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The Far Side of Women's Participatory Rights as the Dark Side of the Moon: The Unseen Article 8 CEDAW

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The Far Side of Women’s Participatory Rights as the Dark Side of the Moon: The Unseen Article 8 CEDAW

Dr. Anca Alexandra David, PhD¹

Introduction

The present research started from the legal analysis of women’s participatory rights in leadership positions in public and political life, as enshrined in the United Nations (UN) *Convention for the Elimination of Discrimination Against Women* (CEDAW), under Article 7 – for the national level, and Article 8 – for the international level, and their implementation by State Parties (SPs) as presented in the Reports and Concluding Observations (COs) of the CEDAW Committee especially in relation with legislated gender quotas, which are in practice examples of temporary special measures defined under Article 4(1) CEDAW. In fact, the second part of the research focused on the analysis of legislated gender quotas in all the CEDAW SPs.² Lastly, and probably most importantly, we have always been very keen on keeping our research rooted in reality, thus we conducted interviews with women in leadership positions in public and political life, who have advanced their careers to the international level and became members of the UN Human Rights Committee (HRC).³

The structure of the present working paper is developed from and mirrors the division in songs of Pink Floyd’s album *The Dark Side of the Moon* at half a century (2023) from its release in 1973, as a metaphor - a methodological device – in the humble attempt to offer a different, original and catchy interpretation of Articles 7 and 8 CEDAW Convention, adopted in 1979. In my view, the Convention and the Album share a number of similarities (explained throughout the paper) and are the products and results of movements demanding the protection of human rights, especially civil and political

¹ This working paper was written by Dr. Anca Alexandra David in her personal capacity, within the framework of the Swiss National Science Foundation (SNSF) Research Project *Gender Equality in the Mirror (GEM): Clothing the Invisibility of Women’s Participation at International Level*. The views and opinions expressed therein are the author’s own and do not necessarily reflect the position of the European institutions, agencies and services. The paper is based on the results reached after carrying out research, as part of the team from the World Trade Institute at the University of Bern headed by Prof. Elisa Fornalé (Principal Investigator). We gratefully acknowledge the grant received from the Swiss National Scientific Foundation for the project ‘Gender Equality in the Mirror: Clothing the Invisibility of Women’s Participation at International Level’ (No. 100011_200462/1).

² Our results are available online here: www.womenandparticipation.org.

³ As a wider part of our research project, we considered interviewing also (a) women who became members of the UN Committee for the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW); then members of our team also carried out interviews with (b) women ambassadors – focusing on African women, and (c) women who became judges in international courts and tribunals, in this case choosing to analyse the situation at the International Tribunal for the Law of the Sea (ITLOS). However, the present working paper is mainly based on the interviews carried out by Dr. Anca Alexandra David with women who became members of the HRC and ambassadors in Geneva. We would like to kindly thank all these amazing women for the time they dedicated to our interviews which brought an enormous contribution to our research project.

rights in the '70s – the feminist movement being the one which has specifically led to the adoption of the CEDAW Convention.

1. “Speak to Me” about Women’s Participatory Rights

The importance of women’s participation in public and political life as a fundamental human right is underlined in several international law instruments including the Universal Declaration of Human Rights, the 1993 Vienna Declaration, the International Covenant on Civil and Political Rights and of course in the Convention against Any Form of Discrimination against Women (CEDAW), as well as in the Beijing Declaration and Platform for Action (para.13), in General Recommendations 5 and 8, in General Comment No. 25 of the UN Human Rights Committee.

Notwithstanding the progressive codification of women’s participatory rights, according to the most recent data presented in the *Snapshot of Gender Equality across Sustainable Development Goals* published by UN Women in September 2023, “the world is failing women and girls” and gender equality appears as an “increasingly distant goal”.⁴ The report paints “a worrisome picture halfway through the 2030 Agenda for Sustainable Development”⁵ and as Ms Maria-Francesca Spatolisano, Assistant Secretary-General for Policy Coordination and Inter-Agency Affairs of UN DESA pointed out:

Gender equality is not just a goal within the 2030 Agenda. It is the very foundation of a fair society, and a goal upon which all other goals must stand. By breaking down the barriers that have hindered the full participation of women and girls in every aspect of society, we unleash the untapped potential that can drive progress and prosperity for all.⁶

In fact, achieving gender equality and empowering all women and girls is considered Goal 5 and more specifically, women’s political representation is addressed under target 5.5.1, which regards the proportion of seats, held by women in (a) national parliaments and (b) local governments. The report underlines concerning unequal political representation as a manifestation of “deeply rooted biases against women”, which “prevent tangible progress”⁷ and “a notable disparity in leadership roles”,⁸ pinpointing how “the gender gap in power and leadership positions remains entrenched”.⁹

⁴ Press release: The World is Failing Girls and Women, According to New UN Report, <https://www.un.org/sustainabledevelopment/blog/2023/09/press-release-the-world-is-failing-girls-and-women-according-to-new-un-report/>.

⁵ <https://www.un.org/sustainabledevelopment/blog/2023/09/press-release-the-world-is-failing-girls-and-women-according-to-new-un-report/>.

⁶ <https://www.unwomen.org/en/news-stories/press-release/2023/09/press-release-the-world-is-failing-girls-and-women-according-to-new-un-report>.

⁷ *Progress on the Sustainable Development Goals: The gender snapshot 2023*, p. 12, <https://www.unwomen.org/en/digital-library/publications/2023/09/progress-on-the-sustainable-development-goals-the-gender-snapshot-2023>.

⁸ *Global Gender Equality in 2023: Urgent efforts are needed to reach 2030 goals*, 7 September 2023, <https://www.unwomen.org/en/news-stories/feature-story/2023/09/global-gender-equality-in-2023-urgent-efforts-needed-to-reach-2030-goals>.

⁹ <https://www.unwomen.org/en/news-stories/press-release/2023/09/press-release-the-world-is-failing-girls-and-women-according-to-new-un-report>.

Moreover, among the 11 key roadblocks and hurdles for women's equality by 2030, the report highlighted in first position:

1. Lack of women in leadership

With just 27 per cent of parliamentary seats, 36 per cent of local government seats, and 28 per cent of management positions held by women, there is a lack of diverse perspectives in decision-making processes, hindering comprehensive policy formulation.¹⁰

To accelerate progress by 2030 in a substantial manner with regard to SDG 5 the authors of the report insist that: "Addressing institutional barriers, including through removing discriminatory laws, expanding women's participation in leadership and decision-making and right-sizing investments in gender equality at the national, regional and global levels, are among the concrete actions needed."¹¹ This could be achieved by "involving different stakeholders, including men and boys" – which is deemed "imperative", as we are reminded that: "A continued failure to prioritize SDG 5 will put the entire 2030 Agenda for Sustainable Development in peril."¹²

Further, an emphasis is posed on the need to "ensure women in all their diversity have leadership roles and seats at decision-making tables" and among the priority actions to improve the legal frameworks for gender equality and develop policies for the advancement of women in leadership positions, especially with regard to SDG 5.5.1.(a), the authors **suggest the introduction of gender quotas**, which has had positive effects on the number of women parliamentarians; in fact: "**Gender quotas** are one concrete policy solution proven to increase women's representation in both business and politics. Other policy levers, including flexible work arrangements, mentorship and leadership training, and access to affordable quality childcare, are also needed."¹³

Nevertheless, the introduction of gender quotas remains controversial in many countries around the world, even though the increase in women's participation and representation in public and political life in countries that have legislated in this regard appears to indicate their effectiveness. In this working paper we analyse gender quotas as a solution to increase the participation of women in public and political life, focusing on the implementation of Articles 7 and 8 CEDAW and underlining how measures related to Article 8 meant to increase the representation of women at the international level continue to lag behind when compared to Article 7.

¹⁰ <https://www.unwomen.org/en/news-stories/feature-story/2023/09/global-gender-equality-in-2023-urgent-efforts-needed-to-reach-2030-goals>.

¹¹ Report, op. cit., p.12.

¹² Ibidem.

¹³ Ibid., p.12-15.

2. *“Breathe, breathe in the air / Don’t be afraid to care” about the CEDAW Convention*

Women’s rights to participate in public and political life, without any discrimination and on equal terms with men are enshrined in the CEDAW Convention, under Article 7 with regard to the application at national level, and Article 8 with regard to granting women “the *opportunity* to represent their Governments at the international level and to participate in the work of international organisations.”¹⁴

In my view, the use of the term “right” in Article 7 and “opportunity” in Article 8 creates a significant difference in the application of the Convention with regard to the two provisions. The weaker terminological choice adopted for Article 8 can be linked to its lower level of implementation by State Parties as well as with the CEDAW Committee’s less frequent and more bland recommendations concerning the international dimension of women’s participatory rights. In this sense, Article 8 appears to lag behind Article 7 in terms of application and implementation of the Convention at State Party level, we contend its potential is still largely unexplored and underutilised even by the CEDAW Committee itself in their recommendations for State Parties.

However, the holistic approach of the CEDAW Committee in the recommendations regarding the implementation of the Convention requires the interpretation of the provisions in light of the object and purpose of the Convention itself, hinting towards the reading of Article 7 not only in conjunction with Article 8, but also with Article 4 on special measures. This way they harmoniously complete each other and become facets of the same prism, which then reflects the whole spectrum of the different colours of implementation *de facto* of women’s participatory rights, giving substance to the white colour of the purely *de jure* provisions of the Convention.

The tripartite sub-division in paragraphs of Article 7 corresponds to three different ramifications of women’s participatory rights, in their expression at national level, unpacking them in the following set of civil and political rights for women:

- (a) To vote in all elections and public referenda and to be eligible for election at all publicly elected bodies;
- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- (c) To participate in non-governmental organisations and associations concerned with the public and political life of the country.¹⁵

¹⁴ *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW Convention), Article 8.

¹⁵ CEDAW, Article 7.

