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Senedd Cymru | Welsh Parliament

Y Pwyllgor Biliau Diwygio | Reform Bill Committee

Bil Senedd Cymru (Rhestrau Ymgeiswyr Etholiadol) | Senedd Cymru (Electoral Candidate Lists) Bill

Ymateb gan Larissa Peixoto Gomes, Prifysgol Caeredin | Larissa Peixoto Gomes, University of Edinburgh

What are your views on the general principles of the Bill and the need for legislation to deliver the Welsh Government's stated policy objective (to make the Senedd a more effective legislature by ensuring it is broadly representative of the gender make-up of the population)?

Although the percentage of women in the Senedd rivals that of other countries, it is important to realise that this is not a guarantee. The current electoral success of Welsh women is likely due to the proportional aspect of the current electoral system and is not reproduced at the local level. The change in number of seats and other electoral rules does, indeed, lead to uncertainty and unpredictability regarding the gender equality of representatives alluded to in the Senedd Cymru (Electoral Candidate Lists) Bill's memorandum (point 31). This is otherwise demonstrated by other countries' experiences when overhauling electoral legislation and whether by accident or design creating ineffective gender quotas.

- **Bolivia:** strong wording on placement and sanctions (rejection of the list), quickly led to parity in Bolivia, however that was harder to achieve in the majoritarian districts (horizontal parity) and was more immediate in the areas with proportional representation. Similar designs are found in Ecuador, Costa Rica, and Mexico.
- **Brazil:** candidate quotas with a proportional, open-list system, with a 30% candidate gender quota. However, it also simultaneously increased the number of overall candidates by 50%, effectively 'watering down' the mechanism given that open lists do not have placement mandates. Sanctions were also weakly worded, leading to low compliance (Almeida and Gomes, 2018).
- **Croatia:** weak wording at the initial stages, as well as weak sanctions once tougher language near-parity lists were imposed. Specifically, the country moved from invalidating lists to financial sanctions, which political parties were willing to suffer (Lulić and Tucak, 2017).

- France: the association of gender quotas in a majoritarian system with presidential elections seems to create an effect of women being more likely to become elected if they are in the president's party, with the important reform to the electoral calendar that joined Assembly and presidential elections (Cunha Silva and Crisp, 2022).
- India: for the state of Jharkhand, reserved seat quotas for council head positions were found to have positive effects for immediate elections, but no evidence of impact on 'lower hierarchy positions' was found (Motghare, 2023).
- Indonesia: similarly to Brazil, parties were originally urged to consider quotas, rather than have them imposed (Hillman, 2018). Despite tougher language being introduced, again similarly to Brazil, Indonesia introduced an open-list system, which significantly increased the individual cost of elections, effectively marginalising and excluding women.

Comparative analyses also show that the majority of quotas, whether voluntary or legislated will have diminished returns over time. They also point out the relevance of cultural context, campaign financing, party adherence, and force and enforcement of sanctions. These demonstrate that the combination of different rules may create outcomes that render the gender quota ineffective – and this includes the current disposition of the proposed rules in Wales.

The parliamentary institution was created by men and for men, and it is important to understand gender quotas not as a temporary fix or a shortcut but as a standing rule that ensures the bare minimum of societal representation. Women's exclusion and marginalisation over centuries has made them into an outsider group, while men, as the mainstream, enjoy the status of the mainstream and of being political individuals – they then believe their achievements are due to merit rather than reinforced institutions of power inequality. Any challenge to this status quo will receive backlash, calling into question the qualifications of women, their interest in politics, their ability to adapt to the political environment. Consequently, it is essential that the Bill is perceived as a natural step in Wales's path towards a more equal Wales.

What are your views on the system of enforcement and potential sanctions for non-compliance proposed in the Bill?

While compliance and sanctions have been referred to in the legislation as the responsibility of the returning officers and the national nominations compliance officer, these are temporary positions that will exist only during elections and will not have the support of a full government agency. The Electoral Commission has also been insufficient in resolving electoral issues in Wales. The development of an agency that would function year-round to keep ahead of any electoral issues and to organise elections in Wales would create a trained and dedicated staff that could ensure the quality of services.

Verifying compliance with gender quotas as established in the Senedd Cymru (Electoral Candidate Lists) Bill should be relatively straightforward as the quantity of lists are manageable and there is the requirement of self-identification. In Bolivia, some men registered themselves as women in order to secure better positioning and possibly to attempt an argument at how easy it would be to evade compliance (Albaine, 2016). In Brazil, changes in finance legislation saw candidates change their self-declared ethnicity or skin colour from the previous election. While self-identification is the only option, when registering to run, candidates should bring ID, whether it is their driver's licence or gender recognition certificate. This should not be controversial given that an ID is also demanded of voters.

It is strongly suggested that submission be made electronically to facilitate data management and that lists include both the candidates' names and gender. Given the interest in understanding more about Welsh political actors, it would behove any Welsh electoral authority or the Welsh Government and the Senedd to collect other information at the application stage on candidates, such as age, ethnicity, schooling.

Information on countries that also collect and make available this data is sparse, however it can be easily anonymised if deemed necessary. Several countries provide data to some extent, often not fulfilling all open data parameters, or with some key variables omitted. Brazil and France were identified as countries with largest number of variables associated to each candidate, including gender, birthdate, civil status, among others. Some countries that have data to some degree were Peru, Sweden, Costa Rica, and Mexico.

Most countries that have achieved successful results with gender quotas have imposed strong sanctions, the most common being the whole list being expunged. While pecuniary sanctions also exist, often parties perceive this as an acceptable cost, given that they will not have to make the financial and administrative investments required to comply with the rule. Moreover, compliance only works with enforcement; even in the case of strong sanctions, if parties are aware that they will not be enforced, they will not comply.

