



## **The Global Network on Electoral Justice**

### **Deliverable of the Observatory on Gender Equality – 2023**

#### **Equality, political violence and gender perspective in electoral matters: progress and agenda for the future**

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Irene Spigno

Inter-American Academy of Human Rights

*The opinions expressed in this publication are those of the author and do not necessarily reflect the views of the Electoral Tribunal of the Federal Judiciary of Mexico (TEPJF), the United Nations Development Program (UNDP), the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), the Inter-American Commission of Women (CIM), the Organization of American States (OAS), the United Nations and its Member States, the European Commission for Democracy through Law (Venice Commission), the International Institute for Democracy and Electoral Assistance (International IDEA), the University of California, Berkeley and the University of Siena, individuals and organizations that are members of the Observatory's Board of Directors.*

## Table of Contents

1.	Introduction .....	3
1.1.	Progress and challenges in gender equality within Electoral Law .....	3
1.2.	Objectives.....	4
2.	Analysis methodology.....	4
2.1.	Theoretical Framework.....	4
2.1.1.	Definition of Gender Parity .....	4
2.1.2.	Gender-based Political Violence (GBPV): Definition and Manifestations.....	7
2.2.	Selection of analyzed experiences and document structure .....	10
3.	Brief comparative analysis on gender equality in countries with a higher presence of women in national legislative bodies: Bolivia, Cuba, Mexico, New Zealand, Nicaragua, and the United Arab Emirates. ....	12
3.1.	Political, Regulatory and Institutional Context .....	12
3.2.	Gender Representation in Other Bodies and General Situation of Women ...	15
3.3.	Analysis of Brazilian electoral jurisprudence regarding Gender-based Political Violence	16
4.	Gender Parity and GBPV: the Mexican experience .....	18
4.1.	Regulatory and institutional Context .....	18
4.2.	Main Jurisprudential Criteria Regarding Gender-Based Political Violence ....	19
4.2.1.	General Considerations and Protocol for Addressing Gender based Political Violence Against Women .....	19
4.2.2.	The fight against gender stereotypes and sexist language and the definition of the GBPV concept.....	23
4.2.3.	Sanctions and annulment of elections.....	27
5.	Concluding remarks and agenda for the future .....	31
	References.....	35

## **Equality, political violence and gender perspective in electoral matters: progress and agenda for the future**

Irene Spigno<sup>1\*</sup>

### **1. Introduction**

#### **1.1. Progress and challenges in gender equality within Electoral Law**

The right to equality and non-discrimination is one of the fundamental pillars of modern democratic systems. Although equality is far from a reality in many contemporary constitutional states, there has been significant progress. These advances are the result of the struggles of historically discriminated social groups, such as people of African descent, indigenous peoples, people with disabilities, members of the LGBTIQ+ community, and, especially, women. Despite the progress made in equalizing and empowering women, the question remains: Has gender equality been achieved in the 21st century?

Gender equality is a fundamental prerequisite for the establishment of democratic and equitable societies, in which all people have the same right to participate in political and civil affairs on equal terms. It is important to mention that gender parity is only one aspect of gender equality. The role of the judiciary is critical to achieving this goal, as it is responsible not only for ensuring that regulations support gender equality, but also for addressing and eliminating structural barriers that contribute to the persistence of inequality. These authorities have the capacity and the obligation to facilitate substantial change in the interpretation and application of legal principles, thereby ensuring that judicial rulings are consistent with and promote the principles of gender equality. This suggests a conscious effort to include a gender perspective in all judicial rulings, recognizing existing inequalities and striving to eliminate them. Achieving gender parity in elections is not only a matter of numerical equity, but also serves as an indicator of the democratic well-being of a society that recognizes and utilizes the many contributions of individuals, regardless of their gender.

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<sup>1\*</sup> The author is Director General of the Inter-American Academy of Human Rights of the Autonomous University of Coahuila. She also directs the Center for Comparative Constitutional Studies of the same institution. She holds a Ph.D. from the University of Siena, Italy, and belongs to the National System of Researchers, Level I. The author thanks, Fernando Gustavo Ruz Dueñas, Santiago Daniel Sánchez Juárez, Víctor Manuel Vera García and Jacqueline Alejandra Ruiz Reynosa for their invaluable support in carrying out this document.

Jurisdictional-electoral authorities in many national normative systems can play a key role by considering parity and the gender perspective in electoral rulings as important issues for the administration of justice. An assessment of recent rulings shows significant progress in the integration of a gender perspective, which appears to be linked to the efforts of these authorities to achieve gender parity in their composition and functioning. This change not only demonstrates a commitment to equality but has resulted in fairer sentencing with a broader gender perspective. However, there is still room for improvement. It is essential that authorities continue to promote gender equality in the electoral field, not only in the realm of representation, but also in decision-making and interpretation of the law. It is essential to establish clear mechanisms to identify and address gender-based political violence (GBPV) to ensure that the electoral arena is a safe and fair place for all people.

## 1.2. Objectives

The main purpose of this document is to examine the incorporation of gender perspective in electoral rulings regarding gender parity and gender-based political violence issued by judicial-electoral authorities in countries with a specialized electoral tribunal.<sup>2</sup>

Nevertheless, this objective cannot be achieved without first having a comprehensive overview of the main global trends (both in legislative and jurisprudential terms), which will serve as a framework to better understand the advancement of women's political and electoral rights worldwide. Subsequently, an assessment on the impact of electoral justice on this issue will be conducted.

## 2. Analysis methodology

### 2.1. Theoretical Framework

#### 2.1.1. *Definition of Gender Parity*<sup>3</sup>

“Gender parity” is a term that, despite its frequent use, still lacks a single definition that encompasses all its dimensions and scope. This inherently complex concept

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<sup>2</sup> See below for the definition on specialized electoral tribunal.

<sup>3</sup> It is important to note that this definition is neither definitive nor covers all possible interpretations of the term. Rather, it is intended to provide a specific framework for the goals of this document. It is worth mentioning that this is an academic document, which does not pretend to claim that this definition is the only or the broadest possible. The only intent is to clearly delineate the scope and application of the term within the context and limitations of this text.

encompasses gender equality in areas ranging from political representation to workforce participation and pay equity.<sup>4</sup> To properly understand and apply the concept of “gender parity”, it is imperative to develop a detailed and agreed upon definition. This concept has gained relevance in the political and democratic context, especially in relation to election processes. The Athens Declaration asserts that since women make up more than half of the population, equality must be translated into representation and administration of nations based on parity. This principle emphasizes the need to ensure equal participation of women and men in political decision-making, which is considered essential for an authentic democracy.

On the other hand, PARLATINO's Parity Democracy Framework states that parity democracy is a model in which substantial equality and gender parity are fundamental for the transformations that a responsible and inclusive State must undertake. Its main objectives include the establishment of a new social contract and structure to eradicate exclusion, especially towards women and girls. This Norm aims to achieve a renewed social balance between men and women, where both share responsibilities in all spheres of public and private life. The implementation and consolidation of this model entail an evolution towards equitable gender relations and other relationships that enable the equal enjoyment of rights for diverse groups, such as ethnic minorities, the LGBTIQ community, people with disabilities, and of lower socio-economic status, among others.

For its part, the Inter-American Commission on Women of the Organization of American States, in the Panama Declaration, defines parity as a measure of justice that includes three dimensions: (i) the opportunity for equal participation in decision-making positions in the public and private sectors, from the international to the local level; (ii) the exercise of political and economic power under conditions of equality, that is, free from discrimination and gender-based violence; and (iii) the mainstreaming of the women's rights and gender equality agenda in legal frameworks and public policies at the national level, with an intersectional, intergenerational, and intercultural (and human rights) perspective, bearing in mind that women's equal participation is an essential element of democracy.

Particularly, in the context of political representation, parity redefines the concept of political power, proposing it as a shared space between genders in line with the universal human condition. It is based on a balanced demographic presence, with

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<sup>4</sup> This document will delve into gender equality in electoral matters.

50% women and 50% men, conceptualized as the 50/50 ratio. Parity thus becomes both the cause and effect of gender equality, legitimizing the social and political order of Parity Democracy, where gender differences acquire the same relevance as territorial, ideological, or associative differences.