Already under paragraph (a) the two dimensions of participatory rights are clearly illustrated: **the right to vote** and the right to run/stand for elections as candidates and **be elected**. While the right to vote has by now been generally granted to all women around the world and finds substantive application in the large majority of State Parties, the implementation of the right to be elected, as a woman, has been encountering numerous obstacles and hurdles and will be discussed in more detail below, after first providing a panoramic of all the other rights enshrined in Article 7.¹⁶

This does not mean, however, that the right to vote finds implementation in 100% of the cases and all over the world. There are numerous problems with regard to exercising the right to vote for women all over the world that can depend on the political situation in the state and the limitations to other rights and freedoms that affect the implementation of the right to vote. For instance, limitations on freedom of movement can impede voting rights as well. What is worse is the lack of national identification documents, which are needed not only to exercise the right to vote, but for the exercise of the whole spectrum of civil and political rights. Undocumented persons or children to whom birth certificates have not been issued encounter numerous difficulties in obtaining an ID card, thus their civil and political rights, including the right to vote are impossible to exercise.

Women's right to take active part in the formulation and implementation of government policy, is illustrated in Article 7 paragraph b, suggesting direct hands-on involvement, coupled with the right "to hold and perform all public functions at all levels of government", which include the legislative, the executive, the military, the judiciary, etc.¹⁷ The third and last paragraph of Article 7 widens the scope of applicability also to the private sector, enunciating women's rights to participate in associations and NGOs that are concerned with the public and political life of the State. Implicit but clear here is the reference and homage to women's movements and their legacy for the development and realisation of human rights, including their crystallisation in the CEDAW Convention itself. Once again, the active participation and implication of women in public and political life is underlined, and embraced by the Convention in all its different forms - also non-electoral - through the activity of NGOs and associations. These can include activities such as political persuasion and pressure through activities such as activism, campaigning, petitioning, peaceful protest.

Shifting now to a comparative analysis of Articles 7 and 8, we notice they commence with very similar wording, by putting forth the State Parties' obligation to "take all appropriate measures" to ensure women "on equal terms with me" and without any discrimination participatory rights at

¹⁶ For a more detailed analysis see Patricia Schulz, Ruth Halperin-Kaddari, Beate Rudolf, Marsha A. Freeman (Eds.), *The UN Convention on the Elimination of All Forms of Discrimination Against Women and its Optional Protocol: A Commentary*, Oxford Commentaries on International Law, 28 December 2022.

national level under Article 7, and representative “opportunities” at the international level according to Article 8. Thus, State Parties to the Convention have the duty and the international responsibility to grant women these rights and opportunities.

Evidently, the substantive implementation of an opportunity harder to grasp, harder to monitor and less justiciable than a right and if a claim for the violation of a right deriving from the CEDAW Convention can ultimately be brought before the ICJ for dispute settlement, the same cannot so easily be said about opportunities or missed opportunities. This might be one of the reasons why Article 8 has remained largely unutilised to date and why even the CEDAW Committee hardly ever mentions it or measures pertaining to it in its recommendations to State Parties. Nevertheless, its potential might be surprising and will be further discussed in the following paragraphs of the present working paper. In any case, what is beyond any doubt is the duty and obligation to adopt measures, the Convention requires active engagement on behalf of the State parties to respect, protect and fulfil women’s human rights, which must not remain on paper, but translate into reality.

As previously discussed, both Article 7 and Article 8 refer to the adoption of “all appropriate measures”, but in concrete, what kind of measures does the Convention refer to? All appropriate measures can include legislative and policy measures, programmes and campaigns, permanent and temporary measures. The research conducted in relation to the study of the measures recommended by the CEDAW Committee in its Concluding Observations allows the following categorisation of measures suggested for the enactment of the Convention.

This paper adopts as macro-categorisation on the one hand (A) permanent and (B) temporary measures adopted in relation to the implementation of Article 4, read in combination with Articles 7 and 8 CEDAW. On the other hand, the paper categorises measures in relation to (I) law, (II) policy and (III) practice, which we then further developed in the form of:

(a) *normative development*: the adoption and/or amendment of laws and legislation at national level;

(b) *normative implementation*: referring to measures that are necessary when the State Party legislation results in line with the requirements of the Convention, but there is a lack of implementation of the legislation in place;

(c) *transformative implementation*: which goes beyond the measures in the previous category to address the most subtle structural barriers standing in the way of implementation such as stereotypes, biases, deeply rooted patriarchal attitudes and perspectives

Then, the paper attributes to each measure a specific type, as **micro-categories** that include the following:

(1) *Monitoring, reporting and assessing measures*: this type refers to those measures that the CEDAW Committee suggests in relation to observing the implementation of the Convention at national level and provided the necessary disaggregated data in State Party Reports, as well as the evaluation of the results obtained by implementing the measures in place, which allows the analysis of laws, policies and practice in terms of effects and shortcomings.

(2) *Awareness and education measures*: are all those measures meant to address stereotypes by raising awareness through public campaigns, thanks to the media – which has an enormous impact on the perception of women’s roles in society – but also through education in schools, by reviewing textbooks for example. Education measures include training and capacity building courses for women, as well as mentoring programmes that encourage women to actively participate in public and political life, improve their legal literacy and understanding of politics so that they become more involved, vote and run for elections at all levels.

(3) *Support measures*: allocating resources, both human resources and financial resources or any other kind of resources that might be necessary for the implementation of women’s participatory rights, usually allocated to an institution or body that implements programmes to improve women’s participation in public and political life.

(4) *Accountability measures*: refer to the imposition of sanctions in case of non-compliance with legislation, including quota laws, but also incentives – usually financial - for virtuous parties that include more women on their candidate lists.

The overall focus of the methodological approach adopted, mainly qualitative research completed through the legal analysis of CEDAW reports and COs, allows to add other two very specific categories of measures:

(5) *Measures of inclusivity*: that address intersectional discrimination and special categories of women, who are especially vulnerable and need additional protection, such as rural women, women belonging to ethnic minorities and/or of African descent, indigenous women, elderly women, disabled women, Roma women etc.

(6) *Gender quotas*, which we consider as a separate type of measures, distinct from other TSMs, for practical reasons, to facilitate our analysis; in fact, the CEDAW Committee has insisted on numerous occasions on the introduction of gender quotas by SPs to the Convention, especially at national level, but in more recent COs also at international level, to increase the presence of women in foreign affairs and the diplomatic service.

In the following sections the paper provides an analysis of the different types of gender quotas and their implementation to underline their importance in increasing women's participation in public and political life, which in turn improves the quality of our democracies by diversifying representation through the inclusion of all categories of women, before introducing – in the final part of this working paper – a shift of perspective from the national to the international level and focusing on measures related to the implementation of Article 8 CEDAW.

3. ***“On the Run”*: the Fast Track to Accelerate De Facto Gender Equality**

To light the path from rights *de jure* enshrined in the Convention (and in the national legislation of State Parties as required by the Convention) towards their *de facto* implementation and the substantive enjoyment of women's human rights including participatory rights, we turn to Article 4 on temporary special measures (TSMs), meant to accelerate the process of reaching substantive gender equality. These measures are not considered discriminatory and shall only be adopted on a temporary basis, until full gender equality is reached between men and women. In fact, TSMs “shall in no way entail as a consequence the maintenance of unequal or separate standards” and “shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.”¹⁸ The focus of the present working paper is on TSMs, however, other special measures can have a permanent nature, as the Committee explained in GR 25 in relation to the interpretation of Article 4: “paragraph 2 provides for non-identical treatment of women and men due to their biological differences. These measures are of a permanent nature, at least until such time as the scientific and technological knowledge referred to in article 11, paragraph 3, would warrant a review.”¹⁹ These measures regard more specifically measures concerning women's biological function as mothers and measures linked to the protection of maternity. Nevertheless, child-raising is not a biological function distinguishing women from men, thus requires measures that do not necessarily have to target only women, as parenthood regards both genders.

¹⁸ CEDAW, Article 4, para. 1. Paragraph 2 refers specifically to SMs specifically regarding maternity and underlines their non-discriminatory nature. See the in-depth analysis in Schulz et al., op cit., pp.123-139.

¹⁹ *General Recommendation No.25 on Article 4, Paragraph 1 of the CEDAW, on Temporary Special Measures*, para. 16.

TSMs including quotas must be adopted to remedy the gender imbalance as soon as possible. In fact, their temporary nature is anchored specifically in the goal of reaching gender equality, once this happens, they will no longer be necessary. In GR 25 the Committee added that the purpose of TSMs is to achieve de facto gender equality and “the structural, social and cultural changes necessary to correct past and current forms and effects of discrimination against women, as well as to provide *compensation*.”²⁰

In this light, the introduction of gender quotas can be read as a solution to redress an overall structural imbalance in terms of helping reach gender parity in public and political life, a sphere that has long been dominated by overwhelming male presence. As clarified by the CEDAW Committee in its General Recommendations,²¹ reports and COs, TSMs include gender quotas and should be applied also within the ambit of public and political life, where the presence of women is largely overshadowed by men and all countries in the world struggle to reach parity. Since women have obtained the right to stand for public elections there has been little and slow progress in terms of increasing female political representation and in most of the countries in the world. In fact, the first woman to be elected in national legislature was in Finland in 1907 and, and by the end of the XX century the percentage of women legislators was at about 13%.²² More than a hundred years since then gender parity in public and political life is still a distant goal. None of the CEDAW State Parties in Eastern Europe has achieved parity in political representation. The introduction of gender quotas and other measures of preference for women in contexts where they are grossly under-represented – as in politics, should thus be seen as a way to compensate the overall imbalance, focusing on the bigger picture instead of what might be lamented as single cases of discrimination against the men who was ultimately put aside when a choice had to be made between him and an equally competent woman.

There are different **types** of gender quotas and other similar TSMs that can and should be enacted to reach gender equality in public and political life. A first categorisation can be illustrated by the division in **legislated** gender quotas and voluntary quotas. Legislated quotas are provided by law, therefore enshrined in the national legislation of the State, thus they are legally binding and as such considered a type of formal measures. Whereas **voluntary** gender quotas are adopted by single parties

²⁰ GR No.25, op cit., para.15 (emphasis added).

