

# Leveraging informality, rewriting formal rules: The implementation of gender parity in Mexico

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# Leveraging informality, rewriting formal rules: The implementation of gender parity in Mexico

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Gender quota laws, which compel political parties to nominate specified percentages of women for public office, set formal rules in place that challenge men's longstanding political dominance. Yet as research on quota implementation has demonstrated, male dominance is not so easily overturned: from running women in losing districts to manipulating rank-order rules on electoral lists, party elites (who are typically men) deploy numerous informal practices to preserve the choicest candidacies for men (Kenny and Verge 2013; Johnson 2016; Verge and Espírito-Santo 2016; Hinojosa, this volume). These processes of quota subversion, which exploit quota laws' silence on exactly which candidate positions count towards the quota, reveal that male dominance has survived its formal dismantling: states have adopted constitutional equal rights clauses, passed equal opportunity laws and plans and legislated affirmative action in politics (Piscopo 2015), but the vast majority of countries under-fill their quota laws. Women and men enjoy the same legal rights and privileges, but the gendered distribution of political power remains largely intact. Male dominance continues as the object and outcome of informal institutions, especially unwritten candidate selection rules. Women's inability to break male power monopolies has become conventional wisdom in political science (Bjanegård 2013; Kenny 2013; Bjanegård and Kenny 2016).

At the same time, women's networks – as political actors – have worked tirelessly to ensure that quota laws, as formal institutions, actually achieve their target percentages. Most

scholarship has focused on these networks' roles in the first post-quota elections (Baldez 2004; Marx, Borner, and Caminotti 2007; Krook 2009), though their advocacy has proved crucial to securing later-generation reforms that strengthened quota provisions and even replaced quotas (typically set at 30 or 40 per cent) with parity (50 per cent). This chapter examines how party women in Mexico formed a 'quota network' to influence electoral officials' rule-writing processes, which resulted in tighter regulations that compelled parties to evenly distribute the top candidacies between men and women. These reforms accelerated Mexico's adoption of parity and positioned state regulators and electoral judges – rather than lawmakers or party leaders – as the best defence against quota subversion. When parity applied for the first time in the 2015 elections, the 'quota network' worked with electoral officials to layer clear written rules onto parity's general provisions. The resultant regulations led to the equitable distribution of female candidates across winning and losing districts at the federal level, and extended parity to executive and legislative positions at the municipal level.

The story of Mexico's quota reforms thus enhances scholars' understanding of the nexus between formal institutions, informal institutions and institutional change. As political scientists have documented, formal institutions that promote gender equality (quotas) have not sufficiently disrupted the informal institutions (recruitment) that concentrate power among men: legal rules change, but informal practices persist, preserving men's monopoly on power (Franceschet and Piscopo 2014; Bjanegård and Kenny 2016). Yet informal practices can also benefit those on the outside, as excluded groups – in this case, women – can devise their own strategies and tactics for accessing policymakers and winning change. In Mexico, women's 'quota networks' developed set practices that brought them into contact with electoral regulators and electoral judges, and ultimately persuaded these state officials to write stricter candidate selection rules,

ones that would make quota and parity laws more numerically effective. Gender-equality measures require strong implementation, an outcome that often stems from the informal relationships that female activists develop with each other and with state officials. Quota networks are actors that can leverage informality – meaning ‘back channel’ avenues and relationships, and the practices that sustain them – to achieve institutional layering – understood here as amendments to the quota rules that improve their numerical effects. Consequently, informal spaces of negotiation and contestation are not universally ‘bad’ for women: women can use these spaces to deepen gender-equality reforms.

To illustrate these claims, I draw on primary source evidence, including court documents, detailed newspaper accounts and thirty-eight interviews conducted over three fieldwork trips to Mexico (December 2013, March 2014 and May 2015). I focus on two periods covering three different instances of reform. After reviewing the theoretical literature and case background, I discuss events between 2009 and 2014, when a network of female activists, known as *Mujeres en Plural* (Women as Multiple), succeeded in closing loopholes and ending the silences found in the earlier-generation quota laws. This process established the groundwork for parity. I then cover the 2014–2015 electoral process, where *Mujeres en Plural* and electoral authorities worked to write formal rules that would implement the parity law more effectively. Federally, this process entailed devising regulations that interpreted the electoral code’s general admonition that parties could not nominate women ‘exclusively’ to losing districts. At the municipal level, implementing parity meant determining whether the states’ electoral codes applied parity vertically (alternation down the list) or horizontally (gender balance across position types). Sixteen Mexican states held municipal elections concurrent with the federal elections, but I focus on the eight cases that garnered the most media attention: Baja California Sur, Guerrero, Querétaro, México, Morelos,

Nuevo León, Sonora and Tabasco. Across government levels, quota networks favourably amended the quota rules, revealing that informality can undercut male political dominance, giving women the space to demand and win gender-equality reforms.

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## **Institutional change, political parties and quotas in Latin America**

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The ‘institutional turn’ in political science has placed rules at the centre of causal analyses. Since institutions (i.e. constitutions or legislative bodies) shape actors’ incentives, strategies and behaviours, those wishing to explain outcomes must first understand how the institutional rules are created, communicated and enforced (Shepsle 1989; March and Olsen 1996). Institutions and their rules can be formal or informal: regularized interactions and predictable outcomes emerge not just from written documents, such as constitutions and statutes, but from unwritten conventions such as clientelism and nepotism (Helmke and Levitsky 2006). Informal institutions can overlap with, interact, challenge, uphold and reshape their formal counterparts. By bringing gender into these analyses, scholars of feminist institutionalism (FI) have highlighted how institutions and their rules interface with the normative goal of gender equality (Mackay, Kenny, and Chappell 2010; Gains and Lowndes 2014; Waylen 2014). FI scholars of political recruitment have detailed the functional adaptation of rules to privilege men and masculinity, arguing that even formal institutions are subverted by informal practices that perpetuate women’s exclusion (Lovenduski 1998; Bjanegård 2013; Kenny 2013; Bjanegård and Kenny 2016; Franceschet, this volume).

