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Elected Bodies: The Gender Quota Law for Legislative Candidates in Mexico

In the past decade, 21 countries have adopted gender quota laws that require between 20% and 50% of all legislative candidates to be women. What explains the adoption of these laws? I argue that three factors make politicians more likely to adopt gender quota laws. First, electoral uncertainty creates an opportunity for internal party reform that factions within a party can exploit to their advantage. Second, the courts play an important role because of the centrality of the issue of equal protection under the law to gender quotas. Finally, cross-partisan mobilization among female legislators raises the costs of opposing such legislation by drawing public attention to it. I examine these three claims with regard to Mexico, where the federal congress passed a 30% gender quota law in 2002.

I'd give up my seat for you if it wasn't for the fact that I'm sitting in it myself.

—Groucho Marx
(quoted in Abdela 2001)

[Many Latin American countries] have 'homosexual' political systems, that is, the power of the political parties and the state is in the hands of only one of the sexes. . . .

—Line Bareiro, Paraguayan feminist
(Bareiro and Soto 1992, 11)

The participation of women in politics has become an increasingly salient issue in recent years. Countries throughout the world have pursued various ways to increase the number of women active in political life. One of the most popular measures to boost the presence of women in politics is the adoption of gender quotas. There are several different kinds of gender quotas. The most common are party-level quotas, which individual political parties adopt and implement on a purely voluntary basis. As of August 2003, 122 parties in 58 countries had

some kind of quota provision in their internal statutes (IDEA 2003). Many people associate the high levels of female legislators in several of the Scandinavian countries with the quotas that leftist parties there adopted in the 1970s.¹

Another kind of quota is the gender quota law, which applies to legislative candidates at the national level. Twenty-one countries have laws that require all political parties to nominate a minimum percentage of women as candidates for national legislative office (see Table 1). The quota in these countries ranges from 20% to 50%. Worldwide, national gender quota laws generate an 8 percentage point increase in the number of women elected to parliament (Htun and Jones 2002).² Argentina was the first country in the world to adopt a gender quota law, in 1991. The Argentine law requires women to constitute at least 30% of candidates and stipulates that at least one woman be placed in every third spot on the electoral lists. Argentina is the most dramatically successful case; after the law took effect, women's share of seats in the Chamber of Deputies rose from an average of 4% to an average of 27% (Jones 1998). Mexico, the focus of this article, is one of the most recent cases. The Mexican Congress adopted a gender quota law in 2002 and implemented it for the first time in the mid-term legislative elections held in July 2003.

The widespread adoption of these measures is puzzling because gender quotas appear to violate one of the most widely held assumptions about legislative behavior in political science—that elected officials seek to protect their positions. Even in countries where legislators cannot be reelected, holding office is a highly sought-after prize, often critical to advancing one's political career (Carey 1996). Why would predominantly male legislatures adopt measures that would ostensibly limit men's chances to be nominated for political office? As one Uruguayan legislator stated during a debate on gender quotas, "We're talking about giving up positions of power here, and nobody likes to give up power."³

A growing literature identifies five main explanations for the adoption of gender quotas: electoral system factors, international influence, political culture, mobilization, and electoral concerns (Allwood 1995; Bruhn 2003; Caul 2001; Costain N.d.; Htun and Jones 2002; Lubertino 1992; Meier 2000b; Short 1996; Squires 1996). I will examine these arguments below. Yet existing accounts have overlooked three factors that strongly influence support for quotas: domestic political context, the courts, and cross-partisan support.

The adoption of quotas depends in part on domestic political context, specifically, the nature of competition within a party system.

TABLE 1
Gender Quota Laws for Legislative Candidates
at the National Level

Country	Quota	District Magnitude	Year Adopted
Argentina	30%, every 3d spot	6.24	1991
Armenia	5% of PR lists	1.72	1999
Belgium	No more than 2/3 of same sex; top 3 cannot be of same sex	7.5	1994, 2002
Bolivia	30% in Chamber, 25% in Senate, for safe seats; increases 5% each election until 50% reached	14.44	1997
Bosnia/Herzegovina	1/3	na	1998
Brazil	30%	18.68	1995, 1997
Costa Rica	40% of electable seats	7.83	1996
Dominican Republic	25%	3.96	1997
Ecuador	20% of PR seats	2.94	1997
France	50%	1	1999
Guyana	33%	53	1996
Indonesia	30%	18.5	2003
Macedonia	30%	na	na
Morocco	30 of 325 from women-only districts	3.5	na
Mexico	30% of single-member districts; 1 of every 3 spots for PR lists	2.9	2002
Nepal	5% of Chamber candidates; 3 seats in Upper House	2.7	1990
Panama	30% of Chamber candidates	1.68	1997
Paraguay	20%	4.44	1996
Peru	30%	120	1997, 2001
Philippines	Women must be included on lists	1.04	1995
Serbia & Montenegro	30% for Serbian Chamber candidates; no quota for Montenegro	na	2002

Sources: IDEA 2003; Inter-Parliamentary Union 2003; Jones 1995.

Parties facing electoral uncertainty are more likely to consider internal reforms when factions within the party challenge the status quo. In the context of transitions to democracy in Latin America, the advent of electoral competition has, in many cases, prompted political parties to democratize the way they make decisions, particularly with regard to candidate nominations. Faced with competition, parties have considered two kinds of reforms in particular: primary (or direct) elections and gender quotas. Although not necessarily opposed to one another, these two types of nomination rules tend to favor different constituencies within political parties. Primaries favor more-competitive candidates and strengthen the power of individual candidates relative to party leaders. Candidate quotas benefit particular groups and strengthen, or at least consolidate, the power of party leaders relative to candidates. Some party leaders have supported gender quotas in an effort to promote gender equity—and thus look more democratic—while maintaining their control over the nomination process. In other words, gender quotas provide a democratizing alternative to primary elections. Party leaders seeking to protect their interests have proven powerful allies for gender quota advocates. Gender quotas are thus most likely to be adopted during periods of uncertainty with regard to electoral outcomes, especially when women hold leadership positions within a particular party.

The adoption of gender quotas is not purely an electoral story, however. Courts have also played an important role because the most powerful argument against gender quota laws is that they violate constitutional guarantees of equal protection under the law. When a quota law is under consideration, legislators take into account the likely outcome of a constitutional challenge in the Supreme Court.

