

## Chapter 14

### *Obedecieron y Cumplieron?* The Impact of the Gender Quota Law in Mexico

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Mexico held mid-term legislative elections on July 6, 2003. According to the media, the big story of this election was the defeat suffered by the National Action Party (PAN). The PAN, the party of President Vicente Fox, took a beating arguably far worse than is typical for the fate of ruling parties in mid-term elections. It lost 54 seats in the Mexican congress, many from its traditional base of support in the northern states. In the important industrial state of Nuevo León, the PAN lost control of the governorship, the state assembly and most of the mayoralties. The PAN also lost all of its representatives to the Mexico City legislature. Meanwhile, the Institutional Revolutionary Party (PRI) and the leftist Democratic Revolutionary Party (PRD) made impressive gains (Grayson 2003; Lawson 2004; Starr 2003).

Another story emerged from these elections that has gone virtually unnoticed by the media and completely unnoticed in scholarly accounts: the success of female candidates. Women won 23% of the seats in this election, up 7 percentage points from the 2000 election. These results catapulted Mexico up in the world ranking of women in legislative office: from #55 to #29 (Inter-Parliamentary Union 2003). The most plausible explanation for this increase points to the effect of Mexico's new gender quota law. An electoral reform passed in 2002 requires women to be at least 30% of all the candidates for all political parties. This law was applied for the first time in the 2003 mid-term elections. Perhaps the most interesting finding with regard to the gender quotas is that all of the political parties competing in this election *fully complied with the law*. To that extent, Mexican politicians both obeyed the law and complied with it, in contrast to the dictum *obedezco pero no cumpro* (I obey, but I do not comply). Mexico's experience with the gender quota law provides one indication of how far the country has come in the process of democratization.

Mexico is one of thirty countries around the world that have adopted gender quota laws that require a certain percentage of all candidates for office to be women (IDEA

2004). In all thirty cases, quota laws have been adopted since 1991. The quotas range from a low of 5% in Nepal to 50% in France. The goal of gender quotas is to increase the political representation of women beyond a token few. Electoral gender quotas target gender bias in the candidate selection process, rather than in the electorate, and thus aim to transcend the myriad social, political and cultural factors that mitigate against the election of women to high political office (IDEA 2004). Quotas are seen worldwide as the most viable instrument for increasing the participation of women in political decision-making. The two most recent cases received widespread media coverage: the Afghan and Iraqi constitutions each contain provisions that guarantee 25% of the seats of the national parliaments for women.

While gender quotas appear to be everywhere these days, the degree to which they increase the percentage of women in elected office varies a great deal. In Argentina, the percentage of women in the House of Deputies increased by twenty-five percentage points after the quota law was applied. In Brazil, however, the quota law generated an increase of only two percentage points. The impact of gender quotas on the election of women in Mexico is lower than the average of 9.5%, but consistent with the median (6.5%) (Htun 2004)

[Insert Table 1 about here]

What factors account for variation in the effectiveness of gender quota laws? Under what conditions will gender quotas increase women's descriptive representation? This chapter offers some new perspectives on these questions.

### Explaining the Impact of Electoral Gender Quotas

Existing studies of gender quotas suggest several hypotheses about the conditions under which quotas will increase the percentage of women elected to political office. Most concur that the impact of quotas on women's descriptive representation depends on the quota legislation itself and the electoral system (Gray 2003; Htun and Jones 2002; Jaquette 1997; Jones 1996, 1998). Successful quota laws contain a *placement mandate* that forces parties to put at least some female candidates in electable positions at the top of PR lists. Placement mandates "prevent parties from clustering women at the bottom of the party list where they have no chance of getting elected" (Htun and Jones 2002). They

are most effective in a *closed-list proportional representation system*, in which candidates have rank-ordered positions on party lists and voters select from among competing party lists with no opportunity to choose among particular candidates (but see Schmidt and Saunders 2004). In closed-list PR systems, quota laws can bind the choices made by parties or party leaders. In open-list systems, voters can select among individual candidates and placement mandates have no effect. Quotas also tend to be more effective in electoral systems with *large district magnitudes*. In multi-member districts, the seats can be divided among male and female candidates. The more legislators that represent a district, the greater the chance for more women to be elected. Single-member districts (SMDs) cannot be so divided—although quotas can be applied to the total number of candidates across all districts.

These three institutional variables—placement mandates, closed-list PR and district magnitude—account for much of the variation in quota law effectiveness, but other factors not considered by the literature can also be significant. *Enforcement mechanisms* stipulated by quota laws may shape effectiveness as much as placement mandates or electoral rules. One case that illustrates the significance of enforcement mechanisms is France, whose parity law requires women to constitute half of all candidates for national and local elections. At the national level, candidates run in single-member districts, where the small district magnitude should minimize the impact of a quota law. But parties also face a financial penalty if they fail to comply: if the difference between the percentage of male and female candidates in a party surpasses 2%, that party must give up a percentage of its state-funded campaign funding. In France's 2002 parliamentary elections, the smaller parties readily complied with the law because they could not afford the fine, but the larger, more successful parties willingly paid rather than comply. As a result, the percentage of women elected rose only 1.3 percentage points, from 10.9% in 1997 to 12.2% in 2002. France has 577 single-member districts—but small district magnitude does not explain the difference between small and large parties. The French case suggests that the limited impact of the parity law resulted from a weak enforcement mechanism that failed to compel the larger, more competitive parties to comply.

Htun and Jones (2002) point to “good faith compliance by political parties” as a key factor in determining quota effectiveness. Even with a strict placement mandate and the most propitious set of electoral rules, a quota law will not increase the number of women who win if the parties simply ignore it. What factors can make parties comply even if they do not possess “good faith”? *Independent electoral tribunals* can affect the degree to which parties comply with quotas, as can *women’s mobilization* (Schmidt and Saunders 2004). Here the Argentine case is instructive (Craske 1999; Durrieu 1999; Gray 2003; Jones 1996). When the quota law was first implemented in Argentina (in the 1993 legislative elections), few of parties complied with it. Women filed suit before the National Electoral Court, but the judges denied the claim on the grounds that the only people who could formally register complaints were female candidates themselves. Since few women got nominated, however, this proved to be a juridical fiction. Activists responded by forming a national network of female politicians, lawyers and journalists to call attention to the quota law. Argentine politician Marcela Durrieu claims that their efforts proved effective, albeit in an indirect way:

We decided, not without a certain audacity, to invent a nonexistent juridical figure and present a ‘preventive writ’ accompanied by a great show of national and local media. In spite of the fact that 100% of our cases were rejected, in some cases, male and some female judges nonetheless rejected the lists and returned them to the parties so that they could remake them in compliance with the quota law (Durrieu 1999, 151).

Durrieu’s account suggests that parties comply with quotas in response to mobilization and/or legal pressure exerted by women’s organizations and female politicians—but her account also highlights the fact that women directed their actions directed toward the National Electoral Court, the organization that oversees elections. An independent electoral tribunal is a third factor that can force parties to adhere to gender quota laws, and thus can account for some of the variation in the impact of quota laws.

In sum, the conventional wisdom about the impact of gender quota laws points to three key factors: closed-list PR, placement mandates and large district magnitude. Discussion of nuances of how quotas have been implemented in various cases suggests three additional factors that can shape quota law effectiveness: the nature of enforcement

mechanisms written into a particular law, mobilization by women and pressure from independent electoral tribunals.

On one level, as this analysis will show, the Mexican case confirms the conventional wisdom about quota law impact. Although Mexico has a mixed electoral system, the quota law had a greater impact in the 200 PR districts than in the 300 single-member districts. Most of the women elected in the 2003 legislative election came from the PR districts (62 women were elected in the PR districts and 47 in the SMDs). This is not surprising given that the PR seats are closed-list, the quota law stipulates a placement mandate and the district magnitude is relatively large, with 40 seats per district.

