

# + REPRESENTATIVIDADE

## Electoral Reforms

March/2023

**Instituto Update**

Malu A. C. Gatto e Débora Thomé

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# Introduction



Electoral laws do not only determine how elections take place: they also have profound consequences to political representation—that is, to who occupies political office. As political scientists, analysts, and civil society actors have long claimed, electoral rules are not neutral and, as the product of processes led by self-interested insiders, they tend to protect those who already occupy office (at the expense of the representation of outsiders).

Because, historically, insiders have been men from powerful racial groups, electoral rules commonly perpetuate the political underrepresentation of marginalized groups. As the spread of gender quotas worldwide has shown, however, electoral rules have a great potential for radically transforming political representation—if only they can overcome resistance from insiders, get approved, and implemented.

Understanding electoral reform as endogenous to the interests of those in power—and thus, attesting to the difficulty in promoting transformational change—**this report examines opportunities for maximizing the role of civil society organizations in electoral reform that can promote greater diversity in political representation in Brazil.**



Throughout, “diversity in political representation” refers to the greater presence of groups that have been historically marginalized in Brazilian politics, namely: women, Afro-Brazilians<sup>1</sup>, indigenous and other traditional peoples (e.g., *quilombolas* and *ribeirinhos*), LGBTQI+ people, and people with disabilities.<sup>2</sup>

The report is divided into four sections. The first section goes over electoral rules, their expected impact on the political representation of marginalized groups, and their shortcomings in promoting diversity in representation. Through a review of relevant institutional frameworks in selected Latin American countries, section 1 identifies institutions that have been beneficial for the promotion of diversity in representation in other contexts and contrasts them with the institutional setting in place in Brazil. Based on analyses of failed and successful attempts at electoral reform for greater diversity in representation, section 2 identifies the key strategies that tend to facilitate opportunities for electoral reform. Looking forward to the future, section 3 identifies actors and strategies in the legislative, judicial, and civil society domains that can work together to promote greater representation in Brazil. Finally, section 4 highlights the report’s main takeaways and makes practical recommendations for action.

Before proceeding, a word of caution on electoral reform: as Soares and Rennó (2006) point out, any attempt at electoral reform—even those with the intention of promoting changes that benefit the group that advocates for it—have risks and costs involved. Due to the number of actors, competing interests, and institutions involved, the costs of electoral reform are often unanticipated. As the authors convey: “some medicine can be more bitter than the disease”.

Ideally, before proposing or even encouraging reform, we advise conducting risk assessments that take into account contextual features such as timing, support coalition, and the relative power of opponents.

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<sup>1</sup> The category Afro-Brazilian encompasses Black (*preto*) and Brown (*pardo*).

<sup>2</sup> As will become evident throughout the report, however, many of these groups are not only not represented in elected offices, but also in legislative debates. In other words, our greater focus on the political representation of women (and, to a lesser extent, Afro-Brazilians) throughout the report, is not a consequence of our active decision to focus on these two groups but, rather, a product of analyses focused on data from Brazilian legislative processes—which have largely been silent about other marginalized groups.



## Part 1

### Electoral System and Its Representational Consequences

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In the last three decades, the gender-composition of many legislatures from across Latin America have been radically transformed. Many countries in the region have also made substantial advances to better incorporate the descriptive representation of racial and ethnic minorities, as well as of other marginalized groups (e.g., youth). When it comes to improving diversity in representation, however, Brazil did not experience a similar trajectory to that of their neighbors. Due to sharing many key institutional features, as well as shared socio-cultural histories and dynamics, Latin American cases offer a fruitful opportunity for observing the relationship between electoral rules and diversity in representation—and for how electoral reform can be used to promote change.

Throughout, our assessment of electoral institutions focuses on the three areas identified as the most relevant for the representation of marginalized groups (e.g., Stockemer, 2008; Lijphart, 1999): 1) electoral systems, 2) list type, and 3) targeted policies.

**1. Electoral system:** In broad terms, electoral systems can be classified as proportional or majoritarian. Studies from across contexts have indicated the **proportional representation (PR) systems are more likely to promote the political representation of marginalized groups than majoritarian systems.**

### What is proportional representation?

In PR systems, parties gain seats in proportion to the number of votes cast for them.

This lowers the threshold for a party to attain representation; consequently, under this type of system, a higher number of parties tends to be able to attain seats, and smaller parties (that would otherwise not be competitive) may also gain representation. In other words, PR systems seek to yield representative bodies that, in theory, reflect the overall distribution of public support for all political parties/ideological perspectives, including non-dominant ones.

Countries that employ a PR system include: Germany, Italy, Spain, Norway, Sweden, Argentina, Chile, Australia, and South Africa.

### Why may it promote diversity?

In contrast to majoritarian systems, in which each party selects one candidate to compete for a single seat, under PR systems, more than one seat is available in a race, so each party can submit a list of multiple candidates.

Under PR systems, the opportunity to nominate more than one candidate increases the chances of representation of marginalized groups; meanwhile, the need for nominating a single candidate in majoritarian systems tends to lead parties to benefit incumbents and to not risk their chances in a race where only one winner takes all (Rule, 1994).

**2. Type of lists:** Overall, it is well-established that, within variations of proportional representation systems, **closed-list PR (OLPR) is more likely to promote diversity in representation than open-list PR (OLPR).**

### What is closed-list PR?

In CLPR systems, parties present pre-ordered candidate lists, and voters cast ballots for a party's list, not an individual candidate. The number of votes a party gets determines the number of seats it gains; the people elected to occupy those seats are determined by the order of names on the party's list.

For example, if a party's vote share grants them three seats, the people allocated to the first three positions on the party's list are elected.

This system differs from OLPR systems, in which candidate lists are not pre-ordered and nominal votes cast to specific candidates determine their placement on their party's list.

Countries that employ a CLPR system include: Argentina, Colombia, South Africa, Italy, Spain, and Uruguay.

### Why may it promote diversity?

CLPR tends to promote party brands and lower individual campaign costs (Shugart and Carey, 1995). Under CLPR, party structures and individual candidates all have the incentive to campaign for the overall party list, so the financial burden of campaign is not undertaken by any given individual candidate.

In OLPR, by contrast, candidates compete against members of their own party for nominal votes to attain a high placement of their party's list. This raises the individual-level costs of campaigning. High campaign costs are usually an obstacle to candidates from marginalized groups (who are often not only marginalized in politics, but also economically and socially).

In addition, CLPR is more fitting with strong quota designs (Paxton et al, 2010), as the institution allows for quota designs that establish requirements on placement order.



**3. Targeted policies for marginalized groups:** The presence of a targeted policy to address underrepresentation, such as quotas, tends to be **positively associated with an increase in the political representation of the targeted group.**

#### What are targeted policies?

Targeted electoral rules have the explicit objective of improving or guaranteeing the political representation of a group traditionally marginalized from politics.

Quotas are the most common type of targeted electoral rules. Although there are different types of quota configurations, in broad terms, quotas determine a specific share of candidate nominations or seats to be set aside for members from a particular group (e.g., women, minoritized or minority racial/ethnic groups, youth).

Besides quotas, other types of targeted policies include: the reservation of campaign funds; financial incentives to the nomination or election of candidates from a particular group; the allocation of resources for campaigns to promote the political participation of specific groups; and government-funded candidate training programs targeted at people from underrepresented identities.

Quotas of some type are present in over one hundred countries in the world, spanning across all regions.

#### Why may they promote diversity?

Targeted policies can be highly effective in increasing the proportion of elected candidates from traditionally underrepresented groups, but their impact is contingent on their design (Gatto 2016, 2017a; Hughes et al. 2019). For example, there are three main types of quotas:

1. *Voluntary party quotas* are adopted by individual parties and serve as a guide to their internal candidate selection procedures. Because they are not monitored or enforced by an external mandate, individual parties can choose the design of their quotas (e.g., the proportion of nominations to be reserved and for which group), as well as choose whether to comply with them or not.
2. *Legislative candidate quotas* are national legislation, applied to all parties, that demand that a specific percentage of candidates from an underrepresented group be included in parties' candidate lists. Because this type of policy applies to candidates, not elected positions, to be effective, quota designs also need to specify conditions to improve candidates' level of competitiveness.
3. *Reserved seats* set aside a predetermined number of parliamentary seats for a group (meaning that other groups are ineligible to contest these seats). This ensures that a certain number of seats will necessarily be occupied by members of a given group, regardless of how electorally competitive candidates from this group are. Generally, however, the number of seats reserved for a particular group does not tend to be high.





## Electoral Change for Greater Diversity: Lessons from Latin America

Since 1978, Latin American countries have carried out at least 265 electoral reforms (Caminotti and Freidenberg, 2018), making the regions one of the most prolific in this regard. As the high number of electoral reforms in the last 50 years indicates, institutional change in the region is not uncommon. Albeit often used to protect the interests of insiders, electoral change has also been used to improve electoral processes.

After Argentina's pioneering adoption of a gender quota in 1991, electoral reforms in Latin America often included efforts to promote greater diversity in political representation. These efforts did not take place in a vacuum; they were often prompted by demands from civil society groups, as well as pressure from international organizations (2018).

Electoral change is an iterative process, so policies targeted at increasing the political representation of a specific group are layered on top of existing electoral institutions. As Table 1 indicates, prior to the adoption of gender quotas, many Latin American countries already allocated seats based on PR systems with closed candidate lists—the electoral system and type of list that are most favorable to the political representation of marginalized groups.

From 1991 onwards, countries began following Argentina's model and also adopting gender quotas. In many cases, original quotas had weak designs. In countries where legislative seats are elected through more than one system (e.g., Mexico), original quotas only applied to a sub-set of seats—more specifically, those to which CLPR applied. In the Quito Consensus of 2007, Latin American countries reinforced their commitments to developing electoral policies to promote women's political participation and leadership. Overtime, quotas were revised, strengthened, and expanded (Gatto 2017a).



As of 2022, all Latin American countries except for Guatemala have adopted a gender quota and revised its design at least once. Currently, six Latin American countries are among the top 20 countries in the world in terms of women’s legislative representation. For example, eight Latin American countries currently have parity laws (meaning a quota that establishes that 50% of candidate nominations should be allocated to women). In three of these cases, Ecuador, Bolivia and Mexico, the parity law is embedded into the constitution.

