



Putting the Mandate into Practice: Legal Reform in Costa Rica

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In 1996, Costa Rica joined the group of countries that have established, by law, the positive action of minimum quotas for women in relation to the holding of popularly elected positions (president and vice-presidents, deputies, and elective offices at the local level), and in relation to their participation in political party structures. The minimum established by law is 40 percent.

A summary of the milestones that laid the foundations for this reform follows, as does an overview of the main obstacles that have had to be addressed to uphold the spirit of the law. Tables are also presented, with statistical information on the holding of popularly elected posts according to sex, showing the slow pace of women's representation before 1990 and what has happened since. Finally, some conclusions are posited on the Costa Rican experience.

Background to the Positive Action Mechanism

Costa Rica's experience in promoting equitable participation and representation of women in public decision-making bodies is characterised by several key events in regard to legal electoral arrangements.

The right to vote and to be elected was won in 1949 after more than 50 years of struggle by women and various groups—a right that, hitherto, was reserved exclusively for men.¹ That year, following a civil war, a new constitution was adopted; it is still in force today, and includes women's suffrage and women's right to be elected. The first time that Costa Rican

women had the opportunity to exercise this right was in 1950, when a plebiscite was held.² In popular elections in 1953, the first three women legislators were elected.

The second milestone came in 1988, when draft legislation was introduced (initially known as the ‘Real Equality for Women Act’), the original version of which proposed the positive action mechanism of a minimum quota of representation. This mechanism did not gain consensus backing during the legislative debate. Finally, in 1990, this legislation was approved under another name, the ‘Law for the Promotion of Women’s Social Equality’ (Law No. 7142), but it excluded the quota mechanism. This initiative came from a group of women who held positions in the public administration at that time (1986–90, under President Oscar Arias of the Partido de Liberación Nacional (PLN) (the National Liberation Party)—they offered to draft the proposed legislation, and to negotiate its approval. The public figure who came forward to head this group of women and to present the proposal to the Costa Rican populace and to the legislature was the First Lady. This was one of the most important initiatives of the Arias administration.

In addition to being the first specific law on gender equity in Costa Rica’s history, Law 7142 put the issue of women’s participation on the national political agenda, especially in the political parties:

‘... the idea of implementing the quota system provoked strong negative reactions and heated discussions in the Legislative Assembly. After many debates, quotas were excluded from the final version of the law ... Even though much of the original proposal was lost, the law includes a chapter on political rights and creates the Office of the Human Rights Ombudsman (Defensoría de Derechos Humanos). This entity is to take measures to eliminate discrimination in the holding of public office in the centralized and decentralized parts of the public administration. The law also establishes that political parties should:

include mechanisms in their by-laws to ensure women’s participation in their internal elections, in the governing bodies of the party, and in the slates of candidates;
include women in government as vice-ministers, executives heading up institutions known as *oficialías mayores* and *direcciones generales*, as members of boards of directors, and in the positions of executive president, manager, and deputy manager, and earmark a percentage of the *deuda política* (conditional subsidy paid by the government to the political parties) to foster women’s training and political participation’.³

As Isabel Torres points out: ‘The fact that the wording in the chapter on political rights used vague and general terms such as “effective mechanisms” and “significant percentages” made it difficult to carry out the mandate’.⁴ In response to Law 7142, several political parties amended their by-laws, but given this weakness in the law, effective mechanisms to bolster women’s representation were not established.

The third milestone was approval of the minimum quota for women’s participation in 1992, which occurred after a woman legislator (from the same political party that promoted the Law for the Promotion of Women’s Social Equality, the PLN) took up the issue anew and introduced a bill to amend the Electoral Code, whose aim was to introduce compulsory

quotas for the political parties. “This bill proposed a transitory article for “the Supreme Electoral Tribunal to guarantee and oversee that there be female representation, in both the party structures and on the ballots for elective office”. Nonetheless, once again there were debates on this point and the tribunal ... came out against the bill, arguing: (a) that women were forced to participate actively in the political party structures and elective offices, and (b) that the bill did not establish the mechanisms needed to verify compliance with the principle of proportional representation or sanctions for those who did not comply with the provision’.⁵