On another level, however, the Mexican case provides less straightforward confirmation of the conventional wisdom, especially (but not exclusively) with regard to the way the quota was applied and enforced in the SMDs. Ultimately, the impact of the quota law in Mexico can be attributed to the role the Federal Electoral Institute (IFE) played in enforcing certain aspects of the law—but not others. The IFE sent strong signals to parties, warning them about the consequences of not complying and making it clear that violations would be punished. Yet the IFE did not challenge the degree to which parties relied upon a clause in the law that allowed them to be exempt from the quota if they chose candidates via primary elections, or *voto directo*. Several parties, particularly the PRI, selected many of their candidates by primary, thus minimizing the impact of the quota. The parties could and did use the escape clause to evade the quota, with no scrutiny from the IFE over the degree of openness of primary elections held by those parties.

In some cases, compliance with the quota law pitted national party leaders against local leaders over candidate nominations. Although candidate nominations are always a source of struggle, the quota law required national leaders to veto the choices of local leaders in order to ensure that their parties complied with the quota law. Holding primary elections provided a way for parties both to avoid the quota and avoid additional conflicts between national and local leaders.

This analysis of the Mexican case begins by providing some background about the history of quotas in Mexico and describing the specific details of the country's current quota law. I then provide data on the extent to which the three main parties (the PRD, the

PRI and the PAN) complied with the quota, in the PR and single-member districts.<sup>i</sup> I discuss the role the IFE played in forcing the parties to comply, and the conflicts that ensued between national and local party leaders over candidate nominations as a result of the IFE's pressure.

### Women's Political Representation in Mexico

Disproportionality between women's share of the population (almost 52%) and women's share of legislative seats provided ample justification for the adoption of a quota law in Mexico.<sup>ii</sup> As Figure 1 shows, congresswomen in Mexico were far from constituting a "critical mass" of 30% in the years prior to the adoption of the gender quota law.

[Insert Figure 1 here]

The percentage of women in the Mexican Congress has increased over time, but not monotonically; it dropped slightly in 1991 and 2000. These unanticipated declines, which occurred despite coordinated campaigns to increase the number of women in elective office, provided further fuel to quota fires.

The percentage of women actually elected provides an important measure of inequitable representation, but it does not allow us to distinguish gender bias in the electorate from gender bias in the parties. The percentage of women *nominated as candidates* provides a more accurate measure of the way in which gender bias at the party level affects election outcomes. My analysis of data on candidate gender was facilitated by the fact that it is easy to identify male vs. female names in Mexico, and in Spanish-speaking countries generally.<sup>iii</sup> Figure 2 presents data on women nominated to PR lists in each of the past 5 elections for Mexican Chamber of Deputies. It shows that female candidates reached the 30% threshold on only three occasions before 2003: the PRD in 1997 and 2000, and the PRI in 2000.<sup>iv</sup>

[Insert Figure 2 here]

The level of bias against women increases if we examine the percentage of women nominated to *electable* positions, generally considered to be the top ten positions in each of the five PR lists. Figure 3 shows the percentage of women nominated to the top 10

spots on the PR lists over the past five elections for the Mexican Chamber of Deputies. Women were 30% of the electable candidates only for the PRD in 1997.

[Insert Figure 3 about here]

Variation across the parties in these elections reflects the impact of variation in internal party rules about the nomination of women (Bruhn 2003). These data suggest that gender bias occurs prior to the election itself, among those who select candidates rather than voters per se.

The adoption of a gender quota law was a top priority for many women's groups in Mexico throughout the 1990s. In 1991, women in leftist parties and non-governmental organizations (NGOs) formed a coalition—the National Convention of Women for Democracy—that sought to advance women's rights by getting women elected to congress. Thirty-nine women from this group competed in the 1991 elections, but none of them was elected. In fact, the overall percentage of women elected dropped that year, from 11.8% to 8.8%. Women redoubled their efforts and organized a series of increasingly formal crosspartisan coalitions in 1992, 1996 and 1998; gender quotas were the number one priority at each of these forums (Rodríguez 2003, 171-2). Congress responded to these appeals with a series of weak, nominal reforms to the electoral law. In 1993 Congress passed a law “recommending” that parties promote more women; in 1996 it passed a law “recommending” that the parties establish a 30% gender quota for candidate lists. The 1996 law permitted the parties to take advantage of Mexico's system of electing two candidates for every seat—the main candidate or *propietario*, and an alternate called a *suplente*—to minimize its impact. The parties complied by putting women primarily in the alternate spots. Furthermore, the law did not include a placement mandate, which meant that women could be (and were) clustered in unelectable positions at the bottom of the PR lists (Rodríguez 1998, 2003; Stevenson 1999, 2000, 2001).

Women had more success lobbying for quotas within their own parties (Bruhn 2003). By 2000, all three of the main political parties had amended their internal statutes to include voluntary gender quotas. The PRI requires that 50% of its candidates be women, the PRD has a voluntary quota of 30% for candidates and leadership posts, and the PAN adopted a rule that required each “formula” of *propietario* and *suplente* to include a man and a woman. Yet despite these measures, and despite a decade of

mobilization by women's groups, the percentage of women elected to the House of Deputies did not increase in 2000: it actually dropped, from 17.4% to 16%.

In 2002, quota advocates in Congress seized the opportunity provided by a Supreme Court decision that declared gender quotas constitutional. On April 30, 2002, they succeeded in getting the legislature to pass a much stricter set of gender quota provisions added to the electoral law (Baldez 2004). The law in question is a reform to Article 175 of the Electoral Code, known as the COFIPE (*Código Federal de Instituciones y Procedimientos Electorales*). It applies to the 200 deputies elected by proportional representation (PR) as well as the 300 deputies elected by plurality vote in single-member district (SMD) seats. As Article 175-A of the reform reads, for all candidacies, parties “in no case will include more than 70% of main candidates of the same sex” (Mexico 2002). The law applies explicitly to the *propietarios*, thus prohibiting the practice of filling the quota by putting women in the alternate spots. Article 175-B divides the five PR lists (each with 40 candidates) into segments of three and requires there to be one “at least candidate of a different gender” in each of the first three segments. In other words, women must appear in at least one of every three spots for the first nine spots. The law also spells out sanctions for noncompliance. If a party submits a list of candidates that fails to conform to these rules, it will have 48 hours to fix it. If, after 48 hours, the party still has not done so, the Federal Electoral Institute will issue a public reprimand (*amonestación pública*) against the party. If, after another 24 hours, the party still does not fix its lists, then that party will not be allowed to field any “corresponding candidates,”<sup>v</sup> an ambiguous clause that prompted great concern among the parties, as I discuss below. According to the final clause of the reform, Article 175-C, parties that select their candidates via primary election (called *voto directo* in Mexico) are exempt from these penalties. The law is intended as a temporary measure; a transitory article states that it will apply to “at least the next five electoral cycles,” that is 2003, 2006, 2009, 2012 and 2015.

### Implementation of the Quota Law in the 2003 Election

For the PR lists, the three main parties not only complied—they overcomplied. As Figure 2 shows, women constituted well over 30% of the PR candidates for all three of

the main parties: 42% for the PRD, 47% for the PRI and 51.5% for the PAN. The percentage of female candidates drops if we calculate the number of women placed in *electable* positions, but it still remains over 30%: 35% for the PRD, 33% for the PRI and 37% for the PAN (See Figure 3). The high percentage of women in electable positions in the PAN demonstrates a particularly strong commitment to the election of women on behalf of PAN party leaders.

Figure 4 presents a simulated image of the PR ballots, depicting the placement of female candidates on the lists of the PRD, the PRI and the PAN.