As shown in Table 1, the region has a high average number of women elected to their legislatures—an outcome that has largely been associated with advances in institutional innovation and change. In 1997 (our baseline year for women’s political representation), Argentina was the only country from the region among the 20 countries in the world with the highest percentage of women in legislatures and most other countries in Latin America had 10% of women’s representation in their lower/single houses.

Table 1. Electoral rules applied to the lower or single house of selected Latin American countries national legislatures, ordered by the % of women's representation

	Electoral System		List Type		Targeted Policies: Women				Targeted	Women Lower/single house		
	PR	Majoritarian	Open	Closed	Quota	Order	Finance	Training	Other groups	1997 (Jan)	2022 (Aug)	Increase
México	√ (40%)	√ (60%)	X	√	50%	Ziper	X	√	√	14.2%	50%	252%
Bolivia	√ (50%)	√ (50%)	X	√	50%	Ziper	X	X	√	6.9%	46.2%	570%
Argentina	√	X	X	√	50%	Ziper	X	X	X	25.3%	44.8%	77%
Peru	√	X	X	√	40%	Nenhum	X	X	√	10.8%	40%	270%
Equador	√	X	X	√	50%	Ziper	√	√	√	3.7%	38.7%	946%
Chile	√	X	√	X	30%	N/A	√	X	X	7.5%	35.5%	373%
Colômbia	√	X	√	√	30%	Nenhum	√	√	√	11.7%	28.9%	147%
Uruguai	√	X	X	√	25%	3 para 1	X	X	X	7.1%	25.3%	256%
Venezuela	√ (30%)	√ (60%)	X	√	40%	Nenhum	X	X	√	5.9%	22.2% (sept. 2021)	276%
Paraguai	√	X	X	√	50%	Nenhum	√	√	X	2.5%	17.5%	600%
Brasil	√	X	√	X	30%	N/A	√	√	√	6.6%	14.8%	124%

Note: N/A indicate policies that are not possible due to institutional mismatch. Table compiled by authors with information from Cepal, Idea, Biblioteca del Congreso de Chile, Political Database of the Americas (Georgetown University), Instituto de Iberoamerica (University of Salamanca), ReformasPolíticas.org, Jurado Nacional de Elecciones de Peru, Congresso Nacional do Brasil.



As also indicated, the combination between CLPR and strong targeted policies—which include: the reservation of a large share of candidate nominations (e.g., 40% or 50%) and measures that ensure the electoral viability of candidacies, such as the establishment of the order in which women’s nominations should appear in party lists (e.g., “zippers,” which alternate candidates of different genders)—are associated with the greatest levels of impact on women’s legislative representation. The case of Brazil, at the bottom of the table, stands out: in a 25-year period, women’s representation in the Chamber of Deputies in Brazil only increased from 6.6% to 14.8%.

As Table 1 also indicates, seven of our selected Latin American cases also have adopted policies that seek to promote the political representation of other underrepresented groups. Albeit not as extensively diffused as gender quotas, policies targeting the representation of other underrepresented groups are slowly becoming more common throughout the region. For example, Bolivia, Colombia, and Venezuela have reserved seats for indigenous peoples. In Mexico and Peru parties must include a certain proportion of indigenous candidates to their party lists. In Peru, 20% of candidacies are also reserved for youth. In Colombia, 5% of campaign funds are allocated to parties that elect youth and in Ecuador a proportion of public funds is destined to the candidate training of youth. In Brazil, public campaign finance funds are reserved proportionately to the share of Afro-Brazilian candidates nominated, and parties that elect Afro-Brazilians are financially rewarded.

## **The Brazilian Electoral System: Shortcomings to Diversity in Representation**

As discussed above, Brazil falls behind its neighbors in the promotion of women’s political representation. An assessment of the electoral rules that structure Brazilian elections provide relevant insight into the institutional sources of the slow progress in this area.



In Brazil, different rules apply to elections for different offices: proportional representation applies to municipal council and state legislature races, as well as to the lower house of the National Congress, the Chamber of Deputies. For the upper house (the Senate), as well as executive positions at all levels of government (mayors, governors, and president), races follow majoritarian rules (i.e., the candidate that attains the greater number of valid votes is elected).

As Table 2 shows, the gender quota—which establishes that 30% of nominations in parties' candidate lists should be women—only applies to PR races (that is, to city council, state legislatures, and the Chamber of Deputies). But legislated quotas only go as far as to establish that a certain proportion of candidates are nominated, not elected.

OLPR is not compatible with rules that establish where candidates should be placed on parties' lists: candidates running in PR races compete for nominal votes and the number of votes they individually attain determine their placement on their party's list. This makes political campaigns in Brazil expensive and personalistic. Campaign expenditures are positively correlated with electoral success; in other words, candidates who have access to larger pots of money tend to be more competitive in OLPR races. Party resources are finite, so party leaders tend to prioritize certain candidates over others (Avelino and Biderman, 2019; Samuels, 2001). Improving candidates' electoral competitiveness in an OLPR system therefore requires a different type of rule.

As women legislators working towards quota strengthening have long recognized, improving the effectiveness of the gender quota under OLPR would require regulations that improved women's electoral competitiveness through their access to resources. Despite many efforts, this was not achieved through legislative means. Nonetheless, in 2018, the Brazilian Supreme Court and the Electoral Court determined that 30% of public financing for campaigns are to be reserved for women candidates. This rule sought to strengthen the Brazilian gender quota by regulating a mechanism to increase women candidates' competitiveness. In 2020, judicial actors also ruled that a share of public campaign funds equivalent to the proportion of Afro-Brazilian candidates are to be reserved to the campaigns of candidates from this group.

**Table 2. Electoral rules applied to legislative and executive elected office in Brazil**

	City councilor	State deputy	Federal deputy	Senator	Mayor	Governor
<i>Electoral System</i>						
PR	√	√	√	X	X	X
Majoritarian	X	X	X	√	√	√
<i>List Type</i>						
Closed	X	X	X			
Open	√	√	√			
<i>Targeted Policies</i>						
Quota	√	√	√	X	X	X
Order						
Finance	√	√	√	√	√	√
Training	√	√	√	√	√	√
<i>Other</i>						
Afro-Brazilian*	√	√	√	√	√	√

Note: List type only applies to PR systems (i.e., is not compatible with majoritarian systems) and therefore do not apply to the offices of senator, mayor, and governor.

\* The law stipulates the reservation of campaign finance funds for Afro-Brazilians, but there is no candidate quota that applies to Afro-Brazilians.





As Table 2 indicates, however, while the gender quota only applies to the legislative races of city councilor, state deputy, and federal deputy, the 30% reservation of campaign finance funds applies not only to these offices, but also to races of senator, mayor, and governor. In addition, while campaign resources are reserved for Afro-Brazilians, there is no quota requirement for this group.

These institutional mismatches have created loopholes that have weakened the potential impact of the reservation of campaign funds for women and Afro-Brazilians. More specifically, by using the reservation of campaign funds to women or Afro-Brazilians running in majoritarian races, party leaders manage to circumvent the need of increasing the number of women or Afro-Brazilian to these posts (as no candidate quota applies to them), while also not improving the competitiveness of women running in PR races (to which the gender quota applies). Importantly, women and Afro-Brazilians competing in majoritarian races are already equally competitive to men and white candidates (Gatto, Russo, and Thomé, 2021); because each party can only nominate one candidate, when they select a woman or Afro-Brazilian candidate, they have the incentive to invest in making the candidacy competitive.

Even though these judicial decisions have clear loopholes, they were still celebrated by proponents of greater diversity in representation, many of whom have been working for decades to achieve some type of electoral change that could increase the viability of women candidates nominated through the gender quota. Party leaders, however, were less content about the electoral decisions made by the judiciary. Although in 2021, the National Congress approved legislation establishing that votes cast to women and Afro-Brazilian candidates to the Chamber of Deputies would be double-counted for the purposes of the allocation of public funds for campaigns, in 2022, it voted to create obstacles to the enforcement of the judicial decision on the reservation of funds for the campaigns of these groups by establishing that parties that did not comply with the allocation of campaign funds to women and Afro-Brazilians would not be punished.



## Part 2

### Lessons from Past and Current Attempts at Reform in Brazil



Albeit risky and sometimes unpredictable, electoral reform is not uncommon. In fact, in Brazil, electoral reforms (that are more or less extensive) take place recurrently, most often in years that precede elections. In the first years after the promulgation of the new Constitution (1988), more than half of the proposed amendments were related to the rules of elections. Since re-democratization, electoral reforms took place in 1995 (to define rules for the 1996 municipal elections), 1997 (to establish the rules for the 1998 national elections), as well as in 2009 (ahead of the 2010 general elections), 2015 (ahead of the 2016 municipal elections), and, most recently, in 2021 (a year before the 2022 national elections).

A wide range of electoral changes have been made throughout the years. Due to the reports' focus on efforts to promote the representation of marginalized groups through electoral reform, the analysis focuses on proposals specifically targeted at addressing the underrepresentation of women, Afro-Brazilians, indigenous populations and other traditional peoples (e.g., *quilombolas* and *ribeirinhos*), LGBTQI+ people, and people with disabilities<sup>3</sup>.

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<sup>3</sup> To do this, we produced an extensive list of key words and phrases in Portuguese associated with each group. This list is available in Appendix A.