Finally, although several authors argue that cross-partisan mobilization by women plays an important role in quota law passage (Jaquette 1997; Jones 1996), these authors have not identified the conditions under which cross-partisan alliances will form or the strategies such alliances will use (but see Krook 2001). A shared condition of systematic exclusion from candidate slots can facilitate the formation of a strong, well-organized lobbying campaign on behalf of women from all the major parties. Cross-partisan coalitions of female politicians who can credibly threaten to denounce their male colleagues as sexist for opposing quotas represent a powerful pro-quota force. Such a coalition can force legislators to adopt a variation of the “blame avoidance” described by Kent Weaver (1988): politicians adopt a particular measure not to claim credit for it, but to avoid being punished for failing to adopt it. Parties have adopted gender quotas in order to avoid being publicly portrayed as chauvinist.

I examine these claims with regard to Mexico, a country whose notoriety for *machismo* makes it an unlikely candidate for the adoption of gender quotas. Furthermore, the prospects for passing an *effective* quota law, or any women's rights legislation for that matter, did not seem promising after the victory of Vicente Fox of the center-right National Action Party (PAN) in the 2000 presidential election (Lamas 2002; Stevenson 2001). The conservative stance on women's issues among most of the male leaders in the PAN and the party's classical liberal orientation made it seem highly unlikely that PAN legislators would support a bill strengthening affirmative action measures for women.

In Mexico, two of the three main political parties (and several of the minor ones) adopted voluntary, party-level quotas in the early 1990s. The Mexican Congress followed suit by passing a relatively weak quota law in 1996, which "recommended" that neither gender shall hold more than 70% of the candidate slots for parliamentary office. The law proved ineffectual because it permitted the parties to comply by nominating women to alternate spots (*suplentes*) and did not stipulate a placement mandate, which meant that women could be clustered in unelectable spots at the bottom of a list.

On April 30, 2002, the Mexican Congress passed a much stricter version of the law that applies to the main candidates (*propietarios*), not to the alternates. Mexico has a mixed electoral system in which 300 deputies are elected by plurality vote in single-member districts (SMDs) and 200 deputies are elected by a proportional representation system (PR) in 5 districts of 40 candidates each. According to the new reform, lists of candidates for deputy and senator "in no case will include more than 70% of the same sex." In the proportional representation lists, women must hold at least one of every three spots, and the sanctions for noncompliance are strict. In Mexico, as in many other countries, the quota law passed with a nearly unanimous vote. The new quota law was implemented for the first time in the midterm legislative elections held July 6, 2003 (Mexico 2002).

This article examines how this surprising outcome transpired. How did a strong, enforceable gender quota law pass in Mexico—with strong support—despite apparently unpropitious conditions? My answer draws primarily on interviews conducted with male and female leaders of the three major parties—the Institutional Revolution Party (PRI), the Party of the Democratic Revolution (PRD), and the PAN—during fieldwork trips to Mexico City in July 2002 and May 2003. I also analyze party documents, accounts of the issue in Mexico's leading newspapers (*El Universal*, *La Reforma*, and *La Jornada*), and reports from *cimacnoticias.com*, an online agency for news about women.

Existing Arguments

The literature on gender quotas identifies five factors that explain quota law adoption. The first set of arguments explains the adoption of gender quotas in terms of *electoral system factors*, particularly in light of findings that electoral rules have gendered effects, with women more likely to be elected in proportional representation systems than in majoritarian ones (but see Matland and Studlar 1996; Rule and Zimmerman 1994). Larger district magnitudes also increase women's chances of getting elected. Competition among candidates decreases as district magnitude increases; the more seats there are in a district, the easier it is to get selected as a candidate (Darcy, Welch, and Clark 1994; Matland and Brown 1992; Matland and Taylor 1997). From this perspective, quotas are less likely to be adopted in single-member district systems because the stakes are too high; they are more likely to be implemented in systems characterized by high district magnitudes. This difference would seem to explain why countries such as the United States and Chile have not adopted quotas. Several countries with single-member districts have adopted gender quota laws, however, most notably France and Mexico, while countries with large district magnitudes, such as Uruguay, have not.

Another aspect of electoral systems that could affect whether or not members of Congress support a gender quota law is the possibility of reelection. Legislators might be more likely to support quotas if their chances of being reelected are slim because such measures will not affect their future careers. Yet this hypothesis is unsupported in two important quota cases, Costa Rica and Mexico, where members of Congress can serve only one term. In these and many systems, individual legislators pursue their interests by forming alliances with party leaders and closely toeing the party line.

A second set of arguments attributes gender quotas to *international influence*, including changing norms and transnational activist networks. The United Nations Convention to End All Forms of Discrimination against Women (CEDAW), which 168 countries have signed, stresses the importance of women's participation in political decision making and calls for the adoption of "temporary special measures aimed at accelerating de facto equality between men and women" (UNIFEM 2003). The promotion of women in decision-making positions figured prominently in the Platform for Action developed at the United Nations Conference on Women in Beijing (1995). Beijing in particular legitimated the issue of women's representation, helped establish new international norms regarding women's rights, and gave

transnational activists in many countries the tools they needed to pressure for quotas at home (Htun and Jones 2002; Lubertino 1992; Meier 2000b; Stevenson 2000). As Kathleen Bruhn (2003) points out, however, Beijing did not set the quota law adoption process in motion; two of the main political parties in Mexico adopted quotas before 1995. Furthermore, international influence led to reform in some countries but not all.

Some scholars highlight a third variable, *political culture*, and argue that gender quota laws tend to be implemented in countries characterized by egalitarian political cultures (Bystydzienski 1995; Inhetveen 1999; Lovenduski and Norris 1993; Squires 1996). For example, Meier (2000a) argues that politicians in Belgium adopted gender quota laws with relatively little debate because the laws were consistent with a political culture premised on consociational notions of group representation. Latin America also has a strong tradition of group rights, based on a corporatist model of sectoral interests (Wiarda 2001). In one sense, gender quotas reflect a fundamental part of Mexican political culture, extended to women and formalized by law.

Pressure exerted on legislators by women's organizations and female party leaders is a fourth explanation for the adoption of gender quota laws. Quota laws are more likely to be adopted in response to *popular mobilization* in Europe (Krook 2001), in Latin America (Htun and Jones 2002; Jones 1996; Stevenson 2001), and elsewhere (Jaquette 1997; Lovenduski and Norris 1993). Women in political parties are particularly skilled at mobilizing voters in support of their cause and are well positioned to do so. The higher the percentage of women in leadership posts within a party, the more likely that party is to adopt voluntary candidate quotas (Caul 2001; Short 1996). As I have argued elsewhere, framing issues in terms of women's shared experiences of exclusion will trigger cooperation across partisan lines (Baldez 2002; Baldez 2003). A focus on women's exclusion from the political process thus increases support for gender quotas (Jenson and Valiente 2003; Krook 2001).