[Insert Figure 4 about here]

This image of the ballots demonstrates that the PRI had the least random distribution of male and female candidates. The PRI had two female list headers (*cabeceras*), an important and prestigious position. Beyond that, however, women held the #3 spot of every segment of 3. The pattern was less systematic in the PRD's lists. There was one female list header, and women held the first spot in one more of the segments and the second spot in four of the segments. For the PAN, two women were list headers. Four women held the #1 spot in other segments, and seven women hold the #2 spot. The PAN exhibited the highest level of gender equity in candidate placement—and the greatest degree of overcompliance with the quota law. In terms of candidate positions, the PRI took the most minimalist approach to compliance with the quota law, followed by the PRD.

What explains the variation among the parties in terms of the placement of women on the PR lists? One answer points to differences in the parties' level of commitment to female candidates in this election. The fact that the PAN nominated more women than the PRI and the PRD is somewhat surprising. The party strenuously opposed gender quotas in the past and many saw it as the party least favorably disposed to promote women in positions of leadership. In this election, however, progressive factions within the PAN leadership sought to use the quota law to appeal to younger, more progressive voters.

Another potential explanation points to the rules by which the parties selected their candidates for the PR lists. Each of the three parties relied on distinct strategies. In the PRI, party leaders selected all of the candidates for the PR seats, under the close

supervision of then party president Roberto Madrazo (Peschard-Sverdrup 2003). In the PRD, the 128-member executive committee appointed the first three candidates on each of its 5 regional lists, as well as all the odd-numbered spots on each list. All of the even-numbered spots (with the exception of the #2 spot) were elected by a convention of party delegates (Peschard-Sverdrup 2003). The PAN was the only party that held primary elections for most of its PR seats. As in the PRD, PAN party leaders appointed the first three people on each of the five regional lists “in order to maintain a degree of control” over the list and to “ensure that the selection of deputies [would] be influenced more by the party’s state-level committees than by the governors” (Peschard-Sverdrup 2003). The other candidates were elected by closed primaries (conventions of party delegates at the state level), and confirmed by the National Executive Committee of the PAN. Although these three cases are hardly sufficient to draw valid conclusions, they suggest that women fare better in primary elections than under a process of appointment. I say more about this claim below. Overall, women won more than a third of the PR seats won by the three main parties—62 of 171.

[Insert Figure 5 about here]

Women fared less well in the 300 single-member district seats. Women constituted 30% of the seats overall, but only a small percentage held spots that they were likely to win. Prior to the election, pro-quota advocates and legislators complained that the majority of female candidates had been placed in very competitive districts in which they had little chance of winning. My analysis of the ballots for this election confirms this claim.

To test claims about gender bias in candidate placement, I categorized each districts in terms of the level of competition faced by each party. I coded the status of each party (in each district) as *challenge*, *mandate* or *ornamental*, depending on the percentage by which a particular party won or lost in the 2003 election. I borrow this typology from Mark Jones (2004), although I define each of the three categories differently. I define a district as a challenge district for a particular party if it won or lost by 5% or less of the vote in the 2003 election. Mandate districts are those that a party won by a margin of 5%. In ornamental districts, a party lost by more than 5%. Relying on the 2003 data is problematic because it is a *post hoc* measure of competitiveness; a

district could prove more or less competitive than a party anticipated when it nominated candidates, several months prior to the election.

As Figure 6 shows, women held an average of one-third of the “ornamental” positions where they were unlikely to be elected [doesn’t this mean men held 2/3 of the ornamental spots?].

[Insert Figure 6 about here]

Few women were placed in challenge spots where the fate of the party was closely contested. Women held 23% of the guaranteed spots for both the PRD and the PAN, while women in the PRI held only 11% of the guaranteed spots for their party.

According to the gender quota law, parties that hold primary elections are not subject to the penalties described in Article 175-B of the law. This exemption proved most relevant in the single-member districts. While the parties did comply fully with the law, they complied only in districts where party leaders *appointed* candidates. Of all the candidates competing in this election across the 11 parties, 78% were appointed and 22% were chosen in primary elections.<sup>vi</sup>

If we consider only the three major parties, however, appointing candidates was far from the norm. Across the three main parties, half of the candidates were chosen in primaries (49.4%). The percentages differ significantly across the PRI, the PAN and the PRD. For the single-member districts in this election, the PRI selected nearly all of its candidates by primary. Of the 200 single-member districts contested by the PRI, party leaders appointed candidates in only 6, meaning that the quota law required the nomination of *just 2 women*.<sup>vii</sup> In other words, with respect to the SMD segment of the election, the PRI complied fully with the law—33% of the candidates in the districts to which the law applied were women—but the party’s reliance on primaries meant that the law had almost no impact. An additional 46 female candidates emerged as winners of primary elections for the PRI, so that women won 15.3% of the PRI’s primaries overall.

The quota law had a much bigger impact on the PAN, which held primaries for half the districts and appointed candidates in the other half. The PAN appointed women in 53 districts, or 17.7% of all single-member districts. Twenty-eight women won PAN primaries, or 9.3% of the total. The PRD appointed candidates in 85% (256) of the

districts and held primaries in 15% (44). Women held exactly 30% of the appointments and won 1.7% of the primaries.

[Insert Figure 9 about here]

### The Role of the Federal Electoral Institute in Enforcing the Quota

The IFE, created in 1990 to oversee elections, is an autonomous agency governed by a General Council whose 9 members are chosen by a two-thirds vote of the Chamber of Deputies. Twelve party representatives sit on the General Council, but do not vote. It was the job of the IFE General Council to interpret the quota law and to ensure that parties complied with it.

Several of the IFE Council members understood the nuances of the quota issue, having dealt with previous versions of the law in the 1997 and 2000 elections. On several occasions, Jose Woldenberg, then President of the IFE, stated publicly that he viewed the promotion of women as a critical part of strengthening democratization and the electoral process in Mexico.<sup>viii</sup> Jacqueline Peschard, another IFE Council member, is a political scientist who has written several articles about gender quotas. Quota advocates also lobbied the IFE to make sure the Councilors understood the law and would enforce it effectively. Despite the enforcement mechanisms stipulated by the quota law, many female politicians remained skeptical that the parties would comply. Women from 8 of the 11 parties competing in the 2003 election formed a coalition—the Front for the Defense of Women’s Political Rights—to demand proper implementation of the quota law (Ochoa 2003). Their efforts, as well as actions taken by the Gender and Equity Committee of the Chamber of Deputies, focused on the Federal Election Institute (IFE).

In one of its regular Council meetings, held December 18, 2003, the IFE Council met with representatives of the political parties to discuss the guidelines for the implementation of the quota law (Instituto Federal Electoral 2003b). IFE Councilor Jacqueline Peschard opened the discussion with a statement that emphasized the importance of the electoral reform for Mexico’s development and democratization. This reform “puts Mexico at the level of the world’s consolidated democracies,” she affirmed (Instituto Federal Electoral 2003b). She emphasized the existence of cross-partisan consensus on the issue of quotas, noting that the law passed “because it obtained the

support of all the political forces” (Instituto Federal Electoral 2003b). She also noted that this level of consensus was unusual for an electoral reform; the quota law was the only one of twenty bills to reform the COFIPE that Congress passed.

Most of the discussion during the IFE Council meeting centered on section 3 of Article 175-C, the section that says that parties that fail to comply with the quota after two warnings will be denied to right to register “corresponding candidacies.” The IFE proposed its own interpretation of this ambiguous phrase. In cases where a party violated the law, the IFE decided that it would eliminate candidates at random until the nominations presented by the party represented “no more than 70%” of the overrepresented gender. Peschard described the IFE’s proposal this way:

What are the corresponding candidacies? Given that the law does not say what they are, we are proposing that in the case of nominations for the single-member district seats, we will hold a lottery among the universe of candidates of the predominant gender, the number necessary to equilibrate the representation of the predominant gender and that of women (Instituto Federal Electoral 2003b).