²¹ See *General Recommendation No. 23 on Political and Public Life*, Adopted at the Sixteenth Session of the Committee on the Elimination of Discrimination against Women, in 1997 – UN Doc. A/52/38.

²² Amanda Clayton, *How Do Electoral Gender Quotas Affect Policy?*, in “Annual Review of Political Science”, Vol. 24, pp. 235-252, 2021, Mona Lena Krook, *Reforming Representation: The Diffusion of Candidate Gender Quotas Worldwide*, in “Politics and Gender”, Vol.2, Iss. 3, p. 236.

that by their own choice introduce a mandatory percentage of women to be included on candidate lists.

Based on their formulations, quotas can also be **gender neutral**, but still work in favour of accelerating women's participation in public and political life. Gender neutral quotas do not refer specifically to women, but fix a minimum or maximum percentage that can be reached by candidates of either sex.

Not all legislated quotas cover all levels of political representation, as in some countries they are limited to or distinct at the **sub-national level**, thus based on the administrative sub-division of the State, they can apply at local level, in certain municipalities, etc. In addition, not all quotas are formulated in the form of percentages, as there can also be **reserved seats** for women, either at national level – in Parliament for example, or at local level. In mathematical terms, reserved seats can be compared to quotas expressed in the form of percentages because out of a fixed total number of members of Parliament for example, if a certain number of seats is reserved to women, this can be easily transformed in a percentage for reasons of interpretation, comparison and analysis.

Temporary special measures such as quotas, meant to accelerate the presence of women in public and political life can be adopted in the form of a progression, **gradually** increasing the percentage of women that must be included on electoral lists.

The design of quota laws is correlated with their effectiveness. In order to maximise their *effectiveness*, not only the type of the gender quota should be in line with the country's electoral system, but also:

The effectiveness of quotas in increasing women's representation in elected assemblies depends on the specific construction of the quota system, especially the quota percentage and the existence of rank order rules for the lists – not to mention on whether the political parties actually implement the quota rules correctly, and whether there are any sanctions for noncompliance.²³

Tailor-made quotas have proven much more effective in improving women's participation in public and political life than the imposition of quotas emulated from other States practice, even when in the same region.²⁴

Dahlerup and Antić Gaber explain that “many factors influence the effectiveness of gender quotas in changing women's historical marginalization in politics.”²⁵ They include among these factors the

²³ Drude Dahlerup and Milica Antić Gaber, *The Legitimacy and Effectiveness of Gender Quotas in Politics in Central East Europe*, in “Gender Quotas in Politics in Central East Europe”, *TEORIJA IN PRAKSA*, let. 54, 2/2017, pp. 312-313.

²⁴ Mona Lena Krook, *Reforming Representation: The Diffusion of Candidate Gender Quotas Worldwide*, op. cit.

²⁵ Drude Dahlerup and Milica Antić Gaber, *The Legitimacy and Effectiveness of Gender Quotas in Politics in Central East Europe*, op. cit., p. 312.

electoral system, the political culture and religious circumstances and underline the important role played by international ‘pressure’ in inducing national authorities to rise up to international standards on human rights, including women’s rights.²⁶

Other relevant factors are “the strength of women’s organizations and movements, historical legacy and understanding of the rule of law, democratic institutions and finally value orientation, especially with respect to gender quality issues.”²⁷ These factors influence “the political parties’ attitudes and positions towards gender equality and their readiness to change the situation with either internal or external rules”.²⁸

The compliance of political parties with the provisions on gender quotas is considered the first level of evaluation of the effectiveness of quotas. In fact, the overall evaluation of the effectiveness of gender quotas is conducted on three levels of analysis: (1) compliance, (2) substantive representation, and (3) the wider debate on the root causes of women’s under-representation in public and political life, including discussions on gender roles, the patriarchy and stereotypes.²⁹

First of all, in terms of compliance, the actual implementation of gender quotas, whether parties actually respect the provisions on quotas and how they apply these rules. The weaker the design and formulation of the provisions on gender quotas – where the actual wording is crucial, as for legislation in general, the higher the probability to find loopholes that can compromise implementation and thus have a negative impact on compliance and, in turn, on the overall effectiveness of gender quotas. In all probability this would be the case “if the quota regulation from the start was unclear, contradictory, or may have even been intentionally constructed to have little effect in order not to challenge the power of the (male) political elites.”³⁰

For example, if parties tend to look for loopholes to relegate women to unwinnable positions on candidate lists, usually by exploiting ranking order, by strategically placing women lower in the candidate list or as representatives of the least relevant constituencies by district, or where it would be harder for women to win.

To obviate the issue of ranking, the so-called ‘zipper system’ is considered a possible solution, requiring the alternation between male and female candidates on lists so as to reach gender parity in elections. More general solutions to improve compliance fall within the old ‘carrot and stick’ method:

²⁶ Drude Dahlerup and Milica Antić Gaber, *The Legitimacy and Effectiveness of Gender Quotas in Politics in Central East Europe*, op. cit., p. 312. For a more detailed analysis on the role played by international influence on the introduction of gender quotas see Mona Lena Krook, *Reforming Representation: The Diffusion of Candidate Gender Quotas Worldwide*, op. cit.

²⁷ Drude Dahlerup and Milica Antić Gaber, *The Legitimacy and Effectiveness of Gender Quotas in Politics in Central East Europe*, op. cit., pp. 312-313.

²⁸ Drude Dahlerup and Milica Antić Gaber, *The Legitimacy and Effectiveness of Gender Quotas in Politics in Central East Europe*, op. cit., pp. 312-313. External rules refer to state legislation, thus legislated quotas and internal rules are voluntary gender quotas adopted by single parties as explained above.

²⁹ Drude Dahlerup and Milica Antić Gaber, op. Cit., p. 313.

³⁰ Drude Dahlerup and Milica Antić Gaber, *The Legitimacy and Effectiveness of Gender Quotas in Politics in Central East Europe*, op. cit., pp. 312-313.

the introduction of incentives for parties who reach a certain percentage of women on their candidate lists, such as monetary and financial incentives, as a form of ‘soft’ introduction of quotas, compared to the hard imposition of sanctions for non-compliance, such as financial sanctions or disqualification of the party list. As a mid-way, a party that did not comply with gender quota provisions can be asked to withdraw the non-compliant list of candidates and be allowed a period of time to remedy and present a new list that complies with gender regulations. This of course implies attentively monitoring and scrutinising the lists of candidates presented by parties before the elections take place.

However, even in the case of financial or monetary sanctions parties could simply calculate the economic cost of not having women on their candidate lists and sometimes even pay the amount as long as this does not change the pre-established power dynamics within the party itself or allows elections to be more predictable, excluding women and preventing them from running for elections.

*No one told you when to run, you missed the starting gun
And you run and you run to catch up with the sun but it's sinking
Racing around to come up behind you again (Pink Floyd – Time)*

4. “Time” for Women to Have an Impact on Law and Policy Making: from Descriptive to Substantive Representation

The second level of analysis for the effectiveness of gender quotas looks at their impact on gender policies, marking the transition from women’s descriptive representation in public and political life to substantive representation.

Descriptive female representation refers to quantitative goals: reaching the established percentage of women fixed by the quota regulations, thus counting the number of women elected. Substantive representation represents a step further, and refers also to qualitative goals in measuring the impact that the presence of women has on promoting gender issues and women’s interests through law and policy making. As summarised in CEDAW General Recommendation No. 23: “Research demonstrates that if women’s participation reaches 30 to 35 per cent (generally termed a “critical mass”), there is a real impact on political style and the content of decisions, and political life is revitalized.”³¹ These studies refer to the way in which the introduction of gender quotas helps create a critical mass of women in public and political representation “generating opportunities to form coalitions around common interests.”³²

³¹ CEDAW, G.R. no.23, para.16.

³² Christie Marie Arendt, *From Critical Mass to Critical Leaders: Unpacking the political conditions behind Gender Quotas in Africa*, Cambridge University Press, 25 March 2018, p. 298; see also Sarah Childs and Mona Lena Krook, Critical Mass Theory and Women’s Political Representation, in “Political Studies”, Vol. 56, 2008; Drude Dahlerup, From a Small to a Large Minority: Women in

Nevertheless, according to some, a small number of women can have a more relevant impact,³³ whereas others, especially those advocating for the introduction of quota laws, argue that a good percentage of women would ensure them the liberties necessary to form even cross-party alliances and militate for women's issues and rights.³⁴

Looking closer at **critical mass** theory it is not easy to establish exactly what percentage of women is necessary to be certain that they would bring about changes in policy and law making, stirring the political agenda in the direction of women's rights and acting for women. The threshold of 30% for women to start having an impact was first identified in 1988 by Dahlerup for women in Scandinavian politics.³⁵ She derived her theories from the studies conducted by Kanter for women in American corporate boards,³⁶ translating them to the political realm.

Then, Dahlerup defined six areas where women could have an impact in public and political life:

- (1) reactions to women in politics;
- (2) their performance and efficiency, also linked to the decision of continuing their political careers or leaving politics;
- (3) the social climate surrounding work-life balance for women in politics;
- (4) the redefinition of political concerns within the wider political discourse;
- (5) the feminisation of the political agenda;
- (6) women empowerment in general.³⁷

However, the empirical evidence did not support a relationship between a certain percentage of women in politics and their impact in these areas, so Dahlerup concluded that other factors beyond numbers influence the change brought about by the presence of women in politics (or the lack of it).³⁸ These other factors include some indicators that proved impossible to isolate or control such as the attitudes in society about women in politics, so Dahlerup developed the notion of "**critical acts**" to

Scandinavian Politics, in "Scandinavian political Studies", Vol. 11, Iss. 4, December 1988, pp.275-298; Jaquette, *Women in Power: From Tokenism to Critical Mass*, in "Foreign Policy", Vol. 108, Iss. 23, 1997.

³³ Crowley, J. E., *When Tokens Matter*, in «Legislative Studies Quarterly», Vol. 29, Iss. 1, 2004, pp. 109–36; Carroll, S. J. (Ed.), *The Impact of Women in Public Office*, Bloomington IN: Indiana University Press, 2001.