From this doctrine, authors such as Bustillo Marín argue that "parity democracy is the balance regarding access to political participation between men and women, the result of a still pending consolidation of full equality in the exercise of citizenship" (Bustillo Marín 2015). On the other hand, Zúñiga Añazco states that "a parity democracy recognizes that democracy is only genuine when it integrates the people into their reality as women and men, and not as abstract and neutral entities" (Zúñiga Añazco 2005). In line with these perspectives, it is important to understand that a parity democracy not only seeks gender equality in political roles, as well as in all State powers and government levels, but also emphasizes the importance of recognizing people in their diversity and uniqueness, which is crucial for an authentic and holistic political representation.

In addressing parity democracy, it is important to recognize that its meaning goes beyond mere equal representation of genders in the public sphere. Parity requires a deeper transformation of the political structure, promoting equal opportunities, the elimination of gender discrimination and a holistic approach to gender equality in society. Parity, as a victory, is a legacy of feminist movements, which consolidated especially in the nineties, although its roots go back to the nineteenth century. The recognition of parity as an achievement of feminism highlights the evolution of gender equality efforts throughout history. This evolution reflects the refinement of feminist objectives, which have focused their attention on representation and participation in the public sphere. The struggle for gender equality in the political sphere and legislative representation reflects the evolution of feminist movements throughout history. The concept of parity goes beyond simple numerical metrics and implies a profound change in the way women and men are perceived, valued, and involved in policymaking.

The current quest for gender equality in political life is part of the struggle of women for the recognition and full exercise of their political and electoral rights which has within its first landmarks the suffrage movement to ensure the right to vote. The principle of gender parity seeks for both genders should have an equal share in public and political life. A parity democracy emerges from the contradiction between

the growing participation of women in public life and their underrepresentation in decision-making spaces (Rosa Cobo 2004).

The concept of parity democracy in Latin America aims to establish substantive equality and parity as fundamental pillars of democratic governance. Parity democracy goes beyond mere electoral parity and strives for the consolidation of an inclusive State with proactive measures to achieve equality. This includes institutional structures with gender-balanced representation across all branches of government and at all levels, encompassing elected positions, appointed roles, and those chosen through popular vote.

Parity is not limited to a quantitative issue but is essentially a qualitative issue that seeks to enable women to exercise power under equal conditions. Its goal is to improve the representation of women in the public sphere and to advance their living conditions. This work seeks to examine the legal and constitutional mechanisms that can foster gender parity in legislative institutions. In building just and democratic societies, it is essential to achieve gender equality by ensuring that everyone, regardless of gender, has equal opportunities in decision-making processes.

#### *2.1.2. Gender-based Political Violence (GBPV): Definition and Manifestations*

The regulation of gender-based political violence is a recent achievement, the result of an extensive process that has faced many challenges. The main obstacle lies in the precise definition of the gender-based political violence concept. This definition includes three essential components: the violent nature, the context in which it manifests itself, called the “political” (a high-conflict area: Aziz 2007) and the underlying reason, i.e. “because of gender”.

Gender-based violence, particularly against women, stems from gender inequality (Krants and García 2005) and is one of the most serious human rights violations worldwide (UN Women 2015). However, international commitment to the promotion and protection of women’s rights is a relatively new concern. Progress began in the 1970s when feminist theory (Lacey 2004) highlighted and promoted the need for specific international protection of women’s rights. The most significant achievement of this period was the adoption of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1979, although this document did not initially address the issue of violence.



The first formal definitions of gender-based violence emerged in the 1990s. Specifically, in 1992, the Committee on the Elimination of Discrimination against Women incorporated an explicit condemnation of gender-based violence into the content of CEDAW. This inclusion detailed the understanding of violence against women, the responsibility of Member States in its eradication and the legal, supportive, and preventive measures that must be adopted in accordance with this international instrument (Pérez Contreras 1999).

The 1990s, and in particular 1993, marked a milestone in the conceptualization of gender-based violence as a priority for the international community. On June 25, 1993, the World Conference on Human Rights adopted the Vienna Declaration and Programme of Action. This instrument states that gender-based violence and all forms of sexual exploitation and harassment are contrary to the dignity and worth of every human being and calls for their eradication. Later that year, the Declaration on the Elimination of Violence against Women was adopted, defining gender-based violence as “any act of violence that results, or is likely to result, in physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life” (Preamble). In addition, this document details the actions that States must take to eliminate all forms of gender-based violence in the public and private spheres.

On the other hand, an important precedent was the creation of the Inter-American Commission of Women (CIM) during the Sixth International American Conference, which was promoted by women’s movements active since the beginning of the 20<sup>th</sup> century. This Commission was established to analyze the problem of violence against women and girls in the region, identify its causes and propose solutions. CIM has been instrumental in the adoption of various international instruments, most notably the Inter-American Convention to Prevent, Punish and Eradicate Violence against Women (Belém do Pará Convention). This treaty is recognized as the first international document to focus on the elimination of gender-based violence (CIM 1990 and 1995; Tramontana 2011, 147-148).

In 2016, the Expert Committee of the Follow-up Mechanism to the Belém do Pará Convention (MESECVI) adopted the Inter-American Model Law on the Prevention, Punishment, and Eradication of Violence against Women in Political Life. Gender-Based Political Violence (GBPV) is defined as ‘any action, conduct or omission, carried out directly or through third parties that, based on gender, causes harm or suffering to a woman or to various women, which has the effect or purpose of

impairing or nullifying the recognition, enjoyment, or exercise by women of their political rights. Violence against women in political life may include, but is not limited to, physical, sexual, psychological, moral, economic, or symbolic violence' (Article 3).

The complexity of defining gender-based political violence has generated a second challenge: late normative regulation. Only recently have countries in the region begun to legislate on the issue.<sup>5</sup> In Latin America and the Caribbean several countries have implemented regulations related to gender-based political violence; these are: Argentina, Bolivia, Brazil, Costa Rica, Ecuador, El Salvador, Mexico, Panama, Paraguay, Peru, Uruguay, Venezuela y Dominican Republic (Freidenberg 2021). Five of these countries have enacted specific laws to combat gender-based political violence: Bolivia in 2012, Panama in 2020, Peru and Brazil in 2021 and Costa Rica in 2022.

Bolivia was the first State that adopted specific regulations to punish gender-based political violence, with Law No. 243 against Harassment and/or Gender-Based Political Violence of 2012. This law was the result of an intense feminist campaign that lasted more than a decade (Machicao Barbery 2004). In 2001, the Association of Bolivian councilpersons (ACOBOL) presented the Bill against Political Harassment (Barrientos Jimenez 2018). Bolivian legislation defines political harassment and violence and specifies acts that constitute gender-based political violence and harassment. Some of these acts include imposing gender stereotypes, assigning tasks not related to the position, providing false information, preventing attendance at meetings, restricting the right to speak and vote, providing false data to the electoral body, restricting reinstatement to the position after a justified leave, applying unjustified sanctions, and discriminating on grounds such as pregnancy (Law No. 243, Article 8, 2012).

On the other hand, eight countries have included this issue into their general legislation on gender-based violence. These countries include Bolivia and Panama (2013), Paraguay (2016), Ecuador and Uruguay (2018), Argentina (2019), Mexico (2020), El Salvador (2021), and Venezuela (2022) (Freidenberg 2021).

Mexico started with an inter-institutional protocol in 2016 to address political violence against women, evolving towards a more comprehensive reform in 2020

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<sup>5</sup> The issue of Gender-Based Political Violence is an almost exclusively Latin American concept that is difficult to find in the electoral jurisprudence of other countries.

that includes this form of violence in a set of laws. Ecuador, in its amendment to the Code of Democracy in 2020, classified violence against women in politics as an electoral offense. Other countries, such as Colombia with its Electoral Code of 2020, have bills in process of development or awaiting approval. The Dominican Republic incorporated violence against women in politics into its electoral reform in 2023. Additionally, at least five countries have established protocols, commissions, and assistance guides in their National Assemblies to address these challenges, including Argentina, Bolivia, Chile, El Salvador, and Mexico. These mechanisms also extend to subnational bodies and political parties (Freidenberg 2021).

Gender-based political violence is a structural challenge in many Latin American countries. Although this problem manifests itself in a variety of areas, it is most evident in the public sector. Structural factors continue to limit the full exercise of women's political rights and to perpetuate and normalize gender roles and stereotypes. This situation stems largely from the perception of women as figures outside the political realm. For example, it is common to observe that male leaders do not always demonstrate inclusive attitudes toward women, that candidate selection protocols are not inclusive, and that it is sometimes challenging for a woman to aspire to leadership or alternate positions.