In other words, in cases where a party failed to comply with the quota law, the IFE would eliminate candidates (presumably male) by means of a lottery until men constituted no more than 70% of the spots, for both the PR and SMD seats. If a party failed to comply, it would lose the number of spots by which it violated the quota law. This proposal did not give parties an opportunity to replace the offending male candidates with female ones. As Peschard clarified:

Let’s take the extreme case, that is, that all 300 candidates could be of the same gender. Then if I only cancel 30% and leave 70% of the candidates for that party, so that they would all be men, what it says is that the entirety of candidates for that party would not add up to 300, but only 210 because I already eliminated 90, being of the same gender. That is to say, *there would be no possibilities for women to get onto the lists at that point* (Instituto Federal Electoral 2003b, emphasis added).

According to this logic, parties that violated the law would forfeit the right to field candidates at all. Peschard defended the lottery proposal as better than the alternative that the IFE considered: in the case of PR seats, cancellation of *all* the candidates on a party’s list. From the parties’ perspective, the “lottery” proposal would far more preferable than this supposed alternative.

If we didn't do it by lottery, then if a party didn't comply with the law, canceling the candidates would mean that [that party] would not have the right to register candidates for the PR lists and thus would not participate in the election. In other words, at that extreme, they would be in a situation in which *we would cancel their entire registry of candidates* (Instituto Federal Electoral 2003b, emphasis added).

Peschard's comments triggered serious concern among the party representatives present at the meeting. Many expressed doubts about the legality and feasibility of the IFE's proposal. IFE president Jose Woldenberg followed up Peschard's explanation of the lottery system by making clear the IFE's intention to enforce the law. He repeatedly emphasized the importance of women's participation in the political system and affirmed the IFE's perspective on the issue. He summarized the discussion this way:

There are two grand themes in our discussion: what this all means in terms of the construction of a democratic system with the possibility for women to access representative positions, and second, the specific formulas that can be deduced from the law, so that we can achieve what the legislators themselves established in Articles 175 and the others. With respect to the first, it is necessary to highlight what several of you have said, that the participation and political representation of women define the quality of a democratic system; that is to say, *we are not discussing a minor issue*. There is no better way of understanding and measuring the civic nature of a nation than observing that society from the perspective of gender (Instituto Federal Electoral 2003b).

Woldenberg ended by acknowledging the vagueness of the law with regard to the definition of "corresponding candidates." He stressed the importance of figuring out how to handle "extreme cases" of violation of the quota law—but he added little to clarify the IFE's lottery proposal. Instead, he concluded by suggesting that the parties avoid these issues by simply complying in the first place. As he stated: "I am convinced that the immense majority of the parties and coalitions will comply with this law. If they don't comply, they will be, in the first place, reconvened to try to comply; if they don't do it, they will be publicly castigated. Therefore, *what is most likely to happen is that these extreme cases will not occur*" (Instituto Federal Electoral 2003b, emphasis added). His comments signaled that the parties should comply with the quota law in order to avoid a potentially complicated series of penalties. Woldenberg's comments suggest that the IFE planned to take any violations of the quota law very seriously.

At the same time, however, the IFE did not subject all parts of the quota law to the same scrutiny. The issue of primary elections must be taken into consideration in order to understand the impact that the quota law had on the outcome of this election. To a certain extent, a rule that exempts parties that choose candidates via primary elections from the quota law seems reasonable; parties cannot be expected to manipulate the results of primary elections in order to comply with the quota. But it is questionable how democratic most of the primary elections really were in this election. The federal electoral law does not define what constitutes *voto directo*. Whether or not the parties choose candidates via appointment or direct election ostensibly remains a matter of internal party statutes, which are not under the IFE's jurisdiction (at least not yet). In the 2003 election, the IFE offered no guidelines as to what counted as legitimately direct primary elections. It considered both open and closed primaries as direct, and exempted all districts that held elections of any kind from the quota law. It did not issue guidelines about the interpretation of the "direct vote" clause contained in Article 175-C and did not question the degree to which used it to evade the quota law. It simply took parties on their word. This clause proved to be the Achilles' heel of the quota law.

The significance of the primary exemption to the quota law was not thoroughly discussed at the IFE General Council meetings. During this meeting held to discuss the quota law, a representative from the Mexico Posible Party, Jesus Roberto Robles Maloof, criticized the "voto directo" exemption in Article 175-C as a way for parties to evade the quota law:

The [SMD] candidates that have been selected by a process of 'direct vote' could be an element that distorts and renders ineffective the entire reform, given that if a political party elects all its candidates by direct vote and all of them are men, it will be legal, but not equal, and this could occur and it certainly will occur (Instituto Federal Electoral 2003b).

Only one of the IFE Councilors addressed Robles' point, maintaining that only open elections held among all party members legitimately count as direct:

[A direct vote] is that vote that is realized where the political party does not have *compromisarios*<sup>ix</sup> or representatives. For example, the election that the PRD holds with its affiliates or sympathizers, or the internal elections that the PRI has held, of a universal character, that is what I understand by "direct vote." I do not

define ‘direct vote’ an election where there are delegates, *compromisarios* or representatives (Instituto Federal Electoral 2003b).

However, as there was no other public discussion of the issue during this session of the IFE, it is difficult to determine the IFE’s institutional position on the definition of “direct vote.”

As I maintain elsewhere (Baldez 2004), female parliamentarians did not initially see the *voto directo* clause as a problem. In July 2002, one month after the quota bill passed and one year before it would implemented, I asked PRI Deputy Concepción González, then chair of the Gender and Equity Committee, what effect this clause would have. As she put it, “in the PRI we are not going to have many problems, because 50% of our candidates will be women [because of the PRI’s internal statutes]” (Interview, Mexico City, July 17, 2002). In the end, González was partly right: the PRI did comply with its own internal statutes that required 50% of candidates to be women, but—as few party leaders mentioned—it achieved parity by counting female suplentes as part of that 50% (Maya 2003a). Quota advocates believed that the IFE would count only open primaries as direct. Neither González nor the other quota advocates seemed concerned that their parties would use the *voto directo* clause to evade the quota law.

It appears that the gender quota law had the unintended consequence of encouraging the parties to adopt primaries—precisely in order to limit the law’s ability to determine candidate selection. Evidence for this claim is scant, as to be expected in any case of electoral dissembling, but suggestive. On April 18, 2003, the day that the parties submitted their candidates for the single-member districts, a Councilmember for the IFE made the following statement: “I accept the consequences of the [gender quota] law, not without recognizing the hoped-for effect of the gender reform, certainly an involuntary effect of the new legislation has been the strengthening of the direct participation of the grassroots in designating their candidates” (Instituto Federal Electoral 2003a). In interviews, Mexican legislators and party officials have not mentioned avoidance of the gender quota as a motivation for adopting primaries.<sup>x</sup>

Since the election, quota supporters have become keenly aware of the problem the “*voto directo*” clause presents and have advocated rescinding it. In its 2003 annual meeting, for example, the Parliament of Mexican Women (PMM) proposed that Congress

vote to eliminate Article 175-C from the COFIPE (Maya 2003c). IFE Councilor Jacqueline Peschard remarked that “female politicians and women’s organizations characterized the ‘voto directo’ mechanism as a ‘*candado*’ [lock] that allowed the parties to evade granting more spots to female candidates, in a ‘legal but inequitable’ way” {quoted in Maya, 2003 #38}. Journalist Rafael Maya concurs with Peschard. He referred to Article 175-C as a “*candado* that the PAN legislators put into the law . . . the escape hatch that allows the parties to avoid their moral obligation of giving more decision-making posts to women” (Maya 2003b). He reported that the PRD “would have had 44 more women if the party hadn’t resorted to ‘democratic’ elections” to select its candidates (Maya 2003b). The characterization of primaries as a *candado* against women is a fascinating claim. Mexicans use the term *candado* to describe anti-democratic features that “lock in” the preferences of powerful party leaders against the wishes of the masses, such as reliance on appointments and the *dedazo*. While many see primaries as a positive step toward democracy, quota advocates in Mexico see them as another example of rules that exclude women. Had the IFE investigated the openness of primary elections, it is likely that the parties would have been forced to appoint more women.