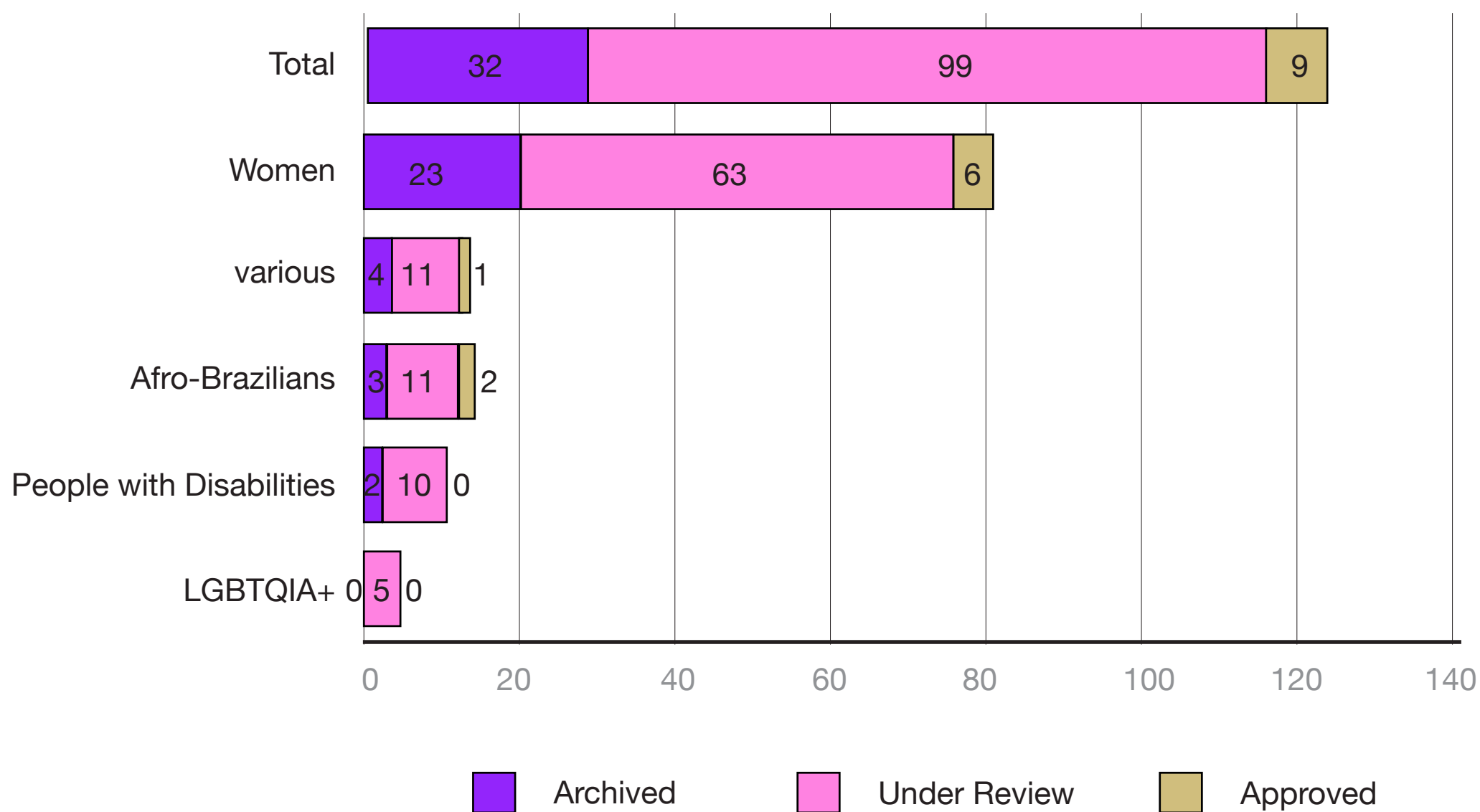
The Brazilian National Congress is currently digitizing legislative processes that took place before 1999. Searches before this year are bound to be incomplete, as the search engines cannot pick up words/phrases contained in transcripts of legislative debates that have not yet been digitized. Due to this technical limitation, our analysis encompasses the period between 1999 and 2021. This methodological decision means that we do not capture the legislative debates around gender quota adoption in 1995 and 1997. Since the report's main goal is to produce practical guidelines for civil society organizations seeking to impact electoral reform processes post-2022, we deem the analysis of these two electoral reforms to be less relevant than those of more recent processes. Detailed analyses of these two earlier processes are provided by Gatto (2016) and Thomé (2019).

In the period under analysis, 140 proposals<sup>4</sup> related to the political representation of the above marginalized groups were introduced (see Figure 1). **The overwhelming majority of them (92, that is, 65.7%), pertained to the political representation of women.** Proposals aimed at promoting the political representation of other groups were considerably less frequent: 16 of them (11.4%) targeted the representation of Afro-Brazilians, while 13 (9%) sought to promote the political inclusion of people with disabilities; policies targeted at other groups were even less common.

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<sup>4</sup> The list of key words and phrases was used to identify proposals in two platforms: Siga Lei and the search engine of the Brazilian Chamber of Deputies.

**Figure 1. Status of proposals that targeted each specific group, 1999-2021**



Source: Compiled by authors with data from Siga Lei and Câmara dos Deputados extracted by Pulso Público.

## Understanding: Introduction of Proposals

An analysis of the introduction of all bills allows for an overview of what may be the profile of legislators most willing to introduce proposals related to the political representation of marginalized groups.

Out of the 137 proposals introduced by legislators<sup>5</sup>, **45.3% were introduced by women and 54.7% were introduced by men.** As Gatto (2016) shows, at least when it comes to gender-quota related proposals, the bills introduced by men tend to have a weaker design than those introduced by women—so authorship of bills may not necessarily signal commitment towards a cause, but, instead, attempts to curb more transformative change. In addition, although only 13 out of the 140 proposals related to the political representation of marginalized groups sought to legislate in detriment of these groups, 10 of these proposals were introduced by men (and an additional one was introduced by a Special Committee).

<sup>5</sup> Three out of the 140 proposals were not introduced by individual legislators (but by Commissions, in two cases, and the Executive, in one case).

Even though women are responsible for a lower overall number of proposals, their severe underrepresentation in legislative office means that women legislators are much more likely to make proposals related to the political representation of marginalized groups than men. Specifically, 27% of the 93 women from the 2018-2022 legislature introduced at least one proposal related to the political representation of men, but only 7% of their 501 male colleagues did the same. **The coordinated efforts of the Women’s Caucus to advance an agenda on women’s political representation is an important factor explaining women legislators’ high rates of engagement with the topic.**

**Seniority also seems to matter: proponents of bills to promote the political representation of marginalized groups have, on average, been in office for 13 years—that is, 3.25 legislative terms.** In other words, proposals related to the representation of marginalized groups do not tend to be introduced by novice legislators. This makes sense: electoral reform requires technical expertise in the formal and informal institutional norms guiding elections, but also the know-how and bargaining power necessary to advance proposals with the potential to threaten the electoral security of sitting legislators.

Perhaps surprisingly, an analysis of the ideological breakdown of proponents does not yield a clear picture of promising partisan allies: more than half of the proposals related to the political representation of marginalized groups was authored by right-wing or center-right legislators<sup>6</sup>. More specifically, out of the 137 proposals to advance women’s political representation, **43% were introduced by legislators from center-left or left-wing parties, 2% were introduced by centrists, and 55% were proposed by center-right or right-wing legislators.**

Although this finding seems to go against traditional expectations of left-wing parties’ greater levels of attention to marginalized groups, it is worth highlighting two possible explanations for these results. First, as several scholars have shown, although women from left-wing parties spearheaded gender quota debates, advances on gender quota legislation required the collective and coordinated efforts of women legislators from across the ideological spectrum (Araújo, Sacchet 2008, Thomé, 2019). Second, as discussed above, legislators’ introduction of a bill may not necessarily signal their support for a policy in itself,

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<sup>6</sup> Categorization of party ideology follows Bolognesi et al. (2021).





but may, instead, consist of an effort to provide a weaker alternative to compete with proposals with stronger designs that could impose higher risks to the status quo (Gatto, 2016). Indeed, out of the 14 proposals designed to weaken the political representation of marginalized groups, 12 (92.3%) were introduced by center-right or right-wing legislators; another was introduced by a centrist legislator, and the last proposal was introduced by a Special Committee.

## Understanding: Status of Proposals

An assessment of the status of proposals further allows us to get a sense for the highly competitive nature of the Brazilian legislative process. As shown in Figure 1, only a very small share of proposals becomes legislation. To be clear, this is not a product of the theme of the proposals under analysis; in fact, **the success rate of 6% is line with broader patterns of legislative success in Brazil, where an average of 4% of proposals (that are not given special or urgent status) are approved<sup>7</sup>.**

As Figure 1 also shows, no proposals seeking to promote the political representation of marginalized groups were rejected. As Gatto (2016) argues, this is a strategy legislators employ to avoid reputational costs associated with rejecting policies deemed normatively desirable. Since proposals are “archived” if not voted on within the period of a legislature (four years), legislators can delay legislative processes of a bill they are against—effectively killing the bill, without having to publicly oppose it. Proposals categorized as “archived” in Figure 1 therefore constitute those that did not get to be fully analyzed during the period of a legislative cycle.

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<sup>7</sup> See: <https://www.jota.info/dados/desde-1989-66-do-projetos-com-urgencia-de-governo-sao-aprovados-21042020>.





As Figure 1 also indicates, a high share of bills is currently under review. The current legislative cycle will end in December 2022, which suggests that the most likely fate of these bills is to be archived. Perhaps worth noting is that bills that are archived may “gain new life” if the ideas and proposals they contain are picked up in the following (or in any future) legislature; as is often the case, bills do not emerge from thin air but build on previous ideas and debates. In fact, archived bills (which already outline and detail policy proposals) often provide a point of departure for new legislative processes.

