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CASE STUDY

Institutionalizing Parity: The French Experience

Mariette Sineau

In Europe, French women were among the last to be granted the right to vote and to stand for election.¹ As of early 2002, the representation of women was still lagging, for in the National Assembly elected in June 2002, they held only 12.3 per cent of the seats, making France 13th among the 15 member countries of the European Union and 60th worldwide in the percentage of women parliamentarians. Imposition from above, which is traditional in France,² has allowed women to become ministers more easily than they become members of parliament (they represent more than one-fourth of cabinet members). There is a striking discrepancy between the high level of economic responsibilities held by women and their absence in parliament.

The 30 "glorious" years from 1945 to 1975, which brought tremendous changes in the lives of women (massive entry into economic activity, increasing wage-labour employment, especially in the services sector, higher schooling, legal emancipation, etc.), did not end women's lack of electoral legitimacy. The difficulty electing a sizable presence of women in the assemblies produced the radical idea of parity, which eventually led to major institutional reforms aimed at promoting equal access for women and men to elective office.

The case study first presents the specific historical and institutional context of France, then elaborates on the significance of the idea of parity and the controversies it has generated. It provides an overview of the broad lines of the reforms implemented, and an examination of their practical application during the 2001 municipal and senatorial elections, and later the 2002 legislative elections.

Historical Context

A number of historical factors explain the fact that women have never held more than a marginal position in the national assemblies of their respective countries. First, women owe their lengthy political ostracism to the 1789 Revolution. By positing women's political inability as an absolute principle for over 150 years, the Revolution legitimized the notion that women were incompetent to assume responsibility for the conduct of public affairs. More recently, further institutional constraints have impeded women's access to legislatures. Regulations and practices originating in the Fifth Republic (1958) have marginalized women, namely the uninominal system used in legislative elections and the widespread practice of multiple terms that this system favours. Consequently, it is man, comfortably settled in his realm, who has been favoured to hold the privileged position of member of parliament. The rule of incompatibility between ministerial and parliamentary functions has also been an indirect handicap for women. It has compelled the regime to resort to high-level civil servants to hold executive and even legislative positions. And these high-level civil servants are trained in distinguished educational institutions such as l'Ecole Nationale d'Administration, all of them male institutions par excellence.

Women have been ill-treated by both the institutions of the Fifth Republic and the political parties in charge of perpetuating them. Far from being open forums for training and selection, French political parties, with their narrow-minded and ageing leadership, have mainly operated as nomination groups that favour the self-reproduction of male elites. The feminist movement of the 1970s must also bear a share of responsibility for these practices, because it did not push to have women in the system of political representation: Feminists expected change to come from social movements, not political parties. Consequently, for a long time women were under-represented in the leadership of the

parties as well as in groups of elected representatives, and had never had any way to make their voices heard. For many years, the Communist Party was the only party³ to nominate women for elected office, thus implementing – without calling it that – a quota system. The Socialist Party amended its by-laws in 1974 in order to include a quota for women in its leadership (initially 10 per cent, the quota was upped to 30 per cent in 1990). The Socialist Party also applied the quota system in European elections (list system). Only much later (in 1996) did the Socialist Party vote for a 30 per cent quota for female candidates in legislative elections (this came into effect in 1997). None of the right-wing parties has applied the quota system. The feminist impetus came from the Green Party, which has male/female parity written into its by-laws.

A final bar to the presence of women in politics in France was judicial. On 18 November 1982, the Constitutional Council, the country's highest judicial body, struck down a provision of the law instituting a maximum of 75 per cent representation for either sex on the list of candidates contending in municipal elections (in cities with a population over 3,500). In setting a precedent, this decision clouded the outlook for reforms.

France is one of the rare European countries to have resorted to legislative constraints through a parity law on electoral candidacies.

To overcome all these obstacles, it was deemed necessary to reform the system, from above. France is one of the only European countries (along with Belgium) to have adopted a law requiring some degree of mixing of the candidates standing for election. While most of its neighbours rely on the “wisdom” of the political parties to ensure the political representation of women, France stands as an exception by resorting to legislative directives through the law on parity.

