

Senedd Cymru | Welsh Parliament

Y Pwyllgor Biliau Diwygio | Reform Bill Committee

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

Ymateb gan Dr Maarja Lühiste, Prifysgol Newcastle | Evidence from Dr Maarja Lühiste, Newcastle University

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

The general principles of the Bill are in line with research findings on the effectiveness of legislative candidate quotas.

1. The argument in support of candidate gender quotas explains that parties with more diverse parliamentary delegations bring a greater breadth of experiences and backgrounds that increase the focus on previously ignored issues (Kittilson 2008; Alexiadou 2016; Greene 2016). From this perspective, candidate quotas improve the representation of often historically excluded groups on both descriptive and substantive policy grounds.

2. The suggested design of the legislative quota, as described in the Bill, likely improves its effectiveness as thanks to the horizontal and vertical rule it will be impossible for parties to systematically place women on less viable list positions than men (Luhiste 2015) or only in unwinnable constituency placements (Ryan et al. 2010).

2.a. Indeed, the exact position in which parties place female / male candidates on the list (or in which constituency) matters for the outcome of gender balance in political representation. Thus, rules that inhibit political parties from filling the electoral lists with women at the bottom of the list or in constituencies where they have low chances of winning, are deemed more effective (Franceschet and Piscopo 2008, Luhiste 2015).

3. However, it is also important to point to empirical research findings that provide more mixed evidence of the effectiveness of legislative candidate quotas. This is not to say that quotas are not a useful measure but to caution against the belief that it is a measure that will fix everything.

3.a. For example, candidate quotas may also increase party leadership's control over candidate selection and thereby change the behaviour of individual candidates and MPs.

3.a.i. Franceschet and Piscopo (2008) present two competing hypotheses. On the one hand, the "mandate effect" expects female legislators who entered the candidate pool under quota rules to perceive an obligation to act on the behalf of women. Past research provides some empirical evidence that women elected under legislative quota do bring new perspectives and policy areas to the legislative debate (Franceschet and Piscopo 2008; Lühiste et al. working paper).

3.a.ii. In contrast, candidate quotas can also create the "demeaning notion of quota women" and encourage beliefs that the women elected are less experienced, less capable, and "blindly loyal" to traditionally male-dominated party leadership (Franceschet and Piscopo 2008). Indeed, past research on legislative quotas in Latin America, Africa and India have raised concerns of party selectors using quotas for the selection of biddable loyalists (Piscopo 2006; Schmidt 2003; Tripp 2005; Waylen 2000) or as replacements for male relatives (Nanivadekar 2006). Hence, it is important to think through mechanisms to discourage such notions.

3. b. Furthermore, there is some cautionary evidence suggesting that under legislative quotas (i) women have lower chances to get their policies enacted (Franceschet and Piscopo 2008), (ii) women receive less media coverage than men during electoral campaigns (Lühiste and Banducci 2016), and (iii) women survive shorter time period as party leaders (O'Brien and Rickne 2016) than in context without quota rules.

Overall, while the suggested Bill likely increases both women's numeric representation as well as their substantive representation in terms of policy issues discussed and perspectives brought to the legislative floor, the impact quotas have on policies enacted and women's political careers is less clear.

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

Overall, robust measures of enforcement and for potential sanctions for non-compliance are put in place in the proposed Bill.

1. The relatively high levels of women's representation in the Senedd since 1999, suggest that the political parties should face relatively few challenges with the recruitment of female candidates – a much-cited barrier to increased women's representation (Fox and Lawless 2004, 2010; Fulton 2012; Lawless and Fox 2005, 2010).

2. Furthermore, the relatively high levels of women's descriptive representation also indicate parties' willingness to promote women's candidacies (Luhiste 2015; Lühiste and Kenny 2016) and comply with the proposed legislation. This should all support effective enforcement of the proposed Bill.

There are a couple of points to be aware of though:

1. The proposed Bill appears to adopt a gender-binary definition of sex, where each candidate must identify themselves as either as a woman or not a woman. The question here is how to classify candidates who identify as gender non-binary. Unfortunately, due to the relatively low number of politicians who identify as gender non-binary, there is limited to no research evidence on the impact gender binary definition may have on quota effectiveness and implementation.

2. The fact that parties are provided with a "second chance" to correct non-compliance with the horizontal rule but not with the vertical rule may lead to some inconsistencies, and in the worst case, encourage non-compliance with the horizontal rule. To simplify the proposed legislation and to discourage non-compliance, the same rule could apply in both for the horizontal and the vertical rule.