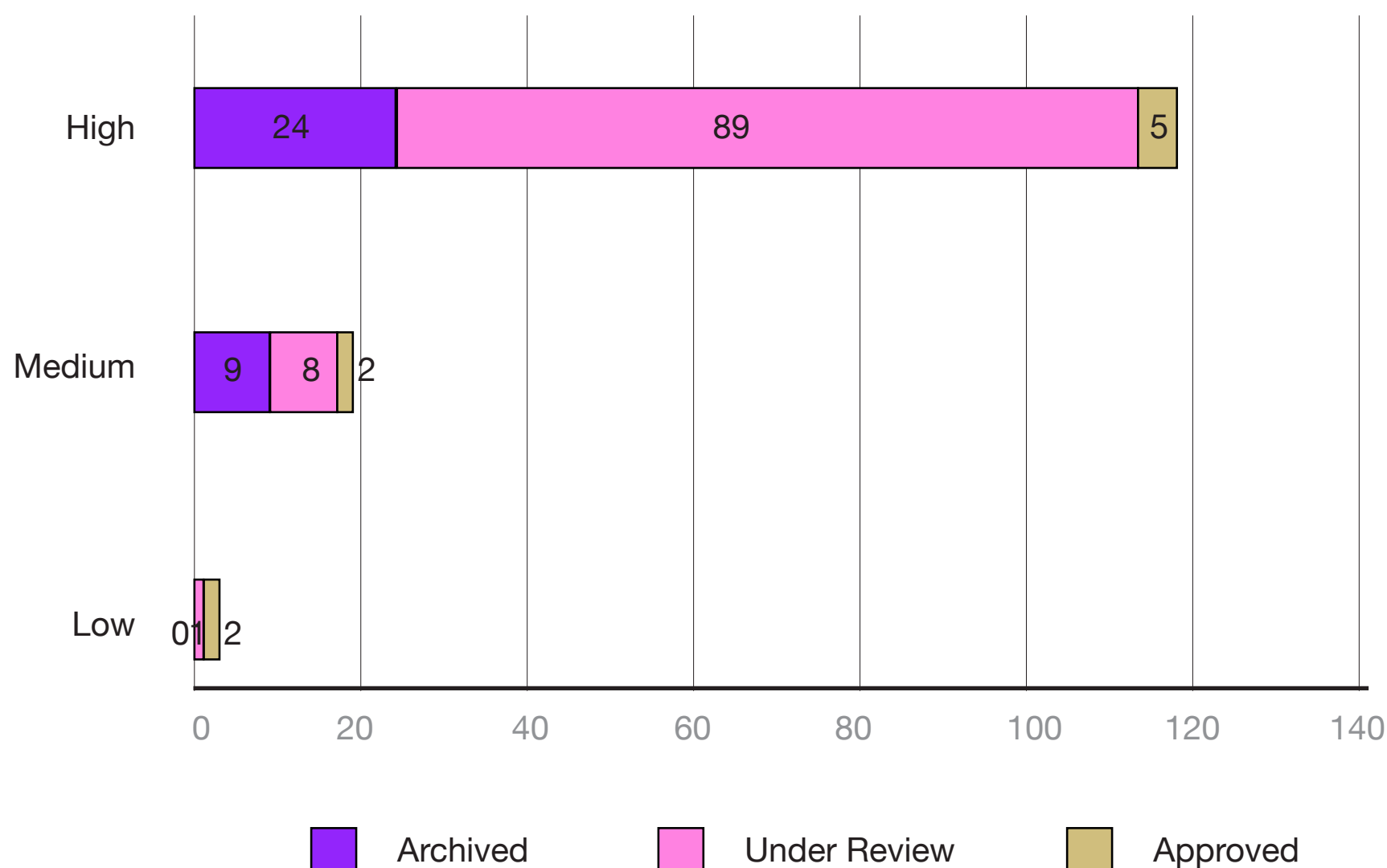
## Understanding: Legislative Success

Not all legislative proposals have the same level of potential for positively and substantively impacting the descriptive representation (that is, the number of candidacies and election) of people from marginalized groups. **Out of the 140 proposals introduced since 1999, 3 can be characterized as low impact<sup>8</sup>, 19 as medium impact, and 107 as having the potential for high positive impact, and another 11 can be characterized as having the potential for negative impact.** As indicated by Figure 2, the potential impact of bills matters for their chance of success.

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<sup>8</sup> Impact” here refers to whether a proposal implies major changes in legislation, and/or imposes higher costs for elected officials and/or the electoral process. Table 2, which outlines the approved policies that were assigned to each level of this categorization, provides examples of our coding.

**Figure 2. Status of proposals by estimated impact level, 1999-2021**



Source: Compiled by authors with data from Siga Lei and Câmara dos Deputados extracted by Pulso Público.

Notably, only three proposals are characterized as low impact—but two of them were approved. In other words, non-contentious policies are more prone to being approved, as they can signal normative commitments to promoting diversity in representation without incurring costs to the status quo. Out of the 19 bills characterized as having the potential for medium impact, two were approved (11%).

As indicated in Figure 2, however, the overwhelming majority of proposals sought to more radically transform political representation and are deemed as having the potential for high impact. **Out of the 107 proposals characterized as high impact, only 4 (3.7%) were approved.** As will be discussed later, one of them was approved in the National Congress after judicial decisions to reserve 30% of public campaign finance for women candidates had, effectively, already implemented related changes to the legislation. Finally, out of the 14 proposals deemed as having the potential to negatively impact the political representation of marginalized groups, none was approved.



**Table 3. Predicted level of potential impact of approved legislation targeted at the political representation of marginalized groups**

Impact	Proposal
Low	PL3959/2008: Creates positions for the Senior Management and Advisory Group of the Special Secretariat for Policies for Women.
Low	PL 4765/2009: Establishes the “Day of Women’s Suffrage”.
Medium	PL 349/2015: Recognizes political violence against women as a particular type of gender-based violence.
Medium	PL 4572/2019: Encourages parties to use their publicly allocated TV time to promote the political participation of women.
High	PL 5498/2009: Guarantees 10% of TV time to the promotion of women’s political participation. / Guarantees a minimum of 5% of party spending to the training and promotion of women candidates.
High	PLC 75/2015: Establishes a minimum of 5% and maximum of 15% of the public campaign party funds to women candidates. / Guarantees 20% of TV campaign time for women.
High	PL 8612/2017: Guarantees 30% of TV campaign time for women and to the promotion of women’s political participation.
High	PEC 28/2021: Establishes that votes cast to women and Afro-Brazilian candidates to the Chamber of Deputies will be double-counted for the purposes of the allocation of public funds for campaigns.



In total, nine out of the 140 proposals related to the political representation of marginalized groups were approved. Table 3 summarizes their content. Although political dynamics (e.g., the composition of the National Congress, the presence of critical actors, etc.) are in constant change—most notably after elections, but also during terms, when groups’ bargaining power often shifts—an analysis of past processes that resulted in legislative approval can reveal valuable insights into the strategies for enacting positive change.

An assessment of proposals deemed to have high potential for impacting the political representation of marginalized groups is likely to reveal the most relevant insights: since these proposals are the ones with the greatest potential to impose threats to the status quo, they were also likely the most challenging to get approved. Following this logic, we qualitatively analyze the transcripts of legislative processes of the four high-impact proposals that became legislation (namely, PL 5498/2009, PLC 75/2015, PL 8612/2017, and PEC 28/2021)<sup>9</sup>.

Our assessment reveals strategic takeaways surrounding five aspects of policymaking, each of which we tackle in a separate section: 1) Legislative actors; 2) Legislative strategies; 3) Civil society actors; 4) Civil society strategies; and 5) Judicialization.

## Legislative Actors

As previously discussed, the overwhelming majority of proposals related to the political representation of marginalized groups targets women. Perhaps unsurprisingly, then, all projects approved since 1999 also target women (except for PEC 28/2021, which targets women *and* Afro-Brazilians). Our qualitative analysis of the legislative processes leading up to the approval of this legislation **reveals the important role of the Women’s Caucus (*Bancada Feminina*) for the success of these proposals.**

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<sup>9</sup> The acronym PL is used to designate a regular bill (*Projeto de Lei*) and the acronym PEC is used to designate proposals for amendments to the constitution (*Projecto de Emenda Constitucional*).

As a formalized institution within the National Congress, the Women's Caucus is a supra-partisan institution that brings together women federal deputies (in the Chamber of Deputies) and women senators (in the Senate) to coordinate priorities and introduce proposals related to women's rights. As a supra-partisan institution, women legislators who compose the Women's Caucus often do not agree on dogmatic women-related issues (e.g., reproductive rights); women's political rights have, therefore, occupied a central demand and work front of the Women's Caucus since re-democratization (Gatto, 2016; Thomé, 2019).

The Women's Caucus has been fundamental in advancing proposals for promoting women's political representation. In working together as a group, women legislators, who occupy only 14.8% of seats in the Chamber of Deputies and 17% of seats in the Senate, increase their bargaining power and are better able to negotiate their demands. Because members of the Women's Caucus consist of all women deputies and senators, this also means that the Women's Caucus has access to party leaders from across the ideological spectrum; in other words, women legislators can take the demands of the Women's Caucus to the leaders of their own parties to negotiate support for their demands.

**The Women's Caucus is currently the only institutionalized caucus that represents the interest of a politically marginalized group.** In other words, there is currently no caucus representing the interests of Afro-Brazilians or LBGTQI+ people, for example.

In addition to caucuses, which are institutionalized and established organizations within the National Congress that meet with regularity and have access to resources (such as specialized staff), legislators can establish parliamentary fronts on specific policy areas, with the aim of bringing together legislators committed to advancing legislation in a given area. Unlike caucuses, parliamentary fronts are created for the duration of a legislative term (four years). In the current 2018-2022 legislature, there are a total of 352 parliamentary fronts<sup>10</sup>. Of these, only six (1.7%) are relevant to the protection and promotion of rights of marginalized groups. Namely, they are:

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<sup>10</sup> For the full list, see: <https://www.camara.leg.br/internet/deputado/frentes.asp>.





1) Parliamentary Front for the Defense of Women's Rights<sup>11</sup>; 2) Parliamentary Feminist and Antiracist Parliamentary Front with Popular Participation<sup>12</sup>; 3) Parliamentary Front for the Defense of Traditional Peoples of African Descent<sup>13</sup>; 4) Brazil-Africa Parliamentary Mixed-Front to Confront Racism with Popular Participation<sup>14</sup>; 4) Parliamentary Mixed-Front in Defense of Indigenous Peoples<sup>15</sup>; and, 6) Parliamentary Front of the National Congress in Defense of Persons with Disabilities<sup>16</sup>.

**The list of members of parliamentary fronts provide a good point of departure for identifying legislators who are likely to be supportive of expanding political rights for a specific marginalized group.** However, as Joluzia Batista from the long-standing feminist lobbying organization Cfemea<sup>17</sup> explains, although parliamentary fronts have a high number of members (at least one-third of legislators need to agree to be part of a front before it can be registered), few tend to be actively involved in advancing its demands. For example, although the Parliamentary Feminist and Antiracist Parliamentary Front with Popular Participation has 212 members, Batista estimates that only 20 members are actively engaged in promoting the Front's agenda (interview by phone).

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<sup>11</sup> <https://www.camara.leg.br/internet/deputado/frenteDetalhe.asp?id=53931>

<sup>12</sup> <https://www.camara.leg.br/internet/deputado/frenteDetalhe.asp?id=54058>

<sup>13</sup> <https://www.camara.leg.br/internet/deputado/frenteDetalhe.asp?id=54187>

<sup>14</sup> <https://www.camara.leg.br/internet/deputado/frenteDetalhe.asp?id=54114>

<sup>15</sup> <https://www.camara.leg.br/internet/deputado/frenteDetalhe.asp?id=53999>

<sup>16</sup> <https://www.camara.leg.br/internet/deputado/frenteDetalhe.asp?id=53990>

<sup>17</sup> Founded in 1989, Cfemea is the longest-standing civil society with experience in legislative advocacy focused on women's rights. Besides having been independently involved in processes of electoral reform throughout the decades, Cfemea is also one of the organizations that has been part of the Platform of Social Movements for Political Reform since its establishment in 2004. As such, Cfemea is one of the organizations with the greatest experience in advocating for women's rights—and, in particular, women's political representation—in Brazil.