Clearly, the conditions under which women enter politics are not comparable to those faced by men. In fact, women who actively participate in politics or hold public office often face manifestations of gender-based violence, such as sexist insinuations, questions about their private lives, sexual harassment, disqualifications, comments about their appearance, and exclusion from decision-making positions, among others.<sup>6</sup>

## **2.2. Selection of analyzed experiences and document structure**

The selection of national experiences (legislative and jurisprudential) analyzed in this research considered various elements. First of all, we consider it of transcendental importance to have a "snapshot" of the "state of health" of women's access to legislative bodies and political/electoral parity worldwide. In line with this purpose, section 3 of this document focuses on the analysis of those national experiences that represent countries with the highest parity composition in their

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<sup>6</sup> The Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Belém do Pará) defines gender-based violence as any action or conduct that causes death or physical, sexual or psychological harm or suffering to women, whether in the public or private sphere.

national legislative bodies: Cuba (with the highest average parity of 55.74%), Nicaragua (51.7%), Bolivia (50.9%), Mexico (50.2%), New Zealand (50%), and the United Arab Emirates (50%).<sup>7</sup>

Their inclusion in this study provides us with valuable information to ensure greater and more effective political participation of women. This section was constructed through the methodology of legal comparison, considering normative elements and social, political, and institutional contexts (De Vergottini 2011). In addition to explaining the inclusion of the selected countries in the analysis in Section 3, this methodology includes geographical and institutional contextualization, a review of constitutional provisions on gender parity, analysis of specific legislative measures, and a consideration of electoral justice systems. The overall situation of women in the analyzed countries will also be considered by evaluating regulations on gender issues and the gender composition of other branches of the State.

Subsequently, section 4 analyzes the Brazilian case, which has a specialized electoral court. These are systems provide for courts, whether part of the Judiciary or autonomous, characterized by their authority to definitively resolve electoral disputes.<sup>8</sup>

A comprehensive examination was then carried out regarding the accessibility of judicial decisions on countries that fulfilled this condition i.e., Albania, Brazil, Chile, Ecuador, El Salvador, Greece, Honduras, Mexico, Panama, Paraguay, Palestine, Peru, South Africa, Sweden, and Venezuela. This analysis not only included the online availability of these rulings, but also their accessibility in linguistic terms. After applying these selection criteria, the rulings that specifically address the issue of gender-based political violence were identified, as this can have a great impact on women's political participation. It is noteworthy that, within the set of analyzed

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<sup>7</sup> To achieve this goal, the data from UN Women (2023) available at the following link was utilized: <https://www.unwomen.org/sites/default/files/2023-03/Women-in-politics-2023-en.pdf>. The information has been thoroughly verified through cross-referencing with official institutional sources from various countries, provided that such sources are accessible.

<sup>8</sup> The concept of a "Specialized Electoral Tribunal," as described by Orozco (2019), refers to entities specialized in electoral matters, whether autonomous or part of the Judiciary, with the authority to make final decisions on electoral disputes. These tribunals emerge as a response to the need to safeguard the jurisdictional nature of the function of adjudicating elections, which was previously carried out by political assemblies or subject to political party influences and challenges. Their primary function is to issue the final resolution for challenges raised against electoral results, and no further legal or constitutional recourse is available against such decisions. This implies the exclusion of all cases where the guarantee of political-electoral rights or the certification of elections is in the hands of bodies that do not possess a judicial nature.

countries, rulings related to political gender-based violence were found only in Brazil and Mexico. This finding is significant, highlighting the particular attention these countries have paid to the issue.<sup>9</sup>

Section 5 delves deeper into the Mexican case, as it is a country that has made many significant advances towards protecting and guaranteeing the political and electoral rights of women. The relevance of Mexico in this field is due to its progressive legal framework and pioneering judicial decisions that have set significant precedents in the fight against discrimination and political violence towards women. Therefore, our analysis will delve into the Mexican electoral justice system, which has a specialized electoral tribunal, as it offers an illustrative and pioneering overview of how effective measures can be implemented to combat gender-based political violence and promote substantive equality in the political-electoral sphere. However, given the significance of the Mexican experience and the limitations of this document, this section will not be exhaustive, highlighting only some of the most important elements, acknowledging that it is not a comprehensive document.

### **3. Brief comparative analysis on gender equality in countries with a higher presence of women in national legislative bodies: Bolivia, Cuba, Mexico, New Zealand, Nicaragua, and the United Arab Emirates**

#### **3.1. Political, Regulatory and Institutional Context**

From a normative perspective, some countries with a high percentage of women in the legislative branch of government have specific constitutional regulations on gender parity in electoral matters, as is the case with Mexico and Nicaragua. In these countries, constitutional clauses on parity and/or the conceptualization of Gender-Based Political Violence (GBPV) are established (as in the case of Mexico). There are also national experiences where there are legislative-level electoral regulations on gender parity or GBPV (as will be discussed below). Additionally, there are countries that have specific protocols. Finally, there are countries where there is no regulation on the matter.

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<sup>9</sup> For the purposes of this work, only documents published in English, French, Italian, Spanish, and Portuguese were considered accessible.

Only Mexico and Nicaragua have explicit provisions on gender parity on electoral matters in their constitutions.<sup>10</sup>

In Mexico, the political-electoral reform enacted in 2014 elevated to constitutional status the guarantee of gender parity in candidacies for the Chamber of Deputies, Senate, and State Congresses. This case will be analyzed in more detail in a subsequent section.

In Nicaragua, article 131 of the Constitution establishes that in the case of officials elected by popular vote from closed lists proposed by political parties according to the principle of proportionality (deputies to the National Assembly, deputies to the Central American Parliament, municipal councilpersons, regional councilpersons), the lists of candidates must be composed of 50% men and 50% women, presented alternately. This gender ratio must be maintained for both incumbents and alternates. In addition, at the legislative level, Nicaraguan electoral law establishes, in paragraph 4 of Article 82 of the Electoral Act of 2000 (No. 331, as amended by Act No. 790/2012), that political parties or coalitions participating in elections to the National Assembly must include 50% male and 50% female candidates in their electoral lists.

Cuba approved its new constitution in 2019,<sup>11</sup>. Article 43 states that "women and men have equal rights and responsibilities in the economic, political, cultural, labor, social, family, and any other sphere. The State guarantees that both are offered the same opportunities and possibilities" and that "the State promotes the comprehensive development of women and their full social participation. It ensures the exercise of their sexual and reproductive rights, protects them from gender-based violence in any of its manifestations and spaces, and creates institutional and legal mechanisms for this."<sup>12</sup>

However, it reaffirms the irreversible role of the Communist Party as the guide of socialism and Cuban society, while also introducing changes to the country's economic and political model. Cuba is currently a socialist republic with a unicameral regime and a single-party system, where there is no system of direct elections to elect representatives. According to the 2023 World Report by Human Rights Watch,

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<sup>10</sup> For a more comprehensive view of parity clauses (not necessarily in electoral matters), please see <https://www.mujeresyconstitucion.cl>).

<sup>11</sup> See Prieto Valdés 2020 to learn more about the Cuban constituent process of 2019.

<sup>12</sup> See: <https://www.bcn.cl/procesoconstituyente/comparadordeconstituciones/constitucion/cub>

the government continues to suppress any form of dissent and public criticism, and the nation is facing a severe economic crisis affecting the most basic rights of the population.

Although Bolivia does not have a specific constitutional provision on gender equality, the 2010 Electoral Law (Articles 11 and 58, Section 2) establishes that the lists of candidates, both incumbents and substitutes, in multi-member constituencies for elections to the Chamber of Deputies must alternate equally between men and women. Women will be given priority if a list has an uneven number of candidates. In single-member districts, at least 50% of all candidates (regular and alternate) must be women. Bolivian legislation also provides for sanctions in the event of non-compliance, stating that the lists of candidates must respect the criteria of gender equality and alternation. If this rule is violated, the list of candidates will be rejected, and the political organization will be given 72 hours from the notification to correct its list (Article 107).