The Concept of Parity

Parity can be defined as guaranteed quantitatively equal access to certain elective positions. The concept, which appears as a “demand for equality” and as “acknowledging a socially constructed otherness,”⁴ helps to circumvent the classic dilemma raised by the citizenship of women in democracy, that is, the choice between equality and taking into account the differences between the sexes. It has compelled a rethinking of the content of abstract universalism and an analysis of the issue of women's political representation in other terms.

Is parity equivalent to quotas? “No” will be the answer of those who maintain that the philosophy underlying parity (perfect equality) is different from that underlying quotas (which constitute a threshold, and as such are considered discriminatory). “Parity does not mean 50–50” says Eliane Vogel-Polsky. “Parity is demanded in the name of equal status, and not in the name of representing a minority.”⁵ Also, parity has been voted into law on a permanent basis, while the quota is, in principle, a temporary measure. Nonetheless, the French law on parity was cited in debates to defend quotas as a model for immediately increasing the number of women elected.

The concept of parity arose in the late 1980s, first put forth by the Council of Europe.⁶ It was brought to France by intellectuals and feminist movements, who pressured the authorities in the early 1990s. Feminists' conversion to legal reform was accelerated by the ideas of certain intellectuals. In 1992, the book *Au pouvoir citoyennes! Liberté, Egalité, Parité*⁷ helped to popularize the concept. And in 1996, in her *Recueil Dalloz*, Francine Demichel showed that because women were legally “not considered and invisible”, they were the subsidiary sex of legal theory. She concludes from this that sex must be integrated into the theory of representation, precisely by means of parity. The call for parity was taken up by intellectuals as well as political women. In June 1996, 10 former ministers, all women, and all from the political sphere, published a manifesto in favour of parity in the magazine *L'Express*. This publication later had a major impact on the outcome of the debate.

Slowly taken up by political actors both left and right, parity became a major issue during the 1995 presidential elections and the 1997 legislative elections. In the context of the crisis of representation, it was widely held that a democracy without women was a disfigured democracy. Opinion polls also showed that people wanted to see a renewal and feminization of the elite.⁸ The political change that brought the left to power in June 1997 precipitated the reforms, since one of the central issues trumpeted by Socialist leader Lionel Jospin was the renewal of the political institutions (parity and term limits).

The debate on parity gave rise to violent controversies over the founding principles of the Republic that cut across the left–right divide and split feminists. Opposing it, orthodox republicans considered that parity would strike a blow against universalism because it groups citizens in categories. Backing parity were those who underscored the limitations of formal egalitarianism and maintained that any democracy that did not include women was not a genuine democracy. The vote for reforms brought an end to the controversy, and parity is now a matter of consensus, both in public opinion and among the political actors.

The Reforms

The constitutional law of 8 July 1999 on equality between women and men authorizes law-makers to take affirmative action, but stays within the bounds of constitutionality. It complements Article 3 of the Constitution (on the indivisibility of sovereignty) with the following item: “The law favours equal access of women and men to electoral mandates and elective positions.” Then it stipulates (Article 4) that political parties “contribute to the implementation [of this principle] under the conditions set by the law”. The term “equality” was preferred to “parity”; so the latter does not appear in the text. This minimalist reform merely asserts that formal equality must be implemented in practice, but it is fundamental because by redefining the sovereign people, it provokes a rupture in the symbolic order from which it arises. In the place of the old order, based on “neutral citizenship” and the “one-ness” of a society made up of individuals, parity institutes a bi-gendered, dual order.

This new situation resulted in the adoption, on 6 June 2000, of a law on “equal access of women and men to electoral mandates and elective positions.” This law is also known as the parity law. It requires the parties in all the list system elections to have 50 per cent of each sex (with a margin of one unit) on their lists of candidates; failing this, the list is rejected. The elections covered by this law are the European, regional, and senatorial elections (in departments with three or more seats, accounting for 70 per cent of senatorial seats), and municipal elections (for municipalities with at least 3,500 inhabitants).⁹ For list system elections with only one round (European and regional elections), the law requires the lists alternate between men and women (or women and men) from top to bottom. For list system elections with two rounds (regional, municipal elections in towns or cities with 3,500 or more inhabitants, including the Corsican Assembly), parity must be achieved per group of six candidates (whatever the men/women order used).