A fifth explanation for the adoption of gender quota laws relies on a straightforward *electoral story*: male politicians support gender quotas in an effort to win female votes in elections when the outcome is uncertain and gender quotas are perceived as salient to a constituency whose votes may be pivotal (Howard-Merriam 1990; Htun and Jones 2002; Matland and Studlar 1996). Politicians adopt gender quota laws for eminently pragmatic reasons, particularly to boost their support among women and close the gender gap (Allwood 1995; Allwood and Wadia 2000; Costain 1992; Costain N.d.; Stevenson 2001). This view makes sense if we consider that women compose the majority of the

electorate in many countries and female voters may constitute an important set of swing voters in close elections. From this perspective, gender quotas allow politicians to exploit a gender gap in voter support and claim credit with their female constituents (Mayhew 1974). Gender gaps in voting translate into behavioral change only if political entrepreneurs use them as leverage for their concerns, however. Mueller (1988) argues that politicians in the United States did not respond to a gender gap in voting behavior until women's organizations brought it to the attention of the public (see also Matland and Studlar 1996).

Domestic Political Context and Party Competition

Democratization of party systems is an important aspect of democratic consolidation in Latin America. As democracy has swept across the region, Latin American political parties have faced considerable pressure to get rid of the "dinosaurs" and to reform their internal rules. The advent of electoral competition has further fueled the drive to make party practices more open and transparent. Candidate selection, a notoriously opaque process in most Latin American countries, has been one of the main areas targeted for reform. Traditionally, the candidate selection process for most Latin American parties has been highly centralized; party leaders handpick their preferred candidates for parliamentary elections. Demands for internal democratization have been critical to the adoption of gender quota laws.

Candidate nomination rules can be categorized according to a continuum based on the "size of the selectorate," ranging from one person, when a single party leader imposes his or her choices, to many, in the case of open primaries (De Luca, Jones, and Tula 2002). Party leaders generally want to maintain control over the nomination process in order to ensure loyalty and foster party discipline. As Alejandro Poire argues, "Centralized candidate selection procedures allow leaders to extract discipline from incumbents in exchange for their support in securing the party's nomination" (2002, iii). But the "mandate" form of appointing candidates becomes untenable if parties lose control over the kinds of resources they need to reward loyalty.

Women's rights advocates have demanded gender quota laws as a different way to democratize candidate selection rules. Quotas open up the process to women by enhancing their representation in a descriptive sense. Although primaries and gender quotas both constitute efforts to reform the rules by which parties select candidates, they cut against one another in several important ways. Primary elections take the power out of the hands of party leaders, whereas quotas

consolidate the power of party leaders over candidate nominations while casting the democratic light of gender equity on the status quo. From the perspective of party leaders, gender quotas provide a way to gain women's support while preserving an important source of control over the process of candidate selection (Goetz 1997).

Primaries also tend to favor the election of men. Candidates who are well known and have substantial resources at their disposal do better in primary elections (Poire 2002). In most parties, these "affluent" candidates tend overwhelmingly to be men. Female party members thus have supported gender quotas in part because they believe the policy has popular appeal and will win electoral support for their parties, but also because they hope to mitigate the gendered effects of direct elections. In short, under many circumstances, gender quota laws pit advocates of gender equity directly against advocates of decentralization of power within political parties.

Conflicts regarding candidate nomination procedures have been particularly salient in the context of changes in Mexican politics in the past two decades, as increasing electoral competition gradually dislodged the PRI from its hegemonic position as the governing party in a one-party state. Opposition parties have long existed in Mexico, but the PRI's control over resources and the rules of the game sharply curtailed the opposition's ability to influence policy. In 1988, the PRI faced its first significant electoral challenge. The "political earthquake" that this election triggered dramatically transformed the terrain of Mexican electoral politics and led to significant reforms in the way the PRI nominated candidates (Langston 2001).

The first party to adopt a voluntary gender quota in Mexico was a small party on the left, much as Matland and Studlar (1996) would have predicted. In the wake of his defeat in the 1988 election, losing presidential candidate Cuauhtemoc Cardenas formed a new party, the Revolutionary Democratic Party (PRD), composed largely of leftists who defected from the PRI. Many PRD members left the PRI out of frustration over being ignored in the candidate nomination process, so—not surprisingly—internal democratization became a particularly salient issue for the new party, one of its "fundamental political principles" (Bruhn 1997, 171). The PRD's commitment to internal democracy represented an effort to separate itself from "the PRI's history of authoritarian decision making and quotas of influence" (Bruhn 1997, 171).

Despite its ostensible antipathy for quotas, the PRD was the first party in Mexico to adopt one for women. The PRD's support for women's rights was consistent with its left-leaning agenda. In 1990, the PRD passed a 20% quota for women in leadership positions, an

effort led by female party leaders Rosario Robles and Amalia García (Stevenson 2000, 207). Yet the party relied on primaries to select its candidates for the 1991 congressional elections. Bruhn (1997, 180) characterized the PRD's nomination process as "perhaps the most democratic internal procedures of any party" in Mexico at the time. In terms of the number of female candidates it nominated, however, the PRD "came in dead last," tenth out of ten parties competing in the election. The direct elections' negative impact on women prompted Robles and García to redouble their efforts at the 1993 party congress. They persuaded the party to apply the 20% quota to candidate lists for the PR spots for federal and state elections, a resolution that the party voted to approve by a narrow margin (Stevenson 2000, 210). The PRD's early experiences demonstrate the gendered dynamics between quota laws and primaries in a context of heightened electoral competition.

The PRI had no internal elections in 1991 but still nominated very few female candidates, putting it in ninth place (Bruhn 1997, 180). The 1991 elections were fiercely competitive because the PRI pulled out all the stops to regain its hegemonic position; women fared poorly as a result. After the election, the PRI sought to improve women's status with a legislative measure to increase women's participation. On September 11, 1993, the PRI-dominated Congress amended the electoral law to read: "The political parties will promote, in terms determined by their internal statutes, greater participation of women in the political life of the country by way of their nomination for popularly elected positions" (Stevenson 1999). This law did not stipulate a formal quota and included no enforcement mechanism. Later that year, the PRD upped the ante by adopting a 30% quota for internal and legislative candidates, which stipulated that one of every three candidates be of a different gender. The party nominated more female candidates in 1994 than it had in 1991, but it still fell short of its own quota, with women holding approximately 25% of all nominations (Bruhn 1997, 180). The party's failure to enforce its own quota led women to support a national law.