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

The Bill and the accompanying Explanatory Memorandum and Regulatory Impact Assessment is sufficiently thorough in identifying and discussing potential barriers to implementation.

Given my expertise as a scholar of gender and representation, with a specific focus on political parties and electoral systems, I feel the most competent on commenting on the potential barriers from the parties' and electoral system perspective.

1. Overall, the main barrier to efficiently implementing legislative candidate quotas tends to come from political parties (Krook 2009, 2016; Lang et al. 2022; Verge and De la Fuente 2014). While the overall levels of women's representation in the Senedd have been relatively high since 1999, there is considerable cross-party variation.

1.a. As the Regulatory Impact Assessment rightly points out, the cost of quota implementation will likely differ by party both in terms of the size of the female aspirant pool as well in terms of the extent of resistance from the incumbent men. These are matters not to be underestimated nor overlooked.

2. It is important to note that legislative quota effectiveness also tends to be influenced by electoral rules. Closed list PR provides, overall, one of the better set-ups for effective quota implementation, especially given the suggested horizontal and vertical rules (Luhiste 2015).

2.a. However, district magnitude matters, too, with larger electoral districts delivering higher levels of women's descriptive (Studlar and Welch 1991; Luhiste 2012) and substantive representation (Crisp and Silva 2023), at least partly, because quota implementation is more effective there. For example, the 2003 changes to Belgium's electoral system, which almost doubled district magnitude, led to significantly better implementation of its legislative quota (Lang et al. 2022). As such, the potential impact of relatively low district magnitude should also be given further consideration.

Are any unintended consequences likely to arise from the Bill?

Legislative candidate quotas, when efficiently implemented, are shown to increase women's descriptive representation (Larsrud and Taphorn 2007; Jones 2009; Schwindt-Bayer 2009; Krook 2009).

Under legislative quota rules, women are also shown to introduce more bills that advance women's interests (Franceschet and Piscopo 2008); thus increasing women's substantive representation.

However, past and current research on candidate quotas also points to potential unintended consequences, which may also arise from the proposed Bill.

1. Central party leadership may use quotas to exert more central control over candidate selection. In some ways, it can make it easier to filter out the so-called "mediocre man" and increase the overall quality of candidates (Besley et al. 2017). Yet, it can also be used to filter out the more disagreeable party members from becoming (viable) candidates (Luhiste et al., working paper).

1.a. If more control over candidate selection leads to more cohesive parties, then there are potential electoral and coalition-building benefits for the party (Kernell 2015, Laver and Shepsle 1998; Haber 2015).

1.b. However, more central party control over candidate selection and thus more cohesion may also result in less diverse voices on the legislative floor. My ongoing research with Dr Zachary Greene and Dr Christine Sylvester suggests preliminary evidence from parliamentary speech in 28 EU countries from 2009-2019, that in countries with quotas, women parliamentarians talk more distinctively from the party average, especially on issues, such as social welfare, health and education. This suggests increased issue diversity and interest representation, but also less party-discipline. However, as women's representation in the party delegation increases,

the more cohesive and less distinct individual legislators' speech becomes (both men and women's). This may indicate reduced diversity but also that parties, which have higher levels of women's representation in their parliamentary delegation include women's voices more when agreeing on policy proposals.

2. There is very little evidence that under legislative quota rule, women's ability to transform bills introduced to legislation passed increases (Franceschet and Piscopo 2008).

3. Kroeber's (2022) recent study examining party manifestos in 19 advanced democracies suggests that women as party leaders tend to increase the party's focus on green, alternative and libertarian positions in party manifestos. However, she does not find this evidence in cases where legislative quotas are in place. Instead, the manifestos show larger support for traditionalist, authoritarian and nationalist ideas in contexts where the party leader is a woman under legislative quota rules.

4. Lastly, at the very top leadership position, women tend to have shorter periods as party leaders in cases where quotas are in place in comparison to cases where there is no quota rule (O'Brien and Rickne 2016).

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

The assessment of the financial and other impacts of the Bill appears solid. However, this is beyond my area of expertise for further comment.

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

Unfortunately, this question is beyond my area of expertise for further comment.

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

Unfortunately, this question is beyond my area of expertise for further comment.

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

Overall, the quality of the proposed legislation appears sound. However, this question is beyond my specific area of expertise to warrant further comment from me.

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

N/A

Anything else?

N/A