For legislative elections, which use the uninominal system, the law exacts a financial penalty from parties that fail to present 50 per cent of candidates of each sex, with a margin of 2 per cent. The state financing allocated to them on the basis of the number of votes obtained in the first round is reduced “by a percentage equivalent to half the difference between the total number of candidates of each sex with respect to the total number of candidates”. For instance: if one party presents 35 per cent women and 65 per cent men, the difference is 30 points, so its funding is reduced by 15 per cent. Finally, because they are elected in a uninominal system, the departmental assemblies are not affected by this law.

Implementation: The 2001 Municipal and Senatorial Elections and the 2002 Legislative Elections

In the 2001 municipal elections, that is, during its first test, the 2001 law made possible a 84.2 per cent gain.

The municipal elections of 11–18 March 2001, the first test for the new law, showed that it was efficient for producing equality: some 38,000 women were elected to local councils in towns and cities with population over 3,500, accounting for 47.5 per cent of all council members. There was a significant gain – 84.2 per cent – compared to 1995 (25.7 per cent of council members elected were women). It would seem that the obligation of presenting 50 per cent candidates of each sex was achieved without much difficulty: a poll of some 600 candidates heading up lists showed that 78 per cent of the persons interviewed deemed it was “easy” to apply the parity law in drawing up their lists.¹⁰ The parties did not do the “minimum service”: according to a simulation carried out by the Ministry of Interior, if, in the six candidate brackets, all parties had positioned three men on top followed by three women, the final outcome would have been 43 per cent women. The proportion of women elected varies with the size of the communities, from 47.4 per cent for the smallest (population 3,500 to 9,000), (until then, these municipalities had the smallest numbers of women), to 48 per cent for those with more than 30,000 inhabitants. The impact of the law may be assessed in contrary terms, since, in those municipalities with less than 3,500 inhabitants (where no constraints existed previously), only 30.1 per cent women were elected (as against 21 per cent in 1995, for a gain of more than 45 per cent). There was little effect on the process of designating mayors, as they are chosen in indirect elections, about which this law is silent. Only 10.8 per cent of the mayors elected were women. This percentage is an average that does not reveal the significant gap between towns and cities with more than 3,500 inhabitants (among these, only 6.9 per cent were governed by women) and those with less than 3,500 (among these 11.2 per cent were led by women). Inequality of the sexes in politics refers back to inequality in the face of power.

Table 1. Women and Political Power in France

	Date	No. of members	Women	% Women	Type of Election
Government	2002 (June)	38	10	26.0	---
French delegation to European Parliament	1999	87	35	40.2	List proportional representation
National Assembly	2002	577	71	12.3	Two round system
Senate*	2001	321	35	10.9	Parallel system: Large regions: proportional list Small regions: two round system
Regional Council	1998	1,880	470	25.0	List proportional representation
General Council (departments)	2001	1,932	189	9.8	Majority uninominal, two rounds
Local Council (towns and cities with population over 3,500)	2001	8,004	38,106	47.5	Proportional list, two rounds
Local Council (towns with population under 3,500)	2001	393,716	118,321	30.1	Majority list, two rounds
Mayor	2001	36,558	3,987	10.9	Majority uninominal, two rounds Indirect suffrage (by local council members)

* *By-elections.*

- *Paradoxically, in France, women figure much more prominently in the executive branch than in the legislative branch (National Assembly and Senate).*
- *The assemblies with the largest percentage of women are those elected by proportional list voting. The enforcement of the 6 June 2000 law, which requires male/female parity of candidates in list system elections, has accentuated the trend: after the 2001 election, women almost doubled their numbers on local councils in towns and cities with more than 3,500 inhabitants, where they now represent 47.5 per cent of the council members.*

Source: Ministry of Interior, France, 2002.