³⁴ Grey, S., *New Zealand*, in M. Sawer, M. Tremblay and L. Trimble (Eds), "Representing Women in Parliament: A Comparative Study", Routledge, New York, 2006, pp. 134–51; Childs and Krook (2008), op. cit.

³⁵ Dahlerup, op. cit., p. 281.

³⁶ Kanter, 1977, defined four majority-minority distributions: uniform groups, skewed groups, tilted groups and balanced groups. But she explicitly removed gender from her analysis at a certain point. See Kanter, *Some Effects of Proportions on Group Life*, in "American Journal of Sociology", Vol. 82, Iss. 5, 1977, pp. 965–90 and Kanter, *Men and Women of the Corporation*, Basic Books, New York, 1977.

³⁷ Dahlerup, op. cit., pp. 283-299.

³⁸ Dahlerup, op. cit., pp. 276-278. See also the research note wrote by Childs and Krook on misinterpretations and grey areas of the critical mass theory: Critical Mass theory and Women's Political Representation, op.cit.

complete the theory on women's decisive actions to change the political agenda, shifting away from the male majority position.³⁹

Critical acts include initiatives such as the recruitment of other women, or mentoring other women and/or introducing equality legislation, such as gender quotas. As Childs and Krook explain, even in small numbers, women can have an important impact: "Dahlerup implicitly revives Kanter's third claim that feminist women can have an impact above and beyond their token status if they form alliances with one another despite their small numbers."⁴⁰

In fact, **alliances** are crucial to re-direct policies in a feminist direction, it is not only a matter of how many women are involved, but the actions they take. For this reason the concept of "critical acts" was introduced alongside the development of "critical mass" theory.⁴¹

Women can and should have an impact not only in the six areas defined by Dahlerup in 1988, but in all areas of public and political life, at national and international level, and gender quotas are necessary to bring about numerical parity.

As underlined by an ambassador to the WTO in Geneva:

In an ideal society, in which women and men are considered equal and receive the same opportunities - explicitly and implicitly – quotas are not needed. However, as our society is not ideal, we still have biases, so quotas are needed right now, and they are effective. Quotas give women the opportunity to become visible and show that we can!⁴²

On the other hand, there have been also what we could consider counter-examples of countries where women have reached large percentages and high roles in public and political life, without the introduction of gender quotas. These countries include the Northern European States, where women have concurred the political scene without the introduction of legislated gender quotas in the initial phase, for women candidates on various lists.

In fact, the so-called **Scandinavian model** only introduces gender quotas in a second phase, when women who have already been elected need to consolidate power and break the glass ceiling in order to reach top roles in decision-making.

For this reason, the Scandinavian model is considered the **incremental track**, whereas legislated gender quotas are seen as the **fast track** to accelerate the presence of women in public and political life.

5. *"The Great Gig in the Sky" – The Wider Debate and Root Causes for Women's Under-representation in Public and Political Life*

³⁹ Dahlerup, op. cit., pp-276-278; Childs and Krook, op. cit., p. 731.

⁴⁰ Childs and Krook, op. cit., p. 731.

⁴¹ Dahlerup, 1988, op. cit., p.294.

⁴² Interview conducted online by Dr David on 4th October 2023.

Another important effect of gender quota legislation that can manifest even before quotas are formally adopted regards the debate surrounding the introduction of gender quotas, which stimulates wider discussions on gender equality and the root causes of women's under-representation in public and political life.

These discussions are fundamental for societal change and even the movements for and against quotas play an important part in helping important issues like gender roles, stereotypes and patriarchal power dynamics emerge and gain momentum.

Lead scholars on gender quotas and women's participation in public and political life underline how

women's minority position in politics relates to their minority group status in society through 'over-accommodation, sexual harassment, lack of legitimate authority, stereotyping, no consideration for family obligations ... [and the] double standard' which are 'the *combined* consequence of the minority position and women's status in a patriarchal society in general'.⁴³

The CEDAW Committee explained on numerous occasions how stereotypes and deeply rooted patriarchal attitudes represent root causes for women's disadvantaged position in society and their under-representation in public and political life, but also of gender-based violence against women. The representation of women in politics in the media and the media attention for election campaigns continues to propagate stereotypes and gender-based discrimination, and in many cases has reached defamatory tones especially against women, underlining the persisting double standards that are being applied based on gender.

Even quite recently, the infamous case "A Song for Lena" in Bulgaria concerned a defamation campaign conducted against the former head of the Political Cabinet of the Prime Minister, Lena Borislavova, accused of having an affair with the Prime Minister, and even a song about her went viral.⁴⁴ The media and public reactions were ruthless, and extremely abusive especially towards the woman, targeting the man much less.⁴⁵ In the 2020 COs for Bulgaria the CEDAW Committee observed "increases in cases of anti-gender discourse in the public domain, public backlash in the perception of gender equality and misogynistic statements in the media, including by high-ranking politicians".⁴⁶

Also in other Eastern European States, the Committee noted with concern "that the media convey increasingly sexualized and commercialized images of women"⁴⁷ and has recommended on numerous occasions that State Parties "encourage the mass media to promote cultural changes with regard to

⁴³ Childs and Krook, op. cit., on Dahlerup's analysis, p. 730.

⁴⁴ Leda Kuneva, *Gender Violence and Disinformation in the Digital Realm* - Seminar organized within the framework of the Horizon 2020 Project RESIST by Sara De Vido and Gergana Tzvetkova, Venice and online, 26 September 2023.

⁴⁵ Ibid.

⁴⁶ COs 2020 UN Doc CEDAW/C/BGR/CO/8, para.21.a.

⁴⁷ COs 2011 UN Doc CEDAW/C/BLR/CO/7, paras.17-18; see also, among many others, COs 2019 UN Doc CEDAW/C/BIH/CO/6, paras.23-24.

the roles and responsibilities attributed to women and men”⁴⁸ and “ensure that female and male candidates and elected representatives receive equal visibility in the media, especially during election periods”⁴⁹ Recurring gender stereotypes in the media, defamation, misogyny and violent language have a negative impact on women’s participation in public and political life, even deterring them from running for office.⁵⁰

In fact, in the 2011 COs for Belarus, the CEDAW Committee emphasised “that systematic barriers, such as lack of time and money, biased attitudes towards female politicians, lack of media representation and exclusion from male political networks, prevent women from equal participation in political life.”⁵¹ To address these issues, the Committee has been suggesting the adoption of measures within the realms of raising awareness and education, in schools and through training and capacity building programmes, addressed to all layers of the population, men and women, boys and girls, and through the involvement of the media to represent women as active members of society and agents of change, whose participation in public and political life on equal terms with men is fundamental for well-functioning democratic and egalitarian societies based on the respect of human rights and rule of law.

*Share it fairly, but don't take a slice of my pie
(Pink Floyd – Money)*

6. “Money” – Financing the Introduction of Special Measures

Special measures might require covering certain costs. It has been noted how especially measures for the protection of maternity require financial support, that should be preferably covered by the State, as underlined by the CEDAW Committee, the States should consider maternity as a social function and guarantee women’s employment rights rather than leave the burden of related costs to private insurers or employers, which might translate into a “structural disadvantage” disincentivising the employment of women in childbearing age.⁵²

However, as explained above, because special measures linked to the protection of maternity are permanent provisions, they are distinct from TSMs, including legislated gender quotas, which instead should only be in place until parity in public and political representation is reached. Nevertheless,

⁴⁸ Albania COs_2003 - UN Doc A/58/38(SUPP), para. 69.

See also, among many others, COs 2009 CEDAW/C/ARM/CO/4/Rev.1, paras. 20-21; CCs 2007 UN Doc CEDAW/C/AZE/CO/3, paras.15-16; COs 2009 UN Doc CEDAW/C/AZE/CO/4, paras. 19-20; COs 2015 UN Doc CEDAW/C/AZE/CO/5, paras.20-21; COs 2022 UN Doc CEDAW/C/AZE/CO/6, paras. 27-28; CCs 2006 UN Doc CEDAW/C/BIH/CO/3, paras. 23-24; COs 2013 UN Doc CEDAW/C/BIH/CO/4-5, paras. 19–20.

⁴⁹ COs 2016 CEDAW/C/ARM/CO/5-6, para. 21.d; see also COs 2022 CEDAW/C/ARM/CO/7, para. 30.c; see also among many others COs 2013 UN Doc CEDAW/C/BIH/CO/4-5, paras.27-28.

⁵⁰ Melanie Smith, *Gender Violence and Disinformation in the Digital Realm* - Seminar organized within the framework of the Horizon 2020 Project RESIST by Sara De Vido and Gergana Tzvetkova, Venice and online, 26 September 2023.

⁵¹ COs 2011 UN Doc CEDAW/C/BLR/CO/7, para.23.

⁵² COs 2000 Jordan – UN Doc A/55/38, para.185; COs 1998 New Zealand – UN Doc A/53/38/Rev.1, para. 269.

with regard to bearing the costs linked to the adoption of TSMs, authors explain that an analogous line of reasoning should be followed – as in the case of financing the adoption of special measures for the protection of maternity – also for costs relating to TSMs including gender quotas which “should preferably be borne by the State rather than private concerns.”⁵³

It is worth recalling here, as explained above, that the introduction of gender quotas themselves or the failure to respect gender quotas required by law can affect a political party’s budget: when financial incentives are in place, virtuous parties are rewarded in monetary terms, whereas if the legislation establishes fines for non-compliance with gender quota regulations, then the parties that do not respect such provisions would see how financial sanctions have a bearing on their resources. Besides, other policies or legislation dealing with social issues or more specifically with gender issues can require the allocation of financial resources.