In Bolivia, in addition to the provisions already mentioned, norms of order/ranking are established. The names of male and female candidates shall alternate (Articles 11 and 58, paragraph 2). Law No. 026 of the Electoral Regime, in its article 2, paragraph h, reaffirms the principle of equality, emphasizing that "Bolivian democracy is based on equality and equal opportunities between women and men... applying gender equality and alternation in the lists of candidates for all governmental and representative positions...".

The Bolivian Constitution establishes the Plurinational Electoral Body (OEP, as per its Spanish acronym) as one of the pillars of the public power of the Plurinational State. This autonomous and independent body is composed of several bodies, the most important of which is the Supreme Electoral Tribunal, the supreme authority of the OEP, with jurisdiction and competence over the entire national territory and over electoral seats abroad. The country has a National Electoral Committee (CEN), which is responsible for organizing the elections and has the power to appoint the members of the Electoral College. The CEN was established in 2011, and the Minister of State for Federal National Council Affairs is its chair.

In the United Arab Emirates (UAE), Presidential Resolution No. 1 of 2019, issued by Sheikh Khalifa bin Zayed Al Nahyan, aims to increase women's representation in the Federal National Council (FNC) to 50% starting from the next legislative cycle. The first article of this resolution stipulates that women must represent no less than



50% of the total number of representatives of each emirate in the FNC (Federal Resolution, 1/2019).

Unlike the previous countries, New Zealand has no specific constitutional or legislative provisions on gender equality. However, it uses a Mixed Member Proportional (MMP) voting system to elect the House of Representatives. Voters have two votes: one to support a political party (the "party vote") and one to elect a local candidate (the "electorate's vote").

### **3.2. Gender Representation in Other Bodies and General Situation of Women<sup>13</sup>**

In Mexico, the federal legislature is bicameral, consisting of a House of Representatives and the Senate. With regard to local government, each municipality is governed by a municipal council elected by direct vote, respecting the principle of gender equality. In spite of equal representation, Mexico is ranked 31st in the gender gap ranking.<sup>14</sup> In Nicaragua, gender equality is observed in appointing ministers, with 9 women and 6 men. This gender equality is also reflected in the Board of Directors of the National Assembly. However, despite ranking 7th in the global gender gap index in "Political Participation", the country presents contradictions. Although it has implemented social programs and policies that promote women's education, the total ban on abortion since 2006 and the high rates of violence against women are worrisome.<sup>15</sup>

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<sup>13</sup> For a more comprehensive understanding of the general situation of women in different parts of the world, it is recommended to consult the following documents: UN Women 2023a and 2023b; ECLAC - Gender Equality Observatory for Latin America and the Caribbean 2023; and Inter-Parliamentary Union 2023.

<sup>14</sup> World Economic Forum 2022. The report published annually by the World Economic Forum analyzes and tracks progress towards gender parity in various countries. In terms of the gender gap in 2022, the global gender parity score has increased from 67.9% in 2021 to 68.1% in 2022. Most countries have experienced stagnation in their progress towards reducing the gender gap. Between 2021 and 2022 editions, only 30 out of 145 economies have managed to make progress in reducing the gender gap by at least one percentage point. 16 countries have achieved limited progress in decreasing gender disparities by less than one percentage point. More than one percentage point of gender gaps has been reversed in 12 countries. 44 nations have seen a marginal increase in gender disparities. This report provides data and information on global, regional, and national contextual factors that can affect the gender gap. The results highlight the need to work together globally to address gender disparities and achieve sustainable improvements. Monitoring the gender gap is crucial, and the report serves as a tool that enables governments to identify areas for both individual and collective action.

<sup>15</sup> The government did not release figures on femicides and other forms of violence against women in 2022. A local human rights organization reported 46 femicides between January and October 2022.



Bolivia ranks 51st, with a gender gap of 73.4%. Despite equal representation in the parliament, there is still work to be done to reduce the gender gap. With a gender gap of 84.1%, New Zealand ranks 4th, reflecting considerable equality between men and women. The gender gap has narrowed since 2021. Although the Constitution guarantees equal rights for men and women, there are concerns about discrimination against women. The UAE has a gender gap of 71.6%, ranking 68th. Although they have made reforms to protect women's rights, they have been criticized for being superficial.

In this regard, it is important to note that while progress on parity will contribute to the achievement of the targets of Sustainable Development Goal (SDG) 5 of the 2030 Agenda, "Achieve gender equality and empower all women and girls," this does not necessarily mean that gender equality and the empowerment of women and girls will be achieved at all national levels.

### **3.3. Analysis of Brazilian electoral jurisprudence regarding Gender-based Political Violence<sup>16</sup>**

The ruling analyzed for the Brazilian case study is consultation number 0600252-18.2018.6.00.0000 (PJe, as per its Portuguese acronym), originating in Brasilia - Federal District. This ruling addresses the issue of promoting women's participation in Brazilian politics, focusing on the proportional distribution of resources from the Special Fund for Campaign Financing (FEFC, as per its Portuguese acronym) and free campaign propaganda time on radio and television, in accordance with the legal minimum of 30% of candidates by gender established in Article 10, § 3 of Law No. 9,504/1997. It also examines the applicability of the decision of the Supreme Federal Tribunal (STF, as per its Portuguese acronym) in the Direct Action of

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35.2% of women aged 20 to 24 were married or in civil union before the age of 18. Teenage birth rate is 102.6 per 1,000 women aged 15 to 19 in 2018, compared to 106.4 per 1,000 in 2017. In 2018, 6.4% of women aged 15 to 49 reported experiencing physical and/or sexual violence by a current or former intimate partner in the previous 12 months.

<sup>16</sup> It is important to underscore that within the set of analyzed countries with a specialized electoral tribunal, rulings related to gender-based political violence were found only in Brazil and Mexico. This finding is significant as it highlights the particular attention these countries have given to this issue. In the research conducted for the construction of this document, some rulings from countries like Bolivia and Colombia were found. Despite not having specialized tribunals in this matter, their judicial bodies have issued resolutions on gender-based political violence. However, they were not included in the present analysis due to the difficulty of finding the texts online, preventing a scientifically accurate analysis.

Unconstitutionality (ADI per its Portuguese acronym) 5617 to this distribution, highlighting the institutional role of the Electoral Tribunal in promoting positive practices that strengthen the internal democracy of parties and the political representation of women.

The tribunal's ruling in question addresses a series of arguments that are closely related to gender-based violence and women's representation in the political sphere. The discussion is centered on the notorious underrepresentation of women in Brazilian politics. The urgency of changing this scenario is emphasized, as is the critical role that electoral justice plays in promoting significant change. Furthermore, emphasis is placed on the adoption of affirmative actions aimed at increasing and strengthening the presence and influence of women in politics in Brazil, a country that, despite its high Human Development Index, still lags behind other nations in terms of gender equality in the political sphere.

The Superior Tribunal has not been immune to this reality and has taken the initiative to promote women's participation in politics. This has materialized through a series of administrative actions, including campaigns advocating for the valorization of women and gender equality, as well as seminars focused on political reform. These initiatives are steps toward redressing a historical and cultural imbalance.

However, efforts to date have had limited impact. Brazil is in an unfavorable position internationally, ranking 151st in terms of female representation in Congress, with lower percentages than countries that, paradoxically, have had a history of denying rights to women. The ruling, previously discussed, establishes fundamental premises of gender equality, arguing that affirmative action not only honors the right to equality, but is also essential to counteract a historically sexist distribution of public resources. It is argued that true equality between men and women is achieved not only by ensuring equal opportunities, but also by empowering women to achieve equal outcomes.

It also addresses the cultural context that perpetuates the lower visibility of women, as evidenced by practices such as the disproportionate amount of time devoted to election propaganda, despite the existence of quotas requiring a minimum number of female candidates. Finally, the issue of public funding and its relationship to gender is addressed, arguing that political parties that benefit from public funding must adhere to certain standards, particularly those that promote

gender equality in a context where women are significantly underrepresented in politics. This approach seeks to ensure that government financial support is used as a vehicle to promote gender equality in the political sphere.

#### **4. Gender Parity and GBPV: the Mexican experience**

##### **4.1. Regulatory and institutional Context**

As it was mentioned earlier, in Mexico, Article 41 of the Federal Constitution stipulates that political parties must adopt "rules to guarantee gender equality in the nomination of candidates for federal and local congressional elections." In addition, political equality between women and men is promoted through the allocation of 50% of candidates to women and 50% to men in both popular elections and appointments (Article 3d bis, General Law of Elections and Procedures of Mexico).