This core insight has shaped researchers' understanding of gender quota implementation. In Latin America, first-generation quota laws required certain percentages of female candidates, leaving open *which* candidacies counted towards the quota (Hinojosa 2012; Piscopo 2015). Sometimes the laws contained explicit loopholes exempting parties from filling the quota in certain conditions, as in the Mexican case (discussed below). More commonly, however, the laws remained silent on distributional questions, allowing parties to continue using modes of candidate selection that favoured men (Hinojosa 2012). These included nominating the required number of women, but running them in losing districts (Langston and Aparicio 2011); filling the quota by counting alternate rather than titleholder candidates (Hinojosa, this volume); manipulating women's ballot ranking to diminish their electoral chances (Zamora Chavarría 2009; Johnson 2016); allocating women few campaign resources (Sacchet 2008) and excluding them from the leadership positions that most commonly guarantee future electoral opportunities (Roza 2010; Franceschet and Piscopo 2014). Women certainly experienced this systematic discrimination before quotas, but quotas' adoption ensured that these informal practices entrenched and evolved, keeping parties as bastions of male dominance.

Because both loopholes and silences allowed parties' to under-fill quota targets, struggles over implementation ensued, leading to various rounds of quota law reform (Piscopo 2015). In successive rounds of institutional layering (Mahoney and Thelen 2010, 16–7), Latin American countries amended quota rules. These incremental changes specified *how* parties were to fill quotas: for instance, reforms added rank-order rules to candidates running on closed lists; specified that parties could not count substitute candidates towards the quota; extended affirmative action to party directorates and even established minimum financing requirements for female leadership training (Hinojosa 2012; Piscopo 2015). Between 1991 and 2015, eleven Latin

American countries reformed their quota laws at least once; eight more than once and seven countries advanced beyond quotas and adopted parity.<sup>1</sup> All Latin American nations save Guatemala and Venezuela currently have either a quota or parity law.

The layering of new quota rules onto old quota rules occurred largely thanks to the concerted efforts of female activists. Cross-party networks of political women played key roles in securing quota laws' initial passage in the 1990s and early 2000s (Baldez 2004; Marx, Borner and Caminotti 2007; Krook 2009). These networks remained active and vigilant in the first post-quota elections, bringing lawsuits before the nations' electoral authorities when parties outright ignored the law or placed female candidates in the least viable list positions (Jones 1996; Zamora Chavarría 2009). They used media to aggressively shame party leaders, calling them 'dinosaurs' (Baldez 2004). Electoral judges and lawmakers then found themselves trapped by negative publicity, on the one side, and their own constitutional, statutory and jurisprudential commitments to gender equality (women's rights treaties and gender-equality laws) on the other (Piscopo 2015). Party leaders lacked the legal basis upon which to block quota reforms in congress, and quota advocates won multiple victories.

Yet party leaders anticipate continuing to exploit the laws' loopholes and silences in practice. As an official in Mexico's national women's institute explained, 'The parties continue to believe they can do one thing in congress, and another thing in the party'.<sup>2</sup> Party leaders instruct their members to vote 'yes' in the plenary because they must, but – in a layering process of their own – continue to adapt their informal candidate-recruitment procedures to privilege men. However, few case studies have examined the interplay between legal reforms, informal party practices and women's networks in the most recent generations of quota reforms. These later-generation reforms are notable both for their accomplishments (the elimination of

longstanding practices such as sending women to losing districts) and venues (their adoption and implementation in the regulatory, rather than the legislative, arena). Many studies mention that Latin America's electoral management bodies have upheld the quotas' constitutionality and written clearer rules (Crocker 2011; Piscopo 2015), but no studies have explicitly examined *how* state officials became allies in overturning male dominance.

Answering this question requires uncovering the role of women's networks in later generation reforms, which in turn raises definitional questions about networks themselves. One approach characterizes networks as informal institutions: they are sustained by patterned interactions and regularized rules of engagement, and members may sanction those participants who deviate from shared understandings about strategies or messages. Yet networks' very informality makes sanctioning difficult to observe. Only detailed ethnographies – rather than the elite interviews employed in my study – could capture how networks establish membership criteria, police behaviour and eject participants. Since informal institutions cannot exist without sanctions (Helmke and Levitsky 2004, 727; Chappell and Galea, this volume), networks appear better conceptualized not as institutions, but as 'gendered actors working with the rules' (Gains and Lowndes 2014; see also Chappell and Mackay in this volume). This approach foregrounds networks' agency and manoeuvrability: networks contest the distribution of power and possibilities for change by interpreting and adapting the rules (Gains and Lowndes 2014, 528–529). 'Quota networks' coalesce as politicians and party members – who are usually women – look to change the rules governing formal institutions (quotas), in order to circumvent the informal recruitment practices that perpetuate male dominance. Elite interviews can reveal networks' strategies, partnerships and messages, as well as their influence and achievements. Networks' reliance on informality does not mean that quota networks are institutions, but that



they are actors leveraging informal spaces, relationships and practices to press their demands, negotiate and achieve their objectives.

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## Electoral reforms, democratization and gender quotas

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In Mexico, democratization occurred via the ballot box (Schedler 2005). The long-time hegemonic PRI (*Partido Revolucionario Institucional*) lost its iron grip on municipalities and states in the 1980s, its super-majority in congress in 1994, its majority in 1997 and the presidency in 2000. The challengers – the PAN (*Partido Acción Nacional*) and the PRD (*Partido Revolucionario Institucional*) – remain key players today, and Mexico has been characterized as a three-party system since democratization.<sup>3</sup> The PAN and PRD anchor the ideological spectrum on the left and right, respectively, and the internally heterogeneous PRI occupies the middle.

At the federal level, the parties compete for a 500-seat Chamber of Deputies and a 128-seat Senate. The Chamber of Deputies renews every 3 years, with 300 deputies selected from single-member districts (SMDs) and 200 deputies selected from five multi-state districts employing closed-list proportional representation (PR). The Senate renews every 6 years, using closed-list PR, with thirty-two members chosen from a single nationwide district and ninety-six members chosen from state-wide districts. ('States' includes the autonomous federal district of Mexico City, which behaves like a state in federal elections.<sup>4</sup>) Prior to the December 2013 constitutional reform, Mexico prohibited independent candidacies as well as immediate re-election to the same post in a municipal government, state legislature or federal chamber.<sup>5</sup> The December 2013 reform – which included parity – was the latest in a series of sweeping electoral reforms that dates back to 1987.