Some women defended the use of primaries. Esthela Ponce, the Director of Women’s Issues for the PRI, asserted that the process by which her party selected its candidates was “transparent and democratic, in accord with a political institution committed to strengthening and embodying internal democracy” (Maya 2003a). Ironically, however, Ponce was a PR candidate who had been appointed by PRI President Madrazo; she held sixth spot in the PRI’s list for the first district. Yolanda Rodríguez, a PRI member, stated that the party should set up a special fund so that women can be given media training and resources in order to strengthen their position as precandidates in primary elections (Maya 2003d).

### Federalist Conflicts

One of the most contentious issues involved disputes between national and local level party leaders. In some cases, compliance with the quota law required national party leaders to override the candidate choices preferred by local leaders. One PAN leader in Chiapas, for example, claimed that he “did not share” the goal of the quota law and did

not intend to comply with it—but PAN leaders at the national level made sure that the Chiapas candidates conformed.<sup>xi</sup>

The process of candidate selection proved particularly conflictual for the PRI, with struggles among “governors who asked for more spaces for their constituents, state [party] directors who demanded similar quotas and budgetary allotments, sectoral leaders demanding spaces for their members,” all within the unfamiliar terrain of electoral competition (Calderón Hinojosa 2003). The Madrazo leadership struggled particularly fiercely with the PRI governors who demanded a role in candidate nominations (Guerrero 2003).

The CEN’s decisions were not always uncontested. Local party members sometimes challenged appointments made by the CEN when they trumped local preferences. In one instance, 100 party members from Jalisco marched to party headquarters in Mexico City carrying an enormous finger, “to express their indignation over the CEN’s ‘dedazo,’” referring to the practice associated with the PRI during its long stint in power (Nuñez 2003). The appointment of female candidates provoked several PAN members to resign (for example, male Deputy Hilario Esquivel resigned over the appointment of Angélica Moya, a woman).

Quotas operate at the national level and are enforced at the national level by the IFE. In Mexico, political parties function at the national level and at the state (and local) level. For elections to the Chamber of Deputies, state-level party organizations choose candidates. Both national and state-level party leaders need to coordinate to some degree in order to comply with the quota law. If the sum total of women running for single-member district seats did not add up to 30%, national party leaders may have had to manipulate the results in order to comply with the quota law. In some cases, national party leaders had to impose candidates on districts that had chosen them via primary—or to replace a male local favorite with a woman.

Adhering to the quota law put national party leaders in a conflictual relationship with local party leaders. The law required women to be 30% of the SMD candidates overall (i.e., nationwide); it did not require women to be 30% of the candidates in each state. There was considerable variation across Mexico’s 32 states in terms of nominating female candidates: some states did not nominate any women for the SMD seats, while

others surpassed the quota by 10% or more. The PRI did not nominate any women for *propietario* spots in ten states: Aguascalientes, Baja California Sur, Campeche, Colima, Durango, Hidalgo, Quintana Roo, Sinaloa, Tamaulipas, or Zacatecas. The same was true of the PAN in four states: Aguascalientes, Baja California and Chihuahua, and Quintana Roo {Magally, 2003 #39}.

### Conclusions

Existing accounts have tended to examine gender quotas primarily in terms of the degree to which they improve the status of women. This is an important issue, but focusing on quotas only in terms of gender politics misses a critical part of the story. Gender quotas must be considered as a reform in the way parties choose their candidates, in the context of discussions about candidate nominations more generally. In the context of transitions to democracy in Latin America, political parties throughout the region have faced pressures to democratize the way they make decisions. Historically, the candidate selection process for most Latin American parties has been highly centralized; party leaders hand pick their preferred candidates for parliamentary elections. Many parties have responded to the pressure to open up the process by adopting primary elections, which undermines the power of party leaders (at least theoretically). In the Mexican case, the quota law was written in such a way as to pit gender quotas against primaries. The co-existence of quotas and primaries in Argentina suggests that it doesn't have to be that way. Regulation of internal party rules is on the agenda of the IFE, and this issue is likely to be reconsidered (Grayson 2003).

Primary elections are relatively new to Mexico. The practice of selecting candidates through appointment by central party leaders was a hallmark of the PRI. Until 2000, PRI leaders, under the close guidance of the party president, selected candidates who represented the different sectoral interests of the party, according to their ability to get out the vote (Langston 2001, 2003). The PRI first relied on primaries to choose its candidate for the 2000 presidential election, partly in response to reformist factions within the party. Primaries have since become more common for the PRI in its efforts to shed its "dinosaur" image.<sup>xii</sup> Opposition parties, particularly the PAN and the PRD, embraced ostensibly democratic internal rules in order to differentiate themselves from

the PRI. The PAN holds closed primaries to select its candidates, that is, conventions of party members whom the party leaders choose. The internal elections held by the PAN are said to confirm choices made by the party hierarchy (Grayson 2003). For the 2003 election, the PAN chose 180 of the 300 SMD candidates in district-level conventions; the party's executive committee (CEN) then ratifies those candidates. The CEN appointed the remaining 120 candidates.

This chapter focuses on the impact of quota laws on women's descriptive representation (the number of women elected to office). The issue of the impact of quota laws on women's substantive representation (i.e., policy outcomes) is beyond the purview of this study, but it would be remiss not to acknowledge one effect that the legislative quota had on the IFE itself. In September 2003, the Mexican Congress passed legislation that requires a gender quota for IFE Councilors. PRD Deputy and well-known feminist Malú Micher initiated the bill, which requires that women occupy at least three of the nine spots for councilors of the IFE ("no more than two-thirds of the positions can be held by members of the same gender"). I can only imagine some politicians were only too happy to agree to hold the IFE to the same standards to which the IFE had held them. As a result of this legislation, the IFE now has 6 male Councilors and 3 female Councilors. Appointing more women to an electoral board will not necessarily make that board more sympathetic to gender quotas, however. In Bolivia, quota advocates fought for 3 women to be nominated to the National Electoral Court, in the hopes that women would be more sympathetic to their interpretation of the quota provision contained in Bolivia's electoral law, but the female councilors did not support the proposal.

The results of the 2002 elections in Mexico provide an unequivocal example of the importance of gender quota laws in raising the percentage of women elected to office. The unintended consequences of the Mexican quota law demonstrate another way in which institutions exert autonomous impact on political outcomes. The Mexican case suggests the importance of a strong enforcement mechanism within the quota law, as well as an effective enforcement agency. Fear of having the Federal Electoral Institute deny candidate lists proved the most important aspect of the law. The other penalties stipulated by the quota law did not significantly influence the degree to which the parties complied with the law. Inclusion of this enforcement mechanism within the law reflects

what Mexican quota advocates had learned from other countries with quota laws. Ongoing and future debates about the adoption of electoral gender quotas in other countries should likewise learn from Mexico's experience.

This chapter has examined the impact of the quota law on the election of women to office—but it is important to note that the quota law did not only affect women. The quota law affected the overall nomination process in unanticipated ways. It intersected with ongoing discussions about primary elections and increased conflicts between national and local party leaders over candidate nominations.