The fourth milestone came in 1996, when an amendment to the Electoral Code was finally adopted that established minimum quotas for the participation of women. A female legislator had proposed this initiative one year earlier, in the context of the discussion in the legislative committee entrusted with reaching consensus on several amendments to the code. It was rejected on that occasion, and, therefore, was not included in the text agreed upon by the political parties represented in the legislature at that time. When the legislative committee’s report went to the floor for debate, the legislators saw the need to reopen the debate on the whole set of reforms of the code, because of the issue of the conditional subsidy, which, under Costa Rican law, the parties receive from the state to participate in elections. The opportunity was seized by the national women’s machinery (then known as the Centro Mujer y Familia (CMF) (Center for Women and Family)—now known as the Instituto Nacional de las Mujeres (INAMU) (National Women’s Institute)), which re-introduced language on a minimum quota for women, through a woman legislator from the government party (the PLN). The CMF authorities identified this legal reform as part of their strategic action plan, known as the Primer Plan para la Igualdad de Oportunidades entre Mujeres y Hombres 1996–1998 (the First Plan for Equal Opportunity for Women and Men 1996–1998), designed in the context of the post-Beijing era. It was part of the set of actions that the executive fostered during that administration to improve the legal, institutional, and cultural framework for the promotion of women and gender equity. Moreover, the First Plan included the creation of a specific programme within the national machinery (the Program for the Promotion of the Active Citizenship of Women (PROCAM)—the first government programme of this sort in Latin America), which undertook, among other things, to assess the background of the reform and the arguments for promoting it.

The 1996 amendment to the Electoral Code, binding on the political parties, provided as follows in Chapter IV, on the positive action mechanism of the minimum quota for participation:

‘Article 58

The by-laws of the parties must contain:

...

n. The mechanism that ensures the participation of women in the percentage established in Article 60 of this Code, in both the party structure and in the nominees for elective posts.

ñ. The percentage and the manner in which the provision contained in Article 6 of Law No. 7142, of March 8, 1990, will be put into practice’.⁶

‘Article 60

In their organization, the parties shall provide for:

...

The delegations from the district, cantonal, and provincial assemblies shall be made up of at least forty percent (40 per cent) women.’

Transitory

When a party has attained the political participation of women in proportion to their numbers in the voters’ roll, and to the satisfaction of the Supreme Elections Tribunal, the measures cited in the last paragraph of Article 60 of the Electoral Code may be terminated by resolution of that tribunal.

Although the CMF authorities included the concept of a minimum quota of participation in regard to *electable positions* in their proposed reform, this definition was not approved. The difficulties at that time in defining it and arguing in favour of its legitimacy hindered its effective implementation, as can be verified in the electoral results (see Tables 1–5). Another weakness of this reform was that no sanctions were established for parties that failed to respect the provision.

This government initiative did not enjoy the open and full support of the different groups of organized women in Costa Rica. Even so, some groups (grassroots and national), state entities (such as the Office of the Ombudsman—Defensoría de los Habitantes), and women (mainly from political parties, but also others acting individually) appeared alongside CMF representatives in meetings of the legislative committee that discussed the proposal.

Furthermore, the CMF launched a campaign to provide information and to raise awareness of the proposed reform, using the mass media (holding news conferences and issuing press releases, notices and pronouncements in the main newspapers, conducting interviews with key persons and placing op-ed articles, for example), and engaging in a variety of activities (the convening of roundtables and talks, and the publication of brochures, pamphlets and posters, for instance).

The fifth milestone stemmed from the previous reform and the response to its content and shortcomings. The CMF authorities in the administration that governed the country from 1994–98 sought clarification from the Supreme Elections Tribunal of the rules that it would look to in enforcing that reform, and took advantage of the occasion to propose a new definition that would make it possible to uphold the spirit of the minimum quota for women. In other words, the CMF tried to make up for the weaknesses in the argument concerning the concept of *electable positions* that had manifested during the legislative debate. The CMF indicated in its official memorandum that the percentage established in the Electoral Code did not guarantee that women would be placed in ‘positions with a real chance of being elected’, and averred that such a calculation could be obtained based on the vote for each party in previous elections. The CMF provided solid, well-founded and convincing arguments on the legal and political validity of positive action mechanisms, generally, and minimum quotas for the participation of women, in particular.

In response to this request, the tribunal opted to clarify just a few aspects for the political parties (decision of Session No. 11,088 and decision XIII of Session 11,112 of 25 March 1997): (a) that each party should have at least 40 percent women candidates in each of their provincial ballots for deputies; (b) that the 40 percent minimum should be calculated by considering separately the lists of principal and alternate candidates; and (c) that the Civil Registry would not accept any ballot for elective office that failed to meet the 40 percent criterion. Nonetheless, it refrained from specifying the placement of candidates under the quota, based on the argument that every candidate, no matter what their position, is electable (which is so, strictly speaking, from a legal standpoint).

The sixth milestone came with the 1998 elections. Despite efforts made to date, the results underlined the problems in enforcing the mechanism included in the Electoral Code. Two texts explain this situation:

‘As it was not expressly indicated that the 40 percent should be construed as referring to electable positions, the political parties that participated in the election placed the minimum quota of representatives of women mainly in the alternate places for directly elected posts, or situated them on the lists with little if any possibility of getting elected. Another practice for achieving the 40 per cent was to sum up all the women proposed in the national, cantonal, and district elections, without considering the separate ballots, or each municipality and province separately.’⁷

‘As indicated in a national daily newspaper, “once again, the most recent elections have highlighted the strength of the customs, attitudes, and practices that have historically excluded women from decision-making and the exercise of political power.” Even though this subject figured prominently in the electoral debate and programs, the specific results have hardly met expectations.