In the PRI, meanwhile, a series of crises that occurred in 1994 further enhanced the ability of groups within the party to reform the statutes regarding candidate selection (Langston 2001). The Chiapas rebellion and the assassination of presidential candidate Luis Donaldo Colosio threw the party into chaos. At its January 1996 convention, under the leadership of María Elena Chapa and a group called Women for Change, the PRI approved a recommendation to field no more than 70% of candidates of the same gender on its electoral lists (Stevenson 1999). In November 1996, the PRI-dominated Congress wrote this measure into law, amending Article 1 of the electoral law to read: "The

political parties will consider in their statutes that the candidates for deputy and senator will not exceed 70% for the same gender. They will also promote greater political participation for women” (Stevenson 1999). The parties adhered to the quotas in a minimalist way, interpreting the “no more than 70%” clause as a 30% ceiling for women and taking advantage of Mexico’s system of electing two candidates for every legislative seat—a *propietario* and an alternate, called the *suplente*—to minimize the impact of the change. As mentioned earlier, women were overwhelmingly nominated to positions as *suplentes* rather than as *propietarios*, a practice known as putting women in as “filling” (*mujeres de rellena*).

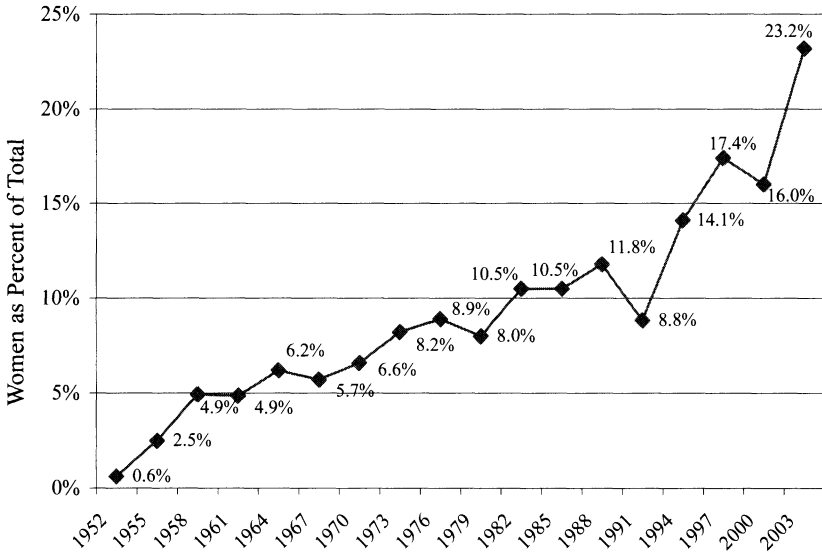
During this period, women rose to prominent leadership positions within the PRI and the PRD and, to a lesser extent, in the PAN. Within the PRI, María de los Angeles Moreno became president of the Senate in 1997, and President Zedillo appointed several women to his cabinet. Beatriz Paredes became head of the peasants’ sector, and Elba Ester Gordillo, former head of the powerful teachers’ union, led the popular sector (Rodríguez 1998, 14). Women also ascended to key positions in the PRD: Rosario Robles was the mayor of Mexico City, and Amalia García was elected president of the PRD.

Nonetheless, existing quotas had little effect. Despite a decade’s worth of efforts to increase women’s representation, the percentage of women elected to Congress *decreased* in the 2000 election, as shown in Figure 1. One additional woman entered the Senate, but the percentage of women elected to the House of Deputies dropped from 17.4% in 1997 to 16% in 2000 (the percentage of women later rose to 16.8% when several male deputies stepped down from their posts and female *suplentes* took their places).

This reversal challenged assumptions that the election of women would continue to increase over time, a realization that prompted feminist legislators to intensify their efforts to pass an enforceable gender quota law at the national level. According to María Elena Chapa, feminists throughout the region realized that “in all the countries of Latin America, the number of women [elected] was dropping each election. We had 93 female deputies, and now [as of 2002] we have 82. In all these countries, why was the number of women falling, if we had been fighting for this for so many years?”⁴ Awareness of a broader pattern of decline fueled efforts to adopt quotas at home.

In this context of increasing electoral competition, the third major party resisted efforts to adopt voluntary quotas. The National Action Party formed in 1939 as a conservative Catholic party. Its base of support comes traditionally from the proclerical west and west-central

FIGURE 1
Women in Mexican Chamber of Deputies, 1952–2003



regions and, more recently, from fiscally conservative business sectors in the urban north. The party has an impressive history of “firsts” with regard to women, but its recent efforts to promote women’s rights have been ambivalent at best. The party firmly opposes efforts to legalize abortion, and its stances on other issues often reveal splits between progressive and conservative sectors. The other parties have made women’s rights a salient issue in their competition with the PAN, frequently accusing the party of espousing retrograde attitudes with regard to women.⁵ The PAN resisted gender quotas on the grounds that quotas were at odds with the party’s classical liberal ideology and incompatible with the party’s candidate nomination procedures. In comparison to the practices of its competitors, the PAN’s nominating process looks democratic—party members vote among slates of candidates in district-level elections—but the fact that party leaders carefully select which party members attend the nominating conventions tends to predetermine the outcome. The PAN was able to resist the gender quota phenomenon until 1999 because the party’s nominating rules remained stable throughout this period, and few women held leadership spots in the party. In June 1999, the PAN changed its statutes in order to comply with the gender quota provision of the electoral law; a few months

later, in September 1999, party leaders agreed that each set of *propietarios* and *suplentes* for the proportional representation lists would include a woman and a man.

Efforts to adopt quotas intensified in 2001, following significant losses for both the PRI and the PRD in the 2000 election. In the PRD National Congress held April 2001, women led an effort to raise the level of their party's gender quota to 50%. The measure failed because of opposition from a left-wing faction within the party that opposed gender quotas in the name of decentralization and internal party democracy. The faction blocked parity and several other proposals that would have increased the power of the central leadership over candidate nominations. One of the proposals they blocked would have allowed the central committee to nominate closed lists of candidates for plurality seats, which would have made it easier to implement the 50% parity requirement.⁶ The parity measure failed, so the 30% party-level quota remained on the books for the PRD; currently, the party statutes require that neither gender hold more than 70% of the multimember district candidate spots or leadership posts.⁷ The PRD's failure to enforce these rules fueled support for a national law with tougher enforcement mechanisms.⁸

At the PRI's National Assembly six months later, in November 2001, quota advocates succeeded where the PRD had failed. The party adopted a parity measure that requires women to hold 50% of the party's candidates and leadership posts. Quota law advocates had three allies in positions of considerable power in the PRI: the president and vice-president of the party and the President of the Congress. Elba Ester Gordillo was elected as the PRI's vice-president on a ticket with Roberto Madrazo. Beatriz Paredes went on to become elected President of the Mesa Directiva of the Congress, the committee that sets the legislative agenda. By the middle of 2001, each of the three main parties—the PRI, the PRD, and the PAN—had adopted some kind of quota provision for women in its internal party statutes, but their interests relative to a national-level law differed significantly. Female leaders of the PRI and the PRD supported a quota law as a way to ensure that gender quotas would be enforced. Many male PRI leaders supported the law because it would reduce the candidate quota from 50% to 30%. High-ranking PAN officials vehemently opposed a quota law. How did quota supporters manage to overcome the PAN's resistance?