As Councilors to the Federal Electoral Institute affirmed, the parties complied fully with the law.<sup>xiii</sup> Technically this is true—but it is only true to the extent that the IFE uncritically accepted the parties' claims to have chosen at least some of their candidates by primary election. The IFE did not challenge the nature of the elections that the parties held to choose candidates "directly." Had it done so, it would have found wide variation in the degree of openness of the votes that were held, and it could have challenged the degree to which the parties relied on primaries to evade the quota law.

Figure 1. Women in Congress, 1952-2003

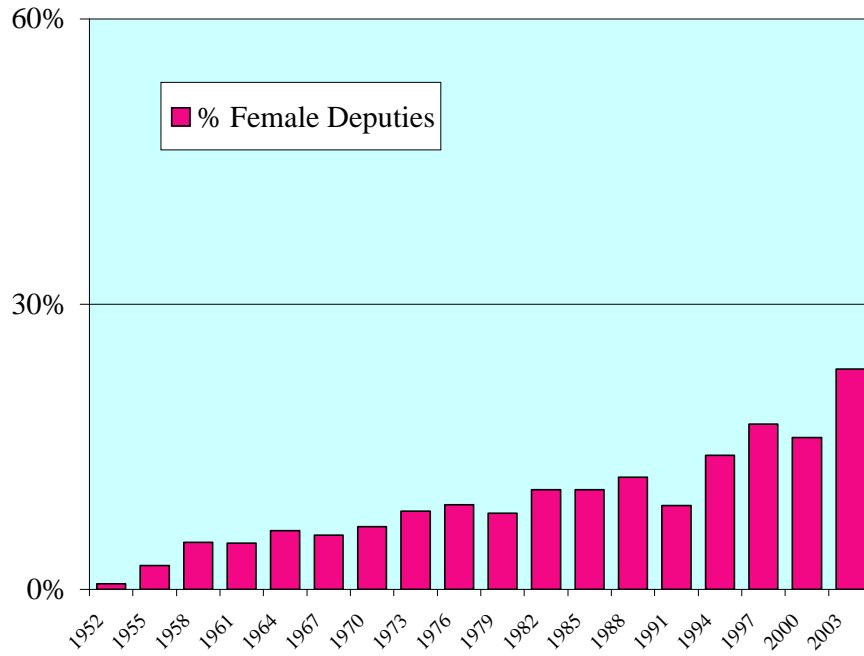


Figure 2. Female PR Candidates, 1991-2003

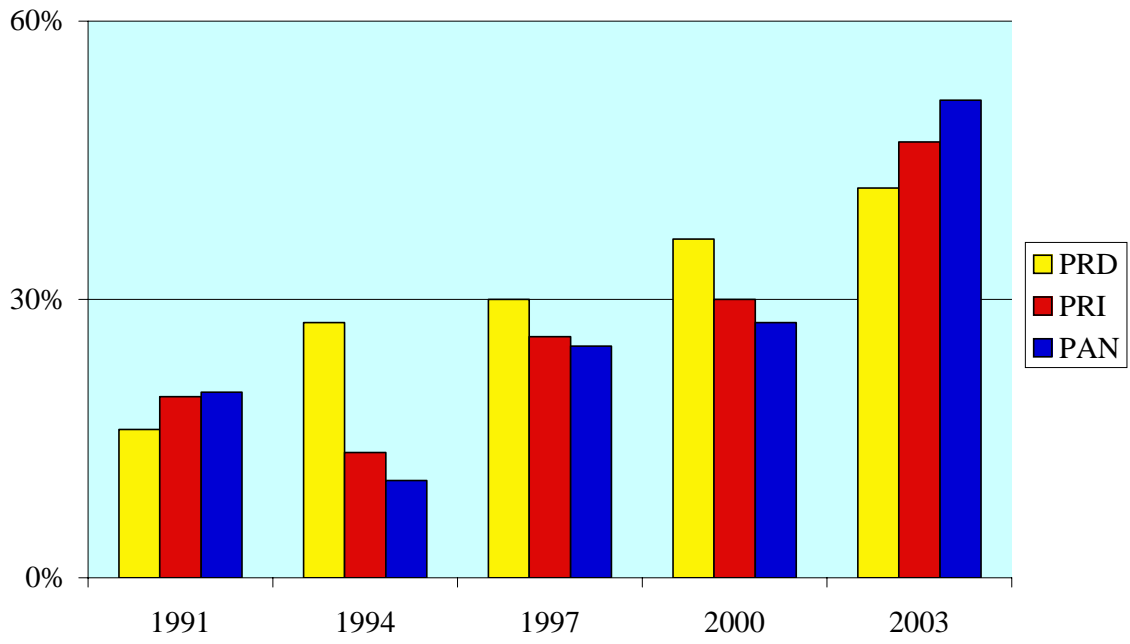
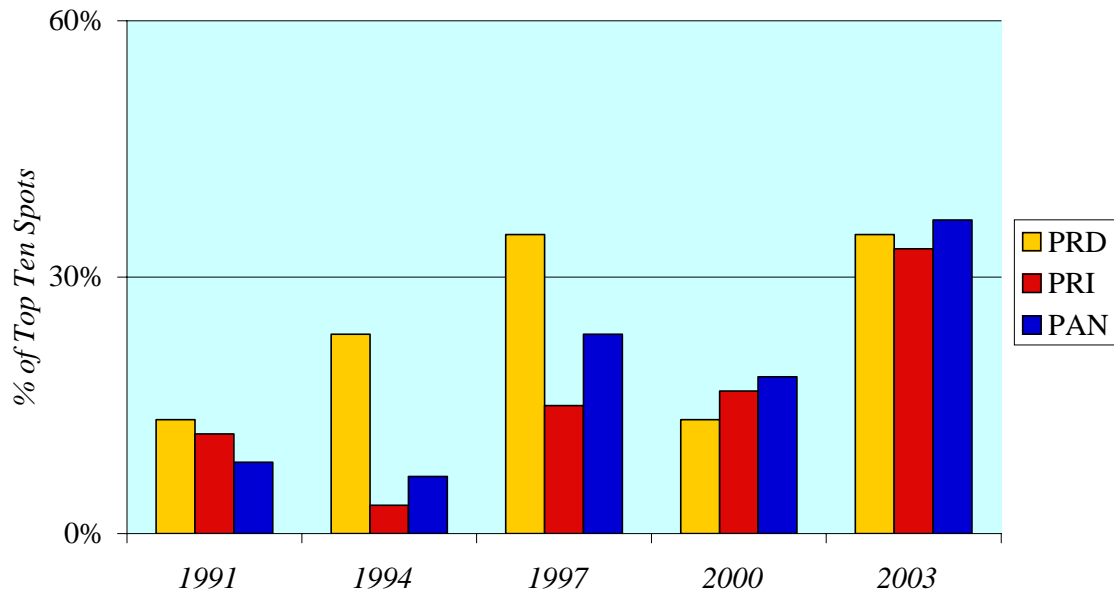