‘In brief, the breach of this provision of the Electoral Code has been evidenced through the complaint lodged by the CMF, to the effect that of the 23 parties that presented candidates to the Legislative Assembly, 15 did not have the 40 per cent in some of their ballots. Nonetheless, the Supreme Elections Tribunal declared unfounded the initiative brought by the Center to have the parties correct the ballots that did not satisfy the rule, based on a report from the Civil Registry that sought to show that the quota was being met.

‘That report introduced mechanisms for calculating that were at odds with the resolutions of the Tribunal whose effect is harmful to the participation of women, since with a fewer number of women’s candidacies, one creates the appearance that the provision is being abided by. In this way, all the ballots presented by all the parties are summed up, or all the lists presented in all the provinces by a given political party are summed up, and they are even added combining the principal and alternate candidates. In the case of three provincial parties, whose lists did not meet the 40 per cent threshold, the actual percentages were ignored, and a smaller percentage was found acceptable based on the argument that one could look at the absolute number and “round upwards.”

‘... the argument that there were not enough women interested in or nominated for those elective positions is not credible, especially when there are known cases of women who stated they have been excluded. In any event, if there is any difficulty along those lines, it

would be a direct responsibility of the parties to resolve it, determining the mechanisms for ensuring that women are nominated, as required by the law.⁸

As illustrated in the tables below, in these national elections, there was an increase in female accession to certain positions, but the 40 percent minimum was not attained in every case.

An increased number of women took up positions in the executive, as the winning party had two women on its presidential ballot, both as vice-presidents (Costa Rica had already had women vice-presidents on two occasions, in 1986, and in 1994). The percentage of women in the legislature also increased, but only to 19 percent. It was at the local level (where, until 1998, only the members of the municipal councils and the district councils had been popularly elected) that the quota was met to a greater extent, although only in about half of the cantons in the case of the principal members of the municipal and district councils.

Revisions to the Law

After these first elections following the adoption of the electoral reform that includes the quota mechanism, the new authorities of the INAMU (hitherto the CMF) once again took up their predecessor's struggle and, in response to the election results, asked the Supreme Elections Tribunal to review the 1997 decision with respect to the definition of the minimum quota of participation. Arguments were presented on the difficulties that the new law was facing, and the need for the tribunal to expound on its scope.

Accordingly, one-and-a-half years after that election, the tribunal overruled the 1997 decision and corrected its error via the adoption of Resolution No. 1863, now in force. This document provides as follows:

- the 40% participation of women on the ballots for deputies, municipal council members, and district council members, must be in electable positions;
- the 40% minimum quota for women must be respected in the designation of delegates in each district, cantonal, and provincial assembly, and not in the overall totals;
- each political party is obligated to incorporate into its by-laws—before the next designations of delegates to assemblies and candidates to popularly elected positions—the adjustments needed to guarantee the participation of women in the manner and in respect of the percentages provided for;
- the Civil Registry shall not register slates of candidates not in line with these parameters; and
- the Civil Registry shall not accredit reforms to the by-laws or the minutes of assemblies when it determines that the provisions established were not complied with.

This resolution of the tribunal upheld the intent of the 1996 reform to the Electoral Code with respect to the minimum quota, making it possible for it to be applied effectively in the 2002 elections. In other words, even though it was adopted into law in 1996, it was not until six years later that it was enforced.

In terms of the participation of different actors in this phase, as has been indicated, the push for a review by the Supreme Elections Tribunal of its decision came from the public institution entrusted with women and gender issues: the INAMU. On this occasion, the pressure brought to bear by women from within the political parties was greater, because, *inter alia*, their numbers had increased in the lists of candidates, both as part of a trend, and encouraged and promoted by the 1996 electoral reform. At this time, the presence of grassroots and non-governmental women's organizations was neither visible nor significant.

In response to the 1999 resolution, on various occasions, different parties and political figures sought clarification on certain points from the tribunal. The use of the mechanisms for communication between citizens and a public organ has made it possible to specify better the meaning of the law and the responsibility of the electoral authority, clarifying, for example, what the 'historic average' means when calculating the placement on the ballot of a political party, which should be understood as the limit of the real probability of being elected. In this regard, via Resolution No. 2837 of 12 December 1999, the tribunal set forth the following definition:

'The average of the results obtained in the elections in which the political grouping has participated would yield an approximation of the places with real possibilities of being elected, and within these, consideration should be given to the participation of women in the terms and proportions indicated. This formulation discards the real possibility of them being included in just any position on the ballot, as this would render their effective participation illusory'.