A hallmark of these reforms was the creation of independent agencies to run elections. As multiparty competition deepened, the parties could not trust each other, but they could agree to transfer control to independent regulators. The 1987 reform created an electoral court to resolve inter- and intra-party disputes, and the 1990 reform created the Federal Electoral Institute (*Instituto Federal Electoral*, or IFE) to manage elections. Each successive reform ceded more authority to IFE, and the 1996 reform strengthened the court, known since then as the Electoral Tribunal of the Federal Judiciary (*Tribunal Electoral del Poder Judicial de la Federación*, or TEPJF). Mexico's desire for 'international democratic credibility' bound all political parties into ensuring IFE's and the TEPJF's autonomy and efficacy (Eisenstadt 1999, 98), features which consolidated over the 1990s and 2000s (Eisenstadt 2003; Estévez, Magar and Rosas 2008; Reyes 2012). Elections in Mexico became, and remain, highly regulated affairs. IFE initiates the electoral season by issuing regulatory decrees, written rules that interpret the federal electoral code and delimit party behaviour; IFE confirms and registers political parties' candidates, monitors parties' campaign behaviours (including expenditures), sanctions violations and manages all technical aspects of the elections, from training poll workers to counting ballots. The TEPJF hears any legal disputes, including disagreements with IFE's regulations or sanctions. Today, IFE officials (the top leaders are called "counsellors") and TEPJF judges are highly respected electoral authorities, with national and international credibility.

Democratization via electoral reform and the ballot box also had gendered effects. Politically active women reported that the onset of genuine competition raised the value of legislative posts, which diminished their chances to receive candidate nominations (Piscopo 2016). Female party members and female legislators formed cross-party working groups in the 1990s, in which they shared best practices for advancing female candidates within their parties

(Bruhn 2003; Ortiz Ortega and Scherer Castillo 2014). Rather than negotiate standalone legislation, they sought to include quotas in the broader electoral reform packages.

Congresswomen unsuccessfully sought quotas' inclusion in the 1993 reform. In the 1996 reform, they secured a recommendation that parties nominate 30 per cent women. IFE demanded that parties fill the 30 per cent recommendation in the 2000 elections, but provided no specific guidelines as to how: parties thus clustered women's names in the bottom (unelectable) positions on the PR lists, nominated women to unwinnable plurality districts and named them as alternates rather than primary candidates. As shown in Table 7.1, the proportion of women elected to congress in 1994, 1997 and 2000 remained below 20 per cent.

<i>Election Year</i>	<i>Percent Chamber</i>	<i>Percent Senate</i>
1988	11.8	15.6
1991	8.8	3.1
1994	14.1	10.2
1997	17.4	15.6
2000	16.0	18.0
2003	24.0	
2006	23.4	18.5
2009	28.0	
2012	37.0	32.8
2015	42.4	

*Source:* Medina Espino (2010); INE (2015).

*Note:* The Mexican Senate began renewing every six years in 2000.

Congresswomen elected in 2000 entered into a cross-party pact to introduce mandatory quotas into that session's anticipated electoral reform (Ortiz Ortega and Scherer Castillo 2014). Female legislators from the PRD, PRI and PAN lobbied congressional leaders, receiving a boost when the Mexican Supreme Court ruled that a state-level quota was constitutional (Baldez 2004; Piscopo 2016). The 2002 electoral reform thus included a mandatory 30 per cent quota for both the house and senate, with a one-in-three-names placement mandate for the PR lists and a prohibition against counting alternate candidates towards the quota. Yet, the 2002 electoral code contained an explicit loophole that would haunt quota advocates for the next decade: parties were exempt from meeting the quota in the SMD districts, *if* they chose SMD candidates via 'direct vote'. This provision meant that parties rapidly adopted primaries, or simply claimed their internal selection procedures *were* primaries (Baldez 2007, 81). IFE regulators were willing to enforce the quota, but unwilling to investigate parties' candidate selection procedures: their written rules enforced the electoral code, but added no provisions or amendments – such as setting standards for primaries – that curtailed parties' ability to claim an exemption. IFE thus accepted parties' claims at face-value, granting numerous quota exemptions (Piscopo 2016). This *carte-blanche* resulted in disappointingly few women elected in 2003 and 2006 (less than 25 per cent).

Congresswomen elected in 2006 thus looked to strengthen the quota law (Ortiz Ortega and Scherer Castillo 2014; Piscopo 2016). They sought parity, but settled for raising the quota from 30 to 40 per cent, with a placement mandate for the PR lists of two female names for every

five, in an alternating manner. They could not eliminate the primary exemption, but did succeed in changing the language from ‘direct vote’ to ‘democratic process’; in theory, this change would compel parties to actually hold primaries. As before, these changes formed part of a broader electoral reform package, passed in 2008. Yet IFE remained steadfast in its unwillingness to write rules delimiting what constituted a ‘democratic process’ (Piscopo 2016), and the percentage of women elected to the lower house in 2009 rose only by 5 percentage points, to 28 per cent.

The first-generation of Mexico’s quota law thus saw cross-party networks of women working within Congress to secure statutory reforms, and electoral officials in the IFE leaving the quota laws’ loopholes and silences intact (Piscopo 2016). Regulators were allies but not advocates. With electoral reforms still unfolding in Congress, electoral officials walked a fine line: they needed to prove their independence by enforcing the electoral rules, but they could not be so assertive that the parties would weaken their authority in the next reform (Eisenstadt 2002; Estévez, Magar and Rosas 2008). Only once electoral engineering in Congress slowed in the late 2000s could IFE and the TEPJF assert more control over parties’ internal lives.

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## **Closing loopholes and winning parity: 2009–2014**

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The 2009 elections failed to elect 40 per cent women because the 2008 electoral code and the subsequent regulatory decrees did not change parties’ distribution of the choicest candidacies to men. First, IFE again placed no parameters on what candidate selection procedures counted as meriting the exemption.<sup>6</sup> Second, parties could still send female candidates to losing SMD districts. Third, the law and the regulations remained silent about same-sex candidate-alternate

pairs; women only needed to comprise 40 per cent of all alternates. This particular gap resulted in scandal: following the 2009 elections, sixteen female-legislators elect from multiple parties resigned their seats so their male alternates could enter congress. The practice of so-called ‘Juanitas’ yielding their seats had occurred in previous elections as well, but their appearance after a high-profile quota reform generated widespread outrage from congresswomen and media commentators (Piscopo 2016; Hinojosa, this volume).