Figure 3. Women in Electable PR Spots, 1991-2003



	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q
1	W								W	W							
2	W				W											W	W
3	W	W	W	W	W			W						W		W	W
4																	
5																	
6	W	W	W	W	W			W	W	W	W				W	W	W
7	W																
8																	
9		W	W	W	W			W	W	W	W				W	W	W
10		W	W	W	W			W	W	W	W				W	W	W
11																	
12	W			W	W			W	W	W	W				W	W	W
13	W			W	W			W	W	W	W				W	W	W
14																	
15		W	W	W	W			W	W	W	W				W	W	W
16	W																
17				W	W			W		W	W			W		W	W
18		W	W	W	W			W	W	W	W			W	W	W	W
19					W					W	W			W	W	W	W
20	W									W	W						W
21		W	W	W	W			W									W
22																	
23								W	W	W	W			W	W	W	W
24	W	W	W	W	W			W	W	W	W			W	W	W	W
25				W	W			W	W	W	W			W	W	W	W
26			W	W	W			W	W	W	W			W	W	W	W
27	W	W	W	W	W			W	W	W	W			W	W	W	W
28			W	W	W			W	W	W	W			W	W	W	W
29				W	W			W	W	W	W			W	W	W	W
30	W	W	W	W	W			W	W	W	W			W	W	W	W
31			W	W	W			W	W	W	W			W	W	W	W
32	W			W	W			W	W	W	W			W	W	W	W
33		W	W	W	W			W	W	W	W			W	W	W	W
34	W	W	W	W	W			W	W	W	W			W	W	W	W
35			W	W	W			W	W	W	W			W	W	W	W
36	W			W	W			W	W	W	W			W	W	W	W
37	W	W	W	W	W			W	W	W	W			W	W	W	W
38								W	W	W	W			W	W	W	W
39			W	W	W			W	W	W	W			W	W	W	W
40	W	W	W	W	W			W	W	W	W			W	W	W	W
41	PRD 1	PRD 2	PRD 3	PRD 4	PRD 5			PRI 1	PRI 2	PRI 3	PRI 4	PRI 5	PAN1	PAN 2	PAN 3	PAN 4	PAN 5
42																	
43	W																
44	W																
45																	