This same resolution defines as an electable place 'that which is assigned to a person with real possibilities⁹ of being elected, and this should be considered individually in drawing up the lists of candidates for each province'. It indicates that, since the parties are:

'under an obligation to implement the quota system for women's participation, they must consider that the 40 per cent quota is a minimum which, as such, may be increased so as to favour such representation, but not diminished ... The political party is under an obligation to foster a democratic and participatory culture that makes it possible to incorporate women'.

Such specifications and enhanced awareness by citizens that one can recur to the institutional structures to uphold their rights have made it possible for the activists of a given political party (the PLN) to appeal at various levels regarding the formula adopted by that party to amend its by-laws (first to the tribunal of their own party, then to the Supreme Elections Tribunal, and later to the Constitutional Chamber of the Supreme Court), to bring them into line with the obligation to apply the minimum quota.

It is not possible here to describe the entire process and the various arguments employed in this case,¹⁰ but it must be noted that there was clear resistance on the part of the male hierarchy that led the process of amending the party by-laws. It undertook to adopt the kinds of changes and wording that would prevent results that would actually reflect the 40 percent minimum of women in positions with a real likelihood of being elected. To this end, the male hierarchy drew on its wide-ranging experience in elections and in managing party

meetings (conventions) and alliances, so that the changes would entail a mathematical calculation contrary to the spirit of the quota reform.

Given the lack of any entity within the PLN to represent women's interests, a large group of women decided to assemble (calling themselves the *autoconvocadas*, 'self-convened women') and to support the proposed amendments to the by-laws that one sector among them was pushing. Later, during the lengthy decision-making process that ran from October 1999 until just a few months prior to the 2002 national elections, several meetings were held of representatives of the three groups that were struggling to determine the official PLN candidate. At those meetings, each group designated its representatives, who were to defend the position of coming up with a text that effectively guaranteed the minimum of 40 percent of women in positions with a real likelihood of getting elected. They reached agreement and discussed their shared views with the secretary-general of the party. Nonetheless, the final decision was made by the Directorio Político (the national committee), in a vote, after another vote in a specific sub-committee designated for that purpose by the Directorio Político. Women sat on both bodies, but given their partial absence, the male hierarchy triumphed (although there were also men who supported the women, who sought amendments to the by-laws more in line with the quota stipulated in the Electoral Code). The Directorio Político had agreed that the decision of the majority should be considered to represent a consensus. This was also called into question by a group of women from the PLN, as they believed that some of the female members of these bodies were manipulated and demonstrated a lack of solidarity. So the proposal of the Directorio Político was taken to the party convention; it quickly approved the proposed reform, which had reduced the possibilities for women to appear in the first positions on the ballots.¹¹

In summary, with the PLN, it was seen how men who have extensive knowledge of the rules that govern decision-making processes and elections (party and national), as well as negotiating skills, proved capable of overcoming any organized or unorganized effort by women to uphold a right that they had long struggled to attain. In the case of Costa Rica, it also happened that the parties had to think through and approve amendments to their by-laws to apply this quota provision, at the same time as the concept of electable places (or those with a real likelihood of getting elected) was being processed by the national electoral body, and at the same time as the parties had to choose their official candidates and the persons who would be included on the district, cantonal, and provincial lists. In other words, it was a complex and confusing electoral period, internally, locally and nationally, amidst a general climate of resistance to the greater presence of women, which means in a context in which the cultural change needed was still incipient.

In regard to this complex process of change within the PLN, it was even the case that a positive action mechanism was initially approved involving 'setting aside seats' (one post for women in each of the country's seven provinces), but this happened one month prior to the tribunal resolution that specified the meaning of the term 'electable' and which defined the 'historical method' for calculating the number that forms the basis of which position is considered electable. This made the setting aside of seats insufficient, and the party had to undergo a new process of consultation on changes to its by-laws.

The motions to vacate and to repeal (*recursos de nulidad y derogatoria*) presented by several women before the internal tribunal of the party in question and the Supreme Elections

Tribunal were rejected. They then went to the Constitutional Chamber of the Supreme Court, which ruled favourably on the challenge in February 2001. That resolution provided for admitting the petition and prohibited the application of those articles of the PLN by-laws being challenged until a decision is handed down. Nonetheless, not only has this chamber not yet handed down a decision, but at the request of the PLN and of a female member of the Supreme Elections Tribunal, the chamber decided only three days before the February 2002 elections to suspend the constitutional challenge that it had deemed admissible, deducing that this series of events had produced a situation of juridical insecurity with respect to the elections.

Despite all of the aforementioned developments, as can be seen in Tables 1–5 on how participation by sex has evolved in relation to elected office, in the 2002 elections there was a major increase in female participation, especially at the local level. However, for the reasons set forth above and some others that are mentioned below, the percentage of women in the national legislature reached only 35 percent.

It must be noted here that, just as the decision of the PLN had negative repercussions on the place that women ended up occupying on the lists of candidates, the PLN decided, when it undertook that reform, that the division of votes would not apply to the election of municipal council members, which, in practice, has resulted in it being the party with the most women heading up these lists, and which, therefore, has helped it to take the percentage of women municipal council members over the 40 percent minimum. In other words, more women would have been elected to the national legislature if the PLN had not opted for the method outlined here.

