⁰ Similarly, Deputy Carlos Santana claimed, “This law says to them [women] that there is no parity, there is no means of allowing them to play an active role in the designs of this country,” and Deputy Juan Miguel Ríos lamented, “I believed we had achieved the opportunity to introduce an initiative that would make the 50 percent participation of women real and effective, but we had not.”⁴¹ Deputy José Isabel Blandón summarized this position: “If this reform is approved, women will stay where they were before, that is, with no guarantee of arriving to the legislature.”⁴² Finally, Deputy Irene Gallego criticized the ruling party for presenting a weakened version of parity as their own invention.⁴³

While Panama's opposition deputies most likely protested parity for the same strategic reasons that the ruling party proposed it—to curry favor among female constituents—they nonetheless used discourses that emphasized the equality of results. Panamanian deputies, like their colleagues elsewhere in Latin America, framed parity as a guarantee of gender balance in the legislature. A final instance of this guarantee appears in Mexico's 2014 Law of Political Parties, which regulates parity for the lower house's single-member districts as follows: “In no case will [parity] criteria be accepted when they result in one of the genders being exclusively assigned to districts in which the party receives a portion of the vote lower than it received in the previous election.”⁴⁴ In other words, Mexican parties may have avoided the quota by assigning female candidates to losing districts, but such evasion cannot occur under the parity regime. Parity principles—in theory—cannot be exploited.

The Consolidation of the Parity Principle

That discourses of rights and equality have dominated parity debates to the exclusion of opposing viewpoints further demonstrates how parity enjoys widespread normative acceptance. Of the seven Latin American countries adopting parity laws, Honduras's measure passed via executive decree. The remaining six passed through the legislature as part of broader electoral or constitutional reforms, meaning the plenary debates were not focused exclusively on parity. While parity did spark considerable controversy in Bolivia (Htun and Ossa 2013), it provoked scarce opposition—and even scarcer attention—in the remaining plenary debates. In Ecuador, new leaders committed to the feminist agenda populated the constitutional assembly, itself elected under a 50 percent quota, making parity a foregone conclusion (Goyes Quelal 2013: 76). In Costa Rica and Mexico, legislators did highlight the importance of parity, but these comments formed a small portion of the overall debate: parity proponents accounted for only three of the nine orators in the Costa Rican assembly and eight of the 52 orators in the Mexican Senate.⁴⁵ Parity received no mention during the plenary debates in Mexico's lower house and only one mention in Nicaragua's debate—a brief observation by Deputy Brooklyn Rivera Bryan that parity assists with the consolidation of democracy.⁴⁶ Further, no

⁴⁰ Panamanian Assembly, plenary transcript, September 3, 2012.

⁴¹ Ibid.

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Ley General de Partidos Políticos, May 23, 2014.

⁴⁵ My calculations based on the total number of speakers in the plenary session.

⁴⁶ Nicaraguan Assembly, Debate on Law Reforming Law 331, May 15, 2012.

legislators in Mexico, Costa Rica, or Nicaragua spoke against parity, and the Panamanian legislators who opposed parity actually supported its objectives.

Thus, in most Latin American cases, parity principles—unlike the quota laws before them—passed with a whimper rather than a bang. As García Quesada explains in the Costa Rican case, “Public and political debate was not as polarized as it had been when the quota mechanism was proposed a decade before. Though not without pockets of resistance, the political class represented by members of political parties in the congress viewed democracy intertwined with gender equality [*sic*]” (2011: 123). Tellingly, when the Women’s Commission presented their unanimous decision supporting horizontal parity in the Costa Rican plenary, no legislators spoke in opposition; indeed, no debate occurred at all.⁴⁷ Support also appeared in the media: for instance, the editorial board of a major Costa Rican daily, *La Prensa Libre*, celebrated the initiative’s ability to “break the political model where men typically occupy the first seat.”⁴⁸

Legislators’ and opinion leaders’ acquiescence to parity occurs for two reasons. First, the plenary sessions represented the culmination, rather than the initiation, of the parity debate. All countries had prior experiences with legislative quotas, and parity—as the next step—already had been extensively reviewed, discussed, and debated in forums both inside and outside the chamber. These forums included agenda setting events hosted by parity proponents; strategy meetings between female legislators and electoral institute representatives; formal legislative committee meetings; and political party conventions (Alcocer 2013; Choque Aldana 2013; Goyes Quelal 2013; Torres García 2013).