The Role of the Supreme Court in the Quota Debate

Changes in internal party rules are part of the story, but nonelective branches of government also play an important role in the adoption of gender quota laws. In Mexico, quota law opponents took the issue to the Supreme Court, claiming that the quota law provision of a state-level electoral law was unconstitutional on the grounds of equal protection. The Mexican Supreme Court ruled against this interpretation and upheld the state-level quota law. Its decision undermined the opposition to quotas and proved critical in the effort to pass a national law. The following section examines this series of events in more detail.

On November 16, 2001, the state legislature of Coahuila passed a gender quota law as part of a set of reforms to the state's electoral law. Coahuila is one of thirteen Mexican states that have added quota provisions to their electoral laws, all since 2000.⁹ The Coahuila law requires all political parties to promote gender equity and establishes a quota of no more than 70% of either gender for candidates for the single-member district deputy spots (Estado de Coahuila 2001).

On December 10, 2001, the National Action Party filed an action of unconstitutionality against the law, citing Article Four of the Mexican Constitution and claiming that "to establish a fixed, maximum percentage of one gender constitutes a failure to consider the principle of equality."¹⁰ Filing constitutional claims against quota laws is not unprecedented; courts found gender quota laws unconstitutional in France in 1982, Italy in 1993, and Colombia in 2001. In the United Kingdom, a quota adopted by the Labour Party was ruled illegal for an industrial tribunal in 1995. The strategic considerations behind the PAN's decision to file this claim are unclear, although it is likely that the PAN viewed the gender quota provision as giving an electoral advantage to the PRI, the PAN's main competitor in Coahuila. Moreover, the application of the gender quota to single-member district elections constituted a significant constraint on candidate nominations, a greater constraint than it would have had on multimember districts. Whatever the PAN's motivation, the move clearly indicates strong opposition to gender quotas on the part of the PAN's top national-level leadership.

One month later, on January 11, 2002, the PAN leadership tried to retract the case from the Supreme Court docket, acting under pressure from women in the party and negative publicity from other women's groups. In a press release, the party stated, "We have conducted a scrupulous analysis that leads us to conclude that the claim under consideration is out of step with the actions that the party has been taking over the past few years to actively promote the participation of

women in national political life and in the party.”¹¹

The Supreme Court balked at this maneuver. The justice in charge of the case, Sergio Salvador Aguirre Anguiano, rejected the PAN's efforts to remove the case from consideration, stating, “One cannot take a step backwards in terms of litigation; once presented before the Court, the tribunal must consider the case and determine whether the reforms in question are constitutional or not.” Aguirre's words testify to the Court's efforts to establish its legitimacy in Mexican politics: “It is not possible to comply with this request because it would negate the powers that the Constitution confers upon the Supreme Court, and because determining whether the articles in question are or are not constitutional, is a question that requires a thorough study of the topic.”¹² Aguirre's assertion of judicial independence is particularly striking when we consider that he is the only *panista* minister on the court.

On February 20, 2002, the Supreme Court announced that it had voted to uphold the gender quota stipulated by the Coahuila electoral law, by a vote of 8 to 2. Leading newspapers reported that the Court “set a precedent in electoral law” with this decision.¹³ Speaking on behalf of the majority, Minister Guillermo Ortiz Mayagoitia stated, “The Coahuila law is directed toward the political parties, not at the citizens, and therefore does not create any inequality among them.”¹⁴ Thus, the Court's decision rested on the principle that political parties have a different juridical status than do individual citizens. In other words, constitutional protections for individual equality do not extend to political parties. The majority ruling further affirmed the principle of group representation, arguing that “democracy as it is understood in the Constitution ‘consists in giving opportunity to the presence of underrepresented minorities.’”¹⁵

The motivations for the Supreme Court decision in the Coahuila case were twofold. The justices acted in part out of genuine support for a progressive agenda on women's rights, as they had with regard to the “Ley Robles,” a controversial law that liberalized abortion in Mexico City.¹⁶ The Supreme Court's ruling in this high-profile case was interpreted as support for women's rights.

The Court was also motivated by a desire to demonstrate its independence from the executive branch, whose preferences it challenged in both the quota and “Ley Robles” abortion cases. This view is consistent with the interpretation offered by Jeffrey Staton (2002). Efforts to establish separation of powers, particularly in Latin America amid the process of democratic consolidation, have made courts important players in policy debates. Changes in the relative autonomy of the main branches of government, as well as the centrality of the

question of equal protection, provide an opportunity for both advocates and opponents of quota laws to press their demands.

Additional research on judicial decision making is needed to understand the basis for the Court's decision more fully, but the decision on the Coahuila case proved critical for the passage of a national-level quota law. PRI Deputy María Elena Chapa, a longtime supporter of quotas, maintained that the decision "paved the way" for the passage of the quota law because it "cancelled out" the arguments of those who claimed that gender quotas were unconstitutional.¹⁸

Cross-Partisan Mobilization

Two weeks after the Coahuila decision, quota advocates in Congress moved to bring the quota issue onto the floor. On March 8, International Women's Day, PRI leader and President of the Executive Committee of Congress Beatriz Paredes convened two committees (Governance, and Gender and Equity) and instructed them to bring a gender quota bill before Congress by April 18.¹⁹

The quota issue divided PAN leaders. PAN President Luis Felipe Bravo Mena (who brought the Supreme Court case against the Coahuila law in the first place) opposed the law. Many Mexicans associated the PAN's view of quotas with a colorful statement that PAN leader Diego Fernández de Cevallos made at a conference of female *panistas* on March 16, 2002: "Do I believe in quotas? Frankly, no, because if we start with quotas, we would also have to look for, all of a sudden, *las cuotas para los jotos*."²⁰ *Jotos* is a Mexican slang term for homosexuals. But prominent female leaders in the PAN broke ranks with their male colleagues in order to support the bill.²¹

A united front among women from all the parties proved critical in building support for the bill. Women from the main parties had cooperated on several other women's rights issues in the 1990s, including laws penalizing sexual violence and domestic violence (Bruhn 2003; Stevenson 2000). As María Elena Chapa recalled in an interview,

We have worked as a plurality, a step that we learned in 1998, when female legislators from all the parties sat down together to put our causes that we had to resolve above our party ideologies. Together we passed the Law against Assault and Sexual Harassment in 1990, later—also working together—we won the approval of the Belém do Pará Convention regarding domestic violence, the Law against Domestic Violence, the National Women's Institute, and of course now the quotas, affirmative action."²²

PAN Deputy Gabriela Cuevas initially opposed the quota law on the grounds that it discriminated against women and stigmatized women

by not allowing them to participate on the basis of merit—but she changed her views after learning more about it from members of the Gender and Equity Committee.²³ Like other skeptics, she became convinced that there was no other way to increase the number of women elected (Bruhn 2003).