Already in the 1980s Dahlerup explained how crucial is “*the willingness and ability of the minority to mobilize the resources of the organization or of the institution to improve the situation for themselves and the whole minority group*”, as a generalisation, but where women can represent the minority group in public and political life, as an arena dominated by the male majoritarian group.⁵⁴ More recently, it has been emphasised that the real empowerment of women and the transition from powerless to powerful equality require an emancipatory re-distribution of resources and power.⁵⁵

In this context, women’s empowerment results from the sum of three important factors: (1) agency – women’s capacity to take action, (2) institutional structure and (3) resources, and translates then into three levels of power: (a) *power-to*, the individual ability to have positive influence; (b) *power-within*, as self-confidence and self-awareness, that are necessary for women to have influence; and (c) *power-with*, conceived as collaborative power deriving from the capacity of women to take collaborative action.⁵⁶ Perhaps in this optic, States would be more incentivised to adopt policy and legislation in support of women’s issues and women’s empowerment considering that even if these measures require the allocation of financial resources, the benefits they bring to society as a whole in the long term are worth the costs.

⁵³ Frances Raday, Article 4, in Freeman, Chinkin, Rudolf (Eds), *The UN Convention on the Elimination of All Forms of Discrimination Against Women: a commentary*, Oxford University Press, 2012, p. 128.

⁵⁴ Dahlerup, 1988, op. cit., p. 296.

⁵⁵ Elisa Fornalé (Ed), *Gender Equality in the Mirror. Reflecting on Power, Participation and Global Justice*, in Thomas Cottier (Series Ed.), “World Trade Institute Advance Studies”, Vol. 10, Brill Nijhoff, Leiden – Boston, 2023, p. 6.

⁵⁶ Ibidem, pp. 4-6.

7. *Us and Them* *and in the end, we're only [extra]ordinary [wo]men*⁵⁷

Looking at the bigger picture, nowadays women in politics remain too few worldwide, even in the countries with legislated gender quotas. In fact, in many of these countries the established gender quotas are not reached, and this is usually justified by excuses like “there simply aren’t enough women” to choose from or not enough competent women, or the women were not as competent as the men.

However, mediocre men often get elected to leadership positions and in politics, and the selections procedures are not always transparent, as men appear to choose among themselves in a political environment that is similar to a “boys’ club”, where – as emphasised in interviews conducted by Siemienska in Poland, “dorm” or “barracks” mentality is often reproduced in party dynamics,⁵⁸ while women have to truly be extraordinary to even be considered for decision-making roles. So only extraordinary women are elected in leadership positions and in decision-making roles in public and political life, but maybe the time has come for women’s presence on the political scene to become the rule, not the exception.

Nevertheless, even in small numbers, women can have an impressive impact on public and political life. In fact, scholars like Crowley argue that women make a greater difference when they form a very small minority.⁵⁹ Others, like Carroll, go even further by maintaining that increasing the percentage of elected women would actually decrease the possibility that they would act on behalf of women as a group through the adoption of feminist legislation and policy that address specific gender issues.⁶⁰ Dahlerup explained that “the example of just a few successful women in top positions [...] may have contributed substantially to the change in the perception of women as politicians” and she concluded that “in such cases, it is not numbers that count, but the performance of a few outstanding women as role models.”⁶¹ She emphasised how minority women can change behavioural patterns in male-majority groups stating that “the entrance of just one woman into an all male group [...] changes the discussion and behaviour of that group”.⁶²

Already in the 1990s Charlesworth underlined how “institutional practices may not directly discriminate against women, but they can effectively inhibit women’s participation by reflecting male

⁵⁷ Author’s adaptation after Pink Floyd, *Us and Them*.

⁵⁸ Siemienska, *Women and Women’s Issues in the Polish Parliament*, in Nida Gelazis (Ed), “Women in East European Politics”, p. 57.

⁵⁹ Crowley, 2004, op. cit.; Childs and Krook, *Critical Mass Theory and Women’s Political Representation*, op. cit., p. 725.

⁶⁰ Carroll, 2001, op. cit.; Childs and Krook, *Critical Mass Theory and Women’s Political Representation*, op. cit., p. 725.

⁶¹ Dahlerup, 1988, op. cit., p. 287. See also Stéphanie Henneze Vauchez, *More Women – But Which Women? The Rule and the Politics of Gender Balance at the European Court of Human Rights*, in “The European Journal of International Law” (EJIL), Vol. 26 no. 1, pp. 195–221.

⁶² Dahlerup, op. cit., p. 290.

file patterns as benchmarks of eligibility and success.”⁶³ Not much has changed since then in terms of women’s participation in public life and politics remain a male-dominated arena, where women who dare to run for election continue to encounter numerous obstacles “related to electoral systems, but also to the functioning of political life and its rites and rhythms, that still follow a dominant male pattern of social organisation”, as well as “unwritten, traditional rules of political parties which still too often, tend to function as ‘old boys networks’.”⁶⁴

When it comes to women’s socio-economic and political participation studies show that “power is not distributed equally – in terms of access to resources and opportunities”.⁶⁵ The concept of gender global justice was explained by Jaggar in terms of “interlocked structural factors that embody ‘gender norms and produce systematically unjust relationships’.”⁶⁶ Focusing on the gendered dimensions of institutional cultures and practices, Fornalé analyses the national and international dimension of women’s under-representation in public and political life, in terms of legitimacy and representativeness of institutional environments, identifying best practices for moving from de jure to de facto equality through and within gender policy.⁶⁷

Also other obstacles that are rooted even deeper in society, and that are explained separately in the following section of the present working paper, contribute to limiting women’s participation in the world of politics and they are linked to patriarchal stereotypes that reflect in power dynamics in society in general, thus are linked to culture, mentality and social structures, education and other factors that “still tend to privilege the public/political domain as being a mainly male domain.”⁶⁸

In relation to these factors, the Council of Europe developed the concept of “parity democracy” linked to “women’s participation in political and public life, both as a *democratic requirement* and as a social advantage for society as a whole.”⁶⁹ The study conducted in relation to the implementation of Recommendation Rec (2003) 3 of the CoE Committee of Ministers on ‘Balanced participation of women and men in political and public decision-making’ has concluded that

Despite some positive developments, the global picture is still one of inequality and *democratic deficit* as regards the equal rights to participation and representation of women and men. *The standards reached so far are generally unsatisfactory in democratic terms* and in view of the objective reached.⁷⁰

The quality of our democracies would be improved by wider participation, the more inclusive the public and political scene is towards all strata and social groups, the more it would benefit society as

⁶³ Hilary Charlesworth, *Transforming the United Men’s Club: feminist Futures for the United Nations*, 1995, p. 440.

⁶⁴ Regina Tavares da Silva, *Parity Democracy. A far cry from Reality*, Comparative study on the results of the first and second rounds of monitoring of Council of Europe Recommendation Rec (2003) 3 on balanced participation of women and men in political and public decision-making, Directorate General of Human Rights and Legal Affairs, Council of Europe, Strasbourg, 2010, p. 73.

⁶⁵ Elisa Fornalé, op. cit., p. 2.

⁶⁶ Ibidem and see also Alison M. Jaggar, *Global Gender Justice*, in Thom Brooks (Ed.), “The Oxford Handbook of Global Justice”.

⁶⁷ Fornalé, op. cit., p. 2.

⁶⁸ Ibidem.

⁶⁹ Ibid. emphasis added.

⁷⁰ Ibid. emphasis added.

a whole, keeping into account also the needs of the most vulnerable categories, which usually are also the most under-represented. Already in the 1980s Scandinavian feminist authors developed the concept of “unfinished democracy”⁷¹ and in the 1990s also the notion of “male democracy” started to permeate the political debate in socialist circles.⁷² As explained by Antic Gaber: “Feminist circles have often posed the question of whether a democracy that disregards the political equality of women is a democracy in the true sense of the word.”⁷³ Thus the exclusion of women and their limited participation in public and political life has negative consequences on the quality of social representation, and in turn, also on the quality of democracy.

In fact, it has been convincingly argued that the overrepresentation of any group becomes a problem for democracy itself and compromises the quality and diversity of representation in general, offering the electorate more limited choice in terms of candidates, which can cause political alienation and disengagement from political processes in those groups that do not feel represented by the candidates.⁷⁴ Thus, women’s participation and representation in public and political life on an equal basis with men and without any form of discrimination is not only a human right, but becomes also a matter regarding the quality of our democracies.

8. “Any Colour You Like” – The Full Spectrum of Democratic Representation

The CEDAW Committee has recommended on numerous occasions measures for the inclusion of all categories of women, as the most vulnerable women are usually also the least represented and participate less in public and political life and in decision-making processes.

Looking closer at examples for Eastern Europe, the Committee made numerous recommendations to include different categories of women in decision-making process and enhance their participation in public and political life. The social exclusion of disadvantaged groups of women often gives rise of intersectional forms of discrimination and translates into lower – if any – participation and representation in public and political life.

Rural women, Roma women, disabled women, elderly women, internally displaced, women of African descent and/or from different linguistic, ethnic, or religious minorities are often excluded from decision-making processes, even the ones that directly regard their livelihoods and lands or the

⁷¹ Elina Haavio-Mannila, *Unfinished Democracy: Women in Nordic Politics*, Pergamon Press, Oxford - New York, 1985.

⁷² Nanette Funk and Magda Mueller (Eds), *Gender Politics and Postcommunism. Reflections from Eastern Europe and the Former Soviet Union*, Routledge, London, 1993.

⁷³ Milica Antic Gaber, *Women in the Slovene Parliament: Working towards Critical Mass*, in Marilyn Rueschmeyer and Sharon L. Wolchik (Eds), “Women in Power in Post-Communist Parliaments”, Woodrow Wilson Center Press - Indiana University Press, 2009, p. 21.

⁷⁴ Rainbow Murray, *Quotas for Men: Reframing gender quotas as a means of improving representation for all*, Cambridge University Press, 2014, p. 524.

lands in their vicinity, even on matters directly regarding them and their families, where their experience and knowledge is extremely undervalued and too often overlooked.

Disabled women might be more protected by laws and policies with regard to their access to health services or education, but their participation in public and political life is still very low. Roma women are perhaps the most discriminated against category and their participation in public and political life is very limited, and extremely limited in decision-making positions. Women from minority groups often experience intersecting forms of discrimination, but when it comes to their participation in public and political life, several countries have passed legislation allocating quotas to certain minorities and/or to women. Where both are true, appointing a woman who comes from a minority that also benefits from legislated quotas allows parties to tick two or more boxes with the nomination of one candidate. This has been used as a strategy, and remains quite controversial.