Second, parity draws from countries’ preexisting legal commitments to gender equality, including constitutional clauses and equal opportunity laws. All Latin American constitutions have equal rights clauses, some even specifically focused on political rights or affirmative action. For instance, Article 95.8 of the 1949 Costa Rican Constitution “guarantees the designation of authorities and political party candidates according to democratic principles and without gender discrimination.”⁴⁹ Further, equal opportunity laws have legalized gender balance throughout the region. The 2008 equal opportunity law in Nicaragua, for example, demanded that political parties guarantee the “equal participation” of men and women in internal decision-making positions, and that a “proportional percentage” of women and men appear in elected and appointed positions at all levels of government; a 2010 presidential decree clarified that this “proportional percentage” means gender balance.⁵⁰ Consequently, Nicaragua’s adoption of parity as part of the 2012 electoral reforms was inevitable, explaining the lack of opposition or even discussion.

Thus, despite proponents’ discourses framing parity principles as different from quota mechanisms, parity’s widespread acceptance has depended on quotas’ evolution. Parity in Ecuador, for instance, was previewed by a 2002 Supreme Court ruling. The case had challenged the political parties’ implementation of the 1997 quota law’s placement mandate: rather than alternating men’s and women’s names on the electoral lists, the parties had interchanged blocks of men’s names with blocks of women’s names. The Supreme Court rejected this practice, ruling that the quota law’s stipulation of alternation meant *zippering* men’s and women’s names. Justices framed the decision in terms of equality, writing that “the state has assumed the obligation to eliminate conditions of inequality in the electoral participation of men and women.”⁵¹ In Ecuador, as in Nicaragua, the legal precedent for parity predated the actual reform, again explaining the lack of opposition. Today, nearly all

⁴⁷ Costa Rican Assembly, plenary transcripts, April 7 and April 24, 2014. However, the measure still did not pass before the 2010-2014 term ended, because laws must be presented and debated several times prior to voting.

⁴⁸ “Paridad horizontal.” *La Prensa Libre* March 12, 2014.

⁴⁹ Latin American constitutions may be downloaded from the Political Database of the Americas: <http://pdba.georgetown.edu/Constitutions/constudies.html>.

⁵⁰ Law #648/2008 (Articles 9 and 11) and Decree #29/2010.

⁵¹ Tribunal Constitucional decision 028-2002.

Ecuadorian political elites endorse parity, as illustrated by party leader Fabián Yaksic's statement before the country's electoral tribunal: "It is an obligation, a duty, and a constitutional right for women to participate according to parity and alternation."⁵²

Jurisprudence also laid the groundwork for parity in Mexico. In 2011, a cohort of female legislators and activists filed suit with the federal electoral court, claiming that the quota law's exemption for candidates selected via internal party primary violated the constitution.⁵³ The electoral court's groundbreaking ruling decreed that the quota must be respected "without any exception."⁵⁴ As elsewhere, equal rights underlined the decision: the court reasoned that norms based on human rights—like quotas—must be afforded the widest possible protection.⁵⁵ The federal electoral court then applied this jurisprudence in a subsequent case, rejecting a male candidate's claims of discrimination based on his movement *down* an electoral list: the court specified that "maximum protection" meant filling Mexico's 40 percent quota by alternating men's and women's names on the list.⁵⁶ The conceptualization of gender balance as human right made parity inevitable in Mexico.

Finally, in Costa Rica, the Supreme Court's legitimation of positive action and the equality of results foreclosed upon opposition to both vertical and horizontal parity. This decision resulted from a 2008 case brought by two female petitioners, who claimed that their party's formula for determining list position violated the quota law's placement mandate by relegating their names to the unelectable bottom slots. The court's ruling against the party merits quoting at length:

The equity that is desired is conceived as the equality of results, especially when the equality of opportunities cannot succeed even in removing formal barriers. The quota and other affirmative actions are precisely the necessary mechanisms to achieve the desired equity; they should be applied correctly, and if obstacles remain, additional compensatory mechanisms should be introduced to reach the equality of results.⁵⁷

A 2012 ruling then reinforced this jurisprudence. Responding to a case claiming that alternation violated *men's* individual rights to equal treatment and to election, the Costa Rican Supreme Court held (1) that alternation did not constitute special treatment, but the achievement of "real equality" and (2) that the right to election was not "just a right that affects a male citizen or a female citizen individually, but the democratic system as a whole."⁵⁸ The Costa Rican Supreme Court thus recognized parity as a means to attain the equality of outcomes and as a structural prerequisite of the democratic state.