The real power behind women's ability to unite across partisan lines lay in the lobbying strategy that they used with their male colleagues. They predicted that male politicians would be more receptive to arguments made by a woman from another party. According to Chapa,

We strategically divided the negotiation among ourselves. It is more difficult for our male colleagues to say no when it is women from other parties who sit down with them to convince them [of a particular position]. It was an organized campaign, and there was much less resistance. To one's own female colleagues, it is much easier [for a man] to say "here come those annoying women [*esas latosas*] again." If a woman from another party comes, well then they refrain from making a judgment. In all the parties, [our male colleagues] are immersed in a culture that we cannot ignore.²⁴

A male PAN leader confirmed this point in an interview: "It's one thing to confront the women in your own party. But when you are up against women from the other parties, it's difficult to say no."²⁵ Ironically, women relied on traditional gender roles—in this case, men's gentlemanly deference toward certain women—to persuade them to support a measure aiming to undo traditional gender roles.

Women's ability to focus public attention on the quota issue proved critical to the passage of the law. The political entrepreneurship of Patricia Espinosa, PAN leader and Director of the National Women's Institute, was particularly noteworthy. The National Women's Institute harnessed the national media through the purchase of paid government advertising, an action Espinosa took at critical points in the legislative process. One example appeared on February 12, 2002, a week before the Supreme Court issued its decision on the Coahuila case. Espinosa published a statement titled "Quotas Are Necessary to Guarantee the Participation of Women in the Political Parties" in all three main national newspapers (*El Universal*, *La Reforma*, and *La Jornada*). Using government resources to pay for these ads allowed the National Women's Institute to circumvent the competition for media coverage and avoid uncertainty over the substantive content of media coverage.²⁶ By doing so, Espinosa took an internal party struggle into the public arena, expanding the scope of conflict and opening the doors of the smoky back rooms to let in the light of public attention. Her ability to build a constituency of support around women's rights issues gave her some autonomy and leverage within her party.

The extension of group rights to women may seem surprising in light of Mexico's reputation for *machismo*—yet public opinion polls revealed widespread support for women's rights and women's participation in politics, especially among young people. In a 1996 Gallup poll (cosponsored by the Inter-American Dialogue), 55% of Mexicans surveyed agreed that "this country would be governed better if more women were in political office," and 56% said that a presidential candidate's opinion regarding women's issues would be very important to them. Even more significant were the answers to a survey question specifically about quotas. The relevant question read, "As you may already know, women must comprise 30% of political party candidates in general elections. What is your general opinion of this quota for women—do you think it is mostly good for the country or do you think it is mostly bad for the country?" Among Mexicans, 67% of men and 68% of women replied "mostly good" (Inter-American Dialogue 1997). Nevertheless, public support for quotas became politically relevant only once quota advocates seized on it and used it to pressure legislators.

The pro-quota coalition was so confident in the high public support for quotas that they included "public censure" as a punishment for failure to comply. If a party submits a list that does not adhere to these rules, it has 48 hours to correct the problem. If, after 48 hours, the party has still not complied, then the Federal Electoral Institute (IFE) will issue a public reprimand (*amonestación pública*) against the party. If, after another 24 hours, the party does not correct the problem, then that party will not be allowed to submit any candidates for the district in question. The law does not apply to candidates for single-member districts who are chosen by means of primary elections. Many quota supporters, including PRD Deputy Hortensia Aragón, considered the public reprimand to be the most powerful component of the law: "We went directly to the public reprimand followed by the cancellation of the party's registry. We didn't want to fine them or reduce their [campaign finance subsidy]. . . no, no, no, no, the issue of gender is not a question of pesos and centavos."²⁷ PAN leaders preferred fines to a public reprimand, which suggests that they too considered financial punishment less costly (in electoral terms) than being portrayed as opposing women's issues in the midst of an election. A PRD deputy who spoke on the condition of anonymity said, "If we achieve nothing more than that the public reprimand be a reprimand with all the weight from all the media . . . that would be enough. Because that is the moment at which the parties are calling for women first and foremost to vote for them."²⁸ This deputy's desire to remain off the record further attests to the salience of this issue, as well as her expectations that the reprimand

would prove to be an important issue in the implementation of the law—expectations that, it turned out, were not realized in the election.

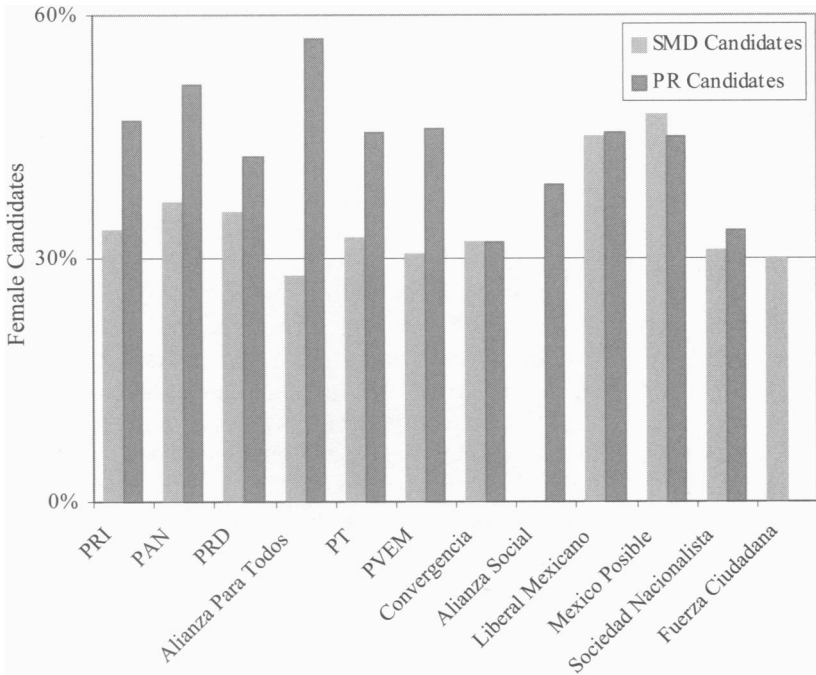
Women's lobbying efforts succeeded. One PAN leader confided that the party supported the bill for "pragmatic reasons, rather than out of conviction" and "for fear of the electoral consequences." He became convinced that "the other parties would jump on the opportunity to show that the PAN was against women," adding "we supported quotas because we did not want to put at risk all the other programs we have created for women."²⁹ As PAN leader Margarita Zavala stated in an interview, the party could not afford the negative publicity that would have arisen from a vote against the quota law: "We do not have the money to counteract the impact that voting against the quota would have in the media; this is what finally convinced the last holdouts, that we would have to explain why we voted as we did."³⁰ The results of the survey conducted by the Inter-American Dialogue and Gallup also influenced the PAN's decision to support a national quota law.³¹