Immediately, prominent female party leaders, female legislators and feminist activists – including private consultants, academics and journalists – came together to ‘see what could be done’.<sup>7</sup> These participants named themselves ‘Mujeres en Plural’ to preserve the spirit of multipartism that had long characterized quota advocacy in Mexico. Mujeres en Plural decided to demand ‘total parity’ in the congress, including an elimination of the primary exemption and a stipulation of same-sex candidate pairings.<sup>8</sup> Yet congress balked. Female legislators pushed a more modest measure mandating same-sex candidate pairs through the lower house in April 2011, but it died in the senate. Mujeres en Plural realized that parties lacked the ‘political will’ to make further changes.<sup>9</sup> As one member recalled, ‘Looking for legal [statutory] solutions was no longer possible’.<sup>10</sup> The political parties would devolve power no further. The momentum for broader electoral reform also had disappeared, as parties viewed the 2008 reforms as successful (Serra 2012).

Mujeres en Plural turned to IFE, hoping the electoral regulators would write stronger rules for the upcoming 2011–2012 federal electoral process. To engage with electoral officials, Mujeres en Plural relied on two guiding principles: discretion and collectivity. The network met in private, in members’ homes, and only when a critical mass could attend.<sup>11</sup> There would be no official leaders; women would become associated with Mujeres en Plural by appearing at IFE

headquarters, but no meeting between Mujeres en Plural and IFE counsellors occurred unless several network members could attend.<sup>12</sup> This strategy framed the issue as about women, not individual careers or personalities.<sup>13</sup> Nonetheless, Mujeres en Plural found IFE counsellors sympathetic, but unmovable. Mujeres en Plural argued that exempting parties from the quota because they used a ‘democratic process’ implied that parties also selected candidates using *undemocratic* processes – which contradicts the parties’ constitutional purpose (Ortiz Ortega and Scherer Castillo 2014, 112–4). IFE disagreed, but suggested that Mujeres en Plural try their argument before the TEPJF.<sup>14</sup>

The TEPJF was the appropriate avenue through which to impugn IFE’s regulations, but cases before the tribunal typically centred on a specific entity – an individual or a political party – that had experienced harm. No precedent existed for petitioning on behalf of a class (in this case women), but Mujeres en Plural went ahead, presenting a case signed by high-ranking leaders of the PRD, PRI and other small parties.<sup>15</sup> They argued that because Article 1 of the Mexican Constitution gave international human rights treaties – including the 1979 Convention on the Elimination of all Forms of Discrimination Against Women – the weight of constitutional law, the gender-equality principles contained in these statutes required first-order protections. After filing, Mujeres en Plural used the same strategies as they had with IFE counsellors: groups of at least five or six networks members met with every judge, always foregrounding the collective nature of their claims.<sup>16</sup> The strategy proved effective, with one judge recalling, ‘We were very moved by this collection of women’.<sup>17</sup>

In what now enjoys renown as a historic decision in Mexico, the TEPJF ruled in favour of Mujeres en Plural on 30 November 2011.<sup>18</sup> The TEPJF agreed that gender-equality

principles meant respecting the quota ‘without exception’, thus striking the primary-exemption *and* the permissibility of mixed-sex candidate pairings. **19**

The ruling came midway through the 2011–2012 federal election process, but IFE counsellors had received the court order they needed. IFE issued new regulations for candidate registries, requiring strict compliance with the 40 per cent quota for nominations in plurality and SMD districts. The revised rules made party leaders thoroughly furious. **20** As a counsellor recalled, ‘They [party leaders] came to us saying well, what are we are going to do? And we just looked at them, and said, ‘well, you comply’. . . . And so they began to play chicken with us’. **21** When the March 2012 deadline for registering candidates arrived, only one party – a small, new competitor – submitted SMD candidate lists composed of 40 per cent women. **22** IFE gave the parties forty-eight hours to revise their nominations; else they would lose the chance to compete in a number of SMDs equal to those which were owed to female candidates. **23** An IFE counsellor recalled these as ‘frightening days. . .there was no precedent for this. . . the possibility that we would refuse the candidate registries had never happened before.’ **24** Fortunately, the parties blinked, submitting revised candidate registries that assigned women to 40 per cent of the SMDs (INE 2015).

Mujeres en Plural’s petition, the historic sentence and the candidate registration standoff changed how electoral authorities understood women’s political rights and, consequently, the rules they would write to ensure quota implementation. All IFE and TEPJF interviewees identified the 2011–2012 electoral process as critical for placing gender equality at the centre of their institution’s identity and mission. An IFE counsellor explained that the TEPJF’s ruling ‘gave us the courage to move forward’, referring to the institution’s about-face on candidate registry rules. **25** Another IFE counsellor explained that, once the TEPJF ruled, IFE needed to



maintain public trust – especially given that women comprise half of the public.<sup>26</sup> TEPJF judge María del Carmen Alanis Figueroa reflected, ‘This had been women’s fight for years: first, to win the right to vote, then to obtain formal equality before law; then the quotas, and now the confrontation with IFE [over the primary exemption] that evidently would throw all these gains in the trash. . . I learned that the quota cannot make exceptions.’<sup>27</sup> Another TEPJF judge identified the ‘historic decision’ as shaping a new self-image for the TEPJF, one that would defend women’s rights.<sup>28</sup> Indeed, the TEPJF followed its historic decision with a series of additional rulings, also in response to cases brought by *Mujeres en Plural*, which affirmed full alternation (zippering) of men’s and women’s names on electoral lists.<sup>29</sup> Together, these rulings made the statutory adoption of parity a foregone conclusion.

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## Assigning women to winning districts in 2015

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In strengthening the quota’s formal rules, IFE and the TEPJF positioned themselves as defenders of gender equality. Both institutions derived their powers from electoral reforms that party leaders passed in congress. The institutions’ earlier reluctance to scrutinize internal party practices stemmed from their fear that party leaders would retaliate and curtail their power. Yet once public opinion and constitutional jurisprudence tipped in favour of women’s fair access to the best candidacies, the IFE and the TEPJF could move against the parties, since any vengeful attempts by the parties-in-congress to delimit the regulators’ power would raise suspicion. *Mujeres en Plural* leveraged informality to gain access to the IFE and the TEPJF, and state officials acted for principled and self-interested reasons. This fruitful coincidence of the quota

network's goals and electoral officials' ambitions continued during the 2014–2015 elections, the first to implement Mexico's new parity regime.