In reality, especially the experiences and expertise of these particular categories of women could be fundamental to formulate specific policies and legislation. For example, involving more rural women in the development of agricultural policies could allow better understanding of the rural infrastructure and how to improve it, a more accurate assessment and more adequate planning, budgeting and overall design of laws and policies. The CEDAW Committee has made these aspects clear in its GR No. 34 of 2016 on the rights of rural women and in numerous recommendations.

9. “I’ll see you on the dark side of the moon” – The Far Side of Women’s Participatory Rights and the Difficult Implementation of Article 8 CEDAW

Developments in terms of women’s participation in public and political life at national level are mirrored at the international level, where the percentage of women representing their governments remains much lower than men in diplomacy – especially in the top ambassadorial positions, and in international organisations, as well as on the benches of international courts and tribunals.⁷⁵ In fact, our research project focused specifically on women in diplomacy - especially at the highest levels, thus female ambassadors – and women elected as judges on the benches of international courts and tribunals.

According to the *Women in Diplomacy Index*, in 2021 only 4 countries in the world had more than 40% women diplomats and in 2023 only 20.5% of the world’s ambassadors are women.⁷⁶

For example, in our interview with a female ambassador, she explained:

⁷⁵ The interviews carried out in relation to our project all confirm this, at unanimity among the interviewed women who participated. See also the detailed analysis and quantitative data gathered by GQUAL with regard to women’s striking under-representation at the international level: [RANKING – GQual \(gqualcampaign.org\)](https://gqualcampaign.org)

⁷⁶ UNDP – Women in Diplomacy Index.

Women in Egypt constitute 30% of the total number of career diplomats. That was not the case for other countries, and I am referring to diplomats from other countries that I have encountered during my career. The diplomatic career is challenging for men, but for women even more - as a woman you have to really excel! I feel this is true until now, and all over the world, not only in Egypt. There is a fight for diplomatic posts. But now there are many new rules that help the advancement of women's careers, such as the 50% quota. For women it is not enough to wish to become ambassadors, but they need a strong will to achieve it! Of course, you have to pass many interviews and examinations. There are many challenges, and it takes time also for cultural traditions to change, at family level. Sometimes it is a difficult job if you have a family and children, to be away from them, but I think the world is advancing in this respect and the situation is improving for women.⁷⁷

When it came to her personal example, the ambassador underlined:

Almost since childhood I knew that I would become a diplomat, this was the challenge I set myself and wanted to overcome. In Egypt we join the Ministry of Foreign Affairs through a general competition at national level. You can present your candidature as long as you have graduated from University, no matter what branch of studies. The examination has 3 stages: first a written exam on international law and international affairs; then a language exam – you need to know at least 2 languages. Then there is an oral interview on the same subjects, when contents and public speaking skills are evaluated (what you say and how you say it). Then if you pass the examination the career path is divided in several steps before becoming ambassador. I have started in the international organisations department, then my first post was at our mission to the UN in Geneva, and other organisations.⁷⁸

When talking about the future of women in diplomacy, the interviewed ambassador affirmed her optimism in this regard and, as she is teaching at the Diplomatic Institute for the new young diplomats in her country, where the students are mostly women this year, she was proud to announce that

I had the very pleasant surprise that the newest batch have been named after me and the most beautiful thing is that the majority are girls! 28 young women vs 20 young men. I am very proud of them, they are very promising, they are facing the challenges, they are exercising their rights, they are experiencing also some pressures that discourage them. It is challenging for the mind and the spirit. But when there is a will there is a way!⁷⁹

Nevertheless, looking at the global situation from the '90s until today, and more specifically at the presence of women in top-UN positions, the data remains disproportionally in favour of men as the UN itself was even called the "world's largest men's club"⁸⁰ as men considerably outnumber women

⁷⁷ Online interview carried out by Dr David on 26 July 2023.

⁷⁸ Ibidem.

⁷⁹ Ibid.

⁸⁰ Gayle Kirshenbaum, *UN Expose: Inside the World's Largest Men's Club*, in "Ms. Magazine", September/October 1992; Kristen Haack, *Gaining Access to "the World's Largest Men's Club": Women Leading UN Agencies*, in "Global Society", Vol. 28, Iss. 2/2014, pp. 217-240.

in top positions, in all bodies and agencies, except for CEDAW – the only UN treaty body where women outnumber men.⁸¹

The selection of candidates for membership in UN treaty bodies has an initial process conducted at national level, whereby the State Party proposes a candidate, then at international level, within the UN treaty body voting of the candidates takes place.

The example of the HRC has been selected, where the voting procedures find their legal basis under Articles 28 to 39 of the International Covenant on Civil and Political Rights, which that the 18 members of the Committee “are persons of high moral character and recognized competence in the field of human rights” and that “each State party may nominate no more than 2 persons from its own nationals to stand for election”. No later than one month before the date of the elections, the list of nominations put forth by the SPs has to be presented.

From the list, the election of the new members of the HRC is carried out by secret ballot, “with due consideration being given to equitable geographical distribution to the representation of the different forms of civilization as well as of the principal legal systems, relevant legal experience and *balanced gender representation*.”⁸² Quorum is reached at two thirds of the State Parties. The elected members serve as experts, in their personal capacity and may be re-elected when their term expires.⁸³

Therefore, in order to become a member of the HRC, candidates first of all have to be chosen by their State of provenience and State Parties themselves run then also the election campaign promoting their candidate within the HRC. Thus, it is very much up to the political will of national authorities and the influence they can exercise within the UN Treaty body.⁸⁴ Public and transparent, well-defined procedures ensure fairness in the selection of candidates and access also to women, as opposed to direct nomination, which appears more aleatory and opaque. The selection processes at national level vary from one State to another. In addition, national selection processes can take different forms, such as an open call to which anybody fulfilling the requirements can apply, but sometimes the candidate for UN bodies is simply nominated or shortlisted by the competent authorities at national level. For instance, in the case of the Netherlands, the process is very clear, transparent and open as it starts with a public call: “an open selection, an advertisement in the newspaper and everybody could apply”.⁸⁵ However, different countries apply different procedures in the selection of candidates, as a female judge and member of the HRC explained:

The procedure in Serbia is not as transparent as in the case of the Netherlands, they have a very specific procedure. In my case, which is more similar to other experiences

⁸¹ “Out of 23 members 22 are women and 1 is a man”, See ELECTIONS OF THE TREATY BODIES IN FIGURES, p. 10, <https://www.ohchr.org/sites/default/files/documents/hrbodies/treaty-bodies/elections/2023-01-31/TB-2023-Candidates-text.pdf>.

⁸² *Ibidem*, emphasis added.

⁸³ <https://www.ohchr.org/en/treaty-bodies/ccpr/membership> and <https://www.ohchr.org/en/treaty-bodies/ccpr/meetings-states-parties-elections>

⁸⁴ Interview conducted by Dr David on 8 August 2023.

⁸⁵ Interview with Yvone Donders, conducted on 13 July 2023.

of my colleagues at the HRC, as a Professor of PIL and HRL, I was aware of the composition of treaty bodies and I realised that in 2022 two members from Eastern Europe will finish their term. One from Slovenia and Montenegro – also former Yugoslavia, and both of them women, also Professors of PIL. [...] This is how we decided, as it was a great opportunity for me and for my country, since Serbian independence we never had a member in the HRC before, so this is another very important aspect. So, our diplomatic missions around the world were activated and in the end we succeeded. But it started from me, from my knowledge and understanding of timing and momentum.⁸⁶

Thus, in this case it was the candidate herself to present a spontaneous application to the Ministry of Foreign Affairs, underlining “the wonderful opportunity for our country and that it would be a shame not to use the momentum.”⁸⁷ Then, “the State had to organise interviews with other States”,⁸⁸ and in this case, the nomination of this Professor from Serbia in 2020 led to her election as a member of the HRC in 2022.⁸⁹

In general, we found in the CEDAW Convention a strong instrument for the protection of women’s rights - as explained above - including women’s participatory rights, as provided under Articles 7 and 8. Nevertheless, the attention of scholars, experts and of the CEDAW Committee itself seems to have been concentrating mainly on the national level. In its COs, the recommendations regarding women’s participation in public and political life at national level largely outnumber the measures suggested by the Committee to bridge the gender gap in representation at international level. Like the dark side or far side of the moon, Article 8 has been overlooked and thus underused; its potential has apparently been underestimated.

Analysing all the CEDAW Concluding Observations, in quantitative terms, we found the recommendations regarding Article 7 measures to increase women’s participation at national level, in the State Parties, counted combined together with Article 4.1 TSMs. The same method was applied to count the CEDAW recommendations regarding Article 8 measures of implementation to improve the participation of women in the international arena.

The overall results in quantitative terms are the following: out of a total of 421 recommendations for the African States, 390 regard Article 7 and only 31 focus on Article 8 measures; for the Asia-Pacific region, 510 recommendations have been issued in relation to the implementation of Article 7 and only 51 regard Article 8; 300 recommendations on Article 7 were found in the COs for Eastern Europe, and only 45 on Article 8; looking at Latin American and the Caribbean States, 213

⁸⁶ Interviewed in Geneva on 20 July 2023.

⁸⁷ Ibidem.

⁸⁸ Ibid.

⁸⁹ Her term expires on 31 December 2026.

recommendations regard Article 7 and only 23 are dedicated to Article 8; for the Western European and remaining States 194 recommendations focus on Article 7, whereas only 62 regard Article 8.⁹⁰

From a qualitative point of view, what is striking with regard to the formulation of recommendations regarding the implementation of Article 8 is first of all that the substantive measures suggested to address women's under-representation at the international level are not provided separately from women's participation in public and political life at national level, but together with and within the context of Article 7, which has always been dominant.