Besides the constitutional text, important amendments were made to the General Law on Women's Access to a Life Free of Violence, reforms and additions were made to various provisions of the General Law on Institutions and Electoral Procedures, the General Law on the Electoral Challenge System, the General Law on Political Parties, the General Law on Electoral Crimes, the Organic Law on the Office of the Attorney General of the Republic, the Organic Law on the Federal Judiciary, and the General Law on Administrative Responsibilities. These amendments aim at a comprehensive reform of the system, establishing sanctions in accordance with electoral, criminal, and administrative legislation, as well as precautionary and reparation measures for the benefit of victims.

The Mexican legislative evolution in the classification of gender-based political violence must be interpreted considering the evolution of the jurisprudential criteria developed during the different phases in which a solid legal framework was not yet in place. While it will be addressed in more detail in subsequent sections, it is relevant to note that, for example, the Electoral Tribunal of the Federal Judiciary (TEPJF for its Spanish acronym) did not pronounce on the possibility of nullifying an electoral process due to political gender-based violence until Mexico consolidated a detailed and holistic normative framework in this area.

As mentioned earlier, in most countries, there has been an increase or greater visibility regarding the rates of political violence against women. Violence intensifies in the political arena after the adoption of affirmative actions, such as regulations promoting gender quotas or parity. As women increase their participation and become more actively involved in politics, there is reaction or resistance to a more

equitable distribution of power; Mexico is a clear example of this trend. Following the 2014 constitutional reform on gender equality, the Specialized Prosecutor's Office for the Attention of Electoral Crimes (FEPADE, for its Spanish acronym) identified 416 files between 2013 and 2016 that could correspond to cases of gender-based political violence. Of these, 53.1% took place in 2016. One of the main difficulties was that many complaints did not progress due to the lack of an adequate regulatory framework.

## **4.2. Main Jurisprudential Criteria Regarding Gender-Based Political Violence**

### *4.2.1. General Considerations and Protocol for Addressing Gender based Political Violence Against Women*

Within the context of the fight against gender-based political violence within the realm of "specialized electoral tribunals," it is noteworthy that the Electoral Tribunal of the Federal Judiciary of Mexico has maintained a consistent and resolute stance on this issue. This uniqueness makes the analysis of its cases particularly relevant. This section focuses on examining the rulings specifically issued by this jurisdictional authority in Mexico, with a specific focus on how gender-based political violence is addressed. This analysis is crucial for identifying prevailing jurisprudential trends, assessing the effectiveness of measures implemented to protect women's political rights, and, above all, discerning challenges that still persist in eradicating this specific form of violence.<sup>17</sup>

Gender-based political violence is a reprehensible act because it not only violates the fundamental rights of the victim, but also undermines the principle of gender equality and hinders the development of an inclusive democracy. As mentioned above, the regulations that oversee gender-based political violence are recent and are the result of an extensive process in which, in the case of Mexico, the Electoral

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<sup>17</sup> According to the classification (2019) on Electoral Justice Systems made by Orozco Henríquez, various countries have chosen to establish specialized electoral tribunals as mechanisms to ensure legality and fairness in electoral processes. Among these countries are Chile, Mexico, Ecuador, Peru, Albania, Greece, Palestine, Sweden, South Africa, Brazil, El Salvador, Honduras, Panama, Paraguay, and Venezuela. These tribunals play a crucial role in resolving electoral disputes and protecting the political rights of citizens. However, upon conducting a thorough search for jurisprudence related to gender-based political violence, it is noteworthy that Mexico has the most information and documented cases. This suggests that, despite having a specialized electoral justice system, Mexico faces significant challenges regarding gender-based political violence, a problem that affects the integrity of its electoral processes and the equitable participation of all genders in political life.

Tribunal of the Federal Judiciary has played a crucial role. The Electoral Tribunal has been fundamental in the affirmation and recognition of women's rights. A concrete manifestation of this commitment is the adoption of the Protocol on Gender-Based Political Violence against Women. But the TEPJF did not stop there; it also established a number of jurisprudential criteria for its application and scope, even filling in certain gaps that the Protocol did not address.

Following this line, the TEPJF criteria have aimed to remedy and prevent situations of violence against women in the political sphere. Issues such as the perpetuation of gender stereotypes in election propaganda, speeches, and court rulings; the impact of violence on elections; and access to justice were addressed, among others. The jurisprudential evolution of the Mexican electoral body on these issues can be divided into three main phases: the phase before the issuance of the Protocol, the phase after the issuance of the Protocol and the consolidation of the jurisprudence 21/2018, and finally the phase after the 2020 reform on political gender violence.

The first phase began with the 2014 electoral reform, which saw a significant increase in women's political participation, but unfortunately also an increase in violence against women. Against this backdrop, the TEPJF took action and established various criteria that clarified aspects such as the competence of the authorities, reparation measures, sanctions, and the relationship between gender-based political violence and personal integrity as an eligibility criterion.

It is important to note that in its first decisions, the electoral authority did not sanction gender-based political violence due to the lack of clear criteria in this area. The electoral tribunal's first argument regarding gender-based political violence focused on the principle of equality and non-discrimination. An example of this is Resolution SUP-REP-16/2014 (March 5, 2014), in which the TEPJF ruled on the case of Abigail Vasconcelos Castellanos, who was denied the opportunity to run for public office in the municipal council of San Bartolo Coyotepec, Oaxaca, citing the right to self-determination of indigenous communities.

The tribunal found that the principle of equality and participation had been violated, since it prevented women's access to elected positions, particularly as candidates for municipal councils. Given the pervasive context of violence against women and the lack of defined criteria for what behaviors to sanction and what

procedures to follow, cases of gender-based political violence increased during the 2015/2016 electoral process.

In certain situations, acts constituting gender-based violence were prosecuted under the crime of obstructing the proper exercise of the electoral function and not specifically as gender-based violence. However, during the electoral process in 2015 and 2016, the Tribunal incorporated the concept of gender-based political violence in various resolutions. An example is the case of the electoral justice of San Luis Potosí, where it was found that the harassment and barriers in the performance of her duties, imposed by other male judges, exhibited characteristics of gender-based political violence (SUP-JDC-4370/ 2015).

In other cases, Mexican electoral justices have ruled on gender violence in the content of electoral propaganda (SRE-PSC-43/2016 and SUP-REP-88/2016, SUP-REP-90/2016 and SUP-REP-92 /2016, accrued cases) and in materials promoting citizen voting, emphasizing the need for inclusive language (SUP-JDC-1619/2016). The second phase of this jurisprudential development begins with the adoption of the Protocol. The tribunal applied it for the first time in ruling ST-JDC-0215/2016, in a case concerning the improper dismissal of a councilwoman, concluding that the applicant had been a victim of gender-based political violence. In this particular case, the plaintiff was elected landowner councilwoman in the municipality of Zapotlán de Juárez, Hidalgo. During a regular meeting of the City Council, her male substitute was instructed to take over because she had failed to attend four consecutive meetings without justifying her absence. The Chamber found that the local Tribunal had not acted in the interest of preventing violence by failing to take into account the specific circumstances and the discriminatory remarks directed at the plaintiff.

In this case, the tribunal found that the reported events could be interpreted as political gender violence directed against a woman solely because of her gender, given that the use of symbolic language based on stereotypes and prejudices was identified. The Tribunal concluded that the attacks reported by the complainant had the purpose and effect of undermining the recognition and exercise of her political and electoral rights, thereby placing her in a position of subordination to her male colleagues. These events occurred in the exercise of the applicant's political and electoral rights and in the exercise of the public office to which she was elected. The ruling analyzed and defined the scope of discriminatory acts and reaffirmed the obligation to judge from a gender perspective. Although it was not confirmed that the



plaintiff was a victim of gender-based political violence, other authorities were instructed to investigate the events.

An emblematic case in which the Protocol was applied was the ruling SUP-JDC-1654/2016. In this case, protection measures were granted to Rosa Pérez, Mayor of Chenalhó, Chiapas, who was recognized by the Tribunal as a victim of gender-based political violence. She was forced to sign and present an indefinite leave of absence from her position as mayor and was subjected to psychological violence. The election authority ordered, among other things, her reinstatement to the position for which she was elected, after concluding that she had been coerced into resigning. This decision is significant because the High Chamber examined the case with a gender and intersectional approach, despite the fact that it was filed out of time. It was considered that the victim had to go into hiding to protect her physical integrity, which prevented her from learning of the decree by which the State Congress approved her resignation. In addition, she was allowed not to exhaust all legal remedies. In this case, the electoral judge pointed out that on many occasions, women are specifically targeted because of their gender and what they symbolically represent.