PAN leaders ultimately supported the bill, but they sought to include amendments that would weaken its impact. The PAN succeeded in adding a clause that parties who chose candidates via primary election (*elección directa*) should be exempt from applying the quota. When the bill was under discussion, quota supporters did not believe this primary election exemption would be a significant issue. They did not consider any of the parties to hold legitimately competitive and democratic primary elections, and they believed that the Federal Electoral Institute would support this interpretation.³² In the end, the bill passed by a vote of 403 in favor, 7 against, and 12 abstaining. All of the bill's opponents, and all but one of the abstainers, were male PAN deputies. On May 1, the Senate approved the measure by a unanimous vote. President Fox signed it into law on June 30, 2002.

Implementation of the New Law

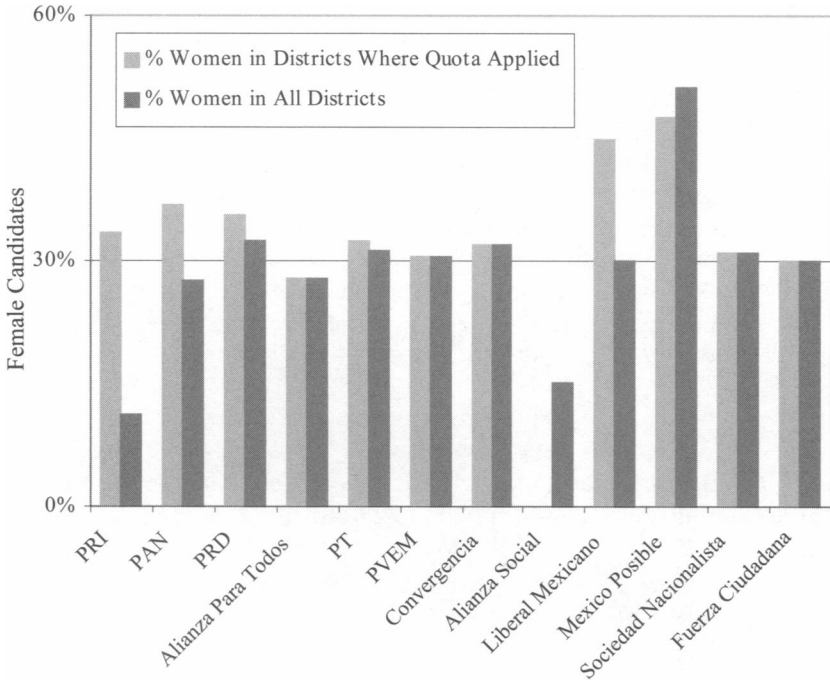
The law was implemented for the first time in the midterm legislative elections for the Chamber of Deputies held on July 6, 2003. As Figure 2 shows, all of the parties surpassed the 30% threshold for both the single-member district and proportional representation districts. The parties far surpassed the quota in the PR seats, with an average of 44% women across all the PR lists. Fear of being prevented from nominating *any* candidates ensured that the parties filled the quota. IFE Councilor Jacqueline Peschard stated in an interview that the parties complied fully with the law and "even overcomplied . . . because the penalty [for failing to comply] was so severe."³³

FIGURE 2
Quota Law Compliance, 2003 Election



Although the parties did comply technically with the law, they made ample use of the clause that exempts parties that hold primaries from fulfilling the quotas. This exemption proved critical in the 300 SMDs. Overall, across the 12 parties competing in this election, the majority of SMD candidates were designated by party leaders (78%) and a minority were chosen in primary elections (22%). Within the three major parties, however, almost half of the candidates were chosen in primaries (49.4%) and slightly more than half were designated by party leaders (50.6%). In other words, *the quota law applied to only half of the candidate slots for the three major parties*. For the PRI, the quota law applied to only a tiny minority of districts: 6 out of 300.³⁴ The PAN applied the quota to half of its districts, and the PRD applied it to 85% of its districts. Nevertheless, the parties nominated many women in the “non-quota” districts. Figure 3 compares the percentage of female candidates in the single-member districts to which the quota applied with the percentage of female candidates across all single-member districts, broken down by party.

FIGURE 3
Percent Female Candidates in Quota Districts vs. All Districts,
2003 Election



It is questionable how competitive and thus democratic the primary elections really were. The IFE does not regulate primary elections. One of the IFE Councilors explicitly admitted this fact in a general assembly meeting on April 18, 2003, the day the parties submitted their candidate lists: “The Federal Electoral Institute accepts the claims of the political parties [regarding whether the primary elections were competitive or not] as truthful and valid, inasmuch as they are institutions of good faith, whose affirmations must be taken as legitimate, unless proven otherwise” (Instituto Federal Electoral 2003). This issue—the degree to which parties chose candidates by primary election and thus avoided the quota—received little attention in the media.

Despite the limited application of the quota law, women won 23% of the seats in the Chamber of Deputies, up from 16% in the previous legislature. These results catapulted Mexico from 55th in the world ranking of women in legislative office to 23d, a spot it now shares with Switzerland (Inter-Parliamentary Union 2003). The 7% increase that

occurred in Mexico is just one point below the average increase that quota laws generate (Htun and Jones 2002).

Women expected public pressure to be a powerful tool to ensure full compliance with the law, but it was not. The reason the parties complied with the law was not because they feared public admonition. Instead, the possibility of being denied the right to nominate any candidates for office, a threat backed by the powerfully autonomous IFE, proved sufficiently great to ensure full compliance—and to encourage many of the larger parties to limit the number of districts in which they had to comply. The fact that the quota law had a significant impact despite these limitations warrants further investigation. A closer examination of these results (my next project) will build on existing studies of the impact of quota laws, both on the percentage of women elected to office and substantive differences in terms of policy and legislative behavior (Gray 2003; Jones 1996, 1998; Schmidt and Saunders forthcoming).