As for the other political parties, suffice it to say that, in addition to the complications that the PLN faced due to both resistance and the diversity of the positive action measures adopted, they decided to change their method for choosing candidates at all levels, for the first time making it more direct. One of the other leading parties opted to continue with semi-closed internal elections. Nonetheless, the Partido Unidad Social Cristiana (PUSC) (Christian-Social Unity Party) decided to alternate by sex in drawing up its lists of candidates, without much debate. Accordingly, even though there was also male resistance, these mechanisms facilitated the placing of women on the lists in positions with a greater probability of being elected.

The approaches of minority and emerging parties were similar in some respects and different in others. For example, those that have, in the past, elected only one person to the national legislature (such as the Acción Laborista Agrícola and the Renovación Costarricense) sought clarification from the tribunal on the historical average that would be applied to them; the response made them exempt from having to consider putting a woman at the top of their lists.¹² But it also happened that the emerging party that became the third leading force in the 2002 elections (Acción Ciudadana) decided to increase the quota to 50 percent for elections of deputies, but not for municipal council elections.

Before and After 1990 in Figures

In the 50 years since women won recognition of their right to vote and to be elected to public posts, their level of access to decision-making positions in the executive and the legislative branches has increased slowly and inconsistently.

In the *executive branch*, the only popularly elected posts are those of president of the republic and of vice-president (two); the president designates the holders of the remaining posts. Since 1949, only about 20 women have served as ministers (or held ministerial rank), or presidents of autonomous institutions (the first in 1978), and approximately 32 have been vice-ministers (the first also in 1978). The number of women in these executive-branch positions has varied with each administration; in the case of cabinet ministers and presidents of autonomous institutions, the largest number of women was witnessed in the 1998–2002 period, and in 2002–06 for vice-ministers. In relative terms, the maximum figure in terms of women's participation thus far has been 25 percent for presidents of autonomous institutions, 31 percent for cabinet ministers, and 48 percent, only recently, for vice-ministers.

Costa Rica has not yet elected a woman as *president* of the republic, but it has elected women to serve as vice-president. The first time a woman was elected *vice-president* was in the administration of 1986–90. Since then, the country has elected five women vice-presidents, but not continuously, as the administration in office from 1990–94 had men as president and vice-presidents. The following administration, from 1994–98, went back to this practice, which, moreover, is established by law (minimum quota in popularly elected positions, which in the case of the presidential slate requires at least one person of the other sex) precisely during that same period, as described above.

With respect to the *Legislative Assembly*, women accounted for less than ten percent of the total number of representatives until the mid-1980s. With the establishment of policies for women and quotas in the 1990s, that proportion rose to 19 percent in 1998 and 35 percent in 2002.

It is at the *municipal level* that women's participation has achieved parity, as there was a progressive qualitative leap as a result of the 1990 Law for the Promotion of Women's Social Equality and the regulation of the political parties' by-laws, and, above all, as a result of the 1996 amendments to the Electoral Code. In effect, up until 1994, women did not constitute more than 14 percent of municipal council members, counting both principals and alternates. With the entry into force of the new election laws in the 1998 polls, that proportion increased to 36 percent and then to 50 percent in the subsequent elections. In any event, it must be noted that the proportion of women serving as presidents of the municipal councils is much lower: in 2002, women held 32 percent of such posts.

As for Costa Rica's other elected offices, as of December 2002, with the latest changes to the Electoral Code, the information available indicates that women's participation is also limited in regard to the positions of mayor (municipal executive) and intendant (district executive). This is because these are uninominal elections in which, even though the code establishes that a slate is to be elected, and, therefore, that the quota is applicable, as in the presidential ballots (which by resolution of the tribunal should be at least one person from the other sex), all of the parties (national, provincial and local) that participated had a majority of male candidates (only 10 percent of the 370 candidates elected to serve as municipal or district executives in the 2002 polls (were women). As this is the first time that such elections have been held, it is also necessary to identify a proposal for the future. The results of this election

indicate that, of the 81 mayors elected, only seven (nine percent) are women, and of the eight intendants elected, only two are women (25 percent).¹³

Table 1: Evolution of Women’s Participation as Cabinet Ministers, 1953–2002

Period	Total	Women	
		No.	% of total
1953–58	N/A	0	0
1958–62	12	1	8
1962–66	12	0	0
1966–70	12	0	0
1970–74	12	0	0
1974–78	13	1	8
1978–82	13	4	31
1982–86	13	0	0
1986–90	19	1	5
1990–94	20	2	10
1994–98	20	2	10
1998–2002	20	4	20
2002–06	20	5	25

Source: Based on information provided by the official institutions.