Another important criterion in this sense was the one that was established in the case SUP-JDC-1773/2016 (October 19, 2016). This is a clear example of gendered political violence in the electoral sphere. The plaintiff, Felícitas Muñoz Gómez, who served as Mayor of the Municipality of Mártir de Cuilapan, Guerrero, from 2015 to 2018, reported that she had been the object of political violence since the beginning of her electoral campaign and during her term in office. During her campaign, degrading images and messages were spread, such as: "Don't let an old woman rule you," "Go to hell, the people don't love you," and other insults of a misogynistic and derogatory nature. During her tenure, offensive cartoons were distributed showing Felícitas in compromising and degrading situations. Memes and images were circulated that mocked her figure and questioned her ability to lead based on gender stereotypes. In addition, symbolic acts of violence were carried out, such as simulating her death with a coffin bearing her name. The president also reported damage to her private property, looting of the City Hall and acts of vandalism such as the burning of vehicles belonging to the City Hall.

After an exhaustive analysis of the evidence presented, the High Chamber found that there were sufficient elements to identify the acts as manifestations of gender-based political violence. It was emphasized that the evidence showed a persistent

and continuous attitude of aggression against the citizen in question, based on her condition as a woman. The statements were based on discriminatory stereotypes that questioned women's ability to hold public office and govern, and implied that the presence of a woman in power challenged the masculinity of men in the community (SUP-JDC-1773/2016 and accrued cases).

The High Chamber concluded that the speeches were clearly directed against the woman on the basis of her gender, as they were based on prejudices that underestimated women's ability to lead. As in the case of Rosa Pérez, in the case of Felicitas, the judicial authority instructed the appropriate authorities to ensure the proper exercise of their functions. Evidence was admitted after the legal deadline because the individual was unable to present it in a timely manner due to the threats she received.

#### *4.2.2. The fight against gender stereotypes and sexist language and the definition of the GBPV concept*

A significant advancement in electoral jurisprudence on gender has come from criteria related to the use of inclusive language, its interaction with freedom of expression, and the fight against gender stereotypes and sexist language. This type of language has a disproportionate impact on women, as it often reinforces stereotypes and gender roles, becoming, in many cases, a form of symbolic violence. According to electoral jurisprudence, it is essential that the authorities break with historically rooted gender stereotypes and adopt criteria that protect women's rights. It also highlighted the need for sensitive and careful analysis in cases where freedom of expression and women's rights conflict, avoiding speculation.

In the area of electoral law, one of the most prominent challenges has been the accurate identification of gender-based political violence. To address this issue, the Electoral Tribunal took the initiative to establish clear parameters, resulting in the promulgation of Jurisprudence 21/2018, entitled "Political Gender Violence. Elements for its identification in the political debate." This jurisprudence is crucial not only for its content, but also for its focus on ensuring that violence is clearly directed against women based on their gender and that the act in question has a differentiated or intensified impact on them. That is, it focuses on actions that, either by their nature or intensity, particularly affect women or are exacerbated by their female condition.



Jurisprudence 21/2018 is meticulous in its approach, outlining five essential criteria. First, it emphasizes that any act reported as political gender-based violence must have occurred in the context of exercising political-electoral rights or in the exercise of public office. Second, it emphasizes that the perpetrators of such acts can vary from state agents to colleagues, media outlets, or even individuals. Third, it recognizes the diversity of manifestations of violence, which can be symbolic, verbal, patrimonial, economic, physical, sexual, or psychological. Fourth, it emphasizes that the central objective of such acts is to undermine or render the recognition, enjoyment, or exercise of women's political and electoral rights null. And fifth, it insists that the action must be specifically directed at a woman because of her gender, reflecting gender biases and stereotypes.

This approach, which emphasizes the need for deliberate aggression against a woman precisely because she is a woman, is an important step in the fight against discrimination and gender-based violence in elections.

The adoption of affirmative actions and the achievement of political parity have been countered by the exacerbation of patriarchal behaviors manifested by political parties, the media, and society in general. As women have made inroads into traditionally male spaces, this intrusion has challenged the prevailing homogeneity and been seen as a threat to the patriarchal status quo. This perception has led to an increase in political violence, which, thanks to the conceptualization of feminist movements, is understood as harassment and gendered political violence (Krook and Mackay 2011).

Resistance to these progressive measures stems from a deeply rooted patriarchal culture in many Latin American countries, which is particularly evident in the public sphere. This resistance manifests itself in dynamics of domination that include invisibility, ridicule, withholding of information to hinder the performance of women in public positions, humiliation, objectification, and, in extreme cases, threats or acts of physical violence (Cerva 2014). This transformative shift has allowed women to transcend the private confines imposed by patriarchy into spaces that the dominant culture says they should not occupy. Evidence suggests that with the establishment of gender parity, conflicts over power, decision-making, and the redistribution of resources have emerged (Machicao Barbary 2011). These conflicts sometimes arise because women are seen as a threat to male hegemony, and violence is used as a strategy to marginalize them from the public sphere. This phenomenon is referred to

as a "backlash," an adverse reaction to the growing presence of women in public spaces (Gilas 2020, 84).

The violent patriarchal reaction to the growing inclusion of women in positions of effective power is not the only explanation to consider. It is essential to recognize that Latin American countries face a structural problem of generalized violence, which encompasses both gender violence (Spigno 2019) and political violence that also affects men (Dammert 2013). While men are also victims of political violence, the impact of this violence on women is differentiated because of the gender system (Piscopo 2017). Mexico is no exception. In this country, an increasing number of women are victims of political violence, a phenomenon linked to improved access to positions of political representation, which has led to a greater presence of women in the public sphere (Cerva 2014; Freidenberg and Osornio 2017). Constitutional and regulatory efforts to improve political participation and representation in Mexico have had unexpected effects.

The problem of gender-based political violence against women gained more attention after the 2014 constitutional reform, which incorporated the principle of parity in the Constitution, a turning point in the inclusion of women in Mexican public life. Although parity democracy has existed in Mexico for more than two decades (Zaramberg 2009, 110), rates of gender-based political violence remain alarming. The 2017/2018 electoral cycle was the most violent in Mexico's democratic history, with an unprecedented seen violence (Dávila 2018). During the 2020/2021 electoral process, 150 complaints of gender-based political violence were registered (INE 2021, 5).

In Mexico, the initial version of the General Law on Women's Access to a Life Free from Violence, enacted in February 2007, did not include a definition of gender-based political violence. As a result of this regulatory oversight, complaints of political gender violence filed between 2013 and 2016 were not adequately addressed. To address this shortfall, the Protocol on Addressing Gender-Based Political Violence against Women was introduced in 2016. This document, the result of the collaboration of various institutions such as the TEPJF, INE, FEPADE, among others, establishes the first normative configuration of political gender violence in Mexico.

The Protocol defines gender-based political violence as acts or omissions directed against a woman on the basis of her gender that have a differential or

disproportionate impact on her political and electoral rights, including the exercise of her functions. This instrument incorporates international standards and reflects, among other things, the court opinion 22/2016 of the Supreme Court of Justice of Mexico (SCJN, as per its Spanish acronym) on judging from a gender perspective. Despite the approval of the protocol, the 2017-2018 electoral process stood out as one of the most violent in Mexico's democratic history.

On April 13, 2020, thanks to feminist struggle and institutional commitment, an important reform was published in the Official Gazette of the Federation. This reform conceptualizes political gender violence and expands its definition, incorporating elements of the TEPJF's Protocol and Jurisprudence 21/2018. It also details what is meant by "on grounds of gender" and provides an extensive, though not exhaustive, list of behaviors that may constitute gender-based political violence. These practices range from restricting women's right to vote to threatening or intimidating women or their families in order to force them to resign from political office. The regulations also recognize as political gender violence acts based on traditions or customs that violate human rights, as well as the imposition of activities based on gender stereotypes.