As the nomination of women representing their governments in international affairs is proposed by the State Parties themselves, the accent on measures meant to change the situation at the national level naturally remains preponderant and decisive. Nevertheless, the drafting process of the CEDAW Convention and the deliberate decision of addressing women's representation in public and political life at national level in Article 7 and at the international level in Article 8 would lead to the expectation of maintaining this separation also in addressing their implementation, therefore the expectation of finding recommendations formulated separately for Article 7 and for Article 8 in the COs.

This is not always the case, in fact quite the opposite is true, and recommendations generally regard measures related to the implementation of Article 7 and often in the same paragraph also Article 8 is addressed.

The structure of CEDAW Reports and recommendations has changed over time, with single and quite lengthy documents in the first phase of the reporting cycle, including the reports of a number of States, that began with an introduction by the State Party providing an analysis of the situation of women in the single country followed by requests of clarifications or of further information, more data - often more disaggregated data – required by the CEDAW Committee.

Recommendations were still quite shy and scarce in number, very few and very basic, which is not surprising because in the first reporting phase the level of understanding of the Convention itself was quite limited, and considerable efforts of the Committee have been directed towards improving the level of comprehension and implementation at national level of key aspects such as the omnicomprehensive definition of gender-based discrimination in accordance with Article 1 of the Convention, or the distinction between equity and equality between men and women. The approach was article by article, but little to no attention was directed towards Article 8, in the first reporting phase, often omitted both by the SP in the reporting part and by the Committee in the follow-up part. The format and reporting criteria had been provided by the Committee to State Parties.

We can consider the second phase of the CEDAW reporting cycle marked by the distinction in separate documents, single-country reports and Concluding Comments of the Committee provided in

⁹⁰ www.womenandparticipation.org – data updated up to 7 January 2024.

a different document, that subsequently was renominated Concluding Observations - this form is maintained still today for CEDAW recommendations. Among them, many still address Article 7 and Article 8 measures together, in the same recommendation, often also in combination with special measures – especially temporary special measures – as defined under Article 4(1) CEDAW.

Focus on Eastern European Countries

In providing examples, we will narrow the focus to examples from Eastern Europe drawn from the work carried out for our GEM research project.⁹¹ Historically, in Eastern Europe the legacy of communism and socialism plays an important role when it comes to societal attitudes with regard to legislated gender quotas. On the one hand, communism had rendered society more egalitarian, on the other hand, stereotypes concerning gender roles persist.

In the post-Soviet Eastern European States that do not have legislated gender quotas - Azerbaijan, Belarus, and Russia, but also the three Baltic States Estonia, Latvia and Lithuania - the main reasons are associated with the 33% gender quota there was in place in the political bodies of the Soviet Union,⁹² and the attitudes towards re-introducing legislated gender quotas vary from negative to retaining legislated gender quotas useless, as Soviet era women in politics were mainly considered token women who did have any influence and did not leave any mark on the development of law and policy at the time. However, since they gained independence, none of the post-Soviet States, including those that have introduced legislated gender quotas – Armenia, Georgia, Moldova and Ukraine, have seen a decrease in the percentage of women elected in leadership positions in the public and political realm.

In former Yugoslavia important steps have been taken towards gender equality, including the adoption of legislated gender quotas in Bosnia and Herzegovina, Croatia, Montenegro, North Macedonia, Serbia and Slovenia. As Prof. Tijana Šurlan, from Serbia, and member of the HRC underlined:

For former socialist countries, like ours, communism and socialism worked very much in favour of the emancipation of women. So the ideology had in its essence equality between men and women. [...] Socialism was very strong in Yugoslavia, in communism we had male and female versions for words like comrade, men and women were treated as equals. [...] It is more a matter of society in this case than of State policy and State practice, the Government just built on that egalitarian basis. The government cannot go against society, if men and women are not treated as equal.⁹³

⁹¹ The complete results for all the SPs to the CEDAW Convention and all the data related to our research project is available online: [GEM Map \(womenandparticipation.org\)](https://www.womenandparticipation.org) and [test3 \(womenandparticipation.org\)](https://www.womenandparticipation.org).

⁹² Asian Development Bank, *Azerbaijan - Country Gender Assessment*, December 2019.

⁹³ Interview with Prof. Tijana Šurlan, Geneva, 20 July 2023.

In total, out of twenty-three countries in Eastern Europe,⁹⁴ all State Parties to the CEDAW Convention, twelve have adopted legislated gender quotas: Albania, Armenia, Bosnia and Herzegovina, Croatia, Georgia, Montenegro, North Macedonia, Poland, Moldova, Serbia, Slovenia and Ukraine. The eleven countries that do not have gender quota legislation in place thus far are Russia, Azerbaijan, Belarus, Estonia, Latvia, Lithuania, Romania, Bulgaria, Czech Republic, Slovakia and Hungary.

Looking for instance at CEDAW recommendation related to the implementation of Article 8 of the Convention in Eastern Europe,⁹⁵ examples include the recommendation for Albania in 2010 – the only one mentioning for this State Party the international dimension of women’s underrepresentation in public and political life:

The Committee calls on the State party to strengthen the use of temporary special measures, in accordance with article 4, paragraph 1, of the Convention and the Committee’s general recommendation No. 25, in areas in which women are underrepresented or disadvantaged, including through the allocation of additional resources where needed, in order to accelerate the achievement of de facto or substantive gender equality in areas covered by the Convention, such as participation in political and public decision-making, *including in the civil and diplomatic service, in the judiciary and the executive branch, and in the education and employment sectors.*[...] The Committee requests the State party to include, in its next periodic report, comprehensive information on the use of such temporary special measures in relation to various provisions of the Convention, and on their impact.⁹⁶

In the case of Armenia there have been, over the years, 4 recommendations addressing the implementation of Article 8, compared to 23 addressing Article 7. The most recent ones can be classified in our view as the most progressive and advanced type when it comes to Article 8 measures, as they request the introduction of TSMs -namely quotas- specifically related to improving women’s representation at the international level and address this issue directly, specifically and unequivocally: in this case the CEDAW Committee recommended Armenia to

Introduce targeted measures, including temporary special measures, in line with article 4 (1) of the Convention and general recommendation No. 25, such as increased quotas and targeted campaign financing, to increase the representation of women at all levels of the Government, in the National Assembly, the judiciary, academia, the *foreign service* and *international organizations, in particular at decision-making levels.*

⁹⁴ <https://www.un.org/dgacm/en/content/regional-groups>.

⁹⁵ In this paper we consider examples from Eastern Europe to narrow the focus, however, our research project included the analysis of all COs issued by the CEDAW for all its SPs and all the data is available, in chronological order here: www.womenandparticipation.org. When in the same recommendation the Committee indicates both measures addressing Article 7 and measures for the implementation of Article 8, the measure is counted twice – once for Article 7 and once for Article 8, indicating where possible the different subparagraph(s), usually identified in the original text of the COs with a letter/letters.

⁹⁶ COs 2010 - UN Doc CEDAW/C/ALB/CO/3, para. 23. There were 16 recommendations addressing the implementation of measures related to Article 7 for Albania, and only this one for Article 8.

This was followed also by the recommendation to “Introduce preferential recruitment of women to the foreign service and its diplomatic missions.”⁹⁷

The recommendations for Azerbaijan counted 2 related to Article 8, whereas 20 addressed Article 7. None of the recommendations from the CEDAW Committee to Belarus regarded Article 8, while Article 7 measures were required in 7 recommendations.

For Bosnia and Herzegovina there were 3 recommendations addressing Article 8, and 15 recommendations addressing Article 7. Only 1 recommendation regarding Article 8 was issued for Bulgaria, and 10 recommendations focused on Article 7. Croatia received 1 recommendation related to Article 8 and 10 to Article 7.

The COs for Czech Republic summed a total of 3 recommendations for Article 8 and 17 for Article 7 implementation. No recommendations targeted specifically Article 8 measures in the case of Estonia, that received 4 recommendations in total related to Article 7. Georgia received 2 recommendations on Article 8 implementation and 12 on Article 7. In the case of Hungary, 4 were the recommendations on Articles 8 and 14 dealt with measures related to article 7. Again, in the case of Latvia, there was no recommendation for the implementation of Article 8, and only 5 for Article 7. Among the recommendations for Lithuania, 12 indicated measures in connection with the implementation of Article 7 and only the following recommendation addressed -inter alia- also Article 8:

Reiterating its previous recommendations (CEDAW/C/LTU/CO/5, para. 29), the Committee recommends that the State party strengthen its efforts to increase the representation of women in political life and adopt temporary special measures, including quotas for female candidates of political parties and heads of municipalities, to increase the participation of women, in particular rural women, women belonging to ethnic minority groups and women with disabilities, in political and public life, *including in relation to women obtaining the highest diplomatic status and women having diplomatic status engaged in national representation*, and in municipalities, in line with its general recommendation No. 23 (1997) on women in political and public life.⁹⁸

No measures related to Article 8 were ever recommended by the CEDAW Committee to Montenegro, the recipient of a total of 10 recommendations addressing the implementation of Article 7. North Macedonia received 2 recommendations dedicated to Article 8 in the CEDAW COs and 10 recommendations for Article 7.

Twice in the case of Hungary did the CEDAW Committee recommend measures addressing the improvement of women’s representation in the international arena as required by Article 8 of the Convention, compared to 8 recommendations on Article 7. The Republic of Moldova as well received

⁹⁷ COs 2022 - UN Doc CEDAW/C/ARM/CO/7, para. 30 (a),(e).

⁹⁸ COs 2019 - UN Doc CEDAW/C/LTU/CO/6, para. 29.

2 recommendations addressing Article 8, and a grand total of 18 recommendations for the implementation of Article 7 CEDAW. Romania has never received recommendations mentioning measures related to Article 8, and in 8 instances CEDAW recommendations for this country addressed Article 7.

The Russian Federation was the recipient of 2 recommendations on including measures related to Article 8 implementation and total sum of 19 recommendations for Article 7. There were 3 recommendations for Serbia dealing with the implementation of Article 8 and 11 for Article 7. The Committee recommended measures addressing Article 8 twice in its COs for Slovakia and 11 of its recommendations were related to Article 7.