## Legislative Strategies

Our qualitative analysis of successful proposals reveals three main important lessons about the legislative process involved in promoting the political representation of marginalized groups. The first key lesson is that no high-impact proposal specifically aimed at promoting the political representation of a marginalized group has ever been approved. Instead, all advances to promote the political representation of women were included as amendments in larger bills for electoral reform. As Gatto (2016) shows, these amendments often replicated the proposals of targeted stand-alone bills that were not picked-up (i.e., prioritized) in the legislative process. In other words, **broader debates on electoral reform—which tend to take place in years preceding elections, particularly national elections—provide windows of opportunity for the insertion of demands for greater diversity in political representation.**

Another important takeaway from our analyses is that amendments related to the political representation of marginalized groups are more likely to be approved in the Senate than in the Chamber of Deputies. In fact, that was the case for all four bills analyzed. One reason for this is that approving amendments in the Senate require a simple majority of votes (50% plus 1), while the threshold for approval is higher (two-thirds) in the Chamber of Deputies—rendering negotiations more challenging. This means that **efforts to promote the political representation of marginalized groups are likely to be more successful if initiated through the Senate** (during larger processes of electoral reform, as discussed above).

## Civil Society Actors

Our analysis also reveals that civil society organizations have been fundamental to promoting legislation in favor of the political representation of marginalized groups during broader processes of electoral reform<sup>18</sup>. Our assessment of legislative transcripts reveals important takeaways about the profile and activity of civil society organizations during processes of electoral reform.

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<sup>18</sup> A full list of the names of civil society organizations involved in the legislative process of each of the four high-impact approved bills is included in the Appendix B.

Approving an electoral reform package requires the support from a supermajority of federal deputies. Due to high party fragmentation in Brazil, this often means obtaining support from legislators from across the ideological spectrum. A first takeaway from our qualitative analysis is that **civil society organizations seeking to influence the legislative process should seek to establish a strong reputation as a non-partisan actor with the technical expertise to provide impartial policy assessments**. For example, among the organizations involved in the promotion of women's political representation through electoral reform were: the Institute for Socioeconomic Studies (*Instituto de Estudos Socioeconômicos, Inesc*), the Brazilian Academy for Electoral and Political Rights (*Academia Brasileira de Direito Eleitoral e Político, ABRADep*), the Brazilian Association for Electoral Judicial Actors (*Associação Brasileira dos Magistrados Procuradores e Promotores Eleitorais, ABRAMPPE*), the Brazilian Order for Lawyer (*Ordem dos Advogados do Brasil, OAB*), and the Platform of Social Movements for Political Reform (*Plataforma dos Movimentos Sociais pela Reforma do Sistema Político*).

Fewer organizations involved in these processes targeted women's rights specifically, but the ones that did also have long-standing traditions in non-partisan advocacy. They include the the Articulation of Brazilian Women (*Articulação das Mulheres Brasileiras*<sup>19</sup>), the Global Women's March (*Marcha Mundial de Mulheres*<sup>20</sup>), Patricia Galvão Institute (*Instituto Patricia Galvão*<sup>21</sup>), and the Feminist Center for Study and Advice (*Centro Feminista de Estudos e Assessoria, Cfemea*<sup>22</sup>).

A second conclusion is that civil society organizations seeking to influence the legislative process should work together to convey a single message; fragmentation and conflicting demands may weaken the status and legitimacy of civil society movements in processes of legislative debates. **Having an umbrella organization to coordinate the activity and represent the interests of various civil society organizations can be a useful strategy**, as is the case of the aforementioned Platform of Social Movements for Political Reform, established in 2004, and which represents the interests of 70 civil society organizations in legislative debates related to electoral reforms.

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<sup>19</sup> <https://www.facebook.com/amb.feminista>

<sup>20</sup> <https://www.marchamundialdasmulheres.org.br>

<sup>21</sup> <https://agenciapatriciagalvao.org.br>

<sup>22</sup> <https://www.cfemea.org.br>



**Coordinating a single message under an umbrella organization is often easier said than done, however.** In the most recent (2021) debates over electoral reform, this was made clear in the work of the Front for the Advancement of Women’s Political Rights (*Frente pelo Avanço dos Direitos Políticos das Mulheres*)<sup>23</sup>—a group of 134 civil society organizations that came together after receiving an invitation from university students interested in electoral reform. Organized around a system of horizontal management, priorities of the Front were often decided in evening Zoom meetings, when interested activists—who often had very little background in lobbying or electoral reform—could participate after a full day of work and/or study in other activities, or during the day through back-and-forth discussions in WhatsApp groups. Despite this “learn-on-the-go” approach to lobbying, through crowdfunding, and with the help of women institutionalized and experienced organizations such as ABRADEP, the Front was still able to mobilize some deputies, supreme court judges, and senators in support of their demands.

## Civil Society Strategies

Overall, our analyses indicate that civil society organizations have been critical in 1) Raising the salience of political debates and showcasing popular demand for advancing the political rights of marginalized groups; and, especially, 2) Providing evidence-based support for particular proposals through short studies and technical reports (*notas técnicas*). Our qualitative assessment reveals some of the key strategies civil society organizations employ to support the approval of policies to promote the political representation of marginalized groups.

First, legislators themselves will often call upon representatives of civil society organizations to provide an assessment of proposals under review. Proponents of policies to promote the political representation of marginalized groups may have personal connections with organizations they trust, but they may also rely on the official list of civil society organizations accredited to identify actors

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<sup>23</sup> See: <https://visibilidadefeminina.org/noticias/27-manifesto-nacional-pelo-direito-das-mulheres>



relevant to the legislative debates. **Organizations seeking to contribute to legislative debates should therefore complete accreditation at their earliest convenience**<sup>24</sup>, as this will improve the visibility of their organizations among legislators, as well as facilitate their access to congressional buildings.

Second, civil society organizations are most likely to be called upon during committee debates—when the need and design of proposals are still under consideration. **Organizations thus have to be prepared to present analyses that provide a clear review of the policy problem (i.e., why the policy is needed) and an objective assessment of the policy solution (i.e., why the proposal would/would not successfully tackle the identified problem)**. Ideally ahead of participation in legislative debates, **civil society organizations should prepare a short technical note that employs data to outline their technical assessment of the policy problem and proposed solution.**

A third takeaway is that the goals of civil society organizations may be different from those of legislators—but **civil society organizations still need legislators to push for their demands, so organizations should establish close relationships with legislators, to avoid situations in which they alienate them and lose potential allies**. For example, the Platform of Social Movements for Political Reform defends a large package of demands for electoral reform, which includes: 1) changing the type of lists from open lists to closed lists; 2) the establishment of a parity law (i.e., a quota of 50%) with alternation in placement order of candidates in party lists, applied to candidates' gender and race. This is an ambitious package that would require extensive changes to the legislation—and would likely radically transform the gender and racial composition of legislators.

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<sup>24</sup> Accreditation can be completed through the official website of the National Congress, through the link: <https://www.camara.leg.br/credenciamento/>. We placed a request for the list of accredited civil society organizations, but, to date, have not received a reply from the National Congress with this information.





The level of ambition of the package, however, makes it a hard-sell in Congress. In Batista's view, the most promising moment for electoral reform was in 2013, at the end of the first term of Dilma Rousseff. In this moment, however, she explains that the progressive feminist organizations were not willing to negotiate the package, but congresswomen—many of whom were not strongly connected to a broader feminist agenda—were not willing to use their political capital to push for such encompassing electoral reform, and began to negotiate smaller reforms instead; this ultimately delayed the process of reform, which was only finalized in 2015, which ended up establishing a *ceiling* to the reservation of campaign finance funds for women.

Fourth, **civil society organizations with relevant experience in advocating for the rights of marginalized groups often have to turn to other issues, in detriment of electoral reform.** In other words, with limited capacity to operate on all fronts, civil society organizations have to focus their efforts on what they deem to be most urgent and/or most likely to yield successful legislative returns. As Batista explains, between 2018 and 2022, the context was of a far-right president and a conservative National Congress, so civil society organizations which focus on the protection of human rights had to move their efforts to more substantive subjects, such as the threats and backlash on sexual and reproductive rights. In her own words:

“We tried to stay focused and active in this agenda; we held several meetings with other organizations to determine a minimum agenda, coordinating the needs and preoccupations of different social movements, as well as congresswomen, but the sad truth was that we had more urgent issues to deal with: we had to take care of the Maria da Penha Law<sup>25</sup>, deal with the issue of domestic workers in the context of the pandemic... so it became impossible to handle the electoral reform, too.”

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<sup>25</sup> Anti-violence against women legislation.



## Judicialization

In addition to the legislative processes discussed above, institutional change related to the political representation of marginalized groups has also been achieved through judicial decisions. Electoral reforms do not apply to legislative actors, meaning their own careers are not shaped by their rulings on the application of electoral law. Because of legislators' self-interested efforts to contain advances to promote the political representation of marginalized groups, judicial actors have been critical to addressing loopholes and strengthening the application of legislation seeking to promote greater diversity in representation in Latin America (Gatto, 2016, 2017b) as well as in Brazil (Thomé 2019).

In particular, judicial decisions have been critical to ensuring that: 1) parties that did not abide by the gender quota legislation were sanctioned and, more recently, 2) women and Afro-Brazilians have access to campaign funds necessary to compete in elections.

Even if electoral changes do not directly affect their own careers, there may be reputational and political costs to rulings on politically contentious and salient issues—particularly those that profoundly affect politicians. Judicial actors, thus, do not act in a vacuum and only take action when demand arises. **Civil society organizations have been critical to pushing for the judicialization of demands for the strengthening of the political rights of marginalized groups.**

An interesting case to illustrate the important role of civil society organizations in pushing for electoral change through judicialization is that of the ADI 5617, which established the reservation of campaign funds for women. As Thomé (2019) conveys, this judicial decision was only possible because actors in different sectors were all aligned in their demands and/or willingness to enact change.