It is important to emphasize that the Electoral Tribunal identified the responsibility of political parties and citizens in perpetuating gender stereotypes. A clear example can be found in the decision SUP-JDC-1619/2016, related to the electoral process for the renewal of governorship of Puebla (2015-2016). In a publication by an Local Public Electoral Organization (OPLE, as per its Spanish acronym), voting was encouraged with the message: "June 5 is the day. "Elect your next [male] Governor." Two female gubernatorial candidates filed a lawsuit, arguing that such ads were harmful because they did not guarantee gender equality by suggesting that only male candidates would be elected. The electoral authority concluded that such language reinforces the perception of male superiority over women.

Although there is no explicit norm requiring the use of non-sexist or inclusive language, it is evident that the use of stereotypical language creates a gender imbalance that hinders the realization of the principle of equality. It was recognized that "inclusive language, as a pillar of the gender perspective, has a transformative power. Therefore, it is imperative that the Electoral Institute of the State of Puebla adopt it in order to effectively guarantee the right to equality and promote the inclusion of women in the democratic life of the State of Puebla". The criteria established in this case, together with the rulings SUP-JDC-1706/2016 and SUP-

JDC-1679/2016, led to the approval of Jurisprudence 48/2016, entitled "Gender-based Political Violence. Electoral authorities' obligation to prevent its influence on political rights". This jurisprudence has established that, due to the complexity of these cases, it is essential to analyze each situation individually in order to determine whether it constitutes gender-based violence and, if so, to impose appropriate sanctions.

#### *4.2.3. Sanctions and annulment of elections*

The jurisprudential evolution in Mexico has undergone a significant change with the 2020 reform, which marks a third stage in which the Mexican legal system has begun to seriously address gender-based political violence. This reform not only establishes it as a crime and punishable conduct, but also defines the jurisdiction of the authorities and proposes rules for repairing the damage that goes beyond merely economic measures. The loss of the presumption of "honest living" as an element of eligibility stands out among the sanctions included in the reform. In fact, already in 2018, the Electoral Tribunal had interpreted that this expression covered the prohibition of acts constituting gender-based political violence, since such acts also constitute a form of institutional violence. In essence, people are expected to respect the law and conduct themselves in a manner consistent with social order and human rights, obligations that bind both authorities and individuals.

Significant progress has been made in establishing a list of perpetrators of gender-based political violence. The Electoral Tribunal has upheld the constitutionality of this list, arguing that it allows the public to verify whether someone meets the requirement of living honestly, as required by the Constitution. This list, far from being a mere sanction, is presented as a tool to eradicate violence against women, in accordance with the obligations deriving from the Constitution and the relevant international treaties. However, it is crucial to understand that being on this list does not automatically mean that the presumption of "honest living" has been disproved; this will always depend on a final decision or resolution issued by the competent electoral authority. In this context, the Electoral Tribunal has considered it valid to annul a candidacy if it is proven that, during the exercise of a public office, acts were committed that hindered a public servant in the exercise of her duties, which constitutes a form of institutional gender political violence.

A recent decision, SUP-JDC-552/2021, discussed the requirements to be met by those running for federal representation, particularly the "3 out of 3 against violence" form. This form requires, among other things, that candidates have no history of

family violence, sex crimes, or child support debts. The judicial authority considers that the verification of these requirements is a guarantee to ensure that those who apply do not have such background, thus reinforcing the commitment to prevent and eradicate gender-based violence in the political sphere.

However, the most severe sanction that can result from gender-based political violence is the annulment of elections, an issue that deserves more detailed analysis in the future. Initially, case law held that gender-based political violence did not justify the annulment of an election. In this framework, the Supreme Court of Justice of Mexico, in analyzing the unconstitutionality of Action 15/2017 and its accrued cases, declared unconstitutional Article 27, Section D, Part 2 of the new Political Constitution of Mexico City. This article provided for the annulment of elections or civic participation processes if gender-based political violence and serious irregularities were proven during the electoral process. The Court argued that there was no clear link between gender-based political violence and the conditions of intent, gravity and determination established by the Constitution, which must be met to prove that irregularities may have influenced the deliberative process.

In 2016, the Electoral Tribunal had the opportunity to deliberate on the impact of gender-based political violence on electoral results, with the accrued rulings SUP-REC-220/2016 and consolidated SUP-REC-222/2016. In this case, the Chamber of the State of Mexico had previously annulled the municipal election in San Felipe Orizatlán, Hidalgo, on the grounds that candidate, Brenda Lizette Flores Franco, had suffered gender-based political violence. This violence manifested itself in Facebook posts and defamatory audio. However, the High Chamber found that these acts were not directly related to the electoral process and therefore did not establish the existence of gender-based political violence that affected the electoral process.

A second attempt to link gender-based political violence to the annulment of an election is shown in the ruling SUP-REC-1388/2018. In this case, the Regional Chamber of Mexico City annulled an election for misuse of public funds and confirmed that candidate, María de Lourdes Rojo e Incháustegui, had been a victim of gender-based political violence. Despite the acts of intimidation and defamation against the candidate, the High Chamber concluded that although gender-based political violence had been proven, the facts did not justify the annulment of the election.

Contrary to previous rulings and in accordance with the 2020 reform on violence, in the ruling SUP-REC-1861/2021 (September 29, 2021), the Electoral Tribunal was once again faced with the dilemma of whether acts of violence can alter an electoral result. On this occasion, in a historic turn, the annulment of the election was confirmed. The events focused on the election of the municipal council of Iliatenco, Guerrero, during the 2020/2021 electoral process. Shortly before the election, misogynistic messages were spread and the image of a female candidate from the Movimiento Ciudadano Party was altered.

The Local Electoral Tribunal of Guerrero recognized the existence of messages that constituted political gender violence in the municipality but considered that they did not affect the outcome of the election. In response, the Movimiento Ciudadano Party appealed to the Mexico City Regional Chamber, arguing that such conduct had a decisive impact on the election. The Regional Chamber annulled the election, stating that acts of gender-based political violence had a significant impact on the outcome of the election. This decision was based on several factors, including the proximity of the violence to the election date and the narrow margin of votes between the two main candidates. The High Chamber upheld the decision of the Regional Chamber, emphasizing that the resolution was in line with the gender perspective and intersectionality approaches, given the candidate's condition as an indigenous woman in a vulnerable situation. Moreover, the importance of making the burden of proof more flexible in cases of gender-based political violence was highlighted in order to avoid revictimization. Additionally, the impact of misogynistic messages on voter perception was emphasized, given the narrow margin of votes between the candidates.

The Tribunal's analysis took into account several elements, such as the socio-economic and cultural context of Iliatenco, the difference in casted votes in previous elections, and the presumption of decisiveness. It was concluded that although the perpetrators of these acts of violence could not be directly identified, the nature of the messages suggested political opposition. In this type of analysis, it is essential to use analytical tools that provide an evaluation based on objective parameters. Not every irregularity, even if it is categorized as gender-based political violence, justifies the cancellation of a democratic process as important as an election, as stated in SUP-REC-2214/2021 and accrued cases. However, it is crucial to demonstrate the decisive nature of the infractions that justify nullification, using a gender perspective approach that highlights the dynamics that perpetuate gender subordination at both the individual and societal levels. In order to reach such a conclusion, several factors

must be considered: first, the prevalence of violence or contextual analysis, and based on the latter, determine whether the behavior was specific or has characteristics of generalization, whether it is structural, and whether it was widespread.

In addition, the electoral judge has emphasized that in order to render an election null and void, it is essential that the determining criterion be evaluated with gender perspective, supported by objective and quantifiable elements. The Tribunal itself set as a reasonable standard that the difference in votes between first and second place be less than 5%. If the difference is less than 5%, it will be presumed that the irregularity was decisive, unless proven otherwise. On the other hand, if the difference is greater, additional evidence is required to accept that the violation was decisive, such as conferring the conduct to a specific candidate or political force, as mentioned in SUP-REC-2214/2021 and accrued cases.

The Electoral Tribunal has been a pioneer in the protection of women's rights to a life free from violence, especially political and gender-based violence. The ruling SUP-REC-1861/2021 symbolizes a victory for women's rights and for an inclusive democracy. This victory rests on three essential pillars: first, determination, which refers to the relationship between acts of gender-based political violence and election outcomes; second, the recognition that it is not essential that violent behavior be directly attributed to the winning candidates in order to declare an election invalid; and third, the identification of how gender-based political violence affects election outcomes.