Slovenia did not receive any recommendations specifically regarding Article 8, but a remarkable total of 23 recommendations regarded the implementation of Article 7. The State Party from Eastern Europe which received the highest number of recommendations on Article 8 was Ukraine, with a total of 6, and for Article 7 the recommendations were 22. In fact, in its 2022 COs for Ukraine the CEDAW Committee acknowledged that “although the number of women in high-level positions in the diplomatic service has increased, it remains disproportionately low” and in fact encouraged the adoption of

Temporary special measures, such as quotas and a gender parity system in the public and foreign services, in line with article 4 (1) of the Convention and the Committee’s general recommendation No. 25 (2004) on temporary special measures, to ensure equal representation of women in the public service and foreign service, especially at decision-making levels.⁹⁹

Therefore, in general and throughout the globe recent developments have seen an increase in the number of women representing their countries at the international level, however progress remains slow and only a few timid steps have been taken in this direction, especially at the international level.

Focus on Feminist Foreign Policies

Moving beyond the CEDAW Convention, while recognising its enormous positive impact, one of the most relevant trends that is starting to take foot across the globe, from Europe to Latin America, sees the emergence of Feminist Foreign Policies.¹⁰⁰ The first country to elaborate a Feminist Foreign Policy was Sweden, in 2014, which was followed after 3 years by Canada’s “Feminist International assistance Policy”; in 2019 feminist foreign policies were developed also by France and Luxembourg, then by Mexico in 2020 and Spain in 2021, followed by Germany, Chile and Slovakia.¹⁰¹

These policies have two common denominators:

⁹⁹ COs 2022 - UN Doc CEDAW/C/UKR/CO/9, paras.33-34.b.

¹⁰⁰ From the interviews carried out as field work for our research project, it emerged that in Slovenia and Chile new Feminist Foreign Policies are being implemented – Interviews carried out by Dr David, on 8 August 2023 and on 4 October 2023.

¹⁰¹ *Overview - Chile launches Feminist Foreign Policy*, p. 4 and the two Interviews above.

(1) from a quantitative point of view: increasing the presence of women at international level, thus having more female ambassadors and supporting female candidates as members of international organisations, including the UN and its treaty bodies, and on the benches of regional and international courts and tribunals;

and (2) from a qualitative point of view: adding a gender dimension to the different pillars and areas of the country's foreign policy, such as the trade agenda and gender balance, democracy and gender empowerment, human rights and women's rights.¹⁰²

For instance, in the case of Chile, already in December 2021 President Gabriel Boric recognised the need to include a gender perspective in foreign policy, and from March 2022 the country's Feminist Foreign Policy (FFP) has started to be developed, and is incorporated in the strategic goals of the Ministry of Foreign Affairs for the period 2022-2026. It is guided by the principles of gender equality and non-discrimination, and it introduces a change in perspective from the passive role historically assigned to women as "receivers" of policies to enabling and encouraging now through targeted actions focused on female active participation in the generation of policies.¹⁰³ Thus the Chilean FFP was defined as *inclusive* – aiming to benefit everyone, *participative* – opening spaces to enable the involvement of all stakeholders in the design and implementation of policy directions, *transversal* – in the coordination of the actions and work of the Ministry of Foreign Affairs across all its areas of activity, and *intersectional* – in addressing the overlap of different factors of discrimination as well as structural inequality.¹⁰⁴

Then, eight priority areas of FFP were identified: (1) the focus on gender equality became the cardinal point in Chile's actions for the protection of human rights and in strengthening democracy, together with (2) the eradication of gender-based violence, (3) women empowerment and greater representation, (4) the development of the women, peace and security agenda, (5) trade and gender, (6) climate change and gender, (7) digital, science, technology and innovation agenda, (8) the promotion of a comprehensive system of care.¹⁰⁵

The Chilean Feminist Foreign Policy acknowledged and developed following both the domestic dimension and the foreign affairs dimension. Domestically, it was initiated with the recognition of "the persistence of gender gaps that prevent the full participation of women in all decision-making spaces within the Foreign Affairs Ministry", addressed through the review of organisational instruments including regulations, protocols and processes, in order to reduce the gender gaps and

¹⁰² See for instance the case of Chile, whose Feminist Foreign Policy, was launched in mid-2023 and is declined into 8 areas "guided by the principle of having gender as a cross-cutting issue" – interview with Chilean Ambassador to the WTO, carried out online by Dr David on 4 October 2023; see also *Overview - Chile launches Feminist Foreign Policy*.

¹⁰³ *Overview - Chile launches Feminist Foreign Policy*, pp. 1-2.

¹⁰⁴ *Ibidem*.

¹⁰⁵ *Ibid*.

implement the necessary changes.¹⁰⁶ The foreign affairs dimension is based on Chile assuming an active role in various forums and mechanisms where it can advance gender equality, as “the declaration of a Feminist Foreign Policy aims to promote coordinated foreign actions that respond to institutional guidelines, with defined objectives and measurable results.”¹⁰⁷ In Chile, ambassadors are directly appointed by the President and President Boric has paid particular attention to gender balance in this regard, thus – as a result – the number of women in charge of missions abroad at embassies almost doubled, increasing from 14 in 2021 to 27 in 2023.¹⁰⁸

In addition, Chile takes great pride in being “the first country in the world to incorporate gender and trade chapters in several free trade agreements, seeking to open opportunities to expand the participation of women in international trade.”¹⁰⁹ This is reflected both in bilateral treaties such as the ones with Uruguay, Argentina, Brazil, Ecuador, Paraguay, Canada and the most recent trade agreement with the EU, as well as in multilateral instruments like the Global Trade and Gender Agreement signed together with New Zealand and Canada.¹¹⁰ Furthermore, Chilean Ambassador to the WTO, Sofia Boza, explained that solidarity is becoming stronger and stronger between women ambassadors and female representatives in different international organisations in Geneva including the UN, who formed a network of women in trade, they support each other and other women like a sisterhood, promoting cooperation rather than competition between women.¹¹¹

Looking now at the most recent developments in Europe, Slovenia has not only elected its first female President but also has its first woman serving as Minister of Foreign Affairs “who has declared as one of the priorities also the feministic foreign policy, so Slovenia has an official proclamation now of [...] feminist foreign policy.”¹¹²

Moreover, at the European regional level, within the EU, “introducing mandatory gender quotas in the European elections is an idea that has been considered for some time and was included in a legislative proposal by the European Parliament to amend the EU law on the organisation of European elections.”¹¹³

Taking into consideration the research results, that indicate that gender quotas and the zipper system have indeed positive effects and increase the chances of women being elected, the Committee on Women’s Rights and Gender Equality (FEMM) “called on Member States with low levels of

¹⁰⁶ *Overview - Chile launches Feminist Foreign Policy*, Policy Paper, Imagende Chile – Creating Future, 2023, p. 3.

¹⁰⁷ *Ibidem*.

¹⁰⁸ *Ibid.*

¹⁰⁹ *Ibid.*

¹¹⁰ *Ibid.*, pp. 3-4.

¹¹¹ Interview carried out by Dr David, 4 October 2023.

¹¹² Interview carried out by Dr David, 8 August 2023.

¹¹³ Ionel Zamfir, *Towards Gender Balance in the European Elections. Electoral Quotas – what can they achieve?*, European Elections 2024 Briefing, European Parliamentary Research Service, September 2023, p. 10.

representation of women to introduce binding parity quotas with zipping”, after “urging them to consider quotas on lists of at least 40 %, with zipping throughout the list.”¹¹⁴

The final draft legislative act adopted by the European Parliament in May 2022 contained an obligation for MSs to achieve gender equality "making use of the model that best fits their electoral system for European elections, and imposing an obligation on political entities to ensure gender equality when presenting their candidatures in the EU-wide constituency, either by using a zipped system or quotas.”¹¹⁵ The proposal has to be approved by the Council at unanimity, but during the debate, reservations were expressed by several MSs “as to the creation of a Union-wide constituency and the elements of the proposal that imply harmonisation of the electoral system used in European elections. The new act also requires the approval of all Member States in line with their constitutional procedures, which in some may involve a constitutional amendment.”¹¹⁶

Considering these emerging trends and recent developments, we would expect women’s representation in public and political life, at the national and international level, to increase in the following years, provided that States follow a course of action directed towards fair, transparent, inclusive, more democratic and more balanced elections, implementing a mandatory and legislated quota system until gender equality is reached.

*[we] make the change,
[we] rearrange [it] ‘till [it’s fair]*¹¹⁷

Conclusion

Without losing sight of Article 7 and all the other articles of the CEDAW Convention, as each article shines its own different colour of light for the protection of the full spectrum of women’s human rights, all of them together with the recommendations of the CEDAW Committee aim at the implementation of measures to ensure *de jure* rights enshrined in the Convention and translate into practice *de facto* improving the lives of women and their opportunities, so as to reach gender equality in all its aspects.

Specifically with regard to participatory rights and women’s representation in leadership positions in public and political life at national and international level, reading and interpreting Articles 7 and Article 8 separately, each of them in conjunctions with Article 4(1), would accomplish the effect of one ray of white light, after passing through the filtering prism of the CEDAW Convention, forming

¹¹⁴ Ibidem.

¹¹⁵ Ibid., p.11.

¹¹⁶ Ibid. See also [https://www.europarl.europa.eu/RegData/etudes/STUD/2021/679084/EPRS_STU\(2021\)679084_EN.pdf#page=37](https://www.europarl.europa.eu/RegData/etudes/STUD/2021/679084/EPRS_STU(2021)679084_EN.pdf#page=37)

¹¹⁷ Author’s adaptation after Pink Floyd, *Brain Damage*.

the multi-coloured spectrum of light that shines on women's human rights in all their different colours.

In addition, bringing to light also Article 8, which has always remained in the shadow of Article 7 – unseen and underused like the dark side of the moon – together with overcoming patriarchal stereotypes and attitudes, could bring about a fundamental change of perspective on women's participation in public and political life that is long overdue, both at national and international level.

*And all that is now
And all that is gone
And all that's to come
And everything under the sun is in tune
But the sun is eclipsed by the moon
(Pink Floyd – Eclipse)*