In December 2013, the Mexican Congress revised the constitution to eliminate no re-election, allow for independent candidacies and to require parity for election to the federal and state congresses. Controversy emerged not over the constitutional reform, but over the redaction of the new electoral code in February 2014. No debate occurred over including parity with alternation (zippering) on the PR lists, mandating same-sex candidate pairings and allowing no exemptions, because the TEPJF already set these rules. Tensions rose over what the TEPJF had *not* decided: the distribution of candidates across the lower house SMD districts. In 2012, parties had to nominate 40 per cent women to the SMDs, but they still concentrated them in losing districts (Piscopo 2016, 506). Women from the PRI, PAN and PRD thus proposed dividing the SMDs into three categories – safe, competitive and losing – and requiring that parties nominate 50 per cent men and 50 per cent women in each category.<sup>30</sup> Yet party leaders would not surrender control over the distribution of winning districts: exasperated, one senate leader asked his female colleague, ‘What more do you women want?’<sup>31</sup> The final electoral code contained only a general statement: parties could not assign women ‘exclusively’ to districts where they received the lowest proportion of votes in the previous election.<sup>32</sup>

Just like ‘direct vote’ and ‘democratic process’ during the quota era, the interpretation of the electoral code’s ‘exclusively’ provision would fall to regulators. The 2013–2014 reforms rechristened IFE as INE (the *Instituto Nacional Electoral*), perhaps befitting its new regulatory zeal. First, INE issued regulations on candidate selection that contained thirteen gender-equality action items, including a requirement that parties articulate candidate selection procedures that contained ‘neither arbitrariness nor subjectivity’.<sup>33</sup> Political parties had to submit their

candidate selection procedures to INE for ratification. These formal regulations served two purposes: INE could head-off potential disputes by working with party leaders before the candidate selection phase, and parties that violated these procedures could be impugned before the TEPJF. **34**

Second, INE's regulations for the candidate registries warned parties that the distribution of women and men across SMD districts would receive close scrutiny during the candidate certification process. Privately, INE counsellors determined that they would use the three-tier method the congresswomen had proposed. INE counsellors explained that this approach – a formal commitment to close scrutiny combined with an informal three-tier analysis – balanced the letter and the spirit of the law. INE feared they could not legally sanction parties for disproportionately sending women to losing districts: technically, so long as at least one woman was assigned to a competitive or safe district, parties were in compliance with the electoral code. Yet the word 'exclusively' also gestured towards a more fair distribution of male and female candidates. **35** Thus, INE 'placed the spirit of the law in the method of evaluation'. **36** INE could not deny the registry if the party failed the three-tier test, but they could shame that party publicly, issuing statements and showing the data to the press. **37**

INE officials, in partnership with Mujeres en Plural, thus formed a 'gender observatory' for the 2015 elections. Congresswomen who lost the battle over the electoral code had continued pressing party leaders: for instance, the PRD's Secretary for Gender Equality demanded that party leaders appoint women evenly across districts the party had won, could win and had never won. **38** Mujeres en Plural reached out to INE officials, who were eager to talk: both activists and regulators worried that parties would ignore their exhortations and concentrate women in losing districts. When the moment for registering candidates arrived, the observatory publicized

the distribution of female and male candidates across district types, ‘with special attention to the twenty most safe [seats], and the twenty least competitive’.<sup>39</sup> The desire to avoid negative publicity largely drove the parties’ voluntary compliance with the three-tier rule (INE 2015), ultimately leaving little for the observatory to protest. As a Mujeres en Plural leader reflected, ‘The day of the registry, all the parties pronounced themselves to be in favor of parity, because it’s politically correct’.<sup>40</sup> Her colleague also noted the increased effectiveness of public shaming in the 2014–2015 electoral process, which raised the political costs for parties contemplating a reversion to their old ways.<sup>41</sup>

Formal rules written to govern party behaviour in the 2014–2015 federal electoral process thus incorporated more monitoring, scrutiny and publicity of candidate selection procedures than ever before. When imposed over the electoral code’s general admonition about not concentrating women exclusively in losing SMD districts, these formal rules severely reduced parties’ ability to employ informal practices that distributed the choicest candidacies to men. Tellingly, Mujeres en Plural and INE officials used informality – messages passed through networks, threats of negative publicity – to achieve these formal changes.

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## **From vertical to horizontal parity: Federalizing municipal elections**

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The 2015 federal elections occurred concurrently with subnational elections in the federal district of Mexico City and sixteen states (Baja California Sur, Campeche, Chiapas, Colima, Guanajuato, Guerrero, Jalisco, México, Michoacán, Morelos, Nuevo León, Querétaro, San Luis Potosí, Sonora, Tabasco and the Yucatán).<sup>42</sup> Together, these seventeen subnational entities elected 641

deputies to the state congresses and 1,009 officials to the municipal governments, known as *ayuntamientos*.<sup>43</sup> Prior to the 2014–2015 election process, all states were required to ‘harmonize’ their state constitutions and state electoral codes to comply with the federal constitution’s extension of parity to the state congresses. Since state congresses are also elected using mixed-systems, states too mandated same-sex candidate pairings for SMD and PR districts and the zippering of men’s and women’s names on PR lists. Variation entered at the municipal level, where states determine the electoral rules used to elect the *ayuntamientos*. The Mexican Constitution had referred only to parity in the federal and state congresses, but during the harmonization process, all states with elections in 2015 added parity in the *ayuntamientos* to their constitutions and electoral codes (save México, Nuevo León and Sonora, which only placed municipal parity in their electoral codes).