Conclusion

Gender quota laws are increasingly prominent landmarks on the electoral map, particularly in places that one might not expect to find them. This examination of the Mexican case highlights three factors that contribute to the adoption of gender quota laws: first, a climate of political uncertainty that provides opportunities for quota advocates; second, the likelihood that the Supreme Court will uphold gender quotas; and third, consensus among female leaders in various parties in support of gender quotas, coupled with the creative use of resources at their disposal.

The Mexican case demonstrates that, although electoral concerns are part of the story, nonelective branches of government have also played important roles in the adoption of gender quota laws. What about the counterfactual? Would the electoral reform have passed without the Supreme Court's favorable decision?³⁵ Perhaps. Yet the Coahuila ruling significantly reduced the bargaining power of PAN leaders opposed to the reform. The Court decision obviated objections that gender quotas violated constitutional guarantees of equal protection. If, on the other hand, the Court had decided *against* the Coahuila gender quota, then the federal law would definitely not have passed, and both the Coahuila law and other state quotas would likely have been struck down. The Court's willingness to challenge the executive on this issue proved critical to passing the law. More research on judicial behavior, particularly cross-national research, will help to determine the conditions under which courts are more or less likely to adjudicate on behalf of organized interests.

Shared experiences of being shut out from candidate slots precipitated the formation of a coalition of women across party lines. Women capitalized on their common interests and mobilized widespread public support for quotas to persuade reluctant colleagues to support the adoption of the quota law. In Mexico, public support for women's rights issues proved sufficiently high that politicians considered it unacceptable to oppose issues framed in terms of the need to incorporate more women into political life. This support indicates that a significant change in gender norms has occurred in Mexico, itself a point worthy of further study.

Gender quotas must be considered as a reform in the way parties choose their candidates, in the context of discussions about other measures to democratize party rules. In making connections among gender quotas, primary elections, and candidate nominations more generally, I have sought to shed light on the candidate recruitment process, a phenomenon that, until recently, has received scant scholarly attention (but see Gallagher and Marsh 1988; Norris 1997; Norris and Lovenduski 1995; Siavelis 2002). I have proposed hypotheses that should be examined across a range of cases, including countries that have not adopted quotas (for example, see Crocker 2003). This study represents one step toward a better understanding of the rules that determine whose bodies get elected to elected bodies.

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NOTES

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1. As Drude Dahlrup (2003) points out, however, Denmark does not have quotas but has the second highest percentage of women in the legislature.
2. Other forms of gender quota laws apply to subnational elections and reserved seats set aside for women.
3. Carina Gobbi, "Reforma de la Constitución: Una Propuesta para la Democracia Completa," *fempress*, <http://www.fempress.cl/192/revista/t_ur_01.html> December 15, 1997.
4. María Elena Chapa, interview, July 16, 2002, Mexico City.
5. La Jornada, "Exigen que el PAN Retire Propaganda," <www.jornada.unam.mx/2001/oct01/011024/estados.html> October 3, 2002.
6. La Jornada, "Hubo Reacomodo de Tribus en el Congreso del PRD," <www.jornada.unam.mx/2001/may01/010505/012nlpol.html> November 26, 2002.
7. The party also has quotas for young people and indigenous people. The statutes require that one in every five plurinomial candidates be under the age of 30 and that indigenous people hold a percentage of slots proportional to their share of the population in each electoral district. The party statutes are available at www.prd.org.unam.mx.
8. La Jornada, "Las Impugnaciones contra el PRD," <<http://www.jornada.unam.mx/2001/sep01/010919/oriente-edit.htm>> October 3, 2003.
9. Victor Fuentes, "Valida la Corte Cuota de Género," *La Reforma*, <<http://www.laneta.apc.org/genero/cuotas.html>> September 16, 2003.
10. An action of unconstitutionality requests judicial review of the constitutionality of state and federal laws.
11. Ernesto Nuñez, "Se Retracta PAN," *La Reforma*, <<http://www.reforma.com/nacional/articulo/159140/default.htm>> November 26, 2002.
12. Victor Fuentes, "Acepta SCJN Recurso por Cuotas de Género," *La Reforma*, <<http://www.reforma.com/nacional/articulo/162280/default.htm>> November 26, 2002.
13. El Universal, "A Mujeres, 30 por ciento de Candidaturas," <http://www.el-universal.com.mx/pls/impreso/version_himprimir?p_id=79906&p_seccion=2> November 26, 2002.
14. Victor Fuentes, "Valida la Corte Cuota de Género," *La Reforma*, <<http://www.laneta.apc.org/genero/cuotas.html>> September 16, 2003.
15. *Ibid.*
16. The law is named for its sponsor, PRD Deputy Rosario Robles. For complete coverage, see the Cimacnoticias archive on abortion <www.cimacnoticias.com/temas/aborto> February 10, 2004.
17. Marta Laura Carranza Aguayo and Roberto Ortíz Vega, interview, July 18, 2002, Mexico City.
18. María Elena Chapa, interview, July 17, 2002, Mexico City.
19. Cecilia González, "Piden Más Mujeres en el Congreso," *La Reforma*, <www.reforma.com/nacional/articulo/186344/default.htm> November 26, 2002.
20. Claudia Salazar and Esperanza Barajas, "Aprueba Congreso Cuotas de Género," *La Reforma*, <<http://www.reforma.com>> June 16, 2002.
21. Cecilia González, "Piden Más Mujeres en el Congreso," *La Reforma*, <www.reforma.com/nacional/articulo/186344/default.htm> November 26, 2002.
22. María Elena Chapa, interview, July 16, 2002, Mexico City.
23. Gabriela Cuevas, interview, July 18, 2002, Mexico City.
24. María Elena Chapa, interview, July 16, 2002, Mexico City.

25. Anonymous, interview, July 18, 2002, Mexico City.
26. Unfortunately, ads are not available in the online editions of most newspapers.
27. Hortensia Aragón, interview, July 15, 2002, Mexico City.
28. Anonymous, interview, July 16, 2002, Mexico City.
29. Anonymous, interview, July 18, 2002, Mexico City.
30. Margarita Zavala, interview, May 27, 2003, Mexico City.
31. Anonymous, interview, July 18, 2002, Mexico City.
32. Hortensia Aragón, interview, July 15, 2002, Mexico City.
33. Jacqueline Peschard, interview, May 27, 2003, Mexico City.
34. This number does not include the districts in which the PRI ran in a coalition with the Green Ecology Party of Mexico, the PVEM.
35. I thank Andy Sobel for posing this question to me.

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