Table 2: Evolution of Women’s Participation as Vice-Ministers, 1978–2002

Period	Total	Women	
		No.	% of total
1978–82	13	2	15
1982–86	13	1	8
1986–90	19	4	21
1990–94	22	4	18
1994–98	20	4	20
1998–2002	20	5	25
2002–06	20	12	60

Source: Based on information provided by the official institutions.

Table 3: Evolution of Women’s Participation as Executive Presidents of Autonomous Institutions, 1978–2002

Period	Total	Women	
		No.	% of total
1978–82	16	1	6
1982–86	14	2	14
1986–90	16	1	6
1990–94	16	0	0
1994–98	14	4	28
1998–2002	29	7	24
2002–06	21	4	19

Source: Based on information provided by the official institutions.

Table 4: Evolution of Women’s Participation as Deputies in the Legislative Assembly, 1953–2002

Period	Total	Women	
		No.	% of total
1953–58	45	3	7
1958–62	45	2	4
1962–66	57	1	2
1966–70	57	3	5
1970–74	57	4	7
1974–78	57	N/A	N/A
1978–82	57	5	9
1982–86	57	4	7
1986–90	57	7	12
1990–94	57	7	12
1994–98	57	9	16
1998–2002	57	11	19
2002–06	57	20	35

Source: Based on official documents.

Table 5: Evolution of Women’s Participation as Principal and Alternate Municipal Council Members, 1990–2002

Municipal council members	1990–94			1994–98			1998–2002			2002–06		
	M	W	W%	M	W	W%	M	W	W%	M	W	W%
Principals	477	65	12	502	75	13	378	195	34	265	235	47
Alternate	430	88	17	412	123	23	344	220	39	238	269	53
TOTAL	907	153	14	914	198	18	722	415	37	503	504	50

Note: M denotes men, W denotes women, and W% denotes women as a percentage of the total.

Source: Based on information provided by the INAMU and the following resolutions of the Supreme Elections Tribunal: 583-E-2002, 584-E-2002, 585-E-2002, 586-E-2002, 587-E-2002, 588-E-2002 and 589-E-2002.

Challenges to be Addressed to Ensure the Enforcement of the Minimum Quota

In the context of widespread dissatisfaction with the political class and the party system in general in Costa Rica, one can identify the following specific challenges to achieving effective enforcement of the minimum quota for women in elective office—as a transitory measure until such time as it is no longer necessary, due to cultural and institutional changes.

- The different modalities adopted by the political parties to guarantee the minimum of 40% women in elected office need to be reviewed so as to identify proposed modifications and adjustments, based on experience to date.
- Systematic and sustained efforts are needed to raise the awareness of, and to provide information and training to, both women and men, especially—but not only—to those within the political parties (particularly local and sectoral leaders).
- The tribunal should review its ruling on the historical average that should be applied by emerging parties or by those with a history of having only one member elected (mainly to deputy positions), as this exempts them from having to apply the minimum quota for women.
- One must analyse the possibility of establishing some type of positive action mechanism for positions for which the elections are uninominal, to which the quota mechanism does not apply (a recent example is the election of mayors and intendants, but it also applies to the presidential ballot).
- Promoting the adoption of several bills currently in the legislative pipeline that refer to this issue, and which advocate greater effective and equitable participation of women and men in public decision-making. These include the proposed legislation on political parties, amendments to the Electoral Code, and the proposed amendment to the Law for the Promotion of Women’s Social Equality.
- It is necessary to raise the duty of the political parties to earmark for training and promoting women a certain percentage of the monies that the government (still) earmarks for the political parties, for experience has shown that it is possible for them to

fail to do so, and that there are not yet any means of verification or of sanction in this respect.