By recognizing in its ruling that certain forms of violence can lead to the annulment of elections, the TEPJF has embarked on a complex and challenging path. The standard established by the Electoral Tribunal in the aforementioned ruling has been criticized, particularly with regard to the fragility of the determination criterion and the link between acts of gender-based political violence and the outcome of the election. These criticisms are articulated by former Judge José Luis Vargas Valdez in his dissenting opinion, where he emphasizes that, in his opinion, the facts of the case are not decisive for the outcome of the election, given the lack of conclusive evidence of its impact on the electorate and the uncertainty about those responsible. Furthermore, he asserts that the annulment of an election process ultimately sanctions the electorate.



The standard of protection outlined in this decision was ratified in a subsequent ruling, Case SUP-REC-2214/2021, which upheld a ruling by the Toluca Regional Chamber nullifying the election of the City Council of Atlautla, State of Mexico. The case focused on graffiti with electoral propaganda that included derogatory phrases such as "Putá Carreño," "Putá Ratera," and "Putá Vieja," among other offensive inscriptions in non-propagandistic locations. In this latest decision, the Electoral Tribunal reaffirms the criteria related to the standard of proof for the decisiveness and relevance of acts of gender-based political violence in the electoral outcome. These criteria are based on the circumstances of time, mode, and place (in this case, the messages were visible to a large part of the population due to their location); the difference in votes between the two main candidates (a difference of 2.56%, or 379 votes); and the attribution of behavior. Although the authors of the graffiti could not be identified, it was determined that they benefited other parties and candidates to the detriment of the plaintiff. In sum, the gender perspective dictates that what is essential for the annulment of an election marked by episodes of gender-based political violence is the certainty of the conduct and its impact on the constitutional principles of equality, non-discrimination, and fairness in the electoral process.

## 5. Concluding remarks and agenda for the future

The importance of gender equality goes beyond mere numerical representation; it is an essential pillar for the creation of democratic and equitable societies. In these societies, it is ensured that all individuals have the same rights and opportunities to participate in political affairs. The role of judicial authorities is, therefore, crucial for two reasons. They must not only ensure that existing legislation promotes gender equality but also address and dismantle the structural obstacles that have kept gender inequality entrenched in our social and political systems.

The role of these authorities is not limited to the interpretation and application of existing laws; they have the responsibility and capacity to induce a substantial change in how these laws are interpreted and applied. This change is fundamental to align judicial decisions with the principles of gender equality, thus promoting real and tangible progress toward gender parity in all aspects of political life. Gender equality, therefore, must be understood not only as a legal goal but as an intrinsic necessity for the strengthening and legitimacy of our democracies.

However, there still exists a significant gender gap, attributable to multiple causes. Although its analysis is not the main focus of this document, its existence has its roots in the historical relegation of women, based on a social and moral conscience that perceived them as inferior beings. Women's rights have long been marginalized



in an androcentric and patriarchal context. However, the emerging feminist movements have succeeded in putting women's demands on the public agenda. One of the main causes of this marginalization was the conspicuous absence of women in decision-making bodies, which deprived them of an active voice in the democratic process.

In spite of the efforts made, inequality between men and women in politics is still palpable. This inequality is largely due to the fact that the political sphere continues to be interpreted from a predominantly male perspective. Current social norms and perceptions still limit women's active participation in politics. Therefore, it is imperative to maintain an unwavering commitment and take concrete action to close this gap. It is essential to continue efforts to challenge and change these perceptions, ensure the recognition and protection of women's rights, and promote equal opportunities (Bohórquez and Cárdenas 2023).

In Latin America, being a woman with a public and political projection carries significant risks due to the prevalence of gender-based political violence in the region. Women's participation in public life is a relatively recent development, the result of a gradual process. In recent decades, women in several Latin American countries have managed to enter traditionally male spaces. This has been possible thanks to the adoption of measures and affirmative actions, such as gender quotas. These measures, in combination with factors such as the type of electoral system and the role of political parties in the preparation of lists, have ensured growing political gender equality and greater representation of women in the public sphere (Archenti and Albaine 2013; Archenti and Tula 2008; Cerva 2014; Jones, et al. 2012; Ríos 2008).

From a global perspective, several countries have made significant efforts to achieve an equitable representation of women and men in their governing bodies. For example, Rwanda has the highest percentage of female representation at 48.5%, followed by Iceland at 47.6%. Australia and Costa Rica have also shown remarkable commitment, with 47.5% women in their legislative bodies. Andorra, Sweden, Norway, and Senegal are in the same ballpark, with percentages ranging from 46.1% to 46.4%. Finland and South Africa are above 45%. Argentina and Belgium are slightly behind. However, they still have respectable figures above 44%. Denmark and Mozambique have also made significant progress, with more than 43% female representation. Cape Verde, Northern Macedonia, Canada, Spain, Austria, and East Timor, although with slightly lower percentages, still managed to exceed 40%, demonstrating their commitment to gender equality. These countries

show the potential of gender equality policies to achieve more equitable representation in popular representative bodies, and a reminder that gender equality in politics is essential for a truly representative democracy.

In this regard, as inferred from section 2 of the document, the eradication of gender-based political violence is crucial. It is essential to identify and address GBPV in the political-electoral sphere, emphasizing the need for a clear and consensus-based definition of GBPV to ensure its effective identification and treatment in electoral justice systems. This approach is vital to understand how GBPV affects women's political participation and the integrity of electoral processes.

Many countries, including Mexico, have not achieved solid parity representation. These countries, despite their cultural, geographic, and political differences, share common characteristics that contribute to gender inequality. Among the most important are rooted cultural traditions, political systems dominated by men, insufficient education and awareness about gender equality, and a lack of policies and legislations that promote parity. This finding underscores the urgent need to implement concrete measures that not only increase the representation of women in government bodies but also transcend the notion of equality as a mere ideal and turn it into a tangible and effective reality in the political sphere.

The actions taken by the Electoral Tribunal of the Federal Judiciary of Mexico can be seen as a good example of guaranteeing women's political participation. Its steadfast stance in cases of gender-based political violence not only makes it a reference in the field but also underscores the importance of evaluating jurisprudential trends and the effectiveness of measures to protect women's political rights. This analysis is crucial to understand how GBPV is addressed and to identify persistent challenges in its legal and social treatment.

The increase in the visibility of GBPV, especially in Mexico, is related to the implementation of regulations that promote gender equality in political participation. This visibility is directly linked to advances in women's access to political office, which has generated a greater female presence in the public sphere and, consequently, an increase in exposure to gender-based violence.

Furthermore, the need to address structural and cultural challenges perpetuating gender inequality and political violence is emphasized. This implies a comprehensive approach that goes beyond mere numerical representation, shifting the patriarchal perspective in politics, addressing gender-based political violence comprehensively, and fostering a collaborative culture among women. Finally, the

responsibility of political parties and the citizenry in perpetuating gender stereotypes is highlighted. The examples in the document demonstrate how gender-based political violence can manifest through actions and discourse that reinforce these stereotypes.

In summary, the document provides a general overview of gender-based political violence, highlighting the importance of addressing both its direct manifestations and the structural and cultural factors contributing to its existence. The work of specialized tribunals, such as the Electoral Tribunal of the Federal Judiciary of Mexico, is crucial in the fight against gender-based political violence and in promoting gender equality in the political sphere. This analysis reinforces the need for a multidimensional and proactive approach in electoral justice to effectively address gender-based political violence.

Mexico's experience with electoral justice is virtually unique in the international arena. Few countries have a system comparable to Mexico's "electoral power". Furthermore, there are few cases in which courts of other countries, whether electoral or with jurisdiction over electoral issues, have ruled on gender equality and gender-based political violence. This situation can be attributed to the particular configuration of each legal system and the fact that very few cases are actually examined by courts. As a result, these judicial bodies have a rather limited scope of action, which limits their ability to promote significant changes towards tangible and effective gender equality that ensures adequate protection of women's rights.

Recognizing this reality, tools have been sought to increase women's participation in decision-making spaces, especially in legislative bodies, through gender equality measures. Reducing the gender gap in politics requires a comprehensive strategy that addresses structural, cultural, and social barriers. While increasing women's representation is critical, it is not enough to eliminate gender inequality. It is essential to implement complementary measures, such as changing the patriarchal perspective in politics, addressing gender-based political violence, and promoting a culture of cooperation among women. Public awareness of the importance of parity and the participation of women are essential to achieving sustainable progress.

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