After the senatorial elections of 23 September 2001, the second time the law was applied, 10.9 per cent of the seats in the upper chamber went to women (compared to 5.9 per cent previously, for a gain of 84.7 per cent). One-third of the seats were up for election, that is, 102 out of 321 seats, 74 seats through the list system (subject to parity) and 28 seats through the uninominal system (no parity requirement). Many women stood for election (42 per cent of the candidates). At the end of the day, 22 out of the 102 (21.5 per cent) were women. Most of the women elected (20 out of 22) won elections with proportional list voting, to which the parity constraints applied.

The number of women in the Senate was unexpected because many prominent personages, incumbent Senators namely, from the right-wing especially, resorted to the strategy of creating multiple dissident lists. Rather than run the risk of losing if placed in third position on the list, they preferred to appear in first position on other lists. And the parties let members do as they pleased, not disavowing these “wildcard” considerations. However, far from harming the women’s cause, this dispersion proved fatal to the right-wing candidates. Several left-wing women successfully challenged the right-wing candidates. For instance, four Communist women candidates, each positioned second after Socialist candidates, were elected.

Of the 22 women elected, 13 (59%) were from leftist parties (seven Socialists, five Communists, and one Green). The Communist group has the highest proportion of women in the Senate (43.5%), followed by the Socialists (14.4%), and then by rightist groups Union centriste/Centrist Union (13.2%), Rassemblement Pour la République/Rally For the Republic (4.2%), Républicains Indépendants/Independent Republicans (2.4%).

Although efficient, the new law should be improved, as it has gaps. Indeed, it has lost sight of the municipal executives, the inter-municipal structures, and above all, the departmental assemblies. Yet, as long as these remain male

bastions (they have only 9.8 per cent women), they will have negative repercussions for the distribution of nominations for legislative elections. The parties prefer to distribute the “good” districts to notable party figures, that is, department-level elected officials, who are known to the voters.

Finally, and most important, the provisions of the law concerning legislative elections are not stringent enough, for they leave it up to the political parties: either present 50 per cent candidates from each sex, or be subject to financial penalties. If there is a lesson to be drawn from the legislative elections of 9 June and 16 June 2002, it is that the large parties have preferred to pay the fines rather than having more women candidates, for doing so would require “sacrificing” the incumbents who would have to step down.

On the right, the two main parties, the Union for the Presidential Majority (UMP) and the Union for French Democracy (UDF), have presented less than 20 per cent women. On the left, the Socialist Party (PS) has been less disrespectful of the law, with 36 per cent women candidates. Only the small parties (who didn’t have incumbents to deal with) and the Communist Party and Greens, both with minorities in the legislature, have respected parity in their nominations. In the wake of the legislative elections, swept by the right, women held only 71 of 577 seats in the National Assembly (as compared to 62 in 1997). This means that for the first time the parliamentarians of the right have more women than those of the left, in absolute figures: the UMP, with a majority, has 38 women out of its total 365 members, that is, 10.4 per cent (the UDF has only two of 29, for 6.8 per cent). The PS has no more than 23 women out of 141 deputies (16.3%), and the PC has four out of 21 (19%); and finally, the Greens have one out of three (33.3%).¹¹

In all, the share of women in the National Assembly has increased from 11.9 per cent in 1997 to 12.3 per cent in 2002. These percentages summarize the failure of the law on parity in the legislative elections. As it is not obligatory, it is to be feared that the parties will continue to prefer men, better endowed with political resources, among their nominees.

Conclusion

While the French law of 6 June 2000, known as the law on parity, is too lax in relation to the uninominal vote for the election of members of the lower chamber, it is very effective in increasing the number of women in the assemblies elected by proportional list voting, for which the sanction is rejection of those lists that do not respect parity. Despite its shortcomings, this law (like the term limits secured by the laws of 5 April 2000),¹² has resulted in a thorough-going turnover of elites. Parity, now beginning in France, has ushered in a new phase in the history of democracy.