Lessons Learned from the Costa Rican experience

- The 1988 initiative, the 1992 initiative and the 1996 initiative are all proposals that have been initiated by women engaged in political party activity or in the public administration, whether in the executive branch or the legislature, who have formed alliances with other women or non-political party organizations to bring to bear public and political pressure. In other words, it appears to be necessary to promote both the organizational strengthening of the women in political parties and outside of the parties, independently, and to foster their alliance, and, in both cases, to increase their knowledge, abilities, and skills in the areas of party politics, electoral politics, and negotiation.
- In the case of Costa Rica, the main electoral reforms have been initiatives by women with a given political party affiliation, namely the PLN. Nonetheless, when it comes to bringing pressure to bear, the women in the opposition party proved more effective, even though the party has less of a history as a political grouping. This would appear to indicate that it is not sufficient to share an ideology more open to equity-based proposals, even given the important and fundamental gains in this area, but, rather, that one must also have organizational strength and greater gender awareness generally in order for these changes to be promoted more effectively. On reviewing the women who have held major political positions in Costa Rica since the mid-1990s, the majority who have become more sensitive, have received training offered by the CMF/INAMU and their own political party, and have undertaken initiatives to form alliances among women, have come from the Social Christian Party. Although the PLN has put more women in such posts, and has done so from an earlier date, all indications are that the organizational weakness of the women themselves made it difficult to take advantage of these opportunities, which came about in 1995–96, in a context of national and political party-based electoral reforms.
- In Costa Rica, it is striking that the non-partisan groups of organized women have displayed weak participation, and have not taken any initiative in this regard; in fact, there are some sectors that have displayed a certain resistance to applying public pressure on the various occasions when proposed positive action mechanisms have been presented, or to forming alliances with women from political parties. The most significant alliance was formed in 1988, when the call came from the then-First Lady, other women in important government posts, and from the national machinery for women (then called the Centro Mujer y Familia). Yet, on subsequent occasions, some organized sectors of women stressed that they did not want to be used again for political party purposes. Everything seems to indicate that it is necessary to strengthen these alliances, starting by clarifying the different roles of each sector, and their common objectives. The reticence of women who are not in the political parties to be part of them, or to enter into alliances with women who are, should be minimized, as one must understand that, until the democratic rules of the game change in countries like Costa Rica, the way to impact on public decisions is through politics, and that the mechanism is representation (through the political parties), which, combined with organized and individual citizen participation, should yield the best results. In any event, efforts to

increase women's participation occur in the context of political dynamics whose rules one must learn in order to play the game.

- The first times that it was proposed that legislation be adopted to establish quotas (in 1988 and 1992), there were neither sufficient nor effective arguments to uphold the need for such an instrument (the grievance is a matter of justice in the face of the historical discrimination women have experienced, but one which was not addressed by the legal electoral language in force). There is a need to research the electoral and political behaviour of women and men, including the type of activity they are engaged in, and to analyse and identify the main challenges that it might face. In addition, this knowledge has to be socialized and key persons need to be identified to implement and defend the proposals in various spheres.
- Related to this, Costa Rica's experience has shown that one must combine knowledge (historical, of other countries, legal-electoral, political) with creativity, as the diverse situations and the complexity of a democratic system that seeks to draw together the forms of representation and participation call for developing capacities to intervene, propose and negotiate possible positive action mechanisms in a timely, intelligent, sustained and audacious manner.
- The Costa Rican experience, in keeping with its own political identity and history, has entailed the need to go through several stages in raising citizen and political awareness. In other words, even in Costa Rica, with the gains that women have made and the very advanced legal framework, it has not been possible for this type of positive action framework to be easily and quickly accepted by the citizenry. Nine years passed between the proposed legislation being introduced (in 1988) and it finally being adopted (in 1997), and, as outlined here, adjustments are still needed on all levels. Clearly these cannot be addressed as isolated experiences with no strategy. It is a long-term effort that will need to incorporate several particular features, including: training women who lead the process; forming technical teams to develop the arguments in favour of the proposals and to advocate them; forming alliances with men from political parties; raising the awareness of opinion-makers and the media; addressing the need for a comprehensive strategic plan in which this issue is one of the main lines of action, but not the only one; and organizing campaigns to raise awareness and to provide information.
- In 1996, negotiations for the quota were part of a government strategy, and part of a strategic plan designed and promoted by the CMF. As has been explained, during that administration the first Plan for Equal Opportunity for Women and Men was designed and developed, with a specific chapter devoted to fostering socio-political equity. The actions contained in that chapter related mainly to the executive, one of these being to advance the electoral reform that is the subject of this essay. This policy meant, among other things, that the government would develop a specific programme to promote the active citizenship of women. In the framework of that programme, studies were performed and proposals were formulated both for reform and for advocacy work that were properly supported. Unfortunately, both the Plan for Equal Opportunity and the programme were abandoned with the change in government, and even today there is still no plan to operationalize the public policy that every country should have for promoting women and gender equity. In terms of the specific programme, an area has been created over the INAMU which, nonetheless, has not been able to implement a systematic and sustained strategy on all levels, with both the political parties and the female population generally, in the area of political participation. This issue needs to be part of

comprehensive and strategic public policies, which, in keeping with the Beijing Platform for Action, are a responsibility mainly of governments to promote, but which are of interest to women's groups, the feminist movement, and cooperation agencies that seek to advance equity. But, above all, there is a need to have action plans whose results can be measured and evaluated.