Parity discourses are clearly undergirded by domestic jurisprudence. Proponents' statements are not merely rhetorical flourishes made by grandstanding political actors, but juridical claims about parity's ability to protect human rights, guarantee equality, and bolster democracy. These claims reduce opponents' ability to thwart parity and even hasten approval. Indeed, public opinion data reveals political elites' large-scale acceptance of parity. A 2011 survey of Latin American opinion leaders (academics, politicians, and activists) found that more than 80 percent of respondents supported parity, with support reaching 100 percent in Bolivia, Ecuador, and Costa Rica (Johnson 2013). In the same survey, more than 70 percent of respondents agreed that parity strengthened democracy, with the largest agreement appearing in countries with parity laws or high numbers of female legislators

⁵² "TSE recomienda paridad y alternancia en estatutos de organizaciones políticas." *El Diario*, 20 November 2013.

⁵³ The argument held that this exemption gave tacit license to political parties to behave undemocratically (not use primaries), which violated the constitutional purpose of political parties (Alcocer 2013).

⁵⁴ Tribunal Electoral del Poder Judicial de la Federación, Decision 12624-2011

⁵⁵ Ibid.

⁵⁶ Tribunal Electoral del Poder Judicial de la Federación, Decision 29-2013.

⁵⁷ *Sala Constitucional*, Decision 9582-2008.

⁵⁸ *Sala Constitucional*, Decision 1966-2012.

(Archenti 2011: 51-59). Parity has become “consolidated”: gender balance has become a permanent feature of the political system for many Latin American countries.

Beyond Legislatures and Towards Parity Governments

Finally, parity principles distinguish themselves from quota laws by applying across the government and not simply to the national legislature. Recall that the Quito Consensus emphasized the need for gender balance in *all* institutions of the state. Indeed, this model applies in Ecuador and Bolivia, whose new constitutions specify parity across all government branches and all levels, including the public administration and the autonomous indigenous territories. Though less comprehensive, the parity reforms in Costa Rica and Nicaragua cover the legislative and executive branches at the national and municipal levels (including Costa Rica’s dual vice-presidency).⁵⁹ Parity principles in Ecuador, Costa Rica, Honduras, and Mexico also extend to the political parties, requiring parity for party directors and other party offices chosen via internal election. These extensions reinforce the connection between parity, equality, and democracy: by placing parity at the center of all institutions charged with representing the citizenry and running the government, gender balance becomes a constitutive element of the democratic system.

Parity principles are consequently diffusing rapidly across Latin America. The Dominican Republic, despite applying a 33 percent quota for national and municipal legislative elections, practices parity for mayors and vice-mayors.⁶⁰ Presidents Michelle Bachelet of Chile, Daniel Ortega of Nicaragua, and Ollanta Humala of Peru have all informally appointed parity cabinets. In April 2014, the mayor of the autonomous district of Mexico City decreed that the entire public administration would adopt parity by 2019, including the popularly elected officials who administer the city’s 16 sub-units.⁶¹ Similarly, Mexico’s federal electoral court has stressed that the country’s 32 states cannot contravene the constitution, meaning they *must* adopt parity for their subnational elections.⁶² Mexico’s federal electoral institute may also adopt parity for its directors and staff⁶³: as one official reflected, “How can we enforce gender equality if we cannot demonstrate that we take it seriously ourselves?”⁶⁴

Franceschet and Piscopo argue that the diffusion of positive action “demonstrates acceptance of the norm that public spaces must include women and the growing recognition that democracy depends on women’s equal presence” (2013: 313). The most telling example comes again from Costa Rica, which legislated parity for the boards of civil society associations in 2011.⁶⁵ Yet problems arose when the Office of Community Development within the Ministry of Government (DINADECO) announced that it would de-register and disband organizations whose boards did not reflect parity. Suddenly, numerous *female-led* philanthropic organizations, many of which sub-contracted with the Costa Rican government to deliver state-funded childcare and healthcare, faced dissolution because they could not recruit men to their boards.⁶⁶ That DINADECO’s regulations could result in suspending state welfare provoked a media firestorm, and the agency backpedaled. The final regulations allowed voluntary associations to remain registered by either achieving parity or demonstrating “reasonable efforts to recruit the underrepresented sex.”⁶⁷ In April 2014, the Costa Rican Supreme Court upheld the civil

⁵⁹ Both countries are unitary systems without strong provincial levels of government.