The legislators themselves are convinced that women will bring about great changes. Questioned in a 1999 survey, about 70 per cent of respondents thought that if one-third of the members of the National Assembly were women, politics would change in form, and 49 per cent thought that it would change in substance.¹³ Moreover, the concept of parity, by helping to give a new legitimacy to the debate on equality of the sexes, has spread to other sectors of society. From parity in elected assemblies, we have now shifted to parity in the civil service, in the economy, and even in the family.

«Parity should be a mix of “national representation” as a whole, to represent the mix of the nation’s humanity as a whole... parity does not operate in a “communitarian” way... (it allows for) a representation of the dual profile of the people, just as men and women are the two faces of humanity.»

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Can the French law on parity be exported? Or, to the contrary, do we have to consider it as a purely French product?

Born out of the deadlock of republicanism, the reform vindicates not quotas but equality, one of the terms of the republican trilogy (liberty, equality, fraternity) written on the frontispieces of schools and public buildings. It also emanates from a country with a Jacobin tradition, where the interventions of the central state are often codified in laws.

Technically speaking, the French legislation is easily exportable, namely to countries that use list system elections; this allows for easy application of the principle of parity (such as alternating between men and women). Politically, however, it is hardly likely that such a law will be adopted in countries where the state is weaker or more decentralized, especially if it is not accustomed to intervening in the matters of political parties. In federal states, where different communities coexist, the culture of quotas is anchored in traditions. As a result, it is much easier for affirmative action laws to emerge regarding the political representation of the sexes. But these laws will be closer to the philosophy of quotas (see the 1994 Belgian law in this respect) than the concept of parity, that is, the principle of popular sovereignty being embodied by each of the two sexes. From the point of view of the French law, the people and the representatives of the people are no

longer an abstract and indivisible entity. They now have a sex, they are men and women “who are living in this century,” to use the expression of Elisabeth Guigou, then justice minister, speaking in the national legislature.¹⁴

Endnotes

1. Ordinance of 21 April 1994.
2. In 1936 French women did not have any political rights, yet three women became ministers.
3. In the postwar period, the Popular Republic Movement (Catholic) also elected women; but this movement quickly disappeared from the political scene.
4. Gaspard, Françoise. 1994. “De la parité: genèse d'un concept, naissance d'un mouvement”. *Nouvelles Questions Féministes*. Vol. 15. No. 4. p. 31.
5. Vogel-Polsky, Eliane. 1994. “Les impasses de l'égalité ou pourquoi les outils juridiques visant à l'égalité des femmes et des hommes doivent être repensés en terme de parité”. *Parité-Infos*, special issue. No. 1. p. 9.
6. In 1989, it organized a seminar on parity democracy.
7. Gaspard, Françoise, Claude Servan-Schreiber and Anne Le Gall. 1992. *Au pouvoir citoyennes! Liberté, Egalité, Parité*. Paris: Seuil.
8. According to an IPSOS poll (*Journal du Dimanche*, 22 June 1997), 80 per cent of the persons interviewed said they approved of the idea of putting the objective of male/female parity in the Constitution. See Sineau, Mariette. 1998. “La féminisation du pouvoir vue par les Français-es et par les hommes politiques: images et représentations”. In: Jacqueline Martin. ed. *La Parité. Enjeux et mise en oeuvre*. Toulouse: Presses Universitaires du Mirail. pp. 61–81.
9. Towns and cities with more than 3,500 inhabitants are a minority of the 36,000 municipalities, but account for two-thirds of the total council members elected.
10. A CSA poll conducted from 15 to 18 February 2001.
11. The three other women elected, who belong to small political groupings, sit (like the Green woman deputy) in the group of individuals not registered with any parliamentary group, for constituting such a group requires at least 20 members of the Assembly.
12. These laws limit the number of terms to two, but authorize parliamentarians to hold local executive positions.
13. Sineau, Mariette. 2001. *Profession: femme politique. Sexe et pouvoir sous la Cinquième République*. Paris: Presses de Sciences Po. p. 248.
14. The National Assembly, official analytical report of the 3rd session, Tuesday, 15 December 1998.

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