Yet these provisions said nothing about how municipal-level parity would interface with the unique institutional and electoral structure of Mexico’s municipalities. *Ayuntamientos* are governed by a *cabildo* (a collegial, deliberative body), comprising an *alcalde* (a municipal president), a *síndico* (a position that combines the duties of a comptroller with those of an in-house counsel) and *regidores* (commissioners with voice and vote). *Regidores* blend legislative and executive power, in that they – alongside the *alcalde* – both make and execute policy. The number of *regidores* and the discretionary powers of the *cabildo* depend on the size of the municipality, which states determine according to varying criteria. Some states elect *cabildos* using a single unified ticket: *alcaldes*, *síndicos* and *regidores* appear on one list, which are then chosen via plurality rules. In other states, proportional rules will apply to a single list where the *alcalde* is ranked first, followed by the *síndico* and then the *regidores* or proportional rules will apply to a list of *regidores*, while *alcaldes* and *síndicos* are chosen via plurality rule (running

either separately or on a unified two-person ticket).<sup>44</sup> When state electoral codes said ‘parity with alternation’ for the state congresses and the ayuntamientos, this provision included the various permutations of lists and multi-person tickets used to elect the cabildos.<sup>45</sup>

The question then became whether alternation would apply vertically (down the lists) or horizontally (across positions types): would state-level regulators require that parties evenly distribute women among the *alcade* and *síndico* positions? *Mujeres en Plural* already had begun pushing horizontal parity in the executive branch. For example, when Beatriz Mojica Morgia (PRD) sought her party’s nomination for the governorship of Guerrero, state party leaders moved to block her candidacy – even though she led the polls. In response, several of the party’s federal congresswomen, also leaders of *Mujeres en Plural*, issued a press release: ‘The PRD must respect parity: Yesterday Silvano Aureoles [a man] was named the party’s candidate as governor for Michoacán, it is fair that now Beatriz Mojica is named a candidate’.<sup>46</sup> Mexico’s parity law does not affect gubernatorial races, but female activists used its logic to insist that parties distribute gubernatorial nominations evenly between men and women. At the municipal level, this logic could go further: the unique single-ticket electoral system for executive and legislative posts, in combination with state constitutions’ and electoral codes’ general provision about ‘parity with alternation’, provided a unique opportunity for groundbreaking formal rule changes.

Mirroring the regulatory structure at the federal level, state electoral institutions (*institutos electorales estatales* or IEES) write the rules for state or municipal elections. Challenges to these regulations are heard first by state electoral tribunals (*tribunales electorales estatales* or TEEs). Disputants may appeal TEE decisions to the TEPJF, beginning with the five regional chambers and ending with the principal Mexico City chamber. If the dispute involves federal constitutional matters, litigants can bypass the TEE and proceed directly to the TEPJF

regional chamber. In issuing their initial regulations for the 2014–2015 state and municipal elections, all IEEs except Morelos followed IFE’s old strategy: they simply repeated the text of the states’ electoral codes, requiring parties to respect parity in the municipalities, with alternation for lists. <sup>47</sup>

Unsurprisingly, when parties submitted their candidate registries to the IEEs for approval, few women were nominated to the alcalde post. In states presenting cabildo candidates on a single ticket, men received the first position, with alternation thereafter, which complied with parity but concentrated women in the second position, that of síndico. The PRI in Guerrero, for instance, nominated women as municipal presidents in just six of eighty-one municipalities. <sup>48</sup> In Sonora, twenty-one women received alcalde nominations – compared to 132 men. <sup>49</sup> Since the rank-order places alcaldes first, síndicos second and regidores third and onward, male candidates also disproportionately received the first regidor nomination (the third list position). <sup>50</sup>

Mujeres en Plural in fact anticipated this outcome. <sup>51</sup> In each state, with the leadership and support of Mujeres en Plural, local women formed parity observatories, such as the Observatory for Gender Parity and Women’s Political Rights in Querétaro, the Parity Observatory in Sonora, The Chiapas Network for Effective Parity and the Network for Women’s Political Advancement in Guerrero. As at the federal level, state-level networks included women from different political parties, as well as journalists, leaders of civil society organizations, academics and representatives from the state-level women’s policy institutes. <sup>52</sup> These networks *did* proactively press the IEEs to issue regulations that went beyond simply restating the electoral code, but only in Morelos did regulators require gender-balance across alcalde and síndico nominations. All other state IEEs remained silent about fair candidate distributions, and validated

candidate registries that contained few women as alcaldes. Building on strategies developed at the federal level, the state-level observatories prepared to contest women's exclusion before the TEEs and the TEPJF.

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## Changing formal rules to implement horizontal parity

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The subnational level reveals again how informal partnerships among politically-active women, and between quota networks and state regulators, can layer new rules onto existing quota statutes. In Morelos, IEE rules required that parties nominate 50 per cent women and 50 per cent men for each municipal position. The PRD, the PAN, the PRI and a smaller fourth party impugned these regulations before the TEE. The court rejected the parties' claims that the IEE had inappropriately assumed legislative authority by writing rules beyond the electoral code. Rather, the TEE affirmed that, because the state constitution made general reference to parity, 'it is evident that the candidacies for municipal president and síndico follow this same principle'.<sup>53</sup>

Party leaders protested, and the quota network pushed back. For example, PRD women called a press conference in which they characterized the state party president's ongoing resistance as 'showing the PRD to be a retrograde entity, distant from modern society, and fighting against representative democracy and pluralistic equality'.<sup>54</sup>

Unmoved, the parties appealed to the regional TEPJF, claiming they 'had no women to nominate'.<sup>55</sup> Women from Morelos then visited the TEPJF judges, bringing copies of their resumes and other documents to demonstrate that they indeed had the qualifications and the votes.<sup>56</sup> In this first horizontal parity case to come before the TEPF, the court rules for the women and against the parties. One judge based his decision on the comma's placement in the



constitution's parity clause, which reads that political parties must 'write rules that guarantee gender parity, in candidacies for federal and state legislatures'. The comma, he argued, made the gender parity guarantee independent from the government levels.<sup>57</sup> Another argument recognized the unique institutional design of the cabildos, which merge executive and legislative roles.<sup>58</sup> Further, the electoral system at the municipal level meant that the *absence* of horizontal parity would violate gender-equality principles: as magistrate Salvador Nava Gomar explained, 'You cannot condition the gender of the síndico on the gender of the municipal president'.<sup>59</sup> This last consideration proved especially important, as parties' practice of ranking men first and women second meant most alcaldes would be men, and most síndicos women. The TEPJF ruling forced parties to substitute female candidates for male candidates, until 16 of Morelos's 33 municipalities had female nominees as alcaldes.