⁶⁰ Quota Project, <http://www.quotaproject.org/uid/countryview.cfm?country=65> (accessed 31 May 2014).

⁶¹ Gaceta Oficial del Distrito Federal, April 15, 2014.

⁶² Tesis IV/2014.

⁶³ “La paridad y el INE.” *Excelsior* January 31, 2014.

⁶⁴ Author interview with IFE accountant, Mexico City, December 11, 2013.

⁶⁵ Law #8901/2011.

⁶⁶ “Sala IV estudia ley de cuotas directivas.” *La Nación* March 30, 2011.

⁶⁷ Dirección Nacional de Desarrollo de la Comunidad, Ministerio de Gobernación y Policía, Resolution 17-2011.

society parity law, leading the nation's human rights ombudsman to state that "guaranteeing the access of women to public and business life will strengthen the culture of equality and democracy."⁶⁸

Whether the Supreme Court's decision will alter DINADECO's exemption for "reasonable efforts" remains unseen. More interesting is how DINADECO's experience shows that, contrary to scholars' and politicians' expectations, parity targets not just the historic exclusion of women from decision-making positions, but the historic absence of men from care work. The civil society parity law brings women into traditionally masculine spaces (trade unions, sports governing bodies, and business associations), but it *also* brings men into traditionally feminine spaces (philanthropic organizations and church groups). Likewise, proposals in Mexico to impose parity *within* the legislature—that is, parity for committee leadership and membership⁶⁹—would not just grant women access to the powerful budget and finance committees, but draw men onto the "softer" social policy committees. Thus, ongoing experimentations with parity governance go beyond positive action on behalf of women. Parity has the potential to fundamentally reshape the gender roles and norms that dominate all sectors of political and associational life.

Conclusion

In reflecting upon her role in Mexico's court ruling that the quota must apply without exceptions, magistrate María del Carmen Alanís recalled, "This had been women's fight for years: first, to win the right to vote, then to obtain formal equality before law; then the quotas, and the confrontation [over the primary exemption] that was going to throw those gains in the trash... so I learned that the quota cannot make exceptions" (Scherer n.d.: 44). Though focused on quotas and not parity, Alanís's framing of women's rights as irrevocable captures a central premise of this paper: whereas quotas constituted temporary special mechanisms that might one day disappear, parity constitutes an endpoint in the configuration of the democratic state.

This paper has shown how parity discourses have shared quotas' concerns with equal treatment and affirmative action, but departed from quotas by emphasizing democratic principles rather than electoral rules. Indeed, once jurisprudence throughout Latin America supported quotas on the basis of human rights and equality of results, parity became inevitable. Parity proponents have framed this outcome as essential for the fullest, most authentic expression of democracy, adding to parity's presentation as unavoidable and irreversible.

This paper thus represents an initial step in conceptualizing the shift from quotas to parity in seven Latin American countries—Ecuador, Bolivia, Costa Rica, Honduras, Mexico, Nicaragua, and Panama. The ongoing disenchantment with quotas (Piscopo 2013) suggests that more countries will soon adopt parity, opening several directions for future research. First, scholars should explore whether parity achieves its normative goals. Discourses have framed parity as a democratic principle that, unlike quotas, cannot be manipulated, but Costa Rica's efforts to adopt horizontal parity suggest that this normative distinction belies actual electoral practices. Successful parity laws may require as much regulation and enforcement as effective quota laws. Second, scholars should explore the policy implications of parity adoption and diffusion. Parity laws, when implemented correctly, may achieve gender mainstreaming: that is, they may successfully infuse state institutions with a gender perspective. Yet whether or not parity principles can transform policy outcomes remains, as in the case of quota laws, an open question. Together, these points suggest that, while parity discourses have successfully reframed the meaning and necessity of gender balance within state institutions, party strategies and policymaking obstacles may remain the same.

⁶⁸ "El país avanza en material de derechos humanos al reconocer la paridad de género en las Juntas Directivas." Press release, Human Rights Ombudsman Office, Costa Rica, April 5, 2014.

⁶⁹ Interview with Mexican deputy, March 13, 2014.

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