Figure 4. List Positions on PR Ballots for PRD, PRI and PAN

Figure 5. Women Winners, as % of All PR and SMD Winners

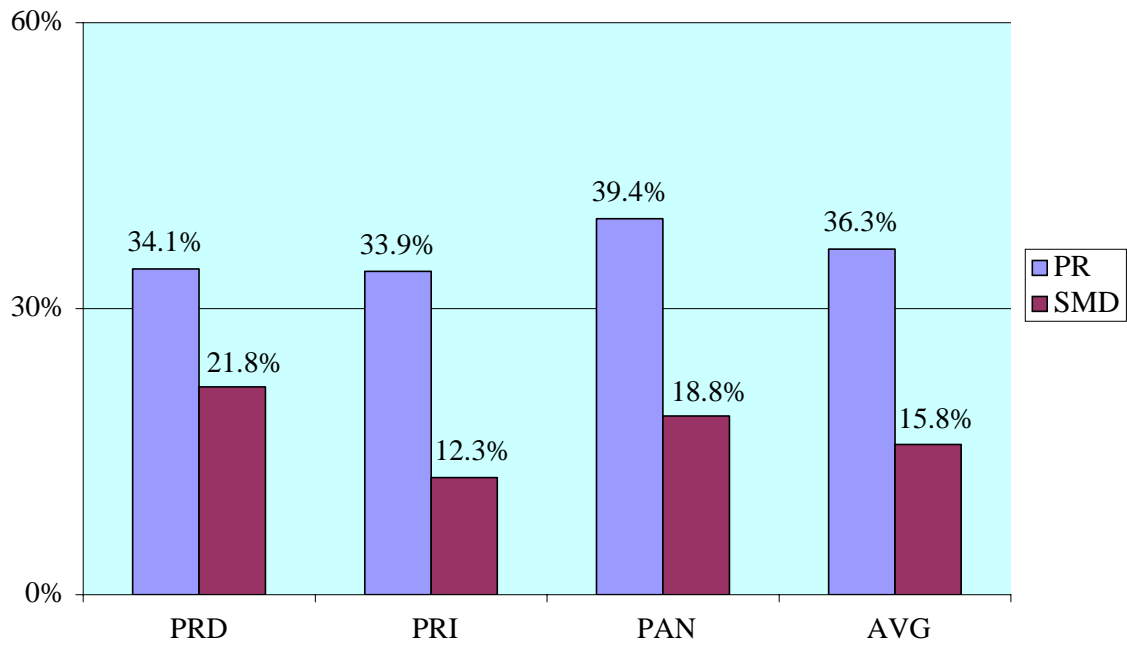


Figure 6. Women in Single-Member Districts, by District Type

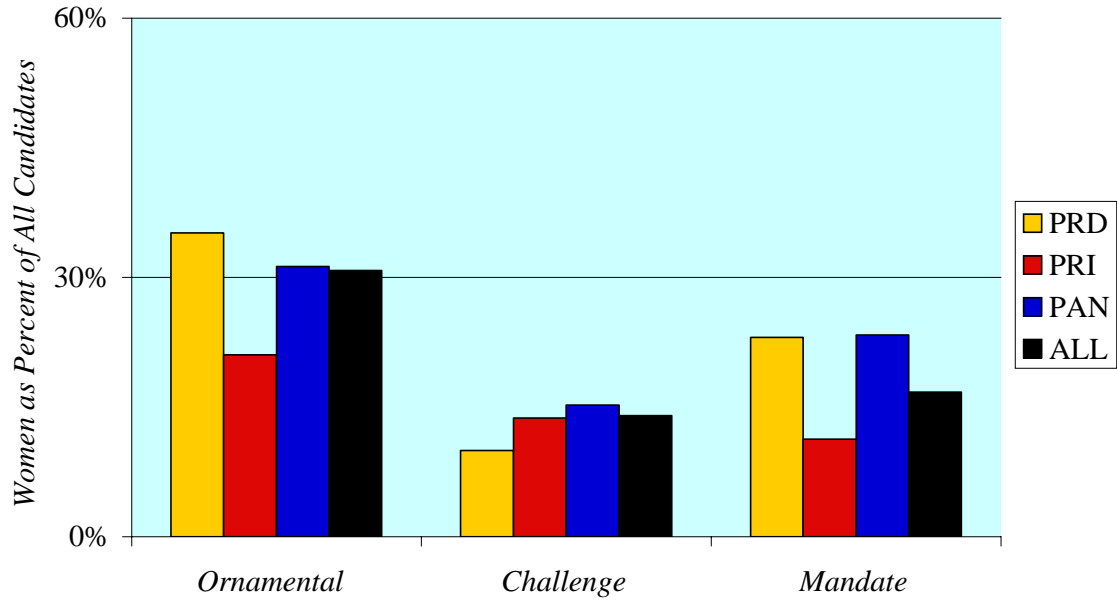


Figure 7. Women in SMD Primary Races, by District Type

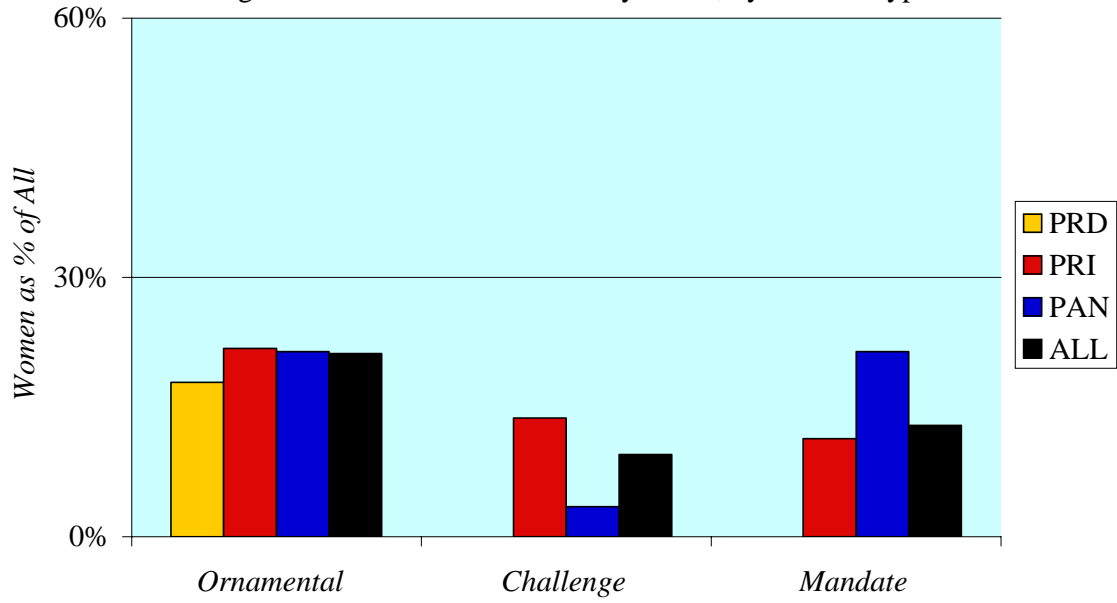


Figure 8. Women in Appointed Spots for SMDs, by District Type

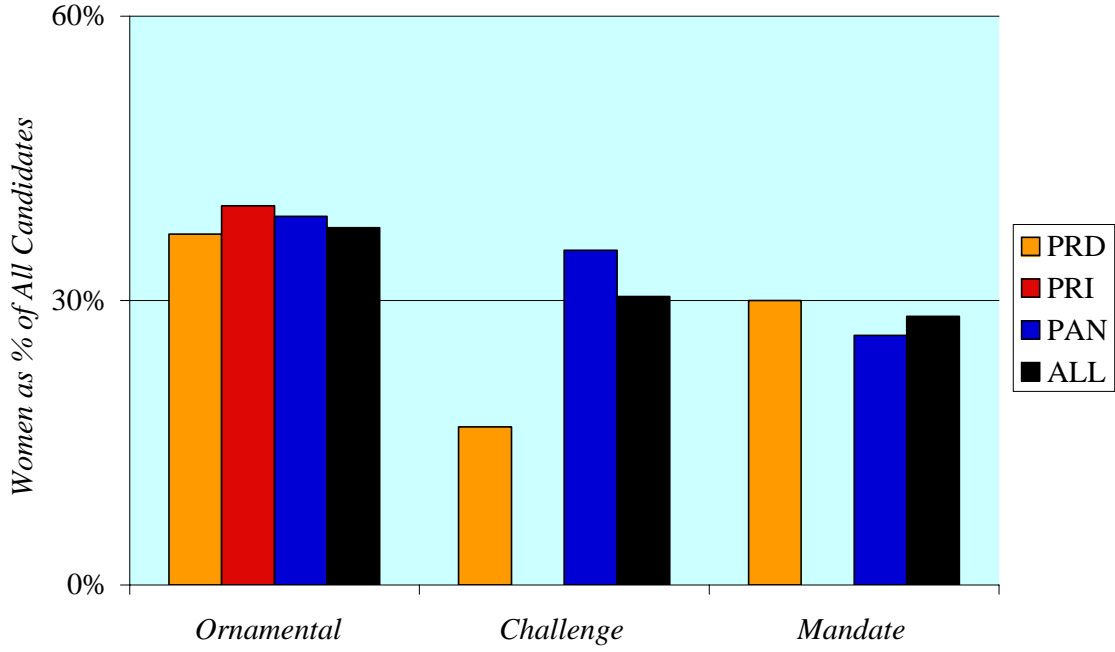
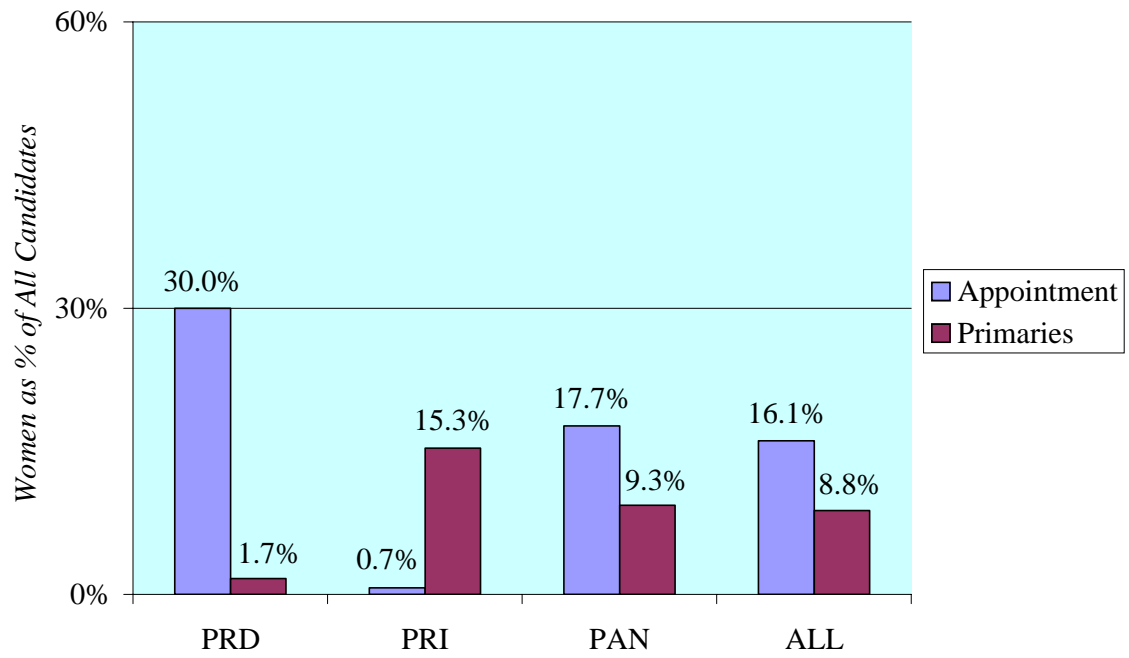


Figure 9. Female Candidates, Appointments vs. Primaries



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## Endnotes

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<sup>i</sup> Eleven parties competed in the election, but the PRD, PRI and PAN won nearly all of the seats in Congress.

<sup>ii</sup> For a comprehensive study of women's involvement in Mexican politics, see Victoria E. Rodríguez, *Women in Contemporary Mexican Politics* (Austin: University of Texas Press, 2003).

<sup>iii</sup> In cases of uncertainty, I "googled" the names for more information. I also had native Spanish speakers and experts on Mexican elections code the candidate lists separately.

<sup>iv</sup> Complete data for SMD candidates are not available on the website of the Federal Electoral Institute.

<sup>v</sup> The text of the law reads thus: "en caso de reincidencia se sancionará con la negativa del registro de las candidaturas correspondientes."

<sup>vi</sup> Instituto Federal Electoral, *Orden Del Día, Consejo General, Sesión Especial* (April 18, 2003a [cited August 20 2003]); available from [www.ife.org.mx](http://www.ife.org.mx).

<sup>vii</sup> The PRI appointed women in the 5<sup>th</sup> district in Baja California and the 11<sup>th</sup> district in Michoacán; neither candidate won.

<sup>viii</sup> For one illustration of Woldenberg's views, see review he wrote for the feminist magazine *Debate Feminista*, of a book titled *Women and Elections: A New Climate for Participation*.

<sup>ix</sup> This term refers to people chosen to attend a party conference who have committed to voting for a particular candidate.

<sup>x</sup> I need to rephrase the way I pose this question. I have framed my requests for interviews in terms of my focus on gender quotas. I suspect that many, particularly men, have interpreted my questions about gender quotas differently from the way I intended. From the answers I tend to get I figure what they *hear* is something like this: "Of course you do support the promotion of women in elective office, don't you?" On my next round of interviews I plan to pose my questions more agnostically, about "reforms to candidate selection procedures."

<sup>xi</sup> Cima Noticias.com, April 4, 2003.

<sup>xii</sup> For an excellent analysis of the significance of primaries for the PRI, see Alejandro Poiré, "Bounded Ambitions. Party Nominations, Discipline and Defection: Mexico's PRI in Comparative Perspective" (Ph.D. Dissertation, Harvard University, 2002).

<sup>xiii</sup> Interview with IFE Councilor Jacqueline Peschard, Mexico City, May 28, 2004.