Are there any potential barriers to the implementation of the Bill's provisions? If so, what are they, and are they adequately taken into account in the Bill and the accompanying Explanatory Memorandum and Regulatory Impact Assessment?

Are any unintended consequences likely to arise from the Bill?

Wales has had more success with inclusion of women at the national level than at the local level. This requires further study, as the pipeline to politics often takes the path from local elected office to regional or national elected office. The lack of uniformity among electoral systems in councils in Wales might contribute to this, and imposing a gender quota system at

the national level only will reinforce this. Parties should consider internal quotas for their council runs in order to build a consistent pipeline of candidates towards the national level.

Women are often socialised away from politics and perceive themselves as not qualified to run for office despite evidence to the contrary. Even when interested in politics, women might perceive that space as too acrimonious and feel their efforts are better spent elsewhere.

Given that the number of women candidates for the Senedd is much lower, a concern might be raised that not enough women might be in place to be selected for lists. This argument has been made in other countries, such as Mexico, which saw the issue brought to the judiciary and lists being complied with eventually.

It is the responsibility of the Welsh Government, the Senedd, all councils, any electoral authority, and all parties to include citizens in politics and to develop their political knowledge. In this instance, political parties should find strategies to incorporate citizens in their routine and consider that this might require daycare facilities and non-traditional meeting times. Additionally, closed lists require that list placement be something discussed within parties and that internal democratic procedures be carefully considered so that informal practices do not obstruct ethical and meritocratic procedures.

A serious possible consequence that would affect recruitment and women MSs is threat of and violence. Violence in politics in Wales has been identified as a problem overall, particularly for women. The establishment of strongly enforced quotas in other countries such as Bolivia, Costa Rica, Ecuador, and Mexico saw the rise of violence against women in politics, ranging from psychological and symbolic violence to physical violence, and death threats from men alternates. Despite not yet having quotas, in 1998, Brazil saw the murder of federal deputy Ceci Cunha by her alternate, with the aim of taking her position.

It is notable that these cases should arise more often in places where placement on the list ensures parity and sanctions are the list being expunged rather than fines and, most importantly, enforced.

The Bill bars single-person lists composed by a man, essentially preventing a small party from running if it has no other candidate. In odd-numbered lists, they must have more women than men. These rules create incentives for faux candidacies by women, whereupon parties ask women to run and resign once the election is over, doing so willingly whether by financial incentive or by promise of another position. This can also create incentives for pressuring women to resign in favour of men, including physical violence.

One way to circumvent this would be to remove the provision of single-person lists, either by banning single candidates or by removing the gender requirement. Another would be a requirement that if an elected woman needs to resign her post, the next woman on the list will be her automatic alternate. Only if no woman is present (i.e., she was the penultimate

on the list), can a man replace her; in this case, a request for cause of resignation might be required.

What are your views on the Welsh Government's assessment of the financial and other impacts of the Bill?

What are your views on the balance between the information contained on the face of the Bill and what is left to subordinate legislation? Are the powers for Welsh Ministers to make subordinate legislation appropriate?

Do you have any views on matters relating to the legislative competence of the Senedd including compatibility with the European Convention on Human Rights?

Do you have any views on matters related to the quality of the legislation, or to the constitutional or other implications of the Bill?

The Bill has been criticised for favouring one gender over another and thus going against equalities legislation. Other countries, such as Brazil and Croatia have faced similar challenges and worded their legislation without referring to a specific gender, for example, XX% of candidacies are reserved for either gender, that should be placed in alternate positions in closed lists (in the case of Croatia). This demands a binary understanding of gender limited to cisgender men and women, and that horizontal parity is also contemplated by indicating that lists must be headed by alternating genders.

Are there any other issues that you would like to raise about the Bill and the accompanying Explanatory Memorandum or any related matters?

This evidence has sought to demonstrate some of the pitfalls that might occur as a result of the Senedd Cymru (Electoral Candidate Lists) Bill based on evidence from other countries' experiences.

At the national level, Wales has achieved a higher degree of gender equality than other countries, but the overall reform in electoral rules might have a negative impact on that. A gender quota avoids possible issues and signals Wales's commitment to gender equality in politics. This document has suggested the following:

1. That an electoral management body be instituted to manage Welsh elections, data, research, and political inclusion year-around. Regarding the implementation and upkeep of gender quotas, an EMB would be key in:

- a. The socialisation of the Welsh population towards introducing more women into politics.
 - b. Data collection and research into diversity in politics and the effectiveness of the quota.
 - c. Ensuring violence in politics, including violence against women in politics, is properly investigated and penalised.
 - d. Ensuring that quotas are complied with and enforcing sanctions when not.
2. All political organisations need to design and deploy a strategy of political inclusion to develop future candidates.
 3. Political inclusion is particularly needed at the local level to ensure the same degree of gender equality for local councils despite the gender quotas not applying to them.
 4. Sanctions should be strongly worded, and at the example of other nations, expunge lists rather than (only) set pecuniary fines.
 5. Candidates must bring IDs to register their candidacies.
 6. Single-person lists should be reconsidered and in case of the resignation of an MS, rules should be in place for alternates to be of the same gender, discouraging political violence (including psychological pressure to resign).
 7. To prevent legal challenges to the Bill on the basis of equalities legislation, rewording could be considered to state that both genders will be represented in equal percentages. This comes with the caveat of understanding gender as a binary and further consideration of non-binary persons is suggested.

One issue neglected in this document is job sharing. Closed lists with alternating genders might pose practical issues regarding job-sharing measures that have also been discussed in the Senedd and in other evidence. This should be carefully considered as it was suggested that job sharers be a single legal entity, and this might impact the gender balance of the Senedd.

Anything else?

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