Elsewhere, the battle for horizontal parity unfolded with women – not parties – seeking rule changes from the tribunals. In Baja California Sur, for example, IEE President Rebeca Barrera Amador had sought to include horizontal parity in the electoral regulations, insisting the rule would comply with international treaties stipulating gender equality and the political parties' own statutes (which must include parity principles as a matter of law). However, she lacked support from her fellow electoral counsellors, as party leaders protested – as they had in Morelos – that such regulation would constitute the IEE's inappropriate seizing of legislative powers.<sup>60</sup> Like their counterparts at the federal level, female activists rebuffed by the IEE then approached the courts. Baja California Sur elects its five ayuntamientos using one unified ticket, and the IEE registered candidate slates from the PRI and the PAN in which no women appeared in the top position. The complete exclusion of women allowed the parity observatory to proceed directly to the regional TEPJF, claiming that the IEE had violated women's constitutional rights.<sup>61</sup> Ruling

in their favour, the court forced the PAN and the PRI to replace at least two male nominees for alcaides with two women.

Quota networks forced similar candidate substitutions in other states. Female petitioners brought suit before the TEEs or TEPJF in Guerrero, México, Nuevo León, Querétaro, Sonora and Tabasco. In Guerrero, female petitioners moved forward even before the IEE confirmed the candidate registries. The IEE had mandated only vertical parity for regidor lists, and members of the Network for Women's Political Advancement (representing approximately 480 women in the state), with technical support from Mujeres en Plural, impugned these regulations before the TEE. Ruling in favour of horizontal parity, the Guerrero TEE gave the IEE forty-eight hours to rewrite its regulations and stipulate that women receive the alcalde nomination in forty of the state's eighty-one ayuntamientos.<sup>62</sup> This adjustment in turn disrupted the already-unfolding candidate selection processes within the political parties, who became forced to redistribute nominations before registering their candidates with the IEE.<sup>63</sup>

The timing of the substitutions, however, soon proved an issue. In Baja California Sur, Guerrero, Morelos, Querétaro and Tabasco, judicial processes began in late February and were resolved in March and early April – about six weeks to three months before the 7 June elections. In México, Nuevo León and Sonora, however, the cases reached the regional TEPJFs in mid-April – much closer to the election date. This delay caused the regional tribunals to *uphold* the IEE regulations, arguing that the electoral process was too advanced to allow candidate substitutions.<sup>64</sup> In the last days of April, the federal TEPJF agreed: they affirmed the constitutionality of horizontal parity (as they had for each and every case they received), but postponed its imposition in México, Sonora and Nuevo León until the 2018 elections. In a four-

two vote, the judges determined that candidate substitutions could not occur with only 5 weeks before the election.

The TEPJF's reversal surprised many. The two dissenting judges, María del Carmen Alanís Figueroa and Manuel González Oropeza, argued that no actual situation – such as the advancement of an electoral campaign – should contravene a constitutional principle, noting that the candidate registry was amendable up until election day.<sup>65</sup> Aided by the public dissents of Alanís and González, Mujeres en Plural launched a negative publicity campaign. Mujeres en Plural issued a press release, expressing their profound disappointment.<sup>66</sup> A federal INE counsellor, Javier Santiago Castillo, wrote an op-ed in a leading newspaper that described the TEPJF's decision as 'incredible' and 'inconsistent'.<sup>67</sup> This pressure quickly compelled the TEPJF to follow-up with a 'jurisprudential thesis' that established the constitutionality of horizontal parity, mandating its application to all *future* municipal elections.

Thus, women applying pressure through informal networks lost the battle in México, Sonora and Nuevo León, but won the war. As a Mujeres en Plural leader explained, the decision to litigate female candidates' access to municipal positions was coordinated and planned as soon as the federal electoral reform passed without parity in the ayuntamientos.<sup>68</sup> A TEPJF judge observed that Mujeres en Plural's petitions were deliberately tailored to address the distribution of candidacies in the ayuntamientos (and did not, for example, address the distribution of list-header positions in the PR lists for the state and federal congresses).<sup>69</sup> She also noted that, whenever the women visited the magistrates, 'they arrive[d] in a network, in a group'.<sup>70</sup> Following the jurisprudential thesis that installed horizontal parity in the ayuntamientos, Mujeres en Plural issued a press release attributing this victory to women's ability to directly access and interface with the electoral courts.<sup>71</sup> Informal collaboration, strategizing and messaging again

altered the formal quota rules, expanding women's access to the choicest candidate nominations at the municipal level.

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## Conclusion

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The implementation of parity in Mexico tells an important story about gendered actors working within formal and informal institutions. As Gains and Lowndes (2014) write, actors' interpretations and adaptations of the institutional rules depends on perceptions about the appropriate distribution of power and the possibilities for change. In Mexico, *Mujeres en Plural* saw that the formal rules governing the distribution of women across the choicest candidacies *could* evolve, but that layering new rules onto existing quota statutes would require regulatory and judicial action. In turn, offices in the electoral institutions and courts proved accommodating because intervening more firmly in parties' candidate selection procedures served their own goals: in positioning themselves as defenders of women's political rights, INE and the TEPJF bolstered their reputations as guarantors of equity and fairness, using this political capital to further secure their own autonomy vis-à-vis the parties-in-congress. Together, these quota networks use formal rules to foreclose upon informal practices that previously perpetuated male dominance over the choicest electoral opportunities.

The Mexican case thus underscores how networks, as political actors, can bring about institutional layering: together, female activists and electoral officials added formal rules that closed the loopholes and ended the silences surrounding *how* parties must fill quota and parity laws. This process highlights the role that informality – the back channel avenues and practices of negotiation and contestation – plays not just in the adoption of gender-equity policies, but in

their implementation (see also Nazneen, this volume). Indeed, an astonishing feature of the 2015 federal and municipal elections has been the degree to which female politicians and activists have entered the public sphere, using coordination, publicity and litigation to shame and punish the very same party leaders on whom they depend for candidate nominations. The regulatory arena has empowered female actors, but at what long-term costs within the parties? Future work might return to examining gendered institutional practices at the party level, asking about the political fates of those who lead observatories, join *Mujeres en Plural*, petition judges and collaborate with electoral regulators.

## Notes

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1 The Venezuelan electoral institute has enforced parity in candidate registrations since 2005.

Since this regulation has no statutory basis, I do not count Venezuela as having a quota law.