Specifically, after the legislative approval of a regulation that established a ceiling of 15% of the allocation of public campaign funds to women (PLC 75/2015), in October 2016, a group of lawyers from the Brazilian Institute of Electoral Law (Ibrade)—with the support of a minister of the Superior Electoral Court (TSE) and a prominent congresswoman, as well as feminist civil society organizations Citizenship, Study, Research, Information, and Action (Cidadania, Estudo, Pesquisa, Informação e Ação, CEPIA) and ABRADep—appealed to the Attorney



General's Office, arguing that the regulation approved in the National Congress was unconstitutional and unfitting with the gender quota, which establishes that 30% of candidacies in party lists are to be reserved for women. The Supreme Court (STF) agreed with the demand, determining that 30% of campaign funds must be earmarked for women candidates (Thomé 2019).

**Because of their legal knowledge, access to resources to support their advocacy/lobbying activities, and societal recognition, women lawyers have become a powerful civil society ally** to the advancement of electoral change for the promotion of diversity in representation (particularly since 2018).

In the context of a conservative National Congress and Executive, advocates for progressive electoral change in favor of marginalized groups, have more consistently relied on judicial actors for the advancement legislation with a focus on underrepresented groups. For example, in the aftermath of the ADI 5617 decision, organizations from the Black Movement—such as the New Black Front (*Nova Frente Negra*)—in collaboration with Congresswoman Benedita da Silva (from the Workers' Party), pressured judges to ensure the destination of a proportional amount of public campaign funds to Afro-Brazilian candidates (TSE Resolution 23.664/2021), a decision that was then applied to the 2020 elections.

Although these two cases indicate that the judicial arena is a fruitful place to fight for underrepresented groups' political rights, it is important to highlight that **the judicialization of demands may also have some implications for the overall workings of democracy, particularly as it pertains to balance of power across branches**. The Brazilian National Congress, for example, usually understands political decisions made by the judiciary as excessive interferences in party and electoral rules. Reliance on the judiciary for the advancement of political rights also **assumes that the interests and ideological positions of judicial actors will be more aligned with those of proponents of marginalized groups** than will Congress. Although, thus far, this indeed seems to have been the case, the composition of judicial bodies change—so **strategies to judicialize processes may not be sustainably available**.



## Part 3

### Future Opportunities for Reform



The list of civil society actors involved in past processes of electoral reform indicate that many are established organizations with long-standing traditions and reputations (see Part 2 and Appendix B). Especially since 2018, new civil society organizations have emerged to promote greater diversity in political representation in Brazil. Thus far, the main focus of these organizations has been on providing candidate training and support (Gatto, Russo, and Thomé, 2021). However, the 2021 process of electoral reform, and the creation of the Front for the Advancement of Women's Political Rights, indicated that **many of such organizations acknowledged the importance of electoral change for breaking key barriers to the entry of marginalized groups into formal politics and elected office.**

With the aim of mapping civil society organizations with the potential of representing the interests of marginalized groups in future debates on electoral change, we interviewed representatives of 18 civil society organizations working to promote more diversity in political representation about their current experiences with and plans to advocate for electoral change in the National Congress<sup>26</sup>. Interviews took place in Recife (Brazil), in May 2022<sup>27</sup>.

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<sup>26</sup> A list of all organizations interviewed is available on Appendix C.

<sup>27</sup> During the +Representatividade event, organized by Instituto Update.



**Seven out of the 18 organizations whose representatives we interviewed indicated some experience or willingness to be involved in lobbying in the National Congress.** Notably, *Vamos Juntas*<sup>28</sup>, *Atenda das Candidatas*<sup>29</sup>, and *Elas No Poder*<sup>30</sup> displayed a particular interest in becoming more actively engaged with efforts to promote electoral reform for greater diversity—emphasizing that they do not immediately see themselves lobbying for women’s rights beyond political rights, as doing so would reach beyond their organizations’ focus. For example, as the interviewed representative of *Vamos Juntas* explained:

“This is new for us, right? We are now more in Brasilia, we have been studying potential relationships with parliamentarians who have a broad reach in Congress, [to be ready] for whenever there is something that impacts political rights. In our view, it does not make sense for us to get involved, for example, with the PL on menstrual dignity. We have to be there in Brasilia when they debate quotas.”

Although all three organizations stated that part of their work already includes conducting studies to better understand the situation of women’s candidacies and electoral opportunities in Brazil—an important skill, given that civil society organizations tend to influence the legislative process through the presentation of studies and technical notes—interviewees also raised some limitations to their efforts to influence policymaking. For example, as a representative from *Elas No Poder* explained, **actively lobbying has not been something they have done, as their limited access to resources does not allow them to extend their work to this area:**

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<sup>28</sup> <https://institutovamosjuntas.org/>

<sup>29</sup> <https://www.instagram.com/instadatenda/>

<sup>30</sup> <https://elasnopoder.org/>



“What I think works a lot, but what we haven’t been able to do, is to pressure Congress. Objectively, trying to lobby Congress so that we don’t have the setbacks that we’ve had in recent years is something we can’t do because there has been no funding for that. Nobody wants to get so directly involved with politics, so we haven’t [worked on that front]. Today, at least, we have no way to finance it. What is lacking today in the feminist movement is a way to really lobby there in Congress.”

Although they did not make direct mentions of their efforts to lobby for electoral reform to promote the political representation of marginalized groups, *Girl Up*<sup>31</sup>, *ANMIGA*<sup>32</sup>, *Nova Frente Negra Brasileira*<sup>33</sup>, and *Eu Voto em Mulher Negra*<sup>34</sup> all spoke of their prior experiences with lobbying for rights. Notably, the interviewed representative of *ANMIGA* also spoke of **their aim to establish a caucus to advance the interests of indigenous communities in the National Congress (the *Bancada do Cocar*)**. As discussed in Part 2, caucuses are an important institutional tool for advancing interests and the existence of the Women’s Caucus, at least in part, explains the greater advances made in respect to the political representation of women, in comparison to that of other groups.

In addition to their potential for lobbying for greater political rights in processes of electoral reform, civil society organizations may also have an indirect impact on legislative processes. For example, a number of organizations only recruit and train candidates who make a commitment to advocate for the political rights of marginalized groups if elected. This is the case for *ATenda das Candidatas* and *Goianas na Urna*, for example. Albeit a longer-term strategy, **ensuring that elected candidates are supportive of—and knowledgeable about—the necessary policies to tackle the underrepresentation of marginalized groups is also an important parallel strategy to influence policymaking.**

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<sup>31</sup> <https://girlup.org/brasil>

<sup>32</sup> <https://anmiga.org/>

<sup>33</sup> <https://www.facebook.com/novafrentenegrabrasileira>. As discussed in part 2, however, although this did not come up in the interview, the NFNB has experience advancing institutional change through the judiciary.

<sup>34</sup> <http://euvotoemnegra.com.br/>





Although interviews revealed an emerging effort from new civil society organizations to engage with lobbying for progressive electoral reform that can promote greater diversity in representation, they also indicate that this work is still in its early stages: **there seems to be a need for individual organizations to build know-how, create a repertoire of actions, and access the necessary resources for effectively carrying out this work, but a collective effort to coordinate civil society efforts also seems paramount.**

As the interviewed representative of *Elas No Poder* explained, to this end, it may be useful to learn from civil society organizations working effectively to advance in other contentious areas:

“I think we are still working very disconnected. I see, for example, the people on the climate and environment agenda: they are a very organized group. There are organizations whose lawyer is also a lawyer for the Climate Observatory; they are in the STF barring Bolsonaro’s agenda. Why are we feminists not in the Supreme Court stopping the Bolsonaro government from advancing their agenda? We still don’t have a thing, like, let’s work together, let’s do something together, let’s start a Feminist Observatory that really goes to Congress, tires everyone out<sup>35</sup>, let’s go to the Supreme Court and tire Supreme Court judges.”

## Learning from Other Fronts: Lessons for the Environmental Lobby

Following this logic, and with the aim of further understanding potential avenues for the future action of civil society organizations seeking to promote greater political representation of marginalized groups, we also conducted an interview with an experienced civil-society lobbyist from the Environmental Parliamentary Front<sup>36</sup>.

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<sup>35</sup> In Portuguese, the interviewee said: “Enche o saco de todo mundo.”

<sup>36</sup> <https://www.frenteambientalista.com/>



Although officially established in 1997, the Front's efforts to advocate for the environment date back to 1988, during the writing of Brazil's new Constitution. Throughout the years, the Front has gained domestic and international recognition for not only successfully advocating a broad agenda on environmental protection, but also for its achievements in blocking threats and avoiding setbacks to their work. Although an initiative of federal deputies and legislators (see Part 3 on legislative fronts), the Environmental Front has, since its inception, been a product of the collective work of legislators and civil society actors: currently, the non-governmental organizations SOS Rainforest (*SOS Mata Atlântica*<sup>37</sup>), Cempre<sup>38</sup>, and the Institute Democracy and Sustainability (*Instituto Democracia e Sustentabilidade*<sup>39</sup>) are key partners of the Front. The Front is now a key player shaping environment-related policymaking in Brazil and a great example of the direct influence civil society actors may have over legislative processes.

Mario Mantovani is one of the leading members of the Front and an experienced lobbyist for environmental rights. His insights about the activity of the Front (shared in an interview by phone), offer six main lessons for the strengthening of civil society advocacy in Brazil—in themes beyond the environment. We outline them below:

**1. Work with deputies from different parties and from across the ideological spectrum.** As Mantovani explains: “We have the support of many hardcore names in Congress, but anyone who wants to join is welcomed. We seek adhesion from members of all parties, from A-Z.” Currently, there are 216 deputies and seven senators that are officially members of the Front, with party affiliations that range from extreme-left to far-right<sup>40</sup>.

**2. Concentrate different related demands into one single umbrella organization or Front.** The Environmental Front, for example, covers a wide range of subjects from animal protection to nuclear energy. In Mantovani's view,

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<sup>37</sup> <https://www.sosma.org.br>

<sup>38</sup> <https://cempre.org.br>

<sup>39</sup> <https://www.idsbrasil.org>

<sup>40</sup> <https://www.frenteambientalista.com/frente-parlamentar-ambientalista/quem-faz-parte>



this broad reach and extensive expertise helps to make the Front the main reference in relation to any environmental (or environment-adjacent) issue, strengthening their bargaining power and status within Congress.

