



“Application of Quotas: Legal Reforms and Implementation in Bosnia and Herzegovina”

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The Implementation of Quotas: European Experiences

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

Background to Women’s Political Participation

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

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

Due to the system of reserved seats adopted by the Communist Party to support women's representation, in 1986, women made up 24.1 percent of the People's Assembly of the Republic of BiH and 17.3 percent of local or municipal assemblies. However, the relatively large number of women in elected office did not actually translate into real political power. Many of them were elected as a consequence of their political connections, as opposed to political commitments to different issues, such as gender equality, or their name recognition. The male-female dynamic in the political sphere corresponded to traditional gender roles in the family. Essentially, influences associated with the patriarchal culture were transferred to the domain of public life and perpetuated.

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

After the Conflict

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

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

Following these elections, women remained powerless and under-represented. With regard to the 42-seat House of Representatives of the Parliamentary Assembly (representing both BiH Entities), there were only 9.4 percent women candidates and only one woman was elected (2.4 percent). As for the 140-seat Federation Parliament, 10.5 percent women candidates ran and only seven women were elected (five percent). And of the 106 seats at that time in the People's Assembly of the Republika Srpska, only two were won by women (1.9 percent) of the 7.6 percent female candidates. At the canton level in BiH, women secured 6.4 percent of the elected seats. A similar trend was observed following the 1997 municipal elections: in the Federation, women won 6.15 percent of the seats; and in the Republika Srpska, women captured 2.4 percent of the seats.

This unfavorable situation and the deep marginalization of women from decision-making institutions prompted women's non-governmental organizations (NGOs), in coordination with various women politicians, to campaign for the introduction of a quota in the electoral law between 1997 and 1998. Their nationwide campaign was supported by the OSCE Democratization Unit in BiH and funded by the United States Agency for International Development (USAID). The initiative led to the emergence of the League of Women Voters, founded by 13 NGOs, focusing on women's issues, human rights and democracy. The message of the League's voter education campaign, 'There are More of Us', was widely publicized on posters and in leaflets

distributed throughout the country. Public outreach projects were conducted in cities and villages in both Entities of BiH and reached 14,000 women. They were mobilized to take part in the 1998 elections, to exercise their right to vote and to demand quotas for women candidates. Women were also encouraged to vote on political programmes and not to be swayed by nationalistic fervour.

The Electoral Quota for Women

The 1998 national and regional elections

As a result of the women's campaign, in 1998 the Provisional Election Commission adopted Article 7.50, the gender rule instituting a 30 percent quota of women on every party list. This meant that, for the first time, there had to be three women among the first ten candidates on any electoral list submitted by political parties to contest the election. This represented a turning point for Bosnian women in politics. The quota system, combined with closed electoral lists, also employed in the 1998 general election, dramatically increased women's representation at all legislative levels. Accordingly in the 1998 elections, women made up 30 percent of officials (13 of 42) elected to the House of Representatives of the BiH Parliamentary Assembly. Women captured 15 percent of the seats in the Federation Parliament and two percent in the National Assembly of the Republika Srpska. They also made significant gains in the cantonal assemblies: their representation surged to 18.2 percent.

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

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

The 2000 national and municipal elections

A mandatory quota stipulating one-third representation of women was applied to all party lists in the 2000 election. However, the open-list proportional representation electoral system also applied in this poll. Open lists are, in theory, disadvantageous to women in that voters may be able to 'demote' the women on the party lists if they so choose. Open lists also work to the advantage of more popular and well-known candidates, who are usually men. Accordingly, the election results demonstrated that the electors largely supported male candidates, even though 49.4 percent of voters were women. There was a drastic reduction in women's representation at the state

level compared to 1998. Only three women (17 percent) were elected to the BiH House of Representatives in contrast to 39 men. Women captured 18 percent and 17 percent respectively of seats in the People's Assembly of Republika Srpska and the House of Representatives of the Federation Parliament. In the municipal assemblies, where quotas were applied for the first time, women acquired 17.9 percent of the seats.

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

The 2002 national elections

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

The 2004 municipal elections

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

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

In short, across the nation, time and again, election results have highlighted that the participation of women in political party structures is low. It is increasingly evident that very few women hold influential positions within party hierarchies.

Women in Parliament: Moving Beyond Numbers

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

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

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

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

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

Overall, political parties have not shown any interest in defending and promoting gender equality. Only the SDP BiH clearly stipulates that all party functions should be equally accessible to both genders and that its Executive Board should comprise at least 30 percent of women and that they must be equally distributed on candidate lists.

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

Final Analysis

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

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

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

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

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

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

Political parties:

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

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

At a time when resources are limited, it is difficult to convince political parties to prioritize funding for these issues. Without the necessary resources, however, it is virtually impossible to meet these concerns. Increasingly, the donor community is looking at targeted areas to spend its resources. If money is not invested in ensuring gender equity vis-à-vis all aspects of Bosnia's political and economic development, it will become increasingly difficult for women to maintain their struggle and even the fragile gains of recent years could be eradicated.

Supporting women's networks

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

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

Endnotes

¹ Controversy and the failure of the local authorities to agree on a permanent election law led to the provisional regulations and standards set forth by the OSCE being extended to the elections in 1997, 1998 and 2000.

² The Article states: 'The candidates of the less represented gender shall be distributed on the list of candidates in the following manner: at least (1) one candidate of the less represented gender out of the first (2) two candidates, (2) two candidates of the less represented gender out of the first (5) five candidates, or (3) three candidates of the less represented gender out of the first (8) eight candidates. The number of candidates of the less represented gender shall be at least equal to the total number of candidates on the list, divided by (3) three, rounded up to the closest full number'.