2 Interview, national women's institute official, 7 May 2015.

3 Evidence of party system fragmentation in the 2015 elections may change this assessment.

4 In 2016, Mexico City converted from a federal district to a state.

5 Independent candidacies began in 2015. Legislators elected in 2018 will be the first to stand for re-election.

6 Interviews, IFE official, 11 December 2013; IFE counselor, 8 May 2015.

7 Interview, former congresswoman, 8 May 2015.

8 Interview, former congresswoman, 8 May 2015.

9 Interview, female activist, 12 May 2015.

10 Interview, female activist, 12 December 2013.

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- 11 Interviews, female activist, 12 December 2013; female senator, 8 May 2015.
- 12 Interviews, female activist, 12 December 2013; political consultant, 16 December 2013; female senator, 8 May 2015.
- 13 Interview, senator, 11 May 2015.
- 14 Interview, IFE counselor, 8 May 2015.
- 15 Interview, TEPJF judge, 7 May 2015.
- 16 Interviews, female activist, 12 December 2013; female Senator, 7 May 2015.
- 17 Interview, electoral judge, 7 May 2015.
- 18 Sentence 12642–2011.
- 19 Sentence 12624–2011.
- 20 Interview, IFE counselor, 14 May 2015.
- 21 Interview, IFE counselor, 8 May 2015.
- 22 Interview, IFE official, 11 December 2013.
- 23 Interview, IFE counselor, 14 May 2015.
- 24 Interview, IFE counselor, 14 May 2015.
- 25 Interview, IFE counselor, 8 May 2015.
- 26 Interview, IFE counselor, 14 May 2015.
- 27 Quoted in a document drafted by Mujeres en Plural; received during interview with female activist, 12 December 2013.
- 28 Interview, TEPJF judge, Mexico City, 7 May 2015.
- 29 Interview, TEPJF judge, Mexico City, 7 May 2015.
- 30 Interviews, national women’s institute official, 7 May 2015; female senator, 7 May 2015.
- 31 Interview, official from the national women’s institute, 7 May 2015.

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- 32 General Law on Political Parties (*Ley General de Partidos Políticos*), Article 3, Number 5.
- 33 Interview, INE official, 12 May 2015.
- 34 Interview, INE official, 12 May 2015.
- 35 Interviews, INE counselors, 4 May, 11 May and 12 May, 2015.
- 36 Interview, INE official, 12 May 2015.
- 37 Interview, INE counselor, 11 May 2015.
- 38 Interview, congresswoman, 6 May 2015.
- 39 Interview, INE official, 8 May 2015.
- 40 Interview, former congresswoman, 8 May 2015.
- 41 Interview, senator, 11 May 2015.
- 42 Due to unique circumstances, Chiapas held its elections on 19 July, rather than 5 June.
- 43 “Elecciones 2015 serán las más complejas en la historia: INE.” *Excelsior*, 1 April 2015.
- 44 Some states may also elect some portion of the regidores using plurality rules.
- 45 Of the states with elections in 2015, only Chiapas placed conditions on the alternation rule in its electoral code, requiring that women appear as list-headers when there is an odd number of districts.
- 46 “Piden a PRD respetar delantera de Beatriz Mojica en encuesta para Guerrero.” *La Jornada*, 9 February 2015. Mojica was eventually nominated, but lost the election.
- 47 The Nuevo León IEE stipulated that parties could not concentrate female candidates for the ayuntamientos in losing districts. The parties contested this regulation, but the regional TEPJF upheld it. (“Trife da la razón a CEE sobre paridad de género”, *Milenio*, 28 February 2015.)

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- 48 “Paridad de género obliga al PRI Guerrero cambiar lista de candidatos.” *Notimex*, 11 April 2015.
- 49 Alanís Figueroa and González Oropeza, Voto Particular, SG-JDC-11138/2105.
- 50 “Impugna ONG resolución del IEPC que no respeta paridad en las candidaturas.” *La Jornada Guerrero* 17 March 2015.
- 51 Interview, senator, 8 May 2015. See also “Mujeres de Sonora crean Observatorio de Paridad para proceso electoral 2015.” *EL Occidental*, 24 March 2015.
- 52 “Constituyen mujeres el observatorio electoral”, *Diario de Morelos*, 12 February 2015; “Mujeres de Sonora crean Observatorio de Paridad para proceso electoral 2015”, *El Occidental*, 24 March 2015.
- 53 Tribunal Electoral Estatal de Morelos, Expediente: TEE/RAP/012–2015–1Y, 14 February 2015, page 37.
- 54 “Mujeres perredistas piden respetar equidad en Morelos.” *El Universal*, 17 February 2015.
- 55 Interview, TEPJF judge, 4 May 2015.
- 56 Interview, TEPJF judge, 4 May 2015.
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- 58 Interview, TEPJF judge, 7 May 2015.
- 59 “Confirman obligación de partidos paridad de género en elecciones en Morelos.” *Siempre!* 15 March 2015.
- 60 “Baja California Sur incluye paridad para ayuntamientos.” *Ciudadanía Express*, 1 April 2015; “Paridad ‘sí’, pero para la próxima.” *La Crónica*, 18 March 2015.
- 61 “Baja California Sur incluye paridad para ayuntamientos.” *Ciudadanía Express*, 1 April 2015.
- 62 “Más mujeres en el poder, a 60 años de ejercer el voto.” *Express Zacatecas*, 3 July 2015.

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63 “Principio de paridad de género causa crisis interna en el PRD Guerrero.” *Proceso*, 30 March 2015.

64 “Declara TEPJF improcedente paridad de género en Edomex” *Proceso*, 17 April 2015; “Nuevo León, Sonora, y Edomex no tendrán paridad horizontal esta elección.” *Excélsior*, 29 April 2015; “Paridad no estará en elecciones para alcaldías, decide TEPJF”, *Milenio*, 9 April 2015.

65 Alanis Figueroa and González Oropeza, Voto Particular, SG-JDC-11138/2105.

66 Press Release, Mujeres en Plural, Mexico City, 5 May 2015.

67 “Paridad de género e inconstancia.” *La Crónica*, 5 May 2015.

68 “Baja California Sur incluye paridad para ayuntamientos.” *Ciudadania Express*, 1 April 2015.

69 Interview, TEPJF judge, 4 May 2015.

70 Interview, TEPJF judge, 4 May 2015.

71 Press Release, Mujeres en Plural, Mexico City, 5 May 2015.