**3. Institutionalize advocacy work and do not wait for events to shape the agenda.** The Front has *weekly meetings* to discuss related issues being debated in Congress at every given week. Civil society representatives and the leader(s) of the Front in Congress attend these weekly meetings, meaning that civil society representatives have constant contact with congressional leaders and can shape the agenda as it evolves.

**4. Have a toolbox of instruments to pressure legislative action and employ them wisely—something that requires in-depth knowledge of legislative procedures and actors.** The Front's large repertoire of possible actions means they can enact pressure during committee meetings (something that was more common in previous legislatures<sup>41</sup>), use legislative procedures to delay advances, or judicialize processes that go against their interests, for example. Their capillary within Congress also means their allies not only occupy the legislative committee most directly related to their theme of action (i.e., environment), but also those on relevant topics, such as urbanism or legislative rules.

**5. Look ahead to the future: establish allies and build trust networks with sub-national (up-and-coming) leaders.** Recognizing the importance of the sustainability of their work (amidst high rates of legislative turnover) the Front also works to recruit and prepare political allies at the state and municipal levels. As of 2022, there are 19 (out of 27) Environmental State fronts in Brazil, a strategy that is made viable by linking a federal deputy with a state deputy in a given state, thus also creating political synergies in the Front's agenda across levels of government.

**6. Through recurrent data collection, monitor developments and employ analyses to develop concrete narratives about the urgency of the agenda throughout the legislative cycle.** In this way, the thematic area does not need to rely on external events to gain salience in the legislative agenda. When external events in favor of change do present themselves, use these windows of opportunities to advance immediately connected and related agendas.

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<sup>41</sup> In previous legislatures the Environmental Committee was almost all composed of deputies from the Environmental Front. In the current legislature, however, the Commission was strategically taken over by many members of the Agribusiness Front.





# Part 4

## Recommendations



Based on the analyses produced for parts 1-3, part 4 provides recommendations for strategic action. The section is structured around five main questions, namely:

1. Which existing institutions must be protected, so that change is not regressive?
2. Which institutions are desirable in an electoral reform?
3. Which legislative actors should be mobilized to push for a positive electoral reform?
4. Which civil society groups should be supported?



## Which existing institutions must be protected, so that change is not regressive?

- **Gender quota:** Although not as successful as the “spirit of the law” would dictate, the Brazilian gender quota reserving 30 of candidacies in party lists to women must be protected. As the *+Representatividade* report shows, the Brazilian gender quota has wide support from voters (Gatto, Russo, and Thomé, 2021). More importantly, **the gender quota serves as the point of departure for other demands for electoral reform.** For example, all proposals and legislation covered in this report were either inspired by or sought to strengthen the effectiveness of the gender quota.
- **Reservation of campaign finance funds:** While the judicial decisions and subsequent legislative approvals of regulation on the reservation of campaign finance for women and Afro-Brazilians have known loopholes, these new guidelines present the first promising set of developments to improve the competitiveness of women and Afro-Brazilians ever adopted in Brazil. As other Latin American cases show, legislation improves over time and loopholes are closed as they begin to be observed. **Securing the gains made regarding the reservation of campaign finance for women and Afro-Brazilians is critical to future developments in legislation.**



## Which institutions are desirable in an electoral reform?<sup>42</sup>

- **Close loopholes in campaign allocation for women and Afro-Brazilians:** As covered in part 1, a key issue of the reservation of campaign finance funds is that by allocating funds to women running on majoritarian races or to slates where women are supporting candidates (*suplentes* in the case of Senators, or Vice in the case of Executive posts) parties can comply with the letter of the law without improving level of competitiveness in elections. **Effort should be made to revise the legislation to specify that the reservation of campaign finance funds is to be applied to legislative PR races only. Lack of compliance should be monitored and sanctioned.**
- **Expand the scope of gender quotas to majoritarian races.** As other Latin American countries have shown, it is possible to apply gender quotas to majoritarian races. This can be done by applying a quota horizontally, across districts (for example, if a party presents mayoral candidates in 1,000 municipalities, 500 of the candidates should be women), and/or within tickets (in a slate where there is a main and a subsidiary candidate, one of them should be a woman). Variations of these policies are in place in Latin America, perhaps most prominently in Costa Rica, where the quota even applies to the presidential ticket.
- **Sanction parties that do not comply with gender quota to party leadership:** Although, technically, there is a gender quota that applies to party leadership, this is a “law on paper only”. Various studies have shown that the more power women have as leaders in parties, the more opportunity women have as aspirants and candidates, during recruitment and campaigning (Wyllie, 2018). **Enacting mechanisms to monitor and sanction parties that do not comply with the party leadership quota would thus likely indirectly improve wider opportunities for women’s representation.**

<sup>42</sup> Although CLPR has been an important institution shaping the opportunities for greater diversity in representation in other Latin American cases, we do not make an explicit recommendation to push for this institution in electoral reform. There are two reasons for this: First, such a radical change in the set-up of elections seems highly unlikely: the Brazilian party system and the competition of incumbents depends on the maintenance of OLPR, and, given that electoral reform is endogenous, it is not realistic to expect the adoption of OLPR, particularly in the short- and medium-terms. Second, electoral reform can often have unexpected consequences to the party system and wider political dynamics. For example, a system based on party brands at a time of the rise of conservatism in Brazil could result in the creation of extremist parties.



- **Establish quota for Afro-Brazilians:** Beyond gender quotas, there is an opportunity to establish a candidate quota for Afro-Brazilians. Because race/ethnicity tends to not be a cross-cutting cleavage such as gender, Htun (2004) advises on the adoption of reserved seats for racial/ethnic groups instead of candidate quotas. In Brazil, however, Afro-Brazilians are 54% of the total population; in other words, Afro-Brazilians cross-cut other social cleavages. The racial composition of the population varies substantially in Brazil, however: Afro-Brazilians are 15% of the population in Santa Catarina and 77% in Pará. **One suggestion is to demand the creation of a flexible quota for Afro-Brazilians in the 22 Brazilian states where more than 50% of the population is composed of Afro-Brazilians, or of a quota reservation that is proportional to the population of Afro-Brazilians in a given state.**
- **Reserve seats for traditional populations (indigenous, quilombolas, and ribeirinhos):** According to the Brazilian Institute of Geography and Statistics (*Instituto Brasileiro de Geografia e Estatística*, IBGE), indigenous peoples currently represent less than 1% of the Brazilian population. Other traditional populations also make-up a small share of the general population. Their small (and often regionally concentrated) numbers in the population are often a challenge to the representation of these groups. Traditional populations may also have specific agendas to advance (e.g., land rights, environmental protection). Following the work of Htun (2004) and Latin American examples, one option is to **reserve a specific number of seats in the National Congress to guarantee the representation of these groups in legislative debates.** Reserved seats could also be applied to sub-national legislatures, particularly in regions with a larger population concentration of these groups.
- **Improve candidate data collection to include gender identity, traditional population status, sexual orientation, and disability status.** One way of impacting political representation may also be ensuring the collection of more accurate data and information about candidate characteristics, as this would allow for the identification of the level of representation of each group. As seen in part 2, problem identification is an important stage of the policymaking process, so **data availability could be critical to civil society groups in their efforts to pressure for electoral change that better incorporates people**



**from marginalized groups.** The case of Brazil is in itself a good example of the importance of data collection: until 2014, there was no data on the race/ethnicity of candidates to political office, so we had no information about the level of representation of each racial and ethnic group.

## Which legislative actors should be mobilized to push for a positive electoral reform?

- **Women's Caucus:** The Women's Caucus has been the most important bloc of support for the advancement of policies to promote women's political representation in the National Congress. A new legislature will be elected in October 2022 and take office in February 2023. **Civil society organizations should work to establish ties to the Women's Caucus from the beginning of the legislative cycle, with the aim of creating convergence and prioritizing electoral reform in the Caucus' agenda.**
- **Relevant Parliamentary Fronts:** Parliamentary Fronts are more flexible than caucuses and often institutionalize the relationship between legislators and civil society, as is the case of the Environmental Parliamentary Front. **Civil society organizations should use thematic fronts to identify likely legislative allies, as well as to institutionalize their presence in policymaking and legislative debates.** As outlined in part 2, there are currently six fronts whose work may be relevant to the promotion of the political rights of marginalized groups. These fronts may not all be carried over to the next legislature, so the creation (and dissolution) of fronts should be monitored.
- **Women and senior legislators:** Women and more senior legislators (i.e., those who have held office for at least three terms) are, on average, more likely than men and junior legislators to introduce proposals for electoral reform that seek to promote greater diversity in representation. **Civil society organizations should identify these legislators and map who may be the most likely allies to their agendas.**



## Which civil society groups should be supported?

- **Umbrella organization to coordinate efforts:** Earlier cases of electoral reform, as well as the successful experience of the Environmental Parliamentary Front, indicate that umbrella organizations are key to coordinating advocacy and representing the interests of various civil society actors. As our analyses reinforce, **effective umbrella organizations are supra-partisan, encompass representatives and/or maintains ties with actors from across the ideological spectrum, are highly professionalized, and maintain a presence in the National Congress throughout the legislative cycle** (i.e., not only in moments of greater salience of a policy area). There should be efforts made to institutionalize and professionalize the work of an umbrella organization to coordinate advocacy on electoral reform for greater diversity in representation. One option would be to support and further strengthen the work of organizations that already exist:

  - The long-established Platform of Social Movements for Political Reform (*Plataforma dos Movimentos Sociais pela Reforma do Sistema Político*)
  - The most recently established Front for the Advancement of Women's Political Rights (*Frente pelo Avanço dos Direitos Políticos das Mulheres*).
- **Organizations with established legitimacy and experience:** As discussed in part 2, civil society organizations have had a critical role in advancing electoral reform. Many of these organizations have extensive experience in lobbying, but cover many areas, and, due to limited availability of resources, cannot prioritize the agenda of promoting greater diversity in representation. Providing greater support for the work of these initiatives in the area of electoral reform can therefore ensure that organizations that have institutional memory, established reputations, and experience in lobbying remain part of these efforts. A list of these initiatives is in Appendix B. We highlight the importance of Cfemea, ABRADEPE, ABRAMPPE, and the NFNB in previous cases of legislative and judicial electoral reform.
- **New organizations that have shown initial involvement:** Especially since 2018, various initiatives focused on the promotion of candidates from marginalized groups have emerged in Brazil. Their initial focus has been to





provide candidate training, but some of these initiatives are now moving into other areas of activity, including lobbying for electoral reform that promotes the political representation of marginalized groups. **As a new set of actors in this area, these initiatives often lack the financial resources, contacts, and know-how to conduct effective (and continuous, not sporadic) lobbying.** Initiatives that have displayed an interest in lobbying should be supported in their efforts to professionalize their advocacy in the National Congress.