- In all of the above-mentioned actions, the political astuteness of the women who led the initiatives has been evident, as has the importance of the arguments *vis-à-vis* the Congress and political parties. In other words, political party skills and know-how have been fundamental for advocacy in Costa Rica; and it is something that had not been used as a tool or experienced by organized women's groups. Women need to strengthen their efforts in this regard.
- Both Costa Rica's experience and that of other countries indicate that there is a need to identify, construct and promote not only one type of positive action mechanism, that is, the quota, or to focus mainly on it. A set of measures is needed, both statutory and regulatory, for the political parties and other types of organizations (such as cooperatives and unions) and collegial public organs (such as committees, commissions and boards of directors). In addition, these measures should be presented in the context of a strategy that combines a diverse range of actions (including communication and lobbying), which make this change socially and politically viable in the institutions of representative government and in the population in general.
- Effective use has been made of the channels and mechanisms of communication that exist within Costa Rica's democratic institutional framework, which made it possible for different interlocutors to engage in dialogue with those who make decisions on legal and electoral matters. It has also been made clear that these mechanisms are used mainly by individuals who are either directly affected (mainly politicians) or institutions and female leaders who have held decision-making positions. It has been since then that initiatives have arisen to lodge complaints and/or to present demands by citizens who, in principle, were not directly involved in competition for some popularly elected posts. In other words, the nature of the institutional framework and how advanced the legal framework is matters for implementation.
- Finally, it must be noted here that, as in other countries where the presence of women in public decision-making bodies increased and alliances among these women were formed, in Costa Rica, the Congress is making decisions on laws and posts in the judiciary that favour greater female participation. This is the case with the 50 percent quota in the law that determined the new make-up of the assembly of the Banco Popular, the surveillance to ensure respect for the principle of guaranteeing the effort to achieve parity between the sexes in the formation of associations, the opinion along these lines contained in several proposed laws, and the election of women to judicial vacancies. While questions can be raised about these decisions, they are leaving their mark.

Notes

¹ For more details on this period, see: Barahona 1994; CMF/CIM 1982; CMF 1985; CMF 1986; CMF 1988a and 1988b; DGMF 1983; García 1999; Moreno 1995; PRIEG/UCR 1988; Rivera 1981 and 1986; Romero, Carmen et al. 1986; Sojo 1985.

² Plebiscite to determine whether certain towns would belong to or join one of two adjoining cantons, San Ramón or San Carlos, both in the province of Alajuela.

³ See García 1999, p. 103. In carrying out the mandate established by the Law for the Promotion of Women's Social Equality, in 1992, the two majority and traditional parties (the Partido de Liberación Nacional (PLN) (social-democratic) and the Partido Unidad Socialcristiana (PUSC) (Christian-democratic)) incorporated some mechanisms and strategies to ensure greater female participation in their party structures. The PLN modified its by-laws and incorporated several articles to ensure the free participation and representation of women in the party. The PUSC created the Secretariat for the Promotion of Women's Political Participation, whose main objectives are to promote women's participation in internal elections, in the party's governing bodies, on the ballots, and in government. These amendments to the by-laws began to have effect mainly in local elections (see Table 5).

⁴ Torres 2001.

⁵ García 1999, p. 104.

⁶ This refers to the percentage of the conditional subsidies received from the government that the political parties must earmark for the training and political participation of women, in keeping with the 1990 Law on the Promotion of Women's Social Equality.

⁷ Torres 2001, p. 53.

⁸ García 1999, p. 106.

⁹ Note that the tribunal uses the term *possibility* instead of *real probability*, which appears to be more fitting.

¹⁰ See, in this respect, Torres 2001.

¹¹ The 28 October 2000 reform of the by-laws stipulates that, for the direct election of candidates for deputy, the PLN will divide each province into regions, so that both women and men can compete for regions. Nonetheless, since this party had already decided to apply the mechanism of setting aside seats for women (one per province), it provided that, in those cases, the female winner would be the one who obtained the largest number of provincial votes, divided by as many regions as each province has. This, in practice, diminishes the total votes obtained by the women elected at the provincial level, which translates into a disadvantage when determining the order of the candidates. This is because, as happened, those who had competed at the regional level and had won had a better possibility of receiving a larger number of votes than those who had run in the provinces, and whose vote was divided by the number of regions. (The group of women who were advocating a fairer solution proposed that the language in force until then remain, or that, just as at the regional level, the calculation be made with respect to their own electoral district, and that the same be done for the women candidates competing at the provincial level with respect to the size of that electoral district.) Furthermore, given that the setting aside of seats was not sufficient to meet the 40 percent of positions with a real likelihood of getting elected (now that the historical average of that party was known), the Assembly decided—but only after much effort and many months—to increase the number set aside to two for two provinces, and half of the first four 'national' places (which are controlled by the party's presidential candidate) for women. Here, too, there was a debate, as one of those national positions, as per the by-laws, corresponds to the representative/president of the Movimiento de Mujeres Liberacionistas (the PLN women's caucus), and it was counted as part of the quota, a decision that has met with objections.

¹² In any event, creative approaches have been forthcoming that tend to be more just, for example, that the lists of the parties whose electoral history has been to have only one person elected as deputy draw up their future lists applying alternation by sex, or alternation by sex in heading up the lists by electoral event. These proposals have yet to be debated by these parties.

¹³ As for the other popularly elected posts, on this occasion, for the first time in Costa Rica, results showing a breakdown by sex were not available on the members of the District Councils.

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