- Interviews indicate that three initiatives have already sought to engage in lobbying for electoral reform, namely: *Vamos Juntas*, *ATenda das Candidatas*, and *Elas No Poder*.
- Interviews indicate that another four initiatives have already sought to engage in lobbying in other policy areas, namely: *Girl Up*, *ANMIGA*, *Nova Frente Negra Brasileira*<sup>43</sup>, and *Eu Voto em Mulher Negra*
- **Organizations that can prepare subnational leadership:** The experience of the Environmental Parliamentary Front indicates that a successful long-term strategy is to recruit and train subnational actors that are likely to advance to careers as national legislators. An additional potential avenue for action is thus to **act at the subnational level to identify and train subnational legislators with the potential for allyship and leadership on the agenda for greater diversity in representation.** To carry out this strategy, one option would be to support the work of civil society organizations that train elected officials at the subnational level:
  - *Rede A Ponte*<sup>44</sup> is a civil society organization that trains, provides mentorship, and supports the work of women subnational politicians.

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<sup>43</sup> As discussed in part 2, however, although this did not come up in the interview, the NFNB has experience advancing institutional change through the judiciary.

<sup>44</sup> <https://redeaponte.com.br>



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## Appendix A. Search terms used to identify relevant legislative proposals

### **Mulheres**

- Eleições + sexo/mulher(es)/feminina
- Eleitor + sexo/mulher(es)/feminina
- Participação política + sexo/mulher(es)/feminina
- Cota + eleições + sexo/mulher(es)/feminina



- Reserva + eleições + sexo/mulher(es)/feminina
- Candidaturas + eleições + sexo/mulher(es)/feminina
- Financiamento + eleições + sexo/mulher(es)/feminina
- Propaganda + eleições + sexo/mulher(es)/feminina
- Formação + eleições + sexo/mulher(es)/feminina
- Promoção + eleições + sexo/mulher(es)/feminina

### ***Negros***

- Eleições + raça/etnia/negro(a)/afrodescendente(s)
- Eleitor + raça/etnia/negro(a)/afrodescendente(s)
- Participação política + raça/etnia/negro(a)/afrodescendente(s)
- Cota + eleições + raça/etnia/negro(a)/afrodescendente(s)
- Reserva + eleições + raça/etnia/negro(a)/afrodescendente(s)
- Candidaturas + eleições + raça/etnia/negro(a)/afrodescendente(s)
- Financiamento + eleições + raça/etnia/negro(a)/afrodescendente(s)
- Propaganda + eleições + raça/etnia/negro(a)/afrodescendente(s)
- Formação + eleições + raça/etnia/negro(a)/afrodescendente(s)
- Promoção + eleições + raça/etnia/negro(a)/afrodescendente(s)

### ***Populações tradicionais (indígenas/quilombolas/população ribeirinha)***

- Eleições + indígena(s)/índio(s)/quilombola(s)/ribeirinha
- Eleitor + indígena(s)/índio(s)/quilombola(s)/ribeirinha
- Participação política + indígena(s)/índio(s)/quilombola(s)/ribeirinha
- Cota + eleições + indígena(s)/índio(s)/quilombola(s)/ribeirinha
- Reserva + eleições + indígena(s)/índio(s)/quilombola(s)/ribeirinha
- Candidaturas + eleições + indígena(s)/índio(s)/quilombola(s)/ribeirinha
- Financiamento + eleições + indígena(s)/índio(s)/quilombola(s)/ribeirinha



- Propaganda + eleições + indígena(s)/índio(s)/quilombola(s)/ribeirinha
- Formação + eleições + indígena(s)/índio(s)/quilombola(s)/ribeirinha
- Promoção + eleições + indígena(s)/índio(s)/quilombola(s)/ribeirinha

### ***Pessoas LGBTQIA+***

- Eleições + LGBT/homossexual/lésbica/transexual/transgênero/travesti/  
LGBTQIA+
- Eleitor + LGBT/homossexual/lésbica/transexual/transgênero/travesti/  
LGBTQIA+
- Participação política + LGBT/homossexual/lésbica/transexual/transgênero/  
travesti/ LGBTQIA+
- Cota + LGBT/homossexual/lésbica/transexual/transgênero/travesti/ LGBTQIA+
- Reserva + LGBT/homossexual/lésbica/transexual/transgênero/travesti/  
LGBTQIA+
- Candidaturas + LGBT/homossexual/lésbica/transexual/transgênero/travesti/  
LGBTQIA+
- Financiamento + LGBT/homossexual/lésbica/transexual/transgênero/travesti/  
LGBTQIA+
- Propaganda + LGBT/homossexual/lésbica/transexual/transgênero/travesti/  
LGBTQIA+
- Formação + LGBT/homossexual/lésbica/transexual/transgênero/travesti/  
LGBTQIA+
- Promoção + LGBT/homossexual/lésbica/transexual/transgênero/travesti/  
LGBTQIA+

### ***Pessoas com deficiência***

- Eleições + pessoas com deficiência/deficiência/deficiente física(o)/deficiência/  
deficiente mental/deficiência/deficiente intelectual/pessoa(s) cega(s)/  
mobilidade reduzida/ deficiência auditiva



- Eleitor + pessoas com deficiência/deficiência/deficiente física(o)/deficiência/deficiente mental/deficiência/deficiente intelectual/pessoa(s) cega(s)/mobilidade reduzida/ deficiência auditiva
- Participação política + pessoas com deficiência/deficiência/deficiente física(o)/deficiência/deficiente mental/deficiência/deficiente intelectual/pessoa(s) cega(s)/mobilidade reduzida/ deficiência auditiva
- Cota + eleições + pessoas com deficiência/deficiência/deficiente física(o)/deficiência/deficiente mental/deficiência/deficiente intelectual/pessoa(s) cega(s)/mobilidade reduzida/ deficiência auditiva
- Reserva + eleições + pessoas com deficiência/deficiência/deficiente física(o)/deficiência/deficiente mental/deficiência/deficiente intelectual/pessoa(s) cega(s)/mobilidade reduzida/ deficiência auditiva
- Candidaturas + eleições + pessoas com deficiência/deficiência/deficiente física(o)/deficiência/deficiente mental/deficiência/deficiente intelectual/pessoa(s) cega(s)/mobilidade reduzida/ deficiência auditiva
- Financiamento + eleições + pessoas com deficiência/deficiência/deficiente física(o)/deficiência/deficiente mental/deficiência/deficiente intelectual/pessoa(s) cega(s)/mobilidade reduzida/ deficiência auditiva
- Propaganda + eleições + pessoas com deficiência/deficiência/deficiente física(o)/deficiência/deficiente mental/deficiência/deficiente intelectual/pessoa(s) cega(s)/mobilidade reduzida/ deficiência auditiva
- Formação + eleições + pessoas com deficiência/deficiência/deficiente física(o)/deficiência/deficiente mental/deficiência/deficiente intelectual/pessoa(s) cega(s)/mobilidade reduzida/ deficiência auditiva
- Promoção + eleições + pessoas com deficiência/deficiência/deficiente física(o)/deficiência/deficiente mental/deficiência/deficiente intelectual/pessoa(s) cega(s)/mobilidade reduzida/ deficiência auditiva





## **Appendix B. List of civil society organizations mentioned in the legislative transcripts of the four high-impact approved proposals**

- Academia Brasileira de Direito Eleitoral e Político (Abradep)
- Articulação das Mulheres Brasileiras
- Articulação de Mulheres Brasileiras (AMB)
- Associação Brasileira dos Magistrados Procuradores e Promotores Eleitorais (Abramppe)
- Centro Feminista de Estudos e Assessoria (Cfemea)
- Cidadania, Estudo, Pesquisa, Informação e Ação (Cepia)
- Instituto de Estudos Socioeconômicos (Inesc)
- Instituto IDEA
- Instituto Igarapé
- Marcha Mundial de Mulheres
- Movimento Círculo Palmarino
- OAB Nacional
- Plataforma dos Movimentos Sociais pela Reforma do Sistema Político
- SOS Corpo – Instituto Feminista para a Democracia
- Transparência Eleitoral Brasil



## Appendix C. List of civil society organizations interviewed

1. União das Mulheres Indígenas da Amazônia Brasileira (UMIABI)  
<https://www.instagram.com/umiabamazonia/>
2. Associação Nacional das Mulheres Indígenas Guerreiras da Ancestralidade (ANMIGA)  
<https://www.instagram.com/anmigaorg/?hl=pt>
3. Nova Frente Negra Brasileira (NFNB)  
<https://www.facebook.com/novafrentenegrabrasileira>
4. Coordenação Nacional da Articulação de Quilombos (Conaq)  
<http://conaq.org.br/>
5. Todaz na Política  
<https://todaz.com.br/>
6. Rede Nacional de Feministas Antiproibicionistas (Renfa)  
<https://renfa.org/>
7. Girl Up  
<https://girlup.org/brasil>
8. A Tenda das Candidatas  
<https://www.instagram.com/instadatenda/>
9. Goianas na Urna  
<https://www.goianasnaurna.com.br/>
10. Meu Voto Será Feminista  
<https://www.meuvotoserafeminista.com.br/>
11. Elas no Poder  
<https://elasnopoder.org/>
12. Vamos Juntas  
<https://institutovamosjuntas.org/>
13. Alziras  
<https://www.alziras.org.br/>
14. Mulheres Negras Decidem (MND)



<https://mulheresnegrasdecidem.org/>

15. Eu Voto em Negra

<http://euvotoemnegra.com.br/>

16. Lábora

<https://www.instagram.com/laborapolitica/>

17. Movimento Negro Evangélico (MNE)

<https://www.instagram.com/mne.pernambuco/>

18. Enegrecer a Política

<https://enegrecerapolitica.org/>



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